

INDONESIA

THE WAR IN ACEH

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I. SUMMARY AND RECOMMENDATIONS

The conflict in Aceh, on the northern tip of the island of Sumatra in Indonesia, is an increasingly brutal war in which both sides have violated human rights with impunity. The two sides are the Indonesian security forces and the armed insurgency known as GAM, an acronym for the Free Aceh Movement. Popular support for the insurgency has grown over the last two years, in part as a direct result of the failure of Indonesia's post-Soeharto governments to respond to Acehnese demands that the perpetrators of past abuses be punished.

As of early August 2001, it was too soon to tell how the situation would change under the new government of Megawati Soekarnoputri, but initial signs were not good. Violence intensified after research for the report was conducted in May 2001, with major massacres, apparently on the part of both sides, taking place in Central Aceh in June and July. Indonesian police obstructed fact-finding missions to the area by local human rights groups. Dialogue between the two sides had all but collapsed with the government's arrest of key members of GAM's negotiating team in Banda Aceh in late July and early August. By the time President Megawati was sworn in, a military offensive appeared to have inflicted heavy blows on GAM, and the army and police were moving to target suspected supporters of the rebels, arresting and detaining many non-violent political activists and human rights monitors in the process.

This report examines the Indonesian security forces' role in extrajudicial executions, "disappearances," torture, and collective punishment, as well as its efforts to restrict fundamental rights of expression, assembly, and association, particularly with regard to a student-led organization called SIRA (an acronym for Sentral Informasi Referendum Aceh or the Aceh Referendum Information Center.) It also looks at GAM's role in killings, unlawful detentions, and forced expulsions of Javanese, and examines its dubious "justice" system. Finally, the report examines the lack of remedies available to victims of human rights violations.

The nature of the conflict is exemplified by a series of killings in Samalanga, Bireun district. A series of clashes between GAM and the Indonesian forces had heightened tensions in April and May 2001. In mid-May, the wife of an Indonesian military officer was abducted in one village, after villagers reported to GAM that she was engaged in suspicious activities. As search operations were being conducted, she was found murdered. The army then executed two men from the village from which she disappeared and mutilated their bodies, then burned more than one hundred shops and houses. Neither side was willing to acknowledge its responsibility for the human rights violations it had committed.

The report examines one particular case that has had a major impact in Aceh in terms of assistance to victims, redress for abuses, and political space for work by local human rights organizations. The case involves five women from the district of South Aceh reported in February 2001 to have been sexually abused by members of the paramilitary police, known as Brimob. Human rights nongovernmental organizations (NGOs) brought the women to Banda Aceh, the provincial capital, where the case was widely publicized. The women were later taken into police custody whereupon they changed their stories, saying it was GAM who had abducted them and forced them to say that they had been assaulted by Brimob.

One of those summoned as a suspect was a respected religious leader named Teungku Kamal. On March 29, 2001, after giving a deposition to the South Aceh police, he was shot and killed, together with his lawyer, a human rights advocate named Suprin Sulaiman, and their driver. By early August 2001, Indonesian authorities had not mounted any serious investigation

into these killings. They were, however, aggressively pursuing the defamation case against the NGOs.

Finally, the report examines the failure of Indonesian courts to move forward with prosecutions in any serious human rights cases, using the case of three humanitarian workers killed in December 2000 as a case study.

The report is based on a visit to Indonesia by Human Rights Watch in May 2001 that involved two trips to Aceh and a series of meetings in Jakarta. Human Rights Watch interviewed military and civilian officials of the Indonesian government as well as GAM leaders and dozens of NGO representatives. Security considerations and a transport strike prevented Human Rights Watch from traveling in Aceh outside Banda Aceh, the provincial capital, but staff were able to meet there with villagers from five districts.

Recommendations

The Indonesian government and GAM are obligated under international humanitarian law to ensure the safety of civilians and non-combatants. The Indonesian government is obligated under international human rights law to protect the rights to freedom of expression, assembly, and association. As a party to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment, the Indonesian government has an obligation to ensure that law enforcement personnel and others involved in any form of arrest or detention are trained in the prevention of torture; to investigate any allegation of torture; and to ensure that victims of torture can seek and obtain redress.

To both parties to the conflict:

1. The Indonesian government and GAM should publicly state their commitment to abide by international humanitarian law. They should ensure that all commanders, at every level, receive basic training in the fundamental principles of humanitarian law, particularly the protection of civilians and non-combatants. All combatants should be trained and drilled in the proper treatment of civilians and non-combatants, including captured fighters.
2. The Indonesian government should take steps immediately to sign and ratify Protocol II to the Geneva Conventions relating to the protection of civilians in a non-international conflict.
3. Both the Indonesian government and GAM should take measures to ensure that enforceable mechanisms are put in place to hold members of their respective forces individually accountable for violations of human rights, including extrajudicial executions, torture, rape and other forms of sexual assault.
4. Both sides should immediately cease all forms of collective punishment. This includes the Indonesian forces' practice of burning homes and marketplaces of villages suspected of harboring GAM, and GAM's practice of forcibly expelling ethnic Javanese from their homes.
5. Both sides should refrain from any threats, intimidation, or harassment of nongovernmental organizations (NGOs). The Indonesian government should cease its persecution of members of the SIRA organization and other activist groups as well as members of NGO fact-finding delegations. It should refrain from prosecuting NGOs and activists under provisions of the Indonesian penal code prohibiting "spreading hatred." GAM should cease harassment of NGOs that refuse to use unverified GAM information as the basis of advocacy efforts.

6. Building on the March 18, 2001 agreement between GAM and the Republic of Indonesia, both sides should reiterate their commitment to the reopening of Indonesian courts to reestablish judicial institutions in furtherance of the rule of law.

7. Both sides should cease the practice of extortion, either for personal or organizational gain.

8. The Indonesian government should move quickly, based on Law No.26/2000 passed in November 2000, to establish a human rights court in Medan to try cases involving serious human rights violations committed by Indonesian forces in Aceh.

9. Even before such a court is established, the Indonesian government should move quickly to bring to trial outstanding human rights cases, such as the RATA killings of December 2000.

To the International Community

1. Any provision of military training or assistance to the Indonesian armed forces should be made conditional on the Indonesian government achieving clear progress in bringing to justice military and police responsible for human rights violations.

2. Indonesia's donors should maintain the pressure on the Indonesian government to ensure that those responsible for human rights violations are brought to justice. Those that have contact with the GAM leadership should also make clear that they expect GAM to observe international humanitarian law.

3. The diplomatic community in Jakarta should hold intensive discussions with representatives of Acehese civil society, including NGOs, religious leaders, and academics, to ensure that views are adequately reflected in efforts to resolve the conflict and end human rights and humanitarian law violations in Aceh.

4. International aid and humanitarian agencies should examine ways to assist and protect those who have been internally displaced.

5. International humanitarian agencies should address the special pressures and problems facing women in Aceh as a result of the conflict. This could include training in Banda Aceh for local organizations working on violence against women, assistance to women to manage centers for displaced people, and income-generating projects for women in conflict-affected areas.

6. Governments should urge Indonesia to invite the U.N. Special Representative for Human Rights Defenders and other appropriate U.N. Special Rapporteurs to Aceh to meet with both sides and make recommendations based on their field of expertise.

6. Governments should support initiatives to establish an impartial court system in Aceh as well as a human rights court in Medan as mandated by Law No.26 of November 2000.

II. NATURE OF THE CONFLICT

The conflict in Aceh is an increasingly brutal war with both sides violating humanitarian law with impunity. Fighting intensified after then Indonesian President Abdurrahman Wahid issued Presidential Instruction (Inpres) No. 4 on April 11, 2001, ostensibly designed to find a comprehensive solution to the conflict.¹

On one side are the Indonesian government forces, both police (*Polisi Republik Indonesia*, or *Polri*) and military (Tentara Nasional Indonesia, or TNI), with some 30,000 personnel in the field, poorly trained and poorly paid.² If for the first three months of 2001, the army seemed to grudgingly accept President Wahid's reluctance to move forward with "limited" military operations, by May, the president's own inclinations had become irrelevant. Indonesian security forces moved forward with an all-out offensive to crush "separatists" without any apparent appreciation of the political dynamics of guerrilla war – i.e. that brutality toward civilians on the part of counterinsurgency forces leads to ever more support for the insurgency.

On the other side are the forces of the Gerakan Aceh Merdeka (GAM) or the Free Aceh Movement, an increasingly well-organized and motivated force of perhaps 10,000 regulars, less than 2,000 of whom may be armed.³ The titular leader of GAM, Hasan di Tiro, lives in exile in Sweden, and is more of a figurehead than an operational commander.

Neither side appears to be serious about holding members of its respective forces accountable. The government forces refer to GAM as "armed civilian gangs" (*gerombolan sipil bersenjata* or GSB). The rebels refer to the government forces as "Indonesian soldier-bandits" (*serdadu bandit Indonesia* or SBI). Both sides make use of individuals in civilian clothes to carry out operations, and the most frequent perpetrators of targeted executions and mass arson are "unknown persons," *orang tidak kenal* or OTK. The army and police use troops out of uniform so they can avoid responsibility for abuses and put the blame on GAM. GAM reportedly sometimes sends members into action without uniform, so that if they are killed by the army, GAM can claim them as civilian victims. It also frequently blames actions by its own forces on the other side.

Neither weapons nor vehicles are a reliable guide to the identities of those who perpetrate abuses. The Indonesian security forces remain the major source of GAM weapons, and both sides commandeer vehicles with such regularity that the person who uses the vehicle in committing an abuse may have no relation to the vehicle's owner. The description "OTK" thus becomes a

¹ According to one of the more cautious estimates, 144 people were killed from May 1 to June 5, 2001, including 102 non-combatants. (The total death toll for the month of June 2000, by contrast, was seventeen.) The figures come from the documentation division of Forum Peduli HAM Aceh, a Banda Aceh-based NGO, and are somewhat lower than estimates of other organizations. They include deaths of rebels (thirty-two) and TNI/police (ten). See "Sebulan, 144 Tewas," *Serambi Indonesia*, June 7, 2001. A nurse working in Banda Aceh's main hospital told Human Rights Watch in mid-May 2001, however, that he believed the TNI consistently underreported its own casualties, because he had witnessed more bodies being quietly taken to the airport than were ever reported in the press.

² Estimates of the police and army presence vary greatly depending on the source. One source with good links to the Indonesian armed forces estimated that as of late April 2001, the TNI force in Aceh numbered 12,000 and the police force around 20,000. John Haseman, "Jakarta hardens Indonesia policy," *Jane's Defence Weekly*, May 2, 2001.

³ International Crisis Group, "Aceh: Why Military Force Won't Bring Lasting Peace," ICG Asia Report No. 17, June 12, 2001.

convenient cover for both sides. Indeed, in some of the highest profile killings in Aceh in 2001, it remains unclear which side was responsible.

One example is the murder of Haji Djohan, the provincial chairman of the former ruling party, Golkar, in Banda Aceh on May 10, 2001, just as he was leaving the city's main mosque after sunset prayers. He was killed by two men on a motorcycle as he stepped off the mosque grounds. The immediate assumption was that GAM was responsible. Djohan was not only a Golkar member; he was also a retired major general in the Indonesian army, a former regional commander for Aceh, and deputy speaker of the provincial parliament. All those factors would seem to make him a logical target of GAM, and a series of arson attacks on the homes of provincial parliamentarians, almost certainly carried out by GAM, lent further credence to that logic.

But Djohan had also been a vocal critic of military abuses and had maintained good personal relations with many GAM leaders. The day after he was killed he had been due to give a press conference in which he reportedly planned to criticize violence on the part of both sides. Both sides have strenuously denied responsibility for his death, and his killers remain unknown.⁴

Even when the identities of the perpetrators are indisputable, punishment is rare. There are no functioning courts in conflict-wracked districts with the exception of the provincial capital, Banda Aceh.⁵ A tiny minority of soldiers or police may face disciplinary action for certain kinds of extortion, but Human Rights Watch does not know of a single case since the beginning of 2001 where a soldier or police officer responsible for civilian deaths, torture, or destruction of property in areas suspected of being GAM strongholds has been punished. The government is more likely to excuse such behavior as the "emotional" reaction of men who have seen their colleagues and family members attacked.

Both sides use operatives who are little better than thugs. In the Lhokseumawe area, the most notorious military informer was Ampon Thaib, the man named as a suspect in the killings in December 2000 of three workers for the torture rehabilitation organization called RATA. Ampon Thaib, according to Lhokseumawe residents, had killed on order for the military since the early 1990s.⁶

GAM, for its part, uses within its forces some young men whose main motivation appears to be less the struggle for independence than the possibilities for extortion that possession of a gun opens up. One GAM official told Human Rights Watch that, as a matter of policy, only the wealthy and government civil servants were targeted for extortion (he used the English word).⁷ That same day, however, Human Rights Watch learned of an incident in Aceh Besar district in which a young man with a gun tried to extort money and seize a motorcycle from an NGO, and was only stopped from doing so when a staff member of the NGO telephoned a GAM leader he knew to protest.

As GAM's influence was growing, through May 2001, it appeared that some people might pretend to belong to GAM as a way of gaining respect from other Acehnese, and not all actions committed in GAM's name were sanctioned by the leadership in Banda Aceh. While

⁴ During a visit to Banda Aceh two days after the murder of Djohan, Human Rights Watch spoke with GAM officials, the head of the provincial police, NGOs, and Djohan's widow about the killing.

⁵ See below, Section IX.

⁶ Human Rights Watch interview, May 12, 2001.

⁷ Human Rights Watch interview with GAM official, Banda Aceh, May 22, 2001.

GAM appeared to be improving its command-and-control capacity, it was clear that its rank-and-file forces are not as always as disciplined as its commanders would have liked.

According to a senior police officer interviewed by Human Rights Watch in Banda Aceh, the difference between crimes committed by government forces and by GAM was that the former were committed by individuals – *oknum*, to use the Indonesian word – while GAM committed crimes as a matter of policy.⁸ As an example, he compared the illegal levies imposed by soldiers on drivers using the main Banda Aceh-Medan highway with the illegal “taxes” collected by GAM. There was no institutional policy on the part of the army or police to collect money from motorists, he said; this was unauthorized behavior on the part of individual soldiers. By contrast, he said, GAM taxation of villagers, was a policy implemented on orders from the top of the GAM organization. Human Rights Watch, however, has ample evidence to suggest that serious human rights violations, not only extortion, are allowed to go unpunished by TNI and Polri as a matter of policy. The notion of crimes committed by the security forces in this war being individual aberrations simply does not hold up.

