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## EDITORIAL

### **Informality and policy in the making: four flavours to explain the essence of informality**

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KEYWORDS: informality; governance; infrapolitics

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I find it difficult to locate, in time, the moment when research on informality gained such a momentum in the social sciences, however I can at least recall a starting and arrival point. When I found inspiration to write a paper on the informal practices on the Odessa-Chisinau *elektrichka*<sup>1</sup> that I presented at the Max Plack Institute in Halle in 2005 (Polese 2006), “informality” was a term barely used in the social sciences, let alone in post-socialist spaces. It was a couple of years ago that I can remember how relieved I was to come across like-minded individuals, such as Colin Williams who devoted considerable effort and time to studying on informality, and whose focus at that time was Ukraine. That was the first time when I met, at least in person, someone who seemed to be dedicating his whole (professional) life to the cause of informality. Things then radically changed. It was not until 2013 that things began to radically change. Following a short break, I returned to academia only to find myself thrown into one of the most significant events, to the best of my knowledge, on informality and the post-socialist world. Thanks to a series of generous grants, my friend Nicolas Hayoz was able to invite to Fribourg approximately 120 scholars working on informality in the Balkans, Eastern Europe, Caucasus and Central Asia. The conference is also where I learned about the preparation of the “Global Encyclopaedia of Informality” (Ledeneva 2018) that eventually came out in 2018 and is, to date, both the main world reference on informal practices and a starting point for those willing to understand informality beyond a monetary, or economic, perspective. By 2013, ‘Informality’ seemed to have grown in popularity and become a buzzword decorating articles, books, special issues and a variety of academics works from a variety of regions. In spite of this personal and autobiographic digression, I have no intention to deny the long history of debates around the meaning and uses of informality. If we look at a mostly economic view on in-

<sup>1</sup>The train travelling across the Ukrainian-Moldovan border (editor’s note).



formality, I usually locate the first discussions around post-WWII debates on development. Explorations of the informal sector, as it was called at that time, affected a number of economic and economic positions (Lewis 1954, 1959) eventually evolving into several directions. From ultra-liberal views on corruption (Leff 1964) to the work of anthropologists shifting attention from monetary to non-monetary transactions; from the tangible and measurable to the symbolic and arguably intangible, for example Keith Hart's seminal work on Ghana (1973). Studies from the same period also evolved into more critical theories, for instance maintaining that informality is needed for capitalist expansion. Ultimately, from the International Labour Organization (1972) to the OECD (Jütting and Laiglesia 2009), informal labour and economic informality have been acknowledged as a major global concern, leading to debates on whether informal and shadow economies should be ultimately settled to start building a more equal society from scratch. Or else whether one should work to the formalization of the informal sector. Over the past decade, thus, informality has thus come to take so many different meanings and has been "captured" by other disciplines such as urban planning, development, corruption studies and governance at the same time. This is not to discourage future works seeking to build an interpretative framework on informality. In several years of research on informality, I have come across several meanings of informality that can be regarded as harming the state but not the society, harming both or even benefiting both state and the society and it would be worth continuing a quest towards a "theory of informality". The problem with acceptance of informality is that not all practices that are considered harmful by international organizations are necessarily deleterious, or are perceived as such, by a society. By the same token, not all practices deemed acceptable according to international standards or normative positions are guaranteed to achieve the expected results. In this, it is pertinent to begin from the matrix by

Van Schendel and Abrahams (2005) separating legalistic (legal/illegal) and cultural (licit/illicit) perspectives on a given action or practice. The underlying principle is that practices that are perceived as illegal might be regarded as acceptable (licit) by one or more segments of a society. In contrast, pressure from external actors might impose practices that are viewed as socially unacceptable in a given culture or context onto that country's legal system.

What follows in the next short sections is an attempt to classify informal practices with the simple goal of testing their applicability to different contexts and situations. I am sure more informalities can be “discovered”, but I find that, at least as a starting point, the four ‘flavours’ (Polese 2018a) laid out below provide a mechanism for classifying the main directions of informality and provide ‘food for thought’.

### **1. Flavour 1: informality in top politics**

This has been studied both in the context of domestic politics, and in particular Ledeneva (2006, 2013) as a main figure in the field, and the work of Stone (2010) which covers the management of international organizations. The category can be stretched to include management of international disputes or political crises. For one thing, setting the agenda for the study of informal political institutions, Helmke and Levitsky (2004) provide an extensive list of formal institutions, some of which are based in the Western world, that make wide use of informality in order to function. A further suggestion in the same direction is, in my view, the work *Lawlessness and Economics* (Dixit 2007) looking at the way, for the sake of better economic effectiveness, companies and extremely formal actors, choose to rely on informal institutions and mechanisms to settle international disputes. The general idea is that informality is not necessarily disruptive when it comes to high-level govern-

ance structures. For example, an institution, or entire system of governance, which is deemed dysfunctional according to theoretical prescriptions can at times run in a more orderly fashion than otherwise expected. This raises questions among some authors/practitioners who operate under more rigid theoretical precepts which may hinder any understanding of how ‘ineffective/corrupt’ systems function on a day-to-day basis. For post-Soviet spaces, Ledeneva is possibly the scholar with the longest track-record of research on informality in the post-socialist region. Starting from the role of long-term relations and the practice of *blat* (favours) in Russian society and politics (Ledeneva 1998), she has chosen the word “sistema” (Ledeneva 2013) and used it to discuss “*methods of informal governance*.” In this context, institutions which are technically unreliable and ineffective function ‘successfully’ on the basis of centralized agency of one influential individual, for example Russian President Vladimir Putin in Ledeneva’s case. This person knows what strings to pull, whom to call upon and how to motivate people to eventually make things work. Although it seems to work perfectly in the short-run, this illusion of effectiveness is linked to the agency of a single person, and possibly his entourage, making it impossible to replicate the same structure and procedures once this person is no longer in charge. We talk, in other words, of a system of governance with no memory. The moment the leader departs, a transitory period is needed to re-create the power structures and dynamics which enabled the system to function and there is no guarantee that it will work in the same way, or in the same direction. Such a situation denies the principle of replicability of a public administration, political ideology or political system. A political ideology and a political system should outlive their creators, not die with them. A public administration should work the same way, and with the same effectiveness, regardless of any intergenerational divergence which may impact the leadership of the administration. A cognate study by Darden (2007) has also led to

similar results, showing that a highly corrupt political environment was not necessarily entirely dysfunctional. In fact, in his study on Ukraine he managed to show that, despite widespread blackmail and political corruption under the Leonid Kuchma administration (1994-2005), the Ukrainian parliament had managed to adopt an impressively high volume of laws and regulations. Arguably, the system worked and achieved tangible results, albeit in more unexpected circumstances and not according to the precepts of external observers.

## **2. Flavour 2: economic informality**

Across the world, revenues are hidden, companies fail to register their business, workers operate in precarious conditions. These are not minor practices: a recent OECD report estimates that the informal sector makes up two thirds of the world economy (Jütting and Laiglesia 2009). Not surprisingly, this is also the category of informality on which research is most developed, especially in the field of economics. It is relatively easy to classify and measure it since it regards mostly economic and measurable activities. Research in this direction explores the role and typology of actors involved in these kinds of activities and striving to conceal, misreport or do their utmost to render them unmeasurable as shown by Putniņš and Sauka (2015) as well as Schneider (2013) and Medina and Schneider (2018), who have elaborated ways to estimate the level of informal economy in a given context. As far as economic informality can be regarded as damaging governance, reducing tax income and thus public spending, in environment with highly restrictive legislation, whereby rules are difficult to navigate, can also act as a safety valve, allowing actors formally excluded from the economy of a country to operate on the market, although only under certain conditions and in specific cases.

### 3. Flavour 3: informal payments (or corruption)

This is perhaps the widest, and thus the most confusing category of informality used across countries and sectors. With some flexibility allowed, any exchange between two, or more, actors can end up in this category. The problem with the amalgamation of all informal payments in one category here is double-edged sword. One is that, in a number of cases, the same category hosts very different transactions: payments of several millions to a politician to get a multi-million contract, or a small sum paid to a doctor thanking them for a service provided free of charge. The other is that the same gesture may have different meanings depending on the context. For instance, a payment demanded before medical attention can be regarded as blackmailing (for example, if payment is not received, I will not operate/prescribe these drugs) but a payment after the service can be regarded as a sign of gratitude (for example, please kindly accept this gift for having gone above and beyond in helping us). However, corruption is used to refer to anything, from a one-off payment to a bureaucrat to previously-agreed payments to the medical staff upon giving birth to a payment to a politician to get a given law approved in the parliament. And the category is expanding and, in an effort to find a satisfactory definition, international organizations sometimes provide a definition of informality that is way too close to other social phenomena. For one thing, consider the definition of a 'bribe' put forth by the IMF (Tanzi 1998) as a gift which implies expected reciprocation. It creates a category where any kind of social exchange can be flagged as a bribe. However, in societies where interdependence between citizens is very high, gift-giving may respond to social etiquette requirements. In some occasions, these payments make the system work, are a contribution to salaries (Polese 2006), make feel civil servants gratified (Patino 2002), make up for limited cash available

(Rivken-Fish 2005). These kinds of payments are arguable a solution, not necessarily the problem itself.

#### **4. Flavour 4: informality and a path to infrapolitics**

Take a situation in which a citizen of a given country is behaving in a way which is not in accordance with said country's laws and norms. In a standard situation, the person would be considered a deviant or, in a more extreme case, a criminal. Multiply this situation by a thousand of times and apply it to a large number of citizens and you have what Scott has defined as *infrapolitics* (2012). What is the value of a rule that few, if anyone, abide to? A state can give instructions, in the form of laws and rules, on how people should behave. They have enforcing and punishment mechanisms to deal with the isolated non-compliance cases. What happens when non-compliance becomes the norm? Or at least it is widespread among certain segments of a population or some geographical areas? Public policy is successful when it benefits the majority of the citizens of a country, who will in turn actively support such a policy. What about the rest of the citizens? They should support the policy at least passively, that is not to oppose it. Still, there are cases where disagreement with a policy leads to passive resistance by "forgetting" to follow a given rule, or interpreting in a different way, as documented by Scott (1984). This also emerges through the papers in this special issue, with the authors looking at the intersection between patterns of behaviour that generate at the societal level and how they might potentially contradict state-originated rules and laws and how compromises are found. There are no pre-defined patterns. In some case the state proposes some rules and people follow. In some other cases, people do not automatically follow the instructions received, they oppose them, renegotiate them or even fight them. In some other cases, people come up with their own rules and the state, or the

country's elites, after some initial resistance, realize that could contribute to better governance in some sphere. This eventually leads to the transformation of an informal rule, or behaviour, into a formal one, what I call "*purchase*" by the state of an informal practice (Polese 2016a, 30). The problem of the liquidation-formalization dichotomy is two-fold. First, who shall decide what it is worth keeping and thus formalize and what, instead, should be liquidated, destroyed and rebuilt from scratch? Hypotheses and assumptions can be made, and a variety of considerations might guide law-makers in the decisions. However it ultimately sounds like a moral judgment to separate what it is worth preserving versus what needs to be erased in the economy of a country. The problem is, as many have noticed, that each practice may have a different meaning depending on the context (Gill 1998; Gudeman 2001). Ultimately, there is no one informality but many. While I still believe in the distinction between "*the two informalities*" (Polese 2016b) with one going against the state and the other helping it to function in spite of its dysfunctionalities and idiosyncrasies. However even practices formally going against a state could be, in some cases, domesticated or institutionalized and eventually be taken advantage of.

Table 1. Flavours of informality and their advantages/disadvantages

	Legal perception	Social perception	Pluses	Minuses
<b>Informal governance and <i>sistema</i></b>	Reciprocity may be treated as nepotism or corruption but no legal framework to deal with the situation where everyone has something to hide	Range from “necessary evil” to get things done to “evidence of advanced degradation of a country and its society”	Avoids collapse. A last minute or ad-personam solution is usually found	No development perspective. Effectiveness depends on people. When they change, everything starts from zero again
<b>Shadow economy and informal labour</b>	Tax non-compliance and failure to register a company is illegal	Hard to find someone openly condemning it. It is usually “us” against the (bad) state and usually justified or understandable as attitude by those not directly harmed by it	Allows a large amount of people to survive. Can be used as a starting point to think of tax and other reforms	Takes away revenues from state budget, puts the country in a negative light with regards to business environment, represents an additional cost to secure compliance
<b>Informal payments and corruption</b>	Some transactions are formally illegal and punishable. Framework to deal with non-monetary transactions is largely absent	Understanding, or even empathy, is visible in some categories and cases (doctors, teachers) more than in others (police, tax inspectors). Overall, however, they contribute to the perception of the country as under-developed	Allows many people to “get things done” in situations where huddles and limitations (to their basic rights as citizens) are present	Makes the system unpredictable and difficult to understand (especially to external actors and newcomers); makes it easier to abuse authority and power
<b>Informality and policy-making</b>	There is virtually no debate or awareness	Little reflection. It is treated as an exception to a usually widely accepted rule or behaviour	People who are unable to meet state requirements or act as they are supposed to can still “live with the rule” and need not to take action, protest or challenge the state	Generates a gap between policy-makers (setting impossible objectives) and the people (especially those who cannot live with these objectives)

Source: Polase 2018b.



## **5. Epilogue: who needs (what) informality?**

Informality research provides excellent food for thought and a basis to critically look at a number of widely accepted normative assumptions; yet, it tends to suggest that ‘things do not work the way they are supposed to work’, that is, according to mainstream predictions of social and economic theories. What it seems to be lacking in informality research, then, is a thorough reflection on how things actually work, behind and beyond the above-mentioned predictions.

From a public policy perspective, informality could be used to improve state performance, governance structures and dynamics. Each policy measure brings forth both advantages and disadvantages on various parts of the population. Some segments of a population might find it advantageous to abide by a certain rule or a ruling elite might impose some additional costs for some parts of a society, or even its entirety, in order to achieve their overarching goals. In other words, it becomes convenient to go beyond ‘good’ and ‘bad’ to move through other categories such as long or short-term benefits for a given category or segment of a population. In some cases, public policy might negatively impact a large portion of the population in favour of a minority which is more in need of immediate assistance.

If we embrace this perspective then informality, or at least some informalities, can be regarded as being neutral and in bringing both advantages and disadvantages. Allowing development of a form of informality, or simply refusing to liquidate a given form of informality, may be regarded as an act of public policy as far as there is awareness of what are the advantages of a given form of informality and they are in line with the objectives set for a given period.

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## RESEARCH ARTICLE

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### Formalising the informal through legal practice. The case of prostitution in authoritarian Tunisia

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#### ABSTRACT (max 150 words)

*This article explores the dynamics of the law in action beyond the binary formal/informal, using Tunisian jurisprudence in the field of prostitution as a case study. It examines what the formal/informal distinction means in an authoritarian context where formal norms contrast significantly with informal norms: do judges apply the formal norm, or do they apply the informal one, and if so, how do they justify this? This article argues that judges instrumentalise a formal norm (i.e. the ban on prostitution) to impose an informal one (prohibiting extra-marital sex). As a result, the norm prohibiting extra-marital sex can no longer be situated in the formal/informal divide: it is not informal, as judges are State officials punishing the violation of this norm; and it is not formal either, since the norm does not form part of legislation and Tunisian judges, exercising their profession in a civil law country, do not make law.*

**KEYWORDS:** Informal Norms; Judicial Practice; Tunisia; Authoritarian Law; Authoritarian State Feminism

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## 1. Introduction: the formal/informal divide<sup>1</sup>

Whereas the study of law has predominantly been shaped by a positivist outlook, in that legal scholars have maintained a focus on legislation, legal academics since the start of the 20th Century have been increasingly interested in the practices of judges. This interest emerged with Scandinavian Legal Realism, a branch of legal philosophy that argued that in order to study the ‘law’, legal scholars should look at judicial practice.<sup>2</sup> It was not until the 1970s that this interest in judicial practices took a more concrete turn. Indeed, it has evolved from a philosophical and theoretical discussion on ‘what law is’ to a sub-discipline of law and anthropology in the form of ‘legal pluralism’. Researchers in the field of legal pluralism are interested in how law plays out on the ground (the law in action as opposed to the law in the books), especially in developing countries.<sup>3</sup> They look at mechanisms of Alternative Dispute Resolution (ADR) and normative orders alternative to legislation, such as custom, religious law, social norms and international law. As such, there exist various dichotomies which underpin studies in legal pluralism, namely the dichotomy between the ‘courts’ and ‘ADR’, and between formal norms/State law and informal norms/non-State law. Consequently, the dualist approach to law remains dominant in non-positivist legal studies. In reality, however, the formal/informal divide is not always that clear-cut, in particular when official State institutions such as the judiciary, apply informal norms instead of (and opposed to) State law.

This article explores the dynamics of the law in action beyond the binary formal/informal, using Tunisian jurisprudence in the field of prostitution as a case study. It examines what the formal/informal distinction means in an authoritarian context where formal norms contrast significantly with informal norms. Do judges apply the formal norm, or do they apply the informal one, and if so, how do they justify this? I argue that judges instrumentalise a formal norm (i.e. the ban on prosti-

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<sup>1</sup> The author would like to thank the Alexander von Humboldt Foundation and the Gerda Henkel Foundation for their funding during the writing of this article.

<sup>2</sup> For Scandinavian Realism, see Stromholm 1994.

<sup>3</sup> For a clear introduction in the fields of interest of legal pluralism, see Fuller 1994.

tution) to impose an informal one (prohibiting extra-marital sex). This is what I call ‘the formalisation of an informal norm’. As a result, the norm prohibiting extra-marital sex can no longer be situated in the formal/informal divide: it is not informal, as judges are State officials punishing the violation of this norm; and it is not formal either, since the norm does not form part of legislation and Tunisian judges, exercising their profession in a civil law country, do not make law.

By using Tunisia as a case study, I do not suggest that the formalisation of informal norms through judicial practice is unique to this country, or North Africa, or developing countries in general. In fact, when looking at the case of Tunisia, the phenomenon appears to be facilitated by what I call ‘authoritarian State feminism’, where repression allows laws and policies in the field of gender, sexuality and morality to conflict with the societal norms, and where such laws bestow wide-ranging discretionary powers on judges.

### *1.1 Informal norms, formal norms and formalisation*

In the above, I have used the terms non-State law, lived law and informal norms interchangeably. In all cases, I refer to those norms that organise individual behaviour but that do not form part of legislation. In the field of social economy and comparative politics the term ‘informal’ is relatively recurrent. According to Routh, ‘informal’, as in informal employment, denotes the diverse practices and actions that are not regulated by the State (Routh 2011). In comparative politics, informal institutions, including informal rules, are termed the norms that are not institutionalised but are the actual rules that are being followed (O’Donnell 1996, p. 10). In legal pluralism, authors have used different terms to denote informal norms, ranging from ‘unofficial law’,<sup>4</sup> ‘indigenous law’ (Galanter 1981) and ‘folk law’ (Starr 1985), to ‘cultural’ (Rosen 1989), ‘social’ (Bowen 2001) and ‘practical’ (Olivier de Sardan 2015) norms.<sup>5</sup> The use of the term ‘informal’ is preferable as it ascribes per-

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<sup>4</sup> Hence the title of the journal dedicated to the subject of legal pluralism: *The Journal of Legal Pluralism and Unofficial Law*.

<sup>5</sup> On this debate, see Merry 1988, pp. 875-9.

formativity to the term ‘formalisation’, by uncovering the process of turning an informal norm into a formal one.

With ‘formalisation’ I refer to an act that takes place in judicial *practice*. This focus on practice to look at norms is inspired by Foucault’s ideas on the production of truth. He argued that norms do not *exist*, but that they are *produced* by, what he calls, powerful institutions. The production of norms is an instance of the production of truth: if powerful institutions such as legislators, courts but also, for Foucault, psychiatric hospitals, define behaviour A as ‘the norm’ and behaviour B as ‘abnormal’, these institutions are *producing* what ‘normal’ behaviour is (Link and Hall 2004). Foucault calls this act ‘normalisation’: the act of making the norm (Foucault 1975).<sup>6</sup> Applied to the case of Tunisian court practice, the judges normalise certain behaviour, that is: through their practice, they create conceptions of normal and abnormal. Unlike Foucault, I prefer the term *formalisation* in order to highlight the relationship between the norm that judges produce and the one that society produces: the norm on extramarital sex does not come from these judges, it comes from the society of which these judges form part. Therefore, formalisation refers to the act of normalisation by a powerful institution (the court) of a norm that was originally informal.

## 1.2 Sources

This study is based on 31 prostitution cases trialled by the Court of Cassation, Tunisia’s highest court.<sup>7</sup> I focus on the highest Court for three reasons: (1) its rulings contain information about three levels of adjudication (Court of First Instance, Court of Appeal and the Court of Cassation), and about the practices of police and the Public Prosecutor’s office; (2) despite Tunisia being a civil law

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<sup>6</sup> “La pénalité perpétuelle qui traverse tous les points, et contrôle tous les instants des institutions disciplinaires, compare, différencie, hiérarchise, homogénéise, exclut. En un mot: elle normalise.” (Foucault 1975, p. 185).

<sup>7</sup> I want to thank Sadri Saied and Karim el Chazli from the Institut Suisse de Droit Comparé in Lausanne and Mohamed Ali Ettoughourti, lawyer at the Tunisian Court of Cassation, for their help in retrieving these decisions, and Mohammed Habibullah Scheikani for his assistance in translating them.



country, the highest court does have some influence on lower court's practice; and (3) it is the only court whose rulings are public.

The high court rulings are published in an annual bulletin, the *Nashriyat al-mahkama al-ta'qibiyya*, and online on the website of the Ministry of justice.<sup>8</sup> The collection reflects the practices during the rule of Bourguiba (1956-1989) and Ben Ali (1987-2011): I obtained nineteen rulings from the time period 1970-1987 and twelve from the time period 1987-2011. They thus give information about court practice as it existed between the first decade of independence (court practice of the late 1960s is reflected in the earliest rulings' summaries of lower court rulings in the same case) and the end of Ben Ali's rule. The data collection contains all published rulings from the highest court that I found with the search terms 231 (the article number), *bigba'* and *kbina'* (the relevant legal terms of prostitution). The Court stopped publishing its rulings on paper in 2009, when online publications continued sporadically until 2013. However, no rulings on prostitution were published in the period post-Ben Ali.

