



Garuda officials indicted for Munir's murder

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After more than a year of stagnation, investigations into the murder of human rights activist Munir gathered momentum when the Attorney-General filed for a Judicial Review in July to challenge the Supreme Court's decision to acquit Garuda pilot Pollycarpus Prihari Priyanto of murder. Then, the former president-director of Garuda was indicted on charges of involvement in the murder. As the facts begin to unravel, the role of the intelligence agency, BIN, may soon be within reach.

Munir Said Thalib was widely acknowledged to be Indonesia's leading human rights activist. He was murdered while on a flight from Jakarta to Amsterdam on 7 September, 2004. He collapsed in agony during the flight and was pronounced dead by a doctor on board several hours before the plane landed at Schiphol airport. Forensic evidence later established that he had ingested a lethal dose of arsenic during the flight.

Munir, 39, devoted most of his professional life to exposing injustices in Indonesia and East Timor that occurred during the Suharto era and following the dictator's downfall in May 1998. He played a key role in investigating atrocities in occupied East Timor and in West Papua and Aceh, and his fearless pursuit of crimes against humanity made him many enemies among the military.

In late 1997, he co-founded Kontras, the Commission for the Disappeared and Victims of Violence and later set up Imparsial, the Indonesian Human Rights Monitor. He was named Man of the Year by an Indonesian Muslim journal, UMMAT, as well as being named a Young Leader of the Millennium by Asiaweek in 2000. That same year, he was the recipient in Sweden of the Right Livelihood Award, which is regarded as the alternative Nobel Peace Prize, 'for his courage and dedication in fighting for human rights and the civilian control of the military in Indonesia'.

In the months before his death, he received many threats warning him of dire consequences if he continued with his activities. Friends urged him to stop travelling around Jakarta on his motorbike, as he could more easily be targeted by those wanting to get rid of him.

National and international outrage at his death forced President Susilo Bambang Yudhoyono to agree to a thorough investigation. An independent Fact-Finding Team established by presidential decision reached the conclusion that Munir died at the hands of a conspiracy involving high-ranking state officials. However, the Team's report has never been published.

Murder conviction overturned

Police investigations led to the conviction for murder of an off-duty pilot, Pollycarpus Budihari Priyanto, who was travelling on the Garuda flight along with Munir and who gave up his business class seat to Munir. But he was later acquitted of the murder in a highly contentious Supreme Court decision, and left with a two-year sentence for using a false document assigning him to travel on Garuda Flight 974. The question of why he was using a false document which allowed him to travel on the Garuda flight together with Munir, was left unanswered despite the obvious connection between the false document and the murder.

Failure to solve the case has led many in the human rights community at home and abroad to conclude that democratic advances in Indonesia since 1998 have not ended the scourge of impunity. Ironically, impunity was a matter that pre-occupied Munir throughout his professional life as a lawyer.

Two UN human rights rapporteurs who have visited Indonesia in the past year urged the Indonesian government not to allow the Munir case to slide. The UN Special Rapporteur for Extrajudicial Executions, Philip Alston, also drew attention to the murder at the 4th Human Rights Council meeting last year. Members of the US Congress have written to the Indonesian president calling for the murder to be solved and there has been unrelenting pressure from Suciwati, Munir's widow, and her lawyer, Usman Hamid, in many countries not to let the matter rest until justice is done.

Judicial Review launched

The case gathered momentum when the Attorney-General's office announced in July this year that it would be filing for a Judicial Review. Attorney-General Hendarman Supandji explained that new evidence had made it possible to take the unprecedented step of re-opening the case which had been foreclosed by the Supreme Court in 2006. The aim of the Review is to reverse the Supreme Court's ruling acquitting the Garuda pilot Pollycarpus of murder.

The five hearings at the Central Jakarta district court were completed on 19 September and it is now up to the Supreme Court to pass a verdict which is expected in November.

A key factor in the Judicial Review relates to the nature and provenance of the fake document used by the Garuda pilot to travel on Garuda Flight 974. According to Usman Hamid, the lawyer acting for Suciwati, who was given access to the dossier drawn up in preparation for the Judicial Review, the prosecutors wanted to know why the Supreme Court which ruled that Pollycarpus was guilty of using a fake document did not insist on finding out why he needed the document, why he swapped his business seat with Munir who was travelling economy class, and why he had called Munir a number of times by phone prior to the flight, even though the two men were not known to be acquainted.

One witness, a well-known Indonesian musician named Raymond Latuimahalo was also a passenger on the flight. He initially testified that he saw Pollycarpus give Munir a drink at the Coffee Bean Café during a stopover at Singapore's Changi Airport but later withdrew the statement, saying he had made it under duress. However, another passenger on the

flight, a young Indonesian student, also testified that she saw Pollycarpus giving Munir a drink at the Coffee Bean Café.

Evidence produced during the Judicial Review indicates that the poison ingested by Munir was contained in a drink which he was given during the stopover in Changi Airport and not on board the flight, as was previously thought.

