

THE ROLE AND INITIATIVES OF NGOs IN INDONESIA IN EMPOWERING FREEDOM OF INFORMATION

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Abstract

Freedom of information is the air for democracy to breathe, and in Indonesia the initiatives on drafting an FOI Bill was led by a group of NGOs in 2000. This paper presents the historical background of FOI Bill in Indonesia, the role of NGOs in drafting the bill and the progress of the FOI bill to date.

BACKGROUND

Freedom of information is a fundamental right as stipulated in Article 19 of the Universal Declaration of Human Rights :

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinion without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers

FOI, mostly understood as the right to access information held by public institutions, has been recognised as the only solution to achieve good governance in Indonesia especially after the fall of Soeharto, the former President of Indonesia, in 1998.

To some extent, Indonesian laws recognise the public right to information as stipulated in approximately 17 laws. In addition to this, the second amendment of *Undang-Undang Dasar 1945* (Indonesian Constitution 1945), Article 28 F, states that ‘Everybody has the right to communicate and the right to information to develop his/her personal and social environment, and has the right to seek, receive, possess, keep, develop, and give the information by any means’

However, the 32 years of Soeharto’s reign saw the suppression of freedom of speech, press and access to information which contributed greatly to the failure of the implementation of those laws. His authoritarian style led to an environment which did not support the flow of information as the government’s culture was keeping all government related information closed to public and the non-availability of legal framework and law enforcement had also added to the dysfunction of the laws.

In 1998, when Soeharto stepped out of office after 32 years, a new era in the country started. The reformation was marked by some significant changes, among them the growth of NGOs. The country gradually moved to a transition period, embracing democracy, and transparency.

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NGOs' INITIATIVES ON DRAFTING THE FOI BILL IN INDONESIA

In parallel with the development of democratization, reformation as well as influence of international partners, we have seen the growth of- and increase in- the number of NGOs. In mid 1990s, 7 thousand NGOs were registered with the Ministry of Home Affairs and by 2002 the number has reached 13,500.

The Government does not feel comfortable with the term NGO as it is used elsewhere. It is considered that this term is associated with an alternative power or organization that might compete with the government in claiming the success of country development. The government prefers the term *Lembaga Swadaya Masyarakat* (self-reliant community institutions) rather than NGO.

No matter what, we have to admit that NGOs in Indonesia and perhaps in other countries as well have played important role in the process of empowering the society for better understanding of their people's rights and obligations and encouraging their participation in a democratic system.

Some NGOs share similar thinking that the pillar of democracy is determined by the presence of transparent and good government which is only possible through a the availability of FOI.

ICEL (Indonesian Centre for Environmental Law) started the initiative of drafting the Bill. The first draft consisting of 37 articles was produced in September 2000. Then, based on the consideration that information is the public's right and the need to have legal supports in placed prior to embarking on FOI, a group of 30 NGOs and some individuals (with different interests such as environment, media, human rights, decentralisation) established a Coalition of Freedom of Information in November 2000.

The draft of FOI highlights some crucial issues, among others, the more important ones are:

- Maximum Access Limited Exemption (MALE)
- Limited exemption that adopts consequential harm test and balancing public interest test (not based upon class exemption)
- Information access must be cheap, fast, intact and accurate
- Public institutions have the obligation to manage their information properly and deliver good public service system
- The establishment of an independent body to solve any dispute on access to public information
- Sanctions to those who hold back public information

The draft was submitted to Commission I of the House of Representatives (period 1999 to 2000) for review in March 2002. This is part of the requirements for passing a bill in Indonesia. Following a long and painful debates and amendments, the

Commission agreed to adopt the draft as their initiative draft. We have seen 3 different versions of the draft, the Coalition's, the Commission's and the Government's version.

The draft was sent to the President who issued an official instruction to one of his Ministers to represent him in the future discussions and review of the draft. Unfortunately, it did not work well. A general election took place in the same year when the members of the House of Representative terms were about to end and everyone was busy with the election. As a consequence, the draft failed to meet the time frame as an Indonesian law does not recognise a carry-over process. The Coalition has to start introducing to the newly appointed members of the House of Representatives, concept and thinking behind FOI as part of crucial components for the establishment of a democratic and transparent society. Having seen past experiences and the increasing support the Coalition is receiving, I personally feel optimistic that the current Government has shown goodwill in speeding up the enactment of the FOI draft.

