



Public Officials and Energy Business Affiliations

#BERSIHKAN
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#BersihkanIndonesia
2022

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Glossary



Affiliation

An affiliation is used to illustrate a relationships in terms of ownership or management of, or indirect connections with coal companies through family, associates or alliances.

Oligarch

An oligarch is an actor who dominates and controls wealth concentration over material resources. Such material resources can then be used to maintain or increase their personal wealth (wealth defense) and exclusive social position (Jeffrey A. Winters).

Oligarchy

Oligarchy is the politics of wealth defense by actors who have material wealth (Jeffrey A. Winters).

Conflict of interest

Conflict of interest occurs when an individual or a corporation (either private or governmental) is in a position to exploit his or their own professional or official capacity in some way for personal or corporate benefit. Conflicts of interest can include involvement in business processes, and family members or associates being affiliated with business owners (OECD).

Politically Exposed Person (PEP)

A Politically Exposed Person (PEP) is defined by the Financial Action Task Force (FATF) as an individual who is or has been entrusted with a prominent public function. Such public functions can include being a head of state or government, a senior politician, senior government official, a member of the judiciary or military, a senior executive of a state-owned enterprise (BUMN), or an important political party official. Due to their position and influence, a PEP is in a position that can potentially be abused for the purpose of committing money laundering offences and related offences, including corruption and bribery, as well as conducting activity related to terrorist financing.

In FATF recommendations, PEPs also cover family members and close associates. Close associates can include partners outside marriage, members of political parties, civil organizations, or business colleagues, especially those sharing beneficial ownership or connected through other means such as being members of the same company board of directors.

Summary

The largest pro-democracy mass demonstrations after 21 years of 'reformasi' occurred in 2019, when hundreds of thousands of demonstrators voiced their disappointment over state policies not favoring the interests of the public. The crowds comprised college students, high school students, civil society organizations, journalists, and other elements of society who took to the streets in several cities.

Protests were triggered mainly by disagreement with revisions to Law No. 30/2002 on the Corruption Eradication Commission (KPK Law). The revised law was deemed to weaken the Corruption Eradication Commission by stripping away its independence and authority. Aside from the revised KPK Law, crowds also demanded other things that were later amalgamated in the "7+1 demands". These demands covered issues including corruption, human rights, the environment, democracy, and cancelling problematic draft laws (RUU), such as the RUU on Mineral and Coal Mining (Minerba).

Despite huge opposition, and fatalities during the demonstrations, the revised KPK Law continued. Another demand suffered the same fate with the revision of Law No. 4/2009 on Mineral and Coal Mining being passed months after the revised KPK Law. This revision was passed amid the Covid-19 pandemic, so there was no reoccurrence of the mass protests of 2019. Enactments also deceived the public as attention was focused on the Omnibus Law. Provisions in articles of the Job Creation Law as part of the Omnibus Law advantaged natural resource business players, including those involved with coal. Not long after





that, other problematic pieces of legislation were passed, including a regulation in lieu of law on handling Covid-19 that subsequently became Law No. 2/2020, the revision of Law No. 4/2014 on the Constitutional Court, and Law No. 11/2020 on Job Creation.

The enactment of controversial products of law carried out in a similarly opaque and hurried manner made the public question the motives and interests behind them. Strong suspicions pointed at business interests being behind their enactment, and such interests being accommodated through public officials connected with business sectors, either as owners or company directors, or affiliated indirectly.

In the controversial products of law, business interests are clearly apparent. Through the revised KPK Law, business players can easily hijack state projects without the law being able to touch them. Law No. 2/2020 benefits business players because it contains an article reducing corporation tax from 25% to 22%. Through the Mineral and Coal Mining Law, business players secure guarantees

to continue exploiting mineral and coal resources. They no longer need to compete with state-owned enterprises (BUMN) to secure licenses. The revised Constitutional Court Law was replete with conflicts of interest when it was enacted as the Constitutional Court was undertaking hearings on two controversial laws: a judicial review of the legislative process involved in the KPK Law; and a judicial review of the content of Regulation In Lieu of Law No. 1/2020. Meanwhile, provisions in the Law on Job Creation clearly advantage business players. Put briefly, these products of law are alleged to favor business interests and not the interests of the public.

This report reveals connections between public officials and the energy industry, particularly coal companies. These connections are important as coal companies will be advantaged by the revised Mineral and Coal Mining Law and the enactment of the Law on Job Creation. In the previous, pre-revision iteration of the Mineral and Coal Mining Law (Law No. 4/2009), business players had to follow strict requirements to secure license extensions. If they wanted to extend their license by shifting from a Coal Mining Business Work Agreement (PKP2B) concession, coal companies were obligated to follow a tender process beforehand. Such tenders also gave priority to BUMNs securing coal mining licenses. Through the revised law, this provision has been removed. Now, PKP2B holders have guaranteed extensions without having to go through a tender beforehand.

This provision was initially accommodated through the Draft Law on Job Creation, but with the enactment of the Mineral and Coal Mining Law, it was no longer accommodated. Nevertheless, The enacted Job Creation Law still has provisions that potentially advantage coal business players, including the removal of royalty payments for those that give added value to coal. Those that carry out coal gasification, for instance, are not obligated to pay royalties to the state. In this regard, business players will profit, while the state can potentially be disadvantaged.

Public officials that were tracked were DPR members and executive officials like ministers or deputy ministers. This report intends to show that where public officials are required to favor the interests of the public, in reality some are still allegedly affiliated with business actors. Searches uncovered indications of at least 25 public officials being affiliated with coal supply chains. Twenty of them are members of the legislature, while five others are executive officials.



Methods and Observation Timeframe

Searches were conducted from February to December 2021. Information was sourced through official documentation on company deeds of establishment, print and electronic media, company annual reports and financial reports, and books and scientific journals. Information was collected and inferred through a Social Network Analysis (SNA), and relationships were analyzed and concluded using SNA methods.

Oligarchs



According to the political scientist Jeffrey A. Winters, an oligarch is an actor who dominates and controls wealth concentration over material resources. Such material resources can then be used to maintain or increase their personal wealth (wealth defense) and exclusive social position. Oligarchs are always individuals, not companies or other groups. Meanwhile, Winters defines oligarchy as the politics of wealth defense by actors who have material wealth.¹ According to Winters, to perpetuate their agendas, oligarchs can place “pawns” in strategic positions. In addition, oligarchs can control political parties, law enforcement, the media, and governments.



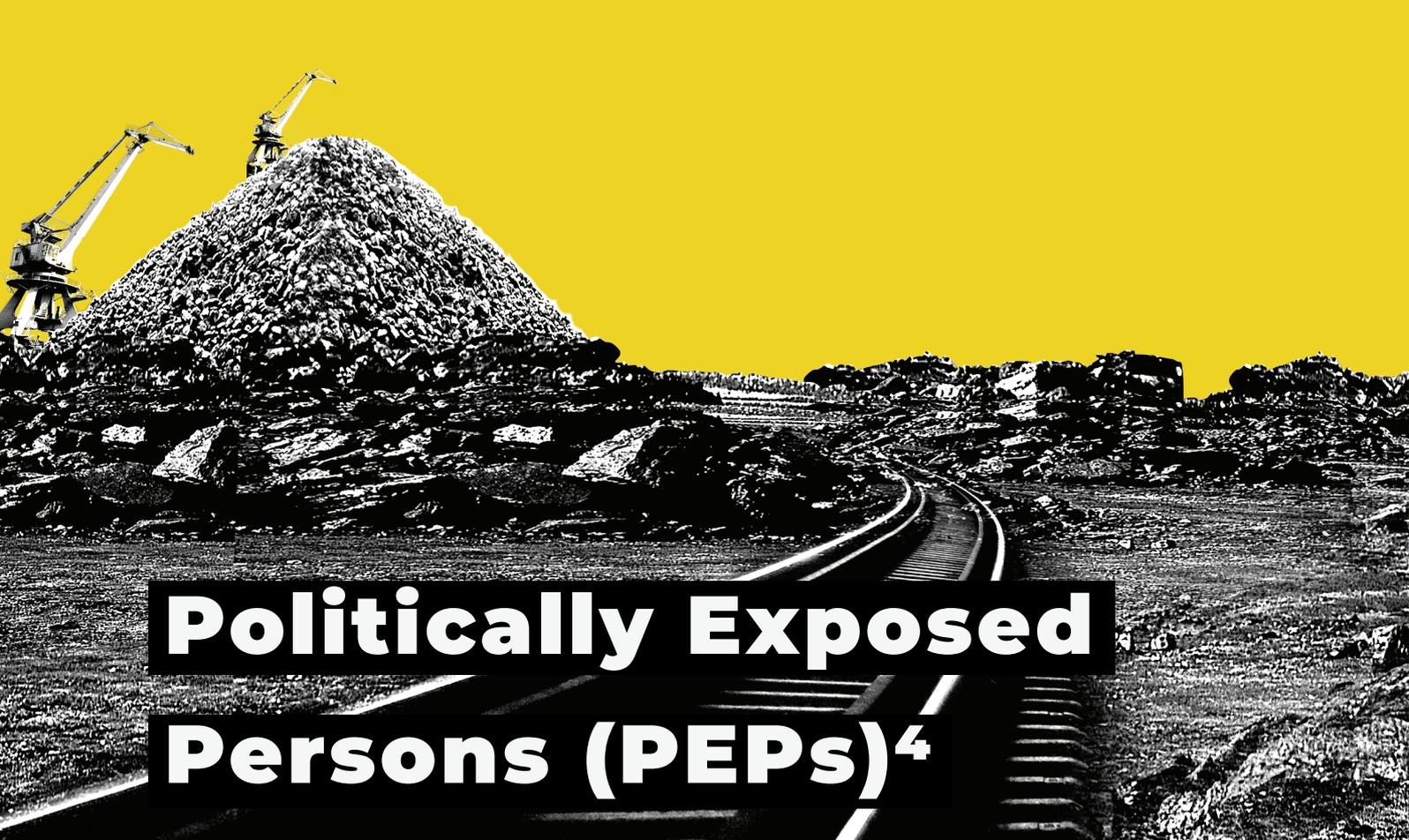
Conflicts of Interest

‘Conflict of interest’ is a term worthy of consideration in looking at issues surrounding public officials. Conflict of interest is defined by the Organization for Economic Cooperation and Development (OECD) as when an individual or a corporation (either private or governmental) exploits his or their own professional or official capacity in some way for personal or corporate benefit. Conflicts of interest can include involvement in business processes, and family members or associates being affiliated with business owners.² In addition, a conflict of interest can arise when an individual’s personal interests in

family, friendships, financial, or social factors could compromise their judgement, decisions, or actions in the workplace.³

Conflicts of interest have been regulated in various pieces of legislation in Indonesia, including Law No. 28/1999 on Corruption, Collusion and Nepotism-Free Government, and Law No. 30/2014 on Government Administration. Conflicts of interest are also regulated in the DPR RI Code of Ethics (DPR RI Regulation No. 1/2015), where the fifth section specifically regulates openness and conflicts of interest.