This article proceeds as follows: Section 2 describes the background of the article on prostitution, revealing the divergence between the formal and the informal norm. Section 3 examines its application by judges, showing that judges instrumentalise the article on prostitution to prohibit all kinds of extra-marital sex. Section 4 situates this formalisation of the informal norm through judicial practice in the authoritarian context.

## **2. Tunisia and sex crimes**

After three centuries of relative independence under official Ottoman rule, Tunisia became a French protectorate in 1881. Under French domination, the first codifications were issued to replace classical Islamic law and various decrees from the ruler. Around the turn of the century, Tunisia adopted a Civil Code, a Criminal Code and Codes of Civil and Criminal Procedure, inspired on French law and

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<sup>8</sup> <http://jurisprudence.e-justice.tn/wwwisis/juris.10/form.htm>, 1956-2013.

applied by national courts as opposed to the religious court system. As was common in colonies, the French powers left personal status law (laws pertaining to marriage, divorce, inheritance etc.) untouched, meaning that religious sheikhs continued to apply classical norms in religious courts.

Upon independence in 1956, the nationalist leader Habib Bourguiba, a lawyer trained in France, became president of the Tunisian Republic. One of his first legislative acts was the codification of personal status law, to be applied by national courts. Tunisia owes its reputation of being a ‘modernist’ and ‘secularist’ ‘exception’ primarily to this Personal Status Code (PSC), which grants equal divorce rights to men and women, abolishes repudiation and punishes polygamy. Later reforms further completed this modernisation project, with a law punishing customary marriage,<sup>9</sup> the legalisation of abortion,<sup>10</sup> and several reforms to the Criminal Code punishing sex with minor girls, raising the punishment for rape, and making adultery punishable for women *and* men.<sup>11</sup> Ben Ali continued the modernisation project with a second reform to the Personal Status Code in 1993<sup>12</sup> and the issuance of a small series of separate laws in the field of gender, including a law granting rights to children born out of wedlock,<sup>13</sup> and the criminalisation of sexual harassment.<sup>14</sup> It is no exaggeration to state that this legislative *ensemble* forms an example for women’s rights activists throughout the region.<sup>15</sup>

The laws in the field of gender and sexuality thus generally fit Tunisia’s modernist and secularist reputation. This is not only true for the laws issued upon independence, such as the Personal Status Code and its reforms, but also for the Criminal Code. Issued in 1913 and preserved after independence, this law upholds a

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<sup>9</sup> Article 36 of the Code of Civil Status of 1957.

<sup>10</sup> Article 214 Penal Code as modified by law 65-24 of 1 July 1965 and Decree-law 73-2 of 26 September 1973 ratified by law 73-57 of 19 November 1973.

<sup>11</sup> Law 68-1 of 8 March 1968.

<sup>12</sup> Law 93-74 of 12 July 1993.

<sup>13</sup> Law 98-75 of 28 October 1998.

<sup>14</sup> Law 2004-73 of 2 August 2004.

<sup>15</sup> This is particularly true for its abolition of polygamy, see Welchman 2007, p. 78.

relatively liberal attitude towards sexuality:<sup>16</sup> the Tunisian law is silent on extra-marital sexual relations except in specific circumstances, namely sexual intercourse with a minor, rape, adultery, homosexual relations and prostitution.<sup>17</sup> This approach towards sexual relations is relatively unique in the region, as in most Muslim-majority countries, laws pertaining to gender and morality are inspired by classical Islamic precepts, prohibiting all extra-marital sex under the prohibition of *zina*.<sup>18</sup> For instance, in Morocco, both parties engaged in extra-marital sex are punished with between one month and one year in prison.<sup>19</sup>

Despite the legalisation of extra-marital sexual relations by the 1913 law, these have remained socially taboo. A survey conducted in 2014 shows that for 90 % of the Tunisian population, extra-marital sex is unacceptable, and for 89 %, pre-marital sexual relations are too.<sup>20</sup> These percentages are similar to the countries in the region where the law is much less liberal. In Egypt, for instance, the percentages are 90 and 91 % respectively, and in Jordan 93 and 95 %.<sup>21</sup> This survey thus reveals a strong informal norm according to which sex before or outside marriage is forbidden. My own observations during my fieldwork in 2008-2009 and 2011-2012 confirmed the existence of this informal norm: I noticed for instance that lay people are convinced that extra-marital sex is forbidden by law, having also learned this in school.

The relationship between the formal and the informal norm is thus one of conflict: the informal norm was not codified, as the legislator introduced a formal

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<sup>16</sup> Note that the Tunisian Code punishes homosexuality and lesbianism with three years in prison (Article 230) and adultery with five (Article 236), and that it forbids to serve alcohol to Muslims (Article 317).

<sup>17</sup> Articles 230, 236, 227, 230 and 227 bis.

<sup>18</sup> One of the crimes mentioned in the Qur'an that face corporal punishment. *Zina* is every sexual relation (with penetration) out of wedlock. In classical Islam, men could equally have legal sexual relations with their own female slave. See Peters 2005.

<sup>19</sup> Article 490 of the Moroccan Penal Code.

<sup>20</sup> Pew morality index 2014, viewed on 27 November 2018, <<http://www.pewglobal.org/2014/04/15/global-morality/country/tunisia/>>.

<sup>21</sup> Pew morality index 2014, viewed on 27 November 2018, <<http://www.pewglobal.org/2014/04/15/global-morality/country/egypt/>>, <<http://www.pewglobal.org/2014/04/15/global-morality/country/jordan/>>.

norm that is opposite to the informal one.<sup>22</sup> This conflict can be attributed to the fact that it was not a Tunisian legislator, but the French coloniser who introduced this law. Even if the latter refrained from simply transplanting the French Code Napoléon onto the Tunisian context, as was done in neighbouring Algeria, the French dominated the Tunisian codification process in the field of civil and penal law. When Tunisia became independent in 1956, however, the new Tunisian President did not change the legislation to bring it closer to Tunisian informal norms. On the contrary, Bourguiba introduced more laws and policies that, according to political scientist François Burgat, “went counter to the cultural representations that were dominant among a large majority of the population” (Burgat 1992). As such, the production of law was fully inscribed in the authoritarian context as described by Tunisia specialists Camau<sup>23</sup> and Hibou<sup>24</sup>: formal laws were imposed on society without taking note of the demands of the people.<sup>25</sup> Such neglect of demands from society, as expressed by religious groups, but also by human rights organisations and women’s rights organisations, was facilitated by the security State apparatus that was responsible for the repression of the Tunisian people until 2011.

## 2.1 Prostitution

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<sup>22</sup> On the different relationships between formal and informal norms, see for instance Lauth, 2000, p. 25.

<sup>23</sup> For Bourguiba’s era (1956-1987), Michel Camau wrote that “the Tunisian leadership has not stopped to combine two major characteristics: a strong degree of individualisation and an authoritarian form of power.” (Camau 2004, p. 180, translation is mine). See also Meddeb 2012. Note that several authors tried to add nuance to the label of authoritarianism for the Tunisian case, without, however, denying it (e.g. Camau 2005).

<sup>24</sup> With respect to the rule of Ben Ali (1987-2011), Béatrice Hibou observed that “Tunisia ... is uncontestedly an authoritarian regime and a police State, where human rights violations are numerous, characterised by the total absence of press freedom and the freedom of association, and a political pluralism *de façade*,” Hibou 1999, p. 48 (translation is mine). See also the works of Steffen Erdle, Vincent Geisser, Eric Gobe, and Larbi Chouikha.

<sup>25</sup> Redissi characterises pre-2011 Tunisia not as a State upholding the Rule of Law, where the State is submitted to the law, but as a State of power (*Machtsstaat*), which “reduces the law to a mere instrument of State activity”, Redissi 2004, p. 216 (translation is mine). Compare Rafea Ben Achour 1995, who stresses that this is true despite the ‘verniss démocratique’ guaranteed by the 1959 Constitution.

Where State law deviates from the norms embedded in society, judges, although State officials, continued to apply the informal norm prohibiting extra-marital sex. The vagueness of the article on prostitution facilitated this practice through a wide interpretation of ‘prostitution’, in which judges could punish all sorts of extra-marital sexual relations.

The Tunisian article on prostitution has a fascinating history. The Tunisian Penal Code of 1913 forbade the act of prostitution in its Article 231, punishing “the person who habitually excites, favours or facilitates debauchery or corruption of the youth of either sex”. In 1942, however, the French ruler alleviated the interdiction: a decree of 1942 differentiates between legal and illegal prostitution, placing legal prostitutes under the custody of the Ministry as State officials, organising them in neighbourhoods specifically designated for prostitution.<sup>26</sup> In 1949, the Protectorate erased Article 231 from the Penal Code altogether. As a result, only the pimp (sanctioned by Article 232) was punishable.<sup>27</sup> Upon independence, Bourguiba reintroduced Article 231 and reformed it, punishing prostitutes *and* their clients.<sup>28</sup> At the same time, the system of legal prostitution was maintained: Article 231 refers to the decree of 1942 as an exception to the overall prostitution ban. The legislative situation today is that prostitution is illegal, except in the specific neighbourhoods assigned to legal prostitution, such as the Rue Sidi Abdallah Guech in the old medina of Tunis. Prostitution in these neighbourhoods is carried out by a fixed number of prostitutes who are working as State officials and are under close control of the police, in accordance with the 1942 decree.

## 2.2 *What is ‘prostitution’ anyway?*

Article 231 states: “Apart from the cases covered by other regulations [i.e. the 1942 decree], women who, with gestures or words, offer themselves to passers-

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<sup>26</sup> Taraud argues that this organisation served to “prevent the masses of indigenous prostitutes to contaminate the French nation” (Taraud 2009, p. 86). On Tunisian legal prostitution and the prostitution neighbourhoods in the past, see also Kerrou and M’hallah 1991.

<sup>27</sup> Decree of 26 May 1949. See Sana Ben Achour 2016, p. 77.

<sup>28</sup> Laws 64-34 of 2 July 1964 and 68-1 of 8 March 1968.

by or engage in prostitution, even occasionally, are punished with six months to two years in prison and a fine of 20 to 200 Tunisian Dinars [the equivalent of 10 to 100 euros].<sup>29</sup> Every person who has had sexual intercourse with these women is considered an accomplice and punished with the same penalty.” The article thus punishes three acts: (1.) offering oneself through gestures or words; (2.) prostitution; (3.) sexual intercourse with a woman who offers herself or who prostitutes.<sup>30</sup>

The text of the law suggests that a woman is punished if she engages in prostitution *or* if she merely offers herself for prostitution. But what is meant by ‘prostitution’ here? The Tunisian law does not specify this term, which remains vague. The Arabic text employs the term *kbina*. This term is specific for Tunisian Arabic; in Modern Standard Arabic the usual term would be *bagha*. It seems to be derived from the verb *khanu*, which the dictionary of Hans Wehr defines as “To use obscene language, something indecent or obscene, prostitution, fornication”. In the French version (Tunisia publishes laws in Arabic and in French), the law employs the term ‘prostitution’, which according to the French dictionary Larousse means the “*Acte par lequel une personne consent habituellement à pratiquer des rapports sexuels avec un nombre indéterminé d’autres personnes moyennant rémunération*” (“The act whereby a person consents as a matter of habit to the practice of having sexual relations with an undetermined number of other persons in exchange for remuneration”). The definition employed in Article 231 is thus broader than the French definition: it explicitly includes ‘occasional prostitution’ (*sudfa* in Arabic) as opposed to the habit and the undetermined number of persons mentioned in the French dictionary. As a result, judges may qualify ‘one-night stands’ as prostitution. This may even be true if there is no remuneration, since the element of the counterpart is absent in Article 231.

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<sup>29</sup> The amount, which is low in comparison to the prison sentence, has never been adapted since the reintroduction of the article in 1964.

<sup>30</sup> Note that the first two interdictions apply to women only (male prostitution is not foreseen by the law), while the latter applies to both sexes. In light of the generalisation of male prostitution and same sex sex tourism in the Maghreb in general and in Tunisia in particular (see for instance Beaumont 2010), and of Bourguiba’s legislative efforts in the field of gender equality, it is surprising that the article only applies to female prostitutes.

The use of the term *kbina*' instead of *bagha*' combined with the fact that Article 231 includes occasional prostitution raises the question as to what Article 231 intends to forbid: does *kbina*' denote prostitution, i.e. sex for remuneration, or does it include all extra-marital sex? The positioning of the article gives an answer here. The article forms part of Title II of the 1913 Criminal Code, titled 'Attacks against persons', and falls under section III, 'Fornication' (*i'tida' b-al-fawahish*). Section III starts with a sub-section on the violation of morality (*ikbhaq*), containing articles on public violation of good morals and sexual harassment. Sub-section II concerns 'impudence' (*baya*), punishing rape, sexual relations with a minor, and homosexuality. Article 231 is the first provision of sub-section III, titled 'Incitement to unlawful fornication' (*tabrid 'ala fi'li al-kbina*). Article 231 forbids *kbina*' and cooperation (*musharaka*), and the following article forbids pimping (being a middle man, *wasit* in Arabic). If the provision concerned all unlawful fornication, it would rather be situated in the first sub-section of the section on fornication than in a sub-section titled 'Incitement to unlawful fornication'. Also, if Article 231 concerned all extra-marital relations, it would not be conceivable to punish the woman as the 'unlawful fornicator', and the man as her 'accomplice', nor would the provisions on middlemen be logically placed here. Besides, the article's reference to the 1942 decree on legal prostitution suggests that the article concerns prostitution, that is: sex in exchange for remuneration, only.

### 3. Formal versus informal

When looking at court practice in the field of sexuality, it appears that judges punish all extra-marital sex via the prostitution article. A case from 1977 can serve as an example here.<sup>31</sup> According to the facts as they are described in the ruling, a woman named Monjia went to a local court on 23 February 1977, for some personal paperwork. Possibly intimidated by the bureaucratic requirements, she asked a man who was responsible for the maintenance of the heating devices in the

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<sup>31</sup> Court of Cassation 1 December 1977, 1975.

building for his help. After the man had helped her out, he asked her if, given “the risk he had taken by helping her”, she was willing to sleep with him in return. According to the ruling she consented, and they went together down to the boiler room, “of which he had the key, given that he was the manager of the heating device in this building”, as the ruling specifies. According to the court, they had sexual intercourse there, “with penetration” (note that Article 231 does not require penetration). In the meantime, one of the guards became suspicious and notified the head of the clerk’s office. They went to the chamber and knocked on the door, but the suspects remained silent. They went back up to get a key and when they entered the room, they found the suspects “in a suspicious pose”. The officers brought the police in, and Monjia and her accomplice were arrested. The police prosecuted her on suspicion of prostitution and him for sleeping with a prostitute. The Court of First Instance sentenced both to one year in prison, which the Court of Appeal in Tunis confirmed.<sup>32</sup> The man’s lawyer brought the case before the highest court (the Court of Cassation), arguing that it was physically impossible that they had sexual intercourse, because the room was too small and because insufficient time had passed before the court officers had entered the room. However, the legal defense is of particular relevance for the study: the lawyer pointed at the issue of remuneration, stating that since Monjia had not received any money nor gifts, her deed could not be qualified as prostitution, adding that the man’s favour was too negligible to be qualified as remuneration. Nevertheless, the Court of Cassation ruled in favour of the prosecution. The court argued that the act can be qualified as prostitution, because Article 231 does not require repetition nor remuneration. As a result, a one-time stand was punished with the use of the prostitution article. And the case of Monjia does not stand alone. For instance, in the most recent case in our collection, a decision from 2006, the court sentenced a couple to prison after they had been found together in a “suspicious pose”. Here,

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<sup>32</sup> Court of Appeal Tunis, 22 March 1977, 86970.



too, the court argued that remuneration is not required for an act to be qualified as prostitution.<sup>33</sup>

In other rulings, the court does require remuneration, but this does not influence its practice: insignificant amounts of money suffice. In a case from 1991, a woman had a one-night stand with the husband of her sister in the marital home. After the act she had presumably told the man that he now owed her 5 Tunisian Dinars (2 euros 50). As the court considered it proven that she had made this remark, the sexual act was considered prostitution, because the court qualified the debt as remuneration.<sup>34</sup> In a case from 1994, the police arrested two men and two women in Tajerouine, a small town near the Algerian border. One of the men declared to the police that he had invited the women to the house of his friend to have sexual intercourse. After the Court of First Instance had sentenced the women to four months in prison, the Court of Appeal in Le Kef released them for lack of evidence of remuneration.<sup>35</sup> When the Public Prosecution brought the case before the highest court, the latter convicted them, stating that, since the men had taken the women out for dinner, where they had eaten together and drank alcohol at the expense of the men, there was remuneration.<sup>36</sup>

The wide interpretation of the article on prostitution is not limited to cases of one-night stands. A few rulings show that courts qualified sexual relations between people who were in a relationship or engaged to be married, as 'prostitution'. For instance, in a case from 1985, a certain Bya had 'submitted' herself (sexually) to her boyfriend Naji, who had asked her to marry him and who had given her money and pieces of furniture.<sup>37</sup> The highest court qualified the relationship as prostitution, arguing that the law does not require repetition (in the sense of different clients) and that she had received remuneration in the form of

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<sup>33</sup> Court of Cassation 1 March 2006, 12526.

<sup>34</sup> Court of Cassation 27 March 1991, 30735.

<sup>35</sup> Court of Appeal of Le Kef, 3 March 1992, 28790.

<sup>36</sup> Court of Cassation 19 September 1994, 43753.

<sup>37</sup> Court of Cassation 12 June 1985, 8946.

money and furniture. It should be noted that it is custom in Tunisia to offer one's fiancée money and furniture (*adbash*) to furnish the future marital home.<sup>38</sup>

### *3.1 Lower courts and police*

Having focused on the rulings from the highest court, it is now important to delve into how the decisions from the highest court reflect the practices of lower courts and other State officials, particularly the Public Prosecution and the police. These lower State institutions had an even more elaborate practice of prosecuting and sanctioning people for prostitution than the highest court. For instance, in a case from 1970, the police arrested a woman and her partner for prostitution and sleeping with a prostitute because she had been observed at the man's place "without a reason", and the Court of First Instance and the Court of Appeal ruled in favour of the prosecution. It was only when the case came before the highest court that the couple were released.<sup>39</sup> Another example concerns a case from 1995 where six young Tunisian men and women, who were on holidays on the island of Jerba, were arrested after a man had called the police for he heard "screaming and blasphemy" in the neighbouring apartment. According to the ruling, two of the couples were in a relationship, while the third woman and the third man first met on the island. The Public Prosecution decided to bring the case against all six of them before the court, but the courts acquitted them.<sup>40</sup>

Another case from 1975 pertains to a couple that was engaged to be married. Roqayya, who was engaged to an air force officer, was pregnant with his child when he broke off the engagement accusing her of having another bed partner. Roqayya then went to the police, possibly because she felt that there must be a legal remedy to this unjust behaviour or because she hoped that, by filing a complaint and stating officially before the police who was the father of her child,

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<sup>38</sup> One could contend that marriage gifts are in fact nothing else than an exchange for the woman's sexual services, as Kecia Ali argues (Ali 2010). However, the discussion on the similarities between prostitution and marriage in early Islam falls out of the scope of this paper.

<sup>39</sup> Court of First Instance Kairouan (n.d.), Court of Appeal Sousse, 30 March 1970, 13498.

<sup>40</sup> Court of First Instance Mednin, 30 September 1992, 57092 and Court of Appeal Mednin, 4 November 1992, 7684. Court of Cassation 17 January 1995, 48419. They did get sentenced for blasphemy.

she could forebear giving birth to a bastard. However, the police immediately arrested Roqayya (and later also her ex-fiancé) for prostitution. When the case was brought before the highest court, the latter stated there was no prostitution since their intention had been to get married.<sup>41</sup>

These cases confirm that the police had a wider practice of instrumentalising the prostitution article than courts did. It should be pointed out here that the police's practice is even wider than what is reflected in court rulings: I have shown elsewhere that the majority of cases that the police treats as prostitution do not even come before the court, since such cases are often handled informally in the form of bribes (Voorhoeve 2014).

### *3.2 Blurring the distinction between formal and informal norms*

The practices analysed in this section demonstrate that the distinction between formal and informal has little bearing in the Tunisian authoritarian context, as judges (and other authorities) applied an informal norm, which they justified through the invocation of Article 231. The norm prohibiting pre-marital and extra-marital sex is therefore no longer outright informal, in the sense of not regulated by the State (as in Routh's definition), since it is reproduced by State officials.

It is important to point out here that this formalisation occurs in all time periods studied: the rulings cited date from 1970, 1975, 1977, 1985, 1991, 1994, 1995, and 2006. This shows that judicial practice was not more liberal or more illiberal during Bourguiba's or Ben Ali's rule. Where both rulers issued laws pertaining to the 'modernisation' of the field of gender and sexuality, the judges adjudicating the cases discussed here, did not follow suit. The question arises as to why the Tunisian authoritarian State, who is the producer of formal norms, would approve of judicial practice that deviates not only from Tunisian legislation, but also from the modernist and secularist State discourse. This question is the object of the final part of this article.

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<sup>41</sup> Court of Cassation 16 April 1975, 11280.

#### **4. Legislation, informal norms, and window dressing**

Through the instrumentalisation of Article 231 to punish extra-marital sexual relations ranging from one-night stands to pre-marital relationships, the Court brings formal law closer to lived law. However, in a civil law country as Tunisia, it is the legislator, not the judge, who makes the law. By applying a broad interpretation of Article 231, the court takes upon itself the role of the legislator. In a country with such a strong French legal tradition, this self-attribution of legislative powers by courts is certainly surprising, as traditionally in French law, judges are the mere *bouches de la loi* (mouthpieces of the law) (Charfi 1997). But the authoritarian character of the regime makes it even more surprising since, especially in Tunisia, the power was centered in the government or even in the person of the ruler.<sup>42</sup> Indeed, when judges deviate from the ruler's will as expressed in legislation, this is certainly a violation of the power structure. This violation is all the more important since the practices described above contradict the modernist and secularist State discourse. I argue that the reason why the formalisation of the illiberal informal norm was nevertheless possible, lies in the fact that the State was merely concerned with what is generally called 'window dressing'. This term refers to situations where rulers are merely concerned with formal law as a means to convey a modernist image, while at the same time remaining indifferent to its actual implementation.

