MICHELE FORD AND LENORE LYONS

Travelling the *aspal* route

Grey labour migration through an Indonesian border town

Scholarly and public policy accounts of temporary labour migration in Southeast Asia emphasize the manifold problems associated with attempts to regulate the flows of so-called 'undocumented' migrant workers throughout the region. Part of the difficulty in managing the 'illegal' movement of labour migrants is that categories used by receiving countries such as 'documented' and 'undocumented' or 'regular' and 'irregular' are extremely fluid and temporary labour migrants can move between them rapidly (Grewcock 2003). Migrants who pass through legal channels may also confront a range of practices in their home countries, such as falsified or fake documents, that blur the distinction between legal and illegal recruitment and deployment (Skeldon 2000).

While much attention has been paid to the role of people smugglers and traffickers in illegal border crossings, the part played by the state has been given less consideration. And yet, the state is clearly involved in the illegal practices associated with international temporary labour migration in all its forms. As Willem van Schendel (2005:54) has argued 'the image of states as simply reactive, responding to the growth of clandestine transnational flows, is misleading because it understates the degrees to which states actually structure, condition, produce, and enable clandestine border crossings'. Labour migrants weave their way in and out of intersecting spheres of legality and illegality as they negotiate the complex nature of the labour migration regimes that sending and host countries construct (Ford 2007).

This chapter explores the state's role in semi-legal migration flows through Tanjung Pinang, the capital city of the province of Kepulauan Riau (the Riau Islands) in the borderlands between Indonesia, Singapore and Malaysia.¹ In the Riau Islands, local officials play a pivotal role in facilitating the flow of temporary labour migrants across the border. They collaborate with a range

¹ The research on which this paper is based was funded by an Australian Research Council (ARC) Discovery Project grant *In the Shadow of Singapore: The Limits of Transnationalism in Insular Riau* (DP0557368).

of other actors involved in the labour migration process, including official and unofficial labour recruitment agents; local brokers who act as middlemen between agents, officials and prospective migrants; and numerous other private entrepreneurs who provide specialized services, such as those running 'passport bureaus'. While some of these actors are involved in legal businesses, others operate illegally but with local government sanction. Together they are part of an alternative labour migration system that sits alongside the official process, and which has both legal and illegal aspects to its operation.

As Riau Islanders are quick to observe, in the islands 'illegal doesn't mean that labour migrants travel through the *pelabuhan tikus* [illegal ports, lit. rat ports]. They have passports'.² As this comment suggests, locals make a distinction between 'documented but illegal' labour migrants who travel with authentic documents issued by the local immigration office, but obtained or used illegally, and 'undocumented illegal' migrants who use the services of smugglers to slip across the border undetected. The documents the first group of migrants carry are described in Indonesian as being 'real but fake' (*asli tapi palsu, aspal*), reflecting the fact that they are genuine documents obtained without going through all the processes that define formally sanctioned channels of temporary labour migration. We describe this 'grey' labour migration, where workers cross Indonesia's borders with real passports, and sometimes work permits, obtained with real or fake documents obtained through irregular channels at the point of origin, transit or departure – as the *aspal* route.

The actions of officials involved in the *aspal* route are clearly corrupt. They provide identity cards, official passports or even work permits to official and unofficial labour recruiters and other middle-men in return for payments in cash or in-kind services or as favours for friends or relatives. In doing so, they knowingly circumvent existing central government population laws and the policies and procedures of the national labour export program. However, it would be a mistake to view their behaviour solely as a matter of corruption motivated by personal gain or the desire to influence local politics. While in many cases their actions are linked to attempts to shore up their local political power bases or simply to supplement meagre wages, they are also part of a local community-sanctioned response to international migration flows through the islands. Many local people view these practices as a necessary and obvious solution to the presence in the islands of large numbers of intending labour migrants. The licitness of these illegal practices within the community has important implications for the way in which the *aspal* system operates. Significantly, it means that forms of criminality often associated with corruption in Indonesia (such as the presence of strongmen or violent coercion) are typically absent in much of the grey labour migration process.

² Interview with NGO activist, December 2006.

