

UNITED NATIONS SPECIAL RAPPORTEUR ON THE PROMOTION AND PROTECTION OF THE RIGHT TO FREEDOM OF OPINION AND EXPRESSION, MR FRANK LA RUE

UNITED NATIONS SPECIAL RAPPORTEUR ON EXTRAJUDICIAL, SUMMARY OR ARBITRARY EXECUTIONS, MR CHRISTOF HEYNS

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London, 3 May 2013

Letter of Allegation concerning failure of the Government of the Republic of Indonesia to investigate the murder of Fuad Muhammad Syafruddin (“Udin”)

Dear Mr La Rue and Mr Heyns,

LBH Pers, the Media Legal Defence Initiative, Lembaga Bantuan Hukum (LBH) Pers Padang, Commission of the Disappeared and Victims of Violence (KontraS), Southeast Asian Press Alliance, Surabaya Legal Aid Institute for the Press – Indonesia, Institut Studi Arus Informasi (Institute for the Studies on Free Flow of Information), Alliance of Independent Journalists (AJI) Indonesia, Alliance of Independent Journalists (AJI) Jakarta, Imparsial, Yogyakarta Legal Aid Institute for the Press (Lembaga Bantuan Hukum Pers Yogyakarta) – Indonesia, Pewarta Foto Indonesia (PFI) Padang, Demos Indonesia, Alliance of Independent Journalists (AJI) Yogyakarta, LBH Jakarta, IKOHI (Ikatan Keluarga Orang Hilang Indonesia), Elsam, Indonesian Legal Aid Foundation, Lembaga Bantuan Hukum Pers Makassar, Committee to Protect Journalists, Reporters Without Borders, Article 19 and Media Defence – Southeast Asia (the “signatory organisations”) are submitting this Letter of Allegation for your consideration in the hopes that you will act upon our request to call upon the Government of the Republic of Indonesia to reopen investigations into the murder of journalist Fuad

Muhammad Syafruddin, also known as “Udin”, before the statute of limitations for this crime expires under Indonesian law on 16 August 2014.¹

As set out in more detail below, Udin was an investigative journalist of ten years for the daily newspaper *Bernas* for which he reported mainly on matters of crime and local politics. On 13 August 1996, Udin was attacked at his house by two unknown assailants, who severely beat him with a metal rod. He died as a consequence of his injuries on 16 August 1996.

Until this day, those responsible for Udin’s death have not been brought to justice. The police botched the investigations and the trial of one alleged suspect has been widely considered as a sham. The signatory organisations therefore call upon the UN Special Rapporteurs to urge the Indonesian Government to conduct proper investigations into Udin’s death and ensure that those responsible are prosecuted before the statute of limitations expires in August 2014.

I. Background

Fuad Muhammad Syafruddin (“Udin”)

Fuad Muhammad Syafruddin, also known as Udin, was born on 18 February 1964 in Bantul, Yogyakarta. Udin became a reporter in 1989 and worked for the daily Yogyakarta newspaper *Bernas* during the following ten years. He mostly wrote on issues of crime and local politics.

In 1996, the year of his murder, Udin began writing a series of articles that focused on the regent selection process in Bantul, a suburb of Yogyakarta. This included an article on a Rp. 1 million bribe paid by Bantul’s regent Sri Rosso Sudarmo to the Dharma Foundation, a foundation run by President Suharto, to secure his reappointment for a second term.² Following these publications, Udin suffered threats of legal action for defamation, offers of bribes to stop his reporting as well as threats of violence. He filed several reports concerning this harassment with the Legal Aid Institute in Yogyakarta.³

Udin’s murder

On the evening of 13 August 1996, two men came to Udin’s house, purportedly to discuss leaving a motorcycle at his house for safekeeping. His wife Marsiyem had

¹ See Article 78 and 340 of the Penal Code of Indonesia, 27 February 1982, available at: <http://www.refworld.org/docid/3ffc09ae2.html>.

² Amnesty International, *INDONESIA The need to protect journalists*, September 1997, <http://195.234.175.160/en/library/asset/ASA21/060/1997/en/9f656b4f-e9d6-11dd-a490-5f9258d9f20e/asa210601997en.pdf>. See also Institute for the Studies on Free Flow of Information, *Indonesian journalist Fuad Muhammad Syafrudin dies after attack*, 19 August 1996, http://www.ifex.org/indonesia/1996/08/19/indonesian_journalist_fuad_muhammad.

