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Resolution of Disputes on Disclosure of Public Information: Judicial Approach Through Adjudication and Litigation Based on the Law Number 14 of 2008 concerning Openness of Public Information

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ABSTRACT

Public information disclosure has become a pressing legal issue due to its significance in ensuring transparency and its role as a pillar of a healthy democracy. It serves as a crucial tool for guaranteeing the public's right to know what the government is doing, has done, and plans to do. Law No. 14/2008 on Public Information Disclosure aligns with fundamental principles in Indonesian Constitutional Law, including the right to communicate and access information as stated in Article 28F of the 1945 Constitution. This research aims to address two key questions: 1) What is the role of Law No. 14/2008 within the Indonesian constitutional system? and 2) How is the law implemented in resolving public information disputes, particularly in ensuring the equal distribution of Information Commission institutions across districts and cities in North Sumatra? The research uses a normative juridical approach and a qualitative method, focusing on a deep understanding of the issue rather than generalization. Ultimately, the study seeks to propose the establishment of District/City Information Commissions throughout North Sumatra, which would assist local communities in resolving public information disputes more efficiently, reducing the need to travel to the North Sumatra Information Commission in Medan and thereby saving time and costs for all parties involved.

Keywords: Public Information Disclosure, Democracy, Government, Governance, Information Commission.

I. Introduction

The government, in its role as the executor of the state system and governance, must ensure that the public's information needs are met, as they are entitled to receive. This is also in accordance with the mandate of the 1945 Constitution of the Republic of Indonesia, specifically in Article 28F, which states: "Everyone has the right to communicate and obtain information to develop their personal and social environment, and has the right to seek, obtain, own, store, process and convey information using all types of available channels (Government of Indonesia, 2017)". Information is a basic need for everyone's personal development and social

environment, and it is an important part of national security. The openness of public information serves as a means of optimizing public oversight of state administration, other public bodies, and all matters that impact the public interest.

According to the provisions of Article 1, paragraph (1) of Law Number 14 of 2008 on Public Information Disclosure, "Information refers to statements, ideas, or signs containing value, meaning, and messages, whether in the form of data, facts, or explanations, that can be seen, heard, or read. This information is presented in various formats and media, in line with advancements in electronic and non-electronic information and communication technology" (Syarifah, 2010). The openness of public information is a principle that asserts that public information is fundamentally open and accessible to everyone. It is the right of every individual to obtain information that is stored, controlled, and managed by public bodies, including information held by private individuals or organizations that charge fees for public services. The openness of public information is also one of the key pillars of democracy, as it enables the public to be informed and understand various issues related to state administration. This, in turn, allows the public to play an active role in the governance process and monitor government performance.

Gordon B. Davis, in his book *Management Information Systems*, quoted in Zulkifli Amsyah's book *Management Information Systems* (Syahrul Mustofa, 2020), states that information is data that has been processed or transformed into a form that is useful to its users and holds real value for current decision-making or future purposes. Additionally, information can be viewed in connection with various processes such as collecting, recording, processing, duplicating, distributing, sending, storing, maintaining, archiving, documenting, shrinking, destroying, exposing, and disseminating, even when distorting facts for unethical purposes. In Indonesia, the openness of public information is implemented based on the provisions of Law Number 14 of 2008 concerning Public Information Disclosure. This law was initially initiated by activists in 1998, following the reform movement in Indonesia, which aimed to transition the government system from an autocratic to a democratic one. As outlined in the KIP Law, the authority to manage public information is entrusted to public officials, who are appointed to specific positions within public bodies.

Law Number 14 of 2008 concerning Public Information Disclosure was officially promulgated by President Susilo Bambang Yudhoyono on April 30, 2008, and became effective on April 30, 2010. This demonstrates that the openness of public information is a crucial element of the state, closely linked to human rights (HAM), good governance, the prevention of corruption, community participation in government and development, oversight, the implementation of a professional public service system, and efforts to educate the nation's life, as mandated in the 1945 Constitution of the Republic of Indonesia. In his book *Public Information Openness and Disputes* (Abdulhamid Dipopramono, 2017), it is stated that an important actor in realizing the openness of public information within a public agency, apart from the agency itself through its leadership, is the Information and Documentation Management Officer (PPID). He notes that according to Article 13 of the KIP Law, in order to provide fast, precise, and simple services, every public body must appoint a PPID.

