

CHAPTER I INTRODUCTION

A year has passed and the legal efforts directed towards resolving the case of Munir's death have not resulted in bringing the main actor behind the murder to justice. Any efforts to investigate the involvement of certain parties in PT. Garuda Indonesia and the National Intelligence Agency (BIN) are seriously hampered. Considering this current status, what will be the ending of Munir's death investigation?

Up until today, Pollycarpus Budihari Priyanto (PBP), Garuda Indonesia airbus pilot, has been the only one who was brought to trial at the Central Jakarta District Court as a defendant. The Public Prosecutors' indictment has put him as the main perpetrator in the planned assassination of Munir, apart from the involvement of two other suspects. Furthermore, there is a tendency to deflect the planned murder accused to the defendant PBP to be an individual murder case.

This reality is contrary to the findings revealed by the Fact Finding Team (TPF) of Munir's case, which indicate a conspiracy in the murder case. Their findings could uncover the involvement of several parties in the conspiracy if only BIN would be open and fully cooperate in the investigation process within its institution. No exception should apply to the suspected involvement of Garuda Indonesia high officials. The structure of the conspiracy was important enough to show that an extraordinary planning was involved.

Meanwhile, the government's promise to handle the case seriously has begun to be questioned. This was due to the investigation process that seemed to be slacking lately, especially after the government returned the method it took to conventional legal process. This was despite the public's high attention and expectations towards SBY – JK government. Just take a look at the many supports coming from within the country as well as from overseas. The latest form of support was shown by the arrival of the European Union Parliament to Indonesia, during which they once again asked the House of Representatives on 26 July 2005 about the development of Munir's case. Intensive media exposure over the investigation process also reflected the public's desire that seemed to be impatient to know how the murder really took place and who the intellectual actors were behind Munir's assassination.

On the grounds of no significant progress in the case, KontraS feels that it is necessary to prepare a note about how Munir's case is being processed since the time of his death. This is not carried out for documentation purposes only. Instead, it is also done in the hope that the note can give as much information as possible to the public regarding Munir's death. Furthermore, this note will hopefully contribute to anyone's efforts to encourage the revelation of the conspiracy behind Munir's assassination, until there is proper punishment to those most responsible for the crime. This note includes the beginning of Munir's death, the chronology of events, a brief of the public's dynamics in and outside Indonesia, including the prolonged establishment of an independent team to investigate the death, as well as a number of KontraS' important notes regarding what to make of Munir's political assassination.

CHAPTER II DEATH ON BOARD OF GARUDA

On Tuesday, 7 September 2004, at around 1p.m WIB (West Indonesia Time). A meeting was being held between victims and victims' families of Trisakti and May 1998, Semanggi I 1998 and Semanggi II 1999, Tanjung Priok 1984, 1997/1998 kidnappings and mass murder of 1965/1966 cases. This meeting was held at KontraS Office in order to respond to the approval given by the House of Representatives (DPR) to Law No.27/2004 on the Commission for Truth and Reconciliation. KontraS, the victims and victims' families of human rights violations have been concerned about this law for quite a while because this law is in favor of the perpetrators of violations. KontraS Coordinator, Usman Hamid, after finishing his activity as a resource in a seminar about the Controversy of Draft of Bill on the Indonesian National Army (TNI) held by pro-democracy elements, came and joined the meeting. After a while, he asked to be given a moment to deliver sad news. He then informed the audience that Cak (our nickname for Munir) had died¹ in Garuda GA-974 flight on his way to Amsterdam. He received the news via telephone from Mouvty Makaarim, who received the news from another staff of KontraS, Agus Suparman, who received the news via telephone from Garuda Indonesia.

The statement that we had planned to give to the press at 3p.m sharp was cancelled. Everyone present at the meeting fell silent. Not one of them was able to contain their sadness. Even though we found it difficult to believe the news, KontraS staff and all the meeting participants prayed together for Munir to be given an honorable place on God's side, just as Munir had always honored humanitarian values until the end of his life. After the prayer, Usman immediately contacted Suciwati, Munir's wife, to inform her of the news.

At the same time, the news about Munir's death had spread wide, including to the press who then started coming to KontraS' office to confirm the news. Besides text messages and phone calls², electronic media such as radio, TV and internet also aired the news about the death of the hero for disappeared people.³ Several radio stations also broadcasted special features dedicated to Munir.

In Bekasi, from afternoon to evening, Munir's house on Jl. Cendana XII, RT 04 RW06, Perumahan Jakasampurna, West Bekasi, was crowded with visitors such as victims of

¹ At around 12.00 West Indonesian Time, Mouvty, one of KontraS activists, received a telephone call from Garuda Airline office about Munir's death. Mouvty forwarded the information to Usman Hamid, who was acting as a speaker in a seminar about the Draft of Bill on the National Army (TNI). Upon receiving the news from Mouvty, Usman immediately returned to KontraS and informed the news to Suciwati, Munir's wife, who apparently had not heard it.

² Amidst the many SMS that went around about Munir's death, there were also SMS — which were wrong — about the death of Cak Nur (Nurcholish Madjid), who was at that time still undergoing treatment in Singapore.

³ The term Hero of Disappeared Victims was introduced by Budiman Tanuredjo in his article called "Perginya Pahlawan Orang Hilang", *Kompas*, 8 September 2004.

human rights violations and their families, Munir's colleagues, including his friends from Brawijaya University Malang, journalists and public wanting to offer their sympathy⁴.

On that day, support was continuously sent to Munir's house and the two offices where he used to work, KontraS and Imparsial. This could be seen from the various visitors coming to visit and expressions of condolences via telephone, text messages, letters via fax and statement written in a 30-meter banner. Some people offered to help with the funeral and to finance Munir's two children. Others expressed their determination to continue Munir's efforts. Bouquets of flowers were also sent to Munir's house, KontraS' office and Imparsial. These hundreds of bouquets were sent by state officials and institutions, representatives from the neighboring countries, community leaders, educational institutions, leaders of print and electronic media, non government organizations, community organizations, youth organizations, association of profession, political parties, national and international private companies, religious organizations and wide public who sympathized with Munir.

KontraS also received hundreds of letters sent by national and foreign institutions, as well as by individuals. Furthermore, expressions of condolences for the death of Munir, who received *The Right Livelihood Award* from the Swedish Government in 2001, also appeared in readers' letters and short messages both from within and outside the countries in almost all mass media. Since the news of Munir's death came out, 7 September 2004, print and electronic media started giving special slots for news and expression of condolences. For about 2 weeks, the press kept writing about Munir's profile including those who were written as opinion in mass media. Munir was hailed as a hero by many people, amidst the passive response from the state.

In another opportunity, President Megawati delivered her special appreciation of Munir. According to Megawati, Munir was persistent and always tried to give his best. "*We also see Munir as a human right defender. He was relentless and persistent in expressing the things that he believed*", Megawati said.⁵ TNI Commander Endiartono Sutanto, whose institution was often target to Munir's criticism, said that what Munir did had never presented problems for his institution. This was because Munir's criticism was always constructive. "*He made his criticism based on the truth,*" said Endiartono.⁶

Susilo Bambang Yudhoyono, a presidential candidate at that time, was having a meeting with economists and journalists in Jakarta. Yudhoyono invited everyone to stand up and pray for one minute after receiving the news about Munir's death. Yudhoyono remembered Munir as a critical thinker and an outspoken person who could sometimes harshly criticized people or parties. For Yudhoyono, Munir's presence was very important as a means of control to clarify anyone's thinking in case they went off democracy values.⁷

⁴ Taufik Kiemas was seen attending the event together with Hermawan Sulistyono and Cornelis Lay.

⁵ "The Chief of State Police Promise to Investigate", *Indopos*, 9 September 2004.

⁶ "The Lost of the Brave", *Koran Tempo*, 12 September 2004.

⁷ "Suciwati and Usman Hamid Left for Amsterdam", *Kompas*, 8 September 2004; "The Return of Munir's Body Awaits Examination for Netherlands Doctors", *Suara Pembaruan*, 8 September 2004.

Condolences were also expressed by Gus Dur, Chairman of PKB (the National Awakening Party) Advisory Council. He said that Munir was a typical individual who lived a simple life and was not easily tempted by luxurious lifestyles or other temptations. The following was quoted from Gus Dur, “*I offer my condolences. Frankly speaking, among the human rights defenders, he was the most prominent one. He was not tempted by the pleasures of life. His other friends already lived a luxurious lifestyle, but he did not. All he did was helping others.*”⁸

The former Chief of Staff Territorial TNI Lt.Gen (Purn) Agus Widjojo said that Munir's death presented a great loss for this nation. According to Agus Widjojo, Munir had always worked persistently to uphold human rights. He has also contributed greatly to the learning process and the democratization of this nation by employing human rights approach. Agus Widjojo thought that it would be natural for the government to award Munir for his work for this nation.⁹ Similar opinion related to government-given award was expressed by Marie Muhammad¹⁰, Chairman of Constitutional Court Jimly Asshiddiqie¹¹, Todung Mulya Lubis and Indriyanto Seno Adji.¹²

It is difficult to remember every single one of the bouquets that were sent. Out of the 158 bouquets, there were the ones from President Megawati, Vice President Hamzah Haz, Minister of State Apparatus Empowerment Faisal Tamin, Chairman of Constitutional Court Jimly Asshiddiqie, Chairman of DPR Akbar Tanjung, Embassies of Germany and Netherlands, Justice and Welfare Party, DW 8 rental Care, Bank DKI, World Bank, PP Muhammadiyah, PP NU, Cardinal J. Darmaatmadja, Abdurrahman Wahid, Police Academy, Indonesia Marketing Association, Iluni FH UI, ICW, Ide Indonesia, Serikat Buruh Sejahtera Indonesia (SBSI), DPP KNPI, TK-SD-SMP-SMA Tunas Jaka Sampurna School, RCTI, Metro TV, 68H Radio Station, South East Asia Press Association (SEAPA), Renetil Timor Leste and others.

In Jakarta, the mourning continued to be felt into the second day and the days that followed. On the third day, hundreds of people especially neighbors and residents from the areas around KontraS office gathered to pray together through the tradition of reading *Yassin (tahlilan)*. It was continued with a moment of reflection for the families and relatives to share memories and video showing of Munir's meeting at KontraS on 31 August 2004, exactly seven days before he died. Hundreds of people also gathered for similar activities in the office of 68H Radio in Utan Kayu, East Jakarta. Besides a joint prayer by representatives from different religions, there was also poetry reading, songs and testimonials from Munir's best friends. On day-5, similar event was also held at Imparsial office.

⁸ “Munir Victim of Intelligence Operation”, *Reporter*, 9 September 2004.

⁹ “Munir's Body to be Brought Home Immediately”, *Kompas*, 9 September 2004.

¹⁰ “Munir Buried in Batu”, *Kompas*, 12 September 2004.

¹¹ “Government Must Award Munir”, *Republika*, 14 September 2004; “Constitutional Court Thinks Munir Should Get Medal of Honor”, *Media Indonesia* 14 September 2004.

¹² “Munir's Body Arrived Saturday Afternoon, Government Should Give Award”, *Kompas*, 11 September 2004.

In Surabaya, on the second day, Alliance of Independent Journalists (AJI), Surabaya Branch, Indonesian flags were raised at half-mast until Day-7. Journalism activists, artists, academia and non-government organizations conducted a joint prayer continued with the lighting of candles as a sign of mourning and sympathy, speeches from several community leaders and theatrical performance.

From Malang, on Wednesday evening, 8 September 2004, another joint prayer was held and attended by hundreds of students, mostly from the Faculty of Law, Brawijaya University. The prayer was led by the Chancellor of Brawijaya University, Prof Dr Bambang Guritno. There was also several staff from local campuses and Munir's close friends such as HS Dillon (Director of *Eksekutif Kemitraan*), Dedy Priambudi (Director of Surabaya Legal Aid), Ibnu Tricahyo (Chairman of Regional Autonomy Center of Study).¹³

Although far from the Netherlands, the news about Munir's death spread fast and widely. This led to the Indonesian community in Leiden and relatives from the Netherlands to join a prayer conducted by the Indonesian Students Association (PPI) in Leiden. Similar event was then held in Amsterdam in the following evening at Indonesia House office.¹⁴

Back in Jakarta, on Wednesday afternoon, 8 September 2004, Suciwati (Munir's widow), Usman Hamid (KontraS), Poengki Indarti, Rusdi Marpaung (Imparsial) and Rasyid (Munir's oldest brother) left Soekarno Hatta airport on their way to Amsterdam to pick up Munir's body. Before the plane take off, the Chairman of People's Assembly, Amien Rais, came to meet Suciwati and offered his condolences. Afterwards, the small group left in KLM 837 flight. The plane took off from Soekarno Hatta Airport at 6.55pm, made a transit in Singapore and was scheduled to arrive in Amsterdam on Thursday at 5.30a.m local time.

Upon arriving at Schiphol Airport, the Netherlands, Suciwati and her group was welcomed by a close friend from the Netherlands. Kees de Ruiter, Sri Rusminingtyas and several authority officials of Schiphol Airport. Around 08.00am local time, Suciwati and the others were given a chance to see the deceased in a room called the Mortuary. Before noon, the mortuary was filled with Munir's close friends who were living, working or studying in the Netherlands, even those from London, England, who deliberately came to offer their deepest condolences. At noon, after the body had been prepared, representatives from the family, relatives and the Indonesian Embassy in Netherlands performed the funeral prayer for Munir.

On Friday, 10 September, at around 10p.m local time, Munir's body was brought back to Indonesia in flight KLM 738 from Schiphol Airport. Suciwati and the group, together with the Indonesian Embassy Consulate in Den Haag were also in the flight. On Saturday, 11 September 2004, at around 5p.m West Indonesian Time, Munir's corpse arrived at Soekarno-Hatta Airport with *Surat Muatan Udara* (SMU, a document describing aircraft cargo) no.07431265846. In the VIP lounge of Merpati flight in Terminal 1A Soekarno-Hatta Airport, Munir's colleagues had gathered to escort him to Batu City in Malang, East

¹³ "They Can't Believe, Munir bin Thalib Left So Soon", *Suara Pembaruan*, 11 September 2004.

¹⁴ Op. Cit, *Indopos*, 9 September 2005.

Java. Among these people, there were Todung Mulya Lubis, Ikrar Nusa Bakti, Teten Masduki, Dr Syahrir, Marsilam Simanjutak, Ifdhal Kasim, Adnan Buyung Nasution, Mar'ie Muhammad, Jimly Assidique, Abdul Rahman Saleh, Andi Widjajanto, representatives from the Embassies of Canada, Netherlands and England, and many more.

Munir's corpse was placed in the Health Quarantine Area of Soekarno Hatta Airport for a while before it was taken inside Merpati airplane. The plane then carried Munir and his widow and two children, as well as his relatives, to the town where he was born: Batu, Malang, East Java. There were at least 100 people in that plane; the rest of the escorts took Adam Air and other flights. This crowd did not include the group of victims of human rights violations and their families already leaving from Jakarta in 3 (three) large busses together with activists of IKOHI and KontraS.

Merpati's Boeing 737 flight number MZ 3300 specifically chartered for the purpose left for Abdurrahman Saleh Airport, Malang, at 7.30 p.m (Director of Merpati Airplane Hotasi Nababan was also in this flight). At 9.10pm, the plane arrived in Malang and was welcomed by the Commander of Abdurrahman Saleh Airport Marsekal Madya Amirullah Amin. Dr Jamal and Munir's other families and relatives were also present. A group of people from the Faculty of Law Brawijaya University led by the Head of Regional Autonomy Center of Study Ibnu Tricahyo and members of Batu Election Committee, Anton Dwi Martono, and the Director of Surabaya Legal Aid Dedy Prihambudi.¹⁵ Several buses, ambulance, and private cars that had been prepared formed a convoy escorted by the police.

The convoy of cars and ambulance made its way to Brawijaya University campus. Since that afternoon, a prayer had been held at the lobby of the rectorate. Many people including representatives from the labor group, students, and community groups take their turns to deliver their memory of the deceased. Upon arriving at the rectorate, the ambulance was opened and several short activities were held by Brawijaya University academic community and others who were present to give final respect to Munir. They also performed the funeral prayer. Some people were heard crying and several students fainted.¹⁶

Afterwards, the convoy continued its journey to the home of Munir's mother, Jamilah, on Diponegoro Street 169, Batu, Malang, East Java. Grieve prevailed strongly within this city. Half-mast flags could be seen on the front yard of every house and office. The half-mast was instructed by the Mayor of Batu Drs. H. Imam Kabul to be carried out for seven days as a sign of sympathy and respect from Batu residents to Munir.¹⁷ In Batu, artists had wrapped the statue of apple in Batu City hall with a black cloth. Theatrical performances were also held in memory of Munir, as well as large banners that showed how much Munir has meant for the small city.¹⁸ Hundreds of people had waited at the house of Munir's

¹⁵ Op. cit, *Kompas*, 12 September 2004.

¹⁶ Ibid.

¹⁷ Op.cit, *Koran Tempo*, 12 September 2004.

¹⁸ Op.cit, *Kompas*, 12 September 2004.

parents. They were trying to get a chance to carry the coffin into the house. The simple house where Munir's mother was waiting was soon crowded by people who were trying to get in so they could pay their last respect and say their prayers.

In and around the house, hundreds of bouquets were scattered. These bouquets were also lined up on both sides of the road 50 meters from the house. Dozens of banners from various community groups were put up on the streets. Condolences and words of spirits encouraging continuing Munir's fight became the general theme written in the banners and the flowers could be seen along the street from Brawijaya University towards the house where Munir's mother lived.

On Sunday morning, 12 September 2004, thousands of mourners gathered in front of the house, blocking Diponegoro street. Before the coffin was taken to the public cemetery of Sisir Sub-District, Batu, a final tribute was performed. It started at 9pm and was led by Usman Hamid (KontraS). Speeches at the tribute were given by Mustafar, representing Munir's family, Major of Batu Imam Kabul, Chairman of Constitutional Court Jimly Asshiddiqie, Todung Mulya Lubis representing Imparsial, Adnan Buyung Nasution representing YLBHI, Mudzakir Achmad Ghazali representing the Indonesian Embassy in the Netherlands, Head of Monitoring Unit of the Supreme Court Abdulrahman Saleh, and Central Administration Al-Irsyad Hisyam Thalib.

