

Course instructor: Dr Gerben Nootenboom  
Course title: Social Sciences and Asia  
Degree programme: Contemporary Asian Studies

**University of Amsterdam**

**Graduate School of Social Sciences**

**Entitlement and extortion**  
**How institutional factors foster**  
**behaviour in state actors**

**Marcel Oomens**

Thomas à Kempigweg 25  
3532 CA Utrecht

Student number 6156304  
Assignment number Paper 2  
Date of submission 2 October 2009  
Page count 10  
Word count 2936

## Introduction

The Weberian thesis has often been explained as the relevance of motivational factors for the development of the capitalist mode of production. In its traditional form Weberianism stresses the importance of the protestant work ethic in bringing about the industrial revolution in Europe and the subsequent western economic hegemony. Entrepreneurship in the West, in particular in England during the industrial revolution, is explained as behaviour – in the Weberian sense of the word, i.e. as opposed to actions – motivated by a protestant work ethic. Studies of the rise of Asian economies have often focussed on identifying such motivational factors in eastern culture and religion. For an example see Kim and Park (2003), who identify such ‘Weberian virtues’ in confucianism as it was recruited by the South Korean political elite in the second half of the 20<sup>th</sup> century.

Bellah (1968: 55) stresses that institutional factors, such as the political environment and the economic order, play an equally important role in bringing about economic development. Moreover he shows that Weber was aware of the importance of such factors, and claims that the interpretation of the Weberian thesis has often attached greater importance to motivational factors to the detriment of institutions. With regard to motivational factors Bellah agrees with Geertz (1956, quoted in Bellah, 1968: 56) that the protestant ethic isn't unique in bringing about a change in the mode of production, but rather that protestantism possesses a certain ‘transformative capacity’ that can change the entire value system of society. The protestant reformation serves as a case in point. This transformative capacity, so says Bellah, is a property of religion, not some special feature of protestantism. Hence confucianism has alternatively been employed to explain the failure and the success (see again the case of Kim and Park) of eastern economies. In such cases where economic development has successfully been brought about in the East, confucianism was successfully recruited to bring about a change of the underlying value system.

In this essay I content that not only motivational factors have the ability to bring about behavioural change, but that institutional factors are also important in shaping the behaviour of individual actors. I will use the institutional setting in conjunction with the illegal but licit framework to show how state actors justify their actions. Through personal examples and case studies from literature it will be shown that the institutional framework fosters a sense of entitlement in state actors. If institutional factors also give rise to certain behaviours then it must be concluded that such factors equally possess a transformative capacity.

### **Action, behaviour, transformative capacity**

Before turning to the illegal but licit framework I'll take a look at two cases from literature to elucidate how the motivational framework is used to bring about a transformation in economic behaviour. Kim and Park argue that the South Korean government actively recruited confucian values to ideologically mobilise workers to "devote their labor power to industrial development" (Kim and Park, 2003: 37). They identify an affinity between several protestant and confucian values that can equally well be recruited to bring about this industrial development: diligence, loyalty, education and respect for authority (Kim and Park, 2003: 38). These same values have in the past been used to explain economic backwardness and non-development in the Asian environment, but when these values were transferred from family loyalty and self-cultivation to "new structures and grouping of the industrial setting" it brought about a change in the value system and allowed the South Korean economy to flourish (Kim and Park, 2003: 44).

Whereas the South Korean government *actively recruited* confucian values to bring about a transformation, Kalir (2009) describes how values can be *passively introduced* into society. According to Kalir (2009: 14) joining the evangelical church allows Chinese labour migrants to Israel to accumulate four kinds of capital: financial, cultural, symbolic and social. Back in China these migrant labourers join local (state authorised, but more often house) churches. They utilise this newly acquired capital to set them and their experience apart from the people around them and to rise in social standing. Returning migrants see in their Christian values a different and better value system that may in the future help to reshape Chinese society. With their newly acquired capital they:

*"develop an inclination for joining projects that aim, like immigration, to change their own position within the current Chinese configuration, and, on another level, to change the ordering mechanism of positions in China" (Kalir, 2009: 24).*

Of note to my argument are both the transformative capacity of motivational frameworks and the active and passive nature of this transformation. I will move on to the illegal but licit framework now to show that institutional factors – political systems and economic ordering – can equally be responsible for transforming the value system.