1. Jeffrey A. Winters, *Oligarchy* (New York: Cambridge University Press, 2011), 6
2. Organization for Economic Co-operation and Development (OECD), *Bribery in Public Procurement: Methods, Actors and Counter-Measures* (Paris: Secretary-General of the OECD, 2007), accessed from <https://www.oecd.org/daf/antibribery/anti-briberyconvention/44956834.pdf>, 33
3. Integrity Star, “UCF Compliance & Ethics Newsletter,” accessed from <https://compliance.ucf.edu/understandingconflict-of-interest/>.



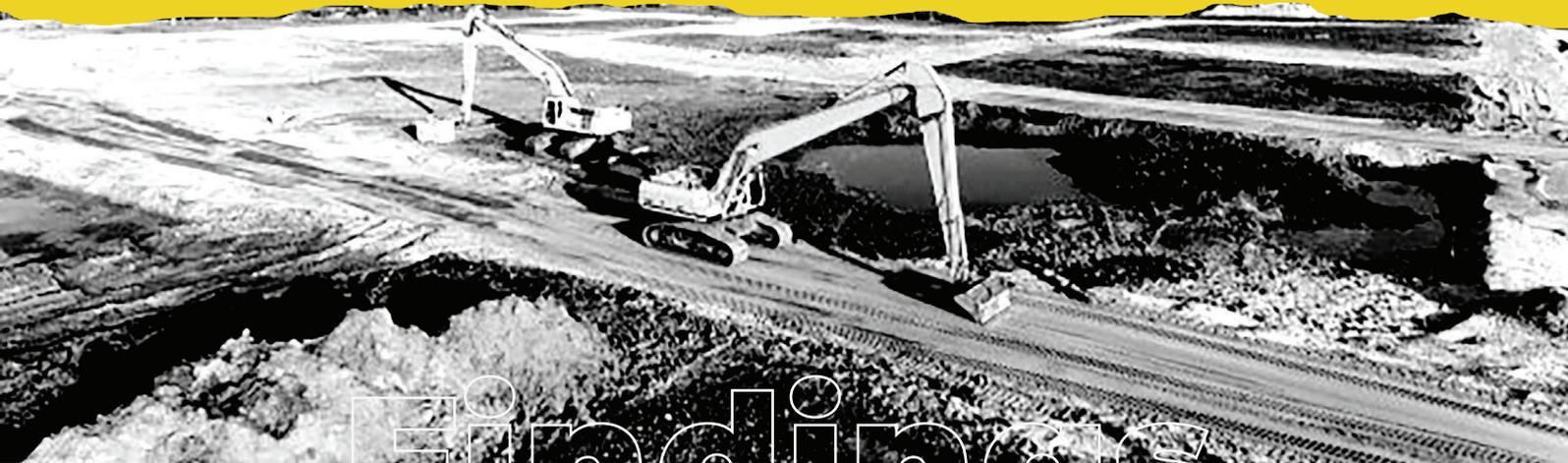
Politically Exposed Persons (PEPs)⁴

A Politically Exposed Person (PEP) is defined by the Financial Action Task Force (FATF) as an individual who is or has been entrusted with a prominent public function. Such public functions can include being a head of state or government, a senior politician, senior government official, a member of the judiciary or military, a senior executive of a state-owned enterprise (BUMN), or an important political party official. Due to their position and influence, a PEP is in a position that can potentially be abused for the purpose of committing money laundering offences and related offences, including corruption and bribery, as well as conducting activity related to terrorist financing.

In FATF recommendations, PEPs also cover family members and close associates. Close associates can include partners outside marriage, members of political parties, civil organizations, or business colleagues, especially those sharing beneficial ownership or connected through other means such as being members of the same company board of directors. FATF requires family members and close associates of PEPs to be designated and treated as if they are PEPs themselves. This is due to their potential for abusing their relationships for the purposes of moving the proceeds of crime, facilitating their placement or concealment, or even for financing terrorism.

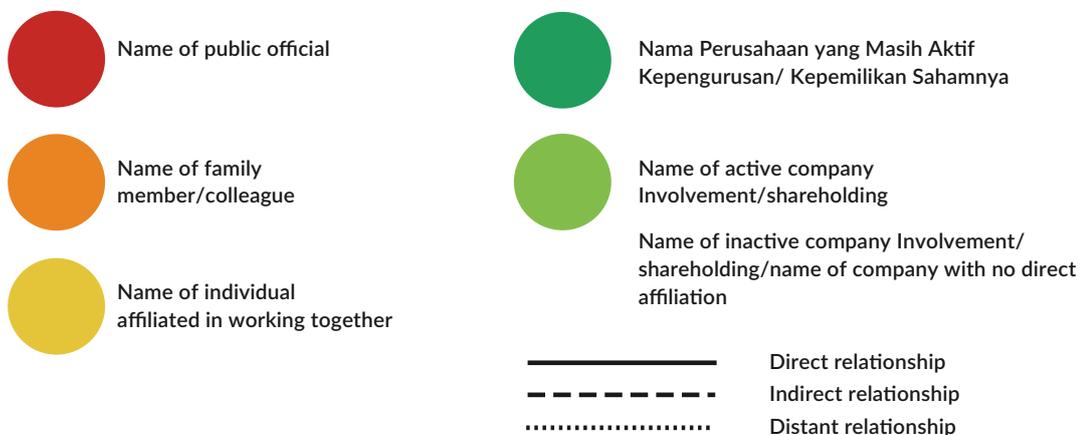
4. See Financial Action Task Force, "Politically Exposed Persons (Recommendations 12 and 22)", 2013, accessed from <https://www.fatf-gafi.org/media/fatf/documents/recommendations/Guidance-PEP-Rec12-22.pdf>.

Findings



Findings

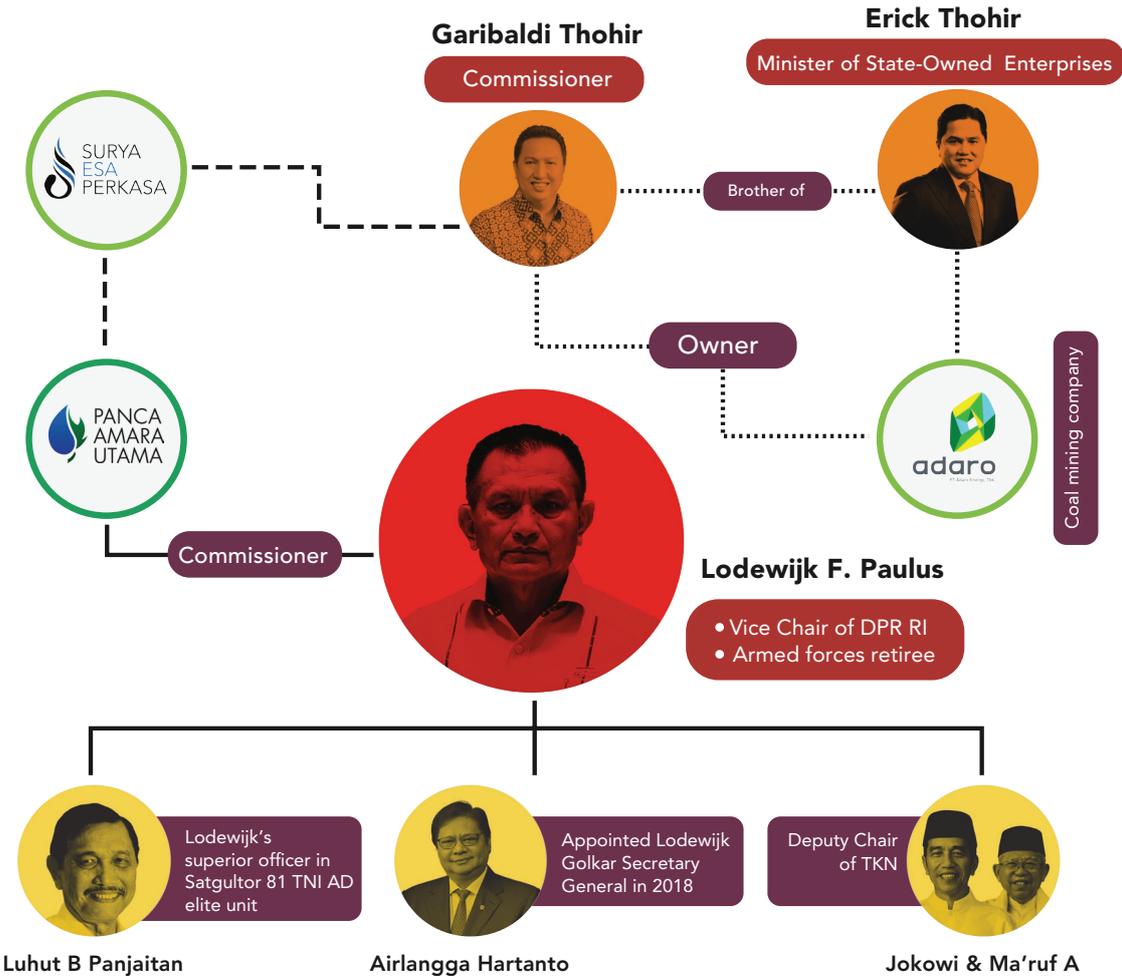
Searches on public officials' conflicts of interest found 25 public officials affiliated with coal companies. Twenty of them are members of the legislature, while five others are executive officials.



