

# Community Struggles for Land in Jakarta



**Lana Winayanti**

# **Community Struggles for Land in Jakarta**

**Lana Winayanti**

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## Abstract

In Jakarta, *kampung* settlements have provided access to urban land and housing for a large part of the population. Some *kampung* settlements have been integrated as part of the city through the granting of administrative status. However, for residents in particular *kampung* settlements continuing to live in their *kampungs* has been a struggle because of the constraints imposed on them by the state. The fall of the New Order government in May 1998 marked the beginning of the *reformasi* era, and with it new hope for better governance and democracy. Nevertheless, there seems to be a growing movement of *kampung* communities led by NGOs struggling for their rights to the city.

This dissertation is concerned with the struggles of *kampung* communities—how they have evolved under the changing social and political changes in the *reformasi* era. It argues that the *kampung* communities' claims to land were essential in gaining their social rights as citizens, and that the success of the outcomes depended on their ability to seize political opportunities.

Through fieldwork in two *kampungs*, *Kelurahan* Kebon Kosong and *Kampung* Penas Tanggul, the research showed the complexities of power relations in land resulting from weak land management by the state. The distinction between legality and illegality is unclear, and depends on the social attitudes and relations between the residents and government officials. The analysis of the findings showed the importance of the communities' claims on land and how they are related to gaining their social rights as citizens.

The success of gaining claims to land depended on the empowerment of the community, which includes understanding their rights to land evolving from a local-based struggle to a network-based struggle with other *kampung* communities in Jakarta. The role of NGOs was crucial in the empowerment process, as well as in building strategic alliances with government officials. However, despite the changes in the *reformasi* era that opened up opportunities for greater participation in

development, the process is dependent on the response of the state, which unfortunately, is still trapped in the ways of the New Order government.

These findings show the necessity of acknowledging the diversity of legality and illegality of land tenure at the *kampung* level, and finding alternative tenure arrangements for *kampung* settlements that are more feasible than individual land titles, yet could provide long-term certainty for the residents. The empowerment of *kampung* communities demonstrates the creation of a stronger civil society that could play a larger role in local land management. However, the major barriers have been the unaccountability of the state and the reluctance of state officials to open the door to wider participation. Without these changes, there is no doubt that any policy to improve security of tenure will fail.

## Declaration

This is to certify that the thesis comprises only my original work. Part of my fieldwork in *Kampung Penas Tanggul* was carried out in conjunction with Heracles Lang, a PhD candidate at the University of Canberra, who was working on quite a different project. Some of the outcomes of this work are reported in conference proceedings and a journal article. Due acknowledgement has been made in the text to all other material used. The thesis is less than 100,000 words in length, exclusive of tables, maps, references and appendices.

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## Glossary

ACHR	<i>Asian Coalition for Housing Rights</i>
APBD	<i>Anggaran Pendapatan dan Belanja Daerah</i> , Regional Income and Expenditure Budget
BPN	<i>Badan Pertanahan Nasional</i> , National Land Agency
Bappeda	<i>Badan Perencanaan Pembangunan Daerah</i> , Regional Development Planning Agency
Bappenas	<i>Badan Perencanaan Pembangunan Nasional</i> , National Development Planning Agency
BKPN	<i>Badan Kebijaksanaan Perumahan Nasional</i> , National Housing Policy Agency
BPKK	<i>Badan Pengelola Komplek Kemayoran</i> , Kemayoran Management Board
<i>Calo tanah</i>	Land broker
<i>Camat</i>	Head of <i>Kecamatan</i>
Depdagri	<i>Departemen Dalam Negeri</i> , Ministry of Home Affairs
Dep. PU	<i>Departemen Pekerjaan Umum</i> , Ministry of Public Works
Depkimpraswil	<i>Departmen Permukiman dan Prasarana Wilayah</i> , Ministry of Human Settlements and Regional Infrastructure (formerly Ministry of Public Works)
<i>Dewan Kelurahan</i>	Community Council at the <i>Kelurahan</i> level
Dinas	Sectoral agencies in Provincial, District or Municipality level
<i>Dinas Perumahan</i>	Housing Office
<i>Dinas Tata Kota</i>	City Planning Office
<i>Dinas PU</i>	Public Works Office
DP3KK	<i>Direksi Pelaksana dan Pengendalian Pembangunan Komplek Kemayoran</i> , the Kemayoran Implementation Unit
DPR	<i>Dewan Perwakilan Rakyat</i> , People's Representative Council
DPRD	<i>Dewan Perwakilan Rakyat Daerah</i> , Regional People's

	Representative Council
ESCAP	An agency under the United Nations: Economic and Social Commission for Asia and the Pacific
GLD	Guided Land Development
GOI	Government of Indonesia
Ha	hectares
INFID	International NGO Forum for Indonesian Development
ISJ	<i>Institut Sosial</i> Jakarta
JIICA	Japan International Cooperation Agency
<i>Hak giri</i>	Quasi-legal land rights proven by tax receipts and a letter from a local official
<i>Hak Guna Bangunan</i> (HGB)	<i>Hak Guna Bangunan</i> , Right of Building
<i>Hak Milik</i>	Right of Ownership
<i>Hak Pakai</i>	Right of use
<i>Hak Pengelolaan</i>	Right of Land Management
<i>Ijin lokasi</i>	Location Permit
<i>Ijin Prinsip</i>	Principle Permit granted prior to an <i>Ijin Lokasi</i>
IMB	<i>Ijin Mendirikan Bangunan</i> , Building Permit
Inpres	<i>Instruksi President</i> , President's instruction
Jabotabek	Acronym of <u>Jakarta</u> , <u>Bogor</u> , <u>Tangerang</u> and <u>Bekasi</u>
<i>kampung</i>	An urban neighbourhood characterized by informal housing and mixed land uses
Kanwil	<i>Kantor Wilayah</i> , Ministerial agency at Provincial level
Kasiba	<i>Kawasan Siap Bangun</i> , large-scale sites and services area
<i>Kartu Keluarga</i> (KK)	Family card issued by the <i>Kelurahan</i> office
<i>Kartu Tanda Penduduk</i> (KTP)	Identity Card issued by the <i>Kelurahan</i> office
<i>Kecamatan</i>	Urban district, a subdivision of municipality
<i>Kelurahan</i>	Urban sub-district, a subdivision of <i>kecamatan</i> . The lowest level of government unit
KIP	<i>Kampung Improvement Program</i>

<i>Kepmen</i>	<i>Keputusan Menteri</i> , Ministerial Decree
<i>Keppres</i>	<i>Keputusan Presiden</i> , Presidential Decree
<i>KKN</i>	<u>Abbreviation for korupsi-kolusi-nepotisme</u> , corruption-collusion-nepotism
<i>Kotamadya</i>	Municipality or city. This term has been changed into <i>kota</i> since the enactment of UU No. 22/1999
<i>Komnas HAM</i>	National Committee for Human Rights
<i>Lisiba</i>	<i>Lingkungan siap bangun</i> , or neighbourhood-scale sites and services.
<i>Lurah</i>	Head of <i>Kelurahan</i>
<i>MCK</i>	Abbreviation for <i>mandi-cuci-kakus</i> , or bath-wash-toilet facility
<i>MoHA</i>	Abbreviation for Ministry of Home Affairs
<i>MPR</i>	Abbreviation for <i>Majelis Permusyawaratan Rakyat</i> , People's Consultative Assembly
<i>MPW</i>	Abbreviation for Ministry of Public Works
<i>PBB</i>	<i>Pajak Bumi dan Bangunan</i> , land and building tax
<i>Pemda</i>	<i>Pemerintah Daerah</i> , local government
<i>Panitia Sembilan</i>	Committee of nine members to determine the compensation during state-driven land acquisition programs
<i>Perda</i>	<i>Peraturan Daerah</i> , local regulation
<i>Perumnas</i>	<i>Perusahaan Umum Perumahan Nasional</i> , National Housing Corporation
<i>PRONA</i>	<i>Program nasional pendaftaran tanah</i> , national program for land registration
<i>Prokasih</i>	<i>Program Kali Bersih</i> , national program for clean rivers
<i>RBWK</i>	<i>Rencana Bagian Wilayah Kota</i> , district plans
<i>RIK</i>	<i>Rencana Induk Kota</i> , master plan
<i>RKT</i>	<i>Rencana Kota Terperinci</i> , specific town plans
<i>RTRW</i>	<i>Rencana Tata Ruang Wilayah</i> , Regional Spatial Plan
<i>Sebaja</i>	<i>Seriakat Becak Jakarta</i> , Pedicab association of Jakarta
<i>SIPPT</i>	<i>Surat Izin Penunjukan Penggunaan Tanah</i> , permit to utilize land

SP3L	<i>Surat Perintah untuk Prinsip Pembelahan Lahan</i> , permit to acquire land (in Jakarta only).
SVO	<i>Stadsontwikkelingswet</i> , Town Planning Act
Tanah desa	Land utilized for farming in villages by permission of Village Head
Tanah negara	State land
UPC	Urban Poor Consortium
Undang-undang	Law or Act
Undang-undang Dasar 1945 (UUD 1945)	The 1945 Constitution
Undang-undang Pokok Agraria (UUPA)	Basic Agrarian Law of 1960 (BAL)
Verponding Indonesia or Inlandsche Verponding	Land and building tax in urban areas applied to the indigenous population during the Dutch colonial period. In colloquial terms referred to as <i>girik</i> .

# 1

## Introduction

During the New Order era in Indonesia (1966–1998) conflicts amongst particular *kampung* residents and the government or private developers regarding the unjust process of land acquisition and forced evictions were quite common, and ended mostly in favour of the government or the private developer (Struyk *et al* 1990, Leaf 1994, Nas 1996, Jeilinck 1981, 1997). The fall of President Suharto in May 1998 marked the end of the New Order and the beginning of the *reformasi*<sup>1</sup> era and, with it, new hope for better governance and democracy. Yet the media were still filled with news of demonstrations advocating the rights of the urban poor, frequently led by NGOs, and with criticism of the Jakarta government for their policies affecting the urban poor. As an example, a local NGO, the Urban Poor Consortium (UPC), demonstrated against the government because they had reason to believe that local government officials were corrupting the disbursement of social safety net funds for the urban poor (*Kompas*, 25 June 1999). The Jakarta Citizens Forum (FAKTA) protested against Jakarta's Annual Budget because the bulk of the budget covered expenses for the bureaucracy, rather than the needs of the urban poor (*Kompas*, 18 April 2001). These protests suggest that civil society organizations are playing a more significant role in urban development.

<sup>1</sup> *Reformasi* is a slogan used by the students' movement, NGO activists, academic scholars and certain bureaucrats in pushing for the reform of the New Order government. Since the fall of the New Order government, *reformasi* has been used to refer to the new era of governance.

When I started this research, I was interested in how these social-political changes had affected *kampung* community struggles for land. Community participation has been one of the major policies advocated by the Indonesian government, as well as international donor organizations such as the World Bank, the Asian Development Bank and UN-Habitat since the beginning of the 1990s. Recently, UN-Habitat launched its campaign to improve security of tenure in developing countries, which would hopefully lead to successful shelter strategies for the urban poor. However, these *kampung* community struggles suggest that the mechanisms for participation do not seem to be working. Nevertheless, some *kampung* communities have been successful in negotiating their claims on land.

The aim of this dissertation is to contribute to a better understanding of the growing movement of community struggles for land in contemporary Jakarta. The underlying theoretical proposition is that *kampung* communities' struggles for land are a response to the constraints imposed by the state on particular groups of society and reflect the need for inclusiveness—acknowledging the residents' social rights as citizens and allowing them to participate in decisions affecting the future of their settlement. In this dissertation I attempt to identify the factors that are marginalizing *kampung* communities, thus preventing them from gaining formal access to land and security of tenure and affecting the outcomes of their struggles for land.

The following section provides a brief background of urbanization in Jakarta and the problems faced by particular *kampung* communities. I will then go on to discuss the relevance of this background to the context of this thesis.

## 1.1 JAKARTA: URBANIZATION AND KAMPUNG DEVELOPMENT

Jakarta holds a unique position amongst Indonesian cities. It is the country's capital, the seat of the national government, and over the decades has become Indonesia's largest city, its major business city, its most modern city, the most populous city, composed of both formal and informal settlements, and probably the most complicated city to manage in the country. During the Old Order regime President Soekarno (1945–65) envisioned Jakarta as a modern city, and wasted no time in replacing Dutch colonial buildings with new modern buildings and mega projects. Soekarno was responsible for most of the city's landmarks: Hotel Indonesia (HI), the

country's first multi-story hotel; *Bundaran HI* and *Patung Selamat Datang* (HI Circle and Welcome to Jakarta Statue); Sarinah, the first department store; the National Monument (*Tugu Monas*); the Senayan Sports Stadium; the Jakarta bypass, *Jalan Sudirman*, and the Senayan clover-leaf flyover, the first modern highways in Indonesia (Abeyasakere 1987: 167, Figure 1-1). After Soekarno stepped down as President in 1966, many of his visions and ideas were implemented by former Governor Ali Sadikin (1966–1977), who once said that: 'Jakarta is a big village, but nevertheless should be conditioned to be the same level as other metropolitan cities in Asia.'<sup>2</sup> The symbolic importance of Jakarta as an international city led to policies on cleanliness, beautification, and orderliness. Sadikin's statement marked the beginning of the New Order's (1966–1998) development paradigm. It also arguably continued the period of increased oppression for some of Jakarta's urban poor for the sake of urban development.



Figure 1-1 Modern images of Jakarta: *Bundaran HI* (Hotel Indonesia Circle) surrounded by major hotels, and the Sudirman corridor

Source: Rachman (1992)

Jakarta's urban development from the Dutch colonial period to the New Order shows a long history of land clearance. During the late 1920s, the *kampung* settlements of Gondangdia and Menteng were demolished for new European residential quarters. These quarters are now elite residential areas of Central Jakarta (Abeyasakere 1987). During the early 1950s, *kampung* settlements in Kebayoran, South Jakarta, were demolished for the construction of the new satellite town, Kebayoran Baru (New

<sup>2</sup> Source: <<http://www.lspedjakarta.go.id>> viewed 15 March 2003.

Kebayoran). In 1953 about 500 houses were demolished for the construction of Jakarta's first modern road, *Jalan Thamrin*. Then in the early 1960s a major land appropriation displaced 47,000 people for the building of the Senayan Stadium and Sports Centre to host the 1962 Asian Games.

In the next 30 years Jakarta's image changed significantly to become that of a modern city. Adequate infrastructure and services were necessary to achieve status as an international city and to attract foreign investment (Sadikin 1977). New housing estates, business and commercial buildings, shopping malls and highways were built. However, these new developments were achieved at the expense of *kampung* residents, who were either pressured to accept below-market compensation rates for their land, or forcibly evicted from their homes and the land they occupied (Struyk *et al* 1990, Hoffman and Ferguson 1993, Jellinek 1997).

Urbanization has been a major concern of governments in developing countries, including Indonesia. The high rate of urbanization has been a major problem for the Jakarta administration. In 1948 the population of Jakarta was about two million, covering 20,000 hectares of built-up area. By 1971 the population had increased to 4,546,500 with a built-up area of 35,000 hectares (Abeyasakere 1987). The initial response to the high growth was to increase the boundaries of Jakarta. In the 1970s approximately 30,000 hectares of land were converted from agricultural to urban uses (Devas 1983: 215). By 1980 Jakarta occupied 65,400 hectares with a population of 6.5 million. While land conversion is a normal part of the urban development process, in Indonesia it reflects the interests of large developers, who tend to hold land for speculation. In addition, land conversion policies and processes were uncontrolled because of the weak permit system and its poor enforcement (Firman 1997).

Despite this high population and growth in the size of the city, the figures in Table 1-1 and Table 1-2 show that the population in Central Jakarta has declined in the last three decades, revealing a negative growth rate. Cybriwsky and Ford (2001) believe that the population growth may have slowed down due to displacement caused by commercial expansion, or more recently by the decline of migration due to the economic recession. They also suspect that the population decline might have reflected a statistical error because squatters and migrants were not counted.

Another possible explanation for the decline of population in Jakarta might be that those displaced have moved to Bekasi and Tangerang, which show high annual

growth rates of more than 5% in the last two decades. Such an explanation is also supported by policies for private sector development, whereby the Jakarta Metropolitan Area (Jakarta, Bogor, Tangerang and Bekasi, abbreviated Jabotabek, Figure 1-2) prioritises growth along the east-west corridor towards Bekasi and Tangerang.

Table 1-1 Population of Jakarta and Bogor, Tangerang and Bekasi from 1961 to 2000

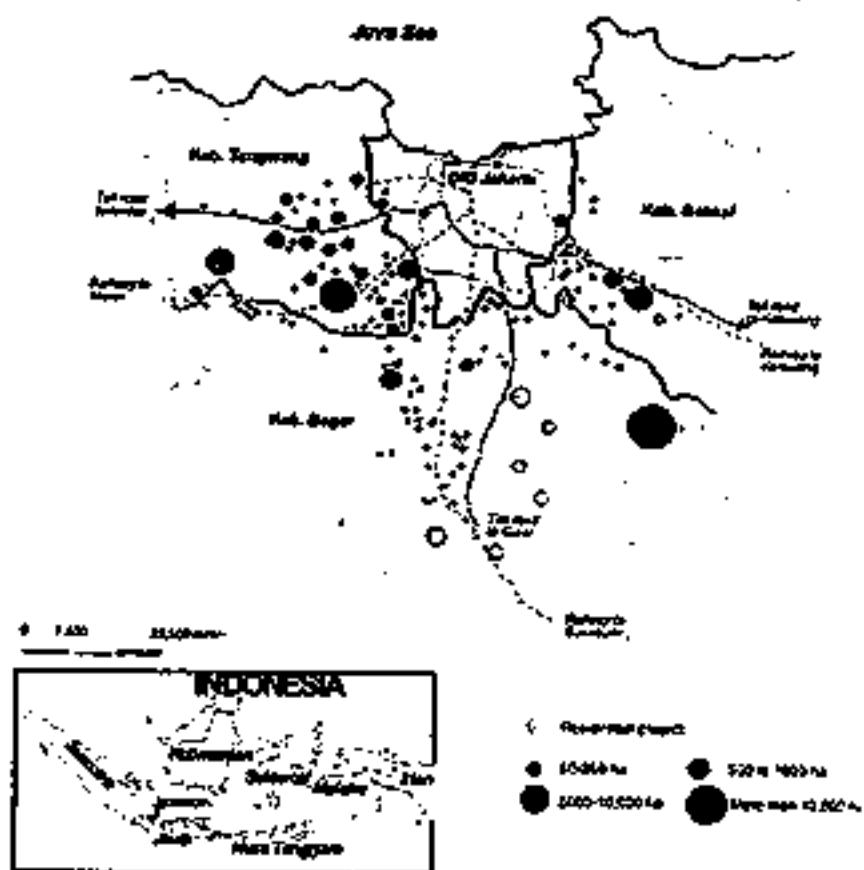
	Population (in thousands)				
	1961	1971	1980	1990	2000
Central Jakarta	1,002	1,260	1,236	1,074	948
North Jakarta	469	612	976	1,362	1,697
West Jakarta	469	820	1,231	1,815	2,389
South Jakarta	466	1,050	1,579	1,905	2,090
East Jakarta	498	802	1,456	2,064	2,595
<b>Total Jakarta</b>	<b>2,906</b>	<b>4,546</b>	<b>6,481</b>	<b>8,222</b>	<b>9,720</b>
Bogor	1,257	1,597	2,493	3,736	5,423
Tangerang	817	1,025	1,529	2,765	4,594
Bekasi	669	803	1,143	2,104	3,570
<b>Total Jabotabek</b>	<b>5,651</b>	<b>7,972</b>	<b>11,647</b>	<b>16,828</b>	<b>23,308</b>

Source: Derived by author from *Badan Pusat Statistik DKI Jakarta Population Census (2001)*

Table 1-2 Percentage population growth rates in Jakarta and Bogor, Tangerang and Bekasi from 1961 to 2000

	1961-1971	1971-1980	1980-1990	1990-2000
Central Jakarta	2.3	-0.2	-1.4	-1.2
North Jakarta	2.7	5.2	3.4	2.2
West Jakarta	5.8	4.6	3.9	2.8
South Jakarta	8.5	4.6	1.9	0.9
East Jakarta	4.9	8.8	3.5	2.3
<b>DKI Jakarta</b>	<b>4.9</b>	<b>4.6</b>	<b>2.3</b>	<b>1.4</b>
Bogor	2.4	4.5	4.1	3.8
Tangerang	2.3	4.0	6.1	5.2
Bekasi	1.8	3.6	6.3	5.4
<b>Jabotabek</b>	<b>2.2</b>	<b>4.0</b>	<b>5.5</b>	<b>4.8</b>

Source: *Badan Pusat Statistik DKI Jakarta Population Census (2001)*



**Figure 1-2. The Jabotabek area (Ibukota, Bogor, Tangerang and Bekasi) and location of major residential estates and new towns**

Source: reworked by author from Flynn and Winans (2002: 498)

Up to 1997 the private sector had transformed 16,600 hectares of land into residential built-up areas. About twenty new towns were built within ten years (from the mid-1980s), responding to a 'pseudo-market of speculative nature' (Firman and Winarso 2002, Table 1-3 and Figure 1-2). However, Firman and Winarso's research on residential land development in Jabotabek concluded that the buyers of the houses produced by developers were mainly the middle-income and high-income segment of the population. Table 1-3 shows the number of housing estates and new towns developed in and around Jakarta over the 1980s and 1990s.

Table 1-3 New towns approved or under construction in and around Jakarta

Municipality	Launched Project	Hectares	Year
NORTH JAKARTA	Jakarta Waterfront City (reclamation)	2,700	1998
	Pantai Indah Kapuk	1,000	NA
WEST JAKARTA and TANGERANG	Teluk Naga	8,000	NA
	Bumi Serpong Damai	6,000	1989
	Kota Baru Tigaraksa	3,000	1987
	Citra Raya/Citra Grand City	3,000	1994
	Lippo Krawaci	2,630	1992
	Bintaro Jaya	1,700	1979
	Gading Serpong	1,000	1993
	Kota Modern	770	1989
	Alam Sutera	770	1994
EAST JAKARTA and BEKASI	Lippo Cikarang	5,500	1991
	Kota Baru Cikarang	5,400	NA
	Kota Legenda	2,000	1994
	Bukit Indah City	1,200	1996
SOUTH JAKARTA and BOGOR	Bukit Jonggol Asri	3,000	1996
	Bukit Sentul	2,000	1998
	Citra Indah	1,200	1996-97
	Kota Wisata	1,000	1997
	Telaga Kahuripan	750	1998
	Taman Metropolitan	600	NA

Source: Firman (1998) reworked by author.

While most of this new development catered to the middle and upper-middle classes, *kampung* accommodated most of the urban poor and new migrants.<sup>3</sup> *Kampung* settlements cover about 60% of the total residential areas in Jakarta (Leaf 1993). While the *kampung* settlements are scattered around city centres and the peripheries, the ribbon development of commercial buildings along the major roads of Jakarta has concealed many *kampung* settlements from the public's view, further contributing to their hidden status.

Many scholars have tried to define what *kampung* are in the context of Indonesian urban development (Krausse 1972 as cited by Marcussen 1990, Marcussen 1990, Silas 1993, Kenworthy 1997, Setiawan 1998). Most scholars agree that a *kampung* is a spontaneous settlement with various physical qualities, incrementally developed by residents with various socio-economic levels, and catering for mostly low to

<sup>3</sup> *Kampung* refers to irregular and spontaneous settlements in urban areas that cater to poor and low-income families. For reasons of linguistic consistency, the Indonesian word *kampung* can be used in the singular or plural form.

middle-income families. From the land-status perspective Marcussen (1990) argues that some *kampung* are in fact squatter settlements because of the way the residents occupied the land, a view shared by many government officials in Jakarta.

In his research on residential land development in Jakarta Leaf (1991, 1993) noted that many *kampung* lands have unclear land status, which has led some government officials to believe that occupants of *tanah negara* or state land are squatters (Figure 1-3).



Figure 1-3 Land status in Jakarta and location of major CBD area

Source: Marcussen (1990: 99)

Note: many *kampung* occupy public land or land with unclear land status

Red dotted area indicate the location of Jakarta's major CBD, Segitiga Emas.

Dark shaded areas indicate land with certificate, medium-shaded areas indicate public land and light shaded areas indicate land developed for real estates.

Such a categorization was promoted by other systems that failed to support the development of *kampung* settlements. First, the transition of informal land rights to the formal land system promoted by the Basic Agrarian Law no. 5/1960 is dysfunctional and is complicated by layers of claims to the land. The land registration rate has been quite low, and up until 1993 only about 30% of land in Jakarta had been registered (Leaf 1993), and only 10 % of land in Indonesia (Lindsey 1997). Second, some *kampung*

areas are put under development permits that justify the state or developers acquiring the *kampung* land for urban development (Leaf 1991, Ferguson and Hoffman 1993). Third, some *kampung* are not even acknowledged to exist by the government. One example is an evaluation report published by the Jakarta Statistics Bureau (1997) that documents and categorizes *kampung* settlements based on their physical condition, yet fails to even acknowledge the existence of many of those that are considered to be illegal (Winayanti and Lang 2004).

Historically, *kampung* settlements in Jakarta have evolved under the changing social, political and economic conditions of the city from Dutch colonial times, through Japanese occupation and into the independence era. The government's attitude toward *kampung* settlements has been inconsistent. During the 1950s and early 1960s many *kampung* settlements had been consolidated into the urban system—mainly because Jakarta expanded its administrative boundaries. Since 1969 the Jakarta administration has upgraded the infrastructure of many *kampung* settlements through the *Kampung Improvement Program* (KIP) (Figure 1-4).

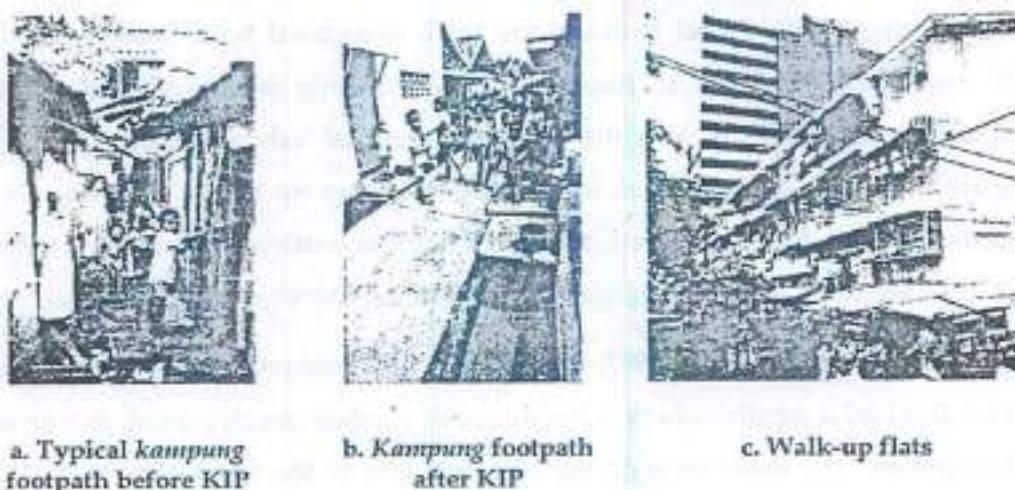


Figure 1-4 Images of *kampung* (figures a and b) and the government's responses towards *kampung*: KIP and walk-up flats (figures b and c)

Source: Jellinek (1990), Kenworthy (1997) and Lang (1997)

By 1985 the KIP had covered 3,847 hectares of *kampung*, benefiting 1,604,986 residents. In 1980 the Jakarta government received the Aga Khan Architecture Award for its *Kampung Improvement Program* (KIP). The project was honoured for its success

in integrating informal settlements into the city and encouraging *kampung* dwellers to build and develop their own houses. The World Bank assisted in funding the *kampung* improvement program in the periods 1974-79 (KIP I) and 1990-96 (KIP III). KIP I emphasized physical improvement, KIP II was based on sanitation and drainage improvement, while KIP III integrated three approaches—physical, economic and social development through community-based development. In KIP III alone, 85 *kelurahan* (about 30% of total *kelurahan* in Jakarta) implemented the new integrated concept of KIP (Dinas Perumahan 2001).<sup>4</sup> Because of its complexity, land tenure issues were avoided in KIP. In KIP IV (1999-2001) the government finally added a fourth component on legal aspects, which included land titles and building permits. However, because of limited funding, only a few *kampung* were included in this program (Dinas Perumahan 2001).

Despite the success of the *kampung* improvement project, many *kampung* settlements—in particular around Jakarta's major business district, *Segitiga Emas* or the Golden Triangle (Figure 1-3) that were previously improved through KIP—were demolished for new development. The terms *kumuh* (filthy), over-crowded, unhealthy, non-compliant with illegal land-use are often associated with *kampung* settlements, and are frequently used to justify the government's actions in demolishing and displacing the residents into the favoured form of urban housing, walk-up flats (Figure 1-4c).<sup>5</sup> *Kampung kumuh dan miskin*, or filthy and poor *kampung*, is a term popularly used by bureaucrats to describe these settlements, while many of the residents are referred to as *penduduk liar* (squatters), literally 'wild' or illegal residents.

The economic crisis of 1997, widely known as *krismon* (*krisis moneter* or monetary crisis), has had a significant effect on Indonesia's urban development, and on *kampung* development. The crisis brought the currency rate of the *Rupiah* down to 20% of its original value per US dollar within six months. In July 1997 the value of 1 US\$ was Rp. 1,700, but by January 1998 the value of 1 US\$ had become Rp. 11,000. The *krismon*

<sup>4</sup> The Jakarta provincial government is divided into five municipalities, 43 districts (*kecamatan*) and 265 sub-districts (*Kelurahan*). *Kelurahan* is the lowest level of local government in the administrative hierarchy. A *Lurah* heads each *kelurahan*. The *Lurah* is appointed by the Governor. Each *Kelurahan* is subdivided into about 10 *Rukun Warga* (RW—or community association) with each RW consisting of 10 to 15 *Rukun Tetangga* (RT or neighbourhood association). One *Rukun Tetangga* would consist of approximately 20 to 50 households. The community elects the heads of RW and RT, but this must be approved by the *Lurah* (head of *Kelurahan*).

<sup>5</sup> Various studies have shown that only a minority of the original *kampung* residents could afford to live in these walk-up flats (Jellinek 1991, Dharmawan 1995).

slowed down the economy and increased urban unemployment (Firman and Winarso 2002). The banking and in particular the property industry collapsed, resulting in huge foreign debts and tracts of undeveloped land. In 1999 the unemployed population was estimated at 41.2 million (about 20% of Indonesia's total population) (URDI report 1999). The poverty rate rose from 11.3 % in 1996 to 27% in 1999 (Firman 1999, *Badan Pusat Statistik* 2000). Despite the negative impacts of the recession on employment and economic growth, many Indonesian scholars saw the crisis as an opportunity for Indonesia to rethink its ways of conducting urban development.

The above brief history of Jakarta's *kampung* settlements and the political-economic changes in Indonesia provide a background for this research. Government attitudes towards some *kampung* settlements and their residents have been ambiguous (by acknowledging *kampung* as administrative units, providing infrastructure, and later on demolishing some of them) and mostly oppressive during the New Order era. The *reformasi* era seems to provide new opportunities to change the oppressive attitude of government towards *kampung* residents, but the frequent demonstrations led by NGOs advocating the rights of *kampung* residents suggests that there are still problems in channelling their aspirations and demands to the government. While it might be easy to conclude that this has simply reflected a lack of political will, we need to understand why these struggles have continued into the *reformasi* era and how the social-political changes affected the outcomes of *kampung* community struggles for land. The following section describes how this thesis is structured to answer these questions.

## 1.2 THE STRUCTURE OF THE THESIS

Focusing on the role of the state and civil society in land for housing, the first section of Chapter 2 explores the theoretical debates amongst the schools of thought (mainly socialist and capitalist approaches to land) and the critiques of the role of the state in the land for housing, and the role of civil society, as represented by urban social movements. Why focus on developing countries? Unlike Western countries, many developing countries (including Indonesia) have had a history of being colonised and were subject to the Western rule of law. After gaining independence, the dualism of law (in particular over land) between the Western (civil law or common law) and the

traditional has created conflicts within society and problems in land management and urban development. In the second section I discuss the role of the state in law and urban development. The role of the state is reflected in its legislation and policies, in how government officials interpret and practise law in society, and how this in turn affects the production of land for housing. The third section explores the nature of urban social movements. By understanding the nature of these movements – why they emerge, the issues in conflict, the actors involved, the strategies employed – we can better understand the social and political structure of society that affects how *kampung* communities gain formal access to land. In this section, I explain how political opportunities can be used as a tool to analyse the factors affecting the success of a social movement. The fourth section discusses the relationship between the state and society, which draws on Migdal's (1988, 1994) model of state-society interaction.

Chapter 3 brings the discussion in the previous chapter to a focus on Jakarta by discussing the nature of law in Indonesia and how it is used to support urban development in Jakarta. In the first section I discuss the development of urban legislation, where I show that in Indonesia the dominant paradigm of the New Order has resulted in laws and regulations supporting the economic development and not fully allowing the participation of its citizens in urban development. This provides the necessary background for the second section, where I discuss the politics of urban land development in Jakarta. I argue that the Jakarta government, through its policies, regulations and practice discriminates against certain groups in society and prevents these groups from obtaining formal access to land and security of tenure by limiting their participation in urban development, and also through the practice of the rule of political law. Although there have been a few studies on the *kampung* community struggles for land during the New Order era, little attention has been given to how these community struggles have continued into the *reformasi* era.

Chapter 4 elaborates the design of the research to answer the questions raised by the discussion in Chapter 3. Given the quest of this research to understand the relationship between the state and community, I chose a qualitative approach to analyse two case studies of *kampung* community struggles that occur on state land, in which the communities have been successful in their claims for land in the *reformasi* era. The reasons for choosing the case study approach and the range of qualitative research methods are explained.

In Chapter 5 I discuss the local institutions concerned with land development, and argue that claims on land reflect the community's aspiration to be integrated into the formal system of the city and acknowledged as full-participating citizens. I examine the impact of government policies on the selected case study areas during the New Order era and how they affected the residents' process of gaining access to land and their perception of security of tenure, and examine how these have changed in the *reformasi* era.

Chapter 6 argues that the success of making claims on land depends on the economy, in which the pressure for land by developers in the present cases has decreased due to the economic crisis; the positive relationship between the NGO and the state; and the capacity or empowerment of the community. In analysing the relationship between the state and civil society, I examine the role of the NGOs and their relationship with the state. For each of the case studies, I examine the process of how the community became empowered and their relationship with NGOs. I focus my analysis on two time periods, the New Order and the *reformasi* era.

Chapter 7 summarizes the major research findings and discusses the policy implications of the findings in general in light of the theory and background already discussed in Chapters 2 and 3. Two major themes are discussed concerning the role of the state and civil society in improving access to land and security of tenure for the urban poor in Jakarta. This is followed by a discussion on issues for future research. The final section draws the conclusions of this thesis.





# 2

## The Role of the State and Social Movements in Land for Housing

To achieve the research aim proposed in Chapter 1 it is necessary to examine how the state have dealt with the needs of the urban poor in cities of developing countries to gain access to land and security of tenure, and how the community have reacted to the perceived difficulties imposed on them by the state. The purpose of this chapter is to gain an understanding of the role of institutions<sup>1</sup>—mainly the state and civil society (NGOs and local communities)—in providing land for housing the urban poor in developing countries, and to build upon this understanding a framework for further analysis.

The first two sections explore and discuss the role of the state in the production of land for housing. Section 2.1 explains the history of ideas that has influenced policies for increasing land for housing the urban poor in many developing countries. In section 2.2 I argue that the state has excluded certain groups of society—

<sup>1</sup> Institutions, according to Douglass North (1990: 3) are: 'the rules of the game in a society or, more formally, are the humanly devised constraints that shape human interaction. They are made up of formal constraints (e.g. rules, laws, constitution), informal constraints (e.g. norms of behaviour, conventions, self-imposed codes of conduct), and their enforcement characteristics. Together they define the incentive structure of societies and specifically economies.'

mainly those residing in informal or irregular settlements—through their interpretation of the law and how it is practiced.

Struggles for land reflect the process of popular making of demands from below. How they struggle and the outcomes of the struggles reflect the power relations amongst the actors involved. In many developing countries ruled by authoritarian governments, social movements also reflect the creation of a civil society, a sphere to construct democratic politics (Mohanty 1998: 9; Chandhoke 1998: 30). In section 2.3 I discuss the role of civil society by examining the role and characteristics of urban social movements in developing countries. In this section I argue that urban social movements are a response to the constraints imposed by the state on these marginalized and excluded groups of society, and also a reflection of an emerging civil society. The dynamics of the actions of a movement depend on the opportunities opened by the socio-political structures and institutions of the state. I then explain the concept of political opportunity structures and how it can be used for analyzing social movements.

The state and society dichotomy has often been criticized for being too simplistic. As a result, this type of analysis can mislead policy recommendations (Migdal 1988, Doebele 1994). As will be discussed further in Section 2.4 it is difficult to separate the state and society and treat them as opposed entities. There are a myriad of actors involved through an overlapping and network of relations between the state and society. A better understanding of the network and overlapping relations between state and society would be useful to analyse the dynamics of community activism and movements for land in Jakarta.

The final section draws conclusions and proposes a framework for analysing community struggles for land in Jakarta.

## **2.1 THE ROLE OF THE STATE IN LAND FOR HOUSING THE URBAN POOR**

As mentioned above, in this section I argue that the state, through its particular use of legislation and manipulation of attitudes, has excluded certain groups of society—mainly those residing in informal or irregular settlements—through its interpretation of what is considered as legal and illegal. To demonstrate this, I first give an

overview of major ideas in improving access to residential land for the urban poor. The history of major ideas on these approaches shows that both the socialist/welfare approach and capitalist/market approach have failed to meet the demands of this group for land. In general most of the approaches to improve access to land have considered the issue of land as a technical issue, and have neglected the conditions that are necessary for the state to provide security of tenure. There is no clear definition of what security of tenure is, and the literature shows that its perception is a state of mind. Although governments in developing countries have accepted the existence of informal settlements, there is still a debate on whether 'regularization' in the form of legal land titles is the right way to improve security of tenure.<sup>2</sup>

In section 2.1.2 I examine the various schools of thought on the role of law in urban development. The concern of scholars is that little attention has been given to this, yet it is these laws and regulations and their application in society that hinder or exclude certain groups of society from gaining access to land and security of tenure.

### 2.1.1 Major ideas in increasing land for housing

Many researchers have argued that the problem of housing in developing countries is not the shortage in the construction of housing, rather the availability of land, including the planning and regulation of its use (Yeh 1979, Farvaque and McAuslan 1992, McAuslan 1998). Doebele (1983: 357-370) documented the various trends of governments in less developed countries towards increasing the supply of land for housing the poor from the 1950s. Doebele argued that most of these attempts have been unsuccessful because of the government's lack of political will to allocate and secure land for the urban poor, and also their lack of understanding of their basic needs. Figure 2-1 summarizes the major ideas in increasing land for housing in a time line from the 1950s to 2000. Many of these policies were driven by the availability of aid and the pressure of donor agencies, such as the World Bank, USAID and ADB, which usually provide funds on a project-by-project basis. The end result is that the very poor failed to gain the land they needed (Rakodi 1992, Pugh 2001).

<sup>2</sup> Regularization programs can also be in the form of infrastructure upgrading and the recognition of occupancy rights.

1950s	1960s	1970s	1980s	1990s	2000s
Period of housing tenuresheds					From existing slums to squatter settlements
Public housing places: welfare state					From slums to squatter settlements
Allegedly seen as marginal population. Slums seen as an eyesore to the city. Building of squatter settlements	The public housing approach. Government as provider	State and services (or aided self-help)	Cities secure tenure and basic services. Squatters could provide their own housing. Housing is seen as having a multiplier effect in the economy. World Bank active lender in slums and services schemes.	Problems: project-based, too costly and difficult to implement on large scale.	State upgrading. Increased tolerance of illegal settlements. Slum upgrading programs included the Keayong Improvement Program (KIP) in Jakarta. Regularization of illegal settlements.
					Other measures: Enabling approach. Government's role as enabler: Enabling the housing market program, and privatization of housing development. Land pooling/recapitalism, land consolidation (Kota, Tangerang). Land sharing (Tangerang).

Figure 2-1 Major Ideas to increase land for housing between 1950 and 2000

Source: arranged by author from Doebele (1983: 327-370), and UN Habitat website (<http://www.unchs.org>) accessed 3 April 2000.

From the 1950s to the mid 1960s many governments in developing countries did not accept urban migration and were biased against squatters and their settlements. Squatter settlements were viewed as a source of crime and an eyesore to the city. Doebele (1983) refers to this period as the 'period of hostility' because governments were able to bulldoze these settlements by arguing that they were going to provide public housing or relocate the evicted families to more appropriate areas (often located far from the city centre). The government, through a welfare-state approach, played the role of provider by building public housing. These houses

copied the models of public housing in America and Europe. Walk-up flats and high-rise apartments became the typical solution for the housing shortage problem and also part of urban renewal programs to replace inner-city slums. However, with the exception of Singapore, Hong Kong and South Korea, this solution had its shortcomings because of the lack of funds to build sufficient housing units.

Some neo-liberal analysts explain that the welfare state policies created excessive demands on the political system of developing countries, resulting in social expenditure exceeding the state's capacity (Azevado 1998: 259). Also, many low-income communities found it difficult to adjust their lifestyle to living in walk-up flats or high-rise apartments (Jellinek 1981, 1988, 1990; Hardoy and Satherthwaite 1989, Dharmawan 1995). Studies of public housing in developing countries in the 1970s showed that public housing estates were an expensive investment and did not meet the urban poor's needs in terms of size, location and cost (Yeh and Laquian 1979, Guggler 1988: 126-128; Jellinek 1988: 220). The Western designs of public housing were a mismatch for people in developing countries. There were cultural problems with the design of walk-up flats. As an example, many walk-up flats failed to provide inner courtyards, a space necessary for women in strong Islamic societies where it was forbidden for them to use public space on their own. In addition, the small public housing units did not allow working space for activities that provided income for the urban poor (Hardoy and Satherthwaite 1989: 111, Jellinek 1990, Dharmawan 1995). In Jakarta, middle-income groups replaced the lower-income groups in many of the city's walk-up flats originally targeted to house the lower-income groups (JICA 1989). Both Jellinek's (1990) and Dharmawan's (1995) research on the Kemayoran urban housing renewal project concluded that the relocation of *kampung* residents into walk-up flats destroyed the existing social network of the *kampung* community.

Even the involvement of the World Bank was not able to rectify the inherent problems in these developments. Following the ideas promoted by John F. C. Turner (1967, 1972) and Mangin (1967) that self-help housing should be viewed more as a solution than as a problem, the World Bank became an active lender in the 'sites and

services' scheme (often referred to as 'aided self-help').<sup>3</sup> Turner was not the first to promote the self-help approach, but has been the most influential writer about housing in the developing world. International agencies and housing experts have been advocating this approach since the late 1940s.<sup>4</sup> However, Turner expanded the concept of self-help by emphasizing the ideas of 'housing as a verb' and the issue of control over the building process, so that the settlement would better suit the needs of the occupants. Turner himself was sceptical of the sites and services project. Ironically, his most original argument on the control over the building process had limited influence on the projects implemented in many developing countries (Harris 2003).

The implementation of the sites and services scheme in developing countries had limitations similar to those experienced by public housing schemes: being too expensive because of the high standards applied, located in remote areas, and plot lay-outs copying the individual Western lifestyle that was unsuitable to the communal lifestyle of many local residents in developing countries (Angel 1983). Other obstacles to conducting the sites and services scheme on a large scale were the lack of capable administrative personnel (Doebele 1983: 359), non-availability of land, poor cadastral records (Hardoy and Satherthwaite 1989: 128), and discrimination in the allocation of land (Baross and van der Linden 1991). In the early 1970s the Indonesian National Housing Corporation, *Perum Perumnas*, conducted a pilot sites and services program in Depok, South Jakarta, with the assistance of the World Bank. However, there were problems in acquiring land and allocating the land. Those who moved into the sites were not from the targeted urban poor, but rather from the lower-income to middle-income groups. These difficulties led governments to seek more affordable alternatives.

From the 1970s slum upgrading became the preferred alternative. The state's role was confined to the provision of essential environmental improvements and

<sup>3</sup> The American planner Jacob Crane coined the phrase 'aided self-help' based on his work on housing in Puerto Rico during the 1940s (Harris 2003).

<sup>4</sup> Other advocates of self-help housing include Jacob Cane (1944), Otto Koenigsberger (who formulated the idea of the 'land and utilities' scheme for the UN between 1955 and 1961), Charles Abrams (1964), and William Mangin (1967). According to documentation from the United Nations, many developing countries (including Indonesia) had already applied the self-help housing model during the 1950s (Harris 2003, Harris and Giles 2003).

basic services. The approach of slum upgrading was also influenced by the writings of John F.C. Turner on self-help housing. His theory suggests that given secure tenure, slum dwellers would gradually improve their own housing conditions. The perception of security of tenure could be increased by providing infrastructure and improving the environment of squatter settlements. International donor agencies such as the World Bank preferred this approach because slum-upgrading projects were considered less expensive than the sites and services projects. As a comparison, according to a study by Churchill in 1980, the costs of a World Bank upgrading project was about \$38 per household, while a core housing unit in a sites and services project was about \$1,000 to \$2,000. Another advantage was that it did not create any troublesome reaction from the slum-dwellers, nor destroy the existing social, ethnic or economic support system (Werlin 1999: 1525).

However, in his review of World Bank slum upgrading projects, Werlin identified several problems in their implementation. To reduce costs the government or development agencies often proposed low standards of infrastructure. In many developing countries the contractual arrangements were corrupt and supervision of works was inadequate. This process has had an impact on the quality and sustainability of the works, which was lower than expected. The World Bank estimated that only 47% of its urban projects were sustainable (Werlin 1999, referring to the OECD report 1994).

Another problem occurs if the settlement is too dense or its location inaccessible for the infrastructure network. It would be necessary for the government to purchase land and relocate the slum residents. This causes problems if the government does not have sufficient resources to acquire land or the residents refuse to move. Cost recovery also creates problems for the government. It is particularly difficult in situations where people have learned to live without adequate services and where the provision of infrastructure is considered a government responsibility. Repayment of funds provided for basic services such as drainage, public bath-toilet facilities and pathways provided through upgrading projects is not particularly welcomed by the poor who see residents of the formal city receiving higher standards of services at lower or no cost (Balbo 2001).

There is a range of issues that have undermined the capacity of the poor to legitimately claim land, for example land tenure (Doebele 1983: 360; McAuslan 1985,

Farvaque and McAuslan 1992, Werlin 1999). Land ownership in slum areas is often unclear. Land tenure is more problematic in developing countries that have a history of being colonized. Because of the complexities of land tenure, the Indonesian government, for example, avoided dealing with this issue during the first three decades of its *kampung* improvement programs. Many developing countries face administrative difficulties in establishing land tenure because of their weak cadastral records, complicated or lengthy land registration procedures, undocumented sales, and conflicts with the indigenous land tenure system. This is explained further in section 2.1.2.

The World Bank's 'enabling the housing market' program became a major theme since the mid-1980s. This program aimed to push policy reform in developing countries for governments to tackle the housing sector as a whole rather than through a small-scale public-housing approach. Thus, the government's role was shifted from 'provider' to 'enabler'. To facilitate this enabling approach, governments were encouraged to introduce policies that would support the housing market and assist the private and informal sector to supply housing on a larger scale. The program encouraged governments to review policies on the demand side (improving systems for mortgage finance, targeting housing subsidies, developing property rights) and the supply side (regulating land and housing development, encouraging the building or construction industry) (World Bank 1989).

A major critique of government intervention within the neo-economic paradigm, however, is that the government tends to leave the process of housing development to be decided by market forces (Varley and Fernandes 1998). However, the market forces are often assumed to be the formal market that is supported by private developers. It is widely recognized that the formal sector (private developers) is unable to meet the demands of land and housing for the urban population, and in particular the urban poor. For example, in Indonesia the formal sector is only able to supply 15% of the housing demand in both urban and rural areas. Yet, most government policies and regulations are supporting the formal sector instead of the popular sector (Struyk, Hoffman and Katsura 1990).

It is evident from the above discussion that state approaches in allocating land for housing the urban poor have not been effective. Urbanization is still a problem for

governments of cities in many developing countries. Neither the welfare approach nor the enabling the market approach have been successful in tackling the problem of lack of adequate housing and land for housing the urban poor. Despite the lack of government capacity to deal with the problem of land for housing, most of the urban poor population have actually been able to provide their own housing. Taking into consideration building standards, land tenure and infrastructure requirements, up to 70% of the urban population in developing countries could be considered as living in illegal conditions (Durand-lasserve 1998: 1 citing Durand-lasserve and Clerc 1996).<sup>5</sup> Government responses towards this type of settlement have been ambiguous. As shown in Figure 2-1, the responses vary. Governments may support informal settlements through infrastructure upgrading and regularization of land tenure, but they can also be biased against these settlements and respond negatively by demolishing them and evicting the residents. This often leads to the violation of human rights because the process of evictions is often conducted without clear legal mechanisms, often involving violence (Fernandes 1998, Hafidz 1998). UN Habitat took a different approach to tackling the problem of housing—that of a human rights approach, explained further in the following section.

### 2.1.2 Improving security of tenure

In 1996 the governments of developing countries strengthened their commitment to support a sustainable shelter strategy by assuring 'security of tenure' to residents of popular settlements. Housing was considered a human right that requires the state's recognition of peoples rights to 'a standard of living adequate for the health and well-being of himself and his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood' (Universal Declaration of Human Rights, Article 25). Human rights also include the recognition that 'all persons are equal before the law and are entitled without discrimination to the equal protection of the law (International Covenant on Civil and Political Rights, Articles 22 and 26).

<sup>5</sup> It is estimated that 100 million people are homeless and one billion people are inadequately housed worldwide (People's Movement for Human Rights Education website, accessed 1 June 2003, <http://www.pdhre.org>).

States participating in the United Nations Conference on Human Settlements (Habitat II) in Istanbul (1996) committed themselves to the specific objectives of:

Providing legal security of tenure and equal access to land for all, including women and those living in poverty, as well as effective protection from forced evictions that are contrary to the law, taking human rights into consideration and bearing in mind that homeless people should not be penalized for their status (paragraph 40 b and 61 d).

Ensuring transparent, comprehensive and accessible systems in transferring land rights and legal security of tenure (paragraph 40 d).

Protecting, within the national context, the legal traditional rights of indigenous people to land and other resources, as well as strengthening land management (paragraph 40 m).

In the following sections I discuss further the definition and forms of security of tenure.

### *Defining security of tenure*

UN Habitat (1999) describes security of tenure as: '...an agreement between an individual or a group to land or residential property that is governed and regulated by a legal and administrative framework.' Security in this context implies that the right of access to and use of land is underwritten by a known set of rules and that this right is justifiable; while tenure is the way in which individuals or groups hold their rights, restrictions and responsibilities to the land. According to Lindsay (1998) security requires, among other things, the following factors: 1) clarity as to what the rights are; 2) certainty that the rights cannot be taken away or changed unilaterally and unfairly; 3) certainty on the boundaries of the resources to which the rights apply and who is entitled to claim membership in the group; 4) recognition by the law of the rights of the holder; and 5) accessible, affordable and fair avenues for seeking protection of rights, for solving disputes and for appealing decisions of government officials. These factors could be used as measures to evaluate whether the 'rules' (formal or informal laws) are working to support security of tenure.

Tenure can be affected in a variety of ways depending on the legal and constitutional framework, social norms, cultural values and individual preferences. According to Payne (1997) 'concepts of land tenure are an expression of the values to which a society adheres or aspires.' As discussed further in this section, tenure

systems in developing countries are often complicated because of the dualistic nature of legal systems inherited from the colonial administration.

Security of tenure exists when people or households are protected from involuntary removal from their land or house. Evictions can still occur, but only under exceptional circumstances, for example when the safety of life and property is threatened or the people to be evicted had occupied property by force. When eviction does occur it should only be conducted through a clear and agreed legal procedure. On the other hand, insecurity of tenure, among others things, inhibits investment in housing, reinforces social exclusion, distorts prices of land and services, undermines long-term planning and hinders good governance. In the following paragraphs I discuss the key issues of the nature and form of security of tenure.

### *Security of tenure as a state of mind*

Doebele (1983) argues that security of tenure is, in part, a state of mind. Amongst residents who are already experiencing *de facto* security of tenure, residents might not consider legal land titles necessary. Research on informal settlements has shown that security of tenure is not dependent on full legal titles but is a matter of the perception of the residents, whether achieved *de jure* or *de facto* (Angel 1983, Doebele 1983, McAuslan 1985, Struyk *et al* 1990, Farvaque and McAuslan 1992, Leaf 1994, Garr 1996, Payne 1997, Fernandes and Varley 1998). When society acknowledges squatting it provides a certain degree of secure tenure (Angel 1983). As an example, in some Islamic societies land is available for use by all those in need. Thus, those occupying and using the land are not considered illegitimate. In societies where land is a communal affair, there is no need for individual land titles (Bourbeau 2001).

In their research on housing markets in Indonesia, Struyk *et al* (1990) found that even those that had full legal tenure (*hak milik* or full ownership rights) did not feel all that secure (the types of land rights in Indonesia are discussed further in Chapter 3). This argument is supported by Leaf (1994) in his research on development of residential land rights in Jakarta, and Garr (1996) based on his research on cemetery squatting in Yogyakarta. Both concluded that security of tenure is more a function of perception than of strict legal categorization. The perception of tenure could be achieved by internal or external factors, such as recognition from the local authority. In Garr's case the recognition came from the Sultan of Yogyakarta,

who controlled all the state lands in Yogyakarta. However, Gao argues further that these factors are local-context specific, and other informal settlements need to be further researched to allow a better understanding of the residents' perception of security of tenure.

### *Security of tenure and land titles*

Some scholars argue that security of tenure implies individual freehold or private ownership of land. Therefore land regularization in the form of land titling becomes the preferred option to improve security of tenure for residents in informal settlements. Those who support this type of land regularization do so because of the perceived economic and/or political benefits. According to Farvaque and McAuslan (1992: 57), land registration can stimulate land markets by making the records available for land market operations and facilitating the conveyance process. Governments gain because they can collect property taxes. Using an equilibrium model to obtain a measure of the value of security of tenure among squatter households in Davao, Philippines, Jiminez (1981) argued that land titles provide a larger incentive for house improvements. Hernando de Soto (1989, 1999) is an advocate of land titling for informal settlements. Based on his empirical research in Peru, he argues that the poor have assets, but because they have no legal property rights these assets are unable to enter the formal market. With land titles the urban poor are able to enter the formal economy market and gain access to credit, and this leads to reduction of poverty (de Soto 1999: 25; 1999). De Soto's research fits into the neo-liberal concept of market-driven urban development strategies that were being supported by the World Bank. The World Bank's 'enabling the market' program encouraged land registration and land titling to improve housing demand and investment (Payne 2001: 420). However, Werlin (1999) argues that in practice the World Bank staff gave higher priority to the development of infrastructure projects than to land tenure, whereas he concluded that land tenure should be a precondition for undertaking an upgrading project.

There are several concerns in providing legal tenure to squatters (Angel 1983, Gilbert 2000: 133–35; Payne 1997, 2001). The first is whether legal titles are really considered necessary by the residents. The second concern is the effect of the legalization if governments sanction future illegal incursions into new unoccupied

sites. The third concern is the possible displacement of the original lower-income community by middle-income residents. These are discussed in turn below.

Gilbert (2000) questions to what extent is illegality a problem for residents of informal settlements. Based on his research on informal settlements in Bogotá, Gilbert found that land titles did not bring house improvements or a regular supply of formal credit. Gilbert argued that the massive land-titling program in Latin American countries was more for the benefit of state officials in gaining popular votes to win the election. In addition, a housing market already exists for the urban poor even without land titles. Land transactions do occur and are affordable because they do not go through the formal processes of legal titles. Based on his research in Bogotá, the possession of legal title makes little or no difference to the availability of formal finance. Most poor families improve their housing using their own savings or loans from informal sources. Gilbert (2000) adds several arguments against the land-titling program, in particular criticizing de Soto's concept that land titles allow the urban poor to enter the formal market and enable them to gain formal access to credit. Some communities have set up a community-based finance system like the Grameen Bank in Bangladesh that provides loans based on credit-worthiness rather than land collateral.

The second and third concerns on land titling (or land regularization) are illustrated in Figure 2-2. According to Payne (2001) there is a continuum of urban land tenures ranging from zero to full legality (Figure 2-2). Payne argues that there are two consequences if squatters are granted land titles. First, providing titles to squatter-owners will take them to the top of the tenure continuum in one step (vertical arrow on Figure 2-2). It could stimulate the process of unauthorized development and illegal subdivisions because of the opportunity for land regularization. Second, land titling could distort the urban land market by attracting residents from higher sub-markets that were previously considered more secure (horizontal arrow on Figure 2-2). Angel (1983) cites an example in Mexico City from a study by Ward (1978) where, in a legalized settlement in Mexico City, the provision of land titles attracted higher income households and eventually displaced the original lower-income residents.



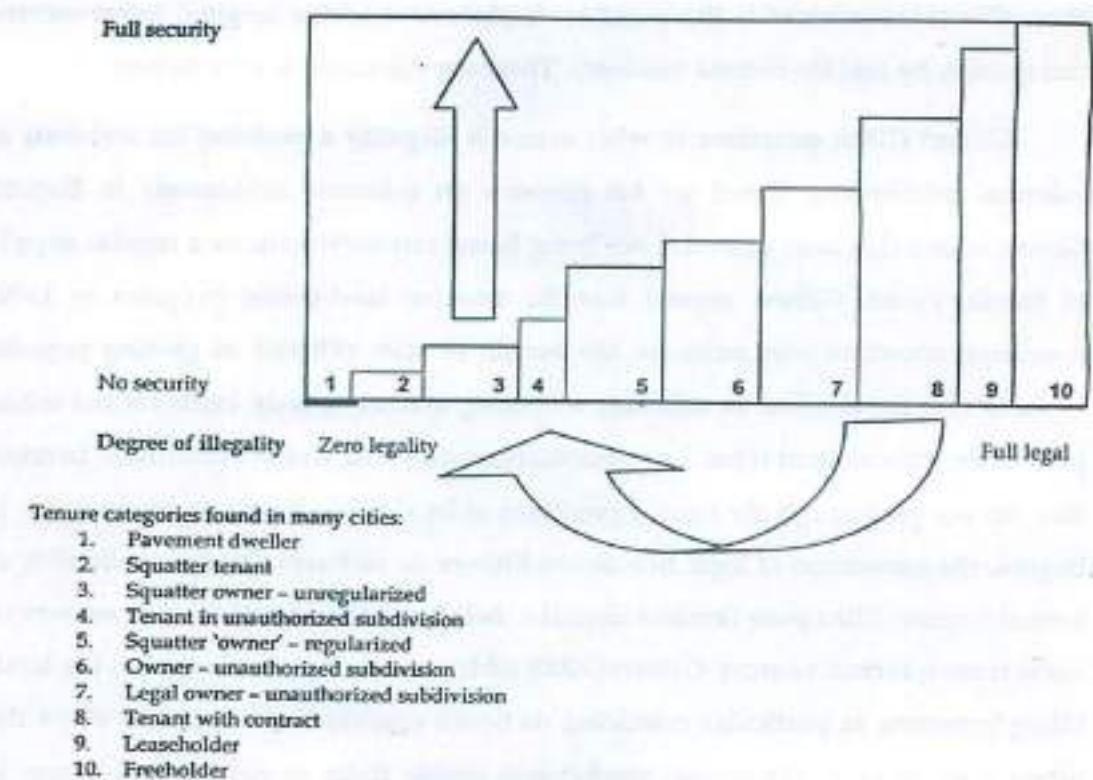


Figure 2-2 Typical distributions of urban tenure categories by legal status

Source: Payne (2001: 419, 423) reworked by author.

To avoid these consequences, Payne suggested that the government increase the residents' rights to occupy the land rather than provide formal tenure. One example of increasing rights is protecting the residents from eviction by providing occupancy permits, such as in Botswana (Certificate of Rights) and Kenya (Temporary Occupation Licenses).

so on

The above discussion shows that there is no clear definition of security of tenure. However, there is one common understanding: that security of tenure is a matter of perception by the residents, which can be achieved *de facto* or *de jure*. From the history of government interventions to improve access to land for housing, the role of the government has shifted from 'provider' to 'enabler', yet the focus of government approaches in the above discussion is more on the technical aspects of increasing access to land. In light of these differences, it is necessary to understand the social, political and legal conditions necessary to increase the perception of secure tenure. I argue that in order to promote security of tenure it is important to

understand why particular residents and their settlements are considered illegal or become marginalized, and what has been the government's role in promoting or hindering security of tenure. The section below discusses the government's role in urban development and how it affects communities in informal settlements.

## 2.2 THE ROLE OF THE STATE IN LAW AND URBAN DEVELOPMENT

In this section I argue that the state through law—as a set of norms, rules and practice—plays a vital role in supporting or hindering security of tenure. To demonstrate this I first discuss the role of law in the production of space and how the different paradigms of legal systems produce different views on how to manage land. Then I discuss Mattei's theory of 'patterns of law', which can help us to understand the practice of law in developing countries. In the final part I use this theory to discuss the role of law in the urbanization process and how it marginalizes particular groups of society.

### 2.2.1 The role of law in the production of space

According to Blomley (1995: xi), 'concealed within legal thought and legal practice are a number of representations—or "geographies"—of the spaces of political, social and economic life.' However, these representations of 'space' within legal thought and practice often place constraints on certain groups or places. It subsequently leads to their labelling as 'illegal', or their exclusion from full participation in the city. Lefebvre (1979) asserts that the notion of space is not neutral:

Space is not a scientific object removed from ideology or politics; it has always been political and strategic. If space has an air of neutrality and indifference with regard to its contents and thus seems to be 'purely' formal, the epitome of rational abstraction, it is precisely because it has already been occupied and used, and has already been the focus of past processes... Space has been shaped and moulded from historical and natural elements, but this has been a political process. Space is political and ideological. It is a product literally filled with ideologies (Lefebvre 1979: 31).

Lefebvre's statement emphasizes that space is influenced by a history of processes and ideologies. If space is political, then it is subject to power relations, and to how those in power interpret it. Thus law as a product of the state can also be subject to the interpretation of those holding power.

Scholars have recognized that the subject of law and its relationship to the social production of space or the relationship between the state and its legal apparatus has not received sufficient attention in the literature (McAuslan 1985, 1996; Farvaque and McAuslan 1992; Blomley 1995; Durand-Lasserve 1996; Fernandes and Varley 1998). However, attention to this subject is growing, in particular since the 'Law and Development' movement emerged during the 1970s. This movement emerged as an effort to extend the understanding of law, its relationship to urban development and the social aspects of the application of law in everyday life. It was influenced by the American tradition of legal scholarship to investigate non-legal phenomena in an attempt to understand what was really happening behind the formal barriers of law, administrative decrees and regulations. According to a report made by the International Legal Centre Research Advisory Committee in 1974, law and development (LD) researchers 'would make a greater contribution to development if [they] examined the social origins and functions of law, explored the relationship between legal rules and institutions and specific developmental efforts and examined the actual and potential impact of law on developmental goals... This type of study is concerned with what law does as well as what it "is"' (McAuslan 1996: 22 quoting ILC 1974: 20-21). The committee also acknowledged that research on law was too important to be left to lawyers alone, and recommended the involvement of social scientists.

This is the concern that Blomley (1995) put forward in his research on the relationship between law and geography. In conceptualizing this relationship, Blomley (1995: 46) described law as 'not simply imposed on a particular setting, but instead interpreted in and through the setting, acquiring its own meaning.' Therefore, legal pluralism exists not only because of the various laws (colonial, indigenous and modern system) but also because of the different interpretations of the law and its practice at the local level.

In their book *Illegal Cities*, Edesio Fernandes and Ann Varley (1998) attempted to bring this neglected subject to the attention of a wider audience by exploring the role that law plays in urban development in cities of developing countries. The Network Association of European Researchers on Urbanization in the South (N-AERUS) held a conference in Leuven, October 2000 titled 'Coping with informality and illegality in human settlements in developing cities'. The papers from this

conference show the importance of understanding the factors underpinning informality and illegality in human settlements, and that the state plays a major role in the process of inclusion and/or exclusion of particular groups of society.

### 2.2.2 The major paradigms of legal systems

The traditional legal system is divided into the common law system, which includes UK (and its former colonies), USA, Australia, Canada, and Singapore. The civil law (or continental) system is derived from Napoleon's reforms, and is common in most European states (France, Italy, the Netherlands) and their former colonies, such as Indonesia. The third system is the socialist law followed by the People's Republic of China and Vietnam. In this system individual property rights cease to exist because land is controlled by the state. Traditional customary laws and religious laws, such as Islamic Law, do not fit into any of these categories of legal systems (Lindsey 1998). In each system, the different views or ideologies on property account for the different approaches to how the state conducts urban development.

