

**REQUEST FOR AN URGENT PRONOUNCEMENT CONCERNING THE  
AUGUST 1996 MURDER OF FUAD MUHAMMAD SYAFRUDDIN  
(ALSO KNOWN AS “UDIN”) IN DUSUN GELANGAN SAMALO,  
PARANGTRITIS ROAD KM 13 YOGYAKARTA, INDONESIA**

**CALLING ON THE STATE OF INDONESIA TO ENSURE THAT THE  
PERPETRATORS OF THIS HEINOUS HUMAN RIGHTS VIOLATION  
ARE BROUGHT TO JUSTICE—  
TO STOP THE CYCLE OF IMPUNITY AGAINST INDONESIAN JOURNALISTS —  
AND THAT ADEQUATE REPARATIONS AND SATISFACTION  
BE MADE TO THE HEIRS OF UDIN  
UNDER APPLICABLE RULES OF INTERNATIONAL LAW**

July 2013

**The ASEAN Intergovernmental Commission on Human Rights (AICHR)**  
c/of the ASEAN Secretariat  
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Jakarta 12110, Indonesia  
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**I. PETITIONERS**

1. This request is being filed on behalf of the following Petitioners:
  - a. Marsiyem Udin- wife of the murdered Fuad Muhammad Syafruddin (also known as “Udin”); and
  - b. Mujilah Udin- mother of the murdered Udin.

All the Petitioners can be contacted through:

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## **II. URGENT REQUEST TO THE COMMISSION**

Petitioners hereby urgently request the Commission:

- (a) To make an urgent declaration calling on the State of Indonesia to ensure that the perpetrators of the August 1996 murder of Fuad Muhammad Syafruddin (also known as "Udin")– are brought to justice; and
- (b) To make an urgent declaration calling on the State of Indonesia to make adequate reparations to the Petitioners as heirs of Udin.

This urgent request is being made under Article 14 of the ASEAN Charter and pursuant to the relevant goals of the Commission, namely:

(1.1) To promote and protect human rights and fundamental freedoms of the peoples of ASEAN;

(1.2) To uphold the right of the peoples of ASEAN to live in peace, dignity and prosperity;

(1.3) To contribute to the realisation of the purposes of ASEAN as set out in the ASEAN Charter in order to promote stability and harmony in the region, friendship and cooperation among ASEAN Member States, as well as the well-being, livelihood, welfare and participation of ASEAN peoples in the ASEAN Community building process;

(1.4) to promote human rights within the regional context, bearing in mind national and regional particularities and mutual respect for different historical, cultural and religious backgrounds, and taking into account the balance between rights and responsibilities;

(1.5) to enhance regional cooperation with a view to complementing national and international efforts on the promotion and protection of human rights; and

(1.6) To uphold international human rights standards as prescribed by the Universal Declaration of Human Rights, the Vienna Declaration and Programme of Action, and international human rights instruments to which ASEAN Member States are parties.<sup>1</sup>

Further, this urgent request is being made in accordance with Article 39 of the ASEAN Human Rights Declaration:

39. ASEAN Member States share a common interest in and commitment to the promotion and protection of human rights and fundamental freedoms which shall be achieved through, inter alia, cooperation with one another as well as with relevant national, regional and international institutions/organisations, in accordance with the ASEAN Charter.

## **III. ASEAN MEMBER STATE AGAINST WHICH THE URGENT REQUEST IS BROUGHT.**

Republic of Indonesia

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<sup>1</sup>Terms of Reference of the ASEAN Inter-Governmental Human Rights Commission.

#### IV. FACTS DENOUNCED

1. Fuad Muhammad Syafruddin, also known as Udin, was born on 18 February 1964 in Bantul, Yogyakarta, Indonesia.

2. Udin became a reporter in 1986 and worked for the daily Yogyakarta newspaper *Bernas* during the following ten years. He mostly wrote on issues of crime and local politics.

3. 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.<sup>2</sup> 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.<sup>3</sup>

##### ***Udin's murder***

4. 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 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.<sup>4</sup>

5. 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***

6. 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.<sup>5</sup> 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.<sup>6</sup>

7. 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,<sup>7</sup> 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

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<sup>2</sup>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](http://www.ifex.org/indonesia/1996/08/19/indonesian_journalist_fuad_muhammad).

