

Monitoring the Trial Concerning the Murder of Munir

Session 1
The Central Jakarta District Court,
Central Jakarta
Jakarta, 9 August 2005

Material: Reading of the Charges
Time: 10:05 - 11:00 am Western Indonesia Time Zone
Location: The Central Jakarta District Court,
Central Jakarta, 2nd Floor, Courtroom 5

I. Identity of the Accused (Formal Requisite in the Charges)

Full name: Pollycarpus Budihari Priyanto
Date of Birth: 26 January 1961
Religion: Catholic
Sex: Male
Age: 44 years
Address: Pamulang Permai I Blok B No. 1 Rt 02
Pamulang
Occupation: Garuda Indonesia Airways Pilot

II. Summary of the Charges (Material Requisites in the Charges)

1. *Case Number: 1305/JKT.PST/07/2005*

2. *The crimes of which the accused is charged:*

1. The accused, Pollycarpus Budihari Priyanto, whether acting alone or in collaboration with Yeti Susmiarti and Oedi Irianto (in a separate dossier), on Monday 6 September 2004 to Tuesday 7 September 2004, or at the least at a certain time in the month of September 2004, in a Garuda Indonesia Airways aeroplane of Flight Number GA-974 on route from Jakarta to Singapore, did commit, order the committing of, or participate in a deliberate and planned act first of all causing the loss of another person's life, namely, that of the victim Munir SH.
2. The accused, Pollycarpus Budihari Priyanto, whether acting alone or in collaboration with Ramelgia Anwar and Rohanil Aini (in a separate dossier), on Monday 6 September 2004 in the offices of PT. Garuda Indonesia Airways at the Sukarno Hatta Airport in Cengkareng, did commit, order the committing of, or participate in of a deliberate and planned act to make use of false documents or documents falsified to appear original, and the use of these documents to inflict harm.

3. *The articles of which the accused is charged:*

Upon the two aforementioned charges, the accused is charged with criminal acts in violation of the Penal Code (KUHP)

1. Article 340 of the Penal Code in juncto Article 55 (1) of the Penal Code

2. Article 263 paragraph (2) of the Penal Code in juncto Article 55 (1) of the Penal Code

Article 340

Anyone who with a deliberate and planned act first of all causes the loss of another person's life, through a planned act of murder, will be sentenced to death or life imprisonment or imprisoned for max twenty years.

Article 55 paragraph 1

To be sentenced as the committer of a criminal act: firstly, a person who commits, orders the committing, or participates in the committing of that act; secondly, a person who with the giving of payment, a pact, a misuse of power or status, the use of force, threats or deceit because of presenting an opportunity, a course of action or information deliberately incites the act committed.

Article 263 paragraph 2

To be sentenced to imprisonment of that type, anyone who deliberately makes use of false documents or documents falsified to appear original and untampered, and the use of these documents causes a loss.

4. *Context of the crime:*

1. Monitoring the activities of Munir, SH, whether directly or indirectly, in order to ascertain the plans of the victim to depart to the Netherlands.
2. On 4 September 2004, the accused confirmed the departure of Munir by telephone to Munir's mobile telephone, which at that time was received by Suciwati, Munir's wife.
3. Requesting an alteration of flight duties, as extra crew, while his scheduled duties from 5 September 2004 to 9 September 2004 should have been to depart for Peking (China). This was then altered so that on 6 September 2004 he would depart for Singapore, an alteration made by Ramelgia Anwar (accused of Document Forgery) as Vice President.
4. On 6 September 2004 the accused flew to Singapore on flight number GA-974, the aeroplane also in which Munir travelled.
5. After checking in, the accused headed for the aeroplane via the corridor connecting the waiting room with the aeroplane, the accused at that time saw Munir.
6. The accused indicated Munir's seat in 40 G, Economy Class. The accused offered his seat in Business Class, number 3 K, to Munir. In Business Class there are only eighteen seats, in order to erase suspicions the accused

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informed the purser Bramanie Hastawati of the change of seating.

