

[Joint Statement] Indonesia: Government must declare Munir's case as a grave violation of human rights

The Asian Forum for Human Rights and Development (FORUM-ASIA)–alongside its member organisations–calls on the Government of Indonesia to provide clarity regarding Munir Said Thalib's case and declare it as a grave violation of human rights.

On 7 September 2004–on Garuda's Jakarta-Amsterdam flight–Munir Said Thalib was killed by arsenic poisoning. Munir was a prominent Indonesian human rights campaigner who took up the cause of dozens of activists subjected to enforced disappearances during the last months of Suharto's regime in 1998. He played a significant role in uncovering evidence of the security forces' role in human rights violations in Aceh, Papua, and Timor-Leste.

19 years later, the case is yet to reach clarity and the real perpetrator-mastermind behind the killing has not been legally prosecuted.

While the date of Munir's murder has since been commemorated in Indonesia as 'Human Rights Defender Protection Day,' attempts to expose and bring the real perpetrator to justice are yet to come into fruition. We echo the call made by the Committee of Solidarity Action for Munir in Indonesia (*Komite Aksi Solidaritas untuk Munir, KASUM*)¹ to urge the Government of Indonesia to immediately resolve this case.

Unanswered Questions

The circumstances surrounding Munir's death still leave a big question mark.

The formation of a Fact-Finding Team on Munir's Death (*Tim Pencari Fakta Kasus Meninggalnya Munir, TPF*) in 2004 through Presidential Decree 111/2004 by the administration of President Susilo Bambang Yudhoyono was an important step in uncovering Munir's case. Unfortunately, the results of the TPF have never been officially shared with the public despite the decree's directive number nine, which specifically mandated such action.

There were several names other than Polycarpus who were tried in the report. However, regimes from the SBY up to Joko Widodo era seemed reluctant in publicising the result of the TPF. This left unanswered questions as to why such names were never prosecuted in a court of law nearly two decades after Munir's murder.

Local groups believe that Munir's case is not an ordinary stand-alone crime. It is strongly suspected that Munir's murder was carried out systematically as it involved state actors such as the State Intelligence Agency and Garuda Indonesia.

¹ Read the attached original statement from KASUM

On 7 September 2020, *KASUM* submitted a legal opinion on the circumstances of Munir's murder as a gross human rights violation to the Indonesian National Commission on Human Rights (*Komnas HAM*). Within that document, we emphasised that Munir's case fulfils the elements of crimes against humanity, which fall under the category of gross human rights violations as stipulated in Article 9 of Law Number 26 of 2000 concerning Human Rights Courts.

Call for Action

The lack of meaningful steps taken by the State in investigating Munir's murder not only clouds efforts to seek truth, justice, and legal certainty but also creates the potential for repetition.

We believe that Munir's case should not be seen in isolation. It is indicative of the wider culture of impunity surrounding the attacks and harassment against human rights defenders in the country. The lack of full accountability in Munir's case contributes to an ongoing climate of fear among human rights defenders. If the State does not immediately take concrete action, the future work and safety of human rights defenders in Indonesia would be put at great risk.

As such, we support the recommendations made by *KASUM*:

First, the President of the Republic of Indonesia should immediately disclose the TPF report documents to the public as mandated in directive number nine of Presidential Decree 111/2004 concerning the formation of TPF for Munir's case as a form of accountability and transparency in the disclosure of Munir's case.

Second, *Komnas HAM* should set Munir's murder as a gross human rights violation and should publicly provide clear and transparent information on the handling of Munir's murder case.

Third, the international community should put scrutiny on the Government of Indonesia—as the current Chair of ASEAN and ahead of its candidacy for becoming UN Human Rights Council member 2024—to respect the rights of victims and to provide effective remedy for all grave violations of human rights perpetrated by both the State and non-state actors in the country.