This chapter traces the different practices and motivations associated with the *aspal* route in order to shed light on the nature of state illegality in Indonesia. In doing so, it seeks to go beyond simply describing modes of corruption to also examine the multiple meanings attached to the provision of 'real but fake' documents by the range of actors involved in the labour migration process. The *aspal* system is not unique to the Riau Islands or other transit areas; it is also found in provinces of origin and major urban centres like Jakarta. However, these practices become magnified in the periphery because of the vast flows of migrants into the transit provinces and across the border. Our concern with the transit provinces in general – and the Riau Islands in particular – also reflects an increasing awareness that accounts written from the perspective of the periphery offer alternative accounts of state illegality (McCarthy 2002; Wadley and Eilenberg 2005; McCarthy 2007a). Since borders act as 'pivots' (Van Schendel 2005) between territorial states and transnational flows, attention to the regulatory processes involved in managing labour migration flows in transit provinces offers both a corrective to state-centric understandings of migration and important insights into the state's involvement in irregular migration practices.

Indonesia's national labour migration system

The Indonesian state's management of temporary labour migration from Indonesia has attracted intense scrutiny over the last three decades as the numbers of Indonesians seeking work overseas continues to grow. Successive governments have been subject to sustained critiques which focus on their negligence in managing the formal process of labour migration, and emphasize the corrupt and inadequate structures of the system and their implications for individual migrant workers (see for example *Indonesian migrant workers* 2002; Human Rights Watch 2004, 2005:13-5). Less understood are those migrants who follow the *aspal* route or bypass the system altogether. Yet these migrants constitute a significant proportion of migrant flows to regional destinations. According to the government's own estimates, between 200,000 and 300,000 Indonesians working in Malaysia alone have bypassed the official system.³

Migrants who circumvent the official system are motivated to do so because of the very complicated processes set out under Law no. 39/2004 on the Placement and Protection of Indonesian Workers Overseas, a law ostensibly designed to improve the placement and protection of Indonesian migrant workers. Under the law, the central government – through the National

³ Moh. Jumhur Hidayat, head of the National Agency for the Placement and Protection of Indonesian Migrant Workers, cited in *Waspada Online*. See 'Indonesia asks Malaysia not to issue working visa to individual applicants', *Waspada Online* 14-9-2008.

Agency for the Placement and Protection of Indonesian Migrant Workers (Badan Nasional Penempatan dan Perlindungan Tenaga Kerja Indonesia, BNP2TKI) – is responsible for ‘regulating, guiding, carrying out and overseeing the placement and protection of Indonesian workers overseas’ (Law no. 39/2004, Article 5) in collaboration with local government and other agencies. In order to be considered ‘legal’ under this framework, intending labour migrants must first register with the responsible local labour office, assumed – although not stated – to be in the province of origin. Workers are recruited from this pool by officially sanctioned recruitment agents. Agents must be legally constituted companies in possession of a Migrant Worker Placement Licence (Surat Izin Pelaksana Penempatan TKI, SIP) issued by the Department of Manpower and Transmigration, a recruitment agreement, a job order and a draft contract from an agent or individual in a receiving country. Workers who are selected by the recruitment agent then undergo mental and physical health checks organized by the Department of Health, receive training and undergo an assessment of their work-related competencies. The agent organizes insurance, an official migrant worker passport (which has only 24 pages rather than the normal 36 or 48), visas and payment of the US\$15 fee levied by the government on intending migrant workers.

During the processing phase, intending migrant workers are housed in barracks. Immediately prior to departure, they go through a final training process and receive a copy of their employment contract and their migrant worker identity card (Kartu Tenaga Kerja Luar Negeri, KTKLN), which replaces their standard identity card whilst overseas. This card can be issued by a representative of the centrally controlled migrant labour placement office in the province of origin or at the point of embarkation. Once they have their migrant worker identity card, intending labour migrants can be issued with a letter of exemption, which removes the obligation to pay the exit tax (*fiskal luar negeri*) levied on Indonesians travelling abroad. Finally, recruitment agencies are required to report all successful placements to the local manpower office (Law no. 39/2004, Article 54). At each stage of the official recruitment process, prospective labour migrants are faced with another round of paperwork and fees they must pay. Significantly, the labour recruitment process requires intending migrant workers to remain in holding centres for between one and three months while they wait to be placed overseas.⁴ The complexities of the official process, combined with the time and costs involved have created ample opportunities for rent-seeking within the formal system and a motivation for the establishment of an alternative route.

⁴ Under earlier regulations they could be kept in a holding centre for up to 150 days. The description that follows held true at the time of writing, but it should be noted that the system is continually changing.

Migration through the transit provinces

Many of the studies that seek to examine the nexus between migration and state illegality in Indonesia focus on the dedicated terminal for returning migrant workers at Jakarta's Soekarno-Hatta airport, Terminal 3.⁵ As Rachel Silvey (2007) argues, a close study of processes within Terminal 3 demonstrates not only the complicated role of the state in migration but also the link between state-sanctioned processes and illegality. These illegal state practices may extend beyond simply 'breaking the law' to include bureaucratic incompetence, red-tape, patronage and lack of responsiveness.