While there is some understanding by both sides that civilian lives and property should be respected, neither party to the conflict has much appreciation of the requirements of international humanitarian law. For example, a senior police official in Banda Aceh gave Human Rights Watch a list of alleged human rights violations by “GSB”—the derogatory initials that security forces use for GAM – in which no distinction was made between deaths of soldiers in armed clashes and killings of civilians.⁹ Some GAM officials, for their part, saw nothing wrong with their organization’s forcible expulsions of ethnic Javanese from Aceh. GAM leaders clearly understood the army’s torching of entire villages in retaliation for an attack by their forces on a military truck or convoy as unacceptable collective punishment; they did not see their policies toward ethnic Javanese – explained as resulting from the need to prevent the Indonesian government from using Javanese as spies or militia members – in the same light.

III. BACKGROUND TO THE CONFLICT

The conflict in Aceh has worsened dramatically since the fall of President Soeharto in 1998. While GAM has been in existence since 1976, it is only in the last two years that it has developed a significant popular base, a steady source of arms, and a relatively well-organized command structure. By July 2001, it exercised control over much of Aceh, with a particularly strong presence in six of the most populous, and wealthiest, districts.

When GAM was formed in 1976, its architects stressed the plundering of Aceh’s wealth and resources by “Javanese-Indonesian” colonialists in the name of development and the need to recapture Aceh’s past glory.¹⁰ Economic grievances were and continue to be important, but the more immediate spur to the independence movement has been the failure of the post-Soeharto governments to address human rights abuses of the past, particularly those committed between 1990 and 1998.

⁸ Human Rights Watch interview in Banda Aceh, May 19, 2001.

⁹ The list was compiled and bound by the informal unit of the provincial police with the title, Polri Daerah Istimewa Aceh, Satgas Penerangan, “Laporan Pelanggaran HAM Yang Dilakukan Pok GSB Aceh Merdeka Periode Bulan Oktober 2000 d/d Mei 2001,” Banda Aceh, May 2001.

¹⁰ Tim Kell, *The Roots of Acehnese Rebellion 1989-92*, Cornell Modern Indonesia Project (Ithaca: 1995) pp. 62-63.

The “DOM” Period

In 1989, over one hundred Libyan-trained GAM guerrillas returned to Aceh with rudimentary military training to try and give the then moribund rebellion a new lease on life. After they mounted a series of attacks on military and police posts, culminating in one raid on a police post in May 1990 that netted ammunition and dozens of automatic weapons, the Soeharto government declared Aceh an area of military operations (*daerah operasi militer* or DOM) and mounted one of the heaviest counterinsurgency campaigns seen since the 1960s.

Well over one thousand Acehnese civilians were killed in the first three years of operations, the worst phase of DOM. The most conservative accounting of victims, prepared by the provincial government in late 1998, documented 871 people killed outright by the army, and 387 missing who later turned up dead. More than 500 others were listed as “disappeared” and never found.¹¹ Most estimates by NGOs were at least twice as high. In addition, tens of thousands of Acehnese were imprisoned and tortured in military camps, and rape was reportedly widespread, with 102 cases documented by the local government team. So many people were affected that, today, virtually every Acehnese in the hardest-hit areas can cite a family member who was the direct target of a human rights violation – and who had no link to GAM at the time. Abuses continued through the end of DOM in August 1998, although at a lower level of intensity than in the 1990-93 period.

The resignation of Soeharto created expectations across Aceh that, at last, the truth would come out, justice would be done, and victims would be compensated. From late May 1998 onward, it was as though the lid had been suddenly blown off a pressure cooker of information. Every news broadcast on Indonesian television seemed to carry new revelations of abuses in Aceh, from testimonies of rape victims to discoveries of mass graves. New fact-finding missions were conducted, victim solidarity organizations formed, forensic training conducted. With newfound freedom of expression, assembly, and association, many more people were mobilized, not by GAM, but by student and NGO organizations, to demand justice for their relatives and establish links with each other.

In the middle of the onslaught of new information, the Habibie government acknowledged that Aceh’s DOM status had never been lifted, and promised to do so forthwith. On August 7, 1998, General Wiranto, commander of Indonesia’s armed forces, formally apologized to the people of Aceh for what they had endured at the military’s hands. If, at this point, the Indonesian government had moved to investigate and prosecute officers for their role in the executions, “disappearances”, rapes, and torture, it could have made a decisive break with the past and in all likelihood earned a measure of popular goodwill. Not only was nothing done, but key figures in the DOM hierarchy continued to occupy positions of influence throughout Indonesia.

Not long after Wiranto’s apology, DOM status was formally lifted, and “non-organic” troops – that is, those not directly assigned to district, subdistrict and other territorial commands – were to be withdrawn in a ceremony at the end of August 1998. That ceremony went awry, ending in a riot in Lhokseumawe that many Acehnese believed was staged by departing troops unhappy at being taken away from their lucrative sources of income from illegal logging and marijuana cultivation in Aceh. One officer was identified by witnesses as having mobilized truckloads of youths to riot; no investigation was ever conducted.

¹¹ Al-Chaidar, Sayed Mudhahar Ahmad and Yarmen Dinamika, *Aceh Bersimbah Darah*, Pustaka al-Kautsar, (Jakarta: 1998), p. 106.

Post-Soeharto Violence in Aceh

The year 1998 ended in a paroxysm of violence, as GAM stepped up operations. Although it never claimed responsibility, GAM was widely believed responsible for an attack on soldiers returning from holiday leave in late December. In retaliation, fellow soldiers of those killed in the attack entered a makeshift detention center where young men suspected of having links to the rebels were being held. They beat four of the detainees to death and seriously wounded many others. The soldiers and their commander were later tried and convicted by a military court, but the episode signaled the beginning of a new phase of the conflict. Instead of coming to terms with the past, the military sent more troops to Aceh. There was indeed a heightened security threat from GAM, since many Malaysia-based GAM members were returning to Indonesia as political space increased. But no one in Jakarta seemed to appreciate the degree to which anger over DOM-era abuses had changed the political dynamics in Aceh: GAM had a much more receptive audience than it had ever had before.

In early 1999, the political dynamics underwent another critical shift. President Habibie announced on January 27 that East Timorese would be given the opportunity to choose between increased autonomy and separation from Indonesia. Within days, an all-Aceh student congress had called for a referendum to be held in Aceh. That congress gave rise to a province-wide, student-led organization called SIRA: Sentral Informasi Referendum Aceh or Information Center for a Referendum on Aceh. SIRA argued that a referendum would be a peaceful way of resolving the conflict caused by what they called “state terrorism” against the Acehnese. SIRA had no known links to GAM when it began; indeed, it went contrary to GAM’s philosophy to offer people a choice rather than to accept independence as the only alternative. But most of the SIRA leaders were, in fact, pro-independence, and they had no doubt that if a referendum were held, independence would be the overwhelming choice.

From February 1999 onward, four key elements came together to facilitate the rapid growth of the independence movement: an armed guerrilla organization; a nascent pro-independence political movement; and a highly mobilized population looking for channels to express their frustration with Jakarta over failure to address past abuses. The fourth was the series of missteps in Jakarta.

Failed Efforts at Accountability

In March 1999, President Habibie went to Banda Aceh and apologized for past abuses. In June, he appointed a twenty-seven-member Independent Commission to Investigate Violence in Aceh. The members, although primarily Acehnese, were not chosen in consultation with victim organizations or human rights groups in Aceh, and the committee was headed by an Acehnese woman known to have business dealings with General Wiranto. It handed in a nearly 500-page report on July 30, 1999, listing thousands of cases of violence but recommending that priority be given to only five cases – three of which occurred after the DOM status had formally been lifted. None of the best-known incidents from the DOM period were included, and in the end, only one of the five was ever brought to trial.¹²

In August 1999 Indonesia’s National Human Rights Commission suggested that a Truth and Reconciliation Commission be set up specifically for Aceh. Nothing came of it. (A bill for a National Truth and Reconciliation Commission remained stalled in the Indonesian Parliament as of July 2001 and seemed likely to die a lingering death.) In December 1999, a special parliamentary committee on Aceh made a series of recommendations to the new president,

¹² International Crisis Group, “Indonesia: Impunity Versus Accountability for Gross Human Rights Violations,” ICG Asia Report No.12, Jakarta/Brussels, February 2, 2001.

Abdurrahman Wahid, that included rebuilding facilities destroyed over the thirty-two years of the Soeharto administration; opening a dialogue with all parties to the conflict; giving the province more autonomy; and immediately prosecuting those responsible for human rights abuses committed during the DOM period. The recommendations resulted in moves to draft legislation on autonomy, but the recommendation on prosecutions was ignored.

Not only was there no movement of any kind on prosecutions as political mobilization increased in Aceh, but there was an increase in the same types of human rights violations that had characterized the DOM period. Military operations under a series of code names – Wibawa 99, Sadar Rencong I, II, and III, and Cinta Meunasah I and II – led to more and more troops being deployed in Aceh, with whole villages being punished as retaliation for GAM attacks. Human rights and humanitarian groups began to be targeted in 2000, as were pro-referendum organizations like SIRA, especially after the latter showed in November 1999 that it could organize a peaceful demonstration of more than 500,000 on the streets of Banda Aceh in support of its stated goals.

At the same time, GAM, building on the increasing anger of a disaffected populace, began to move beyond sporadic attacks on police and soldiers and began setting up an alternative administration. Beginning in Pidie district and gradually moving on to North Aceh, West Aceh, East Aceh, and South Aceh, GAM began to reorganize the village administrative apparatus. It not only replaced the village heads – the bottom rung of the Indonesian civil service – but it reinstituted the idea of a council of village elders that had been in place before Aceh joined the Indonesian republic. Sometimes through persuasion, sometimes through abduction and a kind of reeducation of local government officials, GAM gradually took control over most governmental functions from the district level down in wide swathes of the districts mentioned above. It was able to generate substantial income in “war taxes” from individuals and businesses, and the exodus of pro-Indonesian militias from East to West Timor provided it with a major new source of arms.

Into this situation in mid-2000 came a Geneva-based conflict resolution organization, the Henri Dunant Center, later renamed the Humanitarian Dialogue Centre (HDC), which succeeded, to many people’s surprise, in brokering negotiations between GAM and the Indonesian government. In May 2000, the HDC produced a “humanitarian pause” in the conflict, a not-quite ceasefire. As part of the agreement on the pause, committees were set up in Aceh, composed of both GAM and government representatives, to discuss security issues and violations of the pause. In the first months after the pause took effect, violence declined sharply. As violations by the Indonesian side increased, however, attacks by GAM on military and police also escalated. The pause was renewed twice, much to the unhappiness of the Indonesian army that saw it merely as a way for GAM to consolidate its control of the countryside. The name given the peace effort changed from “humanitarian pause” to “moratorium on violence” to “peace through dialogue,” but the basic effort to keep the parties talking continued.

On March 9, 2001, Indonesia’s defense minister and its armed forces commander announced new military operations against GAM. On the same day, Exxon Mobil, the region’s largest foreign investor, closed three of its gasfields in North Aceh, citing attacks on its employees. Almost immediately, more troops were sent to North Aceh. The government claimed the additional troops were essential for the protection of Exxon-Mobil and the re-opening of operations, as Indonesian contracts with Japan and the Republic of Korea for sales of natural gas depended on the re-opening of the fields. (As of early August, two of the fields had reopened but with much reduced production.) Many in Aceh believed the army was using the closure of the gasfield as a pretext to start a long-planned offensive.

Presidential Instruction No.4

For the first four months of 2001, President Wahid resisted requests from Indonesia's military leaders to mount a major military operation against the rebels or to declare a civil emergency in Aceh. Under pressure, however, he issued Presidential Instruction (Inpres) No.4 of April 11, 2001.¹³ The instruction stated that efforts at resolving the conflict through dialogue with "armed separatists" had produced no results and that violence on the part of the latter were increasing. The government had therefore decided to adopt a more comprehensive approach, and to address the political, economic, social, law and order, security, and information and communication aspects of the problem. To do so it set up an unwieldy structure headed by the vice-president and involving fifteen cabinet members, the commanders of both TNI and Polri, the head of the national intelligence agency, the governor of Aceh and all Indonesian-appointed district heads in Aceh.

In practice, however, the main result of Inpres No.4 was the restructuring of the security apparatus responsible for Aceh. A new "Operation for the Restoration of Security and Upholding the Law" (*Operasi Pemulihan Keamanan dan Penegakan Hukum* or OKPH) was formed under the overall supervision of the national mobile police brigade (Brimob) commander, Yusuf Manggabarani. Under Manggabarani, who arrived in Aceh in early May 2001, Aceh's then chief of police, Brig.Gen.(Pol) Chairul Rasjid, and army commander Brig.Gen. Zamroni, were given equal responsibility for command of the operations, which were envisioned as being under police authority, but with full army back-up. Rasjid was replaced in June by Brig.Gen (Pol) Ramli Darwis. Zamroni, a former deputy commander of the army special forces (Kopassus), was to command TNI troops, including eleven companies reportedly given special training by Kopassus in West Java.¹⁴

The new troops embarked on a systematic effort to target suspected GAM strongholds and headquarters, with many claims by local organizations of civilians killed in the process. In June, Central Aceh was the site of a particularly violent eruption with the army claiming that GAM had massacred more than forty Javanese migrants on June 5-6 in the areas of Bandar and Timang Gajah, and GAM claiming that the TNI, together with a Javanese militia called Puja Kusuma, had massacred even more ethnic Acehnese and Gayo people in retaliation in the weeks that followed. (Both claims appear to be well-founded, but Human Rights Watch has not been able to independently confirm them.) Between the first week of June and mid-July, some 150 people had been confirmed dead by the Indonesian Red Cross, and 800 homes had been burned to the ground.¹⁵

When one of Indonesia's most respected human rights organizations, KontraS, tried to conduct a fact-finding mission in Central from July 7-19, 2001 its members were stopped by Indonesian security forces and two of them detained and tortured. Both individuals were eventually released.

¹³ Indonesian Ministry of Foreign Affairs, "Instruksi President Republik Indonesia Nomor 4 Tahun 2001 Tentang Langkah-Langkah Komprehensif Dalam Rangka Penyelesaian Masalah Aceh," <http://www.dfa-deplu.go.id>, April 20, 2001.

¹⁴ John Haseman, "Jakarta hardens Aceh policy," *Jane's Defence Weekly*, May 2, 2001.

