

Aceh Peace Monitoring Update

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In November 2009 there were three shooting incidents in Banda Aceh targeting foreigners (causing one critical injury), the first such attacks since the peace agreement in August 2005. To date, few details have emerged about police investigations into these incidents, fuelling security concerns among the international community and allowing space for speculative theories that undermine trust in Aceh's ongoing peace process. Apart from these attacks, levels of conflict-related and criminal violence from the beginning of September 2009 until the end of the year were at their lowest since the peace agreement, while levels of non-violent conflict remained similar to previous months. In September the outgoing provincial assembly (DPRA) passed the *Qanun Wali Nanggroe* ("Guardian of the State" law), but like the controversial *Qanun Jinayat* legislation described in the previous APMU edition, Governor Irwandi has refused to sign it and the new DPRA legislators have yet to repeal or amend it. The ambiguous status of both the Wali Nanggroe and Jinayat laws serves as another example of how legislative gamesmanship with roots in conflict-era political cleavages can weaken government performance, which can invite resolution from the central government in Jakarta, undermining the autonomy provisions that Aceh's new generation of leaders worked so hard to attain.

Armed attacks on foreigners living in Banda Aceh briefly threaten post-election stability

Three shooting incidents targeting the international community in Banda Aceh were reported within a period of three weeks in November 2009 (see Box 1). The first incident, in which several close-range shots were fired at a German Red Cross (GRC) vehicle during the daytime, was a clear attempt to murder the GRC Country Representative sitting inside, who survived the attack with wounds in his chest and arm. To date this has been the only known attempt to murder a foreigner in Aceh since the Memorandum of Understanding (MoU) was signed in August 2005.² The other two incidents that followed both involved shots being fired at the residences of foreigners in Banda Aceh. Nobody was injured, and these appeared to be attempts to intimidate rather than harm, which cast doubt on whether all three incidents were connected. Throughout November and December, few details emerged about police investigations into these incidents and no arrests were made, raising concerns about security among the international community.³

A lack of progress and public disclosure surrounding the police investigation into the shootings allowed suspicions and conspiracy theories to spread in Aceh, with parallels to the violence that preceded the 2009 legislative elections. From September 2008 until polling day

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² There have been several other violent incidents in Aceh aimed at foreigners since the MoU such as the April 2007 kidnapping of seven Chinese nationals in Gayo Lues; the May 2008 grenade explosion in front of Save the Children's office in Bireuen; and the September 2008 kidnapping of a World Bank consultant in Aceh Utara. See past ACMU reports for details on these events.

³ *Serambi*, November 18th 2009.

in April 2009 there were 32 cases of arson and grenade attacks targeting political parties, mostly Partai Aceh (PA),⁴ and six murder attempts on PA or KPA⁵ members (with five deaths). At the time there were suspicions that elements within the security forces might have been involved in the violence, and police investigation brought to light partial evidence to support these allegations.⁶ Although no foreigners were ever targeted, the pre-election violence occurred at a time when some high-level military figures and nationalist politicians were exhibiting hostility towards the international community in Aceh.⁷ Without any apparent resolution to the shooting incidents in November 2009, unsubstantiated rumors circulated that the same networks of military elements hostile to PA and foreigners may have been behind the shootings, possibly using local proxies.⁸ On the last day of December, suspicions of TNI involvement were reinforced when Aceh police chief Adityawarman claimed the police had arrested suspects involved in the November shootings, and noted that they were coordinating with the military police who had suspects in their custody as well (implying that those suspects were members of the military).⁹ Two days later, after strong protests from TNI's new Aceh commander Hambali Hanafiah (Soenarko's replacement), Adityawarman apologized for his miscommunication and clarified that he was referring to arrests connected to the robbery of a gas station in August 2009, and that they were still searching for the ringleaders behind the November attacks on foreigners.¹⁰

