

Local Election Disputes in Indonesia: The Case of North Maluku

I. OVERVIEW

The election for governor in Indonesia's North Maluku province was one of the most bitterly contested since direct elections for local government heads were introduced in 2005. Held in November 2007, it remains in dispute more than a year later, although a winner has been named and inaugurated. At one point it seemed as if violence between the two sides could escalate into serious communal conflict, in an area where thousands had died in religious violence a decade earlier. By early 2009, however, it looked as though Indonesia's democratic institutions would be resilient enough to cope with an election gone wrong, and the dispute would be quietly resolved in the Constitutional Court. The Court's decision is expected in early February. The dispute that many thought could trigger further turmoil may prove instead to be a minor wrangle in Indonesia's largely successful effort to choose local government leaders by direct popular vote.

Almost everything that could have gone wrong with the November 2007 poll did, with poor preparation, allegations of rigging, disputed counting, biased election supervisors, clashes in the streets and more. It took nearly a year to determine the winner and proceed with the inauguration ceremony. The Jakarta political elite took sides, and a resolution effort by the Supreme Court made things worse. The governor and vice-governor were finally installed on 29 September 2008 amid ongoing protests from the losers.

North Maluku, however, is the exception that proves the rule: of some 400 local elections that have taken place since 2005, most have proceeded without incident, and of more than 150 where the results were contested in the courts, most were peacefully resolved. Moreover, a new law that took effect in late 2008 giving power to the Constitutional Court to resolve such disputes should produce quicker and better decisions in races that are as close and divisive as this one.

The North Maluku case is instructive in other ways as well. On the positive side, it shows how past experience with conflict acts as a restraining influence on local

politicians, even when political competition assumes an ethnic dimension. North Maluku was engulfed in intense communal fighting in 1999-2000. No one wanted to see violence on that scale again, so even when there was a brief spate of tit-for-tat house burnings in July 2008, political leaders ensured it quickly ended. Similar instances of violence in former conflict areas, most recently in December 2008 in Central Maluku, show that community leaders, politicians and security forces have learned from past experience, so that communal violence is far less likely than it was a decade ago to spiral out of control.

On the negative side, the dispute showed that for all the bitterness and polarisation surrounding the election, it was all about power and not about policies. No one seemed to know or care what the two candidates stood for in terms of delivery of social services or provincial development plans. The issues were rather access to spoils and which ethnic group would get the more lucrative government positions. It was never clear that the average North Moluccan would be better off with one slate rather than the other, raising the question of what all the sound and fury was for.

Most importantly, however, the election shows that Indonesia's political system can cope with a few cases of institutional failure and even learn from the experience: the new law giving the Constitutional rather than Supreme Court the authority to resolve election disputes is an example of a useful effort to address institutional weakness. The challenge for Indonesia now is to improve the quality of its candidates.

II. BACKGROUND TO NORTH MALUKU

The political contest for North Maluku, comprising Halmahera and several smaller islands – part of the "Spice Islands" as the area was known to early European explorers – was always likely to be fraught, given its history and resources, mainly gold and valuable hardwoods. Carved out of Maluku province in October 1999, it has a population of about 950,000 people divided

among 28 ethnic groups. Its territory covers the area of four former Islamic sultanates, two of which, Tidore and Ternate, are longstanding historical rivals.¹ It was also the site of intense Christian-Muslim fighting in 1999-2000 that claimed some 3,500 lives.² When the election dispute erupted, there was some concern it could reignite the earlier conflict. That it did not was due in part to the emergence of some different fault lines, to be discussed below, but also to the very fresh memories of bloodshed that no one wanted to see recur.

A. THE COMMUNAL CONFLICT IN MALUKU 1999-2000

The immediate cause of conflict in 1999 was the division of a subdistrict in a way that ignited ethnic tensions. Kao subdistrict was home to two ethnic groups, the indigenous Christian Kao, and the Muslim Makian, who had been forcibly moved there by the provincial government in 1975 after fears that a volcanic eruption on their home island, Makian, was imminent. A separate administration for the Makians was set up alongside that of Kao – except that there was no formal recognition of its status. There was also no consultation with the Kao, who complained that the Makian were being settled on Kao customary land.

After two decades the economically successful Makians had far more political influence than their indigenous hosts, and when they wanted official recognition for their transplanted subdistrict, they got it. In May 1999, a government regulation formally acknowledged the subdistrict of Malifut.³ Its new boundaries, however, included several Kao villages, and they refused to be incorporated. A month later, an Australian gold mine opened in the area, quickly becoming its largest employer. Largely because of their better education,

Makians dominated the work force, deepening Kao resentment. Tensions between the two exploded in August 1999. Later in the year, the fighting spread beyond Malifut, pitting Muslims against Christians, but with some Muslim members of the elite supporting and protecting the Christians.⁴ Both sides engaged in ferocious attacks, creating a huge displaced population.

The spread of the fighting was linked not only to land but to the emergence of North Maluku as a new province and the aspirations of four men, all Muslims, to become its governor. One was the sultan of Ternate, Mudaffar Syah, who was also chairman of Golkar, the ruling party during the Soeharto years and the dominant party thereafter in much of eastern Indonesia. Partly because the Kao invoked customary land claims, they saw the sultan, a traditional leader who was also head of the district parliament, as an ally, and, although Muslim, he became identified with the Christian side, especially as he took the side of the Kao in rejecting the creation of Malifut subdistrict. He also had widespread support from ethnic Ternateans and traditionalists from many other ethnic groups. At the height of the conflict, in December 1999, militias wearing the yellow color of the sultan entered the fray against a combined Makian and Tidorean alliance, the so-called “white forces”. The sultan’s side suffered major setbacks, and his political influence waned thereafter.

On the Tidorean side, two brothers, Bahar and Syamsir Andili, were both interested in contesting the election.⁵ Bahar had helped restore the sultanate of Tidore, which had been vacant for years, and both supported placing the capital of the new province in a small town close to Tidore, rather than in Ternate, the commercial capital and obvious choice. The creation of North Maluku province thus reinforced the historical Ternate-Tidore rivalry which was only deepened further by the subsequent fighting. The fourth candidate ended up being one of the chief protagonists of the 2007-2008 election dispute, Thaib Armaiyn.

