Illegal but licit: transnational flows and permissive polities in Asia

Some transnational practices are considered acceptable (licit) by participants while they are illegal in a formal sense. A new research programme focusses on flows of poor people and goods across international borders in Asia - movements that are not allowed by states but are not ‘organised crime’ either. States declare these practices illegal and yet states themselves are often involved.

Globalization and transnationalism, although certainly not new, have become more prominent over the past few decades, resulting in worldwide movements of capital, goods, and people. While the study of these international flows have been framed in the conceptual and material context of the modern nation state. Consciously and unconsciously, most social science focuses on the state as its foundational unit of analysis. By highlighting the importance of movement across state borders in understanding social phenomena we are observing.

This research programme explores the complexities of ‘seeing like a state’. It adopts a perspective where participants in international activities, leading us to different understandings of transnational movement. It focusses especially on the theme rarely highlighted in the study of transnational practices: the interface of legality and illegality.

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T he programme argues that method- ologically the social sciences have been fixated on the distinction between legal and illegal movement and it seeks to develop new tools to understand transnational move- ments. Taking a comparative perspec- tive, the research programme focuses on projects examining transnational flows across Asia (Bangladesh, India, Pak- istan, Afghanistan, China, Israel and Dubai), focussing on participants’ identi- ties and notions of (il)legality and (il)licitness. It seeks to develop a com- parative and interdisciplinary approach and to produce new methods for study- ing transnational practices.

Political scientists have argued that it is impossible to distinguish between the legal and the illegal will always allow for purposeful comparison.

The programme was initiated by Li Minghuan (China), Yitzhak Shichor (Israel) and Leo Douw (The Nether- lands), focuses on Chinese migrants who were recruited to work in Israel under legal contracts. Upon arrival, migrants often find that the contracts are not adhered to and they are immediately faced with a sit- uation of illegality. Many of whose contracts are honored seek to transfer to other employers anyway, as many better-paying illegal jobs are on offer in Israel. Despite their illegal status, they are usu- ally allowed to continue working, even for long periods of time. The main pur- pose of this project is to find out under which regimes of illegality/licitness the migrants find themselves at various stages of their migration. What are the risks and these regimes imply, how these regimes are maintained and how the migrants play the system. Our hypothesis is that our hypothesis is that the migrants of special interest in the study of transnational labour migration.

“The border between Afghanistan and Pakistan is notoriously porous because the borderlands are so-called ‘tribal areas’ where the Pakistan state has delegated much of its authority to ‘tribal’ institu- tions. Today international bodies fight- ing transnational militancy and smug- gling consider this porosity a problem because it makes these areas difficult to control. And yet since the Afghan wars of the 1980s the absence of state respon- sibility has been convenient for many: refugees, poor migrants, drug traffickers, foreign states supporting the Afghan resistance, journalists, rebel armies, labour migrants and entrepre- neurs. It is a war economy based on the ilegal trade in arms, drugs, electronics and other commodities. Many of these activ- ities, although illegal according to Pak- istan, are not considered illegal or licit in tribal practices and traditions. In the current situation, however, Pakistan and Afghanistan, as well as international organisations, are fully aware of the problem of labour control. Practices that are used to permit- ted as ‘tribal’ are now discouraged or as disputed as illegal. This project is co- supervised by Sanjib Baruah (Khan) (Pakistan) and Oskar Verkaai (The Netherlands).

Labour migration between China and Israel: Playing the system

Labour migration between China and Israel is a sensitive issue as it concerns women whose employment is a source of tension and ambivalence in both sending and recip- ing countries. Women working in the domestic sector in Israel (and Arab Emirates) deal with multiple legal per- spectives and normative perceptions. The project focusses on their trajectory from home to work and back, and inves- tigating, in particular how they move in and out of legality/illegality, both during their life cycle and over time because Israeli immigration law concerning labour migration varies; making certain illegal activities legal and vice versa.

Research will be conducted in South India (Kerala and Dubai), which has long-standing trade relations with Ker- ala. Dubai now has a labour force that is over 90 percent foreign (Indians are the largest group), and Indian domestics work for compatriots, Dubai families and other foreigners. Co-supervised by Rima Sobhan (United Arab Emirates), Pravenna Kadoth (India), Annelies Moores (The Netherlands) and Mario Rut- ten (The Netherlands), the project inves- tigates the living strategies of poor Ker- aleite women in transnational movements in order to understand (il)legal/(il)licit linkages in transnational life cycles.

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Willem van schendel is professor in modern asian history at the university of amsterdam and at the international institute of social history. he has done extensive research in bangladesh, Northwest India and Burma. for more information on the programme ‘illegal but licit’ visit: wvanschendel@uva.nl.


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The programme was initiated by Li Minghuan (Kwamin University) and Willem van Schendel (Univer- sity of Amsterdam). Supported by IAS and the Amsterdam School of Social Science Research (ASSR), the four-year programme has secured funding from the Netherlands Foundation for the Advancement of Tropical Research (WOTRO).

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