MANDATED CORPORATE SOCIAL RESPONSIBILITY (CSR) IN INDONESIA: INSTITUTIONAL AND STAKEHOLDER PERSPECTIVES

A thesis submitted in fulfilment of the requirements for the Degree of Doctor of Philosophy of Management

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Declaration

I certify that except where due acknowledgement has been made, the work is that of the author alone; the work has not been submitted previously, in whole or in part, to qualify for any other academic award; the content of the thesis/project is the result of work which has been carried out since the official commencement date of the approved research program; any editorial work, paid or unpaid, carried out by a third party is acknowledged; and, ethics procedures and guidelines have been followed.

Rabin Ibnu Zainal

August 2015
# Table of Contents

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Table of Contents</td>
<td>i</td>
</tr>
<tr>
<td>List of Tables</td>
<td>v</td>
</tr>
<tr>
<td>List of Figures</td>
<td>vi</td>
</tr>
<tr>
<td>Acronyms and Glossary</td>
<td>vii</td>
</tr>
<tr>
<td>Exchange Rate in this Thesis</td>
<td>x</td>
</tr>
<tr>
<td>Acknowledgements</td>
<td>xi</td>
</tr>
<tr>
<td>Abstract</td>
<td>xii</td>
</tr>
<tr>
<td>Chapter 1. INTRODUCTION</td>
<td>1</td>
</tr>
<tr>
<td>1.1. INTRODUCTION</td>
<td>1</td>
</tr>
<tr>
<td>1.2. BACKGROUND</td>
<td>1</td>
</tr>
<tr>
<td>1.3. RESEARCH OBJECTIVE AND QUESTIONS</td>
<td>2</td>
</tr>
<tr>
<td>1.4. JUSTIFICATION</td>
<td>3</td>
</tr>
<tr>
<td>1.4.1. Theoretical Justification</td>
<td>3</td>
</tr>
<tr>
<td>1.4.2. Practical Justification</td>
<td>3</td>
</tr>
<tr>
<td>1.5. CONTRIBUTION</td>
<td>5</td>
</tr>
<tr>
<td>1.6. SCOPE OF RESEARCH</td>
<td>5</td>
</tr>
<tr>
<td>1.7. RESEARCH APPROACH</td>
<td>6</td>
</tr>
<tr>
<td>1.8. STRUCTURE OF THE THESIS</td>
<td>7</td>
</tr>
<tr>
<td>Chapter 2. DECENTRALIZATION AND ITS IMPACTS : A CONTEXTUAL BACKGROUND</td>
<td>10</td>
</tr>
<tr>
<td>2.1. INTRODUCTION</td>
<td>10</td>
</tr>
<tr>
<td>2.2. DECENTRALIZATION</td>
<td>10</td>
</tr>
<tr>
<td>2.2.1. The History of Centralization in Indonesia (1966-1998)</td>
<td>11</td>
</tr>
<tr>
<td>2.2.2. Decentralization : The Distribution of Power and Wealth</td>
<td>12</td>
</tr>
<tr>
<td>2.2.3. Oil and Gas Resources Control</td>
<td>15</td>
</tr>
<tr>
<td>2.3. THE IMPACTS OF DECENTRALIZATION</td>
<td>29</td>
</tr>
<tr>
<td>2.3.1. The Decentralization of Corruption</td>
<td>29</td>
</tr>
<tr>
<td>2.3.2. Businesses and Local Stakeholders Relationships</td>
<td>31</td>
</tr>
<tr>
<td>2.4. CONCLUSION</td>
<td>33</td>
</tr>
<tr>
<td>Chapter 3. LITERATURE REVIEW</td>
<td>35</td>
</tr>
<tr>
<td>3.1. INTRODUCTION</td>
<td>35</td>
</tr>
<tr>
<td>3.2. CORPORATE SOCIAL RESPONSIBILITY (CSR)</td>
<td>35</td>
</tr>
<tr>
<td>3.2.1. Definitions</td>
<td>35</td>
</tr>
<tr>
<td>Section</td>
<td>Page</td>
</tr>
<tr>
<td>------------------------------------------------------------------------</td>
<td>------</td>
</tr>
<tr>
<td>3.2.2. Three-Domains of CSR</td>
<td>37</td>
</tr>
<tr>
<td>3.2.3. The Politics of CSR in the Context of Developing Countries</td>
<td>39</td>
</tr>
<tr>
<td>3.3. INSTITUTIONAL PERSPECTIVES</td>
<td>41</td>
</tr>
<tr>
<td>3.3.1. Institutional Theory in CSR</td>
<td>41</td>
</tr>
<tr>
<td>3.3.2. Institutional Environment in Developing Countries Context</td>
<td>43</td>
</tr>
<tr>
<td>3.3.3. Types of CSR Regulation</td>
<td>45</td>
</tr>
<tr>
<td>3.4. STAKEHOLDERS PERSPECTIVES</td>
<td>48</td>
</tr>
<tr>
<td>3.4.1. Stakeholder Theory</td>
<td>48</td>
</tr>
<tr>
<td>3.4.2. Stakeholder Power and Networks</td>
<td>50</td>
</tr>
<tr>
<td>3.4.3. Local Stakeholders Legitimacy</td>
<td>53</td>
</tr>
<tr>
<td>3.4.4. Local Stakeholder Pressures</td>
<td>54</td>
</tr>
<tr>
<td>3.5. A MODEL OF THE CONFIGURATION OF EXTERNAL INFLUENCES ON CSR STRATEGIES</td>
<td>57</td>
</tr>
<tr>
<td>3.6. CONCLUSION</td>
<td>60</td>
</tr>
</tbody>
</table>

Chapter 4. RESEARCH METHODOLOGY .................................................. 62

4.1. INTRODUCTION ............................................................................. 62
4.2. QUALITATIVE RESEARCH ................................................................ 62
4.2.1. Positioning the Research ..................................................... 63
4.3. RESEARCH DESIGN ...................................................................... 65
4.3.1. Data Collection Techniques ................................................ 68
4.3.2. Data Analysis Method ........................................................... 70
4.4. RESEARCH SETTINGS, AREA AND CONTEXT ................................... 75
4.5. THE PARTICIPANTS ..................................................................... 76
4.5.1. Doing Research in Indonesia ............................................... 80
4.6. ETHICAL CONSIDERATIONS ......................................................... 82
4.7. CONCLUSIONS AND LIMITATIONS ................................................. 83
4.7.1. Research Timeframe ................................................................ 83
4.7.2. Financial and Distance Considerations ................................... 83
4.7.3. Research Findings and Generalizability ................................ 84
4.7.4. The Limitations of Data Collection ....................................... 84

Chapter 5. THE MANDATE OF CSR LEGISLATION AND LOCAL STAKEHOLDER EXPECTATIONS .............................. 85

5.1. INTRODUCTION ............................................................................. 85
5.2. A DESCRIPTION OF INDONESIA REGULATORY FRAMEWORK OF CSR ...................................................... 85
5.2.1. Indonesia Hierarchical Legislation System ................................ 85
5.2.2. Indonesia’s CSR Legislation ................................................... 87
List of Tables

Table 2.1. Fiscal Balance between Central and District Government Based on Law No 33/2004 ........................................................................................................................................ 14
Table 2.2. Oil and Gas Revenue as Portion of National Revenue (IDR Billion) .................................................. 18
Table 2.3. Fuel Subsidies as Portion of Consolidated National Expenditures (IDR Billion) ............................................ 19
Table 3.1. “Hard Law” vs “Soft Law” Regulatory Approaches .................................................................................. 46
Table 3.2. Different Configurations of Institutional and Stakeholder Pressures and Corresponding CSR Strategies ........................................................................................................................................ 59
Table 4.1. Research Questions, Source of Data, Method of Analysis and Key Outcomes ........................................ 67
Table 4.2. List of Stakeholder Participants .................................................................................................................. 78
Table 5.1. The Form of CSR and Their Source of Fund in Oil and Gas Industry ........................................................ 93
Table 5.2. Laws, Mandate, Mechanism of Implementation and Sanctions ................................................................. 95
Table 6.1. Comparison of Three Selected Companies in Implementing CSR Legislation ....................................... 152
Table 7.1. The Difference in Pressures and Strategy ................................................................................................. 170
Table 7.2. The Expectation on CSR Legislation and The Perception on CSR Practices ........................................... 180
List of Figures

Figure 1.1. Map of Indonesia with Oil and Gas Concession Infrastructures................................. 9
Figure 2.1. Production and Consumption of Oil in Indonesia (1980 – 2012)................................. 16
Figure 2.2. Oil and Gas Reserves in Indonesia.............................................................................. 24
Figure 2.3. Oil and Gas Revenue-Sharing Arrangement between Central, Provincial and
District Level of Government........................................................................................................ 27
Figure 3.1. Three Domain Approach of CSR.............................................................................. 38
Figure 3.2. A Model of Configuration of External Influences......................................................... 58
Figure 4.1. The Subjective – Objective Dimension......................................................................... 63
Figure 4.2. Four Paradigms for Analysis Social Theme................................................................. 65
Figure 4.3. Map of Musi Banyuasin District and Its Position in Sumatera Island......................... 74
Figure 4.4. Interrelated Concepts in a Qualitative Study within an Organizational Setting........... 77
Figure 5.1. Indonesia Legislation Hierarchical Order.................................................................... 86
Figure 5.2. Indonesia CSR Legislation Framework....................................................................... 88
Figure 6.1. Picture of the Blocking Road Access to Company Facility........................................ 120
Figure 6.2. Company A and its Local Stakeholders Relationship.................................................. 121
Figure 6.3. Company B and its Local Stakeholders Relationship................................................... 134
Figure 6.4. Picture of Ceremony of the Launching of New school Building by Bupati............. 137
Figure 6.5. Company C and its Local Stakeholders Relationship................................................... 146
Figure 7.1. Companies CSR Strategy in Managing External Pressures.................................... 173
Figure 7.2. The Three Domains of CSR Practices in Three Companies..................................... 175
### Acronyms and Glossary

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Adat</strong></td>
<td>Custom</td>
</tr>
<tr>
<td><strong>ADO</strong></td>
<td>Automotive Diesel Oil</td>
</tr>
<tr>
<td><strong>APBD</strong></td>
<td>Anggaran Pendapatan dan Belanja Daerah (District Revenue and expenditure Statement)</td>
</tr>
<tr>
<td><strong>APINDO</strong></td>
<td>Asosiasi Pengusaha Indonesia (Indonesian Employers Association)</td>
</tr>
<tr>
<td><strong>Banci</strong></td>
<td>Sissy</td>
</tr>
<tr>
<td><strong>Bensin</strong></td>
<td>Gasoline</td>
</tr>
<tr>
<td><strong>BPD</strong></td>
<td>Badan Perwakilan Desa (Village Representative Board)</td>
</tr>
<tr>
<td><strong>BPHMIGAS</strong></td>
<td>Badan Pengelola Usaha Hilir Migas (Regulatory Body of Oil and Gas Downstream)</td>
</tr>
<tr>
<td><strong>BPMIGAS</strong></td>
<td>Badan Pengelola Usaha Hulu Migas (Regulatory Body of Oil and Gas Upstream)</td>
</tr>
<tr>
<td><strong>BPS</strong></td>
<td>Biro Pusat Statistik (Statistical Central Bureau)</td>
</tr>
<tr>
<td><strong>Bupati</strong></td>
<td>The head of district</td>
</tr>
<tr>
<td><strong>BWI</strong></td>
<td>Business Watch Indonesia</td>
</tr>
<tr>
<td><strong>Comat</strong></td>
<td>The head of sub-district</td>
</tr>
<tr>
<td><strong>CD</strong></td>
<td>Community Development</td>
</tr>
<tr>
<td><strong>CFCD</strong></td>
<td>Corporate Forum for Community Development</td>
</tr>
<tr>
<td><strong>CME</strong></td>
<td>Coordinated Market Economy</td>
</tr>
<tr>
<td><strong>CSR</strong></td>
<td>Corporate Social Responsibility</td>
</tr>
<tr>
<td><strong>DAU</strong></td>
<td>Dana Alokasi Umum (General Allocation Fund)</td>
</tr>
<tr>
<td><strong>DAK</strong></td>
<td>Dana Alokasi Khusus (Special Allocation Fund)</td>
</tr>
<tr>
<td><strong>DBH</strong></td>
<td>Dana Bagi Hasil (Revenu Sharing Fund)</td>
</tr>
<tr>
<td><strong>Dekonsentrasi</strong></td>
<td>Deconcentration (a model of central control on budget and appoint local officials only to implement the regional projects from the budget)</td>
</tr>
<tr>
<td><strong>DPR</strong></td>
<td>Dewan Perwakilan Rakyat (National Legislative House)</td>
</tr>
<tr>
<td><strong>DPRD</strong></td>
<td>Dewan Perwakilan Rakyat Daerah (Local Legislative House)</td>
</tr>
<tr>
<td><strong>EU</strong></td>
<td>European Union</td>
</tr>
<tr>
<td><strong>FDI</strong></td>
<td>Foreign Direct Investment</td>
</tr>
<tr>
<td><strong>FGD</strong></td>
<td>Focus Group Discussion</td>
</tr>
<tr>
<td><strong>FKDPM</strong></td>
<td>Forum Komunikasi Daerah Penghasil Migas (Communication Forum for Oil and Gas Producer Districts)</td>
</tr>
<tr>
<td><strong>FOC</strong></td>
<td>Foreign Owned Company</td>
</tr>
<tr>
<td><strong>GDP</strong></td>
<td>Gross Domestic Product</td>
</tr>
<tr>
<td><strong>Geng</strong></td>
<td>Allies</td>
</tr>
<tr>
<td><strong>Gotong Royong</strong></td>
<td>Community mutual cooperation</td>
</tr>
<tr>
<td><strong>Gubernur</strong></td>
<td>Governor (the head of province)</td>
</tr>
<tr>
<td><strong>HIPMI</strong></td>
<td>Himpunan Pengusaha Muda Indonesia (the Indonesian Young entrepreneurs association)</td>
</tr>
<tr>
<td><strong>Hukum Adat</strong></td>
<td>Customary Law</td>
</tr>
<tr>
<td><strong>IBL</strong></td>
<td>Indonesia Business Link</td>
</tr>
</tbody>
</table>
ICW  Indonesia Corruption Watch
IDO  Industrial Diesel Oil
IMF  International Monetary Fund
IOC  Indonesian Owned Company
IWAPI Ikatan Wanita Pengusaha Indonesia (Indonesian women’s business association)
JOB  Joint Operating Body
JSE  Jakarta Stock Exchange
Kabupaten District
Kades Kepala Desa (The head of village)
KADIN Kamar Dagang dan Industri (Indonesian Chambers of Commerce)
Kadus Kepala dusun (Sub village head)
Karang Taruna Village youth organisation
Kaur Kepala urusan (The head of affairs in village office)
Kekurangan tangan Pemerintah The long hand of government
KKN Korupsi, Kolusi, dan Nepotisme (Corruption, Collusion and Nepotism)
Kota Municipality/ City
Kompensasi BBM Compensation program for fuel subsidy reduction
Koperasi Cooperative
KPK Komisi Pemberantasan Korupsi (Corruption eradication commission)
KPPOD Komisi Pemantauan Pelaksanaan Otonomi Daerah (The monitoring commission of regional autonomy implementation)
Kredit Macet Bad Credit
Krismon Krisis Moneter (Monetary Crisis)
LLC Limited Liability Companies
LME Liberated Market Economy
Maghrib Islamic prayer time in the afternoon
Makan siang Lunch
Masyarakat manja Spoiled Community
MBOEPD Million Barrel Oil Equivalent Per Day
Minyak bakar Fuel oil
Minyak tanah Kerosene
MMFCD Million Cubic Feet Per Day
MMSTB Million Stock Tank Barrels
MNC Multi National Company
MoU Memorandum of Understanding
Mufakat Consensus
Musbangda Musyawarah Pembangunan Daerah (District development
Musbangdes  
*Musyawarah Pembangunan Desa* (Village development discussion)

Musrenbang  
*Musyawarah Perencanaan Pembangunan* (Development Planning Discussion)

Musyawarah  
Deliberation

Nagari  
Customary rule of Minangkabau ethnic

NGO  
Non-Governmental Organisation

OPEC  
Organization of the Petroleum Exporting Countries

PAD  
Pendapatan Asli Daerah (Local Revenues)

Pemadam Kebakaran  
Fire Extinguisher

Perda  
Peraturan Daerah (Local Regulation)

Permen  
Peraturan Menteri (Ministerial Decree)

Pesantren  
Islamic School

Pilkadasung/Pilkada  
Pemilihan Kepala Daerah Langsung (the heads of district election)

Pilkades  
Pemilihan kepala desa (Village head election)

PIRAC  
Public Interest and Research Advocacy (a leading national NGO in Indonesia)

PKB  
Partai Kebangkitan Bangsa (National Awakening Party)

PLN  
Perusahaan Listrik Negara (State Owned Electricity Company)

PP  
Peraturan Pemerintah (Central Government Regulation)

PPEB  
Partnership Program and Environmental Building (known as PKBL – *Program kemitraan dan Bina Lingkungan*)

PR  
Public Relation

Preman  
Hoodlum

Pribumi  
Indigenous Indonesia

PROPER  
Program Penilaian Peningkatan Kinerja Perusahaan Dalam *Pengelolaan Lingkungan Hidup* – Environmental Performance Assessment Ranking Program)

PSC  
Production Sharing Contract

Puskesmas  
Pusat Kesehatan Masyarakat (Community Health Center)

Putra Daerah  
The native son

PWC  
Price-Water Cooper

Raja-raja kecil  
Little kings

RPJMD  
Rencana Pembangunan Jangka Menengah Daerah (Middle term - five year - district development planning)

*Runcing kebawah, tumpul keatas*  
Sharp down but blunt up

Sapi perah  
Cash cow

Sebagian laba  
a proportion of profit

Sekdes  
Sekretaris desa (Village secretary)

Setoran  
Money contribution

SK  
Surat Keputusan - decree

SKKMIGAS  
Satuan Kerja Kelola Usaha Hulu Migas (Special Task Force for Upstream Oil and Gas Business Activities – the substitute of
Exchange Rate in this Thesis

USD 1,– = IDR 10,000,– (July 2013)
The journey throughout the process of the completion of this thesis was the most incredible experience in my lifetime. The work for a doctoral degree is surely not an easy task and this achievement should be shared with many people that have made great contributions to these tasks.

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Abstract

Indonesia was one of the first countries in the world to implement legislation mandating businesses to undertake Corporate Social Responsibility (CSR). This research examines how CSR legislation has been implemented in three Oil and Gas companies in the Musi Banyuasin district in the South Sumatera Province. Oil and Gas is one industry that has applied CSR legislation and the district being researched is one of the richest districts in terms of mining resources, including Oil and Gas, in Indonesia. Meanwhile, the legislation cannot be separated from the decentralization process that began in 1999 where government power has been transferred to local district governments including Musi Banyuasin districts and their local community rights have been acknowledged. Adopting institutional and stakeholder perspectives, the research examines how the CSR legislation and local stakeholder pressures influence the CSR practices of three Oil and Gas companies in Musi Banyuasin District, South Sumatera province, Indonesia. The research focuses on three main questions:

(i) What are the main mandates of CSR legislation for Oil and Gas companies operating in Indonesia?
(ii) How do Oil and Gas companies operating in Indonesia practice CSR and treat local stakeholders?
(iii) What are local stakeholder expectations of mandated CSR and their perceptions of the practices of Oil and Gas companies operating in Indonesia?

An interpretive approach was adopted, using a multiple case study methodology where interviews and focus group discussions were used to collect primary qualitative data. Document analysis of the relevant CSR laws, related government regulations and ministerial decrees was also undertaken. Three Oil and Gas Companies operating who had a Production Sharing Contract (PSC) with the Indonesian government were selected: an Indonesian Owned Company (IOC), a Foreign Owned Company (FOC) and a State Owned Company (SOC). Research participants included members from each of the three companies, their local stakeholders, and other participants related to the CSR issue in the area. Interviews with managers and staff from each of these three companies provided an understanding of implementation strategies related to mandatory CSR requirements. Local stakeholders included local district government officials as well as local community members from the villages located nearby to each company’s operations. Other participants included key informants from a national business association, non-government organisations (NGOs), and the national regulatory body for Oil and Gas.
Analysis reveals that mandated CSR legislation requires Oil and Gas Companies to distribute a share of their wealth to local communities. The legislation has directed that companies should allocate a portion of their profit and/or their operational cost to local communities. Whilst the legislation appears to be ‘hard’ in mandating companies to distribute wealth to local communities in actuality it is ‘soft’ as the institutional environment lack enforcement and the political environment allows companies to negotiate their compliance with the legislation.

However, mandated CSR legislation is an important institutional symbol that legitimates local stakeholders’ CSR requests from companies. The findings highlight that requests for company CSR have predominantly been made by heads of villages, some legislative members and local government officials, which are characterised by research participants as “raja-raja kecil” (little kings). These particular stakeholders have the power to control territories within the district and influence company legitimacy in the eyes of other local stakeholders. This limits the involvement of more marginalized stakeholders whom the legislation is primarily intended to benefit. The three companies have implemented the legislation differently, depending on these institutional environment and local stakeholder pressures. The IOC was owned by a national political figure, providing political connections to counter the power of local ‘little kings’. The IOC was thus able to establish and foster a direct link with the ‘marginalized’ groups of local stakeholders, which included farmers and women, without fearing the ‘little kings’ to be a threat to their legitimacy. The FOC viewed the ‘little kings’ as having power, and interacting with them as being essential, as being foreign owned they felt vulnerable to resource nationalism claims, regarding their exploitation of natural resources in the area. With limited political connections, the FOC needed to rely on economic influences, and so provided significant CSR funds for and adopted the development agendas of ‘little kings’ as the basis to gain their legitimacy. The SOC, due to their state ownership structure, primarily concerned themselves with central government interests. They experienced less pressure from local stakeholders, leading them to lack initiative and direct involvement with local stakeholders and their CSR efforts. As a result the SOC company mainly focused on projects directed by the central government such as the soft-loans program ordered by the Minister of State Owned Companies.

This thesis concludes that the implementation of CSR legislation in Indonesia has had mixed results to date in achieving its stated goal to improve the welfare of local communities. Specifying the stakeholder groups companies should focus on and providing transparent information about company CSR are necessary to improve the outcomes from legislation. This research makes a contribution to the CSR literature by illustrating how institutional and stakeholder pressures affect
CSR implementation in the context of mandated CSR legislation. This research also makes a contribution to the CSR as public policy literature by showing how implementation and enforcement are often weak in developing countries like Indonesia, where weak institutional conditions, lacking transparency and susceptible to corruption frustrate the intentions of CSR legislation.
Chapter 1. INTRODUCTION

1.1. INTRODUCTION

Chapter 1 provides an introduction to the research and consists of seven major sections. Section 1.2 presents the background to mandated CSR in Indonesia. Section 1.3 presents the research objectives and questions; whilst section 1.4 provides the justification for the research. Section 1.5 highlights the contribution of the research. Section 1.6 describes the scope of the research. Section 1.7 presents the research approach. Finally, Section 1.8 provides an overview of the structure of the thesis.

1.2. BACKGROUND

The development of Indonesia must address the growing domestic demand for better infrastructure, services and social security for its population. These circumstances have caused the government to start to looking to the business world to take on a role in social provision. Corporate Social Responsibility (CSR) has played a major role in motivating companies operating in Indonesia to involve themselves in local developments assisting the government in providing public goods and services. According to Kemp (2001), CSR in Indonesia is a relatively new concept among companies, starting in 2000 after the fall of the “new order regime” under President Soeharto. After experiencing thirty-two years of control under a highly centralized government regime, local districts have successfully requested more autonomy and authority from the central government in the decentralization era. This includes demands for company contributions, which previously under President Soeharto went to the central government in Jakarta. Such demands have forced the new reform central government to mandate CSR legislation, requiring businesses, particularly those related to natural resources, to undertake CSR. In 2007, two CSR related laws were enacted, which are the Investment law No. 25/ 2007 and Limited Liability Companies (LLCs) Law No 40/2007, which laws are acknowledged as amongst the world’s first laws for mandatory CSR (Rosser & Edwin 2010; Waagstein 2011). All Indonesian CSR laws emerged after President Soeharto stepped down in 1999. All the laws on CSR discussed in this thesis were issued after 2000. Therefore, as there was no CSR law under President Soeharto, the various laws on CSR have occurred post 2000. These enacted laws have made CSR mandatory in Indonesia, creating a different situation from that of CSR practices in developed countries. Regarding the latter, according to Carroll (1991), CSR extends business practices beyond their required economic and legal responsibilities to accepting ethical, moral, and discretionary responsibilities, in order to improve society. This social responsibility should not, however, interrupt the main responsibility of businesses to provide
economic goods and services to community, and their responsibility to provide profits to shareholders. Within the frame of these assumptions, CSR is based on voluntariness on the part of companies in their initiatives (Carroll 1999b; Friedman 2007). The presence of mandated CSR legislation in Indonesia, by contrast, impels company compliance to the legislation regardless of any interruption to their economic responsibilities.

The motivation underpinning this study is the need to explore how the CSR legislation in Indonesia, comprising laws, government regulations and ministerial decrees, is being implemented in the field. This study explores the implementation of mandated CSR legislation in three Oil and Gas companies operating in the Musi Banyuasin district in South Sumatera province. The selection of the Oil and Gas industry is because the legislation applies to companies within this industry; while this district is well known as a district that has rich Oil and Gas resources. The present study explores the perspective of both company employees and local stakeholders on the CSR legislation. Then, the study further analyses the companies’ strategies for implementing CSR and the outcomes for their local stakeholders. It should be noted that the study of CSR implementation should also consider the dynamics of the Indonesian political and economic context. The downfall of the centralized “new order regime” led by President Soeharto in 1998 created an opportunity for local governments and local communities to demand business contributions. As a result of these demands, a decentralization process transferred much of central government authority to kota (municipality) and kabupaten (district) levels of government. The resulting rise of local aspirations and demands can be seen in the dramatic increase in the number of municipalities and districts, from 292 before decentralization to 542 in 2013 (KPPOD 2013). It is also noted that the growth in number of municipalities and districts occurred mostly outside Java, which is the seat of central government. However, Indonesian natural resources are predominantly located outside of Java. This is likely to have a significant impact on the operations of companies in the resource rich areas, including in their CSR implementation, as they face the resulting complexities of the local environments of their operations.

1.3. RESEARCH OBJECTIVE AND QUESTIONS

The key objective of this study is to qualitatively examine the implementation of CSR legislation in Indonesia. To attain the research objective, the main research questions framed for this study are:

(i) What are the main mandates of CSR legislation for Oil and Gas companies operating in Indonesia?
(ii) How do Oil and Gas companies operating in Indonesia practice CSR and treat local stakeholders?
What are local stakeholder expectations of mandated CSR and their perceptions of the CSR practices of Oil and Gas companies operating in Indonesia?

1.4. JUSTIFICATION

This section describes the justification for conducting this research and is divided into two subsections. Subsection 1.3.1 discusses the theoretical justification. Subsection 1.3.2 presents a practical justification.

1.4.1. Theoretical Justification

The Indonesian government has taken a different stance from most other countries by introducing mandatory legal requirements for CSR through legislation (Lyon 2007; Rosser & Edwin 2010; Waagstein 2011). Thus, Indonesia provides a unique context for researching CSR. This legislation allows government intervention in company CSR decisions, a situation differing from that mostly found in the CSR literature, which assumes voluntariness and self-determining policies in company CSR decisions (Carroll 1991). Moreover, Donaldson and Dunfee (1999) argue that CSR should be seen as an implicit claim by local stakeholders because, unlike consumers, suppliers or shareholders, local stakeholders do not have any explicit contract agreement with companies. However, the issuance of CSR laws in Indonesia changes the status of their claim, explicitly granting local stakeholder demands for company CSR contributions.

Together, the legislated CSR mandate and local stakeholder demands for companies to undertake CSR create pressures for companies in terms of their CSR strategies (Lee 2011). In this respect, the two external pressures are: institutional pressures in the form of mandated CSR legislation that provides the rules of the game for companies to undertake CSR (Scott 2001); and local stakeholder pressures deriving from their explicit demands that are legitimated by the CSR legislation (Freeman 2011). This research explores company CSR strategies within the context of these institutional and stakeholder pressures. By examining company perceptions of CSR legislation and how they implement such legislation, the present study offers important insights for understanding company CSR strategies for dealing with this unique set of external influences, particularly in the developing country context with the integration of political and economic forces in the business environment (Hillman & Wan 2005; Scherer & Palazzo 2011).

1.4.2. Practical Justification

CSR practices have become very prominent in Indonesia subsequent to the passing of CSR legislation. However, official data indicating the extent to which companies have contributed to local communities is unclear, due to a lack of transparency in the implementation of CSR in
In a study illustrating CSR practice before Indonesian CSR laws were passed, Chambers et al. (2003) surveyed the top 50 companies in Indonesia, India, Malaysia, Philippines, Singapore, South Korea and Thailand. This study showed that only 24 percent of the top 50 companies in Indonesia performed CSR, whilst 72.7 percent of this number provided only a one or two pages CSR report. The focus of this 24 percent of companies was on environmental issues; which was different from the CSR practices in the other six countries, which were shown to have more involvement in providing public goods such as building schools or providing scholarship projects.

Nor Hadi’s (2011) study of 62 companies listed on the Jakarta Stock Exchange (JSE), consisting of mining and manufacturing companies, illustrates the CSR condition after the legislation passed. This study revealed that there were 898 CSR projects conducted by 62 companies in 2009, which were directed mainly towards local communities (344 projects), environmental conservation (142 projects), product quality assurance (112 projects), energy savings and conservations (22 projects), with the rest (34 projects) falling outside these categorizations. The changing of CSR focus from environmental to social issues revealed the shifting of CSR direction after CSR laws passed in 2007.

In terms of CSR financial contribution, based on a Public Interest and Research Advocacy (PIRAC) study in 2001, the total CSR funds from 180 selected companies was IDR 115 billion (USD 11.5 million) distributed to supporting 279 CSR activities (PIRAC 2002). Although there is no existing formal research investigating the total financial contribution of companies engaged in CSR after the CSR laws were passed, an independent CSR consultant in Indonesia named La Tofi estimated that the funding increased to around IDR 10 Trillion (USD 10 Billion) in 2012 (Danurdono 2012).

The growing CSR practices in Indonesia would be expected to have a positive impact on relationships between companies and local communities. In fact, Prayogo (2010) suggests that the relationships between mining companies and local communities has been significantly endangered in this decentralization era. A report released by Walhi (Wahana Lingkungan Hidup Indonesia – The Indonesian Forum for Environment) in 2013, noted that the number of company-community conflicts in 2012 increased sharply over the previous year, with 369 cases involving 139,874 households. In addition, they also found that within a period of 6 years (2006-2012), there were 13 deaths, 125 victims injured, and 234 local people arrested by officials as a result of company-community confrontation during protests (Indrakusuma 2013; Sudiarto 2013). Prayogo (2010) suggests that extractive industries such as mining have a very high risk for conflict with local communities due to the direct impacts of natural resource exploitation on local communities, and the economic disparity evident with the presence of such companies in the midst of rural poverty, enhancing local community jealousy.
1.5. CONTRIBUTION

The present research acknowledges the influence of CSR legislation and local stakeholder pressures on company CSR strategies (Campbell 2006; Freeman 2011; Matten & Moon 2008). Lee (2011) has provided a model to explain institutional and stakeholder influences on company CSR strategies. This study offers a different perspective by investigating how companies comply with institutional pressures from CSR legislation, consisting of laws, regulations and ministerial decrees, and deal with the often intense local stakeholder pressures. In addition, differences of the Indonesia environment and context may influence the application of certain theories, such as in the definition of CSR, the form of government intervention, or the application of the stakeholder concept.

In addition, this research also contributes to an understanding of CSR practices in Indonesia. The increasing number of CSR projects and escalating conflict between companies and communities raise questions about what has happened in the actual CSR implementation in the field. CSR is potentially a bridge for companies and communities to build harmonious relationships. CSR can also provide benefits to local communities through resources distribution. Through examining CSR legislation, assessing local stakeholders’ perceptions of CSR and analysing the implementation of CSR, the present study identifies and offers explanations for the weaknesses of Indonesian CSR and hence offers recommendations for improving Indonesian legislation and practice, and thus for building good relationships between companies and local communities.

1.6. SCOPE OF RESEARCH

The present research focuses on the Indonesian Oil and Gas industry, by studying three Oil and Gas companies, comprising an Indonesia Owned Company (IOC), a Foreign Owned Company (FOC) and a State Owned Company (SOC) operating in the Musi Banyuasin district in the South Sumatera province. The three different cases of company CSR are studied in order to explore their diversity, wherein the study can explore multiple practices, describe the diversity of practice and explain the critical mediating factors (Yin 2009). The selection of the Oil and Gas sector is in line with CSR legislation, which mentions the obligation of companies related to natural resources to undertake CSR.

Figure 1.1 shows the location of the Musi Banyuasin district in South Sumatera Province, Indonesia. Whilst, the district location is shown by the arrow, the colour dots in the figure represents Oil and Gas concession infrastructures established in Indonesia. This district plays an important role in generating electricity for Singapore and Java, as its oil and gas resources are distributed through
pipelines and ship transportation to those areas (BPS 2012). The district is the fifth largest district in oil and gas production in Indonesia, and is a member of Forum Komunikasi Daerah Penghasil Migas (FKDPM – Communication Forum of Oil and Gas Producer Districts). The population of this district is 562,584 people, with approximately 20.06 percent of this population living in poverty (BPS 2012). This percentage is the highest in the South Sumatera province and higher than the average level of poverty for all districts in Indonesia (Prayitno et al. 2014). There are eleven oil and gas companies, both domestic and foreign, operating in the Musi Banyuasin district (Ministry of Energy and Mineral Resources 2011).

The local government of this district, supported by the international donor organizations, European Union (EU) and United National Development Programme (UNDP), established a CSR forum in 2007 to improve consultation between companies and local stakeholders on CSR projects. The forum is membered by all companies operating in the Musi Banyuasin District and managed by several district government officials. The main aim of this forum is to synchronize the CSR projects by these companies with government development projects in the Musi Banyuasin district (Alizar, Zainal & Hayatuddin 2007). However, the relationship of businesses and local stakeholders has often been difficult in this district, with several demonstrations and protests from local communities (Zainal 2007).

It should be noted that the primary data collection was undertaken in January 2013 – January 2014, during the presidency of President Soesilo Bambang Yudhoyono. Some changes occurring during the research period, such as the dissolution of BPMIGAS (Badan Pengelola Usaha Hulu Migas - Regulatory Body of Oil and Gas Upstream), whose responsibilities shifted to SKKMIGAS (Satuan Kerja Khusus Pelaksana Kegiatan Usaha Hulu Migas - Special Task Force for Upstream Oil and Gas Business Activities) were taken into account in the thesis discussion. However, other changes in government policy occurring under the recently elected President Jokowi (October 2014-present), for instance the change of the local district authorization process, whereby mining outside Oil and Gas are now under the control of the provincial government, through Law No 23/2014 on Local Government, are not captured by this research. This law may influence the local environment as it diminishes local district authorization of mining companies. However, the implementing regulations of this law is not yet issued and implemented.

### 1.7. RESEARCH APPROACH

The present research conducts a qualitative study by adopting an interpretive approach to analysing CSR legislation, the perceptions of companies and their stakeholders to CSR, and the implementation of CSR. Cohen and Manion (1994, p. 36) suggest that the interpretive approach
assists researchers to understand "the world of human experience". Furthermore, Mertens (2014, p. 12) explicates the interpretive approach based on the assumption that "reality is socially constructed". Therefore, the interpretive approach tends to rely upon "participants' views of the situation being studied", with the researcher then comprehending the impact of these participant’s views of their own background and experiences (Creswell 2013, p. 8). Interpretive researchers do not generally begin a study with a theory, as is common for post positivists; rather, they "generate or inductively develop a theory or pattern of meanings" (Creswell 2013, p. 9) throughout and as a result of the research process. The interpretive/constructivist paradigm generally operates using predominantly qualitative methods (Silverman 2004), however quantitative data may be utilised in a way that supports or expands upon the qualitative data and effectively deepens its description (Mackenzie & Knipe 2006).

The present study involved the application of qualitative analysis to interviews, observations, document reviews and visual data (Creswell 2013). The document review analysis is essential to analyse the various CSR laws and their implementation regulations. Semi-structured interviews of managers and staff from three selected companies, as well as their local stakeholders comprising local government officials and local community members, were conducted in order to examine their perceptions of CSR legislation and its implementation. Interviews with other participants such as NGOs activists, businesses associations and the Oil and Gas regulatory body are also used to complement the data. The researcher also observed the interaction of companies, communities and government participants in their daily CSR activities.

1.8. STRUCTURE OF THE THESIS

The remainder of this thesis is structured as follows. Chapter 2 focuses on decentralization and its impacts as a contextual background in terms of historical background, the distribution of power and wealth, and oil and gas resource control. The impacts of decentralization in the form of decentralization of corruption, and business and local stakeholder relationships are also deliberated in this chapter. Chapter 3 presents a literature review relevant to this research. There are three major streams of literature discussed in this chapter, which are related to CSR, institutions and stakeholders. Then, the combined effects of institutions and stakeholders on company CSR strategies are also described in this chapter. Chapter 4 presents the research methodology of this study. The chapter discusses the qualitative research, research design, research settings, the participants, ethical considerations and limitations of methodology. Chapter 5 presents the mandate of CSR legislation and the local stakeholder perceptions. Chapter 6 elaborates on the perceptions and implementation of CSR legislation by three selected Oil and Gas
Chapter 7 presents the discussion and conclusion sections of the thesis. Three key findings generated from this study are discussed in this chapter. Finally, implications of the study and contributions to practice and the literature are also presented in this chapter.
Research location in the Musi Banyuasin District, South Sumatera Province.

- The population is 561,458 people consisting of 288,450 male and 273,008 female. 70.11% is in the productive age range 15-55, while of the rest 20.11% are in the 0-14 range, and 9.8% is over 56.
- Total area is 14.265,96 km²
- The district is comprised of 14 Kecamatan (subdistricts) and 216 desa/kelurahan (villages).
- Based on the district GDP, the three dominant sectors of the district are mining (with 59.32% of total GDP), farming (14.80%), and trading (8.05%).

Source: (BPS 2012; pwc 2013)
Chapter 2. DECENTRALIZATION AND ITS IMPACTS: A CONTEXTUAL BACKGROUND

2.1. INTRODUCTION

There are three main levels of government in Indonesia, consisting of the central government led by the President, the provincial governments headed by a gubernur (governor), and kabupaten (district) or kota (municipality) government headed by the bupati (head of district) or walikota (mayor/ head of city). During 1967-1998, under the ‘new order’ regime of President Soeharto, the central government practically dominated all decisions at all these levels of government. In 1999, a radical transformation of the governance system from centralization to decentralization occurred in Indonesia, involving the delegation of certain authorities and powers to the district government level (Ahmad & Mansoor 2002; Booth 2003; Duncan 2007; Holtzappel & Ramstedt 2009). Some basic services such as education and health are now delegated to the authority of local district government in order to make authorization of the provision of these services closer to their community beneficiaries. This delegation has been accompanied by revenue sharing, transferred by central to local district governments in order to develop their territories. This decentralization and the delegation of power to local district governments have put them in a more powerful position in terms of managing their territory and asserting their rights (Ahmad & Mansoor 2002). On the other hand, the end of the privileged protection of company operations by the central government and military during the President Soeharto era has forced companies into the situation of having to face local authorities alone or with less assistance from the central government (Zainal 2007).

The implementation of CSR legislation by companies in the districts is influenced by this decentralization context. In order to understand such pressures within this context, the present chapter elaborates on the decentralization process and its impacts. Section 2.2 discusses decentralization. Section 2.3 elaborates on the impacts of decentralization. Section 2.4 presents the chapter’s conclusion.

2.2. DECENTRALIZATION

This section explores the decentralization process in Indonesia and its relation to Oil and Gas resource control. Subsection 2.2.1 discusses the historical background. Subsection 2.2.2 presents a discussion of the distribution of power and wealth in Indonesia. Subsection 2.2.3 examines the issue of Oil and Gas resource control.
2.2.1. The History of Centralization in Indonesia (1966-1998)

Indonesia is an archipelago country comprising approximately 17,508 islands. It encompasses 34 provinces with over 238 million people, making it the world's fourth most populous country (Poesponegoro & Notosusanto 2008). The country consists of 300 distinct native ethnicities and linguistic groups, such as Javanese, Batak, Melayu, Bugis, where the largest and politically dominant ethnic group is the Javanese, who comprise approximately 42 percent of the population (BPS 2010). According to the 2010 national census, 58 percent of the population lives in Java, making Java the world's most populous island (BPS 2010).

Given the various and diverse ethnicities, languages and religions in this country, a “new order regime” under President Soeharto promoted a model of dekonsentrasi (deconcentration – a model of central control on budget while appointing local officials to deliver public services and goods). The application of this model by the regime created a lack of authority for local officials (Ahmad & Mansoor 2002). According to Thorburn (2002), the Law No. 5/1974 on Regional Development, which rules this system, forced the local district governments to “sweep along on the coattails” of the phenomenal power of the national government, which developed large bureaucracies and consolidated its privilege. The local district government was not involved in consultation with central government in the formation of territorial policies. Indeed, local district government acted simply as an instrument of central government to implement its policies. Local legislative powers (DPRD-Dewan Perwakilan Rakyat Daerah) in this era functioned solely as “rubber stamp” bodies, which were appropriately rewarded for their acquiescence to the plans of their superiors (Duncan 2007; Thorburn 2002).

This condition undermined the existence of local communities’ rights. The prominent terms of musyawarah (deliberation) and mufakat (consensus) used by the central government were invoked to justify a range of political measures and economic policies, and to censure anyone who tried to object (Duncan 2007). The thirty-two years of centralized development under the ‘new order regime’ of President Soeharto weakened many indigenous cultural institutions that mediated access to and use of local resources and territories. The force of musyawarah and mufakat from central government ensured that local cultural institutions must surrender their rights and ownership to central government policies for the larger national development interest (Duncan 2007).

A dramatic transformation happened after the Krismon (monetary crisis) in 1997, which shocked Southeast Asian countries. Indonesia’s economy was hit very hard, with the depreciation of the
Indonesian Rupiah currency vis-à-vis the US Dollar being 231 percent over the period from July 1, 1997 to February 16, 1998. This depreciation was the highest compared to other countries in the region such as Malaysia, the Philippines and Thailand, which suffered a depreciation of 55.43, 51.37 and 87.09 percent, respectively, during the same period (Stalker 2000). It was noted that the economic turmoil in Indonesia was inseparable from the political crisis connected to bad governance, involving what is termed KKN (Korupsi, Kolusi, Nepotism – Corruption, Collusion and Nepotism) in the government (Davidson 2010; Duncan 2007). The crisis has been partly attributed to the inefficiency and lack of accountability of Indonesia’s then highly centralised system.

The systemic abuse of central government power caused a massive reaction from students in all areas of Indonesia during early 1998. The ensuing demonstrations and protests over Soeharto’s power and the KKN which caused krismon (krisis moneter – the monetary crisis) in Indonesia raised demands for democratization, equality, justice and human rights. This resulted in the resignation of the President Soeharto regime, whilst also providing opportunities for regional leaders to issue ultimatums that the central government should give more authority to them to rule their own territories (Duncan 2007; Rasyid 2003). In the central government, politicians and policy makers saw decentralization and regional autonomy as a way to stabilize the country by making government more accountable to local populations and by addressing demands from regional leaders who wanted more authority over fiscal and political matters (Firman 2013).

This dramatic transformation from centralization to decentralization has been called a ‘big bang’ process, as the distribution of power from highly concentrated power under Soeharto and his regime to distributed power for around 400 districts and municipalities occurred in a radical manner (Rasyid 2003). The decentralization process was part of a central government response intended to dampen the complaints of regional leaders who were tired of centralized rule from Jakarta that limited their authority to manage their own territories (Duncan 2007). The legislators also hoped that transferring power to the districts and municipalities would placate other critics of centralized rule (Booth 2003; Duncan 2007).

2.2.2. Decentralization: The Distribution of Power and Wealth

Decentralization changed the relationship between central and local governments at the province and district levels. Instead of delegating power to the provincial level, the central government decided to transfer the power to district governments. The government’s stated reason for selecting decentralization autonomy at kabupaten (district) and kota (municipality) level was that
it brought government closer to the people. However, some have argued that the ‘whispered’ explanation is that if autonomy was given to the provinces, they could be large enough to secede; and that it is thus far easier and safer for the central government to exercise authority over a large number of small administrative units than the larger and fewer provincial-size governments (Duncan 2007; Holtzappel & Ramstedt 2009).

The launch of the decentralization system was marked by the issuance of two pieces of legislations by the transitional government under President Habibie in 1998-1999: Law No. 22/1999 on Regional Governance; and Law No. 25/1999 on the financial balance between central and local government (Ahmad & Mansoor 2002). These two laws ambitiously planned the transfer of fiscal and political responsibility from Jakarta, the capital of Indonesia, to over 400 districts and municipalities. The laws were drafted within less than one year, to quickly respond the increasing demand of local governments for autonomy in administering their territories. To rapidly respond to these demands, the laws were drafted by a small circle of officials without involving broad-based stakeholder participation, resulting in the laws having a lack of clarity (Rasyid 2003).

These two laws were later amended with two new laws: Law 32/2004 on Regional Administration to replace Law 22/1999; and Law 33/2004 on the Fiscal Balance between the Central Government and the Regional Governments (provincial and districts) to replace Law 25/1999 (Duncan 2007; Firman 2013; Holtzappel & Ramstedt 2009; von Benda-Beckmann & von Benda-Beckmann 2013). Law No. 32/ 2004 on Regional Administration transferred political power and gave authority to districts and municipalities in areas such as health, education, village governance, land tenure, trade, environment and resource extraction; while the central government remained responsible for national defence, international relations, justice, security, religion, and monetary policies (Holtzappel & Ramstedt 2009). The districts and municipalities were now able to obtain revenue from resource exploitation through redistribution of natural resource revenue. The districts now received a certain percentage of revenues generated by the exploitation of natural resources, particularly oil, natural gas, timber and mining (see table 2.1). Officials in the central government hoped this legislation would address long-term resentment from people in resource-rich regions, who were angered over perceived outflows of wealth to Jakarta. Furthermore, the new legislation also gave the districts and municipalities in Indonesia the authority to implement new taxes and fees to increase their revenue base (Agustina et al. 2012).
Table 2.1 below shows the fiscal balance between the central and local governments in the areas of land and property tax, acquisition of land and building rights, natural resources and income tax. Unlike other sectors that give the larger proportion of revenue share to local government, oil and gas mining give only a small portion to local district government. The central government gets a larger portion of oil and gas production, 85 percent for oil and 70 percent for gas, compared to the local government, which only receives 15 percent and 30 percent of oil and gas production, respectively. The local government portion of 15 percent and 30 percent from oil and gas production respectively is then allocated to three separate local governments, which are: the provincial government; the producer district government; and other districts in the same province (this will be discussed in Subsection 2.2.3).

<table>
<thead>
<tr>
<th>Sources</th>
<th>Central Government (%)</th>
<th>Local Government (provincial and districts) (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land and Property Tax</td>
<td>10</td>
<td>90</td>
</tr>
<tr>
<td>Acquisition of land and building rights</td>
<td>20</td>
<td>80</td>
</tr>
<tr>
<td>Natural Resources: Forestry, Public Mining,</td>
<td>20</td>
<td>80</td>
</tr>
<tr>
<td>and Fishery sectors</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Oil Mining</td>
<td>85</td>
<td>15</td>
</tr>
<tr>
<td>Gas</td>
<td>70</td>
<td>30</td>
</tr>
<tr>
<td>Income Tax</td>
<td>80</td>
<td>20</td>
</tr>
</tbody>
</table>

Source: (Agustina et al. 2012)

The other substantial change with this transition is in the system of political governance. In the decentralization era, the head of regional government, such as governor of the province, *walikota* (mayor of municipalities), *bupati* (head of district), and *kepala desa* (head of village), who were previously appointed by central government, are now directly elected by the local people (Hidayat 2009; Valsecchi 2012). It was hoped that this would promote better governance, as local officials would be more aware of and responsive to their local constituents’ needs. The local governments would be more accountable to their constituents, leading to better policy and less corruption (Duncan 2007). Hence, the opportunity to control their local natural resources would improve natural resource management, as the locals would be more able to adopt sustainable resource management practices with reference to their local values (Gibson & Woolcock 2008; Siddiquee, Nastiti & Sejati 2012).
The main challenge faced by this decentralization autonomy is the growing disappointment for local government over the revenue sharing arrangements between central and local, provincial and district governments (Agustina et al. 2012; Agustina, Fengler & Schulze 2012; Holtzappel & Ramstedt 2009). They perceive that the central government continues to “dominate Indonesia’s public finance” through the share of income tax (80 percent), revenue from oil (85 percent) and gas (70 percent), and Value Added Tax (100 percent) collected by the central government; whilst local government taxes remain limited to hotels, restaurants, entertainment, public advertisements, street lighting, quarrying and parking, which do not provide adequate funding (Agustina et al. 2012).

Some also claim that local district governments are simply not yet prepared to deal with their new responsibilities, due to limitations in their human resources capability. Bureaucrats in local government have shown a tendency to put their own interests first, rather than the people’s interests. As decentralization gives them independence and more control over their finances, they can allocate money as they see fit. For example, in the district of West Lombok, the government allocated more than IDR 3.3 billion (approximately USD 330,000) towards the purchase of luxury cars and motorbikes for district officials in the fiscal year 2002. In contrast, they allocated no money towards village development funds, because they ‘forgot’ about it (Mawardi et al. 2002). In addition, local legislative houses (DPRDs) are at present also ‘weak’ and do not function as accountable and transparent bodies. The continuing predominance of political parties in the electoral process, as stipulated in the decentralization legislation, virtually ensures that candidates are more accountable to their party than to their constituency (Duncan 2007; Hadiz 2003).