¹⁵ See, for example, "Takengon Membara, 42 Warga Tewas," *Kompas*, June 12, 2001; "Ratusan Warga Aceh Disandera Sipil Bersenjata," *Kompas*, June 15, 2001; "27 Mayat ditemukan di Bandar," *Waspada*, August 1, 2001.

IV. VIOLATIONS BY BOTH SIDES: THE KILLINGS IN SAMALANGA

The cycle of violence in Aceh was exemplified by the following incident that took place during Human Rights Watch's May 2001 visit. The violence did not begin, however, with the abduction described; military operations, GAM attacks, and military reprisals against villagers had already been going on for some time in the area. But the Samalanga killings give some idea of how and why the political violence in Aceh is escalating.

On Wednesday, May 9, 2001, Mak Pri, the thirty-five-year-old wife of the Samalanga subdistrict military commander (KORAMIL 016) disappeared after being abducted by GAM. A mother of two children, she had gone into the village of Simpang Mamplan, ostensibly to seek the services of a traditional healer. According to local residents, however, she aroused village suspicions by going from house to house, asking questions that had no relation to her ills. For example, they said, she wanted to know where the houses of local village officials were. The villagers found it odd that she would be seeking medicines and advice at more than one house, since there is usually only one well-known healer in each village. They suspected her of being a *cuak*, or military informer, and someone reported to GAM, whose forces then took her into custody. The residents Human Rights Watch talked to did not know any details about the circumstances of the abduction.¹⁶

When Mak Pri did not return, the security forces mounted a massive hunt in the area, using joint teams of military and police, including some stationed in the area (known as organic forces) and others from outside (known as non-organic or auxiliary forces, usually abbreviated BKO, *bantuan kendali operasi*.) One villager who encountered a search team on the evening of May 9 was told that if Mak Pri were not returned safely within twenty-four hours, the entire village would be burned to the ground.¹⁷

On May 10, around 10:00 a.m., three trucks arrived in Simpang Mamplan with both army and Brimob on board. They proceeded to search the village, demanding that people produce identification cards. The adult men tried to stay hidden, fearing that any male would be suspected of being a GAM member. The soldiers looked for the village head, and when they could not find him, they roughly questioned one of his children. Then they burned down the family's home.

Around 6:00 p.m. on the same day, army search teams found the body of Mak Pri near a ricefield in Ceureucok, not far from Simpang Mamplan. According to press accounts, quoting police, she had been shot, and her body also bore marks of torture.¹⁸ According to villagers who, however, had only heard reports from neighbors and had not actually seen the body, there was a large bruise on her left chest, but no evidence of bullet wounds.¹⁹ About the same time, her husband, Corporal Aiyub Ismail, the KORAMIL commander, was leading operations in Simpang Mamplan.²⁰ It is not clear whether he was already informed of her death at the time the next sequence of events occurred.

¹⁶ Human Rights Watch interviews with two local women, conducted in Banda Aceh, May 21, 2001.

¹⁷ Human Rights Watch interviews, May 21, 2001.

¹⁸ "Tiga Tewas Terembak, Satu Istri Anggota TNI," *Serambi Indonesia*, May 11, 2001.

¹⁹ Human Rights Watch interviews, May 21, 2001.

²⁰ Human Rights Watch interviews, May 21, 2001.

According to the villagers, just after sunset, Fuadi Mukhtar, aged twenty, went out of his house in Simpang Mamplan to use the outdoor toilet.²¹ A group of military men caught him and dragged him along into the center of the village, shouting for all the women to come out and watch. Then, as they were watching, the soldiers accused him of being a GAM member and shot him several times in the face and chest.

They dumped his body on the ground. A short while later, another man named Teungku Usman, aged thirty-two, came out of a coffee stall because he wanted to move his motorcycle. A group of soldiers seized him as well and began beating him until he was pleading with them to stop. Then they pushed him down beside Fuadi's body and emptied their rifles into both. One of them cut the throat of Teungku Usman with the bayonet of his gun, then used the bayonet to slash a big "X" on Fuadi's body. Before they finally left, the villagers alleged, Corporal Aiyub personally set fire to Teungku Usman's motorcycle.

On Saturday, May 12, 2001, military operations in the Samalanga area continued, with houses and other properties being burned. A sawmill belonging to one Ibnu Hajar Abdurrahman, thirty-two, of Ie Rhop village, Samalanga, was one of the businesses torched by Indonesian soldiers, after an armed clash between GAM and Indonesian army forces took place about half a kilometer from the sawmill. According to press reports, the police then summoned Ibnu Hajar and his brother to police headquarters in Samalanga. Ibnu Hajar and his wife, Suriyani, responded to the summons at 12:00 p.m. on Saturday. According to villagers, the two were stopped at a checkpoint and taken to police headquarters.²² According to both accounts, Ibnu Hajar was ordered to stay at the police station, but his wife was permitted to go home.

When Suriyani returned with her father-in-law a few hours later, she was not allowed to see her husband. The police chief told her that Ibnu Hajar had been "borrowed temporarily" but did not say by whom or where he was taken.²³

On Sunday, May 13, Ibnu Hajar Abdurrahman was found dead in the same place that the Koramil commander's wife had been dumped. He had three bullet holes in his chest and stab wounds in his neck, according to the press. According to villagers interviewed by Human Rights Watch, one of whom was Suriyani's relative, Ibnu Hajar's face had been slashed from ear to ear across his mouth, and his heart had been removed.²⁴

Neither side has acknowledged responsibility for any of these deaths. When asked about Ibnu Hajar's death and the deaths of Teungku Usman and Fuadi Mukhtar, the police chief of Bireun district told journalists that he had not yet received any reports about the incidents.²⁵ When a journalist from the Banda Aceh newspaper *Serambi* asked the district GAM commander, Tgk. Darwis Jeunib, about the death of Mak Pri, he refused to comment.

²¹ The women we interviewed could not quite remember his name but thought it was "Husaini." The name Fuadi Mukhtar was used in the above *Serambi Indonesia* article. From the context of that unusually detailed article, it is clear it is the same person, so we are using the *Serambi Indonesia* name. On a list of civilian deaths given to Human Rights Watch by GAM officials in Banda Aceh, the name appears as Fauzi Mukhtar.

²² "Kilang kayu dibakar, pemiliknya tewas," *Serambi Indonesia*, May 14, 2001, and Human Rights Watch interviews with local women, conducted in Banda Aceh, May 21, 2001.

²³ "Kilang kayu dibakar, pemiliknya tewas," *Serambi Indonesia*, May 14, 2001.

²⁴ Human Rights Watch interviews, Banda Aceh, May 21, 2001.

²⁵ "Tiga Tewas Tertembak, Satu Istri Anggota TNI" and "Kilang kayu dibakar," op. cit.

When Human Rights Watch interviewed villagers, it was the killings of Fuadi Mukhtar and Teungku Usman that most concerned them, and it was only after some probing that they referred to the death of the Koramil commander's wife. Clearly, the local impact of the killings of two neighbors, known to them personally, was seen as more significant than the murder of a woman who did not belong to their village community. That lack of equivalency is part of the political dynamics that the Indonesian government does not appear to understand.

V. ABUSES BY INDONESIAN SECURITY FORCES

A bewildering array of security forces were operating on the ground in Aceh as of July 2001. These included local police, at the subdistrict (*polsek*), district (*polres*) and provincial (*polda*) levels; mobile police brigade units (*Brimob*), many of them sent in from outside Aceh to assist with operations (known as BKO or *bantuan kendali operasi*, essentially auxiliary forces). The military units included "organic" or locally-based forces at the subdistrict (*Koramil*), district (*Kodim*), sub-province (*Korem*) and regional (*Kodam*) levels, as well as specially trained units sent in from West Java.²⁶

As noted above, the structure changed formally with Inpres No.4, with the appointment of a new joint military and police command designated to oversee operations, under nominal police control. (Aceh police commander Chairul Rasjid told Human Rights Watch that the role of the army in this structure was similar to that of the National Guard in the U.S., called in as back up when a situation exceeded police capacity to control, as in the Los Angeles riots of 1992.²⁷) In fact, the TNI has repeatedly expressed concern that the Indonesian police are not up to the job. Long before Inpres No.4 was issued, the TNI was pressing for, and apparently expected to receive, authorization from president for, "limited military operations" against GAM. Even before Inpres No.4 was issued, thousands of new troops were sent to Aceh, including the Kopassus-trained forces grouped together as the Rajawali Task Force.²⁸

Extrajudicial Executions

By mid-2001, so many killings were taking place in Aceh of people suspected of belonging to GAM that it was difficult to keep an accurate tally. In some of the highest profile killings, such as the March 29, 2001 murders of Tgk. Kamal, a religious leader from South Aceh, Suprin Sulaiman, a human rights lawyer, and Amiruddin, their driver (described in Section VII below), Indonesian security forces were widely assumed to be responsible on the basis of circumstantial evidence, but in numerous other cases, there was direct eyewitness testimony pointing to government troops.

Indonesian security forces themselves were more likely to try to cover up executions of suspected GAM members during military operations (*penyisiran*) by claiming that they occurred during an armed clash (*kontak senjata*) or during escape attempts. When ordinary civilians are killed by the military or police, the official explanation puts the responsibility for their deaths back onto the rebels. A senior police officer in Banda Aceh, for example, told Human Rights

²⁶ The regional command that covers Aceh is based in Medan, North Sumatra. Aceh has two Korems, the Teuku Umar Korem in Banda Aceh, and the Lilawangse Korem in Lhokseumawe. For a good description of TNI territorial structure see Robert Lowry, *The Indonesian Armed Forces*, Melbourne University Press (Australia), 1998.

²⁷ Human Rights Watch interview, Banda Aceh, May 12, 2001.

²⁸ "The Presidential Instruction: Laden with Uncertainty," *Tempo* (Jakarta) newsweekly, April 17-23, 2001.

Watch that GAM members often fire at security forces from behind civilian houses, hoping that the forces will fire back and hit civilians so they can blame the security forces for the deaths.²⁹

There is ample evidence, however, that Indonesian forces deliberately and systematically employ executions to deter villagers from supporting GAM, as the Samalanga killings, described above, and other similar incidents indicate.

Usman bin Adam, a twenty-four-year-old student at the al-Hilal Islamic teacher training institute in Sigli, Pidie district who was almost certainly executed by Brimob forces in mid-April 2001. His body was never returned to his family.³⁰ On April 11, 2001 the village of Kalee, Muaratega subdistrict, Pidie, became the target of military operations after a bombing incident the day before. At around 11:00 a.m., a Brimob unit that included two local police officers from the Muaratega police headquarters, identified by villagers as Privates Nurijal and Roni, drove into Kalee market in two vehicles, one of them a truck with about twenty-four men on board. They rounded up about forty people who were in the market at the time, forced them to stand in the sun, and lectured them about loyalty to Indonesia. They also forced them to recite the principles of Pancasila, the state ideology under former President Soeharto, and to sing the Indonesian national anthem.

As this was going on, Usman bin Adam rode into the market on a motorcycle. He was initially told to join the others. But then the police noticed that the motorcycle he had been riding bore a police license plate. This immediately put him under suspicion because GAM regularly commandeers vehicles from government offices, businesses, and private citizens, leading security forces to assume that anyone in possession of a motorcycle or car but unable to prove ownership must belong to GAM, although there may be other likely reasons for possession.

As the assembled villagers watched, four Brimob men dragged Usman bin Adam away from the crowd and took him behind a kiosk belonging to Bakhtiar Raden Taken. Minutes later, villagers heard three shots from behind the kiosk. Shortly thereafter, they saw Usman bin Adam's body being put on the Brimob truck, and the police unit drove off. When they had gone, villagers went to look behind Bakhtiar's kiosk. They saw blood and brains on the wall of the kiosk. It was about 12:00 p.m.

Over the next week, hundreds of villagers searched the surrounding forest for Usman bin Adam's body. They found no trace of him, but they did find the body of another man, name not known, who had been missing for about a week, and who had been last seen being apprehended by security forces as he was filling up a car that did not belong to him at a petrol pump.

The deputy information officer for Operasi Cinta Meunasah II, the police operation that preceded Inpres No.4, denied any involvement of the security forces in Usman bin Adam's disappearance and likely execution and told journalists that they should disregard any reports about it.³¹

²⁹ Interview at police headquarters, Banda Aceh, May 12, 2001.

³⁰ The information about Usman bin Adam comes from interviews with human rights workers who conducted an investigation at the site on April 12, 2001, the day after the probable execution took place. Human Rights Watch conducted the interviews on May 17, 2001 in Jakarta.

³¹ "Ratusan Warga Dekerahkan Mencari Mahasiswa Hilang," *Seramb Indonesia*, April 17, 2001.

Torture

Torture by the police and army appears to be routine during interrogation of suspected GAM members, as documented in numerous reports by local human rights organizations.³² In May 2001, Human Rights Watch interviewed one detainee named Muchsin in Banda Aceh prison, who alleged that he had been tortured by police using a pair of pliers, leaving clearly visible scars.

Muchsin had been involved in a highly publicized case in which a bank manager was accused of having called on GAM to help discipline his subordinate in a case of alleged embezzlement.

According to reports, on April 2, 2001, T.B. Herman, the manager of the Banda Aceh branch of BNI 46, a large national bank, accused one of his subordinates of embezzling about Rp.71,000,000 (U.S. \$7,000) that belonged to a religious school in Aceh Besar district. He had apparently learned of the disappearance of the money while going over the end-of-month accounts. Herman allegedly told the subordinate that unless he returned the money, he would be handed over to a GAM member who was at that moment waiting in the office. One of those in the manager's office at the time was Muchsin.

It was not the first time that Herman had called in GAM. In November 2000, he had turned over the same subordinate to GAM for punishment after U.S.\$10,000 had disappeared from the bank; the subordinate was held for a week by GAM but released after the monitoring team working on the humanitarian dialogue intervened on his behalf.³³

This time, however, when Herman threatened him, the subordinate began to shout, attracting the attention of police stationed in the bank. As a result, Herman and the subordinate were both taken to the Banda Aceh police station. Then, after hearing the subordinate's testimony, a joint force of police, Brimob, and soldiers stormed the bank and arrested six men, including Muchsin, who was brought out of the manager's office blindfolded and with his hands tied behind his back.

