

Learning from the Indonesia-Aceh peace process



Implementing the Memorandum of Understanding: process, progress and dilemmas

Law on the Governing of Aceh (LoGA)	Legislation was necessary to incorporate key MoU provisions into law. GAM drafted an initial proposal that was further developed through consultations with civil society in Aceh. This was sent to the government, which used it as a reference for drafting legislation. A reformulated text was approved by the legislature in August 2006, 5-months after the MoU's deadline. A key dilemma was harmonizing an agreement based on a fundamentally revised relationship between Aceh and the central government with existing legislation and a Constitution premised on a highly centralized government structure. Ultimately the four main legal principles of the MoU were diluted to reassert primacy of central government in the administration, leading some to question the extent of self-government achieved.
Political participation	Key provisions to enable establishment of Aceh-based political parties that meet national criteria and to nominate candidates to contest elections in April 2006 have largely been fulfilled. GAM has made strides to transform into a peaceful democratic movement but the nomination of candidates generated tension between older political leaders and the younger field commanders, with the latter's candidates, Irwandi-Nazar, winning the governorship by a wide margin.
Economy	Key provisions are yet to be implemented, notably the Government Regulation on the Joint Management of Oil and Gas Resources. There are signs this may be highly contentious, especially if not decided on the basis of consensus between central government and Acehnese authorities. The LoGA article on joint management of resources may also generate tension.
Rule of law	The MoU specified that the Aceh legislature would redraft the Aceh legal code on the basis of universal human rights standards. Yet the LoGA included 16 articles that effectively applied Shari'ah, which has subsequently been implemented in ways that are seemingly unpopular with the majority of Acehnese. Other MoU provisions, including on policing, have been less contentious.
Human rights	Although abuses were a key Acehnese grievance, this was not a prominent issue in the agreement. Provisions in the MoU dealing with past human rights violations were too vague to be effective in the face of concerted political and institutional obstacles in the government, combined with the international community's unwillingness to push this agenda. Despite a 12-month timeframe for establishing a human rights court and a truth and reconciliation commission for Aceh, they are not yet achieved. This is partly because they are interlinked with national level processes that have stalled. Yet there is little indication of sufficient political will to implement them. Compensation for victims through the reintegration fund may in future be interlinked with any reparations.
Amnesty	GAM prisoners not convicted of crimes were granted amnesty and released unconditionally within days of signing the MoU, a process that proceeded reasonably smoothly.
Reintegration into society	The government established a national reintegration fund managed by Aceh's authorities, which then established the Aceh Reintegration Board (BRA). Eligible groups were ex-combatants, amnestied prisoners, and conflict-affected civilians. The MoU was unclear whether the aim was compensation or creation of longer-term opportunities and development. Due to lack of capacity to design a comprehensive needs-based programme – compounded by time constraints and annual budgeting procedures – the BRA opted for cash reintegration packages. Initial expectations of livelihood support were frustrated. BRA had difficulties defining and identifying civilians affected by conflict, with no measures for women raped as an act of war. Packages for ex-combatants were channelled through the GAM hierarchy – disadvantaging those with weak relations to commanders and no members of GAM's women's wing were initially included. A key challenge was the disjuncture between the 3,000 combatants claimed by GAM for demobilizing purposes and the true number on the ground, estimated at 25,000.
Security	Demobilization and disarmament proceeded smoothly, largely because of clear guidelines, good faith and the robust mandate of the Aceh Monitoring Mission, which used its authority to defuse conflict. Removal of the paramilitary police brigade, Brimob, enhanced trust and police reform is underway. Yet inter-factional tensions within GAM and ongoing fault lines between GAM and a variety of militias – including some linked to the campaign to split Aceh – have triggered violent episodes. They have combined with escalating crime to generate security concerns. AMM's departure after the elections left a gap in dispute resolution mechanisms, exacerbated by weak government capacity to manage these challenges.

An overview of the Indonesia-Aceh peace process

Conflict context

The conflict over Aceh had many causes and dimensions. At one level, it reflected a self-determination struggle within Aceh. At another, it was caused by oppressive and exploitative policies of a specific regime that had treated other parts of the country in a similar way. Yet fulfilling the aspiration for independence would fundamentally challenge the status of Aceh within Indonesia. It also had implications for the wider state, which some feared could break apart from multiple secessionist movements. However if the conflict stemmed from bad policies that generated legitimate grievances, then the remedy might be better governance without changing the status of the territory – a solution favoured by Indonesian nationalists and made more possible by Indonesia's democratic transition.