2.2.3. Oil and Gas Resources Control

Although central government has delegated much authority to the local district government level, oil and gas resource remains under the rule of central government. Article 33 number 2 of Indonesia’s basic constitution, commonly used to justify this decision, states:

“Sectors of production which are important for the country and affect the life of the people shall be under the powers of the State.” -Article 33, 1945 Constitution -

Specifically, oil and gas resources are considered important for the country and affect the life of Indonesian people in terms of energy supply. This rationale is used to maintain the status quo of central government control over oil and gas resources. Companies in this sector are required to report to central government in terms of their production, as ruled by Oil and Gas Law No. 22/
2001, which was passed immediately after the two year period of decentralization. However, in terms of operations, oil and gas companies have to consult with local government authorities to secure local licenses related to local environment and local communities.

In terms of the national energy supply policy, the central government has imported oil to fill the increasing domestic demand, as is illustrated in Figure 2.1 below.

Figure 2.1. Production and Consumption of Oil in Indonesia (1980 – 2012)

Figure 2.1 describes production and consumption of oil in Indonesia during 1980-2011 (in thousand barrels per day). The red graph represents production while the blue graph indicates consumption of oil. The figure illustrates that Indonesian crude oil production has not been able to meet domestic consumption since 2003, leading Indonesia to withdraw from OPEC (Organization of the Petroleum Exporting Countries) in 2008 (Boyd et al. 2010). Indonesia’s crude oil production has decreased by roughly 3 percent per year over the last 15 years, while overall fuel consumption has increased by roughly 4 percent per year. The ratio between crude oil production and fuel consumption has been continuously decreasing. It fell from 205 percent in 1990 to 128 percent in 2000 and then to 58 percent in 2011. The decrease is mainly due to lack
of investment in exploration for new oilfields, declining production from maturing fields and increasing fuel demands of the growing middle class population (Ministry of Energy and Mineral Resources 2013).

The BPMIGAS (now SKKMIGAS) annual report (BPMIGAS 2011, 2012) indicates that one contributing factor to the decrease in oil production in Indonesia is unconducive local environments, with increasing local protests and rallies directed against company operations. These protests often result in companies temporarily shutting down their operations, so that they are unable to fulfil their production targets set in their Production Sharing Contract (PSC), a type of contract adopted by the Indonesian government to arrange the sharing between government and a company (or group of companies) on the oil and gas production.

**Political Economy of Oil and Gas Resources**

Because of these production deficits, Indonesia has not exported their oil where previously in the Soeharto era the revenue from oil exports was crucial to the Indonesian economy (Seda 2005). The contributions of oil and gas to the Indonesian economy recently has relied on tax and non-tax revenue. The majority of Indonesia’s oil and gas output has been extracted under contracts with private investors. Private contractors share their revenues with the government through revenue-sharing agreements. The revenue shares are based on net operating income, which is the amount of oil production revenue minus the costs of production, not including any production related-government taxes and charges. Taxes and charges include the corporate income tax, interest dividend tax, royalties, and state owned companies in Oil and Gas retention fee and local taxes.

Table 2.2 presents the composition of oil and gas revenue in Indonesia from 2008 to 2010.

Table 2.2 illustrates Indonesia domestic revenue, which also includes Oil and Gas revenue, from 2008-2010. Components of domestic revenue consist of tax revenues, comprising income tax and other tax revenue, while non-tax revenues comprise revenues from natural resources, profits of state enterprises and other non-tax revenues. The contribution of Oil and Gas to this domestic revenue is highlighted in this table. In 2010, government revenue from Oil and Gas tax and non-tax revenue accounted for one fifth of total revenue. Around 5 percent of total revenue comes from Oil and Gas tax, and 14 percent comes from Oil and Gas non-tax revenue. Non-tax Oil and Gas revenue represent the largest share in total natural resource revenue, accounting for 90 percent of the total. Non-tax Oil revenue itself is about three times higher than the non-tax Gas revenue in 2010. The gap between non-tax Oil and Gas revenue is widening with the increase in
oil price, such as in 2008, when non-tax oil revenue was almost four times as large as gas revenue (Agustina et al. 2012).

Table 2.2. Oil and Gas revenue as portion of National Revenue (IDR billion)

<table>
<thead>
<tr>
<th></th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
<th>2011</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>% total revenue</td>
<td>% total revenue</td>
<td>% total revenue</td>
<td>% total revenue</td>
</tr>
<tr>
<td>Revenue and Grants</td>
<td>1,042,608</td>
<td>100.0</td>
<td>944,960</td>
<td>100.0</td>
</tr>
<tr>
<td>A. Domestic Revenue</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>1,039,643</td>
<td>99.7</td>
<td>943,293</td>
<td>99.8</td>
</tr>
<tr>
<td></td>
<td>687,800</td>
<td>66.0</td>
<td>682,627</td>
<td>72.2</td>
</tr>
<tr>
<td>I. Tax Revenues</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>318,028</td>
<td>30.5</td>
<td>317,583</td>
<td>33.6</td>
</tr>
<tr>
<td></td>
<td>255,927</td>
<td>24.5</td>
<td>267,540</td>
<td>28.3</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>62,101</td>
<td>6.0</td>
<td>50,044</td>
<td>5.3</td>
</tr>
<tr>
<td></td>
<td>369,772</td>
<td>35.5</td>
<td>365,044</td>
<td>38.6</td>
</tr>
<tr>
<td></td>
<td>351,843</td>
<td>33.7</td>
<td>260,666</td>
<td>27.6</td>
</tr>
<tr>
<td>b. Other tax revenue</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>a. Natural Resources</td>
<td>228,961</td>
<td>21.0</td>
<td>125,752</td>
<td>13.3</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>219,084</td>
<td>21.0</td>
<td>125,752</td>
<td>13.3</td>
</tr>
<tr>
<td></td>
<td>9,877</td>
<td>0.9</td>
<td>12,807</td>
<td>1.4</td>
</tr>
<tr>
<td></td>
<td>35,044</td>
<td>3.4</td>
<td>26,050</td>
<td>2.8</td>
</tr>
<tr>
<td>b. Profits of State Enterprises</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>i. State oil company</td>
<td>12,400</td>
<td>1.2</td>
<td>10,472</td>
<td>1.1</td>
</tr>
<tr>
<td>ii. State gas company</td>
<td>300</td>
<td>0.0</td>
<td>703</td>
<td>0.1</td>
</tr>
<tr>
<td>iii. Other state enterprise</td>
<td>22,344</td>
<td>2.1</td>
<td>14,874</td>
<td>1.6</td>
</tr>
<tr>
<td>c. Other non-tax revenues</td>
<td>87,838</td>
<td>8.4</td>
<td>96,058</td>
<td>10.2</td>
</tr>
</tbody>
</table>

Source: (Agustina, Fengler & Schulze 2012)

The fuel prices in Indonesia are not determined by market mechanisms but set by the central government. These prices are frequently set lower than the international market price, and the government has to fill the price gap with subsidies. These fuel subsidies, therefore, always dominate the nation’s economic policy agenda when the international oil prices sharply fluctuate.

Fuel subsidies were previously distributed to five fuel products: gasoline (known as Bensin/Premium), kerosene (known as Minyak Tanah), automotive diesel oil (ADO) (known as Solar), industrial diesel oil (IDO) (known as Solar Industry) and fuel oil (known as Minyak Bakar, mainly for industries). Since 2005 the government has subsidized only the three products of gasoline, kerosene and automotive diesel oil (ADO), for the reason that these three products are mostly used by people for transportation and cooking. The fuel subsidy is essentially subsidizing the price gap between the domestic retail price (administered price) and the economic price set by the market and operational costs. The government pays the subsidy to Pertamina, the state oil
enterprise, which has a mandate to provide and distribute subsidized fuels in Indonesia. The fluctuation of international oil prices during the last 10 years, according to Son (2008), forced Indonesia to spend around 5 percent on average of its gross domestic product (GDP) on energy subsidies.

Table 2.3. Fuel subsidies as portion of Consolidated National Expenditure (IDR Billion)

<table>
<thead>
<tr>
<th></th>
<th>2008</th>
<th>2009</th>
<th>2010</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Rp Billion</td>
<td>% of total expenditure</td>
<td>Rp Billion</td>
</tr>
<tr>
<td>Personnel</td>
<td>275,471</td>
<td>24.3</td>
<td>316,681</td>
</tr>
<tr>
<td>Material</td>
<td>123,679</td>
<td>10.9</td>
<td>159,649</td>
</tr>
<tr>
<td>Interest payments</td>
<td>88,430</td>
<td>7.8</td>
<td>93,782</td>
</tr>
<tr>
<td>Subsidies</td>
<td>275,292</td>
<td>24.3</td>
<td>316,681</td>
</tr>
<tr>
<td>- Energy</td>
<td>223,013</td>
<td>19.7</td>
<td>245,586</td>
</tr>
<tr>
<td>- Fuel</td>
<td>139,107</td>
<td>12.3</td>
<td>45,039</td>
</tr>
<tr>
<td>- Electricity</td>
<td>83,907</td>
<td>7.4</td>
<td>49,546</td>
</tr>
<tr>
<td>Social assistance</td>
<td>57,741</td>
<td>5.1</td>
<td>73,814</td>
</tr>
<tr>
<td>Other routine exp.</td>
<td>84,651</td>
<td>7.5</td>
<td>109,838</td>
</tr>
<tr>
<td>Capital exp.</td>
<td>226,327</td>
<td>20.0</td>
<td>241,307</td>
</tr>
<tr>
<td>Total</td>
<td>1,131,590</td>
<td>100</td>
<td>1,133,152</td>
</tr>
</tbody>
</table>

Source: (Agustina, Fengler & Schulze 2012)

Table 2.3 presents the consolidated national expenditure from 2008 – 2010. National expenditure consists of personnel, material, interest payments, subsidies, social assistance, other routine expenditure and capital expenditure. In particular, expenditures for Oil and Gas are in the form of subsidies to fuel and electricity. The amount of subsidies spent during 2008-2010 fluctuated due to the international market oil prices. As the total fuel subsidy is counted from the difference between the market price and the subsidized price set by the government, any increase in the international oil price will cause an increase in the cost of the fuel subsidy. In 2008 when oil prices reached very high levels, almost 20 percent of government expenditure was allocated to energy subsidies, similar to the amount allocated to capital expenditures. When oil prices fell in 2008–09 due to the Global Financial Crisis, the share of energy subsidies also declined sharply to just 8 percent in 2009, before increasing to 12 percent in 2010. Recently, because of the increased crude oil market price, subsidy for fuel has increased again. In 2012, the total subsidy reached USD 346.4 million or 34.33 percent of the total central government expenditure.

This burden on the government budget has resulted in debates on fuel subsidy policies. The Ministry of Energy and Mineral Resources released a report in 2011 on the beneficiaries of fuel
mandated CSR in Indonesia: institutional and stakeholder perspective

The report shown that 77 percent of fuel oil subsidies are received by the 25 percent of households in the high income bracket, while low income households only benefitted from around 15 percent of fuel oil subsidies (Ministry of Energy and Mineral Resources 2011). Fuel subsidies thus worsen income distribution in Indonesia as most of the subsidies are enjoyed by the non-poor groups. A study conducted in 2008 shows that the top 30 percent richest of the income groups enjoyed almost 72 percent of gasoline subsidies, while 30 percent of the lowest income groups consumed 16 percent of kerosene subsidies and only 4 percent of gasoline subsidies. Those in the lowest income group rarely own a motor vehicle, so their gasoline consumption is very low. The study concluded that in general the richest income group received state fuel subsidies of approximately IDR 111,533/month/capita while those for the lowest income group were only approximately IDR 10,787/month/capita (Dartanto 2013).

However, a policy in 2005–2006 (BPS 2006) reducing the fuel subsidy caused the new middle class to fall back into the low income class. The increasing cost of energy also indirectly impacted non-fuel prices such as the cost of living, food, transportation, etc. The reduction negatively affected household welfare as well as poverty, depending on the importance of energy and private transport costs in total household consumption and the fuel costs in the production of goods and services. Since the low income groups rarely have an enough savings for consumption smoothing to respond to an increase of price level, they can easily fall into poverty as a result of such negative changes (Arze del Granado, Coady & Gillingham 2012). According to BPS (Biro Pusat Statistik - the Central Statistical Agency), the number of poor people increased from 16 percent to 17.8 percent, the equivalent of 3.95 million people (1.8 percent of total Indonesian population) during the period of the reduction in fuel subsidy. To mitigate the negative impact of phasing out of fuel subsidies, the government implemented the Program Kompensasi Pengurangan Subsidi BBM (compensation program for fuel subsidy reduction) in 2005 and 2008. This program included cash transfer, health insurance, education subsidies and also rural infrastructure development (Beaton & Lontoh 2010).

The amount of fuel subsidy appears to rise every year following increases in crude oil market prices. The need to reduce or even eliminate the subsidy is widely discussed, in order to reallocate the subsidy budget to other areas in Indonesian society such as improving health and education facilities, developing food security and also promoting economic growth. Such policies have gained particular attention as an strategic option for the Indonesia government; but it is apparent that the government is reluctant to reduce the fuel subsidy budget so as to spend more on these other programs (Schmidt et al. 2008). The reluctance to change the fuel subsidy policy...
occurs because there are certain well-organized groups who gain a benefit from this policy, and thus are prepared to block any reform. Policy reforms that generate positive benefits thus may not be viable politically. Therefore, while other governments have reduced similar subsidies, in Indonesia the cost of subsidies has actually risen sharply in recent years in the struggle to insulate consumers from the full rise in the cost of fossil fuels (World Bank 2009). It is argued that the failure to reduce or eliminate fuel subsidies lies in the failure to counter the political aspect of subsidy policies. The fuel subsidies still exist because they are rooted in a political logic that is often difficult to alter. The political economy reason often begins with the basic assumption that government leaders act with the goal of staying in power. The government leaders, who are elected politically through direct vote, can channel the fuel subsidy resources to the interest groups that can affect the chances of government survival. The subsidy resources therefore aim to fund the maintenance of political power (Resosudarmo 2005; Victor 2009).

It is noted that during the research period political tensions arose due to the direct election of Parliament in April 2014 and President in July 2014. The decision to reduce the fuel subsidy and increase the fuel price may have made the voters wish to punish the government and not vote for the Democrat Party as the then current ruling party. The then current president, Mr. Yudhoyono, would not have forgotten what happened in 2009 after his government had raised the fuel prices in 2008, and then cut them again as the oil price fell before the elections in 2009, though the compensatory cash handouts kept flowing. This helped Mr Yudhoyono to a landslide victory in 2009. Reducing subsidies during this recent period of high political tension may have risked his party’s chances of winning the elections. The President did try to raise prices in 2013, but this plan was denied by the dominant parliamentary membership (The Economist 2014). The political interest groups that maintain the fuel subsidies are usually well organized, and the provision of a subsidy usually makes those groups even more aware of their interest in sustaining the subsidy policy. Further, the government entities that supply subsidies often find political advantage in providing this costly service. These political facts make it particularly difficult for the policymakers to separate their own political interest in and the many “legitimate” purposes of the government fuel subsidy policy. On the surface, the leading power in government or legislative assembly might appear to use a subsidy to help provide energy services to low-income communities as part of a worthy effort to redistribute income or help alleviate poverty; meanwhile, their underlying interest in maintaining the fuel subsidy policy is to maintain their power by gaining more votes from those who received benefits from these fuel subsidies.
Oil and Gas Resources Control: Between Central Rules and Local Claims

The shifting of Indonesia governance from centralisation to decentralisation appears to have changed the way government manages their mining resources. However, for Oil and Gas resources, the resources remain under central government control, while local government only receive a revenue share, which is counted by the Ministry of Finance of central government. This situation led to a complicated situation, since the resources are mainly located outside the Java island. Figure 2.2 presents oil and gas reserve locations in Indonesia, which are shown to be mostly located outside of Java island. As shown in Figure 2.2, only 19.4 percent of oil reserves are located in Java, while the rest are spread across other islands such as Sumatera, Kalimantan, Sulawesi and Papua. The figure also indicates a similar case for gas reserves, which in Java are only 6.5 percent of the total, with the rest, 93.5 percent, are found at other locations. The oil and gas reserves in Java Island are only 1,557.67 MMSTB\(^1\) and 10.1 TSCF\(^2\) for oil and gas, respectively.

The efforts to control the production of oil commenced from the Dutch colonization with its rule of “the East-Indies mining law” in 1899 (de Vries 2013; Simamora 2000). This law gave a position of strength to the Dutch government, to manage and control the oil and gas in those islands. With this law, the Dutch colony was able to grant a concession right for other foreign companies to exploit these oil and gas resources. Concessions gave companies a right to buy all natural resources in a particular area from the Dutch colony and neglected the local community rights over such resources (Wiriosudarmo 2001). Under such a concession, a company as concession holder was awarded total control over oil and gas resources, whereby “they could produce however much they want and whenever they want, and could sell it to whomever they want at whatever price they want” (Radon 2007). There were three oil and gas companies operating in Indonesia during the Dutch colonial era: International Royal Dutch/ SHELL Oil & Gas Company; and two US companies, Stanvac (now ExxonMobil) and Caltex (now Chevron) (de Vries 2013; Karim & Mills 2003). The concession system only recognized the rights of foreign companies and the central Dutch government, while the communities’ rights and interests were never included in the concession agreement (de Vries 2013).

President Soekarno attempted to terminate this foreign company domination of Indonesia’s oil and gas resources during the independence era. These efforts to nationalize the oil and gas owned by foreign companies were initiated in order to gain the economic benefits from these resources. The Soekarno government acknowledged that nationalization of foreign oil and gas

\(^1\) Million Stock Tank Barrels  
\(^2\) Trillions of Standard Cubic Feet
companies was an important way to obtain revenue for foreign currency and the state budget for the early Indonesian government (de Vries 2013). This plan, however, was never achieved, as President Soekarno stepped down in 1967 due to the economic and political instability during that time.

The President Soeharto regime continued the control by central government of oil and gas resources by appointing a state Oil and Gas Company named Pertamina (National Oil Mining Company) to manage these resources. Pertamina was established in 1968, two years after Soeharto was proclaimed as President. Pertamina was established through the merger of two state oil and gas companies from the President Soekarno era. Pertamina was the only state owned company in oil and gas in that time, and was expected to channel revenues from oil and gas to the government (Seda 2005). The company acted as regulators to control oil and gas resources, while also acting as contractor by operating their own oil and gas fields (Robinson 1987).

Looking at the history of oil and gas resource management, the question arises as to who were the beneficiaries of this type of resources management. The control by the Dutch colony of oil and gas was definitely used to exploit Indonesia’s resources for the benefit of the colonizing country. The noble idea of *UUD 1945* (Indonesia’s 1945 Constitution) to control resources for the prosperity of people seemed good in principle but not in practice, as the control of oil and gas was related to the oligarchy power of President Soeharto and his cronies. The control of resources, that is, benefitted only his family and cronies and the military forces that protected the production of oil and gas in the regions (Government of Republic of Indonesia 2003, 2009). In the case of Pertamina as the regulators and contractors of oil and gas, this company was only required to report and be responsible directly to President Soeharto, not to any other government officials. In addition, Pertamina also gained support from the military, since the background of Soeharto was in the military, protecting the corporation from public scrutiny and accountability. Annual balance sheets of this corporation were never published and even the Parliament (DPR) did not have a chance to question Pertamina’s finances (David 1995).
Figure 2.2. Oil and Gas Reserves in Indonesia

Source: (Ministry of Energy and Mineral Resources 2011)
This situation gave a disadvantage to Pertamina, in that it caused it to be an uncompetitive company. The lack of transparency and accountability to the public made inefficiency inside the company difficult to identify. This inefficiency of Pertamina occurred because the oligarchy power that linked with Suharto, his family and his cronies positioned the company to be their “sapi perah” (the cash cow) (de Vries 2013; Government of Republic of Indonesia 2009). This oligarchy power of President Soeharto gained benefit from the company by forcing the company to give cash or projects. This created inefficiency in the company’s financial resources, which could not be identified due to the lack of accountable and transparency to the public. As a result of this inefficiency, the audits conducted in 2000 during the transition process found that the company suffered annual losses of around USD 2 billion (Goodpasture 2002; McPherson & MacSearraigh 2007). Furthermore, the position of Pertamina was in danger after that, as the company was in danger of becoming the weakest oil company in the world, wasted around USD 1 billion annually through inefficient procurement and resources allocation procedures, and also around USD 1.3 to 2 billion annually through inefficiencies in its exploration and production operations (de Vries 2013, p. 7). Significant amounts of financial resources of Pertamina tended to be corrupted to fund the regime power, leading to Pertamina’s contribution to state revenues being not optimal during this era (Government of Republic of Indonesia 2009). Therefore, instead of benefitting the Indonesian people, this practice of oil and gas resource management only benefitted people that had ties with the oligarchy power.

The privilege of Pertamina in controlling oil and gas resources was replaced during the decentralization era through Law No 22/2001 on Oil and Gas due to this notorious reputation for corruption and waste. The resentment of local communities toward the unfair transfer of oil and gas revenue to Jakarta resulted in pressure on the central government to change their policy on oil and gas resources (Budiartie 2012). Some regions with rich natural resources but having weak infrastructure and poor public goods and services demanded central government redistribute its control and authority to the regional governments. This demand was granted, with regional autonomy accorded to district government to control their own budget through fiscal policy between central and regional development, but not for power over oil and gas resources, which remained under central government authority.

Unlike for other natural resources where the authority of local government is acknowledged, in the case of oil and gas the central government only sets revenue sharing in the fiscal balance law No 33/2004 for local government. This law mandates the revenue sharing for oil and gas between central and regional government together with general mining, geothermal, forestry,
The central government hoped this legislation would address the resentment from oil and gas rich regions, particularly Aceh and Papua, which are known as the richest oil and gas regions in Indonesia, whose peoples were angered over perceived outflows of wealth to Jakarta. These two provinces had long-time struggles to be independent from central government in controlling their natural resources. Aceh and Papua have thus received special autonomy from central government based on Law No. 21/2001. In reference to this law, the provincial government of Papua receives 70 percent of the revenue from oil and gas exploitation for the first twenty five years, after which the revenues will be 50 percent for oil and 40 per cent for natural gas. The province of Aceh receives 80 per cent of the revenues from oil and gas for an eight year period, and then the revenue will be reduced to 50 per cent. The other aspects of revenue sharing are similar to that of other provinces (Agustina, Fengler & Schulze 2012).

Figure 2.3 below describes the revenue of Oil and Gas resources distributed to central, provincial and district governments, apart from Aceh and Papua. There are two types of revenue derived from taxes and revenue sharing. Revenue from Oil and Gas Companies tax is delivered to local government at a rate of 26 percent. Revenue sharing received by local government are 15.5 percent for oil revenue and 30.5 percent for gas revenue, where this percentage is distributed to provincial government (20 percent), producing district (40 percent) and other districts in the province (40 percent).

Figure 2.3 shows that the portion of Oil and Gas revenue received by local districts where the mining is located is still low compared to the risks on their environmental and social economic life as impacted by resource company operations (Mumbunan 2013). Although, under the new of Oil and Gas Law No. 22/2001, the authority of Pertamina in managing oil and gas resources has been removed, the control of these resources is still under central government power through the appointment of two new regulatory bodies, BPMIGAS (Upstream Oil & Gas Regulatory Body) and BPH MIGAS (Downstream Oil & Gas Regulatory Body), to manage the natural resources. BPMIGAS was established in 2002, a year after the oil and gas law passed, while BPHMIGAS was established in 2003. All PSC agreements have since been controlled by BPMIGAS, in which the body has authority to represent the state government in selecting, contracting, and withdrawing all oil & gas companies operating in Indonesia (de Vries 2013). However, as with Pertamina, BPMIGAS is required to report directly to the President of Indonesia, making it difficult for other government institutions like the Ministry of Energy and Mineral Resources to have any control over BPMIGAS.
Figure 2.3. Oil and Gas Revenue-Sharing arrangement between the central, provincial, and district levels of government

Source: (Agustina, Fengler & Schulze 2012)
The position of BPMIGAS was questioned by some community leaders, led by the Head of Muhammadiyah, the second largest Islamic organization in Indonesia. Their concerns about drilling contracts, which are dominated by foreign companies, led them to demand that the constitutional court review BPMIGAS’s position in managing oil and resources. This demand occurred immediately after the decision by BPMIGAS to renew the contract of foreign company Exxon Mobil for the next 20 years (from 2010 to 2030) in Cepu Oil Block in the Middle Java province. Community organization leaders criticized the decision not to choose a national company such as Pertamina to manage the oil and gas fields, which they assumed could give more benefit to Indonesia (Kwik 2006; Sugiri & Adiputra 2011). This concern caused BPMIGAS’s position as regulator of oil and gas to be disbanded in November 2012, after the constitutional court accepted the request of the community leaders, judging BPMIGAS to be unconstitutional in respect of Article 33 of the Constitution, stipulating that the management of the resources should benefit the welfare of the people. The contracts arranged by BPMIGAS, which were dominated by foreign companies, it was argued, could not give benefit to the welfare of the Indonesian people. This movement to disband BPMIGAS, according to Habir (2013), is the manifestation of an increasing ‘resource nationalism’, as “the efforts to maximize revenues from and exercise of greater state control over the exploitation of natural resources” (Habir 2013). In relation to the oil and gas industry, this resource nationalism has two components: limiting the operations of foreign oil companies; and asserting a greater national control over natural resource development.

The SKKMIGAS (the Workforce Unit of Upstream Oil & Gas) under the Ministry of Energy and Mineral resources was then established to replace BPMIGAS’s duties. In this organizational structure, SKKMIGAS is under the Ministry of Energy and should report to the ministry, not to the President. Unfortunately, a scandal, when the head of SKKMIGAS was caught by KPK (the anti-corruption commission) after receiving graft payments from one foreign company for arranging a PSC contract, made this institution distrusted by Indonesian society. The position of SKKMIGAS has recently come under review by Parliament in its management of oil and gas, and a new law for oil and gas management could possibly be passed in the near future.

Looking at the issues of central government control of oil and gas, the emerging power at the local level also needs to be examined. Complaints regarding the operation of companies increased after the local government received certain powers from central government. These complaints are related to local issues such as environmental issues, local labour, and even basic infrastructures in health and education, which are now administered at the local district level.
Many rallies and protests by local communities have occurred demanding company contributions to their local territories. Indeed, local communities now view CSR as the only way for oil and gas companies to be involved in and contribute directly to their interests (Zainal 2007). The initiation of attempts to exert local power on natural resource companies can be seen in the passing of local district regulations on CSR that aim to control companies’ CSR in the districts (Kotler & Lee 2008).

This situation reflects the failure of the setting of revenue sharing arrangements by central government. Some local district governments producing oil and gas have been dissatisfied with the way central government calculates the revenue sharing. The production numbers of oil and gas mining collected by central government has seemed ‘mysterious’ to local leaders in provincial and district levels, making the calculation of revenue shares less than accountable to local governments (Prasetijo 2012; Seda 2005; Wardhana 2012). Hence, for better revenue share implementation, all *bupati* from the districts producing oil and gas established a forum, named FKDPM (The Communication Forum for Districts Producing Oil & Gas), to communicate and complain about problems regarding sharing of oil and gas revenue. With these issues arising, recently Law No 22/ 2001 on Oil and Gas has been under review by the legislative assembly, after the constitutional court proposed the review of this law with the disband of BPMIGAS as the authority holder of this law. Hence, the constitutional court also demanded the government hand over the oil and gas fields operated by foreign companies to Pertamina when the existing contract agreements have finished. The new oil and gas law is currently still under discussion at the legislative assembly and will most likely be issued towards the end of 2015 to replace the existing Oil and Gas Law No 22/ 2001. Thus, the present study may offer a contribution in giving some perspective to the review of this law.

2.3. THE IMPACTS OF DECENTRALIZATION

This section discusses the impacts of decentralization and is divided into two subsections describing two major impacts that are relevant to this research. Section 2.3.1 discusses the decentralization of corruption. Section 2.3.2 examines the relationships of businesses and local communities.

2.3.1. The Decentralization of Corruption

Aside from delegating authority from central to local government, corrupt practices during the era of oligarchy power of the Soeharto regime would also be imitated by local governments in using their new authority. It must be noted that this trend has roots in previous historical epochs
under the centralized regime of Soeharto, and cannot be solely attributed to the new
decentralization effort. Valsecchi (2012) found that, instead of bringing local accountability, the
advent of local direct elections evidently has increased local corruption practices. Money politics
during campaigns are still common in Indonesian politics, incurring high cost campaigns to
candidates in provincial, district or even in village elections. This situation causes them to seek
any available funding possibilities, including those involving corruption, to recoup the costs
incurred during the campaign once they have attained the desired position of power.

The term “kerajaan kecil” (small kingdoms) refers to the practice of oligarchy power conducted
by many local government heads (Bupati and Walikota), who possess tremendous political power
within their respective regions. These raja-raja kecil (little kings) have typically used their
position to enrich themselves, their families, and other close associates. Positions in the local
government are often held by such affiliates. A recent corruption case in Banten Province
revealed how the governor built a small kingdom and dynasty power by supporting his brother,
families, and relatives to be a bupati, members of DPRDs (local legislative assemblies), and other
important positions. This power was actually inherited from the governor’s father who was well
known by the local traditional communities (Salman 2012). The direct election system causes
local elites to gain political power, which is thus largely concentrated in this small group of elite
families through such inheritance. These families combine the traditional adat (customary)
authority with the power of government. There are very few checks and balances on this sort of
political power. There is concern that decentralization could in fact thus be encouraging the
creation of hundreds of authoritarian “states within a state” (Thorburn 2002).

Moreover, the “Putra Daerah” (the native son) syndrome characterizes decentralization in
Indonesia. Race, ethnicity, and local culture are particularly sensitive topics in multi-ethnic
Indonesia. Successive national governments have sought to supplant “primordial” ethnic
loyalties with a sense of Indonesian citizenship. The collapse of the new order, however, seems
to have opened a “Pandora’s box” of separatist and regionalist sentiments and actions.
Government jobs, services, projects, and contracts are allocated to members of the indigenous
population. Local governments seek to monopolize resources for local use. “Outsiders’,
including, in many instances, migrant families who have lived in a region for generations, or even
people from neighbouring villages, are being denied access to local resources and territories
(Habir 2013).
These circumstances have increased corruption at the local level practiced by local government, legislative assemblies, and even businesses operating in the areas. A report published by World Bank in 2007 stated that decentralization in Indonesia has brought the shifting of power within local institutions, namely the local government and local parliaments. This transformation has opened the opportunities for ‘money politics’ by the head of districts, to gain and maintain support from the legislative assemblies and their constituents. In return, the members of local legislative see this as setoran (a money contribution) to their political parties and to enrich the individual legislative members. This cooperation between legislative bodies and local governments with a lack of public control or oversight is in fact an inheritance from the Soeharto regime era (Rinaldi, Purnomo & Damayanti 2007). Moreover, Indonesia Corruption Watch (ICW), a leading NGO investigating corruption practices, mentioned in a study that the number of corrupt people involved in the corruption cases they studied increased to 1,273 suspects in the period of 2013. More than 50 percent of these suspects were local officials such as members of DPRDs, gubernur, bupati, walikota, and Kepala Dinas (the heads of offices in local government) (ICW 2013).

2.3.2. Businesses and Local Stakeholders Relationships

The transformation of the Indonesian governance system undoubtedly resulted in a complicated situation for mining companies, particularly in their relations to local communities. The old law, No. 11/ 1967, on mining provided mining companies with some facilities from the government to support mining operations in remote rural areas, such as protection from central government and military (de Vries 2013). Furthermore, through this old law the local individual communities’ rights under adat (custom) law was eliminated by the state rights on the basis of national interest. The law suggested that the adat community had to surrender their land to the companies without demanding compensation, as stated in Article 26 of this mining law (Wiriosudarmo 2001).

The role of the adat community was also eroded through Law No. 5/ 1979 on Village Administration. This law replaced the customary system of local communities with a standardized Javanese village model. The position of kepala adat (customary leader) as leader in communities was replaced with kepala desa (village leader), drawn from civil servants that had responsibility to central government rather than to the local communities (Duncan 2007; Jonsson 2005). With the kepala adat, local customary leaders were marginalized and local communities had to follow state rules that were often contradictory to customary rule. Local leaders who formerly administered the land and resource use allocation lost their authority to village heads,
who now implemented policies based on national directives that often showed little concern for sustainability or local needs (Sigit 1991). Another support from central government to the mining companies was derived from military individuals who took the role of facilitating the relationship between the mining companies and local communities. The takeover process of community land, and resources often involved military individuals. With this military power, the communities felt insecure and threatened, even afraid of rejecting any decision made by the central government and thus accepted any compensation offered (Bachriadi 1998; Booth 2003; Simamora 2000). Furthermore, individuals or communities who contested the seizure of their land were seen as agitators by government officials and the military, rather than as victims seeking just compensation for their losses. These agitators were either jailed or intimidated with threats of violence (Duncan 2007). The centralized system never acknowledged consultations with local communities on mining concessions. The contracts with businesses or foreign investors were signed without involving local governments, who it is supposed would have had a better understanding of local people’s interests and their natural resources (Hadiz 2003; Holtzappel & Ramstedt 2009; Nuh & Collins 2001; Wiriosudarmo 2001). Local government at provincial and district levels were merely instruments for the central government to implement their agreements (Duncan 2007; Seda 2005; Wiriosudarmo 2001). The locals’ rights and needs were disregarded and subjugated to those of companies, and others who were usually connected to the Soeharto family, their cronies, or the military (Duncan 2007).

Decentralization has in recent times provided local communities with involvement and participation in government policies. Regional leaders, the bupati (the district head) and walikota (mayor) are now more accountable to their constituents since they are directly elected, not appointed by the central government in Jakarta. Furthermore, the head of villages are technically accountable to the villagers as now they are elected by the community and controlled by the Badan Perwakilan Desa (Village Representative Board). The Musbangdes (village development forum) is conducted every year to allow the aspirations of local communities toward the development projects to be heard. Moreover, under decentralization the villages also gained opportunities to return to local customary rule, which was previously lost because the earlier central government system only recognized the Javanese village model. Provinces like West Sumatera, where the majority is of Minangkabau ethnicity, have revitalized hukum adat (customary law) in their governance system. The provincial government has passed the Nagari system (customary rule of Minangkabau) and given legitimacy to indigenous institutions to assert control over their land and resources (Hamilton-Hart 2007; von Benda-Beckmann & von Benda-Beckmann 2001). The ability to control their own land and resources has enabled some
communities to gain profits from businesses that needed access to their land. After decades of receiving very little benefit, if any, from extractive mining industries, local communities are now able to demand compensation from businesses that are using their lands. The mining companies, including Oil and Gas companies, have to cooperate with local communities in order to gain access to their land and resources. Many local communities now even require numerous promises from companies such as jobs, money, and agricultural inputs before they grant permission to use their land (Engel & Palmer 2008; Hamilton-Hart 2007).

Despite giving power to the local authority to gain control and access over their territory and resources, decentralization can still marginalize minority groups in the communities. Duncan (2007) found that decentralization may only benefit certain groups in these communities, considering that political power in local districts may be held by certain elite groups only, giving them privileged access to land and resources within the territory. Thus, the land ownership is often granted by certain individuals rather than by the entire community. Some minority groups in local communities who are unable to gain access of ownership over land and resources are thus not able to gain any benefit from decentralization. It is therefore agreed that decentralization is able to increase localism, in which the local communities’ ownership over resources is granted; but decentralization may only recognize the larger majority group in a community while smaller minority indigenous groups who do not have access to political and economic power remain marginalized (Duncan 2007).

2.4. CONCLUSION

This chapter highlights the ‘big bang’ process of decentralization in Indonesia that has delegated power and wealth to local district governments. Under thirty-two years of the President Soeharto regime in 1967-1998, the authority of local district governments had been abandoned, in which the model of dekonsentrasi was applied by the central government, whereby they held control over local budgets and appointed officials to manage the funds to limit local district government power. By contrast, through decentralization, local district governments now receive delegated power to control their own territories. In term of political governance, the bupati (head of district) and kepala desa (head of village), who were previously appointed by central government, are now directly elected by the local communities. This system has resulted in the emergence of local power in controlling the territory, resources and their own local budget as set by the fiscal balance policy.
Unlike with other natural resources, however, central government decided to keep control over oil and gas resources. This is due to two reasons: the strategic position of the resources to national energy supply, where most of electricity in Indonesia is still generated by these resources; and the position of these resources in relation to fuel subsidy policies. These two factors are essential for political dynamics in the country, since the lack of energy supply or the reduction of fuel subsidies would both significantly impact the national political power influences in Indonesia. Therefore, instead of giving authority to local district governments to control the oil and gas industry in their region, the central government has preferred to set the revenue sharing policy between companies, the central government and the producer districts. In this way, the companies in this sector have been placed in the middle of two government authorities, in which situation they should report to central government regarding their production target as stated in their Production Sharing Contract (PSC), while on the other hand they must also consult with the local district government in relation to their operations in the area. This policy also creates disappointment for the local district governments as they feel the revenue-sharing does not provide adequate funding.

The delegation of power and wealth to local government has created negative impacts as well. The rising of ‘small kingdoms’, referring to provincial, district and village authority in managing their territories, has created ‘little kings’ stakeholders that hold this delegated power. However, instead of utilising their power to bring public goods and services closer to local communities, this kind of stakeholder appears inclined to abuse their power with local corruption practices evident. This condition has often marginalized certain groups in the villages such as the poor, the farmers and women that lack power and access to the benefits of natural resources in their territory. This situation is likely to influence companies in implementing CSR legislation, as the way in which they engage and/or with whom they communicate will determine who benefits from CSR legislation. Given this context, in the present study the question of with whom oil and gas companies decide to associate with is explored: whether with the little kings, in order to gain local legitimacy; or with marginalized groups, to improve the local welfare.
Chapter 3. LITERATURE REVIEW

3.1. INTRODUCTION

The implementation of CSR in Indonesia is influenced by the issuance of CSR legislation and the emergence of local stakeholder power in this decentralization era. The present study examines how companies comply with CSR legislation and deal with local stakeholders. This chapter presents an analysis of extant literature in the areas of CSR, the institutional perspective, and stakeholders perspective. The combined effects model from Lee (2011), describing the influence of institutional and stakeholder pressures on company CSR strategies, is applied to relate these three areas. The present study can then take its position with respect to this range of relevant literature.

The chapter is divided into five major sections. Section 3.2 discusses Corporate Social Responsibility (CSR). Section 3.3 is about institutions. Section 3.4 presents a discussion of stakeholders. Section 3.5 presents a model of the configuration of external influences on CSR strategies. In the final Section 3.6 the chapter’s conclusion is presented.

3.2. CORPORATE SOCIAL RESPONSIBILITY (CSR)

This section explores the extant literature on Corporate Social Responsibility (CSR). Subsection 3.2.1 examines definitions of CSR. Subsection 3.2.2 presents a discussion of three domains of CSR, whilst Subsection 3.2.3 discusses the politics of CSR in the context of developing countries.

3.2.1. Definitions

There is no single universal shared definition of Corporate Social Responsibility (CSR), with many scholars pointing to the lack of an agreed definition as a potential weakness within the literature of the CSR field (Carroll 1999a; van Marrewijk 2003; Windsor 2006). Blowfield and Frynas (2005) suggest that CSR is best understood as an ‘umbrella term’ that can be employed for a range of uses related to concerns for business responsibilities to society, environment and stakeholders, including responsibility to meet expectations beyond legal requirements, to manage supply chains ethically and to consider local community relationships. The present thesis does not attempt to identify all existing definitions of CSR in the extant literature. The earliest definition of CSR proposed by Bowen (1953, quoted in Carroll 1999, p.25) referred to ‘social responsibility’ as the obligations of businessmen to pursue those policies, to make those decisions, or to follow those lines of action which are desirable in terms of the objectives and values of our society. This
definition introduced a normative value through the acknowledgement that society should be considered as an important component in the decision making process of businesses.

Matten and Moon (2008, p. 405), reviewing subsequent literature presenting definitions of CSR, assess these definitions as being too diverse and contested to be easily categorized. They categorize the development of CSR definition into narrow and broad perspectives. A supporter of the narrow view is Milton Friedman (2007) who claims that the social responsibility of business is to increase its profits. This definition reflects a limitation of company responsibility to only providing economic goods for profit, with responsibility for social issues not being an interest of corporations (Friedman 2007; Usunier, Furrer & Furrer-Perrinjaquet 2011). Within the category of narrow perspectives on CSR are included definitions that are related to attempts to fit corporate social responsibility within economic theories of the firm (Choi & Wang 2009; Friedman 2007; Garriga & Domène 2004; Usunier, Furrer & Furrer-Perrinjaquet 2011). These definitions maintain that the chief responsibility of a corporation is to maximize their profits and shareholders’ value (Barnea & Rubin 2010; Godfrey 2005; Hillman & Keim 2001; Jensen, M 2001) or to improve the competitive advantage of businesses (Porter, M. E. & Kramer 2002; Porter, Michael E & Kramer 2006). Therefore, any CSR decision in business should be aimed at supporting this main business goal, and positioning CSR as an instrument for management to achieve this financial goal (Friedman 2007; Jensen, M 2001).

By contrast, the broad definition of CSR incorporates a normative approach, where the company’s goals go beyond simply achieving profit (Langtry 1994; Schwartz & Saiia 2012). Apart from their responsibility to shareholders, company managers have other responsibilities related to social issues, such as to their employees, the supply chains, consumers, the government and local communities. Therefore, Windsor (2006, p. 93) defines CSR as ‘any concept concerning how managers should handle public policy and social issues’. In this manner, a company’s CSR should integrate social demands, arguing that business depends on society for its existence, continuity and growth. Some studies of CSR included in this broad category link CSR with poverty alleviation (Jenkins 2005), human rights issues (Wettstein 2009) and/or development matters (Bhagwat 2011; Frisko & Arisandi 2011; Idemudia 2011).

These two types of CSR definition are grounded solely in the perspective of the company as the main actor that voluntarily initiates to undertake CSR. The narrow perspective allows companies to include their economic interests such as value maximization or competitive advantage as a basis to undertake CSR voluntarily. In the broad perspective of CSR, the inclusion of social goals in company CSR is mainly related to the assumption that those social problems will affect their
economic goals, such as the poverty that may impact on their production demand. The present study questions these underlying assumption, both in broad and narrow perspective, with respect to Indonesian CSR. The mandate of CSR legislation in Indonesia, as a reflection of the way Indonesian society views CSR, may be different from CSR as viewed mainly from the company’s perspective. Furthermore, the legislation put CSR as mandatory to the companies regardless how the companies view CSR as narrow or broad perspective. The mandated CSR legislation also could shape the way Indonesian society view CSR and their distinct expectations of company CSR practices in Indonesia.

3.2.2. Three-Domains of CSR

The various definitions of CSR suggest that businesses’ motivation for CSR is varied. Based on the narrow definition, the rational explanation for business enacting CSR relies on an economic motive; while within the broad definition, the motive can be a form of ethical or legal compliance. In relation to these definitions, Schwartz and Carroll’s (2003) model of CSR proposed three domains of influence on companies decision to implement CSR. These are: (1) economic, (2) legal, (3) ethical (see Figure 3.1). This model was developed from Carroll’s (1991) pyramid of CSR; however, Schwartz and Carroll (2003) removed the philanthropic domain from their model, since in reality business philanthropic activities such as giving to charity could be considered driven by either an ethical or an economic motive.

Figure 3.1 shows that these three domains of economic, ethical, and legal responsibilities overlap and interact in the investigation of the drivers of company CSR. Schwartz and Carroll (2003) contend that it is rare for CSR activities to be motivated from within one domain only. The ideal overlap resides at the centre of the model, where economic, legal, and ethical responsibilities are simultaneously fulfilled. Other pure domains and overlapping domains in the model may represent real situations in companies, which must be explored and analysed to illustrate the situations faced by decision makers in the business world. As Graham and Woods (2007) point out, voluntary initiatives that derive from economic and ethical motives may incorporate a mandatory aspect from national regulatory frameworks. Relying on a purely legal domain may not make sense for developing countries such as Indonesia due to the institutional environment. The political power of businesses in a country may allow companies to negotiate the way they comply with legislation or even to avoid following legislation orders. In addition, the weak legal enforcement characteristic of corruption practices may enable companies to escape compliance with CSR laws, through for example the bribing of officials.
In relation to Figure 3.1, the economic domain generally relates the company’s CSR to company performance or profit. This views CSR exclusively as an instrument for the company to achieve its financial objective, which is profit (Berger, Cunningham & Drumwright 2007). This domain is also described as the narrow CSR perspective, where businesses will only involve themselves in CSR related activities when there is a clear link to financial performance and CSR is part of the instrument to achieve this economic objective (Friedman 2007; Garriga & Domène 2004; Jensen, M 2001; Maas & Liket 2011; McWilliams & Siegel 2001; Usunier, Furrer & Furrer-Perrinjaquet 2011). Further, Friedman (2007) asserts that if the CSR activities of companies produce a loss or decline in profits this indicates that the activity represents a flawed business decision, because the responsibility of the firm is to achieve profit only, while responsibility for social issues is not an interest of corporations except where it contributes to their economic performance. Berger et.al (2007) affirmed this domain of CSR as the business-case model, mentioning that CSR initiatives from companies are basically assessed in a purely economic manner to pursue a clear link to financial performance. The ethical domain, on the other hand, is commonly linked with the broad perspective on CSR or normative approach to CSR. In general, the ethical domain refers to company activities that fit with the expectations of the community and other relevant stakeholders both domestically and globally. However, it is considered impossible to integrate all stakeholders’ expectations as the types of norms in society are varied and depend on context. The Legal domain explains the intention of companies to undertake CSR so as to obey or comply...
with the law. The law represents a ‘codified ethics’, which means it is a means of fairness established by the lawmakers through consideration of various norms in the society (Schwartz & Carroll 2003).

Utilizing the three domains of CSR to describe CSR practices in Indonesia may assist to identify the internal motivation of each company in undertaking CSR, given the CSR legislation in Indonesia. With the existence of CSR legislation it may be assumed that CSR is solely motivated by the company compliance with the legislation. However, it should be questioned if, whether and why then each company practices CSR differently, in implementing the same legislation. Therefore, the present study presumes that each company’s CSR practice is a form of integration between legal compliance and economic and/or ethical motives, leading to differences in CSR practices found among companies. For example, a company might integrate its legal compliance motive with an economic motive depending on the circumstances of their operations, such as their local legitimacy.

3.2.3. The Politics of CSR in the Context of Developing Countries

Aside from exploring the internal aspects of CSR, literature on CSR now has begun to include the political aspects of corporate social responsibility (CSR) (Scherer & Palazzo 2007, 2011). The increasing of company involvement in the provision of public goods and community services such as health and education, which were previously regarded as a preserve of a state, result in various political impacts of CSR (Blowfield & Frynas 2005). These contributions allow companies to pressure politicians by influencing regulatory changes in relation to social and environmental issues, through lobbying, membership on advisory committees and other traditional political channels (Rodriguez et al. 2006). This perspective goes beyond the instrumental view of CSR, by underlining that not only does politics influence business behaviour, but in turn business can also become actors in and upon politics themselves and influence political judgements (Rodriguez et al. 2006).

The role of business power in society was first examined by Davis (1960), who suggested that businesses are also social institutions so they therefore also have to utilise their power within society. Businesses, Davis suggested, may shift their role from the economic to the social forum and from there to the political forum and vice versa. In this manner, the assumption of classical economic theory precluding the involvement of business in politics was contested. According to Davis (1960), social responsibility comes from the amount of social power that companies possess. Therefore, if companies do not fulfil and practice the social responsibility expected by
the society, other groups eventually will step in to take those responsibilities, with the result that business will lose its power and position within society.

Matten et.al (2003) propose that the role of business in providing public goods may lead them to act in a state-like role, with many companies fulfilling the functions of protecting, enabling, and implementing citizenship rights, originally considered to be the sole responsibility of the state and its agencies. Moon, Crane and Matten (2005) add that these corporate social activities often occur in cases where the state system fails, such as when the state withdraws or has not yet implemented basic citizenship rights, or when it is principally unable or unwilling to do so. During recent decades companies have started to engage in activities that have traditionally been regarded as actual governmental activities such as providing public health and education when a government has failed to do so (Matten, Crane & Chapple 2003; Matten & Moon 2005).

The question arises to why companies are willing to take up this role within developing countries. Shamir (2004) contends that multi-national companies are in a position to effectively escape local jurisdictions by moving production sites and steering financial investments to places where local laws are most hospitable to their activities. Thus, in a country with strong state institutions for formulating regulations and imposing them through the country’s legal system, the country’s laws may not be hospitable for company operations, with a high-cost affect to the company in following rules such as labour rules, sustainable reporting or human rights regulation. A company may thus steer financial investments towards countries with relatively weak law enforcement. Developing countries often have this type of weak law enforcement and imperfections within the state apparatus, the juridical and enforcement systems, which thus attracts companies to invest in these countries (Scherer & Palazzo 2011). Providing social goods to the communities in developing countries may offer more advantages to these companies, compared to investment in developed countries with their complex rules and regulations. Thus, companies apply economic criteria to choose the optimal context of labour, social, and environmental regulations for their operations (Scherer & Palazzo 2008).