##### *4.1 Window dressing as part of authoritarian State feminism*

In the field of gender and sexuality, the formal laws and policies under Bourguiba and Ben Ali were the product of what I call 'authoritarian State feminism'. In Middle Eastern Women's Studies the term 'State feminism' systematically refers to state policy with negative connotations associated with authoritarianism.<sup>43</sup> However, such authoritarian connotation is not a given in other

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<sup>42</sup> As is argued by Camau and others, *supra*.

<sup>43</sup> See for instance White 2003. For the Tunisian case, see Sana Ben Achour 2001.

geographical areas. Mervat Hatem states that the term was coined in studies of Scandinavian societies, referring to “government efforts to remove the structural basis of gender inequality” (Hatem 1992, p. 231). In their chapter on comparative State feminism, Dorothy McBride Stetson and Amy G. Mazur define State feminism as the whole of the ‘State’s women’s policy machinery’ (McBride Stetson and Mazur 2010, p. 319). Since the Tunisian women’s policy machinery did not merely consist of government efforts to remove structural inequalities because of its authoritarian characteristics, I prefer to distinguish authoritarian State feminism from other forms of State feminism.

The term ‘authoritarian State feminism’ suggests three things. The first characteristic is connected to the decision-making process, in the sense that the policies are implemented by an authoritarian regime instead of originating in a democratic institution.<sup>44</sup> The second and third factor are inspired on Mazur and McBride Stetson’s parameters in evaluating the State’s policy machinery (McBride Stetson and Mazur 2010). The second characteristic then is that the policy does not so much aim at improving the situation of women as it does window dressing, particularly in the face of civil and political rights violations. The third characteristic is that there are few opportunities for civil society to engage in discussions on law reform. Besides, it is important to point out here that since it concerns a post-colonial context, discourses of modernisation and of women’s liberation are typical for authoritarian State feminism in post-colonial States engaged in nation building upon independence.<sup>45</sup>

In Tunisia, laws pertaining to gender and sexuality are the product of authoritarian State feminism: first of all, the Criminal Code was the product of

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<sup>44</sup> This factor should not be taken too literally. Indeed, studies in Comparative Politics have shown the various faces of authoritarianism. Although present-day Tunisia has a democratic government, its women’s policy machinery still has authoritarian characteristics. See Ben Said 2017.

<sup>45</sup> Laura Bier argues for Nasserist State feminism that it is not just a series of policies, but “a constellation of normalising discourses, practices, legal measures, and state-building programs aimed at making women into *modern* political subjects”. She continues to state that what these policies have in common is “a normative vision of female ‘liberation’ as necessary to the task of building a modern, independent nation capable of overcoming the debilitating legacies of colonial [...] rule” (Bier 2011, p. 7).

colonial rule, with no democratic background whatsoever. The PSC, composed by a three-headed committee appointed by Bourguiba, was promulgated without passing Parliament, and the reforms of both laws passed a Parliament that consisted of the ruling party (Tunisia had a de facto single party system). Second, there was little to no room for civil society in the discussion of laws and policies: the repression of actors discussing women's rights under Bourguiba and Ben Ali can hardly be exaggerated. In the 1970s and 80s, civil society increasingly formulated critique on the women's policy machinery in general and the PSC in particular. The *Mouvement de Tendence Islamique* (MTI), a religious movement established in the 70s, criticised the PSC, drawing attention to the high divorce rates among other things (Daoud 1993, p. 93). Following the 1979 Iranian revolution, the regime put a ban on the MTI, arresting its members, and anyone uttering similar critique on the State's women's policy machinery was silenced. Indeed, like in Egypt, Tunisian State feminism "not only entailed authoritarian political repression but also demanded the refashioning of the sensibilities, commitments, and social worlds of women (and men) whose lives contrasted with its emancipatory vision" (Bier 2011, p. 181). The same was true for those for whom the 'modernisation' and 'emancipation' did not go fast enough. The *Association Tunisienne des Femmes Démocrates* (ATFD), a movement of liberal feminists (on this term, see Al-Ali 2003), expressed critique on the PSC and other laws and policies, such as the legal problems connected to children born out of wedlock, who did not have a family name and subsequently an ID card. Ben Ali legalised the ATFD in 1989, but its members were under continuous surveillance, its funding was often blocked and its activities frustrated. For instance, when a group of feminist activists started to publish a journal (*An-Nissa*) as a platform to address issues related to gender discrimination and related issues, the magazine was soon taken off the market (Marzouki 1993, p. 258). Indeed, against the background of the repression of women's rights organisations, it is ironic to call Tunisian policies 'feminist':<sup>46</sup> the idea of women's emancipation

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<sup>46</sup> See Bier with a similar argument on Nasser (Bier 2011, p. 7).

formed part of nation building, but it did not mean that women could actually participate in a debate that concerned them.<sup>47</sup>

Where the repression of civil society was a generalised phenomenon, the question of the ‘true’ intention to improve the situation of women as opposed to mere window dressing is more complex. As for family law, much can be said about the persistence of patriarchal norms throughout the PSC: it stated that the wife should obey her husband, and until today, it states that the wife is financially dependent on her spouse. Nevertheless, for those reforms that took place in the name of women’s emancipation (no matter how they are evaluated from a feminist standpoint today), State propaganda justifying the reforms and condemning ‘backward practices’ suggests that there was a true intention to change things (Yadh Ben Achour 1987, Tobich 2008). For instance, in the first decade after independence, the government was involved in a ‘media rally’ against polygamy, trying to convince the people that this practice should end. The same was true for the legalisation of abortion, in particular when the law was modified in 1965 and 1973 allowing abortion up to three months into pregnancy. This was accompanied by an effective policy, installing centres where such abortions could be carried out anonymously.

Regardless of these ‘true intentions’ of ‘modernisation’ and ‘liberalisation’, the crucial role of Tunisia’s *image* as a ‘modern’ state cannot be denied.<sup>48</sup> In Tunisia, feminist policy formed an intrinsic part of the identity that the State constructed domestically as well as abroad, especially in the West. Tunisian historian Sophie Bessis aptly describes this when she writes “The Tunisian regime has become a master in the art of brochures. No visitor to the country, no-one invited to the embassy, no participant in a meeting with Tunisia as its theatre or object escapes the dissemination of an abundant documentation boasting Tunisia’s merits and

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<sup>47</sup> Except the appointed members of the national women’s rights organisation, the *Union Nationale des Femmes Tunisiennes*, established in the 1950s.

<sup>48</sup> Also, with the years, co-opting women’s rights activists, who formed part of a cultural and economic elite, that was often secularised and westernised, was an important impetus.

progress. Women and their condition play a prominent role in this domain” (Bessis 1999, p. 1).

In the field of sex laws, the intention to change practice, however, appears entirely absent: changing sexual mores does not appear to have formed part of Bourguiba’s or Ben Ali’s modernisation projects. There was no State discourse surrounding the liberalisation of sexual mores, neither in the media nor through other channels (e.g. in school education). On the contrary, I observed in the years 2000 that even family judges (who are competent in cases of marriage and divorce) informed couples that having sexual relations before the marriage festivities was forbidden (Voorhoeve 2018). The unique reason why Bourguiba did not introduce an article punishing extra-marital sex to adapt the formal norms to the informal ones (as did the Moroccan King in the 1960s) thus appears to be again a matter of window dressing: such reform would conflict with the modernist and secularist image that he was trying to build. The aspect of window dressing (building Tunisia’s modernist image) explains why today for 90 % of Tunisians, extra-marital sex is unacceptable. It also explains why judges can use the provision on prostitution to punish extra-marital sex. With respect to its sex laws, the State is merely concerned with the formal law and has no interest in its actual implementation.

#### *4.2 Ambivalence*

At this point, it is useful to return to the wording of Article 231: the law appears to fit in the modernisation project, but judges are left with wide discretionary powers, because the law does not define *kbina*’ and the article includes occasional prostitution. This vagueness is a recurrent feature in Tunisian legislation related to gender. For Tunisian legal scholar and activist Sana Ben Achour, this vagueness originates in an *ambiguity* in the regime’s intentions to ‘modernise’ and ‘secularise’. Despite a general modernist State discourse, the regime often failed to go all the way (Sana Ben Achour 2005-2006). For instance, in the PSC, allowing divorce for harm without specifying what harm is, opened the way for judges to apply Islamic precepts connected to the wife’s duty to obey her husband



(Voorhoeve 2014). Tunisian political scientist Larbi Chouikha explains this ambiguity as fitting the regime's continuous struggle for legitimacy in an ideologically divided society. Since the regime had not obtained its legitimacy through the ballot box and needed a minimum of support, it chose against siding entirely with one of the two dominant ideological forces (leftists, liberals and secularists on the one hand, and conservatives and Islamists on the other). Especially in periods where Bourguiba and later Ben Ali were facing an uproar of either secularist/communist or Islamist/conservative forces, they reshaped their official discourse. The regime often chose to take no clear stance on issues on the intersection between law and morality, for instance through clear legislation, and the judiciary had relative freedom to move between the two forces in society (Chouikha 2005). As a result, there were liberal judicial practices as well, where courts adopted a legalistic approach to extra-marital sex, restricting the reach of Article 231.

Part of the rulings from the Court of Cassation go against the tendency to punish extra-marital sex through the prostitution article. In these rulings, judges *do* curtail the scope of Article 231, stating that there are two constituent elements for the crime of prostitution: remuneration (*muqabil*) and repetition (*ta'annud*).<sup>49</sup> A ruling from 1998 can serve as an example of this practice. In this case, a mother had called the police when her daughter was out with a friend and had not come home to their house in Tunis. The police found the young women in Beja, a town 100 km away from the capital. When they declared that they had been with a certain Radouane, the police arrested them together with three young men. The Court of First Instance in Tunis, the capital, sentenced all five of them: the daughter for prostitution (six months), her friend for mediating this (pimping, four months), the men for sleeping with a prostitute (two months) and one of them for making his apartment available (qualified as pimping, one month). The Court of Appeal in

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<sup>49</sup> Court of Cassation, 21 December 1970, 7509; 16 April 1975, 11280; 29 November 1978, 2475; 21 July 1979, 3634; 28 December 1983, 8912; 17 January 1995, 48419.

Tunis, however, released the suspects for lack of remuneration, and the Court of Cassation confirmed this.<sup>50</sup>

In other cases, the court gives an even narrower definition of prostitution, requiring the presence of additional elements, such as the intention (*nijyya*) of prostitution,<sup>51</sup> the intention of trade,<sup>52</sup> or the element of occupation (prostitution as a job).<sup>53</sup> A ruling that uses a specifically narrow interpretation of Article 231 concerns a case from 1988 on the 17-year-old Fathiyya.<sup>54</sup> According to the court, the facts had been established as follows. On a night in 1984, Fathiyya left her father's house at one in the afternoon to go to her employer's house and get her overdue payments. The employer, who, according to the court, was known for her 'bad morals', refused, but apparently made some remarks about Fathiyya's looks. She then asked Fathiyya to accompany her to a friend's house. Fathiyya agreed, and at this friend's house, the women met a certain Boulbaba, the friend's husband, who proposed they go to the land of a certain Kamel. They brought some wine for the occasion and the four of them headed to Kamel's place. According to the ruling, Kamel made out with Fathiyya, after which she had intercourse with Boulbaba, 'with her consent', as the court points out,<sup>55</sup> and then with a third man. When her father was made aware of this, he notified the police. The court in Gabes sentenced Fathiyya to time in an educational center in La Manouba. The Court of Appeal nullified the ruling and Fathiyya was acquitted. The Public Prosecutor brought the case before the Court of Cassation, arguing that Fathiyya had confessed to the sexual relations, after which she had had food and wine with the men, which should be qualified as a remuneration. The highest court rejected the appeal, stating that the remuneration should be in the form of money (*nuqud*) and should be a certain amount that is agreed upon in advance, and that there should be an intention of trade, since "the aim of prostitutes is money and trade," as the court points out.

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<sup>50</sup> Court of Cassation, 22 January 1998, 76182.

<sup>51</sup> Court of Cassation 16 April 1975, 11280.

<sup>52</sup> Court of Cassation 5 January 1988, 15255.

<sup>53</sup> Court of Cassation 22 January 1998, 76182.

<sup>54</sup> Court of Cassation 5 January 1988, 15255.

<sup>55</sup> Probably in order to point out that the act cannot be qualified as rape, which is punished by Article 227 of the Tunisian Penal Code.

These rulings, dating from 1975, 1988, and 1998, show that both interpretations existed under the authoritarian regimes of Bourguiba and Ben Ali. They prove that the government was not trying to encourage judges to interpret Article 231 in an illiberal way; it was simply not interested in how the law was implemented, as long as the formal norm did not contradict the modernist discourse. The consequence of using a vague crime description was a casuistic and unpredictable legal practice, where Article 231 hangs as a sword of Damocles above the heads of people engaging in extra-marital sex.

## 5. Conclusion

Where non-positivist legal studies take a dualistic approach to law, the distinction between the formal and the informal does not take the practices in authoritarian contexts into account where formal and informal norms do not coincide, and judges can take the liberty to interpret vague laws in order to formalise the informal norm. In such cases, the societal norm is no longer outright informal in the sense of not regulated by the State, because it has been institutionalised by State officials. This phenomenon is particularly facilitated in situations where the formal norm is the result of authoritarian State feminism, where repression allows that laws and policies in the field of gender and sexuality conflict with the norms living in society, and where such laws serve as mere window dressing, granting judges wide discretionary powers. This is even more true when the State is ambivalent on its aim to modernise, resulting in vague legislative prescriptions. The issuing of discretionary powers allows judges and other legal institutions to practice all sorts of interpretations, fitting the modernisation discourse or the norms living in society.

At the end of this article on authoritarian judicial practice in Tunisia, the question arises as to the influence of the 2011 'revolution' on these practices. Although I was unable to retrieve any post 2011 rulings, there are several reasons to believe that these practices did not alter upon regime change. First, the regime change did not provoke a replacement of criminal judges, police officers or public prosecutors. Since the same persons apply Article 231, a change of practice is

unlikely except in case of law reform or official instructions. So far, Article 231 was not modified, and it is unlikely that the State issued instructions on the application of Article 231 since the regime has, up to now, not taken a stance on the issue of instrumentalising legislation to punish acts that are strictly speaking not forbidden. In fact, since the liberalisation of the media in 2011, journalists have related a series of incidents concerning police officers abusing their power by arresting people for ‘morality crimes’ that are not explicitly punishable by law, such as drinking alcohol.<sup>56</sup> Moreover, the current government, consisting of the conservative movement Ennahda and the party Nida’ Tounes that is close to the previous regime, has a tendency to remain ambivalent on issues pertaining to religion and morality. This is true despite the series of law reforms that were carried out since 2014, including the law on violence against women: as I argue elsewhere, the regime decided to leave certain legal maxims untouched, including the PSC which contains provisions such as Article 12, legitimising rape within marriage.<sup>57</sup> And finally, a famous case of 2012 shows that upon regime change, police and public prosecutors persisted their practice of punishing people for extra-marital sex; in this case, on the grounds of the public violation of morality.<sup>58</sup>

Even if judicial practice has not changed, the opening up of the public sphere following the downfall of the authoritarian regime in 2011 has enabled civil society actors to voice demands for legal reform. In June 2018, the working group Colibe (*Coalition des libertés individuelles et de l'égalité*) issued a report calling for further reform, including Article 231 in its proposals. The coalition proposes to replace the term *sudfa* (occasionally) with ‘*ala wajb al-i'tiyad*, ‘habitually’.<sup>59</sup> It states that the term *sudfa* accounts for wide discretionary powers, leading to arbitrary court practices, condemning women who did not practice prostitution.<sup>60</sup> To my knowledge, this is the first time that the court practice discussed in this article is brought to the

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<sup>56</sup> See for instance Boukhayatia 2016a and 2016b. This new media coverage does not suggest that such practices increased, but that the media can talk about it openly.

<sup>57</sup> Maaïke Voorhoeve, ‘Justice transitionnelle et confrontation avec l’héritage juridique: la réforme des lois tunisiennes relatives aux questions de genre’ (under review).

<sup>58</sup> The case of Meriem Ben Mohamed (pseudonym).

<sup>59</sup> Report Colibe, 1 June 2018, p. 94.

<sup>60</sup> Report Colibe, 1 June 2018, p. 42.

attention of the Tunisian public. Whether or not the government will act upon this advice remains to be seen: vague crime descriptions allowing for arbitrary court practices certainly serve authoritarian regimes, and for the time being, the current government has not proven to have distanced itself entirely from pre-existing authoritarian practices.

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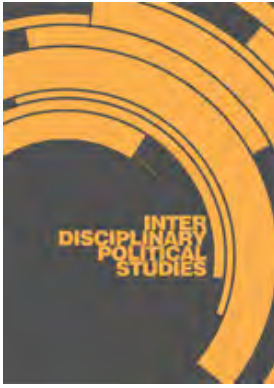
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## RESEARCH ARTICLE

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### Informality in contemporary Cuban labor market An anthropological perspective

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#### ABSTRACT (max 150 words)

*This article shall analyze from a socio-anthropological perspective, and based upon the data collected during ten years of qualitative research in La Habana (2007-2017), the phenomenon of informality in the Cuban contemporary labor market, in both discourse and practice, by considering the structural reasons (political and economic) along with the socio-cultural ones.*

KEYWORDS: Ethnography; Informality; Labor market; Cuba; qualitative research.

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## 1. Prologue: smuggling cans of tomato sauce

During my first fieldwork in Cuba, in the fall of 2007, a boy with a black backpack would appear from time to time at the door of the house where I was hosted, looking as if he was doing something illegal. Back then, I still did not have much confidence with what I learned later to be called *la mecánica* (lit. the dynamics), or the adjustments that the population had found to face the food shortage, so I was more than amazed to discover that the precious burden that, so cautiously, the boy used to bring with himself was nothing but cans of tomato sauce. The reason for so much care was not in the nature of the load, as I so naively thought, but in the way the boy got the cans, which ended up being sold to my host and many other customers that had been accumulating over the years.

The tomato sauce can be considered, with respect to the contemporary Cuban market, one of the luxury goods. Its price, in the state stores that sell industrial products in the second local currency (CUC, convertible pesos), is around 2 CUC per liter. Considering that the average salary of state workers is around 25 CUC per month<sup>1</sup>, one could guess that it is difficult for a family to regularly buy such a basic ingredient for the traditional Cuban cuisine. This explained why the boy with the black backpack had founded a good business in selling this simple product. He bought cans of tomato sauce from the employees of one of the state's five-star hotels that adorn the main streets of Havana. The employees made their little fraud by declaring that they consumed more tomato cans than they needed with the aim of selling them out *por la izquierda* (lit. on the left, means not following the regulated path). Then, the boy sold to other citizens who could not afford the cans regularly sold in the stores. Even if the boy loaded his percentage of smuggling on the selling, the price of cans was still more convenient than the official one.

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<sup>1</sup> *Cuentapropistas* could usually count on a better salary, but the price of a tomato could be considered not that convenient, even for them. Indeed, by accessing the private market, a hairdresser could earn about 200 CUC per month and a taxi driver about 700 CUC per month, meanwhile a cardio-surgeon on the state's payroll earns an average of 50 CUC per month.

Since then I have repeatedly conducted on-site research activities in Cuba. These different rounds of fieldwork were woven together by an attempt to understand what kinds of informal practices Cuban citizens enacted, and which were the factors that encouraged my interlocutors engaging in those activities. The purpose of this article is thus to account for my findings and show how those income generating activities are deeply involved in maintaining the Marxist-Leninist system of value, although, in the same time, they betray the government and its capacity to rule the country.

## **2. The concept of informality in anthropology, a state of the art**

In the early seventies, the anthropologist Keith Hart coined the term ‘informal economy’ to describe the complex flow of economic activities that do not conform with state regulations, because the workers do not have any licenses or/and do not pay any taxes (Hart, 1973; Castells & Portes, 1989). The concept of ‘informal’ was supposed to create a third alternative to the legal vs. illegal dichotomy, as well as to point out the existence of an “autonomous social space that belongs neither to the public nor to the private sector” (Centeno & Portes, 2006:25). Differently from the concept of ‘second economy’, which was usually used to describe income-generating activities that eluded centrally planned economies in Soviet Union and Eastern European countries (Alessandrini & Dallago, 1987; Sampson, 1987; Łoś , 1990), the concept of ‘informality’ was meant to include unregulated economic activities taking place in capitalist countries as well.

Even if both definitions are shaped upon Polanyi’s notion of the economy as entirely embedded in society, a sphere of activities that cannot be distinguished from politics, kinship or religion (Polanyi, 1957; Graeber, 2001), they enlighten two different perspectives of the phenomenon: the perspective of the individuals and the aggregate economic perspective (Neveling, 2014). Informality, as described by Hart, seems to embrace the individuals’ perspective: sub-proletariat members, to survive the disadvantageous inequity of governmental regulations, elaborate creative individual solutions to overcome common problems, such as price inflation and in-

adequate wages (Hart, 1973:61). In a similar way, the Peruvian economist Hernandez de Soto described informality as an act of individual rebellion against ‘mercantilist’ government, or excessive state regulations (de Soto, 1989; Pérez-López, 1995; Centeno & Portes, 2006; Coletto & Bisschop, 2017).

Otherwise, the concept of the second economy shed a light on a different level: the impact that these unregulated activities have on the economic system as a whole (Sampson, 1987; Loś , 1990). The entire economic system becomes doubled. A shadow marketplace, parallel to the official, could be equally (or more) important than the latter in terms of the volume of business, the range of production and distribution of goods and the number of people involved. Thus, the second economy represents not only a correction function to the strictly planned economy but also a terrain of political struggle (Pérez-López, 1995:11; Grossman, 1977).

Contemporary Cuban scholars have rarely applied the concept of second economy to the puzzled economic scenario of the country<sup>2</sup>. The economist Jorge F. Pérez-López, stated in 1995, that the concept of ‘second economy’ was the most useful framework to describe Cuba’s unregulated income generating activities (1995:13). But with the gradual re-introduction of the private market, the framework perimeter became blurred and some scholars started to use this concept to describe the self-regulated work activities as a whole, even if they were regulated by a legal license. Otherwise, the concept of informality is still widely used among both Cubans scholars and citizens to describe many income generating activities (Fernandez, 2000).