The Mayor of Batu, Imam Kabul, awarded Munir as "The Best Son of Batu"¹⁹. It was awarded to Munir for his resilience in upholding democracy and human rights. Meanwhile, Jimly Asshiddiqie requested that the government awarded Munir with a medal of honor or another appropriate award to the man who founded KontraS. Todung Mulya Lubis said similarly, "*Strong criticism that Munir directed to the government or the military (TNI) caused him to be accused as having no sense of nationalism or, even worse, 'selling' his own country. I know who Munir was, I know that he fought beyond ethnic groups, race, religions, or gender, and the accusation was totally unfounded.*"²⁰

Thousands of mourners carried the coffin towards At-Taqwa Mosque for a prayer. The prayer was performed twice due to the many people who wanted to join in. After the prayer, the coffin was carried to Sisir Sub District Public Cemetery, around 500 meters away. Thousands of people kept participating in the procession until the funeral was over.

Forty days later, KontraS, together with IKOHI, Imparsial, VHR, and Community of Human Rights Violations Victims, conducted an event in memory of Munir on 16 October 2004. The event, held at the National Library, started at five in the afternoon and led by Usman Hamid. It was opened with Garuda documentation film and continued with a meal to break the fasting, *maghrib* prayer, *tahlilan*, *isya* prayer and an obituary delivered by Gus Dur, Nurhasanah (mother of Yadin Muhidin, who disappeared in May 1998) and Father Nathan Setiabudi (Chairman of the Indonesian Communion of Churches, PGI).

¹⁹ Formally, the award was expressed through the Decree of Batu City Mayor, East Java, no.173.22/21/02/021/2004.

²⁰ Op.cit, *Media Indonesia*, 14 September 2004.

For the former president, Abdurrahman Wahid, Munir was one of the prominent figures who influenced the thought and the fight to uphold democracy in Indonesia. Munir was a courageous man who was consistent in both his speech and actions. In Abdurrahman Wahid's opinion, Munir's fight was not merely theoretical and conceptional but it was also real. Munir courageously opened his heart and his ears to listen to and to advocate those who suffer. On the other hand, Father Nathan Setiabudi similarly expressed that Munir, in his opinion, was gone, "*but, is he really gone? No*", he said "*in a certain sense, Munir is gone. But he will always be present. Munir will always be alive.*"

At the same event, a book entitled "*Cak Munir, You Never Leave*" was launched. The book was symbolically given by Suciwati, Munir's widow, to Gus Dur, Nurhasanah (the mother of Yadin Muhidin-one of the victims of enforced disappearances) and Budiman Sudjatmiko. Besides from book launching, the event also presented a movie about Munir's life. There were approximately 400 people in the audience. The event was closed with an art and cultural performance in the form of poetry reading by Jose Riza Manua, music by Oppie Andariesta and Street Religious School group.

The Chronology of Munir's Death

Munir left on the evening of 6 September 2004, accompanied by his beloved wife Suciwati and his friends from Imparsial and KontraS. Munir seemed healthy and cheerful as usual. He was always quick to express funny things. Munir and Suciwati had a meal at Dunkin Donut's while waiting for his departure and they separated when he had to board the plane. When Munir was boarding on the plane corridor, one of the Garuda crews performing as extra crew/aviation security named Pollycarpus Budihari Priyanto came up to Munir and chatted him up. Polly offered Munir to sit in business class. Munir originally refused the offer for feeling reluctant because he had bought an economy ticket. Munir finally accepted the offer and was taken to seat 3K in business class.

Garuda flight that Munir took departed at 21.55. During the flight from Jakarta to Singapore, Munir had a meal that consisted of orange juice, noodle and slices of fresh fruits. The plane made a transit at Changi Airport, Singapore on Tuesday at 00.40am local time for one hour and ten minutes. The plane then took off to continue its journey to Amsterdam at 01.50, local time. It was scheduled to arrive in Amsterdam on 7 September 2004 at 08.10 Amsterdam time.

On the way from Singapore to Amsterdam, Munir sat in seat 40G economy class. Around 40 minutes after take off, Munir was seen heading towards a toilet. Two hours later, Munir came up to steward Bondan Hernawa and said that he was sick and needed to see doctor Tarmizi²¹, who was sitting in business class, while handing the doctor's name card. Bondan Hernawa and Madjib Nasution as Purser then found dr. Tarmizi in seat 1J. Since dr. Tarmizi was fast asleep, Madjib asked Munir to wake the doctor up.

Upon meeting dr. Tarmizi, Munir said that he had vomited and frequented the toilet six times already. Munir was then given treatment by dr. Tarmizi and was placed in seat 4 business class in order to be close to the doctor. Munir kept vomiting and frequented the toilet although he had been given medication for diarrhea and milk and salt water. Several hours later, Munir was in pain again.

²¹ Munir's acquaintance with dr. Tarmizi started during boarding at Changi Airport, Singapore on the way to Amsterdam. Tarmizi introduced himself and gave his name card to Munir.

The doctor gave him a drink but he vomited. Dr. Tarmizi then gave him an injection and he calmed down again.

On Tuesday, 7 September 2004, around 04.05 UTC (estimated to be above Rumania) or 08.00 local time or approximately 2 hours before the plane was supposed to land at Schiphol Airport, Amsterdam, Munir was found dead by Madjib and dr. Tarmizi. Munir died at the age of 39, leaving his wife Suciwati, a former labor activist, and his two children, Souldan Alif Allende, 6, and Diva Suukyi Larasati, 2.

Source: KontraS

Issue Surrounding Munir's Death

It is unavoidable that Munir's death invited a lot of questions from the public. Especially with terrorizing letters sent to the home of Munir's parents in Malang on 9 September 2004, only two days after his death. The letter said: "*Congratulations on Munir's Death, Hope he did not get beaten up by the spirits of this country's heroes*". Such terrors, especially those occurring after Munir's death but before the death itself was found to be of unnatural cause (arsenic poison), created a certain impression. In this case, some activists who were Munir's colleagues suspected that there was an effort to connect Munir's death with TNI. This included terrors through phone and deliveries of dead chickens repeatedly. The classic motive of these terrors were clear: to scare Munir's family and friends so that they would not make a fuss over Munir's death. Interestingly, the modus operandi of these terrors was successful in forming an opinion that the perpetrators wanted, which is to discredit TNI institution.

Munir, who had been known to be persistent in fighting against violence and abuse that those in power tend to commit, frequently criticized TNI/Polri and the Intelligence Agency; an action that many people believed to carry similar risks to those born by the very people that he defended. Indeed, the signs of that risk had been experienced by Munir. The frequency of terrors that KontraS, especially Munir, received opened a speculation that Munir's death is a part of those series of terrors. When Sri Bintang came to offer his condolences to KontraS office on 8 September 2004, he wrote his opinion on a piece of banner that KontraS provided. It said, "*I believe 100% that you were murdered my friend*". Similar opinion was often discussed in 'coffee break' discussions. In an interview with newspaper reporter,²² Major (Purn) TNI AL said that Munir could have been killed by his enemy from within or outside this country. In this country, according to Juanda, the finger was certainly directed at TNI or Polri, apparatus for state's violence that often crossed the issues of human rights violations. Meanwhile, actors from foreign countries could come from NGOs possessing opposite views from what Munir was fighting for. The voice of many who suspected that Munir's death was unnatural was responded by the Chief of Police Da'i Bachtiar. Da'i stated that the government will seriously made efforts to investigate Munir's death. In order to conduct the investigation into the murder of an icon who received an award of Future Leaders from Asia Week in 2000, the Police said that they will elicit the assistance of Interpol and the Dutch police.²³

²² Op.cit, *Reporter* 9 September 2004.

²³ Op.cit, *Indopos* 9 September 2004.

CHAPTER III

TERROR AND ISSUES SURROUNDING MUNIR'S DEATH

On 9 September 2004, two days after Munir's death, Munir's parents who live in Malang, East Java, received an anonymous letter containing terror. The letter said:

“Congratulations on Munir's death, hopefully he doesn't get beaten up by the spirits of this country's heroes”.

Based on the contents of the message, this terror aimed at leaving an impression that a certain party is happy that Munir died. The words “the country's heroes” could be intended to relate the message to TNI, considering that the term hero is usually identical to dead soldiers. Whatever impression was created, Munir's family and his activist friends asked everyone not to speculate regarding Munir's death. We were all expected to wait for the autopsy result conducted by an independent forensics institute in the Netherlands. Whatever speculations surfacing at that time was always ignored²⁴.

On the same day, 9 September, rumors spread about a certain speculation behind Munir's death. In his interview with the newspaper Reporter,²⁵ Major (Purn) TNI AL Juanda said that Munir could have been killed by an enemy from in or outside the country. In the country, according to Juanda, the finger would be directed to TNI or Polri, the state violent apparatus that are often related to issues of human rights violations. Meanwhile, from other countries, the enemy could be from any NGOs whose attitude and struggle were the opposite of Munir's.

The suspicion that Munir had been assassinated by an enemy from within the country such as TNI or Polri, or that he had been murdered by an enemy from another NGO, was a strange suspicion because such analysis was expressed openly in public before any further clues related to Munir's death were found. They were expressed two months before the autopsy result from the Netherlands Forensic Institute (NFI) in the Netherlands came out.

On the other hand, the above analysis also made some of Munir's close colleagues to wonder if there were any efforts to connect TNI to Munir's death. If yes, what was the reason or the purpose?

The questions continued to develop until the autopsy on Munir's body was finished in the early November 2004. Based on forensics' toxicology analysis, a high and lethal dose of arsenic was found in Munir's body. After finding out that there was an unnatural cause in Munir's death, Suciwati directly requested the government, especially the police, to give more complete explanation about the autopsy result. Suciwati also demanded that the case be investigated thoroughly. Furthermore, the news about the unnatural cause in Munir's

²⁴ The frequency of which KontraS, especially Munir, receive terror has opened a speculation that Munir's death is a part of the terror. An long-time activist who once strongly criticized President Suharto, Sri Bintang Pamungkas, came to express his condolences to KontraS' office on 8 September 2004. Bintang wrote his opinion on a piece of banner that KontraS provided, he wrote “I believe 100% that you were murdered, my friend”. Similar opinion was often discussed in “coffee break” conversations.

²⁵ Op.cit, Reporter, 9 September 2004.

death triggered some reactions from several parties who suspected that Munir had been assassinated²⁶. A while later, the State Police Headquarters sent a team to the Netherlands.

Many parties' suspicion that Munir's death was unnatural was responded by the Chief of State Police (Polri) Da'i Bachtiar. Da'i said that the government would be serious in its efforts to investigate Munir's death. In order to look into the death of the man who received the Asia Week award of "the Leader of the Future" in 2000, Polri said that they would work with the Interpol and the Dutch police.²⁷

A while after the news about Munir's unnatural cause of death, on Saturday, 20 November, around 10.30 West Indonesia Time, Suciwati was terrorized by a package containing chicken carcass sent to her house in Bekasi, on Jl. Cendana XII No.12, Perumahan Jaka Permai, Jaka Sampurna, Bekasi, West Java. The package contained decaying chicken head, legs, and intestine in a Styrofoam box. A print-out paper was found inside containing a message that forbade Suciwati from connecting TNI to the death of her husband. The message said:

'BEWARE!!!

Do Not Connect TNI to Munir's Death. Do You Want To End Up Like This?'

After the package sent to Suciwati's house, similar incident occurred again. This time, a package containing chicken carcass and the same message was sent to the office where Munir last work for, Imparsial.

The classical motive of such terror was to try and scare Munir's family and friends into not making a fuss about Munir's death. However, the terror failed to deter the attitude and efforts undertaken by Munir's widow and his friends, as well as community groups, to demand that the case be investigated thoroughly. They suspected that the death had a political element in it. In other words, such assassination was impossible to be performed by an ordinary man. It required access, resources and special skills to carry out a murder on board Garuda Indonesia airplane.

Back to the package above, an interesting issue came up related to the terror. Based on the message contained in it, whoever sent the package seemed to want us to connect the death to or suspect TNI institution in Munir's death. Another question came up, what is going on?

Munir was known to be persistent in opposing all forms of violence and abuse perpetrated by those in power, and he was often collided with TNI. His attitude was believed by many people to have borne the risk of suffering the same fate as that of the people that he

²⁶ *Serikat Pengacara Rakyat, Perhimpunan Pembela Publik Indonesia, and Pergerakan Demokratik Rakyat Miskin (PDRM) Aceh* gave an ultimatum to Susilo Bambang Yudhoyono's government, which was judged to be lackign in its seriousness in dealing with Munir's death. These three community organizations also regreted the tradition of political assassination in Indonesia. According to these organizations, the police should look directly into the death of the former Kontras Coordinator by asking about the chronology of the event to Garuda Indonesia. This was because the red-plate airline did not follow the civil flight procedure when a passenger was in need of a serious medication. See <http://www.liputan6.com/view/0,90286,1,0,1129211469.html>.

²⁷ *Op.cit, Indopos*, 9 September 2004.

defended: jailed, kidnapped or even deprived of the right to live. Indeed, Munir often had to face serious threats with different modus operandi. We could see the comparison between the terrors directed at Munir's family after his death with the form of terror that Munir suffered when he was alive.

Table 6
Threats, Violence and Intimidation
KontraS and Munir 2000-2004

N^o	Acts of terror	Time	Remarks
1	Bomb threat to Munir's house in Malang, the bomb disposed on a field near Munir's house.	21 Aug 2001	The police disposed the bomb by exploding it on a field. No appropriate legal procedures.
2	Low-explosive bomb explosion at KontraS' office on Jl. Mendut No.3 Menteng, Central Jakarta	27 Sept 2000	Exploded at night. No legal procedures.
3	Smuggling of a bag containing weapon (machete, curved knife) into the bus used by the group of Talangsari victims in Jakarta	6 Sept 2001	Those victims were pressuring The House of Representatives (DPR) and Komnas HAM to improve the effectiveness of the committee on Talangsari case, which had been formed since July 2001.
4	Around three hundred people claiming to be the Bloodied Cawang Group attacked KontraS' office and activists.	13 Mar 2002	Only 7 people were brought to trial and were given light punishment.
5	Physical attacks; the camera used by KontraS' Activist was taken by force	24 Jan 2002	Took place at the State Administrative Court during the trial of KontraS' litigation on the matter of Hendropriyono's appointment as the Chief of National Intelligence Agency BIN.
6	Low-explosive bomb explosion at Munir's house in Bekasi.	29 Aug 2003	Munir's house was guarded by the police for several days. The perpetrators were never captured.
7	Around one hundred people wearing the uniform of <i>Pemuda Panca Marga</i> (PPM) destroyed KontraS' office and attacked KontraS' activists.	26 & 27 May 2003	The police arrested several of the perpetrators but the legal proceedings were not continued.
8	KontraS' investigation team was intercepted on its way to Talangsari village, Lampung	6 & 7 Feb 2004	The team was intercepted on its way to Lampung. They were detained for whole day based on an accident suspected to have been engineered. No legal proceedings.
9	Munir was assassinated on board flight GA 974 Jkt-Ams.	Sep 2004	Legal proceedings did not even touch the intellectual actors.

Note:

- This note does not include the threats, terror and other acts of intimidation directed at Munir or other KontraS activists that were not documented.
- All of the above attacks were seen by many as more of a terror than a death threat to Munir. There were others who then assumed that Munir's death had to be done on the basis that the accumulation of those actions was no longer effective to deter Munir's activities.

Speculations about Munir's death continued despite the measures that the government was taking to investigate the case through the establishment of a fact finding team (TPF). This team had even found clues related to Munir's death. TPF suspected that Munir's murder was the result of an evil conspiracy by a certain group. The term conspiracy then became the main theme in discussing Munir's death. Gradually, the facts found by TPF arrived at a suspicion that state intelligence officials were involved. TPF even conducted a serious investigation on a number of officials within the National Intelligence Agency BIN, several of whom declined to be examined.

This ongoing speculation was expressed in the publication of a magazine called *Ekspos*. In its interview with Wawan H Purwanto, Wawan explained that Munir's murder was related to a competition among NGOS. Wawan Purwanto also mentioned that Munir received some money from an award and this was what triggered the conflict among NGOs themselves.

Such speculation continued to grow even until Munir's murder case was brought to trial. There were also other publications that contained similar analysis to the one described above such as *Jurnal Borneo*.

CHAPTER IV LETHAL DOSE OF ARSENIC POISON

Controversy Over the Autopsy Result

Concerns about unnatural cause in Munir's death were proven to be true. The autopsy conducted by the Netherlands Forensic Institute (NFI) concluded that Munir's death was caused by in a high and deadly dose of arsenic. This fact gave a strong reason to suspect that Munir was assassinated. This suspicion in turn triggered a strong reaction in the form of protest and criticism directed towards the cruelty that has ended Munir's life. Until today, pressure from in and out of the country keep pouring for this case to be thoroughly investigated and for the perpetrators to be found.

The first news of the cause of Munir's death appeared in mass media in the Netherlands on 11 November 2004, where a statement from an official of the Dutch Department of Foreign Affairs was quoted. The news soon spread everywhere while the Indonesian government itself had not informed the autopsy result to anyone at all. Munir's family, especially Suciwati, was deeply disappointed for hearing the information not from the Indonesian government. Stating various reasons, the government, through its Department of Foreign Affairs did not want to announce the autopsy result that they had received from the Dutch government. This created a "tension" among government and non-government organizations, especially when Suciwati's request to know the autopsy result in person was refused.

In relation to the refusal, Suciwati tried to make a direct request to the Minister of Foreign Affairs, the Minister of Politics, Law and Security, and the Chief of State Police. Suciwati felt the necessity to contact those three officials directly because the answers that she received from the staff of Foreign Affairs Department always refused her request by reason of the Minister's and the Chief's authority. There was no clear answer at that time. Suciwati was again disappointed. That evening on 11 September 2004, KontraS, through its open letter, urged the government and specifically the Department of Foreign Affairs to immediately give the autopsy result to Suciwati as Munir's widow and to immediately investigate the assassination.

The following day, in the morning of 12 November 2004, Suciwati and representatives from several non-government organizations came to POLRI Headquarters in order to ask for the autopsy result. Upon arriving at the Crime and Investigation Unit, the group headed towards the Head of the Unit's office and had to wait for a while. Several other representatives from other non-government organizations arrived later. During the meeting, the Head of the Unit, Suyitno Landung, read and showed a piece of copied document containing a cover letter from the Dutch Ambassador sent along with a copy of the definitive report from the Dutch forensics experts and a copy of the toxicology result on the cause Munir's death. The most important finding was that the autopsy identified 650 mg/liter of arsenic found in the stomach, 3.1 mg/liter in the heart blood and 4.8 in the urine.