<sup>3</sup> Ibid.

<sup>4</sup> Ibid.

<sup>5</sup> Ibid.

<sup>6</sup> Ibid.

<sup>7</sup> Ibid.

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 evidence<sup>8</sup> 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.<sup>9</sup> On 27 November 1997, Sumaji was acquitted.

8. 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 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.<sup>10</sup>

9. 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.<sup>11</sup> 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.

## V. FACTUAL GROUNDS FOR THE URGENT REQUEST

10. The urgency in this request for the appropriate declaration is based on the failure of the Republic of Indonesia to adequately investigate and prosecute the perpetrators of the murder of Udin.

11. The failure of the Indonesian State is established by the following points:

- (a) Though the Indonesian police started investigation into Udin's assault as soon as 13 August 1996, this did not result in a conviction of the actual perpetrators.
- (b) Evidence, including Udin's notes and blood collected from the Bethesda hospital in Yogyakarta where he had been admitted, was mishandled.
- (c) 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 Indonesian police ruled this out as a possible motive in the early stages of the investigation.<sup>12</sup>
- (d) The Indonesian police 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.<sup>13</sup>

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<sup>8</sup> Ibid.

<sup>9</sup> 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>.

<sup>10</sup> 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>.

<sup>11</sup> 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>.

<sup>12</sup> Ibid.

<sup>13</sup> Ibid.

- (e) A taxi driver (Dwi Sumaji) was prosecuted for Udin's murder, even if Udin's wife 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.<sup>14</sup> Also, 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.
- (f) Despite the acquittal of Sumaji, the Indonesian police refrained from undertaking any further investigations, believing that it had done its duty by arresting a suspect and helping bring him to trial.<sup>15</sup>

12. Moreover, organisations have repeatedly called upon the Indonesian authorities to continue investigations into Udin's murder.

13. 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.<sup>16</sup> Nevertheless, the National Police Responded by saying there was no new evidence available on the basis of which investigations could be resumed.

14. Until now, Indonesian authorities have not initiated any new investigation on Udin's murder.

15. Thus, the need on the part of the Commission to issue an urgent declaration calling on the State of Indonesia to abide by its obligations under international law to ensure the prosecution and conviction of the perpetrators of Udin's murder.

16. It is essential that the Commission make this urgent declaration since according to Indonesian law the statute of limitations on Udin's murder runs out on 16 August 2014.<sup>17</sup>

17. Moreover, it is requested that the Commission issue a declaration concerning the provision of adequate reparations, including compensation and satisfaction, to the heirs of Udin.

## **VI. LEGAL GROUNDS FOR THE URGENT REQUEST**

18. As a member of the ASEAN, the Republic of the Indonesia pledged to support the aims and objectives of the Commission towards the protection and promotion of human rights within its territory and in the region as a whole.

19. Indeed, it gave its full support to the creation of the Commission, signing on 23 October 2009 the "Cha-am Hua Hin Declaration on the Inauguration of the AICHR, pledging full cooperation with this new ASEAN body and emphasizing the member-States' commitment to further develop cooperation to promote and protect human rights in the region.

20. The murder of Udin violated his Right to Life under Article 6(1) of the International Covenant on Civil and Political Rights (ICCPR)<sup>18</sup> and Article 11 of the

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<sup>14</sup> Ibid.

<sup>15</sup> BambangMuryanto, *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>.

<sup>16</sup> 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>.

<sup>17</sup> See Article 78 and 340 of the Penal Code of Indonesia, 27 February 1982, available at: <http://www.refworld.org/docid/3ffc09ae2.html>.

ASEAN Human Rights Declaration,<sup>19</sup> among other human rights instruments under which the State of Indonesia is a party. It also violated his Right to Freedom of Expression under Article 19 of the ICCPR<sup>20</sup> and Article 23 of the ASEAN Human Rights Declaration.<sup>21</sup>

21. Indeed, Indonesia has the obligation under international law<sup>22</sup> to protect the fundamental rights of individuals, especially the rights to life,<sup>23</sup> to dignity, and to be provided with adequate remedies for the violation of fundamental rights.<sup>24</sup>

22. Moreover, it also violated the duty of the State of Indonesia to prevent and to stop impunity, considering that there has been a climate of impunity against journalists 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.<sup>25</sup> These cases of violence since 1996 include ten other murders of journalists, only one of which has been resolved.<sup>26</sup>

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<sup>18</sup> Article 6 (1) Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.

