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Recent development of legal system on disaster management in Indonesia and its function: The role of law to support sustainability of society under the disaster

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## Introduction

In response to vast damage caused by tsunami and earthquake in Aceh in 2004, Indonesian government initiated a revision of its disaster management. However, because of exceptional situation in Aceh, reconstruction strategy in Aceh was a contrasting one to those provided in new disaster management law promulgated in 2007. It is the reconstruction process after the earthquake hit on Central Java in 2006 that has a significant impact to the contents of new disaster management law.

Though a drafting of the new law had already started, there was only old legal mechanism that could be applied to a large-scale disaster at the time of Central Java earthquake. In order to implement reconstruction policy that is different from Aceh's one, government agencies both of local and central level issued various regulations and official letters to address a pile of problems for reconstruction<sup>1</sup>.

In Aceh, administrative and financial competences in reconstruction were highly concentrated to one agency, the Rehabilitation and Reconstruction Agency (*Badan Rehabilitasi dan Rekonstruksi*, hereinafter referred to as "BRR") that was directly responsible to the President. Central government concentrated all budget for reconstruction and a management power of assistance to the BRR. This centralized scheme was to a certain extent reasonable choice under political and social conditions in Aceh. Because of huge damage to local society caused by tsunami as well as continued dysfunction of local administration due to prolonged armed conflict, it was difficult to expect Aceh local government to take initiative in reconstruction.

However, this reconstruction scheme was criticized for several reason: firstly, this scheme failed to facilitate people's participation to reconstruction and most of reconstruction projects were dominated by international or domestic third parties; secondly, many of reconstruction activities were not well-designed sustainable ones but short time and spontaneous projects<sup>2</sup>; thirdly, because of those reasons, local people was excluded from reconstruction of their society and became dependent on assistance; and fourthly, massive flow of uncontrolled assistance and lack of people's active involvement caused an inefficient use of aid money and serious corruption in reconstruction projects<sup>3</sup>.

Therefore, local governments in affected area by Central Java earthquake learn from negative aspects of that centralized scheme and dependence on outer money. Basic

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<sup>1</sup> Regulations and other official document related to the Central Java earthquake disaster that this paper refers are cited from the report published by the government of Yogyakarta Special Province. (Pemerintah Provinsi Daerah Istimewa Yogyakarta, Rangkuman Kebijakan: Pelaksanaan Rehabilitasi Rekonstruksi Pasca Gempa Bumi di Daerah Istimewa Yogyakarta, 2008).

<sup>2</sup> Bakri Beck, a presentation on 18-19th November 2008 at work shop "*Kegiatan Apresiasi Manajemen Bencana Melalui Pelatihan Penanganan Rehabilitasi dan Rekonstruksi Rumah Paska Bencana Berbasis Pemberdayaan Masyarakat di Propinsi DIY dan Jawa Tengah*" in Yogyakarta.

<sup>3</sup> See Asian Development Bank et.al. eds., Curbing Corruption in Tsunami Relief Operations, Asian Development Bank, 2005.

principles that make a reconstruction in Central Java distinct from that in Aceh are decentralization and grass-root approaches. Firstly, local governments (Central Java province and Yogyakarta special province) attempted to transfer the financial power from central government to local government (decentralization). Secondly, a “grass-root” approach was employed to empower affected people.

As mentioned above, decentralized and grass-rooted approaches were devised through *ad hoc* communications between central government and local governments in reconstruction from Central Java earthquake disaster. Those approaches have significant impact on a drafting process of new disaster management law. Therefore, new law has provisions that imply decentralization and grass-root orientation.

New disaster management law was enacted as the law no. 24 in 2007. Then, on 30th September 2009, strong earthquake measuring 7.9 on the Richter scale struck Padang and surrounding areas, West Sumatera province, Indonesia, and caused severe damage in lives, houses and lands<sup>4</sup>. This quake (hereinafter, West Sumatera earthquake) is the first severe disaster after the promulgation of the law no.24/2007.

