GERRY VAN KLINKEN AND EDWARD ASPINALL

Building relations

Corruption, competition and cooperation in the construction industry

Building things has been the essence of development in Indonesia, at least since the oil boom began in the mid-1970s. Indeed, the word *pembangunan*, a central trope of the New Order regime, means both 'development' and 'building' (Heryanto 1988). But the very large construction industry is plagued by poor standards and corruption. It is widely known that money is routinely skimmed off construction contracts to pay off tendering committees, public works bureaucrats and other officials with influence over the allocation of public construction contracts, reducing the quality of the material and work. Construction contractors are an important part of the politico-business elite, especially in the regions, and it is often their political connections rather than their construction expertise that lands them the most lucrative construction contracts.

The approach in the recent wave of expert reports by multilateral agencies is to view problems of corruption and standards in the industry as public policy issues amenable to improved regulation. Beginning with a set of 'international best practice' norms, they develop sophisticated indices showing where Indonesian institutions fall short, and conclude with policy recommendations. But this normative approach lacks explanatory power. The present chapter aims to explain rather than prescribe. It seeks to account for the resilience of corrupt practices by viewing the construction industry ethnographically, namely as a set of social actors who strategize to promote their interests.¹

In the 1980s and 1990s, multilateral agency reports on the sector traced its problems to developmental issues such as a shortage of technical skills, organization, capitalization and legal protection (Kaming et al. 1997; Kirmani 1988; World Bank 1984). Over the last decade, the emphasis has suddenly shifted to the issue of corruption (Kenny 2007; Pranoto 2005). A World Bank study on the public procurement system (mostly construction) argued:

¹ Some work along these lines already exists. Most focus on the informality of construction at the bottom end of the market, for example, Van der Erve 1989; Hermanto et al. 1983; Sannen 1986; Thung Ju Lan 1989.

'[T]he public procurement system in Indonesia does not function well. It is not market driven, has been prone to misuse and abuse, and reduces value for money for public funds' (World Bank 2001:1). Not surprisingly, reform of public procurement has been a major target of post-Suharto reforms.

Part of the sudden shift in emphasis was externally driven. A broad ideological shift took place in Washington after the end of the Cold War. More or less sanguine behavioural analyses influential in the 1960s saw corruption as good or bad depending on context (Leff 1964; Scott 1969). But in the 1990s the language became pathological. World Bank president James Wolfensohn in 1996 spoke of corruption as a 'cancer'. He and other influential voices in international agencies began to portray corruption as, in the words of another senior World Bank official, 'a great obstacle to economic and social development'. They depicted corruption as a distortion in the orderly functioning of markets, caused mainly by excessive government interference and regulation, which increased opportunities for public officials to extract resources from market players. In keeping with the neo-liberal mood of the times, corruption was thus seen as something that could be corrected by the right policy settings, including by rolling back the responsibilities of the state in the economy. The ideological shift resonated in Indonesia among liberal-oriented sections of the growing middle classes, which made opposition to corrupt favouritism central to the agenda of the movement that ended Suharto's New Order regime in 1998. Responding to pressures from both international agencies and large segments of public opinion, post-Suharto governments have introduced anti-corruption measures of varying effectiveness, including in the area of government procurement.

However, since the collapse of the regime in 1998, it has been all too obvious that patterns of corruption and predatory behaviour that grew and consolidated under the New Order have persisted into the new era of democratic and decentralized politics. Neo-patrimonial networks linking politics with business have been both resilient and adaptable, especially at the local level. Observers have noted the important place that the construction sector occupies in the corrupt nexus between business and politics, especially in provincial areas (Clark and Palmer 2008; Sulaiman and Van Klinken 2007). In the regions, construction is often a dominant part of local economies, construction projects are a major focus of collusive and predatory behaviour, and *kontraktor* (contractors) are often prominent not only in business but also in politics. Provincial and district parliaments are full of contractors who live on building projects they themselves decide on. Contractors are prominent in the campaign teams for directly elected district heads and governors.