<sup>19</sup> Article 11. Every person has an inherent right to life which shall be protected by law. No person shall be deprived of life save in accordance with law.

<sup>20</sup> Article 19

1. Everyone shall have the right to hold opinions without interference.

2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

(a) For respect of the rights or reputations of others;

(b) For the protection of national security or of public order (ordre public), or of public health or morals.

<sup>21</sup> Article 23. Every person has the right to freedom of opinion and expression, including freedom to hold opinions without interference and to seek, receive and impart information, whether orally, in writing or through any other medium of that person's choice.

<sup>22</sup> See RESTATEMENT OF THE LAW THIRD: 2 RESTATEMENT OF THE LAW: THE FOREIGN RELATIONS LAW OF THE UNITED STATES, sec. 701, comment, p. 152 (May 14, 1986).

<sup>23</sup> See ICCPR, art. 6(1)

<sup>24</sup> See ICCPR, art 2(3), 993 U.N.T.S. 3; *McCann and Others v. United Kingdom*, Eur. Ct. of Hum. Rts. (Ser.A), No. 324 (1995), para. 161.

<sup>25</sup> <http://ajiindonesia.or.id/read/page/halaman/37/sejarah.html>.

<sup>26</sup> **Muhammad SayutiBochar**, a journalist with the Ujungpandang-based weekly *PosMakasar*, 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://cpi.org/killed/1997/muhammad-sayuti-bochhari.php>; **Niamullah**, a reporter from Jakarta newspaper *SinarPagi*, 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://cpi.org/killed/1997/naimullah.php>; **AgusMulyawan**, 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](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://cpi.org/killed/2003/mohamad-jamal.php>; **EsraSiregar**, 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://cpi.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://cpi.org/killed/2006/herliyanto.php>; **AdriansyahMatra'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://cpi.org/killed/2010/ardiansyah-matrais.php>; **RidwanSalamun**, a correspondent for Sun TV, was stabbed to death while covering violent clashes in

23. Indonesia's obligation -- to protect the fundamental rights of individuals, especially the rights to life and freedom of expression, and to prevent and stop impunity -- is rooted in human rights treaties to which it is a state party. In particular, the International Covenant on Civil and Political Rights and the United Nations Charter-- as interpreted by the subsequent practice of State Parties<sup>27</sup>-- impose the obligation to promote and protect human rights.<sup>28</sup>

24. Moreover, Indonesia has the same obligation to promote respect for and protect human rights and fundamental freedoms, such as the rights to life and freedom of expression, under customary international law, as evidenced by the widespread acceptance of numerous international conventions<sup>29</sup> and instruments stating this hallowed principle,<sup>30</sup> such conventions being evidence of the existence of a customary norm.<sup>31</sup> Consequently, it is the state obligation of Indonesia to prevent and to stop impunity as exemplified in Udin's murder.

25. Moreover, all the nations of the world would be entitled to invoke the liability of Indonesia if it violates this duty.<sup>32</sup>

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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/](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, INyomanSusrama. 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>.

<sup>27</sup> Universal Declaration of Human Rights, art. 7, UN General Assembly Resolution 217A (III), 10 December 1948; General Assembly Resolution 40/144, A/RES/40/144, 13 December 1985, ANNEX, Declaration on the Human Rights of Individuals Who are not Nationals of the Country in which They Live, Preamble; General Assembly Resolution 54/109, A/RES/54/109, 25 February 2000, article 9, nos. 3-4, articles 17, 21; General Assembly Resolution 54/164, A/RES/54/164, 24 February 2000, no. 4, Preamble, 1<sup>st</sup> par., 10<sup>th</sup> par., 15<sup>th</sup> par., 16<sup>th</sup> par.; General Assembly Resolution 50/186, A/RES/50/186, 6 March 1996, no. 3, Preamble, paras. 9, 13, ; General Assembly Resolution 52/133, A/RES/52/133, 27 February 1998, no. 4, Preamble, paras. 9, 14. See Vienna Convention, art. 31(3); Beyani *supra* note 92, at 24, citing B. Simma and P. Alston, *The Sources of Human Rights Law: Custom, Jus Cogens, and General Principles*, 12 AUSTRALIAN YRBK INT'L L 82, 83 (1988-89).