³ Ibid.

opened the door for them and had left the men talking with her husband. The men subsequently beat Udin in the head and stomach with a metal rod and left him on the floor for Marsiyem to find, covered in blood and bleeding from his ears.⁴

Udin, unconscious, was taken to hospital where he was diagnosed with a fractured skull. He died on the morning of 16 August 1996 without having regained consciousness, leaving behind his wife Marsiyem and two children, his son Wikan and daughter Yuli, who were two and eight years old at the time.

Failure of the authorities to bring the perpetrators to justice

While the police started investigation into Udin's assault as soon as 13 August 1996, this did not result in a conviction of the actual perpetrators. Evidence, including Udin's notes and blood collected from the Bethesda hospital in Yogyakarta where he had been admitted, was mishandled and in spite of various national and international journalist and human rights organisations expressing their conviction that Udin's death was linked to his reporting, the police ruled this out as a possible motive in the early stages of the investigation.⁵ Instead, it focused on a theory of infidelity, which initially led to the wrongful accusation of one suspect in late August 1996. However, the only witness soon admitted to have been paid by a nephew of Sri Rosso Sudarmo to fabricate testimony.⁶

On 21 October 1996, the police arrested taxi driver Dwi Sumaji for the murder. However, the case did not add up. Marsiyem, who had seen her husband's killers, immediately said that Sumaji wasn't one of the men who had appeared at her door that night in August,⁷ and Sumaji's photograph did not match the police sketch that was drawn soon after the murder occurred. Sumaji withdrew his initial confession and claimed that he had been bribed by police to confess to the crime, a statement that was corroborated by several witnesses. The office of the Public Prosecutor refused to follow through on the case four times due to the lack of evidence⁸ and when the case was eventually brought to trial in July 1997, the prosecution withdrew the case before the trial had come to a conclusion.⁹ On 27 November 1997, Sumaji was acquitted.

Following the acquittal, no further efforts were made to investigate Udin's murder. Even though Udin's wife testified that Sumaji was not her husband's

⁴ Ibid.

⁵ Ibid.

⁶ Ibid.

⁷ Ibid.

⁸ Ibid.

⁹ The Jakarta Post, *National Police asked to take over investigation*, 18 August 2010, <http://www.thejakartapost.com/news/2010/08/18/national-police-asked-take-over-investigation.html>.

killer, the office of the Public Prosecutor had abandoned the case and the Court had acquitted Sumaji, the police refrained from undertaking any further investigations, believing that it had done its duty by arresting a suspect and helping bring him to trial.¹⁰

Various organisations have repeatedly called upon the Indonesian authorities to continue investigations into Udin's murder. For example, in August 2010, AJI Indonesia sent a letter to the National Police Chief, asking his department to take over from the Yogyakarta police the investigations into Udin's murder.¹¹ By then, fourteen years had passed since the killing and no new suspects had been identified. The National Police Responded by saying there was no new evidence available on the basis of which investigations could be resumed. Until this date, no efforts from the national and international NGO community to persuade the authorities to further pursue the case have had any concrete effect.

Impunity climate in Indonesia

The unsolved murder of Udin is not an isolated case, but fits into a wider pattern of repression of the press and impunity. The number of cases of violence against journalists has fluctuated over the years, varying from 13 cases in 1996 to a record high of 115 in 2000, according to AJI Indonesia.¹² These cases of violence since 1996 include ten other murders of journalists, only one of which has been resolved.¹³

¹⁰ Bambang Muryanto, *Police blasted for handling of journalist murder case*, The Jakarta Post, 18 August 2011, <http://www.thejakartapost.com/news/2011/08/18/police-blasted-handling-journalist-murder-case.html>.

¹¹ The Jakarta Post, *National Police asked to take over investigation*, 18 August 2010, <http://www.thejakartapost.com/news/2010/08/18/national-police-asked-take-over-investigation.html>.

¹² <http://ajiindonesia.or.id/read/page/halaman/37/sejarah.html>.