In the liberal and individualistic approach of civil law, the city is viewed as a set of privately owned plots of land. Thus market forces are the most important determinant of the urban development process. The role of the state, as embedded in the laws, is to govern the relations between individuals (property owners) and to impose administrative restrictions that limit property rights in the interest of public welfare. However, the weakness of this approach is that public interests are often overridden by the interests of the private sector, particularly when land is considered as a commodity, part of the capitalist mode of production.

In the public or common-law approach to property rights, the state has control of land use and property development, and stresses the use of legal instruments such as zoning laws and compulsory land acquisition to achieve its objectives in urban development. Legal studies in this paradigm view the state as a neutral agent responsible for protecting the public interest and social welfare of its citizens. Fernandes and Varley's (1998: 10) critique of this approach is that most studies in this paradigm fail to explain the role of state intervention in the process of urban development and fail to appreciate the political nature of urban law. In particular, studies in this paradigm tend to exclude the 'illegal city' by focusing only on the formal processes of urban development.

Fernandes and Varley (1998) argue that these two paradigms (civil and common law approach) operate under the assumption that legal scholarship is a 'closed system' that does not take into account views from other fields of study.<sup>6</sup> Therefore, the literature that developed within these two legal paradigms has only focussed on the law and its relationships within the system: the court, the judge, the lawyers, etc, and thus could only be understood by those in the legal profession. Thus, we need to examine what has happened when one or other of these systems have been imposed on colonies of these Western countries where customary or religious laws have also held sway and where opposed understandings of legality and illegality could be expected.

The role of law in urban development began to become established during the mid-nineteenth century in European towns and cities. Two transitions were occurring during that time: the transition from a rural agricultural society to an urban industrial society, and the transition from a minimal state to a modern regulatory state. To support these transitions, it was necessary to formulate laws concerning the planning of cities and their services. This model of formal urban law was then imposed on the colonial possessions of these European states in Asia and Africa, and was also the model copied by states in Latin America. The laws governing urban activities often copied the laws in Western countries and were applied directly to indigenous societies. This intervention of 'law' created tension with the indigenous societies, because it often did not consider the existing rules of society, which were during that time labelled as customs rather than law (McAuslan 1998: 19–21). Thus, in many developing countries a dualism of land law existed: the customary or indigenous law and the Western law, which subsequently created problems in land administration and management, as well as tensions amongst different groups of society regarding claims to land.

<sup>6</sup> Blomley (1995, pp. 8–11) shares the same view that law is a *closed system* that is expressed in different ways and various degrees by legal practitioners. According to Blomley one extreme case is the legal formalism in which 'facts of law are assumed to be objectively knowable through a rigorous and self-sufficient system of legal interpretive procedures.'

### 2.2.3 The problem of the 'rule of law' in developing countries

The above imposition of Western law systems in developing countries has resulted in different outcomes in the practice of law. Mattei (1997) proposed a model for classifying legal systems that is not based on the origins of the law (common/civil/socialist models), but rather on the operations of legal systems. His classification is useful for improving comparative understanding of a legal system. He argues that:

The simple idea behind it—not completely new in comparative circles—is that in all societies there are three main sources of social norms or social incentives which affect an individual's behaviour: politics, law and philosophical or religious traditions (Mattei 1997: 12).

The basic epistemology in his argument is that politics and tradition are patterns of law. In Mattei's theory, legal systems may belong to the rule of professional law, the rule of political law or the rule of traditional law. The three patterns co-exist in each legal system, but may differ in hegemony. In each legal system where one pattern is hegemonic, the other two do not disappear—they will still play a role depending on the scope or alternative forms of social control left by the hegemonic pattern. Occasionally non-hegemonic patterns will determine certain legal outcomes in an unofficial, obscure way, regardless of any official reason (Mattei 1997: 14):

Legal systems never are. They always become. And what determines the becoming is the variable role of different patterns within legal systems. Hence the difference between a pattern and a system of law (Mattei 1997: 14).

The rule of professional law follows the Western legal tradition, where there is a clear separation between professional and political law. The essence of the Western legal system, according to Schlesinger (Mattei 1997: 25) among others, is 'a view of a law as the primary and most important vehicle for ordering society and for resolving disputes.' Thus, law exists to regulate the conduct of individuals, and both the state and individuals are subject to law.

In the pattern of 'rule of political law' the legal process is determined by political relationships, in which circumstances to maintain power sometimes justify the disregard of formal law. Not only high-level decisions are made by political power, but also low-level decisions are heavily influenced by 'the immediate need

not to interfere with the course of social relationships as planned by political action (including the need not to shake political stability)' (Mattei 1997: 29). Many developing countries follow the 'rule of political law'. The characteristics include among others things, weak courts; a high level of political involvement in judiciary decisions; drastic governmental economic regulatory and deregulatory intervention; scarcity of legally trained personnel; and a highly bureaucratised public decision-making process (Mattei 1997: 31-39).

Using Mattei's theory to analyze the role of law in Indonesia, Lindsey (1998) argued that Indonesia follows the 'rule of political law'. In his analysis on Indonesian land law and regulations, Lindsey (1998: 15) refers to the persistence of an ideology of 'national interest' that seems to justify the government's action to ignore laws in order to suit executive interests (I will give several examples that illustrate this in Chapter 3). In addition Scott (1977) argues that bureaucracies and political parties in Southeast Asia are often penetrated by informal patron-client networks that can undermine the formal structure of authority. Personal ties based on reciprocity can substitute for law. In many developing countries state-society relations are interwoven, which blurs the boundaries between state and society (Migdal 1988, 1994). This is discussed further in the following section.

#### **2.2.4 The role of law in the urbanization process**

Law has several intertwining relations with the urbanization process. The first is law as an instrument for urban policy and town planning (Farvaque and McAuslan 1992, Fernandes 1995, Niessen 1995, McAuslan 1998). It can serve to control development in the interest of the public, but it can also create negative impacts on those considered as violating the policies or plan. The second is the relation of law to the regulation of the production of urban space (McAuslan 1985, 1998; Farvaque and McAuslan 1992, Blomley 1995, Fernandes 1995, Durand-Lasserve 1998, Fernandes and Varley 1998). Law can contribute to the production of illegal spaces and the marginalization of particular groups of society. The third is its relationship to the diffusion of ideological values (Fernandes 1995, Fitzpatrick 1998, Harsono 1999). Land can be viewed to have a social function if it serves the benefit of the public. However, if land is viewed as a commodity, then economic interests, in particular those representing the interests of the private sector will dominate, and these

economic interests are often reflected in the laws and regulations. I elaborate on these relations in the following sections and show how they affect access to land and security of tenure.

### *Formal access to land*

There are three aspects of the process of gaining legal status to land: access to land, registration of land, and compliance with land development requirements. Access to land can be achieved through state allocation, transfer of ownership through private transactions or inheritance of land, land banking schemes, invasion or customary allocation (Farvaque and McAuslan 1992). In general the major obstacles in gaining formal access to land are the long and time-consuming administrative processes, and the complicated and often nontransparent procedures. The formal registration of land normally consists of adjudication (determining who owns what), demarcation (marking out the boundaries on the ground), surveying (recording the position of the boundaries), documenting (compiling the evidence into a set of registers) and finally issuing land titles.

De Soto (1989) noted that in Peru the process of adjudicating state lands took about 43 months, consisting of 207 bureaucratic steps and the approval of the president. In Cameroon, the registration process may take between two to seven years (Farvaque and McAuslan 1992: 9). Compliance with land development requirements involves obtaining approvals or permits to develop the land. In Indonesia large-scale developers must obtain a location permit (*ijin lokasi*) from the National Land Agency to develop land. Prior to the deregularization of the procedures in 1993, there were 37 bureaucratic steps to acquire the permit (Ferguson and Hoffman 1993). Poor cadastre mapping and the overlapping of institutions in land administration and land management complicate the process of land registration (Arcadis Euroconsult and *Pusat Pengembangan Agribisnis* 2000b).

### *Master plans and building codes*

Master plans and building codes often make the efforts of the popular sector 'illegal' because they do not comply with the standards imposed on them (McAuslan 1985: 8). Planning laws regulate urban space but can also widen the gap between the formal and informal part of the city (Durand-Lasserve 1998: 246). Planning laws can

also play both positive and negative roles. Within planning zones, law plays a positive role in areas that have received official approval; while in non-conforming areas where residents occupy land or build houses illegally law plays a negative role (Durand-Lasserve 1998, citing Singh 1992).

McAuslan cites the example of imposing the English Common Law on Indian, Pakistani and Bangladeshi society, and the Town and Country Planning Law in Malaysia and Nigeria. The difference is that while the laws in England reflect the existence of the local government system where elected members play a role in the decision-making process, the local councils of many developing countries have no say in the planning decisions. There is no public participation in the process of making plans or in decisions on development control and there are no clear mechanisms that allow participation (McAuslan 1998: 39).

In the case of town and country planning law, Shahid Kardar (1990 cited by McAuslan 1998) conducted research on the institutional and legal arrangements for land administration in Lahore. His study found that the structure of land ownership and the legislation on land acquisition there did not facilitate making land available for housing. The situation of land ownership was too complex because there were often several claims to the same area. Kardar also found that the ideological background of policy makers that were from middle-class-society backgrounds served the interest of the dominant groups of society (mainly the middle and upper-middle class society) rather than the urban poor (McAuslan 1998: 35-36).

As explained in the previous section on the rule of law, in developing countries the pattern of law is principally the 'rule of political law'. In this pattern of law, it is possible for politicians to intervene in the implementation of master plans to support their personal interests. This has occurred in Jakarta (as will be explained in Chapter 3). Innes and Booher (2000) argue that in many developing countries planning can be co-opted by politicians for political and economic interests.<sup>7</sup> In Brazil (prior to the urban law reform in July 2001), urban legislation only accommodated the interests of the dominant economic groups and neglected the social dimension of land-use

<sup>7</sup> According to Innes and Booher (2000) planning and policy-making can be categorized into four models: technical bureaucratic, political co-option, social movement and collaborative. These models 'frame the actions' of the different actors involved, and the role and level of public involvement of participation differs in each model. Many developing countries practice the political co-option model, because planning can be co-opted by politicians for economic interests.

(Fernandes 1995: 57). In Indonesia, legal scholars criticized the regulations derived from the Basic Agrarian Law because there was a paradigm shift from the intended ideology of land as a social function to land as a commodity (Fauzi 1992, Wiradi 1996, Harsono 1999). As an example, the practice of providing exclusive development permits to the private sector to acquire land has resulted in land speculation and the displacement of landless farmers (Hoffman, Struyk and Katsura 1990, Leaf 1991, Ferguson and Hoffman 1993).

### *Land acquisition*

Compulsory acquisition of land poses another constraint on the urban poor. Public land acquisition can be used as a land-use policy instrument to achieve greater efficiency in urban planning and/or greater equity or social justice; however, many developing countries do not have adequate laws, policies, procedures, trained personnel or institutions to conduct land acquisition appropriately (Kitay 1985). In addition the lack of a cadastre mapping system and land registration creates conflicts with local landowners and land occupiers in the implementation of land acquisition.

The issue of 'just' compensation and dispossession of land is a common theme in the practice of compulsory land acquisition in developing countries. For example, Fitzpatrick (1998) reviewed the land acquisition regulation in Indonesia, and concluded that it did not allow representation of landowners in the land acquisition committee.<sup>8</sup> Furthermore, Fitzpatrick's examination of several major land acquisition projects in Indonesia during the New Order concluded that the application of the regulation could be overridden by state ideology (this will be discussed further in Chapter 3). Thus, regardless of the type of tenure, landowners still feel insecure because there is no clear mechanism for participating in the process of land acquisition and urban development.

### *Forced evictions*

Involuntary removals of people from their land or residence are evidence of insecurity of tenure. According to Fernandes (1998), the Asian Coalition of Housing

<sup>8</sup> Ministry of Home Affairs Regulation (*Peraturan Menteri Dalam Negeri*) no. 5/1974 on Land Acquisition for the Purpose of the State

Rights (ACHR) estimated that in 1995 about two million people were forcibly evicted in Asia, and this number represented only the known cases documented by groups involved in housing rights. ACHR documented further forced evictions occurring in the period 1996–97, after Habitat II, where governments had already signed the Habitat Global Action Plan. Their report estimated a further 1.5 million people were victims of forced evictions in this period. Some of the evictions were not documented. For every eviction reported, two went unreported. The reasons for these evictions were mainly large-scale developments such as the construction of dams, urban development projects and violence resulting from ethnic, political or other conflicts. The methods of forced evictions often involved violence supported by the police or military or without clear procedures. As an example, in South Korea some construction companies hired special 'eviction agencies' to conduct the evictions (Fernandes 1998: 10–11). In Indonesia developers misuse the location permit as a *surat sakti* (powerful letter) to intimidate local landowners into selling their land at below market prices (Ferguson and Hoffman 1993, Aksoro 1994, Sumarno 2002).

### *Informal settlements*

Scholars note the work of Boaventura de Sousa Santos (1977) and Rogelio Pérez Perdomo and P. Nikken (1980) in Latin America as significant in building the socio-legal approach to law and urban development (Blomley 1995: 45–46; McAuslan 1998: 26–27). Santos's research focused on understanding the relationship between the official legal system and the informal rules and popular mechanisms in dispute settlements in Rio de Janeiro. Perdomo conducted a social-legal study of housing in the *bairros* of Caracas, Venezuela, and concluded that an informal and formal system of law co-existed, supporting the *bairros*. Fernandes (1995) studied the relationship between law and the production of urban space in Brazil. In his case study of urban legislation and *favelas* (Brazil's irregular settlements), Fernandes (1995) concluded that there was 'an intimate but contradictory relationship' between the formal law and policies with the social attitudes, conventions and rules defined in everyday life, which subsequently led to informal justice in Brazilian society.

In Asia Nientied and van der Linden's (1990) study on the land supply system in Karachi, Pakistan, found that the government played a major role in the

production of illegal settlements by facilitating the illegal subdivision of state land. In Hong Kong Alan Smart's (1988) research on squatter settlements also showed that the government played a major role in structuring the squatter market through their policies on squatters (McAuslan 1998: 27). In Yogyakarta (Indonesia), Setiawan's (1998) research on riverbank settlements found that the role of legislation and regulations are secondary because informal and personal mechanisms work more effectively than such formal means, benefiting both the state and the *kampung* community. In most developing countries, informal settlements are tolerated until there is pressure for urban development. The tolerance of informal settlements by state officials is the vital element for the development of internal processes, structures, and institutions that provide a recognizable system of land tenure within the informal settlement (Farvaque and McAuslan 1992: 43).

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The above section on the role of the state shows that providing security of tenure is not just a matter of providing land titles, but providing the conditions and processes necessary to assure long-term certainty and inclusiveness in decisions affecting the residents. These processes are reflected in the law and its practice. Law plays a major role in the production of space by defining what is considered as legal and illegal, the consequences of being labelled as illegal, and who to include or exclude in each phase of the development process. Law also defines the distribution of power. As shown in this section, power is concentrated in the hands of the state and the economy. Civil society is left in a weak position.

McAuslan (1998: 46) has suggested that the central urban issue should be governance—the process of decision-making and the process by which decisions are implemented. Informal settlements are often formed because the urban poor are excluded from the formal process of urban development. The role of law is crucial as part of 'good governance',<sup>9</sup> and for the facilitation of equity and inclusiveness. Thus, security of tenure implies the practice of inclusiveness. The understanding of the role of law should be expanded to include how law relates to other disciplines and how

<sup>9</sup> According to UN ESCAP there are eight principles of good governance: participation, rule of law, transparency, responsiveness, consensus orientation, equity and inclusiveness, effectiveness and efficiency and accountability (UN ESCAP website, <http://www.unescap.org> accessed 1 April 2003).

the official and informal laws of society are intertwined and inter-related. So far the discussion focused on the role of the state in law and how law places constraints on urban poor communities. As argued by McAuslan (1998), the study of law and the production of space are often not grounded. In the following section I look at the theory of social movements to provide a bottom-up view of how communities are responding within the political, social and economic system of the state.

## 2.3 SOCIAL MOVEMENTS IN LAND FOR HOUSING

Community struggles show another dimension to the practice of law and its role in the production of space. In this section I examine the nature of community struggles as a response to the constraints imposed by the state on gaining formal access to land and security of tenure. Diani (2001) argues that the study of collective action and social movements is important for understanding the relationship between civil society and the system that is causing their grief.

In the first part of this section I examine the theories of social movements to determine what factors constitute a social movement, and the approaches used by various researchers to analyze them. In the second part I examine the characteristics of social movements in developing countries. Theories used to analyze community struggles for land will be dealt with in Section 2.3.3.

### 2.3.1 Understanding social movements

A general definition of a social movement is 'groups of people acting collectively in pursuit of shared goals which include, or require, social and/or political change' (Painter 1995: 153).<sup>10</sup> From this definition the two major characteristics of social movements are their collectiveness (because they involve people acting together), and their aim for social and/or political change. Thus, the pursuit of social and/or political change implies that social movements are oppositional to the existing social or political system. According to Tarrow (1999: 8) the organizations in a movement (referred to by Tarrow as 'movement organizations') use collective action to

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<sup>10</sup> 'Urban' social movements relate to social interests and values embedded in the city.

articulate their ideological goals and to demand responses.<sup>11</sup> Consequently, collective activism may not develop into a social movement.

The study of social movements has been given significant attention, particularly since the 1960s. Various types of social movements have emerged throughout history. The classic labour movements that developed in the 19<sup>th</sup> century in European countries focused on opposition among workers to the conditions of their work. In many developing countries the anti-colonial movement emerged in the early to mid 20<sup>th</sup> century. In the 1960s and 1970s the 'new social movements' emerged: the feminist movement, the environmental movement, the anti-racist movement, the gay-lesbian movement and the peace movement. Castells (1977, 1983) drew attention to the subject of urban social movements. In *City and the Grassroots* (1983: 327–328) Castells argued that the city was the arena of social reproduction of the labour force, and thus the arena of struggle over the state provision of services. According to Castells urban social movements are characterized by demands for collective consumption, the quest for cultural identity and the ability of self-management. He argued that urban social movements could play the role of agents of social change because they are symptoms of contradictions within the city and thus have the potential for overcoming these contradictions, although not necessarily achieving social change.

Approaches to analysing social movements vary. To gain a better understanding of the concept of social movements, Diani (1992) analysed the common themes of four major types of approach to the analysis of social movements: the collective behaviour perspective or classical model; the resource mobilization theory or RMT; the political process perspective; and the new social movement approach or NSM. The first three paradigms are popular in the USA, while the NSM—used by Castells to analyze his case studies in *City and the Grassroots*—is popular in Europe. These four paradigms put different emphases on analyzing social movements.

<sup>11</sup> Scholars have distinguished collective action from social movements. Collective action is 'people's banding together to act on their shared grievances, hopes and interests' (Tilly 1986: 3). Melucci (1976) argued that collective action is 'the ensemble of collective behaviour within a social system' while social movements are 'conflictual behaviour that does not accept the social rules imposed by institutionalized norms, supersedes the rules of the political system and/or attacks the structure of class relationships of a given society' (Castells 1983: 295, quoting Melucci 1976).

The collective behaviour perspective or classical model (Diani 1992 citing Turner and Gillian 1972) focuses on the behaviour of a group that is working against organizational and institutional behaviour. The resource mobilization theory or RMT (Zald and McCarthy 1977) focuses on the role of organizational factors within the movement or the resources available to it (funds, skills, leadership etc). According to this model, the experience of discontent and grievance does not necessarily lead to a movement until the infusion of resources from outside. The political process perspective relates social movements to a broader framework of political processes within a historical perspective (Tilly 1975; McAdam 1982, 1989). The model postulates three direct determinants: political opportunities, organization, and cognitive liberation. Political opportunity structures concern the political situation in a country that sets the possibilities or limits for the development of social movements (this concept will be explained further later in section 2.3.3). The concept of political opportunities was developed by various researchers, in particular Sidney Tarrow (1989, 1994, and 1998).<sup>12</sup> Cognitive liberation refers, for example, to the awareness of participants of the importance of their cause. Both the RMT and political process approach focus on the question of how movements mobilize. However, the political process approach places the movement in a broader context than that of resource mobilization theory. The new social movement approach emphasizes social and economic structural change that gives rise to new grievances and collective interests, values and identities (Miller 1995: 40). Scholars following the NSM approach (Touraine 1977, Castells 1983, Melucci 1985) argue that the NSM approach focuses on understanding why social movements mobilize.

Although these four approaches differ in their focus of analysis, Diani identified four common themes shared by all of them: networks of interaction, shared beliefs and solidarity; collective action on conflictual issues and action outside the institutional sphere; and the routine procedures of social life. In sum, Diani proposed the following definition of the concept of social movements:

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<sup>12</sup> Sidney Tarrow was not the first scholar to introduce the term political opportunity structure. According to Tarrow (1989) the term was first introduced by Lipsky (1968), then developed by Piven and Cloward (1977) and further conceptualized by Tilly (1978), McAdam (1982), Tarrow (1983, 1994), Kitschelt (1986), and Katzenstein and Mueller (1987).

A social movement is a network of informal interactions between a plurality of individuals, groups and/or organizations, engaged in political or cultural conflict, on the basis of a shared collective identity (Diani 1992).

Emphasizing networking could provide a distinction between the analysis of social movements on the one hand, and the analysis of social movement organizations or the mobilization process on the other hand (McCarthy and Zald 1977, Diani 1992).<sup>13</sup>

All the above approaches have their strengths and weaknesses. It would be impossible to have only one theory to explain all social movement phenomena (Hall 1995: 3). Melucci (1996: 202) criticized the political process approach because, in his opinion, it has a tendency to 'political reductionism' that ignores the social dimension of collective action by focusing only on the quantitative measures (such as cycles of protest or repertoires of collective action). Hall (1995: 13) also criticized the political process model because it fails to address the origin or role of external resources. On the other hand, some scholars have criticized the new social movement theorists. Hall (1995: 18) argued that the new social movement theory 'diverts the attention away from the political process of the movement and fails to confront how organizations are formed, how grievances are connected to collective action, and how organization structure affects the type and form of collective action.' Hall's (1995) critique of these four models is that they lack an analysis of the style and type of collective action.

Some scholars argue that a combined approach of understanding the *how* and *why* of social movements should be applied in researching social movements (Painter 1995), while others argue that it is difficult to reconcile different approaches of analysing social movements because they make different epistemological assumptions about how they understand the nature of action (Maddison 2001). In Hall's (1995: 20–22) analysis of poor people's social movement organizations, in addition to *how* and *why* social movements emerge he proposed that a model for analysis should include the concept of understanding the political climate and the organizational determinants or empowerment process (this will be explained in

<sup>13</sup> A social movement organization is a 'complex or formal organization that identifies its goals with the preferences of a social movement or a countermovement and attempts to implement those goals' (McCarthy and Zald 1977: 12).

section 2.3.2). I tend to support this approach, in particular in the context of Indonesia. Political climate refers, in part, to the structure of local government, the relation of the local community to the local government officials, and changes in national policies or administration that affect the local community (Hall 1995: 72). Understanding the political climate would help us to understand what shapes the types of collective action a group employs and what strategies they use to achieve their goal. Understanding the process of empowerment would help to answer why certain social movement organizations are able to succeed while others fail.

### 2.3.2 Urban social movements in developing countries

The above theories of social movements were mainly formulated within the context of Western industrialized countries. In this sub-section I review the literature on urban social movements in developing countries and pull out common themes from the struggles they were involved in.

#### *Research on social movements in developing countries*

Most of the research on social movements in developing countries emerged in the 1980s. Not all of these movements, however, can be considered as urban social movements. The sources of these movements were anti-colonialism, pro-democracy and demands for collective consumption (land, housing, infrastructure, etc).<sup>14</sup> In his book *Land for Housing the Poor*, Angel (1983) acknowledged the importance of the role of people's organizations and social movements in gaining security of tenure and in land reform.

Shuurman and Naerssen (1989) argue that one of the causes for the lack of research on urban social movements in developing countries is that international agencies initially focused on the physical aspects of habitat such as infrastructure, slum upgrading and the like (refer to Figure 2-1), and neglected the social aspects of development. The importance of the role of civil society expressed by such

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<sup>14</sup> Most research on urban social movements for land is focussed on Latin American countries (Castells 1982, Silva and Shuurman 1989, Klaarhamer 1989, Fernandes 1995); Africa (Isaacs 1989), India (Sharma 1985, Mohanty 1997); and the Philippines (Abion 1983, Mendiola 1983, Naarsen 1989, Reid 2000). Community struggles for land in Indonesia have been mostly written in the context of land acquisition (Budiman 1990, Lucas 1990, Dian and Lucas 1992, Fauzi 1996, Fitzpatrick 1998).

movements was formally recognized by international agencies in the early 1990s, and 'officially' recognized by the Habitat II Conference in Istanbul (1997). Shuurman and Naarsen's book *Urban Social Movements in the Third World* (1989) provides several examples of urban social movements in Asia and Latin America, using Castells' new social movement theory. Shuurman describes urban social movements in developing countries as:

... territorially based social organizations, striving for emancipation via collective action. We interpret emancipation as the liberation from hierarchical dependency relations. The latter term points to relations in which the power structure is such that one of the actors has a dominant role and extracts more value from the interaction than the other actor(s) which leads to the marginalization processes (Shuurman 1989: 21).

This concept of emancipation is concerned with, among other things, the satisfaction of basic needs or collective consumption (housing, land, education etc), the development of a respectful attitude towards the environment, the absence of direct discrimination (e.g. social status, religion) or inferred discrimination (e.g. based on residential location) and access to political decision-making processes. These all relate to the cause of the movement. Several other characteristics that I identify include the role of NGOs in empowering community organizations and mobilizing a movement; and the political context in which the movement develops, such as in non-democratic or authoritarian states.

The debate on urban social movements in developing countries is concerned with whether they remain only a survival strategy or whether they actually lead to social change (Shuurman 1989). Fernandes (1995: 42) argues that the phenomenon of social mobilization in Brazil has not been successful enough to weaken the tradition of clientelism in the country. However, in July 2001 there was a breakthrough in the development of urban law in Brazil, when the government finally replaced the urban policy in the 1988 Constitution. The new City Statute sets down the basis for a new legal-political paradigm for urban land use and development control in which the right to property is assured as long as a social function is accomplished. This statute opens up opportunities for participation in development and the inclusion of those previously marginalized (Durand-Lasserve *et al* 2001). Escobar and Alvarez (1992) argue that social movements in developing countries have shifted towards social

transformation. Therefore it is necessary to place them in the context of the democratization process.

According to Chandhoke (1998: 29–30), contrary to the West where civil society can be identified with democratisation and political liberalisation, for people in post-colonial worlds... 'it is not the remembrance of, but the creation of civil society as the sphere where democratic politics can be constructed.' Budiman (1998a, 1998b) argues that in Indonesia social movements are pro-democracy movements, because they are struggling for democratic processes. The issues that these movements raised brought attention to the need of society to obtain rights to social justice, freedom of expression, and participation in the decision-making process, all of which are part of building democracy in a country ruled by authoritarianism. However, Hochstetler (1997) argues that the issue of democracy has lost its real meaning. In a study of social movements in Brazil, she argues that social movements in the 1990s have developed a new 'frame' for their struggle, that of citizenship. In this frame, social, political and economic exclusion define the absence of citizenship. In the following section I elaborate on several of these characteristics.

### *Claims for collective consumption*

The first common characteristic of social movements in developing countries is their claims for collective consumption (basic services, infrastructure, land, housing, education etc). Many scholars argue that the main goal of community struggles in developing countries is not for social change but rather to improve the quality of their everyday urban life by gaining social rights to goods or services of collective consumption (Albion 1983, Mendiola 1983, Shuurman 1989, Silva and Shuurman 1989, van Garderen 1989). Shuurman (1989) argues that these claims represent the communities' social integration into the formal system of the city. The categorization of collective consumption can also overlap with political or human rights issues. Communities engaged in these struggles often experienced exclusion or oppression by the state that prevented them from gaining infrastructure, social services or security of tenure.

According to Shuurman (1989: 14) the nature of these struggles can be offensive (to improve the level of actual consumption) or defensive (to protect themselves from an external threat to the community). Shuurman argues that these movements cannot

develop into a struggle for social change for two reasons. First, once these communities obtain their demands the movement collapses. Second, their relationship with the government is ambivalent. An example used by Shuurman is struggles for land titles. During the struggle the state is considered as a 'foe', but once land titles are granted there is no need to continue their movement, and the state is viewed as a 'friend' that is supposed to protect their property.

### *From urban groups to organized institutions*

According to Angel (1983: 123) struggles for land create a unifying cause that can form a base for organized collective action. However, not all urban poor groups are capable of organizing themselves effectively. This weakness has been identified as one of the reasons why some communities are not able to seize opportunities to improve their livelihood (Panfichi 2002). By working together as an organized group, people can engage in activities that benefit their community and settlement. Formal organizations can coordinate economic and political resources, organize the strategic use of these resources and ensure the continuity of mobilization over time. In a social movement, formalized organizations can propose articulated and agreed-upon goals. This assumption has led activists to concentrate their efforts on developing formally structured organizations (Piven and Cloward 1977: x). Arnstein (1969) identified community organizations as an important factor in creating partnerships with external agencies. For example, Payne (1999: 5) argues that in land management, partnerships between community organizations and the state can succeed in improving the land market.

There is some debate as to whether community organizations should be initiated by the state or should develop spontaneously from society. Some governments, recognizing the benefits of community organization, have tried to develop community organizations as a system for social control. One example is in the Philippines, where the former president Marcos created his own grassroots organizations by way of the system of *barangays*, neighbourhood units of 500 to 700 families, to avoid negotiating with the 'real' grassroots organization, ZOTO (Naerssen 1989: 203). In Indonesia, the system of *rukun warga* and *rukun tetangga* is part of the local government administration system. This system is a descendent of the administration of the Dutch colonialists and the Japanese occupation. The vertical

structure reaches down to the neighbourhood level. It was used during the Japanese occupation for social control. The functions of *rukun warga* and *rukun tetangga* are to serve as a transmitter of information from the government to the community and vice versa, and as a facilitator of transactions between citizens and the government (Steinberg 1992: 361).

Several factors that influence the performance or effectiveness of community organizations are leadership, the organizational structure, links with other people and organizations, the role of external agents (such as NGOs) and program management (Laverack 2001: 140). Leadership plays an important role in community organizations. Formal leaders can take responsibility for actions, provide directions for a group and deal with conflict. Without leadership, participation can lead to disorganization (Laverack 2001: 138). In many squatter communities, the social cohesiveness of the community has to be built because the residents of these settlements might be migrants from different parts of the country. Local leaders can provide guidance and devise programs that can build the community's capacity. Laverack observed that the structure of an organization serves the function of permitting people to come together and address their concerns; however it needs to be supported by social cohesion amongst its members and a connection of the people to the concerns of the organization. Links with other people and organizations lead to networking. Community organizations can share experiences or take action on a wider scale together with other organizations.

In developing countries many community organizations lack the capacity to develop their own resources. According to Gaventa (1980) those who lack the capacity to change their circumstances can be psychologically disempowered. Therefore, it is necessary to 'empower' people so that they can increase their capacity to define, analyze and act upon their own problems. Empowerment is a 'process through which a community gains increasing control of its own affairs and increasing initiative regarding its own destiny' (Lyons, Smut and Stephens 2001). The work of Paulo Freire (1970) has had a fundamental impact in the field of education and community development in developing countries. Freire believes that the key to empowering people is to develop their critical consciousness, or *conscientization*.

External agents such as NGOs can serve as catalysts to enable community organizations to discover their abilities and competencies in managing their affairs.

In Brazil, isolated groups and organizations began to link up and develop into a network of popular movements. The collective strength was able to exert greater public pressure on the government to address the issues of social justice and equity. In the Philippines the local organization ZOTO joined with other community organizations to form a network of community organizations that was able to negotiate their social rights with the government (see Box 2-1 later in this section). The role of NGOs as one of the external agents is examined further in the following sub-section.

### *The role of NGOs in social movements*

In countries ruled by authoritarian regimes the role of civil society is normally weak, and any form of contention is suppressed by the state. NGOs can fill the gap between civil society and the state (Clark 1990, Blair 1992). Some scholars argue that NGOs are themselves a social movement because they emerge from society with a particular concern such as political repression or economic stagnation (Frantz 1987: 123; Lehmann 1990; Hulme 1994: 253). Others see NGOs as supporting or strengthening society by empowering and mobilizing marginalized groups to participate in the political arena (Blair 1997: 27–28). Budiman (1998) and Fakih (2000) identified NGOs as the key actors in Indonesia's social movements. Besides filling the role that should have been played by political parties in representing the people, NGOs have been able to transform social movements into political movements. The interaction between community organizations and NGOs can support the empowerment of communities, as they also acquire knowledge of their rights and organization skills to pursue their goals. Hadiwinata (2003), however, argues that NGOs can shift roles from being a 'development' NGO to a 'movement' NGO, as his research shows in the case study of four NGOs in Yogyakarta, Indonesia.<sup>15</sup>

At the community level, NGOs can assist popular organizations in identifying their members' or social base's main concerns, formulating strategies in meeting their concerns, making them interact more effectively with the market and the state in order to defend and enhance their interests, and influence local governments to be

<sup>15</sup> Although scholars use different terms, the characteristics of the categorizations are similar. For example Korten's (1990) model of first generation, second generation and third generation NGOs is comparable to Elliot's (1987) categorization of welfare, development and empowerment NGOs.

more responsive to local needs (Bebbington and Ridell 1997: 110; Farvaque and McAuslan 1992: 30). In many Latin American countries and also in the Philippines, church and religious organizations act as NGOs to support and empower urban poor communities (Box 2-1). The peasant movement in Central America benefited from the support of development and religious workers, political activists and revolutionary guerrillas (Tarrow 1998: 80, citing Brockett 1991: 258). Although Tarrow did not specifically refer to the role of NGOs, the support of religious and development workers implies that NGO activists play an important role in the peasant movement. In Brazil, the Catholic Church not only helped organize the Recife *favela* communities, but they also provided them with legal, political and ideological resources to support the strategies of these communities (Fernandes 1995: 135, citing Santos 1992).

The above discussion shows the diversity of the roles that NGOs can play; however, these roles are dependent on the social-political context and the scope of work of the NGO. As an example, in some developing countries the state has a negative view of NGOs working with the urban poor. The state regulates NGO activities, because they fear that NGO-sponsored activities will disturb the state's control over society (Hadiwinata 2003: 39 citing Jain 1991: 19). In Indonesia the government was reluctant to use the Indonesian translation of NGO, *organisasi non-pemerintah*, because it had a connotation of being in opposition to the government. Instead, they promoted the term *lembaga swadaya masyarakat* (abbreviated *LSM*) or community self-reliant organization. Up till the 1980s most Indonesian NGOs followed government programs (referred to as high-cooperation NGOs by Eldridge 1989, or conformists by Fakih 1996), and some NGOs focused on building the capacity of the poor (referred to as empowerment NGOs by Eldridge 1989, or reformists by Fakih 1996). Another example is that some NGOs depend on international funding and can be steered through programs of donor agencies (Sinaga 1994, Fakih 2000). This may lead to NGOs that are working for the interests of international agencies rather than the interests of local communities.

### *The locality of the struggle*

Shuurman (1989: 17) adds local space or common territory as one of the characteristics of urban social movements in developing countries. In his analysis,

besides participants being poor, one other commonality is living in marginalized urban zones deprived of security of tenure and basic services. This territory forms the locality of the residents and constitutes the context that can then crystallize into collective consciousness and action. This includes the spaces that I discussed in section 2.1.3—the spaces that are defined by the law as illegal. In his observation of community struggles against the unjust land acquisition process in Jakarta, Nas (1996) commented that these struggles are local-based and have no impact on social change. The New Order government had easily suppressed their protests by silencing any form of contention by local community leaders, and labeling these protests as subversive acts against the state.

The struggle of the Philippines squatter and slum community described in Box 2-1, as well as the struggles for land and basic services in other developing countries mentioned above, illustrate the identity of local space. However, despite the fact that these struggles emerged from a local space, the community can engage in collectiveness with other communities to form a network of communities that shape a more defined claim at a city-wide or national scale.

#### Box 2-1 Case 2-1 ZOTO (Zone One Tondo Organization)

Tondo Foreshore is the largest slum area in Metro Manila, covering 147 hectares. It was intended to be an industrial port, but soon after the war thousands of rural families settled down in that area. The Tondo Foreshore became a huge squatter settlement (also famous for its gangs). It was recognized as a residential area in 1956 when the Republican Act 1507 granted occupants the right to purchase the land. However, this Act was never implemented.

Tondo was not only the largest slum area of Manila but also the district where social workers (such as the Philippine Ecumenical Committee for Community Organization or PECCO), church groups and progressive students met to discuss and practice community development. ZOTO or the Zone One Tondo Organization was formed in 1970 with the assistance of these groups in the southern part of Tondo. ZOTO was able to improve the local environment through self-help efforts. They also tried to educate people through workshops and reflective sessions.

After the declaration of Martial Law in September 1972, the government raided ZOTO offices and arrested their leaders. The government announced plans to reorganize the Tondo Foreshore. Part of the area would be cleared for the construction of port facilities and a highway, while the remaining part would go through an urban renewal program. The project received financial and technical assistance from the World Bank. Half of the residents (at that time 34,000 families or about 175,000 people lived in the area) would be relocated outside Metro Manila.

ZOTO demanded participation in the decision-making process of the new development. The World Bank requested a report on the living conditions in Tondo and the people's preferences for improvement. The Squatters Liaison Committee compiled a report and also submitted a proposal to former President Marcos and the World Bank. The proposal contained the community's request for land rights and to participate in the planning process.

During the 1970s a broader-scale grassroots organization emerged: Ugnayan (Federation of People's Organization of Tondo Foreshoreland) that consisted of ZOTO and other community organizations in Tondo. Thus ZOTO evolved from a territorially based federation of urban poor organizations to a functionally defined urban social movement. In November 1974 Ugnayan organized a march to the presidential palace. Leaders of Ugnayan were able to negotiate with President Marcos. In February 1975, the representatives of Ugnayan, the Tondo authority and the World Bank finally reached an agreement. The policy for the Tondo area changed from urban renewal to upgrading or on-site development, and no relocation. However, one important demand was ignored: the request for security of land tenure. The President's Decree, PD 814 allowed leasehold rights for 25 years, renewable for another 25 years with the option to purchase the land at market rate after 5 years.

The Ugnayan representatives presented the People's Decree against PD 814 at the UN Habitat Conference in Vancouver in 1976. In their presentation, they criticized the decree because it was drafted without genuine participation of the people. They also rejected the leasehold system and proposed a new concept of socialized land (land had to be sold to cooperatives) as opposed to private ownership in which land was considered a commodity.

The experience of ZOTO and Ugnayan inspired other urban poor communities to organize themselves in a network of organizations. On the occasion of the Habitat Conference in Vancouver, a large demonstration was held in Manila protesting forced evictions and squatter demolitions for the new International Convention Center and hotels. The government arrested 2,000 demonstrators and harassed Tondo leaders and activists. In the meantime, Imelda Marcos continued with the city beautification campaign and demolished inner-city slums. About 46,000 families were relocated to areas outside Metro Manila. Imelda Marcos' 'Last Campaign' in 1982 to drive squatters out of the city became a boomerang and actually led to the alliance of urban poor organizations and the support of NGOs. These organizations criticized the demolitions and put the 'Last Campaign' in its wider socio-political framework. In the end, the squatters not only confronted the national government but also the international power structure that kept the Philippines dependent and caused poverty.

After Corazon Aquino came into power, the urban struggle continued but expressed itself in different ways. Collective land occupations occurred and the urban poor organizations united in a new umbrella organization, the Conveners Group of the Kongreso ng Pagkakaisa ng Maralita Lunsod (KPML). In April 1986 the urban leaders met with Aquino, supported by 5,000 urban poor who waited outside the presidential palace. The demands of the leaders for a special urban poor agency with representatives of the urban poor led to the setting up of a presidential task force, Task Force for the Urban Poor. Finally in June 1986 the National Congress of Urban Poor Organizations (NACUPO) was formed. NACUPO formulated a set of demands referred to as the 'People's Proposal'. The major points of this proposal were: moratoria on demolitions, on-site development to avoid resettlement of the urban poor, housing projects independent of foreign aid, and development of people's cooperatives and employment generating projects.

Source: adapted from Albion (1983) and Naerssen (1989).

The case of ZOTO in the Philippines illustrates the transformation of a local-based struggle to a more defined social movement. It showed that the government played a major role in acknowledging the settlement through the Republic Act 1597. However, the government's role has been inconsistent because they did not follow through on their own commitment to the community. The role of NGOs was crucial

in empowering the community, forming the community organization and mobilizing it into a movement. However, the success of the movement was dependent on the support of the international donor agency, the World Bank and their ability to pressure the government (Marcos). The change of authority to a more democratic government opened up opportunities for further negotiations. It is these political opportunities that I now turn my discussion to in the following section.

### 2.3.3 Political opportunity structures

In section 2.1.2 I explained Mattei's argument that law in developing countries was largely political law. Because of the strong political influence in law, the political process approach should be useful in analysing community struggles and how they evolve in different political situations. The case study described above shows that the strategies of the people's movement for land reform in the Philippines depended on the change of political climate that opened up opportunities for negotiation with the government. According to Tarrow (1998: 77), political opportunity structures are the 'consistent—but not necessarily formal or permanent—dimension in the political environment that provide incentives for collective action.' Political opportunity structures relate to both the emergence and the outcomes of collective action. Analysis of these structures can help us understand why similar movements use different strategies, have different outcomes in different places, and often change over time. The opportunities and constraints are situational, and depend on how the actors perceive the opportunities and take action.

#### *The characteristics of political opportunity*

Tarrow (1998: 77–81) identified five political characteristics or changes in opportunity that affect the success or failure of a social movement. In the following paragraphs I explain these five characteristics in the context of developing countries or non-democratic states.

The first characteristic is formal political access. This refers to how the state structure provides avenues for participation or expressing opinion. In non-democratic systems newly opened access to 'participation can trigger contention because people can finally express their concerns. According to Tarrow (1998: 78) 'the narrower the pre-existing avenues to participation, the more likely each new opening

is to produce new opportunities for contention.' Tarrow cites the example of Czechoslovakia during the early 1990s. The presence of the Student Press and Information Centre gave the assurance to students in Prague that political action would be tolerated (Tarrow 1998: 78, citing van Praag 1992).

The second characteristic is the stability of political alignments within the political system. Shifting alignments can cause political instability that encourages contention. Tarrow observed that in Italy after World War II the collapse of Mussolini's fascist regime transformed the resentment of peasants towards landlord abuses into a struggle for land. Another example is in Venezuela. Since Hugo Chavez became president of Venezuela in December 1998 the number of land invasions has increased all over the country. In general every five years, before and after elections, Venezuela experiences an increased number of land invasions by the urban poor that try to test the campaign promises of new presidents (Rohter 1999).

The third characteristic is the presence of influential allies or supporters. This is an important factor in the success of movements, particularly in non-democratic systems where the movements have access only to limited internal resources. As an example, the support of international NGOs and the World Bank was crucial in the negotiation process of Ugnayan in the Philippines (refer to Box 2-1). Because of the importance of allies, maintaining networks with supporters or influential allies is a strategy that many grassroots organizations use.

The fourth characteristic is the divisions or conflicts amongst the elite, such as the bureaucracy or politicians. These provide incentives to 'resource-poor' groups and opportunities for the elites to act for the interest of the poor and gain their political support. As an example, in the late 1980s a reform faction emerged in the Communist Party of the Soviet Union causing conflicts within and amongst elites. These conflicts encouraged outbreaks of contention (Tarrow 1998: 79).

Finally, the state can repress (and even suppress) or, alternatively, facilitate movements depending on their attitudes towards contention. In authoritarian states social movements and acts of collective action are discouraged and opportunities are often closed off. However, this repressive action can lead to the radicalization of collective action and a more effective organization of contenders (Tarrow 1998: 85). As an example, Imelda Marcos' 'Last Campaign' in 1982 to drive squatters out of the

city became a boomerang, and actually led to the alliance of urban poor organizations and the support of NGOs.

The above characteristics can work independently or in close connection with one another, but should be seen within the broader framework of the state, the state's strength or weaknesses, and strategies towards challengers. According to Tarrow (1998: 81-82) the strength and weakness of states are based on the distribution of power/authority in policy-making:

...centralized states with effective policy instruments at their command attract collective actors to the summit of the political system, whereas decentralized states provide a multitude of targets at the base. Strong states also have greater capacity to implement the policies they choose to support: when these are favourable to challengers' claims, the latter will gravitate to conventional forms of expression; when they are negative, violence or confrontation ensue (Tarrow 1998: 81).

This categorization is a bit 'wooden', and Tarrow admits that the strengths and weaknesses vary for different sectors and levels of the state. Also, prevailing strategies towards challengers do not depend on whether the state is strong or weak.<sup>16</sup> As will be discussed further in section 2.4, the effectiveness of the state depends on their interwoven relations with society.

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In this section I have argued that social movements are a reaction to the constraints imposed on the urban poor. Analysis of social movements needs to focus on understanding *why* social movements emerge, and *how* they mobilize the movements and the political opportunity structure supporting the movement. I showed that social movements in developing countries emerged, among others things, because of the constraints in gaining formal access to land and security of tenure. The role of NGOs is important in empowering the community organization and supporting the movements. These movements can move from being territorially based to becoming a city-scale movement, which also contributes to making their cause broader and more political. The political opportunity structure concept is a useful approach for

<sup>16</sup>Tarrow (1998: 82 citing Kriesi 1995:49) cites an example of Kriesi's research in four European countries. Sweden and France (both considered as strong states), and Italy and Sweden (both considered as weak states) each have different strategies towards challengers (inclusive or exclusive).

analyzing community struggles, even though these struggles may not be a social movement. This approach would help in understanding how the strategies of community struggles in Indonesia changed from the New Order era to the *reformasi* era. The opportunity structures in the two eras are different and have different impacts on community struggles.

## 2.4 STATE-SOCIETY RELATIONSHIPS

According to Migdal (1988, 1994) there has been a tendency in social science to impose a general analytical framework in discussing the relation between the state and society, which has resulted in studies that fail to capture the dynamics of struggles for domination in society (such as struggles over rules and procedures, and over legitimate authority). As discussed in Section 2.2, scholars have argued that relations between state and society are complex and intertwined. As an example, Fernandes' (1995) research of informal settlements in Brazil found that the intertwined relations between formal law with the social attitudes and rules in every day life led to the informal justice in Brazilian society.

In understanding state-society relationships, this section draws upon the work of Joel Migdal (1988, 1994) that proposes a state-in-society perspective to understand social and political changes in the Third World. Migdal's theory rests upon a model of state-society interaction. He argues that society is not a monolithic entity rather 'a melange of social organizations' (formal, as well as informal) such as communities, families, clubs, clans, and patron-client relations. The state is just one of the many social organizations in society. These social organizations structure the interaction of their members, as well as between members and non-members. As a member of a social organization, an individual can submit to the rules of the organization, thus allowing the social control of the organization over the individual's behaviour. Sanctions, rewards (or incentives) and symbols (such as beliefs and ideology) are used to encourage people to behave according to these rules. In order to sustain in this world, people must create '*strategies of survival*—blueprints for action and belief in the world'. Since the state is a social organization, it also plays by these rules but at a grander scale. According to Migdal (1994: 24), there has been a common expectation that the modern state take on the role of the principal tool in transforming society. In achieving this, the state has included 'vertically-connected

agencies, designed to reach to all pockets within the territory, and specialized components to promote the state's system of meaning and legitimacy (e.g. schools), to make universal rules (legislative bodies), to execute those rules (bureaucracies), to adjudicate (courts) and to coerce (armies and police).<sup>1</sup>

A key point of Migdal's model of state-society interaction is that the state and social organizations compete for social control or power. The strength of a state organization depends on the social control it has exercised. The level of social control is reflected in three indicators: compliance (when people simply follow the rules), participation (when people are organized for specialized tasks of the organization) and legitimization (when people accept the rules as true and right). In some societies, the state is considered 'strong' because it can enforce its rules on society, regulate social relationships, extract resources and utilize them in a determined way. In other societies, social organizations are in conflict with one another because they are proposing different rules of the game. This leads to struggles in societies over who has the right to make the rules that guide social behaviour. As an example, in post-colonial states the imposition of new laws on land tenure can create conflicts with the existing system and fail to achieve social change (refer to discussion in section 2.2).

Migdal further argues that in many developing countries, state leaders are ineffective (or weak) in achieving social control due to the particular structure of their society. This structure, referred to as 'weblike societies', are made up of local organizations with local rules of the game. These organizations are headed by local leaders that Migdal refers to as 'strongmen'. In weblike societies the struggle for social control occurs between the state and the strongmen who are unwilling to give up their privileged position by submitting to the state's rules (Migdal 1988: 10-33).

To analyze state-society relationships, Migdal argues that it is necessary to look at the multi-levels of the state through an 'anthropology of the state', by disaggregating the state into different components and levels (central, regional and local) and understanding how the different components of the state exercise their authority at the local level in a particular arena. Such an approach would help us recognize the blurred and moving boundaries between the state and society, and understand how officials at different levels and organizations of the state interact and at times, conflict with society. According to Migdal (1994:26), the 'boundaries between state and society may shift continually, as powerful social forces in

particular arenas appropriate parts of the state or the components of the state co-opt influential social figures'. Migdal cites the example of the role of chiefs in Africa during the colonial period. The British incorporated tribal chiefs as paid officials. However, these chiefs also used their state office and resources to strengthen their roles as chiefs (Migdal 1994:26-27). Another example is the role of leaders of neighbourhood units (RW and RT) in Indonesia. Although these leaders are appointed by the community to organize community affairs, they also function as part of the city's administration structure to support government programs (Steinberg 1992).

The engagement between state and social forces can be mutually empowering or a struggle for autonomy. Migdal categorizes the outcomes of struggles between components of the state and existing social forces into four types of results. The first is total transformation, where the state is able to penetrate society and achieve social transformation. The second type is state incorporation of existing social forces. The state inserts new social organizations and symbols into an arena that enables them to appropriate existing social forces and symbols, and establish a new pattern of domination. Yet, at the same time the state's components also adapt to the patterns and forces in the arena. The third is existing social forces incorporation of the state. The organization and symbols of the state are appropriated by local dominating social forces, but the result is not always those envisioned by the state. The fourth is total disengagement because the state fails to penetrate society. This may lead to denying state components' resources and support from the larger society. According to Migdal, most states rarely approach total transformation and disengagement; rather they are involved in a variant of the second and third type, leading to mutually transforming struggles (Migdal 1994).

## 2.5 CONCLUSIONS

In the early history of state approaches to provide land for housing, the role of the government evolved from being a provider to being an enabler. In many developing countries, the concept of 'enabling the housing market' promoted by international donor agencies (for example the World Bank) was interpreted as enabling the formal market. This led to the neglect of the informal or popular housing market. Since then there has been growing acceptance of the role of informal settlements in providing

affordable access to land for housing the urban poor. However, the government approach of physical upgrading of informal settlements has not solved the problem of land for housing. To support residents occupying informal settlements, it is also necessary to provide them with secure tenure, which implies that the state should ensure long-term certainty for people to occupy land. In promoting security of tenure it is not just a matter of providing legal titles, but rather understanding and providing the conditions that lead to security of tenure. For many residents in informal settlements, security of tenure is a matter of perception that can be achieved *de jure* or *de facto* over a certain period of time. Even with legal titles landowners can still feel insecure if the government does not provide the right to participate in urban development.

The state, through its laws, regulations and norms, plays an important role in the production and structuring of informal settlements. Within legal thought and practice there are a number of factors that often place constraints on certain groups of society and lead to their exclusion from gaining secure access to land. These constraints are a result of the complex and intertwined relationship between law, policies and regulations, and the process of urbanization. In countries that have been colonized by Western states conflicts concerning land are results of imposing Western legal systems on the customary system of land tenure. Planning legislation often makes the efforts of the popular sector 'illegal' because they do not comply with the standards imposed on them. However, informal settlements are often a product of an intimate but contradictory relationship between formal law and policies and the social attitudes, conventions and rules defined in everyday life. This also demonstrates that the relations between the state and society are interwoven.

It is important to understand the community's response to these constraints and how the state has responded to community demands. Analysing community struggles can provide a bottom-up view of how communities are responding, and the relations between the actors within the political, social and economic system of the state. In developing countries facing authoritarian bureaucracy, the position of civil society is usually weak. Therefore the empowerment of local communities is an important factor in the process of mobilization. Because of the tendency towards the rule of political law in developing countries, political opportunities become the key factor in obtaining success. The notion of political opportunity structure developed by Tarrow provides a useful tool for analyzing social movements. The characteristics

of opportunity can be used to understand what factors were assisting *kampung* communities in gaining their claims to land.

Finally, the state and society are not monolithic entities. Instead, society consists of a 'mélange of social organizations', in which the state is just one of the many social organizations in society. The boundaries between state and society are blurred and continuously shifting. Migdal's main argument was that state and social organizations compete for social control or power. In analyzing state-society relations it is important to disaggregate the state into different levels and components, and understand the structure of society in developing countries, in particular how power is exercised at the local level.

These conclusions should provide a useful framework for analysis of community struggles for land in Jakarta. As mentioned in section 2.2.1, law operates at different levels of government and in different stages of urbanization. First, to understand why particular *kampung* communities in Jakarta are being marginalized it is important to understand the history of the role of law in urban development in Indonesia and how it operates at city level. Second, to understand community claims on land in a particular settlement it will be necessary to understand the history of the settlement and how the community perceives security of tenure. Third, analysis of the political opportunity structure and state-society relations can help to understand why particular *kampung* communities are able to succeed in their claims to land during the different periods of governance.

In the following chapter, I examine how these theories apply to the situation of *kampung* communities in Indonesia, and in particular Jakarta.

# 3

## Law and Urban Development in Jakarta

In the previous chapter I argued that the state, through its laws and regulations, and how they are practised, plays a major role in supporting or hindering security of tenure. In this chapter I now demonstrate how this situation applies to Indonesia, in particular Jakarta. As discussed in Chapter 2, there is no single definition of the term security of tenure. The translation of the term 'security of tenure' into the Indonesian language is quite problematic, because the word security is mostly associated with defence (*keamanan*) or finance (*sekuritas*). One terminology suggested by an NGO activist (Nainggolan) is *rasa aman bermukim atas tanah*, which implies security to occupy land for a certain period of time without the fear of being evicted (Nainggolan 1995). Lindsay (1998) proposed several factors that are necessary to support 'security': clarity as to what the rights are, recognition by the law of the rights of the holder, and accessible and fair avenues for seeking protection of rights, solving disputes and appealing decisions of the government. Without these factors it unlikely that residents can experience security of tenure. In this chapter I discuss the laws and regulations related to urban development around the notion of how they can support formal access to land and security of tenure.

The first section of this chapter provides a background of the development of legislation related to urban development in Indonesia during the New Order era, where I discuss several of the limitations and criticisms of the laws in providing clear avenues for citizens to participate in urban development. The second half of this section illustrates the political changes in the *reformasi* era that have influenced the issuance of new legislation, which appears to increase the role of civil society.

In section 3.2 I turn to how the law is practised by the Jakarta local government. The Jakarta Master Plan demonstrates the strong economic paradigm of the New Order era, and fails to clearly define the allocation of land for the urban poor. Local regulations and development permits also place constraints on some *kampung* settlements by defining what areas are considered as illegal.

Section 3.3 discusses the problems of land administration and management in Jakarta, which add another layer of constraints on *kampung* residents. Poor land administration and the overlapping institutions in land management complicate the efforts of both the government and citizens in dealing with land issues. The interaction of the existing system of land rights with the development permit system has been the main source of conflict between the state and *kampung* residents. This is discussed further in section 3.4, where I provide examples of the practice of land acquisition during the New Order era. The cases cited show the persistence of the rule of political law that can override court decisions favouring the rights of *kampung* communities. The final section of the chapter brings together the arguments made in the previous sections and identifies the research questions.

### **3.1 URBAN LEGISLATION AND POLITICAL CHANGES IN INDONESIA**

In this section I discuss the development of urban legislation, by first discussing the development of major policies supporting housing and urban development during the New Order era. I then discuss the limitations of the legislation, in particular those related to land tenure and town planning during the New Order era (1966–1998), in supporting community participation and security of tenure. The second part illustrates the political changes in the *reformasi* era and the new legislation that seems to increase the role of civil society.

### 3.1.1 An overview of urban legislation in Indonesia

Table 3-1 lists the laws and regulations related to urban planning, government administration, land management and housing development in a time frame from the Old Order era (1945–1965), through the New Order era (1966–1998), to the *reformasi* era (1998–present). Many of the laws and regulations issued during the New Order era reflect the government's commitment to supporting economic development and fail to provide clear mechanisms on how citizens can participate in urban development.

Indonesia has been slow in establishing legislation to support urban development. Until 1992 there was a gap in the provision of laws and regulations to support planning and community participation in urban development. During this time the *Stadsvermings Ordonnantie* (SVO, or the Town Planning Ordinance of 1948) was still in effect, but in practice hardly used. This law fell into abeyance not only because of anti-colonial sentiment, but also because its objective had been narrowed down to town restoration (due to the war turmoil) rather than town planning. As will be explained further in this section, the issuance of ministerial regulations (by the Ministry of Home Affairs and Ministry of Public Works) for town planning and urban development had fragmented the original town planning framework of the ordinance (Zulkaidi 1995, Niessen 1999).

As mentioned in Chapter 1, during the New Order period Indonesia achieved rapid economic growth. 'Development' (*pembangunan*), became the main ideology of the New Order government.<sup>1</sup> Whereas Soekarno was referred to as the Founding Father of Indonesia, Suharto was referred to as Father of Development (*Bapak Pembangunan*), a term reflecting the commitment of the New Order government to promoting development. Thee (2002: 203) divided the New Order era into three major phases of economic development. The development in each phase affected the types of land policies and regulations issued.

<sup>1</sup> Refer to Heryanto (1988) for an analysis of the New Order's 'development' paradigm.

Table 3-1 Laws and regulations related to urban development in Indonesia

Period	Urban Planning	Administration	Land	Housing development
OLD ORDER ERA (1945–1965)	Stadsverwings Ordinante (SVO, or the Town Planning Ordinance of 1948) Gov. Regulation no. 18/1953 on the Transfer of Public Works sector to the Provincial Government	Indonesian Constitution of 1945 Law no. 22/1948 on Government Structure Law no. 16/1950 on the Creation of Municipalities in the Provinces	Law no. 8/ 1953 on State Land Control Basic Agrarian Law no. 5/1960 Gov. Reg. no. 10/1961 on Land Registration Law no 20/1961 on the Revocation of Rights on Land	Gov. Regulation no. 6/1962 on Housing Law no. 1/1964 on Housing (replacing Gov. Regulation no. 6/1962) –
NEW ORDER ERA (1966–1998)	MoHA Regulation no. 4/1980 on Guidelines on Town Planning Joint Decision MoHA-MPW no. 650-1995 and 500/KPTS/1985 on Tasks and Responsibilities in Town Planning MPW Decision no. 640/KPTS/1986 on Town Planning MoHA Regulation no. 2/1987 on Guidelines for Town Plans MoHA Decree no. 59/1988 on Implementation Guidelines for Town Planning	Law no. 5/1974 on Local Governance	MoHA Decree no. 15/1975 on Land Acquisition	Gov. Reg. no. 29/1974 on the establishment of the National Housing Corporation, <i>Perumnas</i> President's Instruction no. 13/1976 on the Jabotabek Region 1980 Ministerial Decree on the establishment of the <i>Papua Sejahtera</i> Bank for housing mortgage Presidential Decree no. 25/1983 on the establishment of the State Ministry of People's Housing Condominium Law no. 16/1985
	Spatial Planning Law no. 24/1992 (replacing the Town Planning Ordinance and MoHA guidelines) Gov. Regulation no. 69/1996 on Public Participation in the Design, Implementation and Control of Spatial Planning		Presidential Decree no. 55/1993 on Land Acquisition for Public Purposes Law no. 21/1997 on Fees for Land and Building Rights Gov. Regulation no. 24/1997 on Land Registration	Housing and Human Settlements Law no. 4/1992 Gov. Regulation no. 4/1988 on the Implementation of the Condominium Law President's Instruction no. 5/1990 on Urban Renewal on State Land Minister's Decree 1992 on Balanced Housing Guideline
REFORMASI ERA (1998–present)		Law no. 22/1999 on Decentralization Law no. 34/1999 on DKI Jakarta Governance		Gov. Regulation no. 80/1999 on Sites and Service Areas, <i>Kasib</i> and <i>Lisib</i>

Source: Yachiyo Engineering and Pacific Consultants International (1999) modified by author.  
MoHA = Ministry of Home Affairs, MPW = Ministry of Public Works

The first phase, 1966–1973, concentrated on stabilisation and economic recovery. The second phase, 1974–1982, was characterized by the oil boom, rapid economic growth and increasing government intervention. The third phase, 1983–1996, was characterized by the post-oil boom, deregulation and rapid, export-led growth.

The oil-boom period in the early 1970s increased central government revenue, which enabled the government to adopt a welfare approach to housing, and to start a public housing program. Hill (1996: 16) noted that during the period 1974–1981 Indonesia achieved rapid economic growth, with a GDP growing at an average annual rate of 7.7%. During 1969–1974 (the first National Development Program, abbreviated *Repelita*), the government established an institutional framework for formal housing development, and set up the National Housing Corporation, *Perumnas*. During the second *Repelita* (1974–1979) the government formed the National Housing Policy Board and the housing credit scheme. The National Savings Bank (*Bank Tabungan Negara*, abbreviated BTN) was established. Private housing developers and real-estate corporations started to build middle and high-class housing. However, after the sharp decrease of oil prices in the late 1970s the government formulated policies to increase the development of non-oil sectors, such as increasing foreign investment in housing and industrial development (Silas 1986). Land was considered a crucial factor to ensure investment, and it was during this period that the central government issued the Ministry of Home Affairs Decree no. 15/1975 on land acquisition to support the provision of land for development (which was replaced by the President's Decree, *Keppres* no. 55 on Land Acquisition in 1993, discussed further in section 3.4).

During the period 1983–1988 several deregulation policies were introduced to encourage economic growth (in particular in the non-oil sectors), to expand job opportunities, to encourage the mobilization of funds by promoting the development of banks and financial institutions; and to develop capital markets (Thee 2002: 194; Winarso and Firman 2002: 488). Winarso and Firman (2002) argue that these policies assisted the real estate industries by enabling the entry of foreign investment. In 1985 the government issued Condominium Law no. 16/1985 (*Undang-undang Rumah Susun*) to deal with the issues of residential tenure in multi-story buildings, which was not covered by the Basic Agrarian Law no. 5/1960. However, while new regulations

were being produced to support private investment and new towns were being developed by the private sector (refer to Chapter 1), there was no clear town planning law to guide urban development and involve local residents in the process. Town planning was being steered *de facto* by ministerial decrees and regulations produced by the Ministry of Home Affairs and the Ministry of Public Works. Subsequently, town planning became a source of rivalry between the two ministries, in which both adopted a similar approach, that of top-down planning. Both ministries issued regulations and decrees on town planning, and even proposed laws to replace the ineffective Town Planning Ordinance, as well as to demonstrate their authority in urban planning (Zulkaidi 1995, Niessen 1999). Although the Town Planning Ordinance contained provisions on the decision-making process (which included the role of *Dewan Perwakilan Rakyat Daerah* (DPRD), or the People's Regional Representative Council) and tools for plan enforcement, these ministerial decrees and regulations did not go far enough to describe the process for decision-making, public participation or the involvement of the People's Regional Representative Council (DPRD) in the whole planning process. Only at the final stage of the planning process was the People's Regional Representative Council (DPRD) involved, by giving their consent to the plan.

Most of the laws and regulations are 'umbrella' legislation, which means that although they provide a basic legal framework, they require further regulations and decrees for their implementation. An advantage of umbrella legislation is that the implementing measures can be adapted to new circumstances, but on the other hand problems might occur if the implementing regulations are not issued. In particular, if the law is vague it can open opportunities for different interpretations of the law. (Niessen 1999: 235).

### *Unclear mechanisms for participation*

The Indonesian government formally introduced the term *peran serta masyarakat*, or community participation, during the post-oil-boom era.<sup>2</sup> Participation during this era served the purpose of reducing the state's burden in housing development. The

<sup>2</sup> In the Indonesian language the term *masyarakat* has a broad meaning, and can refer to community, society or the public.

practice of participation was limited to the mobilization of people's resources in physical development (such as in the *Kampung Improvement Program*) rather than in policy-making (*Melegalkan Partisipasi*, 2002). Since the 1980s, international organizations such as the World Bank and UN Habitat have encouraged developing countries to adopt measures that would increase community participation in housing and urban development. This policy was followed by Indonesia in the 1990s by issuing new laws and regulations in housing and human settlements, spatial planning and land registration (the latter is discussed in section 3.4). In the following paragraphs I discuss the laws related to housing and human settlements, and spatial planning.

