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The state as marketplace

Slush funds and intra-elite rivalry

Why is the state so weak and erratic in enforcing legislated sanctions against corrupt and criminal behaviour?¹⁹ This question is usually referred to as the problem of 'implementation', as though the failure was simply one of administrative competence or a confusion of priorities. Critics also frequently cite 'lack of political will', which is no more insightful. Such rationalizations blur the essential distinction between the state as it should be and the state as it is. Corruption and crime invariably co-exist with the state.

This messy and unsatisfactory situation can be explained and analysed in terms of the behaviour of the elites who control the state and access to it. The state is the arena for contestation (Migdal 2001; Day 2002). We refer to this as the elite game of power, wealth and status. New Institutional Economics (NIE) usefully distinguishes between formal and informal 'rules of the game' whereby informal rules or norms of behaviour regulate the formulation and application of formal rules, including legislation (North 1990). For example, there are many reasons why allegations of criminal or corrupt behaviour may not result in legal convictions: hearsay allegations may not be brought to public notice because of fear of retribution; police and prosecutors may not proceed with charges; evidence may not substantiate them; witnesses may refuse to testify; restitution may be made before prosecution; courts may be influenced; or appeals may overturn convictions. In short, illegality becomes a matter for negotiation under a complex interaction of formal and informal rules. Contestability is seen also in the way informal rules serve to redistribute power, wealth and status. A useful perspective on the state is therefore that of a transactional space in which the rules of the political system are constantly being tested and renegotiated. The state may not work in accordance with the constitutional and legislative façade but the informal rules of the game, however inscrutable to outsiders, help to maintain and enrich the often fractious power elite.

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By a next logical step, the state may be construed not just as a transactional space but as a political marketplace, in which access to authority and property rights to economic resources are traded in the process of elite contestation. Trading occurs most obviously through negotiation over the relevant formal and informal rules. But money and prices may become an explicit part of the negotiation over political outcomes within the state itself, as well as between state actors and the rest of society. The essential difference between such a political market and an economic market is that monetary payments in the former are only part of the transaction, a balancing item or 'side-payment', not its summation. Nevertheless, a fruitful line of research is to follow the 'money trail' or, perhaps even better, the 'money chain' because the need for concealment often gives rise to a series of intermediate transactions between the principals. Along this transactional chain flows an exchange of money for favours. The direction and pattern of the chain are never random. Networks and personal influence map the pattern and channel the flows.

This chapter attempts to follow the money chain and informal modes of behaviour in Indonesia during the transition since 1998 from authoritarian to democratic regime. It thereby seeks to throw some light on the unexpected outcome that a revolution intended to overthrow the highly corrupt Suharto regime has led to a democratic regime in which corruption is even more pervasive and apparently less well-ordered (MacIntyre 2001). Notwithstanding neo-liberal orthodoxy that the state should withdraw from direct economic involvement, democracy makes it more likely that ideological and policy battles within the elite may result in the state becoming more interventionist because elites need insulation from markets in order to generate the rents that keep them in power or fund their ambitions.

NIE is a powerful body of theory that relates power to contestation for resources and property rights through formal and informal rules and their legitimating ideology (North 1990, 2005). Yet while sometimes endorsing (Mokyr and Nye 2007; Jones 2006), sometimes belittling the significance of intra-elite rivalry (Acemoglu and Robinson 2006), NIE does not incorporate it explicitly into its theory of political and economic change (North, Wallis and Weingast 2009). There is no need to reinvent the wheel, however, because the disciplines of sociology and political science have already done the work. Mills (1956) identified and Putnam (1976) deconstructed the elite in its monopoly of power, wealth and status. At the apex of every society is a small power elite (ruling clique): the president and ministers, generals and top bureaucrats plus close confidants and business leaders. Clustering around the power elite is the several thousand strong ruling elite within which individuals and groups called 'elite members' fight against each other and make strategic collaborations. Thus the elite is not singular but plural (Higley and Burton 2006; Pakulski 2006). Elite individuals and groups are in a constant

state of flux between cooperation and competition for the spoils of power, wealth and status.

In Indonesia, intra-elite rivalry was a feature of democratic politics (1950-1957), to be deftly manipulated by President Sukarno during the era of Guided Democracy (1957-1966), then suppressed under President Suharto under the New Order (1966-1998) before bursting forth again with the new party politics of Reformasi. Political analyses of Indonesia have almost invariably addressed intra-elite rivalry and personality politics but this focus has still not been well translated into theory. Based upon the Weberian model which Fred Riggs (1966) had applied to Thailand, Karl Jackson and Lucian Pye (1978) portrayed New Order Indonesia as a 'bureaucratic polity'. The particular emphasis upon bureaucracy might have been appropriate in the colonial era but was curiously anachronistic after independence when bureaucratic power was eroded by the successive assaults of party politics, martial law, executive authority and military supremacy. Elite polity would have been a better formulation. Applying neo-Marxist theory with Weberian elements, Richard Robison (1986) put forward a more nuanced model of bureaucrat-capitalism in which the bourgeoisie is a harmonious alliance of indigenous politico-bureaucrats and Indonesian-Chinese business conglomerates. Yet here again, as in later works such as Robison and Hadiz (2004) and Chua (2008), the emphasis upon 'bureaucrat' seems too narrow and too much agency is attributed to ethnic Chinese business leaders, who institutionally and ideologically are still shut out of political power. Causation surely runs the other way with state powerholders using their leverage to negotiate rent-sharing access to the means of production.

Ross McLeod (this volume, preceding chapter; 2000) presents an elegant 'franchise' model of the hierarchical distribution of rents during the New Order, which looks to be an exemplary case of 'well-ordered corruption'. Nevertheless, this system was not so much a product of Suharto's brilliant design as the gradual outcome of improvisation, muddle and improvement. The regime evolved, along with Suharto's own power and stature, from a broad-based elite coalition to military-technocratic dictatorship to family business, then collapsed like a house of cards in mid-1998. Explanation of historical continuity therefore directs attention to how that rivalry was suppressed by the rewards and sanctions of an increasingly centralized, patronage-based and hierarchical system of government, then with regime change gave way to a more contested system.