Thus Indonesian contractors are now the bad guys in two relatively new agendas: one international, focused on making government procurement more competitive; the other domestic, focused on making government more

accountable. This chapter will show that they have not been very responsive to either agenda so far. Our question will be: how can we explain this resistance? We do so by combining detailed case study research one of us (Aspinall) has done in the province of Aceh, with broader national and historical research conducted by the other (Van Klinken).

Corruption in the government-funded construction sector is a matter of worldwide concern. In China, for example, one author refers to the sector as a 'quasi-criminal domain' in which widespread official corruption leads to shoddy building standards and fatal building collapses (Ding 2001:180). In Japan, corruption in the construction industry is a lynchpin connecting the worlds of business and politics. The country has been described as a construction state (*doken kokka*) in which 'money flows through the system guided by the bureaucrats to benefit those who form part of the privileged national grid of politicians, bureaucrats, and business people' (McCormack 1996). A study of 'everyday corruption' in West Africa describes a world of public procurement and construction based on 'a triangle composed of corrupting contractors, corruptor officers and intermediaries, [giving] rise to real chains of complicities' (Blundo 2006:260).

Government-funded construction is a site of predation in part because discretionary spending is vulnerable to corruption in every type of economy. It becomes especially vulnerable when there are few other sources of cash for provincial middle classes in an underdeveloped, otherwise agrarian and trade-based economy. In such societies, construction can become a major driver of a corrupted political process. According to business perceptions measured in a 15-country survey by Transparency International, construction is the most corrupt industry, exceeding even the arms industry and oil and gas (Stansbury 2005:36). A large international survey of company-state interactions in 22 transition countries (Business Environment and Enterprise Performance Survey, BEEPS) reported that:

It appears that construction firms in the sample think it is more common to pay bribes in their industry than do firms in other industries, that firms like theirs spend a larger percentage of revenues on bribes, and they bribe more frequently to get licenses, deal with taxes and get contracts. [...] It appears (unsurprisingly) that private construction firms where the state is the largest customer are likely to report particularly high corruption in their industry. These results are highly statistically significant (Kenny 2006:14-5).

Kenny reports a common estimate that 5-20% of construction costs are being lost to bribe payments, with the average reported payoff for a government construction contract being around 7% in a range of transition countries. For government construction work in Indonesia in 2004 this would correspond

to a range of US\$0.3-1.4 billion, with the 7% figure equalling US\$0.5 billion. Indonesian politicians quote much higher losses than this.² Indeed, bribes are not the only problem. A poorly constructed or sited project, for example, may result in economic losses many times greater than the bribes.

The problems in the construction sector have long made it the object of reforms. In Indonesia, as the sector became increasingly linked to the twin problems of corruption and the collusive provincial politics after *reformasi*, these reforms moved closer to the centre of the Indonesian good governance agenda. The first presidential instruction governing procurement was issued in 1979, and since then there have been improved presidential instructions in 1980 (twice), 1984 (twice), 1988, 1994, 2000, and finally 2003 (Keppres no. 80/2003). The first law on construction was implemented in 1999 (UU no. 18/1999).³ All the regulations have striven to balance two competing demands: on the one hand, to ensure efficient use of state funds by improving competitiveness, and on the other hand, to ensure social equity and employment creation and to nurture an indigenous, and state-dependent, business class. The former goal led over the years to the gradual professionalization of technical qualification criteria, tendering procedures, contract provisions, and the like. The latter goal led to such protective measures as reserving smaller contracts for 'weaker' groups on the grounds that they were indigenous, small-and-medium, or local.

The tension between the free market and the protectionist impulses in the regulatory framework reflects not simply official 'lack of capacity' but a political struggle. Big Indonesian and international companies have a comparative advantage in the free market. They support the reforms that promote competitiveness. Smaller provincial operators know they cannot survive without protection, so they argue that the government has a responsibility to protect the weaker players. In their world, profits are not made by lone entrepreneurs fighting for market supremacy, but by well-connected people who know how to build political alliances to keep out rivals. If we want to know more about this political struggle, however, the otherwise highly informative public policy documents only take us so far.