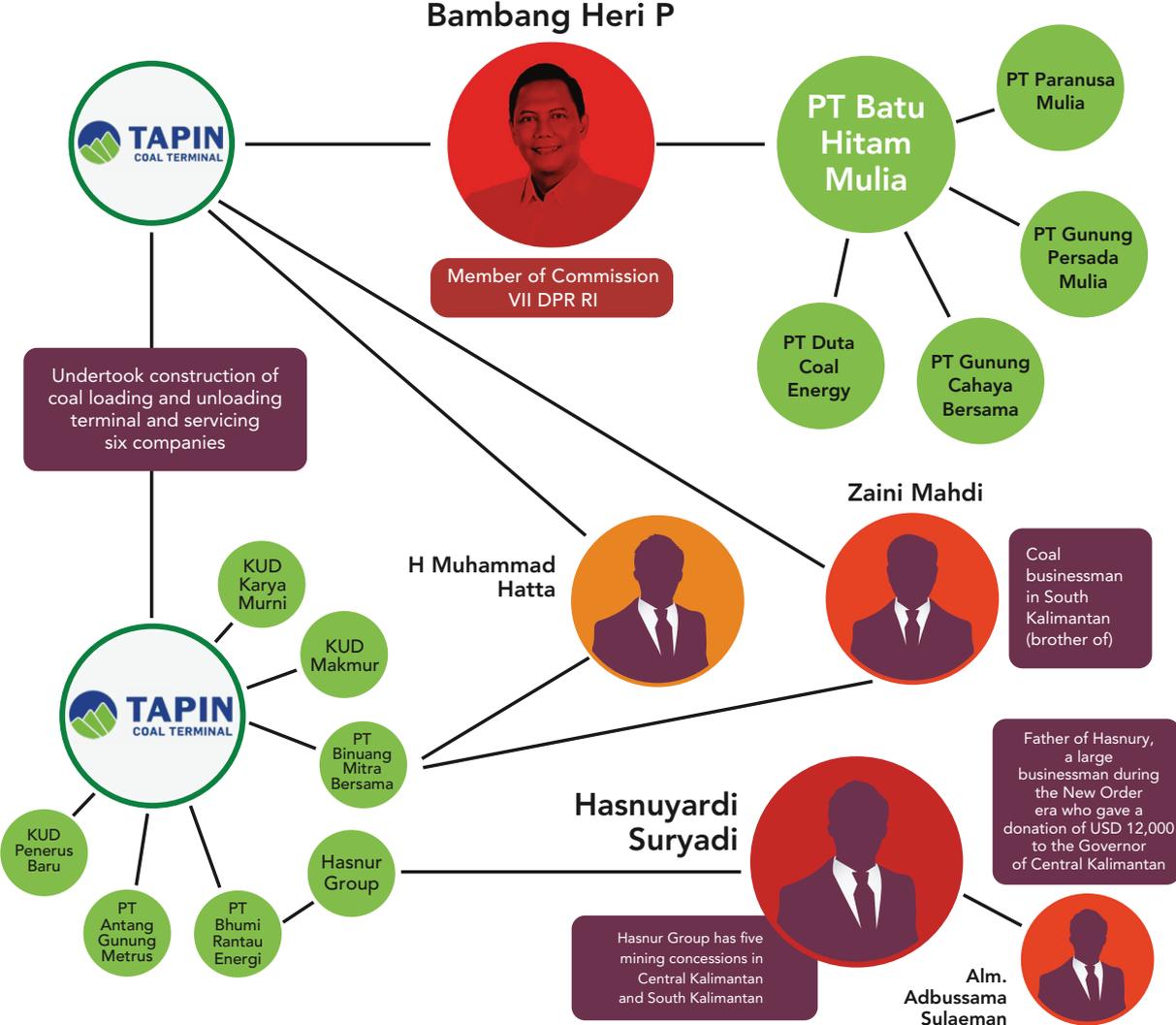
Partai Golkar

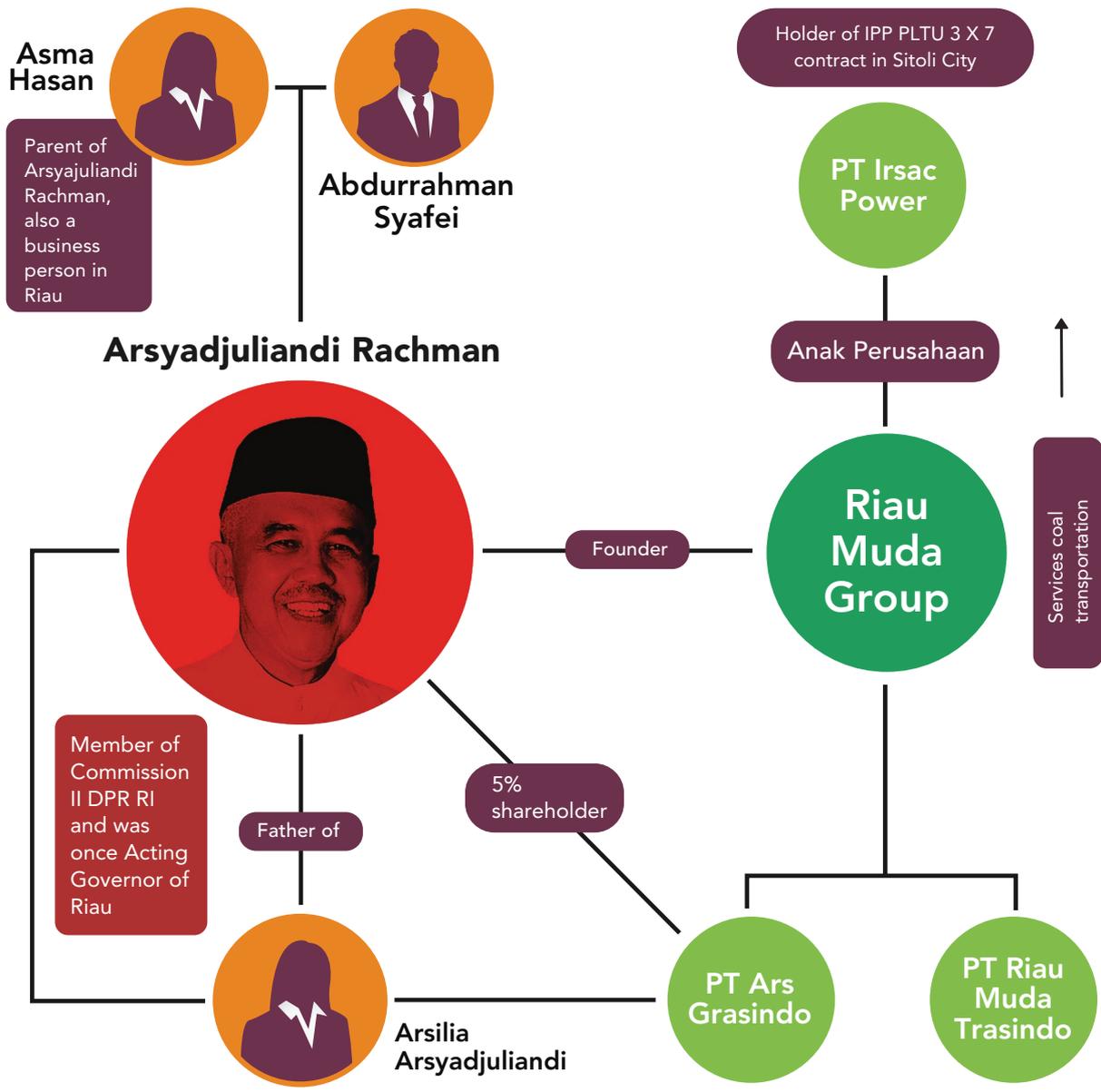
At least seven Party of Functional Groups (Golkar) politicians holding public positions are affiliated with coal businesses. They include legislature members Lodewijk F. Paulus, Bambang Heri Purnama, Hasnuryadi Sulaiman, Arsyadjuliandi Rachman, Kahar Muzakir, Doni Akbar, and Azis Syamsuddin.