This chapter addresses two different ways in which the Indonesian state may be understood as a political marketplace by exploring patterns of routine informal behaviours. First, it looks at the role of 'slush funds' as the unaccountable revenues and expenditures that underpinned the Suharto hegemony but carried over into the era of Reformasi. Here the emphasis is upon the informal

rules governing relations between state actors who extract slush funds and their 'clients' who seek favours and/or control resources. Second, it considers how the shift after 1998 from an authoritarian to a democratic regime has influenced the dynamics of intra-elite rivalry. Here we pay particular attention to informal rules governing the new relationship between the executive and parliament. The former demonstrates the continuity of informal rules between regimes, the latter change and discontinuity. In both cases, corruption is seen to be intrinsic to the state, whether authoritarian or democratic.

Slush funds

'The state does not produce its own subsistence' (Dick 1993:5). Even to maintain the state apparatus, the state must extract resources from the rest of society. In the first instance, this can be done by taxation. Control of the state, the so-called 'monopoly of violence', confers rights of taxation (Levi 1990; Bates 2008). However, systematic taxation has the notable disadvantages to rulers of requiring an effective bureaucracy and of being transparent and accountable under the state budget. As Paul Collier (2007) points out, it also tends to erode the popularity and legitimacy of weak governments.

While budgetary revenues finance some state functions, rulers also need to find resources to 'buy' and maintain the loyalty of associates, rivals and subordinates, both within the elite and among the populace at large. Despite some scope for 'pork-barrelling', budgetary revenues are not readily deployed for 'political' purposes, certainly not for those where secrecy is paramount and perhaps also where the amount and timing are unpredictable (Lambsdorff 2007; Johnston 2005). Hence there is a need for off-budget, non-accountable and discretionary revenues that we denote here by the generic term 'slush funds' – the term is more journalistic than academic but it has common currency and best describes their nature and purpose. Powerholders need slush funds because they are discretionary, not bound by the formal rules, procedures and accountability that govern budgetary revenues and expenditures. At the very least, they provide a cushion against what is expected of officeholders from limited resources and improve their chances of securing favour and promotion. As explained in greater detail below, they may also be ploughed into official projects, fund personal emoluments, reward subordinates and provide gifts to superiors and patrons. They may also be used for political purposes. The opaqueness or muddiness of slush funds, is their *raison d'être*.

Historically in Southeast Asia, rulers generated slush funds through land-holdings and commerce (Reid 1993:245-51). In the tiny sultanate of Brunei Darussalam, state revenues are still not formally separated from the royal household: foreign oil companies provide a ready source of revenue, there

is minimal taxation and everything flows from the sultan's munificence. In Indonesia, former presidents Suharto and Habibie both benefited from commerce through the extensive business interests of close family members, who in turn benefited from their proximity to the centre of power (Aditjondro 2006). The Reform era has seen private wealth become a springboard for political careers. Susilo Bambang Yudhoyono's 2004 presidential campaign was supported among others by business magnate Aburizal Bakrie, who became a senior minister in his government. Jusuf Kalla's family fortune helped him to become leader of the Golkar Party and subsequently Vice-President with no disadvantage to his family's diverse business interests (Aditjondro 2009). In 2009 former general Prabowo Subianto's campaign for the Gerindra Party and, unsuccessfully, for the presidency was financed by his brother, Hasjim Djojohadikusumo.

In the modern state, enormous creativity goes into generating many other forms of slush funds. The informal mechanisms by which the Indonesian state apparatus generates off-budget and unofficial revenues are multifarious and the result of continual innovation. Nevertheless, at least five different types of behaviours or extractive mechanisms may usefully be distinguished. The five types overlap and are therefore something less than a typology but the point is not so much to classify as to identify the different mechanisms of extraction, all of which characterized the New Order period but have carried over into the era of Reformasi.²⁰ These streams of fungible revenues flow into broader and muddier rivers of 'slush funds'.

Levies are informal taxes and imposts for state services, sometimes referred to as unofficial imposts (*pungutan liar* or *pungli*). Thus police, customs or immigration officers and many other bureaucrats require small payments for signatures for the issuing of permits, licences, approvals and so on over and above the official charges. These levies are captured by the official concerned and often placed in a common pool for distribution according to agreed formulae with shares being scaled down the hierarchy according to rank (Goodpaster 2002:93, 97-8).

Leaks are funds siphoned informally from budgetary or project revenues. At each step along the way in the collection of revenues and the disbursement of expenditures in and out of the state budget, a percentage is extracted as something like an unofficial fee for service. In 1993 economist and former minister Sumitro Djojohadikusumo estimated that the national budget incurred leakages of around 30% each year.²¹ In 2003 Minister for Planning Kwik Kian Gie more conservatively estimated budget leakages as at least 20%

²⁰ Our approach differs from that of MacIntyre (2000), whose analysis of off-budget funds and rent-seeking distinguished 'command lending', 'private contributions' and 'hidden government funds'.

²¹ *Biografi Prof. Dr. Sumitro* 2009. The same figure was later cited by Jeffrey Winters as applying to leakages from World Bank loans to Indonesia (Winters 1997:29).

(Kwik 2003). A significant proportion of these leaks are distributed as a top-up of official salaries and/or the operating expenses of their respective offices.

Deals are one-off arrangements to generate informal revenues, making state officials or their nominees party in their own right to transactions with private interests. Typical examples are kickbacks on contracts (public works, procurement), the issuing of licences (especially in forestry and mining), the sale of public land or the rezoning of private land. Generous commissions have also been paid in relation to the privatization of state assets – one notorious set of deals immediately after the Suharto presidency was the Indonesian Bank Reconstruction Agency (IBRA) in its disposal of nationalized bank assets.