Is ‘informal economy’ still a good theoretical framework? In a recent article, Patrick Neveling analysed the Mauritius Exporting Processing Zone (MEPZ), one of the numerous Special Economic Zones that have been crucial in the participation to the global market of the so-called peripheral countries<sup>3</sup>, as a paradigmatic

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<sup>2</sup> Michalowski and Zatz wrote *The Cuban Second Economy in Perspective*, stemming from research carried out in the late eighties.

<sup>3</sup> Cuba has recently instituted a Special Economic Zone that, similarly to Mauritius, is an Exporting Processing Zone held in the Mariel Harbour. It would be extremely interesting to conduct fieldwork there and comparatively analyse the data with Neveling’s work, but foreign researchers are currently forbidden to enter the zone.

situation to discuss the limit of the ‘informal economy’ concept (Neveling, 2014). He affirms that all the social actors involved in the MEPZ economic activities, including the state, were aware of the dubious legality of the economic transactions, making the dichotomy between formal-informal a less useful framework, but offering the chance for a sharp critic of the concept. Informality builds upon the idea of the existence of several economic activities ignored by or hidden from the state (Hart, 1973), Centeno and Portes have underlined this concept by stating that informal economies arise when there is a discrepancy between the ambition of the state regulating economy and its actual ability to enforce it (2006:29). Could we still use this concept when the state is conniving with the activities? Or when it is the state who breaks the rule? Or when the rules are so unclear that one could break them without even noticing? Neveling concludes by suggesting considering the distinction formal/informal as more useful to capture the emic perspective than to analyse such patterns (2014:77).

During my 2012 fieldwork in La Havana, I was investigating the rise of *cuentapropistas* (lit. those who work for their own account) phenomenon (Cuban citizens who got a license to work on their own after the 2011 reform<sup>4</sup>) and I started by separating ‘cuentapropistas’ from ‘informal workers’, by counting in the first group those who legally got the license and in the second who kept working privately without a formal recognition. It was plausible that, as some Cuban scholar suggested, by enacting a partial reform of the labour market, which allows getting a private practice, just a closed number of work categories and leaves out almost all the graduated professionals, the government was ‘condemning to informality’ (Henken,

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<sup>4</sup> I refer to the plan called *Proyecto de Lineamiento de la Política Económica y Social del Partido y la Revolución* (lit. Guidelines of Economic and Social Policies of the Party and the Revolution), approved by the sixth PCC Congress and published on 17 April 2011. It allowed the opening of small and medium private enterprises in just explicitly determined work sectors. A Cuban resident could now open a restaurant or a hair salon or be a part of cooperative for construction. The aim of this crucial labour market reform was to balance the huge wave of dismissals that laid off more than one million workers, ending with what Mujal-León defined the “cornerstone of paternalistic state Fidel Castro had founded”: a country that guarantees as many jobs as the active working population needs (Mujal-León 2011, 155). By mid-2012, the number of private workers appeared to have reached 390,000 (Oxford Analytics, 17 August 2012) compared to 333,206 in September 2011 (Pavel Vidal & Pérez Villanueva 2012).

2002) a large group of state workers (Pavel Vidal & Pérez Villanueva, 2012; Brundenius & Torres Pérez, 2016; Russo, 2016). In 2013, an integration of 2011 reform was introduced to discourage the informal labour market. Public workers were allowed for the first time since 1968 to have a second private job. Since this new reform was enacted, university professors or even physicians could, for instance, get a license to rent a place for tourists or to sell food (Romanò & León, 2015)<sup>5</sup>. Despite the latter adjustment, many Cuban citizens keep practicing private activities without any license<sup>6</sup>, but informality cannot be reduced to that. During the most recent fieldwork I carried out (2016–17), the amount of informal economic activities set in place by *cuentapropistas* left a deep impression on me, thus I started to consider the distinction ‘with/without a license’ insufficient to describe the current situation. In the same way, to understand the Cuban informality, in both discourse and practice, the structural reasons (political and economic) should be considered along with the socio-cultural ones.

The Cuban sociologist Mayra Espina divides the forms that the informal economy currently adopts in the country into three main ones: 1) *occupational subtraction* qualifies those state workers who extract products from state facilities to sell them in the submerged market (for instance those hotel workers who were selling tomato cans); 2) *unreported economy* consists of actions that evade the requirements of reporting to government statistical offices, and therefore, the fiscal rules established as codified in the tax code. For example, non-recognition of services rendered to tourism such as housing, car rental and food services; and 3) *illegal or criminal economy*

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<sup>5</sup> It is maintained that professionals in active employment cannot practice their profession, except for those who were self-employed before 1964 and translators-interpreters. On this subject, see Resolution No. 32/2010.

<sup>6</sup> A survey conducted in 2013 by the International Republican Institute (IRI) with a sample size of 688 Cuban adults, 15 percent of those polled declared they can be placed in the "informal market". Although without considering that the percentage could proportionally correspond to the proportions of workers in the informal sector, the findings confirm that many Cubans continue to work in private without official authorization. IRI, "Cuban Public Opinion Survey, January 20 – February 20, 2013," available at: <http://www.iri.org/sites/default/files/2013%20May%2024%20Survey%20of%20Cuban%20Public%20Opinion,%20January%2020-February%2020,%202013%20--%20English%20version.pdf>.



it covers the production and distribution of legally prohibited goods and services (Espina, 2010).

For the aim of this article, I shall focus my attention on the first two forms pointed out from Espina, leaving out all those activities that are illegal or criminal per se (for instance selling drugs) and add to this list a fourth category, which will allow observing the phenomenon from another perspective: the economy of favours. The latter concept was coined by the anthropologist Alena Ledeneva in 1998 while she was analysing 'blat' (informal exchange network) in Russia, and it has recently been at the verge of a new debate in our discipline (Henig & Makovicky, 2018). In Ledeneva's perspective, favour should be considered an ambivalent action "that involves the sharing or redistribution of material or non-material resources driven by material or non-material incentives associated with maintaining or extending social relations" (Ledeneva, 2018:26). Thus, doing a favour should be considered a non-economic way of action with both economic consequences (in the way it nourishes the shadow market) and non-economic ones (in the way it nourishes social connections and self-estimation) (Humphrey, 2018). The ambivalence of favour does not only lie in its duality as both economic and non-economic practice but also in a sort of 'double standard' that made favour networks possible (Yurchak, 1997). Indeed, on one hand doing favours implies the willingness to help others, the sharing of a deep feeling of mutual understanding (Ledeneva 1998). On the other hand, doing favours involves not only redistribution of personal resources but also of public ones, because, and here lies the double standard, stealing from the State is considered morally acceptable due to the "pervasive attitude that everybody is doing it" (Sampson, 1987:134).

Stemming from those premises, this article shall discuss what are the implications of using the concept of informality in the analysis of the puzzled Cuban labour market. I shall follow Neveling's suggestion that informality is best analysed as an emic category, and discuss the practices I could observe and the ones that my interlocutor shared with me in our interviews in the three-fold conceptual framework based on 'occupational subtraction', 'unreported economy' and 'economy of fa-

vours'. Those concepts and the dynamics that interplay among them would be considered both heuristic tools and objects of critical examination.

### **3. A three-fold conceptual framework: the research questions**

When the Economic Guidelines were approved during the Sixth Congress of the PCC, and then updated in the Seventh Congress on 17 April 2011, the government declared that this modification represented only an 'update of the socialist model'. Despite the changes and the introduction of a form of capital production that had no precedent in Cuban socialist design<sup>7</sup>, the Congress emphasized the idea that socialism introduced by the 1976 Constitution was not dying; it simply needed to be 'updated' to enable the country to move forward economically. Coherently with this statement, the Guidelines were presented as a technical process that did not need to carry with itself a parallel model of reform of the political structure. As stated by the Cuban economist Pedro Monreal González (2014), the government expressed in terms of 'updating' and not of 'reform', evidencing that politics was not involved in this change. This decision brought on a storm of neologisms (like perpetrating the use of the term 'cuentapropistas', which ultimately stands for 'private worker') and a variable number of dispensations, for instance, the one mentioned that allows a doctor to be a private tourist guide, but not to open a private medical practice. Neologisms and dispensations are strategically used by the government to maintain the public socialist discourse, but they contribute to making the distinction between licit and illicit activities blurred, which, as we will see, has deep consequences on social habits as well.

In the previous paragraph, I referred to a three-fold conceptual framework that combines Espina's concepts of 'occupational subtraction' and 'unreported economy' with Ledeneva's concept of 'economy of favours'. The dynamics tying up at least two of those concepts could be unfolded, for instance, in an episode that

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<sup>7</sup> Such as the introduction of small and medium private enterprises.

occurred during my last fieldwork. In January 2017, the mother of one of my interlocutors<sup>8</sup> got sick; she was an old lady and she had strong back pain that needed to be examined with an X-ray. Her son took her to the hospital and for doing so he asked the first favour: a lift from his neighbour who owns a car (personal resource favour). Then, after arriving at the hospital, the doctor who examined the old lady admitted that sadly he had no film for doing an X-ray; he was expecting to receive it in a week and that it would probably take a week more to have it. So, my interlocutor called a friend of his who works in a military hospital<sup>9</sup> asking her to *resolver* (lit. to solve, but indicate the ability to find a product not available in the official market) an X-ray film (public resource favour). The use of the verb *resolver* indicates that this particular way of acting is not even considered 'stealing' or 'subtracting'. This makes Espina's first category somehow blurred. The occupational subtraction does not only involve the 'stealing to sell' but also the 'stealing to do a favour', which adds a gradient of complexity to be considered in the analysis. Indeed, the doctor who facilitated the X-ray film to her friend was subtracting something from her hospital, threatening the public good by stealing, but at the same time, by giving the film to a patient from another hospital, she was also guaranteeing that the promise of universal access to health care was maintained. But there is something more. When my interlocutor could provide via the favour network what his mother should have received just for citizen rights, he was also stating in some way he was capable to find a personal solution (finding the X-ray film) to a common problem (shortage in medical supply). The favour, thus qualifies as an 'exception' of the ordinary, something that holds the ability of temporary subverting the rules, gifting the people involved with a 'social warmth'. "The pleasure drawn from enacting a world in which (...) things can be done differently, albeit just for us, exceptionally" (Holbraad, 2018: 230).

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<sup>8</sup> Further in this paper, I will present my interviewees and explain why I call them 'interlocutors' rather than 'informants'.

<sup>9</sup> Military facilities are known in the country to be the best supplied. To say that "one went to a military hospital", it colloquially means one got the best care possible.

Another example of how the concepts of ‘occupational subtraction’ and ‘unreported economy’ are tied together could be brought from the ethnographic sketch that opens the article. The boy with the backpack buys his supplies from hotel workers, who subtract the tomato cans from their employer’s kitchen (occupational subtraction). At the same time, he sells those products without a proper license, thus evading tax rules (unreported economy). Indeed, there is a cheap and legal way to buy tomato sauce, for instance, buying the handmade one that could be found in farmer’s market, but to access the one sold to the hotels means to access something that for its price and distribution chain is, or seems, over the means of common citizens. In other terms, by ‘subverting rules’, the act of buying the tomato cans from the smuggler adds a symbolic value to the transaction, which is particularly important in those societies where economic capital is scarce (Prost, 2006).

The X-ray affair and the tomato can smuggler I described are by no means archetypal, but they provide what seems to me a good description of the motivations and concerns that keep in motion both favour networks and other informal activities. They also allow a brief reflection on the symbolic capital involved in both transactions, which could be considered this sense of ‘subverting rules’. Holbraad also referred to favours, but it does not cease to exist when there is also an economic transaction on the table.

#### **4. Informality and obliquity: a methodological assessment**

During my last fieldwork in La Havana (December 2016–February 2017), I collected 25 long non-structured and semi-structured interviews with private workers (*cuentalpropistas* and salaried private staff) and state workers with second informal income generating activities, which were selected thanks to the solid non-academic network I have built in Cuba during my previous fieldwork in La Habana and Cienfuegos. To address a crucial factor such as the role of the family in labour decisions, I chose my interviewees in a family group (i.e. parent-child, husband-wife). Indeed, I met numerous families that combine different work relationships (i.e. a parent is

on the State payroll, the other is self-employed, one child has emigrated and another is a salaried private employer, and at least one of them is also operating in the informal market). This economic multi-spatiality (Romero, 2015) has been a privileged feature in the interviewee selection. The interviews, along with notes taken every day, local newspapers and visual data (photos and short videos), provided the material for my writing.

My research ethnographic method is inspired by the ‘obliquity’ approach suggested by Ledeneva (1998, 2018), which means it relied upon “people’s willingness to share their experiences and framing the most interesting ones in case studies” (2018: 42). Indeed, as Ledeneva argued, analysing informality means to be able to ask your interviewees to talk openly (and while being recorded) about something that is considered a secret, in the way it is excluded from formal and official discourse, so it requires a solid relationship of trust between the researcher and his/her interlocutors. For this reason, the data from the interviews are accompanied by several months of participant observation over the past 10 years<sup>10</sup>. Finally, I consider my interviewees ‘interlocutors’ rather than ‘informants’ (Malighetti, 2004). This terminological choice aims to emphasize the fact that I discuss my research aims with them before setting a proper interview, and I dialectically consider their forms of interpretation while elaborating on mine. This also mean I always disclose to them my aims and my role as researcher and ethnographer, and I guarantee anonymity to them by using fictitious names and by concealing those demographic characteristics that are not essential to the analysis.

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<sup>10</sup> Another level of difficulty is added from the partiality of the statistical sources. Since ‘informality’ could not be considered from formal and official discourse, it is impossible to find national data about it. Moreover, even the data that cover the official matter, for instance, labour force distribution and medium salary, are not completely disclosed by the Cuban government.

## 5. Informality and kinship: two Cuban families as case studies

For the aims of this article, I have chosen two families who know each other and live in the same neighbourhood, the Perez and the Delgado families. I shall describe their daily practices and interpret them in light of the three chosen categories of informality. The aim is to critically reflect upon the categories while applying them to the ethnographic data gathered.

### 5.1. *The Delgado family*

The Delgado family lives in a suburb of La Havana and, like the Perez I will further describe, they are a couple on their second marriage. Leandro (1958) and Dulce (1960) were the main interlocutors of the Delgado family and my host during three different episodes of fieldwork in La Havana (2010, 2012, 2016–17). Having the chance to live with them gave me the possibility to closely observe their daily practices and to witness some interesting events, such as the anecdote of the ‘X-ray film favour’ I wrote about in the third paragraph of this article.

Leandro has offspring from his first marriage, which were not involved in my research due to their not having so close a relationship with their father. Dulce has two sons from her first marriage, which used to live with her and Leandro but were both abroad during my last fieldwork. The older son migrated in 2011, while his brother left the country in 2016. Although they do not live with Leandro and Dulce anymore, Dulce’s offspring play an important role in the Delgado domestic economy by sending remittances and providing some white goods, which, as I will explain, are not available in the local market.

Leandro was a FAR special agent<sup>11</sup>, a member of the famous counter-intelligence group that was involved in investigating terroristic threats during the Cold War. He retired more than a decade ago, and during my latter fieldwork, he

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<sup>11</sup> The acronym FAR stands for *Fuerzas Armadas Revolucionarias*, literally ‘Revolutionary Arms Force’, which is what the military is called in Cuba.

was selling handmade chocolates on the informal market. Indeed, he started working in a sugar manufacturing plant at 17 and got married; then, after serving in the military, he decided to enrol in the Armed Forces and graduated in Security Studies in Germany to be able to acquire a better military grade. He told me in our first interview in 2012, “I was in the army for almost 30 years. I like what I did. I thought it was the best and it was going to last forever, but I was wrong”<sup>12</sup>. When he retired from the army<sup>13</sup>, he worked in the security staff of a local facility, but then he decided to start to work as a clerk for a farmers market in the neighbourhood where he lives with his second wife Dulce, whom he met in 2001. He worked there for some years, then he went to work as a clerk for a private tourist shop in the historic centre of the city. Then, after one year, he went running the *casa particular* of a family friend, and finally, after two more years, he decided to start an informal enterprise with one of his neighbours. They buy chocolate powder and make homemade chocolates to be sold, without a license, to café and private clients.

Working in the informal market, Leandro makes three times the salary of his wife, Dulce, who has been a university professor for almost 30 years. Dulce defines herself as “deeply in love with her job”, although, as she told me, she must rely almost completely upon her husband and her sons to make ends meet. Indeed, this is not an uncommon situation for state workers and for university professors, particularly. The medium level of salary for ‘professionals’ (physicians, architects, lawyers, professors and engineers) ranges from 530 to 850 *pesos* per month, one of the two official currencies (comparable to the value of 20–30 CUC, *pesos convertibles*, the second currency, which is equivalent to the American dollar)<sup>14</sup>. To understand this sal-

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<sup>12</sup> Leandro never told me why he retired so early from the army. Since he received a special medal of honour for his past service during my last fieldwork, I have good reason to think it was probably for personal reasons. His stepson described to me the time Leandro was in in the army as “very challenging” for the entire family, since “he was sent to missions abroad and he could not even let his family know where he was and for how long he was staying there” (interview with Fernando, 2010).

<sup>13</sup> It is worth mentioning here that retirement salaries are extremely low, so it is very common that after retiring one starts to work on the private or the informal market.

<sup>14</sup> In 2004 the government managed to substitute the US dollar by introducing a second local currency, the *convertible pesos*, called CUC. The CUC introduction into the local market dramatically decreased the purchasing value of the Cuban state wages. Since then, state workers are living in a peculiar economic paradox. Their salaries are paid in *pesos* (CUP), which are changed to CUC (25:1), but they mostly buy goods in CUC, which became the main currency in the local markets. The double

ary purchasing power, it is possible to compare it with the prices of a basket of common products, for instance, one bottle of shampoo costs on average 60 pesos; 1 litre of tomato sauce has the same price; four toilet rolls cost 25 pesos; the prices of fruits and vegetables have held steady as well as those of rice, sugar, and bread. As shown by the following table, the salaries of school teachers and university professors are below the average and have not really increased from 2014 (where, for instance, the salary of agricultural workers increased by about 32.6%, the salary of sugar plant workers increased by about 23%, and the salaries of professors and teachers increased by about 1%).

**Table 1 – Medium monthly salary per job category in local currency (pesos).**

<b>Job category</b>	<b>2014</b>	<b>2016</b>
Agriculture workers	679	1006
Sugar plant workers	963	1246
Public health workers	712	816
Education (teachers/professors)	527	533
Construction workers	674	985
Total	584	740

<sup>a</sup> *Source: author elaboration on data from ONE (National Cuban Agency for Statistics), Cuba Statistic Yearbook 2016.*

To be able to make ends meet, Dulce, as well as many other Cubans, engaged in some informal activities, for instance, giving private lessons or renting a room without a license to foreign university fellows. The latter activity could be considered as unreported economy (since she does not have a license to rent a room) but, in some way, could also be considered an act of occupational subtraction (since she somehow exploits her role as a professor to find tenants). During the years between her first and second marriage, she told me in our first interview in 2008 that she gave private classes to seven kids “to be able to feed her two boys”. Lately, she has been helping Leandro in his new enterprise of selling homemade chocolates, which she described in our latter interview (February 2017) as “a huge economic relief”. Al-

currency that was held to distinguish foreigners from residents or to protect state socialism from the political and economic *shock* of foreign direct investment, currently points out the gap between those who can afford dollar prices and those who cannot afford them.



though, describing to me what she owns, she always mentions the formula “thanks to the boys” (*muchachos*, lit. “boys”, which is the way she refers to her two adult children). She owns a laptop “thanks to the boys”, she broke her old shaker but she could buy a new one “thanks to the boys”, and so on.

Remittances have a crucial role in the domestic economy of Cuban families, reaching 62% of Cuban households and sustaining about 90% of the retail market. Money sent from overseas far exceeds the net profits from tourism, nickel, and medical products manufactured by the Cuban biotech industry (Ritter, 2013). But Cubans leaving abroad do not send just money to their family, they also send white goods, such as computers, laptops, mobile phones and other kinds of devices which, due to the US embargo, are impossible to find in the local official market. The lack of supplies has been feeding the informal market and the *mula* (lit. mule) system. The term *mula* is colloquially used to refer to those Cubans that, having both Cuban and foreign passports<sup>15</sup>, can import a certain quantity of goods into the country, paying the importation tax at the airport. Afterwards, they can sell those goods without any regulation (on price, quality or income tax)<sup>16</sup>. The connivance of the state with those forms of unreported economy is paradigmatic in the way the government exploits the *mula* system. By collecting heavy tariffs, the government directly profits from this system of importation. Moreover, by allowing the importation (and implicitly the selling on the shadow market) of many goods that the country could not import due to the US embargo, the state manages to overcome some of the embargo outcomes allowing citizens partial access to the international market.

Leandro acquired chocolate moulds through the help of a friend, who travels as a *mula* between Panama and Cuba four times per year. He and his wife take

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<sup>15</sup> According to many international newspapers covering the news (i.e. Reuters agency website), more than 70,000 Cubans got Spanish citizenship due to the “grandchildren law”, which, in 2009, gave the possibility to all Cubans having Spanish ancestors (namely grandfather, grandmother or both) to claim Spanish citizenship. Many of them used their European passport as a migration vector, but some of them stayed in the island and started traveling back and forth to neighbouring countries buying goods to sell on the informal market. Unfortunately, official statistics on this topic are not available.

<sup>16</sup> Even if the import tax is high and the *mula* must pay for their own trip, the cost of the product they sell still remains lower than the one in the local marketplace.

care of the teenage daughter of their friend while she is abroad, and in exchange, they receive some ‘gifts’, namely the moulds in this scenario. Using another favour, Leandro got the recipe for the chocolates, and, considering he could not officially advertise his activity, he runs his business through a complex network of acquaintances. When I asked him how he built his network and how he could reach so many clients (he was selling about 700 chocolates per week during my last fieldwork), he told me, “You know, there is no socialism in Cuba anymore, what we have left is *sociolismo* (lit. “friend-ism” or “partner-ism.”)” (interview, February 2017). The term *sociolismo* is a colloquial neologism that comes from the term *socio*, which literally means ‘partner’ but is used colloquially to refer to those who belong to one’s ‘favour network’, and it ironically sounds similar to the term *socialismo* (Spanish for ‘socialism’) (Cherneski, 2018). Both the potentiality of the favour networks and the pervasiveness of informality, while they have certainly played a role in mitigating the consequences of ineffective distribution of goods (Ledeneva, 2018), have also nourished the gap between legality and legitimacy (Giordano, 2015), as Cubans tend to prefer to circumvent the legal framework via personalised social networks, even if not strictly necessary (Russo, 2017).

