

# **The Production of Disaster**

State, Capital and Civil Society in the Lapindo Mudflow  
Eruption in East Java, Indonesia

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## Summary

Since it first erupted on 29 May 2006, the Lapindo mudflow has gained continuous coverage both in the press and in other publications. Not only were its damaging effects unprecedented, its links to capital interests was also in the spotlight from the beginning. Attention has been particularly focused on the fact that Lapindo Brantas, the company whose mining practices were behind the disaster, is controlled by the Bakrie Group, which in turn is owned by Aburizal Bakrie. The latter is, or was, Indonesia's richest indigenous tycoon, who at the time was (ironically) serving as Coordinating Minister for Public Welfare. This liability as well as Bakrie's political connections were factors that have attracted wide attention.

With the backdrop of liability issues and contestations to have the company held responsible for the disaster, this thesis aims to investigate the origins of the mudflow disaster, the struggle of various parties either to demand compensation or to defend corporate interests from damaging liabilities, and to see how the state has tried to mediate these conflicting interests as well as to gain benefits for its own sake. By investigating the disaster's origins, this thesis expands existing knowledge of the mudflow from being limited to what happened at the drilling site to the wider context of national economic growth and decentralization.

By investigating the struggle of various interest groups, this thesis explores perceptions and actions about disaster-related matters from multiple sites (including the corporate viewpoint), an approach which has been less travelled by previous researchers. Investigating the state's involvement in the mudflow mitigation issues not only highlights its role in serving public interests but also the unintended consequences of its authority being used to serve the interests of individuals and corporate actors as well.

Employing the concept of "production of disaster", this thesis offers a theoretical contribution to the existing literature on disasters in Indonesia in general, and on the Lapindo mudflow in particular, by building a comprehensive structural linkage from before the "disaster trigger" struck to a time when new or

## Summary

modified social political relations were becoming established. Using this theoretical approach, the thesis revisits the limited spectrum of existing disaster understanding in which attention has been narrowly applied to either the disaster event or the disaster impacts.

## **Candidate declaration**

I certify that this thesis does not incorporate without acknowledgement any material previously submitted for a degree or diploma in any university; and that to the best of my knowledge and belief it does not contain any material previously published or written by another person except where due reference is made in the text.

Achmad Uzair  
15 October 2015

## **Supervisor's declaration**

I believe that this thesis is properly presented, conforms to the specifications for the thesis and is of sufficient standard to be, *prima facie*, worthy of examination.

Assoc. Prof. Anton Lucas  
15 October 2015

Dr. Priyambudi Sulistiyanto  
15 October 2015



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## Acknowledgments

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## Glossary and abbreviation

AFE	Approval for Expenditure, referring to the approval from the government's authorized agency in oil and gas mining for expenditure plans of oil and gas companies (which may affect the calculation of production/profit sharing and cost reimbursement in the cost and recovery scheme)
AHA	ASEAN Humanitarian Assistance
Amdal	( <i>Analisis Mengenai Dampak Lingkungan</i> ), Indonesian environmental assessment
APBN	( <i>Anggaran Pendapatan dan Belanja Negara</i> ), National Government Revenue and Expenditure Budget
ARB	Aburizal Bakrie, a recently used abbreviation name for Aburizal approaching his candidature for 2014 presidential election
ASEAN	Association of South East Asian Nations
ASPERMIGAS	( <i>Asosiasi Perusahaan Migas Nasional</i> ), Association of Indonesian Oil and Gas Companies
Baguna	( <i>Badan Penanggulangan Bencana</i> ), Disaster Mitigation Agency, an agency affiliated with PDIP political party
Bahtsul masa'il	NU's platform to discuss social political issues from the perspective of Islamic jurisprudence
Bakesbanglinmas	( <i>Badan Kesatuan Bangsa dan Perlindungan Masyarakat</i> ), district/provincial office for social and political affairs
BAKORNAS PB	( <i>Badan Koordinasi Nasional Penanggulangan Bencana</i> ), National Coordinating Agency for Disaster Response
Banjarpanji	one of drilling well groups in Brantas bloc
BAPEL BPLS	( <i>Badan Pelaksana BPLS</i> ), executive board of BPLS
BAPEPAM	( <i>Badan Pengawas Pasar Modal</i> ), Indonesia's Capital Market Authority
Bappeda	( <i>Badan Perencanaan Pembangunan Daerah</i> ), district/provincial office for development planning
BAPPENAS	( <i>Badan Perencanaan Pembangunan Nasional</i> ), national development planning agency
BCF	Billion cubic feet, a measurement unit in gas reserves

## Glossary & abbreviation

<i>Bedol desa</i>	permanent resettlement done collectively at village level
BNPB	(Badan Nasional Penanggulangan Bencana), national agency for disaster response
BP	Beyond Petroleum, multinational company in mining, oil and gas
BPK	(Badan Pemeriksa Keuangan), National Audit Board
BP Migas	(Badan Pelaksana Kegiatan Hulu Minyak dan Gas), state agency authorized to manage and monitor oil and gas mining activities at upstream level
BPN	(Badan Pertanahan Nasional), National Land Agency
BPLS	(Badan Penanggulangan Lumpur Sidoarjo), State Agency for Mitigating Sidoarjo Mudflow
BPPT	(Badan Pelayanan Perijinan Terpadu), district office for integrated business licensing services
BPPT	(Badan Penerapan dan Pengembangan Teknologi), Indonesian Agency for Implementing and Developing Technology
BRI	(Bank Rakyat Indonesia), Indonesian People's Bank, state-run bank generally specialized in providing business credits for small and medium companies
BTN	(Bank Tabungan Negara), State Savings Bank, a state-run bank generally specialized in providing housing credits
Bupati	the head of district government
Carik	the secretary of village government
Cash and carry	property purchase mechanism, one of compensation schemes for mudflow affected communities
Cash & resettlement	a compensation scheme for the affected communities under Perpres 14/2007 where their inundated properties were replaced with property at KNV, plus change if their compensation value is more than the sale property value at KNV
<i>Cicilan</i>	a term where the compensation of mudflow affected communities under Perpres 14/2007 is paid in installments
Cost Recovery	a clause in PSC (Production Sharing Contract) which ensures that the contractors can reimburse their mining related expenditures to the state

DAK	(Dana Alokasi Khusus), allocation fund for specific purposes from national to district/provincial government
Dapil	(Daerah Pemilihan), electoral district
DAU	(Dana Alokasi Umum), allocation fund for general purposes (mostly salary of state employees) from national to district/provincial government
DBH	(Dana Bagi Hasil), revenue sharing fund from national to district/provincial government
Deltras	(Delta Raya Sidoarjo), a football club owned by Sidoarjo district government
Demokrat	a political party established by Susilo Bambang Yudhoyono
Desantara	Jakarta-based NGO working on cultural issues
DPD	(Dewan Perwakilan Daerah), National Assembly of Regional Representatives
DPR	(Dewan Perwakilan Rakyat), national parliament
DPRD	(Dewan Perwakilan Rakyat Daerah), district/provincial assembly
DRR	Disaster Risk Reduction
Elsam	(Lembaga Studi dan Advokasi Masyarakat), Jakarta-based NGO working on research and legal advocacy
EMP	(Energi Mega Persada), Bakrie Group's holding company in oil and gas
FKDPM	(Forum Komunikasi Daerah Penghasil Migas), communication forum for oil and gas producing districts/regencies
FPBI	(Forum Peduli Bencana Indonesia), NGO working on research and practice of disaster emergency responses
FPMLPP	(Forum Peduli Musibah Lumpur Panas Porong), a forum established by Sidoarjo leading local figures to advocate for the rights of the affected communities
FSRKLL	(Forum <i>Silaturahmi</i> Rakyat Korban Lumpur Lapindo), Forum for maintaining ties among victims of Lapindo mudflow, inter-village forum for mudflow affected communities in early months of the eruption

## Glossary & abbreviation

FKPKLL	(Forum Koordinasi Penanggulangan Korban Lumpur Lapindo), Coordinating Forum for Managing Lapindo Mudflow Victims, one of initiatives in Perumtas to organize the affected residents in early months of eruption
GDP	Gross Domestic Product
GDRP	Gross Regional Domestic Product
Gebrak Lapindo	(Gerakan Bersama Rakyat Korban Lapindo), a coalition of mostly East Java-based or NU affiliated NGOs and individuals to support the movement of the affected communities
Gempur 4D	(Gerakan Masyarakat Lumpur 4 Desa), Movement of communities from 4 villages outside PAT, one of groups in mudflow affected communities
GEPPRES	(Gerakan Pendukung Perpres), Movement to support Perpres, one of groups in mudflow affected communities
Gerbangkertasusila	literary the gate for welfare and ethics in society, which stands for the names of six cities (Gresik, Bangkalan, Mojokerto, Surabaya, Sidoarjo dan Lamongan), East Java's top development cluster surrounding Surabaya city
Gerindra	(Gerakan Indonesia Raya), Movement for Greater Indonesia, a political party
GKLL	(Gabungan Korban Lumpur Lapindo), United Victims of Lapindo Mudflow, one of groups in mudflow affected communities
GMNI	(Gerakan Mahasiswa Nasional Indonesia), a student movement organization affiliated with PDIP political party
GMSMKKL	(Gerakan Masyarakat Sipil Menuntut Keadilan Korban Lumpur), coalition of NGOs to advocate the rights of the affected communities
GNP	Gross National Product
Golkar	literally “functional group” ( <i>Golongan Karya</i> ), a political party
Gubernur	the head of the provincial government
GP Ansor	(Gerakan Pemuda Ansor), the NU youth organisation
Hanura	(Hati Nurani Rakyat), People's Conscience, a political party

HRWG	Human Rights Working Group, Indonesia's NGO Coalition for International Human Rights Advocacy
HFA	Hyogo Framework for Action
IAGI	(Ikatan Ahli Geologi Indonesia), Association of Indonesian Geologists
ICEL	Indonesian Center for Environmental Law, Jakarta-based NGO working on legal aspects of environmental issues
ICMI	(Ikatan Cendekiawan Muslim Indonesia), Association of Indonesia's Muslim Intellectuals
IDNDR	International Decade for Natural Disaster Reduction
IFRC	International Federation of Red Cross
IKIP	(Institut Keguruan dan Ilmu Pendidikan), Institute for Teacher Training
IMB	(Ijin Mendirikan Bangunan), a building license which is issued by the district or municipal government
IMF	International Monetary Fund
Imparsial	Jakarta-based NGO working on monitoring the human rights abuses
Inkopal	(Induk Koperasi Angkatan Laut), Indonesian navy central cooperative
INTAKO	(Industri Tas dan Koper), bag and suitcase industry cluster <i>in Sidoarjo</i>
<i>Intel</i>	a common term for intelligence/security officers deployed to monitor social and political affairs at community level
<i>Interpelasi</i>	the right of parliament members to summon the President for an inquiry in front of the parliament
<i>Istighotsah</i>	recitation of Muslim prayers, carried out by a large number of reciters who gather in a single place, to ask God's favour for their well-being and safety
<i>Istikharah</i>	a religious ritual for Muslims to ask for divine directions when encountering problems
ITB	(Institut Teknologi Bandung), Bandung Institute of Technology
ITS	(Institut Teknologi Surabaya), Surabaya Institute of Technology

## Glossary & abbreviation

Jadup	(Jatah Hidup), meals allowance
Jasa Marga	state-run company in toll road construction and management
Jatam	(Jaringan Advokasi Tambang), Jakarta-based NGO concerned with mining impacts on local communities
JRK	(Jaringan Relawan Kemanusiaan), Jakarta-based NGO working in disaster/emergency response
Kabupaten	district government for rural and semi-urban areas
Kadin	(Kamar dagang dan Industri), Indonesian Chamber of Commerce and Industry
Kanal	media and news bulletin for and on mudflow affected communities, published by Gebrak Lapindo
KASIBA	(Kawasan Siap Bangun), area readily available for resettlement program
Keppres	(Keputusan Presiden), Presidential Decision
<i>Khittah</i>	literary means a line or a way, within NU circles is understood as an organizational guidance or thinking framework to serve social and religious goals as formulated by its establishment in 1926
Kick	a geological term refers to the influx of formation fluids into the wellbore of a gas field
KKS	(Kontrak Kerja Sama), cooperation agreement in mining
KLM	(Korban Lapindo Menggugat), one of groups in mudflow affected communities which rejected property purchase scheme for villages outside the PAT (Peta Area Terdampak)
KNV	( <i>Kahuripan Nirvana Village</i> ), a housing estate built by PT Mutiara Masyhur Sejahtera, Minarak's subsidiary, for some of the mudflow affected communities
Kodam	(Komando Daerah Militer), regional military command, often at the provincial level
Kodim	(Komando Distrik Militer), district military command
Komnas HAM	(Komisi Nasional untuk Hak Asasi Manusia), National Commission for Human Rights
Komnas Perempuan	(Komisi Nasional untuk Isu Perempuan), National Commission for Women's Rights

Kontras	(Komisi untuk Orang Hilang dan Tindak Kekerasan), Jakarta-based NGO working on civil and political rights of missing activists and victims of violence
Kostrad	(Komando Strategi Angkatan Darat), Indonesian army's strategic command
KPC	(Kaltim Prima Coal), one of biggest coal companies in Indonesia
KPK	(Komisi Pemberantasan Korupsi), Anti Corruption Commission
KPPOD	(Komite Pemantau Pelaksanaan Otonomi Daerah), NGO working in the issue of monitoring the implementation of regional autonomy
KPU	(Komisi Pemilihan Umum), general election committee at national level
KPUD	(Komite Pemilihan Umum Daerah), general election committee at district/provincial level
Lafadl	Yogyakarta-based NGO working in research and publication on critical development issues
Lapindo Brantas	Bakrie Group's subsidiary in oil and gas mining activities in Brantas Bloc
LBH	(Lembaga Bantuan Hukum), Legal Aid Institute
LBH Masyarakat	Jakarta-based NGO providing legal and counsel services
Lebaran	celebration after Ramadan (fasting month for Muslims)
LHKI Surabaya	(Lembaga Hukum dan HAM Keadilan Indonesia), Surabaya-based NGO working on legal and counsel services
LIPI	(Lembaga Ilmu Pengetahuan Indonesia), Indonesian Institute of Sciences
LPM	(Lembaga Pemberdayaan Masyarakat), advisory board to village government
LSM	(Lembaga Swadaya Masyarakat), Indonesian language for NGO
Lurah	the head of village government
Lusi	(Lumpur Sidoarjo), Sidoarjo Mudflow
Migas	(Minyak dan Gas Bumi), oil and gas

## Glossary & abbreviation

Minarak Labuan Co.	Bakrie Group's subsidiary investment company
Minarak Lapindo Jaya:	Bakrie Group's subsidiary established specifically to deal with compensation payments
MMSCFD	Million Standard Cubic Feet per Day, daily gas production measurement unit
MPBI	(Masyarakat Penanggulangan Bencana Indonesia), Indonesia's Disaster Response Community, Jakarta-based NGO working on disaster responses
MPR	(Majelis Permusyawaratan Rakyat), People's Consultative Assembly
MUI	(Majelis Ulama Indonesia), the Indonesian Islamic Scholars Association, a state designated Islamic scholars' organization
Muslimat	NU's women organization
NGO	Non Governmental Organization
NU	(Nahdlatul Ulama), an Islamic organization which is commonly seen as representing the traditional school
OECD	Organization for Economic Cooperation and Development
PAD	(Pendapatan Asli Daerah), Revenue generated at local government level
Pagar Rekontrak	(Paguyuban Warga Renokenongo Menolak Kontrak), Association of Renokenongo villagers who oppose house rent allowance, one of groups in mudflow affected communities
Pagar Rekorlap	(Paguyuban Warga Renokenongo Korban Lapindo), Association of Renokenongo villagers of Lapindo victims, a later name for Pagar Rekontrak
<i>Paguyuban</i>	literally means a loose association where its members were bounded by principles, not by formal rules; also refer to one of groups in mudflow affected communities
Paguyuban 9 Desa	Association of 9 villages outside PAT, one of groups in mudflow affected communities
PAN	(Partai Amanat Nasional), National Mandate Party, a political party
Pangarmatim	(Panglima Armada Kawasan Timur Indonesia) the Commander of Eastern Indonesia Naval Armada

Pangdam	the commander of a regional military command (Kodam)
Pansus	(Panitia Khusus), a special committee to tackle particular issues (usually founded in district/provincial assembly or in national parliament)
PAT	(Peta Area Terdampak), affected area map referring to 22 March 2007 dated map in Perpres 14/2007
PDIP	(Partai Demokrasi Indonesia Perjuangan), Indonesian Democratic Party-Struggle, a political party
<i>pekarangan</i>	house garden , part of the affected villagers' property purchased by Lapindo company
Perpres	(Peraturan Presiden), presidential decree
Pertamina	State-run company in oil and gas
Perumtas	(Perumahan Tanggulangin Sejahtera), one of groups in mudflow affected communities
<i>pesantren</i>	traditional islamic education
<i>Petok D/Leter C</i>	land entitlement evidence which is based on village data to record land ownership history or for tax collection
PG	( <i>Pabrik Gula</i> ), Sugar Factory
PGN	(Perusahaan Gas Negara), state-run gas company
PIJB	(Perjanjian Ikatan Jual Beli), agreement which binds the involved parties in selling-purchase transaction
PIP	(Pusat Investasi Pemerintah), state investment agency under Ministry of Finance
PKB	(Partai Kebangkitan Bangsa), Nation Awakening Party, a political party
PKS	(Partai Keadilan Sejahtera), Prosperous Justice Party, a political party
PLN	(Perusahaan Listrik Negara), state-run electricity company
PMII	(Pergerakan Mahasiswa Islam Indonesia), a student movement organization affiliated with NU
PNS	( <i>Pegawai Negeri Sipil</i> ), civil employee
POD	Plan of Development in oil and gas mining activities

## Glossary & abbreviation

Posko	( <i>Pos Komando</i> ), a point for coordinating emergency response tasks or point for dropping or collection of emergency supplies
PP	( <i>Peraturan Pemerintah</i> ), Government Regulation
PPB	( <i>Pasar Porong Baru</i> ), New Porong Market
PPP	(Partai Persatuan Pembangunan), development unity party, a political party
PSC	Production Sharing Contract
PTPN	(Perseroan Terbatas Perkebunan Nusantara), state-run company in plantation
PU	( <i>Pekerjaan Umum</i> ), a common abbreviation to refer to the Ministry for Public Works
PW	( <i>Perwakilan Warga</i> ), Perumtas residents' representatives, one of groups in mudflow affected communities
Relawan Indonesia	literally Indonesian volunteers, a network of volunteers for emergency response affiliated with Prosperous and Justice Party
RT	( <i>Rukun Tetangga</i> ), the lowest administrative level in the village
RW	( <i>Rukun Warga</i> ), a group of several RTs
RTRW	( <i>Rencana Tata Ruang Wilayah</i> ), regional spatial plan
Santri	devoted Muslim, also a student of a <i>pesantren</i>
SATKORLAK PB	(Satuan Koordinator Pelaksana Penanggulangan Bencana), coordinating unit for execution of disaster response at provincial level
SATLAK PB	(Satuan Pelaksana Penanggulangan Bencana), executing unit in disaster response at district level
Setgab	( <i>Sekretariat Gabungan</i> ), a joint secretariat for Yudhoyono supporting political parties established by Yudhoyono to ensure their parliament support
SIS	( <i>Sistem Intelijen Sidoarjo</i> ), network of intelligence/security officers in Sidoarjo to monitor local civil society groups
SK	( <i>Surat Keputusan</i> ). Decision letter.

SK Migas	(Satuan Kerja Sementara Pelaksana Kegiatan Hulu Minyak dan Gas), state agency established to temporarily replace the dismissed BP Migas
SKK Migas	(Satuan Kerja Khusus Pelaksana Kegiatan Hulu Minyak dan Gas), state special task force established to replace SK Migas
<i>Solusi</i>	Lapindo Brantas affiliated news bulletin on mudflow mitigation efforts
SP3	( <i>Surat Perintah Penghentian Penyidikan</i> ), a police letter to stop investigation due to unavailability of evidence
<i>Sujud syukur</i>	a ritual resembling a prostration in Muslim prayer performed as an expression of gratitude to the Almighty soon after the performer's wish has apparently been answered or the performer has been spared from any calamity
<i>Sumpah pocong</i>	an oath to settle a serious accusation which cannot be proved because of unavailability of evidence. The oath is considered the strongest one can take to prove something with lethal effects to those involved if their deeds proved otherwise
<i>Susisik</i>	(Surabaya, Sidoarjo and Gresik) the three most important districts/municipality in Gerbangkertasusila development cluster
Swabbing	a drilling term referring to a dangerous event where there is an influx of formation fluids into the wellbore following a loss of pressure in the wellbore, usually after the upward movement of a pipe
Tagana	(Taruna Siaga Bencana), volunteers for disaster/emergency response under the Ministry for Social Affairs
Taring Padi	Yogya-based NGO concerned with arts for social movement
TIFA Foundation	Jakarta-based foundation working for individual rights and good governance
TKKP	(Tim Kajian Kelayakan Permukiman), Team to investigate housing habitability, established by East Java Governor to provide academic/technical considerations for recommending additional inclusion of villages into the affected map

## Glossary & abbreviation

Tim Terpadu	integrated team established by Bupati Sidoarjo to tackle the mud, consisting government and Lapindo Brantas representatives
Timnas	(Tim Nasional), pre-BPLS national team established to deal with mud eruption and mudflow from September 2006 to April 2007
Tim 16	association of RT and RW representatives in Perumtas, one of groups in mudflow affected communities
TMMD	( <i>TNI Manunggal Membangun Desa</i> ), the military's revised version of New Order's <i>ABRI Masuk Desa</i> introduced in 1999
TNI	(Tentara Nasional Indonesia), Indonesia's Armed Forces
<i>Tokoh masyarakat</i>	a category of local figures (usually not government officials) who are deemed to be playing important functions/roles at local level
TP2LS	(Tim Pengawas Penanggulangan Lumpur Sidoarjo), parliament's task force to monitor mitigation efforts in Sidoarjo mud
TVOne	TV channel owned by Bakrie Group
<i>Uang Kontrak</i>	house rent allowance
<i>Uang Pindah</i>	relocation cost allowance
UKL-UPL	(Upaya Pengelolaan Lingkungan-Upaya Pemantauan Lingkungan), environmental assessment and plan of environmental actions on small scale (usually for business whose direct impact to environment is less than 200 hectares)
UN	United Nations
UNAIR	(Universitas Airlangga), Airlangga University
UNDP	United Nations Development Program
UNHABITAT	United Nations Human Settlements Program
UNISDR	United Nations' International Strategy for Disaster Reduction
UNOCHA	United Nations Office for Coordination of Humanitarian Affairs

UPC	Urban Poor Consortium, Jakarta-based NGO working in urban poor and housing issues
UPLINK	Urban Poor Linkage, NGO working for urban poor and housing issues
UU	( <i>Undang-Undang</i> ), Law
Wabup	( <i>Wakil Bupati</i> ), vice district head
Wahid Institute	Jakarta-based NGO founded by former president Abdurrahman Wahid to work mostly on religious tolerance
<i>Wakaf</i>	means voluntary and irrevocable donation (in cash or in kind) by individuals to support religious goals according to the wishes of the endower
Walhi	(Wahana Lingkungan Hidup Indonesia), the Indonesian Environmental Forum, a NGO dealing with environmental issues
WHO	World Health Organization
WP&B	Work, Plan and Budget (in oil and gas mining activities)
WTO	World Trade Organization
Yappika	Jakarta-based NGO working on civil society and democracy issues
YLBHI	(Yayasan Lembaga Bantuan Hukum Indonesia), Jakarta-based NGO working to provide legal counsel and services
Yonzipur	(Batalyon Zeni Tempur), a fourth level military battle unit (after detachment, division, and brigade) with the primary task to provide assistance during a battle
Yonzipur 5	Malang-based Yonzipur under Kodam Brawijaya
45 RT	association of 45 RT in four villages outside PAT based on the recommendation of TKKP (Tim Kajian Kelayakan Permukiman), one of groups in the mudflow affected communities
65 RT	association of 45 RT plus 20 more RTs from three additional villages resulted from Perpres 37/2012



# 1

## Introduction

### 1.1 Getting involved in the research

It was in the dark of early morning, 29 May 2006, two days after the Yogya earthquake.<sup>1</sup> Underground mud suddenly erupted to the surface about 200 metres from a gas drilling site in Renokenongo village (see Map 5.1, page 188) in the Sidoarjo District near the city of Surabaya in East Java. The drilling was under a contract with Lapindo Brantas Inc., a company linked to Aburizal Bakrie<sup>2</sup> (by then the Coordinating Minister for Social Welfare). In desperate response to this unprecedented threat, local villagers used whatever was at hand, such as banana leaves and bamboo fence material, to try to stop the mudflow from inundating their houses and backyards. The mud erupted at an initial flowrate of 5,000 cubic metres/day, a rate which increased over the following days (Mazzini et al. 2007). The villagers' efforts failed and the mud continued to consume their houses and land. By 2010 the flow had increased twenty-fold, before decreasing to an average of 10,000 cubic metres each day by mid-2011.<sup>3</sup> By then it had taken the homes of 13,000 families (Davies et al. 2011).

In geological terms, the mud eruption was not unusual. Geologically known as a mud volcano, it is one among 1,100 similar eruptions already identified worldwide on land and in shallow water (Richards 2011). On the same island of Java, there are at least two other similar eruptions already documented, in Purwodadi district (about 270 km away from Sidoarjo) and Sangiran district (about 220 km away) (Davies et al. 2007). These eruptions take place when

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<sup>1</sup> It is called the Yogya earthquake because the epicentrum was in Yogya, about 250 km from Sidoarjo. Happened on 27 May 2006, it was tectonic earthquake with 5.9 richter scale. The earthquake has caused 5,800 casualties.

<sup>2</sup> He is also known as Ical, his nickname among his inner circles and popularly used in the press. As will be explained in more details in Chapter Four, he is also known as ARB particularly approaching 2014 election. However, whenever reference is made to Aburizal Bakrie himself, this thesis will use Aburizal.

<sup>3</sup> <http://www.thejakartapost.com/news/2011/08/13/porong-turnpike-safe-use-during-exodus.html> (accessed 12 March 2015)

fractures in overburden strata cause high-pressured underground liquids and gas to escape from sedimentary basins up to the surface (Davies et al. 2008).<sup>4</sup>

However, although not unusual in geological terms, the Sidoarjo mud eruption is acknowledged as the first mud volcano in a densely populated area and represents a new type of geological disaster (Tingay 2010). The eruption has brought significant cost to the surrounding environments. Apart from having inundated thousands of houses, the mud has destroyed public infrastructure and national/local economies. By 2007, the total cost of the mudflow was estimated to be USD 2.7 billion: USD 800 million in infrastructure asset loss, USD 500 million in lost production in the Sidoarjo district, and USD 1.3 billion in indirect losses to the provincial economy (McMichael 2009). In 2009 it was projected that there would be more than 30 metres of subsidence over the next few years (McMichael 2009).

With its unprecedented scale of destruction, the mud soon became a media spectacle. Local and international media gave wide coverage, full of dramatic images of sunken buildings and evacuees. The scale of destruction also raised a contested question over issues of liability. While there was a relatively wide agreement on the immediate geological “cause”, what actually “triggered” the eruption has been hotly debated. This issue is financially very important since it leads to whether or not particular actor(s) should be held responsible for the disaster, and thus liable to pay any costs caused by the eruption.

Following the media spectacles and coverage, researchers soon jumped in to study the case from various perspectives. Following the eruption, there has been a proliferation of studies and publications about the disaster, including those with social science backgrounds (Ageung 2010; Ahmady 2010; Akbar 2007; Ashadi 2008; Batubara and Utomo 2010; Batubara and Utomo 2012; Fanggi 2008; Fauzan and Batubara 2010; Gelder and Denie 2007; Gustomy 2012; Hamdi, Hafidz and Sauter 2009; Ismail 2013; Karib 2012; Kriyantono 2011; Kurniawan 2013; Mirdasy 2007; Mughis 2008; Nilawaty 2013; Novenanto 2010; Putro and

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<sup>4</sup> Strata is a geological term referring to underground layers of sedimentary rock having approximately the same composition throughout. [<http://www.thefreedictionary.com/Strata+%28geology%29> (accessed 7 November 2014). Strata can be overburdened if high liquid pressures reach the strength limit of the containing rock layers. The uncontainable pressures can lead to fracturing which allows liquid and gas to escape to the ground surface.

Yonekura 2014; Runturambi 2010; Santoso 2010; Setiawan 2008; Schiller et al 2008; Wibisana 2013).

I became involved in researching local responses to the evolving disaster within the first year of the mudflow, with my early interest in the issue being significantly shaped by Jim Schiller, Anton Lucas and Priyambudi Sulistiyanto of Flinders University who asked me to carry out interviews and observation in the mud-affected communities between June and July 2007, and then contribute to their widely quoted article in the journal *Indonesia* (Schiller, Lucas and Sulistiyanto 2008). Through this scholarly assignment I began building contacts with the affected communities and community organizers, and began to engage with issues they were dealing with. Subsequently I developed my own intermittent engagement with the affected villagers through both academic interests and social activism. Together with my colleagues at the Yogyakarta-based NGO Lafadl<sup>5</sup>, a community of young researchers mostly affiliated with NU<sup>6</sup>, I carried out a study on intergenerational issues among the affected villagers in 2009 and developed several community programs which broadly aimed to boost resilience among the affected women, by establishing a saving group/cooperative in 2009, and among youth, through media training in 2010.

Having both academic interests as well as a passion for social activism sustained this engagement over the three years. However, building “a sound balance” between expectedly rigorous academic interest and passion for social activism proved a difficult task, particularly when it came to planning and writing this thesis. Borrowing Samuels’ terms (Samuels 2012), “narrated events” continued to challenge me, creating initial confusion and some ongoing dilemmas. They were not merely limited to the eruption itself and the conflicting accounts about the factors behind it, but extended to organizing eruption-related community events among the affected community members and understanding the discord between community organizers with whom I had become friends. My passion for social activism and friendship with particular groups and individuals certainly posed particular research challenges which I needed to deal with to be able to formulate academically convincing arguments for this study. I certainly

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<sup>5</sup> For more information about this NGO see <https://lafadl.wordpress.com/about-us/>.

<sup>6</sup> NU stands for Nahdlatul Ulama, Indonesia’s largest Moslem organization, which is predominantly traditional and rural based.

realized that my research would always be shaped and reshaped by these relationships, which I have built over the years, and these will always remain as what I regard as positive subjective elements which have become an important element in the way this thesis has been written.

## 1.2 Research questions

The idea of this thesis was firstly developed as a research proposal in 2010, four years after the eruption. By that time, although Indonesian media coverage on mudflow related events had been gradually decreasing, the mudflow still occasionally caught media and public attention, particularly by successive demonstrations and protests. These protests by various groups often in conflict over the slow progress of compensation payments and allegations of mismanagement in mudflow mitigation efforts, as well as about disputed authority or liability over the matter.

With this backdrop of organized contests over power and liability, this thesis investigates the social structural dimensions of what successfully became known to many as the Lapindo mudflow disaster<sup>7</sup>. Three questions are put forward by this thesis to uncover those dimensions. More than simply pointing a finger at a particular party, the thesis' first question on how the Lapindo mudflow originated aims to expand the perspective from the drilling site to the larger context of decentralization and oil and gas governance. By moving the focus to the larger picture, this thesis expects to show that it was not simply mistakes or accidents that brought about the disaster but instead continuous negligence including those from relevant authorities.

Following the fact that the Lapindo mudflow kept drawing national press coverage, this thesis also takes up as its second question why this mudflow disaster has become a continuing disaster. By raising this question, it primarily expects to reveal the underlying factors which have contributed to the problem dragging on. In addition, this second question will also aim to elaborate the dynamics of the affected communities' struggle in demanding compensation,

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<sup>7</sup> Trying to get the effects of the mud volcano labelled as “the Lapindo mudflow disaster”, thereby implicating the responsibility of the company, was a partly successful goal of many of the activists. It is also called neutrally the “Sidoarjo mudflow” or “Lusi” (the abbreviation of Lumpur Sidoarjo, “lumpur” being Indonesian for “mud”).

power contestations among parties involved, and extended social consequences resulting from the continuation of the disaster.

Driven by my social activism, the third question is really a reflection of the environmental justice movement in this mudflow case. It specifically asks what were opportunities and challenges existing for civil society actors that have led to the success, failure, or amendment of their environmental justice goals. By asking this question, the thesis aims to put civil society actors in a more historical context in which social political factors play their role in either enabling or constraining the pursuit of environmental justice goals.

### 1.3 Research significance

Over the last decades we have been witnessing a proliferation of studies on disaster both in general global or Asian-Pacific contexts and, more recently, in the specifically Indonesia context. Considered as among the global regions most prone to disasters, due to its climatic as well as geological formation, the Asia Pacific region has become a focus for several disaster studies (such as Jayasuriya and McCawley 2010; Sakai et al. 2014) in particular about Indonesia, one of the most frequently disaster hit countries in the world (Guha-Sapir 2011).

While many have written about hydrological disasters (Jeffrey 1981), forest fires (Aiken 2005; Dauvergne 1998; Harwell 2000), volcanic disasters in Indonesia (Adas, 1979; de Jong Boers 1995; Donovan 2010; Dove 2008; Kartodirdjo, 1966; Laksono 1988; Moertono, 1968; Pannell 1999; Schlehe 2008; Simkin and Fiske, 1983; Tilling 1989; Triyoga 2010) or impacts of industrial expansion (Cholchester et al. 2006; Noor and Syumanda 2006), it was the 2004 tsunami that become the first single Indonesian disaster drawing considerable academic attention, which at that time went hand-in-hand with the rise of disaster discourse in policy making processes (see the following chapter). The 2004 tsunami and its scale of magnitude (which had caused hundreds of thousands of casualties in Aceh alone) as well as the abuse of the survivors' human rights, particularly focused researchers' concerns. Most of their publications were either based on the hazard/techno-fixes perspective<sup>8</sup> (Imamura et al. 2012; Jayasuriya

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<sup>8</sup> Hazard/techno-fix perspectives refer to those which particularly pay attention to (natural) triggers of disaster more than anything else in their research and which offer technocratic solutions to deal with disaster. More about this will be explained in the next chapter.

and McCawley 2010; Kennedy et al. 2008; Leitmann 2007; Muhari et al. 2007; Steinberg 2007) or on legal/political perspectives (Action Aid 2006; Aditjondro 2007; Fletcher et al 2005; Pandhya 2006; Zeccola 2011).<sup>9</sup>

After the 2004 tsunami, the other single disaster which recorded a similar level of academic attention is the Lapindo mudflow. As mentioned earlier, the continuing eruption with its widespread impacts has drawn academic interest from early young researchers (many of whom I know personally) and senior or professional researchers alike. Similar to the 2004 tsunami related research, the social and political magnitude of the eruption has inspired most of these researchers to focus their concerns in two major areas: hazard/techno-fix or legal/political perspectives (more detailed literature analysis will be provided in Chapter Two).

With their various research subjects and approaches, each of these researchers has undoubtedly contributed in his or her own way to enrich our understanding on disasters in Indonesia. However, regardless of different perspectives, most of this research shared a striking weakness in missing the social structural dimensions which contributed to the emergence of disaster or to the level and scale of its impacts (more about this will be given in Chapter Two).

Employing the concept of “production of disaster”, this thesis is intended to make a theoretical contribution to the existing literature on disasters in Indonesia in general, and on the Lapindo mudflow in particular, by building a structural linkage of the social process from the time a “disaster trigger” strikes to the time when new or newly modified social political relations become established or there has been a re-establishment of the pre-existing relations (either situation being roughly the end of the “reconstruction phase” in the language of conventional disaster management)<sup>10</sup>. With this theoretical contribution, the thesis aims to revisit the limited spectrum of existing understanding of disaster in which attention (if any) has been narrowly applied either to the event or to the impact. This extended structural focus also aims to give an alternative theoretical

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<sup>9</sup> To my knowledge, there were two other research articles on the 2004 tsunami which cannot be classified into either hazard/techno-fixes perspective or legal/political. They are Phelps et al. (2011) and Samuels (2012). The former focuses more on the emergence of neoliberal discourse in post-tsunami Aceh, while the latter gave ethnographic accounts about post-tsunami life and crisis from individuals’ perspectives.

<sup>10</sup> This time is parallel with the “reconstruction phase” in the language of disaster management.

perspective to see disasters as a continuing and yet contingent phenomena (see the next chapter).

#### 1.4 Research methodology

From the time when I directed a community program for the mudflow affected families, I heard many stories about the continuous fight for compensation (despite a 2007 mutual agreement between the company and the affected villagers on the basis of calculations of appropriate payments) and their consequential effects on the lives of the affected villagers. This exposed me to the important issue of the mudflow as an environmental dispute and its settlement which later occupied my mind when I wrote this thesis' proposal. My keenness to take this issue as a thesis topic was largely influenced by the experience that I had gained working "professionally" with the people affected by the mudflow, as it provided me with some sense of "being there", an important element widely accepted in the discipline of anthropology as a point of departure for fieldwork-based research. Having "been there" led me to believe that I had some advantages as a researcher in feeling the life of the communities and their members, a privilege called by Borneman and Hammoudi as an "experiential encounter" (Borneman and Hammoudi 2009).

In addition to the issues I have become familiar with, the fact that I share some cultural identities with the affected communities (ethnicity, language, and NU affiliation) led me to feel that I could blend in with relatively ease. This shared cultural background served as a basis for "a functionalist knowledge of another way of life by a complete outsider" (Marcus 1998, p. 246) which facilitated my fieldwork. Despite this, as my fieldwork and data analysis deepened, through encounters with informants with different often conflicting ideas, a challenge in the "interpretations of cultural experience—ideas about subjectivity, personhood and emotions" (Marcus 1998, p. 246) has arisen. As Marcus has himself pointed out, dealing with this challenge required me to be more intimately entwining the knowledge and understanding of experience in particular settings (p. 246).

Through my initial involvement in 2007 to the time this thesis was written, I have been able to discuss the major mudflow issues with a range of informants. In

addition to using information gathered as part of my various activities in the locality before the start of my doctoral candidature in 2011, I spent nearly seven months from August 2012 to January 2013 and a second period during July 2014 in fieldwork there.

Although this thesis is not intended as an anthropological work, an ethnographic approach strongly influenced the way I collected the information in my fieldwork. The approach I am referring to is so-called “multi-sited ethnography” which I considered relevant for my investigation of contending perspectives in an environmental dispute among different parties. In this context, instead of intensively focusing on a single community site or group, I framed my research to move among four major “groups” involved in an environmental dispute namely the state, capital, affected communities, and intermediary groups (Marcus 1998), to investigate their perceptions, emotions and behaviours which influence the outcome of dispute settlement. Similar to the aim of single-sited ethnographical works to make sense of “lifeworld” and “system”, the multi-sited ethnographical approach in my fieldwork was aimed at understanding the competing parties’ “lifeworlds” and a possible emergence of “cultural formation across and within multiple sites of activity” (Marcus 1998, p. 80).

Not only suited to the objectives of my research inquiry, this multi-sited ethnography that allows movement among sites and levels of society also gives the thesis an activist character which I found congruent with what I had been doing prior to my doctoral candidature. It, however, differs in the sense that my political commitment for social justice is now complemented with my being an ethnographer, giving rise to have a role as what Marcus defined as a “circumstantial activist”, where I had to try to make a dialogue between my own political and ethical beliefs while learning to understand others’ different ethical beliefs.<sup>11</sup> This multi-sited approach is particularly seen in the selection of interviewees in my fieldwork.

During the fieldwork, 45 interviews were carried out and served as the major primary resource data collection method. Of these 45 interviewees, seven were from government sectors at different but relatively local levels (from village

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<sup>11</sup> Marcus wrote that “the circumstantial commitments that arise in the mobility of multi-sited fieldwork provide a kind of psychological substitute for the reassuring sense of “being there,” of participant observation in traditional single-site fieldwork” (Marcus 1998, p. 99).

to district government officials), nineteen were from community groups, eleven were from NGO and independent state commission circles, two were national parliament members, one was district assembly member, and the rest were from Lapindo Brantas (2), BPLS (State Agency for Mitigating Sidoarjo Mudflow/*Badan Penanggulangan Lumpur Sidoarjo*) (2), while one had a scientific background (1). This list of interviewees was drawn from my own pre-existing network, “snow-balling” from this network, as well as new contacts emerging as the research progressed. Most of these interviews were carried out in a semi-structured way, which opened up possibilities for information which had not yet been included in the research aims.<sup>12</sup>

For each group of interviewees, I developed specific questions to explore each individual interviewee’s personal background, social and political linkages, as well as roles and perceptions about the dispute and its settlement. During these interviews, I decided to make interviewees’ comfort the top priority. In practice, this decision often made interviews prone to distraction (being diverted to a different subject of discussion), mostly due to the gap between my structured research questions and the interviewees’ unstructured answers. With the exceptions of government officials, most informants were not interviewed in formal meetings/appointments but informally while serving their food stall (*warung*) customers, during coffee sessions (*ngopi*) in coffee stalls or while doing everyday activities. These diversions added another dimension to the interview structure, enabling me to do some observation as well as taking notes about important information that I might have otherwise forgotten or missed.

Thoughtful and rigorous research and interview plans were very important to make the most of my limited fieldwork. However, while important information and findings were certainly among the results of my research plan, I found that not all information was found in this way. After I started analysing the findings and began thesis writing, I realized that accidents, or “serendipities”<sup>13</sup> as some anthropologists would call it, were equally important in determining my luck in

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<sup>12</sup> Many of the interviewees’ names mentioned here are real names with the exception of few of them who remain anonymous for security reasons.

<sup>13</sup> Adopting from Horace Walpole, serendipity is understood as ‘accidental sagacity, subsuming no discovery of a thing you are actually looking for but only those that bump up against you inadvertently or that cross your path while you are looking for something else’ (Spyer 2010, p. 150).

making important findings. Whenever such a “discovery” was found, triangulation was then made with relevant interviewees to verify its significance.

Apart from interviews, primary resources were also collected through two other ways. The first was from reports and notes which reflect first-hand experience of relevant parties. These include intelligence officers’ reports to their institution about the movement of community members, notes from government officials who participated in mudflow related events, and an activist’s field notes during his deployment. The second source was from participant observation. One particular event in which I participated was the meeting between the director of Minarak company (Andi Darussalam) with mudflow affected villagers who had moved to KNV (*Kahuripan Nirvana Village*) housing (details about this are given in Chapter 4).

## 1.5 On Sidoarjo

### 1.5.1 From agriculture to a manufacturing district

Sidoarjo has been playing an important role in national social history. Until 1970s, its role was mostly due to its fertile soil as well as strategic location in the delta of the Brantas River (one branch of the Brantas near Sidoarjo is the Porong, see Map 1).<sup>14</sup> During the colonial era, its agricultural contribution was already considered important enough that it gained recognition as a separate regency from Surabaya in the mid 19<sup>th</sup> century. This occurred when the cultivation system<sup>15</sup> was widely practiced, and was linked to the geographical location which made it an

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<sup>14</sup> Many people have attempted to restore an image of Sidoarjo’s precolonial glory by the idea that this delta was the capital of the Medang kingdom (10<sup>th</sup> to 11<sup>th</sup> Century), and the succeeding kingdom of Kahuripan with its well-known King Airlangga. The Jenggala kingdom (11<sup>th</sup> century) was also believed to be located in the current Sidoarjo district. After the conquest by the Daha/Kediri kingdom, the Brantas delta was no longer important until the rise of Raden Wijaya at the end of the 13<sup>th</sup> century. The latter once again made the delta an important part for establishing his Majapahit kingdom, which later conquered many parts of the Southeast Asian archipelago. The importance of this delta was immortalized through the name of Sidoarjo’s local football club, *Deltras* (an abbreviation for “*Delta Raya Sidoarjo*” or Greater Delta Sidoarjo).

<sup>15</sup> The Cultivation system (*cultuurstelsel*) was first proposed by Johannes van den Bosch in 1829 as one of the more successful attempts by the Dutch government to make profits from promoting the compulsory production of export crops (instead of food crops), especially coffee, sugar, and indigo by the villagers to be sold to the colonial government at fixed prices. Although varied in various regions, the imposition of this cultivation system is considered among the darkest history in the colonial period (Ricklefs 2001). It was finally abolished in about 1870 and replaced by a so-called liberal capitalist market system.

important sugar producing regency.<sup>16</sup> After Independence in 1949 the continuing significant contribution of agriculture to the local economy was clearly reflected in its city symbol. First introduced in 1963, the symbol depicted stems of sugarcane and sheaves of rice, as well as its two most important fishery products: milkfish (*bandeng*) and shrimp. Sidoarjo has been the largest producer of fish farming products in East Java (Finance Ministry report, n.d.) and the latter contributed to almost half of its local agricultural products. The shrimp product from this district has accounted for 30% of Indonesian shrimp exports.<sup>17</sup> The rise of this fishery sector substituted for the declining then disappearing sugar industry since the 1930s, whose contribution to the local economy had been decreasing despite its continued importance to provincial as well as national sugar production until the 1980s.<sup>18</sup>

Through the 1970s another shift in local development patterns took place when manufacturing industry started to spill over from Surabaya, easily reached by half an hour's drive to the north of Sidoarjo. The fact that East Java has relatively "balanced" development for successfully maximizing its high rate of economic growth, economic diversity/specialization, as well as effective administrations (Mackie 1993a) facilitated the growth of this urban corridor.

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<sup>16</sup> Its important status as a major sugar producer in colonial Java can be seen from the Sidoarjo regency's 13 sugar mills and their sugar cane plantations which used 17 percent of the regency's overall paddy fields (*sawah*), one of the highest rates of irrigated rice field leasing by sugar mills in Java. The colonial administration's aggressive expansion in favor of sugar plantations met local popular resistance led by Kiai Kasan Mukmin from what is now Gedangan sub-district in early 20<sup>th</sup> century, which symbolized dissatisfaction of landholding peasants about low rent paid for sugar cane lease and the deliberate destruction of paddy fields to accelerate sugar cane planting (Fernando 1995). This rebellion is also described in Lombard (2005, pp. 161-162).

<sup>17</sup> This fishery sector contributed to 49.7% to the district's agricultural productive activities.

<sup>18</sup> During the 1980s, Sidoarjo had generally produced the highest sugar cane yields compared to other regencies in East Java, which in turn contributed to two thirds of Indonesia's entire sugar output (Mackie 1993b, p. 198). Now only four sugar mills are left in operation in the district. They are PG (*Pabrik Gula*/Sugar Mill) Watutulis, Tulangan, Krembung and Candi Baru. They are all government owned, but the first three are under the management of state company PTPN X and the other is under RNI (Rajawali Nusantara Indonesia). Managing 11 sugar mills in East Java, PTPN X produces 30% of sugar production in Java (those in Sidoarjo contributes 15% of this PTPN X's total production) (<http://www.ptpn10.com/page/unit-usaha> accessed 28 January 2015). Candi Baru is considered as among the most efficient of all Indonesian sugar factories particularly for transforming its waste into marketable products.

Map 1. 1 Sidoarjo regency



(Source: [http://sipd-sidoarjo.com/galeri\\_peta/index.php?id=76](http://sipd-sidoarjo.com/galeri_peta/index.php?id=76) accessed 22 January 2015)

To accommodate the continuing agglomeration of Surabaya, a development cluster around the metropolis was established taking the name of *Gerbangkertasusila*, an abbreviation for the districts of Gresik, Bangkalan, Mojokerto, Surabaya, Sidoarjo and Lamongan. Among these districts, Surabaya, Sidoarjo and Gresik (*Susisik* cluster) enjoyed the greatest benefits of this urban agglomeration and were said to be among the Indonesian major industrial concentrations due to their tightly integrated services for industries (Mackie 1993a). As an attractive place for both domestic and foreign investments, Sidoarjo experienced a multiple increase in the number of industries located there, from 1,334 in 1990 to 4,079 in 2000 (Adika N/A). Some significant portions of concentrations of East Java's manufacturing industries were in the district, particularly those producing paper, base metals, metal related products, and textile or other clothing products (Table 1.1). This growth of industry has provided enormous employment opportunities for the district, with impressive statistics replacing Surabaya as the biggest employment provider in manufacturing in 1996 (Table 1.2). With this growing industrial role, Sidoarjo completed its transformation as a manufacturing district, with the sector contributing 52.36% to its total Gross Regional Domestic Product (GDRP) in 2001 (Santosa and McMichael 2004).

**Table 1. 1 Comparison of spatial concentration of manufacturing sub-sectors in Sidoarjo, Gerbangkertasusila and the rest of East Java in 2000 (in %)**

<i>Manufacture sub-sectors</i>	<i>Sidoarjo</i>	<i>Gerbangkertasusila</i>	<i>The rest of East Java (outside of Gerbangkertasusila)</i>
Food, beverages and tobacco	3.85	28.91	71.09
textiles, garments and leather	35.2	43.49	56.51
wood, bamboo, rattan including furniture	12.55	79.88	20.12
paper, printing and publishing	47.28	81.67	18.33
chemical, oil, rubber and plastic	4.34	67.53	32.47
nonmetallic mineral products	8.12	68.53	31.47
base metals	35.31	98.97	1.03
products made from metals	20.82	87.16	12.84
others	7.75	87	13

Source: Landiyanto (2005)

This manufacture-led economic growth of Sidoarjo was followed by a rapid urbanization, a determinant factor in the district's population growth (Table 1.3). As a response to the development in the neighbouring Surabaya metropolitan area, since the 1980s Sidoarjo has been experiencing the highest urbanization rate, not

only of other regencies in the province of East Java but also of other medium cities all across Java (McMichael 1998; Tirtosudarmo 2013).<sup>19</sup> With this fast paced urbanization and the industrial growth from southern Surabaya, pressures to convert land in the Sidoarjo regency into housing complexes as well as industrial estates have also intensified.

This urbanization became the driving force behind the continuous growth of the housing market in the district up until the mudflow eruption started (Table 1.4). Although the district's housing boom involved 15 of its 18 subdistricts,<sup>20</sup> it was particularly happening along the main north-south highway linking Surabaya and Malang, a distribution pattern which is shared by the industries (Bappeda Sidoarjo 2012).

**Table 1. 2 Manufacturing employment in Greater Surabaya, 1976 and 1996**

<i>Municipality/District</i>	<i>1976</i>	<i>%</i>	<i>1996</i>	<i>%</i>
<b>Surabaya</b>	34,800	60	159,300	40
<b>Sidoarjo</b>	16,600	28	180,550	44
<b>Gresik</b>	7,200	12	67,350	16
<b>Greater Surabaya</b>	<b>58,600</b>	<b>100</b>	<b>407,200</b>	<b>100</b>

Source (Dick 2002, p. 306)

**Table 1. 3 Population growth in Greater Surabaya (Gerbangkertasusila) 1990-2000**

Regency/Municipality	1990	2000	Annual rate of growth (%)
Surabaya	2,473,272	2,578,135	0.43
Gresik	856,430	995,122	1.56
Bangkalan	750,740	797,363	0.63
Mojokerto (municipality)	99,707	109,029	0.93
Mojokerto (regency)	786,943	904,173	1.45
Sidoarjo	1,166,972	1,548,820	2.97
Lamongan	1,143,344	1,179,901	0.33
<b>Total Gerbangkertasusila</b>	<b>7,277,408</b>	<b>8,112,543</b>	<b>1.09</b>

Source: (Firman 2003, p. 60)

<sup>19</sup> Santoso and McMichael (2004) noted, by 2000, Sidoarjo's level of urbanization had risen to 86%, the highest in the province despite its lowest rank in terms of administrative size.

<sup>20</sup> Of 18 subdistricts in Sidoarjo, only three remain untouched by the boom in housing market. In these three subdistricts (Tarik, Jabon and Balungbendo) no housing estates (*perumahan*) built by contractors are found. <http://dprd-sidoarjokab.go.id/bisnis-properti-menggeliat-lagi.html> (accessed 14 January 2015). The promising housing market in Sidoarjo also attracted the majority of property developers in the province to concentrate their business here. By 2010, there were 160 (of 240 in the province) companies which had developed housing estates in this regency (*Radar Sidoarjo* 31 January 2010).

**Table 1. 4 Construction of housing estates in Sidoarjo 2003-2005**

<i>Year</i>	<i>#Permits Issued for Developers</i>	<i>Location Size (in metre square)</i>
<b>2003</b>	25	2,998,526
<b>2004</b>	30	3,630,072
<b>2005</b>	40	4,499,407

Source: *Radar Sidoarjo* (18 September 2012)

Sidoarjo's Bappeda report showed that by 2002 the distribution of housing estates had been concentrated in the north (Taman, Gedangan, and Waru sub-districts), centre (the district capital), and south of Sidoarjo (Tanggulangin and Porong subdistricts).<sup>21</sup> The concentration of housing estates in the north of Sidoarjo is heavily linked to the fact that northern Sidoarjo hosted a majority<sup>22</sup> of the district's manufacturing industry and bordering on Surabaya city facilitated the spill-over of industries from the provincial capital.

The concentration of estates in the centre is closely related to its position as the district capital as well as the presence of some of the big businesses<sup>23</sup> along the main road near the district capital, while those in the south can be linked to the fact that the surrounding area was close to what had been designated as Sidoarjo's southern development area (*Satuan Wilayah Pembangunan*). More details about the character of Sidoarjo's industrialization by sub-district, particularly Porong subdistrict where the mudflow eruption began, will be elaborated in Chapter Three.

The above growth of industrial as well as housing needs created a tension of land use in Sidoarjo, particularly with regards to land conversion from rice fields to non-rice field purposes which threatened food security. Along with similar trends in other districts which have experienced "extra-ordinary development" (Bekasi, Tangerang, Bogor) (Sumardjono 2008, p. 29), this land conversion in Sidoarjo had been monitored for many years by BPN (Badan Pertanahan Nasional) which in 1994 issued circulation letters to BAPPENAS, governors and

<sup>21</sup> Septanaya and Ariastita (2014) also confirm that the growth of housing supply was predominantly concentrated in these areas.

<sup>22</sup> In 2001, 899 hectares of the district's total of 1,611 hectares allocated for manufacture industry were located in these three sub-districts (Bappeda 2001, page III-14).

<sup>23</sup> Many of these are leading national companies, such as Maspion (consumer electronic goods as well as stainless steel pipe factories), Japfa Comfeed (livestock food), Hisamitsu Pharma (producing Salonpas, a popular pain relieving product), and Avia Avian (a paint factory).

head of districts advising them to avoid any further conversion if possible (*Rencana Tata Ruang Wilayah/RTRW*).<sup>24</sup>

In Sidoarjo, as in other parts of Indonesia, land conversion was difficult to avoid due to the complexity of land entitlement issues. Particularly because 70 percent of existing land in Sidoarjo is *tanah yasan* or *tanah adat* (*Surya Online*, 13 Juni 2011), it was difficult to implement let alone control land conversion because these land ownership transactions were often carried out informally at village level. These informal transactions might or might not be accompanied by changes in village records, let alone Sidoarjo District Land Office (Kantor Pertanahan), the local land certification agency.<sup>25</sup> This later contributed to the complexity of compensation payment for Lapindo mudflow affected communities, as will be described in Chapter Five.

More than merely receiving the “spill-over” from the province capital, Sidoarjo has been contributing to the energy supply urgently needed for the growth of industrialization in the whole East Java province. By 2003, solely through Lapindo Brantas, this regency produced 17.5 percent of the province’s total energy supply.<sup>26</sup> Not only valued for its volume of production, gas reserves in Sidoarjo are mostly located on-shore which requires much less investment than off-shore gas rigs. This significant energy role, along with opportunities for raising local revenues from these gas wells as stipulated by the 2001 Law on Oil

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<sup>24</sup> These circulation letters were Circulation Letter of Head of BPN/Minister for Agrarian Affairs No 410-1850 dated 15 June 1994 addressed to Minister for National Development Planning/BAPPENAS Chairman and Circulation Letter of Minister for Agrarian Affairs No. 410-1851 dated 15 June 1994 addressed to Governors and Head of Regencies/Districts across Indonesia. In the letter addressed to BAPPENAS, the Minister for Agrarian Affairs mentioned that average size of land converted from agricultural to non-agricultural purposes was at the time between 30,000-50,000 hectares per year nationally. The letter also explicitly mentioned that this rapid conversion particularly took place in Jabotabek (Jakarta, Bogor, Tangerang, Bekasi) and Gerbangkertasusila (Gresik, Bangkalan, Mojokerto, Surabaya, Sidoarjo and Lamongan).

<sup>25</sup> Village records were relied upon to as proof of customary ownership of *tanah yasan* or *tanah adat* or land that held under individual ownership by families in the village, such as rice fields. In East Java village ownership of land is recorded in registers called *petok D* or *Leter C*. Kept in the village office, they provide information about size and class of land on which land tax is based and the obligations of owners to pay land tax (Kano, 1984), although they are often not kept up to date. Most villagers have never registered their landholdings at the district Land Office and therefore do not have land ownership certificates (*sertifikat tanah*) which was the only form of proof accepted by Lapindo on which to pay compensation.

<sup>26</sup> Muid and Suryanto (2003) showed that to meet the growing energy demand by the Government Electrical Company (PLN), the Petrokima fertilizer company, and the Government-owned Gas company (PGN) the province needed 400 Million Standard Cubic Feet per Day (MMSCFD) of gas. Kangean (at the time still under BP’s contract) contributed 150 MMSCFD (37.5 percent), Lapindo Brantas contributed 70 MMSCFD (17.5 percent), Kodeco 25 MMSCFD (6.25 percent), and the remaining supply was provided with subsidized petrol which was very costly for the state budget.

and Gas, made the local government actively involve itself in the FKDPM (Communication Forum for Oil and Gas Producing Regencies/Municipalities/*Forum Komunikasi Daerah Penghasil Migas*) (The gas mining in Sidoarjo will be elaborated in more detail in Chapter Three).

The high rate of industrialization, energy production, and particularly the active role played by the local government in attracting investments,<sup>27</sup> are certainly not unaccompanied by trade-offs. As will be explained further in Chapter Three, these capital accumulation goals were in the past accompanied by societal discontents in which corrupt and oppressive measures were used without hesitation including the murder of Marsinah, a factory worker in Porong in 1993 (Supartono 1999; Waters 1993). For the time being, it can be said that Sidoarjo's development growth has been facilitated not only because of the benefits of its geographical location, but also because of its active role in attracting businesses.

### 1.5.2 Culture and local politics

Despite its apparently homogenous culture, East Java is comprised of different sub-cultures that are reflected in the worldviews, characters, and popular arts of the communities (Sutarto and Sudikan 2004).<sup>28</sup> Among these is *arek* sub-culture that geographically covers Surabaya and its satellite areas, including Sidoarjo. This *arek* sub-culture is commonly described as egalitarian, open-minded, straightforward, with a high level of group solidarity, and importantly a reckless level of self-determination (*bondo nekat*). Its emergence as a distinct sub-culture is historically seen as a result of long interaction between *pesisir* (coastal) merchants staying in the Brantas river mouth with megapolitan Surabaya culture.<sup>29</sup>

Included in this assimilation of local and *pesisir* elements is a particular mix of Islam and local culture, later giving rise to Nahdlatul Ulama, currently the

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<sup>27</sup> Between 2002-2005, the KPPOD (Oversight Committee for Implementation of Decentralization/*Komite Pemantau Pelaksanaan Otonomi Daerah*) had regularly named Sidoarjo as among the best five in East Java for creating an investment friendly climate. Various innovations by Sidoarjo's local government in facilitating business were singled out as factors behind this success. In 2005 it was ranked 8 of 169 regencies surveyed.

<sup>28</sup> Sutarto and Sudikan divided it into 10 sub-cultures: *arek*, *pandhalungan*, *panaragan*, *mataraman*, *samin*, *tenger*, *osing*, several variations of Madura sub-cultures (Kangean and Bawean).

<sup>29</sup> Not only attributed to the 10 November 1945 independence battle to repel British and Dutch occupying forces, this *arek* Surabaya culture is sometimes mentioned as being among the factors which facilitated rapid industrialization growth in post-independence Surabaya and its surroundings.

biggest Indonesian traditionalist Moslem group. The particular feature of this religion-culture mix in this *arek* sub-culture geography was not only produced by the fact that it was first formally established in this region<sup>30</sup>, but also by NU's continued dominance in the social and political realms of the *arek* sub-district region in particular (Chalik 2010).

In Sidoarjo, popular stories and local history make particular reference to NU. An old pesantren (Islamic boarding school) in Buduran subdistrict was widely said to have graduated many early local NU charismatic leaders.<sup>31</sup> A village in Jabon sub-district was also said to play an important role in NU history when the *istikharah*<sup>32</sup> of the village's respected religious leader was used to confirm NU National Board's 1984 *khittah*<sup>33</sup> decision to move away from political struggle back to its original mission in social and religious affairs.<sup>34</sup> A local NU merchant<sup>35</sup> was also said to have donated significant land for the construction of the district's first university (Titik Suwariyati 2011, p. 98).<sup>36</sup>

Despite NU's official position not to have direct involvement in political processes, the results of local elections undoubtedly showed the extension of its important influence into this sphere of local politics. In all post-Soeharto district assembly elections, the NU-affiliated PKB party has performed strongly, controlling at least 25 percent of the seats (Table 1.5). PKB was second to PDIP and Partai Demokrat in 1999 and 2009 respectively when each of these parties obtained a sudden and relatively short-lived surge in their national support.<sup>37</sup>

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<sup>30</sup> NU was established in 1926.

<sup>31</sup> Pesantren Siwalanpanji, currently known as Pesantren Khamdaniyah, was said to have been founded in the 1700s. KH Hasyim Asy'ari, the first NU syariah leader, graduated from this pesantren and married to the founder's daughter. The other alumni of this pesantren was KH Cholil Bangkalan and KH As'ad Syamsul Arifin (both were early 20<sup>th</sup> century respected NU leaders too).

<sup>32</sup> A religious ritual widely practiced among Moslems to ask for divine directions when encountering problems.

<sup>33</sup> Adopted from Arabic language, *khittah* literally means a line or a way. In NU, *khittah* is understood as an organizational guidance or thinking framework to serve social and religious goals as formulated by its establishment in 1926.

<sup>34</sup> <http://babad2010.wordpress.com/2010/02/01/desa-kedung-cangkring-lahirkan-tokoh-dan-ulama-besar/> (accessed 3 November 2014)

<sup>35</sup> This merchant was widely known as the richest local fish pond businessman (*pengusaha tambak*) and he married his only daughter to Saiful Ilah, the current Bupati of Sidoarjo, reflecting the close ties between the local bureaucracy and traditional Islam in the district.

<sup>36</sup> Available at <http://simbi.kemenag.go.id/pustaka/images/materibuku/harmoni-vol-10-no-1-januari-maret.pdf#page=88> (accessed 3 November 2014).

<sup>37</sup> Despite being second after PDIP in 1999, a PKB assembly member was elected as DPRD chairman. Meanwhile, PKB suffered its biggest loss in 2009 due to several factors, namely internal conflict within the party (an organizational dispute between pro-Muhaimin and pro-Gus Dur), the

**Table 1. 5 Number of district assembly seats by parties 1999-2014**

Parties	1999	2004	2009	2014
PKB	16	16	10	13
PDIP	18	8	7	8
Golkar	4	6	4	5
PAN	2	6	8	7
Demokrat	-	6	11	4
PKS	-	2	3	3
Gerindra	-	-	2	7
Hanura	-	-	3	-
Other parties	5	1	2	3
Number of Contested Seats	42 <sup>38</sup>	45	50	50

Source: KPUD Sidoarjo (1999-2014)

NU's influence did not stop at the level of district assembly elections. Given the fact that a majority of the local population shared a common NU identity, it would be too costly for candidates running for governor and district head offices to neglect political support from this traditionalist Moslem group. In both 2008 and 2013 East Java gubernatorial elections, the NU occupied a central stage in these contests with several NU-affiliated mass organizations reportedly active in political campaigns.<sup>39</sup> In both elections, Khofifah,<sup>40</sup> NU's candidate for governor performed well, even in 2008 when she lacked support from the major political parties (Table 1.6).

In district head elections, NU's role has been also influential. In 2000, when district heads were still elected by district assembly (DPRD) members, a local bureaucrat who paired with a NU-affiliated fishpond (*tambak*) businessman won the office. They paired again in the 2005 direct election which they won comfortably<sup>41</sup> because political support was secured and because of their

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emergence of new parties (Gerindra and Hanura) which undermined the PKB's traditional voter base, and the nationwide trend which saw an increase in support for the Democrat Party.

<sup>38</sup> In 1999 local assembly elections, three seats were still allocated for the military/police "fraction".

<sup>39</sup> Despite there being two figures affiliated with NU in the two most likely winning pairs of candidates (Khofifah and Saifullah Yusuf), the involvement of these NU organizations in campaigning for Khofifah was, among other reasons, due to NU's political aspiration to have a candidate for governor instead of for vice-governor.

<sup>40</sup> Khofifah Indar Parawansa is the chairwoman of Muslimat, NU's women organization, and was Minister for Women's Empowerment under PKB President Gus Dur.

<sup>41</sup> They won 70% of the votes (KPUD 2005).

popularity.<sup>42</sup> After having served as vice-district head for two terms, Saiful Ilah, the local *tambak* businessman, ran for *Bupati* himself in 2010, and also won comfortably.<sup>43</sup>

**Table 1. 6 Result of East Java gubernatorial elections in Sidoarjo, 2008 Run-Off<sup>44</sup> and 2013**

	<i>Candidates</i>	<i>Political Parties</i>	<i>Number of Votes</i>	<i>Percentage</i>
<b>Run Off 2008</b>	Khofifah-Mudjiono	PDIP, PPP and 11 other non-parliament parties	348,070	50.20%
	Soekarwo-Saifullah	Partai Demokrat, PAN, PKS, Golkar, PKB	309,476	49.80%
<b>2013</b>	Soekarwo-Saifullah	Demokrat, Golkar, PAN, Gerindra, Hanura, PPP, PKS, PKNU, PBR, PDS and 22 other non-parliament parties	336,573	47.25%
	Eggy Sudjana-M. Sihat	independent	17,354	2.44%
	Bambang DH-A.Said	PDIP	77,181	12.69%
	Khofifah-Herman S	PKB and 5 other non-parliament parties	379,070	37.62%

Source: KPUD Sidoarjo 2008 and 2013

Along with other structural elements, I argue that the strong influence of *arek* and NU subculture in the regency has been also at play in particularly affecting the way that environmental justice is defined and fought for in this Lapindo mudflow disaster. Separating itself from most of the previous researches which I believe share a weakness in interpreting the pre-disaster social-political context in terms of a vacuum of local power (Akbar 2012; Ismail 2013; Karib 2012; Mirdasy 2007; Muhtada 2008; Munawir 2007), this thesis argues that the cultural context provided a space in which the local actors directed and drew up their plays (this will be explained in detail in Chapter Five).

<sup>42</sup> During his first term in office, Win Hendrarso won many awards for his leadership in developing Sidoarjo. He was also popular among local voters, including artists. See [http://hurek.blogspot.com.au/2008/02/win-hendrarso-bupati-lumpur\\_26.html](http://hurek.blogspot.com.au/2008/02/win-hendrarso-bupati-lumpur_26.html) (visit 5 November 2014). Political support from NU voters seemed to have been secured by Saiful Ilah, his vice bupati, who controlled the leadership of PKB. But, it seemed to be based on a “gentlemen’s agreement” that in return Win would support Saiful’s candidacy for the next bupati election. See [http://nasional.news.viva.co.id/news/read/113549-saiful\\_iiah\\_kantongi\\_restu\\_win\\_hendrarso](http://nasional.news.viva.co.id/news/read/113549-saiful_iiah_kantongi_restu_win_hendrarso) (accessed on 5 November 2014).

<sup>43</sup> He won more than 60% of the votes (KPUD 2010).

<sup>44</sup> The run-off was held because no pair of candidates were able to secure at least 30% of the votes as legally required. The first round included five pairs of candidates, the other three pairs being Soetjipto-Ridwan Hisjam (PDIP), Soenario-Ali Maschan Moesa (Golkar), and Achmady-Suhartono (PKB). During the first round, Soekarwo-Saifullah were supported by PAN, Demokrat and PKS, while Khofifah –Mudjiono were supported by PPP and 11 other non-parliament parties. The 2008 East Java gubernatorial election run-off was won by a very thin margin in what was the most competitive election in the nation’s election history.

## 1.6 Outline of thesis

Following this introductory chapter whose primary aim is to provide an overall background to the research and research site, there will be seven chapters which move from a larger perspective on national/local development discourse down to the everyday practice of the environmental struggle.

Primarily aiming to provide the theoretical foundation of which aspects to recognise in order to have an effective critical analysis of the Lapindo mudflow disaster, Chapter Two elaborates three important ways to approach the disaster. This triple approach is adopted as a combination of the existing disaster and environmental justice literature. By arguing along a theoretical path which I believe has been less travelled, the thesis aims to open a new academic terrain for understanding disasters in a more comprehensive and structurally consistent way.

As the gateway to link the origin of the Lapindo mudflow disaster to the existing structural context of national/local development discourse, Chapter Three aims to reject any notion of seeing disaster as a separate phenomenon associated only with a particular time or space. Instead, the chapter argues that the Lapindo mudflow disaster is actually the realisation of a latent risk characteristically embedded in existing mining practices as well as the larger discourse of national/local development.

Chapter Four specifically discusses the Lapindo company, its political linkages, and the way it dealt with the demands for environmental justice. Linking it to the larger political-economic interests involved, the chapter investigates the everyday practice of power used by the company to ensure that it was not only able to escape from this catastrophe but capitalized on the disaster for its own political interest in the 2014 presidential election.

Providing a more nuanced description of civil society at the local level rather than a generalized notion of strengthening Indonesian civil society (which we find in many contemporary studies), Chapter Five highlights social fragmentation within the communities affected by the mudflow. This fragmentation was not only characterised by differences in the length and level of disaster impacts experienced by various members of the affected communities, but left devastating impacts on the demands for environmental justice.

Chapter Six has similar aims with a different focus. Focusing on the so-called intermediary groups which have been involved in the demands for environmental justice, this chapter elaborates challenges which have prevented diverse intermediary groups from becoming a unified front for environmental justice.

Chapter Seven analyses the rise of BPLS as a distinct agency, set up under the President and funded from the national state budget, to deal with the mudflow disaster mitigation. This chapter argues that, instead of performing in the wider public interest, this agency has been supporting the interests of local and national elites and is hampered by serious corruption allegations.

The concluding Chapter Eight aims to wrap up arguments brought up in the earlier chapters. Linking them back to my thesis' ideas described in this introduction, the chapter reemphasizes the way the research questions have been answered as well as new ways this thesis contributes to the existing literature on the Lapindo mudflow and Indonesian disasters in general.

## **Reading disasters: their significance, character, and theoretical implications**

As will be shown in the following chapters, the Lapindo mudflow has been given different names in accordance with competing political interests. Regardless of the diversity of names, however, public discourse almost unanimously attached the noun disaster (*bencana*) to the mudflow. Whether or not it is considered natural, the word “disaster” is commonly used to represent the extraordinary character of the event more than anything else. Not simply because of its common acceptance, the word “*bencana*” may provide an interesting entry point to start with as it reflects conceptions, discourses and practices before, during, and after the event.

Arguing that disasters may reveal more than simply damaging effects to societies, this chapter will theoretically explore the existing scholarship in disaster related studies. The analyses of these studies have been useful in unpacking the very foundations of communities stricken by disasters across social and political contexts. This exploration will particularly examine specific concepts and theories whose concerns, contexts and arguments can be used to build an alternative view of seeing disasters, particularly the Lapindo mudflow case. In general, this chapter will aim to fulfil three theoretical tasks. By drawing knowledge about disasters from across countries as well as within the contemporary Indonesian context, it seeks to underline the rise of disaster discourse in the narratives of theory and practice of policy making and to withdraw lessons applicable to the Lapindo mudflow. Secondly, engaging with wider debate in environmental politics, it investigates elements of disaster research which will enable us to see disasters as a continuum which is contingent and structurally integrated. As the final task, by critically incorporating specific elements from the debates, this chapter will try to offer an alternative way of viewing Indonesian disasters.

## 2.1 The significance of disasters

Certainly hundreds, if not thousands, of disasters have happened since the break-up of the supercontinent Pangaea<sup>1</sup> in the ancient past. While historical writings have reported about disasters<sup>2</sup>, detailed reports on disaster have become considered a common practice only in the last few decades. Both as an effect and a cause of this common practice, more regular reports have been written about disasters whose incidence are considered more frequent. According to Alexander (2006), the increasing frequency of disaster incidence can be attributed to three factors; the increasing awareness about effect magnitude as a result of population growth and vulnerability in zones of high hazard, increasing technological vulnerability, and more importantly the corporate interest of insurance businesses to gather more comprehensive accounting of the effects (Alexander 2006). Despite concerted mitigation efforts and development of technology, it is reported that disaster frequency has doubled every ten years since 1960 (Pelling 2001). The estimated costs associated with disaster have risen in an accelerated manner, mostly due to the inclusion of indirect economic losses and insurance payments (Alexander 1997). Insurance industry assessment suggested that there has been a fifteen or sixteen-fold increase since 1950 in the impact of disasters as measured in terms of casualties, material losses and numbers of displaced persons (Alexander 2006).

In the 1990s, UN embraced the concerns by launching the International Decade for Natural Disaster Reduction (IDNDR). Despite criticisms over its dominant technical-scientific perspective (Cannon 1994; ISDR 2004; Varley 1994) as well as its post-Cold War interests for global political realignment (Alexander 1997)<sup>3</sup>, the decade signified a shift to more institutionalized concerns in disaster discourse through the establishment of the United Nations International Strategy for Disaster Reduction (UNISDR) at the end of that decade. Rather than

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<sup>1</sup> The continents we have now were thought to have been assembled into a single giant continent named Pangaea. Continuous movements of the sea floor (commonly called plate tectonics) were the factor that drifted this giant continent apart. For more details about Pangaea, see <http://www.rci.rutgers.edu/~schlisch/103web/Pangeabreakup/breakupframe.html> (accessed 29 December 2014).

<sup>2</sup> Plato's *Timaeus*, which talked about the lost Atlantis suddenly gone after violent earthquake and floods, is certainly the most widely quoted among the examples.

<sup>3</sup> Particularly in its early years, the decade was predominantly seen as transfer of resources for short-term disaster relief to ex-Communist worlds which represented the West's strategies to win influence.

focusing on the management of after-disaster impacts in a short-term framework, this new discourse placed responsibility on national governments to reduce disaster risks through planning and other longer term frameworks (ISDR 2004). The latest global initiative has been the formulation of the Hyogo Framework for Action (HFA) 2005-2015, which provided a global strategy to reduce disaster risks for all UN country members.

From a general picture, looking at how these globally shared concerns about disasters have emerged shows us two important things. Firstly, the involvement of capital interests played a considerable role as among the factors which diffused the concerns. Not only for accurately assessing liabilities as shown in the insurance case above, the strong involvement of capital in disasters is allegedly having to do with interests to sustain profits as well as particular political governance. In the United States a great deal of federal budget allocation and numerous agencies involved in disasters have reportedly led to “over-alerting” disasters (Davis and Seitz 1982; Kirschenbaum 2004; Rozario 2007).

Secondly, as shown by the rise both of the IDNDR and of criticisms of it, disasters could become the sites through which power is being contested and exercised. Reasons that often justify this contest are “privileges” (being more modern, more scientific, being the West<sup>4</sup>) whose practical applications are made possible through allocation of resources as well as ideology-based foundations of discourse. While the establishment of disaster as a global discourse may be based on particular ideological foundations, it is also interesting to see why countries with a diversity of challenges (social, political, economic, demographic, etc) agreed to embrace the rise of the IDNDR.

Through exploration of disaster research carried out in variety of social-political contexts, several explanations can be offered to understand how important disaster is for those countries. Firstly, serious impacts that disasters make on national economies are often the strongest trigger for global action. While in cases where a disaster happens in an advanced economy bring significant effects to the global economy (Overseas Development Institute [ODI] 2005;

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<sup>4</sup> For further interesting explanations about how science, modernisation and ‘the West’ are involved in this construction, see Bankoff (2001, 2004).

Pelling, Ozerdem & Barakat 2002),<sup>5</sup> the impacts of disasters experienced by those economies are certainly far from equal. Consistent with reports which show an increasing disaster frequency in less developed than developed countries (Davis and Seitz 1982; International Federation of Red Cross [IFRC] 2010),<sup>6</sup> 96% of all deaths from natural disasters have been occurring in the global South (Pelling, Ozerdem & Barakat 2002) and populations in 50-60 low-income nations are exposed to a much higher risk of disaster-induced death than those in middle or high-income countries (Alexander 1993).<sup>7</sup> Equally threatening as the haunting casualties, disaster impacts on national economies can leave no less challenging mitigation tasks to be dealt with by governments. For many developing countries, disasters represent serious challenges to development with some having to spare considerable amounts of their annual GDP for disaster mitigation while some others face the risk of economic regression due to excessive burdens the disaster created for the economy (Pelling, Ozerdem & Barakat 2002; World Bank 2005).<sup>8</sup>

In addition to creating humanitarian and economic challenges, disasters also lead to political upheavals, something which any regimes would undoubtedly choose to stay away from. Several researchers have pointed out that the accumulated social distress, as effects of both the disasters and the inability of social-political order to mitigate them, lead to so-called “tipping points” which change existing socio-political regimes (Pelling and Dill 2010). History has shown that in some cases a disaster ended up with an irreversible change in the

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<sup>5</sup> These authors brought up the example of the 1995 earthquake in Kobe (Japan) which reportedly brought a contraction in global GDP of 0.7%.

<sup>6</sup> The 2010 world disaster report by the International Federation of Red Cross (IFRC) show that, while regions with high human development show some signs of decreasing disaster frequency (and thus greater control over disaster predictability) in the last ten years, disasters in regions with low human development show no signs of control and even increasing in some particular years.

<sup>7</sup> Comparing the Philippines and Japan which have similarities in the natural disasters they are frequently facing, it is reported that the Philippines suffers nine times higher death tolls than Japan in a population nearly as large (Alexander 1997).

<sup>8</sup> While the nominal losses are usually a lot higher in the advanced industrialized countries mostly due to the high value of destroyed infrastructures (Comfort et al. 1999), if it is estimated in the proportion of GNP, disasters cost more in the less industrialized. Using the 1990s data for 68 disasters in 28 countries, Alexander found that the proportion of GNP lost in natural disasters generally decreases with increasing economic rank of countries (Alexander 1997). The Philippines incurs direct damage of P15bn per annum, equal to an average 0.7% of GDP every year, as a direct consequence of natural disasters (WorldBank 2005). The costs can be beyond the domestic revenue raising and commercial borrowing capacity of government: for example, after Hurricane Mitch in 1998 in Honduras with a GNP of \$850 per capita, the government faced reconstruction costs equivalent to \$1250 per capita (ODI 2005) which put the country's development back by 20 years (Day quoted in Pelling, Ozerdem, and Barakat 2002).

direction or composition of a political regime (Olson and Gawronski 2003).<sup>9</sup> In other cases, a regime's counter-challenge to an increasingly critical civil society post-disaster could also end up with the enforcement of further political restraints to prevent deeper opposition to the state (Jalali 2002; Pelling and Dill 2010).<sup>10</sup>

The last reason is related to the "scars" disasters left in the form of disruption to the existing social balance within the communities or the unpacking or worsening of the society's latent internal contradictions, concerns which have been shared by numerous disaster researchers (Albala-Bertrand 1993; Simpson and Corbridge 2006; Simpson 2006; Wisner et al. 2004). While they may not pose direct political challenges to the regime, they would likely deepen inequality problems. Reflecting from various disaster contexts, disasters could lead either to further marginalization of the already underprivileged communities (Wisner et al. 2004)<sup>11</sup> or to an "accelerated status quo" (Pelling and Dill 2010, p. 22).<sup>12</sup> For some researchers, the latter is more likely to happen because those in positions of power and influence are usually the ones who quickly view disasters as sources of moral, political and economic revival (Rozario 2007).

## 2.2 Elements of Disaster Research

### 2.2.1 Focusing and assessing the impacts

Writing for the second decade anniversary issue of the journal *Disasters*, Alexander stated that disaster studies are among the fields which have continuously developed both in popularity and extent (Alexander 1997). Although it had its stagnant period following the pioneering work on the Halifax explosion (Prince 1920), from the early 1950s disaster studies began to grow steadily when the need for war-related preparedness arose (Tierney, Lindell and Perry 2001).

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<sup>9</sup> Referring to post-earthquake events in Nicaragua and Mexico City (in 1972 and 1985 respectively), Olson and Gawronski show that disasters can catalyse a "critical juncture" resulting in the fall of the Somoza regime by the revolutionary Sandinistas in the former and the revival of civil society's opposition to PRI (*Partido Revolucionario Institucional*/the Institutional Revolutionary party) party dominated state and political liberalization in the latter.

<sup>10</sup> These authors particularly referred to the case of 1999 earthquake in Turkey.

<sup>11</sup> Soon after the 1976 earthquake in Guatemala, ordinary people used "class-quake" term to refer to the event because low income-indigenous people were hardest hit (Wisner et al. 2004)

<sup>12</sup> Pelling and Dill (2010) explain this as a condition where social change is dependent and limited to a concentration or speeding up of pre-disaster trajectories which remain under the control of powerful elites both before and after an event. Other researchers also call this situation elite entrenchment.

From the mid-1970s the literature then exploded as most of the existing disaster research has been conducted since then (Alexander 1997). Despite this growing amount of disaster research, there has been a concern about some weaknesses in the development of this field (Alexander 1997). Among these weaknesses is the concern that disaster as a subject matter had been understood and defined differently by different researchers (Alexander 1997; Perry 2007; Perry and Quarantelli 2005; Quarantelli 1987). Alexander (1997) mentioned that the difference comes from the variety of elements used to measure the disaster, which range from number of deaths, value of damage and losses, impact upon social system and geophysical definitions. Some defined disaster based on the degree of human casualties, physical losses and the ability to recover (Torrence and Grattan 2002), while others go further by setting up a threshold of 25 cases of deaths as a minimum standard to be classified as a disaster (Tobin and Montz 1997), even if this number may not always be relevant as in the case of American disasters (Davis and Seitz 1982). Regardless of whether or not human casualties occur, others suggest a different measurement which requires more extensive physical damage that “all major public and private facilities no longer provide essential social and economic services without extensive replacement or repair” (Torry 1979, p. 518) or that “the essential functions of the society are interrupted or destroyed” (Oliver-Smith 1996, p. 305). Others pointed out the importance of outsiders’ intervention as “recovery is unlikely without external aid” (Wisner et al. 2004, p. 45) or when “the damage may be so great and so extensive that survivors have nowhere to turn for help” (Quarantelli as cited in Tobin and Montz 1997, p. 31). This is despite the fact shown by other researchers that most affected populations rely on themselves and their community for survival (Duffield 1993; Hilhorst 2004). Many others differentiate between “rapid” (earthquake, tsunami, and similar “natural” causes) and “slow-onset” disasters (human/“non-natural” induced such as crop failure and famine), with the former usually given bigger support and funding as a result of its dramatic images.

Those are only few of more than three dozen existing definitions of “disasters” already identified (Perry 2007). Similar to the historical use of the term disaster which recorded the shift of perceived source of undesirable

happening from stars to society (Quarantelli 1987)<sup>13</sup>, those different definitions also reflect dominant paradigms or orientations behind them. Perry (2007) classifies the existing three dozen plus definitions he had found into three focal areas: the classical approach, the hazards-disaster tradition, and the explicitly social focused tradition.

The classical approach generally lasted from the end of World War II to the early 1960s, although its influence extends to the present day.<sup>14</sup> Although many of the studies in this period were less concerned with the meaning of disaster than field or database work, their research provided us with two features about how disaster was being understood during this time. First, while many of them explicitly mentioned an agent as catalyst and used the term “event” in their description of the disaster, most were concerned with the social disruption rather than the cause or agent itself. It was generally understood that disasters were described as extreme events with negative social consequences which might require an adjustment or a change in normative behavior for survival. From this came the second feature of the approach, which was the beginning of emergent norm thinking. Disasters made the norms which had been used to support social interactions ineffective, and different norms were thus required. Framed in this way of thinking, many disaster researchers during this period began to portray patterns of interrupted stability, followed by adaptation to the interruption, followed by the continuation of previous behavior (although not necessarily unchanged) in a stable period.

Although the classical approach mentions a physical agent as the disaster catalyst, it is the hazard-disaster tradition which takes the target agent as its

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<sup>13</sup> The English word “disaster” comes from the French word “desastre”, which in turn was a derivation from two Latin words (dis, astro), which roughly meant “formed on a star”. In its early usage, it referred to undesirable effects for individuals resulting from a movement of a star or planet. Later, the term referred to major physical disturbances such as floods and earthquake, which were linked to Acts of God. With the rise of more secular ideas, disasters were then associated with the Acts of Men/Women, and later with the society as the cause (Quarantelli, 1987).

<sup>14</sup> In the early period of this approach, there were three important intellectual and research activities which later determined this approach. They were the studies of the impacts of bombing on European and Japanese cities which included the reaction of the population as well as the customary examinations of physical damage; a series of studies of eight disasters by the National Opinion Research Center at the University of Chicago in 1951-52; and the formation of the Disaster Research Group in 1952 under the auspices of the National Academy of Sciences (NAS-NRC), which was charged with conducting a review of the state of disaster research. These studies collectively formed the first systematic information about human behaviour in disasters (Perry, 2007).

principal focus. Within this context, “disaster” is generally viewed as an extreme event which arises as a result of the intersection between *a hazard agent* and a social system (Perry 2007, emphasis is mine). Grown out of the hazards perspective common in the literature of geographers and geophysical scientists, this tradition puts real emphasis on the processes of hazard cycles and agents. Regardless of its likely concerns with social and other issues, its emphasis on the agent made it become called “agent-centred” and was criticized for prioritizing technical disaster triggers more than social issues (Quarantelli 2005). Labelled as “behavioral” by others (Hilhorst 2004), this approach is based on a technocratic paradigm and embraces natural scientists who can monitor and predict hazards, as well as social scientists who are brought in to explain people’s behavior in response to risk and disaster and to develop early warning mechanism and disaster preparedness schemes (Oliver-Smith 1996).

Differing from the previous two, the social focused tradition emphasizes disaster as a social phenomenon linking it to the concept of socially constructed vulnerability and the idea of social change. Sociologists, who find it important to see the issue firmly in social realms rather than in techno-fixes, are behind this tradition. Rather than troubling with the conceptions of event, physical agent or time (sudden/rapid versus slow), the entire conception of disaster in this tradition is social: “vulnerability is socially constructed by relationships in the social system and disasters are based in the notion of social changes” (Perry 2007). Labelled as the “structural” paradigm by others (Hilhorst 2004), this tradition sees disaster as a social disruption that originates in the social structure/relations and its remedies may only come from manipulations of social structure.

The evolution and categorization of these three traditions shows that researchers have evolved different ways of seeing disasters and of assessing their impacts. After decades of development in disaster research, these continuing differences are worrisome for some researchers (Perry 2007; Quarantelli 1987, 1995). Quarantelli, among others, has attempted to gather together various researchers to solve conceptual problems in understanding disaster, believing that there are internal and external factors which made this problem necessary to be dealt with (Quarantelli 1987b). Internally, after decades of research, the development of disaster studies have grown into maturity and produced newer researcher generations who replaced the pioneer ones. This triggered the

emergence of the need to consolidate the area, substantially replacing the enthusiasm in opening up a new field of study which had inspired the pioneer generation.

As an external factor, the growing visibility of newer kinds of threats and risks increasingly presented additional challenges to the foundation of old paradigms in the studies of disaster in general and environmental change in particular. The fact that increasingly frequent modification of nature has been associated with the increasing exposure of humans to disaster risks deserves a separate investigation into the extent to which nature-human relations should be seen. As an addition to the above classification of three traditions which is based on research focus and approaches to assess impacts, this separate investigation will shed a clearer light on further differences in the general studies of disaster.

It is for this reason, and particularly related to the frequent invocation of “nature” by the company and pro-quaker<sup>15</sup> scientists as the trigger in the Lapindo mudflow disaster discourse (as explained more detailed in Chapter Six), that the next section will deal with nature-human relations in the existing disaster research.

### 2.2.2 Nature-human relations

In general conceptions of disaster, nature is often associated with disasters. The association is grounded on the simple observation that changes in nature often precede the occurrence of disasters, giving a signal that a natural element is threatening a society. However, humans and nature are not always in such a hazardous relationship. They can also be in a resource relationship when nature can be made productive use of by society, or in a benign relationship when it offers neither an advantage nor a threat (Pelling 2001). Here lies the question of when and in what conditions a particular human-nature relationship arises. The relationship between society and nature is also mentioned as one of the fundamental pillars of any ideological system which informs the level of vulnerability (Oliver-Smith 2004).

While nature is still often seen as a representation of divine power and separate from human society in many communities where religious beliefs are still

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<sup>15</sup> Pro-quaker scientists refer to those who believe that the mudflow was predominantly caused by Yogya earthquake two days earlier. For Yogya earthquake, see footnote 1 Chapter One.

deeply rooted, modern capitalism made nature and its changes can hardly be separated from human activities. The triumph of reason, and its subsequent offspring in advanced innovation and technologies, which laid the foundations for capitalism, has changed the way humans deal with nature, from simple appropriation to accumulation purposes. This was then intensified by the expansion of boundless market exchange, which differs from the previous bounded modes of production in terms of their “existential priority to the limitless expansion of production and the conquest of nature” (Strange 2000, p. 61). This subjugation of nature to humans and the prevalence of markets provide an ideological justification as well as an institutional means for a relatively unfettered mastery over, and unrestrained exploitation of, nature (Oliver-Smith 2004). While there is an imperative need to expand in terms of total production and expand geographically, this market mode of production faces the challenge of the finite nature of physical resources. It is this contradiction between the limitations of nature and the imperative to grow against spatial and geo-physical limits which brings about the ecological crisis (Strange 2000).<sup>16</sup>

The emergence of ecological crisis in modern capitalism convinced Castree (2001, p. 3) that nature is in fact “*inescapably social*” (italics in original). Rather than invoking the superiority of either nature or humans, he argues that the social and the natural are so heavily intertwined that their separation—in either in thought or practice—is made impossible.<sup>17</sup> Critical geographers insist that nature is social in the way of knowing, engaging, and remaking it. The way people know nature informs us that there is no singular-objective knowledge on nature. As we can see from daily differences between people, government and business’s ideas on nature, even among scientists, there are multiple kinds of knowledg about nature which are unlikely neutral by mission.<sup>18</sup> People’s different ways of

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<sup>16</sup> Sharing the same enthusiasm for application of human rationality and production goals (either for individuals or collective reasons), market and command economies both experience this crisis.

<sup>17</sup> By defining nature as “inescapably social”, he criticized both ecocentrism and technocentrism for being intellectually limited and politically biased. He accused ecocentrism for leading to a rupture with modernity and rebuild a neo-medieval world political-economic order (Strange 2000), and technocentrism for accepting no other varieties of human-environment relations except the “problematic” ones, and for preferring technocratic approaches to engage in exploration of fundamental socio-economic processes (Castree 2001).

<sup>18</sup> Castree mentions the works of Harvey (1974) and Hewitt (1983) which significantly challenge the idea of objective knowledge. Harvey criticized the neo-Malthusian arguments of scientific resource analysts as a rhetorical cover designed to dismiss attention to the real problem of unequal distribution of resources between the West and the rest. In his critical work, *Interpretations of*

engaging nature show that there is no fix and universal practice of interaction with nature. Physical characteristics of nature will be contingent upon social practice in specific place and time. Lastly, with the development of capitalism which increasingly advances to the extent of creation of nature from nature itself, societies are actively remaking nature.<sup>19</sup> The advance of technology (cloning, gene modifications etc.) allows scientists not only to study nature, but to make interventions in it. “Under the growth-orientated, competitive and labour value orientated conditions specific to capitalism, nature itself becomes internal to the economic system” (Castree 2000, p. 26).<sup>20</sup>

This approach is influenced by the concept of production of nature from Marxist geographers, such as Neil Smith. Instead of reinstating nature-human dualism as some critics suggest for its tendency to “degrade” nature in ways that reflect human superiority, this idea of production of nature<sup>21</sup> is in fact deemed to offer three new ways of thinking about human-nature relations (Castree 2000, p. 27):

I want to suggest that Smith’s production of nature thesis offers a way to think beyond the either/or of constructionism/naturalism. More specifically, I want to suggest that this non-dualistic conception allows Marxists to adhere to three things simultaneously: first, an ontology which, while it denies a separation between capitalism and nature, nonetheless refuses to elide one with the other; second, a supple, non-determinist theory which, in explanatory terms, accords power and agency to both capital and nature; and third, a normative perspective which criticises the ecological impacts of capitalism on historically- and place-specific grounds without reverting to a politics of nature in or for itself. (italics are original)

Castree (2001, pp. 30-31) then further elaborated the normative contributions of this concept:

Most obviously, the production of nature perspective circumvents forms of Marxian thinking which justify courses of political action in the name of a supposedly invariant nature or ineluctable social imperatives (capitalist or otherwise). More subtly, because the

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*Calamity*, Hewitt condemned the “techno-fix” perspective in disasters for diverting attention away from social vulnerability to hazards as well as leading to superficial hazard response policies.

<sup>19</sup> Repeated attempts to physically reconstitute nature may put the world into danger, which Beck (1992) calls a “risk society”.

<sup>20</sup> Castree said that, although nature can be “produced”, produced nature cannot be exploited indefinitely. The materiality is contingent and time-space specific. Similarly, the internal relation between the nature and the social is also differentiated by time and location.

<sup>21</sup> Analysing the arguments of Neil Smith, to whom the concept of production of nature is attributed, Castree suggests that the concept can be defined as “a continuous process in which nature and capital co-constitute one another in temporally and geographically varied and contingent ways” (2000, p. 28). More than simply referring to production at knowledge and conceptual level, this concept implies an actual engagement of capital in everyday practice of nature modification.

production of nature approach is anthropomorphic it also enables a position from which the fate of 'nature/s' can be considered seriously without declining into a naturalistic ecocentrism. It is possible to express concern over those things we routinely call 'natural' while still remaining necessarily anthropomorphic yet without being anthropocentric (i.e. making people the only or pre-eminent concern of politics). It seems to me that this is what, at the broadest level, the production of nature approach achieves. Thirdly, the production of nature approach also thereby tempers the melancholic romanticism of those radical ecocentrists who decry nature's destruction, while also embracing some of technocentrism's optimism as to potentially liberating effects of transforming nature/s ... This brings me to a final point, which concerns the value-judgements which are necessarily built into all appraisals of nature-capital relations. (*italics and quotation marks are original*).

To take benefit from this value-judgement concern, the way we see nature as social would inevitably require us to see it as political. Castree reminds us the three related meanings involved in this political way of seeing nature (Castree 2001). Firstly, as values are deeply involved in politics,, this suggests that knowledge of, and action in/on nature is inevitably value-laden. Being aware of this would require us to scrutinize particular values within which social value commitments involved in all society-nature relations are born and delivered. as well as scrutinizing the proponents of those values, even in their more subtle forms such as those of objectivity claims in the scientific knowledge of nature.

Secondly, locating politics as a site for moral or ethical statements about nature, this requires us to question carefully and critically the mission of every perspective in society-nature relations. Finally, putting the politics in the commonly familiar context of the formal governmental policies and decision making, it urges us to examine any practices in state politics and policy, which may typically adopt non-social views of nature, and demand more adequate policy measures toward an acknowledgement of nature's sociality.

### 2.2.3 Disasters/environmental risks and the neoliberal project

The idea that humans and nature are hardly separated is more clearly understood through the numerous research which investigates the rise of disasters across the world. The World Meteorological Organization (2014) reported that the world is now five time more dangerous and disaster prone than in the 1970s due to climate change, a fact which is heavily linked to human actions on nature. A more straightforward fact comes from Tienhaara (2014) who stresses the role of the 3,000 public companies behind 35 percent of all global environmental damage. The above approach of seeing nature as inescapably social helps us to understand the relations between these disasters and our actions (including the

way we accumulate capital) to nature. However, to inquire more about how capital produces disasters, we need to have a different concept.