Gift loans are non- or part-repayable loans from state banks with less than commercial levels of collateral and perhaps also concessional rates of interest. President Suharto's children were prime beneficiaries of such arrangement, usually in response to a personal note (*surat sakti*) or informal advice from the president or his close advisers. By the 1990s, however, as the children became more active, they more often made direct approach to bankers, who just assumed presidential approval and granted the requested loans.

Rents are contrived income streams to state powerholders who have leveraged their position to become stakeholders in productive or financial assets. During the Suharto era it was common practice for foreign multinationals setting up in Indonesia to allocate equity holdings to well-connected members of the Indonesian elite, in the early years often to military interests, later more frequently to members of the President's extended family. Typically the Indonesian party made no capital contribution but enjoyed the dividends on these sleeping equity holdings as the price of political protection. After the early 1990s the government's new divestment policy for foreign investment created a market in which it was easy for political insiders to acquire substantial shareholdings at a discounted price. Rental streams could also be created by the allocation to favoured individuals and their companies of privileged monopoly contracts to operate public facilities (for example, airport services, toll roads) or to provide services to foreign multinationals. The Freeport gold and copper mine in Papua exemplifies both practices (Leith 2003:68-76). These contrived rents usually accrued to senior powerholders but the money trail was often disguised through beneficiaries such as family members or non-profit foundations (*yayasan*).

Besides these five mechanisms of extraction, there are the issues of how slush funds are stored and how they are disbursed. If funds are collected in cash, they may be deposited in bank accounts, more or less opaque, earning interest until disbursement. In Suharto's Indonesia, funds for presidential use were commonly held on account by foundations (*yayasan*), whose purposes were ostensibly charitable but whose accounts were never properly audited (Aditjondro 2006). Not all funds, however, needed to be collected in advance

of their use. Since the need for funds was unpredictable, the patronage system worked in such a way that those who held office by presidential favour, as also those who enjoyed the benefits of state licences or contracts, necessarily incurred contingent obligations. The powerholder granting a favour could demand its return, whether in money or in-kind at any time and to any amount within the capacity of the recipient. To refuse would be proof of gross disloyalty and incur certain punishment through the withdrawal of favour and loss of position, perhaps even charges of corruption, trial and imprisonment.

The best examples of the working of this patronage system were state enterprises and agencies (Badan Usaha Milik Negara, BUMN). The trusted subordinates appointed as heads of state enterprises were expected not only to direct a proportion of revenues to powerholders but also to respond to periodic requests from the responsible minister or even the president himself. In return, they siphoned off revenues for their own purposes. With the notable exception of the state oil company Pertamina, most state enterprises therefore ran at a loss, the amount being reimbursed from the state budget.²² In this way budget revenues were routinely diverted into non-official channels. Loosely supervised state enterprises were therefore broadly equivalent to the older notion of appanage, a grant to a powerholder of the surplus entitlements of an area of land and its villagers. We denote these consolidated rental streams as fiefs.

For Suharto, loyalists like Ibnu Sutowo at the state oil company Pertamina and a series of trusted subordinates at the state logistics agency Bulog were also like personal bankers, ever expected and able at short notice to extend an overdraft. Thus Pertamina might be asked as the need arose to undertake or underwrite a 'national project' such as a new manufacturing plant or industry or to fund infrastructure. As with state banks themselves, the device by which President Suharto made his requests was a polite, ambiguous request known as *surat sakti* (literally 'sacred letter'). A loyal subordinate took the hint and responded to the request, checking if need be with presidential advisers. If the job was done well, reward or promotion would follow – if not, presidential favour could be withdrawn without further explanation.

The logic of slush funds extended from the president down to the bottom of the bureaucratic hierarchy. A variant of the section's opening axiom might be 'the state provides no more than a subsistence'. In Indonesia after independence it became common for ministers to reward followers by granting them positions in their department, whether at the central or local level, or by allocating them contracts to generate rents from informal collaborations with businesspeople. After 1957 the state's seizure and nationalization of most of the modern sector of the economy gave enormous scope for arbitrary use of

²² Pertamina itself went spectacularly bankrupt in the mid-1970s, leading to the fall from grace of Suharto confidant Ibnu Sutowo (McCawley 1978). It still has the reputation of leaking revenue like a sieve.

power, extortion and smuggling in state enterprises and the bureaucracy. As inflation became rampant, rising from some tens to hundreds of percent per annum by the mid-1960s, civil service positions became valued simply for their monthly rations in-kind, mainly rice, sugar, cooking oil, salt and textiles. The civil service ballooned as a patronage-based relief organization, the beneficiaries hardly being expected to do actual work but simply to report, then carry on whatever other employment would earn the necessary balance of an income (Feith 1967). Of course the incentive system was entirely pernicious. Civil servants had every incentive to maximize bureaucratic complexity to extract funds from whoever could afford to pay, which in practice meant mostly private business, but also state enterprises, and to some extent the impoverished general public.

The New Order in its early years sought to trim the size of the bloated bureaucracy but never cut it back to a merely functional size. The excess staff, including the so-called honorary appointments (*honorair*), was maintained by keeping the basic monthly salary very low and allowing civil servants and the military (including police) to find extra revenues to meet administrative needs and private incomes. From top to bottom, a civil service position was therefore equivalent to a 'hunting licence', subject to various informal rules as to what type of exactions and how much was acceptable.

The disbursement of informal revenues or slush funds can be divided into three broad categories. First is to fund the operation of the department or agency. The routine budgets of most civil service departments are still low, not only in wages and emoluments but also in the funds allocated for office buildings, fit-out and even such essentials as stationary and utilities. In other words, official funds may suffice for only a few months of the year. A good department or section head has therefore not only to try and manipulate the best possible budget but also to secure top-up funding. One expedient, quite effective in terms of utilities, is simply not to pay the bills to the responsible state agencies and let the government sort it out. But other sources of revenue have also to be found. Under the New Order, the most important were not illegal or quasi-legal sources of funding but development projects, funded partly from the state budget but mainly from development aid. Thus bureaucratic politics revolved very much around competition for projects and all their associated benefits: better offices, computers, vehicles, travel, extra salary, and so on. Astute heads knew how to squeeze budgets ('leaks') so that the maximum amount was retained by the office and the least amount was spent on the project consistent with its successful completion. At the end of the Suharto era a figure of 30% was widely quoted as a conservative World Bank estimate of the leakage of aid funds (McCarthy 2002:42-3).