Table 1
Comparison of the Dose of Arsenic Poison: Normal, Maximum and Deadly

Normal Limit	Maximum	In Munir's Body
In the blood usually < 0.1 mg/liter or equal to 0.1 mg/kg	In the blood usually < 0.27 mg/liter is found in a person who works with herbicide	Munir's blood showed a very high concentration of arsenic: 3.1 mg/l.
Arsenic concentration in Urine < 0.3 mg/liter	Arsenic concentration in Urine 2.5 mg/liter in a person who is exposed to Arsenic in his work.	Munir's urine contained high arsenic concentration: 4.8 mg/liter = 24 times over safe limit of poisoning.
Amount in the stomach 320 ml, 180 ml of which is liquid with 460 mg/l concentration. Arsenic found 180/1000 X 460 mg = 82.8 mg.	High arsenic concentration found in Sea Food/ Shrimp= 22 mg/kg. Note: 83 mg arsenic is equal to the consumption of 4 kg of shrimp.	Arsenic concentration in Munir's stomach was higher, 460 mg/l. The arsenic in Munir's stomach was approximately 83 mg. 120-200 mg of As ₂ O ₃ is equivalent to 46-76 mg of Arsenic. This amount is fatal for adult.

Source: Explanation from the Head of Crimes and Investigation Unit of the State Police, 12 November 2004.

At POLRI Headquarters, in a meeting with the Head of Crimes and Investigation Unit (Kabareskrim), it was explained that that based on the external autopsy result, there was no signs of violence. Meanwhile, internal examination found that Munir died because of arsenic. This is proven by toxicology that found high concentration of Arsenic in his blood, urine and a very high concentration in his stomach. Furthermore, there was no proof of allergic reaction at the time of death.

As a follow up, Kabareskrim stated that he had formed three teams: one team that would go to the Dutch Embassy in Jakarta, another team that would go to the Netherlands in order to obtain and study the authentic copy of the autopsy result with Dutch forensic experts and the third team whose assignment was to conduct witness examination and other legal measures. Specifically for the second team, when asked why he did not just ask the Dutch Government to send the said authentic documents, Kabareskrim said that the team would involve Dutch forensic experts in order to conduct an in-depth study of the autopsy result with those Dutch experts. Based on this reason, the Team would immediately leave for Netherlands. Suciwati requested that family representatives be involved in the delegation. The team consisted of three officials from Polri, three forensic experts, one official from the Foreign Affairs Department, one family representative (Usman Hamid, KontraS). The team left on 18 November 2004 and was led by AKBP Anton Charlian, with members as follows: AKB Adi Quresman and AK Agung Widjajanto (Polri), Budi Sampurna and Ridla Bakrie (University of Indonesia), Amar Singh (USU Medan), Andi Ahmad Basri (Foreign Affairs Dept.) and Usman Hamid (KontraS, representing the family).

The Trip to Netherlands: Without Preparation?

The departure of the Indonesian Delegation to the Netherlands for more than a week triggered some criticism. Lack of preparation in formulating the agenda of activities in the Netherlands resulted in the failure to meet the target of the Team's visit, which was to meet some institutions who are authorized and relevant with Munir's autopsy. The Team also nearly failed in obtaining all the authentic documents related to the autopsy because of diplomatic requirements that had to be fulfilled in order to request for legal assistance according to the applicable procedures.

On 20 November 2004, in the afternoon at around 5pm local time, the delegation team met Robert Milders, Director of Asia-Oceania Dutch Ministry of Foreign Affairs. In the meeting, on behalf of the delegation, the Head of Politics of the Indonesian Embassy Mulya Wirana expressed the aim and purpose of the team's visit to the Netherlands. Specifically, Usman Hamid expressed the purpose of having a family representative in the delegation and asked to be explained about the reasons why the Dutch authority refused to give the autopsy report to Munir's family directly. Continuing Usman Hamid's questions, Budi Sampurna, a forensic expert, asked Robert Milders, "*as fair as I know, in several cases in the Netherlands it is possible for the victims' families to receive the autopsy result, but why is it that the family is not allowed to receive the report for this case? Are there any particular reasons?*" Milders said that it is possible in cases where the victims' families live in the Netherlands; however, in Munir's case, he is not of Dutch nationality. Milders stated that the Dutch government only assisted in finding out the cause of Munir's death. The result must be given to the Indonesian government. The presence of unnatural causes of death in Munir's case required legal follow ups. According to the applicable laws, law enforcement and its justice are the responsibility of the Indonesian government. It also includes whether the autopsy result must be given to the victim's family or not, which depends on the laws of Indonesia²⁸.

Still in the same meeting, Milders explained the authentic documents related to Munir's death could not be transferred unless there was an official request from the Indonesian legal authority. Although the Indonesian police had been in contact through Interpol, the delegation decided to immediately process the said letter. A letter from the Indonesian Attorney General that had been previously prepared did not help much. Several days afterwards, in order to prevent the delegation's from returning back to Jakarta empty handed, a Director General of the Indonesian Foreign Affairs Department was sent, Arizal Effendi, was sent to the Netherlands to join the delegation as well as to conduct some approach to the Dutch authority. After a negotiation between Arizal Effendi and the Dutch Ministry of Law, a number of autopsy documents were transferred through the Indonesian Embassy to be forwarded to the delegation.

Nevertheless, the Indonesian delegation's trip to the Netherlands had at least acquired a minimum result. First, the NFI Team stated that Munir's death had indeed been caused by

²⁸ "The Indonesian Team Hampered by Netherlands' Requirements", *Indopos*, 21 November 2004.

arsenic poison that worked rapidly within hours. It is mentioned in the autopsy report that the amount of arsenic in Munir's stomach was 460 mg and in blood 3.1mg. Second, the Indonesian forensics team in the delegation stated that the NFI's autopsy report has met the Indonesian forensics standards and can be used as legal evidence; therefore there is no reason for the police to perform another autopsy in Indonesia. In other words, another autopsy is not needed considering that the NFI's autopsy result is enough for further investigation. On Monday, 29 November 2004, the report of the trip to Netherlands was presented to public.²⁹ Munir's family finally received a copy of the autopsy report from Polri, a report which was then presented to public through a press conference at KontraS office on Friday 10 December 2004.

After Polri's delegation team returned from the Netherlands, the family subsequently urged the Indonesian Attorney General and the Minister of Law and Human Rights to make efforts to obtain the evidence. The family met the Attorney General Abdul Rahman Saleh and the Minister of Law and Human Rights Hamid Awaluddin. Specifically, the family demanded the following: *first*, to urge the Minister of Law and Human Rights Hamid Awaluddin to obtain the remaining documents related to Munir's death, that were still in the possession of the Dutch government, including, if necessary, bringing NFI's forensics experts to Indonesia in order to assist with the legal actions; *second*, to urge the Indonesian government to obtain from the Dutch police authority the dossier (*recording of the verbal process*), which had not been transferred to Indonesia, containing the examinations on Garuda passengers and crew upon the plane's arrival at Schiphol airport, the Netherlands.

Documents Transfer and Death Penalty Clause.

Death penalty issue is one of the crucial issues that did not receive too much public attention at the beginning of Munir's case. Lack of guarantee from the Indonesian government to the Dutch government not to implement death penalty to the convicted perpetrators resulted in the Dutch authority's reluctance to transfer the evidence. This evidence included the verbal process suspected to have important information that could influence the success of the investigation.

The issue came up for the first time when the Indonesian delegation was in the Netherlands trying to obtain all the documents and other legal evidence related to Munir's death. At the beginning, Polri's delegation had to face an obstacle because of the lack of formal procedure in the form of an official request related to the evidence. After days without any effective activities, some of the documents (autopsy) were transferred to the Indonesian government through the Indonesian Embassy. Even that was achieved after the arrival of a Director General from the Indonesian Department of Foreign Affairs to negotiate directly with the Dutch Ministry of Justice. The issue had also been questioned by the Dutch Parliament when they asked, "Is it true the Dutch government has given all information

²⁹ See the Report on the trip to Netherlands during press conference on 29 November 2004.

related to Munir's case to the Indonesian authority, as you stated in your speech on 10 December 2004?"³⁰ To this question, The Dutch Minister for Foreign Affairs Bernard Bot explained as follows:

After the definitive toxicology report was issued by the Nederlands Forensisch Instituut (NFI), on 11 November 2004, its duplicate was transferred to the Indonesian authority. Not long afterwards, there was a meeting between the delegation from Jakarta and the representatives from *Justitie* (Department of Justice) and *Buitenlandse Zaken* (Department of Foreign Affairs). In that meeting, the autopsy report, temporary section report, definitive section report, first toxicology report, and the authentic definitive toxicology report were transferred. It was also during this period that a meeting between NFI's toxicology experts and the Indonesian experts was held. By the transferring of the above documents, the Indonesian authority has been fully informed about the cause of Munir's death.

Not all documents in the Netherlands related to Munir's death could be transferred to the Indonesian government. Other documents, including the recording of the verbal process from the Dutch police, still had to wait for an agreement between both countries regarding legal assistance, in which the Indonesian government is required to guarantee that there will be no execution of death penalty in Munir's case. This issue has also been discussed in one of the Dutch parliament sessions. In this session, the parliament asked, "*Did those documents include the verbal process and testimonies of Garuda passengers and crew who were in the same flight with Munir? If not, why? Have there been any agreements with the Indonesian government regarding the transfer of those documents and the implementation of death penalty in Indonesia? If yes, what are they?*" The Dutch Minister of Foreign Affairs Bernard Bot explained as follows;

The recording of the verbal process was not included. This is related to the fact that the information can lead to a certain person. Considering the possibility of death sentence and its execution in Indonesia, this can raise a situation where the information can be used as evidence with which death sentence can be issued and actually carried out. The Netherlands, in its relation to *Europees Verdrag tot Bescherming van de Rechten voor de Mens* (European Convention for the Protection of Human Rights), is not allowed to participate and to give any legal assistance before it receives a guarantee that if death penalty is to be given, it will not be carried out.

Regarding the above issue, the request was delivered by the Dutch Minister of Justice J.P.H Donner to the Attorney General through a letter on 14 March 2005. On the other hands, the Indonesian Attorney General Abdul Rahman Saleh was said to have guaranteed

³⁰ The speech was delivered in a conference, which was also a commemoration of World's Human Rights Day "*The 6th Annual European Union Human Rights Discussion Forum*", in Den Haag, 10 December 2004.

that there he will not be demanding for death penalty for Munir's murderer should the murderer be caught and brought to trial. This guarantee was given providing that it is in accordance with Indonesian legal procedure. This position was taken in relation with the Dutch government intention to transfer the evidence, crime scene investigation result and the remains of Munir's autopsied organs, providing that Indonesia guarantees that the murderer will not be sentenced to death. The Attorney General hoped that the request would not be interpreted as a Dutch intervention. The Netherlands posed the request considering that it has, along with other European Union countries, signed a convention against death penalty. Because of the convention, those countries, including the Netherlands, have the right to refuse to give legal assistance to any countries that still apply death penalty such as Indonesia.

The agreement between the Indonesian and Dutch authorities resulted in Polri Headquarters receiving the documents related to the crime scene investigation of Munir's case in the Netherlands, through the Indonesian Embassy there. The documents contained, among others, the verbal process, crime scene investigation result and witnesses' testimonies. Munir's autopsied organs had not been received yet.³¹ Polri Headquarters also planned to conduct an evaluation on the result of the first examination that the Dutch authorities performed, as well as the witness testimonies.³² However, the result of crime scene investigation by the Dutch police was considered not significant enough. The result was only adequate to complete the examination performed in Indonesia.³³

High Attention from the Dutch Parliament

Asides from following the delegation's agenda, Usman Hamid, representing the family, also had a series of activities in the Netherlands, facilitated by the institution that provided scholarship for Munir, ICCO and BBO. One of the purposes of these activities was to get the attention and support from the Dutch parliament for the resolution of Munir's case. Three specific demands have been the agenda for the lobbying since the beginning: 1) to ask for clarification from the Dutch government regarding the copy of the autopsy report; 2) to urge the parliament to urge the Dutch government to provide clarification regarding the autopsy result 3) for Indonesia to form an independent team involving elements of civil society to investigate Munir's assassination and to bring the case to court. All these demands became the main theme in every meeting between Usman Hamid (KontraS), Kees de Ruiter (ICCO) and Yppie Boersma (BBO) and a number of Dutch Parliament members.

Positive responses were given by several members of the Dutch Parliament that Usman met, both from the opposition party and government party. This include a renowned and influential politician who is still consistent in monitoring to Munir's case, Farah Karimi (Groenlinks Party). Farah Karimi promised to forward these demands in the debate forum

³¹ "Polri Headquarters Received Documents, Evidence of Munir's Case from the Netherlands", www.detik.com, 31 March 2005.

³² "Polri Will Crosscheck Munir's Documents from the Netherlands", www.detik.com, 1 April 2005.

³³ "Polri : Result of Crime Scene Investigation on Munir's case in Netherlands Not Significant Enough", www.detik.com, 19 April 2005

between the parliament and the government.³⁴ Shortly afterwards, the debate forum was held, presenting the Dutch Minister of Foreign Affairs B.R. Bot. Before the debate started the topic on Munir, Karimi already bombarded the Minister of Foreign Affairs Ben Bot with a series of written questions through subsequent formal notes on 8 November 2004, 16 November 2004, 17 November 2004 and 19 November 2004³⁵.

It was found from the debate forum that the Dutch Government has informed the Indonesian government about the autopsy result in the second meeting between the Indonesian and Dutch Ministers of Foreign Affairs in Jakarta on 28 October 2004. This meant that the Indonesian government had already known about the cause of Munir's death before it surfaced in mass media and this turned into a controversy.

Responding to this development, on 2 December 2004, the Minister of Foreign Affairs Nur Hassan Wirajuda stated that his department never received any copies of the autopsy report on Munir's body from the Dutch government on 26-28 October 2004. The Minister's reaction triggered a strong protest delivered by Suciwati and groups of human rights activists that seemed to accuse the Department of Foreign Affairs of having received a copy of the autopsy report but refused to share the information. In fact, they protested the Department's passive attitude of not having any initiatives although they had received oral information from the Dutch Minister of Foreign Affairs about Munir's autopsy. Such initiatives are important to immediately conduct a legal investigation on Munir's death as a crime. The Department's slow initiative also influenced the result of the investigation later on, which is less than maximum possibility.

It was the slow response that made Suciwati disappointed because she had to learn about the autopsy result from Dutch mass media, whereas the Department of Foreign Affairs had actually received a copy of the toxicology analysis on 11 November 2004. The Department of Foreign Affairs tried to explain that they contacted Munir's widow about the copy and requested the Police to inform Munir's family on 12 November. Spoke Person II of the Department Yuri Thamrin explained that when the Dutch Minister of Foreign Affairs visited Indonesia on 26 October, he only gave a vague clue during his private meeting with the Indonesian Minister of Foreign Affairs. In that meeting, Bernard Bot explained that the Dutch government has obtained the initial version of Munir's autopsy and they found abnormal dose of arsenic, but it did not definitively mean that there had been any attempts of poisoning or murder. Based on the spokesperson's explanation, it seemed that the Department was trying to say that it had not been able to make any initiatives because there was no explicit explanation regarding any attempts of murder from the abnormal autopsy result. This reason was illogical. The autopsy performed by the Netherlands Forensic Institute was only to trace the cause of Munir's death, whether it was natural or unnatural. Even if it had been unnatural, it was not certain that there had been any attempts of murder. In order to determine whether the abnormal result indicated a foul play or not, it was the Indonesian government's obligation and authority, not the Dutch's.

³⁴ They also promised to bring the issue during the visit of European Union Parliament to Indonesia in January 2005.

³⁵ See "Dutch Parliament, Session on Munir's Case Tonight", *www.detik.com*, 30 November 2004.

Returning to the topic of the high attention from the Dutch parliament, several members from the opposition kept the topic of Munir's assassination up. They even submitted a motion to the Dutch government.³⁶ Until today, the pressure exerted by several politicians within the parliament in order to push the Dutch government to give clarification is also working well. Recently, the Dutch government, through Farah Karimi's initiative, asked about the development of Munir's case through the Dutch Minister of Foreign Affairs and Minister of Justice.³⁷ There were at least eight written questions delivered to the Minister of Foreign Affairs Bernard Rudolf Bot and the Minister of Justice J.P.H. Donner regarding the development of Munir's case, which – during the emergency debate about Munir's assassination – the government promised to handle seriously and to form an independent team.

At that time, a lot of fractions stated their distrust because they thought that the Indonesian government made promises easily but never kept any of them. They suggested freezing the 20 million Euros of development assistance grant for fiscal year 2005-2009. Some of them also reminded the forum about the case of a Dutch journalist, Sander Thoenes, who was murdered in East Timor (now Timor Leste) in 1999. At that time, promises were given by the Indonesian government but in reality, the officers who were suspected to be involved were still untouchable until today. Bot, who had just started his service as the Minister of Foreign Affairs at that time, convinced the forum to give the benefit of the doubt to the Indonesian government. His reason was that President Susilo Bambang Yudhoyono had guaranteed that Munir's case would be handled seriously. Last, a number of delegations from the European Union parliament visiting Indonesia also asked about the development of Munir's case on 26 July 2005.

³⁶ "Dutch Opposition Submitted Motion on Munir's Case", *Suara Pembaruan*, 2 December 2004.

See also "Dutch Parliament Discussed Munir's case", 2 December 2004.

³⁷ See "Dutch Parliament Question the Handling of Munir's case", <http://jkt1.detiknews.com/index.php/detik.read/tahun/2005/bulan/02/tgl/02/time/204023/idnews/284071/idkanal/10>. See also previous news about the debate in Dutch Parliament – Dutch Minister of Foreign Affairs in detik.com.

CHAPTER V

MUNIR CASE NEED EXTRAORDINARY INVESTIGATION

The fact that Munir died because of arsenic poisoning established that the case was not an ordinary murder case. The choice of method and type of substance to kill is something that requires meticulous planning. This is even more so since the murder was committed in a flight with international route. Choosing the poison and the location of murder cannot be a spontaneous thing to do. It required special knowledge and skills to be able to use the poison in very limited time and space of a government airline flight. It also required enough access to find out Munir's flight details such as day, date, time and the number of flight. Further access is also needed to place the people who are assigned to end Munir's life.