¹³ **Muhammad Sayuti Bochar**, a journalist with the Ujungpandang-based weekly *Pos Makasar*, died of suspicious injuries on 11 June 1997. He had previously reported on embezzlement by government officials and timber theft by a village chief. See <http://cpj.org/killed/1997/muhammad-sayuti-bochhari.php>; **Niamullah**, a reporter from Jakarta newspaper *Sinar Pagi*, was found dead with stab wounds on 26 July 1997. Prior to his death, he had been reporting on illegal logging involving local government officials. See Amnesty International, *INDONESIA The need to protect journalists*, September 1997, <http://195.234.175.160/en/library/asset/ASA21/060/1997/en/9f656b4f-e9d6-11dd-a490-5f9258d9f20e/asa210601997en.pdf> and <http://cpj.org/killed/1997/naimullah.php>; **Agus Mulyawan**, reporter of Asia Press of East Timor, was killed by gunfire on 25 September 1999. See *AJI calls on authorities to shed light on cases of eight murdered journalists*, 3 May 2012, http://www.ifex.org/indonesia/2012/05/03/eight_journalists; **Muhammad Jamaluddin**, a video journalist for the TV station TVRI of Aceh, was found dead with his hands tied and numerous wounds on his body in the river Lamnyong on 17 June 2003. He had been covering conflicts in Atjeh. See *Ibid.* and <http://cpj.org/killed/2003/mohamad-jamal.php>; **Esra Siregar**, a TV journalist for RCTI, Nangroe Aceh Darussalam, was killed in Aceh on 29 December 2003 during an exchange of gunfire between the Indonesian military and the Free Aceh Movement. See *Ibid.* and <http://cpj.org/killed/2003/ersa-siregar.php>; **Harliyanto**, a freelance journalist for the *Delta Pos* tabloid of East Java, was killed by stabbing in a teak forest on 29 April 2006. Prior to his death he had been reporting on the embezzlement of aid funds. See *Ibid.* and <http://cpj.org/killed/2006/herliyanto.php>;

The Southeast Asia Press Alliance reported recently that AJI Indonesia had recorded 56 cases of violence against journalists between December 2011 and December 2012, only seven of which had been investigated.¹⁴ “The practice of glossing over the cases of violence against journalist reveals a dangerous trend of officials becoming more ignorant of the legal protection of journalism as a profession,” the statement notes.¹⁵

Reporters Without Borders’ 2013 World Press Freedom Index ranked Indonesia 139th out of 179 countries¹⁶ and AJI Indonesia and IFEX stated recently that impunity “is a common story in Indonesia.”¹⁷

II. Indonesia’s obligation to prosecute those responsible for violence against journalists

Indonesia’s Constitution states that “Every person shall have the right to [...] express opinions” as well as “the right to communicate and to obtain information [...] and [...] the right to seek, obtain, possess, store, process and convey information by employing all available types of channels.”¹⁸

Adriansyah Matra’I Wibisono, a journalist for a local TV station in Merauke, Papua, was found dead in the Maro river on 29 July 2010. His death is believed to be connected to his coverage of illegal logging and the local elections in Merauke. See *Ibid.* and <http://cpj.org/killed/2010/ardiansyah-matrais.php>; **Ridwan Salamun**, a correspondent for Sun TV, was stabbed to death while covering violent clashes in Tual, Southeast Moluccas. See <http://cpj.org/killed/2010/ridwan-salamun.php>; **Alfred Mirulewan**, a journalist for the tabloid *Pelangi* of the Moluccas, was found dead on 18 December 2010. He had been conducting investigations into the involvement of state officials in unlawful fuel sales and also covered recent elections. See http://www.ifex.org/indonesia/2012/05/03/eight_journalists/ and <http://cpj.org/killed/2010/alfrets-mirulewan.php>.

Anak Agung Prabangsa was a journalist for the daily newspaper *Radar Bali*, whose body was found floating just outside the Padangbai harbour on 11 February 2009. He had been reporting on corruption by a local council member in Bangli, eastern Bali, I Nyoman Susrama. A jury found Susrama guilty of plotting the murder in February 2010 and he was sentenced to life imprisonment. See <http://cpj.org/killed/2009/anak-agung-prabangsa.php>.

¹⁴ Southeast Asia Press Alliance, [Indonesia] 2012, Dark Period for Press Freedom and Freedom of Expression, 7 January 2013, see <http://seapabkk.org/seapa-campaigns/impunity/100724-indonesia-2012-dark-period-of-press-freedom-and-freedom-of-expression.html>.

¹⁵ *Id.*

¹⁶ See <http://en.rsf.org/press-freedom-index-2013.1054.html>.

¹⁷ AJI/IFEX, *2012 review: a dark period for free expression in Indonesia*, 6 January 2013, see http://www.ifex.org/indonesia/2013/01/10/2012_report/.