² Vice President Jusuf Kalla told an Indonesian business conference in 2006 that the introduction of open tendering for public works projects would save the state budget 30-50% a year, though he presumably meant that at least some of this saving would be made by the effects of competition (Gajah Kusumo, 'Tender terbuka hemat nilai proyek hingga 50%', *Bisnis Indonesia* 4-8-2006).

³ A convenient summary of the history of regulation is in footnote 3 of World Bank 2001. Most of the current laws and regulations, as well as more detailed implementing regulations, are available at a website of the Public Works Department (http://www.pu.go.id/bapekin/produk/produk_statuter.html, accessed 8-12-2008). Technical evaluation of the procurement system is in chapter 6 of World Bank 2007.

Why construction?

We begin by distilling some of the central facts about the construction industry readily available in the multilateral agency reports, which are nothing if not well-stocked with figures. Worldwide, the construction industry contributes about 5% in value-added to the GDP of middle income countries like Indonesia, and capital formation in construction makes up about 10% of GDP. These percentages tend to rise as an economy develops (Kirmani 1988:141). Combined government and private infrastructure investment in Indonesia ran at 5 to 6% of GDP before the 1997 crisis, but fell to below 2% in 2000. Since then it has slowly recovered (World Bank 2007:75), and by 2006 it had reached 7.5% or US\$24 billion (Wongso 2007). The building sector employs 4.5 million workers, or almost 5% of the Indonesian workforce. But over 60% of them are unskilled or semi-skilled.⁴ The high-tech end of the industry is dominated by oil and gas facilities, highways and other large projects built by private global companies such as Bechtel, Brown and Root, McDermott, and Leighton, as well as by large Indonesian companies such as Trans Bakrie and majority state-owned construction companies like PT Adhi Karya Tbk and PT Wijaya Karya Tbk.

The much more pervasive lower end of the industry is engaged in building infrastructure such as roads, irrigation systems, water supply, local power stations, telecommunication networks, hospitals, clinics, offices, shops, and housing. Collectively, this sector is very large: about one quarter of all construction in Indonesia involves building bridges and roads.⁵ A large proportion of this lower end is government-funded. The World Bank (2007:79) estimates that actually expended government infrastructure investment (not counting operation and maintenance) in 2004 amounted to Rp 62 trillion (approximately US\$6.8 billion). This amount has increased considerably since then. Decentralization means that over half of this government money is now spent by provincial and especially district governments. According to the 2003 Asia Foundation Rapid Decentralization Appraisal (Satriyo et al. 2003:25-6), local governments spend most of their development funds on building basic facilities in the areas of transportation (24.7% of development budget), housing and settlement (7.46%), regional development and settlement (7.31%), and natural resources and irrigation (3.50%). Little of it is spent on education and culture. It is estimated that 80% of building contractors depend entirely on government work (World Bank 2001:21), and out in the provinces this could be even higher.

The construction sector is of central importance to Indonesia's economic growth. It is also a major and growing employer. As we will see, however, the peculiar characteristics of the industry make it a regulator's nightmare.

⁴ 'Dep. PU, Depnakertrans, dan LPJKN tingkatkan tenaga kerja konstruksi', *Business News* 9-1-2008.

⁵ Indonesian Bureau of Statistics figures at <http://www.bps.go.id/sector/construct/table2.shtml> (accessed 14-5-2008, archived at www.archive.org).

Here we focus not on the grand corruption practised by the big few,⁶ but on illegality in the dense web of relationships between government officials and building contractors in the provinces.