The social responsibilities of business may give companies a position of influence on the policies of national governments, particularly in developing countries. In order to take on a social role, business may attempt to influence government policy to facilitate their operations by, for example, demanding subsidies, tax holidays, infrastructural investments, and cutbacks on regulations. The importance of companies to national economies and their important role in society allow companies to often do this successfully. This may also lead to negative consequences in developing countries in terms of social and environmental conditions (Detomasi
2008; Scherer & Palazzo 2007; Whelan 2013). Utting (2005) mentions government economic incentives to companies as a ‘double standard’, in reference to incentives in form of tax breaks, low royalty payments, worsening labour standards, which are often associated with outsourcing, and increases in the absolute level of pollution. Such incentives may give advantage to businesses to invest in developing countries, but such investment may also harm the people of such countries. Nevertheless, in these ways companies are able to exert influence on government regulations, making them important political actors.

In relation to Indonesia, the importance of the role of businesses to the Indonesian economy is visible through their significant investment in managing the country’s rich natural resources, jobs creation, and tax contributions to government. This important position in the national economy accords businesses the capacity to influence certain government policies. This is made clear in the Rosser and Edwin (2010) study, which found an influence of businesses groups on CSR laws in 2007 through the use of their connections within political parties, as described in Chapter 2. Therefore, the present study presumes that in the implementation of CSR legislation, companies may also utilise their powers in influencing the way each company implements CSR in the local district.

3.3. INSTITUTIONAL PERSPECTIVES

This section is divided into three subsections. Subsection 3.3.1 discusses institutional theory in CSR. Subsection 3.3.2 presents the institutional environment within the context of developing countries. Subsection 3.3.3 examines types of CSR regulation.

3.3.1. Institutional Theory in CSR

Aside from CSR definitions offered by literature viewing CSR from a business perspective, Brammer et.al (2012) suggest an institutional perspective to understanding the ‘social’ aspect of the CSR label. Further, Margolis and Walsh (2003) argue that most CSR definitions have neglected the societal aspects of CSR by treating ‘social’ only as external requirements for organizations, defining CSR as functionalist, instrumental and giving a business case rationale for their social engagement. Brammer et.al (2012) point out the common definitions of CSR are based on the assumption of company voluntariness by relating CSR to the market as a rationale for their CSR practices. Institutional theory suggests that markets themselves are socially embedded within a wider context of social, business and political networks and rules (Brammer, Jackson & Matten 2012).
Scott (2001, p. 48) defines institutions as "social structures that have attained a high degree of resilience and composed of cultural-cognitive, normative, and regulative elements that, together with associated activities and resources, provide stability and meaning to social life". Furthermore, Morgan et al. (2010, p. 3) defines institutions as “formal or informal rules, regulations, norms, and understandings that constrain and enable behaviour”; whilst North (1991) defines institutions as "humanly devised constraints that structure political, economic and social interactions". The constraints, as North describes, are devised as formal rules (constitutions, laws, property rights) and informal restraints (sanctions, taboos, customs, traditions, codes of conduct), which usually contribute to the perpetuation of order and safety within a market or society (North 1990, 1991). Institutional theory thus focuses on the deeper and more resilient aspects of social structure. It considers the processes by which structures, including schemes, rules, norms, and routines, become established as authoritative guidelines for social behaviour (Scott 2001). Therefore, rather than seeing CSR purely as a voluntary action of companies, institutional theory places CSR explicitly within a wider field of economic governance characterized by different modes, including the market, state regulation and beyond (Scott 2001).

In general, within institutional theory two forms can be distinguished, old institutionalism and new institutionalism. The old institutionalism approach to the study of politics focuses on formal institutions of government, while the new institutionalism tradition relies on social theory in developing a sociological view of institutions, the way they interact and the effects of institutions on society (Selznick 1996). In the present study, the new institutionalism approach provides a framework for understanding how CSR legislation issued by the central state government has influenced local stakeholders and companies in the implementation of CSR. Brammer et al. (2012) further suggests the importance of institutional theory for understanding the ‘diversity’ and ‘dynamics’ of the CSR concept itself. The diversity of CSR among countries cannot easily be explained without an understanding of the institutional conditions, which pertain not only to formal institutions such as laws, business associations, civil society groups or trade unions but, far more importantly, to informal institutions such as religious norms, customary practices or tribal traditions. In terms of the dynamics of CSR concepts, institutional theory provides a lens for understanding and explaining how and why CSR assumes different forms in different countries (Brammer, Jackson & Matten 2012; Matten & Moon 2008).

In order to survive, companies must conform to the prevailing rules and belief systems of formal and informal institutions in the environment as this will result in their social legitimacy (Greenwood, R & Meyer 2008). Therefore, unlike the theoretical perspective that views CSR...
purely as a form of company voluntary action, institutional theory allows us to place CSR in a wider perspective that includes the market, state regulations, and political rules. This tradition of CSR theory may often utilize markets as a tool to explain company CSR behavior, for instance where companies use green technology to achieve company efficiency or CSR to build the company’s reputation on the market. However, institutional theories also provide a broader perspective that sees markets themselves as being socially embedded within a wider field of social networks, business associations and political rules (Brammer, Jackson & Matten 2012). In this manner, the institutional theory lens on descriptive CSR enables the researcher to understand that the “S” in CSR differs in terms of societal definitions. This may result, in terms of the present study, in CSR definitions and understandings specific to the Indonesian context and different from that of other contexts. Institutional theory may thus also help to understand the differences in CSR among the three companies studied for the present work, which may be shaped by the differing institutional pressures faced by these three companies.

3.3.2. Institutional Environment in Developing Countries Context

There are two rival claims explaining the influence of institutions on CSR (Fransen 2013). The first is illustrated by company CSR in countries that have a Coordinated Market Economy (CME), often categorized as strong welfare states. CSR in these countries is characterized by more stringent rules in policy areas relevant to CSR, such as labour standards and environmental protection, which have been predominantly applied in European countries such as UK and Italy (Steurer 2010). In this respect, Matten and Moon (2008) position CSR as an implicit element of a company’s institutional framework, where national institutions encourage collectivism and systemic approaches for companies in performing CSR. The second type of institutional approach is presented by countries with a Liberal Market Economy (LME). These countries are characterized by a less interventionist state, and individualized and liberal markets for corporate control. Demands for social responsibility are taken up through individual company policies, rather than through public policies. Companies in the US predominantly perform this type of CSR (Bucholz 2009). Matten and Moon (2008) categorize CSR in this institutional environment as an explicit element of companies’ policies, in which national institutions encourage individualism and discretionary systems for company CSR.

The institutional environment settings in developing countries are different from those in developed countries, which affects the way CSR is performed by companies in developing countries. CSR in these countries aims to assist governments to achieve their development goals (Desta 2010; Dobers & Halme 2009; Visser 2008). However, governments in developing countries
may have limited freedom to intervene in the affairs of companies, particularly Multi-National Companies (MNC), to involve them in development issues. Their need for foreign direct investment (FDI) to create jobs and generate income puts the government in developing countries in a weak negotiating position (Blowfield & Frynas 2005; Desta 2010; Dobers & Halme 2009; Idemudia 2011; Jamali & Mirshak 2007). In addition, dependence upon loans from institutions such as the World Bank or IMF (International Monetary Fund), which come attached with loan condition requirements for developing countries to prioritize industrialization, leads governments of developing countries to focus more on protecting company interests, rather than on the welfare of their communities (Dobers & Halme 2009; Gugler & Shi 2009; Prieto-Carron et al. 2006). Meanwhile, inside the government, bribery and corruption practices in developing countries mean the authorities tend to prioritize investor interests because they hold the economic influence necessary to their corrupt behaviour (Adeyeye 2011; Duncan 2007; Lindsey & Dick 2002).

Market conditions in developing countries often differ considerably from developed countries, in terms of political, macro-economic, cultural or natural conditions. The business environment of developing countries can be characterized as often rather unstable and less predictable than in developed markets, raising the level of uncertainty for companies (Heidenreich & Puck 2012). The success of companies is not shaped solely by market actors such as managers, shareholders, customers and suppliers, but also depends on a company’s relationship with stakeholders that have political power (Hillman & Wan 2005). Without links to governments’ officials, non-governmental organizations and other relevant groups, companies can face major business problems in terms of their local permits and local legitimacy.

The existence of non-market forces in influencing company operations in developing countries, as illustrated in Chapter 2, encourages companies to apply political strategies to manage these environmental challenges. Therefore, a political strategy is necessary for companies to deal with uncertain environments in developing countries. Lord (2000) states that ‘by actively attempting to shape public policy, many companies and industries are seeking to reduce uncertainty, to mitigate or eliminate perceived threats, and to create opportunities in their environments’ (p. 76). Beyond market strategies, companies thus have to develop political strategies to attain non-market acceptance from, for example, political stakeholders in the country of their operations. Hillman and Hitt (1999) define company political strategies as the efficient design of all relations with political stakeholders, which may affect the operations of a company in a positive or negative way, in order to achieve competitive advantage. Further, they distinguish three
different political strategies that can be utilized by companies to approach political stakeholders. First, the information strategy or lobbying seeks to affect the actions of political stakeholders by providing them with specific information about preferences for policy or political positions. Second, the financial incentives strategy aims to influence the actions of political stakeholders by providing financial inducements such as providing financial support or committing bribery of decision-makers. Third, the reputation-building strategy tries to influence political stakeholders indirectly through public stakeholders and public policy support.

In relation to CSR in developing countries, the blurred distinction between market and state forces in this environment creates the integration of company roles in politics and the market. The idea of business responsibility mainly as the dominant engine of economic growth and creator of economic value of the developing countries’ resources is thus not sufficient (Jamali & Mirshak 2007). The kind of institutional environment in most developing countries, such as Indonesia, results in companies being expected to fulfil social obligations in such countries (Idemudia 2007). Thus, a more crucial agenda of CSR programs in developing countries is their contribution to development-related issues such as reducing poverty and building human capital (Blowfield & Frynas 2005). This role has traditionally been regarded as a governmental activity (Matten & Moon 2005; Scherer & Palazzo 2008), and thus causes companies to act in a state-like role (Matten, Crane & Chapple 2003).

3.3.3. Types of CSR Regulation

The importance of companies’ contribution to development has raised the level of government intervention in CSR. In this manner, some governments have formed certain CSR regulations to govern CSR in their countries. The type of CSR regulation made by a government reflects their country’s institutional environment, reflecting the relationship between businesses, government and society. Some governments govern CSR only in the form of informal and reflexive laws which basically rely on normative ethical ideas and behaviour on the part of companies (Buhmann 2006). These soft law interventions typically encourage business to adopt CSR standards such as anti-bribery practices (Adeyeye 2011), or build sustainable reporting of CSR activity as part of business requirements (Delbard 2008). Countries like UK, Norway, and Italy are among countries that promote soft laws for CSR public policy (Albareda et al. 2006; Fox, Ward & Howard 2002; Steurer 2010; Steurer, Martinuzzi & Margula 2011). Promoting soft policy is directed to building a good environment for businesses to implement CSR and encourages voluntariness of company CSR responses (Steurer, Martinuzzi & Margula 2011).
However, the idea of government intervention is built upon the reciprocal relationship between government and companies. These governments depend on companies and markets for the efficient provision of goods and services that enhance social well-being and in return markets depend on government rules and infrastructure to function efficiently and fairly. Thus, government intervention in CSR should achieve an optimal balance between state intervention and market freedom. Consideration of the government-business relationship has resulted in two key ideas being posited: ‘the civic governance’ concept whereby the state is required to intervene to protect public good; and the opposite thinking, on ‘consumer sovereignty’ following laissez faire market dynamics with minimum government intervention (Gjølberg 2011). The ideas of these two schools of thought lead us to ask whether companies’ CSR performance is best achieved by “hard law” through legislated regulatory intervention or through “soft law” by delegated voluntary approaches that leverage the power of the market to move companies to be socially responsible.

<table>
<thead>
<tr>
<th>Type of Intervention</th>
<th>Hard law (prescriptive)</th>
<th>Soft law (voluntary)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Setting standards</td>
<td>Regulatory prescription—traditional command and control regulation in which legally binding standards are prescribed</td>
<td>Information— influence constituents through the transfer of knowledge and the communication of reasoned argument and persuasion</td>
</tr>
<tr>
<td>Enforcing standards</td>
<td>Economic regulatory instruments—examples include pollution fees, emission taxes, and tradable permits to encourage firms to internalize environmental costs</td>
<td>Voluntary approaches— examples include industry self-regulation, codes, voluntary challenges, eco-labels, charters, co-regulation, covenants, and negotiated environmental agreements</td>
</tr>
</tbody>
</table>

Source: (Gjølberg 2011)

Table 3.1 shows the types of interventions that can be applied by government, consisting of either “setting standards” or “enforcing standards”. Prescriptive hard law approaches prescribe regulatory prescription by government legally binding businesses. Enforcing standards can also be created under hard law by introducing taxing, fees, and permits that are authorized by the government. In contrast, soft law voluntary approaches tend to focus on the transfer of knowledge and communication of government and business, so businesses can voluntarily apply particular standards in their CSR. Government intervention with a soft law approach encourages self-regulation of business through giving rewards such eco labelling, charters, covenants and negotiated environmental agreements.
The hard law approach to regulation is generally criticized for being slow and expensive to develop and operate. The argument against hard law government intervention states that it inhibits company innovation and beyond-compliance behaviour. On the other hand, the soft law voluntary approaches such as self-regulation by business are also criticized for being difficult to apply, less rigorous in their performance requirements and the lack of certainty in public accountability (Gjølberg 2011).

Companies generally prefer to apply a voluntary rather than a regulatory approach because this avoids the impositions of inefficient regulation. Imposing a regulative approach limits the flexibility of companies to utilise CSR as an economic instrument to achieve economic goals. Further, companies argue that self-regulation generates positive changes in corporate culture towards being socially responsible (Schulz & Held 2004), by giving them opportunities to develop their CSR strategies in particular ways. Firstly, it can promote the innovation of CSR practices by companies. Secondly, it can be appropriate for all companies irrespective of sector, size or context, as it enables companies to build their CSR strategies to suit their own circumstances.

Thirdly, the voluntary approach tends to give more substantive benefits for the companies that are acting in socially and environmentally responsible ways (Lynch-Wood, Williamson & Jenkins 2009; Windsor 2006).

However, in the developing countries’ context, promoting a soft law approach that relies on the voluntariness of company self-regulation and policy setting may not be as appropriate. Porter and van der Linde (1995), for example, disagree with the proposition that government intervention can raise business costs. They found that in the case of environmental regulations, these can trigger innovations that can offset the costs involved in reducing the negative effect of operations on the environment, resulting in efficiencies and making companies more competitive in the global market. It is also evident that mandatory initiatives from government can fill the gap due to a lack of companies’ voluntary initiatives to be socially responsible. The penalization of companies for not conducting CSR may force them to comply with mandatory requirements and encourage higher levels of compliance.

While the positive potential of enforcement action and penalties have already been noted for mandatory CSR, these same attributes can also create downsides. For example, with regard to regulation, the costs of enforcement are placed on the government; while limited enforcement resources may lead to increased evasive activity. Furthermore, some commentators have noted that monetary penalties may be insufficient to encourage compliance in all cases and may come
to be seen as merely another cost associated with doing business (Bakan 2005). In such instances, even mandatory regulation may be insufficient to regulate corporate behaviour. The drawbacks of a mandatory approach are also associated with the methods used, particularly when they emerge from legislative efforts. The time-consuming nature of legislative undertakings may make regulatory solutions less responsive to quickly evolving situations. Furthermore, it has also been observed that legislation tends to be less tailored to industry needs, an issue that may be important where the regulation will apply to corporations in different sectors and of different sizes.

3.4. STAKEHOLDERS PERSPECTIVES

Given the various groups in communities, a stakeholder approach is useful, for both academics and practitioners, to explain who the main beneficiaries of CSR are. Maignan et al. (2004) found a stakeholder approach assists senior management and many marketers in defining the word ‘social’ in CSR. Even though businesses in general are responsible to society at large, an individual business can only be deemed responsible toward specific stakeholders or definable agents.

This section is divided into four subsections. Subsection 3.4.1 discusses stakeholder theory. Subsection 3.4.2 presents stakeholder power and networks. Subsection 3.4.3 shows local stakeholder legitimacy. Subsection 3.4.4 addresses the local stakeholder pressures.

3.4.1. Stakeholder Theory

Similar with CSR perspectives, there are two views in defining stakeholders: the narrow view and broad view (Mitchell, Agle & Wood 1997). The narrow view relates the stakeholder concept with “their direct relevance to the firm’s core economic interest” (Mitchell, Agle & Wood 1997, p. 857). In relation to this, Greenwood (2007, p. 31) defines “stakeholders” as “groups who are vital to the survival and success of the organization”. Some groups appropriate to this definition are stockholders, employees, customers, suppliers, and key government agencies (Klonoski 1991). The broad view, according to Freeman (2011, p. 25), defines stakeholders as “any groups or individuals who can affect or are affected by the achievement of the firm’s objectives”. Some stakeholder groups categorized in this definition are local communities, trade associations, unions, and other public interest groups (Freeman 2011; Klonoski 1991). The broad view allows companies to include their environment in their decisions by identifying stakeholders’ interests in order to build stakeholder relationships. Therefore, the broad view is required in CSR since it does not merely deal with shareholder interests but, according to (Mitchell, Agle & Wood 1997,
Mandated CSR in Indonesia: Institutional and Stakeholder Perspective

49

p. 857) is based on “the empirical reality that companies can indeed be vitally affected by, or they can vitally affect, almost anyone”.

In addition to addressing stakeholder views, the development of the stakeholder concept has also been categorized, by Donaldson and Preston (1995), into three aspects: descriptive, instrumental, and normative. The descriptive approach seeks to describe specific corporate characteristics and behaviours through relationships that are observed in the external world. It analyses the nature and scope of various relationships with stakeholders (Branco & Rodrigues 2007; Jawahar & McLaughlin 2001). The instrumental approach explains the connections between stakeholder management and corporate objectives (e.g., profitability, growth), obtained from certain practices of relationship. Here, the instrumental approach views stakeholders as a means to improve corporate performance (Jones 1995; Yang, Shen & Ho 2009). The normative approach interprets the functions of the corporation, including the identification of moral or philosophical guidelines for the operation and management of corporations (Hendry 2001; Yang, Shen & Ho 2009).

Stakeholder theory emphasizes relationships with agents that affect or may be affected by the business (Boesso & Kumar 2009; Freeman 2011). Stakeholders refers to those actors who have a two-way interaction, thus relationships are considered socially constructed (Onkila 2011). The theory further illustrates the three basic steps of the stakeholder management approach as espoused in Freeman (2011): “identification”, “treatment”, and “assessment of impact”.

**Stakeholder identification** determines which stakeholders matter most (Harrison & St John 1996), and this depends on company perspectives (Frooman 1999; Phillips 1999). Some characteristics commonly used to identify stakeholders include power, legitimacy, and urgency (Mitchell, Agle & Wood 1997), and structural and demographic determinants (Frooman & Murrell 2005). Freeman et.al. (2010), in addition, propose two distinct types of stakeholders based on influences: primary stakeholders (those who engage in economic transactions with the business such as stockholders, customers, and employees); and secondary stakeholders (those who do not engage directly with business operations but are affected by or can affect its actions). In relation to the several attributes of stakeholders offered in the literature, the present study employs Mitchell et al.’s (1997) attributes, consisting of power, legitimacy, and urgency, to identify the salience of stakeholders in the study.

**Stakeholder treatment** addresses the ways used to engage with stakeholders, such as ‘communications’ to maintain relationships with stakeholders and ‘information’ to improve
relationships with stakeholders (Smudde & Courtright 2011). Heugens and Van Oosterhout (2002) ascertain three conditions related to this: parties should be autonomous; alignable in their interests; and capable in their commitments. Timeliness of communication, honesty and completeness of information, and empathy and equity of treatment have also been identified as important factors when engaging with stakeholders (Strong, Ringer & Taylor 2001). Impact assessment includes the impact of stakeholder management on stakeholders and on the corporation. Kolk (2005) clearly states that stakeholder management should simultaneously create a positive impact for society and profit for the corporation. However, the literature has mainly focused on measuring the impacts of stakeholders on corporations and less on the impacts to stakeholders. Hillman and Keim (2001) related management of primary and secondary stakeholders to shareholder wealth and value; while Romenti (2010) studied how stakeholder engagement influenced the reputation of a corporation. Maignan & Ferrel (2004) state that stakeholder management can have a positive impact if corporation norms converge with community norms, and will have a negative impact if corporation norms conflict with those of community stakeholders.

3.4.2. Stakeholder Power and Networks

Through the definitions of stakeholders from various scholars discussed above lies the question of who and what really counts. Identification of stakeholders, that is, is important to understanding stakeholder theory. Mitchell et al. (1997) tried to respond to this inquiry by developing a set of underlying dimensions found in the various accounts of stakeholder theory, which they list as power, legitimacy and urgency. They found that power and legitimacy are the core attributes for identifying stakeholders, and concluded that stakeholder salience is positively related to the cumulative number of stakeholder attributes. Stakeholders who are perceived to possess one attribute are less salient than those who possess two attributes.

Freeman (2011) identifies important stakeholders faced by business organizations in the US, where the formal institutions are obvious. However, for the developing country context such as in Indonesia, stakeholders may not as easily be identified by reference to formal institutions, due to dynamic powers held by different stakeholders in the national and regional levels. That is, critical stakeholders may come not only from a formal position such as government, due to the lack of power and legitimacy held by those in such positions.

The power–influence conceptualization advanced by French and Raven (1958) has been used by many scholars to explain power relations and dynamics in the organization. Their classic study on
power developed a schema of sources of power by which to analyse how power plays work or fail to work in a specific relationship. According to Raven (1992), power must be distinguished from influence in the following way:

(i) “Legitimate power”, also called positional power, is the power of an individual owing to the relative position and duties of the holder of the position within an organization. Legitimate power is formal authority delegated to the holder of the position. It is usually accompanied by various attributes of power such as uniforms and offices.

(ii) “Referent power” is the power or ability of individuals to attract others and build loyalty. It is based on the charisma and interpersonal skills of the power holder. Abuse is possible when someone that is likable, yet lacks integrity and honesty, rises to power, placing them in a situation to gain personal advantage at the cost of the group’s position. Referent power alone is unstable, and is not enough for a leader who wants longevity and respect. When combined with other sources of power, however, it can help a leader achieve great success.

(iii) “Expert power” is an individual’s power deriving from the skills or expertise of the person and the organization’s needs for those skills and expertise. When an individual has knowledge and skills that enable that person to understand a situation, suggest solutions, use solid judgment, and generally outperform others, people will have reason to listen to that person. When an individual demonstrates expertise, people tend to trust that person and respect what they say.

(iv) “Reward power” depends on the ability of the power wielder to confer valued material rewards: it refers to the degree to which the individual can give others a reward of some kind such as benefits, time off, desired gifts, promotions or increases in pay or responsibility.

(v) “Coercive power” is the application of negative influence. It includes the ability to demote or to withhold other rewards. Coercive power tends to be the most obvious but least effective form of power as it builds resentment and resistance from the people who experience it. Threats and punishment are common tools of coercion.

All these types of power may be obtained by stakeholders through networks where stakeholders interact with and influence each other within the power balance. To understand stakeholder networks, three concepts are of vital importance: nodes, links, and networks (Rowley 1997b). Nodes commonly refer to actors or stakeholders, both individual or a group. Links are the
relationships, of any kind, between the actors, which have content such as information or financial transfer, friendship, partnership or even an enemy relationship. Actors can be directly or indirectly linked, joined by multiple relationships, or be separate. Networks are the patterns formed from the combination of all the actors and links within the system (Bovaird 2005; Rowley 1997b; Svendsen & Laberge 2005). Networks have certain characteristics. For example, networks may be “dense” (having many links) or “sparse” (having few links). “Density” refers to the number of connections between actors within the network. It is argued that highly dense networks result in efficient communication and enhanced diffusion of norms across networks. Another network characteristic is “centrality”. Networks may have one central actor with links from many actors directed to this actor, which indicates high network centrality; or a network may have several groups and no central actor, indicating low network centrality. A central position within the network indicates the amount of power obtained through the structure, and capacity to access information and influence other members (Fassin 2008, 2009; Rowley 1997a).

The goal of adopting the power and network perspective in stakeholder analysis, in the present study, stems from the recognition that since CSR has been mandated by the state, the implementation of company CSR must be influenced by power relations between companies, local governments, and local communities. The power relations and networks are tools that can be used to examine the links and the potential influence of ties between stakeholders in the implementation of CSR. In this study, “actors” are stakeholders representing the company, local government, and some actors in the local community or village. The “link” is operationalized as contacts or relationship among stakeholders and the content of the link is power relations between stakeholders in terms of CSR (Freeman 2011; Rowley 1997b).

The lack of discussion of power issues and the dominating discourse of the business perspective on CSR are particularly salient issues in relation to stakeholder management. Freeman and Reed (1983) have argued that the democratization of corporations in terms of increased direct citizen participation can only be achieved by looking at power relation issues in the stakeholder approach. In practice, the stakeholder approach is often portrayed as ideationally neutral: as a process that brings business representatives, NGOs and public sector agencies together to address challenges facing the corporation. However, in the process some stakeholders are often missing from lists of stakeholders, or physically absent from stakeholders’ meetings and forums (Harrison & St John 1996). These situations usually happen with communities in developing countries that do not normally have a voice in society: farmers, children, and workers - especially home-based workers, women workers, and poor communities who toil under harsh and...
dangerous conditions due to businesses negative externalities. Even if these groups do occasionally have a voice in multi-stakeholder initiatives, “power relations between stakeholders continue to shape the issues that are raised, the alliances that are formed and the successes” that are identified (Jensen, T & Sandström 2011).

### 3.4.3. Local Stakeholders Legitimacy

Literature on the stakeholder approach has included legitimacy in local business environments as part of companies’ stakeholders strategy (Gifford & Kestler 2008; Gifford, Kestler & Anand 2010). Local legitimacy suggests that in order to survive, companies have to comply with the rules and belief systems of the local stakeholder environment in which they operate (Hillman & Wan 2005). In this manner, to gain local legitimacy, companies need to create a “generalized perception or assumption that the actions of [their] entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs, and definitions” (Suchman 1995, p. 574).

The concept of legitimacy (Suchman 1995) is different from acceptance that tends to be related to individual decisions to accept others, and is draw from psychology (Wentzel 1994; Gifford-Smith and Brownell 2003; Leary 2010). According to Leary (2010), social acceptance means that other people signal that they wish to include you in their groups and relationships and occurs on a continuum that ranges from merely tolerating another person’s presence to actively pursuing someone as a relationship partner. In this manner, the social acceptance is dependent on the individual decision, whilst the legitimacy is relied on the wider community norms and values.

The common study of local legitimacy shows how companies, particularly the MNCs, often have difficulty in gaining local legitimacy in each country, due to the differences between the MNCs’ values and that of the local environment. For instance, Carney et.al (2009) found that the establishment of US and European companies in Asia countries often can be hindered because they were not accustomed to operating in a dominant state control environment. Gifford et al. (2010) further argue, for example, that the contributions of the Multi-National gold company, Newmont, to community development as demanded by local communities were part of their efforts to gain local legitimacy in Peru.

In relation to the present study, the two stakeholder groups that are the focus of the study, local district governments and local communities, are frequently among the constituencies named in connection to companies’ local legitimacy (Suchman 1995). Local district government as authority provides the license to operate and plays a vital role in establishing the infrastructure to support company operations in their territory. Local communities, meanwhile, according to Marquis and Battilana (2009), provide the environment for companies, in that the way in which
companies behavior is influenced by the local communities in creating local regulations, and social normative and cultural cognitive ways of conducting business.

To support local legitimacy, stakeholder theory proposes that company success depends on the company relationships with various internal (e.g. employees) and external constituencies (e.g. local government and local communities) (Clarkson 1995; Jones 2011). Phillips (2003) suggests that companies should consider two types of stakeholders to gain local legitimacy. The first type is the normative stakeholder. Normative stakeholders are stakeholders to whom the organization has a moral obligation (Phillips 2003). These groups might be the stakeholders that Freeman (2011) define as those "who are affected by the achievement of the firm’s objectives". In relation to the present study, these stakeholders may be taken to refer to marginalized stakeholders. The second type describes derivative stakeholders. Derivative stakeholders are those groups whose actions and claims must be considered by managers due to their power and potential effects upon the organization and even on the normative stakeholders (Phillips 2003). However, the legitimacy of these derivative stakeholders depends solely upon obligations owed to others (the normative stakeholders) and does not result from any obligation due the derivative stakeholders themselves. Freeman (2011) define this stakeholder as “who can affect the achievement of the firm’s objective”. In this manner, the derivative stakeholders may be taken to refer to the ‘little kings’, where those stakeholders have power to influence company operations such as by providing the companies with a license to operate and supporting infrastructure for company operations such as roads and bridges. Further, through their power little kings’ acceptance to companies can influence wider community perceptions to give legitimacy to the companies operating in their area.

3.4.4. Local Stakeholder Pressures

Stakeholder theory embeds companies in a broader set of social relations than that of the dominant shareholder-oriented approach promoted by economic theory from the firm’s perspective (Freeman 2011). The core idea of the stakeholder concept is consideration of the interests of different stakeholders and managing the influences embedded in the relationships between stakeholders and the companies (Freeman et al. 2010).

In relation to the Indonesian context, local stakeholders identified by this research consist of local government and local communities. The definition of local government and local communities is complex, considering how the definition of these terms has been shaped by understanding of social and political processes (McMillan & Chavis 1986; Sharpe 1970). Indeed, companies often create and identify local communities for their own purpose and motives (Mayes, McDonald &
Local government has been characterized by (i) operation in a restricted geographical area within a nation or state; (ii) local election or selection; and (iii) the enjoyment of a measure of autonomy including the power of taxation and local permits (Sharpe 1970). Definitions of communities have four essential elements, which are: (i) membership as the feeling of belonging or of sharing a sense of personal relatedness; (ii) influence, a sense of mattering, of making a difference to a group and of the group mattering to its members; (iii) reinforcement as the integration and fulfilment of needs by sharing the resources throughout the group; and (iv) shared emotional connection, the commitment and belief that members have shared and will share history, common places, time together, and similar experiences (McMillan & Chavis 1986).

The issuance of CSR legislation, consisting of laws and regulations, gives legitimacy to local government and local communities to push companies to perform CSR. Unlike the explicit contracts that companies have with various stakeholders such as shareholders, suppliers and customers, in a voluntary CSR environment, local stakeholders are not subject to explicit contracts with companies. Post et al. (2002) affirms that local stakeholders have an ‘implicit contract’ and often expect companies to provide compensation for the ‘service’ that they believe they provide to companies, in the form of the social license or use of natural or community resources. If stakeholder expectations are not satisfied, then they may become adversarial, and/or litigious towards the company to ensure it fulfils its duties, thereby making the contract explicit (Vazquez-Brust et al. 2010). The issuance of CSR legislation by central government in Indonesia has given legitimacy to local stakeholders for CSR from companies. The claim of CSR has become ‘explicit’ for local stakeholders, influencing the company to fulfil these local stakeholder’s demands.

In the present thesis, the influence of CSR legislation is recognised as a reflection of institutional legitimacy to local stakeholder pressures. Marquis and Battilana (2009) have formulated three primary mechanisms to explain the process of CSR legislation influence on the local stakeholder environment, which are; local regulative, social-normative and cultural-cognitive.

*Regulative processes*, according to Scott (2001, p. 35), “…involve the capacity to establish rules, inspect or review others’ conformity to them, and, as necessary, manipulate sanctions—rewards or punishments— in an attempt to influence future behaviour”. As the central government issues the CSR legislation, local political dynamics are likely to have an apparent and dominant influence on how such legislation is interpreted and implemented in the local region. There are three dimensions for explaining the regulative process of mandated CSR to be applied in a local
environment (Marquis & Battilana 2009). Firstly, the regulative pressures from the central government may vary in the field implementation depending on the degree to which central government influences local political dynamics. The more decentralized the state, the more scope local governments have in terms of the implementation of the legislation. Secondly, with the degree of this state centralization, the reason why local government makes specific types of local public policies can be understood. There are many examples of local government public policies designed to pressure companies. Local government can adopt local legal regulations in the form of incentives to the companies such as subsidies and tax breaks or giving penalties to companies. Guthrie et al. (2008) show, in their study set in the US, that the control of local governments over the provision of tax breaks enabled them to influence company contributions to local schools. Thirdly, local public authorities may also mobilize other local actors to help them shape economic and organizational behaviour. For instance, Ingram and Rao’s (2004) study, set in in US, identified the role of local professional associations or social movement organizations in determining legal changes to the legal status of chain stores in local communities.

*Social normative systems* refer to “a prescriptive, evaluative and obligatory dimension (of) social life” (Scott 2001, pp. 54-5). Local communities have developed social normative systems that set standards for and enforce conformity by companies, with respect to what is regarded as an acceptable level and type of giving to communities (Guthrie 2003). This logic suggests that social-normative systems have a strong effect on companies’ giving behaviour. There is also evidence that the level of company giving is closely tied to their annual profits (Godfrey 2005). However, community expectations about companies giving can lead companies to consciously manage this social activity annually in order to fulfil this community standard (Guthrie et al. 2008). A close proximity between companies and local actors suggests more frequent interactions, which are important for resource acquisitions among stakeholders and companies in the area (Marquis & Battilana 2009). Social networks in a community work on the basis of trust, sharing of information and communication mechanisms among the members. In order to be accepted in a community, a company should adopt these values. This can be illustrated from the Galaskiewicz and Burt (1991) study on the network of company officers and non-profit organization officers in Minneapolis, USA, which shows the importance of these relational factors in guiding companies in delivering their philanthropic contributions. Aside from guidance, this social network enabled the local community to establish normative expectations among their members with regard to company philanthropy, leading organizations to behave in ways that were socially appropriate.
Cultural cognitive systems refers to the shared frameworks or mental models actors draw on to create common definitions of a situation (Scott 2001). Within such shared frameworks, communities and companies often act in a sensible course following a shared set of logics that derive from cognitive templates as shaped by cultural influences (Marquis, Glynn & Davis 2007). While social networks of communities are involved in spreading information as well as appropriate behaviours for companies, communities also have a deeper set of shared frameworks that are tied to longstanding identity and tradition. Marquis and Battilana (2009) point out the local frames of reference among local communities vary for three reasons: differences in history and tradition; difference in demographics; and differences in geography. Therefore, there are different standards of appropriateness in different localities and these occur due to the influence of local cultures. This suggests that cognitive templates about what constitutes appropriate, credible, or legitimate organizational social practice by companies can differ across localities, and the degree of isomorphism or community consensus about the nature of appropriate corporate social practices will pressure corporations to align their activities in ways that are sanctioned by the community.

3.5. A MODEL OF THE CONFIGURATION OF EXTERNAL INFLUENCES ON CSR STRATEGIES

Looking at the context of the present study, a company’s CSR strategy is seen as being influenced by institutions through CSR legislation and local stakeholder power pressures, which rose during decentralization. The three literature areas, which are CSR, institutions and stakeholders, have been interrelated and conceptualized in Lee’s (2011) model to explain how institutions and stakeholders have influenced an organizations’ CSR strategy and how a company adapts their strategies within the context of these external pressures (see Figure 3.2).
Figure 3.2 illustrates the relationship between external pressures and the organization’s CSR strategy. Local stakeholders can influence institutions through their collective actions. In this manner, CSR legislation, in the form of laws, regulations and ministerial decrees, evidently exhibit this influence, as state legislation on CSR are a result of local stakeholder actions demanding that companies deliver CSR. In return, institutional rules such as regulating companies to deliver CSR to local stakeholders give legitimacy and power to local stakeholders in their demands for company CSR. Institutions and their legislation create the rules of the game for companies through regulative, normative and cognitive influences (North 1991; Scott 2001). Meanwhile, local stakeholders pressure companies through market and social activism such as protest and rallies. The institutional pressures may be amplified or diminished depending on stakeholder pressures. Institutional rules might be amplified in effect if their implementation has been monitored and enforced by local stakeholders. Conversely, the power of such rules might be diminished when local stakeholders buffer, resist or divert the institution rules.

In relation to these external influences, Lee (2011) suggests that companies take four different strategic stances depending on the level of pressure given by these two factors. Table 3.2 describes the possible CSR strategies that companies can take.
Table 3.2. Different configurations of institutional and stakeholder pressures and corresponding CSR strategies

<table>
<thead>
<tr>
<th>Stakeholder Pressures</th>
<th>Weak</th>
<th>Intense</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Weak</strong></td>
<td><em>Obstructionist</em> – Absence of external pressures</td>
<td><em>Defensive</em> – Institutional pressures without stakeholder support</td>
</tr>
<tr>
<td><strong>Intense</strong></td>
<td><em>Accommodative</em> – Stakeholder pressure without institutional legitimacy</td>
<td><em>Proactive</em> - Synchrony in external pressures</td>
</tr>
</tbody>
</table>

Source: (Lee 2011, p. 288)

Table 3.2 shows the options for company organizations to deal with the combination of institution and stakeholder pressures. With weak institutional and stakeholder pressures, the company organization is expected to take an ‘obstructionist’ strategy. An obstructionist strategy refers to the complete rejection by companies of any form of social/ethical responsibility that lie outside their economic interest. The company tends to ignore or fight social responsibility as part of the company’s responsibility.

In the condition of intense institutional pressures and the weak stakeholder pressures, the company organization can utilise a ‘defensive’ strategy. A defensive strategy indicates the rejection of a broad ethical responsibility but company compliance with legal requirements to protect their self-interest in maintaining their operation, by remaining legally legitimate.

For a company with weak institutional pressures and intense stakeholder pressures, the company organization could be expected to take an ‘accommodative’ strategy. An accommodative strategy points out companies’ acceptance of ethical responsibility, particularly toward their stakeholders. They comply with legal requirements and pay attention to various stakeholder voices. However, the lack of institution pressure allows the companies to be minimalistic in fulfilling stakeholder demands. They accept some stakeholder pressures but rarely take voluntary initiatives to develop their CSR activities.

In the situation of intense institutional and stakeholder pressures, the model predicts a company organization to take a ‘proactive’ strategy. The company fully recognises its social responsibility and actively engages with stakeholders to minimize their negative impacts and to improve the welfare of their stakeholders (Carroll 1979; Carroll & Buchholtz 2006).
3.6. CONCLUSION

The development of CSR literature predominantly rests on the assumption of voluntary CSR by companies (Carroll 1991, 1999b; Matten & Moon 2008). The narrow definition of CSR suggests that the companies perform CSR if there is a clear link to economic benefit (Friedman 2007). The broad perspective recognises that social demands is grounded in the voluntary behaviour of companies in accepting that companies themselves respond to the societal expectations (Schwartz & Saiia 2012). While this espousing CSR have established the principle of voluntariness as underlying company CSR, the issue arises of what happens when a country issues CSR legislation as mandated rules of the game, within which companies must perform their CSR.

Institutions provide the rules of the game for companies through formal and informal rules that constrain and influence companies’ behaviour (North 1991; Scott 2001). With the development of mandated Indonesian CSR legislation, the institutional environment of CSR has changed from soft to hard (Gjølberg 2011). This has happened against the backdrop of the decentralization era in which power has transferred from the central government to local governments. Further, resource nationalism is a big issue in Indonesia, particularly in the Oil & Gas industry where local communities want some of the benefits of resources mined in their regions and want some control over the companies operating in their regions. Therefore, in order to understand the Indonesian CSR legislative framework asks to Oil and Gas companies, research question 1 asks: “What are the main mandates of CSR legislation for Oil and Gas companies operating in Indonesia?”

Mandated CSR legislation provides the rule of the game that companies should be complied with, so CSR practices are a form of legal compliance of company with mandated CSR legislation. However, the three-domain of CSR (Schwartz & Carroll 2003) suggests that the legal domain of CSR should be integrated with other company interests such as economic or ethical motives. The context highlights that local legitimacy from local stakeholders is important for companies in the territory due the fact that local stakeholders gain more power in the decentralization era and their demands have been legitimated through CSR legislation (Freeman 2011; Phillips 2003). This situation lead companies to perform CSR not only as a form of legal compliance, but also as their instrument for maintaining their interests such as obtaining reputation and local legitimacy (Friedman 2007; Suchman 1995) and/or approaching the legitimate local stakeholders (Freeman 2011; Mitchell, Agle & Wood 1997; Phillips 2003).
Therefore, the institutions and stakeholders are essential factors in shaping company CSR strategies in Indonesia. On the one hand, companies need to comply with legislation; on the other hand, the companies also need to deal with local stakeholder pressures. Lee’s (2011) conceptualization of the influences of institutions and stakeholders on company CSR strategies propose four different strategies for company to adapt these pressures. However, companies also have political and economic power to counter these institutions and local stakeholders’ pressures (Davis 1960; Scherer & Palazzo 2011). In order to understand how companies undertake CSR in this mandated environment research question 2 asks: “How do Oil and Gas companies operating in Indonesia practice CSR and treat local stakeholders?”

Mandated CSR legislation in Indonesia makes the demands of these local stakeholders become ‘explicit claim’ (Donaldson, T. & Dunfee 1999). Therefore, the issuance of CSR legislation is likely to create local stakeholder’s expectations toward the company CSR. On the other hand, local stakeholder’ perceptions of how company implement the legislation is very important in assessing the impacts of mandated CSR legislation. In order to understand the hopes and aspirations of host communities to resource companies and their experiences of company CSR under mandated CSR, research question 3 asks; “what are local stakeholder expectations of mandated CSR and their perceptions of the CSR practices of Oil and Gas companies operating in Indonesia?”
Chapter 4. RESEARCH METHODOLOGY

4.1. INTRODUCTION

In this chapter, the research methodology of the study is presented. Section 4.2 discusses the nature of the research and the rationale for selecting a qualitative method. Section 4.3 presents the research design of the study, exploring the design methodology in terms of the three research questions, together with a discussion of how the data was collected and analysed. Section 4.4 discusses the research setting, areas and context. Section 4.5 describes the participants of this study, which came from various groups. Ethical considerations are addressed in Section 4.6. Finally, Section 4.7 discusses the limitations of the methodology.

4.2. QUALITATIVE RESEARCH

Indonesia is one of the first countries to pass mandatory CSR legislation, which thus provides the present research with an important phenomenon to be examined, particularly in terms of experiences of the implementation of the legislation. This research focused on the experiences of companies, communities and local governments in the implementation of Indonesian CSR laws in the Oil and Gas industry. The secondary data analysis of the legislative framework was a key part of this research also to analyze the content of the CSR laws to understand the implications of the legislation. A qualitative approach was taken for this research, as this emphasizes an understanding of the world from the perspective of participants, and that social life should be viewed as being the result of interactions and interpretations (Creswell 2012; Yin 2009). Further, the information from interview with participants from companies and local stakeholders regarding CSR legislation impacts was anticipated to be complex. Thus, standardized data collection methods such as surveys would have been too rigid for the type of information sought for this study. In addition, quantitative methods would not be allowed for informal probing, which was necessary to capture the richness of the required data.

For the present purposes, therefore, a qualitative research methodology provided flexibility and adaptability (Marshall & Rossman 2010). The qualitative methods taken also enabled the researcher to develop investigations based on interesting responses found during the data collection process, following Yin (2009), who states that the collection of qualitative data depends considerably on the research topic chosen and objectives developed. The phenomena under investigation in the present study was the impacts of mandatory CSR legislation, a still new area of research. Therefore, this study involved exploratory research which aims to ‘understand phenomena that are poorly understood’ (Leedy & Ormrod 2012). Mason (2002) also explains
that exploratory qualitative research is concerned with how the social world is interpreted, understood, experienced, or produced. The impacts of mandatory CSR thus would require assessment through participants’ meanings and interpretations: as Holloway (1997) also asserts, individuals are best placed to describe situations and feelings in their own words. The qualitative exploratory research approach used to examine the way people interpret and make sense of their experiences and the world in which they live, in order to explore their behaviour, perspectives and experiences (Holloway & Biley 2011; Patton 1987).

Qualitative research is also context bound, in that such study involves in-depth comprehension of complexity, detail, and the contexts of social life so as to give holistic form to analysis and explanation (Miles & Huberman 1994). Thus, a qualitative study can be done in natural settings, allowing the researcher to make sense of or interpret phenomena in terms of the meanings that people bring to them (Denzin & Lincoln 2005). In examining the implementation of CSR legislation in Indonesia, qualitative methods offered the researcher an opportunity to understand this implementation through participants’ meanings based on their experiences of implementation of the legislation.

4.2.1. Positioning the Research

The research is taking qualitative study as part of the subjectivist approach. The subjectivist approach benefit this study to allow the researcher to seek informants’ opinion closely and researcher experiences and reflections in order to uncover valuable meaning and to find a different type of objectivity. This section elaborates Burrell and Morgan (1979) literature on subjective and objective dimension to positioning this research.

![Figure 4.1. The Subjective – Objective Dimension](image)

<table>
<thead>
<tr>
<th>The Subjectivist Approach to Social Science</th>
<th>The Objectivist Approach to Social Science</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nominalism</td>
<td>Realism</td>
</tr>
<tr>
<td>Anti-Positivism</td>
<td>Determinism</td>
</tr>
<tr>
<td>Voluntarism</td>
<td>Human Nature</td>
</tr>
<tr>
<td>Ideographic</td>
<td>Methodology</td>
</tr>
</tbody>
</table>

Source: Burrell and Morgan 1979, p.3
Figure 4.1 shows the different dimension between subjectivist and objectivist approach. The ontology dimension discusses how the reality being research derives; it can be from an external conscious or a product of individual researcher consciousness. In this ontology level, the subjectivist approach suggests nominalism that assumes society is relative so the researcher can describe the social world with names, concepts and labels. While the objectivist sees realism with the assumption the real world is separate from the individual’s perception of it. The epistemology level discusses how the knowledge can be acquired and found. The subjectivist believes in anti-positivism, as social science cannot create true objective knowledge of any kind. Whilst the objectivist approach take positivism to seeks explanation and prediction on what happens in the social world by searching for patterns and relationships in which hypotheses are developed and tested. In the human nature dimension, the subjectivist approach assumes voluntarism that sees man is completely autonomous and possessing free will, while the objectivist suggests determinism that sees man being determined by the situation and environment he is in. In term of methodology, the subjective approach agrees on ideographic that focuses on detailed observation of society and the objectivist approach believes on nomothetic that involves hypotheses testing and employs methods such as surveys and other standardized tools (Heinemann 1979; Burrell and Morgan 1979). This research takes subjectivist as an approach. It means this study is taking nominalism as its ontology where researcher give labels, names or concepts on certain social phenomenon. Anti-positivism as an epistemology in which the social phenomenon is viewed only from the perspective of people involved in this research. Voluntarism as its human nature relationship and nature interaction between researcher and participants whereas is initiated by themselves. Ideographic as its methodology that suggest researcher to conduct detail observation of society.

Further, in the operationalization of this approach, a study should acknowledge the paradigms to understand the nature of society being research. There are two assumptions used to understand the society; order or integrationist view sees society as relatively stable and based on consensus and conflict or coercion view sees society as constantly changing and disintegrating (Dahrendorf 1959). Further, Burrell and Morgan (1979) introduce the term of ‘sociology of regulation’ to refer to the theorist that concern with the unity and cohesiveness in explaining the society, and the term ‘sociology of radical change’ that focus on the radical change, deep-seated structural conflict, modes of domination and structural contradiction to find the explanations of society.

These two assumptions relate with the assumptions of subjectivist and objectivist approach creating four paradigms in the research; the radical humanist, interpretive, radical structuralist,
The radical humanist paradigm are mainly concerned with releasing social constraints that limit human potential. They see the current dominant ideologies as separating people from their "true selves". They use this paradigm to justify desire for revolutionary change. The radical structuralist paradigm see inherent structural conflicts within society that generate constant change through political and economic crises. The functionalist paradigm has been the primary paradigm for organizational study. It assumes rational human action and believes one can understand organizational behavior through hypothesis testing. This research is identified as the subjectivist approach by using interpretive paradigm. The research is informed by a concern to understand the world as it is, to understand the fundamental nature of the social world at the level of subjective experience. It seeks explanation within the realm of individual consciousness and subjectivity, and seeks to explain the stability of behavior from the individual’s viewpoint. Further, the researcher attempt to observe on-going process to better understand individual behavior and the spiritual nature of the world.