Thus, Leandro and Dulce are involved in many informal activities, the main one being the selling of chocolates, but they also rent a room in their home to foreign scholars, from time to time. They are also involved in various favour networks. When I asked Leandro why does he not own a license for the ‘chocolate business’ (as he used to call it), he answered that he will eventually get one, but he was waiting to “clear his head about the regulation”. He explained to me:

See, those new regulations about *cuentapropistas* are so muddled you cannot understand, I went to three different places to know what kind of documents I need to formalize my activity and nobody seemed to know clearly about it, should I have a pastry lab or am I allowed to do it from home? Could I sell to coffee shops or should I be limited to private clients? Nobody gave me clear answers, so I am just following the flow and waiting (interview, February 2017).

Leandro's chocolate business falls in Espina's category of 'unreported economy', although it is the pervasiveness of the 'economy of favour' that makes it feasible. It is the embeddedness of informal practices in the moral imagination of citizens that makes it a solution that is acceptable to all parties involved (for Leandro who carries out the business, for his clients and of course for his family).

### 5.2. *The Perez family*

The Perez family comes from a little town in the centre of the country, but they have been living in a suburb of La Havana for the past 25 years. Luis (1959) and Silvia (1962), which have been the main interlocutors of their family during my investigation, are both *cuentapropistas* and former state workers. They have two daughters, and they both have offspring from a previous marriage. Silvia has a son who migrated in 2012, and Luis has a daughter, a medical doctor who was working 'on a mission' abroad<sup>17</sup>. During my latter fieldwork, their older daughter was a medical student, and the little one was attending secondary school.

Silvia has graduated in Education Studies and has worked as a school secretary for almost 20 years. Then, when the 2011 *Lineamientos* re-opened to the private market, she decided to quit her state job and started to work as a clerk in a pizza parlour near her home, which she described as "I had a better salary and fewer responsibilities" (interview, January 2017). After a couple of years, she decided she was "tired of working for someone else" and convinced her husband to open a family run café.

Luis has graduated in Mathematics. After his bachelor's degree, he pursued a Master of Business Administration and, since 1994, has been the director of a public Cuban enterprise. Since he was a high official, he received some benefits from the Ministry, such as a mobile phone paid for by the agency, a modern car and a salary of about 1600 pesos, which were quite good for the Cuban average, as well as

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<sup>17</sup> As of 2014, approximately 50,000 Cuban health workers were serving 65 countries all over the world. As I argued in a recent article, participating in a health mission abroad was also a good (and legal) way for a medical doctor or a nurse to receive some benefits (Russo, 2016).

the possibility to work and travel abroad<sup>18</sup>. Luis was a state worker until 2014 when he resigned from his job and opened a ‘casa particular’ (bed and breakfast). He told me in our first interview in 2012, although his job was better remunerated than the average state job, it was not enough to address the needs of his family. Finally, he left the bed and breakfast in 2016 to open a café with his wife.

Like many Cuban *cuentapropistas*, Silvia and Luis got their license for their café and transformed the terrace of their ground floor apartment into a counter where clients could order, retire and pay through the windows for take-away meals cooked in the kitchen of their house. On paper, Luis is the owner of the café, Silvia is the first employee, and they have a second employee serving as a cook, Marta. But, even though they own a legally obtained license, many of their daily practices can be thought of as ‘informal’. For instance, the fact that they have a third employee, Ada, who helps Marta in the cooking but is not legally employed and, most importantly, the way they supply their kitchen.

Indeed, when I asked Silvia, what does she find challenging in their new enterprise, she told me:

Buying the products. I mean food, but also plates and glasses... all you need to run a little take-away... We had to rent a car, just for *resolver en la calle* (lit. solving the problem ‘in the streets’, which stands for informal market), and my son sent us some nice plates (from abroad) with my sister when she came here visiting. See, the problem is you cannot buy wholesale, they want you to buy from the state grocery store, which is like “maybe today I will find pasta”, “maybe tomato sauce will disappear for a month” ... you know how it is. I got eggs today, how long did we look for them? About two weeks (interview, January 2017).

The current Cuban regulations do not allow *cuentapropistas* to buy wholesale. They should buy all the products or raw materials they need for their work activities

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<sup>18</sup> The opportunity to travel abroad was, until 2013 (when the law preventing Cuban citizens from travelling freely without formal governmental authorization was repealed) and to a certain extent it still is, the desired object both symbolically and at a material level. In the latter case, it represented the possibility to gain goods not available or at lower prices than on the local market. Symbolically, it represented a privileged status and a higher feeling of freedom.

from retail state vendors, disregarding the quantity they need. This brings about at least two problems: a) by buying raw materials by retail they should charge more for their services/products, which will sensibly drop the number of their clients and therefore their incomes and b) the state market offers a very limited choice of products and very high prices. The ineffective distribution of goods in Cuba was described by the anthropologist Cristina Pertierra with the concept of “frustrated consumption” (Pertierra, 2007:4), the everyday struggle to obtain goods that were hard to obtain on the *pesos* market and that can only be found in *chopin*, Cubanization of the word ‘shopping’, which indicates CUC shops (Pertierra, 2007, 2011). The frustrated consumption is caused by two interrelated phenomena. The first one is the peculiar economic paradox Cuban citizens have been living since 1993 when the US dollar was legalized as a means of payment and then substituted in 2004 by the introduction of a second local currency (CUC). State salaries are paid in pesos (CUP), the first currency which is changed to CUC (25:1), but Cubans mostly buy goods in CUC, a process that dramatically decreases the purchasing value of their salaries. The second one is that, even in the *chopin*, a lot of products remain a mirage. White goods are hard to find, fresh meat and fresh fish are very difficult to buy<sup>19</sup> and a lot of products are just available now and then.

For the mentioned reasons, Luis rented a car that he uses to *resolver* all the ingredients they need for running the café on the informal market, and in his free time, he uses the car as an informal taxi, driving around acquaintances in exchange for favours or money, depending on the situation. By accompanying Luis during one of his grocery shopping trips, I observed the different kinds of informal practices his shop is based on. He relies on personal favours to know where and when the selling will take place or who to call to receive some products (economy of favours). Moreover, some goods are sold via ‘brokerage’, so he pays a commission to the person who helps him acquire the product, for instance, fresh fish caught by sailors, unreported and sold through a broker (unreported economy). Finally, some

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<sup>19</sup> Processed meat and fish are easier to find, but they have quite a high cost compared to the local medium wage; a simple can of tuna costs around 50 CUP (or 2 CUC).

products come from informal selling (or donation) of state provisions, for instance, the cans of tomato sauce described in the prologue (occupational subtraction).

In addition to the described practices, since no receipts are needed by law (neither for the acquired ingredients nor for the sold meals), it is almost impossible to say if the taxes Silvia and Luis pay are fairly measured. Theoretically, they need to pay two type of taxes. One fixed monthly tax just to keep their license, and one yearly tax that should match the 10 percent of the amount actually gained. Nevertheless, the relatively recent opening to private job market activities has found the state policy unprepared to rule the income tax system or at least to have a verification system for checking the incomes of *cuentapropistas*, for instance, there is not a clear regulation about receipts<sup>20</sup>.

## **Conclusions**

During my fieldwork, I asked my interviewees which are, in their opinion, the structural reasons that jeopardize the possibility of a common *cuentapropista* to have a completely legal set of activities. According to their answers and my observant participation, as I show in the article, those reasons could be summarized as follows: a) the state does not manage to enforce the tax rules; b) the uncertainty of the rules; c) the ineffective distribution of goods; and d) the proscription against buying wholesale (Pavel Vidal & Pérez Villanueva 2014).

These reasons are, indeed, economically challenging for those who are building their private enterprises, but their political and cultural meaning should not be considered less important than their economic impact in term of favouring informal over legal frameworks of action. For instance, the ineffective distribution of goods is not only affecting consumption by creating frustrating consumers as described by Pertierra (2007, 2011) but also representing the failing of the rationing system. Indeed, the average salary and those few products received through the *li-*

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<sup>20</sup> Except for the “casas particulares” (lit. private houses, local term for “bed and breakfast”), which have a register where they need to put all the room fees, they are also subject to stricter government control, as they usually host foreigners.

*libreta* system<sup>21</sup>, for instance, and the other gratuities have stopped supplying the population with necessities since the second half of the 2000s. This failing, paired with a centrally planned economy where some products could only be acquired legally by distribution, not only created the condition for people to get used to the exchange of products and favours but also corroborated the idea that those activities were necessary family survival strategies, although they were illegal and still were (and are) considered legitimate (Giordano, 2015).

As for the other mentioned reasons, the unenforced tax regime, the uncertainty of the rules and the proscription against buying wholesale seem to be double bonded with the resilience of the planned economy system. Despite many scholars speaking about Cuba in terms of ‘transition’ (Leiva, 2000; Ritter, 2005; Feinberg, 2013; Brundenius & Pérez, 2015), a theory that posits transition is “a progressive set of stages along a unidirectional path from communism to capitalism” (Phillips 2007:334), contemporary Cuba is hardly on its way toward a free market and liberal democracy, inasmuch as we consider those phenomena as ideal typical conceptions. Neveling criticizes anthropology's common notion of the “working of markets”, because it is “often built on the premises of a historical shift from regulated markets to self-regulated markets” or in Polanyi's terms from “human economy” to “market economy” (Neveling, 2014: 69; Polanyi, 1957, 1977). Cuba seems a good case study to challenge this bias, not only because, due to the continuity of the PCC leadership, this historical radical shift never happened but also because both forms of political-economic regimes are cohabiting and dialectically merging together. For instance, by not allowing *cuentapropistas* to buy wholesale, the government is trying to control and limit size and incomes of the relatively new private sector. On the other hand, by evading these rules by buying their supplies on the informal market, the *cuentapropistas* are re-defining in their own terms their relationship with the state.

Damián Fernández (2000), analysing Cuban informal economy, suggested considering it as both one of the most formidable adversaries of the Socialist state

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<sup>21</sup> The *libreta* (lit. little book) is a kind of monthly coupon providing basic goods, such as eggs, chicken, rice, bread, beans, etc.

and an instrument that provides citizens with enough creativity to escape it and to deal with the socialist asset. Emma Phillips, who investigated the outcomes of the Special Period and the consequent labour market reform that introduced the *cuentapropista* figure, pointed out that Decree 141 of the Law (1993)<sup>22</sup> has brought a “legal creation of an anomaly”, leading *cuentapropistas* to “embody an increasing tension between Cuba’s socialist past and uncertain future” (2007:312). What Phillips wanted to stress by using the paraphrase “legal creation of an anomaly” is that the partial reformation of the labour market, which allowed private jobs just in certain sectors<sup>23</sup>, has contributed to shaping a different type of economy that is difficult to define legal or informal per se, but which floats between the two domains.

Thus, using the term ‘informal economy’ or informality as a theoretic framework to describe the daily practices of Cubans to make ends meet could be considered not completely satisfying. As Neveling suggested in the case of Mauritius, the term ‘informality’ is certainly useful to describe the local or emic point of view but to analyse those practices it would be useful to focus on the micro-dynamics and micro-processes enacted by subjects, while they are coping with uncertainties in the transformations of the market. Stemming from those premises, I found that Espina’s tripartite definition (occupational subtraction, unreported economy and criminal economy) combined with Ledeneva’s concept of economy of favour could be the most appropriate theoretical framework for an in-depth ethnographic analysis of contemporary Cuban practices. First, the concept of occupational subtraction describes well the tendency, common in post-Soviet countries, to consider ‘stealing from the state’ perfectly legitimate, because, as Ledeneva explained, “the illegitimacy of private property, legitimizes the use of public property” (Ledeneva 2018:31). Secondly, the concept of unreported economy, made to de-

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<sup>22</sup> In late 1960, when the ‘Sovietisation’ of Cuban society began, private workers still existed. Most of them were peasants and drivers, but there were also physicians, optometrists, dentists and veterinarians. The Decree 141 of Law (1978) stated the possibility of private practice to the people who graduated before 1959. The Decree 141 of Law allowed 55 job activities, and 117 more were allowed in 1995 (Phillips, 2007). Then, no new licenses were released until 2011.

<sup>23</sup> For the complete list of authorized categories for self-employment, see *Gaceta Oficial*, No. 027, Special Edition, Resolution 42/2013, 26 September 2013, Annex.



scribe all these economic activities exerted without a license, is also useful to overcome the dichotomy ‘with or without license’, because, as the gathered data suggest, even where there is a registered license, we can still find some unreported economic activities. Finally, the concept of economy of favour points out that not all the exchanges and the subtractions are operated for economic advances, some of them, by building or corroborating networks, are instrumental not only for individuals but also to the survival of institutions. For instance, the anecdote of the X-ray film shows how the individuals, by subtracting from a better supplied facility and redistributing via favours, contribute to sustaining the fair access to public health services.

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## RESEARCH ARTICLE

### **Criminal humanitarianism. A visual exploration of criminal legitimisation, between alternative moralities and the political vacuum.**

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## ABSTRACT

*This article pledges to pursue three different, but closely correlated, lines of investigation related to the processes of legitimising contemporary criminal organizations. Starting from the analysis of visuals related to two regional contexts, Mexico and southern Italy, it explores how criminals engage in moral self-promotion, philanthropy, and other social practices through which criminal groups seek their own humanisation, mythicisation and sanctification. Observing two fields of criminal practices and symbolic production, with their capabilities of cultural sedimentation and social structuring, it explores the fil rouge weaving together the logic of promoting the internal cohesion of group with the mechanisms of external recognition. A more general reflection about the role of criminal organizations at the margins of neoliberal economies will be conducted by reviewing and analysing episodes of narco-charity, controversial connections between mafia bosses and local priests, business initiatives sponsored by criminals, visuals representing 'bad' non-state actors (out-laws) doing 'good' things.*

**KEYWORDS:** Criminal organizations; Visual and media analysis; Narco-charity; Disordered legality and criminal legitimisation; Political anthropology

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## **1. Living the margins. A criminal reconstruction of sociality**

Criminal practices in the context of modern states are generally understood as acts against government, society and morality. The organizational structure of criminal institutions appears not only to be concealed from the state and from recognised civil society, but it is by its nature against any legal code or public concept of good. Legalistic discourse considers outlaws as the most striking expression of incompatibility with the state, and therefore fails to represent outlaws in the way they are actually rooted in communities and in society: criminals work outside any social and political framework, and especially outside value-driven motivations. If this perspective aims to confine the criminal to the role of reproducer of social marginality from one side, from the other it implicitly recognises the criminal as product of this social marginality. Outlaws gain their official visibility as pure agents of destruction only through the antagonism and security policies the state implements against them (Cohen 1993; Ferrel 1995; Dal Lago 2010). This misjudgement is not due to the lack of importance these organizations have in shaping various forms of governance, but because they do this in spite of and beyond the state, in socio-economical and geographical spaces where the state does not operate organically (Edelbacher et al. 2015). This is particularly clear in areas where state governance is strikingly absent or conniving, dramatically fostering the direct emergence of alternative monopolies based on violence. Here these criminal organizations, often redefined through the construct of ‘terrorism’, become para-institutions explicitly recognised as political organisms, with a juridical system, a social organization and economic network alternative to the formal authority and economy.

On the other hand, the legalistic discourse often implicitly continues to label formal activities legitimate without questioning this label, even if such activities can be perceived by local populations as illicit and immoral. The same narrative al-

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<sup>1</sup> This paper was based on a piece of research already partly discussed in June 2017 in Cardiff, during the 4th European Workshops in International Studies, within the panel *‘The good, the bad and the ugly. Exploring Boundaries between the Informal, the Criminal and the Immoral’*. I would especially like to thank the anonymous informants who contributed to my preliminary research. I am grateful to Martina Belluto, Francesco Gervasi, Giap Parini, Alessandra Russo and Hans Van der Veen for their feedback. I am also grateful for the comments from the anonymous reviewers of *IdPS*.



lows (for example) some companies, who are institutionally based in the realm of the legitimate global economy and complex governance, to create exploitative structures far from the perceived public interest and equally grounded on the monopoly of violence; for instance, by hiring private military services or by corrupting public authorities (Bayart et al. 1999; Avant 2005; Pearce 2012). Even where the authority of the state is undisputed or barely criticized, the erosion of resources and governability, in addition to the rushing of uncontrolled global flows of capital, goods, technology, and people, has created forms of ‘disordered legality’ in which multiple ideas of legitimacy, besides the one made legitimate, may reign in the gaps (Palidda 2000; Comaroff & Comaroff 2006; Ong 2006).

The neoliberal pattern has in this sense a role. The increasing flexibility of capitals and the unaccountability of a market-regulated state on the forms of social reproduction, generates radical forms of social fragmentation and segments of subaltern or rejected population. Their devaluation in terms of labour force and ability to enter the circuits of capital enhancement matches with the erosion of their legal identity of citizens to whom safety, rights and political representation are granted (Stenson 2000; Harvey 2005; Greenhouse 2010). These political vacuums are therefore open to become operative grey zones, where illegal activities can be some of the main sources of subsistence and criminals can take advantage of a favourable business environment (González de la Rocha 2006; Pratesi et al. 2014). In this way, neoliberalism blurs the lines between legal and illegal, opening doors to the proliferation of shadow economies, but also shadow legality and moralities; alternative social construction and cultural models whose growth and importance do not allow a simplistic condemnation. Criminals become active actors within a complex system in which informality, criminality and social needs cooperate, and even the explicitly illegal world, theoretically antagonistic with the state, enjoys – at least for macro-structural, but usually also operative reasons – areas of tolerance, connivance and collusion.

This overlapping of different sovereignties changes the meaning of the concept of criminal justice. Even criminals, leaders of an alternative virtue, have

room in the everyday practice to define their own concept of justice and to build public channels of self-representation and self-promotion. In the area of Naples, in the early 80s, a new and powerful criminal organization emerged (after the slaughter of its opponents) by the management of an environmental disaster – the earthquake in Irpinia – the New Organized Camorra (NCO). Its charismatic leader was Raffaele Cutolo, also named ‘*O Professore* [the Professor] or ‘*O Vangelo* [the Gospel], able to direct and reproduce the organization from prison. Within the NCO, groups of *guappi di rione colla molletta* [knife-armed local thugs], namely ‘men of honour’ engaged in smuggling and control of farmers markets, became a para-military group that controlled the local economy, branched like a holding and linked to the most important financial and political Italian lobbies of that time (Di Fiore 2005; Barbagallo 2011). In 1982, his sister and assistant Rosalina Cutolo invited a state television journalist in the lavish Medici Castle of their property. She let him wander around to ask locals what they thought of her brother, bragging about his power and claiming he had always done many good deeds and always thought about the common well-being; for instance, by having the city mayor find a job for an unfortunate family man.<sup>2</sup>

## **2. Visions of power and legitimising rhetoric. Criminal morality as a collective representation**

While not underestimating the cultural variations in treating image and codifying its deep meanings, we will tap into some visuals drawn from two different contexts where organized crime has notoriously been in the spotlight, to the point that both contexts are stereotypically associated worldwide with the criminal world, also in the form of related visual stereotypes. One is the Mexican context of drug-trafficking cartels and urban crime, the other that of Southern Italy, with a differentiated panorama of regional mafias which, although less visible than it was at the time of kidnappings and civil murders, are still ingrained not only in collective imag-

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<sup>2</sup> ‘Rosalina and Raffaele Cutolo’, video extracted from G. Marazzo’s reportages (RAI, Italy, 1974–1981), Vimeo, 05/06/2017, viewed 15/07/2018, [www.vimeo.com/220302166](http://www.vimeo.com/220302166) [Video 1].

ination, but also in national and transnational, legal and illegal, economies. In both contexts, criminal organizations are engaged in supporting an alternative morality that lowers the cultural barriers to the contamination with illegal and criminal activities and makes them able to affect social interactions on different levels.

To inquire into criminal consent-building mechanisms we will draw on techniques stemming from visual anthropology. As a transmission process of shared codes between the observed, the represented and those that are interpreting its symbolic content, images are a powerful tool for representing the collective imaginary, and at the same time for constructing its social and cultural attributes (Beltz 2016; Ricœur & Castoriadis 2016). Far from being the mere art of mystification and ornaments, rhetorical procedures form part of the logic in production of meaning, deeply affecting and reflecting the construction of social relations. We can therefore observe how the media circulation of criminal images takes part in this representational negotiation (Hayward & Presdee 2010) and in the struggle for a cultural hegemony, conveying and legitimating power relations, values and sense of belonging. The perspective adopted puts together the discursive regimes and the social practices that make their construction possible, being at the same time oriented by them. Rhetoric appears through these lenses as a precious instrument for observing cultural products in relation to the emerging, organizing and naturalising of social patterns and subjectivities.

The present paper was developed with the objective of providing a formal and functional description of these rhetorical procedures in two regional contexts. Visuals here included have been selected as exemplary from a collection of around 300 images and 100 videos (musical videoclips included), collected from previous journalistic, documentary and academic works, and from a survey of the presence of these visuals in blogs, websites and social media pages. The research of visuals was thus mainly conducted online, but has been enriched and expanded through some informal interviews carried out in the attempt to evaluate the presence of these cultural products in the local mediascapes. The observation is based on visuals related to criminal organizations or directly performed by criminals. Both in terms

of their number and selection criteria, and consistently with the aims of the work, they do not constitute a sample. Especially for the second category, visuals are intended to be a means for allowing a partial view of a molecular and informal circulation on which we lack any statistical affordable data. The paper does not have the aim of developing a punctual comparative research on two areas that, even without mentioning their respective historical and cultural peculiarities, have two extremely complex and plural criminal scenarios, both largely debated in academia. Nonetheless, the criminal organizations to which visuals refer have some similarities in their local political contexts, entered the global market as business partners and occupy, from the structural point of view, comparable social fields. These organizations emerged from different but comparable social asymmetries and are reinforced by a marginality of subaltern groups that, in both cases, we can observe reflected in the distribution of what Hannertz (1992) defined as 'social organization of meaning'. Furthermore, they move within two democratic institutional systems which, while maintaining their political hegemony, leave to the underworld of informality, included the illicit one, relevant occasions for political importance (Toranzo Roca 1997; Rey et al. 2017).