Munir's assassination has a strong political dimension. He was a prominent figure in the social political movement – from the issues of human rights, democracy, to militarism – in Indonesia at the moment. On the other hand, Indonesia's political context is still dominated by an authoritarian-conservative force that naturally and potentially becomes Munir's enemy.

In his life, Munir almost always had to come face to face with state institutions, mostly the military and the intelligence. The beginning of his career was to advocate in the death of Marsinah, a labor activist, where Munir had to face the military, which was very dominant in labor politics at that time. His next move at YLBHI and KontraS also saw him confronting the military and other state institutions such as in the cases of enforced disappearances against activists in 1998, gross violations against human rights in East Timor 1999, advocacy for victims of Tanjung Priok 1984, Talangsari Lampung 1989, conflict in Maluku 1999, violence in Aceh related to military operations, etc. At the end of his career, while he was working at Imparsial, he was actively criticizing strategic policies in the fields of politics and national security and defense, especially in relation with the legislations that regulated the role of TNI. Munir also criticized the role of the intelligence agency at that time.

The hypothesis saying that this case was an extraordinary political crime involving institutions in power is a logical one. When he was alive, Munir always tried to uncover cases of crimes with political contents which are mostly crimes that involved state institutions or were perpetrated through state's policies, something that is known as human rights violations. Although the victim might just be one person only, political crime is always serious and extraordinary in nature because, apart from the involvement of state's structure and apparatus, such crimes usually have wider target than simply the figure that was assassinated. Such target is usually to terrorize human rights and democracy movements, the kind which Munir believed in.³⁸

³⁸ The previous case, the murder of Marsinah (1993), a laborer who was fighting for her rights in East Java. This took place when labor resistance–through strikes – was at its peak in Indonesia. In Yogyakarta, a journalist (Udin Case, 1996) was murdered when he was investigating corruption involving a mayor (who was also an active military official). The same happened to Jafar Sidiq, killed in 2000 in North Sumatra, while he was advocating Aceh issues and Theys Eluay (2000), a

The important question now is whether Munir's case as a political crime would ever be resolved thoroughly by President SBY's new government, considering that the assassin might be an old friend or people around him, or even if it were someone outside the new structure then it would be someone who still has strong political access and network. Based on this, the demand of resolving Munir's case cannot be put simply on the police, not merely because of the police institution's bad track record, but also because of the concern that this institution might receive political interventions from other state institutions.

Since the evidence showed that Munir died because of poisoning, Munir's family and friends who are NGO activists agreed to urge SBY government to form an independent investigation team involving civil society elements. The team would be working to resolve the case of Munir's death thoroughly. This was expressed the first time in a joint press conference at KontraS' office on 12 November 2004.³⁹ This independent investigation team was ideally supposed to part of the police's *pro justitia* investigation process.

The idea of forming this independent investigation team became an integral discourse in the efforts of uncovering Munir's case. Soon the idea was supported not only by NGO activists but also by many others parties such as communities of human rights violations victims, national leaders, legislative members and public in general. It was a concern that leaving the case resolution completely in the hands of conventional legal procedures would mean a repetition of past failures. Until today, there has never been any proper legal resolution in this case.

The fact that Munir's death was caused by arsenic, a finding made by a foreign forensic institution (NFI), did not face any significant challenge in general. There was no successful effort to use shallow nationalism sentiment to doubt the autopsy result that clearly indicates that Munir's death case was a murder case. Such sentiment was often directed at Munir when he was alive, in relation with his persistence in criticizing state institutions which perpetrated human rights violations.

The current government, starting from the President to the Chief of State Police, has promised since the beginning to handle and resolve the case seriously. However, the government's commitment cannot be automatically relied upon without any control from the public. The concern was then proven when the joint investigation team – formed by the State Police – which left for the Netherlands failed to obtain all the authentic evidence of the autopsy result because they were not equipped with bilateral administrative procedure.

popular figure among the Papuan, who was critical towards the government at that time. The same suspicion emerged because of the death of Baharuddin Loppa, an Attorney General (2001) who was known to be strict against corruptors at the end of President Abdurrahman Wahid government.

³⁹ See Joint Press Release in KontraS, 12 November 2004, on behalf of Suciwati (Munir's Widow), Todung Mulya Lubis, Rachland Nashidik (Imparsial) and Usman Hamid. One of the points in the Press Release was the necessity to form a comprehensive and trusted investigation team involving civilians and Komnas HAM.

Meanwhile, many parties started to pay a lot of attention to the case. Several members of the House of Representatives (DPR), for example, said that they would form a special team to deal with Munir's death. The team would encourage and monitor the government in the case's resolution.⁴⁰ The plan was confirmed further during the meeting between Commission III of DPR with Munir's widow Suciwati, KontraS, Imparsial, PBHI, lawyers Todung Mulya Lubis and Adnan Buyung Nasution, and member of Komnas HAM (the National Commission of Human Rights) MM Billah in Senayan on 22 November 2004. The Head of Commission III, Teras Narang, stated that during its special session, DPR would urge for the establishment of an investigation team answering directly to the President. Furthermore, the Head of Commission III also promised that DPR would form its own fact finding team.⁴¹ The same confirmation was also stated by several other members of DPR such as Lukman Hakim Saifuddin (PPP), who threatened to submit suggestion of interpellation right if the President did not respond the advice made by DPR and NGOs regarding the establishment of an independent investigation team.⁴²

DPR's promise was fulfilled the next day on 23 November 2004 during DPR's Special Session. The result of the session resulted three points of agreement; *first*, DPR would form its own fact finding team joining Commissions I and III; *second*, DPR would request President SBY to form an independent investigation team that answered directly to the president; and *third*, DPR would request the government and the police to submit the complete autopsy report on Munir's death to his family and his widow, Suciwati.⁴³ Full support from DPR was quite relieving considering that since they were inaugurated on 1 October 2004, this people representative's institution had been experiencing an internal conflict. This political internal conflict nearly disabled DPR's main role as legislator and supervisor of governance.

Another important statement from a public official was the promise made by the TNI Commander Gen. Endriartono Sutarto after a coordination meeting with the Coordinating Minister for Politics, Laws and Security. According to Gen. Sutarto, he was ready to assist in the investigation process of Munir's case although he strongly denied any involvement by his subordinates in the assassination.⁴⁴

After DPR's special session showed its support for an independent investigation team, this time it was President SBY who was confronted by Munir's family and friends. On 24 November 2004 at the Presidential Palace, Suciwati, accompanied by KontraS, Imparsial and Todung Mulya Lubis was received by President SBY. In the meeting, Munir's family and relatives requested that President SBY form an independent investigation team based on a Presidential Decree and involve several names of community leaders such as Amin Rais (former chairman of People's Consultative Assembly or MPR), Syafii Maarif (Chairman of PP Muhammadiyah) and Todung Mulya Lubis. President SBY did not

⁴⁰ "DPR Formed Special Team for Munir", *Kompas*, 19 November 2004.

⁴¹ "Munir's Case to Special Meeting", *Kompas*, 23 November 2004.

⁴² "DPR Urged Formation of Investigation Team on Munir's Case", *Koran Tempo*, 23 November 2004.

⁴³ "DPR Formed Fact Finding Team (TPF) Munir", *Media Indonesia*, 24 November 2004.

⁴⁴ "SBY Supported TPF Munir", *Media Indonesia*, 25 November 2004.

explicitly stated that he would fulfill the request and was being diplomatic by asking in advanced about the basic concept behind the suggestion to form the investigation team.⁴⁵ On 26 November 2004, the Executive Director of Imparsial, Rachland Nashidik, submitted a design for Munir's investigation team along with suggestion of names to become its members to Andi Mallarangeng, Presidential Spokesperson, in Halim Perdanakusumah.

Another important support was also shown by many parties from both domestic and international communities in urging the government to form an independent investigation team. Munir's family and activist friends saw that the effort to form such a team required support from public and community leaders.

Full support was stated by the Chairman of PP Muhammadiyah, Syafii Maarif, during his meeting with Munir's family and NGO friends on 24 November 2004 at his office. He was even willing to have his name included as a member of the independent investigation team.⁴⁶

Similar statement was also made by 59 international human rights activists on 20 November 2004 during a joint press conference delivered the Coordinator of Human Rights Working Group (HRWG) Rafendi Djamin in Jakarta. The 68 International human rights activists from 30 countries were mostly the recipient of "*The Rights Livelihood Award*" given by a Sweden-based foundation.⁴⁷ They specifically expressed their deepest condolences and warned SBY government that they would make sure that the world would be watching the process of resolving this case.⁴⁸ Munir himself was a recipient of the award in 2000.⁴⁹ On 8-13 June 2005, the activists who are recipients of the award gathered for an annual meeting in Salzburg, Vienna. Once again they expressed their solidarity by bringing up the importance of resolving Munir's case. Suciwati, Munir's widow, attended the meeting together with KontraS activist, Mouvty Makaarim Al Akhlaq. At around the same time with the meeting, Suciwati and Mouvty were attending an annual conference "*Human Rights Defenders Forum*", held by The Carter Center, on 6-8 June 2005 in Atlanta. In the conference, former US President Jimmy Carter expressed his sympathy and his support to the efforts of resolving Munir's case.

After the conference, Suciwati was facilitated by the Human Rights First (used to be Lawyers Committee for Human Rights) based in New York, USA, to meet several important officials in Washington DC, USA, to talk about Munir's case. Human Rights First also facilitated Suciwati's participation in the human rights forum in Atlanta, USA. In a joint press release with Human Rights First and The Carter Center, they criticized the

⁴⁵ "President Asked for Basic Concept of Munir Investigation Team", *Kompas*, 25 November 2004.

⁴⁶ "Syafi'i Ready to Join Team Munir", *Koran Tempo*, 26 November 2004.

⁴⁷ Full statement from the 68 recipients of *The Livelihood Award* can be seen in <http://www.rightlivelihood.org/news/munir-poisoned.htm>.

⁴⁸ *Idem*. Munir was the second recipient of *The Livelihood Award* who was killed because of his work. The previous one was Ken Saro-Wiwa, a human rights activist from Nigeria who fought for the rights of Ogoni minority.

⁴⁹ "World's Human Rights Activists Urged the Investigation on Munir's Death", *Suara Pembaruan*, 24 November 2004.

role of the National Intelligence Agency in one of the statement that said: “*In Indonesia, efforts to reform the national intelligence body, implicated in many human rights violations, are being resisted in the name of safeguarding security;*”

Munir's case could also be considered as a gateway for human rights activists to demand that the state immediately protect those categorized as human rights defenders.⁵⁰

Support from the grass root groups for an independent investigation team was shown by victim's communities and marginal groups within the People's Solidarity for Victims of human Rights Violations. They demonstrated on 2 December 2004 by walking from Bundaran Hotel Indonesia towards the Presidential Palace to demand President SBY to immediately form an independent investigation team.⁵¹ Such support was also shown by a famous Indonesian singer, Iwan Fals, on 8 December 2004 during the opening of Munir's statue at YLBHI (Indonesian Legal Aid Foundation) office.⁵²

Furthermore, support was also shown during the commemoration of the International Day of Eliminating Violence Against Women (25 November 2004) held by the National Commission for Women (Komnas Perempuan). According to the Chairman of Komnas Perempuan, Kemala Chandrakirana, Munir was an activist who fought for and advocated women's rights. While he was in KontraS, Munir actively encouraged women to fight for the fate of their missing children, brought up cases of violence against women such as in Aceh and East Timor. In the event, women activists stated their support for the formation of an independent investigation team.⁵³

The strength of public support for the formation of an independent investigation team was not given merely to see that Munir's death is resolved thoroughly but also because the team would be an indicator of law enforcement under SBY's new government.⁵⁴ Some parties even urged President SBY to make Munir's case as a work priority in his program of “*100 Hari Kabinet Indonesia Bersatu*”, as suggested by the Chancellor of Brawijaya University, Bambang Guritno and the Chairman of Brawijaya University Alumni Associations, Syukur Nuralam.⁵⁵ President SBY himself could not deny that Munir's case had to be one of his priorities in his 100 days at the office. He expressed this believe during a speech at a *halal bihalal* (a gathering after Idul Fitri) event held by the Family of Islamic Students Associations Alumni (KAHMI) in Jakarta on 27 November 2004.⁵⁶

Delay in the Establishment of an Independent Team

⁵⁰ “Indonesia Needs Laws on Human Rights Defenders”, *Republika* 23 November 2004.

⁵¹ “Human Rights Activists Demanded President to Form Independent Investigation Team on Munir”, *Kompas*, 3 December 2004.

⁵² “Human Rights Defenders”, *Kompas*, 9 December 2004.

⁵³ “Munir, Women's Rights Campaigner”, *Jakarta Post*, 8 December 2004.

⁵⁴ “The Uncertainty of the Independent Investigation Team”, *Koran Tempos*, 27 November 2004.

See also, “Munir's Case Should Be Investigated Thoroughly”, *Kompas*, 26 November 2004.

⁵⁵ “State is Obligated to Investigate Munir's Death”, *Media Indonesia*, 28 November 2004.

⁵⁶ *Idem*.

On 8 December 2004, Munir was supposed to be 39 years old. On this date, his human rights activist colleagues celebrated his birthday by opening Munir's statue at the office of the Indonesian Legal Aid Foundation (YLBHI). The event was quiet festive and attended by a large number of public because one of the performers was Iwan Fals, a prominent musician, who sang a song that he created especially for Munir.

The event was also imbued with concern from Munir's family and friends because previously there had been an announcement made by the Cabinet Secretary, Sudi Silalahi, in which the government decided to wait for the development of the investigation conducted by the State Police. This was a political language for a "no" to an independent investigation team.⁵⁷ A similar statement was also issued by the Presidential Spokesperson, Andi Mallarangeng, after attending the inauguration of the new Chief of BIN (National Intelligence Agency), Major Gen. (Purn) Syamsir Siregar. Andi Mallarangeng explained that the president thought that the formation of an independent investigation team was not appropriate yet and the chance had to be given first to Polri to perform its duty.⁵⁸ There was a suspicion that the decision to refuse the formation of an independent investigation team was the result of the President's meeting with limited members of the cabinet the day before (7 December 2004).⁵⁹

Reactions occurred towards Sudi Silalahi and Andi Mallarangeng's statements. The House of Representatives (DPR), through a member of Commission III, Lukman Hakim Saifuddin, immediately suggested using interpellation right to the president. He stated that he had collected 45 signatures of DPR members shortly after President SBY's refusal to form an independent investigation team. He also promised to distribute the letters to other DPR members. According to Lukman Hakim Saifuddin, it would be a big mistake if President SBY thought it unnecessary to form an independent investigation team for Munir's case because the government had previously formed a joint investigation team to investigate the murder of Theys Hiyo Eluay's – a Papuan community leader – and also for the murder of an American citizen in Papua (which involved FBI staff in the investigation).⁶⁰

The biggest disappointment over President SBY's refusal belonged to Suciwati, Munir's widow. She expressed her disappointment during a joint press conference (KontraS, Imparsial and Solidarity for Indonesian Human Rights Defenders) at Imparsial office on 8 December 2004. Responding to the disappointment of Munir's family, Presidential Spokesperson Andi Mallarangeng again answered in a diplomatic language that President SBY did not refuse the suggestion to form an independent investigation team, rather the President would like to give the first chance to the State Police to investigate Munir's death.⁶¹ Meanwhile, the suspicion that Munir's death was connected to an intelligence

⁵⁷ "A Sad Birthday Gift", 9 December 2004.

⁵⁸ "Mallarangeng: Independent team Not Appropriate Yet", *Indopos*, 9 December 2004.

⁵⁹ "SBY Reneges on Promise to Munir's Widow", *Jakarta Post*, 9 December 2004.

⁶⁰ "Investigation Team for Munir's Case was Cancelled", *Koran Tempo*, 8 December 2004. Another DPR member who stated his disappointments was Nasir Djamil from Commission III, *Republika* 9 December 2004.

⁶¹ "Suciwati is Disappointed in SBY", *Media Indonesia*, 9 December 2004.

operation grew stronger because a Garuda pilot, Pollycarpus Budihari Priyanto – who interacted with Munir during the deadly flight Garuda GA-974 – was strongly suspected to be a member of National Intelligence Agency (BIN).⁶² It was a concern that the refusal to form an independent investigation team would bury the mystery over Munir's death deeply, as was the case with other political assassinations in Indonesia.

President SBY changed his opinion drastically the following day on 9 December 2004 during a press conference regarding Munir's case. This time, his statement was delivered the Cabinet Secretary, Sudi Silalahi, who said that President SBY was disappointed because of the impression that he refused to form an independent investigation team. At that moment, the President had even instructed the Attorney General Agung and the Chief of Polri to coordinate with Munir's family to design the team so that it would not overlap with the regulations in Indonesia.

The President's unclear position triggered some reactions from DPR, community leaders, academia, human rights activists and even international human rights organizations. The news about the President's change of attitude became a headline in mass media.⁶³ President SBY's denial over his refusal against forming an independent investigation team seemed to have been caused more by chaos and lack of coordination within the presidential spokes people.⁶⁴

Fact Finding Team (*Tim Pencari Fakta* or TPF) for Munir's Case

Soon after President SBY agreed to form the investigation team, its operational procedures were given to the Coordinating Minister for Politics, Laws and Security, Widodo AS. His preliminary duty was to prepare the working draft for the investigation team together with Munir's family and fellow human rights defenders.⁶⁵ Munir's family and friends wanted the independent investigation team to be established through a Presidential Instruction because of a concern that without the Presidential instruction, it would be difficult for the

⁶² "Polly Examined by Police; Answered Allegation of Intelligence Connection", *Indopos* 2 December 2004.

⁶³ "Independent Team on Munir Case Not Take Over Police Duty", *Suara Pembaruan*, 10 December 2004. "President Denied Refusal Against Independent Team for Munir Case", *Suara Pembaruan*, 9 December 2004. "SBY Denied Refusal Against Independent Team for Munir Case", *Koran Tempos*, 10 December 2004. "President Denied Refusal Against Independent Team for Munir Case", *Republika*, 10 December 2004. "SBY Sad over Thought of Refusal", *Indopos*, 10 December 2004.