A history of corporatism

The construction industry in Indonesia inherits a history of massive infrastructure work developed by the Dutch in the late nineteenth and early twentieth centuries. Built with taxes on agriculture, the roads and railways initially had mainly an imperial purpose, but later the emergence of a developmental aim led to the construction of extensive irrigation works.⁷ The grand phase of infrastructure development came to an end around 1930 and did not resume for another half century. The worldwide economic depression, the predatory Japanese occupation, the national war of liberation, and the political and economic chaos of the first two decades of independence, left infrastructure in ruins. Furthermore, with independence came democracy. When construction work resumed, the new government had to take account of domestic politics. Previously disadvantaged groups demanded that business wealth be redistributed as a matter of justice. A brief history of the construction industry illustrates a growing conflict between protectionists and free-marketeers.

Unlike the unfailingly apolitical multilateral agency reports, Indonesian construction contractors have written their own history in openly political terms (Gapensi 2004). This history describes how aspiring Indonesian entrants to the building sector relied less on their technical skills than on their political leverage to gain advantage over economically stronger European and ethnic Chinese rivals. When Indonesia became independent there were only a few indigenous contractors. Most were very small, graduates of trade schools in the 1930s. Their best hope was to lobby for government work on the basis of their indigenous, nationalist credentials. In January 1959, city-level associations in the three biggest Javanese cities of Jakarta, Surabaya and Bandung joined together in the All-Indonesia Association of National Construction Implementers (Gabungan Pelaksana Konstruksi Nasional Seluruh Indonesia, Gapensi). Six months later the organization's first chairperson, Dipokusumo, became Minister of Public Works.⁸ It was the end of party politics and the beginning of Guided Democracy. The new minister recognized Gapensi as the sole organization for building contractors, and

⁶ Such as Bechtel's controversial role in the construction of the Freeport mine in Papua (Perlez and Bonner 2005).

⁷ Mrazek 2002; Ravesteijn and Kop 2008.

⁸ Pekerjaan Umum, or PU, was successor to the colonial era Civic Public Works, or *Burgerlijke Openbare Werken*, BOW.

eliminated their Dutch rivals by nationalising all Dutch construction businesses, as part of the broader process of nationalization then underway. By its own rather honest 2004 account, Gapensi was somewhat thuggish especially out in the provinces, but its members now found themselves partnering with experienced engineers in the nationalized companies.⁹ However, monopoly access to the government was difficult to achieve in the ramshackle state that was Indonesia in the late Sukarno years. Many non-affiliated local contractors continued to win work from local military commanders, government departments, banks, and other state agencies. Rival groups of contractors emerged, and political shifts favoured now one, now another. By 1961 Djuanda, the powerful coordinating minister in charge of the Economic and Development Council (Dewan Ekonomi dan Pembangunan), himself an engineer, insisted on another umbrella organization for building contractors, Consultative Body for Private National Entrepreneurs (Badan Musyawarah Pengusaha Nasional Swasta, Bamunas) and Gapensi was asked to join that. The Minister for Funds and Forces (!) asked them to help raise 'revolutionary' funds for the government by buying shares in development banks. Their reward was juicy construction plums in the newly Indonesian province of Irian Jaya in 1963, and in Jakarta (such as the Asian Games stadium at Senayan and the giant Conefo – Conference of the New Emerging Forces – facility that later became the national parliament house).¹⁰

From that time on, construction contractors were increasingly integrated into the state via formal corporatist organizations. A key construction industry broker in the militarist corporatism that began to crystallize in the 1960s and 1970s was the indigenous entrepreneur Edi Kowara Adiwinata (1919-1996). He had grown wealthy during the national revolution.¹¹ Close

⁹ Some of these nationalized construction companies still exist and are among the giants of the construction scene today. PT Adhi Karya was apparently formerly *Associatie*, PT Hutama Karya was *Hollandse Beton*, PT Waskita Karya was *Volker Stevin*, and PT Nindya Karya was *Nedam* (Van der Erve 1993:141).