The conflict in North Maluku had largely subsided by mid-2000, leaving behind massive displacement and a new segregation of communities along religious lines. The central government, backed by international donors, initiated a major recovery program aimed at governance, security sector reform, education and humanitar-

¹The area was earlier known as Moloku Kie Raha, or the Four Mountains of Maluku, referring to the four sultanates of Ternate, Tidore, Bacan and Jailolo. Ternate is at once an island, the major city on that island, a sultanate and an ethnic group, likewise for Tidore. The city of Ternate is the “temporary” district capital, with plans to move to a permanent capital in central Halmahera in 2009. North Maluku has six districts: Central, North, South, East and West Halmahera and the Sula islands.

²Chris Wilson, *Ethno-Religious Violence in Indonesia: From Soil to God* (New York, 2008), p. 1. The Wilson book is the best analysis of the conflict; see also Crisis Group Asia Report N°10, *Overcoming Chaos and Murder in Maluku*, 19 December 2000.

³The official name in Government Regulation 42/1999 (Peraturan Pemerintah 42/1999) is Makian Daratan di Malifut, but it is generally referred to as Malifut, which is also the name of its largest town. See Wilson, op. cit., p. 59.

⁴Crisis Group Report, *Overcoming Chaos and Murder in Maluku*, op. cit., p. 9; Imron Hasan (ed.), *Memikirkan Kembali Maluku dan Maluku Utara* (Makassar, 2003), pp. 103-107; Wilson, op. cit.

⁵The Andili brothers were raised in Ternate, children of a Gorontalo couple, but they had close ties to Tidore.

ian assistance, and North Maluku recovered from the violence more quickly than the two other areas of major Christian-Muslim conflict, Maluku and Central Sulawesi.⁶ The biggest problem the program faced, however, was low government capacity, and it was not helped by the rapid carving up of the province. In 2003, the province went from having two districts and one municipality to having six districts and two municipalities. Over the next four years, further divisions took place, so that West Halmahera, the district where the dispute was centred, went from five subdistricts in 2003 to nine in 2007. North Halmahera jumped from nine in 2003 to 22 in 2007, South Halmahera from nine to 30.⁷

B. THE DISPUTED ELECTION FOR GOVERNOR 2001-2002

In July 2001, a year after the violence subsided but when a state of emergency was still in place, the first election for governor of the new province was held.⁸ The contest pitted Thaib, then serving as provincial secretary and backed by a reformist coalition, against Abdul Gafur, a Golkar politician of mixed Acehnese and Patani descent.⁹ Thaib, who was part ethnic Makian, had been a civil servant from the time he graduated from college and had the support of much of the bureaucracy and most of the Makian population. Gafur was well known in Jakarta, having served twice in Soeharto's cabinet, once as youth minister (1978-83) and then as minister for youth and sports (1983-88).

On 5 July 2001, the provincial legislature (Dewan Perwakilan Rakyat Daerah, DPRD) chose Gafur for a five-year term.¹⁰ Thaib launched a protest, accusing

Gafur of buying votes. Thousands of ethnic Makian came to Ternate to back him and briefly occupied parliament.¹¹ A DPRD member eventually admitted that Gafur had given him money, and based on his statement, the election was annulled.¹²

The cancellation set off a prolonged and bitter dispute. The election was repeated three times. On 7 March 2002, Thaib won, but the results were annulled again on the grounds that a quorum of provincial parliament members was lacking. On 19 April, the ministry of home affairs installed a caretaker governor. At the end of April, in the third effort at an election, the DPRD voted for a forced merger, with Gafur as governor and Thaib as his deputy, but the home affairs minister said that proper procedures had not been followed and the election was declared void.¹³ Finally on 28 October 2002, the DPRD voted again. This time Thaib won and was installed as governor.¹⁴

III. THAIB-GAFUR AGAIN: THE 2007 ELECTION

The 2007-8 election drama featured Thaib Armaiyn and Abdul Gafur again, but the source of the trouble was different. In 2001, the main culprit in the lengthy battle had been the DPRD; in 2007, it was the provincial election commission (Komisi Pemilihan Umum, KPU).¹⁵ Under Law 22/2007 on elections, the KPU is given the task of planning, implementing, supervising and evaluating elections, and the North Maluku KPU had problems on almost all counts. The election was so poorly run that a contested result was almost inevitable, but when the courts intervened to resolve it, they only made things worse.¹⁶

⁶See Graham Brown et al., "Peace and Development Analysis in Maluku and North Maluku" in UNDP, *Overcoming Violent Conflict*, (Jakarta, 2005).

⁷"Pidato Pertanggungjawaban Gubernur Maluku Utara", Ternate, July 2007, pp. 13-15.

⁸The state of emergency lasted from June 2000 to May 2003. It was a "civil emergency", less draconian than full-scale martial law, but still gave additional powers to military commanders.

⁹The coalition backing Thaib, called the Reform Faction, included the Justice Party (Partai Keadilan, PK, later to become Partai Keadilan Sejahtera, PKS) and the National Mandate Party (Partai Amanat Nasional, PAN). In 2007 PAN switched allegiances and supported Gafur. Patani is a local ethnic group and bears no relation to Pattani in southern Thailand.

¹⁰Heads of local governments were not elected by direct popular vote until 2005. In 2001 the DPRD chose from candidates selected by parties or party coalitions.

¹¹"Menolak Gafur, Massa Duduki Gedung DPR", *Kompas*, 7 July 2007.

¹²"Pemilihan Gubernur Maluku Utara Diulang", *Kompas*, 18 October 2001.

¹³"Depdagri Tetap Tolak Gafur-Thalib", *Sinar Harapan*, 29 April 2002.

¹⁴"Pasangan Thaib Armaiyn-Madjid Abdullah Pimpin Maluku Utara", *Kompas*, 29 October 2002.

¹⁵The tasks and authority of the KPU are set out in Law 22/2007 on the Conduct of Elections.

¹⁶A member of the national KPU accused several members of the provincial body of siding with Thaib. See "Putusan MA (Mahkamah Agung) No.3P/KPUD/2007", Jakarta, 18 January 2008.