INITIATIVES THROUGH PARTNERSHIP

In early June 2005, BC Indonesia in partnership with WBI conducted a workshop on "Freedom of Information and Media in Indonesia". We agreed to conduct this by considering the British Council's involvement on media matters in Indonesia including issues on FOI (Tobby Mendell of Article 19, for example, helped in the drafting of the FOI Bill in 2001). The theme of the workshop was in line with information society, our corporate agenda.

The objectives of the workshop are to:

- (a) Generate debate and dialogue among key stakeholders on the constraints in the information access environment as a basis for creating support and consensus for reform and capacity. This includes policy makers and government officials on the one hand, and media and civil society professionals, on the other.
- (b) Identify key constraints and preliminary action plans for improving the legal and institutional preconditions for freedom of information, building government capacity for delivering information, and strengthening the media's role in fostering good governance.

The workshop was designed for legislators, policy-makers, government information officers, finance and administrative officers, civil society organizations, and media representatives. More than 100 people attended the workshop.

Speakers were representatives of various institutions, from government, MPs, media, NGOs to professionals. BC Indonesia invited Debra Long, from Article 19 who delivered "Freedom of Information and Access to Information: The UK experience".

At the end of the workshop, we set up a focus group consisting of some international organisations such as UNESCO, WB, NDI (National Democratic Institute) and the Indonesian Coalition of FOI.

We agreed that to speed up the enactment process and to push the FOI, there is a need for wider campaign to engage more supporters. From the beginning we understood that the FOI is the agenda of the Indonesian themselves and our position as ‘international organization’ forced us to ensure that our role is on advocacy only.

We feel that we need to support the Coalition to create awareness among the university community through The University Library Forum. They are ‘educated’ and we consider that by pointing out their needs for FOI, they can influence the government. The first testing bed was in early December when a half-day seminar on “FOI and the University Community” was held and which took place at the International Campus of Bina Nusantara University. As mentioned before, the purpose of the seminar is to raise awareness of FOI, understanding clearly the importance of FOI as part of a democratic system and at the same time to seek their support to convince their peers from other regions to participate in the campaign. We planned to conduct the programme in five different cities if funding is available in the future.

The Coalition, supported by Unesco has just published a booklet: *Apa Itu Kebebasan Memperoleh Informasi?* (‘What is Freedom of Information?’). Written in a light and simple language, the aim of this publication is to present the basic concepts of FOI, the benefits of having an FOI act. It also illustrates some cases in daily life to ensure that the readers understand FOI.

A lot have been done by the NGOs in Indonesia to convince the Government of the urgency of having an FOI law, from drafting the bill, lobbying with the MPs, the Government, and launching campaigns. However, it is not as easy as some have expected.

Amidst the fight for the enactment of the FOI at the central government level, a different story is happening at the local government level. A Government Law on Decentralization No 22/1999 has given autonomy to local governments. This demonstrates the move of the government to decentralize governance to local governments which inspired them to enact their own laws. The spirit for a better and clean government in the region led to the production of local FOI bills, reflecting transparencies and giving the public the right to access public information. The Coalition of FOI plays an advocacy role to help NGOs and local governments in drafting the law. To date, ten local governments have enacted laws related to transparency and access to information.

THE ROAD AHEAD

Creating awareness of the need for FOI is a very challenging task as shown by the Coalition’s efforts to run a campaign throughout the country that is so vast and diverse. In addition to this, the culture of secrecy is deep-rooted in the society. Openness is not really part of the culture.

It is also crucial to run programs related to “educate” MPs and other decision makers including all government employees on the importance of FOI and for legislators to support the implementation of an FOI.

On the Government side, there have been some arguments on whether FOI is more urgent and priority than the Secrecy Acts. Government authorities also question the readiness of public institutions in providing information services. Record management in most government bodies is still not well organized and the required infrastructure is only well established in big cities.

There is a need to identify champions in building understanding of an FOI throughout the country by empowering the community leaders, religious leaders and young leaders.

CONCLUSION

The priority agenda of the current President is to abolish Corruption, Collusion and Nepotism and the Coalition considers that the enactment of an FOI Bill will be the right and effective tool.

Keep the fire burning!

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Links on Freedom of Information in Indonesia

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<http://kebebasan-informasi.blogspot.com>

<http://www.britishcouncil.org/indonesia-newsletter-information-september.htm>