The challenge was to develop a formula that could address both of these core dimensions of the conflict in ways that responded to the fears and needs of the main parties. The negotiated agreement that eventually emerged was based on a formula of self-governance for the territory within a unitary state, along with provisions to address specific contested issues and to deal with the consequences of conflict. This agreement was successful in ending the war and initiating a transition process. Yet there are signs of continuing political conflict over how to fulfil the promise of self-government, with uncertain implications for the future. Both the successes and challenges of the implementation period indicate how much the structure of the negotiation process and the contents of the agreements reached tend to shape the prospects for future transformation of the conflict.

Gaining momentum

In a war that spanned three decades, there were no significant efforts to resolve the conflict through negotiations until the late 1990s. A new dynamic emerged with the radical changes in Indonesia following President Suharto's downfall in 1998, as well as East Timor's vote for independence in an UN-supervised referendum in 1999. While Acehnese aspirations for independence gained traction from the latter, new thinking about how to deal with conflicts stemming from state abuses and the democratic deficit took hold in Jakarta, as did fear of threats to Indonesia's territorial integrity.

In this context both the Free Aceh Movement (GAM) and the government of newly elected pro-dialogue President Abdurrahman Wahid welcomed the Geneva-based, non-governmental Centre for Humanitarian Dialogue's (HDC) offer to convene a humanitarian dialogue. This led quickly to an agreement establishing the *Humanitarian Pause* in May 2000 and the *Cessation of Hostilities Agreement* of

December 2002. Efforts to expand on these agreements to forge a wider conflict resolution process collapsed amid ceasefire violations, with allegations that GAM used the ceasefire to strengthen its position and that the Indonesian government was 'talking peace while waging war'.

Seizing a ripe moment

While the government's offensive following the ceasefire's collapse was militarily successful, senior officials appear to have realized that an exclusively security-driven approach could not end the conflict. This was well understood by the soon-to-be President Susilo Bambang Yudhoyono – a former General who could influence the military – and Vice President Yusuf Kalla, chair of the leading Golkar party. Meanwhile GAM was weakened militarily to the extent that some of its field commanders were ready to negotiate.

Elements on both sides appear to have recognized that attempts to achieve their goals unilaterally were unlikely to be successful. Furthermore, Acehnese NGOs had spearheaded societal debate on humanitarian issues and the value of pursuing goals through peaceful means, creating a climate more receptive to negotiations. When the December 2004 tsunami devastated coastal Aceh, it was the catalyst for a new push for peace that moved on currents emerging over the previous years. On entering the next talks process, both GAM and the government had more realistic expectations of what they might achieve and the basic shape of a settlement.

“There was a clear mandate with clear parameters. There had been time to think through earlier failures. History matters and time itself is important for weighing up options and opportunities. There was a certain realism about the political trajectory and indeed the tsunami made it a historical juncture in that so much depended on getting the agreement right.”

President Martti Ahtisaari

Negotiation processes

Although GAM saw international involvement as beneficial, Indonesian officials still stinging from the East Timor experience were cautious about 'over-internationalizing' the peace process by involving UN mediators. This contributed to the appeal of non-official intermediaries first through the HDC initiative and then through the private diplomacy of former Finnish president Martti Ahtisaari and his Crisis Management Initiative

(CMI). Ahtisaari fostered the Helsinki process and the *Memorandum of Understanding* (MoU) ending the war.

Structuring talks

With no prior foundations for trust between the parties, the HDC process started from a temporary humanitarian ceasefire. They then tried to structure further talks on an open-ended, step-by-step approach that was not based on a joint understanding of the shape of a possible final political settlement. They had little choice but to rely heavily on shuttle diplomacy and indirect negotiations that allowed little space for developing trust between the negotiators and an appreciation of the other's perspectives, aspirations and 'bottom-line'.

The Helsinki process unfolded through five rounds of direct and informal talks from January 2005 mediated by Ahtissari, who worked hard to help establish both realism and trust. The ambition was to reach a comprehensive package agreement addressing both security and substantive issues. Key to success was the principle of deferring final agreement on the various provisions until everything could be agreed in a final package: 'nothing is agreed until everything is agreed'. Learning from previous experience, the MoU agreed in August 2005 included a robust monitoring mechanism with international oversight.

"Nothing is agreed until everything is agreed" made it possible for us to return to the negotiation table without accepting the Indonesian demand for autonomy and for Indonesia to continue without losing face. This became helpful when we explored difficult issues like self-government, because it meant if any one agenda item did not reach an agreement, all points were unacceptable."

M. Nur Djuli and Nurdin Abdul Rahman, GAM negotiators

Opportunity costs?

The Helsinki talks were structured as a two-party negotiation process, reflecting a framing of the conflict that saw GAM and the Indonesian government of the day as the main protagonists. They also restricted public communication on the substance of the negotiations, maintaining what one government negotiator called the 'zip-mouth policy.' These factors contributed to the efficiency and success of the negotiation. Yet, as elsewhere, it had the disadvantage of marginalizing other stakeholders, whose interests and concerns are poorly reflected in the MoU. The agreement essentially

addressed only the minimum threshold of issues needed to end the war. It also meant there was little scope for bringing along other constituencies in the process and encouraging them to buy-in to the outcomes.