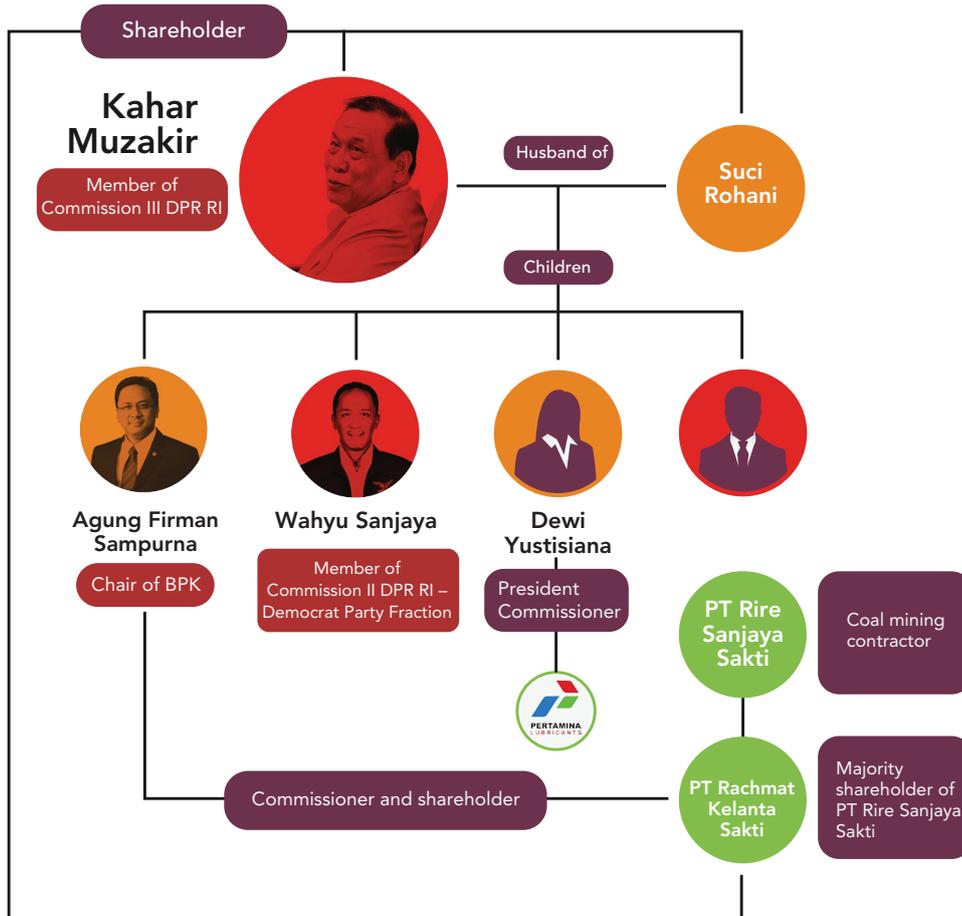
Golkar



Member of Comission VII DPR RI







Doni Akbar

Member of Commission VI DPR

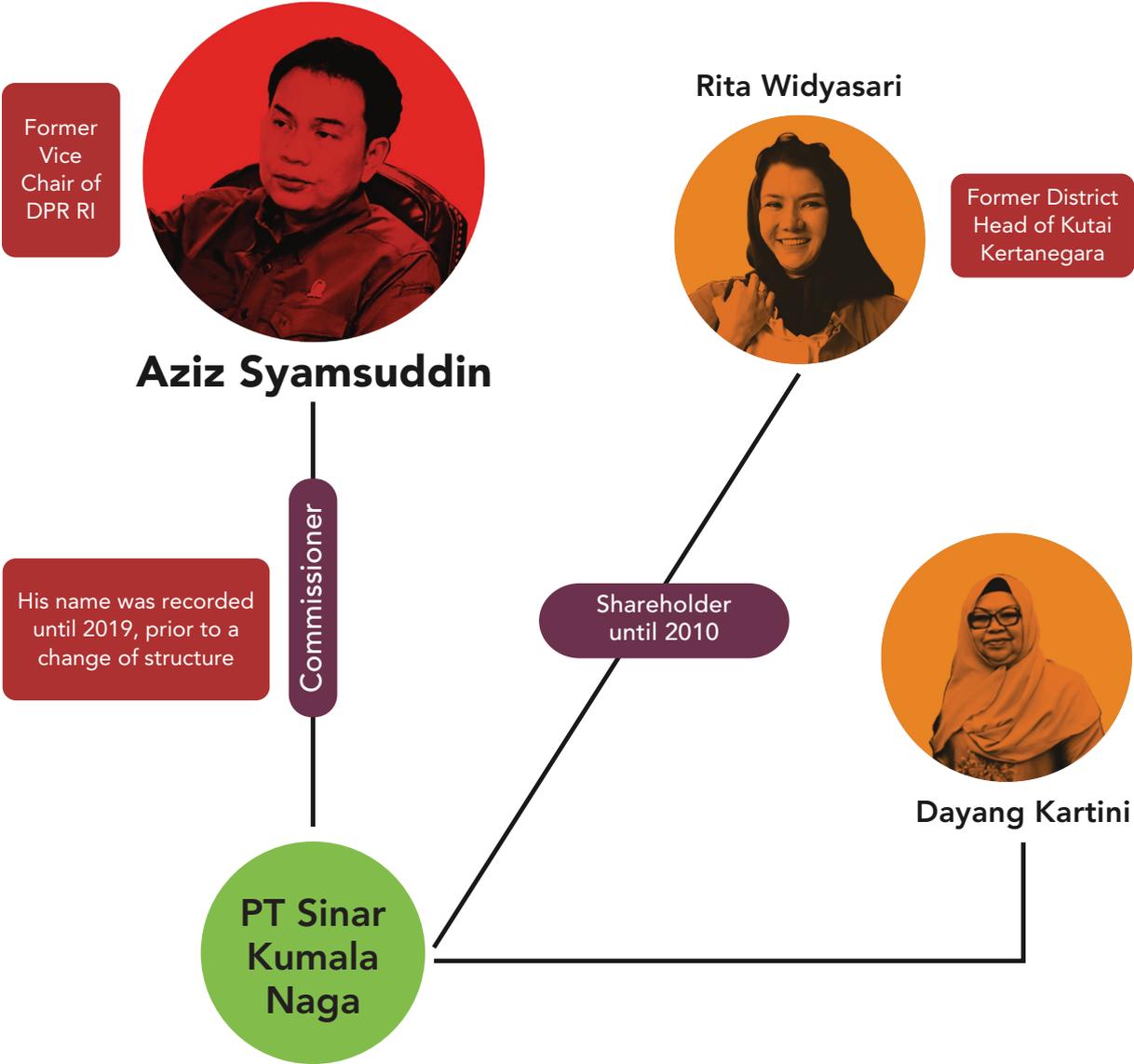
Komisaris



Coal contractor company

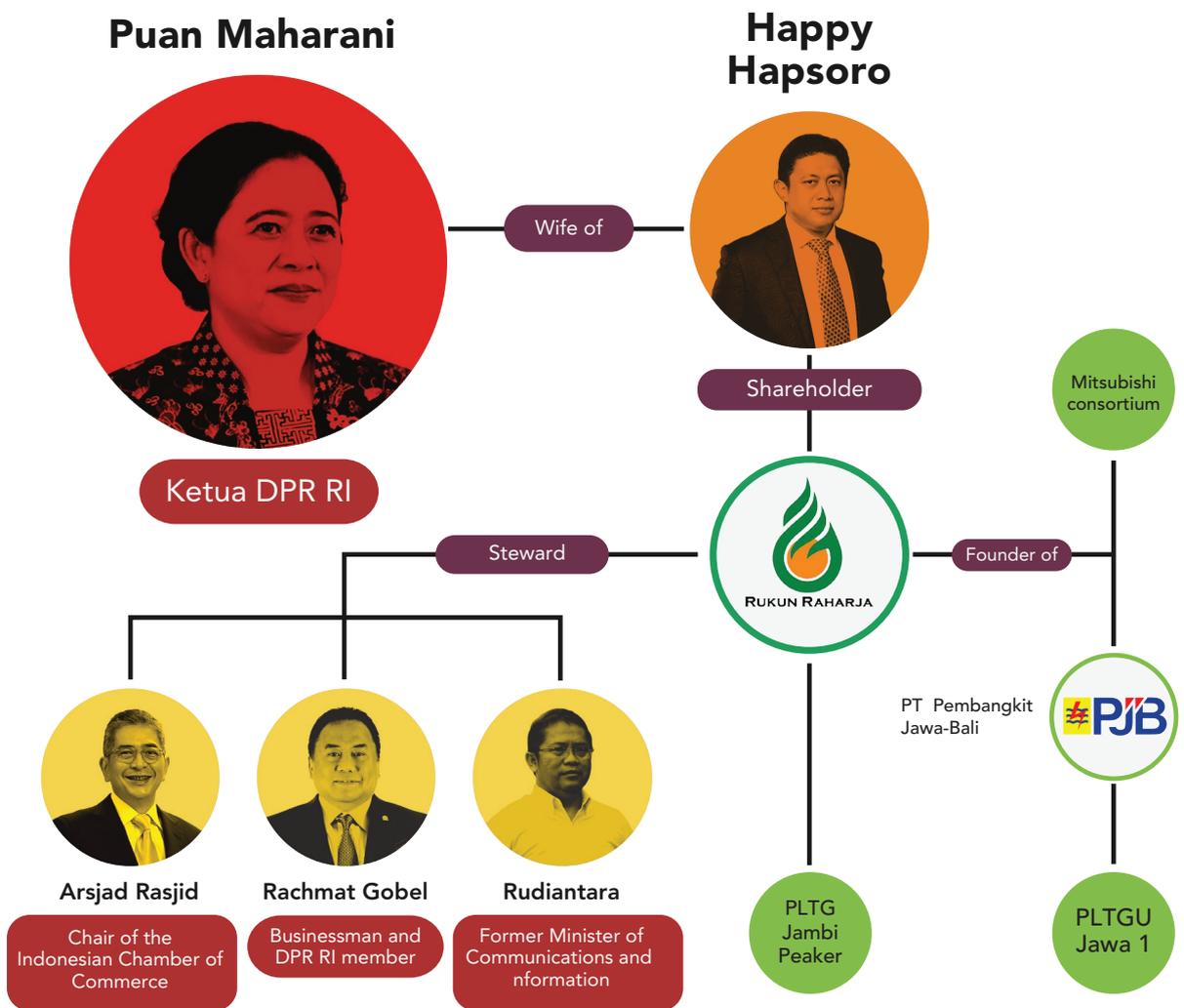
PT Rachmat Kelantan Sakti

Majority shareholder in PT Rire Sanjaya Sakti



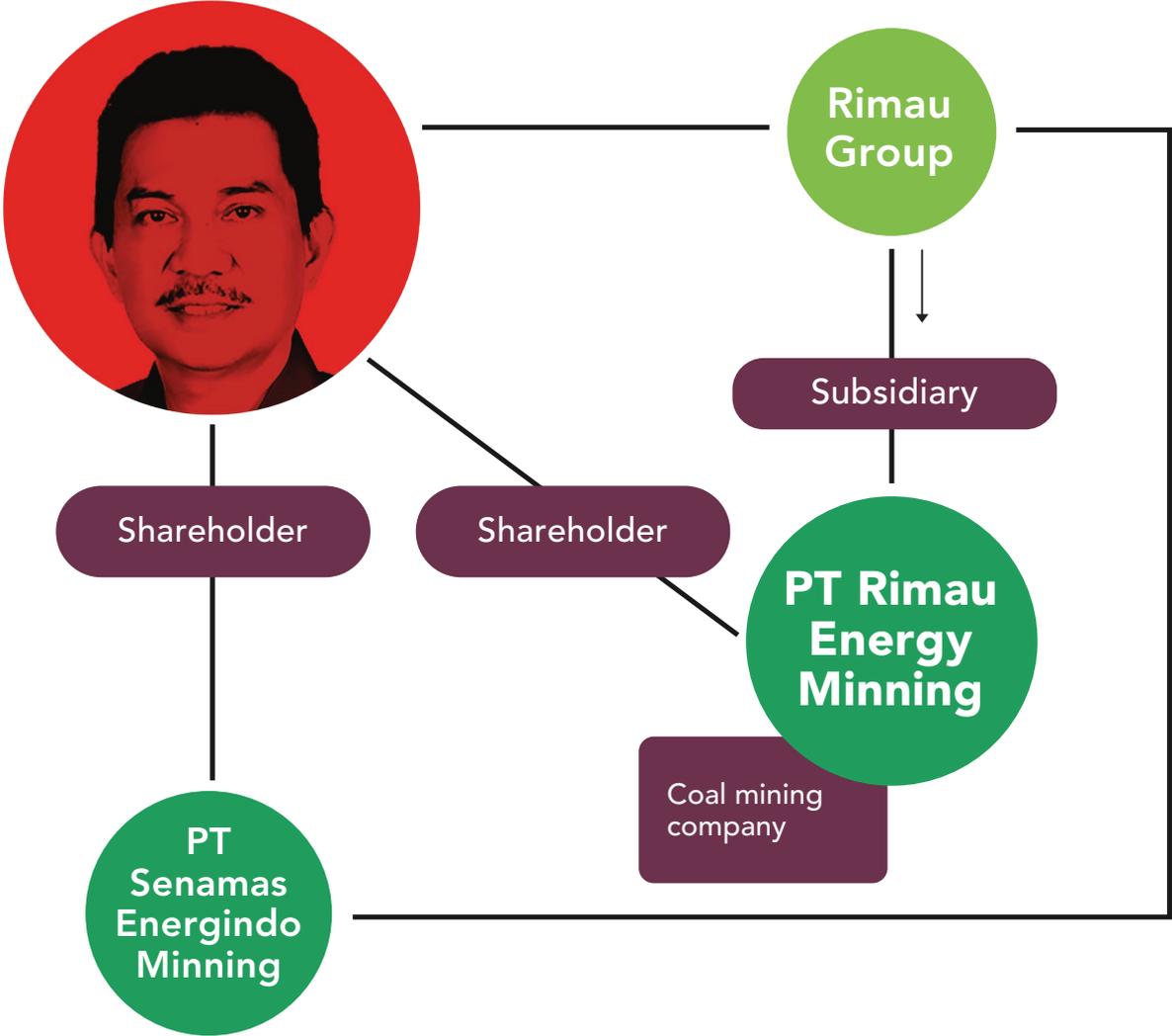
Partai Demokrasi Indonesia Perjuangan (PDIP)

At least two Indonesian Democratic Party of Struggle (PDIP) politicians are affiliated with coal companies. They are Puan Maharani and Andi Ridwan Wittiri.