¹⁰ The innocuous-sounding term 'national' deployed by Gapensi actually meant, in effect, non-Chinese, while ethnic Chinese were described as 'foreign' even if they had been born in Indonesia. Gapensi contractors for decades continued to pressure their ethnic Chinese rivals by deploying racist propaganda against them. The supposedly anti-social, anti-national character traits of the Chinese were constantly cited as a good reason to exclude them from government contracts. On Gapensi's urging, the President issued decrees in the mid-1990s (Keppres no. 16/1994 and no. 24/1995) giving special protection to small contractors on the grounds of expanding employment opportunities. These decrees were also thinly-veiled anti-Chinese measures (Gapensi 2004:65; Thung Ju Lan 1989).

¹¹ Starting work in the Dutch state company BPM that ran the Cepu oil field in East Java just before the Second World War, Kowara got a break when the Japanese placed him in charge of the state oil company working the Indramayu field in West Java. He used his own company to do the construction work required. At the end of the war, under the cover of a revolutionary militia he commanded called *Laskar Minyak Divisi III* that was later integrated into the Siliwangi Division, he simply seized the oil company for himself (*Tempo*, *Apa dan Siapa*, <http://www.pdat.co.id/hg/apasiapa/html/E/ads,20030617-15,E.html>, 2003, accessed 4-4-2009; Aditjondro 1998; George J. Aditjondro, 'Kisah sukses yayasan-yayasan Suharto (bagian I)', *Apakabar* mailing list, 19-8-1997 (<http://www.library.ohiou.edu/indopubs/1997/08/19/0008.html>, accessed 4-4-2009).

connections with the military helped him survive the transition to the New Order. His son Indra Rukmana married Tutut Hardijanti, the daughter of retired general President Suharto, his golfing buddy. He expanded into livestock feed, life insurance, machine parts, Coca Cola bottling, coconut oil processing, rubber plantations, and a steel factory. His family became one of the three wealthiest indigenous entrepreneurial families of the New Order, alongside the Suharto and Djojohadikusumo families. Starting as the Jakarta chapter chairperson of Gapensi in 1959, he served on the national board of all its various incarnations throughout the 1960s and 1970s.

Unfortunately for domestic contractors, the New Order also threatened to reopen the doors to their foreign capitalist rivals. In 1966 a new team of powerful technocrats – Radius Prawiro, Ali Wardhana, and Wijoyo Nitisastro – met the contractors to explain that Indonesia was changing from a ‘national economy’ to a ‘liberal economy’. There would be no more megaprojects for the moment, and ‘foreigners’ would be allowed to compete for construction work. The president dissolved Bamunas in 1967. However, the protectionists had the last laugh. Ten years later, after many organizational permutations, Gapensi emerged stronger than ever. Together with two other associations – one for big construction firms based in Jakarta (Asosiasi Kontraktor Indonesia, AKI), and one for construction consultants (Ikatan Nasional Konsultan Indonesia, Inkindo)¹² – it set up a Joint Secretariat in the office of Public Works Minister Radinal Mochtar in 1977. Five months later it was awarded a big contract to build cheap government housing for soldiers. Edi Kowara had already begun in 1974 to help Gapensi set up an intimate collaboration at provincial level with the Indonesian Chamber of Commerce (Kamar Dagang Indonesia, Kadin). Most Kadin provincial chapters were apparently run by Gapensi people. For 20 years from the mid-1980s, the Gapensi-Kadin link in Jakarta ran through Agus G. Kartasasmita, a Gapensi office-holder from 1983 and its chairperson continually from 1992 to 2008. Kartasasmita had been brought in to the organization by 1950s-era Public Works minister and engineer, Prof. Roosseno Soerjohadikoesoemo, known at the time as ‘Mr Concrete Indonesia’ (Bapak Beton Indonesia).¹³ He always held a Kadin deputy chair for construction and real estate (Gapensi 2004:53). The Kartasasmita family grew wealthy under the New Order. Kadin became the only association of Indonesian entrepreneurs to be recognized in law (UU no. 1/1987) and this gave it a strong though not exclusive place in the Indonesian state’s corporatist scheme.

¹² AKI is Asosiasi Kontraktor Indonesia, Indonesian Association of Contractors; Inkindo is Ikatan Nasional Konsultan Indonesia, National Union of Indonesian Consultants.

