

Testing the Right to Information Held by Public Bodies

Results of a Request for Information Exercise done by Civil Society Groups in Indonesia in West Nusa Tenggara, North Sulawesi, Riau, and West Java

Introduction

The disclosure of information to the public is a foundational requirement of democratic governance. In 2008, the government of Indonesia adopted Law Number 14 of 2008 concerning Public Information Disclosure (UU KIP) which provides for the people's right to access information from public authorities, along with a corresponding obligation on public authorities to respond to requests for information from society. UU KIP requires every public authority to appoint an Information Management and Documentation Official (or officials) (Indonesian: *Pejabat Pengelola Informasi Publik/ PPID*). The objective of appointing the PPID is to ensure that the provision of information is well managed and that people can easily access the information they need.

In Indonesia, the adoption of Law Number 14 of 2008 has breathed fresh air into the right of the public to obtain information. As stipulated in Article 3, Law Number 14 of 2008 aims, among other things, to guarantee citizens' right to know about public policy making, public programmes, and the processes and reasons behind public decision-making. In addition, the Law supports communities' participation in the process of public policy, with a view to increasing communities' active role in public policy making and good public management practices. It also aims to bring government operations to light in a manner which is transparent and effective and efficient, and which leads to accountability.

Five years after it was enacted, it is worth asking how the implementation of the UU KIP is going. A related question is how prepared public authorities are in terms of their ability to receive and respond to request for information. The Indonesian Alliance of Independent Journalists (AJI) and the Centre for Law and Democracy (CLD) undertook a programme of collaboration with 21 non-governmental organisations (NGOs) in Bandung (West Java), Pekanbaru (Riau), Manado (North Sulawesi) and Mataram (West Nusa Tenggara) to test the availability of information from public authorities through a process of making applications for information.

The programme had two main goals. Besides testing the information disclosure preparedness of public authorities, it also aimed to increase the level of demand for information from society as part of the framework of implementation of the UU KIP. Demand, in turn, is expected to create pressure for public authorities to better prepare themselves to implement the law, and to show that the provision of information has become one of the demands of society today.

Methodology

The process for testing the quality of access to information was done via making requests for information and documentation in writing to various public authorities in the four locations, namely West Java, Pekanbaru, Manado, and Mataram. The written requests for information and documentation were based on the specific characteristics of each location, as well as the advocacy needs of the requesting organisation. The requests were lodged along with reasons and the response was monitored during the following ten working days, which is the time limit for responding to requests in the law, in order to assess the final response to the request for information.

The process of testing the provision of information in response to requests was done in several stages, as follows:

1. Sending a letter containing a request for information and document to the public authority
2. Visiting the authority in order to ask for an interview
3. Lodging an internal 'letter of objection', if the request was not responded to or the response was deemed not to comply with the provisions stipulated in the Law
4. Lodging a complaint with the local Information Commission in appropriate cases (i.e. if the internal objection was unsuccessful)
5. Going through the process of mediation and dispute resolution before the Commission

After sending the request and receiving a response from the public authority, the requesting organisation was asked to categorise the result according to a standard methodology, so that all of the results could later be evaluated.

The results were analysed according to three metrics:

TIMELINESS:

Whether or not the request was responded to in accordance with the time limits specified in the Law on Public Information Disclosure.

JUSTIFICATION:

Whether, in case of a transfer or referral of the request, a claim that the information is not available or a refusal to provide the information, the action was proper or not.

COMPLIANCE WITH THE PRINCIPLE OF THE RIGHT TO INFORMATION:

Whether or not the result complies with the requirements of the Law on Public Information Disclosure. If the response was too late or was insufficient, or was a silent rejection, it was categorised as a failure to meet the conditions of the law.

Results

Background

The process of lodging requests for information as part of this testing exercise was implemented by 21 organisations located in Manado, Pekanbaru, Mataram and West Java. All of the organisations were linked into the programme through the AJI representative offices based in those locations. The requests for information were submitted with various objectives in mind, such as case advocacy, campaigning, research and development.

In Manado, five organisations participated in the process, namely Yayasan Dian Rakyat Indonesia (YDRI), Liga Mahasiswa Nasional Demokrat (LMND) SULUT, Komda Pemuda Katolik Sulawesi Utara, AJI Manado and the Legal Aid Foundation (LBH) of Manado.