⁶⁴ "President Denied Refusal Against Forming Investigation Team", *Kompas* 10 December 2004. Lack of coordination in the President's statement by his spokes person (Andi Mallarangeng) also occurred in the case of accidents in the toll road caused by presidential convoy.

⁶⁵ "President Assigned Widodo to Formulate Draft on Team Munir", *Indopos*, 14 December 2004. "SBY Instructed Formation of Draft on Munir Investigation Team", *Koran Tempos*, 14 December 2004. "Draft Independent Team on Munir's Case Out Soon", *Media Indonesia*, 14 December 2004. "Team Munir to be Coordinated with the Coordinating minister for Political, Legal and Security Affairs", *Suara Pembaruan*, 14 December 2004.

team to investigate intelligence documents and data.⁶⁶

Nonetheless, what the government said did not necessarily come true in reality. Until one week after President SBY's statement about forming the investigation team, Munir's family and NGOs, in this case KontraS and Imparsial, had not been involved in formulating the draft which was supposed to be formulated together with the Attorney General, the Chief of Polri, and the Coordinating Minister. Moreover, since the draft of team formation (along with names of members) was submitted on 24 November 2004 by KontraS and Imparsial, no response had been given by the government. The only invitation that the government sent was for 13 December 2004, which was only to discuss investigation measures that the police had conducted and did not touch on the subject of forming an independent investigation team.⁶⁷

It was only after strong reaction was directed towards the condition that the government held a meeting between Munir's family and their team of lawyers with representatives from Polri, the Attorney General and the Department of Law and Human Rights on 21 December 2004 at Polri Headquarters. In the meeting, suggestions on the team's authority were discussed. Munir's friends and family demanded that the team serve a *pro justitia* function and that its authority resembled the police's role.

The suggestions was rejected by the government and the team was placed to assist police's investigation and examination, and to give recommendation if necessary. Furthermore, Munir's friends and family had also suggested several names to be in the team although the final choice depended on the President.⁶⁸

The meeting result was quickly responded by President SBY. On 23 December 2004, a Presidential Decree no. 111 on the Formation of Fact Finding Team (TPF) for Munir's Case, together with a Decree on the formation of Papuan people's Assembly (MRP) that had been long awaited.⁶⁹ However, the strange thing was that the formation of fact finding team (TPF) was different from what had been previously agreed on during the meeting at Polri Headquarters on 21 December 2004, despite the statement made by the Presidential Spoke Person Andi Mallarangeng, in which he said that what the President stated should be the same as the final draft that had been agreed on in the meeting at Polri Headquarters.⁷⁰ TPF was given a 3-month working period which could be extended for another three

⁶⁶ "Munir Investigation Team Has the Right to Access Intelligence Data", *Koran Tempos* 20 December 2004.

⁶⁷ "Komnas HAM Questioned Investigation on Munir's Case", *Kompas*, 20 December 2004.

⁶⁸ "Draft on Investigation Team Approved", *Koran Tempo*, 22 December 2004. "Investigation Team is Hoped to Break Through 'Wall'", *Kompas*, 22 December 2004. "Munir's family, police agree on team", *Jakarta Post*, 22 December 2004. Suggested names by family and relatives were: Board of Directors: Syafii Maarif, Todung Mulya Lubis, Shinta Nuriyah and Asmara Nababan. Working Team: Hendardi, Rachland Nashidik, Usman Hamid, Munarman, representative from Attorney General, representative from Polri, representative from Dept. Of Foreign Affairs.

⁶⁹ "Susilo gives Christmas 'gifts' to Papua, Munir's family", *Jakarta Post*, 24 December 2004.

⁷⁰ "Presidential Decree on Munir Investigation Decree Signed", *Koran Tempos*, 24 December 2004.

months.

The following is the comparison between the draft of reference agreed on during the meeting at Polri Headquarters on 21 December 2004 and the formal version of the reference based on the Presidential Decree No. 111/2004 on the Formation of Fact Finding Team (TPF) for Munir's Case.

Table 2
TPF 's Duties and Authorities

Reference Version taken from meeting at Polri Headquarters, 21/12/ 2004	Reference Version taken from SBY's Presidential Decree, 23/12/2004 (Keppres No. 111/2004)
<p><i>Duties:</i></p> <p>Actively assisting POLRI's investigators in conducting investigation and examination process in the case of Munir's death.</p> <p><i>Authorities:</i></p> <p>a) providing consideration and or opinion to Polri's investigators, with or without being requested by Polri's investigators;</p> <p>b) suggesting the course of investigation and examination conducted by Polri's investigators, monitoring and evaluating its development;</p> <p>c) requesting information from any necessary parties and consulting with experts from inside and outside and outside Indonesia for the sake of the investigation and examination process.</p> <p><i>Obligation:</i></p> <p>Reporting to the President regarding the activities performed and recommending policies to the President.</p>	<p><i>Duties and Authorities</i></p> <ul style="list-style-type: none"> ▪ Assisting Polri in performing investigation. ▪ Performing other things considered necessary. ▪ Receiving assistance from regional and central government institutions.

The same thing happened to the suggested composition of TPF membership, which was changed from agreed draft. The draft previously contained names with strong political characteristics such as Ahmad Syafii Maarif (Chairman of PP Muhammadiyah) and Sinta Nuriyah Abdurrahman Wahid (Nahdlatul Ulama). The involvement of these names were

needed considering the heavy political content of the case, in which it was certain to face serious obstacles. Unfortunately SBY government was not meticulous enough in seeing the importance of these people's involvement. On the other hand, the success of the investigation team through the involvement of those political icons would have given maximum benefits to the performance of SBY government. However, apart from the blockage experienced by legal process, there was still a good opportunity for SBY government to resolve the case.

Table 3
TPF's Composition of Members

Reference Version taken from meeting at Polri Headquarters, 21/12/ 2004	Reference Version taken from SBY's Presidential Decree On 23/12/2004
1) K.H. Ahmad Syafii Maarief (Chairman of PP Muhammadiyah) 2) Sinta Nuriyah Abdurrahman Wahid 3) Asmara Nababan 4) Todung Mulya Lubis 5) Government Official 6) Bambang Widjojanto 7) Hendaridi 8) Usman Hamid 9) Munarman 10) Smita Notosusanto 11) Representative of Polri, Brigadier Gen. Pol Drs. Andi Hasanudin Mappalangi, Head of Analyst Bureau, Bareskrim Polri 12) Representative of Attorney General, I Putu Kusa, Dir Pratut Jampidum Kejaksaan RI 13) Chairman of Komnas Perempuan, Kamala Chandrakirana 14) Representative of Dept. Of Laws and Human Rights, Nazaruddin Bunas, Dir Daktiloskopi Ditjen HAM 15) Representative of Department of Foreign Affairs, Des Alwi, Kasubdit Europe Dit Western Europe, Ditjen Amero.	1) Brigadier Gen. (Pol) Marsudhi Hanafi (Head) 2) Asmara Nababan (Vice Head) 3) Bambang Widjojanto 4) Hendaridi 5) Usman Hamid 6) Munarman 7) Smita Notosusanto 8) I Putu Kusa 9) Kamala Candra Kirana 10) Nazaruddin Bunas 11) Retno LP Marsudi 12) Arif Navas Oegroseno 13) Rachland Nashidik 14) Mun'im Idris

The family and NGOs questioned the difference in the concept above as a serious issue and at the same time requested the President to give formal explanation on it. The name most expected to guard TPF, Syafii Maarif, did not make it to the Presidential Decree. The limited mandate created the concerns in civil society that TPF would not be able to move freely, especially Syafii Maarif who was the leader of Muhammadiyah was not in the team's composition.⁷¹

⁷¹ "Concern Munir's Death Go Unresolved", *Indopos*, 27 December 2004. "Syafii Maarif Not in TPF Munir", *Republika*, 28 December 2004.

Furthermore, suggested team members from non-government elements said that it would be difficult to be part of the team formed by the President if there were no explanations from the Presidency. Committee of Solidarity for Munir (KASUM), a coalition of non-government organizations, for example, held a press conference stating that the government/president had committed an abuse by changing the agreement result made in Polri Headquarters on 21 December 2004.⁷² It was a concern that with limited equipments, TPF would only serve as government's tool to legitimate an unfinished investigation in the future. TPF members from non-government organizations stated that if the government did not give any clarity within a month, they were ready to resign from TPF.⁷³

Without a pause and before the government had a chance to respond to the objection regarding the names that were left out, earthquake and tsunami hit Aceh and the north side of Sumatra on 26 December 2004.⁷⁴ As a result, all public attention on Munir's case was distracted and presenting the objection against the Presidential Decree was not a popular choice. Furthermore, each non-government organization was busy with an emergency action that required larger energy in response to the tsunami disaster in Aceh.

⁷² "President Violated Agreement on TPF Munir", *Kompas*, 29 December 2004. Decree on TPF Munir Disappointing, *Media Indonesia*, 30 December 2004.

⁷³ "Munir's Assassination Must Be Resolved Thoroughly", *Kompas*, 31 December 2004.

⁷⁴ "SBY Has Not Responded Decree on Investigation Team", *Indopos*, 26 December 2004.

CHAPTER VI THE DYNAMICS IN MUNIR'S MURDER CASE

Polri Moves Slowly?

Before the formation of TPF, the President has instructed Polri to perform an objective, open and honest investigation.⁷⁵ Story has it that the investigation had been conducted since 8 September 2004. Polri formed a team for Munir's case, led by Kombes Pol. Oktavianus Farfar. This team had examined 86 witnesses, 11 of which were Garuda crew. The witnesses included dr. Tarmizi, the one who helped Munir at the time of his death, passengers (both in Jakarta and in the Netherlands), Munir's wife and friends. However, the police still had not found a suspect yet.⁷⁶

In a further examination, the police examined Pollycarpus Budihari Priyanto, the one who asked Munir to move from economy seat 40G to business seat 3K. Pollycarpus claimed to have talked to Munir at Soekarno Hatta Airport only but not on Changi Airport, Singapore. He also claimed to have met Munir previously in Monas and obtained Munir's mobile number at Imparsial several months ago. He denied that he had been involved in intelligence work.⁷⁷ Irjen Pol. Paiman stated that the police would examine whether Polly did have a gun from BIN.⁷⁸

Meanwhile, Garuda's President Director, Indra Setiawan, who was also examined, refused to comment on the suspicion that there had been an infiltration by intelligence in the Garuda flight that Munir took and he denied any infiltration of intelligence among Garuda crew.⁷⁹ The police intensively examined Garuda crew, especially those who were on duty during Jakarta – Singapore flight and were responsible for the service of food and drinks.⁸⁰

In addition, the police conducted investigation in Changi Airport, at the terminal where the plane made its transit. The investigation found that there were not many restaurants there. Meanwhile, based on the autopsy result from the Netherlands – which was used as police material – Komjen Suyitno Landung concluded that (1). The level of arsenic in Munir's body was out of normal limit; (2). It is not known for certain when Munir consumed the arsenic; (3). It is not known for certain how the liquid or solid component of arsenic entered Munir's body.⁸¹

⁷⁵ "State is Responsible for Munir's Case", *Republika*, 28 November 2004.

⁷⁶ "Polri Evaluated Results of Witnesses' Examinations in Munir's Case" *www.detik.com*, 7 December 2004.

⁷⁷ "Polly Examined by Police, Answer to Allegation Related to Intelligence", *Indopos*, Thursday, 2 December 2004.

⁷⁸ "Polri Examined 8 Garuda Passengers", *www.liputan6.com*, 10 December 2004.

⁷⁹ "Pollycarpus Not Key Witness Yet", *Indopos*, 30 November 2004.

⁸⁰ "Police Examined Garuda Crew Who Served Munir", *www.kompas.co.id*, 11 December 2004.

⁸¹ "Polri Examined Terminal Where Munir's Plane Transit", *Kompas*, 30 November 2004.

Although Polri had obtained the authentic documents of Munir's autopsy performed by Dutch forensics institution, they were not enough. The police needed the evidence – in the form of Munir's remaining organ at the Nederlands Forensics Institute (NFI) – to be brought to Indonesia. Therefore, Polri sent a letter to the Attorney General, Minister of Foreign Affairs and the Minister of Laws and Human Rights to facilitate the issue and ask for the police note containing the examination that the Dutch police performed after Garuda flight landed at Schiphol, Amsterdam. However, the Dutch government refused to transfer Munir's organs for autopsy because there was no guarantee from the Indonesian government that the perpetrator of the planned murder on Munir would not be sentenced to death.⁸²

Meanwhile, the fact finding team (TPF), formed by the President through a Presidential Decree No.111/2004 and consisted of 11 representatives from Polri, Dept. of Foreign Affairs, Dept. of Laws, Attorney General and experts and non government organizations, finally started its work effectively in January 2005. As part of its duty to assist Polri in the investigation, TPF conducted meetings with Polri's investigation team on 13 January 2005. The meeting specifically discussed the development and the progress of the investigation and formulated the work plan. From the meeting, an information containing preliminary data about Munir's death was found: (1). Fifteen documents of General Declaration (outward/inward) GA 974 crew, Trip Report under the name of Capt. Matondang, Death on Board Certificate, Passenger and Baggage Manifest, and floor plan of 747-400 airplane, and (2). Brief chronology before and after Munir's death.

In the meeting, TPF expressed its assessment that the investigators team had been quite slow in establishing any suspects.⁸³ Kabareskrim admitted this and reasoned that they were facing several obstacles in relation with the lack of response from the Dutch government about the request to have the Munir's organs, delayed examination on a passenger who was sitting beside Munir because he was in the Netherlands and the examination on Pollycarpus' claim as a mechanic at Changi Airport.⁸⁴

Responding to the slow resolution in Munir's case, Chairman of National Awakening Party Faction, Ali Masykur Musa, stated that Munir's death, which was suspected to have been perpetrated by those who did not like Munir's activities in promoting human rights in Indonesia, was expected to be resolved before 100 days of SBY-JK government finished. This was necessary because Munir's death was a terror to other human rights defenders in performing their activities to promote human rights in Indonesia.⁸⁵

Commission III DPR targeted the case to be resolved in three months. Meanwhile, this commission would also form a team to monitor the team formed by government and Polri. DPR thought that Polri and government had been quite slow in handling the case because the case was not private offence but an extraordinary crime that must be anticipated

⁸² "Dutch Opposition Submitted Motion about Munir", *Suara Pembaruan*, 2 December 2004.

⁸³ "TPF-Polri Meeting About Progress of Munir's Case", *www.detik.com*, 13 January 2004

⁸⁴ "Polri Admitted Investigation on Munir Seemed Slow", *www.detik.com*, 18 January 2005.

⁸⁵ "SBY Is Asked to Resolve the Case of Munir's Death", *www.mediaindo.co.id*, 4 January 2005.

proactively, as stated by H Taufiqurrahman Saleh, SH.⁸⁶ DPR urged Polri to determine the time limit for the investigation Munir despite the obstacles that they might encounter and DPR would help in facing those obstacles. This was needed in order to avoid further delay in Munir's Case, as stated by Slamet Efendi Yusuf.⁸⁷ Meanwhile, Trimedya Panjaitan questioned the police why they did not focus their investigation on Pollycarpus since it was very suspicious that a pilot would suddenly be interested in human rights issues.⁸⁸

TPF' Access Was Obstructed: What Is Going On?

In the following examination, Polly was said to have a gun that he obtained from BIN. The gun was a P-2 Double Action (P2DA) made by Pindad. The license was issued by BIN from 10 February 2004 until 31 December 2004. The gun was issued under BIN's administrative list number 210, with a registration number of AC. 000018xxxx. According to PT. Pindad's official site, the gun was a caliber 9x19 mm with several features such as high performance and durability, reliable, perfect for military and police. This information was actually leaked to media by an unnamed resource at the police institution.⁸⁹

At around the same time, messages were circulating through short message service (SMS) regarding Pollycarpus' involvement in BIN. The message said:

Garuda Pilot Pollycarpus: In February 2002 was recruited by Muchdi PR, Deputy V BIN, to be a main agent of national intelligence. He was appointed through an appointment letter PR Ka BIN Number 113/2/2002. He was given a gun, signed by Serma Nurhadi and extended by Serma Suparto (SPT). One day after the case, Polly's name was in the media and he was immediately asked to return the gun and at the same time, all documents regarding Polly were erased or destroyed. The order was given by Muchdi PR, SPT and As'ad, Wa ka BIN. These three people were the ones who actually have power over BIN. Polly often went to BIN to meet Muchdi PR to plan an assassination on Munir because of a concern that Munir, while he was overseas, would reopen the cases of activists kidnapping at the end of the New Order era in 1997. Polri investigators and the new Chief of BIN (Syamsir Siregar) were suspected to know about the involvement of the three BIN staff in Munir's assassination but did not dare to reveal it.

Director of Transnational Security Bareskrim Polri Brig. Gen. Pol Pranowo Dahlan had not found any evidence related to the suspicion over the involvement of three BIN officials who were said to be related to Munir's death because the police did not have any evidence

⁸⁶ "DPR Targeted Munir's Case to Finish in Three Months", *www.mediaindo.co.id*, 5 January 2005.

⁸⁷ "DPR Urged Polri Set Time Limit to Investigation on Munir's Case", *www.tempointeraktif.com*, 18 January 2005

⁸⁸ "DPR Urged Polri Set Time Limit to Investigation on Munir's Case", *www.tempointeraktif.com*, 18 January 2005

⁸⁹ "SMS Circulating about Pollycarpus Recruited by BIN as a main Intelligence Agent", *www.detik.com*, 1 February 2005.

to support such indication.⁹⁰ Polycarpus' lawyer, Suhardi Somomoeljono, refused to comment on the rumor and instead, asked the police to perform autopsy on Munir, to take the remaining organs in the Netherlands and to investigate Munir's trip to the Netherlands.

Meanwhile, the Head of TPF Brig. Gen. Marsudi Hanafi delivered two important requests. First, TPF asked Polri to examine two operators of Closed Circuit Television (CCTV) at Soekarno-Hatta Airport who were on duty on 6 September 2004. Second, TPF asked Polri investigators to conduct a chronological reconstruction of Munir's death.

TPF's first request was important considering that PT. Angkasa Pura still used minimum security system for airport security. There are only two cameras to monitor 600 points within the airport. Furthermore, these two cameras are old ones that use cassettes and cannot automatically record any incidents in the airport. The security system's use of CCTV camera is carried out randomly, meaning that some points are recorded and some are not. Based on this, Angkasa Pura II explained to TPF Munir how Munir's presence at the airport before his departure on 6 September was not recorded by the CCTV cameras.⁹¹ This finding was actually interesting and very crucial. It is hard to believe that an airport's security system is still this bad, despite government's rigorous campaign against terrorism, especially since Soekarno Hatta Airport has been a target of bomb explosion at Mc Donald's area on 27 April 2003.