¹³ Budianta 2008:195-202. He was re-elected to a (strictly speaking illegal) fourth term in 2004 (‘BPD Gapensi gugat ketua umum terpilih’, *Suara Merdeka* 23-4-2005).

The 1980s were the golden era for the corporatist construction sector. Flush with oil money, the New Order was firmly in the saddle, and the government's Five Year Development Plans, called Repelita, were the contractors' lifeline. In 1986, the Public Works Minister decreed that only members of AKI, Gapensi and Inkindo would be permitted to do construction work for the department. The Interior Minister sent a similarly worded letter to all provincial governors in 1987.¹⁴ Together, the department of public works and the interior ministry, under which were located the regional governments, were the two most lucrative sources of government construction work. These rulings led to a large influx of under-qualified local construction contractors into Gapensi, where they were graded according to their financial and technical capacities. Membership was open to private companies as well as those controlled by state-owned enterprises and cooperatives. It grew steadily – membership stood at 21,000 in 1987, reached 38,000 by 1993, and 41,000 by 2000. The great bulk of membership always consisted of the least qualified small operators (Gapensi 2004:121-44).

We can gain a glimpse of the intertwining of Gapensi, Kadin, Golkar and local government from the provincial executives list that Gapensi published on the internet in 2000.¹⁵ The chairman of Gapensi in Aceh, to take one random example, was Lukman C.M. This man served at the same time as deputy chairman of the provincial chapter of Kadin. He was also on the provincial executive of Golkar as the link with private business.¹⁶ His first deputy chairperson in Gapensi was Armen Desky, who was at the same time a member for Golkar in the newly democratic national parliament (Dewan Perwakilan Rakyat, DPR). Armen Desky cut short his parliamentary career in 2002 when he was elected chief (*bupati*) in his home district of Southeast Aceh. There he immediately faced controversy over a local airport whose construction, evidently to be paid by the European Union, was delayed.¹⁷ Another example from the Gapensi list is the oil-rich province of Riau. Chairing Gapensi here was the building contractor Rusli Zainal. He was at the same time district chief of Indragiri Hilir. Three years later he was elected governor of Riau. His own party Golkar at first failed to support him in this bitterly fought contest because it had made a deal with the then-governing party PDI-P. But newspapers reported that the outcome improved for Zainal after large

¹⁴ Surat Keputusan Menteri no. 187/KPTS/1986 of 24 April (p.64-5); Surat Edaran Menteri no. 230/766/Bangda of 13 April 1987 (p.69).

¹⁵ Gapensi's website www.gapensi.or.id for the year 2000 is archived on www.archive.org (accessed 19-6-2003).

¹⁶ 'Firmandez ketua kadinda NAD', *Serambi Indonesia* 10-7-2003; Daftar nama personalia DPP Golkar, masa Bhakti 1993-1998 (www.golkar.or.id, archived for the year 1998 on www.archive.org, accessed 6-2-2003).

¹⁷ 'Anggota dewan perwakilan rakyat Republik Indonesia, periode 1999-2004', *detik.com* 23-9-1999; 'Rp 50 M bantuan MEE diduga dilego UML', *Waspada* 18-4-2002.

amounts of money changed hands.¹⁸ Sparser electronic news archives for the late New Order period make it difficult to be certain, but our experience leads us to think that, apart from the greater political uncertainties after 1998, the picture was much the same throughout the 1990s. In sum, the construction sector was organized along classic New Order corporatist lines. Corporatism has been defined as 'a pattern of state-society relations in which the state plays the leading role in structuring and regulating interest groups, organizing them along functional rather than class lines (in order to minimize both collaboration and conflict), and typically granting official recognition to only one representative body in any given sector' (MacIntyre 1991:1).