The main focus of this paper is to review how disaster management mechanisms in the law no.24/2007 are implemented, and, if any, its weaknesses.

In next chapter, I briefly review the development of disaster management laws in Indonesia focusing three keywords: comprehensiveness, independence and empowerment. Second chapter focuses on mechanisms of law 24/2007 in comparison with practices in reconstruction of the Central Java earthquake. In chapter 3, I review reconstruction process in West Sumatera based on field research.

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<sup>4</sup> 1197 people died (including 2 missing), 619 seriously injured, and 1179 had minor injury. House damages were very serious. 249,833 houses were affected in Padang city, Padang-Pariaman regency, Pariaman city, Agam regency and Pesisir Selatan regency. 114,797 houses collapsed or heavily damaged, 67,198 houses had medium damage, and 678,838 houses were lightly damaged.

## Chapter 1. Development of disaster management laws in Indonesia

### (1) Legal mechanism for disaster management

For long time, disaster management had been considered as a matter of hard technology and civil engineering. Disaster management meant designing quake-proof building structure, constructing dam and dyke to stop flood, constructing seawalls to block tsunami, or estimating and, if possible, predicting scale and damage of coming disastrous natural events. Though those scientific technological efforts remain very significant, many experts also see social aspects as important parameters of disaster. Social vulnerability and resiliency to natural hazards would be decisive factor of disaster damage to people. Wisner *et.al.* considers disaster as a combination of scale of natural hazard (e.g. earthquake, cyclones, flooding, volcanic eruption, landslide, drought or toxic virus) and vulnerability<sup>5</sup>. According to Wisner *et.al.*, “vulnerability is rooted in social processes and underlying causes which may ultimately be quite remote from the disaster event itself.”<sup>6</sup>

Though Wisner *et.al.* focused on disaster damage, it might be right to say that vulnerability is also decisive in reconstruction, and more vulnerable people needs longer time for reconstruction.

Vulnerability analysis of Wisner *et.al.* covers root causes such as social and political ideologies and accesses to power, structure and resources. Due to limitation of space and resource, this paper has to confine its analysis onto specific and more visible causes of vulnerability. Wisner *et.al.* puts “unsafe conditions” as vulnerability factors that are the closest to disaster. “Unsafe conditions” include not only physical environment but also public actions and institutions, especially lack of preparedness, as well as social relations such as lack of local institution<sup>7</sup>.

It is clear how significant a legal system is for those vulnerability factors. Because vulnerabilities already exist before a disaster, disaster management legal system for reducing vulnerability should be a comprehensive one that covers a series of events from pre-disaster (preparedness), occurrence of disaster (emergency) to post-disaster (reconstruction). It is a “comprehensiveness” of disaster management.

Furthermore, because vulnerability comes from various sectors such as technological, social, economic and cultural conditions, disaster management to improve vulnerability needs inter-sectoral efforts. Therefore, a disaster management body has to have a certain extent of financial and administrative independence from other part of government in order to control and coordinate their activities. This is a factor of “independence” of disaster management.

For improvement of vulnerability, it is important to enhance local institution and to extend social capital, participation and chance of access. This implies an importance of “empowerment” of people in reconstruction process.

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<sup>5</sup> Weisner, Ben; Blaikie, Piers; Cannon, Terry and Davis, Ian, At Risk: Natural Hazards, people’s vulnerability and disasters (second edition), Routledge, 2010, p.49.

<sup>6</sup> *Ibid.*, p.50.

<sup>7</sup> *Ibid.*, p.50.

Having those considerations mentioned above, this chapter reviews the development of disaster management laws in Indonesia by focusing three keywords: “comprehensiveness” in disaster management mechanisms, financial and administrative “independency” of disaster management organs, and “empowerment” of people in reconstruction.