Garuda officials charged

In April this year, Garuda's former president-director, Indra Setiawan and another senior airline official, Rohaini Aini, the chief secretary of the Garuda pilots, were arrested in connection with the letter instructing Pollycarpus to fly on Garuda Flight 974 'for reasons of security'.

Six months later, on 9 October, the two former Garuda officials were indicted. Indra Setiawan was charged with being an accessory to the murder on the grounds that he had assigned the pilot Pollycarpus to join Flight 974 on which Munir was travelling. The indictment accuses him of being 'an accessory to the intentional and premeditated murder of Munir' and states that he 'admitted that he issued the letter of assignment on the orders of the State Intelligence Agency (BIN) because Garuda was considered to be a strategic industry that needs to be protected by the agency'. If found guilty he could face up to 20 years in jail.

The prosecutors told the court they had new evidence linking the pilot Pollycarpus to Munir's death. This included the taped recording of telephone conversations between Pollycarpus and Indra Setiawan, during the course of which they discussed a letter from a BIN official, M. As'ad asking the Garuda chief to assign Pollycarpus as aviation security officer on Flight 974. Pollycarpus also assured Indra Setiawan that 'our people' were well established within the state apparatus. Using coded names, they talked about several high-ranking BIN officials, including an official called M As'ad, retired lieutenant-general Hendropriyono who was the head of the agency at the time of Munir's murder, and Muchdi PR who was Hendropriyono's deputy and subsequently took over as the chief of BIN.

During the trial of Pollycarpus in 2005, it was established that he had had no fewer than 41 telephone conversations with Muchdi PR.

Indra Setiawan's lawyers asked the court to reject the indictment because the Supreme Court had acquitted Pollycarpus of the murder. This overlooks the fact that the Judicial Review of Pollycarpus' acquittal could overturn that decision. The trial was adjourned until 24 October.

Meanwhile a separate court in Jakarta began hearing the case against former Garuda secretary, Rohaini Aini who was charged with helping Indra Setiawan to give Pollycarpus access to the flight.

Unravelling the role of BIN

With two more people now on trial for the murder and the likelihood that the acquittal of Pollycarpus will be overturned, this could result in three people serving heavy sentences for their part in the murder conspiracy. Ultimately however, the case will not be satisfactorily resolved until the person or persons behind the conspiracy are brought to justice. That may well have been facilitated by evidence produced during the Judicial Review regarding the role of BIN. Five witnesses testified about the link between senior Garuda officials and BIN agents. One witness, a low-ranking BIN agent, Raden Mohammad Patma Anwar, told investigators that he had been ordered by a superior to kill Munir before the presidential election in Indonesia in October 2004.

Throughout the earlier and the more recent investigations, efforts to interrogate officials of BIN have been repeatedly thwarted. The only crack in the agency's blocking tactics came from Raden Anwar who also admitted during a court hearing that the agency did indeed plan to kill Munir. He confirmed that Pollycarpus was a BIN agent, which has been consistently denied by senior BIN officials.

Bringing the real culprits to justice

On the third anniversary of Munir's death, KONTRAS, the human rights organisation set up by Munir in 1997, published a 75-page report *Three Years Since the Murder of Munir, 2004 – 2007*. It concludes with a twenty-page chronology of events surrounding the murder investigations.

The most striking feature in the chronology is the refusal of BIN officials to respond to requests to meet the Fact-Finding Team set up by the President in December 2004.

At the trial of Pollycarpus in 2005, it was established that he had been in frequent contact by phone with present and former top officials of BIN, in the weeks before Munir's fateful journey to Amsterdam.

The chronology reveals that the chief of BIN in 2005, Syamsir Siregar, repeatedly denied that Pollycarpus was a BIN agent and rejected allegations that BIN was involved in the murder. The former chief secretary of the agency, Nurhadi Djazuli, refused to meet the Fact Finding Team on three occasions and issued a press release alleging that the Team had no legal basis. Soon afterwards, he was asked by President Susilo Bambang Yudhoyono to cooperate with the Team but still refused to do so.

Ultimately, Nurhadi did have a two-hour session with the Team which concluded that BIN was involved in the murder. Another BIN official, Colonel Sumarno was contacted by the Team at his office, after which they described his attitude as 'uncooperative'.

The Team then tried to meet Muchdi PR, a former deputy of BIN, the man with whom Pollycarpus had had numerous phone conversations. Then came efforts by the Team to meet retired lieutenant-general Hendropriyono, who was the head of BIN at the time of the murder. He refused three requests for a meeting and even filed libel charges against two members of the Team, Usman Hamid and Rachland Nashidik.

After Muchdi and Hendropriyono refused to meet the Team three times, it decided to make no further attempts to meet the two men. It should be noted that all senior-ranking BIN officials are active or retired army officers and BIN stands out as an institution which has proven to be untouchable. With so much evidence against BIN now in the public domain, it remains to be seen whether those handling the Munir murder case will ultimately succeed in bringing the real conspirators to justice.