The second category of disbursement is the support of a state official's family to provide an adequate standard of living and lifestyle. Given the

reality of low official salaries and emoluments, every official has long been allowed some discretion in generating additional income. The means are not necessarily extractive or illegal. While some officials such as police, customs and immigration have been notorious for greed and lavish lifestyles, civil servants can also quite legitimately earn attendance money for meetings or seminars or per diems for travel. They can engage in second jobs. Thus doctors in public hospitals run after-hours private practice, teachers give private tuition, academics at state universities teach also at private universities or engage in consultancy projects, mostly for government departments or donor agencies. As the economy has expanded, the means have increased, but so also have the demands. Indonesia is a highly status-conscious society, so the growth of a middle class highly dependent upon the state and with a more and more westernized and luxurious lifestyle has meant that the modest growth in civil service salaries could never keep pace with rising expectations. Strong informal sanctions underpin these informal norms: an official reluctant to take advantage of his/her position or to share the rents may be condemned as too idealistic, even stupid, unworthy or stingy.

The third category may be described broadly as political disbursements. In the Suharto era, these payments would pass up the hierarchy as the 'rent' on patronage, though perhaps more typically they would be contingent and would involve making payments or providing services or projects on demand, whether for a covert political object, in the 'national interest' or for the purposes of 'development'. Under Reformasi, when political competition has become more intense, these slush funds are aptly referred to as 'tactical funds' (*dana taktis*) (Bayuni 2005).

In these various ways, following the money trail of slush funds reveals an informal or shadow state that only partially coincides with the formal state apparatus. Part of the explanation for the divergence is that the state is chronically underfunded by the formal budgetary system, so that deficits have to be made good by informal means. A deeper explanation is that the rational bureaucratic state as portrayed in organizational charts is subverted by networks of patron-client ties. Powerholders within these networks may take advantage of their position to raise and distribute informal revenues for non-state purposes. The following section will consider in more detail how the shadow state has evolved from the hierarchical system of the Suharto era to the more democratic and contested system of the Reform era. Particular attention will be paid to the new relationship between the executive and parliament, the emergence of political markets and the role of informal institutions in moderating intra-elite rivalry.

Regime change

Some scholars, such as Higley and Burton (2006) and Pakulski (2006), maintain that tension and conflict between elite individuals and groups drives political and economic change. When an elite group gains control of the state apparatus, it can institutionalize its informal norms and view of the world throughout society. Suharto's New Order (1966-1998) was an archetypal case of what Higley et al. (1998) refer to as an 'ideologically unified elite' or, more precisely, a dictator and his ruling clique that over time impose a master ideology limiting and concealing intra-elite rivalry. Yet within fractious elites, a shared and stable consensus over the rules governing competition for and deployment of state power is not normally to be expected. Many countries have post-colonial histories of chronic instability. Indonesia looked to be following the same path until the three decades of stability under the New Order, whose sudden collapse in 1998 could confidently have been predicted to lead to renewal of fierce intra-elite rivalry and bloodshed. Instead the outcome was confounding.

The most remarkable thing about the transition from the authoritarian New Order to the representative and procedural democracy of the Reformasi era is that it was accomplished with relatively little violence and bloodshed, at least at the centre (King 2003; Emmerson 1999). After the riots that convulsed Jakarta and several other cities in May 1998, President Suharto resigned with quiet dignity and there was an orderly transition. Notwithstanding some horrific outbreaks of communal and separatist violence on the periphery and much random criminality on Java, it was still a marked contrast to the wave of mayhem and mass murder that followed the collapse of the Sukarno regime in 1965-1966 (Roosa 2006; Van Klinken 2007; Sidel 2006). Over the next six years there were three changes of president through parliamentary and electoral means and various changes in the composition of coalition governments, all achieved without bloodshed or any force of arms, then a full five-year term of stable and quite effective coalition government under President Susilo Bambang Yudhoyono (SBY) and Vice-President Jusuf Kalla (JK), again without repression.

The stability of the SBY-JK government was therefore of a very different kind from that of Suharto's long term in office. Whereas the New Order was characterized by centralized control, patronage and repression, the Reformasi era has seen continual and intense intra-elite rivalry between parties and within factions for access to state power. Since many of the leading actors and parties are the same as in the New Order, this sudden change in the dynamics of the game of power, wealth and status is at first sight illogical and demands explanation. Clearly, as New Institutional Economics would suggest, there has been a reconfiguration of the 'rules of the game'. Moreover, the stability of those new rules suggests, in Higley's terminology, a new elite consensus

that imposes limits on the extent of conflict and allows for effective cooperation to mutual benefit.

This chapter addresses one important aspect of the new political consensus, namely the modes and mechanisms of competition for access to resources as the means to buying and defending power in the state. Here there is an essential difference between the New Order and the Reformasi era. Under the New Order, as described by McLeod in the preceding chapter, intra-elite rivalry was channelled through a hierarchical patronage network controlled ultimately by Suharto himself through allies and subordinates. By contrast, under the parliamentary democracy of the Reformasi era, the power of the executive has been diluted by the necessity of coalition government and the demands for accountability to parliament. Hence there is much more horizontal competition and jostling between parties and factions, as also a much more lively public debate cutting across any dominant political ideology.