Yayasan Dian Rakyat Indonesia (YDRI) focuses on advocacy relating to public budgets with a view to improving public services, especially in the field of education and health. For that reason, YDRI made requests for information relating to the budget of the Regional Working Unit (SKPD) in the education and health sectors, the governmental budget of North Sulawesi province in 2012 along with the amendments in 2012, and the budget of the Agricultural Department of North Sulawesi Province, all with a view to monitoring the budget and the use thereof.

For the last 2 years, Liga Mahasiswa Nasional Demokrat (LMND) SULUT has provided assistance to support people's advocacy against the opening of an iron ore mine in Bangka Island, Likupang Timur, District of South Minahasa, and its requests related to these activities.

Komda Pemuda Katolik Sulawesi Utara made requests for information concerning programmes relating to the development of youth potential in North Sulawesi, for information about religious programmes and activities conducted by religious organisations, and for information on the budget allocated to youth and religious organisations in North Sulawesi.

AJI Manado made requests for information to Polresta Manado in relation to the investigation of the murder of a journalist from *METRO Daily*, Aryono Linggotu. AJI Manado wanted the information to assist it in its advocacy around the case. Its aim was to get information about the autopsy done on Aryono Linggotu, along with information relating to the budget of the Provincial Government of North Sulawesi and the results of the budget audit done by Unsrat of Manado in 2012.

The Legal Aid Foundation (LBH) of Manado made requests for information to public authorities to support its ongoing case investigations. A request for information to the State Electricity Company of Suluttenggo Region was intended to follow up on the construction of the High Voltage Overhead Lines (Indonesian: *Saluran Udara Tegangan Tinggi/SUTT*) which are passing through a residential area in Perumahan Wale Pineleng. A request for information to the Environmental Management Agency (Indonesian: *Badan Pengelolaan Lingkungan Hidup/BPLH*) of North Sulawesi aimed to obtain a letter issued by BPLH related to the development permit for the SUTT which is passing through the residential area in Wale Pineleng. A request to the

Governmental Institute of Home Affairs (Indonesian: *Institut Pemerintahan Dalam Negeri/IPDN*) in North Sulawesi related to a legal study concerning progress in a criminal case relating to the death of a Second-Level Praja, Yunali Untajana. Finally, information requested from the National Land Affairs Body in Manado aimed to assess the validity of a right of land ownership certificate used as evidence in court.

In Mataram (West Nusa Tenggara), six organisations participated in the requesting exercise, namely People's Solidarity for Transparency (Indonesian: *Solidaritas Masyarakat Untuk Transparansi/SOMASI-NTB*), Consortium for Study and Participation Development (Indonesian: *Konsorsium Untuk Studi dan Pengembangan Partisipasi/KONSEPSI*), NGO of Koslata, the Legal Aid Foundation of Apik-NTB, LenSA NTB and Pancakarsa.

People's Solidarity for Transparency (Indonesian: *Solidaritas Masyarakat Untuk Transparansi/SOMASI*) submitted a request for information to seven public authorities operating at the provincial level, namely the Health Department, the Public Works Department, the Department of Education, the Sport and Youth, Financial Division, PT DMB (Perusda), the Department of Revenue and the Legal Division. The information was intended to support a programme of research being undertaken by SOMASI-NTB.

The Consortium for Study and Participation Development (Indonesian: *Konsorsium Untuk Studi dan Pengembangan Partisipasi/ KONSEPSI*) made requests for information to the Regional Development Planning Body of NTB Province, the Regional Disaster Mitigation Agency of NTB Province, the Forestry Department of Lotim, the Forestry Department of Loteng, the Forestry Department of KLU, BP-DAS Dodokan Moyosari, the Multi-Party Institution of Lobar and the Forest Management Unit of Rinjani Barat. This information was again intended to be used for research being done by KONSEPSI and which related to their overall programme of work.

NGO of Koslata made requests for information relating to its advocacy and campaigning, especially regarding the problems experienced by migrant labourers. These requests were directed to LTSP-NTB, the Labor Department of NTB Province, the Immigration Office of NTB, the Indonesian Labor Consortium Insurance of NTB, BP3TKI-NTB, BAPPEDA KLU, BPDAS-NTB, the Research Institution of Unram, the Social Department of KLU and BMKG of Mataram.

In Riau (Pekanbaru), five organisations participated in the testing exercise, namely the Indonesian Forum for Budget Transparency (Indonesian: *Forum Indonesia Untuk Transparansi Anggaran/FITRA-Riau*), the Legal Aid Foundation of Pekanbaru (Indonesian: *Lembaga Bantuan Hukum LBH of Pekanbaru*), *Rumpun Perempuan dan Anak Riau* (RUPARI-Pekanbaru), SIKLUS-Pekanbaru and TII-Riau.