A. PROBLEMS IN THE NORTH MALUKU ELECTION COMMISSION

North Maluku's first direct election for governor and vice-governor started smoothly enough. On 20 August 2007 the provincial KPU designated four slates of candidates. The two strongest were Abdul Gafur and Abdul Rahim Fabanyo, supported by Golkar; and Thaib Armaiyn and Gani Kasuba, supported by Partai Demokrat and the Prosperous Justice Party (Partai Keadilan Sejahtera, PKS).¹⁷ The sultan of Ternate, Mudaffar Syah, who had played such a prominent role in the 1999-2000 conflict, did not make the final four, prompting his supporters to set up road blockades and occupy the airport, bringing Ternate to a standstill for two days. But he had failed to meet the threshold of support, and the KPU's designation of the final four was entirely in accordance with the law.¹⁸

Other problems quickly arose, however, and a few days before the election, district-level KPUs released a statement complaining about the provincial KPU's work.¹⁹ They said it was sloppy and uncoordinated, with the head, Rahmi Husen, and a member named Muchlis Tapitapi issuing contradictory public statements. Both men, the statement said, were "arrogant", ignoring input from the districts on the grounds that they better understood the social and psychological conditions of the people. The campaign schedule kept changing, leading to disruptions elsewhere. A ceremony, supposed to be held on the first day of the campaign, in which each candidate is required to convey the team's platform (*visi dan misi*, vision and mission) never took place. Decisions were taken at the last minute and not according to established procedures. Ballot secrecy was going to be jeopardised by the quality of paper the KPU had procured.²⁰ Distribution of supplies to remote areas was

haphazard. Some candidates were given preferential treatment. Some charges were more serious than others, but the statement accurately reflected major weaknesses within the KPU.

Voting day was 3 November 2007. Turnout was high, and the polling was relatively peaceful. Then came the counting on 12 November. After recounting the ballots from each of the province's six districts and municipalities and adding them up, the North Maluku KPU announced that Gafur and Fabanyo had won with 181,889 votes. Thaib and Kasuba were next with 179,020, with the others trailing a distant third and fourth. Thaib supporters accused the West Halmahera district KPU of manipulating the count in favour of Gafur in three subdistricts – Ibu Selatan, Sahu Timur and Jailolo – and demanded that the results be cancelled.

The North Maluku election commission head Rahmi Husen was persuaded, and in a KPU meeting to which Rusli Jalil, head of the West Halmahera KPU, was summoned, he declared his belief that West Halmahera results had been rigged and therefore rejected the results.

The problem was that legally, a KPU member cannot challenge the announced results; only the candidates can do so through the courts. Moreover, both Rahmi Husen and Rusli Jalil claimed to have the official statement of the results signed by witnesses, of which there was supposed to be only one original.²¹ Rahmi wanted to force Rusli to change the results to match his version; Rusli refused, saying that regulations required that any change in the official result be via an open plenary. Even after a death threat, he refused to change the figures. After a seven-hour meeting, the provincial KPU "froze" all activities of the West Halmahera office.²²

¹⁷The other two were Anthony Charles Sunarjo and Amin Drakel, supported by the Indonesian Democratic Struggle Party (Partai Demokrasi Indonesia Perjuangan, PDIP); and Irvan Eddyson and Ati Ahmad, supported by the fundamentalist Christian Prosperous Peace Party (Partai Damai Sejahtera, PDS) and a host of smaller parties.

¹⁸The election law required that parties, alone or in coalition, needed to have 15 per cent of the seats in parliament or 15 per cent of the vote to be able to field a candidate, and the parties backing the Sultan did not reach that threshold.

¹⁹"Laporan Evaluasi Kinerja KPU Provinsi Maluku Utara", Ternate, 27 October 2007.

²⁰The KPU is responsible for securing all the materials for the election, like indelible ink and ballot papers, which Indonesian voters pierce with a large nail on the name of their chosen candidate. There were two kinds of paper. One was of a sufficiently heavy weight so that secrecy could be guaranteed. The other was cheaper and left the impression of the nail on the outside so that anyone handling the ballot paper

would know who the voter had chosen. The provincial KPU ruled that both were legal. See KPU Kabupaten Kota Malut, "Laporan Evaluasi Kinerja KPU Maluku Utara", Ternate, 27 October 2007.

²¹Rusli's version lacked the signatures of witnesses representing Thaib and Kasuba who both indeed refused to sign when the vote count was announced in West Halmahera. Rahmi's version was only signed by the Thaib slate, putting the legality of both in question. Crisis Group interview with Rusli Jalil, Ternate, October 2008.

²²Ibid. Rusli's information was cross-checked with a number of sources in Ternate. Rusli launched a formal complaint about Rahmi to the police as result of this incident. See "Ketua KPU Diadukan Ke Polisi", *Kompas*, 31 January 2008. As a result, the provincial KPU failed to hold plenary meetings as scheduled on 13, 14 and 16 November, drawing protests from various parties including witnesses from the

Then, on the night of 16 November, Rahmi Husen met behind closed doors with fellow KPU members Nurbaya Soeleman and Zainuddin Husain to review the voting figures. They used Rahmi's version of the West Halmahera results to determine the final count and announced on 18 November in Jakarta that Thaib had won, with 179,020 votes to Gafur's 178,157.²³ But by law, the winner has to be determined by a plenary session of the KPU, not a closed meeting of three people.²⁴ The North Maluku KPU not only had not met, but it never officially certified the vote count.²⁵

B. THE SUPREME COURT FAILS TO RESOLVE THE DISPUTE

Rahmi's conduct angered many people, including the national KPU in Jakarta. On 19 November it suspended him and Nurbaya for failing to implement the election properly. This allowed the national KPU to take over the counting.²⁶

On 22 November 2007 the national KPU convened a plenary session for counting the votes and declared Gafur the winner with 181,889 votes and Thaib second with 179,020. Thaib's supporters questioned its authority to count the votes of a provincial election and appealed to the Supreme Court. In a ruling on 22 January 2008, the court accepted part of Thaib's argument and annulled the 22 November count. It could have simply clarified which of two versions of the count was correct by calling in witnesses such as sub-district election officials and observers. Instead, it asked the provincial KPU to hold a recount in the three West Halmahera subdistricts.²⁷

On 30 January 2008, as the provincial KPU prepared to implement the ruling, the national KPU temporarily suspended Rahmi and Nurbaya. The two rejected the suspension and instead on 11 February went ahead with the recount, in accordance with the court's decision. From this exercise, Thaib was declared the winner, a ruling that was confirmed by the head of the

three defeated candidate slates and the election supervisory committee.