International pressure on Indonesia to liberalize the construction sector grew during the New Order. It was exercised through the International Federation of Asian and Western Pacific Contractors' Associations (IFAWPCA). Edi Kowara himself was big enough to play along and thus earn the chance of working with big international corporations at the top end of the market. In 1969 he initiated the association of large contractors called AKI specifically to join IFAWPCA. But Gapensi's large number of provincial members were not ready to compete on international terms. AKI agreed with Gapensi that it would confine itself to Jakarta, where its members would compete with international firms for international and domestic work, but it would not form provincial branches. The understanding was that Gapensi members would do the smaller domestic government work, especially in the regions outside Jakarta (Gapensi 2004:56-7).

Bribes were routine in the corporatist system in the provinces. They were known as 'wild retributions' (*pungutan liar* or *pungli*), but were quite institutionalized. Gapensi members did not like paying them, but they also saw them as a normal part of doing business, and they complained rarely. In 1996, as the New Order was beginning to fray, some did complain. A Gapensi bulletin in East Java reported that *pungli* amounted to 20-30% of the value of projects, and in some districts it reached 35%. The largest amount, up to 10% of the project value, went to the government project leader (*pimpinan proyek* or *pimpro*), which could be the departmental head, the district secretary, or even the mayor or district chief. The *pimpro* would visit the contractor at home to make sure he got his share. The cashier at the State Treasury Office (Kantor Perbendaharaan Negara, KPN) got an 'envelope' as well. Smaller payments went to other relevant officials in the public works department, the offices of the governor, district head or city mayor, and to relevant legislators. Visiting officials needed to have their trips paid and be entertained. Other people called on the contractor to make 'social contributions' to various causes.

¹⁸ 'Zainal, champion of Riau development', *The Jakarta Post* 30-10-2003; 'Buntut pemilihan Gubernur Riau dugaan politik uang mulai terungkap', *Kompas* 6-11-2003.

Towards the end, thank-you gifts were made for the final handover and for a smooth report from the government's internal audit agency.

[F]or a road construction project of one kilometre, for example, when the supervision team came to visit just before the work was handed over to the owner, the team filled an entire bus, there were up to 30 supervisors. 'From the section chief up, from the provincial down to the district level, they would all be there. As oriental people how could we refuse to provide accommodation, transport, food,' he [the Gapensi report author Somingan] said. Pocket money for the supervisors was normally Rp 200,000 per person [at that time US\$40], Somingan added. ...Far from paying only to be allowed to join the tender, Somingan said, even just to know that there is a project at all, the contractor has to prepare grease money for the individual bureaucrat in the government office owning the project.¹⁹

The contractor knew these costs would occur and recouped them by marking up the project cost above market prices as well as by cutting corners on construction materials. We shall see that this system remains essentially unchanged even after the recent reforms.

Reforms

Regulatory reform has picked up pace since 1998, but change on the ground has been less impressive. The multilateral agency reports acknowledge this, as the following paragraphs will show, but they explain it in terms of institutional 'weakness'. Our own ethnographic work, on the contrary, sees remarkably successful organizational assertiveness rather than failure. An explanation of the resilience to reform must start by recognizing these realities, not by ignoring them. Like the reforms that had come before them, the 2003 Presidential Decree (Keppres no. 80/2003 on 'Guidelines for the Implementation of Government Procurement of Goods and Services') sought to enforce more competitive and transparent tendering procedures, while at the same time protecting smaller businesses. It addressed serious deficiencies in the system and promoted international 'best practice' principles of procurement: transparency, open and fair competition, economy and efficiency. It came after a period of both public and private pressure by major international agencies for reform to Indonesia's public procurement (see especially World Bank 2001, 2003:31-9). The World Bank (2003:31) explained its context as follows:

¹⁹ 'Pungutan terbesar 'fee pimpro'', *Kompas* 14-4-1997.

Looking ahead to the emergence of an Asian Free Trade Zone and the implementation of future WTO provisions that would require member states to allow access to government procurement for companies from Indonesia's trading partners, it well behoves Indonesia to develop a world class public procurement system rather than one that has a poor global reputation for encouraging corruption.