Structurally the most important change has been the emergence of the legislature as an independent power centre. Until 2004 the president was elected by the People's Consultative Assembly (Majelis Permusyawaratan Rakyat, MPR) and appointed a coalition government that would enjoy support of a majority of legislators in the People's Representative Council (Dewan Perwakilan Rakyat, DPR), Indonesia's main legislative body responsible for passing laws and approving the state budget. Since the introduction of direct presidential elections in 2004, the president has enjoyed an independent popular mandate but still requires DPR approval for the passage of legislation and budget. The eleven DPR standing committees (*komisi*) have also acquired strong bargaining power in the drafting of legislation and budget, as also in the questioning of ministers and officials over matters of public accountability. Christianto Wibisono argues that parliament has become 'a monster' that has no compunction about squeezing the executive, a view that is widely shared among Jakarta's political elite.²³

Also significant has been the formal independence of the judiciary. Since 1957, first Sukarno and then Suharto had intimidated, subordinated and corrupted the judiciary to become a mere instrument of state power (Lev 1999). One of the conditions of IMF aid after the Asian Crisis was the re-establishment of an independent judiciary as part of the proper architecture of the state. Not taken into account was that independence would entrench and probably exacerbate a high level of corruption. The executive would now need to negotiate and pay for outcomes that once had simply been validated by a tame judiciary (Pompe 2005; Lindsey 2008).

These changes in the nature of political competition ought logically to be reflected in the informal flow of funds. In the Suharto era, the main use of

²³ Christianto Wibisono, interview, Jakarta, 2007.

slush funds was to maintain patronage, whether in rewarding loyalty within the state or in maintaining popular legitimacy through development projects. Under Reformasi, political parties and factions need slush funds because public funding and membership dues are minimal (Mietzner 2008a). One source is through pricing legislative outcomes: ministers, agencies and state enterprises now need to buy the passage of new legislation through parliament and even to smooth the way for favourable committee hearings, just as hostile interest groups may buy damaging questions and parliamentary votes, or perhaps just legislative delay. Within political parties, positions and parliamentary seats are allocated by internal auction, moderated by patronage and influence (Ziegenhain 2008). Parliamentarians may in turn seek to pave the way for their candidates to be appointed as ministers or officials or buy journalistic favour. Business firms including state enterprises are therefore under pressure to contribute funds in return for favours. And, of course, individuals also need support and funds in the scramble for promotion within ministries and agencies, even including Bank Indonesia. To acquire those funds and reward their own supporters, increasingly they need to belong to cliques, factions and parties. This is the world now so aptly described, after Japanese usage, as 'money politics'. No one should be surprised that the combination of parliamentary democracy and regional autonomy has led to corruption becoming more widespread and less ordered.

The presidential succession

Under the New Order, as explained above, President Suharto accumulated slush funds through various devices and deposited them in foundations (*yayasan*), while contingent funds were kept on hand through loyal cronies, both in state enterprises (Pertamina, Bulog) and in private business (Liem Sioe Liong, Bob Hasan) (Aditjondro 2006). Since Reformasi such informal practices have persisted but the execution has become more discreet in response to more powerful media, the threat of political exposure and the greater risk of sanctions. One clear indication that the informal rules were simply being adjusted to circumstances was the failure over a decade of half-hearted efforts to investigate Suharto's alleged wealth and the role of his foundations. To legitimize his rule and prove that he was not a Suharto puppet, Habibie at first supported the formation of an independent investigative team but backed away when Suharto's lawyer, Yohanes Yakob, threatened to lay bare everyone's secrets (O'Rourke 2002:191).

President Habibie realized from the outset that he needed to build up legitimacy and funds to be re-elected in his own right after the foreshadowed round of general elections. A campaign team (Tim Sukses Habibie) was

formed to plan for this (O'Rourke 2002:245-55, 283-91). Sources of funding were readily to hand. In the wake of the Asian Crisis, many business tycoons had seen their companies nationalized and they sought by backdoor means to regain control of the billions of dollars of assets, now held by the Indonesian Bank Restructuring Agency (IBRA) as collateral for non-performing loans. The agency's mandate was gradually to sell off these assets to the highest bidder and re-inject the funds to the state budget. With so many opportunities for influencing the disposal program and generating slush funds, the chairmanship of IBRA immediately became a highly contested and fast-rotating position (Mulholland and Thomas 2002; Basri 2005). An early scandal was the Bank Bali case. The former owner of Bank Bali sought to block its sale to the British Standard and Chartered Bank and made informal payments to various political powerbrokers, in part alleged to be financing President Habibie's re-election campaign (Saydam 1999). Habibie's close ally, Minister of Cooperatives Adi Sasono, used budget and aid funds channelled through cooperatives under the social safety network program to siphon off substantial amounts. In the context of ongoing anti-Chinese violence, pressure was also applied to exact levies from Indonesian-Chinese business magnates (O'Rourke 2002:149-51; Purdey 2006:180-2).

Nevertheless, all Habibie's efforts were in vain. At the June 1999 elections, no party won an outright majority, leaving the former governing party Golkar, now a vehicle for President Habibie, and Megawati Sukarnoputri's Indonesian Democratic Party of Struggle (Partai Demokrasi Indonesia – Perjuangan, PDI-P) to face off for the presidency. The MPD eventually rejected President Habibie's accountability report and he withdrew his candidacy. After out-manoeuvring Megawati in parliamentary negotiations, a third candidate, the blind but ambitious Abdurrahman Wahid (Gus Dur), came to the presidency amidst high hopes that, as a democrat and intellectual, he would decisively break with the New Order. Unfortunately his stubbornness and erratic use of power soon alienated his coalition supporters. Gus Dur tried unconstitutionally to dissolve Parliament through presidential decree but instead was impeached in a backlash from an alliance of party bosses, allowing Vice-President Megawati to succeed him.

During the Gus Dur period (1999-2001), the government was very 'loose' (*longgar*). Business magnates such as the Eka Tjipta Wijaya and Marimutu Sinivasan of the illiquid Sinar Mas and Texmaco groups, respectively, had easy access to the president and his ruling clique as they sought to influence the outcomes of debt restructuring (O'Rourke 2002:330-9, 361-5). The most notorious example of this looseness was that Gus Dur's masseur, Suwondo was even able to 'represent' Gus Dur in establishing a company and pressuring the Bulog Director-General to transfer rents to it. Gus Dur dismissed any prior knowledge or involvement in the case but suspicions remained that he

had delegated his masseur Suwondo to get funds from Bulog; this Bulog-gate scandal became grounds for his impeachment (Ridwan and Soewarno 2002; O'Rourke 2002:388-9).

