



NGOs Calls for the Disclosure of Jakarta's Water Cooperation Contract

The privatization of Jakarta's water services were conducted in 1997 during Soeharto's "New Order" regime, without public consent and without any public tender. Even today after democracy has been achieved in Indonesia, the public is still left in the dark.

Several months ago, as a part of a joint research project, the People's Coalition on the Right to Water (KRuHA) and other NGOs filled a Freedom of Information request to Jakarta's waterwork company PAM Jaya¹, its concessionaires PT Palyja and PT Aetra and the Jakarta Water Sector Regulatory Body (BR-PAM), but to no avail.² The refusal to disclose the FoI request is currently being lodged for a proceeding at the National Information Commission.³

Indonesia is a party to the International Covenant on Economic, Social and Cultural Rights and the UN General Comment 15 on the Human Right to Water requires state to guarantee "...the right to seek, receive and impart information concerning water issues".⁴

According to Mohamad Mova Al Afghani from the Center for Water Governance Universitas Ibn Khaldun Bogor, this opacity in Jakarta's water services cannot be tolerated. Al Afghani points out to UN Independent Expert report which stresses that the terms of reference and the final contract should be made available for public scrutiny and commenting and that "*Commercial confidentiality must not jeopardize the transparency requirements provided for under the human rights framework*".⁵

¹ Muhammad Reza, *Permintaan Dokumen dan Informasi Kontrak Konsesi Layanan Air Minum Jakarta (Freedom of Information Law Request for Documents and Contractual Information Concerning Jakarta's Water Services Concession)*, Letter No.019/KIP/V/2011 dated October 31, 2011 (KRuHA 2011)

² Agus Daryanto, *Jawaban Surat KRuHA (Letter No. 581/DIV.T&P/XI/2011 dated November 8 2011 on PAM JAYA's response to FoI Request by KRuHA)* (PAM Jaya 2011)

³ Rizal, *Tanda Terima Pendaftaran Pengajuan Sengketa Informasi No. A26/RSI/P/XII/KIP/2011, KRuHA vs PDAM DKI Jakarta, 07-12-2011* (Komisi Informasi Pusat (KIP) 2011)

⁴ General comment no. 15 (2002), The right to water (arts. 11 and 12 of the International Covenant on Economic, Social and Cultural Rights) para 12.c.iv

⁵ Catarina de-Albuquerque, Report of the independent expert on the issue of human rights obligations related to access to safe drinking water and sanitation, A/HRC/15/31 (2010) para 36

“As a natural monopoly, utilities claim for confidentiality is often not justifiable”, Al Afghani continued. “The problem is not only in holding the government accountable in its dealings with the private sector, but information from the contract is crucial for the customer to know their rights. It is absurd that customer’s rights are dubbed ‘commercial confidentiality’” he said.

Mohamad Reza from the People’s Coalition on the Right to Water added: *“Ever since the contract was concluded, the public is considered as a “third party” without any meaningful voice. We want water to be returned to politics and this can only be started if there is transparency”.*

Rahmat Bagja from the Center for Law Information (CeLI) will coordinate the legal processes in Indonesia. The NGOs are committed to push forward this case through both legal and political means at both national and international levels. Any possible redress mechanisms, including reporting the Indonesian government to “special procedures” at UN human rights body are being considered.

Contacts:

Mohamad Reza (Kruha) : reza@kruha.org

Mohamad Mova Al Afghani (CWG-UIKA): movanet@gmail.com

Rahmat Bagja (CeLI): bagja98@gmail.com

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