In 1992 the government issued the law on housing and human settlements, *Undang-undang no. 4/1992 tentang Perumahan dan Permukiman* to replace Law no. 1/1964 on Housing.<sup>3</sup> According to Chapter 5, Article 29 § 1 of this legislation, every citizen has equal rights and opportunities to participate in the development of housing and human settlements, where the practice of community participation can be conducted individually or jointly (article 29 § 2) in the form of cooperatives or community self-reliant groups (elucidation of Law no. 4/1992). The government is obliged to give guidance and assistance to communities in the phases of planning, implementation, supervision, and control to improve the quality of their settlements. These, however, depend on further elaboration through Government Regulations (article 30).

The participation of local communities in land development is encouraged in large-scale housing provision such as *kawasan siap bangun* (abbreviated *kasiba*), or large-scale sites and services areas (articles 20-22), and *lingkungan siap bangun* (abbreviated *lisiba*), or neighbourhood-scale sites and services areas (article 25).<sup>4</sup> The forms of participation in land supply for housing are through forfeiting land rights voluntarily to the state and participating in land consolidation schemes (articles 22, 25

<sup>3</sup> Law no. 4/1992 consists of 42 articles organized under the following headings: general provisions, principles and objectives, housing, human settlements, community participation, guidance, sanctions, transitional provisions and closing provisions.

<sup>4</sup> *Kasiba* and *lisiba* are concepts to increase land supply by allocating the responsibility of providing major infrastructure to the local government, while the development of the sites is handed over to housing cooperatives, small-scale developers or individuals.

and 32). In this law, there is no mention of opportunities for land rights holders to upgrade their land rights from the traditional *giri* (quasi legal rights) to *hak milik* (full ownership rights, refer to discussion on land administration in section 3.3), or participating in the new development through the subdivision of their land plots. The law gives reference to village (*desa*) and urban (*kota*) settlement development, but does not mention the term *kawypung*.

The rivalry between the Ministry of Home Affairs and the Ministry of Public Works in issuing town planning regulations drew to the attention of local governments, as well as international lending agencies, the necessity for a spatial planning law. In 1992 Law no. 24/1992 on Spatial Planning replaced the Town Planning Ordinance of 1948. The law covers the processes of planning (*perencanaan tata ruang*), the use of space (*pemanfaatan ruang*), and the control of the use of space (*pengendalian tata ruang*).<sup>5</sup> Under this law, the responsibility for coordinating planning falls under the National Agency for Planning and Development (Badan Perencanaan dan Pembangunan Nasional, abbreviated Bappenas) and its Coordinating Agency for National Spatial Planning (Badan Koordinasi Tata Ruang Nasional, abbreviated BKTRN) at the national level, and the Local Agency for Planning and Development (Bappeda) at the local level. Spatial plans are categorized based on administrative areas (national, provincial, and municipality/region) and specific regions (*katuaan tertentu*). The Governor is responsible for the coordination of provincial plans, and the mayor/regent is responsible for local plans.<sup>6</sup>

According to the Spatial Planning Law no. 24/1992, article 4, citizens have the right to enjoy the added value of space as a result of the spatial plan, the right to know about spatial plans, the right to participate in the formulation of plans, and the utilization and control of spatial plans, and to receive adequate compensation in the case of any development that should occur in accordance with the spatial plan. Article

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<sup>5</sup> Law no. 24/1992 on Spatial Planning consists of 32 articles organized under the following headings: 1) general provisions, 2) principles and objectives, 3) rights and obligations of citizens, 4) the definition of planning, 5) use and control of spatial planning, 6) types of planning documents, 7) authority and guidance, 8) transitional provisions, and 9) closing provisions.

<sup>6</sup> In particular regions in which the area covers more than one administrative territory the coordination of the plan falls under a Minister (to be appointed by the President). One example is the Jabotabek (Jakarta, Bogor, Tangerang and Bekasi) Spatial Plan that is coordinated under the Ministry of Public Works and the Jabotabek Coordinating Board, which consists of the Governor of DKI Jakarta, the Governor of West Java, Governor of Banten and heads of each Regional Planning Board.

5 states that citizens have the obligation of participating in maintaining the quality of space and complying with the spatial plan. In article 12 spatial planning is described as a government activity together with the participation of the public. However, because this law is umbrella legislation, the articles require further regulations and decrees for their implementation. Although the subject of housing and human settlements is closely linked to spatial planning, surprisingly the Spatial Planning Law does not refer to the Housing and Human Settlements Law no. 4/1992 that was issued earlier in the same year.

In 1996 the government issued Government Regulation no. 69/1996 on the Rights, Obligations, Forms and Mechanisms for Public Participation in Spatial Planning (PP no. 69/1999 *tentang Pelaksanaan hak dan kewajiban, serta bentuk dan Tata Cara Peran Serta Masyarakat dalam Penataan Ruang*). The forms and mechanisms for participation covered in this regulation are described based on the stages of planning: the formulation of the plan, the utilization and control of spatial use, and the administrative level (national, regional or regency/municipality).<sup>7</sup> As with most legislation in Indonesia, this law functions as umbrella legislation: eight of the thirty-two articles explicitly state that they require further elaboration in implementing regulations. These articles include those concerned with the rights and obligations of citizens, and the mechanisms for participation. As an example, citizens can submit their objections and comments on national scale projects to the minister in charge of the national scale plan. At the provincial level, citizens can submit objections, suggestions or proposals regarding the master plan to the governor (article 24 § 2). However, there is no explanation as to how the minister or governor should proceed in dealing with such objections.

According to article 24 § 3 the mechanisms for participating in the planning formulation process should be arranged by the Minister of Home Affairs. However, the Ministry of Home Affairs has not yet prepared the regulations for this process. To date there has been no formal mechanism to channel objections to land-use plans or the implementation of plans. This poses uncertainties for citizens as well as public

<sup>7</sup> This regulation consists of 32 articles organized under the following headings: 1) general provisions, 2) implementation of rights and obligations, 3) forms of participation, 4) mechanisms of participation, 5) guidance on public participation and 6) closing provisions.

administrators. In addition, the public has only limited information on the contents of laws and regulations, and which office to turn to (Niessen 1999: 328). Indonesia does not have a tribunal to resolve conflicts concerning urban development. The special courts set up during the Old Order era to deal with land conflicts were abolished by the New Order government in 1970. Instead, the State Administrative Court (*Pengadilan Tata Usaha Negara* abbreviated PTUN) is used to settle these conflicts. However, the State Administrative Court focuses more on the administrative and procedural aspects and not on the substance of these conflicts, which leaves many issues unresolved (Oetomo 1997: 8).

In PP no. 69/1996 the public is defined as an individual, a group of individuals, including customary law communities, or legal entities (article 1, author's translation).<sup>8</sup> Scholars argue that the position of the public in Indonesia is quite weak. Members of the Peoples' Representative Council and Peoples' General Assembly cannot be considered as true representatives of the Indonesian people because they represent political parties and are considered to be more loyal to their party than to the people. Unlike Western countries, in the general election Indonesian citizens vote for the party and not for their representative (Budiman 1990, Hikam 1995, Oetomo 1997, Niessen 1999, Fakih 2000). In addition to this weakness, a major flaw in the legislation identified by Niessen (1999: 250) is that it fails to mention the role of the People's Regional Representative Councils (DPRD), which demonstrates that the law does not ensure the process of public participation. Both Oetomo (1997) and Niessen (1999) argue that the regulation in general has not yet resulted in enforceable standards for public participation.

### 3.1.2 Political changes in the *reformasi* era

Since Suharto's resignation in May 1998 there have been dynamic changes within the central government. Indonesia has experienced three presidents since then: B.J. Habibie (May 1998–October 1999), Abdurrahman Wahid (October 1999–July 2001) and Megawati Sukarnoputri (July 2001 till present). In the following section I explain

<sup>8</sup> Government regulation no. 69/1996 adds the 'customary law community' to the definition of 'the public' in Law no. 24/1992 on Spatial Planning.

the social-political changes in each of these presidential terms, and how these changes affected the legislation issued during their terms of presidency.

### *B.J. Habibie (May 1998–October 1999)*

B.J. Habibie was president for a brief period of 16 months, from 21 May 1998 until October 1999. Prior to becoming Suharto's vice president in 1998 Habibie was the Minister of Research and Technology during 1978–1998. His major assignment was to develop an Indonesian aircraft industry (including other strategic defence industries), which was done at enormous expense to the state budget. Therefore, he was not popular amongst the nation's leading economists as well as the military. At the beginning of the *reformasi* era there was increased demand from Indonesia's civil society and international pressure (in particular from the International Monetary Fund) for economic and legal reform of the New Order system (Lindsey 1998: 9).

Habibie's government focused on providing a framework for better governance through the issuance of new laws and government regulations. During his short administration Habibie issued 67 laws, 300 government regulations and 100 presidential decrees (*Jakarta Post*, 23 May 2000). Among these were Regulation *Perpu* no. 24/1998 on Freedom of Public Speech, Law no. 22/1999 on Regional Governance (commonly known as the Decentralization Law), Law no. 25/1999 on Fiscal Balance between the Central and Regional Government, Law no. 34/1999 on DKI Jakarta Governance and Law no. 39/1999 on Human Rights (several of these laws are discussed further in section 3.1.3). During this period the Land Administration Project (LAP) was launched by the National Land Agency (Badan Pertanahan Nasional or BPN) and the National Planning and Development Agency (Badan Perencanaan Pembangunan Nasional or Bappenas). The five-year project aims to improve land policies and the efficacy of land administration in Indonesia (this is discussed further in section 3.3). Habibie also launched the anti-KKN (*korupsi-kolusi-nepotisme* or the anti corruption-collusion-nepotism) program, but his personal relationship with former President Suharto made him reluctant to prosecute Suharto and his family.<sup>9</sup>

<sup>9</sup> This program continued into Wahid's and Megawati's presidential terms.



However, it is the process of drafting the laws that received criticism because they were formulated without consultation with the public (Katjasungkana 2000). In the words of Katjasungkana (2000: 259), a prominent lawyer and human rights activist:

...the old story has been repeating itself...The elite in power have always neglected the voice of the people and this is no different today. What remains to be seen is whether the current reform process will provide the means to create a new kind of democracy, and if it will bring a cessation of violence.

During Habibie's presidential term Indonesia was still recovering from the economic crisis. According to Hill

Habibie's government introduced a new political regulation that allowed a number of political parties to re-emerge after they had been suppressed by the New Order government for decades. As a result, 48 political parties competed in the first general elections. The ruling New Order party, *Golkar*, lost its majority of votes because people were allowed to vote according to their choices and had been sickened by *Golkar's* past domination.<sup>10</sup>

Although PDIP (The Indonesian Struggle for Democracy Party) had the most votes (33.3%), the party could not secure Megawati Sukarnoputri's position as contender for President. She could not obtain the support of the *Poros Tengah* (The Central Axis)—a term referring to a loose grouping of Muslim parties led by Amien Rais (now speaker of the MPR, the People's General Assembly). Many Muslim leaders were not supportive of a woman as president. Furthermore, when Habibie withdrew as contender many of the *Golkar* members transferred their votes to Abdurrahman Wahid, a prominent leader of the largest Islamic society organization, *Nahdlatul Ulama*, which has thirty million members in Indonesia, and founder of PKB (*Partai Kebangkitan Bangsa* or the State Awakening Party). Thus, although PKB had only 11% of the votes, Abdurrahman Wahid secured his position as the fourth president. Megawati Sukarnoputri, the daughter of Indonesia's first president, Soekarno, became his vice-president after defeating Hamzah Haz, the leader of the Moslem party, PPP (United Development Party), by 112 votes (Hadiwinata 2003: 79–80).

<sup>10</sup> For example, during the New Order era, public servants were obliged to vote for *Golkar*.

### *Abdurrahman Wahid (October 1999–July 2001)*

The election of Abdurrahman Wahid, popularly known as Gus Dur,<sup>11</sup> was welcomed by Indonesian society as the opening-up of the path towards democracy (Hadiwinata 2003: 81). During his very brief presidential term (October 1999–July 2001) Wahid began seriously to promote democracy by reducing the political role of the military. He appointed an admiral as Military Commander, contrary to the tradition of Suharto of appointing an army general (which made Wahid unpopular amongst the army). He also appointed a civilian, Yuwono Sudharsono (a university professor) as Minister of Defence, a position normally held by the military. He charged former President Suharto, and some of his family and cronies with corruption, and Suharto's youngest son Tommy was brought to trial and convicted (however, he escaped from prison, to be captured one year later) (Uchida 2001). According to Al-Zastrow (1999: 122), Wahid widened the public sphere by recognizing people's rights to express their interests, concerns and opinions. Wahid was a supporter of grassroots organizations and allowed the frequent demonstrations from various groups of people to occur in front of the presidential palace (this will be discussed further in Chapter 6).

Wahid's cabinet *Kabinet Persatuan Nasional* (National Unity Cabinet) was a compromise selection from the political parties supporting his election, and was often referred to by the media as the rainbow coalition (PM archive ABC news, 7 August 2000).<sup>12</sup> Despite his attempt to reduce the role of the military in managing the state, Wahid was criticized for his own lack of managerial skills in running it. During his first year as president, he spent most of the time travelling abroad, paying courtesy calls to other countries rather than dealing with the conflicts in Indonesia (in particular in the Maluku and Aceh provinces). According to Hadiwinata (2003: 82–86) Wahid lacked knowledge of how the state bureaucracy and economy worked, and of the procedures of legal processes. Wahid often made controversial statements and actions based on insufficient information that were contrary to government policies, and confused the public on the government's intentions. During his brief term, Wahid

<sup>11</sup>Gus Dur is the popular name of Abdurrahman Wahid. 'Gus' means brother in the East Java tradition, while Dur comes from *Ab-dur-rahman*.

<sup>12</sup>Since the era of President Soekarno, it has been a tradition for the President to name the cabinet based on their major task. In the New Order era, President Suharto named his cabinet *Kabinet Pembangunan* or the Development Cabinet.

reshuffled his cabinet three times, with the last reshuffle considered as an act of desperation (Stein 2001).<sup>13</sup> Several ministers resigned because of disagreements on his policies.<sup>14</sup> The press criticized Wahid because he dismissed the Chief of National Police, Rusdihardjo, without consulting the People's Representative Council, and also several other ministers, among them the Minister for Security and Defence, Susilo Bambang Yudhoyono and the Minister of Ocean Exploration, Sarwono Kusumaatmadja.

Another controversial act of Wahid was to eliminate the Ministry of Information. During the New Order era, the main function of this Ministry was to control the press. The elimination of the Ministry of Information was generally considered to be Wahid's greatest contribution to support freedom of the press, as expressed by the secretary-general of Indonesia's Independent Journalist Alliance, Didik Supriyanto, and by the NGO activist, Solahudin (*Kompas*, 25 Juli 2001). Because of criticism of the elimination of the Ministry of Information by several political parties, Wahid formed the *Lembaga Informasi Nasional* (National Information Centre) to conduct research and evaluation on information policies, and improve the flow of information between government institutions. All the assets of the former Ministry of Information were transferred to this centre (Budairy 2001).

Overall Wahid's cabinet did not perform well and failed to provide social, economic and political stability. The *rupiah* value decreased from US\$ 1 = Rp. 6,800 in the first month of his presidency to US\$1 = Rp. 11,200 in June 2001. There were many riots throughout Indonesia. His ignorance of legal and administrative procedures led him to face impeachment by the People's General Assembly (MPR) for violating the MPR Decree no. XI/MPR/1998 clause on clean government (anti-KKN). Wahid was suspected of being linked to the *Buloggate* and *Bruneigate* scandals.<sup>15</sup> In response to his impeachment, Wahid announced a state of emergency, suspended the People's

<sup>13</sup>PM archive, 2 June 2001 <<http://www.abc.net.au/am/s306845.htm>> accessed 1 October 2003.

<sup>14</sup>Among those ministers who resigned were: Yusril Izra Mahendra (Minister of Justice and Human Rights), Ryaas Rasyid (State Minister of State Apparatus), and Kwik Kian Gie (Coordinating Minister of Economic and Industrial Development).

<sup>15</sup>*Buloggate* refers to the illegal use of money from BULOG (the Indonesian Food Logistics Agency) by Wahid's close associates (among them, his masseur), while *Bruneigate* refers to a (personal) grant from the Sultan of Brunei to President Wahid. Critics argue that the grant should not have been used for Wahid's personal purposes (Hadiwinata 2003:260; *Kompas*, 29 August 2000).

Representative Council (DPR), froze the Golkar party, and demanded a new election. However, the Security Minister, Agum Gumelar, and the Armed Forces Chief, Admiral Widodo Sucipto, refused to implement the president's request for a state of emergency (Hadiwinata 2003: 88, citing *Time Magazine*, 6 August 2001). Finally, the Supreme Court Justice Bagir Manan declared the president's decree unconstitutional, which led the General People's Assembly (MPR) to commence a special session to end Gus Dur's nineteen-month presidency, and appoint his vice-president, Megawati Sukarnoputri, as president. Megawati Sukarnoputri (hereinafter referred to as Megawati), the daughter of Indonesia's first president, Soekarno, became Indonesia's fifth president on July 23<sup>rd</sup>, 2001.

### *Megawati Sukarnoputri (August 2001–present)*

On August 9<sup>th</sup>, 2001 Megawati Sukarnoputri announced her cabinet, named *Kabinet Gotong-Royong*, or the Cabinet of Mutual Cooperation.<sup>16</sup> She appointed several ministers who had previously resigned or were dismissed by Gus Dur, such as Yusril Izra Mahendra (Minister of Justice and Human Rights), Kwik Kian Gie (Head of the National Planning and Development Board/Coordinating Minister of Economy and Industrial Development) and Laksamana Sukardi (State Minister of State Enterprises). Megawati also brought back the Ministry of Social Affairs that had been removed in Wahid's presidential term. Symonds (2001) surmises that the new cabinet reflects its mission to recover Indonesia's economy, as pro-IMF bureaucrats from the New Order era dominate the key economic positions. Among those appointed were the former Dean of the Faculty of Economics, the University of Indonesia, and former Indonesian ambassador to the United States; Dorodjatun Kuntjorojakti, as Coordinating Minister for Economics; the former Minister of Finance during Habibie's term, Budiono, was appointed again as the Minister of Finance; and Laksamana Sukardi (who had been dismissed by Wahid), as the State Minister of State-Owned Enterprises. All these ministers support the agenda of market reform. The only minister opposed to the

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<sup>16</sup> *Gotong-royong* is a traditional form of cooperation between village community leaders and villagers, and amongst villagers themselves to collectively accomplish a particular task. The word *gotong-royong* originated from the Javanese. 'Gotong' means to carry a heavy object, and 'royong' means to share the work and/or benefits (Notoatmodjo 1962). Soekarno also used this phrase for his cabinet in the 1950s in building the nation from colonization.

policies of the IMF is Kwik Kian Gie, who was appointed as Junior Minister for National Planning and Development (Bappenas). According to Symonds (2001), the choice of these ministers also demonstrates that Wahid's impeachment had nothing to do with the allegations of corruption. Rather it was related to his government's failure to implement economic restructuring and its consequent rift with the IMF amid growing signs of economic downturn.<sup>1</sup>

Unlike Abdurrahman Wahid, both the police and the armed forces have given their support to Megawati Sukarnoputri. Megawati, on the other hand, has also shown her support of the military by allowing them to re-establish their military base in Aceh, failing to probe into human rights abuses committed by the military (including the brutal raid on the PDI-P headquarters in 1996), and supporting Sutiyoso (former Chief of the Jakarta Military Command) for his second term as Governor of Jakarta (Sakarsono 2002). In her State Address on 16 August 2001 Megawati promised to maintain security, recover the country's economy and bring law enforcement into practice, in particular in dealing with corruption, collusion and nepotism (KKN).

During Wahid's presidential term Megawati (at that time vice president) stressed the importance of peasants keeping their land and criticised the practice of converting prime farmland into golf courses. She asked the National Land Agency to conduct an inventory of the amount of farmland that had been converted into real-estate (*Jakarta Post*, 7 April 2001). However, when Megawati became president the issue of land reform was not mentioned in her program. Megawati criticized state officials for forcible evicting low-income families (*Jakarta Post*, 9 October 2003), but as noted by Firman (2002) there was no clear vision about city and regional development.

### **3.1.3 Legislation supporting the role of civil society in the *reformasi* era**

Three items of legislation passed during the *reformasi* period have been quite significant in opening up opportunities for a larger role of civil society. The first is Perpu no. 2/1998 on Freedom of Public Speech. This regulation is a big step for the Indonesian government, because during the New Order protests and demonstrations against the government were considered as subversive activities. One of the

considerations of the state for issuing this regulation is that there were a growing number of incidences of uncontrolled demonstrations that were often followed by violence and looting. Therefore, it was necessary to provide the space for people to express their opinions, but also to assure safety and public order during the event. According to *Perpu* no. 2/1998 the forms of public expression include protests (verbal or written), demonstrations, parades, general meetings, and accounts or explanations via mass media (including print and electronic sources) (article 8). Prior to the event citizens must inform the police force (articles 9-11), who must guarantee the security and public order during the event (article 12). Events involving more than fifty people must obtain written approval of the police (article 10).

The second is Law no. 22/1999 on Regional Governance (*Undang-Undang* no. 22/1999 *tentang Pemerintahan Daerah*), commonly referred to as the Decentralization Law. The purpose of this law is to increase local government authority and responsibility through the distribution of certain government functions among different layers of government, and consequently bring the government closer to the people. In theory, the government should be more responsive, accountable, transparent and democratic. Based on this law, the central government's authority is limited to foreign affairs, defence, justice, monetary and fiscal affairs, and religious affairs (article 7 § 1 and § 2), thus eliminating the ministry's district office, *kantor wilayah* or *kanwil* in each province and regency/municipality (Figure 3-1). The provincial government authority covers public works, communications, forestry and estate crops (article 9 § 1, § 2 and § 3), while the municipality government authority covers public works, communications, health, agriculture, industry and trade, education and culture, investment, environment, land administration, cooperatives and labour affairs (article 11 § 1 and § 2). The provincial and regency/municipality government share a horizontal (coordination), rather than a vertical (command) relationship (Figure 3-2).

Since its initiation in December 2000, there has been an ongoing debate among politicians and academics concerning the substance and implementation of the law. Andi Mallarangeng (2001), a lecturer at Gadjah Mada University and political observer, supported the decentralization law on the grounds that it would be more promising from the local government point of view.

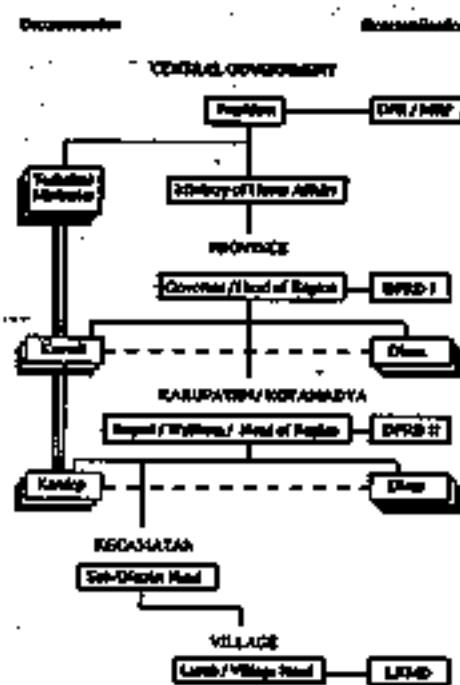


Figure 3-1 Regional and local administration during the New Order era

Source: Devra (1989:5).

Note: *Instansi tertutup* refers to the vertical relationship between the technical ministries with their regional offices (biro and kantor). *Kabupaten* = regency. *Kotakabudya* = municipality

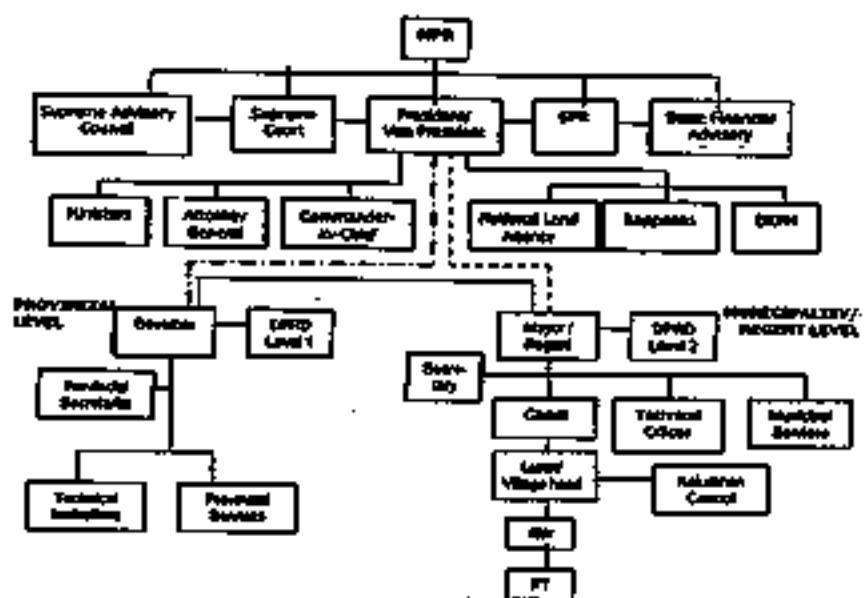


Figure 3-2 Government structure after Law no. 22/1999 on Regional Governance

Source: Arcadia Euroconsult and Pusat Pengembangan Agribisnis (2000a) reworked by author

Note: The Decentralization Law has given more authority to the provincial and municipal/regent government. The relationship between provincial and local government is limited to coordination.

MPR = People's General Assembly, DPR = People's Representative Council

The challenge would be to empower civil society in the regions to participate in public policy-making and to control the process of decision-making. The opponents of this view argued that the implementation of this law in 2001 would worsen the state of government administration because, among others things, it lacked the complete rules and regulations for the continuation of the laws and mechanisms for conflict resolution. Even Vice President Megawati Sukarnoputri expressed her criticism of the Decentralization Law, arguing that the law had flaws that would create negative impacts from its implementation (*Down to Earth* 2001, Arif 2003).

The central government's hesitance to hand over all its previous responsibilities to the local government was noted by land expert, Pieter Evers (2002:16). There have been President's Decrees issued that seem to delay the implementation of the Decentralization Law in land administration. As an example, in January 2001 the central government passed the President's Decree, *Keppres* no. 10/2001 stipulating that 'the implementation of regional autonomy in the field of land administration must fully conform with the existing regulations, decisions, instructions, and circulars issued by the State Ministry/National Land Agency.' This was followed by another President's Decree, *Keppres* no. 62/2001 in May 2001 that stipulates that a number of administrative functions under the National Land Agency in the regions are to remain under the authority of the central government until all legislation on land administration has been authorized, for an estimated time period of two years (Evers 2002: 22).

The third law is Law no. 34/1999 on DKI Jakarta Governance, issued on August 31<sup>st</sup>, 1999. It consists of 39 articles covering basic, transitional and closing provisions (articles 1, and 31-39), Jakarta's status (articles 3, 4 and 5), the administrative areas (articles 6, 7 and 8), the authority on governance (articles 9-13), the form and organization of governance (articles 14-28), finance (article 29), and cooperation with other regions (article 30). The significance of this law is that it supports the representation of citizens at the Municipality Council (*Dewan Kotamadya*) and the *Kelurahan* Council (*Dewan Kelurahan*); and are also acknowledged as partners (*mitra kerja*) of the government (articles 26 and 27). The role of these councils is to channel citizen aspirations, provide inputs to the government, and explain government policies to the community. The Municipality Council should supervise the daily administration of the municipal government (article 26 § 3), while the

*Kelurahan* Council should assist the *Lurah* in community empowerment activities, and propose candidates for the Municipality Council through the Regional People's Representative Council (article 27 § 3). This, however, is the only role mentioned within the law for the People's Regional Representative Council (DPRD).

Although the new laws passed in the *reformasi* era seem to promote participation and provide more authority to local government, in general there has not been any improvement in clarification of the mechanisms of participation in urban development. Several regulations from the New Order era are still effective, such as the President's Decree no. 55/1993 on the Acquisition of Land for State Purposes (discussed further in section 3.4) and the Spatial Planning Law (discussed earlier in this section). Niessen (1999: 16) argues that even if the legal-institutional framework had been well written, there are still possible gaps in the implementation that can distort the function of the law. She notes the following combination of factors as the cause of this distortion: limited capabilities of the bureaucracy; perverse incentives; cultural norms that contradict the rational-legal logic of administrative behaviour; and the political penetration of administrative structures.

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The discussion of the development of urban legislation in Indonesia in this section has shown that most of the laws and regulations were heavily influenced by the New Order's ideology of 'development', which was manifested in land policies and regulations supporting the role of the private sector. International pressure from donor agencies to increase participation in development had resulted in laws acknowledging the role of citizens in housing development and planning. Yet, these laws were ineffective because the mechanisms to participate were still unclear and depended on implementing regulations.

In the *reformasi* era, the increasing demand from Indonesia's civil society and international pressure for economic and legal reform of the New Order system led to the issuance of laws supporting the role of civil society. However, many of the laws and regulations of the New Order era are still effective. There has also been a reluctance of the central government to hand over their authority over land. The practice of these laws and regulations at the city level still needs to be examined. It is,

therefore, necessary to determine how the above urban legislation and policies have been applied in Jakarta, which is dealt with in the next section.

### 3.2 LAND DEVELOPMENT IN JAKARTA

In section 2.1.3 I reviewed Mattei's (1997) argument that many developing countries practise the 'rule of political law'. The characteristics of this pattern of law include, among others things, a high level of political involvement in judiciary decisions, and a highly bureaucratised public-decision-making process (Mattei 1997: 31-39). As argued by de Haan, the vagueness of the law can provide opportunities for the administration to set its own norms (Niessen 1999: 14, citing de Haan *et al* 1996: 21). This theory explains in part why legislation in developing countries can be easily subverted or disregarded by politicians, as I will demonstrate in Section 3.4, where I discuss the role of law in Jakarta's urban development and how this has marginalized particular *kampung* communities from gaining formal access to land and security of tenure.

I begin this section with a critique of the Jakarta Master Plan (section 3.2.1) and how the Jakarta government has responded to the laws and regulations on participation in the spirit of the *reformasi* era. I then discuss in section 3.2.2 the instruments used by the Jakarta government to implement the master plan.

#### 3.2.1 The Jakarta Master Plan

The classification of the functions of law and regulations discussed in Chapter 2 can be used to help us understand the nature of regulations in Jakarta's urban development. Based on these functions, the role of law in Jakarta's urban development could be thought of as an instrument to achieve development policies and at the same time a tool to legitimate government action. Under the New Order regime, 'development' had become a key word, as is evident in Jakarta's policies and programs promoting it as a centre for foreign investment (Abeyasakere 1987: 216). It was Governor Ali Sadikin (1965-1977) who began to implement Soekarno's vision of a modern Jakarta. Sadikin supported the vision of Jakarta as a modern, metropolitan city, and as a consequence the city had to offer foreign businessmen, investors and tourists the infrastructure and conveniences of rival Asian cities such as Tokyo or

Singapore. This vision is still held by the present Jakarta administration, as quoted from the Jakarta Planning Board website:

To put Jakarta at the same level as any other major world city and assure that it is inhabited by a prosperous society, ([www.bappedajakarta.go.id](http://www.bappedajakarta.go.id)) accessed 11 January 2001, author's translation).

The master plan became one of the major items of legislation that shaped Jakarta's urban development. During Sadikin's term the Jakarta administration issued the Jakarta 1985 Structure Plan (1965–1985), which was passed into a local regulation (*Peraturan Daerah* or *Perda*) in 1967. During this period Sadikin also introduced the *Jabotabek* Master Plan. The concept of *Jabotabek* was to alleviate Jakarta's urbanization problem by distributing the population growth outside of Jakarta. The second structure plan, Jakarta 2005 Plan (1985–2005), was authorised by Governor Suprapto (1982–1987) and the Jakarta People's Representative Council through *Perda* no. 5/1984. Six years before the end of the Jakarta 2005 Plan, Governor Sutiyoso (1997–present) endorsed the Jakarta 2010 Plan in July 1999 through *Perda* no. 6/1999. The section below explains the design flaws of these Jakarta Master Plans, which reflect the strong paradigm of land as a commodity. In general these plans fail to clearly define the allocation of land for the urban poor, nor to provide clear mechanisms for local residents to participate in urban development. The economic development paradigm became even more prevalent in the Jakarta 2010 Plan, which even contradicts some of the policies of the Jakarta 2005 Plan.

#### *The Jakarta 2005 Plan (Local regulation, Perda no. 5/1984)*

The Jakarta 2005 Plan divided Jakarta into zones based on physical constraints, land use and centres of activities, each with density and building height controls. Because of the danger of seawater infiltration, the north coast was restricted for any new development. The development strategies of Jakarta prioritised the growth of the east–west corridor and acknowledged the *Jabotabek* development. Again economic development obtained priority. The policies for developing *Jabotabek* included accelerating economic growth to achieve a balanced development amongst the regions; encouraging new centres of commercial and industrial activities; protecting natural resources; and providing a balanced transportation service across the region (Jakarta 2005: 15). Jakarta was anticipated to grow from 7.63 million people in 1985 to

12 million in 2005. Land required for new development was estimated to be 600 hectares per year. Thus, land efficiency had become a priority.

Housing policies included urban infill, betterment programs, urban renewal and vertical development in the inner city (walk-up flats), as well as guided land development and new housing projects in the east and west (towards Bekasi and Tangerang respectively). The guided land development (GLD) was one of the programs to consolidate existing *kampung* settlements in urban development, whilst offering local landowners the opportunity to participate in increasing land supply through the subdivision of their land plots. However, this guided land development policy was never implemented in Jakarta. The policy of increasing land for housing emphasized increasing the participation of the formal sector (private and public), including improving the mechanisms for building permits and land titling in housing areas under the *kampung* improvement program (KIP) and guided land development program. The formal and private sector was given priority by the local government. During my previous work experience at the Ministry of Public Works, the Directorate General of Human Settlements conducted a pilot guided land development project in West Jakarta and Tangerang in 1994. The project was led by Prof. Hasan Poerbo and Antonio Ismael, two of Indonesia's prominent experts in community-based housing development. According to Ismael, the village residents were very enthusiastic about this opportunity, yet this project collapsed because the local government did not give their support. In his opinion, the local government was too engaged with the new housing and new town projects by private developers (personal communication with Ismael, 30 May 2000).

All the city plans were prepared at the provincial level by the Jakarta Planning Agency (*Bappeda*), approved by the Jakarta People's Representative Council (*Dewan Perwakilan Rakyat Daerah* or DPRD) and endorsed by the Minister of Home Affairs. The MoHA regulation no. 4/1980 states that the detailed plans should be prepared by the Urban Development Office (*Dinas Tata Kota*) and approved by the Governor (see Figure 3-3). However, lack of funding and technical support (such as adequate maps and technical expertise) were the main obstacles in preparing the detailed plans. Thus, the Jakarta 2005 Plan remained on a general level, requiring further elaboration at the project level.

Stage of Urban Development Plan	Map scale	Administrative process
Stage 1 Long-term Development Strategy	1:50,000	Prepared by Governor Decided by People's Regional Assembly (DPRD) Legislated by Minister of Home Affairs
Stage 2 Twenty Year Structure Plan (Rencana Umum Tata Ruang DKI Jakarta)	1:20,000	Prepared by Governor Decided by People's Regional Assembly (DPRD) Legislated by Minister of Home Affairs
Stage 3 District Plan (Rencana Raya Wilayah Kota)	1:5,000	Prepared by Governor Decided by People's Regional Assembly (DPRD) Legislated by Minister of Home Affairs
Stage 4 Detailed Plan (Rencana Raya Terperinci)	1:1,000	Prepared by Urban Development Office (Dinas Tata Kota) Approved by Governor
Stage 5 Detailed Urban Element Plan (Rencana Untuk Kota Terperinci)	1:1,000	Prepared by Technical Office (Satuan Kerja) Approved by Governor

Figure 3-3 Hierarchies of Urban Development Plans in Jakarta 2005

Source: Jakarta 2005 and MoHA Regulation no. 4/1999

### *The Jakarta 2010 plan (Local regulation, Perda no. 6/1999)*

The Jakarta 2005 plan was still effective after the fall of the New Order government. However, before the Jakarta 2005 plan expired the People's Representative Regional Council (Dewan Perwakilan Rakyat Daerah or DPRD) approved a third plan—the Jakarta 2010 Plan. Governor Sutiyoso (1997 to the present) endorsed this plan immediately in July 1999, through Local Government Regulation, *Perda* no. 6/1999. The issuance of the legislation six years prior to the expiration date of the Jakarta 2005 plan raised questions regarding Governor Sutiyoso's main motive. If it was due to the enactment of the Decentralization Law, then the elaboration of the spatial plans based on the five administrative municipalities could be justified under the assumption that there would be a greater opportunity for public participation in the development process. Yet the process of formulating these plans did not actively involve the municipality level planning office. Furthermore, there are several major differences that show that the Jakarta 2010 plan gives more priority to economic development, disregarding past policies set up in the Jakarta 2005 Plan and public criticism on how urban development was carried out during the New Order, which I explain later in

this section. There also was no attempt to increase the availability of land for housing the poor even when there were opportunities for doing so.

According to the head of the Jakarta Regional Planning and Development Board (*Bappeda*):

The process of completing the local regulation has involved professional associations, universities and public figures, as well as long discussions at the Jakarta Regional People's Council, among them a public hearing with civil society represented by professional associations, business associations, universities and NGOs. Before being issued as a regulation the plan had also been discussed with the National Coordination Board for Spatial Plans at a meeting held by the Ministry of Home Affairs (Introduction Statement in Local Regulation *Perda* DKI Jakarta no. 6/1999 on the Jakarta 2010 Plan, author's translation).

However, as expressed by many NGO activists the above statement is quite untrue. NGOs, scholars and the media have criticized the Jakarta 2010 Plan on the grounds of its environmental, transportation and economic development policies, and in particular on its process, which in their opinion failed to involve public participation (Kusumawijaya 2000, UPC website <http://www.urbanpoor.or.id> accessed 1 March 2001, ISJ website <http://www.isj.or.id> accessed 1 March 2001).

According to Kusumawijaya (*Kompas*, 13 November 2000), an NGO activist and one of the candidates for governor of DKI Jakarta (2002–2007), both the Jakarta 2005 Plan and the Jakarta 2010 Plan are similar in the sense that they were designed to benefit the social-economic elite and do not benefit the lower economic strata of society. In his opinion, the Jakarta 2010 plan is more about the legalization of New Order government policies. One of the mistakes (discussed further below) is the reclamation of the Jakarta north coast, whose implementation had already started.

A major criticism of local NGOs concerns the goal of Jakarta 2010 'to build a community based Jakarta', which NGOs argue has no clear follow-up through implementing policies and strategies on how to conduct community-based development. The Jakarta 2010 Plan goes one stage further by describing development policies at the municipality level, yet it fails to give a detailed explanation on the specificity of activities that can occur and the processes to achieve these plans. Another major criticism is that the Jakarta 2010 Plan shows no conceptual connection to the adjacent municipalities of Bogor, Tangerang and Bekasi, a connection that was a

basic concept of the Jakarta 2005 Plan. A second major criticism is that the Jakarta 2010 Plan does not refer to the existing environmental conditions that should be considered before deciding what policies and strategies to pursue. These conditions were the basis for the Jakarta 1965 plan and the Jakarta 2005 plan. The Jakarta 2010 plan clearly violates the environmental policies set in the previous plans, as explained below.

Environmental concerns of the Jakarta 2005 plan included the infiltration of seawater into the city and flood risks, thereby restricting development along the north coast and southern part of the city respectively.<sup>17</sup> Despite the arguments set forth by environmental analysts, Governor Sutiyoso announced the city's plan to reclaim 2,700 hectares of land on the north shore through a land reclamation project, which is contradictory to the previous policy to limit growth along the north shore. This decision, however, gained its legitimacy from the President. Besides criticism from environmental NGOs such as WALHI (the Indonesian Environmental Society) that claim that these laws perpetuate the practice of the New Order by legitimising their wrongdoing, former governor Ali Sadikin (1966–1977) also criticized the reclamation plan because it would increase the burden of Jakarta city (*Kompas*, 27 September 2002). The reclamation project is based on the president's decree, Keppres no. 52/1995, on the Reclamation on Jakarta's North Shore. Governor Sutiyoso supported this project by endorsing a local government regulation, Perda no. 220/1998 on the establishment of the Jakarta North Shore Reclamation Implementation Board (*Badan Pelaksana Reklamasi Pantai Utara Jakarta*). The issuance of a President's Decree for the project raised questions on the interest of the President (at that time still Suharto) and his family and cronies in the project, and how Sutiyoso was able to take advantage of this opportunity.

Third, the Jakarta 2010 Plan designates central Jakarta and major roads towards the east, west and along the north coast as prospective economic areas (map 05 of the Jakarta 2010 Plan). This policy is contradictory to previous policies to preserve parts of Central Jakarta (e.g. Kecamatan Menteng, Gondangdia) as a historical conservation area. This policy reflects how the city administration has not changed its

<sup>17</sup> The southern part of Jakarta is higher than the north part. Heavy rains can cause erosion, which increases the risk of flood. The policy for the southern part is to restrict further development and increase forestry.

development paradigm in the *reformasi* era. Another example of this thinking in the Jakarta 2010 Plan is the decrease of open space and green areas. This decrease of green areas is not for the purpose of public housing, rather for commercial facilities such as the newly constructed Taman Anggrek Mall (West Jakarta), *Pantai Indah Kapuk* housing estate (North Jakarta) and the plans for a new mall in Cibubur, South Jakarta. In the previous Jakarta 2005 Plan Cibubur was designated as an area to be restricted from development to minimize run-off water, while in the Jakarta 2010 Plan it has been changed to low-density public facilities (Kusumawijaya 2001).

NGO activists and concerned citizens, joined in FAKTA, *Forum Warga Kota* (Jakarta Citizen's Forum), have recommended that the Jakarta 2010 Plan be reviewed, because its formulation process has clearly violated the principles on participation stipulated in articles 85-97 of *Perda* DKI Jakarta no. 6/1999, Law no. 24/1992 on Spatial Planning and Government Regulation no. 69/1996 on Public Participation in Spatial Planning (refer to section 3.1.2). However, Governor Sutiyoso has refused this request because in his opinion the People's Regional Representative Council (DPRD) had already approved the plan (ISI website viewed 1 March 2002).

In the following section, I discuss how the Jakarta administration implements the master plan through a system of development permits and control.

### 3.2.2 The development permit and control system

Two major mechanisms are used by the Jakarta administration for implementing the master plans (Leaf 1991). The first is the issuance of a principal permit to acquire land (*Surat Persetujuan Prinsip Pembebasan Lahan*, abbreviated SP3L) and the second is the building construction permit (*Ijin Mendirikan Bangunan*, abbreviated IMB). In controlling land usage and achieving public order, the Jakarta administration has a special force, *pamongpraja* or the municipality security guard, under the Jakarta Office for Serenity and Public Order (*Dinas Ketentraman dan Ketertiban Umum*).<sup>18</sup> These development permits and control systems are discussed further below.

<sup>18</sup>The translation of the Indonesian word *ketentraman* is serenity or peace. However, the tasks of the Jakarta Office for Serenity and Public Order are focused on achieving public order, rather than peace or serenity.

### The development permit system

The principal permit (SP3L) is given to a holder of a management right (HPL) or a private developer who holds a location permit (*ijin lokasi*) from the National Land Agency. This permit allows the government agency/developer to begin the process of land acquisition through voluntary bargaining and sale with local landowners. If the land is used for public purposes, the regulations for acquiring land follow *Keppres* no. 55/1993 on Land Acquisition (previously the MoHA regulation no. 15/1975), in which a committee of nine members is formed to negotiate the compensation rates with the local landowners. Figure 3-4 shows the steps that HPL and SP3L permit holders must follow to acquire, assemble and register land, and build facilities on it.

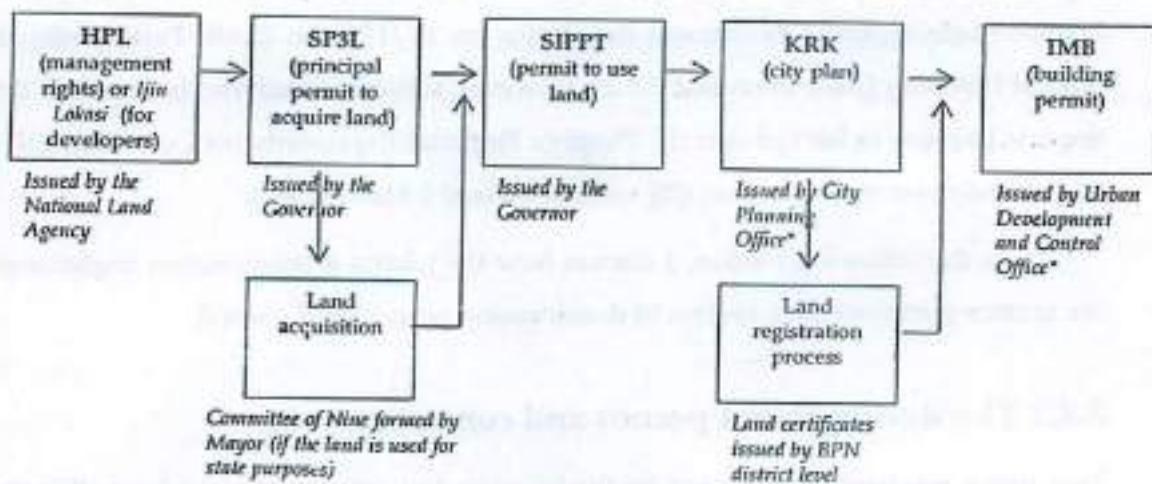


Figure 3-4 Flow of the development permit system in Jakarta

Source: arranged by author

\*Note: depending on the building type, public buildings are processed by *Dinas P2K* (provincial level office for Urban Development and Control), while residential buildings are processed by *Suku Dinas P2K* (municipality level office for Urban Development and Control)

After the permit holders have acquired the land, they must assemble it and submit an application to obtain a permit to use it. Before applying for a building permit, the HPL holder must go to the City Planning Office (*Dinas Tata Kota*) to obtain a city plan drawing for the site, and register the land with the District Land Office. The governor issues the SP3L permit based on the master plan and recommendation of a special committee on land affairs, *Badan Pertimbangan Urusan Tanah* or BPUT. The Governor chairs this special committee, with the Head of the City Planning Office as secretary and the Jakarta Local Secretary (*Sekretaris Daerah*) as member. The duration

of the permit is normally six months, with the possibility of two six-month extensions. Although land put under the SP3L permit might include *kampung* settlements and slums, it is not necessary to coordinate the planning of the new development with the Jakarta Housing Office, the local *Kelurahan* office, or the local residents.

In government projects, following the issuance of SP3L a committee of nine members, referred to as *Panitia Sembilan*, is formed. The purpose of this committee is to negotiate compensation rates with the local residents based on *musyawarah* (the practice of *musyawarah* is discussed further in Chapters 5 and 6).<sup>19</sup> After acquiring land from local landowners and assembling it, the developer or HPL holder would then proceed to acquire a land-use development permit (*Surat Ijin Penunjukan Penggunaan Tanah* or SIPPT). According to one official at the Urban Development Office, since the crash of the property sector and Indonesia's economic crisis there has been a significant reduction in the number of SP3L permits issued. Subsequently, with less pressure for land the number of compulsory land acquisitions and forced evictions should have decreased. However, as noted in Chapter 1, the number of forced evictions in Jakarta does not seem to have declined (this is discussed further in Chapter 6). In 2001 the Governor abolished the BPUT committee, as it did not coincide with the good governance program on transparency.<sup>20</sup>

According to Archer (1993) land permit systems should be able to guide and control urban land development. However, in Indonesia the excessive issuance of development permits coupled with the weak system for controlling land development land has led to the development of a 'private sector land bank' (Ferguson and Hoffman 1993). Many developers have not developed the land they acquired and hold the land for speculation (Firman 2002).

<sup>19</sup>The word *musyawarah* is derived from the Arabic language. The Indonesian-English dictionary translates *musyawarah* as a meeting, dialogue, discussion, deliberation, or negotiation. Fitzpatrick (1998) defines *musyawarah* as the process of deliberation. The word *musyawarah* is described in the fourth principle of Indonesia's basic philosophy, *Pancasila* (meaning five principles): 'Democracy, guided by the inner wisdom in the unanimity arising out of deliberations amongst representatives.' However, it should not be interpreted independently from the other principles – belief in one God, humanity, unity and social justice – and should be understood as part of a harmonious whole (Darmaputera 1988).

<sup>20</sup>Personal communication with Ismail Zabir, Jakarta City Planning Office, 16 August 2001.

### *Achieving public order: Perda no. 11/1988*

Governor Wiyogo Atmodarminto (1987–1992) issued local regulation, Perda no. 11/1988 on Public Order (*Ketertiban Umum*), in 1988 to clean out beggars, street vendors and pedicabs (becaks) from Jakarta. Squatters and slums have always been a target of forced eviction because they are considered an eyesore to the city. These actions were deemed necessary to impress foreign investors with a clean and modern image of Jakarta (Palupi 2001). This regulation regulates the use of land and activities in the city. People are prohibited from living or sleeping along riverbanks and canals (article 9); using the river for washing or bathing (article 10); playing on the streets, under bridges, along railways, riverbanks, drainages and other public places except in places approved by the Governor (article 15); conducting trading activities, even spreading out flyers on the streets, green belts, parks and public places, except in places that have been approved by the Governor (article 16). It is also illegal to assemble and sell the traditional pedicabs (becak) in Jakarta (article 18).

To enforce this regulation, each Jakarta municipality has a special force, *pemonggaran* or the municipality security guard. The Jakarta Office for Serenity and Public Order has a special budget to conduct forced evictions and clean up the city from beggars, street vendors and squatters. Critiques of the regulation, mostly from NGOs, argue that the regulation rejects the informal sector and other types of informal development (Kusumawijaya 2001, Palupi 2001). This regulation, a legacy of the New Order era, is still valid. The only amendment to it during the *reformasi* era concerns an increase of penalty fees. The impact of the regulation on *kampung* residents will be discussed in Chapter 6.

20-08

In this section I have shown that the various Jakarta master plans have failed to allocate land for housing the urban poor and instead, and have been used as a tool to legitimize economic interests, even if it means violating environmental policies and disregarding the rights of local communities. This was evident in the New Order era as well as in the beginning of the *reformasi* era, when the Governor legitimized the plans to develop the north coast for business and commercial activities with the support of a presidential decree. In implementing the master plan, the development

permit and control system has placed constraints on particular *kampungs* by putting them under development permits without their knowledge or labelling the *kampung* as illegal because the location does not comply with the master plan and city regulations. Although there are regulations that support the participation of Jakarta's citizens in planning, the government has been reluctant to fully involve its citizens in the planning process.

In the following section, I discuss the problems of land administration and management, which add another layer of constraints for *kampung* residents in gaining formal access to land.

### 3.3 LAND ADMINISTRATION AND MANAGEMENT

Land administration and management are major problems for the Jakarta government, and have been a source of conflict not only between the Jakarta government and local communities, but also amongst government agencies. In the first section I discuss the problems of land rights and land registration, and in the next section I discuss the outcome of these problems in the management of land.

#### 3.3.1 The problem of land rights

As mentioned in Chapter 1, most *kampungs* in Jakarta are occupying land with unclear land status or unregistered land. Registered land consists of full ownership rights (*hak milik*), leasehold rights (*hak guna bangunan*) and usage rights (*hak pakai*). Unregistered land rights consist of *girik* and *garapan* rights. The situation of *garapan* and *girik* rights for each *kampung* varies, as it depends on historical circumstances. According to Leaf (1993: 483-484) in his study of the colonial roots of residential land rights in Jakarta, during the Dutch colonial period *girik* rights were held by Indonesians on Dutch *domein* lands (referred to as *hak milik adat* or *Verponding Indonesia* rights), as well as the *tanah usaha* rights on privately held *eigendom* lands (Figure 3-5 and Table 3-2). *Girik* rights holders usually possess evidence of tax receipts dating back to the Dutch colonial period. Although *girik* rights are not registered at the National Land Agency, they are recognized by the state. As an example, in government land compensation programs, holders of *girik* rights are entitled to 90% of the base land price.

The understanding of *garapan* rights is more problematic than *girik* rights. The term *garapan* is derived from Javanese, which is literally translated as use or exploitation.<sup>21</sup> This type of right originated from the rights of Indonesians on *eigendom particuliere* lands during the Dutch colonial period.

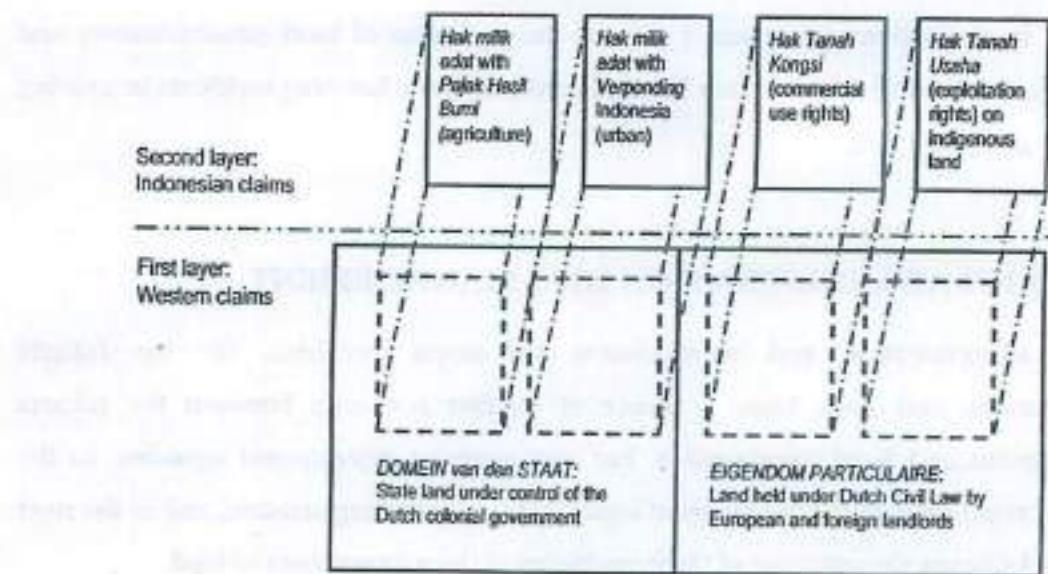


Figure 3-5 The layers of land rights in Jakarta during the Dutch colonial period

Source: Leaf (1993) redrawn and modified by author

Table 3-2 Colonial land rights and the present colloquial terms that have replaced them

Colonial period	The present colloquial term
Rights allowed to Indonesians:	
<i>Hak tanah kongsi</i> / commercial use rights	<i>Hak garapan</i> (farming use right)
<i>Hak tanah usaha</i> / exploitation rights	<i>Hak girik</i> (tax letter right)
<i>Hak milik adat</i> / customary rights	<i>Hak girik</i> (tax letter right)
Rights allowed to foreign landlords:	
<i>Eigendom particulaire</i>	<i>Tanah negara</i> (state land)
Rights held by the colonial government:	
<i>Domein van de Staat</i>	Abolished, and became <i>Tanah negara</i> (state land)

Source: Leaf (1993), reworked by author.

<sup>21</sup> Hoffman and Marbun (1990 cited by Leaf 1993) argue that the term *garapan* should more accurately refer to occupation rather than agriculture *per se*.

*Eigendom particuliere* were lands developed as agricultural estates by Dutch or foreign landlords. After gaining independence, all *eigendom particuliere* lands became *tanah negara*, or state land. The rights of the Indonesians who occupied or used the lands became designated as traditional ownership rights or *girik* (for *tanah usaha*), or were placed under the administration of the Ministry of Agriculture (for *tanah kongsi*). It is the rights of the former *tanah kongsi* that have become the *garapan* claims in contemporary Jakarta. Although there have been attempts to document the extent of state lands in Jakarta since the late 1950s, the Jakarta government lacks an inventory of all state land within its administrative boundaries. It is often assumed by land administrators that *kampung* residents have claimed state land as *garapan* land, in particular those lands which are not occupied by a government agency (Leaf 1993: 484). Government attitudes towards *garapan* land are ambiguous. Some officials assume that residents occupying *garapan* land are squatters. However, *garapan* rights can also be understood as quasi-legal rights, because of government actions as to how *garapan* residents have been treated. Although the term *garapan* is not mentioned in the Basic Agrarian Law of 1960, the collection of taxes (*Pajak Bumi dan Bangunan*, or land and building tax), provision of infrastructure and utilities (in KIP), payment of compensation during land acquisition programs (25% of the base land price) all indicate that the government acknowledges *garapan* rights (Leaf 1993: 488).

After the government issued the Basic Agrarian Law of 1960 (BAL), the general assumption was that these traditional land rights were transitional and would gradually be registered to the state. If registered, *girik* rights holders would gain full ownership rights (*hak milik*) and *garapan* rights holders would gain leasehold ownership rights (*hak guna bangunan*).<sup>22</sup> However, there are obstacles in land registration, as discussed below.

### *Obstacles in land registration*

Although the government issued Government Regulation no. 10/1961 on Land Registration in 1961, it was never properly enforced and was finally abandoned after

<sup>22</sup>*Hak milik* and *hak guna bangunan* are the most commonly used rights in formal housing development. *Hak milik*, or right of ownership, is the fullest and strongest right that can be owned by Indonesian citizens or legal bodies (BAL articles 20–21). *Hak guna bangunan* (HGB) is the right of building and is considered as leasehold for a period of thirty years renewable for another twenty years (BAL article 35).

1965 (Tjondronegoro 1999). After the aborted communist *coup d'état* in September 1965 (*Peristiwa G.30.S/PKI*), the New Order government froze the implementation of the Basic Agrarian Law. The association of the Basic Agrarian Law with the communist party was used by the New Order government to delay the implementation of land reform (Cribb and Brown 1995, Tjondronegoro 1999). Tjondronegoro<sup>23</sup> argues that this opinion is difficult to comprehend because the law was approved by the parliament, in which the Indonesian Communist Party (PKI) was only one of the many parties that approved the law. However, the Indonesian Communist Party attracted landless farmers because their major campaign was about land reform and redistributing land to landless farmers (Tjondronegoro 1999: 9–10).

Falsified documents and conflicting claims on land reflect the current state of poor documentation of land ownership in Jakarta (Leaf 1990: 62). Since the 1980s there have been major attempts to increase the number of registered parcels through sporadic (individual) and mass registration programs (referred to as PRONA, the abbreviation of *Program Nasional*), which were subsidized by international donor agencies such as the World Bank and AusAID. However, this program only covered a few *kampungs* in Jakarta, even after a new regulation on land registration, Government Regulation, PP no. 24/1997, was issued to replace Law no. 10/1961 in 1997. According to this regulation, residents occupying land for more than 20 years can claim their rights to the land as long as they can provide sufficient evidence of their occupancy and there are no claims from other parties (article 24). A USAID report estimated that even in an accelerated program it would take 100 years to complete the registration of the estimated 58 million parcels of land in Indonesia (Haverfield 1998: 57, citing USAID 1992).

The major obstacles to land registration are similar to those identified by Farvaque and McAuslan (1992): the complex framework of the registration process, the lengthy and expensive process, the administrative inefficiencies of the National Land Agency (discussed further in section 3.3.2), and the bureaucratic culture of rent-seeking (Haverfield 1998: 57–58). Struyk *et al* (1990: 150) estimated that the process of land titling for formal housing development took on average 32.5 months in 1988. The

<sup>23</sup> Sediono Tjondronegoro is Professor Emeritus at the Faculty of Social Economy, *Institut Pertanian Bogor* (Bogor Institute of Agriculture), Indonesia. His research focuses on agrarian sociology.

lengthy, expensive and complicated process could have discouraged landowners from formally registering their land.

As noted by Struyk et al (1990: 96), Leaf (1993, 1994) and Garr (1996), there are other factors that reduce the necessity for formal land rights. As an example, many villagers and *kampung* residents consider land tax receipts (*Pajak Bumi Bangunan*, or PBB) as strong evidence of land ownership (Silas 1983, Devas 1983, Arcadia Euroconsult and Pusat Pengembangan Agribisnis 2000b). According to Leaf (1993) lack of land titles was an advantage to both the government (that required land for development) and the *kampung* dwellers (who could acquire land at an affordable price), as unregistered (*girik* and *garapan*) land is usually worth less than registered land.

The Indonesian government is attempting to improve its land policies through a land administration project sponsored by several international donor agencies. The Land Administration Project—consisting of three major parts—attempts to facilitate the emergence of an efficient land market and alleviate social conflicts over land through the acceleration of land titling and registration (part A); improving the institutional framework for land administration (part B); and improving Indonesia's land management policies (part C). A local NGO, *Konsorsium Pembaharuan Agraria* (Consortium for Agrarian Reform), has accused the land administration program of supporting the capitalist paradigm (Fauzi 1996). In his paper, Fauzi argues that the land registration program encourages individual land ownership that contradicts local practices, and eventually will only benefit the private sector.

### 3.3.2 Problems in land management

Malo and Nas (1996: 116) identified two administrative problems in Jakarta during the New Order era. The first was the problem of *instansi vertikal* or local level central government units (Figure 3-3). The second was the problem of the local administration, and related to the lack of human resources and low administrative performance. As noted in section 3.1.3, during the New Order era each technical sector ministry (health, education, public works, agriculture, trade, etc) had their own representative office at the provincial level, referred to as *kanitor wilayah* (abbreviated

*kanwil*) or district office. The role of Jakarta as the nation's capital made communication between *Kanwil* and the respective ministry especially convenient.

Governor Ali Sadikin tried to solve this problem by integrating central government and local government units (two examples are health and public works), but not land administration (Malo and Nas 1996). In the New Order era land administration was held under the District Office (*kantor wilayah* or *kanwil*) of the Ministry of Home Affairs (till 1988) and then the National Land Agency (BPN). Therefore, although the urban planning process is the responsibility of the local government, the city administration does not have the full authority to manage land. As the discussion below shows, the National Land Agency participates in the city planning process through their intervention in land management and land titling. Compared to other developing countries, Indonesia's land management is very fragmented. At the national level, land in general is divided into forestry land, agricultural land, mining land and urban land, with the responsibilities for planning and managing these different categories of land falling under different ministries. This complicates urban land management and creates more difficulties for citizens in identifying the appropriate institution to approach when dealing with conflicts over land.

In land management the most significant recent change is the abolishment of the BPN representative office, namely *Kantor Wilayah* (*Kanwil*) BPN. Subsequently, the process for issuing land development permits and land registration will become the responsibility of the local government. This structural change did not take place until the official merger of the National Land Agency representative office and the Jakarta Mapping and Cadastre Office as the Jakarta Land and Mapping Office in December 2002 (two years after the President's Decree of 2000).<sup>24</sup>

During the New Order era the National Land Agency consisted of several deputies responsible for land reform and land use policy, land titling, land survey and registration, auditing and inspection. However, in conducting these tasks there were

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<sup>24</sup> In its past history, land administration and cadastre has experienced several organisational restructures. During the Dutch colonial period, land registration was part of the *Kadaster Dienst* (the Dutch word for Land Registration Office). After independence, the name of the office was changed, in Indonesian, to *Kantor Pendaftaran Tanah*, and became part of the Ministry of Justice (Karayan 2000).

overlaps and sometimes no coordination with other related institutions, as shown in Table 3-3.

Table 3-3 Overlapping areas in land management during the New Order era

National Land Agency	Other institutions	Areas that overlap
National Land Agency (BPN)	↔ National Survey and Mapping Agency ( <i>Bakorsutanas</i> )	Geodetic mapping
National Land Agency – Deputy for Land Reform and Land Use	↔ Ministry of Home Affairs	Location permit Planning and land use allocation (overlap with Bappeda, Regional Planning and Development Agency)
National Land Agency – Deputy for Land Reform and Land Use	↔ National Planning and Development Agency ( <i>Bappenas</i> )	Spatial and land use planning
National Land Agency – Deputy for Land Reform and Land Use	↔ Ministry of Public Works Ministry of Agriculture	Land use Information and land classification No coordination
National Land Agency – Deputy for Land Survey and Registration	↔ Ministry of Finance – Directorate General of Land and Building Tax	Mapping
BPN Local Office ( <i>Kanwil</i> )	↔ Land Deed Officer ( <i>Pejabat Pembuat Akta Tanah</i> or <i>PPAT</i> )	Processing land sale transfers and examining land certificates

Source: Arcadis Euroconsult and PT Pusat Pengembangan Agribisnis (2000a).

