

## CHAPTER V

### CONCLUSION

Freedom of information law is a symbol of democracy. In a democratic country, access to information is an essential part of its political rule, whereas in a country that is still in the process of democratization, having such a law could significantly contribute to the development of democratic government. As we have seen, Thailand is already on the road towards democratization nation, also the first in ASEAN to have this kind of law. Although, after 12 years after the Official Information Act (OIA) came into force in Thailand, we still cannot say for sure that it has achieved its goal, it definitely represents a crucial development of Thai democracy. This development could set an example for other ASEAN countries, especially Indonesia, where its version of freedom of information law, the Openness of Public Information Act (OPIA), will come into effect in 2010.

In accordance with its objectives stated in Chapter I, this research has set out to study both the strengths and weaknesses of the OIA in Thai society. From the 12-year experience of using the OIA, we can derive five general observations that reflect the strengths of this important law.

First, the essence of this law is to encourage awareness among the Thai of their fundamental rights – freedom of information and access to information. The theoretical analysis of freedom of information in Chapter two has already underlined its basic foundation and importance in the development of democracy.

Second, the OIA helps to weaken the bureaucratic tradition of secrecy among Thai officials – the tendency to conceal, and if possible to dispose of, information that could harm them. The OIA can be used as a tool for the public to inspect the work of government agencies and thereby to ensure greater efficiency and accountability of both the government and its agencies.

Third, the OIA, aside from being a tool to inspect the work of government and its agencies, as mentioned above, is a more or less effective mechanism for surveillance on corruption. For example, the cases of corruption in the Ministry of Public Health and the concessions on Army-controlled Channel 5 and Channel 7 televisions, examined in chapter III, have proved that the OIA can help decrease corruption. Successive governments have in fact tried to interfere with the

Official Information Commission (OIC) in its effort to reveal any information on corruption, but serious cooperation between the public and the OIC officials can sometimes prevail over government interference.

Fourth, when corruption is being monitored closely through access to public information, the 'under table money' dealings both in Bangkok and upcountry have gone down substantially. In this respect, according to the access to information theory, we can say that this law has had at least some extent of deterrent effect on government officials are aware of the possibility of be caught red-handed. Though corruption cannot be completely eliminated, there is at least more transparency in the governmental process.

Lastly, the OIA will empower not only people, especially in the rural area, but also the media to examine the government and its agencies and discourage hiding and withholding information.

With regard to weaknesses, the researcher sees that these are related to the strengths mentioned above. The first of the weaknesses suffered by the majority of Thais, especially those in rural areas, is their inadequate education relating to their basic rights and freedoms in accessing government information.

Secondly, in addition to the citizens not being aware and not understanding the Official information act, government officials do not have extensive knowledge either. The culture of bureaucratic secrecy may have diminished, but it is too deeply rooted in Thai society to be eradicated overnight.

Thirdly, the media themselves seem to have condoned the use of this information law for the purpose of investigating the government actions. There are many instances such as the installation of CTX scanners at Suvanabhumi Airport and the attack on citizens on October 7, 2008 where the media could have put this law to good use, but did not.

Finally, even though there is a time limit on information disclosure, in many cases, public officials take excessive time in revealing the requested data and sometimes do not even arrive at disclosure.

Another objective of this study is to follow the consequences of the OIA implementation since 1997 through three case studies which reflect both positive and negative implications of the law. Sumalee Limpa-Ovart case raises the issue of transparency and accountability of government-run schools and other educational institutions. The case of OIC's first director, Surasri Kolsonnawin, led to political interference and dismissal of a public official related to the law's implementation. The case of journalist Prasong Lert-rattanawisut gave rise to greater transparency and accountability in Thai politics.

The study showed that though Thailand has definitely benefited from OIA implementation, many limitations still need to be overcome to make it more practical. Most significantly, it is necessary for the state, the public, and the media to make more efforts in enabling the OIA to have a more substantial impact in terms of creating greater transparency, efficiency, and accountability in governance and administration in Thai society. In this respect, this study has come up with the following observations and suggestions:

First, it is most important that government officials at all levels become aware of the OIA and fully understand the spirit of this law. Awareness and understanding on the part of government officials will hopefully lead to a change in the traditional attitude, especially in terms of recognition that information is not government confidentiality but ideally for the public to access. If this becomes a normal practice, government officials will get used to disclosing information and will gradually do it more efficiently, and this will eventually result in what we all aspire to – that is, good governance in Thai society.