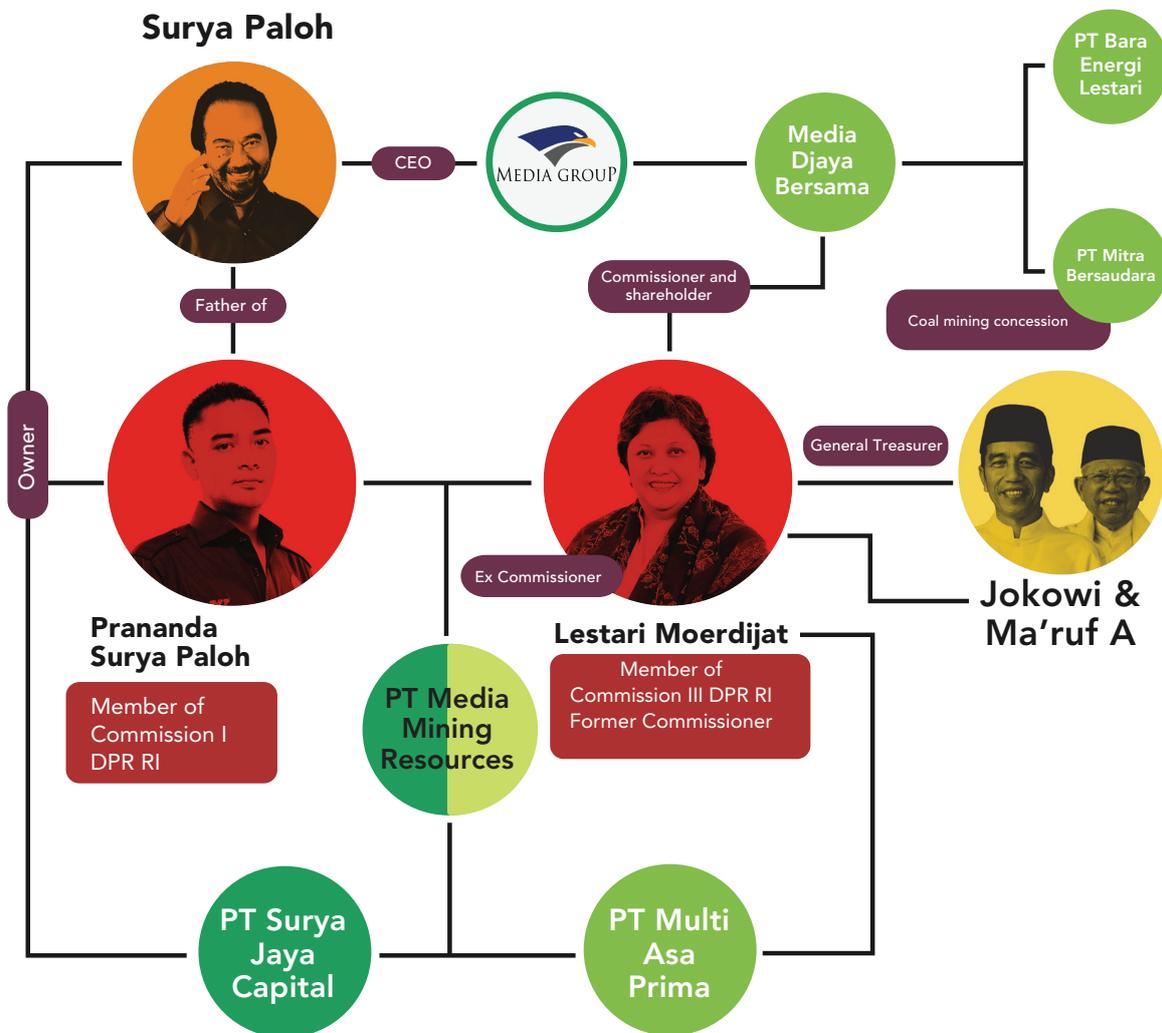
Member of Comission VII DPR RI

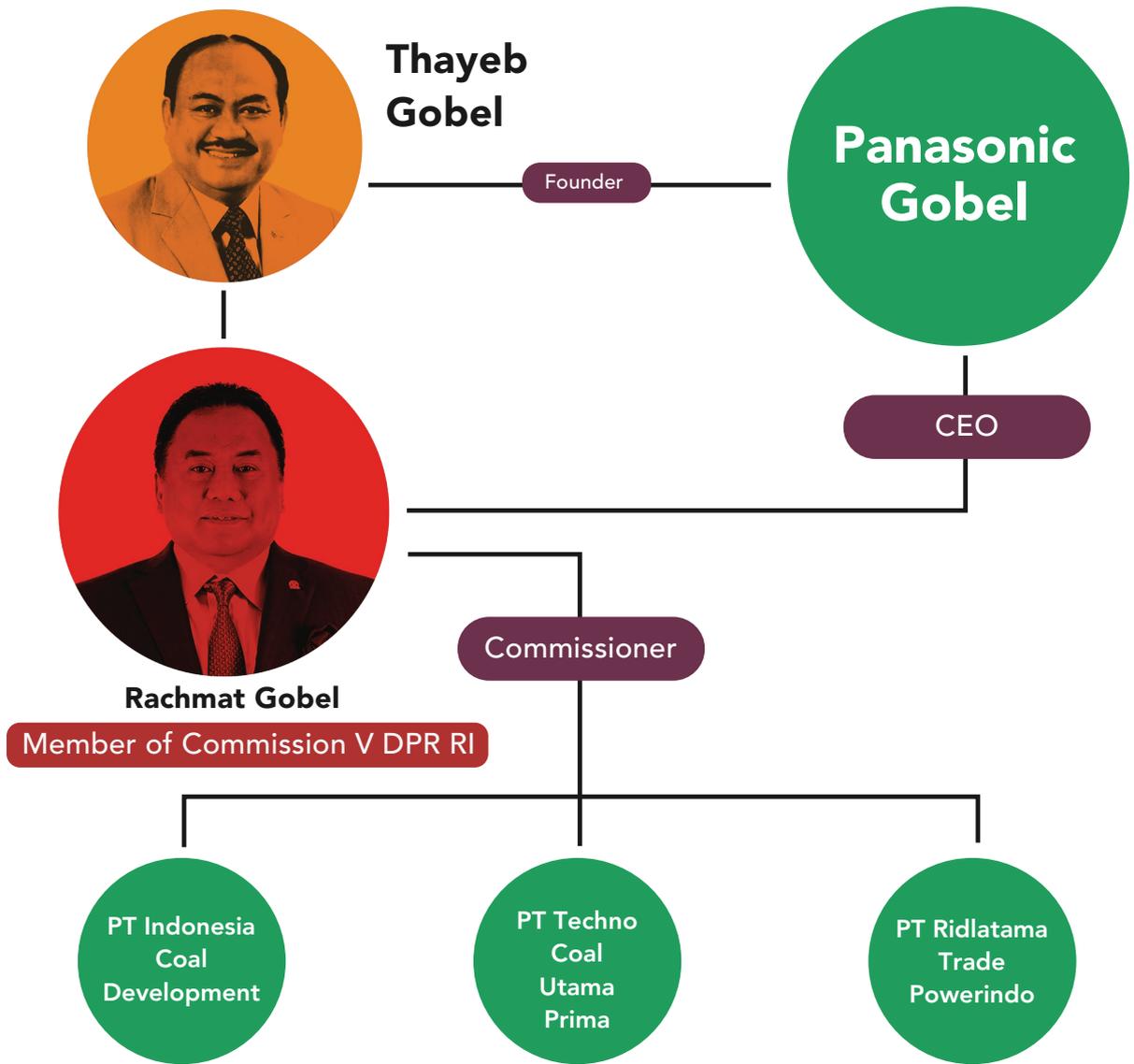
Andi Ridwan Wattiri



Partai Nasdem

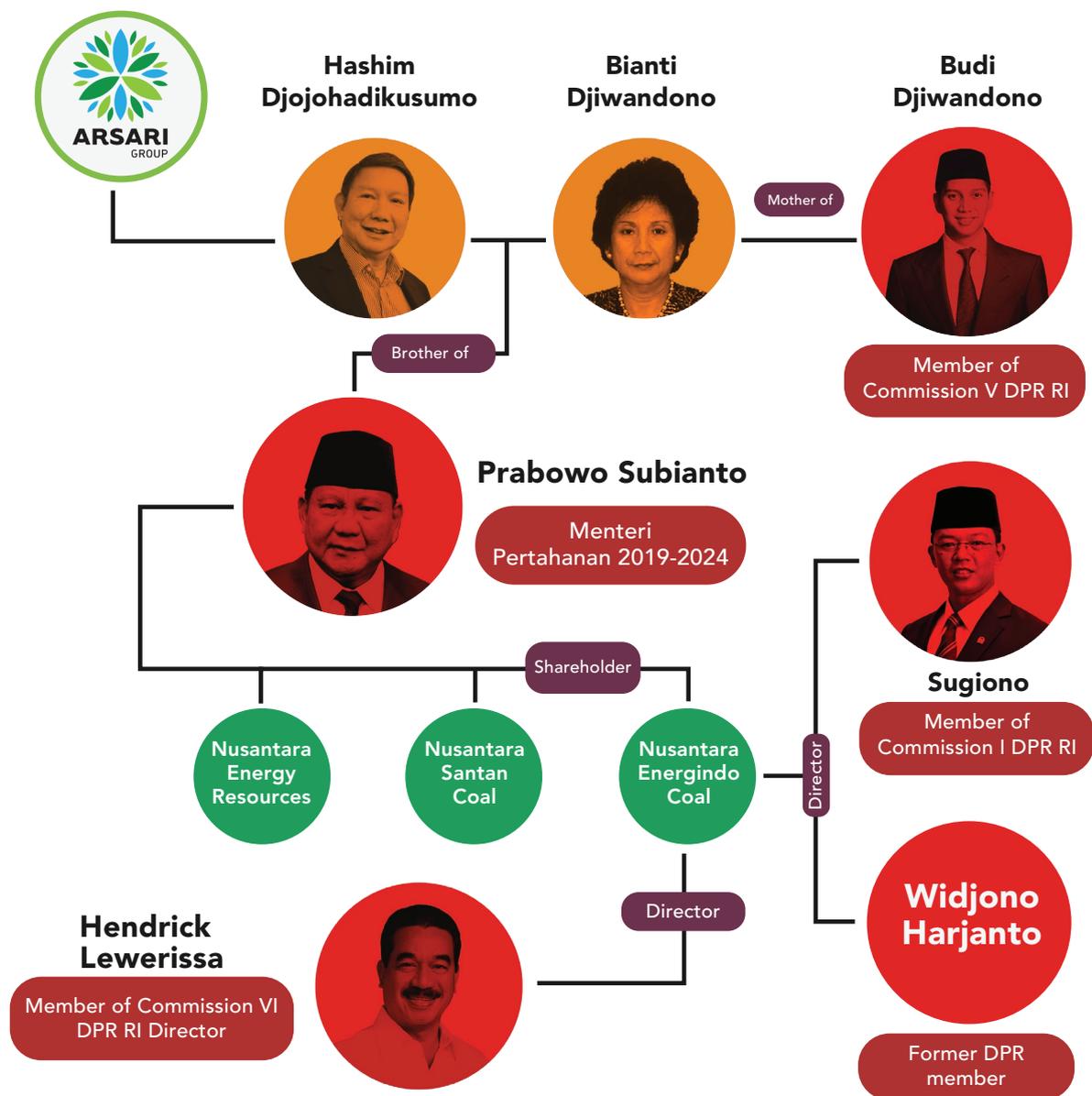
At least three National Democrat Party (Nasdem) politicians are affiliated with coal companies. They are Prananda Surya Paloh, Lestari Moerdijat, and Rachmat Gobel.