The MoU did not please everyone. While GAM was a popular movement with a significant constituency, there were Aceh-based anti-separatist groups who opposed the agreement and now number among the advocates of splitting Aceh further into new territorial units. The government made considerable efforts to ensure the military's adherence to their policy and to win over opponents without informing them of the specific compromises until after the agreement was signed. The legislature subsequently clawed back many of the governance reform provisions in the MoU. It treated them as guidelines rather than commitments, possibly because it was not one of the negotiating parties. This raises questions about the MoU's vulnerability if different political forces come to power in the 2009 elections. Finally, the specific needs of numerous social groups were not represented or addressed. Despite international norms on women, peace and security, both the process and the agreement were gender-blind – with considerable impact on post-settlement arrangements.

"The peace process was simplified into an issue between the government and GAM, negating other dimensions of conflict, wherein numerous and complex issues intertwined and impacted upon the life of all Aceh's people. As a result of women's exclusion...their interests are poorly covered by the agreements."

Suraiya Kamaruzzaman

Reframing and compromise

The substantive provisions of the agreement rested on a trade-off between GAM's demands for independence and the government's resistance to special dispensations for Aceh that might contradict existing laws governing the relationship between the centre and the regions. Both GAM and the government showed political courage in finding a way to address each other's concerns.

On entering negotiations, GAM recognized it would need to put new proposals on the table. Its big shift was to move from demands for independence to self-government. 'Autonomy' was deeply discredited and would have been rejected by GAM supporters; 'self-government' was a new framing that enabled agreement,

despite being conceptually comparable; GAM leaders were also willing to agree principles without securing their own position through the direct allocation of posts.

Indonesia's political establishment was concerned that the government's efforts to contain separatism strengthened territorial integrity and national cohesiveness, rather than weaken or destroy it. Government negotiators had to be convinced that an agreement with GAM would further these goals. While some of the measures had been envisioned in the 2001 autonomy law (such as the 70/30 per cent split of oil and gas revenues in Aceh's favour), a major new concession was to allow local political parties to contest elections.

"Peace means compromise and compromise means concessions. ... Parliament wanted to know what we were talking about but I said, 'you don't need to know!' If I had informed the parliament, they would have opposed me. ... Some people were very upset but I had good reasons."

Vice President Jusuf Kalla

Implementation

The first years of implementing the MoU reflect a broad picture of success in fostering security and demilitarization, along side ongoing renegotiation of governance and justice arrangements. This partly stems from the status of the MoU itself, which was an agreement of government rather than an agreement of state (such as a constitutional reform). Many of the substantive provisions needed to be ratified into law before taking effect, while many of the operational provisions could be implemented swiftly through the decisions of government and GAM leaders. Furthermore, many of the provisions were formulated imprecisely in the MoU and consequently open to opposing interpretations, leading to misunderstanding and tension.

External monitoring

While the Helsinki process was the product of private diplomacy, Ahtisaari drew on his close connections with the EU and influential governments to secure their technical, financial and political support for the process and agreement, which he skillfully assured before the final text

was signed. Key to the parties' confidence in the agreement was the provision for an innovative joint European Union / Association of South East Asian Nations Aceh Monitoring Mission (AMM), with Ahtisaari involved in arbitrating serious disputes. The unarmed civilian mission's initial focus was on security issues. The parallel processes of GAM decommissioning and the military's redeployment were completed with remarkable efficiency, as was release of GAM prisoners through the amnesty process. The AMM's role in monitoring the political transition was more controversial; while it pressured the government to pass needed legislation, it did not interfere in the substance. While the government appreciated the AMM's 'neutrality', GAM and others argued it allowed the new Law on the Governing of Aceh to deviate significantly from the MoU. Some also questioned whether AMM should have operated until every MoU provision was fulfilled.

Unfinished business

There have also been a variety of practical and programmatic challenges. Atypically, Aceh has benefited from abundant reconstruction resources. Yet they have been unequally distributed between tsunami- and conflict-affected communities, leading to frustrated expectations and resentment. Despite the vast needs of both, the former have benefited far more than the latter due to many international programmes 'tied' to helping tsunami victims. Inequalities in reintegration assistance, as well as the allocation of reconstruction contracts, lead to perception of winners and losers that generate tension. Human rights have received scant consideration and transitional justice institutions have proved elusive. Little attention has been directed to addressing the specific needs of girls and women. Weak capacity in the Indonesian and unreformed Aceh government administration has been another factor constraining the ability to formulate effective policies, protect rights and deliver services. Few agencies have focused on the transition from emergency aid to domestically-led development, or to building government and civic capacity and fostering accountability.