### 4.3. RESEARCH DESIGN

To support the analysis, a multi-method research design was adopted, which comprised of content analysis, interpretative analysis and network analysis. Table 4.1 describes the relationships between the research questions, the sources of data, method of analysis and key outcomes. Various data collection and data analysis used in this research in which the position of secondary data and primary data are depending on the research question. For RQ1 (what are the main mandates of CSR legislation for Oil and Gas companies operating in Indonesia?), the research relies on secondary data in the form of document analysis of CSR laws to reveal the main mandate of CSR laws. While for RQ 2 (How do Oil and Gas companies operating in
Indonesia practice CSR and treat local stakeholders?) and RQ 3 (What are local stakeholder expectations of mandated CSR and their perceptions of the CSR practices of Oil and Gas companies operating in Indonesia?), primary data in the from interview and observation of companies staff, community members and local government officials are the primary sources of data. The use of qualitative methods to address the three key research questions drives the research to utilize three types of data: interviews, observation and secondary data in the form of documents from legislation, companies and local government. Consequently, the methods of analysis employed are document analysis, interpretive analysis and network analysis. Section 4.3 is divided into two subsections to explicate these. Subsection 4.3.1 discusses the data collection techniques; while Subsection 4.3.2 discusses the methods of analysis.
### Table 4.1
Research Questions, Source of Data, Method of Analysis and Key Outcomes

<table>
<thead>
<tr>
<th>Research Questions</th>
<th>Source of Data</th>
<th>Method of Analysis</th>
<th>Key Outcomes</th>
</tr>
</thead>
</table>
| (i) What are the main mandates of CSR legislation for Oil and Gas companies operating in Indonesia? | **Document Review:**  
- 6 laws related to CSR  
- The accompanying 2 government regulations and 4 ministerial decrees | **Document Analysis**  
- Interpretive Approach | **Identification of the main mandate of CSR legislation and how the Indonesian legislation views CSR** |
| (ii) How do Oil and Gas companies operating in Indonesia practice CSR and treat local stakeholders? | **Document review of CSR reports, company web sites, and newspapers**  
**Interview with managers and staff**  
**Observation of CSR projects and company’ interaction with local stakeholders** | **Stakeholder Network Analysis**  
- Interpretive Approach | **Knowing each company’s perceptions of mandated CSR legislation**  
- Identifying CSR priority projects of each company  
- Identifying local stakeholders of each company  
- Understanding the outcome of what impacts/ benefits to local stakeholders |
| (iii) What are local stakeholder expectations of mandated CSR and their perceptions of the CSR practices of Oil and Gas companies operating in Indonesia? | **Document review of local government documents**  
**Interview and Group Discussion with local stakeholders**  
**Observation on local stakeholders and company interaction** | **Interpretive Approach** | **Recognition of local stakeholder expectations of CSR legislation and their perceptions of company CSR practices** |
4.3.1. Data Collection Techniques

In relation to the research questions, three types of data were used in this study: existing documents, interviews/ Focus Group Discussion (FGD) and observation. Interview is used to describe one-on-one discussion between researcher and participant, whilst focus group discussion to describe discussions between research with multiple participants. Focus group discussion is applied to interview the local community group as this group is consisted by many stakeholders. The interview is used to companies staff and local government officials. So the use of interview and focus group discussion is not mixed, but it is applied to different group of participants in this study. The existing documents used in this study included printed and/or electronic documents (Corbin & Strauss 2008); available from newspaper, the official documents, and the official websites. These documents contain text (words) and images that have been recorded without the researcher’s intervention. Atkinson and Coffey (2004) refer to documents as ‘social facts’, which are produced, shared, and used in socially organized ways. Documents that are used for answering the research inquiries in this study can be in variety of forms, including: books; articles; maps and charts; newspapers (clippings/ articles); press releases; program proposals from communities; organizational or institutional reports such as company annual reports; statistical data from official institutions; and various public records. Photos can also furnish documentary material for research purposes. These types of documents are found in libraries, newspaper archives, government and company files. Regarding the research question 2 and 3, the exploration of participants’ meanings in natural settings employs interview methods (Robson 2002). However, for better understanding of the participants’ perspective, the researcher also complemented the interviews with some observations and existing secondary data (Denzin 2001; Silverman 2004). Through these combined methods, in an interpretive approach, the researcher is enabled to identify any contradictions between what people do and what they say (Robson 2002; Silverman 2004).

It should be noted that all participants were Indonesian. Therefore, interviews and discussions were conducted in (Bahasa) Indonesian, and local languages for local community interviews, to facilitate clear understanding between the researcher and participants. Most participants, particularly from the local communities, and some staff of oil and gas companies did not agree to be audio recorded by the researcher, so the researcher had to rely on note-taking during the interviews and discussions. The use of a recording machine was often deemed not to be suitable, since it would disturb the nuances arising out of a relaxed, less formal conversation. The researcher was thus able to write down key points and terms occurring during interviews and discussions. When the interviews and discussions were completed, the researcher checked the key terms and points, and further elaborated in writing the information that had been provided and
expressed by participants during the sessions. This condition brought the issue of rigor and trustworthiness in this research. Tracy (2010) noted the issue of rigor and trustworthiness in qualitative research by offering five basic requirements for qualitative research to achieve rigor and four factors to achieve the credibility. Rigor in qualitative research can be achieved if the study uses sufficient, abundant, appropriate, and complex theoretical constructs, data and time in the field, samples, contexts, and data collection and analysis processes. While the credibility of research is achieved when the research is marked by thick description, concrete detail, explication of tacit (nontextual) knowledge, and showing rather than telling, triangulation or crystallization, multivocality, and member reflections. In term of rigor, the researcher should relate the data collected in the field with the theory used in this study, have significant time to build relationship and discuss with participants in the field, and if the researcher needed some clarity on their statement, the researcher will consult with participant during the writing process. On the issue of credibility, since the participants rejected the use of audio recorder, the researcher should be able to note opinion and terminology from various participants and find the triangulation and crystallization of those findings. Further researcher also allowed participants to reflect their statements and these findings afterwards.

Meetings with the company managers and staff were usually conducted outside the participant’s offices and other places of work, taking place in locations such as restaurants and coffee shops that were comfortable for conversations. The researcher attempted to build a relaxed and informal conversation with these participants. Some of the participants had only just met the researcher for the first time and did not know much about the background of the researcher; thus, understanding cultural backgrounds was an important first task of the researcher in order to get closer with these particular participants. For instance, participants originating from South Sumatera, the home province of the researcher, may accept a more relaxed conversation with some kelakar (jokes) so that the distance between researcher and participant was close; while the participants from Javanese cultures were more considered in their manners during the conversation. By respecting these particularities in cultural background, the researcher encouraged participants to become more open and relaxed in answering questions during the interviews and FGDs. It was also emphasized to participants that they were able to request any of their responses to be excluded from the research, again creating a more relaxed and open environment for discussion.

The interviews with local district government participants were conducted by making appointments with these officials, who welcomed the researcher to meet for interviews in their offices. The first interview was more formal, being conducted in their offices, and often used an
audio recorder. Then for the next meeting, the researcher initiated an invitation to government officials for lunch. Much useful and important information was revealed during these informal conversations; but during these more informal discussions the researcher was unable to record, having to rely on note-taking during and post the interview process. The participants gave permission for some of their statements to be noted, but they also understood that they were able to demand that the researcher exclude some of their statements from the data if they requested this.

Interviews and FGDs with local communities group were also conducted. The researcher had to combine interviews and group discussions because the members of community groups were enthusiastic about participating in discussions. The researcher was familiar with the village communities around company A and company B, so the researcher was easily able to be involved with the communities and thus to conduct such discussions. However, for the communities around company C, the researcher had to make more effort to become involved with the local communities. The researcher used a local NGO in South Sumatra working in villages around company C to introduce the researcher to these communities. Through this recommendation, the researcher was able to be involved with the communities and thus have discussions with them. The discussions in all villages then flowed naturally and covered some sensitive issues regarding company CSR and participants feeling; but they declined to be recorded as they were afraid that they could be identified through their voices on such recordings.

The other groups interviewed consisted of a Corporate Forum for Community Development (CFCD), a business and managers’ forum focused on the CSR issue, NGOs working on the CSR issue, and the upstream regulatory body for Oil and Gas in South Sumatra. The researcher had existing contacts with the first two of these groups mentioned. For the Oil and Gas Regulatory Body, the researcher used a colleague to introduce the researcher to some important people in the Oil and Gas industry. At first, the colleague was reluctant to introduce the researcher to the regulatory body head in South Sumatra office; but then agreed to introduce the researcher to the officials, with an explanation to the officials that the research does not have any relation to his duties and company. The other participants from NGO groups were easier to contact and access by the researcher because of close pre-existing working relationships with them.

4.3.2. Data Analysis Method

Multiple types of data, including documents, photo, audio recordings and field notes from interviews and observation, were analysed. This collected data required the researcher to choose
appropriate analytic strategies and techniques to “treat evidence fairly, produce compelling analytic conclusions, and rule out alternative interpretations” (Yin 2009, p. 131). The first method used was document analysis. The secondary data analysis of the legislative framework was a key part of this research also to analyse the content of the CSR laws to understand the implications of the legislation. As a research method, document analysis is particularly applicable to qualitative case studies and intensive studies producing rich descriptions of a single phenomenon, event, organization, or program (Stake 2010). Non-technical literature, such as company annual reports and newspaper articles, is a potential source of empirical data for case studies; for example, data on the context within which the participant operates (Bowen 2009). Document analysis involves skimming (superficial examination), reading (thorough examination), and interpretation. This process combines elements of content analysis and thematic analysis. Content analysis is the process of organizing information into categories related to the questions of the research (Krippendorff 2012; Weber 1990). Thematic analysis is a tool to find a pattern recognized within the data. The themes emerge from this process and become the categories for analysis (Fereday & Muir-Cochrane 2008).

The second approach used in this study is the interpretive approach towards qualitative research. Denzin (2001) suggests that an interpretive approach can deal with multiple perceptions and meanings where these come from thinking and behaviour in the ‘natural setting’ context. This context can be obtained from an effective relationship between the researcher and participants, so that people identify what they see as significant and tell their stories in the ways they want (Denzin 2001). The researcher identified different perceptions and assumptions that are held by participants by comparing different responses given by participants. This differentiation is then interpreted through an ‘interpretive evaluation’ with pragmatic, action-oriented recommendations for alleviating problems of differentiation (Denzin 2001; Walsham 2006). The interpretive approach therefore supports understanding of the nuances, influences and perceptions of those involved in the evaluation, and the way they are in turn influenced by the context of the organization (Walsham 2006). This is a justification for the present research to use an interpretive approach, as it allows the researcher to have sense-making in a complex situation, consider multiple interpretations and draw lessons from the evaluation process that can be used to improve future processes (Denzin 2001). This approach suggests the researcher critically examine conflicts and contradictions within the complexity of social, cultural and political systems from many perspectives (Denzin 2001; Klein & Myers 1999). Thus, interpretive approach supports the richness and complexity of the analysis and the identification of social and political issues, surrounding CSR implementation by Oil and Gas companies.
The strategy in this research was to use a ‘case descriptive’ method for organizing case studies according to the complexity of cases. This strategy allowed the researcher to describe and relate the context of each case. In line with this strategy, an explanation-building technique was employed to explain a phenomenon, by answering ‘how’ and ‘why’ questions to the findings (Gummesson 1999; Patton 1987). Finally, a cross-case synthesis technique was also employed to identify similarity and difference patterns among the three company cases.

The use of stakeholder analysis reflects a recognition of how the various external stakeholders, both local governments and local communities, influence the decision making processes of company organizations in implementing CSR. Varvasovzky and Brugha (2000) define stakeholder analysis as an approach, a tool or set of tools for generating knowledge about actors - individuals and organizations - so as to understand their behaviour, intentions, and interrelations; and for assessing the influence and resources they bring to bear on decision-making processes. In identifying the stakeholders, firstly the researcher selected stakeholders in the companies, local governments, and within local communities, members who had interest in the CSR legislation implementation issue. The stakeholders could include individuals, organizations, or networks or groups of individuals and organizations. It was found that actors related to CSR were easily identified in companies and government due to the clear formalities of institutions and specific job description within organizations. However, for local communities, various available actors would assume themselves to be community representatives, due the fact that the dynamic power relationship existing in the village. Consideration of power relations within communities and the dynamics of village power relations assisted the researcher to select the right actors to be participants. As data was gathered, interim outputs such as matrix tables or maps were constructed to draw stakeholder interest in company CSR, the resources and/or influence they can bring, their support or opposition to company CSR projects and what level of importance attached to each stakeholder by the company. This analysis was based on the primary sources of data collected through interviews and discussion, with the addition of observation data on company and local actor relationships.

In addition, according to Tracy (2012), visual data display is one approach for analysing qualitative data research. A visual data display approach was proposed by Miles and Huberman (1994, p. 91), who stated that “you know what you can display”. The examples of visualizing data findings include matrices, charts, position maps, network maps and other figures for presenting data (Miles & Huberman 1994; Thomas 2006). The use of data displays will reduce the enormous volumes of qualitative text, which make it almost impossible for the researcher to work from such data. Most
researchers find that creating a display is another useful way for analysing and thinking creatively about data (Tracy 2012). Tables or matrices provide a visual display of important categories in CSR legislation, assisting readers to understand the various CSR legislations discussed in this study, consisting of six laws, two government regulations and four ministerial decrees. This tool is also helpful to show the differences between the three companies’ perceptions in responding to CSR legislation. The use of a stakeholders network map aided this study in exploring stakeholder engagement by the companies and the power relations related to CSR implementation issue in the field.
Figure 4.3
Map of Musi Banyuasin District and its position in Sumatera Island
4.4. RESEARCH SETTINGS, AREA AND CONTEXT

Figure 4.1 shows the location of the Musi Banyuasin district in Sumatera Island, where the research data collection was conducted. This region is well-known for its oil and gas resources (Ministry of Energy and Mineral Resources 2011), and its palm oil and rubber plantations. The population of this district is 561,458 people, consisting of 288,450 males and 273,008 females. The district has an area of 14,265.29 KM² (BPS 2012). The district has 11 Oil and Gas companies operating in the area under several concession contracts with central government, such as the Production Sharing Contract (PSC), Joint Operating Body (JOB) contract, or Technical Assistances Contract (TAC) (BPS 2013). This study selected the three companies that hold PSC contracts, so that the company decisions involving CSR are made within that one company only. The present research focusses on the Oil and Gas industry in this district, as this industry is subject to the mandated CSR legislation.

The district distributes its Oil and Gas resources to generate electricity for Java Island and Singapore. Aside from providing essential power resources, the Oil and Gas industry also provides an interesting set of circumstances in terms of CSR implementation. The industry is still under central government control; however, the beneficiaries of CSR are mainly within the local districts, allowing local stakeholders to demand CSR from this industry. In addition, the local government of this district has also established a CSR forum to improve consultation between stakeholders in CSR projects. This forum, membered by all companies operating in the Musi Banyuasin District, is managed by several district government officials. The main aim of the forum is to synchronize CSR projects by companies with development projects by the Musi Banyuasin district government. The forum has meetings twice a year to consult about and discuss the CSR project planning by all the companies and evaluate previous CSR projects. Although the local district government has established this forum, this does not guarantee harmonious relationships between Oil and Gas companies and their stakeholders. The company relationships with stakeholders have been tense in this district, with several demonstrations and protests from local communities regarding Oil and Gas company activities (Zainal 2007). As a result of this situation, the local district government has responded by warning companies to make more contributions towards the development of local district communities.
4.5. THE PARTICIPANTS

The researcher is an outsider in this study because he is not employed by any of the organizations. However, the researcher has had previous working relationships as a consultant with a number of participants in the research, including Oil and Gas company managers and staff, local district government officials, and local community members. This put the researcher in the position of a “friendly outsider” within this research setting (Greenwood, DJ & Levin 2007). Based on Gummesson (1999), prior relationships are seen as being a potential benefit to the research, by having: (i) first hand pre-understanding to enter the research process; and (ii) initial access to the research phenomena and continuing access based on the researcher’s prior good relationships with participants. Prior relationships give pre-understanding to researchers to reflect the phenomena and further give initial access to the research site (Stenbacka 2001).

The initial access allows the researcher to access the organization, the team, the informant and later the more personal access. The present study utilized this initial access to get recommendations from contacts, allowing the researcher to enter the organization, communities and government offices, and further interact with informants in those groups. Further recommendations from the researcher’s contacts provided access to informants, allowing them to voice their experiences of CSR. In this manner, access for the research cannot be limited to ‘physical access’ to the participants by formally interviewing them with questions and answers, but should also consider ‘mental access’ to be deeply involved in and explore participant feelings (Gummesson 1999; Walsham 2006). Figure 4.2 below explains the advantage of researcher prior relationships.
For the purpose of this study, participants from three Oil and Gas companies were selected, consisting of managers, supervisors, and staff. Their participation in this research involved them identifying their local stakeholders, namely local government and local community. Those company participants were asked to list several names or actors in the government and community groups that they felt related most to their CSR performance. In addition to those identified by company members, this research also identified any additional legitimate stakeholders that might not be identified by Oil and Gas companies participants. It was expected that the selection of legitimate stakeholders by companies might be different from that of local communities. Therefore, through a referral system, the researcher asked communities who they consider legitimate stakeholders to be. Purposive sampling (Sarantakos 2005) was used, where participants were selected based on the research objectives and conceptual framework. The three companies were selected based on PSC and had different ownerships status: one Indonesian Owned Private Company (IOC), one Foreign Owned Private Company (FOC), and one State-Owned Company (SOC).
Table 4.2 presents the list of stakeholder participants involved in this study. Interviews were conducted with four groups participating in this study, consisting of: managers and staff from Oil and Gas companies (13 participants); local government officers (3 participants); local community members from three villages where the three companies were operating (37 participants involved in FGD); and other groups from business associations, NGOs and the national regulatory unit of Oil and Gas (6 participants).

<table>
<thead>
<tr>
<th>No</th>
<th>Group</th>
<th>Organization</th>
<th>Participant</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Oil and gas companies</td>
<td>Company A - IOC (4 participants)</td>
<td>- one Manager of Community Development in Jakarta</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>- two Supervisors of Public and External Relation Office in the field</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>- one staff of Public and External Relation office</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Company B - FOC (4 participants)</td>
<td>- one CSR specialist (supervisor) in Jakarta office</td>
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<td></td>
<td></td>
<td></td>
<td>- one staff External Affairs Department in Jakarta office</td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>- two staff of public relation department in the field</td>
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<tr>
<td></td>
<td></td>
<td>Company C - SOC (5 participants)</td>
<td>- two staff of public relation office who handle CSR projects</td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>- one head of PPEB office in Palembang (capital of south Sumatra province)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>- two staff of PPEB office in Palembang</td>
</tr>
<tr>
<td>2</td>
<td>Local Government</td>
<td>District Developmental Planning Body (2 participants)</td>
<td>- The head of district development body</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>- One staff handling CSR forum</td>
</tr>
<tr>
<td></td>
<td></td>
<td>District Mining Office (1 participant)</td>
<td>- One staff of district office</td>
</tr>
<tr>
<td>3</td>
<td>Local community</td>
<td>Three villages (37 participants)</td>
<td>- The heads of three villages</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>- Discussions with community members consisting of 8-15 members</td>
</tr>
<tr>
<td>4</td>
<td>Other group</td>
<td>Corporate forum for community development (2 participants)</td>
<td>- one head</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>- one member</td>
</tr>
<tr>
<td></td>
<td></td>
<td>NGO (2 participants)</td>
<td>- two members of NGO</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Oil and Gas upstream regulatory working unit (2 participants)</td>
<td>- one head of SKKMIGAS</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>- one head of Public Relation in SKKMIGAS</td>
</tr>
</tbody>
</table>
The three companies selected in this study will be elaborated in Chapter 6. Apart from focussing on three oil and gas company organizations, this study also looked at local stakeholders, consisting of local district government officials and local communities. These groups are described as follows:

**Local District Government**

Representatives of the district government of Musi Banyuasin were interviewed in this study. There are several offices that relate to the operation of Oil and Gas companies, such as a Mining District Governmental Office, and a Developmental District Planning Body. As mandated by the *Bupati* (head of district), CSR programs in Musi Banyuasin should be reported to the Developmental District Planning Body. The researcher focussed on approaching this body as the head of Developmental District Planning Body is also appointed as the head of the CSR forum in the Musi Banyuasin district. Further information on issues related to Oil and Gas company activities outside CSR was gathered from other district government offices such as the District Mining Office.

**Local Communities**

The members of local communities who participated were drawn from the villages where the companies operate. The companies name the villages surrounding their areas as *ring one*. Historically, this term was used during the Soeharto era to indicate where the companies got protection from military forces. The military force used this term to designate the closest areas that needed to be secured, so it would not disturb the companies’ operations. Today, companies still use this term to identify the villages that they need to be aware of in prioritizing their CSR programs.

It is very difficult to find legitimate members of local communities since there are a lot of actors existing in the villages claiming that they are affected by the operation of Oil and Gas companies or can represent the village community voice. Thus, selecting participants in this group started from asking the companies about the members with whom they had regular contact within the community groups. Most of them nominated the heads of villages; however, finding legitimate stakeholders can be furthered by involvement with the communities themselves in their daily activities. By observing community interactions in their daily life, the power relations within communities can be revealed, which was essential to selecting the legitimate stakeholders in the villages.
Other Group

In addition, the researcher approached other groups, consisting of NGOs activists, and the head and members of a business association involved in CSR in the South Sumatra province. Although these groups are not related directly to CSR activities in terms of the company-stakeholder relationships, they provided useful insights for the researcher to understand the CSR practices within the South Sumatra province. The researcher also approached the Regulatory Body for Upstream Oil and Gas (SKKMIGAS), which controls the areas of South Sumatera, Lampung, Jambi, and Bangka Belitung provinces. This body was very important for obtaining access and recommendations to contacts within certain Oil and Gas companies.

4.5.1. Doing Research in Indonesia

As mentioned earlier, prior relationships of the researcher in this research setting was employed to contact different groups of participants. Researchers should be aware of ‘contextual sensitivity’ as suggested by Silverman (2010), in which the researcher should understand the institutions and social phenomena of research settings. Researchers should also be aware of the ‘cultural sensitivity’ referred to by Seidman (2012), wherein researchers need to be aware of cultural differences and similarities which affect values, learning, and behaviour. Understanding contextual and cultural sensitivities was important for the present study in order to gain mental access to the participants’ telling of their experiences. Access can be defined as the appropriate ethical and academic practices used to gain entry to a given community and/or organization for the purpose of conducting formal research (Corbin & Strauss 2008). Gummesson (1999) differentiates three steps of access: physical access means the ability to get close to the object of the study; continued access refers to maintaining an ongoing physical access to the research setting; and mental refers to being able to understand what is happening and why in the investigated setting.

The first group of research participants consisted of the managers and staff from Oil and Gas companies. The Oil and Gas industry is well known as a closed industry in Indonesia, so that even local district government officials have found difficulties in obtaining information and data related to companies. This affected the researcher’s access to certain people in the companies studied in the present research. In solving this problem, firstly an attempt was made to use formal means, by sending an email and formal letter requesting the prospective participants’ acceptance to be interviewed. However, the request was replied to by managers and staff with a variety of responses. Some responses required the researcher to obtain initial permission from the Oil and Gas regulatory unit (SKKMIGAS). Others directed the researcher to interview public relations officers, who handle external affairs and do not directly manage CSR in the community.
Meanwhile, others never replied to the letter or email. All of these responses indicate that CSR in this industry is a sensitive issue, so that the three selected companies are reluctant to discuss CSR practices in their companies.

This condition required that the researcher employ personal relationships with certain people working in the Oil and Gas companies in CSR. According to Jensen (2013), such people can be referred to as ‘gatekeepers’. ‘Gatekeepers’ are individuals who can be used as an entry point to organizations through their recommendation. In addition, gatekeepers will have “inside” information that can help the researcher in determining who are the best participants to access in the organization (Gummesson 1999). The application of the gatekeeper concept is suited to Indonesian culture, in which a common saying is ‘temanmu adalah temanku’ (your friend is my friend). Gatekeepers were useful for the present research for gaining access to certain key informants. Gatekeeper introductions to colleagues in other companies (with which the researcher had no prior connection) moved the position of researcher in relation to key informants from that of ‘stranger’ to ‘friend’. To improve this initial entry to mental access, the researcher employed an awareness of Indonesian culture in building close relationships by conducting occasions such as makan siang (lunch), giving gifts and developing verbal and non-verbal communication connections with informants.

However, imposing the relationship with a gatekeeper into the research may also result in a disadvantage. Aside from giving access to some organizations, the role of gatekeepers may limit the researcher in that the gatekeepers would monitor the activities of the researcher throughout the data collection process to ensure that the latter do not touch upon sensitive issues in organizations (Coghlan & Brannick 2005). These activities can be seen as a threat to the autonomy of the researchers and might arguably influence the data collection process. Thus the researcher’s judgement is needed to balance maintenance of access and potential bias. The activities of gatekeepers as “controllers” should not overshadow their importance as facilitators. It was understood that the gatekeepers might take some personal risk in letting the researcher, as a stranger, ask sensitive or perhaps irrelevant questions to informants who hold important positions in the organizations. They thus risked their own reputation and status in the organization by “sponsoring” such a project. With these risks in mind, the researcher should manage the balance between maintaining the required relationships on the one hand, and potential bias in the findings; thus leading to considerations of ‘what should be said and not to be said’ in the present thesis.
The second group of participants is drawn from local stakeholders, consisting of local government officials and local community members. The approach to these groups was quite different from that to informants from the companies group. Prior relationships with certain local district government officers and local community members were already established due to the working relationships developed during the establishment of a CSR forum in 2007. Limitations of internet access in the area forced the researcher to rely on telephone and SMS to invite the willingness of informants to participate in this research. After obtaining the permissions to interview and conduct group discussions, instead of offering a schedule for these, the researcher preferred to stay in the districts and villages in order to observe and be involved with informal discussions with informants from community groups. Indeed, informal discussions with local stakeholders, such as lunch together with government officers, drinking afternoon coffee in a warung (small shop in the village) with community, and informal discussions after maghrib (Islamic prayer time in the afternoon) in the mosque were essential in revealing participants’ feelings on related issues. The researcher always explained clearly that their statement can be used in the research and asked community members to sign a consent form during the researcher’s stay in the village.

However, during interviews the researcher was also aware of the intention of members of these groups to ask advice from the researcher about developing a CSR forum and CSR projects. In this sense, the researcher should distinguish his previous role as consultant of a CSR forum and the recent role as researcher. It was thus necessary to explain to the groups that my role in these conversations was as researcher, where the focus of this meeting was to interview and collect data from the participants, not as a consultant to provide advice. By explaining to the participants that the outcome of this research might offer some solutions to their problems in relation to CSR, participants from local government and local communities were enabled to understand and hope that what they told the researcher during interviews and group discussions could be useful in solving their problems in the future.

4.6. ETHICAL CONSIDERATIONS

As the research deals with human participants, the research was conducted with the approval of the RMIT University Business College Human Ethics Advisory Network (BCHEAN), with a low risk classification (see Appendix 1: notice of approval from BCHEAN). All research participants received a plain language statement explaining the project’s aim and gave written consent. They could choose to end an interview at any time, and were able to withdraw their data up to the point of collated data analysis. A confidentiality agreement was also signed with all participants as a
necessary requirement to secure the participants’ permission and give them a clear understanding of the nature of their participation and their rights during the course of the research.

The ethics and confidentiality agreement required that all individual and corporate data be identified through the use of pseudonyms. Given the small number of companies in the district and the villages where the companies were operating, and the resulting potential for identifying particular companies and participants, details of company information are not discussed in the thesis, with pseudonyms applied to companies and individual participants to protect participant identity. The use of pseudonyms to protect identity was also intended to assist participants to be more open in their responses, supporting them to speak more freely and critically. In the district, however, it is possible that who may be agreed to be participants may be able to be guessed by others known to them, even though efforts were made to de-identify any individual comments, and this possibility was explained to participants prior to their undertaking the interviews.

4.7. CONCLUSIONS AND LIMITATIONS

This chapter presents the rationale behind and perceived strengths of the chosen research methodology. However, the research project cannot avoid some practical and theoretical limitations. The main research limitations of this research, as laid out below, are related to: the timeframe of this research; pragmatic and financial limitations; and limited generalizability of results.

4.7.1. Research Timeframe

This PhD research project was conducted over a four-year timeframe, with the data collection, including the secondary data and primary data gathering in form of interviews and observation, taking place about one year, between January 2013 – January 2014. The research focussed the project on CSR implementation in Indonesia at this particular point in time only. The dynamics of Indonesia politics and economy during other times are not be covered in this research’s timeframe. In addition, the present research questions demanded a focus on the current on-ground happenings in CSR implementation within the Musi Banyuasin district only.

4.7.2. Financial and Distance Considerations

The research site is in the Musi Banyuasin district; however the participants’ locations spread across other areas within the Musi Banyuasin district. At the rural area, with its lack of available infrastructure such road access, accommodation, public transportation and electricity, the researcher had to stay at the village residence house, which was also of benefit in getting close
with the community participants. The supervisor and staff were mostly available at this research site; however, the managers could only be contacted at the Palembang, the capital city of the province, or Jakarta in their headquarters office. Moreover, the local government offices are located in Sekayu, as the capital of this district, which is quite far from the rural site area. This distance forced the researcher to carefully manage limited available financial resources for contacting possible participants.

4.7.3. Research Findings and Generalizability

The qualitative approach used in this study is not intended to provide findings that can universally be generalizable. However, this does not mean this study cannot offer important lessons for similar cases, particularly those on the implementation of CSR legislation. As Yin (2009) argues, the case study does have the ability to support theoretical (if not practical) generalisations, with empirical insights which can extend beyond the cases at hand, especially where these studies employ rich qualitative analysis, as is the case in the present work.

4.7.4. The Limitations of Data Collection

Due to the resistance of participants to be recorded during interview, the researcher relied primarily on field notes. Once the interviews were completed the researcher spent an hour reflecting on the interview and typing as much of the conversations as could be remembered. Follow up discussions were had with all participants. In this situation, I took some notes during the interview - and then allow time immediately afterwards to write these up in some detail while it is still fresh in my mind. So I scheduled time in between interviews to do this, rather than having them too close together. These notes were revisited the same evening, and then the next day to draw further insights into the conversations out of the research. Further, the findings of this thesis were summarized and distributed to participants involved in this research, and no participant expressed a significantly different view to the findings presented in the thesis. As Tracy (2010) suggested that members check is one of requirement to achieve rigor and trustworthiness in qualitative research. Therefore, it encourages the researcher to always recheck the correctness of data collection and sometimes consult with the participants about their statement during the writing of this thesis.
Chapter 5. THE MANDATE OF CSR LEGISTRATION AND LOCAL STAKEHOLDER EXPECTATIONS

5.1. INTRODUCTION

This chapter analyses Indonesian CSR legislation, comprising specific laws, and their associated implementation regulations and decrees. The choice of scope for this analysis follows the suggestions of managers and staff of Oil and Gas companies, the local government officials, the local community members, the SKKMIGAS officials, the NGO activists, and the business association members, who responded as participants in the research, as to what relevant laws their companies must comply with. Furthermore, this chapter also examines how this legislation relates to Oil and Gas companies. Section 5.2 presents a brief description of Indonesia’s regulatory framework for CSR. Section 5.3 examines the CSR mandate, through an analysis of CSR legislation. Section 5.5 discusses local stakeholder expectations of the CSR legislation. Finally, Section 5.6 presents the conclusion of this chapter.

5.2. A DESCRIPTION OF INDONESIA REGULATORY FRAMEWORK OF CSR

This section describes the complete laws, government regulations and ministerial decrees that apply to this study. Subsection 5.2.1 identifies the Indonesia hierarchical legislation system, in order to understand the hierarchical order of Indonesian legislation and under whose authority those rules are made. Subsection 5.2.2 presents the Indonesian legislation framework for CSR. Subsection 5.2.2 presents a reflection on CSR legislation in the Oil and Gas industry.

5.2.1. Indonesia Hierarchical Legislation System

Before commencing an examination of Indonesian CSR legislation, it is important to understand first the Indonesian legislation system, particularly after decentralization, which gave authority to local provincial and district government to make local regulations. The proposals of local government regulations cannot, however, contradict with central state laws and regulations, because Indonesia’s regulatory system adopts a hierarchical approach wherein the lower order (i.e. local government) regulations are not allowed to contradict those from the higher level of (central government) regulation. Therefore, the central government, through the Domestic Affairs Ministry, has the right and authorization to revoke a local regulation, once the regulation is considered to be not in line with that of the central state government. The clear hierarchical order of Indonesia’s regulatory system is illustrated in Figure 5.1.
Figure 5.1. Indonesia Legislation Hierarchical Order

Source: (Rahardjo 2006)

Figure 5.1 presents the Indonesian legislation hierarchical order. It begins from the Constitution of UUD 1945 as the basis of all laws and regulations. All laws, regulations, and ministerial decrees should be in line with this fundamental constitutional basis. The Constitution has been amended four times since the Indonesian reformation era. These amendments were intended to limit the President’s power, due to the experiences of the President Soeharto regime, and capture the demands of local government, in the decentralization process

3 Under the “new order regime”, between 1965-1999, the content of the Constitution (UUD 1945) was never modified, in order to maintain President Soeharto’s power. The old constitution did not mention any limitation of time period for the elected President, meaning as a result that Soeharto could be continually re-elected as President for 32 years. In the reformation era, four amendments to the constitution were made. The first amendment in 1999 was focused on the length of the presidential term upon election, which is now limited to two terms only or a maximum of 10 years. The second amendment, made in 2000, was to regulate the distribution of authority between the central government and local governments at the provincial and district levels. Then in 2001, the constitution was amended for the third time to confirm the authority of President and Vice President in their relations with other state institutions, particularly the
At the central government level, *Undang-Undang* (law) is the highest law in the hierarchical system that the central government can issue. The laws issued by the central government are signed by the President with the approval of the DPR (*Dewan Perwakilan Rakyat* – The House of People’s Representatives) in the Parliament. Draft law may be proposed by central government and then submitted to Parliament in order to be discussed and approved by the legislative. However, the legislative members themselves can initiate a proposal to issue laws. Furthermore, government regulations issued by Presidential and Ministerial decrees are two types of public policy or regulation that can be used by central government to give guidance or direction on how to implement laws. At the local government level, local regulation applies to give local governments in provinces and districts the authority to regulate their own territory by issuing *Perda* (local regulation). Local regulation must gain approval from the *DPRD* (local legislatives), and most importantly, must be in line with Presidential and Ministerial decrees, government regulations and laws issued by the central government.

### 5.2.2. Indonesia’s CSR Legislation

Article 33 of the Constitution, which was amended in 2002, provides a brief justification that all economic sectors aim to create prosperity for the people of Indonesia. However, a study by one national NGO critiqued the implementation of Article 33, claiming that most communities in the resource abundant districts living near mining areas are still living with high levels of poverty (Mumbunan 2013). Furthermore, the study revealed that mining company operations in the village areas are not providing benefits to communities as a result of their ‘rent-seeking’ behaviour. In relation to CSR legislation, all CSR legislation passed by central government and their implementation regulations rest on the power of Article 33 to confirm the central government authority over natural resources in the natural resource areas. By stating that the benefit of natural resources is for the prosperity of the Indonesian people, this article provides a justification for central government to enact CSR legislation aiming its benefit towards local communities living nearby the mining companies’ operations. Figure 5.2 presents a comprehensive description of all laws, government regulations and ministerial decrees.

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legislative powers, constitutional court, and justice court. Finally, further amendments undertaken in 2002 change certain articles on public health and education, which services are now provided under the authority of local district governments. Aside from giving authority to local districts to manage health and elementary and middle levels of the education sector, this final amendment also detailed the authority of local districts to administer natural resources. In relation to Article 33 of *UU D 1945*, the amendment authorized local districts to control mining resources such as coal, sand and rocks. However, as described in Chapter 2, oil and gas resources remain under central government control, justified according to the need to maintain control of essential national energy supply.
Mandated CSR in Indonesia: Institutional and Stakeholder Perspective

Figure 5.2. Indonesia CSR Legislation Framework

**Directly Related to the Company’s Operation**

- Law No. 22/2001 on Oil and Gas: “Oil and Gas companies are obligated to undertake Community Development (CD) for local community”
- Law No. 25/2007 on Investment: “Investor must do CSR to local communities as requirement for their investment”
- Law No. 40/2007 on Limited Liability Company: “The companies related to natural resources are obligated to do CSR to local communities”
- Law No. 19/2003 on State Owned Enterprises: “The obligation to deliver Partnership Program and Environmental Building (PPEB) program for SOC to community”
- Article 33 of UUD 1945 on National Economy
- Government Regulation No. 79/2010 on Cost Recovery “CD cost is included in cost recovery scheme if it is conducted during exploration”
- Environment Ministerial Regulation No. 05/2011 on PROPER (Environmental Performance Assessment Ranking Program) “Performing CSR projects is beyond compliance, so company doing CSR can be categorized as green or gold PROPER”
- State Owned Enterprises Ministerial Decree No.08/MBU/2013 On PPEB “PPEB is funded by 2% of SOC profit to develop communities small and environmental program”

**Indirectly Related**

- Law No. 11/2009 On Social Welfare “Social welfare is also a duty of businesses through CSR”
- Law No. 13/2011 On Poverty “CSR/ CD is a way for business to eradicate poverty”
- Social Ministerial Regulation No.13/2012 on CSR Forum “Local government should establish CSR forum to incorporate businesses to provide social welfare and eradicate poverty”

- Government Regulation No. 47/2012 On Corporate Social Responsibility (CSR):
  - Board of director is a duty bearer of CSR
  - CSR should be funded by companies operational cost, not from portion of profit
The Indonesian CSR legislation begins with Article 33 of Undang-Undang Dasar 1945 (UUD 1945 – Indonesian Constitution) with its statement that the natural resources should provide prosperity to the Indonesian people, which include local communities. From this position, CSR legislation was established. There are four specific CSR laws, mentioned by managers and staff from the three Oil and Gas companies in the present study, that have direct relevance to their companies’ operations, which are: (i) Law No 40/2007 on Limited Liability Company (Government of Republic of Indonesia 2007a), obliging companies related to natural resources to undertake CSR; (ii) Law no 25/2007 on Investment (Government of Republic of Indonesia 2007b), detailing CSR compliance for all investors; (iii) Law No 22/2001 on Oil and Gas (Government of Republic of Indonesia 2001), stating that Community Development (CD) is the obligation of Oil and Gas companies to local communities; and (iv) Law No. 19/2003 on State Owned Companies, which was suggested by participants from the SOC (company C) (Government of Republic of Indonesia 2003), stating the obligation to deliver Partnership Program and Environmental Building (PPEB) (or in Indonesian, PKBL- Program Kemitraan and Bina Lingkungan) programs for State Owned Companies (SOC).

Aside from those laws, other participants from local government and the Corporate Forum for Community Development pointed out two other relevant laws, which are: (v) Law No. 11/2009 on Social Welfare; and (vi) Law No. 13/2011 on Poverty (Government of Republic of Indonesia 2009, 2011).

The present research distinguishes these six laws into two categories. The category of direct laws refers to the laws that have direct influence on companies operations, such as the Oil and Gas Law No. 22/2001, which should be followed by all Oil and Gas companies during their operations, or the Limited Liability Company Law No. 40/2007, which sets rules and requirements for companies registered in Indonesia. The indirect laws, which are Law No. 11/2009 on Social Welfare and Law No. 13/2011 on Poverty, have no direct influence on company operation. Instead, these two laws encourage local governments at district and provincial levels to involve businesses through their CSR efforts to provide social welfare and eradicate poverty. Furthermore, the company participants in this study admitted that they did not concern themselves with these two laws as they are not related to their operations. This suggests that these two indirect laws are symbolic to local government to involve in company CSR, but not to business.

Only five of the six laws have implementation regulations. The Law on Oil and Gas No. 22/2001 does not have relevant regulations for how to implement Community Development in the field; instead, the direction is only provided in Government Regulation No. 79/ 2010 on Cost Recovery, confirming CD projects as part of cost recovery if the cost is expended during the exploration stage
(before exploitation or production). Further CD guidelines are included in SOP No. 17/PTK/III/2005 (BPMIGAS 2005), issued by BPMIGAS (Badan Pelaksana Kegiatan Usaha Hulu Minyak dan Gas - The Regulatory Body for Oil and Gas Upstream Activities) which has changed to now be SKKMIGAS (Satuan Kerja Khusus Pelaksana Kegiatan Usaha Hulu Minya dan Gas – a special Task Force for Upstream Oil and Gas Business Activities), directing CD programs into five areas: health, education, infrastructure, environment and economic empowerment. Law No 40/2007 on Limited Liability Company has an implementation regulation via Government Regulation No. 47/ 2012 on CSR (President of Republic of Indonesia 2012). This implementation regulation directs the board of directors in companies as the main bearer of responsibility with respect to this law; and points out that the funding should be derived from company operational costs instead of company profits. For specific State Owned Companies (SOC) the ministry has set Ministerial Decree No. 08/MBU/2013 on Partnership Program and Environmental Building (or PKBL-Program Kemitraan dan Bina Lingkungan), declaring that PPEB funds are taken from 2 percent of company profits. Under indirect Law No. 11/ 2009 on Social Welfare and Law No. 13/ 2011, the Social Minister passed Regulation No. 13/ 2012 encouraging local governments to establish CSR forums. In addition, participant managers and staff of Oil and Gas companies also pointed out PROPER (Program Penilaian Peringkat Kinerja Perusahaan dalam Pengelolaan Lingkungan Hidup - Environmental Performance Assessment Ranking Program) regulation to the present researcher, a program of the National Environment Minister to rank companies’ performance in maintaining the environment. Through the Environmental Minister’s Regulation No. 5/ 2011, CSR projects conducted by companies are categorized as beyond compliance, giving consideration for the companies to be included in the green or gold categorizations of ranking.

There are four pertinent observations generated from Figure 5.2. Firstly, all laws and their implementation regulations have been issued after 2000, or after the decentralization process was begun. This indicates that the issuance of CSR legislation is a form of response to the local stakeholder pressures and demands on companies for contributions to local development during the decentralization era. Secondly, the legislation applies to companies’ operations in natural resources. This statement on CSR legislation suggests that CSR is a consequence of the increasing claims from locals who have natural resources located in their area. CSR has been seen by central government as a tool to satisfy this claim; however, they still retain control of some natural resources, particularly oil and gas. Thirdly, CSR legislation positions local communities as the main beneficiaries of CSR projects. This means that the objective of CSR is to help local communities where the companies are operating. However, the term ‘local communities’ can be interpreted in various ways across different borders: it can refer to local communities in the villages, districts or
provinces where company operations are located. In this manner, local district governments may
direct companies to deliver their CSR to other villages outside of the companies’ areas of operation
given it is beneficial to local communities of the district; or the local provincial government may
direct company CSR to be delivered to a district outside the company’s district area, considering
the welfare of the local community’s province area. Fourthly, Figure 5.2 also highlights that no
regulations issued by local government have actually been approved. According to a local district
government participant, the local district government of Musi Banyuasin, where the present
research took place, had attempted to issue local regulations, Perda (Peraturan Daerah), for CSR in
the area. However, the Ministry of Domestic Affairs eventually dismissed the regulation drafts,
although the district legislative authority had approved the regulation.

“… My team and I have drafted perda of CSR. This was supported by DPRD (the local
legislative members). But the Ministry of Domestic Affairs rejected the perda. They
worried this perda would make difficulties to investors”  (Go.1)

This case is similar to that of other CSR regulations issued by other local district governments. The
reason for these cancellations is in the main because the central government is afraid such
regulation may harm the business climate in the district, and this may impact the national business
situation (Karina 2011). According to a study conducted by SMERU, an Indonesian NGO, these
local CSR regulations began to treat companies’ CSR as a source of donations, corrupting district
chiefs and burdening the businesses involved. This provoked the central government to dissolve
Perdas, which was thus seen to have become detrimental to Indonesia’s business climate (Bachtiar
2009). Thus, while on one hand, the exercise of central government power is generally
discouraged in this decentralization era, this case highlights how central government can overrule
local authorities by justifying how one local regulation is not in line with the central government
rules.

5.2.3. CSR Legislation in Oil and Gas Industry

There are three terms introduced by the CSR legislation presented in Figure 5.2 above, for
explaining CSR: (i) CSR (Corporate Social Responsibility), which is mentioned in Law No 40/ 2007 on
and Law No. 13/2001 on Poverty; (ii) Community Development (CD), which is stated in Law No.
22/2001 on Oil and Gas; and (iii) PPEB (Partnership Program and Environmental Building, or PKBL –
Program Kemitraan dan Bina Lingkungan), which is directed by Law No.19/2003 on State Owned
Enterprises.
In relation to these various terms of social responsibility, each participant from three different companies related their specific social responsibilities regarding certain laws and regulations that relate to their companies. Participants from Company A, a private Indonesian Owned Company (IOC), stated that the company must carry out CD and CSR activities in accordance with the country’s Oil and Gas Law No. 22/2001, the Limited Liability Company Law No. 40/2007 and the Investment Law No 40/2007. Participants from Company B, a foreign owned company (FOC), are undertaking CD as stated in Oil and Gas Law No 22/2001 and CSR as in Investment Law No 25/2007. They do not undertake CSR as espoused in Limited Liability Company Law No 40/2007, arguing that the company registration is not in Indonesia, making the Limited Liability Company Law not applicable to their company. Participants from Company C, a State Owned Company (SOC), acknowledged that they are bonded by all laws and regulations and must implement three forms of social responsibility mentioned in the laws, which are CD, PPEB, and CSR.

This differing terminology also affects how companies fund the various CSR projects referred to by these terms. CSR projects suggest the cost should be taken from the operational cost of the company, not from the profit. This gives the implication that companies should budget CSR annually, regardless of whether or not they are getting profits. CD projects, as stated in the Oil and Gas Law, can be funded by companies’ operational cost and government expenditure through a cost recovery scheme, if the CD was delivered during the exploration stage (before production). The cost for PPEB projects by a State Owned Oil and Gas company are derived from 2 percent of the company’s profits. This arrangement results in the company CSR strategy in the diversifying the CSR cost, which can be taken from operational cost, government expenditure trough cost recovery scheme, or their profit (particularly for State Owned Companies).

Table 5.1 below describes the forms of CSR and their sources of funding in the Oil and Gas industry. Community Development (CD) projects, as outlined by Law No. 22/2001 on Oil and Gas, can be distinguished into two types: those at the exploration stage, where the company is still looking for the resources; and those at the exploitation stage, where the company has begun production. At the exploration stage, CD aims to assist the company to settle their operation in the midst of local communities in Indonesia. In this stage, the government allows CD as a Social Program for Supporting Operation (SPSO) within a cost recovery scheme, meaning that the cost of the project can be shared with the government. This is part of the agreement in the production sharing contract (PSC) between company and government, which states that “the contractors (the Oil and Gas Company) will receive back their operational cost to produce oil and gas”. The phrase “will receive back” is defined as cost recovery (Partowidagdo 2008). At the exploration stage (before
production) for oil mining, the proportion of government expenditure in a CD project is 85 percent, while the remaining 15 percent of cost comes from the company. In gas mining exploration, the proportion of government expenditure is 70 percent, while companies spend 30 percent of CD project costs. At the exploitation stage (production), all CD cost is imposed on the company. Corporate Social Responsibility (CSR), as stated by the Limited Liability Company Law No 40/2007 and the Investment Law No 25/2007, directs all spending on CSR projects to be covered by the company. Furthermore, the Partnership Program and Environmental (PPEB) program is a specific obligation for a State Owned Oil and Gas company. It is stated in the State Owned Enterprises laws that all costs of PPEB are to be taken from 2 percent of company profits.

<table>
<thead>
<tr>
<th>Source of Funding</th>
<th>Community Development (CD)</th>
<th>Corporate Social Responsibility (CSR)</th>
<th>Partnership Program and Environmental Building (PPEB)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Law</td>
<td>• Law No 22/2001 on Oil and Gas</td>
<td>• Law No 40/ 2007 on Limited Liability Company • Law No 25/2007 on Investment</td>
<td>• Law No 19/2003 on State Owned Companies</td>
</tr>
<tr>
<td>Exploration Stage (cost recovery scheme): Oil Mining:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• 85 percent government</td>
<td>• All spending is taken from Companies Operational Cost, budgeted annually</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• 15 percent companies Gas Mining:</td>
<td></td>
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<tr>
<td></td>
<td>• 70 percent government</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>• 30 percent companies Exploitation Stage (Production): All spending is covered by companies operational cost</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>• The spending is taken from 2 percent of total SOC previous year profit</td>
</tr>
</tbody>
</table>

Table 5.1. The Forms of CSR and their Sources of Funding in Oil and Gas Industry

The main problem with these categorizations of CSR for the Oil and Gas industry is regarding the inclusion of CD as cost recovery in the exploration stage. Before 2008, the government had included all CDs, regardless of whether the project was at exploration or exploitation stage, under the cost recovery scheme. The cost recovery scheme was designed to recover the Oil and Gas companies’ exploration, development, production costs and expenses, from the share of production (Ashong 2014). In the current Production Sharing Contract (PSC) agreement, the Indonesian government sets the ceiling of cost recovery to be allocated for Community
Development (CD) at 85 percent for oil mining and 70 percent for gas mining, when the mining operation is still under exploration stage (before production). A grievance regarding this cost recovery scheme is related to how companies calculate the operating cost, development cost and exploration cost. This has been much debated, as the cost recovery amounts demanded by companies reached around USD 18 billion per year (Yudhistira 2014). This huge amount significantly decreases the government revenue in Oil and Gas, which instead goes to companies to disburse their operational cost. The decision to include CD as part of cost recovery is argued against by practitioners in the field of Indonesian CSR, as they feel CD should not be part of cost recovery (Christina 2012; Partowidagdo 2008; Prasetijo 2012). The company could use cost recovery to CD to increase their own reputation; whilst they were likely to try to minimize the cost of CSR by putting CD in a cost recovery scheme in order to share the cost with government.

Although the legislation distinguishes various terms of social responsibility of the companies, the local stakeholders from local communities and local governments tend to use the term CSR as a common term across all such laws. The distinction in terms is only applicable to companies to show from which funds the CSR activities are to be financed. A report by the Corporate Forum for Community Development (CFCD), a leading company forum concerning CSR, confirmed that the differences between CD, PPEB, and CSR are only in the technical aspects of the programs, particularly their respective sources of funding (Firdian 2012). In addition, according to Environmental Ministerial Law No. 05/2011 on PROPER regulations, the assessment of CSR activities of companies does not depend on the categorizations of CD, PPEB, or CSR. Moreover, those three social responsibilities of Oil and Gas companies are assessed by the ministry under the single umbrella of CSR activity, which assessment may benefit the company to gain a green or gold label as the highest rank of PROPER. In this set of regulations, CSR is viewed as a “beyond compliance activity” (Ministry of Environment 2011).

