

Indonesia: Acquittal Bolsters Impunity for Munir's Murder

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Brad Adams, Asia director at Human Rights Watch

(New York, October 6, 2006) – The Indonesian Supreme Court's acquittal of the only person convicted for the murder of leading human rights activist Munir Said Thalib highlights the failure of the Indonesian justice system to combat impunity, Human Rights Watch said today.

In December 2005, a criminal court in Jakarta convicted Pollycarpus Budihari Priyanto, an airline pilot traveling as a passenger on the Garuda flight to the Netherlands on which Munir was poisoned, of premeditated conspiracy to murder, and sentenced him to 14 years in prison. This verdict was upheld on appeal last April. The Supreme Court decision on October 3 to overturn the conviction means that no one has been convicted for the killing, despite compelling evidence of a conspiracy. The Court upheld Pollycarpus' conviction and sentence of two years for falsifying documents.

"The failure to secure a conviction for Munir's murder is a huge blow for human rights protection and the reform process supposedly underway in Indonesia," said Brad Adams, Asia director at Human Rights Watch. "This was a test case for the Indonesian justice system. It has failed."

The Supreme Court reportedly relied on the same evidence presented at the lower courts and did not receive new evidence when making its decision. The three-member panel voted two to one to acquit. The presiding justice, Iskandar Kamil, was quoted in the Indonesian press as stating that "the primary charge of premeditated murder was not proven ... no witnesses saw him plot the murder." In a dissent, judge Artidjo Alkostar said he had agreed with the prosecutors' demand for a life sentence for Pollycarpus.

Human Rights Watch called on the Indonesian Supreme Court to publish its decision immediately.

"The evidence against Pollycarpus was overwhelming, as reflected in the evidence presented in the earlier court decisions and the report of the president's own fact-finding team," said Adams.

Under Indonesian law, the Supreme Court can call for a case review (known in Indonesia as a *peninjauan kembali*) if the court receives new evidence in the case.

Human Rights Watch called on the government to publish the final report and recommendations of the Presidential Fact-Finding Team originally established in December 2004 to investigate Munir's murder. The report has thus far been withheld from the public. President Susilo Bambang Yudhoyono should also establish an independent body to audit the police investigation and Attorney General's response to Munir's murder.

The original court decision to convict Pollycarpus noted that evidence during the trial proved that Pollycarpus had not acted alone. The judge urged the police to conduct a further investigation to

uncover those ultimately responsible for the death of Munir. President Yudhoyono also instructed the police, prosecutors and intelligence officers to follow up the investigation after the Pollycarpus verdict. Nearly 10 months after the judgment, little has been done to follow up the case by either the police or the prosecutor.

Human Rights Watch again called on President Yudhoyono to set up a team to audit the performance of the police investigation, and establish why key recommendations and findings of the Presidential Fact-Finding Team appear to have been ignored. Human Rights Watch also called on Indonesia's State Intelligence Body (Badan Intelijen Negara, BIN) to extend full cooperation to the police and any subsequent independent investigation body.

"The police and the attorney general's office have steadfastly continued to ignore evidence and recommendations submitted to them by the Presidential Fact-Finding Team, which also implicated senior intelligence officers and airline officials in involvement in the murder," said Adams. "The truth needs to be uncovered, including who ordered and planned the killing, no matter where the trail leads."

Background

On September 7, 2004, Munir Said Thalib was found dead on a Garuda flight to the Netherlands from Jakarta. Autopsy results conducted by the Dutch Forensic Institute, released in November 2004, showed that Munir had died as a result of a fatal dose of arsenic poison.

In December 2004, Indonesian President Susilo Bambang Yudhoyono established, by presidential decree, an independent Fact-Finding Team to conduct investigations into the killing. The Fact-Finding Team (Tim Pencari Fakta) ended its six-month mandate on June 23, 2005 and produced a lengthy report with detailed findings and recommendations, which they presented to the police. The Fact-Finding Team included an impressive range of civil society members, a senior police official and a prosecutor from Indonesia's attorney general's office. The investigation was conducted with the strong endorsement of President Yudhoyono, who also issued instructions to all state agencies to collaborate fully with the investigation.