The existence of an Information Commission institution is a mandate from the 2002 Sofia Declaration, the principles of which have been adopted by the KIP Law. This is reflected in Article 23 of Law Number 14 of 2008 concerning Public Information Disclosure, which states that: "The Information Commission is an independent institution whose function is to implement this Law and its implementing regulations to determine technical guidelines for Public Information service standards and resolve Public Information Disputes through Mediation and/or Non-litigation Adjudication (Abdulhamid Dipopramono, 2017)." Decisions issued by the Information Commission regarding information disclosure disputes are essentially considered *beschikking* (administrative decisions). *E. Utrecht* defines a *beschikking* as a one-sided public legal act carried out by government authorities based on special authority. Such decisions are acts of government in the broad sense and are specific to the field of governance in the narrow sense (*de specifieke bewindshandeling op het terrein van bestuur*) (Herman & Noor, 2017). While there are various opinions that equate disputes with conflicts, literature suggests that disputes and conflicts are fundamentally different. According to Takdir Rahmadi (2011), conflict has a broader meaning than dispute. Conflict encompasses both

latent and manifest disputes. Public Information Openness Disputes, also known as Public Information Disputes, are disputes that arise between public bodies and users of public information regarding the right to access and use public information as outlined in legislation (Article 1, paragraph (5) of Law Number 14 of 2008 concerning Public Information Disclosure).

Based on the background described above, the researcher aims to raise the following research questions: 1. What is the position of Law Number 14 of 2008 concerning Public Information Disclosure within the Indonesian constitutional system? 2. How is the implementation of Law Number 14 of 2008 concerning Public Information Disclosure in resolving public information disputes and promoting the equal distribution of Information Commission institutions across districts and cities in the North Sumatra region? The purpose of this research is ultimately to propose the immediate establishment of Regency/Municipal Information Commissions in all regions of North Sumatra Province. This would assist local communities in resolving disputes related to public information disclosure, so they do not have to travel to the North Sumatra Information Commission in Medan, thus saving time and reducing costs for the parties involved. This proposal aligns with the duties and authority of the Information Commission as outlined in Article 26, paragraph (3), and Article 27, paragraph (4) of Law Number 14 of 2008 concerning Public Information Disclosure. Based on that, the research problem of this study is (1) What is the role of Law Number 14 of 2008 within the Indonesian constitutional system? (2) How is the implementation of Law Number 14 of 2008 in resolving public information disputes, particularly regarding the equitable distribution of Information Commission institutions across districts and cities in the North Sumatra region?.

II. Research Method

The type of research used in this scientific paper is Normative Juridical research. The term "normative legal research" comes from the English term normative legal research and the Dutch term normative juridisch onderzoek. Normative legal research, also known as doctrinal legal research, dogmatic legal research, or legislative research (referred to as legal research in Anglo-American literature), is an internal form of legal study that focuses on the analysis of legal documents. It involves using legal sources such as statutes, court decisions, contracts, legal theories, and the opinions of scholars. The research method employed in this study is a qualitative method, which emphasizes an in-depth understanding of a problem rather than generalizing the research findings. This method is complemented by library research, which involves data collection through reviewing books, literature, notes, and reports related to the legal issues under investigation.

The problem approach methods used in this study are the statutory approach, the descriptive approach, and the conceptual approach. The statutory approach involves reviewing and analyzing all relevant statutes, court decisions, and legal regulations related to the legal issue or research topic being studied. The descriptive approach allows researchers to describe, analyze, and interpret facts or legal problems objectively and systematically. This approach involves collecting and analyzing secondary data, such as library materials, statutes, and other documentation, with the aim of drawing conclusions about the legal issue under investigation. Additionally, this research employs a conceptual approach, which focuses on analyzing legal concepts relevant to the problem being studied. Researchers will examine legal theories, doctrines, and the views and opinions of experts to gain a deep understanding of the legal framework related to the research topic. This approach enables researchers to examine the law from various perspectives, understand its contextualization, and apply systematic and analytical methods (Suhaimi, 2018).

III. Result and Discussion

3.1. The Existence of Law Number 14 of 2008 in the Indonesian Constitutional System

Constitutional Law is a branch of legal science that specifically studies and addresses legal phenomena within the context of the state (Jimly Asshiddiqie, 2019). According to van der Pot, a Dutch lawyer

and professor, constitutional law refers to the regulations that establish the necessary bodies and their respective authorities, define their relationships with one another, and outline their interactions with individual citizens in the course of their activities. Meanwhile, Moh. Kusnardi and Harmaily Ibrahim, in their book *Introduction to Indonesian Constitutional Law*, express the view that constitutional law can be defined as a set of legal regulations that govern the organization of the state, the relationships between state authorities both vertically and horizontally, as well as the position of citizens and their human rights. There are no regulations, let alone the constitution as the highest law, that provide detailed guidance on how basic norms should be implemented in practice. There is always a need for implementing regulations or other unwritten norms that allow the relevant laws to be executed effectively. Each lower-level regulation is essentially a more detailed provision designed to implement the higher regulation. Therefore, the implementation of any general regulation requires an interpretation that elaborates or specifies its normative meaning to ensure it can be applied as effectively as possible.