Much less studied sites for examining illegal state practices in regard to the regulation of temporary labour migration are the transit provinces in Sumatra and Kalimantan through which labour migrants pass on their way to Singapore and Malaysia (Ford 2006). One such transit province is Kepulauan Riau, the province which incorporates the islands that lie to the east of mainland Sumatra. The geographical proximity of the Riau Islands to Indonesia's neighbours serves as a magnet both for internal labour migrants and for significant flows of regular and irregular labour migrants across the border.⁶ International migrants pass through many ports in the islands, including the town of Tanjung Pinang, which has long been considered a strategic point from which to travel illegally to Singapore and Malaysia (Sobary 1987:5). The Riau Islands are also one of the nearest points for repatriation of large numbers of workers whose contracts have ended and undocumented migrants who have been deported from Malaysia. Tanjung Pinang alone receives hundreds of deportees almost every week. In 2006, 16,805 Indonesians passed through the Tanjung Pinang holding centre, which can accommodate up to 600 people at a time.⁷ Deportees regularly arrive at the centre on a Thursday and stay a maximum of three nights before being returned by the local government to their provinces of origin.⁸

A detailed report compiled by the Indonesian Auditor General identifies a whole series of very serious problems, including endemic corruption, in its review of the labour migration process in Mainland Riau and the Riau Islands. The report identified a number of problems in the recruitment and deploy-

⁵ See for example Surtees 2003; Rudnyckyj 2004; Silvey 2007. Similar terminals exist in Surabaya and Solo.

⁶ Lyons and Ford 2007. According to the 2000 census, Singapore's 612,200 foreign workers constitute 29.2% of the total workforce (Singapore Department of Statistics 2000). About 500,000 of these workers are considered unskilled or low-skilled and Indonesians are strongly represented in low-skilled service-sector jobs and on commercial ships based in Singapore. In 2006, the total number of employed persons in Malaysia was around 10.6 million (Government of Malaysia 2007). As of the end of June 2006, there were 1.84 million registered foreign workers in Malaysia, primarily in manufacturing, services and agriculture. 64.7% of these registered foreign workers were from Indonesia (Ministry of Finance Malaysia 2007).

⁷ Details of this centre's operation can be found in *Daftar kedatangan* (2006a, b, c).

⁸ Interview with NGO worker in Tanjung Pinang, November 2006. Central government contributions to the local budget of major transit areas include an allowance for the provision of these services.

ment process including incomplete documentation,⁹ and a failure to pass on over Rp one billion in charges levied on intending migrant workers to the Indonesian Migrant Worker Placement Service Centre (Balai Pelayanan dan Penempatan Tenaga Kerja Indonesia, BP2TKI) (Badan Pemeriksa Keuangan Republik Indonesia 2006:63-92). The report also identified a mismatch between the number of migrant workers registered with Pekanbaru office of the BP2TKI, which has responsibility for overseeing migrant workers in the Riau Islands, and the numbers of workers that claim exit tax-free status (*bebas fiskal luar negeri*).¹⁰ The Auditor General found that a significant number of exit tax exemptions were issued to workers who had not followed the mandated procedure. Of the 151,762 intending labour migrants who received exit tax exemption letters in Mainland Riau or the Riau Islands in 2004-2005, 112,444 were issued tax exemption letters in the islands, yet only 43,989 exemptions were recorded with the BP2TKI (Badan Pemeriksa Keuangan Republik Indonesia 2006:87-8).

Our research shows that similar inconsistencies are evident at the local level. In 2006, 1,910 migrant workers left Tanjung Pinang on official migrant worker passports, only 310 of whom were issued exit tax exemption letters by the Department of Manpower's Tanjung Pinang office.¹¹ These figures suggest that instead of applying for their tax exemption letters from the local BP2TKI representative as required under Law no. 39/2004, large numbers of otherwise regular labour migrants leave Indonesia through the islands using *aspal* tax exemption letters obtained from local government agencies in the islands. In other words, they leave with authentic and appropriate documents obtained via irregular means. Our interview data and local statistics indicate that irregularities in the issuance of tax exemption letters are not the only example of *aspal* practices. For example, many labour migrants leave the islands without registering with BP2TKI at all. In 2006 alone, an estimated 2,000 migrant workers passed through the local port monthly on their way to Singapore or Malaysia despite the fact that fewer than 700 applications for placement were approved in each month.¹²

The Auditor General's report attributes such irregularities to understaffing, a lack of coordination between different agencies and between local governments in sending and receiving provinces. However, central government agencies are well aware of the involvement of local government authorities in

9 During the course of the pre-departure process, intending migrants must produce or obtain a standard identity card, school records and birth certificate, and marriage certificate where relevant; a letter of permission from their spouse, parents or guardian; a certificate of their work-related competencies; a certificate of physical and mental health; a work visa; a work placement contract; a work contract and a migrant worker identity card (Law no. 39/2004, Article 51).