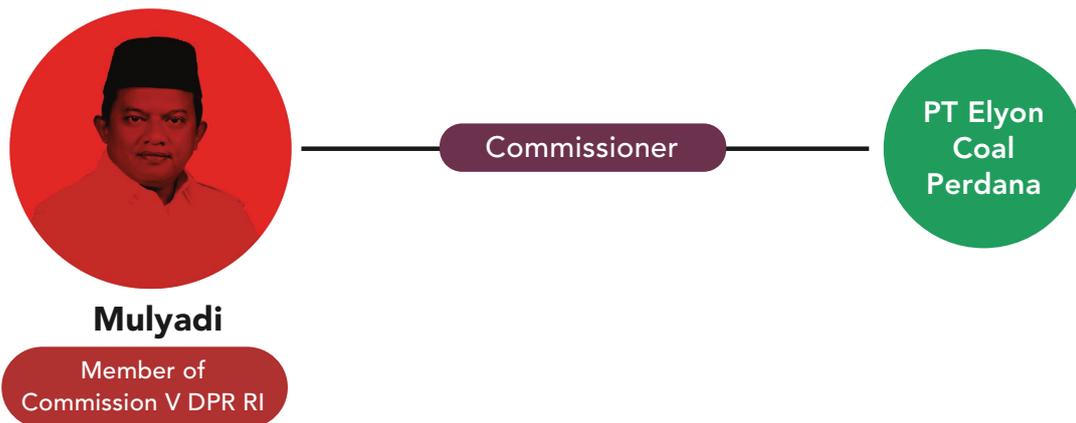
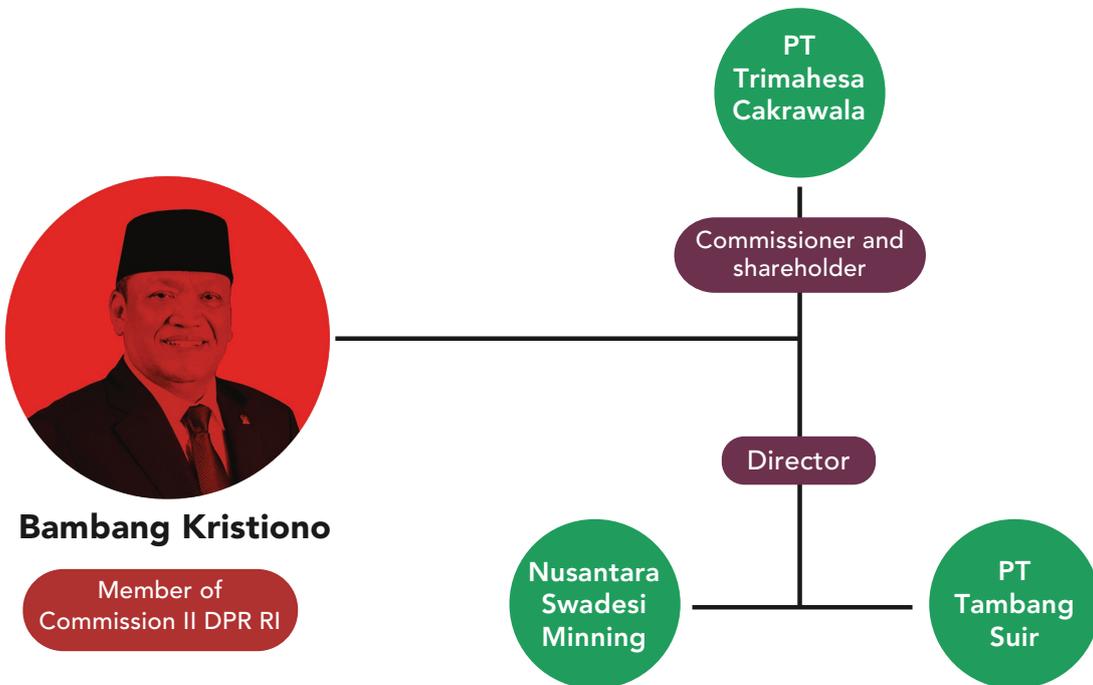




Partai Gerindra

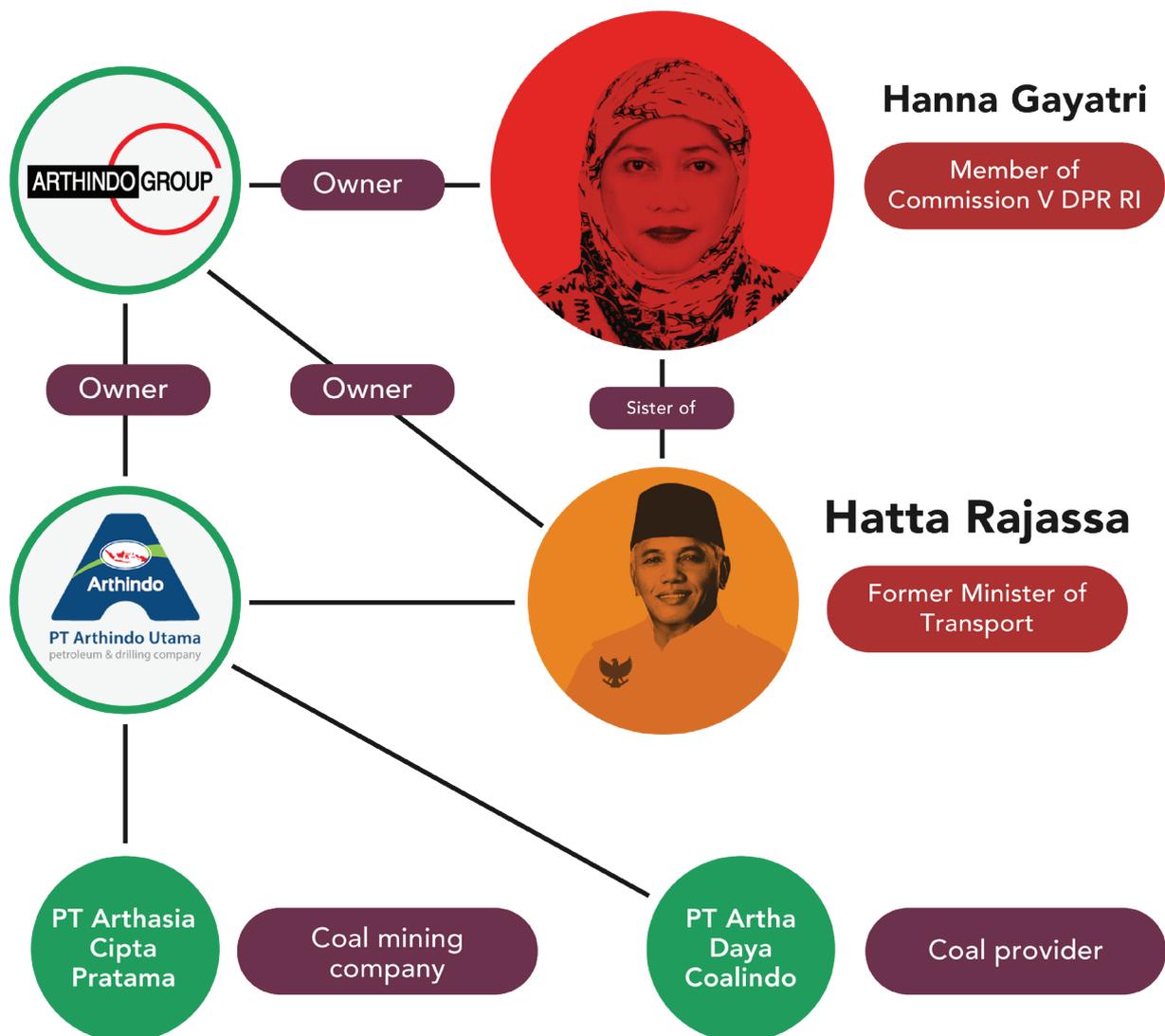
At least six Great Indonesia Movement (Gerindra) Party politicians are affiliated with coal companies. They include Prabowo Subianto, Hendrik Lewerissa, Budi Djiwandono, Sugiono, Bambang Kristiono, and Mulyadi.