5.3. ANALYSIS OF CSR LEGISLATION

The complex CSR legislative landscape raises the question of what is the intended mandate of this legislation for companies. Aside from the differentiation in terms used to describe their social responsibilities in the various laws, it is important to understand the principle mandate that should be complied with by the companies. Table 5.1 below is used to examine the various CSR laws and implementation regulations and decrees in order to identify similarities and/or the differences in the messages of the legislation, and thus enable us to identify the central intention of the mandate of CSR legislation.
Table 5.2. Laws, Mandate, Mechanism of Implementation and Sanctions

<table>
<thead>
<tr>
<th>Law</th>
<th>Mandate to Businesses</th>
<th>Mechanism of Implementation</th>
<th>Sanctions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Law No 22/2001 – Oil and Gas</td>
<td>• Oil and Gas Companies have a responsibility to develop environment and local community (Article 40)</td>
<td>Government Regulation No. 79/2010 • CD Program obtain approval from BPMIGAS (now SKKMIGAS) • The CD program is part of cost recovery, if the program is conducted during exploration.</td>
<td>• Not specified</td>
</tr>
<tr>
<td>Law No. 19/2003 – State Owned Enterprises (SOE)</td>
<td>• Beneficiaries are the small entrepreneur, cooperative, and community (Article 2) • Program is developed under PPEB (Per-05/MBU/2007)</td>
<td>State Owned Enterprises Ministerial Decree no. 05/MBU/2007 • Programs are managed by unit under board of directors • Funding for PPEB is taken from 2 percent of SOC net profit. • Program should be approved by shareholders (central government)</td>
<td>• Not Specified</td>
</tr>
<tr>
<td>Law No. 25/2007 – Investment</td>
<td>• Every investor must perform CSR and respect the community cultural tradition around the operation (Article 15)</td>
<td>• Not specified</td>
<td>• Administrative sanctions (article 16).</td>
</tr>
<tr>
<td>Law No. 40/2007 – Limited Liability Company</td>
<td>• CSR is the obligation of company conducting its business related to natural resources (Article 74) • CSR must be budgeted in the company’s cost (Article 74)</td>
<td>Government Regulation No 47/2012 • The obligation is on board of directors to make CSR annual plan • Annual work plan should contain activities and budget of CSR (Government Regulation No 47/2012).</td>
<td>• Sanctions will be given according to the related laws (Article 74) • Not specified which are the related laws</td>
</tr>
<tr>
<td>Law No. 11/2009 – Social Welfare</td>
<td>• Role of business in social welfare is in their CSR (Article 40) • CSR funds for social welfare are a form of business obligation to their social and environment (Article 36)</td>
<td>Social Ministerial Regulation No. 13/2012 • CSR forum should be established at national and provincial levels to integrate all businesses in CSR</td>
<td>• Not specified</td>
</tr>
<tr>
<td>Law No. 13/2011 – Poverty</td>
<td>• Business role in alleviating poverty is to provide funds in form of CSR to the poor (article 41)</td>
<td>• Not specified</td>
<td>• Not specified</td>
</tr>
</tbody>
</table>
Table 5.1 shows important aspects of the six laws and their relevant regulations and decrees identified in this study, which are Law No. 22/2001 on Oil and Gas, Law No. 19/2003 on State Owned Companies, Law No. 25/2007 on Investment, Law No. 40/ 2007 on Limited Liability Company, Law No. 11/2009 on Social Welfare, and Law No. 13/2011 on Poverty. In order to find the main mandate of all these various laws, this section categorizes three aspects of the laws that can describe succinctly the content of the laws: the mandate to business; mechanism of implementation; and sanctions. Using document analysis, the six laws and their implementation regulations have been analysed to categorise them within these three aspects. The three aspects are discussed in three subsections: Subsection 5.3.1 discusses the mandate to business; Subsection 5.3.2 discusses the mechanism of implementation; and Subsection 5.3.3 reveals the sanctions. In addition, Subsection 5.3.4 presents a discussion of the power and interest behind CSR legislation drafting process, particularly Law No. 40/2007, which have influenced the definition of CSR in Indonesia.

5.3.1. Mandate to Business

Table 5.2, in the mandate to business column, shows the form of CSR activities and their targets stated in the six laws. Law No.22/2001 on Oil and Gas mandates Oil and Gas companies to develop the local communities and environment, whilst Law No. 19/2003 on SOC also aims for local community development by specifically targeting small community businesses as beneficiaries. Law No. 25/2007 on Investment stipulates the obligation of investors to implement CSR and respect the local traditions. Law No. 40/2007 on Limited Liability Company states that the related natural resource companies budget CSR for local communities annually. Law No 11/2009 on Social Welfare and Law No. 13/2011 on Poverty similarly mandate businesses to take on a role in social welfare and poverty eradication through CSR.

It is evident from the six laws that the intended beneficiaries of CSR are local communities and their environment. However, the definition of ‘local communities’ is not specified in those laws, whether it is directed to the community in the village, sub district, district, or provincial level. For instance, the provincial government in the present study demanded CSR projects from an Oil and Gas company during a big sports event (the Asian Games), to build sport infrastructure in South Sumatera, by claiming it is for the people in the province. However, although the sport infrastructure projects developed are located in the city urban area, far from the company’s location of operations in the rural area, the company claimed this demand had been fulfilled. The specific mandate of social duty to local communities and their environment is presented only in Law No. 19/2003 on SOC and their implementation regulations aimed at small and medium sized
enterprises (SMEs), *koperasi* (cooperative) organizations and local community businesses. Furthermore, the social duty of businesses is made very broad in Social Welfare Law No. 11/2009 and Poverty Law No. 3/2011, by positioning businesses in their CSR to contribute to improving social welfare and poverty eradication. The other laws and their implementation regulations are not clear in defining what kind of CSR should be conducted by companies. This means that the CSR activities that are undertaken by companies may vary, so that contributing to a charity in the local communities by giving a cow for celebrating ‘*sedekah kampung*’ (a village celebration) is considered as CSR, although this donation is not strictly in line with the goal of CSR laws to develop local communities.

Another issue arising with this theme is the clear obligation for companies to spend their money or resources for CSR activities. CSR projects in Law No. 40/2007 on Limited Liability Company and Law No. 25/2007 on Investment are derived from the annual budget of companies’ operational cost. PPEB projects in Law No 19/2003 on State Owned Companies are financed by two percent of a company’s net profit. CD projects in Law No 22/2001 on Oil and Gas are funded by companies or by cost sharing with the government if the projects are under the exploration stage. The focus of CSR laws on the distribution of funds in CSR explicitly shows that the role of businesses in CSR is actually to provide funds or wealth to local communities. Apart from the businesses’ contribution in their investment to the country, job creation and tax revenue to the government, the businesses’ CSR is assumed as part of companies’ contributions to local communities. This implies that the main mandate of CSR in the six laws and their implementation regulations is essentially to distribute a share of companies’ wealth to local communities.

5.3.2. **Mechanisms of Implementation**

Table 5.2, in the mechanism of implementation column, shows to whom companies should report in conducting CSR, CD or PPEB projects to local communities. Law No. 22/2001 on Oil and Gas states that the CD program of Oil and Gas companies should be reported regularly to central government through SKKMIGAS (*Satuan Kerja Khusus Pelaksana Kegiatan Usaha Hulu Minyak Dan Gas Bumi* - Special Task Force for Upstream Oil and Gas Business Activities; before 2012 it was BPMIGAS). Two types of CD project - government shared through cost recovery or fully funded by company - are required to gain approval from SKKMIGAS. Law No. 19/2003 on SOC has a detailed mechanism for implementation, establishing a unit under a director to handle PPEB matters. The director of SOC is the person appointed by the commissioners or the central government representative. The director must report on all companies’ activities, including PPEB
funds and projects, to these commissioners. Law No. 25/2007 on Investment, however, does not have implementation regulations, making the law unclear in terms of how to implement the law. Law No. 40/2007 on Limited Liability Company, through its implementation regulation No. 47/2012, points out that the responsibility for a company’s CSR duties is borne by the directors of the company. Instead of obligating companies to report to government, the law suggests that the directors of private companies, as the duty bearers, must give an annual plan and report all their CSR activities to the companies’ commissioners in a shareholders meeting. Law No. 11/2009, through Social Minister Regulation No. 13/2012, states that the local government, through provincial government, should establish a CSR forum to build coordination with CSR projects.

As stated earlier, the main aim of mandatory CSR legislation is to distribute companies’ wealth to local communities, meaning locals are the main beneficiaries of CSR projects. However, none of the CSR legislation obliges companies to report to local government officials such as kades (the head of village), camat (head of subdistrict), bupati (head of district) and/or governor as the head of province. The one piece of regulation mentioning the local government role in CSR is Social Ministerial Regulation No. 13/ 2012, by encouraging local provincial government to establish a CSR forum to coordinate, facilitate and synergize the efforts of businesses and local actors such as universities and social organizations to implement CSR programs. Despite obliging companies to get approval from local government who hold authority over local developments, companies are encouraged in various laws to report to central government. For instance, in CD projects, it is obvious that with SKKMIGAS as the regulatory unit for upstream Oil and Gas under the Ministry of Energy and Mineral Resources, its authority of approval is the main instrument for central government to control CD projects in local areas. PPEB projects by a state owned company is a similar case, where approval from shareholders, who are mainly from the Ministry of State Owned Companies, is essential for companies in conducting certain PPEB projects. CSR projects in Law No. 40/2007 on Limited Liability Company, which applies for private natural resource companies, mandate that companies must report to their shareholders. This law is more well-known than any other CSR laws, and the local governments usually point to this law to push companies operating in the districts to report their CSR. However, the law does not require the private natural resource companies to report to government at national and local levels.
In the case of the Oil and Gas industry, the private Oil and Gas companies may combine CSR in the Law No. 40/2007 with CD projects in the Law No. 22/2001 on Oil and Gas. This particularly applies to CD projects in the exploration stage, which are funded out of companies’ operational cost, similar to CSR projects in their sources of funding. In this manner, the obligation of CSR in Law No. 40/2007 may be replaced by CD projects. The obligation of these private Oil and Gas companies to consult with and report their CD projects to SKKMIGAS makes it difficult for local government to direct Oil and Gas companies in the area to report to them on their CD projects.

One participant from the local district government of Musi Banyuasin highlighted the difficulties in getting companies’ CSR reports, possibly leading to a ‘double budget’ on a project:

“Every year through the CSR forum, we always ask companies, including Oil and Gas companies, to give reports on what they did this year and their plans next year for CSR. But it is always hard for Oil and Gas companies to do that. We only need to know what kind of projects they want to do next year, so we don’t create a ‘double budget’ on one project... we do not ask how much money they want to give to our district, we only need to know what project... But they always avoid giving it by justifying that they already gave the plans to SKKMIGAS in Jakarta; while we need to make annual development planning every December... So one time I told them... just give those CSR projects to Jakarta, we can still afford to develop our area...” (Go.1)

The CSR forum has been established by local district government to build coordination between local development agendas and companies’ CSR projects. They hold regular meetings once a year between October and November, considering the development planning for the next year must be finished and submitted to central government in December. The main objective of local government in the forum is to get information from companies on ‘what they did this year’ and ‘what they want to do next year’. However, the Oil and Gas companies need to get prior approval from SKKMIGAS in December before they can tell the local government ‘what they want to do next year’. This creates a complicated situation for local district governments in making local development planning. The participant quoted above expressed the need to avoid a ‘double budget’ project, where district government could not expend their allocated budget for one project because the company also had a similar project. The expression of the local government officer in the statement ‘just give those projects to Jakarta’ reflects his frustration at the prioritization of companies to report to central government exclusively.

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4 Double budget refers to a condition where one project has been budgeted by both government’s and company’s CSR. This condition causes either government or company to cancel the implementation of projects to avoid the corruption risks.
Decentralization gave local district government autonomy to manage and administer local development in the area, and CSR is the main contribution by businesses to local development. However, the mechanisms set by CSR legislation emphasises central government authority, rather than that of the local governments who have authorization over local development planning. As a result, although CSR is intended to be directed to the benefit of local communities, by emphasising reporting to central government the agendas and priorities of local government are in fact frustrated. For the Oil and Gas industry, the dominant role of central government is obvious through the approval requirement from SKKMIGAS, which needs to be obtained by Oil and Gas companies before delivering their projects.

5.3.3. The Sanctions

The legal sanctions that apply to companies who fail to implement CSR programs are rather ambiguous in the CSR legislation. Table 5.2 above indicates only two laws stating legal sanctions. Law No. 25/2007 on Investment sets out administrative sanctions in the form of written warning from central government, limitation of business activities, freezing of investment activities or the revocation of investment permits. However, these sanctions apply to investors who fail to comply with all requirements stated in the Law of Investment, including CSR activities. This means that the sanctions are not specifically set to punish businesses that are not conducting CSR. The Law No. 40/2007 on Limited Liability Company also provides sanctions for companies that are not conducting CSR. However, the sanctions are not detailed, but only state that ‘sanctions will be given in accordance with related laws’. This statement is ambiguous, as the law provides no further explanation and no other CSR legislation refers to sanctions for non-compliance.

Furthermore, a participant in the present study from an NGO stated that the country has a lack of experience in punishing companies. Moreover, in terms of CSR, he further argued that the legislation is not able to punish businesses:

“There is no experience of the application of such sanction to the company not conducting CSR. In fact, in this country, it is very rare to see the company being penalized for their bad attitudes. And one more thing, if the company has been charged, I think they can avoid it using their money and power”. (NG.1)

This weak enforcement of CSR legislation has made local NGOs pessimistic about businesses being sanctioned if they are not compliant with the laws. The country’s environment, where the corruption of law enforcers such as police, judges and prosecutors is present, leads to the lack of
implementation of these laws because money can buy off the law enforcers, and businesses have financial and political power in this respect (Husni 2009). In addition, difficulties in applying sanctions for CSR non-compliance may also derive from the lack of indicators measuring CSR performance. CSR legislation focuses only on budgeting and planning, with a lack of emphasis on assessing the benefits of programs to local communities. This means that as long as the company provides a budget and plans for CSR, it is in compliance with the laws.

Given this finding, whilst symbolically the CSR legislation seems to apply a hard approach, in practice the Indonesian CSR legislation is not as severe as it looks. The hard CSR rules discussed in Chapter 3 apply to the government approach to CSR in forcing companies to conduct CSR through giving penalties or punishments to the companies if they do not perform CSR. In the case of Indonesia’s CSR laws, it is evident that the government issued the laws to rule companies regarding CSR. However, the lack of sanctions through clear penalties in the legislation weakens the enforcement of these laws. In addition, the weak law enforcement culture in Indonesia may contribute to the lack of implementation of these CSR laws, impeding the goal of the laws to improve the lives of local people, and bringing into question how serious the central government is about this goal.

5.3.4. Power and Interest behind CSR Legislation Drafting Process

The issuance of CSR legislation, particularly two controversial CSR laws, which are Law No. 40/2007 on Limited Liability Company and Law No. 25/2007 on Investment, cannot be separated from political power intervention and the vested interests behind the legislation. Other CSR legislation, for Oil and Gas Law No. 22/2001 and SOC Law No. 19/2003, were issued before 2007, when CSR issues did not attract political power. The enactment of Law No 40/2007 on Limited Liability Company and Law No 25/2007 on Investment, which apply to all natural resource companies, subsequently attracted many interested groups to become involved in the policy making process and influence the content of these laws. Certain interested political parties may have shaped the CSR policies by exploiting the respective abilities of various figures and organizations involved in the policy making process (Lesmana 2007; Mulkhan & Pratama 2013; Rosser & Edwin 2010). It is noted in this respect that the discussion to define CSR in the legislation took two years to be approved. It began in 2005 with the submission of a new draft from Government to Parliament, to update Law No. 1/1995 on Limited Liability Company. The early 2005 draft did not include CSR issues as part of the requirement for a Limited Liability Company. The process of public hearings with communities and NGOs then drew political attention to the absence of CSR in the draft. Subsequent to that, the discussion of mandatory or
Mandated CSR in Indonesia: Institutional and Stakeholder Perspective

voluntary CSR escalated between various actors in business organizations, local communities with their NGO allies, and legislative assembly and government.

Business organizations proposed the voluntary approach to CSR during the drafting process, particularly for Limited Liability Company Law No. 40/2007. Representatives, which included members of IBL (Indonesia Business Link), APIINDO (the Indonesian Employers Association) and KADIN (Indonesian Chambers of Commerce), offered three arguments for why mandatory requirements for CSR may be problematic: (i) in addition to forcing companies to allocate a portion of their revenue for CSR that would otherwise be distributed to shareholders or be reinvested in the business, this requirement would effectively amount to additional taxes on the companies’ profits; (ii) this mandatory stipulation would create opportunities for government officials and politicians to demand bribes from companies, in that they could demand companies fund projects to their constituents in order to maintain their power; and (iii) such requirements might burden companies financially and thereby trigger the flight of capital from Indonesia (Indonesia Business Link 2007; Kiroyan 2007).

The business group plays an important role in providing investment in the national economy and provides structural power to the business lobby. Business tried to use this position to alarm the public that mandatory CSR could prompt capital flight from Indonesia. Furthermore, this group was able to exploit their connections with senior political figures. Indonesia’s business leaders have enjoyed a long, close relationship with government officials in order to secure access to subsidized credit, import licenses and other forms of state largesse (Leuz & Oberholzer-Gee 2006). Hence, Indonesia’s prominent business figures have played an important role in the government and political parties after the collapse of the new order regime, including former Vice President Jusuf Kalla and President Yuhoyono’s Coordinating Minister of People’s Welfare, Aburizal Bakrie, which together formed the head of the Golkar Party. Jusuf Kalla and Aburizal Bakrie were influential figures from politics that assisted the business group in influencing the drafting of the two controversial CSR laws. The power these representatives yielded was crucial in making the CSR provisions in Law No. 40/2007 more amenable to their collective interests in the lead-up to the regulation’s acceptance by Parliament, and in shaping both the content and timing of the laws on implementation, as related to Article 74 (Rosser & Edwin 2010).

Local communities were primarily represented by the NGO Business Watch Indonesian (BWI) that is actively involved in monitoring business practices. This group argued that a mandatory approach to CSR was required for Indonesia to make the companies more accountable for their
negative social and environmental impacts. They believed that many companies operating in Indonesia had a lack of concern over issues such as environmental impact, occupational health and safety for workers and community development, and rarely took actions to ensure that their operations do not harm their employees and the local community. In this regard, businesses often fail to compensate affected individuals for their harmful activities (Mumbunan 2013). According to Rosser and Edwin (2010), this NGO proposed the identification of those who should be held liable for any negative externalities produced by corporate activities. Their support for the mandatory approach became evident as such externalities involved the local community and workers, while the companies involved attempted to maximize their profits.

In terms of power, the NGO group is the weakest, with limited resources and powers to influence the policy making process. This group also lacks connections to the central government and legislative assembly, reflecting the poor relationship the group has with Indonesia’s major political parties and its leaders. The group is heavily involved in public debates, lobbying activities, public demonstrations and efforts to improve policies. Most protests come from members of local communities who have felt victimized by companies’ damaging environmental and social impacts. These cases have inspired this group (NGOs) to demand a mandatory CSR approach in Indonesia’s laws.

The legislative members in Parliament and Government at national and local levels are the group that directly drafted the law. Rosser and Edwin (2010) indicate that inside this group there are “predatory elements”, referring to political and bureaucratic figures both national and local who wish to exploit CSR for their own interests. This group generally supported the mandatory approach to CSR, but for different reasons to those held by NGOs and the local communities. In the public debates, this group often supported the NGO argument that a mandatory approach is necessary to ensure that the big foreign and domestic companies act responsibly. But in reality, the real interest of this group is in how to use the companies’ wealth in CSR for the needs of political parties and bureaucratic officials, the predominantly *prihumi* (indigenous Indonesian) businesses that have links with the political powers, and the individuals and organizations that support their networks. Channelling CSR project contributions to those specific groups could assist them to maintain their political power in the region and their chances of re-election (Rosser & Edwin 2010). The rising support for mandatory CSR inclusion in legislation is also related to the gas mining activities of Aburizal Bakrie’s (a head of the Golkar political party) company, which caused a massive mud flow disaster in Sidoarjo, East Java. The mud flow damaged buildings, schools and farmland in a number of neighbouring villages and displaced thousands of people.
from their homes, the effects of which are still being felt (Muhtada 2008; Schiller, Lucas & Sulistiyanto 2008). The widespread parliamentary support for mandatory CSR may reflect the parliament’s desire to embarrass Bakrie and the Golkar party in the leadup to the 2009 Parliamentary and Presidential elections, by underlining this case as an example of the lack of social responsibility of Bakrie’s company. In fact, As Rosser and Edwin (2010) noted, before the Sidoarjo mud flow occurred in 2006, only one Islamic party faction, PKB (Partai Kebangkitan Bangsa-National Awakening Party), supported mandatory CSR, due to their interests in generating CSR funds to support pesantren (Islamic schools) as their political basis. These short-term electoral considerations then had been one factor attracting other parties to support the mandatory approach to drafting CSR law.

The predatory behaviour in the legislative house and government in supporting mandatory CSR can be seen from their primarily focus on the amount or the proportion of company revenues that should be set aside for CSR. The issue of how much the company should be required to spend on CSR was the main agenda of parliamentary discussion of this law. However, predatory elements in the parliament did not completely get their way, with their ambition being constrained by the Indonesian business group’s influence (Rosser & Edwin 2010). The first proposal submitted by PKB (Partai Kebangkitan Bangsa - the National Awakening Party) directed that the companies set aside five per cent of their profits for CSR activities. However, a Golkar party member expressed concern that five percent was too high, that it would discourage investment if it was introduced. Finally, the committee agreed to issue the new law with a simple requirement for CSR to set aside ‘a proportion of their profits’ (sebagian laba). They hoped the implementation regulation, in the form of Peraturan Pemerintah (or Government Regulation), would specify how much the portion should be, although the issued regulation, as explained earlier, does not mention a definitive portion.

Within the national government, their interest to control CSR funds began right after the law was issued. In late May 2007, the Minister of Social Affairs, Bachtiar Chamsyah, gave his response to this law by stating to the press that CSR funds should not be under control of regional governments because they would misuse the money, implying that they should flow instead to the central government (Fadillah 2007). In addition, the minister argued that 3 to 4 percent of company profits set aside for CSR activities was ‘ideal’ (KOMPAS 2007). Rosser and Edwin (2010) even noted the tension between the Ministry of Social Affairs and the Coordinating Ministry for Social Welfare to control the CSR funds, with the Ministry of Social Affairs arguing that CSR best fitted under its area of responsibility.
The economic and political power held by the dominant business group had a victory in influencing the Limited Liability Company Law. The fact that a ‘voluntary element of CSR’ prevailed in this ‘mandatory law’ can be seen from the absence of sanctions for companies not conducting CSR, making the law unenforceable. Hence, the lack of specific proportion that companies be required to set aside suggests that businesses tried to limit government involvement in managing their CSR funds. Amending the laws to add sanctions is difficult to achieve, given the country’s fractured political party structure; that is, the presence of many different parties in Parliament and the fact that none of them controls a majority of votes. This means that legislation can only be amended after lengthy processes of coalition-building and ‘horse-trading’ among the legislative members. The business group tried to eliminate Article 74 of CSR legislation through an appeal to the Constitutional Court in December 2008. Their representative in the Chambers of Commerce and Industry (KADIN), the Indonesian Young Entrepreneurs Association (HIPMI), and the Indonesian Women’s Business Association (IWAPI) argued that the article caused legal uncertainty and was discriminatory to natural resource companies (Rosser & Edwin 2010). The appeal from this group to the Constitutional Court proved unsuccessful, in April 2009, with the Court ruling that Article 74 was constitutional.

5.4. LOCAL STAKEHOLDER EXPECTATIONS OF CSR LEGISLATION

According to Duncan (2007), decentralization acknowledged local government authority and local community aspirations, which were ignored during the 35 years of the Soeharto regime. The issuance of CSR legislation by central government is a response to local requests for companies’ contribution to local life. As discussed earlier, although it is evident in the legislation that CSR should be directed to and benefit local communities, none of those laws advises companies to report to local authorities. Indeed, each law states which state ministry or body in central government is authorized to control this company social activity. The control by central government of the CSR of the Oil and Gas industry is apparent because of its position supporting central state government fuel subsidy policy. Yet the responses of local community and local government toward CSR legislation is important, as they are the main beneficiaries of the legislation. What they perceive in the legislation constructs the local environment for companies in complying with the legislation. Subsection 5.4.1 below outlines local district government responses; whilst Subsection 5.4.2 discusses local community and NGO perspectives.
5.4.1. Local District Government

CSR resources distributed to local communities may assist and support local government to implement their development agendas. Despite supporting the legislation, a local district government official criticised the CSR legislation for not being enforced for companies in his district:

“These are the ‘banci (sissy) legislation’. The companies operating in this district are still not helping our people, and we cannot do anything to punish them because the laws are lacking sanctions... We have even tried to draft *perda* (District Regulation) on CSR and include the sanctions, but it was rejected by the home affairs ministry in Jakarta. They thought we were trying to scare business, but they didn’t think what the company had done to our people” (Go.2)

Another local government official also expressed a critical perception of CSR legislation because the legislation does not give power to them to control companies’ CSR:

“...The laws have not given us power to control companies’ CSR projects” (Go.3)

There are two important points to be made from these responses to CSR legislation. Firstly, the statement of ‘banci legislation’, referring to CSR legislation, indicates that the legislation cannot be utilized by local government to push companies in the area to perform CSR. *Banci* is a common term to identify a man acting like woman (i.e. without male power). It has negative connotations, as *banci* is still not accepted by the culture of these male-dominant communities. Referring to CSR legislation as *banci* regulation means the legislation lack clarity in their power to force companies, similar to the meaning of *banci* of ‘indeterminate gender’ in the culture. The lack of sanctions and the reduction of local government’s role in CSR legislation result in this notion, representing the local government’s disappointment with CSR legislation. Secondly, the statement also obviously shows the resentment of a local government official towards the central government constraint on their power to control company CSR. Their initiative to build local regulations in order to add power to CSR laws had been cancelled by central government, with the reason that it may harm the business environment. The central government decision to revoke local regulation of CSR is viewed negatively by district governments by reference to prevailing company attitudes that result in negative consequences for their local communities.

*Perda* (local regulations) designed to sanction companies not conducting CSR failed due to central government restrictions. Therefore, the establishment of a CSR forum is another way for local government to become involved in company CSR. The CSR forum encourages all companies in the area to be a member of the forum. There are no sanctions if companies do not want to be
involved in the forum, however local government offers CSR awards annually and consultation staff to discuss local development programs with company members. One local government participant explained the function of the CSR forum:

“We established the CSR forum in order to assist the companies to synchronize their programs with our development agendas... We provide staff in the CSR forum to discuss local development programs with company CSR. We also evaluate their CSR performance with CSR awards from our bupati (head of district)” (Go.1)

Another local district government officer added this statement:

“This forum helps us to know what they want to do and how much money they will spend for CSR...” (Go.3)

The CSR forum in the Musi Banyuasin district was established in 2007 through a project funded by the EU and UNDP, in which the present researcher was involved. The project aimed to place CSR as part of development agendas, and to build consultation between district government and companies. The failure to have power to issue perda (local regulation) on CSR led local government to establish the CSR forum as a tool to involve companies in local development. Rather than forcing companies to do certain projects, as drafted in local regulations, the forum took an encouraging approach. Companies were initially reluctant to join this CSR forum; however, as stated in the legislation, they are required to consult with local government in delivering their CSR projects. The CSR forum has been established with an agreement in the Memorandum of Understanding (MoU) signed by bupati and all companies in the area. Then, the agreement is operationalized by SK (Surat Keputusan – Decree) from the Bupati (head of district) to appoint the government staff and each company representative to be membered in the forum. The agreement in the MoU reflects more on ‘what the local government want’ rather than ‘what the companies want’. For instance, there is an obligation of company representatives to report the projects to government staff in the CSR forum, rather than explaining what benefits the CSR forum can give to the companies.

The attraction of CSR to be included in development agendas as an alternative source of funding for development in the area derived from the flexibility of CSR funds. Local government can categorize CSR funds as a third-party contribution which does not need to be stated in the APBD (Anggaran Pendapatan Belanja Daerah – District Revenue and Expenditure Statement). However, this flexibility of funds also attracts the ‘little kings’ interests. This term, ‘little kings’, refers to local government officials, local legislative groups and kades (the head of village), who may be similar to the ‘predatory element’ discussed earlier at the state level. Therefore,
company contributions in the form of CSR may be directed by ‘little kings’ to attain their self-benefit. A local government officer highlighted the attraction of these ‘little kings’ to CSR resources, by pointing out the risks of his position in the CSR forum:

“So many people think I got a lot of money from this forum... They want to replace me from this position...” (Go.2)

The position as administrator of the forum allows the officer to have contact with the companies’ members. This attracts some officials in government office to be in this position so as to impose their self-interest on companies. This behaviour is similar to the ‘predatory elements’ of CSR mentioned by Rosser and Edwin (2010). They discovered these elements in national legislative assemblies and government during the drafting process of Law No. 40/2007 on Limited Liability Company. In the implementation of this legislation, these predatory elements may occur, as the participant above noted, in the attraction of the CSR forum administrator to some government officials in order to gain access to companies. This access could lead to resources for their self-benefit, such as access to get facilities from companies, information on CSR projects and consultation fees that may occur during evaluation of the CSR forum.

5.4.2. Local Communities and NGO Allies

Interviews with three heads of villages and three Focus Group Discussions (FGD), the latter consisting of 10-15 people in each village where the three companies were located, were conducted to obtain local stakeholders’ perceptions on CSR legislation and practices. The information about CSR legislation for local communities was very limited, depending on the kades (the head of village):

“I often heard about the legislation. Our kades (the head of village) in our village always mentioned about CSR legislation. He said we can protest and demand CSR, if companies do harm to us. But I don’t know how to do that. I usually ask kades if I got problem with companies...” (FGD.2)

The limited access of most community members to local district government, due to the distance of the government office from the village, has resulted in the reliance of communities on the kades (the head of village), including for information about CSR legislation. However, the lack of information of communities does not mean they do not support the CSR mandatory legislation. All community participants in the present research were found to support this legislation, by relating the essentials of CSR legislation to their recent conditions:
“Now we can push the company to help us... I don’t know details of CSR legislation exactly, but the legislation will force the company to do that. I think the legislation are important for us, as a disadvantaged group. Many years, they have stolen our resources. They are getting rich and we are being suffered. They always drive their fancy air conditioned car passing through our village and leave dryness and dust for us to live and breathe in” (D.2)

That CSR should be directed to local communities has been emphasised by local communities, assuming that they now have rights to force companies to give CSR projects to them. However, no one in the community could explain the exact content of the laws. This is because the information about CSR legislation received by the local communities is very limited, depending on the kades’ (the head of village) information about CSR. However, the communities in these discussions felt that the laws have already accommodated their demands to push the companies to give contributions and compensation to their villages for exploiting their resources in their land. The strong statement, ‘stolen our resources’, indicates the local communities’ claim over natural resources in their land, although the basic constitution and laws clearly state these as central government-owned natural resources. According to Agrarian Law No. 5/1960, the people’s ownership of land only applies to the land and everything on it, while all the underground, including natural resources for mining, belongs to the central government.

Furthermore, the companies’ attitude to the villages also led to the communities’ disappointment. Company operations that mostly gave negative consequences rather than benefits were illustrated by their story, in the statement that ‘they always drive their fancy air conditioned car passing through our village and leave dryness and dust for us to live and breathe in’. The example of luxurious air-conditioned company cars represents the companies’ operational resources, being equipped with infrastructure such as clean water, electricity, modern transport and communication, while the ‘dryness and dust’ of the dirt road symbolizes their village conditions, with their lack of modern infrastructure. The dryness and dust of the dirt road after company cars pass by the road means their conditions will become worse after the companies have finished their operations, which continues to impact their life as they are the ones who still stay in the village, while the companies’ staff have left the mining site.

The issuance of CSR legislation has legitimated the local communities to demand companies’ CSR as form of compensation and contribution to their territories. However, who most often utilises this legislation in communities depends on the power of stakeholders inside the local communities. Not all community members in the village have power to voice their demands to
companies. One participant from a local NGO in South Sumatera, who was aware of the implementation of CSR laws in this district, highlighted this condition by stating:

“CSR is like ‘pemadam kebakaran’ (fire extinguisher). The companies only give CSR whenever there are protests to them. Actually those protests and rallies are driven by some elite groups such as government officials, the head of village, and some important figures in the village. Because these people’s behaviour might influence the company’s security, they have been approached and prioritized by the companies. In result, the companies are only concerned with this group…” (NG.1)

This NGO activist noticed that the number of rallies and protests from the local community increased after the CSR laws were issued in 2007. Their NGO often assists kades (the head of village) in formulating the issues to be protested to companies, such as an oil spill that damaged the village river or lack of local labour in companies. Despite the changes in company policies to clean up the river or absorb more local labour, the protests tended to demand more CSR projects. Those kades and his group often discontinued their protests after companies gave them CSR projects to manage. The stopping of local protest after companies give CSR projects is caused by the local cultural value on mutual relationship: when someone gives something, the other person should return something to him/her. In this manner, the companies’ gifts to this little kings group may benefit themselves. In return, these little kings group, as legitimate stakeholders in the village, try to give something back to companies, such as stopping the protests against companies. This might not resolve the issues occurring in the village due to companies operations, but villagers assume that the company was willingly showing its responsibility through donation and charity. In this manner, CSR has been used as a ‘tool’ for the company to control community protests. This is not in line with the laws’ objective, which is to improve the life of the local community. Aside from the cultural value, the stopping of protests from local stakeholders after receiving CSR projects is also a form of power play in negotiations between kades and companies. Kades use their legitimate position of influence to demand companies CSR projects for their own interests, while the companies use kades legitimate position to influence other local stakeholders to stop their protests. The dynamics of this power play in negotiation means that CSR projects can be used as a tool or instrument of companies to lessen community protests.

5.5. CONCLUSION

There are six CSR related laws and related regulations identified by this study in relation to CSR in the Oil and Gas industry. Different terms for social responsibilities are used in various laws and
regulations, such as Partnership Program and Environmental Building (PPEB) in Law No 19/2003 on State Owned Companies, Community Development (CD) in Law No. 22/2001 on Oil and Gas, and Corporate Social Responsibility (CSR) in Law No. 25/2007 on Investment and Law No. 40/2007 on Limited Liability Company. Besides providing guidance for companies on how to conduct those social responsibilities, the legislation focuses heavily on how to allocate and distribute the companies’ resources for CSR to local communities. The context behind the issuance of Law No. 40/2007 on Limited Liability Company highlights the vested interests in the CSR drafting process. Many interest groups shaped the content of the laws and further influenced the definition of CSR in the country. This process also resulted in the mandate of CSR laws having a lack of sanctions, making the laws unenforceable.

Local government officials have been disappointed with the legislation, one naming the laws as *banci* (weak, or ‘sissy’) regulation. Meanwhile, CSR becomes essential for local government as an alternative source of funds for local development. The failure to issue *perda* (the local regulations) has led local government to emphasize their efforts in establishing a CSR forum to involve business in local development. The forum accommodates the dominant interests of local government in CSR by encouraging all companies’ members to report their projects to the forum. The forum does not force companies to commit to do certain projects that their *perda* draft aimed to do, but the companies are required to consult with local government as stated in legislation. Local communities also acknowledge the main beneficiaries of CSR to be themselves, where they presume that the legislation has accommodated their aspiration to pressure companies to give them more power and voice. However, not all stakeholders can utilise the legislation to demand their rights, due to the difference of power and access among stakeholders. The ‘marginalized stakeholders’ who lack power and limited access to government and business may rely only on ‘little king’ power to assist them in solving their problems with companies, including with CSR. The dominance of ‘little kings’ in the village and local district government, resulting in their demands that CSR satisfy their vested interests, may in fact mean that CSR implementation cannot achieve its intended goal, which is the benefit of the community.
Chapter 6. THE IMPLEMENTATION OF CSR LEGISLATION

6.1. INTRODUCTION

This chapter presents findings of three companies’ perceptions of CSR legislation, their implementation of CSR, and the outcomes of their CSR practices from external stakeholder viewpoints. It provides the evidence based upon which to answer research questions 2 and 3. The chapter structure is based on the three cases of selected companies and the cross case analysis. Section 6.2 presents the findings for company A (the IOC - the Indonesian Private Owned Oil and Gas company). Section 6.3 presents the findings for company B (the FOC - the Foreign Owned Oil and Gas Company). Section 6.4 presents the findings for company C (the SOC - the State Owned Oil and Gas Company). Then, in Section 6.5, a cross case analysis of the three companies is presented.

6.2. COMPANY A – THE INDONESIAN OWNED COMPANY (IOC)

The Indonesian Owned Oil and Gas Company (IOC) selected for the present study is owned by an Indonesian businessman who is also involved in and has influential power within one political party in Indonesia. Starting as drilling contractors, the company has transformed into an integrated energy company with its main business involvement being in oil and gas exploration and production, downstream operations and power generation. This company has recently been awarded the right to explore for and produce oil and gas under 15 different production sharing arrangements with the Indonesian government through SKKMIGAS, and also has a joint operation with Indonesia's state-owned national Oil and Gas company. The company has produced crude oil and natural gas from their contract areas located in Sumatra, Java, Sulawesi, Kalimantan and Natuna in Indonesia. Aside from operations domestically, the company also has stakes in other countries such as the US, Libya, Oman and Tunisia. The operating company in Musi Banyuasin has gained a production sharing contract from SKKMIGAS to exploit oil and gas until 2023. The main production of this operating company is oil: according to its annual report, the total average of oil production is recorded at around 12 MBOEPD\(^5\).

In their sustainability report published in 2013, the company argued that their CSR is in the form of voluntary efforts to actively contribute towards progress and welfare in the community and environment, beyond merely complying with prevailing laws and regulations. They added in this report that their CSR focus is on three areas: (i) to reduce poverty and unemployment by

\(^5\) Million Barrel Oil Equivalent per Day
empowering small scale businesses; (ii) to provide access to higher quality education and spiritual life; and (ii) to help improve the existing infrastructure that supports higher quality education and spiritual life.

As discussed in Chapter 5, there are three laws that a company is required to comply with in conducting its CSR: Law No. 22/2001 on Oil and Gas, Law No 40/2007 on Limited Liability Company, and Law No. 25/2007 on Investment. The manager, supervisors and staff of the company studied here suggested that their CSR practices align with these three laws. However, within these various laws and their implementing regulations, the company prioritized the law on Oil and Gas as their main guidance for implementing CSR. As the company’s operation depends on the PSC (Production Sharing Contract) with Indonesian government, it is important for company A to ensure all the requirements in the Oil and Gas Law is implemented in its operations. The community development manager underlined the importance of Law No. 22/2001 on Oil and Gas for their CSR, by mentioning:

“... among those laws, we prioritize Oil and Gas Law. I think it is more appropriate to us: if we want to maintain or even extend our contracts with the government, we have to comply with the Oil and Gas law, including conducting Community Development activities. Other (CSR) laws such as Limited Liability Company Law are also included in the CD projects” (A.M.1)

The guiding principle of the Community Development (CD) mandate as advocated in Law No. 22/2001 on Oil and Gas Law is obvious from the establishment of a Community Development department in this company, rather than naming the department as the CSR department. By conducting CD projects, the manager assumes that the company has met the CSR obligations stated in Law No 40/2007 on Limited Liability Company and Law No 25/2007 on Investment. In fact, prioritizing Law No. 22/2001 on Oil and Gas may allow the company to utilise the cost recovery facilities to fund their CSR. The Law No. 22/2001 categorizes the CSR sources of funding into cost recovery for projects under exploration stage (before production) and non-cost recovery for projects under exploitation stage (production) (see Table 5.1). This distinction might be unclear in the implementation in the field, as in many cases one village area may have both exploration and exploitation being conducted. Furthermore, it is also unclear how SKKMIGAS, as the authority to control the use of cost recovery, monitors the application of cost recovery in the field.

The report and the prioritization of Oil and Gas Law No 22/2001 showed such a normative claim and in addition a rhetoric company CSR. Instead of stating their compliance with the legislation,
the company claimed their CSR is a result of company voluntariness, and that the three areas are aligned with the government development agenda. Their CSR effort is aligned with the legislation since it only mandates the company to allocate and distribute its wealth to local stakeholders.

However, the intention of their voluntary effort has nuances that limit the local government intervention in their CSR. By claiming their CSR drivers as voluntary efforts rather than via mandatory compliance, it is suggested that while the company complies with the legislation to allocate CSR wealth, the decision to whom the wealth is distributed is dependent on the company, not on other stakeholders’ interventions. Furthermore, the prioritization of Oil and Gas Law No. 22/2001 underlines that the company is obligated to report to the central government through SKKMIGAS, rather than reporting to the local government.

In terms of CSR activities in the district, the operation company receives advice from the Community Development (CD) Department in their headquarters office in Jakarta. This CD department is headed by one manager and employs 15 Community Development staff focused on assisting the implementation of CD projects in all operating companies under the parent company in Indonesia. In the district field, two staff, at supervisor level of the Public Relations (PR) Office, which is itself under the direction of an Operational Manager, have responsibility to implement the CD projects, as the funding for CD projects is taken from the operating company rather than from the parent company headquarters office. These two staff in the PR office are structurally responsible to the Operational Manager of the operating company in terms of the use of funds; however, in relation to their CD activities they must consult to the manager of Community Development Department in Jakarta. The PR office in the operating company also contracted three local staff, who were residents from the surrounding area, for the Public Relations Office in order to assist the office to communicate with the surrounding communities. This research was able to interview four participants from this company, which are: one manager of the Community Development Department who is based in the Jakarta office; and two supervisors and one staff from the Musi Banyuasin Public Relations Office. It is the company’s policy to hire Indonesians only, so all participants are Indonesian.

The department distinguishes CD projects into cost recovery projects and non-cost recovery projects. Cost recovery projects are those where their expenditures are shared with the state government through SKKMIGAS, for their exploration fields (not producing); while non-cost recovery is for projects that are fully funded by the company budget for their production fields. The CD manager further explained that the non-cost recovery projects can be categorized as CSR
in Law No. 40/2007 on Limited Liability Company, since they are funded from the company’s operational costs:

“We have cost recovery and non-cost recovery projects. The non-cost recovery projects come from our money, so this is aligned with what Law No. 40/2007 mandates on CSR…” (A.Sp.1)

The CD manager and staff assumed that the non-recovery CD that is funded from the company’s own budget is similar to CSR proposed by Law No. 40/2007 on Limited Liability Company and Law No. 25/2007 on Investment (see table 5.1 pg. 86). As highlighted in Chapter 5, CSR in Law No. 40/2007 on Limited Liability Company and its Implementing Regulation No. 47/2012 suggests the source of funds for CSR activities be derived from companies’ operational cost. In this manner, company A adopts the idea of non-cost recovery CD similar to CSR in the Law No. 40/2007 Limited Liability Company, as the cost of non-cost recovery CD is taken from companies’ operational cost. The way company A has implemented various CSR laws shows that the complexity of various CSR laws has been simplified by the company by putting all requirements of various CSR laws into cost recovery CD and non-cost recovery CD. These two categories are not violating the laws as the sources of funds to cover those two activities fit with CSR legislation.

The cost recovery CD is relevant to Law No. 22/2001 on Oil and Gas, while the non-cost recovery CD is related to Law No. 40/2007 on Limited Liability Company and Law No. 25/2007 on Investment suggesting CSR should be derived from a company’s operational cost.

Law No. 22/2001 on Oil and Gas suggests that the categorization of cost recovery and non-cost recovery is based on the area, whether it is an exploration area or exploitation (production) area. However, as mentioned earlier, differentiating mining operation areas in the field is not easy in relation to a village’s territory. In one village area, the company may have exploration and exploitation areas. Furthermore, the lack of monitoring from SKKMIGAS on one project might also lead the company to categorize more projects as cost-recovery in order to reduce the CSR cost. In responding to this issue, the supervisor participant stated only that the calculation of cost recovery and non-cost recovery is an issue for their finance department:

“... It is very complicated calculation. I don’t really understand the issue. This is a duty of financial department.” (A.Sp.1)

The possibility to categorize projects into cost-recovery may be used by the company to reduce the CSR cost. A project in one village might be categorized as cost recovery rather than non-cost recovery as this would reduce company costs for CSR. However, the financial data about CSR funds delivered to the village is not made available by companies and so lacks of transparency.
The following subsections discuss how the company perceives and implements CSR in the field. Subsection 6.2.1 presents the company perceptions of CSR. Subsection 6.2.2 presents a discussion of the implementation. Subsection 6.2.3 provides a discussion of the outcomes. Subsection 6.2.4 presents the conclusion for case A.

6.2.1. The Perception of Legislation

The sustainability report of company A promotes the idea of the voluntariness of the company in performing CSR, in contrast to the idea of mandated CSR legislation. The interview with the manager of this company clearly supported this as the company’s perspective. Having an overseas educational background, the manager is often invited to give presentations in seminars to represent the business perspective on CSR. In the interview he stated:

“I was involved in one seminar conducted by one university in 2007 discussing the possibility to mandate CSR in the law (during the drafting process of Law No 40/2007). I was representing the business perspective in this seminar. I am still standing with my opinion that a Company should do CSR voluntarily by embedding their social responsibility in their activities. You see now the government only want to know our budget for CSR projects...not to encourage business to be more responsible in their operations. That is the falseness of this law.” (A.M.1)

His perception seems influenced by the voluntariness approach of CSR, more developed in western countries, which is part of his background. In this manner, he is critical of the idea of mandating CSR, which approach tends to focus on the company’s budget allocation for CSR rather than on encouraging businesses to be more socially responsible in their operations. This focus on budget allocation has led local stakeholders to only recognize companies’ CSR contributions in terms of how much money they distribute to CSR projects. This, according to the interviewee’s view, is limiting companies’ efforts to be more socially responsible in their operations, as companies’ other efforts such as making green technology for their operations or improving their labour rights are not considered as CSR for local government. He added to his opinion by saying:

“...the laws actually suggest to us that as long as we always keep giving to the communities in CSR projects, we can call ourselves as socially responsible although maybe we did bad things to the environment and communities” (A.M.1)

The CD manager suggested that the mandated CSR laws’ attention on the companies’ budget allocation steers the companies to allocate their budget to community CSR projects, rather than allocating the budget to improve their operations to be more socially responsible in general. For instance, many companies have issues with oil spillage to the villages, which is caused by the
poor pipelines located nearby village residences. Instead of replacing the pipelines outside the villages’ residences, companies tend to distribute more CSR money to the affected villages in the form of charities or donations. These practices thus appear only as symbolic actions of companies, emphasizing their CSR contribution rather than conducting responsible business practices.

Given this case, the company manager censures the mandated CSR laws because the laws have a negative impact on community behaviours:

“...CSR should be defined on the company behaviour in a local community, not in the form of the donation or charity. The major drawback of these laws is that they create a ‘Masyarakat Manja (spoiled community)’. They always ask companies to help them... You can see now there are no more gotong royong (community mutual cooperation) activities in the village. Before there was always gotong royong every month in the village to renovate their mosque, repair their road etc...” (A.M.1)

The focus of CSR laws on company wealth distribution to communities has increased CSR projects to the villages, such as projects renovating a mosque, head of village offices, repairing village roads, or even building electricity infrastructure. The CSR projects, instead of giving positive impacts to the communities, created masyarakat manja (spoiled communities) as one of the drawbacks of CSR legislation. While many village issues such as the need to repair a road or renovate a mosque or a school were previously managed by the community through gotong royong (community mutual cooperation), now instead they ask for and indeed expect company sponsorship to fund these activities. In this way, in the manager’s view, the mandated CSR laws have degraded community self-initiatives such as the value of gotong royong, which promoted community reciprocity or mutual aid to solve the village’s problems and which was commonly practiced by communities before the legislation was passed.

The supervisors and staff at the local site level offer another perception related to this legislation’s implementation. The manager’s office is in the Jakarta headquarters, while the supervisor and staff in the local Public Relations Office are the ones who handle the implementation of CSR activities in the villages. The supervisor, whose academic background is in engineering rather than social science, admitted there were an increasing number of proposals received by their office since the CSR laws had been passed. The change of community values to that of reliance on company sponsorship has resulted in companies receiving a substantial increase in proposals from local stakeholders, as he described:
“Every day we receive at least five proposals from the community asking to fund some projects in their villages. They mostly came from certain people whom always complain about our existence. They can be kades or other important figures in the villages. We call them raja kecil (little kings) because they always want to be served like kings... We receive around 100 proposals in a month from these types of people. Can you imagine how we handle them?” (A.Sp.1)

This confession of an operating company staff supervisor in this district reveals the increasing number of local stakeholder proposals demanding company funding for their activities. He added that most of the proposals actually come from the same type of people, whom they referred to as raja kecil (little kings), heads of villages and other important stakeholders in the village such as legislative members originating from the village and their preman (‘hoodlum’, refers to men that have a bad reputation in the community group) allies. These people appeared after the country adopted decentralization, allowing local districts and villages to conduct direct elections to appoint their own head and manage their own territory. However, these people have made proposals based on their self-interest in demanding CSR projects, in behaviour that is similar to the ‘predatory elements’ discussed in Chapter 5.

The statement above shows what type of local stakeholders tended to demand projects from company A. This situation was brought to the attention of the company, that the CSR would only benefit this certain type of stakeholder. Participants from this company described this little king behaviour, that every year the number of proposals from these stakeholders increased although they had already distributed the projects to them. Moreover, prioritizing these stakeholders would not give any real benefit to general communities, since the projects they demand were mostly centred on their own interests, such as conducting a village ceremony for their own campaign during political election or giving cows to their constituents.

This condition led to company concerns as to how to distribute their CSR to marginalized stakeholders. Through the assistance of one local NGO in building intensive consultation between the company employees and local marginalized stakeholders, the company realized that most of their previous projects had not benefitted these local marginalized communities. The local village consultation conducted by this local NGO has resulted in the company shifting some of their resources towards marginalized stakeholders since 2012. This consultation with local marginalized groups, mostly membered by farmers and women, has brought them an idea of what is really needed by the local community. Therefore, since then, the promotion of organic farming projects to the local community has been the focus of this company in their CSR efforts, to improve local household incomes.
6.2.2. The Implementation

The manager of the CD department decided to change strategy in CSR implementation by introducing an organic farming system to the communities. He was assured that this program came from assessments conducted by their staff and NGOs, where they found the villages had a rice shortage. They shifted their approach from local elites to the community farming group, hoping to thereby give benefits to this marginalized group and long-term impact from the program.