The other men were questioned and released, but Muchsin, suspected of being the GAM member, was taken out of the police station by a group of men to a place that he could not identify because of his blindfold. There, one by one, his interrogators took turns in torturing him with pliers to make him admit that he belonged to GAM. They pulled the nail almost off his left thumb, squeezed his nose so hard that they punctured it by the left nostril, and caused severe scars on his upper right forearm and right nipple, and injuries to his right ear. He collapsed under the pain and woke up in hospital.

At first, he was told that he would be charged with rebellion, but the charges were then changed to making threats. T.B.Herman, the bank manager, was briefly arrested, then released for "medical reasons" but reportedly after making a large payment to the police. He went to Medan thereafter and reportedly has not returned to Aceh.³⁴

³² See, for example, KontraS-Aceh, "Tabulasi Data Kekerasan di Aceh Periode 01 January-09 Desember 2000." The report lists 549 cases of torture in Aceh during the year.

³³ "Kepala BNI-46 Ditangkap Polisi," *Serambi Indonesia*, April 3, 2001.

³⁴ Interviews with Muchsin, Muchsin's lawyer, and human rights NGOs in Banda Aceh.

When Human Rights Watch raised the issue of Muchsin's torture, the spokesman for the police-military operations in Aceh initially tried to suggest that the police were not responsible, although he did not seem to know the details of the case. When Human Rights Watch said there was no question but that the police were involved, he said it would be impossible to take any action against the police or press the issue further unless the victim were willing to make a formal complaint, through the *praperadilan*, a pre-trial hearing to challenge unauthorized arrest and detention procedures. In May 2001, the chances of a suspected GAM member making such a complaint, let alone having it heard before a court in Aceh, were almost nil.

Disappearances

Just as thousands of Acehnese were victims of enforced disappearances during the DOM period, their fate unknown to this day, "disappearances" of people suspected of having links to GAM are regularly reported by local human rights organizations in Aceh and in Medan, North Sumatra, where many Acehnese live. In some cases, individuals are missing for days or weeks before their bodies are found and identified by relatives. The most prominent such case to date was the "disappearance" from Medan in August 2000 of U.S.-based Acehnese human rights lawyer Jafar Siddiq Hamzah, whose body was found three weeks later. As of July 2001, no witnesses had come forward, no killers had been identified, and the police investigation had reached a dead end.

In many cases, the bodies of the "disappeared" are never found; in others, bodies are found but never identified, either because of their decomposition, because family members or witnesses to their "disappearance" are afraid to come forward in case they are suspected of belonging to GAM, and because police keep no central registry of persons reported to have "disappeared."

In May 2001, Acehnese interviewed by Human Rights Watch were particularly concerned about the "disappearance" of three university students in Banda Aceh in January 2001. There were unconfirmed reports, however, that one had been seen acting as a guide for a military operation.

The sequence of events was as follows. On January 4, 2001 at about 5:00 p.m., Taufik Jaya Putra, twenty, a law student at Syiah Kuala University, left home to visit a house in the village of Tungkap, Darussalam subdistrict, an area of Banda Aceh in which three prominent colleges are located. He was driving a Feroza jeep, and Ramli MD, a student of Islamic law at the ar-Raniry State Islamic Institute (IAIN), was with him.

They arrived at the house in Tungkap and left about an hour later. Shortly after they left, three Kijang minivans containing about a dozen men stopped them. Some of the men were masked and dressed in black, others wore ordinary civilian clothes.

The four vehicles—the three minivans and the students' car—then returned to the house that Taufik and Ramli had visited. There, the men seized Marmunadi, twenty-eight, a student in the technical faculty of Syiah Kuala University. The three students were then driven away. All four vehicles left together, but it is not clear from witness accounts whether the three were taken in Taufik Jaya Putra's jeep or in one of the three minivans.

A witness named Subchan reportedly saw and heard the three students after sunset. Subchan had been arrested around 5:00 p.m. in Lambada, Lambaro Angun, and was brought to Banda Aceh police headquarters (Mapolda) in a red Kijiang van. He was then transferred to the Brimob post in nearby Lingke, still within the Banda Aceh city limits, where he was kept in the

car for about an hour and a half: Subchan saw the Feroza belonging to Taufik parked right behind the red Kijiang and heard sounds of people being beaten. Subchan himself was released shortly thereafter.

Families of the three students went to the office of the Legal Aid Institute, an NGO in Banda Aceh, for help and then, accompanied by a representative of the Institute, they went to see the chief of police for Aceh Besar district, Sayed Hoesairy. Hoesairy, however, said he had not received any report of the incident, and told them that no police operations were carried out on January 4.³⁵ The families also went to see Kusbini Imbar, then head of the information office for Operation Cinta Meunasah I. He told them he had no information, and they should direct their inquiries to the Aceh police. As of August 2001, no further information about the three students was available.

Collective Punishment

Security forces in mid-2001 were frequently punishing entire villages for GAM attacks on police or military. The most devastating example was the burning of the town of Idi Rayeuk and related destruction of civilian property in East Aceh, which took place in early March, before the issuance of Inpres No.4.

On the evening of February 28, 2001, GAM forces entered and took control of the town of some 15,000 inhabitants, and held it until the following morning when Indonesian reinforcements arrived. GAM reportedly burned down a police barracks and the local jail, which was empty, and bombed the police station. There were no reported casualties. When Indonesian forces arrived, however, a major battle ensued, in the course of which an estimated seventeen civilians were killed. The joint force of Indonesian military and police, using armored personnel carriers and three helicopters, then proceeded to burn the center of the town to the ground, and also torched six surrounding villages. As of early June, the town was still in ruins, and no economic activity had resumed. Thousands of people were displaced, with estimates ranging from 6,000 to over 9,000.

In mid-May, Human Rights Watch interviewed several fishermen from one of the burned villages, Kampong Jawa, in Idi Rayeuk subdistrict, who were then trying to make a living as fishermen in Banda Aceh, while their wives and children remained in a displaced persons' center in East Aceh. They had lost everything when the army came in: their houses, their belongings, and in some cases, their family members. They had not been able to visit their families because any male coming into a displaced persons' center is immediately suspected of belonging to GAM. Of all the disasters that had befallen them on the day that the military retook and destroyed Idi Rayeuk, they were especially angered by the deliberate destruction of their fishing boats. One man told us that in Kampong Jawa alone, some thirty boats were burned. So critical are boats to communities whose livelihoods depend on fishing that one could make the argument that this particular act of destruction constitutes a violation of one key provision of international humanitarian law, proscribing the destruction of objects "indispensable to the survival of the civilian population."³⁶

The burning of more than 115 shops, kiosks, and homes in two villages in Samalanga, following the death of the Koramil commander's wife (described above), also was an example of

³⁵ "Keluarga Korban Penculikan Mengadu ke LBH," *Serambi Indonesia*, January 6, 2001.

³⁶ Article 14 of Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II).

collective punishment.³⁷ The economic life of those villages was destroyed, and many villagers fled, joining an already large population of displaced persons.

On May 5, TNI soldiers from Infantry Battalion 123 who were finishing their tour of duty in South Aceh set fire to twenty homes in the village of Kapa Seusak, Trumon subdistrict, as they were leaving. In this case, a high-ranking delegation of army officers went to South Aceh and made a public apology for the behavior of the troops.³⁸

On May 22, Brig. Gen. Zamroni, the TNI commander of Operation Restore Order, issued a ten-point instruction to troops operating in Aceh, one of which was that they were forbidden to “destroy, burn, or take people’s property.” It may have been a tacit acknowledgment of the destruction, burning, and looting that army and police had engaged in to date, but those practices did not end with Zamroni’s order and it was not clear how the ban would be enforced.

Restrictions on Freedom of Expression, Assembly, and Association

In May 2001, Indonesian police were moving to restrict legitimate exercise of the rights to freedom of expression, assembly and association, targeting not only Acehnese political activists in Aceh but also Acehnese based in Jakarta. Increasingly, they made use of the so-called “spreading hatred” clauses of the Indonesian Criminal Code, a favorite tool of Soeharto-era police against government critics, that criminalize speech or publications that are deemed to incite or disseminate hatred or hostility against the government. Acehnese human rights defenders were also facing criminal defamation charges for alleging that Brimob officers had been involved in a high-profile rape case in South Aceh.

A main target of police restrictions on expression and assembly was the nongovernmental organization called SIRA. Police officials claimed to Human Rights Watch in May, and have made numerous public statements elsewhere, that SIRA is the political wing of GAM.³⁹ “GAM and SIRA,” Aceh police commander Brig. Gen. Chairul Rasjid told Human Rights Watch, “are like Xanana Gusmao and Jose Ramos Horta,” referring to the East Timorese independence leaders.⁴⁰ But this analogy was wrong.

As noted above, SIRA emerged from an all-Aceh student congress held in early February 1999. The congress condemned human rights violations in Aceh and called for a referendum on the territory’s future status as a way to end them. It urged the United Nations to take the lead in helping bring about such a referendum, and it established SIRA as the local campaign office. GAM was initially opposed to the idea of a referendum, but it later became clear that a broad-based civil society campaign was in fact in GAM’s interests. The huge attendance at SIRA-organized rallies in Banda Aceh in November 1999 and November 2000 would probably not have been possible without GAM support. But SIRA has never been institutionally linked to GAM, and its commitment to peaceful means for achieving its political ends was and clearly remains at odds with GAM’s commitment to armed struggle.

On August 17, 2000, SIRA organized a protest to coincide with Indonesia’s National Day, urging all Acehnese to fly the United Nations flag as a show of support for a referendum. The day before, SIRA had organized a mass rally at the Darussalam University campus on the

³⁷ “115 Ruko dan Kios di Samalanga Hangus,” *Serambi Indonesia*, May 15, 2001.

³⁸ “Peristiwa Pembakaran Rumah di Kapa Seusak, Danrem-012 Minta Maaf,” *Serambi Indonesia*, May 5, 2001.

³⁹ See, for example, “Kapolda Aceh Tuding SIRA Sayap GAM,” *Media Indonesia* (Jakarta), May 23, 2001.

⁴⁰ Human Rights Watch interview, Aceh police headquarters (Mapolda), May 12, 2001.

outskirts of Banda Aceh, calling for U.N. intervention in Aceh. Posters and banners displayed during this and related protests called for Aceh's separation from Indonesia. It was this rally that led to the charges against Muhammad Nazar.

On September 19, 2000, two leading SIRA activists, Mohammed W. Saleh, a member of the group's presidium, and Muzakkir, in charge of the group's tabloid publication *Suwa*, were abducted by out-of-uniform Brimob members in Banda Aceh, then interrogated for fifteen hours and beaten so severely at the Brimob headquarters that they were required hospitalization. They were accused among other things of having given GAM lectures" during the August protests.

On November 4, 2000, the SIRA office was raided by police. They produced no warrant but searched staff members and confiscated documents.

On November 10 and 11, 2000, SIRA organized a pro-referendum rally in Banda Aceh on the first anniversary of the 1999 "million-member" march in support of a referendum. To preempt the rally, Indonesia security forces made systematic efforts to prevent people from traveling to the capital to take part, including by shooting some of those who tried to do so. The confirmed death toll was about thirty, but some estimates went much higher.⁴¹ On the eve of the rally, at about 5:00 p.m. on November 10, police raided an office of the organizing committee of the rally, SIRA-RAKAN, and arrested three committee members. Two were members of SIRA; the third was a member of another largely student organization involved in the distribution of humanitarian aid. They were held briefly and then released.

On November 20, police arrested SIRA chairperson Muhammad Nazar after he reported to the Banda Aceh police station in response to a summons. There they charged him with "spreading hatred" on account of his activities related to the August 17 demonstrations. During his questioning, police reportedly accused SIRA of being "GAM without the guns." Nine members of the SIRA presidium were summoned as witnesses in the Nazar case during the first two weeks of December. They refused to respond, understandably fearing that they would be arrested if they appeared at the police station. Some went into hiding. Harassment of SIRA activists continued over the next several months.

Muhammad Nazar went on trial on March 8, 2001. He read a twenty-six page tract in response to the prosecutor's charges, and accused the Indonesian government of neo-colonialism, but continued to maintain that his actions and those of SIRA were peaceful. On March 28, he was sentenced to ten months in prison for spreading hatred in a verdict that the English-language daily *Jakarta Post* called a "setback and a retrograde step by the judicial authorities of the so-called New Indonesia."

On May 10, 2001, a homemade bomb exploded in the Iskandar Muda dormitory for Acehnese students in South Jakarta. Three people died, and eighteen were injured. Police said that they found another bomb and materials for making hundreds of molotov cocktails in the ruins, and immediately accused SIRA of being behind the blast. They alleged that the coordinator of students at the dormitory, Taufik Abdullah, who was taken into custody, was a SIRA activist, and that a student named Gafi, who was present when the explosion took place but who had fled the scene, was as well. The head of police intelligence for Jakarta told reporters that Taufik had

⁴¹ The most careful verification of reports of deaths was undertaken by Kontras-Aceh. They had documented twenty-one killings by November 9, 2000 before the rally actually took place. The official death toll afterwards was about thirty. See *Far Eastern Economic Review*, "Indonesian Province Rallies for Independence," November 22, 2000.

told police investigators that “a SIRA activist, identified as Gafi, had met him five days before Thursday's blast, and asked Taufik if he would like to join him (Gafi) in blowing up Java.”⁴²

Police then raided SIRA's Jakarta office, and almost immediately told journalists that Faisal Saifuddin, the head of that office, was to be questioned in connection with the bomb blast. When he was eventually issued with a summons on May 18, 2001, however, it was not connected to the dormitory explosion. Instead, he was named as a suspect in a “spreading hatred” case arising from a peaceful demonstration on November 8, 2000. At this demonstration, organized by SIRA and held in front of the U.N. office in Jakarta, activists had distributed a flier in English calling on the United Nations to intervene to stop crimes against humanity “conducted by the neo-colonialist Republic of Indonesia”; demanding the right to self-determination and the “returning of Acehnese sovereignty”; and condemning the shooting by Brimob of civilians wanting to attend the pro-referendum rally in Banda Aceh. Faisal Saifuddin was eventually arrested on August 3, 2001.

In the meantime, on May 15, 2001, at about 2:00 a.m, a Reo-brand truck containing about twenty-four masked men drove up to the SIRA office in Banda Aceh and began vandalizing and spray-painting it with phrases such as “Communist Party headquarters (*Markas PKI*)”, “Jewish funds (*dana Yahudi*)”, and “eating the money of the people (*makan uang rakyat*).” Eyewitnesses told Human Rights Watch that some of the men were wearing Brimob uniforms.