The fact that disasters are linked to advanced modernity had been highlighted by several authors. With his idea of a “risk society” (see above), Beck is considered as the first thinker to make sense of the rise of risks in contemporary societies. Distinguishing it from hazards with their conceived pre-given character particularly in traditional societies, Beck sees risks as having to do with “the development of instrumental rational control, which the process of modernization promotes in all spheres of life” (Elliott 2002, p. 295). Due to the urgency to create controllable and predictable security, modernity brought to the fore the importance of social intervention against the uncontrollable and thus introduced the notion of risks. However, instead of giving more protection and assurance against the uncontrollable, modernity-driven advancements in production technology have exposed societies to greater and more endemic risks which go beyond control. Similar concerns about the relations between modernity and environmental risks are also expressed by researchers from a political ecology background. Framing them more in the context of environmental change rather than in disasters, political ecologists have highlighted the impacts of particular property rights regimes and capitalist accumulation on traditional resource users and their customary resource management institutions particularly in Third World regions (Himley 2008; McCarthy and Prudham 2004).

Despite his meaningful contribution, Beck was criticized for emphasizing sensitive technological instruments behind the production of risks while downplaying their capitalist accumulation nature (Prudham 2004). Likewise, while highlighting the politics behind environmental changes, political ecologists’ focus on environmental impacts was criticized for implying that these consequences were merely coincidences within particular modes of capitalist accumulation. Their focus on developing countries were also seen as disregard for what happened in the developed world, with the latter undergoing similar experiences with even deeper structural changes in the relations between society and the way it appropriates nature (McCarthy and Prudham 2004).

As an alternative concept, institutional theories of political economy<sup>22</sup> were offered to underline necessary links between environmental changes and the latest platform of capitalist accumulation: neoliberalism.<sup>23</sup> Arguing for these necessary links, Heynen et al. (2007, p. 3) suggest that “environmental change and environmental politics are in substantial measure constitutive of the brief history of neoliberalism in important and yet largely overlooked ways, not least in the ways that attempts to “stretch” and “deepen” the reach of commodity circulation [which] relies on the reworking of environmental governance and on entrenching the commodification of nature, and vice versa”. Seeing these relations as more than coincidences, those critics of neoliberalism perceive environmental politics, governance and change as “inherent in the consistent imperative that runs through the history of neoliberalization: to expand opportunities for capital investment and accumulation by re-working state-market-civil society relations to allow for the stretching and deepening of commodity production, circulation, and exchange” (p. 10).

While acknowledging its diverse practices across histories and geographies, Heynen et al. (2007) use the term neoliberalism to refer to the contemporary dominant set of political imagination of how things should be governed. It specifically refers to the post-Keynesian *laissez-faire* policy paradigm which marked the shift from state-centric development to market regulated. For many researchers, this shift has been symbolized by widely adopted policies of neoliberalization such as privatization, marketization, deregulation, austerity programs, rescaling of governance, including the construction of civil society as a state substitute for providing public services (Castree 2008; McCarthy and Prudham 2004). The fact that it became dominant was not primarily attributed to its inherent logical power, but linked to the establishment of its policy

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<sup>22</sup> Himley (2008) used the term “environmental governance” for this concept. However Bridge and Jonas (2002) did not agree with the term because it represents “a generic a-spatial category” differing from what geographers who are “eager to investigate the actual spaces and places in and through which the relationships between societies, economies, states and nature continue to unfold” (p. 959).

<sup>23</sup> Instead of using “neoliberalism”, Bridge and Jonas (2002) called it the “new economy” which they defined as “a more comprehensive set of changes in the relationship between ‘economic’ and ‘non-economic’ actors within industrialized societies” (p. 760). Albeit naming it differently, they refer to a similar mode of capitalist accumulation. They suggest that the new economy composed of two related processes: “economic liberalization or marketization, involving a redefinition of the state’s role away from direct resource allocation towards facilitation of market mechanisms for distributing resources; and an associated reworking of established relationships between economic actors, the state, and civil society” (p. 760).

environment (World Bank, WTO, IMF, and batches of like-minded technocrats sharing similar ideas on the urgency of market “reform”) which allows it both to “travel and become entrenched” (Heynen et al. 2007, p. 6) and facilitate the institutionalization and internalization of those ideas within the state and thus compromising the boundaries between external pressure and internal necessity (Peck 2001). Peck (2001) asserted that the triumph of neoliberalism has left traces of “thin policies with hard outcomes”, described as “panaceas absent any reference to context, but with effects entirely concrete and drastic in the lived experience of human and non-human alike” (Heynen et al. 2007, p. 4).

As it leaves deep impacts on human and non-human alike, neoliberalism is not only a political project to re-establish the conditions of capital accumulation for the benefits of particular social groups but also redefines nature as the underlying factor for those desirable outcomes. In fact, as McCarthy and Prudham (2004) suggest, neoliberalism is “an *environmental* project, and that it is *necessarily* so” (italics are original, p. 277). This clear position is based on the endeavour of these authors to trace back neoliberalism to the thoughts in classical liberalism, as its “legitimate predecessor”, whose central arguments strikingly made reference to nature,<sup>24</sup> and the contemporary mutual engagement between free-market and environmentalism (as shown in carbon trading and ecotourism discourse to name two cases).

Similar thoughts are also shared by Castree (2008). He suggests that, apart from becoming a social global project which (re)negotiate boundaries between market, state, and civil society to facilitate the expansion of economic logics into wider realms, neoliberalism is simultaneously an environmental project in the sense that policies of neoliberalization have profound implications for access to and use of nature (Castree 2008, p. 143). Despite different histories and contexts of neoliberalisation across the world, Castree suggests that they all develop similar cravings to include nature to serve for their capital accumulation goals through what Castree calls “environmental fixes”.

These diverse neoliberalization practices are believed to implement at least some of the following fixes: a belief that a market mechanism is the best way to

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<sup>24</sup> McCarthy and Prudham argued that early thinkers in classical liberalism, such as John Locke and Thomas Malthus, rooted their visions of an ideal society in the control of natural resources particularly land (McCarthy and Prudham 2004, pp. 277-278).

ensure ecological stewardship; measures to expose the natural environment to the full force of a market mechanism, introduced whenever environmental concerns are not expressed; a willingness to degrade nature for profit, and the emerging trend on the side of the state either to off-load its responsibilities to non-state actors or take a minimal state stance to resolve the contradiction<sup>25</sup> between the need for the growth of capitalism on the one hand and the limitations of nature on the other (Castree 2008, pp. 146-149).

By problematizing the relationship between nature and neoliberalism, this institutional political economy approach has several advantages. Firstly, its close attention to the materiality of the nonhuman world allows the representation of nature as a “biophysical actor which plays an important role in altering the workings and outcomes of neoliberal governance ideas, rules and mechanisms” (Castree 2008, p. 133). Secondly, its sensitivity to capture neoliberal engagements with nature at different levels (as shown by its emerging research which scrutinize ideology, discourses and practices of neoliberalism with regards to nature across the world), enables it to travel across different levels of environmental governance and geographical scales. Thirdly, by exploring “the ways in which environmental governance and environmentalism as a set of political movements, coincide, collide, articulate, and even constitute the emergence of neoliberalism” (Heynen et al. 2007, p. 9), the approach clearly shows the production of environmental risks as a practical and logical sequence of the neoliberal project, a lacuna left largely untouched by the existing studies in political ecology.

#### 2.2.4 Environmental justice

The understanding that humans are actively involved in the production of nature and the fact that environmental risks are heavily linked to capital raises

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<sup>25</sup> The contradiction has been described differently by various authors. Castree explains that it comes from both the “internal” logic of capitalism (expansion of market rule would raise some resistance from significant sections of societies due to its adverse effects) and its ‘external’ confrontation with nature’s limitations readily available for capital accumulation (2008, p. 148). Jonas and Bridge (2003) describe the contradiction as between the trend for geographical dispersal (globalizing and footloose development, detaching from any specific geography) and heavy reliant on natural resources (in mining and forestry sectors to name two) which only allows in-situ restructuring of firms/industries (p. 960). Meanwhile, quoting O’Connor, Himley (2008) shows the contradiction is between “on the one hand, *forces* and *relations* of production and, on the other, the *conditions* of production, particularly external nature” (p. 439) (italics in original). He further suggests that, instead of reproducing its own conditions of production, capital tends to destroy them which lead to underproduction crises.

concerns that the incidence of risks and disasters are deeply political. These concerns started to gain currency in early 1980s when social activists in the United States made a strong claim about the deliberate imposition of toxic and polluting facilities by industries and state on minority and poor communities (Schroeder et al. 2008).<sup>26</sup> During the time when market reform had been profoundly introduced, the claim opened public eyes by stressing the fact that the expansion of capital not only creates wealth, but also unequally distributed negative consequences, and their particularly disproportionate exposure for marginalized groups. Establishing an interaction between environmental harm and a particular form of social difference, the claim became known as the environmental justice issue.

The rise of the issue marked a distinct understanding that at stake are not “fundamentally *environmental* issues, they are *social* problems” (Brehm and Pellow 2014, p. 308 italics in original). While Shrader-Frechette (2002) suggested that environmental justice signified a different path to environmental concerns but not necessarily posed a paradigmatic challenge to the existing debates in environmentalism, several other researchers pointed out that it marked a clearly shifted focus of the picture by placing people at the centre. As it was no longer preoccupied only by concerns with nature’s rights, environmental justice represents what Schlosberg (1999) called a new brand of environmentalism. It not only expands the attention on environmental issues from specific wildlife or wilderness preservation to civil and human rights issues, but also expands the constituency of activists from wider and diverse groups in terms of their race, ethnicity or class (Walker 2009).

This was soon followed by similar concerns worldwide, particularly after the explosion of a gas plant in Mexico<sup>27</sup> and what became later known as the

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<sup>26</sup> This movement took place in 1982 when the State of North Carolina decided to dump PCB (polychlorinated biphenyl) contaminated soil in Warren County which was a predominantly poor, Afro-American community. Although the movement failed to revoke the State’s decision, it initiated nation-wide rallies protesting what they claimed was racial and social injustice (<http://energy.gov/lm/services/environmental-justice/environmental-justice-history> accessed 17 December 2014).

<sup>27</sup> Known as the San Juanico tragedy, the explosion took place at a liquid petroleum gas (LPG) plant owned by PEMEX, a government owned company, on 19 November 1984 in the town of San Juan Ixhuatepec in the north of Mexico City. Officially, 650 people were reported dead with 25,000 others losing their homes due to the disaster. (<http://in.reuters.com/article/2013/02/04/mexico-pemex-legacy-idINL1N0B40BN20130204> accessed 17 December 2014).

Bhopal tragedy in India<sup>28</sup> only few years after the US toxic case (Schroeder et al, 2008). Despite having more varied social differences than the US' predominantly racial based context, those two latter cases triggered similar concerns to attribute the disasters to corporate actors, a feature widely signified as among the characteristics of the environmental justice movement (Shrader-Frechette 2002; Walker 2009). By the 1990s, the fact that the frame of corporate involvement in creating disasters was suited to the context of many countries made the concerns of environmental justice become a "globalized language and frame for making normative claims about the relationship between environment and social difference" (Walker 2009, pp. 355-356). According to Walker, the globalization of environmental justice framing took form in two related ways, the "horizontal" dimension through the adoption of the terms and rhetoric of environmental justice in new settings, and the "vertical" expansion through which concerns are expressed beyond national borders/territorial boundaries.

The environmental justice globalization framing not only opened up new terrains for social movements, but generated complex theoretical debates in the emerging scholarship of environmental justice as well as in the general theory of justice. With the pluralisation of social-political contexts of environmental justice, Walker (2010) particularly urged the transformation of the concept's understandings on space in inquiries about distributional equality. He criticized the emphasis that early theorists of environmental justice placed on space in the Cartesian linear sense ("space as proximity")<sup>29</sup>, claiming this no longer fits with the urbanizing patterns of global cities where it is unlikely to limit the risk exposure only to particular groups of society or to equalize the vulnerability level of plural communities despite of their shared proximity to risks. It is claimed that, being determined to underline the politics of geographical space behind deliberate actions to site the risks in particular areas, earlier theorists failed to provide the full stories about the links between distributional inequality in space and other dimensions of vulnerability.

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<sup>28</sup> Considered by many as the world's worst industrial disaster, the tragedy took place in Bhopal of India's Madhya Pradesh State on 2-3 December 1984 when a Union-Carbide owned pesticide plant leaked its hazardous gas and other chemicals into the air to nearby towns. There has been conflicting number of death tolls, which some have claimed reached 10,000 ([http://www.cseindia.org/userfiles/THE\\_BHOPAL\\_DISASTER.pdf](http://www.cseindia.org/userfiles/THE_BHOPAL_DISASTER.pdf) (accessed 17 December 2014))

<sup>29</sup> In this sense, the injustice is understood as a function of geographical distance/proximity to hazards/risks.

Through the examples of recent environmental negatives (pollution) and positives (green spaces), Walker suggests that while the goods/bads could travel across classes/social backgrounds, the exposed social groups may experience the impacts differently according to availability of resources at their disposal to enjoy the positive benefits or to recover from the negative consequences. In light of this, to assess the unevenness of distributional outcomes in an environmental justice issue, we are not only required to observe spatial patterning or proximity (in what Walker call “Cartesian” understanding), but also other parameters which determine different levels of vulnerability. According to Walker, it is particularly important in environmental justice literature to show that inequality is in fact a result of accumulation of unevenness in the spatial distribution of risk and unevenness in the socio-spatial distribution of vulnerability alike, and how this accumulated inequality determines social and everyday life (Walker 2010, p. 30).

In addition to urging the reassessment of space in a distributional understanding of justice, the globalized application of environmental justice also questioned the previous theorists’ narrow and single focus on distributive aspects of justice. As found in the thoughts of liberal justice theorists<sup>30</sup>, this line of thinking assumes that maldistribution is the root of injustice and tends to work towards the development of models of rules that would govern a just distribution. More pluralized contexts of environmental justice eroded the relevance of this distributive justice thinking, as the latter is based more on an ideal point of view than facts “on the ground”. Drawing from the works of Young and Fraser, Schlosberg (2007) found two weaknesses in the distributive theories: (1) focusing heavily on the schemes of distribution makes the surrounding social contexts underexplored and neglected, and (2) by ignoring the social political arrangement in the surrounding contexts, the goods are simply understood as static rather than the result of various social and institutional relations (p. 14).

Twisting the questions into how maldistribution is (re)produced, the critics of distributive theories came up with two additional concepts with their combining praxis uniquely termed “trivalent understandings of justice”

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<sup>30</sup> John Rawls is considered as the one who laid the foundation for liberal justice thinking. He himself defined justice as “a standard whereby the distributive aspects of the basic structure of society are to be assessed” (quoted from Schlosberg, 2007, p. 12).

(Schlosberg 2007, p. 16).<sup>31</sup> Instead of focusing simply on distributive justice, they proposed that the concept should be expanded to include dimensions of recognition justice namely “various forms of insults, degradation and devaluation at both the individual and cultural levels [which] inflict damage to oppressed individuals and communities in the political and cultural realms” and thus serve as key real barriers to achieving distributive justice (Schlosberg 2007, p. 14). The other concept is procedural justice the understanding of which is expanded into the political realm. Providing a platform of parity for all parties to participate in the polity (and therefore by some called “participatory parity”), this form of justice is considered necessary to ensure the implementation of distributive as well as recognition justice (Schlosberg 2007, p. 16).

### 2.2.5 Power in procedural justice

The concept of procedural justice evaluates justice by the levels of public involvement in the decision making process of a particular project. This evaluation underlines the coverage of environmental justice concerns not only from the event of injustice, but to include the institutional processes pre- and post-event (where the injustice is [re]produced and when its impacts are being redressed). By looking at the institutional processes, this procedural justice concept highlights the agency of parties in the matter of choice, access, control and participation (Schroeder et al. 2008).

The concerns of institution and agency unavoidably bring in the issue of politics and particularly of power. As the concerns bring particular environmental governance and its public involvement into question, competing discussions, debates, and struggles become important subject matters for the inquiry. Within this framework, the concept of power and its dynamics undoubtedly occupy a very important space.

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<sup>31</sup> According to Schlosberg (2007, p. 24), in contrast to the assumptions of some liberal justice theorists, critics of distributive theories like Young and Fraser never showed any intention of dismantling altogether the significant meaning of distributive ideas in justice. Instead, they urged the multifaceted approach to justice by combining distributive ideas with the issues they had already raised. It is in this context that the word ‘additional’ is used. Despite the fact that the critics of liberal justice theories never meant to get rid of distributive concerns, Schlosberg wrote that contentions continue to emerge between these two camps. The gap created between these two was later filled in by capability theory from Amartya Sen and Martha Nussbaum. By understanding justice not simply through the delivery or denial of particular goods, but also the limitation of capability which comes along with the denial, this theory is linking the two and even going beyond them (Schlosberg 2007, p. 34)

Considered one of the most widely debated concepts in social science literature, the concept of power has been given various definitions by numerous authors. While thorough examination of the concepts of power is not possible here, for the purpose of this section, it is sufficient to adopt the concise characterization of “power” by Few (2002). Abstracting the thought of contemporary political theorists, he identified three key points present in the model of power relevant to his research contexts in space and environmental politics. Firstly, instead of being solely concentrated in the hands of the dominant, power is something that is more fluid and ever-present with its materialization found in every level of society. Here, the location of power is not firmly fixed within any particular sites or parties and the way it works should not be understood in an unidirectional sense, but in negotiation where absolute outcomes are unlikely to be achieved.

Secondly, as the entanglement of people, institutions and social structures with its generation of relational power takes place within lived space with its diverse social meanings, identity categories in relation to that space constitute significant elements which are reproduced in the power struggle. Categories of identity involved are not only about contested meanings people assign to a particular space and place, but also about abstract boundaries established on a basis of assigned meanings which define “insider” and “outsider”. Here, “constructions of identity not only shape many human actions, they are also themselves part and parcel of the circulations of power ...” (Castells quoted from Few 2002, p. 30).

Thirdly, despite the recognition that power is ubiquitous, it is argued that the materialization of power by all parties does not take place in a uniform manner. Its materialization will depend on the parties’ capacity to command mobilization of resources, which are likely to be concentrated in the hands of particular institutions or parties. Adopting Giddens’ ideas, Few suggests that resources involved may be diverse; from technical knowledge, rhetorical skills, the possession of authority to the tools of force (p. 30). Also, it is not only resources which are diverse, but the mechanisms through which control of that capacity is obtained are also diverse, ranging from coercion to negotiation. This view of power has been expanded from the boundaries of oppression to include “a

far less massive, oppressive and prohibitive apparatus” (Clegg quoted from Few 2002, p. 31).

The above conceptions certainly highlight the practice of power regardless of its locations, whether on streets, in courtrooms, or over negotiation tables. Not only relevant to understand what actually happens in those locations, the adoption of those concepts become meaningful when they generate explanations of why particular struggles happen in, or are directed towards, particular venues of settlement. This focus on the practice of power thus enables us to observe both “procedural” and “substantive” access to environmental justice (Millner 2011).<sup>32</sup>

## 2.3 Towards an alternative view: the production of disaster

### 2.3.1 The Indonesian Context

The fact that disasters have created multiple effects in various contexts throughout the world raises questions about their significance in an Indonesian context, particularly when this country is defined as being prone to disasters (WHO 2007)<sup>33</sup> or considered to be among countries most often hit by disasters (Guha-Sapir et al. 2011). This section is particularly concerned to raise questions about the extent disasters have preoccupied public discourse within the borders of the territory now called Indonesia and to which levels they have carried political significance.

Many have written on or about disasters happening in what is now Indonesia from ancient times to the contemporary. Following six major literature traditions (whose identification was based on a critical analysis of approaches in the studies of disaster and environmental justice, more details about this identification and traditions are given in the next sub-section), some can be identified as parts of a *classical* tradition for being concerned more with social

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<sup>32</sup> Procedural access to environmental justice is defined as “the extent and nature of opportunities for participation by the public in decisions relating to the environment, and the extent and nature of opportunities for the public to seek redress when the environment has been harmed or is at risk of being harmed”, while substantive access is defined as “the ability of individuals and communities to access opportunities for participation” (Millner 2011, p. 191).

<sup>33</sup> This WHO report identified two main natural factors for its high vulnerability to disasters. They are the country’s geological location (at the intersection of three crustal plates: Eurasia, Australia-Indian Continent and Pacific Ocean Floor) which make it prone to earthquakes (and tsunami especially as many densely populated cities are in coastal areas) and its geographical features (its tropical climate and significant number of rivers passing through or near major population centres lead to huge rainfall and floods and flood-related hazards). Many other sources also link Indonesia’s disaster vulnerability to frequent volcanic eruptions.

disruptions after the disasters (Adas 1979; de Jong Boers 1995; Kartodirdjo 1966; Moertono 1968; Simkin and Fiske 1983; Soegiharto 2006; Winchester 2010); some are included in the *hazard* or *techno-fix* tradition for emphasizing the technicality of understanding characteristics of disaster agents or how to bring disaster mitigation efforts closer to expectations (Garcia et al. 2007; Imamura et al. 2012; Jayasuriya and McCawley 2010; Kennedy et al. 2008; Leitmann 2007; Muhari et al. 2007; Steinberg 2007; Tilling 1989); some are in a *social focused* tradition for highlighting vulnerability and or assessing multiplying effects of existing social differentiation to the levels of encountered disaster impacts (Birkmann 2008; Jeffrey 1981; Texier 2008); some can be classified within *legal/advocacy* tradition for problematizing human rights of the disaster affected communities (Action Aid 2006; Colchester et al. 2006; Fletcher et al. 2005; Komnas Perempuan 2006; Zeccola 2011); some belong to a *cultural ecology* tradition for specifically dealing with how cultures influence disaster adaptation (Donovan 2010; Dove 2008; Laksono 1988; Pannell 1999; Schlehe 2008; Triyoga 2010); and some others are included in a *political ecology* tradition for suggesting the links between disasters and capital accumulation (Aiken 2005; Dauvergne 1998; Harwell 2000; Noor and Syumanda 2006). This literature is certainly not exhaustive nor easily confined into clearly-separated traditions for different writers often mix various characteristics from the various traditions. At the least, they show that we are witnessing a large and growing literature on Indonesian disasters.

This growing literature reflects at least two important points. Firstly, not only creating varying environmental-social-economic impacts, past disasters have been associated with major political events. Those events might be in the subtle form of reconfiguring social-political landscape to embrace neoliberal ideas (Phelps et al. 2011), loosening the grip of control by particular groups over communities (de Jong Boers 1995),<sup>34</sup> launching of rebellions (Adas 1979; Kartodirdjo 1966), or much bolder forms such as shifts of power (Decker and Decker 2006; Moertono 1968; Soegiharto 2006). The fact that the practice of power has been associated with disasters is not only made clear by the historical

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<sup>34</sup> Boers showed that the eruption of Mt Tambora that badly hit Bima in 1815 made the Sultan of Bima worry more about its own problems, many of which were caused by the eruption, than the neighbouring regions under its control. This created a “vacuum of power” particular for Manggarai which then launched a rebellion against the Bima sultanate (de Jong Boers 1995, p. 50).

accounts of actual experience at the time but also strengthened through cultural conceptions, particularly the Javanese ideas of power, which see disasters as a sign of divine approval for a change of power (Schlehe 2008).<sup>35</sup>

Secondly, the growing literature on disasters in Indonesia is paralleled by the adoption of disaster issues in contemporary political debates. From a resource supply perspective, this adoption can be seen from the state budget allocation for disaster related agenda over time which has increased significantly (Darwanto 2012)<sup>36</sup>, as well as the growth of non-state actors in disaster fields within the country (Pandya 2006). Apart from the increasing resource supply for disaster related agenda, the mainstreaming trend can also be seen from a major discourse change in disaster policies with the enactment of Law No 24/2007. This enactment, subsequently followed by related regulations to ensure its applicability, is considered not only showing the country's willingness to adopt international DRR (Disaster Risk Reduction) norms but also showing the world the best practice of how to do it. The following quotation from UNDP report clearly reflects this trend:

Practitioners working on DRR, either at national or at the sub-national level, can glean successful approaches from the process in Indonesia from 2005-2009. Both at the national and the sub-national level, lessons from Indonesia regarding coordination and multi-stakeholder participation in legal reform are valuable. Other countries that *currently lack comprehensive DRR regulations or those that are in the process of developing regulatory frameworks for DRR can learn from the approaches employed in Indonesia* [author's emphasis] (UNDP 2009, p. 4).

While praising the Indonesian success, the report specifically mentioned that it came at “the right time, the right place” (p. 5). Linking to this success were two factors. “The right place” referred to the fact that there was a coalescence of

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<sup>35</sup> Rulers of old kingdoms constructed their legitimacy through mystical connections with nature. To be a legitimate ruler, candidates for the throne in Java had to conquer the natural landscape (climbing mountains, meditating in caves, sailing seas, etc.) to obtain “divine approval”. By doing so, their political authority was confirmed through the conquest of nature. However, if there are calamities, the ruler loses power. Considered as *pralaya* (doomsday), disasters might justify a shift of spiritual power as well moving the kingdom's capital.

<sup>36</sup> Darwanto suggests that the Indonesian government has been significantly increasing the budget for disaster risk reduction programs in the last few years. This significant increase can be seen from the budget allocation of IDR 2.6 trillion (USD 286.8 million) in 2006 and IDR 10 trillion (USD 1.06 billion) in 2012 (for 2011-2012, the allocated budget was about 0.7% of total national budget). Despite this significant increase, this allocation is still considered below the internationally agreed level (1%). Note: from here onwards, whenever currency conversion is given, the conversion will be based either on exchange rate at that particular day or average rate in the time period mentioned. USD-IDR exchange rate used in this thesis is from <http://www.freecurrencyrates.com/exchange-rate-history/USD-IDR/>

perceptions among nearly all actors involved about the significance of the matter in the country which suffered most severe damage from the 2004 tsunami. Meanwhile, “the right time” highlighted the fact that it happened following a series of international initiatives on disaster related issues (with the Hyogo Framework for Action [HFA]<sup>37</sup> as the latest example of international initiatives adopted a year after the tsunami) which had been focused on streamlining the priorities and resources of various institutions, particularly donor agencies. This international recognition was reinforced with the appointment of President Yudhoyono as the first UN global champion for DRR in 2011 for being the first head of State to adopt the HFA into the national plan.<sup>38</sup> Following this appointment, the Indonesian government also willingly offering itself as the host for the secretariat of the ASEAN Humanitarian Assistance (AHA) Center.<sup>39</sup>

However, despite this achievement, there have been no convincing figures which can clearly show the success in systematically reducing disasters or minimizing the number of casualties. Figures from BNPB (Table 2.1) showed that numbers of disaster events and casualties in Indonesia since the enactment of Law 2007 have been fluctuating, which raises doubts about the effectiveness of DRR national plan. These doubts certainly were publicised and utilised by social activists who pointed to the Lapindo mudflow as the prominent case to question the achievement of Yudhoyono government in disaster mitigation and relief.<sup>40</sup>

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<sup>37</sup> Endorsed by the United Nations through [Resolution A/RES/60/195](#) following the 2005 World Disaster Reduction Conference, HFA is the “first global plan agreed to explain, describe and detail the work that is required from all different sectors and actors to reduce disaster losses” (UNISDR website, accessed 9 January 2015). This plan is for the 10 year period (2005-2015) after which the next plan will be issued.

<sup>38</sup> <http://www.unisdr.org/archive/23632> (accessed 16 January 2015).

<sup>39</sup> Jakarta offered to host the secretariat of the ASEAN Humanitarian Assistance (AHA) Center, with a pledge of providing space and facilities as well as USD 600,000 for operational costs in 2011 (ASEAN 2011). This AHA centre was launched during the ASEAN Summit in November 2011 in Bali.

<sup>40</sup> For example, an article from an activist was published on the website of TEMPO, Indonesian leading news portal, questioning the appropriateness of Yudhoyono’s appointment as a DRR global champion when mudflow victims kept having to bear the burdens of the disaster. <http://www.tempo.co/read/kolom/2011/05/26/386/Kasus-Lapindo-dan-Penghargaan-Disaster-Risk-Reduction> (accessed 16 January 2015).

**Table 2. 1 Number of disaster events and death victims in Indonesia 2008-2014**

<i>Year</i>	<i>Number of Disaster events</i>	<i>Number of Death Victims</i>
2008	1,301	470
2009	1,835	1976
2010	2,200	1770
2011	2,155	691
2012	2,311	399
2013	1,742	721
2014	1,618	645

Source: website of BNPB<sup>41</sup>

### 2.3.2 Locating the thesis in the map of Indonesian disaster research literature

The above explanations of this literature review have highlighted differences in focusing and assessing disaster impacts, in how our contemporary human-nature relations actually increase risks, as well as problems of values which are emerging as justice issues become involved. I believe this complexity has to be effectively dealt with by any disaster research if academic rigor and policy relevance are aimed for. Starting from this formulation, there are at least four major issues to consider when dealing with disaster research.

Firstly, disasters should be conceptualized as part of social change rather than as a social problem. While we may find societal dysfunctions following disasters, defining them as only a social problem will only limit us to see the negative effects/consequences. Such a limiting definition will obscure alternative empirical investigations which go beyond a “survivalist” framework. More than just allowing us to seek for positive consequences, the social change perspective “sets disasters within the social dynamics of social life, an integral part of what usually goes on in the social structure rather than as an external intrusion from outside” and “avoids the extreme relativism and the ideological biases inherent in any social problem approach, along with elite views of what constitutes problems” (Quarantelli 1987, p. 23). If a social change model is used for disaster studies they would not only be about coping mechanisms or even regressions in developmental terms, but use a “developmental” framework which pays attention to the

<sup>41</sup> <http://dibi.bnpb.go.id/DesInventar/dashboard.jsp?countrycode=id> (accessed on 16 January 2015)

emergence or consolidation of elites' social/economic/political position as shown by the other crises studies (White, Titus and Boomgaard 2002).

Secondly, disasters should be characterized more as *occasions* than events. This is not merely about semantic change, but about framework. The idea of social occasion gives more emphasis to the notion of an opportunity for something to happen, while the event implies more as an outcome (Quarantelli 1987).<sup>42</sup> Seen this way, an “occasion framework” will lead us to think of disasters as providing “multi possibilities for development rather than involving one linear path to an end result” (Quarantelli 1987). This will allow us to uncover more dynamic and complex findings since the scope possibilities for development will be determined by power and social relations.

Thirdly, looking closely at how our contemporary involvement in the production of nature is particularly intensified by neoliberalism, disasters are actually more immediate than most of us imagine as distant. As Hewitt (1983) suggested, the argument that disasters are very close to “normal” phenomena is supported by three arguments. Firstly, many natural disasters are *characteristic* rather than accidental features of the places and societies where they occur. By happening, the disasters bring locally specific geographical, social, and economic characteristics up front which are not found elsewhere.

Secondly, pressures and uncertainties conceived and emerging during natural fluctuations mainly result from what is called “ordinary life”. Thirdly, the natural extremes involved are more expected and knowable than many of the contemporary social developments in our everyday life (Hewitt 1983). This understanding should prevent us from seeing disasters as “accidents,” “unscheduled events,” or “emergencies.”

Fourthly, disasters with their social disruptions make more complex the fulfilment of everyday life and aspirations by the community members. This brings us closer to examine justice issues. While we will unavoidably encounter the liability issue when inquiring about justice, nevertheless critical research requires us to see the enforcement of justice not in only a linear and

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<sup>42</sup> Cambridge online dictionary gives several definitions on “occasion”, among which is “an opportunity or reason for doing something or for something to happen” (<http://dictionary.cambridge.org/dictionary/british/occasion> accessed 17 January 2015). Meanwhile, “event” is defined as “anything that happens, especially something important or unusual” (<http://dictionary.cambridge.org/dictionary/british/event> accessed 17 January 2015). Here, occasion has some kind of probability character, while event has more definite meaning.

straightforward manner. Power involved in any enforcement of justice will likely be exercised using multiple channels and resources, something which require us to see any struggle for justice as contingent and open-ended with often unexpected results.

The exploration of the nature of disaster through the contingent end of struggles for environmental justice brings us the notion of what I call the “production of disaster”.<sup>43</sup> Understanding disaster as the presence of geophysical environmental degradation *and* challenges to established social-political relations of the affected communities<sup>44</sup>, I argue that the use of this notion in this context recognizes disaster’s structural characters as well as extends its spectrum. By recognizing the structural character of disasters I mean both degradation and challenge are rooted in the way humans engage in nature as well as build relations with their fellow human beings.<sup>45</sup> By extending the disaster spectrum I mean seeing both the degradation and challenges as continuing structural processes from a so-called “event” through the mitigation of so-called “impact”<sup>46</sup> *or* from the “trigger” to the outburst of structural inequalities.<sup>47</sup> Seeing both as continua is to revisit the dualism of event-impact commonly found in hazard/techno-fixes literature and of trigger-revelation of inequality commonly found in social-focused literature.

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<sup>43</sup> Characteristics of the concept of nature production in continuity, mutual relation, as well as contingency (see footnote number 20 in this chapter) strongly influenced the adoption of the term ‘production’ here. It is not the first time that the term ‘production of disaster’ has been introduced. Previously, Gerulis-Darcy used “social-production of disaster” in her dissertation at Northeastern University (Gerulis-Darcy 2008). However, her usage of a similar term was more occupied with the worsening situation “after the event” than with the structural production of “the event.” In this case, while she did not express any intention to search for structural links between “event” and “impact”, she certainly still implied “event-impact” dualism.

<sup>44</sup> This understanding requires both the degradation and challenges to established relations for something to be called a ‘disaster’ without constraining itself to temporal (fast or slow paced) or spatial (at local, national or global level) limitations. While explicit concern about loss (on economic, social, or even psychological terms) is not present, I believe it is already implied in this understanding (considering there would be no challenge to the established social-political relations if some sort of loss is not experienced). However, measurement of loss is certainly not part of its concerns.

<sup>45</sup> By attributing structural characters to disasters does not mean that I intend to engage myself in answering the question of whether or not disaster is by design, but to show how disasters are linked in one way or another to both our existing engagement in nature and relations with fellow community members.

<sup>46</sup> In the understanding of the hazard/techno-fix paradigm, “event” here refers to the disaster itself (earthquake, flood, typhoon, etc.), while “impact” refers to negative consequences that follow the disaster.

<sup>47</sup> As commonly found in the social-focused literature tradition which emphasizes pre-existing social inequality in the corresponding society, geophysical environmental degradation itself is mainly considered as “trigger” without which social inequality will remain latent.

The points raised above provide a basic foundation with which I develop a map of six existing literature traditions on Indonesian disasters, with the literature lists already mentioned earlier in the previous section and previous chapter. To develop further, I propose eight categories with which we can identify specific contributions of those traditions; they are (1) research focus, (2) unit of research focus, (3) perceptions of disaster, (4) conception of disaster impacts, (5) understanding the nature of disaster, (6) understanding nature-human relations, (7) liability, and (8) engagement in justice issues. The first two categories involve a general analysis to assess the existing literatures' research focus and its focus scale commonly found in other discursive research. For this purpose, my examination of the existing literature is based on the explicit goals of the cited research as well as from implied goals of the scientific disciplines where they belong. The third and fourth categories are used to examine to what extent the existing literatures perceive disasters as either "event" or "occasion" and their impacts as either "social change" or "social problem." The fifth and sixth categories are from discussion on how our contemporary relations with nature appear to increase the risks of disasters. The seventh and eighth are derived from discussion about justice and complexity of power relations. Using those categories, and incorporating the literature reviews earlier in this chapter, I propose to apply six traditions existing in the literature on Indonesian disasters in my thesis (see Table 2.2).

As shown in the previous section, the first three of those six traditions (classical, hazard/techno-fixes and social-focused) are adopted from Perry (2007) which in my opinion serves more as a reflection of the general context of world societies (if not in more advanced economies). Meanwhile, I proposed the other three traditions based on critical analysis of the literatures existing in Indonesian disaster literature, which I argue reflects more of the dynamics of Indonesia's social-political condition with its encompassing human rights violations (and the obscurity of their remedial mechanism). These three traditions also reflect the dynamics of traditional communities with their particular relations with nature, as well as increasingly intertwined processes between deepening development and disaster risk production. To make it simple, these three additional traditions are named after their research focus (either explicit or implied) or general classification of academic disciplines in which their research focus belongs. The

legal/political perspective, cultural ecology and political ecology are the three categories which emerge from this consideration.<sup>48</sup> As seen in Table 2.3, differing from those in mudflow research which will be explained below, numbers of research from the six existing traditions are relatively equally distributed. While every disaster involves certain social and political contestations, the fact that the contestation has never been as strong as in Lapindo mudflow disaster provides a ground that determines relative plurality of perspective and research traditions.

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<sup>48</sup> According to Sutton and Anderson (2010), cultural ecology is a branch of human ecology which eclectically studies about “the ways in which culture is used by people to adapt to their environment” (p. 4), while political ecology is said to be the latest development in human ecology which as the result of intensified environmental politics in 1980s is particularly concerned about power relations involved in resource management regimes (p. 26). As it is beyond the scope of this thesis to thoroughly explore methodologies of these two academic approaches (along with the legal/political perspective), this section can only sketch out these three traditions in a more general description.

Table 2. 2 Comparisons of six existing literature traditions on Indonesian disasters

	<i>Classical</i>	<i>Hazard/Techno-fixes</i>	<i>Social-focused</i>	<i>Legal/Political</i>	<i>Cultural Ecology</i>	<i>Political Ecology</i>
<i>Research focus</i>	Disasters as disruption/interruption to established norms	Technologies to understand the disaster agents or to mitigate disaster impacts	Vulnerability and multiplying effects of existing social differentiation at the levels of disaster impacts	Problematizing disasters' legal aspects or emphasizing their political aspects	Studying how the (local) culture is specifically involved in disaster adaptation	Establishing links between capital accumulation with <i>particular</i> disasters
<i>Unit of research focus</i>	System	System	Individuals	Individuals and or groups	Particular social groups	System
<i>Perceptions on disaster (event vs occasion)</i>	Event	Event	Occasion	Event	Occasion	Occasion
<i>Conceptions of disaster impacts</i>	Social problems	Social problems	Social change	Social problems	Social change	Social change
<i>Understanding the nature of disaster</i>	Accidents (unscheduled)	Accidents (unscheduled)	Characters (latent)	Accidents	Characteristics (latent)	Accidents
<i>Nature-human relations</i>	Minor concerns (if any)	One-way direction (either nature affects man or man affects nature)	Not part of its concerns (focusing more on the dynamics within the society)	One-way direction (either nature affects man or man affects nature)	Nature affects man	Mutuality
<i>Liability</i>	No liability issue is established	Either not one of its concerns or, if some sense of liability is identified, it will not problematize capital (as it focuses more on bringing the impacts under control)	No particular parties are considered liable for the disaster	Liability issues are established (under which either state's or capital's responsibility is being targeted)	No liability issue is established	Capital accumulation activities are liable for the disaster
<i>Engagement in justice issues</i>	Not one of its concerns	"Neutral"	Carrying equality message, but more into structural than in immediate power relations (day to day struggle for justice)	Emphasizing the breach of legal or procedural processes, but not into the dynamics of establishing equal power relations	Not into remedies for justice	Concerned with power relations, but remedy for justice is particularly fought for through manipulation of structural relations (esp. property rights)

Source: adapted from Perry (2007); author's literature analysis

**Table 2. 3 Mapping literature traditions on Indonesian disasters**

<i>Classical</i>	Kartodirdjo 1966; Moertono 1968; Adas 1979; Simkin and Fiske 1983; de Jong Boers 1995; Soegiharto 2006; Winchester 2010
<i>Hazard/Techno-fixes</i>	Tilling 1989; Garcia et al, 2007; Leitmann 2007; Muhari et al. 2007; Steinberg 2007; Kennedy et al, 2008; Jayasuriya and McCawley 2010; Imamura et al, 2012
<i>Social-focused</i>	Jeffrey 1981; Texier 2008; Birkmann 2008
<i>Legal/Political</i>	Fletcher et al, 2005; Colchester et al, 2006; Komnas Perempuan 2006; ActionAid 2006; Zeccola 2011; Sakai and Fauzia 2014
<i>Cultural Ecology</i>	Laksono 1988; Pannell 1999; Schlehe 2008; Dove 2008; Donovan 2010; Triyoga 2010; Samuels 2012
<i>Political Ecology</i>	Dauvergne 1998; Harwell 2000; Aiken 2005; Noor and Syumanda 2006

Source: Author's research

Applying existing research traditions on the Lapindo mudflow disaster, the above classification of research traditions leads us to see a rather homogenous literature. Despite difficulties of applying clear boundaries due to their mixed use of categories specified in the traditions, the underlying messages within the existing body of research show that most of them fall within the two big traditions: hazard/techno-fixes and legal/political perspectives (Table 2.4). The fact that the Lapindo mudflow is such a high profile case involving national elites' political interests has provided a fertile ground for researchers to engage in the development of different aspects of the understanding of disasters.

With only few exceptions, the tradition of hazard/techno-fix studies in this mudflow disaster literature is dominated by science research which employ considerable effort to settle the nature of disaster into one of either two clearly divided categories: natural (earthquake as the major trigger) or unnatural (improper mining practices as the major trigger). Interestingly enough, researchers from or affiliated with non-Indonesian research institutions predominantly occupied the debate in this tradition (more about this in Chapter Six). Meanwhile, much of the literature (see Table 2.4) falls within the legal-political perspective tradition by giving more emphasis to legal impacts, corporate liability, human rights violations, or the breach of legal or procedural regulations. Included in this tradition is the research that, despite being based on political analysis, either give very limited elaboration of how power is being exercised in relational manners, or treats the disaster's structural character as a minor issue (if any). The fact that the majority of existing research falls into two major traditions shows that the academic spectrum of the literature on the Lapindo mudflow is more limited than

literature on any other disasters in Indonesia. This fact is particularly intriguing because this mudflow disaster has been receiving continuous attention from both academics and the public alike.

**Table 2. 4 Mapping literature on the Lapindo mudflow disaster**

<i>Classical</i>	Muhtada (2008); McMichael (2009)
<i>Hazard/Techno-fixes</i>	Mazzini et al. (2007); Davies et al. (2007); Abidin et al. (2008); Davies et al. (2008); Haryono (2008); Tingay et al. (2008); Mazzini et al. (2009); McDonald and Widaningrum (2009); Davies et al. (2010); Sawolo et al. (2010); Davies et al. (2011); Kriyantono (2011);
<i>Social-focused</i>	Fauzan and Batubara (2010)
<i>Legal/Political</i>	Akbar (2007); Gelder and Denie (2007); Mirdasy (2007); Ashadi (2008); Fanggi (2008); Mughis (2008); Schiller et al (2008); Setiawan (2008); Hamdi, Hafidz and Sauter (2009); Ageung (2010); Ahmady (2010); Batubara and Utomo (2010); Hamdi (2010); Novenanto (2010); Runturambi (2010); Santoso (2010); Gustomy (2012); Batubara and Utomo (2012); Karib (2012); Ismail (2013); Kurniawan (2013); Nilawaty (2013); Wibisana (2013); Putro and Yonekura (2014)

Source: Author's research

Responding to this academic gap, I propose an alternative view of seeing the mudflow disaster by critically incorporating important points raised in the above comparison table (Table 2.5). As previously emphasized, this incorporation requires three new questions: (1) how do we perceive disaster and its impacts? (2) how do we locate disasters in the perspective of human-nature relations? and (3) how do we get engaged in the practice and discourse of justice struggles. This approach adopts the concept of disaster-embeddedness from the social focused tradition and the idea of a disaster's structural character from the political ecology tradition. This alternative framework views disaster as predetermined by our relations to nature and its continuity, with the possibility for multiple social developments being contingent upon the dynamics and practice of power relations.

I argue that the adoption of particular characteristics from both political ecology and social-focused traditions will make this alternative view distinctly different from the other two. It differs from political ecology in the sense that its investigation of social and spatial risks is making the immediacy of disaster more clear, no longer associating the risks only with communities living in spatially remote or isolated areas, a weakness often criticized in the spatial focus of this

discipline. It differs from the social focused tradition in the sense that its structural character sheds a light on the liability issue which is particularly important in the local justice movement. The recognition of structural characteristics and a focus on power relations borrowed from the political ecology tradition will also allow this framework to be particularly sensitive to identifying the base, means, extent, and scope of power being exercised between and among the involved parties. In analyzing those elements of power, while following the structural characteristics of both traditions, this alternative view does not necessarily eliminate existing cultural notions which are likely involved in the exercise of power in an Indonesian context.

**Table 2. 5 Alternative view on the Lapindo mudflow disaster**

	<i>Characters</i>
<i>Research focus</i>	Political dynamics of the struggle for environmental justice
<i>Unit of research focus</i>	Individuals, groups and system
<i>Perceptions on disaster (event vs occasion)</i>	Occasion (multiple possibilities for social development, not only in terms of directions but also levels of magnitude)
<i>Conceptions on disaster impacts</i>	Social change
<i>Understanding the nature of disaster</i>	Disaster as characteristic of corresponding communities
<i>Nature-human relations</i>	Mutuality
<i>Liability</i>	Capital accumulation activities are liable for disasters
<i>Engagement with justice issues</i>	Struggle for balance of power is not merely based on written regulations, but more importantly embedded in social-political relations

Source: Author's research

## Summary

As already shown, the significance of disasters across the globe has provided a fertile ground for proliferation of disaster studies. From an academic point of view, disasters are interesting phenomena as they can reveal the underlying social relations and (dys)functioning of societies. Disasters can also bring justice issues as human rights of the affected are shattered, negotiated, and fought for. In this case, I believe academic interests and values are closely related and should be treated as equally important. The above elaboration has hopefully highlighted three points I believe important in order to see disasters in a critical manner, not only for the sake of (academic) interests but also for community

values. Those three important points involved in this critical understanding of disasters are related to the way we perceive disaster and its impacts, the way we understand our own relations with nature and the increasing environmental risks, and the way the accompanying justice issues are seen.

Critical analysis of disasters can only be achieved if we perceive disasters more as occasions rather than events. This will allow us to identify multiple possibilities for post-disaster social development, rather than a single definite planned outcome. By avoiding an *a priori* conception of disaster impacts as necessarily social problems, this step will not only give a greater chance of finding multiple and unequal levels of impacts among different individuals and social groups but to track multiple directions of outcomes (positive or negative).

A critical analysis will also require us to no longer see disasters as distant phenomena which affect only those who are simply unlucky or who live in remote or isolated areas. The concept of the production of nature promotes an understanding that, with our increasing engagement in modifying nature, we not only "consume" nature and simply wait for nature to inflict its effects on us. In fact, our engagements in landscape change have actually brought disasters closer by multiplying its risk possibilities. This happens not only in the middle of forests, but particularly in urban areas where landscape changes have been carried out perhaps more intensively due to the continuous pressure for capital accumulation.

As human rights are likely at stake, engagement with justice issues will also be a critical factor, particularly if we aim the study to be policy relevant (whatever policy that would be). Environmental justice movements have provided a valuable lesson about liability, an important issue especially if we look for responsible parties to whom we should address grievances. However, while policy-oriented advocacy works are usually demanding enforcement of rights in a rather blindfolded manner, a critical and policy-relevant study with engagement in justice issues does not necessarily have to follow their paths. In fact, such a study would be concerned more with the embeddedness of a struggle for justice than with a grievance mechanism in a single direction (from victims of human right violations to the offender). This concern for embeddedness would require the study to question an assumption of the corresponding community as a monolithic unit, *a priori* understanding (either written/textual or "theoretical") of power relations, as well as any definite result of the struggle.

I argue that, by incorporating these three critical elements of understanding disasters (critical perceptions on disaster "impacts", critical perceptions on our relations with nature, and ideas of environmental justice), this thesis will offer a structurally distinct concept of the production of disaster as an alternative perspective of seeing disaster. I hope this thesis will make a specific contribution to the existing literature on this mudflow disaster in particular and Indonesian disasters in general.

### 3

## **Deregulation and the origins of the mudflow eruption**

In the previous chapter a critical analysis of disaster literature underlined the starting point of this thesis which aims to see risks and disasters as inherent consequences of neoliberalism (see pp. 34-38). Referring back to McCarthy and Prudam (2008) and Castree (2008), neoliberalism here is characterised by deregulation whose primary goal is to expand opportunities for capital investment in which reworking of environmental governance and entrenching of nature commodification are intimately linked. In this framework, efforts to understand disaster risks are not limited to investigating the accidental features of a particular geographical site where a disaster strikes, but are stretched to include the successive policies which supports those accidental features.

Following the assumption that “people are not just vulnerable to hazards but hazards are increasingly the result of human activity” (Hilhorst 2004, p. 53), this chapter seeks to strengthen the thesis argument in making the connection between natural and social dimensions in the production of mudflow disaster risk. Rejecting any notions that distinctly separate between the two, it stresses the fact that disasters (even if they are declared “natural”) are deeply social phenomena where pre-existing social conditions would likely give rise to disasters and highly determine their levels and magnitudes. Putting into the context of neoliberalism, predominantly significant within these pre-existing social conditions are state policies whose ends are mainly to facilitate the opportunity expansion of capital interests.

The policies to be discussed below include those from national government which increase disaster risks by supporting the practice of reworking of environmental governance in the interest of private capital and those from local government which focus more on accumulating local revenues. The policies from the national level government deserve the attention because, in spite of recent decentralising changes, it still has the major say in matters widely perceived to be critical for state security, like energy issues. Attention to local level policies is

also worthwhile because oil and gas mining requires permits and licenses which involve local level governments at various stages. By stretching the disaster analysis to include these pre-existing policies in disaster-stricken Sidoarjo, following Hewitt (1983), I argue that disasters are more *characteristic* of particular places and societies rather than accidental features of them.

To achieve this goal, I will group my arguments into four sections. The first section will elaborate on pre-disaster local economic development, particularly in its relation to the need to increase local revenue. By investigating preceding socio-economic conditions, this elaboration aims to provide a closer look not only at pre-disaster socio-economic characteristics of the mudflow-affected communities, but also other local factors which had contributed to creating and expanding the production of mudflow disaster risks. The second section will discuss Indonesian oil/gas governance at the national level, particularly after the introduction of Law No 22/2001. Moving beyond simply judging this law as representing capital interests more than the nation's interests, as many civil society actors would do, this section aims to map institutions along with their respective responsibilities in the oil and gas sector and their relevant roles in the production of mudflow disaster risk. The third section will discuss Bakrie-controlled Energi Mega Persada (EMP), an oil and gas holding company which was established at roughly the same time as the liberalization of oil and gas governance. As the final section, the fourth part will discuss the breach of regulations which initiated the mudflow eruption.

### 3.1. Industrialization, decentralization and local revenue

As shown in the first chapter (see section 1.5), Sidoarjo had completed its transformation as a manufacturing economy in the early 2000s. This transformation is reflected by the spatial concentration of East Java's manufacturing sub-sectors in the district, particularly in paper/printing and base metal sub-sectors (see Table 1.2). While these two sub-sectors represent Sidoarjo's very significant contribution to the province's manufacture, the other manufacturing sub-sectors have been also important for Sidoarjo's local economy. Differing from the paper/printing and base metal sub-sectors which are

predominantly capital intensive and concentrated in particular areas,<sup>1</sup> the other manufacturing sub-sectors are generally labour intensive and relatively scattered in nearly all sub-districts. Thanks to the growth of these manufacturing sub-sectors, the district has become the biggest provider of employment opportunities in Greater Surabaya (see Table 1.3). Despite its uneven distribution,<sup>2</sup> manufacturing activities were spread across nearly all sub-districts<sup>3</sup> including Porong and Tanggulangin (see Table 3.1), which were mostly affected by the mudflow.

Not only the distribution of manufacturing activities, the same table also shows whether or not those activities are predominantly agricultural or non-agricultural. By comparing ratios between non-agricultural manufacturing with agriculture, despite its relatively small size, Porong sub-district clearly had a relatively high penetration of non-agricultural manufacturing.<sup>4</sup> Looking at the existing infrastructure, this capital penetration was undoubtedly facilitated by the Surabaya-Gempol toll road which easily connected this southern part of the district with the provincial capital (see Map 1.1). Although Tanggulangin had a slightly bigger amount of non-agricultural based manufacture, its agricultural based manufacture was three times bigger than Porong.

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<sup>1</sup> PT Tjiwi Kimia is the single dominant player in the paper/printing subsector in the district. Located in Tarik sub-district, PT Tjiwi Kimia is a subsidiary of Asia Pulp and Paper (APP) which has been one of the world's largest paper producers with giant world corporations among its long client list. <http://www.theguardian.com/environment/2014/mar/26/app-deforestation-greenpeace-campaign> (accessed 18 February 2015). Meanwhile, in the base metal sub-sector, there are two big players, PT Alim Ampuhjaya Steel and PT Ispat Indo (<http://www.iisia.or.id/?page=content&cid=30> accessed 18 February 2015). The former is linked to the Maspion Group, while the latter is among the first steel companies founded by the world's richest person, Laksmi Mittal. These base metal producing companies are predominantly located in Sidoarjo sub-districts bordering Surabaya.

<sup>2</sup> The fact that more than half of manufacturing activities are concentrated in Cluster I is easily understood considering these subdistricts are predominantly bordering or easily connected with Surabaya, the provincial capital. This unequal industrial concentration led Bupati Win Hendrarso to come up with the idea of a *Siborian* triangle, with the aim of developing the district by focusing in the north (Sidoarjo, neglecting the already established northern subdistricts), the south eastern region (Jabon) and the south western region (Krian). This idea, however, failed because of the mudflow eruption (Radar Sidoarjo, 31 Januari 2010).

<sup>3</sup> The quoted document included within this manufacturing category any economic activities which transform raw materials into readily consumable goods (*industri pengolahan*). They may include big factories with hundreds of workers as well as home-based industries such as leather crafts.

<sup>4</sup> 'Non-agricultural' contributes 85% of the overall manufacturing activities in the sub-district. This places Porong close to sub-districts such as Waru, Gedangan, Buduran (with their 90% manufacturing activities from non-agriculture).

**Table 3. 1 Land use for manufacturing activities in Sidoarjo 2001**

District development cluster	Sub-districts	Land use for agricultural based manufacture (in hectares)	Land use for non-agricultural based manufacture (in hectares)	% Subdistrict to District's manufacturing use
Cluster I (center: Taman)	Taman	101.68	375.4	25.1
	Waru	16.8	256.26	14.36
	Gedangan	19.96	236.4	13.49
	Sukodono	1.28	31.28	1.71
Cluster II (center: Sidoarjo)	Sidoarjo	9.1	37.06	2.42
	Buduran	11.85	122.61	7.07
	Candi	15.65	48.1	3.35
	Sedati	0.01	27.57	1.45
Cluster III (center: Porong)	Porong	3.59	21.04	1.29
	Jabon	0	0.4	0
	Tanggulangin	10.59	25.84	1.91
	Krembung	14.07	0.14	0.75
Cluster IV (center: Tulangan)	Tulangan	12.12	0	0.63
	Wonoayu	33.58	9.13	2.25
	Prambon	13.46	12.59	1.38
Cluster V (center: Krian)	Krian	25.69	188.07	11.24
	Balongbendo	0.81	48.43	2.59
	Tarik	0	171.17	9
<b>TOTAL</b>		<b>290.25</b>	<b>1,611.49</b>	<b>100%</b>

(Source: Revisi Rencana Tata Ruang Wilayah Kabupaten Sidoarjo 2003-2012, Bappedkab Sidoarjo 2002)

This is linked to the fact that the characteristics of manufacturing activities in the two sub-districts are quite different. Known as the centre for leather crafts, Tanggulangin is home to one of Indonesia's biggest leather producer cooperatives, INTAKO (Bag and Suitcase Industry/*Industri Tas dan Koper*). Founded in the second half of 1970s with its initial production of leather bags and luggage, INTAKO had developed its production beyond bags/leather products as well as expanding its membership base by the early 2000s (Ministry of Trade 2007; Adib 2007). As of 2005, this cooperative had hundreds of members whose workshops and showrooms lined the road for several kilometres to the location of the cooperative.

Differing from Tanggulangin which has been characterized by a single manufacturing sub-sector of leather crafts, Porong seemed to have never been dominated by only one particular manufacturing activity. Instead, various manufacturing activities have characterized the economic landscape of the sub-district, as shown in Table 3.2. Initially displayed to highlight the effects of the mudflow eruption on the local economy, the data given in the table clearly throws a light on Porong's distinct economic character at the time. Not only highlighting its various economic activities, the data also shows that many of these activities were organized in factories, thus differing from the relatively home-based leather craft industry in Tanggulangin (Prasetya 2011).

**Table 3. 2 List of companies affected by the Lapindo mudflow**

<i>Factories</i>	<i>Main Business</i>	<i>Village Location (Sub-district)</i>	<i>Number of workers</i>
PT. Catur Putra Surya	Watch production	Siring (Porong)	154
PT Oriental Samudra Karya	Furniture	Ketapang (Tanggulangin)	N/A
PT Gunung Mas Sentosa Raya	Alcoholic drinks	Jatirejo (Porong)	81
PT Supra Surya Indonesia	construction	Renokenongo (Porong)	67
PT Srikaya Putra Mas	Processing machines	Siring (Porong)	104
PT. De Brima	Soaps	Kedungbendo (Tanggulangin)	10
CV Semangat Jaya	construction	Siring (Porong)	94
PT. Primafendo Pangan Makmur	Snacks	Siring (Porong)	
CV. Sari Inti Pratama	Crackers	Siring (Porong)	264
PT. Victory Rotanindo	furniture	Siring (Porong)	153
CV. Airlangga Mebelindo	Furniture	Siring (Porong)	158
UD. Emanelindo	N/A	Siring (Porong)	28
CV. Karya Kasih Karunia	furniture	Siring (Porong)	92
CV. Niagara Prima	Stainless steel	Renokenongo (Porong)	26
PT. Yamaindo Perkasa	Furniture	Renokenongo (Porong)	49
LB Harflek	N/A	Siring (Porong)	15
UD. Teguh Jaya	N/A	Siring (Porong)	10
CV. Saerah Indah	Fashion/clothes	Siring (Porong)	9
CV. Sipah Jaya	Construction	Siring (Porong)	53
CV. Mila Kartika Utama	construction	Siring (Porong)	44
CV. Mitra Jaya	Suitcase production	Kedungbendo (Tanggulangin)	93
PR. Nasional Tabaco	Tobacco	Kedungbendo (Tanggulangin)	51
PR. Graha Niaga	Tobacco	Jatirejo (Porong)	51
PR. Mito Jaya	Tobacco	Jatirejo (Porong)	35
PR. Rizki Mulya	Tobacco	Renokenongo (Porong)	34
PR. Rizki Setiawan	Tobacco	Siring (Porong)	17
PR. Cengkir	Tobacco	Siring (Porong)	73
PR. Engsel	Tobacco	Siring (Porong)	203
PR. Jangkar Mas	Tobacco	Siring (Porong)	133
PR. Karunia Jaya	Tobacco	Siring (Porong)	10
PR. HS. Mitra Ds.	Tobacco	Kedungbendo (Tanggulangin)	177

(Source: <https://hotmudflow.wordpress.com/2007/03/01/perkembangan-terakhir-senin272-pukul-1530/> accessed 20 December 2014)

The fact that 31 factories were involved indicates the significance of capital investment in the subdistrict's economic growth. As this investment not only brought indirect benefits to the overall society but involved direct benefits to particular groups affiliated with power, this capital involvement has been frequently accompanied by a strong security approach on the part of the state. Organized labour was particularly targeted by this approach, as notoriously shown

by the unresolved murder case of Marsinah, a female labourer at Porong's watch factory in May 1993.<sup>5</sup> Although a fair trial was never held, several reports made a link between the murder and active role of state security networks connected through the so-called *Sistem Intelijen Sidoarjo* (SIS) (Fehring and Lindsey 1995; Supartono 1999).

That intelligence system was run on “benefit sharing” basis between the state apparatus and companies. The latter provided access and key information about labour activism and received “protection” in return, while the military and state bureaucracy provided protection and business certainty and received kickbacks in return. This local state character proved to be sustainable even beyond the New Order era. Despite of being in the top 20 Indonesian regencies/districts for investment in 2003, Sidoarjo still reportedly had illegal levies that were part of local investment culture. It was claimed that up to 36 percent of manufacturing enterprises were subject to levies imposed by local police and 27 percent of others were targeted for donation requests by local ‘social organizations’, requests which were unlikely to be ignored if social conflicts were to be avoided (Santosa and McMichael 2004). In another survey, in 2001 local firms reported that the value of bribes they paid to local officials in Sidoarjo was estimated to be 9.8 percent of their production costs (Kuncoro 2004).

In the local state's fiscal eyes, these factories and their economic activities are particularly welcomed. While this was partly because they provided employment opportunities for local people, but also because they generate direct benefits to the local state through the so-called Local Revenue (*Pendapatan Asli Daerah/PAD*). Commonly implemented just after the introduction of decentralization in 1999, sub-provincial governments reportedly interpreted the autonomous authority they just had been handed as a fiscal liberty to collect as much revenue as possible by imposing various levies (Hadiz 2004). These factories and capital owners certainly represent new opportunities to exploit

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<sup>5</sup> Instead of silencing the labour movement, Marsinah's murder instead reawakened it during the late New Order (Silaban 2009). Although data is not yet available, industrial strikes in Sidoarjo are likely to have increased after the fall of the New Order. In one leading factory alone, a number of strikes have been recorded since 1998 (Seong 2008). Driven by complaints from factory owners and management which felt threatened by the rising number of strikes, Sidoarjo District invited a motivator in to try and shift labor energy in a more productive direction (<http://didikmadani.com/bupati-sidoarjo-motivator-didik-madani-mampu-redam-demo-buruh/> (accessed 20 January 2014)).

further local revenue as any economic activity is subject to various levies incurred by various licencing requirements.<sup>6</sup> This local revenue is considered important to ease sub-provincial governments' abruptly increasing fiscal strains after the decentralization law (at the time Law 25/1999) stipulated the transfer of all sectoral and local state employees to local governments (Silver 2003).

Sidoarjo local government seemed to be successful in managing its fiscal opportunities as seen from its increasing local revenue (see Table 3.3). It increased from 128.8 billion rupiah (USD 12.8 million) in 2004 to 178 billion rupiah (USD 17.8 million) in 2006, the year the mudflow first erupted.<sup>7</sup> Revenue earned from local levies (*retribusi daerah*) occupies a quite significant portion in this local revenue.

**Table 3.3 Composition of Sidoarjo local revenue 2004-2008**

	2004		2005		2006		2007	
	Sum (in million IDR)	% Total PAD	Sum (in million IDR)	% Total PAD	Sum (in million IDR)	% Total PAD	Sum (in million IDR)	% Total PAD
Local taxes	65,375.3	50.75	68,108.0	50.33	86,314.2	48.48	93,294.4	48.87
Local levies	53,533.9	41.56	56,326.6	41.63	64,595.5	36.28	71,516.0	37.46
Local government owned enterprises	2,826.4	2.19	3,574.1	2.77	4,222.8	2.37	4,954.3	2.60
Other revenue	7,082.4	5.50	7,303.0	5.40	22,893.6	12.86	21,140.7	11.07
Total local revenue	128,818.0	100%	135,311.7	100%	178,026.1	100%	190,905.4	100%

(Source: Tasniwati 2010)

In addition to the sudden fiscal burden from the transfer of state employees, the decentralization law also introduced intergovernmental fund transfers, one of which is natural resource revenue sharing provision (*Dana Bagi Hasil Sumber Daya Alam*) (Silver 2003).<sup>8</sup> It was expected that this provision would ensure

<sup>6</sup> Sidoarjo's Integrated Licensing Service Agency (*Badan Pelayanan Perijinan Terpadu/BPPT*) listed 36 permits/licenses required for various purposes. These permits incur levies whose sums vary according to size of land used, risk assessments, and location. Doing business always requires more than one permit. <http://perijinan.sidoarjokab.go.id/web/profil2.jsp> (accessed 20 February 2015)

<sup>7</sup> Compared to the 2004- 2008 period, the increase of local revenue was particularly significant in 2006. The revenue comes from the collection of taxes falling under the authority of local government (among these are taxes imposed on restaurants, hotels, shopping malls, advertisements, parking, and C-type mining [see footnote 32 of this chapter for more explanation about this mining type]) and other authorized local revenue (*lain-lain PAD yang sah*) such as interest payments, discounts or commission received from selling or procurement of materials/services and other revenue that can't be included in the other three PAD categories (district/municipality taxes, levies, rents of district/municipality owned enterprises).

<sup>8</sup> The other three intergovernmental fund transfers are the General Allocation Fund (*Dana Alokasi Umum/DAU*), revenue sharing from national government imposed taxes (*Dana Bagi Hasil/DBH*

substantial improvements in the fiscal balance of those governments endowed with natural resources.<sup>9</sup> It is for this reason that many local governments are eagerly supporting investments in the exploration and exploitation of natural resources within their boundaries.

Being blessed with natural gas reserves, Sidoarjo local government had similar expectation of having its fiscal balance improved. In the early years of the establishment of FKDPM (Communication Forum for Oil and Gas Producing Districts/*Forum Komunikasi Daerah Penghasil Migas*), it was among the active members who loudly criticised the Finance Ministry for reducing revenue sharing for district governments (*The Jakarta Post* 12 June 2002).<sup>10</sup> However, contrary to its expectation, revenue sharing from its natural gas reserves has been disappointing (see Table 3.4). Instead of having an increase in revenue sharing, until 2007 Sidoarjo's revenue sharing trend had been negative. It did not even receive any revenue sharing in its own right between 2005 and 2007.

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*Pajak*), and the Special Allocation Fund (*Dana Alokasi Khusus/DAK*). *DAU* is proportionally calculated, according to (amongst other things) the financial obligation of local governments to pay state employees' salaries. Taxes shared in *DBH Pajak* include those on property, individual earnings, and tobacco. These taxes are shared according to a calculation formula that allows both provincial and sub-provincial governments to jointly benefit according to certain balancing factors (*faktor pemerataan*) between surrounding district governments. *DAK* is allocated funds to assist certain districts which are chosen based on several criteria such as financial capacity, isolation etc. Meanwhile, natural resource revenue sharing has various formulae depending on the resources. For natural gas, revenue sharing will be calculated on a provincial base. The producing province is entitled to have 30% of net proceeds of gas output (total after taxes and costs have been deducted). This 30% will then be shared by the provincial government, the producing district, and the other non-producing districts in the province, with the provincial government receiving 6%, producing districts 12%, and the remaining 12% will be distributed evenly to all the other districts in the province.

<sup>9</sup> Silver gave an example of Kutai district government whose financial situation was substantially improved after this provision justified it receiving 1 trillion rupiah from revenue from oil exploited within its boundaries. This much money was considerably huge, especially considering the fact that Kutai Kartanegara district of East Kalimantan is sparsely populated.

<sup>10</sup> Sidoarjo accused the national of not being transparent about its calculation of cost recovery which affected their revenue sharing entitlement. <http://www.tempo.co/read/news/2002/05/26/05611436/Forum-Daerah-Penghasil-Migas-Tuntut-Bagian-Sesuai-Undang-Undang> (accessed 17 February 2015). Cost recovery is one of the items agreed in the PSC (see footnote 12 about PSC) where a mining company is entitled to have reimbursement from the government of its expenses which are related to the exploration and development of oil/gas fields. For many mining analysts, cost recovery provides a window for manipulation by mining companies to decrease the revenue share in natural gas production received by national, provincial as well as local governments.

**Table 3. 4 Sidoarjo's natural gas revenue sharing 2001-2007**

Year	Amount (in thousands IDR)	Amount in USD
2001	1,926,000	184,811
2002	908,000	99,062
2003	122,000	14,005
2004	45,000	5,166
2005	0	0
2006	0	0
2007	0	0

(Source: Decrees of Indonesian Finance Minister 2001-2007)<sup>11</sup>

### 3.2 Oil-Gas Mining from the New Order to the Reform Era: From State-Control to a Liberal Market

As many researchers have pointed out, oil and gas commodities have played an important role in Indonesian history. They had contributed significantly to the colonial export revenue (Lindblad 1989), triggered Japan to launch its Dutch East Indies occupation campaign in 1941 (Dick et al. 2002), and prompted the Indonesian government to invent the successfully applied production sharing contracts (PSC)<sup>12</sup> which considerably improved the government's terms vis-à-vis mining companies.

The government's success in the renegotiation of the PSC paved the way for the state accumulation of capital from oil and mining fields, particularly for

<sup>11</sup> Those decrees are: No. 343/KMK.06/2001, No. 214/KMK.06/2002, No. 237/KMK.06/2003, No. 275/KMK.06/2004, No. 42/PMK.02/2005, No. 11/PMK.02/2006, No. 39/PMK.07/2007. Details of revenue sharing estimates by districts in 2001-2003 decrees are downloadable at <http://www.djpk.depkeu.go.id/data-series/dana-perimbangan/dana-bagi-hasil-sda> (accessed 20 February 2015). For 2004 decree, available at [http://peraturan.bkpm.go.id/jdih/lampiran/kemenkeu\\_275\\_2004.pdf](http://peraturan.bkpm.go.id/jdih/lampiran/kemenkeu_275_2004.pdf) (accessed 20 February 2015). For 2005 decree, available at [http://peraturan.bkpm.go.id/jdih/lampiran/Permenkeu\\_42\\_PMK02\\_2005.pdf](http://peraturan.bkpm.go.id/jdih/lampiran/Permenkeu_42_PMK02_2005.pdf) (accessed 20 February 2015). For 2006 decree, available at <http://www.sjdih.depkeu.go.id/fulltext/2006/11~PMK.02~2006PerLamp.Htm> (accessed 20 February 2015). Details at 2007 Decree can be downloaded at [http://www.djpk.depkeu.go.id/linkdata/dp/bagi\\_hasil/lamp\\_PMK39\\_2007.htm](http://www.djpk.depkeu.go.id/linkdata/dp/bagi_hasil/lamp_PMK39_2007.htm) (accessed 20 February 2015)

<sup>12</sup> As a counter to the prevailing concession agreements which favoured private companies at the expense of the nation's interest, Production Sharing Contracts (PSC) was introduced in the early 1960s when nationalist sentiments were running high. These contracts have the following features: (1) it is not profit that being shared, but production; (2) contractors bear pre-production risks, but they can propose their reimbursement in a so-called cost recovery; (3) after deduction of costs, the net production is split between the government (at the time represented by the national company, Pertamina) and the production company with the former having an agreed greater share; (4) the entitlement of any equipment bought by foreign mining companies would be held by the national company; (5) mining companies have a domestic market obligation in which part of the production must be sold within Indonesia to meet domestic demands; (6) contracts were awarded for a maximum of 30 years with six to ten years for exploration (Bindemann 1999).

the military as a powerful force with the rise of New Order. Realizing it was difficult to meet the needs of the armed forces amidst its under-resourced economy, the early New Order government not only permitted the continuation of ‘unconventional’ financing of the military which have been prevalent since the 1945 Declaration of Independence (Crouch 2007) but was sympathetic to military leaders who engaged in self-financing (Misol 2006). A significant way for the military’s “unconventional” financing was through the oil business, which made the military the direct heir of the 1950’s nationalization campaign of foreign owned mining companies (Widoyoko et al. 2003). The military’s involvement in the oil business was further facilitated through Government Regulation No 27/1968, which stipulated the incorporation of different state-owned oil companies into Pertamina, and Law No 8/1971 which gave the company full control over national oil resources subject only to the authority of President.

Under the leadership of General Ibnu Sutowo, who gained first-hand experience from the nationalization campaign involving foreign oil companies in North Sumatra in the 1950s, Pertamina rose to be “a state within the state” as it managed its revenues and spending outside formal state budgeting processes. With the help of the oil boom in the early 1970s, the company became a vehicle whose windfall profits helped to build nationalist projects but simultaneously became an arena where elites’ rent-seeking behaviour was intensified (Robison 2009). This manipulation of oil resources was kept in place by Suharto, because the off-budget resources provided by Pertamina helped him to prevent disunity from erupting within his own government while leaving him to pursue particular development strategies (Ascher 1998).

Pertamina’s early enormous power was finally limited by the mid-1970s. Following Pertamina’s debt default in 1975, the government introduced reforms in 1976 which put the company under strict managerial and fiscal supervision and thus brought the company under effective control of the ‘technocrats’ (Ascher 1998). Having ended Pertamina’s role as an off-budget resource for political elites, however, did not prevent the manipulation of oil resources from continuing. Its existing monopoly in mining concessions allowed cronyism to divert funds which otherwise would have been state revenues, into the pockets of Suharto-connected elites, so its role as no more than a cash cow continued (Hertzmark 2007).

Pertamina's primary role in oil and gas mining was finally curtailed following the fall of Soeharto in 1998. Hit by the Asian crisis, the Indonesian state suddenly faced serious economic problems which forced the government to seek help from multilateral institutions. It was in the presence of 'New Order inherited' problems existing in the way the government managed both country and state-owned companies (Hertzmark 2007) as well as international pressure in favour of capital interests (Syeirazi 2009) that the reform of Pertamina was undertaken.

The major reform came in the form of Law No 22/2001 which primarily focused on the removal of Pertamina's special status, specifically defined as upstream and downstream oil/gas mining activities<sup>13</sup>, and introduced the establishment of new bodies to regulate these two strictly divided streams. Downgraded to be like any other operator in the oil/gas mining, Pertamina was stripped of its privileged owner of mining rights<sup>14</sup> which were then transferred to a new implementing body (see figures below for this change). This body was expected to still represent the government in managing oil and gas reserves as well as negotiating with contractors, but with more emphasis on its specifically defined non-enterprise status.

Starting off as an antithesis to New Order's Pertamina, it was argued that its non-enterprise status was necessary to prevent any unnecessary extension of loss to the state's assets if liability occurs (*Kompas* 30 November 2012). Another new body was also mandated in the law to regulate downstream activities stripping off Pertamina's monopoly status as well as liberalizing the market. A year later, a Government Regulation (Peraturan Pemerintah)<sup>15</sup> was issued to specifically regulate the establishment of that Implementing Body, later known as BP Migas<sup>16</sup>.

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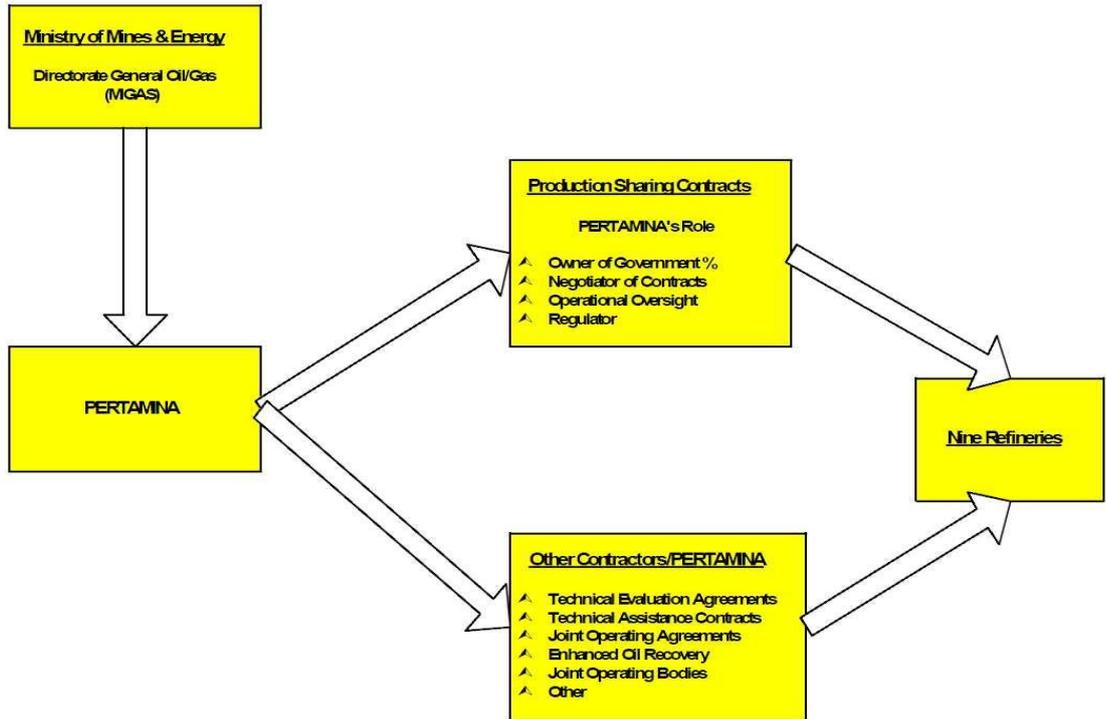
<sup>13</sup> "Upstream" refers to any activities which involve exploration and exploitation, while "downstream" refers to the post-exploitation (refineries, storage, and transporting).

<sup>14</sup> Stipulated on the Law No 8/1971.

<sup>15</sup> PP No 42/2002.

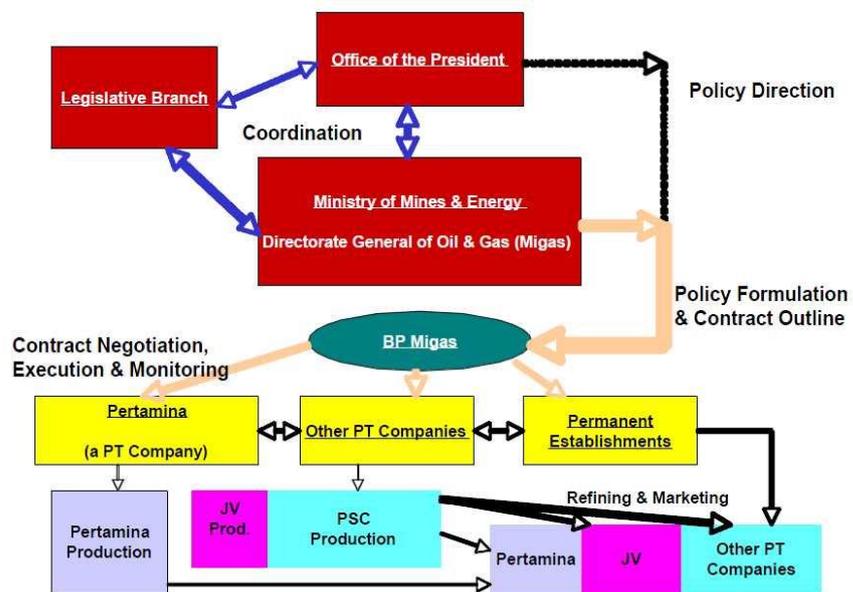
<sup>16</sup> Although it is a newly established body, its scope of authority as well as its personnel were in fact adopted from Pertamina's Department for Coordinating Foreign Contractors (*Badan Koordinasi Kontraktor Asing*).

Figure 3. 1 Pre-2001 Oil-gas governance



(Source: Hertzmark 2007)

Figure 3. 2 2002-2012 Oil-gas governance



(Source: Hertzmark 2007)

Legend:  
 PSC = Production Sharing Contract  
 JV = Joint Venture  
 PT = Limited Liability (*Perusahaan Terbatas*)

In addition to providing the legal foundation for BP Migas to “inherit” mining rights from Pertamina and to represent the Indonesian government in mining contracts, both Law No 22/2001 and the subsequent Government Regulation also equipped this implementing body with an approval authority in day-to-day operational management issues such as contractors’ plans for mining bloc development (POD), work, plan and budget (WP&B), and their expenditure (AFE/Approval for Expenditure). These issues are particularly important specifying technical details which would determine the degree of success in exploration and exploitation activities, responses to potential risks, as well as government’s obligation to pay back contractors under the label of cost recovery. Although no direct financial transactions are involved in BP Migas’ performance, nevertheless it was expected to be transparent particularly its authority involved management of huge resources and important decision makings. This has made BP Migas no less powerful than the institutions it replaced.

As shown in the figures above, BP Migas was not the only government institution which played a role in the mining sector. There is also the Ministry for Mines and Energy (through its Dirjen Migas/Directorate General for Oil and Gas) expected to work hand in hand with BP Migas. Law No 22/2001 gave both BP Migas and the Ministry responsibilities for monitoring oil and gas mining activities, with the former in charge of monitoring in accordance with agreed contracts with private mining companies and the latter with existing regulations. To avoid confusion, a more detailed job division between the two was then laid out in the Decision of the Minister for Mines and Energy No 1088K/20/MEM/2003. While it seemed clear which institutions are to deal with what issues, it turns out other issues remained overlapping or were left unclear. Among these issues were monitoring of work safety measures and transfer of interests among parties involved in the production sharing contracts, two important issues which according to the National Audit Board (BPK/*Badan Pemeriksa Keuangan*) posed significant challenges to the goal of protecting the public interest (BPK 2007).

With regards to work safety measures, the above Minister’s Decision has regulated that Dirjen Migas would perform the task of safeguarding (*pembinaan*) all activities to ensure compliance with existing regulations on work safety,

while BP Migas' task would be limited to monitoring and controlling technical and financial aspects of upstream activities. Related to safety measures, according to Regulation of Minister for Mines and Energy No.02.P/075/M.PE/1992, Dirjen Migas is assigned with another specific task to receive obligatory daily drilling reports from oil and gas contractors. However, Dirjen Migas argued that it was difficult to get these reports. There was also an assumption that it was BP Migas which handled those report collection. On the other hand, BP Migas capacity in this matter was essentially in doubt given the fact that the number of drilling sites way exceeds its human resources.<sup>17</sup> In addition, BP Migas' monitoring focus on financial aspects was allegedly at the expense of examining the contractors' technical capacity (BPK 2007).

Meanwhile, criticisms were also raised against both Dirjen Migas' and BP Migas' limited understanding on how to monitor transfer of ownership in the contracted mining blocs. As regulated in the above Minister's Decision, BP Migas and Dirjen Migas were authorized to suggest or recommend requests for transfer and approval of ownership interests. However, this task was often performed in an administrative manner without investigating shareholders and share transfers behind the parties involved. According to BPK, with this administrative way of monitoring, BP Migas and Dirjen Migas were potentially missing two kinds of important information, namely statements of affiliated/non-affiliated relations as required in a contract agreement as well as the technical capacity of all parties involved. The absence of information on affiliation would allegedly prevent government from carefully monitoring the parties' compliance within the existing regulation on interest transfer, while the absence of information on shareholders would mean a failure to protect the public interest since such information would certainly reflect the parties' corporate policies and capacities, as well as revealing concentration of ownership (BPK 2007).<sup>18</sup>

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<sup>17</sup> BPK's audit report stated that BP Migas' Geology Engineering Department (*Sub Dinas Pengeboran*), in charge of monitoring all exploration and exploitation drilling wells in Indonesia, had only one department head and 3 staff members, while as of December 2006 there were 716 drilling wells to monitor (BPK 2007, p. 53).

<sup>18</sup> Indonesian Capital Market Authority (BAPEPAM/Badan Pengawas Pasar Modal) requires all public companies to disclose all affiliated transactions and conflicting interests (Decision of Chairman of BAPEPAM No. KEP-412/BL/2009). This regulation defines affiliated transaction as "transaction which is carried out by Company or Controlled Company with Affiliation of the Company or Affiliation of members of Directors, Commissioner Board members, or major shareholders of the Company". Meanwhile, conflicting interest (*benturan kepentingan*) is defined as "difference between economic interest of the Company with economic interests of those

Despite the presence of hope for return of the country's 1980s golden age of oil and gas with the passing of Law 22/2001, public disappointment arose after the failure of the industry to get back on its feet. Among the factors which allegedly contributed to this failure, BP Migas was generally named as a primary non-technical factor, particularly for failing to stop a steady decrease in crude oil production and exploration. This body was also accused of serving mining companies' rather than national interests through allegedly excessive cost recovery which prevents maximising the state's profits (*Kompas* 30 November 2012; Kuncoro et al. 2009).<sup>19</sup> Public disappointment in this body was culminated in the request of constitutional review launched by some civil society groups in 2012 on some articles in Law No 22/2001 specifically about BP Migas.<sup>20</sup> This BP Migas specific review request was approved by the Court on 12 November 2012 and led to its dissolution.

Through its verdict,<sup>21</sup> the Constitutional Court approved the request on dissolution of BP Migas based on two main reasons. The first reason is related to the limits of the authority of BP Migas in controlling oil and gas sector. The latter was considered a breach of the constitution. The 1945 Constitution requires natural resources and important production sectors to be controlled by the state. However because the authority of BP Migas as the state's representative stopped short of monitoring oil and gas sector, this left out the aspect of direct management in the sector, which caused a state failure in achieving the goal of controlling important sectors for "the greatest welfare of the people" (*sebesar-*

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individuals sitting as Director members, Commissioner Board members, or majority shareholders which can be detrimental to the responding Company".

<sup>19</sup> It is estimated that public money lost in carelessly calculated cost recovery was 1.7 billion rupiahs (USD 163,000) per day. For the plaintiff supporting the legal review, this was particularly due to the absence of an oversight committee in the agency (the verdict of Constitutional Court 12 November 2012).

<sup>20</sup> There were 42 plaintiffs, individuals and institutions who lodged this constitutional lawsuit. Nine of 10 plaintiffs from institutions were Islamic organizations, with Muhammadiyah and Hizbut Tahrir were among the list. While among the individuals were Hasyim Muzadi (former chairman of NU), Amidan (one of leaders at MUI, Indonesian Moslem Cleric Board), and Komaruddin Hidayat (vice chancellor of Jakarta State Islamic University Syarif Hidayatullah). In addition to the constitutional review request concerning BP Migas related articles in Law No 22/2001, there were two other requests. The first was about Cooperation Agreements (*Kontrak Kerja Sama/KKS*) that have to obtain the approval of Parliament because they are regarded as international agreement. The second request related to a review the so-called unbundling (divided oil and gas business into up-stream and down-stream activities) that the plaintiffs requested to be annulled.

<sup>21</sup> The verdict of Constitutional Court Nomor 36/PUU-X/2012.

*besar kemakmuran rakyat*) as written in Article 33 of the 1945 Constitution.<sup>22</sup> The second argument for approving the judicial review was based on the reason that agreements between mining companies and BP Migas as a state representative have put the state and companies in equal positions and thus represent the degradation of state's sovereignty over its natural resources.

To avoid this legal vacuum and turmoil in the oil and gas sector, the government established SK-Migas<sup>23</sup> (*Satuan Kerja Sementara Pelaksana Kegiatan Usaha Hulu Minyak dan Gas Bumi*/Temporary Task Force in Upstream Oil and Gas Activities) on the day after the Court verdict. In January 2013, SK-Migas was substituted by SKK-Migas<sup>24</sup> (*Satuan Kerja Khusus Pelaksana Kegiatan Usaha Hulu Minyak dan Gas Bumi*/Special Task Force in Upstream Oil and Gas Activities) which exists until now. Differing from BP Migas which was criticized as being a 'super body' for being able to manoeuvre with the absence of a supervisory board, SKK Migas now has an Oversight Board chaired by the Minister for Energy and Mineral Mining. This is the only major change taken by the government in response to criticisms raised by the plaintiffs in the Constitutional Court. Until a revised oil and gas law is passed which reflect the legal standing behind the Court's verdict, the practices which regulated oil and gas mining during under BP Migas still largely apply.<sup>25</sup>

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<sup>22</sup> Important in this debate are Article 33, particularly number 2 and 3, which says: (2) Sectors of production which are important for the country and affect the life of the people shall be under the powers of the State (*Cabang-cabang produksi yang penting bagi negara dan yang menguasai hajat hidup orang banyak dikuasai oleh negara*); (3) The land, the waters and the natural resources within shall be under the powers of the State and shall be used to the greatest benefit of the people (*Bumi air dan kekayaan alam yang terkandung di dalamnya dikuasai oleh negara dan dipergunakan untuk sebesar-besar kemakmuran rakyat*).

<sup>23</sup> Regulated by Decision of Minister for E&M Resources No. 3135 K/08/MEM/2012 and No 3136K/73/MEM/2012. As a quick response to sudden legal change, these two decisions only regulated the transfer of resources and accountability from a previously independent state agency (BP Migas) to be under the Ministry for Energy and Mineral Resources, without making any other major changes to the structure or authorities.

<sup>24</sup> Established by Perpres 9/2013. While it gave more detailed explanations to the Ministerial Decisions about transfer of resources and the employment status of those previously working for BP-Migas, the big difference it made was the articles about the Oversight Board.

<sup>25</sup> Only seven months after his appointment as the first SKK Migas chairman, Rudi Rubiandini was caught red handed by the Anti-Corruption Commission for receiving bribes from Kernel Oil, a company which wanted to win selling rights of oil production government owned from PSC. The amount of money found (USD 700,000) was the biggest in KPK's history of operations leading an arrests.

### 3.3 Bakrie and the Brantas Bloc

In October 2001 only a month before Law 22/2001 was passed, PT Energi Mega Persada (EMP) was registered in Jakarta. As is the common practice in applying for a formal-legal registration of business entities in Indonesia, this company initially listed with a general coverage of business activities which included trade, services, mining, and other possible opportunities through its subsidiaries (PT Energi Mega Persada Consolidated Financial Report 31 December 2004).<sup>26</sup> The company's oil and gas focus became clear few years later when EMP started to make acquisitions of companies owning participating interests in blocks of natural gas reserves, starting in February 2003. By taking over RHI Corporation, the then owner of Kondur Petroleum which owned a 34.46 percent participating interest in the Malacca Straits Bloc (EMP's website)<sup>27</sup>, EMP began operating commercially (PT Energi Mega Persada Consolidated Financial Report 31 December 2004).

A year later the acquisition of PT Imbang Tata Alam, which owned a 26.03 percent participating interest in the Malacca Strait Bloc, made EMP the major interest owner in that bloc. Only a month later, in March 2004 EMP extended its gas mining assets by taking over Kalila Energy Ltd and Pan Asia Enterprise Ltd, both of which controlled a 50 percent participating interest in the Brantas Bloc through Lapindo Brantas Inc. Two other major corporate actions, a few months later, marked 2004 as a very important milestone year in EMP's expansion. The first step was the June launching of EMP's initial public offering on the Jakarta Stock Exchange, with funds from this offering expected to finance its ambitious exploration and exploitation in the two blocks in its portfolio.<sup>28</sup> The other action was another acquisition, in August, of Energi Mega Pratama Inc, which owned a 100 percent participating interest in the Kangean Bloc (EMP's website) (see Figure 3.3 for EMP's bloc ownership as of 2005).

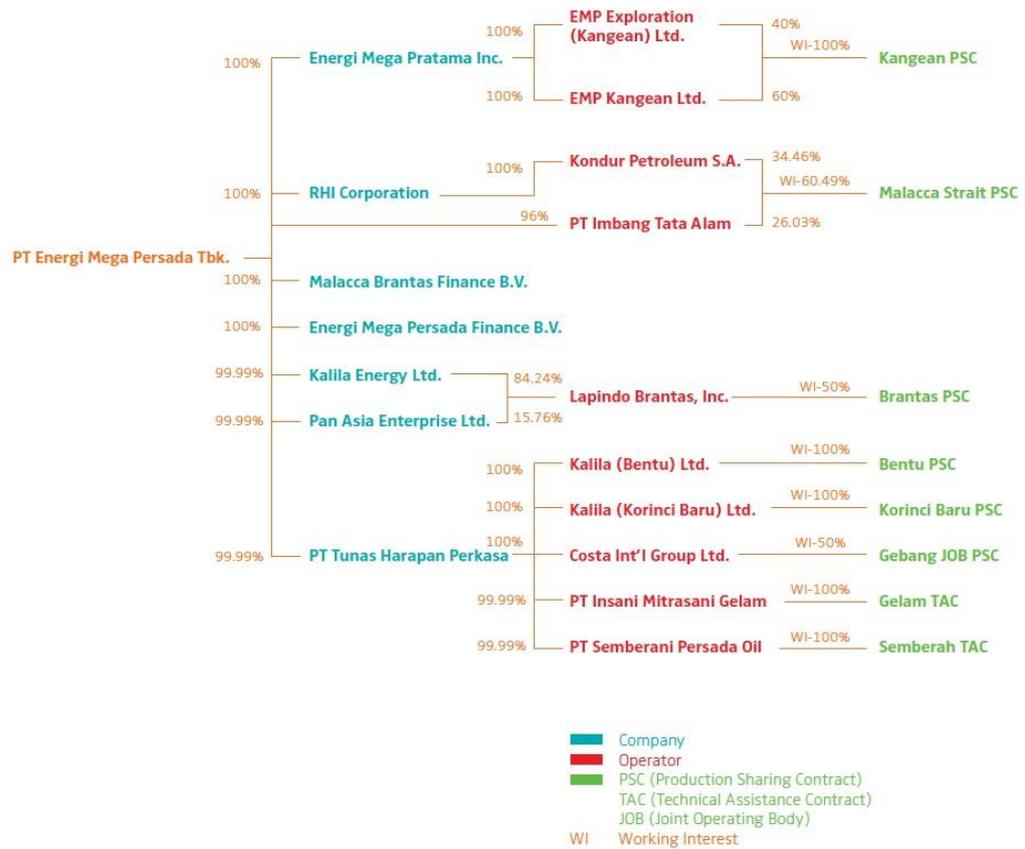
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<sup>26</sup> The report can be downloaded at <http://globaldocuments.morningstar.com/documentlibrary/document/ede668ee595204a3.msdoc>. (accessed 21 February 2015)

<sup>27</sup> [http://www.energi-mp.com/?page\\_id=6](http://www.energi-mp.com/?page_id=6) (accessed 21 February 2015)

<sup>28</sup> According to the prospectus, EMP planned to use 40 percent of the raised funds to finance drilling of 13 oil development wells and 8 exploration wells in the Malacca Bloc, and the other 60 percent for the Brantas Bloc with the majority for the drilling of 8 development wells and 10 exploration wells (2004 EMP Prospectus, available at [www.energi-mp.com/?p=632](http://www.energi-mp.com/?p=632) accessed 21 February 2015)

**Figure 3. 3 Energi Mega Persada (EMP) bloc ownership (as of 2005)**

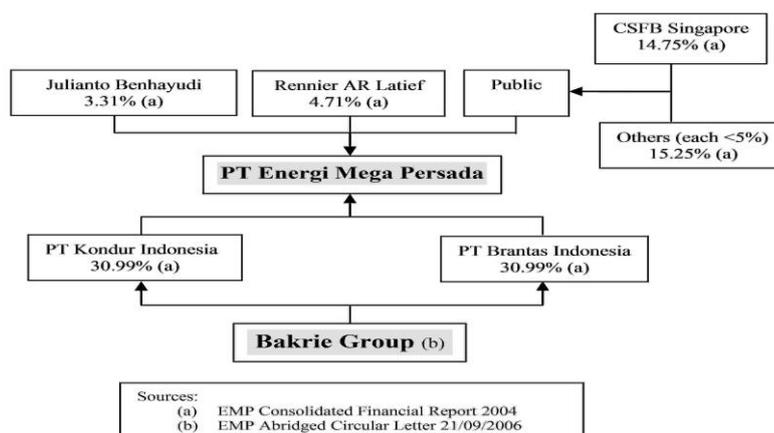


(Source: EMP Annual Report 2005, p. 4)

EMP's acquisition of Lapindo Brantas Inc and Energi Mega Pratama Inc made it a major player in natural gas production in East Java with an 80 percent contribution to the province's gas supply (EMP Presentation).

During EMP's early expansion during February-March 2004, a large investment was injected by two companies which then became the major shareholders of EMP; PT Kondur Indonesia and PT Brantas Indonesia, both of which were controlled and owned by the Bakrie Group (EMP's abridged circular letter to shareholder, dated 21 September 2006). This large investment made EMP's initial founders, Julianto Benhayudi and Rennie Abdul Rachman Latief, minority shareholders (2004 EMP Prospectus). EMP's public offering in June 2004 reduced Bakrie Group's share ownership<sup>29</sup>, but it did not change its ownership majority (see Figure 3.4 below) (EMP's Consolidated Financial Report 31 December 2004).

<sup>29</sup> In EMP's Prospectus directed to potential buyers for the June 2004 share offering, each of these companies were recorded as owning 44.27 percent of the total shares.

**Figure 3. 4 Composition of EMP' share ownership (as of December 2004)**

Not only directly controlling 62% of the shares, Bakrie Group also has some influence with EMP's two individual founders which made its control more apparent. Benhayudi and Latief were both sitting in the corporate board structure of Reliance Universal Ltd which had Indra Usmansjah Bakrie<sup>30</sup> as its president commissioner (ICIJ website).<sup>31</sup> Adding to its successful acquisition of major coal mining companies a few years earlier (see Chapter 4 for the Bakrie Group's business expansion), this relatively complete control over EMP marked the Group's establishment in the oil and gas business.

The corporate presentation in 2005 (available at the company's website<sup>32</sup>) provides a justification of EMP's successive acquisitions of natural gas companies. It said that "gas is compelling" for several reasons. Among them was that gas demands had never been adequately met by domestic supply and the forecasted preference of natural gas in future power generation. Describing the opportunities to meet this market gap as "starvation in the midst of plenty", EMP was determined to gain a bigger play in the natural gas supply market by actively seeking opportunities for capital expansion with a particular reference to the Brantas Bloc as its preferred site.