¹⁸ Constitution of the Republic of Indonesia, Article 28 E and 28 F, available at <http://www.refworld.org/docid/46af43f12.html>.

Indonesia acceded to the International Covenant on Civil and Political Rights (“ICCPR”) on 23 February 2006.¹⁹ As a State Party to the Covenant, it therefore has an obligation under Article 2(1) ICCPR to “respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized ... in the Covenant.” This includes an obligation to ensure the right to freedom of expression protected by Article 19 of the ICCPR. The UN Human Rights Committee in its General Comment 34 has emphasized the importance of protecting this right for journalists, calling a free, uncensored and unhindered press “one of the cornerstones of a democratic society”.²⁰ Moreover, the Committee underlined the obligation of States parties to the ICCPR to protect journalists from attacks and to bring to justice those who commit crimes against them:

States parties should put in place effective measures to protect against attacks aimed at silencing those exercising their right to freedom of expression. Paragraph 3 may never be invoked as a justification for the muzzling of any advocacy of multi-party democracy, democratic tenets and human rights. Nor, under any circumstance, can an attack on a person, because of the exercise of his or her freedom of opinion or expression, including such forms of attack as arbitrary arrest, torture, threats to life and killing, be compatible with article 19. Journalists are frequently subjected to such threats, intimidation and attacks because of their activities. [...] All such attacks should be vigorously investigated in a timely fashion, and the perpetrators prosecuted, and the victims, or, in the case of killings, their representatives, be in receipt of appropriate forms of redress.²¹

This obligation to prevent impunity for crimes against journalists was also echoed in the 2012 UN Human Rights Council Resolution on the safety of journalists. In this resolution, the Human Rights Council expressed

its concern that attacks against journalists often occur with impunity, and calls upon States to ensure accountability through the conduct of impartial, speedy and effective investigations into such acts falling within their jurisdiction, and to bring to justice those responsible and to ensure that victims have access to appropriate remedies.²²

The Human Rights Council therefore called upon States to:

¹⁹ See http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-4&chapter=4&lang=en.

²⁰ UN Human Rights Committee, General Comment No. 34, Article 19: Freedoms of opinion and expression, CCPR/C/GC/34, 12 September 2011, par. 13 (hereinafter “General Comment 34”).

²¹ General Comment 34, par. 23.

²² UN Human Rights Council, Resolution 21/12 on the Safety of Journalists, A/HRC/21/L.6, 21 September 2012, par. 7.

promote a safe and enabling environment for journalists to perform their work independently and without undue interference, including by means of [...] dedicating necessary resources to investigate and prosecute such attacks.²³

By failing to continue investigations into the murder of Udin in order to allow the actual perpetrators of this crime to be prosecuted, Indonesia is violating its obligations under Article 19 ICCPR to protect, guarantee and uphold the right to freedom of expression.

III. Request for action by the Special Rapporteurs

The failure of the Indonesian government to bring to justice those who killed Udin more than 16 years ago fits into a wider pattern of impunity for violent crimes committed against journalists in the country, as outlined above. By not investigating these crimes and acquiescing to this culture of impunity, the Indonesian government is sending a clear signal that repression of the press by means of violence is an effective tactic as these acts will go unpunished. This is in violation of Indonesia's obligations under the ICCPR, in particular Article 19 ICCPR and, where the violence amounts to the murder of journalists as in the case of Udin, Article 6 ICCPR.

In light of the above, the signatory organisations respectfully request the Special Rapporteurs to:

- (1) urge the Government of Indonesia to reopen investigations into the murder of Fuad Muhammad Syafruddin ("Udin") and to dedicate all necessary resources to identify and prosecute his killers before the statute of limitations on his murder runs out on 16 August 2014;
- (2) urge the Government of Indonesia to dedicate all necessary resources to identify and prosecute the perpetrators of the other unresolved killings of journalists and other acts of violence committed against journalists in the country;
- (3) urge the Government of Indonesia to dedicate all necessary resources to prosecute any future attacks on journalists in the country;
- (4) declare that the Government of Indonesia's failure to bring to justice the perpetrators of violent crimes against journalists supports a dangerous climate of impunity in the country which is in violation of Indonesia's obligations under Article 19 ICCPR.

Please do not hesitate to contact us if you have any questions or if we can provide you with any additional information you may need.

²³ Ibid, par. 8.

Yours sincerely,

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