<sup>28</sup> Charter of the United Nations, Preamble, para. 2, articles 1 (3), 55, 56; International Covenant on Civil and Political Rights, arts. 2, 8, 9. See also Beyani, *supra* note 92, at 24; Criton G. Tornaritis, *The Individual as a Subject of International Law and International Criminal Responsibility*, 1 A TREATISE ON INTERNATIONAL CRIMINAL LAW 103-105, 114 (M. Cherif Bassiouni, Ved P. Nanda, eds. 1973).

<sup>29</sup> Charter of the United Nations, Preamble, para. 2, articles 1 (1), 55, 56. See European Convention for the Protection of Human Rights and Fundamental Freedoms, Nov. 4, 1950, 312 U.N.T.S. 221; American Convention on Human Rights, Nov. 22, 1969, 9 I.L.M. 673 (1970); African Charter on Human and People's Rights, June 27, 1981, 21 L.L.M. 59 (1981). See Beyani, *supra* note 92, at 33, citing MERON, *supra* note 77, at 198).

<sup>30</sup> Universal Declaration of Human Rights, article 7, UN General Assembly Resolution 217A (III), 10 December 1948. General Assembly Resolution 40/144, A/RES/40/144, 13 December 1985, ANNEX, Declaration on the Human Rights of Individuals Who are not Nationals of the Country in which They Live, Preamble ; General Assembly Resolution 54/109, A/RES/54/109, 25 February 2000, article 9, nos. 3-4, articles 17, 21; General Assembly Resolution 54/164, A/RES/54/164, 24 February 2000, no. 4, Preamble, 1<sup>st</sup> par., 10<sup>th</sup> par., 15<sup>th</sup> par., 16<sup>th</sup> par.; General Assembly Resolution 50/186, A/RES/50/186, 6 March 1996, no. 3, Preamble, paras. 9, 13, ; General Assembly Resolution 52/133, A/RES/52/133, 27 February 1998, no. 4, Preamble, paras. 9, 14.

<sup>31</sup> Michael Akehurst, *Custom as a Source of International Law*, 47 BRIT. YRBK. OF INT'L. L. 1, 53 (1974-75) [hereafter Akehurst], See also R. Baxter, *Multilateral Treaties as Evidence of Customary International Law*, BRIT. YRBK. OF INT'L. L. 275, 298 (1965-66); and Akehurst at 43, citing Fisheries Jurisdiction Case, 1974 ICJ Reports 3, 26, and Lauritzen v. Government of Chile (1956) 23 INT'L. L.R. 703, 729-31.

<sup>32</sup> Barcelona Traction, Light, and Power Company, Ltd. Case (Second Phase) 1970 ICJ Reports 3, 32, para. 33. See Hugh Thirlway, *The Law and Practice of the International Court of Justice*, 1960-1989, 60 BRIT. YRBK. INT'L. L. 1, 98 (1989); and *Legal Consequences for States of the Continued Presence of*

26. Hence, it is in the interest of the Commission and of the ASEAN to express its concern on behalf of the human rights victim Udin and of his heirs, to engage the commitment of the Republic of Indonesia to ensure that (a) all the perpetrators of the August 1996 murder of Udin be brought to justice; and that (b) adequate reparations are given to the heirs of Udin, including compensation and satisfaction.

27. Under international law, Every State has a legal duty to respect and enforce human rights and humanitarian law, and this obligation includes the duty to “afford remedies and reparation to victims.”<sup>33</sup>

28. The Permanent Court of International Justice ruling in the 1928 *Chorzow Factory* case<sup>34</sup> that the obligation to make prompt, effective and adequate reparation for an international wrongful act is a “general principle of law” has now developed into a legal and moral duty.<sup>35</sup>

29. Moreover, the Republic of Indonesia has a duty to provide compensation<sup>36</sup> and satisfaction<sup>37</sup> to the heirs of Udin under international law.