The Brantas Bloc won the attention of mining practitioners after Huffco discovered gas reserves in the Wunut field (for the relationship between Huffco

<sup>30</sup> Indra Usmansjah Bakrie is the third child of Achmad Bakrie.

<sup>31</sup> Reliance Universal Ltd is an offshore entity based in the British Virgin Islands. Source: <http://offshoreleaks.icij.org/nodes/125463> (accessed 21 February 2015)

<sup>32</sup> [http://www.energi-mp.com/presentations\\_files/Latest%20EMP%20Presentation%2023%20Feb-11%20Mar%2005.pdf](http://www.energi-mp.com/presentations_files/Latest%20EMP%20Presentation%2023%20Feb-11%20Mar%2005.pdf). (accessed 20 February 2015)

and the Brantas Bloc, see Figure 4.2). Discovered in 1994, the field was considered the first commercial gas discovery found in pleistocene strata, a late geological formation generally believed to contain only poor quality reservoirs (Kusumastuti et al. 1999). Despite its relatively small reserves (see Map 3.2), the Brantas Bloc gas fields are “located immediately adjacent to East Java’s gas transmission and distribution infrastructure enabling ready access to customers in the East Java market, the second largest industrial area in Indonesia and a market with consistent gas shortages” (EMP Annual Report 2005, p. 24). This was certainly in line with its acquisition strategy which preferred “cash flow generating opportunity from day 1” (EMP presentation).

While drilling activities<sup>33</sup> in the block showed continuous expansion between 2003 and 2005, which the Sidoarjo district government would have found encouraging, suprisingly their policy document failed to see its promising revenue signals. While Lapindo Brantas was mentioned in the local government document about revised spatial planning for 2003-2012, it did not mention the potential of local revenue the block would generate (page III-17). In addition, prospects from the development of gas wells were not mentioned as among the development priorities in Sidoarjo’s development cluster III (page III-50; see Table 3.1 earlier in this chapter for these clusters). As local government only gets tax revenue directly from C category mining<sup>34</sup>, the latter understandably occupied a larger part of discussion in the document than natural gas. Because natural gas potential was omitted from discussion, drilling associated risks were too. Leaving drilling risks unconsidered, this spatial planning document limited ‘disaster risks’ to only natural factors (hydrological, volcanological, and geological) (page VI-24), certainly not risks associated with human error/negligence.

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<sup>33</sup> According to 2005 EMP’s annual report, the latest corporate report before the mudflow eruption, the company’s drilling activities consistently showed mining expansion. Drilling activities in the Brantas Bloc were carried out in numbers 3, 4, and 6 development wells in 2003, 2004 and 2005 respectively. Drilling activities were also conducted in numbers 1, 2, and 5 exploration wells in those respective years.

<sup>34</sup> Government Regulation No 27/1980 classifies minerals and extractive materials into three categories depending on the national interests. Considered strategic for the nation’s security, category A includes among others oil, natural gas, uranium, and tin. Considered vital, category B includes among others gold, silver, iron, and bauxite. Category C includes among others ferruginous sand, phosphates, nitrates etc. Because these latter are neither considered vital or strategic, Government Regulation No. 65/2001 authorizes tax collection from mining of these minerals falling under sub-provincial government’s jurisdictions. It is based on this classification that the term ‘C type mining’ emerged.

EMP's optimism about the Brantas Bloc was not shared by local communities either. The villagers of Wunut, where the block's earliest gas wells are located very close to people's homes and social activities (see Figure 3.6), reportedly voiced their complaints about how little the company contributed to the village. Being surrounded by company's gas wells, the villagers whose land was used for gas wells were paid only 35 thousand rupiah (USD 3.78) per square metre for five years (Jatam website, accessed 20 February 2015).<sup>35</sup> The company's community development programs<sup>36</sup> were also considered inadequate compared with the local greater need for employment and the disaster risks<sup>37</sup> from company operations (Jatam website, accessed 20 February 2015; *Satuan Kerja Sementara Kegiatan Hulu Migas* 2012).

### 3.4 Breaching the rules: the eruption in Banjarpanji 1

The fact that the national government regulates oil and gas blocks as they control and are responsible for strategic commodities (see footnote 34 of this chapter) does not make local governments necessarily passive players. Necessary permits and compliance required for below ground mining operations certainly provide room for maneuvers for local governments. In line with the decentralization spirit as well as local political interests to increase local revenues, the number of requirements increased massively particularly at local level. It was said that, to be able to operate, oil and gas companies needed to acquire hundreds of permits and thousands of document pages from various state institutions, with local governments as the most demanding one.<sup>38</sup>

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<sup>35</sup> This land rent agreement ended in October 2012, and no more payments were made by the company. <http://www.jatam.org/suara-jatam/artikel-jatam/217-penghargaan-proper-hijau-tak-layak-buat-lapindo.html> (accessed 20 February 2015).

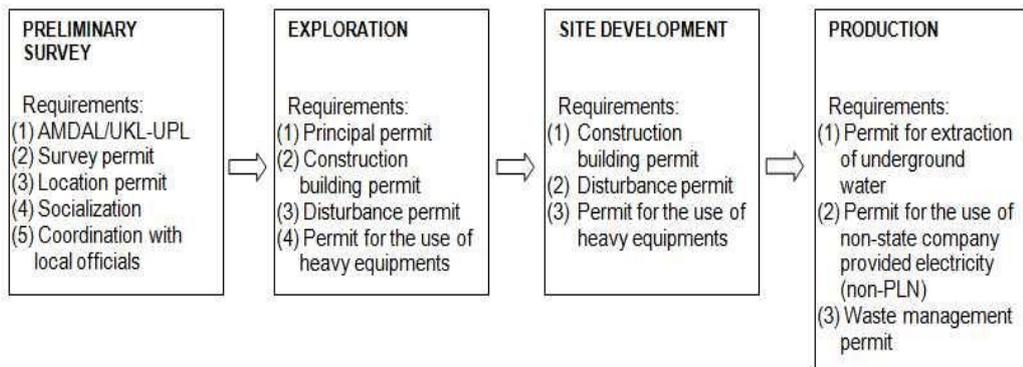
<sup>36</sup> In a report on social mapping of oil and gas producing districts, commissioned by *Satuan Kerja Sementara Kegiatan Hulu Migas* (available at <http://migas.bisbak.com> accessed 10 March 2015), Lapindo Brantas was reported to have had several community development programs in villages where it had or was about to have gas wells. Those include school scholarships, free health service, distributing coconut grinders, and infrastructure construction works. Most of these programs were of such 'hit and run' character because they were mostly aimed as charity and were only carried out when it was about to explore or develop gas fields.

<sup>37</sup> Wunut villagers reportedly complained about how their village is now more frequently flooded than before the company operated. According to a villager, since the company planted its gas pipes on village road sides, there are now more water puddles in and around the village <http://www.jatam.org/suara-jatam/artikel-jatam/217-penghargaan-proper-hijau-tak-layak-buat-lapindo.html> (accessed 20 February 2015).

<sup>38</sup> According to Rudi Rubiandini, by then head of SKK-MIGAS (BP-MIGAS successor agency), it took 69 permit groups, 284 permit processes, more than 5,000 permits/year, and 600,000

Theoretically, legal compliance is expected to give governments (local and national alike) power to regulate and control the presence of capital investment in order to not violate either environmental regulations or social rules. While national government still controls *migas* macro-policies, local governments are not entirely excluded from the process. In fact, they are deeply involved through their authority both in issuing recommendations as part of their requirements for obtaining obligatory permits from government institutions at higher level and issuing permits for on-site operation. Among other requirements for which local governments are responsible involved are environmental assessments (AMDAL or Environmental Impact Assessment/*Analisis mengenai Dampak Lingkungan*; UKL-UPL or Environmental Management Plan-Environmental Monitoring Plan/*Upaya Pengelolaan Lingkungan-Upaya Pemantauan Lingkungan*),<sup>39</sup> location permits, disturbance (noise) permits, and other permits required from the start of preliminary surveys, through exploration and up to the production stage (see Figure 3.5). Besides being heavily interlinked with each other, these permits were supposed to be issued only if they are in accordance with the region's spatial plan (*Rencana Tata Ruang Wilayah/RTRW*).

**Figure 3. 5 Involvement of local governments in different stages of oil/gas development**



(adopted from Ramadhany 31 May 2013)

document pages for oil/gas companies to be able to operate fully. To ease barriers for private sectors, national government has planned to simplify these permits.

<sup>39</sup> AMDAL is the popular acronym for Environmental Impact Assessment/Analysis (*Analisa Mengenai Dampak Lingkungan*), while UKL-UPL stands for *Upaya Pengelolaan Lingkungan Hidup* and *Upaya Pemantauan Lingkungan Hidup*. In principle, both are policy measures for environmental assessment, but the two are directed towards different categories of businesses. Industries/businesses with more than 200 hectares will be obliged to accomplish an AMDAL, while a UKL-UPL is for those under 200 hectares.

Despite involving heavy-handed bureaucracy which allegedly deter companies from investing their capital, those permits should function as mechanisms through which monitoring and supervision can theoretically be enforced. However, such an environmental safeguarding purpose is only one of many aspects of their implementation at a practical level. As noted in a report on the implementation of disturbance (noise) permits (Elliott 2008), the goals of requiring permits can vary from enforcement of legal requirements or raising local revenues to shifting political risks to a third party. In addition, the need for compliance with environmental regulations was continuously referred to in most of the above permits, is frequently limited to the absence of social protests against which cooptation, bribery or other offers of short-term material compensation, and manipulation by the company, are widely practiced, and thus move the formal measure away from being a genuine compliance. This environmental rule can still be bypassed by a 1976 New Order Presidential Instruction that puts more emphasis in securing rents from the mining sector.<sup>40</sup> Economic pressures as well as the high cost for winning office in Indonesian contemporary local elections have made matters worse, leading to a remarkable increase in numbers of issued mining and related permits allegedly without proper examination (Solechah 2012). This certainly aggravated the existing weaknesses in the day-to-day monitoring of mining's environmental impact (McMahon et al. 2000). It turned out that the broken promise of those permits' normative goals was also the case in the Lapindo mudflow.

The broken promise originated from the issue of a location permit for exploration drilling of the Banjarpanji well (see Map 3.1) which violated the district spatial planning regulation. Having been issued by BAPPEDA (District Body for Planning and Development) as a translation of Local Regulation No 16/2003, no specified mining was mentioned in the spatial planning in Porong and Tanggulangin sub-districts as these were only designated for non-cluster industrial activities (*aktivitas industri non-kawasan*) (Akbar 2007).<sup>41</sup> As the basic regulation

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<sup>40</sup> Item 11 (ii) in Presidential Instruction (*Inpres*) No 1/1976 stated that "if overlapping of land uses is unavoidable, mining rights must be given priority ...". This *Inpres* was issued in the time when Soeharto's government vigorously pursued economic growth to enhance the President's popularity after gaining power a decade earlier.

<sup>41</sup> Discussion on the district's spatial planning was also raised in the courts in the case of Walhi's appeal. While Walhi argued that it allocated no mining whatsoever in Porong and Tanggulangin, Lapindo's lawyers argued that mining was allocated in a revised version of the district's spatial

to which all permit requests should be referred, this spatial planning regulation was supposed to rule out any possibility for mining operations in the area. However, the location permit was still approved by the district head in April 2005 by arguing that Inpres No 1/1976 allowed him to prioritise mining over any other existing land uses, an argument rejected by BPK, the national National Audit Board, as a legal misinterpretation (BPK 2007).<sup>42</sup> This granting of this permit certainly allowed the company to progress through subsequent stages of gaining approval.

As part of the requirements for subsequent process, the company was obliged to hold a “socialization forum”, a public meeting where information on the mining plan and its risk management was supposed to be disseminated to members of the surrounding communities. BPK’s 2007 audit report suggested that the company held the socialization forum in September that year (BPK 2007). However, instead of giving honest information about the mining plan, the company was reportedly giving out misleading information that prevented the communities from having a thorough awareness of the risks involved. Having previously failed to obtain land acquisition agreements from the villagers, the company was reportedly telling the surrounding communities that the land would be used either for livestock husbandry purposes (interview Harto Wiyono 20 August 2012) or as a warehouse for heavy equipment.<sup>43</sup> This made-up story probably had something to do with easing the task of obtaining a land acquisition agreement by minimizing popular resistance as well as keeping the land value down.<sup>44</sup> The fact that the company finally secured land, owned by the village head’s relatives which was located across the toll road, geographically/ spatially separating it from the main Renokenongo village settlement, meant the concerns

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planning. <http://www.hukumonline.com/berita/baca/hol17631/simpang-siur-tata-ruang-dan-wilayah-sidoarjo> (accessed 1 June 2014)

<sup>42</sup> BPK argued that the above rule on mining priority is only applicable until the exploitation stage, not the exploration stage.

<sup>43</sup> The company name and representatives were allegedly hidden during the land acquisition process. It was village officials who did the acquisition process for the company. <http://gebraklapindo.wordpress.com/2007/08/06/keganjilan-di-seputar-luapan-lumpur-lapindo/> (accessed 1 June 2014)

<sup>44</sup> Despite the legal requirement that the land acquisition agreements should be secured before granting the location permit as the former is one of the requirements for requesting the latter, evidence of land acquisition payments was dated almost a month later than the location permit grant (Akbar 2007).

about mining escaped public attention, although they did not disappear all together.<sup>45</sup>

Misleading information was similarly found in the required UKL-UPL documents. Generally aimed to facilitate business activities whose directly affected area size is less than 200 hectares, a UKL-UPL is an environmental impact assessment measure with simpler details required than an AMDAL. For oil/gas mining, an AMDAL will only be required when entering the exploitation stage and with certain restrictions.<sup>46</sup> Also differing from the latter, there have been no legal requirements to have certified persons perform the UKL-UPL assessment.<sup>47</sup> Either because of this ease of control or simply out of ignorance, much of the information provided was found to be untrue.<sup>48</sup> A BPK audit report showed that what the company had written about the boundaries of its exploration site in its UKL-UPL was not true in reality. Far from meeting the standardized operating procedures for on-shore drilling,<sup>49</sup> the exploration site was very close to inhabited areas and public infrastructures (BPK 2007). This too was confirmed in my fieldwork observation, showing the distance between company's already-producing gas wells and adjacent residential areas clearly failed to meet those designated standards. Hence, the company was deliberately reducing its assessment of mining risks, so as to avoid further surveillance. The company's strategy of reducing risk assessments, which was also applied to the subsequent mud volcano issue, proved to be undeniably important issue at a later stage but received no attention in its UKL-UPL document. As a result of the flawed process just outlined potential risks in the UKL-UPL were always underestimated or

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<sup>45</sup> <http://korbanlumpur.info/portfolio/renomencil/> (accessed 1 June 2014)

<sup>46</sup> Regulations of the Minister for Environmental Affairs which specifically address this issue from 2001 up to the latest regulation (issued in 2012) have been consistent in ruling out an AMDAL requirement for the exploration stage.

<sup>47</sup> This qualification requirement for those involved in drafting an AMDAL was introduced by Government Regulation No 27/1999 and was strengthened by its subsequent regulations.

<sup>48</sup> After securing the required recommendation from the Sidoarjo Environmental Agency (*Badan Lingkungan Hidup*), Lapindo Brantas' UKL-UPL gained approval from Ditjen Migas in October 2005. Having secured the location permit, disseminated the information and obtained an UKL-UPL, it was just a matter of formality for the company to obtain a disturbance permit (popularly called HO) from local government. The latter was granted in March 2006.

<sup>49</sup> According to the State Agency for National Standardization, oil/gas wells should at least 100 metres away from public infrastructure, human settlement, or any other places where combustible material is commonly found (Akbar 2007)

under-reported. This formed a pattern well before the mudflow started.<sup>50</sup> The failure to thoroughly monitor the company did not only belong to the local government, but to the national government alike. While the failure on the part of the Sidoarjo district government was more related to its scrutinizing of legal requirements, a finger can be pointed at the national government for failing to thoroughly supervise the company's technical capacity. Despite various licences and inspections by representatives of different departments in the Ministry for Energy and Mines (E&M) as well as BP Migas<sup>51</sup>, a variety of drilling issues had been reportedly happening even months before the mud erupted for the first time. As shown by the BPK audit report (2007), reportedly successive failures of drilling personnel in performing operational activities as well as prolonged delays in accomplishing the drilling job, which had raised doubts about the company's required technical capacity.<sup>52</sup> Despite being written in the obligatory daily drilling reports, these failures failed to send alarm signals to relevant authorities. Even when the company failed to submit its obligatory daily report for several days before the eruption, no immediate responses were reportedly taken.<sup>53</sup>

The disaster started when the kick, a geological term which refers to the influx of "formation fluids" into the wellbore, was recorded on 28 May 2006. While the kick is a regular risk in drilling operations, a BPK report (2007) argued that the risk ran at a particularly high level in Banjarpanji-1 due to its drilling operation which stopped installing mandatory drill casing from 3,580 feet to the

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<sup>50</sup> Underestimated and under-reported risk was also the case in a UKL-UPL document submitted by a company wanting a permit for ferruginous sand (*pasir besi*) mining in Bandungharjo village, Jepara district, in research I did there in 2010.

<sup>51</sup> Among these were the *Sertifikat Ijin Layak Operasi* (issued by Ditjen Migas in June 2005); drilling personnel certificates (issued by Ministry E&M's training agency in different stages from April 2001 to February 2006), and rig inspection by BP Migas in March 2006 (Akbar 2007).

<sup>52</sup> The BPK audit report suggested that the drilling project was initially expected to finish within 37 days. Until the site was permanently closed on 4 June 2006, it had taken  $\pm$  85 days to do the job. This prolonged delay was allegedly due to maintenance issues which involved the use of sub-standard equipment as well as "*kanibalisasi*"—the term used by BPK to refer to the practice of using either non-genuine or used spare parts in the machines.

<sup>53</sup> According to BPK report (2007), no daily drilling reports were sent between 23-29 May 2006, the period in which crucial steps should have been taken to mitigate the eruption. Ditjen Migas did not issue any warnings regarding this breakdown of reporting requirements. So far, this BPK audit report provided the most thorough perspective for the first six months of mudflow mitigation attempts (BPK set 31 January 2007 as its cut-off report date). Issues covered in this report were (1) pre-drilling licensing process and the monitoring over contract ownership and its transfer in Brantas Bloc; (2) efforts to kill the mud eruption and other mudflow mitigation attempts and (3) assesment of the mudflow effects to surrounding communities, provincial economy and environment.

last reported drilling depth at 9,297 feet.<sup>54</sup> While the drilling plan and an agreement with Medco Brantas required that the casing should be installed (for all parties having ownership in Brantas Bloc, including Medco Brantas, see Chapter Four), the missing casing substantially increased the risk of kick particularly between 6,500 to 9,000 feet where sandstone formation sits with a high level of permeability and porosity.<sup>55</sup> In addition, the 5,717 feet deep open hole where casing was not installed was also susceptible to swabbing.<sup>56</sup> When the kick was first identified at 4,241 feet, the influx of fluids had already reached 480 barrels, way above 48 times the maximum volume the wellbore could tolerate (10 barrels) (BPK 2007). While kick in the well could be anticipated, the uncontrolled flow of fluids created pressure which later built up causing fractures in weak zones which then erupted to the surface as an underground blowout.

The police conducted a criminal investigation of the causes of the underground blowout including the investigation of Bakrie Group's oil/gas mining executives and drilling operators who were charged with negligence endangering public safety and environmental pollution.<sup>57</sup> As will be explained in more detail in Chapter Five, this underground blowout with its now unstoppable mudflow affected the surrounding communities more and more at a growing rate. Beginning with only 669 hectares declared as the inhabitable area in April 2007 (Perpres 14/2007), the area grew to another 95 hectares in 2008 (Perpres 48/2008), another 45 hectares in 2011 (Perpres 68/2011) and another 415 hectares in 2012 (Perpres 37/2012). For this total of 1,196 hectares affected area, which

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<sup>54</sup> The fitting of casing in the bore hole was neglected allegedly to save production costs. The casing instalment usually requires 2-3 days, each day costing IDR 950 million (USD 313,500) for the rig lease. By skipping putting in casing, Lapindo Brantas could save at least IDR 2.85 billion (UDR 940,000) (<http://migasnet11noor8001.blogspot.com.au/2010/01/lumpur-lapindo-kronologi-dan-kesaksian.html> accessed 5 April 2015).

<sup>55</sup> Permeability and porosity are both terms in earth science. The former refers to "a measure of the ability of a porous material (often a rock or an unconsolidated material) to allow fluids to pass through it", while the latter refers to "a measure of the void (i.e., "empty") spaces in a material, and is a fraction of the volume of voids over the total volume". Source: wikipedia.org (accessed 1 April 2015).

<sup>56</sup> Swabbing is a drilling term referring to a dangerous event where there is an influx of formation fluids into the wellbore following the loss of pressure in the wellbore, usually after the upward movement of pipe.

<sup>57</sup> There were 13 people charged with criminal offences. Five were from Bakrie owned Lapindo Brantas and Energi Mega Persada companies. Eight others were from their contractors. They were charged for violating Article 187 and 188 of the Criminal Law and Article 41 and 42 of Law No 23/1997 on environmental pollution. As will be explained in Chapter Six, court verdicts which freed government as well as Lapindo Brantas from mudflow liability provided a legal reason for Police to stop the investigation in August 2009.

will continue to grow in the future, the mudflow had caused at least IDR 7 trillion (USD 770 million) in compensation value for 22,153 property claims from the affected villagers (see Chapter Four and Seven). This does not yet include the value of affected businesses (identified in Table 3.2) whose compensation was calculated under a separate scheme,<sup>58</sup> public facilities that have never been compensated,<sup>59</sup> and state run companies' assets and lost opportunities which were compensated at very low levels.<sup>60</sup>

From the point of view of economic loss and the later proclaimed inability of the district government to handle the impacts (see Chapter Seven), Lapindo mudflow, as it is later popularly called, certainly meets the requirements for the widely quoted category of national disaster.<sup>61</sup> Despite issuing several Presidential regulations, national government, however, never officially decided Lapindo mudflow as a national disaster. Amidst Indonesia's limited precedents of official declaration of national disasters,<sup>62</sup> the policy not to declare it as a national disaster was the result of conflicting interests that will be discussed in more detail in the following chapters.

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<sup>58</sup> Differing from land and housing compensation, business compensation was settled through the so-called Business to Business scheme. As it only focuses on the compensation struggle of the affected villagers for their land/housing properties, this thesis deliberately leaves out the analysis of this scheme.

<sup>59</sup> These facilities were at least 16.89 hectares in size.

<sup>60</sup> Lapindo Brantas only paid IDR 140 million (USD 15,400) out of IDR 6.4 billion (USD 704,070) agreed value of economic loss incurred by PLN (State run electricity company) in August 2006. In addition to that, PLN also incurred cost another IDR 140 billion (USD 15.4 million) for constructing a new pipeline following the burst pipeline in November 2006 (see more about this in Chapter Four). Apart from PLN, Jasa Marga (the state run toll road company) also lost IDR 10 billion (USD 1.1 million) after losing its toll road following the burst pipeline. These state run companies initially planned to file a lawsuit for compensation, but later dropped the idea. The state-run company officials no longer believed that taking legal action would be a viable option after considering two things. Namely the parliament's conclusion that the mudflow was a natural disaster (See Chapter Seven) and the fact that Bakrie Group has a strong influence in administration (quoted from Davidson 2015, footnote 16 in his Chapter Four).

<sup>61</sup> While article 1( c) Law No 24/2007 mentions about "decision on status and level of national and regional disasters", specific parameters to define national, regional, and local disasters are still a matter of debate. According to widely quoted draft of regulation about this matter, local disaster would be those with affected area size less than 10 kilometer square, economic loss less than IDR 1 billion, and affect less than 100 people. Disaster at provincial level would be those with affected people less than 500, value loss less than IDR 1 trillion, and affects more than 1 districts/regencies. Meanwhile, the national disaster would be those beyond the provincial category. (<http://krjogja.com/liputan-khusus/opini/2651/sinabung-bukan-bencana-nasional.kr> accessed 3 April 2015).

<sup>62</sup> To my knowledge, there were only two disasters decided as national disasters. One was during New Order (Flores tsunami in 1992) and the other was for Aceh tsunami in 2004 under the administration of President Yudhoyono.

## Summary

This chapter argues that the Lapindo mudflow eruption was not a natural phenomenon. Instead, it is a deeply social phenomenon whose occurrence was attributed to pre-existing conditions. These conditions can be traced back not only in a limited geographical sense of the actual drilling site but also within in the larger policy framework around oil/gas regulation and decentralization. The four sections elaborated above have shown that the mudflow-causing factors stretched from Lapindo Brantas' drilling operation failures in Banjarpanji to those comfortably sitting at the office of the Ministry for Energy and Minerals in Jakarta.

There can be no doubt that drilling operators were allegedly at fault for not using appropriate techniques and equipment (more about this will be discussed in Chapter Six). The Lapindo Brantas company, which owned a participating interest as well as acting as the block operator, was certainly not spared from the accusation. It not only blindfoldedly neglected to comply with standards of drilling procedures, but deliberately by-passed necessary steps required for proper mining operations.

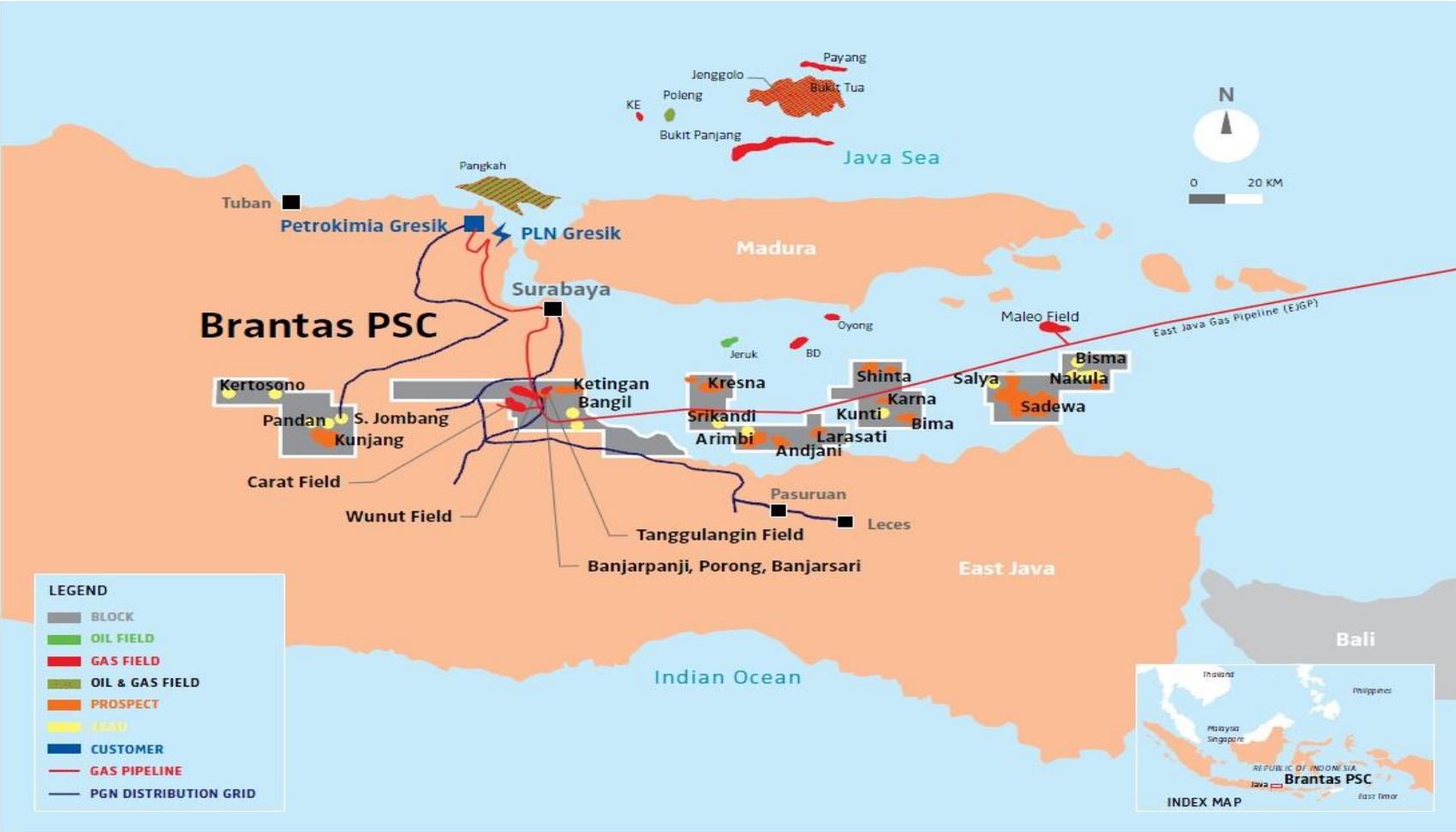
The Sidoarjo local government also had its share of blame for the eruption. While it is frequently quoted as a district with best practices in simplifying licensing procedures for business activities, Sidoarjo's administration reform turned out to prefer capital interests to precautionary principles and hence at the expense of local communities. As elaborated above, this reform was not so much because of the will to be a better community servant but was also based on the interest of accumulating local revenue. This criterion been widely referred to as one criteria used to assess the level of district development.

And lastly, the national government which had been heavily involved in liberalization of the oil and gas industry should not be left out from the picture as well. The liberalization it promoted left both operational as well as conceptual gaps on the ground between various related parties. As shown in the sections above, an extensive development of an oil and gas industry which was not equipped with adequate resources and clear authorities had only made increasing risks become more apparent. This massive rapid development, which was not matched with adequate knowledge and information on the part of local

## Deregulation & the origins of the mudflow eruption

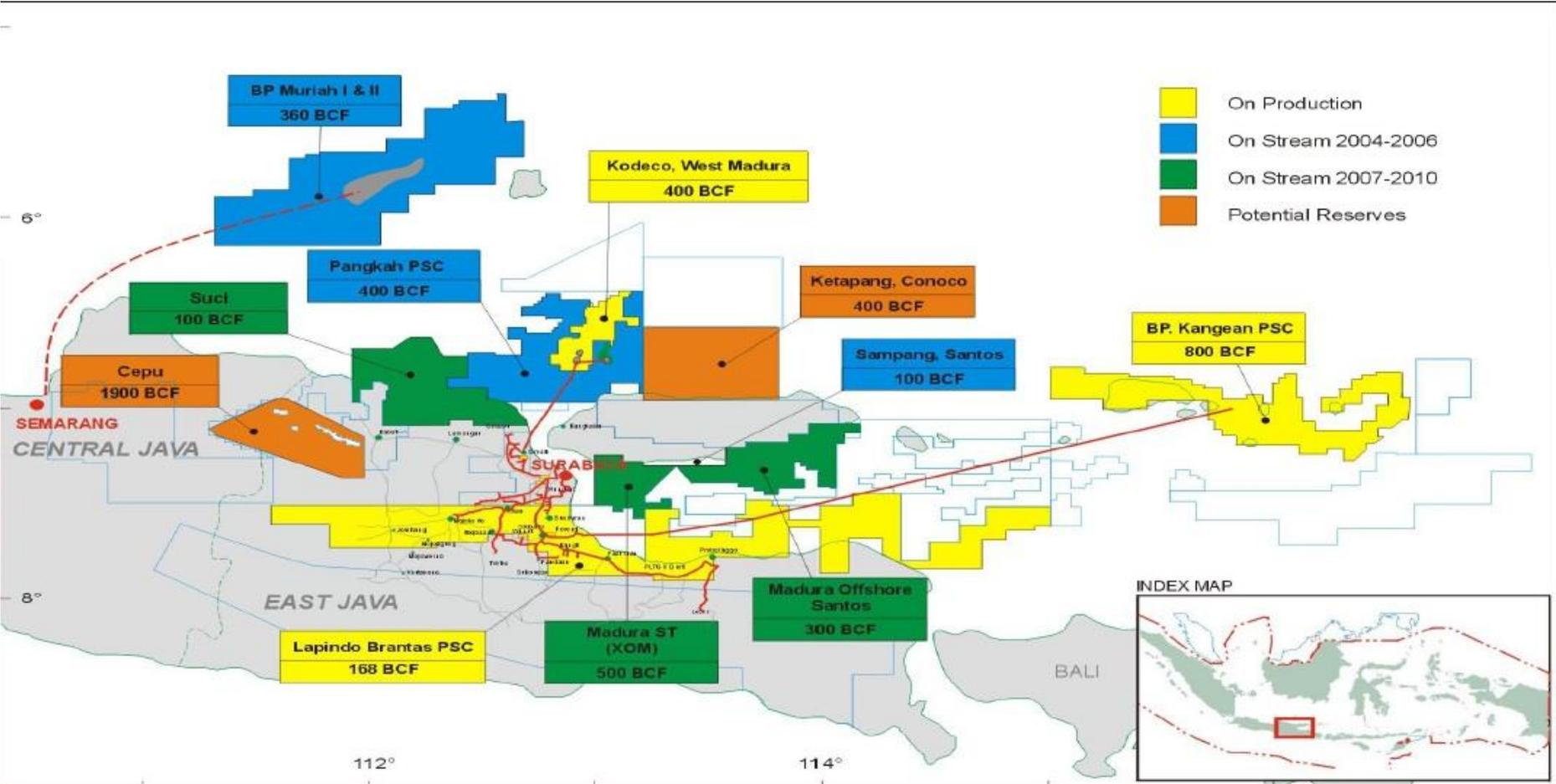
government and local communities, not only left these parties with stuttering responses to liberalisation but also brought them closer to taking risks which they were ill equipped to deal with.

Map 3. 1 Brantas bloc map



(Source: EMP Annual Report 2006, p. 19)

Map 3. 2 Estimates of blocs' gas reserves in East Java



(Source: EMP Presentation, [http://www.energi-mp.com/presentations\\_files/Latest%20EMP%20Presentation%2023%20Feb-11%20Mar%2005.pdf](http://www.energi-mp.com/presentations_files/Latest%20EMP%20Presentation%2023%20Feb-11%20Mar%2005.pdf), accessed 20 February 2015)

Legend:  
PSC = Production Sharing Contract  
BCF = Billion cubic feet (of natural gas)

**Figure 3. 6 Gas field within Wunut village**



The notice says “BP Migas-Lapindo Brantas. Location of gas well Wunut 18”. Being close to rice fields, villagers use this open space as an ideal place to dry their rice (Picture source: author)

**Figure 3. 7 Village gate construction project in Kedungboto village as a Lapindo Brantas community development project**



(Picture source: author)

**Figure 3. 8 Irrigation canal construction project in Kedungboto village**



(Picture source: author)

## **Saving Bakrie: Corporate power in the Lapindo mudflow disaster**

### 4.1 Mining companies and environmental governance in Indonesia

The academic interest in relations between human rights and business is a recent phenomenon, evolved only after the 1980s (Ballard 2001; Ruggie 2007). Social disruptions which have been increasingly associated with industrial activities, giving rise to the environmental justice movement (as described in Chapter Two), were among the factors which pushed the emergence of this concern. Differing from the regulatory approach which had failed to put into practice at global level in the previous decades, voluntary and self-regulatory approaches to this emerging concern were generally welcomed by international communities (Ruggie 2007).<sup>1</sup> There have been several variants of these latter approaches through which corporates are encouraged to adapt voluntarily to these emerging concerns, among them being the UN Global Compact<sup>2</sup>, multilateral agency guidelines for corporate governance<sup>3</sup>, and various stakeholder initiatives (for a more detailed list of such initiatives, see Ballard 2001).

Disruptive mining activities have been particularly prominent in this human rights discourse. Over the last 40 years, mining businesses have been involved in many high profile cases whose environmental and social impacts have been rated as among the most disruptive (Jenkins and Yakovleva 2006). According to

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<sup>1</sup> Ruggie made a comparison between the demand for a “New International Economic Order” in the 1970s and the recent concerns about business and human rights at international level. The former, primarily articulated by developing countries with support from the Soviet Union, mostly demanded a structure of regulatory bodies with authoritative powers, while the latter is more voluntary and self-regulatory.

<sup>2</sup> The UN Global Compact, launched by UN Secretary General Kofi Annan in 1999, comprises 10 principles for companies to be sustainable and socially responsible. Those principles have four major themes: human rights, labour, environment, and anti-corruption. In Indonesia, this initiative was launched in 2006 and currently has 117 corporate signatories dominated by academic institutions and NGOs, with only 2 signatories related to mining; Kaltim Prima Coal (coal mining) and Trans Javagas Pipeline (oil equipment) ([https://www.unglobalcompact.org/NetworksAroundTheWorld/local\\_network\\_sheet/ID.html](https://www.unglobalcompact.org/NetworksAroundTheWorld/local_network_sheet/ID.html) accessed 30 January 2015).

<sup>3</sup> These are, among others, OECD guidelines for multinational corporations and principles of corporate governance, and the World Bank policy on indigenous people and a draft policy on involuntary resettlement.

Dashwood (2012), this stronger pressure against mining corporates was made possible by several factors. Internationally, during the time when environmental awareness was on the rise, the involvement of mining companies in environmental degradations sparked many international NGOs to launch negative campaigns which in turn have pushed up international standards for more stringent controls over their operations.<sup>4</sup> This growing scrutiny of the corporations at an international level was further reinforced by domestic factors, both in the countries of origin of those corporations and the host countries where they operate, as well as their location-bound production character which made them prone to local pressures.<sup>5</sup> Under this emerging global discourse that now links development achievements with respect for human rights and sustainability principles, this creates pressure for mining businesses to further disclose their mining practices in order to maintain their “social license to operate”.<sup>6</sup>

This global trend also applies to Indonesia, which was once considered as among the countries with most visible human rights and security problems (Handelsman 2002). With its highly valuable mining deposits<sup>7</sup> and yet considerable space for regulatory reforms following post-Soeharto political liberalization, it is fair to say that “Indonesia represents a crucial test case for the global mining industry’s engagement with concerns over human rights issues” (Ballard 2001, p. 15). This is even more true considering the fact that the country

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<sup>4</sup> Oxfam and Friends of the Earth are among those which deploy a great deal of resources to actively campaign against destructive mining (see <https://www.oxfam.org.au/explore/mining/> and <http://www.foei.org/what-we-do/resisting-mining-oil-gas/> accessed 30 January 2015). The rising standards took place through the adoption of several international treaties which set limitations on mining operations as well as more restrictive conditions of financing by multilateral financial institutions.

<sup>5</sup> The increasing importance of values for the voting public and stricter regulatory reforms introduced in many developed countries were among domestic factors that heavily influenced mining corporations in their home countries by 1990s. Meanwhile, post-Cold War political liberalization in many developing countries where they operate also forced mining companies to “reform” their operations. The fact that they have to have actual operations in the areas close to mining deposits, and thus lacking the footloose character common to other multinational corporations, made these companies prone to local pressures and thus added further limitations to the way they operate.

<sup>6</sup> Evolved from corporate social responsibility studies in mining sectors, the term “social license to operate” suggests that “*mining companies need not only government permission [or permits] but also ‘social permission’ to conduct their business.*” Social permission here is not referred to “*a formal agreement or document but to the real or current credibility, reliability, and acceptance of mining companies and projects*” (these are quoted from [www.miningfacts.org/communities/what-is-the-social-license-to-operate/](http://www.miningfacts.org/communities/what-is-the-social-license-to-operate/) accessed 30 January 2015). The term is now widely used in other non-mining sectors to emphasize their corporate social responsibility.

<sup>7</sup> Indonesia is listed among the world’s top ten producers of gold and natural gas and the top five producers of nickel and copper, while its tin output is ranked second after China (Kuo, 2010).

has some of the world's leading mining companies which have been under public scrutiny for their involvement in high profile cases such as Grasberg mining in West Papua (Freeport) and the Buyat case in North Sulawesi (Newmont).<sup>8</sup> On the other hand, despite also creating worsening environmental conditions through uncontrolled mining licence issuance by district and provincial governments (Walhi, n.d.), the Indonesian state has been known as a country actively engaged in promoting business ethics.<sup>9</sup>

The fact that mining has been playing an important role in the country's development agenda has attracted a number of research agendas. Some of these have been focusing on the power of mining companies in directing the country's development agenda as well as their damaging effects on local environments and livelihoods, a focus shared by research which was carried out pre-1998 political reform (Leith 2003; Robinson 1986), driven by advocacy goals (Walhi, n.d.) or commissioned to assess the enforcement of human rights principles (Ballard 2001). While structural factors within which the mining companies operating at the time were highlighted, the rising agency of local communities facilitated by both post-Soeharto political liberalization and the emerging global discourse on business ethics was missing in this research. However, in more contemporary political contexts, recent research gave more emphasis to "conversations" between the companies and local communities through their focus on an ethical relationship (Welker 2009; 2014), an implementation of the company's community development program (Chawa 2014), and a community relations review with deeper involvement of community opinion (Haymon 2010).

Through the way this latter group of researchers put the relations between mining companies and local communities into a conversational framework (linked

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<sup>8</sup> Grasberg mining was under attacks by many environmental and human rights advocacy groups for its environmental impacts (linked to its improper tailing disposals) as well as violence (which involved more complicated issues such as Indonesian military interests in the mining and the Free Papua movement). Although its issue was specifically constrained to similarly improper tailing disposal, Buyat gained a high profile for the conviction of Richard Ness, Newmont's Indonesian director, a rare case even by international standards.

<sup>9</sup> In 1995, the Indonesian Ministry for Environmental Affairs introduced PROPER (stands for Program for Pollution Control Evaluation and Rating (original) known as the first major public disclosure program in the developing world (Garcia et al. 2007). This program has been continuously carried out and considered as an effective program in encouraging businesses to be compliant with environmental standards through its five colour scale to grade firms' environmental performance (gold, green and blue as showing compliance, red and black non-compliance). In addition, there is also Law No 40/2007 which has made corporate social responsibility mandatory.

intimately to the exercise of power in this relationship), Welker, Chawa and Haymon underlined the agency of the involved actors in negotiating the disputed terms. Seeing mining-related issues in the field and from various actors, this perspective provides an answer to the research challenge of how best to understand how capitalism plays out on the ground as it “tease(s) apart the(se) alliances and attend(s) to the different political-moral frameworks that animate various actors—in defense of as well as in opposition of capital” (brackets are mine, Welker 2009, p. 168). Despite their distinct perspective, these researches focus only on a single foreign-owned mining company (Newmont). Amidst the growing relevance of national-owned/domestic mining companies in the sector, the fact that much of the existing researches have been focusing on the foreign-owned companies replicate what Ichihara called “selective criticism” found in Indonesian NGOs’ campaigns against mining (Ichihara 2010). In this selective criticism, scrutiny over domestic companies was almost absent leaving an impression that problems only come from foreign corporations. In fact, domestic owned companies were noted as equally contributing to environmental degradations (Jatam 2010).

It is to fill this gap that this chapter will contribute to the existing debate on mining companies and community relations. Focusing on Lapindo gas and oil mining in Sidoarjo, it aims to highlight the role of a mining company majority owned by Indonesian nationals in building relations with local communities, which became particularly apparent only after the mudflow. While it is suggested that the disaster context in which Lapindo-community relations were developed differed from those in which foreign mining companies develop their community relations, this chapter argues that a disaster context will reveal even more clearly how elements of power in company-community relations are being exercised and contested. Differing from the cases of foreign mining companies which are particularly concerned with how corporate governance could be reflected from these relations, the chapter argues that it was not only corporate image that matters in this Lapindo case. It further argues that the involvement of the company’s major shareholder’s political interest in the 2014 presidential election was also at stake in the wake of the disaster, making the discussion about exercise and contestation of power even more important. Following the steps of earlier researchers who see company-community relations in a conversational

framework, part of this chapter will report those relations on the ground where they were being developed, negotiated, and practiced.

To achieve these aims, the chapter will be divided into three main sections. As a background to the discussion about corporate power, the first section will discuss the rise of the Bakrie Group and its oligarchic power in contemporary Indonesia. The second section will discuss the settlement of disaster compensation claims through non-judicial mechanisms that facilitated the corporate power being exercised in the matter. Finally, occupying the major portion of the chapter, the third section will elaborate the corporate strategies not only to escape from public pressure but also to revive Aburizal Bakrie's chances in the 2014 presidential election.

## 4.2 Bakrie and oligarchy

While important highlights were given by several studies on the intertwining linkage between business and political interests in post-1998 Indonesia (Davidson 2015; Fukuoka 2012), it is Robison and Hadiz (2004) which particularly built a strong research focus on the emergence, disentanglement, and reorganization of politico-business power across the changes in Indonesian political regimes. Using the term oligarchy, Robison and Hadiz (2004) showed how politico-business families with their deep ties with New Order patrimonial state not only have survived the Asian crisis that brought down Soeharto.<sup>10</sup> These families have created a particular character in the nation's political economy by managing to contain the pressures for neo-liberal reform as well as for genuine democratic changes widely expected to emerge following the crisis. Among these families is the Bakrie clan.

Bakrie Group started in 1942 with the establishment of "Bakrie & Brothers General Merchants and Commission Agents" by Achmad Bakrie and his brother, Abuyamin. Having nurtured his entrepreneurial skills in Menggala, in Lampung, Achmad Bakrie began his business of monopolizing the local cooking oil trade

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<sup>10</sup> Robison and Hadiz's understanding of oligarchy was adopted from Paul Johnson who defined it as "any system of government in which virtually all political power is held by a very small number of wealthy ... people who shape public policy primarily to benefit themselves financially through direct subsidies to their agricultural estates or business firms, lucrative government contracts, and protectionist measures aimed at damaging their economic competitors – while displaying little or no concern for the broader interests of the rest of the citizenry ..." (quoted from Robison and Hadiz 2004, p. 16).

immediately after the Japanese occupation began (Pohan 1992). Along with other agricultural products traded from surrounding Menggala, these two brothers soon emerged with a few other prominent indigenous businessmen amidst the domination of their Chinese-Indonesian counterparts.

It was this indigenous identity that helped them to maximize their position in business during the turbulent time of post-independence conflict between the Indonesian government and private enterprises (mostly Dutch owned), predominantly reflected in the *Benteng* (Fortress) policy. This policy granted indigenous businessmen government import licences to balance foreign company dominance in the national economy (Dick et al. 2002; Wie 2010). Being granted import licenses for various products from textiles to bicycles, the young Bakrie Group expanded its business spectrum beyond agricultural products and national borders. By the time the policy ended in 1957, when foreign-owned companies were seized by the Indonesian state, the benefits they enjoyed had been translated into the strengthening of their economic position, particularly through acquisition of previously foreign-owned companies specialized in producing strategic items for the building of the new country, such as wires and pipes (*Tempo* 27 February 1988).

That acquisition and their indigenous identity proved to be a profitable combination, particularly during the 1980s, after the dictatorial New Order issued *Keppres* (Presidential Decree) No 10/1980 which aimed to oversee overspending and corruption in government goods purchases and procurement as a result of the oil boom. The so-called *Tim (Team) Keppres 10* was authorized to implement the Decree, which repeated similar nationalist sentiments and protectionist policies as had been in the *Benteng* policy by granting government projects to many indigenous entrepreneurs. Known to be close to the powerful Ginanjar,<sup>11</sup> sitting as

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<sup>11</sup>Ginanjar Kartasasmita started his career as an Indonesian Air Force cadet and served in the Air Force for several years before being promoted in 1968 to the State Secretariat, which Pangaribuan (1995) mentioned as being the strongest institution under New Order. Ginanjar quickly climbed this career ladder. After serving “under the radar” for different positions in different government teams, including as deputy chairman of Tim Keppres 10/1980, Ginanjar was finally appointed as a cabinet minister in 1983. Until 1998 when Soeharto was forced to step down, Ginanjar occupied several key positions at ministerial level such as minister for mining and energy and BAPPENAS chairman (source: [http://tempo.co.id/ang/pro/1996/ginanjar\\_kartasasmita.htm](http://tempo.co.id/ang/pro/1996/ginanjar_kartasasmita.htm) accessed 3 February 2015). Since then he has served as deputy chairman of the People Consultative Assembly (MPR) (1999-2004) and chairman of the Regional Representative Assembly (DPD) (2004-1009). The last public position he held was as a member of advisory board to the President (2010-2014).

an influential member along with the similarly politically influential Sudarmono<sup>12</sup> who was then the task force chairman, the young Aburizal Bakrie was among those heavily involved in pipe related Pertamina projects (Pangaribuan 1995). During the operation of this *Keppres* task force, the Bakrie Group managed to add two more important company acquisitions: the Uniroyal owned rubber plantation in North Sumatra and the leading James Hardie building material company (*Tempo* 27 February 1988).

The company looked more aggressive in its expansion and diversification when Aburizal inherited full control of the business group in 1988. Within only 4 years, the number of his subsidiary companies grew from 16 to 44, in various sectors ranging from agribusiness, finance, electronics, to mining (*Tempo* 15 February 1992). Simultaneously with this expansionist business image, Aburizal also displayed a similar image in the eyes of the public through his ownership of various sporting clubs and his sponsorships, with billions of rupiah going into the establishment of the *Pelita Jaya* sports empire (*Tempo* 7 April 1990; *Tempo* 12 April 1986). In addition, he also managed to win enough of his fellow indigenous entrepreneurs' support to assume the chairmanship of KADIN (National Chamber for Trade and Commerce) in 1994, a position which he continued to hold until 2004. Ironically, it was the expansionist nature that allegedly put the Bakrie Group into financial difficulty in the first half of the 1990s (*Tempo* 21 Mei 1994), and then plunge it into deeper crisis in 1998.

Similarly to what happened to many other Indonesian entrepreneurs, the Asian Financial Crisis and subsequent government policies to maintain economic stability forced Aburizal to watch helplessly as his corporate debt skyrocketed and his financial liquidity declined (*The Economist* 31 January 1998). But, surprisingly, only few years later, this business group managed to get back on its feet albeit losing most of its corporate assets. Some attributed this amazing success to its clever divestment strategies (Brown 2006; *The Economist* 30 January 1999), while others attributed it more to Aburizal's close connections

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<sup>12</sup> Sudarmono was in Soeharto's inner circle from when the latter gained power in 1966. Since then he had been appointed as Minister for State Secretariat until 1988 when he was 'promoted' to be Soeharto's Vice President, as a reward for his success in securing the Golkar vote in the 1987 election (where it gained over 70% of votes and won Aceh for the first time). Source: [http://kepuustakaan-presiden.pnri.go.id/vice\\_president/?box=detail&id=6&from\\_box=list&hlm=1&search\\_ruas=&search\\_keyword=&activation\\_status=&presiden\\_id=2&presiden=suharto](http://kepuustakaan-presiden.pnri.go.id/vice_president/?box=detail&id=6&from_box=list&hlm=1&search_ruas=&search_keyword=&activation_status=&presiden_id=2&presiden=suharto) (accessed 3 february 2015)

with the country's top decision-makers (Akbar 2007; *Perspektif Online* 6 December 2012).<sup>13</sup> Looking at how the Group became involved in some of Indonesia's largest mining company acquisitions, its success is probably a combination of luck, political connections, and Aburizal's business skills.

In November 2001 Bumi Resources (at the time predominantly owned by Bakrie Group)<sup>14</sup> bought BHP Billiton's previously owned Arutmin. At the time of acquisition, Arutmin was the country's third largest coal producer (Embassy of the United States of America 2000).<sup>15</sup> BHP was under pressure to sell Arutmin because it was lagging behind the divestment schedule required by its Coal Contract of Work (*Perjanjian Karya Pengusahaan Pertambangan Batubara/ PKP2B*).<sup>16</sup> Only few years since the financial crisis, it was not a good time to sell because many Indonesian companies were still short of liquid assets. Only Bumi Resources came forward with an offer of USD 148 million in cash for an 80 percent stake in the company, which to many observers was a surprising move because earlier that year Aburizal had just restructured his USD 1.1 billion debt and was still legally prohibited from making any new acquisitions.<sup>17</sup>

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<sup>13</sup> Akbar wrote that Aburizal was saved by his friends at the Dewan Pemantapan Ketahanan Ekonomi dan Keuangan (Council for Maintaining Economic and Financial Stability, DPKEK) of which he was Secretary. Many of the members were his friends at ICMI (Association of Indonesian Moslem Intellectuals/*Ikatan Cendekiawan Muslim Indonesia*), where he was a member of its expert panel between 2000-2005, and were his old friends (Akbar 2007).

<sup>14</sup> In 1997, Bakrie Capital Indonesia bought 58.1% of the shares from AJB Bumiputera Insurance Company.

<sup>15</sup> Available at <http://photos.state.gov/libraries/indonesia/39181/pdfs2/coal2000report.pdf> (accessed 20 March 2015).

<sup>16</sup> Some call it a Coal Contract of Work (CCoW) while others call it a Coal Contract of Cooperation (Embassy of US in Jakarta 2000). CCOW was part of Soeharto's economic policy reform to attract foreign companies' investment after he was appointed as President in 1967. While similar contracts of work successfully attracted Freeport to mine gold and chopper in Papua, Contract of Work in coal mining was never very attractive for foreign companies until the late 1970s when the oil crisis suddenly made coal a cheaper alternative energy (Lucarelli 2010). Part of the contract was the obligation to gradually increase the participation of local partners (Indonesian owned) starting five years after the operation, to give the latter control of at least 51 percent of the shares in ten years after the production. Arutmin was the first to sign a contract in 1981 which later termed as first generation of Contract of Work (and started production in 1989). To date there have been three generations of contracts. See Lucarelli (2010) for more on the development of these contracts.

<sup>17</sup> [http://www.atimes.com/atimes/Southeast\\_Asia/HC25Ae01.html](http://www.atimes.com/atimes/Southeast_Asia/HC25Ae01.html) (accessed 20 March 2015). For purchasing this share, he borrowed the money from Mandiri Bank, a local pension fund Jamsostek, and Credit Suisse. Quoting a source involved in the negotiations, Aburizal was described as someone whose "right hand was claiming to be totally insolvent, while the left hand was paying cash for a huge asset" (*Australian Financial Review* 30 January 2009). Not enough to have a majority ownership, few months later, Aburizal bought back the remaining 20 percent stakes that his creditors seized from him for his debts. It was said that the payment for this re-purchasing was only made two years later when the coal prices boomed (*Australia Financial Review* 30 January 2009).

In 2003, Bakrie Group took advantage of another murky divestment issue faced by the country's biggest coal producer, Kaltim Prima Coal (KPC) which was jointly owned by BP<sup>18</sup> and Rio Tinto. The divestment schedule, supposed to start in 1996, was lagging behind,<sup>19</sup> and KPC had become increasingly unpopular with both national and provincial/local governments, especially when the latter became more powerful after the introduction of regional autonomy.<sup>20</sup> The conflict became nastier when the East Kalimantan provincial government filed a lawsuit against KPC's suspended divestment in July 2001. In the court's interim ruling the provincial government was authorized to seize BP's assets including the huge Tangguh gas field.<sup>21</sup> With its much bigger interest at stake, BP was under pressure to meet KPC divestment obligation.<sup>22</sup> It was during this conflict that Bumi Resources approached BP. While it was unexpected that this stakeholder could secure the divestment until the lawsuit was resolved, especially as its offer was 40 percent cheaper than what KPC received a year earlier from the government,<sup>23</sup> Bakrie Group successfully persuaded BP and Rio Tinto to sell their stakes to Bumi Resources with an offer which still raises questions.<sup>24</sup> While KPC's

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<sup>18</sup> Formerly British Petroleum, with its brand name change aimed to reflect company strategy to concentrate on the wider energy business by moving away from (only) oil.

<sup>19</sup> KPC signed CCoW agreement on 8 April 1982, and commenced production in 1991. Similar to the Arutmin case, the 1997 financial crisis had destroyed the financial capacity of many local companies.

<sup>20</sup> Knowing that national government and local companies were short of financial resources, in 2000 KPC offered the East Kalimantan provincial government a 30 percent stake. While initially agreeing to a 30 percent stake in March 2000, the provincial government increased its divestment demand to 51 percent a month later when autonomy law was debated in the national parliament. But this demand was refused because Rio Tinto did not want any single investor to acquire 51 percent in order to keep management control. The conflict behind this divestment can be found at <http://www.minesandcommunities.org//article.php?a=7468&highlight=Kaltim.Prima.Coal> (accessed 20 March 2015).

<sup>21</sup> Tangguh gas field was estimated to worth USD 9 billion, far more profitable than KPC.

<sup>22</sup> Apart from putting its Tangguh asset at stake, another reason for BP to sell KPC was its own company policy at the time to sell all of its mineral mining assets.

<sup>23</sup> A year earlier, KPC and national government agreed to settle on USD 822 million for its 51 percent shares ([http://www.atimes.com/atimes/Southeast\\_Asia/EG24Ae01.html](http://www.atimes.com/atimes/Southeast_Asia/EG24Ae01.html) accessed 21 March 2015). Bumi Resources bought KPC at USD 500 million for the whole ownership. The money to purchase this mostly came from four foreign financial institutions (Singapore's United Overseas Bank/UOB, Singapura, Credit Suisse First Boston Swiss, Macquarie Bank of Australia, and Leighton Financial International of Germany) (<http://tempo.co.id/hg/ekbis/2003/10/13/brk.20031013-53.id.html> accessed 20 March 2015)

<sup>24</sup> What made BP and Rio Tinto to agree with Bumi Resources's offer was entirely unclear, even to the government. ([http://www.atimes.com/atimes/Southeast\\_Asia/EG24Ae01.html](http://www.atimes.com/atimes/Southeast_Asia/EG24Ae01.html) accessed 21 March 2015) .

divestment was still an issue after this acquisition, Bumi Resources managed to by-pass this regulation to retain control over this coal mine.<sup>25</sup>

With acquisition of both Arutmin and KPC, Aburizal practically became the king of coal. Between 2002 and 2009, average coal production of both companies was 27 percent of national production (Lucarelli 2010). Rising global commodity prices, even months after the KPC acquisition, sharply improved the company's financial position. The rise of company revenue, a combination of increasing coal exports and increasing share price, helped to leverage other companies owned by the Group and the Group's profile, which made it easier for them to access financial resources from banks and global capital funds to grow even bigger.

This was shown when Bakrie Group scored another win with BP in Kangean Bloc (natural gas) in 2004, through its affiliate EMP (more details about this company are given in Chapter Three). While initially retained ownership in developing the bloc, BP slowly lost interest after long awaited government approval to its contract extension kept being suspended.<sup>26</sup> BP finally sold its entire Kangean share to EMP, and without government approval. Moreover, the Bloc was sold at a discounted price (USD 170 million). After securing contract extension approval, Bakrie sold 50 percent of its Kangean ownership more than twice the price it paid for the whole interest only three years earlier (*Australian Financial Review* 30 January 2009).<sup>27</sup>

During all of the above important acquisitions, Aburizal also started to expand his company investment into agencies that generate public opinion. An earlier step was taken in 2001 with the establishment of the Freedom Institute, a think-tank that brings together many of the country's brightest young minds in

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<sup>25</sup> While East Kalimantan Governor kept resisting KPC's sale to Bumi Resources for the reason that local government lost a chance to own the mine, he lost anyway when the newly elected Bupati of East Kutai entered an agreement with Bumi Resources in October 2003 to purchase 18.6 percent of KPC's shares at USD 104 million (Prasetyawan 2005). This divestment later raised questions when Mahyudin, the new bupati, gave back 15 percent of those shares to Bakrie, as a 'reward' for getting the remaining shares without any payment.

<sup>26</sup> BP had operated Kangean since 1980. Before developing Kangean bloc, BP was waiting government approval for the extension of its contract which at that time was only seven years away (2010). In its official statement, BP said that the selling of its interest in Kangean was because it wanted to focus on developing the Tangguh field (<http://www.thejakartapost.com/news/2004/07/03/bp-sell-gas-blocks-petronas-and-emp.html> accessed 20 March 2015).

<sup>27</sup> Quoting a long time observer of Indonesian business, the magazine commented on the way Bakrie Group did its business in the following "Long-term, high-risk exploration is just not the Bakrie way of doing things" (*Australian Financial Review* 30 January 2009).

social and political affairs.<sup>28</sup> A couple of years later, with the start of the coal boom in 2003, through this institute, his company introduced Nobel-like Achmad Bakrie awards to leading Indonesian thinkers and researchers with hundreds of millions of rupiah of prizes given annually since then.<sup>29</sup> Not only in the circle of intellectuals, in 2004 this investment also extended into the establishment of an integrated news business with its more direct effects on the general public. This new company, PT Viva Media, incorporates online media and the already owned ANTV television channel with another channel (Lativi, currently known as TVOne) bought several years later. This media ownership gives control over news content (Tapsell 2010; 2012) and later proved useful for supporting his political projects, despite the continued loss the company suffers (*Perspektif Online* 6 December 2012). Supported by his still enlarging business empire (see Figure 4.1), this leverage helped the Group whose shares were among the most sought-after in the stock exchange between 2006 and 2007.

At this good business time, Aburizal eagerly participated in 2004 presidential convention of Golkar, the party with which his ties had been long established.<sup>30</sup> Upon his existing business connections at KADIN which he had headed since 1994 and money politics, he managed to secure significant political support during the pre-convention meetings and the convention itself.<sup>31</sup> Despite

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<sup>28</sup> Among these young-bright thinkers were Ulil Absar Abdalla, Lutfi Assyauckani, Nirwan Arsuka, Nirwan Dewanto whose writings in various fields have been published in the national press. Rizal Mallarangeng has been the institute director since 2001, when he was known as President Megawati's personal advisor and being very close to the President's husband. In its special edition on Aburizal Bakrie (December 2013), *Tempo* magazine reported that the Freedom Institute was among the masterminds behind Aburizal Bakrie's political moves.

<sup>29</sup> Initially given only in two categories (literature and social affairs), this award now covers four categories including science and young researcher. Following the Lapindo mudflow, several leading thinkers decided to return the awards they already received or reject the awards they are nominated for.

<sup>30</sup> Tomsa (2008) mentioned that Aburizal Bakrie was among the most ambitious candidates along with Surya Paloh and Jusuf Kalla. Like many other indigenous entrepreneurs during the New Order, Aburizal Bakrie's long ties with Golkar facilitated his business growth (Robison and Hadiz 2004).

<sup>31</sup> Held in October 2003 the pre-convention was the stage for provincial level delegates to nominate the 5 best candidates. The 5 best candidates were those who had won the most support from most provinces. Meanwhile, the convention was the final stage to elect a single party candidate. At the pre-convention, Aburizal Bakrie topped the list with 28 provinces' support (*Tempo* 26 October 2003). At the convention, held in April 2004, in the first round he won 118 of 547 votes, ranked third after Akbar Tanjung and Wiranto. In the second round, where only the best 2 candidates contested, Wiranto won the convention (*Suara Merdeka* 21 April 2004; available at <http://www.suaramerdeka.com/harian/0404/21/nas1.htm> accessed 15 March 2015). During these convention processes, distribution of money to win support from Golkar boards at various levels was widely reported (Tomsa 2008).

significant political support, he failed to win the leadership nomination (*Tempo Interaktif* 17 April 2004).

Having failed to secure the party's candidature himself, instead of loyally lining up behind Wiranto as Golkar's presidential candidate, Aburizal was among the earliest supporters of Susilo Bambang Yudhoyono (SBY) in 2004 presidential election. *Tempo* (23 November 2008), the biggest national weekly magazine in circulation, reported that Aburizal was the biggest business donor to SBY-Kalla election campaign. Aburizal's contribution was not only rewarded with a ministerial position after SBY won the election, but also with government policies which prioritized his corporate interests. Despite his claim that he resigned from his company soon after being appointed as Coordinating Minister for Economic Affairs,<sup>32</sup> Aburizal's wealth more than doubled during his term in office (Fukuoka 2012) and he was the first indigenous businessman to top the Forbes List of Indonesia's richest persons in 2007 (*Kompas* 14 December 2007).<sup>33</sup>

During his term in office, Bakrie Group managed to add two more important assets through acquisitions strongly linked to his political power. The first was the acquisition of Australian listed Herald Resources, which own 80 percent of the large zinc-lead mines in Dairi, North Sumatra. Despite having tried for years the company repeatedly failed to secure government regulatory approval (*Financial Times* 18 July 2008).<sup>34</sup> This not only halted mining development but also stagnated share values. Chaffing under this regulatory barrier, Bumi reportedly sent an offer which implicitly capitalized its strong political networks for the company's benefit. Quoting a Bumi's letter of offer for the acquisition from a reliable source, the *Australian Financial Review* commented that the Bumi Group:

noted the 'risk of further delays' and told Herald shareholders the project still faced 'significant regulatory requirements'. Bumi went on to note its 'experience in the Indonesian mining sector'; its knowledge of the 'requirements of the regulatory process'; and said it was 'uniquely positioned to advance the project in an efficient and timely way' (*Australian Financial Review* 30 January 2009)

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<sup>32</sup> President Yudhoyono first appointed Aburizal Bakrie as the Coordinating Minister for Economic Affairs in 2004, and then moved him as the Coordinating Minister for People's Welfare in 2005.

<sup>33</sup> Forbes recorded Aburizal Bakrie's wealth worth USD 5.4 billion.

<sup>34</sup> Available to read at: <http://www.ft.com/intl/cms/s/0/33b31a88-5461-11dd-aa78-000077b07658.html#axzz3V3rosJ7m> (accessed 20 March 2015).

The Group took control of Herald Resources in July 2008. This control was said to be another case of “mission completed” namely “to take over national assets owned by foreign companies” (*Detiknews.com* accessed 20 March 2015).

Herald Resources was not the last. Bakrie Group continued its mission by actively participating in the appropriation of Newmont ownership divestment. In taking control of Newmont Nusa Tenggara NTT’s divested 31 percent share ownership, Bakrie Group reportedly used a combination of outmaneuvering and outspending to beat the government (*The Jakarta Globe* 3 December 2009). During the negotiation of the terms of appropriation between PIP (Government Centre for Investment/*Pusat Investasi Pemerintah*) and state-run Antam company with Newmont, the Bakrie Group outmaneuvered the government by approaching West Nusa Tenggara district governments which had shown a similar interest to acquire the shares.<sup>35</sup> In this approach, the offer included 25 percent stake and the provision of funds to buy the shares (worth USD 318 million). The unwillingness (or inability) of the national government representatives to make a similar offer to that of Bakrie Group made the Group a more promising ally for the local governments. The alliance between Bakrie and the local governments, along with recommendation from the parliament, led the national government to approve the share acquisition proposal.<sup>36</sup>

Bakrie Group’s successful appropriation of NNT divested shares reflected the repeated wins Aburizal scored against Yudhoyono government. Another particularly important win was scored against Sri Mulyani, known as the smartest and most courageous of Yudhoyono’s Ministers. In this NNT case, while continuously showed government’s eagerness to acquire Newmont’s divested shares, Sri Mulyani repeatedly said that the government’s final say in the matter would be left to the President (*The Jakarta Globe* 3 December 2009). Instead of supporting Sri Mulyani’s claim that government was interested, SBY cabinet supported the Bakrie-Group led consortium’s claim.

In the 2008 tax fraud allegation against Bakrie’s coal producing companies, during the time when Aburizal still served as Coordinating Minister for Public

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<sup>35</sup> They were West Nusa Tenggara provincial government and Sumbawa and West Sumbawa district administrations. Batu Hijau mine where Newmont Nusa Tenggara (NNT) operates is located in Sumbawa and West Sumbawa districts.

<sup>36</sup> At that time parliamen’s commission VII which was in charge of the matter, chaired by Airlangga Hartanto of Golkar party.

Welfare, Sri Mulyani chased Bakrie Group for evading taxes worth IDR 2.1 trillion (USD 195 million). The Group was allegedly evading its taxes by bribing a low-level tax official with USD 3 million (*The Jakarta Post* 29 September 2010).<sup>37</sup> This allegation not only concerned Bakrie Group which, if proven, would require a fourfold tax penalty payment.<sup>38</sup> It also concerned Aburizal-chaired Golkar party whose institutional cash flow would likely be affected by the case (*Tempo* 23 May 2010). The other case involved government's policy for an extended suspension to Bakrie Group's stock trading following their sharp price decline in the last quarter of 2008.<sup>39</sup> Sri Mulyani initially refused to extend the suspension of trading of Bakrie Group's stocks. But she finally had to following President Yudhoyono's instruction to grant the extended suspension (*Tempo* 23 November 2008).<sup>40</sup> These "open wars" ended with Golkar's threat to investigate the Century Bank scandal which finally forced Sri Mulyani to resign from her Ministerial post (*Tempo* 23 May 2010).<sup>41</sup> Since her resignation, tax fraud allegation has never been pursued further.

Despite these scandals and the continuing mudflow disaster, in September 2009 he ran for Golkar chairmanship, which he later won. His winning showed that those issues were less important than the huge extent of the money politics

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<sup>37</sup> This bribery was part of a larger corruption scandal that involved Gayus Tambunan, a low-level tax official with hundreds of billions of rupiahs in his bank account. Due to false tax declarations of these Bakrie's companies, the state had lost USD 100 million of tax payments (*Tempo Interaktif* 22 March 2010).

<sup>38</sup> The allegation led Sri Mulyani to request Indonesia's Immigration Department to prevent Bakrie Group's top officials from leaving the country. (<http://www.ortax.org/ortax/?mod=berita&page=show&id=2924&q=pencekalan&hlm=9> accessed 4 February 2015).

<sup>39</sup> In September-October 2008, six companies whose shares were owned either partly or in majority by the Bakrie Group experienced sharp declines in their stock prices of from 32-63 percent. Those companies were Bumi Resources, Bakrie and Brothers, Bakrie Sumatra Plantation, Bakrieland Development, Energy Mega Persada, and Bakrie Telecom. Considering the important role of Bakrie-owned companies' role in influencing the performance of Indonesia's stock market, this massive and rapid devaluation forced the stock market authority to enforce initial suspension of trading of their stock. Apart from the 2008 global crisis, the devaluations were attributed to negative public sentiments about the secretive nature of the way the Bakrie Group had tried to mortgage their shares to various parties in order to get cash to fund its expansionary ambitions.

<sup>40</sup> SBY reportedly argued that Bakrie Group's stocks need to be saved in order to prevent the Group from falling bankrupt, which would make a Lapindo settlement more problematic (*Tempo* 23 November 2008).

<sup>41</sup> In the Century Bank scandal the government decided to provide a IDR 6.7 trillion (USD 625.2 million) bail-out to Century Bank which had liquidity problems caused in part by the global economic crisis. Two important figures behind this bail-out decision was Finance Minister (Sri Mulyani) and Governor of Indonesian Bank Reserve (at the time Boediono). Both argued that the bail-out was necessary to avoid snow-ball effects to Indonesian banking which was very dangerous during the global crisis. Money from this bail-out was allegedly used for electoral campaigns by the SBY led-Democrat party.

allegedly used to secure his votes (*Detiknews.com* 6 October 2009; *The Jakarta Globe* 3 October 2009). In addition to the money politics, which have been common practice in Golkar electoral politics (Tomsa 2008), his winning was also attributed to his promises aimed both to boost cadres' pride at the national level and to answer the financial challenges for party organizing on the ground.<sup>42</sup> Among these was his promise to provide USD 500 as a monthly operational incentive for each district and provincial board committee, the only promise which has been fulfilled until now.<sup>43</sup>

Bakrie Group also made efforts to expand their influence in public domains. This was not only signaled by their expanded investment in education,<sup>44</sup> but also realized in political arenas. In May 2010, as chairman of Golkar, Aburizal was appointed as acting chairman of the United Secretariat (*Sekretariat Gabungan/Setgab*), an informal platform for coordination between several political parties supporting SBY.<sup>45</sup> Given the Secretariat's powerful moves, the appointment was seen as Aburizal strengthening his political position in the SBY government (*Tempo* 23 May 2010).<sup>46</sup> Aburizal's political reward came in June

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<sup>42</sup> Aburizal made several promises when elected as the party chairman in 2009. Among these were the construction of a 25-storey building for the party in Jakarta's CBD and USD 100 million for its endowment fund. These promises are still not fulfilled (<http://m.nasional.rimanews.com/politik/read/20141201/185266/Dengar-Pidato-Ical-di-Munas-Poros-Muda-Golkar-Geleng-geleng-Kepala> accessed 3 February 2015).

<sup>43</sup> With 34 and 519 provincial and district committees that the party has nationwide, he would be paying almost USD 300,000 every month for this. With this financial incentive, it is easier to understand why he remains the most popular figure in the party and enabled him to get re-elected as its chairman in 2014 (<http://www.tempo.co/read/news/2014/11/26/078624511/Golkar-Surabaya-Idolakan-Aburizal> accessed 3 February 2015). His leadership is now being challenged by Munas Jakarta Group led by Agung Laksono.

<sup>44</sup> The Bakrie Center Foundation, founded and headed by Aburizal's oldest son Anindya, pledged funds for the Washington-based Carnegie Endowment for International Peace to establish a Southeast Asian Studies research center. The amount of this fund was not disclosed (*The Jakarta Post* 28 July 2010). In November that year, the Foundation also donated SGD 3 million to the Rajaratnam School of International Studies, Nanyang Technological University of Singapore, to establish the Bakrie Professorship in Southeast Asian Policy (<http://sp.beritasatu.com/ekonomidanbisnis/bakrie-serahkan-s-3-juta-ke-ntu-untuk-membangun-riset-asean/1180>, accessed 5 February 2015). In the previous year, the Bakrie Educational Foundation (*Yayasan Pendidikan Bakrie*) launched its Bakrie University in Jakarta.

<sup>45</sup> *Setgab* was established in May 2010 after the Democrat Party kept losing parliamentary supports from political parties which had been part of its coalition in the 2009 election, particularly after the Century Bank bankruptcy, take-over and state refinancing case which was alleged to involve SBY and his Democrat Party. This forum was set up to build common understanding among parties on political issues, with the hope that "despite their different dances, political parties still have the same rhythm" (<http://www.jpnn.com/index.php?mib=berita.detail&id=63736> accessed 5 February 2015).

<sup>46</sup> The common agreement by coalition members, this secretariat was authorized to call ministers and to select candidates for public offices. *Tempo* magazine mentioned this appointment as

2012 when Golkar, which had previously re-elected him as its Chairman, officially nominated him as its sole 2014 presidential candidate. While facing internal party criticism against his continuously low electability and the way he runs his party leadership,<sup>47</sup> the party's candidature certainly gave him a political vehicle which he failed to capture in 2004.

### 4.3 Non-judicial mechanisms for settling compensation claims

The mudflow, which has been associated with Bakrie's Lapindo Brantas company (as explained in Chapter Three), was only one of many environmental degradation cases in Indonesia whose number has been increasing. Based on the number of reported complaints addressed to the Ministry for Environmental Affairs, the number of these cases increased from 54 in 2002 to 246 in 2006 (Van Vollenhoven Institute and BAPPENAS 2011). Environmental problems are expected to continue due to the continuing presence of four factors: unaccountability/elite capture, problems of trans-boundary pollution, environment is erased off the priority, or lack of capacity to perform environmental tasks (Bedner 2010).

As Bedner (2010) also pointed out, decentralization indeed provides positive impacts for environmental concerns as many district and provincial governments are becoming more responsive actors, despite the fact that they usually do so after pressure from the extra-parliamentary forces. In his analysis of Indonesian environmental dispute resolution between 1982 and 2002, Nicholson (2009) also showed that post-Soeharto political change also contributed to the improvement of chances of winning environmental litigation by civil society against government and companies. He showed that six out of seven<sup>48</sup> litigation cases which won at district court level<sup>49</sup> took place either in 1998 or after.

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Aburizal's second win in SBY government, after the resignation of Finance Minister Sri Mulyani who often took decisions unfavorable to Bakrie companies (*Tempo* 23 May 2010).

<sup>47</sup> These criticisms came among others from former chairman Akbar Tanjung and Jusuf Kalla. In addition to his continuously low electability compared to other potential candidates, many of Aburizal's critics condemned the way he builds his political machine more on "Golkar converts" (*mualaf Golkar*) than on the party structure. The former refers to the new faces Aburizal brought into party central/national boards after his chairman election, including Rizal Mallarangeng of Freedom Institute (*Tempo* 1 December 2013).

<sup>48</sup> Out of these seven cases, three were environmental public interest cases and the rest were private cases. Public interest cases are lawsuits brought by those indirectly affected by the environmental degradation characteristically with primary concerns for environmental protection. Meanwhile, private interest cases are those brought by the directly affected communities and their

Despite these improvements, however, success rate of litigation cases have remained low with only 3 out of 27 cases which won the appeals in the Supreme Court.<sup>50</sup> Out of these three cases, only one which has ended in actual compensation payment for the affected communities.<sup>51</sup> Several factors have been mentioned as obstacles in winning these litigation cases, such as lack of resources on the part of the plaintiffs, judicial independence issues, and difficulties in obtaining strong evidence (Nicholson 2009; Van Vollenhoven Institute and BAPPENAS 2011).

Rather more optimistic results were found in 17 other cases which brought the environmental dispute resolution through mediation processes. Despite the fact that payment agreed were seldom seen as compensation but “good will payment” (*tali asih*) (Nicholson 2009, p. 288), 14 cases showed success in reaching payment agreement between the conflicting parties with 11 of them resulted in actual payment. While the agreement and payment did not necessarily stop the environmental degradation or the disputes, the greater success rate of mediation along with its less strict legal requirements have made it a widely preferred settlement particularly in private interest cases.<sup>52</sup>

Even if mediation is preferred, as Nicholson (2009) noted, there are some necessary conditions for a successful mediation process. These conditions are closely related with the application of a “power-based” approach which would

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members with primary lawsuits usually take in the form of compensation (Van Vollenhoven Institute and BAPPENAS 2011).

<sup>49</sup> District courts are particularly important because they are the only level where cases were trialled publicly and plaintiffs and their supporters most likely to attend to exert political pressures to the courts.

<sup>50</sup> Nicholson analysed 24 litigation cases between 1982 and 2002, while three other cases between 2007 and 2009 were added by the Van Vollenhoven Institute and BAPPENAS (2011) which included Lapindo lawsuits.

<sup>51</sup> The only case was Muara Jaya, the other two cases were Banger river and Surabaya river. When Supreme Court handed down its verdict in the Surabaya river case in 2007, the alleged polluter company no longer operated (Van Vollenhoven Institute and BAPPENAS 2011). I do not have any available information whether or not the Banger case resulted in actual payment to the affected communities. Nicholson (2009) and Van Vollenhoven Institute and BAPPENAS (2011) provide detailed information about these cases.

<sup>52</sup> Nicholson (2009) wrote that private and public interest litigants often have different focuses and goals in the environmental justice movement. While the affected communities included in the former category usually focus on securing settlement over a particular dispute, the environmental advocacy groups in the latter focus on influencing policy in environmental protection. In this case, winning the court verdict in a particular dispute is not necessarily the main goal of the latter group as even unsuccessful litigation case could function as a ‘public stage’ to campaign against environmental destruction. With this in mind, it is unsurprising that the latter group often avoids mediation processes, even if available.

make the parties have no better alternative other than mediation. As he explains in the following:

An interest-based approach only becomes possible where power-based approaches, such as advocacy, lobbying, and political pressure, have brought the parties to a point of impasse. This approach may work on an ad hoc basis, especially in high profile cases where there is the necessary media exposure, prolonged campaigning or personal intervention of senior government figures. However, where these conditions are not present, it is less likely that mediation will succeed in the absence of judicial and administrative mechanisms for the enforcement of environmental law (Nicholson 2009, p. 290).

The above quotation provides a perfect background to the Lapindo mudflow environmental justice demands. Despite public interest based litigation cases brought by Walhi and YLBHI (detailed explanation will be given in Chapter Six), it was out of the court settlement with the company which has always been sought after by the affected communities in the first two year of the eruption.

As will be explained in more detail in Chapter Five, disappointment among the communities in the villages rapidly inundated by high volume mudflow grew speedily with increasing sign that it would create major impacts on their lives while at the mitigation efforts was perceived unacceptably unaccountable.<sup>53</sup> In widely reported press coverage, Bakrie Group, Lapindo owner which has made the case very high profile (as shown in Chapter Three), even planned to clean up itself from the mud by selling its ownership to a foreign company (discussed in the next section). This move fueled the affected communities' disappointment to even more boldly pressure local government and Timnas to support their compensation demand.

A stronger pressure was also imposed on national government by the earlier explosion of Pertamina's Java gas pipeline in the area due to mudflow-driven land subsidence. Not only the explosion cause casualties of many deployed for levee work monitoring and employees of related state owned enterprises which carried out the levee construction projects,<sup>54</sup> and the inundation of Gempoll tol-road which led to its permanent closure. The burst pipeline threatened East Java's energy security as the pipeline connected 35 percent of the province's total energy

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<sup>53</sup> As explained in Chapter Five, signs of these impacts were the expanded size of levees which later included villagers' (at that time) still inhabited houses, but also by the lack of transparent policies in measuring home and land size.

<sup>54</sup> The explosion happened on 22 November 2006. There were 13 reported casualties, several have never been found.

supply (140 MMSCFD) from off-shore gas productions to state energy companies, important manufacturers, and end-users.<sup>55</sup>

On 27 November 2006, thousands of affected people from four villages<sup>56</sup> inside and bordering on existing levees (see map 5.3 in Chapter Five) occupied local government's public hall (*pendopo*) to demand cash compensation from the company.<sup>57</sup> With the same day, a different group also blockaded Porong main road which affected local traffic and disrupted local economy. On that day they met *Bupati* and Timnas and forced them to support their cash payment demand (*Suara Merdeka* 28 November 2006). On 1 December 2006, these government officials mediated the negotiation between the affected communities from four villages and the company. In the negotiation the communities insisted on the same amount of compensation which was responded by the company by asking more time for consultation with its Jakarta headquarter. While waiting for company's decision, the affected communities maintained their political pressure by keep occupying *pendopo* and threatening to organize bigger demonstrations. A few days later, Lapindo finally agreed to the demand despite the unsurprising way the company understood the agreement not as an obligatory compensation but as "social empathy" (*kepedulian sosial*) and "moral responsibility" (*tanggung jawab moral*) (EMP letter to Timnas dated 4 December 2006, listed as Appendix 2).<sup>58</sup>

While in administrative terms it is part of Kedungbendo (one of villages included in the compensation agreement), *Perumtas* was initially excluded. Despite already actively engaged in articulating their demand months before the

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<sup>55</sup> Those 140 MMSCFD were from Santos operated Maleo fields (80 MMSCFD) and EMP's Kangean (60 MMSCFD). State owned companies affected from this explosion were among others PGN (State Gas Company), PLN (State Electrical Company), and Petrokimia fertilizer company. (<http://www.suaramerdeka.com/cybernews/harian/0611/29/nas5.htm> accessed 15 March 2015).

<sup>56</sup> They were from Siring, Jatirejo, Renokenongo and Kedungbendo.

<sup>57</sup> Until November 2006, there were three options widely mentioned by various government officials with regards to "compensation". They were resettlement, ready to build-land plots (*Kawasan Siap Bangun*), and cash payment. The latter is popularly called 'cash and carry'. The amount demanded was IDR 2.5 million per square meter for housing, IDR 2.5 million per square metre for house grounds/yards (*pekarangan*), and IDR 120,000/metre square for rice fields. As will be explained in Chapter Five, the demand was partly triggered by what Karib (2012) mentioned as "levee event".

<sup>58</sup> Lower compensation was once offered which met strong refusal from the communities. To show continuous political pressure, hundreds of affected villagers occupied the *pendopo* for days. This occupation only ended on 4 December 2006 after Vice President of EMP announced that the company agreed with the demand (*Suara Merdeka* 5 December 2006). While agreed to 'cash and carry' demand, the company also kept open the option of resettlement which was later revived in 2008 and sparked another round of protests among these communities (details are given in Chapter Five).

pipeline explosion inundated their housing estates, *Perumtas* residents' demand was denied by the company for several reasons explained in Chapter Five. The fact that they were equally effected by the mudflow, particularly after the pipeline outburst, but without equal treatment in promised compensation led this community to demand the same compensation scheme.<sup>59</sup> Despite the company's refusal to include them and initial reluctance on the part of local government to support their demand,<sup>60</sup> *Perumtas* inhabitants repeatedly organized mass demonstrations as shown by the previous communities to exert political pressure only with a more radical approach (more details will be given in Chapter Five). This intense pressure gained a wide political support from government at district and provincial level as well as from the provincial assembly's mudflow special task force (*Pansus/Panitia Khusus*), which incorporated *Perumtas*' demand in the so-called "East Java People's Resolution" (*Resolusi Rakyat Jatim*). Under this solid political pressure and a threat to mobilize a large mass to Jakarta if necessary, national government representatives agreed to revise the affected map<sup>61</sup> (dated 22 March 2007, see Map 5.5).

While initially refusing the inclusion of *Perumtas*, as its considerable size would sharply increase the company's social expenses, Lapindo finally accepted its extended liability in the revised map after national government promised to tackle expenses related with infrastructure<sup>62</sup> (*Jawa Pos* 5 April 2007). The compensation package for the revised map along with the company-government agreement was finally institutionalized through Presidential Regulation (*Peraturan Presiden/Perpres*) No 14/2007.<sup>63</sup> After nine months of unsuccessful trials to stop the mud without any accompaniment of punitive actions against the

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<sup>59</sup> Like the previous communities effected by the mudflow, those at *Perumtas* also received money for renting houses (2 year), transportation costs, and living allowance. But, the agreement made on 4 December 2006 set this community apart from the others.

<sup>60</sup> Lapindo insisted that *Perumtas* is not part of the affected map it agreed to with Timnas in early December 2006, while the local government argued that it did not have any authority to insert *Perumtas* into the existing map.

(<http://www.suaramerdeka.com/cybernews/harian/0612/21/nas24.htm> accessed 15 March 2015).

<sup>61</sup> <http://www.iddaily.net/2007/03/pemerintah-setuju-cash-and-carry-plus.html> and

<http://news.detik.com/surabaya/read/2007/03/22/202431/757705/466/pemerintah-akan-rayu-lapindo-soal-cash-and-carry-korban-lumpur> (accessed 15 March 2015)

<sup>62</sup> The estimated budget for infrastructure relocation was IDR 4 trillion (USD 436 million)

<http://indonesiaindonesia.com/f/12392-menteri-lobi-grup-bakrie/> (accessed 15 March 2015)

<sup>63</sup> To a large extent, this *Perpres* is about the establishment of Special Government Agency in Mitigating Sidoarjo Mudflow (*Badan Penanggulangan Lumpur Sidoarjo/ BPLS*). Only article 15 is about the compensation scheme and payment terms paid by Lapindo Brantas to the affected communities.

alleged party<sup>64</sup>, this strongly worded regulation finally instructed the company to give a “compensation” payment to those who lost their property based on the agreed compensation package. Those eligible for payment from the company were those whose property fell into the zone defined on the so-called “affected area map” (*Peta Area Terdampak/PAT*) dated 22 March 2007 (see Table 5.2 and Map 5.5).<sup>65</sup> This regulation has become the only legal decision that provided a basis for compensation demands as well as a precedent for those outside this zone, to demand the same compensation due to the widening effects of the disaster.<sup>66</sup> Framing the compensation as a selling-purchasing agreement (*jual beli*), Perpres 14/2007 defined the problem as a civil matter between companies and the people which had to be settled within a 2 year timeframe (as the company already handed out house rent money [*uang kontrak rumah*] for 2 years). In addition, a limitation of liability was also set up by regulating the company to be responsible to cover expenses related to the eruption management (*penanganan semburan*) including managing the main levees inside the zone affected per 22 March 2007 up to Porong River (those falling outside this are the government’s responsibility).<sup>67</sup>

However, instead of ending with the issuance of the Perpres, the struggle of the communities inside this revised map for compensation continued to arise up to 2014. As a more detailed explanation will show in Chapter Five, this struggle was no longer about reaching an agreement about a compensation scheme but shifted to when and how the payment would be made, a problem which later contributed to further fragmentation within communities existing on these 22 March 2007

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<sup>64</sup> After three months of unsuccessful trials to seal off the mud, on September 8, 2006, President Susilo Bambang Yudhoyono (SBY) issued Presidential Decree No 13/2006 which instructed the establishment of a (semi-permanent) National Team for Sidoarjo Mudflow Mitigation (*Tim Nasional Penanggulangan Semburan Lumpur di Sidoarjo*). In this decree, Lapindo was instructed to cover all the Team’s operational costs.

<sup>65</sup> The six villages are Siring, Jatirejo, Renokenongo in Porong sub-district, and Kedungbendo, Ketapang and Gempolsari in Tanggulangin.

<sup>66</sup> Due to enlarged affected areas, subsequent demands emerged from villagers living outside the affected map dated 22 March 2007. So far, there have been four further revisions to the Regulation, three of which added more settlements into the affected map (Perpres 48/2008, Perpres 68/2011, and Perpres 37/2012). The struggle of surrounding communities outside the 22 March 2007 map will be explained in Chapter Five.

<sup>67</sup> Article 15 (5) of this Perpres says: “Expenses for the eruption mitigation including managing main levees up to Porong River will be billed to PT Lapindo Brantas” (*Biaya upaya penanggulangan semburan lumpur termasuk di dalamnya penanganan tanggul utama sampai Kali Porong dibebankan kepada PT Lapindo Brantas*). Article 15 (6) says: “Expenses to manage the issues of infrastructure including infrastructure of managing mudflow in Sidoarjo will be covered by State Budget and other legitimate financial resources” (*Biaya untuk upaya penanganan masalah infrastruktur termasuk infrastruktur untuk penanganan luapan lumpur di Sidoarjo, dibebankan kepada APBN dan sumber dana lainnya yang sah*).

dated map. Despite Perpres' regulatory establishment of a 2-year time window as a deadline for the whole payment, the company did not meet this deadline for various reasons.<sup>68</sup> Apart from that, it also revived the option of resettlement as another form of compensation payment. While resettlement option had been kept open in the company's 4 December 2007 dated formal letter to the government on compensation agreement, these communities predominantly believed that resettlement was no longer an option after 'cash and carry' was agreed and it was not mentioned in Perpres 14/2007 either. Responding to the company's payment suspension and deviation from "cash and carry" scheme, as Chapter Five will show, communities within this map used various ways to achieve their increasingly fragmented objectives (see figure 5.2 in Chapter Five for this fragmentation). However, as shown in the following section, structural advantages have made the corporate power far stronger than the civil society in general, let alone ordinary community members.

## 4.4 Corporate Strategies

### 4.4.1 Spinning-off Lapindo Brantas

As shown in Chapter Three, Bakrie-owned oil and gas mining companies have played a significant role in supporting East Java's engine of growth as well as securing the nation's energy security. It is probably this significant role that made it easier to see how the company still retained some respect, especially from policy makers, even when the general public blamed the company for the disaster. The 'sympathy' toward LBI, expected to bring back the glory of the national oil industry the country used to have, is seen in government representatives' statements, especially from those who worked closely with the company in the mudflow mitigation, such as Hadimuljono,<sup>69</sup> who had served as coordinator of the National Team for Sidoarjo Mudflow Mitigation (*Tim Nasional Penanggulangan*

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<sup>68</sup> As shown in Chapter Five, Minarak Lapindo Jaya (hereafter to be called Minarak), Bakrie Group's subsidiary especially established to deal with compensation payments to the Lapindo affected communities, argued that suspension for payment was due to complexity of land entitlement evidence, conflicting data about the property size, as well as financial difficulties the Bakrie Group was facing.

<sup>69</sup> At the time of his appointment as the chairman of Timnas, Hadimuljono was Head of the Research and Development Body of the Ministry of Public Works.

*Semburan Lumpur Sidoarjo*, hereafter Timnas)<sup>70</sup> and later published a book to document his experience. In his book, Hadimuljono depicted and even stressed many good sides of Bakrie's stories which, according to him, frequently failed to win a central part of news coverage.

His book was clearly built on the argument that Lapindo is not liable for the disaster, and even if it made payments to the affected as instructed by Perpres 14/2007, it did so because of Bakrie family's kindness. Contrary to the so-called pro-driller<sup>71</sup> scientists' opinion, Hadimuljono appears to believe that Lapindo did not make any technical faults which are generally assumed to have caused the disaster. He writes:

... from Timnas' technical evaluation of Lapindo drilling operations in Banjarpanji-1 well from 26 May 2006 to 3 June 2006 at 10pm, it can be concluded that the operations had been conducted technically in correct, proper and accountable ways ... (Hadimuljono 2012, p. 14).<sup>72</sup>

Following this interpretation, he attributed the payment made by Lapindo to the affected to representing its act of willingness to share their concerns.

Because some villagers kept demanding for compensation ... aspirations of the community members were channeled to Lapindo. Fortunately, Lapindo was very cooperative and understood the communities' demand. If there were delays in managing or making decisions, these were mostly because they had to consider various things, including their financial capacity (pp. 135-138).<sup>73</sup>

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<sup>70</sup> After learning that the mudflow could no longer be dealt with by local and regional governments, President SBY issued Presidential Decision (*Keppres*) No. 13/2006 which established Timnas. More about Timnas is given in Chapter Seven.

<sup>71</sup> As will be shown in Chapter Six, "pro-driller" refers to those who conclude that the disaster is attributed to drilling activities. On the other hand, "pro-quaker" refers to those who attribute it to the Jogja earthquake, and thus consider it to be a natural disaster i.e. support the idea of releasing the company from any liability.

<sup>72</sup> "... dari evaluasi keteknikan Tim Nasional Penanggulangan Semburan Lumpur Sidoarjo terhadap tindakan atas pemboran Banjarpanji-1 yang dilakukan Lapindo sejak tanggal 26 Mei 2006 sampai 3 Juni 2006, pukul 22.00, dapat disimpulkan pada umumnya kegiatan telah dilakukan dengan benar, wajar dan dapat dipertanggungjawabkan secara keteknikan ..." For him, the only mistake the company did was removing the rig from the drilling site when the eruption was still taking place. According to the pro-driller camp, this removal of the rig followed by the well closure with concrete materials created even greater pressure underground which then triggered the mudflow to find outgoing channels elsewhere. It explained why the underground blowout finally happened in the nearby areas.

<sup>73</sup> "Karena sebagian besar penduduk terus menuntut uang ganti rugi ... Aspirasi warga disampaikan ke pihak Lapindo. Beruntung, pihak Lapindo sangat kooperatif dan memahami tuntutan warga. Kalaupun ada keterlambatan penanganan atau pengambilan keputusan, hal itu lebih disebabkan karena mereka harus mempertimbangkan berbagai hal, termasuk soal kesanggupan dana"

However, contradictory to Hadimuljono's view in the quotation's final line, Bakrie Group's repeated attempts to spin-off the Group's share ownership in Lapindo (see Figure 4.2) showed a different story. Considering its position as the major stakeholder in Energi Mega Persada (EMP), those repeated attempts at least revealed that its main goal was to protect its larger corporate interests, which in the long run would undoubtedly also benefit Bakrie Group (see Chapter Three for EMP business size and Bakrie ownership).

In September 2006, when mudflow impacts were getting serious but negotiation for compensation settlement had not yet been initiated, EMP announced sale-purchase agreement with Lyte Ltd (see Figure 4.2) over its shares in Kalila Energy and Pan-Asia Enterprise which both directly controlled Lapindo Brantas (EMP Abridged circular letter dated 21 September 2006).<sup>74</sup> While EMP argued that ownership transfer was necessary to allow "the operational and financial resources of the Company to be refocused on other blocks", the transfer plan quickly raised public suspicion. This was due to the fact that Lyte Ltd as the buyer was described as having only ten thousand British pounds capital, far less than the outstanding costs for associated mitigation,<sup>75</sup> while at the same time the same announcement mentioned "potentially significant liabilities" from the mudflow. This doubtful financial capacity led many observers to suspect that the acquisition would soon be followed by a bankruptcy claim, which would make the government liable for huge clean-up costs. The Indonesian Capital Market Authority (BAPEPAM) cancelled this agreement.

The agreement cancellation did not stop Bakrie Group from further attempts to dissociate itself from Lapindo Brantas. Two months later, in late November, it

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<sup>74</sup> Kalila Energy and Pan-Asia owned 84.24% and 15.76% of Lapindo shares respectively. On March 2004 EMP took control of 99.9 percent Pan-Asia ownership from Rennie Abdul Rachman Latief and Nancy Urania Rachman (each previously held 50 percent of the shares) "by way of the issuance of Promissory Notes at an interest rate of 13 percent per annum at IDR 37,392,520,000 (USD 4,487,281) and IDR 37,400,000,000 (USD 4,488,179) as the value of the purchase of shares" from both previous owners (EMP IPO Prospectus 2004, p. 20). Meanwhile, EMP took control the majority ownership over Kalila Energy on 16 March 2004 from Luxuriance Assets Ltd and Bangun Sarwito Kusmuljono which previously held 95 percent and 1 percent shares respectively (the remaining shares were owned by Pan Asia Enterprise). It did so "by way of the issuance of Promissory Notes at an interest rate of 13 percent per annum at IDR 989,500,000 (USD 118,745) and IDR 10,400,000 (USD 1,248). Ownership over Kalila and Pan-Asia were sold for only USD 2 in total.