The Indonesian Forum for Budget Transparency (Indonesian: *Forum Indonesia Untuk Transparansi Anggaran/FITRA-Riau*) is a non-governmental organisation which conducts a programme of work relating to budget enforcement based on the public interest for purposes of increasing public welfare and good and clean governance. For that reason, FITRA-Riau proposed requests related to the budget of several public authorities in Riau Province.

The Legal Aid Foundation (Indonesian: *Lembaga Bantuan Hukum/ LBH*) of Pekanbaru made requests to the Land Affairs Office of Pekanbaru City and the Office of Pekanbaru’s Mayor. The information was needed to obtain juridical information relating to land certificates and regional regulations concerning permissions granted to street traders, along with the location allocated to them to conduct their trade. As a result, the street traders supported by LBH will obtain legal certainty in relation to the performance of their activities, especially in relation to its economic aspect.

Rumpun Perempuan dan Anak Riau (RUPARI) made requests to the health department of Riau province concerning information about the number of mother and child deaths which took place in Riau province in 2011 and 2012. This information was needed for research and advocacy regarding respect for women and children’s rights in Riau province.

In West Java, the testing exercise was done by five organisations, namely the Legal Aid Foundation of Bandung, Walhi-West Java, Kalyana Mandira, the Indonesian Women’s Union (Indonesian: *Serikat Perempuan Indonesia/ SERUNI*) and *Paguyuban Warga Peduli Lingkungan (Pawa Peling)*.

The Indonesian Women’s Union (Indonesian: *Serikat Perempuan Indonesia/SERUNI*) made requests mainly for the purpose of conducting analysis and research regarding the increase in health facilities and service quality, the allocation of health budget to poor communities, and reproductive health of women. *Paguyuban Warga Peduli Lingkungan (Pawa Peling)* made requests for a number of documents which will be used for community advocacy activities relating to environmental issues in Sub-district Solokan Jeruk, District of Bandung. *Pawa Peling* plans to hold a press conference regarding waste disposal problems, based on information they obtained through this requesting process.

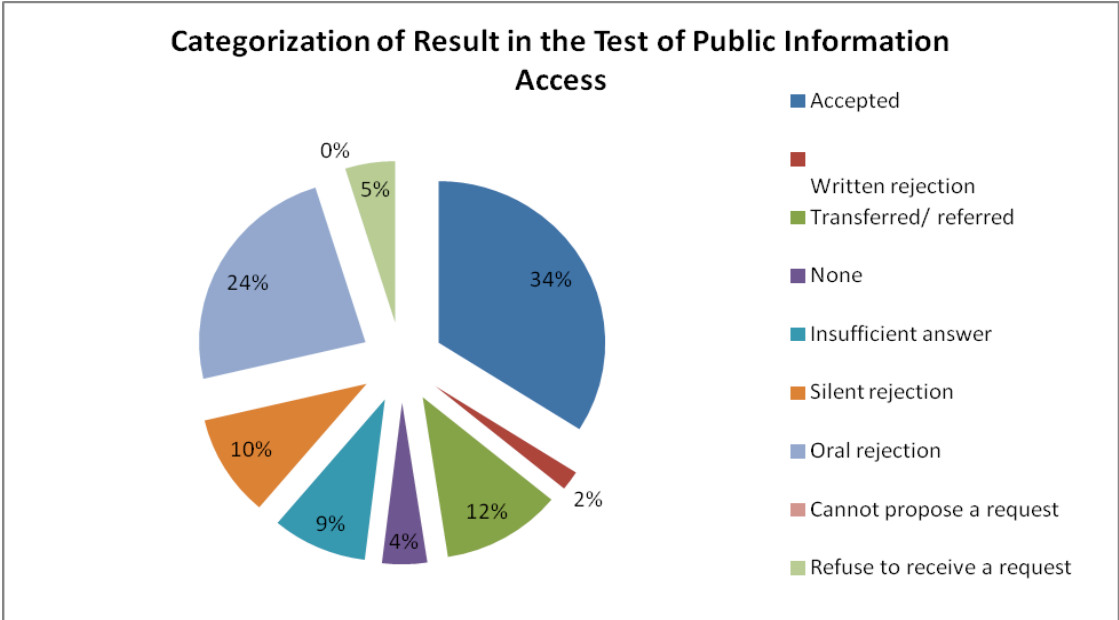
Categorisation of the Results

This testing exercise about access to public information involved 206 information requests lodged by 21 organisations with 83 public authorities in West Nusa Tenggara, North Sulawesi, Riau and West Java. The largest number were based in West Nusa Tenggara (Mataram), namely 40 public authorities, followed by North Sulawesi (Manado) with 20 authorities, Riau (Pekanbaru) with 16 authorities and West Java (Bandung) with 7 authorities.