TPF's second request to Polri's investigators was necessary to clarify and strengthened the investigators' belief over the evidence that they have obtained, especially related to how the poison entered Munir's body, when and where the poison got into the food or drink that Munir then consumed. Furthermore, it was also needed to detect if any of the witnesses had possibly seen the action of putting the poison into Munir's food or drink.

The police seemed to be reluctant to heed TPF's requests. In addition, the pre-construction that the investigators were going to hold in response to TPF's request was cancelled.⁹² The pre-construction was supposed to be held on 23 February and was cancelled suddenly. The reason for the sudden cancellation, according to Director I Transnational Security Brig. Gen. Pranowo, was because Garuda was not ready to provide all crew that were involved in the flight and there was no plane available either.

Consequently, the investigators were simply making assumptions about when the arsenic entered Munir's body. There were three assumptions made, 1) during flight Jakarta-Singapore; 2) during transit at Changi; or 3) shortly after the plane take off from Singapore to Amsterdam. These three assumptions were still very general. If they had been supported by a reconstruction process, they would surely be stronger. The next assumption was stated by Komjen Suyitno Landung, who explained that a witness had said that Munir did not

⁹⁰ "Polri Headquarters: No Evidence Yet on BIN Officials' Involvement in Munir's Case", *www.detik.com*, 1 February 2005.

⁹¹ "TPF Munir Asked Polri to Examine 2 Airport CCTV Operators", *www.detik.com*, 15 February 2005.

⁹² "Pre-reconstruction in Munir's Case Postponed Until March", *www.tempointeraktif.com*, 23 February 2005.

consume anything during the flight Singapore-Amsterdam. Munir had only eaten noodle, orange juice and fruits during the flight Jakarta-Singapore. On the other hand, the investigators still had not found the support for the possibility during transit in Singapore and shortly after take off. According to Suyitno, Munir was found dead 2 hours before landing in Amsterdam. The flight from Jakarta to Amsterdam required 13 hours and 10 minutes. Therefore, 2 hours before landing means that the range of time in which Munir died was 11 hours 10 minutes. This range of time was used by Polri to examine key witnesses.⁹³

The postponement of the pre-process, according to KontraS, was very suspicious, especially considering that the plan for the pre-reconstruction had been prepared for quite a while. TPF had given Garuda three weeks to prepare the plane and the crew who were involved in the flight. Therefore, Garuda should have released the crew from their routine duty. This pre-reconstruction was important to strengthen the preliminary evidence that the investigator had obtained so that the result of the examination could be proven in the field, for example the communication between Garuda crew and Munir. KontraS also considered this early reconstruction as an important stage to obtain further accurate evidence. It was also important to prevent the case from further delay, especially considering that the suspects had not yet been determined until that time.⁹⁴ Furthermore, the Head of TPF Munir Brig. Gen. Marsudi Hanafi had explained about the pre-reconstruction, "it was going to be held in Garuda hangar in a closed session. The time chosen was in the evening in order to match the time of the incident. This pre-reconstruction was intended to see Munir's trip from the time he was in the lobby until boarding. We hoped that it will describe whether there was a dubious situation in the lobby of Soekarno Hatta Airport." Before taking his flight to the Netherlands, Munir was in Terminal II Gate 5. Unfortunately, Munir's presence in that area was not supported by the airport's security system that would enable us to see Munir's activities at the airport.

Once again, the sudden cancellation created a big question for the public and non-government organizations activists, especially since the promise to postpone only until March 2005 was not kept. In addition, the investigators held a secret reconstruction on 23 June 2005, close to the last day of TPF's working period. The reconstruction as held without TPF's or the public's knowledge, despite the fact that TPF had been promised to be told and even to be involved to monitor the reconstruction. At this point, the leadership by Brig. Gen. Pol Pranowo Dahlan in the investigation was questioned.

Evil Conspiracy?

In early March 2005, from TPF's meeting with Garuda management (led directly by Garuda President Director, Indra Setiawan) at the office of Bareskrim Polri, it was found that PT. Garuda Indonesia management did not perform an internal investigation related to

⁹³ "Polri Believed Munir was Poisoned by Someone In The Plane", *www.detik.com*, 15 February 2005.

⁹⁴ "Cancellation of pre reconstruction in Munir's Case is Suspicious", KontraS Press Release, 07/SP-KontraS/II/2005.

Munir's death. According to the Head of TPF, Brig. Gen. (Pol) Marsudi Hanafi, such internal investigation was supposed to be carried out by an airline company, as expressed in Law no. 15/1992 on Aviation. Garuda did not even have the commitment to assist in the process of resolving the case fast. This meeting indicated that certain parties in Garuda were being defensive.

TPF Munir concluded that there were some material evidence that showed that Garuda officials and employee had conspired or been involved in Munir's death. Therefore, there were at least three Garuda figures to be named suspects. They were Aviation Security staff Pollycarpus, Vice President Corporation Security Ramelgia Anwar and President Director Indra Setiawan.⁹⁵ From the two meetings between TPF and Garuda management, some strong evidence was found that Munir's death was the result of a conspiracy. Strong indication regarding the involvement of PT Garuda employees and Garuda officials either directly or indirectly in the case was also found. From the investigation, TPF found the material evidence that pointed out that the official had conspired by issuing special letters to cover the discrepancies that TPF found previously.⁹⁶

The letters were officially issued by Garuda. All three letters were filled with discrepancies. One letter was signed by Indra Setiawan himself, the second was signed by Ramelgia Anwar (Vice President Corporate Security) and the last was a notice signed by the Secretary to the Chief Pilot Airbus 330, Rohainil Aini. All these letters related to one person, Pollycarpus Budihari Priyanto, a pilot of Airbus 330, who had been working for 19 years at Garuda. Copies of three letters that TPF had clearly mentioned that they were intended for Pollycarpus. The first one, signed by Indra Setiawan, was an assignment letter dated 11 August 2004. It is not common for a letter appointing a pilot to serve as an assisting staff at the security unit to be signed directly by the President Director.

The second letter issued by Ramelgia Anwar was also highly suspicious. The letter was dated 4 September, two days before the flight that Munir took. That date happened to be Saturday, during which Garuda office was closed and impossible to issue such letter. Afterwards, during the police interrogation, it was revealed that the letter was actually made on 15 September and signed by Ramelgia on 17 September. This means more than a week after Munir's death. Based on this condition, there were two possibilities, either Garuda administration had been unprofessional or there was an attempt to cover certain facts related to Munir's assassination.

The last letter dated 6 September was signed by Rohainil Aini. As a secretary or administrative staff, she obviously did not have the authority to sign the letter containing

⁹⁵ Indications of Indra's involvement were mostly during police examination or dossier, where Indra claimed that he did not know Pollycarpus at all, but finally in a meeting between Garuda and TPF, after relentless questioning, he admitted that he knew Pollycarpus. Furthermore, in his last meeting with TPF several days before at Polri Headquarters, Indra almost cried for not being able to explain his lies regarding his acquaintance with Pollycarpus. The strong indication was proven through Pollycarpus' assignment letter which was signed by Indra, something that Indra originally denied.

⁹⁶ "TPF: Three Garuda Officials Conspired to Poison Munir", *www.detik.com*, 3 March 2005.

the change of schedule for Pollycarpus. The authority lied in the hands of Chief Pilot Airbus 330, Captain Karmal S, who was on duty abroad at that time. Based on the examination, it was revealed that Polly came to Garuda Main Office on Merdeka Selatan Street, Jakarta, to meet Rohainil (6/9) at 4.30pm West Indonesia Time. Shortly before the close of the office, Polly insisted that a “notice of change” be made so that he could take flight GA-974 to Singapore and returned to Jakarta with the earliest flight.

In the meeting between TPF and the President on 3 March 2005, the Head of TPF Munir, Brig. Gen. Pol Marsudi Hanafi – in TPF’s temporary report – said that TPF concluded that there had been strong evidence that Munir’s death was the result of a conspiracy that could not possibly be performed by an individual with personal motive. The discrepancies related to the day of 6 September 2004 indicated that there was a conspiracy between Garuda officials and those behind Garuda to cover the crime.

In addition, several facts which were in relevance to each other were found. Those facts, which TPF still kept as a secret, connected BIN to Munir’s death. Nonetheless, TPF focused on who was behind the field executor. TPF itself had scheduled a meeting with BIN before its meeting with SBY, but no dated had been set yet.⁹⁷ TPF recommended 4 officials in Garuda and 2 camera operators for further examination.

Meanwhile, President SBY through the Minister of State Secretary Yusril Ihza Mahendra stated that the resolution of Munir’s Case would serve as an indicator of change of this country. He appreciated the team’s hard work to assist Polri and allowed TPF Munir to ask for information from all institutions and state bodies, including BIN, if necessary. The government would not interfere. Instead, it would give freedom and full support.⁹⁸

In the afternoon, TPF held a meeting with Polri investigators. TPF also believed that Polri Investigation Team would establish suspects. They had found discrepancies in the documentation and assignment of Garuda crew in flight GA 974, similar to TPF’s findings. However, the investigators still had not established any suspects yet because they were still in the process of collecting evidence according to the laws in Indonesia.⁹⁹

The Chief of Police Gen. (Pol) Da’i Bachtiar stated that he would evaluate deeper into the information from TPF about the involvement of Garuda officials in Munir’s death. Da’i also stated that the investigators would not establish anyone as a suspect before they are able to get testimonies from all witnesses, i.e. all passengers in the plane during flight Jakarta-Singapore-Amsterdam on 6 September 2004. This measure was taken so that the police would obtain complete information and data before establishing any suspects. Da’i Admitted that they did not know yet the role of the person in Munir’s death, but at least there was some suspicion that something was hidden or needed to be questioned; therefore, it was appropriate to suspect that the person was involved. However, TPF’s report was the

⁹⁷ “SBY Allowed TPF Munir to Ask Info to BIN”, *www.detik.com*, 3 March 2005.

⁹⁸ “TPF: Indication of Conspiracy in Munir’s Death”, *Kompas*, 3 March 2005.

⁹⁹ “TPF Certain That Investigators of Munir’s Case Will Establish Suspects Soon”, *www.detik.com*, 4 March 2005.

result of further development from the information given by Garuda directors and it needed to be further reviewed in relation with law enforcement process.¹⁰⁰

Meanwhile, DPR, through the Joint Team on Munir's Case, called Garuda's directors and all the crew, who were on duty in the plane at the time of Munir's death, in order to get an explanation from Garuda. The meeting was a closed one. In his statement to press, the President Director of Garuda Indra Setiawan denied the allegation that he and his staff were involved in Munir's death as TPF said. Nonetheless, Indra confirmed the assignment letter that he issued for Pollycarpus as Aviation Security staff. He also explained that the two numbers assigned to Pollycarpus' assignment letter was related to an administrative issue.¹⁰¹

The Joint Team on Munir's Case also summoned Pollycarpus to a closed meeting as a follow up to the meeting with Garuda President Director. However, Slamet Effendy Yusuf said that DPR was not satisfied with Pollycarpus' elusive answers. DPR questioned Polly's duties during his trip to Singapore, what his duties were in general since 11 August 2004, what he did in his acquaintance with some people in Jakarta, and about the incidents that Polly experienced such as the hit and run accident that Polly suffered. The answer obtained from Polly were not smart answers as would be normally expected from a pilot. In addition, Polly also claimed to have asked one of the stewardess, Brahmani, to move Munir from economy class to business class. DPR also doubted Polly's information in which he said that his assignment to Singapore as an Aviation Security staff was performed by meeting Garuda technicians in Singapore without checking the plane itself.¹⁰²

Establishing Pollycarpus as Suspect: Enough?

Polri was supposed to conduct an intensive examination on Polly on 10 March 2005. However, the examination failed to take place because Polly was sick – backed with a doctor's certificate on a piece of paper with the letter head of Garuda Sentra Medika and Garuda logo. However, the police doubted the certificate because it did not specify Polly's sickness. Afterwards, Polri sent a special team (including one of its doctors) and prepared lie detector equipment in case Polly was not cooperative.¹⁰³ Finally, on 14 March 2005, Polly started to be examined at Polri Headquarters after previously taken by the police to Polri Hospital on 12 March 2005. Polly suffered from the narrowing of blood vessels after an accident on Jl. Raya Pondok Cabe three weeks before.¹⁰⁴ After a 5-day marathon examination – physical examination, psychological examination and in terms of his activities – Polri investigators finally established Pollycarpus Budihari Priyanto as a

¹⁰⁰ “The Chief of Police Will Evaluate Garuda's Connection to Munir's Case”, *www.detik.com*, 4 March 2005.

¹⁰¹ “President Director of Garuda Denied Involvement in Munir's Death”, *www.detik.com*, 4 March 2005.

¹⁰² “Polly Was Thought to Be Elusive, DPR Not Satisfied”, *www.detik.com*, 8 March 2005.

¹⁰³ “Polri Examined Pollycarpus at 10am, Polri Sent Team to Ensure Pollycarpus Was Sick”, *www.detik.com*, 8 March 2005.

¹⁰⁴ “Pollycarpus Had Silently Been in Polri Headquarters”, *www.detik.com*, 14 March 2005.

suspect on the night of Friday (18/03) and kept Pollycarpus under arrest at Polri Headquarters.

The Chief of State Police Gen. (Pol) Da'i Bachtiar stated that there was an indication that Pollycarpus had given testimony that was not in accordance with the real condition and that he had something to hide and this was an indicator for the police that a deeper examination was needed for the investigation. So far, based on 'having something to hide', the police had believed that Pollycarpus was involved in Munir's death. His role was only to help and provide facility, but he did not say who the executor was. However, the Director of General and Transnational Crimes Polri Brig Gen. (Pol) Pranowo Dahlan and Chief Investigator Unit III Bareskrim Polri Headquarters Kombes Pol. Anton Charlian stated that the police had strong evidence to establish Pollycarpus as a suspect. Pollycarpus was charged with violations against article 340 Criminal Code (KUHP) on premeditated murder, junto article 55 and 56 KUHP, plus subsidiary charges against article 263 KUHP on falsifying documents. The bases of this establishing this status were, among others, police reports, witness testimonies, *visum* and material evidence.¹⁰⁵

Meanwhile, Polri again examined the Secretary to the Chief Pilot Airbus 330, Rohainil Aini, as a key witness related to the suspicion of falsification of Pollycarpus Budihari Priyanto's assignment letter. Polri suspected that all Pollycarpus' assignment letters for Garuda flight on 6 September 2005 to the Netherlands were all falsified. TPF Munir indicated that Rohainil Aini was directly related to Munir's death. Rohainil was the one who signed Pollycarpus' assignment letter to serve as Aviation Security in Garuda Flight 974 Jakarta-Singapore-Amsterdam on 6 September 2004. According to airline procedures, whether a pilot was allowed to fly or not was supposed to be based on an assignment letter from the Chief Pilot. If there was no assignment letter, the trip would be illegal or in violations of procedures.¹⁰⁶

In addition, based on TPF's recommendation, Polri examined Vice President Human Resource Department Daan Ahmad related to Pollycarpus' assignment letter. He had ever performed an assignment from Ramelgia Anwar (VP Corporate Security), who signed Pollycarpus' assignment letter. Polly's assignment letter was supposed to be signed by Garuda's Operational Director, Rudi A Hardono.¹⁰⁷ Furthermore, according to TPF, Ramelgia Anwar's letter was backdated.

After a Garuda Pilot, Pollycarpus, was established as a suspect, Polri investigators established the same status to two Garuda crew, Oedi Irianto as a pantry staff and Yeti Susmiarti as a stewardess in flight Garuda GA 974. Both of them, on 6 April 2005, were examined at Polri Headquarters. They were named suspects because they were on duty to prepare everything (food and drink) for the passengers, including for Munir. The Head of Crime and Investigation Unit (Bareskrim) of Polri Headquarters, Komjen Pol Suyitno

¹⁰⁵ "Pollycarpus Still Hides Executors of Munir's Murder", *www.detik.com*, 21 March 2005.

¹⁰⁶ "Writer of Pollycarpus' Assignment Letter To Be Examined Again", *www.detik.com*, 21 March 2005.

¹⁰⁷ "TPF Munir Asked Polri to Examine Vice President HRD Garuda", *www.detik.com*, 23 March 2005.

Landung, explained that it was presumed that arsenic entered Munir's body during the flight Jakarta-Singapore, according to the toxicology report from the Dutch and Indonesian experts, although he was unable to determine whether the poison was in the noodle or the orange juice that Munir ate.¹⁰⁸ However, Oedi and Yeti were not arrested by Bareskrim Polri because Polri believed that the two of them would not try to escape.¹⁰⁹

TPF Munir asked the police to consider establishing Brahmanie Astawati – a senior stewardess (purser) who was on duty in flight GA 974, as a suspect. Reason from TPF: It was Brahmani who permitted the change of seats for Munir during Jakarta-Singapore flight. Brahmanie herself stated that she was never asked for permission from Pollycarpus about the change of seats for Munir from 40 G (economy class) to 3K (business class). According to her, Polly was simply informing him about the change of seats. Brahmanie claimed to be unable to refuse the change made by Polly although Polly was not authorized to do so. This was because Munir was already sitting in business seat. In addition, there was one reason generally felt by cabin crew such as Brahmani, which was the assumption that pilots were like 'first class citizens' within an airline. She also strongly denied the suspicion that she had been involved in the conspiracy to kill Munir. Furthermore, she only served as flight service manager from Jakarta to Singapore, whereas Singapore-Jakarta flight was the responsibility of Najib Nasution. Brahmanie also said that one day before the departure, cabin crew received an order of Moslem meal for 40G economy seat, which was Munir's 'original' seat, but she did not know who ordered the meal.¹¹⁰

Meanwhile, the Head of TPF Munir, Brig. Gen. Marsudhi Hanafi proposed Indra Setiawan and Ramelgia Anwar as suspects because of their involvement in falsifying a letter.¹¹¹ Afterwards, Polri investigation team examined all Garuda crew and Indra Setiawan, Ramelgia Anwar, Rohainil Anwar, Hermawan and Edi Susanto on 8 April 2005.¹¹² Related to this, Marsudhi stated that TPF trusted the investigation to the police because TPF's duty was only to recommend several names, upon which the police would take further measures.¹¹³

Suspicion on Intelligence Involvement

TPF urged Polri's investigators to immediately establish several names that are strongly suspected, both from Garuda and BIN. This was necessary so that TPF could step further in tracing BIN's involvement in Munir's assassination.¹¹⁴ In mid-March 2005, TPF received

¹⁰⁸ "Police Established Two New Suspects in Munir's Case", *www.kompascyber.com*, 5 April 2005. See also, "Again, Two Garuda Crew Will Be Examined over Suspicion of Involvement in Munir's Case", *Media Indonesia*, 5 April 2005.