²³ See Supreme Court decision No.3P/KPUD/2007, Jakarta, 18 January 2008.

²⁴ The law in question is Law 22/2007, Article 22(2).

²⁵ Certification is supposed to take place in a letter presented to the witnesses, candidates and election monitors at the provincial and district level.

²⁶ Article 122(3) of Law 22/2007 states: "If something should take place that prevents the provincial or district KPU from performing its task in carrying out the election, those tasks will be assumed by the KPU one level higher".

²⁷ Supreme Court decision No.3P/KPUD/2007.

high court of North Maluku. But on 12 February, the national KPU designated Muchlis Tapitapi as acting head of the provincial KPU, replacing Rahmi. When the KPU under Muchlis's direction counted the votes again in Ternate on 20 February, it was Gafur who came out the winner, with 181,889 votes to Thaib's 179,020. The head of the provincial high court was not present for the announcement.²⁸

Further complications ensued after two letters appeared from the DPRD, both signed by the speaker, Ali Syamsi, designating different slates as the legitimate governor and vice-governor. When asked why he signed both, Ali Syamsi said, "Because there were two versions of executing the Supreme Court's decision, I thought it would be fair to issue two letters of recommendation".²⁹

The two letters put Home Affairs Minister Mardiyanto in a quandary. He asked for a ruling from the Supreme Court about which of the two recounts he was supposed to accept. In a confusing opinion on 10 March, the court threw the ball back to the minister.³⁰ One legal expert suggested that the court's failure to take a decision that would actually end the conflict reflected how few justices had any expertise in administrative law.

²⁸ Aryo Wisanggeni Gentong, "Pilkada Gubernur Malut, Makin Diurai Makin Kusut", *Kompas*, 7 April 2008.

²⁹ Crisis Group interview, Ternate-based journalists who interviewed Ali Syamsi, June 2008.

³⁰ The court ruled that the 11 February recount had followed proper procedures because it had been preceded by a request to the high court, and was followed by a ruling from the court; the other version was illegitimate because the head of the high court was not in attendance. The 10 March opinion added a new twist to the conflict, because it did not rule on the legality of its earlier decision that had been implemented by an official who had already been sacked from the provincial KPU. The 11 February recount did indeed follow procedures; the question was whether Rahmi and Nurbaya had any authority to execute the court's ruling, since they had been suspended. The court should have called for another recount, since both were flawed, and one that was fully in accordance with the law could have produced a final ruling. Any slate that was unhappy could raise objections in accordance with Article 106 of Law 32/2004, saying "it is the authority of the minister to decide which of the two versions will be the basis for determining who is governor and vice-governor of North Maluku. This should be discussed in the provincial parliament in accordance with article 109 of Law 32/2004 regarding cooperation between the executive and legislative branches of government in undertaking their governing duties". See Aryo Wisanggeni Gentong, "Pilkada Gubernur Malut, Makin Diurai Makin Kusut", *Kompas*, April 2008.

C. SPLITS IN THE PROVINCIAL LEGISLATURE AND JAKARTA'S REACTION

Following the Supreme Court opinion, Mardiyanto proposed that the DPRD hold a full session, make a final decision about the election outcome, and send its decision to his ministry. Only then would he formally designate the victors.³¹

But the DPRD was split. Those in favour of Mardiyanto's proposal were generally Gafur supporters, who felt they had been given a new lease on life. They were also the dominant political force in parliament. Thaib supporters, particularly from the Democrat Party and PKS, wanted Mardiyanto to designate the winner in accordance with the Supreme Court ruling. This was an indirect plea for immediate installation of Thaib. On 16 April 2008, a DPRD plenary was attended by twenty out of 35 members. They demanded acceptance of Muchlis Tapitapi's version of the recount, giving the victory to Gafur. Later that day, the pro-Thaib side, led by Ali Syamsi, held a rival meeting attended by eleven DPRD members. They claimed the plenary meeting in the morning was illegal.

Given the impasse, Mardiyanto announced that the government would not rush to decide the winner and would carefully consider both proposals and again consult the Supreme Court. On 14 May 2008 the Supreme Court issued ruling No.0999/KMA/V/2008 stating that the central government had the authority to settle the election conflict. As a result, in early June 2008, Mardiyanto recommended to the president that the Thaib Armaiyn-Gani team be declared the victors. Mardiyanto's decision was rejected in Ternate as well as in Jakarta. Vice President Kalla, who as head of Golkar could not be happy with a decision that went against Gafur, the Golkar candidate, said the election was not over until a presidential decree (*keputusan president*, *kepres*) pronounced the winner. In Jakarta, politicians from Golkar and the National Mandate Party (Partai Amanat Nasional, PAN) attacked the decision, urging the president not to inaugurate Thaib. If he did, they said, they would try to bring down the government. PAN threatened to start impeachment proceedings. The strength of the opposition caused President Yudhoyono to hold back on the decree. On 27 September, after months of delay, the president suddenly took advantage of holiday preparations for the end of the fasting month to announce his decision.³² Two days later, Mardiyanto inaugurated Thaib

and Gani as governor and vice-governor of North Maluku. Pro-Gafur legislators boycotted the event, with only fifteen out of 35 attending the ceremony.

D. PETITION TO THE CONSTITUTIONAL COURT

The dispute did not end there. In November, the provincial election commission (KPUD) under the leadership of Muchlis Tapitapi submitted a petition to the Constitutional Court, alleging that President Yudhoyono, by issuing the decree that led to Thaib's installation, had usurped its authority to conduct all phases of the election. They asked the court to revoke the decree and endorse the commission's decision to declare Gafur the winner.³³ The outcome appeared to depend in part on whether the KPUD was a state institution in its own right, or merely a subordinate office of the national KPU. If the latter, the court would almost certainly refuse to hear the case. Experts from both sides presented testimony on 9 January 2009 and await the court's response that will likely come the first week in February. If it decides to hear the case, then Gafur supporters believe they have a good chance of winning, and North Maluku's electoral problems will drag on, with the possibility of more violence. If it refuses, the dispute is over and the conflict will likely subside.