Furthermore, on a more practical level, the government filing system has to be reorganized; data must be filed properly in order that what can be disclosed and what is to be kept confidential is processed faster.

Although at present the OIC has a mechanism for implementation of the Act with the cooperation of the Office of Public Sector Development Commission (OPDC) through the process of evaluation of state agency performance, there still remains the problem of how to motivate the government agencies to develop an information service system that would serve the public more conveniently and efficiently. For instance, a reward system such as an annual bonus had been

considered.<sup>1</sup> Of course, it must also be realized that if the government officials do not understand the intention of the OIC, and only look for the bonus, the efficiency could be lost and the goal not accomplished.

Meanwhile, Prasong Lert-rattanawisut, a senior journalist, believed that to achieve the objective of the OIA, this law has to be made part of our daily life. The procedure to acquire information should be minimal and simple. Prasong gave the example of the application for a Thai passport in the past, which was a very complicated and long process. Now, however, it is easy, convenient, and quick. Prasong suggested that the same working habit could apply to accessing information.<sup>2</sup>

Thus, the government has to introduce a more efficient working procedure and alter the attitudes of officials through better understanding of this law and development of a new working habit and spirit. Financial and policy support from the government are needed to make these changes.

Secondly, for the public, the government support in terms of education is required to promote better comprehension of how this law can be used to their benefit. The majority of the Thai people still have little knowledge and understanding of the right to know and the OIA in particular. This fundamental right will encourage the people's interest and participation in public affairs, which would contribute to the development of a more democratic environment overall.

With the advancement of modern media – print and electronic, the public, including the people in rural communities, is far better informed than in the past. However, that does not necessarily mean that members of the general public would be at the same time sufficiently ready to exercise their rights stated in the OIA. They must become aware of freedom of information, freedom of expression, and right to access public information and how these fundamental right and freedoms are relevant to their daily life. For example, they must realize that access to public information will enable them to check the prices of certain farm products or look into the documents on local construction or other projects that could have crucial impacts on their communities. Only if this kind of public awareness takes place would the people understand their power. To promote such

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<sup>1</sup> Nakom Serirak. Senior Expert, the Official Information Commission. **Interview**, 4 February 2009.

<sup>2</sup> Prasong Lert-rattanawisut. President of the Thai Journalists Association. **Interview**, 21 March 2009.



awareness, community leaders, among others, should set an example of resorting to the OIA with full service and cooperation of government officials.

Thirdly, for the media, the OIA is a great resource because it is the cheapest and the most trustworthy. The weak points are that the procedures required for access to public information still remain complicated and thus time consuming. Surprisingly, the statistics in chapter III show that use of the OIA in Thailand is still very minimal compared to other countries.

It might be that most Thai media do not make much use of the OIA partly because they are used to obtaining information from their “usual” sources in government agencies. This tendency of the media, moreover, might be related to their own poor attitudes toward Thai bureaucratic red tape – that is, the general perception of the complicated process that is so time-consuming that they would not be able to compete in the modern media world. Last but not least, the Thai media lack knowledge and comprehension of the OIA themselves.

As already demonstrated in Chapter III, the case of Prasong Lert-rattanawisut, a journalist who has been using OIA for the past 10 years, amply shows that the OIA is a useful instrument for journalism. Prasong confirmed that he obtained several good pieces of news from using the OIA. He defined a good piece of news as a story that has never been told. It does not matter when it takes place but has the potential to attract attention every time it is presented.

However, it is necessary for any journalist who wants to use the OIA to plan in advance, because the process of accessing information is very complicated and takes both time and patience to follow up consistently. With such a barrier, journalists lose interest and do not use the OIA.

If the Thai journalists realize the importance of the OIA and consider it as a source of news, it would help to develop the OIA tremendously. Since the media has influence over all levels of the public, it could stimulate public interest in critically overseeing the government functions. This is an important way of motivating members of the general public to exercise their right to access to public information. For example, Prasong received information on parliamentary debate from an opposition party and used the OIA to acquire more information from the pertinent government agencies to double check what he had obtained. As another example, Sumalee Limpa-Ovat in Chapter III used the OIA in public relations.