The decree set tight tendering standards for large projects, relaxing them for smaller ones (the cut-off limits have shifted downwards over time). It graded contractors according to their technical and financial capacities, allowing only the larger ones to take on big jobs, while reserving smaller jobs for smaller companies. Tendering committees now also had to be certified.

The implementation of these and other rules is another matter, however. A 2007 UN study measuring Indonesian public procurement practices by a set of OECD 'benchmarks' still gave the country poor marks on every indicator. For example Indonesia scored only 33.3% on the 'functionality of procurement market' (PCDC 2007). One problem is that the budget process actually stimulates corruption in the government building sector. Budget discussions involve many different departments and legislators, making them so drawn out that, every year, 50% of total capital expenditure is spent in the final quarter (World Bank 2007:98). This results in the routine use of a regulation permitting tenders for certain government contracts to be bypassed under 'emergency' conditions. Budget discussions often focus on specific project inputs – parliamentarians taking a particularly close interest – rather than broader program outputs (World Bank 2007:100-1).

Auxiliary institutions also remain 'weak'. Abuses should be picked up by the various government audit agencies (World Bank 2007:96). But low staffing levels, overlapping responsibilities, and corruption in the auditing bodies themselves mean that little is uncovered. The mess of contradictory regulations in a decentralized environment (World Bank 2001:1, 2007:103) is another reason why reforms are difficult to implement. A unifying National Procurement Office, to be located in the national development agency Bappenas, is still under construction. Administrative oversight is particularly anemic at the provincial and district levels. A World Bank report (2007:126) concluded: 'Overall, public financial management systems at the sub-national level are weak and risks of corruption are very high'.

In our view, contradictory, overlapping regulatory institutions are the sedimentation of political struggles within the state. On the one hand, the state budget is balanced centrally, so the pressure for reform comes mainly from Jakarta, especially from particular state agencies more committed to economic reform and, from further afield, from the international political economy and the neo-liberal currents and agencies that populate it. Since the 1998 economic crisis and political *reformasi*, governments in Jakarta have

more frequently sought the technical advice of multilateral agencies on governance techniques. Local governments, on the other hand, derive nearly all their income from the centre and thus experience pressure to economize and regularize mainly as an external force. Internally, their need for local political support encourages collusive behaviour. In the following section we look at some actual examples of such struggles.

How the system works: the view from Aceh

Here we examine the construction sector from below, not as a set of institutions open to technocratic tinkering but as a set of social actors strategizing to promote their interests. Our field experience and reading of press reports indicate that the post-1998 regulatory reforms have so far had little impact on the informal practices that underpin construction contracting at the grassroots. Outsiders to the system still make the same complaints, reporting familiar types of abusive practices. Particularly out in the provinces, the system represents an informalized version of the New Order corporatist one described above. The corporatist organizations have lost the dominant position they once maintained, but they still act as important venues through which influence and information is traded. More importantly, the informal and collusive practices that underpinned the old corporatist system remain intact. From the individual contractor's point of view, success is all about the double strategy of building cooperation with allies and keeping out rivals.²⁰

Aceh does not seem like a typical Indonesian province. Its long-running armed separatist revolt, the resulting military operations, and the terrible December 2004 tsunami created a degree of disruption not experienced elsewhere in Indonesia. The combination of a peace accord in 2005, tsunami disaster relief, and regional autonomy brought about an unparalleled flood of reconstruction money. However, the way this money was disbursed to local construction contractors – full of what the World Bank (2001:2) likes to call 'non-economic influence on public procurement' – looked much like that in any other province, only more extreme. Many of the former combatants of Free Aceh Movement (Gerakan Aceh Merdeka, GAM) rapidly transformed themselves into construction contractors, showing how easily political influence and coercive muscle power can be leveraged into business success in the sector. Aceh's construction industry thus turns out to be a rather useful window on that in the rest of Indonesia.

Construction takes up a large part of Aceh's post-tsunami economy.

²⁰ The analysis of contracting in Aceh is partly derived from Aspinall (2009), and a more detailed discussion of the situation described here may be found in that publication. We thank the journal *Indonesia* for permission to re-use this material.