Observing criminal rhetoric through the circulation of visuals could make them a possible contact point between approaches encouraged by the theory of social fields and those encouraged by the theory of political discourse (Bourdieu 1997; Laclau 2014). Visuals are indeed repulsive to an ontological distinction between practice and signification. The power and immediacy of images are not separated from codes and procedures that build their multiple levels of significance, and their operational value relies precisely on being a rhetorical device able to define an in-action model of reality. As soon as they become visible, their symbolic content becomes an instrument for establishing relationships and identities (Barthes 1964; Freedberg 1989; Augé 1997).

In Mexican history, images, especially religious ones, have been essential in absorbing and reshaping different cultural traditions throughout the centuries, building a new moral and political dimension (Gruzinski 1988). Even for current

criminal groups, iconic representation remains an essential practice of power legitimisation, to the point of using it in explicit advertisement strategies (Campbell 2003; Voeten 2012). The same applies to Italian criminal organizations that – more or less devoted to exposing themselves publicly – still need a social context that acknowledges their power in order to operate effectively (Zagnoli 1984; Armao 2000). We will try to categorise some iconographic examples drawn from these contexts along the lines of three different rhetorical procedures: the legitimisation of outlawed power through criminal humanisation, through his mythologisation and sanctification.

### 3. The rhetoric of Humanisation

The first images attributed to organized crime are images of killings, violence and fear, reasonably acts of ‘inhumanity’. The first ideological challenge for criminals along their process of legitimisation is therefore to challenge the cultural paradigms that define what is ‘human’. It is possible to identify two different procedures, as much antagonistic as complementary: the first one consists of taking over the culturally accepted definition of humanity and linking criminality to it; the second is defining a different kind of humanity, a criminal humanity made legitimate.

**Figure 1. Commemorating Emanuele Sibillo.**



Source: [www.youtube.com](http://www.youtube.com)

In the first movement, criminals aim to associate themselves with a code of common morality that is widespread and rooted in the reference society. They aim to be recognised as men of honour, where honour is in this case to be interpreted in connection to local traditions, to shared and sedimented values. Criminals seek to look like ‘one of us’ and, even better, they present themselves as the men who make ‘us’ possible. Among many others, we choose as an example of the first case a commemorative video spread online in 2015, dedicated to a young Camorra boss killed by his competitors. In this photo collection, opened by the message of his brother and successor, Emanuele Sibillo is represented surrounded by his family, wife and friends: fragments of a daily familiar life in Naples (Fig. 1).<sup>3</sup> Furthermore, people who are behind cruel intimidation, murders and resource exploitation, are the same people who offer employment opportunities to disgraced segments of the population. For instance, Camorra is known for having set up a system of subsidies for families of inmates, to whom is guaranteed not only a salary, but also study grants to worthy sons (especially for those who would become lawyers). The same applies to the Calabrian ‘Ndrangheta, although it generally operates off the radar, structured by family clans already founded on close blood ties.

Both organizations are not only part of the global world of legal jobs – managing recruitments and enterprises – but also of the local cultural politics, funding popular festivals, cultural and religious events and, in the case of Naples, supporting young singers from working-class neighbourhoods. Crime fighting is then reinterpreted as an antagonism to local society, its normality and morality. For example, on the occasion of the visit to Locri of the Italian President Mattarella (March 2017), the city was filled with graffiti against authorities. One of these, located near the bishop’s residence and directed against a priest engaged in anti-mafia associations, invoked ‘more work less cops’ (Fig. 2).<sup>4</sup>

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<sup>3</sup> ‘Emanuele Sibillo E.S. 17 – È PER TE’, YouTube page ‘Io fake’, 09/11/2015, viewed 15/07/2018, <https://youtu.be/LWWHXyLlxWc> [Video 2].

<sup>4</sup> Candito A, ‘Mafie, a Locri scritte contro don Ciotti e gli “sbirri”’, *La Repubblica*, 20/03/2017.

**Figure 2. Graffiti against Don Ciotti in Locri.**



Source: [www.larepubblica.it](http://www.larepubblica.it)

Many Mexican cartels are devoted to sensationalized acts of philanthropy. Narco-charity supports a humanising propaganda among those who are generally ignored by the government, hence providing a legitimating frame for their unique form of upward social mobility: outlawed practices. During a recent 'Three Kings' Day (January 6) in Oaxaca, shrines filled with toys mysteriously appeared among some of the poorest communities of the region, with signs explaining that they were left 'so that people can see that the last letter, Z, supports noble people' (Fig. 3).<sup>5</sup> On the other side of the country, in Tamaulipas, the *Cártel del Golfo* sent presents for children, each toy tagged with a sticker: 'Perseverance, discipline and effort are the basis for success. Keep studying to be a great example. Happy Children's Day. With all my warmth for tomorrow's triumphant one. Your friend'.<sup>6</sup> The moral lesson was signed by the already imprisoned Osiel Cárdenas Guillén, known as *El Mata Amigos* [The Friend-Killer] because he became a drug lord by killing a strict partner, other than recruiting members of the Mexican Army Special Forces.

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<sup>5</sup> 'Presuntos Zetas regalan juguetes por Día de Reyes', *SDP Noticias*, 06/01/2014, [www.sdpsnoticias.com](http://www.sdpsnoticias.com).

<sup>6</sup> Cohen R, 'Trends in Narco-Charity', 15/01/2014, [www.nonprofitquarterly.org](http://www.nonprofitquarterly.org).

**Figure 3. Gifts by the Los Zetas cartel in Oaxaca.**



*Source:* Twitter profile, available on [www.sdponoticias.com](http://www.sdponoticias.com)

In addition to actions themselves, a highly effective form of moral promotion is the media spreading of these acts through visuals, especially when they reach the population in an apparently involuntary and informal way. Again, from Tamaulipas, a video spread through social networks showed the drug dealers visiting schools, hospitals, nursing homes, and poor neighbourhoods, offering money and the traditional Epiphany cake (with the national flag on the top) to children.<sup>7</sup>

The dissemination of videos, photos, and messages is usually launched by social network profiles linked to narco-trafficking or by the population itself, but they can also appear on press reports and televised news. The system of narco-charity, despite the bloodthirsty regime the cartels have established in Mexico, allows them to stimulate sympathy and foster the recruitment of new criminals in urban ghettos and among the rural population.

In these examples, criminal agents do not challenge the dominant paradigm of humanity, but represent themselves in actions that are perceived positively

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<sup>7</sup> 'Cártel del Golfo y Los Zetas reparten roscas de Reyes en Tamaulipas'; original video deleted, partially visible as tv news on YouTube, available on Vimeo, 05/06/2017, viewed 15/07/2018, [www.vimeo.com/220397234](http://www.vimeo.com/220397234) [Video 3].



according to the dominant paradigm, like welfare provisions. On the other hand, criminal organizations can use visuals not to blend themselves with people, but as elements for distinction. Outlaws can create and promote a different human model, usually supported by an alternative strong set of codes, rites and myths. In the malleable context of a fragmented society, this model builds a strong organic community and promotes an alternative social order in which criminals recognise themselves. The new moral values can even be subject to juridical codification, as in the case of the decalogue of *Rights and duties* written by the mafia boss Salvatore Lo Piccolo.<sup>8</sup> Furthermore, these values promote the external recognition of criminal distinctiveness. The picture of a secret society led by an esoteric sense of justice gives a big contribution to the social acceptance of criminal organizations (Grattieri & Nicaso 2009; Parini 2009). A central role in the construction of the group is often played by an extreme but regulated use of violence. The liminality between dehumanisation and re-humanisation of criminals is often managed through radical rituals of redefinition, up to the extreme example of cannibalism in some Mexican cartel.<sup>9</sup>

Besides the group solidity, a rhetoric of distinction also allows a phenomenological redefinition of each criminal experience, a new identity and subjectivity. Recruitments for example pass from initiation rituals with a strong aesthetic dimension. Visual elements and body postures work as a rhetorical device on subject's predisposition, empowerment and transformation (Csordas 1984). For example, a complex performance is the ritual baptism of the 'Ndrangheta, an organization whose name comes probably from the Greek *andraghatos*, valiant man. During the oath for making a *giovane d'onore* [honourable boy] a *picciotto* – the first level of the criminal hierarchy – the 'Ndrangheta members make use of ritually prepared spaces, religious formulas, blood exchanges, the half-burning of a St Michael the Archangel's image and the declaiming by the boss of parables about mythological knight-

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<sup>8</sup> 'Il decalogo mafioso di Lo Piccolo', *LaRepubblica Immagini*, 09/11/2007, [www.repubblica.it/2006/05/gallerie](http://www.repubblica.it/2006/05/gallerie).

<sup>9</sup> 'Denuncian canibalismo narco: sicarios mexicanos prepararían platos típicos con la carne de sus víctimas', *Publimetro*, 19/07/2017, [www.publimetro.cl](http://www.publimetro.cl).

ed ancestors (Faeta & Lombardi Satriani 1983; Grattieri & Nicaso 2009). Tattooing among criminals is an off-the-book historical practice spread across several parts of the world; through tattoos criminal humanity is directly drawn on the body. The body – the first ruled space in which the symbols and their effect on reality are embodied – is a perfect medium for images that mark an identity, a public image, an alternative humanness in act. In Italian criminal organizations, in particular between low-level affiliates, tattoos are called *devozione* [devotion]. According to tradition, they should be raw or self-made tattoos done in prison and they should indicate through symbols the outlaw's condition, his status and affiliation. Examples include the aforementioned Saint protector or logos, like a crown, a red rose, the Ace of clubs of the Neapolitan playing cards (mainly among local leaders) (Fig. 4, 5, 6).<sup>10</sup>

**Figure 4. The call by St. Michael the Archangel.      Figure 5. Ace of clubs.**



*Source: OMICRON – Osservatorio milanese sulla criminalità organizzata al Nord, 'I tatuaggi rituali della 'ndrangheta nel racconto del collaboratore emiliano', 28/12/2015, <www.omicronweb.it>*



*Source: Informal circulation*

<sup>10</sup> *Capobastone* is also the name of *Andrangheta*'s local bosses.

**Figure 6. Sacred crown.**



Source: Carbonara, C. 2014, 'Rapine ai tir, 14 persone arrestate', *Corriere del Mezzogiorno*, 23 October, [www.corrieredelmezzogiorno.corriere.it](http://www.corrieredelmezzogiorno.corriere.it)

Symbolism shapes the forms of display of power and criminal ability. The secret meaning of these conventional signals (Gambetta 2009) is acquired as much as the human and social capital necessary to be coherent with a collective identity and competitive in the criminal labour market. The rhetoric of distinction follows the structural reconfigurations of today's criminality even on body inscriptions. The Camorra after Cutolo, for example, from a pseudo-monopolistic organization entangled with politics has turned into a 'Camorra dust', a multipolar criminal reality composed by more than 20 clans, fighting for the territorial control and adapted to the fluidity of the new local-global political context (Cicone 2008). Tattoos become therefore a branding phenomenon, in which employers' bodies directly show – besides some stereotypes of ghetto culture and other elements of moral legitimisation, like honour or familial love – the names of bosses and the aesthetic of the clan (Fig. 7, 8). The same happens among Mexican cartels, with different tattoos indicating affiliation and religious devotion (Fig. 9). Some tattoos are also associated with political symbols, like Pancho Villa the revolutionary on the back of *El Cholo*, one of the main hitmen of Los Zetas, to clearly define the political role he attributes to himself (Fig. 10). The

*maras*, the criminal urban gangs all over Central America, use tattoos pervasively, which not only permanently defines their individual outlaw status, but also transforms them into a group of ‘signalling bodies’, street diaries which help to delineate affiliations and territories (Zúñiga 2008) (Fig. 11).

**Figure 7-8. Criminal tattoos in Naples.**



Source: *Corriere del Mezzogiorno* 2016, ‘Tatuaggi con i morti e armi nella cintola, la faida infinita delle micro-gang di Napoli’, 06 September, <[www.corrieredelmezzogiorno.corriere.it](http://www.corrieredelmezzogiorno.corriere.it)>.

**Figure 9. ‘Guadalupe Vázquez’.**



Source: Photo by Arias G. In Hernandez (2016)

**Figure 10. The arrest of El Cholo (2007).**



Source: *Narcotic News*, [www.narcoticnews.com](http://www.narcoticnews.com)

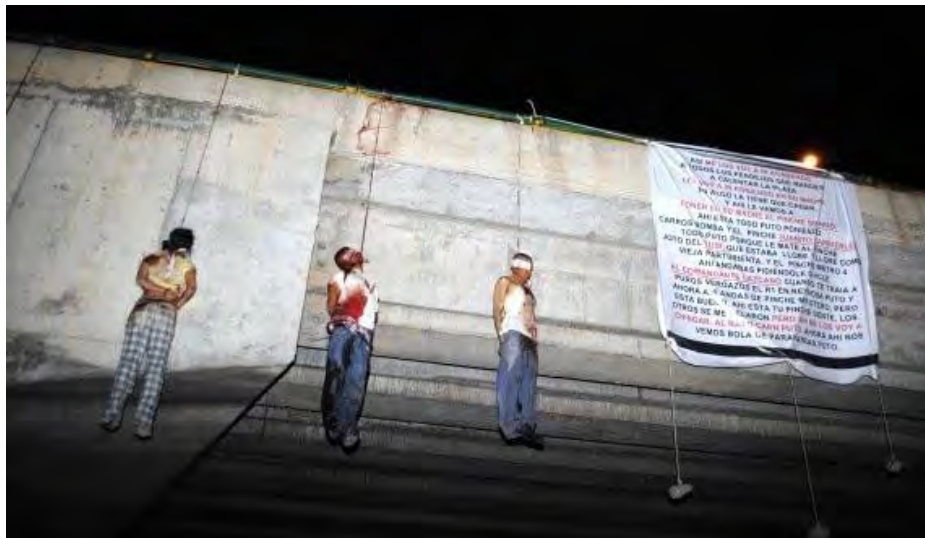
**Figure 11. ‘El Recio’ [M13 former leader].**



Photo by Garrido E (2007). Source: [www.reuters.com](http://www.reuters.com)

Practices of distinction also emerge in the wider social context, where they become part of the foundation, promotion and attempted sedimentation of a new alternative value system. The strongest naturalization of the criminal social figure here takes place through the legitimisation of his illegality and even of violence. The groups of narcos more involved in narco-charity, like Los Zetas, are also known for being the most cold-blooded. They use violence in equally spectacularized forms, with executions, murders and tortures exposed to the public and fiercely shown on the media. The murders intentionally promoted are meant to set an example, in which the fundamental correctness of the punishment is claimed. In some cases, they even explicitly award themselves the title of enactors of Divine Justice, like in the case of a suspected rapist's torture and crucifixion in Michoacan, which happened in 2012 after his kidnapping from a police car.<sup>11</sup> A radical de-humanising violence is applied also in killings among criminal competitors, in which the need to promote themselves as the successful brand – the good criminals – is associated with the extreme repudiation of competitors (Fig. 12, 13).

**Figure 12. Execution.**



Source: *Sinembargo Magazine*, [www.sinembargo.mx](http://www.sinembargo.mx)

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<sup>11</sup> Bunker R, 'Mexican Cartel Tactical Note #13: Man Crucified in Michoacán, Mexico', *Small Wars Journal*, 09/10/2012, [www.smallwarsjournal.com](http://www.smallwarsjournal.com).

Possibly more than in narco-charity, sensationalistic murders and criminal messages are diffused by the official media, with an ambiguous combination of reporting duty and media support for criminal propaganda. Javier Valdez (2016), murdered in May 2017, is among the last to denounce this phenomenon, together with the widespread collusion between narco-traffic and State departments.

Figure 13. Narcos on Twitter.

Another example of a murder turned into a show is that of an activist in Taumalipas, where the killers hacked the Twitter profile of the victim by publishing a picture of her corpse along with intimidating messages (Fig. 14). Suffering bodies thus play an active role in the construction of a societal narrative opposed to legalistic discourse, and in the elaboration of a criminal necroculture and necropolitics (Artaud 1970; Reiner 2002; Fuentes



Source: www.twitter.com

Diaz 2012). As several studies show (Sontag 2003; Farmer 2005), violent images hardly bring a thoughtful consideration to the observed act; on the contrary, suffering bodies do not make the structural aspect of violence visible, paradoxically obscuring moral responsibilities and naturalizing the message violence seeks to legitimate. The executions appear as playful ceremonies, celebratory even when blood-thirsty, and the show is seductive, making the observer ambiguously repulsed by something in which he remains involved (Debord 1967; Cavarero 2007).

Figure 14. Narcos on Twitter.



Source: [www.twitter.com](http://www.twitter.com)

Not only does the legitimization of criminals take place through violence and fear – direct manifestation of their power – but the messages associated with executions also frame the act in terms of justice, appealing to the observer’s moral support. Far from being a problem for legitimacy, the media diffusion of inhuman images can be considered the endpoint in the rhetorical process of criminal humanisation. On the Mexican social networks, it is not particularly surprising to see a peculiar Mannequin challenge circulating amongst the viral videos. Instead of portraying ordinary people remaining frozen in some social life moment, it offers the scene – it is not clear if real or a simulacrum (Baudrillard 1981) – of an execution; the soundtrack is the polka rhythm of a *narco-corrido* (Fig. 15).<sup>12</sup>

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<sup>12</sup> ‘Mannequin challenge de Tamaulipas’, online videoclip from a Twitter profile; available on Vimeo, 05/06/2017, viewed 15/07/2018, [www.vimeo.com/220299631](http://www.vimeo.com/220299631) [Video 4].

Figure 15. Mannequin challenge



Source: [www.twitter.com](http://www.twitter.com)

This alternative morality becomes a new cultural reference framework, whose elements (dress codes, languages, systems of belief, aesthetic expressions and so on) start to appear – not only among lower classes – folkloric, pop and attractive, representative and effective in the real social contexts of living and surviving. But especially – here the two rhetorical movements complement each other – no longer very far from normal. Outlaws are ready to become idols.

#### 4. The rhetoric of Mythologization

Myth structures foundational beliefs of social groups through a narrative frame in which the acts of de-historicized figures make them culturally recognised (Ries 1978). For criminals that strive to become an efficient and legitimate – both internally and externally – power, these tales about reality are of course an important device, that we can observe in deep in visual productions.



Figure 16-17. Aesthetics of power on Twitter.



Source: www.twitter.com

A first mythological process taps directly into the reality of violence and the condition of risk, and associates criminals with models of success. In contexts of insecurity the criminal's aesthetic is that of the winner, and the outlaw becomes an attractive figure by simply representing himself through the symbols of his criminal capabilities, richness and power (Fig. 16, 17). The rhetoric of distinction does not hinder representations of this suitability. The hero can expose his criminal features while represented as harmonically merged within the local environment. In the recent videoclip *Mafia* by the Algerian-German rapper Eazy Padrino, the ex-con Gianfranco Prencipe plays with the gun with his village in Puglia as a background.<sup>13</sup>

The outlaw's mythology is nevertheless connected to heroic behaviour and positive attitudes, like temerity, bravery, loyalty, manliness, honourability. Honour is often representing in this case the adherence to the criminal culture's values, in opposition to those of the official institutions (Gratteri & Nicaso 2008). In criminal tales, the latter are seen as an hypocritical or corrupt power, often tied to the figures of the colonist, the exploiter or the privileged owner, both in the Mexican case – where the outlaw is opposed to the *gringo* – and in the Italian case – where the *mafio-*

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<sup>13</sup> 'Mafia', song by Eazy Padrino (2018), Youtube, 07/06/2018, viewed 15/07/2018, [www.youtube.be/1HZduDCm8sk](http://www.youtube.be/1HZduDCm8sk) [Video 5].

*so* presents himself both as member of the *onorata società* [honoured society] and as a revolutionary son of the People.

The legitimising idiom of Italian organizations has stimulated, for instance, an identity-making intimacy between the criminals' anti-statism and the historical phenomena of lower classes' resilience in Southern Italy. The Camorra members refer to a rose-tinted image of the *guappo*, which for example has been presented in the cathartic *sceneggiata* of Mario Merola, a Neapolitan singer and actor (Fig. 20). In these dramas, notoriously beloved for example by the former Camorra boss Michele Zaza, the *guappo* is more an informal lawgiver than a local racketeer. He uses violence as a chivalric masculine act of justice, which helps to re-establish an equilibrium in a community formerly challenged by infamy or betrayal (Ravveduto & Amato 2007; Marmo 2011). 'Ndrangheta usually refers to the banditry of the late nineteenth century, even if the folkloric image of the *brigante* is here used to denote a parasitic economy in which, unlike the image of the hidden bandit, violence is usually not directed towards dominant political antagonists. The criminal project thus finds a wide local acceptance because it seems to intercept a promise of emancipation culturally rooted among populations which have seen themselves as exploited or excluded from the economic development and modernization (Mangiameli 1989; Parini 2009). These types of narratives can change reference points and centrality, according to the social role criminal organizations are assuming and which approach, from connivance to conflict, is mutually adopted in the relation with government agents and big exponents of the formal economy.

The mythologizing processes directly promoted by organizations and intended for the external public generally combine the criminal's self-representations with a wide circulation of – formal, informal and illegal – cultural products. If in the neo-traditionalist invention of *corridos* the deeds and the wars amongst Mexican drug lords are sung, the songs about Neapolitan lowlife paint a reality in which the criminal is in some cases a hero 'cursed by life', the individual warrior fighting for the good of the common people, in others a 'one of us' character included in dramas with a traditional flavor: love stories and heartbreaking betrayals, set in poor

urban communities buttressed by customs and neighbourhood solidarity (Ravveduto & Amato 2007; Giletti Benso 2014). The good sentiments of petty criminals, here often represented, create a bridging culture where illegality is allowed for surviving, to help families or allowing the wellbeing of the community to prevail.<sup>14</sup> This cultural production and its audience are often short-range. Local musical managers, sometimes connected to criminal organizations, nurture local stars which, besides selling their music on the official and more often pirated music market (both now in transformation), play at parties, weddings, and write songs more or less directly celebrating criminal leaders, even on commission; the same holds for Mexican *corridos*. In some cases, as the one of Tommy Parisi, the singer himself is a member of criminal organization, actually the son of one of the most important local bosses of Bari (Fig. 18).