## **(2) Presidential decision no.28/ 1979**

Before enactment of the disaster management law no. 24/2007, “National Disaster Management Coordinating Agency” (*Badan Koordinasi Penanggulangan Bencana*, hereinafter referred to as “Bakornas”) was an organization that took charge of a disaster risk management. The organic regulation on the Bakornas was not a parliamentary law but a Presidential decision. The first Presidential decision that established the Bakornas was the Presidential decision no.28/ 1979, and there had been several amendments until 2005.

According to Presidential decision no. 28/1979, Bakornas stood for the Natural Disaster Management National Coordination Agency (*Badan Koordinasi Nasional Penanggulangan Bencana Alam*, Bakornas). Thus, this decision supposed disaster only as natural disaster. This decision provided a rescue of victims at the occurrence of a disaster, and to support for the affected people after disaster. Thus, the Presidential Decision no. 28/1979 lacks comprehensiveness in disaster management.

## **(3) Presidential decision no.43/1990**

Firstly, the Presidential decision no.43/1990 added the disaster caused by human activities to the definition of disasters. Secondly, this decision provided that a disaster management should include a disaster management before occurrence as well as after occurrence of a disaster. By this Presidential degree, necessity of a comprehensiveness of disaster management was recognized in Indonesian disaster management legal system. However, the Bakornas would not be convened until when a large-scale disaster occurred. Therefore, in practice, the Bakornas could not do comprehensive disaster management activities before disaster.

“Independence” factor was not realized yet, too. The Bakornas was chaired by the Coordinating minister of people’s welfare, and relevant ministers joined as members<sup>8</sup>. Secretary General of the agency was the director general of the ministry of social affairs. Chair, members and secretary general, all were concurrent positions. The operation budget came from budget of the secretariat in the coordinating minister of people’s welfare. Therefore, the Bakornas under the presidential decision no.43/1990 lacked both administrative and financial independence.

## **(4) Presidential Decision no. 106/1999**

This decision added the “disaster caused by a result of social disturbance” as one of definitions of disaster. Thus, it could be said that the comprehensiveness was

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<sup>8</sup> Minister of social affairs, Minister of internal affairs, Minister of health, Minister of public works, Minister of transportation, chief commander of national military, governors of affected provinces.

extended<sup>9</sup>.

Although committee membership of the Bakornas was extended along with the expansion of the definition of disaster<sup>10</sup>, all committee member as well as secretary-general remained concurrent positions. Therefore, independence factor was not fulfilled yet.

#### **(5) Presidential Decision no. 3/ 2001**

By this decision, name of Bakornas was changed to "National Coordination Agency of Disaster Management and Response to Evacuees (*Badan Koordinasi Nasional Penanggulangan Bencana dan Penanganan Pengungsi*)." This change corresponded to an expansion of definition of disasters in previous presidential decision. The presidential decision no.3/ 2001 provided that the response to evacuees was "humanitarian service and protection for evacuees of certain place caused by social or political conflict, including preventive activity, emergency response, reception of evacuees, transportation of evacuees, as well as return and re-settlement of evacuees."

Other important change was the chair of the agency and source of budget. By this presidential decision, the vice-President served concurrently as a head of the agency, and the secretary of the vice-President served concurrently as a secretary general of the agency. The chair of the Bakornas is changed because the Ministry of social affairs and the Coordinating Minister were abolished by administrative reform.

As a result, the financial independence of the Bakornas was strengthened. Previously the budget of the Bakornas came from the budget of the secretariat of the coordinating Minister. After the amendment, Bakornas had its own budget in the state budget.

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<sup>9</sup> The background of this amendment was the recognition that the excessive development was causing disaster, and the perception that the frequent ethnic conflicts after the end of Soeharto's authoritarian regime should be also a kind of disaster.