Box 1: Armed Attacks on Foreigners in Banda Aceh

- 5-Nov A German Red Cross vehicle was attacked at 17:15 in a ride-by shooting by two men on a motorcycle on Jalan Soekarno-Hatta, on the western outskirts of Banda Aceh. The gunman, sitting behind the driver, shot the vehicle through the front passenger window, and then twice through the windshield as the motorcycle made its escape. The Country Representative for the German Red Cross was shot in the ribs and arm and evacuated for medical treatment to Singapore. No other passengers were injured.
- 16-Nov A single shot was fired through a window of the European Union guesthouse, also on the western outskirts of Banda Aceh, at around 22:00. The Head of Office / First Counsellor of Europe House Aceh along with his partner and dinner guests were in the house at the time. No one was injured.
- 23-Nov Several shots were fired at around 5:45 into the house of two American volunteers who teach English at Syiah Kuala University in Darussalam, on the eastern outskirts of Banda Aceh. The house is part of the university's campus housing complex for teaching faculty. No one was injured.

The November violence against foreigners along with the election season violence last year highlights the importance of both the performance and transparency of security forces in handling high profile crimes in Aceh. Under Adityawarman's leadership police performance has shown substantial improvement but the lack of progress on these cases shows that there is room for more. Although the number of foreigners living in Aceh has decreased in recent years, the international community remains vitally involved in post-conflict and post-tsunami reconstruction efforts. When anti-foreigner sentiments are expressed by military leaders and not unequivocally condemned by superiors, and when crimes against foreigners are not rapidly and effectively investigated, this raises questions regarding the attitude and commitment of the local and central government toward the international presence in Aceh.

⁴ Partai Aceh is the political party formed by GAM, Aceh's former separatist guerilla movement, in mid-2007.

⁵ *Komite Peralihan Aceh* (The Aceh Transition Committee) is the civil organization formed to represent former GAM combatants.

⁶ *Jakarta Globe*, 5 July 2009

⁷ For examples of election-related violence, allegations of security forces involvement, and hostilities directed at the international community during the campaign season, see both ACMU edition (1 December 2008 – 28 February 2009) and APMU edition (1 March – 30 June 2009).

⁸ The TNI commander in Aceh, Soenarko, who openly expressed anti-foreigner sentiment before the elections, was rotated out of his position at around the time of the shootings, further fuelling suspicions that disgruntled military elements may have been involved.

⁹ *Serambi*, January 2nd 2010.

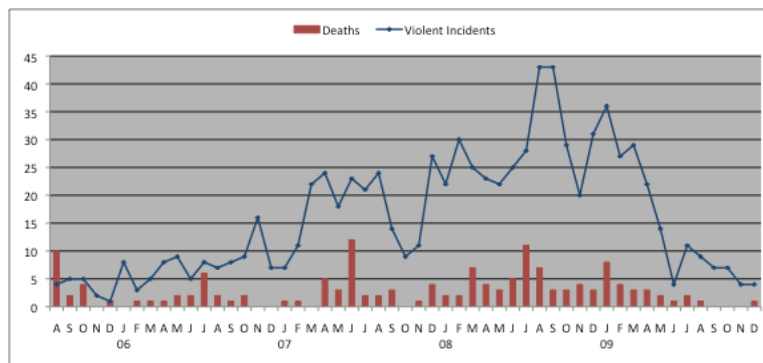
¹⁰ *Serambi*, January 3rd 2010.

The lack of transparency in the investigation of high profile cases allows for the emergence of conspiracy theories that continue to undermine trust in Aceh’s peace process. If security forces were not involved, then transparency defuses tension. If they were involved, then TNI and the police should demonstrate their commitment to reform by publicly acknowledging and sanctioning perpetrators within their ranks. Transparency and resolution in the investigation of post-MoU incidents are necessary conditions for sustainable peace in Aceh.

Violent conflicts are at their lowest levels since 2005, non-violent conflicts steady

The attacks on foreigners in November 2009 stand out against an overall sustained decrease in violence across Aceh. Violent conflict incidents from September through December 2009 were at their lowest levels since late 2005. September through November marks the first three-month stretch without conflict-related deaths since the peace agreement in August 2005 (see Figure 1).