In a discussion with police officials in Banda Aceh, Human Rights Watch tried to ascertain what police perceptions were on the limits of freedom of association, particularly with reference to SIRA. One police officer present said that if an organization advocated a political goal that could realistically only be achieved through armed struggle, that advocacy was tantamount to rebellion (*makar*), whether or not the group was armed. The police would not punish ordinary individuals who may have been pressured to support independence. But when an organization with a clear structure was deliberately created to further such a goal, those involved had crossed the line and were open to criminal charges. That argument suggests the police see no difference between advocacy of a referendum and advocacy of independence, and that any advocacy of independence, however peaceful, is illegal. Human Rights Watch believes that advocacy of a non-violent change of government, including independence, is a legitimate exercise of freedom of expression.⁴³

As of this writing, SIRA activists in Jakarta and Aceh remained under heavy surveillance.

⁴² “Police find third body, live bomb in blast site,” *The Jakarta Post*, May 12, 2001.

⁴³ See “The Johannesburg Principles on National Security, Freedom of Expression, and Access to Information” (<http://www.article19.org/docimages/511.htm>). Principles 6 and 7 are particularly relevant. Principle 6 reads, “Expression may be punished as a threat to national security only if a government can demonstrate that a) the expression is intended to incite imminent violence; b) it is likely to incite such violence; and c) there is a direct and immediate connection between the expression and the likelihood or occurrence of such violence.” Principle 7 reads in part, “Expression which shall not constitute a threat to national security includes, but is not limited to, expression that i) advocates non-violent change of government policy or the government itself; ii) constitutes criticism of, or insult to, the nation, the state or its symbols, the government, its agencies, or public officials...”

VI. GAM ABUSES

GAM abuses include killings of *cuak* or suspected military informants, as well as of family members of police and military personnel, unlawful detentions, forced expulsions, and other terrorizing of non-Acehnese, especially ethnic Javanese; destruction of property, including homes, of personnel working for Indonesian government institutions or belonging to Indonesian political parties; and systematic extortion. These abuses have received relatively little attention except from the Indonesian security forces, who make no distinction between attacks on combatants (i.e. army and police personnel) and non-combatants.

One of the reasons there is little coverage of human rights violations by GAM is fear. With senior GAM officials demonstrating little readiness to control the behavior of armed personnel operating at a local level, it can be more dangerous for human rights monitors to report on GAM abuses than to document violations by Indonesian military personnel. In fact, GAM efforts to escape accountability for its own actions are almost as striking as the government's. Like Indonesian police and military officers, GAM leaders routinely deny that its members commit crimes. If a serious abuse is committed, GAM always claims that another party bears responsibility.

In meetings with Human Rights Watch, senior GAM officials acknowledged that the organization had committed abuses in the past but claimed that these were less the result of a GAM policy than the actions of GAM members acting on their own account. As GAM extended its control, they asserted, this problem was being addressed. If GAM leaders believed a person had committed a crime, the GAM officials said, they did not exercise summary punishment, but convened a council or *majelis* at the village, subdistrict, or district level. Village councils, they said, mostly handled petty crimes, but if a person were accused of "interaction with the enemy" or involvement with Indonesian security forces, one of the higher level councils would be convened. Each such council, they said, was composed of four or five persons, but, they rarely handed out punishments: rather, usually, they discussed the crime with the accused, secured his or her repentance and a promise of no further wrongdoing, and then released the person. If arrested for theft, the person would have to return the stolen property.

As an example, GAM officials cited the case of a known collaborator with the Indonesian army in Bireun, who had been detained by GAM in February 2000 and given a strict warning to sever his links with the TNI. He promised to do so, was released, and went straight back to the army. As a punishment, GAM burned down his house.⁴⁴

GAM officials also cited the example of Ampon Thaib, identified by an eyewitness as having been involved in the abduction and murder of three workers of the humanitarian organization, RATA, in December 2000. The GAM officials said they had twice detained "Teungku Pon," as he was locally known, in 1998 in connection with killings during the DOM period, when he had worked with Kopassus, and in early 1999 for a killing in Aloue Tipie, about ten kilometers from Lhokseumawe. They had released him on both occasions but said that if they should catch him a third time, he would not be released.

The GAM officials also cited other examples to explain how their own internal rudimentary justice system is used to warn wrongdoers, acknowledging that this often involves the abduction and detention of suspects. Those targeted have included subdistrict officials, some

⁴⁴ Human Rights Watch interview with GAM officials, Kuala Tripa Hotel, Banda Aceh, May 13, 2001.

nineteen of whom had been taken and warned over the previous year not to engage in government functions; women and girls accused of flirting with Brimob officers; and many others.

There is strong reason to believe that the GAM “justice” system is anything but just. One person interviewed by Human Rights Watch, whose family member had been brought before a district council in a matter involving alleged financial wrongdoing, said the suspect had no opportunity to defend himself and the principle of presumption of innocence was totally absent.

Executions of Alleged Informers and Relatives of Police and Army Personnel

At the outset of this report, we documented the abduction and execution of the wife of a military commander who was suspected of being a *cuak* or informer. It was not an isolated instance. When Human Rights Watch asked one GAM member about the case, he said that GAM told its people not to target family members of the security forces but, if they did, the GAM leadership understood what motivated them and would forgive them. That justification comes very close to the police argument that excuses killings of civilians by Indonesian forces on the grounds that GAM attacks on the security forces make soldiers and police “emotional.”

The readiness with which GAM assumes individuals are “infiltrators and spies” is also particularly disturbing, especially as it is often tied to ethnicity. Any stranger coming into a village is likely to be apprehended by GAM, according to GAM officials themselves. The captors then ask the stranger to speak Acehnese, and if they cannot, it is assumed that they are spying for the military. GAM claimed to have detained some ethnic Javanese who had been trained by the Indonesian military in Medan and who then had been sent back to work either as spies or militia members in Aceh. The GAM officials told Human Rights Watch that the “spies” were released after a warning and after obtaining from them names of other “trainees.” GAM then used the local newspapers, *Serambi* and *Waspada*, to publicize the fact that it had lists of names, and to warn those concerned to cease their activities.

Expulsion of Javanese

GAM leaders have repeatedly expressed their intention to remove ethnic Javanese from Aceh, at least as a temporary measure. As a result, over the past two years, tens of thousands of Javanese migrants have fled across the provincial border into North Sumatra, where they are scattered in more than forty different locations. GAM claims that it has urged Javanese to leave so that they cannot be recruited by the Indonesian security forces as spies, and denies that it has forcibly expelled them, but this is disingenuous.⁴⁵ In fact, GAM has used a combination of terrorization, arson, and some killings to force Javanese out. Human Rights Watch received numerous eyewitness reports of GAM “sweepings” – searches at gunpoint – of buses plying the Banda Aceh-Medan road, during which anyone found with a Javanese-sounding name on his or her identity card was taken off the bus for an unknown fate.

According to the main Banda Aceh newspaper, on May 19, 2001 GAM burned six houses of Javanese in Lhoksari village of Pante Cermin, West Aceh. They had ordered all Javanese working in the PT Telaga Sari Indah plantation to leave within three days or they would be killed, one by one. Some 200 families fled into Meulaboh town, including Javanese who had lived in Aceh since Indonesia was under Dutch colonial rule.⁴⁶ The house burnings took place shortly after an armed clash between GAM and Indonesian forces.

⁴⁵ See for example the statements of Sofyan Daud, GAM commander for the Pase district (North Aceh) in which he “respectfully” requests all Javanese to leave Aceh. “GAM Nyatakan Perang,” *Serambi Indonesia*, April 22, 2001.

⁴⁶ “Ratusan Penduduk Mengungsi ke Meulaboh,” *Waspada*, May 22, 2001.

A human rights worker from East Aceh told Human Rights Watch in May 2001 that GAM leaders in East Aceh were indeed “asking Javanese to leave but telling them they could come back when the war was over.”⁴⁷

The Legal Aid Institute in Medan estimated that as of May 2001, some 36,000 people, the overwhelming majority of them Javanese, had been displaced from Aceh and were then living in six districts in North Sumatra. Many had fled from transmigrant settlements. Interviews conducted by the institute with displaced families in one of those districts, Langkat, in February 2001 indicated that intimidation by armed groups had been the primary reason for their flight, as well as their perception that they could get no protection from the army or police.⁴⁸ They did not specify GAM, but in many cases, the phrase “armed group” is used when the victims themselves or the local journalists covering the story are afraid to state openly that the attackers were rebels. (The phrase may also indicate genuine bewilderment on the part of the victims as to the identity of the attackers.)

As noted above, the army has attributed the killing of more than 40 Javanese transmigrants on June 5-6, 2001 in Central Aceh to GAM, although Human Rights Watch is not aware of any independent verification of GAM’s role.

Unlawful Detention

As noted above, GAM detains alleged wrongdoers and metes out “justice” as a matter of course. In some cases, the detention is punishment for a perceived crime and is accompanied by a kind of “reeducation.” In others, the motivation is extortion.

Human Rights Watch interviewed one woman from a village in Aceh Besar who recounted an incident in April 2001 involving a seventeen-year-old girl high school student who had become friendly with Brimob men in the Indrapuri subdistrict police post. One of her teachers warned the girl not to become too close to Brimob as this could be dangerous. The girl, however, told her Brimob friends, who then came and threatened the teacher. They warned that if anything should happen to the girl, the school would be burned down. A few days later, a group from GAM came and took the girl away from the school, holding a gun to her head. Everyone saw her being taken, but no one dared tell her family what had happened. She was held for two weeks during which she was “given advice” by GAM. She was then released and allowed to go home. As of mid-May 2001, she was no longer going to school, and the teacher had moved away because of more threats from Brimob.⁴⁹

Another case involving the detention of an NGO worker by GAM was reported to Human Rights Watch. To protect the source from possible reprisals, the location of the incident and other details must be withheld. It involves a community development NGO that was working on an income-generating project in four villages, and that was planning to hold a general meeting to review the results of the project. For security reasons, the meeting was to be held in Medan, North Sumatra, rather than in Aceh. The day before the meeting was to start, the coordinator in one village informed the NGO organizers that GAM was preventing people from his village from attending. He did not know why, and he wanted to go and speak with the local GAM commander to straighten things out. When the coordinator reached the local GAM headquarters, however, he

⁴⁷ Human Rights Watch interview in Banda Aceh with NGO worker from Peurelak, May 19, 2001.

⁴⁸ Yayasan Lembaga Bantuan Hukum Medan, “Investigasi Pengungsi Asal Aceh di Kabupaten Langkat, 9-10 Februari 2001,” Medan, Indonesia, February 15, 2001.

⁴⁹ Human Rights Watch interview, May 21, 2001.

was immediately detained. The principal organizers then contacted other GAM officials they knew to try and bring about his release, but to no avail. While in detention, the coordinator was accused of intending to use the meeting to discuss autonomy for Aceh, anathema to GAM, and a wholly unfounded charge since the meeting had no political content. The GAM captors also questioned the coordinator about the source of funds for the income-generating project. It became apparent that the GAM official responsible for the detention believed that significant international grant monies were being received by the NGO and that the coordinator could be convinced to turn over 10 percent to GAM. It was only when villagers angry over the detention of the coordinator went en masse to GAM and produced documents showing the tiny amounts of money involved in the project that the detained NGO worker was released.

Restrictions of Freedom of Expression

During its visit to Aceh, Human Rights Watch received information that GAM had put pressure on journalists writing for *Serambi Indonesia*, but was not able to investigate those reports. In mid-June 2001, however, *Serambi Indonesia* was forced to cease publication for a day under threat from GAM. According to a report initially released by the Jakarta office of the Southeast Asia Press Alliance (SEAPA) and later separately confirmed by Human Rights Watch, Ayah Sofyan, the GAM commander of Aceh Rayeuk (Aceh Besar district), took exception to *Serambi's* publication of an article on June 19 with the headline, “*Mayat Bergelimpangan di Aceh Besar, Sekeluarga Ditemukan Tewas di Lampuu*” (Bodies Strewn Over Aceh Besar, One Family Found Dead in Lampuu).⁵⁰ The article included a paragraph that read, “From several other sources, we obtained information that on Sunday night (June 17), about 10:00 p.m., a group of armed men approached the residence of Ali Basyah Dahland in Ajuen village, using a Kijang-brand vehicle.”⁵¹

According to people close to *Serambi*, GAM officials became angry because the paragraph did not state that the Kijang in question belonged to Brimob: the journalists, in fact, had received conflicting reports and had not been able to verify this.

Ayah Sofyan went to *Serambi*, however, and ordered its editors to cease publication, or else GAM would be “unable to guarantee the safety” of its reporters and drivers delivering the papers to outlying districts. The warning was taken very seriously by the editors, especially since a *Serambi* driver had been held in GAM custody for three days several months earlier. Ayah Sofyan also told *Serambi* editors that they should not report on events in Aceh Besar, and that the editors had violated an earlier agreement that no news critical of GAM would appear on the front page.⁵²

On June 20, 2001, Human Rights Watch raised the case directly with senior GAM officials who were visiting New York and urged them to refrain from such threats or other actions restricting freedom of expression.

VII. THE SOUTH ACEH RAPE CASE

⁵⁰ Solahudin, “Terror for Journalists in Aceh,” Southeast Asia Press Alliance, June 20, 2001.

⁵¹ The original read, “*Dari berbagai sumber lainnya diperoleh informasi, pada Minggu malam (17/6), sekitar pukul 22.00 WIB, kediaman Ali Basyah Dahlan di Desa Ajuen didatangi kelompok bersenjata menggunakan mobil Kijang.*”

⁵² Ibid., p. 2.

Addressing crimes of sexual violence is difficult under any circumstances because of the stigmatization that is often attached to women who are raped or otherwise sexually assaulted, and because of the problems inherent in encouraging witnesses to come forward without providing credible guarantees for their protection. It is even harder when sexual violence becomes politicized, as it often does in times of conflict, when allegations of rape can be used by one side to mobilize public sentiment against the other.

The case that has come to be known as the South Aceh rape case brings out all of these difficulties. It has led to three murders, several pending charges of criminal defamation, and has had a devastating impact on the ability of local NGOs to respond to reports of sexual violence in Aceh more generally. In the description of the case that follows, Human Rights Watch is reporting the sum total of information we have to date, without drawing definitive conclusions about exactly what happened in South Aceh to the five women and girls concerned.