Indeed, there were large-scale forest fires in Sumatra Island and Kalimantan Island, as well as lengthy drought in Irian Jaya (West part of New Guinea Island) from 1997 till 1998. These natural disasters were caused by the over exploitation that exceeded recuperative power of natural environment, such as haphazard swiddens and excessive deforestation due to timber exploitation and mining. Because of this excessive development problem, Ministers related to environmental and development division joined to committee membership where only Ministers related to humanitarian and logistic division had had membership before.

About the ethnic conflicts, there was a large-scale refugee issue in East Timor in 1999. Violence in Maluku islands and Sulawesi Island due to ethnic or religious hostility also caused many cases of murder and a large number of internal displaced persons. In response to those social disturbances, the Presidential decision 1999 extended the definition of "disaster" so that disaster risk management could cover the issue of refugees and displaced persons.

<sup>10</sup> the Minister of industry and energy, the Minister of agriculture, the Minister of forest and plantation, the Minister of environment, the Minister of science and technology, the Minister of information, and the Minister of national development were newly added to committee membership of the Bakornas.

Other than financial reform, the Presidential decision no.3/ 2001 provided a systematization of the secretariat of the Bakornas, too. The division of disaster management, the division of response to evacuees, the division of civil cooperation and participation, and the division of general administration were newly set up. This systematization indicated the government paid more attention for an importance of actual comprehensiveness in the disaster management.

The establishment of division of civil cooperation and participation could be interpreted as a part of people's "empowerment." However, "empowerment" factor was explicitly provided only when the law no.24/2007 and its implementation regulations were enacted.

#### **(6) Presidential Regulation no. 83/ 2005**

This Presidential regulation no.83/ 2005 installed two vice-secretaries. The Minister of internal affairs and the Coordinating Minister of people's welfare were to be vice-secretaries.

The Coordinating Minister took a charge of "the coordination of cross-sectional and international activities in disaster and emergency response". The Coordinating Minister has a jurisdiction over several ministries relevant to logistics in disaster response, that is, the Ministry of social affairs, the Ministry of health, the Ministry of environment and the Ministry of housing. On the other hand, the Minister of internal affairs was in charge of "the coordination among provinces, prefectures and cities in disaster management and emergency response." Tasks of the Minister of internal affairs include the local autonomy and the coordination among local governments.

Therefore, this Presidential regulation reinforced the administrative independence of the disaster management body (Bakornas) over relevant government organs.

## **Chapter 2. Decentralized disaster management system under the law 2007. Comparison with case of Central Java.**

As mentioned in Introduction, competency and budget for reconstruction of disaster in Aceh were concentrated to the BRR that was directly responsible to the President. Thus, the BRR has strong independency over other government agencies, but the empowerment of people has been paid little attention. The reconstruction of Aceh has been criticized because it excluded local people, made people dependent on aid, weakened social capital, and caused a lack of accountability in reconstruction program.

Learning from those negative consequences, local governments of affected regions pursued decentralized and grass-rooted reconstruction model after the Central Java earthquake in 2006. Through *ad hoc* negotiations and scattered regulations, those local governments formed this model. This chapter compares the reconstruction process in Central Java with the disaster management law no.24/2007.

### **(1) Financial decentralization - who handle reconstruction budget?**

Before the enactment of the law no.24/2007, local government had had very limited competence in disaster management. According to the presidential decision no. 106/ 1999, each provinces had an implementation coordinating unit (*Satuan Koordinasi Pelaksana*, hereinafter referred to as "Satkorlak") for implementing and coordinating disaster management at provincial level, and each prefectures had an implementation unit (*Satuan Pelaksana*, Satlak) to implement disaster management in each prefecture. Even though Satkorlak and Satlak are headed by head of each local government, those units had to operate within a disaster management guideline set by the Bakornas, and there were no clear provisions allowing to transfer disaster management budget to local governments.

#### **(a) De facto decentralization in Central Java:**

In course of reconstruction after the Central Java earthquake, local government of Yogyakarta special province requested the central government to move reconstruction budget down to local government.