The shifting of company CSR project distribution target from ‘little kings’ to farmer groups has changed the stakeholder identification of company A, based on stronger consultation. Certain elites, those the company called ‘preman’ and sometime allies with kades (the head of village), were previously the main stakeholders of company A for delivering CSR projects due to their influence in securing the company’s operations, as one of the company A participants said:

“We approached some ‘preman’ (hoodlums) in the community as our target to deliver the Community Development Projects, hoping that they could help us to secure our pipelines and influence the local community to not disturb our company. We admit that what we did was only wasting money. All Community Development Projects delivered to the preman failed. For instance, we provided them with cattle to improve their living. Instead of breeding them for their future income, they sold them and used the money for their own pleasure” (A.Sp.1)

In this manner, the company enjoyed protection from these people, and in return, these premans also received benefits from the company in the form of most of the CSR projects. This earlier approach showed the company’s instrumental approach to CSR, emphasizing the economic benefit of CSR projects from these stakeholders to the company, where the benefit is the company security. However, the earlier projects often failed in their implementation, since the projects were not well directed, as illustrated by the company A participant. CSR resource distribution was only of benefit to the powerful stakeholders or the little kings, which stakeholders in Philips (2003) were referred to as receiving only derivative legitimation, whilst the local marginalized communities holding the normative legitimation were not included in these projects. This relationship with the little kings gave pressure to the company in terms of the increasing demands coming from this group.

The managers and supervisors admitted that the budget for CSR increased before 2010 when they relied on these little king stakeholders, but the benefit to the larger communities was lacking. However, stopping CSR resource distribution to this group may also negatively affect the company’s security in the area. For instance, when the company tried not to pass a preman
group CSR proposal, which was also supported by the ‘little king’ *kades*, the group protested by blockading road access to the company, as illustrated in Figure 6.1.

Figure 6.1. Picture of the Blocking Road Access to Company Facility

![Blocking Road Access to Company Facility](image)

Source: Author

Whilst this road blockade seems very easy to breach by the company, as the blockade is built only from small pieces of wood, Figure 6.1 expresses how *premans* can display their power to the company. The text written in this wooden blockade “stop (the name company A)” aimed to stop the company operations. Breaking this wooden blockade means challenging the group’s power, potentially affecting company security within the community. Moreover, the support of little kings (*kades* and legislative members originated from the village) to this action gave legitimacy to this group, again threatening company legitimacy to operate in this area. The picture presented in Figure 6.1 thus represents the issue of security and legitimacy faced by the company in the area. Instead of demolishing the block, the company decided to advise their employees not to pass the road, although this affected its operations for two days, where the company employees had to find another way to reach the operations. The issues of local security and local legitimacy in this area were considered more essential for the company to continue its operations and maintain its reputation.

The effort to be released from this *preman* and *kades* group pressure began in 2012 after the blockade, through the introduction of the organic farming program, with the assistance of a reputable local NGO. These projects required the company to allocate most of their resources to farmer groups in the village, while the consultation with the *kades* and his allied *preman* group
was limited. The prominence of the local farmer group in the project results in a change in the company stakeholder network, which is presented in Figure 6.2.

Figure 6.2. Company A and its Local Stakeholders Relationship

Figure 6.2 shows the company A local stakeholder network relationships. The solid line represents good relationships between company and stakeholders, while the dashed line represents inharmonious relationships. The network distinguishes the local stakeholders at village level and district level. At village level, the organic farming project focused on the community farming group has built company closeness with this group. The local farmer group had been categorized as a marginalized group who lack power in economic terms due to their lack of ownership, and political power because of their lack of influence in village decisions. However, the company recognized the closeness of this group to one religious leader in the village who had these powers. This meant that supporting this group allowed the company to attain local legitimacy from this religious leader in the village, to contest the power of the *kades* and his allies. On the other hand, the shifting of company attention to the farmers caused its relationship with the *kades* and his allies *preman* group to become quite unpleasant. Although the company still allocated resources to them in terms of security salary, the reduction of company dependency on them limited their power with the company, and had effect in a decrease of CSR resource distribution to them. At the district level, the inharmonious relationship which developed between the company and local district government and legislative...
members may stem from information from this kades. The distance of the village to the district and limited access of other villagers to district government officials prompts the reliance of district government and legislative members on information from the kades. In particular, with local legislative members originating from the village, their interests in maintaining their relationships with their constituents in the village forces them to push the company to deliver projects to their constituents, which commonly include the premans (hoodlums) group under the leadership of the kades (the head of village). However, the dashed line indicates that the district government and legislative members might not have as solid a relationship as that between company and kades, since the company had political connections at the district level by consideration of its ownership position in relation to one big national political party.

Two types of important stakeholders existing in company stakeholder networks are represented in Figure 6.2: the elite group, membered by the kades and his allies preman; and the marginalized group of community farmers. The local staff of the company explained how they treat both groups in this statement:

“Previously, meetings with the local community were always organized by the preman group. The meetings were usually attended by their members, and during the meetings they always trumped up some issues and demanded more projects. However, recently the meetings with the farmer group are very conducive. Their demands are very simple and even not needing a lot of money. They even help us in other projects. Honestly, the group is now ‘our bridge’ to be in contact with the village people” (A.St.1)

At the previous meetings, the company reliance on preman group and kades was utilized by this group to demand company projects by exposing important issues related to company impacts on the village, such as road damage caused by company cars, lack of local labour and oil spillage. The previous consultation meetings between company and local communities were organized by this group. However, the company local staff realized that the meetings were only attended by these little king stakeholder members. Therefore, prior to 2012, the results of community consultations were shaped only by the interests of these little king stakeholders. The launching of an organic farming program in 2012 allowed the company to have access to the marginalized farmer group. This access has been utilized by the company to broaden their contacts in the village in order to gain local acceptance. The meetings with the farming group have evidently benefitted the company in understanding the village better. Indeed, some other programs of Community Development, such as the kind of renovation that communities need on their school and Puskesmas (health service centre), finding appropriate children for their scholarships, and identifying the potential receivers of its micro finance program, are the results of company
consultations with this group. The term ‘our bridge’ indicates the importance of this group for the company to engage with local village communities.

In relation to the power of the little kings in the village and district, the company managed this through its national political connections. Ownership by a national political figure in one big political party in the country provided the company with these political connections, which benefit them in managing their relationship with the little kings. These political connections allow the company to gain assistance from district political figures from the same party as the owner to secure their legitimation in the area. In addition, the company have still distributed their resources to the little kings in the form of uang keamanan (security fees) and more limited CD projects. The security fee is related to the monthly fee or payment to the powerful stakeholders (mainly kades) to secure the company pipelines and other company assets in the village. The company has also provided limited CD projects, such as giving donations or conducting ceremonies as requested by the little kings in the village and district.

6.2.3. The Outcomes

The organic farming program has given concrete benefits to local communities, as a local community participant highlighted in one discussion:

“... Now we don’t need to buy rice. It is all here in our village...” (FGD.1)

The dominant employment of local villagers is working as rubber farmers; and this has made the village dependent on rice from outside, which previously was very expensive due to the distance and lack of transportation to the villages. Planting rice fields is not an option for the farmers in this area due to the high cost of rice farming. They prefer to focus on rubber plantations that give them more benefits due to the high prices and easy cultivation of rubber trees.

However, the importance of rice as the main dish of the local people contributed to the importance of this project in terms of benefit to people in the village, as assessed by the company and local NGO before any projects were undertaken. One farmer in the FGD admitted that the use of an organic system in his farm gave him benefits due to the low cost of this farming system and the high production yield of rice.

“... before we had to buy expensive fertilizers and pesticide, but the rice production often is not sufficient compared to the cost. We only produced around 2 tons per 1 hectare rice field. But this organic system showed us that we can make our own fertilizers from banana stems and other plants in our environment. And we also make
our own pesticide from our cigarette ashes. And the production is beyond our expectation. We can produce 5-10 tons of rice from 1 hectare rice field…” (FGD.2)

Previously, the locals complained about the expensive fertilizers and pesticides for rice farming, the costs of which are not equalled by the rice production. The organic system allowed the farmers to lower their cost on rice farming by utilising available, low-cost resources that are available in their areas such as banana stems and other plants. On the other hand, the production of this system has increased to 5-10 tons per hectare of rice field, making this type of production able to satisfy the village need for rice.

Furthermore, these benefits have also led to local acceptance of the company, as noticed in some community stories in the FGDs, where the local appreciation of the company was evident:

“... We can meet the staff directly, even they allow us to call them anytime if we need something to ask. We are very glad they like to come and eat in our house. They are our ‘friend’…” (FGD.1)

Another local community member also appreciates the company manager and staff, by telling this story:

“... two months ago, my daughter got married. I wanted to invite Pak (sir) A (the manager). I knew he was busy and I was also shy to invite him to this little ceremony. So, I just told the staff to invite him if he was not busy. But I was so surprised that he came to our celebration. Even he sang a song and danced in the celebration…” (FGD.1)

These stories reflect only part of communities’ appreciation of the company managers and staff. The availability of company staff to meet and have contact with local farmers group resulted in local acceptance, shown by them referring to the company staff as their ‘friend’. Furthermore, the company manager and staff tried to maintain this ‘friend’ relationship by, for example, respecting a local farmer’s invitation, as symbolic that they consider themselves part of the community.

Aside from the appreciation from the local farmers group, the company has also obtained a good reputation from central government through a visit of the National Agricultural Minister to the village to view how the company has developed organic farming in the village. A CD manager affirmed that the visit of minister is an important recognition for the company:

“We are being acknowledged for what we’ve done in CSR through this project. My colleagues in the Oil and Gas Industry congratulate me for this program. The visit of the Minister is such a recognition of our efforts.” (A.M.1)
Reputation is an important matter in a company’s brand. Companies in Indonesia often publicise their CSR projects in the advertisement sections of newspapers, where the company might buy such a section. The visit of the Agricultural Minister to the village was an equivalent recognition of the company’s contribution without requiring them to invite media (or pay) to publicise their project.

In contrast, this recognition has not encouraged the district government to give a CSR award to the company. Complaints by local district government to the company are expressed by stating that the company often rejected their proposals:

“The company has never respected us as the local government. They often reject our advice to fund some projects…. compared to other companies, the company is considered worse and stingy in delivering CSR projects in the district” (Go.2)

Another local government official added this statement:

“I know the CD of this company in organic farming. It is only small contribution and they try to boast of this little help...” (Go.3)

The intention of local government to include CSR projects to fund their development agendas is thus evidently the main reason for this complaint. The company often rejected to fund projects of the district government agenda. The reason for rejection may be because those district government projects require a lot of money to fund projects such as building a head of village office, community health centre, school, and repairing roads. This may impact on the company’s reputation at district government level, as is suggested in the use of terms such as ‘worse’ and ‘stingy’. The term ‘worse’ can be interpreted as a lack of resources distributed to support local government development agendas; while the term ‘stingy’ is also related to the funding that they would obtain if the company had distributed the resources to their project. Furthermore, the local government official also mentioned that the organic farming project only required a small of funds from the company. Indeed, according to this official, the company tried to boast of this small amount of funding to projects in order to gain reputation from the local community.

6.2.4. Conclusion

CSR in this company is managed by the CD department in the Jakarta office headed by the manager, with its implementation being assisted by two staff at the public relations office in the site operating company. The company argued that the nature of CSR should derive from company voluntariness, not by mandated CSR legislation. The company assumes that the focus of CSR legislation on the budget allocation to local communities can cause masyarakat manja (spoiled community) and views of CSR only in terms of determining how the projects are funded.
The present research argues that these perceptions are part of the company’s rhetoric as argument to limit local stakeholder interventions, particularly those of the ‘little kings’, on their CSR efforts. In this way, while the company complied with the legislation by allocating the necessary budget for CSR, their claim that this is a form of voluntary activity allowed them to nuance their decision as to whom the funding should be allocated as being a company decision.

The company built their own local stakeholder network by linking, consulting, engaging and dialogue with marginalized groups, ignoring the local power of little kings. Furthermore, the company also decided on their own CSR projects in organic farming, involving less local government intervention in how to set their CSR program. Rather than engaging with ‘little king’ stakeholders such as the kades and his allies the preman and following district government advice on certain projects, the company preferred to be more engaged with the farmer group in the village. This decision caused the reduction of CSR wealth distribution to the little kings group.

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However, reducing wealth distribution to this group, consequently, may affect company legitimacy to operate in the area. Instead, the company recognized the existence of an informal leader in the village such as the religious leader, who is close to the farmer group. Instead of depending on the local elites group, the company contested the kades power by approaching the farmer group and a religious leader to obtain local acceptance and legitimacy. Furthermore, this research also indicates that the company’s political connection at the national level might deliver them the power to counter the little kings’ power in the district and still gain their local legitimacy.

The shifting of CSR resource distribution evidently benefitted local communities in increasing their rice production in the village. In return, this decision also evidently gave an advantage to the company in obtaining local community acceptance and local farmer group involvement in other company CSR projects. The research also noted that the company may get benefit from the small amount of funding required to conduct CD projects. The frequent consultation with local community members allowed them to fund the basic needs of local communities economically, without involving the little kings’ interests. Indeed, the company strategy to distinguish the CD projects into cost recovery and non-cost recovery may also give them an opportunity to put their CD projects into the cost recovery program category given the lack of clear distinction of these categorizations in the field. Apart from local community acceptance, the company also pointed out the importance of central government support through the visit of
the Agricultural Minister that legitimated their CSR approach, as contrasted with the lack of appreciation of the local district government recognition through a district CSR award. The company’s decision to be more engaged with the farmer group and to deliver their own projects resulted in a lack of contribution to district government development agendas and involvement of the little kings in their CSR projects.

6.3. COMPANY B – THE FOREIGN OWNED COMPANY (FOC)

The company discussed in this section is a multinational energy corporation with its headquarters located in the United States. It is the world’s largest independent pure-play exploration and production company. From only three oil and gas blocks in the beginning of their operations in Indonesia during Dutch colonization, this company expanded by acquisitioning other companies’ blocks. The companies’ blocks are mostly located in Sumatera, for example in Aceh, South Sumatera, East and Central Java, and Papua. Its corridor block PSC in Musi Banyuasin commenced in around 1980, and recently covers a contract area of around 900 square miles. The block consists of five oil fields and seven natural gas fields. The production of crude oil in this area is around 2 MBOEPD\(^6\), while gas production is the main production of this block with 335 MMFCD\(^7\). The natural gas is sold through long-term contracts to the domestic Java and Singapore markets, wherein the dominant gas production of this company is used to generate electricity in Singapore and Java.

This Foreign Owned Oil and gas Company (FO), in its sustainability report published in 2014 by its headquarters office in the US, has a vision to be the exploration and production company of choice for all stakeholders. The operating policies are set rigidly by the company codes of conduct, which are published on its website, to achieve this vision, ruling how company staff should build relationships with the external stakeholders. In this respect, the company acknowledges the importance of political stakeholders to the company. Therefore, the company in its report decided to support the political decisions in the country as these align with the company interests. However, in supporting political stakeholders, the company also sets prohibitions such as giving gifts to elected officials, regulators and/or government employees, forbidding the giving or use of company money for political campaigns, and/or giving contributions to the political party. This code of conduct has been set by the headquarters and implemented by all companies within this international corporation, including the one in the

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6 Million Barrels Oil Equivalent per Day
7 Million Cubic Feet per Day
Musi Banyuasin district, although they admit that this policy may not be intended to cover all global countries’ rules.

In relation to CSR legislation, company B nominated only Law No. 22/2001 on Oil and Gas and Law No. 25/2007 on Investment as related to their CSR. The company did not mention the obligation of CSR in Law No. 40/2007 on Limited Liability Company, and when asked they stated that the law did not apply to them because the company’s registration is not in Indonesia. They claimed that as the company is registered in the US, so Law No. 40/2007 cannot be imposed on the company, as the head of the CSR unit stated:

“I tell you, our company is not registered in this country so with this fact we don’t need to follow this law (Law No. 40/2007)” (B.Sp.1)

The Law No 40/2007 on Limited Liability Company is actually to rule all registered limited liability companies in Indonesia. However, participants acknowledged that the company has to obey CSR obligations in Investment Law No. 25/2007 and Law No 22/2001 on Oil and Gas. The relevance of Law No 22/2001 to this company is related to their operation as a production sharing contractor of Oil and Gas mining; while the Investment law No. 25/2007 is related to their investment as PMA (Penanaman Modal Asing – Foreign Investment) in the country.

The participant’s argument to not consider Law No. 40/2007 as part of company obligations may be acceptable considering the company’s registration is outside Indonesia. But the basis for avoiding CSR obligation in the law while accepting the Law No. 25/2007 on Investment is unclear, as CSR in these two laws are similar in terminology (see Figure 5.2). However, CSR in Law No. 25/2007 on Investment does not have any implementing regulations, since Government Regulation No. 47/2012 on CSR refers to the CSR of Law No. 40/2007 on Limited Liability Company (see Table 5.1). This may be a reason why the company prefers to relate its activities to the law with weaker implementation regulations. Furthermore, this may also be part of the company’s strategy to limit the local stakeholder claims on this popular CSR Law No. 40/2007. In the course of the present research it was found that Law No 40/2007 on Limited Liability Company is a popular law on CSR for local stakeholders. The law is often used to refer to and demand company obligation for CSR, as this company’s CSR specialist described:

“... I always meet many people asking about our CSR and they always talk about Law No. 40/2007 to show our obligation. Well, we obey all legislations, we deliver our CSR, except this law is not relevant to our company...” (B.St.1)

The argument of this supervisor to not relate his company CSR to the Law No. 40/2007 on Limited Liability Company may also reflect the company’s avoidance on the local stakeholders utilisation
of this popular Law. For external stakeholders, CSR in Law No.40/2007 became popular amongst CSR laws since the debate on the inclusion of CSR during the drafting process of this law in 2007 raised local stakeholders’ awareness of CSR issues. The argument that the company is not subject to Limited Liability Company Law No 40/ 2007 thus might be utilised by the company to confront the rising local stakeholder demands as a result of the exposure of this popular law.

The CSR affairs of this company is managed by their CSR unit under the external affairs department in their Jakarta office. This department has four other units, which are the public relations unit, field external affairs unit, government relations unit, and business relations unit. The CSR unit aims to deliver CSR projects to local communities as obligated under CSR legislation. The head of the unit is at supervisor level below the manager level, reporting directly to the manager of the external affairs department. There are nine CSR specialists working in this CSR unit to assist all CSR projects in all operating companies of the parent company in Indonesia. The unit has the main duty to plan, assist in the implementation of and monitor all CSR projects in all companies’ geographic areas. Two staff in the PR office in the district of the operating company have responsibility to implement CSR projects, since the funds are taken from the company’s operational budget. All staff in the CSR Unit in Jakarta are Indonesian, originating mostly from Java; while nearly all the staff at the operating company site come from the South Sumatera province. In contrast to other departments within the company that employ expatriate workers, the external affairs department and CSR unit hire only Indonesian staff. Four participants from this company were interviewed for the present research: the head of the CSR unit and one CSR specialist from the Jakarta head office; and two staff from the Musi Banyuasin public relations office.

The following subsections describe company B’s perceptions of CSR, its implementation and the outcomes. Subsection 6.3.1 discusses the company’s perceptions of CSR. Subsection 6.3.2 presents a discussion of its implementation. Subsection 6.3.3 presents the outcomes of CSR. Subsection 6.3.4 presents a conclusion to Section 6.3.

6.3.1. The Perception of Legislation

The company’s sustainability report broadly supported the Indonesian government policies on local development. This is in line with the company’s policy in allocating their budget for local communities. The head of the CSR unit from this company declared that the legislation only serves to clarify their CSR activities, and that the company has an existing commitment to budget a substantial amount of funds for CSR:
“The laws are only to clarify what we have done is lawful. With or without the laws, our company has always allocated a large amount of money for CSR programs which we get from our headquarter office. This is already our company policy, to give to local communities. The amount of funds may be beyond what the laws require. So, what we have done, I think, is ‘beyond the compliance’ of the law... even SKKMIGAS always advised me to use cost recovery for our CSR. But our money from headquarters is more than enough to fund our projects...” (B.Sp.1)

There are three impressions one can gain from this statement. Firstly, the company support to the CSR laws’ mandate is in accordance with the company policy on the annual budget allocation to local communities. Secondly, this view hence influences his next statement on the amount of company budget allocation for CSR, in which he claimed it is ‘beyond the compliance’ required by law. In distinction to McWilliams and Sigel’s (2001) reference to ‘beyond the compliance’ as a form of ethical driver for company CSR, the meaning of beyond compliance in this statement is related to the amount of budget that company provides for CSR: the exact amount or percentage of company budget allocation is not as ruled in the legislation related to this company. However, most practitioners refer to Law No. 19/2003 on State Owned Enterprises as a minimum standard of CSR budget allocation, that is, 2 percent of company profit. The claim of ‘beyond the compliance’ appears to justify the comparison of the required amount with the amount allocated by the company for CSR, the latter which is significantly more than 2 percent of company profits. Thirdly, underlining his statement on ‘we get from out of the headquarter office’ is a reflection on the ownership of this company. Being foreign owned gives different pressures to the company.

The issue of ‘resource nationalism’, in which the locals expect to manage their own natural resources, was further aroused during the political campaigns for the Presidential election in 2014, which occurred during the period when this research was conducted. The presidential candidates’ campaigns at this time focused on natural resources management as not being able to benefit the locals’ population. This campaign influenced the locals to feel that the foreign owned companies would not give any benefit to the nation and local communities. In order to face this issue, the head of the CSR unit wanted to give the strong impression that the company has given a lot of contributions to the local community through the allocation and distribution of enormous funding for CSR to local communities.

The company’s CSR project alignment with the government development plan urged the company to direct their CSR funds to support the government development agenda, as strongly stated by the head of the CSR unit:

“Our CSR is to support the district government development plans...” (B.St.3)
As mentioned earlier, the support to government policy is articulated in the company’s sustainability report. Furthermore, the reliance of the company on the district government development plan is in keeping with the intention of government legislation. Based on Law No 24/2004 on the National Development Planning System (Government of Republic of Indonesia 2004), the company plan should involve local community participation through musbangdes (Musyawarah Pembangunan Desa – Village Development Discussion), musbangda (Musyawarah Pembangunan Daerah – Regional Development Discussion at district and provincial level), and musbangnas (Musyawarah Pembangunan Nasional – National Development Planning). The steps in this discussion planning system are to ensure the local villagers’ aspirations are to be listened to by the district, provincial and national governments. This planning system requires companies to adopt the district government development plan in a RPJMD (Rencana Pembangunan Jangka Menengah Daerah – Middle Term District Development Planning) document, assuming the document is already representing the local community’s needs.

In practice, Gibson and Woolcock (2008) found non-transformative cases in the making of the development plan, as most musbangdes conducted in the village don’t involve the more marginalized and powerless groups such as women, farmer groups and poor people in the discussions. They suggested the development system planning should transform power relations in the village to be successful in involving marginalized groups in the discussion. The present researcher found that most of the musbangdes were controlled by the kades (the head of village) and his preman (hoodlum) cronies. In the interview with the kades (the head of village) he exhibited strong notions of his influence to control the meeting consultations, as he illustrated with this statement about those attending the meetings:

“We are born and grow in this village. I know very well the condition of people in this village. So, for the easiness of discussion I just invited some community leaders in the village. I am sure all people in this village will agree with what those figures advise for this village development” (D.2)

This statement reflects the dominant power of the kades and his allies in determining the village development discussions. It begins with only inviting certain stakeholders in the village, then assuming these stakeholders attending the discussion represent all villagers. The result of discussion may in fact only reflect and perpetuate the elite stakeholders’ interests, rather than those of the marginalized groups’ interests. In this manner, the company’s adoption of government development planning may only benefit the elite stakeholders in the village.
The support of company B for the local government development agenda is important to gain local legitimacy in this area. The local development agenda represents the promises of the bupati (head of district government) during his campaign and the local communities’ needs as voiced during village and district development consultations. Supporting this development plan means supporting the political power of ‘little kings’, which is essential for the company to gain local political legitimacy. Being foreign owned positions this company without having much political influence in national and local levels. The available means to influence political legitimacy is by utilising their economic wealth or resources. Therefore, allocating their CSR resources mainly to support the local government development plan is a way for the company to gain this legitimacy.

6.3.2. The Implementation

The distribution of company CSR resources primarily focused on supporting the district government development agendas. This support to the local district government’s development agendas can be seen in its CSR activities, which prioritise public infrastructure projects in accordance with the government development plan, such as repairing roads and bridges, providing water sanitation, and renovating schools and Puskesmas (Community Health Service Centres). Based on the present research observations, the company had contributed a lot of projects to the villages nearby the company operations in the form of building the office of the kades, renovating the community’s market, building a library and even building a water treatment facility for the community. These were obviously in evidence at the research sites as those projects were marked with the company brand to let the community know that these items of infrastructure were the company’s contribution. These infrastructures projects could be quite expensive and this encouraged other companies to allocate more budget for CSR. However, the projects also allowed the company to market their brand through the projects, due to the long-term use of the infrastructure built and the company brand that attached to these infrastructure items, compared to intangible projects such as organic farming or giving soft loans to communities.

The commitment to support district government agendas by collaborating with district government was confirmed by the head of CSR unit:

“We have collaborated with the local government in delivering our CSR projects. We realize that the development agendas of local government are results of a series of public consultations with the communities. Rather than conducting our own local community
consultation that might not be efficient, we chose to work with local government.”
(B.Sp.1)

This statement implies the company’s reliance on the district government, particularly in delivering CSR projects. As regulated in Law No. 24/2004 on National Development Planning System, the government development plan has been through discussion and consultation in the villages. However, the next statement of this participant mentioning ‘conducting our own community consultation might not be efficient’ reflects company awareness of the various interests from various stakeholders in the village. Relying on district government development agendas allowed the company to save time and effort in managing these various stakeholders, and enables the company to avoid the complexity of stakeholders’ demands in the discussions. However, this led the company to focus only on the interests of the little kings’ group, while the aspirations from marginalized groups might be ignored.

Building relationships with the *kades* and the local district government is necessary for company B to implement this motive. Figure 6.3 below shows the company B local stakeholder network. As before, the solid line represents a good relationship, while the dashed line represents an inharmonious relationship. The solid line between company, the *kades*, and local district government and legislative members reveals the reliance of company B on these stakeholders in planning its CSR agenda. The frequent discussion with district government officers and legislative members in designing CSR projects and the involvement of *kades* in implementing the projects in the village makes solid this relationship between the company and these stakeholders. In contrast, the research also recognizes the inharmonious relationship between the company and local marginalized groups such as the poor, women and other people in the village who do not have links with the *kades’* power.
The focus of company staff on doing consultations with little kings and resulting lack of involvement from marginalized groups has affected how a local marginalized group member expressed her feeling in a FGD about the company staff:

“The company is only close to those ‘kings’ group. They never want to talk to us. And they are very sombong (cocky). Every time they come to our village, they drive their car directly to the kades house, without opening the window to say ‘permisi’ (excuse me)...”

(FGD.2)

This statement reflects how the company’s reliance on ‘little kings’ stakeholders impacts the perception of local marginalized groups toward the company. The decision of the company to support the local government development agenda urged them to be close with the elite stakeholders. In this manner, the kades and his group are the authorised village stakeholders to implement the district government’s development plan in his village. The consultation relied on kades’ information for projects, such as the location of the project, the process, and mechanism to implement the project in the village. Therefore, the consultation with other stakeholders such as the marginalized groups is very limited. This kind of behaviour is deemed inappropriate by a marginalized group member by stating this behaviour is ‘sombong (cocky)’. This community participant also gave an example of company behaviour by illustrating how the company staff pass through their residential area without saying ‘permisi’ (‘excuse me’), which in the village culture is inappropriate behaviour.

As explained previously, the government development plan may only reflect local elite stakeholder interests due to this absence of local marginalized groups in its development; hence,
company B CSR projects may also only reflect local elite stakeholders’ interests. The village elite stakeholders such as sekdes (sekretaris desa - village secretary), kadus (kepala dusun - the sub village heads) and kaur (kepala urusan - head of affairs in village office) are the formal positions in the village appointed by the kades. This stakeholder group has authorization to conduct musbangdes in the village. Rather than inviting marginalized groups in the village, the discussion is usually attended by the kades and their allies. The results of this elite group discussion are then proposed to district government officials and legislative members, who assume the results represent the villagers’ aspirations. The discussion results are selected by district government and local legislative to be implemented in the annual district government development budget. The projects can benefit all communities in the village because all communities can enjoy infrastructure built by companies. However, in terms of wealth distribution, one participant from a marginalized group gave an example of how the projects are conducted by this ‘little kings’ group:

“I know the company has a lot of projects in this village, but the projects are only for the head of the village and his ‘geng’ (allies) benefits. They renovated the head of village office, and I saw the head of village received a lot of building materials to use to renovate his house. The rubber seeds for the farmers in this village were distributed only to their allies through the cooperative under the head of village... (FGD.2)"

This statement illustrates the perception of ‘little kings’ being self-interested on the conduct of CSR projects of company B. The participant from the community accepts that the company CSR benefits them in ways such as the renovation of the kades office to improve community services, and the distribution of rubber seeds to replant the community’s plantation. However, the lack of consultation with other stakeholders and lack of transparency from the company on CSR projects have led the communities to perceive that the projects were also benefitting the kades’ self-interests. The use of materials from CSR projects to renovate the kades’ house and the distribution of rubber seeds being limited via the kades’ allies are examples of local community perceptions of the lack of participation and transparency in the company’s CSR projects, particularly on the part of those who are not linked to the little kings’ power.

The company might not, however, be concerned about this distribution issue. The company emphasis on their budget allocation for CSR and supporting government agendas has evidently caused the company to not apprehend the dynamics of the village situation, with the effect that their CSR distribution mostly goes to local elite stakeholders. Indeed, company might enjoy this type of stakeholder network that can thus provide them protection. Kades is presumed as holding the major constituency support in the village since he won the direct election. Thus,
distributing most CSR projects to the *kades* and his allies, and on the other hand abandoning local marginalized groups, might be a function of foreign ownership and the thinking that this would assist the company to attain local legitimacy from the major players in the village constituency.

6.3.3. The Outcomes

The company received a CSR award from the *bupati* (the head of district) for supporting local government development agendas. The assessment from the CSR forum gave the company an excellent rating in delivering its CSR projects; however, how this performance was measured is not clear. In relation to the instrument assessing the company’s CSR performance in the district, one participant from the government officials involved in the CSR forum only gave some hints, such as the amount of money that the company distributes to the local communities and the adoption of government agendas in company CSR projects. Furthermore, the administrator for the CSR forum gave some examples of company B projects to clarify why the local district government gave them the CSR award:

“I think the company deserved the award. You see the school on the side of the road to the village, it was renovated by the company. The water sanitation for supplying clean water around the area was also donated by this company” (Go.2)

The CSR program to renovate the elementary school building is part of the district government development agenda. The company B supported this program with their commitment to build some schools near their company operations. This kind of support for the government development plan attracted *bupati* to come and launch the school at its inauguration (see Figure 6.4).

Figure 6.4 below shows the ceremony for the launch of the school built by company B, with the *bupati* (the head of district) and his wife pictured accompanied by the operational manager from company B (not pictured here). The picture was published by the district government in a publication as a form of appreciation for the company’s support. The picture reveals the importance of the mutual relationship between company and district government. The project building the elementary school is a way for the company to demonstrate their commitment to supporting the district government. In return, the coming of the *bupati* representing district government gave the impression of local government support to the company to remain operating in the area. This legitimacy is essential for the company as a foreign owned company, to continue its PSC (Production Sharing Contract) in the area. The PSC is given by the central government though SKKMIGAS for a period of time; however, the local district government recommendation is essential for the company to extend its PSC contract.
The project benefitted the local community in the village, as previously children had to go to other villages for school. However, the lack of consultation with local parents in the village on the school’s location made the local people confused about the decision to build the school far from their residences. The children have to walk a long way to the school (around 4-5 KMs), which made the parents afraid about the safety of their children. The FGD discussion with local community groups reveals that the building of this SD (Sekolah Dasar – elementary school) was influenced by the kades, who directed the location of SD to be on his own land:

“The school is very far from our settlement... Well, they built the school at kades (the head of village) land so he could get compensation from the project” (FGD.2).

This is an illustration of how the local community perception on the elite stakeholder interests shape the way CSR projects are delivered within a local community. The lack of community consultations have resulted in local stakeholders perceived that kades has directed the company project as to the location of the elementary school building. Stakeholder power thus influenced the company to conduct the project in a way that fitted the stakeholder’s self-interest. One may argue that this type of company CSR projects gives benefit to the local communities. However, with a lack of company and local community consultation in the implementation of such CSR projects, the company can only rely on ‘little kings’ power. As a result, this reliance in this case allowed the little kings to satisfy their own vested interests in their proposals for company CSR.
6.3.4. Conclusion

CSR activities by this company are managed by the CSR unit in Jakarta under the external affairs department, while the public relations office staff in the operating company in the district assist in the project’s implementation. Due to its company registration being outside Indonesia, the company view it as necessary to not align themselves with the popular CSR Law No. 40/2007 on Limited Liability Company, preferring to focus on Oil and Gas Law No. 22/2001 and Investment Law No. 25/2007. This may be a strategy for the company to relate only to the laws with weaker implementation regulations and limit various stakeholder claims by utilising this popular law. However, the company justified that they have provided an enormous budget for local communities which aligns with the mandate of CSR legislation.

Rather than conducting their own consultation, the company preferred to rely on the district government development plan for their CSR agenda. This decision directed the company to build a strong relationship with local elite stakeholders, or *little kings*, at village and district levels. The relationship with little kings assists the company to thereby gain local legitimacy, since the company does not have political connections to assist them in dealing with local power relations. This was important for this company at this particular time, as it faced more pressure from locals due to the ‘resource nationalism’ issue that spread during the political campaigns for the Presidential election during which the research conducted.

However, the reliance of companies on these stakeholders has meant that they company has ignored the existence of local marginalized groups in the village. The research found that the discussion of government development agendas seldom involved marginalized groups such as poor people, women and those who are not linked to *kades* power. Therefore the government plan actually only reflected the *kades’* interests as little kings in the village. Furthermore, this network relationship with little kings influences the distribution of company CSR. The phenomenon of little kings in villages and district cannot be separated from the villagers perceptions on the little kings’ self-interest. The use of CSR resource to benefit little kings personally, such as the perceived of the use of school building materials for one *kades’* house and
to maintain power by distributing the rubber seeds to his group of allies, allegedly occurring in the company’s CSR project distribution, might be examples of this perceived self-interest. Even if these incidents did not in fact happen, this shows how this company’s CSR efforts are perceived by local communities where the company’s CSR projects were lacking their participation and transparency for local communities. In this manner, achieving the CSR mandate’s goal of improving local communities’ life seems unattainable, as long as the company’s CSR projects are shaped by such little kings interests and their processes hidden from the wider groups of stakeholders.

6.4. COMPANY C – THE STATE OWNED COMPANY (SOC)

This state owned Oil and Gas Company (SOC) is controlled fully under the central government through the Minister of State Owned Companies. It was created by the merger of two state Oil and Gas companies. The firm is currently the second-largest crude oil producer in Indonesia. This company is responsible to report to the central government in terms of their operation and activities. The proposal to open the company publicly on the stock market has been unsuccessful in gaining support from Parliament, with the premise that the company has a strategic role in maintaining Indonesia’s energy security. This company has previously been in receipt of a privileged monopoly of oil and gas resources during the centralized Soeharto era. As the result of Law No. 22/2001 on Oil and Gas, this monopoly in the upstream sector has been removed, so that the company has a similar position to that of other private companies, needing to obtain a Production Sharing Contract (PSC) for one mining area from the government through SKKMIGAS. This circumstance has urged this company to be more efficient in exploration and exploitation of oil and gas resources.

In CSR, according to the company sustainability report in 2013, the company has a vision to be a company in the Oil and Gas sector which preserves the environment and provides added value to surrounding stakeholders. The mission of the company’s CSR as stated in this report is to implement community development and environmental preservation, as well as create harmonious relationships, and a social and conducive business climate to support the company’s operations.

As a State Owned Oil and Gas Company, the company recognises all CSR laws as applying to them, which are: (i) Law No. 22/2001 on Oil and Gas; (ii) Law No. 25/2007 on Investment; (iii) Law No. 40/2007 on Limited Liability Company; and specifically, (iv) Law No. 19/2003 on State Owned Companies. The social responsibility obligation stated in these laws consequently posits the
company to have two forms of CSR (see Table 5.1). The first form is Corporate Social Responsibility and Community Development activities, where the fund is administered by the Public Relations Department in the operating company in the district. The CSR activities in this department are categorized as a form of compliance to the Law No. 40/2007 on Limited Liability Company, Law No. 25/2007 on Investment, and Law No. 22/2001 on Oil and Gas, where all these laws mandate the company to allocate its operational cost for conducting CSR and CD, as one staff of Public Relations Department stated:

“... our department manages the fund from the company’s operational cost for local communities, including Community Development as mandated by Oil and Gas Law, and Corporate Social Responsibility following the Law on Limited Liability Company” (C.St.1)

Secondly, Partnership Program and Environmental Building (PPEB) is organized by a unit under the board of directors of the company, and the funds for this unit are taken from two percent of company profits, as explained by the PPEB unit manager:

“... As you know we have to allocate our profit for PPEB. Our office has been appointed to manage these activities” (C.M.1)

The unit is reports directly to the company’s board of directors. The company participants explained that the funding for PKBL is derived from company profit allocation, so it is no longer part of company operational budget:

“Well, we work for the company, but in terms of the funding, it is from the allocation of company profit. This means they have already donated the fund. So, it is actually no longer company business how the fund is distributed. But we report all of our activities directly to the company’s directors.” (C.St.4)

This statement underlines the separation of PKBL activities from the company operations. Since the PKBL is funded by the company allocation profits, this staff presumed that his office is separated from the company operational activities. This is in line with the SOC Ministerial Decree No. 05/MBU/2007 on PPEB, which states that the report of PPEB activities should be made to the Ministry of State Owned Companies by the board of directors. Therefore, unlike the CSR activities, which are fully under the control of the PR department in the operating company, PPEB is controlled by this separate unit. The unit is located in Palembang, the capital city of the South Sumatera province, where this unit manages PPEB from all operating companies under the parent company in the province. The redistribution of this funding to the Musi Banyuasin district is managed by four staff under the Public Relations Department, who select the recipients of soft loans and monitor these loans.
PPEB projects have a high profile in the community in the form of the company’s micro finance projects to small and medium businesses and cooperatives in the community. These projects commenced during the President Soeharto era, in 1983, which were called *Pembinaan Usaha Kecil* (PUK – Small Business Development) and *Pembinaan Pengusaha Ekonomi Lemah dan Koperasi* (PEGELKOP – The Development of Weak Economic Entrepreneurs and Cooperatives) in 1989, and *Pembinaan Usaha Kecil dan Koperasi* (PUKK – The Development of Small Business and Cooperatives) in 1994; and from 2003 it was titled PPEB. The long history of PPEB has made the program gain popularity in the local communities, so that the local community refers to PPEB projects to describe company CSR, as one company participant mentioned:

“... I know very much about the company PPEB. My family, even my parents before, often applied this PPEB for our family small business... I think this is a form of the company efforts to pay attention to us” (FGD.3)

After these 32 years, the program has benefitted many communities’ small businesses in the country. As regulated in the ministerial decree, the program has been allocated to assist many small and medium community businesses and cooperatives with some required characteristics: (i) having assets of not more than IDR 200 million (USD 20,000); (ii) having gross production of not more than IDR 1 billion (USD 100,000); (iii) not having a branch or subsidiary company; (iv) in the form of an individual business entity, or not having business entity or cooperatives; and (v) have been established for a minimum of 1 year (Firdian 2012; Ministry of State Owned Enterprises 2007). This requirement enables the community businesses that have lack of access to the banking sector, due to the lack of administrative requirements such as not having a business registration, to utilise this program’s financial assistances.

The researcher was able to interview five staff of the company related to company CSR and PPEB matters. The interviews were conducted with two staff of the Public Relations Office in the Musi Banyuasin district, and one head of PPEB and two staff of the PPEB office in the Palembang office. Instead of there being a difference between the units in administering the funds, the responsibility for implementation in the field is focused within the Public Relations Department in the Musi Banyuasin office. The staff in the field distinguish the projects into two types: CSR is to build community infrastructure, particularly focused on education and health projects such as building or renovating schools or *puskesmas* (community health centres); while the PPEB focus is on giving financial assistance for community small-sized businesses. Given the well-known status of PPEB programs in the community, this study focussed on the soft-loans program of this company in order to examine the implementation of CSR of this company in the field.
This findings from company C are presented in four subsections. Subsection 6.4.1 discusses the company perceptions of CSR. Subsection 6.4.2 discusses its implementation. Subsection 6.4.3 presents the outcomes. Subsection 6.4.4 presents the conclusion for this section on company C.

6.4.1. The Perception of Legislation

A strong commitment to implementing CSR legislation is noted in the 2014 company annual report on the section for company CSR, that predominantly mentions the complete laws, regulations and ministerial decrees as a legal basis for the company to perform CSR for local communities, rather than characterizing their CSR as part of company voluntary initiatives. In further explanation, the company affirms in the report that “all company CSR projects are implemented on the basis of CSR legislation”. This company commitment to comply with CSR legislation had been affirmed by the company Public Relations staff at the site level:

“Well, we have to follow all CSR law... We are the ‘kepanjangan tangan’ (the long hand of government). So we have to implement all those laws and regulations. And we hope these can benefit the community” (C.St.1)

This participant statement reflects the role of the company as state owned company. As a business entity owned by central government, the company has to adopt their shareholder interest, which is that of the central government. In this manner, profit is not the sole or even main objective of the company. Wong (2004) argues that the position of a SOC is influenced by two dominant interests: managers who are concerned about the company’s economic interests; and politicians/bureaucrats in the government that are concerned with the company’s role in the country. This participant’s strong statement describing the company as ‘kepanjangan tangan’ (the long hand of government), referring to the company position as a government instrument, illustrates the objectives of the company to implement government policies.

This additional role of a SOC also gives privileges to the company to receive resources from central government. For instance, the fuel subsidy fund used to maintain the country fuel price has been distributed to the company to import oil to fulfil the domestic demand (see Table 2.3). Furthermore, their position as a company owned by the government has assisted them in being accepted by locals, who presume the company represents the national interests, as one community participant stated:

“... The company belongs to our nation. We have to support the company so our nation is no longer dependent on foreign countries...” (FGD.3)

As noted earlier, the present research was influenced by the political campaign for the election of President and Legislative members in 2014. One Presidential candidate proposed the idea of
economic independence to the community by promoting that the Indonesian companies, such as this SOC, should manage all natural resources in the country. Therefore, this community perception was potentially significantly influenced by this campaign to support the SOC operation in his territory.

However, it should also be noted that the position of SOCs owned by the central government also receive certain disadvantages. Being owned by the central government makes such companies have to deal with various self and political interests of politicians and bureaucrats at the national level, resulting in the company subject to allegations of being inefficient, mismanaged, and cash cows for this group (de Vries 2013; Wicaksono 2008). As a consequence, the company has a low level of disclosure in terms of their transparency compared to their private owned company counterparts (Wicaksono 2008).

The objective of the company to securely follow government policies encourages them to implement CSR in accordance with the central government rules. Central government has set clear regulations on how companies should deliver their CSR projects. One relevant CSR mandate is on PPEB, in which the company is required to gives soft-loans to local communities. This may assist the company to be precise in how they deliver the projects. However, the low local stakeholder pressures and the company focus on central government interests has led them to lack initiatives for involvement with local stakeholders. This lack of involvement with local stakeholders has resulted in the company failing to develop CSR projects based on local issues. In this respect, company CSR strategy is not associated with the company’s economic domain, such as utilising CSR to control community protests or build company local reputations, in their CSR projects.

6.4.2. The Implementation

The focus of PPEB projects in giving financial assistance to community small businesses began in 1983 under the Soeharto new order regime, which instructed all State Owned Companies to allocate a portion of their profits to assist small businesses (Wicaksono 2008). This program has continued until now, while the regulation of this program was updated through State Owned Companies Ministerial Decree No. 08/MBO/2013, mentioning that the PPEB funds derive from SOC profits. In 2012, it was reported that the total PPEB funds collected from all Indonesian SOCs was IDR 6.15 trillion (USD 6.15 million) (Marta 2015). However, the dominance of political interests at the national level has aroused suspicion that the PPEB funds have also been used for political interests, which is not allowed in this ministerial decree. According to Marta (2015),
many legislative members in national Parliament demanded PPEB funds during the election campaign in 2014 for the SOCs to build projects for their constituents, in the form of building bridges, roads, or donating for some community basic needs like rice, eggs, and cooking oil, in order to lift these candidates’ popularity. In the 2014 Indonesian Corruption Watch (ICW) report it was also noted that PPEB funds have a high risk of being used corruptly: as they highlighted, 34 suspects from a total of 659 corruption suspects in Semester I 2014 were Indonesian SOC employees and managers (ICW 2014). One of the participants from a business association group also explained his experience in managing PPEB funds in one SOC:

“... why do you think government separated the management of PPEB funds directly under the board of directors? Well, there is a lot of interest behind that...” (CF.1)

Unlike CSR or CD programs, which are managed by Public Relations Departments, PPEB programs, as described earlier, are managed by one unit under the company director with direct reporting to the Minister of State Owned Companies. The principle for separating this program from the company organization is because PPEB is generated from the allocation of company profits, so it is no longer part of company decision making to use it. This, however, makes the funds at risk to be potentially used for central government interests. The above participant gave some examples of how the PPEB funds have been allocated for central government interests, but he asked that this information be not stated in the present thesis. For illustration purposes, one of the ministers under President Jokowi claimed that the printing of KIP (Kartu Indonesia Pintar – Indonesian Smart Card) and KIS (Kartu Indonesia Sehat – Indonesian Health Card) used PKBL funds from SOCs (Asril 2014). This statement aroused the issue of the allocation of PPEB funding for central government purposes. One scholar argued that the central government, as the major shareholder of SOCs, has the right to utilise the funds for their own purposes; while another scholar criticises the utilisation of this PPEB funding for government programs, as the fund is supposedly purposed for community development (Simanjuntak 2014).

At the village level, this funding was used mainly for financial assistance for communities. The company under study here admitted that the distribution of this financial assistance relies on the kades as the government representatives at the village level. Kades have been trusted as having information on community members and thus for helping decide who gets loans. Therefore, consultation with kades influences the company in selecting community proposals, as explained by a company participant:
“We maintained a close contact with the *kades*. He tells us the background of all the stakeholders in the village when we try to assess the proposals from the community. He gives us valuable information to assess the applicants.” (C.St.2)

This statement shows a limitation of the company - community involvement in the discussion of company CSR projects. Their frequent consultation with *kades* about applicants’ backgrounds has forced the company to maintain their relationship with the *kades* so that the latter can maintain their status quo. The reliance on *kades* information in assessing the community applicants might therefore allow the *kades* to prioritize his supporters to get the company’s soft loans. In responding to this issue, the company claims that they have set mandatory requirements for the applicants, as stated by a company C staff participant:

“…based on the regulation the receiver of soft-loans should have some requirements such as that his business has been established at least 1 year, has never received banking loans, and he should also have a permanent address in the village” (C.St.2)

These requirements stated in the ministerial decree and government regulation has been implemented by the staff in delivering soft loans. These requirements are seen as helping the SOC to control the *kades*’ behaviour and eliminate non-credible applicants that might otherwise be prioritized by the *kades*. In addition, the company also applies a social sanctions mechanism to the community in the village. The company reduces the amount of financial assistance to one village if the individual or group receiver is not repaying the loans. By this policy, local communities will push the receivers to repay the loans, so that other community members can receive the loans in the following year. This mechanism received the following complaint by one participant in the discussion:

“It is unfair because of *kredit macet* (bad credit) of one person, we have to bear his responsibility. But what can I say, we are in one group village, we already have commitment with the company...and I don’t like if one of my family were to do that” (FGD.3)

This statement describes the community feelings on the company policy to reduce the amount of loans if one village member has had *kredit macet* (bad credit). The social sanction thus makes all members of the community bear the consequence if there is one member who cannot pay back the loans. But rather than blaming the company for building such a system, the participant tended to assign blame to the individual who behaved in this way. This social sanction seems to have been effective in that most village people have family kinship relationships, strengthening this social sanction mechanism. One individual may be abandoned by his family kinship relationships, if he has shown a poor attitude in utilising a soft loan.
The reliance of this company on the head of village is illustrated in Figure 6.5 below, where the company relationship is focused on the head of village by appointing him as a representative of all stakeholders in the village. Figure 6.5 presents the network for company C and its local stakeholders. The solid line represents a good relationship. Thus, the solid line between company C and the kades illustrates the good relationship between the two. However, company C has a lack of relationship with other local stakeholders in the village such as the Karang Taruna (the young organization), PKK (women group), the farmers and the poor people. This is a result of the lack of consultation conducted by the company with community stakeholders in selecting community proposals. This figure also reveals the absence of dashed line.

Figure 6.5. Company C and its Local Stakeholder Relationship

In previous company cases, maintaining a relationship and prioritising one group over another would affect the company relationship with the others. In this case, all stakeholders appear to approach the kades to obtain access to the company, as one participant explained this relationship:

“... well I don’t know any company staff, so I just give my proposal to the kades” (FGD.3)

The lack of company-community involvement meant the local communities did not have access to company staff and relied on kades access. Furthermore, this reflects two conditions in the CSR implementation of this company. Firstly, as mentioned previously, the lack of local pressure on the company due to its status as state owned, representing national interests, made the company fail to have initiatives for involvement with local communities. Secondly, the
importance of the *kades'* power in distributing company CSR wealth, with overall control of the social sanctions mechanism, enabled the company to develop their projects with minimum effort in managing the projects. The lack of community pressure in the form of local protests and rallies allows the company to apply social sanctions. Other private companies might not be able to follow this strategy because of local pressures that force other companies, particularly FOCs, to use their CSR as an instrument to control local protests and attain local legitimacy.