Until 1988 land administration (including land registration and land titling) was the responsibility of the Directorate General of Agrarian Affairs under the Ministry of Home Affairs. Because of criticism of their slowness in dealing with land issues, the government felt that it was necessary to establish a new institution. In October 1988 this office was elevated to become the National Land Agency (*Badan Pertanahan Nasional*) with the position as State Minister.<sup>25</sup> This restructuring process has caused delays in the delivery of services and implementation of programs. According to several staff of the National Land Agency many land documents were lost in the process of moving files to the new office buildings.<sup>26</sup> The agency's responsibilities include land policy reform, land development control and land titling.

<sup>25</sup> Personal communication with Amin Sobari, consultant to Land Administration Project, and Rainer, staff of Legal Division, National Land Agency, 8 January 2002.

<sup>26</sup> This was not the first attempt at restructuring land affairs. In 1960, the agrarian division of the Ministry of Justice was pronounced as the Ministry of Agrarian Affairs. In 1966, due to the restructuring of the cabinet, the Ministry of Agrarian Affairs was merged into the Ministry of Home Affairs, as the Directorate General of Agrarian Affairs and Transmigration.

However, one of the disadvantages of this new institution is that it has lost all the village level apparatus. When land was still under the authority of the Ministry of Home Affairs, village officials acted as their implementing agents because they were coordinated under the same ministry. However, this responsibility ended when land was handled by the National Land Agency (Tjondronegoro 1999: 14). One example is land transactions. Before the National Land Agency was established, the village head (*bosuk* or *kepala desa*) acted as witness to land transactions, and land parcels were registered at the village office. Since 1968 land transactions have had to be witnessed by certified land deed officers (*Pejabat Perbaikan Akta Tanah*, abbreviated PPAT). This process, besides being costly is also inconvenient for rural landowners, because most land deed officers practice in the city.

Mapping was a source of rivalry between the Jakarta local government and the national government. Before 1970 there were two institutions involved: the Public Works Office (*Jenamaan Pekerjaan Umum*) and the Cadastre Office (under the Ministry of Home Affairs). From 1975 to 2002 there were five institutions involved at the local and central government level: *Dinas Tata Kota* (the Urban Development Office), *Dinas Pengukuran Tanah dan Pemetaan* (the Land Cadastre and Mapping Office), the Regional Office of the National Land Agency (after 1988 it became the *Kemari BPN*), the Regional Office for Land and Building Tax (*Kemari PBB*) (Cardiyan et al. 2000: 41), and the Regional Office of the National Coordinating Agency for Surveying and Mapping (*Kemari Bakorsurfnas*), which was responsible for the preparation of standardized base maps and natural resources mapping. An official at the Jakarta Mapping and Cadastre Office (*Dinas Pemetaan dan Pengukuran Tanah DKI Jakarta*) admitted that there were problems in drawing city maps due to lack of coordination with the National Land Agency district office (personal communication with staff, August 1<sup>st</sup>, 2000). The problems concern the lack of information on land ownership, in particular that of *tanah negara* (state land) and *kampung* settlements.

The office of the Jakarta Mapping and Cadastre Office and the District Office (*kemari*) of the National Land Agency were recently merged in January 2003 to become the Jakarta Land and Mapping Office (*Dinas Pertanahan dan Pemetaan DKI Jakarta*). However, land registration still falls under the authority of the National Land Agency, which follows the President's Decree issued in 2000.

### *The problem of managing tanah negara (state land)*

In Jakarta, several large areas are managed (*dikelola*) by central government institutions, among them being the former airport Kemayoran and the Senayan Sports Stadium, under the State Secretary; the harbour, under PT Pelindo, a state-owned company coordinated under the Ministry of Transportation; and the Halim Perdana Kusuma Airfield Complex, under the Indonesian Air Force. Other areas under the responsibility of the central government (Ministry of Human Settlements, Directorate General of Water Resources) include two major river basins in Jakarta, the Cisadane and Ciliwung river basins (*satuan wilayah sungai* or SWS). The Ministry works closely with the Jakarta Public Works Office and the Flood Control Program (*Kopro Banjir*). In addition, land along the railways is under the authority of the Indonesian Railway Company, *Kereta Api* Indonesia. The National Land Agency provides these institutions with management rights (*hak pengelolaan lahan* or HPL). HPL is a delegation of authority from the state (represented by the National Land Agency) to public institutions to control and manage a particular area of land.

Unlike Kemayoran airport and Senayan Sports Stadium, which are managed under the State Secretary, Presidential Decree no. 52/1995 gives full responsibility to the DKI Jakarta Governor to develop the waterfront. Other central government institutions that obtained HPL in Jakarta are *Pertamina*, the National Oil Company in Pelumpang, North Jakarta; PT Pelindo (Pelabuhan Indonesia or the Indonesian Port Authority) in North Jakarta; the Indonesian Air Force in Pondok Gede, East Jakarta, and the Indonesian Army in Cilangkap, South Jakarta. The authority over these areas after the Decentralization Law is still unclear. Many conflicts have been occurring between the state and the original local landowners and residents living within areas under HPL, concerning rights to land and just compensation, as explained further in section 3.4.

so on

This section has discussed the problems in land administration and management. Most *kampung* lands have unregistered land status, *girik* and *garapan*, with the situation in particular *kampungs* depending on historical circumstances. The low rate of land registration occurred not only because of the lengthy, complicated and

expensive procedures, but also because there are other factors that reduce the necessity for formal land titles, such as the assumption of tax receipts as strong evidence of land ownership. Although there have been attempts to increase the rate of land registration through mass titling, this program has not covered all Jampung lands in Jakarta.

The fragmented and overlapping responsibilities in land management between the local and central government complicate how the Jakarta government deals with land issues. State land in particular, is most complicated to manage because of the poor record keeping of original claims on land and the overlaying of these claims with another layer of claims that of management rights (HPL) and development permits (SP3L).

Although the Decentralization Law has provided the opportunity for the Jakarta government to gain more control over land, there has been reluctance of the central government to immediately transfer their authority in land. In the following section I discuss the practice of land acquisition during the New Order era, and how communities have responded.

### **3.4 LAND ACQUISITION AND COMMUNITY PROTESTS DURING THE NEW ORDER ERA**

In this section I look at the practice of land acquisition during the New Order era. As discussed in section 3.1 local landowners have been in a weak position in the process of urban development, and their position has continued to be inferior even after new regulations have been issued to revise the legislation. The examples below show that there were very limited opportunities available during the New Order era to channel protests because of the attitude of government officials that tended to silence these protests and ignore laws and court decisions to suit executive interests.

#### **3.4.1 Land acquisition and the rule of political law**

The state can revoke any rights to land by providing proper compensation to the right holder, if the land is used for public purposes (BAL Article 18). Law no 20/1961 on the Revocation of Rights on Land was issued in the Soekarno era to replace the colonial regulation of 1920 on appropriation of land. The law delegates exclusive

power to appropriate land to the President for the benefit of the state (Gautama and Harsono 1972: 107-109). This law was used only once by President Soekarno. Although Law no. 20/1961 has not been annulled, during the New Order the land acquisition process referred to the Ministry of Home Affairs Decree of 1975. This law stipulates that governors must establish a committee of nine members, *Panitia Sembilan*, to investigate and advise on matters of compensation once a request from a government agency for 'release of titles' has been accepted.<sup>27</sup> The committee, however, has no representative from local landowners—all the members are government officials from the agrarian and district offices, the village head and the representative of the organization that seeks to acquire the land. The committee must negotiate with the local landowners on the amount and form of compensation, which is to be based on the local public price (*harga umum setempat*). If the landowners do not accept the price, the committee may stick to its decision or bring the matter to the governor for his resolution (Article 8 § 1). The Governor has the power to confirm the committee's decision or make another decision acceptable to the two parties (Article 8 § 2).

In 1976 the above decree was extended to incorporate the requests of private organizations that required the 'release of title' for projects of public interest. This decree demonstrates how the state has supported the role of the private sector in urban development by giving it greater ability to acquire land. Land development permits such as *ijin lokasi* or SP3L (discussed previously in section 3.2.2) based on this decree were generally perceived as a *surat sakti*, or letter of power that enabled developers to pressure local landowners to sell their land (Ferguson and Hoffman 1993, Aksoro 1994, Sumarno 2002). Ferguson and Hoffman (1993) argue that in practice the 'social function of land' holds down the price that the formal sector developers pay for land. This results in compensation for local landowners at below market price, and leads to disputes between the landowners and the government or developer.

<sup>27</sup> The 'release of titles' refers to the process of acquiring land from local landowners and releasing the original rights to the state before assembling the land and submitting an application for land titles to the state (Struyk *et al* 1990: 126-127).

The President's Decree, *Keppres* no. 55/1993, replaced the Ministry of Home Affairs' 1975 Decree in response to the criticism of its operation that tends to justify the payment of compensation at below-market land prices. Although this new regulation on land acquisition revised the compensation rate to be at least equal to the market land value, the law did not change the composition of the land acquisition committee, which consists solely of government officials. As noted above, if a decision is not reached on the price, the titleholders can appeal to the Governor who will seek to settle the matter in a justifiable way in the interests of all parties. In this event the Governor submit a proposal to rectify the dispute to the National Land Agency, who will forward a request for land appropriation to the President. It is only after the President issues an order for appropriation that the holders of the land right may appeal to the regional High Court (*Pengadilan Tinggi*) over compensation (Fitzpatrick 1998: 78-79). Fitzpatrick notes that the practice of the land acquisition law is often without reference to the content of the law.

In his analysis of Indonesian land law and regulations, Lindsey (1998: 15) refers to the persistence of an ideology of 'national interest' that seems to justify the government's action of ignoring laws to suit executive interests. The cases of Pluit Polder, North Jakarta, in the early 1970s (Fitzpatrick 1998: 82-83); Kedong Ombo, Central Java, in the 1980s (Lucas 1997, Fitzpatrick 1998, Budiman 2000); Pelumpang, North Jakarta, in the early 1990s; and Kemayoran, Central Jakarta in the 1990s (Jellinek 1996, Thamrin 1997) show that during the New Order period land acquisition laws in practice can be overridden by normative principles such as national interest, development and social function. Furthermore, Fitzpatrick (1998) argues that the term *musyawarah* (the process of deliberation), which the laws prescribes for land acquisition is often misunderstood to be a consultative process.<sup>28</sup> *Musyawarah* is used where there is need for a negotiation process to occur, such as mentioned in the above laws on spatial planning, public participation and, in particular, the process of land acquisition (President's Decree, *Keppres* no. 55/1993 on Land Acquisition).

The following cases illustrate how national interest and the state ideology of the New Order era could be used to justify the executive's interest.

<sup>28</sup> The word *musyawarah* is originally from the Arabic language, literally meaning the process of negotiation and deliberation.

**Box 3-1 Pluit Polder, North Jakarta (1969-71)**

A land dispute occurred between land occupiers in Jembatan Dua, North Jakarta and the Pluit housing development authority. The land had been appropriated based on a 1969 decision letter (SP3L) of the Governor of Jakarta (Ali Sadikin). The land occupiers were evicted with no agreement on compensation. The land occupiers (14 applicants) filed the case to the District Court of Jakarta in 1971. They claimed that the actions contravened the 1961 Law on Appropriation because 1) only the President could compel appropriation; 2) appropriation was possible only after compensation had been paid; and 3) the appropriation was not in the public interest as the land was to be utilized for private housing development. They sought nullification of the Governor's decision letter, a declaration that their eviction had been unlawful and damages of Rp. 50.000.000 (in 1971 1 US\$ = Rp. 500) for every violation of the law by the Governor.

The Governor submitted in reply that: 1) the applicants had not proved they had legal right to the land; 2) the court lacked jurisdiction as the appropriation was a non-justifiable execution of government policy to develop Jakarta; and 3) the land in question was state land pursuant to a decision dated July 14, 1960 of the Regional Wartime Administrator that sought to implement the 'Pluit Polder' development plan; and 4) the Governor's actions were in line with the nation's Pancasila ideology.

The High Court of Jakarta dismissed the claims of the applicants on the grounds that 1) the Governor had carried out his duty as the instrument of the central government to carry out the state's development plans, and 2) the land in question was land under the direct control of the state because the applicants' rights were derived from the colonial eigendom proprietary which had been abolished by the Agrarian Law of 1960.

Source: summarized from Fitzpatrick 1998: 82-83

**Box 3-2 Tanah Merah, Pelumpang, North Jakarta (1992)**

The disputed land of Pelumpang or Tanah Merah in North Jakarta covers 45 hectares, located behind the state oil company's (Pertamina) storage depot. Pertamina announced its plan to build storage facilities on that land. On March 1992, 1,130 families on 45 hectares filed a lawsuit in the North Jakarta district court against the state oil company (Pertamina), the Governor of Jakarta and the mayor of North Jakarta. They demanded compensation for the land of Rp. 150,000 per square meter (half the market price). Amongst the 1,130 families, 1,132 occupants admitted they were squatters, but argued that Pertamina had previously agreed to pay compensation, and that it never had been paid. The group also sued the mayor of North Jakarta and the governor of Jakarta in the state administrative court (PTUN) for demolition of the dwellings before the compensation dispute was settled by the court. The mayor of North Jakarta's justification for the demolition was that the occupants were illegal squatters and the buildings were erected without building permits. From May till 3 November 1992, the Pelumpang residents were continually harassed by two groups: the bureaucracy's security forces, known as pamongpraja or kamtib (abbreviation of *keamanan dan ketertiban*, security and order), and the Three Dimension Brigade (*Pasukan Tiga Dimensi*) (it was not clear to whom this group was responsible, or on whose orders it acted).

The Pelumpang residents lost their legal battle in the Jakarta Administrative Court, but appealed. By October 1992 the residents had visited the Peoples Regional Representative Council (DPRD) fourteen times, asking DPRD to stop the administration from clearing their dwellings until the court had decided the issue of compensation. The chairman of Commission II and Armed Forces faction member, Supomo commented: 'I wonder why you keep coming [to the parliament] although you realize the results [will] disappoint you. The DPRD has no power to solve such problems because its job is to supervise the government, make laws and prepare the state budget.'

On 3 November 1992 Judge Sarwono of the North Jakarta District Court announced his decision. Because the land was owned by the State (not Pertamina) he ordered the government to pay compensation of Rp. 37,500 per square metre. He also ruled that the municipality's action of demolishing the dwellings and evicting of residents was illegal. The residents could stay on the land until there was a final ruling. The victory in the court was short-lived. The mayor of North Jakarta said he would appeal. But the court allowed the residents to stay on the land until there was a final ruling. However, the Jakarta administration ignored the court's decision and ordered their security forces to continue intimidating and demolishing the dwellings.

In January 1993, Haji Munidin HS, a prominent Muslim community leader from Pelumpang was sentenced to five months prison for inciting the residents to resist the North Jakarta administrative security apparatus with bamboo spears. In April 1993 the North Jakarta mayor announced that the 2,664 illegal dwellings on the disputed land had been demolished. In May 1993 the residents sent a delegation of eighteen residents to DPR to meet the PDI (Indonesian Democracy Party) faction representatives. They agreed to observe the disputed land, but Pertamina security guards refused access to a DPR visiting team. Appeals to the court by the lawyer representing the residents were ignored by the District Court, and Pertamina continued to clear the land.

Source: Lucas 1997: 242-7; and Jakarta-Jakarta edition no. 304 and 332, 1992.

The cases above show that court decisions favouring the local community can be ignored by the bureaucracy to support the national ideology of 'development'. In the second case, the government involved the *patongpajak* or municipality guards to conduct evictions of *kampung* communities occupying land under the development permit. The justification for the involvement of *patongpajak* to control the use of land is local regulation, Perda 11/1988 on Public Order (*Ketertiban Umum*).

These two cases are only examples of the many land conflicts in Jakarta during the New Order era that occurred because of the interaction of the development permit system and the existing system of land rights. In the first case (Box 3-1) the court did not consider the historical circumstances leading to the second layer of rights of the *kampung* residents, by only acknowledging that eigendom rights have been abolished and considered as state land (refer to section 3.3.1). In most cases the position of the local community was weak and they usually failed to achieve their claims on land.

### 3.4.2 Community protests

There has not been any comprehensive study on community struggles for land in Jakarta. Abeyasakere (1987: 107) documented that conflicts over land in Jakarta occurred during the Dutch Colonial period and the Old Order era. Popular unrest by the indigenous Betawi population occurred in Tangerang in 1924, relating to conflict over the claims of rightful ownership on private estate land held by Chinese landlords. Protests from local residents also occurred when the Dutch colonial administration required land to build European residential quarters in Menteng and Gondangdia. The conflict ended with the displacement of the indigenous people. During the Soekarno era protests from local residents occurred with the construction of new roads, including *Jalan Thamrin*, and the development of the new town Kemayoran. Also in the early 1960s, the construction of the Sports Complex in Senayan, South Jakarta displaced more than 47,000 people.

In addition to the two cases discussed above (Boxes 3-1 and 3-2), community protests occurred in Kebon Kacang, Central Jakarta (Jellinek 1990) regarding unjust compensation. Lang (1997) documented another protest in *Kampung Kebon Kacang* that occurred in 1995. Most of the residents in that case were renting the land from the local government, which required it for the development of a new commercial complex. The residents protested against the unfair land compensation, which was considered lower than the market price. In Kemayoran in 1990–1991 the residents protested against the unfair land compensation and the relocation of *kampung* residents into walk-up flats. However, despite their protests to the Governor and the Regional People's Representative Council (DPRD), there were no amendments to the land compensation (Nas 1995, Jellinek 1996).

The problem of what constitutes just compensation has never been looked at thoroughly. At one level if the land has not been paid for, then an argument could be mounted that the residents' relocation is justifiable and the only compensation would be to enable them to be moved. If the residents had experienced a certain level of perception of security of tenure, than some compensation is needed that relates to the costs involved in their resettlement. It is also possible to argue that just compensation is the market value of the property taken, which can be higher still. And although the people may not own it in a formal legal sense, they have been there for decades and

this is a form of ownership. Finally, they would need a higher level of compensation to compensate not only for the property but for the mental anguish involved in the relocation (psychological pain). When I use the terms just compensation and unjust compensation, these are meant to express the popular perception of what just compensation should be. A midpoint would be what most people consider what just compensation is. Even in Western countries the only way to get compensation for mental anguish is if due process was not followed.

According to Nas and Malo (1996) most of the community protests in the New Order era were locally based, unorganized and without significant outcomes. Most of the protests concerning land compensation could be easily 'silenced' by the government.

so on

This section reveals the prevalence of the rule of political law during the New Order era. The cases cited show that during this era the land acquisition process marginalized *kampung* residents from obtaining what they could see as just compensation, not only because there was no representation of the community in negotiating the land price, but also because of the practice of the rule of political law that justified the interests of the bureaucracy in the name of development, and could easily silence community protests that were in the way.

### 3.5 CONCLUSIONS

The discussion in this section has shown that laws and regulations can reflect the interests of those in power, and be used as a tool to legitimate their actions even when they violate environmental policies and disregard the rights of the urban poor. In particular, during the New Order era, most laws and regulations related to urban development have focused on economic development and placed civil society in a weak position. The unclear land status and weak land administration could be considered an advantage to the urban poor as it has to some extent provided them the opportunity to access land for housing. However, there have been policies and regulations that categorize their occupancy as illegal. In particular, those residing on

*garapan* land are most disadvantaged because of the assumption of some government officials that they are squatting on state land.

Although there has been legislation to improve participation in urban development, the mechanisms for participation, such as resolving conflicts and appealing decisions of the government, are still unclear, and depend on further implementing regulations. The confusion of authority over land between different levels and different institutions of government complicates the management of land.

In the *reformasi* era there have been new laws that seem to provide the opportunity for communities to play a larger role in urban development; however, the effects of these laws on community struggles still need to be explored. Further research is necessary to understand how community struggles have evolved from the New Order era to the *reformasi* era. What factors have supported or hindered their claims on land if the formal mechanisms are working against these communities, and what political opportunities have contributed to the success of these struggles? The following chapter describes the research method devised to answer these questions.

# 4

## Research Design

As stated in Chapter 1, the aim of this dissertation is to understand better the growing movement of community struggles for land in Jakarta. Chapter 2 has provided an analytical framework for understanding the role of the state, the community and NGOs involved in land for housing. The state, through its laws, regulations and norms, plays a major role in allocating land and providing security of tenure for the urban poor. The contradictory relationship between formal law and policies with the social attitudes, conventions and rules defined in everyday life often place constraints on those residing in informal settlements. Chapter 3 has provided the background for understanding key issues in land tenure and the problems faced by *kampung* communities in Jakarta concerning their land tenure status. Indonesia's urban legislation does not provide clear and accessible avenues for citizens to participate in the urban development process. Land has been one of the major sources of conflict between *kampung* communities and the state: however, little is known about the socio-legal dynamics of the actors involved in the community's struggle for land, and how the political changes in the *reformasi* era have affected their struggle.

The complex issues surrounding land tenure in Jakarta's *kampungs* raise two specific questions. First, how has the relationship between the state and the community affected *kampung* residents' perception of security of tenure and led to

their claims on land? Second, what political opportunities have contributed in some cases to their eventual 'success' or lack of it in gaining their claims on land in the reformasi era?

This chapter describes the methods I selected for answering these questions. In section 4.1 I discuss why I adopted a case-study strategy using a qualitative approach, and the reasons for choosing the particular case studies. Section 4.2 describes the particular research methods used for pursuing this approach. Section 4.3 discusses the themes I selected for analysing the data I collected, and conclusions are drawn in the final section.

## 4.1 THE USE OF A CASE STUDY STRATEGY

This section elaborates the justification for using a case study strategy, the use of a qualitative approach to examine activities in the case studies, the selection of case studies and the description of each case study.

### 4.1.1 Justification for using this strategy

In Chapter 3 I showed that although in general the position of civil society in Indonesia is weak partly because of the unclear avenues for people's participation in urban development, the situation is worse for particular *kampung* settlements in Jakarta. Individuals and groups living in these areas find themselves to be in a situation full of uncertainties. I also argued in Chapter 3 that in order to understand the reason for the *kampung* community's claims on land, it is necessary first to understand the history of how the settlement developed and how the community perceived security of tenure. Given that these constraints are locality-specific, I adopted the case study strategy as a mechanism for an intensive and in-depth investigation of the resident's relationship to land, and how the community organization interacted with other institutions to support their claims to land. A focused study of the community struggles in one or several particular *kampung*(s) could provide insights into the residents' perceptions of security of tenure, and how the community was able to seize the opportunities to gain their claims on land.

Major proponents of the case study approach are Yin (1981, 1984, 1994, 2002) and Stake (1995). In Yin's opinion, finding answers to 'what' and 'who' questions can be conducted through the examination of archives or documentation. However, case studies are the preferred strategy when 'a "how" and "why" question is being asked about a contemporary set of events over which the investigator has little or no control.' Although Yin and Stake use different terms to distinguish the various types of case studies, in general there are two types. The first type is case studies that focus on the particularity of each case (referred to by Stake as 'intrinsic' and by Yin as 'embedded'), and the second type focuses on the purpose of the study to provide insight into an issue or make a broader contribution to a theoretical proposition (referred to by Stake as 'instrumental' and by Yin as 'holistic'). A third type, the collective study, is an expanded version of the instrumental study consisting of several case studies (Stake 1995).

Case studies cannot be generalized to populations or universes (Yin 2002: 10; Appleton 2002: 93); however, as argued by both Stake (1995) and Yin (1994, 2002), case studies can provide insight into a theoretical argument. Qualitative studies can be applicable to other situations by providing comparable and translatable units of analysis (Schofield 2002: 178–179).

There is no strict categorization of case-study approaches. Based on the research purpose, Yin (1981) categorizes case studies into explanatory, descriptive and exploratory, with the categories tending to overlap. Understanding the residents' perceptions requires an exploratory strategy, yet it is also important to describe what has happened to cause this perception. To understand how the community pursued their claims requires an explanatory approach. This study can also make a broader contribution by generating theories on the role of the institutions in the development of *kampungs*, and the possible role of the state and civil society in improving security of tenure for *kampung* residents in Jakarta.

#### 4.1.2 Selection of a qualitative research approach

Chapters 2 and 3 identified the complex socio-political, socio-legal and economic factors that are affecting the sustainability of communities in particular *kampung* settlements. Such issues would not be easily captured using a quantitative research

approach. The statistical basis of quantitative work would overlook and not account for the nuances of land tenure in kampung settlements. By contrast, qualitative research emphasizes the social relations of people and place. By valuing people's narratives, attitudes, perceptions etc, it is more likely that the complexity of land tenure in kampung settlements would be more easily explored. According to Creswell (1998: 16–17) the characteristics of qualitative research, among others things, are to study the natural setting as a source of data, the outcome as a process rather than a product, and to focus on meanings (in my research it is the participant's perspectives on land tenure). Qualitative research focuses on the how and why questions that require the exploration of the topic.

As argued in Chapter 2, security of tenure is a matter of perception that can be achieved *de jure* or *de facto* (Doebele 1983; Varley 1987; Leaf 1991, 1993). *De facto* security of tenure can be obtained through government recognition, long-term residency, or even government ignorance of a particular settlement. A qualitative approach would support the understanding of what conditions led to the resident's perception of security or insecurity of tenure, and the reasons for advancing their claims. Moreover, the study of how local communities struggle for land is a study of process, and of the understanding of how communities interact with other actors (the state, NGOs, the developer, etc.). The review of social movements in Chapter 2 emphasized the importance of understanding the process of community empowerment and the political climate influencing the strategies employed by the community and NGO to achieve the community's claims, hence the need to understand 'what is going on' in a certain period of time, which is one of the characteristics of qualitative research (Creswell 1995: 17).

#### **4.1.3 Selection of case studies**

What criteria should be used to select case studies? As argued in Section 3.3.2, conflicts over land in Jakarta mostly occur on state land (*tanah negara*), and stem from multiple claims on land, and the interaction between the process of the development permit system and the unclear system of land rights. Leaf (1991, 1993) argued that there is a wide belief amongst government officials that people occupying state land have claimed that land as *garapan* land. Leaf further states that some government officials translate the term *garapan* as squatter, which justifies government actions to

relocate the residents. However, true squatters make up only a fraction (3 to 5%) of Jakarta's residents as the vast majority of *kampung* dwellers have some sort of claim, either *de jure* or *de facto*.<sup>3</sup> There are many *kampung* settlements in Jakarta—about 60% of the housing area consists of *kampungs*. However, not all *kampung* settlements are under dispute with the state. Thus the case study settlements selected should be ones that reflect community struggles over land in areas under the development permit system or disputed state land. As noted in Chapter 3, areas considered as state land include areas under management permits (HPL), land along railways, and land along river and canal banks. Other criteria for the selection are that the time period of the community's struggle for their land should have begun in the New Order era and continued over into the *reformasi* era, so that the effect of any changes in government attitude could be observed. The location and accessibility of any sites were also one of my considerations.

Before deciding on the case studies, I visited several *kampung* settlements that were experiencing conflicts over land with the government: *Kampung Teluk Gong*, *Kampung Sawah*, and *Kampung Blok Asin*, all in North Jakarta, also *Kampung Karang Anyar* in Central Jakarta, *Kampung Rawa* in West Jakarta, and *Kampung Kemanggisan*, also in West Jakarta (see Figure 4-1). The communities in these settlements were working closely with local NGO activists (the Urban Poor Consortium, *Institut Sosial* Jakarta and Lea Jellinek). Approaching NGOs would increase my accessibility to the *kampung* community leaders. Not all of the above locations were recommended by the NGO concerned, or fitted into the criteria for the case study. As an example, Wardah Hafidz (the coordinator of the Urban Poor Consortium) did not recommend *kampung Blok Asin*, because in her opinion too many research activities were going on there during the period. According to Wardah Hafidz, research groups from Trisakti University, the University of Indonesia, the Jakarta Housing Office and the Indonesian Institute of Architects were conducting research in this *kampung*. Too many researchers with different research interests would be inconvenient for the local *kampung* residents.

<sup>3</sup> Stanley (1980) developed a five level classification of squatters in developing countries as follows: (a) squatting in a building (without building owners consent); (b) squatting on land (without landowners consent); (c) leasing land from unauthorised speculator (without owners consent); (d) unauthorised settlement (building with land owners consent but without planning authority's approval and (e)

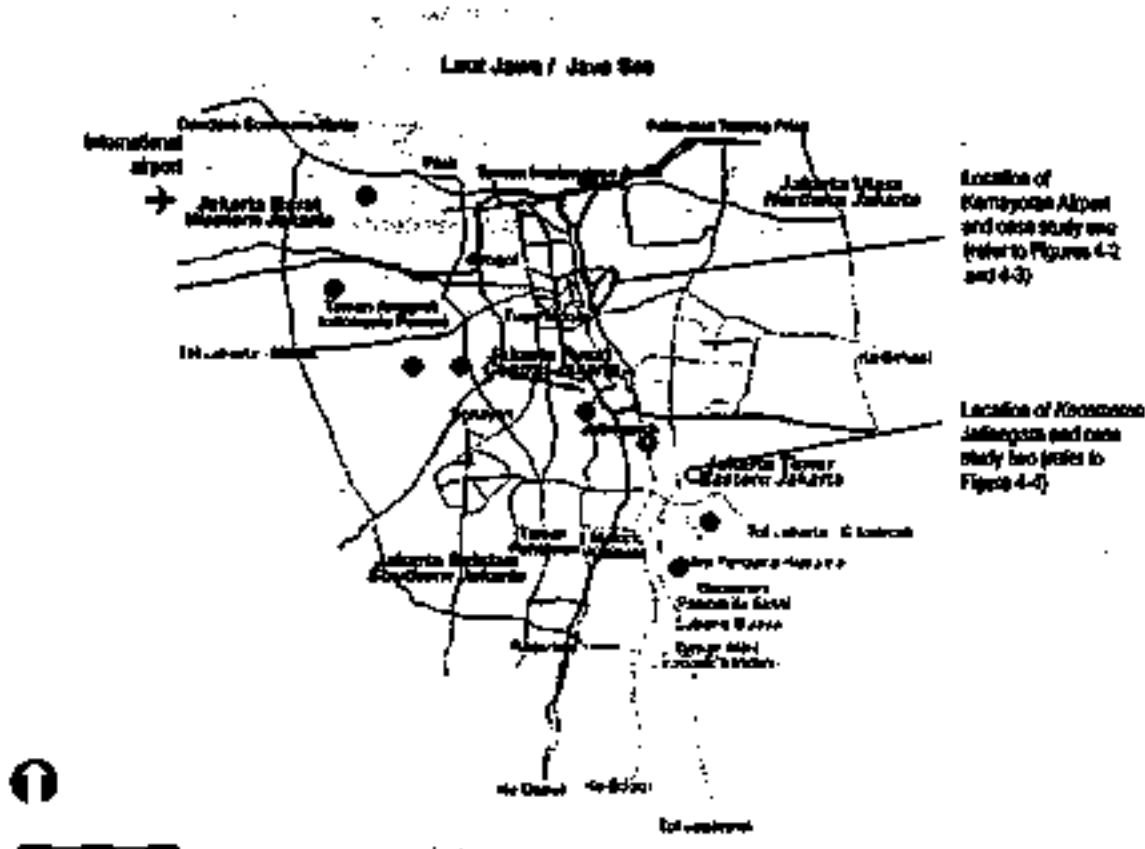


Figure 4-1 Location of keupangs undergoing conflicts in Jakarta in 2000

Sources: <http://www.earthmatrix.com/~netu/valuels>; accessed 1 October 2000, reworked by author.

– location of the known settlements experiencing land conflicts with the state

One of the studies has already been discussed briefly in Chapter 3, namely the kampung in the area set aside for the redevelopment of the Kemayoran airport in Central Jakarta. There are several reasons for choosing this kampung (namely Kelurahan Kebon Kosong) as a case study. First, the kampung is located on land in dispute with the state. Second, the community's struggle had begun in the New Order era and continued over into the reformasi era. The community had survived a major land acquisition program for an urban redevelopment project, and at the time of the fieldwork the community leaders were trying to negotiate their land claims with the local authorities. Third, the NGO—the Urban Poor Consortium (UPC)—was

authorised but insecure development (building with all necessary approvals but likely to be subject to slum clearance).

working closely with community leaders of *Kelurahan* Kebon Kosong and other *kampung* communities to negotiate land titles and infrastructure improvements for *kampung* residents. As discussed in Chapter 2, NGOs play a significant role in empowering civil society. In addition, my earlier experience of working at the Ministry of Public Works as one of the institutions responsible for the initial plans of the Kemayoran redevelopment supported my decision to choose this *kampung* as one of my case studies. I had first hand experience on the history of the Kemayoran redevelopment and contact persons at the Kemayoran authority.

In order to consider a different type of *kampung*, I discussed the possible choices for another case study with a different history and a different type of struggle for land with *Institut Sosial Jakarta* (ISJ), a quite different type of NGO (the profiles of these two NGOs are discussed in Chapter 6). A different case study would add nuance on the discussion of how *kampung* residents gain access to land and perceive security of tenure, and understanding the interaction between community organizations and external institutions. As suggested by Schofield (2002), different case studies should have comparable units of analysis to permit a theoretical discussion. I took the role of the NGO and its interaction with the community and state to be one such comparable unit of analysis. As with the Urban Poor Consortium, the *Institut Sosial* Jakarta has worked with and advocated the rights of the urban poor communities in Jakarta. The activists at *Institut Sosial* Jakarta (ISJ) recommended *Kampung* Penas Tanggul, a riverbank settlement in *Kecamatan* Jatinegara East Jakarta (Figure 4-4), as a case study because, in their opinion, unlike other *kampung* settlements along the riverbank, the community in *Kampung* Penas Tanggul had survived several threats of forced evictions and had recently obtained status as an administrative unit. In addition, ISJ has had first-hand experience working with the community since the mid-1980s. Thus, they knew the history of the settlement and the key figures to approach.

#### 4.1.3 Description of the chosen case studies

This section provides a brief profile of the two case studies chosen for the research: *Kelurahan* Kebon Kosong and *Kampung* Penas Tanggul.

### Case study one: *Kelurahan Kebon Kosong*

There are three major *kampung* areas that fall under the development permit of Kemayoran New Town (refer to Figure 4-2): RWs 04–09 of *Kelurahan Kebon Kosong* (area 'A'), area 'B' RW 03 of *Kelurahan Gunung Sahari Selatan* (area 'B') and part of *Kelurahan Pademangan Timur* (area 'C').



Figure 4-2 Kemayoran airport and adjacent *kampungs* under the HPL permit (1984)

Source: Jakarta Land and Mapping Office.

Note: red dotted lines show *kampung* area under the Kemayoran development permit (A, B and C).  
A = RWs 04–09 of *Kelurahan Kebon Kosong*, B = RW 03 of *Kelurahan Gunung Sahari Selatan* and  
C = *Kelurahan Pademangan Timur*

At the time of this research the *kampung* in *Kelurahan* Pademangan Timur and part of RW 04 in *Kelurahan* Kebon Kosong had already been demolished for the extension of the former airport runway to permit it to be connected to the city road. About half of the population in RWs 04-09 had already accepted compensation for loss of their houses and land, and had moved into walk-up flats. The remainder had refused to accept the compensation rates offered, and have continued their struggle for their rights to land (Jellinek 1997). They are coordinated by the local community-based organization, *Delegasi Warga Kemayoran* (the Kemayoran Community Delegates), which was formed in the early 1990s to negotiate with the Kemayoran authorities for fair and just compensation.

However, they could not achieve any changes in the proposal on land compensation rates, which they considered to be below the market price. The Kemayoran Community Delegates and the remaining residents in RWs 04-09 of *Kelurahan Kebon Kosong* have become the object of my research (Figure 4-3).



Figure 4-3 Kelurahan Kebon Kosong in 2000

Source: Jankot's Land and Marine Office.

The north-south runway, which is now called *Jalan Haji Benyamin Sueb*, has been extended and connected to *Jalan Garuda*, at the cost of demolishing part of *kampung* RW 04. There are several blocks of walk-up flats to accommodate the relocation of the *kampung* residents as well as new residents, several new high-rise apartment towers, and a new grand mosque.

#### *Case study two: Kampung Penas Tanggul*

*Kampung Penas Tanggul* is one of Jakarta's many informal settlements along riverbanks. It is located in *Kelurahan Cipinang Besar Selatan, Kecamatan Jatinegara* in East Jakarta (Figure 4-4). Many riverbank settlements were formed after the 1970s when Jakarta experienced a high industrial growth rate (refer to Chapter 1). There are many riverbank settlements along the Cipinang River, which fall under different administrative units in the city.



Figure 4-4 Location of *Kampung Penas Tanggul*

Source: Jakarta Mapping and Land Office.

Note: red dotted lines show location of *Kampung Penas Tanggul*

Most of the land in *Kelurahan Cipinang Besar Selatan* (82.7%) consists of informal housing (*Kelurahan Cipinang Besar Selatan* 2001). There is a large Chinese cemetery in the northern part, office buildings along the highway in the west, and a building material factory. Among these office buildings are those of the State Ministry of Environmental Affairs and the Jakarta Sewerage Office. The population of *Kampung Penas Tanggul* in 2001 was 385, consisting of 113 households.

## 4.2 RESEARCH METHODS

The case study approach allows the use of a variety of research methods (Yin 1981, 2002, Denscombe 1998). In this research I had to use different data collection methods for each of the case studies, because of the different terrain and the different activities occurring in each community. The research was conducted over a three-year period. Preliminary research was conducted from June to August 2000, followed by intense fieldwork between May and August 2001. I had the opportunity to visit the case-study areas again in June 2002 and in January to early February 2003.

The choice of a qualitative approach to understand the process of realising claims to land calls for a set of methods that can capture the people's perception of security of tenure and the process of their struggle for land. The literature shows that the level of security of tenure is evidenced, among other things, by the amount of investments made on a house (Jiminez 1981, Angel 1983, Garr 1996, Werlin 1999). However, my research seeks to go deeper to understand *why* residents felt insecurity of tenure and needed to pursue their claims, and the process of *how* they gained their claims. Although qualitative research values the narrative as a source of information, there should be mechanisms to verify the information. This could be achieved through a combination of methods, or 'triangulation', to crosscheck the information and achieve a higher degree of verification<sup>2</sup> and reliability (Sarantakos 1993: 76, 155–156; Miles and Huberman 1994, Creswell 1998: 197–202). There are two major types of triangulation: inter-method triangulation (two or more methods of different methodological nature) and intra-method triangulation (two or more techniques of the same method) (Denzin 1978: 301–302). The literature suggests that two or more

<sup>2</sup> Creswell (1998: 201) suggests using the term verification instead of validity because 'verification underscores qualitative research as a distinct approach, a legitimate mode of inquiry in its own right'.

methods are more appropriate to avoid the possibility of legitimizing personal views and interests (Sarantakos 1993: 156). Finally, the role of researchers in analyzing, interpreting and confirming all the information shows their authorial representation and credibility in verifying the information (Creswell 1998: 171–172). As pointed out by Descombe (1998: 208), the researcher plays a significant role in the production and interpretation of qualitative data. In this research, to maintain my objectiveness on the processes and relationships occurring within the community and with other actors involved in gaining access to land, I did not attach myself to the community.

Field observations were also essential to understand the context of the case; to determine the physical, economic and social setting; and to identify who were the gatekeepers. In the two case studies the community organizations had different ways of conducting and documenting their activities. Whenever available, I analyzed documentation or reports of the community organization, as well as the NGOs' documentation of the case study, government reports and newspaper clippings of activities related to the case study. As a way of cross-checking interview information and verifying their credibility (triangulation), I interviewed a range of people with different interests and perspectives on the land in dispute and on the community's activities: the residents, community leaders, *kelurahan* officials, NGOs, the Kemayoran authority, as well as local and state bureaucrats whose institutions were involved in land and housing development. I used various data-collecting techniques: in-depth interviews, informal conversations, group discussions, participant observations, and document sources. These are described below.

#### 4.2.1 Field observations

The central problem shared by many field researchers is that of *getting in* (Berg 1989: 123). Initial contact with the NGOs (the Urban Poor Consortium and the *Institut Sosial Jakarta*) helped identify who were the 'gatekeepers' at the community level. Gatekeepers are the informal or formal watchdogs who protect the setting or the people targeted for research (Berg 1989: 131). In both case-study areas, the NGOs recommended meeting the community leaders to gain their informal consent. This is in accordance with the local custom of the traditional Javanese, referred to as *kulo muwun*, introducing oneself to a respected elder.

In the following section I describe my field observations in the two case-study settlements.

*Case study one: Kelurahan Kebon Kasong*

At the Urban Poor Consortium headquarters I was introduced to the Kemayoran community leaders who were attending the weekly group discussions. I explained my research project to them, and they kindly invited me to visit their *kampung*. During the first several visits to the case study a male companion accompanied me. I felt more comfortable approaching the residents. In Indonesia, it is still considered inappropriate for a woman to walk alone in unfamiliar territory.

My field observations revealed that the conditions in Kemayoran are rather complicated. Besides the original residents associated with the local community-based organization, *Delegasi Warga Kemayoran*, or the Kemayoran Community Delegates, there are many new residents (most of them considered as squatters by the original residents) occupying the empty land that had already been purchased by the government authority for the Kemayoran redevelopment, *Direksi Pelaksana Pembangunan dan Pengendalian Komplek Kemayoran* (DP3KK or the Kemayoran Implementation Unit). My research focused on the residents that refused to sell their land to the Kemayoran Implementation Unit (referred to from now on in this thesis as the original residents), and to a certain extent the new residents in RW 04 and RW 06. I will describe this historical process of the settlement in Chapter 5, as it will play a significant role in explaining the changes in the residents' perception of security of tenure.

It was difficult to conduct a random survey because of the irregularity of the settlements and the safety issues in directly approaching some of the new residents, in particular those that occupied the land without the knowledge of the original residents. Most of the original residents kept their distance from the new 'squatters'.<sup>3</sup> I felt that the squatters looked suspiciously at me. Furthermore, local gatekeepers kept me from approaching the squatters within their area, afraid that I might sympathize with them or support them. Because of the large and complicated terrain,

<sup>3</sup> The term squatter is used to refer to the residents occupying land already purchased by the Kemayoran authority without their permission.

I decided to focus my fieldwork on two *Rukun Warga* (RW or community units) in Kemayoran, RW 06 and RW 04 (Figure 4-3). Community leaders in both these neighbourhoods have been actively engaged in the community's struggle. These RWs have contrasting social, economic and physical conditions. RW 06 is the older settlement, with a history dating back to the 1920s. Most of the residents (71%) settled before 1960 (refer to Table 5-1). The majority of residents are from the lower-middle income population with a fixed job and income. RW 04 is a newer settlement than RW 06. The plot sizes in RW 04 are smaller and the roads are mostly narrower than in RW 06. The buildings in RW 04 are mostly of semi-permanent structure, very densely packed in, with poor sanitation. Most do not have their own toilet and bath facilities. The buildings in RW 04 are mostly made of wood and multiplex with aluminium sheets for the roof. In RW 06 the buildings are mainly of brick with clay roof tiles. I expected that the contrast between the 'old' and 'new' settlements and the 'better-off' and 'poorer' communities would enrich my research findings on the perceptions of the residents regarding land tenure itself and security of tenure. The photographs in Figure 4-5 indicate the physical differences between RW 06 and RW 04.



a. Typical street in RW 06



b. Footpath and houses in RW 04

Figure 4-5 Comparison of physical conditions in RW 06 and RW 04, Kelurahan Kebon Kosong

I sensed tension between the older residents and the new residents. The old residents did not know the new people who had moved into the *kampung* or how they had gained access to land there. Some parts of the *kampung* in RW 04 did not seem safe because of the residents' suspicions of drug dealing occurring in their neighbourhood, and these residents warned me against going into these areas. I chose to examine small cases within each RW that would allow me to better

understand the informal mechanisms of gaining access to land, and how people with different relationships to the land perceived security of tenure.

*Case study two: Kampung Penas Tanggul<sup>4</sup>*

Driving along the highway, one would never imagine that there would be a *kampung* tucked behind all the modern buildings. To reach *Kampung Penas Tanggul*, one must walk through a small pathway between the walls of two properties, a plot of land under dispute and a building material shop. At the end of this pathway is the Cipinang River where one can see the new address sign leading towards *Kampung Penas Tanggul* (Figure 4-6b). A small bridge leads us to another neighborhood—RW 10, *Kelurahan Cipinang Besar Selatan*. My first impression of the *kampung* was that it was very clean, well organized, and had a friendly atmosphere, in particular in comparison with *Kampung Penas*, located south of *Kampung Penas Tanggul*.

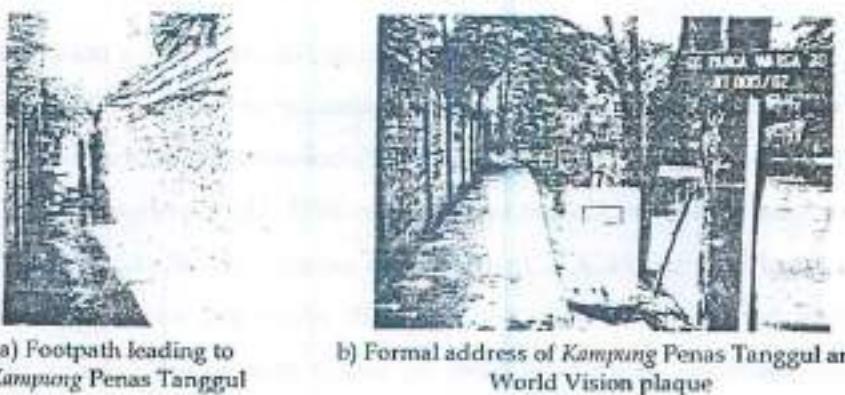


Figure 4-6 Pathway leading to *Kampung Penas Tanggul*

Source: Winayanti and Lang (2004)

Vendor carts were parked next to a stack of newspapers and a pile of used tires (Figure 4-7a). The houses are laid out in a row facing the river. Most of the houses are two-story buildings using brick on the ground-floor level and a wooden structure for

<sup>4</sup> Fieldwork on *Kampung Penas Tanggul* was conducted in conjunction with Heracles Lang, a PhD student from the University of Canberra. His research focused on the role of intermediary agencies in the housing process. Parts of the research have been published in *Habitat International*, vol. 28/1 March 2004 under the title: Winayanti and Lang, 'The Provision of Urban Services in an Informal Settlement: A case study of *Kampung Penas Tanggul*, Jakarta', and in Winayanti (2003) *A view from a bridge: riverbank settlements in Jakarta in 'Modernity Tradition Culture Water'* Proceedings of an International Symposium, Kasetsart University, Bangkok, 2003.

the upper level (Figure 4-7b). Several of the houses were being upgraded with an additional terrace, floor tiles or brick walls. The residents were busy building their *musholla* (a small mosque), and parts of the pathways were being paved with cement. An international NGO, World Vision, had given a donation to improve the infrastructure in the kampung (Figure 4-6b).



a. Vendor cart parking area



b. Row of renovated houses

Figure 4-7 Vendor cart parking area and row of houses in  
Kampung Penas Tangkul

In the beginning of my fieldwork I was accompanied by a male researcher. We introduced ourselves to Sa'il, the community leader recommended by the NGO to be seen first. He is a college graduate from South Sulawesi (an island in East Indonesia), and first came to live in Kampung Penas in 1993. He explained the history of the settlement and how the NGOs, *Institut Sosial Jakarta* and World Vision, had assisted them. From here, we relied on the snowball effect and were introduced to other community members, beginning from the senior members, who then introduced us to other residents in the *kampung*. By approaching senior residents, in particular those considered as *tokoh masyarakat* or community figures, we felt more comfortable to continue our research. After the first two visits to the site, I continued the interviews with the residents on my own.

#### 4.2.2 One-to-one semi-structured interviews

To understand community struggles for land in Jakarta's *kampungs* it is necessary to understand what factors were supporting the residents' perceptions of security of tenure or lack of it, the process of how local residents pursued their claims to land, and their interaction with other related actors (the NGOs and government institutions). Semi-structured interviews were used as the main method of

understanding the above perceptions and processes. The interviews were divided into several groups, which I discuss further in this section:

- Local residents: landowners, tenants and squatters
- Community leaders
- NGO activists
- Government officials: local government staff at the *kelurahan* and in the Jakarta provincial administration (the Provincial Planning and Development Agency, the Jakarta Housing Office, the Jakarta Urban Development Office, the Jakarta Land and Mapping Office); and central government officials from institutions involved in land and housing policy development (the Ministry of Human Settlements and Regional Infrastructure, and the National Land Agency)

#### *Selection of respondents*

Table 4-1 shows the total numbers of households in the two case study areas and the number of residents that I interviewed or had personal communication with, 62 in all. The total number of households listed for *Kelurahan* Kebon Kosong are those who were currently applying for land titles, as documented by the Kemayoran Community Delegates (1999). This list does not include the new residents. There was no official record of the number of new residents (refer to Chapter 5).

In *Kelurahan* Kebon Kosong the geographical setting of the case study affected the way I chose the respondents for my interviews. There were no street names on the roads and paths, and occasionally no numbers on the houses in each RW. Where there were numbers, they were not in numerical order or even might have the wrong neighbourhood sub-unit written on them. As I had anticipated, conducting random sampling for interviews would be very difficult. Therefore, it was necessary to explore the *kampung* more systematically to see what was going on in terms of land use and squatting. One community leader accompanied me to explore the *kampung* and identify the squatters. My interviews tried to cover all the groups within RW 06, by including owners of land and houses, tenants and several squatters. My fieldwork in RW 06 concentrated on three RT units: RT 01, RT 02 and RT 08. I then focused my attention on smaller cases within each RT, which were based on clustering or grouping information.

Table 4-1 Respondents at the community level

	Case Study 1 <i>Kelurahan Kebon Kosong</i>						Case Study 2 <i>Kampung Penas Tanggul</i>	TOTAL
	RW 04	RW 05	RW 06	RW 07	RW 08	RW 09		
Number of households	83	58	135	234	16	153	113	
Total respondents	9	-	32	-	-	-	21	62

Table 4-2 lists the other respondents interviewed, NGOs and government officials, 50 in all.

Table 4-2 List of other respondents

Institution	Position of respondent	Date of Interview or personal communication
Delegasi Warga Kemayoran	Former Head (Raharjo) Head* Secretary Members (4)*	30-6-2000 21-4-2001, 12-8-2001, 17-8-2001, 21-4-2001, 12-8-2001 21-4-2001, 11-8-2001
Kemayoran Youth organization	Head and member	28-4-2001
Dewan Kelurahan (Kelurahan Council)		
Kel. Kebon Kosong RW 04	Member (2)	10-9-2001
Kel. Cipinang Besar Selatan	Member (1)	14-01-2003
The Urban Poor Consortium	Head (Wardah Hafidz) Community organizer	23-7-2000, 16-7-2000
Institut Sosial Jakarta	Coordinator (Tigor Nainggolan)* Research division (1)	22-6-2001, 4-7-2001 4-7-2001, 6-2-2003
FAKTA (Jakarta Citizens Forum)	Head Member (1)	22-6-2000, 12-6-2001, 6-2-2003
Jakarta Legal Aid Foundation	Staff of research division	27-8-2001
Kelurahan Kebon Kosong	Secretary	12-9-2001
Kelurahan Cipinang Besar Selatan	Secretary	14-1-2003
Kemayoran Implementation Unit (DP3KI)	Head of Land Division	18-9-2001, 19-9-2001
Kemayoran Community Empowerment Movement (GPEM)	Head	13-6-2001
Jakarta Urban Development Office (Dinas Tata Kota)	Staff	27-8-2001
Jakarta Planning Agency (Bappeda)	Staff	12-1-2003

Institution	Position of respondent	Date of Interview or personal communication
Jakarta Housing Office (Dinas Perumahan)	Staff (2)	23-1-2001, 13-9-2001
Jakarta Mapping and Land Office (Dinas Pemetaan dan Pertanahan)	Head of Mapping Division	1-8-2000, 29-11-2002, 10-1-2003
National Land Agency (Badan Pertanahan Nasional)	Head of Agency Legal and Public Relation Division (2) Director of Land Use Director of Land Registration Senior advisor Consultant for Land Administration Project (LAP)	8-1-2002 22-8-2000, 8-1-2002, 31-1-2003 13-8-2001 7-2-2003 8-1-2002 22-8-2000
Ministry of Human Settlements and Regional Infrastructure	Director of Housing Director of Settlement Upgrading Director of Land Use Planning Senior Adviser to Ministry Head of Sub-directorate for Slums	14-8-2000 7-8-2000 19-01-2001 15-8-2000 15-8-2000, 7-2-2003
The World Bank	Social impact analysis division	1-8-2000, 24-6-2001
Indonesian Bank Restructuring Agency (IBRA or BPPN)	Head of IBRA Head of Property Division, IBRA	1-12-2002 1-12-2002
Social researchers and consultants	Joan Hardjono Lea Jellinek  Atas Hendraatini (Univ. Atmajaya Centre for Social Research) Parwoto Tjondrosugiono* Multar (Housing Cooperative Association, AKPPI Jakarta) Antonio Ismael (consultant) Wicaksono Sarosa (consultant)	3-8-2000 20-6-2000, 27-6-2000, 3-7-2001 27-10-2001  12-7-2000 1-8-2000, 30-8-2000, 6-9-2000 30-5-2000 1-7-2001
Total respondents	50 respondents	

\* Note: I met several respondents several times for personal communication.

### *The residents and community leaders*

The questions asked to the local residents were, among other things, their socio-economic background, how they gained access to land, their land tenure status, what were their major concerns about continuing to live in the *kampung*, their views on state policies and government action concerning their settlement, how they pursued their claims and their views on the actors involved in the process of gaining their

claims on land (Appendix 1). Table 4.3 gives the demographic and socio-economic profiles of the community members and leaders interviewed in Kebon Kosong.

Table 4-3 Profile of respondents in *Kelurahan Kebon Kosong*

		RW 04	RW 06
Total parcels (excluding plots sold to DP3KK)		83	134
Total respondents		9	32
Gender of Interviewees	Male	8	24
	Female	1	8
Age group:	Under 29 years	—	3
	30-39 years	1	2
	40-49 years	2	11
	50-59 years	3	11
	Above 60 years	3	7
Education level	Primary school	7	6
	Junior high school	—	2
	High school	2	19
	Academy	—	3
	University	—	1
Occupation	Informal sector:		
	- unemployed	4	8
	- self-employed/petty trade	5	12
	Formal sector:		
	- retired employee	—	4
	- government/private sector employee	—	8
Origin	Kemayoran and surrounding districts	2	14
	Bogor, Tangerang or Bekasi	0	2
	West Java	2	2
	Central Java	3	11
	East Java	0	2
	Other islands	2	1

Source: compiled from interviews with residents (May-August 2001)

The community in RW 04 are mostly working in the informal sector. RW 06 has higher education levels than in RW 04. Although not the majority, the number of people in RW 06 working in the formal sector is higher than in RW 04. They are working as teachers, and employees of the public and private sector. Several residents owned a small business firm such as a printing company or a service bureau. The people in RW 04 on the other hand were mostly unemployed. Several residents had their own business such as a *warung* (small kiosk) and street vendors.

To avoid creating unease, some of the interviews with respondents were carried out like informal conversations (see Appendix 2 and 3 for excerpts of selected interviews). The formal process of signing consent forms generated a level of unease

from some of the residents, in particular the squatters. Although I reassured the respondent of the intention of the form, they still felt uncomfortable. Some residents signed the consent form, but I finally decided to abandon it. The use of the tape recorder also created anxiety amongst the respondents. I abandoned the idea of tape recording the interviews and relied instead on my notes. I used the tape recorder only during the focus group discussion in each case study. On many occasions I just listened to the concerns of the people. People were worried about their future but, in a way, they also seemed to look towards me for some guidance or information. In particular, in RW 06 (*Kelurahan Kebon Kosong*) the local residents were quite suspicious of the new squatters but never dared to approach them. One or two community leaders took the opportunity of joining me in interviewing these squatters, in the hope that through this process they would understand more about how the new people came to be in their *kampung*. Therefore, the interview process benefited the local residents because they came to understand the background of the squatters. Table 4-4 gives the corresponding demographic and socio-economic profile of those interviewed in *Kampung Penas Tanggul*. There were 21 households interviewed from the total 113 households in *Kampung Penas Tanggul*.

Table 4-4 Profile of respondents in *Kampung Penas Tanggul*

	Total	Total	
<u>Sample</u>			
Total households in <i>Kampung Penas Tanggul</i>	113	University	1
Number of householders interviewed <sup>5</sup>	21	Senior High school	3
Male	16	Junior High school	3
Female	5	Elementary	10
		No formal education	4
<u>Length of residence</u>		<u>Tenure type</u>	
30 years or more	4	Paid compensation for land and own the house	17
20-29 years	4	Rent house	2
10-19 years	10	Homeless	2
< 10 years	3		
<u>Type of house:</u>		<u>Bedrooms</u>	
Knockdown wood-carton/plastic sheet & bamboo	2	3 bedrooms or more	5
Wooden structure	4	2 bedrooms	4
	9	1 bedroom	8

<sup>5</sup> Each interview was conducted with 1-2 persons in the household per session. The figures for male and female refer to the main interviewees.

	Total		Total
Half brick - wooden structure	6	No bedrooms	4
<u>Occupation:</u>		<u>Monthly expenditure (in Rp.1,000)<sup>6</sup></u>	
Street trade peddler (pedagang jalanan)	6	Equal to or more than 1,200	1
Scavenger	4	600 - 1,199	3
Pedicab/motorcycle (becak/jet) driver	1	300 - 399	14
Construction worker	8	Less than 300	3
Factory worker	1		
Unemployed	1		
<u>Origin of respondents:</u>		<u>Access to infrastructure:</u>	
Indigenous Jakarta (Betawi)	2	Private toilet	5
West Java	9	Communal toilet	16
Central Java	5	Private electricity meter	10
East Java	3	Share electricity meter	16
Other Islands (Sulawesi, and Sumatra)	2	No electricity	3

Source: Interview with residents (April-July 2001)

Most of the respondents are migrants from Java. Almost all of the respondents worked in the informal sector. Many of them were working as street hawkers, scavengers or construction workers. Surprisingly, there was one university graduate living in the *kampung* (Sa'll). He came from the island of Sulawesi in the early 1990s, hoping to make his fortune in Jakarta, because of the severe drought in his home village.

### Community leaders

Interviews with community leaders focused on the process of how the community pursued their claims to land, the different strategies in the New Order era and *reformasi* era, and the relationship of the community organization with the NGOs and government institutions concerned with their pursuit of claims. In *Kelurahan Kebon Kosong*, I interviewed the head, the secretary and key members of the Kemayoran Community Delegates. The community leaders in RW 04, Eko and Sirajudin, were active in attending group discussions and activities coordinated by the NGO, the Urban Poor Consortium. I also interviewed two members of the *Ketua Kelurahan* Council and two members of the RW 06 youth organization. Another interesting figure that I interviewed in RW 06 was Bambang. Most residents considered him as a local thug.

<sup>6</sup> During fieldwork (April-July 2001) US\$1.00 was equal to Rp.11,000 on the average. The average expenditure of a poor household found from the research was Rp.500,000 per month, while the government's minimum wage was set at Rp.300,000 per month.

(*prokem*), but the squatters admired him for his generosity. In *Kampung Penas Tanggul*, the community leaders were the former and the current RT heads.

#### *NGO activists*

The NGO activists interviewed for this research were from the Urban Poor Consortium, Institut Sosial Jakarta, FAKTA (*Forum Warga Kota Jakarta* or the Jakarta Citizens Forum), and the Jakarta Legal Aid Foundation (*Lembaga Bantuan Hukum Jakarta*, or LBH Jakarta). The questions asked of this group concerned their views on government policies and government attitudes towards *kampungs* and *kampung* residents, their relationship with the government, and their programs for *kampung* residents.

#### *Government officials*

The government officials include those at the project level such as the Kemayoran Implementation Unit, the Jakarta city level and the central government level (refer to Table 4-2). One government office was reluctant to give any interviews, the Jakarta National Land Agency District Office (*Kantor Wilayah*). I had tried to meet the officials at this office and set up an appointment several times; however, they never responded to my requests. Interviews with government officials were concerned with their views on the current policies, and understanding the major obstacles in allocating land for housing. As many of the government officials were unwilling to have their interviews tape-recorded, I relied instead on my handwritten notes for records of the interviews (Appendix 4).

#### **4.2.3 Participant observations**

To gain a better understanding of the interaction between the communities and the NGOs, and amongst the communities, NGOs and the state, I employed the method of participant observation. The degree of the researcher's involvement varies from no participation (non-participant observations) to full participation (participant observation), from passive to active, and from structured to unstructured (Sarantakos 1993: 222-224, Flick 1998).

At the beginning of this research I limited my role to that of non-participant observer. I sat in at group discussions at the NGO headquarters as an observer. I also attended meetings with the NGO and community leaders at the National Land Agency. However, on several occasions, the moderator of the discussion would ask me to join in the discussion. In the meeting at the National Land Agency, the NGO (UPC) would introduce me as an observer from the Ministry of Human Settlements and Regional Infrastructure (my employer). I also attended dialogues between the urban poor communities coordinated under UPC and the Minister of Human Settlements, and other events organized by NGOs to advocate the rights of the urban poor such as People's Art Festivals (12–15 August 2000 and 14 August 2001), NGO group discussions on informality in urban development (6 and 27 July 2001), and citizens forum meetings (18 June 2001, 27 August 2001).

Sometimes I would just 'hang-out' at people's meeting places, and listen to residents who came for information about the land registration process. However, because the residents asked my opinion, sometimes I would assist in providing explanations on a particular legal terminology or land registration process that the residents were unfamiliar with.

#### 4.2.4 Focus groups

I conducted focus group discussions in each case-study area (Appendix 5). The purpose of the focus group meetings was to obtain a deeper understanding of why the community pursued their claims to land. The contents of the focus group discussion material were different in each case. In *Kelurahan Kebon Kosong* the material focused on gaining an understanding on why land titles were necessary, the concerns the respondents had in living there, and their hopes for the future development of their settlement. In *Kampung Penas Tanggul* the group focused on gaining an understanding of how the residents perceived their rights to land and what they hoped for the future of their settlement. The NGO activist from ISJ assisted in organizing the discussion.

#### 4.2.5 Documentary sources

In addition to the data gathered from primary sources, I obtained a range of secondary data. Information on the history of the settlement was accessed from the documentation of the community organization in Kemayoran and available literature on the history of Jakarta. I obtained information about this case study from research material by other study teams (JICA study team, the University of Indonesia research team) and researchers (Lea Jellinek, Thamrin Husni and Leni Dharmawan). I also drew information from newspaper clippings, government reports and electronic sources such as the NGOs website. The history of *Kampung Penas Tanggul* was written by compiling stories from the residents and a report written by the NGO, *Institut Sosial* Jakarta. I also examined policies and regulations related to the case studies.

Information from local government offices such as the *Kelurahan* was often unreliable. In one of my visits to the *kelurahan* they did not have their annual reports available at their office because they were all sent to the *kecamatan* office. One community leader in *Kelurahan* Kebon Kosong commented that the demographic statistics displayed at the *Kelurahan* office had not been changed for three years. He even doubted the accuracy of their statistics, because when he was RT head there the *kelurahan* office never collected data on the number of households and residents in his neighbourhood.

### 4.3 METHODS OF ANALYSIS

According to Creswell (1998: 140–144) there is no consensus on the analysis of qualitative data. Analysis of qualitative data does not follow the conventional linear approach; rather the process resembles a spiral image that goes through the procedures of data managing, reading and writing notes; describing, classifying and interpreting; and finally, representing and visualizing. Thus, my analysis started from the time I started my field observations. There are different ways of analyzing the material, such as clustering or grouping, time series analysis, writing a narrative, assigning concepts to analyze, or to build a chain of evidence (Sarantakos 1993, Creswell 1995, Berg 1998, Yin 1991, 2002).

I began to group the information from my field notes and interviews until I found a particular pattern or theme to analyse. Some of the information was arranged according to the respondents' relationship to the land (landowner, land renter, tenant or squatter), patterns of gaining access to land (direct occupation, social connections, patron-client relations or business relations), types of land tenure (*girik*, *garapan* or squatting) and how land was managed. I also arranged the information based on a chronology to analyse what factors were influencing the residents' perceptions of security of tenure. Analysis of the political situation affecting the community's struggle was organized according to the time period of the New Order and the *reformasi* era. The material was arranged according to the major themes of community struggles occurring in Jakarta (forced evictions, class action). I adopted Sidney Tarrow's (1989, 1994, 1998) political opportunity analysis by identifying the changes in opportunity that affected the way that NGOs and communities gained success in their claims.

In reporting the research I adopted themes or issues of analysis, following what Stake describes as the 'development of issues' to support a conceptual structure (1995: 123, 131). However, before I could do this, I wrote the findings for each individual case study as a way to draw out its particularities, or identify the themes of general applicability. I divided the findings and discussion into two major themes. The first, which is worked through in Chapter 5, is concerned with the reasons underpinning the conflicts and claims to land. The second theme, which is worked through in Chapter 6, is concerned with the political opportunities pursued by the communities and NGOs. In this theme I pull out the major factors supporting the success of the claims to land, mainly the process of how the community became empowered and how the political opportunities arose during the brief presidential term of Abdurrahman Wahid—the openness of formal political access (shown by the relationship between the NGOs and the government) and the support of allies.