Megawati's government represented a stronger and more disciplined coalition focused on her own PDI-P but, for all her popular legitimacy, Megawati was not a strong political actor in her own right. Her effectiveness depended heavily upon two astute political operators, her husband Taufik Kiemas, widely known as Mr President, who was her political power broker, and her very efficient State Secretary, Bambang Kesowo. Taufik had become a successful businessman in his own right, winning some large public works contracts (Aditjondro 2006:395-6). He formed a close relationship with Jacob Nursalim, the nephew of Sjamsul Nursalim, head of the Gajah Tunggal conglomerate and one of the leading debtors after the Asian Crisis but then in self-imposed exile in Singapore after withholding cooperation with state agencies in the debt-restructuring process. Jacob Nursalim frequently accompanied Taufik Kiemas and seems to have acted as an informal financier. In return, as IBRA's mandate was expiring, Taufik Kiemas arranged for the government at the end of 2002 to 'release and discharge' corporate debtors including Sjamsul Nursalim (Rafick 2008:51, 316-28). Marimutu Sinivasan of the troubled Texmaco group also benefited from Taufik's favour after he had been appointed to the board of that conglomerate (Aditjondro 2006). The coalition government lost one of its pillars in March 2004 when Coordinating Minister for Political and Security Affairs, Susilo Bambang Yudhoyono (SBY), resigned in consequence of growing distrust and animosity to build up popular support in his own right as a basis for winning the direct presidential election a few months later.

SBY came to the presidency in 2004 without a parliamentary majority in his own right. His own minor Democrat Party formed a rainbow coalition including the largest party, Golkar, now led by businessman-cum-politician Jusuf Kalla, who became Vice-President. As a business magnate in his own right, Kalla had reputedly bought his way to Golkar leadership against incumbent Akbar Tanjung, who had backed Megawati in her failed re-election bid. Kalla proved to be a wily politician and a powerful executive Vice-President. His influence soon led to tensions in regard to SBY's anti-corruption campaign, with a government helicopter deal through his family's Bukaka group being one of several issues taken up by the media.²⁴ Nevertheless, the anti-corruption drive and the growing effectiveness of the new Corruption Eradication Commission (Komisi Pemberantasan Korupsi, KPK) meant that political funds now had to be raised more discreetly, not least by the President himself. Lacking personal wealth and without the support of a large party, SBY had to rely on an inner circle of sometimes compet-

²⁴ See 'Kisah kalla dan heli bukaka', *Tempo* 20-26 March 2007.

ing indigenous business magnates, most notably Jusuf Kalla, Coordinating Minister Aburizal Bakrie of the Bakrie group, Fahmi Idris (Kodel Group) and Tanri Abeng (Tason Group), as well as some leading figures from the Sino-Indonesian business community, especially Siti Hartati Murdaya (Central Cipta Murdaya group).²⁵ Slush funds were also accumulated informally in foundations such as Yayasan Puri Cikeas and Yayasan Majelis Dzikir SBY Nurussalam where they could be deployed at arm's length from the president (Aditjondro 2009).

This brief review of the several changes in government since 1998 points to a fairly rapid turnover in governing coalitions, ministers and backers. At the same time, many of the leading figures remain the same and there is a good deal of circulation. Thus intra-elite rivalry is a good deal more complex than a zero-sum game. In the rest of this section we explore how the working of parliament and its relations with the executive and state apparatus are shaped by informal behaviours and lubricated by slush funds.

Parliament

Nowhere is the state-as-marketplace more apparent than in Indonesia's national parliament, the DPR. Coalition governments looking to re-election are highly vulnerable to parliamentary obstruction because it lays them open to criticism of inaction. And within the DPR standing committees (*komisi*), there are countless opportunities for negotiation over legislation, committee hearings, projects and appointments (Haris 2007). If a powerholder or business magnate needs to do a deal with the DPR, it has to be done with money: 'They only will listen and agree to money.'²⁶

Political gossip in Jakarta wittily distinguishes two kinds of parliamentary committees: 'wet' committees (*komisi mata air*) and 'dry' or 'tear drop' committees (*komisi air mata*). Lucrative committees include budgetary affairs, finance, forestry, transportation and defence. Of all 11 committees, that dealing with financial and monetary affairs (Komisi XI) is reputedly the wettest, that dealing with trade, industry and state enterprises (Komisi VI) the next, followed by Defense (Komisi I), Primary Resources (Komisi IV), Transport and Telecommunications (Komisi V) and Energy and Mining (Komisi VII);²⁷ the least lucrative committee is probably religious affairs (Komisi VIII).

While the powers of parliament derive from the constitution, legislation and administrative codes, the exercise of those powers is shaped by informal

²⁵ See 'Sekoci Sang Presiden', *Tempo* 28 May-3 June 2007.

²⁶ Adnan Buyung Nasution, interview, Jakarta, 2007.

²⁷ See 'Pengakuan dari Komisi Mata Air', <http://majalah.tempointeraktif.com/id/arsip/2002/09/30/LU/mbm.20020930.LU80999.id.html>, No. 31/XXXI/30-9-2002 (accessed 1-6-2010).

norms. Five kinds of informal behaviours or, in Indonesian terms, 'common practices' (*praktek-praktek lazim*) may be distinguished. First is negotiation over the content of legislation. State ministries, departments and agencies compete for influence in the drafting of laws. For example, Bank Indonesia and the State Mint (Perum Percetakan Uang Republik Indonesia, Peruri) competed over the right to print money under the revised Finance Law.²⁸ Bank Indonesia had a slush fund which, among other purposes, could be drawn on for making payments to members of parliament to secure favourable consideration of legislation or to facilitate committee hearings. Exposure of this practice by the KPK led to the imprisonment of the former head of Bank Indonesia and indictments against other directors, including a deputy-director and the father-in-law of the president's son. Committees also allow outside parties such as the Chamber of Commerce (Kamar Dagang dan Industri, Kadin) or private business interests to lobby for favourable treatment, as under the prolonged negotiations over a new Shipping Law (Dick 2008). Even when drafting in committee is regarded as complete, further payments may be required before parliamentarians are willing to vote on the measure. Ministers who do not authorize payments find their legislation held up.