7. Bramanie Hastawati offered the accused a seat in Premium Class, and flight attendant Oedi Irianto prepared a welcome drink. The accused moved from his seat and headed for the pantry near the premium bar, at which point the accused poured a large amount of arsenic poison into a drink of orange juice.
8. Yeti Susmiarti, as a flight attendant, took two glasses of wine and two glasses of orange juice that had been poisoned with arsenic, and alternately arranged on a tray where for each of the two glasses at the front, one contained wine and the other orange juice, and the two behind were of the same composition. These were then first offered to the witness Lie Khien Ngian who sat next to Munir. The witness Lie took a glass of wine. Yeti and Oedi knew Lie Khien Ngian, as a citizen of the Netherlands would certainly choose wine. And Munir took the orange juice, because Munir did not drink alcohol.
9. Munir, without suspicion, took the orange juice served at the front.

5. *The role of Pollycarpus*

1. Planning the murder of Munir, through the monitoring and confirmation of Munir's departure.
2. Arranging the strategy of the murder; example changing seats with Munir.
3. Pouring the arsenic poison into the orange juice.

6. *Physical evidence.*

1. A grey and blue short-sleeved t-shirt.
2. A pair of black jeans.
3. A pair of blue socks.
4. A pair of brown underpants.

The grey and blue short-sleeved t-shirt and the pair of black jeans positively contain arsenic. All these items of physical evidence were owed by the deceased, Munir.

III. Participants and the Trial Situation

A. The Panel of Judges (The State Court, Central Jakarta, Indonesia)

1. Cicut Sutiarto (Chief Judge)
2. Sugito (Member of Judge)
3. Lileik Mulyadi (Member of Judge)
4. Agus Subroto (Member of Judge)
5. Ridwan Mansur (member of Judge)

B. The Public Prosecutor (The Office of the State Prosecutor, Central Jakarta)

The Public Prosecutor in attendance numbers eight people, among others:

1. Domu, P Sihite, SH. MH (Chief Public Prosecutor, in this first session reading the charges).
2. Suroto
3. Edi Saputra
4. Giyanto
5. Muhammad Rum
6. Saptani
7. Meghanada
8. F Eyert L

C. Lawyers

There are ten legal advisors accompanying the accused, including:

1. Mohammad Assegaf, professional lawyer also member of Council Legal Aid Foundation
2. Dedi
3. Ahmad Jazuli
4. Iwan Suprianto
5. Suhadi
6. Sumo Mulyono
7. Herman
8. H. Ali
9. Hendrik

D. The situation surrounding the State Court of Central Jakarta and the Court Room

The trial of the murder of Munir with the accused Pollycarpus was attended by approximately 500 people who came especially to see and follow the proceedings. Those who came were from various important backgrounds. However, the majority were members of the community supporting the completion of the Munir case.

Together with Suciwati (the wife of the late Munir), those attending consisted of a circle of community organizations such as KontraS, the Urban Poor Consortium, Imparsial, FPPI, SKP-HAM and IKOHI. There were also a number of families of victims, from various cases of human rights violations that have been the focus of campaigns by KontraS and Munir, such as the abduction and forced "disappearances" of 1998, Semanggi I (1998), Semanggi II (1999), the riots of May 1998, Tanjung Priok and the leveling of housing in several areas in Jakarta. Attendees also included around 40 to 60 print and electronic media journalists, both domestic and international.

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Additionally, it was seen that there were also a number of officers from the Indonesian Police on duty in front of the Court, inside the courtroom and in front of the door to enter the courtroom. It is estimated that the number of security personnel numbered 40 to 60 people. Other than this, a mass group calling itself the East Indonesia University Students Forum was seen. This group numbered around 20 people. This group was also seen to be well coordinated, and came from a particular ethnic group. This group sought to understand the conditions surrounding the State Court building.

IV. Trial notes

A. Suciwati's hopes

Around 9:05 am, Suciwati, the wife of the victim (the late Munir), said, "hopefully this will not become a show trial and hopefully this session reveals whoever the parties are behind the murder".