¹⁰ This number does not include those with local papers, since Riau Islanders are exempt from the exit tax.

¹¹ *Daftar calon* 2006; *Daftar PJTKI* 2006.

¹² Interviews, December 2006; Department of Immigration internal documents.

the *aspal* route, a situation that it has sought to redress by establishing a dedicated team for the prevention of departures that might be designated as being 'non-procedural' according to Ministerial Decision no. KEP-14/MEN/I/2005. These ongoing efforts have had limited success in stemming the practice of issuing 'real but fake' documents, but for large numbers of labour migrants, the *aspal* system continues to be the most efficient way of crossing the border and seeking work abroad since it offers them the hope of becoming 'documented' workers in the receiving country without the costs and red-tape associated with formal system.¹³ For many of the public officials responsible for issuing documents required in the labour migration process, the rewards – but also the logic – of the *aspal* route is self-evident in a context where local conditions are not taken into account in national-level decision making about Indonesia's labour export program.

Travelling the aspal route

Intending labour migrants who transit in the town of Tanjung Pinang generally seek assistance from one of three kinds of migration agents. The first group consists of companies that are officially registered with the BNP2TKI and that follow official procedures. As of November 2005, there were 24 registered agents in Tanjung Pinang, six of which had their head office in the town (Badan Pemeriksa Keuangan Republik Indonesia 2006:77). The second group of agents deliver workers with no papers to Malaysia and Singapore by boat (a practice typically referred to as 'people smuggling'). The third group consists of agents, either officially registered companies or individuals, that use local contacts to organize local identity cards and passports for workers outside the formal system either exclusively or in addition to engaging in that formal system. This third group of agents is the group associated with the *aspal* route.¹⁴

The *aspal* route begins when individuals are convinced or decide to migrate for work without registering with the local Manpower Office in their district of origin. This may happen because the intending labour migrant has insufficient knowledge about the formal procedures or because an acquaint-

¹³ This reflects a structural failure in Indonesia's labour-sending system. The system relies on receiving countries accepting only those migrant workers who have followed the requirements of Law no. 39/2004, which specifies that workers can only be recruited by officially approved recruitment agents based in Indonesia. Recruitment by an Indonesian or foreign sponsor is explicitly forbidden (see Explanatory notes for Article 37, Law no. 39/2004). However, attempts by the Indonesian government in collaboration with the governments of major receiving countries to police this system have not been particularly successful. The central government has repeatedly tried to deal with the problem of direct recruitment by foreign agents or employers, most recently sending a diplomatic note to the Malaysian authorities, asking them not to issue working visas to individual applicants. See 'Indonesia asks Malaysia not to issue working visa to individual applicants', *Waspada Online* 14-9-2008.

¹⁴ Falsification of identity and many of the other aspects of the *aspal* route described here are also found within the formal labour migration system.

tance, relative or local middle-man (*calo*) suggests that the *aspal* route is a better option for them. These workers are brought by either middle-men or employees of agents based in Kepulauan Riau directly to the islands. The agent, which might be a legally registered company or an individual, then obtains a local identity card from his or her collaborators in the local administrative office under the intending worker's real name or a pseudonym in a process that can take as little as a day. In 2006 the going rate for what is referred to locally as a seasonal identity card ('KTP *musiman*') was Rp 125,000. Once a local identity card is in hand, the would-be migrant can then obtain a standard passport through regular means or more quickly through the agents' contacts in the local office of the Immigration Department. The fact that they are obtained using a local identity card means that their bearers can benefit from the province's exit tax-free status.