After the earthquake, a coordination team headed by the coordinating minister was installed by the presidential decision no. 9/2006. However, actual competence to execute state budget for reconstruction was given to the implementation team of province appointed by the governor (governor decision no.20/2006 on 8th July 2006). This competence was further strengthened by auditing procedure. By the official letter (no.361/o3262 on 30th August 2006), the governor instructed that local institutions should submit budgetary proposal of reconstruction to the governor, and each budget implementation should be subject to auditing by local audit agency (*Badan Pengawasan Keuangan Daerah*). The governor also sent a letter requesting the minister of finance to give financial flexibility by allowing local government to make own financial regulation (official letter on 13th April 2007).

Furthermore, the governor decided to keep the residue of reconstruction budget in local government's bank account at the end of fiscal year (the governor regulation no.38/2006). The governor also instructed heads of prefecture/ city no to return residue of that budget to central government (official letter on 19th April 2007).

This *de facto* financial decentralization was admitted by the minister of public works saying “according to the Presidential decision no. 9/ 2006, the implementation team of the province has a jurisdiction over house reconstruction by paying attention to necessity and situation of each area.”

**(b) Financial decentralization in the law no. 24/ 2007 and relevant regulations:**

The law no.24/2007 sets the National Disaster Management Authority (*Badan Nasional Penanggulangan Bencana*, BNPB) on central level and Local Disaster Management Authority (*Badan Penanggulangan Bencana Daerah*, BPBD) on province as well as prefecture (*kabupaten/ kota*) level as agencies to do comprehensive disaster management. Especially, in contrast to previous laws, the law provides Local Disaster management agency (BPBD) a broad responsibility on disaster management in its jurisdiction area<sup>11</sup>.

For subsidies of reconstruction, the regulation of director general for finances no. 26/2010 provided a detailed procedure of direct subsidy for people (Chapter V, part 1). In the light of that regulation, substantial competences for executing budget of direct support for people are on prefecture level (*kabupaten/ kota*).

The commitment facilitating officers (*pejabat pembuat komitmen*, PPK) appointed by the BNPB are responsible to budget execution for disaster management (art.1 sec.11). Especially, the PPK on prefecture level (PPK-Daerah) appointed by the BNPB with recommendation of head of local government has competence to authorize expenditure for resident groups and to request necessary budget to the BNPB (art.9). In this procedure, PPK in central level has only formal competence to transfer relevant documents to treasury (art.10 and 11).

In contrast to case of Central Java where the residue of budget was to be kept in local government account, article 21 of the regulation provided that if reconstruction budget still left at the end of fiscal year, that residue has to be returned to the BNPB and kept in central disaster management account. It means that the BNPB and BPBD have vertical relationship in finance.

**(2) Grass-root approach in reconstruction**

**(a) Utilization of *Pokmas* and local wisdom in Central Java**

In order to rebuild houses damaged by the Central Java earthquake, governments of Central Java province and Yogyakarta special province allocated subsidy for each resident groups (*kelompok masyarakat*, Pokmas) composed of about 15 households. Since before the earthquake, government utilizes resident group scheme in subsidizing and project implementation of rural development programs (e.g. *Pokmas*

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<sup>11</sup> According to the law no.24/2007, the competence of central government and competence of local government are clearly divided and decentralized except for the determination of disaster level and international relations. For example, disaster risk management policy for a region is to be determined in accordance to the local development plan that a local government itself settles on. Central government only coordinates inter-sectional disaster management with foreign governments, foreign agencies and international organizations, while a provincial government coordinates activities of prefectures and cities within its jurisdiction.

*IDT* in rural development program based on the Instruction on underdeveloped villages (Instruksi Desa Tertinggal, *IDT*.) This subsidy allocation was one of the important schemes in reconstruction after the Central Java earthquake. While local people in Aceh only received houses supplied by the central government or aid agencies after tsunami disaster, resident groups in Central Java are expected to take initiative in planning and implementing house reconstruction.