The first news of the South Aceh case came in an e-mail sent on January 7, 2001 by a man calling himself Jean Michel Hara to a list-serve of people interested in Aceh. He said that two women had been taken off a bus in a sweeping operation by Brimob soldiers on September 22, 2000 in Gelombang village as they were en route to Bakongan subdistrict, South Aceh. He said that they had been held for months at the Brimob post in Lhok Jamin, where they had been forced to work as “sex slaves” before being released on December 2, 2000. The girl’s name was given in the e-mail as Nurma, fifteen years old, from Ujong Tanah, Bakongan, and the woman was named as Noriza, aged twenty-four, from a village called Alue Dua Meuh in Acehnese, Alor Dua Mas in Indonesian. Noriza is apparently the same as the woman whose name was given in subsequent testimony as Nuriani.

On February 17, 2001, Hara reported that the two females were “under the protection of GAM soldiers in South Aceh” and that one of them was three or four months pregnant. He also noted that there were several new women victims who had sought GAM’s protection, including two rape victims and four or five victims of other unspecified forms of sexual abuse.

At about the same time, Tgk. Kamal, the head of a religious school in Blang Pidie, South Aceh, and a member of the Peace Through Dialogue monitoring team who had good relations with GAM, called a man active in a South Aceh NGO, who in turn called the non-governmental organization Kontras Aceh to report that five of the women were willing to come to Banda Aceh and tell their story. He urged Kontras Aceh to help.

On February 20, Kontras Aceh reported that they had decided to evacuate three women who had been raped and two others who had been sexually assaulted by members of Brimob. Two staff from Kontras Aceh left for South Aceh to bring the women to Banda Aceh so that they could be interviewed in relative safety. However, unbeknownst to Kontras Aceh, Tgk. Kamal had also contacted another member of the Peace through Dialogue monitoring team for South Aceh, a man named Yarno, as well as a journalist for the Banda Aceh tabloid newspaper, *Kronika*. Yarno and the journalist went to the village where the women were waiting, and the journalist interviewed four of the five. Yarno and the journalist did not travel with Kontras-Aceh, had no prior contact with the Kontras-Aceh staff, and Kontras-Aceh, according to one staff member, did not endorse the idea of the women being interviewed by the tabloid.⁵³

On February 22, Kontras staff and the five women left South Aceh together, stopping that night at Tgk. Kamal’s school. On February 23, they arrived in Banda Aceh and were taken

⁵³ Telephone interview with Kontras-Aceh staff member, June 6, 2001.

directly to the Kontras Aceh office that it shares with another NGO, the Legal Aid Institute (Lembaga Bantuan Hukum or LBH). The next day, some NGO staff took the women to a place that they said was safer for them to stay. On February 27, a consortium of five NGOs held a press conference, without the women, to publicize the assaults by Brimob and to disclose that the victims were now in Banda Aceh. On the same day, a number of journalists were notified by the Aceh branch of the National Human Rights Commission, known as Komnas HAM-Aceh, that several women from South Aceh would be filing a complaint with its office the following day.⁵⁴ On February 28, the women, accompanied by the NGOs, formally registered their complaint, as dozens of journalists waited outside the Komnas office to interview them. The five were reluctant to speak to the press, but the journalists urged the NGOs to produce at least one of the victims. Eventually one woman came forward on the condition that she not be photographed and her name not be mentioned, but she gave few details of the complaint.⁵⁵

On March 3, at their own request, the women decided to return to South Aceh for the Muslim holiday of Idul Adha. Accompanied by two staff members from Kontras-Aceh and a driver, they arrived at Tgk. Kamal's school around 6:30 p.m. and spent the night there. The next day the driver took the car back to Banda Aceh. Around 2:00 p.m., a Kontras staff member, together with one of the women, left the school in a Peace Through Dialogue car, with a driver, to see if they could find public transportation to their destination, but they were stopped and taken to the South Aceh police station. Then, in the early hours of March 5, the commander of the Blang Pidie subdistrict police (the police station closest to Tgk. Kamal's school), accompanied by other security forces, arrived at the school and said he had orders to take the remaining four women and Kontras-Aceh staff for questioning. He also inquired about the whereabouts of a GAM member named Muhib. Tgk. Kamal asked to see a warrant, but the police did not have one, so they left. About an hour later, they returned with a warrant, and the women and Kontras-Aceh staff member were taken away by the police.⁵⁶

After keeping the women in detention for five days, the South Aceh police turned the case over to the provincial police, who flew the women to Banda Aceh by helicopter and presented them at a press conference on March 9, 2001. The provincial police simultaneously released interrogation depositions in which the women's accounts of what had occurred to them were radically different from those previously reported by the press and by the NGOs who had tried to help them. Instead of being raped or assaulted by Brimob, their depositions alleged that they had been kidnapped by GAM forces because they had had Brimob boyfriends, and that GAM had forced them to make the assault allegations.

The provincial police commander, Chairul Rasjid, then took the women to Jakarta to meet President Wahid, leading members of parliament, Komnas HAM, the coordinating minister for politics and security, and others. The five were also given medical examinations in Jakarta, after which they police announced that none of them had been raped, and that all were still virgins. One of the NGO staff members, however, noted that this was odd, as one of the five was known to be a widow.

⁵⁴ Solahudin and Nazamudin Arbi, "Liputan berbuntut di Kantor Polisi," undated, p. 2. The authors are journalists, the first from the Jakarta office of the Southeast Asian Press Alliance, the second from the Banda Aceh branch of the Association of Independent Journalists. Both have been closely following developments related to the press in Aceh.

⁵⁵ Ibid., p. 2.

⁵⁶ Divisi Kampanye, Kontras Aceh, "Kronologis Penangkapan," e-mail message forwarded to Human Rights Watch, March 6, 2001. The information about Tgk. Kamal requesting a warrant came from a separate interview with a Kontras-Aceh staff member, May 23, 2001.

The women were then reportedly flown back to South Aceh where they remained, as of May, in the protective custody of the police. The police commander told Human Rights Watch on May 12, 2001 in an interview in Banda Aceh that three of the women were planning to marry Brimob soldiers.

The Changed Stories

Because the police accounts differed so greatly from the original press stories, it is worth examining the two versions in detail.

The now defunct *Kronika* newspaper published its story on four of the five women in late February 2001.⁵⁷ It used easily recognizable pseudonyms and almost recognizable photographs of the four. Two of the women were apparently the same as those referred to in Hara's first e-mail, but in the article, they appear as "Nur" and "Ani."

The *Kronika* version of Ani's account said that ten days before the beginning of Ramadan (i.e. approximately November 15, 2000), Ani was taken into Brimob custody in Terbangsan, South Aceh. She was shopping in the market but did not have her identification card, so she was taken to the Brimob post at Lhok Jamin. She was held there for a month. She was ordered to wash and clean for Brimob during the day and provide sexual services at night to as many as seven men. She was only able to leave after her brother happened to see her in the yard of the Brimob post. He asked for her return, and was only able to get her home after her family agreed to pay her captors Rp.6 million (about U.S. \$600). She was then freed but did not want to stay at home and instead sought the protection of GAM at their subdistrict headquarters in Tapaktuan, the district capital of South Aceh.

In *Kronika*, Nur said that her story was the same as Ani's, that she was with Ani shopping in the Gelombang market on October 19 [sic], and that she did not have her identification card with her. When a sweeping took place, she was detained together with Ani, and they were brought to the Brimob post where they were ordered to wash and clean for the men. According to the article, Nur said she had to sexually serve between seven and fifteen men per night, even when she was menstruating. They threatened to kill her if she did not meet their demands. She was released only after Ani's brother came and agreed to pay Rp.6 million. If the money was not paid by the fourth day after the end of Ramadan, she would be shot, they said.

The statements made by the two women after they had been detained by the Aceh police in early March were very different. Neither mentioned what had happened during November. The police-approved accounts begin in December 2000, at the point that the GAM sources reported that the two women had been released by Brimob and had sought GAM's protection.

In the police statement, Nurma ("Nur") said that on a Friday in December, three GAM agents had come to her home in Ujung Tanoh village, Bakongan subdistrict. One had Nuriani ("Ani") on the back of his motorcycle. Nurma said she was taken to the village of Seunubok Keranji, where she and Nuriani were questioned about their contacts with Brimob in Lhok Jamin. She was forced at gunpoint to say that she had been raped by the Brimob men at the post. She was then held there until shortly before leaving for Banda Aceh, when she was turned over to GAM forces in Manggamat village, who told her she would be taken to Banda Aceh as proof of Brimob rapes. Just before leaving, she and Nuriani were taken to a house where there were eight other women and girls who had been taken by GAM. When the Kontras team arrived, a staff

⁵⁷ "Kesaksian Itu," *Kronika*, Vol.2, No.68, Fourth Week of February 2001, p. 17.

member interviewed them and asked whether they had been raped, sexually molested, or threatened. Nurma said she had been threatened. The next day, five of the women left with the Kontras team, while five others stayed behind.

Nuriani told the police that four days after the Idul Fitri holiday (around December 20, 2000), she was taken by three GAM agents to Seunobok Keranji village and asked about her relations with members of the security forces. She said she had none, but she was forced to “confess” that she had been raped by seven men. Then she was told to wait until people from the Peace Through Dialogue monitoring team and journalists could come from Banda Aceh. After two months of waiting, the team finally came. She and three others were taken straight to the office of the Legal Aid Institute in Banda Aceh, which houses the Kontras office. She said she had never told Kontras or Komnas HAM that she had been raped by Brimob personnel.

The other three women, Faridah, Anita, and Wiwik, appear to have been targeted by GAM because they were suspected of having Brimob boyfriends. Wiwik never claimed to have been raped.

Farida’s original account, reported by *Kronika* as the story of “Ida”, was as follows:

I don’t know where Brimob got my name, but I was sent letters eight times and didn’t respond. Then the writer asked me to meet him and made threats. He said if I didn’t respond, he would come to my house. Then he asked me to meet him at the house of a friend of mine named Nor.

When I got there the Brimob gave me what he said was Sprite. I drank it then began to have a terrible headache. Then I lost consciousness, and when I awoke, my clothes had been removed and my vagina felt sore. I knew I had been raped. I didn’t dare go home because I was afraid of my parents. I went to my aunt. While I was there, some GAM people came to protect me, and I felt safe. This all happened about January 29.

I don’t want this to happen to my friends. I don’t want any military to be around where I live. My neighborhood used to be safe but now I don’t dare go out of the house for evening prayer.⁵⁸

In her account to the police, Farida, seventeen years old, said that on February 8, 2001 two GAM members came up on a motorcycle and ordered her to go with them. They went to Krueng Kluet village. There, one of the GAM pulled out a pistol from his waistband and said, “You’ve seen this before, it’s not only your boyfriend who has a gun.” Then, he said, “Is it true or not that you have a Brimob boyfriend and that he raped you?” She said, “Yes, the part about the boyfriend is true.” She denied that she had been raped. He told her she could go home if she admitted she had been raped. On February 11, she was brought before the GAM commander and saw four other women, all of whom were forced to say that they had been raped by Brimob. On February 20, she was put together with four other women, at around 8:00 a.m., and they were told that three people from the Peace Through Dialogue monitoring team were coming, so they should be sure and tell them that they had been raped by Brimob personnel. On February 21, four people came from Banda Aceh, including the Kontras staff member, who began asking them if it was true that they had been raped, and if so, how and by whom. Farida followed the instructions she

⁵⁸ “Kesaksian Itu,” *Kronika*, Vol.2, No.68, Fourth Week of February 2001, p. 17.

had been given by GAM and said she had been given a Sprite to drink, but did not know what happened, and when she woke up, found that she had been raped.⁵⁹

In the *Kronika* version, Anita or “Ita”, who was thirteen according to the newspaper and seventeen according to the police, said that on February 6, she had come home from school to find a group of Brimob soldiers in her village of Kota Fajar. She was dragged to the office of the *camat* (subdistrict head), where the Brimob men gave her a Sprite. Immediately she began to feel dizzy. She said a Brimob man kissed her, then tore off her clothes. She said her head felt so heavy that she could not resist, and, in any case, she was afraid of his gun. She said she was raped on the table in back of the office. She fainted, and woke up to find herself naked. The Brimob man sat there fully dressed, smoking a cigarette. He gave “Ita” a gold necklace and told her not to tell anyone what happened, and that if she did, her family would be wiped out.⁶⁰

In the police version, Anita said she was taken from her home on February 10, 2001 by GAM men she did not know and asked, “You’ve got a Brimob boyfriend, haven’t you? You’ve been playing around with Brimob, haven’t you?” Then one of the GAM members pulled a gun and pointed it at her head and said, “You’ve been playing with Brimob about fifteen times, haven’t you?” Because she was terrified of the gun, she admitted having sex once with a member of Brimob. She was detained for two weeks before being taken to Banda Aceh.⁶¹

There is no *Kronika* version for Alhadewi, known as Wiwik. In the police version, her high school biology teacher turned her over to GAM, who accused her of having a Brimob boyfriend. She said she denied it, and the GAM members got angry and said, “You were raped by Brimob, weren’t you?” She again denied it, for which she was slapped in the face three times by a GAM person and told to admit she had been raped. She was taken to a house and there saw two girls she knew, Rahmah and Eka. She and Rahmah were then taken in a car, while Eka was ordered to go home. They were turned over to a landlady of a house, whose husband told them, “Some Kontras people are coming from Banda Aceh, so you go with them.” She was taken about five kilometers on a motorcycle to a house where she saw nine other women and girls who had been kidnapped by GAM. It was at this house where the Kontras staff members and the journalist from *Kronika* were waiting for them.

Defamation and Murder

The NGOs and journalists who had originally brought the women to Banda Aceh did not know what to make of the changed accounts and were denied access to the women to recheck the original information. But even as they began to acknowledge major weaknesses in how they had handled a sensitive case, particularly in failing to take adequate measures to protect the women concerned, they became the targets of an official investigation, launched by the police, into criminal defamation and kidnapping.

In mid-March, Iqbal Farabi of the Banda Aceh branch office of the Indonesian National Human Rights Commission (Komnas-HAM), was named as a suspect in a case of “sully[ing] the good name [of the police]/slandering/libeling and/or kidnapping and/or restricting the freedom of an individual,” and eight journalists were then summoned as witnesses. Several of those who refused to respond to the summons were told that if they did not attend as witnesses, they would

⁵⁹ Interrogation deposition taken by Drs. Manahan Daulay, head of the intelligence directorate for the Aceh Provincial Police, March 9, 2001.

⁶⁰ “Kesaksian Itu,” *Kronika*, Vol.2, No.68, Fourth Week of February 2001, p.17.