B. The Trial

The court session was opened by Chief Judge Cicut Sutiarmo and directly invited the prosecution to read the charges. The charges were read by the head of the prosecution team, Domu P Sihite, SH, MH. The reading of the eight pages of charges took approximately 20 minutes. The charges were signed by the head of the prosecution team, Domu P Sihite, SH, MH NIP 230016855) dated 27 July 2005.

After the reading of the charges by the public prosecutor, the Chief Judge gave an opportunity for the accused to say if he understood the charges as read.

The accused protested and said he didn't understand the part of the charges which read: "the accused, who has various activities since 1999 on the pretext of upholding the Unitary State of Indonesia, saw the victim Munir as a board member of KontraS and as the Executive Director of Imparsial who frequently identified himself as a human rights defender and a builder of democracy ... this was judged by the accused to have been extremely disruptive and to have become a hindrance or obstacle to the implementation of government programs, and this was consequently considered by the accused himself to be unacceptable."

The accused acknowledged that he didn't understand this explanation, as he was only a pilot at Garuda. The lack of understanding and objections by the accused were considered by the judge to be unable to be delivered at the moment, as that would come under the cross-checking, however, the legal advisors presented the argument that his client could not

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understand the information and requested the public prosecutor for an explanation concerning this. The arguments of the legal advisor were disputed by the public prosecutor who said that it would be proven in the examination (during the trial). The Panel of Judges through the Chief was of the same opinion as the public prosecutor.

The legal advisor for the accused, Mohammad Assegaf, asked for two weeks to compile the exceptions (responses to the summary of charges by the prosecutor). The reason put forward was the legal team had just received the copy of the charges at the time the session began. According to Assegaf, the charges were very serious and weighty.

The request of the legal advisors was not accepted by the public prosecutor, and according to them, a timeframe of one week would be sufficient to study and make their exceptions. Furthermore, Domu offered one week. However, the legal advisors objected and requested ten days, and in the end the judges decided the sessions for reading the exceptions would take place in one week, Tuesday, 16 August 2005.

C. After the Session

After the completion of the day's proceedings, the accused was immediately detained by the police, while outside a number of members of the community held an action and speeches. One of the banners read, "Reveal the mastermind, we don't need a scapegoat!" Meanwhile, the accused was brought via the front/north stairs of the courthouse, and to vehicle for prisoners.

Thirty minutes later, several KontraS activists and survivors of human rights violations paraded by motorcycle to the National Palace and the Hotel Indonesia (central city) roundabout. This is an action to be done regularly by KontraS, remembering that Tuesday was the day of Munir's murder. Riding motorcycles is also a means to recall that Munir was identified with using a motorcycle for his daily commuting.

The public prosecutor, when confirmed, was asked why he hadn't included the findings of the Fact Finding Commission. He objected to the question, saying that all supporting and accurate data was used. Regarding the notion that the charges were weak, the public prosecutor said that upon receiving this possibility legal action could be taken.

The legal advisor for the accused, Mohammad Assegaf, while being interviewed by the media, said the charges were vague, weak and speculative.

1. Vague

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- It wasn't mentioned how Pollycarpus was supposed to have introduced the arsenic poison.
- The charges were simple, whereas it has been mentioned that there were other parties involved, however in the charges this was not mentioned.

2. *Weak*

- The charges did not contain facts on the motivation for a planned murder, as one element of a planned murder.
- There was no evidence supporting the important connection between Yeti and Oedi in the murder of Munir.
- The change of duty letter cannot be entered into evidence as proof of a planned murder.

3. *Speculative*

- The orange juice containing the arsenic could have very well been taken by the witness Lie Khien Ngian who was sitting next to Munir.

Meanwhile, Usman Hamid, the coordinator of KontraS, stated that the charges as read by the public prosecutor were not yet to explain the conspiracy surrounding the murder of Munir. Furthermore, Usman said that the prosecutor's accusations towards the accused, which have pinned down the motives behind the murder, would be difficult to prove as an evil plot in a planned murder. Usman then said that from the charges the relationship between Pollycarpus as an employee of Garuda Indonesia Airways and the National Intelligence Body (BIN) was not yet clear. At least, the public prosecutor has to link Pollycarpus to senior officials in BIN as well as Garuda.