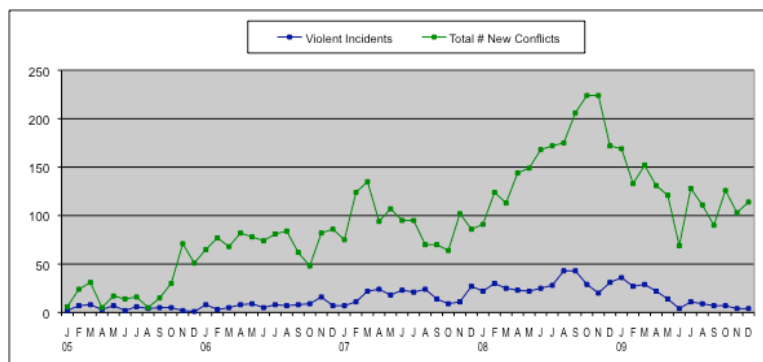
Figure 1: Conflict-Related Deaths & Violent Incidents by Month



Apart from conflict-related violence, criminal violence data (not included in Figure 1) are also at the lowest levels since monitoring began in 2005. Some cases of armed robbery, armed kidnappings, and shootings occurred during the last four months of 2009, but these too are well below average levels since the peace agreement.

While violent conflicts have seen an overall decline, the total number of new conflicts each month shows a steady pattern since July (see Figure 2). In December there was a spike in corruption-related administrative conflicts not seen since late 2008, but this may be partly explained by an extra level of investigative attention paid to corruption matters in government surrounding International Anti-Corruption Day, which was widely publicized by civil society organizations on 12 December.

Figure 2: Conflict and Violent Incidents by Month



Political conflicts were higher than usual in December partly due to extended coverage of problems within Aceh Timur’s district government. Holding 25 out of 35 seats in the district assembly (DPRK), new PA legislators inaugurated at the end of August could not decide who

would lead the DPRK, citing intervention from party leaders in Banda Aceh. After nominating PA legislators to both chairman and second deputy of the DPRK, a faction of opposition parties protested to the governor and the Department of Internal Affairs. At the end of 2009, the Aceh Timur DPRK still had not passed its annual budget, risking penalties and postponing district affairs.¹¹ Meanwhile Aceh Timur's Bupati, Muslim Hasballah, has come under pressure to resign due to corruption allegations and a failure to spend the annual budget.

Status of the Wali Nanggroe law remains unclear and highlights the Aceh government's capacity to implement its own hard won autonomy

In mid-September, the outgoing provincial assembly (DPRA) passed their version of the *Wali Nanggroe* ("Guardian of the State") law just two weeks before the inauguration of the new PA-dominated assembly. The provision to establish a Wali Nanggroe (WN) in Aceh was a significant victory for GAM during the Helsinki peace negotiations, but the text of the MoU was vague, and it has been a contentious issue, with deep implications for Aceh's future relationship with Jakarta.¹² GAM negotiators imagined a WN figure invested with the highest level of political power in Aceh, a kind of constitutional monarch with power to veto laws or dissolve the assembly, legal immunity, and the right to take decisive action in emergency situations, including the command of armed forces within Aceh's territory. This would mean that the WN stands apart from the national political and security hierarchy in a way that Aceh's governor, military, and police do not. If GAM's version of the WN was enacted, Indonesian nationalists fear that it would suggest another step toward Aceh's independence.¹³ In a sharp contrast to this model, when the national parliament passed the Law on Governing Aceh (LOGA) in 2006, the provisions for the WN focused on the establishment of a ceremonial figurehead and protector of Aceh's cultural heritage, without any formal political authority.

The outgoing DPRA's law passed in September adheres closely to the LOGA's definition of the WN. Like the *Qanun Jinayat* legislation passed at the same time, Governor Irwandi and the incoming PA legislators interpreted the WN legislation as an act of sabotage against their political agenda.¹⁴ Outgoing legislators argued their law was not only consistent with LOGA, but also based on dozens of community consultations, and therefore belongs to everyone in Aceh, and not just to certain groups (by which they meant GAM, see Box 2). As with the *Jinayat* law, Governor Irwandi refused to sign the WN law. He argued that in its current form the law establishes an institution with functions already covered by the *Majelis Adat Aceh* (Aceh Customary Law Council). Without any political power, and with functions of