When the Fact-Finding Team issued a summons to retired army officer, Lieutenant General Hendropriyono, head of Indonesia's State Intelligence Body at the time of the murder, he refused to comply. He accused the team of "arrogance" and "character assassination." Hendropriyono subsequently filed criminal defamation charges against two members of the Fact-Finding Team, Usman Hamid, the head of KontraS, and Rachland Nashidik, the head of Imparsial. They are still being investigated for violating articles 310, 311 and 335 of Indonesia's Criminal Code. The police have issued a summons for questioning to Usman Hamid.

Reported findings from the Fact-Finding Team identified Garuda pilot Pollycarpus Priyanto as a primary suspect in the case. Pollycarpus had been issued with a special "aviation security" assignment to travel on Flight 974, traveling on the first leg of the flight only, from Jakarta to Singapore. According to Munir's widow, Pollycarpus also made several phone calls to their home to check on her husband's flight plans. When the passengers boarded the aircraft in Jakarta, Pollycarpus allegedly offered Munir an upgrade to business class.

The Fact-Finding Team examined Pollycarpus' mobile phone records and traced several dialed numbers, one of which was a confidential line to the intelligence branch directed by retired Major-General Muchdi Purwoprajoyo, a deputy director of the State Intelligence Body. Records reportedly show that as many as 26 calls were made to Muchdi's line, before and after Munir's death, and that

there had been multiple calls between Pollycarpus' and Muchdi's personal mobile numbers. Muchdi, a former head of Kopassus, the army's special forces, resigned from the State Intelligence Body in 2005. He declined two requests from the Fact-Finding Team to appear for questioning. He has denied that he had made calls to Pollycarpus, alleging that his phone may have been used by someone else.

On August 9, the trial of Pollycarpus began at the Central Jakarta District Court, with chief public prosecutor Domu P. Sihite reading the charges against him. He was charged with committing or participating in the planned murder of Munir, either alone or in collaboration with two other named suspects, Yeti Susmiarti and Oedi Irianto, Garuda staff on Munir's flight. However, in the indictment against Pollycarpus, the prosecution made no mention of the findings of the Fact-Finding Team, which suggested the involvement of senior employees of the Garuda airline and high-ranking intelligence officials in Munir's death.

In mid-August, the Jakarta daily newspaper Koran Tempo reported that the police had arrested a second suspect in the case. They identified him as Ery Bunyamin, a business class passenger on the same flight as Munir. In December 2005, Polycarpus was found guilty of premeditated conspiracy to murder. He was sentenced to 14 years imprisonment. This verdict was upheld by a court of appeals in April 2006.

Munir, best known as a founder and director of the highly effective Commission for "Disappeared" Persons and Victims of Violence (Kontras), was most recently the director of the Jakarta-based human rights group Imparsial.

His legal aid career began in Surabaya in 1989 and included stints as director of the Semarang Legal Aid office and as chief of field operations for the Indonesian Legal Aid Foundation (YLBHI) in Jakarta. He represented many human rights victims and activists in high-profile cases, and regularly spoke out for justice in the face of intimidation, including death threats. His work encompassed the full range of human rights concerns in Indonesia, from abuses by the Indonesian military and police to attacks on labor activists, from impunity for human rights crimes in Aceh, East Timor and Papua to the rights of Indonesia's ethnic Chinese minority.

Munir was the winner of numerous honors, including being named Man of the Year in 1998 by a leading Indonesian Muslim periodical UMMAT, and a "young leader for the Millennium" by Asiaweek in 2000. The same year, he was one of the recipients of "The Right Livelihood Award"—known as the "Alternative Nobel Prize" - for "his courage and dedication in fighting for human rights and the civilian control of the military in Indonesia."