### **Entitlement and extortion**

The illegal but licit framework (Abraham, 2006: 4) was introduced to explain discrepancies between actions which the state deems illegal but that nonetheless take place *and are seen to be licit by the population*. An example is provided by Abraham when he describes

border trade between Bangladesh and India. Farmers in the border areas of Bangladesh cross the border with India without the proper paperwork and without paying duties on the merchandise they sell in the Indian marketplaces (Abraham, 2006: 1). The illegal but licit framework highlights such interactions that would otherwise get very little attention in academia due to their illegality. These interactions are nonetheless important for local economies, as is shown by the fact that such actions are deemed to be licit by the local population. Other examples can readily be thought of, including illegal labour migration and employment in the EU and the United States.

	<b>Legal</b>	<b>Illegal</b>
<b>Licit</b>	Ideal state (A)	Underworld / borderland (B)
<b>Illicit</b>	Crony capitalism / failed state (C)	Anarchy (D)

*Table 1: 'the 'illegal but licit' framework – the state in its legislative capacity. Taken from Abraham (2006: 4).*

Table 1 summarises the illegal but licit framework. The state in its legislative capacity is displayed horizontally whereas popular opinion – what is deemed to be licit or illicit by the local population – is displayed vertically. The interaction between these two dimensions says something about the relationship between state laws and the people. The interesting cases are those with a discrepancy between the law and popular opinion: underworld / borderland (B), where illegal acts are deemed to be licit by the people, as is the case for Bangladeshi border trade, and crony capitalism / failed state (C), where legal acts are nonetheless deemed immoral or otherwise illicit by the population.

Kalir (forthcoming: 14) extends the model to include the state in its executive capacity. The state at times also commits illegal acts that can similarly be perceived as licit or illicit by the population. Such relationships between people and the state are shown in table 2. Kalir provides an example in labour migration from China to Israel. Multiple steps in the process of migrating to Israel from China are illegal or outside Chinese or Israeli law. Yet these actions have an aura of legality because the state either turns a blind eye or actively condones them. What is more, the people involved don't perceive these acts to be out of the ordinary; they consider them licit. Kalir coins this relationship between the state and the people 'undisputed legitimacy' (B) (Kalir, forthcoming: 15).

	<b>Legal</b>	<b>Illegal</b>
<b>Licit</b>	Legitimate rule (A)	Undisputed legitimacy (B)
<b>Illicit</b>	Crisis of legitimacy / Authoritarian regime (C)	Occupation (D)

*The state in its executive capacity. Taken from Kalir (forthcoming: 14).*

I will consider the effects of this disparity between the state’s legislative capacity and its executive capacity on individual state actors (civil servants). As before the interesting cases are unlikely to arise when the state’s actions are within the expectations of the population: legal and licit (A) or illegal and illicit (D). It is my contention that an illegal action by a civil servant, which is nonetheless seen as licit by the people (B), fosters a sense of *entitlement* within that civil servant. This sense of entitlement may be strengthened by the state’s condoning of such illegal activity.

	<b>Legal</b>	<b>Illegal</b>
<b>Licit</b>	Legitimate rule (A)	<b>Entitlement (B)</b>
<b>Illicit</b>	Extortion (C)	Corruption (D)

*(Behaviour of) state actors in their executive capacity.*

Table 3 shows this behaviour of state actors. In such cases where the actions and behaviour of a civil servant are seen to be illicit, but s/he nevertheless has the full backing of the law, we can speak of extortion (C). Legitimate rule (A) and corruption (D) complete the full spectrum of behaviours within this model. In the final part of this essay I will focus my attention on *entitlement* (B). I will use cases from literature and my own experience to argue that in some instances a sense of entitlement *arises passively* from the institutional framework. In other cases the institutional framework is recruited by the ruling elite to *actively encourage* a sense of entitlement. I’m therefore inclined to believe that institutional frameworks have a transformative capacity similar to Weber’s motivational factors. As we will see some case studies hold indications to this aim.