Lastly, as mentioned in Chapter IV, there has been ongoing debate on the OIC being under the supervision of the Prime Minister's Office. The point here is that this makes the OIC operate like an ordinary government unit under pressure from the government and, therefore, cannot work as independently as it should. This is actually against the spirit of the OIA and is in practice a major source of inefficiency, as shown in the case of Surasri Kosolnawin in Chapter III. This case not only tarnishes the government image but also that of the OIC itself.

If the OIC is an independent organization that is not operating under any other agency, it would be free from the influence of other government agencies and officials. To function independently, the OIC should also have sufficient financial support, efficient personnel, and a proper office. As an independent organization, the OIC should establish a new tradition of quick and systematic filing and efficient service to all members of the citizenry it is meant to serve.

Although the OIA has been in force in Thailand for 12 years, there are still weakness and limitation that need to be lessened or eliminated. However, both the strengths and weaknesses of the OIA in Thailand could serve as valuable lessons for Indonesia in implementing its own OPIA in 2010.

Chapter IV is a general comparison of the Indonesian OPIA draft and the Thai OIA. Though it is believed that certain ASEAN countries have similar social structures, cultures and governmental systems, the freedom of information law in these two countries are not exactly the same. Differences lie in the objectives, categories of unrevealed documents, degrees of independence from governmental supervision, processing time, as well as penalties. They can be explained as in the following chart

Table 4: Comparison of Thailand's OIA and Indonesia's OPIA

	Thailand's OIA	Indonesia's OPIA
Main Objectives	First : Promoting the people's right to know Second: Access to government information	First : Access to government Information
Unrevealed Documents	<ul style="list-style-type: none"> <li>➤ Documents concerning the royal family</li> <li>➤ Information jeopardizes national security, international relations, national economic and financial security</li> <li>➤ Information has a negative impact on the efficiency of law enforcement</li> <li>➤ Personal information</li> <li>➤ NGOs information</li> </ul>	<ul style="list-style-type: none"> <li>➤ Information jeopardizes national security, international relations, national economic and financial security</li> <li>➤ Information has a negative impact on the efficiency of law enforcement</li> <li>➤ Memo exchange among private company</li> <li>➤ Personal information</li> </ul>
Information Commission	Under supervision of the government	Independent organization (members come from civil society and government)
Time period of Procedure	Within a reasonable period of time	10 days
Penalty	US\$120	US\$437

In all these respects, Thailand also can learn from the new Indonesian draft to improve its law. And one of the things Indonesia may learn from Thailand is that Government needs to give instruction on the utility of the information law to citizens, in rural as well as urban areas, the media, and public officials before the law goes into effect.

Secondly, government agencies would need to collect and categorize its documents into what can be disclosed and what has to be kept confidential in order to improve efficiency. Thirdly, Indonesia government may also be inclined to implement a reward system similar to that of the OIC to motivate government agencies to expedite disclosure of government information. This reward system could be implemented when the law goes into effect.

Fourth, the Indonesian government needs to support the IC financially and in making policies while not infringing upon the freedom it adheres to. Fifth, using the Surasri case, Indonesia should appoint someone like Surasri who is brave and committed to freedom of information as director of the organization in charge of implementing this law. Finally, the Indonesian media needs to assume a leadership role by learning and using the information laws during this period.

I would suggest that those who want to study Indonesia's freedom of information law should inquire further into other aspects that have not been covered in this study, such as the process of obtaining permission to open up information of the state enterprises, the revelation of in-depth information of NGOs, as well as the analysis and comparisons of the previous three drafts before the final one was adopted as OPIA in 2008.

My final conclusion to this study is that the gist of the freedom of information law is not what is written in the act that is promulgated; rather, it is the individuals or government agencies that practice it and achieve the goals that have set forth for it. Letters written on paper alone cannot bring transparency and good governance to society and thereby serve as the foundation of its democratic rule. The most crucial part of implementation of this law is the involvement of the citizens with awareness of rights. With their help in putting the freedom of information act to good use, democratization is seen to be going well.