Region	Number of Bodies	Number of Requests	Accepted	Written rejection	Transferred/ referred	None	Insufficient answer	Silent rejection	Oral rejection	Refuse to receive request	Cannot propose a request
North Sulawesi	20	61	16	0	0	2	0	5	30	8	0
West Nusa	40	70	32	4	9	7	12	3	3	0	0

Tenggara											
Riau	16	35	10	0	0	0	2	10	11	2	0
West Java	7	40	12	0	15	0	5	3	5	0	0
Total	83	206	70	4	24	9	19	21	49	10	0

The following chart shows the categorisation of results:



Based on the chart above, the number of information requests falling into the ‘accepted’ category, with the information being obtained in accordance with the rules, is about equal to the number of requests which received either a silent or an oral rejection, namely 34 percent. The number of oral rejections was more than silent rejections by quite a large margin. Most public authorities which provided oral rejections gave the same reason, namely that they had no idea about the existence of the UU KIP and, in addition, its implementation had not yet reached their authority. The main reason for silent rejections was because no Information Management and Documentation Official (PPID) had been appointed in that authority. As a result, the request was not processed and responded to properly according to the provisions of the UU KIP.

The number of requests which were transferred or referred was 12 percent. Of these, not all requesters were ultimately successful in getting the intended information, although they did lodge the request again with the referred authority. Nine percent of requests received an insufficient response, and four percent of requests were unsuccessful on the basis that no responsive information was available.

No public authority in this testing exercise had a policy stating that they would not accept requests for public information. However, some public authorities refused to receive requests.

Usually this is because the authority has not appointed a PPID, which means that there is no avenue to process the request.

As part of this testing exercise, a number of organisations filed letters of objection with the same public authority that had rejected their requests and then, if necessary, lodged complaints with the local Information Commission, leading to a process of mediation and dispute resolution. In West Java, in most cases the information was obtained after lodging an objection letter with the public authority, because the original request had not been responded to within the time limit of ten working days, extendable by an additional seven working days, specified in the UU KIP.

The following table outlines the list of requests in relation to which organisations lodged a complaint, along with the outcome:

No	Applicant's Institution	Public Authority Addressed	Final Outcome
1.	SERUNI	Regional Secretariat of Cimahi City	Document was received.
2.	BEM of Economic Faculty, Padjadjaran University	PPID of Padjadjaran University	Document was received.
3	SOMASI NTB	Public Works Department, West Nusa Tenggara Province	Objection letter was not responded to within the time limit and the matter has now gone for adjudication.
4	SOMASI NTB	DIKPORA of West Nusa Tenggara	Document was received.
5	SOMASI NTB	Financial division of West Nusa Tenggara Province	Objection letter was not responded to within the time limit and the matter has now gone for adjudication.
6	SOMASI NTB	PT DMB	Objection letter was responded to with a request for a meeting.
7	SOMASI NTB	Department of Revenue in the Province of West Nusa Tenggara	Document was received.
8	FITRA Riau	Department of Education in the province of Riau	Objection letter was not responded to within the time limit and the matter has now gone for adjudication.
9	FITRA Riau	Health Department of Riau Province	Objection letter was not responded to within the time limit and the matter has now gone for adjudication.
10	FITRA Riau	General Election Commission (KPU) of Riau Province	Objection letter was not responded to. Request for dispute resolution to the Regional

			Commission of Information was rejected.
11	FITRA Riau	Department of Revenue in the Province of Riau	Objection letter was not responded to within the time limit and the matter has now gone for adjudication.
12	FITRA Riau	Regional Development Planning Agency of Riau Province	Objection letter was not responded to within the time limit and the matter has now gone for adjudication.
13	FITRA Riau	Youth and Sport Department of Riau Province	Objection letter was not responded to within the time limit and the matter has now gone for adjudication.
14	FITRA Riau	Inspectorate of Riau Province	Objection letter was not responded to within the time limit and the matter has now gone for adjudication.
15	LBH Pekanbaru	Land Affairs Office (BPN) of Pekanbaru City	In the process of waiting for a response from the public authority, the organisation sent a complaint to the Commission.
16	LBH Pekanbaru	Office of Pekanbaru's Mayor	In the process of waiting for a response from the public authority, the organisation sent a complaint to the Commission.