'As the people of ASEAN in the recent 2023 ASEAN Civil Society Conference/ASEAN Peoples' Forum (ACSC/APF) have urged ASEAN leaders in the ongoing ASEAN Summit to address grave violations of human rights and to provide effective remedies to victims, the resolution of Munir's case is a test to Indonesia—as the current chair of ASEAN—to step up and serve as a model in the combat against impunity,' said Mary Aileen Diez-Bacalso, Executive Director of FORUM-ASIA.

Endorsed by:

1. Asian Forum for Human Rights and Development (FORUM-ASIA)
2. Association of Women for Awareness & Motivation (AWAM)
3. BALAOD Mindanaw
4. Banglar Manabadhikar Suraksha Mancha (MASUM)
5. Bir Duino
6. Cambodian Human Rights and Development Association (ADHOC)
7. Civil Society And Human Rights Network (CSHRN)
8. Defence of Human Rights (DHR)
9. Indonesia Legal Aid Foundation – Yayasan Lembaga Bantuan Hukum Indonesia (YLBHI)
10. Indonesian Legal Aid and Human Rights Association (PBHI)
11. INFORM
12. International Legal Initiative Public Foundation (ILI Foundation)
13. Jagriti Child and Youth Concern Nepal (JCYCN)
14. Judicial System Monitoring Program (JSMP)
15. Karapatan Alliance Philippines (KARAPATAN)
16. Karnali Integrated Rural Development and Research Centre (KIRDARC)
17. Kazakhstan International Bureau for Human Rights and Rule of Law (KIBHR)
18. Commission for the Disappeared and Victims of Violence – Komisi untuk Orang Hilang dan Korban Tindak Kekerasan (KontraS)
19. Madaripur Legal Aid Association (MLAA)
20. Maldivian Democracy Network (MDN)
21. Odhikar
22. People's Solidarity for Participatory Democracy (PSPD)
23. People's Watch (PW)
24. Pusat KOMAS
25. Refugee and Migratory Movements Research Unit (RMMRU)
26. Task Force Detainees of the Philippines (TFDP)
27. The Indonesian Human Rights Monitor – Inisiatif Masyarakat Partisipatif untuk Transisi Berkeadilan (Imparsial)
28. Women's Rehabilitation Centre (WOREC)

About FORUM-ASIA:

The Asian Forum for Human Rights and Development (FORUM-ASIA) is a network of 85 member organisations across 23 countries, mainly in Asia. Founded in 1991, FORUM-ASIA works to strengthen movements for human rights and sustainable development through research, advocacy, capacity development and solidarity actions in Asia and beyond. It has consultative status with the United Nations Economic and Social Council, and consultative relationship with the ASEAN Intergovernmental Commission on Human Rights. The FORUM-ASIA Secretariat is based in Bangkok, with offices in Jakarta, Geneva and Kathmandu. www.forum-asia.org

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Annex.

Siaran Pers

**19 Tahun Menanti Keadilan: Menagih Janji Negara Menyelesaikan Pengusutan
Konspirasi Kasus Pembunuhan Munir Said Thalib**

Pada 7 September 2004 dalam penerbangan Jakarta - Amsterdam di atas pesawat Garuda Munir Said Thalib meringang nyawa karena dibunuh menggunakan racun senyawa arsenik. Kini, hampir 19 tahun kasusnya bergulir tanpa menemui titik terang, aktor intelektualnya masih belum tersentuh proses hukum. Tanggal terbunuhnya Munir memang telah ditetapkan sebagai hari Perlindungan Pembela Hak Asasi Manusia, namun upaya membongkar dan menyeret aktor intelektualnya ke pengadilan harus tetap dilakukan. Kami, masyarakat sipil yang tergabung dalam Komite Aksi Solidaritas untuk Munir (KASUM) mendesak Negara segera menuntaskan kasus ini.

