Illegal but licit: transnational flows and permissive polities in Asia

TRANSCONTINENTAL FLOWS are regularly studied in the social sciences ‘from above’, focusing on the power of states to regulate, facilitate or hinder the movement of people across borders. The research project ‘Illegal but Licit’, while sharing with other studies an emphasis on the changing role of states in shaping transnational flows, ventured into the exploration of the everyday narratives of mobile people at points of departure. First, the project treated the state, however important, as just one source of authority among many, to which mobile subjects potentially may be subordinated. The project championed ethnographic methods for getting a better understanding of the aggregated ‘big picture’ of state authorities and transnational flows.

Conducted over the course of five years, from 2006 to 2011, the project included six studies of transnational movement in various societies across the vast continent of Asia. Two of the case studies examined a long distance migration: female domestic workers from Kerala to the Gulf States, and male construction workers from rural China to Israel, while two other case studies focused on movement in borderlands: between Bangladesh and Northeast India, and between Nepal and Northwest Pakistan. The insights that the ‘Illegal but Licit’ project generated have benefited, in addition, from close collaboration with many other scholars working in Asia on transnational movement.

The project resulted in a number of journal articles, an edited volume and a doctoral dissertation. It also led to a policy dialogue, held in Katmandu, between academics, civil-society activists and policy makers from different countries in Asia. In what follows, I theoreticalise and write about some of the project’s main empirical findings and analytical perceptions.

Thinking mobile, thinking multiple

Political order is commonly associated with the regulatory authority of states. This is not surprising in view of the fact that states are seen to be the central object of an exercise of exercising full authority within national territories. According to the formal model, states enjoy a monopoly over the formal use of violence, the right to tax the population and the power to sanction offenders. Staying close to such a formal understanding, it is easy to conceptualise state authority in a binary fashion: either there is state law and order, or there is a lack of authority and thus anarchy.

Our empirical evidence shows that the sway of formal state authority is more complex and, crucially, that we should not understand this as a lack of authority or as being detrimental to the establishment of order. Our findings point to the influence of multiple authoritative that complement (or compete with) the regulatory authority of states. For example, time-honoured ways of doing things can be more powerful in shaping people’s practices than new regulations drafted in a government ministry. Religious, ethnic or commercial elites can exercise as much, or more, regulatory power than state officials. State authority is thus often pitted against a more socially accepted authority among regional or traditional communities.

The real-life states that we have studied bear little resemblance to the ‘model state’ used in much social theory. Thinking mobile, thinking multiple, regulatory authority appears as a fluid resemblance to the ‘model state’ used in much social theory. Thinking mobile, thinking multiple, regulatory authority is not restricted to a particular territory and may finally, to people engaged in transnational flows in borderlands and beyond, authority does not radiate outwards from centres of power: strong at the centre and weakening towards the periphery. The findings of our contributors do not support that view. It shows that to mobile people, authority is embedded in persons and objects and therefore is movable. Authority is not restricted to a particular territory and may materialise in unexpected places. For example, there is no necessary link between being territorially peripheral or geographically isolated and being free from state regulation (or, put differently, being excluded from the state). To people who are mobile, regulatory authority appears as a fluid property that can move about, expand and retract.

Barak Kalir is an Associate Professor at the Faculty of Sociology and Anthropology, University of Amsterdam, and co-director of the Institute for Migration and Ethic Studies. He was a post-doc researcher and the coordinator of the project “Illegal but licit: transnational flows and permissive polities in Asia,” Willem van Schendel was the director of the program, together with Prof Li Minghuan from Xiamen University, China. Malini Sur was a PhD candidate, and Bindhu Khilnani Sarita and Srinivasan were post-doc researchers, at the time of the project (B.Kalir@uva.nl).

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Fashioning licitness

Millions of mobile people live their lives in the dim interface between legality and illegality. Rather than seeing this as a failure of the state system itself, we advance that the ‘failure’ is systemic because it is part of ongoing practical negotiations to establish social order. State categories and rules are never straightforward, let alone set in stone. States make many rules only to break (or forget) these, either routinely or in specific circumstances. Examples from states as unique as Israel, Pakistan and India show that we must conceptualise state entities habitually straddling the legal-illegal divide – a divide of their own making.

Our case studies highlight how transnational flows generate zones of licitness that are located between the realms of state authority (legal vs. illegitimate behaviour) and social regulation (licit vs. illicit behaviour). Their creation – as exceptions or surreptitious hideaways, but as everyday spaces – is predicated on political negotiations for which the state is one partner among others, resulting in state agents being routinely and profitably embedded in wide-ranging networks of informal transnational brokerage. State authority is thus not restricted to a particular territory and may materialise in unexpected places. For example, there is no necessary link between being territorially peripheral or geographically isolated and being free from state regulation (or, put differently, being excluded from the state). To people who are mobile, regulatory authority appears as a fluid property that can move about, expand and retract.

Finally, to people engaged in transnational flows in borderlands and beyond, authority does not radiate outwards from centres of power: strong at the centre and weakening towards the periphery. The findings of our contributors do not support that view. It shows that to mobile people, authority is embodied in persons and objects and therefore is movable. Authority is not restricted to a particular territory and may materialise in unexpected places. For example, there is no necessary link between being territorially peripheral or geographically isolated and being free from state regulation (or, put differently, being excluded from the state). To people who are mobile, regulatory authority appears as a fluid property that can move about, expand and retract.

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