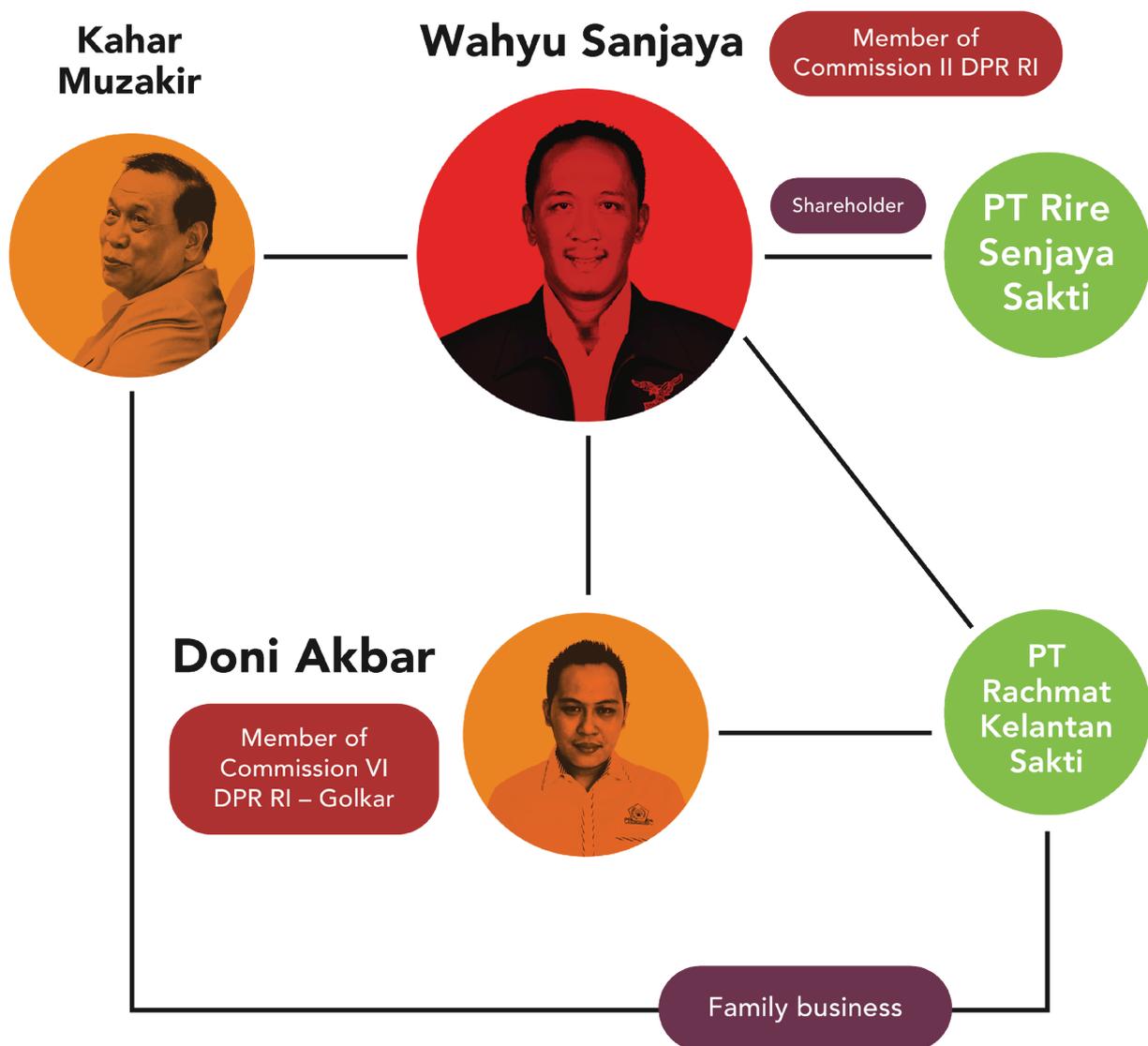
Partai Amanat Nasional

At least one politician from the National Mandate Party (PAN) is affiliated with the coal industry. The politician is Hanna Gayatri.



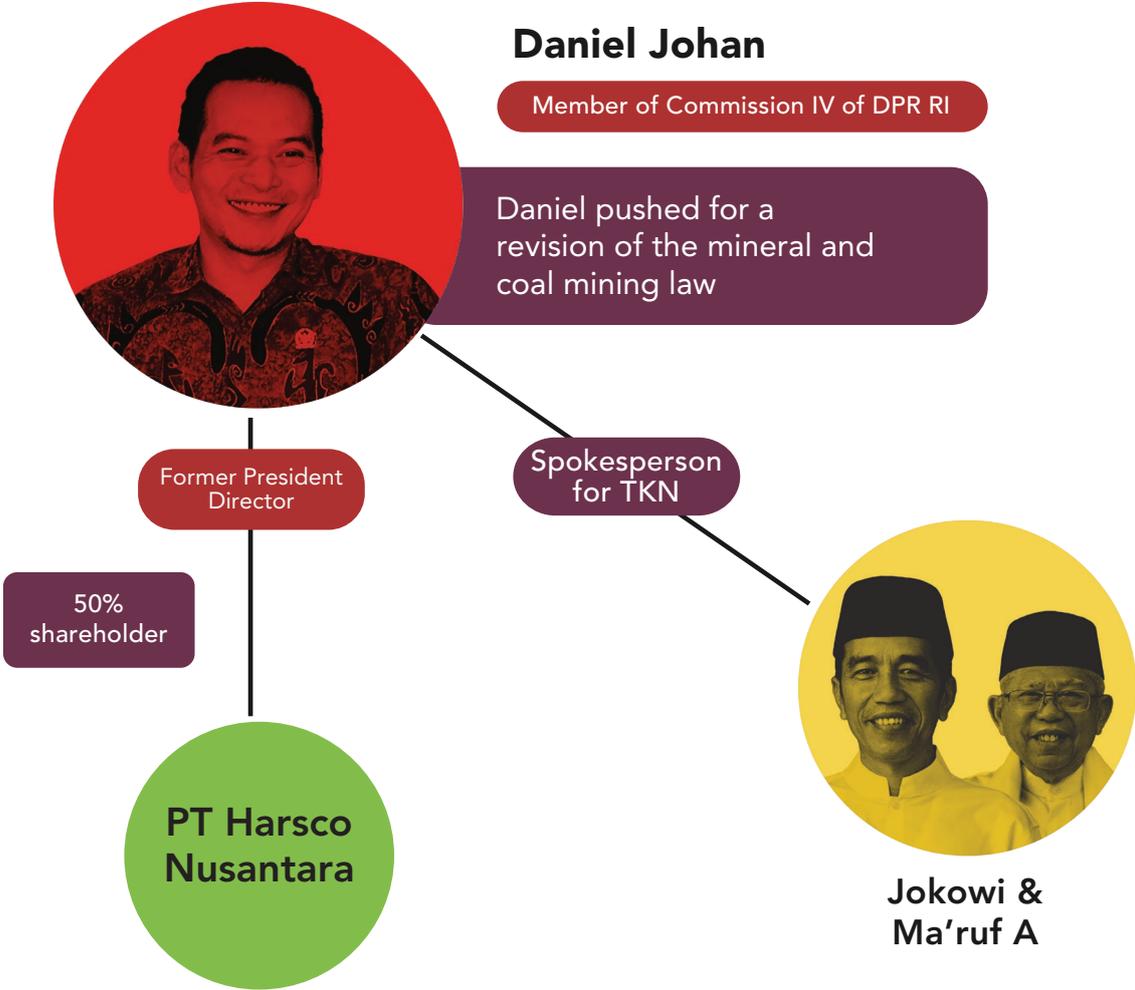
Partai Demokrat

At least one politician from the Democrat Party is affiliated with the coal industry. The politician is Wahyu Sanjaya.



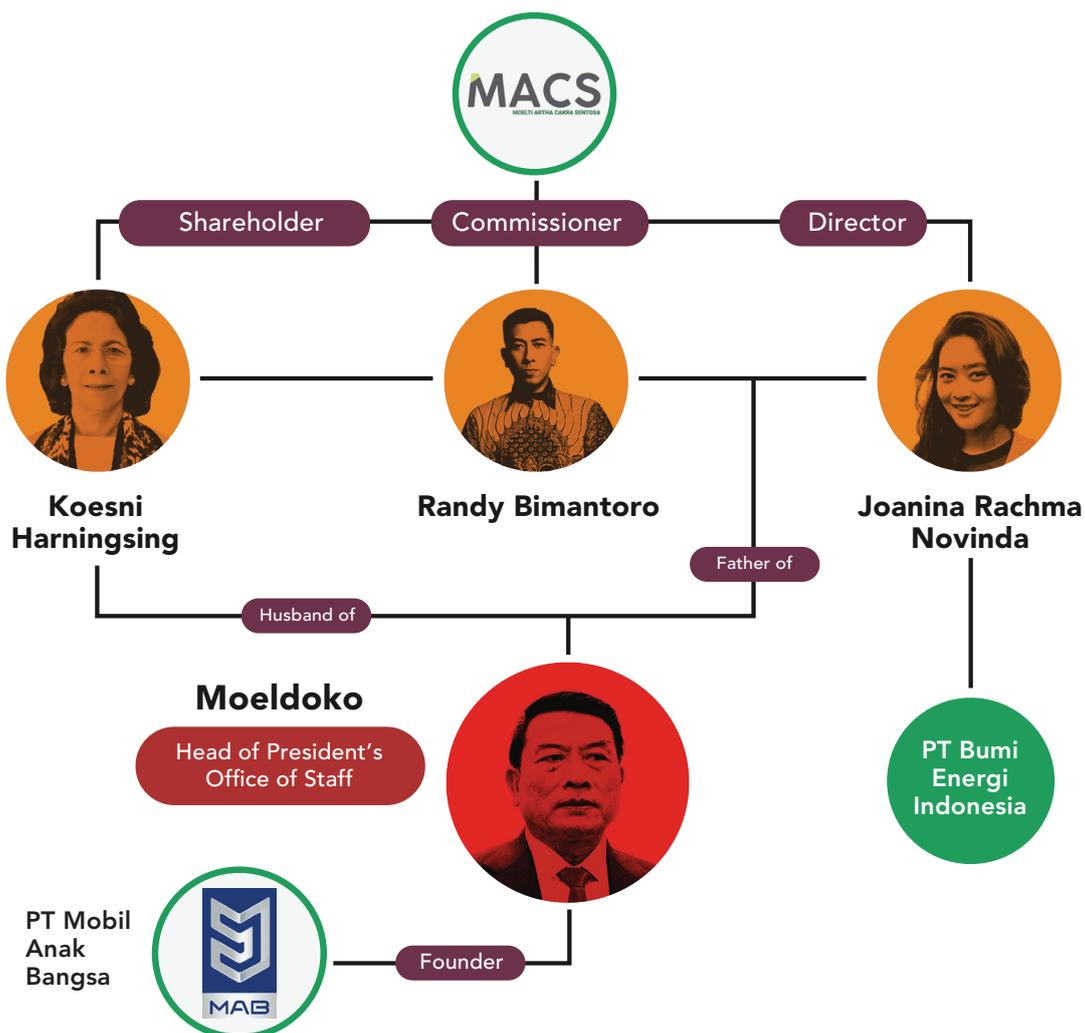
Partai Kebangkitan Bangsa (PKB)