IV. REPERCUSSIONS FROM THE DISPUTE

The long-running dispute had several repercussions. Many government functions ground to a halt for the year that the election was undecided. Ethnic divisions deepened. This time there were no religious overtones to the tensions, and the group fell out along Makian/non-Makian lines, but hostility does not bode well for the future political life of North Maluku. The dispute also split the institution of the sultanate, further weakening a source of traditional authority already diminished by the 1999-2000 conflict. The only positive outcome to the conflict may be increased scrutiny of corruption in the provincial government, with Thaib's opponents eager to find evidence of malfeasance.

³¹ "Pemerintah Kembalikan ke DPRD", *Kompas*, 28 March 2008.

³² Presidential Decree No.85/P 2008.

³³ After Muchlis Tapitapi took over from Rahmi, the commission had endorsed the April 2008 demand by the provincial legislature that Gafur be declared the winner.

A. BUREAUCRATIC BLOCKAGE

The most obvious casualty of the election dispute was governance. Even after President Yudhoyono definitively named Thaib as governor, it was not easy to get the government moving again. Jakarta had appointed a caretaker governor, Timbul Pudjianto, on 30 November 2007, but caretakers in Indonesia have limited authority. They are not empowered to take strategic decisions such as issuing regulations or decrees, hiring, firing or transferring officials.³⁴ This meant that many important measures were deferred.

In this case, Timbul Pudjianto's appointment caused other problems as well. Because he also served as director general for financial administration in the home affairs ministry and had to continue in that role even as he served as acting governor, he was constantly shuttling back and forth between Ternate and Jakarta, and was sometimes away from North Maluku for as long as a month – meaning the provincial civil service functioned without a head.³⁵

Political divisions between Thaib and Gafur supporters in the provincial government made the administrative blockage worse. In late March 2008, pro-Thaib civil servants, angered by Mardiyanto's proposal to let the DPRD settle the election dispute, blockaded the acting governor's office and put up a large sign calling on him to leave North Maluku.³⁶ Pro-Gafur forces were no less militant. Polarisation within the civil service led to threats being made by both sides to the point that many officials chose to stay home rather than work. Those who did go to the office found little going on.

All these factors meant that the North Maluku government came to a standstill for almost a year. A budgetary crisis arose in health care. By July 2008, the provincial health office had spent only 19 per cent of its Rp.8.9 billion (\$890,000) budget for fiscal year 2008. Programs for ending contagious diseases and improving nutrition were never implemented. The vast majority of the 19 per cent was spent on salaries of employees.³⁷ The priority now is to ensure reconciliation among factions of the provincial government and get the 2009 budget passed.

³⁴ Crisis Group interview, Suhirman, consultant for DRSP-USAID on decentralisation, Jakarta, August 2008.

³⁵ "Keberangkatan PJ Gubernur ke Jakarta Mendapat Tanggapan Dari Anggota DPRD Malut", Radio Gema Hikmah, 31 July 2008, at www.alhikmah.com.

³⁶ "Pegawai Segel Kantor Gubernur", *Tribun Batam*, 1 April 2008.

³⁷ "Laporan Realisasi Anggaran Belanja Daerah Dinas Kesehatan Provinsi Maluku Utara Bulan", June 2008.

B. ETHNIC POLARISATION

The dispute has left lasting wounds at the grassroots that have exacerbated communal tensions – especially since the contesting slates were dominated by different ethnic groups. Most of Thaib's supporters were Makian, with some ethnic Galelans. Gafur's strongest supporters were Tidoreans, with several smaller ethnic groups as well. Gafur's supporters claimed that during Thaib's first term, he had systematically stacked the government with ethnic Makians.³⁸ In Ternate, the term used was *makianisasi*, a play on the Indonesian word for "mechanisation", suggesting that ethnic Makians dominated the administration.

In fact, Makians held only about half of the top positions in Thaib's administration. But many of them were in strategic and "wet" jobs – those with a high potential for corruption and patronage – including the position of provincial secretary (chief of the local bureaucracy) and heads of the infrastructure and education offices.³⁹

Thaib's political foes believed that qualified individuals from other ethnicities had been marginalised. Tidoreans were particularly offended by the case of Engineer Nasir Thaib. Respected as a community leader and experienced official, serving as head of the office for forestry and mining as well as district head of East Halmahera, he was a man many Tidoreans thought should have been tapped for provincial secretary. Instead he was made a low-ranking assistant (Asisten III) to the governor, without any clear authority.⁴⁰

In fact, the Makians *were* disproportionately dominant in key institutions, in part because they were better educated. They controlled 70 per cent of positions in the bureaucracy, parliament, political parties and education sector, according to one source.⁴¹ In 2007, some 80 per cent of high school principals and some 90 per cent of the staff and lecturers at Kahirun University in Ternate were Makian. In the provincial DPRD, five

³⁸ Rusli Jalil, "Sejarah Kampung Kami Yang Hilang", 15 April 2008, at <http://roeslyblog.wordpress.com/2008/04/15/sejarah-kampung-kami-yang-hilang/>.

³⁹ In the 2008 budget, the provincial infrastructure office was allocated Rp.115 billion, with another Rp.467 billion coming from the national budget. The education office had a budget of Rp.16.6 million, with an infusion from the central government of an additional Rp.239.9 billion. See "Pidato Gubernur Pada Penyampaian Nota Keuangan dan RAPBD 2008", Ternate, 15 August 2008.

⁴⁰ Crisis Group interview, journalist from Ternate, Jakarta, August 2008.