#### 4.4 CONCLUSIONS

To seek answers to my research questions I selected a case-study approach, and selected two particular informal settlements, *Kelurahan Kebon Kosong* and *Kampung Penas Tangkul*, for detailed study. A qualitative research method was chosen because of the nature of the research, which aimed to understand the process of how

the communities pursued their claims to land, and what was the underlying cause of these claims. The research method relied on field observations, interviews, participant observations, group discussions and focus groups, and analysis of secondary data.

In the following chapters I discuss my research findings. Chapter 5 attempts to answer the first research question by exploring the relationship between the state and the community in the management of land, and how this relationship has affected the local residents' perceptions on security of tenure and their claims to land. Chapter 6 attempts to answer the second research question by examining the factors that facilitated the communities' claims for land.

# 5

## Claims on Land

This chapter investigates the reasons for the community's claims on *kampung* land. In it I argue that although the claims to land are not the same in the two case study areas, they are similar because they arise mainly from the residents' sense that they have rights as citizens for decent housing and access to land. There are various complexities around both the state and the struggle of the communities for land, which involve how power is played out amongst the actors involved, and how legality and illegality of land tenure is defined. This will be demonstrated through the analysis of how government officials understood and practised their rights to manage land, and the use of examples of how residents gained access to and utilized land over time in each case study. In section 5.1 I discuss the case study *Kelurahan Kebon Kosong*, and examine the underlying factors leading to the community's claims for land titles and how it relates to gaining their rights as citizens. In section 5.2 I discuss the riverbank settlement of *Kampung Penas Tanggul*, and show the importance of gaining administrative status as *Rukun Tetangga* for squatters. In the final section I draw conclusions from the key findings of this analysis.

## 5.1 KELURAHAN KEBON KOSONG

In this section I argue that claims for land titles are important for the residents of Kelurahan Kebon Kosong as a way to gain their rights as citizens. As mentioned in Chapter 4, land has been the source of conflict between the state and residents of Kelurahan Kebon Kosong. In this section I elaborate how this conflict occurred by examining how the state and the kampung residents understand their rights to land. Section 5.1.1 discusses the development policies of Kemayoran New Town and how government officials understand and practice their rights in land management. Section 5.1.2 examines the views of the local residents, by understanding the mechanisms used by the residents to gain access to land and the factors leading to their perception of security of tenure. The final section analyses the factors leading to the residents' claims on land in the *reformasi* era and how it relates to their rights as citizens.

### 5.1.1 Kemayoran New Town

In 1985 the central government repossessed the Kemayoran airport. The territory included the airport offices, runway, housing complex and also kampungs in three kelurahan: Kelurahan Kebon Kosong, Kelurahan Gunung Sahari and Kelurahan Pademangan Timur. The former airport is one of the major areas in Jakarta that is under the authority of the President, through the coordination of the State Secretary.

In 1987 the central government announced their plan to turn the former Kemayoran airport into a new town and international trade centre. The objective of this development was to transform the former airport, and adjacent kampung areas, into a modern new town and international trade centre. The plan reflects the interests of the government, which was keen to transform the airport area, including the adjacent kampungs into a modern town. In the Jakarta 2005 Master Plan Kemayoran New Town is declared as:

...a New Town that would serve as a centre for trade and service information on an international scale, characterized by urban parks, self-sufficient supporting facilities, and traffic management (Executive Summary RTRK Bandar Kemayoran 2005, 1996, author's translation).

To manage this development the President established a management board, *Badan Pengelola Komplek Kemayoran* (BPKK, referred to from now on in this thesis as the Kemayoran Management Board) to plan and control the implementation of the plan. The Kemayoran Management Board consists of ministers and Echelon I bureaucrats, but attendance at board meetings is usually delegated to staff of the various agencies. The Kemayoran Implementation Unit (*Direksi Pelaksana dan Pengendalian Pembangunan Komplek Kemayoran* (DP3KK) was formed to execute the development.<sup>1</sup>

The new town was expected to accommodate 120,000 residents, mostly in walk-up flats and high-rise apartment buildings, which would cover 27.9% of the planned 420 hectares. Besides housing, the Kemayoran new town would accommodate office and commercial buildings, including the Jakarta International Trade Centre (24.4%), public facilities and buildings (8%); and parks, a golf course and water reservoir (12.4%) (see Land Use Plan in Appendix 6). A previous study by JICA and a team from the Ministry of Public Works recommended to maintain parts of the *kampung* through upgrading programs (JICA KTA-53 1988, 1990).<sup>2</sup> Despite these recommendations, the Kemayoran Implementation Unit continued with their program of relocating all the *kampung* residents into walk-up flats. In their opinion the *kampung* was an eyesore and the residents were occupying state land (Dharmawan 1995, Jellinek 1997).

Conflicts between the state and the local community are concerned with their different perceptions about the meaning of state land, the top-down approach planning and the land acquisition process. The following section explains how government officials understand the meaning of state land, by discussing how the state understands and practises its rights to manage land.

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<sup>1</sup> The Kemayoran Implementation Unit consists of staff from the offices of the Kemayoran Management Board members, as well as individuals from the private sector (refer to Appendix 6).

<sup>2</sup> The Japanese International Cooperation Agency (JICA) provided a grant for technical assistance in preparing a feasibility study and master plan for housing development in Kemayoran (referred to as the KTA-53 study). The study identified six types of housing conditions in different parts of the *kampung* and recommended that each area have a different approach for housing development—a combination of *kampung* improvement and an incremental approach for urban renewal in particular, parts of the *kampung* with congested and poor building conditions.

### **Land management in Kemayoran**

As mentioned in Chapter 3, the understanding of what is considered to be state land and what are the rights of those using it often differ amongst institutions. Following the President's Decree on the repossession of the Kemayoran airport land, the State Secretary/Kemayoran Management Board received a land management permit, referred to as *hak pengelolaan lahan* (HPL or land management rights) from the Ministry of Home Affairs (refer to section 3.1.2).<sup>3</sup> The HPL covers 420 hectares in three *kelurahan*s for the development of the Kemayoran new town. This HPL seems to justify the acquisition of *kampung* land that falls under this permit, under the condition that the land acquisition should be based on *musyawarah* (the process of deliberation) with local residents, and that the procedures should comply with local regulations (refer to Figure 3-8).

In practice most officials working at the Kemayoran Implementation Unit consider the *kampung* land as state land, and that the residents occupying these lands are squatters. The history of how some of the residents gained access to land (discussed further in section 5.1.2) were never acknowledged and, instead, officials used the HPL permit as their justification to acquire the *kampung* land. Lea Jellinek, an anthropologist and social researcher, recalls that during an interview with the former head of Kemayoran Implementation Unit, Hindro T. Soemardjan, in 1996, he referred to the *kampung* residents as 'land grabbers'. Soemardjan claimed he had evidence (aerial photographs) that showed that the land was empty in 1960. However, according to Lea Jellinek, there were no aerial maps on display (Jellinek's notes 1 October 1996, personal communication 2 November 2001). On my visit to the Kemayoran Implementation Unit in September 2001, there was only one aerial photograph displayed, which had been taken in the early 1990s. This claim confirms the observation that many government officials typically consider occupants of state land to be squatters (Leaf 1991, 1993).

Figure 5-1 shows the area considered to be under the management of the Kemayoran Management Board, indicated by the shaded areas on the map. Some areas in *Kelurahan* Kebon Kosong are not part of the permit, although some

<sup>3</sup>The Directorate General of Land Use of the Ministry of Home Affairs was upgraded to become the National Land Agency in 1988.

government officials believe that the whole *kampung* in RWs 04–09 falls under the authority of the state. However, it is the manner in which these plans were realized that created controversy, in particular how the implementation actually contradicted the Kemayoran Implementation Unit's stated slogan: *membangun tanpa menggusur* (building without evicting), and *tumbuh kembang bersama* (grow and develop together) (DP3KK 1996).



Figure 5-1 Boundary of land under HPL permit in *Kelurahan Kebon Kosong*

Source: DP3KK, Kemayoran Implementation Unit (2000)

Note: Orange indicates land under the HPL permit that is occupied by the community.

Pink areas are land under the HPL permit that is already controlled by the Kemayoran Implementation Unit. Yellow areas are not under the HPL permit; however the Kemayoran Implementation Unit considers these lands should be acquired as they are planned for walk-up flats in the Kemayoran New Town master plan.

In response to questions on the many land conflicts on state land, the Deputy Head of the National Land Agency commented that many holders of HPL [land management rights] misunderstand their rights and obligations, which has resulted in the land not being managed properly and the rights of existing occupants being ignored (interview with Deputy Head of BPN, 8 January 2002, author's translation).

### *Creating a modern town image*

The Kemayoran new town development priorities include constructing an elaborate road on the old runway with a flyover (even when there was no heavy traffic on the former runways, Figure 5-4a), walk-up flats (Figure 5-4b), high-rise apartment

blocks (Figure 5-4c), new office buildings, the Jakarta International Trade Centre, and a golf course. Despite criticisms of the need for these types of development, the Kemayoran Implementation Unit continued with them to achieve a modern image for the new town and to build the infrastructure necessary to support its role as an international business and trade centre.



a. Old runway converted to major road      b. Walk-up flats      c. High-rise apartment blocks

Figure 5-2 New facilities in Kemayoran New Town

In implementing the plans, the Kemayoran Implementation Unit invited consultants, contractors and private investors to participate. However, the approach with the local community was the opposite. The local community was never invited to discuss plans for the walk-up flats or for improving their settlement. The Kemayoran Implementation Unit informed the community of the plans and the land compensation rates, but did not discuss the plans and the compensation rates with the community.

Although most of the airport land was vacant, the Kemayoran Implementation Unit gave first priority to acquisition of *kampung* land and the relocation of its residents into walk-up flats. Their justification was that delaying the land acquisition program would increase future costs as land prices would rise, and walk-up flats would provide a better environment than slums.<sup>4</sup> *Perum Perumnas*, the National Housing Corporation, was invited to build walk-up flats. The land was offered to *Perumnas* for a subsidized price of Rp. 2,000 per square metre. This is effectively the

<sup>4</sup>This view is based on my previous work experience at the Kemayoran Management Board in 1991 and Dharmawan's (1995) research on the urban renewal program in Kemayoran.

same land purchased from landowners in *Kelurahan* Kebon Kosong for a price of Rp. 75,000 to Rp. 300,000 per square metre (Dharmawan 1995).<sup>5</sup>

### *Conflicts during the land acquisition program*

The conflict with the residents began when the Kemayoran Implementation Unit and its land acquisition committee excluded the local community from the discussions on land compensation. Even though the regulation (Ministry of Home Affairs Regulation no. 15/1975) stipulates that the compensation rate should be based on *musyarakah* with the landowners, the governor gave his approval on the compensation rates based on the committee's proposal, which were lower than the market price and lower even than the land value indicated in the PBB or property tax. Table 5-1 shows the differences of opinion between the local residents (represented by the Kemayoran Community Delegates) and the state (represented by the Land Acquisition Committee).

Table 5-1 Major differences on land compensation between Land Acquisition Committee and Kemayoran Community Delegates

Land Acquisition Committee	Kemayoran Community Delegates
a. Plots facing main road Jalan Garuda till Haji Ung Bridge- Rp. 600,000 per m <sup>2</sup> for <i>hak milik</i> status.*	- Compensation rates should be based on market value, which ranges from Rp. 850,000 to Rp. 1,200,000 per m <sup>2</sup>
b. Plots facing car-width roads -Rp. 400,000 per m <sup>2</sup> for <i>hak milik</i> status - Plots outside (a) and (b)-Rp. 300,000 per m <sup>2</sup> for <i>hak milik</i> status.	- There should be no differentiation of compensation by land status
c. Other land titles are based on the following percentage from the above rates*:  1) <i>Verponding</i> Indonesia - 90% 2) <i>Hak Guna Bangunan</i> - 80% 3) <i>Hak Pakai</i> - 60% 4) <i>Tanah Negara</i> (state land) - 25 %	

Source: Governor's Letter of Approval dated 25 July 1991, and DWK documentation

Note:

\*The land value stated in the land and building tax for *Kelurahan* Kebon Kosong was Rp. 700,000 in 1991.

\*\* The percentage for compensation rates are not the arbitrary decision of the Land Acquisition Committee, but based on a local regulation. The committee decides the land and building value.

<sup>5</sup> In 1990 the rupiah currency was 1US\$ - Rp. 2,800



These compensation rates approved by the Governor were considered unjust by the majority of the Kemayoran residents, in particular those occupying state land. The land tenure status determined the amount of compensation. Those with *Verponding* status were entitled to 90% of the land compensation rate, while those occupying state land were only entitled 25% of the compensation rate. The total compensation received by a low-income household residing on state land was insufficient to buy a house within the same area. As an example, a plot size of 20 square metres would only be entitled to land compensation of Rp. 1,500,000. A temporary building structure would receive compensation of Rp. 125,000 per square metre, totalling Rp. 2,500,000. However, a 24 m<sup>2</sup> unit in the walk-up flat cost Rp. 22,500,000, which is seven times the total compensation received by a typical low-income household. Dharmawan's (1995) research on the Kemayoran urban renewal program showed that a typical household would need to have minimum monthly earnings of Rp. 750,000 per month (about US \$ 350 in 1995) to pay for the mortgage and living expenses, an unrealistic figure for people coming from the informal sector.

Besides the above conflict over compensation rates, the Kemayoran community felt that they were being pressured to sell their land. Suspicion of corruption was also present in the process of land acquisition of the *kampung* land surrounding the airport. The local community, represented by *Delegasi Warga Kemayoran* (DWK or the Kemayoran Community Delegates), protested at the compensation rates and accused the Kemayoran Implementation Unit, *kelurahan* officials and land brokers (*calo tanah*) of forging land documents and of marking up the status of the land for personal gain (DWK letter to People's Council October 1992, Dharmawan 1995, Thamrin 1997).

Most of the local residents spoke bitterly about their experiences during and after the land acquisition process. They had lost their neighbours, felt betrayed by those accepting compensation, and terrorized by the Kemayoran Implementation Unit and *pamongpraja* (municipality security guards hired by the Kemayoran Implementation Unit). The *pamongpraja* would come to tear down the houses bought by the Kemayoran Implementation Unit, leaving the *kampung* in a chaotic condition. 'It was like a war-zone,' was an expression frequently heard during my interviews with the respondents. The graffiti on the walls of the torn-down houses in *Kelurahan*

Kebon Kosong (Figure 5-3) express the residents' dislike of the Kemayoran Implementation Unit (DP3KK).

The land acquisition program officially ended on 28 January 1993, but the administrative work on payment and relocation continued until 1996.<sup>6</sup> Towards the end of the land acquisition program, the community's cohesiveness began to break down. The Kemayoran Implementation Unit used the strategy of *politik pecah-belah*, or dividing the enemy, to persuade Kemayoran Community Delegate leaders and *kampung* residents to sell their land. This was the strategy most feared by the community delegates, as it would trigger other local residents to sell their land. There was much talk amongst the community that these leaders had accepted bribery. Although Kemayoran Community Delegates failed to increase the compensation rates, at least their efforts were successful in delaying the implementation of the project.



a. Anti-DP3KK area      b. The battle of Kemayoran      c. Anti-militarism and DP3KK

Figure 5-3 Graffiti expressing the residents' dislike of the Kemayoran Implementation Unit (DP3KK)

Even after the majority of households sold their land to the Kemayoran Implementation Unit, no development within the *kampung* was possible because the land plots were scattered and not large enough to build four-story walk-up flats.<sup>7</sup> Because of lack of funding, the Kemayoran Implementation Unit could not finish acquiring all the land referred to in their permit for land acquisition. The manner in which the Kemayoran Implementation Unit conducted the land acquisition contradicts the clause in the principal permit (*SP3L*) that land acquisition should be

<sup>6</sup> The Governor extended the land acquisition permit three times up to 28 January 1993.

<sup>7</sup> From the total 2,125 households living in RWs 04-09, about 60% sold their land to the Kemayoran Implementation Unit.

concentrated in one whole area, to comply with the further requirement of obtaining approval to utilize and register the land (refer to Figure 3-8). The land acquired is scattered around the *kampung* in small parcels. Therefore, the Kemayoran Implementation Unit was unable to assemble the land to build walk-up flats, and has instead, left the land idle. This idle land has created problems for the local residents as well as the authorities, because squatters have invaded the land. The problem of squatting is discussed further in section 5.1.2

After the completion of the first stage of walk-up flats, the project did not continue as scheduled, and was further delayed because of the economic crisis discussed in the following sub-section.

#### *Economic crisis and development in the reformasi era*

In general, the economic crisis of 1998 brought a halt to the development in Kemayoran (*Angkasa News*, 2 November 1999). Several projects such as *Menara* Jakarta (Jakarta Tower, designed to be the highest tower in the world, reaching 558 metres), and *Istana* Kemayoran Apartments were postponed.

In the *reformasi* era, the role of the Kemayoran Implementation Unit and the Kemayoran Management Board became less prominent, leading to perceptions by the local residents that they could continue to live in the *kampung* and have the opportunity to gain formal access to land (discussed further in section 5.1.3). The Kemayoran Management Board members also became less influential because of structural changes within the cabinet and the bureaucracy. As an example, the State Ministry of Public Housing was merged with the Directorate General of Human Settlements to become the Ministry of Housing and Human Settlements (1999-2001), and no one was assigned to replace the position of the State Ministry in the Kemayoran Management Board. Many officials who were active in the program in the initial stages of the development had either retired or had moved to other government offices (personal communication, Head of Land Division, Kemayoran Implementation Unit, 18 September 2001).

Interviews with local government officials and the community showed that there were high expectations that the authority for Kemayoran would be transferred from the Kemayoran Implementation Unit to the local government, which would

result in better land management. The transfer of authority was not immediately realized in the *reformasi* era, and government intentions towards the former airport seemed inconsistent.

The Jakarta administration has already anticipated taking back control of Kemayoran before the beginning of the *reformasi* era. In the Jakarta 2010 plan (issued in 1999), the future land use and development plans for Kemayoran are referred to in the Master Plan itself. Yet, during a national conference on forestry, President Wahid claimed that he had ordered Governor Sutiyoso to relocate the Senayan Sports Complex to Kemayoran, to provide more open space in Jakarta (*Koran Tempo*, 16 July 2001).<sup>8</sup> Governor Sutiyoso has expressed his ambition to take over Kemayoran and develop the area as an urban forest. He also accused the central government of prioritising business and commercial interests in those areas (*Berita Jakarta*, 31 January 2003).<sup>9</sup> On the other hand, NGOs coordinated under FAKTA (*Forum Warga Kota Jakarta* or Jakarta Citizens Forum) are trying to slow down the process of devolution to the local government, at least while Sutiyoso is still in power. They fear that Sutiyoso will use the land for commercial interests, as he has never shown any interest in the demands of the urban poor (personal communication with FAKTA activist, 7 February 2003).<sup>10</sup>

### 5.1.2 A brief history of *Kelurahan Kebon Kosong*

In my interviews with the local residents, many of them argued that *Kelurahan Kebon Kosong* is not a squatter settlement because of its long history, which can be traced back to the Dutch colonial period (interview with Rahardjo, 30 June 2000; respondents K-1, K-9, K-32).

<sup>8</sup> This statement did not seem to be taken seriously by the Kemayoran Implementation Unit, because the master plan was still valid and any changes would require the approval of the People's Representative Council (personal communication, Head of Land Division Kemayoran Implementation Unit, 18 September 2001).

<sup>9</sup> Sutiyoso said: 'If we have management of Kemayoran, we will try to launch a reforestation program for a city green belt. At present, the area remains under the management of the State Secretariat, which is profit orientated. We do not need to do this, as we have other sources of finance' (*Berita Jakarta*, 31 January 2003, author's translation).

<sup>10</sup> FAKTA admitted that they had lobbied the DPRD to delay the transfer of these lands as long as possible (personal communication with FAKTA activists, 7 February 2003).

Kelurahan Kebon Kosong is one of the eight kelurahans in Kecamatan Kemayoran.<sup>11</sup> The name Kemayoran was documented by the Dutch archivist de Haan in his book *Priangan* dated 1910. De Haan wrote that there was a piece of land (130 morgen or 0.5 square kilometres) called Kemayoran owned by Sergeant Major Isaac de Saint-Martin, a Frenchman who joined the Dutch army and became the commandant of Batavia's garrison. The name may have come from the Dutch phrase *het Majoorshond*, the major's land (Dhammawan 1995).<sup>12</sup> The Dutch colonial government often gave or leased land to people loyal to them. These lands were known as *particuliere landerijen* (private estates), which gave the landlord authority to govern the land, including the indigenous people (tenant farmers) occupying it (Abeyasakere 1987: 67).

The name Kemayoran Wijk in the Dutch colonial period was changed to Desa Kemayoran (or Kemayoran village) after independence, and in the 1950s became Kecamatan Kemayoran. Land tax documents (*Verponding Indonesia*) that date back to as early as 1929 show that the native people occupied parts of the land in Kelurahan Kebon Kosong.<sup>13</sup> The name Kebon Kosong itself means empty fields, which seems to imply that the land was an empty field in the past. According to the older residents of Kemayoran, during the 1970s there used to be a soccer field and vegetable gardens in the area now occupied by the community in RWs 04 and 05. In the 1930s part of the rice field was transformed into the Kemayoran airfield, which attracted more migrants to settle in the surrounding villages (Figure 5-4).

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<sup>11</sup>There are many stories related to the name Kemayoran. The indigenous Jakarta community, Betawi, has a famous traditional orchestra and song called *Keroncong Kemayoran*. There is a Betawi legend about a young rebel during the Dutch colonial period, called *si Pitung moeui Kemayoran* (Pitung, tiger of Kemayoran). One of Indonesia's comedians and actors, the late Benyamin Suab, was a Kemayoran resident. In the famous *Tintin* comic series by the Belgian author Hergé, Tintin passed through the Kemayoran airport in one of his travels.

<sup>12</sup> In Batavia, it was common to name a place based on its physical characteristics, the name of the landlord, or the ethnic community who lived there.

<sup>13</sup> I sighted land tax receipts of respondent nos. K-1, K-5, K-6, K-7 and K-9, dating back many years, sometimes into the Dutch colonial era (Appendix 7).



Figure 5-4 Kemayoran airport and the surrounding villages and paddy field in 1938

Source: Abeyasakere 1989: 131

Scale 1 grid = 1,000 metres.

Note: The red dotted area indicates the location of Kehutuhan Kebon Kosong

Most of the residents in *Kelurahan* Kebon Kosong (76.6%, see Table 5-2) came to live in Kemayoran during the 1950s and 1960s. This figure is consistent with the high urbanization rate in Jakarta during the 1950s, when about three quarters of Jakarta's population were migrants (Abeyasakere 1987, refer to Chapter 1). The authority governing the Kemayoran airport until 1985 was *Perum Angkasa Pura* (PAP), a state-owned company under the Ministry of Transport. In the 1950s the airport authority tried to acquire the land in *Kelurahan* Kebon Kosong for future extension of the airfield. As shown in Figure 5-5, only a few land parcels were purchased in 1953 and these were considered as *tanah negara*, or state land. Many plots were still owned by local residents, and some land parcels had unclear land status. The information on land parcels shown in Figure 5-5 was compiled by the Ministry of Public Works and Energy, which relied on simple mapping techniques and land taxation data. Aerial maps were not available for this period. The numbers on the map show the parcels registered with *Verponding* Indonesia titles. The shaded plots are those purchased by the state in 1953.

Table 5-2 Beginning of residence of households in *Kelurahan Kebon Kosong*  
RWs 04-09 before the major land acquisition program (1991)

RW	Before 1960	1961-1970	After 1970	TOTAL
04	241	336	162	739
05	70	229	64	363
06	129	44	8	181
07	113	148	75	336
08	59	34	44	137
09	105	122	142	369
<b>TOTAL</b>	<b>717</b>	<b>913</b>	<b>495</b>	<b>2125</b>
In %	33.7 %	42.9%	23.4%	100 %

Source: *Delegasi Warga Kemayoran* report, December 1991

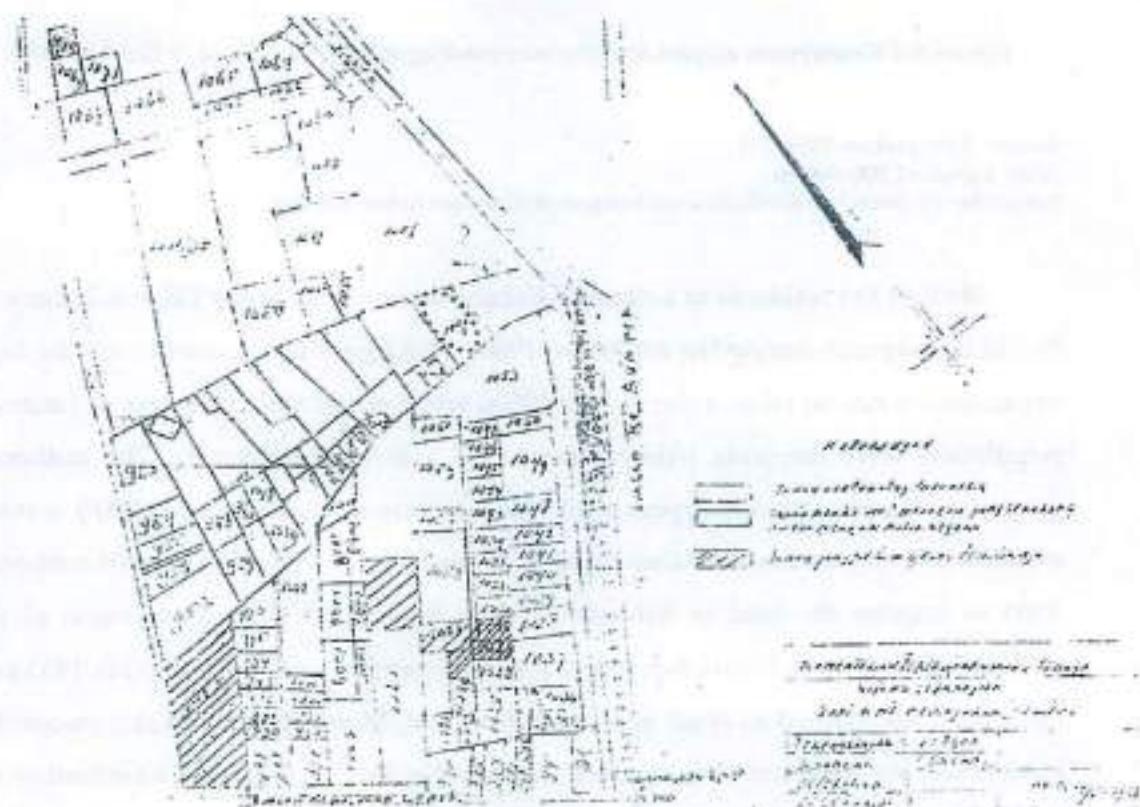


Figure 5-5 Map of land ownership in RW 06 of *Kelurahan Kebon Kosong* in 1953

Source: DWK documentation from *Kementerian Pekerjaan Umum dan Tenaga*, or the Ministry of Public Works and Energy (1953)

Note: the dotted oval indicates the location of Suryadi's (Head of the Kemayoran Delegates) plot of land (plot number 1017) in RT 01/RW 06.

In the 1960s the Jakarta administration proposed to relocate all the *kampung* residents in RWs 04–09 to Sunter, northeast of *Kelurahan* Kebon Kosong. Although the Governor issued a decree to implement this proposal, the project was abandoned because the central government relocated the international airport to Cengkareng, Tangerang (refer to Figure 4-1). The Jakarta administration did not keep its promise to allocate land for housing the urban poor, despite the fact that *Kecamatan* Kemayoran was a high density residential area that would benefit from new low-income housing development<sup>14</sup> Instead, the land in Sunter was allocated for industrial and middle-to upper-middle-income housing estates.<sup>15</sup>

The change of plans to move the airport affected the airport authorities' decision on the land use of the acquired land. The airport authority allocated part of the purchased land for staff housing; they sold part of the land to another state company, PT Pertamina (the National Oil Company) for staff housing, located in RW 08; and left some of the land idle, which was soon occupied by squatters. To prevent future expansion of the *kampung* into airport territory, the airport authority reinforced the fence between the airport and the *kampung*.

Formal recognition of the *kampung* was obtained in the 1960s, when the local government assigned administrative status to the *kampung*, and the residents were provided with formal ID cards. *Kelurahan* Kebon Kosong was a beneficiary of a *kampung* improvement program in the late 1970s. In this program, the community voluntarily gave up part of their land for roads and footpaths. A *proyek jambanisasi*, or sanitation project, was implemented the following year.<sup>16</sup>

Interviews with the original residents showed that these government interventions were interpreted as what Angel (1983) refers to as 'signals' of government recognition of their settlement, which increased their perception of *de facto* security of tenure. As several respondents recalled:

Back in the 1960s we paid compensation for *garapan* land to the original urban farmers, and built our shelters. The *Lurah* came and approached us. We received ID

<sup>14</sup> *Kecamatan* Kemayoran consists of eight *kelurahan*, 77 RWs and 1,031 RTs. The population in 2000 was 238,733 (<<http://www.bappedajakarta.go.id>> accessed 2 June 2002).

<sup>15</sup> In the 1970s, the Jakarta local government issued a development permit on the Sunter land to a private developer (PT Agung Podomoro) for middle-income housing and an industrial estate.

<sup>16</sup> Interview with senior community leaders, Kharis and Suryadi, 29 April 2001.

cards, paid the IPEDA tax (in the 1960s), and then the PBB tax (after 1985). Our kampung received KJP in the 1970s. The airport authority never bothered us. They knew that the land outside their fence belonged to the kampung (respondents K-28, K-30, K-31 and K-32).

Several respondents with Verponding land status claimed that they had tried to register their land, but were discouraged by the high administration fees. However, before the major land acquisition program, these residents did not seem concerned about their land status. They believe gink land has a strong legal position, even though it was not registered to the state (respondent K-1, K-3 and K-6).

There was a system (or rules) for control of the settlement, *majlis lapor*. Through this system the head RT and community figures are informed if there is a new resident moving into their kampung. The new residents go through a process of gaining trust and building social relationships with the existing residents (respondents K-1, K-2, K-8, K-30 and K-32). However, this system did not survive when the new state authority imposed their plans for redeveloping the kampung area.

### *Access to Land*

Two types of residents were identified during fieldwork, the original kampung residents and the new residents. Table 5-3 shows that in 2001 83% of the land plots occupied by the original residents were state land and 17% were Verponding land. The mechanisms used to gain access to land by the original and new residents interviewed in RWs 04 and 06 are shown in Table 5-4 and Table 5-5. Most of the original residents (45 %) gained access to land through direct purchase or paying compensation to the original farmers (*petinggirap*). According to senior residents, migrants either bought subdivided Verponding land or occupied idle plots of state land surrounding the airport. They started as migrant farmers, planting vegetables as their source of income.<sup>17</sup>

The original residents understand that *geopen* land is state land, but also distinguish it from what they refer to as state-owned land. 'State-owned land is the

<sup>17</sup> During the 1960s Jakarta suffered from food shortages and the government encouraged people to grow vegetables on empty land plots (Jellinek 1991, Cardayan and Zulfiarman 2000)

land behind the airport fence. This was *garapan* land and we paid taxes (*Pajak Bumi dan Bangunan*) to the government to use the land. It is not like we are *penduduk liar* [Indonesian translation for squatters, or literally translated as wild residents]', said several respondents when I asked about their understanding of *garapan* rights.

Table 5-3 Number of land plots of each status in *Kelurahan Kebon Kosong*, RWs 04-09 in 2001

RW	Verponding Indonesia land	State land ( <i>tanah negara</i> )	Total
04	0	83	83
05	0	58	58
06	24	111	135
07	0	234	234
08	7	9	16
09	84	69	153
Total	115 (17%)	574 (83%)	689 (100%)

Source: Delegasi Warga Kemayoran, 2001

Table 5-4 Mechanisms used by original residents to gain access to land in RW 04 and RW 06

Mechanism of gaining access to land	Original residents		TOTAL
	Verponding land ( <i>girik</i> )	State land ( <i>garapan</i> )	
Bought land or paid compensation to original farmers	6	7	13 (45%)
Government distribution		2	2
Direct occupation of land		4	4
Inheritance	1	4	5
Subdivision	1	1	2
Rent land and build own shelter			
Rent house or room	2		2
Free rent ( <i>numpang</i> )*	1		1
<b>TOTAL</b>	<b>11 (38%)</b>	<b>18 (62%)</b>	<b>29 (100%)</b>

Source: Interviews with respondents in RW 04 and RW 06 (April-August 2001)

\*Note: Free rent or *numpang* are those who occupy a house or land with permission from a local landlord and do not pay any rent.

Table 5-5 Mechanisms used by new residents to gain access to land in RW 04 and RW 06

Mechanism of gaining access to land	New residents	Total
		(%)
Direct occupation of land	5	41.6
Rent land and build own shelter	3	25.0
Rent house or room	2	16.6
Free rent ( <i>nunupang</i> )	2	16.6
<b>TOTAL</b>	<b>12</b>	<b>100 %</b>

Source: Interviews with respondents in RWs 04 and 06 (April–August 2001)

Note: the new residents are those occupying idle land purchased by the Kemayoran authority (DP3KK)

Interviews with the respondents who purchased their land showed that the *Lurah* witnessed many of these land transactions. 'My father didn't buy this land, he paid compensation to the previous *penggarap* (farmer) and the *Lurah* signed the receipt,' explained respondent K-10 when she showed me her land receipt. This shows that the landowners have some proof of ownership in the form of tax receipts or witnessed land transactions by local officials, but this might not be recognized by the state because these land plots are not formally registered at the National Land Agency.

This case study enabled me to observe the processes of how new squatting occurred on state land. Two examples (Boxes 5-1 to 5-2) documented in this section illustrate the complexity of dealing with idle land. The findings of my research showed that social connections, lack of government control on state land (even when they had the requisite authority), and economic forces play a major role in the occupation and utilization of state land. The tensions concerning power relationships subsequently influenced the residents' perception of security of tenure (discussed further in this section).

Social connections play a major role in gaining access to land. One resident with *Verponding* land status came to live in the *kampung* during the 1950s (respondent K-8). He was advised by his uncle to purchase the land adjacent to his uncle's plot because it had a clear land title (*Verponding* status). Another resident (respondent K-1) came to live in Kemayoran during the late 1960s to teach at one of the local schools. He rented a room for a few years but decided to buy a plot of land when he got married. *Girik* land was his first option because it is cheaper than land

with legal land titles, yet has a strong legal position. Information concerning available land plots was obtained from his former neighbours. Nine squatters claimed that they knew of the opportunity from friends or family, and some claimed that they gained permission from local residents to build on the vacant land plots.

Social connections also affect the attitude of original residents towards squatters, as some are accepted and may join in the neighbourhood activities. Some original residents allow their relatives to occupy the vacant land adjacent to their land plot. 'I asked the RT head whether I could have my children build a house here. It feels safer to let your family occupy the land, rather than squatters that you don't know', replied respondent K-20 (author's translation) when I asked her reasons for doing so.

In the absence of clear authority on the land, lack of coordination with the state institutions responsible for managing the land, and lack of information to identify who were the new residents, the original community was left on their own to deal with problems of idle land. The decision of the Kemayoran Implementation Unit to rent land to outside parties without consulting or informing local residents complicated local land management. This process contradicted the existing system of *wajib lapor*, where new residents must report to the RT head if they intended to stay longer than 48 hours in the *kampung*.

Lack of any authority (state or residents' control) over the idle land has allowed certain individuals to gain control of the land and emboldened new squatters to construct their houses on the site. In RT 02 and 08, there were more new squatters than the original households, which gave the squatters more control of the situation. To illustrate, the following Table 5-6 shows the number of original households and the number of new buildings observed in several RT units of RW 06 during fieldwork. Clearly, most of the building had been going on where the squatters were in a majority. Figure 5-6 compares two photographs of the same site taken in June 2001 and June 2002. Within one year ten new houses had been built on this site. These included rental houses and owner-occupied houses built by squatters as well as by family members of the original residents. A garbage dump and large tree (see Figure 5-6a) had been cleared to make way for the new houses (see Figure 5-6b).

Table 5-6 Comparison of squatters and new buildings in RW 06 (2001)

Rukun tetangga (RT) in RW 06	Number of original households	Number of squatter households*	Number of new buildings observed on Kemayoran authority land
RT 01 <sup>b</sup>	27	0	5
RT 02	10	21	9
RT 08	8	14	14

Note: \* Squatters include all tenants and occupiers on land purchased by the Kemayoran Implementation Unit (KIU)

<sup>b</sup> New buildings in RT 01 are small temporary kiosks rented out by KIU



a. Condition in June 2001

b. New buildings observed in June 2002

Figure 5-6 Comparison of new development on the main street of RW 06 in June 2001 and June 2002

The threat of being forcibly evicted is the greatest concern for new squatters, but they are relying on obtaining compensation for their houses. As shown in Figure 5-6, new squatters are building their houses from brick. The local government regulations categorize compensation based on the building structure. Permanent structures of brick with tile roofs are valued more than non-permanent buildings made of wood.

Certain residents were able to acquire a particular degree of power through their social status in the community, which enabled them to control the use of the vacant land plots, such as the example of a local resident acting as patron to a group of homeless street hawkers (Box 5-1). This concentration of power has led to some negative outcomes such as environmental pollution, as shown in the example of the commercialization of land in Box 5-2. Some residents, however, were able to take control of the vacant land plots, when they decided to make decisions together for the benefit of the whole community as shown in the story of successful land

management in RT 01/RW 06 (Box 5-4, discussed further in section 5.1.3). Figure 5-6 shows the location of the three examples observed in RW 06 of how residents used or misused power in controlling land.



Figure 5-7 Location of examples observed in RW 06

#### Box 5-1 Patronage in RT 02/RW 06

A local resident (called Bambang) known to other community members as a *prokem* (Jakarta slang expression for a local thug) gave permission to 14 street hawkers to occupy the land. Most of the original residents feel intimidated by Bambang because he was known to use drugs. However, squatters look upon him as their patron. 'I used to rent around Kemayoran but was evicted because the landowner sold his plot to the Kemayoran Implementation Unit. I had a difficult time finding a place to rent. If it wasn't for Bambang, I wouldn't be living here', said one squatter (respondent K-25).

When I met Bambang, he was sitting on a wheelchair—his body covered with tattoos, with one amputated leg.

'Yes, in the past I was involved with drugs, and I had to pay a price for that with my health [gazing at his leg]. Now I dedicate myself to helping poor people. I don't understand why the DP3KK [Kemayoran Implementation Unit] abandoned their land. I don't think the land should be left unutilised. I knew some of these street hawkers before. They were supporters of my late father, a colonel in the army. DP3KK asked my father to assist in controlling the airport land. He sometimes recruited people to assist him in gathering information on who was using the land. After my father retired, people still respected him. I am grateful to these people. I noticed that some buildings around here were unoccupied, so I told them to use these buildings for shelter. I charge a small fee to them for using electricity, and try to resolve any conflicts within this group. As an example, the other day, two of the residents were quarrelling about the location of a kitchen. I always say to these people that when you build your shelter, you should always consider your neighbours. Make sure the distance and location of the kitchen doesn't face the bedroom, so the neighbours will not get smoke. It should be at least 1 ½ metre distance.'

Source: interview with respondent K-17 (17 June 2001).

#### Box 5-2 The commercialization of land in RT 02/RW 06

There is a wide range of activities occurring on the land in RT area. There are several *lapak* (scavenger depots), and home industries (charcoal making), and rental housing as well as a banana orchard (Figure 5-8). The original residents felt resentful towards the scavengers, whom they saw as environmental polluters. When I conveyed my intention to talk to these squatters, the local residents offered to accompany me. It seems they were curious to know more about how these people obtained access to the land. In their opinion, the Kemayoran Implementation Unit rented out the land to these scavengers. It was a surprise for them to learn that the former RT head was renting out the land, even after he had moved to Serang (a small town in West Java). He would send someone to collect the rent every few months. There were three scavenger depots in this area.

One depot was rented to a friend of the former RT head. 'I got a good deal. I paid compensation for the banana crops on this land, Rp. 300,000 for each banana tree. There were four banana trees,' explained scavenger (A). The other two were rented out to a self-employed scavenger (B) and to an entrepreneur (C), who let his employees live and work on the land. All the scavengers admitted that they paid monthly fees to the Kelurahan. 'Someone comes to collect these fees every month.'

He wears a uniform from the *Kelurahan*,' explained the scavengers. 'We don't pay much, only about Rp. 10,000 to Rp. 15,000 per month.'

The former RT head's daughter (D) is still living there. She feels frustrated with all the activities going on around her house. She rents some rooms to bajaj (a local three-wheel motor taxi vehicle) drivers, but complains that they are making too much noise and causing pollution from the exhaust emissions. 'I need the rent to support my family. My husband works but barely makes enough money to support all our household expenditures,' she explained. 'Actually I own a house in Bekasi [a town east of Jakarta], but there are no job opportunities over there. I inherited this house from my father, and he rented out this land when he still lived here. Once I get the land title, I plan to sell this property and use the money as capital for a small business in Bekasi'.



Figure 5-8 Compost recycling site and *lapak* (scavenger depot)

After several visits to Kemayoran, one of the community figures admitted that he was partly responsible for triggering the squatting around his area. He had given permission to a jobless neighbour to use the land for a home industry—recycling compost (E), and after a few months, the scavengers moved into the empty plots (Figure 5-8).

When I enquired about a RT-level discussion to resolve this problem, he explained, 'Technically, Pak Sis is still the RT head. When he left we never elected anyone to replace him and the RW head never asked us about his replacement. We have a bit of a problem approaching Pak Sis because of his position. He is a retired military officer. As for the RW head, he doesn't live in this neighbourhood. He only comes in the evening after his office hours.'

In another plot within the same RT, the 'landowner' (G) explained that the development authority had already purchased the land. 'My stepbrother took the documents. He never told our family that he had sold this piece of the land. I am appealing to the court now. In the meantime, I moved back into this plot. I also own the plot opposite [pointing to a plot with row houses or *rumah petak*] and our family has some other plots of land in *Kelurahan* Gunung Sahari. I don't care what the authority says. I just want to get this land back to our family.'

Source: field observations and interviews with respondents K-9, K-10, K-13, K-14, K-16 (April–May 2001)

The above examples demonstrate that there was abuse of power by residents for their personal gain. The occupation of land by new residents without the knowledge of the original residents and use of land that pollutes the environment created tensions between the original residents and new residents. In the following section I discuss the factors affecting the residents' perception of security of tenure and factors leading to their claims for land titles.

### 5.1.3 Claims for land titles in the *reformasi* era

Because of the differences concerning tenure arrangements and length of residence in the two groups (original residents and new residents), the perceptions of security of tenure were not the same.

For the new residents the presence of some form of authority supports the perception of *de facto* security of tenure. As an example, for the relatives of respondent K-18 in RT 08, it was the consent of the RT head that supported their action to build houses on the idle land. For the street-hawkers in RT 02 the authority was Bambang, the local thug (Box 5-2). For the scavengers in RT 02, the authority was the retired RT head (Box 5-1), who had leased the land for their use. The fact that local government officials were collecting taxes from these new residents increases the perception that there is some form of government recognition of their occupation of land. These residents did not seem concerned with the land tenure status and seem to accept their status as free renters or *numpang* is very weak when confronted with evictions. Their main concern was about finding another affordable place to live if they had to move out from the land or building they were occupying, and obtaining sufficient compensation.

At the time of fieldwork, the original residents of RWs 04–09 were undergoing a land titling program. The activities for obtaining land titles were coordinated by the community-based organization, *Delegasi Warga Kemayoran* (Kemayoran Community Delegates) and a local NGO, the Urban Poor Consortium (the process of pursuing the claims for land titles are discussed in Chapter 6). My interviews with the original residents identified two major concerns affecting their perception on security of tenure in the *reformasi* period and necessity to obtain land titles, which I explain further in the paragraphs below. The first concern is the uncertainty on the future land use of their settlement and fear of not being able to participate in major decisions affecting their occupancy. The second concern is the invasion of land by the new residents (considered as 'squatters' by the original residents) and fear of being considered as squatters by the government.

### *Uncertainty and exclusion*

The period after the economic crisis and the early years of the *reformasi* era was a period of uncertainty for the residents. There were rumours and expectations that the Kemayoran Implementation Unit would be dissolved and the Kemayoran project would be transferred to the Jakarta administration. However, the process of decentralization initiated in January 1999 was slow in implementation.

The community suffered physical exclusion from the Kemayoran New Town, although the Kemayoran authorities claimed that the new development benefited the local *kampung* community. A brick wall separated the *kampung* from the walk-up flats. A grand mosque was built just beside the *kampung*'s small mosque, and the gate leading to the grand mosque was opened only during prayer times. The intimidating effort of the new mosque was clearly intended by the Kemayoran authorities, and very effective. The community did not and could not enjoy most of the facilities in the new town, which were targeted for the residents living in the walk-up flats and high-rise apartments.

The former head of the Kemayoran Community Delegates, *Bapak Rahardjo*, expressed his concern on being excluded from the urban development process:

If you are never allowed to participate in the process of urban development, land titles do not have any meaning except to gain higher compensation than with no titles. I have *hak milik* on my land, but developers have harassed me, and my house was burned down a few years ago. We had no say in negotiating compensation. The land compensation offered by the Kemayoran Implementation Unit was much lower than the market price (interview, 30 June 2000).<sup>18</sup>

At the time of the field research, expectations that land titles would be granted had not resulted in increases in housing investment for the majority of the original residents.<sup>19</sup> Although house improvements should be an indicator of a higher degree of perceived secure tenure, the literature showed (and common sense suggests) that poorer households might not invest because they lack sufficient funding (Angel 1983, Jiminez 1984, Varley 1987, Hardoy and Satherthwaite 1989, Farvaque and

<sup>18</sup> Several respondents were not sure that the developer had deliberately burned down Pak Rahardjo's house. They believed that it might have been caused by an electricity short-circuit.

<sup>19</sup> The land registration process began in August 2000, and the land measurements were completed in April 2002.

McAuslan 1992). My findings in the case study support this argument. Of the households interviewed in RW 04 and 06, only one household in RW 06 did a major upgrading of his house, which occurred soon after the National Land Agency finished measuring the plots in June 2002. This household was from a higher social-economic status. In addition to his comparative financial capability, the landowner had *Verponding* land status and, at the time of my fieldwork, felt very certain of obtaining full ownership rights. He believed that the Kemayoran authority had no power to evict people any more because the project would soon be taken over by the local government (respondent K-9). Several respondents said they would rather wait until the land certificates were issued before making any major improvements on their houses (respondents K-2, K-3, K-30).

In general, there was much uncertainty regarding the future of the settlement amongst the original community. They assumed that, backed by sufficient funding, the government would still pursue their plans to relocate them into walk-up flats. Most respondents have never seen the Kemayoran land use plan. Several respondents claimed that even with land titles they would still feel insecure because of the lack of certainty concerning the future plans for the area and their role in the new development (respondents K-19, K-20, K-22). In their opinion, the process of *musyawarah* (process of deliberation) is an important factor to improve their certainty and perception of security of tenure. However, the government has been reluctant to involve the local residents in major decisions affecting their *kampung* (focus group discussion, 5 September 2001).

Most respondents felt that the transfer of authority to the local government would provide a better opportunity to negotiate with the government. The following discussion with a group of women reflects the uncertainties that many residents feel:

**Box 5-3: Discussion with a group of women on 22 May 2001  
at the house of RT 08 head**

Researcher: 'How do you feel about gaining land titles?'

Respondent A: 'Well, the Kemayoran Community Delegates say that it is our right to obtain land titles and it is our best option. Personally, I don't feel too sure.'

Respondent B: 'I'm happy about getting land titles, but am a bit worried about the land tax. The Kemayoran Community Delegates say it will increase after we get the land titles. I have to ask them [the Kemayoran Delegates] about it.'

Researcher to respondent A: 'Why do you feel that way?'

Respondent A: 'Even with land titles, I still feel unsure about the future of Kemayoran. I received this land as compensation from the government [Perum Angkasa Pura, the airport authority], but then the government [DP3KK] tell us that we have to sell the land back to them, and now it seems that the Kemayoran Implementation Unit is abandoning the land. There is no certainty in living here; maybe next year the government might change their plans again and relocate us.'

Respondent B: 'I agree, I'm also a bit worried about the future of our *kampung*. I was born and raised in Kemayoran and lost many of my neighbours because of the Kemayoran Implementation Unit. I heard that the local municipality would take over the project from the Kemayoran Implementation Unit. I think that would be a better alternative. Do you know the plans for our *kampung*?'

### *The problem of squatting*

The second concern of original residents is the invasion of new residents (considered to be squatters by the original residents because they are occupying land already purchased by the Kemayoran authority, DP3KK). The wave of new residents occupying state land occurred soon after the post-Suharto era. Governor Sutiyoso allowed the utilization of idle state land when Indonesia faced its economic crisis and issued a governor's decree for this purpose (*Kompas*, 14 July 2000) (this is discussed further in Chapter 6). Even though many of the original residents started living in *Kelurahan* Kebon Kosong by directly occupying state land (refer to section 5.1.2), they feel worried or threatened by the new residents. There was fear of being regarded as squatters, even though most of the original residents had occupied the land for more than thirty years and had been paying land and building taxes regularly. Respondents, in particular those in RW 04, asserted that they did not want to be considered as squatters because of the state's attitude towards squatters.

The *Kelurahan* office considers the problem of squatting and environmental issues in RWs 04-09 to be the responsibility of the Kemayoran Implementation Unit and the residents themselves. Land under development permits such as *Kelurahan* Kebon Kosong RWs 04-09 is often considered by local government officials as *daerah bongkaran* and *gusuran* (demolition and eviction area). These phrases imply that the residents in these areas sooner or later will be evicted from the settlement and it will eventually be demolished. Because of this, it seems that the government is reluctant to provide infrastructure or utilities for residents living in these areas.

RWs 04-09 have not received any infrastructure upgrading assistance since 1991.<sup>20</sup> Despite their deteriorated condition, RWs 04 and 05 are not indicated on the Evaluation of Jakarta's Slum Areas (*Dinas Perumahan* 1997). The *Kelurahan* Office has ignored the resident's complaints regarding environmental issues such as smoke pollution from garbage disposal burning and squatter invasion. The response of the *Kelurahan* office to questions on squatters was as follows:

It is a dilemma for us [the *Kelurahan* office] in dealing with squatters. If we ignore them, they [the squatters] create social and environmental problems, but if we intervene to give guidance, it might give the impression that we are acknowledging them—that is what we don't want to happen. It is actually the Kemayoran Implementation Unit's problem because they bought the land, and the area [RW 04-09] is *daerah bongkarun* [area for eviction]. We can only encourage local residents not to give any opportunity to squatters (author's translation, personal communication with Sabar Simamora, *Kelurahan* Secretary, 12 August 2001).

From the above statement, the *kelurahan* officials seem aware that any form of recognition from the state can trigger the growth of squatter settlements, and this has in turn resulted in taking no action against squatters. However, there are local officials who take advantage of this situation by informally taxing the squatters (see Box 5-2). This action provides some form of government authority for squatters and increases their perception of *de facto* security of tenure.

In RW 04 some of the residents that received compensation have moved back, which has caused tension with the original *kampung* residents.<sup>21</sup> The fact that many original residents started out as squatters and occupied the land in a similar manner made them powerless against the invasion by former residents and new squatters into their area. Yet, the manner in which new squatters were invading the *kampung* made these residents worry about their legal status and how government officials would judge them. I sensed tension between the original residents and new squatters. 'It doesn't seem fair for them to move back here if they've already

<sup>20</sup>One exception is the installation of a common water pipe in RW 07 and RW 04 by the Ministry of Public Works in 1994.

<sup>21</sup>According to Dharmawan (1995) many residents sold their rights to the units in the walk-up flats to outsiders and moved back to their previous *kampung*. Their reasons for returning were mainly because they could not afford to pay the monthly instalments and the new flats did not offer any opportunities to promote social networking, which was a dominant feature in the previous *kampung* settlement.

received compensation' or 'they are projecting a negative image that we are all land grabbers' was the common response when asked their opinion on the occupation of land by new residents (respondents no. K-32, K-33, K-34, K-37, K-38 and K-39).

Tension with these new residents increased over the use of common facilities. The matter was resolved when the new residents agreed to contribute to the water bills. Some of these new groups built their own common facilities. However, not all squatters are resented. The original residents are sympathetic if someone approaches them in good faith and shows that they are in need of shelter. 'I don't want to cause any problems with the local residents, so I just asked their permission to build my shelter here and open this kiosk,' explained respondent K-36.

The formation of a community organization, *Gerakan Pemberdayaan Masyarakat Kemayoran* (GPEM), or the Kemayoran Community Empowerment Movement to support land for housing the urban poor created more tension with the original residents. This group was established by two former residents of RWs 04 and 07, to represent new squatters, including those that have already received compensation. Their activities include lobbying the Kemayoran Implementation Unit and bureaucrats to gain formal access to the vacant land in Kemayoran. Many original residents are worried that this organization will jeopardize their opportunity of gaining formal land titles (interview with respondents K-32, K-33, K-39, K-40).

Only in one neighbourhood (RT 01/RW 06) were the residents able to prevent the empty plots from being invaded by squatters. Box 5-4 illustrates this example.

#### Box 5-4 Managing land to prevent squatting

The *rukun tetangga* (RT) organization and local leadership play an important role in preventing squatting (the role of RT is discussed further in Chapter 6). As an example, the trust and social cohesion amongst the original residents in RT 01/RW 06 is quite strong.

The head of the Kemayoran Community Delegates lives in this area and has a close relationship to the RT head. They both conducted meetings with the other households to discuss ways of managing the use of the land and preventing squatters from moving in. In addition, the plot sizes were much larger than the other areas and easier to control. In this part of the neighbourhood, the plot sizes range from 100 m<sup>2</sup> up to 500 m<sup>2</sup> with the status of Verponding Indonesia and state land. The houses are of moderate quality with brick wall and clay tile roofs. The local residents used the empty land for vegetable/ orchards and common parking space.



Figure 5-9 Fenced plots in RT 01/RW 06

The decisions on land use were based on a consensus amongst the residents (there are 27 households in RT 01) in a meeting organized by the head RT and DWK coordinator, who also lived in RT 01. The residents agreed to participate in building a bamboo fence around the empty land adjacent to their plots to prevent squatters moving in (Figure 5-9). Some of the residents of RT 01 were better-off and could contribute to building a bamboo fence. 'We don't want the land invaded by squatters', was the main concern of the residents I interviewed in RT 01. The RT head admitted that the situation of squatting was beyond his authority. 'I can only encourage people not to let squatters move in,' said the RT head.

Source: compiled by author based on interviews with community leaders in RT 01/RW 06 of Kelurahan Kebon Kosong

The above example demonstrates that local land management is possible if there is strong leadership in which the residents were able to reach a consensus on how to protect the land, and financial resources to implement the decision. The larger plot sizes also made it easier for the local community to control the land use. In the following section I discuss the community's claims for land titles.

### *Claims for land titles*

The lack of secure tenure in the form of legal titles is a major concern for residents occupying state land. The Kemayoran Implementation Unit has refused individual requests by residents in Kelurahan Gunung Sahari and Kelurahan Kebon Kosong to register their land even years after the failed land acquisition program. The failure of residents to register their land is reflected in consultations undertaken for this research. One resident of Kelurahan Gunung Sahari explained that he was currently bringing the Kemayoran Implementation Unit to court. The resident already possessed HGB or leasehold rights to his land, but could not upgrade his land titles

to *hak milik* (freehold rights) because the Kemayoran Implementation Unit refused to give their approval (Kemayoran group discussion, 7 February 2003).<sup>22</sup>

As discussed in section 3.1.2, however, the land registration program for urban *kampungs* was not given sufficient attention by the state until the late 1990s. The Housing and Human Settlement Law no. 4/1992, for example, does not mention land registration as an option to improve security of tenure. The head of the National Land Agency had tried to discuss the land registration program with the Ministry of Human Settlements and Regional Infrastructure, but in his opinion, the Ministry (represented by the Director General of Housing and Human Settlements) was more concerned with promoting the *Kasiba* (*Kawasan Siap Bangun* or sites and service areas)<sup>23</sup> and did not consider the land registration program as a priority (interview with Head of National Land Agency, 8 January 2002).

Most of the original residents interviewed consider that land titles will provide legal recognition and give them a stronger bargaining position, in particular when the state or a developer decides to purchase their land. As an example in land compensation schemes, with full ownership rights these residents will be entitled for 100% of the compensation rate. Since participating in the land titling program, the original residents of RW 06 have been able to pressure the local government for some infrastructure improvement. In July 2001, the major street in RW 06 was upgraded with asphalt.

The consequences of obtaining land titles, in particular for the residents in RW 04, had not been fully understood. Most of the residents in RW 04 have small land plots (ranging from 4 m<sup>2</sup> to 20 m<sup>2</sup>), and use common facilities for bathing, toilet and washing. The common facilities were not included as part of the land registered at the National Land Agency. Yet, the representatives of RW 04 never considered that the Kemayoran authority might reclaim the land used for common facilities in the future. One highly respected community leader even dismissed the issue of

<sup>22</sup>Land parcels held within an area under HPL can be transferred to another party and given freehold, leasehold or usage rights under the condition that they comply with the land-use plan (Harsono 1999a: 268).

<sup>23</sup>*Kasiba* (developed area for sites and services) and *lisibr* (neighbourhood sites and services) are two major programs that the Ministry of Human Settlements and Regional Infrastructure and Perumnas (the National Urban Development Corporation) have been trying to push since the early 1990s (refer to section 3.1.2). The Ministry planned to take over land seized from developers by IBRA.

registering common facilities, which he put as a 'matter to be dealt after we obtain our land titles' (focus group discussion, 7 February 2003).

The social capital accrued amongst the residents through the long years of living together and suffering from government oppression has enabled some community members to obtain the opportunity for land titles even when they moved out from the *kampung*.<sup>24</sup> From the 83 plots in the process of being registered in RW 04, eleven plots had absentee landowners. Some of these plots are rented out for housing or commercial use. The landowners had returned to their home villages, but still maintained a good social relationship with their former neighbours in RW 04. One example is a small plot (only 4 m<sup>2</sup>) owned by an elderly widow who had returned to her home village in West Java. When I asked the justification for allowing her to keep her land rights, the community leader replied: 'she is part of our community and resisted the pressure to sell her land to the Kemayoran implementation Unit' (respondent K-39).

SO-OS

This section has demonstrated that there were layers of government intervention (dating back to the Dutch colonial period) that had sometimes supported and sometimes hindered the growth of *kampungs* and the resident's perception of tenure security, in particular since the implementation of Kemayoran New Town in 1985. The case study of *Kelurahan Kebon Kosong* illustrates how the vagueness of law on the role of the state and citizens in urban development has opened up opportunities for those in power to interpret and practise the law according to their own understanding. This has resulted in inconsistent government attitudes towards *kampung* settlements, in some periods acknowledging them and other periods deeming them to be illegal, denying the residents access to infrastructure upgrading, and excluding them from the process of urban development. Several examples are how the Land Acquisition Committee excluded local residents from negotiations on compensation, isolating the *kampung* from the new facilities in the new town

<sup>24</sup> Putnam (1993: 167) describes social capital as 'features of social organization, such as trust, norms and networks that can improve the efficiency of society by facilitating coordinated actions.'

development, and denying them access to urban services. The lack of clear authority on land management has opened opportunities for local residents with certain degrees of power to utilize the land, such as shown in the examples in Boxes 5-1 and 5-2, and also opportunities for illegal activities, such as drug trafficking and gambling to exist.

The analysis of how residents gained access to land and perceived security of tenure showed that the distinction between legal and illegal land tenure is unclear. State interventions such as land and building taxes (*Pajak Bumi dan Bangunan*), as well as informal taxing by local officials, are perceived as signals of government recognition of the residents' rights to land. However, government officials do not consider land taxes as ownership rights. Another example is the different understandings of the legality of *garapan* land by the local residents and government officials.

The research found absentee property owners can still assert their claims to land because of their social connections with community leaders. The government regulation on land registration states that land titles can be granted to those occupying land for more than 20 years without being contested by a third party. If the claims of absentee property owners are supported by community leaders, this could lead to more claims of this nature. This questions the integrity of community-based organizations in land management.

The process of obtaining land titles did not necessarily guarantee the increased perception of security of tenure, because there was no certainty of the residents' role in decisions regarding the future of their settlement. However, it was necessary to gain recognition as legal landowners and distinguish them from squatters, which would enable the residents to have a stronger bargaining position with the state and gain back their rights as citizens, such as the right to participate in decisions affecting their settlement and access to urban services.

## 5.2 KAMPUNG PENAS TANGGUL

From a legal point of view the other case study, *Kampung Penas Tanggul*, could be categorised as an illegal settlement because of its location along a riverbank and its earlier history of lack of administrative status. However, despite its illegality,

*Kampung* Penas Tangkul has shown the resilience of the residents in sustaining and improving their settlement, which many other squatter settlements along the riverbank have not been able to do. The case study begins by examining the policies affecting illegal riverbank settlements, then traces through the history of *Kampung* Penas Tangkul (in particular how the residents gained access to land) and finally uses this to identify the factors affecting how the local residents perceive and gain security of tenure.

### 5.2.1 Policies affecting *Kampung* Penas Tangkul

There are several national policies on rivers and riverbanks. Government regulation PP no. 35/1991 on rivers regulates the use and control of, and institutions responsible for, their management. Although riverbank or canal bank settlements are not mentioned, the regulation does not rule out the possibility of allowing settlements along riverbanks. According to paragraph 21:

River banks, retention basins and flood control dams serve to control floods as well as providing other functions that are beneficial for the local community, as long as they comply with the conditions and procedures stipulated by the relevant Minister (author's translation).

The regulation also states that the right of way should be more than five metres from the edge of the riverbank, but this depends on the river type (paragraph 5). The Ministry of Human Settlements and Regional Infrastructure (formerly the Ministry of Public Works), however, has declared that the riverbanks be cleared for 25 metres on each side.

The Clean River Program (*Program Kali Bersih*, abbreviated *Prokasihi*), coordinated by the State Ministry of Environment encourages community participation in maintaining river water quality and riverbanks. This program has been implemented since 1989. The Jakarta administration and the State Ministry of Environment have conducted several programs to build community awareness of and participation in the clean river program, such as the Ciliwung River Rally in 1999. In 2001, the Jakarta administration declared Cipinang River a pilot project for environmental management. The Cipinang River was chosen because it was located near the office of the State Ministry of Environment, and was considered to be more manageable than the Ciliwung River. The Cipinang Bening Forum is coordinated by

the Centre for Human Resource and Environmental Research, University of Indonesia. Since it began in 2000 its programs have included training for NGOs in community empowerment and building participation amongst local communities, NGOs, developers and the government to improve settlements along the riverbank. The centre conducted a study on the Cipinang river pollution in July 2001. This study concluded that although accumulated domestic waste had made a contribution, pollution of the river was mainly due to untreated industrial waste.<sup>25</sup>

Although these environmental programs are encouraging the participation of riverbank communities, there are local policies and regulations that contradict the long-term certainty of such settlements. There is also a strong belief amongst government officials that squatter settlements along the riverbank are increasing the chances of flooding (Figure 5-10; *Kompas*, 20 June 2000). However, modern buildings along riverbanks that do not conform to the zoning codes are rarely demolished, which shows the bias against the urban poor. One clear example is the office of the State Ministry of Environment, located less than 25 metres from the riverbank (Figure 5-11).

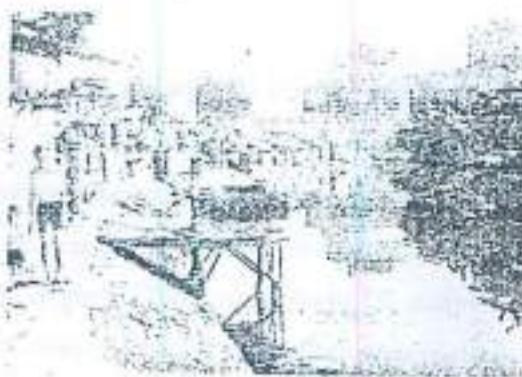


Figure 5-10 Typical riverbank settlement in Jakarta

Source: Jellinek 1991



<sup>25</sup> During the period 1995-96, of the 175 industries participating in the Clean River Program, only 86 industries complied with the standards for waste treatment (State Ministry of Environment website, <http://www.menlh.go.id/eng> accessed 18 July 2002).



Figure 5-11 Office of the State Ministry of Environment Affairs

Another example of the government's preference for modern buildings is the city's local planning regulation, which encourages the integration of public buildings in the development around rivers (paragraph 5, article 33). Recently, the Jakarta administration approved the construction of two shopping malls located along Jakarta's riverbanks. One shopping mall is planned to be built along the Sunter River less than 15 metres from the riverbank (*Suara Publik*, 23 May 2002). The Jakarta administration also plans to build walk-up flats along the riverbank (*Warta Kota*, 11 October 2001).