Although these passports are different from those issued to intending labour migrants by the Indonesian authorities, they are official travel documents that may be recognized by overseas governments issuing work visas. This means that a prospective labour migrant can use the passport to exit Indonesia and legally enter a neighbouring country. Although migrant workers are required by Indonesian authorities to hold a labour migration passport (*paspor TKI*), Indonesian citizens leaving Indonesia are unlikely to be more than summarily quizzed about the purpose of their travel when they pass through an Indonesian immigration checkpoint on a standard passport. Some of these migrants enter Singapore and Malaysia as 'tourists' on visitor's passes and then convert their visas to work permits with the assistance of a local labour placement agent. Others may be issued with work permits on arrival on the basis of *aspal* migrant labour passports issued at the point of departure. Some are turned back as potential 'illegal' workers, but many more pass through undeterred.¹⁵

The 'passport bureaux' that have developed to service the *aspal* route are an integral part of this system. An owner-operator of one such passport bureau, run from a shop-house in the town of Tanjung Uban, about an hour from Tanjung Pinang, specialized in providing passports for domestic workers planning to go to Malaysia and Singapore. Although he also provided passports for accredited labour agents, the vast majority of the applications he processed were for migrant workers intending to leave without fulfilling all the requirements of the official labour migration process. Between

¹⁵ Some of those who enter on a visitor's pass may work illegally. Indonesia has signed a number of MOUs on the labour migration process with the governments of Singapore and Malaysia. These have been partially successful in addressing anomalies in the immigration regimes governing foreign workers. For example, Singapore has introduced a 'single gate policy' for the recruitment of domestic workers. Before it was introduced, domestic workers leaving Indonesia through alternative channels were not necessarily illegal in Singapore (Abdul Rahman 2003:100).

2001 and 2003, this bureau agent 'processed' several hundred passport applications per day. He obtained the 'real' passports supplied by his bureau through a contact in the local immigration office who was able to supply him with official passports using local identity cards supplied to him by his clients. Once the bureau agent received the passports, he passed them on to a range of other actors involved in the labour migration process. His clients included accredited labour agents, unofficial labour agents, casual labour brokers and sometimes intending labour migrants themselves.¹⁶

It is through bureaus like this that the unofficial labour-sending agents who are the mainstays of the *aspal* route obtain travel documents for their clients. An agent interviewed in 2001 was one of a large number of local 'entrepreneurs' engaged in grey labour migration.¹⁷ He and his wife were not registered with the Department of Manpower, nor did they have a legally constituted company. They operated their business from their residence in a lower middle-class suburb of Tanjung Pinang, supplying domestic workers to a Malaysian contact. The Indonesian agent recruited women from local placement agencies in Jakarta that were not registered to supply workers for positions overseas. Once the women arrived in Tanjung Pinang, the agent used his contacts in local government and the immigration department to obtain local identity cards and passports for them. The Indonesian paperwork he provided to the women was recognized in West Malaysia, and he used appropriate permits for employment supplied by his Malaysian counterpart.¹⁸

Although it is now illegal for Indonesian workers to be deployed by receiving-country agents independent of the Indonesian system, these practices persist not least because of the many benefits workers derive from travelling the *aspal* route. As a Tanjung Pinang-based NGO activist observed, the *aspal* process is much faster and cheaper than the formal process because intending migrant workers get a passport, but do not have to pay for a visa (which their employer arranges once they have entered the host country), insurance or a medical check-up (mandated as part of the formal labour migration process), or the extra charges associated with obtaining these documents.¹⁹ Most importantly, intending migrant workers do not have to wait long periods in barracks in Java or elsewhere before placement. Nor are they required to return to their province of origin before being redeployed. And although the time taken by the *aspal* process varies according to the efficiency of the agent and

¹⁶ As he was not particularly well-connected, this agent's business declined sharply in 2004 when the central government attempted to short-circuit the system by bringing in immigration officials from head office. The success of the central initiative was short-lived because the newcomers were quickly socialized into the culture of the local office and became integrated into the *aspal* system.

¹⁷ For a fuller account of this operation and details of women's motivations for using this agent see Ford 2001.

¹⁸ Malaysia's eastern states have a separate immigration system.

¹⁹ NGO interview, 13-12-2006.

the fees levied on the worker, it can be remarkably quick. Zain Zainuddin, a Malaysian journalist with the daily *Harian Metro*, claims that in 2006 workers could be deported, organize a new passport in Tanjung Pinang, and be back working in Malaysia the same day (Zain 2006). Interviews with grey migration agents in Tanjung Pinang and evidence from other transit locations confirm that such rapid processing of documents is indeed possible. In Nunukan, for example, illegal agents simply have to telephone the immigration department to obtain hundreds of passports within days.²⁰

What is interesting about the *aspal* process is not that it exists, since it provides benefits for workers in a context where government corruption is taken for granted. As Nengsih – a former domestic worker who spent time in a Singapore prison for entering Singapore under a false name – reminds us, second or even third identity cards are easily obtainable anywhere in Indonesia:

In Indonesia even if we have been deported from one country it's easy just to make another passport and go somewhere else. That's how it is here. Easy. There's nothing to stop someone having more than one passport. The government can't do anything about it. All we need to do is move from Jakarta to Batam and then from Batam to [Tanjung] Pinang. In each place we can be a different person.