<sup>75</sup> With the prevailing exchange rate GBP 1 = USD 1.87, this capital only equals to USD 18,700. By October 2006, buying steel pipes to channel the mudflow to Porong river has already cost Lapindo USD 1.5 million. In addition there had been the costs to mitigate social impacts (house rent expenses and living allowance for those who had to flee their homes, and wage payments for workers whose companies had to shut down) (BPK 2007).

tried again, this time to sell its ownership to Freehold Ltd. Differing from Lyte Ltd which was fully under Bakrie family control, Freehold did not have any affiliation with Bakrie Group and was said to have considerable experience in company turnrounds. Considering the liability issues Lapindo Brantas was facing, there were doubts about buyer's willingness to purchase the company. The suspicion grew stronger when it was found that the buyer was a long time friend of Aburizal at the American-Indonesian Chamber of Commerce (*Financial Times* 21 November 2006). Despite agreeing to purchase the company, Freehold did so with an agreement to get a financial commitment for potential cleanup costs from Minarak Labuan Company (MLC)<sup>76</sup>, another affiliate of Bakrie Group (EMP Press Release, 14 November 2006). Growing publicity over this ownership transfer finally made Freehold cancel its purchase plan.

EMP's dissociation from Lapindo Brantas was only made successfully in 2008 when its ownership was transferred to MLC, which had been providing loans for cleaning up costs. This transaction was made through a debt-to-share swap mechanism in which MLC's loans were converted into Lapindo Brantas' shares and thus effectively ended EMP's position as the majority shareholder (EMP's abridged circular letter dated 26 February 2008).<sup>77</sup> By transferring mudflow liabilities to a different part of Bakrie Group, the performance of EMP as the Group's main oil/gas business could be isolated from further setbacks.

In addition to receiving this Lapindo Brantas ownership transfer, MLC also received a direct transfer of the 18% participating interest<sup>78</sup> from Santos as well as indirect liability that Medco was due to pay as a 32% participating interest holder in the Brantas Bloc (Chapter Three has more detailed explanation about this

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<sup>76</sup> Based in Malaysia's Labuan, known as the offshore financial centre and support hub for deepwater and oil and gas activities, MLC is a company whose share ownership is under full control of Bakrie Capital Indonesia (EMP's abridged circular letter dated 11 February 2008). The latter is a different business wing of Bakrie Group specialized as an investment company.

<sup>77</sup> MLC later founded Minarak Lapindo Jaya (MLJ) which act as the "cashier" for paying the compensation to the affected people exiting on 22 March 2007 map. From here onwards, whenever it refers to the company which pays the compensation to the affected people, this thesis will use Minarak.

<sup>78</sup> A participating interest is "the proportion of exploration and production costs each party will bear and the proportion of production each party will receive, as set out in an operating agreement" ([http://www.glossary.oilfield.slb.com/en/Terms/p/participating\\_interest.aspx](http://www.glossary.oilfield.slb.com/en/Terms/p/participating_interest.aspx) accessed 12 February 2015). The term participating interest is often interchangeable with "working interest" which is defined as "a form of investment in oil and gas drilling operations in which the investor is directly liable for a portion of the ongoing costs associated with exploration, drilling and production. In a similar fashion, working interest owners also fully participate in the profits of any successful wells" (<http://www.investopedia.com/terms/w/working-interests.asp> accessed 12 February 2015).

Bloc). Santos' transfer completed its dissociation from the mudflow, but with the accompanying payment of USD 22.5 million payments for its minority shareholder for drilling associated costs. Meanwhile, MLC's indirect liability from Medco came from the fact that it was the financial warrantor for Prakarsa Group<sup>79</sup> which agreed to purchase Medco's Brantas participating interest. The latter transaction was carried out after Medco's withdrawal of arbitration proceedings<sup>80</sup> against Lapindo Brantas in which unfavourable verdicts would cause further embarrassment and fatal legal consequences for Lapindo Brantas (*Financial Times* 21 March 2007).

#### 4.4.2 Winning the public opinion

While trying to minimize the mudflow associated costs at its corporate management level, Bakrie Group was also busy influencing public opinion to turn in its favours. Thanks to post-1998 media liberalization (Heryanto and Hadiz 2005), the role of the Indonesian press has been increasingly important in shaping public opinion. This is certainly something that Bakrie Group could not neglect, particularly when it needed to provide counter-opinion against the then prevailing public's hostile assessment of its role in the mudflow, not merely to "fix" the

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<sup>79</sup> Following Medco's announcement of the sale-purchase agreement over its Brantas interest, BAPEPAM repeatedly requested detailed information about the Prakarsa Group's financial capacity (which was important in assessing whether or not it was capable of bearing the mudflow related liability). Medco failed to meet this request (BAPEPAM Press Release dated 10 May 2007). Despite Medco's reluctance to disclose the owner of Prakarsa Group, the fact that Minarak performed as the latter's financial guarantor was enough to show that Bakrie Group was behind it (*Jakarta Post* 10 April 2007).

<sup>80</sup> On October 16, 2006, Medco filed an arbitration case against Lapindo to the American Arbitration Association in New York. Medco argued that, because Lapindo breached the Joint Operating Agreement between parties, it should be freed from any liability (Consolidated financial statements for the six month period ended 30 June 2007 and 2006, PT Medco Energy International Tbk and subsidiaries). In court, it was believed that Medco's claim was supported with convincing evidence that showed Lapindo's gross negligence in drilling operations. To support its claim, Medco hired Texas based Neal Adams Services, a consulting firm specialized in drilling operations, to conduct research about the eruption. The report has been widely circulated in internet (it is available at [https://wikileaks.org/wiki/Sidoarjo\\_Neil\\_Adams\\_report\\_on\\_the\\_cause\\_of\\_the\\_East\\_Javan\\_mud-volcano\\_Lusi,\\_2006](https://wikileaks.org/wiki/Sidoarjo_Neil_Adams_report_on_the_cause_of_the_East_Javan_mud-volcano_Lusi,_2006) accessed 1 April 2015). Another report available on the same link by TriTech Petroleum also attributed the mud eruption to the drilling. To support the police prosecution for 13 Lapindo drilling affiliated defendants charged with violation to Law No 23/1997 on Environmental Management (*Pengelolaan Lingkungan Hidup*), Neal Adam's report was handed down by activists to East Java Regional Police (Polda Jatim) and Attorney East Java Regional Office (Kejaksaan Tinggi Jawa Timur). Despite this effort, Police decided to stop the prosecution after lawsuits by Walhi and YLBHI rejected by the Supreme Court (these lawsuits will be explained more detail in Chapter Six).

negative public judgment but to spin positive sentiments towards its traded shares in the stock market.

Realizing the significant role of mass media in feeding public opinion, the Group combined multiple ways of controlling the media message. They included the creation of the company's own *Solusi* bulletin with editorial support from Surabaya-based university lecturers (Nusantara 2009; Utomo 2009);<sup>81</sup> blocking local media space for regular coverage of the Group's views (Novenanto 2009); purchasing advertising space in print media (Novenanto 2010; Hidayati 2006<sup>82</sup>); getting involved in the production of a documentary movie and soap opera shows on local tv<sup>83</sup>, and even acquisition of a local newspaper company. The 2008 acquisition of the *Surabaya Post* by Bakrie Group was aimed to ensure the control of public discourse particularly in the heartland of the mudflow, something which could not be guaranteed only by displaying advertisements. Although this media outlet only reached a tiny market share of newspaper readers in East Java, this ownership certainly ensured regular mud news coverage favorable for the company (Tapsell 2010; Tapsell 2012). Billions of rupiah were reportedly spent on these efforts.<sup>84</sup>

To convince the public, Bakrie Group's publicity efforts tried to build its narratives as the only objective facts (see Appendice 4 for examples of the Group's advertisements). These objectivity claims were built through constructing an intricate linkage between displayed images, story tellers, and detailed

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<sup>81</sup> According to Utomo (2009), they were Hariyadi from Faculty of Social and Political Sciences, Airlangga University (UNAIR), and Martono from Surabaya University (Ubaya).

<sup>82</sup> With an interesting title, Hidayati's article at detikcom showed that the press also benefited from the Group's spending in the advertisements (Hidayati 2006).

<sup>83</sup> I myself haven't watched "Mud Max" documentary movie, whose premiere screening was done at Arizona State University on 13 November 2009. Despite covering controversies about factors that triggered the mudflow (displaying both pro-driller and pro-quaker scientists, although uneven in duration), Mud Max production and premiere screening raised suspicions about the main message it wanted to deliver. Mud Max was produced by Chris Fong. The same name was reported as chairman of Brisbane Roar football club which is owned by Bakrie Group (<http://www.brisbaneroar.com.au/about/about-us/pc8r1la3zpa41px6cnm1vzsr6> accessed 19 March 2015). (For the relationship between Bakrie Group and Brisbane Roar, see Figure 4.1). Lapindo top officials were attending the premiere screening at Arizona State University. In addition, Lapindo reportedly agreed to finance 13-episode soap opera, or *sinetron*, called *Gali Lubang Tutup Lubang* (Dig the hole, Fill the hole) which told about mudflow communities and screened at a local tv station in 2006 (<http://web.international.ucla.edu/asia/article/52185> accessed 19 March 2015).

<sup>84</sup> Local media workers in Surabaya were reportedly persuaded to publish news materials in favour of Bakrie Group with 1 billion rupiah return (Novenanto 2009). With each advertisement space in a national newspaper reportedly worth IDR 100 million (*Tempo* 2 March 2008), the dozens of advertisements the Group booked in printed media would at least hit 1 billion rupiahs.

information. More than simply displaying “flat” corporate activities such as the delivery of social services to the affected communities, the displayed images involved powerful depiction of communities’ emotional appreciation of the mudflow settlement. Images such as community members performing prostration of gratitude (*sujud syukur*),<sup>85</sup> community members counting money or showing off cheques received in the compensation payment process, were used to authenticate communities’ happiness in the current settlement. In addition to the displayed images, the Group’s narrative power was also supported by fragments of previously published opinions from leading figures. Leading geological scientists, some of whom later served as the company’s witnesses in the courts defending lawsuits against Lapindo Brantas by Indonesian NGOs (details are given in Chapter Six) whose opinions supported the company’s claim of the mudflow being a natural disaster were quoted. Also quotation from a leading Indonesian human rights activist was used to give an impression of broadening support from NGOs which had been known as main adversaries against the company.<sup>86</sup> With their authoritative backgrounds, these figures are like story tellers whose opinions, either directly or indirectly supporting company claims, would easily reach the ears of their audience and led them to believe that would be the case. Detailed technical data about how to stop the mudflow (*Kompas* 9 August 2006) and a long list of recipients of compensation payments (*Kompas* 15 June 2007) provided in the advertisements further strengthened company narratives that it has been trying to do its best.

In all these publicity pieces, the company generally aimed to deliver two main messages: the mudflow was not caused by corporate negligence and it was Bakrie’s personal kindness that led them to engage in mudflow mitigation. Arguing that the mudflow was a natural phenomenon, all those publicity materials consistently dissociated Lapindo from the mudflow. Instead of using the already

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<sup>85</sup> Resembling a prostration in Moslem prayer, *sujud syukur* is a ritual performed as an expression of gratitude to the Almighty soon after the performer’s wish has apparently been answered or been spared from any calamity.

<sup>86</sup> In *Tempo* 23 September 2007, Bakrie Group’s advertisement quoted Hendaridi who was at the time chairman of the Association of Indonesian Legal Aid and Human Rights/PBHI. Regardless of whether or not he actually supported the company’s claim, his press statement which referred to the mudflow as a “natural disaster” (*bencana alam*) certainly strengthened the claim. The quotation from Hendaridi says “*Kebijakan politik pemerintah harus tegas dalam penanganan lumpur Sidoarjo, dahulukan aspek kemanusiaannya. Jangan pemerintah dengan alasan administratif menyebabkan terlantarnya hajat hidup orang banyak, karena persoalan kemanusiaan sarat dalam Bencana Alam Lumpur Sidoarjo*”.

common “Lumpur Lapindo”, the Group’s media productions were more inclined to refer to the event by either calling it “the hot mudflow” or “the Sidoarjo mudflow”. While dropping any Lapindo association with the mudflow, they simultaneously referred to the earthquakes and the surrounding’s geological conditions to directly or indirectly emphasize how natural the mudflow was (details about debates between so-called “pro-quake” and “pro-drilling” advocates will be provided in Chapter Six).<sup>87</sup> By offering arguments which claim the mudflow to be natural, it was argued that there have been no legal foundations to sue the company. Hence, instead of being driven by legal obligation, the company’s engagement in mudflow mitigation was more acts of “moral obligation” (*tanggung jawab moral*), “moral concerns” (*kepedulian moral*) or “empathy” (*kepedulian*).

While the public in may have been anonymously targeted by the fact that these messages were spread out in almost all of leading national daily press, these advertisements in several instances may have aimed to influence the opinion of the court judges which the company had to deal with in litigation cases brought by public interest litigants (see Chapter Six for these litigation cases). One advertisement material titled “*Meneropong Bencana Lumpur di Sidoarjo*” (Looking Carefully through Mudflow Disaster in Sidoarjo) was repeatedly displayed in several national newspapers ahead and on the same day of district court’s verdict reading session for YLBHI’s lawsuit.<sup>88</sup> Another titled “*Dua tahun Komitmen Sosial Lapindo di Sidoarjo*” (Lapindo’s 2 Year Social Commitment in Sidoarjo) was displayed on *Tempo* magazine a week before the higher court read its appellation verdict on YLBHI’s lawsuit.<sup>89</sup> Helped by structural and legal challenges that the NGOs had to face in their litigation attempts (see Chapter Six), Bakrie Group finally won the case. The courts’ verdicts which denied the lawsuits of YLBHI and Walhi provided a foundation for Police to stop investigating the mud eruption as a criminal case. With the stop of the investigation, Lapindo

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<sup>87</sup> Only in the advertisement “*Kami Akan Terus Berupaya Mengatasinya*” printed in *Kompas* a few months after the first eruption (9 August 2006), without mentioning ‘quake’ or ‘natural disaster’.

<sup>88</sup> This material was displayed on *Kompas* (8 November 2007) and on *Republika* (27 November 2007). The verdict session took place on the same day of *Republika*’s display.

<sup>89</sup> The advertisement at *Tempo* weekly magazine appeared at its 8 June 2008 edition. Higher court’s appellation verdict was issued on 13 June 2008.

Brantas successfully secured its eligibility for insurance coverage as well as for reimbursement of its exploration costs according to cost recovery scheme.<sup>90</sup>

It was even allegedly involved in the formulation of a controversial report by TP2LS (the Parliament's Oversight Committee for Mud Mitigation) which recommended to the House's plenary session to declare the mudflow a natural disaster (see Chapter Seven for more details on this Committee). As reported by *Tempo* magazine (2 March 2008), the committee initially failed to reach a conclusion because some of its members from the National Awakening Party (PKB) had demanded the government seize Bakrie Group's assets to ensure the full payment of the agreed compensation package.<sup>91</sup> As part of the negotiating process, this demand was finally accepted by the committee and incorporated in the report's appendices. These appendices, however, were missing when the final report was officially read in the parliament's plenary session. The suspicion grew stronger when a few days before a member of parliament admitted that he had received from a Lapindo official the latest Committee report, which did not incorporate the appendices, but which subsequently appeared and was read in the plenary session (*Tempo* 2 March 2008).

#### 4.4.3 The importance of "*pemain lapangan*"

In earlier sections it has been reported that Bakrie Group did various things to defend its interests in the stock market, national parliament and the media. Being geographically distant from the affected communities, these places

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<sup>90</sup> BPK's audit report (2007, pp. 60-61) suggested that, based on the letter of PT Tugu Pratama Indonesia, the insurer for Banjarpanji-1 well control, Lapindo Brantas would be obliged to pay back the claim payment received from the insurer if the criminal case decided that Lapindo Brantas was liable for the disaster. By 21 December 2006, the insurance company already paid USD 9.6 million out of USD 25 million maximum claim payments. Meanwhile, as the agency which evaluate and approve the reimbursement within cost recovery scheme, BP Migas stated that Lapindo Brantas could still claim for its expenses for mud eruption mitigation as part of exploration expenses if the court verdict free the company from the charges. Kardaya Warnika, the then head of BP Migas, said that as long as the court cleared Lapindo Brantas of misconducts, it is eligible for cost recovery (*Detikcom* 23 January 2007).

<sup>91</sup> Apart from demanding the seize of Bakrie Group's assets to ensure payment for the remaining 80 percent compensation value, PKB members also demanded several other things into the TP2LS draft appendices. They were (1) the inclusion of opinions from "pro-driller" camp so the report would not be so homogenously "pro-quaker"; (2) the discussion on the opinion of "pro-quaker" scientists should mention that they accused Lapindo Brantas for not installing the required casing; (3) demanding Yudhoyono government to take firmer actions against BPLS and Lapindo; (4) the encouragement to continue criminal investigation of 13 Lapindo suspects and (5) guarantee that the mudflow affected communities outside PAT would be compensated as well (*Gatra* 28 February 2008).

apparently provided less intense and indirect political pressure on the Bakrie Group to take more convincing and immediate mudflow related mitigation actions. Moving the contestation context geographically to Porong, where Bakrie Group had to handle continuous demands of real persons and communities whose disappointments had been accumulated along with the continued delay of full compensation payments (see Chapter Six for a chronology of compensation payments), questions were reasonably raised about what sort of power the company had when it had to meet face-to-face with more intense, violent, and direct community struggle.

I believe nothing could provide a clearer answer about the latter question than the event I attended on the evening of November 2012, more than 6 years after the first eruption. Dissatisfaction and disappointment were clearly reflected in the eyes of hundreds of attendees at a meeting held in the function hall of *Kahuripan Nirwana Village* (hereafter KNV), a gated community for the mud affected people built by PT Mutiara Masyhur Sejahtera which is indirectly owned by Bakrie Group (see Figure 4.1 for the detailed ownership relationship). Those attendings were among the affected who had grouped themselves as accepters of what was commonly called a “cash and resettlement” package, a scheme introduced by Minarak for those who chose to be “repaid” for their loss with a package of a house with its land plot *plus* any cash for the gap between their property loss value and the package value (if any).<sup>92</sup> Having starting to resettle here since July 2008, they had been invited by the company to come to discuss about their troubles with new land certificates which had been widely covered by the local press for months.<sup>93</sup>

That evening 12 people were given the chances to express their views. Intended primarily to give clarification about land certificates at KNV which had been promised by the company to be completed two months earlier in October, the forum topic was expanded to include various people’s disappointments, from

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<sup>92</sup> The variety of affected groups with their different, often conflicting, schemes and demands are discussed in more detail in Chapter Five.

<sup>93</sup> Coming early in order not to miss my interview appointment afterwards with the MLJ director Andi Darussalam, I was able to attend this meeting on November 1, 2012 from the beginning until its end. Data collection and analysis of this meeting was based on my participant observation. Disappointments about unclear land certificates had been covered by the press since early April 2012.

broken promises about land certificates at a previous meeting,<sup>94</sup> to the lack of information about when and where this meeting was to be held, to their trauma about being cheated by the company. They clearly reflected their anger through strong direct statements such as that “we have had enough promises from this company” (“*sudah kenyang janji-janji perusahaan*”) or “they have done lots of wrongdoings against the victims of the mud” (“*sudah melakukan banyak dosa kepada korban lumpur*”).<sup>95</sup> Those attacks were almost all directed at the leadership of Andi Darussalam, the chairman of Minarak.

Despite being targeted by the attendees, Andi looked calm and cool. Indeed, he seemed to have been successful in exercising his authority and domination over the residents from the beginning. Opening the forum, he instructed all the people to sit down and refused to continue his speech if those attending did not stop their noise.<sup>96</sup> Together with another Minarak employee who moderated the forum, he also made sure to maintain his authority by only giving limited opportunities for questions. Not only able to control the attendees with his snapping voice, Andi also managed to give confident and clear responses to the questions and complaints raised. Instead of being weakened by questions which raised doubts about Minarak’s good intentions to immediately hand out their land certificates, his response made him emerge as an equally strong person as he had been at the April meeting when the promises about land certificates had been made. His authority looked even stronger when he promised to find fast-track solution to a lady who was begging to have her problem sorted in order not to worsening her husband’s cancer. Despite still no clear answer being given on the time frame for when all the certificates would be handed out, the meeting was closed without any incidents. Andi’s winning over this formal forum appeared to have saved the company from any related protests in the near future.

This KNV land certificate problem was certainly not the only promise Bakrie Group failed to keep with the affected communities. Earlier, it only

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<sup>94</sup> In April 2012, Andi had promised the residents that their land certificates would be handed out to all of them by the end of October 2012. According to Minarak’s explanation at this November forum, only 81 out of 2,151 certificates for existing land plots in KNV had been handed out to the residents so far.

<sup>95</sup> Months before this meeting, the residents already held several protests against the delay in their house certificates. But it was in this meeting that the residents had the first chance to have a direct meeting with Andi Darussalam.

<sup>96</sup> In a loud voice, he said “I will not continue the meeting if you are all talking amongst yourselves” (“*saya tidak akan lanjutkan kalau Bapak-Ibu masih bicara sendiri*”).

achieved the 20% advance compensation payment to all eligible payees more than a year after the deadline it had promised to President SBY.<sup>97</sup> Cash payment for the other 80%, which had been expected in Perpres 14/2007 to be paid in full by 2008, has been also delayed and nearly IDR 800 billion still left unpaid until now (see Tables 4.1 and 4.2 below).

Negotiation with the affected, broken promises or failure to enforce the agreements, and meetings to renegotiate the terms are not unusual for this company. As explained in the previous and following chapters on the state responses and the affected communities and civil society respectively, the company has been exposed to seemingly endless political pressure coming both from the affected communities and their wider civil society network and the state, despite the powerful bargaining power it won from the court decisions which released it from any attribution to the disaster. However, conquering this political pressure at negotiation table was also shaped and constrained by Bakrie Group's own growing financial limitations. It is logical that the negotiation-to-renegotiation cycle would have made the company grow weaker from constant pressures, and thus getting out of this cycle is a battle. In each of its battles, the company looked like it does not want to give up easily. This is reflected in Andi Darussalam's reply to a member of his staff that I overheard after the meeting::

(all the attendees) would walk over me (if they had the chance). So I quickly shut them up ... they are all bastards ... We, the company, would be ruled (by them) No such company exists, doesn't it? No way<sup>98</sup>

**Table 4. 1 Bakrie Group's expenses for the Lapindo mudflow as of February 2013 (in IDR)**

1	Efforts to stop eruption and surface management (levees, channeling to Porong river etc)	3,308,349,049,925
2	Social/community expenses	666,653,148,187
3	For purchasing property of the affected villagers	3,043,416,959,509
4	Related financial costs	171,799,537,022
	Total	7,190,218,694,643

(Source: Minarak presentation at Indonesia Lawyers Club on 19 February 2013, available to watch at <https://www.youtube.com/watch?v=iNLmUQtaCpc>, accessed on 25 March 2015)

<sup>97</sup> When President SBY moved his office to Surabaya as his response to the continued delay of Lapindo's compensation payment, Lapindo promised to finish the 20% advance payment by September 2007. However, only in December 2008 did Lapindo manage to pay this advance payment to all eligible payees. This payment was made reportedly only after President SBY called Nirwan Bakrie (CEO of Bakrie Group) to the Presidential Palace (*Republika* 3 December 2008).

<sup>98</sup> "(warga yang hadir) ini mo nginjek gue. Gue langsung shocking (=hardik mereka)... Setan ini semua... Kita perusahaan mau diatur (sama warga). Mana ada? Gile"

**Table 4. 2 Related information on property sale-purchase agreement (in IDR, as of February 2013)**

Total hectares of land to purchase from the affected villagers	644 hectares
Number of agreements signed	13,237
Number of agreements already paid in full (100%)	9,889
Number of agreements whose payment still in installment	3,348
Total expenses to be paid (in IDR)	3.829 trillion (79.48%)
Total payments due (in IDR)	786 billion (20.52%)

(Source: Minarak presentation at Indonesia Lawyer Club on 19 February 2013, available to watch at <https://www.youtube.com/watch?v=iNLmUQtaCpc>, accessed on 25 March 2015)

In my interview with him after that November 2012 public forum Andi Darussalam told me that he was Makassarese but had been born in Surabaya in 1950. It was his long friendship with the Bakrie family dating back to his early involvement in national football affairs in the mid 1980s that had led to his appointment as the top figure at Minarak. Although he did not say anything about his personality and social political networks as factors behind his appointment, it is likely that those factors were also influential. Among his friends, Andi was known as a person who gave attention to details, thought critically, and was prudent when it came to decision making.<sup>99</sup> According to a senior journalist who happened to be his book editor, Andi was known for having close friendship/networks with many national leading figures which made him “a reliable person to have during a crisis”.<sup>100</sup> Departing from his managerial experience at Makassar Utama football club, owned by the family of Jusuf Kalla who later served two-time Indonesian vice presidents, in the early 1980s, he then expanded his engagement in football affairs to be a national team manager, a senior member at the national football federation, and was involved in a highly popular but conflict-ridden football club in East Java, Arema Malang (a former national league champion).<sup>101</sup>

<sup>99</sup> Testimony from the Governor of South Sulawesi, Yasin Limpo, at Andi’s book launching to commemorate his 60<sup>th</sup> birthday in August 2010 (<http://metronews.fajar.co.id/read/103016/10/iklan/index.php> accessed on December 20, 2013).

<sup>100</sup> Testimony from Suryopratomo, a senior journalist affiliated with Metro TV, at the same book launching.

<sup>101</sup> Despite Andi’s denial, his involvement in Arema was widely seen to have something to do with Bakrie’s ambition to control East Java-based football clubs in the interest of winning the 2014 presidential election. <http://m.goal.com/s/id-ID/news/2629628/> (accessed 20 December 2013).

The company must have realized they needed a character like him to fight in its negotiation battles, which often involved patience, self-confidence, strategic planning and even minor physical violence.<sup>102</sup> Promoted to Minarak director in 2010, Andi told me that he was able to identify different groups within the affected communities and their essential need for money as their main drawback. Claiming himself as “*pemain lapangan*” which usually means one who knows a lot about local situation, he expressed his self-confidence in negotiating with the affected by saying that they usually take their chances to pressure the company for more money and thus they will not kill him because they need his approval to get it (“these people just wanted to have a go ... all they want was money. They would not kill me [because they certainly need my agreement]”).<sup>103</sup> Instead of playing defensively, he was said to have actively contacted the group leaders<sup>104</sup> to discuss various scenarios of the issue settlement and their dissemination to their respective communities. Dealing with only a handful of persons did not only allow the company to gain control over negotiations, but also functioned as a tool to test the power of the communities’ in-group bonding and solidarity as well as their leaders’ influence.<sup>105</sup>

A key part of his negotiation skills is his “theatrical ability”, as shown in the above story about the evening forum with KNV residents. This ability was particularly important in finding genuine motives of those willing to disagree with him or the Bakrie Group, how genuine their courage was, as well as to assess whether or not Darussalam should consider them as an important player to talk to. As a local activist told me about his own experience with Andi Darussalam:

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<sup>102</sup> During a meeting with the affected, the previous MLJ director, Bambang Hawik, was slapped on his face by the Siring village head for insisting on requiring land certificates as one of the conditions for “compensation” payments.

<http://www.tempo.co/read/news/2007/03/21/05896006/Direktur-Minarak-Lapindo-Ditampar-Lurah-Siring> accessed 11 December 2013.

<sup>103</sup> “*gayanya orang-orang (terdampak) ini ‘kan coba-coba ... intinya minta duit. Mereka gak mungkin bunuh saya [karena butuh persetujuan saya]*”

<sup>104</sup> A local activist said that he was contacted several times by Andi Darussalam to meet him in person, which he never did to avoid being coopted. Personal communication, 10 August 2012.

<sup>105</sup> Andi said that, for him, there are only three powerful groups; the farmers’ group, GKLL, and Pagar Rekontrak. He said, “except for these groups, they were all sporadic with uncontrolled leaders. Those three groups have the capability to manage their members. We know that because we assessed them in the field” (*Kelompok-kelompok di luar ini, semua sporadik, pemimpinnya tidak terkontrol. Tiga kelompok tadi memiliki kemampuan untuk me-manage anggotanya. Kita tahu karena kita bisa ukur di lapangan*) (interview 1 November 2012).

I had the experience of being on the same panel with him in one of the TV programs. They interviewed him by phone. His first statement was that he did not know me at all, and questioned my authority to speak for the mudflow affected people. After the program ended, he called my personal number and said to me that it was a performance and requested a meeting with me (interview 25 June 2014)<sup>106</sup>

His negotiating success can be seen at least from one particular part of the community struggle which deeply influenced the way the affected communities were organized and weakened (more about this is explained in Chapter Five), involving *Gabungan Korban Lumpur Lapindo* (Association of Lapindo Mudflow Victims, GKLL) which he claimed to be among the most powerful ones. The struggle was about the negotiation of the shift from the only a cash payment settlement, as instructed by the Perpres, to more diverse options. This shift was made possible by the fact that the Perpres left the settlement as a “purchase and sale agreement/private commercial transaction” (*jual-beli*) and thus allowed the company to have more power to decide when or what payment would be made. Diversity of property entitlements and concerns over false claims were among the reasons which enabled the company to play a power game, even when it was not in full compliance with what the Perpres had instructed. Despite given guarantees and legal clarification from government officials and the national land agency (*Badan Pertanahan Nasional/BPN*) (Hartadi 2007; Taufiq 2009) to ensure equal settlement to all affected property owners regardless of their land entitlement evidence, Minarak still insisted that *jual-beli* on “non-sertifikat” land would be against the Basic Agrarian Law 1960 (article 26) and thus offered different options to existing cash payments. Adding to the existing cash payment option, popularly known as “cash and carry”<sup>107</sup>, the company gave different schemes of compensation to different kinds of land entitlements such as “cash and resettlement” or “resettlement with change” (*resettlement dengan susuk*). The latter involved resettlement and some cash back for those whose lost property

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<sup>106</sup> “*Saya punya pengalaman dipanel dengan dia di salah satu acara tivi. Waktu itu dia diwawancarai melalui telepon. Pernyataan pertamanya adalah bahwa dia tidak mengenalku sama sekali dan bahkan mempertanyakan kapasitasku berbicara atas nama warga terdampak. Setelah program selesai, dia nelpon ke nomerku bilang kalo (gertakan) itu adalah sandiwara dan minta ketemuan*’.

<sup>107</sup> The term was first introduced when some villagers of Jatirejo, one of first four villages inundated by the mud, conducted a polling asking their fellow villagers about their preferred compensation options. “Cash and carry”, a name invented to refer to the cash payment model stipulated in Perpres, turned out to be the most popular (chosen by 71% villagers). The others preferred to have the company recover their village (9.4%) or demanded it rent the land and pay compensation until the mudflow stops (25%) (Karib 2012).

asset value was considered more than the value of the land and building they received in the resettlement site (for detailed explanation on this see Utomo 2009).

At first, the offer met strong resistance from GKLL which tried to function as an umbrella group for all of the affected. Attending a meeting called to explain that non-cash settlement option (see Figure 5.2 in Chapter Five for fragmentation of compensation options) held in April 2008 in one of the most luxurious hotels in Surabaya, many leading GKLL members raised doubts about Minarak's resettlement plan on KNV which was just about to be built at the time. The continuous doubts and fears about wider consequences of the option made the meeting ineffective and end without any clear results. Subsequently an agreement was reached after Minarak, in the person of Andi, brought community leaders for an on-site visit to the intended resettlement area. This was followed negotiations in a different hotel. To a large extent, final acceptance was made possible by the presence of Emha Ainun Najib, a charismatic religious writer and poet who had appeared on the scene and framed himself as a mediator between the affected villagers and Minarak (for more details about Emha, see pp. 235-236).

In contrast to Emha's story of community endorsement<sup>108</sup> which called him to be the mediator, Darussalam claimed that it was him who had invited Emha to get involved in the negotiations (interview 1 November 2012). This invitation was based on the understanding that Emha had influence over some GKLL leaders who happened to be regular attendees at his monthly *BangBang Wetan* gathering in Surabaya (interview 1 November 2012). After having failed to mediate the community's demand and the company's resettlement plan, Emha reportedly persuaded the community leaders to see the offer as the company's willingness to invite their participation in rebuilding their life.<sup>109</sup> Following this "agreement", Emha and his *Kiai Kanjeng* gamelan ensemble were invited as the spotlighted stars on several occasions held subsequently to mark "successful rites of

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<sup>108</sup> Emha claimed that he received a support letter signed by 10,476 affected families to represent them in the case settlement on June 22, 2007. Two days later, together with 16 Jatirejo villagers (led by Khoirul Huda who was then leader of GKLL), he met President Yudhoyono to demand an accelerated settlement to the case (Emha Ainun Najib, 'Ronde-Ronde Lumpur Lapindo', *Koran Tempo* 14 Juli 2007). A day later, President Yudhoyono decided to move his presidential office for several days to Surabaya to have a closer oversight to the compensation payment process.

<sup>109</sup> Notes on this meeting were taken from <http://mastakim.blogspot.com.au/2008/05/kahuripan-nirwana-ditawarkankepada.html> (accessed 25 June 2013).

resettlement” from the launching ceremony of the first inhabited house to Ramadan and Eid celebrations.

#### 4.4.4 Influencing local politics and the 2014 presidential race

Apart from attempts to gain control over public discourse, the company aimed to put their people into political positions in local elections. In 2009, Gesang Budiarmo, a long-time associate of Bakrie companies<sup>110</sup>, was listed as Golkar’s number 8 candidate for the National House of Representatives from *Daerah Pemilihan (dapil, or electoral district)* of East Java I which included Sidoarjo district. The presence of his name on the list was a surprise for the province’s party officials who considered his candidature to have been an order from Jakarta and they even questioned his commitment to the electoral district.<sup>111</sup>

**Table 4. 3 2009 Election results for National Parliament in Sidoarjo**

Political Party	Number of votes	% Total valid votes
Demokrat	189,057	26.28
PKB	116,211	16.16
PDIP	82,481	11.47
Golkar	72,413	10.07
PAN	56,620	7.87
PKS	44,474	6.18
Gerindra	38,408	5.34
PPP	11,464	1.59

Source: KPUD Sidoarjo 2009

Having failed to win a seat in the 2009 general election did not deter Gesang Budiarmo from trying again to run for the district head position in the following year. Being certain about winning endorsement from the Golkar’s national board,

<sup>110</sup> It was reported that he had worked for Bakrie’s Kaltim Prima Coal Company before being appointed as one of three directors of MLC and commissioner at MLJ. In 2004, he had also run unsuccessfully for national parliament from *Dapil* East Java 2, but this time from the Party of Struggle for a New Indonesia (*Partai Perjuangan Indonesia Baru*).

<sup>111</sup> <http://www.surabayapagi.com/index.php?read=Golkar-Ragukan-Komitmen-Gesang;3b1ca0a43b79bdfd9f9305b812982962d492fd5cc1e7c1702928ee518e7efb13> (accessed 2 December 2013). In this election, Golkar itself only ranked 4<sup>th</sup> in Sidoarjo and the only national parliament seat for the party’s candidates running from this *dapil* went to the party’s long-time cadre and chairperson of TP2LS (*Tim Pengawas Penanggulangan Lumpur Sidoarjo*/parliament’s task force to monitor mitigation efforts in Sidoarjo mud), Priyo Budi Santoso. The latter had been in parliament since 1997 and was considered among the most promising young MPs from Golkar.

he started to launch his campaign far ahead of the other potential candidates. However, contrary to his self-confidence, he did not even manage to win candidacy from the party, despite explicit support from Minarak key figures like Andi Darussalam.<sup>112</sup> The party's candidacy was instead given to Bambang Prasetyo Widodo, also known to be close to Bakrie's Group. Measured by a Golkar-commissioned popularity survey, Widodo was considered to have greater electability due to his longer public attachment to the district, both as a son of a former Sidoarjo Bupati, and as chief director of PT Media Delta Espe, a Bakrie subsidiary which, by then, owned Arek TV and the *Surabaya Post*. Widodo was also the Operational Director of Minarak. Aiming to win support from the mud-affected communities as well as reflecting a harmonious relationship with affected groups of broader voters, he brought along as his deputy district head candidate Khoirul Huda, the leader of GKLL, which had been allegedly coopted by Lapindo Brantas (details about this association are given in the next chapter).

Widodo was not the only candidate who had been known to have direct links to Bakrie Group. There was also Yuniwati Teryana who, at the time, was the vice president of Lapindo Brantas in charge of public relation affairs. Winning the Democrat Party's candidacy, she took its local party chairman as her running mate. The fact that they were running for the election shows how eagerly the company wanted to occupy political positions in the district and its surroundings.<sup>113</sup> However, the electoral performance of this Lapindo duo proved too weak against PKB's Saiful Ilah in the election. Despite the declining number of seats PKB had in the 2009 parliamentary election (see Table 1.6), combination of popularity of both Saiful Ilah and his vice Bupati candidate largely contributed to secure his win by a landslide (see Table 4.4 below).<sup>114</sup> Indeed, the fact that two of the five Bupati candidate pairs were publicly known to be affiliated with Lapindo strengthened the popularity of Saiful Ilah, who was close to the affected

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<sup>112</sup> <http://tribun-indonesia.blogspot.com.au/2009/08/gesang-budiarso-incar-tahta-di-sidoarjo.html> (accessed 10 December 2013)

<sup>113</sup> The company was also allegedly linked to Mustafa Kamal Pasha, the elected district head in the neighbouring district of Mojokerto. Mustafa is known to have a big business in sand and stone mining (*sirtu*) and was one of the suppliers for Lapindo's mudflow levee construction. In the election held only a month earlier than that in Sidoarjo, Mustafa won twice the votes of his nearest competitor.

<sup>114</sup> Saiful Ilah is popular not only due to his affiliation to PKB and NU, which dominated Sidoarjo. But also because he is a local born leader (*putra daerah*) and known for family wealth gained from fish ponds. Meanwhile, Hadi Sutjipto had served as head of district education office. This public position made him a popular figure for thousands of teachers

villagers since the early days of the mudflow eruption in his capacity as coordinator of SATLAK (Disaster Mitigation Executive Unit at District Level/*Satuan Pelaksana*) for social affairs (more about Satlak is explained in Chapter Seven). Saiful Ilah reportedly won all polling stations nearby the mudflow site (*Surya* 26 July 2010).<sup>115</sup>

**Table 4. 4 Result of 2010 Sidoarjo district head election at district level and in 2 mudflow affected subdistricts**

Candidates	Political Parties	Results at district level		Tanggulangin sub-district		Porong sub-district	
		Votes	%	Votes	%	Votes	%
Yuniwati-Sarto	Democrat	54,593	7.32	1,292	3.42	1,463	4.85
Emy Susanti-Khulam Junaedi	PAN, Gerindra, non-parliament parties	82,918	11.13	3,525	9.34	3,780	12.52
Agung Subali-Samsul Wahid	Independent	24,247	3.25	868	2.30	732	2.42
Saiful Ilah-Hadi Sutjipto	PKB	450,586	60.46	25,742	68.20	18,968	62.82
Bambang P Widodo-Khoirul Huda	Golkar, Hanura, PKNU, PDIP	132,977	17.84	6,319	16.74	5,251	17.39
<b>TOTAL</b>		745,321	100%	37,746	100%	30,194	100%

(Source: KPUD Sidoarjo 2010)

Bakrie's attempts to influence local electoral politics were extended to 2014 parliamentary and presidential elections. The results of local electoral contests were important for Golkar party's political goals as well as Aburizal's official 2014 presidential bid, especially considering two important facts. Firstly, with its 30.6 million registered voters, East Java had become the second biggest province and was widely seen as a political barometer in the 2014 election (KPU 2014).<sup>116</sup> The big chunk it occupies in the national voter share (16%) made East Java an important place on the radar of many political parties and potential presidential

<sup>115</sup> Yuniwati Teryana reportedly spent IDR 6 billion to win the nomination ticket from Democrat party (*Surabaya Pagi* 21 April 2010). The fact that Lapindo failed to pay the remaining 80 percent of compensation payment (see Chapter Five) believed by the mudflow community members was partly due to its shifting priorities to finance their two Lapindo bupati candidates (interview with Jasimin 11 October 2012). In addition to Saiful Ilah popularity, Saiful's win in this district head election was also due to Khoirul Huda's unpopularity for many of the affected community groups (outside GKLL) as well as internal party conflicts in Emmy Susanti's camp (see Chapter Seven for more details about this).

<sup>116</sup> The total of registered voters for the 2014 Presidential election at the national level was 188,034,362. East Java ranked second (30,652,750) after West Java (33,096,723) ([www.kpu.go.id](http://www.kpu.go.id) accessed 14 February 2015).

candidates.<sup>117</sup> Secondly, with continued press coverage over the mudflow issue, which was widely seen as the weakest point in Golkar's presidential goals because of its association with Lapindo mudflow. Numerous polling research institutes continuously labelled Aburizal as a presidential candidate with only a one-digit percentage of electability, far below other candidates (*Tempo* 1 December 2013).

To ensure its electoral goals, the Golkar party took serious actions in 2013 to increase its chances of scoring more significant wins in the province. Deployment of its political machinery was intensified both to increase the electability of parliamentary candidates as well as Aburizal by expanding the number of the party's regional election agencies. Previously merged within Java Region 2, East Java was then separated as a distinct region with its own electoral agency (*Badan Pemenangan Pemilu*) to refocus electoral resources in the province.<sup>118</sup> Apart from strengthening party structure, disciplining party members at provincial level was also undertaken to ensure the party was under the control of its national board, as seen from the dismissal of the East Java provincial party chairman.<sup>119</sup>

To elevate Aburizal's electability a more systematic approach was undertaken by professional teams. Aburizal reportedly ordered a polling institute to conduct a "more realistic survey" which meant eliminating from the list offered to those surveyed potential candidates whose candidature would likely be backed up by major political parties (*Tempo* 1 December 2013).<sup>120</sup> Assuming that there would be only three major political parties eligible to nominate presidential

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<sup>117</sup> Ensuring the Golkar party had a considerable number of votes in this province was important not only to enlarge the number of Golkar members in the national parliament, but also to determine whether or not the party could reach the presidential threshold (20 percent of total seats in national parliament or 25 percent of total national votes) to allow its presidential candidate to be eligible to run without having to seek coalitions with other parties (Law No 42/2008 on Presidential Election).

<sup>118</sup> Previously Golkar's electoral agencies (*Badan Pemenangan Pemilu*) in Java were divided into two regions. Region I covered Jakarta, Banten and West Java, and Region 2 covered Central Java, Yogyakarta and East Java. Now East Java stands as a separate Region 3.  
<http://www.golkarjateng.com/kabar-nusantara/842-pemilu-2014-golkar-ingin-patahkan-dominasi-pdip-a-nu-di-pulau-jawa?format=pdf> (accessed 14 February 2015)

<sup>119</sup> Due to his refusal to change the party's candidate list for East Java IX (*dapil Jawa Timur IX*), Martono was dismissed as Golkar's provincial chairman by the national board in July 2013.  
<http://regional.kompas.com/read/2013/07/18/1006358/Zainudin.Amali.Plt.Ketua.DPD.Golkar.Jati> (accessed 14 February 2015).

<sup>120</sup> This survey was widely criticised for eliminating Joko Widodo, who was the most popular potential candidate. At the time, PDIP had not yet issued any political signal to nominate Joko Widodo as its presidential candidate.

candidates, this “more realistic survey” left only names of three candidates, including Aburizal. While this increased his “electability” to 28.6 percent, it still didn’t put Aburizal at the top.<sup>121</sup> Another polling institute was also hired to conduct surveys about his electability in 77 electoral districts, including Sidoarjo. Reportedly delighted after being told that his electability in Sidoarjo was the highest in East Java, Aburizal concluded that the mudflow was no longer an issue for his candidacy (*Tempo* 1 December 2013). He also reportedly got his own hands dirty by contacting personally several individuals who could be paired as his vice presidential candidates as well as potentially elevate his electability, among whom was Soekarwo, the popular Governor of East Java.<sup>122</sup> Not only reliable polling institutes were required, trying to enhance Aburizal’s popularity also involved public marketing strategies including an attempt to change his nickname from his popular name “Ical” to his initials “ARB”.<sup>123</sup>

However, Aburizal’s various attempts to enhance his popularity triggered criticisms both from within the party and outside. Allegedly overcrowding the party with professionals whose primary work was to elevate Aburizal’s electability, his attempts were criticized by many Golkar leading figures for being concerned more with his winning the presidential election rather than for the party winning seats in the national election (*Tempo* 1 December 2013).<sup>124</sup> For civil society advocates, the billions of rupiah spent in these attempts<sup>125</sup> were considered an irony compared to the bulk of money Bakrie Group owed as compensation payments for the mudflow-affected communities (see Table 4.2 above).<sup>126</sup>

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<sup>121</sup> The polling put Aburizal second after Megawati (29.8 percent) (*Tempo* 1 December 2013).

<sup>122</sup> After being re-elected as East Java Governor in 2013 with a greater margin than in 2008 (from 26.43% in 2008 gubernatorial election round 1 to 47.25% in 2013 election), Soekarwo’s popularity certainly promised a good chances at least to secure the East Java popular vote.

<sup>123</sup> According to Cicip Sutardjo, one of the leaders on the Golkar national board, he recommended the change because of public images about his nickname. In Javanese and Sundanese, “Ical” means “lost”. After considering several options, his initials (ARB) were finally chosen as his official nickname (*Tempo* 1 December 2013).

<sup>124</sup> Most of these critical leading figures are now part of the so-called Munas Jakarta camp. Its name an abbreviation from *Musyawahar Nasional* (National Consultation), Munas is Golkar’s ultimate party platform to discuss organizational matters. Driven by disappointments about what they consider to be Golkar failures under Aburizal’s leadership in the 2014 elections, Munas Jakarta was organized in December 2014 to articulate the demand to change party leadership.

<sup>125</sup> *Tempo* magazine reported that the cost for each survey in each electoral district was between IDR 75-100 million (USD 6,246-8,326) (1 December 2013).

<sup>126</sup> The fact that Bakrie’s due payments for this compensation coincided with Aburizal’s plan to run for presidency led some activists to believe that those payments would be used as bargaining for the mudflow-affected community to support his presidential run (interview 20 June 2014).

Despite successfully increasing its popular vote in the province,<sup>127</sup> Golkar failed to reach presidential thresholds nationally in the 2014 general election.<sup>128</sup> More ironically, despite the fact that Golkar was the second biggest winner in that election, it failed to convince other political parties to endorse Aburizal even as a vice-presidential candidate on a joint ticket. Aburizal's continued low popularity in opinion polls, widely attributed to the mudflow case,<sup>129</sup> has repeatedly prevented him from gaining additional political support from other parties required to be eligible to run in the presidential race. Even when he lowered his own candidature bid, this time for the position of vice-president, no other political party stepped in to support him. His failure to participate in the 2014 presidential contest, has culminated in the already boiling leadership conflicts within Golkar which has resulted in the current leadership dualism.<sup>130</sup>

## Summary

As mentioned earlier, this chapter is certainly not the first in elaborating the issues of mining companies and environmental disputes in Indonesia. Other research has elaborated this matter eloquently, some of which took the more contemporary context of post-Soeharto political reform and the prevalent discourse of business ethics. Despite this, I argue that this chapter provides a distinct contribution to the existing debate particularly with regards to the research subject and research spectrum. By taking the case of the Bakrie Group in the mudflow dispute, this chapter shifted the focus of environmental dispute from predominantly foreign corporations to a national-owned company. Meanwhile, the expanded research spectrum this chapter offers is related to its findings which not only deal with a particular environmental dispute issue but to include larger corporate interests both in economic and political terms.

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<sup>127</sup> For all electoral districts in East Java, Golkar's vote increased from 9.7% in 2009 election to 10.7% in 2014 (source: rumahpemilu.org and kpu.go.id, accessed 14 february 2015).

<sup>128</sup> Nationally, Golkar's votes was 18.4 million (14.7%) and the number of parliamentary seats gained was 91 out of 560 (16%) (source: kpu.go.id accessed 14 February 2015). This is far less than the 25% of total popular votes and 20% parliamentary seat thresholds required by Law 42/2008 for a single party to be eligible to nominate its own presidential candidate.

<sup>129</sup> Polling carried out by *Lembaga Klimatologi Politik* (LKP) revealed that mudflow disaster was the first thing crossing in respondents' minds when talking about Aburizal.

<http://nasional.kompas.com/read/2013/11/17/1259049/sitemap.html> (accessed 23 March 2015).

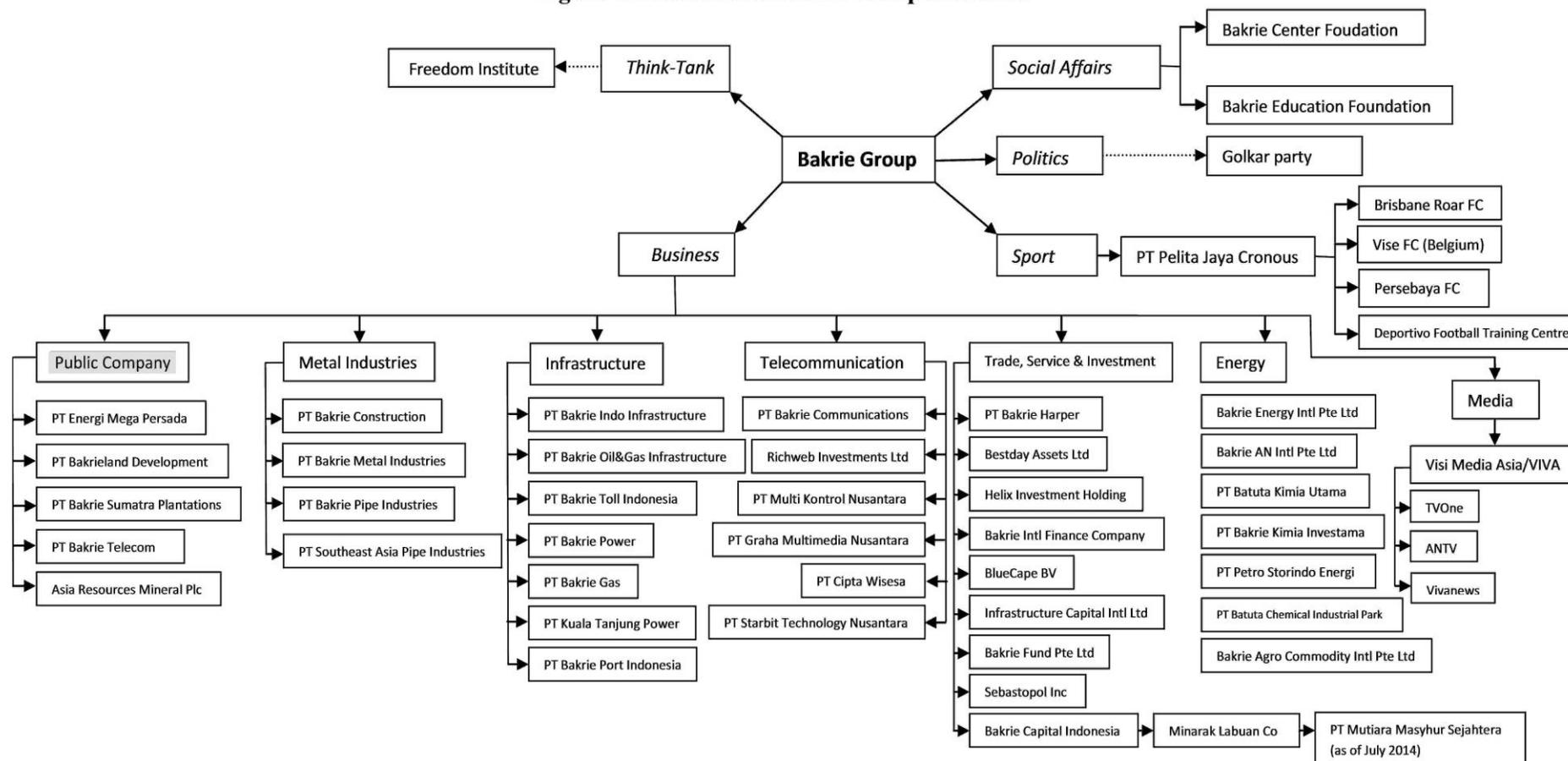
<sup>130</sup> Currently there are two rival leaderships within Golkar. One camp is known as the camp of *Munas Bali* where Aburizal Bakrie was re-elected as party chairman, the other known as *Munas Jakarta* led by Agung Laksono, whose rival leadership of the party has apparently now gained official government approval. Current rivalries within this party deserve separate research.

As this chapter suggests, the Lapindo mudflow eruption poses a significant challenge to Bakrie Group which had just recovered from its corporate crisis less than a decade before, was on track to revive its business, and had just started expansion of its business interests in oil and gas. This challenge had to be dealt with urgently for several reasons. Being recognized as among only a few domestic conglomerates with a strong appetite for internationalization (Carney and Dieleman 2011), the mudflow case certainly endangered the Group's business expansion on a regional and global scale. The mudflow also jeopardized its other national projects, not only in economic terms (as it aspired to be among the leaders in energy security issues), but also related to the political aspirations of its key figure, Aburizal Bakrie. Simultaneously, it needed to be dealt with skillfully to prevent the Group becoming a "prey" of political liberalization at local level.

Delicate attempts had been launched by the Bakrie Group to ensure those goals were achieved. Spinning off Lapindo Brantas from Bakrie's holding company was the first action perceived as the easiest way out to deal with this issue. Following the failure of spinning-off attempts and simultaneously facing growing political pressures, the Group launched public marketing campaigns to divert the prevailing opinion on the mudflow in its favour. This discourse control was particularly important not so much in the discourse itself, but in its projection of a good corporate image it wanted to construct in the wider global market. To deal with challenges at the grass root level, the Group appointed Andi Darussalam to lead its team. Having such a *pemain lapangan* character, Darussalam became person the company could rely on to manage the crisis and capture any available opportunities to ensure the company's interests were served.

These attempts in the end failed to secure Aburizal Bakrie's political chances to run in the 2014 presidential election. With the Lapindo mudflow disaster continuing to unfold, it remains to be seen whether or not those attempts can protect its larger corporate interests from further decline. However, one thing is apparently clear. The fact that the Group is engaged in the mudflow mitigation as stipulated by Perpres 14/2007 is not because of its heartfelt kindness to the mudflow victims as it often argues. Instead, it is a necessity for its revival.

**Figure 4.1 Extension of Bakrie Group's interests**



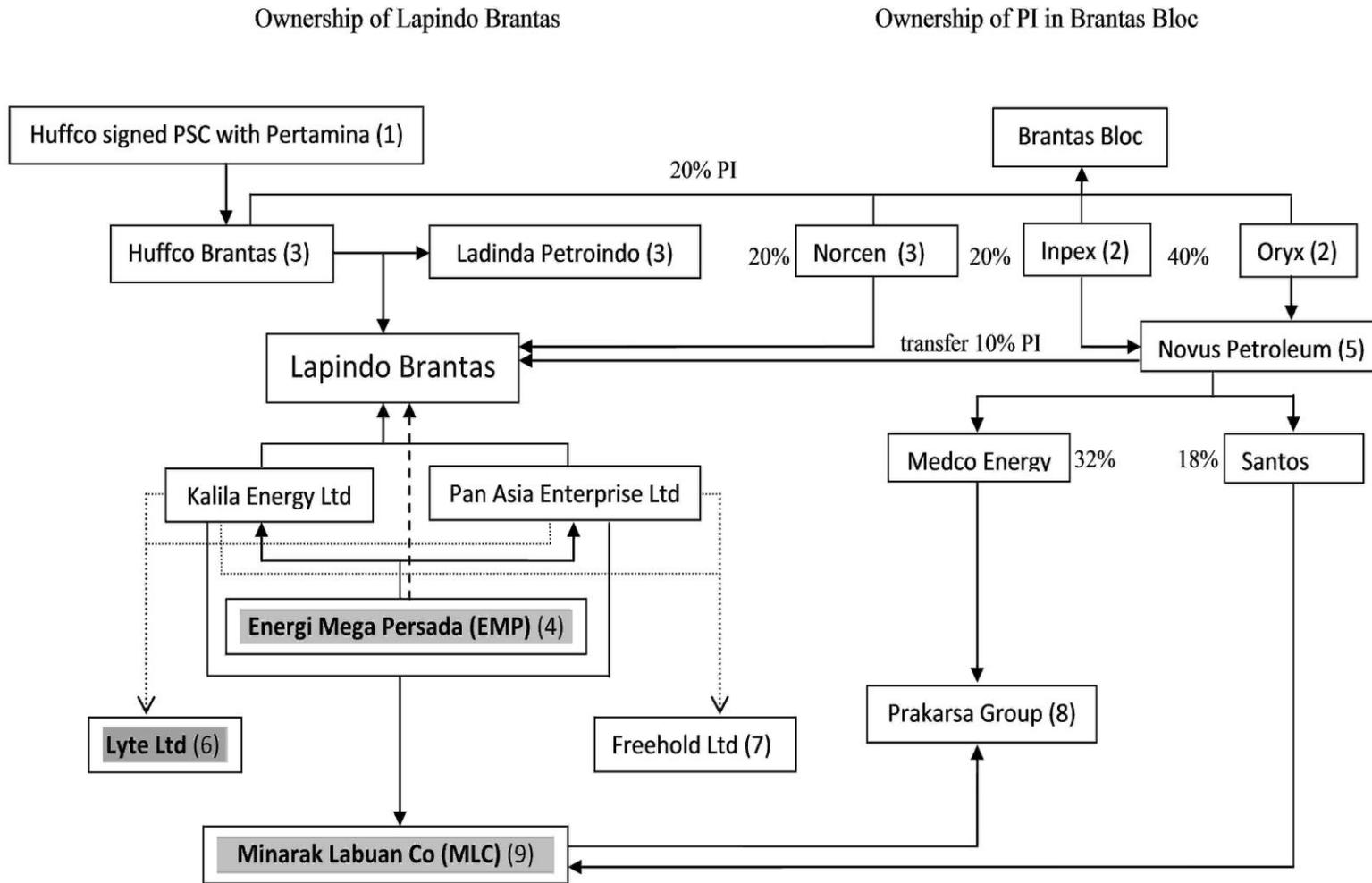
**Figure 4. 1 Extension of Bakrie Group's interests**

*Legend*

- Formal ownership with more than 50% shares controlled
- .....→ No formal ownership
- ▭ Owing less than 11% of total share

(Source: Bakrie and Brothers 2013 Annual Report; various sources)

Figure 4.2 Transfer of Interests in Lapindo Brantas and Brantas Bloc



(Source: BPK 2007 and corresponding companies' sale and purchase agreements)

Figure 4. 2 Transfer of interests in Lapindo Brantas and Brantas Bloc

- (1) PSC agreement with Pertamina in 1990
- (2) In 1992, Novus bought Oryx's 40% ownership and Inpex's 20% ownership
- (3) In 1996, Ladinda bought Huffco's 20% Brantas ownership and 20% Norcen ownership;
- (4) EMP bought Kalila and Pan Asia in March 2004 (Source: EMP IPO Prospectus 2004)
- (5) Santos and Medco agreed to take over 50% of Novus ownership; 18% and 32% respectively (Source: Santos' newsrelease 7 June 2004); 10% of Novus ownership was transferred to Lapindo
- (6) EMP tried to sell Kalila and Pan Asia to Lyte in September 2006 (Source: EMP circular Letter 21 September 2006)
- (7) EMP tried to sell Kalila and Pan Asia to Freehold in November 2006 (Source: EMP press release 14 November 2006)
- (8) Medco sold its ownership to Prakarsa Group (*The Jakarta Post* 10 April 2007)
- (9) Transfer of Kalila and Pan Asia to Minarak Labuan Co in March 2008 (Source: EMP circular letter n.d); Santos transferred its interest to Minarak Labuan Co (Source: Santos media release 11 December 2008)

Legend

- ▶ Acquisition
- - - ▶ Indirect ownership
- .....▶ Failed acquisition
- PI Participating Interest
- ▭ Bakrie affiliated companies



## **Adding salt to the wound: Contending perspectives, divided interests, and tactical rivalries within the mudflow-torn communities**

*"Bakrie's company (Lapindo) only paid full compensation to 4,000 of 13,000 existing claims"—Hari Suwandi, 16 July 2012<sup>1</sup>*

*"I strongly believe that the big family of Mr Aburizal Bakrie is capable of solving problem in Sidoarjo, especially the victims of Lapindo mudflow ... oops ... victims of Sidoarjo mudflow"—Hari Suwandi, 25 July 2012<sup>2</sup>*

The above contrasting quotations were statements from the same man, both issued in less than 10 days. Hari Suwandi, walked more than 500 kilometres from the mudflow site in Sidoarjo to the Indonesian capital to raise the issue of compensation payment to mudflow disaster victims which, by then, had been dragged on for more than four years. Walking for a month to reach Jakarta, the man soon became a popular figure with the continuous media coverage he gained. With everyday coverage on TV, online and in print media, it was probably the widest covered protest by a single man in Indonesian media history. Popularly captured in his traditional strip pattern Javanese outfit (*sorjan*), hat (*caping*) and flip-flops (*sandal jepit*), he symbolized the struggle of small people (*wong cilik*) against the powerful elites. It was regularly reported that he won massive public support, from social and political activists' circles to ordinary citizens, in every city he passed.

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<sup>1</sup> Hari Suwandi's statement when he protested in front of Bakrie's Tower Jakarta. Source: [http://www.suaramerdeka.com/v1/index.php/read/news\\_cetak/2012/07/17/124454/Hari-Suwandi-Berorasi-di-Depan-Kantor-Bakrie](http://www.suaramerdeka.com/v1/index.php/read/news_cetak/2012/07/17/124454/Hari-Suwandi-Berorasi-di-Depan-Kantor-Bakrie) (accessed 30 January 2013)

<sup>2</sup> Hari Suwandi's interview on TVOne, live on 25 July 2012. Full interview can be viewed at <http://www.youtube.com/watch?v=U6jaSmlTX1M> (accessed on 30 January 2013).

Widely believed to be representing the reawakening of the victims' struggle, he brought high expectations of a resolution to mudflow disaster issues. If not achieving a fast-track solution to the long-time suspended compensation payment by Lapindo, he was at least expected to bring the mudflow issue back onto the national agenda. However, forty days after he started his protest, this expectation suddenly ceased with his remarkable 12-minute interview appearance on TV One, the Bakrie-owned TV channel. Broadcast live at a prime time and without any advertisement breaks, he shocked the public with his personal apology to Bakrie for all he had done which had humiliated the tycoon family.

Understandably, the interview provoked public anger. As a response, his fellow mudflow victims were reportedly eager to mob his house in Sidoarjo. Many believed that Hari Suwandi had been "bought" by Bakrie, an allegation which was strengthened by a statement from his close friend who reported a monthly incentive payment to Hari Suwandi for changing his mind.<sup>3</sup> The presence of boys, allegedly Bakrie's, in Suwandi's press conference one day after the interview strengthened this belief.<sup>4</sup> However, nobody else knows for sure what actually happened to Suwandi before the interview. Not only because he did not mention anything whatsoever about payment or bribery from Bakrie, but also because nobody has been able to discover his whereabouts since then (or if they have they have not told anyone).

Looking beyond the question of whether or not he was bought by Bakrie, this chapter argues that the Hari Suwandi affair shows how fragile the mudflow-affected communities' struggle was in demanding and obtaining compensation. The assumption of disaster as a "revelatory crisis" (Solway 1994) suggests that there is a lot we can see from this Suwandi case. This chapter argues that, instead of localizing Suwandi's action as a merely personal matter, a better understanding of the case will be gained if we see it in the context of political contestation surrounding his protest action and the TV interview. To support this argument, this chapter will be divided into five sections. The first section will discuss the emergence of the short-term compensation payments as a temporary solution to growing disappointments in the early months of the eruption. The second section

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<sup>3</sup> <http://www.merdeka.com/peristiwa/hari-suwandi-disebut-digaji-bakrie-rp-5-jutabulan.html> (accessed 22 November 2013)

<sup>4</sup> <http://news.detik.com/read/2012/07/26/193944/1976061/10/ini-alasan-hari-suwandi-berubah-sikap-soal-lumpur-lapindo> (accessed 22 November 2013)

will elaborate the emergence of “cash and carry” compensation, a permanent settlement for the affected communities which involved property purchase. Divided into several sub-sections, this section will particularly aim to track down the early fragmentation of the affected communities within the so-called 22 March 2007 dated map under Perpres 14/2007. The third section will elaborate further fragmentation with regards to the delay of compensation payments. The fourth part will aim to highlight social-political dynamics within the affected communities outside 22 March 2007 dated map. The last part of the chapter will highlight the disunity within the affected communities from the perspective of their leaders who see it more as an effect of a security approach to disaster relief which has been prevalent in Indonesian state history.

### 5.1 Getting compensated: short-term compensation

Long before the mudflow erupted for the first time in Porong, problems and public resistance surrounding gas drilling activities were already present from the beginning. Having met opposition from villagers of Siring and Jatirejo, which offered more profitable land use for industrial activities (see Table 3.2), the company finally moved to the neighbouring Renokenongo village to obtain a drilling site. The fact that it finally managed to acquire land, which did not meet significant local opposition as in the other two villages, was because of a combination of several factors.

The land acquired was located in the hamlet of Renomencil, a name given after the construction of Surabaya-Gempol toll road in 1986 to create faster connections with industrial centres in Pasuruan and Malang separated it from the other Renokenongo main kampungs on the western side of the toll road.<sup>5</sup> The villagers’ called the land acquired as “*mbayong*”, a local term for an unproductive swamp area. Being its unproductive status, some economic activity was particularly welcomed especially when the hamlet official told farmers owning the land that it would be used for chicken farming. Hoping that they would be recruited as workers in this industry, these people sold their cultivation rights and made no major objections.

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<sup>5</sup> <http://korbanlumpur.info/portfolio/renomencil/> (accessed 1 February 2014)

Months before the eruption, issues were already being raised by local villagers to the Lapindo Gas Company. Rather than problematizing its drilling permit acquirement, their early concerns emphasized on the way it ran its drilling operations which allegedly neglected local culture and well-being. Runturambi (2010) provided a clear picture about those concerns through the eyes of a local government official:

There had been problems related with drilling. There was an explosion and flames shooting up because the gas pipe was twisted and broken. Every drilling [operation] has side effects, such as excess tonnage of heavy vehicles. If the gates were not big enough (for vehicles), fences would be torn down. There were also noise from the (rig) machinery during Muslim prayer times, cracks appeared in peoples' houses because of the machines' vibration drilling effluent, overflowed before it reached the drains polluting people's fish ponds (Runturambi 2010, p. 27)<sup>6</sup>

Instead of being mobilized for bigger concerns, such as why these rigs were there in the first place, and how they got permission etc, initial community concerns were manipulated by local groups for rent-seeking purposes to request donations as compensation for their adverse impacts. Popularly called dust money (*uang debu*) or noise money (*uang bising*), such demands were rampant in villages which hosted widespread drilling sites such as in Wunut and Kalidawir. This practice was mainly coordinated by local youth groups forcing company truck drivers to pay money; otherwise their vehicle car would be seized. While the company's individual workers did pay, the company generally rejected any such cash payment requests from villagers. As a replacement, the company offered physical infrastructure such as road works or mosque construction in which they had more control over financial spending and with more tangible outcomes. Despite at least nine government permits the company acquired for its drilling activities (Mangoenpoerojo 2008)<sup>7</sup>, local villagers said that the company never

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<sup>6</sup> "Persoalan yang timbul terkait dengan pengeboran, pernah ada semburan api dan ledakan karena pipa kejeprit dan patah. Setiap pengeboran ada dampak, seperti mobilisasi kendaraan berat (melebihi batas tonase). Kalo nggak cukup, ya penghalangnya (pagar) dijebol, kemudian suara mesin (rig) yang bunyi seringkali mengganggu jam sholat, bangunan retak karena getaran mesin, kemudian limbah pengeboran, sebelum sampai ke parit, ada kolam (ikan), bisa mengganggu dan pencemaran." Descriptions of the company-community relations before the eruption in this section were largely drawn from Runturambi (2010)

<sup>7</sup> It is still not clear how many permits the company acquired for its drilling activities. In footnote 32, the quoted reference said that the company 15 government decrees which allowed the company to do the drilling. Meanwhile the 9 permits mentioned here are the following: (1) On 1 September 2004, the head of the exploration division of BP Migas gave exploration approval with a letter No

held information sessions (*sosialisasi*) about their drilling activities as required by these permits (interview Wiyono 25 March 2015).

Even after the first eruption took place on 29 May 2006, the attitude to people's complaints were not very different from what they had been previously. The only difference was that Lapindo started to give cash compensation, because it could no longer sweep the problem under the carpet. Three days after the first eruption, the company promised the immediately affected community members in Siring compensation of 200 thousand rupiahs (about USD 21.6) per household, later known as "smell money" (*uang bau*). A few days later, another promise of cash combined with village road works was also given to those in Renokenongo. While Lapindo knew that it no longer had control over the drilling site due to series of misjudgements (see Chapter Three), villagers had no idea about the scale of continuing destruction. While it never ever crossed their minds that the eruption would create effects as huge as today the promises of short-term compensation were taken for granted, while the villagers simultaneously worked hard to defend their homes and villages from the mud.

By the middle of June 2006, the job of defending homes and villages from the mudflow was proving to be harder when both the mitigation effort to contain the mudflow started to fail. Initially built by different corps under East Java's territorial military command (*Kodam Brawjiaya*) (see Map 5.3), these levees were built to direct mudflow into designated ponds to prevent the mudflow from flooding inhabited areas and inundating the important Surabaya-Gempol toll road. The intended ponds for the mudflow were constructed on farmers' ricefields nearby the drilling and the eruption site. While they were initially able to contain the mudflow movement, these levees and ponds were not constructed as quickly as the mudflow rate was increasing.

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444/BPA1000/2001-SI; (2) On 29 January 2005, Education and Training Institute of Ministry for Mining and Energy issued certificates confirming technical skill specialized in drilling for Lapindo drillers; (3) On 19 April 2005, Sidoarjo district head issued Location Permit with decision letter No 188/227/404.1.1.3/2005; (4) On 5 June 2005, Dirjen Migas issued Operating License (*Surat Ijin Layak Operasi/SILO*) No 6276/28.01/DMT/2005; (5) On 10 September 2005, Lapindo Brantas conducted a socialization meeting with communities around Banjarpanji-1; (6) On 14 October 2005, Dirjen Migas approved UKL-UPL on letter No 12483/28.02/DMT/2005; (7) On 3 February 2006, the Education and Training Institute of the Ministry for Mining and Energy issued certificates called "Skilled Labor in Well Control" for Lapindo Brantas' workers; (8) On 16 March 2006, BP Migas examined the technical and work safety aspects of drilling rig as written on Letter No 065/BPB2000/2006; (9) On 23 March 2006, the Head of Sidoarjo District Office for Permits and Investment (*Kepala Kantor Perijinan dan Penanaman Modal*) issued Disturbance Permit No SK 660/55/404.3.7/2006.

During this period (second week of June 2006), the affected communities from different villages started to turn their attention from short-term compensation issues to safety. As the impact of the mudflow became more obvious, villagers tried to find their own ways to save their kampungs from being inundated. On 10 June, the disappointment in the government's policy which prioritised the rescue of privately-owned toll road infrastructure over saving villagers from the mud flood, led thousands of villagers from east Siring to occupy the toll road and demolish the levee which had been constructed as a matter of urgency to prevent the toll road from being inundated (*Tempo.co* 16 June 2006). A few days later, communal fighting broke out between Kedungbendo and Renokenongo villagers due to the conflicting use of existing levees. Kedungbendo villagers demolished the levee in the southern and western side of its village to prevent the mudflow from flooding their kampung, which threatened Balongkenongo hamlet of Renokenongo village located on the eastern side of the levees (*Suara Merdeka* 17 June 2006) (see Akbar [2007] for more detailed accounts on the competing efforts to save villages by the villagers) (see Maps 5.1, 5.2 and 5.3 for detailed boundaries of levees and villages).

While villagers were threatened by the mudflow, those who were first put on a priority list for compensation in the early weeks were factories (see Table 3.2 in Chapter Three), their workers and farmers. These groups were closest to the eruption site and easier to handle than hundreds of houses in the affected villages. Planning to transform factories and rice fields into ponds urgently needed to accommodate the increasing mud volume, the government and Lapindo responded to the rising unrest from these groups by offering the factory workers compensation for their loss of income<sup>8</sup> and the farmers compensation for land leasing (*sewa lahan*)<sup>9</sup>. Farmers affected were spread in several villages, from Jatirejo, Renokenongo, Mindi, Besuki, Kedungcangkring and Pejarakan (the first

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<sup>8</sup> There were 2,288 workers, each received 700,000 rupiah/month (USD 75.6) (Humanitus 2011). Many companies claimed that this workers' compensation was only paid for 5 months. Meanwhile, Lapindo claimed that the payment to workers was merely a social assistance for the company, not an obligation (<http://www.tempo.co/read/news/2007/04/16/05898001/Perusahaan-Korban-Lumpur-Lapindo-Mengadu-ke-Dewan> accessed 3 February 2014)

<sup>9</sup> This land leasing was calculated based on harvest value for two years. Included in this harvest value was three harvests a year, an assumed net volume of rice produced per hectare (four tonnes per hectare), and an assumed value of husked rice per tonne (capped at 1.8 million rupiah/USD 194,405 per tonne). This calculation brought a compensation value of 21.6 million Rupiah (USD 2,333) per hectare for a year. The compensation was paid for a two-year frame, this was assuming that by then the mudflow would be under control.

three were part of Porong subdistrict and the last three were part of Jabon subdistrict). Initially, instead of accepting the land leasing offer, a group of farmers in Pejarakan village demanded land purchase due to their doubts that the disaster would be over anytime soon and that the mud deposit would not generate any harmful effects on their soil fertility. This land purchase demand was denied because there was still a belief that the mudflow would be under control within months. There was also the belief that fulfillment of these demands would lead to similar ones from widely increasing numbers of affected communities, leading to skyrocketing compensation claims. Despite the agreement was not yet achieved, the pond construction was already underway leaving the farmers limited option but to conditionally agree with the land leasing.<sup>10</sup> This land leasing was finally accepted by farmers with several additional conditions which still left open the possibility for further payments.<sup>11</sup>

Efforts to respond to villagers' dissatisfaction with regards to the mudflow's enlarging effects to the human settlements were brought forward by the Forum for Maintaining Ties among the Victims of the Lapindo Mudflow (*Forum Silaturahmi Rakyat Korban Lumpur Lapindo/FSRKLL*). Established after a meeting initiated by Sidoarjo district's Office of Social Affairs (Dinas Sosial) for all those affected in four villages (Jatirejo, Renokenongo, Siring and Kedungbendo), the forum was established to become a common platform with which the government and company would negotiate (Karib 2012) (see Table 5.4 for various affected groups).<sup>12</sup> Considering the increasingly dangerous environment and its effects on the villagers and their livelihoods, the forum demanded medium-term compensation in the form of financial coverage for house

<sup>10</sup> Pond construction works reportedly took place in Mindi, for example, without an approval from the farmers whose land was used (*Suara Merdeka Cybernews* 8 September 2006).

<sup>11</sup> The conditions were that "(a) this leasing agreement will void and farmers will be free of charges if Lapindo Brantas buys mudflow affected property; (b) Lapindo Brantas is required to provide compensation in the forms of donation to charity. Proposals for these is donations to charity will be discussed at a future date (c) Lapindo Brantas is required to provide (financial) support for operational expenses and incentives to the executive committee [(a) *Apabila LBI membeli tanah yang terkena luapan lumpur maka perjanjian sewa menyewa dengan petani Desa Pejarakan dinyatakan batal demi hukum dan petani bebas dari tuntutan hukum; (b) LBI wajib memberikan kompensasi berupa sumbangan-sumbangan. Adapun bentuk proposal sumbangan-sumbangan menyusul; (c) LBI harus memberikan insentif pada panitia dan dana operasional tim*]" (<http://hotmudflow.wordpress.com/2006/09/05/warga-pejarakan-akhirnya-rela-sewakan-265-lahan-sawahya-untuk-pond-5/> accessed 10 February 2014).

<sup>12</sup> According to the Indonesian Disaster Care Forum (*Forum Peduli Bencana Indonesia*), it took weeks and several cross-villages meetings before FSRKLL finally agreed to function as an umbrella group on July 9, 2006. (<http://bingkaibencana.blogspot.com.au/2009/05/catatan-aksi-kemanusiaan-lumpur-lapindo.html> accessed 3 February 2014).

rent expenses (*uang kontrak*), relocation costs (*uang pindah*), and meals (*uang lauk-pauk*), which was approved by the company on 14 July 2006 (see Appendix 1).<sup>13</sup> Despite the insistence of some Renokenongo villagers in demanding land purchase instead, these medium-term demands (house rent cost, relocation cost and meal allowance) were generally accepted because they were deemed appropriate to ensure there were policies in place regarding the safety of affected communities, while also fostering hopes that someday villagers would return to their home kampung (*Tempo.co* 12 August 2006).<sup>14</sup>

## 5.2 Getting compensated: cash and carry demand

### 5.2.1 Village level compensation attempt

By September 2006, all the existing ponds which have been built north and south of the toll road were fully filled with the mud, leaving the dream that someday villagers would return home getting less and less likely to happen. This was made worse by a number of levee bursts leaving the nearby settlements flash-flooded with the mud.<sup>15</sup> It was particularly the case for Jatirejo villagers, who lived in greater danger because their village was surrounded by fully filled ponds (by then Pond 5 was being constructed, see Map 5.2). To make matters worse, the rainy season was approaching. Responding to this looming threat, in early September Sidoarjo Bupati Win Hendrarso,<sup>16</sup> as the leading actor in the integrated

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<sup>13</sup> *Uang kontrak* was capped at 5 million rupiah (USD 500) per family for two years rent, *uang pindah* at 500,000 rupiah (USD 50) given only once, and *uang lauk pauk*, or later popularly known as living allowance (*jatah hidup/jadup*) was 300,000 rupiah (USD 30) per person each month.

<sup>14</sup> As will be explained later, the rejection of some Renokenongo villagers to *uang kontrak* built up into the establishment of Pagar Rekontrak (*Paguyuban Warga Renokenongo Menolak Kontrak*).

<sup>15</sup> The collapse of levees were widely reported in the print media (*Kompas* 28 August 2006; *Suara Merdeka* 30 August 2006; *Suara Merdeka Cybernews* 17 September 2006; *Bali Post* 27 September 2006). *Kompas* (26 September 2006) reported that between the second half of August to September 2006, there were nine incidences of levee collapses. By this time, with the mud eruption rate running higher (reaching 120,000 cubic metre per day) and the slow pace of pond/levee construction, the national government was still divided about whether or not the mudflow should be channelled to the Porong river. Timnas, who was headed by Basuki Hadimuljono from the Ministry for Public Works, argued for channelling the mudflow to the river; while Rahmat Witar, Minister for Environmental Affairs, was reluctant to agree to this option as the mudflow would create large ecological impacts on surrounding areas along the river, not to mention the river itself.

<sup>16</sup> Win Hendrarso was Bupati Sidoarjo for two terms, from 2000-2005 (elected by the district assembly) and 2005-2010 (elected by the people directly), both paired with Saiful Ilah, a prominent local businessman with strong links to Nahdlatul Ulama. During his first term, Sidoarjo won various awards from provincial and national governments and was known as among the most innovative districts for creating an investment friendly climate (see footnote 27 Chapter One). In his interview with *Jawa Pos* (26 April 2007), he admitted that his second term had heavier tasks and burdens particularly after being elected directly by Sidoarjo people in 2005. His wife, Emy

team (Tim Terpadu, for this Tim see Chapter Seven), demanded that the national government and the company start thinking about permanent relocation options for the affected villagers (*Tempo* 5 September 2006). The Bupati's call prompted further unrest not only in Jatirejo but also to the surrounding villages. Realising the increasing impossibility of any efforts to save their homes, villagers reacted differently to this call. Some expressed their concerns about losing their homes and social networks, but the majority were strongly motivated to demand property purchase option (see Figure 5.2). Not long after this relocation call, a national government minister raised an option for inter-island migration (popularly called transmigration) but this triggered further opposition to the Bupati's idea. Being aware of the social-demography of his own people, in the following statement the Bupati underlined that he was in favour of permanent relocation but not transmigration:

Nobody will ask the affected villagers to migrate to Outer Islands ... The villagers have demanded that I reject the proposal of transmigration. My people have chosen the option of evacuation, but not to transmigration destination like Riau, Maluku, and Kalimantan. They are not like poor communities .... Besides we have never been invited to talk about this transmigration proposal, and we really do not agree with the proposal. Why? The people are not poor or unemployed. Indeed, many of them are successful farmers or entrepreneurs (*Suara Karya Online* 30 September 2006).<sup>17</sup>

In Jatirejo, village leaders through its Community Empowerment Body (*Lembaga Pemberdayaan Masyarakat/LPM*), an advisory body to the village head whose members were elected by the villagers, responded to the worsening mudflow impacts by carrying out polling to assess their fellow villagers' aspirations about their compensation preference. The polling result not only popularized an option which then became known as "cash and carry", a scheme

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Susanti, is a lecturer at Airlangga University and Flinder University graduate. As alluded in Chapter Four and will be explained more details in Chapter Seven, Emy Susanti ran for district head election in 2010 but lost to Saiful Ilah.

<sup>17</sup> "Siapa yang akan mentransmigrasikan warga saya? Wong, saya sendiri didesak warga agar menolak program itu, kok. Warga saya sementara ini memilih mengungsi, tapi bukan ke daerah transmigrasi seperti ke Riau, Maluku, dan Kalimantan. Mereka itu bukan orang susah, lho .... Selain tidak pernah diajak bicara permasalahan program pemindahan ini, kami benar-benar tidak setuju dengan adanya rencana transmigrasi. Kenapa? Karena warga kami bukan orang yang tidak mampu atau pengangguran. Bahkan tidak sedikit dari mereka (pengungsi) yang belatar belakang petani atau pengusaha yang cukup sukses" <http://www.suarakarya-online.com/news.html?id=156715> (accessed 3 February 2014)

where the villagers' property (land and house building) are purchased. However this led to the first formal schism of the village into two big groups.

The two groups represented those who demanded a cash and carry option accompanied and those who rejected any forms of property purchase, but demanded temporary housing/property until the situation allowed them to go back to their home kampung. With majority support from the villagers,<sup>18</sup> the first group was led by formal village leaders under the LPM.<sup>19</sup>

Meanwhile, the latter group, later known as Paguyuban,<sup>20</sup> demanded village resettlement, which was seen as a form of obligatory compensation by Lapindo to the affected, and without accompaniment of property purchase.<sup>21</sup> This group evolved around the informal leadership of Gus Maksum, a successor to the late Kiai Anas Al-Ayyubi who founded the biggest Islamic boarding house and Islamic education foundation (*pondok pesantren*) in the village. Like any traditional Islamic boarding school in Java, this *pesantren* was based on the Kyai's personal wealth as well as from his followers and sympathetic villagers who donated property for a *pesantren* in the form of an endowment or *wakaf*.<sup>22</sup> Due to the nature of *wakaf* which is not seen as property with individual entitlement but endowed to serve common religious goals, a "cash and carry" option was certainly not on the table for Gus Maksum. This individual ownership-based option rules out any compensation for *wakaf*. Besides, Gus Dur, a former Indonesian president as well as Nahdlatul Ulama's leading figure known for his acute observations, advised Gus Maksum not to sign any agreement with any party which would give up the community's property entitlement - on the belief

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<sup>18</sup> As described in Karib (2012), this "cash and carry" group gained 71% support and *paguyuban* 25% from villagers. Outside these two groups, there was a third group which demanded recovery of the village (9.4%).

<sup>19</sup> Two leading figures in LPM are Aschur (Chairman) and Khoirul Huda (Secretary). For detailed description about LPM roles and the capabilities of these LPM leaders, see Karib (2012).

<sup>20</sup> In Indonesian language, *Paguyuban* usually meant a loose association whose members were tied by principles, not by formal rules.

<sup>21</sup> By contrast, the supporters of the cash and carry option wanted property purchase and denounce the resettlement option. As mentioned above, both these groups were in the same village. As cash and carry supporter say, "resettlement is an easy thing, the first most important thing is the money availability. Later if we get the money, we can resettle together again," said one villager (interview 1 July 2007). This cash and carry group then spread to the other villages.

<sup>22</sup> *Wakaf* means voluntary and irrevocable donation (in cash or in kind) by individuals to support religious goals according to the wishes of the endower. According to Islamic law, property acquired through *wakaf* cannot be inherited or sold. In many cases, property donated for this purpose is generally in the form of land, which is later used for mosques, *pesantren* buildings, religious halls, etc. For more detailed about *wakaf* issues and responses of religious organizations in this mudflow case, see Dani Muhtada (2012).

that these affected villages would someday produce lots of oil and gas. If their property entitlement were retained, the communities would receive a much bigger share from any future oil or gas revenue (interview with Gus Maksum, June 2009).<sup>23</sup>

The polling in Jatirejo was followed by another government-facilitated poll in three other villages (Siring, Kedungbendo, Renokenongo). Most villagers in this new poll rejected the collective permanent resettlement option (*bedol desa*) as suggested by the Bupati. Instead they demanded the district government leave the matter of resettlement in the hands of individual villagers (*Suara Karya Online* 1 October 2006).<sup>24</sup> In other words they were demanding the cash and carry option as most Jatirejo villagers had done.

However, believing that *bedol desa* would be a better solution, government officials continued trying to persuade villagers to take this option instead of the increasingly popular individual-based resettlement compensation.<sup>25</sup> Even days after a clear rejection of the idea by the majority of villagers, the newly-established National Team for Mitigating the Sidoarjo Mudflow Eruption (*Tim Nasional Penanggulangan Lumpur Sidoarjo*, hereafter called Timnas—more details about this Timnas are given in Chapter Seven)<sup>26</sup> was still advocating the same resettlement option but in an extended version. In addition to *bedol desa*, this extended version included “cash and carry” and Ready-to-Build Land Plots

<sup>23</sup> According to Karib (2012), the schism between these two groups grew wider after Gus Maksum said that Huda and those supporting the cash and carry compensation option were actively contacting Lapindo for compensation, while Gus Maksum and his group were busy protecting the village from being inundated. Currently *Paguyuban* has less than 60 compensation claims under its proposed scheme, while the group founded by Huda (currently called GKLL) is now the largest group within the affected communities with thousands of members.

<sup>24</sup> <http://www.suarakarya-online.com/news.html?id=156810> (accessed 1 February 2014)

<sup>25</sup> <http://www.antaraneews.com/print/43736/> (accessed 1 February 2014). A government official from state-run company Cipta Karya, which often won government contracts in constructing infrastructure and development projects, said that he personally expected the villagers to take this option because it would give more certainty with regards to the quality of infrastructure in the new kampung. Bupati Win Hendrarso also signaled his preference for this resettlement option which, if accepted and successful, would be a pilot project for refugees in Indonesia (<http://www.merdeka.com/pernik/timnas-lumpur-sosialisasi-relokasi-warga-empat-desa-fr5nffc.html> accessed 1 February 2014). However, this government preference also had something to do with minimizing costs as the individual relocation/cash payment would cost more than *bedol desa*. The latter would be an easier and more conclusive deal with an organized group than dealing with many separate individuals.

<sup>26</sup> Established through Presidential Decision (*Keppres*) No 13/2006, the Executive Committee of Timnas was chaired by the head of the research and development agency of the Ministry for Public Works (Basuki Hadimuljono) and assisted by officials from BP Migas, the Minister for Energy and Mines, the Ministry for Public Works, the Ministry for Environment, the Ministry for Maritime and Fisheries, the Kodam Brawijaya military commander, the Bupati of Sidoarjo, as well as from Lapindo Brantas. The latter covered all Timnas' expenses.

(*Kawasan Siap Bangun /KASIBA*)<sup>27</sup>. Despite Timnas's effort to promote this version, most of the affected villagers' compensation preference remained the same, namely "cash and carry" (see Figure 5.2).

### 5.2.2 District level compensation attempt

While "cash and carry" compensation demands were already being articulated in September 2006, a more unified and widespread struggle for this cash and carry demand found its momentum only came after the occurrence of several separate incidents. The first one was what Karib called a "levee event" (*peristiwa tanggul*) in Jatirejo village (Karib 2012, p. 54). This event referred to an exclusive agreement made in October 2006 by Timnas to purchase the property of twelve households, so as to be able to widen the levees. Brought to military barracks and under pressure from Saiful Ilah (Vice Bupati), the owners of these 12 houses finally agreed to sell their property at 2.5 million rupiah (USD 272.5), per square metre.<sup>28</sup> The villagers found out about the agreement after Timnas began levee construction works. A villager retold his story as follows:

At the time, when about 40 to 50 percent of village population was still residing in the village, Timnas suddenly constructed levees in front of these houses. We, the villagers, had never been consulted before this construction. These twelve house owners had never wanted to disclose their agreement with their fellow villagers. These owners received IDR 100 million (USD 10,900) for down payment (interview Asmono 20 March 2015).<sup>29</sup>

Hundreds of others who already had their houses submerged under the mud soon protested to the government for what they considered to be a discriminatory and unfair agreement. This exclusive agreement for the twelve households, whose

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<sup>27</sup> This differs from the resettlement option where all houses would look almost exactly the same, as is usually found in housing estates (*perumahan*). In KASIBA the villagers would be given an opportunity to design and have built the housing plan which they wanted. Apart from standing for *Kawasan Siap Bangun*, KASIBA can also stand for *Kawasan Sidoarjo Baru* (New Sidoarjo Area).

<sup>28</sup> This IDR 2.5 million is made up from IDR 1 million for land, and IDR 1.5 million for buildings. As will be explained later, this price became standard for future compensation. Aburizal repeatedly claimed that this price was 20 times higher than the existing house valuation (known as *Nilai Jual Objek Pajak/NJOP*) (<http://surabayapagi.com/index.php?read=Ical-Sebut-Korban-Lumpur-Lapindo-Miliarder;3b1ca0a43b79bdfd9f9305b812982962bb998cc07a99e9ed8653f70284a443bb>. And <http://nasional.news.viva.co.id/news/read/492037-arb--lapindo-bayar-20-kali-harga-njop> accessed on 20 March 2015). Meanwhile, Vice President (then and current) Jusuf Kalla said that it was only five times more than the existing value (<http://news.liputan6.com/read/2149962/jk-optimistis-lumpur-lapindo-bakal-berhenti-dan-datangkan-untung> accessed 20 March 2015).

<sup>29</sup> "Di saat ketika sekitar 40 sampai 50 persen warga masih tinggal di desa, Timnas tiba-tiba membangun tanggul di depan 12 rumah itu. Kami, penduduk, tidak pernah merasa diajak bicara soal penanggulangan ini. Kedua belas pemilik rumah juga terkesan tertutup, tidak mau membicarakan perundingan mereka dengan warga yang lain. Mereka ini terima uang muka 100 juta"

properties were located next to the important main southern railway, was considered discriminatory for it allegedly showed that the government's preference was to save infrastructure over people's livelihoods. It was also unfair to the other equally affected villagers whose properties were already buried under the mud but only received short-term compensation without any permanent resettlement guaranteed.

Another event that triggered people's anger was the data collection by Surabaya Institute of Technology (*Institut Teknologi Surabaya/ITS*) between September and October 2006. Hired by the social department of Timnas (*Suara Merdeka Cybernews* 22 September 2006), ITS was assigned to collect two kinds of data, namely economic-social conditions of the affected villagers in the four villages and their property ownership details. It was the detailed data about property which raised anger among many villagers. The data was widely perceived to contain many flaws as it was collected without the presence of the owners who had already evacuated. A villager showed his disagreement with the collected data in the following:

After many villagers had already been evacuated, there was a survey from ITS. They surveyed ownership of houses, buildings, and the number of households [who had lost houses and land]. But ITS' data is not accurate, because there were fatal mistakes. Like my own property. In actual measurement, my land size is 189 (square metres) with building 88 square metres of buildings. ITS' data was measured by members of their own team, without consultation with the owners. If they were correct, it was because the owners were there during land survey. (The problem is) most of the villagers were already in (Porong) market<sup>30</sup> (follow-up interview with Asmono, 20 March 2015).<sup>31</sup>

While the ITS team claimed that their survey was driven by the university's independent concern regarding the mudflow impacts (*Jawa Pos* 29 May 2007), the rampant mismatch between the collected data and villagers' claims was widely reported. The university was accused of "having an illicit

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<sup>30</sup> Porong market was the largest evacuation centre at the time.

<sup>31</sup> "Ketika warga-warga sudah kosong, ada survey dari ITS. Yang disurvei rumah, bangunan, termasuk cacah jiwanya. Tapi ITS kurang akurat. Karena ada kesalahan fatal. Seperti milik saya sendiri, luas tanah sebenarnya 189 (meter persegi), bangunan 88. Data ITS menyebut luas tanah dan bangunan 125. Data ITS ini diukur sendiri (sama anggota time ITS), tanpa ada pemiliknya. Kalo ada yang betul, pas kebetulan ada pemiliknya. Sebagian besar warga yang lain sudah di (pengungsian) Pasar Baru Porong".

agreement” (*main mata*) with the company to underestimate the size and thus value of the properties (*Suara Merdeka Cybernews*, 28 June 2007).<sup>32</sup>

This data confusion led the heads of the four villages to instruct RT and RW leaders to collect their own data. Counter-data collection was carried out by asking the villagers to measure their own homes, which further complicated the already complicated land entitlement issue (interview with Asmono 20 March 2015).<sup>33</sup> Boosted by widespread coverage of Lapindo’s divestment plan to Lyte Ltd and later to Freehold Ltd (see Chapter Four for more details about this), the process of villager initiated data collection at the lowest level of village administration allowed the compensation issue to be discussed at the level of individual households.

The gas pipeline explosion<sup>34</sup> on 22 November 2006 only added to the anger and disappointment of those living near the mudflow levees in Renokenongo, Siring, Jatirejo and Kedungbendo. Not only did it cause t permanent closure of the toll road and disruption to Java’s energy supply (see more about this in Chapter Four), the huge explosion caused levees to collapse and inundated more settlements.<sup>35</sup> This abrupt inundation doubled the number of evacuees, as shown in the following table Table 5.1.

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<sup>32</sup> This accusation led the affected villagers, together with some ITS students, to launch a protest against the university. Following this protest, ITS Rector dismissed three students involved in the protest, which further strengthened the accusation.

<sup>33</sup> “We were told by the village head (*Pak Lurah*) and village secretary (*Pak Carik*) to measure draw our own homes. But, as you can predict, some villagers enlarged their house size. This later impacted on the realization of payment (as there were certainly mismatches between what the villagers had written and ITS data)” says Nurhadi (interview 20 March 2015).

<sup>34</sup> These gas pipeline burst because of the combination of land subsidence below the pipe and the pressure of mud above the pipe. The pipeline belonged to Pertamina. To repair its East Java gas pipeline, Pertamina had to make a 14 km alternative pipeline which cost the state-run company IDR 140 billion (USD 15.3 million). Similarly, PLN and Jasa Marga (both are state-run companies working in electricity and road infrastructure respectively) also had their assets affected by the mudflow. Due to permanent closure of the Surabaya-Gempol toll road, Jasa Marga lost income worth IDR 10 billion (USD 1.1 million). It was likely that, following the agreement between government and Lapindo Brantas with Perpres 14/2007 (see Chapter Four), none of this public infrastructure would be compensated by Lapindo Brantas. Especially after the provincial level police (Polda Jawa Timur) classified the explosion as an accident which released Lapindo Brantas from any liability (*Detiknews* 20 March 2007). While PLN became the only state-run company which succeeded in signing a “compensation” agreement with Lapindo Brantas in August 2006 worth IDR 6.4 billion (USD 704,000), the only resource I found which dealt with payments under this agreement showed that Lapindo Brantas has only paid IDR 140 million (USD 15,400) (*Tempo Interaktif* 5 March 2007).

<sup>35</sup> Red sky, as a result of the explosion, was reportedly seen from Gresik, about 30 km from the explosion site.