⁴¹ Lafdy, *Makian dan Pengaruhnya Terhadap Dinamika Pembangunan di Maluku Utara*, (Ternate, 2007).

members out of 35 came from one small island alone, Ngofagita in the Makian archipelago.⁴²

The Makian domination generated resentment, especially as many non-Makians remember the 1970s when many of the newly arrived migrants were taken in by local families who paid for the children's education in return for their work as domestics. Thaib himself had been schooled this way. It was thus difficult for many non-Makians to accept that these under-privileged migrants should come to have power.⁴³

Many Makians in turn became more militant in response to public sentiment against them. Their staunch support of Thaib was not because they were particularly attached to the man. In fact, before the election, many were reluctant to back him. When he visited the Makian islands in late 2006, he was greeted with demonstrations and a banner that read "Welcome Governor of Lelei", referring to the village where he was born, suggesting that he did not represent all of North Maluku.

But Makian support for Thaib rose as election day approached and the anti-Makian sentiment of Thaib's opponents became more pronounced – especially after rumours began circulating that the election of Gafur would lead to a "demakianisation" of the provincial government.⁴⁴

C. WEAKENING OF THE SULTANATE

The dispute also divided the sultanates. The Tidore sultanate was overwhelmingly pro-Gafur, even though the sultan himself was relatively neutral and there were some Tidorean members of the political elite who backed his rival. The Ternate sultanate initially leaned towards Thaib-Kasuba but became so divided internally that by mid-2008, its main pillars – the sultan's family, the traditional customary council (*dewan adat*) and traditionalists in the public at large (*masyarakat adat*) – had members in both camps.

The critical division in the internal Ternate split was between the sultan's wife Boki Nita and her children on the one hand, and many of the sultan's extended

family on the other. When Mudaffar Syah married Boki, his fourth wife, she called herself *permaisuri*, roughly "queen" but usually applied to the first and therefore the most influential of a sultan's wives. She also demanded that her children be designated as heirs to the throne. In the Ternate sultanate, there was never a tradition of *permaisuri*: all wives in the royal family are considered equal. There is also no concept of "crown prince", since children and nephews from the royal line have an equal right to the throne. The sultan is chosen by the *dewan adat*. Boki's behaviour angered many in the sultan's extended family. When she became a candidate for mayor of Ternate in 2005, they backed her opponent, Syamsir Andili, resuscitator of the Tidore sultanate, who ended up winning easily with more than 50 per cent of the vote.⁴⁵

In the race for governor, the royals who had opposed Boki Nita threw their support to Gafur – whose campaign team Andili headed. Boki Nita and her husband backed Thaib. The split in the royal family had a ripple effect in the population at large, splitting the vote of the Ternate traditionalists.⁴⁶ In August 2008, the sultan and his close associates joined Partai Demokrat after party officials hinted that they would nominate the sultan's wife as a candidate for the Indonesian parliament. Boki Nita ended up in the number one slot on the party list.

D. FURTHER VIOLENCE

The positive aspect of this elite split was that it helped defuse the polarisation at the grassroots between Makian and non-Makian. Elite supporters of Gafur came from all ethnic backgrounds, and while ethnic Makians predominated among Thaib supporters, some prominent Tidooreans also backed him.⁴⁷ The ethnic diversity at the top meant that even when new communal violence seemed imminent, political leaders could ensure that tensions did not reach boiling point.

The clearest case was an incident on 19 July 2008 that started when a pro-Thaib mob, mostly Makian, set fire

⁴² They are Umar Hadi (Golkar), Wahdah (PBR), Haji Sulaiman Adam (PKS), Zuhri Hud (PKS), Aksa Basrah (PD) and Fahri Sangaji (PD).

⁴³ Crisis Group interview, Gafur supporters, Ternate and Jakarta, 12 October 2008. In the first interviews, the issue of social jealousy did not arise but it came up repeatedly in follow-up interviews.

⁴⁴ Crisis Group interviews, Makian people, Ternate and Jakarta, 7 October 2008.

⁴⁵ Crisis Group discussion with Rusli Jalil and several Gafur supporters, Jakarta, 2008.

⁴⁶ Ibid.

⁴⁷ Wahyudin Abdul Hamid, Ishak Naser and Salahudin Andreas were Tidooreans, while Ir Hamid Umahuk, Syaiful Bahri Ruray, Iqbal Ruray and Ahmad Muis were ethnic Sanana. Ethnic Ternate also backed him, including Ismunandar Ainsyah and Nurdiana Syah. There were also a few Makians such as Imron Jumadil, and Majid Husein, and even Abdul Rahim Fabanyo has some Makian blood. Discussion with Rusli Jalil, Jakarta, October 2008 and corroborated in telephone interview with Ternate journalist, October 2008.

to Gafur's house. In response, Gafur supporters, mostly non-Makian Tidoreans, attacked the homes of three men close to Thaib.⁴⁸ The two mobs started hurling rocks at each other, and Thaib supporters, outnumbered, were forced to withdraw. Order was restored after pro-Gafur leaders ordered their followers to end the violence. They said that three houses damaged was sufficient retaliation and forbade any further attacks on the homes of their rivals, fearing it might set off a wider communal conflict.⁴⁹ These leaders might have been less willing to step in had they all been the same ethnicity as the rioters.

Given the level of political mobilisation around the election, the violence could have been much worse. From November 2007 until early August 2008, North Maluku saw 222 political demonstrations, 127 by Gafur supporters, 95 by his opponents.⁵⁰ Most of these were reasonably peaceful and well-organised. Gafur supporters, for example, came to Ternate from Tidore and the districts of East and Central Halmahera. They generally stayed with family members, but some slept at Gafur's residence, doubling as security guards. If one asked permission to go home to take care of the fields, someone would substitute in the demonstrations until he or she returned. Gafur helped with food expenses, but the demonstrators bore most of the costs themselves.⁵¹

After Thaib's installation, however, more protests turned violent. On 6 October, crowds burned two provincial government vehicles. They also stoned the general hospital in Ternate (RSUD Chasan Bosesoeri) forcing several emergency room patients to flee. On 8 October thousands of Gafur supporters took to the streets, initially to take part in a demonstration for which they had sought and received a police permit; they noted in their request that they expected 10,000 to show up.⁵² Far fewer turned out, but when several dozen turned violent, the police lost control and were only able to restore order a day later. Then on 3 November, small bombs exploded at the governor's residence, his office and the provincial parliament building, causing some damage but no casualties. Later that day hundreds of Gafur supporters demonstrated in front of the gover-

nor's office. It turned into a clash between the protesters and government officials, and had to be forcibly broken up by police.