Some requests for information are still going through the process of dispute resolution. For example, SOMASI NTB has sent a Dispute Letter to the Information Commission in the Province of West Nusa Tenggara because the public authority did not respond to the objection letter within the time limit of 30 working days. In accordance with the provisions of the UU KIP, Chapter VIII concerning Objection and Dispute Settlement through the Commission of Information (Article 36(2)) states that the time limit for a public authority to respond to a letter of objection is 30 days. A number of disputes from SOMASI NTB have been accepted and are awaiting final adjudication as of the project's completion.

One exceptional case, stemming from a request by FITRA Riau, is worth noting. After there was no response to its objection letter, an application for dispute resolution to the Regional Information Commission in Riau was rejected for lack of legal standing, on the basis that the applicant organisation was not registered in Depkumham, based on Regulation of KI (Perki) No. 1 of 2013. Since the dispute request could not be lodged by Fitra Riau, they instead had one of their staff members propose it personally. That request also failed to garner a response and they then lodged an objection, which was also not responded to within the time limit. As of the project's completion, the request is awaiting adjudication by the Commission.

Evaluation of Findings and Outcomes

1) TIMELINESS

Most requests for information were not processed in accordance with the time limits set out in the Law on Public Information Disclosure. The results of this testing exercise were that only 33 percent of all requests were processed in accordance with the rules set out in the UU KIP, while the rest were ignored by public authorities. One factor which may contribute to these results is the lack of awareness of the UU KIP among staff of the public bodies, leading to requests for information being ignored.

Another potential contributing factor is the lack of awareness by other officials within the public body that a PPID has been appointed. This can make it difficult for the PPID to retrieve the information under request. Another challenge is internal coordination, because the process for determining the status of information (i.e. categorisation of information) may not have been implemented, leading to uncertainty as to whether information can be disclosed.

2) JUSTIFICATION

In many cases, where requests are transferred or referred, an explanation by the authority is very helpful for the applicants who wish to follow up. However, the process of transferring or referring is limited and done only by public authorities which have appointed a PPID. Written rejections are only offered by authorities with a PPID, those without PPIDs often give an oral rejection without proper reasons.

3) COMPLIANCE WITH THE PRINCIPLE OF THE RIGHT TO INFORMATION

Only a small percentage of the requests for information made through this testing exercise were treated in compliance with the Law on Public Information Disclosure. Most of them were responded to late, or with an insufficient answer, leading them to be classified as a failure to comply. This category also includes silent rejections and rejections which were not based on legitimate reasons.

Lessons Learned

This testing exercise for access to information has provided us with a number of lessons which can feed into the process of implementation of the UU KIP by public authorities in Indonesia. These lessons are also useful for others who are interested in supporting public information disclosure.

A first lesson relates to the awareness of the UU KIP among society and public authorities. A lot of public authorities are not aware of the UU KIP or what is required for its implementation. In the region of West Java, our assumption that public authorities would be more aware about the UU KIP proved to be wrong. SERUNI, for example, found out when making requests for information from the Health Department of Cimahi City that the official admitted that he did

not know about the law and just learned about the procedure for processing requests for information on the tenth day.

Beyond general awareness about the law, understanding within public authorities of the role of the PPID is also lacking and yet this is necessary for proper implementation of the law. This testing exercise suggests that, in many public authorities, only the chairman is aware of the existence of the PPID. As a result, when a request for information is made, it cannot be processed in a timely manner by the public authority.

Lodging complaints about requests for information with the local Information Commission also generated important lessons. The role of these bodies is not only as a mechanism of control in relation to the processing of information requests, but they are also central to enhancing broader understanding about the law. Creating greater awareness about the existence of a local Information Commission can strengthen its ability to play its role in promoting implementation of the law.

This testing exercise demonstrates that implementation of the UU KIP is still far from ideal in Indonesia. A lack of preparedness on the part of public authorities is one of the main problems. There is a great need for more promotion and campaigning regarding the implementation of this Law. This is needed both to enhance understanding and use of the law among the public (demand side) and to support implementation among public authorities (supply side).