What is remarkable, rather, is the high level of institutionalization and public acceptance of this alternative system. While it is illegal for temporary labour migrants to leave Indonesia without passing through formal labour migration procedures, local agents of the state are involved in the setting-up and operation of the *aspal* route. As a consequence, the production of *aspal* documents has become an established part of the immigration process in the transit zone. The *aspal* route has become such an entrenched part of local life that most locals know how the system works and who to contact to obtain the necessary paperwork. By contrast, few understand the steps involved in the official process, or could explain how or why the *aspal* system is 'illegal' beyond the fact that it may involve the payment of bribes to officials. As Nengsih's comment suggests, the payment of these bribes in itself is not regarded as a remarkable act – it is simply the way things get done.

While the local government officials involved in the *aspal* system recognize that their acts are not strictly legal, they see the grey migration system as a legitimate response to the difficulties associated with implementing the national labour migration process. Large numbers of prospective international labour migrants arrive in the Riau Islands with the hope of crossing the border into Malaysia and Singapore. They travel great distances and

²⁰ Personal communication with Riwanto Tirtosudarmo, 14-7-2003.

endure an arduous journey before arriving in the islands. The arrival of these intending migrants in the islands poses an enormous dilemma for the local authorities. Sending them back to their provinces of origin to apply through the proper channels for an overseas job would not be practical even if the local authorities had the resources or wherewithal to do so. Given the large numbers involved, ignoring the problem is also not a solution. From the perspective of local government officials and community leaders, then, facilitating their migration by issuing 'real but fake' documents is an ideal response. It ensures a fast and efficient flow of migrants across the border (thereby mitigating against the need to feed and house the incoming migrants); provides a livelihood for members of the local community involved in the labour migration process; and affords some protection to workers once they are overseas (because they are in possession of 'real' documents). For many local officials involved in the provision of *aspal* documents, the fact that they make a side income (*penghasilan sampingan*) is a taken-for-granted aspect of their work. No one involved in the process would expect it to be any different.

Like many other aspects of state practice in the borderlands, the *aspal* route is thus at least in part a structural response to the intersection between national and local regimes – in this case the intersection between a centralized labour migration regime and a local immigration regime developed in response to the political economy of this particular borderland, characterized by close and easy physical access to neighbouring Singapore and Malaysia and the fact that islanders are exempt from the national exit tax. To fully comprehend the nature of 'state corruption' in labour migration flows, therefore, we must pay attention not only to the ways in which individual claims to licitness intersect with state practices, but also to the interstices of such competing regimes. What this points to is a need to invoke the concept of scale not only in terms of establishing the importance of the borderlands as periphery, but also in relation to the state itself. In particular, we need to consider differences (and similarities) in the ways that local, provincial and national level governments and officials respond to labour migration flows.

Migration, illegality and the state

Given the systemic involvement of Indonesian government officials in illegal practices, it is not surprising that corruption has emerged as a significant problem in policy making and academic research on the Indonesian state (Schulte Nordholt and Van Klinken 2007b). Indeed, a growing number of detailed studies of the 'webs of political, economic, and social exchange' (Migdal 1988:247) in which grassroots politicians, bureaucrats and strongmen are involved conclude that corruption is endemic in contemporary Indonesia.

One of the enduring explanations for widespread corruption in Indonesia is that there exists an in-built, structural requirement for the bureaucracy and the military to raise funds to support its own activities and pay wages (Mietzner 2008b). As these accounts suggest, in such a system officials extract as much 'informal' income as they can. Other accounts point to the lack of formal channels for meaningful participation in government decision-making processes, arguing that this encourages individuals to pursue their interests using informal networks built on personal ties (H. Crouch 1975, 1978, 1979; Robison 1981, 1986). This view, which suggests that corruption is part of an elite-sponsored system to shore up power and draw attention away from the regime's own complicity in illegal practices, has fed into more analyses that focus on idea of a 'shadow state' – a concept that describes the part of the state that lies outside formal state structures, in which political authority is drawn from the ability to control the informal economy (Harriss-White 2003).