30. According to current international law, satisfaction covers public acknowledgement of the State’s wrongdoing, along with concrete steps to repair the relationship between the victim and the State and the civil society as a whole.<sup>38</sup>

31. It embraces symbolic measures taken for moral and collective reparation and arises in part from the duty to remember. This may include:

(a) xxx xxx xxx;

(b) verification of the facts and full public disclosure of the truth to the extent that such disclosure does not cause further unnecessary harm or threaten the safety of the victim, witnesses, or others;

(c) the search for bodies of those killed or disappeared and assistance in the identification and reburial of the bodies in accordance with the cultural practices of the families and communities;

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*South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276* (1970), ICJ Reports, 1971, p. 56, para. 126. See also OPPENHEIM’S INTERNATIONAL LAW 937-939 (R. Jennings, A. Watts, 9<sup>th</sup> ed., 1994), Ireland vs. United Kingdom (1978), 58 INT’L. L. REP. 188, 291-292, Hersch Lauterpacht, 1 COLLECTED PAPERS 145 (1970).

<sup>33</sup> Women’s International War Crimes Tribunal on Japan’s Military Sexual Slavery, Judgement, The Hague, The Netherlands, 4 December 2001, para. 1021, citing the Vn Boven Principles, 1996, Principles 1 & 2, and the revised set of basic principles and guidelines on the right to reparation of victims of gross violations of human rights and humanitarian law prepared by Mr. Theo van Boven pursuant to Sub-Commission decision 1195/117, 24 May 1996, Annex, Basic Principles and Guidelines on the Right to Reparation for Victims of Gross violations of Human Rights and Humanitarian Law, principles 1 & 2, also known as the Revised Basic Principles, van Boven, 1996.

<sup>34</sup> (*Indemnity case*) Germany v. Poland, 1928 PCIJ Series, A. No. 17, at 29.

<sup>35</sup> Women’s International War Crimes Tribunal on Japan’s Military Sexual Slavery, Judgement, The Hague, The Netherlands, 4 December 2001, para. 1021.

<sup>36</sup> As stated in Article 36 of the Responsibility of States for Internationally Wrongful Acts “1. The State responsible for an internationally wrongful act is under an obligation to compensate for the damage caused thereby, insofar as such damage is not made good by restitution. 2. The compensation shall cover any financially assessable damage including loss of profits insofar as it is established.”

<sup>37</sup> As stated in Article 37(2) of the Responsibility of States for Internationally Wrongful Acts “Satisfaction may consist in an acknowledgement of the breach, an expression of regret, a formal apology or another appropriate modality.”

<sup>38</sup> See Article 37(2) of the Responsibility of States for Internationally Wrongful Acts.



- (d) an official declaration or a judicial decision restoring the dignity, reputation and legal and social rights of the victim and of persons closely associated with the victim;
- (e) apology, including public acknowledgement of the facts and acceptance of responsibility;
- (f) judicial or administrative sanctions against persons responsible for violation of memory;
- (g) commemoration and tributes to the victims;
- (h) inclusion of an accurate account of the violations that have occurred in international human rights and humanitarian law training and in educational materials at all levels;
- (i) preventing the recurrence of violations.<sup>39</sup>

32. Lastly, this urgent request is consistent with the principle enunciated in the Commission's *Terms of Reference*, which adopts an evolutionary approach that would contribute to the development of human rights norms and standards in the region.<sup>40</sup>

## CONCLUSION

Consequently, in accordance with Article 14 of the ASEAN Charter, and with Article 39 of the ASEAN Human Rights Declaration, Petitioners hereby reiterate their urgent request for the Commission:

- (a) To make an urgent declaration calling on the State of Indonesia to ensure that the perpetrators of the August 1996 murder of Fuad Muhammad Syafruddin (also known as "Udin")— are brought to justice; and
- (b) To make an urgent declaration calling on the State of Indonesia to make adequate reparations to the Petitioners as heirs of Udin.

### Petitioners' signatures:

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MARSIYEM

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MUJILAH

<sup>39</sup> See Women's International War Crimes Tribunal on Japan's Military Sexual Slavery, Judgment, The Hague, The Netherlands, 4 December 2001, para. 1032, citing E/CN.4/2000/62, Mr. M. Cherif Bassiouni, *Final Report of the Special Rapporteur on the Right to Restitution, Compensation, and Rehabilitation for Victims of Gross Violations of Human Rights and Fundamental Freedoms*, at para. 25. (Hereinafter, *Bassiouni's Final Report*)

<sup>40</sup> TOR principle 2.5.

*In support of the Petitioners:*

**MEDIA DEFENCE SOUTHEAST ASIA**

**By:**

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