Law Number 14 of 2008 (Syarifah, 2010) concerning Public Information Disclosure is a significant milestone in government governance in Indonesia. The existence of the KIP Law aligns with several fundamental principles in Indonesian Constitutional Law, including the right to communicate (Article 28 F of the 1945 Constitution), the right to associate and assemble, and the right to express thoughts verbally and in writing (Article 30, paragraph (1) of the 1945 Constitution). It also upholds the principle of democracy, which requires the government to be open and transparent to the people, as well as the government's obligation to be accountable for its performance to the public.

Furthermore, the implementation of the Public Information Disclosure Law is further detailed through Government Regulation Number 61 of 2010, which governs the implementation of Law Number 14 of 2008; Supreme Court Regulation Number 02 of 2011, which outlines procedures for resolving public information disputes in court; and Information Commission Regulation Number 1 of 2013, which specifies the procedures for resolving public information disputes. Decisions issued by the Information Commission regarding information disclosure disputes are essentially considered decisions (*beschikking*). E. Utrecht defines *beschikking* as a one-sided public legal act, carried out by government authorities based on special powers. Decisions are acts of government in the broad sense of the term and are specific to the field of government in the narrower sense (*de specifieke bewindshandeling op het terrein van bestuur*) (Utrecht).

3.2. Implementation of Law Number 14 of 2008 on the Equitable Distribution of Information Commission Institutions in Every Regency/City Throughout the North Sumatra Region

Law Number 14 of 2008 concerning Public Information Disclosure (UU KIP) is a historic milestone in efforts to achieve transparent and accountable governance in Indonesia. One of the key pillars in implementing the KIP Law is the establishment of an Information Commission (KI) at both the central and regional levels. This is considered crucial for effective implementation because:

- a. Guarantee Citizens' Rights:
 - Right to Know: KIP ensures that every citizen has the same right to obtain public information.
 - Transparency: KIP encourages the government and other public bodies to be more transparent in carrying out their duties and functions.
- b. Information Dispute Resolution Mechanism:
 - Mediation and Adjudication: KIP acts as a mediator and adjudicator in resolving information disputes between information applicants and public bodies.
 - Binding Decision: KIP's decision is final and binding on all parties to the dispute.
- c. Standardization of Information Services:
 - Technical Guidelines: KIP establishes standard technical instructions for public information services to ensure quality and consistent information services throughout Indonesia.

- Periodic Evaluation: KIP carries out regular evaluations of the implementation of the KIP Law and provides recommendations for improvements.
- d. Strengthening Democracy:
- Community Participation: KIP encourages community participation in the public decision-making process.
 - Social Control: KIP is an effective social control tool to monitor the performance of the government and other public bodies.
- e. Corruption Prevention:
- Transparency: Openness of information can prevent corruption because every government action can be monitored by the public.
 - Accountability: KIP encourages accountability in managing state finances.

The benefits of establishing the Information Commission (KIP) are essentially that it can enhance public trust in the government, promote improvements in governance, strengthen law enforcement, improve the quality of public services, and foster innovation and creativity within the government, particularly through collaboration with community participation in its implementation. However, to date, in the North Sumatra region, there is only one Information Commission, and no additional commissions have been established in the regencies or cities throughout the province.

As described in Article 24 paragraph (1) of Law Number 14 of 2008, it is stated that "the Information Commission consists of the Central Information Commission, the provincial Information Commission, and if necessary the district/city Information Commission". Therefore, it is deemed essential to establish an Information Commission in each region so that every member of society who faces issues related to information disclosure in their area is not hindered by distance and costs. This process could be made more efficient if the Information Commission were located closer to the community they serve.

IV. Conclusion

The existence of Law Number 14 of 2008 concerning Public Information Disclosure (UU KIP), when viewed from the perspective of Constitutional Law in Indonesia, has a very positive impact and encourages greater government accountability in making and implementing policies. Information openness in Indonesia is guaranteed by the Constitution, and its implementation should be followed by all elements of government and society. For the KIP Law to be effectively implemented, particularly in the regional government of North Sumatra Province, it would be beneficial to establish a Public Information Commission in all districts and cities across the region. This is important because the vast area may hinder community participation in information disclosure efforts due to long distances and high costs. The establishment of an Information Commission in each regency or city is also in line with the principles of good governance, specifically the principles of participation and efficiency/effectiveness. These principles require the government to ensure that the public has the opportunity to participate in the policymaking process without being hindered by the factors mentioned above.

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