Second is the determination of budgetary allocations and the disbursements. In the past, the DPR did not have power over project allocations. It can now make decisions over not only national strategic allocations but down to local-level projects. Hotels around the parliamentary complex bustle with local government delegations from all over the country. The Finance Committee is the primary portal for foreign aid projects, also a gateway to influencing local government projects. The disbursement of disaster relief illustrates how the system works. There is a specified global budgetary allocation but committees can block the release of funds, thereby forcing local governments to draw upon their own resources. Local governments are obliged to inflate the required allocation, employ a broker (*calo*) to meet the relevant committee members and agree to paying committee members a substantial cut of at least 20-30% before the funds will be released, a practice tantamount to extortion (*pemerasan*).²⁹ Similarly, a business magnate wanting a product in the budget can use brokers to pay off members of a special parliamentary committee (*panitia khusus, pansus*) so that the company name is formally inserted into the specifications (*spek*) of the project.³⁰ Ever working their mobile phones, brokers meet parliamentarians along the pathways and in the corridors and canteens of the parliamentary buildings, even mingling

²⁸ See 'Menarik pak pos ke khitah', Gatra 10-2-2003, <http://www.gatra.com/artikel.php?pil=23&id=25372> (accessed 1-6-2010).

²⁹ Confidential interview, Jakarta, 2007.

³⁰ See 'Uang haram mengalir sampai Senayan', Gatra 10-7-2008, <http://www.gatra.com/2008-07-16/artikel.php?id=116620> (accessed 1-6-2010).

in the standing committee offices – Defence Minister Juwono Sudarsono tried unsuccessfully to prevent brokers from influencing members of the Defence Committee (Komisi I).³¹ Of course, the brokers also take their cut but they allow the principals to avoid the complications of direct contact.

Third is the determination of property rights and the legality of business activities. Parliamentary committees have assumed powers to issue permits and approvals that used to be at the discretion of the bureaucracy and a matter of ministerial responsibility. One example is the definition of property rights associated with land. Business magnates compete to obtain permits for amending land-use. A DPR member was recently convicted and jailed by KPK for accepting payment to alienate land in Riau province from forest to commercial use (*hak peruntukan*).³² The DPR can also play a role determining property rights in non-land cases: the Bank Indonesia scandal referred to above revealed that executives of state banks wanting to sell shares needed to obtain ‘approval’ from the majority of DPR members on the Finance Committee.

Fourth is influence over appointments and promotions. Some appointments are determined by parliament, others by the government but may still require *de facto* parliamentary approval. In 2008 there was a tussle between the government and parliament over the appointment of the new Governor of Bank Indonesia, two presidential nominees being rejected before Professor Boediono was finally approved. In the same year the reappointment of KPK Vice-Chairman, Amien Sunaryadi, was rejected by parliament. A more general case was that of Minister for Oceans and Fisheries, Rokhmin Dharuri, who collected money from his departmental officials by way of leaks and levies to top up the ministerial slush fund set up by his predecessors. He then distributed the funds as patronage to members of the executive and parliament. When this became known, a big scandal ensued, leading to his arrest in November 2006 (Rafick 2008:55-7). There seems to have been no ulterior motive beyond keeping him in good favour and hopefully being rewarded with a more senior cabinet position in the next government, testimony to the informal influence of parliament on cabinet appointments, notwithstanding that the formal power to appoint cabinet members lies in the hands of the president. Dharuri simply acknowledged the new informal rules of power that govern the relations between the executive and parliament.

Fifth is influence over the dissemination of information. Not only in Indonesia is payment made for asking parliamentary questions. In Indonesia, however, payment is also made for not asking questions. Company directors are summoned to parliament nominally on grounds of accountability but

³¹ See ‘Para makelar di seputar anggota dewan’, Gatra 1-11-2007 <http://www.gatra.com/2007-10-29/majalah/beli.php?pil=23&id=109150> (accessed 1-6-2010).

³² See ‘Uang haram mengalir sampai Senayan’, Gatra 10-7-2008, <http://www.gatra.com/2008-07-16/artikel.php?id=116620> (accessed 1-6-2010).

also as a basis for negotiating payments. Thus if a director-general or head of a state enterprise wished to avoid or enjoy only mild committee scrutiny at scheduled or special hearings, payments may be issued to members of the parliamentary commission in question. An 'uncooperative' director may be ridiculed, demoted and/or fired. Contacts between members of parliament and the media are a reliable way to leak sensitive information.

These sets of informal parliamentary behaviours focus attention upon processes of negotiation between parliament, the executive, the bureaucracy, state enterprises and the private sector. Such negotiations involve political calculation, personal influence and often monetary payments. For some routine matters there are even tacitly understood schedules of prices based upon precedent, a clear sign of markets. The intrusion of money into parliamentary practice is certainly not because parliamentarians are poor. In 2005, ordinary members of parliament enjoyed monthly salaries (excluding their many perquisites) of Rp 39 million, twice that of ministers and two-thirds that of the president himself.³³ The new mode of informal money politics may be better understood as the dynamics of a party democracy in a patronage society. Parliamentarians, committee members and chairs, faction leaders and party bosses need to raise and disburse slush funds to acquire position, maintain loyalty and negotiate outcomes, as also of course to campaign in elections. These expenses are not covered by salary and perquisites or the tiny amount of public funding to political parties. The system works but it is not what would be regarded as good governance and involves a good deal of outright corruption. Several national parliamentarians and numerous provincial and local representatives have been arrested and charged by the KPK. At the trial of parliamentarian Hamka Yandhu, Corruption Court judge Hendra Yospin asked him, 'Do all laws being discussed in the House need extra money from the [Executive]?' 'There are some', was the guarded reply, seeming to confirm that bribery has indeed become a norm in parliament (Wardany 2009).