**Table 5. 1 Number of evacuees before and after the pipeline explosion**

Period	Evacuation Sites	Village of origin	Σ Households	Σ People
Pre-explosion	New Porong market (Pasar Porong Baru/PPB)	Jatirejo, Siring, Renokenongo, Kedungbendo	2,605	9,936
	Renokenongo village office	Renokenongo	188	725
	Kedungbendo village office	Kedungbendo	125	463
	Toll road	Besuki and Ginonjo	223	949
	Other places		144	534
	<b>Sub-total</b>			<b>3,285</b>
Additional evacuees after the explosion	PPB	Renokenongo	521	1,788
		Perumtas	2,110	7,058
		Kedungbendo	805	3,215
		Perum Tanggulangi Citra Pesona Permai (TCPP)	10	36
	Office of Sidoarjo District's Social Agency	Renokenongo	25	79
	Ketapang village office	Ketapang	93	347
	<b>Sub-total</b>			<b>3,564</b>
<b>TOTAL EVACUEES</b>			<b>6,849</b>	<b>25,130</b>

Source: Paring Waluyo Utomo (2010)

The culmination of anger and disappointment brought the administration of the four affected villages to mobilize their members to occupy downtown Sidoarjo, particularly the meeting hall adjoining the Bupati's official residence, (pendopo) on 27 November 2006. The Pendopo occupation was carried out to pressure the district government to take sides in their struggle for compensation demands. As already explained in Chapter Four, the combination of this political pressure and the increasing urgency to find a solution at the national as well as the district level, following the pipeline explosion finally brought the company to negotiating table on 1 December 2006.

Mediated by the Bupati Win Hendrarso, the negotiations between representatives of the affected villagers and Lapindo Brantas started to raise monetary issues surrounding the compensation package. Acting as representatives of the affected villagers were a mix of those who had been actively involved in mudflow related efforts (data collection, meetings with related government agencies); those with formal village administration responsibilities (village heads, LPM board members, and RT/RW heads and leading informal village figures (interview with Asmono 25 March 2015)).<sup>36</sup> Initially demanding a higher amount,

<sup>36</sup> Among those acting as representatives of the affected villagers were Mahmudah (Renokenongo village head), Khoirul Huda and Askur (LPM Jatirejo), Harto, Robi'i, and Jailani (RT board members of Jatirejo), Paiman (Jatirejo), H. Fatah (Kedungbendo), Bambang Sakri (Siring), Rois (Siring), and Cak San (Kedungbendo). The last five names are known as leading informal figures (*tokoh masyarakat*) in their own villages. *Tokoh masyarakat* is a category for local figures who are seen playing leading/important roles at local level based on the background of their formal

the villagers' representatives finally agreed to settle on the level of compensation previously given to the owners of twelve houses which were made as levees ("levee event" mentioned earlier in this section).<sup>37</sup> To ensure political pressures were maintained on the district government while waiting for confirmation of the existing compensation scheme from Lapindo Brantas' Jakarta headquarter, RT/RW leaders made a scheduled shift their fellow villagers to occupy the Sidoarjo district pendopo continuously for several days. On 4 December 2006, Lapindo finally issued two-page letter addressed to Timnas stating that on the first page it accepted the property purchase agreement with values capped at IDR 1.5 million (USD 165) per square metre for house building, IDR 1 million (USD 110) per square metre for the garden (*pekarangan*) and IDR 120 thousand (USD 13.2) per square metre for the irrigated rice fields. While most of the affected communities celebrated this property purchase, the resettlement option offered on page two of the letter was widely missed (which later revived in 2008 when Bakrie Group claimed financial difficulties). This Lapindo Brantas' agreement to purchase properties applied to those under Timnas' 4 December 2007 dated map (see Map 5.4; see Appendix 2 for the letter of Lapindo Brantas dated 4 December 2006).<sup>38</sup>

### 5.2.3 Perumtas compensation attempt

The agreement for cash and carry (see Figure 5.2) did not necessarily decrease the level of popular resentment. Instead, protests were carried out on a larger scale using a more radical approach. This time they were initiated by those

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employment in bureaucracy, their wealth/business influence, their genealogical linkage to the early leaders/settlers, or their informal networks to various local social groups. Paiman is known as "preman kampung" (kampung thug or tough guy) with wide networks among the youth and village *preman*. Haji Fatah is known as a religious leader. Bambang Sakri is known as a prosperous businessman in his village, and the last two (Rois and *Cak San*) were known as eccentric figures.

Rois is an outspoken villager who dares to speak out against the authorities, a self-assurance he gained from being a former police officer. *Cak San*'s previous employment background as a security officer at one of the factories in Porong also lead him to be an outspoken character.

<sup>37</sup> The representatives initially demanded IDR 2.5 million (USD 274) each for the land and for the building. However, due to the existing settlement given in the levee event, this demand was denied. "We couldn't ask for more because there was already agreement with the 12 houses", says Nurhadi (20 March 2015).

<sup>38</sup> As seen on Map 5.4, this 4 December 2006 dated map included most of Jatirejo, most of Siring southeastern part of Kedungbendo, western part of Renokenongo and rice fields in Besuki, Pejajaran, Kedungcangkring and Mindi. As the rice fields were already compensated with land leasing agreement mentioned earlier, it was villagers from Siring, Jatirejo, Kedungbendo and Renokenongo who had been very prominent in the struggle for cash and carry compensation at this stage.

from Perumtas which, despite their inclusion in 14 July 2006 agreement on house rent and living allowance, was excluded from 4 December 2006 dated map (see Map 5.4).

Perumtas, which stands for *Perumahan Tanggulangin Sejahtera*, was among the biggest housing estates in Tanggulangin subdistrict.<sup>39</sup> Located in Kedungbendo village, Perumtas had 6,450 houses, nearly half of total property in which Lapindo Brantas was liable for compensation (*viva.co.id* 2 December 2008).<sup>40</sup> Differing from those villagers in Renokenongo and the other fellow Kedungbendo villagers, the majority of whom worked as agricultural labourers, many Perumtas inhabitants were army/naval officers, civil servants, and industrial workers (interviews with Abu 1 July 2007; with Sumitro 25 March 2015). These socio-economic backgrounds contributed to the distinct character of Perumtas, which in turn was reflected in how they launched their struggle for cash and carry compensation (interview with Abu 1 July 2007).<sup>41</sup> In addition to this distinct character, social capital for Perumtas residents' mobilization was also built on social activities such as collective night watch (*ronda*) which provided an opportunity for daily discussions about current events like the mudflow (interview with Sumitro 25 March 2015).

Despite Perumtas having largely escaped the mudflow before the pipeline explosion (see Map 5.2), the housing estate already had its own struggle platform through its own Coordinating Forum for Lapindo Mudflow Victims (*Forum Koordinasi Penanggulangan Korban Lumpur Lapindo/FKPKLL*). In August 2006, a few months ahead of the other affected villagers, the forum mobilized 2,000 Perumtas residents to come to Sidoarjo demanding that the Bupati and DPRD support compensation from Lapindo Brantas (*Suara Merdeka* 22 August 2006). Responding to their protest, local government approved their compensation

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<sup>39</sup> There were two housing estates in Tanggulangin which carried the same name. The one directly affected by the mudflow located in Kedungbendo is Perumtas I, while Perumtas II is located in Kali Sampurno village (few kilometres to the northwest of the mudflow levees). To avoid confusion, this thesis will use "Perumtas" to refer to the housing estate directly affected by the mudflow.

<sup>40</sup> [http://nasional.news.viva.co.id/news/read/13076-kami\\_akan\\_hitung\\_ulang\\_sisa\\_pembayaran](http://nasional.news.viva.co.id/news/read/13076-kami_akan_hitung_ulang_sisa_pembayaran) (accessed 20 March 2015). As mentioned in Chapter Four, there were a total of 13,237 claimants submitted to Lapindo Brantas.

<sup>41</sup> "They (Perumtas people) were outspoken, because many of them work in Surabaya as army/naval personnel, or as civil servants," (*Mereka (orang-orang Perumtas) berani-berani, karena banyak di antara mereka yang kerja di Surabaya jadi anggota (TNI), PNS*) said Abu (interview 1 July 2007). *Suara Merdeka* (20 August 2006) reported that there were 127 marines who lived in Perumtas.

demands.<sup>42</sup> Perumtas residents saw their exclusion from the map as pure discrimination. This was partly because they were not regarded as part of Kedungbendo village, which may explain why they were not treated equally despite experiencing similar impacts of the mudflow as well as their hard struggle for compensation.

To protest against their exclusion, Perumtas residents initially demanded local government revise the map to allow their inclusion. The demand was rejected as local government argued that the map revision was beyond its authority (*Suara Merdeka* 9 December 2006). Perumtas residents then addressed their demand directly to Lapindo Brantas by occupying its Sidoarjo office.<sup>43</sup> The company rejected this as well, arguing that Timnas was the one supposed to be responsible for Perumtas mudflow inundation compensation.<sup>44</sup> These consecutive rejections led Perumtas residents to take a harder line, by blockading access to and from major infrastructure in the district in late February 2007. These growing disappointments were further fueled by the actions of residents who served as “*anggota*”, a commonly used term for those working as military (army/marine) officers. According to a Perumtas resident:

We blockaded roads, railways, and toll roads.<sup>45</sup> At the time, Perumtas was still united. We were backed-up by the residents who serve as *anggota* (military officers). At the time, there were no appeals (*himbauan*) that forbid *anggota* from

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<sup>42</sup> This forum articulated four demands: (1) safety guarantee for all Kedungbendo residents/villagers without any exceptions; (2) property purchase by Lapindo Brantas with a nominal value to be agreed on between Lapindo Brantas and Perumtas residents; (3) those who chose to stay in the village would be compensated as well; (4) all compensation and other related matters should be carried out without any intermediaries, including Satlak (*Satuan Pelaksana Penanggulangan Bencana*). The district government agreed to the first three demands but rejected the last one on the reason that Satlak would be needed as it is the district government’s extension in disaster emergency response. Besides, Bupati Win argued that it always acted in people’s favour and would remain so in the future (*Suara Merdeka Cybernews* 22 August 2006).

<sup>43</sup> As reported by Suarasurabaya.net, Perumtas residents launched several protests at Lapindo Brantas’ office in Gedangan sub-district in January and February 2007 ([http://www.suarasurabaya.net/print\\_news/Kelana%20Kota/2007/38020-Lapindo-Belum-Akui-Kawasan-PerumTAS-Dapat-Ganti-Rugi](http://www.suarasurabaya.net/print_news/Kelana%20Kota/2007/38020-Lapindo-Belum-Akui-Kawasan-PerumTAS-Dapat-Ganti-Rugi) and [http://www.suarasurabaya.net/print\\_news/Kelana%20Kota/2007/37289-Warga-PerumTAS-Ditemui-Manajemen.-Tak-Bisa-Putuskan-Apa-apa](http://www.suarasurabaya.net/print_news/Kelana%20Kota/2007/37289-Warga-PerumTAS-Ditemui-Manajemen.-Tak-Bisa-Putuskan-Apa-apa) accessed 25 March 2007).

<sup>44</sup> As reported by Suarasurabaya.net, Lapindo Brantas’ rejection of Perumtas demands were based on the fact that 4 December 2006 dated map was signed by Timnas chairman, and if Timnas had succeeded in channelling the mudflow to the Porong river, the mudflow would not have inundated Perumtas. [http://www.suarasurabaya.net/print\\_news/Kelana%20Kota/2007/38020-Lapindo-Belum-Akui-Kawasan-PerumTAS-Dapat-Ganti-Rugi](http://www.suarasurabaya.net/print_news/Kelana%20Kota/2007/38020-Lapindo-Belum-Akui-Kawasan-PerumTAS-Dapat-Ganti-Rugi) accessed 25 March 2015.

<sup>45</sup> They blockaded three toll road exits in Porong, Sidoarjo, and Bundaran Waru, Surabaya. *Suara Merdeka* (13 March 2007) confirmed that economic activities in the eastern part of East Java province were totally paralyzed as a result of this blockade.

getting publicly involved in the (mudflow) protests. We blockaded these infrastructures for 3 days. There were only two cars which could pass through this blockade, the car which I was in and Bupati's car. Later I was called to the Governor's residence. When I reached there, there were leading figures (*petinggi-petinggi*) waiting, such as the Naval commander for Eastern Indonesia (*Pangarmatim/Panglima Komando Armada Republik Indonesia Kawasan Timur*), the Pangdam Brawijaya (military commander for East Java), the chairman of provincial assembly, the chairman of district assembly. The Governor was angry with me. But I insisted I would not cancel the blockade. The Governor had pressure from Jakarta, because the 3 day blockade was having considerable impacts on the economy (interview with Sumitro 25 March 2015)

This blockade successfully drew political attention to the compensation issue from relevant authorities. The protest created further pressure on the Governor to rework an existing relocation plan offered by the national government to Perumtas residents.<sup>46</sup> The protest also revived the Provincial Assembly's long dream to have a special task force (*Pansus/Panitia Khusus*) on the mudflow. Although not unanimously supported,<sup>47</sup> this *pansus* was established on 12 March 2007. Not surprisingly considering at least two assembly members who were directly affected by the mudflow gave their strong support, one of which was later appointed as its secretary (more details about this *Pansus* will be given in Chapter Seven).<sup>48</sup>

As a response to Perumtas' protest, the national government later proposed the so-called "relocation plus" compensation. Under this scheme the residents would receive a property replacement *plus* IDR 15 million additional funds from Lapindo Brantas (*Detikcom* 22 March 2007).<sup>49</sup> Instead of accepting this revised offer, Perumtas continued to demand the "cash and carry" option and threatened to occupy Presidential Palace, a plan which was supported by a petition letter with

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<sup>46</sup> Differed from cash and carry option for the villagers in Jatirejo, Renokenongo, Siring and non-Perumtas Kedungbendo, national government offered resettlement plan as compensation for Perumtas residents. For the residents who still had to pay for housing credits, they would be freed from any obligation to pay for the remaining credits they owed; while for those who already paid all their housing credits, they would be provided with more financial incentives (which would not yet decided by the time this resettlement plan announced).

<http://www.surabayapagi.com/index.php?read=Tolak-Relokasi-Plus.-Warga-TAS-Siapkan-Aksi-Lanjutan:3b1ca0a43b79bdfd9f9305b812982962b4c0bd74fac88c74784212459df47791> (accessed 7 April 2015)

<sup>47</sup> *Pansus*' establishment was resisted by Ridwan Hisjam of Golkar. He argued that the Provincial Assembly's main authority is to oversight the performance of the East Java Governor, not Timnas. Besides, he argued that no provincial budget was used for mudflow compensation (*Tempo.co* 13 March 2007).

<sup>48</sup> The member was Muhammad Mirdasy. He even lived at Perumtas. He wrote about his involvement in the mudflow issue as an assembly member in his book, *Bernafas dalam Lumpur Lapindo*.

<sup>49</sup> Can be read at <http://news.detik.com/read/2007/03/22/133145/757257/10/warga-perum-tas-hanya-diberi-2-pilihan-ganti-rugi> (accessed 25 March 2015).

signatures of thousands of its residents (*Suarasurabaya.net* 10 March 2007). Eventually on 22 March 2007, all the authorities at provincial level embraced this demand, which resulted in a at “East Java People’s Resolution”. With this solid political pressure, the map of affecting kampungs was then revised again and dated 22 March 2007. Adding to the existing eight villages included in 4 December 2006 dated map (see footnote 38), this 22 March 2007 dated map added Perumas as well as parts of settlements in the village of Ketapang, Kalitengah, Gempolsari, and rice fields in Glagaharum (see Table 5.2). Later this 22 March 2007 dated map was also called as *Peta Area Terdampak* (affected area map/PAT).

**Table 5. 2 Area size within 22 March 2007 dated map**

Subdistrict	Villages	Area size included in 22 March 2007 map (in hectares)	Size of total village area (in hectares)
Porong	Siring	47.5	74.6
	Jatirejo	89.3	94.48
	Mindi	27.34	63.41
	Glagaharum	10.47	165.59
	Renokenongo	195.4	195.4
Tanggulangin	Kedungbendo	197	197
	Ketapang	24	134.45
	Gempolsari	6.57	155.22
	Kalitengah	3.02	119.02
Jabon	Pejarakan	32.8	44.8
	Kedungcangkring	18.48	167.21
	Besuki	17.3	158.6
Total area size		669.18	1,569.78

(Source: undated document obtained from Paring Waluyo Utomo)

Responding to the pressure, President SBY agreed to adopt this 22 March 2007 dated map into Perpres 14/2007. As mentioned in Chapter Four, this adoption came only after national government successfully persuaded Lapindo Brantas to take greater liability in doubling number of property compensated with a promise to take the matter of infrastructure relocation costs from the company into the government’s hand. Specifically related to “management of social-community issues” (*penanganan masalah sosial kemasyarakatan*), Perpres’ an official way of referring to compensation settlement, this Perpres instructed Lapindo Brantas to pay compensation in stages, defined as 20 percent paid in advance and the rest to be paid by the expired date of two-year house rent (Article 15). While the monetary value of the compensation is not mentioned, this

Perpres made reference to the agreements of 4 December 2006 and 22 March 2007 as its basis. Based on Lapindo Brantas' letter to Timnas dated 4 December 2006 (see Appendix 2), compensation would be assessed based on the size of property multiplied by IDR 1 million for the gardens (*pekarangan*), IDR 1.5 million for house building, or IDR 120,000 for irrigated ricefields.

The issue of this Perpres which incorporated Perumtas' demand did not bring satisfaction to every resident. Different responses from Perumtas residents led to the uncovering of underlying conflicts within Perumtas. Precipitated by the levies imposed by official neighborhood board members (Pengurus RT/RW) on the administrative requirements for compensation, a group of residents then decided to separate themselves from the major group (later known as Tim 16, referring to the number of RT existing in the housing estate). Known as Perwakilan Warga (PW), this group accused Tim 16 of exploiting their fellow residents (for different groups of affected communities and their different demands, see Table 5.4). Led by Sumitro,<sup>50</sup> who at the time did not hold any official position, this group's establishment also showed how residents themselves could fight without having to rely on existing formal administrative structures (interview with Sumitro 29 September 2012).

While Tim 16 did not express any objections to Perpres' 2-year payment terms, PW saw the terms as unfavorable for residents for several reasons. Firstly, differed from *kampung* residents who had larger properties, many Perumtas residents' garden sizes were 72 square metre with a variety of house sizes (between 21 to 36 square metres).<sup>51</sup> This meant Perumtas residents would receive less than IDR 300 million in compensation (see Figure 5.2 for this compensation calculation), while *kampung* residents with larger properties receive more than that. In addition, while *kampung* residents do not have any housing credit standing (they owned their houses by inheritance or bought them for cash), the majority of these Perumtas residents took bank loans to purchase their property. With no specific arrangement made in Perpres 14/2007 in relation to this bank credit, many PW members were worried that their compensation would end up tied to

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<sup>50</sup> Sumitro had a grocery shop before the mudflow until now. When the mud eruption happened, he opened a second grocery shop in Perumtas. He claimed that during his college in Malang, he was involved in GMNI (*Gerakan Mahasiswa Nasional Indonesia*), a student movement affiliated with the PDIP party.

<sup>51</sup> Testimonies from ex-Perumtas residents (Media Center Lusi 2009).

service their bank loan interest payments (especially if the payment of the rest of the 80 percent compensation is delayed) (*Koran Tempo* 10 March 2008).<sup>52</sup>

Responding to these anxieties, this group demanded an acceleration of compensation payments.:

We saw ourselves different from the kampung residents. In an administrative sense, our claims are legally fully justified. While in the kampungs different evidence on property entitlements may take time to sort out, our claims are based on land certificates. In addition, in value terms, our assets are not that much. Most of our asset value is IDR 300 million (USD 33,000) at maximum, whereas kampung residents could receive billions (of rupiahs) (interview Sumitro, 25 March 2015).

According to a member of Tim 16 (personal communication with Nana, Perumtas resident, 7 July 2007<sup>53</sup>), different opinions about the payment terms in Perpres 14/2007 was a further manifestation as well as a culmination of previous conflicts between PW and Tim 16. Having agreed to cooperate to lobby the national parliament in Jakarta in early March 2007 with trip expenses covered by the residents' contributions, the conflict between the two groups grew after most of the trip money was used by PW with only little left for Tim 16. For members of Tim 16, this was difficult to tolerate because they believe, as formal community representatives, they were better representation of Perumtas residents than PW.

Another issue was about the greater control of PW had over decisions than Tim 16, as seen in the blockade protest where Sumitro dominated the scene. It was again seen as something difficult to accept because Tim 16 had more formal status. A religious factor also played a role in worsening the divide, with PW dominated by those from the “*Nasrani*”, a common term used either to refer to Catholic believers or Protestants (personal communication with Nana 7 July 2007).

Resistance from their fellow Perumtas residents (through Tim 16) made PW's demand for acceleration of compensation payment more difficult to articulate particularly after meeting reluctant support from district and provincial

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<sup>52</sup> To make these anxieties worse, their existing bank loan repayments meant that Perumtas residents did not have any land certificates. This is a common Indonesian bank practice, where the certificates would only be handed over when residents had already repaid their loans in full. Meanwhile, Lapindo Brantas required land certificates as one of conditions of the purchase agreement, otherwise the affected communities would not have options but to choose compensation scheme with less favorable terms (see page 128).

<sup>53</sup> Interviewed on my first visit to Sidoarjo in July 2007 to help Flinders academic staff research for their article published in Indonesia journal (2008).

governments. Under this minimal support, under the leadership of Sumitro, PW brought their demand for acceleration compensation payment (see Table 5.4) to Jakarta.<sup>54</sup> While police and army barricades were deployed in Sidoarjo to prevent Perumtas residents for departing to Jakarta to protest Perpres 14/2007, this group managed to circumvent military check points and get to Jakarta. Recalling fooling the police and army security forces, he said :

The first group that occupied Jakarta was Perumtas. (We) worked hard to get into Jakarta. (We were) slipping into the capital like thieves. The airport was blockaded by fully equipped security forces. Bungurasih (bus station) was blockaded, officers were ready for t trains for Jakarta destinations,. They thought that we would depart from stations in Surabaya. I used my wits, suggesting to my friends not to leave Surabaya and Sidoarjo by local transport, some left for Pasuruan, or Mojokerto ... and departed for Jakarta from those towns. Some officers found some of them in the train and put them off in Semarang. I was asked to change transportation. I told them “don’t despair”... (Interview with Sumitro 29 September 2012)<sup>55</sup>

Not only able to break through this security surveillance, the group also managed to gain fast-track access to Vice President Jusuf Kalla and President Yudhoyono, this success was to a large extent attributed to the political competition between national elites at the time. A big role was played by Sutiyoso, at the time Jakarta Governor, who suddenly visited the PW group at Tugu Proklamasi where they stayed on 23 April 2007 evening. Sumitro recalled what happened that evening and in the following morning:

We ourselves did not know how Sutiyoso suddenly turned up to Tugu Proklamasi. He promised to help us. The following morning, we were picked up by staffs from

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<sup>54</sup> “We went to Jakarta because we no longer had trust with district and provincial government. We only saw what has been agreed in Sidoarjo and Surabaya was only lip service. No realization” (*Kita ke Jakarta karena kita mulai tidak percaya dengan upaya pemerintah kabupaten dan propinsi. Karena kita melihat apa yang sudah disepakati di Sidoarjo dan Surabaya sepertinya hanya permainan kata-kata. Tidak ada realisasi*)” (interview with Sumitro 25 March 2015).

<sup>55</sup> “*Kelompok pertama yang masuk nyerang Jakarta ya kelompok Perumtas. (Kami) setengah mati masuk ke Jakarta. Pergi ke Jakarta seperti maling. Bandara diblokir aparat lengkap. Bungurasih diblokir, Stasiun KA jurusan Jakarta, aparat dah siap. Mereka perkirakan kita berangkat dari titik-titik itu. Aku gak kehabisan akal. Aku sampaikan ke kawan-kawan untuk tidak berangkat dari titik-titik itu. Saya perintahkan keluar dari Surabaya dan Sidoarjo. Ada yang ke Pasuruan, Mojokerto naik lane (angkutan local umum), dan berangkat dari tempat-tempat itu. Ada yang diturunkan di Semarang. Tak suruh ganti transportasi. Jangan Menyerah. ...*”

Bakesbang<sup>56</sup> provincial office and they brought us to Governor's office and waited for us until late afternoon (interview Sumitro 25 March 2015).<sup>57</sup>

That late afternoon, confirmation of a meeting with Vice President Jusuf Kalla was received. Apart from seeing Jusuf Kalla and Sutiyoso in the meeting, Perumtas also met Aburizal Bakrie (Coordinating Minister for Public Welfare), Joko Kirmanto (Minister for Public Works) and directors of BTN Bank which many Perumtas residents used to obtain credit for purchasing their now sunken houses. They were all specially invited to discuss Perumtas' concerns. PW's initial one-off payment demand was rejected by Jusuf Kalla, who in turn proposed an alternative 1 year payment acceleration.<sup>58</sup> Sumitro retold what happened at the meeting:

I argued for three hours with Jusuf Kalla. I asked for a one off settlement with payments in stages completed within 2-3 months ... But Jusuf Kalla refused. He said that if people were not satisfied with the 1 year payment acceleration offered by the Government and Lapindo, Perumtas residents should sue Lapindo in the courts. But if Lapindo was found not guilty, then who would take responsibility [for compensation payments?] I replied, please give us a break to allow us to discuss this. Five of us discussed that option. We were worried that if we did not have a deal, and returned to zero again, our friends out there will get mad at us. We finally agreed to take the acceleration offer" (Interview Sumitro, 29 September 2012)<sup>59</sup>

During waiting for the official minutes of the meeting to be circulated, PW representatives were suddenly told that President Yudhoyono wanted to see them. This meeting was shorter than their meeting with Jusuf Kalla with only Minister

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<sup>56</sup> Bakesbang or Bakesbanglinmas, standing for *Badan Kesatuan Bangsa dan Perlindungan Masyarakat*, is the local government office which is in charge of monitoring social and political issues in the society. During New Order, it was called Dinsospol (*Dinas Sosial dan Politik*). Usually headed by a military personnel, Dinsospol was in charge of identifying political threats to the state.

<sup>57</sup> "Kita juga nggak tahu gimana ceritanya tiba-tiba Sutiyoso datang ke Tugu Proklamasi. Dia janji membantu kita. Esoknya, kita dijemput oleh salah satu staf Bakesbang Jakarta dan mereka membawa kita ke kantor Gubernur dan meminta kita menunggu sampai sore"

<sup>58</sup> Perpres 14/2007 stipulates that for the property purchase the affected communities would be paid 20 percent in advance and the rest of 80 percent would be paid by the expiry date of two-year house rent at the latest (which would fall in January 2009). This payment acceleration would change the payment term. Instead of waiting until the end of two-year house rent, Perumtas residents' remaining 80 percent compensation would be paid 1 year after this agreement was reached (April 2008).

<sup>59</sup> "Aku rame tiga jam dengan Jusuf Kalla. Aku minta skema penyelesaian yang rampung dalam waktu 2-3 bulan ... Tapi Jusuf Kalla menolak. Dia bilang kalo warga tidak puas dengan percepatan 1 tahun yang ditawarkan Pemerintah dan Lapindo, silakan warga tuntutan Lapindo ke pengadilan. Kalo ternyata nanti Lapindo dinyatakan tidak bersalah, ya sudah siapa yang bertanggung jawab? Saya jawab, ok Pak (mohon pertemuan) diskors dulu. Kita berunding berlima (ada 5 orang wakil PW yang bertemu Jusuf Kalla). Kita pikir-pikir kalo kita keluar tidak ada kesepakatan apa-apa, balik ke nol lagi, kita nanti dipenthung sama teman-teman di luar. Akhirnya (percepatan) 1 tahun kita terima saja"

for Public Works Joko Kirmanto present, the meeting with President Yudhoyono resulted in the President's commitment to ensure the implementation of the agreement with the Vice President (interview Sumitro 29 September 2012).

The sudden meeting scheduled by President SBY was widely reported as a sign of competition between President Yudhoyono and Vice President Jusuf Kalla, with each of them showing their eagerness to run and re-run as presidential candidates in the then forthcoming 2009 election (*Suara Merdeka* 26 April 2007). Previously, the two had been reportedly in tension in the issues of UKP3R, cabinet reshuffle and Indonesian support to the resolution of United Nation's Security Council against Iran.<sup>60</sup> In these issues, Jusuf Kalla headed Golkar with its significant number of parliament members posed politically significant threats to President Yudhoyono.<sup>61</sup> While Sutiyoso superficially expressed his concerns about the health of Perumtas children which led him to help them meet with President and Vice President,<sup>62</sup> later that year he revealed that he too wanted to run as a presidential candidate.<sup>63</sup>

Despite the President's promise to ensure its implementation, the agreement was never put into practice.<sup>64</sup> As the agreement was also not put into official revision of Perpres, the existing 2-year payment term prevailed. For PW, it not only meant a denial to the agreement but also the return of the dominating role of Tim 16. As the game was played back on the existing written rules, all Perumtas

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<sup>60</sup> UKP3R stands for *Unit Kerja Presiden untuk Pengelolaan Program Reformasi*. Established at ministerial level, this unit is responsible to the President for monitoring the performance of all ministries to comply with trade/business climate and administration reforms. Vice president Jusuf Kalla openly criticized this unit with the reason that the monitoring task was already built in the cabinet, where the Vice President played a particular role. Another reason widely quoted was the appointment of Marsillam Simanjuntak, who was very prominent in opposing Golkar during Abdurrahman Wahid presidential term, as UKP3R chairman.

<sup>61</sup> Following the resistance to UKP3R shown by Jusuf Kalla, who at the time headed Golkar (from 2004 to 2009), some of Golkar provincial boards also articulated similar rejection and even demanded Golkar's support withdrawal to the government (<http://m.liputan6.com/news/read/132466/kalla-persoalan-ukp3r-akan-dijelaskan-di-rapimnas> accessed 9 April 2015). Golkar parliament members capitalized the interpellation rights to push for cabinet reshuffle, with the hope that Golkar party would gain more ministerial positions.

<sup>62</sup> Sutiyoso said that he is concerned with their health, particularly during a dengue epidemic at the time.

<sup>63</sup> Sutiyoso held public declaration for his presidential run on 1 October 2007. [http://www.indosiar.com/fokus/calon-presiden-2009-sutiyoso-calonkan-diri\\_64976.html](http://www.indosiar.com/fokus/calon-presiden-2009-sutiyoso-calonkan-diri_64976.html) (accessed 25 March 2015)

<sup>64</sup> As expressed by MS Hidayat, chairman of the Indonesian Chamber for Trade and Commerce, the Yudhoyono government was known for its weakness in implementing its own decisions (Nugroho 2010). At grass root levels, there was not united support for this agreement as already mentioned earlier about resistance PW met from Tim 16. As explained later in the next section, Lapindo Brantas claims of financial difficulties made the compensation funds not readily available.

residents were required to have approvals from their corresponding RT board members. This represented a big blow for PW, as the latter is not a formal organization and did not receive a formal recognition from government authorities. Following this, a large number of PW members then decided to rejoin Tim 16 to make the compensation payment process easier. Of roughly 1,600 initial members, only 400 residents decided to remain with PW in demanding payment without having to include any recommendation from RT board members, a demand which was later approved by the government.

#### 5.2.4 Pagar Rekontrak compensation attempts

Rejection of the terms of compensation payment as stipulated in Perpres 14/2007 (see Figure 5.2) also came from a group of Renokenongo villagers who evacuated to Pasar Baru Porong. Compared to the total number of the mudflow affected Renokenongo villagers, it represented a significantly large number of the Renokenongo villagers group (see Table 5.1). Initially, this group was established as a response to the widely accepted house rent allowance paid by Lapindo (see section 5.1), including the decision of the head of Renokenongo to accept this allowance.<sup>65</sup> During the time when property purchase (cash and carry) was not yet an option (before the issuance of Perpres 143/2007), this Renokenongo group decided to reject the house rent allowance payment for two reasons. Instead of receiving short-term compensation, they demanded property purchase. Renting houses was also rejected for the reason that it would separate the villagers into various parts of Sidoarjo, which would make it difficult to organize their movement for compensation. Later this group decided to occupy the market and formally established Pagar Rekontrak (*Paguyuban Warga Renokenongo Menolak Kontrak*/Association of Renokenongo Villagers Rejecting House Rent) a few weeks before the issuance of Perpres 14/2007.

Among the affected communities, the Pagar Rekontrak group had the strongest networks with NGOs and wider civil society actors. Not only because its establishment was made possible partly with the help of UPLINK, a NGO

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<sup>65</sup> According to Mughis (2008), this cleavage between Renokenongo village head, Mahmudah, and Renokenongo evacuees at Porong market also originated from political differences in the previous village head elections. Those who supported Mahmudah chose to take the house rent allowance as well as cash and carry payment terms as stipulated in Perpres 14/2007. Meanwhile, those who opposed the election of Mahmudah led the rejection against these payment terms and house rent allowance. See Table 5.2 for the changing compensation demands.

working with urban poor and housing, but also because it was based in Porong market which had been the central stage both for the press and wider civil societies' activities (see Chapter Six about UPLINK and Porong market as a political stage). While by June 2007 nearly all of the affected communities had accepted Perpres 14/2007 (with the exception of *Paguyuban* who rejected the property purchase option, see Figure 5.2 and Table 5.4), Pagar Rekontrak not only remained the only group which rejected the house rent allowance but also the only group remaining that rejected the compensation payment by installments (*cicilan*) as stipulated by Perpres 14/2007 (see Figure 5.2).

Instead, they demanded that the house rent allowance for Pagar Rekontrak members to be converted into vacant land which would be used for a relocation site for all of its members.<sup>66</sup> With regards to the compensation payment, Pagar Rekontrak demanded that the compensation be paid once (not by installments). While this demand is rather similar with what PW had demanded earlier, Pagar Rekontrak defined itself differently from PW. Criticizing PW's radical approach to protest, Pagar Rekontrak saw PW as a non-conformist group. Meanwhile, this group described itself as being 'more polite and persuasive' ("*lebih sopan dan persuasif*").<sup>67</sup> Differed from PW which employed road blockades with profound impacts on wider economic activities as strategies to pressure authorities to support their demands, Pagar Rekontrak employed more formal channels to push their demands. Included in this strategy were their occupation of the office of National Commission for Human Rights (Komnas HAM) in August 2007 and the filing of a judicial review against Perpres 14/2007 to the Supreme Court.<sup>68</sup>

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<sup>66</sup> With at least 500 families as its members each entitled to have a IDR 5 million allowance for 2 years house rent, Lapindo would have had to pay IDR 2.5 billion to this Pagar Rekontrak group. This amount of money would have been enough to buy at least 2 hectares of land, using rice field purchase prices used in this Lapindo compensation. However, this demand was rejected by Lapindo for two reasons. Firstly, Perpres 14/2007 did not regulate any relocation option like this. Secondly, if this demand was fulfilled, similar demands would follow from other affected groups.

<sup>67</sup> "*Kami tidak melakukan demo besar-besaran di Jakarta seperti warga Perum TAS I. Kami memilih cara yang lebih sopan dan persuasif, yaitu mengirim surat ke presiden, Departemen Sosial dan Komnas HAM,*" said one of the Renokenongo village leaders (<http://www.merdeka.com/pernik/857-kk-warga-renokenongo-tolak-tinggalkan-pengungsian-pbp-v0imzve.html> accessed 3 February 2014).

<sup>68</sup> They occupied Komnas HAM office on the day when the new members of Komnas HAM were about to be inaugurated. This provided moral pressure on Komnas HAM's new members to investigate the Lapindo mudflow from the perspective of the affected communities. However, at the end of its term in 2012, Komnas HAM members issued a decision which did not pursue Lapindo mudflow as a serious crime against humanity, a decision which by some activists were seen as a setback (see Chapter Six). With regards to the judicial review, it was the only lawsuit filed by the affected communities in the history Lapindo mudflow case. In this lawsuit, among

Despite this strategy, Lapindo Brantas continued to reject their demands for the purchase of a relocation site and a one-off compensation payment. Pagar Rekontrak's continued press exposure as the only "visible" group<sup>69</sup> left to oppose Perpres 14/2007. Their continued opposition annoyed the district government, who was losing interest in the group's demands.<sup>70</sup> The Provincial government was annoyed with Pagar Rekontrak, considering its smaller number of supporters compared with other affected groups which accepted Perpres 14/2007. As the East Java Governor said:

(their number) was only 600 families.<sup>71</sup> In fact there are 11,000 families who already accepted Perpres (14/2007). 95 percent (of the affected communities) already accepted it ... Do we have to follow the demand of these 600 people? If we follow their demand, the other 11,000 families would demand the same thing too. We'd better follow Perpres (14/2007). End of discussion. But it was these 600 people that the general public praised, who [were supposed to have] suffered most. In fact, there are another 11,000 families who suffered more. (East Java Governor Imam Utomo in a hearing session with Komnas HAM on 28 April 2008, quoted from Mughis 2008)

Despite the resistance from district and provincial governments, Pagar Rekontrak continued to insist on their demands (namely a relocation site and one time compensation payment) and their occupation of Porong market until July 2008. By that time, they faced several crises which affected their position. Firstly, Lapindo Brantas which had been providing food to the evacuees in Porong market decided to supplying food in May 2008 (*Radar Sidoarjo* 12 April 2008). Secondly, local government which had shown resistance to the Porong market becoming a political stage for Pagar Rekontrak as well as civil society organizations (see Chapter Six), began to bring in market traders into the conflict.

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other things, Pagar Rekontrak members criticized Perpres 14/2007 as deviating from principles in issuing regulations (which were supposed to give protection to the people), against principles in civil matters (selling and purchase is a voluntary act, not a forced act like in this case), and against UU No 5/1960 which does not allow a company to own land. However, this judicial review was rejected on the reason that the Court did not have the authority to prosecute government policy (Supreme Court verdict No. 24 P/HUM/2007).

<sup>69</sup> While the *Paguyuban* group also rejected Perpres 14/2007 for a different reason (see Figure 5.2 and Table 5.4), members of *Paguyuban* group did not stay in one particular area like Pasar Porong. Besides, the number of Pagar Rekontrak members (500 families) was way larger than those of *Paguyuban* (50).

<sup>70</sup> In a personal conversation in 2007, Emy Susanti, the wife of the then Bupati Win Hendrarso, accused Pagar Rekontrak of not being fully committed to the compensation settlement. This accusation was linked to Pagar Rekontrak's changing demands. As mentioned earlier, when Perpres 14/2007 was not yet issued, this group had demanded property purchase. But when property purchase was adopted in Perpres 14/2007, Pagar Rekontrak rejected it.

<sup>71</sup> There were various numbers quoted for the size of the Pagar Rekontrak occupation. Here I have given the number of Renokenongo evacuees as in Table 5.1.

Unable to accommodate market traders who were supposed to be using the Porong market by August 2006, the District office for traditional markets (*Dinas Pasar*) requested Renokenongo evacuees leave the market, a demand later shared by Sidoarjo district assembly (*Radar Sidoarjo* 14 July 2007). Thirdly, with many of the Pagar Rekontrak members unemployed and with *Lebaran* festivities approaching, economic pressures presented a daunting challenge. Finally some of its members were forced into an agreement with Lapindo Brantas for a house rent allowance and property purchase.<sup>72</sup> Responding to these crises, Pagar Rekontrak went to the negotiation table on 7 July 2008, mediated by Bupati Win Hendrarso and attended by representatives from Lapindo as well as the market trader's association. At this meeting, Pagar Rekontrak finally agreed to leave Porong market and accepted the payment terms as stipulated in Perpres 14/2007 (see Figure 5.2). After taking this option, Pagar Rekontrak changed its name into Pagar Rekorlap (*Paguyuban Warga Renokenongo Korban Lapindo*).

### 5.3 Compensation payments

The wide acceptance of the payment terms stipulated in Perpres 14/2007 did not mean that those affected actually received their rightful payments. The verification process of the documents submitted by the affected community members to the State Agency for Mitigating Sidoarjo Mudflow (*Badan Penanggulangan Lumpur Sidoarjo/BPLS*), a permanent agency established by Perpres 14/2007 to deal with this issue, was more complex and more time consuming than had previously been assumed. By early June 2007, the total number of villagers' documents received by Lapindo was only 522 files, far less than the expected.<sup>73</sup> From the number of documents received only 219 files were paid, all of which were properties with land ownership certificates. For the majority of non-certificated properties (non-Perumtas villages) there was no such

<sup>72</sup> By early July 2008, 14 families formerly joining Pagar Rekontrak decided to accept 20 percent advance payment as stipulated in Perpres 14/2007. <http://mastakim.blogspot.com.au/2008/07/eks-warga-pagar-rekontrak-pilih-terima.html> (accessed 1 April 2015).

<sup>73</sup> According to Yusuf Purnama, head of BPLS verification team, provided that all documentation was correct, 100 files were supposed argeted to be verified each day (*Radar Sidoarjo* 7 June 2007). KH Mujib Imron, by then Deputy Chairman of the National House of Representatives or Senate (*Dewan Perwakilan Daerah/DPD*), accused BPLS of not having achieved much with regards to the verification process (<http://www.antaraneews.com/print/65271/> accessed 4 February 2014).

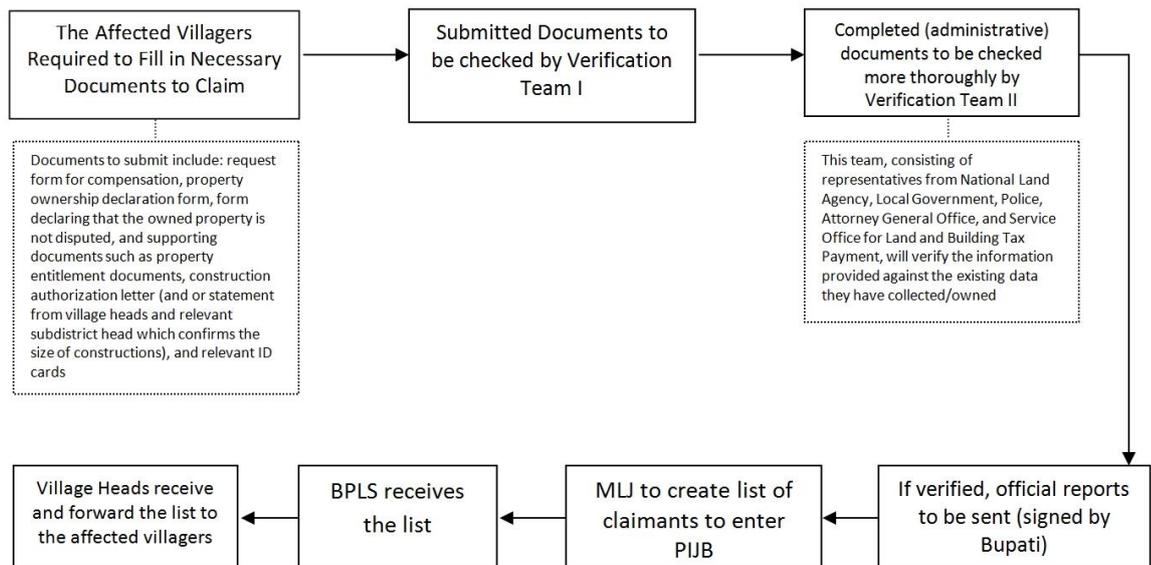
payment certainty.<sup>74</sup> This problem mostly arose from the fact that Perpres 14/2007 and its subsequent regulations failed to recognize complexities in legal evidence of land entitlement commonly found in the country (which varies from ownership certificate to *Petok D* or *Letter C*, see Chapter One particularly footnote 25) and the common practice of not obtaining the officially required Permits for Building Construction (*Ijin Mendirikan Bangunan/IMB*), two important things on which calculation of payments were based on this Perpres.<sup>75</sup> This was made worse by the conflicting data, provided by ITS and the villagers' own data (see above). These issues made the data verification process more complicated (see Figure 5.1) with the consequential effect to delay signing selling-purchase agreements and payment of compensation advances (20 percent) (for advance payments see Figure 5.2).

Responding to the slow payments, a group of the affected villagers met President Yudhoyono to lodge complaints about the matter in June 2007. Differing from Perumtas residents who had emphasized mass actions to gain access to the country's most important decision maker, the success of the group later known as the Union of Lapindo Mudflow Victims (*Gabungan Korban Lumpur Lapindo/GKLL*) to see the President in person was largely attributed to Emha Ainun Najib who had privileged access to many leading figures because of his celebrity status (Chapter 6 gives more details about the role of this celebrity figure in mudflow politics). Claiming to represent all of the affected groups, this group represented the largest organization for the affected with properties falling within the 22 March 2007 map. Emha claimed he had formal support from 10,476 families (Najib 2007).

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<sup>74</sup> According to the Humanitus Report (Richards 2011), there were 8,173 properties with certificates and 4,970 without. Those with certificates were mostly located in Perumtas (*Radar Sidoarjo* 7 June 2007). For Minarak, village land registers (*Petok D*, *Leter C*) were not deemed sufficient ownership evidence it required for selling purchase agreement. This might be based on the fact that conflicts over land ownership are common in Indonesia, even with certificates issued by National Land Agency (*Badan Pertanahan Nasional/BPN*).

<sup>75</sup> According to Yusuf Purnama, there were three main documents required to prove land entitlement and eligibility for the payment. They were legal evidence of land entitlement, ID card, and a declaration stating that the properties were not in disputes, not being mortgaged to the banks, and not being sold (see Figure 5.1). Apart from complexities of legal evidence of land entitlements and the absence of IMB mentioned above, problems could arise also from inconsistencies in a number of the documents required to prove the entitlement, particularly if the properties were an inheritance ie. not yet in the name of the claimants. The fact that a family name is not commonly used in Java or the fact that misspelling or name changes are commonly found on ID cards or in legal documentations made the situation worse.

**Figure 5. 1 BPLS' flowchart for property data verification for the Map of 22 March 2007**

(Source: Adopted from Ismail (2013) and press clippings)

Legend:

BPLS = Badan Penanggulangan Lumpur Sidoarjo

MLJ = Minarak Lapindo Jaya (Bakrie Group's subsidiary)

PIJB = Perjanjian Ikatan Jual Beli (Agreement of Selling-Purchase Transaction)

It was widely reported that the President was in tears when he heard about the difficulties the affected communities was facing with regards to compensation payments. While his tears was seen by the press as one of the few occasions where he showed his humane feelings (Nugroho 2010), President SBY was at that time also under political attack from the parliament. This attack came when some parliament members initiated *hak interpelasi* the parliament right to call the President in front of parliament for questioning. In the mudflow case, the *interpelasi* motion had gathered signatures from 163 parliament members by mid June 2007 (*Republika* 16 June 2007).<sup>76</sup> Only few weeks after the previous *interpelasi* on the UN sanction against Iran (see above), this motion presented another challenge for President Yudhoyono to ensure the compensation payments were made more quickly. Responding to both complaints from the affected communities as well as the threat of *hak interpelasi*, President Yudhoyono

<sup>76</sup> The signatories were parliament members from PKB, PKS, PDIP, PAN and PPP, with only one from Golkar. Initially two parliament members from Partai Demokrat signed this *interpelasi*, but then they withdrew their support. Regardless of the fact that the final total number of signatories (225) was at that time unprecedented in the parliament's history, this motion eventually failed to gain support from majority of parliament members (see Chapter Seven).

decided to move his office for several days to Surabaya to monitor the progress of compensation payment (*Jawa Pos* 25 June 2007), a political move which provided a reason for Democrat party to oppose *interpelasi* (see Chapter Seven).

Yudhoyono's move to Surabaya, did move things faster for a bit, particularly with Lapindo's renewed commitment to finish all payments owing for the 20 percent compensation advance by 14 September 2007 (*Suara Merdeka* 27 June 2007). However, it turned out that the renewed commitment did not guarantee a faster compensation payment, as similar issues surrounding evidence of land entitlements kept emerging in the following year. In May 2008, arguing that non-certificate properties were not legally allowed to be put under purchase and sale agreements (*tidak bisa di-PIJB-kan*)<sup>77</sup>, Lapindo altered the option of "cash and carry" in several ways.

Depending on the total value of their property loss minus the value of the chosen property at the new housing estate complex (KNV) built by Minarak, those with non-certificate properties were offered either resettlement or resettlement-plus-change (*relokasi susuk*) (see Figure 5.2).<sup>78</sup> From then on, the original "cash and carry" option would only be offered to those whose properties had land certificates. Although they initially resisted, GKLL leaders finally accepted the above options by signing an agreement with Lapindo. Within days, thousands of affected families decided to join the so-called "cash and resettlement" option<sup>79</sup> after the company pledged that the 20 percent payment they had already made was given as a "bonus". This meant that their lost property value would remain intact, i.e. not be reduced by the amount of the bonus. .

While thousands joined the program, many others saw the agreement as an illegal deviation from Perpres 14/2007. Affected villages rejected this agreement for various reasons. For some accepting the option of resettlement to a housing

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<sup>77</sup> PIJB stands for *Perjanjian Ikatan Jual Beli* (Purchase and Sale Agreement). It is an agreement which binds potential buyers and sellers together in a contract and entitles them to part fulfilment of their rights, even before the payment transaction is fully completed.

<sup>78</sup> Minarak, or Minarak Lapindo Jaya in its full name, is Bakrie Group's subsidiary specially established to deal with compensation payments for the Lapindo mudflow affected communities (see Chapter Four). Minarak paid only the value of the buildings, while the non-certificate land was exchanged with land in KNV (*tukar guling*). The sale value of property at KNV was considered higher than values in the nearby housing complex (Utomo, 2009).

<sup>79</sup> "Cash and resettlement" refers to the option offered by Minarak which included resettlement (if the compensation value of the inundated property is less or the same as the sale value of the property at KNV) and "resettlement-plus-change" (if the compensation value is greater than the sale value of property at KNV). See Figure 5.2.

estate built by Lapindo Brantas would either disrupt their future aspirations, as the money, having been allocated to estate housing, could not be used for other long-term needs. Such housing would also be quite unsuitable for a continuation of their *kampung* lifestyle, known for its relatively self-sufficiency and strong bonds among neighbours (interview Wiyono 10 August 2012).<sup>80</sup> For others, especially those with extensive land holdings, the GKLL and Minarak agreement would mean their compensation payment would be much less than they should have had in the earlier cash and carry option. Included in this very large group of land holders was Haji Hasan, the head of Kedungbendo village who also owned a property development company, Perum Tanggulangin Citra Pesona Permai (see Table 5.1). Those who resisted this variation of the compensation payment withdrew from GKLL started their own association, the Movement to Support Perpres 14/2007 (*Gerakan Pendukung Perpres 14/2007/GEPPRES*). With members from across four villages included in the 22 March 2007 dated map (see Table 5.2), particularly those who were affected by the resettlement option, GEPPRES grew to be the second largest organization after GKLL.

The differences between affected communities under Perpres 14/2007 reemerged when Minarak showed that it couldn't commit to pay the compensation it owed to the affected communities. In addition to the fact that the affected communities have not received the remaining payment as scheduled, this inability was formally discovered when Minarak sent a letter to BPLS dated on 23 October 2008. In this letter, Minarak requested BPLS to temporarily take over the company's obligation to provide compensation funds (*dana talangan*) while the company was in financial crisis due to the global crisis.<sup>81</sup> The company argued that 2008 global crisis had made deep financial impacts on the Bakrie Group, as the parent company providing compensation funds, particularly shown in the

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<sup>80</sup> Utomo has given cultural and economic reasons behind the rejection of resettlement options (Utomo 2009, p. 35). Among others were that the limited size of land plots in the housing estate prevented villagers from planting vegetables or fruit trees which commonly provide additional income/support the livelihood of many villagers; and the fact that living costs would be higher in the housing estate than in *kampung* (as the former usually incurs higher fees for security guards and garbage collection at the least).

<sup>81</sup> The 2008 global crisis has also brought up what later became known as Bank Century-gate. In this case, the then Finance Minister Sri Mulyani and the then Governor of Indonesian Reserve Bank Boediono decided on 21 November 2008 to provide a bail-out for Century Bank whose perceived imminent collapse would have a flow-on effect to other Indonesian banks. This bail-out decision provided ammunition for Aburizal who later mobilized Golkar parliament members to criticize the decision which resulted at Sri Mulyani's resignation as the Minister (see Chapter Four).

sharp decrease of their stock prices which led the stock market authority to suspend their stock trading (see Chapter Four). Minarak withdrew its own letter cancelling their request only few weeks later arguing that the *dana talangan* from the state budget would have taken a considerable time to process with impact of even longer delays in the payment of the remaining compensation (*Tempo* 17 November 2008).<sup>82</sup>

With still no clarity about the compensation payment, during November 2008 various groups of affected communities held protests in various places, including in Jakarta (*Tempo* 17 November 2008; *Tempo* 14 December 2008). Responding to these protests, President Yudhoyono called Nirwan Bakrie, CEO of Lapindo Brantas, twice to the Presidential Palace. The first call was on 27 October 2008, where President instructed Lapindo to carry out/ finalise the compensation advance payment it owed to the members of Pagar Rekorlap who entered property selling-purchase agreement in July 2008 (see above and Table 5.4). The second call was on 3 December 2008, President Yudhoyono publicly showed his anger to Nirwan Bakrie regarding with slow payments to the remaining 80 percent compensation due on the expiry date of 2 year house rental payments in July 2008 (see earlier section on house rent allowance).<sup>83</sup>

Right after the meeting with the President, at the State Secretariat building, Nirwan Bakrie negotiated with representatives of hundreds of protesters from Perumtas' Tim 16 who at that time held a demonstration in front of the Presidential Palace. At the negotiation table, both parties finally agreed on the payment of compensation in installments (*cicilan*). In this *cicilan* scheme, Minarak would pay for each claim IDR 30 million (USD 2,430) for the remaining compensation plus 2.5 million (USD 202.5) for another year of house rent allowance on the first month and IDR 30 million for the following months (until total compensation is paid) (*Tempo* 14 December 2008).

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<sup>82</sup> Despite this formal reason, it was likely that the withdrawal was due to the need to avoid an insolvency situation. In this case, the previous request letter would be legally interpreted as a self-declared statement of insolvency after the company declared its inability to pay its debts. This might end up with a court bankruptcy declaration with more serious legal consequences of liquidation of the company's assets (which in this case was shown by the vast size of land holdings [see Table 5.2]) the company had already purchased from the affected communities).

<sup>83</sup> As mentioned earlier, Perpres 14/2007 regulates that the remaining 80 percent should be paid by the expiry date of payment of the 2 year of house rent, at the latest. The expiry dates of house rent differed from one affected community to the other, depending on the date they received the 2-year house rent allowance. As mentioned in an earlier section, the house rent allowance was agreed to on 14 July 2006.

While Tim 16 considered this agreement as the best possible result they could get from the self-declared financially troubled Lapindo, this was particularly resisted by those from GEPPRES who insisted on having the remaining compensation paid at once (see Figure 5.2 and Table 5.4 for GEPPRES and Tim 16). This agreement too failed to be implemented. In February 2009, Lapindo Brantas declared that it could only afford to pay IDR 3 million for each claim, way lower than what they promised before (*Tempo* 23 February 2009). Lapindo's unkept promise and the prospect of not receiving further compensation payments provided a ground for many different groups in the affected communities to struggle back together demanding the newly elected East Java Governor Soekarwo<sup>84</sup> to ask the national government to provide compensation funds to replace those of Lapindo (*dana talangan*). While the demand for *dana talangan* was never approved by the national government,<sup>85</sup> Governor Soekarwo helped to approach *Bank Rakyat Indonesia* (BRI) to provide loans for Minarak. This approach was considered one way to accommodate Bakrie Group's financial difficulties as well as the affected communities' demand for compensation payments. BRI was chosen because the newly elected Vice Governor, Syaifullah Yusuf,<sup>86</sup> previously served as one of the Bank Commissioners (only resigning after he was elected as Vice Governor).<sup>87</sup>

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<sup>84</sup> Soekarwo was elected as East Governor after winning the most competitive election in Indonesian election history (see Chapter One). Before being elected as Governor, Soekarwo built his entire career as a bureaucrat. His last position was as Provincial Secretary before resigning to run in the gubernatorial election in 2008. He was known for his contribution in reforming East Java public service, such as the introduction of simpler and faster procedures in paying local levies and in gaining business permits through an Integrated Licencing Service (*Pelayanan Perijinan Terpadu/P2T*) (during his leadership as head of East Java local revenue office 1997-2003).

<sup>85</sup> In her widely circulated letter dated 16 June 2009 (Number S-358/MK.02/2009), Sri Mulyani, the then Finance Minister, expressed her approval to provide these funds as a temporary solution to Lapindo's unpaid obligations to those affected. On the other hand, Yudhoyono government never adopted this suggestion, arguing that regulation (Law No 17/2003, article 24[7]) only allows a decision in particular circumstances to maintain the nation's economic interests after securing an approval from the parliament. Meanwhile, Imam Nahrowi, former parliament member from PKB, suggested that the parliament approval was unlikely be secured due to Golkar's political interests in this case (interview 19 October 2012). In my opinion, as Golkar was headed by the owner of Lapindo Brantas, Golkar's likely rejection has something to do with the company owners wanting to avoid any actions which could potentially bring up company insolvency issues (see footnote 82).

<sup>86</sup> Before being elected as Vice Governor, Syaifullah Yusuf served as Minister for the Development of Isolated Regions (2004-2007). Sharing kinship with Abdurrahman "Gus Dur" Wahid, Syaifullah Yusuf built his career from GP Ansor, the youth/paramilitary wing of Nahdlatul Ulama, which he headed for two terms (2000-2005 and 2005-2010). After being reshuffled from President Yudhoyono first term cabinet (due to internal conflict within PKB which led to his

While this loan finally allowed Bakrie Group to pay IDR 15 million (USD 1,258) for each compensation claim, disagreements among the affected communities about whether or not the remaining compensation should be paid in installments (*cicilan*) or in one payment reemerged. This made the united struggle shortlived, especially between those who accepted this option (Tim 16 and GKLL) and those who rejected it (GEPPRES). The payment in installments did not run smoothly either. Affected villagers who chose this option reported only occasional payments (not monthly as previously promised), and it was totally stopped in 2012 (interview with Paring, June 2014).

#### 5.4 Compensation struggles outside the map of affected areas (Peta Area Terdampak)

As mentioned earlier, soon after its issuance, Perpres 14/2007 met resistance from PW and Pagar Rekontrak for payment terms they deemed unfavourable for their members (see section above for the reasons for their resistance). In the field, other villagers who, despite the fact that they were equally affected, were not included in the affected map (and thus not eligible for compensation) and so resisted Perpres 14/2007. The villagers who particularly showed their disappointment with Perpres were those from four villages who lived between the levees and Porong river, namely Mindi, Pejarakan, Kedungcangkring and Besuki (see Map 5.1 and Map 5.2). Parts of these four villages were included in the PAT (22 March 2007 dated map), but mostly were only the irrigated rice fields (which were eligible for compensation for loss of harvest). Despite their close proximity to the levees (about 50 metres), the majority of the houses in these four villages were excluded from the map. With the spillway which was important to channel the mudflow to the Porong River passing through Besuki village aroused even more anger against this exclusion.

To protest this Perpres, affected communities from these four villages founded a forum called *Gempur 4D* (gerakan masyarakat korban lumpur 4

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removal as PKB Secretary General and PKB's representative in President Yudhoyono's cabinet), he served as one of commissioners at Bank Rakyat Indonesia.

<sup>87</sup> BRI reportedly disbursed IDR 1.2 trillion (USD 100.7 million) worth of loans. BRI itself denied that it provided loans to Minarak, after the rumor was widely circulated on the stock market which affected its stock price (<http://m.inilah.com/news/detail/87642/minarak-lapindo-dan-bri-korban-rumor> accessed 5 April 2015). Despite this denial, a statement from Andi Darussalam confirmed this loan (<http://lampost.co/berita/lapindo-ajukan-pinjaman-rp632-miliar> accessed 5 April 2015).

Desa/the movement of mudflow victims from 4 villages). With several incidents of levee collapses, due to the unavailability of funds on the part of BPLS in its first year of establishment to maintain proper levees (*Jawa Pos* 26 April 2007),<sup>88</sup> this forum argued that their villages were as equally unsafe as the other villages already included in the PAT map. Despite initial financial assistance from the provincial government to deal with the effects of mudflow inundation,<sup>89</sup> villagers from these four villages insisted on a revision of Perpres 14/2007 to include their villages, particularly after the following two separate incidents.

The first one was another levee collapse on 10 February 2008 which left Besuki villagers' houses inundated by the mud for up to 1.5 meter high, one of the worst levee collapses recorded (*SuaraSurabaya.net* 12 February 2008; *Tempo.co* 11 September 2014). The second incident was the plenary session of TP2LS (*Tim Pengawasan Penanggulangan Lumpur Sidoarjo/Monitoring Team for Sidoarjo Mudflow Mitigation*) on 19 February 2008 which concluded that the mudflow was a natural disaster (see Chapter Four). Worrying that this TP2LS decision would close off possibilities of compensation already given to the PAT villages (see Table 5.2), villagers from these four villages (Mindi, Pejarakan, Kedungcangkring and Besuki) plus West Siring (separated with the eastern Siring already under PAT by Porong main road, see Map 5.1) decided to cut-off all transportation links between Sidoarjo and the southern part of the province, blockading railways, the main Porong road, and other smaller roads which connect Sidoarjo with Pasuruan regency. This blockade left public transportation to the southern East Java paralyzed for that particular day (*Jawa Pos* 20 February 2008).<sup>90</sup>

In addition to this protest, the national government was also faced with a challenge to widen the spillway's intake capacity to be able to pump more mudflow into the Porong river and reduce pressure on the existing levees, while

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<sup>88</sup> BPLS was established through Perpres 14/2007 issued on 8 April 2007. By the time it was established, the cycle for discussing the annual budget was over leaving the agency had no funds on its own items. For 2007, BPLS' budget was withdrawn from the item of disaster emergency response.

<sup>89</sup> IDR 500,000 assistance for each family was given after the collapse of southern levees in January 2008. By 10 February 2008, these villagers had experienced three collapses of southern levees which flooded their houses with mud.

<sup>90</sup> Sidoarjo Police was reportedly unable to anticipate this blockade because the notice sent by the protesters to the Police only mentioned holding the protest at the Sidoarjo district *pendopo* not blockading the roads. Proclaiming their distrust to the Bupati, the protesters refused his request to open the blockade.

at the same time anticipate the movement of the mudflow to the south side of the levees (which made villages under *Gempur 4D* very prone to subsequent inundations). All these incidents, along with the on-going rainy season, which hampered levee maintenance and construction works and made the probability of levee collapses even higher, led President Yudhoyono to call two special meetings on two consecutive days to deal with this issue. Initially to including only Besuki and Pejarakan into the revised map of affected villages at the first meeting (26 February 2008), on the following morning Kedungcangkring was added (*Tempo* 9 March 2008).<sup>91</sup> Headed by the Coordinating Minister Aburizal Bakrie, the second meeting concluded that the state budget would be provided for compensation payments in these three villages. The reasons given was that the two lawsuits by YLBHI and Walhi were denied by the Jakarta district courts, thus freeing Lapindo Brantas from any liability for the disaster (*Tempo* 9 March 2008).<sup>92</sup> This decision then enabled Perpres 48/2008 to be issued (see Map 5.6).

This decision not only triggered rejection from wider civil society which opposed the use of state budget finances for taking over Lapindo Brantas' liability (*Detikcom* 7 March 2008), but also created horizontal conflicts within the affected communities. Not only writing Mindi and West Siring off the list, the decision particularly divided Besuki villagers as it only included west Besuki while excluded its eastern part (separated by toll road, see Map 5.1 and Map 5.6). According to Mughis (2008), the in-village fragmentation was further fueled by differences among their community leaders. As a result of strong connections with activists, those from the eastern side insisted on having Lapindo Brantas liable for the compensation. Meanwhile, those from west Besuki, which had been flooded several times by levee collapses, preferred to struggle for compensation rather than problematizing the source of compensation funds (Mughis 2008).

Following the national government's decision to add three additional villages into the affected map, the other surrounding villages demanded the same thing. *Paguyuban 9 Desa* (The Association of 9 villages) was established to articulate the demand of these villages, namely west Siring, west Jatirejo, Gedang, Mindi, Glagaharum, Plumbon, Pamotan, Ketapang, Gempolsari (see Map 5.1 for

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<sup>91</sup> Mindi was dropped from the list because it was still considered "safe" (*Tempo* 9 March 2008).

<sup>92</sup> Taking over the chair from President Yudhoyono who left the meeting to welcome Germany's Foreign Minister, Aburizal Bakrie reportedly underlined President Yudhoyono's instruction to give compensation to the three villages from state budget (*Tempo* 9 March 2008).

these villages). On 24 March 2008, at least a thousand of people from these nine villages blockaded the road, an action which ended only after the Vice Bupati promised to set up an appointment with Governor Imam Utomo on the following day (*Tempointeraktif* 24 March 2008). The meeting with the Governor on the following day resulted in the establishment of *Tim Kajian Kelayakan Permukiman* (Research team for settlement habitability/TKKP) with the assigned task to investigate and verify which villages would be recommended for inclusion into the affected map.<sup>93</sup>

TKKP's investigation report then became the basis for national government to issue Perpres 40/2009 (later followed by Perpres 68/2011) which included West Siring, West Jatirejo and part of Mindi village into the affected map (see Map 5.6).<sup>94</sup> With only three out of nine villages included, this Perpres not only triggered rejection from those excluded but also in-village fragmentation particularly in Mindi. Similar with what happened to Besuki, in-village fragmentation in Mindi took place because only 3 RTs was included leaving the larger part of the village excluded.<sup>95</sup> Jasimin, one of key leaders in Mindi and *Paguyuban 9 Desa*, explained their disappointment with Perpres 40/2009 as follows:

Part of Mindi which was included in Perpres (40/2009) was only those 3 RTs. What was the parameters [of ]? They said the parameter was (the presence of) gas bubbles. There were bubbles in those RTs. But there were other bubbles as well in the other RTs. But they were not visited by TKKP team members. One of TKKP members said that visit to those 3 RTs was only for samples. We thought it was ok. But it turned out that only those 3 RTs that were included in Perpres. We decided that our rejection of Perpres (40/2009). was based on the fact that we struggled together. The struggle was also financed with money from all of us. Accidentally,

<sup>93</sup> Established with Governor letter No. 188/158/KPTS/013/2008 on 1 April 2008, TKKP consisted of mostly scientists from two universities, namely Airlangga University and Surabaya Institute of Technology.

<sup>94</sup> Perpres 40/2009 stipulates the inclusion of West Siring, West Jatirejo, and part of Mindi village as another inclusion to mudflow mitigation area outside PAT. The inclusion of West Siring and West Jatirejo made the two villages wholly included as the affected map, after the east Siring and east Jatirejo were included in PAT/22 March 2007 dated map (see Map 5.5). Part of Mindi included in this Perpres were 3 RT (the neighbourhood association, the lowest administrative level in the village), namely RT 10, RT 13 and RT 15 in RW 2 (RW stands for *Rukun Warga*, a compilation of several neighbourhood associations). While it confirmed their inclusion, Perpres 40/2009 only suggested state-funded social assistance to these villages as given to those inside PAT (consisting 2-year house rent allowance, living allowance for six months and evacuation cost allowance) (see earlier section on short-term compensation). Meanwhile, Perpres 68/2011 confirmed their property purchase by the state as given to those from Besuki, Kedungcangkring and Pejarakan in Perpres 48/2008.

<sup>95</sup> The 3 RTs were RT 10, RT 13 and RT 15 (all of them in RW 2). Mindi has total 21 RTs.

these 3 RTs were the most passive ones (in the movement). Very passive ... (interview with Jasimin 11 October 2012).<sup>96</sup>

The disappointment about Perpres 40/2009 led Governor Soekarwo to redeploy TKKP to investigate 13 more villages in the surrounding areas.<sup>97</sup> Later in August 2010, TKKP recommended an extension of affected map by adding 45 more RTs in four villages into the category of “inhabitable”.<sup>98</sup> From here, the movement of 45 RTs emerged, demanding their inclusion which was approved through Perpres 37/2012 (see Map 5.6) be acknowledged. In this Perpres, the national government included not only 45 RTs but 20 more others from three other villages.<sup>99</sup>

**Table 5. 3 Summarized contents of Presidential Decrees (Perpres) related with the mudflow affected communities**

Perpres	contents
Perpres 14/2007	(1) Recognition of 22 March 2007 dated map as the affected area map (Peta Area Terdampak/PAT) eligible for compensation in the form of property purchase agreement (Article 15 [1]); (2) the map includes Kedungbendo, Renokenongo, Siring’s and Jatirejo’s eastern part of main Porong road and smaller parts of eight other villages (see Table 5.2); (3) referring to 4 December 2006 agreement (Article 15[2]), the agreed purchase rate was IDR 1 million/square metre for garden, IDR 1.5 million/square metre for house buildings and IDR 120 thousand/square metre for irrigated rice fields; (4) 20 percent of the purchase payment will be made in advance, and the remaining 80 percent will be paid at the latest a month before the expiry date of 2 year house rent (Article

<sup>96</sup> “Mindi yang katut (dalam Perpres 40/2009) itu ya 3 RT itu. Apa ukurannya? Mereka bilang adanya gelembung gas. Memang ada di RT itu, tapi juga ada di RT lain. Cuma tidak terpantau oleh tim. Salah satu anggota TKKP saat itu bilang kalo kunjungan ke 3 RT itu hanya sampel. Kami pikir nggak apa-apa. Tahunya hanya 3 RT yang masuk Perpres (40/2009). Kami menolak (Perpres 40/2009). Penolakan kami didasarkan bahwa kami berjuang bersama. Perjuangan juga didanai dari uang bersama. Kebetulan, 3 RT itu yang paling pasif (dalam gerakan). Sangat pasif”

<sup>97</sup> There were Mindi (18 RT), East Besuki, Keboguyang, Plumbon, Glagaharum, Sentul, Penatarsewu, gempolsari, Kalitengah, Ketapang, pamotan, Kalisampurno and Gedang.

<sup>98</sup> Category of “inhabitable” was signified by among others the presence of land-subsidence, gas bubbles, quality of air and water pollution, destruction to building assets and social/economic/health conditions of the communities. According to Governor’s letter to Minister for Public Works, as the chairman of advisory board of BPLS, dated 6 August 2010, these 45 RTs came from Mindi (all remaining 18 RTs), east Besuki (all remaining 7 RTs), Ketapang (12 RTs) and Pamotan (8RTs). RT becomes a unit for “declaring inhabitable areas” as it also represents the territorial basis of social ties among the residents.

<sup>99</sup> In addition to 45 RTs as mentioned in footnote 100, 20 RTs were added from the village of Gedang (6 RTs), Gempolsari (8 RTs) and Kalitengah (6 RTs). In contrasts to 45 RTs which demanded the inclusion of their villages into the affected map, some community members in the last four villages mentioned above decided to reject the option of using state funds to purchase their property. These members were part of so-called *Korban Lapindo Menggugat* (KLM/Suing Lapindo mudflow victims).

	15[2])
Perpres 48/2008	(1) Compensation for the affected villagers outside PAT will be taken from state budget (Article 15A); (2) villages added into the affected map were Besuki's western part of the toll road and the remaining parts of Pejarakan and Kedungcangkring villages which were not yet included in PAT (Perpres 14/2007) (Article 15B[1]); (3) the compensation would be in the form of property purchase agreement with the bought property would be declared state property ( <i>milik negara</i> ); (4) purchase rate follows what has been already given to those under PAT by Lapindo Brantas (Article 15B[6])
Perpres 40/2009	(1) Added into the affected map outside PAT were West Siring and Jatirejo which were not yet included in PAT (Perpres 14/2007), plus 3 RTs in Mindi village (Article 15B[1A]); (2) For the villagers added into this map, social assistance (allowance for house rent, meals and relocation cost) would be given from state budget (Article 15B[9])
Perpres 68/2011	The villagers in West Siring, West Jatirejo and 3 RTs in Mindi are compensated through property purchase agreement at the same purchase rate previously given (Article 15B[9A])
Perpres 37/2012	Additional inclusion into the affected map covers 45 RT in the remaining Mindi (not yet included in Perpres 40/2009), the remaining Ketapang (not yet included in Perpres 14/2007), the remaining Besuki (not yet included in Perpres 48/2008), and some parts of Pamotan village; plus 20 more RTs in Gempolsari, Gedang and Kalitengah village (Article 15B[1C])

### 5.5 Lacking good leaders? Community leaders and their weaknesses

Having met him briefly in 2007, it was still clear in my memory that Hari Suwandi looked like a man with a strong will when in July 2009 I visited the house he rented in Kalisampurno village, only a few kilometres away from the northwest mud levees. He himself did not have any property in the affected Kedungbendo village, but his wife did. In front of many GEPPRES members, who at the time frequently had coffee sessions together (*cangkruk*) to enable information transfer and exchange of ideas about the latest news on compensation payments, he enthusiastically explained to me about the results of meetings with the company and BPLS he had been going through. The fact that people got together around his house confirmed the important position he occupied in the continuing struggle.

Since GEPPRES had been founded to protest against the offering of non-cash payment options, Hari Suwandi had eagerly taken part in its various actions between 2008 and 2009. These had ranged from blockading the main Porong road

which connects Surabaya and Malang; visiting the office of the National Commission for Human Rights (*Komisi Nasional Hak Asasi Manusia/KOMNAS HAM*) to report the human right abuses (more about this are given in Chapter Six) they experienced; asking the Commission to mediate negotiation meetings with government ministers for better policies, and occupying main roads in front of the Presidential Palace in Jakarta. His eagerness earned him a lot of credits among GEPPRES members, despite little being known about his background before marrying his current wife and moved to Kedungbendo only a few years before the eruption (interview Farid 29 September 2012).<sup>100</sup>

Hari Suwandi's relatively unknown but possibly unsavoury past also did not seem to bother Paring Waluyo, a community organizer who had started his work in the affected communities in 2008 (Chapter Six will give more details about him), as he had been looking for community leaders to be the motor of this organization. Suwandi found it difficult to get capable villagers willing to step in as community leaders after his involvement as a community organizer with GEPPRES. He said that he had actually found a potential leader, a villager with a government position whom he thought had the capability to lead the masses with high integrity, and to struggle for the common cause. However, initially active in the organization, that person had suddenly withdrew himself from any engagement after receiving a warning from his superior in his government office (interview with Paring Waluyo 10 September 2012).

Similar pressure was also experienced by Jasimin, a teacher at a government school in Pamekasan regency where he taught three days a week. Serving as one of the most important leaders from the movement of 65 RTs included in the newest map in the latest revised Perpres 37/2012, he stayed for the rest of the week in Sidoarjo to help organize his fellow villagers from Mindi as well as those from other villages included in the new map. Initially keeping a distance from the movement, he said that he then got himself involved after realizing that the movement could be better and stronger with him in it. His aspiration to build a stronger movement was attributed to his past activism during his study at a teachers' college, the Institute for Teacher Training and Educational Knowledge

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<sup>100</sup> Hari Suwandi's past was said to have links to *bromocorah*, a Javanese term which refers to thieves, pickpockets, men of violence, defenders of the poor or any other professionals from the 'dark world' (interview Farid 29 September 2012).

Science (*Institut Keguruan dan Ilmu Pendidikan/IKIP*) in Malang, where he served as the student senate chairman.<sup>101</sup> Perhaps because of his political literacy, he learned to build a political alliance which helps him to stay active despite his status as a government employee. “I am backed up by a member of the Sampang local assembly (DPRD),” he said about his political support (interview Jasimin 11 October 2012).

If civil employees were discouraged from getting involved in mudflow protests through informal yet powerful warnings, a clearer order to stay away from any involvement in mass protests was given to army and marine officers affected by the mudflow. While marine officers were allowed to help in evacuating affected residents, the local Marine Commander gave an instruction for all of his officers not to get involved in any protests demanding compensation because this was assumed to be against its official tasks to ensure safety and protect citizens (*Suara Merdeka* 22 August 2006). Army officers affected by the mudflow were also prohibited to join protest movements, an order backed up with a threat to transfer to Papua if they crossed the line (interview with a local army officer, 26 September 2012). With this background, it is clear why no army or navy officers were found among the community leaders, despite the fact that hundreds of families of army and navy officers were also affected.<sup>102</sup>

In addition to pressures from the government bureaucracy and military experienced by those working in them, other villagers willing to get involved in people’s activism demanding their rights were also facing the challenge of constant scrutiny from various state security agencies, from local government to police and the military. At the height of the Perumtas movement, Sumitro experienced some irregularities with his mobile phone such as turning off by itself

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<sup>101</sup> I could see that he was very proud with his activist background from the way he asked me about my activism outside college. He also proudly told me when, as the senate chairman, he lead his fellow students for a comparative study with the Student Senate of Gadjah Mada University. “I led the group, and the leader at the other end was Anies Baswedan,” he said. The latter is now Vice Chancellor at Paramadina University and has a ministerial position in Joko Widodo’s cabinet from the Democrat Party.

<sup>102</sup> *Suara Merdeka* quoted above reported that there were 127 marine officers affected by the mudflow. Meanwhile, Indonesian military’s webpage reported that nearly 700 navy soldiers were affected and BPLS’s chairman visited the Navy Commanding Base for Eastern Region in Surabaya to discuss about the matter (<http://web.tni.mil.id/view-5422-698-prajurit-koarmatim-korban-lumpur-lapindo-berharap-penyelesaian-secepatnya.html> accessed 5<sup>th</sup> February 2014). In 2008, more than 1,600 houses were completely built by Indonesian Navy’s Central Cooperative (*Induk Koperasi Angkatan Laut/INKOPAL*) for navy personnel and civilian employees working at naval installations, a resettlement process far faster than for “civilian” affected villagers.

and weird sounds at the other end when he picked up incoming calls, which he assumed to be signs of tapping actions (interview 29 September 2012). In some documents I collected from the local government Agency for National Welfare and Protection of Society (*Kesbanglinmas*), I found traces of scrutiny in some notes and a military report which noted the attendance of officers working in intelligence and surveillance affairs (commonly called *intel*). They attended meetings and gave detailed descriptions of day-to-day movements of some community leaders from the mudflow affected communities.

Controls and surveillance over people's movements was extended to villages recently added to the latest Perpres map. Restrictions on meetings also prevailed, making a community leader say that the current situation was "just like in the era where the PKI was being crushed, even a gathering of a few people will certainly be disbanded" (interview Jasimin 11 October 2012).

Police officers were also involved in these security activities, likely blurring the lines between maintaining public order and spying on citizens, or corruptly capitalizing on the information they have about the community movement for personal rent-seeking purposes through blackmail. In several public meetings discussing mudflow affected communities I attended during my field work, I met several young police officers in plain-clothes who openly told me about what they do. While I didn't see any clear signs that they were profiteering from this activity, my suspicion arose when during my interview with Andi Darussalam (see Chapter Four), I saw a senior plain-clothed police officer, whom some of the affected community members also knew well, sitting in the same room with the company employees.

The fact that *intel* officers were involved in scrutinizing the movement of those affected made it easier to understand the prevailing convictions that intelligence activities were also underway against community leaders. Jasimin told me that he too was a target after he bought a new motorcycle. "Not long after I bought it from a dealer, there was a rumour that I was bribed. I believe that rumour was fabricated against me on purpose. In fact I bought it with our own money. Not that I am showing off, we can afford to buy it. My salary and teaching incentives, combined with my wife's salary as a bank employee, are more than enough for it," he said (interview 11 October 2012). Jasimin believes that such

intelligence practices were clearly aimed to destroy people's trust in community leaders.

More than just a rumour, bribery was said to be used especially by the company to separate community leaders from their fellow villagers and mass movements they were leading. Allegedly aimed to de-radicalize the movement he led, Sumitro was approached by Andi Darussalam and was offered a job managing the housing estate construction project the company was undertaking for its cash and resettlement option (interview 29 September 2012). On the other hand, instead of approaching community leaders, Andi Darussalam claimed that it was his company that was being blackmailed by the leaders of the emerging community groups (interview 1 November 2012). He accused various community organizations of having been founded only as vehicles for rent-seeking behaviours. Whichever one is true, money certainly played an important role in diverting the community struggle from a common cause to a more narrow one.

While it was difficult to prove bribery or money involvement, the rumours about it certainly weakened people's trust in their community leaders. It became difficult to ask people to move, because the intentions of those who initiated the move would be immediately questioned (interview with Sumitro 29 September 2012). It not only greatly reduced the frequency of mass protests, but also changed the strategies of the affected from demanding their rights to political lobbying.

This is particularly reflected in the ways that three RTs in Mindi village was organized, before and after their inclusion in the map of Perpres 68/2011. Despite the fact that their hamlets were assessed as among the settlements which had deteriorated the worst, and therefore were deserving of inclusion in the sequence of officially recognized maps of the affected villages, community leaders from these s kampungs considered their inclusion was more due to people's lobbying of political parties than mass actions (interview with Zainuddin, 6 September 2012).

Success in dealing with the above challenges would likely make community leaders maintain respect by their fellow villagers. It was certainly not the case with Hari Suwandi who already lost community support several years before his walking protest. It happened when, as a result of its worsening financial situation due to the 2008 global crisis, the company offered a compensation payment in instalments. Instead of rejecting the company's proposal, which for

many GEPPRES members was considered a clear betrayal of Perpres 14/2007, Hari Suwandi in 2010 was helping the company to persuade people to accept it and then assist them in obtaining it. It was even said that he was given a desk at the company's office as his post to assist the affected claiming the payment (interview Paring 10 September 2012). This had led to decreasing GEPPRES members' confidence in him, and since then he had been not involved in the group.

When he suddenly showed himself again and shared his walking protest plan with Paring in early June 2012, some people already had suspicions about his intention and expressed their disagreement to Paring (interview with Wiyono 20 September 2012). However, believing that this time around Hari Suwandi had a sincerity to transform himself to be a "reliable person", Paring decided to support his plan and persuaded GEPPRES community members to help him to realize it. Paring and several active GEPPRES members then decided to ask Wiyono to accompany him all along the way to Jakarta.

Having successfully regained Paring and the confidence of several GEPPRES members did not guarantee Hari Suwandi would win similar support from the other affected groups, not even other GEPPRES members. Instead of supporting what he did, the secretary of GKLL questioned Hari Suwandi's intention behind his walking protest and considered it full of political interests (*Suara Merdeka* 11 July 2012). Some other affected villagers, who whether by chance or intentionally happened to be staying in the same place with Hari Suwandi in Jakarta, chose to go elsewhere to fight for their own case rather than showing support to Hari's protests in the capital.

While the walk gained Suwandi considerable press coverage for his protest, he seemed upset with this minimal support from the affected communities he was trying to represent, a concern which he shared with Wiyono (interview 20 September 2012). This disappointment coincided with his increasingly awkward behaviour, which leaned toward more and more secrecy. On the evening of 25 July 2012 he told Wiyono that he wanted to go out with his wife to buy milk for his adopted son. He never came back. Instead, he appeared on a Bakrie TV channel apologizing to Bakrie's family for all he had done along his walking journey. Many villagers suspected that he received money from Bakrie Group to shut him

up. But clarification about this was not possible, as he disappeared following his TV apology and no-one has seen him since then.

### Summary

I argue that the story about Hari Suwandi which started and concluded this chapter can reveal the complexity of social fragmentation within the mudflow affected communities. Many have actually written about this fragmentation, but so far only few who tried to portray it beyond being simply personal interests of the affected community members up against powerful corporate strategies. As shown above, without denying the fact that individual and corporate interests play in this matter, I argue that pushing factors for fragmentation are complicated, involving conflicting cultural/religious reasons, political strategies, financial scandals (corruption), and structural constraints.

In the first few months, cultural and religious considerations were initially significant, particularly in Jatirejo, which had been most seriously threatened at the time and where the largest Islamic boarding school in the surrounding area was located. Being called to protect the heritage earlier *kyai* had left, in the form of *wakaf* or property for religious functions as well as influence, perhaps supplemented with an expectation of having the mudflow stopped in near future, Paguyuban leaders demanded compensation without property purchase, rather than "cash and carry" demand. Despite the former demand still being supported and having its own followers, amidst a worsening situation in the mudflow management, the latter demand began attracting far more followers from a majority of the affected groups, not only in Jatirejo but also to the other affected villages.

Having the same goal for a compensation scheme did not prevent the affected communities from being disunited. The fact that Perpres 14/2007 stipulated the compensation payment within a 2 year window triggered disagreements within the communities which had been already differentiated socially and economically. Some of those who expected only small compensation, due to their small size property, wanted a faster payment to be able to recover more quickly. However those in Renokenongo demanded a one-off complete payment to preserve their political and social ideals. Corruption allegations and

differences in political strategies divided the existing groups further apart from each other.

The affected communities become even more divided when Lapindo Brantas stopped adhering to the compensation scheme as stipulated in Perpres 14/2007, allegedly due to reasons linked to Bakrie's interests in its corporate survival. New groupings in the communities were formed. Some rejected the company's new compensation proposal for violating what Perpres had already instructed, while others simply rejected it for survival or cash reasons. Even for those who chose to accept the company's offer, their choice was in fact not entirely guaranteed. As explained in Chapter Four, those who had the choice of resettlement faced distinct problems whose solution rested in the hands of Minarak company. Some affected communities under the 22 March 2007 dated map in Perpres 14/2007 seemed to face a more complicated situation where capital and political interests were interlinked, while the struggle of other affected communities outside the PAT in demanding the national government for their village inclusion into the affected map was not less difficult either.

In this struggle which required skills and is simultaneously influenced by money, tensions, and secret deals, it is difficult to find community leaders who are both capable and maintain the respected of their fellow community members. The security approach put in place by a state apparatus which has been stigmatizing the protest movement of the affected communities, made efforts to find such leaders even more difficult. Under these conditions, not only are people losing trust in whoever tries to organize a movement. It also became more difficult to mobilize the masses to occupy the streets as they would easily have done a few years back. It was with this background that Hari Suwandi started his walking protest as it was seen as the easiest way to keep the compensation issue alive. However, it turned out later that Hari Suwandi fell into the same circle.