### **Case studies**

Before I look at cases from literature I will first draw from my own experience. In order to join the civil service in China one has to sit the government exam. Your performance in this exam determines your initial position within the civil service. What is more, you are only

allowed to sit the exam once every two years. Students who decide to take this exam spend a considerable amount of time and money on their preparations, and often rely on friends and acquaintances to get further preferential treatment. However, once you pass this exam you are guaranteed a basic income and state benefits, which include a state pension and cheap health care. The money spend on passing the government exam and reaching a position in the civil service fosters of a feeling of entitlement among officials, as can be seen from the following examples:

Anthony has just been accepted onto an exchange program for visiting scholars between China and Australia. The bureau in Beijing who oversees the program will take care of all the paperwork such as his visa application. However, Anthony doesn't have a passport, which can only be obtained from your place of birth. The officials in Xinjiang, where Anthony is from, have no reason to rush his passport application. Yet Anthony is on a deadline, so in order to ensure the smooth running of his application he invites the relevant officials out for a lavish dinner at an expensive restaurant. Anthony recognises that "this is the way things work in China" and doubts that his application would have come through at all if he hadn't behaved in the way he did. The officials equally don't believe they are doing anything illicit. They are merely rewarded for 'fast-tracking' the application. Their increased efforts entitle them to such benefits.

Jane runs her own take-away food-stall. When asked about her customers she says:

*"The worst customers are policemen. They sometimes come around at dinner time, just when I should be making my money. They hang around, telling me stories of all they've done for society. Their heroic deeds, in effect, entitle them to discounted rates. They only leave when I decide to give them a discounted fare."*

What entitles these officials, in my opinion, is the time and money spent, and the network they've relied on in order to get them in a position where they can exert such power. Fraud is illegal in China, yet it's common knowledge that ensuring the smooth running of your business requires that you relent to such feelings of entitlement.

Similar phenomena that have been documented in literature include the case of Chinese labourers migrating to Israel (Kalir, forthcoming). In the process of applying for a work visa Chinese labourers are expected to put down a lot of money, which is used by the agent to pay off various intermediary organisations in China and Israel. Sometimes dinners are paid

for by the applicant in order to speed up the process; labourers have to “become friends with senior functionaries” (Kalir, forthcoming: 4). The documents they receive give them no guarantees with regard to the duration of their contract. What is more, the money applicants put down is largely spend on illegal fees, yet neither the recruiting agents nor the migrant labourers regard this behaviour as illicit. The strongest sense of entitlement on the part of the officials is displayed by the Chinese consul to Israel:

*“[...] they pay these fees to agencies, but they still earn a lot of money, otherwise they wouldn't have come here, right? [...] it is a win-win-win-win situation. The agencies also win, but it is still a good deal for all sides.” (Kalir, forthcoming: 12).*

As with the cases described earlier, it is my contention that social factors in China give rise to such practices and feelings of entitlement. What is more, the government allows these practices to continue even if they are illegal or outside of the law. In other words the current institutional framework is similarly conducive to this sense of entitlement on the part of officials.

A case in which the political elite actively shapes the institutional framework in order to instil such values of entitlement can be seen in McLeod (2008). He describes the way in which the economic organisation of Indonesia is recruited for the enrichment of the political elite: the Soeharto family and their cronies. McLeod uses a franchise analogy to describe the way in which stakeholders can, in a sense, ‘buy a share of the company’. The state then allows these franchisees to raise informal taxes. McLeod’s (2008: 207) example of the judiciary is pertinent here. The basic salary of civil servants raises very little as officials make career within the judiciary. The appeal of such a career lies rather in the opportunities of raising informal taxes: under-the-table money and gifts. In order to reach a position in which the opportunities for bribe-taking are plentiful one has to play the game of the Soeharto franchise. Officials that do well for themselves and for the franchise will get promoted to positions high up in the judiciary of Indonesia’s larger cities. Judges that have moral objections or are otherwise incapable of ‘playing the game’ are promoted to positions in the countryside and are prevented from playing a major role in the franchise. People with the right attitude – a sense of entitlement to bribe-taking for the benefit of the franchise and the franchisee – find themselves in the most important judicial positions where they have the best opportunities for raising informal tax.

In some cases institutional factors passively give rise to a sense of entitlement, as in the case with the agents and officials involved with the Chinese labour migrants. In other cases the politico-economic environment actively raises such feelings of entitlement, as in the Soeharto franchise; Soeharto sought to change the institutional framework in order to raise certain values among officials. I therefore contend that the institutional framework is capable of changing social values in a way similar to Weber's motivational framework. I see here a strong argument for a transformative capacity of institutional factors equal to that of motivational factors. This argument gains even more currency when one looks at the post-Soeharto regime. An attempt at eradicating corruption among officials by piecemeal changes to government institutions has come to very little (McLeod, 2008: 218). Sidel (1996: 56) similarly points in that direction when he argues that the political context at the time of democratisation in Thailand and the Philippines allowed bossism to flourish in these two countries.

### **Concluding remarks**

Institutional factors possess a transformative capacity and can shape behaviour as much as the motivational framework can. The analogy extends beyond this point; it has been shown that the institutional framework gives rise to changes in behaviour in the same way that the protestant ethic gave rise to entrepreneurship in early-industrial Europe. In other cases the institutional environment is recruited for the purpose of introducing new types of behaviour, as is the case with confucianism and economic development in South Korea. I used the illegal but licit framework to search for examples of behaviour that arise from institutional factors, and focussed on a sense of entitlement among state actors in situations that are seen to be 'illegal but licit'. Future studies should focus on other players (non-state actors) and other behaviours, such as extortion.

The weakness of my argument also lies in the use of the illegal but licit framework. There is at least the suspicion that the behaviours I've discussed are especially pertinent outside the West. I speculate that the binary oppositions (legal/illegal and licit/illicit) set up through the illegal but licit framework are a western construction. In western countries the rule of law may have institutionalised much of the behaviour that I class as entitlement, whereas in other cultures the grey area between legal and illegal, between licit and illicit is much wider. Preferential treatment of army service personnel in western countries may be a case in point. Extortion – the 'legal but illicit' case – may be less proscribed by western law, as the recent economic downturn and the inability of governments to influence 'bonus culture' has shown. The validity of the binary oppositions in the illegal but licit framework is

the topic of another paper though. For now I can only express my belief that politico-economic factors shape behaviour in every society, not just in developing ones.

## Bibliography

- Abraham, I. (2006). "Illegal but Licit", in *IIAS Newsletter*, vol. 42, pp. 1-4.
- Bellah, R.N. (1968). "Reflections on the protestant ethic analogy in Asia", in S.N. Eisenstadt (ed.), *The protestant ethic and modernization*. New York, Basic Books, pp. 243-251.
- Kim, A.E. and Park, G. (2003). "Nationalism, Confucianism, work ethic and industrialization in South Korea", in *Journal of Contemporary Asia*, vol. 33(1), pp. 37-49.
- Kalir, B. (2009). "Finding Jesus in the Holy Land and Taking Him to China: Chinese Temporary Migrant Workers in Israel Converting to Evangelical Christianity", in *Sociology of Religion*, vol. 70(2), pp. 130-156.
- Kalir, B. (forthcoming). "Uncovering the Legal Cachet of the Chinese Immigration Flow to Israel", in D. Kyle and R. Koslowski (eds.), *Global Human Smuggling: Comparative Perspectives*. Baltimore, Johns Hopkins University Press.
- McLeod, R.H. (2008). "Inadequate budgets and salaries as instruments for institutionalizing public sector corruption in Indonesia", in *South East Asia Research*, vol. 16(2), pp. 199-223.
- Sidel, J.T. (1996). "Siam and its Twin? Democratization and Bossism in Contemporary Thailand and the Philippines", in *IDS Bulletin*, vol. 27(2), pp. 56-63.