Moreover, as Figure 6.5 also notes, there is the presence of stakeholders at the district level, such as government officials and local legislative members. The company participates in a CSR forum in the district, and contributes some small projects suggested by district government through their CSR and/or Community Development projects. During interviews, rather than discussing the company contributions to the district, the researcher realized that those stakeholders were more aware of the company’s status as belonging to the government. One government participant criticised the lack of success with this SOC in gaining PSC for other district areas:

“…we cannot get any benefit, if this foreign company manages the mining...” (Go.3)

This statement indicates the importance of the support of the local government in company C obtaining the contract. This participant ensures that company C is able to give more benefit to Indonesia, including local people, by assuming the profits received by company must go to the government, not flowing to other countries. In this manner, participants did not appear overly concerned with company C’s contribution to the CSR forum, though the company contributions were in the form of small projects only, such as donating rubbish bins to communities or conducting *sunatan masal* (mass circumcision) in the villages.

Furthermore, the soft loans program as the company’s special project were appreciated by local communities, as a participant from a village near the company operation stated:

“…the company soft loan is the one that we really need for our household. I only have a small *warung* (small shop) so it is difficult for me to get a loan from the bank due to the lack of official documents” (FGD.3)

This statement indicates the communities’ value on the types of cash money distribution in CSR projects. The SKKMIGAS policy in SOP No. 17/PTK/III/2005 has limited the CSR or CD projects delivered to communities in terms of cash money transfer to the beneficiaries, such that the project should be in goods, materials and/or tools instead. The SOC was able to maintain their projects giving soft loans to communities because it is regulated in Law No. 19/2003 on SOC. In this manner, company soft loans do allow local communities to receive cash money to develop
their businesses, while company CSR projects directed to infrastructure for health, education or public places might not allow the community to receive any cash money directly.

6.4.3. The Outcomes

Community acceptance in this case is not as strongly related to what companies contribute to them as with the other cases. The acceptance of local communities of this company can be seen in the statement of one woman participant in the local community discussion. The long history of company previously in monopolizing the management of oil and gas resources in Indonesia, which resulted in cheap prices for kerosene, consequently gained a positive reputation for the company’s operations:

“I like when this company managed our oil... The price of minyak tanah (kerosene) was very cheap... not like today, Minyak tanah (kerosene) is very expensive....Although the government gives us LPG it is still expensive, we have to use firewood for cooking now... Imagine that, using firewood while we are living near oil mining” (FGD.3)

This quotation presents a number of viewpoints. Firstly, the cheap kerosene formerly experienced by communities is associated with the monopoly of company C on such resources during the Soeharto era. Although the monopoly evidently caused inefficiencies in the government budget, this statement connects to what people see as important issues in their life, which is the energy supply for their daily needs. Secondly, due to the reduction in fuel subsidy policy, particularly on kerosene, the government distributed free 3 kg LPG cylinders for communities. However, the government failed to ensure the availability of gas energy: as a report showed, the shortage of subsidized LPG in some areas in Indonesia has resulted in the increasing price of 3 kg LPG cylinders in communities, while kerosene is no longer available (Cahyaningrum & M. Simatupang 2013). Thirdly, energy supplies for cooking were essential for this community, so that now people in this village used firewood as an alternative energy source that is available in the village. The statement “using firewood while we are living near oil mining” represents the community feeling on the lack of benefit received by communities from resource exploitation in the local area by private companies.

Support to this company also derived from the company’s status as owned by the central government. The exploitation of company status as state owned generates local acceptance to operate in the territory. As a participant from local district government stated:

“This is our national company, we have to support them... I believed their profit money will not go to other countries, not like other private foreign companies” (Go.2)
Being owned by the government has thus resulted in support for company operations. This participant believed that company profits from exploiting their oil and gas would not go to foreign countries as the company is owned by the Indonesian government, thus comparing this company with other foreign owned companies that may distribute their profits to their shareholders in foreign countries and not give this benefit to local communities.

However, the present research also reveals that the company had some negative impacts from their operations to local communities, such as an oil spill in a local community’s river that happened in 2010. In responding to this issue, a participant admitted that the company was similar with other mining companies in the area in this respect:

“Well, all companies did that to our territory. I do not justify that this company’s spilling [into] the community’s river in 2010 is right. But compared to what private companies did, they just want to get profit and do not care about our life…” (C.Go.1)

This quotation reflects the minimum pressure received by the SOC in dealing with the same issue of pipeline leaks experienced in common with other companies. The participant admitted that what the company did is similar to that of other companies in the area. However, he compared this company’s behaviour with other private companies, in that their irresponsible practices are associated with their tendency to prioritise profit gain, while for this SOC such behaviour is not affiliated with this reason. As described earlier, the company status as owned by the central government urges the company to not only think about profit but also to concern themselves with the government’s wider interests.

However, one local NGO focused on environmental preservation noted this case, highlighting the slow response of this company to solving this issue:

“This company is the worst. They are not responsive quickly to solving the issue…this was also maybe because the district government did not give attention to this issue; even they did not come to the village to check it” (NG.1)

The NGO activist notes the slow response of this company to solving this issue. The slow response might be caused by the lack of attention from local district government and demand that the company solve the issue. Unlike for other companies, where this kind of issue might raise significant attention from the ‘little kings’, such as certain local government officials and legislative members, sometimes resulting in protests and rallies against the offending companies, in this case, most ‘little kings’ appeared not to be concerned with the issue, as the activist underlined by stating that the local officials did not even come to check the issue.
These statements reveal that the support by local stakeholders to the company is associated with: (i) the company history in managing oil and gas resources and ensuring energy supplies during the President Soeharto era, which gave cheap prices for kerosene to local communities in the village; and (ii) the company status as owned by the government, which may result in locals not associating this company’s behaviour with such profit goals. This acceptance gives benefits to the company, as it received little pressure in its operations. However, the lack of local pressure might influence the SOC’s ability to achieve efficiency in its operations and to adapt to changes in the local environment (Arens & Brouthers 2001). Furthermore, the dominance of central government control on the company and the lack of pressure from local stakeholders drive the company to only concern themselves with central government interests. Whilst other companies use CSR as means to control local stakeholder protests or positively brand their image, SOCs conduct CSR only so as to obey relevant laws and regulations.

6.4.4. Conclusion

Company C has to deal with four directly related CSR laws and regulations. The company accepts this legislation as they are kepanjangan tangan (the long hand of government). Being owned by government forces the company to not only follow a profit interest but also the central government interest in securing the implementation of their policies. This rationale steers the company towards compliance with all relevant CSR legislation as part of government policy. The company also received a lack of local pressure from local communities. As a state owned company, local stakeholders assume that the company brings benefit to the national interest, rather than securing their own self-interest in attaining profits.

In terms of CSR implementation, the company relied on a soft loans project as their CSR priority, which project has been in place since 1983. The stakeholder network of the company in implementing this project indicates the lack of wide consultation conducted by the company. All stakeholders directed their relationship towards the kades in order to get company soft loans. This lack of wider community involvement led the company to a reliance on the kades’ role in giving information for each stakeholder’s identification and assessment. The company also has succeeded in applying a social mechanism system for the project, something that has been difficult to apply for other private companies due to the local pressures. The support of district stakeholders from the local government and local legislative also suggests a lack of pressure by these stakeholders to the company’s operations. This lack of local pressure, however, may cause the company to lessen their efforts in responding to local changes. Company C has long been identified for its inefficiency in conducting its operations. One NGO noted some negligence of
the company in preserving the local environment during its operations, in a case of oil spillage in which the company was very slow responding to this challenge. The low level of pressure from local stakeholders on the company’s CSR has thus led to the company lacking the initiative to be socially responsible with respect to the local community, unless obligated by government mandate.

6.5. CROSS CASE

This section provides a conclusion to the findings chapter in the form of cross case analysis of the three companies’ perceptions and implementations of the CSR legislation. Table 6.1 presents the comparison of the three selected companies in implementing CSR legislation, by describing: the list of laws that they focus on; the perceptions of each company on mandated CSR legislation; the implementation of CSR legislation; and the outcome of CSR implementation.
### Table 6.1 Comparison of Three Selected Companies in Implementing CSR Legislation

<table>
<thead>
<tr>
<th>Company Characteristics</th>
<th>Company A (Indonesian Owned Company)</th>
<th>Company B (Foreign Owned Company)</th>
<th>Company C (State Owned Company)</th>
</tr>
</thead>
</table>
| **Company Characteristics** | • Owned by Influential Businessman and Political Figures in Indonesia  
• CSR project is designed by CD department in Jakarta and implemented by PR office in the district.  
• Receives medium stakeholder pressure | • Big MNC from US  
• CSR project is designed by CSR unit in Jakarta and implemented by PR office in the district  
• Receives high stakeholder pressure due to resource nationalism issue | • State Owned Company  
• PPEB is handled by unit under Company’s Board of Directors, and CSR is managed by PR Office in the district  
• Receive low level of stakeholder pressure as the company owned by the nation |
| **CSR Laws that each company focused on** | 1. Law No. 22/2001 on Oil and Gas  
2. Law No. 40/2007 on Limited Liability Company  
3. Law No. 25/2007 on Investment law | 1. Law No. 22/2001 on Oil and Gas  
2. Law No. 25/2007 on Investment Law | 1. Law No. 22/2001 on Oil and Gas  
2. Law No. 40/2007 on Limited Liability Company  
3. Law No. 25/2007 on Investment Law  
4. Law No. 19/2003 on State Owned Companies |
| **Perceptions on CSR legislation** | • Argues CSR should be voluntary | • Accepts CSR legislation because ‘we already do this’ and ‘provide enormous funding’ | • Accepts mandatory nature of CSR laws because company acts as ‘the long hand of government’ |
| **Implementation of CSR legislation** | • Approaches marginalized groups (farmers and women) and utilises its national political connections to counter ‘little kings’ power | • Engages with ‘little kings’ stakeholders e.g. in district government to design CSR projects and with *kades* to implement projects | • Relies on *kades* information with lack of involvement with community |
| **Outcomes** | • Marginalized group acceptance and national recognition, but resistance from little kings in the district | • Little kings support, but complaints from local marginalized groups | • Local acceptance but lack of company involvement with local stakeholders |
According to Table 6.1, each company has different characteristics and ways in which they manage their CSR. Company A is owned by an Indonesian businessman and political figure. In terms of their CD, the company relies on a CD department headed by a manager in the Jakarta office, while the staff in the district are the implementers of the projects. Company B is a big MNC from the US. The CSR unit is under the external affairs department, which handles the company CSR. Company C as a state owned company, on the other hand, has two types of CSR: PPEB is under a unit under the company’s director; and CSR is managed by the PR office. In relation to the differences in the characteristics of each company, the position of the CSR office in each company reflects the efforts of each company to deliver their CSR. In this respect, company A, which appoints a manager to handle their CSR, showed more initiative and an innovative approach to designing their CSR, compared to the other companies. The CSR organization in the company also shows that company B has lower internal status than company A, reflecting the importance of CSR in their companies. Although both companies have different CSR positions in terms of the company organization - manager in company A, and supervisor in company B - both positions have a similar function in the company, to design and approve CSR projects in the district. This is related to the position of SKKMIGAS as the central government body with authority to approve Oil and Gas CSR projects in the field, meaning that these companies could not give their operating companies in the districts power to implement their own projects. In addition, it can also be a company’s strategy to utilise cost recovery for their CSR, where the departments and units in those companies have a role to design projects that fit with CD, involving cost recovery. Moreover, although company A and B have a specific CSR department or unit in their Jakarta office, all companies indicated a similar approach by appointing a Public Relations Department for implementation of CSR projects. This means that CSR activities were viewed as part of the communication strategy for all companies with their local stakeholders.

Moreover, Table 6.1 shows the CSR legislation that are complied with by each company, company A as an Indonesian Owned Company (IOC) admitted that the company links CSR to Law No. 22/2001 on Oil and Gas, Law No. 25/2007 on Investment and Law No. 40/2007 on Limited Liability Company; company B as a Foreign owned Company (FOC) is connected with Law No. 22/2001 on Oil and Gas, Law No. 25/2007 on Investment and Law no. 40/2007 on Limited Liability Company; and company C as a State Owned Company (SOC) confirmed their affiliation with all laws, which are Law no. 22/2001 on Oil and Gas, Law No. 25/2007 on Investment, Law No.40/2007 on Limited liability Company and Law no. 19/2003 on State Owned Company. The reason for prioritizing one law over another is part of the companies’ rhetorical strategy and implementation, as this is related to confronting the local stakeholder demands. For instance, company A selected to
prioritize Oil and Gas Law No. 22/2001, reflecting their preference to report to the central
government through SKK Migas as mandated by this law, rather than to local government.
Company B claimed that they are not related to Limited Liability Company Law No. 40/2007 as its
registration is not in Indonesia, also reflecting their strategy to confront the utilization of this
popular law by local stakeholders to claim company CSR. For company C, stating all relevant laws
and regulations as their obligation is essential for their role as ‘the long hand of government’, in
which they are obliged mostly to the Minister of State Owned Companies. This preferencing of
laws thus actually helps form the rhetoric of this company in limiting the local government
intervention in their CSR, by appointing a law as relevant that has weaker implementation
regulations and obligates them to report to central government.

The comparison of company perceptions, implementation and outcomes of their CSR are the major
themes that are presented in the following four subsections. Subsection 6.5.1 discusses the
company perceptions, as a reflection of the companies’ positions in their local environments.
Subsection 6.5.2 shows their CSR implementation, in terms of competition for CSR distribution
between elites and marginalized groups in the three companies. Subsection 6.5.3 presents the
outcomes: the local legitimacy of elites or marginalized groups. Subsections 6.5.4 presents the
cross case analysis conclusion.

6.5.1. The Perception of Legislation

Table 6.1 shows us that the mandatory nature of CSR legislation was responded to by each
company differently, describing the different perceptions of the three companies in viewing the
mandatory nature of CSR legislation. Company A argued that CSR should be voluntary and they do
good things. Company B accepts mandated CSR legislation by arguing that the legislation only
makes lawful what they already do, as they claimed to have allocated enormous funding for CSR.
Company C accepts the mandated CSR legislation, considering the position of this company as ‘the
long hand of government’ or government instrument. The selection of laws that apply to them by
the three companies is based on their respective ownership profiles, but also seems to represent
some strategy. These differences are shaped by each company’s position in conforming with the
institutional and local stakeholder pressures. The decentralization process that delegated some
authority to local government forced the companies to deal with local power in order to attain
local legitimacy, where previously under the Soeharto new order regime this legitimacy was
provided by central government. The findings reveals that these three companies’ perceptions
reflect each company’s strategies for this issue.
The argument of company A that CSR should be voluntary, in their annual report and company participant perceptions, appears to be bases as an attribute to the company connections with political power at the national level, allowing them to move away from the little kings power at the district and village levels. This company is owned by an influential businessman who also has an influential role in a major political party in Indonesia. The link of Indonesian private businesses with political power is common in the country and such a link provides a valuable resource for a company. A study by Leuz and Oberholzer-Gee (2006) reveals that most Indonesian private companies with links to political power are given access to cheap loans from the state-owned bank. For the present study, the political connection grants companies local legitimacy in dealing with local powers. This leads the company to confront the idea of mandatory CSR, which may result in the intervention of local stakeholders in company’s CSR decisions. Company A thus preferred to promote CSR as voluntary as their normative claims, since their CSR would not have any consequences for the company’s legitimacy as that has been granted by its political connections. This view might shape the company in their strategies for limiting local government intervention in their CSR decisions. The present study discovered that this company preferred to report the progress of its organic farming project to central government in Jakarta through the Agricultural Minister, rather than to local government. Thus, the company even invited the Minister to their site to see the project, rather than inviting the bupati (the head of district) as the bupati come from different political party of its owner.

In contrast, company B as a foreign owned company has limited political power connections and they may not be able to show them. This urges them to rely only on economic power in order to gain local legitimacy. The company’s tax contributions to the government budget form the company’s power to leverage favourable deals for their operations in Indonesia. Moreover, company experiences in utilizing this economic power during the new order regime, through their contributions to Soeharto and his military allies (Kemp 2001), might have influenced company behaviour in conforming to the local institutional environment. Legitimacy is necessary for a foreign owned company as the company is owned and registered overseas. During decentralization, the company had to deal with an increase in local authority to attain their legitimacy. The company’s reliance on economic power in recent times has also been utilized to engage with local authorities. Their claim of their enormous funding allocation for CSR illustrates the company’s adaptation to distribute this funding for the growth of local district government authority, in order to gain local acceptance. This cost allocated by the company might still be acceptable to them, rather than the company investing in countries with strong state institutions,
with complicated labour rules, environmental policies and/or human rights issues, resulting in high operational costs to the company (Scherer & Palazzo 2011).

Furthermore, company C perceptions of mandated CSR legislation reflects their position as the government instrument in securing their policy. Therefore, accepting the legislation is reflective of their position. Positioning as central government instrument, however, limits this company in being innovative in their CSR program designs. Their position also limits local government and community involvement. For this company, being owned by central government forces them to be primarily concerned with central government, by relying on the state owned ministerial regulation on soft-loan programs rather than designing a program based on local stakeholder consultations and aspirations.

6.5.2. The Implementation

Table 6.1 on implementation of CSR legislation shows the distinctions between the three companies in engagement with certain types of local stakeholder: the little kings group; or the marginalized groups. Company A tends to approach the marginalized group, consisting of the farmers and women, in its CSR projects. Company B prefers to engage with the little kings group, such as the district government officials and kades, in implementing the legislation. Company C relies on kades’ information for decisions on distributing their loans. The stakeholder identification of each company’s local network is an important tool for recognising the distribution of CSR resources. Moreover, the relationships of each company with its local stakeholders shown in the figure 6.2, 6.3 and 6.5 are similar with the presence of bureaucrats and societal actors collaborating in influencing the companies CSR. At the village level, figures 6.2, 6.3 and 6.5 highlight the companies’ links with various local community groups and the head of village. Whilst at the district level figures 6.2, 6.3 and 6.5 illustrate companies’ relationship with local government and legislative actors. The relationship of companies with bureaucrats and societal actors is reflective of whom the companies primarily consult with about their CSR initiatives.

The findings from the CSR legislation document analysis provides a picture of company wealth distribution to local communities. However, Duncan (2007) realized that Indonesia’s decentralization process split local communities into two groups. The ‘little kings’ and his allies are stakeholders that receive power delegation to control their territory, with which the little kings commonly propose their self-interest in managing their local territory. The marginalized stakeholders group are the stakeholders who do not have power and access to resources and commonly do not have an affiliation with the little kings power. Decentralization forced
companies to deal with this local environment in order to attain their local legitimacy, with a lack of central government assistance. In relation to this environment, each company has to decide with which group they are required to engage in implementing CSR legislation, as this company decision affects their legitimacy in the area.

Company A’s decision to engage with a marginalized group membered by local poor farmers reflects the limited little kings intervention in their CSR projects and seen as a shift away from a reliance on little kings. Legitimacy from district government and kades appears not to be necessary for this company. The political power connection of the company can provide it with local political power derived from the one big political party in the district. This political connection grants them district government support, such as securing local licenses. The kades, as the little king of the village, gained no support from district authorization due to this political influence. The district government might complain of how company A conducts CSR projects, but there is no evidence that they can force the company’s direction since the company clearly had links with the political party with the majority of seats in the local Parliament. At the village level, protests by blocking the company’s road access (see Figure 6.1) is a form of despair on the part of the kades and his allies for not gaining support for these little kings at the district level. Within this environment, the company is able to involve themselves with a marginalized group, and thus its CSR resource distribution was able to give benefit to this marginalized group, which is in line with the goal of CSR legislation. As a result, this company acquired local community acceptance.

Company B approached the little kings, consisting of district government officials and the kades, rather than having a direct relationship with local marginalized groups. The rationale of this company’s decision is derived from their lack of political connection at the national and district levels. Supporting district development agendas and engaging with kades as government representatives in the villages is a company strategy to attain local legitimacy, as these little kings supposedly have the majority constituency in the village. The reliance on ‘little kings’ at village and district levels in delivering CSR reflects the company need to be acknowledged in its contributions by these stakeholders, in order to obtain their legitimacy. The absence of political connection thus forces them to depend on mobilizing CSR resources to support ‘little kings’ development agendas and their self-interests. This company tends not to show interest in community consultation, as approaching the ‘little kings’ group is considered more necessary to attain ‘little kings’ assistance. This approach might benefit marginalized groups in the form of building of basic infrastructure, as advised by local government. However, the company’s CSR strategy cannot escape the little kings’ interests, meaning that their CSR resources can leak to this elite group for their personal interests.
For company C, the rationale for engagement with the ‘little kings’ group is not related to company efforts to attain local legitimacy. Their engagement with this group can be ascribed to the positioning of company C as an instrument of central government policy. Being owned by the state results in the company enjoying local acceptance, as it is presumed that their operation brings benefit for the national interest in supplying energy to the people. However, the lack of company involvement both with the ‘little kings’ group and marginalized groups illustrates the company’s disposition to only concern themselves with central government power. Consequently, this drives this company to rely on central government rules in delivering CSR projects, with a resultant lack of innovation in their design of CSR projects through local stakeholder consultation.

6.5.3. The Outcomes

The row labelled ‘Outcomes’ in Table 6.1 shows the different outcomes for each company in implementing CSR. Company A attained the marginalized group’s acceptance and national recognition, while facing resistance from little kings in the village. Company B gained support from little kings at district and village levels, but received complaints from marginalized groups. Company C obtained local acceptance but with a lack of involvement with local stakeholders.

Indonesian CSR legislation has positioned CSR as a development tool directing company CSR to improve local community life. On the other hand, companies use CSR as an economic tool to attain local legitimacy. These two conditions mean that the assessment of CSR outcomes cannot rely only on the benefit to local communities, but the local legitimacy to companies should also be considered as part of the expected outcomes.

The main mandate of the legislation to redistribute company wealth in the form of CSR attracts ‘little kings’ both at district and village levels, exploiting their local power to influence companies’ decisions in distributing CSR resources. Company CSR resource distribution has to overcome this ‘little kings’ power and interests in order to reach marginalized groups. Company A stood with its decision to limit the allocation to little kings. Shifting the resource allocation provided the company with the opportunity to engage more with local marginalized groups, although this created resistance from elite stakeholders. Company A, with its political connections at national level, however, is able to overcome this ‘little kings’ power. The resistance of kades as the little kings in villages is a form of despair at their not gaining support in the district. Company B supports government development programs, enabling them to engage with little kings at district and village levels. This engagement gives the company benefits in terms of local legitimacy to assist their operations in the territory. Complaints from marginalized groups might indicate,
however, that their program cannot achieve the legislation goal to improve local community life. However, engaging with little kings is more necessary for this company to obtain legitimacy, since the company does not have political connections to assist them. For company C, local legitimacy is not an issue. Their direct link to central government and local support for company operations to supply national energy drives the company to deliver innovative programs that can enhance the life of local communities. However, this company tended to limit their involvement with local stakeholders, resulting in a limitation on the company contributions to local development.

In conclusion, all the companies’ CSR projects are of benefit to the local people. However, how the projects are planned, with whom their consultations are conducted, and who are the main beneficiaries differs between the companies depending on each company’s strategy for conforming with their local environment. For company A, embracing local marginalized community groups through regular consultation is more important to obtain their acceptance, rather than focusing on local government interests. For company B, adopting local government development agendas into their CSR programs is a suitable choice for them to be accepted, as a foreign company but has less benefit to locals. A different case was found in the state owned company C, where CSR is not a focus of this company due to the lack of local pressure. Their main concern for central government interests, as their dominant shareholder, made the company unconcerned about the emergence of local power in the area. Furthermore, the low pressure from local stakeholders, who assume this company to be representing the national interest, leads the company to not actively be involved with local stakeholders. This situation drives the company to only implement CSR on a legal basis in alignment with central government policy, thus with less of a self-motivation driver and innovation in their CSR implementation.

6.5.4. Cross Case Conclusion

There are key findings revealed in this cross case analysis. Firstly, the difference in companies’ perceptions in viewing CSR legislation reflects their strategies for adapting to institutional and local stakeholder pressures. The findings revealed that company perceptions as to which laws applied to them, their rhetoric perceptions on mandated CSR legislation, and the CSR practices are shaped by these companies’ positions in dealing with the institutional and local stakeholders pressures. A company with political power connections might be able to counter local power by utilizing such political connections. However, for a company lacking such political connections, utilizing economic resources is the instrument for dealing with local power. Secondly, the choice of which local stakeholders should be approached depends on the companies’ strategy within this local environment. Companies can select to engage with little kings or marginalized groups, as this
decision is associated with company strategy to adapt to local powers. Building relationships with
the little kings group as the powerful stakeholders may be necessary for a company to attain their
protection and assistance. However, this choice might involve high costs in CSR as the demands of
little kings can be shaped by political intervention and self-interest. For a company that has
political connections and direct links to central government, building a network with little kings
may not be as important and they can branch out their own CSR projects. Involvement with
marginalized groups incurs a low cost in CSR as the program assessment derives from grass-root
consultations, resulting in efficiencies not possible without such consultations. Thirdly, therefore,
assessing CSR implementation cannot be confined only to the CSR legislation goal of improving
local people’s lives. The occurrence of little kingdoms at the district and village levels that
companies encounter encourages them to use their resources, including CSR, to attain local
legitimacy.
Chapter 7. DISCUSSION AND CONCLUSION

7.1. INTRODUCTION

Mandated CSR legislation in Indonesia and the emergence of local stakeholder power associated with decentralization provide a unique context for this study to examine the companies and their local stakeholder experience in the implementation of CSR legislation. This study focused on three central research questions: (i) What are the main mandates of CSR legislation for Oil and Gas companies operating in Indonesia?; (ii) How do Oil and Gas companies operating in Indonesia practice CSR and treat local stakeholders?; and (iii) What are local stakeholder expectations of mandated CSR and their perceptions of the CSR practices of Oil and Gas companies operating in Indonesia? The research investigated three companies in the Oil and Gas Industry in Musi Banyuasin district in South Sumatera province; Indonesian Private Owned Company (IOC), a Foreign Owned Company (FOC) and a State Owned Company (SOC), including the local stakeholders surrounding these three companies’ operation. Examining CSR practices of the three different types of company enabled the research to explore the differences in their CSR strategies in complying with CSR legislation and dealing with local stakeholders. While assessing the local stakeholder expectation of CSR legislation and their perceptions of CSR practices from these three companies resulted in the understanding of the impacts of the CSR legislation implementation.

This chapter provides answers to the research questions, a discussion of the core findings and implications for practices, as well as outlining the contribution this research makes in understanding mandated CSR in Indonesia. The next two sections will present the discussion (Section 7.2) and conclusions (Section 7.3) that have been generated from this study.

7.2. DISCUSSION

This discussion section is organised into three subsections relating to the research questions. In relation to research question 1, the key findings are presented in Subsection 7.2.1, on CSR as a government policy tool for wealth distribution. The discussion of research question 2 is presented in Subsection 7.2.2, on the companies’ CSR strategies in complying with the legislation and treatment of local stakeholders. The discussion of research question 3 is presented in Subsection 7.2.2, on the local stakeholder expectations and perceptions.

7.2.1. The Mandate of Company’s Wealth Distribution in CSR Legislation

In relation to this research question 1 (What are the main mandates of CSR legislation for Oil and Gas companies operating in Indonesia?), the participants from the companies and local
stakeholders identified six CSR related laws. In addition, those six laws have associated regulations in the form of government regulations, ministerial decrees, or standard operational procedures for Community Development projects in the Oil and Gas industry as described in Figure 5.2. The research addressed research question 1 based on three categories in order to analyse the content of legislation presented in Table 5.2, which are: mandate to businesses; mechanism of implementation; and sanctions. These key categories create the institutional rules for CSR in the Oil and Gas industry in Indonesia. This categorization assisted the study to identify the essential mandate of the CSR legislation, which is to direct companies’ CSR resources to local communities living nearby the companies’ operations. Furthermore, how the mandate is delivered is explained through the analysis of the mechanism of implementation set by the legislation, which is focused on regulating the sources used to fund this mandate, rather than on how companies should be more responsible to their surrounding communities. In other words, the mechanism of implementation as outlined in the legislation focuses primarily on how company CSR is to be funded (whether from profit or from operational costs). The analysis also highlights a major weakness in the current CSR legislation that it lacks provisions for sanctions and punishments of businesses not conducting adequate CSR.

**CSR and the Wealth Distribution Issue in Indonesia**

The literature on CSR in developing countries has suggested that businesses should be involved in developmental issues in these countries, such as providing health and education infrastructure, addressing poverty and even human rights issues (Blowfield & Frynas 2005; Dobers & Halme 2009; Idemudia 2011; Jamali & Mirshak 2007). However, the literature largely views that the involvement of CSR in those issues through the lens of voluntary CSR, depending on companies self-initiative (Desta 2010; Dobers & Halme 2009; Jamali & Mirshak 2007). The adoption of mandated CSR legislation by the Indonesian central government provides an alternative way for developing countries to engage businesses in social provision. This is important in a country whose development challenges are great and whose government capacity to deliver is limited. It also provides an opportunity to leverage and learn from the expertise of MNCs.

Moreover, the question arises as to what exactly should be mandated for CSR, as an important area for discussion. In the context of Indonesia, the phenomenon of mandating CSR as wealth distribution cannot be detached from the context of the decentralization process occurring in Indonesia since 1999. Since decentralization, the central government in Jakarta has issued new tax and fiscal balance policies as instruments to distribute funds to local government (Agustina et al. 2012; Agustina, Fengler & Schulze 2012). A proportion of tax revenue collected by the central
government is now shared with local government annually through the Dana Alokasi Umum (General Allocation Fund) and Dana Alokasi Khusus (Special Allocation Fund). Local governments have also received the authority to collect small taxes in the form of restaurant and hotel taxes and parking retributions, and include these in their local budget as Pendapatan Asli Daerah (Local Revenues) (Riduansyah 2010). Dana Bagi Hasil, or the revenue sharing policy from the mining sector, is also one instrument of central government to fulfil local district requests for more contributions from the mining operations in their regions. These contributions have been partly transferred from the central government to local government through Dana Bagi Hasil (Revenue Sharing Fund) (see Figure 2.4).

With this mechanism, the Musi Banyuasin district received IDR 3.4 trillion (or around USD 34 million) in 2013, and this increased in 2014 to IDR 3.9 trillion (or around USD 39 million) (BPS 2015). These numbers put this district among the top ten districts for APBD (Anggaran Pendapatan dan Belanja Daerah – Local Budget) in Indonesia (Seknas Fitra 2014). However, the local district government felt that this fund was still not sufficient for their local development (Agustina et al. 2012; Budiartie 2012). As described in Chapter 2, the disparity in infrastructure conditions between Jakarta and less developed local districts requires enormous funding to redress. The local governments perceive that the present fiscal balance policy is ‘unfair’ due to the insufficient funding received by local district government. Meanwhile, it must also be noted that the funding received by local governments has been mostly used for little kings’ self-interest, such as for buying cars, instead of renovating schools. Therefore, for local district government, the 6 percent rate of sharing of Oil and Gas revenue, as discussed in Chapter 2, seems insufficient. In addition, the local district stakeholders believe that this portion is not equal to the environmental and social impacts that the district receives from the mining industry.

Furthermore, a lack of transparency from central government in Jakarta in calculating Oil and Gas production, as widely reported in Indonesian news, leads to obscurity in the revenue sharing calculations used by the central government and thus suspicion of corruption in the Oil and Gas Sector (Budiartie 2012; Wardhana 2012). For instance, the biggest case revealed by KPK (Komisi Pemberantasan Korupsi - Corruption Eradication Commission), involving tax officials, shocked the country, as those officials were found to have erased large tax amounts of some big corporations in Indonesia in return for bribes received from those companies (Kimura 2012). Another corruption case involving SKKMIGAS, the regulatory unit of Oil and Gas production in Indonesia, found its former chief, Rudi Rubiandini in 2013, had taken a bribe from one foreign Oil and Gas Company in return for the company being granted the concession contract from government (VOA
Indonesia 2013). Such cases lead to suspicions from local district governments over central government wealth distribution to them in this decentralization era (Butt 2011; Partowidagdo 2008).

The voluntary CSR applied in developed western countries prefers taxation as a tool of wealth distribution; however, this approach makes the assumption that the taxation system is free of corruption and about the capacity to enforce, both of which may not be the case in Indonesia. This might be a reason why CSR has been to utilised by Indonesian central government as a policy instrument for wealth distribution to local regions. Simultaneously, the desire to maintain their control of Oil and Gas resources might have influenced how central government formed CSR legislation. The central government requires to retain resource control to support their national policies, such as giving a fuel subsidy, which took 16.9 percent of the central government budget in 2010, government personnel salaries (30.4 percent) and national infrastructure development (15.7%); which has thus led the central government to limit the budget distributed to local governments (see Table 2.3). In fact, rather than increasing the proportion of revenue sharing from Oil and Gas production to local districts, the central government has preferred to utilise companies’ CSR resources to fulfil local demands. Therefore, mandating CSR in the form of company funding allocations for local development has been an alternative source of funding for central government to address local complaints about inadequate funding distribution to them. Moreover, the increase of local protests over the impacts of mining operations has led the view that this company wealth distribution is necessary as compensation for what they have done to the local communities.

The Debate of Mandatory or Voluntary CSR Legislation

Steurer (2010) discusses the two different approaches of CSR legislation as hard law and soft law approaches. The hard law approach is categorized as sanctions enforcing businesses to undertake CSR; while the soft law approach takes the position of encouraging companies to voluntarily perform CSR. Furthermore, Gjolberg (2009) combines this categorization with the type of government intervention, thus framing four types of regulatory approach to CSR, which are regulative prescription, economic regulatory instruments, information and voluntary approaches, as illustrated in Table 3.1.

The issuing of mandated CSR legislation can be seen as a hard approach, enforcing companies to undertake CSR. However, this study reveals that the mandated CSR legislation in Indonesia is not simply ‘hard ’ when one considers the application of this legislation within the Indonesian
institutional environment. Firstly, the famous slogan about law implementation in Indonesia, which is “runcing kebawah, tumpul keatas” (sharp down but blunt up), reflects that the laws’ implementation tends to be operationalized only to groups with lower economic power, while wealthier groups can negotiate implementation of the laws (Husni 2009). Bribes by firms in Indonesia arise principally from regulations, licenses and levies imposed by local government officials (Henderson & Kuncoro 2004, p. 1). Secondly, another concern is based on the integration of political and economic forces in the business world. For instance, it is common that many large Indonesian companies are owned by Indonesian politicians and/or have a politicians as members of their board of directors, which can thus give assistance and protection to the companies. Big business in Indonesia is characterised by the presence of what has been labelled ‘conglomerates’, that is, well-connected groups of businesses linked to Indonesia’s political elites, and large State Owned Enterprises (SOEs), which are bureaucratic corporations protected by the power of government and patronage (Bunte & Ufen 2008).

Enforcement of CSR legislation to powerful businesses in the midst of this weak institutional environment is difficult to implement. Some business leaders that also had political power were able to intervene in the drafting process of legislation, which resulted in the absence of sanctions related to CSR laws (Rosser & Edwin 2010). Indeed, their intervention was able to remove the monitoring and punishment components for companies in the CSR legislation, which makes the legislation ‘softer’ than it initially appears due to the lack of enforcement powers applicable to businesses. Indeed, findings reveal that despite the increasing complaints from local government about companies not conducting CSR, there has been no single case of punishment or sanction to any company since the legislation has been passed. The incapability of law enforcers to punish companies derives at least partly from the power of business in the country, from their economic and social contributions to Indonesia and also their political connections, which enable them to avoid such sanctions.

Therefore, a debate on the form of Indonesian CSR legislation as either mandatory or voluntary is not sufficient in this context. If we only look at the legislation, Indonesia CSR is categorized as ‘hard’; however, the weak institutional environment puts the legislation in the ‘soft’ category in actuality, when one considers the possibilities for negotiation between companies and government in the development and implementation of CSR legislation. On the other hand, it is not suggested therefore that Indonesia should take a voluntary approach and eliminate the current mandatory CSR legislation. The mandated CSR legislation is a symbolic resource for local communities to engage companies to undertake CSR as a compensation for their operational impacts. Such
irresponsible practices of companies still occur in this era: for example, in a case where the Indonesian Oil and Gas Company named Lapindo has caused mud volcanoes, since before 2007 until now in the East Java province. Mud volcanoes are a geological term, for when argillaceous material is altered and transported from the Earth’s interior and expelled onto its surface (Davies et al. 2008). The mud drowned around 640 hectares of three nearby subdistricts and their village residences. Until now, the case remains unresolved and the company has received no penalties for this failure. The owner of this company is an important political figure who has influence on central government policy, wherein he managed to use government funds to pay compensation for the victims. Therefore, maintaining mandated CSR legislation is a symbolic tool to maintain local community rights to make demands of companies operating in their area. Therefore, in this manner CSR is in fact the only practicable way for locals to demand companies make a contribution to their areas, and allows stakeholders to have a voice.

In relation to CSR legislation, the present research found certain shortcomings that might influence company practices in complying with the legislation. Firstly, the intention of the CSR legislation to mandate the allocation of companies’ funding to local communities might indicate the social responsibility of companies is therefore limited to the funding allocation and distribution itself, regardless of to whom they distribute the funds. Secondly, companies in this study received limited times in their concession contracts from the central government to operate. Conflicts with local communities in the form of protests and rallies can thus halt their operations, causing a significant loss to companies. The high investment of Oil and Gas companies in their daily operations requires quick solutions to such problems, which may take the form of giving to some charities to thereby control or limit community protests. In this manner, companies’ CSR resource distribution might benefit the community in the short term, but not lead to the benefits that are intended by the legislation.

CSR Legislation and the Local Institutional Environment
By legislating the main beneficiary of CSR as local communities, the central government hoped that the company wealth would be distributed directly to local communities. The issuance of CSR legislation thus gives legitimacy to stakeholders for company CSR. However, instead of giving requisite authority to local government to control company CSR, the present study found that the four direct laws and their implementing regulations do not give such power to local government. From Table 5.2, the limited power of intervention by local government is clear from the mechanisms of reporting, which obligate companies to report to central government, such as to SKKMIGAS in Law No. 22/2001 or to the Ministry of State Owned Companies in Law No. 19/2003.
The other laws, Law No. 40/2007 on Limited Liability Company and Law No. 25/2007 on Investment, do not specify to whom companies should report their CSR activities, and in this way they lack accountability. Furthermore, the absence of sanctions in the legislation for a company not conducting CSR reflects the lack of enforcement power in this legislation. Since the legislation does not thus offer much scope for local government to intervene in company CSR, the district government and local communities utilise their power relations with each company, which are best explained through these three processes: the local regulative process; the social normative system; and cultural cognitive influence (Marquis & Battilana 2009; Marquis, Glynn & Davis 2007).

Local Regulative Process, according to Scott (2001, p. 35) “...involves the capacity to establish rules, inspect or review other’s conformity to them, and, as necessary, manipulate sanctions – rewards or punishments – in an attempt to influence future behaviour”. Lack of stated sanctions in the legislation encourages local district governments to establish local regulations if companies do not distribute their wealth or projects to communities in the region. Such attempts, however, appear to have failed, as local regulation drafts were rejected by central government in Jakarta through the Ministry of Domestic Affairs, as stated by a local government participant in the present study. The rejection of draft local regulation of CSR by the central government may be a result of the political influence of companies and their elite owners.

The pessimism and scepticism over mandated CSR legislation is evident from a local authority’s impression of CSR legislation as “banci (sissy) legislation”, pointing to the lack of enforceability of the legislation to punish companies for not doing CSR. Due to this failure to pass hard local regulations with sanctions and punishment, the local district government in the present study has sought to engage companies in a CSR forum. As enforcing company CSR was not successful, the local government then changed their efforts towards building a consultative forum and involving the forum in the Musrenbang (Regional Development Planning Discussion), in order to direct companies to adopt the local government’s agendas for their CSR.

This effort depends on the power relationships of local government with each company (Freeman 2011). The IOC rejected being involved actively in the forum so as to avoid the intervention of little kings, from inside the local government, in their CSR. Local government may, however, find opportunities to intervene in the CSR of private companies that do not have political connections, such as the FOC. Being foreign owned, local legitimacy from local government is essential for this company. The company thus decided to be involved in the forum and adopt local government development agendas for their CSR projects in order to gain local legitimacy from this local power. This has provided local government with the power to negotiate this company’s involvement in
their development agendas, through contributing their resources to support local government projects.

Social-Normative System refers to rules of behaviour that are considered acceptable in a group or society, wherein people or groups who do not follow these norms may be shunned or otherwise suffer some kind of negative social consequence (Marquis, Glynn & Davis 2007; Scott 2001). The abandonment of local community voices and rights during the thirty-two years of the highly centralized Soeharto regime has positioned the mandated CSR legislation as an opportunity for local communities to demand contributions from companies and lead the social norms of CSR, as related to the companies’ projects for local communities. With respect to these norms, the relationships of companies and local communities are characterized by what companies can contribute to their local communities.

Company participants revealed that they received many proposals from community stakeholders requesting them to fund their projects and activities such as village ceremonies, renovating village head offices or building road infrastructure. These proposals are evidence of how communities perceive CSR and their view that their relationship with companies is always related to companies’ contributions to the community. With this view, the more a company delivered projects or money to the community the more responsible the company appeared to them.

Furthermore, the present study also found that most proposals received by companies actually came from ‘little kings’ stakeholders, consisting of the kades (head of village) and cronies at village level, and local legislative members and local government officials at district level. The social normative system has created a rule of behaviour for companies in CSR to distribute their wealth distribution through company projects and charities to local stakeholders. However, who gets access to these company resources depends on power within the local stakeholders group. Marginalized groups may not be able to have a voice or access company resources, since they do not have power and thus lack legitimation to influence companies to direct their CSR to them.

Cultural-Cognitive Influence refers to the tendency of individuals or groups to conform in their beliefs about disputed matters of fact to values that define their cultural identities (Marquis, Glynn & Davis 2007). Cultural cognitive influence can be found in the content of meetings and discussions of companies and communities in the village. These discussions commonly centred on what communities want from company CSR, rather than what companies and communities can do together in the village. In this way, the local communities tend to pressure companies to allocate their funds to selected projects that they believe are in their interests, regardless of whether the
Mandated CSR in Indonesia: Institutional and Stakeholder Perspective

company agreed that such projects were in fact in their best interests or that they were well placed to contribute to communities.

These demands are part of a resolution to disputes between companies and local communities on companies’ negative externalities such as the negative impacts of mining operations on their rubber plantation production or oil spillage into the community village river. Instead of solving the communities’ complaints, for example by minimizing the impact on rubber plantations or upgrading pipelines to minimize crude oil spillage, companies instead tend to utilize CSR as an instrument of compensation for such negative impacts. In return, communities appear to accept such CSR as compensation for social and environment damage resulting from company operations in their village area. However, only the ‘little kings’ stakeholders have ability to demand companies’ compensation. Therefore, this compensation CSR is primarily directed to ‘little kings’ interests, such as directing company CSR projects to their constituents or pressuring companies to adopt their development plans for CSR projects, creating the potential for these stakeholders to utilise these CSR projects for their self-interest.

7.2.2. Complying CSR Legislation and Treat Local Stakeholders in CSR Practices

This subsection discusses the findings in relation to research question 2, which is, ‘How do Oil and Gas companies operating in Indonesia practice CSR and treat local stakeholders?’. The differences in CSR implementation by each company in complying with the legislation and treatment of the local stakeholders are thus discussed in this section. Based on the findings presented in Chapter 6, the present research argues that differences in company CSR strategy are a result of the differences in local stakeholder pressures experienced by each company, which lead companies to build different CSR strategies for complying with mandated CSR legislation and dealing with local stakeholders.

The Differences in Pressures and Strategies

The discussion in Chapter 2 highlighted the existence of two types of stakeholder in local communities as a result of the decentralization process: the powerful ‘little kings’, who have power to administer their territory; and ‘marginalized’ stakeholders, who lack power and a voice in village decision making, as they are not affiliated with the little kings power. The powerful ‘little kings’ stakeholders have been aggressively demanded for CSR, as they can influence a company’s legitimacy through their power to issue a local license for the company’s operation.

Each company received different types of external pressure. How the company should respond to pressures is suggested by Lee (2011) and Carroll and Buchholtz (2006), the latter who proposed
Companies can choose four strategies, which are: obstructionist, defensive, accommodative, and proactive as presented in Table 3.2. Lee (2011) combines the institutional and stakeholder pressures on a company to categorize which strategy a company will undertake. In relation to the present research context, the institutional pressures remain ‘high’ as the legislation mandates companies to deliver CSR. Although the earlier discussion on research question 1 shows that CSR legislation cannot be seen simply in the form of ‘hard’ or ‘soft’ laws, Indonesian CSR legislation has become a symbol of institutional pressures that thereby exert pressure on companies to distribute CSR resources to local communities. In addition, the local stakeholder pressures differed among the three companies in the present study depending on their local legitimacy, in turn with respect to their ownership status. According to Table 3.2, when the institutional pressure is high, the company’s CSR strategy should lie between being “defensive when the institutional pressures are intense and stakeholder support weak” and “proactive when there is synchrony in external pressures”. This means that the different CSR strategies arise from the different local stakeholder pressures on each company. However, the present study finds that the strategies taken by the three companies do not align with those suggested by this model.

Table 7.1 presents the institutional pressures, local stakeholder pressures, the four strategies proposed, and the findings of the present study of the three companies.

<table>
<thead>
<tr>
<th>Table 7.1. The Difference in Pressures and Strategy</th>
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<tr>
<td><strong>Institutional Pressures (CSR Legislation)</strong></td>
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<tr>
<td>Company A (IOC)</td>
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<td>Company B (FOC)</td>
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<td>Company C (SOC)</td>
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Table 7.1 shows the differences in institutional and local stakeholder pressures received by each company due to the ownership effects. Although, in this table, the present research argues that the institutional pressure remains high to all companies as the mandate to distribute their wealth to local communities applies to all companies, the legislative environment in three companies is not the same. The different preferences by companies for specific CSR laws, such as the Limited Liability Company Law No 40/2007, which is well-known by local stakeholders, indicates the strategy of each company in dealing with local pressures by choosing the legislation that suits companies. The local stakeholder pressures are also different in each company depending on the relationship of company and local stakeholders. Company A can be categorized as having medium stakeholder pressures, as any high stakeholder pressure appears to be moderated through its political connections to counter local stakeholder power. Company B has high stakeholder pressures due to the tensions for this company related to the resource nationalism issue in the territory, while it does not have political connections to leverage. Company C, in contrast, has low stakeholder pressures as the company gains support for being nationally owned.

If we relate these circumstances to the four strategies, the combination of institutional and local stakeholder pressures results in the different CSR strategies in each company. Company A can be characterized as predominantly proactive, as their stakeholder pressure is medium (between high and low), so the company can be predominantly proactive. For company B, since they receive high institutional and high local stakeholder pressures, they should apply a proactive strategy by actively engaging with society to minimize their negative impacts and to improve local stakeholder welfare. For company C, they only receive high institutional pressure in the form of CSR legislation; while the local stakeholder pressure is low; therefore a defensive strategy is suitable.

However, what we would expect based on the literature, as outlined above, does not fit with the findings of the present study of the three companies. For Company A, the company actively engaged with the marginalized group in a form of ‘proactive’ strategy to improve the local stakeholders’ welfare. However, different from the four strategies’ suggestion that company do this for their legitimacy; for this company case, its political connections enabled them to counter the little kings’ interests and thus become proactive. For Company B, the present study found that the company tended to apply a defensive strategy, as the company’s CSR was directed to fulfil little kings’ stakeholders demands in order to gain local legitimacy. Company C practiced an accommodative strategy, where they complied with legal requirements but took a passive approach to stakeholder demands as they had low stakeholder pressures.
These findings suggest that in the midst of high institutional pressures derived from CSR legislation, local stakeholder pressures in fact play dominant roles in the companies’ CSR strategies; indicating that the power relations between local stakeholders and companies is an important factor in the application of CSR legislation. The institutional pressure from CSR legislation forces the company to allocate and distribute projects for local communities, and the findings show all companies do that. However, the application of this CSR legislation, according to Lee (2011), can be amplified if local stakeholders are able to help enforce the legislation, or can also be diminished if local stakeholders buffer the legislation. The companies thus utilised CSR as instrumental approach to deal with local stakeholder pressures. For company A, the proactive strategy occurred because the company utilised its political connection to limit the influence of little king pressures, allowing them to engage with marginalized groups. For company B, the little kings stakeholder pressures encouraged them to use CSR as a defensive instrument to counter these pressures. For company C, being owned by the government led them to concern themselves only with institutional pressures from CSR legislation, and to be accommodative with stakeholder pressures, as mandated by CSR legislation rather than be proactive.

The Companies’ Power

The discussion of company CSR strategy does not explain the phenomenon of companies’ power to influence institutions and local stakeholders, as has been revealed in the present study. The institutional and local stakeholder pressures may play a key role in determining company CSR strategy, but in the context of the integration of political and economic forces in the market, the companies’ power can influence the way each company builds their CSR strategy. The present research found that instead of passively adapting to their external pressures, companies actively attempt to counter the institutional and local stakeholder pressures by utilising their available political and economic power. In this respect, the present research offers a model of companies’ power in managing external pressures, for describing how companies respond to these external pressures.
Figure 7.1 illustrates that there are three dimensions that influence a company’s CSR strategy: macro level, meso level and micro level. At macro level, Indonesia has issued CSR laws and regulations influencing companies and stakeholders views of CSR. However, these laws and regulations cannot be separated from political power within a country. Furthermore, in the Indonesian context, this national political power often has close links with the market and economic forces, where some political figures are also big business owners. Therefore, the design of mandatory CSR laws was influenced by companies’ interests, as revealed by Rosser and Edwin’s (2010) study of the drafting process of Indonesian CSR laws. Furthermore, analysis of various relevant CSR laws in the present study found a lack of local government authorities’ ability to monitor and enforce company CSR given the absence of sanctions applied to companies for not meeting their CSR obligations, which may reflect the business group’s influence on the drafting of CSR laws.