**Map 5. 1 Density of settlement of affected areas before the eruption**  
(Satellite image taken on 6 October 2005)



(Source: [http://www.crisp.nus.edu.sg/coverages/mudflow/index\\_IK\\_p1.html](http://www.crisp.nus.edu.sg/coverages/mudflow/index_IK_p1.html) accessed 25 March 2015)

**Map 5. 2 Satellite images of mudflow affected area by 17 Sept 2006**



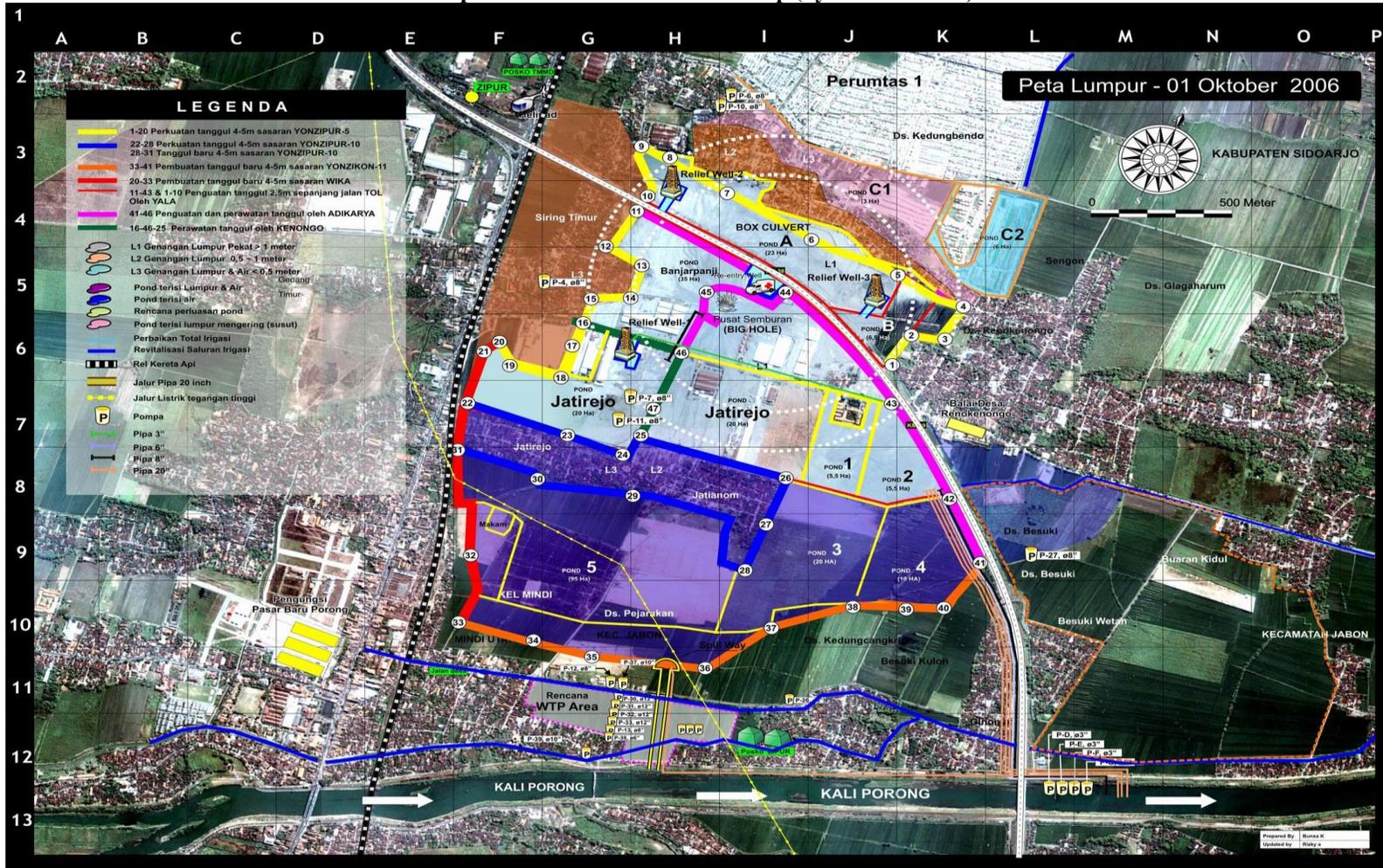
(Source: [http://www.crisp.nus.edu.sg/coverages/mudflow/index\\_IK\\_p4.html](http://www.crisp.nus.edu.sg/coverages/mudflow/index_IK_p4.html) accessed 25 March 2015)

Legend:

Red line signified the affected area by 29 August 2006

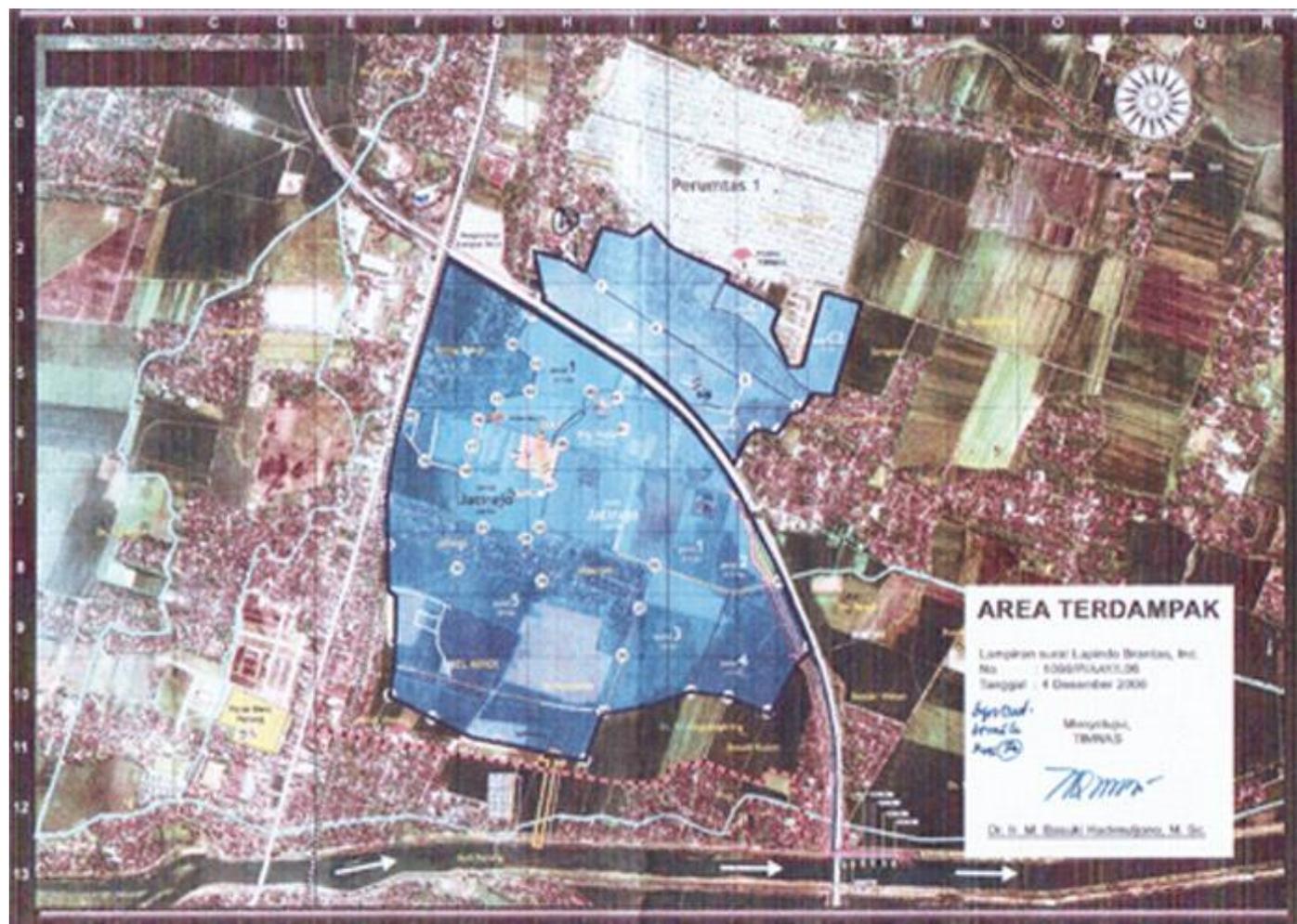
Yellow line signified the affected area by 17 September 2006

Map 5. 3 Mudflow containment map (by October 2006)



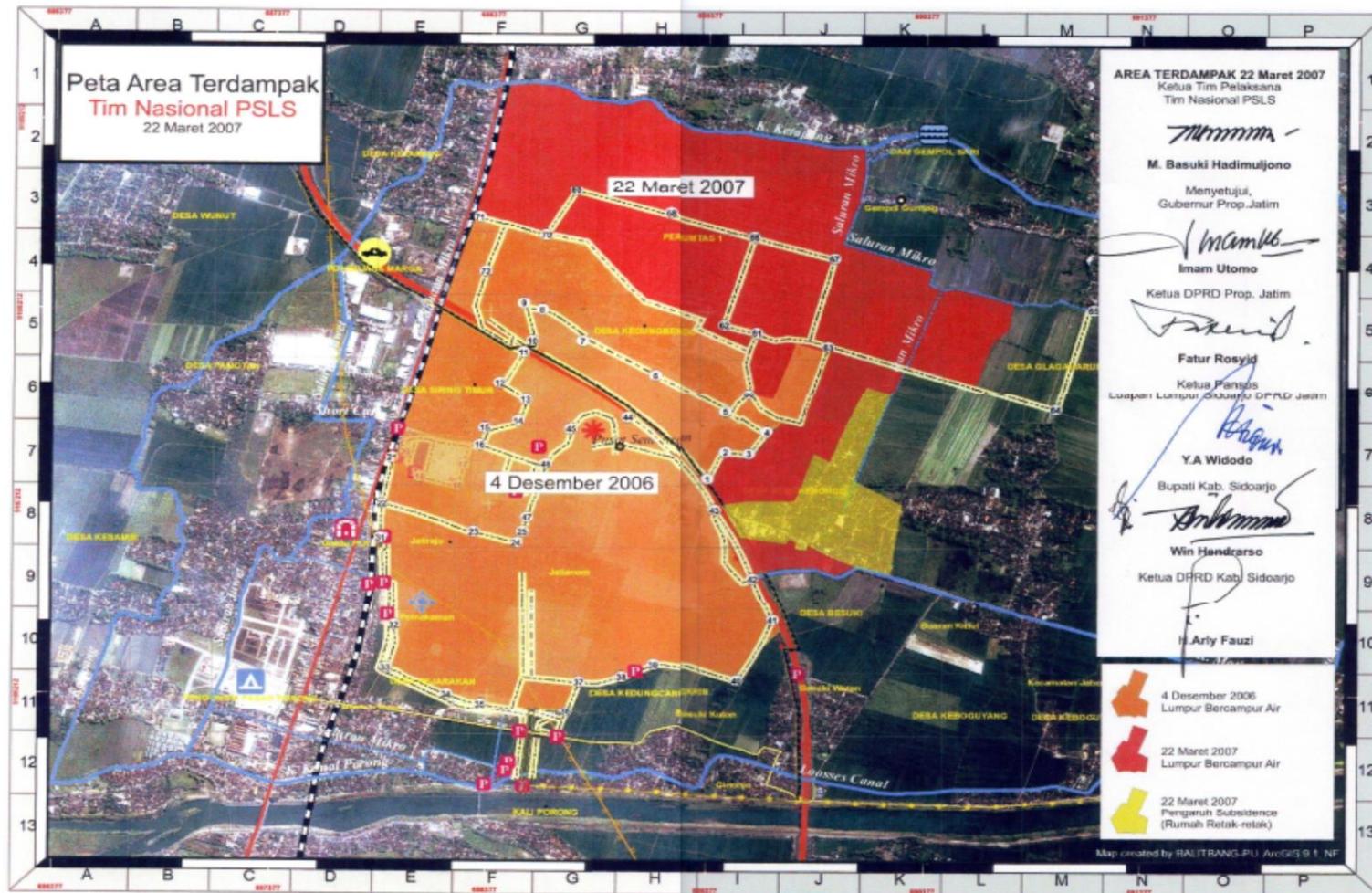
(Source: <https://rovicky.files.wordpress.com/2006/11/map-lumpur-01-oktober-2006.jpg> accessed 25 february 2014)

Map 5. 4 Affected area agreed on 4 December 2006



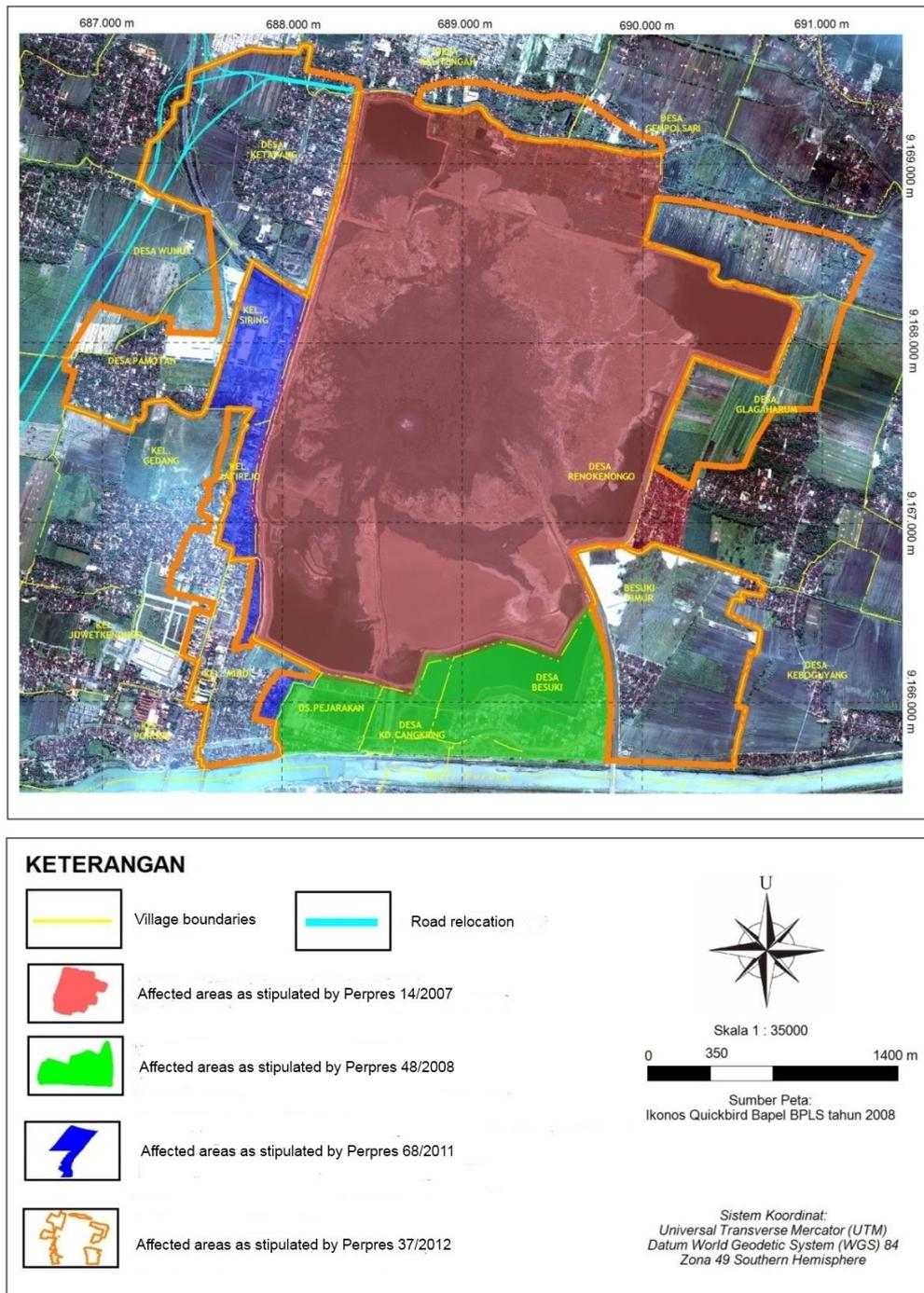
(Source: [http://us.images.detik.com/content/2006/12/08/10/Foto%20Peta%20Lumpur\\_2.jpg](http://us.images.detik.com/content/2006/12/08/10/Foto%20Peta%20Lumpur_2.jpg) accessed 25 March 2015)

Map 5. 5 Affected area as stipulated in Perpres 14/2007



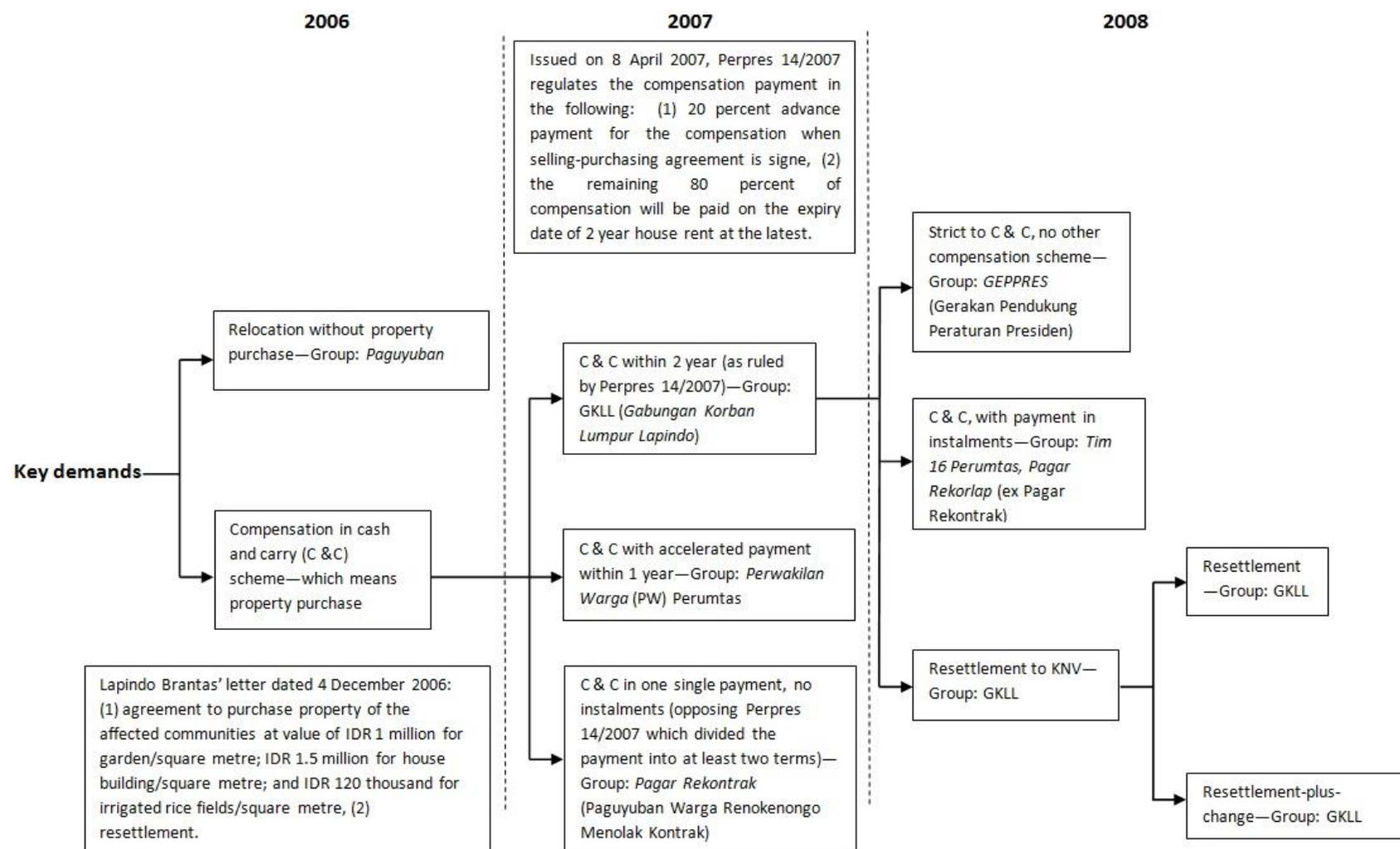
(Source: <http://korbanlumpur.info/wp-content/uploads/2013/05/2007-03-22-Map1.jpg> accessed 25 March 2015)

**Map 5. 6 Additional villages declared affected (as of 2012)**



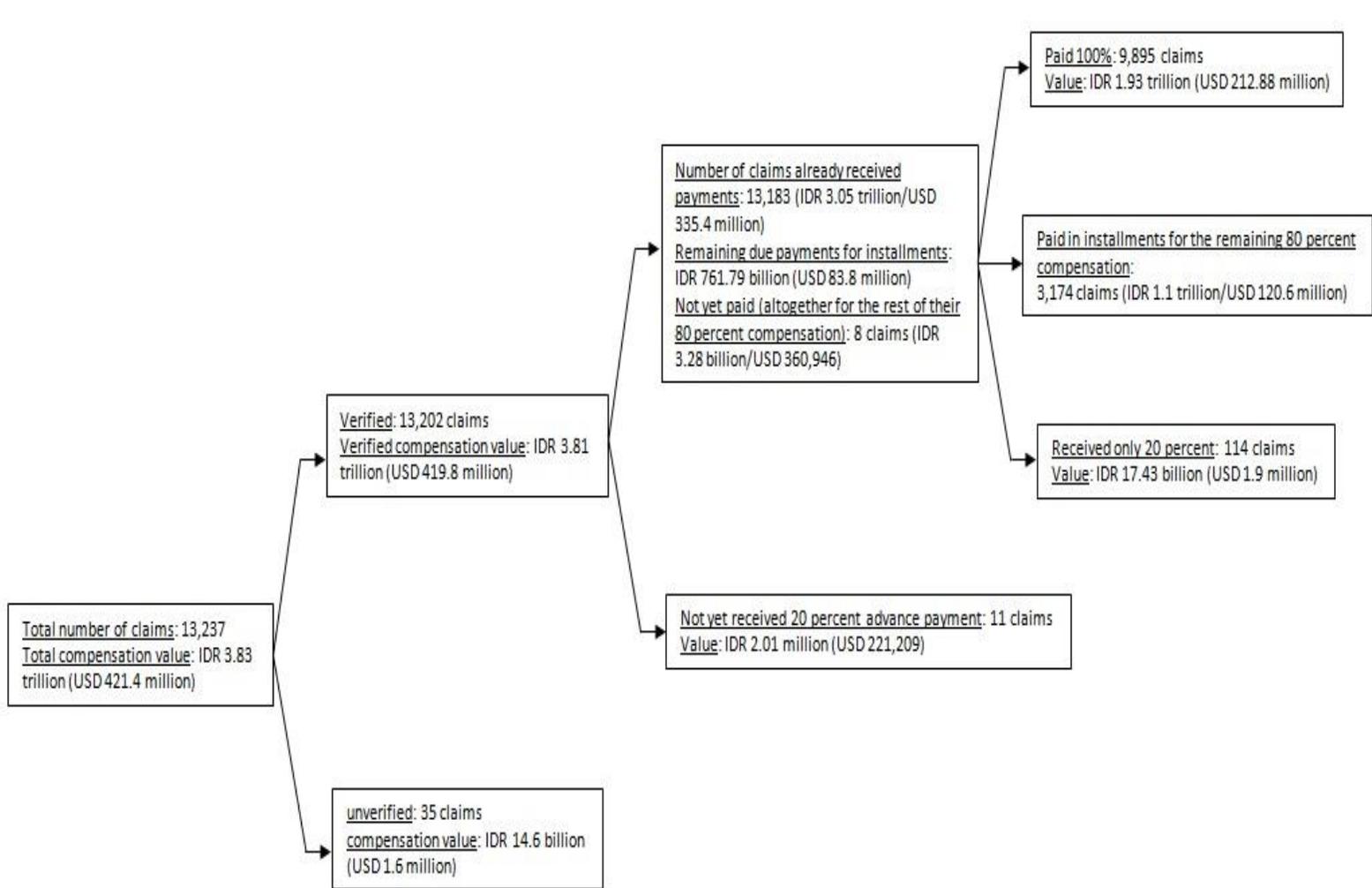
(Source: BPLS 2010-2014 report)

Figure 5. 2 Changing compensation demands under Perpres 14/2007



(Source: Author's research in Sidoarjo district 2012-2014)

**Figure 5. 3 Progress of compensation payment by Lapindo Brantas**



(Source: BPLS 2010-2014)

Table 5. 4 Groupings within the mudflow affected communities

<i>Period of emergence</i>	<i>Groups</i>	<i>Affiliation of leaders</i>	<i>Supporters</i>	<i>Primary strategy</i>	<i>Key demands</i>
August-September 2006	Association of farmers whose irrigated rice fields were used for mudflow ponds	Rice field owners	Rice field owners	Negotiation	Purchase of rice fields
July 2006	FSRKLL ( <i>Forum Silaturahmi Rakyat Korban Lumpur Lapindo</i> )	Formal village structure (village heads)	All villagers	Negotiation	<i>Uang kontrak</i> (2 year house rent allowance), <i>uang pindah</i> (relocation cost) and <i>uang makan</i> (meals allowance for 6 months)
August 2006	FKPKLL ( <i>Forum Koordinasi Penanggulangan Korban Lumpur Lapindo</i> )	Formal leaders at Perumtas	All villagers	Demonstration, negotiation	(1) safety guarantee for all Kedungbendo residents/villagers without any exceptions; (2) property purchase by Lapindo Brantas with a nominal value to be agreed on between Lapindo Brantas and Perumtas residents; (3) those who chose to stay in the village would be compensated as well; (4) all compensation and other related matters should be carried out without any intermediaries, including Satlak ( <i>Satuan Pelaksana Penanggulangan Bencana</i> ).
September 2006	Paguyuban	Informal leader from <i>pesantren</i> background	Former students ( <i>santri</i> ) at Abil Hasan Islamic boarding house	Lobbying	Temporary relocation without any transfer of property entitlement
	GKLL	Formal kampung leaders	Those who agree with cash and carry scheme	Negotiation with Lapindo Brantas/Minarak	Terms of payment for cash and carry was not among primary concerns, as long as it is paid—earlier agreed with 2 year term of payment (as written in Perpres 14/2007) but later accepted payment in cash (instalments) or in-kind (resettlement)
December 2006	Tim 16 Perumtas	Formal Perumtas leaders (Leaders of RT/RW)	Those who believe that without these leaders' approval/signature, their documents submitted for compensation would take longer to be processed	Demonstration, negotiation	Agreed with terms of payment as written in Perpres 14/2007 (for this reason, it joined GKLL). But after GKLL agreed with resettlement option, it split from GKLL and accepted C & C payment in instalments.
March 2007	Perwakilan Warga (PW)	Non-structural/informal leaders at Perumtas	Those who do not want to be exploited by formal Perumtas leaders who charged "service fees" for compensation claims	Protests targeting vital infrastructure/locations, negotiations	1 year acceleration of cash and carry payment
April 2007	Pagar rekontrak (later changed its name into Pagar Rekorlap)	Informal leaders from Renokenongo	Villagers of Renokenongo	During 2007-2008, demonstrations and protests were primary strategies. Afterwards, the primary strategy was negotiation	Cash and carry scheme with only one term of payment (no instalments) to allow <i>bedol desa</i> (move together to the same place); refusing house rents (on the belief that house rents will threaten people's solidarity as people will live far away from each other which make coordination more difficult). After repeated refusal to their demands and increasing social and political pressures, in July 2008 this group finally accepted the house rent allowance and compensation payment terms as stipulated in Perpres 14/2007. After accepting this option, the group changed its name into Pagar Rekorlap (Paguyuban Warga Renokenongo Korban

## Rivalries within the mudflow-torn communities

					Lapindo)
May 2007	<i>Gerakan Masyarakat Lumpur 4 Desa</i> (Gempur 4D)	Formal village leaders	Villagers living in kampungs included in Besuki, Kedungcangkring, Pejarakan and Mindi	Demonstration, lobbying	Revision of Perpres 14/2007, incorporating these four villages into the affected map
March 2008	<i>Paguyuban 9 desa</i> (association of 9 villages)	Formal village structure	Villagers in West Siring, West Jatirejo, Gedang, Mindi, Glagaharum, Plumbon, Pamotan, Ketapang, Gempolsari	Demonstration, lobbying	Revision of Perpres 14/2007 to include these villages
June 2008	GEPPRES	Mixture of informal and formal kampung leaders	Those who rejected any deviation from payment written in Perpres 14/2007; those with extensive lands (with large amount of compensation, if paid in cash)	Demonstration, lobbying	Denying any options other than cash and carry as written in Perpres 14/2007 (rejecting resettlement and compensation payment in installments)
September 2009	45 RT (later changed into 65 RT after the issuance of Perpres 37/2012)	Formal village leaders	Villagers from Mindi, Ketapang, Pamotan, and East Besuki (45 RT). Later joined villagers from Gedang, Gempolsari and Kalitengah (65 RT)	Demonstration, lobbying	45 RT demanded their village inclusion into the affected map. Perpres 37/2012 approved their demand, with additional inclusion of 20 more RTs from three additional villages
2012	Korban Lapindo Menggugat (KLM)	Informal village leaders	Some of the villagers from Glagaharum, Penatarsewu, Kalidawir, Sentul, Gempolsari	Demonstrations	Rejection of any drilling activities and rejection of any compensation funds from state budget (compensation should only come from Lapindo Brantas)

(Source: Interviews and library research)

## **Larger civil society and its challenges to the mudflow environmental struggle**

*(Our struggle) is free of NGO intervention. We realize that the current government really hates NGOs. Because NGOs not only sometimes sacrificed the people, they also abuse funds. NGOs themselves are paid and controlled by some actors—Zainuddin, leader of affected communities under Keppres 68/2011 (6 September 2012)<sup>1</sup>*

In the preceding chapter we have seen the social-political dynamics of the affected communities in responding to the disaster, and how they were organized to demand access to environmental justice. The chapter showed us how active the affected communities were demanding their rights, despite the fact that they had been facing internal challenges as well as external pressures from both the state and from corporate capital. Regardless of their results, the struggle for access to environmental justice was described in the chapter as predominantly resting upon the internal dynamics of the affected communities. By limiting its focus within the internal boundaries of the affected communities, this chapter raised questions about the bigger picture of environmental struggle, particularly when it has been such a high profile disaster case with many political interests at stake. However, Chapter Five may have given an impression that it separates the communities from the larger concept of civil society or underestimates the role of bigger non-state community groups in the environmental struggle.

To redress the balance the current chapter aims to provide a complete picture about the roles of various non-state groups falling into the concept of civil society, in responding to the environmental disaster and in demanding access to environmental justice. However, in order to ground this study more deeply in the

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<sup>1</sup> “(Perjuangan kami) murni tidak ada bantuan LSM. Soalnya, Pemerintah sekarang sangat benci pada LSM. Karena LSM tidak hanya mengorbankan warga, tetapi juga kadang-kadang menyelewengkan dana. LSM sendiri ‘kan ada yang bayar”.

perspectives of particular groups and to elaborate on them thoroughly in a more proportionate way, the spreading across chapters was unavoidable. While the preceding chapter was focusing primarily on the affected communities living around the eruption site, this chapter will predominantly discuss the roles of the larger civil society groups, whose intervention or non-intervention strategies helped to shape the nature of the environmental justice movement that exists today around this issue. Following the definition from Alison van Rooy, civil society here is defined as “advocacy groups, non-governmental organisations, social movement agents, human rights organisations and other actors explicitly involved in ‘change work’ and do not belong either to market or the state” (Rooy 1998).

With regards to the discussion about civil society and democracy in post-Soeharto Indonesia, at least two simple trends have been highlighted. On the one hand Indonesian civil society has been growing at least numerically after the 1998 political reforms. With data applying only to those working on environmental issues, 300 NGOs was estimated to have existed before 1998 (Eccleston and Potter 1996). A decade later this number had grown to roughly 8,000, as 12 percent of the 70,000 NGOs reportedly established during the era of reform (reformasi) were taking environmental issues as their main concern (Ichihara 2010). On the other hand, despite the growing political liberalisation, suppression, opposition and limitations to the growth of particular groups are also widely acknowledged (Hamayotsu 2013). Rapidly increasing community powers and their conflicting interests set barriers to NGOs developing further and this is suffered not only by newly founded organizations or those with marginal political support, but also by more established ones. Reflecting this trend, the quotation that started this chapter shows how civil society actors face particular challenges in the post-authoritarian era and may have to work harder to win support from their communities to reach their goals. Similar to the affected local communities described in the previous chapter, this chapter will argue that larger Indonesian civil society experiences challenges to unite their movements too.

This chapter will be divided into six sections. As the background, the first section will discuss the recent involvement of larger civil society groups in many disaster events in Indonesia and their multiple orientations. The second section will identify various civil society groups which were involved in the mudflow

case, particularly in the early months of the disaster. The third section will investigate fragmentation within NGOs which sustained their presence in the mudflow site despite continuous rejection by the community. This investigation tracks down the fragmentation in working strategies and internal challenges within this NGO sector. Departing from the important role of scientists in influencing public opinion on the nature of the mudflow disaster, the fourth section will highlight the opinion differences in the scientific communities and political economic factors which prevented scientists and drilling engineers from supporting the environmental justice demanded by the mudflow affected communities. The fifth section will particularly deal with litigation attempts and the challenges faced by the litigant to win the case in the courts. The sixth section discusses the role individuals played in influencing the communities' struggle for compensation amid wide rejection of NGOs.

### 6.1 Many faces of disasters: from advocacy to popularity contests

Despite Indonesian geographical and geological locations which have been long known as prone to hazards, disaster mitigation practice and its discourse in Indonesia are relatively recent phenomena. Before 2003, there were no organizations explicitly voicing their concerns about disaster issues. However long before that year, there were certainly groups and organizations working in issues related to environmental changes, such as river pollution or large scale development projects.

The critical outlook of these groups in unpacking the deep structural problems related to the intertwining roles of state and capital which steered the country during its period of authoritarian rule has been highlighted as factors behind these environment-development debates (Aditjondro 1994, 1998; Lucas 1992, 1998; Sonnenfeld, 1998).

However these organizations seldom used the notion of “disasters” to describe the environmental changes. Despite their success as building landmarks for an environmental movement (Eccleston 1996; Silaen 2006) and opening up space for environmental debate within the authoritarian Suharto regime (MacAndrews 1994), their focus on state-society relations tended to drive them to overlook the environmental changes as sites for the rearrangement of social-

political relations, not only between state-capital-society, but also within the societies themselves.

Concerns about disasters began to be explicitly expressed with the establishment of the MPBI (*Masyarakat Penanggulangan Bencana Indonesia/Indonesian Society for Disaster Mitigation*) in 2003. Realizing the presence of hazards and the lack of their mitigation policies in Indonesian contexts, this non-government organization was founded by disaster management practitioners to promote knowledge about risk management, as well as practices and policies across various stakeholders. Together with other local stakeholders and foreign agencies, MPBI found “windows of opportunity” for establishing its aspirations through the 2004 tsunami disaster. Following that disaster, MPBI was actively involved in promoting the awareness of risk reduction discourse, something which resulted in the passing of Law No 24/2007 on disaster management. The latter marked the greatest achievement of this organization, which was picked up by UNDP (2009) as a best practice for the active involvement of civil society role in the legislation process.

The law marked the “mainstreaming” of disaster risk reduction discourse across state bureaucracies, political organizations as well as social ones. A ministerial level national agency for disaster management (BNPB/ *National Agency for Disaster Management*) was established in the following year, followed regional counterparts across provinces and districts. Likewise, within several years, concerns over disaster issues grew significantly in the private sector, an inclusive term referring to almost any non-state agencies from well-organized international disaster relief agents to ad-hoc, informal and local or community based relief efforts. These growing concerns, as well as the availability of funding<sup>2</sup> from transnational multi-donor funds for many local and national NGOs working on disaster issues, resulted in an explosion of their numbers, which led a high rank official at BNPB to say that their number is “too many to even name” (Irinnews.org, 18 January 2011).

Political parties also joined the discourse with nearly all of them currently having a special task force to deal with disasters, regardless of whether or not

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<sup>2</sup> These resources come among others from the so-called Humanitarian Response Fund coordinated under UNOCHA (United Nations Office for the Coordination of Humanitarian Affairs).

those in charge are equipped with relevant experience.<sup>3</sup> Despite this mainstreaming trend, public suspicions often arise against the involvement of various groups in disaster stricken areas. As noted by some studies (Tadie 2012), disasters often become sites for political grandstanding and popularity contests, particularly in disaster events with wide press coverage or approaching elections. Doubts about motives behind their involvement were not only directed to political parties and figures, with their banners and flags often easily recognizable in disaster affected areas, but also to aid and relief organizations allegedly linked to political parties.

This wider suspicion provided the context for further barriers not only preventing particular groups from entering the “disaster scene”, but also preventing those who want to extend their concerns in the affected communities beyond emergency relief efforts or narrow political interests. Not to mention the long-standing internal problems within Indonesian NGOs which have to deal with issues in external donor dependence, staff development, or lack of coordination among their networks (Hadiwinata 2003). This is in addition to state pressure and capital interests to restrain the emergence of active civil society movements as described in the previous chapter.

This context makes it easier to understand the fact that the role of larger civil society groups in this mudflow disaster, even if they managed to enter the “stage”, would slowly fade away. Describing the roller-coaster of that role, a leading community organizer wrote that “[the early period was] a funfair of NGOs, politicians, academics, activists, etc., a big stage to get the spotlight. But they did not stay for long.” (Hamdi 2009, p. 10).

## 6.2 “Performing” at the funfair: the presence and absence of civil society groups

As a leading community organizer was quoted above, all through its first year the mudflow became a “funfair” where many parties eagerly took part in different aspects of the disaster mitigation with various aims and for various purposes. With the help of continuous news coverage, their involvements were

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<sup>3</sup> Regardless of their structural position in these organizations, there are various agencies and department dealing with disaster mitigation in almost all political parties. Among them are *BAGUNA* (Badan Penanggulangan Bencana/Agency for Disaster Mitigation) in the PDIP Party, *Relawan Indonesia* (Indonesian Volunteers, previously P2B/Post for Disaster Mitigation) in the PKS Party, and various divisions and departments in the Democrat, Golkar and PPP Parties.

shown in various ways from charity work to advocacy. Some chose to occupy a particular space near the mudflow site or in Sidoarjo for their *posko*<sup>4</sup> with or without clearly designated banners, others chose not to for various reasons, while many more simply came to the site to carry out charity work and left as soon as they finished.

These NGOs worked on diverse issues from providing food aid, health and counselling services, defending (*pendampingan*) the rights of vulnerable groups such as children and women, administrative assistance for the affected to facilitate compensation processes, to policy advocacy and organizing the affected communities to stand up for their rights.<sup>5</sup>

Despite the wide range of social impacts emerging from the disaster, the affected communities and the larger public were particularly concerned with human rights abuse with regards to mudflow induced displacement and the compensation schemes. In addition to various initiatives on the part of the affected communities to get themselves organized for fair compensation schemes (as described in the previous chapter), several forums and coalitions were founded by civil society groups demanding the restoration of rights of the affected.

Local leading figures concerned with this issue founded a forum called Forum for those Concerned with Porong Hot Mudflow Disaster (*Forum Peduli Musibah Lumpur Panas Porong/FPMLPP*); Jakarta-based leading figures across a range of social backgrounds founded the Caucus for the Defenders of the Mudflow Victims' Civil and Economic Rights (*Kaukus Pembela Hak Sipil Ekonomi Korban Lumpur*); while some leading NGOs formed the Civil Society Movement Demanding Justice for Mudflow Victims (*Gerakan Masyarakat Sipil Menuntut Keadilan Korban Lumpur/GMSMKKL*).

While succeeding in mobilizing supports from leading figures at the local level, these forums achieved no significant achievement beyond channelling their

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<sup>4</sup> *Posko* stands for Command Post (*Pos Komando*). Among those with the earliest *posko* in Pasar Baru Porong were Tagana (*Taruna Siaga Bencana*), *FPBI* (Forum Peduli Bencana Indonesia), and *Relawan PKS* (*Partai Keadilan Sejahtera*). The others arrived later, like *Posko Gus Dur Peduli*, organized by Wahid Institute, set up in July 2007. Many of these organizations did not stay long in Sidoarjo primarily due to two reasons. Firstly, because their concerns were mostly about emergency disaster response, they decided only to stay in the early months of the eruption. Secondly, some of these organizations were only concerned with providing emergency supplies and did not have the organizational and financial capacity to maintain their presence in a longer-term.

<sup>5</sup> Among these NGOs and community groups were Walhi, Uplink, LBH Surabaya, JRK (*Jaringan Relawan Kemanusiaan*), YLBHI, Desantara Foundation, Taring Padi.

grievances about the National Team's worsening mitigation efforts to Commission VII of the national parliament in early 2007. *Nahdlatul Ulama* was expected to play a major role in advancing the Forum's goals not only because of the religious-cultural ties it shared with most of the affected but also to avoid the issue of *kristenisasi* (conversion) (personal communication with a member of a local interfaith group, 28 June 2007). However this remained an issue and influenced the choice of group affiliation among the affected (personal communication with an affected community member, 3 July 2007).<sup>6</sup> The NU however seemed reluctant to get involved beyond these moral appeals.

Gus Manaf, who had just been elected as NU Sidoarjo Branch chairman when the mud erupted, recognized that internal conflicts within NU local board members and public doubts about their integrity, had prevented him from taking decisive action on behalf of his organization. He dropped an institutional plan for providing legal advocacy after the spread of hearsay that Lapindo had disbursed significant amounts of money to NU local board members, many of whom he claimed were among those who opposed his election as the chairman.<sup>7</sup> This led him to withdraw any NU organizational involvement in the compensation dispute settlement, particularly when the debate was becoming more individual-based. "The debate is now about the individual interest for compensation. (While ) public trust in clerics still remains high, but when it comes to technical terms, they don't (trust the clerics)," said Gus Manaf (interview 25 June 2007).<sup>8</sup>

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<sup>6</sup> This was particularly a concern for Catholic believers whose church in Porong was located only 1 km away from the eruption site. Before the eruption, this Porong *stasi* church had 213 household members of which many are now reported to have relocating somewhere else ([www.mirifica.net](http://www.mirifica.net)).

<sup>7</sup> On his request, Lapindo gave him the list of recipients. "On the given list, there were NU-affiliated names, but they claimed it on behalf of NU," (*Dalam daftar itu memang ada nama-nama NU, tapi mereka mengatasnamakan NU*) he said. "They claim it on behalf of NU, may be to show that they were the ones who still have power in NU (*Mereka mengatasnamakan NU, mungkin supaya untuk menunjukkan bahwa merekalah yang masih berpengaruh di dalam NU*)," he said. Those Gus Manaf referred to were the ones who did not agree with his election as the new chairman of NU executive board in Sidoarjo.

<sup>8</sup> Regardless of this organizational self-restraint, he claimed that NU still played a major role in supporting the affected communities' struggle for access to justice. "SBY and Jusuf Kalla met the Perumtas group after receiving letters from Pak Hasyim and KH Sahal Mahfudz," claimed Gus Manaf of NU's important role in arranging the meeting between the Perumtas group with the President and Vice President in April 2007. The last two names mentioned by Gus Manaf were then NU's national chairman and its supreme Islamic jurist leader respectively (While I did not clarify which Perumtas group he talked about, Sumitro led *Perwakilan Warga* [PW] was the only Perumtas Group SBY and Kalla met). The power of the letter from the NU's national board leaders was also admitted by Salam of Ketapang village when he needed to see a minister to demand for equivalent compensation (interview 25 September 2012).

Similar to NU's self-restraint as a response to the increasing mass pressure for compensation, the establishment of *Kaukus* was also a reaction to the mass radicalization. Driven by what seemed like institutionalized attempts to obstruct the freedom of movement of the Perumtas community to bring their demands to Jakarta during April 2007 (as recounted in the previous chapter), this *Kaukus* was founded with support from several leading figures long known for having been experienced political oppression under the New Order (*Kompas* 17 April 2007).<sup>9</sup> Even with these supporters, *Kaukus*' public activism became inadequate after the issuance of Perpres 14/2007.

Differing from *Forum* and *Kaukus* whose support came more from individuals, GMSMKKL was based on organizational support from NGOs mainly based in Jakarta.<sup>10</sup> Despite the long and strong track records of many of its participating NGOs in human rights issues, GMSMKKL was organized with a very loose working model. This reflected the fluidness of the movement, but also raised questions about their continuous steady engagement with the mudflow issues. Another alliance of civil society groups also existed, naming itself *Gebrak Lapindo* (stands for *Gerakan Bersama Rakyat Korban Lapindo*/Joint Movement of Lapindo Victims). Differing from the previous group whose membership was mainly NGOs and Jakarta based, this alliance consisted of NGOs as well as community based organizations, with many of them based in different districts in East Java and sharing cultural ties to NU.<sup>11</sup> Initially focused on mobilizing its cultural resources and capital such as NU's distinctive Islamic jurisprudence review on the compensation scheme (*bahtsul masa'il*),<sup>12</sup> and deploying Gus Dur's political networks in 2007, this alliance changed its name into *Koalisi untuk Keadilan Korban Lapindo* (Coalition for Justice for the

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<sup>9</sup> These figures included Budiman Sudjatmiko, Fajrul Rahman, Sri Bintang Pamungkas.

<sup>10</sup> Among those involved in this group were Jatam, Kontras, Walhi, LBH (Lembaga Bantuan Hukum) Masyarakat, UPC (Urban Poor Consortium), Uplink (Urban Poor Linkage), Imparsial, YLBHI (Yayasan Lembaga Bantuan Hukum Indonesia), ICEL (Indonesian Center for Environmental Law), Elsam (Lembaga Studi dan Advokasi Masyarakat), Yappika, and HRWG (Human Rights Working Groups).

<sup>11</sup> Regardless of the enlarging organizational basis as well as the shrinking number of group members in its later period, among their members were Paguyuban Rakyat Renokenongo Menolak Kontrak (Pagar Rekontrak), Uplink Simpul Porong, Desantara Institute for Cultural Studies Jakarta, Lafadl Initiatives Yogyakarta, Wahid Institute Jakarta, Most of PMII in East Java districts. Source: <http://gebraklapindo.wordpress.com/?s=gerakan+kebudayaan&searchbutton=go!> (accessed 7 April 2014).

<sup>12</sup> For a detailed explanation about this review, see <http://gebraklapindo.wordpress.com/2007/08/29/hasil-keputusan-bahtsul-masail-lintas-iman/> (accessed 7 April 2014)

Lapindo Victims, KuKKL) and concentrated its concerns on media campaigning after what they called the “Pertemuan Ciputat” (Ciputat Meeting in July 2008) where they secured a grant from the TIFA Foundation.<sup>13</sup> With this secured funding, this coalition managed to sustain its engagement in the mudflow issue and a permanent presence by establishing a *posko* in Porong.

Included in their media campaign was the production of *Kanal News Room*, consisting of a web site, a community radio, and publication of *Kanal* printed bulletin. *Kanal* was specifically designed to provide a counter discourse to *SoLusi* bulletin start publishing only few months earlier. As explained in Chapter Four, the latter was allegedly part of Lapindo’s corporate public relations strategy to repair its ruined image, with the help of leading academics from Airlangga University (Kriyantono, 2012; Utomo 2009). Through various social media, it also launched an online campaign for the rights of the affected (see Table 6.1).

Despite being an innovative way to mobilise online community support into a political force, the online campaign failed to follow the success story of Prita’s.<sup>14</sup> A similar fate also befelled the cyberaction launched by Walhi and FoE International in November 2008 which, despite its success in mobilizing hundreds of people from 73 countries to send letters to the President as well as to Bakrie Brothers demanding the company to be held responsible (Walhi 2008), produced no significant changes in subsequent mitigation policies. This failure was said to have something to do with the lack of any confluence between the interests and experiences of the affected communities with those of the general public (Yanuar Nugroho in the *LiniMassa* movie).

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<sup>13</sup> TIFA Foundation is an Indonesia-based funding agency to support NGO and communities’ work in promoting an open society and strengthening civil society. For more details, visit [www.tifafoundation.org](http://www.tifafoundation.org)

<sup>14</sup> Prita Mulyasari is an ordinary housewife whose email complaints about health services in one of the most prestigious hospitals in Jakarta went viral and later had her brought to court by the hospital accused of libelling its good name (*pencemaran nama baik*). The court verdict which punished her with several months in jail and an obligation to pay 204 million rupiah for compensation triggered an online campaign to donate coins for Prita. The campaign succeeded in gaining wide public support across the country and collecting coins with a value 4 times higher than the court verdict.

**Table 6. 1 KuKKL's online activism on mudflow**

<i>Channel</i>	<i>Number of Public Supporters/Followers (as of July 2011)</i>
Website korbanlumpur.info	6,167,065 (global traffic rank), 140,328 (Indonesian rank) <sup>15</sup>
Korban lumpur facebook fan	878
Friends of Lapindo Victims (facebook group)	3404
@korbanlapindo (twitland)	452
Dukung Korban Lapindo Mendapatkan Keadilan (Cause)	17,238

Source: Cahyadi (2011)

### 6.3 The classical divide: community organizing vs policy-oriented activism

Although public concern for the mudflow affected communities was initially low in the early weeks of the eruption (due to the wider geographical effects of the earthquake in Yogyakarta), they soon began skyrocketing following the wide press coverage of unstoppable mudflow and massive displacement of villagers. Various community organizations across the country deployed their resources to help the affected who, in the early months, took refuge in public spaces, particularly the new Porong Market building (*Pasar Porong Baru/PPB*), recently built for traders from the old market, but not yet launched, PPB was the nearest and largest public space with its kiosks (despite their inappropriate inhabitability as explained in Komnas Perempuan 2007), which readily converted to act as temporary shelters for thousands of the displaced villagers. With the visibility of the huge numbers of these occupants and the establishment of various individual's and organizations' posts offering various services centred at the PPB, it undoubtedly became one of the important political media hotspots at the time.

These multiple choices of actors and events at the PPB certainly provided interesting newsfeeds ready to be chewed up by many hungry reporters. Assumed social problems related to displacement pressures and the PPB's inappropriate habitability<sup>16</sup> provided further materials for continuous news coverage on this particular site. News bombardment which raised various issues at the PPB was seen as an attack on local government's efforts to mitigate the disaster. Downsizing the number of the displaced taking refuge at the PPB compared to the

<sup>15</sup> According to Alexa, an online service for analysis of web pages.

<sup>16</sup> Trafficking and free sex (*pergaulan bebas*) were widely believed to happen at the PPB and these perceptions were widely reported in the media.

larger number of the affected living in the other sites, the wife of a then high ranking local bureaucrat believed that the issues were being exaggerated. With the existing problems of building agreements with those at the PPB, there was the perception that continuous press coverage on what went on at the PPB made it more difficult to bring disaster mitigation under control (personal communication, 28 June 2007). The presence of different political groups at the PPB, allegedly keen to use it as the stage to launch their political interests, made matters worse (personal communication with a local activist, 28 June 2007). It was in this context that the promotion of house renting was seen as a matter of political urgency for the local government.

Meanwhile, for many of the affected communities, that promotion was seen as a blunt attempt to ‘evict’ them from the place they wanted to be as well as from the political stage. It was widely believed that house renting promotion was a tricky move and provided a threat to the people’s struggle (on this rejection to house rent allowance see subsection 5.2.4 in Chapter Five). Seen as a government move to avoid the enforcement of refugee status protected under both national and international laws, the limited availability of housing supplies compared to its high demand also weaken people’s solidarity as they would live far away from each other and keeping in touch would become more difficult. It was also assumed that the villagers would face difficulty of adapting to their new social environments (personal communication with a community organizer, 1 July 2007). For Uplink (Urban Poor Linkage), a NGO working on urban poor and housing rights, this increasing disappointment was seen as an opportunity to organize a stronger community, which was then transformed into the establishment of *Pagar Rekontrak*, signifying Uplink’s involvement in the area after working quietly for months.

Uplink is one of the few NGOs which have been continuously working with the affected at the grass root level since the early months of the eruption. It still maintains its presence in the mudflow affected communities until now. Initiated by the UPC (Urban Poor Consortium) which predominantly works in Jakarta, Uplink was expected to function as an umbrella group at the national level for those working to advance social and economic rights of the urban poor whose development is inversely proportional to the progress of economic development

and cities in Indonesia.<sup>17</sup> UPC's distinctive character, which stresses community organizing as among the tools for empowerment, significantly determines the way all Uplink networks operate, including those in Porong.

Despite the success of establishing *Pagar Rekontrak*, working with the affected communities was in fact far from easy. In the early months of its involvement in 2006, Uplink sent one of its senior community organizers to carry out social mapping and to assess which communities they would work with. Even with his extensive experience in community organizing across the country, that senior community organizer still faced difficult challenges. The intertwining of political interests of many involved parties was one factor which led to the lack of trust towards outsiders from the affected communities, as clearly shown by his field notes:

It is not easy to approach refugees or villagers who decided to stay in their kampung. There is an impression that they keep their distance from outsiders, particularly those affiliated with organizations including NGOs. This situation was due to several factors, namely the dominance of interests of particular groups or individuals over those of the community; the complex interests of scientists; those from political parties, government, and business, namely Lapindo's control over capital, natural resources, and compensation funds for the affected<sup>18</sup>

Uplink's community organizers also faced internal challenges coming from its aspiration for the emergence of independent community membership-based organizations, instead of Jakarta-controlled or centralized people movements. This policy requires the minimal involvement of the NGO's organizational structure, which is practically translated into avoidance of any office-related and other unnecessary overhead expenses. Not only meant to pave the way for an alternative path to the mainstream pattern of Indonesian NGOs (which widely rely on donor agencies for financial resources), its organizational aspiration to lean towards

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<sup>17</sup> Uplink has anchors in 9 cities, some were specifically founded by Uplink itself and some others were already existing before joining the network. However, by 2014, only 6 of them were active (Jakarta, Surabaya, Porong, Makassar, Kendari, and Lampung).

<sup>18</sup> "*Tidak mudah mendekati pengungsi maupun warga yang tinggal di desanya. Ada kesan warga tertutup kepada orang luar, terutama yang berlatar belakang organisasi tertentu, termasuk LSM. Ada kondisi yang menyebabkan demikian, yakni beratnya kepentingan perorangan maupun kelompok di antara warga, kepentingan ilmuwan, aktivis parpol, aparat pemerintahan dan pengusaha terhadap potensi SDA [sumber daya alam] Lapindo maupun soal dana kompensasi korban lumpur*". The field note was written at the end of 2007.

<http://rumahkampungkota.blogspot.com.au/2011/05/rencana-jadi-bencana.html> (accessed 1 April 2014).

community based organizations was a response to a widely held belief that there had been a shift in the priorities of many foreign development agencies. These agencies perceive the country's democratic development and the growth of civil society as good reasons to either remove it from their list of priorities altogether or to shift their partner priority from civil society groups to government parties (Mietzner 2012). In addition, despite efforts to convince its development partners that the mudflow disaster was the perfect example of human rights violation and huge environmental destruction that they were usually concerned with, Uplink saw a particular difficulty in getting funds from those agencies to finance their operations in Porong (Hamdi et al. 2009).

Figure 6.1: Banners at the mudflow levees on 25 September 2012



The banner says: “Mudflow victims reject NGOs as provocateurs: payment yes, provocateur no” (Source: author 2012)

Figure 6.2: Banners at the mudflow levees on 25 September 2012



The left banner says: “Survey shows 90% mudflow victims believe that Lapindo remains responsible”. The one on the right says: “Do not follow NGO provocateurs. Just stay confident that Lapindo will pay [the compensation]. Be patient ... be patient ... be patient” (Source: Author 2012)

Because Uplink provided no financial support for *posko* related expenses, its community organizers were expected to turn to the communities for personal lodgings as well as community activities, which it was expected would bring them closer to the latter. Uplink’s minimum support and hard living conditions certainly required the community organizers to have high self-resilience, something for which many felt ill-equipped. This was particularly felt by its young community organizers, whom Uplink did not have any choice but to send off to the mudflow, because many of its senior organizers were still assigned in Aceh for its post-tsunami reconstruction project.<sup>19</sup> Facing the scenario of a grim future with a worsening chance of winning the fight, particularly due to corporate power and money (see Chapter Four), one of the would-be community organizers expressed the challenges bluntly :

It’s not about money. People just don’t want to join us here. This is such a big case and the enemy has so much money and power. The idea of coming here is very daunting and many people are too pessimistic to fight these

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<sup>19</sup> For this post-tsunami reconstruction project, Uplink has secured considerable funding from several international development agencies and been given an award from UN-HABITAT for best practice to improve the living environment in 2008.

powerfull interests. Fighting this power with little people is a big problem (quoted from Hamdi et al. 2009, p. 12).

Despite having been able to initiate the establishment of *Pagar Rekontrak* and encouraged the morale of its members to fight for their rights (Hamdi et al. 2009), Uplink could not see how their human rights perspective would survive from the struggle of this organization which had originally intended to be community based.

Being the last affected group which refused house renting and the company's offer to pay the compensation in instalments, *Pagar Rekontrak* finally signed the agreement with the company to accept its offer in August 2008.<sup>20</sup> This agreement completed the conversion of the people's demands from a previously human rights perspective, to a compensation perspective, with assessments beyond material losses (*ganti untung*), to the final purchase transaction agreement (*jual-beli*) (see Figure 5.2 and Table 5.4). Many NGOs found this conversion difficult to accept and led to the withdrawal of their engagement with the affected communities at grass-roots level (personal communication with Uplink's community organizer, 1 July 2007). Although it still continues to work with the affected on the ground through a different community organization and in various ways, Uplink similarly denounced this mainstreaming conversion by stating that "the affected have been fantasizing too much in their minds about the money"<sup>21</sup> (Uplink report on its community organizing activity, page 8, line 16).

Although they found that dealing with difficult challenges arising from organizational limitations as well as capital was very demanding, which had led some Uplink community organizers to resign from Uplink in Porong, out of a self-pride for getting involved in this challenging task, which was the way Uplink community organizers describe their work at the grass root level. Out of their personal boundaries, they expressed this pride in terms of a group identity, particularly compared to the works carried out by other NGO workers. Believing

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<sup>20</sup> This marked the final anti-climax of the organization's struggle, which had continuously downgraded its demands from 100% one off compensation payment and refusal against house renting option in the beginning to 50% payment with an additional 30 hectares of land for the community members' joint-relocation, to 20% payment and acceptance of the house renting option just like the other affected groups had previously accepted. After accepting this agreement, the name of the organization was then changed into *Pagar Rekorlap* (Association of Renokenongo Villagers Victims of Lapindo Mudflow/*Paguyuban Warga Renokenongo Korban Lapindo*). See Table 5.4 about this group.

<sup>21</sup> "Isi kepala para korban telah terilusi akan uang jual-beli aset".

what they had been doing at the grass roots level was a lot more challenging, they expressed their sense of superiority over those whose work was regularly covered by the press, without having to deploy as many resources as they did.

Abi, one of Uplink's first community organizers deployed in Porong, addressed this "attack" at Walhi, which had enjoyed frequent press coverage for their concerns about the mudflow. Despite its allegedly superior resources compared to Uplink's, Walhi was criticized for its minimal engagement in organizing the affected communities (personal communication with Uplink's activist 1 July 2007).<sup>22</sup>

Similar criticisms were also raised against other Jakarta-based NGOs, which despite the public recognition for their legal and advocacy works, allegedly paid less dedication to the mudflow disaster. With their established organizations, both network and resource-wise, these NGOs was expected to play a more active role in areas where many of community organizers were lack of expertise. This allegation was reflected in Hari Suwandi's turning point (explained in the previous chapter) which was seen as a big slap in the face of Paring Waluyo, a local community organizer who was involved in planning the walking protest. Due to personal circumstances at the time, which made it impossible for him to follow all of Hari Suwandi's moves including the final days in Jakarta when the latter was about to turn his back, Paring claimed that he had called a meeting with NGO activists in the capital where agreement was reached to divide responsibilities to "guard" (*mengawal*) Hari Suwandi himself and his campaign. Hari Suwandi's appearance on TV proved that the agreement failed to materialize as he had expected to see it. Paring attributed this failure to established NGOs being inward-looking and their inclination to working preferably in their own funded programs, rather than getting involved in unfunded and impromptu moves he believed to be required to balance the dynamics of people movement (interview Paring 29 July 2012).

On the other hand, Jakarta-based and policy-oriented NGOs accused community organizers for working individually and lacking a consultancy mechanism in their work ethic. Realizing that they did not have their own resources to work at the grass roots level, these NGOs expected to have more

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<sup>22</sup> "Walhi claimed that it works in 12 villages. But which villages? I have never met their staffs on the ground", he said.

coordination and planning instead of impulsive actions from those on the ground. This logic of the necessity of coordination was expected particularly in environmental destruction cases taking place outside Jakarta where their regional representatives would give reports or recommendations before escalating the environmental disputes in Jakarta. It was the absence of this logic of required coordination that was allegedly behind the failure of Hari Suwandi's case, a factor which admittedly led to minimal involvement of NGOs in securing his agenda while in Jakarta. The following quotation from an activist from Jatam reflected this:

When we talk about the Hari Suwandi case, it feels like we lost our breath back then. It turned out that [made decisions] without consulting the affected communities and particularly with Walhi Jawa Timur. The first contact he made (with Jakarta NGOs) was with Kontras, after he had reached Karawang. Maybe there were some of us who accompanied him walking around n Jakarta. We still helped him do things, but we did not make any institutional decisions (to support Hari Suwandi's moves). At the same time, Kontras was busy, Walhi was busy, and Jatam was too. Besides, we received no mandate from our regional partners (interview with Jatam activist 31 August 2012)<sup>23</sup>

This shows how the lack of coordination in the case had resulted in a weak protest movement. It not only showed the weakness of how community organizers work with the larger civil society networks, but also showed the absence of consultancy and planning on the part of these organisers in particular v with regard to the appointment of Hari Suwandi as the leading protest figure (personal communication with Uplink activist, 12 March 2014). The appointment of someone with dark records in the past was attributed to community organizers' personal-style working approach. It raises concerns about how a dominant community organizer's decision-making prevents the rise of a genuine social movement, in particular about how likely the movement is to be hijacked by personal interests, as shown in the following:

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<sup>23</sup> “*Kalau bicara kasus Hari Suwandi, nyesek rasanya. Dia ternyata jalan tanpa koordinasi dengan kawan-kawan korban, terutama WALHI Jawa Timur. Kontras yang waktu itu kepulungan, ketika dia sudah sampai Jakarta. Mungkin ada beberapa di antara kita yang menemani jalan kaki di Jakarta. Kami memfasilitasi dia, tapi secara organisasi kami tidak bersikap (untuk mendukung gerakan Hari Suwandi). Pada saat bersamaan, kami juga sedang ada agenda. Apalagi tidak ada mandat dari daerah*”

Hari Suwandi only consulted with one activist [Paring Waluyo] ... you probably know him ... who, for whatever reason, did not have any coordination (with Jakarta NGOs). I saw that there were some confusion in Hari himself, [for example] who asked him to do the walk? Was he doing it in the interest of the affected communities, or only for his own interest? (interview with activist 31 August 2012)<sup>24</sup>

While local activists have challenges in working and coordinating with community organizers with whom they do not have formal affiliation, many policy-oriented NGOs in Jakarta also needed to tackle their own institutional issues to be able to engage effectively in environmental issues. Amidst the allegedly shrinking financial opportunities due to a shift in international development agencies' area and partner priority as explained earlier, many of these NGOs were perceived to having human resource issues, especially with regards to self-resilience and persistence of working in cases where victory is a rare thing to gain.

A senior NGO activist who have been long working in community organizing as well as in building networks with other Jakarta-based NGOs, noted that there is a gap between the older generation of Jakarta NGOs and the newer ones. Compared with the older generation who have shown greater eagerness and passion, he thinks that the current generation has less self-reliance which results in a weaker engagement in environmental cases (personal communication with Uplink activist 12 March 2014).

Even when they did get engaged in the mudflow case on a regular basis, it was not always in line with what the affected communities wanted to have. The absence of community organizers who would otherwise work closely with the affected people and absorb important information and aspirations on the ground is attributed to the disconnectedness between issues raised by NGOs and the communities' own actual aspirations. This not only lead to discord between different would-be civil society actors' struggles, but also lead to conflicting interests.

The community opposition to Walhi's agenda was among the worst examples. This opposition took place when, during the latter half of 2006, in

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<sup>24</sup> *"Hari Suwandi hanya bicara dengan satu orang ... Anda mungkin tahu siapa orangnya ... yang entah dengan alasan apa tidak berkoordinasi dengan kita. Saya lihat ada kebingungan di Cak Hari, siapa yang menyuruhnya jalan kaki, untuk kepentingan warga atau untuk kepentingan dirinya sendiri?"* To me, this hesitance to mention a name at least reflects how awkward relationship between Paring and Jakarta NGOs had become

conjunction with Walhi's annual campaign focusing on ecological disaster, they continuously refused to agree to any plan to dispose of the mud into Porong river which would destroy the river ecology. Despite Walhi's attempt to deny allegations that it was concerned more about fish than about humans, this case triggered the anger of affected communities, whose anxiety had been growing due to the worsening mudflow.<sup>25</sup>

This disconnectedness led to the destruction of Walhi's *posko* by angry community members in Porong. It also set a precedent by creating community reservations to outsiders' involvement. Thus it worsened existing structural barriers for any organizations planning to establish their presence in the affected communities.

Despite a relatively long history of environmental activism in Indonesia, the accusation that oil and gas mining has been regulated in such a secretive manner, never made environmental NGOs really well-equipped in dealing with the case. As a senior Jatam activist said:

One of civil society's failures is that we don't know the mining industry well at all. But we can say that the mining industry is number two most secretive after the military. Let alone oil and gas. Even a data request from a national parliament member is not answered. That's why we are more fluent talking about mineral mining, than about oil and gas. As a result, we do not know much about what we are facing (interview 11 June 2014)<sup>26</sup>

This secrecy was attributed to principle of confidentiality adopted in various legal regulations particularly those which function as guidelines for managing information and technology in this strategic commodity (for explanation about classification of oil and gas commodity as strategic see footnote 33 Chapter Three).<sup>27</sup> This is confirmed by Andang Bahtiar, a senior geologist and former

<sup>25</sup> According to Siti Maemunah, Jatam activist, the affected communities were correct for rejecting any idea which questioned the mud channelling to Porong River, without which the surrounding kampongs would be submerged much earlier. On the other hand, Walhi was also correct because, knowing that there was no treatment for the allegedly hazardous mud, the channelling would only spread the problem to wider communities. "This (community) resistance was designed, primarily because the state was absent in dealing with this mudflow and mud treatment" (interview 11 June 2014).

<sup>26</sup> "Salah satu kegagalan masyarakat sipil adalah bahwa kita tidak memahami industry tambang yang bisa dibidang sebagai nomer dua tertutup setelah militer. Apalagi migas. Wong DPR minta (copy) PSC saja gak dikasih. Sehingga itu membuat misalnya JATAM lebih fasih bicara tambang ketimbang migas. Sehingga kami gak banyak tahu secara anatomi apa sih yang kita hadapi "

<sup>27</sup> SKK Migas, the latest oil and gas authority which replaced BP Migas, for example, issued SK No. KEP-0008/SKO0000/2013/SO which regulates guidelines of managing information in oil and

chairman of IAGI (*Ikatan Ahli Geologi Indonesia*/Association of Indonesian Geologists):

There are clauses in the present as well as preceding regulations on oil and gas which say that oil and gas data is secret. Those who leak the data can be fined 10 billion rupiah (USD 1 million). What are considered secret data? They are seismic, drilling, and spatial data about areas rich in oil and gas reserves. That is a common interpretation (interview 15 June 2014).

In addition to the secrecy of this business, NGOs also found that the rapid disaster events made adequate preparation difficult to achieve. The following quotation confirms this disabling environment for NGOs:

We also need to see the disaster's rapid character. Differing from a pollution case which takes effect more slowly, for example. In such a slow disaster, there would be signs of community organizing ... The rapid events did not give us time to discern thoroughly what kind of disaster it was ... NGOs were just like a fire brigade ... because we are usually present to respond to issues. We are really not troops readily deployed in all kinds of terrain ... Certainly not in oil and mining which is not transparent (interview with Siti Maemunah 11 June 2014)<sup>28</sup>

Amidst this unpreparedness of civil society to respond to this rapid change, technical explanations about the nature of disaster began to occupy public discussion. Undoubtedly leaving out the unequipped NGOs, which were unfamiliar with technical details of oil and gas mining, technical explanations predominantly belonging to scientists. Although geological scientists themselves are not a single homogenous group always in favour of mining companies, the following section shows that knowledge/data limitation and existing legal

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gas business (available at: <http://www.skkmigas.go.id/wp-content/uploads/2013/02/KEP-PTK-0008-TIK-KKKS.pdf> accessed 26 February 2015). It defines confidentiality as a "principle to secure and prevent information from leaking with access to information only available to those authorized" (*prinsip pengamanan informasi yang menjamin terjaganya informasi dari kebocoran dimana akses terhadap data dan informasi hanya dapat dilakukan oleh pihak yang memiliki otorisasi*). In Chapter III on securing information, it is written that "data and information about oil and gas as stipulated by regulations are important assets for the Indonesian Republic. Every leak, destruction, and unavailability of supply, or any other threats will create significant impacts to the Indonesian Republic" (p. 15)

<sup>28</sup> "Kita juga harus lihat kecepatan kasus ini. Agak beda dengan kasus pencemaran yang pelan-pelan misalnya. (dalam kasus pencemaran) ada jejak pengorganisasian disana ... Kita bahkan gak sempat mikir ini (bencana) apaan ya ... NGO kan seperti pemadam kebakaran, karena biasanya merespon masalah. Kita memang bukan pasukan yang siap uji untuk segala medan. Medan migas terutama, yang tidak transparan"

challenges prevented the rise of a body of opinion in favour of the rights of the affected communities.

#### 6.4 Scientists and their political-economic interest

Within months after its first eruption, the Lapindo mudflow had inundated Kedungbendo, Jatirejo, Siring, and Renokenongo villages and forced thousands of families to flee their homes (for the number of displaced persons, see Table 5.1). A year after the first eruption, the total destruction cost was estimated at USD 2.7 billion (McMichael 2009). By early 2013, this mud eruption has caused compensation payments worth more than 3.8 trillion rupiah (USD 380 million) (MLJ 2013) and had separately drained 6.7 trillion rupiah from the state budget (USD 670 million) (*Merdeka* 19 June 2013). These are likely to be a minimum estimation, considering the effects of the continuing eruption to the ever enlarging affected settlements and affected infrastructure, up to the present. Seven years after the first eruption, the state annual budget still allocated 2.2 trillion rupiah for the Sidoarjo Mud Mitigation Agency (*Badan Penanggulangan Lumpur Sidoarjo*), far greater than those allocated for other state agencies, such as KPK working in anti-corruption, Komnas HAM (the human rights commission), counter-terrorism and even the disaster mitigation agency which is supposed to serve as an umbrella institution for such a case (*Merdeka* 20 June 2013).

With such huge social and financial impacts, it is not unreasonable that the general public turns its gaze on Lapindo and Minarak Lapindo Jaya (hereafter called Minarak) to blame them for what has occurred. The former owned the gas drilling site, located only 150 metres from where the mud first erupted; the latter is the company which then took over the company's liability against any emerging civil-legal challenges. Both companies are strongly connected to Aburizal Bakrie, businessman-cum-politician who was by then Coordinating Minister for Public Welfare. Currently, he is fighting to remain as the chairman of *Golongan Karya* (Golkar), the second biggest party in the 2009 and 2014 election, although his run for president in 2014 ran out of steam.

While the public generally pointed their finger at drilling failures behind the mud eruption, the company continuously denied these allegations. Instead, the fact that the first eruption did not take place within its given drilling site allowed it

to argue for an earthquake<sup>29</sup> happening two days earlier as the primary factor. Against the backdrop of the technology in drilling activities and limitations to any underground observations, it was not surprising that scientific arguments and scientists soon occupied the central stage of inquiry, from both camps as well as state institutions wanting to determine the nature of the disaster. As a result, abundant scientific reports and academic papers have been committed, commissioned, and produced.

Science and technology has proved important in many developing countries, Indonesia is no exception. Since the first few decades of Indonesian independence, regardless of its political regimes, science and its mastery has deeply involved in the pursuit of national glory. Soekarno aspired to transform the country to become a superpower through nuclear bombs (Cornejo 2000); while, abolishing Soekarno's aspired bombs, succeeding regimes keeps the dream of nuclear mastery in other forms (Fauzan and Schiller 2011). During Soeharto's New Order, science and technology became centre of the national development agenda which fundamentally divided top policy makers (Amir 2008). The latter author even argues that the New Order's craving for advanced technology combined with authoritarian political system has made it a distinctive technological state (Amir 2012).

Despite the historical significance of the links between politics and technology, science and technology studies (hereafter called STS) in Indonesia seem to have developed only recently. A group of scholars at LIPI (*Lembaga Ilmu Pengetahuan Indonesia*, Indonesian Institute for Sciences) recently formed a so-called "STS interest circle" to accommodate STS enthusiasts. Acknowledging how science/technology and society are strongly related, many educational institutes also recently introduced so-called "*sains, teknologi dan masyarakat*" (science, technology and society studies) as a learning methods model in elementary and secondary schools. In its early development, STS in Indonesia was promoted by Sulfikar Amir and others educated in the States where the development of STS was at an advanced stage. In their STS application, particular attention was given to national projects which involved complex technology and

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<sup>29</sup> It was Yogya earthquake, mentioned in footnote 1 Chapter One.

popular resistance (Amir 2009; Amir 2010a; Amir 2010b) or disaster which involved technology application (Mohsin 2009).

This rising enthusiasm for STS, however, is not reflected in policy-making processes. While there has been growing attention to environmental concerns on the part of government, even since the beginning of the New Order's authoritarian rule (MacAndrews 1994), a multidisciplinary approach to science and technology issues at a practical level has been very limited. AMDAL (Indonesian acronym for environmental impact assessment), which was supposed to provide a platform for a multidisciplinary approach in dealing with projects which create impacts on surrounding society and environment, was widely criticized for its lack of genuine public participation (Hadi n.d., Qipra Galang Kualita 2005). In addition, the environmental regime has been hampered by a lack of enforceability, limited acknowledgement of local knowledge, and legal issues with regards to presenting scientific evidence for legal prosecution (Lucas 1998). This co-constitution between politics and science-technology is an important aspect of the Lapindo mudflow case.

In general, scientists' opinions on the nature of the mudflow disaster is divided into two major groups. Believing that there was a huge mud volcano underneath the surface and the fact that eruption did not take place inside Lapindo Brantas' drilling well, has led some scientists to claim that it was not the company's technical negligence which caused the disaster. Instead, they claimed that it was an earthquake two days before that triggered it (for their earthquake argument, they are popularly called pro-quaker). It was said that the earthquake has tectonically caused a shift reactivating *Watukosek* faults in the area under which the mud volcano lies, and that this reactivation then caused the eruption of the mud volcano. Among leading scientists whose publications share this pro-quaker opinion are scientists from the University of Oslo (with Adriano Mazzini as the leading scientist), several Russian scientists (Sergey Kadurin from Odessa National University and Grigorii Akhmanov from Moscow State University, among others), and Indonesian scientists and geologists including Nurrochmat Sawolo and Bambang Istadi who both worked for the Lapindo company during the early eruption as its drilling supervisor and exploration manager respectively (Mazzini, Svensen et al. 2007; Mazzini, Nermon et al. 2009; Sawolo, Sutriyono et al. 2010).

Differing from pro-quaker scientists, another group of scientists denies any relevance of earthquake activity to the mud eruption by suggesting that the magnitude 5.9 Richter quake with its epicentre located about two hundred fifty kilometres away from the drilling site was an insignificant factor triggering the mud eruption. These scientists showed that the eruption was because of drilling operational misjudgements where drilling mud had to maintain pressure within the drilling pipe, was lost into the underground rocks and later stimulated the influx (kick) of formation fluid and gas into the wellbore. These scientists believed that the misjudgements were compounded by the operator's decision to shut down the well during the kick event, which triggered hydraulic fractures leading to mud eruption to the surface. Those scientists whose publication reflected this pro-driller perspective are, among others, Durham-based researchers (with Richard Davies as a leading scientist), Mark Tingay of Adelaide University, and several Indonesian scientists affiliated with Drilling Engineers Club like Susila Lusiaga and Rudi Rubiandini (Davies, Swarbrick et al. 2007; Davies, Brumm et al. 2008; Tingay, Heidbach et al. 2008).

The contending perspectives about the real trigger behind the disaster led to a confusing disaster naming, particularly when power was involved in the names used (Schiller, Lucas et al. 2008). Seemingly choosing a politically neutral term, the national government and national parliament officially adopted the name Sidoarjo mud (*Lumpur Sidoarjo*) referring to the district location of the disaster. While this term is used in any official body/agency/government task force<sup>30</sup> founded to deal with it, the Sidoarjo local government undoubtedly preferred another name to avoid the establishment of an image of the entire district as a dangerous place. Some others called it Porong Mud (*Lumpur Porong*), referring to the subdistrict name where the mud first erupted. However, with wide press coverage which highlighted the connection between the mud eruption and drilling practices of the company,<sup>31</sup> the disaster became quickly known as Lapindo Mud (*Lumpur Lapindo*). Although the company continuously tried to frame it otherwise, *Lumpur Lapindo* has become the most popular term particularly, and

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<sup>30</sup> Agencies/task forces that adopted this name are the State Agency for Mitigating Sidoarjo Mudflow (*Badan Penanggulangan Lumpur Sidoarjo*, BPLS) and the House' Oversight Team for Sidoarjo Mud Mitigation (*Tim Pengawas Penanggulangan Lumpur Sidoarjo/TP2LS*).

<sup>31</sup> Among this coverage was a report from the *Kompas* national newspaper which found that close association by quoting a drilling worker on site (*Kompas* 31 May 2006).

understandably given the compensation issues involved, among those affected. In the absence of any legal decision on which party should be held responsible<sup>32</sup>, this term reflects people's belief that there was no mudflow disaster before the drilling began (Schiller, Lucas et al. 2008).

Despite being relatively absent in journal-based academic debates, many other Indonesian scientists had been following and participating eagerly in the debate in which they too were divided. Despite the relative absence of Indonesian scientists' engagement in international academic publications, their opposing views on the nature of disaster were widely published in the country's press as well as in the court rooms where lawsuits against allegedly liable parties were on trial (*Kompas* 19 August 2006; *Tempo* 2 March 2008).

This has made Indonesian scientist communities more important actors as they could use more direct influence in the construction of public opinion. As well their scientific popularity would carry more weight to the establishment of legal and political decision making. Put into this frame, it is not surprising that there has been increasing engagement on the part of the scientists in the public discussion about mudflow related issues (*Suara Merdeka* 30 January 2008; *Tempo.co* 18 March 2008; *Tempo.co* 29 October 2008). At the same time, when the magnitude of mudflow social impacts became more and more unbearable, the scientific communities became more critical of any attempts to limit public discussion to specific academic debate<sup>33</sup> or, worse, any attempts to generate, mobilize, or manipulate scientists' opinions for political purposes.

With regards to how scientists were drawn not simply into scientific debate but also into contending political interests, the workshop held by the Association of Indonesian Geologists (*Ikatan Ahli Geologi Indonesia/IAGI*) on 20-21

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<sup>32</sup> Walhi and YLBHI filed lawsuits against the company, the state and several other allegedly liable parties. But their claims were denied by the courts. Details about these lawsuits will be discussed below in the subsection on litigation.

<sup>33</sup> While it invited representatives of mud affected communities, a scientific meeting (*temu ilmiah*) organized by the Association of National Oil and Gas Mining Companies (*Asosiasi Perusahaan Migas Nasional/ASPERMIGAS*) was criticized by one of those representatives for talking only from geological perspectives and less about people's everyday struggle. Reflecting his apathy and despair in scientific/policy debate, a mudflow community member said that "this forum is busier discussing saving shrimps not humans" (*"yang diselamatkan urangnya, bukan orangnya"*). Proceeding Temu Ilmiah Semburan Lumpur panas Sidoarjo: Analisa Penyebab dan Alternatif Penanggulangannya (Jakarta, 7 Desember 2006) (Diselenggarakan oleh Asosiasi Perusahaan Migas Nasional/ASPERMIGAS). (NOTE: Sidoarjo is known as a shrimp town [*kota udang*]. Nearly 25% of Sidoarjo is a fishpond area, with shrimp as one of its leading products. Fishpond businesses support many local families, even Bupati Saiful Ilah is fishpond businessman)

February 2007 gives the best example. Joint-organized with the Indonesian Agency for the Study and Application of Technology (Badan Pengkajian dan Penerapan Teknologi/BPPT)<sup>34</sup>, the Geological Agency of Indonesia (Badan Geologi)<sup>35</sup>, and the Indonesian Institute for Sciences (Lembaga Ilmu Pengetahuan Indonesia/LIPI), the workshop seemed to take an already clear stand in the pro-quaker vs pro-driller debate by picking up the mud volcano as its title. Out of five technical sessions in this two-day workshop, only one was specifically to discuss the onsite drilling operation with all of the three speakers later known for representing the pro-quaker camp. But it was the final conclusion of the workshop which triggered further anger among Indonesian scientists. As if highlighting its stand in the debate, the workshop concluded with a statement underlining the mudflow as a natural disaster (*Tempo.co* 18 March 2008).

Responding to this, a few days later Koesoemadinata, a senior geologist (and former chairman of IAGI), sent an open letter to the IAGI chairman (Achmad Lutfi) through the association's mailing list.<sup>36</sup> Attacking the biased background of the pro-quaker heavy forum, Koesoemadinata questioned why leading scientists from the pro-driller camp like Richard Davies and Rudi Rubiandini<sup>37</sup> were left out without any invitation as speakers. Despite his very controlled writing style, it was clearly seen that he was disappointed with the

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<sup>34</sup> On 18 October 2006 BPPT held press conference in which the mudflow was considered solely as a phenomenon of mud volcano (natural disaster) (<http://www.antaraneews.com/berita/44665/semburan-lumpur-lapindo-akan-habis-31-tahun-kemudian> visited 20 December 2013). Based on this material as well as IAGI's conference conclusion, the Minister for Research and Technology stated in front of the House's Oversight Team for Sidoarjo Mudflow Mitigation (*Tim Pemantau Penanggulangan Lumpur Sidoarjo/TP2LS*) that it is a natural disaster.

<sup>35</sup> *Badan Geologi* is a technical unit established in 2005 under Ministry for Energy and Mineral Resources (*Energi dan Sumber Daya Mineral*) whose task is to carry out research on geology, collect geological research documents from across the country, including all historical documents inherited from its predecessors such as Dienst van het Mijnwezen (1850-1922) and Puslitbang Geologi (1978-2005). See <http://www.bgl.esdm.go.id/index.php/profil> (visited 20 January 2014)

<sup>36</sup> Open letter dated 24 February 2007.

<sup>37</sup> Rubiandini led the first national team to investigate the mudflow (later known as *tim investigasi*), appointed by the Minister for Energy and Mineral Resources through (Ministerial Decision Letter No. 2231K/73/MEM/2006) on 14 June 2006. Findings and recommendation of this team (which clearly pointed out the drilling mistakes as the cause of the mudflow) provided a background for establishing the National Team for Sidoarjo Mudflow Mitigation (popularly known as *Tim Nasional* or *Timnas*), predecessor of the current Agency for the Mitigation (Badan Penanggulangan Lumpur Sidoarjo/BPLS). According to Andang Bahtiar (interview 15 June 2014), the report of this investigation team was never disclosed. A reason for not disclosing the report was possibly linked to the fact that the Minister avoided conflict with Aburizal Bakrie who was sitting as one of President Yudhoyono's Coordinating Ministers.

workshop conclusion and disagreed with the way it attempted to protect the alleged “national interest” at the expense of scientific inquiry.

This allegation of safeguarding “national interest” was clearly political (although he rejected using the term “political interest”) referring to the political ambiguity the IAGI chairman held as a result of the simultaneous position he had at the time as Deputy of Planning at Indonesia’s Upstream Oil and Gas Regulatory Body (BP Migas) mentioned in the report of Indonesia’s Supreme Audit Agency (*Badan Pemeriksa Keuangan/BPK*) as one of the parties which should be held responsible for the mudflow disaster (see Chapter Three for BP Migas’ role in oil/gas mining and mudflow liability).

As a reply to Koesoemadinata’s open letter, which soon went viral, Achmad Lutfi responded to the question about Rudi Rubiandini by stating that the IAGI workshop committee did not think it necessary to invite him to talk because he had been invited before. Meanwhile, the reason why Richard Davies was not invited was because IAGI decided to invite speakers only from the scientists who did onsite fieldwork. “Richard Davies from the UK has not yet come to the mudflow site and has never made contact with IAGI,” wrote Achmad Lutfi.<sup>38</sup>

From this response, Koesoemadinata’s concern that the principles of scientific inquiry had been compromised seemed to be justified. In his subsequent serial email replies, Lutfi even implicitly confirmed that the causes of the mudflow were contested between the investigation team led by Rudi Rubiandini and IAGI’s own mudflow investigation team (led by Edy Sunardi, IAGI chair of its department for scientific development). Believing the mudflow to be a phenomenon of a mud volcano (differing from Rubiandini’s team findings), IAGI’s team claimed that they had worked just as hard on the mudflow and its causes as had Rubiandini’s investigation team, but with much less credit received.<sup>39</sup>

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<sup>38</sup> “Richard Davies dari Inggris belum pernah datang ke LULA (*Lumpur Lapindo*) dan belum pernah berkomunikasi dengan IAGI” (Indonesian). First email reply from Achmad Lutfi dated 12 March 2007 (found through IAGI mailing list: <http://www.mail-archive.com/iagi-net@iagi.or.id/msg17449.html>; <http://www.mail-archive.com/iagi-net@iagi.or.id/msg17494.htm>; <http://www.mail-archive.com/iagi-net@iagi.or.id/msg17507.html> accessed 10 April 2015).

<sup>39</sup> Second and third email replies from Achmad Lutfi to Koesoemadinata, dated 13 and 21 March 2007 found through IAGI mailing list. <http://www.mail-archive.com/iagi-net@iagi.or.id/msg17494.html>; <http://www.mail-archive.com/iagi-net@iagi.or.id/msg17507.html> accessed 10 April 2015).

While the scientists' opinion on the causes of mudflow were clearly divided, a lack of political will on the part of the government and political economic interests and legal constraints felt by academic circles were clearly pointed out by Andang Bachtiar as factors behind what the public saw as a single dominant position of the pro-quaker camp (interview 15 June 2014). The fact that Indonesian scientists engaged in academic publications about the causes of the mudflow are mostly those who have some relationship with Lapindo Brantas was mentioned as a striking example of how those two factors interplayed. Not only raising doubts about academic freedom of those scientists (interview 15 June 2014), Bachtiar linked this fact to constraints that prevent other Indonesian scientists from articulating their dissenting opinions. According to him, while dissenting opinions have been clearly expressed by foreign scientists like Davies and Tingay (Davies et al. 2010), most Indonesian scientists, due to political, economic and legal constraints, have had to restrain themselves, from getting involved in similar academic:

Are there Indonesian scientists who are capable of writing excellent articles (about mudflow)? There are actually. But the main problem is that most of them are based in universities. For research funds we can only rely on university's funding, can't we? The problem with Indonesian universities is that they are linked to mining companies ... Some of the Indonesian scientists who see Lapindo as the cause of mudflow chose to co-author writing (with foreign researchers) [Davies et al. 2008; Davies et al. 2010]. They wouldn't dare to publish it themselves. An Indonesian scientist was "sued" (in quotation marks) to withdraw himself as co-author after using data he collected from the field. Indeed he himself had been hired to collect data [on the mudflow] for monitoring processes. At the time all research activities were funded by Lapindo. There were contracts (between researchers and Lapindo). So the usage of data is not as free as expected ... there were clauses (which rules about the data usage) (interview, 15 June 2014)<sup>40</sup>

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<sup>40</sup> "Apakah berarti yang di dalam negeri tidak ada saintis yang bisa nulis excellent seperti itu. Ada sebenarnya. Cuma masalah utamanya adalah kebanyakan kita basisnya perguruan tinggi. Kita hanya bisa mengharapkan (resource) dari perguruan tinggi kan? Masalahnya di Indonesia, perguruan tinggi juga terkait dengan perusahaan itu ... Mereka yang tulisannya menguatkan argument bencana karena Lapindo, biasanya mereka bergabung dengan Davies. Mereka ga berani sendiri. Ada seorang saintis Indonesia yang diminta menarik diri dari paper yang akan terbit setelah menggunakan data yang dia koleksi dari lapangan. Data yang dipakai itu memang dipesan oleh Lapindo untuk keperluan monitoring. Karena waktu itu semua pergerakan disana itu dibiayai Lapindo. Riset-risetnya semua dibayari Lapindo. Ada kontraknya. Sehingga menggunakan datanya pun tidak sebebaskan itu ... ada klausulnya"

While Bachtiar he said that the company's financial support given to some scientists very likely affected their pro-quaker opinions<sup>41</sup>, other scientists who expressed similar opinions were simply not the right persons to consult with in deciding the nature of disaster. Their particular scientific discipline as well as conflicting interests were said to prevent them from being the appropriate source persons in this matter. As Bachtiar said:

There were researchers who came to see me and told me that they have no connection whatsoever with Lapindo. They could say that they are not related with Lapindo, but they usually do not have the specific expertise in matters which can highlight the links between drilling operations and tectonic science ... They said "I do not get paid by Lapindo, I do it (expressing pro-quaker opinion) because of my own scientific findings". But they do not know about drilling operations ... So what about those from outside university? There was someone from BP Migas, long known as a smart and respectable person. The problem was that he is from BP Migas. BP Migas is part of the problem ... His discipline is rooted in tectonic science too ... (interview 15 June 2014)

Not only curbing the space for more engaging academic debates, the above legal challenges, limited public access to existing materials to know what actually happened in the eruption site as well as constraining political economic environment of research institutions have also created impacts to legal attempts brought by public litigants, as shown in the following section.

## 6.5 Challenges through litigation

There were two separate civil lawsuits (*gugatan perdata*) brought to court in relation to the Lapindo mudflow disaster. Acting as leading plaintiff of these lawsuits were the Indonesian Legal Aid Foundation (Yayasan Lembaga Bantuan Hukum Indonesia/YLBHI)<sup>42</sup> and Walhi.<sup>43</sup> YLBHI's lawsuit targeted the lack of government policies which paid respect to the human rights of the affected,<sup>44</sup>

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<sup>41</sup> "Some researchers had relationship with the company. Included are those who receives sponsorship, despite indirectly, by the company" (interview 15 June 2014).

<sup>42</sup> YLBHI registered its case with the District Court of Central Jakarta on 8 December 2006.

<sup>43</sup> WALHI registered its case with the District Court of South Jakarta on 12 February 2007.

<sup>44</sup> YLBHI listed the defendants as follows: (1) President of Republic of Indonesia; (2) Minister for Energy and Mineral Mining; (3) Minister for Environmental Affairs; (4) Head of BP Migas; (5) East Java Governor; (6) District Head of Sidoarjo; and (7) Lapindo Brantas as co-defendant (*Turut Tergugat*).

while Walhi's law suit was focusing more on environmental destruction caused by the misjudgements in mining operations.<sup>45</sup>

Due to the crucial matter of defining whether or not the mudflow was due to human error and how the definition affected the defendants' scope of legal obligations, scientists played important roles in influencing court verdicts in both lawsuit cases. In YLBHI's case, Koesoemadinata, Rubiandini and Sri Widyantoro (seismologist) testified as experts (*saksi ahli*) to show that the mudflow was because of drilling activities and not the Yogya earthquake. From the other side, where Lapindo was included as co-defendant (*Turut Tergugat*), Sukendar Asikin (professor in the Geology Department, Institute of Technology Bandung/ITB), Agus Guntoro (member of IAGI's investigation team), Mochammad Sofian Hadi (BPLS' Deputy for Operation Affairs), and Dodi Nawangsidi<sup>46</sup> (drilling engineer and lecturer at ITB's faculty of mining technique and oil industry) testified as experts and argued that the mudflow was a natural phenomenon (a mud volcano). The importance of scientists' opinions was clearly seen from the verdict taken in Walhi's lawsuit case as shown in the following quotation:

Considering that, from the Plaintiff's experts, *it was only*<sup>47</sup> Dr Ir Rudi Rubiandini, expert in mining technology, who was able to explain the cause of mudflow [as due to human error].... Considering that point, because the opinion from Plaintiff's expert, Dr Ir Rudi Rubiandini, *has been defeated* by opinions from the Defendants' experts, namely Dr Ir Agus Guntoro, MSi, Prof Dr H Sukendar Asikin, Ir Mochammad Sofian Hadi and Dr Ir Dody Nawangsidi ....<sup>48</sup> (quoted from Sidabukke 2009, p. 7; italics are mine)

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<sup>45</sup> WALHI listed the defendants as follows: (1) Lapindo Brantas Inc; (2) PT Energi Mega Persada; (3) Kalila Energy Ltd; (4) PAN Asia Enterprise Ltd; (5) PT Medco Energy; (6) Santos Brantas Pty Ltd; (7) President of Republic of Indonesia; (8) Minister for Energy and Mineral Mining; (9) Minister for Environmental Affairs; (10) Head of BP Migas; (11) East Java Governor; and (12) District Head of Sidoarjo.

<sup>46</sup> Nawangsidi has served as Team Leader of the Working Group on National Energy Regime, Indonesian Chamber of Commerce (KADIN) in 2004-2009 when Aburizal Bakrie became its chair. Nawangsidi was also a candidate for the National House of Representatives from the Democrat Party (*Partai Demokrat*) in 2009. In the party's final vote counts gathered from the East Java Electoral District No II (*Dapil 2*) covering Pasuruan and Probolinggo, he came second after Adjie Massaid (a popular film actor). <http://nasional.inilah.com/read/detail/1211752/doktor-itb-berpeluang-gantikan-adjie-massaid#.UuMponde671> (visited 23 December 2013).

<sup>47</sup> In addition to Rubiandini, WALHI also invited as experts Asep Yusuf, Mas Ahmad Santoso, and Daru Setyorini whose expertise are in the law of state administration, environmental studies, and river ecology respectively.

<sup>48</sup> "Menimbang bahwa dari saksi ahli Penggugat yang bisa menjelaskan tentang sebab terjadinya lumpur panas tersebut *hanyalah* Dr Ir Rudi Rubiandini RS, ahli di bidang teknik perminyakan, .... Menimbang bahwa dari pertimbangan tersebut, oleh karena pendapat saksi ahli Penggugat Dr Ir Rudi Rubiandini *telah dapat dipatahkan* oleh pendapat saksi ahli Tergugat yaitu Dr Ir Agus Guntoro, MSi, Prof Dr H Sukendar Asikin, Ir Mochammad Sofian Hadi dan Dr Ir Dody Nawangsidi ...."

While the quoted verdict seemed to show that the scientific arguments alone has convinced the court decision, the fact that Lapindo Brantas' advertisements were displayed in leading national print media approaching and on the same day of verdict reading provided another dimension of how the verdict might be drawn. As already shown in Chapter Four, Lapindo had at least one advertisement displayed in a leading daily newspaper *Republika* on 27 December 2007, the day when the verdict was read for YLBHI's lawsuit case at Central Jakarta district court. In this advertisement, opinions of those scientists testifying for Lapindo were quoted.

Differing from Walhi's case whose primary demands were rejected altogether by the district court,<sup>49</sup> the district court's verdict in YLBHI's lawsuit at least showed its agreement on two points raised by YLBHI.<sup>50</sup> The two points were the belief that judges shared with YLBHI's concern that the mudflow was triggered by human errors and there were victims of this negligence. However, the court rejected YLBHI's request to instruct the defendants and co-defendants to deploy their utmost resources to mitigate the disaster as the judges believed that they had already done this. While YLBHI's main demand was rejected and thus created no significant legal effects to the existing mitigation efforts, Zainal Abidin, one of YLBHI lawyers in the case, saw the judges' expressed shared concern about man-induced disaster and the victims were a small win. While he admitted that the quality of district court judges were good, he attributed this small win more to the relatively strong presence of public oversight to the court sessions (interview with Zainal Abidin 4 June 2014).<sup>51</sup>

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<sup>49</sup> WALHI requested the court to: (1) declare that the defendants have violated the law; (2) instruct the defendants to mitigate and rehabilitate the destructed environment; (3) instruct the defendants no 1-6 to deploy their utmost resources to deal with the mitigation; (4) instruct the defendant no 7 to evaluate cooperation contract in Brantas Bloc; (5) instruct the defendants to openly express their apology to the disaster victims as well as to the whole Indonesian citizens and display their apology in electronic and print media; (6) to punish the defendants with IDR 500 million penalty each day if they refuse to obey the court verdict.

<sup>50</sup> YLBHI requested the court, among others, to: (1) declare that the defendants and co-defendant have violated the law; (2) instruct the defendants to issue policy which commands the co-defendant to restore the rights of the victims; (3) instruct the defendants to issue policy in which co-defendant would give its utmost resources to jointly mitigate the impacts; (4) instruct the defendants to issue policy which could legally ensure that the co-defendants would cover all necessary costs related with mudflow mitigation as well as restoring the rights of the victims; (5) instructing the defendant no 1 to command legal apparatus to take decisive legal prosecution against all parties responsible for the mudflow; (6) instruct the defendants and co-defendant to display their written apology that would be screened, aired and displayed in five national TV channels, 5 radio stations, and 10 national print media for three consecutive days.

<sup>51</sup> YLBHI mobilised its civil society networks to attend the court sessions.

This small win, however, was dismissed altogether in the appeal attempts. Appeals against the district court verdict by YLBHI were subsequently rejected by the higher court and the Supreme Court on 13 June 2008 and 3 April 2009 respectively, while Walhi's was rejected on 27 October 2008.<sup>52</sup> Zainal pointed two external factors which have contributed to the failure to capitalize their previous small win, namely the legal infrastructure and the absence of political pressure on the court. With regards to the former, he pointed to the fact that the judges at the appeal courts were still relying more on legally written evidence to draw verdicts. Meanwhile, as shown in the previous section, the secrecy surrounding oil and gas mining provided a significant barrier for civil society to access important documents which would otherwise be useful to support their legal arguments.<sup>53</sup>

While the affected people have launched strong protests and demonstrations to demand compensation payment (as shown in Chapter Five), Zainal blamed the absence of similarly strong protests addressed to the appeal courts as the other external factor which led the verdicts slipping away from the victims' favour. To be successful, he argued that the litigation attempts have to be supported by political pressure:

The lawsuit (which was) conducted was not equal to grass-root movement ... People's movement might have been strong, but did they occupy the courts? Until now, we cannot put the court in a power vacuum, because they are not truly independent. If the people's movement had a strong presence in the court, at least the judges would have had to decide the matter more carefully (interview with Zainal Abidin 4 June 2014).<sup>54</sup>

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<sup>52</sup> Walhi did not file another appeal after the Higher Court rejected its claim.

<sup>53</sup> "Lapindo won because it could provide authentic documents in front of the judges. Meanwhile, there are lots of documents which can't be open for public," said Zainal Abidin. Similar argument was also provided by Sidabukke (2009) who commented on Walhi's lawsuit case. He said that Walhi lost the case because the evidence Walhi provided was weak. Of its 26 items of evidence, 17 were press clippings which in legal terms were considered as ordinary letters (*surat biasa*). Meanwhile, as the defendant, Lapindo provided 36 items, 15 of which were administrative decrees justifying the appropriateness of its drilling procedures. In legal terms, these decrees are defined as authentic deeds (*akta otentik*) which are legally superior to ordinary letters (Sidabukke, *op. cit*). According to Walhi's activist, they lost the scientists' contest because they could not maximise their experts' knowledge as a result of the inefficiency and frequent delay of the trial process. This was not good for their experts who mostly came from outside Jakarta (<http://suaramerdeka.com/harian/0712/28/nas12.htm> visited 23 December 2013). Wibisana (2013) also provided weaknesses in Walhi's lawsuit claims from legal perspectives.

<sup>54</sup> "Gugatan yang dilakukan tidak sebanding dengan movement yang dibawah ... Gerakan rakyat mungkin kuat, tapi apakah mereka menduduki pengadilan? Karena sampai sekarang pengadilan gak bisa didudukkan di ruang kosong, karena gak benar-benar independen. Kalo movement-nya kuat di pengadilan, paling tidak hakim merasa ini jangan main-main".

In addition to the external factors, at the time YLBHI also faced internal challenges which prevented the litigation attempt from being optimally carried out. Funding constraints include the reluctance of newly graduated lawyers to work in the field have provided significant obstacles to collect more thorough and convincing data.<sup>55</sup> The matter was made worse when, due to internal conflict, the main architect of the lawsuit, Taufik Basari, resigned from YLBHI. The resignation of Taufik Basari, who had managed to “marry” legal action with civil society movement despite limited financial resource, meant the lawsuit went to court without political pressure from civil society.

The lawsuit failures on the part of civil society brought advantages to Bakrie Group and its corporate interests. As mentioned earlier in Chapter Five, even if district court’s verdict could still be appealed to the higher courts, President Yudhoyono used the verdict as a legal reason to issue Perpres 48/2008 which ensured the release of Lapindo Brantas from further liabilities. In August 2009, the consolidation of court verdicts provided a basis for the issuance of the Police’s Instruction Letter for Terminating the Investigation (*Surat Perintah Penghentian Penyidikan/SP3*) of the criminal charges against 13 company employees related to the drilling operation (see Chapter Three),<sup>56</sup> regardless of the claim of incompatibility to use those civil verdicts as a foundation for criminal charges.<sup>57</sup> This police’s clearing ensured Lapindo Brantas’ eligibility for disaster insurance payment as well as for BP Migas’ cost recovery scheme (see Chapter Four). Consolidation of court verdicts also became a reason for TP2LS to conclude the mudflow as a natural disaster (see Chapter Seven), a move which contributed to the decision of state-run companies to stop pursuing legal action against Lapindo Brantas for compensation demand (Davidson 2015).

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<sup>55</sup> “Menurut rencana, mau ada pengumpulan data live in di lapangan selama satu bulan. Ga ada yang mau. Lawyer jaman sekarang ...” (interview with Zainal, 4 June 2014).

<sup>56</sup> Apart from the courts’ verdicts, East Java Police argued for the investigation dismissal on the reason that the East Java attorney office had repeatedly denied police’s case submission because of the lack of strong evidence (*Tempo.co* 7 August 2009). This SP3 itself was issued under the leadership of Anton Bahrul Alam as the new chief of East Java Police replacing Herman Sumawiredja who had been known persistent in investigating the criminal charges (*Tempo.co* 29 May 2012).

<sup>57</sup> Press Release issued jointly by Walhi East Java Chapter, Legal Aid Institute for Lapindo Victims (LBH Korban Lapindo), Surabaya Legal Aid Institute (LBH Surabaya), Surabaya Institute for Legal Justice and Human Rights (LHKI Surabaya), and Volunteers’ Shelter for Lapindo Mudflow Victims (Posko Relawan Korban Lumpur Lapindo) 10 August 2009.

With the failures of these litigation cases, the last remaining option to turn the mudflow into a legal case rested on the shoulders of Komnas HAM (National Commission for Human Rights) as it has reserved a special place in the country's legal framework.<sup>58</sup> Performing its legal mandate in advancing human rights enforcement, the Commission has been actively engaged in the mudflow issue through various levels of involvement covering both non-litigation and litigation roles. Included among the former role was the 2008 mediating role between the affected communities and the government with regards to disputes about compensation, while the latter involved the monitoring (*pemantauan*) of human rights abuse allegations with the accompaniment of legal authority to bring the case to court based on collected information and evidence.<sup>59</sup> Despite being funded by the state budget, the legal-authoritative status that this Commission enjoys as well as the background of many of its commissioners as civil society activists makes it a significant institution to look for an alternative path to justice.

With regards to this monitoring of human rights abuse allegations, Komnas HAM shone an important spotlight onto the mudflow case. Amidst roughly 6,000 cases of human right abuse allegations it received annually, the commission paid special attention to the mudflow by establishing an ad hoc team, the rarely given highest level in the monitoring status of allegations (interview with Nur Kholis, a Commissioner, 20 October 2012).<sup>60</sup> Furthermore, the ad hoc team was also assigned a task of performing a legal investigation (*penyidikan*), using their authority which few independent commissions enjoy, namely their legal power to call influential policy makers to give their testimonies before the Commission while deploying teams to collect evidence on the ground. This not only reflected

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<sup>58</sup> Law No 39/1999 on Human Rights included a special section (with 25 articles) on Komnas HAM. This commission also receives state funds like the other government agencies, with commissioners elected through the National House of Representatives (after being shortlisted by a selection panel of leading figures in human rights issues).

<sup>59</sup> The above law obliges all parties, if asked, to comply with the Commission's request for an investigation.

<sup>60</sup> Most of the 6,000 human rights abuse reports that the Commission received involved police, companies, and local governments. To elevate a reported case to a higher level, i.e. to establish an ad hoc team, needs an assessment based on the scale of effects (number of victims) and its magnitude. This way of sorting the cases is needed because the Commission has institutional limitations, with only 24 billion rupiah as its 2013 annual budget, 50 percent of which goes to so-called "routine expenses", a widely used term in bureaucracies for salaries and other fixed overhead costs. "The Lapindo case was given priority based on number of victims and its case quality. These two factors become the basis for considering case handling" (*Kasus Lapindo dikasih prioritas penanganan kasus karena dilihat dari jumlah korban dan kualitas kasusnya. Dua hal tersebut yang jadi pertimbangan penanganan kasus*)," Commissioner Nur Kholis told me (interview 20 October 2012).

its foremost internal priority in handling the case, but sent signals of its assessment of the magnitude of the case to relevant authorities.

However, despite the efforts of their ad hoc team, the final decision of the Commission's plenary session in August 2012 was seen by civil society activists as a disappointment.<sup>61</sup> After successive defeats of NGOs' lawsuits in the courts, some activists had expected that the conclusions of the ad hoc team would end up being part of legal proceedings against criminal and human rights abuses.

Public expectations of the Commission's finding however were not fulfilled. The Commission's plenary session, its highest decision-making body, decided that the findings were not supportive for demanding a separate trial distinctively based on abuses of human rights.<sup>62</sup> While the plenary session unanimously agreed that what happened in Porong involved serious human right abuses and was against Law No 39/1999 on Human Rights, there were disagreements on whether or not those abuses were solid enough for a trial of "a crime against humanity" as regulated in the Law No 26/2000 on the Human Rights Tribunal (*Pengadilan HAK Asasi Manusia*). Centred in these debates were issues about the nature of abuses and the limited coverage of offenders regulated in the Law. As a Commissioner stated:

We have no doubts in applying Law No 39, but when it came to Law No 26 there was a long debate. The debate was about whether or not those abuses were commissioned systematically (interview with Nur Kholis, a commissioner, 20 October 2012)<sup>63</sup>

<sup>61</sup> Among these activists was Bosman Batubara, who had worked with the affected people from GEPPRES and had written several publications on the mudflow. His disappointment was reflected in his article published at <http://indoprogess.com/2013/03/pelanggaran-ham-berat-kasus-lumpur-lapindo/> (accessed 30 March 2015). On the other hand, Zainal Abidin's opinion was shared by a majority of the Commissioners who did not support the charge of serious human rights abuses. He said that there were no strong evidence that showed that the mudflow induced- displacements of villagers were systematically designed (interview 4 June 2014).