Since then the protests seem to have died away, but the story may not be over. Gafur supporters could take heart from a case in West Sulawesi, where in December 2008 the provincial legislature impeached the governor for an infraction committed by a volunteer on his campaign staff and supported his quick replacement by the man who was his opponent in the race two years earlier. It was not clear how Jakarta would respond, but the case could give new hope to defeated candidates around the country. The upcoming general elections in April 2009 could also once again bring tensions to the surface.

E. CORRUPTION ALLEGATIONS

The dispute generated more scrutiny than ever before of persistent allegations of corruption against Thaib.⁵³ In an online discussion forum on North Maluku, Gafur supporters said that corruption was the main reason to join a group called ABT (Anyone But Thaib, Asal Bukan Thaib).⁵⁴ They accused him of embezzling funds meant for displaced persons and other social programs and using that money to fund his campaign. Police and prosecutors were reportedly investigating the allegations but, as of December 2008, no case had been brought to court.

The charges against Thaib may have had an effect on the election by reinforcing solidarity among Thaib supporters. On 12 March 2008, for example, dozens of government workers blocked high court officials from confiscating 2007 budget documents linked to the

⁴⁸ The homes belonged to the head of the provincial planning agency Muhajir Masaoly and the district head of South Halmahera Muhammad Kasuba as well as Thaib Armaiyn's son.

⁴⁹ Crisis Group telephone interview, journalist from Ternate, October 2008.

⁵⁰ Agung Setyahadi, "Menunggu Akhir Penantian Panjang", *Kompas*, 5 August 2008.

⁵¹ *Ibid.*

⁵² "Ribuan Massa Gafur Berkumpul", *Tempo Interaktif*, 8 October 2008, at www.tempointeraktif.com/hg/nusa/2008/10/08/brk,20081008-139114.id.html.

⁵³ The charge that he had misappropriated humanitarian assistance funds from the 2007 budget entered the public debate in March 2008 when a group of reporters formally alleged that funds for an election media centre had disappeared. The North Maluku high court investigated the claim and found that the funds in question had been diverted to social assistance posts, but that other funds that were supposed to go to these posts had in turn disappeared. For example, Rp.160 million was to be spent on handicapped children; the money was withdrawn but no one could point to any beneficiary. There was also an inexplicable shortfall of Rp.1.25 billion allocated for the provincial office of the Indonesian National Sports Committee. Some Rp.1.125 billion was allocated for supporting sports programs for the handicapped, but a check in the field showed that only Rp.136 million had been disbursed. "Siapa Terlibat skandal bantuan sosial?", <http://roeslyblog.wordpress.com/upah-buruh/lihat/>.

⁵⁴ See the discussion of Maluku Utara at www.indrapiliang.com/2008/03/23/perang-di-maluku-utara/

social assistance posts; one of them was physically assaulted.⁵⁵ The question was whether they were trying to protect Thaib or themselves.

An official audit by the national Financial Investigation Board (Badan Pemeriksaan Keuangan, BPK) of contingency funds in the 2004 budget found more than Rp.16 billion unaccounted for in a way that suggested corruption. Many of the recipients named in the BPK documents became strong Thaib supporters.⁵⁶ A member of the national KPU said that when the election dispute erupted, the local Indonesian military commanders very obviously sided with Thaib – not surprisingly since they were the recipients of much largesse.⁵⁷ Some Thaib loyalists may have been hoping that if he won, the corruption cases would be closed, whereas if he lost, they could face prosecution.

F. NATIONAL REPERCUSSIONS

The North Maluku case had repercussions far beyond its borders. Because Thaib was backed by President Yudhoyono's party and Gafur by Kalla's party, Golkar, the prolonged battle over who won exacerbated ill-will between Indonesia's top two leaders. This was most evident after Home Affairs Minister Mardiyanto declared Thaib the winner in June 2008 and Kalla immediately issued a rejoinder, saying the decision was not final. The tension between the two men was not so deep as to prevent their running together again in 2009, but the decision in Thaib's favor has left resentment in Golkar that may resurface when political bargaining among presidential candidates begins in earnest after the legislative elections in April 2009.

But there was a positive impact to the impasse as well. After the Supreme Court failed to resolve another closely contested governor's race in South Sulawesi, the Indonesian parliament in April 2008 decided to amend local government law No.32/2004 to transfer authority for resolving local election disputes to the Constitutional Court, Indonesia's youngest but argua-

bly most competent judicial authority.⁵⁸ The amendment took effect in October 2008 and constitutes an important institutional reform.

In terms of the 2009 general elections, the North Maluku case is a reminder to those fielding observation teams that if they want to deploy their staff strategically, they should focus on those areas where local elections have been particularly close, examine complaints about irregularities, and ensure that observers are out in force in places where recounts have been ordered.

V. CONCLUSIONS

If Indonesia's democracy had been less robust, the North Maluku dispute could have had more serious consequences. Not only could it have stirred up old tensions, but it could have raised fundamental questions about the soundness of Indonesian institutions, from the election commission to the Supreme Court. Instead, the problems were recognised as being largely local, as exemplified by the dysfunctional provincial election commission, and therefore fixable by changing the personnel, not by questioning the value of the institution itself. Where a national institution, the Supreme Court, did prove not to be up to the task assigned it by law, the Indonesian parliament amended the law.

This is not to say that local elections will run smoothly from now on. A December 2008 study by a network of election monitoring organisations, based on in-depth research in seven provinces and districts, found recurring problems with election oversight, particularly in terms of the susceptibility of local supervisors to political influence and/or insufficient training.⁵⁹ A court-ordered repeat of voting in three districts for the November 2008 gubernatorial election in East Java – with a population of 35 million people, larger than many countries – could produce new disputes. The West Sulawesi impeachment case mentioned above has led to new questions on the authority of the central government to overrule such votes. The weaknesses of existing laws only come to light, however, when they are tested in

⁵⁵ Rusli Jalil, "Korupsi Yang Tak Terjangkau Hukum", 13 April 2008 at <http://roeslyblog.wordpress.com/2008/04/13/korupsi-yang-tak-terjangkau-hukum/>. The official was Tatang Sumarna, assistant for special crimes. The crowd accused the officials of carrying out a search without a warrant, but in fact, all their papers were in order.