⁶¹ Interrogation deposition taken by Drs. Manahan Daulay, head of the intelligence directorate for the Aceh Provincial Police, March 9, 2001.

be served summonses as suspects.⁶² Police went to the *Serambi Indonesia* office on March 21, 2001, and threatened to forcibly remove Muharram, one of the summoned journalists, if he did not respond. They then called the *Serambi Indonesia* editors the next day to warn of further consequences if the summons went unanswered. Finally, the editors ordered Muharram to report to the police, which he did, accompanied by the newspaper's lawyer.

Aguswandi, the head of Kontras Aceh, received a similar summons dated May 14, 2001.⁶³ In early June, Mariati, the head of a legal aid NGO called LBH-Apik, was summoned as a witness and interrogated over two days. Nursiti, the director of Kelompok Transformasi Gender Aceh (KTGA), a women's organization, was also summoned. Both LBH-Apik and KTGA were part of the five-organization consortium that had been formed to help the women in Banda Aceh. The police also issued summonses to other journalists on June 6, and were reportedly planning to call a total of thirty witnesses, despite the protests' of journalists' associations and NGOs.

It was clear from Human Rights Watch's interviews with police in Banda Aceh that they were aggressively pursuing the defamation case. They were not, however, making any moves at all to investigate three murders related to the same case – that of Tgk. Kamal, head of the religious school in Blang Pidie where the five women had stayed, and his lawyer and driver. On March 28, 2001 Tgk. Kamal received a summons from the South Aceh police in Tapaktuan. He was asked to appear as a suspect, not merely as a witness, in a case of slandering the police in connection with accusations that they had raped the five women.⁶⁴ On March 29, accompanied by his lawyer, human rights defender Suprin Sulaiman, Tgk. Kamal went to the South Aceh police command in a vehicle clearly marked as belonging to the Peace Through Dialogue monitoring team, and driven by Amiruddin, a driver employed by the team.⁶⁵ Leaving the police station in the afternoon, the three were followed by a Panther Isuzu, according to witnesses. About a half hour later, in a place called Buke Alue, witnesses heard four gun shots, then saw the car that had followed Tgk Kamal's returning toward Tapaktuan. Tgk. Kamal, Suprin, and Amiruddin were found dead, from bullet wounds to the head.

GAM immediately issued a statement saying that head of the South Aceh police command had to take responsibility for the murders. The police, through Drs. Sad Harunantyo, spokesman for police/military operations in Aceh, suggested that GAM itself was responsible. Drs. Sad said that the testimony that Tgk. Kamal had provided to the South Aceh police indicated that he was aware of the role of GAM, and particularly of the involvement of the local GAM commander, Tgk. Abror, in the abduction of the five women, and that therefore GAM had shot him in retribution.⁶⁶

No one whom Human Rights Watch met in May, outside the police, gave credence to the police explanation. No one except the police, with the exception of the lawyer who was killed, had seen the interrogation deposition of Tgk Kamal. So little time had elapsed between the time

⁶² Solahudin and Arbi, op.cit., p.3. The journalists were Effendi, a correspondent of the TPI news agency; Yusrizal of RCTI, an independent television company; Jasman of SCTV, another independent television company; Najmuddin Oemar of the Jakarta daily *Kompas*; Taufan Nugraha of the independent radio station, Radio 68h Jakarta; Iskandar Syah of the Medan daily *Waspada*; Cici, a journalist with the radio station Prima; Andi Basri of *Aceh Kronika*; and Muharram of *Serambi Indonesia*.

⁶³ No.SP/84/V/2001/Dit Serse, ordering him to appear by May 17, 2001 before the Aceh provincial police. Human Rights Watch has a copy of the summons.

⁶⁴ "Anggota TMMK Tewas Tertembak," *Serambi Indonesia*, March 30, 2001.

⁶⁵ The car had the logo of "Peace Through Dialogue" (*Damai Melalui Dialog*) on the right and left hand sides and on the back.

⁶⁶ Human Rights Watch interview, May 20, 2001, Banda Aceh.

Tgk Kamal and Suprin left the police command and the time they were killed that it is difficult to see how GAM would have been able to find out about the contents of the interrogation and then plan an ambush.

In some ways most damning, however, is the fact that more than two months later, the police had not even started any serious investigation into the case. When Human Rights Watch asked Drs. Harunantyo in Banda Aceh why not a single witness had been questioned, he said in surprise, "But all the witnesses are dead!" The police, it appeared, had taken no steps to seek witnesses in the immediate neighborhood of the killings, and preferred to assume that the only people who could identify the perpetrators were their murdered victims.

The Impact of the South Aceh Case

The impact of the South Aceh case has been devastating, even though the truth of what happened to the five women remains uncertain. It has reinforced the perception of the security forces that GAM and human rights NGOs are working in concert. The information that there were five women victims of Brimob in South Aceh originated with GAM, and there is a feeling among some NGO staff that they were manipulated by the rebels, even if some parts of the original testimonies prove to be accurate.⁶⁷

The NGOs were particularly concerned about the defamation action by the police. If they were to face possible criminal defamation charges every time they tried to document an abuse by someone connected with the police or military forces, they would soon have to stop work entirely. The fact that the courts are not functioning is largely irrelevant here. Many NGOs were thinking less of a trial than of their colleague, Suprin Sulaiman, and Tgk. Kamal, and the fact that a person named as a suspect in a defamation case ended up shot to death days later.

The consequences of the South Aceh case became clear when GAM spokesmen announced to the press on May 14, 2001 that at least five women and girls between the ages of fifteen and twenty-eight had been raped following an army sweeping in the subdistrict of Meruah Mulia, North Aceh.⁶⁸ Not a single NGO would investigate it, despite concern for the possible victims. One human rights lawyer had received a call, apparently from GAM, telling him to take up the case. He said he was reluctant to do so, even if the information could be verified, because he did not want to fall into a political trap. If he did take it on, he would be accused by the government of furthering GAM's political objectives. If he did not, he would be accused by GAM of siding with the government. In the meantime, he had decided to stay out of telephone contact with anyone.

The South Aceh case also underscored the acute need for training in investigating cases of sexual violence and working with the women affected. Some staff members of the NGOs involved in the original evacuation of the five women from Banda Aceh have since acknowledged that it was a mistake to have allowed a journalist to go with them to South Aceh in the first place, that they should not have held the press conference in Banda Aceh announcing the women's arrival, and that they should not have allowed the women to be photographed by

⁶⁷ One GAM member told Human Rights Watch in an interview on May 13, 2001 that the case originated when "an NGO found out about the case and asked the women if any of them were brave enough to go to testify before the Indonesian Human Rights Commission. Five of them were."

⁶⁸ "GAM Tuding Oknum TNI Memperkosa," *Serambi Indonesia*, May 13, 2001. The deputy GAM commander said they had been raped on returning to their village after fleeing the approach of the military and police. They came back when they thought the security forces had gone, only to be caught by the soldiers. One of the women was shot and killed after being raped, but, he said, GAM could not remove the body or evacuate the others because the military was still occupying the village concerned.

television cameras after they formally registered their human rights complaint. At present, however, there are no facilities and little expertise available for treating victims of sexual violence, and there is an urgent need for international assistance in this regard.

VIII. FAILURE TO PROSECUTE HUMAN RIGHTS CASES: THE RATA KILLINGS

The Indonesian government has failed to take action even on the most egregious cases of human rights violations in Aceh – and even when opportunities were available to try the cases outside Aceh.

The most notable example in this regard is the case of the murder of three volunteers for a nongovernmental organization known as RATA (Rehabilitation Action for Victims of Torture in Aceh). The three, together with a fourth volunteer who survived, were abducted and killed outside Lhokseumawe, North Aceh, on December 6, 2000 in a case that drew worldwide outrage.⁶⁹ The survivor gave a detailed deposition to senior Indonesian police officials before going into hiding. In late December, based on his testimony, Banda Aceh police arrested eight men, four civilian informers and four army officers. The civilians included a notorious thug and longtime military informer called Ampon Thaib Geudong, forty-eight, known as Teungku Pon; Abdullah bin Yusuf, known as Guru, thirty-seven; Maimun, known as Buyung, forty-four, and Madiyah, forty-four. The four soldiers were Maj. Jerry Patras, head of intelligence for military resort command (Korem) 011 in Lhokseumawe, and three more junior officers, Sgt. Slamet Jaya, Sgt. Hermanto, and Lt. Harry Ruman.

The eight suspects were accused of premeditated murder under the Indonesian Criminal Code, and because they included both military and civilian suspects, they were scheduled to be tried by a so-called *koneksitas* court, involving both military and civilian judges. Many Acehnese were dubious about the fairness of such a court, after a trial in 2000 produced guilty verdicts for low-ranking soldiers, but their commander was never prosecuted.⁷⁰

On February 21, 2001, the police investigating team turned the case file over to the prosecutor of the High Court in Banda Aceh. On March 8, the prosecutor returned it, saying the file was not complete, implying that he considered the evidence insufficient. In the meantime, all of the suspects were transferred to Medan, North Sumatra, for further questioning. The military suspects were detained at the military police compound of the Bukit Barisan command in Medan; the civilians were held in a Brimob barracks.

As the case appeared to be moving slowly toward trial, however, the National Human Rights Commission decided to try and make the RATA case the first case to be tried under Law No.26, passed by the Indonesian parliament in November 2000. That law provides for the establishment of special human rights courts to be set up to try serious human rights offenses that rise to the level of crimes against humanity or war crimes; the definitions of serious crimes are

⁶⁹ See, for example, “Indonesian Worker Recounts Killing,” *Associated Press*, December 13, 2000; “Aid Worker in Indonesia Escaped Executioners to Tell His Tale,” *Los Angeles Times*, December 15, 2000; “Aid Workers Targeted in Aceh Strife,” *Washington Post*, December 13, 2000. See also Human Rights Watch and Amnesty International, “Indonesia: Aid Workers Executed in Aceh,” December 8, 2000; Human Rights Watch, “Indonesia: Sole Survivor of Attack on Humanitarian Aid Workers Speaks,” December 13, 2000.

⁷⁰ This was the so-called Bantaqiah trial in May 2000, which found twenty-four soldiers guilty of a massacre of more than fifty civilians in a religious school. The army wrongly suspected the head of the school of hoarding arms for the rebels.

taken almost verbatim from the Rome Statute for the International Criminal Court. The law also gives responsibility to the National Human Rights Commission, rather than the police, to conduct the investigation, and to appoint a commission of inquiry (KPP-HAM) to see if a particular case is part of a broader pattern of “widespread or systematic abuse.”

When the National Human Rights Commission officials proposed that the RATA case should be turned over to them for investigation as a human rights case, the Attorney General’s office in Jakarta argued that to change the charges from murder to serious human rights violation would mean that the investigation would have to start from scratch and all suspects would have to be released.⁷¹ The human rights courts, however, were not yet operational, and there was a danger that if the charges were changed, the pre-trial detention of the suspects would quickly exceed the time allowed under Indonesian law, and they would have to be released anyway.

As this debate was heating up, the four civilians were mysteriously released from the Brimob barracks on March 22, 2001, and as of early August 2001, remained at large. Brimob commanders rather feebly argued that as the men had been so well-behaved, the guards had not been as diligent as they should have been about watching them. Most observers believed the “escape” could only have taken place with official connivance. Top security officials ordered an investigation into the break-out, but the results have never been made public. When Human Rights Watch asked the head of the provincial police command in Aceh what actions had been taken against the Brimob officers responsible, he shrugged and said in English, “To err is human...”⁷²

The escape left only the four military men in prison, leading some jurists to argue that now, the only possibility of trial was in a straightforward military court where the chances of an impartial trial were even slimmer than with a *koneksitas* court. But the escape caused a further problem. It was the civilian thugs who had been the hitmen in the RATA killings, and the civilians whom the one eyewitness had been able to identify by name. Without their presence at the trial, there was concern that the evidence against the four military officers might not hold up. And indeed, on April 30, 2001, the prosecutor in Banda Aceh once again turned the case file back to the investigating team asking them to strengthen the evidence.

As of August 2001, it remained a question whether anyone would ever be tried, let alone convicted, for the RATA killings.

IX. NON-FUNCTIONING COURTS AND RESTORATION OF THE RULE OF THE LAW

Virtually everyone with whom Human Rights Watch talked with in Aceh lamented the collapse of the rule of law and the de facto destruction of courts. In some areas, such as North Aceh, the district court has not been operational for two years, and the building itself has been vandalized. There and in other districts, judges, prosecutors, and other legal personnel have left of their own volition or been intimidated into leaving. (GAM has made it clear that its goal is to ensure that all government offices cease operations.)

⁷¹ This argument was based on a combination of lack of precedent and deliberate obstructionism from the Attorney General’s office; in fact it was technically and legally possible for the transfer to take place.

⁷² Interview with Chairul Rasjid, chief of police, Banda Aceh, May 20, 2001.

A delegation of eighteen Acehese lawyers met with senior government officials, including President Wahid, on June 6, 2001 and held a press conference immediately afterwards to draw attention to the woeful state of the judiciary in Aceh. They noted that there were no judges at all in five districts: Aceh Besar, Pidie, Bireuen, South Aceh, and West Aceh. In East Aceh, judges had been appointed in December 2000, but then went on leave and never returned. The only fully functioning court in all of Aceh was on the island of Sabang, which as of June 2001 had not been touched by the conflict.⁷³

The lack of any functioning legal system has had several consequences. Villagers from districts such as Bireun, Pidie, and North Aceh where courts were no longer functioning told Human Rights Watch that prisons had effectively been turned into extortion machines for the police. One woman told Human Rights Watch that her relative had been arrested together with a man who had just returned from working in Malaysia where thousands of Acehese are employed as migrant workers. For the police, that was enough to suspect them both of being GAM, as GAM maintains operational bases in Malaysia. The two were hauled off to prison. When the woman sought her relative's release, police demanded Rp.1 million (U.S. \$100). She was able to bargain it down to Rp.600,000, and then her relative was freed.⁷⁴

A second consequence is the emergence of makeshift courts at the village level, presided over by a *qazi*, or Islamic judge, sometimes selected by GAM, to deal with petty theft and local disputes. A third is that in many areas, the rule of the gun has replaced the rule of law, and simple thuggery is rampant.

