

Chapter 3

Between state and society: Professional lawyers and reform in Indonesia

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In few discussions of fundamental change in Indonesia are lawyers likely to get much attention as agents of it. The neglect is understandable, as until recently lawyers have had relatively little influence on anything, let alone fundamental change. Moreover, their peculiar ideological vision – the ‘law state’, *Rechtsstaat*: rule of law or *negara hukum* in the Indonesian variant of the idea – is no match for the glamour of such more obvious revolutionary claims as those of Communism or Islam or even ‘development.’ Yet, in the Indonesian setting, the idea is at least equally ambitious and nearly as radical.

Gradually, during the 32 years of New Order change, private lawyers grew more conspicuous, as the interests they represent have become more salient, the audience for *negara hukum* appeals has expanded and the government has found it more and more difficult to ignore demands for reform. To explain why a relatively small group of reform lawyers has exerted quite so much influence is the purpose of this chapter. I will trace the recent history of the professional advocacy; the tension between reform lawyers and the state over *negara hukum* issues; and the response of officialdom to the challenge of the advocacy.

Lawyers in Indonesian society

In Indonesia’s legal system there are five types of assistance on which individuals or groups rely in dealing with one another or the state bureaucracy: informal intermediaries, bush lawyers (*pokrol bambu*), notaries, advocates and legal aid. The most pervasive form of representation is informal mediation, useful everywhere more or less in proportion to the legitimacy, accessibility and reliability of formal institutional procedures. In Indonesia informal patterns of transaction, involving kin, ethnic, religious, friendship or associational ties generally supersede formal ones. Only a few points need to be made here about the process. First, it reinforces existing patterns of informal authority and influence. Secondly, those without much influence to begin with have limited resources of informal assistance. The higher one’s standing, the more influential relationships one has. For those with influence, informal connections offer special advantage, which helps to explain why reformers often emphasise the need for formal procedures and controls. Thirdly, informal mediation is the primary competition for formal representational roles.

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Lawyers and change

It is not the end of the matter. If the battle of the lawyers were merely a sideshow in Indonesian politics, it might be, but the conflict is at the centre of a struggle over the political and ethical dimensions of the Indonesian state.

Private lawyers, more consistently than most, have long challenged the terms of Indonesian political organisation. They are among those most often accused of having lost touch with Indonesian culture, of being too 'Westernised,' the imprecation generally levelled against those who question the habits of authority. There is some truth in the charge. By education, training and function advocates trace their role back through to the European middle ages, not to an Indonesian historical prototype – IKADIN's motto, like Peradin's, is *Fiat Justitia Ruat Coelum* – Let Justice be Done Though the Heavens Fall. But is any national political structure, including the state itself, the bureaucracy, parties, or army without the historical stamp of European intervention? What is more to the point is that the uses of advocacy, the support for the ideas of private lawyers and the impact of the legal aid movement set off by Peradin are the result not of European influence but of distinctly Indonesian claims. Economic and social change in Indonesia has by now produced enough social power and ideological equipment to sustain a long argument over the limits of state authority.

In the debate thus far, state leaders have had the power to ward off challenges, but their ideological defences are crumbling. Even officials, both military and civilian, have to admit (and do, increasingly) that corruption and abuse of authority are at levels that cannot be dismissed as trivial and that it is getting harder – not impossible by any means, or even all that difficult yet, just harder – to buy the support of a middle class that is growing doubtful about the existing state.

None of this means that the lawyers are close to success, or even, for that matter, that they are key players in the political drama. But the reformers among them provide the ideological rationalisations for political change, as indeed lawyers have elsewhere through much of modern history. Legal systems, as they actually work, record essential codes of political relationship and authority. Indonesia's political codes, no less outmoded than legal ones from the colony, cannot be maintained without too high a price for both regime and state. A small pride of professional advocates has had remarkable influence in framing the debates over legal and political change and is likely to pursue them long into the future.

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