⁵⁶ One who did not was Abdul Rahim Fabanyo, who ran with Gafur.

⁵⁷ Syahril Sangaji, "Mengurai Benang Kusut Pilkada Maluku Utara", *Kabar Indonesia*, at www.kabarindonesia.com/berita.php?pil=20&dn=20080418004846. See also email from Sangaji in the discussion at www.indrapiliang.com/2008/03/23/perang-di-maluku-utara/.

⁵⁸ Sidik Pramono, "Pemerintah Daerah: MK Selesaikan Sengketa Pilkada?" *Kompas*, 23 April 2008, on Mahkamah Konstitusi website, www.mahkamahkonstitusi.go.id/berita.php?newscode=1111.

⁵⁹ Jaringan Pendidikan Pemilih untuk Rakyat (JPPR), "Laporan Hasil Kajian Tentang Pengawasan Dalam Pemilu Dan Pilkada Di Indonesia", 15 December 2008, www.jppr.or.id/component/option,com_remository/Itemid,27/func_startdown/id,214/.

practice, and if the local government law can be improved, others can as well.

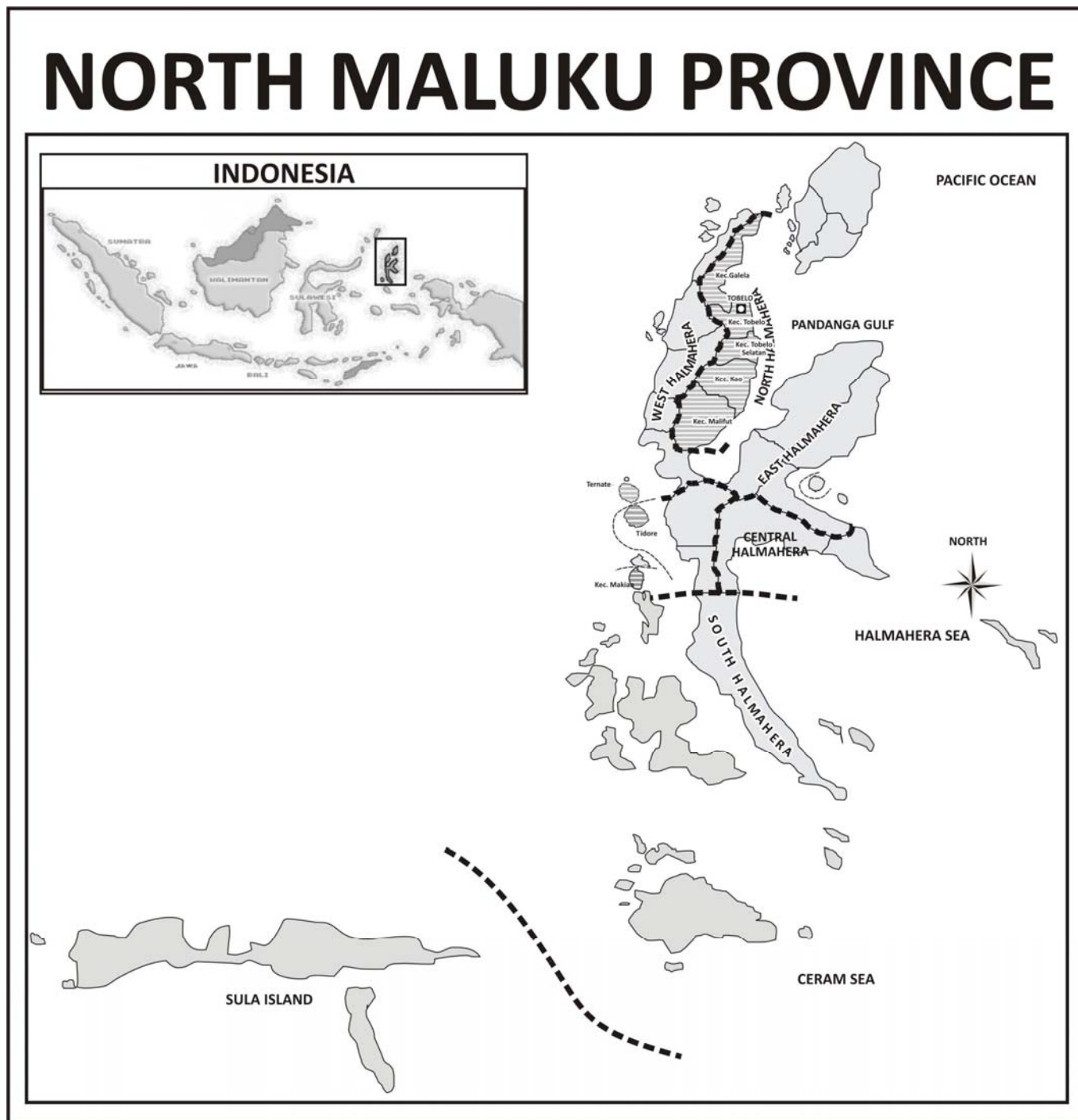
Indonesia needs to be alert to the election fatigue creeping in on many Indonesian voters. In East Java, the turnout was just over 60 per cent, low for Indonesia. Having gone through a bruising year of political back and forth, North Moluccan voters may be less enthusiastic about another trip to the polls in 2009.

In the end, though, the battle in North Maluku that had many on edge seemed by January 2009 to be sputtering to an anticlimactic conclusion: a few incidents of violence, but no conflagration and an ongoing contest in the Constitutional Court that could be headed for a peaceful resolution. How the resentment of Gafur supporters will play itself out over the next year remains to be seen. If they gradually come to accept that even if they cannot remove Thaib now, they can try again in 2012, the election dispute of 2007-2008 will prove to be not a harbinger of communal conflict, but an historical footnote in Indonesia's democratic transition.

Jakarta/Brussels, 22 January 2009

APPENDIX A

MAP OF NORTH MALUKU PROVINCE



Map: Muhammad Fajar