Demonstration outside BIN headquarters

On 7 September, the third anniversary of Munir's death, a crowd of about one thousand people gathered outside the head office of BIN in Jakarta. They held aloft many posters. One carried the slogan, 'Justice for Munir' while other posters displayed photos of the present head of BIN, Syamsir Siregar, his deputy, M. As'ad, A.M. Hendropriyono and his deputy Muchdi Purwoprandjono.

Speaking to the crowd from the top of a vehicle, Suciwati said: 'We have not come here for confrontation but to press for this agency to be cleansed. The person responsible (for the murder) must be brought to justice.' [Forum, 16 September 2007]

The verdict of the Supreme Court in response to the Judicial Review is now eagerly awaited. Recent developments give more reason to hope that the person or persons who were responsible for the criminal conspiracy to kill Munir will finally be identified and the guilty men brought to justice.

Memorial lecture

A Memorial Lecture to commemorate Munir's courageous work and reflect upon the difficult position of human rights defenders (HRDs) in Indonesia was given at the University of Utrecht, the Netherlands, on 13 September 2007. It followed a similar Munir Memorial Lecture organised by The Solidarity Committee for Munir (KASUM) in Jakarta on 7 September.

Munir was travelling to Utrecht to undertake a course of study at the university when he was murdered.

The event was attended by Suciwati and Usman Hamid who provided an update on the case. The keynote speech was given by Asmara Nababan, executive director of DEMOS, the Center for Democracy and Human Rights Studies, Chairman of KASUM, and former Secretary-General of Indonesia's National Commission on Human Rights, Komnas HAM.

The opinion of the UN Secretary-General's Special Representative on Human Rights Defenders, Hina Jilani, following her visit to Indonesia in June 2007, that the prospects for the promotion of human rights had improved in the recent past provided the starting point for Asmara Nababan's address.

Changes in state power structure needed

While sharing the Special Representative's opinion about certain institutional and legislative developments, Nababan made the important point that '...until now there remains to be a lack of fundamental change in the power structure of the state that can provide real promotion, protection and fulfilment of human rights'.

'If the reform and democratisation process in Indonesia fails to alter [the] state power structure into a more democratic one, the potential developments that Ms Jilani has listed after her visit will remain to be unfulfilled ones'. The transformation of military power, or the lack of it, will be a key factor, he suggested.

Without the necessary changes, which need to involve the establishment of the rule of law and the subjugation of the military to civilian supremacy, meaningful democracy will not be possible, he concluded.

Nababan said violence against HRDs occurs in various forms, such as arbitrary arrests, assaults, forced disappearances, arbitrary killings, disbandment of meetings, harassment, and criminalization. He described the current situation of HRDs according to five categories of violations identified by the human rights NGO, Imparsial:

The limitation or suspension of rights, such as freedom of expression and association, crucial to the work of HRDs;

The misuse of the criminal law to prevent HRDs exercising their rights;

Violations of the right to life and physical and/or mental integrity;

Intimidation, slander and stigmatisation; and

The lack of response to violations against HRDs resulting in impunity for the perpetrators.

Nababan went on to identify the kinds of national and international instruments and mechanisms available for the protection of HRDs.

He expressed reservations about the draft of the new Criminal Code, which 'still contains various stipulations that can be misappropriated by the power holders to suppress freedom'.

He noted that until now Komnas HAM had played a negligible role in protecting HRDs. He urged HRDs to press the Commission by continuously reporting cases of violations against HRDs and raising public awareness about the duties of the Commission to protect them. A new body of Commissioners, the fourth since the Commission's inception in 1993, started work at the beginning of September.

The decision of the Constitutional Court to strike down the law establishing a Truth and Reconciliation Commission [see TAPOL Bulletin, No. 185, p. 15] was a disappointment, but the ability of the Court to judicially review laws considered to be against the Constitution can be seen as progress, said Nababan. The Court has recently declared a number of repressive Articles in the Criminal Code unconstitutional: Articles 134, 136, and 137 relating to the crime of insulting the head of state [see TAPOL Bulletin, No. 185, p. 21] and Articles 154 and 155, the notorious 'hate-sowing laws [see TAPOL press release, 'Continued detention of prisoners unconstitutional: Papuan activists must be released', 20 July 2007].

Nababan urged the development of networking between national and international NGOs 'to guarantee exposure and extensive pressure in relation to human rights violation cases, especially those related with human rights defenders'.

He concluded by reminding the audience that President Susilo Bambang Yudhoyono had stated the Munir murder was a test case for Indonesia:

'Indeed it is true, the case and how it is handled is a barometer to gauge whether Indonesia has truly reformed in terms of eradicating serious crimes that involve misappropriation of state powers. This is a test that shall show to what extent is the willingness and ability of Indonesia to finally sever the chain of impunity. It is my hope, and I am sure it is a hope shared by anyone who are concerned with the promotion and protection of human rights, wherever they are, that Indonesia shall finally pass the test.'

[A copy of Asmara Nababan's speech is available from TAPOL]