



Mandates of the Special Rapporteur on the independence of judges and lawyers,
Special Representative of the Secretary-General on the situation of human rights defenders
established by the Commission on Human Rights

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Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the independence of judges and lawyers and Special Representative of the Secretary-General on the situation of human rights defenders pursuant to Commission on Human Rights resolutions 2005/33 and 2003/64 respectively.

In this connection, we would like to bring to your Government's attention information we have received concerning the investigation into the death of **Mr. Munir**, a human rights lawyer and co-founder of human rights group Imparsial and the National Commission for Disappeared Persons and Victims of Violence (Kontras), a group that have allegedly exposed the abduction by the military of several human rights activists in Jakarta. Mr. Munir died on 7 September 2004 aboard a Garuda flight from Jakarta to Amsterdam and was the subject of an urgent appeal by the Special Rapporteur on the independence of judges and lawyers and the Special Representative of the Secretary-General on the situation of human rights defenders on 3 December 2004.

The presidential fact-finding team (TPF) established in December 2004, ended its six month mandate on 23 June 2005 and produced a lengthy report with detailed findings and recommendations. The TPF suggested the involvement of high-ranking intelligence officials and senior employees of Garuda Airlines with Mr Munir's death.

According to the new information received, since the police have taken over the investigation, no progress has been made into investigating the involvement of high-ranking intelligence officials and senior employees of Garuda Airlines, apart from the prosecution of Mr. Polycarpus, a low ranking Garuda pilot.

The four month delay raises questions as to the Prosecution and the police investigation team's commitment to properly investigate this case and to ensure that there is no impunity for Mr Munir's murder and that those who are responsible for his death are brought before a fair trial.

While we do not wish to prejudge the accuracy of these allegations, we wish to draw your Excellency's attention to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and

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measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms."

We would also like to refer Your Excellency's Government to the Guidelines on the Role of Prosecutors, Adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990, and in particular:

"11. Prosecutors shall perform an active role in criminal proceedings, including institution of prosecution and, where authorized by law or consistent with local practice, in the investigation of crime, supervision over the legality of these investigations, supervision of the execution of court decisions and the exercise of other functions as representatives of the public interest.

12. Prosecutors shall, in accordance with the law, perform their duties fairly, consistently and expeditiously, and respect and protect human dignity and uphold human rights, thus contributing to ensuring due process and the smooth functioning of the criminal justice system."

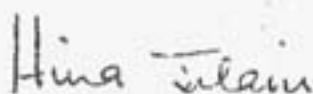
We urge your Government to take all necessary measures to guarantee the accountability of any person guilty of the alleged violations. We also request that your Government adopts effective measures to prevent the recurrence of these acts.

Moreover, it is our responsibility under the mandate provided to us by the Commission on Human Rights and reinforced by the appropriate resolutions of the General Assembly, to seek to clarify all cases brought to our attention. Since we are expected to report on these cases to the Commission, we would be grateful for your cooperation and your observations on the following matters:

1. Are the facts alleged in the above summary of the case accurate?
2. Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries which may have been carried out in relation to this case. If no inquiries have taken place or if they have been inconclusive please explain why.
3. In the event that the alleged perpetrators are identified, please provide the full details of any prosecutions which have been undertaken; and whether penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?
4. Please indicate whether compensation has been provided to the victim or the family of the victim.

We would appreciate a response by sixty days. We undertake to ensure that your Government's response to each of these questions is accurately reflected in the reports we will submit to the Commission on Human Rights for its consideration.

Please accept, Excellency, the assurances of our highest consideration.



Hina Jilani

Special Representative of the Secretary-General on the situation of human rights defenders



Leandro Despouy

Special Rapporteur on the independence of judges and lawyers