Bagi kami, kasus kematian Munir masih menyisakan tanda tanya. Pembentukan Tim Pencari Fakta Kasus Meninggalnya Munir pada tahun 2004 melalui Keppres 111/2004 oleh pemerintahan presiden Susilo Bambang Yudhoyono menjadi langkah penting dalam upaya pengungkapan kasus Munir. Namun sangat disayangkan, hasil penyelidikan TPF tersebut tidak pernah diumumkan secara resmi ke hadapan publik meskipun ditetapkan dalam angka kesembilan Keppres 111/2004 telah memberikan mandat hal tersebut. Komisi Informasi Publik (KIP) Pusat pada Oktober 2016 telah memutuskan bahwa Pemerintah Indonesia harus segera mengumumkan TPF Munir. Sehari berselang pasca putusan KIP, Joko Widodo sempat memerintahkan Jaksa Agung untuk mencari dokumen TPF tersebut.

Terdapat sejumlah nama-selain Pollycarpus yang pernah diadili-dalam laporan tersebut, tapi nampaknya rezim pemerintahan dari SBY hingga Joko Widodo terlihat enggan mengumumkan hasil TPF tersebut. Tentu ini menjadi tanda tanya besar, siapa dan mengapa hingga 19 tahun berselang peristiwa pembunuhan tersebut nama-nama yang tercatat tidak pernah menuntut di peradilan.

Kami percaya bahwa kasus Munir bukan merupakan tindak pidana umum biasa yang berdiri sendiri. Diduga kuat pembunuhan Munir dilakukan secara sistematis karena melibatkan aktor negara seperti Badan Intelijen Negara hingga Garuda Indonesia. Pada 7 September 2020, KASUM mengirimkan *Legal Opinion (LO)* atau Pendapat Hukum peristiwa pembunuhan Munir sebagai Kasus Pelanggaran Hak Asasi Manusia yang Berat kepada Komnas HAM Republik Indonesia. Dalam dokumen tersebut, kami menegaskan bahwa kasus Munir memenuhi unsur-unsur kejahatan kemanusiaan yang masuk dalam kategori pelanggaran HAM Berat sebagaimana diatur dalam ketentuan Pasal 9 Undang-Undang Nomor 26 Tahun 2000 tentang Pengadilan HAM.

Bahwa sepanjang September 2022 - Agustus 2023 KASUM juga melakukan setidaknya 3 (tiga) kali audiensi dengan Komnas HAM. Dalam pertemuan dengan Komnas HAM, KASUM hendak meminta kejelasan informasi mengenai penanganan pembunuhan Munir seperti penetapan sebagai kasus Pelanggaran HAM Berat dan rekomendasi nama-nama Penyelidik eksternal. Komnas HAM menyampaikan bahwa di internalnya telah dibentuk Tim *Ad Hoc* Penyelidik Kasus Pelanggaran HAM Berat pembunuhan munir. Proses penyelidikan pun dijanjikan akan tuntas pada akhir tahun ini.

Minimnya langkah serius yang dilakukan oleh negara dalam pengusutan kasus pembunuhan Munir tidak hanya menutupi upaya pencarian keadilan, pengungkapan kebenaran, dan kepastian hukum, tetapi berpotensi adanya keberulangan. Jika negara tidak segera bertindak konkret, tentu ini akan berimplikasi terhadap gelapnya perlindungan atas kerja-kerja pembela HAM di masa mendatang.

Atas dasar tersebut Komite Aksi Solidaritas untuk Munir mendesak:

Pertama, Presiden Republik Indonesia untuk segera membuka dokumen laporan TPF Munir kepada publik sebagaimana mandat yang tertuang dalam angka kesembilan Keppres 111/2004 tentang Pembentukan TPF Kasus Munir sebagai bentuk akuntabilitas dan transparansi pengungkapan kasus Munir;

Kedua, Komnas HAM Menetapkan Kasus Pembunuhan Munir Sebagai kasus Pelanggaran HAM Berat serta memberikan informasi secara jelas dan terang terhadap proses penanganan kasus pembunuhan Munir kepada publik;

Jakarta, 7 September 2023
Komite Aksi Solidaritas untuk Munir (KASUM)