The literature on the shadow state suggests that while control of the informal economy may sometimes depend on the use of actual physical force by strongmen, more often stakeholders exert influence through market monopolies, as state actors invite non-state actors to join in the shadow state network they build and provide them with protection from formal state authority (Erman 2007; Hidayat 2007; Migdal 1988). Those involved in the shadow state use formal institutions for private ends, including corruption, collusion and forced privatization of state assets. Schulte Nordholt and Van Klinken (2007b:7) argue that as a consequence of these practices, the 'boundaries between (legitimate) state violence and (illegal) criminality, and between formal institutions and semi-informal criminal gangs' become increasingly blurred. Corruption thus provides the 'space collective state actors need to build political coalitions with societal partners against perceived rivals' (Van Klinken 2008). However, the problem with these accounts of state corruption or involvement in illegal activities is that they assume that state actors regard corruption as a form of criminal behaviour.

In contrast to this view, many of those involved in so-called corrupt practices, including state officials, may consider themselves legitimate entrepreneurs or leaders and be recognized as such in the eyes of the local community. Far from being 'strongmen' or belonging to 'criminal gangs', they may be legitimate community leaders seeking to address what they see as inequities in a system which works in favour of the central government and its cronies. John McCarthy's (2002, 2007) work on illegal logging in South Aceh and Central Kalimantan, in which he begins to unpack the difference between legality and what he calls 'legitimacy', examines the role of local strongmen and the development of local extralegal systems which act to compensate for a system in which 'state agencies working with nation wide organizational rules are often unable to accommodate the interests of diverse groups and

the variety of variables involved in local settings' (McCarthy 2002:880). In the case of Aceh, McCarthy (2002:873) asserts that local leaders were able to claim legitimacy for many of the illegal practices he observed because 'outside interests and central government gain the lion's share of economic rents derived from legal logging concessions'. Illegal logging employs many people in the local community and beyond, including those in retail and service sectors as well as the wide network of district official raising taxes and *oknum* receiving payments. Thus, the local community benefits considerably. This dynamic, combined with other factors (notably, a fall in prices for other local products), produced a situation in which logging became legitimate.

Similarly, in their work on logging in West Kalimantan, Reed Wadley and Michael Eilenberg (2005) use the term 'illegal' in inverted commas to suggest that although logging is seen by both the Indonesian government and the international community as an illegal activity, the local communities see it as a negotiated sale of timber from their traditionally managed forests and thus a legitimate act. As Anne Casson and Krystof Obidzinski (2002:2148) argue, 'illegal' logging can be viewed as a structurally important element of life in rural Kalimantan, and in some cases, it is no longer considered to be 'illegal'. In other cases, confusion over what constitutes 'illegal logging' is further heightened as a result of attempts by the central and provincial governments to re-assert national laws. Whereas previously little attempt was made to enforce the national laws, heightened concerns by the central government about the practice of 'illegal' logging led to an active process of criminalizing such acts through arrests and court procedures (Wadley and Eilenberg 2005). It is no surprise then that local border communities are confused about what is considered legal and illegal, and have a heightened mistrust towards state laws and regulations (Eilenberg 2008:8).

These examples demonstrate that the involvement of local government authorities in illegal practices cannot be regarded as simply a matter of entrenched nation-wide corruption that manifests itself at all levels of bureaucracy. Instead, we need to explore particular expressions of corruption and its meanings for local officials and other stakeholders. Itty Abraham and Willem van Schendel (2005) have used the concept of 'licitness' to take into account the gap between the state's understandings of criminal activity and those understandings deployed by individuals themselves. They call for the need to identify the origins of regulatory authority and distinguish between political authority (whether something is legal or illegal) and social authority (whether it is licit or illicit). In other words, to use the example of labour migration, persons involved in the management of cross-border flows, as well as migrants, may or may not share the state's categorization of their activities as criminal (Abraham and Van Schendel 2005). As Horstmann and Wadley point out, differences between regulatory authority and social authority are accen-

tuated in border zones because of the presence of dense webs of connection that link individuals on either side of the border – connections that prompt frequent cross-border flows of objects, peoples and practices (Horstmann and Wadley 2006). When this is combined with the vast geographical distances between the centre of state political authority (usually located in the nation's capital) and life in the margins, the state's categorization of certain kinds of cross-border movements as 'illegal', may be deemed by borderlanders themselves as a 'way of life'.

We find the heuristic device of (il)legal/(il)licit also useful when describing flows whose trajectories extend beyond the borderlands because it allows us to challenge commonsense understandings of the boundaries between legal and illegal flows across international borders. For example, in her study of Indonesian women who migrate to Malaysia as undocumented domestic workers, Diana Wong (2005) argues that while the receiving state may view their arrival as a problem of human smuggling (an illegal activity), the majority of international migrants see it as a natural response to Malaysia's demand for cheap, low-skilled labour (an activity which is perfectly licit). The fact that their work may be deemed 'illegal' or that they enter the country as 'irregular' migrants is blamed on the Malaysian government's unfair migration system. This commonsense view of the 'illegal but licit' nature of the presence of large numbers of 'illegal migrants' in Malaysia, is supported by research which shows that in situations where a high demand for labour is combined with a highly restrictive migration regime, there is an increased likelihood of irregular migration, trafficking and human rights violations (Hugo 2005; Kelly 2005; Athukorala 2006). In these situations, there is also heightened capacity for rent-seeking on the part of bureaucrats and local authorities who regulate labour migration in both sending and host states. These practices further blur the line between the illegality and legality of state practices.