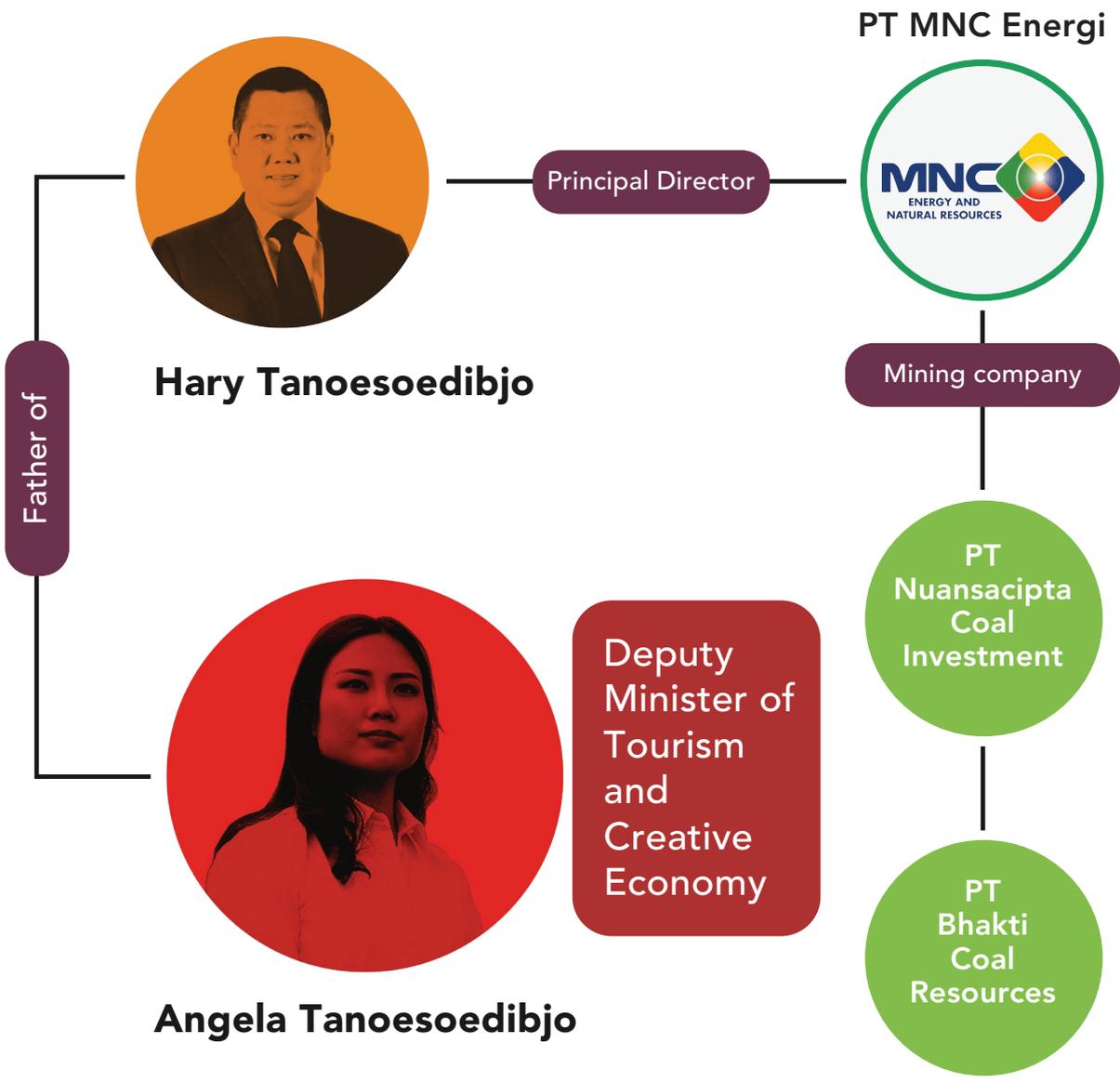
The National Awakening Party (PKB) has at least one politician affiliated with the mining industry. The politician in question is Daniel Johan.



Non Party Affiliations

There are at least five public officials who are neither cadres nor members of political parties and are affiliated with coal companies. They are Moeldoko, Angela Tanoesodibjo, Luhut Binsar Pandjaitan, Sandiaga Uno, and Erick Thohir.





Luhut Binsar Panjaitan



Deputy Coordinator or
Maritime Affairs and Investment

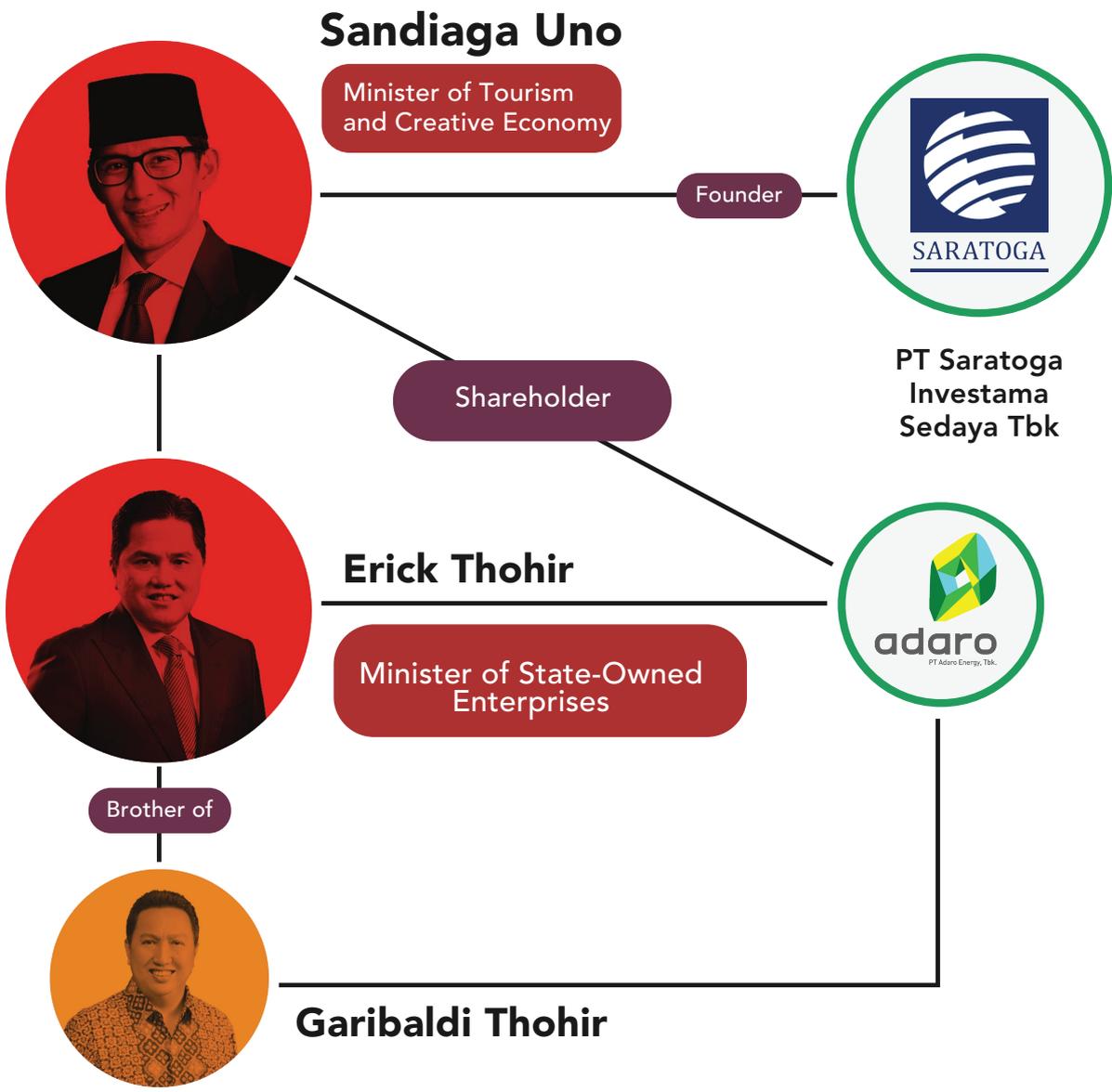


PT Sinergi
Sukses
Utama

PT Bara
Makmur
Abadi



Shareholder





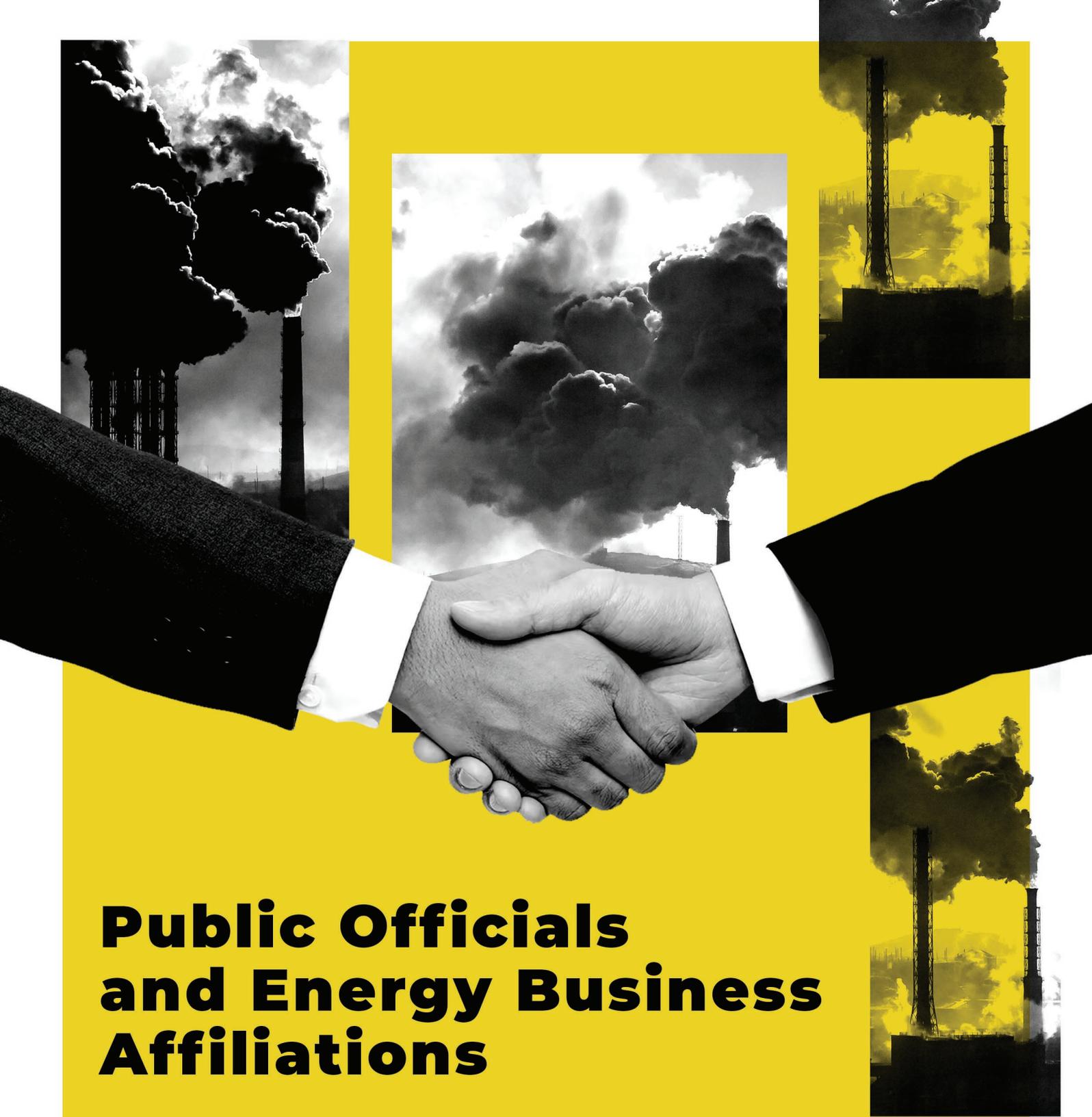
Conclusions and Closing

This report shows that there are still public officials affiliated with energy sector businesses, and especially coal companies. This indicates potential for conflicts of interest among public officials in determining policies.

Public officials' ties to coal companies and their potential conflicts of interest can exacerbate the impacts such companies can have, such as environmental

destruction, threatening villagers' lives or health, and so on. If public officials put their personal interests first, then such problems can be ignored and left unresolved. Further, far-reaching impacts from the climate crisis will never be overcome.

The findings above can be made a foundation for opening discourses on public ethics, stricter regulation of conflicts of interest, and the imperative for public officials to comply with applicable regulations concerning conflicts of interest.



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