Unlike the case of Aceh, Central Java region has some favorable conditions toward the resident group (Pokmas) scheme. For example: (a) village communities still remained in affected area (because of the scale of damage, relatively low death rate compare to Aceh, and small scale of population mobility after disaster); (b) rich resource of civil society and educational institution that make the grass-root approach effective. In addition to these, and more importantly, this grass-root approach learned from negative consequences of the heavily centralized reconstruction scheme in Aceh.

Soon after the earthquake in Central Java, the coordinating minister instructed to utilize tradition of mutual cooperation in Javanese village community known as *gotong-royong* for house reconstruction (official letter on 2nd June 2006). After the emergency period was over, prefectural governments in affected area set up resident groups. In order to support activities of resident groups, each governments recruited facilitators. Governments also appoint some officers (management officers, commitment making officers, and program officers) to advise and supervise facilitators.

#### **(b) Formalization of Pokmas in disaster reconstruction**

As the law no.24/2007 on disaster management provides an empowerment of people as one of principles of disaster management<sup>12</sup>, its lower regulations employ Pokmas scheme as an empowerment mechanism in house reconstruction. Pokmas scheme is located as a part of “direct subsidy for people” (*Bantuan Langsung Masyarakat*, BLM).

According to government regulation no.21/ 2008 on implementation of disaster management, government distributes subsidy for victims as a stimulant to house rebuilding (art. 67 (1)), and government subsidize house rebuilding by way empowering people with attention to local characteristic and people’s culture (art. 67 (3)).

The BNPB’s guideline of disaster management (stipulated in BNPB regulation no. 11/2008 on guideline of rehabilitation and reconstruction in post-disaster period) also emphasizes an initiative of local society<sup>13</sup>. Resident group is an option for realizing

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<sup>12</sup> Other principles are: promptness and correctness, priority, coordination and comprehensiveness, efficiency and effectiveness, transparency and accountability, partnership, non-discrimination, and non-missionary.

<sup>13</sup> Chapter 2 section B of the guideline provides:

Strategy of rehabilitation activities is:

1. to involve and empower people in rehabilitation;
2. to pay attention on characteristic of disaster, locality and culture;
3. to stand on actual condition of affected field;
4. to design rehabilitation activities as civil movement by making people not only victims but also active participants of rehabilitation in volunteer groups, and;
5. to distribute support at correct timing, form and amount so that it can arouse larger

that initiative (chapter 4 section C).

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rehabilitation and disaster management activities.

### **Chapter 3. Case study in Padang. Decentralization and grass-root approach under the weak governance.**

#### **(1) Outline**

After the West Sumatera earthquake in 2009, the West Sumatera government decided to use the resident group (Pokmas) scheme in house reconstruction, and provides technical guideline (*Petunjuk Teknis Rehabilitasi dan Rekonstruksi Pasca Gempa Bumi Sumatera Barat 30 September 2009 Bidang Perumahan Tahap II*).

In Pokmas scheme, mechanism can be divided to the BNPB-BPBD line and local government line.

For the former, the BPBD should take main role in reconstruction in accordance to the law. However, because the BPBD in West Sumatera province had just established and not functioned yet when the quake occurred, the BNPB played a central role. For resident group scheme in West Sumatera, key components under the BNPB and their function is as follows:

a. Activity Operation Officer (*Pejabat Penanggung Jawab Operasional Kegiatan, PJOK*):

BNPB appoints PJOK on provincial and prefectural level. Because PJOK in prefectural level has strategic functions in house reconstruction, BNPB appoints them in accordance with recommendation of heads of prefecture/mayors. In general, PJOK in prefectural level prepares activity plan and working regulation for house rebuilding and subsidy, authorizes expenditure of subsidy, and supervises house rebuilding project implemented by each resident groups with support of facilitators.

b. Facilitator (*Fasilitator*)

Facilitators are the closest organ to victim in house reconstruction after disaster. Facilitators support people to form resident groups, prepare administrative documents, and advise technical issues. They are also in charge of validating data on house damage and monitoring so that house rebuilding to meet safety standards.