The implementation of the 'closed city' policy has had a significant impact on squatters such as those in *Kampung Penas Tangkul*. On several occasions and in interviews with journalists, Governor Sutiyoso has spoken of his antipathy towards squatters and illegal migrants, and expressed his desire to return these people to their home villages (*Kompas*, 20 September 2001). Forced evictions have been the main method to deal with squatters and illegal settlements. The evictions are carried out by the *pamongpraja* (municipality security guards) under the Jakarta Public Order Office, without coordination with other relevant offices in the Jakarta administration such as the Housing Office and Social Office. Victims of forced evictions such as the residents of *Kampung Penas Tangkul* are often left homeless and must find their own ways to survive.

The amount of public housing in *Kelurahan Cipinang Besar*, as well as in the whole *Kecamatan Jatinegara*, is very limited. At the time of doing this research there were only 152 rental housing units in *Kecamatan Jatinegara*. These rental-housing units were built in 1987 and are managed by PD Sarana Jaya, a local state-owned company. The Jakarta Housing Office projected that 600 units would be built by

2000, but to date there has been no additions (*Dinas Perumahan* 1993, *Dinas Perumahan* 2001). According to Irzal Djamin, former Head of the Jakarta Housing Office, the major obstacle for building public housing is the lack of land. The unavailability of land is the major reason why they have been unsuccessful in reaching their annual housing target. In Djamin's opinion, land acquisition for public housing should be supported by the SP3L permit. With this permit the Jakarta Housing Office would have authority to acquire land (refer to section 3.2). However, this is impossible, because the President's Decree *Keppres* 53/1993 on Land Acquisition does not include housing as a public purpose that could be supported by such a permit. In addition, the Jakarta Housing Office has insufficient funds to purchase land. The main mechanism to acquire land for public housing projects is through direct purchase with local landowners in particular informal settlements. So far, they have been unable to negotiate a consensus on the land price. The fact that developers can obtain the SP3L permit shows that the local government still gives priority to economic development rather than social development such as housing the poor. The land allocated for public housing mostly consists of slums or squatter areas that are deemed suitable for urban renewal. In the *reformasi* era *kampung* residents usually ask for prices exceeding the market rate (*Warta Kota*, 28 August 2002; personal communication with *Bappeda* staff, 12 January 2003).

Land management is a problematic issue. There are quite a number of idle land plots in *Kelurahan* Cipinang Besar Selatan, in particular around *Kampung* Penas Tanggul, although the total amount is unknown. The *kelurahan* secretary asserted that it was not their responsibility to report idle land. Their job was only to report the total amount of land and building tax (*PBB*) received, and the estimated composition of land use. They assumed that the Ministry of Finance or the National Land Agency would be responsible for land management (Adhe Bahar, interview 14 January 2003).<sup>26</sup> Despite the shortage of staff at *Kelurahan* (each section has only two to three staff), there is hardly any effort to involve the local community in creating their own map of land and environmental problems occurring within their administrative area.

<sup>26</sup>In the view of the Head of Land Registration, National Land Agency, the Governor of DKI Jakarta should conduct an inventory of unutilised land (7 February 2003).

The criteria for a *kampung* settlement to receive government-sponsored infrastructure-upgrading assistance depend on: a) its location—whether or not the *kampung* is in a planned housing zone; b) its density; c) the condition of its buildings and infrastructure; and d) its administrative status (whether the *kampung* has RT status). Under these criteria, a 'legal' *kampung* (in terms of its administrative status) with poor physical conditions, but located in an area zoned for industrial development would not be eligible for any government upgrading assistance and it would be subject to relocation. These criteria also apply for upgrading projects sponsored by international donor agencies such as World Vision or the World Bank. Upgrading projects depend on the available funding. Between 1991 and 1999 the *kampung* improvement program KIP MHT III was implemented in only 85 of the total 267 *kebunchans* in Jakarta. Kebunchan Cipinang Besar Selatan did not receive any upgrading programs during that period, but received assistance from World Vision in 2000.

To conclude, the policies and programs affecting slums and riverbank settlement are often contradictory, but are mostly unfavourable for squatters and informal settlements. Land management is problematic because of the unclear responsibilities for managing such land. The next section describes how these policies and programs affected the *Kampung Penas Tanggul* settlement, and discusses how these factors affected the community's perception of security of tenure and their ability to improve their settlement.

### 5.2.2 A history of *Kampung Penas Tanggul*

The history of *Kampung Penas Tanggul* was constructed by the author from the stories of the residents and the NGO activist who had lived in the area during the 1980s. The name *Penas* originated from the name of the *Perfilman Nasional* (National Film) building, located nearby along the Cipinang River. *Tanggul* refers to an elevated wall along the Cipinang River, which distinguishes this *kampung* from another neighbouring *kampung*, *Kampung Penas* (currently RT 014). As will be explained later, *Kampung Penas Tanggul* obtained status as RT 15/RW 10 of *Kelurahan Cipinang Besar Selatan* in August 2000.

My fieldwork identified three different groups in the case study (see Figure 5-12). The three groups gained access to land during different periods in different locations, and have different tenure claims, as shown in Table 5-7.

Table 5-7 Tenure claims of the three groups in *Kampung Penas Tanggul*

Claims	Group 1	Group 2	Group 3
Informal claim	East Riverbank <i>Girik</i>	West Riverbank <i>Gorapan</i>	Chinese Cemetery Squatter
Formal claim	Disputed land	State land	State land
Strength of claim	Strong	Weak	Weakest

Source: Winayanti and Lang (2004)

Group 1 consists of the original *ganapan* farmers who came to live in *Kelurahan* Cipinang Besar Selatan during the late 1960s. During that period, they were living in another location but were relocated because of a major development project. The former *Lurah* distributed the land to these farmers and allowed them to use it for farming and building their shelters. One of the respondents explained that he was only keeping an eye on the land for the owner, a retired marine security guard. Yet, according to the NGO (*Institut Sosial* Jakarta), the marine security guard actually was an employee of PT Jaya Konstruksi, one of the leading construction companies in Indonesia.<sup>27</sup> In the past, PT Jaya Konstruksi received a permit to acquire land for their building material factory. They were able to build the factory but did not acquire all the land under the permit.

During a land dispute between the residents of group 1 and the developer, the court ruled in favour of these residents and allowed them to continue living there. However, there was no clear follow-up regarding the status of this land plot. To date, the developer's land certificate still includes this parcel of land. In the *reformasi* era, the developer went bankrupt, and the Indonesian Bank Restructuring Agency (IBRA) took control of their assets.<sup>28</sup>

<sup>27</sup>PT Jaya Konstruksi is one of the companies owned by Indonesia's largest property developer, Ciputra.

<sup>28</sup>IBRA plans to sell this property, as well as many other properties confiscated from bankrupt banks to raise funds to pay back their debts.

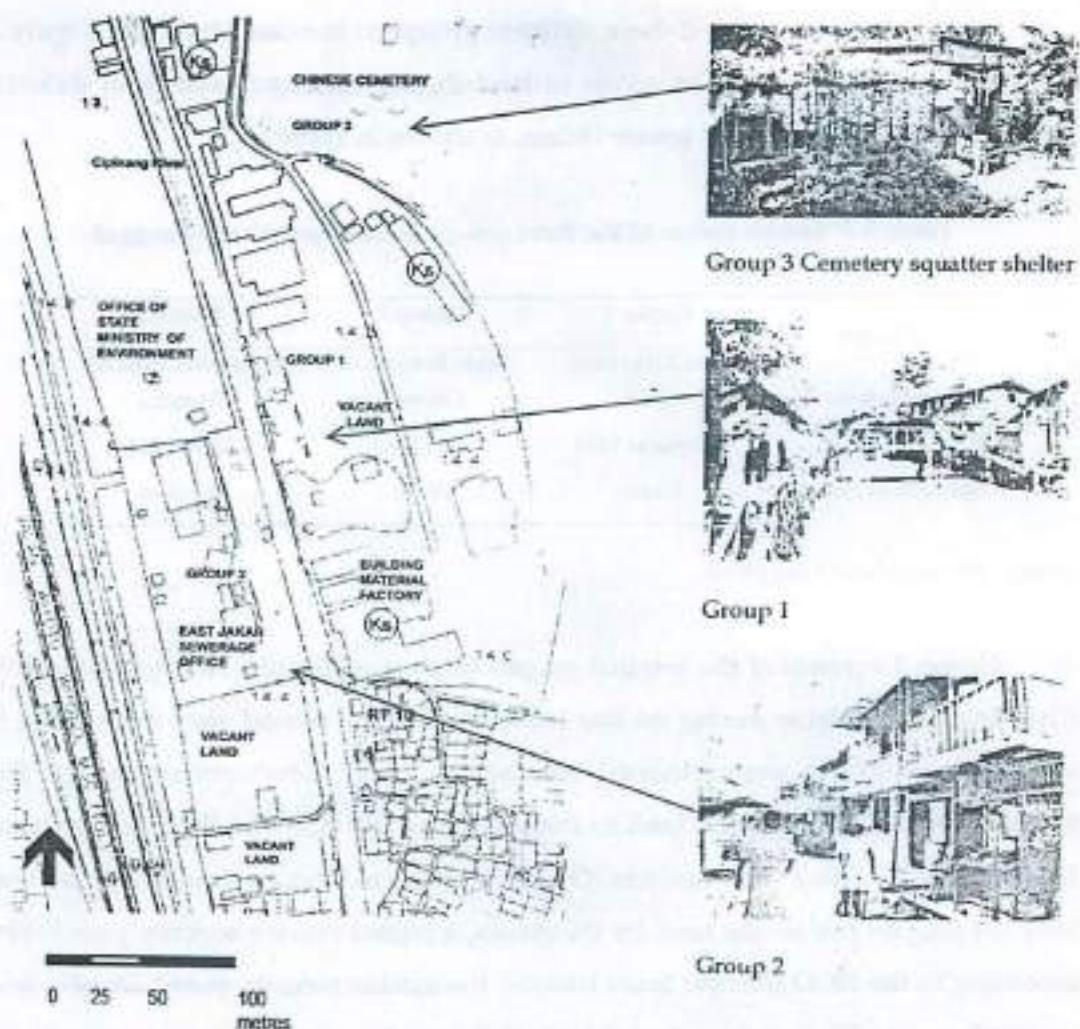


Figure 5-12 Location of *Kampung Penas Tanggul* and the three groups in August 2001

Source: Winayanti and Lang (2004) reworked by author.

The respondents in Group 1 had no legal or written documents of their *girik* claims to the land. Yet, regardless of the absence of legal documents, these people felt more privileged than Group 2. 'We are not like the people across the river [Group 2]. The *Lurah* gave his approval to use this land. My wife and I are members of this community (RT 010) and are involved in many community activities such as *majelis taqlim*, *pengajian* and *arisan*. I was even the head of *Majelis Taqlim*', said one of the respected community figures of Group 1.<sup>29</sup>

<sup>29</sup> The assumption that Group 1 has *girik* titles was because the *Lurah* allocated the land for them and gave approval to use the land for housing. *Majelis taqlim* and *pengajian* are some of the Islamic community activities, while *arisan* is a women's rotating fund group within a community.

Group 2 are mostly victims of forced evictions, and obtained subdivided plots from the original *garapan* farmers by paying a small compensation fee for the crops, Rp. 7,000 to Rp. 7,500 per plot.<sup>30</sup> The marshland plots are approximately 2.5 by 8 square metres. The marsh was 1.5 meters deep, so the original houses were built on timber platforms. The development of new buildings and an elevated freeway nearby gave them access to cheap (or most of the time free) building materials and building rubble to fill up the marshland beneath their houses so they could build and repair their houses on solid ground. This method is typical of many other river and canal bank settlements, in particular in North Jakarta, as noted by Krausse (1975 quoted by Baross 1983: 192):

A special type of settlement in the northern part of Jakarta is the marshland squatter *kampung*. Here a large portion of the *kampung* population is compelled to utilize extensive coastal swamp land for settlement. The encroachment on marshlands by settlers is carried out systematically along the marshy fringes, progressively adding more dry land as more people move into these areas.

Many of the respondents acknowledged *garapan* land as state land, but felt they had the right to utilize it for farming and housing. 'State land is different from government land [pointing to the land behind the walls of the government buildings]. We are using *garapan* land,' said several respondents in Group 2 (respondents P-1, P-11 and P-13). However, several other residents acknowledged that the land they occupied was under the jurisdiction of the Jakarta Flood Control Authority/Public Works Office (*Kopro Banjir PLI*), and showed their concern on the future of their settlement.

Group 3 is an outcast community consisting of squatters who use the Chinese cemetery as their shelter. This group also consists of victims of forced evictions from other parts of East Jakarta. Their position is the weakest, and is complicated by the unavailability of land for housing in the surrounding area, as Groups 1 and 2 already occupy it.

<sup>30</sup> In 1986, one US \$ was about Rp. 1,650.

### Local land management

The three groups described above have different ways of managing the land for housing. Group 3 is well aware of their status as squatters. They have built temporary shelters that can be easily dismounted in case of police raids or visitors during burial ceremonies and the Chinese New Year. Group 1, which claims to have *girik* title, subdivided the land. This group seemed very confident of their position within the *Kelurahan* community and refused to be considered in the same position as Group 2. Most of the residents of Group 1 consider themselves as members of the RT 10 community. They also have ID cards issued from the *Lurah* with the address of RT 10. The coordinator of the NGO (*Institut Sosial Jakarta*), admitted how difficult it was to involve Groups 1 and 3 in their community discussions or activities. Some members would come and give their support, but they would never participate in the activities.

Group 2 was successful in organizing themselves in managing the land and improving their environment. Land management issues include the allocation of land for public facilities such as public bathing-washing-toilet facilities (MCK), chicken cages, and green spaces (Figure 5-13). The role of the NGO, *Institut Sosial Jakarta* (ISJ), was crucial in mobilising the community and building their confidence and cohesiveness.<sup>31</sup>



a) Public bath-toilet-wash (MCK)

b) Communal chicken cage

c) Banana orchard

Figure 5-13 Public facilities in *Kampung Penas Tanggul*

The land plots and location of public facilities such as the public bathing-washing-toilet facility (MCK), vendor parking space and waste disposal area are

<sup>31</sup>The local NGO, *Institut Sosial Jakarta* (ISJ) first came to assist the Penas community in 1986. During that time, ISJ was led by a catholic priest, Romo (Father) Sandyawan, and assisted by Nainggolan, who was the coordinator of ISJ at the time of the fieldwork.

well organized. The residents moved their 'floating toilet' from the middle of the river, and built several public bath-toilet-wash facilities (MCK) along the riverbank. The community avoided further densification of their settlement by preventing new settlers from building new houses and by planting banana trees along the riverbank. The banana orchard served as a green area to improve the riverbank environment and reduce the impact of flooding. The community would meet on a regular basis at the *balai warga* (community house), which was built by the NGO for their base camp and as a meeting place for the community (discussed further in section 5.2.2). During these meetings, the community would discuss their problems and find ways to deal with them.

### 5.2.3 Administrative status as *Rukun Tetangga*

In *Kampung Penas Tanggul*, a series of events or conditions led the residents to gradually invest in infrastructure and house improvements. These improvements were most significant amongst Group 2. Although house improvements occurred within Group 1, the layout of the houses and common MCK facilities were not as organized as in Group 2, which had originated from subdivided land plots. One of the most valuable assets of Group 2 was their cohesiveness as a community, which was reflected in many of their activities and *golong-ropong* (mutual self-cooperation) to improve and maintain their environment.

In 1991 the Mayor's Office issued a Letter of Eviction (*Surat Perintah Bongkar*)<sup>32</sup> stating that within seven days of the issuance date all the residents along the riverbank had to remove themselves from the riverbank. The letter was tied to a rock and thrown at one of the houses. The residents of Group 2 realized that there was something wrong with the letter, besides the manner in which it was delivered. The date of the letter showed that it had been issued five days earlier, so the residents had only two days to leave. They demonstrated at the Governor's Office and the People's Regional Representative Council (*Dewan Perwakilan Rakyat Daerah* or

<sup>32</sup> The local government uses the *Surat Perintah Bongkar* (SPB) or Letter of Eviction to evict squatters and small traders from a particular location.

DPRD), and demanded their right to stay on the land. Five *metrominis*<sup>33</sup> of the *kampung* Penas Tanggul community participated in the demonstration, with another minibus carrying only women and children. This made a positive impact in a protest demonstration to fight against military violence.<sup>34</sup> This event proved to be a turning point in the community's struggle for land and their right to live along the riverbank. Later the residents found out that a private developer was behind the eviction scheme. The developer was trying to buy up the land, and had approached the Mayor's Office for assistance. Eventually the residents were allowed to continue living there. However, some of the land along the river on the southern part of the current Group 2 settlement could not survive the forced eviction and the residents were cleared away. This land remains vacant to this day (refer to Figure 5-12).

Two other evictions occurred in March 1992 and June 1993 around the cemetery area and developers' land, and another in July 1997, which evicted most of the residents living on the east side of the riverbank south of *Kampung* Penas Tanggul. In these evictions 38 households with 109 residents lost their houses. Some of these residents continue their life squatting in the cemetery, as there is no available land for them to build their own housing. In the 1997 eviction, each household was given Rp.150,000 for compensation. Four of the households (one of them is a widow) for some reason did not receive any compensation, but ISJ provided them with a 'solidarity' fund of Rp.100,000 per household.

Since 1991 there have been no evictions directed at Group 2, and the community has gained confidence to continue residing in that area. With the assistance of ISJ the community was able to utilize their resources to upgrade their pathways and build communal bath and toilet facilities and water pumps. The residents understood that plants and trees are important to absorb water, which would reduce the impact of floods. So they planted a banana orchard on the other side of the riverbank. 'The greenery provides a nice view and we can eat the fruit,' said one respondent (P-2). River scavenging is another practice that the community

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<sup>33</sup> *Metromini* is a local minibus used for public transport in Jakarta. One *metromini* can carry up to 20 passengers. The residents describe the number of participants by referring to the number of minibuses.

<sup>34</sup> Forced evictions are usually conducted by municipality guards and assisted by the military such as in Pelumpang (refer to Chapter 3).

conducts to maintain the river flow. This is an activity that small children enjoy as they sometimes find interesting objects in the river. In 1996 the community protested against the dumping of solid waste by the Jakarta Sewerage Agency. The office of this agency is located behind the *kampung*. They were supposed to take the waste to a depot, but instead they directed the hose from the truck into the river.

Over the years the community had made several attempts to gain formal recognition as an RT. Without the RT status they had no formal address, could not obtain Identity Cards,<sup>35</sup> and were considered as illegal citizens. Without an identity card and family card,<sup>36</sup> the residents could not enrol their children in public schools. This illegal status also denied the community any government assistance programs (such as the Poverty Alleviation Program) or other donor aid programs. In 1997 they appealed to the *Kelurahan* office again, and again were denied the status because of their illegal occupancy of land. In 2000, in the reformation era, ISJ lobbied the Minister of Human Settlements and Regional Development, Erna Witoelar to obtain RT status. Minister Witoelar's role in the process of gaining RT status was pivotal. Before becoming Minister she was a consumer rights and environmental activist. Her background as patron of NGOs made her approachable to NGOs and the problems of the poor. The ISJ activist, Nainggolan was able to contact the Minister during a meeting concerning the environmental management of the Cipinang River and arrange for her to visit the *kampung*. Finally in August 2000 after the Minister visited the *kampung* the community obtained RT status. As minister, Witoelar was able to pressure the Lurah to provide RT status and local ID cards to the riverbank community.

### *Perceptions of security of tenure*

The chronology shown in Table 5-8 shows that there was a form of authority that supported the perception of security of tenure for the residents. In Group 1 it was

<sup>35</sup>In Indonesia, each local government issues its own Identity Cards or *Kartu Tanda Penduduk* (KTP). Some of the residents in *Kampung Penas Tangkul*, in particular Group 1, were able to obtain Identity Cards through their neighbour *rukun tetangga*, RT 10. Their mail was also addressed to RT 010.

<sup>36</sup>The local government requires citizens to fill-in a family card (*kartu keluarga* or KK) containing information of the permanent residents under one household. This card is used in many administrative procedures such as registering children at local schools, applying for an ID card and applying for marriage certificates.

the support of the *Lurah*, who had distributed the land to the original *garapan* farmers. In Group 2 it began with the assurance of the former *garapan* farmers who had subdivided the land, and the support of the NGO and People's Regional Council (DPRD). The NGO was able to empower the community with the ability to define their own problems and organize the residents to make important decisions regarding their livelihood and environment. These decisions included the protest at the Mayor's office and People's Council (1991), the relocation of their MCK facilities and the planting of the banana orchard (1992), a protest against waste dumping (1996), and incremental infrastructure upgrading (1997-2000).

Table 5-8 Chronology of struggle for security of tenure in  
Kampung Penas Tanggul

1968-1975	Empty land utilized for farming. Several farmers settled down and built their homes in the form of elevated wooden structures.
1986	Farmers offered land plots to victims of forced eviction from surrounding area. Subdivided farmland into plots about 2-3 metres by 8-10 metres. Prospective residents had to fill up the marshy land, using reject material from a nearby construction project.
1991-1995	Letter of Eviction from Mayor's Office No.3506/1.754, dated 25 Sept. 1991. 27 September 1991: the community demonstrated at Mayor's Office and People's Council (about 5 minibuses full of people). The community's appeal was accepted. ISJ built a two-story model house that gave the residents confidence to follow this example. ISJ assisted in utilizing resources to upgrade the settlement. Community cleaned up part of riverbank to plant banana trees.
1996	Community demonstrated against waste dumping into river. This reflects how the community can act as an 'Environmental Watchdog'.
1997-1999	Infrastructure upgrading through self-help approach for footpath paving, public toilet relocation (from centre of the river to the riverbank), and garbage disposal program. The <i>reformasi</i> era starting May 1998 built hope and confidence to continue living in Kampung Penas Tanggul.
2000	Minister Erna Witoelar visited Kampung Penas Tanggul in June 2000. Formal recognition of RT status in August 2000. Fear of being evicted is less, because of the political change in Indonesia. Formal recognition as RT permitted residents to receive donor aid, such as from World Vision International. Major improvements in <i>musholla</i> (small mosque) and house conditions have been occurring.
2001	Residents still feel a certain degree of uncertainty – whether they will be forced to move again due to the Cipinang Clean River Program. The community built a <i>musholla</i> to secure their position. They are still seeking formal recognition from the government to continue living in Penas

Source: Documentation of NGO, interviews with NGO and community (2001)

Although they were able to overcome some of the physical problems by improving their environment, providing their own infrastructure and building their own public facilities, they could not overcome the social costs of bearing the label

*penduduk liar* or 'illegal citizen'. As *penduduk liar*, the residents could not obtain a local ID Card or family card (an administrative requirement as a legal citizen). Without an official ID card or family card (*Kartu Keluarga*), the residents cannot obtain formal jobs or enrol their children in schools.

In *Kampung Penas Tanggul* local thugs, referred to as *prokem*, took advantage of the community's vulnerable situation by levying monthly taxes in return for keeping the *kampung* safe from police raids. The thugs also used the *kampung* to hang out and get drunk. For them, the illegal status was an advantage, because they knew that the government ignored illegal *kampungs*, and did not keep a record of the residents. They did not harass the residents of Group 1, who were already considered part of the community in RT 10.<sup>37</sup>

All the above problems created a strong necessity for the community to obtain RT status. Table 5-9 compares the costs and benefits of living in *Kampung Penas Tanggul* before and after obtaining RT status. There are additional benefits after obtaining RT status, thus demonstrating the importance of obtaining administrative status. According to the residents, criminal activities such as informal taxing, gambling and consuming alcohol disappeared after the *kampung* gained administrative status. Although administrative status has brought more aid into the *kampung*, it is actually the residents themselves that have managed to build the notion of a community despite their different backgrounds. This was a process achieved years before obtaining administrative status.

<sup>37</sup> Residents in Group 2 who held local ID cards did not face any harassment from local hustlers. This led to the belief amongst residents that the hustlers were working closely with *kelurahan* officials in identifying illegal residents.

Table 5-9 The costs and benefits of living in Kembangan Petas Tangsel before and after obtaining RT status

COSTS	BENEFITS
<b>Before obtaining RT status:</b>	
Unclear land status	Availability of income-earning opportunities
Frequent flooding	Accessible public transport
Fear of being evicted	Accessible water
Low quality infrastructure	Able to build incremental housing units according to materials and funds
Denied access to government infrastructure upgrading programs	Accessible construction material (remains from other construction sites)
Informal taxes	
Denied access to formal education	
<b>After obtaining RT status:</b>	
Unclear land status	Additional benefits accrued:
Frequent flooding	Eligible to obtain government and donor aid, including infrastructure through formal channels
Fear of being evicted (but less than before)	Legal citizens (ID card, family card and other social benefits)
	Clear address
	Safer area (local thugs and informal taxes disappeared)

Source: modified by author from Winayanti and Lang (2004) based on interviews with respondents (April-August 2001)

Since obtaining administrative status as an RT unit, there has been a significant increase in the number of house improvements in the community. I observed 20 houses, from a total of 83 houses (almost 25%), that had recently been or were currently undergoing major renovations—reinforcing the lower wall with bricks, tiling the floor, adding a terrace in front of their houses and even their own private toilet. Ten households had recently had their own electricity meters installed. The four stages of house improvement shown in Figure 5-34 reflect the increase of the residents' perception of secure tenure over time. The residents consider the construction of a permanent *musholla* (small mosque) as one way of securing their position in the area. The *musholla* not only serves as a centre of religious and social activities, but the local residents also believe that government authorities would not dare tear down a holy building.

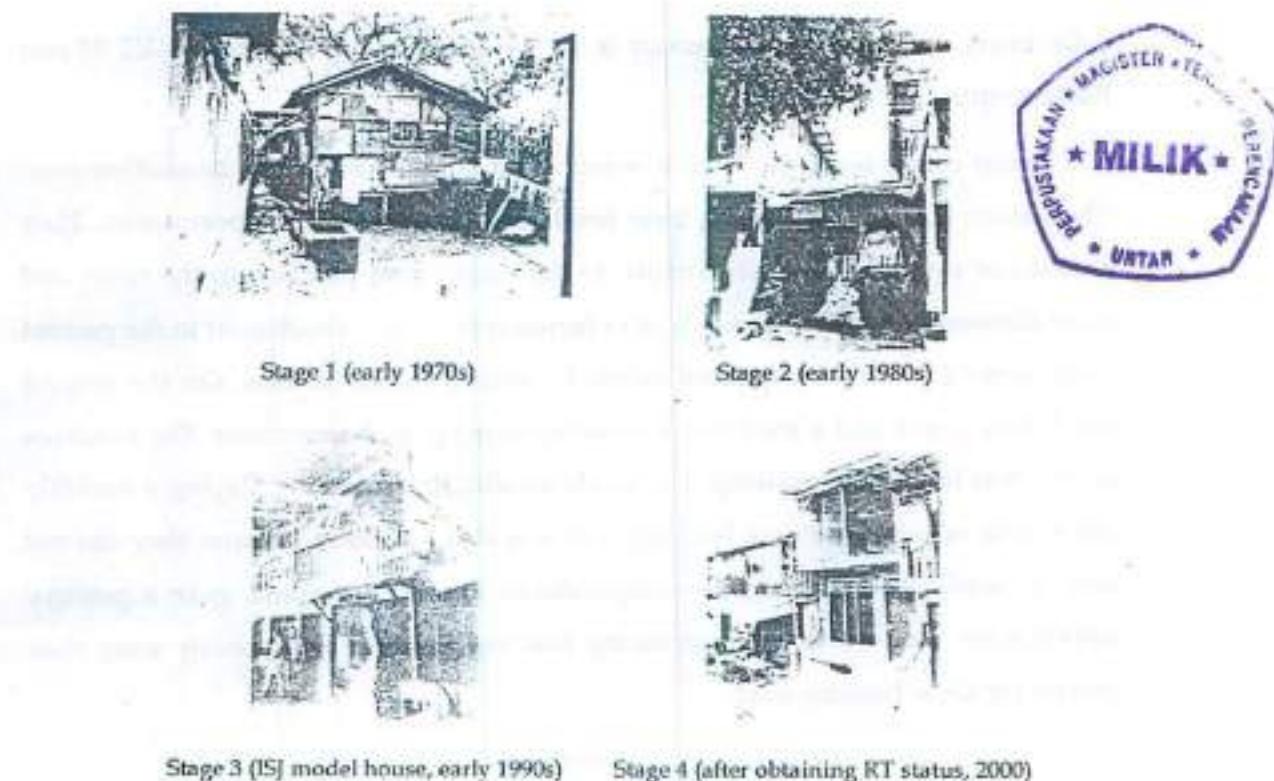


Figure 5-14 Stages of house improvement in Group 2

Source: Winayanti and Lang (2004)

However, even with RT status, some residents were worried about the impacts of the Clean River program on the long-term certainty of their settlement. In a focus group discussion (8 February 2002), several residents expressed their interest in having their land registered at the Tax Office. One resident understood that land and building tax (PBB) was one step towards land ownership. He heard that after 30 years the land could be registered, provided that it had a minimum plot size of 20 m<sup>2</sup>. Several other residents understood that PBB was actually evidence of land ownership. The NGO, who was also present at the discussion, clarified that PBB was not evidence of ownership, but just a tax receipt for using land. The residents, however, all agreed that having PBB would be beneficial because it would provide some compensation in case of an eviction, and is often used as a requirement for administrative purposes. The community leader cited the example of their efforts to obtain the city water connection. The government required a copy of the residents' PBB in their application. However, without this requirement the *Penas* community was fortunate to obtain the connection because their request was organized

collectively with another community in RT 10. Many of the residents in RT 10 had PBB receipts.

Most of the residents were worried about possible relocation to another area. Their main concern was losing their neighbours and business opportunities. They would not mind if they had to move to the empty land plot across the river, and were allowed to build their own houses incrementally. The attachment to the ground level seemed to be an important factor for building their houses. On the ground level, they could add a food stall or *warung* to support their income. The residents feared that living in a walk-up flat would restrict these options. Paying a monthly instalment or rental fee on a housing unit was also a concern because they did not have a steady income. Only two respondents, who were renters, gave a positive response on walk-up flats, emphasizing that location and affordability were their criteria for these housing units.

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The analysis of how the *kampung* residents gained access to land showed that even within one *kampung* there are different groups with different understandings of legality of land tenure, which depended on their relationship with local authorities (the *Lurah*) and their acceptance as community members. This also demonstrates that at the local level there is a diversity of social forces with their own local rules, which supports Migdal's theory of the structure of societies in developing countries that he refers to as weblike societies (refer to Chapter 2).

The implementation of the closed city policy made it impossible for new squatters to gain recognition as an RT unit. For Group 2, upgrading their environment was their strategy to secure and negotiate their occupancy along the riverbank with the government. Their claims for administrative status as an RT unit was essential for them to gain formal recognition as citizens, and subsequently their rights to urban services such as education, utilities and government assistance in infrastructure upgrading. In addition, gaining administrative status freed the residents from local thugs and informal taxing. The improvements in Group 2 contradict the general assumption that squatter settlements are an eyesore and source of crime. This process however, was not possible without the intervention of

the NGO, who built their cohesiveness as a community and awareness of their rights to live and work in the city.

Minister Witoelar's role in the process of gaining RT status was pivotal. Her ambiguous position—at one point an important figure in the evolving NGO movement, working to build connections between community groups and other civil society organizations; at another point, her linkages to the emerging political party structure in Indonesia bring her to the fore as an important Minister whose actions are consequential for the residents—demonstrates the blurred boundaries between the state and society.

Despite these benefits, most residents still have doubts about their long-term certainty to live along the riverbank. Efforts to relocate the residents have been unsuccessful because the government has not been able to allocate land for housing the urban poor. This is due to the barriers in land administration that still follow the ways of the New Order era.

### 5.3 CONCLUSIONS

In this chapter I have argued that although the claims to land were not the same in the two case study areas, they were similar because they arose mainly from the residents' sense that they have rights as citizens for decent housing and access to land. The analysis showed that as a result of their unclear land status both communities suffered from being excluded from development and were discriminated against. The *kampung* residents experienced denial of certain rights, such as rights to negotiate compensation, access to infrastructure upgrading, utilities and to education, and fear of being considered to be squatters. This occurred not only because of the land policies affecting the *kampung*, but also because of how these policies were interpreted by government officials, and the prevailing social attitudes towards the *kampung* and its residents.

The analysis provides a better understanding of how squatting occurs and the factors supporting the residents' perception of security of tenure. The action of squatting is not just a result of land occupation; it is also encouraged by the state's incapacity to manage land and the consequent lack of authority, which stimulates the concentration of power or social control amongst particular *kampung* residents or

groups to utilize the land, sometimes leading to negative outcomes and conflicts between groups controlling the land, and between the community and local authorities.

The findings show that there are various degrees of legality of land tenure held by different groups in a community, which supports the argument that illegality and legality of land tenure should be seen as a continuum (Payne 2000). One example is the meaning of *garapan* land: government officials and kampung residents both acknowledge it to be state land, but they have different understandings on the legitimacy of those utilizing the land.

The findings show that attitudes of local officials and local leaders play a major role in supporting the perception of *de facto* security of tenure. The implication of these findings is that government policies to improve security of tenure should recognize the diversity of tenure arrangements at the kampung level and the factors leading to the residents' perception of *de facto* security of tenure. It is essential that if the government is planning to improve policies to support security of tenure in a kampung it is necessary for it to understand the history of how the kampung settlement emerged.

The process of understanding the community's rights as citizens and in land would not have been possible without the role of community organizations and NGOs. The processes adopted by the communities in their struggles and the factors affecting their outcomes in the *reformasi* era are discussed in their own right in the next chapter.

# 6

## Political Opportunities in the *Reformasi* Era

Some intellectuals claim that the late 1990s was the beginning of the rise of Indonesia's civil society (Fakih 1996, Hikam 1997, Budiman 1998, 2001). The resignation of Suharto in May 1998 symbolized the fall of the New Order regime, and raised the expectation of better governance. On the community side there were high expectations that the 'reformed' government would change to be more democratic and responsive to the needs of the poor. As explained in Chapter 3, most urban legislation in Indonesia limits participation in the process of urban development. Although new legislation issued at the beginning of the *reformasi* era seems to allow greater participation in urban development, its effect on community struggles for land requires further examination at the local level. The previous chapter discussed why the community's claims to land were necessary to gain their rights as citizens. This chapter discusses how the community struggled for their claims to land and the opportunities seized by them in the two case study areas in light of these political changes.

I argue that the opportunities for gaining claims on land are dependent on three factors that work in close connection with one another. The first factor is related to the slow-down of urban development after Indonesia's economic crisis, which has reduced the pressure for land by the state and the private sector. The second factor is the change in political climate, in which a positive relationship developed between

NGOs and the government during the brief period of Abdurrahman Wahid's term as president. However, this opportunity could not have been seized without the empowerment of the local community in understanding their social rights and their evolution from a local-based struggle to a network struggle, and this indeed constitutes the third factor.

In section 6.1 I discuss the relationship between the NGOs and the central and local government, and the social-political changes that occurred during the presidential terms of Abdurrahman Wahid (October 1999-August 2001) and Megawati Sukarnoputri (August 2001 to the present), which have affected the Jakarta local government's attitude towards informal settlements and NGOs. In section 6.2 I discuss the process of community empowerment in the two case studies by examining their activities in the two periods, namely the New Order and the *reformasi* era. Finally, section 6.3 draws conclusions from these studies and analyses.

## 6.1 THE RELATIONSHIP BETWEEN THE NGOs AND THE GOVERNMENT

To describe the relationship between NGOs and the government, I refer to the models of NGOs proposed by Eldridge (1990) (refer to section 2.3.2). However, rather than categorizing the NGOs into one model, I argue that NGOs in the two case studies have played different roles depending on the circumstances of the community involved and the political opportunities that were open to them. This section elaborates the roles of the two NGOs by examining their relationship with the government in the *reformasi* era. Before doing so, I provide profiles of the two NGOs below.

### Box 6-1: Profile of the Urban Poor Consortium (UPC)

The Urban Poor Consortium (UPC) is a civil society organization (CSO) that works together with marginal groups using a holistic and participatory approach. The main goals of UPC are to 'develop strong grassroots organizations and a network capable of reclaiming the rights of the urban poor to live a dignified and humane life in the city, to obtain secure land entitlement, and to be able to participate in decision making that shapes the future of their communities.'

Its strategies include building critical awareness of people's rights, collective action to build political consciousness and driving to participate in public decision-making. UPC works at three levels. The

first level is organizing the community with community organizers from the community itself through various activities such as credit unions and alternative healthcare, and raising the community's critical awareness. The second is the city level, where three types of networks are being developed: 1) a network of NGOs dealing with urban problems in the Jakarta Metropolitan Area; 2) a network of enlightened individuals from the bureaucracy, universities, the private sector, artists and intellectuals; and 3) a network of urban poor communities to enhance solidarity and cooperation amongst themselves. UPC conducts training programs for community leaders. By training them, UPC hopes that these leaders will assist in empowering the local community. The third level is the global level, at which it focuses on disseminating information about the local situation and learning from experiences in other countries.

UPC coordinator, Wardah Hafidz, admits to playing a high profile and gaining media attention in advocating the rights of the urban poor. 'We don't want to spread too thin—but we do reach out to the national level through a strong network in many big cities in Indonesia. Our strategy is to be high-profile: when the media covers our activities, we can give ideas to other parts of the country. As an example, when we do advocacy against the local budget, now NGOs and community groups in other cities pay attention and focus on their own city budgets and struggle against their own unjust city budgets.'

UPC has a flexible and open organization. The members' forum is the highest body for decision-making. The secretariat coordinates all the activities. Eight NGOs/CBOs and 18 individuals are members of the UPC forum. Among them are the Urban Poor Community Network (*Jaringan Rakyat Miskin Kota*); the Jakarta Legal Aid Foundation (LBH Jakarta); the Apik Legal Aid Foundation (LBH Apik); Sebeja, the Pedicab (*becak*) Drivers Union of Jakarta; and committed individuals such as Wardah Hafidz, Afrizal Malna (poet, writer and NGO activist) and Tubagus Karyanto (lawyer and head of LBH Jakarta).

UPC maintains close relations with the Asian Coalition of Housing Rights (ACHR) and the Centre for Housing Rights and Evictions (COHRE) in defending the rights of the urban poor against forced evictions. Funding for their activities is obtained through UPC's connections with international NGOs.

Source: adapted by author from the UPC website <<http://www.urbanpoor.or.id>> accessed 12 May 2002, and Bunyamin and Kartini (1998).

#### Box 6-2 Profile of Institute Sosial Jakarta (ISJ)

Institute Sosial Jakarta (ISJ) is a non-governmental organization (NGO) committed to the struggle for the promotion of human rights, in particular for urban poor communities and victims of state political violence. The institute was established after a series of intensive discussions among young intellectuals in Jakarta during the late 1970s. Initially, it focused on theoretical research on social justice. With the increasing number of victims amongst the urban poor, the institute broadened its focus into a human rights advocacy movement. In 1985 the Institute set up a Bureau of Consultation and Education Programs for factory workers, an Urban Workers Bureau and a Legal Aid Bureau.

In 1990 the Institute reaffirmed its position in advocacy and empowering grassroots communities by developing a solidarity movement among the urban poor communities through a number of activities: basic health training, income generating programs, and paralegal and political awareness training.

Ever since, the Institute has been actively involved in human rights issues, in particular the human rights of the grassroots communities in urban areas.

The Institute's vision is to empower and strengthen a system of resistance and people-based advocacy amongst the grassroots communities. Through empowering civil society and promoting social movements, the Institute has been involved in deepening the democratization process by pressing for more profound political, economic, and social reforms. Following the democratic transition since the second President of the Indonesian Republic, Suharto, stepped down in May 1998, the institute has been trying to seek a new strategic direction. The transition from authoritarian rule to the consolidation of democracy in Indonesia requires the Institute to change its strategy from promoting 'a mass mobilization movement' to promoting an 'institutionalized movement.' To support this strategy, the street children advocacy bureau and the factory workers advocacy bureau have been transformed into separate NGOs.

The Institute's main activities include documentation and analysis programs on urban poverty issues as well as training programs on social analysis and human rights for leaders of urban grass roots communities. The institute still continues to provide legal aid for the victims of pauperization as well as those of state violence. The institute provides training programs for local leaders of grassroots communities in social analysis, human rights and advocacy. After the training sessions, the participants are guided to develop a strong civil-society organization in their own community and are given access to a broader network amongst urban sectors. The institute is developing alternative knowledge for public policy that benefits the poor through documenting human rights violations, promoting an alternative local as well as a national system of law and public policy, and promoting alternative knowledge on urban planning, human rights, human development, democracy and social justice.

The institute recently published a book on their research on the community of Teluk Gong, a kampung in North Jakarta that has suffered from frequent evictions by the local government and a private developer. Depending on funding, the Institute tries to publish a yearly report on the socio-economic condition of the urban poor and their activities. ISJ is a member of the International NGO Forum on Indonesian Development (INFID)—an open and pluralistic network of NGOs from Indonesia and various member countries of the Consultative Group for Indonesia (CGI) as well as of international organizations with an interest in and commitment to Indonesia.

ISJ was initially sponsored by a church foundation in Germany, because of the connections of its former leader, a German priest, and was able to get funding from international donor agencies in Germany and Holland. As of July 2003 ISJ has been closed down because their major sponsor discontinued their funding.

Source: adapted by the author from the ISJ website <http://www.isj.org.id> accessed 12 May 2002 and personal communication with Nainggolan (30 September 2003).

In the following sections I discuss the relationship between these two NGOs and the government (central and local) in light of recent social and political changes, in particular during the presidential terms of Abdurrahman Wahid (October 1999–August 2001) and President Sukarnoputri (August 2001 to the present), and the administration of Governor Sutiyoso (1997 to the present).

### 6.1.1 The relationship of the NGOs with the central government

This section argues that the relationship between NGOs and the central government was very positive during the short term of former president Abdurrahman Wahid. I argue that this was possible because of Wahid's support for grassroots development, human rights and the appointment of NGO activists as ministers. This positive relationship changed when Megawati Sukarnoputri became president in August 2001. In the first two sections I explain the changes at the central government level, and then in the final section discuss the effects on the relationship with NGOs.

#### *Support of NGOs and grassroots development*

Abdurrahman Wahid was elected fourth president of Indonesia on 3 October 1999, replacing B. J. Habibie. Wahid was once an NGO activist, the leader of one of Indonesia's largest Moslem organizations, *Nahdlatul Ulama* (NU, or the Revival of the Muslim Scholar) before becoming the leader of *Partai Kebangkitan Bangsa* (the National Awakening Party or PKB). While NU is a conservative religious organization, Wahid has consistently maintained that faith is a personal matter. Despite criticisms of his lack of managerial skills in governing the country (Barton 2001a, Mietzner 2001), I argue that Wahid was quite committed to the promotion of human rights and grassroots development, although his interest was not fully supported by the bureaucracy.

The structure of Abdurrahman's cabinets reflects this commitment. In his first cabinet, Wahid added a new State Ministry on Human Rights.<sup>1</sup> During the New Order, human rights issues were considered a very sensitive matter because they were often compromised to support development (see Chapter 3). Adding this new state ministry showed the government's support for human rights. During Wahid's second cabinet, this was merged with the Ministry of Justice to become the Ministry of Justice and Human Rights. President Megawati has maintained this ministry in her cabinet.

Wahid also showed an interest in the development of human settlements. He upgraded the former State Ministry of People's Housing to be the Ministry of

<sup>1</sup> During Wahid's eighteen-month term as president, he reshuffled his cabinet three times.

Human Settlements and Regional Development, and downgraded the former Ministry of Public Works to a State Ministry.<sup>2</sup> During the New Order, housing and human settlements was a division within the Ministry of Public Works. The new Ministry of Human Settlements and Regional Development incorporated staff from the former Ministry of Public Works. This rearrangement was quite controversial because the Ministry of Public Works was not only one of the largest departments, with more highly skilled staff than other ministries, but also one of the most corrupt departments because of the huge amounts of loans, grants and national budget that they handled. However, with the Decentralization Law passed under President Habibie in 1999, public works was eventually to be decentralized to local government level II (municipality and regency level) and the role of the ministry was to be reduced. It was, however, not anticipated to take place so soon. Officially the Decentralization Law was supposed to be effective in August 2001, but President Wahid pushed the date for implementing the new regional autonomy law to January 2001.

The support for NGOs was evident in Wahid's choice of ministers. Several ministers had a background of working as or with NGOs, among them being Erna Witoelar as Minister of Human Settlements and Regional Development; Sonny Keraf as State Minister for Environment; Khofifah Indar Parawangsa as State Minister for the Empowerment of Women; and Hasballah Saab as State Minister of Human Rights. Erna Witoelar was former chair of Indonesia's Consumers Foundation and WALHI (Indonesian Environment Foundation). Sonny Keraf was a university lecturer and NGO activist in human rights. Khofifah Parawangsa was an NGO activist in women's rights and Hasballah Saab was one of the founders of the *Partai Amanat Nasional* (PAN) and a human rights activist. As will be explained later in this section, the appointing of NGO leaders was criticized because of their lack of knowledge of bureaucratic administrative procedures.

Another significant act of Wahid already mentioned in section 3.1.3 was reducing the role of the military, in particular the role of the army. Instead of an armed forces officer, Wahid appointed a civilian, Juwono Sudarsono, a university

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<sup>2</sup> A technical Ministry has more power and authority because it heads a department and has district offices, whereas a state ministry's role is limited to coordination and policy development.

professor in foreign politics, as the Minister of Defence. Contrary to Suharto's tradition of appointing an army general as Head of the Armed Forces, Wahid appointed Admiral Widodo. Wahid was also responsible for separating the police force from the armed forces. A position that remained vacant till the end of Wahid's term was that of the Head of the National Land Agency. During the New Order an army officer, Sonny Harsono, headed this agency. When he retired his deputy Dr. Lutfi Nasoetion acted in this position, but was appointed as Head of BPN only after Megawati Sukarnoputri became President.

On November 20<sup>th</sup> 1999 Wahid addressed a gathering of ten thousand people, mostly urban poor residents, including a thousand pedicab drivers, at the Senayan Stadium. The gathering was organized by the Urban Poor Consortium and attended by Vice President Megawati Sukarnoputri; the Coordinating Minister of People's Welfare and Poverty Eradication, Hamzah Haz; the Minister of Human Settlements and Regional Development, Erna Witoelar; and the Governor of Jakarta, Sutiyoso. At this important gathering, Wahid praised NGOs for their active involvement in poverty-eradication campaigns and assured the meeting that poverty eradication was high on his government's agenda:

Poverty-eradication is not the sole responsibility of the government, but also the people and the business community. People should not be dependent on the government, as they have to learn how to solve their own problems. I myself was an NGO activist. I respect the works of Cathy Lengkong, Romo Sandywan and Wardah Hafidz [prominent NGO activists] (*Jakarta Post*, 21 November 1999).

However, Wahid defended the city administration's decision to ban pedicabs from operating in the city. His justification was that Jakarta was the capital city and should be free from pedicabs. Wahid's statement was opposed by the Minister of Labour and Transmigration, Jacob Nuwawea and most of the pedicab drivers, because driving pedicabs was the only skill they had (*Jakarta Post*, 21 November 1999). His support for the ban resulted in a demonstration of hundreds of pedicab drivers in front of the president's palace.

### *The interaction between NGOs and Ministers*

Witoelar had a late start in adjusting herself to her responsibilities as the Minister of Human Settlements. It took her several months to structure the organization and

appoint the echelon I and II level bureaucrats. Within the new Ministry of Human Settlements and Regional Development, Erna Witoelar attempted to change the vision of the ministry from being 'project oriented' to being 'community oriented.' She paved the way for women to hold senior positions within the ministry, by appointing Sri Hadiarti as Head of the Human Resource Development Body.<sup>3</sup> She invited NGOs to have discussions with her and her staff at the Ministry, and also attended many of the public events held by NGOs, among them the forum hosted by the Urban Poor Consortium (refer to section 6.2.1). The appearance of NGOs at the ministry office was a new phenomenon. In general, many staff did not know how to interact with NGOs, being accustomed to the official protocol of interacting with only consultants and contractors.

For staff with previous working experience at the State Ministry of People's Housing and the Directorate General of Human Settlements, this change was not unexpected. However, changing the vision at the ministry level did not 'trickle down' to most of the staff. Many staff, in particular those working in the technical divisions, did not understand this new development paradigm, and carried out their tasks in the same manner as under the previous government. The planning culture of programming, budgeting and project implementation still followed the rules set during the New Order period. While Witoelar attended forums held by NGOs, my personal observation at these forums was that none of the staff of the Ministry were present. A year after the first People's Forum (12 August 2000), I visited the Ministry to follow up on the process. To my surprise, the staff responsible for the program had never visited any of these kampung communities.

In the early years of the *reformasi* era, Institut Sosial Jakarta (ISJ) played a high-level political role. Through the Cipinang Bening Program (refer to section 5.2.1) they interacted with the State Minister of Environment, Senny Keraf. The State Ministry invited NGOs to participate in their program to build community awareness and participation in maintaining Jakarta's rivers. One of the meetings involved coordination with other government institutions, among them the Ministry of Human Settlements and Regional Infrastructure. ISJ's coordinator, Nainggolan, knew the Minister of Human Settlements and Regional Development, Erna Witoelar, when

<sup>3</sup> Before Erna Witoelar became Minister, women never held executive positions (Echelon I) in the former

she was still active as an NGO activist in the 1980s and early 1990s.<sup>4</sup> ISJ was able to get the ministers to visit *Kampung Penas Tangkul* in June 2000. ISJ proposed that *Kampung Penas Tangkul* be granted RT status and become a model *kampung* for the Cipinang Bening Program.

Both ministers accepted this idea, and it continued further, with the Minister offering to relocate the *kampung* community to a location nearby in Halim, and asked ISJ to assist the community in the relocation process. The Ministry of Public Works had 3,000 m<sup>2</sup> of land in Halim, located south of *Kampung Penas Tangkul*. However, even with political will, the allocation of land was still difficult because of administrative and technical barriers within the ministry<sup>5</sup> (personal communication with Azas Tigor Nainggolan, 1 February 2003 and Ministry staff, 30 January 2003). Although the Ministry is responsible for the land along the riverbanks of major rivers in Indonesia, one of its regulations states that these lands are designated for environmental protection against river flooding and should be maintained as green areas. Changing the land-use would have violated the recommendations of the relevant environmental impact study. The land-use of riverbanks has become an issue of debate amongst environmentalists and policy-makers.

After Megawati Sukarnoputri became President, she replaced Erna Witoelar with Sunarno, the former Director-General of Water Resource Development, whom she considered more experienced in dealing with the ministry's affairs. No one at the Ministry has continued Witoelar's idea of working with the NGO on the relocation project, and ISJ had difficulty in approaching the Ministry (personal communication with Nainggolan, 1 February 2003 and email correspondence 8 May 2003). According to the secretary to the Minister, there have been no visits by NGOs since Sunarno became the Minister (personal communication, 27 November 2002).

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Ministry of Public Works.

<sup>4</sup> Erna Witoelar was once the executive director of Indonesia's Consumers Foundation (*Yayasan Lembaga Konsumen Indonesia* or YLKI) and the Indonesian Environmental Organization Network (*Wahana Lingkungan Hidup Indonesia* or WALHI).

<sup>5</sup> During Wahid's presidency, the Ministry of Public Works' role had been reduced to that of a State Ministry. Several offices of the former Ministry of Public Works were merged with the State Ministry of Public Housing to become the Ministry of Human Settlements and Regional Development. Because of this restructuring, it was no longer clear which body had the power to make decisions over the allocation of land.

The bureaucrats appointed by President Wahid made an effort to listen to the needs of the urban poor by attending the public forums held by the NGOs, attending meetings with the poor communities and NGOs, or working together with the community. In the land certification program, Lutfi Nasoetion (at that time still deputy of the National Land Agency) appointed the UPC leader Wardah Hafidz as secretary of the team, with two representatives from each *kelurahan* as members.<sup>6</sup> Nasoetion was supervising this program directly because he was not convinced that the staff at the Jakarta office would truly support this program.

The attitude to the public at the National Land Agency also changed. The National Land Agency currently has a division to deal with legal issues and public relations, located on the ground level of their office building. This division is accessible to the public, and provided information on land regulations and opportunities for consulting land issues. However, the attitude at the Jakarta District Land Office (*Kanwil BPN*) was quite the opposite: there was no division to deal with public inquiries, my formal requests to interview the officials were denied, and even after I tried a personal approach through a former colleague the officials still refused to see me, and redirected me to other officials who were always busy.

In the land-titling team Wardah Hafidz sits as secretary for the team. The National Land Agency refuses to meet any community representative if Wardah Hafidz (UPC) is not present. On the other hand, UPC also refuses to have discussions with the National Land Agency if Nasoetion is not present. The concern of UPC and the community was that other National Land Agency members on the team, in particular the National Land Agency Jakarta District Office, would not keep to their commitment. As secretary for the team, Hafidz's tasks include coordinating the *kampung* communities in compiling the administrative requirements for the land titling process, and organizing community issues prior to meeting the National Land Agency. Although the land titling team was formed in May 2001, at the time of writing this thesis the Kemayoran community had not received their land titles. The major impediment to their struggle is the attitude of the district land office which, according to the Kemayoran Community Delegates leaders, is not supportive. In addition, during the time of my fieldwork, the National Land Agency was still

<sup>6</sup> Based on the Head of National Land Agency Decree no. 132-XI-2001 on the Team to Investigate State

awaiting a decision on administration fees for the land-titling process from the Minister of Finance.

The administration procedures in programming, budgeting and project implementation still follow the rules set during the New Order period, and are a major impediment to the struggle of the urban poor for land. According to Nasoetion, Head of the National Land Agency, the development paradigm of the New Order still prevails and is most difficult to change:

Changing the development paradigm is a difficult challenge. Many municipal officials still view slums as a problem that should be eradicated to achieve their beautiful city program. I don't think the municipality understands the importance of the land certification in urban kampungs. People have a right to land titles and legal protection against forced evictions. Government agencies often misunderstand their obligations stipulated under the management permits (*Hak Pengelolaan Lahan*). They concentrate on acquiring land and forget that they should manage the land properly. I do not hesitate to take out part of the land from their HPL to support the needs of the urban poor (interview 8 January 2002, author's translation).

The above discussion on the relationship between the NGO and the central government shows that a positive relationship is possible. In both cases, the NGOs cooperated with the government, but only because the appointed ministers provided the opportunity. The social relationship between the NGO and the ministers who had experience working with NGOs supported their cause. However, administrative procedures and technical regulations were a major obstacle to gaining access to land. Since Megawati Sukarnoputri became president in August 2000, it seems that there has been less opportunity to negotiate with the central government as well as the local government. This is discussed in the following section on the relationship with the Jakarta government.

### 6.1.2 The relationship of the urban poor and NGOs with the Jakarta government

One interesting feature of the Jakarta government is that Governor Sutiyoso has served as governor for Jakarta, from 1997 in the New Order era to the present, experiencing four presidents: Suharto, B.J. Habibie, Abdurrahman Wahid and Megawati Sukarnoputri. He has even commented on his unique position of being the only governor in office during four presidential terms (Keynote speech at the University of Indonesia seminar, 21 August 2001).

In this section I argue that the relationship between NGOs and the Jakarta local government depends on the attitude and support of the head of state towards NGOs and grassroots development. I confirm this point by showing that during Wahid's term as president Governor Sutiyoso did not pursue his war against the urban poor, and this subsequently had an impact on the struggle of the urban poor communities. Three examples are used to demonstrate this: forced evictions, the protest against the local budget, and riverbank settlements.

#### *Forced evictions: Governor Sutiyoso's war against the urban poor*

Forced evictions are defined as the permanent or temporary removal against the will of individuals, families and communities from their homes and/or land that they occupy without the provision of, and access to appropriate forms of legal or other protection (COHRE 1998). In Jakarta forced evictions are conducted by the municipal security guard (referred to *pamongpraja*) under *Dinas Ketertiban dan Keamanan Masyarakat* (Office for Public Order and Serenity) – often assisted by the military or police. The targeted areas of evictions are usually squatter settlements (on public or private land) or street hawkers trading in spaces prohibited by the law.<sup>7</sup> The Governor issues a letter to support the evictions, which should be received seven days prior to the eviction. However, most of the victims fail to receive a copy of the letter. There is little or no compensation for the victims.

The exact number of forced evictions in Jakarta is uncertain. Figure 6-1 shows my attempts to document the changes of these over time. The forced evictions in this

<sup>7</sup> As discussed in Chapter 3, Local Regulation no. 11/1988 on Public Order defines the areas prohibited for housing and trade, such as along railways, river banks, canal banks and parks.

figure were compiled from the documentation of UPC, ISJ, Asian Coalition of Housing Rights, Evictions Watch Asia and UNDP. A UNDP report (1997) showed that between 1990 and 1997 there were about 68 cases of forced evictions in Jakarta, involving the displacement of 194,582 people. In their research on forced evictions in Jakarta Bunyamin and Kartini (1998) found that in 1996 there were 57 evictions and in 1997 163 evictions, displacing a total of 95,027 households for the two years. The highest proportion of displaced people was in North Jakarta (44% in 1996). The major drivers of these forced evictions were the local government (67% in 1996 and 58% in 1997) followed by state enterprises (13% in 1996 and 18% in 1997) and private investors (16% in 1996 and 13% in 1997), and the military/police (8% in 1996 and 13% in 1997). These researchers noted that the main method of eviction was forced demolition: 46% in 1996 and 38% in 1997.

In 1998 UPC monitored three evictions of informal settlements displacing 1,225 households in North and West Jakarta. In 1999 there were no evictions and in 2000 there were only three evictions. Both UPC and ISJ documented an increasing number of forced evictions occurring in 2001 and 2002 (see Figure 6-1). The evictions began in May 2001 when Wahid's position as president was at risk.<sup>8</sup>

In August 2001 Megawati Sukarnoputri replaced Wahid as president and immediately the number of forced evictions increased to six evictions in one month (see Table 6-1). In October 2001 alone, the Urban Poor Consortium (UPC) monitored the displacement of 2,470 families or 9,880 people because of forced evictions or arson, or a combination of both (Asian Coalition of Housing Rights website, accessed 30 November 2001). The highest concentration of forced evictions was in North Jakarta (22 evictions or 61%) and East Jakarta (11 evictions or 31%). These evictions were from land deemed suitable for urban development, mainly the Jakarta north shore reclamation project and the canal bank clearance project. The evictions were conducted in a forceful manner, but the Jakarta administration refused to listen to the protests of the urban poor and the NGOs. In Governor Sutiyoso's opinion, evictions of squatter settlements project a positive image for the local government because it shows their commitment for law enforcement to achieve public order. Ironically, it was Governor Sutiyoso who allowed the utilization of idle state land when Indonesia

faced its economic crisis, and issued a governor's decree for this purpose (*Kompas*, 14 July 2000).<sup>9</sup>

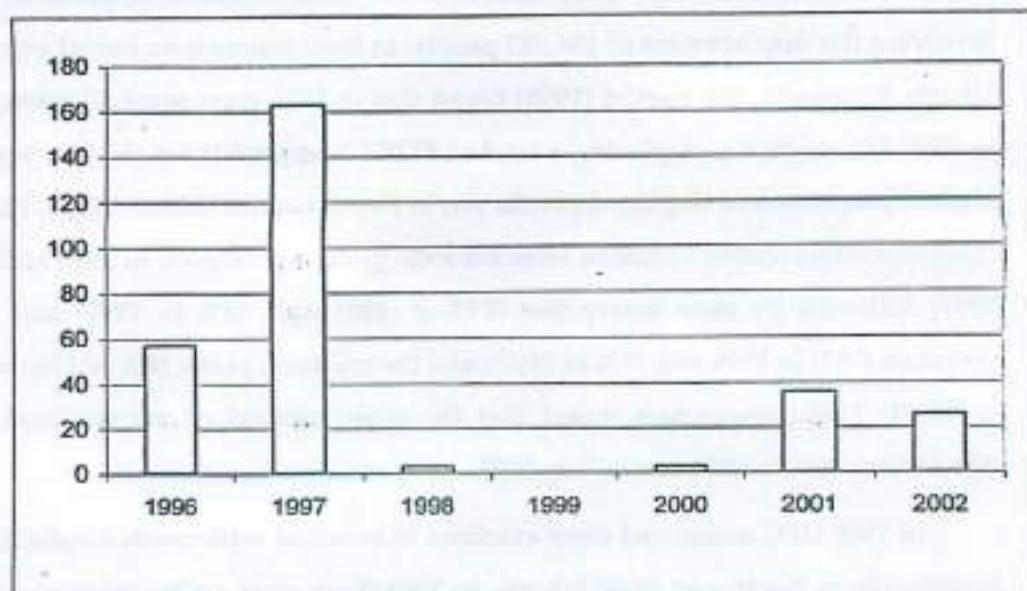


Figure 6-1 Number of forced evictions in Jakarta (1996-2002)

Source: compiled by author from Eviction Watch Asia (1998), ISJ, and UPC documentation.

Note the sharp increase in evictions in 1997, the first year of Sutiyoso's governorship, and the increase in 2001 when Sutiyoso felt free to act under Megawati's presidency.

Table 6-1 Forced evictions from Jakarta's informal settlements in 2001

Date	Location	Number of victims
21 May	Kampung Beting, North Jakarta	543 households
18 July	Pulo Gebang, East Jakarta	50 households
1 August	Pulo Gebang, East Jakarta	16 households
8 August	DI Panjaitan, East Jakarta	N/a
22 August	Cilincing, North Jakarta	N/a
22 and 29 August	Marunda, North Jakarta	1,780 households
31 August	A. Yani By-Pass, East Jakarta	N/a
3 September	Pulo Gebang, East Jakarta	200 households
5 September	Pademangan, North Jakarta	N/a

<sup>8</sup> During that time, Wahid was being impeached by the MPR for his misappropriate use of funds (known as the *Buloggate* and *Bruneigate* scandal).

<sup>9</sup> In March 1998 Governor Sutiyoso issued a decree that allowed the utilization of idle land for farming in Jakarta (SK Gubernur no. 184/1998 tentang Pemanfaatan Lahan Milik untuk bercocok tanam di DKI Jakarta).

12 September	Rawamangun, East Jakarta	N/a
4 October	Fisherfolk community in Ancol Timur, North Jakarta	N/a
10, 24, and 26 October	Ancol Timur, North Jakarta	206 households, 64 households still resisting eviction
24 October	Kampung Nelayan Ancol, North Jakarta	74 households
29 and 30 October	Rawa Das, Pondok Kopi, East Jakarta	2,000 households
29-31 October	Kayu Manis, East Jakarta	400 households
29-31 October	Tanggul Jagung, Teluk Gong, North Jakarta	1,200 households
31 October	Banjir Kanal, North Jakarta	5010 households
26 and 31 October; 1, 2, 3, 6, and 12 November	Penjaringan riverbank, North Jakarta	8,000 households
13 November	Kampung Pesing, West Jakarta	30 households
13 November	Peta Pela, Tanjung Priok, North Jakarta	N/a
13 November	Penjagalan Riverbank, North Jakarta	100 households
13 November	Penjaringan, North Jakarta	80 households

Source: compiled by author from ISJ and UPC documentation.

Note: the above numbers exclude evictions directed against street hawkers and the confiscation of pedicabs. (N/a = data not available)

UPC contacted the Asian Coalition of Housing Rights (ACHR) to organize a fact-finding mission investigating the forced evictions. The report of this fact-finding mission, announced on 28 November 2001, described the situation of the urban poor in Jakarta:

Very intense and high-handed repression against the urban poor in Jakarta in the form of massive confiscations of their means of livelihood, arrests and detention of those who protested, and the eviction/demolitions of their houses that started mid-August 2001 continues until today. The authority of the metropolitan city has drawn up a detailed plan for the second semester of 2001, with the end of November 2001 as the deadline, to clean the poor out of Jakarta. The operation involves the mobilization of thousands of municipality guards, hundreds of policemen and soldiers armed with tear gas pistols, guns and rubber sticks, and the use of bulldozers, open trucks, vans and police cars (source: adapted by author from the ACHR website <<http://www.achr.net>>, accessed on 12 May 2002).

The mission found that the evictions did not provide compensation or alternative housing for the displaced people. While some of the evictions may be legitimate, the mission criticized the inadequacy of the process: there was no compensation, no consultation, no attempt to achieve consensus, no alternative

housing, and violent methods were used. As explained in Chapter 5, Governor Sutiyoso has maintained a negative view of squatters and the informal sector. He denied responsibility for forced evictions in the city, and said that those evicted were illegal residents who did not possess ID Cards. 'I believe that they must have hometowns, so they should return to their places of origins,' was his response in an interview with a reporter from *Jakarta Post* (*Jakarta Post*, 10 October 2002).