<sup>62</sup> Differs from some other activists, Zainal Abidin criticized Komnas HAM's insistence in pursuing Lapindo case as serious human rights abuse. For him, effective remedies to the victims' rights were more important than declaring whether or not Lapindo was at fault. He says: "In this Lapindo case, who is right and who is wrong no longer important. I personally chose effective remedies. To do this, we had to choose technocratic approach. Komnas HAM did not think in this way. They just play hard ball. Now, neither of them was achieved. Pointing at somebody's nose was failed. The community now works to death by themselves in the field," says Zainal Abidin (*Soal Lapindo bukan soal siapa salah, siapa benar. Karena pilihan gua adalah effective remedies, pilihannya sangat teknokratik. Komnas HAM tidak berpikir dalam rangka itu. Main gedor saja. Sekarang dua-duanya tidak tercapai. Menunjuk hidung siapa yang salah gak kena. Masyarakat kerja sendiri mati-matian di lapangan*) (interview 4 June 2014).

<sup>63</sup> "UU No 39 oke, tapi ketika UU No 26 terjadi perdebatan sangat panjang...(Inti perdebatan) apakah pelanggaran itu dilakukan secara sistematis atau tidak"

Law No 26/2000 clearly identified two categories of abuses that can be categorized as serious human rights abuses, namely genocide and crimes against humanity. Principles which apply to both these categories are any offence whose intended goal/purpose is to wipe out some or all members of particular groups or any offence which widens what are systematic attacks directly aimed at civilians (*penduduk sipil*) (Article 8 and 9 Law No 26/2000).

While the Lapindo mudflow case can be put into the latter category, the legal challenges present were how to prove civilians are systematically targeted. The word “civilians” as potential victims carries the meaning of state apparatus as potential offender. This alleged state bias implicitly outlined in the Law No 26/2000 prevented the Commission from bringing this case to court for the reason that the Law does not regulate non-state offenders. Not necessarily a distinct Indonesian problem, a commissioner linked the belief that non-state offenders cannot yet be legally prosecuted for major alleged human right violations, because the Indonesian law was ratified on the basis of existing international law. The Commissioner said:

The legal subject of human rights at the international level is the state. Meanwhile, in the mudflow case, the party with the biggest role is a corporation. Therefore it is difficult to apply Law No 26 to this case. This is not only an Indonesian (problem), but also an international problem. There has never been an international precedent which prosecuted corporate leaders as criminal offenders (interview with Nur Kholis 20 October 2012)<sup>64</sup>

In the midst of the above legal limitations, the Commission agreed to “a middle way” (*jalan tengah*) agreed by all the Commissioners.<sup>65</sup> The agreed middle way was to pronounce the case as involving serious violations against human rights and recommending that the relevant authorities further prosecute the alleged parties. This middle way, however, was admittedly weak since it had no legal enforcement power (interview with Nur Kholis 20 October 2012). This marked a complete failure of all litigation attempts in this mudflow case.

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<sup>64</sup> “*Subyek hukum hak asasi manusia internasional adalah state. Sementara dalam kasus Lapindo yang berperan besar adalah korporasi. Sehingga sebenarnya sulit diterapkan UU No 26*”.

<sup>65</sup> The Commission with 11 members was 5:6 split for not pursuing the mudflow case as a major human rights abuse (*pelanggaran berat*). Those who supported the case as a major abuse were Safrudin Simeuleu, Kabul Supriyadi, Nur Kholis, Saharudin Daming, and Abdul Munir Mulkan. Meanwhile, those who opposed were Ifdhal Kasim, Yosef Adhi Prasetyo, Johnie Nelson Simanjuntak, Ridha Saleh, Ahmad Baso, and Hesti Armi Wulan (<http://www.rmol.co/read/2012/08/29/76071/Inilah-Komisioner-Komnas-HAM-yang-Tidak-Mendukung-Adanya-Pelanggaran-Berat-dalam-Kasus-Lapindo-> accessed 30 March 2015).

## 6.6 From NGOs to NGIs

As mentioned earlier, amidst mass radicalism towards transaction/purchase-based compensation payments, allegedly contradictory to human rights and value perspectives shared by many civil society organizations, the latter slowly withdrew or minimized their engagement in the issue leaving only few to stay. Among those few organizations, which stayed to work with the affected, were WALHI's East Java Chapter and UPLINK.<sup>66</sup> Despite their continuous engagement, they too were required to modify their strategies and focus communities to maintain their relevant presence and to respond to local dynamics. In this relative absence of NGOs, some individuals from outside the affected communities were emerging to play more significant roles for their communities. Among those individuals were Paring Waluyo Utomo and Emha Ainun Najib.

Paring is a social activist from Malang where he earned his undergraduate degree in politics from the state Brawijaya University. Departing from his student activism in the PMII (*Indonesian Islamic Student Movement*), an extra-campus organization linked to NU, he developed his concerns in local social and political issues. Boosted by his confident and authoritative character, these concerns brought him into contacts with other NU-affiliated figures outside the region including those NGO activists who asked him to help them in Porong. Although previously assigned to perform particular NGOs' work in Porong, later in his journey Paring extended his involvement and concerns in the mudflow issue beyond what he conceived as the NGOs' limiting environment. With himself deciding what his concerns and involvement was, he proudly called himself an "NGI", a term he invented to abbreviate "Non-Government Individual".

In his early involvement in the issue in 2008, he assisted Uplink to work with *Pagar Rekontrak* which required continuous mentoring (*pendampingan*) in its early establishment. Faced by its limited human resources and the need to have a reliable person in the field, the NGO picked him to be its community partner as well as to translate its organizational visions into work on the ground. Despite the

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<sup>66</sup> After leaving *Pagar Rekontrak*, Uplink worked with communities identifying themselves as KLM, standing for *Korban Lapindo Menggugat* (Suing Lapindo Victims), a group of affected communities either outside the affected map under the responsibility of Lapindo or the state. Information about KLM is given in the table of groupings within the affected communities in Chapter Five (see Table 5.4)

apparent absence of any strong opposing ideas about how to organize the community, Paring's work with Uplink did not last long. The break-up probably had something to do with the personalities of both the Uplink leader and Paring ("*podo atose*", they both were stubborn) which led the latter to quit the job (personal communication with the Uplink activist, 12 March 2014). Since then Paring no longer associated himself with any NGOs when working in Porong.

That break-up brought Paring to shift his personal focus on community concerns from *Pagar Rekontrak* to a different potential group of the affected communities that he later helped to build. With more than two thousand families joining at the time it was established, the group then named GEPPRES was certainly bigger than *Pagar Rekontrak* (see Table 5.4 in Chapter Five), with demands more relevant to the existing mechanism for compensation (more details about GEPPRES and its comparison with the other affected community groups were given in Chapter Five). He managed to develop the group into the second biggest association of the affected mudflow villagers from all affected villages, bring their radicalism under media spotlight through various mass protests both in Porong and Jakarta. Paring was able to transform ordinary villagers into community leaders familiar with and eloquent in human rights discourse. These achievements were not only admitted by GEPPRES group members, but also from outside GEPPRES, such as those from the 65 RT group (see Table 5.4) (interview with Jasimin 11 October 2012), as well as from the company. Nonetheless GEPPRES demands were never adopted by Minarak as one of existing payment options for the remaining 80 percent of the compensation, Andi Darussalam showed its importance in the compensation struggle by specifically making a reference to it when Andi Darussalam was interviewed about Hari Suwandi on Bakrie's TVOne on 25 July 2012.<sup>67</sup>

Rather different from Paring who was a relative newcomer on the national stage, Emha Ainun Najib had been a national figure long before his involvement in the mudflow issue. Originally from East Java, he was popular among many Indonesians for his thinking about culture and cultural politics as well as his musical talents through his Javanese Islamic orchestra, *Kyai Kanjeng*. He is also well known for his alternative religious gatherings (*pengajian*), which are warmly

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<sup>67</sup> In his interview with Hari Suwandi which was aired live, Andi Darussalam clearly mentioned GEPPRES as the organization which Hari Suwandi had come from.

welcomed by the general public because of its non-affiliation with any particular Islamic groups, held in different cities with different names.<sup>68</sup> One version of how he became involved is that it was through one of these gatherings. One of the affected mudflow community members, was a regular attendee at his religious lectures. Emha then organized power of attorney signed by thousands of affected villagers. In a newspaper article, he wrote:

I was thrown a challenge which was far beyond my capability. 10,476 families (about 45 thousand people, roughly 94 percent of the whole affected population) handed me their power of attorney form to act on their behalf. This meant giving a report to the President about the number of Lapindo mudflow victims according to data they had, including their hopes and their demands. They wanted the President to take take action, and find tactics to solve their problems (Emha Ainun Najib, *Tempo* 14 July 2007)<sup>69</sup>

However, a very contrasting account of how Emha got involved was given to me by Andi Darussalam, a Minarak director which had the role of providing replacement housing for thousands of the affected (see Chapter Four). Andi said that it was the company that first asked him to get involved in the matter (interview 1 November 2012).

Emha's claim about the massive majority power of attorney support for his role certainly gave him political leverage on top of his charismatic personality. Along with parliament pressure on President Yudhoyono, Emha capitalized this political leverage to have a fast track access to the President only a few days after he received the forms (see Chapter Five). This political leverage also enabled him to play important brokerage roles in the subsequent events. It made him a dominant figure at a critical time, when he introduced the *pocong* oath (*sumpah pocong*), widely considered as the strongest oath one can take, with lethal effects to those involved if their deeds proved otherwise. This was presented as an alternative solution for the affected villagers to prove their entitlements in the absence of legal evidence (see Chapter Five).

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<sup>68</sup> These gatherings have been held in Yogyakarta (where they were called *Mocopat Syafaat*), Surabaya (*Bangbang Wetan*), Jombang where he originally comes from (*Padangbulan*), Jakarta (*Kenduri Cinta*), and Semarang (*Gambang Syafaat*).

<sup>69</sup> "Saya tercampak ke lubang pekerjaan yang sama sekali jauh melampaui batas kemampuan saya. Sebanyak 10.476 keluarga (sekitar 45 ribu orang, sekitar 94 persen dari seluruh korban) menyampaikan surat mandat untuk bertindak sebagai wakil mereka dalam menyampaikan jumlah korban lumpur Lapindo sesuai dengan data yang mereka miliki kepada Presiden, termasuk tuntutan dan harapan agar Presiden mengambil langkah taktis untuk mengatasi permasalahan mereka"

As mediator, Emha was also present in several occasions that brought together the affected community and the company, including the controversial one: the “Thank you Bakrie” event held by those affiliated with GKLL at the KNV housing estate (*Republika* 10 September 2009).

For those who demanded the company accept full responsibility for the disaster, Emha’s involvement in the event was no more than a reflection of his political position allegedly in favour of Lapindo Group’s capital interests instead of the rights of the affected.<sup>70</sup> A senior Jatam activist made the accusation that Emha’s repeated claim that the purchase-selling agreement between Lapindo Brantas and the affected communities showed the Bakrie family’s willingness to deal with the issue, and was the best available solution, served to protect Lapindo’s financial interests. This opinion is based on the fact that Emha’s thinking helped to frame the minds of the affected communities in translating their demands, ie. that no other alternatives to compensation were possible (interview 11 June 2014).<sup>71</sup>

Emha was also alleged to have turned a blind eye to the corruption reportedly happening on a large scale within the Lapindo Group with which he was affiliated with a considerable amount of money reportedly flying into his own pockets. The supposed mediation role he played was also criticized for its avoidance of using mass protests, which helped to create a concentration of decision making power in the hands of elites, resulting in the mass de-radicalization:

“When Cak Nun (Emha’s popular name) became a hero, people’s organizations are no longer needed to be in the forefront of the struggle because the struggle would then rely on him. This was actually an early attempt to de-radicalize people organizations in order to create the impression that people do not have to fight themselves for their rights, but can always find a popular figure like Cak Nun as the substitute (interview with a local activist, 20 October 2012).<sup>72</sup>

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<sup>70</sup> In the event, Emha was reported to have said that the Bakrie family has shown their responsibility in the case despite the absence of any court verdict on the company’s liability.

<sup>71</sup> “Keterlibatan ulama selebritis seperti Emha, memproteksi kepentingan Lapindo dalam pengertian mem-framing komunikasi dalam kepala-kepala masyarakat (bahwa satu-satunya kompensasi) ya itu ganti-rugi jual-beli”

<sup>72</sup> “Ketika Cak Nun jadi pahlawan, organisasi warga tidak diperlukan lagi sebagai altar terdepan yang memperjuangkan nasib warga sendiri karena kemudian tumpu perjuangan diletakkan di Cak Nun setelah itu. Ini sebetulnya usaha awal untuk menderadikalisasi organisasi warga agar kemampuan warga untuk berjuang tidak perlu mereka lakukan sensiri, tapi kemudian digantikan oleh seorang tokoh seperti Cak Nun”.

Although no money-related suspicions were yet raised against him, Paring has been by no means free of allegations. For Jakarta-based NGO activists, Hari Suwandi's short-lived protest showed the weaknesses in the way Paring worked and how costly the effects of this were to the struggle for environmental justice. Being no different to what Emha did, Paring's decision to put a single person (with an allegedly bad track record) in as the central player in the planned one-man show was the first mistake for making the movement susceptible to corruption (personal communication with an UPLINK activist, 12 March 2014). Although its wide press coverage initially inspired many other human rights defenders to adopt the method,<sup>73</sup> the walking protest that ended up as an apology to the Bakrie family eventually dampened the morale of victims of human rights violations in other regions (personal communication with Wahyu Susilo, 10 April 2013).

## Summary

Political liberalization since the fall of Soeharto has been widely welcome for creating opportunities for anyone to speak their minds on almost any issues. As one researcher has shown (Ichihara 2010), this liberalization had been marked by a skyrocketing increase in the number of NGOs founded after the New Order. This trend, however, was not necessarily met by a public acceptance of the involvement of civil society actors or the benefits for public decision making of this involvement. Instead of opening their arms to incorporate civil society actors, many public decision-making processes often deliberately excluded them frequently on the *a priori* reasoning that their involvement would aggravate the problems.

This chapter has shown the challenges that civil society actors have had to face across the spectrum of their involvement in the mudflow case. Despite massive support from the public and majority media for simply demanding the company accept liability for its actions, their efforts to enforce the violated rights of the affected were far from easy. To accomplish this task, they needed to tackle

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<sup>73</sup> According to Wahyu Susilo, a senior social activist who has spent decades of working in leading Indonesian advocacy groups, Hari Suwandi's walking protest had inspired some peasant groups across Indonesia to do the same to protest against various land-grabbing issues they were facing.

various obstacles from the first time they entered the disaster scene to the continuous dynamics both at community level and from their internal organizational environments after their presence had been established.

Strong entry barriers against civil society's involvement were put in place from the beginning by the state, capital or even by community groups themselves. Even when they managed to tackle these, further obstacles were laid in the civil society's way which were no less serious. People's strong attachment to money-based compensation, corruption, limited resources of civil society groups and their poor coordination led them to review their strategies, minimize their engagement or even completely withdraw.

Successive failures of NGOs to put their aspirations forward explained in this chapter, confirm the existing findings by those researchers who have argued that, despite their increasing role and strength, Indonesian environmental NGOs lack power, unity, and widespread networks with other society groups (Hadiwinata 2003; Kalland and Persoon 1998). With the exception of Aburizal Bakrie's failure to run for the 2014 presidential race (alluded previously in Chapter Four), and continuing mudflow-related problems at grass roots level show that Indonesian civil society still has a lot to learn and to overcome.

## **Towards “living in harmony with the mud”: State/government responses to the Lapindo mudflow**

*‘These are all BPLS’ tricks so they can continue their projects. Villagers will stay to blockade this levee, until all compensation is fully paid’ — a leader of protesting villagers occupying mudflow levee, 11 Dec 2014<sup>1</sup>*

*(On demanding full compensation payment)  
‘Occupying Lapindo’s gas assets in Wunut will bring more results than occupying BPLS’. Occupying BPLS’ assets will certainly not affect Lapindo — Sumitro, leader of PW Perumtas (whose property was already paid for in full) (interview 29 September 2012)*

As mentioned in the preceding chapters, more than eight years after the first mudflow eruption the property sale and purchase transactions mandated by Perpres 14/2007 are still not completed. Claiming that its financial situation has not permitted further compensation, Minarak Lapindo Jaya has repeatedly failed to fulfill its promise to pay almost 800 billion rupiah (USD 80 million) it owes to the affected villagers under PAT (*Peta Area Terdampak*/Affected Area Map) in Perpres 14/2007.<sup>2</sup> While the group of affected villagers outside PAT were fully paid because this was the state’s responsibility (see Chapter Five), the groups of villagers under PAT have received nothing from Lapindo since late 2012 (BPLS

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<sup>1</sup>“*Itu semua hanya akal-akalan dari BPLS saja, agar bisa melakukan pengerjaan. Jadi warga akan tetap melakukan blokade di titik 42, sampai ada pelunasan pembayaran ganti rugi*”. Quoted from <http://kelanakota.suarasurabaya.net/news/2014/144602-Korban-Lapindo-Tetap-Blokade-Titik-42-Hingga-Dibayar-Lunas> (accessed 2 March 2015).

<sup>2</sup> The payment suspension have impacted particularly three mudflow affected groups within PAT, namely GEPPRES (which rejected resettlement and payment in installments), Pagar Rekorlap (which only decided to accept payment terms in Perpres 14/2007 at later stage) and those whose land ownership proof considered doubtful by Lapindo Brantas (see Chapter Five for these groups).

2010-2014 report), not even installments of the full payment that the company had promised previously, both directly and indirectly.<sup>3</sup>

On many occasions the affected villagers to which Lapindo owed directed their anger against the suspended payment to BPLS (*Badan Penanggulangan Lumpur Sidoarjo*), the agency established by Presidential Decree No 14/2007 to mitigate the mudflow impacts. In recent years, they have destroyed BPLS' field offices<sup>4</sup> or blockaded the work of constructing or strengthening the mudflow levees which would otherwise sink further because of land subsidence leading to mudflow spill due to the continuous eruption and rainy seasons. BPLS reported that in 2012 mudflow levees had been blockaded for 6 months and in 2013 there had been 5 protests against BPLS (BPLS 2010-2014 report). These protests have created significant delays to mudflow mitigation works, according to the BPLS report. Furthermore, BPLS states that it "must continue to watch for and anticipate" the aspirations of those villagers who come under 22 March 2007 map (see Table 5.3/Figure 5.2 for the compensation these villagers are entitled to).<sup>5</sup>

For many, the actions of BPLS were seen as a way to escalate the expression of their personal grievances to the state that was expected to pressure the company to pay its obligation. But, on the contrary, some other groups such as those mentioned above considered that such actions were a waste of time and effort. Not only were these protest actions brought no direct threat to the company, that would force it them to the negotiating table. Besides by then BPLS was widely seen to be either unable or ill-equipped to exert any pressure on the company.

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<sup>3</sup> Bakrie Group representatives gave at least two promises of full payment. One was given in early March 2013 by the CEO of Minarak Lapindo Jaya, Andi Darussalam [see Chapter Four about him], to the Minister for Public Works (at the time Joko Kirmanto) who was chairman of the Supervisory Board of BPLS. Darussalam promised to pay the remaining bill (IDR 781 billion/USD 80.3 million) in installments from the end of March 2013 (<http://finance.detik.com/read/2013/03/06/195308/2187894/4/lapindo-janji-lunasi-ganti-rugi-tanah-korban-lumpur-akhir-maret-2013> accessed 6 March 2015).

The second promise was given by the deputy general secretary of the Golkar party, Tantowi Yahya. Quoting Aburizal Bakrie, who was then hoping to run in the 2014 presidential election, he said that his boss would pay in full the remaining bill before the April 2014 national election. (<http://news.liputan6.com/read/751009/ical-janji-lunasi-ganti-rugi-korban-lapindo-sebelum-pilpres> accessed 6 March 2015). This indirect promise shows the interaction between the local mudflow politics and the national politics of inter and intra-party manoeuvring.

<sup>4</sup> While BPLS' central office is in Surabaya, BPLS has several *posko* located near the levees to monitor the eruption as well as mudflow channelling to Porong river.

<sup>5</sup> "Aspirasi warga korban lumpur PAT yang menjadi tanggung jawab PT Lapindo Brantas harus terus diwaspadai dan diantisipasi selama belum ada kepastian atau realisasi pelunasan ..." (BPLS 2010-2014 report).

While Sumitro's radical approach to protest appeared very sensible, there is an alternative interpretation about the direction of villagers' protests directed at BPLS. Instead of building a direct causal relation between the protests and expected payment, this chapter will argue that the direction of villagers' anger to BPLS had more to do the latter's increasing distance from the affected communities, not from the company. As will be shown in the rest of this chapter, since its establishment in 2007, BPLS had grown into a ministerial level institution with a separate budget and authority in dealing with a wide range of issues related to the mudflow mitigation. As it is a special state agency under the President, concerns were raised about BPLS' accountability as its institutional growth was not accompanied by proper supervision and controls. With the backdrop of these accountability issues, BPLS became the target for several popular protests. An increasingly large budget to finance more projects happened at the same time as that villagers' increasing grievances in the face of payment entitlements that were continuously suspended by Lapindo .

While the bulk of this chapter is about BPLS, we will first discuss the responses to the mudflow taken by other state and government institutions. Discussion about responses from both non-BPLS and BPLS aims to track the changes of those responses to show how diverse and often conflicting they were.

This chapter will be divided into six sections. In the first four sections, analysis will be given about the roles of Tim Terpadu, Timnas, military and district/provincial assemblies and national parliament. By analyzing the roles of these institutions, this chapter aims to show how political and economic interests of those involved in these institutions were interlinked with mudflow disaster related issues as well as how the interests of Lapindo and national government in the mudflow issues were extended into these intitutions. To sketch out the goals and growing role of BPLS, the fifth section will elaborate its development from the selection of board members through to its enlarging budget. Perceptions and concerns of various parties about BPLS' growing roles and their allegations of BPLS' mismanagement will also occupy this section. As a concluding section , the sixth part will portray unintended social consequences of BPLS' projects in the surrounding villages.

## 7.1 Mud mitigation by Tim Terpadu

As mentioned in Chapter Two, Indonesia has been internationally acclaimed for successfully transforming itself by adopting the most advanced disaster management practices. This claim reflected not only the warm partnership between state and civil society, a general condition believed to be among the keys for successful democratisation, but a regime transformation from disaster response to disaster risk reduction.

Despite efforts to begin these changes few years earlier, a bill to implement them was only passed in 2007. It then took another year to actually establish the new agency assigned to implement that transformation of disaster discourse.<sup>6</sup>

Prior to the establishment of the new agency, the state institution assigned in disaster management affairs was the BAKORNAS PB (*Badan Koordinasi Nasional Penanggulangan Bencana*, National Disaster Mitigation Coordinating Agency).<sup>7</sup> Despite changes made following its slow responses to the country's disasters, BAKORNAS PB's main weakness in effective disaster management was the its snail-paced response to the 2004 Aceh tsunami and the 2006 Yogya earthquake (which, as mentioned earlier, was the alleged cause of the Sidoarjo mudflow according to the "pro-quake" advocates). Several studies have showed its main weakness lying on its organizational limitations, lack of coordination and heavy bureaucracy, as well as its lack of resources and legal mandate to perform operational activities on the ground (BAPPENAS n/a; Sakai and Fawzia 2014; UNDP 2009). These factors made it unable to execute appropriate and immediate responses to disasters, weaknesses allegedly passed on to its sub-agencies: SATKORLAK PB (Coordinating Unit for Implementing Disaster Mitigation/ *Satuan Koordinator Pelaksana Penanggulangan Bencana*) and SATLAK PB (Unit for Implementing Disaster Mitigation/ *Satuan Pelaksana Penanggulangan Bencana*) at the provincial and district/municipality level respectively. Erupting in 2006, the mudflow came just at the end of this widely criticized but still operating disaster management regime. Hence, the way it was being managed unavoidably embodied all its weaknesses.

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<sup>6</sup> The UNDP report suggested that efforts to kick-off legal changes started in 2005 with the passing of new law in 2007 (Law No 24/2007). BNPB (National Disaster Mitigation Agency/*Badan Nasional Penanggulangan Bencana*) was established by Perpres 08/2008.

<sup>7</sup> Established by Perpres No 83/2005.

The first sign of how the increasing scale of the disaster was being under-anticipated by the management regime was the rapid changes in its management structure. Over less than a year (until April 2007), the disaster management control was shifted between three different institutions (BPK 2007). At first, being perceived as a small and “easily manageable” disaster, the mudflow management was initially left under the discretion of Lapindo (from 29 May 2006 until 12 June 2006). Then, having finally realized the magnitude of the disaster and that its control was beyond the company’s capacity, district and provincial government formed an “integrated team” (Tim Terpadu) to take over management control of the disaster (12 June 2006-September 2006). Finally, realizing that the mudflow containment was beyond the control of district and provincial governments, the national government finally stepped in to establish Timnas (September 2006-April 2007).

As mentioned above, during the first two weeks of its operation there was an expectation that the company itself would be able to localize the mudflow. While trying to contain it with all available means locally, and to prevent it from inundating a greater number of settlements, the company responded to villagers’ immediate concerns about its impacts by promising social assistance and village roadwork projects.<sup>8</sup> Within days of the first eruption, the surrounding communities were only able to pray to ask for God’s mercy to stop the mudflow.<sup>9</sup> No actions were taken by any state institutions to stop the mudflow, even after successive visits by state representatives<sup>10</sup> from various levels, and particularly after the removal of the on-site drilling rig by the company, an action that as we

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<sup>8</sup> The company promised to give each affected household in Siring and Renokenongo village IDR 300,000 (USD 33).

<sup>9</sup> Massive *istighotsah* and prayers were held in the surrounding mosques during the first few weeks. *Istighotsah* is recitation of Moslem prayers, carried out by a large number of reciters who gather in a single place, to ask God’s favour to deal with a particularly profound matter which affects safety and well-being.

<sup>10</sup> The military commander for East Java (Pangdam Brawijaya) visited the site on 4 June 2006, as did the East Java Governor three days later. The Ministry for Energy and Mineral Mining had already sent staff members to evaluate the disaster on 30-31 May 2006. The Minister for Environment Rachmat Witoelar was the first national figure to visit the affected site, on 13 June, while Vice President Jusuf Kalla came a week later, after more than 2,500 people had fled their homes to escape from mudflow.

have seen in Chapter Four (footnote 72) was proof of its inability to control the situation.<sup>11</sup>

District and provincial government more fully recognized then accepted the mudflow's danger signals only in the mid of June 2006 when the mudflow forced Jasa Marga to temporarily close the nearby toll road, an important element of infrastructure which connected the provincial capital with many of the industrial clusters in the province's southern region. On 15 June 2006, the Bupati of Sidoarjo founded Tim Terpadu with three tasks: (1) controlling the social-political situation (headed by the Commander of KODIM Sidoarjo); (2) technical back up to stop the eruption (headed by Lapindo Brantas and Deputy chairman of BP Migas) and (3) social rehabilitation and public relations (headed by Vice Bupati).<sup>12</sup> This Tim Terpadu was then expanded few days later to the provincial level with the tasks slightly changed. Responding to the need for urgent action to stop the eruption, contain the spreading mudflow, and manage its social impacts, this team was assigned to deal with (1) stopping the eruption (*penutupan semburan lumpur*) where by BP Migas and Lapindo were in charge, (2) managing the mudflow (*penanganan luapan lumpur*) with the military Combat Genie (*Zeni Tempur*) of Kodam Brawijaya and (3) handling social issues (*penanganan masalah sosial*) with Bupati/chairman of SATLAK in charge (see Table 7.1). As the third task of both Tim Terpadu Sidoarjo and Tim Terpadu East Java fell under SATLAK's common disaster emergency response, SATLAK was particularly involved in this problem. This role of SATLAK continued through Timnas establishment, with the same task in management of social issues assigned to both the Bupati and Vice Bupati (for the organizational structure of Timnas, see Appendix 3).

Under Tim Terpadu, there were two attempts to stop the eruption. The first attempt from the surface was the deployment of a snubbing unit<sup>13</sup> into the Banjarpanji-1 well. Deployed between 30 June-27 July 2006, the unit was aimed to detect eruption source and stop it by planting a fish drill at the bottom of the well. This failed after the fish drill could not go through the well bottom. Still

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<sup>11</sup> Lapindo removed the drilling rig on 3 June 2006, five days after the eruption. Many, including geologist Rudi Rubiandini and Hadimuljono (2012), chairman of Timnas, believe that, if the company had not removed it, the efforts to stop the mud would have been more successful

<sup>12</sup> Decision letter of Bupati Sidoarjo dated 12 June 2006 No 188/689/404.1.1.3/2006

<sup>13</sup> A snubbing unit is a hydraulic powered servicing tool used for well intervention and workover (BPK 2007).

aiming to plug the eruption source from the surface, the second attempt (called side-tracking, carried out between 28 July-18 August 2006) tried to stop the mud eruption source in the existing well but drilling in from the side down below where the fish drill had stuck during the previous attempt. This attempt was stopped midway during the operation for work safety reasons.<sup>14</sup>

During the time when the social conflict and protests were widespread as a result of the increasing mudflow impacts, it was SATLAK which met the affected villagers on a direct and more continuous basis. The SATLAK team was led by Saiful Ilah, the Vice Bupati, who served as its Coordinating Director (*Pelaksana Harian SATLAK*).<sup>15</sup> Considering the important positions he occupied both in SATLAK and in local government, it was widely thought that Saiful Ilah knew about mining and its risks in his district. It was also assumed he knew the ownership of any companies carrying out local mining exploration activities. However, even with mandatory obligation required by BAPEPAM (Indonesian Capital Market Authority/Badan Pengawas Pasar Modal) for public companies to report share ownership and transfers, it is very difficult to track down who the real share owners are<sup>16</sup>. Firstly the data is not easily accessible from BAPEPAM's information hub. Secondly, to avoid any direct ownership links with corresponding companies to limit tax liabilities, many share holders put their shares in other people's names. So it is actually not surprising that Saiful Ilah admitted he did not know who the company directors he should contact were until two weeks after the disaster. He felt an extra urgency to know who the owner was after several prominent national figures visited the site and asked him about this. Saiful Ilah publicly acknowledged his incomprehension about who owned Lapindo:

Since the eruption, I had been looking for information about who owns the company. I did not know. After a couple of weeks when many people came

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<sup>14</sup> Two safety reasons were given. During this time, the levee around banjarpanji-1 well was already more than 15 meter high from the ground which endangered those working on this side-tracking attempt. Rapid land subsidence also made the surrounding area of Banjarpanji-1 well more dangerous. <http://www.tempo.co/read/news/2006/08/18/05882182/Pengeboran-Menyamping-Lapindo-Gagal> (accessed 30 March 2015)

<sup>15</sup> It was a common practice among various regencies that, while Bupati serves as the chairman of SATLAK, the Vice Bupati would serve as its co-director (*Ketua Pelaksana*).

<sup>16</sup> As I myself have experienced this difficulty when, for writing Chapters Three and Four of this thesis, I started researching the shareholders of the companies related to the mudflow. It took a great deal of time to analyse companies' reports and prospectuses and to establish links and connections between different shareholders of those companies.

from Jakarta [to assess the eruption impacts], I happened to be talking to my colleague as we were both managing football clubs. I am with Deltras, he is with Blitar football club. He told me who the owner was and offered to give him a call so I could talk to him (interview 13 October 2012)<sup>17</sup>

Since that introduction he admittedly built a good relationship with Lapindo, even claimed to have a controlling influence. He told me:

Lapindo was behind me. So when Lapindo representatives received instruction from the company's central office, they were told to get behind the Vice Bupati. I was the first one who guaranteed Pak Nirwan's safety when he came for the first time to talk with the communities (interview 13 October 2012)<sup>18</sup>

While Bupati Win was certainly involved in the mudflow related important moments, including when the representatives of the affected communities from four villages reached agreement with Lapindo Brantas about compensation (see Chapter Five, subsection district level compensation attempt), Saiful Ilah certainly played a no less important role in setting up monetary standard for compensation after mediating on property acquisitions between 12 house owners in Jatirejo and Timnas to meet the required enlargement of levees (see Chapter Five for the so-called "levee event"). Saiful Ilah claimed that he successfully accomplished what he was assigned to do within SATLAK. Praising himself as being more popular than Bupati Win Hendrarso at the time, Saiful Ilah claimed that his familiarity with all parties allowed him to gain trust from the affected communities both in mudflow containment efforts and at the negotiation table with the company.

While the Vice Bupati praised his own works criticisms about SATLAK and his leadership were not absent. The first open criticism emerged in August 2006, when SATLAK was heavily involved in land leasing negotiations between farmers and Lapindo Brantas for the enlargement of mudflow ponds. SATLAK's mediation which resulted in two year land leasing agreement in some villages,

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<sup>17</sup> Original quotation: "*Sejak letupan saya mencari tahu siapa pemiliknya, saya belum tahu. Setelah 1-2 minggu banyak orang Jakarta datang, saya ngomong dengan kawan saya. Kami sama-sama di sepakbola. Dia di Blitar, saya di Deltras. Ketemu di sholat Jumat, dia tanya "Sampeyan mo ngomong sama yang punya? Saya telpon kan dulu"*", katanya. Nirwan here refers to Nirwan Bakrie, the youngest brother of Aburizal Bakrie, who was the chairman of Lapindo Brantas Inc (See more about the company ownership in Chapter Four).

<sup>18</sup> Original quotation: "*Lapindo di belakang saya. Jadi Lapindo itu (dapat) instruksi dari (kantor) pusat, kamu di belakang Pak Wabup[Vice Bupati]. Saya yang pertama kali mengamankan Pak Nirwan ketika datang pertama kali untuk bicara dengan masyarakat"*

differed from the acquisition demand articulated by the other farmer's group.<sup>19</sup> Following these negotiations and the enlarging mudflow impacts, Perumtas people launched a protest accusing SATLAK for playing as a broker between the affected communities and Lapindo Brantas.<sup>20</sup> At the time, SATLAK was also accused of being less than transparent with regards to IDR 1 billion (USD 110,000) donation from President SBY given for the mudflow affected communities.<sup>21</sup>

The negotiated settlement regarding property acquisition that Saiful Ilah helped the villagers reach with the company was also under attack by the wife of Bupati, Emy Susanti.<sup>22</sup> She argued that the conditions of existing houses' conditions being negotiated in the levee event were not worth of the agreed value and the agreement has made the mitigation more difficult (personal communication 28 June 2007). This criticism was then extended to the 2010 Bupati election when the wife of Bupati decided to run for the office. While Saiful expected Bupati Win's support for his own candidature in the 2010 district head election,<sup>23</sup> Bupati Win chose to give his support to Bambang Julianto, at that time serving as head of district office for public works (Dinas PU), who was

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<sup>19</sup> Land leasing agreements were calculated based on the following: (1) the rice fields produced 3 harvests annually; (2) each year, 4 tonnes of rice are produced in each hectare; and (3) each tonne of rice is worth IDR 1.8 million (USD 198). The result of this calculation was then multiplied by the number of ha of agricultural land available. As shown in Chapter Five, agricultural lands were the first targeted for mud ponds. These lands are distributed in Mindi, Kedungcangkring, Besuki and Pejarakan villages. By August 2006, it was only Pejarakan which still rejected two year land-leasing agreement. However, this farmer's group accepted the offer in September 2006.

<sup>20</sup> See footnote 42 Chapter Five for the demands of this Perumtas protest. SATLAK had been always in the front to negotiate with the affected communities with regards to acquisition of rice fields/property for the enlargement of pond/levees.

<sup>21</sup> The donation was handed over by President SBY to Bupati Win on the President's visit to Porong New Market on 11 August 2006. The Sidoarjo district government, however, handed the donation back to Jakarta to avoid further conflicts within the affected communities if it was distributed.

<sup>22</sup> Emy Susanti earned her undergraduate degree from sociology department of University of Indonesia, master degree from Flinders University in 1993, and doctoral degree from Gadjah Mada University in 2003. She became a university lecturer at Airlangga University of Surabaya after graduating from University of Indonesia. At Airlangga University, she has held various positions including chairperson of Center for Women's Studies and the university's institute for research and community development (Hayunta and Wasono 2011).

<sup>23</sup> Despite his strong political support from NU-affiliated community organizations, Saiful kept asking for Bupati Win Hendrarso's political support for his run in 2010 district head election. Saiful Ilah believed that Win's support was in return for the support PKB had given to him for his two terms in office. [http://nasional.news.viva.co.id/news/read/113549-saiful\\_iiah\\_kantongi\\_restu\\_win\\_hendrarso](http://nasional.news.viva.co.id/news/read/113549-saiful_iiah_kantongi_restu_win_hendrarso) (accessed 25 March 2015). On the other hand, with his choice of Bambang Julianto, Win Hendrarso seemed to prefer someone with stronger background in bureaucracy and development policy. Before his election as Vice Bupati, Saiful Ilah was known only as a fish pond businessman.

considered more capable in leading the district. However, six months before election Bambang Julianto died. Win Hendrarso<sup>24</sup> later persuaded his wife to run. Despite Win's political support and her own strong work background in gender and community development,<sup>25</sup> Emy lost the election to which she attributed more to internal conflict within PAN party she run from (Hayunta and Wasono 2011).<sup>26</sup>

Despite his claimed success, Saiful Ilah admitted that government had made miscalculations and responded very slowly to the disaster. As a result, the mudflow had become more uncontrollable. He expressed these mistakes in the following interview:

The [district] government thought that the eruption would die down by itself. But it proved wrong. Then it was too late. If appropriate action was taken on time, it would not have inundated 640 hectares of land (interview 13 October 2012)<sup>27</sup>

Apart from minimal comprehension about the actual owner of the mining company, as shown by Saiful Ilah's acknowledgement above, local government's slow response was also attributed to the lack of the financial resources it required to deal adequately with the tasks. As risk reduction planning was not known in the pre-2007 disaster management regime, no budget was provided for mitigating the mudflow. The absence of an allocated budget and the need for ready cash for mitigation expenses meant that the Tim Terpadu and SATLAK had to rely on central government funding and more importantly, on the company. Concerns over government's slow response was also shared by Imam Nahrowi, PKB parliament member from Dapil Surabaya-Sidoarjo (interview 19 October 2012). He said that if national government had been in control over the mudflow from the beginning, the problem would not have grown so serious, and the involvement

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<sup>24</sup> Win Hendrarso could no longer stand for reelection because it was his second term in office.

<sup>25</sup> Win has reportedly prepared various events in Sidoarjo as a political stage where Emy Susanti was promoted.

<sup>26</sup> The conflict within PAN originated when the party's district committee nominated Emy and Khulam Junaidi as the party candidates for 2010 district head election. Meanwhile, the party's provincial board nominated Imam Sugiri (a local contractor) as the party's candidate for Bupati.. The District election committee decided to approve Emy and Khulam's nomination after they secured an endorsement letter from the party's national board. As a result of this, Imam Sugiri filed a lawsuit which later consumed much of the Emy and Kulum's energy. More details can be found in Hayunta and Wasono (2011). Saiful Ilah-Hadi Sutjipto (PKB) won the 2010 district head election.

<sup>27</sup> Original quotation: "*Pemerintah mengira semburan ini akan mati dengan sendirinya. Tapi Perkiraan pemerintah salah. Terlambat. Kalo tidak terlambat, tidak akan sampai menggenangi 640-an hektar*"

of corporate actors made the mudflow issues more difficult to deal with (interview 19 October 2012).

As explained in Chapter Five, it took months before the mudflow affected communities and Lapindo reached the compensation agreement (taken in the form of property purchase). Amidst various legal, financial, as well as political obstacles (explained in the previous Chapters), it took years before some of the affected communities were fully compensated. Some others were even paid a small fraction of their compensation entitlement by Lapindo (see Figure 5.3). If only the national authorities acted faster to deploy the required resources to immediately deal with the mud eruption, not leaving the matter entirely on the hands of Lapindo which already proved incapable of handling the drilling well (see Chapter Three), the mud eruption could have been stopped much earlier and thus prevented greater impacts. If only the national government was willing to provide funds to tackle Lapindo's compensation payment due, while the latter declared its inability to pay, problems with compensation payment would have been settled much earlier and thus enabled the government to devote more thorough efforts to deal with the other mudflow effects.<sup>28</sup>

## 7.2 Mud mitigation by Timnas

Despite the issuance of several Perpres (see Table 5.3) and parliament's recommendation to declare the mudflow as a natural disaster (see footnote 62 of this Chapter), the government never officially declared the mudflow as a national disaster. Previously, government issued two declarations of national disaster, all of which attributed to natural triggers.<sup>29</sup> For a larger civil society, if declared as national disaster, its declaration would mean clearing Lapindo Brantas of its liability (see Chapter Five). For the affected communities, the declaration would mean a much less compensation value as already given to tsunami affected communities in Aceh.<sup>30</sup> Declaring it as a national disaster would possibly require

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<sup>28</sup> In his interview with *Jawa Pos* (26 April 2007), Win Hendrarso said that 60 percent of the government's energy was spent on "*penanganan masalah sosial*", an official word for compensation payment.

<sup>29</sup> See footnote 62 Chapter Three.

<sup>30</sup> If declared a national disaster, the affected communities would receive only IDR 15 million (USD 1,600) for each affected family, as given to those tsunami affected communities in Aceh (which was declared as a national disaster). This scheme was rejected by Perumtas residents (<http://news.detik.com/index.php/detik.read/tahun/2007/bulan/03/tgl/22/time/133145/idnews/757257/idkanal/10> accessed 10 April 2015).

the state to reimburse the money Lapindo already spent for the mitigation (*Gatra* 28 February 2008) (see Table 4.1 for Lapindo's expenses).

As the Lapindo mudflow was never ever declared an official disaster, BAKORNAS PB could not take over this matter and, as a result, a separate institution was required. After 100 days of failure to stop the mud eruption, which was affecting more and more settlements, President issued Keppres No 13/2006 which regulated the establishment of Timnas. Adopting the same three tasks assigned by the now dissolved East Java Tim Terpadu<sup>31</sup>, President ordered the involvement of high ranking officials from various ministry and national agencies in this Timnas. The Ministries and national agencies involved were BP Migas and the Ministry for Energy and Mineral Resources (in charge of stopping the eruption), the Ministry for Environmental Affairs (for dealing with environmental impacts), and lastly the Ministry for Trade and Industry (assigned to promote commercial values of the mud for various purpose).<sup>32</sup>

With wide ministerial back up, Timnas' priorities were: (1) identifying dangerous zones which no longer safe and habitable; (2) resettlement and favorable compensation (*ganti untung*) for those living in the dangerous zones and (3) channeling the mudflow to Porong river (Hadimuljono 2012). Clearly drawn from the cabinet meeting on 27 September 2006 (Hadimuljono 2012), these three focuses to a large extent also resulted from the now unstoppable eruption as well as growing disappointment of the villagers living in the disaster areas (see Chapter Five for this growing disappointment) to which Timnas failed to adequately respond.<sup>33</sup> Under Timnas, drilling a relief well was the last option for stopping the mud eruption, an attempt which failed because it was stopped before

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<sup>31</sup> Tim Terpadu was dissolved and its personnel were absorbed into Tim Nasional or Timnas after the latter's establishment in September 2006.

<sup>32</sup> While admitting that no research about its health impacts had been carried out, the mud was for a time promoted by the Ministry of Trade as valuable commodity for tile making (<http://www.suaramerdeka.com/cybernews/harian/0609/13/nas16.htm> accessed 25 March 2015). Despite promotion from various parties (ITS, district and provincial governments and the army) about the benefits of the mud to be materials for bricks and roof tiles due to its high silica contents, this idea never really succeeded in attracting private investments.

<sup>33</sup> Based on the priority to define boundaries of disaster-prone areas, Timnas issued 4 December 2006 dated affected area map. This map was then adopted by Lapindo as a basis to define who would be eligible for compensation, a decision which triggered wide and radical protests from Perumtas residents (see Chapter Five).

there was any result.<sup>34</sup> More frequent and bigger protests also occurred during this Timnas period (see Chapter Five).

According to a BPK (National Audit Board) report (2007), this failure was due to combination of bureaucratic and financial constraints. Instead of leveraging Timnas' performance, the involvement of top officials from various ministries/agencies actually slowed down the decision making process in the face of a rapidly growing problem. Regular responsibilities in their respective institutions prevented these officials giving enough attention to the mudflow. As well financial constraint provided a second major the hurdle as, according to Keppres 13/2006, all Timnas' expenses were under the responsibility of Lapindo Brantas.

The BPK report showed that, while Lapindo Brantas was liable for the expenses, the company could claim back their mud related expenditure from BP Migas in so-called cost recovery (see Chapter Three), as long as these claims is cleared from any legal liability.<sup>35</sup> Timnas' performance was affected by the slow way Lapindo Brantas dealt with its expenditure, as it always tried to sort out which expenses were eligible for cost recovery and which were not (BPK 2007).<sup>36</sup>

On the other hand, Lapindo Brantas doubted the professionalism of those working at Timnas. Having paid 3.3 trillion rupiah (USD 363 million, see Table 4.1) of Timnas' bills for killing the mudflow and building levees<sup>37</sup>, Lapindo

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<sup>34</sup> Relief wells are new wells which would connect to the bottom of original well. Through these new wells, heavy mud would be injected and expected to be capable of holding the pressure from the underground mudflow and stop the blowout. Drilling new wells are required because the injection could no longer be done from the original well following the permanent closing/withdrawal of rig by Lapindo on 3 June 2006. When the relief wells had not yet connected to the original well, Timnas stopped the attempt. Various reasons were given for this, among others was work safety (land subsidence was identified around the area of relief well; the surrounding area was also inundated by the mudflow). In addition, BPK also mentioned the contractor's decision not to continue the work after Lapindo Brantas failed to pay the bills (BPK 2007). The cost for relief well was USD 55.2 million (<http://news.detik.com/read/2007/04/08/192757/764364/466/timnas-pensiun-luapan-lumpur-semakin-ganas?nd771104bcj> accessed 30 March 2015).

<sup>35</sup> Lapindo's court wins against YLBHI's and WALHI's lawsuits (shown in Chapter Six) were important because they believed it absolved them from economic as well as legal liability (quite apart from the political victory that the court decisions symbolised).

<sup>36</sup> According to BPK report (2007), Lapindo Brantas submitted six applications to reimburse the expenditures it had made to cover relief wells expenses. Total reimbursement application submitted to BP Migas was more than USD 73 millions.

<sup>37</sup> Timnas' efforts to kill the mudflow were carried out in four ways namely (1) a snubbing unit (re-entry well), (2) a side tracking well and (3) a relief well. After killing the eruption failed, dropping high density chained balls into the mud vent was carried out to decrease the mud eruption volume. For details about these efforts, see <http://www.bpls.go.id/penanganan-luapan-ke-kali-porong/305-usaha-usaha-penghentian-semburan> (accessed 2 March 2015). Despite all of these

Brantas was subsequently of the view that Timnas' unsuccessful work had been useless (interview with Saifuddin, former staff at Timnas and BPLS, 14 June 2014). As it did not involve tax-payers' money, funds provided by the company allegedly created a "moral hazard" for corruption to occur:

I talked to people from Lapindo. They really hated Timnas. For them, Timnas only wasted money. Lapindo felt that it was sucked dry by Timnas ... For Timnas, it was also an opportunity because as it was not public money, and so there would be no [public] audit. Even if we corrupted this money, we won't be prosecuted unless we are brought to court by Lapindo as the one who provided the money. Timnas really used the opportunity, they could do whatever they wanted. That is why Lapindo people really hate people from Timnas (interview 14 June 2014).<sup>38</sup>

Among Timnas' expenses which raised public anger was their lifestyle. While the mudflow affected communities had to flee their homes and stayed in evacuation sites, Timnas stayed at a luxury accommodation in Surabaya. Special for Timnas, Lapindo rented an entire floor at Sommerset apartment. Members of Timnas also had their meals and transportation expenses covered by Lapindo, which could cost millions of rupiah a day.<sup>39</sup> As the social gap between the life of Timnas and that of mudflow affected communities was widened, Timnas lost trust both from local assembly members and the community members (*Detikcom* 20 December 2006).

Meanwhile, Saifuddin (pseudonym), who had been involved in mudflow mitigation since its early weeks, saw the government's slow response more as a result of political contestation than lack of resources. Linking this slow response to vested political interests, he raised his concerns:

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efforts, the mudflow is still erupting as of today albeit with decreasing volume. The present exact volume, however, is never known as the measurement equipment was already buried under the mud.

<sup>38</sup> The huge amount of money Timnas spent for underground and surface mitigation efforts also raised concerns among the affected who requested the Anti-Corruption Committee (*Komisi Pemberantasan Korupsi/KPK*) to investigate the expenditure. <http://www.tempo.co/read/news/2007/06/06/058101419/Korban-Lapindo-Pertanyakan-Dana-Rp-13-Triliun> (accessed 2 March 2015). Despite this report, KPK has not yet announced any suspects or legal actions taken related with the case.

<sup>39</sup> According to *Radar Sidoarjo* (20 December 2006), a car hire costed at least IDR 500 thousand (USD 55) a day. For meals, Timnas members would often go to the top class restaurants in Surabaya.

It was very clear that government played out its vested interest<sup>40</sup> from the beginning. Even before I started my job at the mudflow (agency)[give abbreviation of name], I believed that the government was playing games (in this case). The fact that SBY had a problem with Aburizal<sup>41</sup> was supposed to be a different matter, but the communities should not become victims of their conflict. When the mudflow first erupted, the communities were left on their own to demand their rights vis-à-vis the corporation. The state was absent in this case. People were left stranded at refuge sites (*tempat pengungsian*), it was even at the expense of the company. The state should have stepped in, while the (legal) process was underway to decide which party should be liable for the disaster (interview 14 June 2014).

### 7.3 Military involvement in the mudflow

Initially in charge of controlling the [social-political] situation in areas surrounding the levee and eruption sites in Tim Terpadu Sidoarjo, the military role was then further specified as “management of the eruption” (*penanganan luapan lumpur*) in Tim Terpadu East Java and Timnas areas. Taking a prominent role in this task was the Combat Genie Battalion (Yon Zeni Tempur) of Kodam Brawijaya, which was specifically assigned with the urgent construction of ponds to channel the mudflow away from settlements in the early weeks of the eruption. Initially only Yonzipur 5<sup>42</sup> was involved in the early stage, but military involvement was expanded when TMMD<sup>43</sup> (*TNI Manunggal Membangun Desa/United TNI Developing Villages*) was carried out. Deploying 1,400 military personnel, the program involved Yonzikon 11 and Yonzipur 10 battalions in

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<sup>40</sup> By clearly showing its reservations about taking immediate action, the Yudhoyono-led government wanted to stay clean by implicitly pointing its finger at Lapindo as the one liable for the disaster and expected it to take necessary actions.

<sup>41</sup> As already mentioned in Chapter Four, when Susilo Bambang Yudhoyono (SBY) launched his run for presidency in 2004, Aburizal Bakrie was among the first who supported his campaign. Although the exact amount of his donation is not known and his name was not on the list of financial donors for Yudhoyono’s presidential campaign, he reportedly donated a large sum of money. *Tempo* (23 November 2008) indicated that Aburizal’s donation was at least two times bigger than other fellow businessmen who supported Yudhoyono.

<sup>42</sup> Yonzipur, standing for Batalyon Zeni Tempur, is a fourth level military battle unit (after detachment, division, and brigade) with primary task to provide assistance during a battle. When there are no battles, Yonzipur is often deployed for disaster emergency response purposes. There are ten Yonzipur in Indonesia, eight are under different Kodam and the other two are under Kostrad. Yonzipur 5 is under Kodam Brawijaya.

<sup>43</sup> TMMD is the military’s revised version of New Order’s *ABRI Masuk Desa* introduced in 1999. TMMD aims to extend military’s contribution in developing isolated villages, slums, disaster affected and conflict areas (<http://news.metrotvnews.com/read/2014/12/11/330420/panglima-tni-selama-ini-tmmd-kurang-mendapat-tempat-di-masyarakat> accessed 31 March 2015). This TMMD lasted from 1 September-11 October 2006.

constructing and enlarging ponds and levees.<sup>44</sup> After TMMD, another social operation called Operasi Bhakti was also carried out by TNI in February 2007, although with much smaller number of personnel.<sup>45</sup>

For both TMMD and Operasi Bhakti, TNI charged Lapindo Brantas with bills total IDR 48.1 billion (USD 5.24 million) (BPK 2007).<sup>46</sup> Not only deploying its units on the ground, TNI was also authorized to make work contracts with private suppliers to provide materials for levee construction without having to coordinate with Timnas and Lapindo Brantas. The levee construction work itself was part of what Lapindo called “surface management” (*penanganan permukaan*) which has cost the company USD 34.15 million by January 2007.<sup>47</sup> While no corruption allegation was publicly made against TNI, the BPK 2007 report clearly showed that military related expenditure was double counted and there was an excess of construction materials provided by private suppliers which had not been resolved by the time BPK wrote its report.<sup>48</sup>

While the support of marine officers residing at Perumtas helped to build the confidence of the housing estates residents in articulating their demands (see Chapter Five), the large scale army presence in the surrounding villages for extended period in the early months of the eruption was seen by an environmental justice activist as creating a more devastating impact on the wider environmental justice movement. As suggested by the JATAM activist (interview 11 June 2014), the military presence in the area was considered a significant entry barrier for

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<sup>44</sup> Yonzipur 5 is under the the Infantry Division 2 of Kostrad, based in Pasuruan. Yonzikon 11 is Jakarta-based battalion specialized in constructing important infrastructure under Zeni Directorate of TNI.

<sup>45</sup> In this so-called Operasi Bhakti, TNI deployed 388 military personnels.

<http://www.tni.mil.id/view-4797-operasi-bhakti-tni-penanggulangan-semburan-lumpur-di-sidoarjo.html> (accessed 30 March 2015). This operation lasted until 31 March 2007.

<sup>46</sup> IDR 40.27 billion (USD 4.39 million) for TMMD and IDR 7.8 billion (USD 850 thousand) for Operasi Bhakti. As of January 2007, when BPK conducted its audit, Lapindo Brantas still owes IDR 6.5 billion (USD 737 thousand) to Kodam Brawijaya.

<sup>47</sup> By 7 September 2006, Lapindo spent USD 13.54 million for this purpose. And after the establishment of Timnas, Lapindo sent cash to Timnas another USD 20.61 million for the same purpose. Meanwhile, for stopping the eruption, through three different attempts (snubbing unit, side tracking and relief well), the company has spent total USD 37.48 million (<http://news.detik.com/read/2007/02/08/200212/740080/10/atasi-lumpur-budget-lapindo-us--140-juta-nyaris-ludes?nd771104bcj> accessed 30 March 2015).

<sup>48</sup> The double counting was found, for example, in public kitchen expenses which Kodam Brawijaya coordinated before the pipeline explosion. While its military officers were already provided meal allowances, the public kitchen still billed food expenses for these officers to Lapindo Brantas. During the military coordination, the public kitchen spent IDR 15 billion (USD 1.6 million). Double posting for food expenses for military personnel was recorded worth IDR 181.46 million (USD 19,780). The excess of construction material expenses was worth IDR 2.5 billion (USD 275 thousand)

wider civil society activists to get engaged with the affected villagers and later contributed to the weak linkages between NGOs and the affected communities (see Chapter Six for NGOs' challenges).

Compared to the other groups of mudflow affected communities, the group of affected marine officers was among the first to be given attention by BPLS. Only twenty days after his appointment as the chairman, Sunarso visited the Command Base of Navy for Eastern Indonesia (Mako Armatim) where he received a request from the Navy Commander for Eastern Indonesia (Pangarmatim) to expedite the compensation for the affected marine officers.<sup>49</sup> The resettlement program for the affected marine officers was also implemented a lot quicker. While the majority of civilian affected groups still struggled to find new homes due to the continued delay of the remaining 80 percent compensation payment, the Marine Corps had already provided replacement housing for their group in December 2007.<sup>50</sup>

#### 7.4 The role of district/provincial assemblies and the national parliament

The unprecedented mudflow hardly escaped the attention of general public, including district and provincial assembly members as well as the national parliament. Months before the magnitude of the mudflow's impact on human settlement became clear, it had already been on their political agendas. Following the eruption, Sidoarjo assembly sent a letter of recommendation to the Bupati to close all of Lapindo Brantas' existing gas wells (Antaraneews.com 15 June 2006), a call which was not followed seriously by Bupati. The East Java assembly pressured East Java Police Office to prosecute those involved in the drilling for negligence while the national parliament recommended the establishment of independent team to investigate the causes of the eruption.<sup>51</sup> Beside these political actions, their consolidated-institutional responses to the mudflow in terms of

<sup>49</sup> <http://www.tni.mil.id/view-5422-698-prajurit-koarmatim-korban-lumpur-lapindo-berharap-penyelesaian-secepatnya.html> (accessed 1 April 2015).

<sup>50</sup> Inkopal (*Induk Koperasi Angkatan Laut*) provided a loan for 673 navy/marine families to own their house in this housing estate. This 673 include marine officers and other related navy workers. Of these, 556 families live in Perumtas including 127 marine officers.

<sup>51</sup> This independent team consisted of drilling science professionals from universities which have mining departments. Chaired by Rudi Rubiandini of the Institute Technology of Bandung (see Chapter Six on his role), this team worked from 14 June 2006 through the following two weeks to investigate the causes of the eruption and to formulate technical support to stop it.

establishing of special legal ways to try and deal with the problems only came with the issuing of Perpres 14/2007.

The first initiative to establish a special task force on the mudflow came from the DPRD Jawa Timur when it decided to establish a Pansus (*Panitia Khusus*, Special Committee) on 13 April 2007. The fact that it took almost a year after the eruption for this to happen reflected the confusion over how the assembly should have responded to the disaster. Originally proposed in September 2006, the provincial assembly decide not to act because under regional autonomy the matter fell within the jurisdiction of the district government (Mirdasy 2007). The idea of a Pansus gained majority political support after continuous protests from Perumtas demanding the same cash and carry compensation as the other affected villager included in the 4 December 2006 dated map (see Chapter Five and Table 5.4).

Despite some minor disagreement,<sup>52</sup> the second time around the Pansus proposal was accepted easily. This time its political significance was not only due to external pressure from the Perumtas protests, but also because of internal pressure coming from at least three of the assembly members who were working with affected villagers (these three later became members of Pansus). Two of them owned properties in Perumtas.<sup>53</sup> No doubt helped by the attendance of Perumtas residents at its plenary sessions open to the public, this East Java Pansus adopted Perumtas demand into the so-called Resolution of the People of East Java (*Resolusi Rakyat Jatim*). As explained in Chapter Four and Five, this resolution was finally approved by the President in early April 2007.<sup>54</sup> Claiming that the insertion of Perumtas into the cash and carry compensation reflected Pansus' success in achieving its goal, it only lasted for another month and was never be revived again.

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<sup>52</sup> Disagreement about the establishment of Pansus was because the assembly's main function was to monitor the Governor, not Timnas which is regulated under Keppres. Besides, there was no provincial budget line item for mudflow expenses  
<http://www.tempo.co/read/news/2007/03/13/05895413/Efektifitas-Pansus-Lapindo-Dipersoalkan>  
accessed 30 March 2015.

<sup>53</sup> They were Muhammad Mirdasy (PPP), Jafar Shodiq and Aisyah Lilia Agustini (both from PKB).

<sup>54</sup> As explained in Chapter Four, President's addition of a larger number of Perumtas houses eligible for compensation was only accepted by Lapindo Brantas after the government promised to tackle infrastructure.

Separated only few months from establishment of the provincial assembly's Pansus, the Sidoarjo DPRD founded its own Pansus in May 2007. Differed from Provincial assembly which only lasted for a month, Pansus DPRD Sidoarjo is rather exceptional for being extended every six months until now (disbanded temporarily for one year in 2011).<sup>55</sup> This exception is particularly due to the solidarity with the mudflow victims shared by all local assembly members regardless of their political loyalties (interview with a member of the district assembly, 13 October 2012). This unanimous support and exceptional longevity of this *pansus*, however, has not translated into a powerful vehicle with which to speed up the enforcement of the rights of the affected communities. As an affected villager told me (25 March 2015), people were losing trust in the local assembly because it kept saying that it could only taking complaints and then channel them to the authorities.<sup>56</sup> In the following quotation, the district assembly member, who also sits as the *pansus* deputy chairman, says that Pansus has never been seen as an important actor, even by the affected communities:

We are facing a dilemma. because when our authority is limited, we feel bewildered ... confused ... People frequently asks favours to be able to see the Governor, Minarak, BPLS ... but when we need information about payment progress, nobody comes forward to give us any ... Even if they receive a [*cicilan*/compensation payment] transfer from Lapindo, we don't have the heart to ask for money [see Figure 5.2 for *cicilan* or compensation payment in installments]... We felt that people use us to hit and run ... they only come when they need help ... (interview with a district assembly member 13 October 2012)<sup>57</sup>

He felt worse because no members of any political elites showed interest in

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<sup>55</sup> This temporary disbandment was the result of discussions about the Pansus held in November 2010. In that internal meeting, some *Pansus* members expressed their doubts about its benefits amidst the disbanding of similar *pansus* at provincial and national levels (Pansus report 24 May to 24 November 2010). By analysing three Pansus reports submitted to the local parliament's plenary session, it appears that the majority of Pansus activities were dealing with facilitation for the communities which were demanding their villages' inclusion into maps of the "affected areas", so they could be eligible for Lapindo agreement-like compensation packages. With regards to facilitating those under Perpres 14/2007, the Pansus had supported their demand to ask the state to take over Lapindo Brantas' payment obligation to the affected (*dana talangan*). In her widely circulated letter dated 16 June 2009 (Number S-358/MK.02/2009), Sri Mulyani, the then Finance Minister, expressed her approval to provide these funds as a temporary solution to Lapindo's unpaid obligations to the affected. This letter, however, was never followed by appropriate government policies leaving Lapindo's debt to the villagers unpaid until now.

<sup>56</sup> "[DPRD] hanya menerima usulan-usulan saja. Hanya menyampaikan saja. Alasannya selalu begitu" (interview 25 March 2015).

<sup>57</sup> Kita ini dilema. Pada saat kewenangan terbatas, diombang-ambingkan ... bingung .. Warga ngebel minta tolong difasilitasi audiensi dengan Gubernur, Minarak, BPLS ... Tapi ketika kita butuh informasi soal kemajuan pembayaran, ga ada yang mau kasih data ... Seandainya pun mereka terima transferan, kita juga ga sampe hati meminta ... Koyo ngene iki dienggo tabrak-tabrakan ... wayahe njaluk tulung, wayahe kecepit thok lagi mbengok.

the mudflow. He described his feeling of helplessness in the following way:

All the political elites show reluctance in getting engaged with the mudflow. All of them. This includes those at Senayan (the location of the national parliament in Jakarta). Even when we tried to use our own respective party connections we get nowhere ... Even our Pansus still faces hurdles in seeing parliament members, even after we had sent a letter, in coordination with the (parliamentary) secretariat. We are still facing hurdles ... (interview with a district assembly member 13 October 2012)<sup>58</sup>

While this member of district assembly criticized Senayan for being not concerned with mudflow issue he and the other members had raised, the parliament played particular roles especially in policies which determined the mudflow as a natural disaster. While the establishment of Pansus in both district and provincial assemblies occurred rather easily, similar effort by national parliament members to scrutinize mitigation efforts met strong rejections particularly from Golkar and Demokrat parties. Led by parliament members from the PKB party, whose political base was deeply affected by the mudflow, political support was built since April 2007 to question President SBY in front of the parliament (*hak interpelasi*).

While the backing for this action was politically significant in the parliament's history,<sup>59</sup> this *interpelasi* failed to pass the required majority in the plenary sessions in July and August 2007. Two ways were allegedly designed by the parties opposing the *interpelasi* to thwart the motion. Firstly, they requested the plenary sessions to suspend the decision making to the next plenary session in August 2007 on the reason that the equal number of fractions in both groups made

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<sup>58</sup> *Elit politik juga ogah-ogahan. Kabeh. Wong-wong Senayan kono. Kita juga coba nge-link lewat jalur partai masing-masing. Nol ... Pansus aja mbambung. Padahal sudah melayangkan surat, sudah koordinasi dengan secretariat (DPR). Sik tetep dadi wong mbambung ...*" District assembly members' difficulty in seeing their own party political elites suggested that these elites might not make mudflow case as their top priority. Even if they did, they might find it a difficult political task particularly considering strong rejections shown by other parliament members from Golkar and Demokrat to any actions which would demand Lapindo's liability or firmer control on the part of government in the matter. Golkar and Demokrat by themselves controlled 187 and 257 parliament seats in 2004-2009 and 2009-2014 respectively.

<sup>59</sup> Five fractions which supported this *interpelasi*, were PKB, PDIP, PAN, PKS, and PPP. By contrast, five other fractions were against this motion, namely Fraction of Golkar, Demokrat, Bintang Pelopor Demokrasi, Bintang Reformasi, and Partai Damai Sejahtera. 225 parliament members signed this *interpelasi* motion. According to Aria Bima, a PDIP parliament member, this was the biggest number in the parliament's history. To become parliament's official *interpelasi*, the motion must be supported by more than half of those attending the plenary session which in turn have to be attended by at least more than half of total parliament members (<http://www.merdeka.com/politik/fraksi-partai-demokrat-ingin-ada-tim-pengawas-lumpur-lapindo-3avvyfy.html> accessed 30 March 2015).

it impossible to take decisions (*Balipost* 18 July 2007). Secondly, the session for decision making for the *interpelasi* was listed as the last agenda in 21 August 2007 plenary session. Putting it as the last session was allegedly designed to prevent the fulfillment of minimum quorum requirement and minimum votes for passing the motion as the parliament's *interpelasi* (*Tempo.co* 21 August 2007).

To support their argument against the *interpelasi* motion on 17 July 2007, Democrat parliament members argued that the government has “done enough” to mitigate the mudflow impacts, as shown by President Yudhoyono's decision to move his office for several days to Surabaya on 25 June 2007 (see Chapter Five). Apart from the decision by President Yudhoyono to move his office to Surabaya which showed his strong will to rapidly settle the compensation payment case, Democrat also argued that monitoring the implementation of existing agreements and regulations were needed more than questioning the President in front of the parliament.<sup>60</sup> To settle the deadlock on 21 August 2007 plenary session, inter-fraction lobby was carried out which resulted with an agreement to establish TP2LS (*Tim Pemantau Penanggulangan Lumpur Sidoarjo*/the Monitoring Team for Tackling the Sidoarjo Mudflow). PDIP, which had been strongly supporting *interpelasi* decided to support the establishment of TP2LS, leaving the motion considerably weakened.<sup>61</sup>

TP2LS was finally established on 4 September 2007. TP2LS had been controversial, because of its report at the end of its first 3 month term in February 2008 (see Chapter Four), but also with its final report in September 2009. Following the binding court decisions (*in-kracht*) in civil lawsuits on the mudflow (see Chapter Six for these lawsuits and litigation efforts by civil society groups), TP2LS emphasized the mudflow as a natural disaster.<sup>62</sup> TP2LS ended with the end of 2004-2009 parliament term.

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<sup>60</sup> If the parliament members supporting the *interpelasi* had the chance to question President Yudhoyono, they would likely pose critical questions with regards to the slow compensation payments, repeated failures in killing the eruption and government's power to pressure Lapindo. Regardless of these questions, the passing of *interpelasi* would likely add more political problems for Yudhoyono particularly if the parliament members use their rights to reject his answers.

<sup>61</sup> <http://www.hukumonline.com/berita/baca/ho117417/interpelasi-bersyarat-pertama> (accessed 10 April 2015).

<sup>62</sup> There were nine recommendations TP2LS made on 29 September 2009: (1) requested t all parties to respect court verdicts which declared the mudflow as a natural disaster, not human error; (2) requested Lapindo realise its commitment in tackling social issues inside the map Perpres 14/2007; (3) recommended BPLS to be given a bigger role in managing infrastructure relocation resulted from the mudflow disaster; (4) parliament should give appreciation to Lapindo Brantas

## 7.5 The rise of BPLS: “living in harmony with the mud”<sup>63</sup>

After functioning for only seven months (September 2006–April 2007), Timnas was replaced by a more permanent agency, BPLS (*Badan Penanggulangan Lumpur Sidoarjo*/State Agency for Mitigating Sidoarjo Mud) in April 2007 established through Perpres 14/2007. Differing from Timnas, BPLS had the status of an independent agency at ministerial level (*setingkat kementerian*) with financial support from the national budget, except for territorial areas where the company’s responsibility is clearly designated. The Presidential Regulation (Perpres),<sup>64</sup> on which BPLS was established, defined the boundaries between state and company financial responsibility. Later known as PAT (*Peta Area Terdampak*/Mudflow Affected Area), the defined boundaries were decided to mark the balance between the need to elevate the mitigation issue to the national level and to acknowledge politically what the company had done already. Imam Nahrowi, a national parliament member from the Surabaya–Sidoarjo electoral district recalls this about the “balance”:

We could not push the government to take over entirely because it was related to the interest of a particular political party [Golkar].<sup>65</sup> Even if we pushed it, there would be a fraction in [Parliamentary] Commission V that would refuse the demand. They [Lapindo] have also invested a huge amount of money. Whenever the government decides to take over, there would be negative effects to the company. This is about self-respect too. If politics is involved, it becomes difficult (to solve) (interview 19 October 2012)<sup>66</sup>

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and Minarak for solving social problems in Sidoarjo; (5) the parliament should compel the government to declare the mudflow as a disaster; (6) the parliament should compel the government to revise Perpres 14/2007 and Perpres 48/2008 with regards to payments for property purchase in the village of Besuki, Pejarakan, and Kedungbendo, to allow payment be made faster than those paid by Lapindo Brantas. Demands from 12 other villages (see Table 5.3 for more detailed list of villages finally included in the compensation list) also immediately needed to be considered; (7) requested both local/regional and national governments to take strategic action in mitigating the mudflow and to minimize its risks; (8) requested local government to make contingency plan to anticipate the worst scenario of mitigation and to establish continuous monitoring of the surrounding environment; and (9) recommended that the national government declare the affected site as geological site for tourism and research.

<sup>63</sup> BPLS’s Review of Strategic Plan 2010–2014 used this original translation “living in harmony with the mud” for “*hidup harmoni dengan lumpur*”. This complete BPLS document can be downloaded at <http://www.bpls.go.id/2011-07-07-21-11-25> (accessed 2 March 2015).

<sup>64</sup> Perpres No 14/2007 also set property selling–purchasing values agreed between the affected and the company. For details about this, see Chapter Five.

<sup>65</sup> He carefully avoided direct reference to a political party. But, as many people would know from the positions that Bakrie had in the Lapindo company and a “political party”, the party meant was the Golkar party.

<sup>66</sup> *Kita memang belum leluasa, katakanlah, untuk memaksakan pemerintah untuk ambil alih karena memang berkaitan dengan partai tertentu. Katakanlah kita memaksa pemerintah agar tidak tergantung pada Minarak. Pasti di internal Komisi V atau fraksi menolak itu karena*

While the general public commonly refers to “BPLS” as a single entity this agency actually consists of two separate bodies, a Supervisory Board (*Dewan Pengarah*) and an Executive Body (Badan Pelaksana/BAPEL) (see Figure 7.1 below). Ministers whose jurisdictions are related to mudflow mitigation efforts are assigned to the Supervisory Board along with four other government officials from regional and district levels. Headed by the Minister for Public Works, the Supervisory Board is in charge of giving guidance, supervising and monitoring of BAPEL’s efforts in mitigating the eruption, channelling mudflow and managing social problems and infrastructure issues that followed (Article 3 Perpres 14/2007). Despite the Supervisory Board’s important function, it is BAPEL that plays the prominent role in the day-to-day activities of mudflow mitigation and hence it is actually BAPEL which people commonly refer to when talking about “BPLS”. Differing from members of the Supervisory Board who were assigned *ex officio*, the officials of BPLS’ BAPEL are selected and hence it is the selection criteria which are subject to public criticism.

For the first officials of BPLS’ Executive Body, President Yudhoyono appointed Sunarso (chairman), Hardi Prasetyo (deputy chairman), Adi Sarwoko (secretary), Moch Soffian Hadi Djojopranoto (deputy for operational affairs), Sutjahjono Soetjipto (deputy for social affairs), and Karyadi (deputy for infrastructure).<sup>67</sup> According to Saifuddin (interview 14 June 2014), these were chosen by the President (not the parliament) with advice from Purnomo Yusgiantoro, (Minister for Energy and Mineral Resources), and Imam Utomo (the East Java Governor). Sunarso and Prasetyo were President Yudhoyono’s own selection, with the latter also endorsed by Yusgiantoro.<sup>68</sup> Meanwhile, the

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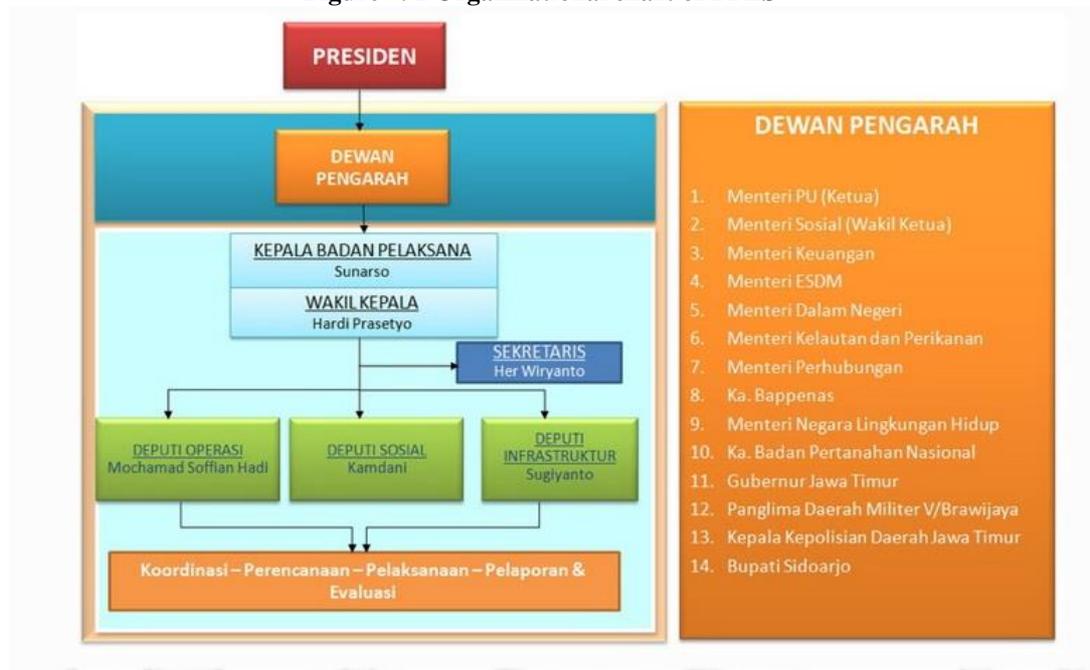
*berkaitan dengan fraksi tersebut. Mereka sudah terlanjur investasi. Investasi yang sudah mereka keluarkan cukup besar. Manakala seluruhnya diambil alih oleh pemerintah, ada dampak negative terhadap perorangan atau perusahaan. Ini menyangkut harga diri juga. Kan kalo sudah menyangkut politik, ya rumit.*

<sup>67</sup> Sarwoko was serving as an expert at the Ministry for Public Works, Soffian Hadi is a geological scientist by training; Soetjipto was a high ranking official in the East Java provincial government’s secretariat; and Karyadi was a high official from the Spatial Planning Directorate of the Ministry for Public Works <http://www.suaramerdeka.com/cybernews/harian/0704/11/nas10.htm> (accessed 3 June 2014).

<sup>68</sup> Before his appointment as BPLS deputy chairman, Prasetyo served as an expert for the Minister for Energy and Mineral Resources for 8 years. As a norm in the bureaucracy, this expert staff position is usually only held for 1-2 years before being promoted to Secretary General or equivalent position. According to Saifuddin who had known Prasetyo since 2000, Prasetyo had not been promoted because he was relatively clean person and wouldn’t give *setoran* (bribes) to his supervisors (interview 14 June 2014).

Governor Imam Utomo also recommended Soffian Hadi whom reportedly shared kinship ties with him (interview Saifuddin, 14 June 2014).

Figure 7. 1 Organizational chart of BPLS



(Source: <http://www.bpls.go.id/organisasi> accessed 2 March 2015)

The appointment of Sunarso as the chairman of the BPLS' Executive Board raised public questions whether or not he would be able to perform his job properly. For the government, with his previous military career,<sup>69</sup> Sunarso was “a man of action”. This reflected the government's assessment, they wanted a military-style person in control of the mudflow's early mitigation phase (*Detikcom* 12 April 2007).<sup>70</sup>

However for the public, it was Sunarso's military background which was part of the problem. What raised eyebrows was that he had graduated from military academy in the same year as President Yudhoyono and at the time of his appointment was an expert advisor of the Coordinating Minister for Public Welfare, a position by then occupied by Aburizal Bakrie, Lapindo's ultimate

<sup>69</sup> Sunarso served as Commander of the Diponegoro military territory for Central Java and Yogyakarta provinces between 2003 and 2006. At the end of his term, the huge Yogyakarta earthquake had made him familiar with disaster emergency works.

<sup>70</sup> See <http://www.infoanda.com/followlink.php?lh=AwUBVQAFUVQD> (accessed 2 March 2015).

owner.<sup>71</sup>

Under the chairman, there were three separate divisions directly involved in mitigation efforts: Operations; Social Affairs; and Infrastructure. The technical operations division deals with efforts to stop the eruption by channeling the mud into the nearby Porong River. The Social Affairs division is in charge of dealing with monitoring of “compensation” payments by Lapindo Brantas, providing assistance in securing social recovery, and other social issues widely defined as mudflow impacts. The infrastructure division is responsible in general for securing the existing infrastructure, planning the management of infrastructure problems and executing the construction of (new) infrastructure.

The joint operation of these three divisions was supposed to implement BPLS’ latest approach in mudflow mitigation which is called “living in harmony with the mud” (Review of BPLS’ Strategic Plan 2010-2014).<sup>72</sup> The failure of successive attempts to stop the eruption from early weeks of eruption up to January 2007 became the basis for the current master plan in mitigation efforts that primarily aim to contain the mudflow from spreading. This mudflow containment was carried out while trying to maintain the existing infrastructures of the surrounding areas (like railways).<sup>73</sup> The failure of the “keep the people away from the mud” approach, is shown in the large proportion of BPLS’ budget used for “social expenditure” (see Table 7.2 below). This latest approach by BPLS implicitly puts emphasis on avoiding the displacement of more people and existing infrastructures which no longer need to be funded or can be funded at a much lower level.

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<sup>71</sup> Yudhoyono and Sunarso both graduated in 1973 (Yudhoyono in the infantry, Sunarso in artillery). A year later, Syamsul Maarif, another graduate from their cohort, was appointed as chairman of BNPB. Both BPLS and BNPB were established through Presidential Regulation through which a President enjoys prerogative rights.

<sup>72</sup> This review can be downloaded at [http://bpls.go.id/bplsdownload/review\\_renstra/4\\_review\\_renstra\\_2010-2014\\_bab3\\_arah-kebijakan.pdf](http://bpls.go.id/bplsdownload/review_renstra/4_review_renstra_2010-2014_bab3_arah-kebijakan.pdf)

<sup>73</sup> BPLS’ Strategic Plan called the former approach “keeping the mud away from the people” and the second “keeping the people away from the mud”. The former approach, developed in the first few months of the eruption, basically aimed to kill the eruption (*mematikan semburan*) through various methods such as snubbing through high density chained balls. Despite exhausting at least IDR 1.3 trillion (USD 143 million) of Lapindo Brantas’ money, this approach failed to kill the eruption. Manifested in the selling-purchasing property agreement as specified in Perpres 14/2007, the latter approach aimed to move people from the affected areas following the failure to stop the eruption. Driven by the property purchase rate at a value which the Strategic Plan described as “very tempting” (*sangat menggiurkan*) (for the purchase rate see Figure 5.2), more and more people in the surrounding communities demanded their properties’ inclusion into the maps of “affected areas” which doomed this approach to failure as costs for purchasing villagers’ property soared.

To achieve this goal, BAPEL BPLS not only deals with the agency's "traditional" jurisdiction in channeling the mudflow to the Porong River<sup>74</sup> (falling under the Operations division) or constructing levees to contain the mudflow<sup>75</sup> (falling under the Infrastructure division). This reflects the extension of its assigned role to cover both the construction of infrastructure to support existing levees and the construction of the relocated the Porong artery road, originally adjacent to the mudflow eruption site, as well as identifying land subsidence. The importance of the infrastructure division can be seen from the Agency's 2007-2012 budget allocated to it (see Table 7.3 below).

Table 7.3 shows that infrastructure had become the top priority of the agency between 2007 and 2010, when its budget allocation was at least 50 percent of the total. Only after 2011 did the budget's top priority shift to social affairs with the soaring budget for villagers' property purchases following the issuance of subsequent revisions to Perpres 14/2007, which, as we have seen in Chapter Five Table 5.3 extended the adoption of Lapindo's property sale and purchase compensation package to the much wider communities (see Table 7.4 for the size of these communities and the allocated budget, and Map 5.6 for the enlarged affected map).

While the role of BPLS has been expanded, the roles of other state institutions in mudflow mitigation efforts have been reduced. While government efforts have been concentrated on this single agency, parliament and local assemblies have been losing interest in the mudflow. Arguing that it had already achieved its goal in demanding a "cash and carry" compensation scheme as already mentioned (see Figure 5.2), the East Java Provincial Assembly disbanded its special mudflow task force (Pansus) only a month after its establishment (April 2007). Lasting for a few more years, the Parliament's TP2LS (Team for Monitoring the Effects of Mudflow to wider society) ended in 2009 at the end of its parliamentary term with the disappointing recommendation which declared the mudflow to be a "natural disaster".

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<sup>74</sup> Since 2009, BPLS reported that it has succeeded in channelling more than 120 million cubic metres of mud to into the Porong river at a cost of 500 billion rupiah (USD 50 million) (BPLS 2010-2014 report). The full environmental impacts of this on the river have yet to be studied

<sup>75</sup> The BPLS 2010-2014 report states that by December 2013 it had built 17,060 metres high of mud-containing levees, of which 30% (5,656) metres had been subsequently submerged due to land subsidence.

While local actors felt a sense of helplessness seeing the expansion of the mudflow, the growth of BPLS with its projects worth billions of rupiah easily caught the eye of even an ordinary villager. As a special agency with unique authority to deal with the mudflow effects, BPLS carried out the projects without consultation with other parties or with minimal help from local governments, who were called on only when BPLS needed to deal with protesters. A district assembly member revealed that the assembly never received any notice from BPLS about its projects and called this agency a very powerful body without control (interview 13 October 2012).<sup>1</sup>

Although governments at sub-national level cannot formally demand accountability from BPLS, nevertheless they can request that BPLS implement any projects which are related to mudflow effects. According to Saifuddin, BPLS can in principle support sub-national government proposals as they can use up the national budget mudflow allocation. It would even mean that BPLS could request additional projects in order to justify requesting more state financing.<sup>2</sup>

If considered to be part of alleviating mudflow effects, the district government can ask BPLS to carry out a particular project. However, whether or not BPLS will really implement the district proposal will depend on whether there is a budget .[if there is a budget] it will put BPLS in a good mood. If there is no budget (for that project), they don't want to carry it out. If the budget is available, they'll be happy to do so. The more people ask for a project, the happier BPLS will be to do it ... (interview with Saifuddin, 14 June 2014)<sup>3</sup>

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<sup>1</sup> When I asked whether or not the DPRD was informed about BPLS projects, the district assembly member said : "The district assembly never receives any notice about BPLS' projects. Because the budget they use is from the national state budget, so any report they make is sent to the National Government ... They stand on their own without any control. No other institutions can provide a balance against BPLS, they're very powerful (*DPRD ga (dapat tembusan) sama sekali. Karena anggaran (BPLS) itu APBN. Jadi memang secara teknis pelaporan dan administrasi arahnya ke Pusat ... Mereka (BPLS) berdiri di kaki sendiri. Tanpa control. Ga ada lembaga yang bisa ngimbangi BPLS. Hebat*)" (interview 13 October 2012).

<sup>2</sup> Among the examples given by Saifuddin was local government's request to BPLS to deal with unemployment issues in mudflow surrounding communities. With the budget availability, BPLS happily responded to the request by holding work trainings which provided the community members capacity and skills required to be recruited by the factories located nearby.

<sup>3</sup> "Kalo dianggap bagian dari lumpur, Pemerintah Kabupaten pun akan minta BPLS yang ngerjain. Cuma kalo ngerjain apa nggak kan seneng-senengan. Kalo nggak ada anggaran, disuruh ngerjain kan nggak mau. Karena anggarannya ada, ya seneng aja. Makin disuruh, makin seneng". Some of the projects that have been carried out to mitigate so-called mudflow impacts among others were a distribution of start-up working capital for mudflow affected community members to engage in the local informal economy (such as street vendors), and various work training programs to enable individuals in the surrounding communities to get work experience before applying for jobs in the nearest factories.

### 7.5.1 Disconnectedness, undisclosed projects and corruption

Seeing an official from BPLS topped my list when I headed for my second round of fieldwork in mid June 2014. When my interview request was warmly agreed to by Hardi Prasetyo, BPLS deputy chairman, I began questioning my own assumption that villagers were disappointed with this agency because it was not open to the public. But during an interview, I had a sense of something else which I suspect contributed to people's growing disappointment with BPLS.

I didn't have to wait too long to see Pak Hardi, who gave me a warm welcome and a short introduction to his staff. Soon he brought me to a meeting hall with a big round table with a projector and screen already prepared. After a quick introduction about myself, he began showing his presentation full of hardcore quantitative scientific findings about the mudflow and interesting pictures which he claimed he had taken himself. He then continued presenting a blog he had initiated as a collection site for various research projects on mudflow and his supervisory work with doctoral students at the Surabaya Institute of Technology (ITS). (Upon Pak Hardi's invitation, one of them also presented his forthcoming journal publication in which Pak Hardi had been involved). Despite his wide research interests in the mudflow, I dared to interrupt his presentation, after realizing that I had been listening to him for almost two hours without being able to raise my own research questions. To my surprise, he refused to be interrupted and asked me to wait until he finished his presentation. At the end of his presentation he finally gave me a chance to raise my questions about social effects and corruption allegations about BPLS. He asked his staff members to answer my questions. However, the given response did not really answer my question. Not long afterwards the interview was ended.

Maybe I wasn't patient enough dealing with a paternalistic Javanese official or my interview technique was not good enough. But the fact that he preferred to use most of the interview time to talk about his own research interests led me to sense a feeling of disconnection between what Pak Hardi is doing and what BPLS has been formally assigned to do. Meanwhile, his unwillingness to give his own perspective on my questions about corruption allegations against BPLS showed his reluctance to engage in this albeit controversial but relevant issue. As shown in the following quotation, this strong interest in research mudflow mitigation

efforts was also shared by another BPLS official. Such a research interest in itself is not wrong but, according to Saifuddin, BPLS did not have a mandate to be a research institute. More importantly, the research-heavy interests in BPLS had meant a shift of resources which would otherwise be more usefully allocated for more urgent mitigation efforts within BPLS' prescribed assignments. Saifuddin expressed his disagreement:

BPLS bought a seismograph device which is useful to detect volcanoes' behaviors, which in turn is useful for when to declare alerts and evacuation stages etc. ... The device was bought and put near the eruption site. I asked the head of the operations department why we bought this device? He said, to know [the state of the mudflow eruption] better. The question is, after we know better, would we tell anyone about the behaviour of the eruption? So what is the urgency of knowing that? Just to know better? Are we a research institute? We aren't. Besides, the device costs us billions of rupiah. In the end, it wasn't used anyway (interview 14 June 2014)<sup>4</sup>

I also captured this sense of disconnection when I visited mudflow-surrounding villages. There were at least two physical things that I found confirming this sense of disconnection and concerns about the waste of resources as raised by Saifuddin. Firstly the construction of a monument showing sub-district boundaries (*tugu penunjuk batas kecamatan*) near the old toll road with nearby kampongs already vacated (see Figure 7.2). While it looked recently built, the monument had been left unmaintained with some of its signs already fallen off. With no more people living around the area (except some farmers who occasionally come as the asphalted road provides a good warm surface to quickly dry their rice), the monument invited cynical comments from an affected villager who said it was an example of BPLS' "useless projects" (interview with Wiyono, 20 September 2012).

I found the second physical evidence of disconnectedness when I visited the Porong River estuary. Along the way to the estuary, on the back of a motorbike, I realized that I was passing along a smooth asphalt road on the south of the river. With only a handful of kampongs as potential beneficiaries of this road project, this 15 kilometre long road costing 61 billion rupiah (USD 6.1 million) (Review

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<sup>4</sup> *BPLS dulu beli alat seismograf yang diperlukan untuk mengetahui perilaku gunung api, menentukan kasus siaga dsb. Itu dibeli, ditaruhlah di dekat semburan. Saya tanya deputy operasi kenapa beli alat itu? Supaya kita tahu. Terus kalo kita tahu, trus kita mau woro-woro? Trus untuk apa urgensinya? Sekedar tahu saja? Terus, emangnya kita lembaga penelitian? Kan bukan. Nilainya miliaran juga. Akhirnya nggak dipake.*

of BPLS' Strategic Plan 2010-2014)<sup>5</sup> certainly raises question about the project urgency and who are the actual biggest project beneficiaries. Comparing this road with the expected goals of other BPLS road projects, Saifuddin asserted it should not have been a priority.

If I had to put make a priority list, the relocation of Porong main road and toll road are certainly urgent. The other projects have lesser priorities. The road project from Tulangan to Mojosari was carried out on the Governor's request to relieve traffic on Porong main road particularly approaching Lebaran [end of the fast month]... But with regards to the road from Besuki to Tlocor (the inspection road of the Porong river), I think that is not really important. The project proposal was from the BPLS infrastructure deputy head (interview 14 June 2014)<sup>6</sup>

Figure 7.2 Subdistrict boundaries monument built by BPLS



The sign on the right is supposed to say “Kecamatan PORONG” (Porong Sub-district), the one on the left “Kecamatan Tanggulangin”.

(Picture source: Author)

pictures should be labelled as Figures

As someone who had been working inside BPLS, Saifuddin knew that the development of that road project was initially triggered by protests from Tlocor villagers who complained about the destruction of their village road that BPLS'

<sup>5</sup> In this document the road is called *jalan inspeksi kali porong*. This document can be downloaded at <http://www.bpls.go.id/2011-07-07-21-11-25?download=116:lampiran> accessed 4 March 2015)

<sup>6</sup> *Kalo saya mengurutkan prioritas. Jalan raya Porong harus, termasuk memindahkan tol itu harus. Yang selebihnya itu prioritas berikutnya ... Kalo yang Tulangan ke Mojosari itu atas permintaan Gubernur untuk mengurai kemacetan terutama ketika itu menjelang mudik lebaran ... Tapi kalo soal jalan yang dari Besuki ke Tlocor, itu yang saya anggap urgensinya tidak terlalu penting ... Itu usulan deputi infrastruktur.*

overloaded trucks carrying dried mud were making.<sup>7</sup> But, for him, protest must not always be translated into projects because building trust and communication are sometimes all we need to solve the problem (interview 14 June 2014). Meanwhile, quoting information provided by BPLS, Imam Nahrowi suspected the Tlocor road project was a way to expand BPLS' role but the final result was wasting the budget:

With regards to the Tlocor road, they (BPLS) wanted an expansion. They told me they want to create a new tourist destination in the estuary. To do that, they have to build access to the location at an earlier stage. Whatever the reason was, I think it was BPLS' way to maximize budget expenditure for a useless goal ... The road is seldom used by tourists ... I don't think it is for economic development either because the settlement is far from the road. But again, my question is did they carry out the project transparently? According to the rules, did they tender? That is what they still keep undisclosed (interview 19 October 2012).<sup>8</sup>

This parliament member's concerns about BPLS' undisclosed projects were shared by Saifuddin. While he recognized that the disaster emergency has been frequently quoted as a reason to justify the undisclosed nature of some BPLS projects, and thus avoid a predicted lengthy process in open tenders, he questioned why their ability to predict or assess future potential hazards was not adopted which could avoid blanket use of the disaster for justifying avoidance of open tendering. He recalled his dialogue with his supervisor about this:

I had discussed this with my colleagues. Before 2007, direct appointment (*penunjukan langsung*) [of contractors] was allowed only for projects worth under 50 million rupiah. Meanwhile, all of BPLS projects were worth billions. Why has BPLS continuously used direct appointment of contractors? Before being answered, I understood that this is a disaster, an emergency. If we have open tenders, by the time we have the winner, the levees would have collapsed. I understood that. But there are occasions that cannot be classified as emergencies, as we actually know that it was going to happen. I have discussed this matter with the head of the Infrastructure division. A disaster comes in a sudden manner and we are not ready for it. But, if we face it everyday, it is no longer a disaster. Because we already know that ... (for example) the levees have submerged this much ... (responding to my question) He hit the table. And then asked me "Are

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<sup>7</sup> In Tlocor, the village on the estuary, BPLS trucks had done work projects in relation to managing the mud sedimentation. Mudflow sedimentation in the estuary has been consolidated to form a man-made island, popularly called Sarinah island. This island has been earmarked as a new tourism destination in the district.

<sup>8</sup> *Terkait Tlocor itu, mereka pengin ekspansi. Pada saatnya mereka mau bikin pusat wisata di situ. Sehingga aksesnya harus dibangun lebih awal. Tapi lebih dari itu, itu memang cara BPLS untuk buang duit ... mubadzir banget. Karena jalan itu jarang dipake oleh masyarakat untuk wisata disitu. Karena untuk pengembangan ekonomi, itu agak jauh dari penduduk. Tapi lagi-lagi, pertanyaan saya adalah apakah itu dilakukan secara terbuka? Lewat mekanisme sesuai aturan, tender? Itu yang mereka close sampe sekarang.*

you BPLS employee or NGO activist?” (interview 14 June 2014)<sup>9</sup>

BPLS’ website<sup>10</sup> confirmed the prolonged direct awarding of contracts in mudflow projects that had become Saifuddin’s concern, at least in projects related to channeling mudflow out of levees into the Porong river. As pointed out by Saifuddin, the emergency character of disaster has led BPLS particularly between 2009-2011 to turn to direct awarding of contracts instead of open tenders as the latter was considered to carry more profound risks:

(The) continuous nature of the character of the disaster made it impossible for this (mudflow channelling out of levees) activity to stop/be halted in the longer term. This condition left BPLS with limited choices between 2009 to 2011 except to directly appoint service providers believed to have adequate experience to maintain sustainable activities. Direct appointment [of service providers] at the time “must” be done considering the relatively high rate of mudflow eruption (between 75,000 – 10,000 m<sup>3</sup>/day) made BPLS decide not to take risks by carrying out open tenders which take a longer timeframe. Only in 2012 and 2013 BPLS decided to carry out open tenders (through e-procurement) although there were only a few interested parties (maximum 3 participants) and only two that provided offers (website BPLS, 5 March 2015)<sup>11</sup>

For Saifuddin, the fact that many BPLS officials are from the Ministry of Public Works (PU) was a further concern. This concern was particularly related to the lack of transparency commonly found in the projects where the Ministry has been involved.<sup>12</sup> While he believes that those working at BPLS are more publicly

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<sup>9</sup> *Saya pernah diskusi dengan kawan-kawan (BPLS). Dulu sebelum 2007, penunjukan langsung hanya boleh untuk proyek di bawah 50 juta rupiah. (Proyek BPLS) ini semua kan nilainya miliaran. Kok penunjukan langsung, terus-terusan? Sebelum dijawab, saya ngerti kenapa penunjukan langsung. Karena ini darurat. Kalo kita tender-tenderan, (tanggul) keburu jebol. Saya ngerti. Tapi ada yang sebenarnya tidak darurat karena kita tahu itu akan terjadi. Saya pernah ngomong dengan deputi infrastruktur. Pak, bencana itu kan datangnya tiba-tiba, kita tidak siap. Tapi kalo tiap hari kita hadapi itu bukan bencana lagi. Karena kita sudah tahu ... (misalnya) ini turun sekian senti ... Dia gebrak meja ... trus (bilang) kamu ini pegawai BPLS atau orang LSM?*  
<sup>10</sup> <http://www.bpls.go.id/penanganan-luapan-ke-kali-porong> accessed 5 March 2015.