In recognition of the fact that some rule of law was better than none, GAM members on March 18, 2001 agreed to allow the reopening of Indonesian courts. The agreement came in a statement issued at the end of a round of talks between GAM and Indonesian officials and was little noticed at the time. But many individuals Human Rights Watch met with in May 2001, including senior members of the legal community in Aceh, agreed that it might be worth considering how to reopen one court on an experimental basis, perhaps with an initial mandate to try only minor criminal offenses. Both sides would have to provide credible security guarantees for the personnel who would staff it, and international donors could provide technical assistance and advisers to ensure that it had the resources and expertise to function. No one had any illusions about the difficulties involved, but many believed a successful experiment in restoring the rule of law could change the political atmosphere in a way that would make other constructive steps possible.

Two days after the visit of the Acehese lawyers to Jakarta, the Ministry of Justice announced that it would be sending more judges to Aceh, but it was not clear whether their departure was imminent, or whether there was any careful analysis of the political sensitivities involved. For one thing, the announcement suggested that the ministry only became aware of the problem of non-functioning courts in Aceh after meeting with the lawyers; for another, it suggested that the ministry would coordinate with the security forces in sending the judges.⁷⁵ In any case, as a new Minister of Justice prepared to take over in early August, the fate of his predecessor's decisions remained unknown.

⁷³ "Akibat Tidak Ada Aparat Hukum Proses Peradilan di Aceh Lumpuh," *Kompas*, June 7, 2001.

⁷⁴ Interview, Banda Aceh, May 21, 2001.

⁷⁵ "Depkeh Kirim Hakim ke Aceh," *Kompas*, June 9, 2001.

X. THE ACEH CONFLICT AND INTERNATIONAL HUMANITARIAN LAW

Indonesian and GAM forces in Aceh are bound by international humanitarian law, also known as the laws of war. The conflict in Aceh is considered to be a non-international (internal) armed conflict, for which the applicable law includes Article 3 common to the four Geneva Conventions of 1949, the Second Additional Protocol to the Geneva Conventions (Protocol II), and the customary laws of war.⁷⁶

Indonesia became a party to the Geneva Conventions in 1958. The application of the Geneva Conventions does not confer any status upon GAM, nor is it necessary for any government to recognize GAM's belligerent status for the relevant humanitarian law to apply. Although Indonesia is not a party to Protocol II, many if not all of its provisions reflect customary international law.

Human Rights Watch has documented numerous violations of international humanitarian law by both sides. Indonesian forces have been implicated in the summary execution of civilians and captured GAM members or suspected members, direct attacks against civilians and civilian property, the use of indiscriminate or disproportionate military force, and the use of collective punishments. They have also been responsible for violations of international human rights law, including extrajudicial executions, "disappearances," rape, torture and arbitrary arrest, as well as imposing unlawful restrictions on the rights to expression, association and assembly. GAM forces have been implicated in the summary execution of civilians and captured soldiers, destruction of civilian property, and unlawful detention. To date, neither the Indonesian government nor GAM has publicly stated its commitment to abide by international humanitarian law per se, although the Indonesian army in May issued guidelines to its forces to respect civilian lives and property.

Protection of Noncombatants

Common article 3 to the Geneva Conventions provides for the humane treatment of civilians and other persons not taking an active part in the hostilities (including captured members of opposing armed forces). Prohibited at all times are murder, mutilation, cruel treatment and torture; taking of hostages; outrages upon personal dignity, in particular humiliating and degrading treatment; and summary trials.⁷⁷

⁷⁶ To be considered an internal armed conflict for purposes of the Geneva Conventions, hostilities within a state must have reached a level of armed conflict beyond mere internal tensions, disturbances, riots, or isolated acts of violence. The official *Commentary* to common article 3 of the Geneva Conventions, which concerns internal armed conflicts, lists a series of conditions that, although not obligatory, provide some pertinent guidelines. First and foremost among these is whether the party in revolt against the de jure government, in this case GAM, "possesses an organized military force, an authority responsible for its acts, acting within a determinate territory and having the means of respecting and ensuring respect for the Convention." International Committee of the Red Cross (ICRC), *Commentary*, IV Geneva Convention (Geneva 1958), p. 35.

Other conditions outlined in the convention's commentary deal with the government's response to the insurgency. An indication that there is an internal armed conflict is the government's recognition that it is obliged to use its regular military forces against an insurgency. *Ibid*.

By these standards, the conflict in Aceh is an internal armed conflict. GAM has a sizeable armed force, a clear hierarchy, and a territorially-based structure. Indonesian military forces have been used in operations against GAM forces since at least 1990.

⁷⁷ Protocol II, arts. 4-6, elaborates upon common article 3's requirement of humane treatment and provides a more comprehensive list of protections for civilians in internal armed conflicts. These include, for instance, prohibitions on the desecration of corpses and the recruitment of children under fifteen into armed forces or groups.

In contrast to international conflicts, the law governing internal armed conflicts does not recognize the so-called “combatant’s privilege,” which provides combatants special status.⁷⁸ Thus, the Indonesian government is not obliged to grant captured GAM members prisoner-of-war status, nor is GAM so required to treat captured Indonesian soldiers. However, any party can agree to treat its captives as prisoners of war, and all parties are required to treat captured combatants—and civilians—humanely.

Protection of the Civilian Population

Humanitarian law seeks to protect civilians from the hardships of war. The distinction between civilians and combatants is fundamental to the laws of armed conflict. In situations of internal armed conflict, generally speaking, a civilian is anyone who is not a member of the armed forces or of an organized armed group that is a party to the conflict.⁷⁹ Thus policemen without combat duties are not legitimate military targets.⁸⁰ Likewise, civilians who directly participate in fighting lose their immunity from attack for as long as they directly participate in hostilities.⁸¹

A fundamental rule of humanitarian law is that the civilian population and individual civilians shall not be the object of attack. Acts or threats of violence against the civilian population that spread terror are also prohibited.⁸²

Common article 3 sets basic standards for the prosecution and punishment of criminal offenses related to the armed conflict. A party to the conflict may only impose a sentence after a judgment by a regularly constituted court providing fair trial guarantees.⁸³ Civilians are likewise

⁷⁸ The “combatant’s privilege” is a license to kill or capture enemy troops and destroy military objectives. This privilege immunizes combatants from criminal prosecution by their captors for their violent acts that do not violate the laws of war but would otherwise be crimes under domestic law. Prisoner of war status originates from this privilege. See W. Solf, “The Status of Combatants in Non-International Armed Conflicts Under Domestic Law and Transnational Practice,” *American University Law Review*, no.33 (1953), p. 59.

⁷⁹ The term “civilian” also includes some employees of the military establishment who are not members of the armed forces but assist them. While as civilians they may not be targeted, these civilian employees of military establishments or those who indirectly assist combatants assume the risk of death or injury incidental to attacks against legitimate military targets in the immediate vicinity of military targets. See M. Bothe, K. Partsch, and W. Solf, *New Rules for Victims of Armed Conflicts: Commentary on the Two 1977 Protocols Additional to the Geneva Conventions of 1949* (The Hague: Martinus Nijhoff, 1982), p. 303.

⁸⁰ Report of Working Group B, Committee I, 18 March 1975 (CDDH/I/238/Rev.1; X, 93), in Howard S. Levie, ed., *The Law of Non International Armed Conflict*, (Dordrecht, Netherlands: Martinus Nijhoff, 1987), p. 67.

⁸¹ See *New Rules for Victims of Armed Conflicts*, p. 303. Direct participation in hostilities means “acts of war which by their nature and purpose are likely to cause actual harm to the personnel and equipment of enemy armed forces,” and includes acts of defense. ICRC, *Commentary on the Additional Protocols* (Geneva: Martinus Nijhoff, 1987), p. 619. “Hostilities” not only covers the time when the civilian actually makes use of a weapon but also the time that he is carrying it, as well as situations in which he undertakes hostile acts without using a weapon. *Ibid.*, pp. 618-19.

⁸² Protocol II, art. 13.

⁸³ Geneva Conventions, Art. 3(1)(d). Protocol II, art. 6, provides that no sentence or penalty shall be imposed on a person unless handed down by an independent and impartial court, after a trial in which the accused is given the rights and means of a defense.

protected from “collective punishment,” which is punishing persons without establishing individual criminal responsibility.⁸⁴

In addition to protections from inhumane treatment and direct attack, humanitarian law protects the civilian population in other ways. Armed forces may not destroy “objects indispensable to the civilian population” – the starvation of civilians as a method of combat is prohibited, as is the destruction of objects necessary for civilians to survive, such as agricultural areas and the water supply.⁸⁵ Also unlawful are attacks on “installations containing dangerous forces” such as dams,⁸⁶ and cultural objects and places of worship.⁸⁷

Designation of Military Objectives

The fundamental distinction between civilian and military also determines which objects may be legitimate targets of attack. The laws of war characterize an object as civilian unless it contributes effectively to the enemy’s military capability or activity, and its destruction or neutralization offers a definite military advantage at the time. Legitimate military objectives are combatants’ weapons, convoys, installations, and supplies.⁸⁸

Objects normally dedicated to civilian use, such as houses, schools, hospitals and places of worship, are presumed not to be military objectives. If they in fact do assist the enemy’s military action, they can lose their immunity from direct attack. The presumption that an object is civilian in nature does not include objects such as transportation and communications systems that can have a military purpose. In such circumstances, it is necessary to analyze whether the facility meets the test for a military target.⁸⁹

Prohibition Against Indiscriminate and Disproportionate Attacks

Humanitarian law prohibits attacks that are either indiscriminate or disproportionate. Indiscriminate attacks are those that are not directed at a specific military target or are carried out in a manner or with weapons that cannot be so directed. They are attacks that strike military objectives and civilians or civilian objects without distinction.⁹⁰

Attacks on even legitimate military targets are limited by the principle of proportionality. Combatants have a duty to choose a means of attack that avoids or minimizes damage to civilians. In particular, the attacker must refrain from launching an attack if the expected civilian casualties would outweigh the importance of the military target to the attacker. Any foreseeable injury to civilians and damage to civilian objects must not be excessive in comparison to the expected concrete and definite military advantage.⁹¹

⁸⁴ Geneva Convention IV, art. 33. Common article 3 to the Geneva Conventions requires a fair trial before a person can be punished. Protocol II, art. 6(2)(b), explicitly forbids collective punishment.

⁸⁵ Protocol II, art. 14.

⁸⁶ Ibid., art. 15.

⁸⁷ Ibid., art. 16.

⁸⁸ First Additional Protocol to the Geneva Conventions (Protocol I), art. 52 (2). Protocol I, which applies to international armed conflict, provides useful interpretative guidance on the rules of war in internal armed conflicts. See *New Rules for Victims of Armed Conflicts*, pp. 306-7.

⁸⁹ See *Commentary on the Additional Protocols*, pp. 635-37.

⁹⁰ Protocol I, art. 51(4).

⁹¹ Protocol I, art. 51(5). See *Commentary on the Additional Protocols* pp. 623-26.

The Protection of Civilians from Displacement

Parties to a conflict may not order the displacement of civilians unless it is for the security of the civilians involved or for “imperative military reasons.” Should such displacements be carried out, all possible measures must be taken so that the civilian population has satisfactory conditions of shelter, hygiene, health, safety and nutrition.⁹²

Mass relocation or displacement of civilians solely for the purpose of denying a willing social base to the opposing force is prohibited. It does not promote the security of civilians nor does it meet the standard for imperative military reasons, which are even greater than that of military necessity.⁹³

Human Rights Watch believes that both sides have violated basic principles of international humanitarian law in Aceh. In a June 2001 letter, Human Rights Watch urged the GAM leadership to publicly commit itself to those principles and to take action against members of its forces who violate them. In meetings with senior security officials in Banda Aceh in May, Human Rights Watch staff raised specific instances of violations and pointed out the need for officers to be held accountable.

XI. EPILOGUE

At the outset of this report, we used the cycle of violence in Samalanga to illustrate the nature of the conflict in Aceh. When Human Rights Watch interviewed two women from the village where the killings had occurred, they mentioned the fact that the seemingly endless cycle of killings would have been much worse, save for one man in the village named Mukhlis. Mukhlis, they said, was the only person who could talk to both sides. When the military entered a village and the men fled, Mukhlis was able to persuade the soldiers that they were only going to the sea to catch fish, they were not GAM. When someone was arrested at a Brimob post, it was Mukhlis who went to negotiate his release. The women told us, “Every village needs a Mukhlis.”

On May 30, 2001, Human Rights Watch received an e-mail from Aceh that Mukhlis had been found dead. The circumstances were typically murky. According to the e-mail, compiled from information from family members, on May 21, two GAM members had been conducting “sweepings,” or identity checks, of buses passing along the road near the village of Tambu, Samalanga. A passenger bus with several Brimob men on board, en route from the subdistrict of Jeunib where a Brimob post was located, approached Tambu. The driver flashed his headlights to the GAM members, warning them of danger, and they fled. The bus stopped, and the Brimob men got down and fired in the direction of the fleeing GAM members but apparently did not hit them. They saw two motorcycles-for-hire, a common form of transport in villages, parked nearby. When the drivers, one of whom was named Mukhtar, saw the Brimob men, they fled, and they, too, were fired on but were not hit. The Brimob soldiers took the motorcycles back to their post in Glee Geuleungku, Jeunib, setting fire to a nearby furniture store as they left.

The next day, Mukhlis went to the Brimob post to see if he could get the two motorcycles returned to their owners, telling the Brimob soldiers that they really did belong to Mukhtar and his friend and had not been used by the GAM members conducting the sweeping. Mukhlis was detained overnight, tied up but not beaten, according to his wife. She and his mother went to get him the next day, and were relieved to see that he was in good shape. The Brimob officer told his

⁹² Protocol II, art. 17.

⁹³ See *Commentary on the Additional Protocols*, pp. 1472-73.

mother, "You can see for yourself, your son has not been beaten, when we ate rice, he also ate, when we drank tea, so did he." He said Mukhlis should apologize to his wife for staying out all night, so Mukhlis apologized and the Brimob men laughed and applauded. Then they told Mukhlis that he could go home.

The next day, Mukhlis went back to work as usual, selling fish. On May 24, he went with two friends on a motorcycle to Bireun. Mukhlis was riding on the back of the bike. As they were coming home, they were stopped by a group of men in civilian clothes, and Mukhlis was ordered to get off. The two friends kept going. That Saturday, two bodies were found by the side of the road in Blang Birah, Bireun. They were brought to the Bireun hospital, and someone called Mukhlis's family. They came and identified one of the bodies as his. He had been shot in the chest and his throat had been slit. The killers, like so many of those responsible for perpetrating abuses in Aceh, are "unknown."

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