According to Wardah Hafidz, the reason the NGOs chose to channel their protests to a higher level was mainly because the Jakarta administration 'had closed their eyes to the poor' (*Jakarta Post*, 10 October 2002). There is still an assumption, due to their radical actions and protests against the government, that NGOs are in opposition to the government. One official at the Jakarta Housing Office admitted that she was actually relieved to have the Ministry of Human Settlements intervene and negotiate with UPC, because in her opinion it would lessen their burden of dealing with the NGO (personal communication, 26 July 2001). This shows that some local government officials are reluctant to engage with NGOs.

These forced evictions have continued in other parts of the city since August 2001. In North Jakarta, the Jakarta administration continued to evict squatters without any alternative for relocation or compensation for housing. The developer provided a mere social compensation of Rp. 500,000<sup>10</sup> per family. The residents of Kampung Teluk Gong, North Jakarta, experienced thirteen forced evictions from 2001 till the most recent eviction on January 17, 2003. The eviction was assisted by hundreds of *pasongprias* (municipality guards) and police, and was equipped with a bulldozer to demolish the shelters. The eviction of squatters was deemed necessary for the contractor to successfully complete their project of cleaning up the riverbanks (*proyek pengurukan banjir Jakarta*). Anas Jabir, head of Public Relations, North Jakarta Municipality, argued that the evictions were necessary and in accordance with Local Regulation, Perda no. 11/1988 on Public Order (*Kompas*, 18 January 2003). Most of the residents, who were working in factories nearby, returned back to the river and canal banks, because there were no other alternatives for housing in the area (ISJ 2002).

On October 9, 2003 President Megawati expressed her disapproval of forced evictions and criticised governors and other state officials who sought to profit by

<sup>10</sup> In January 2003, 1 US\$ = Rp. 9,000.

forcibly evicting low-income families from neighborhoods within their jurisdiction (*Laksamana Net*, 22 October 2003). Governor Sutiyoso strongly denied that his decision to temporarily cease evictions of slum dwellers and the destruction of their homes had been prompted by protests from politicians and human rights groups. The National Commission on Human Rights (Komnas HAM) protested the process of forced evictions in Indonesia (and in particular, Jakarta) because they clearly violate human rights. After a meeting with *Komnas HAM*, the Governor instructed his staff not to destroy any squatter settlements in Jakarta during the Muslim fasting month of *Ramadhan* and the end of fasting celebration, *Idul Fitri* (ACHR, 31 October 2003).<sup>11</sup> However, Sutiyoso said that his decision was not because of pressure from the National Commission of Human Rights (*Laksamana Net*, 22 October 2003). There is strong reason to believe that these evictions will continue soon after the *Idul Fitri* celebration ends.

In the past years the efforts of NGOs to stop these forced evictions included protesting against the Jakarta Annual Budget (*Anggaran Pendapatan Belanja Daerah* or APBD) 2001 and 2002 to stop the budget allocation for forced evictions, as explained below.

### *Protest against the Jakarta Local Budget 2001*

NGO activists Wardah Hafidz and Azas Tigor Nainggolan criticized the Jakarta Local Budget because the process of formulating it did not involve the public, and the proportion of funds, which included the allocation of funds to clean up the city of street hawkers and squatter settlements, did not give the concerns of the urban poor any priority. The following table shows the attempts made by NGOs in Jakarta to discuss the budget with the Jakarta People's Representative Council and the local government. One of these attempts included the protest at the *Bundaran HI*, which displayed banners urging the Council to boycott the annual budget (Figure 6-2).

<sup>11</sup> In 2003 the month of *Ramadhan* falls between October 27 and November 26.

Table 6-2 Activities protesting against Jakarta's local budget 2001

Date	Activity	Outcome
18 December 2000	Thirteen NGOs formed a coalition for budget transparency, KOTA (Koalisi LSM untuk Transparansi Anggaran) and met the Head of the Jakarta People's Council, Eddy Waluyo. To support this event, NGOs put up banners protesting against the local budget at strategic locations throughout Jakarta, and in particular at the Town Hall. 150 members of the Urban Poor Community Network and the Jakarta Pedicab Network held a protest.	Head of the Jakarta People's Council, Eddy Waluyo promises to delay the approval of the budget and involve the NGO coalition in discussing the budget.
19 December 2000	Eddy Waluyo announces that the local budget must be approved immediately on request of the Jakarta local government.	
30 December 2000	The Jakarta's People Representative Council holds a meeting to discuss the budget. At the beginning of the meeting, Eddy Waluyo proposes to hold a vote for the approval of the budget.	PDI-P faction walked out of the meeting to protest Waluyo's decision to take a vote. Of the eleven factions, nine approved, one disapproved (PKP) and one walked out (PDI-P).
17 January 2001	The NGO coalition, represented by three NGOs: FITRA, JARI and YLKI holds a press conference to protest against the local budget and gain public support	No response from the local government
Second week of January	Various NGOs are active in radio talk shows to campaign and socialize the protest. UPC leader, Wardah Hafidz appears on national TV.	No response from the local government
Third week of January	INFID and FITRA lobby the national government and international donor agencies. FITRA prepares draft position paper on an alternative budget scheme.	
Fourth week of January	LBH Jakarta, the Jakarta Legal Aid Foundation and Consumer's Foundation prepare a class action against the local government.	
6 February 2001	KOTA meets with the Jakarta People's Representative Council and Jakarta Local Government.  Reporters interview the Jakarta Local Government	The Deputy Governor for Economic Development promises to revise the Local Budget and incorporate the suggestions forwarded by KOTA.  The Local Government admits that it is difficult to change the local budget.

Source: Compiled and translated by author from UPC and ISJ website accessed 10 August 2002.  
 Note: JARI = Jaringan Akar Rumpun Indonesia (Grassroots Network), FITRA = INFID = International NGO Forum for Indonesian Development, YLKI = Indonesian Consumers Foundation

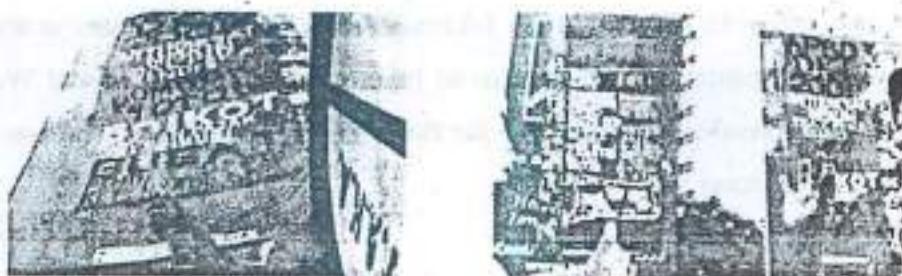


Figure 6-2 Banners protesting against Jakarta's annual budget

Source: <<http://www.urbanpoor.or.id>> accessed 10 August 2002.

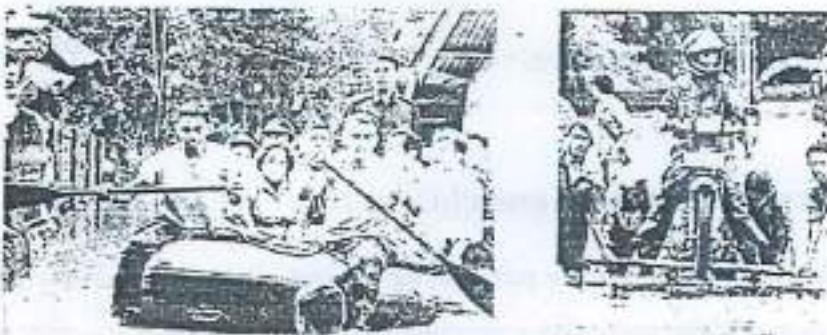
### *Riverbank settlements and class action*

A significant political activity pursued by ISJ and other NGOs in the interests of the urban poor, and in particular communities of riverbank settlements, was lobbying for the revision of Local Government Regulation Perda 11/1988 on Public Order. As explained in Chapter 3, *Perda 11/1988* has been criticized by many NGOs because it is used by the Jakarta administration to justify forced evictions of riverbank settlements and banning the activities of the informal sector. Although NGOs have submitted proposals to improve the regulation, the only amendment by the Jakarta administration was the one proposed in 1999 to adjust the amount of fines in the clause on sanctions.<sup>12</sup>

In an attempt to advocate for the rights of people living in riverbank settlements, lawyers from ISJ and other NGOs in Jakarta brought a class action suit against the state through the Jakarta Administration Court on 13 March 2002, following the extensive flooding of Jakarta in December 2001 to January 2002 (Figure 6-3). The class action was filed by representatives of communities along riverbank settlements because, among other things: 1) the state had failed to give early warning on the major flood, which resulted in loss of lives, damage and loss of income; and 2) the state had been negligent in flood management by not building a proper flood control system according to the Jakarta Master Plan, and by changing the proposed

<sup>12</sup> ISJ has written evaluation reports and articles on how this regulation discriminates against the urban poor and the informal sector. These articles have been printed in Jakarta's leading newspapers and are posted on ISJ's website. ISJ, along with a network of NGOs, have sent recommendations to the Governor and the DPRD to revise this regulation. However, to date there has been no response from the Jakarta administration and they are still continuing with forced evictions, as explained above.

land use (refer to Chapter 3 on Jakarta Master Plan). The class action was filed against the President, the Governor of Jakarta and the Governor of West Java. All three were considered responsible for the major flood and its impact on urban poor communities along the riverbank.



a. President Megawati touring the city after the major flood      b. Using a raft to travel around the city

Figure 6-3 Scenes from Jakarta's major flood in January 2002

Source: The Guardian (UK) 31 January 2002.

The urban poor demanded that the state pay for the loss and damage suffered by riverbank communities, and called for the resignation of Governor Sutiyoso. The court ruled in favour of the community, but Governor Sutiyoso hired a team of high-class professional lawyers to appeal the court's decision. This appeal was protested by NGOs because they claimed that these lawyers were paid from state funds. However, in this appeal the court ruled in favour of the Governor because, in their opinion, the major flood was a natural disaster that could not be prevented.

The Urban Poor Consortium was one of the NGOs that supported the class action of riverbank communities. On the day the people filed the class action (13 March 2002), a group of NGOs (among them UPC, ISJ, FAKTA, WALHI, Indonesian Corruption Watch, Sebaja and YLKI), community organizations and artists, who named themselves *Gerakan Perahu Rakyat untuk Banjir* or People's Boat Movement for Floods, gathered in front of the Governor's office on *Medan Merdeka Selatan*, Central Jakarta. They planned to conduct a rally to demonstrate against the Governor's

policies, followed by a procession carrying a one-thousand-metre-long white banner with signatures of citizens supporting the class action, to the Jakarta Administration Court (Figure 6-4a). During the oration about two hundred motorists and motorcyclists from *Forum Betawi Rembug* (FBR or the *Betawi Forum*) suddenly attacked the group (Figure 6-4b). FBR tore up the banner with sharp weapons, attacked several supporters of the rally and destroyed the groups' sound system. FBR distributed flyers praising the Governor and threatening to harm Wardah Hafidz. The local police or security guards did not try to prevent the incident even though they were guarding the Governor's office ([www.urbanpoor.or.id](http://www.urbanpoor.or.id) accessed 1 June 2003).



a. Procession of supporters carrying the 1000 metre white banner.

b. Forum Betawi Rembug (FBR) attacks the procession

Figure 6-4 Attack on procession supporting the class action

Source: UPC website accessed 12 May 2002

Many NGO activists are not excluding the possibility that Sutiyoso himself may have had a hand in the attack, with the intention of intimidating those who oppose him and his administration's policies. Some activists even go as far as to say that Sutiyoso is using the FBR to taint the image of the Betawi people, since they have been demanding that the Jakarta governor be a Betawi, or indigenous Jakartan (Sutiyoso is not a Betawi). Sutiyoso has denied any involvement in the action of FBR and complained that NGOs are always blaming him (Dursin 2002). There has been no inquiry into the activities of FBR, which indicates that the attack may have been conducted with the knowledge of Sutiyoso.

The relationship between NGOs and the Jakarta administration depends on the interests of the government. When they were needed to disburse loans, the Jakarta government employed NGOs, for example at the beginning of the economic crisis when the Jakarta government made use of NGOs to distribute aid to the poor. However, when NGOs are considered to interfere with the government's plans, the Jakarta administration does not hesitate to use its power, through legal mechanisms such as the court or even informal mechanisms such as the FBR attack, to prevent NGOs from gaining the support of the public. The discussion showed the importance of NGOs to maintain networks with other civil society organizations and international NGOs to support the cause of the urban poor and pressure the government to change their attitudes and policies.

The attitude of Governor Sutiyoso towards the urban poor and informal sector was less hostile during Wahid's presidency. During this period, the Jakarta government restrained themselves by evicting only pedicabs (*becaks*) from the city, because Wahid approved of this action but criticized forced evictions against the urban poor. Sutiyoso also encouraged the utilization of land in response to the economic crisis, which triggered the growth of squatter settlements in Jakarta. However, immediately after Megawati Sukarnoputri became president and the economy began to improve, Sutiyoso began what NGOs refer to as his 'war against the urban poor' that has continued despite President Megawati's disapproval.

Opportunities for communities to participate in development depend on the attitude of the government, whether or not they are willing to open their doors for *kampung* communities. These opportunities, however, could not have been seized without the empowerment of the local community, which are discussed in the following section.

## 6.2 COMMUNITY EMPOWERMENT: FROM LOCAL-BASED TO NETWORK-BASED

In this section I demonstrate that community-based organizations play a significant role in the process of empowerment. These local organizations constitute a centre for building the awareness and the understanding of their social rights as citizens. The activities in the community organization evolved from being local-based to being

network-based, which has enabled *kampung* communities to gain success on their claims for land titles and RT status. This evolution is due to their interaction with NGOs, as well as social-political changes in the *reformasi* era. In section 6.2.1 I examine the activities of *Delegasi Warga Kemayoran* (DWK or the Kemayoran Community Delegates) in *Kelurahan* Kebon Kosong and in section 6.2.2 I examine the community of RT 15 in *Kampung* Penas Tanggul in two different periods, the New Order era and the *reformasi* era.

### 6.2.1 *Delegasi Warga Kemayoran*

A profile of the *Delegasi Warga Kemayoran*, or the Kemayoran Community Delegates, is given in Box 6-3.

#### Box 6-3 Profile of *Delegasi Warga Kemayoran*

*Delegasi Warga Kemayoran*, or the Kemayoran Community Delegates, was formed in January 1991, prior to the major land acquisition program for Kemayoran New Town. The purpose of this organization was to: a) allow one voice to represent the community in negotiations with the government; b) facilitate the flow of information from the community to the government and from the government to the community; and c) document all the houses and common facilities built by the community. Its organizational structure follows the RT and RW hierarchy model.

The community chooses their own representatives, two from each RT, in which each representative is not holding any other position in other neighborhood organizations. This prerequisite allows the representatives to focus their time and efforts on Kemayoran Community Delegates. Initially, the Kemayoran Community Delegates started as a *kelurahan*-based organization, but within the following year it grew to incorporate other communities in the surrounding area. Suryadi, a school teacher from RW 06, was the first head of the Kemayoran Community Delegates. After the incorporation of *Kelurahan* Gunung Sahari Selatan and *Kelurahan* Pademangan Timur into the organization in 1992, a new leader was elected, Rahardjo, a retired military officer and retired employee of PT Garuda Airlines. Rahardjo lived in *Kelurahan* Gunung Sahari Selatan. Under his leadership, the Kemayoran Community Delegates became more active in lobbying government officials and the People's Council, although in the end there were no results.

Rahardjo died in January 2001 and was replaced by his vice-chair, Suryadi.

Source: Interview with Rahardjo (June 30, 2000) and Suryadi (April 21, 2001)

The most intense activities of the *Delegasi Warga Kemayoran* occurred during the government land acquisition process (1991-1996) and during the initial years of

gaining land titles (2000-the present). However, its activities had a different focus in the two periods. These are described in turn below.

### *Strategies in the New Order era*

In the 1990s the activities of the Kemayoran Community Delegates consisted mainly of: a) consultations with legal experts, and b) gaining the political support of the People's Regional Representative Council (*Dewan Perwakilan Rakyat Daerah* or DPRD) and bureaucrats. The Kemayoran Community Delegates chose not to pursue their claims on fair compensation through the courts because, in addition to the high costs, they believed the courts would only support the government (Husni 1997, Jellinek 1997). In their petitions to the government, the Kemayoran Community Delegates always stressed the importance of supporting and participating in the new town development. This was necessary to avoid government accusations that the community was acting against the state. During the 1990s it was quite common for the government to accuse uncooperative communities in land expropriation projects of being subversive, with the consequence of community leaders being held for questioning (refer to Case 3-2 on Pelumpang). The following table shows a list of the activities pursued by the Kemayoran Community Delegates in the New Order era and their outcomes, which were usually no response from the government.

Table 6-3 List of the Kemayoran Community Delegates activities in the New Order era

Date	Form of activity	Results
4 September 1991	Kemayoran Community Delegates sent letter to Mayor of Central Jakarta concerning the reconsideration of land compensation rates	No response
20 September 1991	Kemayoran Community Delegates protested against the Land Acquisition Committee decision on compensation rates	The committee confirmed that the Governor had approved the decision on compensation rates
21 March 1992	Kemayoran Community Delegates sent letter to the President of the Republic of Indonesia through the Military Secretary to reconsider the decisions on land acquisition in Kemayoran	No response
5 May 1992	Kemayoran Community Delegates sent letter to the President of the Republic of Indonesia for just compensation	No response
10 October 1992	Kemayoran Community Delegates sent letter to the President of the Republic of Indonesia reporting manipulation and corruption in the	No response

Date	Form of activity	Results
	land acquisition process	
22 October 1992	Kemayoran Community Delegates sent letter to Armed Forces Faction in People's Representative Council (DPR)	No response
26 October 1992	Kemayoran Community Delegates sent letter to Military Secretary of the President	No response
2 November 1992	Kemayoran Community Delegates lobbied People's Regional Representative Council (DPRD)	DPRD questioned the Kemayoran Community Delegates representation of the community No response
6 November 1992	Kemayoran Community Delegates sent letter to the President of the Republic of Indonesia	
3 and 10 November 1992	Kemayoran Community Delegates lobbied the People's Regional Representative Council (DPRD) Jakarta	DPRD supported community's appeal but could not change the Governor's decision on compensation rates
8 January 1993	Kemayoran Community Delegates sent letter to the President of the Republic of Indonesia (Ref. no. 01/the Kemayoran Community Delegates/1/1993) to obtain adequate compensation	No response
12 July 1993	Kemayoran Community Delegates sent letter to the President of the Republic of Indonesia (ref. no. 027/the Kemayoran Community Delegates/VI/1993) in appreciation of the new President's Decree no. 55/1993 on Land Acquisition	No response
24 April 1995	Kemayoran Community Delegates lobbied DPRD to become mediator in the negotiations between community and the Kemayoran Implementation Unit (KIU) in the land acquisition process	DPRD pressured the Kemayoran Implementation Unit to conduct negotiations with community. Media exposure in national newspapers
26 May 1995	Kemayoran Community Delegates protested that the meeting between KIU with 60 residents did not officially represent the Kemayoran community and questioned the attendance of DPRD Commission 'A' member in the meeting.	KIU confirmed that the meeting was not <i>musyawarah</i> , rather a discussion.
29 May 1995	Kemayoran Community Delegates and 300 residents of Kehatihan Kebon Kosong demonstrated at DPRD office and demanded that the DPRD step in as mediator in the negotiation process and pressure the Kemayoran Implementation Unit to follow the contents of President's Decree Keppres 55/1993 on land acquisition.	DPRD agreed to have discussion with ten community representatives. DPRD pressured KIU to complete the land acquisition process comprehensively. The process obtained media exposure.

Source: compiled by author from the Kemayoran Community Delegates documentation, interviews with Head of the Kemayoran Community Delegates and newspaper clippings.  
 Note: DPRD = People's Regional Representative Council

The above table shows that there was no official response from the government to the community's claims. Although DPRD supported the community and was able to persuade the Kemayoran Implementation Unit to conduct negotiations, in the subsequent meeting between the Kemayoran Implementation Unit and the residents in May 1995, it did not officially represent the community views. The residents who were invited to attend this discussion were not the Kemayoran Community Delegates.

The conflict in Kemayoran received publicity through the media, as the Kemayoran Community Delegates also sent letters to various newspapers—citywide and nationwide. The Kemayoran Community Delegates brought the project to international attention when they accused the government of using World Bank funds to evict people from their land (Jellinek 1997).<sup>13</sup> The Kemayoran Community Delegates also accused the Kemayoran Implementation Unit of gaining profit from the sufferings of the urban poor, as the Kemayoran Implementation Unit had sold part of the land in *Kelurahan* Gunung Sahari to private investors. Despite all these efforts, the support was not strong enough to overrule the Governor's decision on compensation.

### *The role of local leaders*

*Kelurahan* Kebon Kosong is a heterogeneous community consisting of people not only from the informal sector but also from the formal sector such as schoolteachers, employees, public servants and students. The roles of local leaders and well-educated people are crucial, because they are more informed and aware of legal rights in the land acquisition process. The interaction between formal and informal workers has benefited the community as a whole. The process of studying and understanding laws and regulations still continues amongst the community leaders and local residents.

One example of an influential community leader is Rahardjo Darsoprajitno (Rahardjo), the head of the Kemayoran Community Delegates from 1992 until he died in January 2001. Rahardjo was a dominant figure, an army veteran and a retired

<sup>13</sup> These accusations were proved to be untrue, as the World Bank never directed any of their funds to the Kemayoran project.

One example of an influential community leader is Rahardjo Darsoprajitno (Rahardjo), the head of the Kemayoran Community Delegates from 1992 until he died in January 2001. Rahardjo was a dominant figure, an army veteran and a retired airlines employee. He lived in RW 03 and was elected as the head of the Kemayoran Community Delegates when the organization expanded to cover three *kelurahan*: *Kelurahan* Kebon Kosong, *Kelurahan* Gunung Sahari Selatan and *Kelurahan* Pademangan Timur. For the Kemayoran community, electing an army veteran as head of the Kemayoran Community Delegates had an advantage. The Kemayoran Community Delegates members informed me that they considered a delegation head with a military background could open up opportunities for better communication with government institutions, in particular those that were headed by the military (Husni 1997).<sup>14</sup>

Rahardjo was sympathetic towards the livelihood of the poorer *kampung* community and understood the history of the Kemayoran settlement and the legal rights of the *kampung* community well. His house contained many land documents dating back to the Dutch colonial period, books on land law and regulations, and newspaper clippings of the community's struggle.<sup>15</sup> In 1997 Rahardjo was elected as the head of *Komunitas Korban Penggusuran* (K2P or Indonesian Community of Victims of Forced Evictions). K2P is an NGO coordinated under the Jakarta Legal Aid Foundation (*Yayasan Lembaga Bantuan Hukum Indonesia* Jakarta Chapter or LBH Jakarta).<sup>16</sup> According to Rahardjo, many of the Kemayoran Community Delegates leaders resented his appointment as head of K2P, because they believed it would distract him from his commitment towards the Kemayoran community. Many of the Kemayoran Community Delegates leaders questioned the role of Jakarta Legal Aid Foundation and did not see their support as an advantage in their struggle (personal

<sup>13</sup> These accusations were proved to be untrue, as the World Bank never directed any of their funds to the Kemayoran project.

<sup>14</sup> During the New Order, many strategic positions in the government were headed by the military. In the 1990s the Governor of Jakarta, the Minister of Home Affairs, the Head of the National Land Agency, as well as the State Secretary (and also Head of BPKK) were retired military officers.

<sup>15</sup> Unfortunately, after Rahardjo died in January 2001, his library did not pass on to the Kemayoran Community Delegates. Each community leader has their own documentation of Kemayoran activities and clippings, so they did not depend on Rahardjo's documentation.

<sup>16</sup> Prominent lawyers, such as Adnan Buyung Nasution and Nursyahbana Katjasungkana, and Jakarta's former governor, Ali Sadikin, support the Jakarta Legal Aid Foundation.

communication with Rahardjo, 30 June 2000 and Suryadi, 21 April 2001). Eventually, Rahardjo resigned as head of K2P because of their differences in strategies. The Jakarta Legal Aid Foundation preferred to go through the legal system, while Rahardjo preferred a political approach in advocating the community's claims.

Other dominant community leaders are Suryadi (62 years old in 2000), a retired schoolteacher, and currently the head of the Kemayoran Community Delegates; and Eko (58 years) and Sirajudin (55 years), both migrants from the informal sector and community leaders from RW 04. These two prefer to be called representatives of *Komunitas Kemayoran* (Kemayoran Community), rather than *delegasi* (delegates), which in their opinion was too formal and bureaucratic (see Discussion 2 later in this section). Eko is head of RW 04, and Sirajudin is the Kemayoran Community Delegates representative for RW 04. Despite their social and economic differences, they all shared the same passion for defending the rights of their community, and continue to live in Kemayoran. 'I may be poor and uneducated, but I know the difference between what is right and wrong. I care about this community and what happens to them,' said Sirajudin (interview, 7 June 2001).

The Kemayoran Community Delegates leaders believe that during the New Order era they contributed to the improvement of the regulation on land acquisition through their discussions with legal land experts such as Prof. Maria Sumardjono:

We lobbied government officials, discussed our case with legal experts such as Prof. Maria Sumardjono and even went to Yogyakarta to see her. She was surprised how knowledgeable we were on Indonesian land law. I remember quoting Prof. Mulyarto of University of Gadjah Mada from a journal article written in 1974: 'If the development continues to be conducted with capitalist principles, sooner or later the Indonesian economy will fall.' Prof. Mulyarto was right, our economy did indeed fall in 1997 (interview with Rahardjo, Head of the Kemayoran Community Delegates, 6 July 2000, author's translation).

We [the Kemayoran Community Delegates] contributed to improving the Land Acquisition Regulation. We criticized the previous regulation, *Permenagri* no. 15/1975, because it allowed the government to determine the land price. Legal experts used our case to support the revisions in the regulation. Now *Keppres* no. 53/1993 on Land Acquisition states that the compensation rates should be based on the current market rate (interview with Eko and Sirajudin, 31 May 2001, author's translation)

Although the land acquisition regulation was replaced in 1993 with the President's Decree no. 53/1993, in his review of the regulation Fitzpatrick (1998: 79) noted, however, that the revisions did not improve the bargaining power of the community (refer to Section 3.1.2). Except for the clause on compensation rates and the duties of the Governor in the event of a disagreement with landholders, there were no changes to the composition of the land acquisition committee, which still has no representation from the local residents.

### *The reformasi era: networking and strategic alliances*

The *reformasi* era brought new hope for residents in Kemayoran. As explained in Chapter 5, many residents expected the Kemayoran authority to dissolve when the Decentralization Law became effective in January 2001, and the administration of the new town development to be handed over to the Jakarta local government. During the euphoria of *reformasi*, the community leaders informed me that they assumed the Kemayoran Implementation Unit would change their attitude towards the community. However, up to the time of writing this thesis, there had been no decision on the devolution of authority, and the Kemayoran Implementation Unit had not changed their attitude towards the local residents. In the meantime, the community leaders continued to seek other alternatives to negotiate with the government.

In 1999 Eko and Sirajudin attended a group discussion at the Urban Poor Consortium headquarters, encouraged by a friend from a neighbouring *kampung* (RW 01). Since then, they have both attended the group discussions on a regular basis. They informed me that since attending these group discussions, the Kemayoran Community Delegates's struggle has become more focused. Both Eko and Sirajudin admitted that it was not an easy task to persuade the other Kemayoran Community Delegates leaders of the benefits of joining the Urban Poor Consortium (UPC).

UPC offered two alternatives on their land problem. The first was to negotiate with the Kemayoran Implementation Unit. The second was to take part in the land registration program (this will be discussed further later in the section). On July 12<sup>th</sup> 2000 the Kemayoran Community Delegates accompanied by the NGO, the Urban Poor Consortium, met with the Kemayoran Implementation Unit to discuss

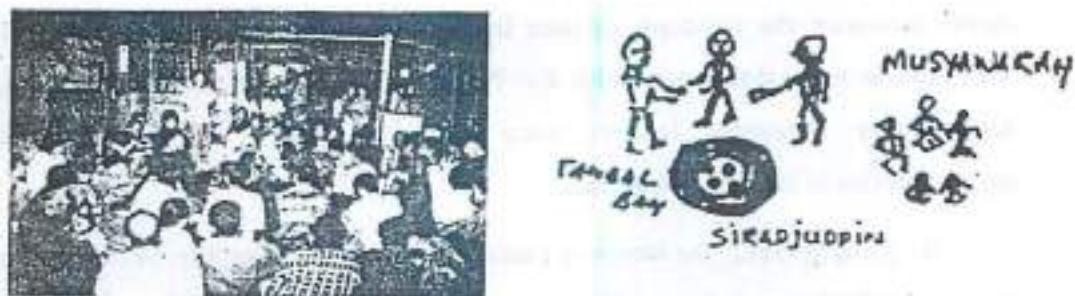
alternatives on the land acquisition program. Three proposals were discussed in the meeting. Table 6-4 compares the contrasting views of the Kemayoran Implementation Unit and the Kemayoran Community Delegates. There was no clear outcome of this meeting. The Kemayoran Community Delegates were not satisfied with the proposal and were hesitant to work with the Kemayoran Implementation Unit. There were many unclear issues arising, such as the costs and site of any relocation. The Kemayoran Community Delegates also did not trust the Kemayoran Implementation Unit so it would be difficult to form a partnership or work together in finding a solution to the land problem.

Table 6-4 Comparison of views of Kemayoran Implementation Unit and the Kemayoran Community Delegates on land proposal of July 2000

Proposal	Kemayoran Implementation Unit (DP3KK)	The Kemayoran Community Delegates (DWK)
Land acquisition with compensation based on current tax-based land value (NJOP)	The Kemayoran Implementation Unit has no funds to continue the land acquisition	There should be no differentiation of compensation based on land titles. Land compensation should be based on the tax-based land value (NJOP).
Land consolidation	The Kemayoran Implementation Unit will work together with community and prospective investors to develop the land	Community is unwilling to work with the Kemayoran Implementation Unit. The residents felt disadvantaged and have no bargaining power because they do not have land titles
Relocation	Relocation of residents is necessary to gain control of the scattered land already purchased by the authority. Residents will be allocated the same amount of land in another area that is in accordance with the master plan.	The relocation program is unclear on where to move and who will move, and unfair, as there is no compensation provided to build a new house unit.

Source: translated and compiled by author from Kemayoran Implementation Unit (KIU) Report (12 July 2000), interviews with KIU staff and the Kemayoran Community Delegates' leaders.

Attendance of the Kemayoran Community Delegates representatives in focus group discussions organized by UPC played an important role in the community's struggle (Figure 6-5a). Weekly discussions with other *kampung* communities made the participants aware that they were not alone, and other *kampung* residents were experiencing similar problems. During these group meetings, the community leaders identified the major problems faced by the residents in their settlement (referred to as problem mapping) and also what they hoped to achieve. One of the methods used by the NGO to draw out what was the major problem was to ask the community leaders to draw a picture of their occupation and what they hoped to achieve or resolve in



a. Group discussions with *kampung* community leaders at UPC headquarters

b. Drawing by community leader, Sirajudin, describing his occupation and the importance of *musyawarah*

Figure 6-5 Group discussions between UPC and *kampung* community leaders

Source: UPC website, <http://www.urbanpoor.or.id> accessed 1 October 2002.

These group discussions also created an opportunity for the community leaders to share their experiences in dealing with similar problems, in prioritizing the problems of each *kampung*, and working out a solution together. For example, one of the experiences shared by Eko and Sirajudin (from RW 04 Kemayoran) in these group discussions was of an earlier visit to the Minister of Home Affairs, Rudini, in 1992. The minister sympathized with the struggle of the Kemayoran community and explained that land registration was an opportunity for *kampung* people to keep their land, but in the New Order period it was not encouraged.<sup>17</sup> This later led to more serious discussions within the *kampung* community discussion group on Government Regulation PP no. 24/1997 on Land Registration, and Wardah Hafidz finally contacting the National Land Agency to discuss the opportunity of registering the *kampung* land.

Through the community discussions at the Urban Poor Consortium Headquarters Eko and Sirajudin learned that it would be an advantage to work together as a network of communities rather than on their own. Although the Kemayoran Community Delegates leaders participated in activities coordinated by UPC, such as the People's Festival, the Kemayoran Community Delegates Leaders

<sup>17</sup>During this visit, the minister referred to Government Regulation PP no. 10/1961 on Land Registration. According to Lucas and Warren (2000: 221) the Basic Agrarian Law of 1960 was associated with the conflicts between the landlords and the Peasant's Front supported by the Communist Party (PKI). The mass killings of 1965 and the downfall of Soekarno brought down the

never informed the residents of their involvement with the NGO. It was only after UPC made a breakthrough with the National Land Agency that the Kemayoran Community Delegates leaders were ready to inform the residents of the opportunities in land registration.

By joining UPC, the *kampung* gained more exposure to the public through the media, public forums, demonstrations and people's festivals. UPC organized a public forum between the state (central and local government officials) and the *kampung* residents. This event was held as part of the *Pesta Kemerdekaan Rakyat Miskin Kota, Petani dan Buruh* (Independence Festival for the Urban Poor, Peasants and Labour Workers) in August 2000 and 2001 (Figures 6-6 and 6-7). The festival was conducted to celebrate Indonesia's Independence Day, 17 August. The festival displayed artwork showing the demography and social-economic conditions of the urban poor community in Jakarta and the surrounding areas: Tangerang, Bekasi and Bogor. During the festival there were free music performances for the urban poor community and dialogues between the community and the state. UPC invited government officials of the Ministry of Human Settlements and Regional Development, National Land Agency, Minister of Employment and the Jakarta administration to meet with *kampung* residents and discuss their problems. However, only the Minister of Human Settlements and Regional Development, Mrs. Erna Witoelar, who was a personal friend of Wardah Hafidz, attended the forum (Figure 6-6a).

Each *kampung* representative was given five minutes to explain the major problems of their *kampung* and what type of assistance they expected from the government. Most of the *kampung* community problems concerned the lack of infrastructure, legitimacy as citizens, lack of land status and employment. Suryadi, Eko and Sirajudin represented the Kemayoran community. In their presentation, Suryadi explained the unjust land acquisition process in Kemayoran (that had been conducted without *musyawarah*) and their unclear land status. Other *kampung* representatives explained their difficulty in obtaining RT status and how their illegal status prevented them from obtaining ID cards and public facilities, and from enrolling their children in public schools. At the end of the discussion forum, Erna

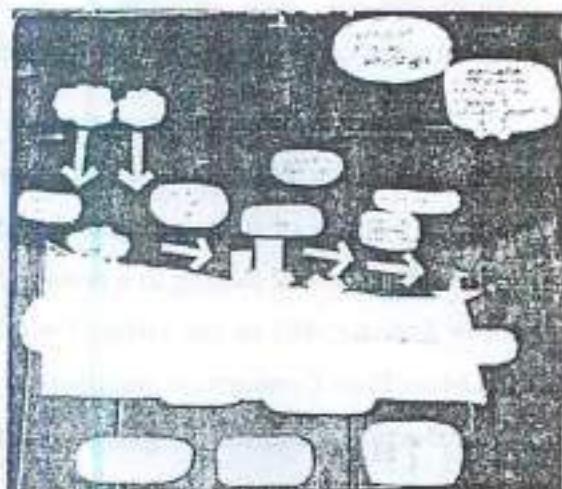
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Communist Party and the Peasant's Front, and with it the land reform agenda. During the New Order, there was no attempt to continue the agrarian reform.

Witoelar promised the *kampung* residents that she would follow up their problems and reminded them that government administrative procedures may take longer than they expected.



a. Forum between *kampung* communities and Minister Erna Witoelar.  
Wardah Hafidz (UPC) acted as moderator



b. One of the art displays showing the communities' analysis of the cause of floods in Jakarta

Figure 6-6 Poor People's Festival at *Gedung Pola* (Proclamation Building),  
12–16 August 2000



Figure 6-7 Scenes from the Poor People's Festival in Kemayoran,  
August 2001

Source: UPC website, <http://www.urbanpoorca.org> accessed 1 October 2002.

On some occasions, UPC asked the community representatives and *kampung* residents to participate in protests against Governor Sutiyoso. One of the protests was about the lack of transparency of the Jakarta administration's annual budget (May 2001, refer to section 6.1). Wardah Hafidz asked community leaders to bring other *kampung* residents to the protest rally. However, community leaders in RW 04

were concerned about continuing to participate in this type of activity. In their opinion, not all community leaders (including themselves) and kampung residents could afford to give up one day of work to attend such activities. They also thought that not all of the NGO's activities had a direct impact on their struggle (personal communication with Siradjudin, 8 May 2001), which shows that kampung communities can be critical of NGOs and choose what activities to participate in.

The land-titling program is one of the outcomes of UPC lobbying the government (the National Land Agency). The decision to seek land titles was the result of a series of discussions with the community representatives (referred to as community leaders) joining in a network of urban poor communities, *Jaringan Rakyat Miskin Kota (JRMK)* or the Urban Poor Community Network. To join this network, the Urban Poor Consortium requires the commitment of the kampung community to follow the policies and strategies that UPC employs, among others things:

1. The kampung community should not accept any assistance that involved government loans from foreign donor agencies;
2. The kampung community leader should act as liaison between the kampung community and UPC; and
3. The kampung community leader should participate in events coordinated by UPC to lobby for government assistance.

Some kampungs such as Kampung Blok Asin have withdrawn from the network because they had chosen to accept government assistance that used foreign loans (interview with Wardah Hafidz, 30 May 2000). In the network of communities, UPC organizes the communities around similar interests such as land titles, infrastructure, employment and women's activities. UPC has only limited contact with the Kemayoran Community Delegates in Kemayoran, because they consider the Kemayoran Community Delegates to be a self-reliant community organization. In other kampung communities, UPC is active in supporting women's organizations and job skills training for pedicab drivers.

In the group discussions, the community coordinators learned how to lead discussions, give presentations, discuss their kampung problems and find possible solutions. In addition to these group discussions, UPC conducted workshops for the community coordinators. The purpose of these workshops was to build

organizational skills and awareness of the necessity of working together in achieving common goals. Although UPC initiated the network of urban poor communities, the community leaders joined under the Urban Poor Community Network, or *Jaringan Rakyat Miskin Kota (JRMK)*,<sup>18</sup> do not want to be considered part of the Urban Poor Consortium. As explained in Chapter 2, during the New Order era the government often had a negative attitude towards NGOs. Creating a separate organization from NGOs is a strategy to cope with this. The following dialogue between a police officer and a *becak* or pedicab driver during a demonstration in front of the President's Palace in November 2000 illustrates this point.

**Box 6-4 Dialogue between pedicab driver and police officer (November 2000)**

In a demonstration of pedicab drivers in front of the President's Palace in November 2000, a police officer approached the crowd. He warned them to leave the premises and that the demonstration was not really for the benefit of pedicab drivers, rather for UPC. 'UPC will get all the fame and funding, so it is better for you to go home.' One of the pedicab drivers, Dajan, replied: 'I am here not because of UPC but for my wife and children so they can survive.' The demonstration ended with violence. The pedicab drivers were brought to Komdak (the Military District Office) for interrogation.

Source: adapted from UPC website, <<http://www.urbanpoor.co.id>> accessed 1 June 2003, author's translation.

### *Building a community learning centre*

The routine group discussions at UPC seemed to trickle down to the community level. The material below illustrates how the Kemayoran Community Delegates began to operate as a community learning centre, sharing experiences with the community in Kemayoran and building their awareness of their rights as citizens. Each RW provides a location as a base-camp for its activities, where every community member can drop by to ask about current information or discuss their concerns regarding the land registration process. In RW 06 it is the home of Suryadi, head of the Kemayoran Community Delegates, while in RW 04 it is a small *warung* that is owned by Eko (Figure 6-8). The Kemayoran Community Delegates meetings are usually held at the home of Suryadi, with the representatives of each RW attending these meetings. The information discussed at these meetings is

<sup>18</sup> The Urban Poor Community Network is an organization of urban poor communities in Jakarta. Most of the community joined under this network work with UPC, but it is not the same organization as UPC.

disseminated by the Kemayoran Community Delegates representatives to the community in smaller group meetings with the RT heads in each RW, or in informal discussions with community members at each RW meeting place.

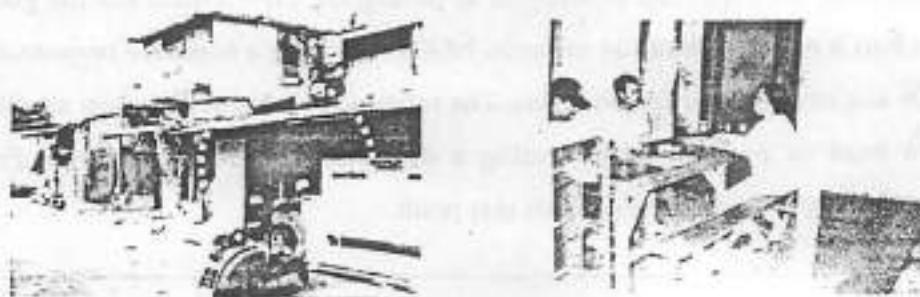


Figure 6-8 RW 04 meeting place at Eko's *warung* (kiosk)

Various topics are discussed during these meetings and informal discussions, ranging from the residents' opinions on the Kemayoran Implementation Unit to their problems in interpreting the legislation on land registration and dealing with the *Kelurahan* officials. Information obtained by the Kemayoran Community Delegates leaders is transferred to the community during these informal discussions or meetings, as well as through informal conversations amongst community members. The following discussions at which I was present provide examples of how the Kemayoran Community Delegates serves as a centre to share experiences and build knowledge on rights in the land registration process. These discussions occurred during the land registration process.

**Box 6-5: Discussion 1 with community on terrace of the home of the Suryadi, Head of the Kemayoran Community Delegates in RW 06, 17 August 2001**

Respondent A: My neighbour went to the *Kelurahan* office yesterday. They [the *kelurahan* staff] told her that she had to pay them money to obtain a letter of inheritance on her land plot. If she doesn't get the letter, BPN [the National Land Agency] will not process her land certificate. It's a huge sum, Rp. 300,000.

Community leader 1: It's not necessary. We shouldn't be paying them any informal fees. Here, read the regulation, PP no. 36/1997. It says that these items are considered as evidence to support proof of land ownership.

government. I now turn to the community in *Kampung Penas Tanggul* to examine their process of empowerment and relationship with the NGO, *Institut Sosial Jakarta*.

### 6.2.2 *Kampung Penas Tanggul*

As explained in the previous chapters, most of the residents in *Kampung Penas Tanggul* are migrants and victims of forced evictions, and the *kampung* was formed in the 1970s. The success of building the cohesiveness of these migrants as a community, in particular Group 2, was mostly due to the efforts of the NGO, *Institut Sosial Jakarta* (ISJ) and local community leaders. This section shows that the routine discussions initiated by the NGO enabled the community to become self-reliant and continue this tradition of *musyawarah* in the *reformasi* era. However, there were limitations to the efforts of the community. Their success in obtaining RT status depended on the relationships of the NGO with the government and the political opportunities to be discussed further in this section.

#### *Building cohesiveness*

As explained in Chapter 5 ISJ has held routine informal discussions with the residents of *Kampung Penas Tanggul* since they first started assisting the residents with welfare programs in the 1980s (Figure 6-9). These group discussions continued as part of the community's routine activities even after the NGO coordinator left the community in the mid-1990s.<sup>19</sup> The discussions took place in the *Balai Warga*, the house built by ISJ as their base camp (refer to Figure 5-14). The issues discussed included the causes of floods, the proper and legal procedures that should occur prior to and during an eviction, the importance of healthy living and maintaining a clean environment, the dangers of building a structure extending into the rivers, etc. From the community's point of view, the benefit of the group discussions is reflected in the way they were able to upgrade their infrastructure, maintain and protect their environment, and protect themselves from involuntary removal (as discussed earlier, in section 5.2).

<sup>19</sup> ISJ did not continue their assistance after the *kampung* obtained RT status. The ISJ coordinator felt that the residents were self-reliant enough to take care of their own affairs.



Figure 6-9 Group discussion in *Kampung Penas Tanggul* led by NGO activists

Source: ISJ documentation

The community also benefited from their interaction with more highly educated community leaders, such as Sa'il, who holds a bachelors degree in economics. Sa'il migrated from South Sulawesi in the early 1990s. After failed attempts at finding employment, he finally settled down in *Kampung Penas Tanggul* and has been working as a self-employed electrical repairman since 1993. The linkage between community leaders and the NGO was an advantage for the community. According to Nainggolan, Sa'il was very quick in understanding the issues that rose during the discussions with the NGO, and was capable of passing information through informal conversations with other residents, especially with those who could not attend the meetings. He was respected by the *kampung* residents because of his higher education and friendly attitude towards them. Box 6-7 shows an example of group discussions and their outcomes in the management of infrastructure and their environment.

**Box 6-7: Managing infrastructure and the environment in the New Order era**

One of the first issues discussed by the community was the 'helicopter toilet' (refer to Figure 5-9) that was built on wooden piles extending from the riverbank into the river. The community realized that this type of structure created a negative image of their *kampung*. The local government prohibited such structures and would sometimes patrol the riverbanks to demolish them.

During the group discussions, the community discussed the pros and cons of this type of structure. The residents came to the conclusion that garbage could get caught between the piles and obstruct the water flow. They agreed to build a permanent public bathing-washing-toilet facility (*mandi-cuci*)

*Respondent A:* Yes, I understand, but all the PBB tax receipts are under her late husband's name. Wouldn't that create problems in the process?

*Respondent B:* Tell her that she should go to the Tax Office and get it changed to be under her name. Just bring the proper letters such as the marriage certificate, ID card and death certificate of the late husband. I went there years ago to change the name on the PBB receipts under my name. I just brought my ID card and a letter from the RT and RW head stating that I live on that property. It's not too difficult.

*Respondent A:* Would she have to pay? What do we tell the *Kelurahan* official? One of my neighbours already paid that amount to process a similar type of letter.

*Respondent B:* Yes, I think there was a fee – I don't remember how much, but it's not too expensive.

*Community leader 1:* Actually the *Kelurahan* Office should not take advantage of us. We should not pay any additional fees to them. Just last week, Mba' Wardah [the popular name of the UPC leader, Wardah Hafidz] warned us that these kinds of things might happen and we should not pay any informal fees. I'm still preparing a letter for the community that explains about the land administration fees. I need to get some confirmation on this method of calculation [showing me the letter from BPN on the calculation of fees for land registration]. What do you think—do you think this information is correct? I tried calculating it for my land plot and got a different result.

*Researcher:* No, I think BPN wrote it incorrectly. It is not what they explained during the last meeting.

*Community leader 1:* Exactly, I thought so too. I have to tell Mba' Wardah about this, otherwise all the residents will be confused.

**Box 6-6: Discussion 2 between residents of RW 03 and RW 04 at  
RW 04 meeting place 5 September 2001**

*Respondent C:* Yesterday, the *Lurah* invited all the RW and RT heads from RW 01–03 to discuss the administration fees for the land registration process.

*Community leader 2:* Why is that?

*Respondent C:* He says that the RT and RW heads must work hard to administer the land program and he doesn't want to burden them with extra work. We all agreed that all the residents applying for land titles must pay Rp. 350,000 per plot.

*Community leader 3:* That's outrageous! You shouldn't pay that amount because BPN agreed to calculate the administration fee based on the area of each land plot. This system is more just than paying the normal fee of Rp. 159,000 per plot. BPN needs to know the total amount of land that will be registered before telling us the amount we should pay per square metre. How could the *Lurah* suggest that fee?

*Respondent C:* Well, he didn't. It was actually the RW and RT heads that suggested that fee to pay for their expenses and labour. Of course, the *Kelurahan* Office will also be getting a fair share.

*Community leader 3: Why didn't you protest?*

*Respondent C: We didn't know about the arrangements the Kemayoran Community Delegates made with BPN. Anyway we think that Rp. 350,000 is not too expensive. One of my neighbours paid more than Rp. 1 million to register their land some years ago.*

*Community leader 2: It's not about the money. This is why we don't agree with the people up there [pointing to the locations of RW 06-08 in the north part]. They are too bureaucratic. I don't even like the name *Delegasi Warga* because it sounds too formal. We prefer to be called *Komunitas Kemayoran*. They don't want to include the other residents from RW 01-03 in the Kemayoran Community Delegates. But BPN said that they would only implement the land registration program for the whole *Kelurahan*, not just RW 04-09. So, I believe that other RWs have the right to know what are our arrangements with BPN.*

*Researcher to community leaders: What's your opinion on this matter?*

*Community leader 3: We will keep on informing RW 01-03 of our discussions with BPN. We always welcome any community member to come here and discuss their concerns. It is their right to have access to the same opportunities as we have. We will raise this issue during our next Kemayoran Community Delegates meeting.*

These two examples show how residents exchange information, learn about the land registration processes and understand what their rights are. It also shows that by sharing information on the land registration process, the community can avoid paying informal fees to the *Kelurahan* officials. The discussion in Box 6-6 showed that communities could act to countercheck decisions made by the government. Although within the Kemayoran Community Delegates there were disagreements on certain issues such as whether to involve the community in RWs 01-03, during the next Kemayoran Community Delegates meeting everyone agreed that RWs 01-03 should not be discriminated against and that they should pay the same fees as the community in RWs 04-09 (personal communication with Suryadi, 20 September 2001).

This section has shown the significance of community empowerment in the struggle for land, which evolved from a local-based struggle that refused assistance from other NGOs, to a networked-based struggle coordinated under an NGO (UPC). Their empowerment cannot be separated from the role of local leaders and their interactions with the NGO, and how they created strategies to negotiate with the

kakus or MCK) along the riverbank (refer to Figure 5-13). Several of the residents were working as scavengers and contributed used material that they had collected to build the toilet facility. The toilets are managed collectively without routine expenses or user charges for maintenance or cleaning. The residents collectively take turns to clean, repair or replace worn-out parts. This reflects the cohesiveness of the community, just like 'a large family', as one respondent expressed it. The presence of healthy children running around the kampung gives a good indication of the community's health.

The image of the settlement and land-use were other important issues discussed by the community. After the NGO had taken them to visit the acclaimed *Kampung Kali* Code in Yogyakarta in 1998,<sup>20</sup> the community leaders felt that their settlement should and could project a positive image. They decided that certain facilities had to be organized. The community leaders encouraged residents not to extend their buildings outside the boundaries of their land plots, which were already in a neat order with similar plot sizes of 2.5 by 8 meters. No houses were to be built directly along the riverbank. They also refused new residents who wished to build houses in their settlement, because it would increase the building density and ruin the image of an orderly settlement.

Source: compiled by author from ISJ and interviews with residents

The above example shows that group discussions were effective mechanisms for learning about environmental issues and practising *musyawarah* (the practice of deliberation) on community-scale programs. The role of the NGO (ISJ) was initially instrumental in building the cohesiveness of the residents as a community and nurturing the sense of a community through group discussions and community action in improving their settlement. The excursion to *Kampung Kali* Code mentioned in Box 6-7 enlightened community leaders to possibilities for improving their environment using simple building materials, and gave them hope that they could negotiate with local government officials to continue living along the riverbank by projecting a positive image.

### *Opportunities in the reformasi era*

Communities in squatter settlements are quite aware of their vulnerable position as illegal citizens, but are also cautious of government actions that might make political use of their illegality. As mentioned in Chapter 5, in 1997 the community approached

<sup>20</sup> *Kampung Kali* Code is a riverbank settlement in Yogyakarta. It faced numerous threats of forced eviction from local authorities, but was able to gain government recognition to continue living along the riverbank. The late priest Romo Mangunwijaya assisted the community in organising the community and building their settlement using local and salvaged building materials.

the *Lurah* to seek RT status. The *Lurah* accepted their request under certain conditions—the community was obliged to vote in favour of the ruling party *Golongan Karya (Golkar)* in the coming election. The community leaders informed me that the community refused this offer. The community did not vote for *Golkar* because they had not experienced any improvement in their livelihood, and instead supported *Partai Demokrasi Indonesia Perjuangan (PDI-P)*, which was led by Megawati Sukarnoputri. However, *Golkar* won the 1997 election and there were no changes in policies affecting the *kampung's* status.

In the beginning of the *reformasi* era, the *Kampung Penas Tanggul* community focused their struggle on the alleviation of poverty rather than on gaining administrative status. Since 1998 many residents have experienced difficulties in maintaining their current employment or gaining job opportunities because of the slow-down of construction and other economic activities. The government, with the assistance of NGOs, distributed *sembako* (*sembilan bahan pokok* or nine basic groceries)<sup>21</sup> and safety net funds (*jaringan pengaman sosial*, or JPS) to urban poor communities. ISJ was one of the NGOs assisting the government in these programs.

ISJ has a long history of involvement with the local community, spanning a period of more than fifteen years. The evolution of ISJ's role in *Kampung Penas Tanggul* could be compared to Elliot's (1986) and Korten's (1991) model of NGOs, going from welfare, to development and finally to empowerment (see Chapter 2). In their initial involvement with the *Kampung Penas Tanggul* community, ISJ began with relief and welfare activities. Then in the 1990s they focused on local self-help action through the organization and mobilization of local resources. The results are evident in the way the community organized themselves to improve their settlement and participate in environmental management (Box 6-7).

In the *reformasi* era the *Penas* community approached the *Lurah* again for administrative status, but was refused. They then relied on the efforts of the NGO to advocate for administrative status. ISJ played high-level politics in advocating the needs of the *Kampung Penas Tanggul* community by interacting with Ministers Erna

<sup>21</sup> According to the Minister of Industry and Commerce Decree no 115/mpp/kep/2/1998, 27 February 1998, *Sembako* (the nine basic groceries) consists of the following products: rice, sugar, cooking oil or margarine, meat and poultry, eggs, milk, corn, salt and kerosene.

Witoelar and Sonny Keraf, which eventually led to the granting of administrative status in August 2000 (refer to discussion in Chapter 5).

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Referring to the definition of empowerment argued by Lyons, Smut and Stephans (section 2.3.2), the cases above demonstrate that both communities increasingly took initiative for their own affairs and the strategies to pursue. Community leaders and NGOs play important roles in empowering the community. This process, however, occurred in different ways in the two cases, and depended on whether the community, represented by their community leaders, were willing to work with the NGO, the type of assistance, and strategies to pursue.

In *Kelurahan Kebon Kosong*, *Delegasi Warga Kemayoran* was successful in building the cohesiveness of the community and employing strategies to lobby their case. During the New Order era, although they were able to gain support of bureaucrats and the People's Representative Council, this did not change the outcome of compensation. UPC empowered community leaders by building their awareness of their rights. This was achieved through routine discussions concerning land rights and the strategies for pursuing their rights for land titles. Through their interaction with UPC, the Kemayoran Community Delegates evolved from working on their own to joining in a network of urban poor communities to pursue land titles. In *Kampung Penas Tanggul*, ISJ worked closely as welfare NGOs and moved on to build the community's cohesiveness, build their awareness of their rights, and encourage the self-mobilization of the community.

The strategies employed by the community organizations were different in the two periods: however, in both cases opportunities for negotiation were more open with the central government during the *reformasi* era, and the role of the NGOs became more significant.

### 6.3 CONCLUSIONS

In the beginning of this chapter I argued that the opportunities for gaining claims on land were dependent on several factors that work in close connection with one

another. As shown in section 6.1.2, the slowdown of urban development had an impact on the number of evictions, which declined between 1998 and 2001. Forced evictions, in particular since August 2001, were conducted by the local government to support the implementation of the Local Regulation, Perda no. 11/1968 on Public Order, which prohibits settlements along riverbank and railways. Ironically, it was the Governor who encouraged some of these new squatter settlements, and the Jakarta government did not offer alternative housing for the victims of these evictions.

While the New Order government was characterized by the rule of political law (refer to Chapter 3), in the reformasi era it seems that there has been no improvement in the government's attitude towards *kampung* settlements. There has been more faith in the court system, as was expressed through class actions against the state; however, the major obstacle in the struggle of *kampung* communities is the attitude of government officials. Only during the brief presidential term of Abdurrahman Wahid was there a good relationship between *kampung* communities and government officials. This was possible not only because of the support of Wahid, but also because of the attitude of the ministers towards NGOs and the urban poor. After Megawati Sukarnoputri became president, the relationship between *kampung* communities and the local government worsened, as Governor Sutiyoso felt free to reinstate forced evictions on squatter settlements. This demonstrates that policies and programs to increase the role of civil society in participation will eventually fail if the government does not open opportunities for the realization of participation.

The analysis also showed that *kampung* communities became empowered through the process of understanding their rights to land and building a network with other *kampung* communities and NGOs. The empowerment of these communities as a network demonstrates that *kampung* communities are becoming stronger and are playing a larger role as part of Indonesia's civil society. The new legislation on Freedom of Speech had provided the opportunity for expressing demands to the state, which was evidenced by the various events held by local NGOs, such as art festivals, public forums with ministers, public rallies and demonstrations on state policies, which were not possible during the New Order era.

These events also demonstrate that opportunities are not only seized, as suggested by Tarrow (1983, 1998), rather they are 'created' by a dynamic civil society.



# 7

## Discussion and Conclusions

This thesis began with an illustration of conflicts over land rights between the state and *kampung* communities in Jakarta during the New Order era, and the growing movement of their struggles for land during the *reformasi* era. The aim of this thesis was to better understand the growing movement of community struggles for land in contemporary Jakarta. The underlying proposition was that communities' claims on land were a response to the constraints imposed by the state, and were essential in gaining their social rights as citizens. In this chapter I show how my research findings answer this aim and draw important policy implications that flow from the analysis.

### 7.1 SUMMARY OF RESEARCH FINDINGS

This research covers two political periods, the New Order and the post-Suharto era and demonstrates how the different political conditions influenced the way *kampung* communities struggled for their rights to land. In addressing the above research aim, this research examined the role of law in shaping the outcomes of contests over land rights.

The analysis of urban legislation in Jakarta showed that law played a major role in the marginalization of *kampung* settlements and its residents during the New

Order era. Many laws and regulations related to urban development focused on economic development and placed civil society in a weak position. The situation is worse for *kampung* residents because of the limited and various understandings about their land status and rights to land, and also laws and regulations that categorize their occupancy as illegal. The practice of land appropriation marginalized *kampung* residents from obtaining what they could see as just compensation, not only because there was no representation of the community in negotiating the land price, but also because of the practice of the rule of political law that justified the interests of the bureaucracy in the name of 'development', and could easily silence community protests that were in the way.

Similar to Leaf (1991, 1993) my research found that the weaknesses in land administration had provided the opportunity for the poor to gain access to land. However, contrary to Leaf's statement that informal land rights are registered at the *Kelurahan* office, my research found that this did not occur in the two case studies. In practice, the *Kelurahan* office has very limited information and hardly any maps on land ownership within their area. Most of the information on land parcels and ownership was compiled by the community themselves, which demonstrates that local land management is possible, as well as necessary.

Examination of the struggles of *kampung* communities in the two case study sites showed that the communities' claims were similar, in the sense that both related to gaining their rights as citizens. The case studies showed that it is not the illegality of land tenure that *kampung* residents consider to be a problem; rather it is how their rights as citizens are affected because of the status of their land tenure. Therefore, the expression that 'security of tenure and citizenship are two sides of the same coin' is quite true, which is discussed further below.

In *Kelurahan* Kebon Kosong, the driving force for the struggle for land titles was to enable the residents to be distinguished from squatters or illegal citizens, and gain a stronger bargaining position with the state or private developers. Their past experience of being accused as *pemerasan tanah*, or 'land grabbers' by the Kemayoran Implementation Unit, even though they had been paying land and building taxes for many years, and being excluded from negotiations on compensation, had left traumatic memories. Even after the major land acquisition program had ended, the negative social attitudes of the Kemayoran and local authorities towards the

community continued, by excluding them from gaining direct access to certain public facilities and denying them the right to infrastructure upgrading. The lack of clarity over land management complicated the problems faced by the local residents, because both the *Kelurahan* and Kemayoran Implementation Unit officials denied any responsibility for dealing with the occupation of land by new squatters on idle land, thus enabling certain groups to gain control of the land, sometimes for their own personal interest.

In Kampung Penas Tanggul, the communities' claims for administrative status were necessary to improve their status as legal citizens and gain government recognition. Without administrative status, these residents could not obtain local ID cards, and formal access to urban services, including education for their children.<sup>1</sup> The lack of administrative status enabled certain individuals to gain power by informally taxing the *kampung* residents and using the *kampung* for illegal activities such as gambling and consuming alcohol. These illegal activities disappeared after the *kampung* gained administrative status.

The research showed that at the local level there are a diversity of social forces with their own rules and understandings of legality of land tenure, which supports Migdal's (1988, 1994) theory of weblike societies in developing countries. These different understandings of legality were demonstrated by the changing social attitudes towards *kampung* residents overtime. There are several examples that demonstrate this. Although *garapan* land is acknowledged by both the state and community as state land, *kampung* residents consider that occupying *garapan* land is not the same as squatting. This understanding emerged not only because of how the residents occupied the land (by approval of local authorities), but also because of government attitudes that seem to recognize the rights of those occupying the land by collecting taxes and encouraging the residents to participate in general elections. Another example is how attitudes of the local authorities towards the residents in *Kelurahan* Kebon Kosong changed over time from acceptance to denial when the area

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<sup>1</sup> Since the closed city policy of the 1970s, ID cards can only be issued to residents living in a formal neighbourhood and are holding a *surat pindah* (an official letter of transfer for place of residency) from the head of their home village. Many migrants are reluctant to apply for *surat pindah*, because it means giving up their home village ID cards.

was put under the authority of the central government for urban redevelopment (Kemayoran Management Board and the Kemayoran Implementation Unit).

In the *reformasi* era the nature of community struggles changed from a local-based struggle to a network-based struggle, which contradicts Nas's (1997) statement that most *kampung* community struggles over land in Jakarta are local-based. The research also found that in the beginning of the *reformasi* era, the government had began to change their attitude by accommodating the demands of the urban poor by forming a partnership in land titling and granting squatter settlements administrative status as RT units. In the beginning of their struggle, the Kemayoran Community Delegates focused their actions on pursuing just compensation, however, their interaction with the NGO (the Urban Poor Consortium) and other *kampung* communities led to a unified and organized cause to seek formal land titles. *Kampung* communities were becoming empowered through the process of organization and understanding their rights to land. This was possible because of the role of local leaders and NGOs in building the awareness of their rights and organizing the community. These processes occurred through formal and informal discussions between community leaders and the NGOs, and between community leaders and local residents.

Discussions between community leaders and NGO activists focused on understanding the substance of urban legislation such as the Basic Agrarian Law, the Environmental Law, and government regulations on the processes of land acquisition, evictions and land registration; and through this process building an understanding of the communities' rights and empowering them. The empowerment of the community was evident in how the *kampung* communities in the two case studies were able to make decisions on their own concerning their settlement and their rights to land. This also demonstrates the important role of NGOs in disseminating information on laws and regulations.

Several characteristics of political opportunities proposed by Tarrow (1998) were present in the *reformasi* era, which were significant in supporting the communities' struggle for land. The first was how the state provided access for participation and expressing opinions in public. The euphoria of democracy and legislation supporting freedom of public expression provided the opportunity for communities to convey their concerns through public forums, rallies, peaceful

demonstrations and art festivals, such as those held by the NGO, Urban Poor Consortium and the Network of Urban Poor Communities in Jakarta, without being worried that these activities would be condemned by the state as subversive actions. The support of NGOs as influential allies forms the second characteristic of political opportunity. However, the increased role of NGOs and the opportunities for expressing opinions in public, as well as holding public dialogues between communities and the state would not have been possible if there was no political will of the government.

The final characteristic is how the state facilitates or supports this 'movement' of *kampung* communities. The positive relationship between *kampung* communities and the state during the presidency of President Wahid was possible because of his support of grassroots development, and the close relationship between the NGOs and the newly appointed ministers, who had backgrounds working as or with grassroots organizations, and were open for dialogue and negotiation with *kampung* communities. This point was illustrated by the visit of Minister Erna Witoelar to Kampung Penas Tanggul in June 2000, and her attendance in the public forum with *kampung* residents held by the Urban Poor Consortium during the People's Art Festival in August 2000. The ambiguous position of Minister Witoelar (at one point an environmental and consumer's rights activists, and at another point a high-ranking government official that can use her power to support the urban poor) also demonstrates the blurred boundaries between the state and society and how components of the state can appoint influential social figures, which was argued by Migdal (1994, refer to Section 2.4).

For the state, however, the positive attitudes towards *kampung* communities are often hindered by administrative practices and paradigms that still follow those of the New Order era. There are still difficulties in allocating land for the urban poor even when there is political will to do so, such as experienced by the residents in the two case studies. As an example, when Minister Erna Witoelar decided to allocate land for the urban poor, she was faced with administrative problems in transferring the land from the state to the *kampung* community. Another example is that the forum organized by NGOs between *kampung* communities and the Minister of Human Settlements that occurred during Wahid's presidential term did not continue into President Megawati's era. As shown in section 6.1.2 even peaceful rallies

supporting the flood victims were harassed and no action was taken by the local government against the motorcyclists that attacked the group. This left NGOs and *kampung* communities with the task of finding new opportunities and ways to express their concerns to the state.