Figure 18. Tommy Parisi.



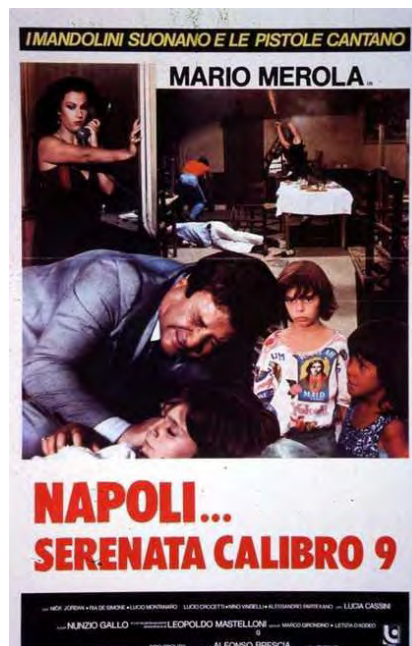
Source: [www.tommyparisi.fan-club.it](http://www.tommyparisi.fan-club.it), TV screenshot

Figure 19. Vite perdute.



Source: [www.youtube.com](http://www.youtube.com)

Figure 20. Mario Merola interpreting don Salvatore Savastano in a polizziottesco.



Source: *Napoli... serenata calibro 9*, Brescia (dir) 1978, movie poster.

<sup>14</sup> 'O' Scippo' [The mugging], song by Nino D'angelo (1976), YouTube, 12/10/2012, viewed 15/07/2018, <https://youtu.be/m4idmuqainY> [Video 6].

Especially in the most recent videoclip, both the sung stories and the singers' performances underline their character of individual celebrities. For the under-employed Neapolitans that inhabit the wide 'contact zone' with the criminal economy, musical career means redemption from anonymity and poverty. Honour became in this sense synonymic with success: the main model of honour neomelodic stars represent is the success of gaining 'a personal sovereignty achieved in the entrepreneurial art of making do' (Pine 2008, p. 207). For their fans, singers create an imagined community; the fragile belonging to a political citizenship is replaced by belonging to a neoliberal identity: being an audience linked to the consumption of cultural products (Giusto & Russo 2017). Furthermore, neomelodic songs offer a device of mutual and tolerant recognition of a field of shared informal/illicit practices. They build what Jason Pine called 'affective community', giving emotional sense to the contradiction of living thanks to a criminal network that is at the same time a resource and a source of terror. If the local artistic production allows for extremely effective forms of identification, nonetheless the criminal imaginary enters mass culture and non-criminal production (Fig. 21, 22). Both the Italian mafias and the Mexican cartels have become an attractive commercial brand, a source of artistic inspiration and profits at several levels (Gratteri & Nicaso 2008; Campbell 2014). The same criminals make the public of these more or less plausible products, which trigger a continuous game of mirrors. The picture of the new Camorra made in the successful series *Gomorra* in recent years has also influenced criminal productions. The videoclip *Onore e dignità* [Honour and dignity] by the young singer Vincenzo Mosca, for example, clearly reflects the aesthetics of *Gomorra*; the song probably has also a privileged recipient, sending a coded warning to someone recently arrested.<sup>15</sup>

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<sup>15</sup> 'Onore e dignità' [Honour and dignity], song by Vincenzo Mosca (2016), YouTube, 13/12/2016, viewed 15/07/2018, <https://youtu.be/iXQVikkXpBI> [Video 7].

Figure 21. Gomorra's personality test.



Source: www.facebook.com

Figure 22. El Chapo T-shirt.



Source: www.amazon.com

The single identity of criminal and the recurrent aspects of a mythic 'criminalness' are often tied in criminal biographies. This can be observed, for example, from their forms of self-representation on social networks. A Sicilian boss highlights his tough apprenticeship in life sharing on Facebook some images from the pages *Il Bandito Imprigionato* [The imprisoned Bandit] and *La Legge della Strada* [The Street Law] (Fig. 23). Another well-known exponent of the of Cosa Nostra, Franco Mormina – a.k.a. *Monello* [Cheeky] – whilst not forgetting to reaffirm the ideal of *omertà*, in a reversal of roles uses a well-known brand of 'Italian-ness' – Nutella – in order to define politicians as the real criminals (Fig. 24). The so-called 'victims of justice' are also usually mythologized, like inmates or old-fashioned criminals, as in the case of '*Il mitico Mastro Ciccio*' [Master Ciccio the mythical], a video extracted from the documentary *Uomini d'onore* [Men of honour] by Francesco Sbrano.<sup>16</sup>

<sup>16</sup> 'Il Mitico "Mastro Ciccio", affiliato della ndrangheta', from the movie '*Uomini d'onore*' (Sbrano 2009), YouTube, 19/07/2012, viewed 15/07/2018, <https://youtu.be/39j5n5vFN-c> [Video 8].

Figure 23 (a,b) – 24 (a,b). Cosa Nostra on Facebook.



Source: Borrometi, P 2015, 'I nuovi boss 2.0', blog post, *La spia*, 21 April, viewed 15/07/2018, <[www.laspia.it](http://www.laspia.it)>

The supreme law of honour remains the main moralising element of criminal behaviour, and betrayal of honour is a constant negative presence in criminal parables. The repentant – which is for the State the symbol of a reconnection with legal order – is for criminal ideology the perfect antagonist. He is not only the supreme representation of injustice and immorality, but the responsible of a general crumbling of social bonds. Among many others, a very explicit example is the song *Vite Perdute* [Lost lives] by Gianni Celeste. The videoclip tells the story of the destruction of a family devoted to racket, awakened in the midst of the night by a police raid: the father is a mafia boss, personified by Gianni Celeste himself, and his

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Sbano is known also as the successful producer of *'La musica della mafia'* (2000), a music compilation of Calabria's criminal songs.

arrest has been made possible by his brother's betrayal (Fig. 19).<sup>17</sup> Even if some signals point out that the new criminal generations have not the same appreciation towards the semitonal melisma, the same topic is still up-to-date outside the local mediascapes and in the really recent news. An elderly boss of the Sacra Corona Unita in Mesagne (Puglia) for example, invited his own son, a repentant, to kill himself for having dishonoured the family. Published on Youtube, the video gains the approval of several users, who acknowledge credit to the boss and show respect for the old-school mafias.<sup>18</sup> This invitation was then confirmed by the violent ostracism of his two other sons, doomed to shame after 'decades of honourable resistance' in jail.<sup>19</sup>

A recurring mythologisation concerns charismatic criminal leaders. The criminal leaders mythologise themselves, when not engaged in denying their role and keeping a low profile, linking their rise to legendary victories and murders of powerful enemies and betrayers. Particularly well known is the public profile of *El Chapo* [The Shorty], one of the most famous leaders of the multi-billion-dollar Mexican cocaine-smuggling industry, El Cartel de Sinaloa. His audacity, his sensational jailbreaks, and his meetings with important show-biz people regularly show up in videos, songs and television series (a script which the leader, currently in jail, declared that he would have preferred to amend).<sup>20</sup> Amongst the Italian characters, besides the mythological abscondence of Totò 'the Beast' Riina, Raffaele Cutolo presented himself and was recognised nowadays as the symbol of a 'right Camorra', even if his organization was overthrown by a violent feud at the end of the 80s (Cutolo 1980; Rossi 1983; Di Fiore 2005). A successful house-music medley inspired by a movie by Tornatore features some of Cutolo's better known statements

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<sup>17</sup> 'Vite Perdute' song by Gianni Celeste and Massimo (2011), *Canzoni 'e mala - Vol. 2 - Compilation*, CD, Seamusica; available on Youtube, 05/07/2011, viewed 15/07/2018, <https://youtu.be/Epg6V5gc-gs> [Video 9].

<sup>18</sup> 'I fratelli del pentito: ha disonorato la famiglia', YouTube page 'Senza Colonne', 31/03/2014, viewed 15/07/2018, [www.youtube.be/qf9zejp8O0k](http://www.youtube.be/qf9zejp8O0k) [Video 10].

<sup>19</sup> 'Mesagne e la SCU, 2 parte', YouTube page 'Telerama News', 16/07/2012, viewed 15/07/2018, [www.youtube.be/krxkFa3Cfzg](http://www.youtube.be/krxkFa3Cfzg) [Video 11].

<sup>20</sup> 'El "Chapo" quiere negociar con Netflix y Univisión serie sobre su vida', *La Prensa*, 26/05/2016, [www.laprensa.hn](http://www.laprensa.hn).

and circulates among the discos of Campania. *Ritmo de omertad* contains the ritualistic speech for the initiation to the NCO's adept, which many people sing by heart (Ravveduto & Amato 2007). A recurring leitmotif is, as we have already seen, that of the 'Robin Hood mythology'. Although leaders of associations born as forms of self-enrichment and exploitation, these leaders present themselves as heroes of the most marginalised community, which they nurture and help. Cutolo defined himself as Robin Hood in a famous interview during one of his trials.<sup>21</sup> He often claimed this intention and confirmed it in 2015, affirming that he 'tried to re-establish the Reign of Naples, an independent social state where everybody would have had food'.<sup>22</sup> El Chapo is also known for enjoying widespread popular support and nowadays there are frequent demonstrations for his release (Fig. 25). Narcos in Sinaloa (Fig. 26) are known for contributing to the construction of schools, roads, cemetery walls, churches, and for the distribution of scholarships. In different interviews the local population accuses the judicial intervention of having disrupted criminal good deeds, saying that 'before, when things were quieter, the Cartel had more time for philanthropy' (Sanchez & Jorge 2009; Seijas 2009). In the peripheries of Naples, recently, many riots took place during the arrests of some criminals.<sup>23</sup> Therefore, the problem is not the presence of criminals but that of the State, which does not allow the criminals to act in a good way.

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<sup>21</sup> 'Raffaele Cutolo Evasion', video extracted from G. Marazzo's reportages (RAI, 1981), available on Vimeo, 05/06/2017, viewed 15/07/2018, [www.vimeo.com/220302166](http://www.vimeo.com/220302166) [Video 12].

<sup>22</sup> Berizzi P, 'Raffaele Cutolo: "Io, sepolto vivo in una cella. Se esco io crolla il Parlamento"', *La Repubblica*, 02/03/2015.

<sup>23</sup> Piedimonte S, 'Boss in fuga chiede l'aiuto del quartiere. In cento contro i carabinieri con calci e sputi', *Corriere del Mezzogiorno*, 29/08/2008.



Figure 25. People protest in Culiacan.



Source: Brito F. 2014, 'Protesters detained during pro-Joaquin 'El Chapo' Guzman rally in northern Mexico', *Independent UK*, 03 March, <[www.independent.co.uk](http://www.independent.co.uk)>

Figure 26. #CDS.

#CDS #GxNx #12s #Los12s #Sinaloa



Source: [www.twitter.com](http://www.twitter.com)

Despite this cultivation of a moral and symbolic level, through which the outlaws claim their rightness and their social role, an efficient mythologizing process lies in the way criminal organizations link themselves to capitalist development, un-

derlying their capabilities as the most successful local enterprise. The boss Michele Zaza was used to affirm that he was called ‘the Gianni Agnelli of Naples’, because he created the bigger cigarette smuggling network of the 1970s, transforming contraband for Naples in what Fiat was to Turin at that time. With a principle similar to that of the humanisation-moralisation of violence, even the most bloodthirsty ‘Ndrangheta criminal activities have been mythologized as the basis of regional development. An example is the kidnappings during the 70s and 80s, when the ‘Ndrangheta decided to collect through hundreds of ransoms the financial capital necessary to transform family clans of former peasants and shepherds into multinational, multi-millionaire enterprises (Ciconte 2008). One of the biggest neighbourhoods in Bovalino, close to Reggio Calabria, is still informally called the ‘Paul Getty quarter’, from the name of the American billionaire’s nephew whose ransom gave job and housing to hundreds of disenfranchised Calabrians.

It’s interesting to observe that these two Italian vignettes are still generally well-known, but evoked as expressions of a ‘golden age’ in which criminal organizations would have been autocratic but stable, rooted and paternalistic – ‘Keynesian’, we would say – powers. Even in the more eulogistic talks, contemporary criminal organizations are more represented as successful competitors in the global marketplace. We can observe here a shift from the topic of solidarity to market concerns: their ability as businessmen and their efficient money-making endeavour would be enough to make new criminals legitimate. We have already shown it at the very beginning of this paragraph (Fig. 17). Matteo Messina Denaro, the invisible leader of Cosa Nostra in the last decades, cannot explicitly show himself as Michael Franzese does in the USA: a fascinating and successful motivational speaker, as well as a rich philanthropist and devoted Christian.<sup>24</sup> Despite that, many legends about his character as a charming seducer, lover of luxury and audacious businessman – quite different from his Sicilian predecessors – still paint him as one of the richest and most famous fugitives in the world (Fig. 27).

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<sup>24</sup> ‘Highest Paid Mafia Boss Tells the TRUTH About the Life’, YouTube page ‘Valutainment’, 18/01/2018, viewed 15/07/2018, [https://youtu.be/5U-yqm9H\\_Sg](https://youtu.be/5U-yqm9H_Sg) [Video 13].

**Figure 27. Matteo Messina Denaro.**



*Source:* Informal circulation. Portrait based on a police facial composite

## **5. The rhetoric of Sanctification**

Not only humanised and mythological, the legitimisation of criminal organization is also fielded on the realm of the sacred and transcendent. Sacred iconology is used to define, justify and signify a scenario in which criminals operate as protagonists and where a large part of the symbolic references – the secular and political ones in particular – have lost much of their credibility and effectiveness.

Religious images are for both criminals and for the rest of the population the protagonists in rituals for divine protection, in domestic shrines and religious processions. Besides conveying a feeling of belonging, the use of sacred images answers to a common feeling of insecurity and lack of control. In the process of criminal moralisation, religion is introduced through two parallel rhetorical movements we have already met, often convergent in practice. On the one hand, the organizations directly take over the religious code, declaring their compatibility and their role of sponsor. On the other hand, they bend religious and moral codes into shapes compatible with their social position, establishing new cults and founding new ‘criminal religions’.

**Figure 28. ‘FotoReportaje: Malverde’ – Portrait.**



Photo by Frias R (2017). *Source: Siempre! Revista*, [www.siempre.mx](http://www.siempre.mx)

**Figure 29. Church in Tezontle.**



*Source: Informal circulation*

Both the Italian and the Mexican cases offer several examples of these two rhetorical processes. The whole 'Ndrangheta hierarchy rests on religiously inspired names, and the most important meetings among clans traditionally have taken place in the famous sanctuary of the Virgin Mary in Polsi, symbol of a long history of silence and connivance with religious ministers (Nicaso & Gratteri 2013). The criminal appropriation of religious symbolism sometimes encounters attempted resistance from Catholic institutions. For example, the bishop of Reggio Calabria recently suggested to the Pope a 10-year ban of godfathers during baptisms, as a way to hamper the use of this practice as a means for the bosses to spread their authority through the religious links with the newborn generation.<sup>25</sup> This intervention aims to put an end to the controversial accusation of connivance from the highest ranks of the Catholic Church. It implicitly declares that criminal institutions are no more accepted as part of the local ruling class, as Karol Józef Wojtyła did in 1993 toward Cosa Nostra in Sicily. In his well-known anathema, the Pope held a very different position to that held by, for example, Cardinal Ruffini during the Cold War, who

<sup>25</sup> 'Italian archbishop calls for 10-year ban on godparents to thwart mafia', *The Guardian*, 01/07/2014, [www.theguardian.com](http://www.theguardian.com).

clearly affirmed that would be better to be mafiosi, 'if they even exist', than communists.

In the Mexican case, an explicit religious legitimisation falls within the already investigated frame of narco-philanthropy, for example through the funding of new Catholic churches. These churches stand out for their majesty and are attended not only by the criminals, who go there to be redeemed from their sins, but also by locals. Although the Catholic higher institutions fiercely deny condoning drug trafficking, on a local level some priests turn a blind eye for those who give important contributions, gaining in exchange forgiveness and public recognition. Among these churches there is one built by the former leader of the Z3 group of Las Zetas. Heriberto Lazcano, known for being deeply religious, will be murdered by Mexican soldiers in 2012; an armed command will later attack the morgue to take his body on a procession and give him the religious blessing. Outside the flashy facade of the church a plaque thanks the boss in the name of the priest and the community (Fig. 29).<sup>26</sup> During the anniversaries of his death many churches of the region celebrate him, and some *narcomanta* (messages left by a drug cartel) appear near the cathedrals.<sup>27</sup>

In Italy, the Episcopal authority interrupted a particularly controversial public mass proposed on Christmas Eve by the priest of the small town of Grumo Appula in Puglia. The ceremony was in commemoration of Rocco Sollecito, a mafia underboss murdered in Canada some months before.<sup>28</sup> In many different Italian contexts, the infiltration of criminal organizations in the traditional religious festivities is well known (Dino 2008; Chirico 2012). For example, in 2016, in Valenzano (a

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<sup>26</sup> Cabrera A & Zavala M, 'La huella de El Lazca sigue en el Tezontle', *24 Horas*, 02/02/2015, <http://www.24-horas.mx>.

<sup>27</sup> Poncho P, 'Zetas cuelgan narcomanta en honor a Heriberto Lazcano por su aniversario luctuoso', *Columna Tamaulipas*, 09/10/2015, [www.columnatamaulipas.com](http://www.columnatamaulipas.com).

A memorial *corrido* is for example 'Recordando Al Señor Lazcano' by Los Cadetes De Linares; as a background the advice of a death commemoration in Tezontla; Youtube page 'Corridos de la raza', 22/10/2016, viewed 15/07/2018, [www.youtube.be/YvRZuGp33rA](http://www.youtube.be/YvRZuGp33rA) [Video 14].

<sup>28</sup> Banti N, 'Grumo, polemica per la Messa in onore del boss. Il parroco: "Spiritualmente unito ai familiari"', *Il quotidiano italiano*, 25/12/2016, [www.ilquotidianoitaliano.com](http://www.ilquotidianoitaliano.com).

village near Bari) the Buscemi family imprinted its own name on the hot-air balloon traditionally launched during the local Patron Saint celebrations.<sup>29</sup> The practice of ‘bowing’ is a frequent phenomenon: during the procession for the Patron Saint, the statue of the Saint is stopped for a bow in front of the house of who usually offers generous donations. The local boss is usually one of them. Recent cases are those that have taken place in Oppido Mamertina in Calabria, in the Ballarò neighbourhood in Palermo, and in Paternà, where the music band accompanied the religious procession by playing the soundtrack of *The Godfather*. The soundtrack was also used in Rome during the funerals of the boss of Casamonica, a mafia family. They organized a funeral-show with luxury cars, golden coaches, helicopters dropping rose petals and posters at the entrance of the church defining him as the ‘King of Rome’ and honouring him with ‘You conquered Rome, now you will conquer the Heavens’ (Fig. 30).<sup>30</sup> Therefore, rather than a traditional religious context, in this example the ritual device of funeral (already influenced by Sinti traditions) not only blessed criminal acts, but has been rearticulated as a criminal ritual.

Even more impressive is the transfiguration of religious codes operated by Mexican organizations. On the bodies of murdered and arrested narcos we see images of Christ, of the Virgin of Guadalupe (the official national religious symbol) and other saints. Their objectification in image is a fundamental divine medium, in a complex form of worshipping that historically already belonged to the Latin American context (Gruzinski 1988). Some of the most important popular cults of saints in Mexico are recognised neither by the Church nor by the State, and have strong links with the criminal world (Dahlin & Morfot 2011).

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<sup>29</sup> Russi F, ‘Bari, il nome del clan sulla mongolfiera per il patrono. Ginefra (Pd): “Il Viminale intervenga”’, *La Repubblica*, 17/08/2016, [www.bari.repubblica.it](http://www.bari.repubblica.it).

<sup>30</sup> ‘Funerale di Vittorio Casamonica’, Youtube, 20/08/2015, viewed 17/07/2018, [www.youtube.com/watch?v=L-Dzw4CJvH8](http://www.youtube.com/watch?v=L-Dzw4CJvH8) [Video 15].

Jesus Malverde, a *bandido social* of the late nineteenth century represented in busts with whiskers and a white jacket, is a widespread cult derived from a popular tradition of northern Mexico. He corresponds to stereotype of the good thief

**Figure 30. Vittorio Casamonica's funeral.**



Source: [www.larepubblica.it](http://www.larepubblica.it)

already seen in processes of mythologization and criminals often dedicate a *novena* [prayer] to him before their endeavours. Considered the protector of those who live off activities on the edge of legality, he is the Patron of Narcos (Fig. 31).<sup>31</sup> That of Santa Muerte, portrayed as a skeleton in the guise of the Virgin Mary, is a popular cult that is seeing an expansion all over Mexico (Perdigòn 2008; Hernández 2016). Its deity is functional to the symbolic management of the relationship between death, life and violence, which in their sacred representations are intrinsically united as they are in the Mexican neighbourhoods (Gaytán Alcalá 2008; Lara Mireles 2008) (Fig. 32). These saints are carried in processions and they are often represented in urban and domestic shrines and in narco-altars, where they receive smoke offerings, food and beverages (Chesnut 2012); their presence in the virtualized religious space is no less strong (Lovheim & Linderman 2005; Gervasi et al. 2014) (Fig. 33, 34). Like every effective ritual object, their image can answer to different needs, invoked by both the criminals and by those seeking protection from them. The control over the local territory allows in some cases the presence of memorial altars for criminals in public spaces. In addition to several murals in some of the popular neighbourhoods in the centre of Na-

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<sup>31</sup> 'Novena de Malverde', Youtube page 'Jesus Malverdee', 16/03/2009, viewed 15/07/2018, <https://youtu.be/pZUqnAe2dPk> [Video 16].

ples, a courtyard hosts since 2015 a bust of Emanuele Sibillo, surrounded by flowers and sacred images.

Figure 31. 'Santa Muerte'.



Photo by Schwarz S (2009). *Source: Animal Politico*, <[www.animalpolitico.com](http://www.animalpolitico.com)>

Figure 33. Novena de Malverde.



*Source: www.youtube.com*

Figure 32. 'FotoReportaje: Malverde' – Ofrendas.



Photo by Frias R (2017). *Source: Siempre! Revista*, [www.siempre.mx](http://www.siempre.mx)

Figure 34. Invoking the White Lady's protection.