¹⁰⁹ "Polri Needs to Consider Brahmani's Status", *Kompas*, 7 April 2005.

¹¹⁰ "Polri Needed to Consider Brahmani's Status", *Kompas*, 7 April 2005.

¹¹¹ "TPF Proposed Indra and Ramelgia as Suspects in Munir's Case", *www.detik.com*, 7 April 2005.

¹¹² "Former President Director of Garuda Examined by Investigators of Munir's Case", *www.kompascyber*, 8 April 2005. "All Garuda Crew Examined by Police", *Tempo Interaktif*, 8 April 2005.

¹¹³ "TPF Trusted Investigation to Police", *www.tempointeraktif*, 8 April 2005.

¹¹⁴ "TPF Munir Urged Polri to Determined Suspects", *www.detik.com*, 15 March 2005.

an information from undisclosed resources about the suspicion that a number of intelligence people had been involved in (or at least aware of) the plan to assassinate Munir. Usman Hamid, TPF Secretary, thought that the information was too important to be ignored but too dangerous to be trusted easily. The information was important because it strengthened one of the possible motives behind Munir's assassination. On the other hand, it was dangerous because it was a sensitive issue told by those who did not want their identity and their purpose to be known.¹¹⁵

Therefore, in order to ensure whether the information was useful for the investigation or misleading instead, TPF considered it necessary to check the accuracy of the information. This included checking the information regarding the involvement of the intelligence body in Munir's death, meaning that BIN needed to be examined. TPF hoped that anyone who knew or had information or more hidden evidence related to Munir's case would give it to TPF. As long as the case remained a mystery and unable to be resolved, many parties including TNI and other high officials, either active or retired, would receive unwanted attention that would not be beneficial to them.

The Chief of Polri Gen. Pol. Dai Bachtiar stated that Polri had no problems in examining intelligence suspected to be involved in Munir's death. He still took TPF's recommendation into consideration and would perform further examination if they were accurate.¹¹⁶ The Chief of BIN Syamsir Siregar stated that BIN was ready to be examined and that there was no trouble for any parties who wanted to meet BIN officials.¹¹⁷ Regarding the suspicion over BIN's involvement, he asked everyone related to the case not to make any prejudice, instead, they should give evidence about BIN's involvement in Munir's death. He denied that BIN had been asked to clarify the allegation because TPF had not provided any evidence.¹¹⁸

Meanwhile, the meeting with BIN had been postponed several times. According to Rachland Nashidik, TPF member, the invitation letter to the Chief of BIN was ignored, resulted in the meeting being postponed. TPF regretted Syamsir's attitude because the reasons behind the delay were not given in details by BIN. TPF only wanted BIN's commitment to conduct a full cooperation with TPF and to provide the things that TPF needed, as well as proposing a mechanism of cooperation between TPF and BIN in the investigation.¹¹⁹ Furthermore, Usman Hamid said that the meeting was to encourage BIN to conduct an internal investigation on his members who were suspected to be involved.¹²⁰

The meeting between TPF and BIN finally took place on 6 April 2005. Chief of BIN Syamsir Siregar stated his commitment to support TPF's work on Munir's death. The

¹¹⁵ "TPF Munir Was Asked to Check Info on BIN Members' Involvement", *www.detik.com*, 17 March 2005.

¹¹⁶ "Chief of State Police: No Problems Examining Intelligence on Munir's Case", *www.detik.com*, 24 March 2005.

¹¹⁷ "Police Won't Hesitate Examining BIN", *www.kompascyber.com*, 24 March 2005.

¹¹⁸ "BIN to Meet TPF Munir Soon", *www.tempointeraktif.com*, 28 March 2005.

¹¹⁹ "TPF Munir Sent Second Invitation to Chief of BIN", *www.detik.com*, 31 March 2005.

¹²⁰ "TPF Munir Again Schedule Meeting With Chief of BIN", *Media Indonesia*, 2 April 2005

support would soon be expressed in a memorandum of understanding for the next cooperation. Usman Hamid, TPF Secretary, said that the 1.5-hour meeting with the Chief of BIN gave a fairly positive result. The Chief of BIN had even stated his commitment to support the cooperation with TPF. The support would be expressed in the preparation of a protocol or memorandum of understanding for the next cooperation. BIN also placed three deputies in the special team together with four TPF members, to formulate protocol (a kind of procedures) to be applied in the investigation on Munir's death.¹²¹

In response to this, President SBY agreed to form a joint team between BIN and TPF in resolving Munir's death. Syamsir explained that the formation of the team had been a commitment from BIN to assist with the investigation. He left it to TPF to determine the mechanism and the work pattern between representatives from BIN and TPF.¹²² However, he denied rumors about SK No. SKEP 113/2/2002 containing Pollycarpus' appointment as a BIN agent because there was no authentic evidence.¹²³

However, the agreement between TPF and BIN did not work well. TPF's efforts to examine BIN's official and staff were hampered. TPF invited the former BIN's Executive Secretary, who is currently serving as the Indonesian Embassy for Federal Republic of Nigeria, for three times. Nurhadi's refusal to answer TPF's invitation was because he thought of TPF as having no authority to conduct an investigation, which was an authority belonging to the Police.¹²⁴ Head of TPF Marsudi Hanafi assessed that Nurhadi's refusal showed an uncooperative attitude and an insult to the President because TPF was working based on a Presidential Decree.¹²⁵ Therefore, TPF member Asmara Nababan suggested a meeting between the President, TPF, BIN and the Chief of Police in order to find a solution so that TPF's performance could be improved. The meeting was also expected to smooth the cooperation with BIN in order to speed up the fact finding process.¹²⁶ This issue was supported by Gen. Dai Bachtiar although he questioned whether the meeting would be able to support the investigation. So far, the investigation team had been experiencing difficulties in the testimonial process.¹²⁷

An agreed protocol between TPF and BIN was finally signed on 2 May 2005. This protocol also served to prevent Nurhadi Djazuli from avoiding TPF's invitation because the former BIN secretary was suspected to be involved in Munir's assassination.¹²⁸ Nurhadi finally came for the examination with TPF on 8 May 2005 at TPF's office in Komnas Perempuan building, Jakarta. From the closed examination, Usman Hamid, TPF Secretary said that TPF was more certain about the involvement of BIN's staff or former

¹²¹ "BIN Support TPF Munir", *www.kompascyber.com*, 6 April 2005.

¹²² "President SBY Approved Joint Team on Munir's Case", *www.detik.com*, 11 April 2005

¹²³ "BIN Denied Pollycarpus Is Intelligence Agent", *www.tempointeraktif*, 11 April 2005

¹²⁴ "Former BIN Executive Secretary Refused Examination by TPF Munir", *Kompas*, 28 April 2005

¹²⁵ "Refused Summon from TPF Munir, Former BIN Executive Secretary Insulted SBY",

www.detik.com, 29 April 2005.

¹²⁶ "Proposed, Four-sided Meeting SBY, TPF, BIN and Chief of State Police", *www.detik.com*, 19 April 2005.

¹²⁷ "Chief of Polri Support Four-sided Meeting on Munir's Case", *www.detik.com*, 20 April 2005.

¹²⁸ "TPF, BIN Signed Cooperation to Resolve Munir's Case", *Media Indonesia*, 3 May 2005.

staff in Munir's assassination. This could be the entrance to trace the facts related to TPF's suspicion regarding such indication.¹²⁹ In response to this, The Chief of BIN Syamsir Siregar said that it was up to TPF.¹³⁰ Meanwhile, the Police already examined Nurhadi Djazuli in order to compare the findings made by the investigators and those made by TPF. It also included finding the connection between Pollycarpus, the suspect in Munir's case, and BIN. After being confronted, both Nurhadi and Pollycarpus claimed not to know each other.¹³¹

Related to the development of the summons to Nurhadi, TPF Munir reported the result to President SBY on 11 May 2005. TPF also reported the plan to examine other BIN staff although they were not certain about the time yet.¹³² The delay on many TPF meetings with BIN finally encouraged the President to directly lead a meeting between TPF, BIN and Polri Headquarters. As a preparation for the four-sided meeting, SBY held an emergency coordination meeting with the Chief of Polri Gen. Pol Da'i Bachtiar, Attorney General Abdul Rahman Saleh and Hamid Awaluddin, Minister of Laws and Human Rights. The meeting was also held to discuss about the measures that could be taken as a follow up to DPR's suggestions on Munir's case, and to instruct all related officials and institutions to support all TPF's efforts in collecting information about Munir's death. SBY was not satisfied by TPF's progress so far, which did not show any significant result.¹³³

As a follow up to the examination on BIN staff, TPF came to BIN office on 12 May 2005. Usman Hamid, TPF secretary, said that TPF examined some documents related to procedures and regulations in BIN as well as followed up the result of team's meeting with Nurhadi.¹³⁴ TPF also performed further examination on Nurhadi in order to develop early findings. The findings would be further expanded in 3 stages: assessing Nurhadi's testimonies, cross check all Nurhadi's testimonies, from both the first and the second examination, with other witnesses, information and clues that TPF had. This included comparing Nurhadi's testimony with the one he gave during police examination and Police's dossier.¹³⁵

The President held a four-sided meeting between the President, TPF Munir, Polri and BIN on 18 May 2005. TPF also reported its findings in the form of a conclusion about the testimonies given by BIN officials, which were in contrast to the existing facts.¹³⁶ After the meeting, Vice Head of TPF Asmara Nababan said that TPF Munir was considering examining former Chief of BIN Hendropriyono and former Deputy V Muchdi PR. TPF found telephone conversations between Pollycarpus' mobile phone and BIN's office under

¹²⁹ "TPF Munir More Certain BIN Involved in Murder", *www.detik.com*, 9 May 2005.

¹³⁰ "BIN Officials are Examined again, Chief of BIN: well, it's up to TPF Munir", *www.detik.com*, 10 May 2005.

¹³¹ "Police Examined Former BIN Officials", *www.tempointeraktif.com*, 11 May 2005.

¹³² "TPF Munir Reported Investigation Result to SBY", *www.detik.com*, 11 May 2005.

¹³³ "SBY Assisted in meeting TPF Munir, BIN and Polri", *www.detik.com*, 11 May 2005.

¹³⁴ "Team Munir Visited BIN Headquarters", *www.tempointeraktif.com*, 12 May 2005.

¹³⁵ "TPF Munir Found Difficulty Obtaining Real Information from Nurhadi", *www.detik.com*, 18 May 2005.

¹³⁶ "TPF Munir Found BIN Had Been Lying", *www.tempointeraktif.com*, 18 May 2005.

Hendropriyono's leadership. The connection was between Polly's mobile phone – Polly is the defendant in the case – and the office of BIN's Deputy V who was held by Muchdi PR. TPF found that the telephone conversations between Polly and Muchdi were conducted before and after Munir was assassinated on 6 September 2004. TPF noted that there were 35 telephone conversations between the two of them. Although the relationship pattern between the two is still unclear, this fact has at least cancelled out all of BIN's previous denial when they stated that they did not have anything to do with Polly.¹³⁷ The case of Munir's death could be brought to court to resolve and to prove who gave the order and who supported the assassination. Asmara said that the murder above Garuda flight Singapore-Amsterdam was not perpetrated by Pollycarpus alone but in a conspiracy.¹³⁸

Meanwhile, in the meeting between TPF and DPR's Team Munir on 19 May 2005, TPF also assessed that BIN was not cooperative in the efforts to resolve Munir's case. In performing their duty, the team that was formed through a Presidential Decree faced the kind of treatment from BIN that was considered making things difficult. In the meeting led by the Vice Head of Team Munir Slamet Effendy Yusuf, there was also an issue about budget because the government's budget for the TPF's work still had not been given yet. In relation with BIN, TPF felt that there were several obstacles such as in obtaining the documents of transfer between BIN's former executive secretary Nurhadi Djazuli to Suparto. Therefore, TPF expected DPR's support to ensure that what have been agreed upon by BIN leader and TPF could also be implemented by BIN's staff. Learning from the case, one TPF member suggested to DPR to change the structure of the intelligence agency, including having a tight accountability over an intelligence operation.

Polri itself had already examined Muchdi PR on 18 May 2005 after he failed to show up for the examination that was scheduled on 16 May 2005.¹³⁹ However, on 3 June 2005 Muchdi PR was unable to attend TPF's invitation without any clear reasons. TPF was supposed to confirm the result of tracing the telephone conversation between Muchdi and Polly. The tracing found that they had been in contact for 35 times, both before and after Munir was assassinated on 7 September 2004.¹⁴⁰

Former Chief of BIN AM Hendropriyono Involved in Munir's Case?

Although TPF was facing an obstacle, such as BIN's reluctance in the beginning to open an access for TPF to investigate into BIN, the making of BIN – TPF joint protocol that took a lot of time, to the resistance put up by several (former) BIN staff upon being questioned, TPF's investigation continued to lead them to Hendropriyono, former Chief of BIN who was still in the position when Munir was assassinated. This effort was conducted to ensure how far BIN was involved in the case of Munir's assassination. This was even more crucial after TPF learned that there had been communication between Pollycarpus and Muchdi Pr, who was serving as Deputy V when Munir died. The communication that

¹³⁷ "TPF Consider Examining Former Chief of BIN Hendropriyono", *www.detik.com*, 18 May 2005.

¹³⁸ "Team Munir Found Contact Between Pollycarpus and Muchdi PR", *www.tempointeraktif.com*, 18 May 2005.

¹³⁹ "Polri Assess Nurhadi and Muchdi PR's Status in Munir's case", *www.detik.com*, 20 May 2005.

¹⁴⁰ "Muchdi PR Failed to Answer TPF Munir's Invitation", *www.detik.com*, 3 June 2005.

took place before and after Munir was assassinated was done via mobile phone, home phone and BIN's office telephone.

Previously, the name of BIN officials or former officials in TPF's list to be questioned were Nurhadi Djazuli (former Executive Secretary), Col. (Mar) Sumarno (Head of General Affairs Bureau) and Major Gen. (Purn) Muchdi PR (Deputy V). Although TPF itself faced resistance from these names, examination on Hendropriyono was still a must, especially since Hendropriyono (and Muchdi PR) had a history of "bad" track record with Munir. Apart from being a logical consequence of TPF's investigation, the appearance of Hendropriyono's name was not exactly surprising for those who are close to Munir. Politically, there was a tension between Munir and Hendropriyono related to several cases: starting from the advocacy in Talangsari Lampung case to the last one related to BIN's role in the rejection to extend the stay permit and work permit of Sydney Jones, the Director of International Crisis Group (ICG), which is a Belgium-based institution who once released a report related to the role of intelligence in a number of sensitive issues outside its function. Summoning Hendropriyono in his position as the former Chief of BIN was necessary considering that there had been indications that Pollycarpus was related to this institution. This notion was expressed by TPF in a press conference after they met with President Susilo Bambang Yudhoyono. on 18 May 2005 at the Presidential Palace.¹⁴¹

Table 4
Track Record of Controversy between Munir and BIN under Hendropriyono

Cases	Issues	Remarks
Resolution of Talangsari Lampung Case (1989)	<p>Munir (KontraS) pushed the case to be resolved legally through an ad hoc court of human rights. Hendropriyono was serving as Danrem in Lampung was reported to have personally led the attack to Talangsari village.</p> <p>KontraS' efforts to investigate the case were met with terror incidents, intimidation and sabotage perpetrated by unknown men.</p> <p>In 2004, KontraS team, which was on its way towards Lampung from Bakauheni Port, was even stopped by security officials without any clear reasons. In Bandar Lampung, KontraS team had to endure a full day examination after being accused for an accident (which was made up). As the result, the meeting with the victims of Talangsari Lampung was cancelled.</p>	<p>Hendropriyono created an effort to offer <i>islah</i> (reconciliatory settlement) to some of the victims, while other victims thought that this effort was simply made to prevent any legal process.</p> <p>In 2004, the case was going to be investigated by Komnas HAM, as well as in 2003, but both efforts failed. Previously, in 2001, Komnas HAM formed a Commission for the Investigation of Human Rights Violations in Talangsari (at the same time, KPP Trisakti and Semanggi was formed), led by Major Gen. Pol Koesparmono Irsan but this effort also failed. At that time, Hendropriyono was serving as the Chief of BIN, which was suspected to be one factor why Komnas HAM's investigation was not effective. Moreover, around December 2001, Secretary General of Komnas HAM Asmara Nababan was given "a Christmas gift" in the</p>

¹⁴¹ Polly, BIN Officials Had Contact, Media Indonesia 19 May 2005.

		form of a large amount of money by AM Hendropriyono. Asmara Nababan refused and demanded an apology from AM Hendropriyono. AM Hendropriyono then apologized to Asmara Nababan through a letter.
Litigation through PTUN (State Administrative Court) on Hendropriyono's appointment as Chief of BIN (2002)	<p>Munir (KontraS) and Talangsari victims litigated President Megawati's decision to appoint Hendropriyono to be the Chief of BIN through PTUN.</p> <p>The appointment issue was raised because at that time, Hendropriyono still had to be investigated by KPP Talangsari for his involvement in Talangsari case 1989.</p>	<p>Hendropriyono responded at the PTUN through his lawyers. Meanwhile, Talangsari victims who received <i>islah</i> sued Munir's action (KontraS).</p> <p>A number of unknown people frequently attended the trial. They created an intimidating atmosphere during the sessions. One KontraS activist took pictures of these people but the camera was taken by force..</p> <p>PTUN Jakarta itself finally rejected Talangsari victims' litigation.</p>
Arbitrary arrest against Umar Al Farouk (5 June 2003)	<p>Umar Al Farouk's wife requested help from Munir (KontraS) to find out about her husband's whereabouts.</p> <p>Munir questioned the responsibility of the state, especially BIN, in this issue. KontraS sent letters to the Minister of Laws and Regulations and the Minister of Foreign Affairs.</p>	<p>Al Farouk was handed in by the Indonesian government to the American government through an intelligence operation without any legal procedures.</p> <p>The Chief of BIN, Hendropriyono, admitted it and said that Umar Al Farouk's arrest is evidence that BIN has worked optimally. Moreover, the arrest has enlightened BIN that it needed to expand its work on terrorism network in Indonesia.¹⁴²</p>
Agenda of BIN's Expansion (2002)	Munir (Imparsial) was up against the plan to develop BIN's organizational structure all the way to the regions and to expand BIN's authority to function as a law enforcement institution.	
Draft of Bill on Intelligence (2003)	Munir criticized the draft of bill on Intelligence proposed by BIN. The draft of bill would have given extraordinary authority to BIN and threatened civil freedom.	The Draft of Bill on Intelligence was proposed the government (BIN) secretly. Munir's criticism resulted in a public strong reaction in rejecting the draft.