Within Indonesia, migrant workers pay unofficial charges even when using official government channels (Hamim 2003). In the face of the activities of state bureaucracies, individuals may determine that the laws governing temporary labour migration are simply 'bad laws' (Vásquez-León 1999) and thus 'illegal' migration is a rational choice.²¹ Indeed, as we noted earlier many people who leave Indonesia through the transit provinces see irregular labour migration as attractive precisely because of the complexity, slowness and high cost of government-sanctioned processes.²² In the eyes of many of

²¹ Vásquez-León (1999:255, footnote 2) defines the informal economy 'as that part of the illegal economy that results in legitimate economic activities that have to be undertaken illegally because of bad state laws and regulations, which make them too costly if undertaken legally or make legal activity non-viable for many low-income entrepreneurs'.

²² Spaan 1994; Ford 2001; Abdul Rahman 2003; Idrus 2008. McCarthy (2002:870) describes a similar rationale behind the actions of 'illegal' loggers – the process of obtaining legal logging papers in Aceh was so time

these migrants, as well as local bureaucrats and leaders in the transit zones, it is the national laws and those who create them that are corrupt. According to this view, laws to protect migrants appear designed to squeeze money out of poor workers who incur large debts and lengthy repayment schedules. This suggests that in order to understand the nature of state involvement in illegal practices, attention must first be given to the ways in which certain acts come to be identified as being illegal. In the case of Indonesia's labour migration program, this would require an approach that examines how a system that has been established ostensibly to assist and protect hundreds of thousands of low-skilled workers in fact makes criminals out of those same workers and the officials that try to help them.

The case of the Riau Islands also demonstrates that in order to understand the nature of corruption we should not only take into account the structural factors that support (or inhibit) state involvement in illegal acts, but also consider the meanings attached to those acts by different individuals and communities. It is clear from our interviews and from other studies (Idrus 2008) that grey migration agents and the intending labour migrants who choose to use their services – and the passport bureaus that support them – believe that their activities are licit. But the fact that grey migration agents and *aspal* passport bureaus have formalized, and openly promote, their collaborative relationships with government agencies suggests that grey labour migration also has a degree of licitness for local agents of the state. For many of these officials, the *aspal* solution is a necessary and inevitable response to flaws in the national labour migration system.

Conclusion

This discussion of the *aspal* system in the Riau Islands points to the complexities surrounding attempts to theorize the form and nature of state involvement in illegal activities. Disjunctures between the ways the official labour migration system is supposed to assist migrant workers and the reality of its impact on those workers and on communities create opportunities for the *aspal* system to emerge and flourish. The ways that individuals respond to the grey labour migration system – including the 'corrupt' practices of local government officials – reflects their understanding of a number of factors including the legitimacy of central government policy (and authority), the impact of such policy on the local community, and the saliency of local expressions of identity. In the case of the Riau Islands, on the whole the local

consuming and complex, that local entrepreneurs would give up and provide payments to local officials to 'turn a blind eye'.

community regards the *aspal* system as an inevitable outcome of the central government's failure to understand life in the border zone. Most local people also see the behaviour of local officials and their private partners in the grey migration system as a legitimate response to the flows of migrant workers into the islands.

An examination of the intersections between legality and licitness in labour migration processes in different sites opens up possibilities for re-thinking the nature of state illegality, not just the dissonances between society and state. If we are to understand the corrupt practices of local government officials with regard to labour migrants passing through the transit zone we require an approach that accounts for the structural factors that support or inhibit corruption as well as the meanings associated with different forms of illegal behaviour. As the visibility and community acceptance of the *aspal* route implies, the motivations behind ostensibly very similar forms of state involvement in illegal practices in different sites may vary considerably. In the case of the Riau Islands, corrupt practices around the issuing of travel documents are in part a local community-sanctioned response to managing the impact and limitations of a central government policy that fails to take local conditions into account. Like the local ecologies of legitimacy that surround illegal logging in other parts of Indonesia, this case suggests that attention to scale is important in the study of the motivations and manifestations of the Indonesian state's engagement with illegality.