<sup>11</sup> *Sifat bencana yang “berkelanjutan” dalam arti semburan lumpur yang terus-menerus berlangsung tidak memungkinkan kegiatan ini berhenti/vacum dalam kurun waktu yang terlalu lama. Kondisi demikian yang membuat BPLS pada TA 2009 s/d 2011 tidak memiliki pilihan selain menunjuk langsung penyedia jasa yang diyakini memiliki pengalaman yang cukup, untuk menjaga kegiatan yang berkesinambungan. Penunjukan langsung ini pada saat itu “harus” dilakukan mengingat volume semburan yang masih sangat tinggi (sekitar 75.000 -100.000 m<sup>3</sup>/hari) membuat BPLS tidak berani mengambil resiko dengan melakukan pelelangan terbuka yang memakan waktu lama. Baru tahun 2012 dan 2013 BPLS berani melakukan lelang terbuka (melalui e-procurement) meskipun peminatnya sangat sedikit (maksimum 3 peminat) dan yang memasukkan penawaran cuma 2 peserta.*

<sup>12</sup> *“BPLS is full of people from the Ministry for Public Works ... excuse me [for being honest], people from this ministry have been playing with projects since they were born” (BPLS dipenuhi orang-orang PU (singkatan lazim merujuk pada [Kementerian] Pekerjaan Umum) ... Mohon maaf ... orang PU itu kan lahirnya sudah proyek) (interview 14 June 2014).*

accountable than those at PU, he admitted that there are some weaknesses in BPLS projects that lead to corruption. His conversation with BPLS sub-contractors revealed this potential corruption:

I asked s BPLS sub-contractor. Is BPLS corrupt (*main kotor*)? [I asked] He replied, [that] compared to BPLS, PU is more corrupt. They would not only mark-up the project value, but also reduce the project volume. For example, if the design specification says have a 10 km long road with 15 centimeter-asphalt depth, they would reduce the depth to 12 cm, and reduce the length into 9.8 km. What about BPLS? BPLS does not reduce the volume, but they still mark the value up and we have to pay cash too [to BPLS officials] (interview 14 June 2014)<sup>13</sup>

For some villagers who had worked in BPLS, their corruption practices were no longer potential but actual. For Budi (pseudonym), who had been involved in its logistic/procurement department, corruption inside BPLS not only involved lower rank employees like himself and security officers, but also involved influential officials with corrupted assets worth hundreds of millions of rupiah:

I was in the logistics department, in charge of checking requirements of materials from suppliers. I could see money passing in front of me ... 100, 200 million, half billion sometime. Deciding to play their game) I would not approve [the purchase of materials] if they did not give me money, even though the materials were actually meeting the required specifications standards. I would act by saying that the material is not meeting the required specification ... One day, a bill worth 250 million came but without being accompanied by materials. I was tracking down the materials in Surabaya, Somerset ... No luck. And then a BPLS official told me that the materials are with him. Okay, I just took a note about it. Afterwards, he handed me 5 million. "What is the money for?" I asked him. I received a text message saying that the money is part of what I have been searching for. Every one is playing the game (interview 29 September 2012)<sup>14</sup>

<sup>13</sup> "Saya tanya ke kontraktor. BPLS mainnya kotor nggak? Kalo dibandingin BPLS, PU lebih kotor. Mereka (PU) tidak hanya me-mark up nilai proyek, tapi juga mengurangi volume proyek. Misalnya, jika jalan tadinya sepanjang 10 km, dengan tebal 15 centi, nanti jadinya sepanjang 9,8 km dan tebal 12cm. Kalo BPLS? Kalo BPLS volumenya tidak dikurangi., tapi bahwa itu di-mark up kita harus ngasih. Itu ya" (14 June 2014)

<sup>14</sup> "Aku di bagian logistik, kebagian tugas mengecek kualitas barang dari pemasok. Duit di aku cuma lewat saja. 100, 200 juta. Kadang sampe setengah milyar. (Aku putuskan ikut main) Aku gak akan loloskan barang kalo aku gak dikasih uang, meskipun barangnya sebenarnya memenuhi standar. Spec-nya kurang Pak, karena untuk lumpur, begitu aku berkilah biasanya ... Suatu hari, tagihan datang senilai 250 juta tapi gak disertai barang. Aku cari ke Surabaya, somerset. Ga ada terus ada pegawai BPLS ... Dia bilang barangnya di aku. Ya sudah, aku catat saja. Setelah itu aku dikasih 5 juta. Duit apa ini? Lantas ada sms: itu bagian dari barang yang kamu cari. Semua orang bermain".

As a state agency, particularly with the lack of transparency and corruption allegations raised against it, BPLS should have been under rigorous financial monitoring. However, for various reasons, the necessary supervision over its public budget expenditures was weak. While a Parliament member argued that the national parliament could not do much with BPLS as it was governed by Presidential Regulation,<sup>15</sup> he himself admitted that he did not have the heart to raise his voice whenever the parliament (Commission V) was having a hearing session with the agency. He asserted that BPLS is run by a group of retired people that he does not have the heart to admonish (interview 19 October 2012).<sup>16</sup> Instead, he expected that the National Audit Agency, BPK, should have taken a lead in monitoring BPLS.

On the other hand, BPK showed no further interest in the mudflow because BPLS' budget was far less than other government ministries and agencies (interview with BPK expert staff, 12 June 2014).<sup>17</sup> Even if they have been awarded the most transparent audit level at BPK's system (*Wajar Dengan Pengecualian*) since 2010,<sup>18</sup> the audit did not really address the crucial financial issues such as corruption. The following quotation from Saifuddin shows how he distrusted the BPK's audit system:

BPK did check BPLS' financial transactions in the field ... But, as commonly known, after being so critical during the day, asking people to calculate this and that ... in the evening, BPK people will ask for a karaoke night ... And then when they are about to depart to Jakarta, we bring

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<sup>15</sup> Since BPLS was established under a Presidential Regulation (*Perpres*), it certainly falls within the domain of the President's prerogative right of control. The Parliament (DPR) deals only with institutions regulated under Laws (*Undang-Undang*) whose establishment would require the DPR's involvement.

<sup>16</sup> "*BPLS kan kumpulan wong tuwek-tuwek .. wis pension-pensiun yang dipelihara ... kadang gak mentolo nyeneni*".

<sup>17</sup> In 2013, the state budget allocation for BPLS was 2 trillion IDR. This allocated budget is certainly far below the top four ministries/ with the biggest budgets, Defence (IDR 81 trillion/USD 9 billion), Public Works (IDR 77.9 trillion/USD 8.6 billion), Police (IDR 45 trillion/USD 5 billion), and Religious Affairs (IDR 43.9 trillion/USD 4.8 billion)

(<http://finance.detik.com/read/2012/11/01/130540/2078539/4/kementerian-lembaga-dengan-anggaran-tergendut?f991104topnews> accessed 2 March 2015). However, the BPLS budget was still bigger than those of the Anti-Corruption Commission (IDR 662.4 billion/USD 72.8 million), National Agency for Migrant Workers (IDR 364 billion/USD 40 million), Constitutional Court (IDR 186 billion/USD 20.5 million), or National Commission for Human Rights (IDR 69.6 billion/USD 7.7 million) (<http://www.jpnn.com/read/2013/06/20/177802/Anggaran-Lapindo-Kalahkan-KPK,-KY,-dan-MK> accessed 2 March 2015)

<sup>18</sup> There were four levels of audits from BPK. From the highest to the lowest are Unqualified Correct (*Wajar Tanpa Pengecualian/WTP*), Qualified Correct (*Wajar Dengan Pengecualian*), Adverse Opinion (*Opini Tidak Wajar*), and No Opinion Given (*tidak memberikan opini*).

packages for them. Various packages. Some are heavy, some are in envelopes ... (interview 14 June 2014)<sup>19</sup>

### 7.5.2 Crime and violence: the unintended social consequences

As already mentioned earlier in this and preceding Chapters, Perpres 14/2007 has been revised several times (see Table 5.3) to include more communities within an enlarging zone on the map of those affected and thus making them eligible for Lapindo agreement-like compensation. While these revisions provide better choices for the respective communities to move away from the mudflow effects, they created unintended social consequences for other communities in a different way. With more communities being compensated means larger areas will be evacuated, as those eligible for compensation have to vacate their kampongs within a year after the payment. These large no longer inhabited areas have become a threatening territory for those living in villages to the east of the zone now within the mudflow levees.

The village of Permisan is one of these villages. Located to easternmost area from the levees, with its main entrance from Porong road are no longer inhabited kampongs, Permisan has become more isolated than ever before. With greater isolation, Permisan villagers are becoming more concerned about their safety, particularly during the night. According to a member of district assembly originally from the village, this condition has changed the way people see their village and their mobility:

My kampong is in the east. With the newest revision of Perpres, there are only two kampongs left, namely Keboguyang and Permisan. Social dynamics are certainly different from before. In the past, if we went to or from Porong there were kampongs on both sides of the road. But, nowadays, there are only levees. It certainly feels different. People's mindsets have changed. When the remaining roads become mudflow levees, it will create an event more threatening future for people still living there ... Because there is where criminals operate (interview 13 October 2012)<sup>20</sup>

<sup>19</sup> "Aduh Mas ... BPK memang turun ... Cuma ya gitu, habis siang kritis, perintahkan orang coba hitung sana-sini ... malamnya ayo kita karaoke bareng-bareng ... Trus dibawain bingkisan pas pulang ke Jakarta. Bingkisannya macam-macam lagi. Ada yang berat, ada yang amplopan".

<sup>20</sup> "Kampungku di sebelah timur. Pasca Perpres terbaru ini tinggal 2 kampung, Keboguyang dan Permisan. Dinamikanya jelas lain. Dulu kalo kita lewat dari dan menuju jalan Porong, di kanan-kiri ada kampong. Sekarang tinggal tanggul. Ya lain to. Mindset masyarakat sendiri dipaksa harus berubah. Dengan ancaman kalo jalan yang ada akan dijadikan tanggul, itu juga momok bagi warga yang tinggal disitu. Karena di situ sarangnya begal".

Increasing crime has been the latest concern for the remaining villagers, with large vacated areas of land and a lack of street lighting primary factors behind the rise petty crimes in the surrounding areas:

Who said that there is no crime? How many motorcycles have been stolen? There were two cases only yesterday. It's scary. If we pass these levees, there would be crime/theft threats. If we go through Glagaharum, there are also some quiet roads. People, especially parents, are thinking differently with the presence of these threats. Now people remind each other, beware of thieves! All roads to Permisan are quiet. These are all roads constructed by BPLS (interview with a member of district assembly 13 October 2012).<sup>21</sup>

Similar concerns about a rising petty crime rate were also shared even by villagers like those living in Tlocor which has benefited from the construction of the so-called *Jalan Inspeksi Kali Porong* mentioned earlier. As suggested by Saifuddin:

After the road construction, it was expected that villagers will have a good sleep at night. Not really. Nowadays many cows and goats go missing. Stolen. In the past it was difficult to run away with livestock. But after the road construction, just bring the ute, load the livestock aboard, and then you can easily run away (interview 14 June 2014).<sup>22</sup>

With only 33 security officers, who have to work in shifts, BPLS is unlikely to be able to deal with people's security concerns particularly with the enlarging vacated areas.<sup>23</sup> According to a member of the district assembly, with minimal responses from relevant authorities, the remaining villagers do not have many other options except to use violence with a less effective impact of deterrence against future crimes:

Responding to the increasing crime rate, now in my kampong every thief caught red-handed will be killed. The price is death. It has now become the

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<sup>21</sup> "Siapa bilang ga ada kejahatan? Berapa sepeda (motor) yang sudah hilang? Sehari kemarin ada 2 kasus. Mengerikan. Kalo kita lewat situ ada ancaman (begal) itu. Kalo lewat Glagaharum juga ada jalan yang sepi. Itu juga ancaman. Jadi mindset masyarakat, terutama orang tua, sudah berubah dengan adanya ancaman itu. Sekarang lazim orang bilang awas begal. Semua jalan ke Permisan sama-sama sepi. Produk BPLS semua".

<sup>22</sup> "Setelah pembangunan jalan, orang mengira bisa tenang. Gak juga. Sekarang banyak sapi, kambing hilang. Dicuri. Dulu susah bawa lari ternak. Sekarang, setelah jalan dibangun, tinggal bawa kendaraan, naikkan ternak, lalu bawa lari".

<sup>23</sup> Under Perpres 14/2007 the vacated land area under Lapindo's responsibility is 640 hectares. With the inclusion of more communities (according to Table 7.4, another 556 hectares are to be added), there would then be a near doubling to more than 1,000 hectares to be monitored by only 33 security officers.

way the people thin. If caught, you get killed. No more tolerance (interview 13 October 2012).<sup>24</sup>

The above “death sentence” by people’s hands is scary enough and very likely led to this threatened community initiative in dealing with crimes producing a vicious circle of violence. This violence is certainly the opposite to what BPLS have essentially promised to deliver: post-disaster safe communities.

## Summary

This chapter shows that government responses to the disaster have been widely perceived as very slow, deviating from priorities, and full of corruption practices. Particularly in the early months of eruption, the slow pace of government action in mitigating the mudflow impacts were the results of complications surrounding various issues; from an unwillingness on the government’s part to take the mudflow as a matter of urgency (based on the belief that the eruption would die down by itself) to the absence at that time of a national framework to deal with such a disaster.

With the mudflow eruption continuing with ever increasing effects, criticisms were firstly directed at Lapindo, then at the short-lived local and provincial agencies, then at the failed attempts of national agency Timnas, but was particularly extended against BPLS. As the special agency established by the President to deal with the mudflow disaster effects, BPLS was unrestricted in what it could do as its accountability was only to the President. BPLS’ room to move was due to two factors. The first was the meaning of “disaster” which entailed a sense of emergency and thus justified the agency to skip regular time-consuming procedures of contracting projects through open tendering. Instead, claiming “urgency” and “emergency”, it used direct appointments of contractors (*penunjukan langsung*) to expedite its disaster effect-related projects, such as channelling the mudflow out of levees into the Porong river between 2009 and 2011. The second factor was that the “effects” have been understood in a very broad way incorporating many ideas from projects directly linked to the mudflow such as levees, to other infrastructure projects whose linkages have less things to do with stopping the mud or channeling the mudflow to the river.

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<sup>24</sup> *Di kampung saya, karena makin maraknya kejahatan, ketika (ada penjahat) ketangkap, bunuh. Harga mati. Itu sudah menjadi mindset dari warga. Kalo ketangkap harga mati. Ga ada toleransi.*

Together with this flexibility in its boundaries are the “professional” backgrounds of those working at BPLS and its special legal status that requires only minimum supervision and consultation with other state instrumentalities. This, along with the fact that many of those filling BPLS positions had long employment histories with the Ministry for Public Works which was widely known for corruption, raised concerns about the agency’s priorities and lack of transparency. BPLS’ establishment by Presidential Decree rather than by the national parliament, made it responsible only to the President, with minimum consultation with other actors has only made the situation worse. All these factors have created opportunities for corruption.

Ironically, this unchecked growth of BPLS has taken place amidst a repeatedly suspended progress of payments by Lapindo Brantas company to those affected communities. It is no wonder that they have directed so much anger and frustration against BPLS.

**Table 7. 1 List of state and government institutional responses to deal with the mudflow (in chronological order)**

Name	Legal/political basis	Assigned Tasks	Work duration	Major social changes taking during the period
Independent Team of Ministry for Energy and Mineral Resources (Ministry E&M)	<ul style="list-style-type: none"> <li>• Recommendation from a meeting between the national Parliament's Commission VII with Ministry E&amp;M, BP Migas and Lapindo Brantas on 12 June 2006</li> <li>• Minister E&amp;M decision letter No. 2231 K/73/MEM/2006</li> </ul>	To investigate the causes of mud eruption	14-27 June 2006	-
Tim Terpadu Sidoarjo	Sidoarjo Bupati's decision letter (SK-Surat Keputusan) No. 188/689/404.1.1.3/2006	controlling social-political situation; technical means to stop the eruption, social rehabilitation and public relations	15 June-8 September 2006	Cash payment for smell and pollution ; rice fields leasing agreement; compensation for levee event
Tim Terpadu East Java	Governor SK No. 360/1417/KPTS/031/06	stopping the eruption; handling the mudflow, and handling social issues	19 June-8 September 2006	Cash payment for smell and pollution ; rice field leasing agreement; compensation for levee event
Tim Nasional (Timnas)	Keppres 13/2006	stopping the eruption; handling the mudflow, and handling social issues	8 September 2006-14 April 2007	4 December 2006 dated map March 2007 dated map; cash carry agreement at district level
Mudflow task force at provincial assembly (Pansus East Java DPRD)	Plenary session on 12 March 2007	Supporting cash and carry compensation payment (see chapter 5 ??)	13 March-13 April 2007	<i>Resolusi Rakyat Jatim</i> ; 22 March 2007 dated map
Mudflow task force at district assembly (Pansus DPRD Sidoarjo)	Plenary session on 22 May 2008	Monitoring implementation of agreement between Lapindo Brantas and the affected villagers; facilitating communities outside 22 March 2007 dated map (Perpres 14/2007) to articulate their demands with relevant authorities	Mei 2007-present	Facilitating the mudflow affected victims to meet with Lapindo parliament, ministries
BPLS	Perpres 14/2007	managing the eruption; handling the mudflow, and handling social and infrastructure issues	April 2007-present	Adding another 556 hectares to the existing 669 hectares with Perpres 14/2007. The total still remains at 1225 hectares today
TP2LS	Parliament plenary session on 4 September 2007	Monitoring	September 2007-2009	

State/government responses to the Lapindo mudflow

Research team for habitability of mudflow affected settlement (Tim Kajian Kelayakan Pemukiman akibat Lumpur	Governor's SK No. 188/158/KPTS/013/2008	To assess habitability and safety of 9 villages, the total affected up until now (give names of all nine)		Data support for enlarging affected map areas and map revisions
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Sources: Author's own fieldwork (2012, 2014) and library research

**Table 7. 2 BPLS budget expenditures by divisions 2010-2013 (in billion IDR)**

Division	Allocated budget (in billion IDR)	Allocated budget (in USD)	% total budget	Actual expenditure (in billion IDR)	Actual expenditure (in USD)	Actual to realized (%)	% of total budget expenditure
Operation	560.152	53,705,848	9.20	356.326	34,163,566	63.61	8.74
Social affairs	3,407.484	326,700,287	55.96	2,399.744	230,080,920	70.43	58.86
Infrastructure	2,023.845	194,040,748	33.24	1,237.596	118,657,335	61.15	30.36
Administration /Organization	97.204	9,319,655	1.60	83.336	7,990,029	85.73	2.04
<b>TOTAL</b>	<b>6,088.685</b>	<b>583,766,538</b>	<b>100%</b>	<b>4,077.002</b>	<b>390,891,850</b>	<b>66.96%</b>	<b>100%</b>

(Source: BPLS Sidoarjo Mudflow Mitigation Report 2010-2014)

**Table 7. 3 BPLS' budget allocation by divisions 2007-2012 (in billion IDR)**

Division	2007		2008		2009		2010		2011		2012	
	Amount	% Total Allocation	Amount	% Total Allocation	Amount	% Total Allocation	Amount	% Total Allocation	Amount	% Total Allocation	Amount	% Total Allocation
Infrastructure	372.5	74.5%	583.89	53.1%	701.77	61.1%	764.31	62.8%	565.81	44.0%	244.52	15.9%
Social affairs	0	0.0%	227.76	20.7%	259.91	22.6%	249.97	20.6%	608.37	47.3%	1118.62	73.0%
Operation	111.85	22.4%	272.78	24.8%	169.05	14.7%	184.68	15.2%	89.11	6.9%	143.49	9.4%
Administration/Organization	15.65	3.1%	15.57	1.4%	17	1.5%	17.14	1.4%	22.75	1.8%	26.72	1.7%
<b>TOTAL</b>	<b>500</b>	<b>100.0%</b>	<b>1100</b>	<b>100.0%</b>	<b>1147.73</b>	<b>100.0%</b>	<b>1216.1</b>	<b>100.0%</b>	<b>1286.04</b>	<b>100.0%</b>	<b>1533.35</b>	<b>100.0%</b>

(Source: BPLS materials for hearing sessions with Commission V of National Parliament, 30 November 2009 and 12 March 2012; <http://bpls.go.id/pembiayaan/64-pembiayaan-ta-2007-s-d-2009> and <http://bpls.go.id/pembiayaan/65-realisisi-apbn-ta-2010-dan-rencana-kegiatan-tahun-2011> accessed 2 March 2015)

**Table 7. 4 BPLS' expenditure based on villagers' property sale and purchase agreement (2012)**

Reference term for compensated groups	Legal basis	Area size (in ha)	Number of property claims for compensation	Allocated budget for property purchase (in billion IDR)	Allocated budget for property purchase (in USD)	Amount paid (in billion IDR)	Amount paid (in USD)
3 villages	Perpres 48/2008	95	1,792	627.78	60,189,837	512.36	49,123,681
9 RT (sub-village association)	Perpres 68/2011	45	804	580.74	55,679,769	387.93	37,193,672
99 RT	Perpres 37/2012	415	6,230	2,828.36	271,175,455	1,817.10	174,218,600
<b>TOTAL</b>	-	<b>556</b>	<b>8,826</b>	<b>4,036.89</b>	<b>387,045,061.00</b>	<b>2,717.38</b>	<b>260,535,953.00</b>

(Source: Personal communication from BPLS, email dated 30 September 2014)



## Conclusion

The Lapindo mudflow eruption in its urban context was unprecedented and it has become a high profile case over the past eight years, in part because of the involvement of Aburizal Bakrie (once Indonesia's richest indigenous businessman and at the time serving as the Coordinating Minister for Public Welfare), that studies about it have proliferated. I have a long interest in this subject, since working there firstly as a research assistant and then later as an NGO activist between 2009-2010 before beginning my fieldwork in 2012.

In a "rather crowded" research field, I was challenged to find my own path to an understanding and an explanation of the disaster. As much as the existing literature on the mudflow has contributed to this understanding, my own approach was to combine my knowledge from disasters and environmental justice literatures with interviews in the field with those who have experienced what has happened first hand. Learning from disaster literature enabled me to think more deeply about the origin of and perceptions about the mudflow disaster and its impacts. The environmental justice literature helped me to gain a better understanding of the struggle of those affected who continue to demand justice from liable parties. My understanding was concerned not only about values but also about public involvement in decision making processes. This understanding was enriched by my fieldwork as I was exposed to the contending perceptions about the mudflow and its mitigation existing within the mudflow affected communities, larger civil society groups, Lapindo/Minarak company, as well as state institutions. The fieldwork has also deepened my understanding as it revealed social, legal as well as political challenges faced by civil society groups in demanding the environmental justice.

Based upon this "knowledge marriage", this thesis formulated three research questions: (1) how the Lapindo mudflow originated, (2) how the mudflow became a continuing disaster and (3) what kind of challenges and opportunities did civil

society groups have in demanding “justice” (a concept which took multiple forms as it varied between different groups of the affected villagers).

My endeavours to answer these questions, I believe, have separated me from other mudflow researchers in at least two ways. Previous studies examined events occurring over shorter periods than my later study did. Being in a position to examine what happened over eight years (2006-2014), this research period enabled me to analyse contemporary changes and also to capture the transformation of the earlier changes brought by the eruption. Secondly, these endeavors have allowed me to study this disaster case at a higher level of abstraction which I believe can make a new theoretical contribution to the Lapindo mudflow research field in particular and Indonesian disaster studies in general.

Elaboration of these three questions led me to introduce the concept of “production of disaster”. This concept raises the involvement of social structural factors in the making of a disaster and its prolonged impacts. Not limiting its terrain only to concepts and interpretations, the process of “making the disaster and extending its impacts” also takes place at everyday practice levels through negligence and inadequate capacity of those in charge (which brings societies closer to risks); inadequate responses prolonging the actual impacts; and political, legal, and social constraints prevent the immediate rehabilitation of the rights of the affected. The latter happens particularly when the conflicting interests of political elites prevent deployment of resources which are urgently needed for rehabilitation purposes; the limitations of the existing justice system to effectively remedy grievances of the affected villagers; and civil society actors find political and social limitations in getting engaged and in sustaining their engagement in the movement for rehabilitation of communities. As shown in the following elaboration of the three thesis questions, I argue that the Lapindo mudflow represents an excellent example of the application of this concept of the production of disaster.

#### (1) The origin of the Lapindo mudflow disaster

The question of how Lapindo mudflow happened has been particularly addressed in Chapter Three. Understanding the disaster as a social phenomenon

with pre-existing social structural conditions which determine the emergence of disaster and its impacts the chapter rejected any notions that assume the mudflow eruption was simply a natural disaster. Instead of taking it as “accidental”, the chapter argued that the disaster has been a consequential feature of the local society, justifying this assertion through its investigation of existing policies and practices surrounding national governance of oil and gas, local civil society governance and the malpractices of oil/gas exploration at the actual drilling site.

The chapter showed that privatization of oil and gas following the introduction of Law No 22/2001 was not accompanied by adequate measures to monitor drilling activities and capacities of the companies involved. The transfer of authority in regulating upstream oil and gas from the previously dominant Pertamina to BP Migas, as stipulated by the Law 22/2001, left enormous work safety issues which were unresolved by the time the mudflow erupted. While privatization also led to a proliferation of interests in exploration and exploitation of Indonesian oil and gas reserves, it was not accompanied by adequate records of ownership interests needed to ensure requirements for a strict regulatory regime were actually being met in the oil-gas exploration and development processes. While privatization in oil and gas has been celebrated as part of nation’s strategy to ensure energy security, the fact that safety issues remained unaddressed and the relevant overseeing authorities were kept under-resourced vis-à-vis growing mining activities, demonstrated the government’s externality policy which promotes markets at the expense of public safety.

While the lack of adequate monitoring of drilling activities exposed the nearby communities to greater risks, local government made the risks more real with its similar approach to “development”. Known for its progressive deregulation in easing licensing procedures for businesses, the Sidoarjo district administration had been actively promoting its investment advantages for location of businesses and was actively involved in the Forum for Oil/Gas Producing Districts (*Forum Konsultati Daerah Penghasil Migas/FKDPM*) in pursuit of a greater share of oil/gas revenue. The achievement of the District’s fiscal goal of maximizing locally generated revenue failed in the face of the decreasing oil/gas revenue during 2002-2007. Nevertheless mining businesses were still required to go through licensing processes at various stages with the implicit levies serving an important contribution to local revenue. As licensing was carried out more for

fiscal policy (contribution to the district budget) than for securing due diligence, breaches of the existing regulations in favour of mining activities made the risks more real.

These risks had become even closer when Lapindo Brantas' money saving policies ruled the exploration activity. The effects of these policies can be tracked down to problems with equipment, and issues with the drillers' capacity, throughout the handling of the crisis. The risks culminated in the so-called "loss and kick" event which was caused by Lapindo Brantas' decision not to use appropriate casing for the drill shaft. The removal of the drilling rig during the kick event made the attempt to shut the eruption down even more difficult.

## (2) The Lapindo mudflow as a continuing disaster

Following the parameters written into the widely quoted regulatory proposal about decisions on the status and level of local/national disasters, (which so far has not been passed due to wide disagreement), the Lapindo mudflow falls somewhere between a local/district disaster and a national disaster. It falls within local/district disaster as it only affects a single district, but it also falls within the category of a national category as the number of people impacted by the mudflow and the associated costs is far greater than the numerical parameters proposed for national disaster category (more than 25 thousand people fled their homes with the total value of property loss worth more than IDR 3 trillion/USD 330 million). Amidst Indonesia's limited precedents of official declaration of national disasters (to my knowledge there were only two of these: the 1992 Flores tsunami and 2004 Aceh tsunami), the SBY government was clearly negligent by not declaring the Lapindo mudflow a national disaster and by its early decision to hand over the management of this disaster to Timnas, instead of BAKORNAS PB.

The decision to establish Timnas, whose expenditures were covered by Bakrie-owned Lapindo Brantas, seemed to serve public interests better than if the Lapindo mudflow had been declared a national natural disaster. If this had happened the government rather than Lapindo would have incurred liability for rehabilitation while the general public generally saw it as an unnatural disaster due to the widely believed negligent drilling practices to the disaster. The public expected the company to be liable for the related costs.

However, with the state's policy to limit liability and recover Bakrie Group's mudflow related expenses from Brantas PSC (Production Sharing Contracts) cost recovery scheme as well as from other state supported projects, reflected the government's desire not to leave the Group entirely responsible to bear the cost on its own. They wanted to return a favour, as Aburizal Bakrie had been a significant donor to Yudhoyono-Kalla's 2004 presidential campaign.

So it was Yudhoyono's own interests, the interests of Bakrie Group and of the general public that prevented the state from taking urgent and decisive intervention to deal with the disaster and its ultimate impacts. Instead of stopping the eruption and securing a fair compensation settlement, this state failure has been the major reason for the prolonged and continuing disaster.

To date, the size of the affected area already declared as uninhabitable (and thus eligible for compensation) has reached 1,196 hectares in 15 villages with 22,153 property claims. More than half of these property claims (13,327) are those falling under Perpres 14/2007, which provided a model of compensation based on property sale and purchase agreements. Differing from the other category of compensation which the state would provide, these claimants had to deal with the Lapindo Brantas company or its holding company, the Bakrie Group, to get compensated. In the past eight years, dealing with this company has required the claimants to launch a much longer and tougher struggle than if they had been dealing with the state. However, as argued in Chapter Five, this people struggle alone did not guarantee that the affected villagers would get their demands approved. In several important instances, it took more political and political-economic pressures to force the government to take sides, although never entirely, with the people's demands. While many have been fully paid (70 percent compensation is already paid), repeated unfulfilled promises of the company to fully pay the agreement scheme to a large number of claimants as stipulated in Perpres 14/2007 have predominantly shaped the continuing character of the mudflow disaster.

The fact that the company has not kept its promises while the government has not done anything to expedite the full payment was attributed to the nature of the agreed compensation scheme being a property selling-purchasing agreement (*jual-beli*).

## Conclusion

Considering the bleak future faced by the affected communities if they had to bring such an environmental destruction case to Indonesian courts known for their culture of partiality, the agreement was considered at the time as being the best available option for communities to demand compensation from the company. While the record of Indonesia's environmental dispute settlements between 1989-2009 (van Vollenhoven Institute and BAPPENAS 2011) showed greater success if the dispute is settled outside the courts, the non-judicial settlement path taken in this mudflow case has only caused more pain.

While Perpres 14/2007 was initially celebrated as a communal win, at least by some affected local groups, it also marked a beginning of a shift in the power contest. By turning environmental destruction into a property selling-purchase agreement, Perpres 14/2007 moved the dispute from the public to the private arena, not only in a legal but also political sense. In a different site of the contestation of power, the dispute has not necessarily been decided in favor of the affected communities, as had been expected earlier. The move to a private arena has deterred the involvement of the general public.

The subsequent splitting of the proposed settlement agreement into several variant offers also split the contestation into several corresponding private arenas with communities divided and sometimes competing among themselves over priorities and tactics. In these specific sites of power contestation, the result of the disputes are determined not only by how powerful are the existing political interests are but also by how savvy the communities generate and exercise these opportunities for making compensation agreements which benefit themselves. With this complex situation element, what is important is not so much the end-results of the power contest but to see how power was developed and manipulated to serve particular purposes.

As the preceding chapters have shown, the power contestation was not only limited to the level of public opinion but expanded to the everyday practice of the environmental struggle. The fact that the payment "agreed" in Perpres 14/2007 was seen as a compensatory scheme but simultaneously involved a great deal of power in its enforcement, made the Lapindo mudflow a distinct case that deserves particular attention. This is particularly needed amidst the limitation, until quite

recently, of socio-legal research into environmental dispute resolution in Indonesia (Nicholson 2010).<sup>1</sup>

The power contestation over the mudflow dispute has run not in a linear way, but rather in a more complex and fluctuating manner. While it took concerted events to snow-ball the protests (as described in Chapter Five), discrimination in compensation offers and a lack of transparency in measuring property size caused mass demonstrations. Involving large numbers of affected communities as a way to display their power helped to leverage their bargaining positions against the state which they expected would take stronger actions against the Bakrie Group. However, mass demonstrations can serve a purpose only if the state's political economic interests are threatened and other political factors exist to foster bolder pressure on the state. As explained in Chapter Five and Seven, massive impacts to the nation's energy security following the pipeline explosion, while political contestation over the 2009 presidential election, as well as widely supported parliament's initiative for *interpelasi* were also factors that forced the government to take stronger actions in favour of the affected communities.

Bakrie Group too had tried to display its power to manipulate public opinion. Manipulating public opinion was carried out through massive print media advertisements, influencing parliament to issue decision in favour of the Group, influencing the debate within the scientific communities and taking part in district elections. This manipulation was not aimed to change public opinion for its own sake, but to buffer the Bakrie Group's corporate interest economically and politically. Massive advertisements not only tried to persuade the general public that it was not the Group's legal obligations but their whole-hearted kindness (*kepedulian, tanggung jawab moral*) that motivated them to compensate the lost properties of the affected communities. With specific advertisements displayed just ahead or on the same day of court sessions hearing lawsuits against the company, these messages were addressed to the courts whose verdicts were pivotal in deciding the validity of the company's insurance claims and BP Migas' cost recovery scheme. Influencing parliament's decision was important to

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<sup>1</sup> Despite its strong references to political opportunities and challenges in the Indonesian legal system, Nicholson (2010) has deliberately left out power-based approaches to focus on compensatory and conciliatory approaches to such disputes.

## Conclusion

politically secure the Group against further pressure from government and wider civil society, not to mention liability claims from state owned infrastructure companies like Jasa Marga and PLN. Influencing scientific debate was important to ensure the above legal and political goals were served, while taking part in local elections was an investment attempt to ground political support at the local level.

At grass roots level, the company's buffer against the communities was personified by figures of *pemain lapangan* (field operator) like Andi Darussalam. Gaining the trust of the Bakrie family and praised as having the required personal characteristics to deal with crises, Andi Darussalam was successful in rebuffing communities' attacks, directing the support of public figure like Emha Ainun Najib, and deliberately creating further fragmentation within the affected communities through revision of payment terms and resettlement offers. While the power contestation has increased the political literacy of some community leaders, the unequal social-structural advantages displayed in the power contest benefited corporate more than community interests. While company strategies in the contest proved successful in minimizing corporate losses and saving it from becoming a "victim" of political liberalization/mass radicalization, under Perpres 14/2007, what was once a unified community has now fragmented along the lines of conflicting demands for compensation without the accompaniment of transfer of property rights, "cash and carry", to various forms of resettlement schemes. Along with this fragmentation, trust and other forms of social capital available to community leaders has been decreasing for various reasons including from personal integrity, or corruption issues, to external pressure to withdraw from the people's movements. During the time when a large part of the respective communities still are not fully paid for their lost properties, this condition has become another disaster which further weakens the already fragmented struggle against the company.

While Lapindo's long drawn out compensation settlement represents a continuing disaster with particular effects on those whose property claims are still not fully addressed or paid, the notion of the mudflow being a "continuing disaster" is in fact kept in place and continually revived by the State Agency for Mitigating Sidoarjo Mudflow (BPLS) in its supposedly mitigation practices. Utilising a meaning of "emergency" with its legitimating possibilities to by-pass

otherwise required procedures, the defining of the mudflow as a “continuing disaster” has allowed the agency to extend its undisclosed (non-open tendering) projects years after the first eruption.

This notion of “disaster” has also been interpreted in a way that has allowed projects, regardless of the level of urgency they have in relation to the mudflow mitigation, to be planned and carried out by the BPLS. The use of this notion allows the avoidance of the necessity for transparency in the spending of public money, but also for the diversion of public resources which otherwise should have been spent on other important goals (such as payment for the suspended compensation). Combined with the freedom from minimum supervision and consultation that the agency enjoys as a special agency under the President, the revival of this notion provided fertile ground for corruption.

Corruption has also become a norm in communities outside the PAT zone marked on the Affected Area Map of 22 March 2007 (*Peta Area Terdampak, PAT*) whose property purchasing by the state represents enlarging and continuing effects of the disaster. Differing from those under the company-funded PAT communities whose harder and more uncertain struggle for compensatory payment had involved community leaders with a variety of social backgrounds, these communities’ struggle rested more upon political lobbying by formal community leaders through formal political structures. Not only did they think that the involvement of NGOs was a nuisance, the struggle of these outside PAT communities strengthen the concentration of power of formal political elites. Under such a power concentration, corruption was perceived as a necessary cost paid to those who had fought in the struggle.

BPLS’ “living in harmony with the mud” approach has had unintended consequences on the continuing character of the mudflow disaster, which aims to minimize state costs by enforcing confinement of the effects of the mudflow. While the latest addition of communities (Perpres 37/2012) provided the most recent revision to the confinement map (as of April 2012), the mudflow’s social consequences certainly spill beyond this spatially based map. The rising concerns about crime and violence in the villages like Permisan, which have become even more isolated with the latest map of areas to be abandoned, showed that disaster impacts are still affecting the surrounding communities.

(3) **The opportunities and challenges for Indonesia's environmental justice movement**

The involvement of political elites' interests as well as the scale of destruction has made the Lapindo mudflow a very high profile case in Indonesian environmental dispute history. The presence of political elites' interests were not limited to the fact that Lapindo Brantas is part of the Bakrie Group, which is in turn related to a figure who was once Indonesia's richest person and at the time of the eruption was ironically serving as Coordinating Minister for the People's Welfare. The presence of political interests also extended to presidential elections. These include the 2004 presidential election when SBY won with a great deal of support from Aburizal Bakrie and the presidential election a decade later when the latter declared his candidature. With its unprecedented urban setting, the Lapindo mudflow has left its own historical mark in the world's environmental disasters. While payments made by the Bakrie Group so far to cover mudflow affect mitigation efforts (USD 689 million) is far below the amount the BP company paid in the Gulf Oil Spill (USD 13 billion), the Bakrie Group's payment topped the list in Indonesia's history of corporate payments for environmental destruction (the next highest was the USD 30 million paid by Newmont as part of a goodwill agreement with the Indonesian government which required the latter to withdraw its lawsuit against the company over environmental issues in North Sulawesi).

With such a high profile character, the Lapindo mudflow has become an important topic that cannot be overlooked in years of Indonesian press coverage. While the frequency of these reports have been declining over the eight years since it first erupted, continuing mudflow related issues still occasionally receive media coverage. This publicity has been taking place both at national and regional levels, making the Lapindo mudflow a familiar issue for a nationwide audience. Built upon this continuous coverage, a collective memory and political awareness about the mudflow and its associated figure made Aburizal Bakrie such an unpopular personality that it later contributed to his failure to find a political alliance to support his presidential candidature in 2014.

Another result which, in the perspective of civil social movements, needs celebrating is that the affected communities have come forward to demand the enforcement of their rights. Despite the continuing strong state security approach which aims to limit and confine social movements like the mudflow struggle in

Indonesia, the affected communities have been able to mobilize themselves and to build political networks with various actors at various levels. Post-1998 political reforms certainly contributed to this awakening and willingness to protest, as members of the communities learned their movements' political leverage against both the state (at various levels) and the company. As well as being behind the setting up of new locally-based pressure groups, in several instances, this growing political literacy was also facilitated by supportive cultural factors such as ties between actors affiliated with existing civil religious organisations such as the NU. Despite the fact that NU-affiliated parties did not necessarily bring immediate results to the struggle, some of the affected communities have increased their political literacy based on important connections facilitated by NU-affiliated figures.

While political literacy on the Lapindo mudflow has been definitely growing both at the affected community level and among the nationwide public, the preceding chapters have also shown that it did not necessarily produce the results expected by the environmental justice movement. Procedural justice with an equal participation in decision-making processes, has not been achieved. Distributive justice has also failed, with the repeated delay of payments for property compensation. Various challenges faced by civil society groups and individuals have contributed to this failure.

At community level, the challenge of social fragmentation was striking, particularly with regards to the struggle of the affected communities under Perpres 14/2007. Previously rather unified, the struggle of these communities for compensation became fragmented when confronted with the more complex issues related to the increasing variety of payment terms offered. In the first year of eruption there were only two groups with different demands (property purchase and compensation without property purchase). The groups grew to four when Perpres 14/2007 ruled the possibility of a two year window for full payment,<sup>2</sup> then grew again to six groups when the company offered resettlements as alternatives

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<sup>2</sup> They were (1) Paguyuban which demanded compensation without property purchase; (2) Pagar Rekontrak which demanded one-time payment; (3) Perwakilan Warga (PW) which demanded 1 year accelerated payment and (4) GKLL (Gabungan Korban Lumpur Lapindo) which accepted the payment terms as stipulated in Perpres 14/2007.

to a payment delay and with the newly raised issues about evidence required to prove property entitlements.<sup>3</sup>

Behind the seemingly apparent contesting demands, several other underlying factors also shaped this fragmentation. Amidst a huge circulation of new money in the affected communities and corporate strategies to influence the result of struggles, personal integrity issues, including financial scandals, have been the most damaging factor both to individual community leaders and the unity of every struggle.

The use of different political strategies also contributed to this fragmentation. Although there has been no single strategy that has been exclusively applied by a particular group, preferences over strategies has also played its role in further fragmentation. In addition, the different social backgrounds of community leaders and the respective communities also influenced the articulated demands and preferred strategies. Strong support of marine officer residents and Soemitro's experience in student movements during his college years in Malang heavily influenced the street protest strategy adopted by PW (*Perwakilan Warga*) group; Gus Maksum's interests in being in charge of managing *pesantren* endowed with donated properties (*wakaf*) influenced the strategy of *Paguyuban* as the only group which rejected property purchase as its compensation platform; and the late Haji Hasan who owned a large number of properties was among the main supporters of GEPPRES which demanded no other forms of payment but "cash and carry".

While questions about personal integrity were seldom raised as major issues (with the exception of Emha Ainun Najib and some of the pro-quaker scientists), NGO activists and larger civil society groups had their own particular challenges when dealing with the environmental struggle. Those challenges came from various directions: from the legal-political system; rooted within each civil society's working environment and from relations among civil society members. All these challenges contributed to the limited access pressure groups had to the affected communities, their limited role in the communities' various struggles,

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<sup>3</sup> These 6 groups were all four groups mentioned above plus GEPPRES (Gerakan Pendukung Perpres 14/2007, demanding strict payment proportion to 20:80 scheme as stipulated in Perpres 14/2007) and this who accepted resettlement option from Lapindo.

and the creation of gaps between what the larger civil society activists aimed to do and the actual needs of the affected communities as their members saw them.

The primary challenge from the legal-political system came from the fact that oil and gas have been legally stamped as strategic commodities for the nation's interests and thus anything related to these two are treated as confidential with penalties for those who breach the confidentiality rules. For social activists, this secrecy rule has put limitations on the knowledge about which areas are about to be mined and so which communities will be potentially affected by mining.

For drilling and mining professionals, this rule prevents them from coming forward even if any wrongdoings were happening. With such limitations of knowledge, preparedness becomes an issue as any pre-disaster contacts with local communities are unlikely to happen. The threat of criminal penalties and proceedings not only forced scientists and drilling professionals to be tight-lipped, but also resulted in a rather uniform articulation of opinion which served prevailing corporate interests. The secrecy also made data collection difficult for the plaintiffs, resulting in failures of lawsuits.

The second challenge for pressure groups has come from policies that directly or indirectly enforced entry barriers to outsiders. These policies included the long and intense involvement of military personnel during the first few months of eruption and property purchase agreement (*jual beli*). The former policy prevented social workers and other activists from deploying their resources early on, while the latter transformed the previously public matter of environmental degradation into a private matter of property transfer where those outside the binding parties were not welcomed.

Limitations and obstacles in the legal system provided further challenges for the pressure groups wanting to pursue judicial actions to demand and enforce company responsibility. While Indonesian courts have been known for their partiality, particularly when they escape popular pressure, in this case those attempting to work through judicial procedures to prosecute the company were under-resourced with weak capacity so that effectively sorting out the legal issues and presenting a convincing case became difficult. None of the lawsuits against the company was won and National Commission for Human Rights (*Komnas HAM*) Komnas HAM's recommendation was deemed too weak to force the

## Conclusion

government and company to quickly remedy the infringement of the rights of the affected.

Not only affecting litigation, lack of resources also hampered other pressure groups. While the majority of Indonesian NGOs have been reliant on donor support, finding financing for mudflow advocacy work had been difficult. This has been in part due to the post-1998 reform of a shift of donors' funding allocations either to support state agencies or to support different regions. However, the difficulty was also due to the fact that the Lapindo mudflow was widely seen as a case with a heavy involvement of political and corporate interests, and this scared many potential donors away from the issue. The limited financial support for the groups attempting legal challenges affected their work flexibility and their attendance to mudflow issues. Effects on their work flexibility took the form of prioritizing funded projects over engagement in mudflow issues, as was particularly seen in the controversial case of Hari Suwandi. Along with strong entry barriers mentioned earlier, limited donor support also meant either withdrawal or sustaining only an occasional presence in mudflow issues with a widening gap between what the activists prescribed and what the rapidly changing needs of the communities dictated.

This gap could have been filled if individual activists working at grass-roots level and those working at secondary or policy levels could have found terms on which to agree to mechanisms on which partnerships could be built. However, prejudice against each other, partly fuelled by the different approaches to organizing and supporting social movements, proved too strong for effective partnerships to be built to tackle the mudflow disaster .

## Epilogue

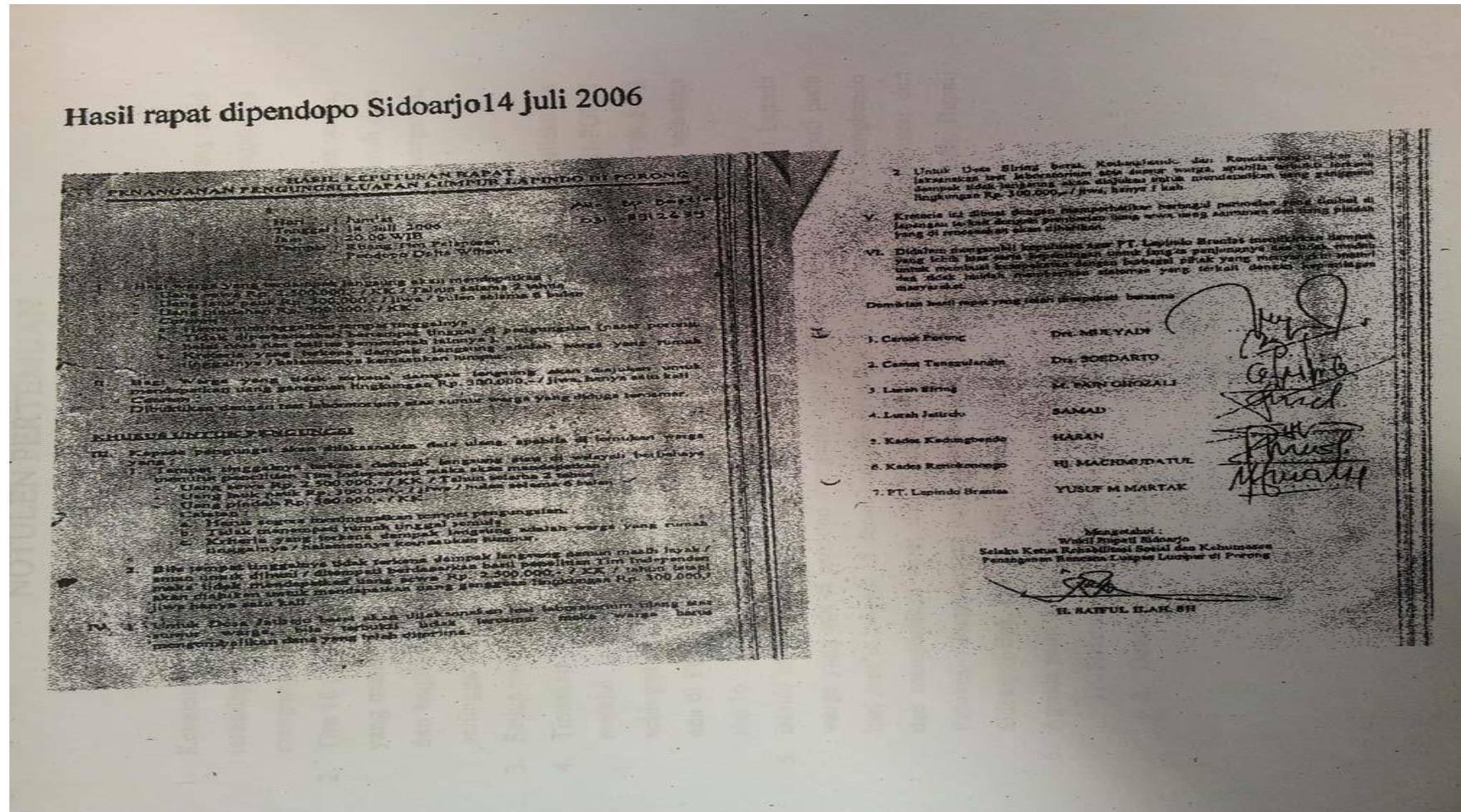
As much as this thesis has contributed to the existing literature on the Lapindo mudflow and on Indonesian disasters in general, it certainly has its own limitations as it only focuses on answering the three questions mentioned above. Due to this research focus, many other important and no less interesting details have been deliberately left out. Such details, to name a few, include community members' social-political life before and after resettlement, social changes in the villages nearby the newly revised affected map, and post-mudflow environmental policy changes (if any). These all deserve separate research.

In addition to the above limitation, although covering a longer time period than previous studies, this thesis has not been able to include an investigation of the influences of potentially radical change after the July 2014 election of Joko Widodo as Indonesian President. In December 2014 he decided to bring government into the settlement of the remaining payments claims owing by Lapindo since 2012, a willingness which had not been shown by the previous government. While, in March 2015, it still remains to be seen when this decision will actually be implemented, it could bring significant changes to social-political relations between respective community members, the company and the state. This too deserves a separate research endeavour.



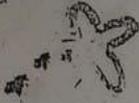
# Appendix 1

Agreement between the affected villagers and Lapindo Brantas on short term compensation (*kontrak, jadup and uang pindah*) (14 July 2006)



## Appendix 2

Letter of Lapindo Brantas, dated 4 December 2006, agreeing to "cash and carry" compensation scheme (p. 1)

  
**EMP BRANTAS**  
Surabaya, 4 Desember 2006  
Ref. No. 1098/PIAAY/L06

Kepada Yth.  
TIM Nasional  
Penanggulangan Semburan Lumpur Sidoarjo  
Di Tempat

Up. : Bapak Basuki Hadimuljono

Dengan hormat,

Sebagai tindak lanjut dari pertemuan dengan warga yang terkena dampak langsung bencana semburan lumpur di Sidoarjo yang berada pada 4 (empat) desa pada tanggal 1 Desember 2006 serta melengkapi surat kami tanggal 1 Desember 2006 dan menjawab surat Tim Nasional tanggal 27 Desember 2006, dengan mendasarkan kepada BENTUK KEPEDULIAN SOSIAL dan tanggung jawab moral Lapindo Brantas Inc. ("LAPINDO"), bersama ini disampaikan beberapa hal:

- 1. MEMBELI**  
Usulan harga pembelian yang meliputi aspek sosial ekonomi dan budaya sebagai berikut:
  - A. Harga :**
    - Tanah pekarangan sebesar Rp. 1.000.000,- / m<sup>2</sup>
    - Bangunan sebesar Rp. 1.500.000,- / m<sup>2</sup>
    - Tanah sawah sebesar Rp. 120.000,- / m<sup>2</sup>

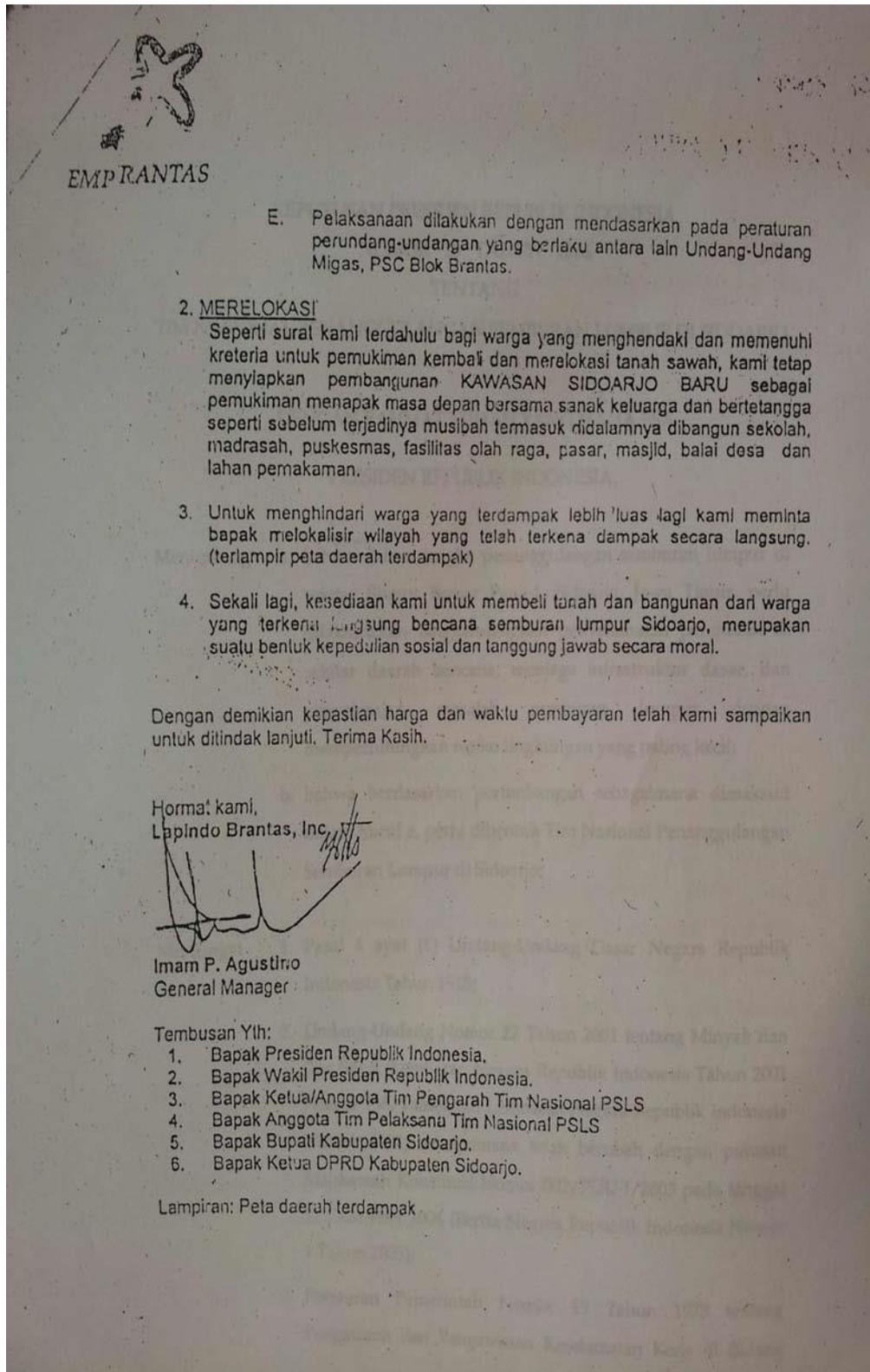
Harga kesepakatan diatas harus mendapat persetujuan dari Bupati Sidoarjo selaku anggota Pelaksana didalam TIMNAS PLS dan/atau pejabat lain yang lebih tinggi. Harga tersebut adalah kemampuan maksimal yang dapat kami tawarkan.

  - B. Jual beli dilakukan dengan akte jual beli dengan mendasarkan kepada bukti kepemilikan yang sah atas tanah;**
  - C. Pelaksanaan pembayaran dilakukan sebelum berakhirnya masa sewa 2 (dua) tahun;**
  - D. Perwakilan warga pemilik tanah beserta perwakilan dari LAPINDO dengan difasilitasi oleh Bupati Sidoarjo selaku pimpinan daerah Kabupaten Sidoarjo segera melakukan koordinasi dalam rangka klarifikasi data-data kepemilikan tanah dan ditindak lanjuti dengan pembuatan kesepakatan yang diformulasikan dalam perjanjian oleh kedua belah pihak;**



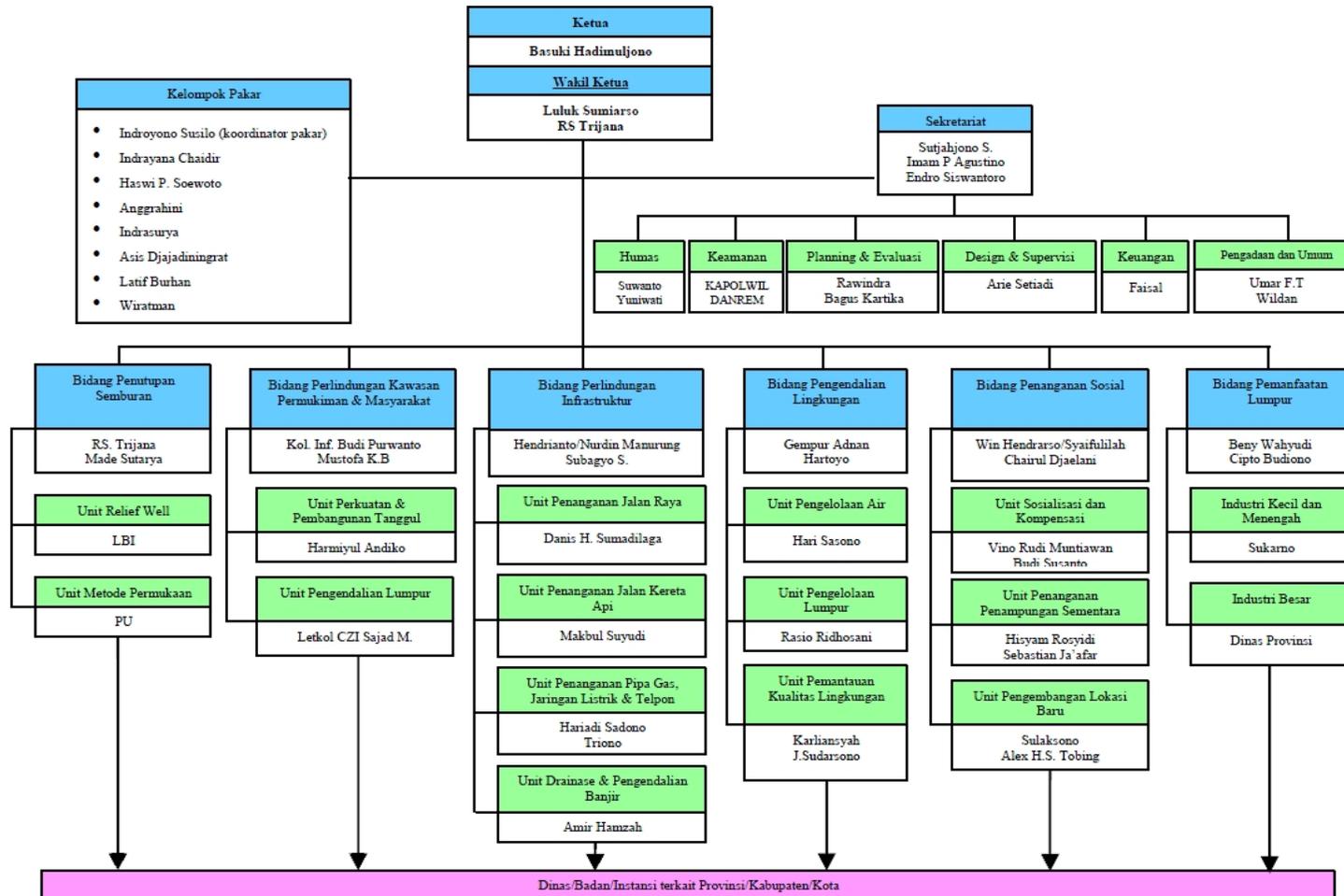
LAPINDO BRANTAS INC.  
A Subsidiary of PT Energi Mega Persada Tbk,  
Field Office : Jl. Gatot Subroto Ds. Tabel RT, 7 RW, 1 Kec. Gedangan, Sidoarjo Jawa Timur 61254  
Telp. (031) 8912638 Fax. (031) 8912639 E-mail : lapindo@lapindo-brantas.com  
Jakarta Office : Wisma Mulia Building 28th Floor Jl. Gatot Subroto No. 42 Jakarta 12710  
Telp. (62 - 21) 52006336 Fax. (62 - 21) 52906337 E-mail : lapindo@lapindo-brantas.com

Letter of Lapindo Brantas (continued, p. 2)



## Appendix 3

### Organizational Chart of Timnas



(Source: BPK Report 2007)

## Appendix 4

Lapindo advertisement on *Kompas* 8 November 2007 (also displayed on *Republika* 27 November 2007)

IKLAN

### Meneropong Bencana Lumpur di Sidoarjo

Takjub sekaligus mengerikan melihat fenomena yang terjadi di Sidoarjo Jawa Timur. Desa yang sebelumnya ramai oleh denyut kehidupan, kini tiba-tiba menjadi sunyi. Hanya terdengar kesedihan dan derita yang selalu menghiasi kehidupan di desa ini. Kita, bahkan masyarakat Sidoarjo tak percaya melihat semburan lumpur yang terus menerus menggenangi desa ini.

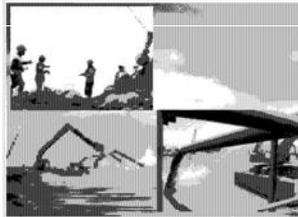
Lapindo Brantas Inc. yang melaksanakan eksplorasi pengeboran di desa Renokenongo, awalnya tidak menduga bahwa bencana ini akan terjadi. Dalam perkembangannya eksplorasi yang dilakukan berjalan dengan lancar, namun tanpa diduga pada kedalaman 9200ft gas yang diharapkan keluar ternyata tidak terjadi. Tanpa diduga, tiba-tiba lumpur itu menyembur di luar area pengeboran, yakni semburan terjadi di desa SIRING, yang berjarak kira-kira 200 meter dari sumur pengeboran jadi bukan dari lubang pengeboran, semburan terjadi tanggal 29 Mei 2006 setelah gempa Yogyakarta.

Antisipasi selanjutnya, adalah mencari solusi yang terbaik untuk segera menutup semburan lumpur tersebut. Namun usaha tersebut tidak berhasil, semburan lumpur justru semakin besar. Lapindo Brantas Inc. selaku pelaksana menghubungi beberapa ahli geologi untuk melihat apa yang sebenarnya terjadi. Para ahli yang meneliti kejadian tersebut, menyimpulkan bahwa kejadian ini, letupan serupa seperti gunung merapi dan mereka berpendapat semburan lumpur yang terjadi adalah proses dari apa yang dinamakan mud volcano (gunungapi lumpur).

"Melihat dari volume semburan lumpur yang sudah mencapai 1 juta barel per hari, dapat dipastikan ini merupakan fenomena mud volcano," ujar Dr. Ir. Dobby Nawangsidi dosen teknik perminyakan ITB.

Hal senada juga diungkapkan oleh Prof. Dr. Ir. Sukendar Asikin Guru Besar Geologi ITB, "semburan lumpur Sidoarjo yang sempat terhenti, menunjukkan ciri mud volcano." Para ahli meyakini, bahwa kejadian semburan lumpur yang terjadi di Sidoarjo adalah kejadian alam, bukan akibat pengeboran yang dilakukan oleh Lapindo Brantas Inc.

Seegera deklarasikan sebagai bencana alam, sehingga ada payung



politik, dengan resiko apapun harus diambil alih oleh pemerintah" kata Taufiqqurrahman Saleh anggota DPR. Pernyataan ini diperkuat oleh Prof. Dr. Gayus Lumbuun, SH. "Presiden Susilo Bambang Yudhoyono harus upayakan kepastian status hukum lumpur Sidoarjo, apakah human error atau bencana, harus fakta dan final bukan asumsi."

Seiring kian derasny aliran lumpur, lambat laun beberapa desa pun mulai terendam lumpur. Masyarakat merasa terancam akan bahaya lumpur, beberapa rumah yang sudah tak layak huni lagi ditinggalkan. Keadaan ini membuat masyarakat korban lumpur menjadi resah. Kini mereka harus hidup dipengungsian, sementara kepastian hukum dari pemerintah belum juga terwujud. Masyarakat protes terhadap pihak Lapindo, demo terjadi bahkan dilakukan hampir setiap hari. Ini memicu perhatian pemerintah, DPR, DPRD, tokoh masyarakat, dan elemen masyarakat lainnya yang bersimpati agar masalah ini cepat mendapat perhatian khusus secara serius.

Pemerintah menerbitkan Perpres No. 14 tahun 2007 agar warga terselematkan dan mempunyai payung hukum yang pasti. Sehingga tidak menimbulkan gesekan sosial yang akan mempengaruhi kehidupan sosial dan ekonomi masyarakat setempat.

"Warga korban lumpur Sidoarjo, akan lebih cepat merasakan manfaat dan keuntungan proses jual beli miliknya dari pada menjalani proses hukum yang akan memakan waktu lama," ujar Analis Hukum Maqdir Ismail.

Sidang Kabinet Paripurna di kantor Presiden pada hari Rabu tanggal 27 September 2006, menghasilkan tujuh arahan dari Presiden untuk menangani semburan lumpur Sidoarjo.

Langkah pertama, kawasan yang sekarang tergenang lumpur dinyatakan

sebagai daerah rawan bencana dan tidak layak untuk ditinggali, sehingga masyarakat disitu perlu dilakukan pemukiman kembali. Kedua, dibuat penampungan lumpur di pond dan kemudian dapat digunakan sebagai bahan industri. Ketiga, sebagian lumpur akan dibuang ke kali Porong. Keempat, harus ada pemukiman baru. Kelima, selain mendapatkan tempat tinggal baru harus ada pekerjaan yang layak. Keenam, ganti rugi yang diberikan adalah ganti rugi yang wajar. Ketujuh, perlu realignment artinya pengalihan jalan.

Setelah terbentuknya payung hukum, yang jelas Lapindo Brantas Inc. menindak lanjuti apa yang seharusnya menjadi kewajiban dan tanggungjawabnya. Itu dilakukan agar semua berjalan dengan baik dan lancar.

Pada tanggal 06 November 2007, akte jual beli lahan dan bangunan yang telah dilaksanakan dengan kesepakatan bersama, yaitu dibayar 20% dimuka. Jumlah lahan sebanyak 10776 bidang dengan total pembayaran 20% sebesar Rp. 582.277.683.620. Dengan perincian harga harga tanah sawah Rp. 120.000/m<sup>2</sup>, harga tanah pekarangan Rp. 1 juta/m<sup>2</sup>, dan bangunan Rp. 1.500.000/m<sup>2</sup>.

Selain itu, Lapindo Brantas Inc. melakukan bantuan sosial seperti : bantuan sewa rumah untuk dua tahun @ Rp.5000.000 per KK dan bantuan pindah @ Rp.500.000 per KK. Bantuan jatah hidup selama 9 bulan Rp. 300.000 per jiwa, menyediakan makan tiga kali sehari @ Rp.15.000 per jiwa, bantuan transportasi untuk murid sekolah, ganti uang bulanan buruh Rp. 700.000 per bulan, memberikan kompensasi areal sawah, menyediakan air bersih, obat-obatan, buku bacaan, relokasi sementara dan mendirikan posko-posko kesehatan yang semua itu dilakukan untuk kepentingan masyarakat korban lumpur Sidoarjo.

Harapan semua masyarakat, semoga bencana ini cepat teratasi sehingga tak ada lagi kesedihan dan kepahitan yang dirasakan saudara kita di Sidoarjo. (\*).

Pimpinan dan Staf PT. Minarak Lapindo Jaya Tidak Menerima Hadiah/Parcel/Imbalan Apapun Dari Warga Terkait, Transaksi Jual Beli Sawah, Pekarangan, Bangunan Sesuai Dengan PETA TERDAMPAK 22 MARET 2007 (Perpres 14/th. 2007)

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# MENEROPONG BENCANA LUMPUR DI SIDOARJO

kejadian tersebut, menyimpulkan bahwa kejadian ini, letupan serupa seperti gunung merapi dan mereka berpendapat semburan lumpur yang terjadi adalah proses dari apa yang dinamakan *mud volcano* (gunung api lumpur).

"Melihat dari volume semburan lumpur yang sudah mencapai 1 juta barel per hari, dapat dipastikan ini merupakan fenomena *mud volcano*," ujar Dr. Ir. Dody Nawangsidi Dosen Teknik perminyakan ITB.

Hal senada diungkapkan oleh Prof. Dr. Ir. Sukendar Asikin Guru Besar Geologi ITB, "Semburan lumpur Sidoarjo yang sempat terhenti, menunjukkan ciri *mud volcano*." Para ahli menyimpulkan, bahwa kejadian semburan lumpur di Sidoarjo adalah kejadian alam, bukan akibat pengeboran yang dilakukan oleh Lapindo

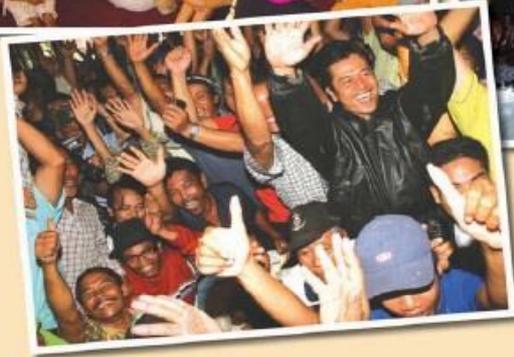
Brantas Inc.

"*Secepatnya deklarasikan sebagai bencana alam, sehingga ada payung politik dengan resiko apapun harus diambil alih oleh pemerintah*" kata Taufiqqurahman Saleh anggota DPR. Pernyataan ini diperkuat oleh Prof. Dr. Gayus Lumbuun, SH. "Presiden Susilo Bambang Yudhoyono harus upayakan kepastian status hukum lumpur Sidoarjo, apakah human error atau bencana, harus fakta dan final bukan asumsi."

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TERHARI - Senin, 4 Desember 2006 menjelang senja lewat rapat marahan Lapindo menyetujui keamaan warga. Bicara warga tak tertahan, sujud syukur, jettan dan air mata beaur jadi satu.



Ahinya warga bisa tersenyum, usai mereka menunggu perundingan dengan dikejutinya permintaan warga oleh Lapindo.

kepastian hukum dari pemerintah belum juga terwujud. Masyarakat protes terhadap pihak Lapindo, demo terjadi bahkan dilakukan hampir setiap hari. Ini memicu perhatian pemerintah, DPR, DPRD, tokoh masyarakat, dan elemen masyarakat lainnya yang bersimpati agar masalah ini cepat mendapatkan perhatian khusus secara serius.

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Pada tanggal 06 November 2007, akte jual beli lahan dan bangunan yang telah

dilaksanakan dengan kesepakatan bersama, yaitu dibayar 20% dimuka. Jumlah lahan sebanyak 10.776 bidang dengan total pembayaran Rp. 582.277.683.620. Dengan rincian harga tanah sawah Rp. 120.000/m<sup>2</sup>, harga tanah pekarangan Rp. 1 juta/m<sup>2</sup>, dan bangunan Rp. 1.500.000/m<sup>2</sup>.

Selain itu, Lapindo Brantas Inc. Melakukan bantuan sosial seperti: bantuan sewa rumah untuk dua tahun @ Rp. 5000.000 per KK dan bantuan pindah Rp. 500.000 per KK. Bantuan jatah hidup selama 9 bulan Rp. 300.000 per jiwa, menyediakan makan 3 kali sehari @ Rp. 15.000 per jiwa, bantuan transportasi untuk murid sekolah, ganti uang bulanan buruh Rp. 700.000 per bulan, memberikan kompensasi areal sawah, menyediakan air bersih, obat-obatan, buku bacaan, relokasi sementara dan mendirikan posko-posko kesehatan yang semua itu dilakukan untuk kepentingan masyarakat korban lumpur Sidoarjo.

Harapan semua masyarakat, semoga bencana ini cepat teratasi sehingga tak ada lagi kesedihan dan kepahtitan yang dirasakan saudara kita di Sidoarjo.\*).

Pimpinan dan staf Pt Minarak Lapindo Jaya tidak menerima hadiah/parcel/imbalan apapun dari warga terkait, transaksi jual beli sawah, pekarangan, bangunan sesuai dengan PETA TERDAMPAK 22 MARET 2007 (Perpres 14/th.2007).

ADVETORIAL



Pak Kamad sumodanoso menunjukkan cek hasil transaksi jual beli kepada MLI sebesar Rp374 juta.

**B**ENCANA semburan lumpur Sidoarjo, merupakan fenomena alam yang mengejutkan semua orang. Peristiwa itu pun tak membuat Lapindo Brantas Inc. berdiam diri, segala daya dan upaya dikerahkan agar bencana semburan lumpur dapat diatasi dan tidak membahayakan atau merugikan warga sekitar. Beberapa ahli geologi didatangkan untuk dapat segera menuntaskan bencana lumpur di Sidoarjo.

Menurut ahli geologi Dr. Adi Priyadi Kadar, "semburan lumpur lapindo merupakan mud volcano, sumber semburannya diyakini bukan berasal dari sumur eksplorasi Banjar Panji I." (*Uwapaos*, 31 Desember 2006).

Seperti juga dikatakan Dosen Geologi Fakultas Teknologi Kebumihan dan Energi Universitas Trisakti Dr. Ir. Agus Guntoro, "Fakta-fakta geologi di permukaan di sekitar Jawa Timur dan Sidoarjo menunjukkan adanya Mud Volcano, baik yang masih aktif maupun tidak aktif, semburan lumpur Sidoarjo dipicu aktifitas tektonik dan sulit dihentikan, volu-

menya besar dan tidak mungkin keluar dari lubang sumur."

Para ahli meyakini, bahwa kejadian semburan lumpur di Sidoarjo adalah fenomena alam, dan bukan akibat pengeboran yang dilakukan oleh Lapindo Brantas Inc.

Para pakar drilling dan pakar geologi telah sepakat dan mengatakan semburan lumpur Sidoarjo merupakan fenomena alam atau biasa disebut mud volcano.

Seperti yang diucapkan Nizar Dahlan yang juga pakar drilling dan pakar geologi dari alumni UNPAD. Dengan kekuatan lumpur yang keluar begitu besar dan stabil yang alirannya mencapai 100.000m<sup>3</sup> per hari, menandakan adanya fenomena alam yang bekerja begitu kuat. "Saya tidak yakin kalau ada sebagian ahli drilling mengatakan semburan lumpur Sidoarjo dapat dihentikan melalui Relief Well, itu akan sia-sia dan menghabiskan dana yang besar. Ini alam, alam tidak mungkin dihentikan, ini hanya bisa dilokalisasi." (*Suara Karya*, 18 Februari 2008).



Foto peserta lomba mewarnai di pengungsian.

Menurut mantan Ketua Ikatan Ahli Geologi Indonesia Dr. Ir. Andang Bahtiar, "Lumpur Lapindo sebagai mud volcano dan belum ada sejarah hal ini dapat ditutup manusia dengan teknologi atau dihentikan dengan cara meledakkannya. Siapapun, jelas tidak bisa memprediksi apa sebenarnya yang terjadi pada perut bumi." (*Sinar Harapan*, 22 Februari 2008).

Bekas Ketua Timnas Penanggulangan lumpur Sidoarjo Rudi Rumbiandini mengaku dirinya belum berpengalaman mengatasi kasus *underground blow out* seperti luapan lumpur yang terjadi

di Sidoarjo, "Benar, saya tidak pernah tangani itu, karena saya seorang dosen." Kata Rudi (*Rakyat Merdeka*, 22 Februari 2008)

Pakar drilling dan pakar geologi alumni UNPAD Nizar Dahlan yang sudah 5 tahun bekerja di pengeboran minyak, tahu persis kalau semburan lumpur Sidoarjo itu fenomena alam, "tidak masuk akal melawannya". Menurut Nizar rencana gerakan menutup "merraburuh lumpur Lapindo" untuk melakukan relief well di pusat semburan hanya akan sia-sia. (*Detikcom*, 22 Februari 2008).

Sebelumnya pakar drilling dari ITB Dr. Ir. Dody Nawangsidi mengatakan semburan lumpur Sidoarjo tidak keluar dari lubang sumur pengeboran Lapindo Brantas Inc. tetapi melalui patahan, "Patahan itu makin melebar dan panjang, sehingga tidak mungkin dihentikan semburannya." (*Rakyat Merdeka*, 22 Februari 2008).

Seperti yang diungkapkan Gayus Lumbuun, SH. "Presiden Susilo Bambang Yudhoyono harus upayakan kepastian status hukum lumpur Sidoarjo, apakah human error atau bencana, harus fakta dan final bukan asumsi."

Jika harus menuju pengadilan, masalah Lapindo Brantas Inc. akan lebih rumit sebab yang akan menjadi rujukan adalah pendapat para ahli. "Masih sulit, bencana alam jelas bukan kejahatan lingkungan. Kita lihat pendapat para ahli geologi," kata Trimoelya D Soerjadi (*Sinar Harapan* 17 November 2007).

Putusan Majelis Hakim Pengadilan Negeri Jakarta Pusat pada tanggal 27 November 2007 menolak gugatan YLB-I II kepada Pemerintah dan Lapindo Brantas Inc. Majelis Hakim memutuskan tidak ada perbuatan melawan hukum yang dilakukan Lapindo Brantas Inc. (*Detikcom*, 27 November 2007).

Putusan Pengadilan Negeri Jakarta Selatan menolak gugatan Walhi pada

tanggal 27 Desember 2007, "Fenomena alam bukan perbuatan melawan hukum," Oleh karena itu majelis hakim memutuskan gugatan penggugat secara keseluruhan. (*Investor Daily*, Jumat 28 Desember 2007).

Mahkamah Agung menolak uji materi Perpres No 14 Tahun 2007 diajukan oleh pemohon warga terdampak peta 22 Maret 2007 dari desa Renokenongo dan pemohon para warga desa Besuki dan desa Permisian dari luar peta terdampak 22 Maret 2007. Majelis hakim yang diketuai Bagir Manan dengan anggota Paulus E. Lotulung dan Ahmad Sukardja telah memutuskan penolakan permohonan hak uji ini pada 14 Desember 2007, "Permohonan keberatan uji materi permohonan tidak beralasan, sehingga permohonan ditolak." (*Antara*, 19 Februari 2008).

Menurut pengasuh Pondok Pesantren Islamiah Tanggulangin Sidoarjo KH Hasyim Achmad yang juga korban lumpur Sidoarjo, "Kita harus memelihara ukhuwah, apalagi Lapindo sudah merealisasikan tanggungjawabnya. Belum tentu Perusahaan ain mau bertanggung jawab, apalagi hingga saat ini Lapindo masih terus melakukan pembayaran, meski sama sekali belum pema memperoleh pendapatan usahanya di Sidoarjo." (*Suara Karya*, 20 November 2007).

Apa yang telah dilakukan oleh Lapindo Brantas Inc. Adalah bentuk tanggungjawab moral untuk memberi yang terbaik bagi warga korban bencana lumpur Sidoarjo. Harapan ini dapat terwujud bila semua elemen saling bahu membahu untuk menyelesaikan dampak dari bencana semburan lumpur dan penyelesaian terbaik bagi warga Sidoarjo.

Proses jual beli lahan, sampai pada tanggal 21 Februari 2008 (09.00 WIB), akte jual beli lahan dan bangunan yang telah dilaksanakan dengan kesepakatan bersama, yaitu dibayar 20% dimuka. Jumlah lahan sebanyak 11.864 bidang dengan total pembayaran 205 sebesar Rp 644.115.468.220. Apapun putusan pengadilan yang terjadi, Lapindo Brantas Inc. tetap berkomitmen selesaikan tanggungjawab terhadap warga terdampak, sesuai Perpres No. 14 tahun 2007.\*\*\*



Pemeriksaan kesehatan oleh Dinkes Sidoarjo



Pembelian jual beli bagi korban lumpur Rp300.000 per bidan

Azas hukum adalah kausalitas, fakta bahwa pengeboran Lapindo Brantas Inc. dilaksanakan di desa Renokenongo dan fakta bahwa semburan lumpur Sidoarjo terjadi di desa Siring dan bukan dari sumur pengeboran Lapindo Brantas Inc., fakta bahwa semburan lumpur sidlarjo terjadi pada tanggal 29 mei 2006 setelah gempa Yogyakarta. Fakta-fakta tersebut apakah ada kausalitasnya, perlu dicari kebenarannya secara ilmiah dan bukan berdasar kepada asumsi, karena hukum tidak mengenal asumsi.

tanggal 27 Desember 2007, ini merupakan gambaran sebuah proses pemahaman yang panjang, sehingga masyarakat akan lebih memahami bahwa luapan lumpur yang terjadi di Sidoarjo adalah bencana alam dengan fenomena alam dan bukan disebabkan oleh pengeboran sumur yang dilaksanakan oleh Lapindo Brantas Inc.

Menurut Ketua Majelis Hakim Wahjono pada persidangan gugatan Walhi terhadap Lapindo Brantas Inc. Di Pengadilan Negeri Jakarta Selatan pada

Pimpinan dan staf PT Minarak Lapindo Jaya tidak menerima hadiah/parcel/imbalan apapun dari warga terkait, transaksi jual beli sawah, pekarangan, bangunan sesuai dengan PETA TERDAMPAK 22 MARET 2007 (Perpres 14/thn. 2007).

**ADVERTORIAL**

# Dua Tahun Komitmen Sosial Lapindo di Sidoarjo

**S**EMBURAN lumpur Sidoarjo telah berlangsung selama dua tahun sejak pertama kali musibah itu terjadi pada 29 Mei 2006. Selama dua tahun itu pula, Lapindo Brantas Inc (Lapindo) melakukan berbagai upaya penanggulangan teknis dan sosial bersama dengan pemerintah dan berbagai instansi terkait. Sampai akhir April 2008, Lapindo telah mengeluarkan biaya sekitar Rp 3,2 triliun.

Dari total dana tersebut, Rp 337 miliar diberikan dalam berbagai bentuk bantuan sosial bagi warga terdampak, Rp 873 miliar untuk membiayai upaya penutupan sumber, Rp 861 miliar untuk penanganan lumpur di atas permukaan tanah, serta Rp 1,135 triliun untuk pembelian lahan dan bangunan terdampak serta kompensasi *business-to-business* dengan perusahaan-perusahaan terdampak.

Pemberian bantuan sosial bagi warga di dalam Peta Terdampak 22 Maret 2007—yang menaungi Perpres No. 14/2007 dibebankan kepada Lapindo—telah mendekati tuntas 100%. Penuntasan bantuan sosial seperti bantuan uang pin-dah, bantuan uang kontrak, dan jaminan hidup masih kurang sekitar 3% saja. Itupun lebih disebabkan adanya warga yang belum bersedia mengikuti program seperti diatur dalam Perpres No. 14/2007 tersebut.

Untuk melakukan pembelian lahan dan bangunan terdampak milik warga yang ada di dalam Peta Terdampak 22 Maret 2007 menyedot biaya cukup besar. Diperkirakan, Lapindo melalui PT Minarak Lapindo Jaya masih harus mengeluarkan dana sebesar Rp 3,2 triliun untuk melakukan pelunasan 80% dari jual beli tersebut.

Pelunasan 80% secara tunai bagi warga dalam Peta Terdampak 22 Maret 2007 menyedot biaya cukup besar. Diperkirakan akan tuntas pada tahun 2009 sebab jika akan dimulai akhir Mei 2008 dan diperkirakan akan tuntas pada tahun 2009, sebab jika mengacu pada ketentuan Perpres No. 14/2007, pembayaran 80% dilakukan secara bertahap yaitu uang muka 20% dan sisanya dilakukan dalam waktu satu bulan sebelum masa kontrak rumah selama dua tahun berakhir.

PT Minarak Lapindo Jaya memfasilitasi *resettlement* sesuai hasil rapat kabinet pada 27 September 2006, Presi-

NO	KETERANGAN	PENGELUARAN HINGGA April 2008 (IDR)
1	PENANGANAN SOSIAL	337 miliar
2	UPAYA PENUTUPAN SUMBER SEMBURAN	873 miliar
3	PENANGANAN PERMUKAAN	861 miliar
4	REALISASI JUAL BELI TANAH & BANGUNAN KORBAN TERDAMPAK: - WARGA - B to B - LAHAN LAIN-LAIN	656 miliar 22 miliar 457 miliar
JUMLAH		3,206 triliun

den mengintruksikan agar dilakukan pemukiman kembali atau *resettlement* bagi warga korban lumpur Sidoarjo serta rekomendasi dari Tim Pengawas Penanggulangan Lumpur Sidoarjo DPR RI, tanggal 22 Februari 2008 ini yang mendesak Lapindo Brantas Inc. Untuk menyediakan pemukiman baru bagi warga yang tidak bisa melakukan akte jual beli. Dan sebenarnya, *resettlement* merupakan aspirasi warga terdampak sendiri yang muncul di awal-awal terjadinya musibah.

#### KEPEDULIAN MORAL DAN KEMANUSIAAN

Sejak hari pertama musibah itu terjadi, Lapindo telah melakukan langkah-langkah cepat dengan prioritas penyelamatan warga dengan melakukan evakuasi ke tempat-tempat yang lebih aman, memberikan bantuan sosial yang sangat dibutuhkan oleh warga terdampak tanpa larat dalam perdebatan siapa dan apa penyebab terjadinya musibah semburan lumpur tersebut.

Penuntasan permasalahan terutama masalah sosial merupakan prioritas Lapindo. Dan kami melakukan semua

itu dengan dasar kepedulian sosial dan kemanusiaan perusahaan terhadap warga yang tertimpa musibah dan mereka adalah warga yang tinggal di dekat wilayah operasi kita.

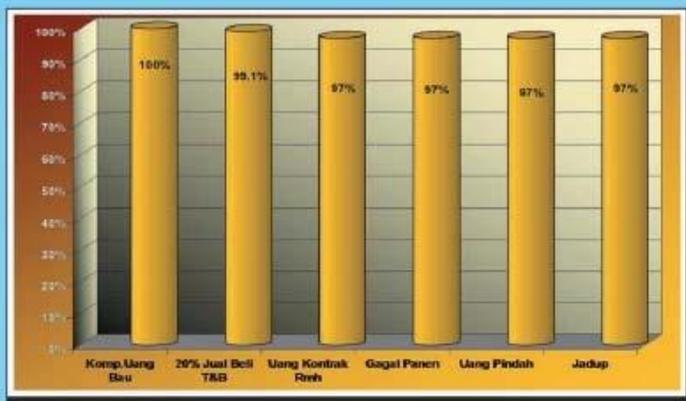
Fakta pada tanggal 27 Mei 2006 telah terjadi gempa Jogja, fakta semburan lumpur Sidoarjo terjadi sekitar pukul 09.00 pagi, Senin, 29 Mei 2006. **Lumpur panas menyembur di area persawahan di Desa Siring, Kecamatan Perong, Kabupaten Sidoarjo**, persisnya di satu titik yang berjarak sekitar 200 meter dari lokasi sumur eksplorasi Banjarpanji-1 yang terletak di desa Renekenongo. Istilah 'Lumpur Lapindo' karena opini yang terjadi bahwa semburan akibat kesalahan prosedur pengeboran di sumur eksplorasi Banjarpanji-1 meski faktanya sebagian besar ahli justru berkesimpulan bahwa semburan lumpur itu merupakan fenomena alam yang disebut *mud volcano*.

Hal ini diperkuat pernyataan dari *Guru Besar Geologi IIB Prof. Dr. Ir. Sukendar Asikin* sebagai saksi ahli pada persidangan di Pengadilan Negeri Jakarta Selatan, Semburan bukan terjadi akibat pengeboran Lapindo Brantas Inc., semburan lumpur merupakan fenomena alam yang diakibatkan pergerakan lapisan tanah (*land subsidence*), ada beberapa patahan yang memunculkan gunung lumpur atau *mud volcano* (*Indo Pos*, Jumat 28 Desember 2007).

Pada 27 November 2007, PN Jakarta Pusat juga menolak seluruh gugatan YLBHI di mana Lapindo merupakan salah satu tergugat. Majelis Hakim PN Jakpus menetapkan bahwa Lapindo tidak terbukti melakukan perbuatan melawan hukum dalam masalah semburan lumpur Sidoarjo dan penganiayaannya (*Detikcom*, 27 November 2007).

Dan, putusan Majelis Hakim Pengadilan Negeri Jakarta Selatan menolak gugatan Walhi Pada tanggal 27 Desember 2007, menurut Ketua Majelis Hakim Wahjono pada persidangan gugatan terhadap Lapindo Brantas Inc. Fenomena alam bukan perbuatan melawan hukum. Oleh sebab itu Majelis Hakim memutuskan menolak gugatan secara keseluruhan. (*Investor Daily*, Jumat 2007).

Menurut Dosen Perminyakan IIB **Dr. Ir. Dody Nawang-sidi**, "Melihat dari volume semburan lumpur yang sudah mencapai 1 juta barel per hari dapat dipastikan ini merupakan fenomena *mud volcano*."



Di tengah semakin kuatnya bukti dan pendapat yang mendukung semburan lumpur Sidoarjo sebagai fenomena alam, Lapindo terus melakukan program penanggulangan sosial dan teknis. Keluarnya Kepres No. 13 tahun 2006, menyusul Perpres No. 14 Tahun 2007 yang telah diuji **Material tingkat pertama dan terakhir oleh Mahkamah Agung Nomor : 24P/HUM/2007 tanggal 14 Desember 2007** (Antara, 19 Februari 2008) sehingga kedudukan Perpres 14/2007 menjadi pegangan yang tetap (*in knockt*) memberikan kepastian bagi Lapindo dalam kepeduliannya menanggulangi musibah semburan lumpur Sidoarjo dan dampaknya. Perpres tersebut menetapkan kawasan Peta Terdampak 22 Maret 2007 yang penanggulangan dampak sosialnya menjadi tanggung jawab Lapindo. Sementara kawasan terdampak di luar Peta Terdampak tersebut ditanggung oleh pemerintah. Menyangkut penanggulangan teknis, Lapindo diberi tanggung jawab melakukan upaya penutupan semburan serta pengaliran lumpur dari pusat semburan ke Kali Porong.

Adapun mengenai penutupan semburan lumpur itu sendiri, bersama sama dengan Tim Nasional Penanggulangan Lumpur Sidoarjo Lapindo telah mengupayakannya dengan menggunakan metode *refief well, snubbing unit, re-entry well*, namun semua upaya yang dilakukan tersebut tidak membuahkan hasil.

Menurut, *mantan Ketua Ikatan Geologi Dr. Ir. Andang Bachtiar* "Lumpur Lapindo sebagai *Mud Wokawo* dan belum ada sejarah hal itu bisa ditutup manusia dengan teknologi atau dihentikan dengan cara melelekkannya. Siapapun jelas tak bisa memprediksi apa yang sebenarnya terjadi di perut bumi" (*Sinar Harapan*, 22 Februari 2008).

Saat ini, beberapa ahli sedang mengkaji hal ini. Kami juga bekerja sama dengan instansi yang berkompeten terhadap kondisi bawah permukaan, untuk melihat bagaimana kondisi di bawah permukaan tanah. Apakah semburan keluar dari satu lubang atau sudah menyebar ke rekahan-rekahan. Ini penting sebelum memutuskan upaya-upaya teknis lebih lanjut. Pasalnya melakukan tindakan tanpa mengetahui penyebab semburan Lumpur adalah tindakan spekulatif dan berbahaya serta memakan biaya sangat mahal. Ketua Panitia Seminar Forum Masyarakat Jawa Timur menambahkan pendapat ahli Dr. Ir. Rudi Rubiandini yang mengatakan semburan lumpur sebagai *Underground Blow Out*. Ditinjau forum seminar didasarkan data yang tidak faktual dari analisis yang salah. (*Kompas*, 29 Februari 2008).\*\*\*

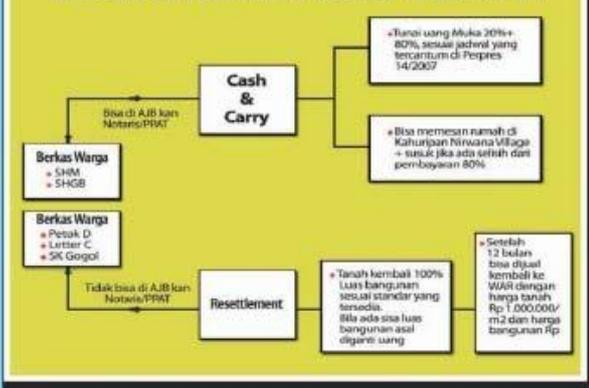


## PERCEPATAN PEMBAYARAN 80 PERSEN

**K**EBUAKAN PT Minarak Lapindo Jaya (MLJ) dalam penyelesaian 80% tanah dan bangunan warga terdampak lumpur Sidoarjo menurut peta terdampak 22 Maret 2007:

1. Semua berkas (SHM/SHGB) yang bisa di-AJB-kan oleh Notaris/PPAT, maka penyelesaian 80% akan dibayar secara cash & carry sesuai jadwal yang tercantum dalam Perjanjian Ikatan Jual Beli (PIJB) 20%.  
Akta Jual Beli yang merupakan istilah yuridis adalah sebagai suatu peralihan hak atas tanah yang dilakukan dan dibuat dihadapan Pejabat Pembuat Akta Tanah (PPAT), maka Akta Jual Beli adanya kepastian sahnyanya objek atas tanah, subjek atas tanah dan status atas tanah yang bersangkutan riwayat tanah yang jelas.
2. Semua berkas (Petak D/Letter C/SK Gogol) yang tidak bisa di-AJB-kan oleh Notaris/PPAT diberikan solusi mengikuti program *resettlement* dengan formula: tanah diganti tanah dengan perbandingan 1:1 sama dengan luas asal + bangunan rumah seluas tertentu (standar yang dibangun PT WARJ) + susuk sebesar nilai sisa (bila ada) dari luas bangunan asal menurut data PIJB 20% + Tanpa lagi memperhitungkan uang muka 20% yang telah diterima warga. **Ini suatu solusi terbaik untuk menghindari pelanggaran hukum oleh warga, Notaris/PPAT dan PT Minarak Lapindo Jaya, sesuai aturan perundangan undangan yang berlaku seperti Undang Undang Pokok Agraria Nomor 5/tahun 1960 dan PP 24/1997.**
3. Bagi warga yang menerima program *resettlement* tetapi tidak berminat untuk tinggal menetap pada lokasi yang disiapkan, maka yang bersangkutan diberi kesempatan untuk menjual kembali tanah dan rumah tersebut kepada PT Wahana Arta Raya (WAR) dengan harga persis sama dengan harga semula dan diberi hak untuk tinggal (cuma-cuma selama 12 (dua belas) bulan.

### SKEMA PENYELESAIAN WARGA TERDAMPAK



#### Perpres 14/2007 pasal 15:

- Ayat (1) : Dalam rangka penanganan masalah sosial kemasyarakatan PT. Lapindo Brantas membeli tanah dan bangunan masyarakat yang terkena luapan lumpur Sidoarjo dengan pembayaran bertahap, sesuai peta area terdampak tanggal 22 Maret 2007 dengan akta jual beli kepemilikan tanah yang mencantumkan luas tanah dan lokasi yang disahkan oleh pemerintah.
- Ayat (2) : Pembayaran bertahap yang dimaksud, seperti yang telah disetujui dan dilaksanakan pada daerah yang termasuk dalam peta area terdampak 4 Desember 2006, 20% (dua perseratus) dibayarkan dimuka dan sisanya dibayarkan paling lambat sebulan sebelum masa kontrak 2(dua) tahun habis.

#### Surat Lapindo Brantas Inc. No.1098/ARY/106, tanggal 04 Desember 2006

Bahwa berdasarkan kepada bentuk kepedulian Sosial dan tanggungjawab Meral Lapindo Brantas Inc. membeli tanah dan bangunan warga terdampak Lumpur Sidoarjo dengan harga yang tercantum dalam surat dimaksud, adapun jual beli dilakukan Akta Jual Beli dengan mendasarkan kepada bukti kepemilikan yang sah atas tanah.

Per tanggal 23 Mei 2008 pembayaran 20% yang sudah direalisasikan adalah 12.039 bidang dengan nilai sebesar Rp. 655.701.005.100,- dan Lapindo Brantas Inc./PT Minarak Lapindo Jaya telah melakukan percepatan pembayaran 80% sejak awal April 2008 dengan hasil warga telah menanda tangani kesepakatan/persetujuan untuk memesan kavling sebanyak 1.067 bidang di lokasi Kalurahan Nirwana Village termasuk mendapatkan uang susuk/uang kelebihan atas perbedaan ukuran kasnya.\*\*\*

Pimpinan dan staf PT Minarak Lapindo Jaya tidak menerima hadiah/parcel/imbalan apapun dari warga terkait, transaksi jual beli sawah, pekarangan, bangunan sesuai dengan PETA TERDAMPAK 22 MARET 2007 (Perpres 14/thn. 2007).



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