Box 2: GAM's "Wali Nanggroe" Hasan Tiro Returns to Aceh

GAM's separatist ideology cultivated a particular genealogy of Aceh's sultans and powerful *ulama* (religious leaders) that proves the title of Wali Nanggroe belongs to Hasan Tiro, GAM's founder. Since the MOU, KPA and PA have always regarded Tiro as Aceh's Wali Nanggroe, and have been referring to him as such for years. One month after the Wali Nanggroe law was passed by the outgoing DPRA, Hasan Tiro himself returned to Aceh for the second time since the MOU, but PA and KPA leaders emphatically deny that his return was related to the Wali Nanggroe law, which they think does not confer enough authority and political power upon the institution. Tiro's first visit back to Aceh after 29 years of exile in Sweden was for only two weeks in October 2008 (see ACMU October-November 2008), but this time KPA and Tiro's many supporters expect him to stay for at least several months, and hope that he will stay for good. At age 84, Tiro is now infirm and rarely speaks. According to Malik Mahmud, GAM's former Prime Minister before the MOU, Hasan Tiro has only two messages for GAM leaders that now hold executive and legislative positions in Aceh's post-MOU government: to maintain the peace and to avoid corruption. The Indonesian government no longer treats Hasan Tiro as an enemy of the state; at the beginning of February, after three and a half months in Aceh, Indonesian immigration authorities issued a one-year visa extension in his Swedish passport.

¹¹ Finance Ministry Regulation No. 46/2006

¹² For earlier analysis of the Wali Nanggroe issue, see ACMU edition (1 October – 30 November 2008) and *Crisis Group Asia Briefing No. 81, Indonesia: Pre-Election Anxieties in Aceh*, 9 September 2008.

¹³ *Kontras*, 15 September 2009

¹⁴ For a discussion of the *Qanun Jinayat*, see the previous APMU edition (1 July – 31 August 2009).

customary law already covered by the *Majelis Adat Aceh*, Irwandi argued the WN poses an unnecessary burden on Aceh's budget and that it would be better not to establish it at all.¹⁵

In the absence of clarity from Aceh regarding the WN law, in early 2010 the central government issued a routine government regulation that outlines the role and authority of governors across Indonesia and took the initiative to specifically include the Wali Nanggroe as a member of the Regional Leaders' Forum (*Musyawarah Pimpinan Daerah*, MUSPIDA) for Aceh.¹⁶ The regulation states that the governor convenes and leads MUSPIDA, placing the WN in a subordinate role, which accords with Jakarta's understanding of the WN institution. The regulation may not preclude the new DPRA from enacting a revised WN law investing the institution with more authority, but it does reinforce Jakarta's normative understanding of the WN, establishing new regulatory precedent with LOGA as its legal foundation.

The old political elite from national parties in the outgoing DPRA left behind two problematic "last minute" laws—the *Qanun Jinayat* and the *Qanun Wali Nanggroe*—that have been widely criticized as cynical legislative gamesmanship against the incoming new elite from Partai Aceh. While the new DPRA and the governor have refused to recognize these laws, they still must face this legacy of legislative ambiguity that allows the central government to respond to pressing matters in its own fashion. In the case of the Jinayat law, after the governor refused to sign the law and the new DPRA postponed efforts to either repeal or amend it, the discourse shifted to leaders in Jakarta such as the Chief Justice of the Constitutional Court, the President's spokesperson, the head of the Department of Internal Affairs, and leading national human rights activists, who all publicly speculated upon the legality of the law's harsh punishments for adultery and other crimes against Islamic law. Although no formal action against the law has yet been taken in Jakarta, the debate is no longer whether Jakarta should intervene to repeal Aceh's religious laws if they violate human rights, but how. For both the Jinayat and WN laws, Jakarta has offered resolution to Aceh's legislative ambiguity in a piecemeal fashion, setting up parameters for debate and new precedents in governance in ways that may slowly undermine Aceh's hard won autonomy.

¹⁵ *Kontras*, *ibid.*

¹⁶ Article 6, Line 3, Government Regulation No. 19/2010. Apart from the governor, MUSPIDA members typically include the head of the provincial assembly, the attorney general, and the heads of both police and TNI. The MUSPIDA's job is to coordinate security and government activities.