Despite these and other challenges, a remarkable transition to a more peaceful and equitable future is well underway. This remains an important test case for democratic transition in Indonesia and beyond, and yet it indicates the crucial need to sustain focus if the promise of a just peace is to be secured. Indeed, nothing is agreed until *everything* is agreed.

Conciliation Resources (CR) is an international non-governmental organization registered in the UK as a charity (1055436). We work mainly in the Caucasus, Uganda and West Africa in partnership with local and international civil society organizations and governments and produce the series *Accord: an international review of peace initiatives* (www.c-r.org). This policy brief draws on authors' insights from *Accord 20, Reconfiguring politics: the Aceh peace process*, 2008. It is intended to accompany the publication to inform future peacemaking efforts.

Key policy conclusions

Prepare for negotiations (even when the prospects seem remote)

It is helpful to prepare for the option of negotiations even in the context of seemingly intractable war; new circumstances can rapidly change conflict dynamics and create opportunities for peacemaking that may otherwise be missed if parties are unprepared and no initiatives are in motion.

The value of civil society diplomacy and peacemaking

The Aceh process highlights the distinctive peacemaking roles that can be played by a range of private and local and international civil society actors including mediating formal negotiations, facilitating engagement, and mobilizing support for the process. They can also work in creative ways with state and inter-governmentally mandated mechanisms. A non-official mediator, such as a prominent individual or civil society institution, may be a viable option when one or more of the parties are reluctant to 'over-internationalize' a process. This process highlights challenges and constraints but also suggests that civil society peacemaking is coming of age.

Trade-offs between efficiency and inclusiveness

The structure of negotiations can lead to trade-offs on the depth and breadth of negotiated change. Tightly focused, confidential negotiations involving only the leaders of the belligerent parties can be an efficient way to deliver an agreement to successfully end a war, providing there is sufficient popular support. A more inclusive process with a more comprehensive agenda may be slower and more complex, yet it potentially enables a diverse range of stakeholders – including women – to agree on a wider range of issues that may create the basis of new political, economic and societal arrangements for the long-term.

Reframing contentious concepts can enable breakthroughs

Reframing key terms and concepts can open new possibilities for reaching agreement. Shifting from the contentious positions of 'independence' versus 'autonomy' to the comparatively neutral idea of 'self-government' was a breakthrough that enabled negotiators to sketch out the terms of an agreement that each side could perceive as addressing their needs.

Negotiation procedures matter

As it did in the Northern Ireland process, the 'nothing is agreed until everything is agreed' formula freed negotiators to trade across a range of issues without committing themselves before assessing the overall package agreement. An earlier step-by-step approach deferred decisions on the most difficult issues without inhibiting negotiators from exploring potential trade-offs and innovative solutions.

Imprecise drafting of peace agreements risks contested interpretations

While imprecise drafting can enable the constructive ambiguities that facilitate negotiations by drawing a linguistic

veil over political concessions, it can also lead to contested interpretations at the implementation stage. Parties in a stronger position to impose their interpretation are more likely to benefit from this tactic.

Moving from agreements of government to agreements of state

It is inherently challenging to move from signing a political agreement to enacting a legally enforceable instrument. In cases where peace negotiations are not linked with constitutional reform or another legislative process, it can be valuable to ensure the agreement includes firm guidelines and mechanisms for making this transition from agreements of government to agreements of state.

Making the transition from an armed movement to political party

The decision to negotiate an end to armed conflict poses challenges to armed movements, who have to shift from a military structure to becoming one player amongst many in the contest for political power. To enable this transition, they often need to be assured of having a real role in the new political system. Yet instead of guaranteeing their position through a power-sharing formula, GAM candidates successfully contested open elections for key posts in the Aceh provincial government. This demonstrated their confidence in their popular base and strengthened their legitimacy as a political group. The challenges experienced to date highlight the need for capacity building in the transition period to help form capable political parties that are the basis for democratic politics in the future.

Negotiating and implementing transitional justice

To satisfactorily address the twin challenges of ending war and promoting justice, those involved in peace negotiations need to grapple with developing clear and robust guiding principles and processes on how transitional justice issues will be addressed. Vague provisions in the agreement for promoting justice may be especially vulnerable to being neglected in implementation.

Humanitarian relief and peace process support

The experience of tsunami relief indicates how large-scale humanitarian assistance operations in conflict contexts impact on the dynamics of the conflict and on an ongoing or potential peace process. They should be designed in ways that help to support the prospects of peace, with sufficient flexibility and capacities to respond to radically new developments. In a post-agreement context, efforts to meet the 'early recovery gap' need to be seen as part of the 'peace dividend'. They should incorporate strategies to address key systemic challenges, such as strengthening government and civic capacities and supporting the implementation of agreements.