At the meso level, the focus of CSR is on benefits to local community stakeholders. However, this research found distinctions in stakeholders at the local level: the ‘little kings’ stakeholders who hold the power to control the local territory; and the ‘marginalized group’ that lack power and resources. In relation to CSR implementation, little kings may dominate companies’ CSR distribution, as they can influence the companies’ local legitimacy with their power. Furthermore, the present research reveals that the ‘little kings’ stakeholders may be characterized by their self-
interest behaviour in managing their territory so that CSR distribution may disproportionately benefit this group.

At the micro level, there is likely to be link between the company’s power and the companies’ CSR strategies. The existence of CSR laws and stakeholder pressures influence companies’ decisions about CSR. The mandated CSR laws have legitimated local stakeholders, consisting of local government and local communities, to intervene in companies’ decision making for CSR. However, the research also found that instead of adapting to these external pressures in their CSR strategy, companies can actively attempt to influence the institutions and local stakeholders in order to maintain their interests in CSR implementation. In this respect, there are two powers utilised by companies to manage external pressures: political connections; and economic influence.

Companies that have political connections at the national level, such as the IOC and SOC, may limit the local power intervention by imposing this political connection. These efforts to limit local power intervention leads to two conditions. Firstly, it allows companies to directly link with marginalized groups without needing to be concerned about their legitimacy being threatened, as illustrated by company A, the IOC. Its political connections can assist the company in gaining its local legitimacy in the district. Therefore, having local acceptance from the marginalized groups is more necessary for this company, rather than legitimacy from ‘little kings’. Secondly, a national political connection may also lead the company to not be concerned with local stakeholders’ interests, as applied by company C, the SOC. Their main intention was to fulfil central government interests, leading their CSR implementation to be focussed on following central government orders. Lack of local pressures on a company allows the company to lack involvement with local stakeholders and be proactive in design innovative CSR project.

However, a company that has a lack of political connections may still be able to manage external pressures by using their economic power, in the form of their CSR resources. In this manner, the case of company B, the FOC, shows how the company relies on their resources of CSR to engage with ‘little kings’. The little kings’ legitimacy is essential for the company to operate in the area, as being owned by foreigners creates pressure on company operations in the area. This company is vulnerable to local protests to their exploitation of natural resources in the area due to a resource nationalism sentiment in the community, heightened during the research period because of its profile as an issue during the Presidential election. In this way, CSR was utilised as part of the company’s social risk mitigation (Welker 2009). Therefore, the company opted to approach the ‘little kings’ rather than marginalized groups and directed their CSR resources to support local government development plans in their CSR projects. These local government development plans
reflect the political promises made by the ‘little kings’ during their election campaigns, and were mostly directed to their constituents; while the marginalized groups have limited access to and voice about these projects.

The Three Domains of CSR Implementation
Table 7.1 and Figure 7.1 lead to the argument that in complying with the CSR legislation, the companies are still be able to impose and integrate their self-motive into their CSR practice. In this respect, Schwartz and Carroll’s (2003) model of three domains of CSR explains three company drivers of CSR: legal, economic and ethical. The issuance of CSR legislation forces the companies to implement CSR solely based on legal compliance. However, the present research discovered that the enforcement of legislation by institutional and local stakeholders can be countered by the companies’ power, as the institutional environment in the country allows them to do this. Therefore, having mandated CSR legislation does not mean that the companies’ legal compliance is the only CSR driver; but companies can also integrate this compliance into their CSR together with ethical and economic drivers. The different perceptions and implementation of each company in responding to the CSR legislation reflects these internal drivers of their CSR. The differences of CSR domain in the three companies is illustrated in Figure 7.2.

Figure 7.2. The Three Domains of CSR Practices in Three Companies

Figure 7.2 shows the three domains of company implementation of CSR as characterized by the present research results. Each company showed a different emphasis of domain in their CSR. For company A, the IOC, their legal compliance has been balanced with ethical and economic motives. Their direct links with and CSR focus on marginalized groups can be categorized as an ethical motive of the company in complying with CSR laws. Company A also demonstrated the economic domain for their CSR by their efforts to reduce CSR costs. The reduction of CSR cost can be
achieved through utilising the cost recovery mechanism to fund their CSR projects. In fact, the present research found that the distinction of cost recovery and non-cost recovery is difficult to operationalize due to one geographic area potentially consisting of exploration and exploitation (production). CSR cost reduction may also derive from the type of approach that the company undertook in the implementation of CSR. Company A admitted that their frequent meetings with the farmer group has resulted in the company reducing their CSR cost, as the staff stated, “their demands are very simple and even do not need a lot of money”.

For company B, the FOC, legal compliance seemed to integrate with the economic as their main drivers. Their economic driver derived from their intention to obtain local legitimacy in the territory. The company ownership status, as owned by foreigners, made local legitimacy an essential aim for the company. In this respect, obtaining local legitimacy may be associated with the economical domain for this company as this local legitimacy would benefit them to maximise production without protests and disruption, and to extend their Production Sharing Contract (PSC) with central government. Their engagement with the little king stakeholders resulted in local legitimacy for the company, as this type of stakeholder held power with the majority of constituents in the territory. In addition, the company’s closeness with the little kings led the company to reduce the consultation costs of CSR occurring from the various demands of different stakeholders. In terms of ethical drivers, the company participant’s statement about “providing enormous funds for local communities” may have implied that the company had an ethical policy. The participant indicated that the decision and willingness of the company to allocate CSR funds beyond minimum legally mandated level is driven by the company ethical policy. As McWilliams and Sigel (2001) stated that ethical driver is related to the behaviour of companies with their external stakeholders, the participant from company B view their ethical stance as being indicated by the amount of money that companies allocated to fund the communities projects. Meanwhile, as described in Chapter 3, the politics of CSR suggests that the CSR cost spent by the MNC in this developing country, with its weak institutions and law enforcement, is still lower than the cost incurred if they invest in a country that has strong institutions and law enforcement (Shamir 2004).

Company C, the SOC, showed the dominance of the legal compliance domain in their CSR, due to the nature of their ownership. By accepting their role as ‘the long hand of government’, the company accepted the legislation and indeed implemented their CSR according to the direction of central government. This company did not reveal the economic domain of CSR as a main intention of the company, as its aim is to secure government goals rather than profit goals. In terms of the ethical domain, the company participant in this study claimed that it is in following all the laws and
regulations that the company would give benefit to the local communities. This suggests that the company’s CSR is predominantly driven by the legal compliance motive, rather than an economic or ethical motive.

The Efficiency of CSR Distribution

The mandate of CSR laws for companies to distribute their resources to local communities leaves open questions as to whom CSR resources should be distributed in order to have maximum impact. Stakeholder theory defines stakeholders as various actors that can affect or are affected by a company’s operations. The recognition of stakeholders is mostly based on these two categories, “can affect” and “are affected”, applying certain stakeholder attributes to identify stakeholders that fit with these categories, such as power and influence (Donaldson, Thomas, & Preston 1995; Freeman 2011). When this definition is related to ‘local communities’ in the context of the present study, we see that local communities can in fact be comprised of many groups or individuals.

Firstly, the decentralization of power to locals has resulted in the emergence of ‘little kings’, such as the bupati (the head of district) and staff in local district government offices, the kades (the head of village) and his cronies, and the local legislative members. These little kings hold local political powers since they have been elected through local direct elections. Companies have to deal with this type of local power, since it “can affect” companies’ operations through the issuing or withholding of local licenses. Companies may thus decide to prioritize this group in delivering their CSR resources rather than distribute it to other, marginalized stakeholder groups. In addition, companies are also able to attain beneficial assistance from the little kings’ power in terms of securing local licenses. Secondly, decentralization and the resulting power of the little kings has also resulted in marginalized stakeholder groups, consisting of farmers, women, poor and other individuals that have little power but who “are affected” by company operations. The oil spillage to a community’s river affecting community water, and the disturbance of community life are examples of some negatives implications for local communities that “are affected” by company operations near their village. This marginalized group has little power, which means they are often absent from the stakeholder list of a company. Even if this group is invited to the company-community consultations, their voices in raising their own issues tend not to be listened to by companies, due their lack of influence.

The different stakeholder engagement in each company shows how each type of company deals with local power. Power is an important attribute for identifying and prioritizing company stakeholders (Mitchell, Agle & Wood 1997). The application of power in a stakeholder network often only describes the influence of stakeholder power to company organizations, assuming the
company’s power remains ‘passive’. The common position of a company in the network shows only the company as actively assessing the power among stakeholders, without noting what power that company has (Fassin 2008). The present research identifies that in fact companies actively try to impose their power and interest in selecting and prioritizing stakeholders. For instance, the IOC’s engagement with marginalized groups in the communities reflects the company’s ability and effort to counter local power. This implies a shifting of large CSR resource distribution from the little kings group to the marginalized group. Indeed, this company succeed in utilizing this engagement to make their CSR resource distribution more efficient by doing regular consultation with this grass-roots group in the design of their CSR projects. The FOC relationship with the little kings group at district level and village level, by contrast, shows the reliance of this company on local power. The limited political power of this company urged them to relate with this group by distributing their CSR resources to support the little kings’ development plan and interests. The dominant consultation with district government and kades sees the company ignore the marginalized group interests, assuming that supporting little kings agendas can benefit all communities, including the marginalized group. Being state owned and having connections with national political power enables this company to ignore power and interests at the local level. This leads to the company’s lack of innovation in creating CSR programs to improve local communities’ life.

The distribution of CSR resources is important for both little kings and marginalized stakeholders. In the case of the little kings group, CSR resources are essential to help them to maintain their political power within communities. The demands of local legislative members and bupati on companies to support their agendas in company CSR projects, such as constructing roads, bridges, school, puskesmas (community central health) and a kades office, are all part of these little kings’ promises to their constituents. Forcing companies to support their political promises can maintain the little kings’ position in the eyes of their constituents. Furthermore, the need to raise money during a Pilkada (local direct election for head of district) and Pilkades (village direct election for head of village) drives the little kings to build alliances with businesses in order to get alternative resources for use in these election campaigns (Hidayat 2009). In this respect, the distribution of CSR resources through a little kings’ network may benefit village communities as the infrastructure is to be used by them and returns to voters in the future. However, in terms of CSR wealth distribution, the wealth may not fully reach all members equally in the communities, considering the little kings who may use these resources for their own interests. In contrast, the direct distribution of CSR resources to marginalized groups can evidently improve their welfare in the village. An organic farming project improves the production of rice farming in the village, and
consequently improves the income as well as the food supply of local farmers and villagers. Furthermore, the regular consultations between company and marginalized groups can give mutual benefit to both. The company can use this local farmer’s network to deliver other CSR projects that appear to be very effective in their implementation, through such involvement, for example in renovating a mosque, school and other items of infrastructure in villages, rather than building the new infrastructures demanded by little kings.

This leads to the discussion of the effectiveness of CSR wealth distribution. The distribution through little kings’ networks shows the weakness in the current of CSR legislation implementation. The distribution through this group reduces economic efficiency of CSR resources through poor allocation, being used for little kings’ interests, reduced wealth creation as the CSR wealth is predominantly used to maintain political power, and increased income inequality as the resources mainly give benefit to the little kings and their allies. On the other hand, direct distribution to local communities is found in the present study to increase company efficiency in CSR wealth distribution, as the wealth distribution is allocated to community needs and increases wealth creation through generating income received by marginalized groups. However, the failure of the implementation of CSR wealth distribution as mandated by CSR laws cannot be solely attributed to the companies. The complex local environment, with the rising of little kings, forces companies to utilize CSR resources in order to conform with this local power network. In relation to stakeholder theory, the prioritization of little kings stakeholders in company networks can be categorized as an instrumental approach, in which the intention of companies in this relationship is to gain local legitimacy. In this manner, building a close network relationship with little kings is necessary for a company like FOC to attain local legitimacy. The dominant power of little kings in the network allows them to intervene in the FOC CSR projects and direct them towards their own interests. Meanwhile, other companies such as the IOC and SOC may be able to ignore local power in their network by relying on their strong links with national political power to counter the local power.

7.2.3. The Importance of ‘Money Value’ in Stakeholders Expectation and Perception

In relation to research question 3 “What are local stakeholder expectations of mandated CSR and their perceptions of the CSR practices of Oil and Gas companies operating in Indonesia?”, the discussion of local stakeholder expectations of CSR legislation builds upon the findings presented in Chapter 5, and local stakeholder perceptions of CSR practices from the findings presented in Chapter 6 on the outcome of CSR implementation in each company. Table 7.2 below describes the expectations of CSR legislation and the perceptions of CSR practices in each company.
Table 7.2 shows the expectations and perceptions of local government and local communities of CSR legislation and practices. In this respect, the local district government and local communities living in the villages nearby the company are the main local stakeholders, as stated in the legislation. The expectation of local government in this research is heavily influenced by ‘little kings’. The little kings, consisting of the elected bupati and associates, have power to influence the bureaucrats in local government group. This study explored the perspective of three participants from local government. The research recognizes the opinion of these participants is influenced by the context where the power of little king in the area cannot be undermined, and the participant’s opinions have been influenced by this power to maintain the interest of little kings. Therefore, the opinion of local government participants in the table 7.2 may reflect, and, or be influenced by, the interest of little kings. However, the research also acknowledges that there might be different opinion from other local government members that is not aligned the little kings interests.

This legislation gives legitimacy to these local stakeholders to demand company CSR. Donaldson and Dunfee (1999) state that demands on CSR are categorized into, firstly, ‘implicit claims’ of local stakeholders since the demands do not have explicit contracts or agreements between local stakeholders and company; while, on the other hand, the issuance of CSR legislation turns the demand of local stakeholders into ‘explicit claims’ as the demand has been granted by the government through this legislation. This latter circumstance has resulted in increased local government and local community expectations in Indonesia. However, who has power to utilise

<table>
<thead>
<tr>
<th>Local Stakeholders</th>
<th>The Expectation of CSR Legislation</th>
<th>The Perception of CSR Practices</th>
<th>IOC</th>
<th>FOC</th>
<th>SOC</th>
</tr>
</thead>
<tbody>
<tr>
<td>Local Government</td>
<td>CSR as an alternative source of funds for local development</td>
<td>The company is ‘stingy’ as the company limited the adoption of development agendas in their CSR</td>
<td>The company deserved the ‘award’ as the company adopted development agendas</td>
<td>The profit of this company will not go to another country</td>
<td></td>
</tr>
<tr>
<td>Local Community</td>
<td>CSR can give benefit to their household income</td>
<td>The increased rice production for farmer income and their food supply</td>
<td>The project is only for kades’ interest</td>
<td>The cash given by soft loan programs is benefitting the local community</td>
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this ‘explicit claim’ is an important point for discussion due the fact that the legislation does not capture these power distinctions within local communities. Mitchell et.al (1997) suggest that stakeholder power and legitimacy are salient in identifying the stakeholders. In terms of power, local government has more legitimate power (Raven 1992) than local community due to its formal authority position. Meanwhile, in terms of legitimacy, however, local community has ‘normative legitimacy’ (Phillips 2003) wherein the company has a moral obligation.

The previous discussion on research question 2 presents the differences of company focus in approaching local stakeholders. Each company’s stakeholder approach strategy implies these two local stakeholders in perceiving the company’s CSR practices. The following subsections, derived from Table 7.2, discusses the local stakeholder expectations of CSR legislation and their perceptions of each company’s CSR practice in fulfilling these expectations.

**Local Stakeholder Expectations**

The emergence of local district government power through decentralisation has created the expectation of local government to be able to utilise CSR companies as an alternative source of funding for local development. However, although the legislation mentions the main beneficiary of CSR as being local stakeholders, the legislation as described in Chapter 5 does not give authority or power to local government to direct company CSR. The statement by one participant of such legislation as ‘banci (sissy) legislation’ reflects disappointment toward the CSR legislation, as a result of this lack of control of company CSR in the area and the legislation’s lack of enforcement. Therefore, local government in this area has established a CSR forum to approach companies operating in the district. As enforcing local regulation with sanctions was refused by central government, the CSR forum is utilised by local government to engage companies in their development agendas. Rather than setting punishment to the company for not adopting their development agendas in company CSR, local government, through the CSR forum, uses a soft approach by giving rewards to the company that adopt their development agendas, as shown by company B’s experience. The local government might be able to push a company with a lack of political power to adopt their agendas in this forum. However, for a company with political connections or direct links with central government, the local government may not be able to effectively utilise their power toward these companies.

For local community stakeholders, the legislation also raised their expectations toward company CSR contributions to their household income. The community might not understand the content of the legislation; the legislation is, however, a potent symbol for local communities to request
company CSR contributions. The legislation, as discussed in research question 1, might lack enforcement in its implementation; but the aim of CSR legislation to benefit the local communities has resulted in local community expectations toward company CSR. The findings of the present study also suggest that the expectations of local community derive from their long historical experiences of their rights being ignored by companies during the era of the Soeharto regime. Many in the local community in the present study assume that the company operations in their areas were only to ‘steal’ their resources, as stated by one community participant. Therefore, mandating CSR to companies enable the local community to demand benefits from companies. In this respect, the community prefers the contribution of companies’ CSR to relate to their income. However, this local community expectation might not be fulfilled by the companies, as the implementation of CSR depends on the power relations within local communities. The company may only concern themselves with the expectations of little king stakeholders, rather than those of marginalized stakeholders. Referring to an NGO participant’s comment, CSR can be like a ‘fire extinguisher’ in which the company can only target CSR projects to the stakeholders that have voice and power, while the marginalized stakeholders expectation appear to be ignored by the companies’ CSR.

Local Stakeholder Perceptions

As discussed earlier, the preferences of companies as to which stakeholders they distribute CSR resources depended on what kind of pressure each company takes into account, and the company’s power for dealing with these pressures. The company, within this local environment, has to choose whether to focus their CSR resource distribution to ‘little kings’ in the local government or to ‘marginalized’ groups in the local communities. Their chosen strategy, which links to the company interest, consequently has resulted in different local stakeholder perceptions of their practices.

Company A, the IOC, emphasized delivering CSR projects to the local marginalized community, resulting in the good perception of the local community, as their CSR projects in organic farming have helped the local community to improve their welfare through the availability of rice in the village and an increase of rice production. However, the shifting of larger share of company CSR resources to the farmers has led negative perceptions by local government stakeholders, as the company is not following the ‘little king’ agendas in their CSR projects. One local government participant even called company A ‘stingy’ for their lack of contribution to their district development agendas.
Company B, the FOC, in contrast, focussed their CSR resource distribution to support the local district government agendas. This is part of a company strategy to obtain local legitimacy from the little kings in the local government to counter pressure derived from their power with the local constituency. The company’s support for development agendas, furthermore, was rewarded by the local government through CSR awards given by the bupati. However, the focus of company B on little kings at district and village levels has resulted in negative perceptions from the marginalized community. The local community participants pointed to the failure of this company to build a school nearby the community residences, owing to the school being built on the kades’ land. This created a perception in the local community group that the company’s CSR project is only based on the little king interests.

Company C, the SOC, by contrast, gained positive perceptions from local government and local community. However, this perception is not solely because the company CSR succeeded in giving positive impacts to the local community, but is derived more from the company’s ownership. The company has lacked contributions to local government development agendas, but instead of complaining about the company, the locals perceive that the company profit will not go to other countries. Therefore, the local government and local community do not expect to receive the company’s CSR, as the company’s profit will benefit and contribute to the national and district budgets. The community also holds positive perceptions of the company as a result of their PPEB program, which is able to deliver ‘cash money’ in the form of soft loans to the community businesses. This soft loans program in PPEB gives unique institutional arrangement to SOC, an advantage to the company to deliver direct cash money to the community, as other CSR programs under Oil and Gas law are directed to deliver CSR programs in the form goods and services, not in the form of direct cash money to the community. Therefore, the direct benefit in this form received by the local community results in positive perceptions from the local community.

The local government expectations to make CSR an alternative source of funding for local development mean that they also expect results in terms of benefits to the local community. However, the present study finds that this expectation involves a high level of little kings self-interest as the local development agenda is built with a lack of local marginalized group participation and with corrupt behaviour of local government officials. On the other hand, the local community expectations to get benefit from CSR is actually related to the direct improvement of their household income. Therefore, the company CSR projects in building basic infrastructure, such as renovating a head of village office or repairing a road, following the local government development agenda as practiced by company B, are not linked directly to their household income.
and might thus be perceived negatively by local marginalized stakeholders. Company A and company C CSR projects in organic farming and soft-loans, which give direct impacts on the improvement of community household income, are perceived positively by the local communities. This finding suggests the importance of ‘money value’ in CSR projects for local stakeholder expectations and perceptions. Directing most of CSR resources to little kings consequently makes the local marginalized group feel they cannot get the money value of CSR projects directly. Enhancing the distribution resources to the marginalized group, in the form of assisting their farms and giving soft-loans, results in their perceiving that they get the direct ‘money value’ of CSR projects.

7.3. CONCLUSION

This conclusion section discusses important implications, and highlights both the theoretical and practical contributions, from the findings of this study. Subsection 7.3.1 discusses the contribution of the study to the CSR literature. Subsection 7.3.2 discusses its potential contribution to CSR practice. Subsection 7.3.3 discusses future research directions. Subsection 7.3.4 discuss limitations of the study. The final Subsection 7.3.5 discusses future plans for the researcher.

7.3.1. Contribution to Theory and Literature

This research makes a contribution to the CSR literature by illustrating how institutional and stakeholder pressures affect CSR implementation in the context of mandated CSR legislation. This challenged the researcher to examine the implementation of mandated CSR legislation by three different Oil and Gas companies, at the district and village levels in Indonesia.

The voluntariness of CSR initiatives proposed by developed countries derives from the ability of the state to enforce a taxation system and provide public goods and services to all communities. In a country like Indonesia, with weaker institutions around company taxation and less capacity for public provision, the involvement of companies in the development of Indonesia is important. Proposing a voluntary approach may not fit for Indonesia, as companies might as a result perform CSR in many ways similar to developed countries, such as giving welfare to their employees and their families, maintaining the supply chain network, or making green technology for their operational efficiency. Mandated CSR legislation in Indonesia and its emphasis on wealth distribution for the purposes of development is undoubtedly influenced by the disparity of development among regions and the history of companies’ irresponsible practices during the President Soeharto era.
Literature on CSR public policy suggests possible interventions that can be taken by government, ranging from hard to soft approach. The Indonesian CSR legislation appears to be ‘hard’ in mandating companies to distribute wealth to local communities, in actuality it is ‘soft’ as the country’s institutional environment is lack law enforcement and the political environment allows companies to negotiate their compliance with the legislation. The implementation of CSR is mostly influenced by the dynamics of local stakeholder power due to decentralization of power to little kings. Therefore, in the weak of institutional environment, the operationalization of CSR legislation depends on companies - stakeholder power relationship.

The major contribution of the present research to theory and literature is in its explanation of company CSR strategy in complying the legislation and managing the pressures. This study demonstrated that companies take a range of alternative actions to deal with external institutional and stakeholder pressures. Companies try to counter these external pressures by using their power in the form of political connections and economic influences, to implement CSR in ways that is instrumentally beneficial to the company. The model offered by this study can be used to understand companies’ CSR strategy in dealing with these often-intense institutional and local stakeholder pressures. In this respect, the CSR applied by companies in this study showed that their CSR is not purely based on a legal motive, but the companies applied their economic motive in CSR to manage the external pressures.

Further, the CSR legislation becomes an important institutional symbol for local stakeholders to request company CSR. The stakeholder literature has focused on the assessment of salient stakeholders that can influence companies’ operations and make requests for companies CSR. In this respect, the company assesses the various stakeholders and categorizes them based on their power to influence the company. However, the present study offers a different approach by relating those stakeholder powers to the companies’ power and interests. The power of stakeholders in a local district area may not be salient to the company, if the company has political connections that can mitigate this stakeholder power. Furthermore, less powerful stakeholders may become salient for the company, if a stakeholder can align itself with a company’s interest, such as for building their reputation or gaining local acceptance.

7.3.2. Contribution to Practice
The practical justification for the present research presented in Chapter 1 explains two opposite conditions, where CSR projects increased after the laws passed, but the company-community relationship have been problematic. Mandating corporate social responsibility was expected to be
a “bridge” to better integrate companies and communities. CSR that is based on broad stakeholder engagement and benefits broad sets of stakeholders can create ways for company and community to stand and work together to solve societal issues in the village. To achieve this goal, some improvement the mandated CSR legislation and its implementation should be considered to better integrate development and business interests. The legislation should focus on ensuring the meaningful participation of broad sets of stakeholders from local communities. The present research offers some implications and recommendations for CSR legislation and implementation.

Implications and Recommendations for Indonesian CSR legislation

Eliminating Indonesian CSR laws and regulations is not an option recommended as a result of this study. The legislation provides important symbolic institutional value and can provide an institutional space for dialogue between companies and communities. CSR is still important for Indonesia to solve problems of the development disparity between regions in Indonesia. However, this study shows that there is a weakness in the existing CSR laws and their implementation regulations. The laws and their regulations ambitiously intend to force companies to be involved in local development issues without giving direction on how to use or distribute the CSR resources. It is important for central government to provide businesses with further guidance and directions on how to implement CSR in their local districts. Therefore, the existing CSR laws and regulations should also acknowledge to whom the companies should engage with and distribute the resources and how the companies distribute them. In this manner, this research recommends some steps that need to be taken to review CSR laws:

Emphasising Research. This study revealed that CSR laws and regulations appear to be issued by the central Indonesian government because of pressures from local government and local communities to demand more contribution from companies exploiting their natural resources. According to Rosser and Edwin (2010), CSR laws were enacted with a lack of research and study on CSR issues during the drafting process. In addition, the drafting process of the CSR laws, particularly Law No. 40/2007 on Limited Liability Company, was compromised by several interests in their processes, such as the legislative, business associations and the government; while leaving NGOs and the local community interests behind due to their lack of power (Rosser & Edwin 2010). The need for research on CSR issues is crucial for government to have evidence-based insight into the implementation of CSR legislation in local districts. Government should place greater emphasis on launching and organising research projects, policy debates and conferences on CSR issues within Indonesia and across countries. A comprehensive review of the mandated CSR legislation is needed in order to incorporate both local people and business’s needs; and is perhaps timely given
CSR legislation is now almost a decade in its implementation in the field. How companies, local governments and communities interpret the laws and regulations is a core aim for such research, so that central government can better decide how to further legislate and implement CSR in Indonesia.

**Ensuring Participation of Various Stakeholders.** Many organizations and institutions from NGOs and businesses group associations with an interest in CSR have been established since the CSR laws were issued. Policy makers might better recognize the importance of their participation, opinions and views in reviewing CSR laws and regulations. Such perspectives were significantly absent during the drafting of CSR laws. Broader participation would ensure transparency and accountability in the policy formulation process as well as the greater effectiveness of the policy. For ensuring such participation, discussions on CSR issues could be encouraged to clarify the objectives of the legislation. In addition, electronic and print media could be utilised to ensure public participation and to canvass public opinion about CSR. Regular ‘talk shows’ featuring businesses, communities and government as policy makers discussing CSR could be broadcast on radio and television. The print media could be used to test general public opinion about specific CSR policies. This discussion would make CSR legislation open to citizens and thereby increase their acceptance of reviews. Furthermore, a longer-term vision and a mission in formulating CSR laws and regulations with development agendas are needed, and appear to be lacking in the present CSR legislation.

**Overcoming the weaknesses of CSR legislation.** Most importantly, weaknesses in the CSR legislation analysed in this thesis should be taken into careful consideration by government as policy makers in reviewing the legislation. As emphasised here, the focus of CSR legislation, mandating companies to redistribute companies’ resources, has created confusion for companies with regard to balancing this focus with various shareholder interests. In return, the legislation has also created local stakeholder expectations and demands of company resources for their local development. Another shortcoming of the CSR laws and regulations is derived from the definition of CSR with which to allocate companies’ wealth in the form of CSR projects to local communities. This definition may lead companies to focus on local community projects to be viewed as a socially responsible company, with limited efforts to prevent the damage caused by their operations on local communities. Therefore, the need to clearly define Corporate Social Responsibility in the Indonesia context is urgent to limit these unintended effects of CSR laws.
Breaking conflicts of interest in the CSR Legislation review process. Rosser and Edwin (2010) have highlighted the conflicts of interest of various groups in the drafting process of CSR laws, involving central government, local government and legislative members from certain political parties. In order to achieve better CSR laws, policy makers should be rid of the influence of this nexus of interest. The empirical findings and secondary evidence examined in this study suggest that powerful interest groups influence policy makers to formulate such CSR policies in ways that do not serve the interests of the public. Therefore, policy makers need to adopt a firm CSR policy without being influenced by any specific interest group. This can be achieved by making transparency in the drafting process, by conducting public consultations involving businesses actors, local stakeholders and NGOs.

Implications and Recommendations for the Implementation of CSR

There have been a number of issues in the implementation of CSR examined in this study, which policy makers and businesses should consider. The power of stakeholders is a significant factor for companies in selecting to whom they distribute their CSR resources. It is also understandable that the dynamics of their local social, economic and political contexts shaped company decisions in implementing the legislation. It is extremely important, therefore, to place greater emphasis on creating efficient and effective implementation, so that the legislation can achieve its objectives to prosper the local people. Some recommendations to operationalize the legislation in the field are here suggested for urgent consideration.

Ensuring community participation by making CSR funds transparent. CSR has been mandated through a set of laws and regulations. This forces companies to allocate resources to fund community projects regularly in their operational cost or/and taking from their profits. However, local villagers do not have access to knowledge of how many funds are allocated by the company for their area. In addition, the Law No. 14/ 2008 on Freedom of Information obligates all institutions that hold public information, such as the funds for communities, to open their information to the public. This means that how much companies allocate in their budget for CSR should be categorized as public funds and therefore must be transparent and openly accessed to the public. Information on CSR is protected by certain powerful stakeholders. This causes the projects to be commonly directed to this type of stakeholder, whilst other marginalized stakeholders are unable to participate in these projects. To improve this, CSR funding must be transparent for all community members so that they can participate in determining the community projects in their area, and even proposing their needs to be accommodated by CSR projects.
**Monitoring Behaviour of Local Authorities.** Combating corruption in the CSR sector should be of concern to lawmakers. There are areas of potential corruption in CSR implementation revealed in this study, as powerful stakeholders such as local government officials and heads of villages and their allies have important roles in CSR. By making CSR funds transparent and accountable to local villagers, they can control how the company CSR projects are distributed via the roles of these ‘little kings’. Local villagers can even assist companies to implement successful CSR projects. Social control refers generally to societal and political mechanisms or processes that regulate individual and group behaviour in an attempt to gain conformity and compliance to the rules of a given society, state, or social group. An informal social control can be achieved in this way by which CSR projects can be internalized through socialization processes. Socializing CSR funds and projects to a community would lead powerful stakeholders to confine their behaviour to the narrower range of what is acceptable given such community standards (Benson 1990).

**Breaking Powerful Stakeholder Interests in CSR Implementations.** A nexus between companies and powerful stakeholders has diminished community participation in CSR projects. A clear government policy at district level on who are local community and who are the main beneficiaries of CSR can break this nexus. Specifically, the assumption that powerful elite stakeholders can represent the whole community needs to be rethought in terms of CSR projects. The selection of stakeholders cannot rely on stakeholder power and influence as this can diminish community aspirations and create greater company dependency on powerful elite stakeholders. Breaking this nexus might help more closely engage the company with local community groups and provide a symbiosis in the relationship between the two.

**7.3.3. Future Research Directions**

This thesis may inspire future researchers in several ways. The empirical evidence derived from this research generates a thirst for an expanded study to consolidate the findings and explanations for advancing knowledge on Indonesian mandated CSR. By limiting the research scope on Indonesia mandated CSR and its implementation in one district, this study has created a basis on which future researchers can expand the study to other districts/regions or at the national level. Indonesia is comprised of many areas that also have abundant natural resources and similar issues regarding company–community relationships. Other areas provide different contexts and community cultures and these may encourage future researchers to investigate variation in the impacts of CSR legislation in those other areas. Hence, the design and findings of this study on the Oil and Gas industry may encourage future researchers undertaking investigations of different industry sectors in Indonesia, such as coal mining, gold mining or even the plantation industry.
Moreover, further studies could apply different approaches, such as a quantitative approach to survey the amount and the number of CSR projects being delivered and their impacts to local communities in Indonesia.

Conducting a cross-country analysis of mandated CSR, especially in those countries which have issued mandated laws and policies such as India, may offer important insights for improving the benefits delivered by mandated CSR. Furthermore, a comparison could be made among those countries in order to explore the similarities and dissimilarities in their mandated CSR, and how each country operationalizes a mandated CSR. This cross-country analysis will help Indonesia and other countries to strengthen CSR policies, as well as to learn new ways to implement mandated legislation.

7.3.4. Limitations of Study

Investigating mandatory CSR in the context of Indonesia appears to be important due to this being a significant gap in the existing literature. However, the present research exhibits certain limitations.

Firstly, the scope of this research is limited as a single country-based case study – Indonesia. Furthermore, this research limits its focus to investigating its implementation only in one district and on three Oil and Gas companies operating in this district. How the laws and regulations are complied with in other industries and other districts has not been examined due to limitations of time, scope and resources. Therefore, the present research cannot conclude whether the compliance of CSR legislation in other industries and districts may or may not be different from that revealed in this study.

Secondly, taking three Oil and Gas companies as a sample may be a limitation of this study. Relative to restrictions or limitations, the thesis does not offer a universalist or general theory of CSR because of the nature of the case study approach adopted for this thesis. Given the complexities of corporate social responsibility, as revealed in the thesis, a study could easily focus on a case study approach on three Oil and Gas companies in complying with the CSR legislation. However, as discussed in Chapter 4, this approach does not support broad generalizations. It does, however, contribute to in-depth insights and allows us to anticipate the manner of corporate social responsibility implemented in those three companies in complex social contexts. In addition, given the sensitive nature of the issue, the researcher had to consider possibility of access, for which only those three companies consented to be interviewed. Caution regarding the findings should also be given in that the empirical study is entirely concerned with the socio-economic and political
context of local districts. Therefore, generalising the findings to other districts, regarding mandated CSR, may be difficult since institutions and cultures vary around the regions within Indonesia as well as other in other countries.

Thirdly, this study has avoided an investigation of aspects to do with the financial details of company CSR expenditure. The empirical data analysed here mirrored the perceptions and views of respondents about CSR projects and their relationships with local stakeholders regarding those projects. It is a significant step to ask companies’ respondents about their CSR financial resources; as a result, questions about how much money they allocate annually for CSR, or how much money they spent for particular projects, have been consciously avoided in the study due the fact that it is still very sensitive issue. The purpose of the study was to investigate how the companies comply with the legislation and how they deliver projects to communities; while asking the sensitive questions about how much money they allocate and how much money they spent for particular projects would influence the interview process. Estimations of CSR funding in fact would also have been difficult in Indonesia: no single study to date has been able to succeed in obtaining access to such data. Even the local government has had little success in publishing this kind of data due to the resistance of companies and the central government to publicly provide such information.

Fourthly, due to the resistance of participants being recorded and given the adherence to human ethical principles as part of this research I was only able to audio record with agreement. I relied on field notes during the interview to capture important terms or labels mentioned by the participants and then allowed time immediately afterwards to write these up in some detail while it was still fresh in my mind. In order to deal with the possibility of me misinterpreting participants views, I had follow up conversations and emails about the findings.

7.3.5. Reflections for the Researcher

My prior background working in the research site led to my desire to investigate CSR legislation implementation in the local districts. After obtaining some findings, a comprehensive insight on what really happens to CSR within the district allowed me to think further: what is my social responsibility to the involved participants, particularly the local communities? This present research depended on professional and personal relationships with various participants such as companies’ managers and staff, local government officials and most importantly the local community members. So leaving the field can place the researcher in an awkward position. Members of these local communities may become somewhat bored with research and discussion conducted by government institutions and university researchers. Therefore, in this study, participants can feel exploited or let down when the study results appear to not give any real,
concrete contribution to the community, an expectation expressed by one participant, a community member:

“We already tell our stories, we hope you can do something to our problems…” (FGD.2)

For the researcher, maintaining relationships with participants, particularly the local community members, is important. The neutrality view of research may assert that the ways society decides to make use of research findings is not the researcher’s business (Shaffir & Stebbins 1990). However, the cultural context in the area made the researcher want to keep maintaining relationships with people in the area to avoid them having to feel that they have been exploited. Research, that is, has both benefits in itself, as a form of information gathering, as well as forming the basis for social action. One major action that is needed, in this respect, to solve issues in CSR implementation is to make CSR funds from companies more transparent and accountable for all community stakeholders. This may be able to be achieved, as Indonesia has issued a Freedom of Information Law No. 14/2008, ensuring all public information should have open access for all society. Therefore, some steps as a result will be undertaken by researcher. Firstly, the researcher will make a summary of this study to all participants involved in this study to give a description of the findings and conclusions. Secondly, the researcher plans to be involved in the CSR forum in the district by giving presentations and recommendations to the forum members. Lastly, the researcher will try to assist the marginalized community group to access CSR projects by guiding them to develop project plans and introduce them to some decision makers in companies’ CSR. While these small actions may not change the condition in the field, it is hoped at least the community will feel some benefit from this study, and hopefully improvements will be able to be made for the future.
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Appendix 1. Ethics Approval Letter

Notice of Approval

Date: 11 April 2013
Project number: 1000502
Project title: The Impact of Indonesian CSR Regulations on Oil & Gas Companies and Stakeholders Relationships
Risk classification: Low Risk
Principal Investigator: Associate Professor Rosalie Holian
Student Investigator: Mr Rabin Ibru Zainal
Other Investigator: Dr Warren Staples
Project Approved: From: 9 April 2013 To: 18 July 2015

Terms of approval:

1. Responsibilities of the principal investigator
   It is the responsibility of the principal investigator to ensure that all other investigators and staff on a project are aware of the terms of approval and to ensure that the project is conducted as approved by BCHEAN. Approval is only valid while the investigator holds a position at RMIT University.

2. Amendments
   Approval must be sought from BCHEAN to amend any aspect of a project including approved documents. To apply for an amendment submit a request for amendment form to the BCHEAN secretary. This form is available on the Human Research Ethics Committee (HREC) website. Amendments must not be implemented without first gaining approval from BCHEAN.

3. Adverse events
   You should notify BCHEAN immediately of any serious or unexpected adverse effects on participants or unforeseen events affecting the ethical acceptability of the project.

4. Participant Information and Consent Form (PICF)
   The PICF must be distributed to all research participants, where relevant, and the consent form is to be retained and stored by the investigator. The PICF must contain the RMIT University logo and a complaints clause including the above project number.

5. Annual reports
   Continued approval of this project is dependent on the submission of an annual report.

6. Final report
   A final report must be provided at the conclusion of the project. BCHEAN must be notified if the project is discontinued before the expected date of completion.

7. Monitoring
   Projects may be subject to an audit or any other form of monitoring by BCHEAN at any time.

8. Retention and storage of data
   The investigator is responsible for the storage and retention of original data pertaining to a project for a minimum period of five years.

Regards,

Professor Roslyn Russell
Chairperson
RMIT BCHEAN
Appendix 2. Participant Informed Consent Form

INVITATION TO PARTICIPATE IN A RESEARCH PROJECT

PROJECT INFORMATION STATEMENT

Project Title:
The Impact of Indonesian CSR Regulations on Oil & Gas Companies and Stakeholder Relationships

Investigators:
- Student investigator: Rabin Ibnu Zainal, M.Sc in Social Development (Ateneo de Manila University), B.Sc. in Economic Development (Sriwijaya University)
- Senior supervisor: Associate Professor Rosalie Holian, PhD (RMIT University), Grad Dip Org Chg Dev (RMIT University), BBSc (Hons) (La Trobe). E-mail: rosalie.holian@rmit.edu.au, Phone: +61399255943
- Second supervisor: Dr. Warren Staples, PhD (RMIT University), Master of Business (Research) (RMIT University), Bachelor of Science (Monash University). E-mail: warren.staples@rmit.edu.au, Phone: +61399255964

Dear ......., 

You are invited to participate in a research project being conducted by RMIT University. This information sheet describes the project in straightforward language, or 'plain English'. Please read this sheet carefully and be confident that you understand its contents before deciding whether to participate. If you have any questions about the project, please ask one of the investigators.

Who is involved in this research project? Why is it being conducted?

This is an RMIT research project being undertaken by student investigator Rabin Ibnu Zainal as a part of his Doctor of Philosophy (Management) degree requirement, under the supervision of A/Prof Rosalie Holian of RMIT University and co-supervised by Dr. Warren Staples from the same university. In this project we will be collaborating with some O&G Companies managers and staff, and their local stakeholders namely local community members and some key local government officials. The project will examine the impact of Indonesia CSR regulations from multiple perspectives from the company, local community, and local government. As part of PhD study the research plan for this project has been approved by the Business Portfolio Human Research Ethics Sub-Committee.

Why have you been approached?

We have selected the organisation you work for as one of the prominent O&G company having operation in Musi Banyuasin District, Indonesia. Your organisation has also actively involved in the Multi-Stakeholder forum of CSR. Due to your role that related to CSR of your company, you have been nominated as a participant for this research. Because of this consideration, we would like you to participate in an interview to talk about your perception on this regulation and how you implement this regulation in local communities.

What is the project about? What are the questions being addressed?

Indonesian CSR regulations were issued in 2007, and it is now time to see what has been the impact of these regulations over these five-years. Thus, the project aims to study the impacts of Indonesia CSR regulations on Oil & Gas Companies and their relationship with its stakeholder. It is expected that 34-50 participants from three groups will be involved. These will include 14-20 participants from O&G Companies, 12-15 participants from the Local Community, 5-10 participants from Local Government, and 3-5 participants from regional and/or national level.

If I agree to participate, what will I be required to do?

If you agree to participate in this project, you will be asked to give time for 40 to 60 minutes interview. In this interview you will be asked about your understanding on CSR regulations and the impact of the regulations. You do not have to pass on any personal or sensitive information at any stage during this interview.
Participation in this study is entirely voluntary, and responses will remain confidential. If you decide to participate, you will be asked to sign the Informed Consent form, giving permission for you to be a participant in study.

**What are the risks or disadvantages associated with participation?**
There are no risks in participating in this research project beyond the everyday. You are free to withdraw at any time. The researcher will use an audio-recorder and take notes of the discussion and interviews. You may request at any stage that your comments are not recorded or written down. If you are concerned with any aspect of the interview, you should contact me, as soon as convenient to discuss your concerns with you confidentially and suggest appropriate follow-up, if necessary.

**What are the benefits associated with participation?**
There may be no personal benefit to you from participating in this research study. As the mandatory CSR regulations are only operating in Indonesia, your perception will give valuable recommendations to the academic literatures of CSR. A summary of the outcomes of this research will be shared with you if you wish.

**What will happen to the information I provide?**
The information provided by you will be used to understand the impact of CSR regulations on the relationships of companies and stakeholders. The information collected in the interviews will be used mainly to write a PhD thesis, and conference papers and academic publications as well. In any reports or publications your identity will be kept confidential. The audio recordings and notes will be kept securely in a locked cabinet at RMIT for a period of 5 years, upon completion of the project, before being destroyed. However, you should be aware that it may also be disclosed if (1) it is to protect you or others from harm, or (2) if a court order is produced or (3) you provide the researchers with written permission.

**What are my rights as a participant?**
As a participant, you have:
- The right to withdraw their participation at any time, without prejudice.
- The right to have the audio recorder turned off at any time
- The right to have any unprocessed data withdrawn and destroyed, provided it can be reliably identified, and provided that so doing does not increase the risk for the participant.
- The right to have any questions answered at any time.

**Whom should I contact if I have any questions?**
Rabin Ibnu Zainal  
School of Management  
Building 80, RMIT University  
445 Swanston Street  
Melbourne Vic 3000

**What other issues should I be aware of before deciding whether to participate?**
There are no other issues that you should be aware of before you decide to participate.

Yours sincerely

Rabin Ibnu Zainal  
(DATE)
INFORMED CONSENT

The Impact of Indonesian CSR Regulations on Oil & Gas Companies and Stakeholder Relationships

RMIT HUMAN RESEARCH ETHICS COMMITTEE
Prescribed Consent Form for Persons Participating In Research Projects Involving Focus Group Discussion and Interviews

PORTFOLIO OF : Business
SCHOOL/CENTRE OF : Management
Name of Participant :
Project Title : The Impact of Indonesian CSR Regulations on Oil & Gas Companies and Stakeholder Relationships
Name(s) of Investigators :
(1) Rabin Ibnu Zainal
(2) A/Prof Rosalie Holian (Senior supervisor)
(3) Dr Warren Staples (Second supervisor)

1. I have had the project explained to me, and I have read the information sheet

2. I agree to participate in the research project as a participant of discussion and an interviewee

3. I acknowledge that:

   (a) I understand that my participation is voluntary and that I am free to withdraw from the project at any time and to withdraw any unprocessed data previously supplied (unless follow-up is needed for safety).

   (b) The project is for the purpose of research. It may not be of direct benefit to me.

   (c) The privacy of the personal information I provide will be safeguarded and only disclosed where I have consented to the disclosure or as required by law.

   (d) The security of the research data will be protected during and after completion of the study. The data collected during the study may be published, and a report of the project outcomes will be provided primarily to RMIT University. Any information which will identify me will not be used.
Appendix 3. Themes for Interviews

To three selected Oil & Gas companies; (managers and staffs)

1. Introduction

Introduction on Researcher and Research Area: Researcher self-introduction, CSR regulations and The impact of CSR regulations

Informed Consent: signoff

2. About Participant

To begin I was wondering if you could tell me a little bit about your background and experience in this company?

3. About the Company

- Times operating in Musi Banyuasin Regency
- Planning for expansion in this area
- The reason for keeping investment in this area aside profit
- Since when has your company been conducting CSR?

4. Perceptions on CSR Laws and Regulation

- What sort of laws and regulations relate to your companies? Why?
- What do you think about those CSR laws and regulations?
- What is CSR in your opinion?
- What is the relation of CSR laws and regulation with your works?
- What is the impact of CSR laws and regulations to your company

5. The Implementation of CSR Regulation

- What kind of CSR project that your company prioritize? Why?
- Who are involved in the project? Why? How you select the stakeholder? Who recommend the stakeholder? Do you maintain relationship with the stakeholder)
- The result of CSR projects (has the project satisfied the regulators?, Have the community got benefit from this project?)
To Local Community: selected from the community living near the company location

1. Introduction
Introduction on Researcher and Research Area: Researcher self-introduction, CSR Regulations and The impact of CSR regulations

Informed Consent: signoff

2. About Participant
How long you have been staying in this village? What do you think about your village?

3. CSR Regulation
- Your understanding about CSR (how do you know? from whom you know CSR?)
- Your knowledge of CSR legislation (What do you know about the regulations? Who informs you about the legislation)
- Your expectation and opinion of CSR legislation related to the company’s CSR

4. The Impact of CSR regulations
- Do you know some CSR projects delivered by the Company in your area? What are the projects?
- What do you think about those CSR projects?
- The involvement in CSR projects (Are you involved in designing those CSR projects? Who invite you to involve?)
- Meeting with Company staff (How often do you meet company staff? With whom do you always have contact? What occasions?)
- The impact of CSR projects (Are those projects giving benefit to the community in this village?)
- The impact of Company to the villages (Do you think you still can accept the company to be operating in your village?)
To Local Government; head and staffs from Regional Development Planning Body, Mining Office, and Environmental Controlling office

1. Introduction

Introduction on Researcher and Research Area: Researcher self-introduction, CSR Regulations and The impact of CSR regulations

Informed Consent: signoff

2. About Participant

To begin I was wondering if you could tell me a little bit about your background and experience in this government office?

3. CSR Regulation

- Your understanding about CSR (How do you know? from whom you know CSR?)
- Your knowledge of CSR legislation (What do you know about the legislation? Who informs you about the legislation)
- Your expectation and opinion on CSR regulations related to the company’s CSR

4. The Impact of CSR regulations

- Do you know some CSR projects delivered by the Company in your area? What are the projects?
- What do you think with those CSR projects?
- The involvement in CSR projects (Are you involved in designing those CSR projects? Who invited you to be involved?)
- Meeting with Company staff (how often do you meet company staff? With whom do you always have contact? What occasions?)
- The impact of CSR projects (Are those projects giving benefit to the community in this village?)
- The impact of Company (Do you think the company gives benefit to the community?)
- Local policy (Regarding CSR legislation, what kind of policy from your local government to assure this legislation is implemented?)
To others – Regional/National Level (NGO, Business Association, and SKK Migas)

1. Introduction
Introduction on Researcher and Research Area: Researcher self-introduction, CSR Regulations and
The impact of CSR regulations

Informed Consent: signoff

2. About Participant
To begin I was wondering if you could tell me a little bit about your background and experience in
this government office?

3. CSR Regulation
- Your understanding about CSR (how do you know? from whom you know CSR?)
- The reason behind CSR regulations (From your point of view, why the state should issue
these regulations?)
- Your opinion on CSR regulations (Are the regulations still appropriate with the current
conditions?)

4. The Impact of CSR regulations
- The obligation of Companies (Do you think the companies already implemented the
regulations?)
- The role of local government (What do you think about the response of local government
toward CSR regulations?)
- The impact to community (Do you think these regulations give benefit to community?)