For the local government line, local government appoints the people accompanying team (*Tim Pendamping Masyarakat, TPM*) in order to facilitate house reconstruction by formal and informal way. TPM is composed of representative of administration (ward or township), representative of village people, a villager who has knowledge on house building, and a security officer. One TPM is in charge of about 200 households. TPM accompany to facilitators and give them an advice when facilitators have trouble with villagers.

#### **(2) Problems related to damage evaluation**

Because evaluation and categorization of damage level is directly related to the amount of subsidy victims would obtain, most of the troubles in reconstruction subsidy come from damage evaluation. In order to receive subsidy, primary datas of damage made by local government have to be validated by facilitators. It is not rare that the validated data differed from a primary data, especially damage category according to

validated data is lower than primary one.

Primary survey about damage level of each houses was conducted by community leaders who were delegated this competence by local government. However, there was not written criteria about damage levels. As a result, when facilitators rechecked the damage level, damage level of thousands houses were changed, especially, to lighter one. Many people complained about those changes, and protested to facilitators<sup>14</sup>.

Table below shows comparison between primary data and validated data in a village in Agam province<sup>15</sup>:

damage level	primary survey	validated result
collapse or heavily damaged	about 300 hh	128 hh
medium damaged	few	303 hh
lightly damaged	0	86 hh

Table: comparison between primary survey and validated result of damage level (Because original data of primary survey was not available, data of primary data is based on interviewee's memory).

There are many cases of degrading of damage level by validation. House of a surveyor of primary data collecting was degraded from heavily damaged to lightly damaged after validation. It means that this surveyor padded damage level. In other case, it was found that 4 family members who live at one house would receive subsidy separately. There was an opposite case, too. If owner repaired his house by his own money, that owner should be still eligible to subsidy but its damage level was tend to be underestimated in primary survey.

Though one of factors that makes problem worse might be a personal quality of facilitator, some residents even threat facilitator to manipulate data. Local governments appointed teams for accompanying people (*Tim Pendamping Masyarakat*) composed of civil servant, security sector and local representative in order to mediate trouble. But the team is not helpful for troubled facilitators because team members have insufficient knowledge on local situation<sup>16</sup>.

#### **a. Facilitator problems**

In field survey, both government sector (public work officer) and affected people pointed out the problem of insufficient capacity of facilitators and their corrupt acts or irregularities.

In case of a resident group in urban area, a facilitator proposed to make the

<sup>14</sup> Interview to officer of PJOK and office for public works, Padang city (22 Feb. 2011).

<sup>15</sup> Data based on interview with facilitator in Jorong Surabaya village, Agam province (24 Feb. 2011).

<sup>16</sup> Interview to facilitator in Jorong Surabaya village, Agam province (24 Feb. 2011).

procurement plan at the cost of 30,000 rupiah for each house, and the group decided to pay for facilitator<sup>17</sup>. Even though there were no further requests of payment, such practice clearly contradicted to regulation.

Other forms of unlawful deduction (*potongan*) from allocated subsidy are not rare. When interviewee's group determined not to deduct any money from subsidy in the meeting, other groups in this district complained about that decision. Other groups deducted 300,000 - 500,000 rupiah from subsidy for each houses with reasons of payment for facilitators, neighborhood community associations and public works office. These payments have no legal foundation, and it is not clear whether this money was really paid for<sup>18</sup>.

At a village remote from urban area, resident complained that facilitator did not survey village but only the visit village head and recognized a fictive primary data he made<sup>19</sup>.