TPF Ended: Unfinished Agenda?

Nearing the last day of TPF's working period, Polri quietly held a reconstruction – something that TPF had been asking for a long time before – in Hangar II Garuda Maintenance Facility (GMF) at Soekarno Hatta Airport on 23 June 2006. This reconstruction was attended by the defendants: Pollycarpus, Oedi Irianto and Yeti

¹⁴² Media Indonesia, "Intelligence Report, 'Warning' or Engineered?" 28 December 2002.

Susmiati, and was performed using a Garuda Boeing 737 plane.¹⁴³ Director I Bareskrim Polri Headquarters, Brigadier General Pol Pranowo Dahlan, stated the reconstruction was deliberately performed closed for the sake of the reconstruction process.¹⁴⁴

After being extended on 23 April 2005, TPF's working period ended on 23 June 2005. TPF reported its work to President Susilo Bambang Yudhoyono. The report contained three points of recommendation for the government to follow up. First, Munir's assassination did not involve simply one or two people; therefore, certain parties in Garuda and the State Intelligence Agency who might be involved in the conspiracy must be examined intensively. Second, the investigation process was hampered because of internal factors within Polri; therefore, concrete measures such as an audit on Polri's performance in handling Munir's case is needed. Third, a new body answering directly to the President should be established to continue TPF's work as well as a form of continuation of the President's commitment to resolve the case.

In delivering TPF's report, the Cabinet Secretary, Sudi Silalahi, stated that TNI institutions from the Headquarters to the groups within a unit were not involved. Afterwards, Sudi Silalahi also stated that the government will process the report and take follow up measures to TPF's recommendation in a short time in order to make concrete actions in relation with the case of Munir's death.¹⁴⁵ Sudi Silalahi then said that the President also distributed TPF's report to his Ministers and related ministry-level officials such as the Chief of Regional Police Gen. Dai Bachtiar, Attorney General Abdul Rahman Saleh, Chief of BIN Syamsir Siregar, Minister of Laws and Human Rights Hamid Awaluddin and TNI Commander Gen. Endriartono Sutarto.¹⁴⁶

Related to the follow up to TPF's work, the head of the team suggested to President SBY not to extend TPF's duty but to form a supervising team instead. This later team will supervise the work of the investigation team in the case. The head of the team felt that the team's work is enough to open a way to a follow up on Munir's case.¹⁴⁷ Meanwhile, Chairman of the House of Representatives, Agung Laksono, stated that the end of TPF's working period should not stop any efforts to resolve Munir's assassination. He requested everyone to respect the existing legal process. If TPF's work had not been maximum yet, the police could do further examination.¹⁴⁸

TPF secretary, Usman Hamid, stated that the resolution of Munir's assassination was a test for the authority of Indonesia's presidential institution. TPF do not doubt the government's commitment in every stage of the legal process; however, the commitment must be supported concretely by the executing officials on the filed, including full support from Polri high officials to its staff performing as investigators so that they can perform an

¹⁴³ "Reconstruction of Munir Case Held in Soekarno Hatta Airport", *www.detik.com*, 23 June 2005.

¹⁴⁴ "Reconstruction of Munir Case was Done Secretly", *www.detik.com*, 23 June 2005.

¹⁴⁵ "TPF Munir Recommended BIN Staff as Suspects", *www.detik.com*, 24 June 2005.

¹⁴⁶ "TPF Munir's Report Also Sent to BIN and TNI Commander", *www.detik.com*, 27 June 2005.

¹⁴⁷ "TPF Munir Refused Extension", *www.tempointeraktif.com*, 20 June 2005.

¹⁴⁸ "Chairman of DPR: TPF Munir Dismissed, Munir Case Still Has to be Resolved", *www.detik.com*, 24 June 2005.

optimum work. He also said that based on the experience of the last six months in TPF, he indicated that the resolution of Munir's case will be met with a lot of resistance. There is a power working to cover the mystery that we are trying to uncover. Such resistance is, for example, in the form of denying access to relevant documents belonging to certain institutions. To overcome this obstacle, TPF in its report recommended SBY to take a more strict approach compared to previously. Therefore, SBY can ensure that the on-going legal process can be guarded on its way to achieve justice.¹⁴⁹

¹⁴⁹ "Munir's Case a Test for President, *www.detikcom*, 25 June 2005.

CHAPTER VII WHY MUNIR WAS KILLED?

Following the trace of Munir's political activities, almost everyone agrees that Munir is bound to have a lot of political enemies, most of whom are military official. Asia Week magazine in 2000, for example, gave him an award as Leaders for the Millennium on the consideration was Munir had been significantly successful in influencing (challenging) the Indonesian military politics during the transition period. Meanwhile, the international community appreciated his achievements in human rights issues through The Right Livelihood Award in 2000, given by an international foundation based in Sweden. This award was seen as an alternative of Nobel prize. A brief explanation why Munir deserved The Right Livelihood Award 2000 was stated as the following:

"...for his courage and dedication in fighting for human rights and the civilian control of the military in Indonesia".¹⁵⁰

If we traced all his political activities—from Malang to Jakarta- we would find a long list of the names of the people who were annoyed and disturbed by Munir's actions. At the beginning of his career (at the Legal Aid Foundation -LBH) he had already faced a lot of issues in Malang, an industrial area in East Java. At that time, Munir was used to dealing with the military, the group who was also the most determining in the Indonesian labor politics.

Munir did not only advocate labor cases; he also frequently became the victim of militarism in the labor politics itself. When he moved his work to Surabaya, the condition prevailed. Munir even had to deal with one of the most important labor cases at that time: the murder of Marsinah (1994). After Munir was transferred to Jakarta to work as a staff of Indonesia Legal Aid Foundation (YLBHI), he soon faced the case of 27 July 1996, a case related to another military operation. It was not surprising that Munir had a strong historical tie with militarism. This tie was more of a result of his political experience, which was then embedded to become a "sense". Although Munir was also acknowledged as an intelligent person, it seemed that this sense shaped his political character.¹⁵¹ If we follow personally the development of Munir's political movement, he was not known as a human rights defender who took the intellectual path imbued with strong human rights principles and norms. It was late in his life that Munir realized how he needed to upgrade his knowledge about human rights issues. This was the reason why Munir felt the need to study for a master's degree (S-2) in the Netherlands.

When the political turbulence in Indonesia reached a critical point, Munir was not left behind in his participation in certain proportion. It started from a report arising about the disappearances of several students' political activists. They were generally affiliated with

¹⁵⁰ <http://www.rightlivelihood.org/recipe.htm#2000>.

¹⁵¹ Robertus Robet, Munir, Uncompromising Fighter, in Willy Pramudya (ed), "*Cak Munir Engkau Tak Pernah Pergi*", Gagasmedia, 2004.

the Indonesian Students Solidarity for Democracy (SMID), a student-based organization, and Democratic People Party (PRD), a political organization that became the main target for the state's operations after the incident on 27 July 1996. Amidst the condition imbued with high political restraints, Munir was able to perform significant political maneuvers through political advocacy conducted by KontraS (Commission for Disappearances and Victims of Violence), an alliance of several political figures activists. It was here that impossibility became a possibility through Munir's actions and his KontraS. At that time, it was a public secret that it was impossible for a political incident to be revealed, but these disappearances were different. Through strategies uncommonly used in the advocacy of human rights NGO at that time, the case was uncovered little by little. Several of the missing people were even able to return. For the first, a military institution had met its serious opponent.

Some people said that this success was more determined by the internal friction within the military itself. Apart from this argument, it was difficult to argue that Munir's advocacy also had a great role. The cases' investigation and advocacy resulted in the discharge of three prominent Special Task Force officials from the military: Lt.Gen Prabowo Subiako, Major Gen. Muchdi PR and Col. Chairawan, by reason of their involvement in the cases of kidnappings against student activists.¹⁵² The discharge of these three officials were a shocking issue in the context of the Indonesian military's political history.

The momentum of political transition post 1998 with all its limitations seemed to become "playground" for Munir's political activities. Among the civil society, Munir became a reference of a courageous and consistent figure who could articulate human rights issues into a simple and popular political language. Previously, reference to human rights movements had always been identical to legal aid program (such as what Munir did with YLBHI) which frequently failed to obtain justice in the face of the law. However, after the cases of enforced disappearances, Munir seemed to be a reference of hope for truth and justice for the victims in this country.

His courage and agility in politics made a lot of people, especially the victims, turned to him for comfort. Consequently, the demands for justice made by these victims always fell on his shoulders before being forwarded to state's accountability. KontraS and YLBHI became a place to turn to for the victims who still felt the need to question their fate. Several "hard" cases soon became KontraS' working agenda after the victims came: Trisakti, Semanggi I and II, May 1998 Tragedy, Tanjung Priok (1984), Talangsari (1989) and other cases.

In addition, Munir also dealt with other important cases (of human rights violations) such as East Timor case Post Referendum 1999, Military Operation Zone (DOM) in Aceh and Papua, riots in Maluku, Kalimantan and Poso. Almost all those cases can be defined as

¹⁵² Relentless advocacy in the cases of enforced disappearances that Munir and KontraS started became one of the important factors in the political dynamics of that time. At this moment, civil society's human rights movements (organizations) started a more significant political role in this country's political transition.

“hard” cases because they involved perpetrators from high military officials. Meanwhile, the new political elite after the transition is still in need of political partnerships with those perpetrators.

It is undisputable that the political change from Soeharto’s regime into the new regime resulted from the general election (electoral regime¹⁵³) has brought about a fresh air to human rights movement in Indonesia. Several state legislations and institution started to become accommodating towards human rights issues. Munir was immediately involved in the process, starting from providing inputs for drafts of bill (especially for issues such as human rights and militarism) to an active involvement with the Commission to Investigate Human Rights Violations/KPP HAM. However, due to the structural limitations of Indonesia’s political transition post 1998, Munir’s struggle was not without limitations. As an important political quote from Thomas Hobbes said: “*laws without a sword are nothing but a series of words*”.

Munir, until the end of his life, was still a human right activist who took skeptical and pessimistic attitude towards the enforcement of human rights in Indonesia, apart from the many formal human rights products that had been enacted.¹⁵⁴ His biggest disappointment was the lack of accountability from the perpetrators of gross human rights violations and (the change) of regime into a new government was also unable and unwilling to break the chain of impunity.

This could be seen from his deep disappointment upon hearing that the defendants in the trial of Tanjung Priok case in the ad hoc human rights court were released, several weeks before he was due to leave for Netherlands. Therefore, apart from the high appreciation given by many for his work in human rights issues, Munir was still a disappointed man, especially since the people that he had to face were still in the inner circle of power. Maybe this was the part that could be used as a political hypothesis to explain the cause of Munir’s death. Structurally, Indonesian political system is still letting perpetrators of gross human rights violations go free, even work in many state’s formal positions and be active political actors.

Table 5
KontraS and Munir’s Advocacy Experience

Cases	Security official	Status	Additional information
Tanjung Priok (1984)	Gen. LB Moerdani	The main perpetrators were not brought to trial. The other perpetrators were all released	Died

¹⁵³ An electoral regime is a regime whose political legitimacy is merely based on a formal and procedural process of democracy, in this case the general election. Meanwhile, the substantial prerequisite of democracy has not been met. This symptom seems to be the pattern of a transition that occurs in third world countries.

¹⁵⁴ Munir’s skeptical attitude was well expressed in Nono A. Makarim, Munir, dari Dalam, dalam Jaleswari Pramodhawardani and Andi Widjojanto (ed), “*Munir; Sebuah Kitab Melawan Lupa*”, Mizan Media Utama, 2004.

	Gen. Try Sutrisno	perpetrators were all released.	Active in PEPABRI Still active in politics
Kidnapping of Activists (1998)	Lt.Gen. Prabowo	An Honorary Board of Officers (DKP) was formed to investigate the involvement of officers such as Prabowo, Muchdi PR and Chairawan. Prabowo and Muchdi PR were fired from their official position in military.	Active in business 2004 presidential candidate from Golkar.
	Major Gen. Muchdi PR		Deputy V BIN
	Col. Chairawan		Danrem Lilawangsa
East Timor (1999)	Gen. Wiranto	The prosecutor, MA Rahman, did not prosecute Wiranto and Zacky Makarim although their names were in the list submitted by KPP HAM /Komnas HAM. In court, the defendants who were under Wiranto were released by the court.	2004 Presidential candidate from Golkar.
	Major Gen. Zacky Makaarim		-
Talangsari, Lampung (1989)	Hendropriyono	Still unclear at Komnas HAM	Chief of National Intelligence Agency. Once appointed as a campaigner for Struggle-Indonesian Democratic Party (PDI-P) in 2004.
Trisakti Semanggi & May '98 Tragedy	Major Gen Sjafrie Samsuoddin	Still unclear between Komnas HAM and the Attorney General	Kapuspen TNI Headquarters Now the Secretary General of the Dept. of Defense
	Major Gen (Pol) Hamami Nata		Died

The above table shows how Munir was still up against his political opponents, including shortly before the 2004 General Election Among them were presidential candidates and some others served as part of the success team of a presidential candidate. In addition, shortly before his death, Munir was in the middle of a tension with the Chief of BIN Hendropriyono regarding BIN's statement and reports on 20 NGOs that were accused as selling Indonesia to foreign parties.¹⁵⁵

The tension began from the efforts of the Chief of BIN Hendropriyono to deport Sidney Jones, a researcher from the International Crisis Group, by reason that the ICG's reports

¹⁵⁵ "Statement from Chief of BIN to Have Re-awakened the Mechanism of Repression", *Kompas* 31 May 2004.

discredited the Indonesian government. Sidney Jones is indeed known as a researcher and an activist who is very critical towards the Intelligence Agency (BIN) for its operations in Aceh, Papua, Poso, and anti-terrorism projects. A number of community leaders and non-government organizations reacted to Hendropriyono's action. They challenged Hendropriyono to prove his claim.¹⁵⁶ As a response, Hendropriyono himself released a statement where he said that those who defended Sidney Jones were traitors to this nation.¹⁵⁷ Munir was among those who defended Sidney Jones and he felt that Hendropriyono's statement was directed at him. At the same time, Munir was in the middle of a relentless struggle in refusing the Draft of Bill on TNI and questioning the budget used in Aceh during the military emergency. Until shortly before his departure, Munir still believed that his position in those issues was the reason why he was blacklisted by BIN.¹⁵⁸ Previously, Munir was actively criticizing and even "sabotaging" efforts to extraordinarily strengthen BIN's authority through a draft of bill, including the extension of BIN's structure all the way to the village level.

The phenomenon of political assassination (by poison) such as in Munir's case is not a typical symptom of the dynamics of a tangled political transition. Several political analysis show similar symptoms in other countries with similar transition experiences to that of Indonesia. A political human rights activist, Antonio Cassese, showed that the mechanism of political repression and terrors could take on two (2) models.¹⁵⁹

The first mechanism is to use all of state's formal apparatus (institutions and legislation) to repress anyone who dares standing up against the tyrannical ruler. In this first model, the laws usually serve as an effective mechanism of repression and terrors against any resistance group. The laws can be engineered in such a way – even if it is illogical – to stop and to punish the opposition. Repression and terrors take on a naked and open form. Such model is common in countries that are highly authoritarian such as in South Africa with its Apartheid project and the New Order Regime in Indonesia.

Meanwhile, in the second model the repression and terrors took on different forms. Such model is common in a country undergoing a political transition where the old power still holds an important role in conducting political negotiation with the new power. In this model, repression and terrors do not take formal and legal forms, Instead, they are more covered and similar to an intelligence operation. Such models are applied, for example, in the form of extra judicial killing and enforced disappearances, all based on political motive.

¹⁵⁶ "Cak Nur Criticized Government for Intimidating NGO", *Koran Tempo* 31 May 2004.

¹⁵⁷ "BIN Demand Responsibility from Indonesian Citizens Who Defend Sidney Jones", *Koran Tempo* 8 June 2004.

¹⁵⁸ "Aboeprijadi Santoso, Foreword: Fall in Autumn", in Jaleswari Pramodhawardani and Andi Widjojanto (ed), "*Munir: Sebuah Kitab Melawan Lupa*", Mizan Media Utama, 2004.

¹⁵⁹ Antonio Cassese, *Human Rights in a Changing World*, Yayasan Obor Indonesia, 1994.

Munir's assassination by poison can be understood in the context of the second model. It is difficult to imagine any legal formal mechanism that can be used to repress Munir.¹⁶⁰ Furthermore, during the last days of his life, Munir had been actively involved – in various methods – in every process of establishing strategic legal products (especially ones that posed a threat to the democracy and human rights in Indonesia. There was only a small possibility of repressing Munir openly; therefore, it required a secretive and well-covered assassination. It was exactly what Munir analyzed on the cases of enforced disappearances against activists in 1997/1998.

¹⁶⁰ Actually, several forms of terrors and extra judicial attacks had been directed at Munir and KontraS. KontraS noted incidents such as: August 2000 in Batu, Malang, September 2000 in KontraS' office, and March 2002 where KontraS' office was attacked by a mob looking for Munir. Previously, KontraS had demonstrated against TNI officials responsible for Trisakti, Semanggi I and II and May 2003 cases. KontraS was attacked one more time and Munir was a target of PPM (Pemuda Panca Marga) anger for refusing the implementation of Military State of Emergency in Aceh. All these attacks were seen by many as more of a terror than a murder threat on Munir. Many then thought that Munir's assassination had to be done considering the accumulation of those terrors were proven to be ineffective to repress Munir's struggle.