



The State and Illegality in Indonesia

EDWARD ASPINALL and GERRY VAN KLINKEN, eds.

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What do analysts do, or ought to do, when the embodiments of legality—the state and state functionaries—are the ones often guilty of illegality? This is a challenging situation confounded by the fact that not a few people whom one might expect should feel outraged by this state of affairs appear to condone, even participate actively in the whole exercise. Drawing from a wealth of on-the-ground experience and scholarly insights, a group of mostly Australia-based Indonesianists bravely took up this challenge and came up with an engaging, theoretically informed, empirically rich and nuanced volume that rethinks long-standing views on the nature of corruption and state in Indonesia. This volume is also important for the ethical questions raised by the grounded, detailed, so-called “area studies approach” analysis as splendidly showcased by the contributors.

In the carefully thought out introduction, the editors, Edward Aspinall and Gerry van Klinken, offer a compelling justification for eschewing the common tendency to analyze corruption as deviations from the legal rationality the state is supposed to embody. They instead take illegality or corruption to be a constituting element of the state-formation process. In the editors’ words: “illegal activities by state officials are best understood, not as an aberration external to the normal workings of the state, but somehow part of its very logic” (p. 19). Thus, the solution they offer entails a “new form of socially embedded state” enabled by a “politically engaged citizenry” (p. 28). While not all the contributors in the volume follow this cue, this analytic path opens up exciting possibilities for the analysis of state and corruption in Indonesia that has been hitherto dominated by the discourse of good governance.

The first three articles by Robert Cribb, Ross McLeod, and Howard Dick and Jeremy Mulholland offer a healthy mix of historical and theoretical perspectives. They also set the volume’s sobering yet realistic and hopeful tone: there is no easy way out of entrenched and widespread illegality in Indonesia, but somehow things can be done. Cribb argues that while corruption and the structures that sustain it are not inherent in the socio-cultural make up of Indonesia, historical circumstances going back to the colonial and revolutionary periods reinforced the situa-

tion that breeds, facilitates, and nurtures what he aptly calls the “system of exemptions.” Running contrary to the editors’ vision of a socially embedded state, Cribb’s analysis points to its strengthening as well as “enhanced surveillance and punishment” to curb the seemingly natural “temptation” to resort to corrupt practices (p. 44).

McLeod, for his part, offers a neat analytic construct that accounts for the institutionalization of public-sector corruption in Indonesia. He argues that it was a legacy of what he calls the “franchise system” installed by Suharto to perpetuate his regime in power. By maintaining the salaries of government officials low, in gross violation of the law of supply and demand, and at the same time allowing them to collect “private taxes” through bribes and other forms of day-to-day corrupt practices, Suharto rendered them perpetually dependent on the status quo. The solution McLeod offers is to correct the imbalance between the market-driven salary rates and the salaries received by government officials. Following the rational choice, “marketist” analysis of corruption, this article also goes against the grain of the editors’ aspiration.

Defining the state as the “transactional space” that acts as a “marketplace” (p. 65) for competing elites, Dick and Mulholland illuminate the mechanisms for the distribution of “political spoils.” In doing so, they flag attention to the rather unsavory partnership between the post-New Order phenomenon of “elite democratic consensus” despite the fierce intra-elite rivalry, on the one hand, and the continuity in altered forms of corrupt practices within the upper echelon of the state in the post-Suharto period, on the other. That the two seem to be mutually reinforcing casts dark clouds on the prospects of a widened democratic space as a platform for solving the problem of illegality. While careful not to fall into a politico-cultural mode of analysis, Dick and Mulholland nevertheless suggest the need to look deep into “culture” and “society” to understand why this problem is difficult to solve.

The succeeding nine articles offer a range of fascinating cases drawn from various geographic locations such as East Kalimantan (McCarthy; Nootboom), Riau (Ford and Lyons), Aceh (van Klinken and Aspinall), Jakarta (Wilson), various parts of Java (Mietzner), other parts of Indonesia (Widoyoko), and transborder areas (Honna), as well as sectoral contexts including natural resources (McCarthy), labor migration (Ford and Lyons), election campaigns (Mietzner), the construction industry (van Klinken and Aspinall), the education sector (Widoyoko), judiciary (Butt and Lindsey), police-criminals partnership (Nootboom; Wilson), and transnational security (Honna). Varied though these cases may be, one thing is clear: the systemic—widespread and deeply entrenched—nature of the problem highlights the fact that there is no easy solution in sight. The richness of details and the highly nuanced analysis found in these articles justify the editors’ claim, specifically argued by Jun Honna in his article, for the benefits of an area studies approach to the study of the relationship between the state, society and illegality. The entire volume is a testament to the depth of expertise and the robust state of Indonesian studies in Australia and beyond.

It is also in these articles that the editors’ analytic vision, as spelled out in the Introduction,

is largely realized. Clearly demonstrated in these articles is the close relationship between illicit practices by civilians and the day-to-day activities of state functionaries, an intimate relationship that Nootboom evocatively characterizes as a “marriage out of wedlock” (p.237). So close is this relationship that the boundaries between the legal and illegal hardly matter on the ground. This reviewer wonders about the ethical implications of this line of analysis. Taking illegality not as aberration but as an inherent part of state processes sanctions a conflation of *what is* with other possibilities (including what ought to be). While it is helpful in understanding why formal anti-corruption measures have difficulty in making headway, it may also undercut the anchor that enables a morally informed judgment. When Nootboom concludes that “. . . illegality is not destructive per se; it can also help to sustain order in society” and that it is “essential . . . to poorer people’s lives” (p.219), what is otherwise a plain statement of fact can also be faulted for naturalizing an otherwise deplorable situation. It ignores the possibility that illegality becomes part of poor people’s lives only as a coping strategy in the sense that had the situation been more favorable for them, they may not have had to resort to it. In the case of the wealthy political elites who continue to plunder the nation’s coffers, analyzing corruption as an inherent part of the state’s activities reinforces the normalizing effects of such a discourse. In other words, the line of analysis preferred by the editors courts the danger of falling into a reactionary trap that rationalizes the status quo as something one can only ever live with. By focusing on people’s complicity in corrupt practices, assuming their participation as an act of choice in a levelled playing field, this analytic mode opens up a wider avenue for blaming the victims of the unequal power structures that breed and nurture corrupt practices to which poorer people are more vulnerable. More importantly, by championing an increase in the politicization and empowerment of the citizenry as a vehicle for attaining greater accountability among state officials, the analysis also inadvertently shifts the burden of accountability towards the citizenry. In doing so, it violates the dictum that they who have greater power (state functionaries) ought to have greater responsibility. One would not be surprised if the politicians and state officials in Indonesia, as elsewhere, are happy with this kind of analysis. The chapters by Cribb, McCarthy and Dick-Mulholland offer a more ethically viable analytical path that questions corruption or illegality in Indonesia. This review is not meant to play down the enormous value of the 10 well-written and well-conceived articles, including the Introduction. It only flags the danger that their line of analysis poses.

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