PJOK Officer mentioned to time limitation of program as a reason of facilitators' incapability. Central government started second budget allocation on July, 2010. According to financial regulation, local government had to implement this budget by the end of financial year, 31 December. It means that the local government must prepare and implement projects equivalent to 3 trillions rupiah within only 3 months. Employment and training of facilitator are also a part of this schedule. As a result, many facilitators were insufficiently trained, and then it caused many troubles between facilitators and residents<sup>20</sup>.

Facilitators themselves recognize problems. But she said some of problems were caused by local people as well as institutional design. Most of village people are not familiar with making administrative documents, and ask facilitator to make it. Because, however, the task of facilitator is only to advice for making document not to make it, facilitator let village people to pay extra fee. It's depends on personality of each facilitators. Those problems had been recognized in Padang city where reconstruction program had started earlier than rural area. But government failed to correct those deviational practices<sup>21</sup>.

## **b. Corruption case**

Author found some corruption cases in reconstruction program. Either case relates to embedded collusion in community since before earthquake and insufficient checking mechanism to prevent corruptive manner.

### **Case one: Padang city<sup>22</sup>**

According to interviewee, because facilitator who was responsible to this village did not implement data validation as instructed in the technical guideline, some

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<sup>17</sup> Interview to Pokmas member in Andalas district, Padang city (23 Feb. 2011).

<sup>18</sup> Interview to Pokmas member in Andalas area, Padang city (23 Feb. 2011).

<sup>19</sup> Interview to a villager in Gunung Padang-Alai village, Padang-Pariaman province (20 Feb. 2011).

<sup>20</sup> Interview to officer of PJOK and office for public works, Padang city (22 Feb. 2011).

<sup>21</sup> Interview to facilitator in Jorong Surabaya village, Agam province (24 Feb. 2011).

<sup>22</sup> Interview to a villager in Sungai Sapih district, Padang city (23 Feb.2011)

residents received subsidy unlawfully. A primary data of damage was made by the head of neighborhood group (RT), and the head told a facilitator not to do further survey of validation.

There are some fictive data in a primary survey. Two resident groups were set up in this village. Interviewee insisted that only 9 houses of households joined to these two residents groups are inhabited before the quake and really damaged. He also said that 85 households were heavily damaged in this village, but only 15 households joined to resident groups.

In a residential quarter still in development, 35 houses were recorded as heavily damaged even though most of land plots were still empty (see picture bellow). Interviewee insisted that the head of neighborhood group conspired with plot owners in data making.

Because some villagers including interviewee put a complaint with local government against this practice, government stops further subsidy for this area.

	
<p>According to data, there should be 35 heavily damaged houses on this empty area.</p>	<p>A ruin of traditional wooden house. This ruin is recorded as a collapsed in validated data (no habitant since before the quake)。</p>

### Case two: Padang Pariaman province

Surveyed village (Padang-alai village, Agam Province) is about two hours distance from Padang city through steep mountain road. This village was affected by two earthquakes in 2007. The earthquake in 2009 struck this area while people had not recovered from previous damage yet.

Interviewee insisted that there were unlawful acts even in 2007. In 2007, data recorder appointed by village chief decided level of damages of each houses and households who were eligible to subsidy. There was no data validation by facilitator. According to Interviewee, data recorder made those data without field observation, and people who were close to the data recorder obtained subsidy unlawfully. For example, two families who shared one house before the earthquake received subsidy separately. Local government also recognized confusion in subsidy allocation in the case of 2007.

For reconstruction in 2009, 158 households join to 7 resident groups. Number of damaged households is based on the primary data made by same data recorder of 2007. But this number is different from data made by a university student team with whom local government entrusted. According to the student team, 181 houses damaged. Therefore, interviewee said, some households were excluded from subsidy program.

Data by the student team was submitted to the village head, but discarded. Interviewee insisted that, as case in 2007, residents with close connection with the data recorder obtained more subsidies unlawfully. Most of villagers keep silent on this issue because they afraid to have trouble with the village head.

Area map:

