Author/s:
Busch, Matthew Aaron

Title:
Indonesia as a weak state? Bank restructuring after the Asian Financial Crisis

Date:
2019

Persistent Link:
https://hdl.handle.net/11343/239188

Indonesia as a weak state? Bank restructuring after the Asian Financial Crisis

Matthew Aaron Busch
ORCID Identifier: 0000-0003-4578-944X

Doctor of Philosophy
December 2019
Melbourne Law School
University of Melbourne

Thesis submitted for a Doctor of Philosophy (Law) in total fulfilment of that degree.

Abstract

This thesis presents an original case study of the Indonesian Bank Restructuring Agency (IBRA), which was established to manage virtually all interventions into Indonesia's banking system during the 1997-1998 Asian Financial Crisis. Although a seminal moment in Indonesia's economic history, there is limited scholarship and even less popular understanding about the crisis and IBRA's work to overcome it.

This thesis is interested in how the state goes about defining, legitimising, and executing its responsibilities. Often, the state, or, more accurately, its actors and organisations, seems to work at cross-purposes to its ostensible policy objectives. Indeed, sometimes the state becomes more a site for different groups or actors to contest these actions. Examined closely, these contests reveal much about the nature of power in a society.

To conceptualise these tensions, this thesis uses the analytical framework of a 'weak state', at the centre of which is understanding of the institutional factors that make some states less effective. This thesis surveys sociology, political economy, and economics literatures to synthesise its own definition of a weak state, that is, a state reliant on informal, negotiated, and ad hoc strategies to accomplish its objectives. Frequently these strategies are at odds with the established legal or procedural tools at its disposal. They are, as the thesis shows, historically and institutionally embedded.

The thesis applies the weak state premise through its original research on IBRA. This analysis uses data collected through interviews and audits of the agency. In particular, the thesis closely examines IBRA's work to conclude contracts, known as Shareholder Settlement Agreements, with two owners of major private banks it took over during the crisis. These contracts were 'out of court settlements' designed to trade legal release for the bank owners for the transfer of assets that could be quickly sold to recover part of the government's spending on the rescue.

This analysis shows how despite initial aspirations, IBRA made most progress within the modalities of a weak state, including negotiated and ad hoc strategies. Indeed, the very essence of this work and the actual procedures used to accomplish these settlements were highly informal. Moreover, IBRA's progress generated considerable controversy and opposition within the state.

This continues to have implications today, as evidenced through the corruption conviction – and unprecedented acquittal – of former IBRA Chairman Syafruddin Temenggung for actions related to one of the Shareholder Settlement Agreements. Ultimately, as the thesis shows, it was not only IBRA's strategies that were highly contested, but even the state's attempts to adhere to a transparent and legal approach in dealing with private bank owners. Ultimately, although IBRA recovered but a fraction of the funds spent rescuing private banks – a finding confirmed by this research – the thesis challenges whether this really was a poor outcome in light of the institutional problems confronting the agency.

Declaration Page

I declare that:

- this thesis comprises only my original work towards the Doctor of Philosophy (Law);
- due acknowledgement has been made in the text to all other material used; and
- the thesis is fewer than 100,000 words in length, exclusive of tables, bibliographies, and annexes.

Matthew Aaron Busch

Student ID: 745552

23 December 2019

Acknowledgements

I would like to express deep gratitude to my supervisor Tim Lindsey for his consistent enthusiasm, encouragement, and advice throughout my candidature. I gained greatly from your thoughtful, open-minded, and often humorous perspectives. You are a very wise and insightful scholar and, most importantly, a truly fine individual. I feel privileged to have worked with you. Thank you for your open-mindedness and flexibility as I expended time and energy on a variety of pursuits that were at best tangentially related to my thesis. Thank you to our friend Jemma Parsons for introducing us in Jakarta.

I am also grateful to my colleagues and the staff at the Graduate Research Centre at Melbourne Law School for their assistance and encouragement. In particular, I would like to salute – and wish best luck to – those of you who were also carrying out PhD research.

Thank you to those whom I interviewed during the course of my research. I am particularly grateful to Muhammad Syahrial for his willingness to share his experiences and files about IBRA. This thesis would not have been possible without your kind assistance. Thank you to all the other people, too numerous to note, who posed thoughtful or insightful questions about the research.

Thank you to Simon Butt for taking the time to read and comment on a draft of the thesis.

To the University of Melbourne, thank you for your generous financial support of my candidacy through the Melbourne International Fee Remission Scholarship and Melbourne International Research Scholarship.

Finally, I must extend a special thank you to my partner Adelle and our son Albert for their unconditional love and support.

Table of Contents

Index of Tables

Chapter 1: Introduction

> The nation-state is...a curious amalgam of legitimate fictions and concrete illegitimacies. The conflation is all the easier because *the state* is a notoriously slippery entity for political theory and political sociology. It is only too easy to collapse it into either a legal fiction or a collectivity of persons (the bureaucracy). The fact is that the state has to be understood as an *institution*, of the same species as the church, the university, and the modern corporation. Like them it ingests and excretes personnel in a continuous, steady process, often over long periods of time. - Benedict Anderson[1]

The state, as Benedict Anderson observed, is a 'notoriously slippery entity' for analysts. What is a state precisely? Does it differ from what its agents express as its policy objectives? Why does it sometimes work at seeming cross-purposes to the ostensible policy objectives of the organisations and actors under its banner? This thesis engages with these ideas to describe and contextualise policy outcomes in Indonesia. It seeks to answer the question, what underpins power and legitimacy in Indonesia?

Specifically, the thesis examines the Indonesia Bank Restructuring Agency (IBRA). Known in Indonesian as the *Badan Penyehatan Perbankan Nasional* (BPPN), IBRA was established in January 1998 amidst one of the worst financial crises in history. The crisis resulted in the largest bailout in history (as a share of GDP) and the single year contraction of Indonesia's Gross Domestic Product (GDP) by 13%. The agency, which was intended to be endowed with extraordinary powers to deal with an extensive slate of responsibilities, was, as discussed below, a largely alien creation, both in that it was introduced at the behest of Indonesia's creditors and also because it was a considerable departure from the existing institutions for addressing problems in the financial system. Detailed analysis of IBRA's work demonstrates the importance of these historical and institutional features and suggests much about the core attributes of the Indonesian state.

This matters because the nature of the state is indicative of the prevailing political economy, or, put another way, the system's 'logic of power'.[2] Observable outcomes are the result of 'political settlements',[3] which, although changeable amid material shifts in the distribution of power or resources, are largely durable institutional equilibria that determine the benefits for different actors or groups in line with the overall distribution of power at a given time. Therefore, the outcomes from a large and complex policy initiative, such as IBRA's efforts to restructure the banking sector and recoup the public expenditures used for that purpose, reflect such political settlements. So, under this thesis's analytical approach, the detailed examination of how such policy initiatives proceeded – including in contrast to their initial premise – demonstrate much about the logic of power in the system.

As this study shows, IBRA had to contend with the state within which it was situated. Therefore, it executed its responsibilities using informal, contested, and negotiated strategies. This contrasted with initial aspirations for the agency (not to mention

1 See Anderson (1983: 477-478). Emphasis in the original.

2 The thesis takes inspiration from Kennedy's (2013: 8) definition of political economy as "the processes through which people struggle over economic benefits and political authority in their legal entitlements and vulnerabilities".

3 See Khan (2010: 4-20).

continuing popular recollections about it). Ultimately, although crisis-era Indonesia was undoubtedly in the midst of great economic strife, combined with manifest political change, this novel and extraordinary agency was ultimately deeply affected by the prevailing political economy. Thus, this thesis contends that close analysis of how IBRA actually functioned in response to fierce contests over it – and the overarching state's – legitimacy illustrate much about the thorny, albeit highly alluring, question of power in Indonesia.

This thesis has two main goals: first, to present findings from in-depth research on IBRA and its work; and, second, to deploy a state-focused framework that engages with existing arguments about the nature of power and legitimacy in Indonesia. Both of these activities involve original work, including the presentation and interpretation of data not widely available (and, perhaps, suggest conclusions different than those a reader might currently hold). It also synthesises and applies an original definition of a 'weak state' situated within the relevant political science, economics, and sociology literatures. The thesis's framework aims to provide insights about the logic of power in Indonesia during the late-New Order period and into *Reformasi*-era, and reveals much about how institutional and historical factors contribute to the empirical outcomes of policy processes. As shown in Chapter 3, these are questions posed across the Indonesian Studies literature, including among scholars focused on economics, political science, and law.

Ultimately, this thesis seeks to advance understanding of Indonesia's political economy, and to make an original contribution to the disciplinary field of Indonesian Studies. The thesis contends that the state-centred analytical framework generates meaningful perspectives about the policy imperatives that arose due to the Asian Financial Crisis. The weak state premise (see Chapter 2) is based on existing sociology and economics literature and applies a novel vocabulary and analytical framework to questions of Indonesian political economy. This is relevant in the context of observations about the post-crisis continuity of elites and power structures despite the presumed effect of new agencies (such as IBRA), regulation and law, and democratic political institutions.[4] This thesis shows how IBRA, a novel agency intended to carry out extraordinary actions deemed necessary to rescue and restructure Indonesia's financial sector, was frustrated because of the state's weakness. Sources of this weakness included relevant and historically contingent political, legal, and institutional features amid an environment of greater contestation within that state.[5] These features reflect a specific and durable 'logic of power', rather than a lack of technical capacity or proper policy objectives, and therefore the most pivotal features for explaining such policy outcomes are institutional. Ultimately, the thesis seeks to describe the accumulation and use of power in a society, while sidestepping the analytical constraints of a neo-Marxist historical materialism.[6]

---

4 On continuities of power and wealth, see, among others, Robison and Hadiz (2004), Slater (2004), and Winters (2013). On Indonesia's democratic progress, see Liddle and Mujani (2013: 26-27). Abdulbaki (2008) is particularly praiseworthy of the democratic change and its impact on policy outcomes; Horowitz (2013: 207-210) is more cautious and frames Indonesia as a 'low-quality democracy'. Freedman (2006: 93-98) discusses some successful democratic reforms and subsequent challenges.

5 Cf. Buehler's (2014: 160-166) critique of several prominent theories of change, including 'oligarchy' and the 'enlightened leadership' explanations, and his argument in favour of an explanation situating power within a state controlled by longstanding, albeit competitive, groups of 'elites'.

6 See discussion below.

This chapter is structured as follows. The next section provides a detailed outline of the thesis and its various chapters. This will signpost each chapter's key conclusions and their relationship to the thesis's overall approach. The next section discusses my experience as a researcher focused on IBRA. Central to this is the prevalence of negative narratives or recollections about the agency and its performance. As this thesis suggests, however, an institutionalist weak state approach provides a more nuanced and complex understanding of IBRA and its work. Similar to Anderson's suggestion, my approach demonstrates how the state must be conceptualised as more than just the sum of its – notional – legal powers or a collective of personalities. As close examination of IBRA reveals, it was, instead, institutional factors, including incomplete law, ongoing political struggles, and historical approaches to dealing with similar problems, that proved most influential to how the agency actually functioned.

The next section presents the thesis's '*visi misi*', the ubiquitous *Bahasa Indonesia* term for 'mission statement' that is deployed across government, academia, and even business. My mission statement introduces what I regard as the usefulness of studying the state, in particular how it enables consideration of the various historical, political, and legal features that, this thesis argues, contribute to observable outcomes. This approach allows the canvassing of broad materials to draw out political economy conclusions about how contemporary power contests are influenced by specific historical, legal, political, and economic features. This section also sets down a conceptual introduction to the state through discussion of the foundational Weberian literature for many state-focused studies. Finally, a brief section rules out certain ideas or literatures that, though adjacent or conversational to the weak state, cannot be addressed in this thesis.

Thesis outline

The thesis structure is as follows. **Chapter 1** outlines the thesis and introduces its state-focused approach. Next, **Chapter 2** lays out the main sinews of its analytical framework, most importantly, the definition of a 'weak state', through discussion of how institutionalist scholars have conceptualised and explained the relative effectiveness of modern states. Scholars have described the state in various ways, including as a collection and coordinator of organisations, as a source of legitimacy, and a field of power for competition among different actors. According to the thesis's methodology, the nature and outcomes of these competitions are a consequence of specific historical and institutional features, and they reflect the prevailing distribution of power.

To define a 'weak state', the chapter surveys a span of state-focused literature, including economists' post-war focus on a predatory, captured, state. According to neo-utilitarianism and, later, New Institutional Economics (NIE), the idealised state was minimalist and focused largely on the establishment and regulation of property rights. This discussion explains sociologists' subsequent reply to 'bring the state back in'[7] including through examination of its relationship to society, its status as an indispensable collection and coordinator of organisations, and its unique rituals, practices, and sources of legitimacy. This theory held out patterns of governance and state-society relations as the consequence

7 This famous phrase is from Skocpol (1985: 2-8).

of specific state structures and, together, the basis for observable policy outcomes.[8] The state was, however, not a single, unified actor but instead a 'field of power' or 'relational arena' for competition subject to specific institutional inheritances, ideologies and beliefs, and rituals.[9] Political scientists may frame such competition as 'political settlements', a term describing the institutional equilibriums calibrated through rules that reflect different groups' relative powers at a given moment.[10]

A state-focused framework is appealing because it facilitates multidisciplinary, institutionalist analysis, including political, economic, and legal features. As divergent states manage to reach approximately similar 'ends', scholars have tended to examine the 'means' of state action – sometimes dubbed 'shared projects' – to describe how effective states identify, legitimise, and coordinate tasks.[11] Although all states are sites for some competition, effective states insulate their impersonal bureaucratic functions from social forces. Weak states, according to the thesis's definition, rely on informal, personalised (and often negotiated), or illegible strategies and networks to define and execute shared projects. Considering the demonstrable importance of economic management to the modern state, the chapter discusses the state's relationship to markets and its interaction with capital.[12] Although states are necessary for providing the conditions for markets to function effectively, they can also be overcome by the process of economic growth, especially when weak state structures are in place. In one influential study, effective states foster growth through 'multidimensional conspiracies' based in effective institutions and productive relations with society.[13] Finally, this survey shows how the literature is mostly unconvinced on the importance of political institutions for development outcomes. Instead, successful policy outcomes depend on the presence, or lack thereof, effective state structures.

Chapter 3 reviews literature on the Indonesian state, an important task for orienting the thesis within the disciplinary field of Indonesian Studies. As the chapter shows, economic tasks have been important historically, including as a preoccupation of the country's earliest leaders (and colonial activists) and a central feature of how President Soeharto's New Order regime consolidated and exercised its power. First, the chapter examines debates about the relative importance of the colonial state on the post-independence Indonesian state, before examining the economic issues that confronted post-independence leaders. This culminated in President Soekarno's radical – and disastrous – economic policies, the reversal of which was a key feature of the early New Order state. Scholars initially focused on the New Order as a strong, centralised 'bureaucratic polity' seemingly impervious to social forces. Later, however, new approaches began to emphasise the presence of contests and non-chartered actors within the system.[14] Others studied the centrality of illegality or criminality to the state, a trend that continued into the post-*Reformasi* period. Some described how actors are bound together by informal exchanges or only partially visible networks.

8 See Skocpol and Amenta (1985: 574) and Skocpol and Amenta (1986: 133-136).
9 See, among others, Migdal (2001: 15-16); Apsinall and Klinken (2011: 11, 25-26); Vu (2010b: 165-166).
10 See Khan (2010: 4-20).
11 See Nelson (2006: 107-109) on the Weberian approach to studying state action.
12 In an important institutionalist paper, prominent economic historian Douglass North (1979: 249-253, 257) noted how "the process of growth is inherently destabilising to a state".
13 See Evans (1995: 8-10).
14 The latter term refers to non-state endorsed actors, often in corporatist systems.

Chapter 4 introduces the thesis's empirical focus on IBRA. As discussed in Chapter 2, state attributes are historically ingrained, and so it focuses on historical antecedents and political economy factors that shaped the initial policy response to the emerging crisis. This was not the first instance of bank failure in Indonesia, and there was an established, albeit non-transparent, paradigm for managing troubled banks. Banking supervision was politically subjugated and mostly powerless to enforce what limited prudential controls did exist. Such historical antecedents had clear consequences in the form of both the initial, ineffective efforts to handle the crisis, and also calibration of public expectations about the true condition of the banking sector. Initially, it was believed that Indonesia's banking sector was not at risk and there was only a small group of problematic banks, but the non-transparent and ineffective response undermined confidence and prompted damaging 'flight to quality' bank runs that further destabilised the financial system.[15]

Next, **Chapter 5** presents data from government audits of IBRA previously not available to researchers or the public. This provides an overview of the tasks assigned to IBRA and the quantitative scope of the financial rescue package's components. In particular, this chapter includes discussion of the statutory basis for IBRA's responsibilities and powers – important because the agency operated for over a year under incomplete and inadequate laws and regulations. This, along with other factors, such as the rapid turnover of IBRA Chairman, created challenges for the agency and were indicative of the strong political forces at play. IBRA's size and expansive mandate meant the agency had tremendous potential power over its obligors' business fortunes and the economy at large. Unsurprisingly, oversight was introduced, and in practice this meant the agency needed higher level support and intra-governmental cooperation to achieve many tasks. At times, heavily political considerations were injected into its work, challenging its capacity to honour contracts with bank owners, sell assets, and meet its objectives. As this research discovered, IBRA was only able to make meaningful progress on many tasks towards the end of its tenure, an outcome some attributed to the difficulty of establishing adequate political support for its work. Progress also invited controversy, encapsulated in the corruption charges laid against former IBRA Chairman Syafruddin Temenggung (see Chapter 6). This analysis is important to the thesis because of its overall institutionalist approach. Therefore, specific features, or deficiencies, of law, examples of intra-state competition, or the need to eschew a legible approach for ad hoc or negotiated solutions, are all important findings that are indicative of the weak state framework set out in Chapter 2. Chapter 8 provides further analysis, and expansion, of these themes.

The chapter also discusses IBRA's tasks and responsibilities in greater detail. It is based in part on my review of a detailed, 11-part State Audit Agency (BPK – *Badan Pemeriksaan Keuangan*) audit of IBRA published in 2006. This work both provides an overview of the scale of IBRA's remit and performance, including the 'recovery rate' from its work to recoup public funds spent on the rescue package.[16] This chapter also situates the Shareholder Settlement Agreement (PKPS – *Penyelesaian Kewajiban Pemegang Saham*) program within IBRA's overall remit. PKPS dealt with obligations worth approximately one-fifth of the total rescue package. IBRA's complete responsibilities were, however, too

15 See Boediono (2016: 191-194); Enoch et al. (2001: 33); and McLeod (2003: 312-313).

16 Although the thesis does not pass normative judgement on the value for money represented by this recovery rate, this is an important topic for many. One study (Daruri and Edward 2004: 155), for example, claimed IBRA achieved a recovery rate of just 1-2%, although this thesis finds the rate was considerably higher.

expansive for full consideration within the limited confines of a PhD thesis, and therefore the following chapters focus on the use of PKPS to resolve the obligations and legal issues that resulted from the takeover of private banks.[17] As the government had prima facie evidence that many of these banks had either violated lending limits or engaged in fraud, so the owners of these banks faced potential risks if the government were to pursue them through the courts, and they were open to trading assets for some form of legal release. This 'out of court' settlement was the essence of the PKPS.

Next, **Chapter 6** presents a case study of how a type of PKPS functioned in action.[18] First, the chapter imparts detail of PKPS contracts, the novel legal tools used to address IBRA's takeover of private banks that had violated lending limits or seemingly abused the BLBI liquidity facility (see Chapter 4). IBRA's sale of assets obtained through PKPS produced the best return and the second-largest source of recovered funds[19]. Use of PKPS was the result of several factors, including: the contingent legal form of the initial bank interventions; the overriding legal and institutional framework; the Indonesian government's assumptions about its legal system; and the country's parlous fiscal position. Next, the chapter uses data from BPK audits and other relevant sources to detail the PKPS concluded by IBRA and BDNI owner Sjamsul Nursalim. BDNI was a liquidated bank that failed to repay extensive amounts of central bank liquidity assistance, and the PKPS generated particular controversy due to steep declines in the value of some assets transferred to IBRA. These details would also prove central to the later corruption prosecution of IBRA Chairman Syafruddin Temenggung, which is also discussed.

Similarly, **Chapter 7** examines the PKPS with the Salim Group, Indonesia's largest pre-crisis conglomerate and the majority owner, with two Soeharto children, of the largest private bank, BCA. Due to BCA's extensive related party lending, the Salim Group's obligation was the largest under the PKPS program. In terms of implementation, however, the chapter shows how this was perhaps the 'best practice' PKPS. Indeed, common criticism of the contract, such as, for example, that the government failed to obtain assets perceived to be the most commercially attractive, misunderstands the nature and limitations of the PKPS framework. Together with the case study in Chapter 6, this case study underscores how PKPS were complex undertakings that required considerable flexibility and consistency. As discussed in the following chapter, these means of state action are useful fodder for the thesis's analytical framework.

Chapter 8 presents and analyses these findings through the thesis's weak state definition (see Chapter 2). Although IBRA, as the government's designate, had considerable potential claims against these bank owners, the concurrent political and economic conditions meant the government elected not to accept the presumed time and expense of pursuing claims in court. The PKPS process therefore emerged as a next-best option, albeit one that was, to use the lexicon of the weak state, complex, negotiated, and influenced by the confused and chaotic institutional landscape of that time. External forces, often informal or only

17 Chapter 5 does, however, present some data, gleaned from these audits, to illustrate the scale of the financial sector rescue and the various tasks assigned to IBRA.

18 There were three major classes, or generations, of PKPS and also some simpler agreements generally not regarded as part of the PKPS program.

19 See Chapter 5.

partially clear, also acted on the agency's ability to work. For the Salim MSAA, for example, political interference targeted the signing of the contract, the selection and valuation of assets, the sale to foreign investors of certain assets handed over the government, and, later, the honouring of the 'release and discharge' clause central to PKPS.

These case studies demonstrate how, despite the plan to empower an extraordinary agency laden with special powers (see Chapters 4 and 5), IBRA, in practice, worked largely on the basis of ad hoc and informal 'work arounds' that reflected a weak state. Instead, progress depended on adequate power being brought to bear on institutional impediments. Indeed, close examination of how IBRA carried out these tasks demonstrates how the state existed as a site of fierce contestation over the agency's mandate and the methods it used. To be sure, IBRA became, in terms of the assets under its control, so large that political oversight was unavoidable, if not welcome. As the case suggests, however, it was actually the state seeking to impose independent, legal, and apolitical processes on these bank resolutions that prompted the most furious contestation of these powers. Eventually, this dispute demanded the imposition of extraordinary power to resolve matters that were at least explicitly – not to mention in terms of law – already finalised. Because IBRA has been heavily criticised over the last two decades for the belief that it enabled obligors to skate away – nearly scot-free – from liabilities borne by the public purse, it is important to present findings that provide context, if not explanation, for the actual outcomes. Although the thesis sets aside normative judgements about the rescue's value for money, its weak state framework helps to illuminate the relevant historical and institutional features that influenced IBRA's work.

One of the main criticisms of PKPS agreements is that they allowed the owners of banks for which there were strong, practically undeniable, indications of abuse and fraud (and, where, many banks' senior management later went to jail for these crimes) to settle their obligations for but a fraction of the government's actual cost to bail out their banks. This is undeniable, as evidenced by the data presented in Chapters 5 and 6. In the case of the Salim Group, the assets handed over to the government returned nearly 37% of the MSAA value, a figure that for Nursalim was considerably lower, around just 17%.[20] Whether these are acceptable outcomes are in the eye of the beholder, but, as discussed, any focus on the 'value' of the assets overlooks the reality of the valuation methodology based on a 'normalised political and economic scenario' and the inherent tradeoffs of the PKPS approach. It was obvious these conditions did not exist in Indonesia at that time, and, indeed, the PKPS framework reflected this specific dilemma. Finally, **Chapter 9** concludes the thesis, reflects on its original findings, and considers its contribution to the literature.

Indonesia's 'unwanted child'

As a researcher, I was motivated to study IBRA because of what seemed to me a widespread lack of information or understanding about the agency, including how it functioned, what it accomplished, and how it ceased to be. A former IBRA employee described it as Indonesia's 'unwanted child',[21] a reflection of a desire to move beyond the

20 See Table 6.5, below.

21 Muhammad Syahrial (Email, October 2016).

pain, catastrophe, and national humiliation that accompanied the crisis. I found this resonant throughout my research, as I discovered a limited desire to revisit the history of the agency, and, when such impulses have manifested (most evident in the Temenggung case), there has been a clear lack of nuance or understanding of its work. Two decades later, the crisis feels far away in today's Indonesia. During 2005-2015, GDP expanded at an average annual rate of 5.6%.[22] Many Indonesians have few memories of the crisis, let alone the late-Soeharto era.

A collective desire to move beyond IBRA is understandable considering the effects of the crisis. GDP contracted by 13% in one year,[23] and it did not return to its post-crisis level until 2003.[24] Inflation reached 80%, and, between 1996 and 1998, the poverty rate almost doubled from 11% to 20%.[25] In the course of devising, implementing, and, of course, funding, their crisis response, Indonesian officials were compelled to implement the largest number of policy conditions ever imposed on a country in return for an IMF-led support package.[26] Some conditions dealt with issues that related to contemporary and future fiscal sustainability, including state spending and other liabilities, as well as requirements related to the management of the financial sector intervention and its aftermath. Other conditions, however, dealt with a wide span of issues not directly related to the crisis. These conditions were seemingly intended to renovate Indonesia's political economy, especially through the breaking up of the monopolies and sweetheart deals that benefitted the Soeharto family and its allies.[27] Unsurprisingly, there would be a strong desire for IBRA to be wound up on time (in 2004) and for Indonesia to exit its IMF program as promptly as possible. Even though progress on restructuring and asset sales had been slower than expected, there was strong pressure on the agency to do whatever it took to finish on time and dispose of as many assets as possible.[28]

Before beginning this research, I had had accepted the assumption IBRA had a checkered history, especially in terms of its poor recovery of funds used to bail out the profligate conglomerates that caused the crisis. There are rich narrative accounts of the development of the crisis in Indonesia, in particular the cat and mouse game that played out between the Soeharto regime and international creditors over the conditions attached to the terms of the IMF-led bailout.[29] Less has been written about the agency and its work from a legal, institutional, and political economy perspective, even though the work IBRA carried out has consequences even today, most evident in Syafruddin Temenggung's extraordinary acquittal of charges of corruption based on his approval of the Nursalim PKPS as completed. This was the first-ever acquittal in a case brought by the Corruption Eradication Commission (KPK).

---

22 Data from World Bank World Development Indicators, annualised percentages.

23 See Boediono (2016: 199-200).

24 See World Development Indicators, current US$ GDP.

25 See Ramesh (2009: 82).

26 For a list of conditions, see Feldstein (2003: 396-399). See Rafick (2008: 123-138) for an example of the resentment of conditionality as extraordinary imposition on what should have been sovereign policy.

27 See Beeson (1998).

28 Anonymous (Interview, June 2017). Asset sales also accelerated during 2003-2004 (see Tables 5.7 and 5.11).

29 See, among others, Nasution (1998), Hill (1999), Hill (2000a), Enoch (2000), Enoch et al. (2001), Pangestu and Habir (2002), Batunanggar (2005), and Matsumoto (2007).

Others seemed to share my assumptions about IBRA and its work. When mentioning my research to Indonesians and Indonesia-focused scholars or researchers, I often elicited either a wry smile and condolences for embarking on such a pointless task, or, conversely, a barrage of questions about how exactly Indonesia's largest conglomerates had fleeced the government for billions of dollars. Such frustration is understandable, especially considering how many of IBRA's largest obligors succeeded, in the decade following the crisis, at reestablishing their position atop the heights of the Indonesian economy. Table 1.1 and 1.2, below, compare the private sector landscape shortly before the crisis and then nearly two decades later. Such was the scale of the crisis that most major groups had substantial obligations to the government, but, despite some contrary assumptions in the wake of the crisis,[30] most major groups – even those with substantial debts to the government – succeeded in rehabilitating and growing their businesses after the crisis. Otherwise, as shown in Table 1.2, the main post-crisis trend was the expansion of foreign-owned groups.

Table 1.1: Major private Indonesian corporates in 1996 by estimated assets[31]

Group	Owner/family	Sector interests	Est. assets (US$ billion)
Salim*	Salim	Food, cement, automobiles, banking	18.1
Sinar Mas*	Widjaja	Plantations, pulp and paper, banking, real estate	17.2
Kalbe Pharma	Boenjamin Soetiawan	Pharma, financial	15.4
Gadjah Tunggal*	Sjamsul Nursalim	Tyres, chemicals, cement, agribusiness, banking	15.2
Danamon*	Usman Admadjaja	Banking, real estate	11.9
Astra	Barito Pacific; Sampoerna; Salim	Automobile, plantation, banking	9.9
Lippo*	Riady	Banking, real estate	8.9
Ongko*	M Hasan; Kaharudin Ongko	Banking, real estate, ceramics	5.4
Ometraco	Ferry Teguh Santosa	Agribusiness, trading, real estate	4.6
Dharmala	Suhargo Gondokusumo	Trading, animal feed, banking, real estate	3.6
Bakrie*	Aburizal Bakrie	Steel pipes, plantation, mining, telecom	3.5
Panin	Gunawan	Banking	3.4

* Significant IBRA obligors

30 For example, Sato (2003: 39) wrote about the "break-up of ethnic Chinese business groups with bank holdings" and the "dismantling" of the Salim Group.

31 Ibid.: Table 2.

Table 1.2: Major private Indonesian corporates in 2017 by estimated assets[32]

Group	Owner/family	Sector interests	Est. assets (US$ billion)
Astra^	Jardine Matheson	Automotive, plantations, mining	13.6
Salim*	Salim	Food, telecommunications, automotive, property, infrastructure and mining	11.8
Djarum	Hartono	Banking, Cigarettes, Plantations, electronics	8.4
Sinar Mas	Widjaja	Pulp and paper, agribusiness, energy, property, financial services	8.3
Phillip Morris/ Altria^	Philip Morris/Altria	Cigarettes	7.1
Lippo*	Riady	Property, retail, healthcare, education, media	6.8
Gudang Garam	Wonowidjojo	Cigarettes, plantations	6.5
Royal Golden Eagle	Sukato Tanoto	Pulp and paper, plantations	5.1
Temasek^	Singaporean government	Banking, telecommunications	3.5
Modern	Djoko Susanto	Retail, minimarts	3.4
CT	Chairul Tanjung	Finance, media, retail, property	3.3
Bakrie*	Aburizal Bakrie	Mining, telecommunications, property, toll roads	3.2
Unilever^	Unilever	Consumer goods	3.0
Charoen Pokphand^	Jiaravanon	Animal feed**	2.8
Wings	Eddy Katuari	Consumer goods, property, plantations	2.7
Triputra	TP Rachmat	Mining, plantations, finance, transportation	2.7
Adaro	Edwin Soeryadjaja; Boy Thohir; TP Rachmat	Mining, power	2.5
Standard Chartered^	Standard Chartered	Banking	2.4
Indosat Ooredoo^	Qatari government	Telecommunications, finance	2.2
Gadjah Tunggal	Sjamsul Nursalim	Tyres, retail, manufacturing	2.1

* Significant IBRA obligors
** Purchased PT Dipasena Citra Dharmadja from PT PPA in 2007.
^ Foreign-owned

Understandably, many appraisals of IBRA are largely negative and focused on the failure to recover anything close to the nearly 650 trillion rupiah of public funds spent on the financial sector rescue package (in GDP terms the largest bailout in history).[33] This thesis attempts to deploy more nuance than simply pointing to what most would characterise as

32 See GlobeAsia (2017).

33 See, among others, Sato (2003), Daruri and Edward (2004), Rafick (2008), Robison and Hadiz (2004). It should be noted that only 620 trillion rupiah of this amount was 'assigned' to IBRA (BPK 2006a).

IBRA's poor performance in the recovery of state funds as evidence of a 'weak state'. To be certain, there are examples of IBRA obligors that either failed to cooperate with IBRA to resolve their obligations or, for virtually all major PKPS, surrendered assets that yielded but a small share of the total cost to the government of rescuing their banks.[34] Some cases (such as that of PT Dipasena, examined in Chapter 6) are particularly egregious in terms of the government simply being left 'holding the bag' for what before – not to mention after – the crisis were wealthy conglomerates.

Nonetheless, this research did find that the state recovered more than 200 trillion rupiah of the top-line cost of the crisis (see Chapter 5). As discussed in Chapter 8, any appraisal of this performance is largely a function of one's perspective as to what IBRA was intended to accomplish. Was it, per its formal responsibilities, required to carry out the financial sector interventions and rehabilitation and, subsequently, recover the greatest share of public funds possible? Or, was it, instead, responsible for punishing the Indonesian corporates that created the large losses that during the crisis pushed much of the banking sector into insolvency?[35] As a senior IBRA official observed, a core part of the broad dilemma facing the Indonesian government was how to deal with a situation where illegal and corrupt practices were the norm across the banking sector. As they noted, "100% of bankers in the banking system were guilty of being in the system, so you cannot then lock up everybody".[36] As the thesis explores, accepting this reality prompts inevitable questions about the relevance of retaliation or justice to IBRA's work.

Existing research

As for many topics in Indonesia, the task of researching IBRA was made more challenging because of the lack of a clear and authoritative source of information and data about the agency and its work. IBRA itself was clearly committed to transparency (presumably a function of its close cooperation with Indonesia's international creditors), and it released a span of annual reports and monthly updates about it activities, some of which can be obtained today.[37] IBRA official Muhammad Syahrial (who would later become CEO of PT Perusahaan Pengelola Aset (Persero), a state-owned enterprise set up to receive undisposed IBRA assets in 2004), described his efforts to set up an archive of IBRA-related files and documentation.[38] In 2010, however, the Ministry of Finance building that housed the archive was sold and many files were damaged, separated, or simply lost. Indeed, neither the Ministry of Finance, nor the State Enterprises Ministry (which took over oversight of IBRA midway through its term), include any historical account of IBRA on their

34 For most major PKPS, the former bank owners provided assets the yielded but a fraction of their total obligation (see Table 6.5). Similarly, for bad debtors, the larger share of credit assets were also sold for a fraction of their value (see Table 5.7)

35 As Muhammad Syahrial (Interview, January 2017) observed, many expected IBRA to mete out punishment, regardless of the fact that, for example, rules prohibiting owners from buying back their assets almost definitely prevented IBRA from realising the highest possible returns.

36 Interview, October 2019. They added the government arguably partook in some of the dodgy governance practices and also turned a blind eye, either directly or indirectly, to these problems.

37 I was not able to find a complete, or even partially complete, repository of IBRA publications. Many were on its website, when active. An array – seemingly random – of hard copies is available in the National Library of Australia.

38 See Email Correspondence (26 October 2016) and Interview (January 2017).

websites.[39] According to Syahrial, the Ministry of Finance declined to endorse the 2006 BPK audit of IBRA.[40] Indeed, as I learned from my research, such details are consistent with the overall feeling, especially among many officials and politicians, ex-employees of IBRA, and business leaders, that any in-depth or critical examination of IBRA is a fraught and pointless errand best relegated to history.

The IMF produced several working papers with considerable detail about the crisis and practical issues relevant to IBRA's establishment and function.[41] Other economists tended to focus on the 'surprising' nature of the crisis given the existing assumptions about the strength of the Indonesian economy and the viability of the country's current account and fiscal position.[42] The political economist Stephen Haggard provided several contemporaneous and rich accounts of the unfolding of the crisis and policymakers attempts to manage and arrest its damage.[43] Less, however, has been written from an institutionalist or analytical perspective specifically about IBRA and its work. Again, a main original contribution of this thesis is its close parsing of specific IBRA tasks through the use of primary source documents not publicly available or used by other scholars.

Political scientists have tended to focus on explaining the political sea change that occurred with the Soeharto regime's May 1998 collapse.[44] One notable work is political scientist Thomas Pepinsky's comparative study on the implications of financial crises for authoritarian regimes.[45] In-depth discussion of the Indonesian and Malaysian cases supports a theory of why Malaysia's authoritarian government survived the crisis, whereas the Soeharto regime collapsed amid chaotic policymaking and an economic meltdown. It argued that political coalitions translate their interests into policy outcomes, and, when facing a financial crisis, an authoritarian regime's ability to adopt certain policies is dependent on the composition of its coalition[46] So, Indonesia's coalition of mobile and fixed capital (versus Malaysia's one of fixed capital and labour) meant an open capital account and orthodox macroeconomic policies. As discussed in Chapter 3, such policies allowed for capital flight and the looting of central bank liquidity provided to private banks. Notably, the Soeharto regime's seemingly incoherent policy machinations – in particular its back and forth confrontation with the IMF – actually reflected its logical, albeit eventually unsuccessful, efforts to hold together its underlying distributional coalition.[47]

---

39 The State Enterprises Ministry does include a basic profile – seemingly five years out of date – of PT Perusahaan Pengelola Aset, the state enterprise established to receive assets remaining with IBRA at the end of its term in 2004.

40 The audit was commissioned by the legislature and did not, technically, require the Minister of Finance's approval.

41 See Enoch (2000) and Enoch et al. (2001).

42 See, for example, Hill (1999: 93-96) or Hill (2000a: 120-123).

43 The most complete work is Haggard (2000). Although particularly rich on the evolving policy response to the crisis, this account is less focused on IBRA; the most detailed discussion relates to the inherent weakness in the design of the bank recapitalisation program (referenced in Chapter 5, below).

44 See Aspinall (1999: 134-139).

45 See Pepinsky (2009). The thesis has limited engagement with this persuasive and engaging work, which focused largely on the regime's mid-crisis policy decisions. As Chapter 4 shows, these policy details are an important backdrop to the thesis, which then devotes much of its empirical work to IBRA and its functioning. Pepinsky mentions IBRA but a handful of times, and it does not receive close scrutiny within his framework.

46 Ibid.: 264-265.

47 Ibid.: 116-118.

Other accounts have tended towards an *a priori* hostility to the concept of the bailout and convey the clear belief that wealthy conglomerates were able to get off with substantial unpaid obligations to the government.[48] From a policy perspective, this is perhaps a valid critique, but, in general, such arguments are most compelling if one is engaged primarily with a sense of natural justice, rather than specific policy choices or alleged violations of law.[49] This thesis's weak state framework attempts to situate IBRA within a broader institutional framework, setting aside normative judgements in favour of more detailed analysis of the legal, historical, and state-focused factors underpinning these empirical outcomes.

I did consult several PhD dissertations more consistent with this study's dispassionate and analytical aspirations. One, by Jacqueline Hicks, cast IBRA as a site of negotiation over conglomerates' debts within a broader argument about post-Soeharto change to the systems mediating the distribution of wealth.[50] So, for example, during the late-New Order access to credit was an important determinant of private sector success, but after the crisis the Indonesian government effectively became the corporate sector's key creditor. Thus, she argued, the negotiations related to these debts could be explored to learn more about state-business relations. Another work is Taufik Mappaenre Maroef's legal examination of the Shareholder Settlement Agreements IBRA concluded with ex-bank owners.[51] The thesis framed the contracts, as I agree, as a pragmatic, 'out-of-court' approach. Similarly, some of Yuri Sato's work has focused on the nationalisation of large swathes of the banking and corporate sector – and subsequent reorganisation of economic ownership through IBRA – as indicative of fundamental renovation of the relative positions within the Indonesian economy of foreign, *pribumi*, and Chinese-Indonesian capital.[52] Accordingly, IBRA, as a "political agency" with "political policies", reflected the emergence after Soeharto of more numerous centres of power and contests over economic policies.

It seems plausible there have been fewer analytical accounts of IBRA and the financial sector rescue package because of the massive scale and confusing nature of the financial crisis. Moreover, that the crisis also unleashed monumental political change, with the replacement of an authoritarian system that for three decades seemed nearly unassailable, and this probably contributed to an understandable focus on the drivers and results of this political change. Based on this research, the collective view of IBRA is also a consequence of the belief that many Indonesian conglomerates successfully worked through – or around – IBRA to escape their obligations to the Indonesian government.[53] As indicated in the data presented in Tables 1.1 and 1.2, above, there has been much continuity atop the

48 As mentioned, Daruri and Edward (2004) report IBRA achieved a 'recovery rate' of 1-2% of the total cost of the financial rescue package. Batubara (2008) wrote a book about BLBI that stridently criticised the PKPS approach. Brown (2002), an unpublished consultant's report I discovered independently late in my research, is based on interviews with some development practicioners and frames the exploitation of IBRA by large conglomerates as indicative of Indonesia's 'rentier' economy.

49 See, for example, Aditjondro's (2010: 141-143) larger attempted exposé of the 2008 Bank Century bailout for a discussion of BLBI and the Nursalim MSAA.

50 See Hicks (2004).

51 See Maroef (2010), which I consult liberally in my discussion, below, of the PKPS program.

52 See Sato (2003: 48).

53 See Dieleman (2007: 108-112), including on IBRA as a 'source of controversy' related to the sale of assets for less than the value of the obligations they were pledged to resolve.

heights of the Indonesian private sector, and groups with significant IBRA obligations – virtually all of which were settled for a portion of the total cost actually shouldered by the government – have recovered much of their wealth. This has prompted clear skepticism about the quality or usefulness of the agency and its work. Although I mostly try to set aside normative judgements, I hope that this work contributes to a greater understanding of the agency and its actual performance (for example, by presenting and explaining the data on its work to settle the obligations of bank owners). Furthermore, as I strive to demonstrate, any assessment of IBRA's performance should not be taken in isolation from the features at the heart of weak state framework explored through this research.

'Visi Misi' and the state-focused concept

Why study the state? Perhaps the most compelling reason is that virtually all people inhabit one. To put forward a simple definition, a state is a territorial expression of sovereignty, wherein a 'territory' is a physical space that can be gazetted and delineated and 'sovereignty' is the absence of an external, competing authority.[54] States are intuitively associated with the premise of 'government', which is the institutional framework that animates everyday – and otherwise abstract – state authority within our lives. All communities have some form of government; not all, however, have a state.[55] Furthermore, despite the relative continuity of the world geopolitical map and the vanishing of 'non-state space', state-like actors are born and extinguished on a regular basis,[56] although some disagree about the 'state-ness' of actors not validated through the international system.[57] In light of states' ubiquity, however, it is not surprising that they have therefore piqued the interest of many social scientists, including those seeking explanations of cross-national divergences in development, social policies, and political configurations.

Although not comparative, this thesis argues that the state serves as an essential basis for the explanation of empirically observable political, economic, and sociological outcomes. Notably, seemingly disparate states – that is, those with divergent political systems, histories, or levels of wealth – still manage to deliver some form of security, rule of law, or rising standards of living. On the other hand, others, including even those that share some attributes with 'effective' states, still struggle to meet these standards.[58] For example, some authoritarian governments that have enjoyed considerable political longevity also still appear illegitimate because they preside over disastrous development, public health, or human rights outcomes.[59] In Egypt, President Hosni Mubarak achieved land reform and

54 See Nelson (2006: Chapter 2) for an overview.
55 Ibid.: 8-9
56 An example of each is Islamic State of Iraq and al-Sham (ISIS) and the United Wa State Army, which was, prior to a truce with Myanmar, the largest narcotics trafficking organisation in Southeast Asia, with a political arm and administered territory (Marshall 2002). ISIS, on the other hand, grew from a terrorist group into an army with a developed political leadership capable of building state-like institutions (Lewis 2014: 9).
57 ISIS presents itself as the sole legitimate state and therefore seeks to destroy the international system. It does not, however, simply emphasise conquests or martial prowess, but also its performance of state functions (ibid.).
58 See Besley (2011: n20).
59 See Vu (2010b: 165) who noted, while discussing Levi (2002) and Tilly (1990), that not all states are legitimate, while not all hold a monopoly on violence.

economic growth but failed to triumph over rich peasants and their local political retainers.[60] In Mexico, despite some impressive economic achievements, the state often fails to exercise the 'monopoly of violence' that is, according to Weber and his intellectual descendants, its essence.[61] Scholars explain such divergences in a variety of ways, including geography, climate, religion, culture, social capital, political systems, colonial experiences, and technical challenges.[62] Others, however, have focused on the state, arguing that variations in state 'strength' – some combination of cohesiveness, effectiveness, or power – explain these divergent outcomes.

There is theoretical debate about how states' attributes and structures connect to their effectiveness among the group of political science, economic history, and sociology scholars who focus on states. Initial efforts argued that military competition in pre-modern Europe prompted the rise of states as coercive extractive organisations best suited to the financing and organisation of military power.[63] Therefore, scholars reasoned that some state were more successful due to their *relative* productive and organisational capacities for armed conflict.[64] In more modern times, however, most states have been forged not through war, but instead because of the withering of a European colonialism and its system of economic control. As a result, contemporary theories incorporated other factors, not the least the substantial expansion of tasks for which the modern state is responsible. Chief among these is the creation of conditions for economic growth, and, naturally, there is considerable scholarly discussion about the optimal state forms for achieving it.[65] The next chapter examines relevant literature about the state and its economic tasks. Before doing so, however, this section provides necessary background about the influential state-focused literature. This discussion, by nature, falls short of what we innately know about the state's presence in our lives, such that more modern and applied themes are introduced and considered in the following chapter with the purpose of defining a 'weak state'.

What do states do? Although far from the first thinker to consider the state, Weber's focus on its functional institutions and defining capabilities is a compelling jumping-off point. Like other sociologists, Weber's materialist approach conceptualised a state in terms of its 'means', rather than an ethical or idealised concept of 'ends'.[66] Earlier definitions focused on more procedural attributes such as legal sovereignty or international recognition.[67] Yet others focused on the state as a form of 'political society' with the unique position of ruling on the inclusion or exclusion of members.[68] Weber's celebrated sociological study, *Economy and Society*, defined states as "compulsory associations claiming control over

60 See Migdal (1988: 188-195) and Evans (1995: 36).

61 For a contemporary account of the Mexican state's inability to control violence against journalists in their home provinces or, increasingly, sheltering from this violence in the nation's capital city, see Guillermoprieto (2015).

62 See, for example, Diamond (1997), Sachs (2006), Huntington (1993), Putnam et al. (1994), La Porta et al. (1999), Acemoglu et al. (2001), Banerjee and Duflo (2011).

63 See Tilly (1985).

64 See Kennedy (1989: 536-537) for a history of Great Power competition. Though international relations are not a subject of this study – nor are the largely exogenous geographic and population endowments that also determine such outcomes – this is a useful expression of a generic principle about the earliest 'state tasks'.

65 See, for example, Johnson (1982), Evans (1995), Kohli (2004), or Acemoglu and Robinson (2013).

66 Nelson (2006: 107-109) reflects on the divergence from Hegelian historicism.

67 Based on a discussion in Barker and Klinken (2009: n8).

68 See Stevens (1999: 56).

territories and the people within them".[69] From the perspective of would-be citizens, perhaps the most compelling factor rendering the association compulsory is the state's 'monopoly on legitimate violence', and Weber defined the modern state as "a compulsory association which organises domination…[it is] a relation of men dominating men, a relation supported by means of legitimate (that is, considered to be legitimate) violence."[70]

States differ from from tribal societies because they posses a single, centralised source of sovereign authority, which, through its relationships with society, imbued its various functional organs with derived authority.[71] As mentioned above, scholars emphasised the importance to the state of conflict, which also allowed it to portray itself as "the universal agent of societal interests".[72] One celebrated theoretical account reduced the modern state to four activities: war making (that is, eliminating external rivals); state making (that is, eliminating internal rivals); protection; and extraction, which funded the first three.[73] Marshalling force required advance preparation including the construction and interbellum maintenance of both trained armies and the administrative mechanisms for taxation to support these martial capacities. The state defended and expanded its monopoly because the finance, production, and control of violence involved large economies of scale and, therefore, any competition – or abstemious citizen consumers – would lead to unacceptable cost increases.[74] For some, the earliest states were formed when 'violent entrepreneurs' became 'stationary bandits' and graduated from the natural state of roving banditry to the more administrative, albeit still violent, tasks associated with securing a territory.[75] In theory, the divide between legitimate and illegitimate violence became more clear as the 'elastic' legitimacy of bandits, pirates, tax farmers, local lords, and mercenaries was translated into powers increasingly and solely vested within the state apparatus.[76] The premise of 'violent entrepreneurs' echoed the fine line between the 'legitimate violence' of a king claiming diving rights and profiting from sedentary extractions versus the 'illegitimate' violence of outlaws' opportunistic and mobile approach to extraction.[77]

The earliest states were patrimonial extensions of the ruler's household, but eventually a ruler was no longer able to maintain a staff of dependents large, transparent, and disciplined enough to effectively administer the realm and its growing extractive functions.[78] As a result, hybrid states followed: the Mughal 'patrimonial-bureaucratic' state

69 Cited in Evans (1995: 5) and Loveman (2005: 1651), from (Weber 1978: 54).
70 See Weber (1991: 78).
71 See Fukuyama (2012: 80-81) for a useful overview. Some see a chiefdom as an intermediate step, with centralised, albeit more fluid, authority but lacking standing armies or extractive institutions.
72 See Evans (1995: 5).
73 See Tilly (1975: 1981-1982). See also Vu (2010b: 151-158) for an overview of scholars who qualified Tilly's theory.
74 See Tilly (1985: 172-175).
75 See Olson (1993: 568-569).
76 See Tilly (1985: 170-173), also Tilly (1990).
77 See Olson (1993: 675). Fukuyama (2012: 304; n2-3) challenges Olson's "stationary bandits" thesis that autocracies carry out the highest rates of extraction, as empirical observations show democracies tax at far heavier rates than autocracies to spend more on public goods and/or redistribution. Also, consider Rothstein and Uslaner's conclusion (2005: 59-64) that state capacity is required for effective redistributive social policies (which, when universal, build social trust), and Acemoglu et al. (2011: 181-182) on an inefficient state structure as an alliance between elites and bureaucrats to avoid future redistributive policies.
78 Economists explain this tendency with firm theory: the larger an organisation, the greater the problems of command and control (Bean 1973: 204).

empowered qualified non-dependents to carry out state functions not for fixed salaries but concessions or revenue sharing instead.[79] A later innovation, the tax farm, saw capitalists acquire extraction rights through tenders.[80] The eventual shift to a procedural, impersonal bureaucratic corps helped eliminate local competitors to state power, a process that could, naturally, involve violence, but also could be more tidily achieved with sinecures, estates, and, of course, exemption from taxation.[81] In return for the institutionalisation of its extractive powers, the state offered society security, property rights, rule of law and courts of appeal, political representation, and, later, redistribution and public goods.[82] Like violence, goods like property rights were subject to economies of scale, meaning total economic efficiency would increase through specialisation (under the state) with individuals able to devote fewer resources to the protection of their own property.[83]

Technological advances increased the 'minimum efficient size of state' as higher levels of military organisation required larger and more sophisticated and centralised extractive organisations to manage and fund increasingly large standing armies.[84] Armies were not, however, perfect tools in securing a ruler's grasp on power.[85] Although Renaissance-era states succeeded in part through engagement with innovations in financial markets, non Euro-centric studies have shown how pre-modern states' depended on agricultural surpluses, which were limited by the efficiency of transportation and therefore required the concentration of citizens. These pre-modern states were based on a 'concentration of manpower and grain', with the most effective ones maximising available manpower through the binding of as many possible subjects – including slaves or conflict-derived human booty – to sedentary and legible agricultural systems.[86]

State power, including both its war-making and administrative capacities, did not necessarily lay uniformly across its domain.[87] An explanation for this unevenness is James C. Scott's premise of 'legibility', which he defined as the 'central problem of statecraft', essentially the state's efforts to overcome its fundamentally limited knowledge of quantities, yields, spatial locations, and other values relevant to the lands and peoples that fall within its territory.[88] This dilemma begets the state's impulse to 'map' people and

79 See Blake (1979: 78-80), also Weber (1978) and Fukuyama (2014: 59-65).

80 See Phongpaichit and Baker (1995: Chapter 3) on tax farms in Thailand, including how their decline coincided with the growing power of a centralised, military-led state.

81 See Braudel (1995) or Tilly (1985: 174-175). Even pre-modern states provided, in exchange for taxes or tribute, public goods (Blanton and Fargher 2008).

82 Acemoglu and Robison (2008) framed state formation as driven by elite domination through investment in *de facto* power. See other citations in in Loveman (2005: n2). See also Pula (2015: 637-638); Tilly (1985: 182-183); and Scott (2009), Weber (1978), Tilly (1978) on a state's organisational expansion to win over those resistant to state incorporation.

83 See North (1979: 252) and North (1981: 23).

84 See Bean (1973: 220-221) on the state's administrative consequences of changes in military organisation. Tilly (1985: 178) saw water-based transport as reducing the 'friction of distance' to the benefit of certain states.

85 As Kennedy (1989: 71-72) observed, "armed forces were not, therefore, predictable and reliable instruments of state," and even the most powerful of kings constrained by "financial difficulties, mutinies of troops, inadequacies of supply, domestic opposition to higher taxes…". Richelieu observed, "history knows many more armies ruined by want and disorder than by the efforts of their enemies…".

86 See Scott (2009: 64-79).

87 Ibid.

88 See Scott (1998: 2).

places, evocative of Plato's city planning and Roman *castra*.[89] The pursuit of legibility to support functions like taxation or security prompts the state to establish capacities or institutions with the goal of overwriting localised power structures that are, in bureaucratic terms, more 'illegible' to the state.[90] This process requires the creation of a type of 'shorthand' or a descriptive, but by nature partially subjective, simplification of local practices for incorporation into the state's bureaucratic grid.[91] Pre-modern states 'sculpted' their territory, so that "the ruler...maximises the state-accessible product, if necessary at the expense of the overall wealth of the realm and its subjects...[and] attempts to arrange its subjects and to sculpt the landscape around it in order to make it a legible field of appropriation".[92] Although seemingly abstract, this 'sculpting' captures an array of mundane administrative initiatives, from the creation of permanent last names, to execution of cadastral surveys, the establishment and maintenance of units of measure, the design of cities, and the invention of freehold tenure.[93] Each activity by nature required the state interact with society, for example to eradicate networks of informal economic production, deploy administrative tools, and 'other' populations or practices that fell beyond the absolute control of the state.[94]

In essence, these ideas suggest the importance not of what states *are* (much of which is hopelessly abstract), but instead what they do with their authority. As violence and martial prowess has become less central to what states are expected to do, this focus on means has been reinforced. The state cannot, as most readers will intuit, act on its own (or as an edifice), and instead the mechanics of governance rely on actors and organisations – not to mention histories, ideologies, and rituals.[95] Weber, focused on the eradication of patrimonialism, moved beyond the 'monopoly of violence' to include a legal system and an institutionalised bureaucracy with measures such as fixed salaries, a procedural hierarchy of offices, lifetime employment, and restriction of civil servants from holding other posts.[96] Others avoided the 'monopoly on legitimate violence' and instead focused on the 'concentration' and a confinement of 'legitimacy' to the international sphere; Levi, for example, defined the state as "a complex apparatus of centralised and institutional power that concentrates violence, establishes property rights, and regulates society within a given territory while being formally recognised as a state by international forums".[97] Ultimately, the importance of examining the applied outcomes of state power – as well as analysing

89 Ibid.: 55, 382.

90 Ibid.: 24. Scott's state-opposed force is *mestis*, the embodiment of local expertise and knowledge. He dissects disasters of state planning and policy borne of 'high modernism' and the uncritical embrace of technical rationality. See Stimson (2000: 822-826) and Parris (1999: 311-313)

91 The shorthand was approximate: "Backed by state power through records, courts, and ultimately coercion, these state fictions transformed the reality they presumed to observe, although never so thoroughly as to precisely fit the grid." (Scott op cit.)

92 See Scott (2009: 74). The quote continues, "When successful, the result in mainland Southeast Asia has been the social creation of a uniform agro-ecological landscape based on irrigated wet rice…".

93 See Scott (1998: 2).

94 See Scott (2009: Chapter 3, especially 77-79, 91-94). Of particular interest are state avoidance 'tactics', including blended social structures, agricultural techniques, or residence in highland redoubts, to evade the state's bureaucratic grid. State 'runaways', escaped slaves, pirates, or heritics, have also long sought sanctuary spaces. See also Pula (2015), Buhaug (2010), Daxecker and Prins (2015).

95 See Nelson (2006: 7-8) and Mitchell (1999: 77). Abrams (1988: 60-65) notes the state is not a political reality, but an idea or series of techniques to legitmise domination.

96 Weber's criteria (1978: 220-221, also Fukuyama 2014: n3.4) supposedly ensure merit-based selection of civil servants.

97 See Levi (2002: 40), cited Vu (2010b: 165). See also Vu (2003: 252-67) on the importance of international legitimacy in the Indonesian case, as elites competed for resources and political power.

how the state accrues the means to implement such activities – is the focus of the following chapter, which sets out the thesis's 'weak state' analytical framework. As Chapter 2 shows, weak states are informal and contested in a way that influences the 'means' used to achieve the 'shared projects' that are their tasks.[98]

What the thesis does not do

Before concluding, it is necessary to elaborate several choices made in the selection of the literature that underpins my theoretical approach. So, this thesis intentionally avoids the 'Tocquevillian debate' about the theoretical impact of state structures on political culture or the democratic versus authoritarian institutions of governance.[99] For some sociologists, state power is theoretically important to explaining diverse political systems without emphasis on leadership, culture, or political parties.[100] Although this study's approach is informed by sociological literature, it largely avoids this debate and an accompanying discussion about the consolidation or quality of Indonesian democracy,[101] even though this is an important issue and one of much interest to scholars. Therefore, although many studies of Indonesia during this era allocate theoretical space to political science debates, this study largely tacks away from the main doctrinal debates about the effects of democracy on legal, social, and economic outcomes.[102] As discussed in Chapter 2, much of the literature focused on states and developmental outcomes does not find a clear effect of democracy.

This choice also reflects the study's challenging of models that frame policy, or 'reform', as a leading driver of change.[103] For one, such models overemphasise the coherence of policy, but they also, as Barry Naughton has observed about accounts of elite-led policy change in China, tend towards personality-driven 'morality plays' that overlook the often-pivotal roles of money, patronage, interests, and networks.[104] Similarly, this study also discusses, albeit to set aside, the Marxist-inspired argument that states are a means of coercion that arose following the rise of a post-industrial division of labour and are therefore exclusively 'the political arm of the ruling class'.[105] Marx and Engles believed the state would only

98 On 'shared projects', see Kohli (2004: 12-16), Evans (1995: 29-32; 82-83), or, on the social 'embeddedness' of markets, Lipton (1991: 27).

99 Ciepley (2000: 157-158) historicises American state-focused scholarship, including Skocpol's (1985: 28) interest in political formations. Acemoglu and Robinson (2006) focus on the interaction of states' economic institutions and their politics, while Kohli (2004) explains growth in the global periphery through post-independence elite politics and class alliances, in part inspiring Vu (2010a) to point to elite 'polarization' and mass 'suppression' as supporting effective developmental states. Similarly, Tudor and Slater (forthcoming) argue that programmatic and inclusive nationalist ideologies at the time of independence support stable latter democratic institutions.

100 See Moore (1993), Rueschemeyer et al. (1992), or, for a study of contemporary Vietnam, Gainsborough (2010: 9).

101 See references cited above, especially Liddle and Mujani (2013).

102 This includes, for example, 'oligarchy' theory. See Ford and Pepinsky (2013) for a good introduction.

103 As discussed in Chapter 3, some studies, both under the New Order and today, focused on 'technocratic' policymaking or President Soeharto's personalised intermediation of different, competing interests.

104 See Naughton (1995). See also, for example, Buehler's (2014: 162) critique of the 'enlightened leadership' theory of changing state-society relations.

105 See Engels, quoted in Stepan (1978: 20), "The State…in all typical periods is exclusively the machine of the ruling class, and in all cases remains essentially a machine for keeping down the oppressed, exploited class."

exist during a transition period, during which time it would 'enmesh, control, regulate, superintend and tutor civil society'. After this, however, the state would become repressive and the 'dictatorship of the proletariat' would then bring about the eradication of class structures and the abolition of the state.[106]

Ultimately, instead of treating the state as an expression of class structures, this thesis's approach is most consistent with the premise of the elitist state, which is an expression of the modes of power concentrated within a small – albeit at times changing – elite.[107] It tends towards the 'institutionalist' literature that arose to challenge neo-Marxist analyses of the 1960s and 1970s.[108] Institutionalism is closely associated with sociologists, but it also appeals to economists (for example, 'new institutionalism', discussed below), and this thesis is eclectic about these divisions while hewing closest to a 'historical' or 'sociological' institutionalism.[109] This is not to say that class interests are unimportant for understanding the interaction of dominant groups with the state, or that state structures are not influenced by class struggle, but rather that a Marxist dialectical framework is unsatisfactory for contemporary analysis of states. This is largely because many Marxist approaches (including neo-Marxists as well as structural-functionalists) do not accept the state and its institutions as playing an independent role in the process of governance.[110]

Ultimately, this study begins from the premise that comparative historical analysis demonstrates how state-centric factors other than the classes or interest groups under Marxist and pluralist approaches contribute to political, socioeconomic, and legal outcomes.[111] The state is an actor that, as a result of its capacity, cohesiveness, history, and relationships with society, explains observable social and economic phenomena.[112] As Stepan's study of Peru's 'organic statism' showed,[113] the state is a site for actions, however effective or ineffective, to develop and implement policies that structure relations both between society and public authority, as well as within society more broadly. As discussed above, Scott's state attempts to render more systematic the field of its interactions with society so as to maximise its field of appropriation. These are important observations for Chapter 2's analytical framework. Finally, weak states must be clearly distinguished from failed states, which fail to provide citizens with adequate public goods, such as security or

106 Ibid.: 25.

107 It also ignores pluralism, which also deemphasizes the state, seeing it as an expression of the wants of various societal groupings or interest groups (see Hay et al. 2006, cited Barker and Klinken 2009: n1).

108 See Hall and Taylor (1996: 936-942, 946-950) on institutionalist approaches.

109 This has been described as 'neo-statist'; Barker and Klinken (2009: 22-23) provide a useful discussion.

110 Stepan (1978: 21-26) discusses Marxist approaches.

111 See Skocpol (1985: 26-27).

112 Different state-focused literatures, especially economics versus sociology, tend to diverge about the state's engagement with society. Generally, this study uses 'society' in a sociological tradition to refer to the relational arena of interactions and customary practices that bind associations of peoples together. Although sometimes seen incorrectly as the antithesis of the state, this is not necessarily the case, because a functioning society is maintained through the cultural, political, and economic institutions of which the state is a part.

113 See Stepan (1978: xxi) on Peru's elite-driven authoritarianism.

justice.[114] Failed states often victimise their own citizens and can play host to a persistent culture of violence and conflict.[115] As the following chapter shows, there are different approaches to conceptualise a weak state, but most scholars agree that failed states experience deep, persistent violence at a civil level.[116]

Summary and conclusion

This chapter has served several purposes. First, it introduced the thesis's overall topic and the state-focused analytical framework. It identified some initial terms and the literature that provide the foundation for the weak state concept derived below. Importantly, the chapter also included an in-depth outline to explain each chapter's main topics.

Next, it described my experience researching IBRA, an important, albeit overlooked, piece of Indonesia's history. Perhaps the negative narrative about IBRA, an issue which I return to several times below, reflects the remarkable continuity of major Indonesian private sector players both before, and two decades after, the crisis. I also introduced some relevant literature that focused on IBRA, including several studies conversant with this thesis's state-centric, institutional approach.

Next, the chapter included a discussion about foundational efforts to study the state, including the Weberian focus on the 'means' of state action through the organisations and actors that ultimately animate state power. It also introduced Scott's concept of 'legibility', or the fundamental state task of integrating social knowledge and practices into its administrative grid. As expanded further in Chapter 2, below, this premise is important for the eventual synthesis of a weak state definition. Finally, the chapter concluded with a brief section that justified why the thesis must rule out certain questions or lines of inquiry relevant to its institutionalist or state-centric approach. This includes dispensing with the theoretical importance of state structures for democratic institutions of governance (or vice versa), or the Marxist conception of the state as purely a coercive mechanism for the ruling class. These issues are important preparation for the next chapter's establishment of the thesis's analytical approach.

114 See Rotberg (2010: 1-10) for definitions of 'strong', 'weak', 'collapsed', and 'failed' states.

115 See Collier (2009: 219-221).

116 Weak states may become failed states (Jimenez-Ayora and Ulubasoglu 2015: 168-169), but this is beyond the scope of this thesis.

Chapter 2: Analytical Framework

In addition to providing an overview of the thesis, the previous chapter introduced a basic Weberian model of the state. It began with the celebrated 'monopoly on violence' concept before surveying some literature on the origins of the state. Basic principles defined the state as a compulsory association enjoying sovereignty, or an absence of competitive authority, within a defined territory. External competition and the state's monopolistic approach to controlling and concentrating violence – both internally and against other states – resulted in extractive mechanisms.[117] Combined with the inherent limits of patrimonial administration, this extractive imperative prompted bureaucratic specialisation and growing state capabilities towards 'legibility', or the state's standardisation and incorporation of social practice and information into its administrative grid. This standardisation also provided the basis for property rights and further administrative centralisation and professionalism.[118] Eventually, the increasingly bureaucratic state's functions came to include, in addition to war making and extraction, the creation and enforcement of law and contracts, solving collective action problems, and investing in public goods.

As observed in the quotation from Anderson with which this thesis began, the state exists as "a curious amalgam of legitimate fictions and concrete illegitimacies". Confronting such an amalgam requires a thorough examination of how modern states go about their tasks. The literature discussed above, although conceptually illuminating about basic state functions, lacks satisfactory depth about the state, its ostensible object. It not only falls short of what we innately know about the modern state's role in our lives, but also overlooks the state's interactions with actors and forces not captured in the basic state model introduced in Chapter 1. The state cannot, of course, act alone, and achieving its objectives therefore requires the interaction of actors and organisations. The thesis argues that contingent features of the state have decisive implications for empirical outcomes related to the 'means' of state action, including public goods, economic development, and policy processes. As discussed below, these features are related to specific historical, ideological, and economic features.[119] States deploy different techniques and ideas not only to justify their existence, but also their claims on society's wealth, liberty, and labour.[120] Close examination of the state and its mechanisms for identifying and carrying out its objectives, or 'shared projects' due to the importance of gathering information and forging social coalitions, produces important insights about the political economy – or 'logic of power' - in that system. This chapter shows how scholars developed ideas about how these features were important.

---

117 See Tilly (1990) or Scott (2009) on external competition and violence.

118 'Fiscal sociologists' claim, *inter alia,* that elite alterations to the form and scope of extraction have decisive historical influence on state structure and strength (Brewer 1989; Campbell 1993: 176-178). See William Martin and Prasad (2014: 337-340) for an updated review of this literature. See Slater (2010: 36-47) on fiscal sociology.

119 Despite this, as the previous chapter noted, although states do tend to act in the interests of the most socially dominant groups, the thesis does not treat them as edifices of class domination, as neo-Marxist approaches might.

120 See Abrams (1988: 60-65) on states as not a political reality, but a series of techniques to legitimise domination. Anderson (1983: 477-478) discusses states binding themselves to the 'imagined community' of the nation. See also Anderson (2006).

This chapter prepares the thesis's analytical framework. To do so, it expands further on how scholars – mostly sociologists and economists – used the state to understand and describe the dynamics of power in a society. It proceeds as follows. First, following Chapter 1's overview of the basic, state-focused literature, it examines how post-war debates sharpened the focus on the role of an effective state. As the modern state's responsibilities increasingly involved economic management, I include a section focused on the state and private capital. Then, I establish a definition of the 'weak state', before a brief conclusion.

Before beginning, however, it is worthwhile to clarify my language, especially as this thesis spans several literatures and different scholars select different terms or give the same term different meanings. For example, Chapter 3 introduced some relevant studies interested in the Indonesian state that coin terms such as 'rhizome state', 'franchise system', or 'family state'.[121] For simplicity's sake, I frame the thesis's approach in terms of a 'weak state', but I also use similar terms such as 'ineffective state', which, like a weak state, has lower 'state capacity', 'effectiveness', or 'state power'. Scholars may, in turn, attribute these outcomes to 'non-cohesive', 'captured', or 'predatory' institutions.

This thesis uses the terms 'institutions' in line with the sociological view of the normative systems that help organise basic societal values. Institutions are formal or informal conventions, norms, or organisational procedures, and they are part of a society's overall political economy. Institutions are deeply related to organisations but may also include the symbols, moral templates, and cultural phenomena contributing to a socially constructed values system.[122] Similarly, I use 'society' to describe the relational arena of interactions and customary practices that bind associations of peoples together. Society is sometimes cast as the state's antithesis, but actually a functioning society is maintained through the cultural, political, and economic institutions of which the state is a part. When possible, if referring to a specific state or corporate entity, the thesis uses 'organisation' or 'agency' for clarity. As discussed above, unipolar sovereignty and internationally recognised territoriality is also an important baseline assumption about the state.[123]

The sociological response to the neo-utilitarian state

Given the thesis's institutionalist approach, a useful starting point for thinking about the post-war approach to states is the influential economic historian Douglass North's 'New Institutional Economics' (NIE).[124] This approach broke new ground with its assertion that both formal and informal rules – that is, institutions – mattered and economic tools could be used to study political and policy outcomes.[125] Due to the its unique capacity to exclude, the specification and enforcement of property rights were the kernel of the state.[126] The forms of property rights were not, however, deterministic. Innovations that expanded the

121 See, respectively, Baker (2015: 315-316), McLeod (2005: 369-371), and Bourchier (2014).
122 See Hall and Taylor (1996: 950-955) for a review.
123 Although non-internationally recognised actors perform state-like tasks – often in areas of multipolar sovereignty – it is important to rule such instances out for clarity's sake.
124 The following section, on states and economic management, returns to important NIE literature.
125 See also Williamson (2000: 595).
126 See North (1979: 250-252).

state's administrative capacity, such as the development or refinement of standards of measure and techniques for assessment, also enhanced both its extractive capacity and altered the delineation and enforcement of private ownership.[127] Therefore, variable costs of measurement – a consequence of technological variations, geographic distance, or the specific characteristics of different products – gave rise to distinct forms of property rights.[128] Different systems included federalism, centralised patrimonial bureaucracies, tax farms, or bailiff systems, and these divergences reflected different forms of compensation for administrative retainers due to variable monitoring costs. So, for example, if monitoring were relatively expensive, then a monopoly would be preferable to more efficient property rights because higher collective income would be undercut by more expensive monitoring and collection costs.

NIE is an essentially applied and rationalised theoretical descendant of a post-war economic theory called neo-utilitarianism, a reference to the utilitarian works of classical economists such as Smith, Locke, Bentham, and Richardo.[129] These ideas became influential under the US-led international order, which framed World War II as a consequence of 'international economic malfunctions' like protectionism and economic isolationism.[130] Many American pre-war economic thinkers were of progressive social democratic stock and, impressed by the use of central planning during World War I, committed to state-centric models of economic planning.[131] The need for a coherent intellectual opposition to 'totalitarianism' (a catchall for fascism, Nazism, and Communism) led, especially in the United States, to the revival of 'laissez-faire' economic principles.[132] Civil liberties were also 'rediscovered' and democracy 'reinterpreted' as a foil to totalitarianism, which "became the photographic negative that fixed, and in many respects continues to fix, the self-image of Western democracies".[133] The United States therefore became committed to both an international system as well as the promotion of specific governments that best fulfilled the needs of Western capitalism.[134]

Like pluralism, which framed society as self-regulating and interest groups as freely combining, neo-utilitarian theory viewed the market as self-regulating and state as a passive mechanism for interest group aggregation.[135] Neo-utilitarianism's core dilemma unfolds from the assumption that incumbents require supporters, who, in turn, require inducements in the form of the proceeds of rent-seeking activities. Therefore, it assumed that public actors would not behave in the public interest such that the best weapon against their ingrained tendency towards 'state capture' was an idealised 'nightwatchman'

127 Ibid.: 254-256.
128 See Barzel (1997: 1-10).
129 Sociologist Talcott Parsons described the neo-utilitarianism as "a frame of reference based on the action of the individual, but…extended, in ways that led direct to the conception of 'social system,' to include the interaction of an indefinite plurality of individuals" (cited Bergesen 1980: 2).
130 See Balfour (1981: 14), cited Kennedy (1989: 596, n41)
131 See Ciepley (2000: 163-165, 167-170).
132 Ibid.
133 Quoted Ciepley (2000: 168).
134 See Kennedy (1989: 359-360).
135 See Stepan's (1978: 12-17) criticism of pluralism's "implicit assumption [about group interests that] often contributes to a systematic neglect both of the state's role in taking independent policy initiatives, and of the impact of state policy on the structure of society, especially on the types of inputs that social groups can in fact make on the state." (ibid.: 14). Empirically speaking, reliance on a theory of freely combining interest groups and a neutral state limits potential case studies.

state that substituted market forces for bureaucratic or regulatory oversight.[136] NIE's applied version of neo-utilitarian theory accepted the impossibility of complete state withdrawal from the market and instead advocated the limitation of its role to securing property rights and reducing transaction costs.[137] Other policies, it argued, were driven by 'vested interests'.[138] Similar to neo-Marxist approaches,[139] property rights were not considered as structured to maximise economic efficiency, but instead to bring the greatest return to the most politically dominant group.[140]

Therefore, rather than as a wealth maximiser that served, given its status as the source of coercive authority, as a third party to all contracts, NIE cast the state as 'predatory' and the instrument of the most dominant social group for the extraction of resources from the broader population.[141] To some extent, this echoed some of the aforementioned theories, including the 'violent entrepreneurs' theory or 'state as organised crime'.[142] Therefore, the ideal state would resist intervention and confine itself whenever possible to reducing transaction costs to the lowest possible level.[143] This scholarship focused on diagnosing the roots of economic failures in Latin America and Africa, a task buttressed with neoliberal economic theories such as 'rational choice' and 'principal-agent'. These ideas held that state economic involvement was by nature inefficient because it created the rents used to cement the symbiotic relationships among rapacious officials and their private compradors.

Sociology emerged as the most coherent critique of this economic orthodoxy about the state – in particular its simultaneously 'utopian' and logically impossible contention that a minimalist state could arise from individual maximisers – who, rather than form a state, would instead respond to incentives and freelance.[144] As sociologist Theda Skocpol observed:

> …the Western social sciences could manage the feat of downplaying the explanatory centrality of states in their major theoretical paradigms – for these paradigms were riveted on understanding modernisation, its causes and direction. And in Britain and America, the most 'most modern' countries, economic change seemed spontaneous and progressive, and the decision of governmental legislative bodies appeared to be the stuff of politics.[145]

In fact, case studies showed how the developmental successes of the 1970s and 1980s owed much to coherent, effective state structures, helping to overturn some of the most strident neo-utilitarian theories.[146] In fact, institutionalist studies showed markets actually functioned more effectively when embedded within social networks,[147] but not to the point of overcoming the fact that both markets and social networks tended to work at cross

136 See Buchanan et al. (1980: 9); Evans (1995: n4); also Krueger (1974: passim).
137 See North (1990: passim).
138 See Evans (1995: 24), citing Colander (1984: 2).
139 An observation from Bates (1989: 150), among others.
140 See North (1990).
141 See North (1979: 250-252).
142 See, respectively, Olson (1993: 675) or Tilly (1985: 181-183).
143 See Buchannan (2000: 78-95) on the state's ideal protective and productive roles, with the latter the procedural provision of select public goods.
144 See Evans (1995: 24-29).
145 See Skocpol (1985: 6), also cited Ciepley (2000: 158).
146 See Evans (1995: 16-18). Other notable works include Haggard (1990), Hamilton and Biggart (1988), Amsden (1992), Wade (2018), and Johnson (1982).
147 See Lipton (1991: 27).

purposes in the presence of a minimalist state.[148] Rather than an excess of bureaucracy – as posited by the neo-utilitarian models – in practice it is a lack of bureaucratic cohesion and rule-based administration that tends to portend rampant rent seekers pursuing individualised objectives.[149]

Therefore, sociologists proposed a 'macroscopic, historical, state-centred' approach focused on the causal impact of a state's autonomy (from social groups) and its capacity to formulate and pursue goals.[150] Of central importance is the state as both an organisation and a director of the organisations and actors that animate its coercive and extractive functions. Accordingly, states were organisations "through which official collectivities may pursue distinctive goals, realising them more or less effectively given the available state resources in relation to social settings."[151] As Evans explained, "the state 'wants' because a group some group of individuals has a project".[152] Importantly, the state is more than a functionalist expression of freely combining interest groups (a neo-utilitiarian assumption), and instead it shapes political and social processes through repeated, tangible interactions with social groups. Applied research showed the importance of state action on policy initiatives well beyond the mere enforcement of property rights,[153] the impact of such policies on the structure of society, and the types of inputs groups can make to the state.[154] Such patterns of governance and state-society relations are, in turn, the consequence of specific state structures and, together, form the basis for discernible policy outcomes.[155] As a result, a state's relationships with social groups, sometimes termed 'embeddedness', came to the fore.[156] Some scholars have even framed the state as a form of social relations, while others frame civil society itself as the state.[157]

As argued in the introduction to a collection of papers considering the Indonesian state, "states may portray themselves as generic and immensely powerful…but in reality they are embedded in their societies in historically contingent ways."[158] In practice, state projects, which are the result of some collective of actors or groups, in turn take shape through organisations, the power of institutional knowledge, and accrued symbolic legitimacy.

148 See Streeten (1993: 1286-1287).

149 See Evans (1995: 70-71). The well-institutionalised Indian bureaucratic tradition, for example, resulted in a "weak strong" because it resisted erosion by mobilized "demand groups" seeking preferred economic policies (op cit.: 66-67).

150 See Skocpol (1985: 2-8).

151 Ibid.: 28. Importantly, the state's actions and configurations influenced "the meanings and methods of politics for all groups [in society]".

152 See Evans (1995: 19). This also evokes the *proyek* as an emblem of the broadening competition for patronage and authority in democratic, post-neoliberal Indonesia (Aspinall 2013a: 30). Nearly anything can be project-ised (*diproyekan*) and virtually all are seeking a project.

153 See, for example, Evans (1995), Kohli (2004), or Amsden (1992).

154 See Stepan (1978: 14). Fukuyama (2012: Chapter 21) makes a similar argument explaining the development of taxation and an impersonal administrative state in imperial China.

155 See Skocpol and Amenta (1985: 574). The responses of social groups and consequences of interactions between economic and class interests are still influential, but state structure is pivotal because it sets the terms for society's interaction with both state and its policy initiatives (Skocpol and Amenta 1986: 133-136).

156 The term is associated with Karl Polyani, although he used it to describe only social relations: "Instead of the economy being embedded in social relations, social relations are embedded in the [economy]". (Beckert 2007: 7-10).

157 See, respectively, Jessop (2010: Chapter 5) and Gramsci (1971: 262-263), cited Klinken and Barker (2009: 10, n101).

158 Klinken and Barker (2009: 1-2).

These factors are intertwined with society and subject to culture, history, and ideas about legitimacy.[159] So, for example, "to understand the state it is necessary to understand the people in power and, equally important, their games, their strategies, and their historical practices".[160] The state is not a single, unified actor. In reality, it is a site for struggles among different actors and organisations.[161] Therefore, some have described the state as a concentration of different "species of capital" and "the holder of a sort of meta-capital granting power over other species of capital or their holders".[162] This 'meta-capital' is not a causal force, but a 'field of power' or a competitive 'relational arena' subject to prevailing historical features, distinct ideologies, beliefs, and rituals.[163] In modern states, such capital is also derived from sources other than coercion, for example a 'monopoly of legal authority'.[164] An expansion of transnational norms introduced new actors focused on the conferral and management of legitimacy, although often with the side effect of 'decoupling' local actors from the state within which they otherwise existed.[165] Some approaches have focused on the importance of state formation – a time of extensive intra-elite competition and contestation of rituals and legitimacy – to the practical distribution of 'meta-capital' that has tangible implications for subsequent state structures.[166] Even 'state-like' actors often became arenas of elite conflict, sometimes with productive consequences for the execution of state projects. So, for example, the Dutch East Indies Company (VOC) helped the Netherlands achieve specific economic and international outcomes, despite the absence of the expected centralised state structure.[167]

In conclusion, this section provided an overview of how important 'institutionalist' literature emerged to challenge the neo-Marxist and neo-utilitarian perspectives on the state and its (lack of) importance. Therefore, rather than edifices of class domination, states were increasingly explained as important to political, economic, and social phenomena. For some, property rights were viewed as essential, prompting the practitioners of NIE to focus on the 'nightwatchman' state. As shown in the following section, this premise was not, however, supported by empirical findings. Sociologists, in turn, emphasised the state as a collection of organisations backed by both coercion, as well as the symbolic power and legitimacy (or 'meta-capital') more often deployed to achieve its

159 As Klinken and Barker (2009: 1-2) argue, introducing studies of the post-*Reformasi* state, "states may portray themselves as generic and immensely powerful…but in reality they are embedded in their societies in historically contingent ways."

160 See Hibou (2004: 23).

161 Some institutionalists caution against treating the state as 'a causal variable' for explaining social or economic phenomena. This criticises comparative historical approaches that seek to present a "multivariate analysis…to validate causal statements about macro-phenomena [that is, states and relevant events] for which, inherently, there are too many variables and not enough cases" (Skocpol and Somers 1980: 182).

162 See Bourdieu (1999: 56-57), including on different types: "capital of physical force", "economic capital", "informational capital", and "symbolic capital".

163 See, among others, Migdal (2001: 15-16); Aspinall and Klinken (2011: 11, 25-26); Vu (2010b: 165-166).

164 See Pula (2015: 637) on "the power to set, enforce, and govern populations on the basis of codified legal rules over a territorially defined society".

165 According to Meyer (2018), cited Pula (2015: 642): "local social structures cope with and adapt to the pressures of internationalizing world norms...[negotiating] the construction of modular organization forms and practices that use universalized rationalities and legitimacy schemas, expressed via catchwords such as "progress", "development", "modernization", and "the rule of law".

166 See Vu (2010b: 166).

167 Ibid.: 154. Anderson (1983: 478-480) argued how the early 19th century VOC appeared to be a business, but in the Indies actually functioned as a state with an army, treaty-making functions, legal system, and fiscal policies.

tasks. Most importantly, the state was not simply a background entity, nor is it a standardised 'black box' for deterministic outcomes. Instead, states are subject to unique historical, cultural, and ideational attributes, which can be studied to help contextualise outcomes. Ultimately, as discussed further below, states are 'embedded' in society in historically meaningful ways. These factors influence what political scientists might term 'political settlements',[168] or institutional equilibriums of benefits calibrated in line with groups' relative powers. Such settlements might be tenuous, resulting in instability and perhaps new rules, but will remerge once distributions of power and institutional benefits are again acceptable to powerful groups.

States and private capital

As discussed in Chapter 1, scholars theorised how the demands of conflict and competition – for resources and manpower – drove European state formation. Once constructed, the state's extractive institutions were maintained even during intra-conflict periods on account of the high cost of military mobilisation and the importance of standing preparedness. Due to the expanding cost of military technologies and the need for greater manpower in the service of these objectives, the advent of monetisation boosted the state's preparedness because capital accumulation – either by elites or the state itself – allowed the periodic financing of military might with less reliance on large standing military capacities.[169]As a result, the state had an innate interest in the market, perhaps to the point where, as Jurgen Kocka argued, their emergence cannot be mutually disentangled:

> Neither in China nor Europe nor anywhere else did merchant capitalism develop at a clear remove from those who exercised political power, and nowhere in all those centuries did a clear differentiation between the economy and the state emerge. Both in China and in Europe (and to some extent in Arabia) there were close interconnections between the economic power of the merchants and the political power of the authorities. State formation and market formation were jumbled together everywhere.[170]

Even Weber observed how "capitalism and bureaucracy have found each other and belong intimately together", and, considering this 'symbiotic relationship', it stands to reason that divergences in the character of private capital would also have an impact on the ultimate form of the state.[171] In Europe, for example, the relative ease of tapping urbanised, capital-accumulating classes led to less extensive state administration than in China, where such groups were not as prevalent or accessible.[172] Sustained warfare following Reformation-era innovations in military technologies and organisation meant success was also a factor of a combatants' nurturing of economic institutions to finance the continuation of conflict.[173] Although initially a European trend, this dynamic expanded such that modern warfare became a test of the state's capabilities for fostering industrial

168 See Khan (2010: 4-20).
169 See Vu (2010b: 156-157).
170 See Kocka (2016: 50-51).
171 See Kennedy (1989: 500, n4).
172 See Tilly (1990: 88-90); Hui (2005: 139-42), cited Vu (2010b: 156)
173 See Kennedy (1989: 76-86). Intriguingly, markets seemed to develop and innovate most rapidly when the international environment was most fluid and comprised of highly competitive, less centralized states (ibid.: 19-20).

mobilisation on a national scale, rather than simply a race of financial centres or systems of public finance.[174] Even outside conflict periods, private capital became a social element ignored by the state at great potential risk, and economic misfortunes, not to mention the consequences of growth (for example, economic inequality) are invariably laid at the state's doorstep.[175] And yet, as North observed, for example, "the process of growth is inherently destabilising to a state" because the accompanying efficiency gains and technological changes generate conflict with the established structure of property rights.[176]

Under the post-war peace dividend, states also clearly competed and interacted on the basis of factors other than force, and the global economy represented one such an arena. Although internal rebellion had never not been a risk to rulers, its relative frequency versus intra-state armed conflict increased considerably.[177] Therefore, scholars began applying the state to other dilemmas; political scientists, for example, focused on how states' economic and productive relationships could influence forms of governance and perhaps provide explanation for post-war 'third wave' democratic changes.[178] Sociologists developed 'world system' theory focused on the globalised operation of markets and a state's relative position in the system to explain the persistence of low-quality developmental outcomes.[179] States competed not only in the sphere of international relations on the basis of sovereignty and security, but also to also to attract capital, promote industries, and regulate trade within an international economic system defined by cyclical features of capitalism and an international division of labour.[180] A state's position within this 'international division of labour' was argued as pivotal for developmental outcomes, but some argued states could deploy policies to alter their position through 'constructed comparative advantage'.[181]

Therefore, this section extends the previous section's discussion (including the neo-utilitarian view of the state as the primary impediment to growth) through examination of essential literature focused on state and economic, or developmental, outcomes.[182] Contrary to the previous section's view of the state as an extractive mechanism to fund warfare and security, the modern state also must focus on growth and efficiency-promoting investments in public goods. Striking a balance between extraction and public good spending is essential for both developmental outcomes and, when combined with the durability of its institutions, the survival of political leadership. It is worth emphasising this thesis, as discussed above, is otherwise agnostic in terms of a preference for

174 Ibid.: 71-72, 80-81, 279-280.
175 An argument explored in Evans (1995: 5).
176 See North (1979: 257, 249-253).
177 See Rotberg (2010: 221-223) or Kennedy (1989: chapter 8).
178 See Huntington (1993) on the 'third wave' of democracy of the 1970s and 1980s. Despite seeming convergence, Pula (2015: 641-642) surveys scholars' explanations for how, even as states are increasingly subject to orthodox international political and economic systems, they remain individually heterogenous in terms of capacities, structures, and ideologies.
179 Badie (2000: 20), writing about dependence theory, points out that Wallerstein's (2004) systematic-functionalism de-emphasises politics to the point of drawing tenuous conclusions, for example, that any peripheral state that could thwart world capitalism is immediately rendered dependent.
180 See Bergesen (1980: 5-11).
181 See Boli-Bennett (1980: 81-83, 91-95). See Evans (1995: 6-10, 82-83) on effective states' creation of "multidimensional conspiracies in favour of development".
182 I use these terms interchangeably.

democracy versus authoritarianism and instead is interested primarily in the state's proficiency in structuring interest groups, managing class alliances, and disciplining potentially predatory elites. This section's conclusions lay the groundwork for the subsequent definition of a weak state.[183]

Moving beyond the basic assumptions about the financing of force needed to protect a state's security and sovereignty, the modern expectation that successful states must promote rapid economic growth is not simply a product of economists' colonisation of the social sciences.[184] The decay of colonialism during the 20th century meant new states were largely ex-colonial polities and, as a result, had pre-existing economic and administrative institutions, not to mention elite politics. Although endowments are not deterministic, institutions are by nature 'sticky', and therefore colonialism, as a system of political and economic control, is as essential as other sociological or political science narratives about the state (for example, war, social mores, and class alliances).[185] This thesis, for reasons of space, cannot address the undoubted importance of colonialism for many late-industrialising states.[186] For my purposes it is sufficient to highlight the essential nature of economic growth for both internal peace as well as elites' survival. This is especially true considering studies that have shown the relatively greater influence on state structures of elites' ideas about their own political privilege and survival, more so than pre-independence endowments.[187]

Therefore, the premise that modern states are not only best placed for the promotion of rapid economic growth, but essentially survive based on their aptitude for it, first emanated from post-war scholars focused on industrialisation through states' targeted allocation of credit or bargaining with productive classes.[188] Strong states succeeded, and weak ones faltered, on the basis of these tasks.[189] Economic upheaval during the energy crisis of the 1970s, which was accompanied by a concomitant spread of leftist political movements, drove interest in state's ability to function, often via corporatist institutions, as a bridge between capital and labour.[190] Corporatism can be defined as a set of policies or institutional arrangements for the structuring of interest representation, often through the state's chartering, or even creation of, interest groups that were regulated and provided

183 Furthermore, as discussed in Chapter 3, economic management has loomed large in the history of the Indonesian state, and this thesis selected an economic case study.

184 For a critique of economics, see Fourcade et al. (2015). For an alternative perspective, see Lazear (2000).

185 See Vu (2010a: 237-238) and Kohli (2004: 19n). See also Tipton (2009), who explains strong Southeast Asian states through their colonial histories, reactive nationalism, and narrow pre-colonial elite structures.

186 Some have speculated about 'the right kind of war' to explain why some conflict-wracked post-colonial polities do not have corresponding strong states (Centeno 1997: 1591-1592). Slater (2010: 37-40) argues that such a critique overlooks the effects of internal conflict on variations in states' fiscal power.

187 See Vu (2010b: 155). I return to these themes in the following chapter's overview of economic issues before and at the time of Indonesian independence.

188 See Evans (1995: 31) on state-led credit allocation in prewar Germany (Gerschenkron 1962) and state-led entrepreneurship inducements (Hirschman 1972).

189 See Shonfield (1968). Carney and Witt (2012: 3-8) has a theoretical overview of the state's role in business systems.

190 Katzenstein (1985) argued smaller, democratic, neo-corporatist European states – then outperforming larger industrialised economies – gave the centralised state more options for managing labour and the economy.

with special responsibilities and a quasi-representational monopoly.[191] Class theory dovetailed with this 'neo-corporatist' approach, emphasising the 'strong' state's ability to deliver durable intra-class bargaining through inducements to labour and oversight of trade unions.[192]

As foreshadowed above, neoclassical economists saw effective states as those most supportive of property rights, which were necessary for investment and growth.[193] A tension existed, however, as a state strong enough to safeguard property rights was also strong enough to withdraw them.[194] The so-called 'Public Choice' literature assumed states were a threat to growth because their actors were in perpetual conflict with the collective good, either strangling markets or diverting them into rent seeking predation. Therefore, free enterprise unencumbered by taxation or graft-hungry bureaucrats would make the most efficient decisions while a minimalist state used its coercive monopoly to guarantee contracts.[195] This mistrust of the state actually led to a more institutionalist focus,[196] including the effort of NIE to understand how the 'rules of the game', although not formally planned or designed, were derived through the interplay of legal statues and informal, often implicit, social norms.[197]

Over time, however, NIE studies also focused on the developmental contributions of non-market institutions, including the significant conclusion that states could create organisations beneficial for economic outcomes.[198] Comparative, often non-economic, studies also showed how many examples of successful late-industrialisation owed much to state-led interventions, such as credit allocation, industrial policies, and opportunistic collaboration with entrepreneurs or other social groups.[199] This scholarship often dovetails with the 'developmental state' literature, which sees such states as promoting growth

191 See Stepan (1978: 46).
192 Przeworski and Wallterstein (1982: 235-236) critique structuralist theory and frame the state as an expression of class compromise between workers and capitalists.
193 See North (1981: 25).
194 See Weingast (1995: 1-31), cited Fukuyama (2012: 248)
195 See Evans (1995: 23) and Buchanan et al. (1980). Besley (2011: 339) provided an overview of Public Choice literature, which sees government growth as inherently indicative of resource misallocation. Like others (Acemoglu 2005: 1202-1203), he argues Public Choice ignores empirical evidence that both too strong and too weak states damage development.
196 An observation from Evans's (1995: 33-35) historiographic critique of neo-utilitarianism (paraphrased here).
197 See North (1990) or Klein (2000: 458-462).
198 See Bates (1989: 150-152). This departed from an earlier study (Bates 2014), which argued post-colonial incumbents used economic management tools to secure their power through the destruction of peasant agriculture.
199 For comparative, institutional studies of industrialisation in East Asia, see Haggard (1990), Hamilton and Biggart (1988), Amsden (1992), Wade (2018), or Johnson (1982).

through the insulation of bureaucrats – often through autocratic political formations – from political and social forces.[200] The embrace of such East Asian models does contrast, of course, with the African experience, where authoritarian states have a well-documented history of stifling growth through personalised, capricious economic management.[201]

Therefore, Taiwan's 'governed market' – including the state-led transformation, or outright creation, of industries – was celebrated as integral to its economic success.[202] In Korea, the state was cast as an entrepreneur that 'disciplined' the market: "the first industrial revolution was built on laissez-faire, the second on infant industry protection. In late industrialisation the foundation is subsidy – which includes both protection and financial incentives".[203] In Japan, the Ministry of International Trade and Industry was celebrated as an insulated enclave of professional, rationalist bureaucrats able to work closely with business[204] In Taiwan and South Korea, the state's traditional isolation from dissent and dominance of society was contrasted with less developmentally successful cases.[205] The elusive balance of embeddedness and bureaucratic detachment was the focus of another study that examined case studies of successful (in terms of economic outcomes) state-private sector cooperation.[206] Others showed how elites in the developing states of Southeast Asia, including Indonesia, achieved high growth without concomitant gains towards strong institutions due to the lack of a strong external security threat.[207] An NIE-inspired account explains Thailand's curious 'uneven' development – with strong growth but a failure to follow North Asia counterparts in realising productivity-led growth – as a consequence of its failure to develop the institutions needed for higher industrialisation.[208]

Economic models focused on explaining how states with seemingly similar attributes, such as political systems or fiscal capacities, in practice produced divergent developmental outcomes.[209] A preference for quantitative measures led to a focus on the explanatory power of public goods, such as infrastructure spending or contract enforcement (for

200 See Vu (2010a: 234) on developmental states' "cohesive bureaucracies, centralised government organisations, pro-growth class alliances, and firm ideological foundations". Kohli's (2004: 10-11), 'cohesive-capitalist' states equate growth with national security and use authoritarianism, ideology, and a competent bureaucracy as to achieve such ends. Doner et al. (2005: 229-332) find developmental states to be relatively rare and only emerge when broad coalitions are unable to meet pressures for 'side payments' because of a severe external threat and relatively scare resources. In Indonesia, the need for a large winning coalition required regular side payments, thereby setting the stage for economic growth, but not for the establishment of strong, effective institutions.

201 See, *inter alia*, Bates (2014), Bueno de Mesquita et al. (2005), Acemoglu and Robinson (2008), and Knutsen (2010).

202 See Wade (2018).

203 See Amsden (1992: 143)

204 See Johnson (1982).

205 See Herbst (2000: 115).

206 See Evans (1995: 51-60, Chapter 4). The state can, of course, be on both sides of a transaction, perhaps through personalised, non-bureaucratic institutions. See Gainsborough (2010: 92, 96-97), also Hibou (2004: 17).

207 See Doner et al. (op cit.).

208 See Doner (2009: 16-17). Upgraded development involves the navigation of more complex collective action problems. In much of Southeast Asia, veto players were not been conducive to constructing the institutions needed to address these challenges. Therefore, growth continued to depend largely on factor mobilisation or narrow comparative advantage.

209 See Dincecco and Katz (2016) for long-run evidence that state capacity is an important determinant of economic performance, with a strong relationship between fiscal centralization and economic growth.

which there is a variety of indexes or rankings).[210] Public goods are assumed to increase economic efficiency and provide higher social returns than if they were procured by individual actors.[211] Ineffective states struggle to invest in public goods due to their lack of cohesive institutions and political stability, which can manage orderly transitions of power and overcome the disincentive to investment in public goods for leaders facing excessive or arbitrary political turnover.[212] Similarly, ineffective states might also lack economic power, loosely conceptualised as citizens' ease of economic exit, which acts as a constraint on the state's extractive capacities.[213] As a result, economic models tend to assume that 'balanced' configurations of economic and political power lead to more public goods procurement (and more favourable outcomes), while more extreme scenarios produce poor performance due either to low public goods investment (by rotating elites) or low economic activity (by appropriation-wary citizens).[214] States balance a menu of public goods investment with concomitant taxation, and this selection reflects the recalibration of the main threat to states away from external competition to internal rebellion.[215] Accordingly, an economically weak state cannot increase extraction, while a strong one can impose burdensome taxation – should it so choose – because citizens lack credible productive alternatives.[216]

Some more qualitative contributions have argued that divergent state types and political economies explain the empirically observable pattern of uneven industrialisation among emerging economies.[217] Although this study does not engage with the debate on the economic impact of different forms of government, these studies also challenge the premise that democratic political systems are the most pro-growth. Instead, 'developmental' states equate growth with national security and use authoritarianism, ideology, and a competent bureaucracy as primary instruments.[218] Rather than primacy of

210 La Porta et al. (1999) identifies contract enforcement as an important public good, similar to North (1981: 23-24), who sees public goods investment as part and parcel of the reduction of transaction costs in the interest of creating and preserving a system of property rights maximising the rulers' rents.

211 See Centeno et al. (2017: 387) describing public goods as 'capability expanding' with higher social returns. For example, a school presented to an ethnically fragmented society will probably provoke disputes, for example over the language of instruction, and therefore requires a public procuring force lest it would not otherwise be selected. See Alesina and Spolaore (1997), cited in Easterly and Levine (1997).

212 See Besley (2011: 339-340). Acemoglu (2005: 1200-1203) modelled that rulers or elites would invest in public goods only when expecting a return, which becomes less likely given rulers' arbitrary, regular turnover.

213 See Scott (2009: 74) on agricultural systems that evaded state-led measurement and extraction.

214 See Acemoglu (2005: 1217-1223) on the "consensually strong state", which persuades citizens to accept higher taxes in return for public goods investment (and often redistribution). Officials that break the compact are easily replaced through elections. Without political checks, economically 'strong' states have high taxation but low investment, whereas 'weak' states perform poorly on both fronts (ibid.: 1202-1203).

215 An observation from Rotberg (2010).

216 North's (1979: 252) state is a discriminating monopolist able to define different property rights for different groups of constituents. It includes citizens' opportunity cost of productive activities as a check on state authority.

217 See Kohli (2004: 1-24) on 'cohesive capitalist' states, where elites are pragmatic and often ruthless in their commitment to growth and empowering private enterprise. Though often democratic, 'fragmented-multiclass' states struggle with tenuous class alliances resulting in intra-elite competition and politicised policymaking.

218 Therefore, "since a narrow elite alliance between the state and capital is difficult to hold together, politics within these units have often been repressive and authoritarian, with leaders often using ideological mobilization (for example nationalism and/or anticommunism) to win acceptance…" (ibid:

political institutions, this literature's most important conclusion is that patterns of 'state authority' – based on effectiveness, legitimacy, and relationship to social groups – foster pro-growth institutions and class alliances.[219] Approaches focused on state formation also emphasise class alliances, and, specifically, how elites' initial relationships to productive groups determine later suitability for pro-growth state-society alliances (including with both domestic and foreign capital).[220]

Typologies focused on state structures, business systems, political institutions, and resource endowments are also used.[221] As such, some have focused on the dependence of a state's 'power for development' on its capacity to reach into society and structure relationships with economically important producer groups.[222] Others focused on the importance of strategies to 'tame' elites, including economic institutions such as markets or factor mobility that reduce the gains from controlling organisations.[223] Lower capacity states are sometimes described as having elites that exploit opaque decision-making processes, weak institutions, and a lack of market-driven competition.[224] An institutionalist study of equitable development in Southeast Asia emphasised the importance of pragmatic, well-institutionalised political parties to the cohesive, interventionists state formations necessary to adopt policies – such as those supporting growth with equity – that prioritise public interests over private, elite-level interests.[225] Others point to resource endowments as key determinants; more plentiful resources may create more predatory states because those states without resources tend to embrace stronger developmental structures (and, hence, institutional strength) as a means of national survival.[226]

In conclusion, this section explored important literature on the question of how the structure and capacity of the state interacts with economic performance. This helps inform the approach used in the thesis, and it also highlights influential sociological and political economy frameworks. It also provides the conceptual foundation for the following section's definition of a 'weak state'. The breadth of conclusions from this literature review recommend an eclectic and expansive approach. Different regime types have employed similar tactics to achieve divergent outcomes. Both communist and developmental states have, for instance, used repression, nationalism, and opportunistic class alliances to penetrate society, but ultimately they have different goals, that is, either wealth redistribution or development.[227] In some low capacity states democracy has proven useful because the relative consequences of authoritarianism and low quality institutions

---

10-11).

219 Ibid.: 372-374.

220 See Vu (2010a: 234-235).

221 Carney and Witt (2012: 3-8) contains a useful literature review.

222 See Migdal (1988). Kohli (2004: 23) noted how structured corporatist or authoritarian institutions can help a state clinch developmental coalitions with interest groups. By contrast, 'fragmented-multiclass' states struggled because of political institutions that allowed or encouraged interest group divisions.

223 See Acemoglu and Robinson (2008: 269) and Evans (1995: 44). Carney and Witt (2012: 14-15) discuss how the low capacity of personalised state organisations allows for elite predation.

224 See Moselle and Polak (2001: 4-6). Some, however, argue any explanation of predatory states is inseparable from questions of democratic political systems (Robinson 2001: 23-31).

225 See Kuhonta (2011: 4-5; 9-11). Somewhat curiously, the study is built around a comparative analytical study (of Malaysia and Thailand) that presents Malaysia, buttressed by the institutionalised UMNO party machinery, as the regional paragon of equitable growth.

226 See Doner et al. (2005). This also holds for severe external security threats. See Doner (2009).

227 See Kohli (2004: 383-384).

are so much worse[228] Political regimes do, of course, change over time, and state-centric theories also often consider the globalised erosion of the state's role in economic governance through shrinking state budgets and the demands of mobile capital for competitive tax and regulatory systems.[229] Pluralism is regarded by some as important, with idealised Weberian states providing law, security, and public goods through centralised, pluralist political institutions.[230] States with exclusive institutions tend towards extractive economic institutions, with growth eventually slowing as elites leverage these institutions to prevent the emergence of potential rivals.

In contrast to the 'neo-utilitarian' discussion above, this section showed how scholars have concluded that markets require state support.[231] Notably, case studies of post-war industrialisation show how divergent state structures can help explain observable divergencies in developmental outcomes. In one conceptualisation, developmentally-successful states implement 'multidimensional conspiracies' in favour of growth,[232] and, in particular, are able to create effective institutions and structure relations with society. This literature is unconvinced about political institutions, and it appears that authoritarian and democratic institutions can be helpful or harmful to development depending on other state-led features. These models suggest that policies are far from deterministic, and what might be virtuous under some conditions might also create cronyism or unchecked vested interests in situations where distinct, less effective state structures are in place.[233] Therefore, with this dilemma in mind, I turn to defining weak states through a framework of state-society relations and favourable class alignments.

Conceptualising a weak state: different subjects, different definitions

Basic principles define states as compulsory associations enjoying sovereignty, or an absence of competitive authority, within a defined territory. As discussed in the previous chapter, external competition and the state's monopolistic approach to controlling and concentrating violence – both internally and against other states – resulted in increasingly organised extractive mechanisms.[234] This, combined with the limits of a patrimonial administrative approach, in turn led to bureaucratic specialisation and tools and strategies to expand 'legibility', which, in turn, provided the basis for property rights and further administrative centralisation and professionalism.[235] Therefore, just as the pre-modern state sculpted the landscape into a legible field of appropriation, the expanding post-patrimonial administrative state standardised weights and measures to quantify property, and the modern state cultivated 'meta capital' as the basis for its funding and

228 See Knutsen (2010: 3-4). In higher capacity states, the economic benefits of democracy are reduced, and perhaps eliminated.
229 Aspinall and Klinken (2011: 28) invoke Johnston's (2005: 3) 'deep democratisation' and argue better Indonesian governance and policymaking requires greater politicisation due to the state's inherent illegality and absence of formal bureaucratic structures.
230 See Acemoglu and Robinson (2013: 80-81).
231 See Lipton (1991: 27), observing "markets are expensive".
232 See Evans (1995: 8-10).
233 See Kohli (2004: 14-15) on the case of channeled credit or foreign exchange – developmentally beneficial in strong states, but problematic in weaker ones.
234 See Tilly (1990) or Scott (2009) on external competition and violence.
235 See Slater (2010: 37-47) on 'fiscal sociology'.

implementation of public goods.[236] Backed by its implicit powers of coercion, or 'meta capital', the state's core functions came to include concentrating violence, extraction, and the creation and enforcement of law and contracts, the solving of collective action problems, and investment in public goods.

Just as the question 'what makes a state?' yields different perspectives, so the question 'what is a weak state?' also elicits a span of definitions. This section will outline how some scholarly approaches have defined weak, ineffective, or low-capacity states, terms that, as described in the introduction, can be used largely interchangeably. Defining a strong state is not always straightforward, and states that appear 'weak' in some ways might still deliver degrees of stability or even effective outcomes. The 17th century Netherlands, for example, achieved 'strong state' outcomes without bureaucratic centralisation because "elite patriarchal families collaborated closely with the merchant capitalist class and local elites to devise innovative strategies (for example, the chartered company represented by the VOC) to project state power".[237] Different disciplines have emphasised different features. As discussed above, the state is uniquely positioned to address collective action problems, and therefore its role as the coordinator, financier, and administrator of public goods is often associated with any appraisal or measure of its performance. The importance of public goods stems from their importance of economic efficiency, discussed above, as well as the increasingly complex compact with society as the state expands and becomes more powerful.[238] As discussed above, some economists regard property rights and contract enforcement as perhaps the most elemental public goods, but political scientists, by contrast, might regard a weak state as exercising limited control over its territory, suffering irregular or chaotic leadership changes, or struggling to penetrate and overcome traditional or cultural norms.[239]

For modern states, developmental responsibilities have become paramount, and scholars have focused in particular on how public good provision, state-society relations, and class alliances relate to the ability of the state to produce pro-growth conditions and policy interventions.[240] Indeed, even states that struggle to exercise a monopoly on violence, or have non-cohesive bureaucracies, may still carry out other tasks, enjoy degrees of political stability, or foster economic success.[241] As this literature review has discussed, modern states, after all, carry out many of their tasks on the basis of non-coercive power using 'species of capital' based in knowledge, legal authority, of ideology.[242] As this study argues, a state's 'species of capital', or lack thereof, are influenced by specific historical factors, including its political economy, dominant ideas about legitimacy, and the institutional forms of its relationship with influential social groups.

---

236 See, respectively, Scott (2009: 74), North (1979: 254-256), Rotberg (2010: 1-10), Besley (2011: 349).

237 See Vu (2010b: 155). Centralised bureaucracies did not, however, always prompt liberal political and legal institutions, for example in China and Japan (ibid.: 159-162).

238 See Besley and Persson (2009; 2011) for a model of modern states: production of public goods (for example, contract enforcement or building infrastructure), financing public goods (that is, through extraction), and redistribution.

239 See Acemoglu (2005: n4) for a useful literature review.

240 See Kohli (2004: 12-16) policy formation and class alliances; Herbst (2000) on state-society relations; Johnson (1982) for a definition of developmental states.

241 Besley (2011: n20) observed that "politically stable states with long-lived corrupt rulers also appear to be weak in a way that is hard to reconcile…".

242 See Loveman (2005: 1652-1653), Vu (2010b: 167), and Pula (2015: 637).

As shown throughout this chapter's literature review, there is considerable overlap among the various disciplines engaged with this subject.[243] As discussed above, economic performance has tended towards a dominant position for much state-focused scholarship. This is logical when one considers that since 1945, no state has disappeared due to external military conflict. Instead, economic stagnation has emerged as the primary threat, if not to the state, then at least to its rulers.[244] At a fundamental level, many approaches regard strong, effective states as reasonably adept at some form of public goods provision, not only due to their efficiency purposes but also due to the need for an acceptable compact with society (as the subject of the state's extractive powers). Therefore, many economic studies investigations have focused on 'state capacity',[245] which is often framed as a determinant of development.[246] This has included a use of quantitative proxies for state capacity, such as public goods spending or the share of economic activity captured through formal taxation.[247] Empirical findings have found revenues as a share of the economy trend higher in larger economies with more constrained executives, suggesting wealth is a feature of state structure more extractively successful.[248] Higher taxation has correlated with greater support for markets, efficient regulation, or effective property rights.[249] Weak states with low extractive capacity tend to have non-cohesive institutions or political instability, which means they struggle to provide public goods and perform worse in situations when rents are created.[250] Success on one task is perhaps linked to others through 'development clusters'. For example, states that perform poorly at extraction also tend to struggle to enforce contracts, or have lower national wealth and less restricted executive power.[251] Some degree of state capacity appears a requirement for effective redistribution.[252] Some weak state structures seem to enjoy a degree of political longevity, and economic models have proposed that predatory elites might thrive because of poor property rights and low rate of formal taxation.[253] Other theories have focused on inefficient, excessive, patronage-based state structures that tend to include a bloated civil service or, on account of low taxation, limited spending on public goods and redistribution.[254] These models attribute lower state capacity to a lack of balance in the state's relationships with society (especially elites),[255] meaning they are poorly equipped to deploy their power to overcome collective action problems.[256]

---

243 See Kennedy (2013: 8), who argues that even contemporary legal scholarship shows how politics and economics overrun their boundaries such that "the history of political and economic life is therefore also a history of institutions and laws. Law constitutes the actors, places them in structures, and…sets the terms for their interaction"

244 See Collier (2009: 221-223). This is especially pronounced at low income levels, because of the relatively low opportunity cost to citizens of rebellion. See also Daxecker and Prins (2015: 700), which connects state fragility and low income with a rise in beyond-the-state armed activities like piracy.

245 Compared to Mann's (1984: 1989) state 'infrastructural power'.

246 See Rauch and Evans (2000) on a correlation between state capacity and growth.

247 See Campbell (1993: 171-180) for a literature review about state's and fiscal capacity.

248 See Acemoglu (2005: Figs. 1 and 2).

249 See Besley (2011: 249).

250 Ibid.

251 See Besley (2011: 340-341) and Besley and Persson (2011) on how cohesive institutions, which weak states lack, may create multiple, reinforcing virtues for developmental outcomes.

252 See Rothstein and Uslaner (2005: 253-264).

253 See Besley and Persson (2001: Chapter 3).

254 Acemoglu et al. (2011: 179-182) argued that such state structures often occur in transitioning or newly democratic polities "as a political instrument for the rich elite to *capture* the democratic decision-making process by fostering a coalition between themselves and the bureaucrats".

255 See Evans (1995: 72-73).

Just as it seems unsatisfactory, perhaps, to define weak states based simply on their inability to exceed a chosen measure of revenues or public goods per capita, not all scholarship has focused on developmental, economic, or fiscal roles. So, for example, even physical geography, such as rugged terrain, has been linked to variations in states' effectiveness with weak state tending to struggle to enforce their territorial integrity or to project capacity across their entire domain.[257] Barriers to collective action – either physical or social – have also been identified as an attribute of weak states. Some studies have shown that piracy is boosted by weak state capacity and a lack of economic opportunities,[258] or that weak states may experience genocide because a decline in territorial integrity means citizens, as a potential base of extraction for potential opponents, became more expendable.[259] Notably, even a 'hard' issue – like security – can be related to the overarching importance of extractive capacity, as transitional states, those with low per capita income, and higher rates of economic discrimination are more likely to experience such phenomena.[260]

Weak states are also conceptualised through more qualitative methods, including those that have emphasised the importance of political change, patterns of patronage, or elite perceptions about future policymaking.[261] Accordingly, as many sociologists would emphasise, a state is subject to unique or complex ideas about legitimacy not fully captured through analysis based on structuralist assumptions or rational, individual-maximising actors. Therefore, for sociologists, strong states shape and, if needed, supplant society, whereas weak states are those unable to overcome or extricate fragments of society that work against its given objectives.[262] According to one influential study, "the ineffectiveness of state leaders who have faced impenetrable barriers to state predominance has stemmed from the nature of the societies they have confronted – from resistance posed by chiefs, landlords, bosses, rich peasants, clan leaders..."[263]

The demarcation between state and society is also of deep importance because of what it demonstrates about the institutional arrangements that facilitate implementation of the state's objectives. Michael Mann's famous definition focused on the state's 'infrastructural power', or its "[institutional] capacity...to actually penetrate civil society and to implement logistically political decisions throughout its realm".[264] Later, Mann emphasised society's importance with his description of "collective power, 'power through' society, coordinating social life through state infrastructures".[265] These 'logistically political decisions' are the things – or tasks – that states do. Similar to Scott's premise of 'legibility'

256 Huntington (1968) was among the first to suggest the importance of 'autonomy' for a well-functioning state, but the state is both sometimes capable of ordering society while also being influenced by it. See also Skocpol (1985), Midgal (1988), Fukuyama (1995), among others.

257 See Jimenez-Ayora and Ulubasoglu (2015: 168) and Boulding (1962).

258 Daxecker and Prins (2015: 700-704) proxied state weakness using data on public services quality and bureaucratic autonomy.

259 See Anderton and Carter (2015: 9-10).

260 Ibid.: 31-32. Fearon and Laitin (2003) argue 'anocracies', or intermediate political systems, are most at risk because they are less likely to have professional or institutionalised security apparatuses.

261 A critique from Acemoglu et al. (2011: 181-182), specifically on elites' collective desire to avoid redistributive policies.

262 This is the main thrust of 'bring the state back in' (Evans 1995: 36-39). Also see Skocpol (1985) and Migdal (1988).

263 See Migdal (1988: 33). Evans (1995: 36-39) reviews Migdal's work on Egypt, a state capable of growth and reform that remained weak because it could not circumvent local "strongmen" defending rich and middle peasants' interests.

264 See Mann (1984: 189).

(see Chapter 1), or the state's subjective shorthand for incorporating information about its citizens and territories into its bureaucratic grid,[266] these mechanisms of a state's 'infrastructural power' say much about its relationship to society, its overall effectiveness, and the nature of political power. As with legibility, specific factors, including economic, logistical, and even geographic or ecological features, determine the type and character of the institutions through which the state exercises its infrastructural power. Based on this, the next section will provide this study's explicit definition of a weak state.

A weak state defined

Scholars have shown how weak states tend to struggle to collect revenues or provide for public goods.[267] Some weak states suffer from non-cohesive or fluid political and economic institutions and, as a consequence, fail to extract, regulate, or interact effectively with non-state actors.[268] Conceptually, as discussed above, many scholars have emphasised the state's role as a solution to collective action problems, and, as a result, others have focused the evaluation of state effectiveness on the basis of its provision – successful or frustrated – of public goods such as security, rule of law, infrastructure, or pro-growth settings.[269] 'Public goods', described by some as 'shared projects', can be tangible items, like infrastructure, or norms, like property rights, but all require the building of linkages to society to effectively implement the project while still preserving the ability of state agents "[to] implement official goals, especially over the actual or potential opposition of powerful social groups".[270] Ultimately, this requires 'dense ties' to society, both as a means of gathering insight about those projects that are feasible, but also to engage and cooperate with the non-state actors essential to their implementation.[271]

Therefore, favourable state-society links are not simply about penetration and control[272] but also, especially in industrialising states, class commitments that manage intra-elite competition and allow the state to credibly commit to its policy objectives.[273] Networks are important, and just as the 'non-contractual elements of a contract' reinforce market institutions through the norm of adhering to contractual arrangements, so too does a state with thick linkages to society enhance its capacity through 'non-bureaucratic elements of the bureaucracy' – recall the importance of 'shorthand' for integrating information into a bureaucratic form.[274] Therefore, it should be emphasised how the state's 'infrastructural power' is a feature of both organisational capacity, such as the Weberian bureaucratic ideal,

265 See Mann (1993: 59-60). Slater's (2016: 165) review of Tarrow (2015) brought this work to my attention.
266 See Scott (1998: 2-24).
267 As noted above, there is disagreement if these attributes are simply symptomatic of some weak state formations.
268 See, among others, Besley (2011) and Acemoglu (1995).
269 See Evans (1995: passim).
270 See Skocpol (1985: 9).
271 See Centeno et al. (2017: 387-388).
272 See Migdal (1989).
273 See Kohli (2004: 10-14).
274 See Evans (1995: 49), also Reuschemeyer and Evans (1985).

as well as effective relations to, and pathways for structuring its relations with, society. This, as we have seen, required balanced relations with society, including both linkages – or networks – as well as sufficient insulation and institutional strength to prevent the state from becoming but a forum for the most influential group or groups.

The state is, it should be emphasised, an organisation unto itself, and it coordinates and disciplines its component parts. In a similar sense, the state is also a 'site', or 'field', for the competition or cooperation of its agents, who reflect and respond to a state's unique historical, social, and ideational background.[275] As a result, the competition of social groups is central to the execution of decisions, and therefore a state is also dynamic, changeable, and subject to feedback loops (for example, 'development clusters', etc.). Crucially, the state is also a composite of factors, all of which could, at a given time, prove essential. Therefore, as one important study argued,

> Sometimes only one or a subset of those factors, such as the ruler or the ruling class, is doing the crucial explanatory work…second, the state is an abstraction, but key decisions are made by state personnel or rulers not by the state per se…Third, the state is sometimes what is affecting a situation, sometimes the focus of action, and often what is transforming and being transformed at the same time.[276]

Used in this study, the term 'weak state' describes a state reliant on informal, changeable, and personalised strategies to carry out shared projects. To accomplish its tasks, the weak state must use methods that are often illegible, ad hoc, or, as a third option, limited in their effectiveness.[277] As discussed above, scholars have argued that weak, or ineffective, states' lack of cohesiveness of capacity results in lower organisational capacity, be it bureaucratic, coercive, or political. Political scientists sometimes describe states as 'captured' or 'predatory', which are specific – and weighty – terms for defining patterns or pathways of elites' control of institutions or policies.[278] For the purposes of this study's definition, a weak state is a sovereign, internationally recognised, territorial expression that falls short of most – if not all – of these attributes.[279] A weak state lacks autonomy from social forces and institutionalised mechanisms of legibility. To carry out its tasks, or 'shared projects', it must therefore rely on ad hoc, personalised, or informal approaches.

Economic history provides an illuminating example focused on the different, competing models of finance during conflicts among 17th and 18th century European powers, specifically Great Britain versus *ancien regime* powers like Spain or Russia. The former relied on an efficient system of public credit, which society provided in return for the 'shared project' of public protection for commerce and industry.[280] The latter powers, conversely, were compelled to adhere to informal strategies that were far less effective in the context of financing and managing bouts of extended warfare:

---

275 Bourdieu (1985) frames social actors within a 'field' where they compete, given the unique economic, political, and cultural context, for rule-making authority. Similarly, Migdal (2001: 199) discusses the state as a 'field of power'. Also noted in Barket and Klinken (2009: 24).

276 See Levi (2002: 32-34).

277 'Ineffective state' is a similar term and they are used interchangeably.

278 This section sets aside the specific political science definitions of these terms.

279 Again, weak states are not failed states, which carry out violence and predation against their citizens and are powerless to prevent what public goods are provided from passing into private, non-state hands. See Collier (2009: 219-221).

280 See Kennedy (1989: 79-80)

> With so many orders (e.g. Hungarian nobility, Spanish clergy) claiming exemptions under the *anciennes regimes*, even the invention of elaborate indirect taxes, debasements of the currency, and the printing of paper money were hardly sufficient to maintain the elaborate armies and courts in peacetime; and while the onset of war led to extraordinary fiscal measures for the national emergency, it also meant that increasing reliance had to be placed upon the western European money markets or, better still, direct subsidies from London, Amsterdam, or Paris…[281]

As the example suggests, weak states are compelled to rely on personalised, and ultimately less effective, strategies for structuring such public-private collaborative interactions. We can regard 'elaborate indirect taxes' or 'printing of paper money' as the gambits of an informal, illegible, and ultimately weak state. Such states must rely on informal approaches to realising shared projects – in this case finance of the state's military capacity – and this outcome is ultimately less efficient than stronger state configurations. Lower levels of taxation, public goods spending or property rights may all be symptoms of a weak state, but they are not necessarily determinants, just as high amounts of bureaucracy are not necessarily a portent of the 'neo-utilitarian nightmare' of state overreach and predation. Similarly, although merely preoccupied with the *threat* of conflict, the East Asian development literature also shows how policy formation in cases like Japan and Taiwan was supported by networks that linked the state to civil society and capital in ways that facilitated and institutionalised cooperation and legibility.[282] Each case was somewhat unique; in Japan, for example, complex and stable interactions between state and market occurred through both bureaucracy as well as industry or alumni associations,[283] whereas in Taiwan state-owned enterprises served as the focal point for networks among small, private suppliers that helped inform economic policy.[284]

As explored above, states ultimately function as legitimisation and coordination mechanisms for engaging society in the course of defining and implementing of shared projects. These shared projects are the things states are expected to provide or facilitate, such as rule of law, economic growth, and physical security. Weak states rely on informal, personalised practices and networks to accomplish these tasks. As a result of a lack of effective institutions (or, at the very least, lack of reliance on them for shared projects) such as a bureaucratic apparatus, useful state-society relations, or an ideological monopoly, weak states cannot easily accrue the 'meta-capital' to overrule interest groups and achieve their objectives. All states are, to some degree, 'sites' (or 'fields') for competition, but weak states suffer from competition because of a lack of cohesive bureaucratic structures for integrating and managing this competition. These states lack a formal cohesiveness and often perform poorly with respect to public good provision, maintaining their territorial integrity and security, achieving political stability, or providing for rule of law. Ultimately, a weak state can be defined as one that eschews formal, legible strategies for managing the implementation of shared projects, and instead, to the extent that it strives to do so, falls back on informal or personalised approaches.

---

281 Similarly, Slater (2010: 42-46) argued that elite perceptions and reactions to security threats determined the state's fiscal power and explained the 'Authoritarian Leviathans' of Southeast Asia. Like, Vu (2010a: 243-249), this holds that the most authoritarian states are born of counterrevolutions.

282 See, for example, Evans (1995: 49-56); Johnson (1982: 57-59); Samuels (1987: 262).

283 See Samuels (op cit.).

284 Evans (1995: 56).

In conclusion, this section introduced relevant scholarship about 'weak states', including how scholars employ the framework to enhance theories about political, legal, and, economic outcomes. It also examined various definitions of what states do (or fail to do) that in turn makes them weak. As discussed in sections above, there are some important attributes – including a monopoly on coercive force, bureaucratic coherence, penetration of society, and a rule of law – at the essence of the state. There is, however, no universal or widely accepted definition of a weak state, and different models focus on different attributes. Quantitative measures, such as revenues collected or public goods expenditures, account neither for changing political and institutional endowments nor empirical case studies that suggest how even weak state structure may, at least temporarily, achieve economic growth, political stability, or both. Ultimately, the section synthesised a definition of weak states that will be applied to the thesis's case study (see Chapter 6).

Summary and conclusion

This chapter's goal was to review literature relevant to the thesis's 'weak state' analytical framework. Following Chapter 1's brief overview of the Weberian tradition of the state as a locus of coercion and extraction, this chapter introduced more modern and practical models. It discussed states in the context of economic management – a task of considerable modern importance – and surveyed literature on ineffective, or weak, states. The chapter discussed institutionalist and neo-utilitarian approaches to describe scholars' argument that states are independent, explanatory variables that influence observable social, economic, and policy outcomes. It examined the work of political scientists and economists who concluded a strong, effective state is essential for modern economic tasks. These institutionalist, qualitative approaches suggest that weak states cannot be simply defined through quantitative measures, for example revenues collected or public goods spending. Sometimes, states that appear weak, or preside over poor economic outcomes, also enjoy stability and political longevity.

Based on this survey, the chapter then synthesised its own definition of a weak state, namely a state lacking formal, legible strategies for the implementation of the 'shared projects', a term used to describe the tasks that the state is best placed to provide or facilitate, for example rule of law, economic growth, or public security. The literature cited in the section immediately above is the core literature informing the definition and upon which the thesis builds. Also referred to as 'public goods', the 'shared projects' terminology underscores how the effective state must work with society, both to map and synthesise policy adjustments to on-the-ground conditions, while also remaining sufficiently insulated from interest groups. This balance, sometimes described as 'embeddedness', is at the heart of the discussion between neo-utilitarian and institutionalist literatures described above. As suggested by Weber's focus on an institutionalised, impersonal bureaucracy one of the most important features of the state, it similarly follows that effective states have the legal and bureaucratic institutions necessary to implement 'logistically political decisions' over the potential opposition of various actors or groups. By comparison, this chapter showed how weak states instead rely on informal, personalised approaches to carry out shared projects.

This definition provides the framework for the thesis's examination of efforts to rescue and restructure the Indonesian banking sector after the Asian Financial Crisis. To be clear,

the 'weak state' sketched out above represents an analytical approach that is largely extant and based on the refinement of existing theories to bring a new vocabulary that can be applied in the service of addressing questions mainstream in the Indonesian Studies space. In response to the crisis the Indonesian government, with the backing and, indeed, at the behest, of its international creditors, tasked IBRA, a novel and extraordinary agency, with an array of responsibilities stemming from deep insolvency in the banking system. The thesis argues, however, that the effort to impose a strong, transparent, and rigorous process – where, crucially, no such institutions had existed to this point – was frustrated by the reality of the overarching state. IBRA's work has been heavily criticised, both in its day as well as today, for the share of public funds recovered, its facilitation of deals that benefitted the country's largest conglomerates, and allegations of corruption by some of its leaders.

The thesis mostly sets aside normative judgements, but it also finds evidence of an agency armed with incomplete powers and forced to take over, and then implement itself, classic weak state modalities. This included, as described in the chapters below, the use of informal and negotiated strategies to realise its tasks. Indeed, as the chapters that follow demonstrate, some of the shortcomings attributed simply to IBRA are as much the consequence of the challenging legal and political factors of the time. As the thesis's analytical framework suggests, these features are historically and institutionally embedded, and so the next chapter examines the existing literature on the Indonesian state, in particular its approach to relevant tasks during the New Order era that immediately preceded the crisis. As the chapter shows, despite some scholarly accounts of strong, bureaucratic formation, the New Order state operated, especially in later years, towards increasing illegality and informality.

Chapter 3: Indonesia as a weak state?

Following the previous chapter's overview of the thesis's analytical framework and its definition of a weak state, this chapter reviews literature on the Indonesian state. As other scholars of Indonesia have also examined state-centric factors, this study is conversant with a broader – and expanding – literature in the broader Indonesian Studies space. Chapter 9's concluding observations return to this subject and the thesis's overall contribution.

This chapter begins with background on historical debates about the importance of the colonial state to state-society dynamics in post-independence Indonesia. This includes discussion about the 'shared projects' that confronted Indonesia's initial leaders, especially a particular focus on economic issues. The Soeharto regime established its power through economic rehabilitation, and it continued to wield and defend its power through economic management. Next, the chapter surveys scholars' conclusions about the New Order state. These are important for several reasons, including the centrality of historical features to the thesis's theoretical approach, the influence of this literature on subsequent studies of the state, and the fact that IBRA emerged as a 'shared project' due to the events of the Asian Financial Crisis and the Soeharto government's disastrous response to it.

Next, the chapter examines more contemporary state-driven approaches. As we will see, most dispense with the previous strong state perspective and instead emphasise the presence of illegality, informal state structures, and power contests amid changing institutions. Among the important conclusions for my findings are the historical context and the importance of informal networks and/or practices for the overall exercise of state authority. A final, concluding section summarises the chapter and looks ahead to the rest of the thesis.

Independence, economic policy, and state-making

Before discussing scholarship about the New Order, it is worth examining the colonial state and the economic 'shared projects' that preoccupied Indonesia's post-independence leadership. Within the literature there has been debate about whether post-independence Indonesia should be understood as an extension of the colonial bureaucratic state passed into the hands of competitive Indonesian elites, or, instead, as a representation of a culturally-based systems of social relations that would have existed irrespective of the colonial experience.[285] In response to the focus in the 1960s and 1970s on 'culturalist' explanations for authoritarianism and corruption, Benedict Anderson attributed corruption to inherited Javanese traditions.[286] Anthropologist John Pemberton traced the New Order regime's use re-imagined 'culturalist' traditionalism to the interaction of Dutch colonialists and a rehabilitated, constructed Javanese aristocracy.[287] Both colonial and New

285 An observation made by Klinken and Barker (2009: 3-4), which provides a useful literature review.
286 See Anderson (1972: 48). Cited Aspinall and Klinken (2011: 8-9).
287 See Pemberton (1994: 61-67). Anderson (1983: 478-480) situates the Indonesian state within Batavia (modern day Jakarta) as an expression of Dutch commercial and military conquest of the Indies.

Order authorities engaged in a 'fashioning of Java' as a wellspring of political and spiritual legitimacy.[288] Other accounts documented the renovation of the colonial state into an administrative and apolitical bureaucratic formation.[289] Like Pemberton, some accounts focused on how the construction of this colonial administrative state also transformed the Javanese elite into a specialised, educated, and less geographically-tied professional class.[290] The dynamics of this transformation would later, some argued, parallel the New Order's ritualisation of bureaucratic authority and emphasis on strong state objectives such as economic development or the rule of law.[291]

The Netherlands East Indies, and, later, Indonesia, was the product of military conquests – many of questionable economic or even strategic merit – carried out based on decisions made in Batavia (modern day Jakarta) and through the colonial state's own military force. At the time of independence in the late 1940s,[292] economic issues were central to the challenges facing the country, and the construction of local industry and capital was an important focus even before the New Order regime came to power during the late-1960s. Indeed, this reflected the nature of the colonial enterprise, as colonial authorities – and, by extension, Indonesia's post-independence leaders and senior bureaucrats – presided over a non-industrialised economy primarily oriented towards the export of primary commodities. The state's bureaucratic apparatus expanded rapidly in numeric terms after independence, but scholars disagreed if it was a powerful, predatory organisation or one that was largely incapacitated by internal power plays.[293] In any case, virtually all capital and expertise was in the hands of colonial enterprises (a mix of public and private) and, to a much lesser extent, a small, Chinese minority that were prohibited from owning land or joining the civil service.[294] Control of the lucrative export trade resided with mostly private Dutch trading houses, and the state controlled but a handful of nationalised state enterprises that provided some basic services.[295]

In fact, a reaction to economic and ethnic issues was central to the independence movement, with the East Indies' first mass-based movement (*Sarekat Islam*) organised in response to perceived Chinese encroachment on the indigenous control of raw materials used to produce *batik* cloth.[296] The premise of economic revolution dovetailing with political upheaval was particularly widespread, and many prominent independence activists

288 Pemberton (op cit.: 152-161; 189-196). The dissection of the fluid, and, most importantly, ritualistic, conception of that which possessed *asli* (authenticity) is conversant with contemporary concepts, such as the *aspal* state.

289 See Benda (1966: 589-605), cited Klinken and Barker (2009: 4), on the *beambtenstaat*. Anderson (2006: 115-116, n2) noted that by 1928 more than 250,000 indigenes were part of the administrative apparatus (90% of the civil service).

290 See Sutherland (1979), cited Klinken and Barker (2009: 4-5).

291 Anderson (1983: 477-496) and McVey (1982: 84-91), also cited Klinken and Barker (2009: 4-5), also focused on the New Order as a reemergence of this late-colonial administrative state structure.

292 Full independence was not realised until 1949.

293 See Buehler (2011: 65-66), citing Anderson (1983) and Liddle (1973).

294 See Chalmers (1997: 5-6), Jonker and Sluyteman (2001: 211), and Chua (2008: 100). Chinese mostly worked in small retail or as colonial agents developing tax farms or moneylending enterprises. They were often 'played off' against the indigenous majority.

295 See Jonker and Sluyteman (2001: 209-212), also Abeng (2001) and Habir et al. (2002). Anderson (op cit.) emphasised the state's income from monopolies or state firms, but in reality the state's fiscal footprint was small, with 50% of its expenditures spent on its own upkeep.

296 See Chalmers (1997: 6, n10).

were influenced by Marxist ideas.[297] Rather than businessmen, most anti-colonial leaders were Dutch-educated bureaucrats or professionals who saw capitalism as an extension of imperialism and believed in the redistribution of assets to homegrown entrepreneurs.[298] Considerable debate focused on the merits and potential means of *'Indonesasi'*, or the promotion of indigenous capital against entrenched Western and Chinese players. During the independence struggle itself, a group of pedlars and moneylenders, mostly ethnic Chinese, collaborated with opportunistic republican officers to expand their businesses into logistics and provisioning – in the process forging important connections with the emerging military elite.[299] Tuong Vu's Marxist-derived model of Indonesian state-formation, for example, emphasised intra-elite competition for resources and relationships with new social forces. As independence leaders were essentially seeking international recognition, this model was a pointed contrast to more Euro-centric theories of greater bureaucratic organisation arising from the demands of external competition.[300] Accordingly, the Indonesian state was, by nature, weaker and unable to take on meaningful economic tasks without further ideological polarisation and class conflict.[301]

Therefore, given the near complete lack of an indigenous commercial class and the importance of economic issues and Marxist ideas to the politics of the era, expanding the domestic economic base was among the most pressing shared projects confronting the post-independence state. Policymaking was particularly hamstrung by the nascent government's commitments to preserve all foreign investment and provide compulsory compensation for any nationalised assets.[302] In response, policymakers sought to affect *Indonesasi* through policy initiatives such as the *Benteng* (Fortress) program of 1951-1956, which sought to steer preferential credit and import licenses to an indigenous business class.[303] *Benteng* was unsuccessful, however, as favoured entrepreneurs simply sold the licenses on to Chinese traders better equipped to handle the business. Another institutionalist account found that Indonesian elites were compelled to promote growth due to the need for broad 'winning' coalitions (and the accompanying demands for 'side payments' to keep these coalitions viable), but these pressures did not forge strong institutions because of the absence of a severe external security threat or extreme resource constraints (factors that created the Northeast Asian developmental states of South Korea and Taiwan).[304] This trend continued and, indeed, was exemplified, during the New Order.

Soekarno seized power in 1957 through proclamation of his authoritarian 'Guided Democracy' and began implementing an aggressive state capitalism and rolling nationalisation of colonial and, eventually, virtually all foreign-owned businesses. As a result, by 1966, state enterprises dominated virtually all sectors, but they were largely ineffective, controlled by inexperienced military officers, and dependent on personalised

297 See Azis (1994: 386) and Vu (2010a: Chapter 9).
298 See Chalmers (1997: 5-8) and Sato (2003).
299 See Borsuk and Chng (2014: 41-60) and Barr (1998: 2-4) on two key Soeharto-era *cukong*, Liem Sioe Liong and Muhammad "Bob" Hasan. Both were significant IBRA obligors and PKPS participants (see Chapter 6 and 7).
300 See Vu (2003: 237-267).
301 Ibid.
302 See Chalmers (1997: 7-8, 9-11), especially on the effects of the Dutch-Indonesian Round Table Conference's Financial-Economic Agreement.
303 See Ibid., Robison (2009: 45), and Thee (2012: 31-35).
304 See Doner et al. (2005: 229-332).

politico-bureaucratic connections (*koneksi),* which had become important for the first time.[305] Most citizens, on the other hand, relied for many state-like functions (in addition to overall social integration and stability) on *aliran,* voluntary social organisations that predated independence and were formally or informally linked to political movements.[306]

Soekarno's economic policies produced runaway inflation and a barely-functioning, almost entirely state-owned, economy. Unsurprisingly, economic retrenchment was integral to the New Order's consolidation of power, including reversal of nationalisations, rationalisation of state enterprises, and moves to attract foreign investment.[307] The effect of economic liberalisation and a re-embrace of international capital was profound. As a celebrated political economy account noted, "…re-engagement with global capitalism was the means by which [Soeharto] replaced a ramshackle and bankrupted regime with a more efficient and centralised form of authoritarian rule and extended the foundations of the vast system of state capitalism, constructed by Soekarno but never consolidated."[308] Legislation provided certain state enterprises with special roles and powers and, under the leadership of 'financial generals', often from the Strategic Army Reserve (Kostrad), these firms became central to the economic development – as well as political patronage – that becae central to the era's political economy.[309]

Patterns of New Order Scholarship

It might be surprising for some readers familiar with the influential economic or political science studies of the New Order to encounter a study that aims to unpack the historical antecedents of Indonesia's 'weak state'.[310] Indeed, some of the most well-known literature (often by economists) portrayed the New Order state as centralised, cohesive, and dominant in constructing social structures necessary to deliver on its economic and security vision.[311] Before its revision in 2000, the Constitution declined to grant citizens rights – instead saddling them with a 'duty to uphold the state'.[312] To the constitutional scholar Raden Soepomo, who drafted Indonesia's first Constitution, this requirement was based on the assumption that civil checks were unnecessary because the 'integralist' state would, as an accurate representation of inherited cultural and political traditions, have

305 See Vu (2010a: 161-179) on incoherent party government before Guided Democracy. On nationalisation of foreign firms, military control, and *Konfrontasi*, see Habir et al. (2002), Redfern (2010), MacIntyre (1992: 140-141), and Chalmers (1997: 14).

306 Aspinall (2013: 32-33) cites Clifford Geertz's account of *aliran* as performing a broad range of religious, educational, and economic functions, including arranging loans, disseminating news, and providing agricultural assistance.

307 See MacIntyre (1992: 141). See, variously, Crouch (1978: 308), Robison and Hadiz (2004: 51-56), and Borsuk and Chng (2014: 64-73) on state enterprises, most of which were divided into shares and mandated to operate as *Persero*, or profit-oriented limit liability public corporations. See Leith (2003: 275) on negotiations – almost immediate – with the US mining company Freeport.

308 See Robison and Hadiz (2004: 40).

309 See also Chapter 4 about how the financial crisis worsened amid growing doubts about the regime's ability to manage the crisis and deliver continued economic growth.

310 The New Order ran from 1966 through to President Soeharto's May 1998 resignation and the beginning of *Reformasi*.

311 A comparative study of Southeast Asia said the New Order state "controls all aspects of political and economic life and has co-opted all institutions that could even potentially challenge the state" (Neher 1994: 117).

312 See Lindsey (2001: 295). The first amendment was in 1999, but rights were provided in 2000.

interests identical to its citizens.[313] This premise conflicts with the models discussed in Chapter 2, many of which envisioned the state as a compulsory, coercive formation focused on extraction and the concentration of violence while society seeks to sidestep or frustrate such impulses.[314]

As this thesis argues, the means of the state's exercising of its power say much about the nature of power, or political economy, of that system. Therefore, this section picks up from the previous section with the New Order's re-engagement with international capital and international aid as the foundation of an authoritarian and monolithic state. Initially, as the New Order consolidated its power and restored the economy, powerful military officers took over a slate of administrative roles, often in cooperation with a group of internationally trained 'technocrat' economists. The military's 'dual function' (*dwifungsi)* facilitated a political presence at all levels of civic life, including even the village.[315] According to some studies, the state was a 'bureaucratic polity' that stood aloof to society and was primarily concerned with capitalist economic growth.[316] Powerful bureaucrats and officers benefitted from their proximity to the highly autonomous state apparatus.[317] Even in the 1980s, when officers took a back seat to bureaucrats within the most powerful state organisations, the premise of a bureaucratic superstate ruling over society remained. Writing in the early 1990s, economist Hal Hill wrote of an "effective and powerful civilian bureaucracy" likely to remain impervious to outside influence or reform.[318] Not all agreed, however, and some argued President Soeharto basically presided over a subservient and weak, albeit centralised, state apparatus.[319]

During its first decade, the regime benefitted from favourable external conditions, most notably an oil boom that provided growing revenues and ample opportunities for patronage and clientalism.[320] In some accounts, the state became a complex hierarchy of patrimony used strategically to empower and control political retainers.[321] Powerful fiefdoms sprung up around favoured state enterprises, and together with a later expansion of preferential licensing and credit allocation, the state, embodied in the activities of so-

313 Ibid.: 286.

314 See Tilly (1975: 1981-1982) on protection and extraction and Abrams (1988: 60-65) on the state as a series of techniques to legitimise its dominance. See Evans (1995: 5) on how conflict permitted the violence-concentrating state to portray itself as 'the universal agent of societal interests'. See also Weber (1991: 78). Even those focused on the state as a source of 'political society' were primarily concerned with rules for inclusion and exclusion (Stevens 1999: 56). Scott (1998: 2) discussed 'legibility'.

315 See Crouch (1988: 59-63) on the military's role in Soeharto's Indonesia, including its patron-client relationships.

316 See Jackson (1978) on the 'bureaucratic polity'. On technocratic reform and the tactics of informal coalition building, see MacIntyre (1992: 138-150). Also discussed in Klinken and Barker (2009: 5-6). By contrast, Emmerson (1983) coined 'bureaucratic pluralism' to describe the existence of some substantive policy issues.

317 See Robison and Hadiz (2004: 103-105, 110-111), including on the establishment of the Golkar party as a new mechanism other than the military for securing and regenerating the New Order's leadership.

318 See Kilnken and Barker (2009: 4), citing Hill (1994: xxix).

319 See Slater (2010: 114).

320 Pertamina, the 'special' state enterprise that received surging hydrocarbon revenues, became a massive firm and, under the leadership of Lt Gen Ibnu Sutowo, an umbrella for the New Order's emergent 'politico-business elite'. It was, for a time, above oversight from other state organisations. See McCawley (1978: 3-7, 10-12) or Glassburner (1976: 1100).

321 See McLeod (2005: 370-372) on the 'franchise' system held together by strict informal rules and incentives. Liddle (1985: 71) described an escalating pyramid of patronage.

called 'politico-bureaucratic' elites, actively channeled commercial benefits to influential or connected private entrepreneurs.[322] This included both a budding indigenous 'oligarchy', and, later, a group of upcoming, albeit politically inert, Sino-Indonesian entrepreneurs.[323] Previously, the colonial state served a business elite, but the New Order's bureaucratic elite served mostly its own interests, especially in pursuing the patronage and commercial opportunities that were succour to the regime's prevailing power structures.[324]

To reflect both President Soeharto's centrality to the patronage system, as well as the unique, culturalist character of the polity over which he presided,[325] some political scientists focused on personalised interactions of the president and senior officials with specific interests groups or social forces. President Soeharto was styled the 'Father of Development' and the arbiter *par excellence* of intra-state coalitions of technocrats and economic nationalists.[326] Such personalised leadership was undoubtedly important, but other scholars pointed to cases when social forces and non-state actors still influenced policy.[327] Some sociology and political economy studies pushed back against such 'behaviouralist' explanations as tending towards 'idiosyncratic despotism'.[328] Others highlighted how the New Order state penetrated and organised society through a pervasive network of corporatist vehicles across political, social, and business interest groups. At times, however, this focus on corporatist power structures ignored the importance of external actors or the inability of the state to structure such groups with complete autonomy.[329] As an influential corporatist study argued at the beginning of the 1990s, "all approaches are very heavily state-centred in their focus: very little focus is allowed for the possibility that extra-state actors have a major role".[330] Indeed, the tendency to view the state as unusually powerful and centralised perhaps ignored concurrent evidence that it was, although undoubtedly the most influential force, often contested, opaque, and increasingly informal in its mechanisms and networks.

When the oil boom fizzled in the late 1970s, the government found itself starved of revenue and saddled with macroeconomic imbalances. As a result, it sought to attract investment and boost exports. The change in policy coincided with a curtailing of the power and autonomy of the military-linked state enterprises and, in certain sectors like manufacturing, the adoption of market-driven reforms and opening up to foreign investment and technologies.[331] Later in the decade, the financial sector, which, up to that

322 See MacIntyre (1992: 143). This was a departure from Soekarno-ist statism, which, outside of a handful of 'palace millionaires' (Eklof: 2002: 221), deliberately sought to exclude private capital.
323 See discussion below of some prominent class-driven accounts.
324 An observation from Klinken and Barker (2009: 5) regarding Anderson's (1983) observations on the New Order state.
325 See Pemberton (1994: 61-67) on the imagined culturalist 'Java' as a source of inherited authority and power.
326 See Emmerson (1989: 118-119).
327 See Rosser (2013: 18-22), including discussing Liddle's (1987: 144) 'restricted pluralism' critique of overemphasis on the New Order's 'centralisation and concentration' of power. Liddle (1991: 404) later concluded that non-state factors such as political structures or cultural aspects mattered mostly within President Soeharto's personal power calculations.
328 Ibid.: 424.
329 On corporatism, see MacIntyre (1991: chapter 1), including attention to non-chartered actors within the system whose existence undermined the claim the state acted with complete autonomy (ibid.: 7).
330 See MacIntyre (1991: 17), also discussed in Klinken and Barker (2009: 4).
331 On economic policies, see MacIntyre (1992: 138-139, 144), MacIntyre (1991: 58-59), Booth (1992: 24), Davidson (2015: 112-113), Borsuk (1999: 136-137), Pangestu (2002: 48-50).

point, was essentially a limited cohort of state-owned banks dependent on central bank credits, was also progressively opened – garnering considerable praise from technocrat-aligned liberal economists and the international development community. Despite the ascendancy, at times, of technocratic officials, even these 'reforms' could still give rise to 'distributional coalitions' similar to those that clustered around state enterprises during the 1970s. For example, a 1982 import licensing regime intended to improve the balance of payments also led to the rise of monopolies that damaged downstream exporters because of the resulting higher-priced inputs supplied by a select cohort of connected firms.[332] The resulting 'high cost economy' required subsequent packages to unwind the effects of the previous 'reform'. Indeed, economic policies were crafted to balance domestic political imperatives against the attraction of international assistance. One account described the fierce annual struggle to obtain President Soeharto's assent for reforms intended to "loosen the purse strings of foreigners" on the eve of the major international donors' conference.[333]

Policies were often revised as domestic factors shifted or to overcome unintended, or parallel, consequences. During the oil boom,[334] familial enterprises linked to the senior officers in charge of state enterprises were among the prime beneficiaries, but subsequently the wellspring (and beneficiaries) of state-derived patronage shifted to a civilian bureaucratic elite – with much government procurement, for example, placed under the State Secretariat's control.[335] Key bureaucrats thereafter accumulated extensive political power and substantial business interests in sectors dependent on state fiat. Therefore, macroeconomic deregulation, which was promoted by internationally-aligned technocrats, often also coincided with microeconomic restrictions in trade and industrial policy. The result was acceptable macroeconomic performance but with numerous consumer-facing monopolies or market distortions. This resulted in such high prices for staple goods that the World Bank estimated at least a tenth of a good's final sale price was overpriced inputs from the trade regime.[336] These restrictions or barriers tended to benefit the business interests of senior bureaucrats or the Soeharto family and their partners.[337]

Some political economy-inclined models tended towards a Marxist-inspired, class-driven approach that framed the progression of the New Order state as embedded within, and an expression of, specific social relations that prioritised the interests of the dominant forms of capital, namely foreign investors and Sino-Indonesian conglomerates.[338] These approaches were more structuralist and emphasised the power of mobile capitalists to extract concessions from the state during times of economic uncertainty or crisis.[339] Some argued that the state, although socially embedded and a reflection of some form of the

332 See Soesastro (1989: 857-861); Sjahrir and Brown (1992: 127-128); and MacIntyre (1991: 58).

333 See Borsuk (1999: 148, 158) on the "annual ritual". Wins were often offset, for example, in 1986, when Tommy Soeharto's national car project garnering same-day approval (as the package) for tariff-free automobile imports.

334 On Pertamina in the 1970s, see Glassburner (1976: 1100), McCawley (1978: 10-13), Azis (1994: 387), and Abeng (2001: 24-27).

335 See Winters (1996: 151-164) or Robison and Hadiz (2004: 59-60) on the strategic agencies, slush funds, and SOEs under the State Secretariat, which, during 1980-1986, allocated funds exceeding total domestic investment approvals.

336 See MacIntyre (1992: 145) and Borsuk (1999: 138).

337 See Schwarz (1994: 134) on the soybean crushing monopoly or Borsuk (1999: 151-152) on the clove monopoly.

338 See, for example, Robison (2009).

339 See Winters (1996).

demands of capital, had greater autonomy than suggested under a purely class-driven model and therefore networks were essential.[340] In one influential account, the 'politico-business' elites – bureaucrats, politicians, or senior officers – that populated these networks functioned as 'gatekeepers' who used their authority to obtain benefit for themselves or allies and thereafter became the basis of the country's 'oligarchy'.[341] Rather than technocratic or predatory, for example, networks were 'multi-dimensional' in pitting coalitions of market actors against one another in distinct, but highly changeable, configurations.[342] Another account explained the Soeharto regime's AFC-induced collapse as a consequence of the political settlement between mobile and fixed capital because the interests of this coalition prevented the government from selecting the policies (e.g. capital controls) necessary to survive the crisis.[343]

Many accounts showed how by the 1980s an an agenda of economic liberalisation was actually attractive for the largest and most diversified domestic conglomerates (e.g. 'mobile capital') that were increasingly constrained by entrenched state monopolies in infrastructure, banking, and communications.[344] State-business relations, in turn, were framed as increasingly 'predatory',[345] with entrepreneurs expected to support the regime in return for state-bestowed commercial advantages. Cooperation took the form of contributions to various funds or foundations – often located within the state and/or controlled by the First Family – as well as support for policy objectives ranging from managing staple goods to bailing out troubled banks.[346] Even the state's coordination of public goods was predatory; for example, the awarding of concessions to build the nearly 800-km Trans-Java Tollroad. Although Mitsui offered to build the road under a single concession, the route was split into 19 separate concessions and awarded to a slate of well-connected indigenous (rather than Sino-Indonesian) business groups.[347] Some groups were small and relatively unknown, but the most lucrative inner-city tollroads went mostly to the Soeharto children's increasingly dominant conglomerates. Although announced in 1996, the full network was still not completed in 2018.

Other studies documented how the New Order state pursued freewheeling relations with, and, in some cases, was inhabited by, criminal elements. Not only was this so-called *premanisme,* or, in its inadequate Anglicisation, 'gangsterism', a throwback to the revolutionary period when republican forces managed or cooperated with a small-scale Sino-Indonesian traders to smuggle provisions or control economic activities, but it also blurred the line between legitimate development and state pursuit of rents through

340 See Rosser (2002: 28-29).
341 See Robison and Hadiz (2004: 53-64).
342 This could include, for example, politico-bureaucratic elites (and their conglomerate compradors) versus a variable group of international capitalists (and partners such as IMF or World Bank).
343 See Pepinsky (2009: 264-265; 275). By contrast Malaysia, also authoritarian, albeit with a regime supported by a coalition between fixed capital and labour, adopted more successful policies.
344 See Eklof (2002: 219) and Robison (1997: 36). Nearly all major conglomerates, besides those of the Soeharto children, belonged to Sino-Indonesian entrepreneurs.
345 See Booth (1998: 336), also discussed Thee (2012: 83-84). Pepinsky (2012: 7) also noted the 1990s state fitted a definition of a predatory state.
346 See Barr (1998: 14-15) on the bailout of Bank Duta with matching US$220 million loans from the Salim and Barito Pacific Groups. See Robison and Hadiz (2004: 57-60) on the use of foundations *(yayasan)* as a 'halfway house' merging the 'politico-bureacratic' need for off-budget funds with the enrichment of important political elites. See Barr (op cit.), Schwarz (1994: 128, 141), or Brown (1999: 78-80) on Bob Hasan's plywood marketing cartel (Apkindo) and its interaction with the *yayasan*.
347 See Davidson (2014: 75-89).

commerce, violence, and quasi-legal activities.[348] Growing awareness of this innate criminality challenged the premise that the state's foremost commitment was to growth, especially as the New Order regime frequently trumped economic objectives for political considerations.[349] Indeed, this *premanisme* was arguably the opposite of authoritarian capitalism. Others framed this criminality in more formal terms, for example, as a 'franchise' system of partially formalised, although not completely controlled, patronage.[350]

Stepping back to the broader statist literature, some, especially early accounts, paralleled the 'organic statist' model often applied to anti-Communist, authoritarian, corporatist Latin American regimes during the 1960s and 1970s.[351] Somewhat similarly, the 'cohesive-capitalist' state, often applied to North Asian developmentalist states, equated growth with national security and used authoritarianism, ideology, and an insular, elite bureaucracy to pursue it.[352] It is nevertheless inaccurate, in my estimation, to cast the New Order as a 'developmental state', that is, according to the statist literature, one defined by pro-growth, highly cohesive, state structures.[353] Instead, the New Order, especially once aid funds began to flow and the international panic about communism subsided, was reminiscent of Brazil's 'elitist development', which was based on largely military-driven commitments to 'modernise' the country with limited nationalist mobilisation and the confinement of most citizens to the countryside and its non-industrial patronage networks.[354] 'Development' in Indonesia was often more of an 'ideological weapon' to be deployed against critics and used as a pretext for authoritarianism.[355] Indeed, some argued the New Order's later collapse was actually precipitated by changing state-business relationships and the increasing exclusivity of late-New Order patronage networks, rather than merely the result of an economic crisis.[356]

In conclusion, this section has offered an overview of state-focused literature from the New Order era. This followed the previous section's discussion of the colonial state and the economic issues facing the post-independence state. The New Order consolidated its power through economic restoration, and it used reengagement with international capital to construct an extensive system of patronage and bureaucratic authority. As described above, some accounts emphasised the power and authority of a so-called 'bureaucratic polity', others on President Soeharto's position atop the system. These models perhaps overlooked the contestation of state power and the importance of others, non-state actors. The changing interests of capital, not to mention the influence of international development partners, also exerted influence on on policymaking. Economic reform, far from the domain of an impersonal bureaucratic state, was a pitched and incremental intra-

348 See Lindsey (2001: 289-290).
349 Ibid., including examples like the Timor national car or the Busan/Bre-X goldmine scandal.
350 See McLeod (2005: 371-377).
351 See Stepan (1978: 40; 44-45), which described these regimes as "…an intermediate statist model that is 'neither capitalist nor communist,' by replacing private initiative with overall public regulation in economic life, at the same time retaining the marketplace as the basic mechanism for distributing goods and services."
352 See Kohli (2004: 10-11, Chapter 3) and Evans (1995) on developmental states in South Korea and Taiwan.
353 Discussed Vu (2010a: 2).
354 See Kohli (2004: 279).
355 See Chalmers (1997: 23-24).
356 Fukuoka (2012: 81-82) argued this represented a shift from a patrimonial administrative state, where politico-bureaucratic elites had the upper hand against business, to a patrimonial oligarchic state. Either way, access to the state remained the primary avenue of wealth creation.

state contest for favour and influence. Some framed the state's relationship with business as 'predatory', and the commitment to growth, in contrast to 'developmentalist' regimes, was far from *de rigeur*. Conclusions about the nature of the state also changed over time, and, by the late-New Order, scholars turned to the centrality of criminality not only adjacent to, but within, the state itself. The following section discusses these issues further.

The post-Soeharto state

The previous section discussed state-focused scholarship about the New Order regime. This included a focus on how economic management, the regime's re-engagement with international capitalism, and its bureaucratic structures have been framed as central to its consolidation and subsequent holding of power. The section discussed how many scholarly accounts viewed this state as particularly strong and resistant to external influences, but there was also ample debate about to what extent the state was actually fully insulated from social forces. The section discussed how the state was portrayed as bureaucratically adept, but also how patronage, and, in some cases, criminality, were integral to its mechanisms. It also charted changes that inevitably occurred through time, both regarding the organisation of administrative power as well as how scholars thought about the character of the state. the In fact, by the late-New Order, the state appeared more personalised and informal than the earlier 'bureaucratic polity' portrayal.

As discussed in Chapter 4, the economic upheaval of the Asian Financial Crisis and the rapid collapse of the regime both came as a surprise, and not only because the Indonesian economy was regarded as particularly secure. This unforeseen event – and the resultant political and institutional upheavals – also prompted reevaluation of preexisting assumptions. Indeed, as public security deteriorated and parts of the country were gripped with communal violence, it became more common to express considerable concern about the Indonesian state and its ability to hold the nation together.[357] In retrospect, of course, these fears would pass largely unrealised, except for the case of Timor Leste, with Indonesia enjoying two decades of economic and democratic successes. Since then, however, the importance of the state in the literature has grown, often in ways that challenges the conclusions of the works discussed above.

Post-*Reformasi* works did continue the late-New Order trend towards awareness and examination of the state's inherent illegality or informality and the conflicted or diffuse nature of power Indonesia.[358] According to one historian, Indonesia was best described as a 'system of exemptions' derived from the historical development and reinforcement of cultural features, including the weakness of institutions, a mismatch between law and moral values, and a weak social contract between state and society.[359] As a result, the meaning and application of law fluctuates widely across different situations. Outcomes depend most on context and the relationship among 'power centres', rather than actual, or relevant, law.[360] Similarly, the post-*Reformasi* state has experienced the continued rise of

357 Klinken and Barker (2009: 4-5) highlighted the discussions of 'fragmentation', 'chaos', and 'crisis'.
358 For an entire study on this topic, including chapters cited below, see Aspinall and Klinken (2011).
359 See Cribb (2011: 33).
360 The resulting 'mismatch' helps explain, for example, the popular ambivalence about President Soeharto's legacy and the long reluctance to prosecute him or his family for apparent corruption or illegal activities (ibid.).

premaniste centres of illegality at the expense of formal rules or bureaucratic structures. This manifests in a 'criminal state' with real structures and systems, albeit those that are illegal and reminiscent of organised crime.[361] In one example of criminality assuming a state-like organisation, when military officials in Timor Leste resorted to counterfeiting rupiah banknotes to pay for needed weapons, the serial numbers of the notes were still provided to the central bank, which insisted on quantitative limits and that the military limit their circulation to the conflict theatre.[362]

Previously, according to the 'franchise' model of the state,[363] President Soeharto was the apex coordinator and source of legitimacy for a formalised and monitored system that provided officials and quasi-chartered actors with access to private taxation in return for a share of the spoils and political services or support. Thereafter, the unravelling of authority that followed the removal (and non-replacement) of the franchise 'owner' led to heightened intra-governmental competition – judiciary, legislative, and even security forces – for access to the private taxation opportunities regulated previously under this system. Similarly, others cast the post-*Reformasi* state as a highly competitive 'ensemble of power centres' often at loggerheads and generally incapable of coordinated or uncontested actions.[364] Political scientists described how 'oligarchs' searched for new forms of 'protection' and 'wealth defence' as longstanding cooperation with 'gatekeeping' politico-bureaucratic elites became less effective.[365] Business was, therefore, driven further into the realm of party politics, legislatures, and even the security forces.[366] Even those with considerable wealth have pursued the state as a source of prestige and mobility, perhaps because power is socially embedded or partially independent of wealth.[367] Others challenge the concept of a state dominated by oligarchs, and have argued the state remains the main repository of power, albeit one dominated by adaptive 'state elites' who continue to derive power from their connection to it.[368] These elites have adapted to increased competition in part through the selective cultivation, especially at the subnational level, of social groups that provide resources to assist their pursuit of power.[369]

Scholars' focus on enhanced competition and the loss of apex stability also accompanied a growing emphasis of linkages and networks, including those not readily apparent. So, for instance, Indonesia has been interpreted as a 'rhizome state', with competing power centres bound together by underground social networks and sustained by resources from

361 See Lindsey (2001: 284-285, 292-295). During the New Order, *preman* groups functioned as private militias with the backing (*dekking*) of state officials or their business partners. These groups survived the New Order but became more detached from previous state linkages.

362 See Aspinall and Klinken (2011: 19-23, 25-26).

363 See McLeod (2005: 371-377).

364 See Klinken and Barker (2009: 5-7). The authors argue illegality is neo-patrimonial, that is, based on mechanisms of the modern state, rather than a 'culturalist' inheritance. The authors explicitly invoke Pemberton's (1994: 9) theory that state projects are productive of social effects.

365 Robison and Hadiz (2004: 226) defined oligarchy as "a system of power relations that enables the concentration of wealth and authority and its collective defence". Additionally, see Hadiz and Robison (2013: 37-38), Winters (2011: 7), and Ford and Pepinsky (2014: 2-6).

366 This agrees with the concept of 'political business' (Gomez 2002), the result of the relationship between the state and big business.

367 See Klinken and Barker (2009: 9-10).

368 See Buehler (2014: 157-159).

369 Ibid. In general, however, the deeper resource competition that existed between political and economic elites was, per this argument, mostly unchanged.

both licit and illicit institutions.[370] Therefore, underground institutions exist within the state because of the specific economic and entrepreneurial demands facing its agents. A similar approach examined Thailand's 'un-state' and described a 'network state' configuration of nodes related through personalised and fluid power structures organised around a 'multi-centred autocratic' power structure.[371] To others, the state became a 'marketplace' or transactional space where political rules were constantly tested, negotiated, and recalibrated.[372] Unlike the actual marketplace, however, in the political marketplace prices are not the sole determinant of a 'transaction', and illegality is not simply a function of greed or opportunism amid an environment of lax or nonexistent law enforcement, but also a ritual to bind actors and seal transactions.

The 'aspal state' (real, but fake – *asli tapi palsu*) described the New Order's parallel, quasi-formal, system that was actually responsible for tasks either ignored or ineffectively managed by the genuine state.[373] This system was governed by an alternative 'soft' law and informal norms. Outcomes were then legitimised by the actual state, resulting in "a highly developed legal formalism (hard law) and public rhetoric...[and] state sanctioned 'corruption' and legal informality in practice...". An applied study of 'aspal' models documented how economic migrants in Riau Islands existed within 'grey' labour systems, including travelling with documents that were genuine in that they were issued by some local authority but illegal in that they were not centrally-empowered or regulated.[374] Therefore, these local officials used authority and power derived from some form of state charter to regulate (and, presumably, derive fees and income) in a way that was actually illegal and uncoordinated with the ultimate source of their implied legitimacy.

Evidence also suggested variable social attitudes depending on the position of those engaged in illegality or corruption – a testament to the indispensability of illegal activity to the execution of normal, everyday tasks. In this way, illegality and corruption acquire a form of social consensus that, as a consequence, blurs the line between state and society.[375] This occurs because, as discussed in the previous chapters, it is these everyday administrative tasks *are* the state for most citizens. Therefore, an inherent state-like order overlays a system of informal levies, bureaucratic workarounds, and the social tolerance of illegal activities seen as providing order. Rather that pursuing money or commercial advantage first and foremost, actors within the field of an ineffective or inadequately resourced state also pursue resources and alliances, often cemented with reciprocal obligations or non-monetary exchanges.[376] Indeed, the interface between the fake and genuine states assumed a degree of absurdity: "there were lots of laws, but because only the politically powerful could ever win, they were reduced to nonsense".[377]

Other studies have focused on regulatory or commercial outcomes. A comparative typology of state-business relations labelled Indonesia as 'etatist', or state-led, with low social organisation and 'predatory' relationships due to the low-capacity state's high levels

370 See Baker (2015: 315) on the 'rhizome' concept applied to the National Police, inspired by Bayart (1993) and Reno's (1995) 'shadow state'.
371 See Reyonlds (2011: 4-5).
372 See Dick and Mulholland (2011: 65-66).
373 See Lindsey (2006: 27-29).
374 See Ford and Lyons (2011: 108-109).
375 Discussed in Aspinall and Klinken (2011: 5-6, 23).
376 See Klinken and Barker (2009: 12).
377 See Lindsey (op cit.).

of interference in commercial matters.[378] An institutionalist study of toll road development attributed the wider ineffectiveness of the post-*Reformasi* state to historically relevant political challenges and unresolved social conflicts now moderated through new institutional factors.[379] Thus, to explain the root causes of the ineffective state, scholars and analysts must consider areas of competition unchecked by formal rules, for example extra-parliamentary rules, state business relationships, and patterns of illegality. Another study, focused on the state's historical direction of finance within the palm oil sector, identified the fragmentation of state roles on account of the post-Asian Financial Crisis dismantling of centralised organisations (such as Bank Indonesia).[380]

Similarly, a study of the 'regulatory state' argued institutional weakness and the state's historical developmental roles frustrated post-crisis efforts by technocratic officials and the international financial community to expand markets through the empowerment of impersonal, bureaucratic governance.[381] Therefore, a case study of the electricity utility PLN showed how "diffuse, polycentric nodes of governance" and blurred authority among historical and novel organisations resulted in contested legitimacy and a tendency for PLN to further internalise its operations and resist legibility.[382] According to one structuralist perspective, the fall of Soeharto did not lead to the creation of a regulatory state because of the existence of increasingly independent and autonomous business interests that still depended on, but were collectively able to destabilise, the state.[383] A state-focused study of failed post-*Reformasi* bureaucratic reforms attributed an excessive focus on rules for controlling civil servants, rather than incentives for better performance, to a lack of meaningful inter-elite competition.[384] It therefore asked if pursuit of these market-led reforms was even advisable given the state's overarching weakness.

Summary and conclusions

Following Chapter 2's introduction of the thesis's state-focused framework (and definition of a weak state), this chapter provided an overview of relevant literature focused on the Indonesian state. Next, Chapter 4 begins the thesis's empirical study of IBRA, which provides material against which this framework and literature are applied and discussed further. I return, in Chapter 9, to some of the literature discussed here.

This chapter began with a discussion of the colonial and post-independence state, including debates about the relative influence of colonial or culturalist factors, and also the economic issues that that were a particular focus for initial Indonesian leaders. One study argued that elite competition and interactions with social groups at the time of independence gave rise to attempts to affect indigenous control of the economy and, eventually, an expansive state capitalism.[385] The centrality of economic management

378 See Carney and Witt (2012: 14-15) for a comparative study.
379 See Davidson (2014: 9-12).
380 See Pramudya et al. (2017), which explicitly referenced Evans (1995) and Jarvis (2012).
381 See Jarvis (2012: 470-473).
382 *Ibid.*: (487-490). The durability of patrimonialism is also a key feature.
383 See Fukuoka (2012: 88-92). As mentioned above, this study argued that the ejection of Soeharto reflected business interests' dissatisfaction with the distribution of patronage and resources.
384 See Buehler (2011: 74-75), including the conclusion that "recent [civil service] 'reform' initiatives seem merely intended to provide a smokescreen for a lack of substantive action" (83).
385 See Vu (2010a: 161-179).

continued under the New Order, and President Soeharto consolidated and expanded his power through reengagement with international capital and pursuit of economic objectives.[386] Not only are these tasks particularly important for modern states (see Chapter 2), but many state-centric approaches are rooted in Marxist or sociological approaches, and therefore tend to focus on economic projects to assess the character and mechanisms of state power.

Rather than grant them rights, Indonesia's Constitution, as originally drafted in 1945, assigned citizens the duty of upholding the state, which, it assumed, would have identical interests to the governed.[387] As shown above, some scholars focused on the New Order state as a strong and centralised source of bureaucratic power resistant to social forces.[388] One account stylised President Soeharto the 'Father of Development' and focused on his arbitration or intra-state competitions.[389] This changed over time, including as political economy factors, such as the changing business interests of the regime and major domestic groups, were reconfigured through economic growth. As the interests of both domestic conglomerates and politico-bureaucratic elites expanded, policymaking became increasingly contested among various political, commercial, and bureaucratic interests.[390] Over time, non-chartered actors grew in importance within the system.[391] Rather than technocratic or predatory, some Marxist-derived approaches argued that the state was an expression of the interests of dominant foreign and domestic business groups,[392] which contributed to the growing fluidity and competitiveness of politico-business networks.[393]

By the late-New Order, there was also growing interest in the proximity of criminality and informality to the state and its tasks – a theme carried forward in post-New Order literature. This included the state-like nature of illegality or unsanctioned activities that were so central to everyday life that they acquired a degree of social consensus and state-like organisation.[394] Other studies identified growing competition for access to resources and control over private taxation, trends attributed to the departure of President Soeharto from the top of the system.[395] To deal with the contested, predatory, and weaker state, social actors and business interests responded by becoming more politically active and enmeshed in these structures.[396] These actors were bound together through informal exchanges or only partially visible networks or linkages.[397] For some, the state resembled a marketplace or transactional space, or an 'ensemble of power centres' with constantly recalibrating rules and relationships.[398]

---

386 Similarly, some argued that the 1997-1998 economic crisis and growing concerns about President Soeharto's capacity to choose and execute proper economic policies combined to rupture the existing political settlement and end his presidency. See Chapter 5.
387 See Lindsey (2001: 286, 295).
388 See Jackson (1978) or Hill (1994).
389 See Emmerson (1989: 118-199) or, for a critique, Liddle (1987: 144).
390 See Soesastro (1989: 857-861), MacIntyre (1993: 58), or Borsuk (1999: 148, 158).
391 See MacIntyre (1992: 138-150).
392 See Robison and Hadiz (2004).
393 See Rosser (2002: 28-29).
394 See, variously, Lindsey (2006: 27-29), Cribb (2011: 33), Lindsey (2001: 284-285, 292-295), or Klinken and Barker (2009: 5-7).
395 See Mcleod (2005: 371-377).
396 See Robison and Hadiz (2004: 226), Hadiz and Robison (2014: 37-38), and Winters (2011: 7).
397 See Baker (2015: 315).
398 Terms from Dick and Mullholand (2011: 65-66) and Klinken and Barker (2009: 5-7), respectively.

Chapter 4: The crisis and the superagency

This chapter marks the start of the thesis's empirical work on the Indonesia Bank Restructuring Agency (IBRA). The agency's official name was the *Badan Penyehatan Perbankan Nasional* (BPPN), but the anglicised acronym (IBRA) is well-known both inside and outside Indonesia and is therefore used throughout the thesis. IBRA was established in January 1998 to take over and manage the Indonesian government's growing financial sector intervention as a result of the Asian Financial Crisis (AFC or 'the crisis'). During the latter half of 1997, the Soeharto government had failed to contain the crisis through its use of Bank Indonesia to provide liquidity to troubled banks and carry out a limited slate of small bank closures. Once it became clear that these measures were inadequate, the government was forced back to the International Monetary Fund (IMF), with which it had already concluded a lending package in October 1997. Included in the package were a slate of financial sector and economic reforms the government committed to undertake in return for assistance. In return for the January 1998 package, these conditions expanded to include IBRA's creation and endowment with substantial legal tools to carry out expanded intervention into and restructuring of Indonesia's financial and corporate sectors.

The case study of IBRA – and, in particular, its work to quantify and resolve the obligations of large private banks – is evaluated using the state-driven model presented above. This case study demonstrates the difficulties inherent to the complex bureaucratic and administrative tasks that fell to the agency as a consequence of the crisis. Despite the centrality of law and regulation to the personification of the Indonesian state, IBRA actually functioned most effectively when deploying informal, often opaque, tactics that are, as discussed in Chapter 2, associated with weak states. These strategies were historically and institutionally embedded and related to specific economic, political, and legal features. Therefore, the weak state framework suggests that IBRA's performance was not simply the consequence of the crisis, but also indicative of the contested nature of power in the system. Chapter 8 returns to this conclusion and relates the weak state framework to the thesis's empirical findings, in particular Chapter 6 and 7's detailed analysis of IBRA's work to resolve the legal issues and recover funds related to its nationalisation of major private banks. This chapter, therefore, performs the necessary task of establishing historical background.

Given the length and formatting constraints of a PhD dissertation, it is not possible to present an exhaustive and comprehensive study of IBRA and its spectrum of responsibilities. Indeed, as shown below, the agency was responsible for virtually all actions linked to the financial sector rescue package, including, *inter alia*, intervening in banks during the crisis, determining whether banks would be closed or recapitalised, transferring the liabilities of banks slated for closure, restructuring and selling non-performing loans, recapitalising banks, settling the obligations of owners of banks that had violated existing prudential regulations, managing and preparing for sale the government's equity holding in rehabilitated banks taken over during the crisis, and managing the sale of assets obtained from former bank owners. The creation of a single agency to manage the full gamut of these activities contrasted to comparator countries, which often deployed multiple agencies

(and even private sector entities).[399] IBRA, although extraordinary in its nature, was wholly controlled by the Indonesian government and, as is illustrated below and discussed in Chapter 8, was, as a result, subject to complex attendant political and organisational factors that influenced its actions and limited its ability to function, at least as initially proposed.

This case study is based on documents collected and interviews carried out by the researcher,[400] as well as existing literature about the development of the crisis and IBRA's work. Chapters 6 and 7 focus specifically on the work related to the takeover of two private banks (BDNIA and BCA). As a result of these interventions, the government, through IBRA, assumed the banks' obligations, much of which had arisen due to activities for which there was *prima facie* evidence of legal wrongdoing. Such wrongdoing included abuse of the Bank Indonesia Liquidity Assistance facility (BLBI – *Bantuan Liquiditas Bank Indonesia*) or the violation of prudential lending limits (or, often, both). Thus, bank owners both lost control over their banks and faced potential legal risks should the government press its potential claims in court. To deal with these issues, which the thesis often refers to as 'obligations', IBRA was instructed to conclude novel contracts, known as Shareholder Settlement Agreements (PKPS – *Penyelesaian Kewajiban Pemegang Saham*), which specified the assets the shareholder would transfer to IBRA in return for settlement of the potential legal claims between the parties. Therefore, Chapter 5, below, explains how IBRA's bank interventions unfolded amid the heat of the crisis, whereas Chapters 6 and 7 provide in-depth examinations of how the PKPS functioned in practice. As Chapter 8 argues, the 'asset settlement' approach embodied in these two PKPS was indicative of the characteristics of a weak state set down in Chapter 2.

This chapter provides the background necessary for the detailed cases of BCA and BDNI presented below. As IBRA was an organisation with a massive, even unprecedented, mandate, it is important to provide background about what the agency did, when it was established, and how it functioned in theory and, especially, in practice. IBRA's work resulted in the transfer to the agency of large swathes of assets; according to some estimates, IBRA at one point controlled up to 70% of all private sector assets.[401] As shown in Chapter 5, these assets provided the basis for a significant share of the funds recovered by the agency, but their handling has also, as discussed in Chapters 6-7, generated significant criticism of the agency and, in the case of Syafruddin Temenggung, even contemporary legal proceedings. Before addressing these issues, however, this chapter also must deal with three other factors established above, namely: the importance of historical features to the analytical approach; the importance of economic management as a major responsibility of the modern state (see Chapter 2); and, finally, the centrality of economic themes to the existing literature about the Indonesian state (see Chapter 3).

Therefore, the structure of this chapter is as follows. The first section provides context about the conditions that led to, and featured in, the initial phases of the crisis in Indonesia. In particular, this examines the prevailing approach to banking supervision and

399 See Enoch (et al. 2001: 75, 80), Lindgren et al. (1999: 30-31, Tables 6, 9, and 12), Terada-Hagiwara and Pasadilla (2004: 5-7, 26), and Fung et al. (2004: 13-20). Most AFC-affected countries established asset management companies (AMC), but IBRA was comparably unique because it was an AMC as well as the main government entity for banking interventions, deposit guarantees, and many recapitalisations.

400 These research activities were carried out under Ethics Approval No. 1545644.1, 13 November 2015, and extended on 4 February 2019.

401 Cited in Hicks (2004: 231).

dealing with troubled banks. This was particularly important because the government initially sought to manage the crisis by resorting to its existing paradigm for managing troubled banks. This decision would have particular consequences for both the crisis's subsequent progression, as well as the cost and approach needed to ultimately address it. Next, the chapter discusses how Indonesia turned to international financial institutions, led by the IMF, for assistance, before charting how these negotiations led to IBRA's establishment in January 1998. This is necessary background for Chapter 5, which sets out IBRA's activities, functions, and the legal and political features of its establishment. This, in turn, supports the presentation of quantitative data about IBRA's work, the cost of the bailout, and its performance in recovering a share of the public funds expended.

Ultimately, when interpreted in line with Chapter 2's analytical framework, my findings provide insight about the Indonesian state and its capacity – or lack thereof – to carry out the 'shared projects' that resulted from its interventions into the financial sector. In general, this thesis avoids normative judgements, such as whether the efforts to address the widespread banking insolvency were appropriate or effective, but it does discuss the relevance of these topics to the existing literature or popular debates relevant to the management or oversight of the agency.[402] Although I avoid definitive judgements about supposed corruption or injustice inherent in IBRA's work, the reader will realise that the perspectives and rhetoric of different actors with respect to these issues had direct consequences for IBRA's work and its relations to other players in the arena of the state.

Furthermore, as suggested by Anderson's observation about the state's continuous ingestion and excretion of individuals (see Chapter 1), the thesis also avoids reducing its explanations to a personality-driven narrative. Instead, it aims to chart the difficulties of an organisation, and, indeed, an entire system, that struggled, given the state within which it was situated, to deliver on its objectives using available legal and bureaucratic structures. Finally, as explored in both Chapters 3 and 9, this case study suggests that scholars and analysts should be skeptical about the capacity of the Indonesian state – not necessarily about its capacity to produce adequate bureaucratic and legal outcomes, but instead the capacity to institutionalise formalised and legible pathways for doing so. This may seems a relatively trivial question – especially as outcomes may be 'adequate' according to this appraisal – but it matters for scholars who seek to explain *why* things in Indonesia happen in a *particular* fashion. Most importantly, this analysis shows where power actually resides, not in the state or the law, but instead with informal and opaque coalitions of actors.

Historical antecedents

After January 1998, IBRA became essentially the sole vehicle for all government efforts to rescue and restructure its financial sector. The exception to this was the BLBI facility, which remained under BI's control for several months, although subject to a redesign of the facility's rules.[403] Therefore, the agency ended up as the face of a bank bailout

402 The conclusion (Chapter 9) does briefly compare the overall 'cost' of the rescue to other countries, suggesting IBRA's recovery rate was, in relative terms, better than might be otherwise assumed.

403 The January 1998 LOI (IMF 1998a: Paragraph 25) stated central bank liquidity would be "subject to increasing conditions". The April 1998 LOI (IMG 1998b: Annex I) called for the introduction of new, more stringently administered liquidity instruments, and also noted that as of April the transfer to IBRA of BI's liquidity claims was 'under preparation'.

estimated to cost up to 60% of the country's GDP, the largest in history.[404] The economic crisis was equally massive. Indonesia's GDP contracted by more than 13% in a single year, the rupiah eventually lost nearly 80% of its value against the USD, and in 1997-1998 the country experienced a capital outflow of US$13 billion.[405] In total, IBRA intervened in banks representing 30% of the banking sector and with assets worth 20% of GDP.[406] Indonesia's financial sector was basically its banks, which at the time of the crisis represented 90% of total financial sector assets,[407] so these terms can basically be used interchangeably. However, before turning to IBRA's responsibilities and performance stabilising the banks and restructuring and disposing of assets, some background about the crisis is necessary to prepare for analysis of IBRA's work through the lens of the weak state (see Chapters 8 and 9).

Naturally, the history of the crisis is often framed in terms of the fall of the New Order regime, and different accounts accentuate various economic or institutional factors that contributed to this important – and largely unforeseen – political change.[408] This section cannot provide a comprehensive history of the crisis (nor the last, chaotic days of Soeharto's New Order regime), but instead includes an overview of what most scholars accept as the multifaceted factors that brought on, and contributed to, the worsening crisis. This includes context about the financial sector, the New Order political economy, and the historical approach to addressing troubled banks. This section includes details related to the November 1997 bank closures and Indonesia's initial engagement with the IMF before moving on to IBRA's establishment and initial efforts to set up the agency. This, in turn, sets the stage for Chapter 5's more in-depth discussion about IBRA's responsibilities and performance.

At a basic level, the AFC was a capital-account (rather than current-account) crisis spread through regional contagion following the July 1997 breaking of the Thai baht's peg to the US dollar.[409] Previous emerging market crises had been caused by current-account issues, so most Asian economies, like Indonesia, were seen as safe because of their healthy current accounts and restrained public spending.[410] The number of Indonesian banks had doubled following an October 1988 liberalisation package that opened, after nearly two decades, private banking to new entrants and drastically reduced reserve requirements and minimum paid-in capital (to a mere US$12 million).[411] A string of bank problems soon followed, and therefore controls were quickly re-introduced.[412] Although the number of banks had increased greatly, the banking sector before the crisis was exceptionally top-

404 See Santoso (2000: 37-38). McLeod (2004: 98) reported a value of 'at least' 40% of GDP.
405 See Chua (2008: 103). The outflow was a reversal of a US$16 billion inflow the previous year.
406 See Enoch et al. (2001: 75).
407 Ibid.: 50-51. Only Argentina had a higher level.
408 On political and social aspects, see Fukuoka (2013: 542-545), Aspinall (1999: 134, 138-139), and Robison and Hadiz (2004: 165-167). Enoch et al. (2001: 17) framed the crisis as a result of 'deep underlying factors' insider the banks; Matsumoto (2007: 82-83) focused on conglomerates' bad debts; and, Radelet and Sachs (1998) argued an inept initial response brought further panic.
409 There is an extensive crisis literature; see Batunanggar (2005: 3-4) and Matsumoto (2007: 4-5, 172-178) for overviews. On the perceived strength of Indonesia's pre-crisis fiscal and economic position, see Hill (1999: 93-96), Hill (2000a: 120-123), or Rosengard (2004: 2-5).
410 See Matsumoto (2007: 4) and Nasution (1998a: 448-450).
411 See Soesastro (1989: 861), McLeod (1999: 259-268, 269-271), Pangestu and Habir (2002: 5-6), Nasution (1998b: 255-272), Santoso (2000: 2-17).
412 Reactive controls included, in 1991, foreign borrowing limits, and, in 1996, revised lending restrictions, higher reserve requirements, and a return to tighter licensing rules (McLeod 1999: 281-287).

heavy, with the 10-largest banks controlling an estimated 70% of total sectoral assets.[413] Such concentration mirrored the broader Indonesian economy, which during the 1980s and 1990s came to be dominated by large, highly diversified 'conglomerates' owned either by the Soeharto children or connected Sino-Indonesian families. Even the dismantling of trade or investment restrictions had actually contributed, despite the rhetoric of continuing 'technocratic' reforms, to greater 'conglomerisation' because protections were usually only removed once the monopolist conglomerate had made the large, downstream investments necessary to maintain or expand their commercial dominance.[414] Table 4.1 shows the concentration of private banks shortly before the crisis.

Table 4.1: Major Private Banks by assets at December 1996 (trillions of rupiah)[415]

Bank	Assets	Conglomerate/owner	Post-crisis status
BCA	36.1	Salim (Liem Sioe Liong)	Taken over, sold to private investors
Bank Danamon	22	Usman Admadjaja	Taken over, became 'bridge bank' for several closed bank's deposits
BII	17.7	Sinar Mas (Widjaja)	Recapitalised, sold to Maybank
BDNI	16.7	Gadjah Tunggal (Nursalim)	Closed
Lippo	10.2	Lippo (Riady family)	Recapitalised, sold to CIMB (Khazanah Nasional Berhad), merged with Bank Niaga
Bank Bali	8	Rudy Ramli	Taken over
Bank Niaga	7.9	Hasyim Djojohadikusumo	See Lippo Bank
Bank Umum Nasional	7.1	Ongko (Bob Hasan)	Closed
Panin	5.4	Goenawan family	Healthy
Bank Duta*	5.3	Berdikari (Soeharto charities)	Taken over

* Bank Duta also owned shares in the State Logistics Agency (Bulog)

Despite problems in the financial sector during the 1990s, the onset of the crisis was not simply a consequence of banks' irresponsible foreign borrowing exposed after the rupiah was floated unexpectedly.[416] High levels of bad loans already existed by the mid-1990s in the sector.[417] In 1993, for example, 26 conglomerates – most linked to the Soeharto family – owed more than 100 billion rupiah to state banks.[418] New Order-era banking supervisors were mostly powerless to enforce prudential regulations, including limits on related party lending.[419] Instead, banking supervision focused on regulatory functions and paid little attention to the assessment of quantitative risks.[420] As one economist concluded, the combined effect of the 1988 liberalisations and toothless banking supervision led to "a proliferation of weak banks, often merely fund-gathering vehicles for conglomerates".[421]

413 See Pangestu and Habir (2002: 7, Table 2). Combined with six state banks, this share rose to 75% of total bank assets.

414 See, for example, Borsuk (1999: 138, 151) on the soybean crushing monopoly.

415 Adapted from Pangestu and Habir (2002: Table 2).

416 No bank, save Bank Exim, failed because of its foreign exchange activities or the rupiah's depreciation. See Santoso (2000: 26-27).

417 See Nasution (1998b: 272-277) or Pangestu and Habir (2002: 5-7). Already 'baked in' bad loans limited authorities' options for addressing rupiah depreciation, as interest rates (see also Enoch 2001: 21), which were set by the president anyway, could not be increased without further damaging the banks.

418 See Matsumoto (2007: 7).

419 On banking supervision, see Nasution (1998b: 266-269), Sato (2005: 100-101), Santoso (2000: 17-18), or Enoch (2000: 3).

420 See Nasution (op cit.).

421 See Grenville (2004: 87).

Still, offshore debt was far higher in the corporate private sector, a reflection of sanguinity about Indonesia's economic prospects and foreign banks' preference to lend directly to conglomerates as a substitute for Indonesia's weak legal system.[422] The non-bank private sector's foreign debt topped US$78 billion in 1997 (up from US$28 billion in 1992), exceeding private banks (nearly US$13 billion) and even the government (US$60 billion). Half of the corporate debt had maturities under a year.[423] This risk interacted with the banking sector because these same conglomerates had also borrowed extensively from a group of affiliate or state-owned banks. Most problem loans were concentrated in banks linked to, or owned by, the fifty largest conglomerates.[424]

Once regional capital flight began in mid-1997, the withdrawal of offshore commercial lending put pressure on the rupiah and, in August 1997, forced Bank Indonesia to abandon its policy of intervention to maintain the value of the rupiah versus the US dollar.[425] The range within which the rupiah was allowed to float had already been widened during 1996 (to 8%) and again in July 1997.[426] Although Stanley Fisher, Acting Managing Director of the IMF, praised the move in a press release as likely to "allow [Indonesia's] economy to continue its impressive economic performance of the last several years",[427] Indonesia's banks responded by pulling back from the already segmented interbank lending market.[428] As a result, banks experiencing liquidity problems had greater difficulty obtaining cash, while bank owners (most with had large offshore debts) were unable or unwilling to inject the funds necessary to shore up their banks' capital bases.[429] Losses were also often hidden; later, according to IBRA, banks had off-balance sheet losses of more than 60% of their total assets.[430]

Although unknown outside of cabinet, Bank Indonesia, as the lender of last resort, had in August already begun providing emergency liquidity to 'healthy' banks unable to obtain it through normal interbank channels. The exact circumstances of the scheme, known as BLBI (*Bantuan Liquiditas Bank Indonesia*), have never been satisfactorily disclosed, but, in total, 145 trillion rupiah – an astonishing 14% of GDP – were provided to a cohort of banks.[431] Total debts exceeded 112 trillion rupiah, with the largest recipient banks being owned by major conglomerates such as the Salim, Gajah Tunggal (Sjamsul Nursalim), Danamon (Usman Admadjaja), Ongko (Muhammad 'Bob' Hasan), Subentra (Sudwikatmono), and Risjadson (Ibrahim Risjad) groups.[432] Although prohibited under the facility's rules, Bank Indonesia continued to extend cash to banks unable to settle their daily balances and apparently despite some banks' non-payment of the high interest rates

422 See Batunanggar (2005: 2), Pangestu and Habir (2002: 15, Table 5), and Matsumoto (2007: 14), also discussed Davidson (2015: 69-70).
423 See IBRA (n.d.: 2).
424 See Nasution (1998b: 274-277).
425 See Santoso (2000: 25-26), Pangestu and Habir (2002: 17-18), and World Bank (1997: 16-17) on pre-crisis rupiah policies and Bank Indonesia's initial attempted defence.
426 See Pangestu and Habir (2002: 17); Robison and Rosser (1998: 1600); Enoch et al. (2001: Box 2).
427 See IMF (1997).
428 Enoch et al. (2001: 31-32) detailed a rump of 24 major, foreign-, or state-owned banks trading mainly amongst themselves. Bank Indonesia balked at further closures, and its liquidity support – then unknown – continued to rise.
429 On discovery of problems, see McLeod (2004: 98-100), Batunanggar (2005: 5-7), Enoch (2000), Enoch et al. (2001), Pangestu and Habir (2002), or Sato (2005).
430 See IBRA (n.d.: 3).
431 See IMF (2003b: 70).
432 See Sato (2005: Table 5).

intended to dissuade overuse of the facility.[433] Collateral was not, as would usually be the case, reliably required in return for this liquidity, which was extended on the basis of bank owners' personal guarantees that the funds were used to cover deposit withdrawals and their banks were in compliance with prudential regulations.[434] Disturbingly, BLBI funds rose rapidly in December 1997 (from 13 to 31 trillion rupiah),[435] before more than doubling in the first quarter of 1998 (from 63 to 147 trillion rupiah).[436]

It is not clear precisely when the IMF became aware of the irregularities within the scheme – they later reported to have not known until January or February 1998 – or if the Fund could have done anything to stop it.[437] Even IBRA, despite its supposed powers to take over bank and seize assets, was unable for several months to staunch the flood.[438] Regardless, BLBI would have extraordinary consequences, not only during the crisis, but also as a major component of IBRA's work and the overall cost of the rescue package. Even in contemporary Indonesia, an eclectic and wide-ranging constellation of activists, politicians, and businesspeople regard BLBI as among the greatest scandals in history. Once the banks that were the largest BLBI recipients were taken over by IBRA in April 1998, audits revealed extensive lending to related parties, with most loans classified as non-performing.[439] A July 2000 BPK audit reported 'potential state losses' of nearly 96% of the total funds disbursed and the improper use of nearly 60% of total funds for related party payments, new lending, and interbank placements.[440] Based on these findings, a number of Bank Indonesia employees and bank commissioners and directors were referred to the Attorney General and legislature.[441] Later, in May 2001, another audit reported the commercial value of the collateral banks were required to hand over to Bank Indonesia (in return for liquidity) was only 10% of the audited value of the BLBI funds disbursed.[442]

Most importantly, the massive BLBI abuse definitely undercut policymakers' concurrent attempts to implement policies deemed necessary to address Indonesia's monetary problems.[443] Indeed, BLBI functioned as a risk-free cash window for well-connected

433 See Djiwandono (2004), IBRA (n.d.: 4), or Enoch et al. (2001: 34).
434 See Enoch et al. (2001: 19).
435 See Pangestu and Habir (2002: 19).
436 See IBRA (n.d.: 4).
437 See IMF (2003b: 72). Grenville (2004: 91) concluded the Fund would have recognised the 'blowout' sooner if not for an August 1997 technical error. He is not convinced it could have been stopped.
438 BLBI consisted of several tools, including Special Money Market Securities, a Debit Balance Facility, New Discount Facility, Rupiah Bailout Funds, Foreign Currency Bailout Funds. See BPK (2006d: 4-6) for disaggregated data.
439 See Enoch et al (2001: 36). The lowest level of NPLs among this cohort was 55%, the highest 90%.
440 See BPK (2006a: 3-5) for details on the audit, which was prepared with PWC assistance and submitted to the legislature. See also Robison and Hadiz (2004: 193, 219, n11) on the later expansion of the known scale of the misuse. The IMF (2003b: 70-72, n15) presumed lower levels of actual abuse because the 'legalistic' classification of fraud as any violation of BI rules probably inflated the figures.
441 In total, 51 employees from Bank Indonesia and 41 bank commissioners or directors were referred. A source familiar with IBRA's work estimated that 80% of the directors of private banks subject to IBRA intervention were eventually convicted (Interview, January 2017).
442 IBRA later received this collateral when it assumed the BI's claim on BLBI receivables. Much had no value, either due to fraud or simply the poor condition of the economy.
443 Political analyst Kevin O'Rourke (Email, July 2016) argued, "the BLBI loans were egregiously abused – in effect, while the IMF was demanding high interest rates in 1997-98 to bolster the rupiah, the Soeharto family was surreptitiously running the currency printing presses day and night, vastly expanding the money supply and directly undercutting the IMF advice. Then, observers from Indonesia as well as from abroad blamed the IMF for the crisis". Robison and Hadiz (op cit.) also

conglomerates; as one economist noted, "providing access to lender-of-last resort funding for the distressed banks on a continuous basis often committed Bank Indonesia to lend money to institutions that had no capital…[and] owners had no incentive to use the new money wisely, because they had nothing at risk".[444] As of end-January 1998, BLBI funds reached 100% of base money, and liquidity even continued to flow after IBRA began taking over banks in February 1998 (and the January LOI stated that there would be an increase in conditions for support).[445] This uncontrolled release of liquidity had grave consequences because it flooded the foreign exchange market with rupiah as conglomerate owners shuttled funds out of their banks and, indeed, out of the country.[446]

Table 4.2: BLBI facility by bank type as of 29 January 1999[447]

Bank Type*	Number of banks	Total BLBI outstanding (trillions of rupiah)
BBO	10	57.9
BTO	5	57.6
BBKU	18	17.3
BDL	15	11.9
Total	**48**	**144.7**

* See Annex A for banks by classification

The flagrant disregard for the central bank was, however, indicative of the paradigm – albeit one that would prove completely inadequate – that existed before the crisis.[448] Bank Indonesia had been legally enshrined as the lender of last resort since the late-1960s,[449] and, following the 1988 liberalisation package, at least five banks had required state assistance.[450] Troubled banks were dealt with through 'open bank resolutions', essentially a public announcement of a bank's struggles and concurrent arrangement of either emergency funds and/or another bank or consortium of banks – often featuring well connected conglomerates – to assume its liabilities.[451] Consistent with the political economy of the time, this strategy relied on bank owners having substantial non-banking assets that could be leveraged to induce cooperation with authorities.[452] Bank Duta, which was 74% owned by three charities headed by President Soeharto, had massive foreign exchange losses (in violation of prudential rules) before being bailed out by a consortium of charities and businesses close to the First Family and its business partners.[453] In 1995, Bank Pacific, which was owned by a member of the prominent Sutowo family and had already been rescued by Bank Indonesia in the early 1980s, ran up 1 trillion rupiah in bad debt through its unfettered issuance of commercial paper before Bank Indonesia assumed

described BLBI as free funding for connected conglomerates.

444 See Nasution (1998b: 275).

445 See Enoch (2000: 9); Enoch et al (2001: 33); IMF (2003b: 69).

446 See Lindgren et al. (1999) and McLeod (2003: 312), which criticised Grenville (2000) and Djiwandono (2004) for their disregard of BLBI's effect on the exchange rate.

447 Based on BPK (2006d: Annex I).

448 See Nasution (1998b: 273) and Enoch et al (2001: 25).

449 Law No. 13/1968.

450 This included Bank Duta in 1990, Bank Summa in 1992, state-owned development bank Bapindo in 1993, plus BNI's takeover – at Bank Indonesia's behest – of Bank Pacific and Bank Yama in 1995.

451 See Enoch (2000:1); Nasution (1998b: 275); Batunanggar (2005: 4); and Santoso (2000: 21-2).

452 A point from Enoch et al (2001: 19).

453 See Schwarz (1994: 128, 141); Brown (1999: 78-79); Santoso (2000: 23-24); Nasution (1998b: 275).

its debts and assigned state-owned BNI to take over its management.[454] Less favoured banks were allowed to fail. In the early 1990s, Soeharto allowed the Soeryadjaja family's Bank Summa to fail, thereby facilitating the takeover of their coveted Astra conglomerate by a member of the First Family.[455]

In one pithy summation, Indonesia's banks before the crisis were 'under-regulated and over-guaranteed'.[456] Monetary policy was shallow and centralised and no government or treasury bills existed; for 30 years the government had simply managed its excess funding needs through development assistance.[457] Remarkably in retrospect, Indonesia did not have a deposit insurance scheme until the crisis was already well underway.[458] Before the crisis, few banks even bothered to hedge against their foreign exchange exposure,[459] and related party lending, which would cascade losses across the system, was so rampant that post-mortem audits estimated that 50% of all banks loans were to related parties.[460] One of the worst offenders (and one discussed in greater detail in Chapter 6), BDNI, even continued lending, largely to related parties, even as it continued to receive large amounts of BLBI.[461] Most bank owners simply expected the existing paradigm to continue: Bank Indonesia would exert a soft supervisory touch; the president would authorise bank bailouts for those with the right connections; and the rupiah's stability would be maintained with any disruptions telegraphed well in advance.[462] These assumptions prompted unusual behaviour; during the crisis, for example, the insolvent Bank Jakarta, which was closed during the initial November 1997 round of bank closures, actually experienced an inflow of deposits on account of the prevailing belief that the bank would be rescued because it was owned by President Soeharto's half-brother Probosutedjo.[463]

Enter the IMF

As banking problems grew, the government had discreetly sought IMF support. On 31 October 1997, they announced a US$43 billion lending package that committed Indonesia to financial sector restructuring, structural reform, and tighter macroeconomic policies.[464] Absent a deposit insurance system, protection for small depositors with less than 20 million rupiah was also announced.[465] The following day, 16 private banks were closed, although President Soeharto prevented any public explanation for the closures, an ultimately costly decision because it deprived officials of the chance to prove – especially

454 See Nasution (1998b: 275).
455 See Enoch et al. (2001: 23) and Santoso (2000: 24). 70% of the bank's bad loans were to related parties.
456 See Hill (2000a: 128).
457 See Enoch et al. (2001: 21).
458 See Nasution (1998b: 274-276).
459 See Santoso (2000: 16). The credible enforcement of rupiah stability and the exceedingly high rates available on rupiah loans (approximately 25%) meant banks did not feel the need to protect against foreign exchange swings.
460 Cited Pangestu and Habir (2002: 26). This assumed a CAR of 8%.
461 See Schwartz (2013: 416).
462 See Boediono (2016: 185-186). The disappearance of this certainty in August 1997 prompted panic.
463 See Enoch et al. (2001: 28).
464 On the IMF lending package, see Enoch (2000: 3-5); Sato (2005: 102, 108); Pangestu and Habir (2002: 18); Enoch et al. (2001: 29-30). See also Indonesia's first Letter of Intent (IMF 1997b).
465 See Enoch (2000: 4-6) or Pangestu and Habir (2002: 18). This differed with Thailand, which immediately declared a total guarantee. In Indonesia, there was more concern about 'moral hazard' and, given widespread panic and the top-heavy banking system, the potential size of the guarantee.

to elites – that they were in control of the situation.[466] A more comprehensive bank resolution package – covering 59 banks with two-thirds of total banking assets – had already been drawn up, but details were kept secret.[467] Nevertheless, reports of other banks under evaluation for some form of restructuring or closure seeped out, and these whispers prompted a 'flight to quality' as deposits were moved from banks perceived as at risk of closure to banks seen as most likely to survive or receive bailouts.[468] Although deposits smaller than 20 million rupiah made up 93% of depositors, they only comprised 20% of total deposit value, and, after a brief reprieve, large depositors demanding US dollars accelerated their runs on major banks.[469]

Initially, policymakers increased interest rates and ordered banks to use excess liquidity to buy central bank notes. This was the 'Sumarlin' playbook named for a former Finance Minister who managed financial sector troubles during the late-1980s and early 1990s.[470] Public largesse was curtailed in a signal to the international financial community, with mega projects, including even some linked to the Soehartos, put on hold. Relations between the Fund and the government were back and forth, with assistance conditional on the implementation of certain policy commitments, and President Soeharto attempting to renege or slow-play changes that were damaging to the commercial interests of his family or close associates.[471] Amid efforts to revive closed banks or restart projects linked to the First Family, the international finance community became especially skeptical of the government's 'commitment' to implementing creditors' demands.[472] Later, by March 1998, creditors, led by the Fund and World Bank, were effectively blackmailing the government by publicly announcing delays to lending disbursements pending review of Indonesia's progress towards its commitments. This was not the only time such strong arm tactics were deployed; later, when Indonesia missed its target to sell down its stake in BCA, finalised in 2002, the IMF had suspended loan disbursements for eight months.[473]

The November 1997 bank closures failed to shore up the rupiah, improve the interbank credit market, and stop bank runs. Their main effect was further economic and political chaos as the public lost confidence in the financial system. Creditors' targeted crackdown on the regime's lifeblood of largesse and monopolies stoked further elite concerns about not only the state of the financial sector, but also President Soeharto's ability to survive the crisis.[474] Two institutionalist political economists argued that even though Indonesia's deep centralisation (and dearth of 'veto players') allowed the government to move very

466 See Enoch et al. (2001: 33).

467 See Pangestu and Habir (2002: 18) and Enoch (2000: 4). Boediono (2016: 188-189) reported the IMF initially identified 34 'sick' banks, but agreed in October 1997 to focus on only on 16.

468 On the 'flight to quality' initial bank runs, see McLeod (2003: 312-313) and Enoch et al. (2001: 31).

469 See Sato (2005: 112) and Enoch (2000: 6-7). This also weakened the rupiah further.

470 See Boediono (2016: 186). This was the same approach used to deal with currency shocks in 1984, 1987, and 1991.

471 Examples included the cancellation of his son's 'Timor' National Car Project or postponement of some large power plant projects. See Enoch et al. (2001: 13); Robison and Rosser (2003: 179-180); Pangestu and Habir (2002: 18-19); Enoch et al. (2001: 13); Rosser (2013: 178-182).

472 See Pura and Bosruk (1997); Rosser (2013: 174); and Enoch et al. (2001: 31) on the saga to close three Soeharto-owned banks: Bank Andromeda (Bambang Trihatmodjo, Soeharto's son); Bank Industri (Siti Hediati Prabowo, Soeharto's daughter); and Bank Jakarta (Probosutedjo, Soeharto's half-brother). In late-November, markets and creditors reacted negatively when Bambang suddenly obtained a new license from BI soon after Bank Andromeda was supposedly slated for closure.

473 See Hicks (2004: 253, n65).

474 See Enoch et al (2001: 33), Robison and Hadiz (2004: 158-159), and Rosser (2013: 178-182).

decisively early in the crisis (a contrast to Thailand), this centralisation later created a serious credibility gap due to doubts about the quality or survivability of the leadership.[475] Boediono, later named in May 1998 post-Soeharto cabinet as the Head of the National Development Planning Agency (Bappenas), explained the first IMF package failed to arrest the crisis because of three factors: inaccurate information about problem banks; inaccurate information about the size of private offshore debts; and a deposit guarantee that was inadequate to prevent further bank runs.[476] Others agreed that, by announcing a small deposit guarantee (20 million rupiah or less), the government sent the message, perhaps unwittingly, that larger deposits, which made up most of the value of the banking system, were not covered.[477] By mid-December, banks with assets worth about half of the banking system had experienced runs.[478]

In turn, the real (that is, non-financial) sector came under pressure as firms struggled, amid high interest rates and the depreciation of the rupiah, to obtain US dollars to pay their offshore debt.[479] A vicious cycle unfolded with banks pulling back working capital and trade-financing facilities to conserve capital – moves that only further damaged banks' assets because their borrowers (Indonesian corporates) were even less able to meet their loan payments. Inflation caused the quality of the collateral pledged against these loans to erode further. At the same time, Indonesia's creditors pushed for even more punishing conditions, some of which (such as the removal of fuel subsidies) wrought both economic and political damage.[480] Other aggressive conditions, most of which weakened the regime, included the dismantling of the State Logistics Board (Bulog), a new Bankruptcy Law, the establishment of a Commercial Court, targets for the privatisation of state-owned enterprises, trade liberalisation (including for previously tightly controlled exports like palm oil), and liberalisation of foreign ownership rules in sectors like resale and wholesale. An ongoing El Nino weather event also damaged the agricultural economy, flowing through, in combination with exchange rate instability and high interest rates, to the payments system, volatility in the price of staple goods, and civil unrest.[481] Eventually on 21 May 1998, following months of back and forth with creditors, President Soeharto resigned amid escalating shortages of staple goods, street protests, and riots.[482] Perhaps tellingly, some of the riots targeted the country's largest bank, Bank Central Asia, which was owned by the Salim Group (the largest conglomerate) and Soeharto's two daughters.[483]

IBRA's establishment

Bank Indonesia, together with its international counterparts, initially believed the financial sector's problems were confined to a handful of problem banks that could be closed, to

475 See Haggard and MacIntyre (1998: 387-388).
476 See Boediono (2016: 191-194).
477 An observation from McLeod (2005: 5-6).
478 See Pangestu and Habir (2002: 17-18), McLeod (2005: 5-6), and Nasution (1998a: 448).
479 Details based on IBRA (n.d.: 4-5) and Enoch et al (2001: 29-30).
480 See Grenville (2004: 83), Robison and Rosser (2003: 183). As Pepinsky (2009: 116-118) observed, Soehato did not flip-flop on IMF conditions because of poor policy or his erratic behaviour (or, as some have speculated, poor health and decision making), but instead because the distributional coalition that held the regime together would not survive the implementation of the IMF's demands.
481 See Boediono (2016: 198-199).
482 See Rosser (2013: 175-182) and Habir and Pangestu (2002: 21).
483 See Chapter 7. BCA had 12% of total bank assets.

protect the payments system and prevent capital flight, without prompting a broader loss of confidence.[484] In reality, however, initial measures, such as the October 1997 IMF package and the accompanying secretive initial bank closures, actually further undermined the rupiah and weakened confidence in both the financial system and the regime.[485] Bank runs thus continued and intensified throughout November and December 1997 before spreading to otherwise healthy banks. It became apparent that a more robust approach, including a proper deposit guarantee and major bank recapitalisations, would be needed to meet the crisis. Non-control of the money supply, as a consequence of the disastrous BLBI policy, also wrought havoc on the currency,[486] but, for the political reasons discussed above, could not be immediately addressed while the existing paradigm remained in place.

Most accounts agreed that by end-1997 the crisis had become systemic, with runs on major banks and widespread bank insolvency.[487] Dealing with such crises are hopelessly complex, and there are inevitable trade-offs involved in virtually any course of action. Bank closures, for example, may be the most cost effective option, but they may also provoke panic, as occurred after the November 1997 interventions. Similarly, without firm oversight, 'open bank resolutions' can create damaging monetary conditions (as occurred with the BLBI facility), or 'moral hazard' problems that later increase the eventual costs of resolving the crisis (such as banks raising interest rates far above market rates in an effort to claw back deposits).[488] The public perception of policy settings also has demonstrable effects. After the announcement in January 1998 of an expanded deposit guarantee, for example, 4 trillion rupiah of deposits actually flowed back into the banking system.[489]

IBRA was announced on 26 January 1998 as part of a financial sector package that included, with the IMF's support, a blanket guarantee for most on- and off-balance sheet bank liabilities (that is, deposits).[490] For any bank established under Indonesian law, Presidential Decree No. 26/1998 guaranteed all liabilities (except equity loan and subordinated loans, unverified liabilities, liabilities to affiliated parties, liabilities from irregular banking practices, liabilities carrying above market interest rates, and claims without valid documents within 60 days of maturity). The Minister of Finance was assigned to determine terms and conditions and designate an agency (that is, IBRA) to manage the disbursements. IBRA was then established immediately under Presidential Decree No. 27/1998 as this agency.[491] In accordance with the agreement, the deposit guarantee scheme was only established until 2004, although Indonesia later legislated to establish a permanent deposit insurance scheme.[492] Facing pressure from depositors of the banks closed in November 1997, the Finance Ministry agreed the expanded guarantee

484 See Pangestu and Habir (2002: 18).

485 See Enoch et al. (2001: 76) on the back-and-forth, including President Soeharto's efforts – unpopular with Indonesia's creditors – to establish a currency board, a step taken, with some success, in neighbouring Malaysia.

486 See McLeod (2003: 312).

487 See Enoch et al. (2001: 27-32) or Pangestu and Habir (2002: 18).

488 On the trade-offs of various approaches, see Enoch (2000: n11, 16, 18); Enoch et al (2001: 36-37, 43-44, n46).

489 See Enoch et al. (2001: 32).

490 The package also acknowledged that some corporate restructuring would be required (Pangestu and Habir 2002: 19). Nasution (1998b: 274) and Matsumoto (2007:5) reported conglomerate's large losses and bad debts. In 1998, for example, nearly 60% of firms booked a loss (average US$9.1 million).

491 See IBRA (n.d.: A-15), Pangestu and Habir (2002: 19) and Enoch et al. (2001: 75).

492 See Sato (2005: 112-13). Rather than a blanket approach, the permanent scheme included a phased reduction in the ceiling for deposit guarantees.

would apply retrospectively.[493] Some initial inconsistencies with the blanket guarantee required the issuance of further statutes, as well as changes necessary to align with subsequent legislation (such as Bank Indonesia Law No. 32/1999). Eventually, a deadline of end-May 1999 emerged for all claims to be settled, and bonds worth 53 trillion rupiah were transferred to Bank Indonesia to cover payments under the scheme.[494]

To provide legal basis for IBRA's establishment, a spartan, two-page, seven-article Presidential Decree No. 27/1998 was issued. It tasked the agency with several tasks: administration of the state's obligations under the blanket guarantee scheme;[495] supervision, guidance, and restructuring of banks deemed unhealthy by Bank Indonesia; and implementation of any other legal actions necessary to restructure troubled banks.[496] Unlike other comparable financial crises, which used multiple agencies or even private sector entities, in Indonesia only IBRA was slated to handle the multitude of activities and responsibilities necessary to manage the full scale of the state's intervention into the financial sector.[497] Moreover, as made clear above, IBRA contrasted sharply with previous efforts to handle troubled banks, including, of course, Bank Indonesia's failed efforts to address the crisis during 1997. As a result, IBRA was both a novel and also externally imposed entity that was, at least with respect to its theoretical powers and functions, outside the existing paradigm economic management to serving political purposes. This contrast is explored further in Chapter 8.

Based on the aforementioned presidential decrees, IBRA was quickly established in February 1998 as an agency of the Ministry of Finance, with space and staff lent by Bank Indonesia.[498] Over the weekend of 14 February 1998, 54 private banks (plus the state-owned Bank Exim) voluntarily accepted IBRA oversight and the insertion of its staff into their premises. These so-called 'soft' interventions dealt with banks that comprised 40% of the banking sector by assets and had borrowed from Bank Indonesia, mostly via BLBI, at least 50% of their total capital. The World Bank and ADB funded international auditing firms to scrutinise both these banks as well as other major private banks not yet subject to IBRA oversight.[499] Under the existing rules, banks' BLBI debts to Bank Indonesia were to become state receivables, which were then placed under IBRA's supervision, after the Minister of Finance and the Bank Indonesia Governor agreed that the government (that is, IBRA) would take over the central bank's BLBI receivables in return for government debt equivalent to the value of BI's BLBI disbursements to the banks.[500] To fund this cost, the Ministry of Finance transferred indexed bonds worth 80 trillion rupiah, the rough amount of credit outstanding for these banks.[501]

493 See Enoch et al. (2001: n68).

494 See IBRA (n.d.: A-15-16). Following Presidential Decree No. 26/1998, and conflicts between Finance Ministry Decree No. 26/KMK/017/1998 and joint Ministry of Finance and Bank Indonesia Decree No. 30/1998, the joint Ministry of Finance and Bank Indonesia Decree No. 32/1998 fleshed out procedures for claims, payments, limitations on eligible swaps (currency only), and sanctions for abuse.

495 Presidential Decree No. 26/1998 and Ministry of Finance Decree No. 26/KMK.017/1998 provided legal basis for the guarantee scheme.

496 See Presidential Decree No. 27/1998, Article 2.

497 See Enoch (et al. 2001: 75, 80) on the less 'centralised' resolution of other contemporary banking crises, including use of several agencies or even private sector vehicles.

498 See Enoch (2000: 8-10 n5) and Enoch et al. (2001: 35, 75).

499 Ibid.

500 See Syahrial (2016b: 9-10). For BTO, banks' BLBI debts became the basis of the government's claim to equity ownership in these banks.

Despite the central bank's transfer of its claim on BLBI receivables, IBRA still did not have control over the BLBI facility, which continued to damage the economy and concurrent attempts to stabilise the rupiah. It has been argued that the initial IMF packages probably also failed to achieve their objectives (of stabilising the rupiah and ending widespread bank runs) not on account of poor policy, but because of non-conducive political factors, such as President Soeharto's threats to implement a currency board and his sudden resignation in May 1998.[502] A small group of 7 banks, which had received 75% of BLBI funds (despite representing just over 15% of the banking system's total liabilities), remained untouched.[503] Even after IBRA began assuming control over other banks, this select group of banks continued, in return for owners' personal guarantees, to obtain liquidity support. As virtually all of these funds were abused, this almost definitely increased the eventual costs of the crisis. Although IBRA was advertised as being endowed with extraordinary 'superpowers', it was actually carrying out its bank interventions under simple contracts with bank owners who requested the agency increase its supervision of the bank in question.[504] Although IBRA could, at this point, transfer a bank's liabilities; it still did not have any legal authority over its borrowers.

Finally, in March 1998, Bank Indonesia agreed to 'redesign' the BLBI facility, such that thereafter only one bank, the politically-connected BCA, continued to receive substantial flows of BLBI funds.[505] The damage, however, was already done, with parlous monetary conditions and massive amounts of outstanding BLBI. On the weekend of 4 April 1998, IBRA took its boldest action to date with the so-called 'hard' takeovers of seven major banks and the closure of seven smaller banks that had borrowed more than 500% of their capital from the central bank.[506] Audits leaked in July 1998 revealed that the 7 taken-over banks (dubbed BTO – Bank Take Over) were deeply insolvent and had non-performing loans worth 55-90% of their total loan books.[507] As the terminology suggests, the April interventions were a step up from the February actions, and they included the exclusion of ownership, the suspension of shareholders' rights, and the replacement of the management. The state-owned BNI was established as the recipient bank for deposits from the closed banks, with all deposits available the following Monday.

The April interventions were accompanied by the announcement of a new IMF package that explicitly endorsed the curtailment of BLBI and supported the seven BTO seizures.[508] Notably, these actions marked the first time IBRA or Bank Indonesia has been permitted to publicise bank closures. This new approach contributed to the slowing and subsequent end of bank runs that, up to this point, had been widespread (the one exception was for BCA, which experienced runs amid the May 1998 riots and the final days of the Soeharto presidency).[509] IBRA's AMC division (Asset Management Credit) was identified as the

501 An option included the issuance of another 75 trillion in bonds later that year. See IMF (1998b: 9, Appendix II:3).
502 An argument from Boediono (2016: 204).
503 See Enoch (2000: 11-12). Four of the banks had borrowed more than 5 trillion rupiah (approximately US$600 million), and each had borrowed more than 2 trillion rupiah.
504 See Maroef (2010: 31-32, n161).
505 See Enoch et al (2001: 33-35).
506 See Santoso (2000: 39-40), Enoch (2000: 1-14, n10), and Enoch et al. (2001: 76). Appendix A contains a detailed list of IBRA banks.
507 See Enoch (2000: 16-17).
508 See IMF (1998b: 8).
509 See Enoch et al. (2001: 76).

entity that would be established to manage debt recovery of bank's troubled assets, including those of the seven BTO banks seized that month.[510] By mid-1998, the initial period of financial sector meltdown had passed, and attention turned from triage to stabilisation and reconstruction – not only of the financial sector but the broader economy. A further three banks were closed in August 1998, and IBRA began to prepare plans for several of the banks taken over in April and May but not closed, including the injection of unsold assets and liabilities from nine of thirteen banks into a 'bridge bank', Bank Danamon.[511]

Summary and conclusions

This chapter introduced background on IBRA and the conditions that contributed to its establishment in January 1998. This occurred after initial efforts to address the crisis failed to restore confidence in Indonesia's banks or the rupiah. This information is important for subsequent chapters' examination of IBRA's dealings with the owners of BCA and BDNI, the two largest recipients of BLBI assistance. Although the crisis was unprecedented in terms of scale, it was far from the first time Indonesia had experienced banking problems, and therefore the chapter discussed first how troubled banks were managed during the 1980s and 1990s. At the time, banking supervision was essentially impotent before the political forces that decided how the sector was governed. Many private banks regularly flouted those limited prudential regulations that did exist. Therefore, the most pressing risk to Indonesian banks at the time of the crisis was their heavy lending to related-party entities which also had large offshore debts. Interestingly, Indonesia had not been seen as at risk of a crisis when problems first emerged in mid-1997 in neighbouring Thailand.

The existing paradigm of how the New Order conducted banking supervision and interventions also exerted strong influence over the assumptions about how banking supervisors would react to the emerging crisis. When authorities deviated from the existing *modus vivendi* through unexpected actions such as the abandonment of the rupiah's intervention band or the closure of banks linked to the Soeharto family, these actions actually prompted panic and worsened the crisis. Finally, the existing tools – or lack thereof – also governed authorities' approach to address the sector's problems, including, for example, through Bank Indonesia's secretive provision of staggering amounts of liquidity to insolvent conglomerate-controlled banks. As discussed above, the effects of a lack of transparency, combined with the market's beliefs about how New Order economic policy functioned, could even prompt outcomes that were, objectively speaking, highly unusual (such as the flooding of deposits back into an otherwise small and insolvent bank). As the crisis deepened, the Soeharto government's position worsened, and its creditors obtained even sterner conditions that further weakened the regime.

Next, the chapter described the period after the crisis began but before IBRA was established. As already suggested, this period was also indicative of the Soeharto regime's unsuccessful efforts to handle the crisis within the existing paradigm. Therefore, the chapter chronicled the escalation of the crisis from what was initially believed to be a set

510 See IMF (1998b: Appendix II:2).

511 See Enoch (2000: 17-18) and Pangestu and Habir (2002: 24). BNI also remained a receiver of bank deposits.

of problems confined to a relatively limited slate of minor banks to a full-blown panic involving the largest banks in the system. This unexpected outcome was the result of a specific confluence of factors, including a loss of confidence in the Indonesian banking system exacerbated by a lack of transparency about the government's policy response, as well as the negative consequences of adversarial relations between the government and its creditors. The BLBI liquidity scheme, which pumped well over US$10 billion into a cohort of largely insolvent banks, also badly undermined concurrent efforts to stabilise and restore confidence in the rupiah. As shown in Chapter 5, the scheme not only comprised nearly a quarter of the total cost of the total financial rescue package, but, because the funds were almost entirely embezzled, it also meant IBRA had to deal with large obligations when it took over these banks. This led to the pursuit of the PKPS program that is at the heart of the discussion in Chapters 6-8.

The chapter's final section dealt with IBRA's establishment and the concurrent declaration of a blanket guarantee on all bank deposits, a transformative moment for the policy response to the crisis. This section included a basic explanation of IBRA's escalating into private banks during the first half of 1998. Although established – albeit in extreme haste – under Indonesian law, IBRA must be contextualised as a product of the crisis's escalation and the concurrent expansion of international financial organisations' influence over Indonesian policymaking. In theory, IBRA had a wide-ranging remit and was to obtain broad powers to seize delinquent banks, exclude shareholders and management, restructure their activities, and exercise strong control over their debtors. As discussed further below, however, IBRA's banking interventions, which began the month after its establishment, were actually structured under contracts with bank owners inviting the agency to increase supervision over the banks. This was indicative of a primary challenge facing the agency, namely that it had to begin work immediately, even though it had yet to obtain more the most basic and cursory statutory outline of its powers and responsibilities. As Chapter 5's discussion of IBRA's remit and quantitative performance shows, the relevant laws and regulations would not emerge until later in 1998 or even during 1999. Furthermore, as discussed next, IBRA's in-theory powers were far less consequential given the need for it to work immediately to address creditors' pressures, budgetary constraints, and the worsening economic climate.

Finally, the themes outlined in this chapter are important for the subsequent discussion, in Chapter 8, of the weak state analytical framework. This chapter showed how during the latter Soeharto-era banking supervision was notoriously lax and defined by banks' effectively ignoring what regulations did exist. Banking supervisors, according to one account, focused largely on regulatory functions, with little functional assessment of quantitative risk. Policymakers were without the most rudimentary monetary tools, and the country lacked any form of deposit insurance scheme. When banks did run into trouble, the government deployed an informal and illegible approach, bailing out those banks with the right connections through, and often directly involving, the regime's elite business networks. IBRA, although conceptualised as a departure from this paradigm, was still externally imposed and set up largely from scratch in real time. As the ensuing chapters show, the agency struggled to overcome the state within which it was situated. It was subject to, and dependent on, outside forces, including law and regulation, and it was subject to the power dynamics and competition that defined the exercise of state authority.

As discussed in Chapter 8, IBRA made progress only once it obtained extraordinary, top-down political support for actions or tasks which it was – at least notionally – intended to be able to perform itself. This chapter's background is essential to situating this discussion in its proper historical context.

Chapter 5: IBRA's Roles and Responsibilities

Following Chapter 4's description of the conditions leading up to IBRA's establishment, this chapter examines its responsibilities and performance. Although the detailed case studies presented in Chapters 6 and 7 focus on the agency's dealings with two former private bank owners, many of the features that influenced IBRA's work were related to specific legal, political, and economic conditions relevant to this thesis's focus on the state. Therefore, this chapter, begins with legal and institutional aspects relevant to IBRA's work. This research, which collected the complete multi-part 2006 BPK audit of IBRA, has also compiled relevant figures on the agency's recovery of state funds expended during the course of the crisis. This is a useful and important finding, especially because of how it helps the reader fully conceptualise the scale of the bailout and the expansiveness of the agency's remit. Different sources contain different portions of data on the financial sector rescue package, but this account aims to be more comprehensive in its presentation of this data. Although the top line numbers for the package are available, I did not, in the course of this research, encounter these figures presented elsewhere as they are in this thesis.

As shown in Chapter 4, IBRA was hastily established as the centrepiece of the expanding effort to arrest the growing damage not only to the financial sector, but also to the wider Indonesian economy. Importantly, IBRA cannot be separated from the increasingly stringent demands of international creditors hostile to the patronage and rent-seeking that defined the political economy of the late-New Order. They, along with a growing cohort of Indonesia's own elites, were also becoming skeptical about the regime's capacity to manage – and perhaps even survive – the crisis using its existing methods. Notably, IBRA inherited the two existing initiatives to staunch the crisis, namely BLBI and the blanket guarantee (which was announced concurrently with IBRA's establishment). Both were ad hoc policies intended to stave off the economic and political crisis that eventually felled the Soeharto regime. Both would have important consequences for the agency's work and the cost of the rescue.

IBRA was envisioned as an expansive and powerful agency that would be the locus for virtually all of the activities related to stabilising the banking sector, rehabilitating those banks that could be rescued, and restructuring the substantial corporate obligations that would invariably arise from these activities. On the government's behalf, IBRA became creditor to banks taken over, the executor of the various functions and powers intended to restructure banks and their assets, and the party responsible for doing what was possible to recover some of the public funds deployed in the course of these activities. It not only carried out bank closures and takeovers (excluding the initial November 1997 interventions, see Chapter 4), but also administration and verification of the deposit guarantee scheme, recapitalisation of private banks, the management and resolution of legal issues that stemmed from bank rescues, and extensive restructuring activities, including of non-performing portfolio loans obtained from banks under IBRA management, and corporate assets transferred in return for obligations owed to the government or the banks under its control.

Although the scope of its responsibilities was expansive, it is most useful to think of IBRA as having three main roles: resolution and/or rehabilitation of insolvent or troubled banks; corporate restructuring of private sector debts; and the recovery of public funds spent on the rescue package through the sale of credit and corporate assets. Of these 'costs', they originated, in order of size, from bank recapitalisations, BLBI, and the blanket guarantee.[512] These activities are discussed further below. Near the beginning of its term, IBRA published a 'strategic plan' that outlined five activities: implementation of the commercial bank liabilities guarantee program; bank restructuring and rehabilitation; corporate debt and bank asset restructuring; concluding Shareholder Settlement Agreements (*Penyelesaian Kewajiban Pemegang Saham* – PKPS); and the divestment of assets for the purpose of recouping public funds spent during the rescue.[513]

This chapter is structured as follows. The first section discusses legal and institutional factors that were relevant to IRBA's establishment and subsequent functions. Although envisioned as an extraordinary agency with broad powers to take over and restructure troubled banks, in practice IBRA had to work throughout 1998 under an incomplete legal framework. Indeed, the regulation that vested the agency with its full powers was not issued until early-1999, by which time the agency had, as discussed below, already come to agreement with the owners of major nationalised private banks and begun selling off some assets to meet its budgetary constraints. Several agencies were established to provide IBRA with oversight or guidance, and this section provides details, most importantly about the Financial Sector Policy Committee (FSPC). This section also presents details about IBRA's leadership, which experienced great instability during its initial phases of existence, as well as some consequences of its proximity to, and relationships with, other state organisations. These details are important background for Chapter 8, which offers more in-depth discussion of how these features relate to the weak state framework. A main goal of this chapter is to situate IBRA's work within its historical and institutional context and discuss how, for example, intra-state contests or incomplete legislation influenced its work. As shown in the studies of individual PKPS (Chapters 6 and 7), these features had real – and costly – consequences.

The next section provides a detailed description of the major tasks under the agency's remit. In particular, it describes how IBRA obtained different assets through the various component parts of the financial sector rescue package. As shown below, the largest components of the rescue package's overall cost were bank recapitalisations, the resolution of BLBI, and the losses from banks' bad loans (that is, credit assets). To help the reader understand the span of IBRA's responsibilities, this section also presents data on the 'costs' of the financial rescue package and IBRA's performance recovering a portion of the public expenditures. This is also important because an important influence on IBRA's work was the pressing need at the time for it to produce revenues for the State Budget. Furthermore, since then, IBRA has been the subject of harsh criticism for having recovered only a share of the total expenditures on the rescue. Although this requires a

512 See below discussion about how the strategic decision to pursue recapitalisation should not be separated from the potential massive costs of the blanket guarantee. Thus, recapitalisation was a gambit by the government to hopefully get something back instead of simply shouldering the cost of guaranteeing all deposits in insolvent banks.

513 See IBRA (n.d.: 8). The Strategic Plan was undated, but according to Muhammad Syahrial (Email, December 2016), was probably written during the tenures of IBRA Chairmen Bambang Subianto and Glenn Yusuf.

normative assessment, the thesis includes data about the agency's performance and discusses some of the factors that contributed to such an outcome. As the following chapters include greater depth about how IBRA negotiated asset settlements with the owners of large private banks, this chapter provides necessary background on how these activities fitted into the agency's overall remit. Finally, a brief conclusion provides a summary and flags details important to the next three chapters.

Legal and institutional settings

IBRA's performance was heavily influenced by the statutes and regulations under which it was establishment and the broader institutional setting within which it existed. First, there was considerable delay between the agency's establishment and the handing down of all the laws and regulations necessary for it to exercise its powers. Although created in January 1998,[514] the full elucidation of IBRA's responsibilities did not occur until after the February 1999 issuance of Government Regulation No. 17/1999.[515] This delay was partially a result of the need to first amend the 1992 Banking Law, which the January 1998 IMF agreement required be passed before July 1998, but was not passed until October 1998.[516] Much to the chagrin of domestic commercial and political interests, the Law included the thoroughgoing sectoral liberalisation sought by the international financial community, including, most notably, the removal of limits on foreign bank ownership.

The revised Banking Law endowed a 'special agency',[517] though not explicitly identified as IBRA, with special legal powers to control a bank, its assets, and liabilities while also requiring that Bank Indonesia, the judiciary, and Attorney General provide assistance for such efforts.[518] That this agency was, quite obviously, IBRA was not, however, made explicit until Government Regulation No. 17/1999 was issued the next year. Under this regulation, IBRA was given a five-year term from 27 February 1999. At the close of its term, IBRA's Chairman would report on the agency's work to the Minister of Finance, and thereafter any remaining assets or wealth under the agency would pass from the agency to the state. Upon the president's receipt from the Finance Ministry of a report valuing IBRA's assets, the Minister of Finance was required to release all IBRA agents and employees from responsibility for the information contained in the report, unless it was later found to be untrue or misleading. Later, in February 2004, Presidential Decision No. 15/2004 reaffirmed this general timeframe and decreed that that IBRA would finish its responsibilities and be dissolved on 30 April 2004.

Absent full legal authority from the Banking Law, it was only this later government regulation that provided IBRA with its full powers, including the authorisation necessary to restructure banks, reach settlements with banks' owners and debtors, and recover state funds through the disposal of assets obtained through these activities. The regulation also assigned IBRA a variety of responsibilities, including: restructuring banks; winding up the

514 Further powers were elaborated in March 1998 via Presidential Decree No. 34/1998.

515 Other laws, such as Government Regulation No. 25/1999 and Law No. 4/1998 on Bankruptcy, were important for the future supervision and resolution of claims in the banking sector.

516 See IMF (1998a: Article 27). Amendments were submitted on 17 August 1998, and the law was passed on October 16. See Enoch et al (2001: 37) and Enoch (2000: 13-14, n12).

517 See Article 37A *juncto* 57A.

518 See IBRA (n.d.: iv, Appendix C) and Maroef (2010: n162).

assets – both physical assets or debtors' obligations – of closed banks; restructuring and disposing of assets to recoup state funds employed to rescue banks; and implementing the blanket guarantee.[519] Before February 1999, however, the agency, although advertised as being armed with 'superpowers' such as cancelling contracts or taking control of debtors; assets without their consent, actually operated instead on the basis of Presidential Decision (Keppres) No. 27/1998 on the Establishment of IBRA and Presidential Decision (Keppres) No. 34/1998 on the Task and Authorities of IBRA.[520] Therefore, during 1998, IBRA was able – and, indeed, needed – to transfer banks' liabilities, but it was not legally empowered until 1999 to manage or dispose of banks' assets (even though the Asset Management Unit responsible for handling the assets of closed banks did already exist).[521] Similarly, further legal basis was also needed for IBRA to restructure and sell the assets that were transferred to cover the obligations of debtors engaged in out-of-court settlements with IBRA (under PKPS contracts, discussed below), and also to sell the government's ownership stakes in recapitalised banks.[522] During 1998, IBRA did not have full control of banks it had already seized or slated for closure,[523] and eventually later regulations were structured to provide *ex post* legal coverage for the post-April 1998 bank takeovers.[524] Table 5.1, below, summarises the two most relevant statutes, namely the 1998 Banking Law and the Government Regulation No. 17/1999.

Table 5.1: IBRA's powers and responsibilities[525]

Under Article 37a, Law No. 10/1998 on Banking (Amendment of Law No. 7/1992):
• Exercising rights and authority of management and shareholders; • Controlling and managing bank assets; • Reviewing, cancelling, terminating, and amending contracts detrimental to banks; • Selling or transferring bank claims to third parties; • Assigning the management of banks and bank assets to third parties; • Temporary participation in bank equity; • Confiscation of land and buildings controlled by third parties but to which a bank is entitled; • Calculating losses suffered by banks undergoing rehabilitation and allocating losses that resulted from the actions of management or shareholders; and • Determining the additional capital that must be paid by bank shareholders.
Under Government Regulation 17/1999:
• Reaching settlement for banks, bank owners, and debtors; • Restructuring banks transferred from Bank Indonesia; • Recovering bank assets through the Asset Management Unit; and • Recovering state funds provided to banks through settlement of Assets Undergoing Restructuring.

519 This was set down in Presidential Decree No. 26/1998, and subsequently in Ministry of Finance Decree No. 26/KMK.017/1998 (and later replaced by No. 179/KMK.017/2000).

520 This latter was issued in March 1998 to provide further clarity about IBRA's responsibilities.

521 See Enoch et al. (2001: 37), Maroef (2010: 31-31, n161). AMU was later renamed AMC (Asset Management Credit).

522 See Santoso (2000: 26).

523 See Enoch et al. (2001: 110-113).

524 See Ministry of Finance Decision No. 117/KMK.017/1999, implemented jointly on 26 March 1999 with Bank Indonesia Governor Decision No. 31/15/KEP/GBI/1999, collectively called SKB (*Surat Keputusan Bersama)* 117/15, which also allowed for BTO banks to be recapitalized. Nine banks (see Appendix A) were merged into a recapitalised Bank Danamon (BPK 2006a: 19-20).

525 Adapted from IBRA (n.d.: 10-11).

IBRA's first private bank interventions were, in fact, implemented under contracts concluded with bank ownership. Leading up to the April 1998 'hard' interventions, the terms of these contracts escalated from cooperative to more stringent.[526] So, for example, the January 1998 takeovers were conducted under contracts that compelled banks, in return for the blanket guarantee, to accept enhanced IBRA supervision; the next group, in February 1998, saw owners 'request' the placement of IBRA staff for supervision inside the banks' premises; the third group, in April 1998, saw owners 'request' IBRA take over their banks' operations. IBRA did not have ability to impose such contracts on banks' debtors who, as discussed above, were a major source of further losses as the rupiah fell and the economy weakened (and banks' debtors became less likely to service their debts, while the quality of the collateral pledged against these loans deteriorated further). Furthermore, as discussed in the next chapter, by late-1998 IBRA was already concluding settlement agreements with the owners of banks it had taken over, and given that it still lacked full authority over these banks, this was another consideration that led the government to opt for the 'out of court', contract-based approach of the PKPS program (see Chapter 6).

Despite IBRA's status as effectively the sole creditor and executor of the array of tasks related to the financial sector rescue package, several adjacent organisations were also established. These initiatives were intended to support governance and transparency, and most initiatives were backed by the main international creditors.[527] In 1998, an Independent Review Committee (IRC), featuring representatives from the three main creditors (IMF, World Bank, and ADB) and a former official from each Bank Indonesia and the Ministry of Finance, was created to provide oversight and support transparency. The IRC produced reports at IBRA's request, but it met only quarterly and was basically run out of a full-time Secretariat staffed with foreign consultants. Eventually, IBRA sought World Bank funding for a consulting study on the need for day-to-day supervision, which was realised in 2000 with the establishment of a full-time governing board.[528] Later, in 2000, an Oversight Committee was established to be assisted by the IBRA Ombudsman (*Komite Pemantauan Penyimpangan Perilaku*) and an Audit Committee.[529] Separately, the non-IBRA Jakarta Initiative Taskforce (JITF) offered voluntary corporate debt restructuring for cases involving foreign investors where IBRA was owed less than 50% of a debtors' total obligation, but it was used sparsely as most debtors opted for bilateral restructuring.[530]

Of the greatest consequence was the Financial Sector Policy Committee (FSPC),[531] created in December 1999 via Presidential Decree No. 177/1999. The FSPC replaced the similar Financial Sector Action Committee (FSAC), which had been established in July 1999 to provide oversight and policy guidance.[532] These two committees reflected the inevitable political realities of IBRA's work, especially considering the massive amount of bad debt and commercial assets that came under its control. Both committees included important

526 See Maroef (2010: 31-32, n161).
527 See IBRA (n.d: 11) and Enoch et al. (2001: 20).
528 See Enoch et al. (2000: 111-112).
529 See BPK (2006a: 12-13). FSPC Decision No. KEP.02/K.KKSK/08/2000 established the Oversight Committee.
530 See Dick (2001: 25) or Enoch et al. (2001: 20-21) for background. JITF could approve tax exemptions on debt-for-equity swaps and refer cases to the Attorney General.
531 Also known widely as the KKSK, or *Komite Kebijakan Sektor Keuangan*.
532 See Presidential Decree No. 89/1999, which was replaced by No. 177/1999.

personnel from the main economics ministries and Bank Indonesia.[533] The Coordinating Economics Minister chaired the Committee, which also included ministers of Finance, Industry, State Enterprises, and the head of the National Planning and Development Agency (Bappenas).[534] Legally, while the FSAC had been established under a raft of relevant statues, including the Constitution and the 1998 revision of the Banking Law (Clause 37A), the February 1999 government regulation, and the 1998 presidential decree, the statute underpinning the FSPC's powers simply cited the Constitution.[535] The FSPC was responsible to the president but had to accept Bank Indonesia's advice.[536]

After progress on bank restructuring and the recovery of state funds failed to live up to expectations, President Wahid substantially expanded the remit of the FSPC.[537] In addition to 'formulating policy direction for efforts to rescue the banking system', the FSPC became responsible for policy related to corporate restructuring and maximising the return of state funds through asset divestments and restructuring.[538] Further, in a significant departure from the remit of the FSAC, which had submitted its advice on IBRA-related policy and bank restructuring to the president (who then instructed IBRA via presidential decree),[539] the FSPC was to now issue FSPC Decisions 'as guidance' on IBRA's bank and debt restructuring activities.[540] The Committee was also assigned to consider and approve IBRA's bank recovery plans and Annual Work Plan and Budget.[541]

Accounts at the time framed the FSPC practical contributions as 'intrusive' and politicised, such as when, for example, it rejected all of IBRA's initial negotiated shareholder settlement agreements.[542] A senior IBRA official emphasised the political nature of the FSPC, noting how there was "lots of grandstanding [from] ministers taking turns giving grandiose speeches", but rarely any practical or informed suggestions.[543] IBRA soon began seeking FSPC cover for most of its decisions, even though approval was only technically required for matters above 1 trillion rupiah.[544] Another key change occurred in August 2001, when President Megawati transferred authority over IBRA from the Minister of Finance to the Minister of State-Owned Enterprises, then under the control of Laksamana Sukardi, a senior member of Megawati's PDI-P party.[545] Several interviewees attributed the subsequent acceleration of progress towards many of IBRA's tasks to this relationship and the high-level political support it delivered to the agency.[546]

533 See IBRA (n.d.: 11).
534 The *Badan Perencanaan Pembangunan Nasional* was most powerful during the New Order, but also continued as an important point of contract for Indonesia's creditors and development partners.
535 See Presidential Decree No. 177/1999.
536 Ibid., Article 6.
537 See Matsumoto (2007: 173), attributing the lack of progress to poor execution, creditors' and debtors' weak incentives, and the overall chaos of Wahid's presidency.
538 See Presidential Decree No. 177/1999, Articles 2a-2c.
539 See Presidential Decree No. 89/1999, Articles 2-3.
540 Ibid.: Article 3.
541 Ibid.: Article 4.
542 See Enoch et al. (2001: 20-21).
543 Former senior IBRA official (Interview, October 2019).
544 See Enoch et al. (op cit.) Muhammad Syahrial (Interview, January 2017) also discussed the FSPC approval threshold.
545 See Sato (2003: n32).
546 Senior official (Interview, June 2017) and Muhammad Syahrial (Interview, January 2017).

What seemed to an intrusion to some, however, represented necessary and welcome political control given the scale of IBRA's remit. According to one observer, "IBRA [ended up with assets worth] 60% of GDP; it got so big that something had to be done".[547] To work effectively, IBRA also relied, as demonstrated below, on its relationship with the rest of government, including political leaders and the cooperation of law enforcers. So, as IMF Country Representative David Nellor noted, the FPSC essentially became IBRA's board, a necessary function because no matter how well IBRA functioned as an organisation, a major challenge would always be management of the point of interface between Chairman and government.[548] Furthermore, under the newly-introduced Corruption Law,[549] there were legitimate concerns about actors' eventual liability for any state losses, and this meant there emerged an imperative among officials, IBRA staff, and even ex-banks owners to find a mechanism that could engender trust amid a dysfunctional legal system and lack of effective property rights.[550]

A senior official familiar with these issues agreed with this assessment and argued that an enlarged FSPC was needed to supervise IBRA and to consider the ramifications of the agency's work for the wider economy.[551] On account of the span of assets under IBRA control, this task naturally required input from not only the Finance and State Enterprises ministries, but also Trade, Industry, and Bappenas. It was inevitable, according to former IBRA deputy chairman Muhammad Syahrial,[552] that a variety of interests had to be consulted, but despite this he did not think there was serious political interference in IBRA's work. Instead, he argued that the agency was protected because the asset sales it oversaw (discussed more in Chapters 6 and 7) took place through open tender and therefore if something was valuable there would always be competition.[553]

For its organisational structure, IBRA had a chairman, vice-chairman, and five deputies spread across the same number of internal administrative units, a slate that included, in addition to AMU/AMC unit responsible for the distressed lending assets received from banks,[554] the Asset Management Investment (AMI) unit responsible for both IBRA's equity stakes in companies and banks, as well as bank restructuring and recapitalisation, the Asset Divestment unit, and the Forensic and Asset Investigation unit.[555] Especially during its initial years, the agency's leadership was highly unstable, and it had three chairmen within the first five months of its existence, and six (of a total of seven) in just over three years. Yet despite upheaval at the top, IBRA was a professional, prestigious workplace with well-trained and credentialed staff drawn largely from investment banks or respected auditing firms.[556] According to the IMF's Nellor, IBRA was well above the domestic benchmark in

547 Anonymous source (Interview, June 2017).

548 David Nellor (Interview, January 2017) noted, "like anything in Indonesia, the FSPC depended on the willingness of the president to give them the power to do something".

549 See Law No. 31/1999, as amended by Law No. 20/2001. Later, Law No. 30/2002 established the Corruption Eradication Commission (KPK – *Komisi Pemberantasan Korupsi*).

550 Nellor (op cit.).

551 Anonymous (Interview, June 2017).

552 Muhammad Syahrial (Interview, January 2017).

553 As discussed in Chapter 8, however, another source, a senior IBRA official (Interview, October 2019), described how even tender procedures depended on leadership and could change, as occurred during Chairman I Putu Gde Ary Suta's tenure, to become significantly less transparent.

554 See Footnote 511, above.

555 See IBRA (n.d.: 37).

556 See Dieleman (2007: 93). In a perspective that this thesis echoes, Haggard (2000: 229) concludes that IBRA had a strong reputation for quality management and its problems were largely political.

terms of the technical competency of its staff, likely equivalent to Bank Indonesia but unencumbered by some of the 'historical baggage' that affected the central bank.[557] Instead, the churn of IBRA's leadership was indicative of the volatile political forces at play and the controversial nature of its work.[558] As mentioned above, some believed that the combined effect of IBRA's oversight under State Enterprises Minister Laksamana Sukardi – a senior politician from President Megawati's PDIP party – allowed the final chairman, Syafruddin Temenggung, to carry out the agency's mandate under relative stability that had eluded his predecessors.[559] Table 5.2, below, details changes in IBRA leadership.

Table 5.2: IBRA's leadership by tenure, 1998-2004[560]

Chairman	Installed	Removed	Months served
Bambang Subianto	Jan 1998	Mar 1998	2
Iwan Prawiranata	Mar 1998	Jun 1998	3
Glenn Yusuf	Jun 1998	Jan 2000	19
Cacuk Sudarijanto	Jan 2000	Nov 2000	10
Edwin Gerungan	Nov 2000	Jun 2001	7
I Putu Gde Ary Suta	Jun 2001	April 2002	10
Syafruddin Arsjad Temenggung	April 2002	Feb 2004	22

As IBRA was initially set up under the aegis of the Ministry of Finance, it was unsurprising that its first chairman, Bambang Subianto, the previous Director General of Financial Institutions, was drawn from the ministry's ranks. Subianto was, however, shortly succeeded by Bank Indonesia Deputy Governor Iwan Prawiranata, who in turn oversaw the 'hard' bank takeovers described above. Following Subianto's replacement, the number and presence of IBRA staff placed inside the banks subject to the February 1998 'soft' interventions was also reduced, as this had caused conflicts with bank owners and their supporters within the government.[561] IBRA's existence also meant that Bank Indonesia, which previously controlled banking supervision, lost considerable power and was also subject to unwelcome examination and publicity of its disastrous work to stop the crisis through measures such as BLBI. The relationship between the two organisations was far from seamless, as the central bank, for example, did not always provide IBRA with data it sought to carry out its work.[562] The pair also had to carry out complex negotiations over the total value of BLBI support, which was to form the basis of the government's equity claim on the BTO banks taken over in April 1998.[563] When more time was required, this meant the value of many assets IBRA would obtain through bank interventions deteriorated.[564] Later, in June 1998, when Prawiranata was replaced by Ministry of Finance

557 Nellor (op cit.).
558 See, among others, Dick and Mullholand (2011: 77).
559 One source (Interview, January 2017) described Syafruddin as "someone out of the mould...someone who had connections at the FSPC".
560 Author's research.
561 See Enoch et al. (2001: 75-76).
562 Ibid.
563 BCA was a BTO bank but, on account of its Soeharto connections, was not seized until May 1998.
564 See Enoch (2000: 12-14). The legal basis for Bank Indonesia's transfer of its BLBI receivables to IBRA in return for state bonds was also not in place until February 1999.

official Glenn Yusuf,[565] the reshuffle also coincided with a general pullback of the Bank Indonesia employees who until then had comprised a significant share of IBRA's staff.[566] Initially, IBRA did not even have its own budget, and seconded staff received their salaries from their home agencies, with other costs paid out of IBRA's asset recoveries.[567]

These organisational features had consequences for IBRA's work. When IBRA was still under the Ministry of Finance, it needed to obtain essentially political authority for even mundane technical operations, which meant it was often unable to act decisively and with speed that would have helped prevent – or at least limit – further asset deterioration.[568] Accounts of the crisis also concluded that the owners and employees of some troubled banks probably obtained too much forewarning of impending IBRA actions, and this was potentially a consequence of the competition for control, as functions traditionally vested in the central bank (or, indeed, the highest levels of the political leadership) were ceded, at least on paper, to the new agency. In some instances, this advance warning almost certainly frustrated the agency's ability to establish speedy control over banks and/or allowed management and ownership to pursue steps intended to increase their leverage in future negotiations with IBRA.[569] Publicity – or lack thereof – also played a role, and not only in stopping the bank runs once IBRA was allowed to conduct its interventions with transparency. In one example, in February 1998, the agency's inability to obtain approval necessary for any public disclosure of the 'soft' bank takeovers contributed to skepticism in the financial markets that the agency was even active.[570]

IBRA's tasks and performance

This study reserves its most detailed analysis for how PKPS agreements functioned in practice to leverage the settlement of delinquent bank owners' putative legal exposure to quickly obtain assets that IBRA could, in turn, sell to help meet the state's fiscal needs.[571] To do this, however, it is still important to provide an in-depth overview of the agency's roles and responsibilities once the initial phase of the crisis had subsided.[572] This not only is necessary for the sake of clarity and situating the PKPS program within the overall financial sector rescue package, but also to present quantitative data gathered during this research that provides a useful perspective on the 'cost' of the various portions of the financial rescue package (and the agency's recovery against these amounts). As mentioned above, it is simplest to think of IBRA as having three main tasks: rehabilitation of the banking sector; restructuring of non-performing loans (that is, banks' credit assets); and recovery of public funds through the sale of assets transferred to the agency. The first task

565 Yusuf was the second-longest serving chair, before his replacement in January 2000 by a former state enterprise executive and Cooperatives Ministry official Cacuk Sudarijanto, who presided over more aggressive IBRA actions such as the seizure of assets and renegotiation with some major obligors. Robison and Hadiz (2004: 195) attributed some progress to Rizal Ramli's entrance to the cabinet and public denunciation of major debtor conglomerates.

566 See Enoch (op cit.: 14-15, 33-35).

567 See Enoch et al. (2001: 82).

568 See Enoch (2000: 10-11). This is also discussed in Chapter 8.

569 Described Enoch (2000: 24).

570 See Enoch (2000: 10-11).

571 See the discussion of specific PKPS in Chapter 6 and 7, as well as Chapter 8's conclusions about the PKPS 'asset settlement' approach.

572 See Chapter 4 for description of IBRA's establishment and its role in bank interventions.

comprised interventions into troubled banks, technical work to determine which banks would be preserved and which closed, transfers of liabilities from banks that were frozen or closed, and the recapitalisation of eligible private banks. The second task is relatively self-explanatory, while the third encompassed not only the sale of restructured credit assets, but also the sale of shares in non-financial companies, the management and/or sale of other forms of receivables, and the eventual divestment of the government's ownership in recapitalised private banks taken over – but not closed – during the crisis. This section conveys the considerable span of these tasks.

This section uses data collected in the course of this research, including reports from the State Audit Agency (BPK – *Badan Pemeriksaan Keuangan*) and the unpublished analysis of a former IBRA official. Most of the data is based on a multi-part BPK audit of IBRA's various activities that was finalised in 2006. I obtained complete copies of these audits, which were submitted to the legislature, but, as far as I know, not released to the public. For reasons of space, the thesis can neither include, nor discuss, the complete audit results, which included specific audits focused on, *inter alia;* PKPS; divestment of government equity in restructured banks; BLBI; credit restructuring; the sale of credit assets; the sale of assets obtained under PKPS; an audit of IBRA itself; and an independent auditor's report.[573] Where possible, I also collected and reviewed – and refer to if relevant – several BPK audits produced early in IBRA's term on specific topics, such as BLBI or the valuation and transfer of assets under PKPS.[574]

In total, the net outlay on the financial sector rescue package was approximately US$50 billion.[575] The gross outlay, as detailed in Table 5.3, below, was slightly less than US$65 billion or just under 650 trillion rupiah.[576] As seen in Table 5.3, the majority of costs (450 trillion rupiah) stemmed, as discussed below, from bank recapitalisations. In terms of its bank interventions, a total of 90 Indonesian banks, including virtually all major banks, were subject to some form of intervention, and 72 came under some from of IBRA authority.[577] This included the closure of 67 private banks, which as a group controlled more than 30% of private bank assets, the nationalisation and recapitalisation of 12 private banks, which as a group controlled more than 45% of the private bank assets, and the recapitalisation of 7 state-owned banks, four of which were merged to become Bank Mandiri, leaving the same four major state banks present in Indonesia today.[578] In aggregate, 38 banks that accounted for more then two-thirds of all banking assets were

573 BPK (2006a) includes an overview.

574 BPK (2006a: 3-5) contains an overview of the previous audits, including a July 2000 audit of BLBI, two audits of PKPS from May 2002 and October 2003, a December 2002 audit of credit restructuring for IBRA's four largest bad debtors (the Texmaco, Humpuss, Argo Pante, and Bakrie groups), and a July 2003 audit of the government guarantee program.

575 See McLeod (2005: 8).

576 Exchange rate assumption (IDR/US$) of 10,000/1, the approximate level during 2001-2002 and also late-1998. Of the total, over 621 trillion rupiah, or more than 95%, was 'assigned' to IBRA (this also included state bank recapitalisation). See BPK (2006a: 8-9).

577 Fifty-two BBO/BBKU banks were closed, 15 merged into Danamon and Permata Bank, 3 were recapitalized, and 2 BTO banks (BCA and Niaga) were taken over and later sold. See Appendix A for a complete list.

578 See Sato (2005: 103) and Enoch et al. (2001: 17). 12 of 27 regional development banks were also recapitalised.

nationalised or recapitalised. By mid-2000, 83 private banks remained (down from 164 in 1996), with 52 banks shut down, 13 taken over by the government, and 7 recapitalised.[579] As the cost of the rescue was financed largely through the issuance of new governmental bonds, this cost was essentially borne by Indonesia's citizens.

Table 5.3: Financial sector resolution by cost and bank type (trillions of rupiah)[580]

Bank type	Total banks	BLBI	Credit program	Government guarantee	Recapitalisation	Total
Liquidated (Nov 1997)	16	11.89	-	-	-	11.89
BPD	12	1.23	-	-	-	1.23
SOE	4	-	-	20	282.32	302.32
BBKU	38	17.32	-	-	-	17.32
BBO-1	7	6.02	-	-	-	6.02
BBO-2	3	51.67	-	-	-	51.67
BTO-1	4	54.62	-	-	109.35	163.97
BTO-2	2	3.02	-	-	14.78	17.80
Private bank recapitalisations	7	-	-	-	17.86	17.86
Others	-	-	9.97	53.78	-	63.75
Total	-	144.54	9.97	73.78	425.54	653.83

Having nationalised a huge share of the financial sector, the government was faced with a complex series of policy decisions about what to do with the troubled banks. Although some clearly needed to be closed, others were too big, important, or, if they could somehow be returned to financial health, too potentially valuable, to close. Moreover, it should be emphasised that IBRA was established in January 1998 simultaneously with the announcement of the blanket guarantee, a policy decision that, once taken as a strategy to stop bank runs and restore confidence in the system, would have considerable consequence for the eventual 'cost' of the financial sector rescue package.[581] As shown in Table 5.3, below, the lion's share of the gross 'cost', as it were, stemmed from bank recapitalisations. This was followed by the BLBI facility, which comprised about a third of the total. Of the BLBI banks, the largest share were closed (classified as BBO and BBKU),[582] while the government's claim on unpaid BLBI receipts was converted to equity, later sold off through various divestments, in five private banks.[583]

579 See Hicks (2004: 226-227), citing IBRA (2001: 135).
580 Data adapted from Batunanggar (2005: Table 3).
581 Recall, as discussed in Chapter 4, that bank runs were tipping banks into insolvency that to that point were seen as otherwise healthy.
582 See Annex A.
583 Chapter 6, on BDNI, details the handling of the BLBI claim for a BBO to be liquidated, as Chapter 7, on BCA, does for a BTO that the government intended to keep open.

Table 5.4: Indonesia's financial sector rescue package (trillions of rupiah)[584]

Components	Sub-categories by cost (number of banks)		Total
BLBI*	Converted to BTO equity (5)**	57.639	132.647
	BBO (10) and BBKU (18)	75.008	
Recapitalisation obligations	BTO and private banks	165.3	448.8
	State-owned banks	282.3	
	Regional development banks	1.230	
Deposit guarantees	BTO	9.474	40.092
	BBO and BBKU	30.356	
	Others	0.262	
		Total	**621.553**

* Total of 144.5 trillion rupiah to 48 banks. This table excludes 11,889 billion for liquidated BDL (15).
** Conversion to equity of BLBI debts from BCA, Bank Danamon, Bank PDFCI, Tiara, and BNN.

As seen in Table 5.4, blanket guarantee was a relatively small component, less than 7%, of the overall cost. It should, however, be noted the high recapitalisation costs represented the alternative reality of a smaller deposit guarantee. Even more importantly, over half of the costs were spent on state bank recapitalisations not administered by IBRA. Put another way, because insolvency within the banking sector was so widespread (and the potential liabilities so large), the policy decision to introduce a blanket guarantee also created a strong imperative for the government to successfully return some banks, especially large systemic ones, to future health as a strategy to not only control, but also hopefully recover, the potential quantum of public exposure under guarantee. This conclusion is drawn from three factors: first, the largest banks had the most depositors and therefore would be the most expensive to bail out (by guaranteeing all deposits); second, these same banks were those that, if successfully returned to health, would presumably be more valuable and thereby boost the likelihood of the government recovering a larger share of its bailout costs; and, third, these banks had important economic value with regard to financial intermediation or the payments system. Simply transferring them all into a 'bridge' bank, even if such a bank were eventually returned to private ownership, might weigh on the economy or create future unhealthy competition. Due to these factors, the state had an incentive to guarantee liabilities for banks that it believed could be rehabilitated and returned to some value, rather than closing these banks and definitely having to pay their liabilities.

As a result, the state then obtained direct equity holdings in private banks.[585] Absent the blanket guarantee, the government, or its designate, would have implemented important tasks – identification of viable banks, restoration of their health, and disposal of non-viable banks – based on criteria that included bank owners' capacity to shoulder some portion of the cost of restructuring.[586] Recall, officials initially attempted to stent the crisis through the announcement of a much more limited deposit guarantee and the closure of much more limited group of small banks. Ultimately, the steps taken to address the crisis, including the blanket guarantee, high interest rates (in an attempt to defend the rupiah),

584 Data from Syafruddin (2016a), based on BPK data.
585 As Muhammad Syahrial (Interview, January 2017) noted, these equity holdings – and also the subsequent dividends, taxes, etc – should have been handled by IBRA, but the agency ceded this to the State Enterprises Ministry in 1999.
586 This reflects the theoretical progression of successful bank rescues from diagnosis to damage control, loss allocation, and, eventually, rebuilding the surviving banks' profitability. See Santoso (2000: 32).

and the commitment to recapitalise a considerable slate of major private and all state-owned banks, meant that the financial burden of the rescue was both considerable and, most importantly, shifted onto the real sector (in the form of higher interest rates) and the taxpayer (in the form of large public spending necessary to carry out these tasks).[587]

Importantly, the prospective cost would have been even higher if insolvent banks were simply bailed out and then closed. Instead, it was desirable, arguably even necessary, to devise an approach to select banks that could be kept open, returned to health, and then sold off. Accordingly, in September 1998, Bank Indonesia – not IBRA – announced a private bank restructuring plan. The plan basically followed IBRA's February 1998 proposal that any bank which had borrowed more than 200% of its capital from Bank Indonesia or had a capital adequacy ratio (CAR) under 5% should come under its management.[588] Table 5.5, below, shows how banks were sorted on the basis of their CAR, with "B" banks eligible to apply for recapitalisation if their owners injected 20% of the total recapitalisation cost (the government would inject interest-bearing bonds worth the remaining 80%).[589] Provided an owner met this condition, they could also buy back the government's share three years later based on an independent valuation. In many cases, management was permitted to remain in place as an incentive for owners to consider further capital injections, but the government could also sell its stake to outside investors.[590]

Table 5.5: Private recapitalisation banks in March 1999[591]

CAR Class	Number of banks	Share of banking assets	Outcome
A	73	5.7%	Normal operations
B	9	10%	Eligible for recapitalisation
	7	2.5%	Failed one or more tests, but had more than 80,000 depositors, so eligible for recapitalisation
	19	2%	Smaller banks that failed one or more tests, closed immediately
C	19	3%	Immediate closure

Note: "A" banks did not require government support; "B" banks were invited to apply for recapitalisation; "C" banks were too weak to justify state funds.

The recapitalisation plan was officially adopted in March 1999 along with the announcement of the 9 eligible private banks and the objective of raising their CARs to 8% by end-2001.[592] Adoption had been delayed because, once CARs were identified as the guiding principle, intense pressure emerged for the government to delay while some "C" class banks were allowed, at least in theory, to boost their banks into the recapitalisation-eligible class. [593] Therefore, several banks that should have been ineligible for recapitalisation (and therefore wound up), were allowed in. In addition to all seven state-owned banks, which were massively insolvent but collectively held 50% of total banking

587 Ibid.: 50-52.
588 See Enoch (2000: 8) and IMF (1998b: Appendix II).
589 About 50% of the bonds carried variable rate coupons, with slightly over 40% on fixed rates, and the remainder hedged or indexed. See Nasution (2014: 43-44, Table 1.5) for details.
590 See Pangestu and Habir (2002: 23) and Enoch et al. (2001: 50-59).
591 Data from Enoch (2000: 21). In total, 38 banks were closed, 7 taken over, and 9 eligible for joint recapitalisation. IBRA (n.d. 21-25) has a detailed overview of the bank restructuring strategy.
592 See Enoch (2000: 21-22).
593 See Sato (2005: 102), Pangestu and Habir (2002: 23), Enoch (2000: 19-21).

assets (worth 30% of GDP prior to the crisis) and employed more than 85,000 people[594], several private banks were included because they had more than 80,000 depositors. Thirty-eight banks were prepared for closure, and 27 were readied for mergers, with Bank Danamon used as the 'bridge' bank to receive these banks' deposits.[595] Technically, there were two classes of recapitalised banks, namely 'IBRA recap-banks' and 'IBRA take-over banks', with the former – banks where the owners were willing to share in the costs – handled by the Ministry of Finance and the latter group recapitalised by IBRA.[596] For the 'IBRA recap-banks', the shareholders still concluded an Investment, Management and Performance Agreement (IMPA) with IBRA as the ministry's proxy, but, as an incentive to encourage participation, the bank's management remained intact and affiliated loans remained with the bank (rather than being written off and transferred to IBRA at zero cost).[597]

IBRA did not manage the state bank recapitalisation program, the quantum of which – 282 trillion rupiah – dwarfed that of the private sector component, with nearly two-thirds of all recapitalisation bonds going to state-owned banks.[598] The January 1998 LOI included the commitment that state banks would not undergo recapitalisation except in conjunction with privatisation.[599] Bank Mandiri, formed from the merger of four troubled state banks (and also a condition in the January 1998 LOI), eventually received nearly two-thirds of the state bonds. Of the bonds that did not go to state banks, 4% went to private commercial banks, less than 4% to non-recapitalised banks, less than 1% to regional development banks, and 3% to a sub-registry in the central bank. State banks also received the bulk – about 70% – of the most commercially attractive fixed rate bonds.[600] By definition, recapitalisation costs could only be *ex ante* estimated and could therefore increase in the event of slower-than-expected progress on loan restructuring or the sale of bonds in the secondary market.[601] In fact, after an initial dispensation of 500 trillion rupiah of recapitalisation bonds in 1999, a further 150 trillion rupiah of bonds were issued the following year.[602] Table 5.6 presents details on major bank recapitalisations; the data shows how despite a framework to impose costs on bank owners, the government ended up shouldering the bulk of recapitalisation and, as a result, obtained large post-crisis holdings private bank holdings.

---

594 See Rosengard (2004: 10).

595 Ibid. Some of the banks IBRA had been unable to previously access to due to geography or even physical standoffs with management or staff.

596 See Maroef (2010: 185-186).

597 Ibid. This had consequences in the case of BII, when companies affiliated to the shareholder, the well-known tycoon Eka Tjipta Widjaja, stopped servicing their debts, even though Widjaja had personally guaranteed these debts to IBRA. Eventually, the group negotiated highly favourable terms with IBRA and other creditors. See Pirard and Rokhim (2006: 5-7) for background.

598 See Nasution (op cit.) and BPK (2006a: 52-55). A 2004 BPK audit also examined bank recapitalisations.

599 See IMF (1998a).

600 See Nasution (op cit.)

601 See Dick (2001: 21-25). Requiring shareholders to put up 20% of the costs also meant the restructuring of bad loans would influence the cost and the later value of any government equity. See Pangestu and Habir (2002: 21) on efforts to impose costs. See also BPK (2006a: 54-55).

602 See Enoch et al. (2001: 22) and Dick (2001: 21-22).

Table 5.6: Major private bank recapitalisations by cost (billions of rupiah)[603]

Bank	Recapitalisation and Merger Costs			% State ownership
	Total	State	Controlling shareholders and investors	
BCA	29,925	28,480	1,445	92.8
Danamon	70,556	70,544	1	99.36
Permata	15,834	14,727	1,107	97.67
Niaga	9,463	9,463	0	97.15
Lippo	10,005	6,055	3,950	59.53
BII	15,927	11,372	4,555	93.69
Bukopin	476	381	95	75.87
Total	**152,186**	**141,031**	**11,153**	-

In return for recapitalisation bonds, banks transferred their non-performing loans (NPLs) to IBRA's AMC unit, which either restructured and sold them or initiated bankruptcy proceedings.[604] The overall scale of NPLs was massive, representing 64% of all loans and 30% of GDP.[605] AMC was nearly always the IBRA unit with the highest revenues, often around 45% of the agency's state budget contribution.[606] As mentioned above, for 'IBRA recap-banks' the affiliated NPLs remained with the bank. In theory, IBRA would either sell restructured loans or return them to the originating bank to retire recapitalisation bonds. At the time, it was assumed that the combined effect of the number of bad loans in the system and doubts about the legal system's effectiveness at addressing bankruptcies meant IBRA would obtain more favourable outcomes than if individual creditors (that is, banks) sought bankruptcy judgements themselves.[607] Even so, IBRA only began winning favourable judgements in the Commercial Court system around mid-2000.[608] Through end-2002, IBRA reported that it had lost 22 bankruptcy cases and won 44, only five of which had been executed.[609] Restructuring was also problematic. For example, a December 2002 audit of IBRA's four-largest debtors (by commercial group) found widespread evidence of restructuring practices that conflicted with relevant procedures.[610] Table 5.7 shows how the recovery from the sale of credit assets deteriorated over time (to reach, in total, an average of less than 20% of the value of the original loans), a finding consistent with anecdotal descriptions of IBRA selling the most attractive or easiest assets first.[611]

603 Data from BPK (2006a: 20). Rounded to billions of rupiah.

604 On AMC, which dealt mainly with NPLs and banks' non-core assets (e.g. property, land, vehicles, etc), see IBRA (2000), Brown (2002: 13, Table 5), and Santoso (2000: 44-45). According to its head, Muhammad Syahrial (Interview, January 2017), AMC had three main tasks: loan collection, loan restructuring and/or rescheduling, and disposal.

605 See IMF (2004: Table III.3). NPLs as a percentage of total loans were four-times the level in Korea (the next highest of countries affected by the Asian Financial Crisis) and, as a percentage of GDP, double the level in Korea and Malaysia (the next two comparators).

606 Ibid. This contrasted with 35% from AMI.

607 See Enoch et al. (2001: 18). Again, the exception was 'IBRA recap-banks', for which shareholders put up the required cash and affiliated non-performing loans therefore remained with the bank.

608 See Enoch et al. (2001: 15, n14).

609 See Hicks (2004: 244).

610 Details from BPK (2006a: 3-5). Irregularities included implementation of a restructuring scheme that did not maximise the state's rate of return, provision of debt swaps to ineligible debtors, and restructuring without time limits. When asked, AMC head Muhammad Syahrial (Interview, January 2017) downplayed these findings, noting that because all of the large debtors were devastated by the ongoing economic turmoil, virtually all restructuring required some special provisions. Due to the scale of debt, almost all were decided at the FSPC, which did not always agree with AMC.

611 Ibid.

Table 5.7: Credit asset sales by year and recovery rate (billions or rupiah)[612]

Year	Packets sold	Loan balance	Price	Recovery rate (%)
1999	1*	76	39	51.6
2000	3	6,708	2,785	41.5
2001	4	20,049	9,235	46.1
2002	7	146,649	28,573	19.5
2003	4	74,247	7,470	10.1
2004	2	13,119	349	2.7
Totals	**21**	**260,849**	**48,452**	**18.6**

*Credit card debt

It cannot be overlooked, however, that these bad loans – and, indeed, all assets outside of PKPS – were written off and transferred to IBRA at zero value.[613] According to former AMC head Muhammad Syahrial, assets were effectively 'trash', and the government, minded to move forward, gave IBRA the mandate to do with them whatever it deemed useful and appropriate.[614] This meant that anything obtained through IBRA's restructuring and/or sales was actually a net gain on the assets' value. Because loans from banks undergoing recapitalisation could have been sold back to redeem recapitalisation bonds (that is, some portion of the cost to the government of recapitalisation), it was theoretically possible the government could obtain a return on its capital injection while also reducing the cost to the owner should they elect to buy back the government's equity in the bank. This did not come to pass, nor did the expectation that banks would, after February 2000, obtain income from the sale of recapitalisation bonds in the secondary market.[615] Instead, even with high discounts, there were few sales, including because banks, which held a massive share of their assets in these bonds (see Table 5.8, below), were reluctant to damage their CARs by selling bonds.[616] The bonds' relatively low yields (around 12%) did not generate meaningful levels of bank income. In practice, overvaluation of recapitalisation bonds inflated banks' CARs but did not boost their lending.[617] Indeed, the recapitalisation program proved a drag on macroeconomic conditions because banks, which controlled approximately 90% of financial sector assets and were therefore responsible for practically all financial intermediation, were still either unable or unwilling to lend.[618]

612 Based on data from BPK (2006a: 39).
613 This also included shares and bank equity.
614 Interview, January 2017.
615 See Santoso (2000: 38-44); Sato (2005: n13); and Enoch (2000: 19-20). The managers of "B" banks were also required to pass an IBRA 'fit and proper' test.
616 See Santoso (2000: 40). Bonds were assets on a bank's books, but effectively liabilities once sold.
617 On the issues with recapitalisation, see Pangestu and Habir (2002: 27); Dick (2001: 21-25); McLeod (2000: 24-27); and Enoch et al (2001: 18-19).
618 This paragraph based on Santoso (2000: 43-44, 50-52).

Table 5.8: Major Recapitalised Banks' Bonds, September 2000 (trillions of rupiah)[619]

Bank	Assets	Bonds	% bonds to assets
Mandiri*	232.6	181.2	78
BNI*	114.3	61.8	54
BCA	96.9	59.6	62
Danamon	60.5	47.5	79
BRI*	54.0	29.1	54
BTN*	20.5	9.8	48
Niaga	17.6	9.5	54
BII	40.1	6.5	16
Lippo	21.8	6.0	28
Bali	5.7	5.3	94

*State-owned

By 2000, banks held 432 trillion rupiah of the bonds, with Bank Indonesia holding the balance (just over 220 trillion rupiah). The revenues from IBRA's disposal of assets (including credit assets obtained under the recapitalisation framework) were not used to retire recapitalisation bonds, and instead the Ministry of Finance allocated the revenues to the State Budget – a reflection of the immense fiscal demands of the time.[620] Indeed, even after IBRA was dissolved, essentially all recapitalisation bonds remained outstanding such that the Ministry of Finance eventually undertook 'reprofiling' of the outstanding bonds either to reschedule or roll them into long-term government debt. All bonds held by private banks were retired, with 72.1 trillion rupiah remaining with three state banks.[621] Perhaps the greatest success (albeit beyond IBRA's remit), is the value and profitability of state banks; as of April 2016 state holdings in Bank Mandiri, BRI, BNI, and BBTN was valued at more than 515 trillion rupiah.[622]

Other banks subject to IBRA interventions also sent their NPLs, at zero price, to the agency. Banks that were closed naturally sent all of their assets to the government, which guaranteed their liabilities.[623] As described above, the AMC unit carried out restructuring, bankruptcy proceedings, and/or disposal of these distressed credit assets.[624] In total, IBRA received from 74 banks approximately 256 trillion rupiah (or more than US$25 billion) in non-performing loans, effectively making it the main creditor to a considerable share of all delinquent bank borrowers in the country.[625] A former senior IBRA official described how before the crisis practically all bankers had engaged in related-party, corrupt, relationship-driven lending – a problem even deeper and more complete at state banks.[626] Table 5.9 describes the credit assets IBRA obtained by bank type and value; one important reality was the large share of problem loans that originated from the state banks (more than 40%

619 Data from Dick (2001: 22).
620 Ibid.
621 Ibid. The bulk, or 56 trillion rupiah, were held by Bank Mandiri.
622 An argument advanced in Syahrial (2016a).
623 See IBRA (n.d.: 25).
624 See Dick (2001: 22-26) on weaknesses and problems with IBRA's debt restructuring process.
625 Also referred to as 'loss loans' (Enoch et al 2001: 18-21), this lowest level of NPLs was also known as Category 5 loans (IBRA n.d.: 21-25). Retail loans were left to the banks themselves.
626 Interview, October 2019. They noted further that this presented a particular dilemma for the government because "100% of bankers were guilty of being in the system" and so they could not, simply, "lock up everybody".

of the total value of all credit assets sent to IBRA). Notably, the state banks' share was more than double the total value of all credit assets from the 52 'frozen banks',[627] a further indication of the scale of poor lending practices both across the sector but particularly at the state banks.

Table 5.9: IBRA-managed credit assets by bank type (trillions of rupiah)[628]

Bank Type	Banks	Credit assets sent to IBRA	Value	%
BBO*	10	All loans	23.8	10
BBKU*	42	All loans	33.2	7
BTO	13	NPLs (category 5)	43.8	13
Recapitalised	7	NPLs (category 5)	24.1	7
State-owned	7	NPLs (category 5) and credit provision above 50%	141.9	41
IBRA-led debt restructuring	-	-	79.9	23
Totals	**79**	**-**	**346.7**	**100**

* Two categories of 'frozen banks' closed. See Appendix A.

After recapitalisation, the next major 'cost' of the financial sector rescue was the losses from the BLBI facility (see Chapter 4). As discussed above, the facility was subject to egregious abuse and undermined concurrent efforts to defend the value of the rupiah and restore confidence in the financial system. IBRA's claim on BLBI receivables was transferred from Bank Indonesia in early-1998 and thereby formed the basis of the claim on equity in these banks. The legal ramifications stemming from the abuse of BLBI and the violation of lending limits also prompted, as discussed in Chapter 6-8, the conclusion of Shareholder Settlement Agreements (PKPS) and the transfer of large swathes of assets to the government to cover these obligations. Although discussed in greater depth below, PKPS were 'out-of-court settlements' with the owners of seized banks that allowed the government to quickly obtain assets against the value of the liabilities incurred in bailing out or winding up these banks. As a consequence of budgetary pressures and creditors' preferences, the negotiation and conclusion of major PKPS proceeded rapidly. By end-1999, IBRA had concluded PKPS with the owners of eight seized banks, with 112 trillion rupiah in assets pledged to the agency and loans worth 234 trillion transferred.[629]

As a result of the transfer of credit assets (see Table 5.9, above) and the PKPS asset settlement approach, IBRA ended up with massive holdings of assets. According to one measure, it was estimated at end-1999 that the agency controlled 441 trillion rupiah in assets, or 35% of total GDP.[630] These assets were varied in their composition, but in general they fit into three main categories: portfolio loans for restructuring; equity in taken-over banks; and non-financial sector companies transferred under PKPS.[631] As described in the previous section, different IBRA divisions managed and sold different types of assets, AMC for credit assets and AMI for PKPS assets. Table 5.10 details the source of IBRA's revenues and shows how the sale of credit assets was far and away the

627 BBO and BBKU. See Table 5.9.
628 Data adapted from BPK (2006a: 23-24).
629 See Enoch et al. (2001: 39). IBRA's debtors were actually highly concentrated; the agency had 175,000 debtors, but less than 1% owned nearly 75% of the funds due to the agency.
630 This was a conservative estimate, and Hicks (2004: 231) reports estimates as high as 70%. A senior official (Interview, June 2017) estimated IBRA had assets worth more than 50% of GDP.
631 See also IBRA (n.d.: iii, 8) and Enoch et al. (2001: 19).

largest source of revenues, at more than 50% of the agency's total proceeds. The proceeds of investment, or PKPS, assets was about 40% of the credit portfolio. The recovery rate from PKPS assets was nearly 30% of book value, which was considerably higher than from credit assets (less than 20% of book value). (see Tables 5.7 and 5.12).

Table 5.10: IBRA's revenues by type (trillions of rupiah)[632]

Type	Cash	Bonds	Total
AMC receipts (credit assets)	80.2	9.2	89.3
AMI receipts (PKPS assets)	30.9	-	30.9
Bank restructuring	19.6	22.5	42.1
Deposit guarantee premiums	11.1	-	11.1
Investment of funds	4.0	-	4.0
Other receipts*	2.0	-	2.0
Bonds from 7 recapitalised banks		4.2	4.2
Bond interest	0.5	-	0.5
Excess from 7 recapitalised banks	0.8	-	0.8
NPL from 7 recapitalised banks	3.6	-	3.6
Totals	152.9	35.9	188.8

* Included NPLs from small class of banks and some receipts from the Directorate General of Budget.

Given the demands of servicing US$80 billion in government bonds issued during the crisis, IBRA, although bound only to seek recovery of public funds, was in reality under significant pressure to meet steep revenue targets set by the legislature. Before the crisis gross public debt was a meagre 25% of GDP, but this quickly jumped to 104% of GDP in 2000.[633] According to a former head of AMC, the budgetary circumstance was dire: "Before 2003, the government could not borrow money, even from the World Bank. Yes, there was US$5 billion from the IMF, but that wasn't enough. State enterprises could not pay their workers, and the government had no money. The only way the government could get money was from IBRA. It was a difficult time, and [IBRA] was forced to sell assets".[634] IBRA was assigned annual targets in the State Budget. In 1999, for example, 17 trillion rupiah was to pay interest on government bonds, with subsequent targets of 19 trillion in 2000 and 27 trillion in 2001.[635] Tellingly, however, this budgetary process was structured to downplay the potential cost of the rescue; the 1999 State Budget, for example, only listed the net costs of restructuring (that is, with IBRA's target already included), rather than the actual legislative appropriation required to fund the rescue.[636] In reality, the actual cost, which was largely the interest payments on government bonds, was more than twice the budgeted, net cost.[637] Table 5.11, below, includes an annual breakdown of proceeds generated from IBRA's activities.

632 Data adapted from BPK (2006a: 162-163).
633 See Rosengard (2004: 8-10).
634 Muhammad Syahrial (Interview, January 2017).
635 See IBRA (n.d.: iii) and Dick (2001: 20).
636 See Enoch et al. (2001: 111).
637 Ibid.

Table 5.11: IBRA's revenues by year, 1999-2004 (billions of rupiah)[638]

Type	99/00	2000	2001	2002	03/04*	Total
Realised cash (to state budget)	12,886	18,900	27,980	35,337	40,358	135,461
Realised bonds (to state budget)	4,248	-	-	7,501	11,383	23,132
Other cash	-	1,814	-	5,689**	2,248	9,750
Recycled bonds	-	-	20,541***	-	-	20,541
Total IBRA contributions	17,134	20,714	48,521	48,527	53,989	188,884

* Through February 2004.
** Proceeds from Bank Permata merger (2.73 trillion rupiah) and other sources (2.96 trillion rupiah).
*** From BII (18.67 trillion rupiah) and Bank Permata merger (1.86 trillion rupiah).

Based on these figures, IBRA generally met or exceeded its targets. Such performance, however, was hard-won, especially as the agency encountered numerous and repeated delays or difficulties not only in the disposal of assets, but also even the transfer of many assets from the owners of private banks under its control (discussed further in Chapters 6-8). Progress dealing with credit assets was also a challenge. For example, at end-2000, of 89 trillion rupiah outstanding from the 21-largest debtors,[639] 74% had been brought under memoranda of understanding (MOU) related to their agreement to restructure, but only 17% of the agreements were being implemented, with just 3% of debts paid. A total of 7% were still subject to legal proceedings, which, as discussed above, remained highly unreliable for IBRA.[640] The annual revenue growth shown in Table 5.11 seems logical because some time would have been needed for the agency to become operational and to ramp up its work. Sources also, however, described growing pressure as IBRA's mandate ticked down towards the 2004 deadline for winding up the agency.[641] Initially, AMC worked to restructure debts from the 21-largest obligors and disposed of everything else (as shown in Table 5.7 the scale of credit asset sales peaked in 2002), but by 2002 there was no longer authorisation to carry out restructuring and instead everything had to be sold by December 2003.[642] AMC was instructed to cease asset disposals in April 2003 and transfer unsold assets to a separate division ahead of their later transfer to PT PPA.

Poor economic conditions also weighed heavily, and by 2000, Coordinating Economics Minister Kwik Kian Gie publicly rued a 'fire sale' mentality at an agency struggling to meet its targets.[643] In 2001, the sale of the substantial Salim Group asset Indomobil was sped up – at the cost of transparency and price – because IBRA had to meet its budget targets.[644]

638 See Syahrial (2016a).
639 Credit assets were grouped by conglomerate, and AMC prioritised the 'top-50' and 'top-21' largest debtors. The Top-21 were treated with special parameters, and often the FSPC had to make most decisions on individual restructuring schemes outside the guidelines given the economic devastation of the time. Sometimes the FSPC and AMC agreed, but often not. Muhammad Syahrial (Interview, January 2017). See also Dick (2001: 23-24) on the slow pace of restructuring and concentration of debtors (with 1% owing 75% of outstanding debts).
640 Ibid.
641 Senior Official (Interview, June 2017).
642 Muhammad Syahrial (Interview, January 2017). Syahrial disagreed that debtors simply waited the government out. He claimed that 85% of this 'top-21' signed master restructuring agreements before the deadline. Once a restructuring agreement was concluded, however, IBRA was obliged to immediately sell the assets.
643 See Robison and Hadiz (2004: 195; 198-199). Kwik and his successor Rizal Ramli were vociferous in denouncing major conglomerates.
644 See Borsuk and Chng (2014: 440-442) quoting PT Holdiko's CEO.

Setting aside the political opposition to foreign purchases of some assets,[645] foreign investors were an obvious pool of potential buyers due to the widespread indebtedness of most major Indonesian business groups and the introduction of rules, discussed below, to prevent former owners from repurchasing assets surrendered to IBRA. Foreign investors were, however, cautious amid clear problems with the country's legal system, political stability, and overall economic prospects.[646] The practice of carrying assets on IBRA's books at face value (rather than what it could reasonably expect to recover) was intended to strengthen its position in negotiating with its debtors, but in practice it meant that virtually all sales could be portrayed as 'cheap' and involving state losses.[647] Eventually, the World Bank concluded asset sales went too slowly – and led to greater losses as assets deteriorated amid worsening economic conditions – because of the combined effect of a misplaced belief IBRA could still obtain full price for assets and strong political pressure against selling 'national assets' too cheaply.[648] As discussed below, the prohibition against selling assets back to their original owners added significant complexity to IBRA's work, while also ruling out those who might well have been willing to pay the most for an asset.

Some in government certainty found the IMF program helpful, but I found no evidence that serious consideration was given to extending IBRA's mandate beyond 2004. No formal request to extend Indonesia's IMF program ever existed. According to the Fund's country representative,[649] Indonesia had already returned to the international capital market and successfully stabilised the economy, and so there was little justification to continue. Some officials might have been amenable to extending IBRA and staying engaged with the Fund, but most wanted to finish on time.[650] Many officials were realistic about the likely political difficulties of revising the statute (to extend IBRA's term) and worried about their potential legal risks under the new corruption statutes.

Table 5.12: Asset sales by type and recovery rate (trillions of rupiah)[651]

Asset type	Book value*	Share of total value (%)	Proceeds	Recovery rate (%)
Property	4.1	0.9	5.1	123
Bank Equity	105.7***	22	20.1	19
Credit	260.8	54.3	48.5	19
PKPS	109.4**	22.8	30.1	27.4
Total	480	100	103.8	21.6

* Independently valued, except for PKPS (unavailable based on individual circumstances of PKPS).
** Total 'resolved' under PKPS (see Table XX, below). Based on pledged amounts.
*** Total investment of 141 trillion rupiah across two categories of state equity in recapitalised banks.

645 Discussed further in Chapter 7.
646 On the contests around the sale of assets to previous owners, see the discussion in Chapters 7 and 8.
647 Enoch et al. (2001: 82) concluded this contributed to the agency's poor public image. As discussed in Chapters 6 and 8, a corruption finding under Indonesian law only requires a state loss, rather than demonstration of the accused's intent to obtain a benefit. See Butt (2019).
648 See Robison and Hadiz (2004: 198).
649 Nellor (op cit.).
650 Ibid.
651 Data adapted from BPK (2006a: 8).

Table 5.12, above, shows recovery rates by asset type (versus the book value of assets). An overall 'recovery rate' of 30.4% was calculated based on total returns (through April 2004) of nearly 189 trillion rupiah (Table 5.11) against the 621 trillion rupiah of the financial rescue 'assigned' to IBRA (Table 5.4).[652] According to Table 5.12, assets disposals generated more than 100 trillion rupiah, the largest share of IBRA's revenues. These figures exclude the additional 20 trillion generated from the sale of assets transferred upon IBRA's abolishment to PT PPA.[653] These assets had a notional book value of 275 trillion rupiah at the time of their transfer, although the majority of assets by value, or 166 trillion rupiah, were subject to some form of litigation.[654]

According to one senior official, by 2004 most of the best assets had been sold, and they questioned to what extent PT PPA could actually maximise the value of assets by holding them even further.[655] Therefore, including the sale of these PT PPA assets, as of 2016, the recovery rate can be said to have reached 33.5% of the amount 'assigned to IBRA'. Of course, a huge share – more than 282 trillion rupiah, or approximately 45% of the total 'final' cost included above – of the total financial sector rescue package represented the recapitalisation of four state-owned banks. As some have noted,[656] it is also reasonable to account for the government's continued ownership of large stakes in these banks, for which the market value in 2016 was over 500 trillion rupiah. Even taking into account the 72 trillion rupiah in recapitalisation bonds that were still, as of 2016,[657] held by state-owned banks (private banks hold no remaining recapitalisation bonds), the value of these equity holdings represents a considerable return of on the fiscal outlays necessary to preserve these banks.

In total, slightly more than 100 trillion rupiah worth of obligations were classified as 'unresolved', mostly outstanding recapitalisation bonds (72 trillion rupiah), followed by nearly 12 trillion in BLBI lending to 15 banks that were liquidated as a result of the initial November 1997 bank closures,[658] and more than 17 trillion in unresolved BLBI under certain PKPS contracts.[659] Importantly, the classification of obligations as 'resolved' (*selesai*) did not mean that an obligor repaid in full their obligations to the government, but instead that the process was completed in line with the relevant contractual obligations or procedures. This is particularly pertinent to the PKPS program, and therefore it is discussed in greater depth in the chapters below, including the specific section on PKPS in Chapter 6. Of the owners of major private banks, only two, Samadikun Hartono (Modern) and Kaharuddin Ongko (Ongko, together with Muhammad 'Bob' Hasan, who concluded

652 See BPK (2006a: 9).
653 Data from Syahrial (2016a). IBRA expected the assets to raise about 15 trillion rupiah. See IMF (2004: 34). Annex B provides an overview of revenues from PT PPA.
654 Ibid.
655 Anonymous (Interview, June 2017). They referenced as an example BTPN, which only began to grow after the government divested a stake it had held for four years.
656 Muhammad Syahrial (Interview, January 2017) made this insightful point. See also Syahrial (2016a).
657 From 2009-2015, the Ministry of Finance 'reprofiled' outstanding recapitalisation bonds (ibid.). All outstanding bonds were with state banks, and Bank Mandiri held the lion's share (56.3 trillion rupiah).
658 These banks were known as BDL, *Bank Dalam Likuidasi.*
659 These were APU and MRNIA contracts. See the discussion of PKPS in Chapter 6 and Table 6.1 for a disaggregation of PKPS by contract type.

and fulfilled a separate MSAA agreement) failed to fulfil the obligations under their PKPS agreements.[660] There were larger groups of bank owners who either refused to sign PKPS agreements or were unable to fulfil some of the terms of the agreements, despite their otherwise cooperative approach.[661]

Although the eventual 'recovery rate' failed to live up to the targets set at IBRA's establishment, it was still well above the level some have claimed.[662] IBRA initially estimated that assets worth 533 trillion rupiah – shares in recapitalised banks; portfolio loans transferred from banks to IBRA; and corporate assets from shareholder settlements or the conversion of corporate debt – would be transferred to the agency. Its projection of asset disposal proceeds of 208 trillion rupiah implied a 'recovery rate' of 40%, whereas the IMF assumed a recovery rate of 35%. This was, however, soon downgraded, and within several years most, including those insider IBRA, believed only 20% would be possible amid concerns about the high book values of pledged assets, a lack of confidence among potential buyers, the deterioration of assets in line with the overall economic conditions, political interference and delays, and the weakness of legal sanctions available to the agency.[663] Assets obtained through PKPS, were expected to be of high quality and therefore provide higher returns (perhaps as much as 50% of book value) than could be expected from IBRA's credit restructuring or the eventual sale of its equity holdings in recapitalised banks. Such a conclusion was a function of general pessimism about the economy's poor overall prospects.

Summary and conclusions

This chapter has served two main purposes. The first was to discuss legal organisational factors relevant to IBRA's establishment and subsequent operations. Second, the chapter introduced some of the thesis's main quantitative findings related to the overall 'cost' of the financial sector rescue package, as well as IBRA's performance recovering a share of the public funds spent on the bailout. This data shows how the agency's responsibilities fitted together, while also demonstrating the scale and complexity of its remit. The chapter showed the largest share of the overall 'cost' of the financial sector rescue was bank recapitalisations, most not under IBRA's control. The chapter's second section provided a useful introduction for the thesis's more in-depth consideration of PKPS agreements, in particular those concluded with the Gadjah Tunggal Group (Chapter 6) and the Salim Group (Chapter 7). Chapter 8 also reflects on IBRA's quantitative performance and the relevance of PKPS to appraisal of its work. As shown in Table 5.11, PKPS were a significant source of returns for the agency and produced a recovery rate (more than 27%) exceeded only by the sales (significantly smaller) of property assets.[664]

660 Muhammad Syahrial (Interview, January 2017). Hartono was eventually apprehended in China, prosecuted, and imprisoned.

661 See Maroef (2010: 186-187) for details on the 8 shareholders who refused to conclude PKPS and the 16 shareholders unable to fulfil the terms and conditions. Most of this second group were APU contracts (see Chapter 6) and were referred to the Police or Attorney General.

662 Daruri and Edward (2004: 155) claimed that IBRA achieved a recovery rate of only 1-2%.

663 See Dick (2001: 25, Table 8). Robison and Hadiz (2004: 199) argued only 20% of pledged assets would be secured and sold and labeled the agency "a prize for interests fighting over the terms of recapitalization, debt restructuring, and asset sales" (ibid.: 206). The IMF was also pessimistic, believing a large public debt would persist (ibid.: 196).

664 Proceeds from property assets represented 5% of those from PKPS assets.

Among the most important conclusions from this chapter is that IBRA's actions were constrained in a number of contingent ways and, in reality, it did not function as it was originally conceptualised. Instead, the agency began its work armed with ad hoc law and situated within a complex and contestable institutional and political context. The government's weak fiscal position had a considerable effect on IBRA's work, and, as shown in the next chapter, this also influenced how IBRA dealt with the owners of private banks that had misused the BLBI facility or violated prudential regulations. Although IBRA was assigned, in theory, to recover the greatest possible share of state spending on the bailout, in practice it was immediately handed targets enshrined in the State Budget, and this had clear consequence for the way the agency executed its tasks, including negotiations with its debtors and its sale of the assets that came under its control. The following chapters examine how these topics played out in relation to the PKPS program.

Although IBRA was conceptualised as an extraordinary agency laden with special powers to seize control of banks and their owners' assets and compel their debtors to cooperate, it did not, as the chapter's first section discussed, possess these powers simply by virtue of its establishment. In fact, the agency operated for well over a year on the basis of its initial, emergency authorisations, and only the issuance of Government Regulation No. 17/1999 provided an effective legal umbrella for its operations. By this point, however, IBRA had already concluded settlement agreements with some of is largest obligors, and it had already started selling assets to meet its revenue targets. The agency's complex relationship with Bank Indonesia, which as described in Chapter 4, oversaw the initial ineffectual response to the growing crisis, also had an influence over its capacity to function. In general, the agency operated in a highly political environment. Its leadership was very fluid, and the agency only experienced stability and began to function well once a chairman with strong political support, Syafruddin Temenggung, was installed. The findings chapter (Chapter 8) and the thesis's conclusion (Chapter 9) reflect further on this topic through its weak state analytical framework.

This chapter's second section presented a detailed description of IBRA's functions and responsibilities once the initial phase of the crisis had subsided. It included quantitative data gathered in my fieldwork, and it outlined the main 'costs' associated with the rescue package, the types of assets IBRA obtained, and the performance – or 'recovery rate' – achieved through their disposal. Recapitalisation costs were included in the top line 621 trillion rupiah 'assigned' to IBRA, but much of the program, including the massive state bank recapitalisation program, existed outside the agency's remit.[665] In general, the recapitalisation program failed to live up to its policy design, with banks struggling to obtain capital and with no meaningful secondary market for the recapitalisation bonds.[666] IBRA was, however, responsible for the restructuring and sale of credit assets obtained under the recapitalisation scheme (as well as from the banks it froze and closed). The sale of these assets represented the agency's largest source of revenues, although the returns declined over time. Large-scale abuse during the crisis of the BLBI facility represented the next largest line item, and this prompted the need for the conclusion of the PKPS

665 The recapitalisation program represented the broader dilemma of potentially massive liabilities under the blanket guarantee. Recapitalisation, although costly, reduced considerably the 'cost' of this scheme.

666 The Ministry of Finance allocated proceeds from credit asset sales to the State Budget, rather than retiring outstanding recapitalisation bonds, which remained outstanding long after IBRA's dissolution.

agreements (the primary focus of the following chapters). IBRA's sale of assets obtained under these agreements obtained the strongest 'recovery rate' versus their book value, although, as explored in the coming chapters, this was a complex and negotiated process highly indicative of the weak state framework.

Chapter 6: IBRA and the Gadjah Tunggal Group

Following Chapter 5's examination of IBRA's responsibilities and performance, this chapter turns to a case study of the obligations that resulted from IBRA's takeover of Bank Dagang Negara Indonesia (BDNI). Before it was seized during the April 1998 'hard' interventions, BDNI was among the largest recipients of BLBI funds (see Chapter 4). These funds were largely abused, and the bank's owner, Gadjah Tunggal Group (GTG) owner Sjamsul Nursalim, trailed only the Salim Group (see Chapter 7) in the quantum of his obligation to the Indonesian government.[667] Today, GTG is again among Indonesia's largest commercial groups (see Table 4.2, above). It is practically impossible to visit an Indonesian mall without encountering a brand – Starbucks, Sogo, Planet Sport, or Food Hall, among others – belonging to Nursalim's PT Mitra Adi Perkasa Tbk.[668] As suggested below, this has occurred despite (or, in a more critical interpretation, as a fortuitous consequence of) the considerable scale of Nursalim's crisis-era debts, the disastrous recovery against assets he transferred transferred to IBRA, and his family's proximity to corruption scandals. These issues are discussed below and in Chapter 8.

In recent years, there has been a revived focus on IBRA's dealings with Nursalim, most evident in the 2018 corruption conviction – and, in 2019, unprecedented acquittal on appeal – of former IBRA Chairman Syafruddin Temenggung. Therefore, this section also examines the aspects of the BDNI settlement that underpinned the later pursuit of the IBRA chairman. Not only is this a topical issue, but a detailed examination of BDNI also demonstrates firsthand how IBRA dealt with the large corporate groups that emerged from the crisis as some of the government's largest obligors (often due to their banks' BLBI abuse). First, however, this chapter explains Shareholder Settlement Agreements (known as PKPS – *Penyelesaian Kewajiban Pemegang Saham*). These were out-of-court civil contracts used to agree and settle the obligations that resulted from IBRA's takeover of private banks. As discussed below, the use of PKPS was a consequence of the political and economic challenges that confronted the government (and, by extension, IBRA) in 1998. As discussed in Chapter 5, IBRA, at this time, did not have its full powers and was operating on the basis of incomplete laws.

Next, the chapter examines the Master Settlement and Acquisition Agreement (MSAA – a type of PKPS) between IBRA and Nursalim. Beyond the specific details of Nursalim's MSAA, this section also shows how MSAA functioned in practice. In particular, it illustrates the challenges faced by IBRA in dealing with former bank owners, including to reach a legal legal resolution for their financial obligations to the government, and also to pursue its responsibility of recovering state funds expended during the crisis. As the

667 The use of 'obligors' in these chapters does not include debtors with bad loans that IBRA ended up owning. As seen in Table 5.8, IBRA received distressed credit assets of more than 346 trillion rupiah. See BPK (2006f: 34-40) for details of these debtors (sometimes called 'obligors'), which were major corporate groups, albeit ones that either did not own banks or had relatively small private banks.

668 See Reformasi Weekly Review (2012: 7). PT MAP owns more than 100 brands and thousands of retail outlets.

recovery rate from assets pledged under Nursalim's MSAA was very poor, the case is indicative of the difficulties inherent in the government's position. Finally, the chapter's third section discusses the Syafruddin Temenggung case. A conclusion summarises the chapter and looks ahead to findings discussed in Chapter 8.

PKPS explained

As discussed in Chapter 5, obligations representing about one-fifth of the total cost of the financial rescue package were eventually bought under some form of PKPS. In essence, PKPS were contracts between IBRA and the responsible shareholder (or, in a few cases, several shareholders) of a private bank with liabilities resulting from illegal activities.[669] Under the blanket guarantee (see Chapter 4), the government was responsible for all qualifying liabilities, and when it moved to freeze or close a bank these liabilities were transferred to the government. Although indications of various banks' illegal behaviour exposed by the crisis were later referred to law enforcers for prosecution,[670] when IBRA was contemplating the PKPS programme (in mid-1998), these data points were merely indicative and based on what was highly limited or even non-existent due diligence investigations of troubled banks.[671] PKPS were therefore intended to provide an out-of-court mechanism for allocating losses to the owners of nationalised banks where there were indications of fraud and/or violation of prudential limits on lending to affiliates. PKPS were legal tools without any real precedent in the Indonesian legal tradition,[672] and, under the framework, the method of loss allocation was through 'asset settlement', which required bank owners to transfer independently-valued assets to IBRA, which would later sell them to the private sector. As shown in Table 6.1, several classes of PKPS varied depending on the size of the obligation and the obligor's ability to pay.

Table 6.1: PKPS amounts by type and detail (trillions of rupiah)[673]

Type	Total amount	Agreement between shareholder and IBRA	Signatories
MSAA	89.9	Amount of liability, with assets accepted as sufficient to settle obligation.	IBRA Chair, approved by Minister of Finance
MRNIA	23.8	Amount of liability, but with assets worth less than obligation. Debtor required to submit personal guarantee as collateral.	IBRA Chair, approved by Minister of Finance
APU	18.3	Settlement of obligations through cash or assets worth more than 150% of the total obligation as assessed by an independent appraiser.	IBRA representatives

NB – Total BLBI obligations of 132.65 trillion rupiah, more 99.5% brought under some form of PKPS.

669 See Maroef (2010: Chapter 4) for a rigorous and detailed legal account of the PKPS program.

670 Generally, these cases fell into several categories, including uncooperative bank owners, or bank managers and Bank Indonesia staff who had engaged in fraud related to BLBI or the blanket guarantee. According to an anonymous source (Interview, January 2017), of the 72 private banks taken over or closed during the crisis, about 80% of the directors were prosecuted and sentenced to jail. Despite the state banks having had the largest liabilities, "almost no one [there] was punished".

671 See Chapter 4.

672 See Maroef (2010: 209).

673 Data from BPK (2006a: 33-36). See also BPK (2006b: 7-8).

As shown in Table 6.1, MSAA, which encompassed the largest share of the program, were used for shareholders with sufficient assets and cash to settle their claims. Next, Master Refinancing and Notes Issuance Agreement (MRNIA) were used when shareholders were unable to produce assets and cash equivalent to their obligation, and therefore these shareholders provided a personal guarantee on the unsettled amount through to the end of IBRA's term.[674] A final, smaller, class was Debt Recognition Certificates, known as 'APU' (*Akta Pengakuan Utang),* which saw the government accept a 'haircut' in the form of the debtor's transfer of assets and/or cash worth an agreed share of the obligation with no further guarantee or other terms. In practice, APU encompassed a broader span of agreements with specific ex-bank owners from several classes of (mostly smaller) bank takeovers. They were adopted following implementation problems that arose during the process of concluding and implementing larger MSAA and MRNIA agreements.[675] Therefore, it can be said that MSAA and MRNIA were 'first generation' contracts, with APU and its variants the next 'generation' necessary to deal with some 'in practice' issues encountered with MSAA/MRNIA.[676]

As a result of the asset settlement approach, IBRA would obtain from bank owners a mixture of non-lending assets, including shares in non-financial companies, land, property, bonds, intra-group debts, and, from MSAAs, some cash. By nature, this framework differed from that of bank recapitalisation and restructuring, which saw IBRA end up with banks' non-performing credit assets that could be restructured and sold or foreclosed (with collateral seized and sold). It was therefore expected, at least initially, that the 'recovery rate' from assets obtained through PKPS would be higher (by perhaps as much as 50%) than the expected returns from the disposal of lending assets or equity stakes in recapitalised banks. This conclusion reflected assumptions about the poor state of the economy (which would weigh on borrowers' ability to borrow and repay), the assumed deterioration of lending collateral, and the belief that few foreign investors would be interested in buying recently insolvent banks.

Some 132 trillion rupiah (more than US$13 billion)[677] of shareholder obligations came under some form of PKPS contract. In total, 49 out of 65 'IBRA banks' were deemed to have violated banking regulations or have abused liquidity funds and were therefore required to participate in the PKPS program.[678] The scale of the program is a testament to the massive abuse of the BLBI facility. As shown in Chapter 5, the scale of PKPS obligations was not much less than the size of the private bank recapitalisation program (165 trillion rupiah).[679] In addition to the comprehensive 2006 BPK IBRA audit, PKPS

674 This claim could be sold and the buyer could pursue the shareholder for the balance (Anonymous Interview, January 2017). This meant MRNIA shareholders were less likely to cooperate because they assumed assets would be sold for less than the pledged value, and thereby create future exposure (Mareof 2010: 180-183).

675 Ibid. Furthermore, before APU were implemented, but after MSAA/MRNIA had been basically abandoned, some other bank owners settled specific, smaller obligations under basic agreements known as a Sale and Purchase Agreement and Assignment of Receivables. These shareholders basically paid cash to IBRA, which then returned to them their affiliated debts from their former bank.

676 Ibid.: 202.

677 Assuming an IDR:US$ exchange rate of 10,000:1, the level during 2001-2002 and late-1998.

678 Some obligors, such as Bank PSP owner Trijono Gondokusumo or Bank Modern's Samadikun Harsono, still failed to cooperate with IBRA and conclude PKPS, and they were referred to law enforcement. See BPK (2006c: 4).

679 See Tables 5.3 and 5.10, above. This figure excludes the more than 57 trillion rupiah in BLBI debts converted to state equity ownership in BCA, Danamon, Bank PDFCI, Bank Tiara, and BNN.

were subject to several audits, including an audit finalised in May 2002 and one finalised in October 2003. The first examined the Total Shareholder Obligation (JKPS – *Jumlah Kewajiban Pemegang Saham)* for 12 'responsible shareholders' from 10 banks with total obligations of 115 trillion rupiah, and it found a shortfall in the total JKPS of 4.5 trillion rupiah.[680] The second examined the JKPS for a further 21 banks with total obligations of 15.5 trillion rupiah, and it also found a shortfall of 4.5 trillion rupiah (albeit for a far smaller JKPS). In effect, these findings meant that the calculation of shareholders' obligations to the government, which would have arisen on account of abuse of BLBI or lending to related parties in excess of the 20% pre-crisis legal limit, came up short and failed to include the full value of the potential fraud or violations. In the case of the first audit, this represented a much smaller share of the total obligation than the second. Nevertheless, the FSPC eventually decided that PKPS would be accepted on an 'as is' basis and the government would not act on such findings.[681]

A PKPS performed three main tasks. It provided an out-of-court settlement mechanism for the owners of 'IBRA banks' and the government to agree on and resolve the obligations that arose from the government take over of these banks. It established a contractual basis for bank owners to compensate the government via asset settlement for the seemingly illegal acts that contributed to a large share of the cost of the bank rescues. Finally, it allowed the government to explicitly 'release and discharge' bank shareholders from further liabilities or claims related to their banks' behaviour during the crisis.[682] Each element is controversial in its own way, including the eschewal of the legal system for pursuing claims against recalcitrant bank owners, or the use of an asset settlement mechanism that, as shown in the previous chapter, meant the government received assets later sold for less than the total liabilities under the PKPS program. Finally, as the Temenggung case demonstrated, the PKPS 'release and discharge' was a point of particular contention. Under the Indonesian Civil Code, there was no provision for a creditor to 'release and discharge' an obligor from a contract, so instead the contract would presumably only be discharged once its obligations were performed.[683]

The 'out of court', or *quid pro quo*, nature of the PKPS program and, indeed, the asset settlement framework stemmed from the clear dilemmas facing the Indonesian government and private bank owners once the crisis stabilised around mid-1998.[684] As discussed in Chapter 5, the Indonesian government faced severe fiscal constraints, and IBRA was needed to immediately generate revenues for the state budget.[685] Bank owners faced considerable legal risks – should the government choose to pursue them – as a consequence of their pre-IBRA mismanagement of their banks. It was unlikely, however, that bank owners would voluntarily reimburse the government, absent some form of legal assurance, for the losses incurred stabilising their banks. Bank owners probably understood, however, that some compensation of the government would be advisable,

680 JKPS denoted the amount a bank's responsible shareholder, or in several cases, shareholders agreed with IBRA as their total obligation to the government.

681 Decree No. 02/K/KKSK/03/2002.

682 A senior IBRA official (Interview, October 2019) described the offer of release and discharge, which was contained within the PKPS, as the "big carrot" for shareholders to participate in the program.

683 See Maroef (2010: 209-211).

684 Ibid.: 173-175, 212-213.

685 As discussed above, the State Budget, for example, only included the expected net cost of the financial rescue, rather that the outlay that would be required.

especially considering the fluidity of the political situation and the extralegal powers – still notional at that point – that IBRA would eventually possess. Therefore, a primary attraction of PKPS was the out-of-court release from any ongoing legal jeopardy related to alleged illegal activities at their bank.

From the government's perspective, the policy approach had to account for the presumed time and costs of pursuing bank owners through the court system versus the alternative path of direct negotiations. Certainly, there existed clear claims against owners for the amount of funds that were diverted or subject to misuses, but without going to court there was no way to assert these claims. IBRA would also fail in its role as a creditor for banks' bad debts to obtain favourable legal rulings in the purpose-made, and creditor-demanded Bankruptcy Court until at least 2000. Instead, corporate interests seemed able to easily manipulate legal rulings in their favour.[686]

Due to the dysfunctional political and legal situation at the time, not to mention the reality that IBRA had virtually no money of its own, the appeal of the 'out-of-court' mechanism is understandable. The Indonesian government was in a weak position, and it committed to the IMF that it would adopt a strategy to recover outstanding BLBI within four weeks.[687] It was in a desperate fiscal position, and its legal system was viewed as unpredictable and likely to consume large amounts of time and money.[688] IBRA also, of course, had to deal with tens of banks responsible for outstanding BLBI liabilities of many trillions of rupiah. Indeed, in September 1998, the Attorney General, who had convened the negotiations with major bank owners,[689] sent a report to President Habibie that recommended the out-of-court mechanism.[690] Even the prominent Indonesian Legal Aid Foundation (LBH – *Lembaga Bantuan Hukum*) expressed its support for the approach, although it would later join an unsuccessful request to the Supreme Court for judicial review of Presidential Instruction (Inpres) No. 8/2002 (see below).[691] Thus, the PKPS policy was formally endorsed via a Decision from an August 1998 Cabinet Coordination Meeting on Economics, Finance, and Development Supervision.[692]

Therefore, under MSAA and MRNIA contracts the Attorney General would "promise not to commence or prosecute any legal actions or enforce any legal rights against the banks, the banks' shareholders, and the banks' management in respect of any matters related to such statutory and regulatory violations related to the affiliated loans and/or any matter related to [BLBI], if the obligors were able to fulfil the contractual obligation [to] IBRA's satisfaction".[693] At the final moment, however, the Attorney General refused to sign MSAA and MRNIA contracts, and there was, understandably, considerable subsequent

686 See Lindsey (2001: 283, 294), Dick (2001: 24), adding that "the corrupt legal system gives no 'teeth'" to IBRA's sanctions, and Robison and Hadiz (2004: 194).

687 Per the government's 11 September 1998 Memorandum of Economy and Financial Policy (MFEP) to the IMF. The signing of the major contracts in late September was basically rushed through to meet this target. See Maroef (2010: 134-135, 139).

688 McLeod (2005: 374) emphasised the 'out of control' judiciary.

689 During August and September 1998, the Attorney General's Office had, under powers of attorney from the Ministry of Finance, coordinated meetings with 14 shareholders of major IBRA banks (ibid.).

690 See Maroef (2010: 134-135, n521, n528).

691 Ibid. The Court ruled against the suit (Decision No. 03.G/HUM/2003), finding the president may instruct the government on matters of relevant policy and therefore the Inpres could not be subjected to judicial review. See also Hukumonline.com (2003) for background.

692 See BPK (2006a: 29). The *Keputusan Rapat Koordinasi Bidang Ekonomi Keuangan dan Pengawasan Pembangunan* was dated 21 August 1998.

debate about what this meant for this portion of the contracts.[694] Furthermore, as some critics noted, the Indonesian Civil Code, although providing for an 'amicable settlement', explicitly notes that such a settlement should not hinder the public prosecutor from pursuing alleged criminal offences (nor, however, does it prohibit out-of-court settlements for criminal matters).[695] Therefore, although the contracts included the famed 'release and discharge' clause, there continued to be parallel legal cases related to BLBI – usually through the Attorney General's Office and often involving application of the new Corruption Law – against bank officials and shareholders.

In response to this lack of consistency (and the overall political chaos),[696] some PKPS holders stopped cooperating with IBRA. From a shareholder's perspective, it was logical, given the government's role as the enforcer of law and its position as their PKPS counter-party, to condition future cooperation on a more explicit understanding of the release and discharge clause. As the contracts were, by nature, voluntary, if obligors ceased to cooperate with IBRA, this would have obvious implications for its overall effectiveness. Though the Megawati government, in response to the basic breakdown of the PKPS program under President Wahid, had agreed to honour the PKPS on an 'as is' basis,[697] there was still concern about how the release and discharge would apply in practice. There was also the problem that many shareholders had, in response to the policy inconsistencies and political instability under President Wahid, simply stopped cooperating with IBRA.[698] So, in March 2002, the cabinet resolved that the president should apply the legal concept of waiving a criminal case in the 'public interest' (*deponeren*) so as to provide compliant obligors with adequate legal certainty.[699] This decision was undertaken after receiving input from the legislature. This included Law No. 25/2000 on the National Development Program, which instructed the government to provide legal certainty to obligors who had signed and met the terms of their PKPS and provide incentives to who had not fulfilled (or signed) their contracts. In November 2001, the People's Consultative Assembly (*Majelis Permusyawaratan Rakyat* – MPR), then the country's most powerful legislative body with responsibilities that included selection of the president and oversight of their conduct, instructed the president to accelerate IBRA's sale of assets at reasonable recovery rates and maintain consistency in the implementation of PKPS contracts.[700]

693 Cited Maroef (2010: 213). Technically this was not an explicit guarantee of no further criminal prosecution, a feature only provided under APU contracts, which, as noted above, were used once the earlier generations effectively broke down, in part over issues such as this one (Ibid.: 180-183).

694 Ibid.: 215-217. The Attorney General was Andi M Ghalib.

695 Article 1853 of the Civil Code states, "In regard to the interests of civil affairs arising out of a crime of an offence, an amicable settlement may be concluded. This amicable settlement shall under no circumstances hinder the public prosecutor to prosecute the alleged crime or offences." (ibid.: 214).

696 The situation in 2000-2001 was, in reality, more dynamic and fluid than described here. President Wahid's presidency was chaotic, and the FSPC basically upended the PKPS program. President Megawati's FSPC essentially revived the program. Chapter 8 discusses in greater depth.

697 Decision No. 02/K/KKSK/03/2002. In November 2000, the FSPC decided (No. 03/K/KKSK/11/2000) that MSAA holders must surrender additional assets and provide IBRA with personal guarantees for any shortfalls. Later, in December 2001, the FSPC proposed (No. 02/K/KKSK/12/2001) three new strategies for rehabilitating the PKPS program.

698 See Footnotes 686 and 687, above. Maroef (2010: 148-153) discusses the dynamics during the Wahid presidency around IBRA and the PKPS program.

699 This was decided a better approach than, for instance, producing new law.

700 MPR Decree No. X/MPR/2001. See Maroef (2010: 158-160) for discussion.

In response, President Megawati issued Presidential Instruction (Inpres) No. 8/2002 in December 2002 instructing IBRA to review all PKPS and provide those obligors who had fulfilled their obligations with evidence of their contract's completion. Although intended to provide legal certainty to compliant PKPS holders, the Inpres also effectively moved the goalposts from the terms of PKPS, which already included a release and discharge subject to settlement having been achieved. In effect, shareholders were now only free once they received IBRA's sign-off, a process that itself required approval from the FSPC and State Enterprises Ministry.[701] Once IBRA had provided such evidence, the National Police and AGO were instructed to discontinue any ongoing pre-trial investigations and/or prosecutions against an obligor. IBRA would provide those who had met their obligations a 'certificate of completion' (SKL – *Surat Keterangan Lunas*). Issuance of SKLs occurred in early-2004, during the final months before the agency was wound up. The Inpres assigned the AGO and National Police to handle non-cooperative obligors, subject to coordination with IBRA. After the Inpres's issuance, PKPS compliance increased from 8% to 77%.

Despite its intention to pursue speed and simplification, the PKPS program proved difficult to implement,[702] and the Inpres was the culmination of several years of problems and uncertainty. Initially, some large obligors (including Nursalim) failed even to turn up to meetings with IBRA, a detail that only fuelled public criticism of IBRA as a toothless entity crafted to help relieve conglomerates of their debts to the state.[703] Some nationalistic political figures publicly called on the government to use IBRA to redistribute assets from Sino-Indonesian conglomerates to indigenous entrepreneurs.[704] The negotiation of major PKPS emerged as a lightning rod for controversy.[705] President Habibie refused to sign the MSAA with the Salim Group (which together with two Soeharto children owned the largest private bank, BCA, that was later revealed as the second-largest BLBI recipient), stopped all MSAA negotiations, and sought to impose a one-year deadline – extended to four amid protests from Indonesia's creditors and the private sector – for the settlement of obligations.[706] The day after the Salim MSAA was finalised, the Financial Sector Action Committee (FSAC, a predecessor to the FSPC) rejected it on the grounds the schedule for the transfer of assets was too drawn out.[707] Notwithstanding his hostility towards the

701 See Maroef (2010: n543, Diagram 6). Muhammad Syahrial (Interview, January 2017) explained that the final decision on PKPS compliance went to President Megawati, as 'even the FSPC' did not have the authority to finalise these matters.

702 Chapter 7 discusses the 'best practice' MSAA for the Salim Group.

703 See Robison and Hadiz (2004: 193-195).

704 See Schwarz (2013: 416-417) on tycoon Aburizal Bakrie and Cooperatives Minister Adi Sasono (who said his ministry expected to receive 20% of the assets transferred to IBRA). The 1990s, many *pribumi* elites were dismayed about their economic opportunities given the growth of Sino-Indonesian conglomerates. See also Chua (2008: 98-99) or Schwarz (2013: 123-127).

705 One criticism (Rafick 2008: 320) was that if assets were sold for greater than a shareholder's obligation (that is, IBRA made a return on the MSAA valuation), the excess would be returned. If, however, assets yielded less than their valuation (as occurred in virtually all cases), the government wore the loss.

706 See Schwarz (op cit.) and Robison and Hadiz (2004: 193-195).

707 See Enoch et al. (2001: 19-21).

negotiations, it was left to President Habibie to broker a compromise arrangement under which IBRA and the former owner jointly held a holding company to control and manage the assets.[708] By end-September 1998, assets with a book value of 200 trillion rupiah had been pledged, but IBRA, for its part, valued them at just 98.2 trillion rupiah.[709]

Most agreed it would be impractical to ask the former owners to sell their own assets.[710] Many assets were active companies integral to their former owners' commercial interests, and in many cases there was probably a strong – and logical – desire among shareholders to not only shield their choicest assets from IBRA, but to also attempt to reacquire certain assets from the government. There was considerable disagreement about how these firms should be managed,[711] and, due to concern about the management of the companies (including disputes with existing management, as had also been the case when IBRA sought to intervene in some banks), holding companies were set up to receive the assets pledged under large PKPS agreements.[712] As described above, holding companies were usually part or majority owned by the recalcitrant bank owner, and once the assets were transferred the holding company was responsible, sometimes through a joint management company established by IBRA and the shareholder, for managing its assets and preparing them for sale.[713] The assets were then usually sold in tranches based on asset type, and IBRA was responsible for setting a 'floor price' for an asset before determining, based on the holding company's recommendation, the winning bid. Table 6.2 lists holding companies based on bank and asset value.

Table 6.2: Holding companies from major PKPS by asset value (trillions of rupiah)[714]

Holding company (PT)	Bank	Asset value
Holdiko Perkasa	BCA (MSAA)	52.63
Tunas Sepadan Investama	BDNI (MSAA)	27.41
Bentala Kartika Abadi	Danamon (MRNIA)	12.53
Arya Mustika Mulia (Ongko group)	BUN (MRNIA)	8.34
Kiani Wirudha (M Hasan group)	BUN (MSAA)	5.34
Cakrawala Gita Pratama	Modern (MRNIA)	2.66
Hoswarya Persada	Hokindo (MRNIA)	0.297
N/A – RSI	RSI (MSAA)	0.64
N/A – Surya	Surya (MSAA)	1.89

708 Ibid. Schwarz (2013: 416) attributed this structure to the desire "to dispel the impression that its main objective was to confiscate Chinese-held assets". Although the government might have been sensitive to such claims, the implied premise that this represents a kernel of inconvenient truth is over-egged.

709 See Pangestu and Habir (2002: 22).

710 Former senior IBRA official (Interview, October 2019).

711 Chapter 7 discusses criticism when management was not replaced at some Salim Group companies.

712 Details from BPK (2006c).

713 On several occasions pledged assets were exchanged or replaced because the assets had already been sold or a shareholder could not obtain other shareholders' approval. For Salim, proceeds from the sale of PT Pacific Indomas Plastic Indonesia (37.2 billion rupiah) were transferred to IBRA. For Hasan, proceeds from the sale of three Gatari Airlines aircraft (24.8 billion rupiah) and PT Pacific Geohydro (3.8 billion rupiah) were transferred.

714 Author's research.

Except for the Salim Group MSAA (see Chapter 7), the setting up of holding companies and the transfer of assets was a slow process, garnering criticism from public officials, international creditors, and the public. By late-1999, six holding companies had been established (out of an intended nine, with seven eventually established), but asset sales had only taken place from PT Holdiko Perkasa (Salim Group). Moreover, amid the deepening post-crisis economic malaise, the estimated value of PKPS assets had declined sharply. IBRA estimated in April 2000 that the overall value of settlement assets had declined by around 70%.[715] In terms of the two largest MSAAs (BCA and BDNI), Salim handed over 53 trillion in assets to cover a debt of 47.7 trillion rupiah, but these assets were later valued at 24 trillion. Nursalim pledged, but did not immediately hand over,[716] assets worth 27.4 trillion on a debt of 28.4 trillion (the MSAA also included a cash contribution of 1 trillion rupiah), but these assets were later valued at 9.4 trillion rupiah.[717]

Once public, the reported declines generated public criticism and heavy political manoeuvring. Coordinating Economics Minister Kwik Kian Gie (October 1999-August 2000) announced the FSPC was exploring the cancellation of some MSAAs, and his successor Rizal Ramli (August 2000-June 2001) issued blistering criticism of conglomerates and in late-2000 spurred IBRA to attempt renegotiation of certain MSAAs.[718] Adding to the confusion, the FSPC announced in November 2000 that MSAA holders would have to surrender additional assets and provide IBRA with a personal guarantee (as with MRNIA contracts) for any eventual discrepancy between the sale of the assets and the shareholders' total obligation.[719] The same month, Attorney General Marzuki Darusman (November 1999 – June 2001), threatened to prosecute prominent conglomerate owners, including Salim, Nursalim, and Hasan, unless they put up further assets.[720] At the same time, however, an unnamed government source was telling journalists that such a position did not have any legal basis.[721] The major MSAA did already include 'buffer assets' from which IBRA could,[722] in theory, draw in the event of discrepancies, but according to an IBRA official, these assets were mostly not used.[723]

Because a primary appeal of the asset settlement approach was that it would provide the government with assets that could be sold to generate cash, the slow progress of the PKPS program was not only frustrating for the general public, but also problematic for the government's fiscal position and perceptions about its legitimacy. Eventually, however, the large share of private sector assets now state-owned (and the slow pace of divestment) created a broader economic dilemma. According to one observer,[724] by around 2001, the most pressing question was how IBRA should address the conclusion that the large

715 See Maroef (2010: n387).
716 As discussed below, PT Dipasena Citra Darmadja was not handed over to the holding company immediately. There were also issues changing the ownership of two public companies.
717 See Robison and Hadiz (2004: 194-196) for narrative.
718 Ibid.
719 Decree No. 03/K/KKSK/11/2000.
720 See Solomon and Wright (2000).
721 Ibid.
722 In general, MSAA were the primary focus of concerns about declining asset values because MRNIA, used when the shareholder did not have assets equal to their obligation, included personal guarantees.
723 See Muhammad Syahrial (Interview, January 2017). As discussed in Chapter 7, the Salim Group did provide some extra assets, as did Nursalim, discussed in the next section.
724 IMF Country Representative David Nellor (Interview, January 2017). A former senior official (Interview, June 2017) emphasised the unprecedented scale of the asset 'overhang'.

'overhang' of hundred of ex-private assets now under its control was preventing new investment. In May 2001, therefore, the FSPC decreed a 'paradigm shift' on asset disposals that meant IBRA, rather than the holding companies, took practically sole responsibility for asset sales.[725] This included, via the Division of Investor Communication and Asset sales (DHIPA – *Divisi Hubungan Investor dan Penjualan Aset*), preparation and designation of assets for sale, the scheduling of sales, the establishment of floor prices, the approval of the sales method, the public marketing of the sales, the selection of the winners, and the financial close of transactions.[726] The change did not alter the legal ownership or status of the assets, but instead provided a new procedure, known as Investment Asset Sales Program (PPAI – *Program Penjualan Aset Investasi*), that explicitly expanded IBRA's involvement and control over the sales process.

The PPAI approach was framed in line with IBRA's core principles,[727] namely fairness and equal treatment of all investors, transparency, accountability, and value maximisation to the state given the existing economic situation. IBRA's submission to the PKPS audit, presented as an appendix, discussed how in the instance of 'less favourable effects' that could arise from its actions, IBRA attempted to select the alternative with the least negative effects for employment and social welfare. Once the PPAI model was adopted, large-scale asset sales began from mid-2002 with the offering of 'packets' grouped according to asset type, holding company, or other relevant characteristics. Details of PPAIs are included in Table 6.3, below. Once underway, PPAIs were usually continuations of the preceding packet, often rolling over unsold assets or addressing issues that had arisen. As PPAIs advanced, the pressure to sell before the 2004 deadline became more pressing, and, as a result, it is reasonable to conclude that the quality of assets and procedures deteriorated.[728] As PPAIs progressed, assets became more complex, including the offering of property, intra-group loans, movable assets (for example, motor vehicles or IT goods), promissory notes, or convertible bonds.[729] The second tranche of PPAI III saw IBRA began to sell the promissory notes issued from holding companies' to the government to secure the assets.[730]

Table 6.3: Asset sales by PPAI (billions of rupiah)[731]

Program	Dates	Assets offered	Assets sold	Gross revenues
PPAI I	Nov – Dec 2002	6*	1	52
PPAI II	April – June 2003	61	13	422
PPAI III	Aug – Oct 2003	135 (2 tranches)	33	3,582
PPAI IV	Nov – Dec 2003	69**	6	828
PPAI V	Jan 2004 – December 2004	36	9	229
PPAI VI	Feb 2004	28	2	29
		Total	64	5,142

*All from PT Holdiko Perkasa

** Included assets from PPAI III, batch 2.

725 Decision No. 02/K.KKSK/05/2002. See BPK (2006b: Annex 1, 8-9).

726 See BPK (2006b: 15-18).

727 See BPK (2006b: Appendix 1, 3-4).

728 See BPK (2006b: Appendix 1, 7). IBRA's submission notes this and invokes "cherry picking". For the largest firm, PT Holdiko Perkasa, the recovery rate declined each year.

729 Ibid.: 33-35.

730 As shown below, the value of these notes were equivalent to the shareholder's JKPS.

731 Ibid.: Appendix 1, 11-14. The audit appears to contain incorrect dates or typos, so I have sought to reconstruct and make my best judgements where necessary.

The BPK audit on PPAIs found the procedures for valuing assets, setting floor prices, establishing the bidding procedures, and determining the winning bids were adequate and properly carried out.[732] Across PPAIs, there were some assets for which IBRA was unable to obtain sufficient data to meet its due diligence procedures, often due to factors such as the holding company only owning a minority stake in a company, uncooperative management, or distressed companies having incomplete financial statements. These assets were sold on an 'as is' basis.[733] The audit reported mostly minor issues, such as missed deadlines, late payments (IBRA often levied fines), and altered procedures intended to overcome problems as they arose. Up to the date of a transaction's closing, DHIPA had the right to cancel any bids, including those of the winner, if it emerged that the winner provided false information, most notably about the bidder's relationship to the asset's previous owner or any entity with outstanding obligations to the government. Local securities firms were often engaged as marketing advisors, although the processes varied across various PPAIs. Floor prices for assets sold via a PPAI were usually set by IBRA's Floor Price Committee based on valuations established by its Valuations Unit. Based on the holding company's recommendation, IBRA then determined the winning bidders. Fines were assessed for winning bidders that did not complete payment on time.

Despite relatively favourable assessment by the BPK, IBRA sometimes had to be flexible to allow asset sales to proceed. Under PPAI II, for example, the winning bidder for two industrial timber plantations under Muhammad Hasan's PT Kiani Kertas was a Mauritius-based investment vehicle (Fayola Investments Limited),[734] which would not, under prevailing Indonesian forestry law, be permitted to own industrial forestry concessions.[735] IBRA's primary objective, however, was to dispose of the assets and generate cash, and so it accepted the winning bidder's proposal to appoint a nominee to sign the deed of share transfer. IBRA also accepted a nominee to complete the sale of an asset won by offshore vehicle Reflection Holding Lt to acquire PT Cakrawal Gita Pratama, despite the 1960 Agrarian Law prohibiting foreign ownership of agricultural land.[736] In the case of an attempted sale of a 28.4% stake in PT Bank Tabungan Pensiunan Negara (BTPN) via PPAI V, there was confusion after the sale had been completed and the winner notified via fax – but not hard copy letter – about any pre-emptive rights or right of first refusal provisions related to the shares.[737] DHIPA ruled out any pre-emptive rights, and then sought immediate payment from the winning bidder. Remarkably, when the bidder requested an additional three days (as was the case in the PPAI V Terms of Reference), IBRA cancelled the transaction, ostensibly because the process could not be extended any further because IBRA would soon be wound up and there was not enough time, given the two week delay, for the bidder to pass a 'fit and proper' test with the central bank.

Throughout the asset disposal process, IBRA's impending dissolution loomed. For example, PPAI V, which ran from January – December 2004 and included a diversity of

732 Ibid.: 23-45. Chapter 8 discussed some variations in the tender process.
733 Ibid.
734 It emerged later, when Bank Mandiri disposed of PT Kiani Kertas debt bought from IBRA in 2002, that Prabowo Subianto controlled Fayola Investments Limited (Lopez 2005).
735 See BPK (2006b: 26-28). Government Regulation No. 34/2002 prevented foreign ownership of forestry concessions.
736 Under PPAI V, a similar compromise was made to complete the sale of two properties under PT Surya Eden Utama and PT Anugrah Buana Megah to the foreign company Dalton Trading (ibid.: 39).
737 Ibid.: 40-41.

assets such as movable property, did not engage a marketing consultant or host a road show, and instead simply relied on an 'email blaster' to prospective bidders. The next packet, PPAI VI, was launched almost immediately in February 2004 to offer a similar array of assets.[738] Ultimately, as of October 2004, of the seven holding companies, only two, PT Holdiko Perkasa (Salim) and PT Kiani Wirudha (Muhammad Hasan), completed their asset disposals and were therefore liquidated. Three others, PT Tunas Sepadan Investama (Sjamsul Nursalim), PT Arya Mustika Mulia Abadi (Kaharuddin Ongko), and PT Cakrawala Gita Pratama (Samadikun Hartono), were left with unsold assets and were either signed over to the state-owned PPA (in the case of Tunas Sepadan Investama) or to IBRA's Clearance Team. Two remaining holding companies, PT Bentala Kartika Abadi (Usman Admadjaya) and PT Hoswarya Persada (Hokindo Group), had issued promissory notes that IBRA had already sold off to investors, and so the government's legal relationship to these companies had already ceased. Table 6.4, below, includes details on the scale of the program and recovery rate by PKPS type.

Table 6.4: PKPS by type and recovery rate (trillions of rupiah)[739]

PKPS Type	Obligors	Total JKPS	Recovery rate (%)
MSAA	5	89.9	30.2
MRNIA (resolved)	2	12.8	15.2
MRNIA (unresolved)	2	11.0	3.4
APU	39*	15.3	36.3
Total	**48**	**129**	**27.1**

* Across 35 banks

As Table 6.4 shows, the PKPS program produced a recovery rate that slightly exceeded half of the initial 50% assumption. The recovery rate from MSAA, used when former bank owners furnished assets and cash with a valuation sufficient to their obligations, was slightly above the overall average. Importantly, however, the calculation of recovery rate is based on the pledged, or book, value of the assets, which were then compared against a shareholder's JKPS. Therefore, there has been considerable controversy about how 'overvaluation' of PKPS assets allowed former bank owners to settle their obligation to the government for considerably less than full value (for examples, see Table 6.5, below).[740] Indeed, to some, PKPS (and in particular MSAAs, which involved some of the largest and, as discussed in the two chapters below, most controversial conglomerates) were complex undertakings that allowed conglomerates to exploit the government's weakness and shirk their obligations.[741] This is not inaccurate, but it overlooks the explicit decision made to accept valuation of assets – carried out by external, independent third parties – on the

738 Ibid.: Appendix 1, 14.

739 Data from BPK (2006c: 10-11).

740 This is also a key premise in the Temenggung case discussed below.

741 Robison and Hadiz (op cit.). Anthoni Salim protected his "cash cow" Indofood (Senior IBRA official, Interview, October 2019) and only handed over a small 2.5% stake in the company. The family's remaining 63% majority was used in a partial restructuring via a 1999 sale to Hong Kong-based related party First Pacific Ltd. This yielded US$650 million in badly needed cash, which did not go to pay the government. A later sale of further Indofood shares to 'institutional investors' reaped another US$250 million (Borsuk and Chng 2014: 409-414).

basis of a 'normalised political and economic scenario'.[742] It is, of course, reasonable to criticise the government for having agreed to a methodology that left it open to what even then were probable 'losses', but this also overlooks contemporaneous justifications for the PKPS program, including budgetary pressures and the unreliability of the legal system.[743]

IBRA official Muhammad Syahrial said this approach was agreed during the Chairmanship of Glenn Yusuf, and involved Minister of Finance Bambang Subianto and President Habibie, a time when, owing to the ongoing economic volatility, there was no obvious way to value PKPS assets, especially given the necessity of mutually agreeing to a methodology.[744] As discussed above, only one month was allocated for the government to negotiate with major BLBI recipients. It was agreed to set aside the ongoing economic problems and value the assets as ongoing businesses using standard discounted cashflow methods. Furthermore, once the assets were handed over, the former owners were no longer managing them, but IBRA was also not fully prepared to take on so much responsibility, especially because the agency was basically staffed with accountants and investment bankers, rather than professional managers with the skills to handle, for example, manufacturing facilities or labour relations. Consultants were hired, of course, but in practice they tended to have many different ideas about how to run these business. So, even without the prevailing economic conditions, it was still possible that the value of the companies might well have fallen.

There was another likely problem with the valuation method for PKPS assets, specifically the structure of the advisory mandate given to investment banks Lehman Brothers and PT Danareksa for the valuation of the major PKPS (for example, BCA, BDNI, Bank Danamon). According to a senior IBRA official, instead of incentivising the banks to drive asset valuations down (perhaps through a fixed fee with some bonus for reducing the value of the surrendered assets), their mandate paid them as a percentage of total assets valued.[745] Quite simply, this meant the banks received higher fees from producing higher valuations. Lehman, accordingly, made tens of millions of dollars on this work. Furthermore, Glenn Yusuf, the then-IBRA Chairman, also continued to serve as the President Director of PT Danareksa, which not only was carrying out the valuations with IBRA as its client, but also had a joint operating agreement in Indonesia with Lehman.[746] In essence, this situation represented both a conflict of interest as well as a suboptimal approach for maximising the government's return.[747]

In theory, IBRA had six months to evaluate the value of the assets and, if necessary, there was a reserve of 'buffer assets' from which the agency could take further assets. In practice, however, once six months passed the terms of the PKPS provided the shareholder with a release and discharge. Also, the main declines actually occurred during

742 Muhammad Syahrial (Interview, January 2017). David Nellor also noted (Interview, January 2017) that internationally recognised commissioned by the government produced the asset valuations. This did not rule out corruption, but reasonably it should not be blamed on IBRA.

743 These issues are discussed further in Chapter 8.

744 Interview, January 2017. This paragraph paraphrases our discussion.

745 Interview, October 2019.

746 Later, around 2009, Yusuf founded an Indonesia-focused private equity fund, Falcon House, with Lehman's former Indonesia country director Brian O'Connor.

747 Therefore, "it just looked bad for the IBRA chairman to give this mandate to his previous employer where the formula is totally screwed up [and] detrimental to the interests of the government that IBRA is serving." Ibid.

2000-2002, when the assets were already being managed by IBRA's holding company representatives. The Indonesian government attempted to renegotiate with some shareholders, but it never went back and took buffer assets, in part because most of the largest shareholders already had, under the terms of their PKPS, some claim on having already been released and discharged. In a sense, Inpres No. 8/2002 overruled this, effectively instructing that a shareholder was not entitled to release and discharge until they had obtained from IBRA an SKL, but among most stakeholders (IBRA and its partners), there was a general impression that taking buffer assets or seeking to renegotiate was not legally feasible given the government's contractual commitments. Most importantly, according to sources, it was made clear that President Megawati wanted IBRA to finish on time. Table 6.5 shows size and recovery rate of the largest PKPS. In general, the five MSAAs produced the highest recovery rates.

Table 6.5: Major PKPS by type and recovery (billions of rupiah)[748]

Bank	Shareholder	Obligation[749]	Recovery rate (%)^
MSAA (Master Shareholder Settlement Agreement)			
BCA (BTO)	Salim	52,727	36.8
BDNI (BBO)	Sjamsul Nursalim	27,496*	17.4
BUN (BBO)	M "Bob" Hasan	5,341	27.9
Surya (BBO)	Sudwikatmono	1,886	37.8
RSI (BBO)	Ibrahim Risjad	664	55.8
MRNIA (Master Refinancing and Notes Issuance Agreement)			
Danamon (BTO)	Usman Admadjaja	12,533	15.2
BUN (BBO)	K Ongko	8,348	1.2
Modern (BBO)	Samadikun Hartono	2,664	10.1
Hokindo	Ho Kianto	298	15.2
APU (*Akta Pengakuan Utang*)			
Nusa Nasional (BTO)	Nirwan Bakrie	3,360	100.0

* Total obligation (JKPS) of 28,408 billion rupiah, with 1 trillion due in cash.
^ Book value used for assets passed to PPA after IBRA's abolishment. Eventual recoveries were often lower.

PKPS in action: the Nursalim MSAA

Following the previous section's introduction of the PKPS asset settlement framework, this section examines the MSAA agreement with Bank Dagang Negara Indonesia (BDNI) owner Sjamsul Nursalim. By the mid-1990s, Nursalim's Gadjah Tunggal Group was a large, diversified conglomerate with interests in banking, tyres and chemicals, cement, property, and shrimp farming. Like many Indonesian conglomerates, Gadjah Tunggal had also taken on large offshore debts and its bank, BDNI had lent extensively, and in violation of the prevailing prudential regulations, to intra-group entities. Before the crisis,

748 Data from BPK (2006c). Excluding nine APU shareholders with obligations under 50 billion rupiah.
749 When necessary based on the 'reformulated total shareholder obligation' (*JKPS reformulasi*), as some PKPS, usually APU contracts, were adjusted. For example, Nirwan Bakrie's obligation dropped from 5,107 billion rupiah.

the group was among Indonesia's five-largest offshore borrowers, with estimated debts of US$3 billion.[750] During the crisis, BDNI received 30.9 trillion rupiah of BLBI assistance.[751] The bank also obtained from Bank Indonesia special money market bonds (known as SBPUK) worth 9.8 trillion rupiah.[752]

By April 1998, on account of indications of widespread abuse of BLBI funds by a cohort of private banks including BDNI, IBRA implemented the 'hard' takeovers (see Chapter 4). Internal IBRA audits confirmed significant malfeasance at BDNI, with steep inflation of the bank's actual assets (assets reported worth 33.6 trillion rupiah were valued at 5.8 trillion rupiah) and over 90% of BLBI funds having flowed to intra-group entities.[753] The bank was deemed to not quality for recapitalisation and was therefore, in August 1998, declared a frozen bank (BBO) and prepared for liquidation.[754] As BDNI's responsible shareholder,[755] Nursalim and IBRA concluded a Memorandum of Understanding on 20 August 1998, one day before the bank was frozen. It was not clear, based on this research, the extent of IBRA control over the bank between this point and the April 1998 takeover. As discussed in Chapter 4, there was variation across banks, in part depending on the level of political pressure a bank's owners or management could bring upon IBRA to reduce the level of its oversight. As described above, even though IBRA was theoretically empowered to exclude management and ownership, in practice there was a progressive withdrawal of IBRA staff from some banks, to prevent conflicts.

Sjamsul Nursalim and IBRA concluded the MSAA on 21 September 1998.[756] There were several subsequent revisions, including a Supplemental Agreement to the MSAA (6 November 1998), a Clarification Letter (10 December 1998), an Amendment to the MSAA (5 February 1999), and a Second Amendment to the MSAA (25 May 1999). Revisions included changes to the ownership of the holding company, changes to the BLBI release and discharge terms, and a rescheduling of the closing date to 25 May 1999.[757] At closing, TSI issued IBRA a promissory note worth 27,295.5 billion rupiah, with Nursalim's JKPS, or shareholder obligation, to be satisfied through TSI's sale of the shareholder's transferred assets.[758] There were, however, other disagreements and delays that pushed out the closing date and also led to later confusion about if, in IBRA's perspective, closing did indeed take place in May 1999. Table 6.6, below, details Nusalim's MSAA, namely BDNI's liabilities (mostly BLBI obligations) and assets (which, because the bank did not qualify for recapitalisation, would pass to the government upon its liquidation).[759]

750 See Sato (2001: 388), Matsumoto (2007: 187), and Syahrial (2016b: 40).

751 I use the figure from the BPK's 2006 PKPS audit (see BPK 2006bc: 58; also, BPK 2002: 40-41), but sources frequently disagree. The BPK's 2006 audit of BLBI lists BDNI's total receipt of BLBI as 37 trillion rupiah (see BPK 2006d: 97). Other sources provide different numbers still. A 1998 IBRA audit reported (Chairman of BPPN Report No. S-3/Prog/BPPN/1998 dated 18 May 1998) that BDNI received 27.6 trillion in BLBI (cited Bawazier 2018).

752 Ibid. These bonds were called *Surat Berharga Pasar Uang Khusus*. Hundreds of millions of dollars flowed to related parties even while BDNI was receiving assistance for liquidity issues.

753 Ibid. This calculation used the slightly lower BLBI figure discussed immediately above. BDNI's liabilities were also seemingly understated (32.3 trillion rupiah versus an actual 48.3 trillion rupiah). Hicks (2004: 226-227, Table 5.2) cites 90% intra-group lending, highest of the major BLBI recipients.

754 See Matsumoto (op cit.). BLBI banks slated for recapitalisation were classed 'Bank Take Over' (BTO).

755 In audits, the legally responsible bank owner is often referred to as the PSP (*pemegang saham pengendali*).

756 Details based on BPK (2006c: 58-63) and BPK (2002: 40-48).

757 Closing was initially 20 days. See BPK (2002: 40) and BPK (2006c: 60-62).

758 The value of these notes was the JKPS less Nursalim's cash (and equivalents) commitment.

Table 6.6: Total obligations under Nursalim's MSAA (billions of rupiah)[760]

Liabilities		Assets (ex-affiliated loans)	
BLBI	30,900	Cash & equivalents	1,300
Deposits & borrowing	7,066	Farmer loans*	4,800
Loans to BI under guarantee scheme	4,700	Subsidiaries, fixed assets, investments	4,600
L/Cs; other off balance sheet items	4,592	Other loans, assets	8,150
	47,258		18,850
JKPS (liabilities less assets)	28,408		

* Credit extended to 'plasma' shrimp farmers at PT Dipasena Citra Darmaja.

Auditors were not, however, able to carry out financial due diligence,[761] and the JKPS was based on unaudited and incomplete data obtained in August 1998 during negotiations by IBRA's financial advisors over access to BDNI's financial accounts. MSAA contracts required a cash contribution towards the settlement,[762] although the average cash payment was less than 0.3% of the total settlement value, and some obligors later alleged unfair treatment if it emerged that their cash contributions were larger than others.[763] Nursalim's MSAA was such an outlier, and it included 1 trillion rupiah in cash. The parties later disagreed about the cash actually provided,[764] and so, on 25 November 2002, a subsequent agreement was concluded requiring Nursalim to provide an addition 250 billion rupiah in cash, plus 25 independently-valued assets (including buildings, land, and apartments) worth 177.2 billion rupiah. The details of the assets pledged under the Nursalim MSAA are detailed in Table 6.7, below. In total, the asset settlement included shares in 2 listed companies and 10 private subsidiaries, including some from the tyres and wheels sector and a group of aquaculture companies known as the Dipasena Group.

Table 6.7: Nursalim's assets by pledged value[765]

Assets	Pledged value (billions of rupiah)			
	Shares	Property	Cash	Total
Dipasena Group	19,962	-	-	19,962
Public companies*	7,534	-	-	7,434
Cash equivalents**	-	177	823	1,000
Total	27,496	177	823	28,496

* Gadjah Tunggal and Gadjah Tunggal Petrochem Indonesia
** Additional 177 billion rupiah in property and 250 billion in cash handed over after November 2002.

As described above, PKPS assets tended to be diverse, and Nursalim's assets included equity holdings in the developer of the world's largest industrial shrimp farm (discussed in

759 This differed from BTO (see the discussion of BCA, Chapter 7), for which the JKPS equalled a bank's affiliated loans, with the government keeping the bank open and absorbing losses through recapitalisation injections that would be converted to equity and later divested. See Maroef (2010: 177).
760 Data from BPK (2006c: 58). See also BPK (2002: 41).
761 A senior IBRA official (Interview, October 2019) partially attributed the challenges with Gadjah Tunggal and other PKPS holders to their overall principles and professionalism.
762 See Maroef (2010: n424).
763 Ibid.
764 According to Nursalim, 1.17 trillion rupiah had been handed over. IBRA claimed 572.8 rupiah billion had been handed over.
765 Data from BPK (2006c: 61). Rounded to the billionth rupiah. Cash and equivalents described as *'dana setara'*.

greater detail in the following section), a cement company, and Indonesia's leading tyre manufacturer. Financial and legal due diligence was not performed, and the valuation of the 12 companies, carried out by IBRA's financial advisors,[766] was based on the Ministry of Finance's 'normalised economic and political scenario' discussed above. Other valuations disagreed slightly about the value of these assets. The 'reprofiling' audit carried out by consultants PT Bahana Sekuritas and PT Danareksa reported a discrepancy in the total valuation of 8.5% less than the MSAA,[767] while a subsequent study by Ernst & Young using the same methodology reported no shortfall in the valuation against the JKPS.[768] A lawyer who later defended Nursalim claimed in 2018 that the Ernest & Young audit found Nursalim overpaid the government by US$1.3 million.[769] Later, the BPK used the same method as Ernst & Young for its audits. Table 6.8 includes the findings from the Bahana/Danareksa 'reprofiling' study (reported in the BPK's 2002 audit of PKPS), which, it should be emphasised, reconstructed the valuation carried out by IBRA's financial advisors using the same methodology described in the previous section.

Table 6.8: Nursalim asset 'reconstruction and reprofiling' (billions of rupiah)[770]

Company	Industry	% GTG ownership	MSAA value	BPK 2002 Valuation	Discrepancy
PT GT Petrochem Industries Tbk	Petrochemical	59.6	3,811	3,351	460
PT Filamindo Sakti		55.4	963	676	287
PT Sentra Sintetika Jaya		56.6	584	421	163
PT Gadjah Tunggal Tbk	Tyres and wheels	78	1,952	1,446	506
PT Meshindo Alloy Wheel Company		39.8	164	146	18
PT Langgeng Bajapratama		39.8	59	59	-
PT Dipasena Citra Darmaja	Aquaculture	100	19,962	19,035	927
Total	-	-	27,496	25,132	2,364

PT Tunas Sepadan Investama (TSI), the holding company for Nursalim's assets, was established on 24 December 1998. Holding companies issued promissory notes to IBRA for the value of a shareholder's obligation, and proceeds for asset sales were applied against the value of the notes outstanding. In theory, IBRA could make a return on the obligation if assets returned more than their valuation, although this rarely happened in practice – and not at all for the largest obligors (see, for example, Table 6.5, above). As Nursalim's JKPS to the government was the second-largest (behind the Salim Group), TSI's promissory note was the second-largest after PT Holdiko Perkasa (see Chapter 7, below). Initially, TSI was 75% owned by IBRA and 25% by Nursalim, but this was revised,

766 Lehman Brothers, Danareksa, and Bahana Securities. The valuations were, with the addition of the Ministry of Finance's scenario, derived based on assessment of discounted cash flows.
767 See BPK (2006c: 60). This was 25,132 billion rupiah, or 2,364 billion rupiah less than the total JKPS excluding the cash contribution. See Table 6.8.
768 Importantly, both audits used the same methodology as the Lehman/Danareksa MSAA valuations.
769 See Prasetyo (2018b). The trial reportedly revealed that Nursalim paid for the E&Y audit.
770 See BPK (2002: Annex 3). Rounded to the nearest billionth of a rupiah.

and Nursalim eventually became the sole owner and pledged all of his shares to IBRA. A management company, PT Tunas Sepadan Cemerlang Management, was jointly established to run TSI. The closing date for the transfer of companies to TSI was 25 May 1999, at which point TSI issued promissory notes (convertible rights issues) to IBRA worth 27,495 billion rupiah (that is, the value of Nursalim's JKPS obligation less the 1 trillion rupiah in cash). The parties executed a 'Letter of Statement' constituting IBRA's affirmation that Nursalim had the MSAA's requirements.[771] Uncertainty about the legal status of letters such as this one would later contribute to the eventual issuance of Inpres No. 8/2002.

As discussed in the section above, concern soon mounted about the actual value of these assets. In 2000, PriceWaterhouseCooper (PWC) was engaged to formulate the overall asset disposal program for TSI. PWC valued the 12 MSAA companies at just over 1.4 trillion rupiah (versus the book value of 27.5 trillion rupiah), an implied value of 5% of the MSAA (see Table 6.7). Although, as shown in Table 6.8 on the earlier 'reprofiling' audit, the discrepancy was likely explained by the deterioration of the economy and not a mistaken or fraudulent valuation (under the agreed methodology). Disagreements also emerged related to Nursalim's cash contribution under the MSAA, as well as other difficulties with the establishment of TSI as the owner of the shares in the publicly listed companies.[772] This second problem was not actually resolved until October 2002, when Nursalim provided IBRA with a Power of Attorney to dispose of these two assets (an outstanding cash obligation of 428 billion rupiah was resolved at the same time with a further transfer of cash and property).[773] There was also inconsistency between the parties about whether IBRA deemed the MSAA to have reached closing in May 1999. The BPK later described, although failed to definitively explain, the agency's inconsistency in its dealings with the obligor. According to the 2002 BPK audit, an IBRA employee identified only as "DS", signed a fax sent to Nursalim on 23 June 1999 stating the MSAA closed on 25 May 1999. Later, on 17 December 1999, the IBRA Chairman wrote to Nursalim that the MSAA was not completely fulfilled and had not undergone closure,[774] including as a result of a discrepancy with the value of the required cash contribution. Ultimately, the 2002 audit, although not fully spelling out the problem, faulted IBRA for "not immediately taking a clear decision", such that the "problem became protracted".[775]

771 The 2002 BPK audit noted "FH", presumably Deputy Chairman Farid Harianto, represented IBRA.

772 This was not resolved until October 2002, when Nursalim provided IBRA with a Power of Attorney to dispose of these assets.

773 See BPK (2006c: 61). The Power of Attorney resolution was based on the FSPC decision No. 02/K.KKSK/03/2002 dated 18 March 2002 and No. 01/KKSK/10/2002 dated 7 October 2002. The excess payment included 250 billion in cash and the remainder in property assets. The Oversight Committee reputedly opposed the move (Collins 2007: 110).

774 The date suggests this was IBRA Chairman Glenn Yusuf, but the audit does not identify him.

775 Author's translation of BPK (2002: 44).

Table 6.9: Recovery from Nursalim MSAA assets (billons of rupiah)[776]

Asset (# of companies)	Proceeds	MSAA value	Recovery Rate (%)
Cash	729	729	-
Listed companies (2)*	1,820	7,534	24.2
Property	72	177	40.5
Dipasena Group companies (6)	2,312#	19,962	11.6^
Total	4,933	28,402	17.4
Total using actual Dipasena sale	2,841	28,402	10.0

* PT Gadjah Tunggal and PT Gadjah Tunggal Petrochem Indonesia. Sold via PPAI-3.
# Unsold, based on in-house valuation. Transferred to PT PPA and sold in 2007 for 220 billion rupiah.
^ Implied, based on December 2002 in-house valuation.

Table 6.9, above, details the recovery rates for assets from Nursalim's MSAA. Asset sales were similarly delayed, even for seemingly simple transactions for which there was an established and transparent price (for example, the stakes in the two public companies). These sales (of shares in PT Gadjah Tunggal and PT Gadjah Tunggal Petrochem Indonesia) only took place in October 2003, via PPAI III, and yielded 1.82 trillion rupiah, or approximately 24% of the pledged value of 7.5 trillion rupiah. The six Dipasena Group companies had not been sold by the time IBRA was wound up the following year,[777] at which point the company was transferred to PT PPA with a book value of 2.3 trillion rupiah. Several years on, the project was in a poor state and only under partial cultivation such that PT PPA began seeking investors – as no banks would lend to such a distressed project – to put up to 2 trillion rupiah into the business.[778] The value of outstanding loans extended to smallholder farmers at the project, which had been included as among BDNI's assets, were also subject to a further 'haircut' of 80%. Eventually, in 2007, PT PPA sold the Dipasena assets to the Thai agribusiness player Charoen Pokphand for 220 billion rupiah.[779] According to Muhammad Syahrial, who ran PT PPA after heading IBRA's AMC division, whoever had accepted the valuation "was lied to", and once the government took responsibility for the project it emerged that there was no working capital, no competent management remaining, and no real prospects for restructuring because no bank would lend, given its bad debts.[780] A senior IBRA official attributed the Dipasena dilemma to a deeply flawed project that, on account of its excessive size, always would have problems with ecology, disease, and labour relations. In their estimation, a decentralised operation would have been preferable and the single Dipasena concept was flawed from the beginning, and was perhaps a reflection of the developer's business ethos.[781]

As shown in Table 6.9, the BPK's 2006 audit reported a recovery rate from the Nursalim MSAA of 17.4% - just under 5 trillion rupiah with nearly 730 billion rupiah in cash

776 Data from BPK (2006c: 62); author's calculation of actual Dipasena recovery.
777 This included six companies: PT Dipasena Citra Daramadja, PT Mesuji Pratama Lines, PT Bestari Indoprima, PT Biru Laut Katulistiwa, PT Triwindu Graha Manunggal, and PT Wachyuni Mandira.
778 See Kementerian BUMN (2005).
779 See Sutiawan (2018).
780 Muhammad Syahrial (Interview, January 2017) described a 'vicious cycle', estimating the value at the time as 100 billion rupiah (versus more than 19 trillion under the MSAA).
781 Interview, October 2019. They speculated that "sheer ambition" of the "monolithic" design "was coloured by the developer's ego".

equivalents – versus the total obligation of 28.4 trillion rupiah.[782] This calculation, however, relied on the book value of PT Dipasena as of 2004, when it was transferred to PT PPA. This valuation was, in turn, based on a December 2002 in-house valuation, which revised the assets' value down from the MSAA (see Table 6.7). If, however, the value of PT PPA's eventual 2007 sale is used, the recovery rate falls to 10%. In early-2004, there was renewed public attention on PT Dipasena because of efforts by Taufik Kiemas, President Megawati's husband, to rehabilitate the project.[783] At the time, media accounts reported an anonymous IBRA source's claim that Nursalim continued to owe IBRA 50 billion rupiah of the 1 trillion rupiah cash contribution, and this had to be settled before an SKL would be issued.[784] Eventually, in April 2004, Nursalim, along with a broader group of ex-bank owners, was issued an SKL reaffirming that his contractual obligations had been fulfilled.[785] The issuance of the SKL and popular disputes about whether the terms of the MSAA had been satisfied – because assets included were worth less than their pledged values – remained an issue for some activists and IBRA critics.[786] Nevertheless, the BPK's 2006 audit concluded that Nursalim had met his MSAA obligations, and the SKL issuance was in accordance with Inpres 8/2002.[787]

The Syafruddin Temenggung case

The Nursalim MSAA has continued legal and political relevance even today. Indeed, in July 2019, Indonesia's highly respected Corruption Eradication Commission (KPK – *Komisi Pemberantasan Korupsi*) lost its first ever case when the Supreme Court upheld an appeal filed by former IBRA Chairman Syafruddin Temenggung.[788] Two lower courts, the Jakarta Corruption Court and the Jakarta Provincial High Court, had earlier accepted the KPK's case that Temenggung's 2004 issuance of Nursalim's SKL constituted a criminal act in violation of Art 2 (1) of Law No. 33/1999, amended by Law No. 20/2001 on Corruption Eradication, in conjunction with Article 55 (1) of the Criminal Code. Prosecutors claimed Temenggung cooperated with Nursalim and his wife, Itjih S Nursalim, and former Coordinating Economics Minister Dorodjatun Kuntjoro-Jakti in the crime (although neither were named suspects before Temenggung's appeal was handed down).[789] The

782 See BPK (2006c: 62). The JKPS was 28,408 billion rupiah, versus 4,932 billion rupiah 'recovered'.

783 See Tempo.co (2004). Kiemas visited the project with representatives of Bank Mandiri, which then provided a loan. The dissident George Aditjondro (2010: 142-146) claimed Nursalim was close to Megawati and Kiemas and had financed a holiday for the couple and included two of Kiemas's brothers as commissioners in GTG companies. Kiemas encouraged President Wahid to look favourably on Nursalim and, later, personally oversaw the Mandiri loan.

784 See Tempo.co (op cit.).

785 IBRA and Nursalim signed an *Akta Perjanjian Penyelesaian Akhir (*PPA*)*, No. 16, on 12 April 2004 releasing IBRA from any further claims on the part of Nursalim, and indemnifying IBRA, its employees, the chair and members of the FSPC, and the chair and members of IBRA's oversight and legal assistance teams against any further claims, damages, or responsibilities. IBRA issued the SKL (No. SKL-022/PKPS-BPPN/0404) on 26 April 2004.

786 Aditjondro (op cit.) claimed Nursalim was the BLBI debtor with the lowest repayment rate and that the closing on the MSAA should not have come into effect because the PT Dipasena credit receivables were pledged as *'credit lancar',* or viable credit, when they were actually *'credit macet*', or bad credit. The author also claimed, but does not support with a citation, an 'indication of debt to equity conversion' to give the impression that the pledged company had higher assets than it did. It seems possible that Aditjondro mistakenly equated PT Dipasena Citra Darmaja's '*credit macet'* with its debt.

787 See BPK (2006c: 63).

788 See Butt (2019).

789 See Sapiie (2018).

Jakarta Corruption Court accepted the KPK's case and sentenced Temenggung to 13 years in prison, with a fine of 700 million rupiah.[790] The KPK had sought a sentence of 15 years and 1 billion in fines,[791] which the Jakarta High Court handed down in January 2019 when it rejected Temenggung's initial appeal.

Before the final, successful appeal, the KPK had a 100% conviction rate across a decade and a half of work. The case was the largest-ever in the history of the KPK, with alleged state losses of US$300 million.[792] The three-judge Supreme Court panel split 2-1 in Temenggung's favour, and, according to press reports, each judge interpreted Temenggung's granting of the SKL differently. Even the majority contained two separate decisions: one judge ruled that Temenggung's acts amounted to an administrative error; the other argued that the case should have been subject to civil, rather than criminal, proceedings. The dissenting judge held that the acts were criminal and constituted corruption under the statutes. It does not appear any judges found Temenggung had benefitted personally from his acts, and Temenggung's lawyers insisted that there was never proof that the former Chairman derived any sort of benefit. Of course, under Indonesian law, a finding of corruption only requires potential losses to the state by means of an illegal act, rather than, as in many jurisdictions, proof that the defendant committed the illegal act to enrich themselves. Legal scholar Simon Butt has described this definition as 'problematic' and noted it has the effect of punishing government officials for mistakes that causes state losses, rather than pursuing those who actually steal from the state.[793]

Complete details of the three cases were not available when this research was undertaken.[794] Based on media reports, however, the essence of the KPK's claim focused on the loans to 11,000 smallholder contract (or 'plasma') shrimp farmers included in Nursalim's MSAA as 4.8 trillion rupiah in assets (see Table 6.6, above). The loans were provided through PT Dipasena, developer of the Lampung megaproject, and its subsidiary PT Wachyuni Madira, which was the owner of a smaller, albeit still very large, project in South Sumatra.[795] During the 1990s, both companies were granted industrial shrimp farming concessions to land with existing smallholder farmers working already active ponds.[796] These farmers were compelled, sometimes with the assistance of security forces, to join the scheme, whereas other farmers, often transmigrants incentivised to move from other parts of Indonesia, purchased their ponds from Dipasena. Plasma farmers were provided with inputs, some staple goods, and a monthly stipend in return for their output. They were also assessed a share of the company's capital improvements, often funded through debt. A banker hired by IBRA to advise the holding company TSI described the combined effect of the loan terms, the prices associated with farmers' production and used to defray their debts, and the fact that farmers were seemingly never appraised of the actual level of their debts, as completely stacked in favour of the project developer.[797]

790 See The Jakarta Post (2018).
791 See Prasetyo (2018a).
792 As Butt (2019) notes, this was twice the size of the electronic ID (e-*KITAS*) case.
793 Ibid.
794 As of August 2019, decisions from the Jakarta Corruption Court and Jakarta Provincial High Court were on the Supreme Court's website. The Supreme Court judgement was not available, however.
795 See Prasetyo (2018c).
796 The term 'plasma' denotes a scheme common in the plantations sector (most notably palm oil), under which a commercially-owned 'nucleus' farm and processing facility commits to provide some portion of its concession area for associated 'plasma' smallholders. See Collins (2007: 103-105; 109).
797 Ibid.

Based on public information, the KPK argued that the MSAA accepted the loans as viable (*"seolah-olah lancar"*), whereas an audit by public accountant Prasetyo Utomo and Arthur Andersen classified them as non-performing (*"digolongan macet"*) and unlikely to be recovered. The KPK commissioned the BPK in 2017 to conduct a 'forensic audit', which reportedly found "indications of deviation" (*indikasi penyimpangan*) because an SKL was issued to Nursalim even though he still had obligations to IBRA. I was not able to obtain or review this document, but, reportedly, the audit identified state losses of 4.58 trillion rupiah.[798] Presumably, this loss was calculated on the pledged value of the asset (4.8 trillion rupiah) less the amount PT PPA obtained for PT Dipasena via its 2007 sale (220 billion rupiah). Temenggung's defence argued losses only arose in 2007 when PT Dipasena was sold for less than their book value, and not due to Temenggung's 2004 actions.[799] Nursalim's lawyer noted that some of the loans were denominated in US Dollars (with an initial, presumably pre-crisis, value of slightly over 1 trillion rupiah), but with the deterioration of the rupiah, the book value of these loans ballooned to 4.8 trillion rupiah, even though this amount was never likely to be recovered.

The KPK's investigation reportedly interviewed 72 witnesses,[800] including some high-profile former officials and lawyers.[801] According to KPK officials, in 2002, IBRA asked the KKSK to approve changes to the MSAA to reduce the book value (that is, what could be presumably recovered) of the farmer loans from 4.8 trillion rupiah to 1.1 trillion rupiah.[802] In June 2017, ex-Coordinating Economics Minister Kwik Kian Gie said after being interviewed as a witness that Nursalim had a debt of 3.7 trillion – seemingly the difference between these two figures – "as far as I know".[803] As discussed in Chapter 5, Kwik had previously criticised Dipasena and Nursalim. In 2000, for instance, after Nursalim was publicly listed as among IBRA's largest debtors, he labelled GTG a "black" conglomerate and accused owners of conducting "a disinformation campaign suggesting that if [conglomerate owners] were jailed, the companies they founded and built would go bankrupt and many employees would lose their jobs...So the robber barons are being hailed as the saviours of labor".[804]

As Kwik's comments suggested, the case had attracted ample attention – both during the IBRA era and at intervals once the agency had closed. Indeed, soon after the MSAA's May 1999 closing, there was public controversy about the actual – versus pledged – value of assets under the MSAA. IBRA's Legal Assistance Team estimated the PT Dipasena assets were really worth 5.2 trillion rupiah, not the 19.9 trillion rupiah in the MSAA.[805] Holding

798 See Sahbani (2017).

799 The prominent Islamic politician and defence lawyer Yusril Ihza Mahendra, a former Law Minister and State Secretary, led Temenggung's defence team. Mahendra argued that because Temenggung's responsibility for IBRA ended in 2004 (when the agency was wound down), he was not legally responsible for losses that only arose three years later. A website, www.nursalim.net, was seemingly maintained by Nursalim's representatives and advanced similar claims.

800 See Prasetyo (2018a).

801 According to press reports, included were Kwik Kian Gie, Rizal Ramli, Boediono, Todung Mulya Lubis, Dorodjatun Kuntoro-Djakti, among others.

802 See Rahmi (2017). Based on the FSPC decisions, however, this appears to only have been done in February 2004. See Table 6.9, below.

803 See Setyawan (2017b).

804 Quoted in Collins (op cit.: 109). Kwik also included Prajogo Pangestu, owner of the Barito Pacific group and a close associate of President Soeharto, in his critique.

805 Others cited even less; Reformasi Weekly (2010: 9) reports a value as low as 1.5 trillion rupiah.

company TSI did not have full control of PT Dipasena until 2000 (with members of the Nursalim family reputed to remain in management until that time), and the estimated decline in asset value was reputed to be the largest among all IBRA obligors.[806] During Temenggung's trial, prominent lawyer Todung Mulya Lubis, testifying as a former member of IBRA's Legal Assistance Team, explained it was concluded in May 2002 that Nursalim had 'misrepresented' the status of the farmer loans. The Team therefore filed a report with the recommendation that IBRA report Nursalim to the National Police, the Attorney General's Office, and the State Debt Affairs Committee (PUPN – *Panitia Urusan Piutang Negara*).[807] Former Finance Minister Mar'ie Muhammad, then Chair of the IBRA Oversight Committee, argued at the time in favour of recalculation of the value of the Dipasena assets.[808] Despite this, as discussed above, the FSPC ruled in 2002 that all MSAAs – Nursalim's was far from the only one to experience asset value declines – would be accepted on an 'as is' basis.

As shown in Table 6.10, below, there were several FSPC decisions during this period to effectively write off portions of the Dipasena loans' book value. Also, at the same time as the aforementioned transfer of an additional 428 billion rupiah in cash and equivalents (see previous section), the FSPC in October 2002 also approved a reduction in each farmers' debt level while deciding that there had not been a misrepresentation in the MSAA.[809] Later, as discussed above, PT PPA adopted an 80% 'haircut' on the value of the loans before it sold off the entire project (that is, the six companies and related plasma loans) for a just over 1% of the initial value under the MSAA. Reportedly, the Temenggung trial featured disagreement as to whether these write-offs simply reduced the farmers' debts or removed the implied debt of PT Dipasena itself.

Table 6.10: FSPC Decisions on PT Dipasena farmer loans[810]

Date	Details	FSPC Chairman
27 April 2000	1.3 trillion rupiah categorised as 'sustainable' and 3.5 trillion as 'unsustainable' and charged to Nursalim	Kwik Kian Gie
29 March 2001	1.1 trillion rupiah as 'sustainable' and 1.9 trillion as 'unsustainable' (exchange rate of IDR7,000/USD)	Rizal Ramli
13 February 2004	1.1 trillion rupiah as 'sustainable' and 2.8 trillion as 'unsustainable' (exchange rate of IDR8,500/USD)*	Dorodjatun Kuntjoro-Jakti

* (100 million rupiah/farmer x 11,000 farmers)

These declines were not only, however, due to poor economic conditions or an incorrect (or perhaps even fraudulent) valuation. Indeed, during 1998-1999 both PT Dipasena and its subsidiary PT Wachyuni Madira faced bitter and disruptive disputes with farmers anrgy about conditions at the projects and what they were learning about the terms and scale of their debts to these companies.[811] Demonstrations, sit-ins, and even outbreaks of violence

806 Matsutomo (2007: 187), Collins (2007: 109-111), and Reformasi Weekly (op cit.) estimate the declines.
807 See Santoso (2018).
808 See Manan (2004b).
809 KKSK Decision No. 01/K/KKSK/10/2002, dated 7 October 2002. Collins (2007: 110) reported that IBRA's Oversight Committee opposed the move.
810 Based on Santoso (2018) and author's research.
811 It also emerged during the course of the 1998 labour dispute that PT Wachyni Madira was operating illegally without an environmental impact assessment. Also, 2,000 ha of the 170,000 ha concession

involving farmers, employees, and even security forces occurred during these years.[812] These included a November 1998 riot in South Sumatra (at PT Wachyuni Madira) and a sit-in in Lampung (at PT Dipasena) that ended with some farmer draining their ponds.[813] During a 2000 visit to meet with farmers, Nursalim was reportedly evacuated by helicopter amid a riot that resulted in the death of one farmer and two bodyguards.[814] Further confusion stemmed from the aforementioned disagreement as to whether the MSAA had closed in May 1999. If it had not, it was presumed that Nursalim could be compelled to provide further assets to cover subsequently discovered 'declines' in value. The 2002 BPK audit concluded that all of the MSAA's conditions were fulfilled and therefore closing did indeed occur in May 1999. However, it also noted that "it appeared IBRA was hesitant to acknowledge the closing date and receive the transfer of the assets" because the agency would then be compelled to accept the subsequent declines in value as a result of the nearly concurrent riots and unrest.[815]

Understandably, the steep loss of value, combined with the scale and brazenness of fraud at BDNI, meant the Nursalim MSAA elicited outrage – both from the general public, as well as officials like Attorney General Marzuki Darusman and Kwik Kian Gie. In fact, the case had already generated several previous legal investigations or arrests. Nursalim was arrested in April 2001 over BDNI's alleged abuse of BLBI,[816] but he spent just one day in custody before he was released on the personal guarantee of a lawyer to receive medical treatment in Japan (he eventually settled in Singapore, which does not have an extradition treaty with Indonesia).[817] In 2005, BDNI was again examined, this time by a special-purpose, multi-agency Coordinating Team for Eradication of Corruption (*Timtas Tipikor*).[818] After the team's mandate expired in 2007, the Attorney General's Office set up a special team of 35 prosecutors to examine cases related to unfinished BLBI obligations. The team was explicitly instructed to ignore the 'policy' element, that is, Inpres No. 8/2002, and instead focus on if SKLs were issued based on appropriate considerations or indications of corruption.[819] Reportedly, the team obtained data from an outside investigator who had previously assisted IBRA's forensic audit team. This information included details of BDNI's BLBI abuses, including the use of affiliated companies in the Cook Islands and Cayman Islands to relay over US$600 million to Nursalim-owned companies in Singapore, Hong Kong, and Taiwan.[820] Although there was deemed insufficient evidence for a case, the KPK acted on a tip and apprehended the head of the AGO's special team, Urip Tri Gunawan, accepting a 6 billion rupiah cash bribe from Nursalim relative Artalyta Suryani.[821] Suryani's husband owned PT Bukit Alam Surya,

(obtained in 1995) was slated for conservation, but already under cultivation by smallholder farmers (Collins op cit.: 105).

812 Ibid.: 103-111 includes an account of labor unrest during 1998-1999.

813 Ibid.

814 Ibid. See also *Down to Earth* (2000).

815 See BPK (2002: 44).

816 A State Development Comptroller (BPKP) audit on 42 BLBI recipient banks (BPKP Report No. Lap-02.02.07.-437/D VII.2/2000, dated 17 July 2000) also detailed indications of abuse at BDNI, including diversion of funds.

817 See Collins (2007: 110). The lawyer who guaranteed Nursalim's medical leave was Adnan Buyung Nasution.

818 Presidential Decision (Keppres) No. 11/2005.

819 See Manan (2004a).

820 See Manan (2004b).

821 See Butt (2012: 40-41) and Setyawan (2017a). Aditjondro (2010: 147-156) said Suryani's bribe was part of a 'conspiracy' to stop legal proceedings against Nursalim. Gunawan's sentence was twenty years.

which had developed shrimp ponds at the Lampung site of at PT Dipasena. Both were convicted of corruption – Gunawan received the heaviest corruption sentence up to that point – but until the revival of the case against Temenggung in mid-2017, there was no indication of any further action related to BDNI or Nursalim's MSAA and SKL.[822]

Although not widely known, Temenggung was held in custody at least once before in relation to the sale of a debt claim (via a so-called 'cessie' contract that allows the transfer of a creditor's receivable to a third party) from a small, distressed state-owned bank to securities firm PT Victoria Sekuritas Internasional (VSI).[823] One knowledgable official explained in an interview that Temenggung was detained for six months (it was not clear precisely when this took place), because, they claimed, the Attorney General felt "I am suspicious you have done something wrong, but I can't say what it is."[824] After six months the AGO was apparently unable to lay charges, in part because the 2006 BPK audit attributed no state losses to IBRA. Regardless, according to the source, Temenggung's name was tarnished and the incident served as a warning those involved with IBRA that the agency's past actions could be easily be twisted or personified as corrupt to use as a 'political tool' to punish officials or pursue commercial disputes.[825] Indeed, some limited public reporting about the VSI case suggests other factors are at play, including a land dispute involving several powerful businessmen.[826] The dispute revolves around a large – and valuable – piece of land in Karawang West Java; VSI acquired title to the land when it purchased the distressed lending assets of a small IBRA bank. In September 2016, the AGO reportedly named Temenggung a suspect, along with an IBRA credit analyst and a director and commissioner from VSI.[827] Presumably, if Temenggung were charged related to VSI's purchase of the cessie, then this would put a cloud over any assets, such as the title to the land, that VSI might have obtained from its investment. There have not, however, been further indications of progress on the case.

Suryani received five years, and her prison stint generated further controversy when a surprise cell inspection revealed luxuries, including air conditioning, karaoke, and appliances. See also Reformasi Weekly (2016: 6-9).

822 In September 2000, Finance Minister Agus Martowardojo claimed that 20 bank owners, including Nursalim, who owed 4.7 trillion rupiah, had unpaid obligations. See Reformasi Weekly (2010: 9).

823 IBRA's extrajudicial powers were hotly contested, especially the power to invalidate a legally binding and valid contract and sell off bank receivables. As of June 2001 (Maroef 2010: 302-304), challenges to IBRA's legal powers generated 95 legal cases. The most controversial was the December 1999 nullification of Bank Bali's cessie with politically-connected debt collection service provider PT Era Giat Prima (which, coincidentally, was lobbying the government to guarantee and repay Bank Bali for several claims, including one worth nearly 1 trillion in interbank lending to BDNI). The case gave rise to a massive scandal involving the Golkar party and President Habibie's reelection campaign. See O'Rourke (2002: 246–254, 284-287).

824 Interview, January 2017

825 They added, "all of today's ministers are related to the past government. And if you want to find some wrongdoing, you can do it through IBRA transaction, no problem".

826 According to the legal publication *Forum Keadilan*, Tomy Winanta and Nasdem Chairman Surya Paloh had prevailed upon the Attorney General, from Paloh's political party, to push the investigation to pressure VSI owner Mukmin Gunawan over the land. Another New Order tycoon, Prajogo Pangestu, was also questioned. See Reformasi Weekly (2016: 6-9).

827 See The Jakarta Post (2016).

Summary and conclusion

This chapter discussed the MSAA between IBRA and former BDNI owner Sjamsul Nursalim. As shown above, the return from BDNI's MSAA was particularly poor, both in relative terms and in terms of the many difficulties that arose during its implementation. As discussed in Chapter 5, IBRA was hastily established and did not have the legal basis to function immediately as conceived. Furthermore, even once operational, the agency still had to work within a complex political and institutional environment. This was perhaps an understandable outcome – such was the vastness of the private sector assets that came under IBRA's control that some political oversight was inevitable and probably welcome – but, as discussed in Chapter 8, IBRA was subject to particularly complicated and damaging outside forces and intra-governmental contests.

This chapter began with details about PKPS agreements, which were contracts used to establish agreement between the government and former owners of banks taken over by IBRA. Because the government had extensive prima facie evidence about most banks' abuse of BLBI funds or the violation of prudential regulations, the owners of these banks also faced considerable potential legal risks if IBRA were to refer these cases to law enforcers. Before the issuance of Government Regulation No. 17/1999, however, IBRA could only assume banks' liabilities, but not seize their assets. The government badly needed funds to meet its fiscal commitments, and so it made the most sense for IBRA to pursue a strategy of obtaining assets that could be sold quickly. Therefore, the PKPS framework's 'out-of-court settlement' approach was preferred, including because of uncertainty about whether IBRA would prove able to win favourable judgements from the legal system. As discussed further in Chapter 8, although this represented a pragmatic approach, it failed to address the popular desire for bank owners to pay for the financial sector rescue package and also be subjected to judgement under the law.[828] As the corruption case against former IBRA Chairman Syafruddin Temenggung demonstrated, this continues today.

As this section showed, a major PKPS basically entailed the agreement between government and bank owner on the quantum of the obligation and the assets – independently-valued – that would be handed over to settle it.[829] Once the contract was fulfilled, the PKPS included a 'release and discharge' clause that committed law enforcement authorities to not pursue legal action against the shareholder.[830] Despite participating in recommending the 'out-of-court' approach, the Attorney General declined at the last moment to sign major PKPS. Later still, with law enforcers continued to pursue investigations, many bank owners ceased cooperation with IBRA. Eventually, Inpres No. 8/2002 instructed the IBRA Chairman to consult with the FSPC to establish which

828 Discussed in Maroef (2010: 209-218), who framed Inpres No. 8/2002 as a 'pragmatic proposition' to best manage the various commercial, criminal, and contractual dimensions of PKPS.

829 In the case of MSAA, the assets (and cash) included under the settlement were equivalent to the shareholder's obligation. For MRNIA, the assets were less than the obligation.

830 A senior IBRA official (Interview, October 2019) described this, which they also likened to an "amnesty", as the "big carrot" for shareholders to participate in the program.

obligors had fulfilled their obligations and then issue clearances, known as SKLs, stating that they had done so. Most major obligors received SKLs shortly before IBRA was dissolved, although virtually all handed over assets that were sold for only a fraction of their total obligation.

The next section examined the Gadjah Tunggal Group MSAA, an exercise that offered a detailed view of how these agreements operated in practice. This provided a useful application of topics discussed in the chapter's first section. Due to indications of large-scale abuse of its BLBI receipts, IBRA took over BDNI as part of the April 1998 'hard' interventions (see Chapter 4). BDNI had the largest unpaid BLBI liability, and audits later revealed that virtually all of these funds were diverted to offshore, Nursalim-controlled entities. Based on the audits and other documents collected and reviewed for this thesis, the 'recovery rate' under the Nursalim MSAA was among the lowest of all of the major IBRA obligors, at just over 17% (or lower, if the eventual returns from all assets are used).

The MSAA's implementation was also disrupted by disagreements and other various issues, including the transfer of shares in publicly listed companies, the level of cash actually paid by the shareholder, and whether closing did indeed occur as outlined under the MSAA's terms. Most notably, the MSAA's assets included receivables from credit extended on seemingly unfair terms to smallholder farmers at a large aquaculture project under Gadjah Tunggal's Dipasena Group. Although apparently unknown – or at least ill-understood – at the time, these loans were unlikely to be recovered for anything more than a small fraction of their value. An already challenging on-the-ground situation at the Dipasena project deteriorated significantly after the MSAA was signed. Once the plausible value of these assets became apparent, there were also calls for renegotiation or the provision of further assets. A 2002 BPK audit of PKPS even speculated that perhaps IBRA was reticent to confirm the 1999 closing of the MSAA because it feared becoming locked into the serious problems that had subsequently emerged at the project. Ultimately, however, IBRA's political supervisors decided that PKPS would be respected, and Nursalim received an SKL along with most large conglomerate obligors. This is discussed further in Chapter 8.

The Nursalim MSAA – like the Salim Group MSAA described in Chapter 7 – was an indication of the true complexity of IBRA's position. Nursalim and IBRA agreed that the shareholder would, based on the program's 'normalised political and economic' valuation method, transfer assets equal to Nursalim's total obligation. Clearly, the PKPS process failed to produce assets close to matching the scale of the obligations that emerged from the takeover and closure of BDNI. These discrepancies are certainly shocking, but the framing of them as a 'decline' in the value of the assets is at least partially misleading. Although the value of the assets was almost certainly falling, few, if any, assets would have actually begun at the level specified under the PKPS. As discussed in the first section, PKPS valuations were based on the assets as ongoing businesses, absent any consideration of the actual political and economic conditions of the time. So, in reality, although asset values were probably falling, it is still inaccurate to say that the GTG assets 'lost' 95% of their value in the year after the MSAA settled. Finally, it is virtually impossible to disentangle the true root cause of the declines, be it the overall economic deterioration or, perhaps, the significant problems faced by the Dipasena project.

The fourth and final section discussed of the corruption conviction – and, in mid-2019, unprecedented acquittal – of former IBRA Chairman Syafruddin Temenggung.

Temenggung was responsible, in early-2004, for the issuance of SKLs to PKPS holders who had, per the terms of the contracts and Inpres No. 8/2002, fulfilled their obligations to the government. The KPK's case, which was upheld at two lower level courts before being reversed on appeal to the Supreme Court, pointed to the Dipasena farmer loans to claim that Temenggung committed a criminal act by issuing an SKL to Nursalim despite state losses (from these loans) of 4.58 trillion rupiah. As discussed further in Chapter 8, however, Temenggung's conviction was problematic in that it overlooked potentially mitigating circumstances, including Inpres No. 8/2002, or the fact that the IBRA Chairman was unable to act without FPSC approval. The conviction also seemingly, as suggested by his lawyers, failed to document any apparent evidence that the IBRA Chairman acted in order to obtain a benefit (which, it should be restated, is not required for a finding of corruption under Indonesian law), but instead merely created state losses. Ultimately, as discussed further below, this case demonstrated how the PKPS framework, which was crafted in the service of pursuing a rapid and non-litigated transfer of assets to the government, actually exposed IBRA to chaotic and challenging external political and legal issues. I return to these issues and the framework of a weak state in Chapter 8.

Chapter 7: IBRA and the Salim Group

This chapter examines the PKPS that arose from IBRA's May 1998 intervention in Bank Central Asia (BCA), Indonesia's largest private bank. This was the largest PKPS, a consequence of BCA's extensive lending of BLBI funds to Salim Group firms. Following Chapter 6's look at the BDNI Master Settlement and Acquisition Agreement (MSAA), this chapter provides another example of a major PKPS in practice. Like previous chapters, much of the data comes from various BPK audits, either of the PKPS program (published in 2002) or IBRA itself (published in 2006). The chapter also uses information gained through interviews with individuals involved in these events. Several other studies are consulted when relevant. Collectively, this research emphasises the massive task of resolving a large PKPS, as well as the challenges and discrepancies that inevitably arose. Looking ahead, Chapter 8 then interprets these chapters' empirical findings through the weak state framework.

Unlike BDNI (see Chapter 6), BCA was recapitalised, and therefore the BCA MSAA converted the government's claim on outstanding BLBI into a large equity position (later sold) in the bank. For BDNI, the government's BLBI claim determined the overall quantum and structure of the settlement agreement. Both, however, used the asset settlement framework under which IBRA and the bank owner agreed to pursue an 'out of court' settlement that released bank owners from their legal risks in return for assets equivalent to their mutually agreed obligation. The selection of this approach was, as discussed above, a function of the innate tension between the government's need for fiscal resources and bank owner's potential legal risks for the fraud and abuse at their banks.

This examination of the Salim MSAA underscores the scale and complexity of IBRA's work to quantify and settle bank owners' obligations – to say nothing of the demands of operating amid nearly unprecedented economic and political instability. Despite the critique that but a handful of the Salim Group's most prized assets would have covered the quantum of its obligation, the reality was that asset settlement was a negotiated process over which the shareholder also exerted considerable control. Eventually, after painstaking and detailed negotiations, a melange of 108 assets ended up under IBRA control. Based on the data presented below, the return from the sale of these assets was variable: some were sold quickly and for returns in line with their expected value, while others proved more challenging and produced more modest returns. As discussed above, the nature of the valuation methodology meant there was a near guaranteed discrepancy – often considerable – between the valuation in the MSAA and that which IBRA and its advisors expected to obtain from a sale.

Together with Chapter 6, this chapter provides a basis for Chapter 8's discussion of the weak state framework. As seen above, the Nursalim MSAA gave rise to legal cases and allegations of wrongdoing. Generally speaking, this did not occur for the Salim Group. In general, PT Holdiko Perkasa, the holding company established to manage and sell Salim assets, functioned as intended and the transfer and sale of Salim assets proceeded more

rapidly and smoothly than for other PKPS. Naturally, there were still challenges related to the MSAA's implementation, and, when relevant, such issues are discussed below. Finally, due to the size of the Salim Group's obligation, the MSAA's returns had important implications for the overall recovery rate achieved by IBRA.

PKPS in action: the Salim MSAA

Although, by the 1990s, the Soeharto family had many business associates – or, in a less charitable description, cronies – they were most closely associated with Liem Sioe Liong's Salim Group.[831] Salim's capstone was the country's largest private bank, Bank Central Asia (BCA). Two of President Soeharto's daughters, Siti Hardiyanti Rukmana ('Tutut Soeharto') and Siti Hediati Hariyadi ('Titiek Soeharto'), together owned 30% of BCA.[832] Behind BDNI, BCA had the second-largest BLBI liability, worth nearly 26.6 trillion rupiah.[833] Despite its large BLBI liabilities, BCA missed out on the 'hard' April 1998 interventions, presumably on account of its owners' connections. Runs on BCA had only accelerated during this reprieve, and, according to one account, panicked depositors had withdrawn US$3 billion from the bank in a single week.[834] Finally, on 27 May 1998, six days after President Soeharto's resignation, IBRA declared BCA a BTO ('Bank Take Over').[835]

Before the crisis, the Salim Group was Indonesia's largest conglomerate (see Table 4.1, above). Despite its crisis-induced difficulties, by the 2010s the Group's businesses had recovered handsomely (see Table 4.2),[836] and its estimated worth reached nearly US$12 billion.[837] Liem, who began his career as a peddler, had deep and longstanding connections to the political elite. During the Revolution (1945-1949), he supplied Soeharto-commanded units and even sheltered President Soekarno's father-in-law, Hasan Din, whom he would later go into business.[838] In 1968, Liem received one of two existing clove import licenses.[839] Over the next three decades, he built a sprawling corporate empire intertwined with not only the Soeharto's business interests, but also the objectives of the New Order state. So, for example, in 1991, when the government bailed out Bank Duta, the Salim Group and another prominent crony conglomerate (Prajogo Pangestu's Barito Pacific Group) both put up US$220 million contributions.[840]

831 Liem was also known during the New Order Sudono Salim, an Indonesian name that President Soeharto reputedly bestowed. His son, Anthoni, has always been known as Salim.
832 Tutut owned 16%, and Titiek 14% (BPK 2002: 33).
833 See BPK (2006a: 1).
834 See Brown (2002: 26). According to some, the Soeharto children were at the front of the queue.
835 See BPK (2006a: 6). Three further BTO were designated on 21 August 1998: PT Bank Danamon Indonesia Tbk; PT Bank PDFCI Tbk, and PT Bank Tiara Asia Tbk.
836 The business probably never hit true rock bottom, and, as discussed below, the Salim Group kept control of its most prized assets. In 2005, Anthoni Salim was among three tycoons (with Prajogo Pangestu and Sukanto Tanoto) Vice President Jusuf Kalla called on in Singapore to request the return of an estimated US$200 billion of Sino-Indonesian conglomerates' money pulled out during the crisis (Studwell 2007: 162-163).
837 Most observers attribute this to Anthoni Salim's talents, but for reasons of space this is not explored here. Borsuk and Chng (2014) present a favourable account in their biography (not authorised, although with cooperation from the family) of Liem. See also Dieleman (2007: 105-120) on the Group's post-crisis revival.
838 See Borsuk and Chng (2014: 61) or Schwarz (2013: 109-112).
839 Ibid.

In another example, Salim's PT Bogasari enjoyed for many years a complete monopoly on the import, milling, and distribution of flour. When combined with a complex structure to funnel subsidised imports through the State Logistics Agency, this resulted in world-best milling margins for the group. Profits also flowed to the Soeharto family, which, in addition to the direct ownership of Bogasari by Soeharto cousin Sudwikatmono, also controlled two foundations specified in the firm's 1970 Articles of Association as beneficiaries of 26% of its profits.[841] The wheat import and flour milling scheme disguised rents so effectively that, during the 1980s, the World Bank, which used the price of instant noodles in its assumptions, underestimated the poverty line in Indonesia.[842] President Soeharto described Bogasari as 'like a tailor' who obtained raw materials from the client and got a fee for making them into a dress.[843]

As the crisis unfolded, Anthoni Salim, Liem's son and protege, sat on government committees investigating the economic problems, including the ad hoc Private Foreign Debt Settlement Team, and the Council on the Stabilisation of Monetary and Economic Resilience (DPKEK).[844] Like many Indonesian corporates, the Salim Group was carrying heavy offshore, short-term debts.[845] Indofood, for example, had hedged only 15% of its debt, of which more than three-quarters was offshore and denominated in US Dollars.[846] As the crisis continued, the Salim family emerged as a public edifice of the cronyism (and prominence of Sino-Indonesian conglomerates) intertwined with the disintegrating Soeharto regime. During the May 1998 Jakarta riots, 122 of the bank's branches were damaged through arson or looting (17 burned down entirely), and, according to the company, the losses only from looting of its ATMs reached 3 billion rupiah.[847] The Salim family home was even torched.[848] Once branches reopened on a Monday after the worst weekend of rioting (16-17 May 1998, also the final weekend before President Soeharto resigned on 21 May), thousands of people stood in line at the bank's Wisma BCA headquarters to withdraw whatever they could.[849]

The Salim MSAA specified a four-year term and was concluded, signed by the IBRA Chairman and Soedono Salim, Anthoni Salim, and Andree Halim, on 21 September 1998 after the conclusion of an earlier Memorandum of Understanding on 20 August 1998.[850] The MSAA was signed on the same day as BDNI owner Sjamsul Nursalim's. Together, the

840 See Schwarz (1994: 128, 141). Bank Summa's owners, the Soeryadjajas, declined to participate (Haggard 2000: 26). When, two years later, Bank Summa had its own trouble, the bank was forced into liquidation and the Soeryadjajas lost their prized Astra conglomerate.

841 See Schwarz (2013: 109-112), Rosser (2013: 134-136), and Borsuk and Chng (2014: 170-174). The two foundations were Harapan Kita, headed by Soeharto's wife, and Dharma Putra, owned by the Strategic Army Reserve (Kostrad), which Soeharto commanded in 1965.

842 See Brown (2002: 11-12).

843 Borsuk and Chng (op cit.).

844 See Dieleman (2007: 85-86).

845 Ibid. Salim's proportion of short-term US$ debt had risen from 11% of total borrowing in 1992 to 49% in 1996. By 1997, flagship Salim companies like Indofood (77%), Indocement (96%), Indomobil (71%), and UIC (99%) were borrowing largely in US$.

846 Ibid.

847 Figures cited in Borsuk and Chng (2014: 386).

848 See Dieleman (2007: 87), including Salim as a symbol for public discontent with Sino-Indonesian businesses.

849 Ibid. One study reported US$3 billion was withdrawn from BCA in one week (Brown op cit: 26).

850 See BPK (2006c: 50). The trio is dubbed the "Salim Group (SG)" in documents. Andree is Anthoni's brother.

pair represented more than 90% of the total value of the five MSAAs under the program and nearly 70% of all obligations eventually brought under PKPS.[851] The atmosphere at that time was tense. On signing day, Coordinating Economics Minister Ginandjar Kartasasmita publicly threatened owners: "If their cash is not enough, we will take their assets and if even that is not enough, we will seize their assets".[852] According to IBRA's vice chairman, some government ministers, keen to dismember dominant Chinese-Indonesian conglomerates, "simply wanted blood".[853] As discussed elsewhere, the Attorney General refused to sign the agreement, and the MSAA explained that the Minister of Finance and the IBRA Chairman signed for, and on behalf, of the Government of Indonesia.[854] As for other PKPS, the Salim MSAA was subject to several revisions, including a Supplemental Agreement to the MSAA on 4 November 1998, an Amendment to the MSAA on 5 November 1998, an Amendment to the MSAA on 5 February 1999, a Second Supplement to the MSAA on 30 June 1999, an Extension Agreement on 28 April 2000, and an Amendment and Clarification Agreement on 29 June 2000.[855] Compared to the Nursalim MSAA, Salim's featured a smaller cash contribution, but a larger number of companies (and a greater overall obligation). Table 7.1 provides details of the cash and assets under Salim's MSAA.

Table 7.1: Assets under the Salim Group MSAA (billions of rupiah)[856]

Asset Type	Total value
Cash	100
Proceeds from PT Pasific Indomas Plastic Indonesia sale*	37
Shares and assets from 108 subsidiaries**	52,589
Total	52,589

* Sold by the shareholder in April 1998.
** Shares and convertible bonds valued at 45,414 billion rupiah and intra-group debts of 7,175 billion rupiah.

In total, the MSAA covered Salim's obligation of 52.7 trillion rupiah, the largest of any shareholder. Although BCA had large BLBI receipts (second only to BDNI), the calculation of the obligation was based entirely on prohibited affiliated loans from the bank to Salim Group companies.[857] According to one study, Anthoni Salim had refused to hedge his large offshore borrowings and, once the crisis arrived, he sought to save the Group through a massive, albeit illegal, lending spree from BCA to its businesses.[858] It was discovered that about 70% of BCA's credit went to related parties, well above the 20% legal limit. Otherwise, beyond the BCA-originated affiliated lending, a relatively scant 1.1 trillion rupiah in affiliated lending came from Bank RSI, in which the Salim Group also

851 See Maroef (2010: 178-179). The other three MSAA banks, two of which belonged to Salim Group partners, were Bank Umum Nasional (M Hasan), Bank Surya (Sudwikatmono), and Bank Risjad Salim Internasional (Ibrahim Risjad).
852 Cited Borsuk and Chng (2014: 402-403). At that time, of course, the government lacked the legal tools to seize bank owners' assets.
853 Ibid.
854 See BPK (2002: 25-26).
855 Ibid.
856 Data from BPK (2006c: 57).
857 See BPK (2002: v). The exact amount was 52,726,575 million rupiah, including 1.1 trillion rupiah in affiliated loans from PT Bank Risjad Salim (RSI).
858 See Dieleman (2007: 91). Another journalist suggested the debts were larger because of the systematic overvaluing of assets. The banker IBRA brought in to run BCA, BRI's D.E. Setijoso, said Salim "thought the best borrowers in Indonesia were their own companies" (Borsuk and Chng 2014: 403).

held a stake. This obligation was transferred from the bank to BCA under an April 1999 agreement.[859] The claims against Salim's related-party loans were transferred from BCA to IBRA under two agreements in September 1998 and April 1999.[860] Unlike BDNI, the Salim Group MSAA agreement was, in fact, structured as a related-party credit settlement mechanism granted from BCA (as a BTO under government control, but not slated for closure) to the Salim Group. Therefore, affiliated loans were removed from BCA's books and submitted to the bank's controlling shareholder for resolution. In return, the government issued bonds worth nearly 61 trillion rupiah to cover the cost to the bank of the illegal inter-group lending, but unlike some other PKPS, the settlement was not structured as a BLBI settlement from the shareholder to BCA.[861]

The reason for the difference was that the government did not plan to close BCA, the country's largest private bank and an integral part of the financial system (due to its large branch network and widely-used payments system). When the recapitalisation scheme (see Chapter 5) demanded bank owners inject new funds into their banks, the Salim Group agreed to do so in August 1998.[862] As a result, the bank entered the government-led recapitalisation program.[863] The framework adopted under the MSAA was tailored to this approach, and instead of recapitalisation bonds (which were issued from the government to improve a bank's capital base), the bank's and its shareholders' obligations were converted and used to improve the bank's capital adequacy ratio (CAR). In order to meet nearly 30 trillion rupiah in capital was required, and the majority of this amount – nearly 28.5 trillion rupiah – was obtained from the conversion of the bank's BLBI obligation (including principal and interest).[864] Therefore, IBRA's BLBI claim became BCA equity, with nearly 93% of new equity going to the agency.[865]

859 See BPK (2006c: 50-51).

860 The latter agreement was for the 1.1 trillion in ex-RSI loans.

861 See BPK (2002: 26-27). The total value of the affiliated loans included 52.7 trillion in lending, plus 8.8 trillion in interest accrued before May 1999.

862 See Dieleman (2007: 94).

863 The bank met the terms of the March 1999 Ministry of Finance Decisions No. 117/KMK/.017/1999 and No. 31/15/KEP/GBI on Implementation of Recapitalisation Program of BTO Banks Under Rehabilitation.

864 As discussed in Chapter 4, shortly after its establishment, IBRA replaced Bank Indonesia as the owner of claims on BLBI banks' liabilities. The audits called this a 'cessie', which is an agreement under Indonesian law to transfer a party's receivables, often a debt, to a third party. See also BPK (2006d: 7) on the conversion of BLBI to debt to IBRA (IBRA Chairman Decision No. 57/BPPN/1999 on 23 February 1999), which for BTO was converted into government equity. The BCA cessie was 26,596 billion rupiah, which, when combined with interest payable on the BLBI and offset by affiliated loans, converted to 28,480 billion rupiah of equity in BCA.

865 See BPK (2002: 27-28). The remainder was obtained from the equity conversion of subordinated loans to ex-shareholders. In total, 2.8 billion shares were issued with a total value of 29.9 trillion rupiah.

Table 7.2: Conversion of the government's BCA equity (billions of rupiah)[866]

Source	Detail	Total value
Affiliated loans	Principal	52,727*
	Interest after IBRA took over	8,771
	Total obligations	**61,498**
Bonds issued	Issued by government	60,877
	Shortfall	(621)
BLBI	Principal	26,597
	Interest, Jan-April 1999	2,504
	Total BLBI	**29,101**
	Due to IBRA (BLBI less government bonds shortfall)	**28,480**
Recapitalisation	Required Equity	29,925
	Equity from previous owners	(1,445)
	Conversion of IBRA's claim to equity	**28,480**

* Settled through MSAA framework, including a cash contribution of 100 billion rupiah and the hand over of assets with a total valuation of 51,627 billion rupiah.

Per the MSAA, the Salim Group's shareholder obligation (JKPS) was calculated at 52,726 billion rupiah, a figure derived from data gathered and approved by the IBRA 'Director's Authority Team' (*Tim Kuasa Direksi* – TKD) placed in the bank once it came under IBRA control.[867] As with other banks, this data was collected and approved without financial due diligence (FDD), in part because there was only a one-month window, from 21 August 1998, before the JKPS calculation had to be completed.[868] As required under the MSAA, Salim put up 100 billion rupiah cash, albeit relative to the JKPS this was a small amount.[869] The balance would be settled through the transfer of 108 assets, including shares in Salim Group companies, exchangeable bonds, convertible bonds, and intra-Salim Group obligations to 57 companies, with equal value.

Despite its clouded reputation, the Salim Group was probably IBRA's model obligor. According to one study, Anthoni Salim was cooperative, providing IBRA with a list of the Group's companies and facilitating IBRA's selection of the healthiest, most liquid companies.[870] A senior IBRA official echoed this claim, noting that Anthoni and his senior

866 See BPK (2006d: 91).

867 The JKPS was 52,726,575 million rupiah, or approximately US$5.2 billion. The obligation was settled through the transfer of 45,414,276 million rupiah in shares and obligations, 5,735,022 million rupiah worth of former loans held by BCA, and 1,443,081 million rupiah of former Salim Group loans. In addition, the Salim Group transferred 100,000 million rupiah in cash to IBRA, and also the proceeds of the sale of PT Pacific Indomas Plastic Indonesia, for 37,196 million rupiah, to IBRA. Figures from BPK (2006b: Appendix 2, 1).

868 See BPK (2006c: 51) and Maroef (2010: 134-136).

869 There was also 37 billion rupiah from the sale, carried out by the shareholder, of PT Pacific Indomas Plastic Indonesia. Figures from BPK (2002: vi).

870 See Dieleman (2007: 94-95). Salim 'laid his cards on the table' but was still a dogged negotiator. Furthermore, as described below, this did not include a meaningful stake in the 'cash cow' Indofood.

managers were "uniquely hard-working and professional".[871] IBRA's financial advisors, Lehman Brothers, PT Bahana, and PT Danareksa valued the assets using a discounted cash flow model under the prescribed 'normalised economic and political scenario', discussed above.[872] As discussed in Chapter 6, the BPK audited most PKPS agreements in 2002. The 'reconstruction and reperformance' analysis of the MSAA valuations – essentially a rechecking of the financial consultants' work – reported a total value for the Salim assets of just under 51.1 trillion rupiah. In absolute terms, this was a considerable discrepancy of more than 1 trillion rupiah (approximately US$100 million), but, as a share of the total MSAA valuation, a much smaller gap of less than 2%.[873]

As for other large PKPS, a dedicated holding company (sometimes referred to as a 'holdco') was used to house and prepare Salim assets for sale. Therefore, on 14 December 1998, PT Holdiko Perkasa ("PT Holdiko") was established.[874] According to documents reviewed for this study, PT Holdiko took control of 108 companies, including 76 companies (so-called 'acquisition companies') and receivables due to 57 firms within its portfolio.[875] PT Holdiko was more advanced and professional than any of the other holdcos, and even as late as end-2002, PT Holdiko was one of the only holdcos actively selling or preparing assets for sale.[876] It was also larger, holding 54% of the total asset value that came under all holdcos. As for other holdcos, IBRA was not the direct owner of PT Holdiko. Instead, two wholly owned Salim companies, PT Carakasubur Nirmala and PT Gemahripah Pertiwi, held matching 50% stakes in PT Holdiko.[877] These shares were then pledged to IBRA under a June 1999 Power of Attorney that effectively provided IBRA with all voting and shareholders' rights. Thereafter, influence over PT Holdiko's strategy and authority over its management belonged to IBRA, and the holding company carried out its corporate activities – most notably the sale of its subsidiaries – without the need for further input or approval from its notional shareholder, the Salim Group.[878]

Assets were transferred during 1999 from the Salim Group to PT Holdiko in several tranches under a series of agreements known as Transfer of Contract and Shares Agreements. After each transfer, PT Holdiko issued promissory notes for the corresponding amount to the Salim Group, which eventually, via two agreements (Transfer of Notes Agreements, dated 30 June and 30 July 1999), transferred to IBRA the entire 52,726 billion in promissory notes (that is, equal to Salim's obligation to the government).[879] These notes were then swapped for a PT Holdiko convertible rights issue

871 Interview, October 2019.
872 See BPK (2006c: 51).
873 Ibid. This uses the post-June 2000 Amendment and Clarification Agreement figure of just under 52.1 trillion rupiah, which adjusted down by 508 billion rupiah from the initial MSAA amount. See also BPK (2006c: 54-56).
874 A management agreement was concluded with PT Aspirasi Darma Nusa shortly thereafter. The Ministry of Law and Human Rights formally approved the firm's establishment in February 1999.
875 There were also active companies under its management, and, according to PT Holdiko's data, the consolidated operating income of its subsidiaries rose from 1,771 billion rupiah at end-1998 to 4,662 billion rupiah by March 2000. See BPK (2006c: 54). It is not, however, specified if this is an annual or cumulative figure. In general, this lack of clarity reflects the variable quality of these audits.
876 See BPK (2006b: 3, 9-14). According to the audit, PT Holdiko should not be used to evaluate the work of other holding companies, but it could be used to generalise about the structure and procedures used in the program.
877 See BPK (2002: 30).
878 Ibid.
879 From BPK (2006c: 50-53). Three separate convertible rights issues totalled 52,626 billion rupiah.

of the same amount.[880] This instrument, backed by PT Holdiko shares and shares in the companies transferred to it, basically entitled IBRA to covert debt into PT Holdiko equity. It was secured by agreements that transferred the rights of PT Holdiko's shareholders to IBRA.[881] The government received funds when proceeds from asset sales were then used to settle PT Holdiko's convertible notes held by IBRA. Table 7.3 details the transfer of Salim assets (including a mixture of acquisition companies and intra-group receivables or claims) to PT Holdiko.

Table 7.3: Salim Group transfers to PT Holdiko during 1999[882]

Contract Date	Pledged Value (billions of rupiah)*			
	Shares and obligations	Intra-group lending		Total
		BCA loans	Group loans	
19 March 1999	14,602	248	-	14,851
19 April 1999	6,646	508	-	7,154
11 June 1999	11,466	804	538	12,809
29 June 1999	2,862	2,235	627	5,723
30 June 1999	9,838	1,936	278	12,052
			Total to PT Holdiko Perkasa	52,589
			Cash and proceeds from PT Pacific Indomas Plastic Indonesia	137
			Total Settlement	52,726

* Rounded to the nearest billionth rupiah.

The MSAA allowed IBRA to carry out subsequent FDD on its assets, and so the consultancy KPMG was commissioned to examine 76 of the assets with a valuation of nearly 41,718 billion rupiah (or nearly 80% of the total value of assets in the MSAA). KPMG reported that the value of the companies was 205 billion rupiah (or nearly 0.4%) more than the MSAA amount.[883] On the basis of this finding, the FSPC instructed IBRA and the FSPC Secretariat to undertake clarification of KPMG's finding, which was then attributed to KPMG not following IBRA's Terms of Reference.[884] Later, in 2006, the BPK used this figure to conclude that the value of the assets transferred from the Salim Group under its MSAA was 52,932 billion rupiah, or slightly more than the obligation under the MSAA, and therefore the Salim Group had fulfilled their obligation under the MSAA. This finding from the BPK, however, would have simply accepted the pledged value in the MSAA (see the Tables 6.1 and 6.3) and KPMG's findings of an extra 205 billion rupiah.

880 This procedure differed from PT TSI, which on the day of its establishment issued to IBRA promissory notes equal to the JKPS. No assets had been transferred at this point, and actual transfers took considerable time. See Chapter 6.

881 The shares in Holdiko included two other companies, namely PT Carakasubur Nirmala and PT Gemahripah Pertiwi.

882 See BPK (2006c: 52).

883 See BPK (2006c: 56).

884 Ibid., also FPSC Decision No. 01/K.KKSK/12/2002 on 12 December 2002.

The Salim MSAA was deemed to have closed on 30 June 1999.[885] This was concurrent with the conclusion of a Second Supplement to the MSAA, which included a small write-down of just over 508 billion rupiah in the total pledged value of assets handed over under the settlement agreement. The parties agreed that Salim would hand over further assets and shares to cover the discrepancy.[886] At this time, according to the 2002 BPK audit of PKPS,[887] the parties agreed that all terms and conditions had been satisfied. Under the Second Supplemental Agreement, the parties agreed on the total obligation, as well as the (slightly modified) value of assets to satisfy it, and, finally, that the 'release and discharge' contained under the MSAA was only connected to the shareholder's obligation to the government and not to BLBI.[888] Per the MSAA, upon closing the Ministry of Finance and the IBRA Chairman issued a release and discharge to the shareholders, commissioners, directors, and executive staff dated 26 April 1999 for BCA and 4 June 1999 for Bank RSI.[889] The two letters were registered with a notary in October 1999. On 30 June 1999, the shareholders passed a Shareholder Statement affirming that the contents of the MSAA were true and representative with respect to the Salim Group.[890] According to the 2002 BPK audit, the BCA MSAA was the 'only PKPS agreement to run in accordance with the agreement',[891] although by June 2001 (the cut off point for the data upon which the audit was based), the parties were still negotiating to settle further claims from IBRA totalling 2.2 trillion rupiah.[892]

IBRA's management of PT Holdiko was active, including changing management at some subsidiaries and working to implement debt restructuring (as a large share of the settlement was in the form of intra-group debts). IBRA and PT Holdiko engaged the accountancy firm PriceWaterhouseCooper (PWC) to value Salim's assets and provide recommendations on their disposal. These findings were also intended to inform and supplement IBRA's so-called 'Overall Asset Disposal Plan' (OADP), which included explicit targets, including both years and prices for expected sales.[893] It is worth noting that the OADP prices tended – if not universally, than nearly – to be less than the assets pledged value. Intriguingly, however, the PWC valuations roughly approximated the amount eventually obtained through sales.[894] A selection of OADP prices versus the pledged values and sale prices can be seen in Table 7.7, below. PWC's report, delivered in July 2000, covered 100 assets with a total pledged value under the MSAA of 49.7 trillion

885 By comparison, the BDNI MSAA settled on 25 May 1999, also following several revisions and supplements. See Chapter 5.

886 See BPK (2006c: 54-55).

887 See BPK (2002: vii, 31).

888 See BPK (2002: 31). This was because BCA's BLBI debt had been converted into government equity in BCA in preparation for a later sale. Also, the release and discharge applied both to BCA and Bank RSI. At the time, there were still legal actions running with respect to abuses of the BLBI facility.

889 Glenn Yusuf was IBRA Chairman and Bambang Subianto the Finance Minister.

890 See BPK (2002: 31-32).

891 Hicks (2004: 246) concluded that the Salim Group appeared to be the 'only debtor to have surrendered assets with any immediate worth'.

892 See BPK (2002: 31-32).

893 A senior IBRA official explained (Interview, October 2019) that in addition to the high level Lehman/Danareksa valuations produced when the MSAAs were completed, IBRA would then, as it prepared to sell portions of the portfolio, hire other advisors to produce valuations using discounted cash flow or market comparison models. Similar to these OADP valuations, these secondary valuations were, this IBRA official noted, "more professional" work "done with proper due diligence and proper financial models". Generally speaking they held up better against the values IBRA actually obtained.

894 As noted in Borsuk and Chng (2014: 445).

rupiah.[895] Per the 2006 BPK audit,[896] the consultant found that, as of 31 December 1999, PT Holdiko received assets from the Salim Group with a total valuation in an estimated range of 12.1 trillion rupiah to 20.2 trillion rupiah, or a discrepancy against the MSAA of between 37.6 trillion rupiah and 29.5 trillion rupiah.[897]

The audit explained the discrepancy as a consequence of several factors, including: the determination of the value under the MSAA not anticipating (or, indeed, not including) the influence of ongoing economic and monetary difficulties; valuations under the MSAA being based on USD at a set (and, ultimately, inaccurate) exchange rate;[898] methodological differences between IBRA's financial advisor and PWC; and, finally, MSAA valuations being based on the assumption the pledged companies would continue to grow (when, in reality, the economy was in recession).[899] Therefore, although PWC's best case (of the assets being worth about 40% less than the MSAA) was certainly disturbing, it was also not surprising given the MSAA's methodology. Either way, the results prompted deep criticism of IBRA and its advisors.[900] Ultimately, however, as the BPK noted, any decrease in the value of the assets once they were transferred under the terms of the MSAA was IBRA's responsibility and risk. As discussed in Chapter 6, MSAA were not designed to ensure assets maintained their value, but instead that assets equivalent to the shareholders' agreed obligation were transferred under a mutually-agreed legal framework. Arguably, the Indonesian government actually failed to meet its commitments, which in turn prompted the later issuance of Presidential Instruction No. 8/2002 and, later, certificates of completion (SKLs).[901]

The 2006 BPK audit faulted IBRA for its tardy approval of PT Holdiko's annual operational budget (usually only approved by September of the current year) and its inability to fully monitor the holding company's expenditures. On balance, however, IBRA and the Salim Group appear, based on documentary accounts, to have worked constructively to implement the MSAA, and when PT Holdiko had concerns about the Salim Group's transfer of assets under the MSAA, this information was passed to IBRA, which in turn met with the shareholder to resolve the relevant issues.[902] The inter-group debt restructuring was complex, and discrepancies emerged on account of both the exchange rate as well as ex-Salim Group companies having made payments against debts to either the Salim Group or BCA once the MSAA had been agreed, but before companies were fully under PT Holdiko's control. These issues led to the aforementioned June 2000 Amendment and Clarification Agreement requiring the transfer to PT Holdiko of a further 508 billion rupiah in shares or assets.[903] The agreement identified a mixture of assets to be handed over, including 197 billion rupiah in receivables from Salim to PT

895 Among the assets not included were six companies sold before a valuation could be completed, including shares in PT Standard Toyo Polimer, PT Indofood Sukses Makmur, and PT Astra International, and three companies in the Masquito Coil Group. See BPK (2006b: Annex 2, 2).
896 See BPK (2006c: 53).
897 See BPK (2006b: Annex 2, 2).
898 IDR 11,075/US$1.
899 Ibid.
900 See Borsuk and Chng (2014: 445).
901 Discussed in Chapter 8. As the Temenggung case showed, however, this did not provide full legal protection.
902 See BPK (2006c: 54).
903 See BPK (2006c: 54-56).

Indomobil Sukses Internasional Tbk,[904] 178 billion rupiah of shares in PT Jakarta Land, and a parking lot at the Wisma BCA building with a value of 81 billion rupiah.[905] The 2006 BPK audit reported that approximately half of the identified assets were actually transferred, with an apparently 278 billion rupiah outstanding.[906] Details of 'potential' IBRA claims against Salim are outlined, based on data from the 2002 BPK PKPS audit, in Table 7.4.

Table 7.4: Potential IBRA claims during MSAA implementation (billions of rupiah)[907]

Detail	Amount
IDR exchange rate (IBRA Letter No. PB-476/BPPN/0801 on 15 Aug 2001)	1,144
US$ exchange rate (IBRA Letter No. PB-476/BPPN/0801 on 15 Aug 2001)	347
IBRA Letter No. PB-282/BPPN/0501 on 31 May 2001	733
PT Gumindo and PT Sweet Indo Lampung	25
Total	**2,249**

In other instances, IBRA disputed the assets specified and valued under the MSAA, including three cases with a collective value of nearly 452 billion rupiah.[908] Based on the documents reviewed, it appears that these cases did not pertain to disputes about the value of the assets, but instead whether the assets were consistent with the agreement. Although substantial in terms of value (more than US$40 million), these appeared to be relatively basic technical or administrative issues (and were but a fraction of the overall obligation). In one case, other shareholders blocked PT Holdiko from using a convertible bond to obtain equity in a Salim Group flour mill. In another case, there were errors related to the inclusion of specific tracts of land, and, in another, a failure to include related capital expenditures in the initial valuation.[909] IBRA pressed these shortfalls, and in October 2002 the Salim Group covered the difference through the handing over of further cash (465 billion rupiah) and shares in BCA (264 billion rupiah).[910] In yet another example, a further 387 million rupiah of claims related to two pledged companies (PT Indogift Chuemer and PT Walet Kencana Perkasa) was settled via a November 2002 payment of 400 million rupiah.[911]

These examples further support the aforementioned details about the cooperative relationship between IBRA and the Salim Group. The recovery rate from the Salim MSAA

904 In May 1999, Indomobil's outstanding debt to BCA was assumed by Salim in return for bonds that after three years could be converted into ownership in Indomobil. See Dieleman (2007: 100).
905 See BPK (2006c: 54-56). Slightly more than 40 billion in receivables were also transferred from Salim to companies under PT Holdiko.
906 Ibid.
907 See BPK (2002: 32). There claims were 'potential' because they depended on agreement between the shareholder and IBRA. In a seeming mistake, however, the report refers the reader to the "integral" section of the audit focused on the BCA PKPS, of which the discussion is actually a part. The author's best speculation is that this may refer to a later table of valuations based on the BPK's 2002 'reconstruction and reprofiling' analysis. See BPK (2002: Annex 2).
908 Ibid.
909 See BPK (2006c: 55) for specific detail of these examples.
910 Ibid.
911 Ibid.

was higher than most major PKPS, including BDNI, Danamon, and BUN, which returned 17%, 15%, and 12%, respectively.[912] Furthermore, because the Salim MSAA proceeded most in line with intended procedures, asset sales proceeded faster, likely boosting the prices PT Holdiko ultimately obtained. In contrast, other, less advanced, efforts struggled amid worsening economic circumstances. Table 7.5 details the recovery rate of nearly 37% versus the MSAA valuation.

Table 7.5: Salim Group Recovery Rate (billions of rupiah)[913]

Source of funds	Total value
Cash*	137.2
Additional payment for IBRA claims against SG	729.8
Assets disposals from PT Holdiko Perkasa	18,559.6
Total	19,389.4
PKPS Obligation	52,726.6
Recovery Rate	36.8%

* Proceeds from SG's sale of PT Pacific Indomas Plastic Indonesia included.

Some asset sales were more easy to manage, and in several cases PT Holdiko simply sold stakes to the existing joint venture partner (often foreign).[914] If the partner declined the option, the shares were then sold at tender. By June 2000, for instance, 58 assets had been sold for total proceeds of 11.3 trillion rupiah (versus a pledged value 22.2 trillion rupiah, a recovery rate of nearly 51%).[915] At the same time, in addition to the 137 billion rupiah in cash and the proceeds from the sale of one company sold by the shareholder, payments against the intra-group loans (that is, principal and interest) included under the MSAA had already reached 405 billion rupiah.[916] Such performance was considerably more advanced than other shareholders.[917] For example, as of June 2001, assets from Usman Admadjaja, former owner of Bank Danamon, had yielded 8% of his total obligation of 12.5 trillion rupiah, while assets from Sjamsul Nursalim, owner of BDNI, had yielded just over 4% of his total obligation of 28.4 trillion rupiah.[918] The 2002 BPK report noted, however, that it was unable to examine the sale processes and prices of companies sold by PT Holdiko, and a separate audit would be needed to assess this process.[919]

912 BUN involved two shareholders, so I calculated the 12% from M Hasan's MSAA, with a recovery rate of 28% (versus an obligation of more than 5.3 trillion rupiah), and Kaharuddin Ongko's MRNIA, with a recovery rate of 1% (versus an obligation of more than 8.3 trillion rupiah). See Table 6.5, above.

913 See BPK (2006c: 58).

914 See Dieleman (2007: 109) on 'waves' of sales with the simplest transactions concluded first.

915 See BPK (2002: vii), which was an audit of PKPS comprising 88.9% of the total value of the program. Nearly 7.5 trillion rupiah of the proceeds from the Salim MSAA had flowed to IBRA, with the remainder in escrow accounts or, intriguingly, retained in different jurisdictions to finance the operational costs of the recovery in those places.

916 See BPK (2002: 32).

917 Somewhat peculiarly, the audit discusses how different responsible shareholders, including the Salim Group, had 'deposited' (*setoran*) a given amount, calculated largely on the basis of the income to a holding company from asset sales against their total obligation. This term is confusing given the framework of the PKPS asset settlement scheme discussed elsewhere in the thesis. See BPK (2002: ii).

918 Ibid.

919 See BPK (2002: 33). This was done to some extent in the 2006 audit, which included a detailed overview of PT Holdiko, its process of managing pricing, and the associated sales costs. See Table 6.7,

Ultimately, despite the relative success of the Salim MSAA, one criticism is that the Group was still able to hold onto majority stakes in some of its most prized assets (for example, Indofood and First Pacific, its Hong Kong-based holding company).[920] One study reported IBRA employees' claims that Anthoni Salim told the agency he could not hand over these companies because of supposed covenants on the shares or because these shares were pledged for other bank loans.[921] Either way, there was also rampant domestic speculation that the buyers of ex-Salim assets were actually the Salim Group itself.[922] As discussed in Chapter 6, there was a span of opinions about whether IBRA should be an instrument for punishing ex-bank owners – by denying them the opportunity to repurchase surrendered assets, even if they were willing to pay the highest price – or if it should adopt a more pragmatic target of simply obtaining the highest potential return from the assets placed under its control. Nevertheless, in response to public controversies, IBRA's Oversight Committee eventually ruled in 2000 that owners could only participate in asset sales once they had fully met their obligation to the government. A special rule was also imposed in 2000 that Salim could not bid for any PT Holdiko assets whatsoever.[923]

Despite this ruling, speculation continued, especially when unknown, inexperienced, or seemingly inappropriate potential buyers emerged for ex-Salim assets. In other cases, critics argued that if the new owners (including IBRA) did not clean out a firm's management, then this must mean the old owners were behind them. In reality, however, IBRA, which was obliged to guard the government's interests and obtain the highest return possible, often found that it was not realistic to systematically replace all firms' management, much of which was largely professionals well qualified to remain in their positions.[924] At one time or another, media reports alleged that Salim bought QAF, Karimun, Indomarco, Indosiar, Oleochemicals, Indomilk, and Indomobil.[925] The December 2001 sale of 73% of shares in PT Indomobil Sukses International, the country's second-largest auto assembler, was particularly controversial because of complaints about the low price obtained and rumours of links between the buyer, PT Trimegah Securities, and Salim. The Chair of IBRA's Oversight Committee, Mar'ie Muhammad, demanded IBRA audit the deal, but Chairman I Putu Gde Ary Suta refused.[926] In another case, IBRA's Oversight Committee refused to deal with German multinational Heidelberger until it modified a separate partnership with Salim.[927]

---

below.

920 A former senior IBRA official (Interview, October 2019) described Indofood as a 'cash cow' and ventured that the Salim was more professional than other major PKPS obligors because of its relatively stronger business prospects.

921 See Dieleman (2007: 94-95). Supposedly, when IBRA asked for shares in Indofood, there was a catch, which was that if Salim owned less than 51% of the company then the repayment of all its bank loans would be immediately triggered. In return, Salim offered Indomobil, a far less promising asset given the economic downturn.

922 As noted in Hicks (2004: 250-251) and Dieleman (2007: 109-111).

923 See Borsuk and Chng (2014: 444).

924 See Borsuk and Chng (2014: 403).

925 Ibid. The Anti Monopoly and Competition Commission (KPPU) even became involved in a case with Indomobil (ibid.: 440-443).

926 See Borsuk (2002). As shown in Table 7.7, below, the deal actually garnered a higher price than expected under the advisor's valuation (although below that of the OADP, which, to be fair, was several years old).

927 Ibid. See also Dieleman (2007: 96, 100). The government controlled a majority of Indocement, through PT Holdiko's 13.2% stake, IBRA's 6.6% stake, and a separate government holding of 26%.

Eventually, IBRA, which had the authority to cancel any sale it wished, required all buyers to sign a declaration stating they were not linked to the previous owner.[928] As discussed in Chapter 8, the actual effectiveness of this approach is difficult to assess (and most likely limited), although it is unclear what else IBRA could have done.

The 2006 BPK audit included a dedicated audit of PT Holdiko and the asset disposal process.[929] Asset sales occurred based on the schedule and estimated closing prices included under the PWC valuation and the OADP, which IBRA used to produce its annual sales strategy, or Asset Disposal Plan (ADP).[930] Different sales mechanisms were used, including: sales to strategic partners with pre-emptive rights (but only when the offered price was not below the asset's independent valuation, in which case PT Holdiko sold it via open tender); sales via the stock market (for shares in public companies); and strategic sales via open tenders. During 1999-2002, asset sales returned gross proceeds of 16.9 trillion (versus a pledged value of twice as much, or approximately 34 trillion rupiah).[931] The details of sales during 1999-2002 are presented in Table 7.6, below. Among other things, this data is consistent with the claim that the returns declined as time passed.

Table 7.6: PT Holdiko Disposals, 1999-2002 (billions of rupiah)[932]

Year	Gross Proceeds	Sale Costs	Sale Costs (%)	Pledged Value	Recovery Rate (%)*
1999**	510.9	14.5	2.8	419	122
2000	4,357.4	192.8	4.4	5,742	75.9
2001	9,865.7	426	4.3	24,096.6	40.9
2002	2,154	158.8	7.4	3,945.4	54.6
Totals	16,888	792.1	4.7	34,203	49.4

* Excluding sale costs

** Including sale of PT Pacific Indomas Plastic Indonesia by the shareholder.

As mentioned above, PT Holdiko's work represented definitive progress – especially relative to other major PKPS.[933] Indeed, by end-2002, IBRA was already fast approaching the scheduled 2004 expiration of its mandate and many had become frustrated with the overall lack of progress on the asset disposal program, especially as most MSAA and MRNIA assets had only recently been transferred to holding companies. When asset sales had occurred there were clear indications of 'cherry picking' of the best assets.[934] The

Heidelberg, which was a 50/50 partner with Salim, was forced to buy 65% of Indocement against its wishes.

928 At least some of the purchasers of PT Holdiko assets were also required to affirm in writing that they would not sell the asset on to Salim 'or any affiliate' within two years of purchase. See Borsuk (2002) or Dieleman (2007: 109).

929 See BPK (2006b: Annex 2).

930 See BPK (2006b: Annex 2, 3) for a table outlining a plan for the sale of assets with a gross value of 18 trillion rupiah during 2000-2004.

931 See BPK (2006b: Annex 2, 4-5).

932 See BPK (2006b: Appendix 2, 4-5, 17-18).

933 See Hicks (2004: Table 5.8) for an overview of major asset sales during 1999-2002, suggesting most sales through end-2002 were assets from the Salim Group. Dieleman (2007: 97-98) includes IBRA employees' attributions of progress to Salim's cooperation.

934 See BPK (2006b: Annex 1, 6-7). Depending on one's reading of the data, cherry picking might have occurred at PT Holdiko; in 1999, assets pledged for 42 billion rupiah were sold off for 54 billion (a recovery rate of 128%). In 2000, assets pledged for 6,259 billion were sold for 5,715 trillion (recovery

initial procedure was for the holdco (and its advisors) to manage virtually all activities related to asset sales, including the determination of assets for sale, the selection of a sales mechanism, and the recommendation of potential winners and closing of the transactions. IBRA's responsibility was confined to determining a floor price and selecting a winner, and both were done on the basis of input from the holdco. As mentioned above, this was a peculiar structure, even if IBRA itself claimed the holdco structure was "solely for the refining of the legal administrative aspect" and did not in anyway diminish the "essence of IBRA's authority over the sale activities of these assets".[935] In practice, this research suggests that the nature and degree of IBRA's influence and control fluctuated depended on the specific PKPS, the ongoing political sensitivities or scrutiny, and the relative progress as the 2004 deadline approached.

Regrettably, the 2006 BPK audit only included detailed information on PT Holdiko's asset sales through end-2002, although its special Annex on PT Holdiko does mention a handful of assets sold during 2003.[936] No pricing details are given for these sales. The audit of the Salim MSAA reported total proceeds from the sale of PT Holdiko assets of nearly 18.6 trillion rupiah, or an additional 1.7 trillion rupiah from the gross asset sales during 1999-2002 (reported in Table 7.6, above). It is not explicit, however, if this difference is entirely from PT Holdiko's sales of assets or if some component of this is from the transfer to PT PPA of undisposed assets (which, as described above, presumably took place at book value).[937] Either way, the BPK's 2006 audit uses the 18.6 trillion rupiah figure to calculate, combined with the 100 billion rupiah in cash settlement and the 729.8 billion rupiah in payment against IBRA's additional claims, a 'recovery rate' of 36.8% for the Salim MSAA. As shown in Table 7.7, below, many of the sales of PT Holdiko's assets, although occurring at prices below the MSAA value, did garner prices that were widely in line with the expectations of IBRA and its advisors. In general, as mentioned elsewhere, the quality of assets seemed to deteriorate over time, presumably on account of the tendency to sell the most attractive assets first, combined with Indonesia's declining economic prospects.

rate 91%), and this fell further in 2001, with assets pledged for 24,740 billion sold for 10,383 billion (recovery rate 42%).

935 See BPK (2006b: Appendix 1, 6).

936 See BPK (2006b: Appendix 2, 6). These included Plywood New Co, Kota Bukti Indah Holdco, Bintan Property New Company, Sibatex Abadi, Ariobimo Estate Perkasa, and Bali Property New Co.

937 This seems most unlikely, as PT PPA sold a 5% stake in BCA in 2005 for over 2 trillion rupiah, such that if only the presumed book value of this one asset was included there would seemingly be no room for the remaining unsold PT Holdiko assets.

Table 7.7: Selected asset sales and advisor valuations, 2000-2002 (billions of rupiah)[938]

Year	Asset**	MSAA value	OADP midpoint	Advisors' valuation*	Gross Proceeds	Sale price to advisor's value (%)
2000	*Wisma BCA*	497	211	259	280	108
	Oleochemicals	3,002	1,520	1,654	1,180	71
	Indomilk and Indolakto	184	299	385	400	104
2001	*Indomiwon Citra Inti*	491	15	55	83	151
	Masquito Coil Group	1,348	N/A	535	571	107
	Palm Plantation	8,560	2,774	2,273	3,311	146
	Indocoal Group	2,271	31	333	526	158
	PT Indomarco Prismatama	497	294	103	162	157
	PT Indosiar Visual Mandiri	899	693	751***	1,239	165
	PT Indopoly S Industry & Yunan Kunlene	813	448	402	494	123
	PT Gumindo Perkasa Industry	117	38	14	18	129
	PT Poli Contindo Nusa	83	7	51	50	98
	PT Salim Rengo Containers	290	125	218	204	94
	Guandong Jiangmen ISN	516	326	576	357	62
	PT Sulfindo Adi Usaha	1,802	656	859	357	42
	Riau Industrial Projects	2,107	438	777	710	91
	PT Yakult Indonesia Persada	89	12	37.5	60	160
	PT Indomobil Sukses Int.	2,147	1,668	451	542	120
2002	*PT Berdikari Sari Utama*	1,040	475	394	204	52
	Sugar Group	2,110	330	596	1,290	216
	Metropolitan Kencana	796	922	743	660	89

* Advisors valuations usually presented as a range; in these cases the midpoint is used.
** *Italics* indicate sales at prices outside the advisor's range. As shown in the final column, however, most of these sales were above, rather than below, the range.
*** Price ranges dependent on type of sale; eventual sale featured 400 billion rupiah in debt restructuring and strategic sale of 49% of shares within a recommended valuation range of 716-785 billion rupiah.

938 See BPK (2006b: Appendix 2, 4; 9). Table 7.7 excludes assets sold at market price (for example, for listed shares) or without an advisors' valuation. Prices are rounded to the nearest billionth rupiah, and percentages to the nearest percent.

As discussed above, the asset settlement framework was used to compensate the government for the prohibited intra-group lending at BCA, and the bank's large BLBI obligations were actually, together with the recapitalisation scheme, converted into a 92% equity holding in the bank. This holding was sold progressively, Table 7.8 includes details. Initially, Indonesia committed to the IMF that it would begin selling down its stake from the first quarter of 1999, but this was delayed by interference from the legislature, which protested against the selling off of important national assets.[939] Legislative interference reputedly also hampered the prospective sale of a bundle of ex-Salim plantation companies to Malaysian interests.[940] Those who lived in the plantations also saw a chance to pursue the injustices of the Soeharto regime having seized their land for plantation development and therefore engaged legislators on their behalf. Some other observers, however, have claimed the BCA delay was simply the consequence of legislators seeking bribes for their approval of the deal.[941] Of course, legislative approval was not a legal requirement, but, as discussed above, IBRA Chairman Bambang Sudibyo began the practice and it was continued as criticism of the agency and speculation about buyers' identity and foreign purchasers tended to dominate public discourse about asset sales.[942]

Table 7.8: BCA Divestment Process, 2000-2005 (billions of rupiah)[943]

Year	Sale Method	Price/share (rupiah)	Stake (%)	Proceeds
2000	IPO	1,400	22.5	927
2001	Secondary Offering	900	10	530
2002	Strategic Sale	1,775	51	5,597
2004	Market Placement	3,800	1.44	335
2005*	Market Placement	3,550	5.02	2,194
			Total proceeds	9,583

* Occurred after IBRA had been wound up; carried out by PT PPA.

Confusingly, various sources disagree about the prices obtained from the divestments of the government's BCA shares versus their 'book value'. Initial sales garnered criticism for being too cheap compared to book value. Some IBRA employees attributed such disappointing IPO results to the political imperative of keeping Salim out of the bidding.[944] As a testament to the public and political pressures at play, the State Enterprises Minister stated publicly that Anthoni Salim gave his 'word' that the Group would not seek to repurchase shares in BCA.[945] The overview from the BPK's 2006 audit reported that the return through 2004 on the sale of 85% of BCA (that is, excluding the 5% stake sold in 2005 by PT PPA) reached nearly 7.4 trillion rupiah, versus a book value of 27.6 trillion

939 See Hicks (2004: 211, n82).
940 Ibid.: 251-253.
941 Ibid., citing comments from economist Ross McLeod. Pressure was not only brought with respect to asset sales to foreign interests. The legislature also scuttled a potential sale of the Astra conglomerate back to the Soeryadjaja family, which lost control of it in 1992 after the failure of its Bank Summa.
942 Ibid. According to PT Holdiko's President Director, about half of all Salim assets were sold to foreigners (Dieleman 2007: 109).
943 See BPK (2006g: 4).
944 Cited Dieleman (2007: 97).
945 Ibid.: 111.

rupiah (or 26.8% of book value).[946] The audit's later section focused specifically on divestment of government equity in private banks explained that the government sold 83.5% of the shares in the bank for 7.054 trillion rupiah (or, it explained, more than 103% of book value).[947] Based on this research, it is not possible to determine precisely where the apparent typo or mistake originates. During this period, however, IBRA also collected more than 357 billion rupiah in dividends from its BCA ownership.[948]

Ultimately, the 2002 sale of the controlling, 51% stake in the bank took place, per the IMF, at 1.1 times to book value.[949] Unsurprisingly, the sale generate frenzied intrigue about the identity of the buyers, including rumours that the consortium led by Farallon, a US investment vehicle, was a front for Salim. In reality, the key investors were the family behind the Djarum cigarette house, now cemented among the country's wealthiest business groups.[950] In total, more than 9.5 trillion rupiah was raised from the various BCA sales (including the 2005 sale from PT PPA), a considerable share of the approximately 15 trillion rupiah raised from all bank divestments. According to the IMF, all major sales of government bank holdings took place above book value.[951] IBRA also earned more than 4 trillion rupiah in dividends from its holdings. In total, if compared to the approximately 18 trillion rupiah in equity injections to these nationalised banks (half for Bank Permata and BII), the government obtained what most would regard as a reasonable return on its equity outlays under the financial sector rescue program.

IBRA and the Salim Group completed a PKPS Final Settlement Agreement (*Perjanjian Penyelesaian Akhir* – PPA) in February 2004 and an SKL was issued the following month.[952] These documents certified that the Salim Group had completed and was released from its 52.7 trillion rupiah obligation and was thereby entitled to the legal certainties under the settlement agreement. In return, as with other PKPS, the Salim Group released IBRA from any future legal actions, claims, or compensation related to the settlement agreement. The Group also provided a similar guarantee and indemnity to IBRA and all its leadership and staff, members and staff of the FSPC, and members of IBRA's Legal Assistance Team and Oversight Team. As discussed in the previous section, the SKL provided proof of completion in the context of Presidential Instruction No. 8/2002, but IBRA and the Salim Group also agreed that it did not override any obligations agreed to under the PPA.[953]

Summary and conclusions

This chapter detailed the MSAA used to resolve the Salim Group's obligation to the government resulting from the May 1998 takeover of BCA. Before the crisis, the Salim Group was among the New Order era's most prominent and successful conglomerates,

946 See BPK (2006a: 48). This is the so-called "*Laporan Pemeriksaan Gabungan*" on IBRA, or 'Joint Audit Report', which serves effectively as an executive summary of the more in-depth sections on the various functions carried out by IBRA.

947 See BPK (2006g: 61-62). This total also excluded the nearly 1.5% sold in a 2004 market placement for 335 billion rupiah (see Table 6.8).

948 Ibid.

949 See IMF (2004: 34).

950 See Table 4.2, above.

951 See IMF (op cit.). In addition to BCA, this claim covered Bank Niaga, Danamon, BII, and Lippo.

952 No. SKL-017/PKPS-BPPN/0304 on 11 March 2004.

953 The parties also agreed to revise or improve the SKL if necessary. See BPK (2006c: 57-58).

and BCA was, as it is today, Indonesia's largest private bank. Approximately 70% of BCA's loans were to affiliated entities, and the bank received the second-largest share of BLBI behind BDNI), worth 28 trillion rupiah. Unlike BDNI, BCA was not liquidated and was recapitalised such that the government converted its claims into equity in the bank.[954] After Chapter 6's examination of Sjamsul Nursalim's MSAA, this chapter demonstrated how yet another major PKPS functioned. It also contained data and detail about one of the largest – and most heavily politicised – tasks handled by IBRA. Due to size of the obligation (52 trillion rupiah, the largest of all PKPS) that arose from BCA, the execution of Salim's MSAA had important implications for IBRA's overall performance. Indeed, of the funds IBRA raised from PKPS, most came from the Salim MSAA.[955]

This chapter concluded that the Salim MSAA was the 'best practice' shareholder settlement in that it was executed most in line with the intended terms.[956] Therefore, the weaknesses or flaws exposed in the Salim MSAA reflected weaknesses of the overall approach, rather than the capacity of bank owners to manipulate or shirk their obligations. As discussed in Chapter 6, some other bank owners successfully delayed or ignored their commitments to IBRA for comparatively longer. This differs from some perspectives on IBRA's work with the Salim Group (both under the MSAA and through PT Holdiko) as part of a larger scheme to allow the Salim Group to stay in business, hand off some assets in return for legal certainty, and rebuild its business empire while shirking its full responsibility to the government.[957] Instead, the transfer of Salim assets took place much more rapidly and with a higher degree of cooperation than with other obligors. Furthermore, as documented in this chapter, there were several instances when shareholder and IBRA appeared to negotiate to resolve further claims or discrepancies that emerged during the course of what was a complex series of activities.

The sale of ex-Salim assets yielded a 'recovery rate' of nearly 37% calculated against the total obligation under the MSAA. In relative terms, this was better than most other major PKPS.[958] This outcome may have been a feature of the MSAA's relatively faster implementation. Indeed, data above shows how assets sold at the beginning of the process tended to provide stronger returns (see Table 7.6 and Table 7.7). Although comparison of the returns from asset sales versus their MSAA value is perhaps unedifying for a lay observer, the data presented above suggested that many sales occurred in line with the advisors' expected valuations (see Table 7.7).[959] As discussed in Chapter 6, IBRA was limited in the due diligence that was carried out on assets before they were handed over. Furthermore, as discussed elsewhere, these valuations were based on a 'normalised political and economic scenario', with the consequence that assets' pledged values were far higher than what IBRA expected to obtain from actual sales.

Finally, this chapter's close examination of the Salim MSAA demonstrates how IBRA's work was influenced and, in some cases, constrained by outside, often political, factors well

954 See Table 7.2.

955 See Table 6.5.

956 According to PT Holdiko CEO Scott Coffey, this was attributable to shareholder cooperation: "at least Salim delivered assets and didn't stand in the way of them being sold." (Borsuk and Chng 2014: 444).

957 See Borsuk and Chng (2014: 444).

958 See Table 6.5.

959 Asset values fluctuated wildly amid political and economic instability. For example, in mid 1997, Indofood's market capitalisation was US$4 billion. This fell to US$400 million after Soeharto's resignation and recovered to more than US$5 billion in 2010. (Borsuk and Chng 2014: 445).

beyond its control. Not only did IBRA take the apparently tactical decision of seeking outside political cover – from the legislature and also its oversight bodies – for actions that it technically possessed the power or responsibility to decide on its own, but it was also harried by these forces and at times prevented from moving forward with tasks like asset sales. For the Salim MSAA, such delays affected BCA and plantation assets. Furthermore, as was the case for other MSAAs, the Salim MSAA was not signed by the Attorney General as was the intended design of these agreements. As discussed in Chapter 6, this detail resulted in inadequate legal certainty and eventually prompted further government action to address questions about whether the PKPS 'release and discharge' clause was indeed valid. Like the Nursalim MSAA, the Salim Group therefore received in early-2004 an SKL under the terms of Inpres 8/2002. Unlike the Nursalim MSAA, however, there have never been further criminal investigations – or threats thereof – related to this agreement. These issues are discussed further in Chapter 8.

Chapter 8: Findings

This chapter applies the thesis's 'weak state' theoretical framework (Chapter 2) to its case study of IBRA and, in particular, its detailed examination of the two PKPS (Shareholder Settlement Agreement) entered into with Sjamsul Nursalim and the Salim Group (Chapters 6 and 7). The limitations of a PhD thesis preclude the inclusion of a truly comprehensive study of IBRA, but these detailed cases are useful for several reasons, including: discussing how PKPS functioned in practice; detailing IBRA activities that made up a large component of the total bailout cost; and, for BDNI, discussion of a specific case that continues to receive attention today. The PKPS program was not the most costly piece of the overall financial sector rescue package (as seen in Chapter 5, that was the issuance of recapitalisation bonds, of which two-thirds went to state-owned banks), but it is nevertheless an important topic because of the attention it continues to attract today, and the rich historical and institutional features that contributed to the state's approach.[960] The case study offers an applied example of how contests – often within the state itself – impede the effectiveness of the state. Following this, Chapter 9 revisits the thesis's conclusions, original findings, and its relationship to the broader literature outlined in Chapter 3.

The chapter's primary argument is that the asset settlement approach used to deal with the obligations resulting from IBRA's nationalisation of private banks during the crisis demonstrated characteristics of a weak state. Indeed, these means of state action were informal, personalised, and contested. Although IBRA was envisioned as an extraordinary agency with expansive theoretical powers, the reality was that it was highly constrained by the state within which it was situated. This was manifest in the repeated challenges to its specific authority, its inability to rely on the tools and powers notionally available to it, and, in response, the tendency to rely on other, often informal or ad hoc strategies in service of the objective of recovering public funds spent during the bailout. Much criticism of the financial rescue package – including of the commercial durability of the major Indonesian conglomerates that had created losses and engaged in seemingly illegal practices, as well as the overall cost to the public purse – tends to focus on IBRA as the source of the troubles. This study, however, describes how a contingent and complex series of features, theoretically conceptualised as 'the state', helps to explain such outcomes and reveals much about the logic of power in a given society, in this case, Indonesia.

This chapter is structured as follows. First, it offers a brief summary of the thesis's theoretical argument, with a specific focus on the features outlined in Chapter 2 as integral to a weak state. Next, it explains the specific focus on the PKPS that arose from two banks, BDNI and BCA. Then, it discusses the historical underpinnings of the crisis and inadequate response that led to IBRA's establishment and initial efforts (see Chapters 4 and 5). A key premise of the thesis's institutionalist approach is the importance of historical factors (and the inherent challenge of deploying strong state modalities within

960 Furthermore, as discussed in Chapter 2, a portion of the theoretical work on the state focuses on its relationship to private capital.

the framework of a state defined by personalised networks and rampant contestation of legitimacy). It is therefore worthwhile reflecting on the pre-crisis conditions and settings. In particular, the chapter notes the historical importance – even during the initial phase of the crisis – of the existing informal and opaque approaches to addressing insolvent banks.

Next, the chapter examines how legal deficiencies and political factors contributed to the definition of IBRA's responsibilities and the development of the tools with which it carried out its tasks. At the heart of these factors was the contested nature of state power in Indonesia, and the chapter shows how this created consequences for IBRA's work to settle the obligations of the owners of troubled banks that had violated prudential rules. This was among the most complex and high-profile aspects of the agency's work, and these factors had particular bearing for IBRA's eventual 'recovery rate' of state expenditures on the rescue. It also remains relevant today, as discussed above, having led to the recent corruption investigation, conviction, and unprecedented acquittal – the first-ever for the KPK across 15 years of work – of former IBRA Chairman Syafruddin Temenggung. Finally, the chapter closes with a summary of its key findings and conclusions.

Theoretical review

A key component of this thesis is the original 'weak state' theoretical approach constructed in Chapter 2. This multidisciplinary approach is focused on the 'means' of state action and engages with scholarship from sociology, history, economics, and political science.[961] The weak state framework helps draw out political economy conclusions about how contemporary contests over power and influence are related to specific historical and institutional features.

In the most basic way, states are important both because we all live in them, and because even states with disparate politics, history, or wealth levels still manage to deliver some form of the 'shared projects', sometimes framed as 'public goods', that the state is uniquely positioned to deliver. Such projects might include more tangible items, such as physical infrastructure or territorial defence, or norms like rule of law or property rights. For modern states, these shared projects require a functioning economy and state-society coordination, such that the state's capacities related to the definition and regulation of property rights, protection of rule of law, and ability to implement successful policies to concentrate and deploy capital are regarded as important to explaining relative success or failure.[962] Different scholars offer various explanations for divergences in state capacity, including, to name a few, geography, climate, religion, culture, social capital, political systems, colonialism, and technical challenges. However, this thesis focuses on the nature and coherence of how the state's organisations and actors carry out important tasks. As a matter of course, these strategies are tied to unique historical, economic, and political contexts. Such an approach frames the state as a causal factor that, dependent on its structure, historical antecedents, and relationships with non-state actors, can be analysed for meaningful observations about the root causes of social and economic phenomena.[963]

961 See Nelson (2006: 107-109) on the Weberian approach to studying state action.

962 See Evans (1995: 29-32).

963 See Skocpol (1985: 26-27) and Stepan (1978: xii) for literature relevant to my approach. Similarly, of post-*Reformasi* Indonesia, Klinken and Barker (2009: 1-2) observe, "states may portray themselves as

Extraordinary circumstances, such as crises, may foist onto the state complex undertakings like stabilising the economy or managing an insolvent financial sector. Effective states, even in particularly trying circumstances, function to identify, legitimise, and coordinate shared projects. Although all states are sites for competition, strong states have formal, impersonal institutions and bureaucratic and legal coherence that enables them to manage or blunt the contestation of power that arises from the definition and legitimisation of its 'shared projects', or what has been described as the "[implementation] of official goals, especially over the actual or potential opposition of powerful social groups".[964] Weak states, on the other hand, rely instead on informal, personalised, or illegible strategies and networks to implement these tasks. As a consequence, weak states tend to struggle to define and execute shared projects, and outcomes of state action are often negotiated and suboptimal. IBRA, in its idealised form, embodied an impersonal, bureaucratic, and legible 'strong state' approach to address the crisis and the issues that arose therein – albeit one largely imposed because of upheaval within the existing, pre-crisis political economy. However, this thesis aims to demonstrate that IBRA's work reflected the importance of state-centric factors, including the durability of contestation over legitimacy and power, and, as a result, functioned in a personalised and often illegible 'weak state' fashion.

The BDNI case

Chapters 6 and 7 offer practical illustrations of how PKPS functioned in practice, a subject notable not only because of its use of a novel, negotiated legal approach, but also because it exposed the fiercely contested nature of the state's efforts to pursue its chosen course of action. This is indicative of a weak state. As mentioned earlier, these contracts were used to frame an 'out of court settlement' that would allow ex-bank owners to trade assets transferred to the government for their 'release and discharge' from potential criminal charges. IBRA, in turn, would manage and dispose of these assets to recover state funds expended during the crisis.[965] When the sale of these assets yielded considerably less than most shareholders' obligations there was considerable criticism of the approach and of IBRA's performance in relation to holding these former bank owners to account. However, rather than being a means of full payment, the PKPS approach actually reflected what Indonesia's creditors and its senior officials concluded in mid-1998 was the best way to obtain assets from bank owners without having to pursue them in court. Bank owners, faced consequences, too, including loss of their banks and the handing over of large tracts of assets to the government – even though these assets were, in the wake of the crisis, not nearly enough to cover the majority of the losses incurred when resolving their banks' liabilities. Regardless of whether some groups might have succeeded in later requiring some assets, the PKPS process and consequent asset transfers would still have represented a costly disruption to their businesses.

Although envisioned as a powerful and extraordinary agency, IBRA in practice often relied on more informal tactics. So, as shown above, even before PKPS were concluded, the

generic and immensely powerful…but in reality they are embedded in their societies in historically contingent ways."

964 See Skocpol (1985: 9).

965 IBRA was also responsible for funding its own activities out of the proceeds of its asset sales, but far, far larger were its targeted contributions to the State Budget, detailed in the previous chapter.

agency's initial bank interventions were actually structured under contracts by which private bank owners 'requested' the agency take over supervision of their banks. Once the growing BLBI problem became apparent, bank owners were asked for personal guarantees of compliance with prudential regulations in return for continued use of the facility (these guarantees were the basis of the state's later claims on owners' assets). Later, after IBRA had seized these ailing banks,[966] the government's pressing need for funds, combined with a lack of confidence in the legal system, led to the use of the PKPS 'asset settlement' approach to obtain assets from bank owners who appeared responsible for banks' illegal actions. Despite the intention to provide IBRA with the power to seize – and, indeed, sell – the assets of owners of banks that required its intervention, PKPS were actually contracts mutually entered into by IBRA and the bank owners. Assets were handed over willingly (at least in the terms of the contract) and, in return, the government agreed to release the shareholder from any pending legal exposure. As discussed below, the state was actually unable to discipline its constituent parts to deliver on this commitment until much later, and, ultimately, it was achieved only through a considerably more informal, and contested, use of executive authority.

It is understandable why, from the perspective of fairness and justice, BDNI represented a particularly appalling abuse of the public interest. This was due to the sheer brazenness of the fraud, the scale of public funds deployed, the meagre recovery rate, and the clearly minor consequences for those most responsible. The seeming manipulation of the course of justice, evident when a member of the Nursalim family was exposed and convicted of bribing a state prosecutor, only further accentuated these factors.[967] Not only did BDNI have the largest unpaid BLBI, but the bank was flagrant in its disregard for the prudential regulations, with over 90% of its lending being (improperly) to related parties. Once IBRA declared BDNI a 'frozen bank', the negotiation and implementation of the Nursalim PKPS was, as shown in Chapter 6, difficult, complex, and subject to questionable behaviour on both sides. Assets were not handed over in a timely fashion and, in the meantime, they experienced a steep decline in value. Some, such as the PT Dipasena assets, were practically worthless and mired in a toxic commercial, environmental, and social situation. The eventual sale of all Nursalim's assets yielded a mere 11% of the shareholder's obligation.[968] Evidence suggests that different IBRA officials apparently provided Nursalim with conflicting advice regarding the status of the MSAA's closing.[969]

Regardless of more normative debates, it appears, from the contractual framework of the MSAA, that Nursalim did settle his obligations. The state's meagre return was a consequence of not just the shareholder's conduct but also the reality of the PKPS process and other constraints external to IBRA. Indeed, the state lacked a credible legal threat (even though it possessed adequate indications of criminal activity), while its urgent need for revenues forced it to rely on a mechanism to quickly obtain and sell assets.

---

966 It is worth emphasising once again, however, that although technically 'in control' of these banks, IBRA did not always have complete physical access to banks' premises or financial accounts. The agency also lacked control over bank assets, including the ability to pursue its debtors or seize assets belong to bank owners or bad debtors.

967 See Butt (2012: 40-41) and Chapter 6, above.

968 This recovery rate is calculated based on the actual value of PT PPA's 2007 sale of PT Dipasena (after IBRA was wound up), rather than the book value at the time the company passed to PT PPA (the value used in the calculation in 2006 BPK audit, which derives a higher 'recovery rate').

969 As discussed above, the BPK noted, in truly opaque language, that the agency's personnel did not provide Nursalim with adequate clarity on the matter. See BPK (2002: 44).

Although IBRA was intended to have the power to seize and sell assets of the owners of banks under its control, the legal articulation of these powers was delayed and implementing them was deemed to be too controversial and likely too slow, given probable debtor fight-back, both legal and otherwise. Further, despite the clear objective of obtaining assets to raise funds, continued contestation of the legitimacy of the PKPS approach undermined the government's position and encouraged even less cooperation. Ultimately, this uncertainty led to the further modification of the asset settlement approach, including through the issuance of further regulations and processes for certifying completion. As the corruption case against ex-IBRA Chairman Syafruddin Temenggung shows, these actions are still disputed and controversial today.

The BCA comparison

The BCA case, presented in Chapter 7, provided further perspective. As discussed above, the negotiation of the MSAA with the Salim Group was, like the BDNI case, a complex and challenging task. As the reader is already aware, the government's position in mid-1998 left much to be desired: it was strapped for cash, harried to deliver rapid results, and its extraordinary agency, which still lacked its full, intended suite of legal powers, was not able to carry out financial or legal due diligence on most of the assets it would then obtain through the PKPS program. IBRA's methods, largely consistent across these two examples, were a direct consequence of these issues. As with BDNI, among the most controversial aspects of the Salim MSAA was the fact that the shareholder obtained release from potential legal risks in return for assets eventually sold for a fraction of the total obligation.[970] Although one minister described this as 'theft',[971] the outcome was *ex ante* apparent once it was agreed, with the Ministry of Finance, that valuations would be based on a 'normalised political and economic scenario'. Although unfair and, arguably, morally distasteful given what it meant for the likely recovery of public funds, this was an understandable administrative decision.

Beyond the individual specifics of each case best explored in the preceding chapters, the BCA case did diverge in some ways from the BDNI case, including because it achieved a substantially higher 'recovery rate'. First, BCA was the most high-profile shareholder settlement, a consequence of the Salim Group's size, prominence, and close association with the Soeharto family. Second, the implementation of the Salim MSAA was the fastest of all PKPS, and so not only were there actual assets under IBRA's control, but they were already being sold.[972] Likely for these reasons, the Salim Group was the subject of considerable scrutiny from media, state officials, and politicians. At times, this attention prompted interventions or obstructions more pronounced than in the BDNI case, and at times that was to the detriment of IBRA's capacity to work. This included regular back-and-forth about the value of assets, legislative blocks on the sale of certain assets, and the introduction of some new rules – some applied to Salim only – related to the sale of assets. On several occasions, Salim handed over substantial tracts of further assets.[973]

970 As shown in Table 6.5, these outcomes were consistent across most major PKPS.

971 See Dieleman (2007: 95-96).

972 In some cases, as mentioned above, specific asset sales were accelerated to meet budgetary demands. See Borsuk and Chng (2014: 440-442) on the Indomobil sale.

973 See Chapter 7, including Table 7.4. See also Dieleman (2007: 95-96) on these negotiations and the involvement of senior political figures.

In one respect, such a pugilistic and exacting posture towards the Salim MSAA – with senior politicians calling for audits or the addition of assets – allowed public figures to tap into popular discontent about the political economy of the New Order and the parlous post-crisis economic and fiscal situation. Because the Salim MSAA was the largest such agreement, this position was rational from the standpoint of maximising the recovery of public funds (and assuming the finite capacity of IBRA and the government for such tasks). And, indeed, the government did successfully obtain further Salim assets, even if it could only do so, per the contract, through mutual negotiation. This 'back-and-forth' dynamic was very fluid and driven by a variety of factors, including threats and rough tactics adopted by some senior officials. In this sense, the high levels of combative and political rhetoric from senior officials might well have been beneficial to the state cause, even if they also exposed key features of the weak state.

It is plausible to conclude that such heightened scrutiny led to the more assiduous implementation of the Salim MSAA. This is consistent with the overall conclusion, reported by the BPK and other studies, that the Salim MSAA was the PKPS implemented most in line with the intended framework. This conclusion is also borne out in data presented in the previous chapter. Assets were obtained more rapidly from the Salim Group, and IBRA moved more quickly to set up the holding company PT Holdiko, which in turn began selling assets. These were deliverables captured in Indonesia's commitments to the IMF,[974] and, as mentioned above, there was pressure from international creditors to move even faster. In fact, by around 2002, PT Holdiko had already concluded substantial asset sales before most other smaller, albeit still major, MSAA obligors had even completed their asset transfers. Earlier sales were associated with more favourable results, as assets tended to return a higher share of their value (both in terms of pledged and forecast sale value) when sold more quickly.[975] The contrast between BCA and BDNI was noticeable, and the 'recovery rate' from the Salim MSAA (nearly 37%) was not only higher than that of BDNI (over 17%, using the calculation from the 2006 BPK audit), but it also stood out among most major PKPS.[976] Finally, the audit materials produced on IBRA's work related to the Salim Group were also among the most in-depth materials – relative to other PKPS – accessed for this research. They included the presence of a stand-alone audit of PT Holdiko as an Annex to the 2006 BPK audit of asset sales.[977]

Another plausible explanation was the specific nature of Anthoni Salim's dealings with IBRA, which, although exacting and tough, were also comparatively cooperative and professional. Several sources identified this as an important, if not the most important, factor in explaining the relatively more successful implementation of the Salim MSAA.[978] Although it is not useful to speculate too much on what might have motivated this approach, it could have been a feature of the palpable aggression evident during the Jakarta riots towards the Salim family and its businesses, especially if, as is reported in several studies, Anthoni Salim immediately sought to begin the rescue and reconstruction

974 For example, Indonesia had committed to start selling down its stake in BCA by the first quarter of 1999, although it failed to achieve this.
975 See, in particular, Tables 6.6 and 6.7 for trends in asset sales over time.
976 See Table 6.5 on major MSAA and MRNIA by recovery rates.
977 See BPK (2006b).
978 Based on several interviews, including with a senior IBRA official (October 2019).

of the family's business empire.[979] Furthermore, although IBRA was not able, as described in Chapter 7, to lay hands on the Group's purportedly most prized assets (for example, Indofood, in which it obtained only a 2.5% stake), it did obtain a slate of companies that, under more normal 'political and economic' conditions, would have likely produced revenues much closer to their pledged value. This was evident in the returns from relatively simple sales of stakes in companies to the Salim Group's joint venture partners, as well as the fact that many assets were sold for prices consistent with the valuations recommended by IBRA's financial advisors and formalised in the agency's asset disposal plan.[980] In essence, the critique of IBRA for not obtaining 'better' assets – or more effectively dismembering the Salim corporate empire – projects a normative assessment onto the agency that does not reflect its actual mandate and responsibilities.

Either way, the conclusion that the Salim MSAA was 'best practice' in relative terms is an intriguing finding given the thesis's theoretical framework. Indeed, the high-profile nature of the Salim Group and the size of its obligation meant its MSAA attracted greater attention and became a priority. From the state's perspective, this was a positive outcome if it led to higher revenues than would have otherwise been obtained. Compared to other agreements, such as for BDNI, this case shows how informal, non-transparent, and political pressure did not, detract from such an outcome, and, indeed, probably had a salubrious effect. This conclusion cannot, however, rule out that the Indonesian government may have been, in essence, lucky that the combination of Anthoni Salim's behaviour and the quality of his family's businesses produced a relatively more successful series of outcomes than for other settlement agreements (such as BDNI). There were also rumours of other factors, including Anthoni Salim's supposed relationship with certain IBRA chairs,[981] or the detail that of the five conglomerate owners first slated for release and discharge letters (SKLs), three were linked to the Salim Group, including industrialist Ibrahim Risjad and Soeharto's cousin Sudwikatmono. Though such factors cannot be categorically dismissed, it should not undermine the validity of other proximate explanations described above.

Finally, largely absent from most studies of this topic is the issue of the Soeharto family's direct business interests in the Salim business empire. This is pertinent to this case, as Siti Hardiyanti Rukmana ('Tutut Soeharto') and Siti Hediati Hariyadi ('Titiek Soeharto') owned a collective 30% of BCA. The shareholder settlements were structured, however, in all but a handful of cases to deal with only a single, so-called 'responsible shareholder' of a bank.[982] The end of the 2002 BPK PKPS audit includes a section labelled "Other Items", which contains a passage that notes, "SH and SHH (Cendana family) are not subject to settlement obligations as ex-shareholders of BCA".[983] The audit noted that despite their

979 Discussed in both Dieleman (2007) and Borsuk and Chng (2014).

980 See Table 7.7.

981 A claim reported, without identifying the chairman, in Dieleman (2007: 95-96). During this research, some speculated this was Glenn Yusuf, but he also once said of BCA's "gross breaching" of lending limits that "the Salims created a truly remarkable money-gathering machine through BCA. But they also broke the law." (Borsuk and Chng 2014: 403).

982 In practice this did not, however, seem to function as a hard and fast rule. Some PKPS were broken across different business groups (for example, Bank Umum Negara, BUN, was split into an MSAA for Muhammad Hasan, worth 5.3 trillion, and an MRNIA for fellow owner Kaharuddin Ongko, worth 8.3 trillion). Although there was one responsible shareholder for the Salim MSAA, it was signed by three members of the Salim family.

983 See BPK (2002: 33). Author's translation.

considerable ownership stakes, the pair were not required to participate in the MSAA process because when it was signed in September 1998 there were no clear legal provisions or general understandings about how, if at all, such shareholders needed to participate in PKPS. There was not, the audit claimed, any evidence that either party possessed any operational control over the bank. Although the questions of how and why certain shareholders – but not all – were required, amid the political and economic turmoil of 1998, to participate in shareholder settlements would undoubtedly be worth of further study, my cursory investigation suggests there are unlikely to be much data with which to do so. If nothing else, this curious note showed how, despite a state that tended towards a highly developed hard law and similarly strict public rhetoric,[984] it was still possible given the political economy of crisis-era Indonesia for there to be simply no law on an issue as seemingly serious as commercial responsibility for a multibillion dollar bank.

Historical antecedents

One of the thesis's important themes is that 'the state' is the product of specific historical antecedents and institutional traditions.[985] Therefore, and as suggested immediately above, it is important to keep in mind that pre-crisis Indonesia was largely without strong and regimented bureaucratic or legal institutions of the kind relevant to the management of any systemic financial sector disruption, let alone one on par with the AFC. As discussed in Chapter 4, banks represented almost the entire financial sector, and following wide-ranging deregulation in the late-1980s, there was a proliferation of conglomerate-controlled banks. Meaningful supervision and management of the sector was the preserve of only the most senior officials; even interest rate decisions were set in cabinet. No deposit insurance scheme existed, even though several bank failures occurred after deregulation – a testimony to the widespread flouting of prudential rules and the impotence of bank supervisors. Instead, troubled banks were either rescued or permitted to fail on the basis of their political connections. The bailouts that did occur were organised informally among shareholders or with other politically-connected banks. These settings reflected the political economy features of the time, when business was suffused with politics and commercial opportunity was usually the result of cooperation with the Soeharto family.

Therefore, when the initial effects of the crisis hit in mid-1997, policymakers used the existing model to deal with troubled banks. The initial response therefore featured an absence of transparency, the maintenance of strict political control, the provision, via BLBI, of support to select conglomerates, and scant efforts to seriously strengthen bank supervision or the enforcement of prudential rules. As discussed in Chapter 3, the consequence of combination of the scale of the crisis and the brittleness of the late New Order political settlement (including, for example, insecurities about presidential succession and decision-making) undermined this response and made it more difficult for regime to overcome growing doubt among both domestic elites and international

984 See Lindsey (2006: 27-29).

985 As explained in Chapter 2, it is worth reemphasising that this thesis uses 'institutions' to signal the normative systems – formal or informal conventions, norms, or organisational procedures – responsible for organising societies. They are deeply related to organisation, but also include symbols, moral templates, and cultural phenomena that contribute to socially-constructed systems. See Hall and Taylor (1996: 950-955) on such 'sociological' approaches.

investors. Although BLBI was probably still unknown outside the most elite circles, it was clear by the end of 1997 that the initial IMF lending package, and the limited, unpublicised slate of bank closures, had failed to slow the spread of bank runs and the continued depreciation of the rupiah. As the crisis continued, and the damage spread to larger, structural banks previously regarded as relatively safe, Indonesia's IMF-led creditors gained leverage and demanded increasingly stringent policies that were, in light of the regime's dependence on the dispensation of commercial indulgences, also increasingly politically unworkable. This source of policy input and political instability led to IBRA's establishment, and these dynamics, as discussed in the next section, had important consequences for how the agency was established and began its work.

Incomplete law and ongoing political contests

The acceleration of the crisis occurred not only amid a crisis of confidence in Indonesia's financial system and currency, but also a loss of confidence in the Soeharto regime's ability to successfully manage and survive the crisis. As discussed in Chapter 4, the vast majority of bank insolvencies were not brought on by irresponsible foreign exchange activities or the banks' indebtedness, but were instead the combined effect of steep, sudden rupiah depreciation and Indonesian corporates' high levels of offshore, foreign-denominated debt. Due to very extensive related-party lending (itself a feature of the impotence of pre-crisis banking supervision), this debt quickly contaminated numerous banks otherwise seen as relatively healthy.

In return for another lending package announced in January 1998, Indonesia's creditors sought a more expansive slate of conditions, including far wider economic and regulatory reforms. In the financial sector, this included revision of the 1992 Banking Law to not only include clauses on IBRA's extraordinary powers but also, controversially, throw the sector open to foreign ownership. At the time, power over ongoing financial sector interventions was stripped out of the cabinet-level Bank Indonesia and handed to IBRA. Thereafter, the agency would serve as the main organiser of bank rescue efforts as well as the subsequent restructuring and recovery of state funds expended during this process. Chapter 4 contains a more complete account of this; most relevant here is to observe how this process was conducted hastily and on the most meagre legal basis. For such a large and complex task, the concept was far from organic and had been imposed on a reluctant political leadership faced with a rapidly narrowing slate of options.

From its beginnings, IBRA was limited in powers actually enshrined in law, and had to wait for the eventual passage or issuance of statutes and regulations for it to be able to exercise its intended powers.[986] Therefore, although by mid-1998 the agency was responsible for taking over a bank's liabilities (that is, guaranteeing its deposits), it was not yet able to manage or dispose of bank assets, let alone cancel contracts or seize debtors' assets. Even though IBRA took over troubled banks and, in some cases, began steps to close them, the agency still lacked unfettered access to or control over their operations and their financial accounts. At times, the ownership and/or senior management of some banks cooperated only selectively with IBRA personnel inserted into their premises. In some cases, IBRA

986 The passage of the Banking Law by July 1998 was an IMF condition, but it was not passed until October. The main implementing regulation for IBRA, Government Regulation No. 17/1999, was not issued until early-1999.

decided it best to de-escalate conflicts by pulling back staff from banks that were legally under its control. In negotiating PKPS with bank owners, IBRA was often unable to obtain complete financial accounts or carry out financial and legal due diligence on the assets pledged under these agreements.

In part, these problems were a consequence of the political and economic chaos then present in Indonesia, but they were also a consequence of the delay in IBRA being given its intended powers. In practice (as the state of the Indonesian economy worsened over time), delay not only pushed down the value of assets pledged under PKPS, but also damaged IBRA's efforts to restructure its large portfolio of credit assets because the quality of the loan collateral declined, as did the overall economic prospects – and hence the ability to repay – of the borrowers.[987] Political machinations, such as the legislature's reputed willingness to delay the Banking Law revision to assist commercial interests, might also have created further delays. Similarly, considering IBRA's power to effectively adjudicate the debts of many of the country's largest conglomerates, there was pitched competition to control the agency, and IBRA experienced volatile leadership and staffing turnover, including of three chairman in its first year of operations. Organisational rivalry between the Ministry of Finance and Bank Indonesia also weighed on the agency's operations, especially once the central bank progressively withdrew personnel during the initial phase of IBRA's operations.

Even once these issues were addressed, IBRA's actions were still subject to a host of external constraints that were often opaque and difficult to fully assess or articulate. According to one knowledgable source,[988] the volatility in IBRA's leadership only settled under Syafruddin Temenggung, the first IBRA chair to have the political support necessary to carry out the agency's work. This support was a function of his relationships with President Megawati Soekarnoputri and State Enterprise Minister Laksamana Sukardi (a senior member of Megawati's political party), upon whom he prevailed to 'allow him to work'. Even when IBRA had the legal tools in theory, the source emphasised that political support was still needed for the agency to take action. Other external constraints were *de facto* – for example, the necessity of generating prompt and adequate fiscal receipts for the State Budget – and some were *de jure* – such as its political oversight through the FSPC.[989] Some examples crossed over. So, for example, the State Budget, rather than including the *gross* expected outlay of the rescue package, instead included the expected *net* cost, that is, including the proceeds of asset sales. This decision not only meant the agency was under pressure to generate quick returns, but, perversely, it upped the pressure to ensure it did not sell assets at prices that could be deemed too cheap. Yet, at other times, for example, the accelerated 2001 sale of Indomobil, budgetary pressures on IBRA overwhelmed both

987 As discussed earlier, audits showed that credit assets sold at the beginning of its term delivered a higher recovery rate than those sold during the latter years of its term (BPK 2006e and BPK 2006f). This could, however, simply reflect a natural work progression that would see IBRA first work through credit assets that were simpler to resolve and generally of higher quality before moving onto others (see also Muhammad Syahrial, Interview, January 2017).

988 Interview, June 2017.

989 In addition to funding the State Budget, IBRA also had the more mundane concern of generating revenues to fund its own operations.

the desire to hold out for a better price and maintain the overall rigour and integrity of the asset sales process. PT Holdiko's CEO recalled the adjusted process resulted in "less transparency...[and] less price. We laid all this out [to the IBRA Chairman] and said 'what do you want to do?' And they said sell it.".[990]

Similarly, as discussed above, even when oversight from the FSPC or legislature was not a formal requirement for certain actions, the agency rapidly adopted the practice of seeking political cover for most decisions.[991] IBRA and the FSPC disagreed at times, and defying the FSPC could have consequences. In June 2001, for instance, Coordinating Economics Minister Rizal Ramli, then also the head of the FSPC, replaced Finance Minister Prijadi Praptosuhardjo amid reports that IBRA was refusing to implement FSPC recommendations related to debt deals some viewed as too lenient.[992] At practically the same time, the cabinet revised the FSPC's relationship to IBRA from one of 'decision making' to 'policy recommendation'. Although it is not possible to determine precisely what happened, the important conclusion is that the shifting of personnel and institutional relationships was volatile, opaque, and subject to complex outside forces. Similar, the shifting of cabinet oversight for IBRA from Finance to the State Enterprises Ministry also subjected it to more direct political control. Finance ministers, unlike their SOE counterparts, are usually selected for their professional credentials and usually without overt party affiliations. State Enterprises Minister Laksamana Sukardi, on the other hand, hailed from Megawati's political party and presided over the acceleration, under Syafruddin Temenggung, of the pace and scale of asset sales. Given the theoretical features of the weak state, it is notable how a shift to more politicised oversight of IBRA coincided with seemingly greater stability in IBRA's leadership and an overall improvement in the execution of these tasks.[993]

Similarly, the unpromising and slow implementation of the early, major PKPS also, as discussed in Chapters 6 and 7, provoked heavy criticism of the government. Subpar implementation also entailed fiscal consequences, as the government was reliant on IBRA revenues for a considerable portion of the annual budget. Therefore, amid the broader political instability of the Wahid administration, this anger and concern also manifested in changeable and confusing policies from the FSPC. So, in 2000, as it became apparent that assets from major PKPS were probably worth considerably less than their valuations, members of the government probably felt strong pressure to hit back on obligors. MSAA holders were a target because, unlike MRNIA holders, their contracts did not include personal guarantees against any difference between their obligation and the value of their assets.[994] The confusion was made worse because in 1999 IBRA had, as discussed in Chapter 7, provided some obligors with written acknowledgements of their settlements. From a shareholder's perspective, such documents proved that they had met their

990 See Borsuk and Chng (2014: 440-442).

991 This included: approvals from the FSPC, which included representatives from across cabinet, for routine actions; and, approvals from the legislature in the case of certain asset sales.

992 See Hicks (2004: 232-233). Ramli was in the position for less than two months before he was replaced by Boediono.

993 This period also coincided with the issuance of Presidential Instruction No. 8/2002 and a dramatic increase in the rate of PKPS obligors' compliance.

994 See Chapter 6. Some problems with these early MSAAs were administrative or technical in nature, such as the contracts not adequately dealing with foreign exchange losses or the broader macroeconomic conditions, but others were the result of shareholders' misrepresentations or lack of cooperation. See Maroef (2010: 148-151, n389).

obligations. Therefore, the concurrent discussion that IBRA might use clauses in the contracts to 'claw back' further value violated their agreements.[995] The FSPC sought legal opinions on the signed MSAAs, and, based on the advice, decided unilaterally in November 2000 to halt MSAA implementation and demand obligors provide further assets and personal guarantees.[996] MSAA holders universally rejected this demand, and the PKPS program became essentially defunct for a period (the FSPC also became largely inactive). This incident is evocative of the senior IBRA official's comments, cited earlier, about the FSPC as a source of "grandstanding" without any useful, practical suggestions.[997] Eventually, once Megawati replaced President Wahid in July 2001, she sought to reactivate the FSPC, which in December 2001 issued a decree to revive the PKPS program.[998] Finally, in 2002, it was decided that PKPS would be accepted on an 'as is' basis.[999]

Although much of IBRA's work was largely technical, implementation invariably intersected with delicate and longstanding political issues, such as the position of Chinese-Indonesian conglomerates within the economy.[1000] For example, senior officials with influence – sometimes merely informal – over IBRA and its work at times engaged in public polemics indicative of their hostility to certain large conglomerates. Although there were certainly valid reasons to be sceptical and vigilant about IBRA's dealings with large businesses – in part simply because of the rampant competition to control the agency and influence its decisions – this posturing also manifested in external interference or threats that at times prevented the agency from moving forward in its tasks.[1001] So, while IBRA had its own set of procedures and strategies, the reality, especially during the initial phases of its work, was that its senior decision makers also had to consider the public reaction and potential political blowback from its activities or negotiations with obligors.[1002] These were political tasks, and they engendered inevitable tension with what a senior IBRA official described as the agency's otherwise "very operational" character.[1003] Obviously such considerations extended well beyond its formal objectives and technical functions, and it is unsurprising that one informant, then close to IBRA and the FSPC, noted that an IBRA Chairman could not carry out the agency's responsibilities without political support.[1004]

Often a political settlement around a given issue was not achieved through formal or transparent institutions, but was instead the consequence of informal power dynamics at senior levels of the government. So, for example, in September 1998, Attorney General Andi M Ghalib refused at the final moment to sign off on MSAA contracts negotiated between IBRA and the former owners of large BLBI recipient banks. Presumably, the

995 Ibid.
996 FSPC Decision No. 03/K/KKSK/11/2000.
997 Interview, October 2019.
998 FSPC Decision No. 02/K/KKSK/12/2001.
999 FSPC Decision No. 02/K/KKSK/03/2002.
1000 As discussed in Chapter 3, this issue had long been a prominent matter of political debate.
1001 The competition for influence over IBRA is a premise of Jacqueline Hicks's exploration of state-business relations in crisis-era Indonesia. She argues that state control of conglomerates' assets and debts meant their survival depended on state decisions (Hicks 2004: 285).
1002 This also undermined IBRA's recovery efforts. Former IBRA official Muhammad Syahrial (Interview, January 2017) explained that because the agency was prevented from selling assets to previous owners, it was harder to get a good price. Instead, the public wanted punishment to be meted out. This position was motivated by social, not economic, considerations external to the agency and its work.
1003 Interview, October 2019.
1004 Interview, June 2017.

decision reflected concern about the potential political fallout or a lack of faith in the agreements (or both). This apparent change of tactics was completely contrary to the intended design of the agreements, which, had, in part, been pursued based on the AGO's recommendation.[1005] The sudden reversal also introduced a considerable (and unforeseen) dilemma because the contracts were designed to release and discharge obligors from future legal action in return for assets with equivalent valuations to their shareholders' obligations to the government.[1006] Later, as legal authorities continued to prepare or advance cases against ex-bank owners who had concluded some form of PKPS with IBRA, the agency found that the rate of cooperation, unsurprisingly, plummeted. Eventually, President Megawati obtained cabinet support to issue Presidential Instruction No. 8/2002 authorising the IBRA Chairman to provide a further debt clearance certificate (SKL – *Surat Keterangan Lunas*) to bank owners deemed by IBRA and the FSPC to have fulfilled their PKPS commitments.[1007] This ad hoc and relatively informal approach, based on extraordinary executive fiat rather than the key laws and regulations intended to guide IBRA's work, demonstrated how infighting and contestation within the state apparatus occurred until overruled from the highest political level.

Playing a poor hand

The PKPS approach was an inescapable consequence of the inherent weakness of the Indonesian government's position in mid-1998. This was the result of two separate, albeit intertwined, features, namely the government's limited leverage over bank owners and its need for quick fiscal resources.[1008] Selection of the PKPS (or asset settlement) approach was a consequence of these conditions. Furthermore, as discussed in Chapters 4 and 5, the policy decision – made before IBRA existed – to introduce a blanket guarantee on all bank liabilities meant the government would bear the cost of paying out the depositors of any banks that were closed, even though these losses were actually the result of bank owners' illegal or improper activities.[1009] Such was the scale of the fraud and losses in the financial sector that the government found itself the owner of a large swathe of private banks (in addition to its already considerable ownership of several major state banks).[1010] Although

1005 The Attorney General participated in the 21 August 1998 intra-government meeting that decided the shareholder settlement approach should use an out-of-court asset settlement method. The AGO then received a power of attorney from the Finance Ministry to coordinate meetings with 14 controlling shareholders of IBRA banks. On 23 September, the Attorney General submitted a report to President Habibie recommending the PKPS approach as was basically adopted. See Maroef (2010: 134).

1006 This was the case for MSAA, but MRNIA were used when shareholders could not produce assets and cash of an equivalent value.

1007 SKLs, which also required the approval of the FSPC and the State Enterprise Minister, instructed law enforcement agencies to cease any investigations into the requisite obligor, per the terms under Presidential Instruction No. 8/2002.

1008 The 'out of control' judiciary (McLeod 2005: 374), and the assumption the government would struggle to obtain favourable results in court, were an important factor limiting the government's potential leverage over bank owners.

1009 This statement does not intend to challenge this policy decision, and in fact, the issuance of a blanket guarantee was common practice for addressing crises similar to Indonesia's. Indeed, it could be possible that if a blanket guarantee was declared earlier (or if Indonesia had some depositor insurance scheme) confidence in the country's banks might not have deteriorated so rapidly and catastrophically.

1010 Furthermore, as banks undergoing restructuring through IBRA transferred their non-performing loans at zero cost, the agency also became the effective owner of a large swathe of private sector debt.

there was little doubt the losses were considerably higher because of the disastrous administration of the BLBI facility, and that many bank owners had engaged in extensive fraud, it was also deemed unrealistic to pursue them through Indonesia's famously corrupt and low-quality legal system.

Not only did these factors recommend the asset settlement approach, but they also meant that the time for negotiation was highly limited. As described above, the legal structure of the takeover of private banks was more patchwork than anything else, a consequence of which was that IBRA had limited access to banks that were notionally under its control. When combined with intense time pressure, this meant that IBRA had only limited financial data on the banks at the heart of the agreements and negligible or limited due diligence on the assets to be included therein. The intra-government taskforce assigned in August 1998 to determine the best approach for dealing with BLBI banks then under IBRA's control was given a mere month to negotiate with bank owners and arrive at an approach. This timeline was written into the government's commitments to the IMF,[1011] and, as a result, the September 1998 signings of major PKPS (including both the BCA and BDNI MSAAs, which, as discussed in Chapters 6 and 7, occurred on 21 September) was largely ceremonial and intended to meet the target already provided to the IMF.[1012] Indeed, the Attorney General's Office's report to the President that detailed the content of negotiations with the shareholders of major BLBI banks and recommended the PKPS approach was actually issued two days after these signings, on 23 September.

Asset settlement was, in essence, a highly negotiated and informal approach reliant on the mutual desire of the parties to reach a quick deal: bank owners looking for relief from potentially serious legal obligations; and a cash-poor government trying to satisfy its creditors and grab assets before the economy worsened further. On paper, IBRA would possess the ability to seize and dispose of assets from the owners of banks under its management, but the realisation of such powers was subject to legislative delay, with the relevant regulations not available until well into 1999. By mid, 1998, IBRA was already under pressure, including from creditors, to reach agreements with bank owners within a matter of months. Therefore, absent necessary implementing regulations under the as-yet-unrevised Banking Law, the decision to pursue PKPS, rather than refer bank owners for prosecutions which, if successful, would then in theory allow the government to seize their assets, was itself a pragmatic acceptance of the weakness of the state's position.

Therefore, while bank owners faced potential legal risks if the government pursued them, IBRA, the notional owner of these banks, and in theoretical possession of claims against their owners, was nonetheless reliant on the cooperation of these same owners to meet its budgetary targets. Missing from IBRA's suite of notional powers was a prosecutorial function, and it therefore had to refer non-compliant debtors or obligors to law enforcement for criminal prosecution. The selection of PKPS reflected these imperatives, and it shows how the legal tool used to resolve the obligations and legal issue that arose from bank takeovers was in fact selected based on considerations that were *not* the specific legal or financial issues in a given case. This demonstrates the considerable informality of a major IBRA function, applied across the board to a large cohort of private bank owners. Progress, unsurprisingly, was also a challenge, and many bank owners simply refused,

1011 In the 11 September 1998 Memorandum of Economic and Financial Policy.

1012 Maroef (2010: 139) makes a similar observation, noting that virtually all agreements were subject to several subsequent revisions, some as quickly as under two months.

initially, to show up or sign off on the agreements. The government, which by embracing the PKPS program had broadcast its desire to avoid the courts, then lacked a credible legal threat to compel compliance. Indeed, only an external force, in the form of the IMF threatening to withhold Indonesia's next loan disbursement unless IBRA made progress, brought the various parties together and produced completed PKPS.[1013]

Once signed, PKPS contracts still required mutual cooperation to carry out their terms. From IBRA's position, these agreements were still subject to other challenges and disruptions, many simply practical difficulties associated with an ad hoc state entity taking over a slew of unrelated businesses and assets. Others, however, were related to the political issues described above, especially those pertaining to the overall anti-conglomerate sentiment. A key external issue became clear almost immediately, once politicians and the public began to understand that many, if not all, PKPS assets were actually worth less than their value under the contracts. Fraud probably played a role, but likely more relevant was the ongoing deterioration of the Indonesian economy, not to mention the conditions imposed on the sale of assets, including the exclusion of former owners and ad hoc political issues with foreign bidders in certain sectors.[1014] There were plenty of calls at the time for IBRA to reopen individual PKPS and demand more assets, but the issue was forwarded to a higher political power, and the FSPC ruled PKPS would be accepted on an 'as is' basis. Another issue was the ownership of holding companies. Although initially IBRA intended to own these vehicles, some shareholders rejected this and an alternative approach was needed. This simply created further delays as more complex legal and financial structures were worked out. As always, when time passed, most assets became less valuable.

The prohibition on the sale of assets (both credit and investment, which together, as shown in Table 5.10, produced nearly two-thirds of the agency's revenues) to their previous owners until after they had fulfilled their debts represented prioritisation of a politically-mediated decision – that the state's post-crisis actions should punish debtors by redistributing their assets – over IBRA's actual, official purpose of recovering state funds.[1015] Several sources used vividly described the clear popular desire for IBRA to work as an instrument of 'retaliation', 'retribution', and punishment.[1016] According to one senior IBRA official, the issue became a "political football, with politicians calling for a harder squeeze on bank lenders and IBRA trying to conclude deals that were viable" and allow it to convince the market and its counterparts that these deals would stand up.[1017] As a result, IBRA staff spent considerable time and resources to verify that potential buyers were not connected to previous owners. According to the former head of AMC,[1018] although this was possible to achieve when only a few assets were sold at one time, it became much more difficult once IBRA began implementing asset sales programs, for example, to sell off 3,000 NPLs at once. IBRA sought extensive outside legal advice, which concluded that it would be impossible to check the ultimate ownership of every bidder, so the best the agency could do was require as part of the tender process that bidders signed an

1013 See Maroef (2010: 176, n421).
1014 As was the case with the sale of BCA and Salim Group plantations assets (see Chapter 7).
1015 As mentioned in Chapter 7, for the Salim Group this was a blanket ban.
1016 Senior IBRA official (Interview, October 2019) and Muhammad Syahrial (Interview, January 2017), who argued it was 'harder to get a good price because you couldn't sell it back to the same people who owned it before. Indonesians do not like this; they want there to be punishment'.
1017 Senior IBRA official (Interview, October 2019).
1018 Muhammad Syahrial (Interview, January 2017).

agreement attesting that they were not related to the previous owner. If IBRA found out otherwise before the transaction reached financial close, it had the power to cancel any bid, even of the winner. Once the ownership had been transferred, however, the new owner could legally do as they wished, and IBRA had no recourse.

Predictably, governance of the bidding process changed over time depending on leadership at the agency. Initially, good governance and transparency were major points of emphasis for IBRA. Tenders for assets were carried out such that bidders had to submit sealed bids in person that were then opened in front of all bidders and representatives of the IMF and the World Bank.[1019] Once I Putu Gde Ary Suta took over as chairman, however, this process changed. Now, bids were submitted, according to a senior IBRA official,[1020] via "a fax machine adjacent the chairman's office" and with less stringent adherence to the previous rules on deadlines or bid requirements. As a result, "the auction process became very non-transparent, and it was widely acknowledged in the financial community that was a point when governance at IBRA deteriorated very sharply."[1021] Therefore, a major weakness in the PKPS process could be essentially a personnel issue.[1022]

According to some, IBRA 'turned a blind eye' to debtors' use of offshore vehicles or other fronts to buy back their bad debts, usually at a fraction of face value.[1023] As part of the restructuring process the agency also at times cut deals that were, in the estimation of some, too generous to debtors. On the other hand, interviewees who worked at IBRA denied that such practices occurred with the knowledge or approval of the agency. Given the difficulties with the pace of asset sales and the limited legal tools available, it was impossible for IBRA staff to completely ascertain the identities of all buyers. Furthermore, once an asset was sold, nothing could stop the new owner from selling it on to anyone they liked, including the past owners. In the case of bad debts, some of the buyers sought to collect on their claims, and this prompted a number of legal cases and further disputes.[1024] From a standpoint of pure economic efficiency, this was a questionable objective and use of finite resources. The former IMF Indonesia representative argued:

> "in an economically rational sense, if a previous owner is the highest bidder, then the government is maximising the return on the public's assets. But, in the social sense, there was a feeling that something was inappropriate about this…whenever IBRA sold an asset some would speculate about if and how did the former owner get the asset that they had previously owned, [but] if the government wants to maximise the return, then they would sell to the highest bidder independently of whether it is the former owner or not."[1025]

The 'asset settlement' approach also exposed the government to a variety of external risks and broader economic trends. The example discussed in Chapter 6 of PT Dipasena (an asset included under BDNI's MSAA) demonstrated this, with the state's claim against a delinquent bank owner being transformed into production receivables against credit

1019 Senior IBRA official (Interview, October 2019) and David Nellor (Interview, January 2017).
1020 Interview, October 2019
1021 Ibid.
1022 They added (ibid.), "it does not matter how elegant of a system you design, if you appoint crooks, then you are going to get a crooked result."
1023 Kevin O'Rourke (Email, July 2016). He said Lehman Brothers received inquiries about serving as an intermediary in such 'debt buy-back' deals.
1024 Muhammad Syahrial (Interview, January 2017).
1025 David Nellor (Interview, January 2017).

previously extended to smallholder shrimp farmers attached to a distressed mega-project mired in a bitter, and, at times, violent labour dispute. Even a basic description of the situation becomes rapidly and exceedingly arcane. This conclusion remains valid even absent any opinion on the veracity of the allegations of fraud or corruption related to the PT Dipasena case discussed above.[1026] Indeed, the PKPS approach, as shown in Chapter 6 and 7, was a complex process that required the parties – government and former bank owner – to cooperate to identify, value, and transfer commercial assets for the government to assume managerial control (if not outright ownership), and then later sell.

Even without the concurrent economic and political crisis, the process of calculating and asserting the government's claims over nationalised private banks would be a complex process. As Chapters 6 and 7 demonstrate, however, the process was considerably more fraught and illegible. As already mentioned, IBRA lacked complete or accurate information about, or even access to, the assets in question. IBRA's counterparts also had a strong incentive for non-transparency in their dealings with the agency, especially if the value of their assets might have deteriorated on account of the economic crisis. In the case of BDNI, IBRA and the shareholder had to carry out subsequent negotiations and the transfer of further assets and property to settle disagreement about the actual total cash received by the agency. IBRA had to negotiate in good faith and it did not, as discussed in Chapter 7, have the power to pick and choose the assets it most wanted without bank owners' agreement. Indeed, as discussed above, a key criticism of the Salim Group's MSAA was that but a handful of the Group's choicest assets (for example, Indofood) could have covered the quantum of its obligation, whereas the MSAA process eventually yielded a mixed portfolio of over 100 less attractive assets, including shares in corporate subsidiaries as well as receivables among those companies.[1027] This took place even though, as mentioned, the Salim MSAA was probably already closest to a model PKPS in terms of the level of cooperation between shareholder and government. The Salim Group was also the country's largest conglomerate; for other obligors there were simply fewer potential assets from which to draw.

In other cases, such as BDNI, IBRA had a less constructive working relationship with the shareholder. So, although the shareholders were required to transfer assets to settle their obligation to IBRA, this was often subject to lengthy delays. Many owners of IBRA banks, including BDNI, were reticent to hand over the assets to IBRA, and management sometimes remained loyal to the owners. There were also disputes about whether closing had indeed occurred per Nursalim's MSAA. As the BPK concluded in its 2006 audit, there was seeming reluctance on IBRA's side to confirm that the MSAAs did indeed reach closing due to concerns about the deterioration of the value of PT Dipasena. IBRA officials provided conflicting, informal, advice to BDNI about the status of its PKPS and whether settlement had occurred.[1028] This was important, as settlement was necessary for

1026 For example, as discussed in Chapter 6, some claim that BDNI owner Sjamsul Nursalim misrepresented or distorted the value of the assets. Indeed, IBRA Chairman Syafruddin Temenggung's acceptance of the valuation underpinned the later corruption case against him.

1027 As mentioned in Chapter 7, Salim claimed it was prevented from offering the assets to IBRA because of subsidiaries' debt covenants that would be triggered, and require immediate repayment in full, if someone other than Salim owned the companies. IBRA officials were sceptical about, but unable to definitively verify, these claims.

1028 Some bank owners, including Nursalim, received letters, inaccurately cited as 'release and discharge' certificates, from IBRA. This was both incorrect as well as confusing, especially as law enforcement continued to investigate and prepare cases against bank owners – even those who had, in IBRA's

the contract's 'release and discharge' clause to be valid. Even this was, at best, only partially legible and that underscored how reliant the government was on shareholders' cooperation, as PKPS were, in essence, simply contracts for the settlement and transfer of assets, with the actual transfer of assets – in practice often subject to considerable delays – only occurring some time after settlement was achieved. Confusion about what the contract's 'release and discharge' clauses actually provided persisted for some time, especially as law enforcement continued to investigate and prepare criminal charges against some bank owners who, in IBRA's estimation, were meeting their PKPS obligations. As mentioned above, this had a negative effect on many former bank owners' willingness to continue cooperating with IBRA, and it eventually precipitated the issuance of Presidential Instruction No. 8/2002 as a means of providing further legal certainty. However, as the next section shows, this decision did not bring the issue to a close.

Contested afterlife

The criminalisation of IBRA Chairman Syafruddin Temenggung, followed in mid-2019 by his unprecedented acquittal on appeal to the Supreme Court, underscores enduring dissatisfaction with the recovery of public funds following the crisis and the high level of continued contestation of the agency and the PKPS program. As discussed above, this aspect of IBRA's work was highly influenced by the specific historical, economic, and institutional factors that this study conceptualises as indicative of a 'weak state'. IBRA was an extraordinary, ad hoc, and externally-imposed, approach for dealing with the functions and responsibilities arising from spiralling problems in the country's banking system. As a matter of course, this also included the budgetary and economic issues that arose from the scale of the intervention into the sector. From a capacity standpoint, IBRA was, as discussed above, a mostly professional and technical organisation.[1029] As the weak state framework suggests, however, what was crucially missing were the state-centred institutional traditions necessary for the agency to function as intended. Instead, as discussed above, the way that IBRA set about its tasks was influenced and often altered on account of intra-state contests and the historically ingrained tendency of economic interventions to be a subject of political competition. Ultimately, the state, in the form of IBRA, relied on the typical strategies of a weak state, including negotiated outcomes and informal, only partially legible, approvals and power structures to legitimise its actions.

As discussed above, the Indonesian government faced a largely insolvent banking system, a low-quality legal system, and an agency that had operated for over a year on the basis of sketchy, interim law and regulations. IBRA was responsible for banks' liabilities, but it had limited power over their assets (or those of the bank owners who caused the losses that necessitated the agency's interventions in the first place). The fiscal situation was highly constrained, with the legislature and creditors insistent that IBRA generate immediate revenues.[1030] The State Budget, however, only contained IBRA's net budget contributions,

estimation, fulfilled their contractual obligations. Later, this was formalised when Presidential Instruction No. 8/2002 tasked IBRA with issuing SKLs.

1029 See David Nellor (Interview, January 2017) and Senior Official (Interview, June 2017).

1030 As noted by Muhammad Syahrial (Interview, January 2017), Indonesia's creditors probably exacerbated the government's fiscal constraint by demanding the end of the well-established practice of maintaining off-budget transactions, thereby forcing the government to carry the bailout cost on its accounts. With little offshore appetite for Indonesian sovereign debt, the government had few

rather than the gross outlay required to stabilise the financial system, a further demonstration of the tendency towards illegibility at work. Based on its assessment of its position,[1031] the government deliberately sought an out-of-court mechanism, via the PKPS framework, to trade former bank owners' release from their putative criminal risks for anything of value. Furthermore, as these contracts were negotiated and finalised very rapidly during August and September 1998, it is worth noting that they were a logical extension of the approach already in use.[1032] Indeed, in early-1998, IBRA, then operating only under Presidential Decree No. 34/1998, codified its initial waves of private bank interventions by persuading bank owners to request, and later accept, escalating IBRA control of their premises and staff.[1033] This was hardly, as illustrated in Chapters 5 and 6, a controlled process or, even, a predictable one.[1034]

The PKPS approach required not only cooperation between IBRA and its contractual counterparts, but also with fellow state agencies. As a study of PKPS concluded, "to be effective...[the PKPS approach] necessitated policy consistency and legal certainty in every aspect in a period when the socio-political condition in Indonesia was unable to provide the necessary policy consistency and legal certainty."[1035] Previously, banks continued obtaining BLBI on the basis of banks owners' personal guarantees, including even within the contracts that facilitated IBRA's initial interventions. These agreements would later form the basis for the government's claim against the bank's controlling shareholders as personally liable for violations of prudential regulations and abuse of BLBI funds at their banks (and thereby personally liable also for the cost of addressing them). Therefore, some prosecutions were initiated against bank owners over their misuse of BLBI funds, but IBRA and law enforcement officials disagreed about the merits of applying selective or blanket prosecutions.[1036] IBRA needed cooperative shareholders to execute its tasks and was, understandably, in favour of selective prosecutions as a means of targeting uncooperative parties or those who had failed to live up to their commitments. Crucially, however, IBRA lacked prosecutorial powers and had limited suasion over law enforcement agencies. The Attorney General's Office, on the other hand, continued to pursue or prepare action against banks' shareholders and managers without regard for their cooperation with IBRA. In response, some cooperative shareholders stopped working with IBRA, to the understandable detriment of the overall objective of restructuring the corporate assets received by the agency and, most importantly, the recovery of state funds already deployed to rescue their banks.

Amid this confusion, PKPS compliance declined sharply. Other factors were probably at play, even if only partially in view. For example, Andi M Ghalib, Attorney General in 1998

---

potential sources of cash other than IBRA asset sales (and the privatisation of state enterprises).

1031 This evaluation was also a whole-of-government exercise. The 21 August 1998 decision to begin fleshing out the best approach for the PKPS program was resolved at a meeting attended by the Bank Indonesia Governor, Minister of Finance, Attorney General, Head of the National Police, BPK Chairman, and the IBRA Chairman. Maroef (2010: 134-136) includes a summary.

1032 As mentioned in Chapter 6, in 1998, creditors sought rapid turnaround on the conclusion of PKPS and the subsequent initiation of asset sales, such that waiting would have created further complications.

1033 Government Regulation No. 17/1999 would not be issued until March 1999. See Maroef (2010: 31-32) on the development of the contracts across the various interventions from January to April 1998.

1034 Indeed, some actions prompted physical standoffs with staff and in some cases IBRA withdrew personnel to de-escalate conflicts.

1035 See Maroef (2010: 345).

1036 Ibid.

and 1999 (who had refused, at the final moment, to sign major PKPS), had to resign after it was found that bank accounts owned by Ghalib and his wife had received billions of rupiah from two tycoons, Prajogo Pangestu and Thee Ning King, both then under investigation by the AGO.[1037] Pangestu was not in the PKPS program, but in late-2000, Thee would conclude two APU contracts, the smaller post-MSAA/MRNIA class of agreements that essentially represented a final cash settlement between government and shareholder, in relation to his ownership in Bank Baja and Bank Danahutama.[1038] Eventually, in response to this uncertainty and lack of cooperation, Inpres No. 8/2002 assigned IBRA to determine which PKPS shareholders had fulfilled their contractual obligations.[1039] IBRA was to consult with the FSPC and issue cooperative shareholders with SKLs that released them from future legal exposure. This provided the impetus for most shareholders to resume cooperation with IBRA, and, after the Inpres, IBRA began forwarding non-cooperative obligors for investigation. The rate of compliance then increased dramatically, from less than 8% to nearly 77%.[1040] That being said, the need to rely on presidential fiat to impose cohesion on the state apparatus and enforce a legal release that had already been granted under a valid contract is highly suggestive of weak state modalities, in particular fierce intra-state contestation of IBRA's authority.

At the time, some cabinet members, such as then-Head of the State Development Agency (Bappenas) Kwik Kian Gie,[1041] flatly rejected the use of a Presidential Instruction – rather than a higher level legal instrument that would have required wider consultation among government organisations – as a valid way to override criminal liability. The then Attorney General, Marzuki Darusman, claimed his office, which in continuing its prosecution of BLBI-related cases had also discarded the 'release and discharge' clauses of the PKPS contracts, never recognised the validity of SKLs based on a mere Presidential Instruction as legally adequate for forcing the closure of criminal investigations.[1042] In 2003, a group of prominent NGO figures, including representatives from Indonesia Corruption Watch and the influential Indonesian Legal Aid Foundation (YLBH), sued to test the validity of this argument, but the Supreme Court rejected the filing on the basis that presidential instructions were not laws and therefore could not be tested.[1043] The Inpres occupies an uncertain position within the hierarchy of Indonesian laws, and it has always ranked below the established hierarchy of legal instruments. It is law, but at the lowest level.[1044] Today,

1037 Ghalib claimed the accounts and donations were related to his role as head of the Indonesian wrestling federation. Public furore prompted his removal, but the case was never investigated further. President Habibie initially attempted to replace Ghalib with Feisal Tanjung, but after further public criticism relented and appointed Ghalib's mild-mannered deputy Ismudjoko. See O'Rourke (2002: 244-245) and Majalah Tempo (1999).

1038 Thee's total JKPS was 74 billion rupiah and 18 billion rupiah, respectively. He received SKLs in early-2004 for both APUs. See BPK (2006c: 11, 97).

1039 Setting aside the instruction to law enforcement agencies to cease relevant investigations and prosecutions for those shareholders to whom an SKL had been issued, this was, not fundamentally different from the 'release and discharge' that already existed in the PKPS contract. It should be noted, however, that Ghalib had refused to sign the MSAAs in his capacity as Attorney General despite the concurrent plan for him to do so (and the AGO's involvement in coordinating the negotiations and recommending the PKPS program).

1040 See Maroef (2010: 186-189), including for background on non-cooperative obligors.

1041 See Manan (2007a).

1042 Ibid. Further, as mentioned in Chapter 6, the release and discharge clause rested on contestable legal ground, as there existed no legal provisions for the cancellation of criminal charges simply due to a civil settlement. See Maroef (2010: 214).

1043 See Manan (2007b).

1044 See Lindsey and Butt (2018: 35-37, 52).

Law No. 12/2011 on Lawmaking simply omits the Inpres from its legal hierarchy (as did its predecessors Law No. 10/2004, MRS Decision No. III/2000, and MPRS Decision No. XX/1966). Prominent Indonesian legal scholars Tim Lindsey and Simon Butt concluded "the relative authority of these types of presidential instruments – if they have any real legal force at all – remains unclear".[1045]

What can be concluded is that other actors, be they members of cabinet or the legislature, could have easily and definitively overruled the Inpres with a regulation or statute if they had wished to do so. That they did not suggests much about the actual power of President Megawati's extraordinary and ad hoc intervention. And yet, as the continued smouldering of the Temenggung case, and its eventual revival demonstrated, these actions had had limited legal and institutional legitimacy. As a result, the PKPS program could (and, briefly, was) thrown open again for contestation. This suggests that the disputes nearly twenty years ago were not simply temporary features of the fluid and unstable political situation in Indonesia during the years immediate after the crisis. Instead, they are indicative of durable tensions about the nature of state power and the necessity of political intermediation to validate state activities that would otherwise be built upon adequate law or regulation. Crucially, this case criminalised an individual despite the existence of a valid, albeit contested, legal instrument authorising the action in question.

The case also embodies the post-IBRA demands for politicians and law enforcers to mete out some form of punishment for IBRA's actions, but without upending or attacking the political settlement that gave rise to this workaround. Again, this is indicative of the informal and personalised features of the weak state. So, for example, when investigations into IBRA's handling of major BLBI recipient banks were revived in 2007 and 2008, investigators were instructed to 'localise' their examination of potential corruption solely to IBRA's issuance of an SKL. Such an instruction would, at least in terms of its intent, rule out criminal liability related to: administration and abuse of the BLBI scheme; deficiencies or issues related to the selection of an out-of-court, asset settlement scheme (that is, through the PKPS framework); the lack of legal and policy certainty related to the government's non-fulfilment of its legal obligations under the PKPS contracts; the issuance of Presidential Instruction No. 8/2002 (including its legal use to compel law enforcers to set aside criminal liabilities); and the approval of the FSPC and State Enterprises Minister necessary before an SKL was issued. Absent any compelling evidence about Temenggung having issued the SKL in return for a form of gratification or advantage, to charge him with corruption for the reasons discussed earlier seems to disregard the series of decisions and contingencies upon which SKLs were based. Such a misunderstanding of these factors is indicative of the weak state's function in practice.

This discussion cannot (and does not intend to) categorically rule out the existence of corruption related to IBRA's work examined in this thesis. Instead, it intends to draw attention to how the agency's handling of the BDNI was consistent with the government's chosen framework and not (at least not on a *prima facie* basis) particularly indicative of corruption related to Temenggung's issuance as IBRA Chairman of an SKL to former BDNI owner Sjamsul Nursalim. To emphasise, the BPK's 2006 audit also concluded that this SKL was issued in accordance with the terms of the Inpres and with the approval of

1045 Ibid.: 52.

the FSPC and State Enterprises Minister.[1046] For sure, as demonstrated in the previous chapter, the BDNI 'recovery rate' was particularly low, and there were a spate of irregularities and difficulties related to negotiation, closure, and implementation of Nursalim's MSAA.[1047] Similarly, it is not impossible that Nursalim knowingly included an overvalued PT Dipasena – including the smallholder shrimp farming loan assets – under the MSAA, either by altering the value of the loans or simply knowing that these credit receivables were distressed and unlikely to be recovered for anything approaching their book value.[1048] Although a definitive conclusion about the shrimp farmer loans is not, in my view, available, the inclusion under the MSAA of such an unusual 'asset' reflects the inherent weakness of IBRA's position. It also reflects the various complexities inherent in the process, such as the inability to carry out due diligence on the assets and the pressure on IBRA to settle shareholders' obligations quickly to obtain badly needed funds (and, also, in reflection of the agency's lacking of the promised legal powers necessary to seize and sell shareholders' assets).

Summary and conclusions

The purpose of this chapter was to analyse the thesis's empirical findings in the context of its weak state framework. As discussed in Chapter 1 (and elsewhere), IBRA has been subject to widespread criticism for what some regard as its poor recovery of state funds, both in its time as well as over more than a decade since its closure. Evidence presented in this thesis suggests these criticisms are misplaced. I argue that the agency's work, as a 'means' of state action, should be regarded as consequence of the weak state within which it was situated. IBRA was introduced during the final months of the Soeharto regime, and the agency struggled mightily against the longstanding contested and informal nature of power and legitimacy in Indonesia. Although IBRA's tenure coincided with undeniable economic and political instability in Indonesia, there was, as discussed in Chapter 3, clear historical precedent for contests over economic management being central to the exercise of power in the system. Furthermore, as shown in Chapter 4, many features of IBRA's establishment, and the manner in which it went about implementing its mandate, had clear antecedents in New Order-era banking supervision.

IBRA was conceived with extraordinary powers, and eventually provided with them, but, as shown above, the agency usually had to carry out its tasks using negotiated, informal, strategies reliant on the exertion of external and only partially legible power. Broader economic and commercial realities also undermined the agency's position and rendered its tasks even more complex. In this context, IBRA's quantitative performance, discussed in Chapter 5, perhaps appears more acceptable. Either way, controversy over IBRA's dealings

1046 Some claimed the BDNI approval divided the FSPC. Similarly, others have noted how State Enterprises Minister Laksmana Sukardi was politically loyal to President Megawati (Senior official, Interview, June 2017), but this is little more than hearsay about supposed political motivations.

1047 This statement also sets aside the clear indications of fraud related to the channelling of BLBI funds out of BDNI. As mentioned in Chapter 6, one investigation found more than 95% of BLBI funds flowed to related parties.

1048 Several claims were made about the farmer loans. These include that Gadjah Tunggal Group transferred the whole of its foreign debts to the PT Dipasena plasma farmers (seemingly implausible), that the loans were USD-denominated so their rupiah value surged when the currency depreciated, and that the assets were handed over as nominal recoverable despite the understanding that they were unrecoverable. See Chapter 6.

with former bank owners has continued to rage even today, most evident in the corruption conviction of former IBRA Chairman Syafruddin Temenggung, and then his unprecedented acquittal. More than just a timely reminder of an episode that has faded into historical obscurity, examination of IBRA also demonstrates how the state's authority to define and legitimise economic shared projects remains fiercely contested. As discussed in Chapter 3, this is a longstanding historical feature of power in Indonesia.

Because IBRA is a polarising topic, the thesis mostly aims to set aside normative inquiries. However, this conclusion will offer some comments about potential critiques or questions about the propriety or wisdom of IBRA's actions. Conceptually, it was certainly logical – especially on account of Indonesia's lack of an adequate existing legal or institutional framework for managing troubled banks – to implement, and manage the aftermath of, the financial sector rescue through a for-purpose super-agency that could, in theory, cut across the existing, and inadequate, bureaucratic organisations and law enforcement agencies. This certainly appealed to Indonesia's creditors, and IBRA, with their assistance, made particular efforts to implement professionalism and transparency in its work. In this way, IBRA was created as an alien agency inserted into the domestic political economy at a time of spiralling economic and political instability. The approach was a definite departure from the existing – albeit inadequate – pre-crisis paradigm of providing favoured banks with liquidity or arranging bailouts through informal networks that encompassed the regime's key commercial partnership without dramatically altering the almost absent power of bank supervisors to exact compliance or act without the direction of the president. There was no historical precedent or existing legal basis for an agency that was freestanding, self-funded, and independent (at least notionally) but also imbued with the power to seize and dispose of debtors assets.[1049]

Indonesia's IMF commitments included aggressive and probably overly ambitious timelines for passage of the law and regulations relevant to IBRA's work. These were not met, meaning the agency operated for over a year before the passage of the relevant government regulation. In the context of the weak state, this saw the agency set about its tasks with even more ad hoc and negotiated approaches than envisioned. IBRA therefore became very dependent on external political processes over which it and its promoters – including domestic officials and its cohort of creditors – possessed very limited practical influence. Although creditors' threats of withholding of lending overcame at least one impasse, the core conclusion is that IBRA's function and powers were highly dependent on such extraordinary interventions to overcome external political opposition. Of course, there are valid arguments that proximate officials, for example Attorney General Marzuki Darusman, Coordinating Economics Minister Kwik Kian Gie, or Coordinating Economics Minister and Minister of Finance Rizal Ramli, were acting against what they regarded as an unacceptable or even criminal abuse of the state in the course of resolving the outstanding obligations of major creditors. The thesis does not intend to challenge the reality, demonstrated in the case studies above, that some major Indonesian conglomerates – many of which almost certainly committed fraud and embezzlement in their of BLBI during the crisis – provided the Indonesian government with assets later sold for considerably less than their owners' obligations.

1049 As mentioned in Chapter 5, the FSAC was established to make recommendations to the president, but it was soon restructured to become the FSPC (a necessity, as several sources pointed out), which exerted far greater control over the agency and its operations. IBRA's leadership also decided to consult or seek approval even when not required, such as consulting the legislature on major asset sales.

Instead, what is challenged is that the Indonesian state had the requisite strength – in the form of bureaucratic structure, formal institutions, and favourable political settlements – necessary for IBRA to function effectively and in line with its mandate. Empirically, this simply did not occur, and, instead, IBRA's activities and its performance were, not surprisingly, the consequences of compromise, workarounds, and on-the-fly adjustments. IBRA was clearly politically toxic for senior officials up to even the president – not the least when it negotiated with owners of large domestic conglomerates. As a result, even though the agency had no real alternative,[1050] it was severely constrained in its ability to follow-through on its tasks, absent cooperation and support from other state actors or organisations. The execution of the PKPS program showed how IBRA's pursuit of its mandate generated friction and fierce contestation, even from within the state apparatus. Ultimately, even after valid contracts had been concluded between the government and its obligors, different arms of the state continued to work at cross-purposes, and it was necessary for the government to provide further, extraordinary political cover as an attempt to overcome the uncertainty.[1051] In effect, this required the leveraging of power against only partially transparent political considerations, and IBRA still suffers from a degree of disputed legitimacy today (as evidenced by the Temenggung case).

This thesis's findings also show how the Indonesian government's crisis-era position became more tenuous due to features largely beyond its control, including ongoing economic conditions and the inevitable power imbalance between state and private capital. Due to the continued deterioration of Indonesia's economic situation during IBRA's tenure, most assets would have lost value irrespective of any action that could have been taken. The presence of such broader economic, not to mention social, disruptions then underway in Indonesia also meant IBRA, as a consequence of it taking over such a large share of the private sector, was exposed to this reality. In the case of PT Dipasena, this meant the state was exposured to not only the inevitable commercial issues that arose due to the deteriorating economic situation, but also a host of other issues, including labour disputes and environmental concerns. As discussed above, much of PT Dipasena's book value was in the form of credit receivables to smallholder farmers, even though these problems and the rupiah's depreciation meant these loans were unlikely to be worth anything approaching their notional value. As explained in Chapter 2, as modern economies have become larger and more complex the challenges for state power have also increased. While not strictly attributes of a weak state, these outside factors exerted particular influence over the PKPS approach.

Indeed, the PKPS approach reflected the government's need for quick fiscal returns and its concomitant concerns about the reliability of the legal system. Although such an approach might appear, on paper, relatively straightforward in terms of calculating a shareholder's obligation and then receiving assets sufficient to cover that value, in practice the process was highly complex and only partially legible at best. As PT Dipasena shows, it would have been virtually impossible for any state actor to grasp the full complexities of

1050 This was especially true given the desire to avoid the legal system and obtain cash as quickly as possible.

1051 It is worth reemphasising comments from well-placed sources about what was, at the time, as IBRA's "larger future", that is, the importance of safeguarding its credibility for the larger task of negotiating and restructuring its holdings of credit assets. As a senior IBRA official noted (Interview, October 2019), "it was very crucial for IBRA's negotiating credibility that whatever deal we struck, stands."

the respective situations in Lampung and South Sumatra. For the Indonesian government, its ability to recover the cost of rescuing BDNI was unfortunately completely intertwined with these complexities. Although this was probably a particularly egregious – certainly notorious – case, it is still emblematic of the dilemma of a weak state that, to execute a task, confronts a situation for which the sheer challenge of legibility – that is, the incorporation of 'real world' facts into its bureaucratic grid – would have been a particular challenge. In this way, IBRA, as the custodian of the government's claims, had to manage a plan that required taking over and managing hundreds of disparate private firms. From an organisational perspective, this mandate demanded flexibility and regular compromises with shareholder counterparts. As these contracts were based on mutual cooperation, the former shareholders retained considerable influence – formal and informal – over the process, including both through their control over the pace of implementation as well as their continuing relationships with management and overall familiarity with the businesses.

Perhaps unsurprisingly, IBRA has been subject to extensive criticism, both then and today, due to the appearance that many wealthy conglomerates (most exposed during the crisis as having violated lending rules and then drained public funds out of their banks to their offshore companies) were short-changing the government on their obligations. Indeed, as shown above,[1052] none of the largest PKPS settlements achieved recovery rates above 50%, and several were well below this level. Despite this apparent absence of justice, however, it was mistaken to expect that following such a catastrophic economic disruption (during which real GDP in 1998 alone contracted by 13%), assets could be quickly resold at or near their book value – not least via a process that excluded former owners from the process. Rather than prompting action, the loss of value led to further uncertainty and recriminations. As the World Bank noted in 2000, asset sales were slowed on account of "the Government's reluctance to recognise the loss of value that will necessarily occur".[1053] In short, as this chapter has argued, the project of organising a mechanism to resolve the financial crisis – a task that only the state could truly manage, even given its near absence of relevant institutions – was never truly 'shared' as a legitimate state action. Instead, it was highly contested, not least because, as discussed further in the conclusion, the state shouldered the resulting cost.

1052 See Table 6.5.

1053 Cited Matsumoto (2007: n17). Having such a large share of private assets in state hands also created a serious dilemma for real economy (at one point, IBRA controlled an estimated 70% of private sector assets). Returning these assets to the private sector was necessary for economic recovery.

Chapter 9: Conclusion

This thesis uses original empirical research to describe power in Indonesia, including where it resides and what it enables. To use a basic definition, such 'political economy' questions are interested in how the interaction of markets and governance influence a society's distribution of wealth and resources.[1054] In its case studies, the thesis shows the informal, sometimes chaotic, contested, and unpredictable, ways states carry out tasks despite the notional existence of formal legal and regulatory tools meant for these purposes. At times, the explanation for such phenomena might seem elementary: rent-seeking exists, or vested interests organise against policies, or political issues foil bureaucratic process, or the scale and complexity of a problem overwhelms the limited technical capacity on hand. All states are, to a degree, sites for this competition and change and, as Scott suggested, all states rely on 'shorthand' - some forms more descriptive than others – to interpret and integrate what they control.[1055] Even the most fastidiously designed tools require actors and organisations to at times reevaluate, adjust, and devise novel strategies for carrying out their tasks. These issues – and in particular how they relate to the analytical framework of a weak state – are, as discussed in Chapter 2, a matter of degree. As argued there, for weak states, the methods of informal and negotiated approaches are standard operating procedure and indicative of a deeper logic of power.

Policymaking in Indonesia often appears conflicted and chaotic, and explanations such as corruption or capacity constraints are often deployed to explain shortcomings or failures. To be sure, no single theory explains all outcomes, but cases such as the one investigated in this thesis clearly demonstrate how a lack of technical capacity is not always a decisive factor. Accounts focused on corruption or vested interests are often unsatisfying, not to mention impractical, because the operable aspects are largely inaccessible to researchers. These theories are also often less interested in institutional features (defined as the formal and informal rules upon which society is organised) or the detailed understanding of legal and regulatory instruments.

The weak state framework helps address these challenges by offering a coherent way of examining relevant legal, political, and administrative factors that exert influence over the way actors and organisations interact to carry out specified tasks. Although building largely on existing works, the thesis brings a new vocabulary and application of these concepts to examining a policy consequence of the Asian Financial Crisis.[1056] Therefore, according to the definition proposed in Chapter 2, when weak states set out to accomplish their objectives, they tend to do so through methods and techniques that are informal, negotiated, and ad hoc. As all states tend to portray themselves as powerful and effective, the weak state's actions often contrast directly with the legal and administrative means

1054 See Clark (1988: 18) for this standard and accessible definition of political economy.

1055 See Scott (1998: 2-24).

1056 Thomas Pepinsky's (2009: 264-265) comparative, institutionalist account of the crisis in Indonesia and Malaysia emphasises how different powers coalitions lead to divergent policy responses. In Indonesia, the inability to mount an effective policy response without fracturing the coalition led to the regime's downfall. Although an important account, this study focused mostly on the regime's policy efforts during the crisis, with relatively limited discussion of IBRA.

supposedly at its disposal. Charting the institutional and historical features of these outcomes are indicative of a given system's logic of power. In a weak state, therefore, power does not reside, for example, in the state or law, but instead in informal and only partially legible elite-level political settlements.

During the Asian Financial Crisis, the Indonesian Bank Restructuring Agency (IBRA) was established to handle the expanding intervention into the country's growing number of insolvent banks. IBRA was handed a slate of official responsibilities, including the closure or recapitalisation of insolvent banks, the administration of a blanket bank deposit guarantee, and the sale of assets to recover public funds spent on the rescue. Prior to the crisis, Indonesia's banking supervision was largely toothless and politically subservient, with troubled banks rescued on the basis of their connections to the New Order power constellation. Economic policy in general was subordinate to high-level power contests and reflected the careful balancing of the needs of the Soeharto patronage system, the commercial wants of prominent business groups, and international financial organisations. Although not Indonesian per se, this latter cohort played a clear role in the New Order system, and within the context of the weak state, these organisations and their domestic partners took part in policy debates and were part of the contemporary political economy.

Following the Soeharto government's initial efforts in 1997 to address the growing crisis through limited engagement with the IMF, and secretive, selective liquidity assistance to favoured banks, the establishment of IBRA in January 1998 portended a shift in the crisis in terms of the growing influence of Indonesia's creditors over the policy response and the desire to confiscate – and shift to IBRA – the key means of economic management that to that point had been integral to the Soeharto regime. This included the dismantling of monopolies and the cancellation of favoured projects. Notably, Indonesia was subject to an extensive list of conditions under its IMF-led program (indeed, the most in history), with many structural or microeconomic conditions going well beyond what was plausibly necessary to address insolvency in the banking sector.[1057] Ultimately, Indonesia's creditors were not above using their leverage, for example when the disbursement of further assistance was publicly delayed amid concerns about some unwelcome policy initiatives. These creditors played a key role in pushing for IBRA's establishment, as well as setting its targets, such as for the disposal of government equity in private banks or milestones related to PKPS contracts and asset sales, with direct consequences for how the agency went about its work. As discussed above, the need to meet commitments to the IMF drove the exceedingly short timeframe provided for the negotiation and signing of the first tranche of major PKPS contracts (two of which Chapters 6 and 7 examined in detail).[1058]

Although not among its official responsibilities, this research documented palpable expectations that IBRA should achieve other objectives, such as the punishment of – or, in the words of a senior IBRA official, 'retaliation' against – the former owners of nationalised private banks.[1059] This represented not only an attack on those business groups deemed most responsible for the crisis, but also the desire of some to revamp the

1057 See Grenville (2004: 83), Robison and Rosser (2003: 183), and Beeson (1998).

1058 These agreements were then subject to a number of revisions or addenda before they were truly finalised. Even then, as shown in Chapter 6 on the Nursalim MSAA, there were disputes as to whether and when closing actually occurred.

1059 Interview, October 2019.

structure of the private sector.[1060] As discussed above, these pressures manifested not only in stringent criticism of the PKPS process and calls to add further assets to the contracts, but also extra rules, such as prohibitions on former bank owners participating in asset sales. According to some, these prescriptions probably weighed on IBRA's attempts to obtain the highest potential returns for assets under its control. In reality, this was completely at odds with IBRA's notional priority of maximising the state's returns from the assets under its control. Similarly, contestation of the PKPS's 'release and discharge' function eventually prompted President Megawati to redefine, via Presidential Instruction (Inpres) No. 8/2002, the path for shareholders to achieve this outcome, itself a result of some law enforcers declining to abide by the terms of a contract between the state and bank owners. Though undertaken to provide legal certainty and boost compliance with the existing PKPS contracts,[1061] the Inpres was, within the lens of the weak state, remarkable because it was accomplished using an instrument that, within the hierarchy of Indonesian legal instruments, is ad hoc and used relatively sparingly. Partially as a result, this instrument provoked considerable opposition and contestation of its authority. Indeed, as discussed in the thesis, the Inpres prompted legal challenges and disputes about its capacity to overrule ongoing criminal investigations.[1062]

Ultimately, the thesis argues that IBRA's work to deal with the legal and financial obligations that arose from the nationalisation of private banks during the crisis (a core responsibility and a considerable share of the overall rescue package) is consistent with the theoretical characteristics of a weak state. Indeed, as shown above, the state had to deploy informal and negotiated strategies to recover public funds expended on the rescue package. The understandable difficulties experienced by the state in taking over and managing the sale of, literally, hundreds of assets (many of which, as shown above, were operating non-financial companies), also underscored the dilemma of 'legibility', or the state's systematic integration of outside information and expertise into the state's administrative grid. As seen in the chapters above, the state had to deal with the formidable organisational challenge of setting up from scratch an agency to take on virtually all of the tasks that arose from the crisis. Indeed, IBRA was staffed with a highly competent corps of investment bankers and accountants, but also had less professional managerial capacity and therefore, as discussed in Chapter 8, sometimes left previous management intact within its acquisition companies. Although sensible, this practice often prompted strident criticism or claims the agency was somehow working inappropriately with the ex-owners.

Of particular interest to the analytical framework is the contrast between the state's articulated tasks and tools and the other, more informal priorities and methods that were introduced in the course of carrying out its tasks. As shown, these features are historically and institutionally embedded. So, instead of making normative judgements about IBRA's performance in 'value for money' terms, the thesis has focused on the goals of explaining how IBRA functioned, if and how it was diverted from its notional mandate, and what

1060 See Sato (2004) or Hicks (2004) on policies to adjust commercial ownership. Schwarz (2013: 416-417) details calls from several prominent *pribumi* politicians to use IBRA to redistribute assets away from Sino-Indonesian conglomerates.

1061 This decision was also supported by recommendations from the MPR and cabinet (see Chapter 6).

1062 See Manan (2007a) on Attorney General Marzuki Darussman's claim that an Inpres was not legally adequate. See also Maroef (2010: n521, n528). See Hukumonline.com (2003) and (2004) for details on judicial review of the Inpres.

these observations suggest about the nature of the Indonesian state. There is unavoidable tension in this decision, as in general there exists a popular hostility towards IBRA because of the impression that its incompetence or corruption (or some combination thereof) allowed debtors to settle just a fraction of their debts to the government.[1063] And, indeed, the 'recovery rate' achieved by many of the large MSAA and MRNIA were poor. During this research, this tension was unavoidable, and so, while I have focused on close examination of the processes and institutional factors that contributed to IBRA's outcomes (especially in terms of their contrast with the official or intended methods for addressing these tasks), it is not possible to completely ignore these claims.

However, as has become clear, such criticisms are actually at the heart of the weak state concept, in understanding both how IBRA actually functioned and its contested afterlife. Therefore, to argue that IBRA was incompetent (and potentially corrupt) because it failed to recover 100% of its potential claims against former bank owners simply overlooks the fact that the PKPS framework was not, as discussed in Chapters 6 and 7, designed to yield full repayment. This was especially the case due to the political and fiscal/economic situation at the time, a reality that was, in fact, a key motivation for the contract-based, negotiated, asset settlement framework. Even after assets came under IBRA's control, there was a reluctance to sell them for less than their valuation, with the overall consequence of even further declines in value. The contracts did not mandate full payment, but instead stated that the assets, subject to an agreed valuation methodology, were equivalent to a shareholder's obligation. In return, the government promised, or at least attempted to promise, that it would stop investigations and prosecutions of compliant bank owners. When it proved unable to deliver on this commitment, this not only weighed on the performance of the shareholder settlement program (as the level of cooperation dipped into single digits), but eventually prompted the Megawati government to take deliberate steps to restore legal certainty, culminating in the outlining of a new procedure under Presidential Instruction (Inpres) No. 8/2002.

It also led to future contestation of the professionalism or integrity of the program. In this way, the corruption case against former IBRA Chairman Syafruddin Temenggung is more than a useful case that makes contemporary a largely forgotten, two-decade-old, controversy. Indeed, the thesis shows how the expectation that, somehow, the state was requiring its obligors to pay their full obligations was indicative of the contested, weak state modalities at play in the system. Not only did the Indonesian government, which was unable at the time to deploy IBRA's full legal powers to pursue creditors and seize assets, have to pursue an ad hoc negotiated solution with the bank owners against whom it had large potential claims, but it also had to negotiate within the state itself over the validity of the legal commitments included under the shareholder settlement program. Efforts to redefine these commitments merely prompted chaos and weighed further on the supposed objective of maximising the recovery of funds.[1064] This intra-state negotiation was not resolved until the president carried out the necessary political work within the cabinet and with the MPR to overrule the dispute and instruct the concerned actors and organisations to take specific steps to complete the PKPS and provide what was deemed necessary legal certainty to compliant obligors.[1065]

1063 See the discussion in Chapter 1, reflecting on the forgotten or seemingly 'unwanted' nature of IBRA.
1064 This refers to the FSPC's efforts under President Wahid to rewrite MSAAs and demand more assets. See Chapter 8.

Importantly, as the Temenggung case shows, the post-2002 approach to bring closure to the PKPS process by assigning IBRA to consult with the FSPC and issue SKLs to bank owners deemed to be compliant with their contracts failed to end this dispute. Indeed, as the KPK claimed in its prosecution of the former IBRA chair, the issuance of the Nursalim SKL represented a criminal act because relieving the shareholder of his obligation meant that the later sale of the assets for less than under the PKPS led to state losses.[1066] By this logic, the eventual sale of PT Dipasena for less than the full PKPS valuation would represent potential corruption, a premise that returns us to the earlier infighting about the inaccurate assumption that IBRA fell short because former bank owners failed to hand over assets that had to be sold for the full value of their shareholder obligation. Determining an appropriate recovery rate involves a fundamentally normative (and likely comparative) judgement that is subordinate to the thesis's analytical objective. IBRA's performance was, however, comparable to other Asian countries that undertook similar processes in dealing with the consequences of the crisis,[1067] and Table 9.1 suggests that, in the end, most regional governments bore the bulk of the cost of dealing with their troubled banks.

Table 9.1: Comparable regional financial sector rescue packages[1068]

Country	Date	Gross Outlay (% GDP)	Gross recovery (% GDP)	Net Cost (% GDP, outlay less recovery)	Recovery rate (% of gross outlay)
Malaysia	1997-2000	7.2	3.2	4.0	44.4
South Korea	1997-2000	31.2	8.0	23.1	25.6
Indonesia	1997-2004	51.4	12	39.4	23.3
Thailand	1997-2000	43.8	9.0	34.8	20.5

Original findings

An important source of data for this thesis was the State Audit Agency's multi-part audit of IBRA's various responsibilities. This audit was finalised and submitted to the national legislature in 2006. The thesis is also based on insights gleaned through interviews with

1065 It is worth reemphasising, as discussed above, that at the time it was seen as essential – including for the much larger credit restructuring process – for the government to ensure legal certainty. According to a senior IBRA official (Interview, October 2019), "IBRA had a larger future to negotiate with smaller distressed borrowers", and it was therefore "crucial for IBRA's mandate that any deals stand" so these debtors had the confidence to deal with it. This put the agency in "a difficult political situation as commentators and academics got their minds around the scale of the banking sector malpractice...of course, politically there is lots of pressure for retaliation against perpetrators".

1066 As discussed in Chapter 6, the calculation of the state loss appeared to simply deduct the eventual 2007 sale price for PT Dipasena (220 billion rupiah) from the 4.8 trillion rupiah amount in the PKPS for the plasma loans. This overlooks several FSPC-approved write downs in the value of the loans. See Table 6.10 for details.

1067 Disposal of non-performing credit assets was also in line with the regional experience. IBRA's sale of NPLs generated a recovery rate of nearly 29%, versus 28% in Korea, 43% in Malaysia, and 38% in Thailand. Indonesia had by far the largest bad debt problem, with NPLs worth 30% of GDP (and 64% of all loans) transferred to IBRA (versus no more than 16% for any of the comparators). See IMF (2004: Table III.3).

1068 See IMF (2004: Table III.7), author's calculation.

knowledgeable individuals about IBRA's work. Therefore, it is worth restating the thesis's novel empirical findings about IBRA and its performance. These details are discussed in the chapters above, but because I believe them to be either unknown on not widely available, they are worth restating here.

First, IBRA is, as mentioned, sometimes portrayed as responsible for particularly bad, perhaps even demonstrably corrupt, outcomes because of the meagre recovery of the top-line cost of the financial sector rescue package (between 23-27%, depending on the source). Leaving aside the development literature, where, of course, organisations such as the IMF have an obvious interest in praising the overall effectiveness of Indonesia's financial sector rescue package, which they led, most other accounts are critical of IBRA's performance. Although not the primary objective of the thesis, its findings do contextualise, if not challenge, such conclusions. For example, as shown in Chapters 6 and 7, IBRA did actually compel most owners of nationalised private banks to participate in the shareholder settlement program, and these shareholders were therefore obliged to transfer substantial assets to IBRA. In most cases, these assets were then disposed of through sales to third parties.[1069] The Gadjah Tunggal Group handed over assets sold for 17% of the shareholder obligation (although this figure is lower if, as discussed above, the sale price of assets transferred from IBRA to PT PPA is used).[1070] The Salim Group handed over more than 100 assets that later sold for 37% of the shareholder obligation.

Sources offered various perspectives about former IBRA Chairman Syafruddin Temenggung. Several agreed he was the first (and only) IBRA Chairman to obtain meaningful support from the executive. Some attributed this to the simple fact that the Megawati administration desired IBRA to fulfil its mandate on time. Others pointed to a supposed relationship with then-First Husband Taufik Kiemas, perhaps on account of their mutual roots in Pekanbaru, South Sumatra.[1071]

Although the valuation of PKPS assets was carried out at arm's length by IBRA's third-party financial advisors (Lehman Brothers and state-owned PT Danareksa (Persero) for the major, early PKPS) this was, in the estimation of one former senior IBRA official, 'suboptimal', because the advisory mandate compensated the banks with a percentage of the total assets valued.[1072] So, instead of incentivising Lehman to use its role to drive the asset valuations down – likely securing a better deal for the government – the structure of the mandate meant that the banks made higher fees from higher valuations.[1073] The then

1069 Some were perhaps reacquired at some later point, although as explained in Chapter 8, IBRA had no power to prevent this from occurring.

1070 This figure, from the 2006 BPK audit, uses the assets' book value when IBRA was wound up.

1071 See Collins (2007: 131-132) for one account of Kiemas's brokerage of major infrastructure projects. She identifies of some of the so-called 'Palembang mafia' of the time, including two Attorney Generals, Muhammad Abdul Rachman (2001-2004) and Basrief Arief (2010-2014). The account does not mention Syafruddin Temenggung but noted that two of Kiemas's brothers became commissioners of Nursalim companies. Aditjondro (2010: 142-146) claimed Nursalim was close to Kiemas and Megawati. Davidson (2014: 184-185) discussed Kiemas's promotion of officials from South Sumatra.

1072 Interview, October 2019.

1073 Shortly before submission, I independently found this detail in a 2002 draft consultant's report to CIFOR, a forestry NGO (Brown 2002: 29-30). I could not find this report in published form, or available on the internet. Either way, it seems this finding is not widely known. The report also included claims, citing the former senior counsel of the World Bank, that Salim 'hollowed out' the value of assets handed over to IBRA. Allegedly the Attorney General was investigating, but the case files were lost. It is difficult to evaluate such claims, as I did not encounter them anywhere else.

IBRA Chairman, Glenn Yusuf, also continued to serve as the President Director of PT Danareksa, which had a joint operating agreement in Indonesia with Lehman. Later, around 2009, Yusuf would found a private equity fund, Falcon House, with Brian O'Connor, Lehman's Indonesia country director from this time.[1074]

Although IBRA mostly sought to conduct its work in a professional and transparent fashion, this could change as a consequence of personnel change. For example, according to a senior IBRA official,[1075] once I Putu Gde Ary Suta became chairman the governance around asset sales deteriorated considerably. Previously, sealed bids were physically handed over and were then immediately opened together with bidders and representatives from organisations like the IMF and World Bank to reveal the winner. Under the new leadership, however, the process changed, however, such that bids were submitted "faxed to a fax machine adjacent the chairman's office" and no longer subject to the same transparency with respect to bid requirements or deadlines. As a result, "the auction process became very non-transparent, and it was widely acknowledged in the financial community that from this point governance at IBRA deteriorated very sharply."[1076]

The decisions of several Attorney Generals were also important. The Attorney General's Office reversed its initial position to recommend the use of the PKPS asset settlement approach when in late 1998 Andi Muhammad Ghalib, Attorney General at the time, refused to sign MSAAs that IBRA had prepared with the owners of major private banks. This occurred shortly after President Habibie temporarily stopped IBRA from negotiating MSAA agreements with the owners of the largest BLBI recipient banks. The key feature of these contracts was to 'release and discharge' compliant shareholders from further investigation or legal prosecution. This created considerable legal uncertainty and eventually led to the issuance of Inpres No. 8/2002 and IBRA's provision of separate release and discharge letters (known as SKLs) to former bank owners deemed to have complied with the terms of their shareholder settlement. According to one interviewee who held a senior IBRA role,[1077] the AGO later held Syafruddin Temenggung for six months without charge because of suspicion of his involvement in some unelaborated wrongdoing related to IBRA's handling of PT Victoria Sekuritas.[1078]

Research Contribution

By way of conclusion, this section offers a few remarks about the thesis's contribution to the disciplinary field of Indonesian Studies. Chapter 2 laid out the key literature – mostly from well-established Economics and Sociology scholarship – that underpins the thesis's core 'weak state' definition. Later, Chapter 8's 'Theoretical Review' section returned to the main scholarly works used to construct this definition. As that section demonstrated, the 'weak state' concept is a useful and topical contribution that is in line with other literature in the field, not least because, as discussed in Chapter 3, there is within this literature considerable interest in the political economy questions that are at the heart of this study.

1074 Senior IBRA official (Interview, October 2019).
1075 Ibid.
1076 Ibid.
1077 Interview, January 2017.
1078 Public reporting suggested the Victoria Sekuritas case related to a land dispute involving prominent businessmen. See Reformasi Weekly (2016: 6-9).

In fact, state-centred approaches have already become more mainstream with the obsolescence of ideas about the New Order's bureaucratic authority or social insulation. As Chapter 3 demonstrated, many post-*Reformasi* accounts have examined the inherent illegality and informality – often structured and state-like – within or adjacent to the state and its tasks. In doing so, some scholars have developed original state-centric frameworks or applied new vocabularies to describe these influential dynamics or pathways within the Indonesian system, as does this thesis. The work of two of these scholars, Darryl Jarvis and Michael Buehler, is discussed below for the first time in this thesis, not to introduce new lines of scholarship, but instead as examples of how other contemporary scholars working in the tradition of the literature reviewed in Chapter 3 have also used state-centric concepts for the analysis of specific public policy cases, as this thesis does.

The thesis deliberately seeks to make a contribution similar to that from these works, including aforementioned examples such as the 'rhizome state', focused on the importance of underground networks and connections, or the '*aspal* state', focused on the existence of 'real, but fake' institutions.[1079] Unlike these studies, however, this thesis has less to report on the existence and importance of illegality or criminality within the system. To be sure, they cannot be ruled out, and this research certainly revealed indications of the influence of unseen, or only partially understood, networks.[1080] However, this thesis has been more concerned to demonstrate the fluidity of law in terms of how different organisations interpreted and disputed government commitments.

An important theme running through the thesis is the disconnect between law and what some, including actors within the state, regard as the retribution that should have been imposed as part of IBRA's work. This is consistent with Robert Cribb's view of the Indonesian state as an elaborate 'system of exemptions', which he attributed to weak institutions, mismatched law and moral values, and a weak state-society social contract.[1081] Outcomes in the form of the application and interpretation of rules and law are actually the result, in his estimation, of the specific context and relationships among relevant 'power centres'. The crisis was not, at least in the most proximate sense, solely the result of banks' out-of-control borrowing or rotten relations between business and the Soeharto regime. Nonetheless, there was still a palpable desire for the government to dole out punishment to the major conglomerates that created massive bank losses through their prohibited, or even criminal, activities before and during the crisis. Remarkably, however, was not merely that there was anger – as in many bailouts – about the reality of the public purse strained to socialise private losses,[1082] but instead that there existed a more fundamental misapprehension about what the state's legal tools were actually intended to do. So, for example, the criticism that PKPS and Inpres No. 8/2002 allowed PKPS obligors to receive legal 'release and discharge' even though they still had obligations to the government (because the sale of the assets transferred under these contracts eventually yielded less than the obligations from their former banks) illustrates Cribb's mismatch between law and moral values. In the Temenggung case, this was interpreted as clearly

1079 See Baker (2015: 315) on 'rhizome' state, and Lindsey (2006: 27-29) on the '*aspal*' state or, for a similar theme, Lindsey (2001: 284-285) on the 'gangster' (*preman*) state.

1080 This included the rumoured influence of Taufik Kiemas and his placement of officials from his home province.

1081 See Cribb (2011: 33).

1082 Although, it should be emphasised that the bulk of losses were actually from Indonesia's state-owned banks.

indicative of corruption, when, actually, it was a fundamental reality of the asset settlement framework. The thesis presents a detailed example of how such mismatches can, in practice, interfere with, and frustrate, the state's ultimate ability to carry out what it has otherwise articulated as priority tasks. This is further indication of the weak state in Indonesia.

Like Cribb's context-laden 'system of exemptions' concept, the premise of heightened competition in the wake of *Reformasi* is an important theme throughout a broad span of the Indonesian Studies literature. So, for example, economist Ross McLeod framed the Soeharto regime as a 'franchise system' populated by quasi-chartered state-like actors competing for access to private taxation opportunities. The 'franchise' was in turn thrown into chaos by the sudden removal of President Soeharto, the apex owner. Therefore, patronage did not suddenly become less central to power, but instead its dispensation became less regulated, and this led to heightened competition among military, business, and bureaucratic actors. In another institutionalist-inspired account, the state was described as a transactional 'marketplace' where systemic rules are constantly tested, renegotiated, and recalibrated.[1083] Transactions, however, are not clinched only on economic terms, and instead also take in the binding or relational character of illegal or unsanctioned activities. Yet others have identified the indispensability of illegality or quasi-state structures to everyday tasks, to the point that such activities acquire a form of social consensus and state-like structure.[1084] In their own ways, each of these studies focus on identifying and explaining the informal or flexible character of the state in light of the contested and multifaceted nature of power in Indonesia.

This thesis's conclusions underscore the consequences of competition among different state actors relevant to IBRA's work. In particular, it demonstrates how this competition was deleterious to notional state objectives, such as restructuring private banks and recovering public funds spent on the rescue package. At times, these contests reflected tensions between the law (and the pragmatic objectives of IBRA) and some actors' moral values. This thesis, however, had less to report on the presence, pivotal or otherwise, of illegality within the state or in relation to IBRA and its work. I found no bombshell revelations of corruption or payoffs or secret deals. Indeed, at times it seemed that it was actually the state (with its officials' public pressure on bank owners, or its law enforcers' continued pursuit of bank owners who had valid contracts with IBRA and the Ministry of Finance saying the state would cease prosecutions in return for assets) that seemed to dwell most on the fringes of the 'legal'.[1085] Instead, the thesis found less sensational and more mundane examples of conflicts of interest, questionable governance, or poorly devised processes. Such examples included the removal of transparency from the tender system under IBRA Chairman I Putu Gde Ary Suta, or the calculation of the fees for IBRA's financial advisors on PKPS as a percentage of the assets valued.

Chapter 2's definition of a weak state as one reliant on the use of informal, negotiated, or illegible strategies to carry out important responsibilities is conversant with some other

1083 See Dick and Mullholland (2011: 65-66).

1084 See Ford and Lyons (2011: 108-109) for an example on regulation of migration in the Riau Islands. Aspinall and Klinken (2011: 5-6, 23), in their introduction to a volume on novel state-focused approaches, discussed these trends.

1085 Similarly, for example, one source said Syafruddin Temenggung was held for six months' without charge because the Attorney General 'suspected he did something wrong'. See above, and Chapter 8.

recent contributions to the disciplinary field of Indonesian Studies. So, for example, Jamie Davidson's 'political sociology' attributed the relative ineffectiveness of the post-*Reformasi* state to historically relevant political challenges and unresolved social conflicts moderated, after the end of the New Order, through new institutional factors.[1086] On this view, scholars must consider areas of competition that are unchecked or beyond the bounds of formal rules. From this study, close examination of IBRA shows how the novel establishment of an unprecedented and ad hoc agency – even one with supposedly extraordinary powers – prompted heavily political reactions elsewhere in the state. So, the FSAC was eventually upgraded to the FSPC to provide heightened, arguably necessary, political oversight for the agency and its work. This did not always mean assistance or support for IBRA's work, but instead something of a more durable political consensus. As a former IBRA official recalled, "the FSPC was full of ministers giving grandiose speeches, but not many practical suggestions".[1087] That being said, the FSPC, and its expansion of essentially political power over the agency (versus the FSAC),[1088] was probably necessary for IBRA to advance its work.[1089] Nevertheless, IBRA still managed to conclude PKPS and implement their terms with bank owners responsible for the lion's share of relevant private bank obligations.

Less well-known, but worthy of mention given its institutionalist approach and, in particular, its focus on the influence of Indonesia's development partners, is Jarvis's institutionalist examination of the state electricity utility PLN and the 'regulatory state'.[1090] IBRA, as discussed in Chapter 4, was heavily influenced by the country's concurrent IMF program and established amid creditors' growing influence over Indonesia's policy responses.[1091] The 'regulatory state' refers to efforts, usually led by Indonesian 'technocrats' and partners in international finance agencies (for example, the World Bank, ADB, IMF), to empower and expand impersonal, bureaucratic governance.

Jarvis's account examines 'reforms', promoted as best-practice and with the intention of reducing politicised governance and conflicts of interest. These included law and regulation aimed at deregulation of the sector, facilitation of private investment, and the decoupling of PLN from its dual operator/regulator role. Jarvis concluded, in a finding conversant with this thesis, that what actually occurred was the state's historical development roles blurred lines of authority between new and existing power structures, while the informal institutional traditions of the sector created legitimacy contests and resulted in PLN resisting transparency and guarding its power.[1092] Ultimately, the "diffuse, polycentric nodes of governance" frustrated the objective of making regulatory oversight

1086 See Davidson (2014: 9-12) for the methodological background to his study on the Trans-Java tollway.
1087 Senior IBRA official (Interview, October 2019).
1088 See discussion in Chapter 5.
1089 Similarly, as several noted, Syafruddin Temenggung was the first IBRA chairman to have high-level political support. He was therefore, unsurprisingly, both the longest serving and most productive chair. As one senior official observed (Interview, June 2017), "even when IBRA had the legal tools, political support was still needed".
1090 See Jarvis (2012: 470-473).
1091 Indonesia's 15 January 1998 LOI did not explicitly mention IBRA, but instead work to be announced shortly on rules related to the resolution of private banks' liquidity and solvency problems (IMF 1998a). IBRA was announced on 26 January 1998, and then featured in the April 1998 LOI (IMF 1998b). Indonesia's IMF commitments had an effect on IBRA's targets, including deadlines related to legislation or, in the June 1998 LOI (IMF 1998c), a presidential decree by July 1998 to provide appropriate legal powers to AMI.
1092 See Purra (2011: 260) on PLN's surprising continuity amid a "mishmash of institutional structures".

more impersonal and professional. Similarly, another structuralist account holds that when regulatory state-like structures have successfully been created, these have not been the consequence of reform or renovation, but instead the result of the preferences of independent business interests.[1093]

Indeed, although beyond the confines of my empirical focus, the electric power case suggests some intriguing parallels to IBRA, including the underestimated challenge of institutionalist, state-driven features, inherent to the assumptions and priorities of international finance organisations. The World Bank and the ADB had prioritised Indonesia's power sector since the 1970s, and by the 1990s Indonesia was the "jewel in the Bank's operational crown", with large lending and technical assistance to the sector.[1094] At its development partners' behest, Indonesia began opening generation to private investment in the 1990s, although more institutionally challenging improvements, such as tariff adjustments or the separation of transmission and generation, were set aside.[1095] Instead, a massive portfolio of Independent Power Producer (IPP) projects to sell electricity to PLN were rolled out and the contracts (complete with guaranteed subsidised inputs, sales to PLN, and returns on equity) became part of the "currency of success" and therefore subject to "complex layers of political gatekeepers".[1096] According to one account, the negotiations of IPPs revolved around a "complex three-tiered structure that involved everyone but failed to vest final responsibility…in anyone".[1097]

Excess capacity in the power grid became a particular problem but Indonesia continued to rack up IPPs, most awarded through non-transparent bidding processes and locking the government (and, by extension, the state budget) into guaranteed, dollar-denominated contracts greatly favouring well-connected developers.[1098] Perhaps unsurprisingly, the cancellation of some of these projects was among the earliest of the IMF conditions imposed on Indonesia (see Chapter 4).[1099] Speaking in 2000, a Bank executive spoke of the "model relationship with a borrower" during a "golden age at the dawn of Indonesian reform".[1100] Two years later, the Constitutional Court had struck down the 2002 Electricity Law (No. 20/2002), which had unbundled PLN, set a deadline for full market competition, and promised an unprecedented market supervisory body to be responsible for setting tariffs and ruling in competitive matters.[1101]

Ultimately, as Jarvis's analysis of the regulatory state concluded, "not only are regulatory systems of governance antithetical to Indonesia's historical approach to development, but challenge the networks of interests and power relations...Far from a panacea of reform, regulatory modes of governance transplanted into the developing countries may well do

1093 See Fukuoka (2012: 88-92), which also argued that business interests depended on the state – both before and after *Reformasi* – and the removal of Soeharto was the denouement of a dispute between regime and business about the distribution of resources and patronage.
1094 See Kapur et al. (1997), cited Seymour and Sari (2002: n5).
1095 See Wu and Sulistiyanto (2006: 113).
1096 See Robison and Rosser (1998: 1598-1599). Virtually all of the nearly 30 IPPs were not subject to competitive bidding and most were linked to the Soehartos or their business associates. See Wells (2007: Table 3), Wu and Sulistiyanto (2006: 116-117).
1097 See Wells (2007: 357).
1098 See Seymour and Sari (2002: 79).
1099 See Robison and Rosser (1998: 1602) and Robison and Rosser (2000: 179) on the projects.
1100 See Seymour and Sari (2002: 76-77).
1101 See Jarvis (2012: 484).

little more than reinforce the poor governance outcomes they are designed to overcome".[1102] Similarly, Michael Buehler's state-centric study of post-*Reformasi* efforts to reform the bureaucracy found a preponderant focus on rules for controlling civil servants, rather than more structural changes to incentivise performance improvements or other virtues.[1103] Although the state has been centralised and powerful, Buehler points to the bureaucracy's historical subservience to elites and concludes it is questionable if reforms are likely to succeed in this context.[1104] These conclusions are consistent with this thesis's findings about how the state's historically circumscribed power for matters of economic management meant that IBRA had to operate within a far more informal, negotiated, and legally contested space than was suggested by its formal responsibilities and powers.

In conclusion, the thesis's focus on the institutionalist features of a 'weak state' is conversant with other works that use similar concepts to closely examine policy processes and discuss Indonesia's political economy. The analytical framework allows the consideration of political economy issues, especially about what appear otherwise to be chaotic or confusing policymaking processes. As the thesis contends, this approach permits the consideration of how the interaction of historical, legal and regulatory, and political features influence the distribution of resources. The thesis's findings about IBRA's work with BDNI and BCA are original and hopefully of use to future researchers seeking to understand an important episode in Indonesia's economic history.

1102 Ibid.: 489-490.

1103 See Buehler (2011: 74-75), including the conclusion that lack of progress on civil service reform is the result of an absence of genuine inter-elite competition.

1104 He concludes, "that the power balance in state-society relations cannot be tilted in favour of society simply by crafting legal documents that assign a nominally prominent role to the public" (ibid.: 83).

Appendix A: 72 IBRA Banks by Classification[1105]

Frozen Banks (BBO – *Bank Beku Operasi*)

Group 1 (April 1998):
1. Bank Deka
2. Bank Hokindo
3. Bank Subentra
4. Bank Surya Tbk
5. Bank Pelita Indonesia
6. Bank Istimat
7. Bank Centris International

Group 2 (August 1998):
1. Bank Umum Nasional Tbk
2. Bank Dagang Nasional Indonesia Tbk
3. Bank Modern Tbk

Banks Taken Over (BTO – *Bank Take Over*)

Group 1 (August 1998):
1. Bank BCA (May 1998)
2. Bank Danamon Indonesia Tbk
3. Bank Tiara Asia Tbk*
4. Bank PDFCI Tbk*

Group 3 (July and August 1999):
1. Bank Niaga Tbk**
2. Bank Bali Tbk**

Group 2 (March 1999):
1. Bank Duta Tbk*
2. Bank Nusa Nasional*
3. Bank Risjad Salim International*
4. Bank Tamara*
5. Bank Pos Nusantara*
6. Bank Rama Tbk*
7. Bank Jaya International*

Recapitalised Banks (March 1999)***

1. Bank International Indonesia Tbk
2. Bank Lippo Tbk
3. Bank Universal Tbk
4. Bank Umum Koperasi Indonesia (Bank Bukopin)
5. Bank Artamedia
6. Bank Prima Express
7. Bank Patriot

Frozen Banks (BBKU – *Bank Beku Kegiatan Usaha*)

1. Bank Sewu International
2. Bank Sanho
3. Bank Papa Sejahtera Tbk
4. Bank Ficorinvest Tbk
5. Bank Dharmala
6. Bank Ciputra
7. Bank Indonesia Raya Tbk
8. Bank Danahutama
22. Bank Arya Panduarta Tbk
23. Bank Dewa Rutji
24. Bank Uppindo
25. Bank Hastin International
26. Bank Metropolitan
27. Bank Lautan Berlian
28. Bank Bahari Tbk
29. Bank Namura Internusa

1105 Data from BPK (2006a: 17), IBRA (n.d..: 21-25). These IBRA banks were known as BDP (*Bank Dalam* Penyehatan). The list excludes 15 BDL from Bank Indonesia's November 1997 bank closures.

9. Bank Central Dagang
10. Bank Budi International
11. Bank Orient
12. Bank Sahid Gajah Perkasa
13. Bank Dana Asia
14. Bank Yakin Makmur
15. Bank Asia Pacific
16. Bank Aken
17. Bank Umum Servitia Tbk
18. Bank Intan
19. Bank Alfa
20. Bank Sino
21. Bank Kharisma
30. Bank Tata
31. Bank Persona Kirdayana
32. Bank Putra Surya Perkasa
33. Bank Mashill Utama Tbk
34. Bank Baja International
35. Bank Bumi Raya Utama
36. Bank Dagang dan Industri
37. Bank Bepede Indonesia
38. Bank Indotrade
39. Bank Putera Multikarsa
40. Bank Ratu
41. Bank Prasidha Utama
42. Bank Unibank

* Merged into Bank Danamon
** Slated for recapitalisation, taken over when owners declined to participate[1106]
*** Excludes recapitalised state-owned banks:

1. Bank Negara Indonesia
2. Bank Rakyat Indonesia
3. Bank Tabungan Negara
4. *Bank Mandiri (four merged banks: BBD, BDN, EXIM, and Bapindo)*

1106 See IBRA Chairman Decisions No. SK-368/BPPN/0899 (4 August 1999) and No. SK-275/BPPN/0799 (2 July 1999).

Appendix B: PT PPA Revenues, 2004-2008 (trillions of rupiah)[1107]

Type	2004	2005	2006	2007	2008	Total
Asset management revenues	6.6	6.6	2.8	1.7	1.5	19.3
Contribution to APBN	5.4	6.1	2.7	1.6	1.3	17
Target to APBN	5.0	5.1	2.6	1.5	3.0	17.2
Realised profit	0.6	0.4	0.2	0.1	0.1	1.4
Tax Payments	0.3	0.2	0.1	0.02	0.03	0.7
Dividend	0.4	0.04	0.2	0.1	0.07	0.8

1107 Data from Syahrial (2016a: 33).

Bibliography

Abdulbaki, L., 2008. "Democratisation in Indonesia: From Transition to Consolidation." *Asian Journal of Political Science*, 16 (2), 151–172. https://doi.org/10.1080/02185370802204099

Abeng, T., 2001a. *Indonesia, Inc: privatising state-owned enterprises*. Times Academic, Singapore.

Abrams, P., 1988. "Notes on the Difficulty of Studying the State (1977)." *Journal of Historical Sociology,* 1 (1), 58–89. https://doi.org/10.1111/j.1467-6443.1988.tb00004.x

Acemoglu, D., 2005. "Politics and economics in weak and strong states." *Journal of Monetary Economics* 52 (7), 1199–1226. https://doi.org/10.1016/j.jmoneco.2005.05.001

Acemoglu, D., Johnson, S., Robinson, J.A., 2001. "The Colonial Origins of Comparative Development: An Empirical Investigation." *The American Economic Review*, 91 (5): 1369-1401.

Acemoglu, D., Robinson, J.A., 2013. *Why Nations Fail: The Origins of Power, Prosperity and Poverty*. Profile Books, London.

Acemoglu, D., Robinson, J.A., 2008. "Persistence of Power, Elites, and Institutions." *The American Economic Review*, 98 (1), 267–293.

Acemoglu, D., Ticchi, D., Vindigni, A., 2011. "Emergence and Persistence of Inefficient States." *Journal of the European Economic Association*, 9 (2), 177–208.

Aditjondro, G.J., 2010. *Membongkar gurita Cikeas: di balik skandal Bank Century*. Galang Press, Yogyakarta ; Jakarta.

Alesina, A., Spolaore, E., 1997. "On the Number and Size of Nations". *The Quarterly Journal of Economics*, 112 (4), 1027–1056. https://doi.org/10.1162/003355300555411

Amsden, A.H., 1992. *Asia's Next Giant : South Korea and Late Industrialization*. Oxford University Press., New York.

Anderson, B., 1983. "Old State, New Society: Indonesia's New Order in Comparative Historical Perspective." *The Journal of Asian Studies*, 42 (3), 477-496. https://doi.org/10.2307/2055514

Anderson, B., 1972. "The idea of power in Javanese culture." In Holt, C. (Ed.), *Culture and Politics in Indonesia*. Cornell University Press, Ithaca, NY, 1–69.

Anderson, B., 2006. *Imagined communities: reflections on the origin and spread of nationalism*, Rev. ed. Verso, London; New York.

Anderton, C.H., Carter, J.R., 2015. "A New Look at Weak State Conditions and Genocide Risk." *Peace Economics, Peace Science, & Public Policy*, 21 (1), 1–36. https://doi.org/10.1515/peps-2014-0008

Aspinall, E., 2013a. "A Nation in Fragments." *Critical Asian Studies*, 45 (1), 27–54. https://doi.org/10.1080/14672715.2013.758820

Aspinall, E., 2013b. "How Indonesia Survived." In Stepan, A., Künkler, M. (Eds.), *Democracy and Islam in Indonesia*. Columbia University Press, pp. 126–146.

Aspinall, E., Klinken, G. van, 2011. "The state and illegality in Indonesia." In Aspinall, E., Klinken, G. (Eds.), *The State and Illegality in Indonesia*, KITLV Press, Leiden, pp. 1–28.

Azis, I., 1994. "Indonesia." In Williamson, J. (Ed.), *The Political Economy of Policy Reform*. Institute for International Economics, Washington, DC, pp. 385–426.

Badie, B., 2000. *The imported state: the westernization of the political order, Mestizo spaces*. Stanford University Press, Stanford, California.

Badan Pemeriksa Keuangan Republik Indonesia (BPK), 2006a. *Laporan Pemiriksaan Gabungan Pelaksanaan Tugas Badan Penyehatan Perbankan Nasional*. Audit Report. Jakarta: 34/XII/11/2006.

BPK, 2006b. *Hasil Pemeriksaan Penjualan Aset Eks Pemegang Saham Bank*. Audit Report. Jakarta: 34F/XII/11/2006.

BPK, 2006c. *Hasil Pemeriksaan Penyelesaian Kewajiban Pemegang Saham (PKPS)*. Audit Report. Jakarta: 34G/XII/11/2006.

BPK, 2006d. *Hasil Pemeriksaan Penyaluran, Penggunaan dan Penyelesaian Bantuan Likuiditas Bank Indonesia*. Audit Report. Jakarta: 34I/XII/11/2006.

BPK, 2006e. *Hasil Pemeriksaan Penjualan Aset Kredit*. Audit Report. Jakarta: 34B/XII/11/2006.

BPK, 2006f. *Hasil Pemeriksaan Restrukturisasi Aset Kredit*. Audit Report. Jakarta: 34A/XII/11/2006.

BPK, 2006g. *Hasil Pemeriksaan Divestasi Saham Pemerintah Pada Bank-Bank Di Bawah Pengelolaan BPPN*. Audit Report. Jakarta: 34E/XII/11/2006.

BPK, 2006h. *Laporan Aktiva Bersih Badan Penyehatan Perbankan Nasional (Dalam Proses Pembubaran)*. Independent Auditor's Report. Jakarta: 33/XII/11/2006.

BPK, 2002. *Laporan Gabungan Audit Investigasi atas Penyelesaian Kewajiban Pemegang Saham (PKPS), 2 Bank Take Over (BTO), 2 Bank Beku Operasi (BBO), 6 Bank Beku Kegiatan Usaha (BBKU) pada Badan Penyehatan Perbankan Nasional (BPPN)*. Investigative Audit Report. Jakarta: 02/01/Auditama II/AI/05/2002.

Baker, J., 2015. "The Rhizome State: Democratizing Indonesia's Off-Budget Economy." *Critical Asian Studies*, 47 (2), 309–336. https://doi.org/10.1080/14672715.2015.1041282

Balfour, M., 1981. *The adversaries: America, Russia, and the open world, 1941-62*. Routledge & Kegan Paul, London; Boston.

Banerjee, A.V., Duflo, E., 2011. *Poor economics: a radical rethinking of the way to fight global poverty*. Public Affairs, New York.

Barker, J., Klinken, G. van, 2009. "Reflections on the state in Indonesia." In Barker, J., Klinken, G. (Eds.), *State of Authority: The State in Society in Indonesia*. Cornell University Press, Ithaca, NY, 17–46.

Barr, C.M., 1998. "Bob Hasan, the Rise of Apkindo, and the Shifting Dynamics of Control in Indonesia's Timber Sector". *Indonesia,* 1–36. https://doi.org/10.2307/3351402

Barzel, Y., 1997. *Economic Analysis of Property Rights*. Cambridge University Press.

Bates, R.H., 2014. *Markets and states in tropical Africa: the political basis of agricultural policies*, Univ. of California Press, Berkeley, Calif.

Bates, R.H., 1989. *Beyond the miracle of the market: the political economy of agrarian development in Kenya, Political economy of institutions and decisions*. Cambridge University Press, Cambridge; New York.

Batubara, M., 2008. *Skandal BLBI: ramai-ramai merampok negara*. Haekal Media Center, Jakarta.

Batunanggar, S., 2005. "Resolusi Krisis Perbankan Indonesia: Proses, Issu dan Pelajaran Berharga." Working paper, Bank Indonesia, Jakarta.

Bawazier, F., 2018. "Syamsul Nursalim's BLBI testimony war in the Syafruddin Temenggung hearing." Independent Observer. URL https://observerid.com/syamsul-nursalims-blbi-testimony-war-in-the-syafruddin-temenggung-hearing/ (accessed 12.6.19).

Bayart, J.F., 1993. *The state in Africa: the politics of the belly*. Longman, London; New York.

Bean, R., 1973. "War and the Birth of the Nation State." *The Journal of Economic History,* 33 (1), 203–221.

Beckert, J., 2007. "The Great Transformation of Embeddedness: Karl Polanyi and the New Economic Sociology." Discussion Paper, No. 07/01. Max Planck Institute for the Study of Societies.

Beeson, M., 1998. "Indonesia, the East Asian crisis and the commodification of the nation-state." *New Political Economy,* 3 (3), 357–374.

Bergesen, A. (Ed.), 1980. *Studies of the modern world-system, Studies in Social discontinuity*. Academic Press, New York.

Besley, T., 2011. "Pathologies of the state". *Journal of Economic Behavior & Organization,* 80 (2), 339–350.

Besley, T., Persson, T., 2011. *Pillars of prosperity: the political economics of development clusters*. The Yrjö Jahnsson lectures. Princeton University Press, Princeton, N.J.

Besley, T., Persson, T., 2008. "Wars and State Capacity." *Journal of the European Economic Association,* 6 (2/3), 522–530.

Blake, S.P., 1979. "The Patrimonial-Bureaucratic Empire of the Mughals". *The Journal of Asian Studies* 39 (1), 77–94. https://doi.org/10.2307/2053505

Blanton, R., Fargher, L., 2008. *Collective action in the formation of pre-modern states*. Fundamental Issues in Archaeology. Springer, New York.

Boediono, 2016. *Ekonomi Indonesia dalam lintasan sejarah*. Penerbit Mizan, Ujungberung, Bandung.

Boli-Bennett, J., 1980. "Global integration and the universal increase of state dominance." In Bergesen, A. (Ed.), *Studies of the Modern World System*. Academic Press, New York, 77–107.

Booth, A., 1998. *The Indonesian Economy in the Nineteenth and Twentieth Centuries*. Palgrave Macmillan UK, London. https://doi.org/10.1057/9780333994962

Booth, A. (Ed.), 1992. *The Oil boom and after: Indonesian economic policy and performance in the Soeharto era*. South-East Asian social science monographs. Oxford University Press, Singapore ; New York.

Borsuk, R., 2002. "Jakarta's Holdiko Faces Criticism on Asset Sales." January 4. Wall Street Journal.

Borsuk, R., 1999. "Markets: the limits of reform." In Emmerson, D.K. (Ed.), *Indonesia beyond Suharto: Polity, Economy, Society, Transition*. Sharpe, Armonk, 136–167.

Borsuk, R., Chng, N., 2014. *Liem Sioe Liong's Salim Group: the business pillar of Suharto's Indonesia*. Institute of Southeast Asian Studies, Singapore.

Boulding, K.E., 1962. *Conflict and defense : a general theory*. Harper, New York.

Bourchier, D., 2014. *Illiberal Democracy in Indonesia: The Ideology of the Family State*. Politics in Asia. Taylor and Francis, Hoboken.

Bourdieu, P., 1999. "Rethinking the state: genesis and structure of the bureaucratic field." In Steinmetz, G. (Ed.), *State/Culture: State-Formation after the Cultural Turn*. Cornell University Press, Ithaca, NY, 53–75.

Bourdieu, P., 1985. "The Social Space and the Genesis of Groups." *Theory & Society*, 14 (6), 723–744.

Braudel, F., 1995. *The Mediterranean and the Mediterranean world in the age of Philip II*. University of California Press, Berkeley, Calif.

Bresnan, J., 1993. *Managing Indonesia : the modern political economy*. Studies of the East Asian Institute. Columbia University Press, New York; Oxford.

Brewer, J., 1989. *The sinews of power: war, money and the English state, 1688-1783*. Unwin Hyman, London.

Brown, D.W., 2002. "Forgive Us Our Debts: Manipulation of IBRA by Indonesian Forest and Plantation Debtors; The Latest Chapter in Indonesia's Rentier Economy." Draft consultant's report. CIFOR, Bogor, Indonesia.

Brown, D.W., 1999. "Addicted to Rent: Corporate and Spatial Distribution of Forest Resources in Indonesia: Implications for Forest Sustainability and Government Policy." Indonesia-UK Tropical Forest Management Programme, Provincial Forest Management Programme.

Buchanan, J.M., 2000. *The limits of liberty: between anarchy and Leviathan, The collected works of James M. Buchanan*. Liberty Fund, Indianapolis.

Buchanan, J.M., Tollison, R.D., Tullock, G. (Eds.), 1980. *Toward a theory of the rent-seeking society*. Texas A & M University economics series, No. 4. Texas A & M University, College Station.

Buehler, M., 2014. "Elite competition and changing state-society relations: Shari'a policyamaking in Indonesia" In Ford, M., Pepinsky, T. (Eds.), *Beyond Oligarchy*. Cornell University Press, Ithaca, NY, 157–75.

Buehler, M., 2011. "Indonesia's Law on Public Services: changing state–society relations or continuing politics as usual?" *Bulletin of Indonesian Economic* Studies, 47 (1), 65–86. https://doi.org/10.1080/00074918.2011.556057

Bueno de Mesquita, B., Smith, Alstair, Siverson, Randolph M., Morrow, James D. (Eds.), 2005. *The logic of political survival*. MIT Press, Cambridge, MA.

Buhaug, H., 2010. "Dude, Where's My Conflict? LSG, Relative Strength, and the Location of Civil War." *Conflict Management & Peace Science* 27 (2): 107–28. https://doi.org/10.1177/0738894209343974

Butt, S., 2019. "Is Indonesia's anti-corruption reform slipping?" East Asia Forum. URL https://www.eastasiaforum.org/2019/08/07/is-indonesias-anti-corruption-reform-slipping/ (accessed 12.6.19).

Butt, S., 2012. *Corruption and Law in Indonesia*. Routledge Contemporary Southeast Asia Series 40. Routledge, London; New York.

Campbell, J.L., 1993. "The State and Fiscal Sociology." *Annual Review of Sociology* 19: 163–85.

Carney, R.W., Witt, M.A., 2013. "The Role of the State in Asian Business Systems." In *Oxford Handbook of Asian Business Systems*, edited by Witt, Michael A. and Redding, G. Oxford: Oxford University Press.

Case, W.F., 2000. "Revisiting Elites, Transitions and Founding Elections: An Unexpected Caller from Indonesia." *Democratization* 7 (iv): 51–80.

Castells, M., 2010. *The Rise of the Network Society*. The Information Age: Economy, Society, and Culture. Chichester, West Sussex; Malden, MA: Wiley-Blackwell.

Centeno, M.A., 1997. "Blood and Debt: War and Taxation in Nineteenth-Century Latin America." *American Journal of Sociology*, 102 (6), 1565–1605. https://doi.org/10.1086/231127

Centeno, M.A., Kohli, A., Yashar, D.J., 2017. *States in the Developing World*. Cambridge University Press.

Chalmers, I., 1997. "Introduction." In Chalmers, I., Hadiz, V.R. (Eds.), *The Politics of Economic Development in Indonesia: Contending Perspectives*. Routledge studies in the growth economies of Asia 9. Routledge, New York, 1–35.

Chua, C., 2008. "The conglomerates in crisis: Indonesia, 1997-1998." *Journal of the Asia Pacific Economy*, 13 (1), 99–117. https://doi.org/10.1080/13547860701733123

Ciepley, D., 2000. "Why the state was dropped in the first place: a prequel to Skocpol's 'bringing the state back in.'" *Critical Review* 14 (2-3), 157–213.

Clark, B.S., 1998. *Political Economy: A Comparative Approach*. ABC-CLIO.

Colander, D.C. (Ed.), 1984. *Neoclassical Political Economy: The Analysis of Rent-Seeking and DUP Activities*. Cambridge, Massachusetts: Ballinger Publishing Company.

Cole, D.C., Slade, B.F., 1998. "Why Has Indonesia's Financial Crisis Been So Bad?" *Bulletin of Indonesian Economic Studies*, 34 (2), 61–66. http://www.tandfonline.com/loi/cbie20

Collier, P., 2009. "The Political Economy of State Failure." *Oxford Review of Economic Policy* 25 (2): 219–40. https://doi.org/10.1093/oxrep/grp013

Collins, E.F., 2007. *Indonesia Betrayed: How Development Fails*. University of Hawaii Press.

Cribb, R., 2011. "A system of exemptions: Historicizing state illegality in Indonesia." In Aspinall, E., Klinken, G., *The State and Illegality in Indonesia*. KITLV Press, Leiden, 29–44. https://doi.org/10.1163/9789004253681_003

Crouch, H., 1978. *The Army and Politics in Indonesia*. Politics and International Relations of Southeast Asia. Cornell University Press, Ithaca, NY.

Crouch, H.A., 1988. *The Army and Politics in Indonesia*. Revised edition. Politics and International Relations of Southeast Asia. Cornell University Press, Ithaca, NY.

Daruri, A.D., Edward, D., 2004. *BPPN: garbage in, garbage out*. Center for Banking Crisis, Jakarta.

Davidson, J.S., 2015. "The Demise of Indonesia's Upstream Oil and Gas Regulatory Agency: An Alternative Perspective." *Contemporary Southeast Asia: A Journal of International & Strategic Affairs* 37 (1): 109–33. https://doi.org/10.1355/cs37-1e

Davidson, J.S., 2014. *Indonesia's changing political economy: governing the roads*. Cambridge University Press, Cambridge.

Daxecker, U.E., Prins, B.C., 2015. "Searching for Sanctuary: Government Power and the Location of Maritime Piracy." *International Interactions* 41 (4): 699–717. https://doi.org/10.1080/03050629.2015.1016159

Diamond, J.M., 1997. *Guns, germs, and steel: the fates of human societies*. W.W. Norton & Co, New York.

Dick, H., 2001. "Survey of Recent Developments." *Bulletin of Indonesian Economic Studies*, 37 (1), 7–41. https://doi.org/10.1080/00074910300046474

Dick, H., Mulholland, J., 2011. "The state as marketplace: Slush funds and intra-elite rivalry." In Aspinall, E., Klinken, G. (Eds.), *The State and Illegality in Indonesia*. KITLV Press, Leiden, 65–85.

Dieleman, M., 2007. *The rhythm of strategy: a corporate biography of the Salim Group of Indonesia.* Amsterdam University Press, Amsterdam.

Dincecco, M., Katz, G., 2016. "State Capacity and Long-Run Economic Performance." *Economic Journal* 126 (590): 189–218. https://doi.org/10.1111/ecoj.12161

Djiwandono, J.S., 2004. "Liquidity Support to Banks during Indonesia's Financial Crisis." *Bulletin of Indonesian Economic Studies,* 40 (1): 59–75. http://www.tandfonline.com/loi/cbie20

Doner, R.F., 2009. *The Politics of Uneven Development: Thailand's Economic Growth in Comparative Perspective*. Cambridge University Press, Cambridge, UK.

Doner, R.F., Ritchie, B.K., Slater, D., 2005. "Systemic Vulnerability and the Origins of Developmental States: Northeast and Southeast Asia in Comparative Perspective." *International Organisation*, 59 (2). https://doi.org/10.1017/S0020818305050113

Easterly, W., Levine, R., 1997. "Africa's Growth Tragedy: Policies and Ethnic Divisions." *The Quarterly Journal of Economics*, 4, 1203.

Eklöf, S., 2002. "Politics, business, and democratization in Indonesia." In Gomez, E.T. (Ed.), *Political Business in Southeast Asia*. Routledge, 216–249.

Emmerson, D.K., 1999. *Indonesia Beyond Suharto: Polity, Economy, Society, Transition*. M.E. Sharpe, Armonk, NY.

Emmerson, D.K., 1989. "The Military and Development in Indonesia." In Djiwandono, J.S., Cheong, Y.M. (Eds.), *Soldiers and Stability in Southeast Asia*, Issues in Southeast Asian Security. Institute of Southeast Asian Studies, Singapore, 107–130.

Emmerson, D.K., 1983. "Understanding the New Order: Bureaucratic Pluralism in Indonesia." *Asian Survey*, 23 (11), 1220–1241. https://doi.org/10.2307/2644374

Enoch, C., 2000. "Interventions in Banks During Banking Crises: The Experience of Indonesia." IMF Policy Discussion Papers. International Monetary Fund, Washington, DC.

Enoch, C., Baldwin, B., Frécaut, O., Kovanen, A., 2001. "Indonesia: Anatmony of a Banking Crisis, Two Years of Living Dangerously, 1997-1999." IMF Working Paper, No. WP/01/5, International Monetary Fund.

Enoch, C., Frécaut, O., Kovanen, A., 2003. "Indonesia's banking crisis: what happened and what did we learn?" *Bulletin of Indonesian Economic Studies,* 39 (1), 75–92.

Evans, P.B., 1995. *Embedded autonomy: states and industrial transformation*. Princeton University Press, Princeton, N.J.

Evans, P.B., Rueschemeyer, D., Skocpol, T. (Eds.), 1985. *Bringing the state back in*. Cambridge University Press, Cambridgeshire; New York.

Fearon, J.D., Laitin, D.D., 2004. "Neotrusteeship and the Problem of Weak States." *International Security* 28 (4): 5–43.

Feldstein, M.S., 2003. "Economic and financial crises in emerging market economies." NBER Conference Report. University of Chicago Press, Chicago.

Ford, M., Lyons, L., 2011. "Travelling the aspal route: Grey labour migration through an Indonesian border town." In Aspinall, E., Klinken, G. (Eds.), *The State and Illegality in Indonesia*. KITLV Press, Leiden, 107–122. https://doi.org/10.1163/9789004253681_007

Ford, M., Pepinsky, T., 2013. "Beyond oligarchy? Critical exchanges on political power and material inequality." *Indonesia*, 96, 1–9. doi: 10.5728/indonesia.96.0001.

Fourcade, M., Ollion, E., Algan, Y., 2015. "The Superiority of Economists." *Journal of Economic Perspectives,* 29 (1), 89–114. https://doi.org/10.1257/jep.29.1.89

Freedman, A.L., 2006. *Political Change and Consolidation: Democracy's Rocky Road in Thailand, Indonesia, South Korea, and Malaysia*. New York: Palgrave Macmillan.

Fukuoka, Y., 2014. "Debating Indonesia's Reformasi: Bridging 'Parallel Universes.'" *Journal of Contemporary Asia,* 44 (3), 540–552. https://doi.org/10.1080/00472336.2014.895026

Fukuoka, Y., 2012. "Politics, Business and the State in Post-Soeharto Indonesia." *Contemporary Southeast Asia: A Journal of International & Strategic Affairs* 34 (1): 80–100. https://doi.org/10.1355/cs34-1d

Fukuyama, F., 2014. *Political order and political decay: from the industrial revolution to the globalization of democracy*. Farrar, Straus and Giroux, New York.

Fukuyama, F., 2012. *The origins of political order: from prehuman times to the French Revolution*. Farrar, Straus and Giroux, New York.

Fung, B., George, J., Hohl, S., Ma, G., 2004. "Public asset management companies in East Asia; a comparative study." Occasional Paper, No. 3, Financial Stability Institute, Basel.

Gainsborough, M., 2010. *Vietnam: rethinking the state*. Silkworm Books, London; New York: Chiang Mai, Thailand.

Gerschenkron, A., 1962. *Economic backwardness in historical perspective, a book of essays*. Belknap Press of Harvard University Press, Cambridge, Massachusetts.

Glassburner, B., 1976. "In the Wake of General Ibnu: Crisis in the Indonesian Oil Industry." *Asian Survey* 16 (12): 1099–1112. https://doi.org/10.2307/2643447

GlobeAsia, 2017. "GlobeAsia Top 100 Groups of 2017." URL https://www.globeasia.com/cover-story/globeasia-100-top-groups-2017/

Gomez, E.T., 2002. *Political business in East Asia*. Routledge, London; New York.

Gramsci, A., 1971. *Selections from the prison notebooks*. International Publishers, New York.

Grenville, S., 2004. "The IMF and the Indonesian crisis." *Bulletin of Indonesian Economic* Studies, 40 (1), 77–94. https://doi.org/10.1080/0007491042000205213

Grenville, S., 2000. "Indonesian Monetary Policy: A Comment." *Bulletin of Indonesian Economic Studies*, 36 (3), 65–70. https://doi.org/10.1080/00074910012331338963

Guillermoprieto, A., 2015. "Mexico: The War on Journalists." *NYRblog*. August 19. http://www.nybooks.com/blogs/nyrblog/2015/aug/19/mexico-war-on-journalists-espinosa/. (accessed 8.20.15).

Habir, A., Sebastian, E., Williams, L. (Eds.), 2002. *Governance and Privatisation in Indonesia*. Sydney: Research Institute for Asia and the Pacific, University of Sydney in association with the Indonesian Institute for Management Development.

Hadiz, V., 2005. *The Politics of Economic Development in Indonesia: Contending Perspectives*. Routledge.

Hadiz, V., Robison, R., 2013. "The Political Economy of Oligarchy and the Reorganization of Power in Indonesia". *Indonesia*, 35. https://doi.org/10.5728/indonesia.96.0033

Haggard, S., 2000. *The Political Economy of the Asian Financial Crisis*. Peterson Institute.

Haggard, S., MacIntyre, A., 1998. "Theme Selection: Models and crisis: turbulence in Asian economies; The political economy of the Asian economic crisis". *Review of International Political Economy*, 5 (3), 381-392. https://doi.org/10.1080/096922998347444

Haggard, S., 1990. *Pathways from the periphery: the politics of growth in the newly industrializing countries*. Cornell studies in political economy. Cornell University Press, Ithaca, NY.

Hall, P.A., Taylor, R.C.R., 1996. "Political science and the three new institutionalisms." *Political Studies*, 44 (5), 936–957.

Hamilton, G.G., Biggart, N.W., 1988. "Market, Culture, and Authority: A Comparative Analysis of Management and Organization in the Far East." *American Journal of Sociology*, 94, 52–94.

Hay, C., Lister, M., Marsh, D., 2006. *The state: theories and issues*. Political Analysis. Palgrave Macmillan, Basingstoke, Hampshire; New York.

Herbst, J.I., 2000. *States and power in Africa: comparative lessons in authority and control*. Princeton studies in international history and politics. Princeton University Press, Princeton, N.J.

Hibou, B. (Ed.), 2004. *Privatizing the state*. The CERI series in comparative politics and international studies. Columbia University Press, New York.

Hicks, J., 2004. "The Politics of Wealth Distribution in Post-Soeharto Indonesia: Political Power, Corruption and Institutional Change." PhD Dissertation. University of Leeds, Leeds.

Hill, H., 2000a. Indonesia: "The Strange and Sudden Death of a Tiger Economy." *Oxford Development Studies*, 28 (2), 117–139. http://www.tandfonline.com/loi/cods20

Hill, H., 2000b. *The Indonesian economy*. Cambridge University Press, Cambridge ; New York.

Hill, H., 1999. "The Indonesian economy: the strange and sudden death of a tiger." In Forrester, G., May, R.J. (Eds.), *The Fall of Soeharto*. Select Books, in association with the Research School of Pacific and Asian Studies, Australian National University, Singapore, 93–103.

Hill, H. (Ed.), 1994. *Indonesia's new order: the dynamics of socio-economic transformation*. Allen & Unwin, St Leonards, NSW.

Hill, H., Manning, C., 2009. "Reflections on the Political Economy of Policy Reform in Indonesia." *Indonesian Quarterly* 37 (iv), 450–472.

Hirschman, A.O., 1972. *The strategy of economic development*. Yale Univ. Pr, New Haven.

Horowitz, D.L., 2013. *Constitutional Change and Democracy in Indonesia*. Cambridge University Press, New York.

Hui, V.T., 2005. *War and state formation in ancient China and early modern Europe*. Cambridge University Press, New York.

Huntington, S.P., 1993. *The Third Wave: Democratization in the Late Twentieth Century*. University of Oklahoma Press.

Hyma, A., 1953. *A history of the Dutch in the Far East*. George Wahr Publishing Company., Ann Arbor, Michigan.

Indonesian Bank Restructuring Agency (IBRA), n.d. *Strategic plan 1999-2004*. Indonesian Bank Restructuring Agency, Jakarta.

Hukumonline.com, 2004. "ICW Tuntut Kejagung Batalkan SP3 Terhadap Sjamsul Nursalim." URL https://www.hukumonline.com/berita/baca/hol10793/icw-tuntut-kejagung-batalkan-sp3-terhadap-sjamsul-nursalim/ (accessed 12.9.19).

Hukumonline.com, 2003. "Koalisi Ajukan Judicial Review terhadap Inpres R&D." URL https://www.hukumonline.com/berita/baca/hol8090/koalisi-ajukan-judicial-review-terhadap-inpres-rd/ (accessed 12.9.19).

IMF, 2004. "Indonesia: Selected Issues." IMF Country Report, No. 04/189, International Monetary Fund, Washington, DC.

IMF, 2003a. Indonesia Letter of Intent, December 10, 2003. URL http://www.imf.org/external/np/loi/2003/idn/04/index.htm (accessed 4.30.15).

IMF, 2003b. "The IMF and recent capital account crises: Indonesia, Korea, Brazil." Evaluation report, International Monetary Fund, Washington, DC.

IMF, 2000. Indonesia Letter of Intent, January 20. URL http://www.imf.org/external/np/loi/2000/idn/01/ (accessed 5.21.15).

IMF, 1999. Indonesia Letter of Intent and Memorandum of Economic and Financial Policies. March 16. URL https://www.imf.org/external/np/loi/1999/031699.htm (accessed 3.17.15).

IMF, 1998a. Indonesia Letter of Intent and Memorandum of Economic and Financial Policies. January 15. URL http://www.imf.org/external/np/loi/011598.htm (accessed 12.19.16).

IMF, 1998b. Indonesia Letter of Intent and Memorandum of Economic and Financial Policies. April 10. URL https://www.imf.org/external/np/loi/041098.htm (accessed 4.8.15).

IMF, 1998c. Indonesia Letter of Intent and Memorandum of Economic and Financial Policies. July 29. URL https://www.imf.org/external/np/loi/072998.htm (accessed 4.8.15).

IMF, 1998d. Indonesia Letter of Intent, October 19. URL https://www.imf.org/external/np/loi/101998.htm (accessed 12.19.16).

IMF, 1997a. "News Brief: IMF Welcomes Indonesia's Exchange Rate Action." URL https://www.imf.org/en/News/Articles/2015/09/29/18/03/nb9718 (accessed 10.11.19)

IMF, 1997b. Indonesia Letter of Intent. October 31. URL https://www.imf.org/external/np/loi/103197.htm (accessed 11.29.19).

INDEF, 2003. *Quo vadis restrukturisasi perbankan: menjelang pembubaran BPPN*. Pustaka INDEF, Jakarta.

Jackson, K.D., 1978. "Bureaucratic polity: a theoretical framework for the analysis of power and communications in Indonesia." In Jackson, K.D., Pye, L.W. (Eds.), *Political power and communications in Indonesia*, University of California Press, Berkeley, 3-22.

Jarvis, D.S.L., 2012. "The Regulatory State in Developing Countries: Can It Exist and Do We Want It? The Case of the Indonesian Power Sector." *Journal of Contemporary Asia*, 42 (3), 464–492. https://doi.org/10.1080/00472336.2012.687633

Jessop, B., 2010. *State power: a strategic-relational approach*. Polity, Cambridge.

Jimenez-Ayora, P., Ulubasoglu, M.A., 2015. "What underlies weak states? The role of terrain ruggedness." *European Journal of Political Economy*, 39 (Sept), 167–184. https://doi.org/10.1016/j.ejpoleco.2015.04.014

Johnson, C.A., 1982. *MITI and the Japanese miracle: the growth of industrial policy, 1925-1975*. Stanford University Press, Standford, CA.

Johnston, M., 2005. *Syndromes of corruption: wealth, power, and democracy*. Cambridge University Press, New York; Cambridge.

Jonker, J., Sluyterman, K.E., 2001. *At home on the world markets Dutch international trading companies from the 16th century until the present*. McGill-Queen's University Press, Montreal.

Kapur, D., Lewis, J.P., Webb, R.C., 1997. *The World Bank: its first half century: History English*. Report No. 57875. The World Bank, Washington, DC.

Katzenstein, P.J., 1985. *Small States in World Markets: Industrial Policy in Europe*. Cornell Studies in Political Economy. Cornell University Press, Ithaca, NY.

Kementerian BUMN, 2005. "Charoen Pokphand Incar Dipasena." URL http://www.bumn.go.id/ppa/berita/24 (accessed 9.5.19).

Kennedy, D., 2013. "Law and the political economy of the world." *Leiden Journal of International Law*, 26, 7–48.

Kennedy, D., 2011. "Some caution about property rights as a recipe for economic development." *Accounting, Economics, and Law*, 1 (1), 1–62.

Kennedy, P.M., 1989. *The rise and fall of the great powers: economic change and military conflict from 1500 to 2000*. Vintage Books, New York.

Khan, M.H., 2010. Political settlements and the governance of growth enhancing institutions. Unpublished paper. July 2010.

Klein, P.G., 2000. "New institutional economics." *Encyclopedia of Law and Economics*, 1, 456–489.

Klinken, G., Barker, J., 2009. "Introduction: State in Society in Indonesia." In Klinken, G., Barker, J.(Eds.), *State of Authority: State in Society in Indonesia*. Cornell University Press, Ithaca, NY, 1–16.

Knutsen, C.H., 2010. Africa's Growth Tragedy Revisited: Weak States, Strong Rulers. Working Paper. http://political-economy-breakfast.wikischolars.columbia.edu/file/view/AFRICAGROWTH.pdf.

Kocka, J., 2017. *Capitalism: a short history*. Princeton University Press, Princeton, NJ.

Kohli, A., 2004. *State-directed development: political power and industrialization in the global periphery*. Cambridge University Press, Cambridge, UK; New York, NY.

Krueger, A.O., 1974. "The Political Economy of the Rent-Seeking Society." *American Economic Review*, 64 (3), 291.

Kuhonta, E.M., 2011. *The Institutional Imperative: the politics of equitable development in Southeast Asia*. Stanford University Press, Stanford, CA.

La Porta, R., Lopez-de-Silanes, F., Shleifer, A., Vishny, R., 1999. "The Quality of Government." *Journal of Law, Economics and Organization*, 15 (1), 222–79.

Lazear, E.P., 2000. "Economic Imperialism." *The Quarterly Journal of Economics*, 115 (1), 99–146. https://doi.org/10.1162/003355300554683

Lee, C.H., Haggard, S., Maxfield, S. (Eds.), 1993. *The Politics of finance in developing countries.* Cornell studies in political economy. Cornell University Press, Ithaca, NY.

Leith, D., 2003. *The politics of power: Freeport in Suharto's Indonesia*. University of Hawaii Press, Honolulu.

Levi, M., 2002. "The state of the study of the state." In Katznelson, I., Milner, H. (Eds.), *Political Science: The State of the Discipline*. W. W. Norton and the American Political Science Association, New York.

Levi, M., 1989. *Of Rule and Revenue*. University of California Press, Berkeley.

Lewis, J.D., 2014. "The Islamic State: A Counter-Strategy for a Counter-State." Middle East Security Report, No. 21, Institute for the Study of War.

Liddle, R.W., 1987. "The Politics of Shared Growth: Some Indonesian Cases". *Comparative Politics*, 19 (2), 127–146. https://doi.org/10.2307/421795

Liddle, R.W., 1985. "Soeharto's Indonesia: Personal Rule and Political Institutions." *Pacific Affairs*, 58 (1), 68-90. https://doi.org/10.2307/2758010

Liddle, R.W., 1973. "Evolution from Above: National Leadership and Local Development in Indonesia." *Journal of Asian Studies*, 32 (2), 287–309. https://doi.org/10.2307/2052345

Liddle, R.W., Mujani, S., 2013. "Indonesian Democracy: From Transition to Consolidation." In Stepan, A., Künkler, M. (Eds.), *Democracy and Islam in Indonesia.* Columbia University Press, 24–50.

Lindblad, J.T., 1997. "Survey of Recent Developments." *Bulletin of Indonesian Economic Studies*, 33 (3), 3–33. https://doi.org/10.1080/00074919712331337165

Lindgren, C.-J., Balino, T., Enoch, C., Gulde, A.-M., Quintyn, M., Teo, L., 1999. "Financial sector crisis and restructuring: lessons from Asia." Occasional paper, International Monetary Fund, Washington, DC.

Lindsey, T., 2006. "From Soepomo to Prabowo: law, violence and corruption in the Preman State." In Coppel, C.A. (Ed.), *Violent Conflicts in Indonesia: Analysis, Representation, Resolution.* Routledge Contemporary Southeast Asia Series, Routledge, London ; New York, 19–36.

Lindsey, T., 2001. "The Criminal State: Premanisme and the New Indonesia." In Lloyd, G., Smith, S. (Eds.), *Indonesia Today: Challenges of History*. Indonesia Assessment Series, 283–297.

Lindsey, T., Butt, S., 2018. *Indonesian Law*. Oxford University Press, Oxford.

Linz, J.J., Stepan, A.C., 1996. *Problems of democratic transition and consolidation: southern Europe, South America, and post-communist Europe*. Johns Hopkins University Press, Baltimore, MD.

Lipton, M., 1991. "The State--Market Dilemma, Civil Society, and Structural Adjustment." *Round Table,* 80 (317), 21–32.

Lopez, L., 2005. United Fiber Nears Deal in Indonesia. August 12. Wall Street Journal.

Loveman, M., 2005. "The Modern State and the Primitive Accumulation of Symbolic Power." *American Journal of Sociology*, 6, 1651.

MacIntyre, A.J., 2000. "Funny Money: Fiscal Policy, Rent-Seeking and Economic Performance in Indonesia." In Khan, M.H., Jomo, K.S. (Eds.), *Rents, Rent-Seeking and Economic Development: Theory and Evidence in Asia*. Cambridge University Press, Cambridge; New York; Melbourne, 248–273.

MacIntyre, A.J., 1994. "Organising interests: corporatism in Indonesian politics." Working Paper, No. 43. Asia Research Centre on Social, Political and Economic Change, Murdoch University, WA.

MacIntyre, A.J., 1992. "Politics and the reorientation of economic policy in Indonesia." In MacIntyre, A.J., Jayasuriya, K. (Eds.), *The Dynamics of Economic Policy Reform in South-East Asia and the South-West Pacific*. South-East Asian Social Science Monographs, Oxford University Press, Singapore; New York, 138–157.

MacIntyre, A.J., 1991. *Business and politics in Indonesia*. Allen & Unwin, North Sydney, NSW.

Majalah Tempo, 1999. "Sampai Mati Pun Akan Saya Tuntut?" June 13. Laporan Utama. Tempo Magazine (issue unknown).

Manan, A., 2007a. "Prosectors in the Jungle." June 26. Tempo Magazine, 43 (VII).

Manan, A., 2007b. "The Past Catches Up with Nursalim." June 26. Tempo Magazine, 43 (VII).

Mann, M., 1984. "The Autonomous Power of the State: Its Origins, Mechanisms and Results." *European Journal of Sociology / Archives Européennes de Sociologie*, 25 (02), 185–213. https://doi.org/10.1017/S0003975600004239

Maroef, T.M., 2010. "The Shareholder Settlement Program: A Pragmatic Resolution to confront a Systemic Banking Crises in view of the Dysfunctional Legal System and Tradition of the Republic of Indonesia." PhD Dissertation. University of Leiden, Leiden.

Marshall, A., 2002. *The trouser people: colonial shadows in modern-day Burma*. Counterpoint, Washington, D.C.

Matsumoto, Y., 2007. *Financial Fragility and Instability in Indonesia*. Routledge.

McCawley, P., 1978. "Some Consequences of the Pertamina Crisis in Indonesia." *Journal of Southeast Asian Studies*, 9 (1), 1–27.

McLeod, 2000. "Survey of Recent Developments." *Bulletin of Indonesian Economic Studies*, 36 (2), 5–41. https://doi.org/10.1080/00074910012331338873

McLeod, R.H., 2005. "The struggle to regain effective government under democracy in Indonesia." *Bulletin of Indonesian Economic Studies*, 41 (3), 367–386. https://doi.org/10.1080/00074910500117289

Mcleod, R.H., 2004. "Dealing with bank system failure: Indonesia, 1997-2003." *Bulletin of Indonesian Economic Studies*, 40 (1), 95–116. https://doi.org/10.1080/0007491042000205222

Mcleod, R.H., 2003. "Towards improved monetary policy in Indonesia." *Bulletin of Indonesian Economic Studies*, 39 (3), 303–324.

McLeod, R.H., 1999. "Control and Competition: Banking deregulation and re-regulation in Indonesia." *Journal of the Asia Pacific Economy*, 4 (2), 258–296.

Meyer, J.W., 2018. "The Changing Cultural Content of the Nation-State: A World Society Perspective." In Steinmetz, G. (Ed.), *State/Culture: State Formation after the Cultural Turn*. Cornell University Press, Ithaca, NY, 123–144. https://doi.org/10.7591/9781501717789-007

Migdal, J.S., 2001. *State in society: studying how states and societies transform and constitute one another*. Cambridge studies in comparative politics. Cambridge University Press, New York.

Migdal, J.S., 1988. *Strong societies and weak states: state-society relations and state capabilities in the Third World*. Princeton University Press, Princeton, N.J.

Mitchell, T., 1999. Society, economy, and the state effects, in: Steinmetz, G. (Ed.), State/Culture: State-Formation after the Cultural Turn. Cornell University Press, Ithaca, NY; London, pp. 76–97.

Moore, B., 1993. *Social origins of dictatorship and democracy: lord and peasant in the making of the modern world*. Beacon Press, Boston, MA.

Moselle, B., 2001. "A Model of a Predatory State." *Journal of Law, Economics, and Organization*, 17 (1), 1–33. https://doi.org/10.1093/jleo/17.1.1

Munro, P., 2012. "Harbouring the illicit: borderlands and human trafficking in South East Asia." *Crime, Law & Social Change*, 58 (2), 159–177. https://doi.org/10.1007/s10611-012-9378-x

Musacchio Farias, A., 2014. *Reinventing state capitalism: Leviathan in business, Brazil and beyond*. Harvard University Press, Cambridge, MA.

Nasution, A., 2014. *Macroeconomic Policies in Indonesia: Indonesia Economy Since the Asian Financial Crisis of 1997*. Routledge.

Nasution, A., 1998a. "The Meltdown of the Indonesian Economy in 1997-1998: Causes and Responses." *Seoul Journal of Economics*, 11 (4), 447–482.

Nasution, A., 1998b. "'Big Bang' versus 'Go Slow': Indonesia and Malaysia." In Fanelli, J.M., Medhora, R. (Eds.), *Financial Reform in Developing Countries*. Springer, New York, NY, 245–295.

Naughton, B., 1995. *Growing out of the plan: Chinese economic reform, 1978–1993*. Cambridge University Press, Cambridge. https://doi.org/10.1017/CBO9780511664335

Neher, C.D., 1994. *Southeast Asia in the new international era, 2nd ed. ed, Politics in Asia and the Pacific: interdisciplinary perspectives*. Westview Press, Boulder.

Nelson, B., 2006. *The Making of the Modern State: A Theoretical Evolution*. Palgrave Macmillan.

North, D.C., 1990. *Institutions, Institutional Change, and Economic Performance*. The Political Economy of Institutions and Decisions, Cambridge University Press, Cambridge; New York.

North, D.C., 1981. *Structure and change in economic history*. Norton, New York.

North, D.C., 1979. "A framework for analyzing the state in economic history." *Explorations in Economic History*, 16 (3), 249–259. https://doi.org/10.1016/0014-4983(79)90020-2

Olson, M., 2003. *The logic of collective action: public goods and the theory of groups*. Harvard Economic Studies, No. 124, Harvard University Press, Cambridge, MA.

Olson, M., 2000. *Power And Prosperity: Outgrowing Communist And Capitalist Dictatorships*. Basic Books, New York, NY.

Olson, M., 1993. "Dictatorship, Democracy, and Development." *The American Political Science Review*, 87 (3), 567–576.

O'Rourke, K., 2002. *Reformasi: the struggle for power in post-Soeharto Indonesia*. Allen & Unwin, Crows Nest, NSW.

Pangestu, M., 2002. "Foreign Investment Policy: Evolution and Characteristics." In Iqbal, F., James, W.E. (Eds.), *Deregulation and Development in Indonesia*. Praeger, Westport, CT; London, 45–60.

Pangestu, M., Habir, M., 2002. "The Boom, Bust, and Restructuring of Indonesian Banks." IMF Working paper, No. WP/02/66, International Monetary Fund, Washington, DC.

Parris, K., 1999. "Review of Seeing Like a State: How Certain Schemes to Improve the Human Condition Have Failed." *Utopian Studies*, 10 (2), 310–312.

Pasuk Phongpaichit, Baker, C.J., 1995. *Thailand, Economy and Politics*. Oxford University Press, Kuala Lumpur; New York.

Pemberton, J., 1994. *On the subject of "Java."* Cornell University Press, Ithaca, NY.

Pepinsky, T., 2012. "99 Problems (But A Crisis Ain't One), Political Business and External Vulnerability in Island Southeast Asia." JICA-RI Working Paper, No. 43, JICA Research Institute.

Pepinsky, T., 2009. *Economic Crises and the Breakdown of Authoritarian Regimes: Indonesia and Malaysia in comparative perspective*. Cambridge University Press, Cambridge, UK.

Pirard, R., Rokhim, R., 2006. "Asia Pulp & Paper Indonesia: The business rationale that led to forest degredation and financial collapse." Working Paper, No. 33,Center for International Forestry Research (CIFOR), Bogor, Indonesia.

Polanyi, K., 1985. *The Great Transformation*. Beacon Press, Boston, MA.

Pramudya, E.P., Hospes, O., Termeer, C.J.A.M., 2017. "Governing the Palm-Oil Sector through Finance: The Changing Roles of the Indonesian State." *Bulletin of Indonesian Economic Studies*, 53 (1), 57–82. https://doi.org/10.1080/00074918.2016.1228829

Prasetyo, A., 2018c. "Punya Peran Besar, Syafruddin Dituntut 15 Tahun Penjara." September 3. Hukumonline.com. URL https://www.hukumonline.com/berita/baca/lt5b8d303792a70/punya-peran-besar--syafruddin-dituntut-15-tahun-penjara%20. (accessed 9.5.19).

Prasetyo, A., 2018b. "Empat Advokat Senior di Klarifikasi Sjamsul Nursalim." July 26. Hukumonline.com. URL https://www.hukumonline.com/berita/baca/lt5b58a25ee10da/empat-advokat-senior-di-klarifikasi-sjamsul-nursalim (accessed 9.5.19).

Prasetyo, A., 2018c. "Kasus SKL BLBI Segera Disidangkan." April 18. Hukumonline.com. URL https://www.hukumonline.com/berita/baca/lt5ad708db009d5/kasus-skl-blbi-segera-disidangkan/ (accessed 9.5.19).

Przeworski, A., Wallerstein, M., 1982. "The Structure of Class Conflict in Democratic Capitalist Societies." *The American Political Science Review,* 76 (2), 215–238.

Pula, B., 2015. "Institutionalizing a Weak State: Law and Jurisdictional Conflict between Bureaucratic and Communal Institutions in the Albanian Highlands." *Comparative Studies in Society & History,* 57 (3), 637–664. https://doi.org/10.1017/S0010417515000237

Pura, R., Borsuk, R., 1997. "Suharto's Son Criticizes Minister, May Shake IMF Plan's Credibility." November 5. Wall Street Journal.

Purra, M., 2011. "The Indonesian Electricity Sector: Institutional Transition, Regulatory Capacity and Outcomes." In Jarvis, D.L, Ramesh, M., Wu, X. Araral, E.I. (Eds.), *Infrastructure Regulation: What Works, Why and How Do We Know?* World Scientific, 231–278. https://doi.org/10.1142/9789814335744_0008

Putnam, R.D., Leonardi, R., Nanetti, R.Y., 1994. *Making Democracy Work: Civic Traditions in Modern Italy*. Princeton University Press, Princeton, NJ.

Radelet, S., Sachs, J.D., 1998. "The East Asian Financial Crisis: Diagnosis, Remedies, Prospects." Brookings Papers on Economic Activity, No. 28, 1–74. https://doi.org/10.2307/2534670

Rafick, I., 2008. *Catatan hitam lima presiden Indonesia: sebuah investigasi 1997-2007, mafia ekonomi, dan jalan baru membangun Indonesia.* Ufuk Publishing House, Jakarta.

Rahmi, N., 2017. "Rangkai Puzzle Korupsi BLBI, KPK Lokalisasi pada Penerbitan SKL." May 3. Hukumonline.com. URL https://www.hukumonline.com/berita/baca/lt59098c6caaa57/rangkai-puzzle-korupsi-blbi--kpk-lokalisasi-pada-penerbitan-skl&xid=17259,15700021,15700124,15700149,15700186,15700190,15700201&usg=alkjrhg5cmmg0hk5wwqphxshe3yidai17w (accessed 9.5.19).

Ramesh, M., 2009. "Economic Crisis and its Social Impacts." *Global Social Policy*, 9 (1), 79–99. https://doi.org/10.1177/1468018109106886

Rauch, J.E., Evans, P.B., 2000. "Bureaucratic structure and bureaucratic performance in less developed countries." *Journal of Public Economics*, 75 (1), 49–71. https://doi.org/10.1016/S0047-2727(99)00044-4

Redfern, W.A., 2010. "Sukarno's Guided Democracy and the Takeovers of Foreign Companies in Indonesia in the 1960s." PhD Dissertation. University of Michigan.

Reformasi Weekly Review, 2016. Newsletter, 9 September, PT Reformasi Info Sastra.

Reformasi Weekly Review, 2012. Newsletter, 31 August, PT Reformasi Info Sastra.

Reformasi Weekly Review, 2010. Newsletter, 17 September, PT Reformasi Info Sastra.

Reno, W., 1995. *Corruption and state politics in Sierra Leone*. African Studies Seties, No. 83. Cambridge University Press, Cambridge; New York.

Reynolds, C., 2012. "Time's Arrow and the Burden of the Past: A Primer on the Thai Un-State." Sensate.

Robinson, J.A., 2001. "When is a State Predatory?." Working Paper. 1–37. URL https://wcfia.harvard.edu/files/wcfia/files/898_jr_predatory.pdf

Robison, R., 2009. *Indonesia the rise of capital*. Equinox Publishing, Jakarta; Kuala Lumpur.

Robison, R., 1997. "Politics and Markets in Indonesia's Post-Oil Era." In Rodan, G., Hewison, K., Robison, R. (Eds.), *The Political Economy of South-East Asia: An Introduction*. Oxford University Press, Melbourne; Oxford, 29–63.

Robison, R., Beeson, M., Kim, H.R., Jayasuriya, K. (Eds.), 2000. *Politics and markets in the wake of the Asian crisis, Asian Capitalisms*. Routledge, London; New York.

Robison, R., Hadiz, V.R., 2004. *Reorganising power in Indonesia: the politics of oligarchy in an age of markets*. RoutledgeCurzon, London; New York.

Robison, R., Rosser, A., 2003. "Contesting Reform: Indonesia's New Order and the IMF." In Preston, P.W. (Ed.), *Political Change in East Asia. Volume 1*. International Library of Social Change in Asia Pacific., 297–313.

Robison, R., Rosser, A., 2000. "Surviving the Meltdown: Liberal Reform and Political Oligarchy in Indonesia." Robison, R., Beeson, M., Jayasuriya, K., Kim, Hyuk-Rae (Eds.), *Politics and Markets in the Wake of the Asian Crisis*. Routledge, London; New York, 171–191.

Robison, R., Rosser, A., 1998. "Contesting reform: Indonesia's new order and the IMF." *World Development*, 26 (8), 1593–1609. https://doi.org/10.1016/S0305-750X(98)00056-4

Rosengard, J., 2004. "Will Bank Bailouts Bust Budgets? Fiscalization of the East Asian Financial Crisis." Working Paper. Harvard University, John F. Kennedy School of Government.

Rosser, A., 2013. *The Politics of Economic Liberalization in Indonesia State, Market and Power*. Taylor and Francis, Hoboken.

Rosser, A., 2005. "The Political Economy of Corporate Governance in Indonesia." In Leong, H.K. (Ed.), *Reforming Corporate Governance in Southeast Asia: Economics, Politics, and Regulations*. Institute of Southeast Asian Studies, Singapore, 180–199.

Rosser, A., 2002. *The politics of economic liberalisation in Indonesia: state market and power*. Curzon, Richmond, Surrey.

Rotberg, R.I., 2010. *When States Fail: Causes and Consequences*. Princeton University Press, Princeton, NJ.

Rothstein, B., Uslaner, E.M., 2005. "All for all: Equality, corruption, and social trust." *World politics*, 58 (1), 41–72.

Rueschemeyer, D., Evans, P.B., 1985. "The state and economic transformation: toward an analysis of the conditions underlying effective intervention." In Evans, P.B., Rueschemeyer, D., Skocpol, T. (Eds.), *Bringing the State Back In*. Cambridge University Press, Cambridgeshire; New York, 44–77.

Rueschemeyer, D., Huber, E., Stephens, J.D., 1992. *Capitalist development and democracy*. University of Chicago Press, Chicago.

Sachs, J.D., 2006. *The end of poverty: economic possibilities for our time. Penguin Books*, New York, NY.

Sahbani, A., 2017. "KPK: Kerugian Negara SKL BLBI Rp 4,58 Triliun." October 9. Hukumonline.com. URL https://www.hukumonline.com/berita/baca/lt59db690201dc8/kpk--kerugian-negara-skl-blbi-rp-4-58-triliun&xid=17259,15700021,15700124,15700149,15700186,15700190,15700201&usg=alkjrhina3gsysj9x29abhcsgjzp7yu7pw (accessed 9.5.19).

Samuels, R.J., 1987. *The business of the Japanese state: energy markets in comparative and historical perspective.* Cornell Studies in Political Economy. Cornell University Press, Ithaca, NY.

Santoso, B., 2018. "Todung: Sjamsul Nursalim Lakukan Misrepresentasi Utang Dipasena." August 19. Suara.com. URL https://www.suara.com/news/2018/07/19/182824/todung-sjamsul-nursalim-lakukan-misrepresentasi-utang-dipasena (accessed 4.12.19).

Santoso, W., 2000. "Indonesia's Financial and Corporate Sector Reform." Working Paper, No. 4, Bank Indonesia, Jakarta.

Sapiie, M.A., 2018. "Prosecutors demand 15 years for Syafruddin in BLBI case." September 3. The Jakarta Post. URL https://www.thejakartapost.com/news/2018/09/03/prosecutors-demand-15-years-for-syafruddin-in-blbi-case.html (accessed 12.6.19).

Sato, Y., 2005. "Overview of the Seven Years' Experiment: What Changed and What Matters?." *The Developing Economies*, 43 (1), 3–16. https://doi.org/10.1111/j.1746-1049.2005.tb00250.x

Sato, Y., 2004. "Corporate ownership and management in Indonesia: does it change?." In Basri, M.C. Eng, P.V. (Eds.), *Business in Indonesia: New Challenges, Old Problems.* Institute of Southeast Asian Studies, Singapore, 158–177.

Sato, Y., 2003. "Post-Crisis Economic Reform in Indonesia: Policy for Intervening in Ownership in Historical Perspective." IDE Research Paper, No. 4, Institute of Developing Economies.

Schwarz, A., 2013. *A nation in waiting: Indonesia's search for stability*. Talisman, Singapore.

Schwarz, A., 2000. *A nation in waiting: Indonesia's search for stability*. Westview Press, Boulder, Colo.

Schwarz, A., 1994. *A nation in waiting: Indonesia in the 1990s*. Westview Press, Boulder San Francisco.

Scott, J.C., 2009. *The art of not being governed: an anarchist history of upland Southeast Asia.* Yale agrarian studies series, Yale University Press, New Haven, CT.

Scott, J.C., 1998. *Seeing like a state: how certain schemes to improve the human condition have failed*, Yale agrarian studies series, Yale University Press, New Haven, CT.

Setyawan, F.A., 2017a. "KPK: Suami Ayin Bangun Tambak Dipasena Milik Sjamsul Nursalim." June 1. CNN Indonesia. URL https://www.cnnindonesia.com/nasional/20170601032647-12-218663/kpk-suami-ayin-bangun-tambak-dipasena-milik-sjamsul-nursalim (accessed 4.12.19).

Setyawan, F.A., 2017b. "Kwik Kian Gie Sebut Sjamsul Nursalim Berutang Rp3,7 Triliun." June 6. CNN Indonesia. URL https://www.cnnindonesia.com/nasional/20170606135302-12-219789/kwik-kian-gie-sebut-sjamsul-nursalim-berutang-rp37-triliun (accessed 4.12.19).

Seymour, F., Sari, A.P., 2002. "Indonesia: Electricity Reform Under Economic Crisis." In Dubash, N.K., Bouille, D., (Eds.), *Power Politics: Equity and Environment in Electricity Reform*. World Resources Institute, Washington, DC.

Shonfield, A., 1968. *Modern capitalism: the changing balance of public and private power*. Oxford University Press, London; New York.

Sjahrir, Brown, C. 1992. "Indonesian financial and trade policy deregulation: reform and response." In MacIntyre, A.J., Jayasuriya, K. (Eds.), *The Dynamics of Economic Policy Reform in South-East Asia and the South-West Pacific*. South-East Asian Social Science Monographs. Oxford University Press, Singapore; New York, 124–137.

Skocpol, T., 1985. "Bringing the state back in: strategies of analysis in current research." In: Evans, P.B., Rueschemeyer, D., Skocpol, T. (Eds.), *Bringing the State Back In*. Cambridge University Press, Cambridge, 3-38.

Skocpol, T., Ameata, E., 1986. "States and Social Policies." *Annual Review of Sociology*, 12, 131-157. https://doi.org/10.1146/annurev.so.12.080186.001023

Skocpol, T., Amenta, E., 1985. "Did Capitalists Shape Social Security?." *American Sociological Review*, 50 (4), 572–575.

Skocpol, T., Somers, M., 1980. "The Uses of Comparative History in Macrosocial Inquiry." *Comparative Studies in Society and History*, 22 (2), 174–197.

Slater, D., 2010. *Ordering power: contentious politics and authoritarian leviathans in Southeast Asia*. Cambridge Sudies in Comparative Politics. Cambridge University Press, Cambridge; New York.

Slater, D., 2004. "Indonesia's Accountability Trap: Party Cartels and Presidential Power after Democratic Transition." *Indonesia,* 78(2), 61–92.

Smith, B., 2003. "If I Do These Things, They Will Throw Me out": Economic Reform and the Collapse of Indonesia's New Order." *Journal of International Affairs,* 57 (2), 113–128.

Soesastro, M.H., 1989. "The Political Economy of Deregulation in Indonesia." *Asian Survey*, 29 (9), 853–869. https://doi.org/10.2307/2644831

Solomon, J., Wright, T., 2000. "Businessmen, Meeting State Deadline, Guarantee to Pay More of Their Debts." November 16. Wall Street Journal.

Stepan, A.C., 1978. *The state and society: Peru in comparative perspective*. Princeton University Press, Princeton, N.J.

Stevens, J., 1999. *Reproducing the state*. Princeton University Presss, Princeton, N.J.

Stigler, G.J., 1974. "Free Riders and Collective Action: An Appendix to Theories of Economic Regulation." *Bell Journal of Economics,* 5 (2), 359–365.

Stimson, S., 2000. "Rethinking the State: Perspectives on the Legibility and Reproduction of Political Societies." *Political Theory*, 28 (6), 822–834.

Streeten, P., 1993. "Markets and states: against minimalism." *World Development*, 21 (8), 1281–1298.

Studwell, J., 2007. *Asian godfathers: money and power in Hong Kong and Southeast Asia*. Grove Press, New York.

Sutherland, H., 1979. *The making of a bureaucratic elite: the colonial transformation of the Javanese priyayi*. Southeast Asia Publication Series. Published for the Asian Studies Association of Australia by Heinemann Educational Books (Asia), Singapore.

Sutiawan, I., 2018. "Utang Petambak Dipasena Dijual Era Sri Mulyani." July 12. Gatra.com. URL https://www.gatra.com/detail/news/331821/nasional/Utang-Petambak-Dipasena-Dijual-Era-Sri-Mulyani (accessed 9.5.19).

Syahrial, M., 2016a. "BLBI & OR - Penyehatan Perbankan." Unpublished Paper.

Syahrial, M., 2016b. "Ulasan & Informasi Penanganan: BLBI & OR – Penyehatan Perbankan." June. Presentation, Jakarta, Indonesia.

Tempo.co, 2004. "Sjamsul Nursalim Bakal Mendapat Pengampunan." January 26. Tempo Online. URL https://bisnis.tempo.co/read/38837/sjamsul-nursalim-bakal-mendapat-pengampunan (accessed 9.5.19).

Terada-Hagiwara, A., Pasadilla, G., 2004." Experience of Asian Asset ManagementCompanies: Do They Increase MoralHazard?—Evidence from Thailand." ERD Working Paper, No. 55. ADB, Manilla, Philippines.

The Jakarta Post, 2018. "BREAKING: Ex-Indonesian bank bailout agency chief gets 13 years." September 24. URL https://www.thejakartapost.com/news/2018/09/24/breaking-ex-indonesian-bank-bailout-agency-chief-gets-13-years.html (accessed 4.23.19a).

The Jakarta Post, 2016. "Former IBRA chairman named suspect in Victoria Sekuritas cessie case." September 23. URL https://www.thejakartapost.com/news/2016/09/23/former-ibra-chairman-named-suspect-in-victoria-sekuritas-cessie-case.html (accessed 10.16.19b).

Thee, K.W., 2002. "The Soeharto era and after: stability, development and crisis, 1966-2000." In: Dick, H., Houben, V.J.H., Lindblad, T., Thee, K.W., (Eds.), *The Emergence of a National Economy: An Economic History of Indonesia, 1800-2000*. University of Hawai'i Press, Honolulu, 194–243.

Thee, K.W., 2012. *Indonesia's economy since independence*. Institute of Southeast Asian Studies, Singapore.

Down To Earth, 2000. "Three dead in Lampung shrimp violence." Newsletter, No. 45, May. URL http://www.downtoearth-indonesia.org/story/three-dead-lampung-shrimp-violence (accessed 9.5.19).

Tilly, C., 1990. *Coercion, Capital, and European states, AD 990-1990*. Studies in Social Discontinuity. Blackwell, Cambridge, MA.

Tilly, C., 1985. "War making and state making as organized crime." In Evans, P.B., Rueschemeyer, D., Skocpol, T. (Eds.), *Bringing the State Back In*. Cambridge University Press, Cambridge, 169–191.

Tilly, C. (Ed.), 1975. *The Formation of National States in Western Europe*. Studies in Political Development. Princeton University Press, Princeton, NJ.

Tipton, F.B., 2009. "Southeast Asian capitalism: History, institutions, states, and firms." *Asia Pacific Journal of Management,* 26 (3), 401–434. https://doi.org/10.1007/s10490-008-9118-z

Tudor, M., Slater, D., 2016. "The Content of Democracy: Nationalist Parties and Inclusive Ideologies in India and Indonesia." In Bermeo, N., Yashar, D. (Eds.), *Parties, Democracy and Movements in the Developing World*. Cambridge University Press, Cambridge, 28-60.

Van der Kroef, J.M., 1960. "Colonial Continuity in Indonesia's Economic Policy." *Australian Outlook*, 14 (1), 5–14.

Vu, T., 2010a. *Paths to development in Asia: South Korea, Vietnam, China, and Indonesia*. Cambridge University Press, Cambridge; New York.

Vu, T., 2010b. "Studying the State through State Formation." *World Politics*, 62 (1), 148–175. https://doi.org/10.1017/S0043887109990244

Vu, T., 2003. "Of rice and revolution: the politics of provisioning and state-society relations on Java, 1945-1949." *Southeast Asia Research*, 11 (3), 237–267.

Wade, R., 2018. *Governing the Market: Economic Theory and the Role of Government in East Asian Industrialization*. Princeton University Press, Princeton, NJ. https://doi.org/10.2307/j.ctv346sp7

Wallerstein, I.M., 2004. *World-systems analysis: an introduction*. Duke University Press, Durham.

Weber, M., 1991. *From Max Weber: essays in sociology*. Routledge Sociology Classics. Routledge, London.

Weber, M., 1978. *Economy and society: an outline of interpretive sociology*. University of California Press, Berkeley.

Weingast, B.R., 1995. "The Economic Role of Political Institutions: Market-Preserving Federalism and Economic Development." *Journal of Law, Economics, & Organization*, 11 (1), 1–31.

Wells, L.T., 2007. "Private Power in Indonesia." *Bulletin of Indonesian Economic Studies,* 43 (3), 341–364. https://doi.org/10.1080/00074910701727605

William M.I., Prasad, M., 2014. "Taxes and Fiscal Sociology." *Annual Review of Sociology*, 40, 331–345. https://doi.org/10.1146/annurev-soc-071913-043229

Williamson, O.E., 2000. "The New Institutional Economics: Taking Stock, Looking Ahead." *Journal of Economic Literature*, 38 (3), 595–613.

Winters, J.A., 2013. "Oligarchy and Democracy in Indonesia". *Indonesia*, 96 (1), 11–33.

Winters, J.A., 2011. *Oligarchy*. Cambridge University Press, Cambridge; New York.

Winters, J.A., 1996. *Power in Motion: Capital Mobility and the Indonesian State*. Cornell University Press, Ithaca, NY.

Wittfogel, K.A., 1957. *Oriental despotism: a comparative study of total power*. Yale Paperbound, Y-83. Yale University Press, New Haven; London.

World Bank, 1997. "Indonesia - Sustaining high growth with equity." Report, No 16433. The World Bank, Washington, DC.

Wu, X., Sulistiyanto, P., 2006. "Independent Power Producers in Indonesia and the Philippines." In Ramesh, M., Howlett, M. (Eds.), *Deregulation and Its Discontents: Rewriting the Rules in Asia*. Edward Elgar Publishing, Cheltenham; Northampton, 109-123.