A particular feature of the new money politics is that slush funds are sometimes shared across apparently competing political parties and factions. The evidence is still circumstantial because only in the event of scandals, investigation and trials do the details ever emerge. The pattern showed up in Fisheries Minister Rokhmin Dharuri's donations across the spectrum of coalition political parties. Evidence in March 2009 by parliamentarian Hamka revealed how payments to committee members are shared between the political parties. Thus, in the case of the payment of Rp 31.5 billion (US\$1.86 million) made in 2003 by Bank Indonesia to two members of the Finance and Banking Committee (Komisi XI) to smooth passage of amendments to the Bank Indonesia Law, funds were redistributed to the Committee Chairman,

³³ See 'Gaji pejabat ditata ulang', *Republika* 21-2-2005.

members of the National Awakening Party (Partai Kebangkitan Bangsa, PKB), PDI-P, the Crescent and Star Party (Partai Bulan Bintang, PBB) and the National Police and Military faction (Wardany 2009). While the money politics may be crude, the political logic is sophisticated: parliamentary politics in Indonesia is not a zero-sum game. All political parties are seen as stakeholders in some degree and the committee system is one of the modes of distribution.³⁴ In other words, corrupt informal norms help to maintain a Higleyian elite consensus that moderates intra-elite rivalry and the social divisions that would flow from it. Marcus Mietzner's (2008a) portrayal of Reformasi party politics as 'centripetal', in contrast to the 'centrifugal' politics of the 1950s, points in the same direction, as does Dan Slater's (2004) analysis of collusive 'party cartels'. Just as a powerholder who did not share the spoils of office would be regarded as greedy and selfish, so a party which monopolized the spoils of government would be seen as an unworthy coalition partner.

Conclusion

History seeks to tease out patterns of continuity and change. 'Regime change' in Indonesia is readily apparent in drastic modification of the political system along with its constitution, laws and formal procedures. Yet regime change is also a matter of transition, during which some things remain the same. In particular, many of the people holding power in the 'new' state are those who used to hold power in the old, while much of the formal structure and organization of state institutions and bureaucracy also survives. Even more tenacious are habits of thinking and routines of behaviour. A good understanding of the democratic transition, in Indonesia as elsewhere, therefore requires study of continuity and change in informal modes of behaviour. The 'who' of political analysis and journalism is often less important than the patterns of informal norms and behaviours that constrain what does or does not happen.

This chapter has argued two propositions. First, a very important element of continuity between regimes is the widespread use within the state apparatus of 'slush funds'. While the mechanisms of raising, storing and distributing funds have been adapted to parliamentary democracy, the informal rules are much the same. The bureaucracy is still underfunded and reliant on informal leaks and levies for top-up funding. Powerholders still engage in private business, leverage corrupt deals and manipulate flows of rents with fierce competition for the most lucrative fiefs within the state apparatus. Some of the slush funds are still siphoned off into foundations which, though

³⁴ Indonesia is not a unique case. Japan has long demonstrated similar dynamics. Even at the height of the Liberal Democratic Party hegemony, opposition parties routinely shared in the spoils, albeit in lesser degree (Bowen 2003).

managed more at arm's length from the main political actors, remain characterized by secrecy and lack of accountability. What is somewhat unusual about Indonesian democracy is that money politics applies not only to relations between the state and society but also within the state itself. Outcomes between the executive and legislature, as also between state agencies like Bank Indonesia or state enterprises and the legislature, are subject to intricate negotiations that involve monetary transfers. In other words, political horse-trading – in Indonesian ox-trading (*dagang sapi*) – is literally a matter of negotiating prices and payments as part of the outcome. Money politics in Indonesia therefore penetrates much deeper into the state than the pork-barrelling associated with electoral politics in many other countries. The informal behaviours that govern the collection and distribution of slush funds have monetized relations even between the organs of the state and created a large political marketplace at its heart. That is not to say that the state can be reduced to a market place but that patterns of routine informal behaviours have created markets within the state itself alongside the more conventional transactions between state actors and society. This has been accompanied by a marked shift in power from the executive to parliament. Slater (2004:66) nicely describes Reform-era cabinets as 'the gilded bridge between parliament and the presidency'.

Secondly, representative democracy has revived a lively intra-elite rivalry that had been tightly constrained during the New Order. The hierarchical patronage of the New Order has given way to much more horizontal competition between parties and factions. Models of a homogeneous elite are obviously no longer appropriate, if indeed they ever were. Instead the state has become a site of fierce intra-elite contestation for the political spoils. Yet the outcome has not been what might have been predicted in 1998. Fragmented parliaments and unstable coalition governments have been the bane of Indonesian democracy. The general elections of 1999, 2004 and 2009 have entrenched fragmentation but they have not resulted in unstable coalition government. After an initial five years of jostling, the 2004-2009 period saw a stable coalition with only minor cabinet reshuffles. In Higleyian terms, there has been an elite consensus. The analytical challenge is to understand how intra-elite rivalry has been moderated to maintain a workable political peace during a turbulent decade of transition.

At its most crude, our troubling contention is that this elite democratic consensus has been underpinned by a high level of corruption. After a decade of Reformasi, Indonesian democracy has achieved a degree of political stability founded on agreement over the basic formal rules and a set of informal rules to give them effect, yet in no way could the outcome be characterized as 'good governance'. Since 2004 the KPK has vigorously prosecuted top officials, ministers and parliamentarians without obviously changing modes of behaviour,

except perhaps to make corruption more discreet. Notwithstanding public anger and international condemnation, corruption is proving extraordinarily resilient because its various informal behaviours are so embedded within the cultural habits of society, especially among elites. In 2009 KPK's relentless campaign provoked a backlash from within the power elite: the chairman and two commissioners were arrested and obliged to resign over murder and corruption charges that subsequently looked to have been fabricated by senior figures within the Police and Attorney-General's Department. KPK looked in vain for support from either parliament or the executive. Clearly we need much more insight into culture, society and politics before we can be confident that anti-corruption strategies will be sustainable.