Up to the time of writing this thesis, the residents in Keltuhuk Kebon Kosong had not received their land title certificates. The major drawbacks were the slow calculation of administration fees for the land titling certificates, which depended on the issuance of a local land regulation, and the reluctant attitude of the Jakarta District National Land Agency Office and the Kemayoran Implementation Unit to cooperate in the program. The findings show that even though civil society is becoming stronger, their participation in urban development still depends on the attitude of the government—whether they are willing to open their doors to allow the participation of *kampung* communities in urban development.

## 7.2 POLICY IMPLICATIONS

There is no doubt that in the future the Jakarta government will continue to face problems in dealing with the undesired growth of *kampung* settlements, as this growth is a result of the strong worldwide trend towards urbanization. In some developing countries slums and squatter settlements continue to be marginalized and excluded because they are seen to be an eyesore to the city as a whole. A report from the United Nations (2001) estimated that during 2000–2030 the world's urban population will grow at an annual rate of 1.8% per year, meaning that the world's urban population would double in 38 years. Most developing countries have experienced even higher population growth and urbanization. As an example, the population of Jakarta in 2000 was about 9.7 million, but it is estimated that it will reach 17.3 million by 2015 (UNESCAP 2001). Among the urban population in cities of developing countries, more than half will continue to live in informal settlements.

Since the beginning of the *reformasi* era, Indonesia has been experiencing dynamic social, political and economic changes to move towards democracy. In light of these changes two important issues emerge from this research concerning the role of the state in facilitating access to land for housing and security of tenure for Jakarta's urban poor and the role of civil society and the emerging movement of

Jakarta's *kampung* communities in urban land development. These are discussed in the following sections.

### 7.2.1 The state's role in facilitating land for housing the urban poor

According to Migdal (1988, 1994) the ideal outcome of state-society interaction is mutual transformation, where the state incorporates existing social forces and existing social forces incorporate components of the state. The research has shown that current system of land delivery by appropriation is not working. International agencies such as UN-Habitat and the World Bank have encouraged role of the government, that of facilitator. There are several areas that are discussed in this section that could make a major difference towards reaching a mutual transformation in land for housing the urban poor. The first concerns the role of the state in law and urban development. The second concerns land management. Finally, the state plays a major role in facilitating the role of civil society.

In Chapter 3 I discussed that current laws and regulations in urban development are marginalizing particular groups from gaining formal access to land. Although the state has issued Law no. 69/1996 on Participation in Spatial Planning that requires all planning processes to incorporate popular consultation and approval in their development and implementation; in practice, the law has failed to change the planning culture (Cewherd 2002). As mentioned in Chapter 6, former Minister Erna Witoelar experienced difficulties in changing the planning culture in her ministry from being project-oriented to become community-oriented. Changing the planning culture is a long-term process that would require continuous training and education of government officials at the central, regional and local level. These policies and regulations (as well as many others related to urban land development) should be reviewed.

The examination of land tenure in Chapter 5 showed that different social groups (including state institutions) have their own understanding of land tenure and their rights to land, which leads to conflicts between these different social groups. Part of the material for the above training and education should include understanding the concept of security of tenure and how residents of informal settlements perceive *de facto* security of tenure. Through this process, government

officials will (hopefully) come to realize how their current approaches in penetrating society (by enforcing their rules and regulations) have created conflict with the existing communities, and understand that the way forward is to adopt an inclusive approach in the planning and urban development process.

The research showed that land titles were not the only way to obtain security of tenure. Providing administrative status is one way of achieving a certain level of security of tenure for the urban poor, because with RT/RW status the residents also obtain their rights as local citizens. This approach is not new. As discussed in Chapter 1 during the 1970s, existing *kampung* settlements were consolidated as part of the city through the Kampung Improvement Project. However, the government has not been consistent in maintaining these *kampung* settlements as residential areas. Most of the *kampung* settlements in prime areas have been transformed into commercial districts. Some of these *kampung* settlements have been granted land titles. However, the issue of land titling for squatters is debatable (this would be an issue for future research that will be discussed further in section 7.3). For the state, the benefit of land titling is that it clarifies information on land ownership and increases revenue from administration fees of land registration and, later on, land transactions.<sup>2</sup> However, the drawbacks are that it requires a considerable amount of time, technical expertise and funding to register urban land. Furthermore, the inconsistency of land use plans overtime and the lack of clear avenues to contest new plans or participate in land development also creates insecurity for landowners (with or without land titles).

As shown in the case studies, the fragmented and centralized land administration/management coupled with weaknesses in its implementation has created problems at the local level. However, this weakness has opened opportunities for particular groups to gain social control over land, leading to conflicts within the community and between the state and community. Although there are efforts to decentralize land administration/management responsibilities,

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<sup>2</sup> One consequence of possessing land titles is that when the tax value price of the land plot exceeds Rp. 50,000,000 additional fees are imposed on the land (Government Regulation no. 24/1997 on Land Registration). This only applies to land with status *tanah negara* (state land), and does not apply to land with *girik* status, such as *Verponding* Indonesia. Most of the poorer residents in the *Kelurahan* Kebon Kosong, however, have land plots less than 70 m<sup>2</sup>, for which the tax value price is less than Rp. 50,000,000.

there are still obstacles in the limited capabilities of local administrators. The question would be whether the local government is willing to incorporate existing *kampung* settlements as part of the city.

The cases showed that with guidance and leadership, local communities (to some extent) were able to manage land within their neighbourhood. If the responsibilities of land administration and land management are to be decentralized, the local government could facilitate the role of local CBOs in local land management. For informal settlements, this approach could reduce costs as it does not require full surveying and registration. Another advantage for the government is that land boundaries could be identified, thus preventing future squatting. However, this also requires local authorities to be supported with adequate maps of the existing land use and other relevant land information, which should be transparent to the local community.

The land titling program in Kelurahan Kebon Kosong demonstrated that a partnership between the government, NGO and community organizations is possible. Although the residents have not received land titles, the partnership is one step forward to facilitate land delivery by local communities. It shows that the government is willing to work together with local communities. These partnerships should be encouraged, in particular with relevant stakeholders. Facilitating a stakeholders' forum is one way of bridging differences and reaching mutual agreements in land development. Other cities in Indonesia, have already formed a stakeholders forum, such as *Saraselan Warga Bandung* (Bandung's Citizen Forum, abbreviated Sawarung), *Forum Kota Semarang* (Semarang Urban Forum) and *Dewan Kota* Surabaya (Surabaya City Council). In Jakarta, the local government has organized forums to discuss certain topics such as transport policies. However, the participants are still limited and the impact of these forums on local policies is yet to be seen.

### 7.2.2 The role of civil society in land for housing development

Observing how Indonesia's civil society is engaged in housing development through self-help housing, which involves, along the way, organizing and raising resources, making decisions and carrying them out in a responsible way, Friedmann (1998)

argued that these activities were empowering civil society. At another level, in relation to the state, Friedmann noted that worldwide there is a growing phenomenon of the 'rise of civil society', where communities are responding to the assertion of their claims for citizenship rights.

The 1990s marked the beginning of the rise of Indonesia's civil society. Social movements occurred all over the region at various levels of society. As an example, the middle class expressed their criticism of the government through critical writing, theatrical performances and informal gatherings. In rural areas peasants stood up to defend their land. Budiman (1998b) referred to the local farmers' protests in Kedung Ombo, Central Java, as a social movement for democracy, because their protests for fair and just compensation expressed the demands of the local farmers not only for their rights, but also for democracy and better governance. In urban areas workers demanded better wages and working conditions. The student movement in the late 1990s demanding the resignation of President Suharto continued the assertion of demands for a more democratic government (Budiman 1998b, Falkih 1996, Hadiwinata 2003, Hikam 1996).

In Jakarta several community networks exist focusing on issues related to the rights of the urban poor to live and work in the city. There are networks of pedicab drivers (Seriak Bebek Jakarta), concerned academics (*Forum Keprihatinan Akademis*), concerned mothers (*Suara Ibu Peduli*), and many others. These networks and the findings in Chapter 6 support the indication that a social movement is taking place, that of the urban poor communities and their rights to live and work in the city. Whether this movement has achieved social transformation has yet to be seen. However, as Sandercock (1998) argues in her book 'Towards Cosmopolis, Planning for Multicultural Cities', social transformation and political action begins with a thousand tiny empowerments. The two case studies have showed that the process has already begun. The roles of CBOs and NGOs are elaborated below.

The case studies show the importance of community-based organizations (CBOs) in representing local communities, building their social cohesion and articulating community demands to the state. Establishing a community organization requires building trust. This was not an easy process and took a considerable amount of time, involving routine discussions and meetings. The

process is also dependent on the capacity of local leaders. In both case studies, local leaders that were better-educated were able to guide the other community members.

CBOs can play a major role in local land management. The cases showed that CBOs have the ability to compile information concerning land owners and land occupiers, the boundaries of land plots and compile the necessary documents for the land titling program. CBOs also can serve as learning centres for *kampung* residents. The routine discussions and meetings are excellent opportunities for the community to learn and understand laws and regulations, their rights and responsibilities in land management, and to discuss problems and resolve conflicts concerning land.

These are the potentials of CBOs that should be acknowledged and nurtured by the government, if the responsibilities in land administration and land management are to be decentralized. Current capacity building programs mainly targeted at local government officials could be widened to include community leaders.

NGOs also played various roles in this movement for the rights of the urban poor. At the community level, they assisted in building local capacity by empowering *kampung* communities with knowledge of urban legislation (such as the Basic Agrarian Law, regulations on land titling and forced evictions), building the social cohesion of local communities, and building awareness of their rights to the city. The empowerment process was conducted over a long time period and as shown in Kampung Penas Tanggul, involved the NGO activist living with the community and providing social aid to gain their trust, and weekly discussions.

On a city-wide scale, NGOs play a major role in bringing together *kampung* communities, creating networks with other organizations, and articulating the needs of various *kampung* communities to the state. NGOs also increased public awareness of the problems of the urban poor through public campaigns (such as the People's Art Festivals) and demonstrations. This is also part of educating the public (including government officials).

The NGOs were able to act as a bridge or mediator between the *kampung* community and the government to resolve the conflicts between them. As an example, the partnership between the National Land Agency and *kampung*

communities and NGO in the land titling program is a major step in negotiating differences between the state and local community.

However, the two NGOs observed in this research admitted that they had limited expertise in land and housing affairs and were learning along the way. This implies the need for NGOs to build their capacity, if they are to continue to facilitate urban land management. The government and international donor agencies could assist in this area.

Despite the positive role of CBOs and NGOs discussed above, there are residual problems that hinder the role of civil society in improving access to land and security of tenure. There are still problems communicating and building partnerships with the Jakarta local government. Unlike Surabaya, which has successfully implemented the KIP Comprehensive program and integrated many *kampungs* into the city, the Jakarta government has not fully acknowledged the role of local communities and NGOs as partners in housing and urban development.<sup>3</sup> There have been quite a few programs sponsored by international donor agencies that focus on building the capacity of local governments (including changing their paradigms towards planning and development); however, most of these programs are not targeted at the Jakarta local government.<sup>4</sup>

As the research showed, there is still an assumption in the bureaucracy, arising from the radical actions and protests of some NGOs that they are in opposition to the government. On the government's side, the bureaucracy is still stuck in the ways of the New Order era, which exclude citizens from participating in urban development. Many NGOs believe that the government is still being crippled by corruption, nepotism and inefficiency (Hadiwinata 2003).

Another residual problem in increasing the role of civil society is that there are drawbacks to the interaction of NGOs with the local community and their role in the process of empowering *kampung* communities. Most NGOs are dependent on

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<sup>3</sup> The KIP comprehensive program includes not only infrastructure upgrading and social-economic development, but also land titling.

<sup>4</sup> Among these programs are Capacity Building in Urban Infrastructure Management (CBUIM) sponsored by the ADB, Urban Poverty Project and the *Keamatan* Local Development program sponsored by the World Bank, and the Urban Quality program sponsored by GTZ. Of these programs, only the Urban Poverty Project was implemented in selected *kelurahan*s in Jakarta.

funding from international agencies (Eldridge 1989, Sinaga 1994, Hadiwinata 2003). The research showed that NGOs such as the Urban Poor Consortium (UPC) can gain support from international agencies that share a similar vision. UPC maintains close relations with the Asian Coalition of Housing Rights (ACHR) and the Centre for Housing Rights and Evictions (COHRE) in defending the rights of the urban poor against forced evictions. However, unlike UPC, *Institut Sosial Jakarta* (ISJ) slowly faded away. ISJ obtained funding from international donor agencies in Germany and Holland. According to Nainggolan, the former coordinator of ISJ, these donor agencies believed that because Suharto was no longer president, their assistance in supporting NGOs was no longer necessary. International donor agencies have their own agenda and it is important for NGOs to understand that although their activities are advocating the rights of the poor, they are also supporting the interests of the international donor agencies. Without the support of NGOs, it is very likely that the urban poor movement would slowly fade away. The government might consider involving NGOs and CBOs in capacity building programs, to enhance their skills and knowledge in land management and the processes of urban development.

### 7.3 ISSUES FOR FUTURE RESEARCH

This research was conducted in only two case study areas in Jakarta in a particular time frame. This opens up opportunities to conduct similar research in other *kampung* settlements, in Jakarta as well as other cities in Indonesia, and look more closely at the factors supporting or hindering the community's struggle for land in light of the changing social-political conditions of the country. The findings would provide a sound conceptual framework for more informed decisions on policies in land for housing. There were several issues concerning land titling and gender that were not dealt with in the thesis and could be considered for future research. These are elaborated below.

In the previous section I discussed that land titles for squatters is still debatable. As argued by Payne (2001), there are two possible undesirable consequences of providing land titles to squatters. First, providing titles to squatters would take them to the top of the tenure continuum in one step (refer to Figure 2-2). It could stimulate the process of unauthorized development and illegal subdivisions because of the opportunity for land regularization. New squatters could occupy idle

land, hoping that they would eventually be allowed to continue living there and obtain land titles.<sup>5</sup> Second, land titling could distort the urban land market by attracting residents from higher sub-markets that were previously considered more secure.

Further research in the case study areas and other *kampung* settlements could be conducted to gain a better understanding on the impacts of land titles on squatter settlements. We might speculate that in *Kelurahan* Kebon Kosong and in other *kampungs* that had recently obtained land titles (or administrative status); residents from higher sub-markets would buy the land from these residents, leading to down raiding. These two processes were beginning to appear in both case studies, and are occurring in other *kampungs* around Jakarta.<sup>6</sup> Although residents from higher sub-markets could eventually displace the lower-income people, at least the transaction price would be agreed to by both parties. The problem that should be anticipated is whether the previous lower-income residents could find affordable housing in areas accessible to their occupation.

Another debate concerning land titling in informal settlements that could be explored is associated with the sequence of land titling. Should land titles be granted before or after land readjustment and upgrading programs? Whilst working with the community in a *kampung* improvement program, a local NGO was urging the residents to demand individual land titles prior to starting the upgrading program. The community development consultant (Sarosa), however, believed that the upgrading program should begin first. By doing so, the community could benefit from a regularized settlement.<sup>7</sup> The NGO on the other hand, argued that land titles were necessary to assure the rights of the residents. In the end, the consultant was able to convince the residents to go along with the upgrading program and delay land registration until after the completion of the project. Gaining the trust of the

<sup>5</sup> In Mexico City, when the President promised to support the urban poor to find a home, his words were taken to mean that invasions would be tolerated (Varley 1998: 176 citing Ward 1986). In a similar way, Governor Sutiyoso's support for the utilization of idle land in Jakarta during the economic crisis (*krismon*) provoked the invasion of idle state land.

<sup>6</sup> Since Kampung Penas Tanggul obtained administrative status as RT in August 2000, there have been several renovated houses being offered to the market.

<sup>7</sup> In Indonesia, 'community development' consultants are consultants who work together with local communities.

actors involved is a crucial element in the success of such *kampung* development programs. The improvements, even those to individual households, could then be handled under a communal cooperative through rotating funds (Sarosa, interview 1 July 2001).

A third issue to explore concerns the nature of land titles: individual or communal? The imposition of a unified property system on *kampung* settlements seems to limit the choices for legal land titles by permitting only individual land titles, which may not necessarily suit some of the residents, in particular the lower-income groups of the informal sector. In some parts of a *kampung* individual land titles are feasible because the residents' housing units are self-contained (private kitchen, bath and wash facilities). However, many poorer communities depend on communal facilities such as MCK (common bath-toilet-wash), *musholla* (small mosque), and *balai pertemuan* (meeting house). The communal facilities in the case study *Kelurahan Kebon Kosong* were not registered at the National Land Agency, which raises the question of who actually owns or controls the land on which these common facilities are sited. There are questions whether the Jakarta government are committed to keep those common facilities for the interest of the urban poor.

A senior advisor at the National Land Agency argued that it should be possible to issue a form of communal usage rights for a *kampung*. This idea is not new, and could be supported by the Condominium Law (UU no. 16/1985 tentang Rumah Susun), which provides some articles on communal usage rights or *hak pakai bersama* and strata titling (personal communication with BPN senior official, 8 August 2000). However, this idea would need further examination on how it could work for a *kampung*. The communal usage right could be one alternative for solving the land problem for urban poor residents of Jakarta. Although there are still problems in the management of public facilities by the residents in low-income walk-up flats (JICA 1988), in *kampung* settlements this arrangement might work out differently because the communities have accrued social capital that has enabled them to facilitate coordination and cooperation in managing and maintaining public facilities.<sup>8</sup>

<sup>8</sup> According to Putnam (1995: 67), social capital—features of social organization such as networks, norms and social trust—can facilitate cooperation and coordination for mutual benefit of the community.

It was also observed during the fieldwork that gender issues seemed to hinder the participation of women in land management. Many women seemed hesitant to participate in community meetings that discussed land issues, even when they were invited by local community leaders to attend.<sup>9</sup> In their opinion land issues are the concern of the male household head. These women did not seem to realize that their lack of knowledge of land issues could lead to their own vulnerability.<sup>10</sup> This research did not examine why these attitudes were persisting within the community, and it is an issue worth exploring for future research, to assist in understanding what factors need to be acknowledged in policies for increasing participation of women in urban development and their tenure security.

## 7.4 CONCLUSIONS

Although there have been other studies concerning *kampung* communities in Jakarta most of them were conducted during the New Order era.<sup>11</sup> This research has contributed to the body of literature on urban land development in Indonesia, as it covers the struggle of *kampung* communities for land during two political periods: the New Order and *reformasi* era. It showed that community struggles for land have changed to become more organized in the *reformasi* era. Their struggle has evolved from being locally-based to becoming a networked-based struggle of *kampung* communities citywide, with focused goals and strategic actions in expressing their concerns to the state. The growing phenomenon of the empowerment of *kampung* communities in Jakarta indicates the creation of a stronger civil society making use of the opportunities available to them to channel their demands to the state and pressure the state for change.

<sup>9</sup> Interviews with female respondents in *Kelurahan Kebon Kasong*: K-10, K-21, K-22 and K-35 and *Kampung Penas Tanggul*: P-2, P-5, P-6 and P-7.

<sup>10</sup> During fieldwork I learned that one widow withdrew from the land registration program, because she had problems in compiling the necessary documents to show that she had inherited the land from her late husband.

<sup>11</sup> Jellinek's (1990) research looked at how a *kampung* community in Jakarta faced the threat of modern development over a period of 25 years. However, her research only covered the New Order era and focused on the community's perspective. Leaf's (1991, 1993, and 1994) research on residential land development in Jakarta did not focus on the role of the community and NGOs.

However, the state's response to this phenomenon is still very limited in supporting the urban poor, as they are still stuck in the top-down planning and authoritarian ways of the New Order era. If the state is considering policies to improve access to land and security of tenure for the urban poor, there are several concerns to be addressed. First, the government should understand that their policies play a major role in the development of informal settlements and affect how *kampung* communities perceive security of tenure over time. This is significant to gain a point of reference on the different understandings of legality of land tenure, which would lead to better solutions for providing security of tenure and land management.

Second, the government should understand that current planning laws and regulations are not effective in supporting security of tenure for residents in informal settlements. As citizenship not only involves the right as citizens, but also the process of acting as citizens (Lister 1998), any attempt to revise the substance of urban legislation should emphasize the processes of how citizens (including those in informal settlements) can participate in the various stages of urban planning and development. Housing and urban development should not be seen as a linear process, but rather a dynamic and collaborative process amongst the local community, local government, professionals, researchers, NGOs and private sector. Local communities and their networks should be included as partners in urban development, and in particular, in local land management. This would also depend on what responsibilities in land management could be decentralized to the local government and the local community as part of the implementation of good governance.

Finally, the government should change its mindsets and social attitudes about informal settlement residents having a 'right to the city', such as by providing administrative status to these settlements, and opening its doors for greater participation of civil society in urban development. This includes providing clear and transparent information on planning processes, the space for negotiation and resolving conflicts over land, which would make the government more accountable. Unless this changes, gaining access to land and security of tenure will always be a struggle for the residents of Jakarta's *kampungs*, which depend on their ability to seize political opportunities.

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## Appendices



# Appendix 1

## Sample of interview sheet for community

### COVER PAGE:

Judul Penelitian: Perjuangan Warga Kampung untuk Tanah Permukiman di Jakarta

Nama peneliti: Lana Winayanti

Penelitian ini adalah bagian dari Program S3  
dalam bidang Perencanaan Kota di  
Faculty of Architecture, Building and Planning  
University of Melbourne, Australia

#### **Tujuan Penelitian :**

Tujuan dari penelitian ini adalah memperoleh pengertian yang lebih baik mengenai bagaimana masyarakat berpenghasilan rendah memperoleh akses ke lahan untuk perumahan, pengertian para aktor yang terlibat mengenai 'security of tenure' untuk permukiman, hambatan2 masyarakat dalam memperoleh kepastian untuk menempati lahan permukiman dan berperan-serta dalam pembangunan (dari kebijakan, peraturan dan pelaksanaan oleh institusi), serta bagaimana perbedaan pengertian tersebut mempengaruhi alokasi lahan untuk kelompok masyarakat berpenghasilan rendah di Jakarta. Hasil penelitian ini akan disampaikan dalam bentuk tulisan atau usulan ke Pemerintah dan organisasi terkait, serta diharapkan memberikan masukan untuk perbaikan kebijakan perumahan rakyat.

Bila ada pertanyaan mengenai riset ini, silahkan hubungi:

Lana Winayanti  
Jalan Bangka XII/17, Pela Mampang, Jakarta 12720  
Tel. 7179 1167, HP 0816 820 683  
Email: [Lwinayanti@pgrad.unimelb.edu.au](mailto:Lwinayanti@pgrad.unimelb.edu.au)

Atau  
Prof. Ruth Finch/Dr. Ludmilla Kwitko  
Faculty of Architecture, Building and Planning  
University of Melbourne  
VIC 3010, Australia  
Tel. 61-03-8344 6417 Fax. 61-03-8344 5532



## QUESTIONS for RESIDENTS

### Background information:

- a. Code number: .....
- b. RT ..... / RW ..... KELURAHAN .....
- c. Gender  Male  Female Age.....
- d. Position in family: .....
- e. Main occupation: .....
- f. Main income from: .....
- g. Number of household members .....
- h. Area of house/ land (m2) .....
- i. Type of housing structure: .....
- j. Utilities

1. Bisakah dijelaskan sejarahnya sampai bisa menempati rumah ini? Apa alasan Bapak/Ibu memilih tinggal di sini? Sebelumnya tinggal di mana? Sudah berapa kali rumah ini diperbaiki dan kapan? Mengapa tidak lagi?
2. Apa bentuk hak yang sudah didapat?  
Kalau sudah tahu statusnya seperti itu, mengapa masih bertahan?  
Apakah penting untuk memiliki sertifikat tanah? Dalam bentuk hak apa – mengapa? Kalau sudah mendapat sertifikat apa yang akan dilakukan?
3. Apa kekhawatiran tinggal di daerah ini? Apa masih ada ketidak-puasan dalam hal batas2 lahan atau hal lain? Bagaimana penyelesaian konflik tersebut?

DATE: ..... 2001 / START TIME: .....

KTP YA / TIDAK catatan .....

PENDIDIKAN TERAKHIR: ..... TINGGAL DI SINI SEJAK .....

KEPALA KELUARGA/ PENDAMPING KIK /ANAK/ LAIN2 .....

LOKASI PEKERJAAN .....

PERKIRAAN PENDAPATAN PER BULAN .....

IJIN MEMBANGUN DARI .....

TEMPORER / SEMI PERMANEN / PERMANEN sejak tahun .....

AIR TANAH / AIR PIKULAN / AIR PAM / LISTRIK / TELPON TELKOM / RATELINDO/ KM/ DAPUR/MCK UMUM

Status tanah: Tn Garapan / Negara – Ada Akta Jual Beli - Kwitansi – Sudah dibebaskan DP3KK

4. Apa tanggapan tentang:
  - a. Masalah pembebasan tanah dideerah ini oleh DP3KK dan peran Kelurahan dalam proses ini?
  - b. Pengelolaan lahan kosong? Bagaimana seharusnya lahan-lahan itu dikelola?
5. Apa tanggapan Bapak/Ibu terhadap organisasi di bawah ini dalam hal kegiatan pengelolaan lahan di Kemayoran:
  - Dinas Pangan Kemayoran
  - Kelurahan
  - RW / RT
  - Organisasi lain: .....
6. Apakah Bapak/Ibu bersedia dipindahkan dari lahan yang sekarang? Proses pemindahan seperti apa (ganjil rugi/dibungkus rumah baru?) dan ke lokasi mana yg Bapak/Ibu harapkan? Mengapa?
6. Apakah bapak/Ibu membayar PBB setiap tahun? Jumlah .....  
Apa ada biaya2 lain yang dikeluarkan untuk pengelolaan lingkungan ini? Siapa yang membayai perbaikan lingkungan sekitar anda?  
Apa pendapat tentang Rencana Tata Ruang Kemayoran atau Kota Baru Kemayoran?
7. Apa kritik Bapak/Ibu terhadap kebijakan pemerintah mengenai pengembangan kawasan ini?
8. Apa yang diharapkan untuk masa depan kawasan pemukiman ini sehingga masyarakatnya lebih tenang/aman? Bantuan apa yang diharapkan dari Pemerintah untuk mencapai ketenangan tersebut?

= TERIMA KASIH ATAS KERJASAMANYA =

SELESAI JAWAB

## Appendix 2

### Selected excerpts of interviews with respondents in Kelurahan Kebon Kosong

All these interviews are the author's translations.

#### *Excerpts of interview with former head of Delegasi Warga Kemayoran, Bapak Rahardjo*

Date: June 30<sup>th</sup>, 2000.

Location: Jalan Garuda, RW 03 Kelurahan Kebon Kosong

#### *On Kelurahan Kebon Kosong:*

Kebon Kosong has a long history in Jakarta. Many state officials think that the kampung surrounding the airport territory developed after the airport was built. Even before the Dutch colonial administration built the Kemayoran airport in 1938, there was already a kampung within the Kemayoran area. You can check the Verponding tax receipts. The land was occupied by the indigenous Jakarta residents, orang Betawi. The grandfather of the late comedian (Benyamin Sueb) was Haji Ung, whose name is commemorated as one of the major streets.

#### *On land policy:*

The Basic Agrarian Law on 1960 says that land is controlled by the state. However, I believe that many state officials consider land to be owned by the state. There is a misunderstanding about their authority over land. During the Dutch colonial period each ethnic group had its own laws. Even though customary land law was never written, this land was never claimed as Dutch crown land, which is not the case in contemporary Indonesia. The New Order government considers land as a commodity, which contradicts the social function of land.

#### *On Delegasi Warga Kemayoran [Kemayoran Community Delegates]:*

We needed an organization to negotiate with the government on land compensation rates. In the past many conflicts occurred between kampung communities and the state. Most of these conflicts ended with the community losing, such as in Kebon Kacang and Tanah Abang. I think that they have not succeeded because there was no cohesiveness. Many community leaders were concerned that the Kemayoran community could fail if they were not organized. They decided to form *Delegasi Warga Kemayoran* [Kemayoran Community Delegates].

The organizational structure follows that of the *Rukun Warga* and *Rukun Tetangga*. Each RW is represented in the Delegation. Up till now, DP3KK has been unsuccessful in assembling the land to build walk-up flats. This is not because DP3KK has no funds, but because of the way they conducted the land acquisition, which was unprofessional. Instead of targeting a particular area, they chose to acquire all the land in RWs 04 to 09.

I think the best choice for the community here is to form a partnership with the Kemayoran authorities. I know that not many of the community leaders understand this concept. Many residents want to have land titles. However, if you are never allowed to participate in the process of urban development, land titles do not have any meaning except to gain higher compensation than with no titles. I have *hak milik* on my land, but developers have harassed me, and my house was burned down a few years ago. We had no say in negotiating compensation. The land compensation offered by the Kemayoran Implementation Unit was much lower than the market price.

*Excerpts of interview with RT head in RW 06, Kelurahan Kebon Kosong*

Code: K-19, female

Age: 57 years

Date of interview: 22 May 2001

I have lived here since 1963. My late husband was an employee of the airport authority, Perum Angkasa Pura. We used to live in *Kelurahan Gunung Sahari*, but the airport authority asked us to move here when they expanded the airport territory. Perum Angkasa Pura distributed this land to a number of employees.

I was never worried about the land status [state land]. Even though we don't have ownership rights to the land, I have paid the land and building taxes each year.

During the land acquisition programme, we refused to sell because the compensation was too low. After the land acquisition program ended, an employee of DP3KK offered to buy this land at market rate. We refused his offer because my family doesn't want to sell this land.

The location of this house is very convenient. It faces a large street, and is accessible to public transport and close to many public facilities.

I'm very happy that we are finally able to get land certificates, but I still feel unsure about our future here.

I don't know about the future plans for this *kampung*. I certainly don't want to move into a walk-up flat. The building type is not suitable for elderly people. I might consider relocation, depending on the location, facilities and compensation, whether it would be enough to build a new house.

I am worried about the squatters invading the idle land plots. I don't know these people. It makes me feel unsafe.



Construction of new houses in RT08/RW 06

They [the squatters] never asked permission to build a house here. After they start constructing their houses, these people inform me that they plan to live here. What can I say? I don't own the land, so I don't really have the authority to refuse them. DP3KK should be responsible for managing the land that they had bought from the residents.

*Excerpts of interview with squatter in RT 08/RW06, Kelurahan Kebon Kosong*

Code: K-25, male

Age: 58 years

Date of interview: 10 May 2001

I am originally from Probolinggo [a small town in Central Java]. I came to Jakarta about 30 years ago to find a job. I've been living in Kemayoran since 1974. There is nothing for me back home. I left Probolinggo too long ago to go back there and find work. My wife and I sell *bojigur* (a traditional ginger drink). I own my own gerobak (cart) so I don't always sell *bojigur* – it depends on the market.

I used to rent a room in this area (RT 08/RW 06) but I had to move out because the landlord sold the land to DP3KK (the Kemayoran Implementation Unit). When I first came to Kemayoran, the rent was only Rp. 4,000 per month for a room 3 by 3 square-metres. The last rent I paid here was about Rp. 35,000 per month. This was about 5 years ago (1995). This rent includes electricity and I buy water from the water vendor.

I am really lucky to know Bambang [the local hustler in RT 08]. He suggested that I occupy one of the empty buildings since no one was occupying it. If it wasn't for Bambang, I wouldn't have dared to move in here. There are several other families that Bambang helped. We consider Bambang our protector. I feel secure living here. We always turn to him if we are facing problems. I don't know anyone from the Kelurahan office or the Delegasi [Kemayoran Community Delegates].

We don't pay rent – just pay monthly fees to Bambang for electricity and garbage. Electricity fees are Rp. 10,000 and garbage fees are Rp. 1,000. I pay about Rp. 15,000 for water from the water vendor.

We had been evicted by DP3KK a few years ago. They warned us to move out because we were trespassing on their property. They asked us to come to their office and report ourselves, but Bambang advised us not to go. DP3KK came and demolished parts of the buildings when we were not here. We moved out, but moved back in immediately when we felt it was safe.

In my opinion, DP3KK should not abandon their land. If they bought it they should use it, maybe for rental housing units. I know that there is a high demand for this type of housing as long as the rent is affordable. I would say Rp. 50,000 to Rp. 75,000 per month including utilities is still affordable for me. I would like to continue to live in Kemayoran. I don't mind living in a walk-up flat as long as I can still continue to work around this area.

Note: DP3KK = Kemayoran Implementation Unit

*Excerpts of interview with resident in RT 02/RW 06, Kelurahan Kebon Kosong*

Code: K-18, male

Age: 50 years

Date of interview: 11 May 2001

I was born in Central Java and moved to Jakarta in the early 1960s. My father occupied this land in 1960. He passed away a few years ago.

I live here with my mother and a housemaid. When I moved here, that street [*Jalan Bendungan Dago*] was only a small footpath. The river and the street were widened in 1978, and the footpaths were improved in 1979 when we received the *Kampung Improvement Program*.

My father was never concerned about being forced to sell this land to DP3KK or move out. Even now I'm not worried about not obtaining legal land titles to this land. My late father was a colonel in the army. When the airport was still in operation, my father assisted in the airport security. When DP3KK took over the airport, they asked my father to assist in securing the area. My father tried to register this land in the early 1970s but he didn't continue because of misinformation on the procedures.

I know that most residents were worried and reluctant to sell their land to DP3KK and move into walk-up flats. They were never consulted about the compensation price, and I agree that it is too low. I wouldn't sell this land for that price, especially since this land is located along the major street. DP3KK tried to bribe community leaders so that they would persuade local residents to sell their land.

After the *reformasi* era, the residents became more confident in expressing their concerns to Kelurahan officials and to DP3KK. In the past, the residents threatened to burn down the DP3KK office if they continued with the relocation plan.

I don't like the way DP3KK is managing the land here. They bought the land but are neglecting it. This is one of the reasons why I allow these squatters to occupy the idle land. I knew these squatters when my father was active in the political party, PDI (the Indonesian Democratic Party). These poor people don't have a home and I believe that they should be given the opportunity to find work and build shelter in the city. There are 14 households that are occupying the land here. I set up conditions that they shouldn't disturb their neighbours and that they should keep the environment clean. They pay monthly fees for utilities. I also try to settle disputes that occur amongst these people.

I hope that the government will improve this neighbourhood with better infrastructure. I don't want to move into walk-up flats. It is impossible for a disabled person such as myself.

*Excerpts of interview with youth leaders in RT 02/RW 06*

Age: 21 years

Date of interview: 28 April 2001

I lived in Kemayoran ever since I was born. My parents bought this land in 1976. It has Verponding status.

Since graduating high school, I have been working as a private school bus driver. I bring the children in Kemayoran to their school, and pick them up again. I am very concerned about what is going on in our neighbourhood. DP3KK acquired many plots of land, but failed to utilize the land. In my opinion they are irresponsible because they are neglecting the land they had already purchased.

Many squatters have moved into the idle land. There are environmental issues that emerged since they moved in, such as air pollution from burning waste. Some parts of the *kampung* looks filthy. I don't feel safe, because I don't know these newcomers. Our group (*Karang Taruna*, youth organization) has tried to approach the Lurah. We proposed that all the new squatters sign an agreement that they will not pollute the *kampung* and keep the area clean. But our proposal was rejected by the Lurah. In his opinion, this agreement will give the impression to squatters that they are formally acknowledged by the *Kelurahan* office. We don't know where to turn to discuss these issues. DWK [the Kemayoran Community Delegates] seems to neglect internal affairs.

## Appendix 3

### Selected excerpts of interviews with respondents in Kampung Penas Tanggul

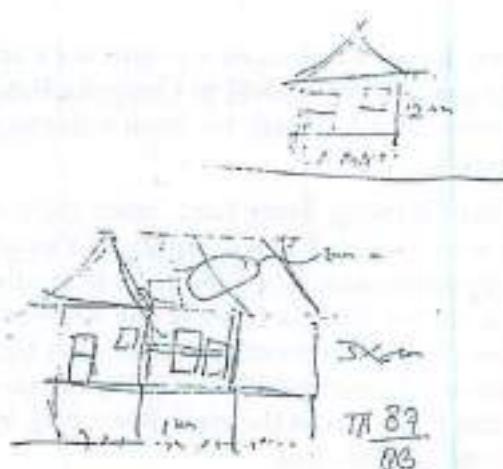
#### *Excerpts of interview with Group 2 resident in Kampung Penas Tanggul*

Kode: P-12, male

Age: 44 years

Date of interview: 16 June 2001

I was born in Jakarta. My wife comes from Sukabumi [a small town in West Java]. After we got married, she sold her house there to come to Jakarta in 1977. I bought a small *gubuk* [hut], 2 x 2 square metres for Rp. 2,500 located behind the water authority building along Cipinang River. It was still marshland back then. Because of the flood, I moved to Cawang and rented a room. It cost me Rp. 15,000/month for a 3 x 3 square metre room. I moved back to this location in 1986. I paid Rp. 7,000 for this land plot to *pak* Mamit [a senior resident], and built a *rumah panggung* (wooden house on stilts). It is 2.8 x 8 metres. It is more convenient to own a house rather than rent. This house has been improved three times now.



Sketch of house by respondent P-12

First, we elevated the ground level to avoid the flood. ISJ coordinated all the residents and donated cement (see sketch). We collected the other necessary building materials. I used to work at a construction industry, PT Jaya Readymix for six years. When I worked there, I could buy cement for half the market price. The residents collected money to buy cement. We also collected unused material from construction sites.

In the second renovation, I added an upper floor using second-hand materials that I collected from scavenging. I needed the upper floor for a sleeping area for my five children. ISJ [the NGO] built a two storey house as their office and I copied the structure of the house. Compared to my

neighbours, I'm a bit behind in doing these renovations.

I got laid off from PT Jaya Readymix just before the economic crisis. I work as a scavenger now. I collect boxes, plastic, cans etc and sell them to the depot. If I find

building materials suitable for my house, I bring them home and stack them in front of the house. As soon as there are enough building materials, I begin with the renovations. In the third renovation, I replaced the cardboard walls with brick walls. In the near future, I plan to add ceramic tiles on the floor.

I feel proud that we were finally able to get RT status. Before that, I felt we were treated as *warga terasing* (marginalized citizens), we existed but were not recognized by the government. The Lurah never visited us until Minister Erna Witoelar came here last year. Now the *Lurah* involves us in their programs, such as the World Vision aid and the *Kelurahan* Council. I am grateful for World Vision's assistance, but they don't really involve us in the decision-making process. Sometimes they made promises that they couldn't keep. I think if they come again we will refuse their assistance. ISJ already taught us how to organize ourselves and manage our environment. I believe we could do a better job in improving our environment.

Having RT status is a great benefit, but I still have doubts that we can continue to live along the riverbank. I hope that the government can provide some certainty of where we could live. I'm not sure about walk-up flats. Renting or buying a unit would mean that I must have a secure income, which I don't have. We need open space that we could utilize for additional income, such as opening a *warung* [kiosk/stall], vegetable garden or chicken farm.

*Excerpts of interview with Group 1 resident in Kampung Penas Tanggul*

Code: P-4, male

Age: 81 years

Date of interview: 16 June 2001

I originally come from Kutoarjo, Central Java. I used to work as a janitor for a taxi company. My son works at Carrefour [a large chain supermarket] in Cempaka Putih, Central Jakarta. My son has supported me ever since I retired. He built a house in front of my house and lives there with his family.

I came to Jakarta in 1962. I've lived along the Cipinang River bank since 1969. At first, I lived across the river [in the location now occupied by Group 2]. The mayor suggested that the Lurah move all the *kampung* settlements along the river to another location. The Lurah advised us to move to a plot of land in front of the *Kecamatan* office building. Unfortunately, only 49 families could be accommodated on that land. Three families had to stay behind. The Lurah and Camat gave permission for us to occupy this land. So our status is different than those across the river [Group 2]. We are not *penghuni liar* [squatters], but we are using *garapan* land.

Since the beginning of our residency here, we were always considered as part of the RT 10 community. We have ID cards stating our address in RT 10 and we are active in RT 10 community activities. I totally support the efforts of Group 2 to gain RT status. I am very happy that Bu Erna came to visit us last year. Since obtaining status as RT 15, I have changed my ID card so the address shows RT 15 instead of RT 10. Our neighbourhood here also benefited from the World Vision aid. We have new paved footpaths and common bath-toilet-wash facilities now.

## Appendix 4

### Selected excerpts of interviews with government officials

#### *Excerpts of interview with Director of Land Use Planning, National Land Agency*

Date of interview: 13 August 2001

##### *On policies for urban land development:*

We are behind in developing policies for urban *kampung* development, especially for large cities such as Jakarta. In the past, we have focussed on land reform, but this applied to farm or rural land. There are different government agencies providing urban services to *kampungs*, giving the impression that the state is formally acknowledging *kampung* settlements. However, the land status in *kampung* settlements is unclear and *kampung* residents must register their land to obtain land titles. There are administrative fees that might burden them. The government should have responded to community needs a long time ago. We should have been more pro-active in approaching *kampung* settlements. Now we need to understand what is already happening before we make new policies for managing urban land. The government should explore different land titles for low-income groups that are more flexible for the urban poor. The right of use (*hak pakai*) should be examined, how it could work at the *kampung* level.

I believe that the land registration program for *kampung* settlements should be coordinated with other agencies, such as housing and public works. It should not be a one-sector approach. We should coordinate with other government agencies. There should be standards for the size of housing plots and infrastructure. As an example, in Kemayoran there are plots as small as 6 m<sup>2</sup> that will receive land certificates. If we provide land certificates for *kampung* residents, at least there should be improvements to their land plot sizes and arrangement. Some schemes such as land consolidation have been successful in cities outside of Java, but not in Jakarta. The building density of *kampung* settlements in Jakarta is too dense, and therefore too difficult to rearrange. Another example is a land consolidation project in Kendari. We were successful in relocating the residents to a well-organized housing site with adequate size land plots, but unfortunately the local government did not support the residents with infrastructure.

*On the allocation of land:*

We have a problem in managing land. There are equity issues, some groups or individuals are holding too much land, while others don't have access to land.

The term state land (*tanah Negara*) is also debatable. Who controls state land? There are many government institutions that have rights to state land. We have problems in supervising the use of land by these government institutions. Sometimes these institutions or government officials allow farmers to utilize the land. Therefore, we cannot consider these farmers as squatters. Sometimes these institutions leave the land idle.

In the past, many developers held location permits to acquire land. They bought excessive land and then did not develop the land. Some of this idle land has been confiscated by the Indonesian Bank Restructuring Agency. IBRA has a different commitment with the government, they are profit oriented. I am afraid this land will go back to the market, the private sector. Overall, there is still no government commitment to allocate land for housing the urban poor.

Note: Governor Sutiyoso has expressed his interest to obtain the land held by IBRA for walk-up flats. However, there has been no follow-up on this issue (personal communication with Head of Property Division, IBRA, 1 December 2002).

*Excerpts of interview with staff of Jakarta Urban Development Office*

Date of interview: 27 August 2001

*Views on participation in urban development:*

The economic crisis has slowed down urban development and the number of development permits (SP3L) has decreased drastically. This is a good opportunity. I think during this time, we should evaluate our ways of conducting development, in particular how to improve participation in urban development.

The problem is, we don't have an institution that deals directly with local communities, nor a planning commission to deal with conflicts over the change of land use. There are too many stakeholders with different interests. It is hard to deal with all of them. That is why the power of stakeholders can influence the governments' decision. We feel more at ease talking to consultants or developers, rather than low-income communities. In some cases, the Jakarta government has no authority to control spatial development such as in Kemayoran and Gelora Senayan. These areas are controlled by the State Secretary. This shows how strong the power of the central government.

The regulations on participation in spatial planning are unclear. As an example Government Regulation no. 69/1996 on Community Participation only states the obligations of citizens, but not the obligations of the government. It seems that the community is encouraged to be active, but on the other hand, the government is passive.

I believe that the bureaucracy is not ready to share roles in urban development. This regulation also fails to identify the type of participation necessary in each phase of urban development, the institution responsible, and how they could participate or work together in planning and the implementation of plans.

*Views on the allocation of land for housing the urban poor:*

Coordination between the National Land Agency and our office, and also amongst sectoral agencies is weak. Sometimes the various sectoral agencies have different visions of urban development. During meetings it is also difficult to reach a consensus amongst these different agencies, especially if each agency assigns a different staff member to attend the meetings.

We also face problems in the management of state land. The Jakarta Urban Development Office does not have the power to distribute land. Implementation of land use depends on each sectoral agency. As an example, if we allocate a certain area for low-income housing, the Jakarta Housing Office must acquire the land before they can utilize it. This consumes time and money.

## Appendix 5

### Focus group discussions

The following are summaries of the issues discussed during the focus group discussions. All the notes are the author's translations.

#### *Kelurahan Kebon Kosong in RW 04 - 5 September 2001*

The focus group discussion was conducted with eight residents of RW 04 on 5 September 2001. The discussion was held at Pak Eko's warung (see Figure 5-8).

The respondents were asked to identify the key issues that made them feel insecure to live in Kemayoran, from the following list of issues: fear of evictions, below-market price compensation, new squatters, being relocated, uncertainties of future land-use plans, and not being involved in the decision-making process (*musyawarah*) on decisions affecting the future of their settlement.

They agreed on three issues that were most significant.

The first was the uncertainties concerning the future land use plan for their *kampung*. They did not know what was to become of their *kampung*. Two respondents heard from staff of DP3KK that their area was designated for five storey buildings. Yet, they did not know how this new development would be implemented. There were questions on whether they would have to sell their land to the government or developer, whether their *kampung* would be demolished, or whether they would be evicted or forced to live in walk-up flats.

The respondents felt that, they have been excluded from the development, physically as well as socially.

The second issue concerns their lack of involvement in the development process. Most respondents felt traumatized by the way the Kemayoran Implementation Unit acquired land in the past. In their opinion, development should be conducted based on *musyawarah* (the process of deliberation) between the government or developer, with the local residents. So far, this has not occurred in Kemayoran. They did not trust the officials at DP3KK, and till date, they feel that there has been no change in the way DP3KK was conducting their business.

One respondent referred to an example of the new low-income 'model' houses in RW 09, which was recently built by DP3KK to demonstrate that they were willing to integrate the *kampung* as part of the Kemayoran New Town. The design of these houses was never discussed with the local residents.

Finally, squatters were considered a major threat. In RW 04 the residents felt that new squatters were jeopardizing their chances of obtaining land titles and creating a bad image for the original *kampung* residents. Most respondents felt that the invasion of old residents was unfair. In their opinion, these residents have already received compensation and therefore, should either move into the walk-up flats or move out of Kemayoran.

When asked what factors would increase their perception of security of tenure in Kemayoran, all respondents agreed that obtaining land titles would be the best option. Obtaining land titles is their first priority. With land titles, they would have formal rights to the land, increased bargaining power and could be distinguished from the new squatters. The residents felt that they were considered as second-class citizens because of their unclear land status, in particular because it was under the HPL permit of DP3KK. They compared their neighbourhood to RW 01-03, which could receive government infrastructure programs and apply for land titles because they were not included in the HPL permit. In addition, there are disadvantages of not holding formal titles to land, such as receiving only 25% of the full land compensation rate. They feel this is unfair because they have been paying for land and building taxes faithfully for many years.

The second factor is their right to negotiate (*musyawarah*) with the local authorities or any private developer that plans to develop their *kampung* area. The residents feel quite confident that this process will occur once they receive their land certificates. However before obtaining land titles, they will refuse to negotiate with DP3KK.

#### *Kelurahan Kebon Kosong in RW 06 – 12 February 2003*

The discussion was attended by ten community leaders from RW 06, RW 04, RW 05, RW 07 and RW 09. The topics discussed concerned DP3KK's plans to relocate the residents of *Kelurahan Kebon Kosong*, the land titling process and the HPL permit. The participants were concerned of the slow progress of the land titling program. Because I had already met with the Head of the Land Registration Division at the National Land Agency, I informed the participants of the progress and the bottlenecks in calculating the administration fees.

##### On relocation:

All the participants were against this program. In their opinion, DP3KK's intention to relocate them is unrealistic and would be a burden for them, because they would need to invest in the new housing units. Moving into walk-up flats is even more unrealistic. Some of the participants owned land plots with areas > 200 m<sup>2</sup>. 'Why should I move into a small unit when I am already living in a spacious house?', said one participant. Other senior participants complained that for someone their age (> 60 years) it would be difficult to go up and down the stairs if they moved to a walk-up flat. Others criticized the design of the flats, which in their opinion did not consider their living style. One example is the location of commercial space on the ground level of the walk-up flats, which is separated from the housing units. Most of the participants considered this arrangement to be inconvenient for them.

The participants discussed the new model house built by DP3KK in RW 09 and criticized RW 09 for allowing the construction of this building. Participants from RW 09 explained that their representative in the *Kelurahan* Council (*Dewan Kelurahan*) allowed the construction. In their opinion, it is difficult to express the community's concern through the *Delegasi Warga* Kemayoran because the organization was considered as an informal organization. Most participants agreed that there were unethical efforts from Mulyono, through his organization *Gerakan Pemberdayaan Masyarakat* Kemayoran (GPMK or the Kemayoran Community Empowerment Movement) to push the relocation program. One participant suggested that DWK should meet with GPMK and make it clear that they did not want GPMK to act as if

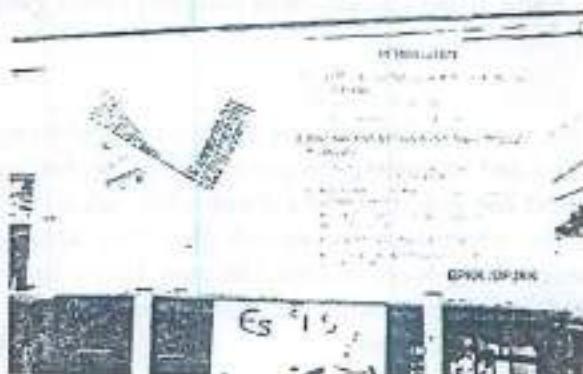
they were representatives of the Kebon Kosong community. Another participant suggested that DWK inform the community to be cautious of GPMK.

On the HPL permit:

The participants believe that the HPL permit places constraints on the residents in RWs 04-06, to obtain formal land titles. Going through the court is not advisable because of the costs it involves. However, a resident who lives in *Kelurahan* Gunung Sahari is currently filing a case against DP3KK on the grounds that they have hindered.

For the majority of the residents in *Kelurahan* Kebon Kosong, the land titling process is currently their best option. In their opinion, the HPL permit of DP3KK is *cacat hukum*, or legally flawed because DP3KK has not followed the provisions of the permit to acquire and develop the land. Therefore, the HPL permit should be revised. They hope that the Head of the National Land Agency will clarify this issue with DP3KK. I updated the participants with the latest information I obtained from my interview with the Head of the National Land Agency.

The participants felt disturbed by the new signboards that DP3KK put up around the *kampung* recently (see figure below). The signboards show a map of the land purchased by DP3KK, verifying that the land is owned by the Kemayoran Management Board. The sign also prohibits the construction of buildings on their property. One participant pointed out that the map shown on the signboard seems to include all the land in *Kelurahan* Kebon Kosong RWs 04-09. The participants agreed that the Kemayoran Community Delegates should send a letter to DP3KK to protest against the signboard.



Signboard prohibiting the construction of new buildings on DP3KK land in RWs 04 and 05

### Kampung Penas Tanggul – 27 January 2003

The discussion was attended by 22 residents (mostly from Group 2) and the NGO, *Institut Sosial Jakarta*. The discussion was held at the *Balai Warga* (community meeting house, see Figure 5-14). The topics discussed concerned their perceptions on land tenure and relocation.

Most of the residents feel that they should pay for land and building taxes (*Pajak Bumi dan Bangunan* or PBB). When asked the reasons for this, there were various understandings of the purpose of PBB. One respondent said that they have obligations as citizens to pay taxes. Several respondents said that PBB is evidence of ownership to the land. If they are holding PBB receipts, it means they are formal owners of the land plot. Another respondent argued that land and building taxes were not evidence of ownership, but it is the first step to obtain land certificates. He referred to a government regulation [Gov. Regulation no. 24/1997] that states that if a resident occupies a plot of land for more than 20 years and shows evidence that he has paid PBB, the resident can apply for land titles.



Focus group discussion in *Kampung Penas Tanggul*

Most residents were worried if they were to be relocated to another location. Several residents looked forward to moving to a better location, but under the condition that the site is nearby and the government provides the infrastructure (water, electricity, footpaths). However, several residents felt that this arrangement would burden them. In their opinion, they have invested in their house and neighbourhood, so the government should reimburse them for their buildings and also provide building materials to build their new houses.

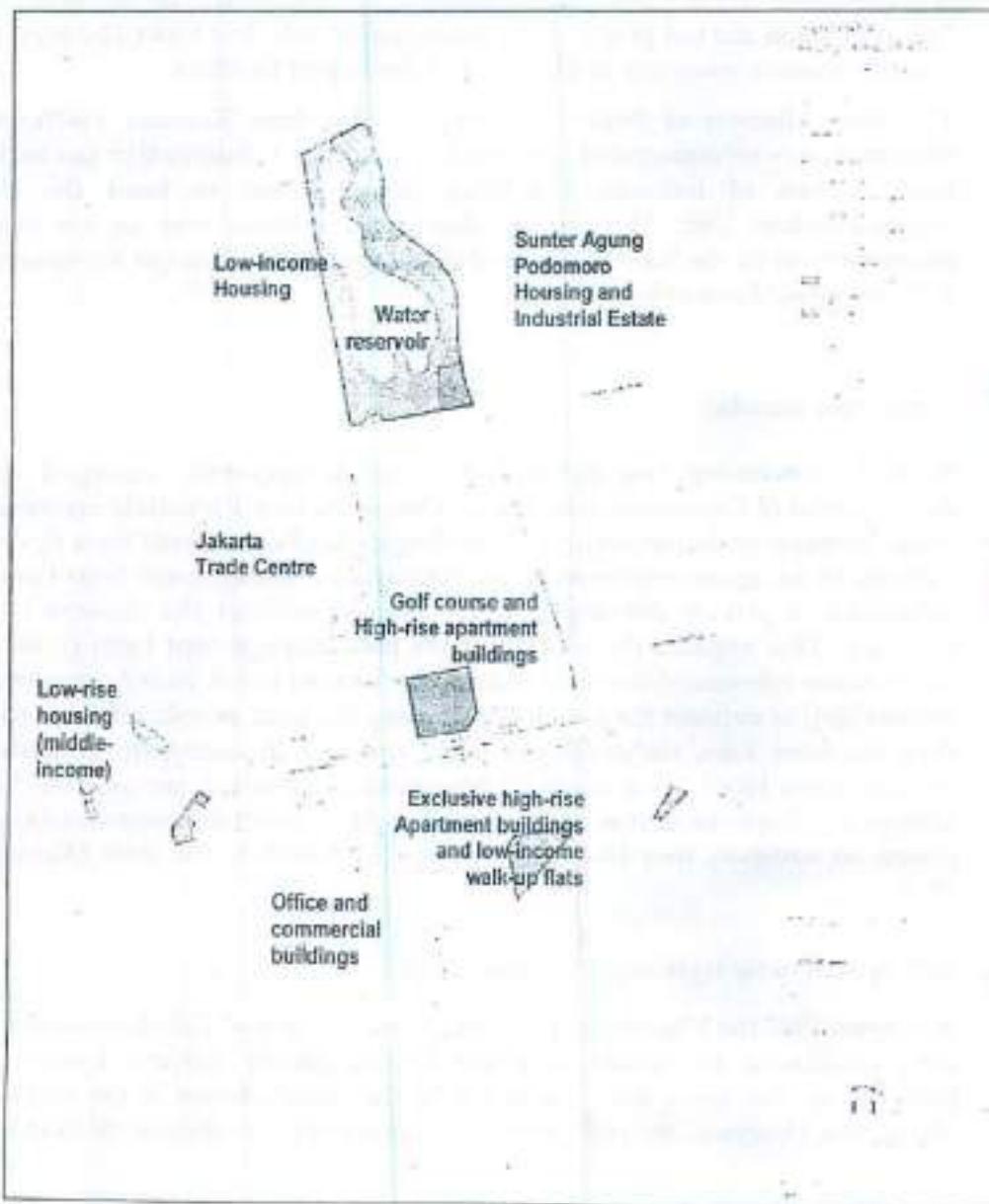
When asked if they would be willing to move to walk-up flats, most of the participants objected to this idea. These participants felt that walk-up flats would burden them because they would have to pay rent or monthly instalments. They preferred building their own houses if the government provided the land. Only one participant supported the idea of moving into walk-up flats, but under the condition that the rent is affordable.

# Appendix 6

## Kemayoran New Town



### *The land use plan*



Source: DP3KK, Kemayoran Implementation Unit

### *Badan Pengelola Komplek Kemayoran (Kemayoran Management Board)*

The Kemayoran Management Board is chaired by the State Secretary/Minister and co-chaired by the State Minister of State Apparatus/Deputy Head of the National Planning and Development Board, and has the following members: the State Minister of Public Housing, the Secretary General of Transportation, the Director General of Human Settlements, the Governor of DKI Jakarta, and the Military Commander of Jakarta District. The choice of these members reflects the type of expertise required to develop the Kemayoran New Town. The DKI Jakarta government, in particular, is involved in issuing development permits for land acquisition, land development and building construction. The initial role of the Directorate General of Human Settlements was to assist in planning the new town and implementing the low-income housing development. The Secretary General of Transportation did not play a major management role, but had to be on the Board to assure a smooth inventory and transfer of the airport facilities.

The State Minister of Public Housing—at that time Siswono Yudhohusodo, an entrepreneur—recommended his colleague, Hindro T. Sumardjan (an architect, and head of one of Indonesia's leading design firms) to head the Kemayoran Implementation Unit. The deputy chair, Abdul Muis, was an air force officer, recommended by the State Minister of State Apparatus, Ginanjar Kartasasmita—who was also an air force officer.

#### *Corruption scandals*

Scandals concerning corruption and collusion frequently emerged during the development of Kemayoran new town.<sup>1</sup> One of the major scandals involved the head of the Kemayoran Implementation Unit forging land documents for a developer. The contents of an agreement between the Kemayoran Management Board and PT Duta Adhiputra, a private developer, were changed without the consent of the State Secretary. This violated the content of the land management right (refer to section 3.1.2). In the agreement, the land status was changed to *hak guna bangunan* (leasehold ownership), to support the developer in using the land as collateral for a bank loan. With the bank loan, the developer could continue financing the construction of a condominium block. As a result of this scandal, the developer and the head of the Kemayoran Implementation Unit were brought to court and sentenced to five years prison. In addition, they had to return Rp. 9.1 billion to the state (*Kompas*, 6 April 1999).

#### *Development in the beginning of the reformasi era*

In August 1997 the Minister of Tourism Development and Telecommunications, Joop Ave, announced the initiation of the *Menara Jakarta* (Jakarta Tower) project in Kemayoran. The tower was planned to be the highest tower in the world, reaching 558 metres. However, the plan collapsed because of the economic crisis in mid-1997.

<sup>1</sup> According to Server (1996: 23-24) corruption can be defined as 'the use of public resources for private purposes. This includes petty corruption (i.e. taking now and then small amounts of money) and serious, larger scale corruption (i.e. affecting development in a significant manner).'

*Menara* Jakarta, cynically referred to as *Menara Kesenjangan* or 'Tower of Disparity' by residents of Jakarta, was initially sponsored by several conglomerates and several national telecommunication companies.<sup>2</sup> The sarcastic term 'tower of disparity' refers to the way the project was considered to be creating a social gap between local residents and the government and developers. Other projects within the new town also suffered. Although the foundations of an apartment building, *Istana Kemayoran Apartments*, had already been constructed, the developers discontinued its construction because of a shortage of funds in January 1999. The developers returned the down payment and monthly instalments to 300 buyers without any interest. This raised huge protests from the buyers.

Since the resignation of Hindro T. Sumardjan, Abdul Muis has become chair of the Kemayoran Implementation Unit. There is a possibility that the Kemayoran Management Board and the Kemayoran Implementation Unit will be merged as a state-owned enterprise, but at the time of writing this thesis there had been no change to its status.

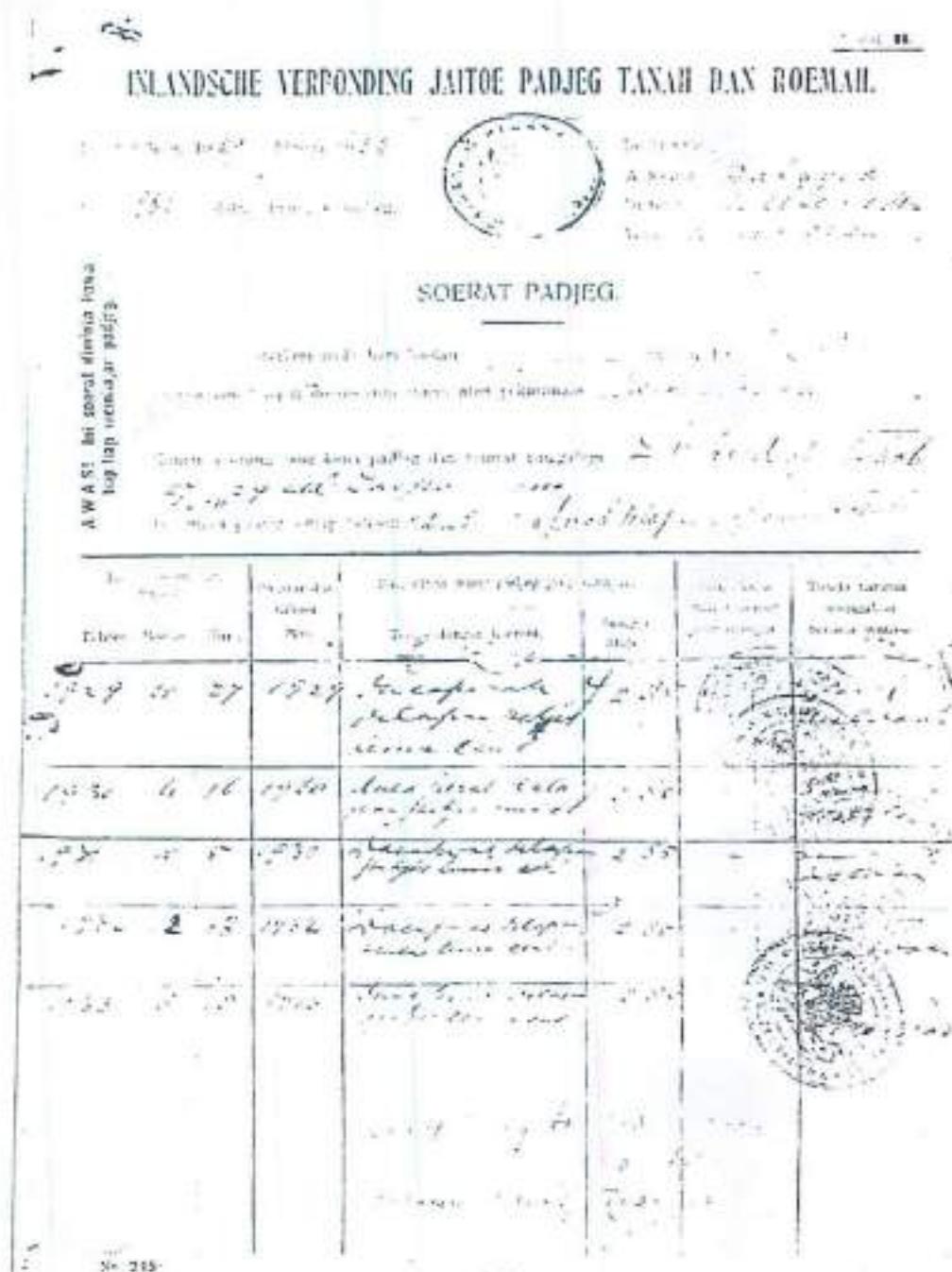
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<sup>2</sup> Among these conglomerates were Henry Pribadi, Sadwikalmono and Prayogo Pangestu. All three were known to have close relationships with President Suharto and his family.

19.00-19.30: **Concerto** for organ and orchestra by **Antonín Dvořák** (1841-1904).  
Conductor: **David Zelený** (organist and conductor of the Prague Philharmonic Orchestra).  
The concert will be held in the **Prague Philharmonic Hall** (Václavské náměstí 20/1, 110 00 Prague 1).  
The concert will be preceded by a short exhibition of the **Prague Philharmonic** (18.30-19.00).  
The concert will be preceded by a short exhibition of the **Prague Philharmonic** (18.30-19.00).

# Appendix 7

## Example of *Inlandsche Verponding* (*Verponding* Indonesia) tax receipt



Source: Documentation of respondent K-1