*Source: www.twitter.com*



The Mexican case offers an even clearer example of criminal canonization: the direct sanctification of a murdered narcotrafficker. In the case of Nazario Moreno Gonzàles, called *El Loco* or *El Chayo*, it is the criminal himself who be-

**Figure 35. San Naza.**



*Source:* Calderon V 2014, 'El capo que "murió" dos veces', *El País*, 03 November, <www.elpais.com>

comes an object of devotion. When in 2010 the Familia Michoacana organization ended in carnage, their successors Los Caballeros Templarios [The Templars] gave themselves a strict moral code and linked their rise to the devotion of San Naza, who

seems capable of resurrections and miracles. This new cult soon extended to the local population and keeps expanding further (Sullivan & Bunker 2012). Today *El Loco*, represented in the guise of a Templar knight, has entered the Pantheon of the folk-saints, and his main oracle hosts a statue covered in gold and gems (Fig. 35).<sup>32</sup> Some elements suggest soon it could be the same, for example, for Heriberto Lazcano.<sup>33</sup>

## **6. Criminal humanitarianism and political responsibility. Intersecting vision and praxis**

The visual repertoire analysed here cannot be exhaustive about the possible rhetorical devices and about the heterogeneities between regional contexts and

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<sup>32</sup> Castellanos FJ, 'El Chayo, santo patrono de la Tierra Caliente', *Proceso*, 04/08/2012, [www.proceso.mx](http://www.proceso.mx).

<sup>33</sup> Chávez A, 'Catedral de la Muerte suma a El Lazca a la veneración', *La Silla Rota*, 05/06/2017, [www.lasillarota.com](http://www.lasillarota.com).

between criminal organizations. However, an examination of these constantly growing iconographic procedures provides – in a field in which social analysis suffers methodological impasses and lacks reliable data – some preliminary hypotheses on the cultural procedures criminal non-state actors in state contexts can use to legitimate themselves. The articulation of these discourses acts as a regulatory mechanism not just for criminals; the alternative morality spreads out from the criminal context and can become a cultural point of reference, redefining what is human, moral and sacred even for others. If crime is, as already stated by Durkheim in 1893, a deviant behaviour that goes against social norms, it is interesting to notice how crime can build through its representation new norms, permeating the community and its folklore to the point that it is often problematic to identify where one ends and the other begins. This onset of new collective representations makes the criminals less criminal and, as we have seen in the last examples, these organizations can even turn the institutional hierarchy upside-down, putting the criminal activity at the highest rank of a consecrated morality. This starts from the everyday practice of blurring the meaning of the word ‘justice’ not only into the attempt to make a living, but also into the attempt to legitimise that living to oneself and others (Garland 2001; Goldstein 2010). The social meaning of these visuals changes in relation to a political process that has two faces. From one side, the development of marginal grey zones, characterised by a deficit of institutional control and legitimacy. On the other side, the growing hybridity between criminal enterprises and ruling classes.

The visual examples here say a lot especially about the building of consent at the margins, while much remains to be said about criminal influence over the very centre of formal politics. This theoretical challenge would be as important as the one first mentioned, not only because it encompasses of a recent and more diffused phenomenon (Naim 2012), but for the specificity of the two regional contexts we chose. With different modalities, these criminal organizations have worked since decades (or centuries, in some cases) as states within the state, moving on the line between the ‘upperworld’ and the ‘underworld’. The history of the Italian ma-

fias and Mexican cartels is not only that of criminals as creators of disorder, but also of the creation of criminal forms of public order (Solís González 2012; Sales 2015); forms that are continuously adapted in order to fit the changing political patterns.

**Figure 36. '12D' series.**



Photo by Gama F (2012). In Cubas 2013.

In the three rhetorical procedures analysed – three conceptual categories whose borders are in practices within a flux of continue dialectics – the common effect is that a traditional ultimate factor of social disintegration actually seems to be a means of socialisation. If these organizations relate to popular areas strategically managing an economy based on marginality – taking people ‘with hats in their hand’, using a mafia expression – in local imaginaries criminals provide jobs, do good deeds and, in short, look humanitarian, a productive and reconstructive organ of society. In the picture observed, criminals propose themselves as upholders of order. As we have seen, this mechanism can be effective and ‘humanising’ even when they promote an order explicitly built upon violence. In philanthropic representations we have two further and convergent images: criminal power as a pro-

motor of social solidarity and the powerless subalterns ready for self-empowerment through integration in the criminal market. Through philanthropic performance, as well as through the violent one, criminal patterns – and now, indirectly, neoliberal ones – are accepted, devised for addressing the same problems criminality and violent economies are responsible for. Thus, we can look at these visuals ideologically, as informal devices to symbolise power relationships through a spectacularised morality – also relevant to the specific local cultures – that shows ‘goodness’ in different forms, leaving untouched the question of the perpetuation of suffering through a structural and systemic violence.

Beyond moral imperatives, the occultation of concrete social mechanisms is closely tied to a total disdain for the problem-solving ability of politics, that widens the proximity between criminality and population and leaves to criminal organizations space for being recognised as philanthropic, moral and saint. These rhetorical processes are particularly effective when the state is unable to oppose equally effective narratives, acting in forms that seem aimed at ‘punishing the poor’ and defending private interests (Wacquant 2009). Unprecedented sympathies and ‘logics of equivalence’ (Laclau 2000) are created by the disdain for a political order considered to be responsible for poverty and hardship. It would be unsurprising, for example, to see an anti-globalist parade passing near the city’s jail – during a G7 meeting in the city-centre of Bari, sealed off for the occasion – playing and singing for inmates the well-known neo-melodic song *D’int à sta cella* [Inside this cell]. The same state discourse can legitimate an exotic and culturalistic vision of criminality, replacing its strict liabilities with references to a presumed traditional attitude. It recently happened in Italy, when the very president of the anti-mafia’s Parliamentary Commission Rosy Bindi described Camorra as a ‘constitutive aspect of the Neapolitan city’.<sup>34</sup> On the other side, public speech that postulates the local populations as a silenced victim of criminal dominance risks to be simplistic and misleading too. As stated by Rakopoulos (2017) in his research on Cosa Nostra and the cooperatives in

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<sup>34</sup> ‘La camorra è un dato costitutivo di Napoli. L’accusa della Bindi fa infuriare De Magistris’, *La Stampa*, 15/09/2015, [www.lastampa.it](http://www.lastampa.it).

Sicily, criminal organizations can be able to form a ‘centauric relation’ with society, maintaining a liminal position between coercion and consent, practices of hierarchy and claims to equality. The moral code of criminal honour, for example, even if far from being realised as their violence is, spreads the message that they can afford sustenance, peace, model of success. The compliant subjects can adopt them in order to create wealth; although fatal for dissenters, criminals could build a new political economy.

In the rhetorical processes we have observed, criminals can both vindicate their peculiar – usually romanticised – outlaw’s identity and nurture an ‘one of us’ narrative. From opposite starting points, criminal promotion can bring something legitimate closer to criminals, or make what is criminal more legitimate. Both these visual representations transfigure reality, developing spatial practices and cultural models that soon become part of a broader social phenomenon (Barthes 1964; De Certeau 1980). The case in which these visuals are effective means of promotion suggests that we should not oversize the distance between criminals and its audience, nor undersize the political precondition of this proximity. Despite the dramatic hierarchies imposed by violence and intimidation, the rhetoric analysed can’t be seen through the mechanical logic of persuasion. As we have seen, every legitimising process stems from forms of communication and cultural appropriation that, although asymmetrically, are based on a double movement which always foresees reciprocity. Cultural products seek to proliferate in a shared symbolic field, working towards the production of a recognised discourse about the social world that is meaningful – and therefore legitimate – for both.

Fear, violence and uncertainty of social interactions are abundant in the criminal world as in the broader world of who live in social contexts of politically planned insecurity every day. Despite any rhetorical, iconological and media sophistication in criminal representation, the most direct legitimating idiom thus resides – more than in charity, honour or sanctity – in this shared social experience of insecurity (Fig. 37, 38). The cultural management of insecurity moves from criminal social interactions to even worships, becoming a transcendental form of interpretation of

reality. Ready in turn to build new rhetorical devices, the embodiment of criminal culture is part of a broader process of cultural elaboration. The subjectivities of who lives at the margins are far from being just passive products of subjugating devices; they stem from the informal interstices of the political structure not only as a disenfranchised product of the society-building processes, but as a way of adapting to their political failure.

**Figure 37. 'I due Cristi'.**



Photo by Battaglia L (1982). In Tamburrino 2016

**Figure 38. 'Historias en la piel' series.**



Photo by Gama F (2011). In Gama & Mendoza 2011

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## BOOK REVIEWS

**The Informal Economy in Global Perspective. Varieties of Governance, edited by Abel Polese, Colin C. Williams, Ioana A. Horodnic and Predrag Bejakovic. Palgrave 2017, pp. 340.**

**Clara Capelli**

*Cooperation and Development Network – IUSS Pavia / Italian Agency for Development Cooperation*

The book edited by Polese, Williams, Horodnic and Bejakovic has a twofold purpose. First, it represents an exhaustive attempt to show the heterogeneity of forms that informal economies can take. The considerable number of contributions, exploring different countries through different disciplines and methodologies, discusses how the informal sector is neither a transitional phenomenon nor a “backward” system, as claimed at the dawn of development studies (Lewis 1954). Second, the book analyses the relation between informality and governance, namely how the informal sector is not a separate and alternative system to the formal sector, but rather coexists and interacts with it.

The main focus is on the factors which determine informality and informal practices as well as the intertwining between the formal and informal sectors. Informality may be seen as a response to excessive state intervention or market imperfections (Harris and Todaro 1970), but also as a result of macroeconomic weaknesses and socio-economic factors that hinder the full absorption of the labour force into the formal economy (Ros 2010).

Most of the contributions applying the lens of economics are in line with what theorized by Hernando De Soto (1989), who sees informality as an efficiency-seeking response to oppressive state institutions. Abbas Khandan presents a quantitative model that shows how long-run informality in Iran is strictly linked to state

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intervention, what he calls “the invisible hand in markets”. Sabina Hodzic estimates the size of the “shadow economy” in Croatia focusing on labour-related variables and identifying taxation and labour costs as the major causes of informal employment (“unofficial employment”). Michael Rochlitz discusses informality in Russia as a rational response to a combination of ill-functioning institutions and lack of rule of law. Firms are often exposed to predatory practices and corporate raiding attacks by both state officials and criminal groups; therefore, they may opt, based on a cost-benefit analysis, either for informality as a way to hide and not be “under the radar”, or for formality in order to be visible and receive protection.

On the contrary, Lela Rekhviashvili questions the institutionalist approach with reference to post-USSR Georgia, where market-oriented reforms did not succeed in absorbing the informal sector. In light of that, she considers that the relations and interaction between formal and informal economic practices are based on more complex factors than mere rational cost-benefit calculus and can be better understood on the basis of the concept of “embeddedness” as formulated by Polanyi (1968). Colin C. Williams and Ioana A. Horodnic illustrate their interview-based research and claim that informality does not originate as a response to regulation *per se*, but to forms of regulation violating the social contract and therefore citizens’ norms, value and beliefs (“social morality”).

Other contributions deem informality as the result of low productivity and socio-economic factors, not of market imperfections as claimed by mainstream economics. The econometric model built by Rogelio Varela Llamas, Ramón A. Castillo Ponce, and Juan Manuel Ocegueda Hernández shows that education attainments, gender and rurality are amongst the major drivers of labour informality in a low productive economy such as Mexico. Diana Traikova examines the main features of rural informality in Bulgaria and the variety of factors pushing people to (semi-)informal entrepreneurship in rural areas. Oksana Nezhyhenko and Philippe Adair investigate how inequality in education is a major source of disparities in the remuneration of formal and informal workers in Ukraine.

The book does not only focus on how informality originates and persists as a stable component of a modern capitalist society. Different contributions also investigate how informality and formality interact, implicitly questioning the institutional view of informality as a separate and alternative system. Ahmadou Aly Mbaye, Nancy Claire Benjamin, and Fatou Gueye combine quantitative and qualita-



tive methods to show how the two sectors in Senegal and Benin are tightly intertwined, both competing and complementing each other based on the specific activity at stake. Kwama Adom discusses policies to formalize informal entrepreneurship in Ghana and claims that the concept of formalization itself is vague and not associated to clear objectives. Arihiro Mino describes his anthropological fieldwork on a coffee farmers' cooperative in Lao PDR, researching on the transition from self-sufficient farming to cash crop farming and monetary-based economy and on how the cooperative's representatives have built connections between governmental and market actors (external connections) and the farmers (internal connections).

The intertwining between formality and informality is also explored with a dedicated focus on corruption in the healthcare sector. Julia Schippergers, Milena Pavlova, Tetiana Stepurko, Paul Vincke and Wim Groot study corruption (e.g. bribery, kickbacks, collusion, favouritism) in public procurement in the healthcare sector across different countries and highlight the main differences in terms of perception and acceptability of corruptive practices. Adam V. Horodnic, Colin C. Williams, Abel Polese, Adriana Zait and Liviu Opera use survey data to show that socio-economic factors are not significantly correlated to informal payments in the Greek healthcare sector, which appear to be homogeneously spread across all the analysed groups. The introduction of market-based mechanisms also seems counterproductive, as discussed by Jingqing Yang; instead of reducing informal payments, these measures concentrated them in the hands of an élite of doctors taking advantage of their dominant position. Marius Wamsiedel describes his ethnographic fieldwork at the triage of an emergency department in Romania and discusses how informal payments belong to a grey area in which behaviours and relations do not necessarily respond to cost-benefit incentives.

The book provides a sound and thorough overview of the complexity of the concept of informal economy, accounting for a high degree of variety in the theories and methodologies adopted, as well as in the countries under consideration. It also shows how economic informality can be a core component of an economic system, often associated to low productivity and erratic revenues, but not necessarily to backwardness. On a similar note, corruption in the healthcare sector is presented as a widespread practice not uniquely determined by moral and rational cost-benefit considerations.

Yet, the heterogeneity of the chapters may prove confusing for the reader, posing a challenge to both theorization and policy making. Informality is treated both as a way to bypass state regulation and institutions as well as a sector interacting with formal institutions and markets, with rather blurry lines separating the two systems. In the former case, market-based reforms and law enforcement seem to be the necessary policy options to adopt, since informality is implicitly seen as a phenomenon to *counteract and absorb*; in the latter case, the same market-based mechanisms may prove inadequate face to the complexity of the informal sectors.

A few additional considerations to theoretically keep together such differences would have facilitated the reader's understanding and highlighted one of the key merits of this book, namely that of showing how the debate on informal economy is still open both within and among disciplines.

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## BOOK REVIEWS

**Urban Informalities. Reflections on the Formal and Informal,**  
by Colin McFarlane and Michael Waibel. London and New  
York: Routledge, 2016, pp. 201.

**Raffael Beier**

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McFarlane and Waibel's edited book reflects on both the informal and formal through its ten chapters with the aim to "critically interrogate the utility of the formal/informal urban divide" (p. 1). Following this, the volume strongly builds on the pioneering work of Roy and Al Sayyad (2004) and Roy (2005, 2009), who argued to understand informality as a mode of urbanisation, instead of referring it to a specific sector, territory, or status. As most chapters incorporate this notion of informality, the volume's strength might not lie in its conceptual novelty, but rather in its illustrative case studies that offer interesting and multifaceted empirical insights. Put together, the diverse local contexts and topics allow the reader to overcome traditional black-and-white concepts that saw informality as a temporary exception that would disappear through development. Hence, the case studies that deal, among others, with the everyday experiences of street traders, shantytown dwellers, and food wholesalers, help to imagine informality as a *mode*, as something that is constantly negotiable and that lies *within* the scope of the state.

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In this regard, the three most useful chapters are those by Kurfürst, Arabindoo, and Keck, which deal with food and street vending. They embed their analyses in complex local settings and histories, thus, trying to dismantle how informality is used, produced, and shaped beyond simplistic categorisations. As such, Kurfürst shows how the negotiable status of street vending in Hanoi has changed over time and at various levels. She succeeds in distinguishing macro-economic forces, international, local, and central politics, traders' everyday resistance, as well as shifting cultural norms as elements of a complex matrix through which hawkers' degree of informality has continuously alternated. Likewise, Arabindoo elaborates on the shifting perception of street vending by the Indian middle class. While blaming street vendors for their negative environmental impact, the middle class conceptualise informality as the anti-thesis of an emerging Indian 'world-class' city that is nothing more than an idealised middle-class status symbol. In fact, the public accusation of street vendors hides own non-formal (but tolerated and accepted) practices that are likely to have an even stronger negative impact on the environment. The third chapter that deals with food – Keck's analysis of wholesalers – is also convincing in its related argument that informality is rather a label that governments use to keep a status of uncertainty for political reasons. Thus, one may speak about a changing legitimacy of informality that is behind numerous practices trying to cope with prevailing uncertainty.

Hence, what may come out of these three chapters is that in an urban context where formality is the exception, informality is a flexible and negotiable label rather than being a defined status or the outcome of state incapacities. In all three cases, powerful actors use this notion in an arbitrary way to dispraise particular groups and activities that do not fit *their* image of a modern urban 'world-class'.

Gandhi's ethnographic chapter on Old Delhi describes similar practices. He underlines that "the state does not lack the means to intervene" (p. 62), but prefers to create conditions that could be called at the same time flexible and stable. Hence, the system of negotiating informality builds on informal brokers and middlemen that mediate between the poor and the state, insuring security for the former while keeping flexible ways of intervention for the latter – in addition to bribes and votes. To some extent in a similar way, the chapter by Demirtaş-Milz presents the dynamic politics of the Turkish *gecekondu* (shantytown) as the scene of negotiations about formalisation processes. However, the author misses the opportunity to challenge (or reject) the dualism formal/informal and to critically investigate on the effects of formalisation policies on the perception of the *gecekondu* as an informal place.

Although the book has the stated objective to overcome the informal/formal divide, seeing informality as a mode of urbanisation by rejecting its simplistic association with poverty or state incapacity, some chapters do not follow this path. Ley, for example, does not challenge the notion of informality within housing production of the urban poor in South Africa, focusing mainly on institutionalised forms of citizen participation. Although she underlines that informality may be an integral element of planning, the terms informal and formal appear rather as static categories. The chapter of da Silva and Shaw is also rather loosely connected to the overall aim of the book. However, the authors present an illustrative ethnographic analysis of hip-hop culture in Brazilian *favelas*. They describe it as a form of mediation between the formal state and related economic forces of cultural appropriation on the one hand, and the informally institutionalised forms of gang violence on the other hand.

The book ends with two more conceptual contributions that rather stand in opposition to the volume's general approval of Roy's conceptualisation of informality as a mode of urbanisation that lies within the scope of the state. Kreibich's argument that, in fragile states, informality continues to appear because of state incapacity gets a bit lost, as he jumps much too quickly and carelessly from one urban context to the other. The lack of contextual embeddedness ultimately leads to a traditional understanding of informality that confuses it with poverty, anarchy, and a lack of state power. This is rather surprising at the end of a volume that started with the objective of challenging exactly this conceptualisation of informality. Likewise, Altröck's final chapter is not situated in a particular urban context but aims at a structural differentiation of the formal-informal continuum based on institution theory. Following the empirical chapters of the volume, strong doubts emerge whether such generalisation offer added-value to the question of how the label of informality is negotiated, mobilised and contested in planning, governance, and people's everyday experiences.

Except for the rather confusing chapters of Kreibich and Altröck, the edited volume provides the reader with interesting and illustrative empirical case studies that shed light on the complexities and flexibilities of urban informality. However, excluding Keck's chapter that deals with relatively well-off wholesalers, the other contributions remain limited to traditional spheres of informal urbanisation, meaning self-built housing and street vending. In support of Roy's argument that informality is not an exceptional form of urbanisation that merely affects the urban poor, the reader would have loved to read more about informal practices in high-end urbanism.

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**The Illicit and Illegal in Regional and Urban Governance and Development, by Francesco Chiodelli, Tim Hall and Ray Hudson (eds.). London: Routledge, 2017, pp. 280.**

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The complex connection between the (il)licit and (il)legal, as well as their relationship with territorial development, lie at the heart of this volume. As emphasized in the introduction of the book, the role of illicit and illegal actors and activities has been so far mostly underestimated in economic and political geography, as well as in regional studies and planning development literature. Chiodelli and his colleagues aim to fill this gap by editing a collection of studies whose innovative contribution is only partially expressed by the title of the book. On the one hand, in fact, as stated by the title, the chapters show how these actors and activities affect processes of territorial governance and development. On the other hand – and in a specular way – constant attention is devoted to the extent to which the spatial dimension shapes illicit and illegal phenomena, defining and reorienting them. Whereas the first perspective – simply stated, the effects of the illicit and illegal on territorial development – turns out to be particularly fruitful for regional studies, the second one – i.e. the influence of local features on illicit and illegal actors and activi-

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ties – appears to fall within the sociological, criminological and political literature on criminal networks and groups.

The editors clearly indicate that “spatial contingency means that context matters” (p. 5). In other words, a focus on the spatial dimension makes it possible to enhance the analytical role of context. Through this approach, the book marks a distance with the aforementioned specialized literature, where illicit and illegal phenomena are frequently interpreted as the simple outcome of the criminal actors instead of the complex interweaving of the agency dimension with institutional, political, cultural, cognitive and relational elements.

Furthermore, the adoption of a local scale favours attention to the particular traits that different contexts exhibit at regional and urban levels. This perspective warns us against unifying interpretations – not so rare when reasoning about networks and criminal organizations – which tend to represent large regions or even nations in a homogeneous way. To mention just the Italian case, the representation of the mafia in the public debate, where Southern Italy is often portrayed as a homogeneous criminal context.

Starting from these analytical assumptions, the authors develop an empirical project which testifies to their awareness of the conceptual and methodological challenges of working on the illegal and the illicit. Dealing with phenomena which are by their very nature opaque and mostly invisible, a multi-method approach is adopted for 14 case studies focusing on the precise role and the impact of the actors involved and the activities carried out, rather than proposing some vague general theories. The chapters explore a variety of geographical contexts – from the Sahara desert to the India-Bangladesh border, from Japan to Palermo and Rome, to name a

few – , focusing on a case-by-case basis on cities, on more or less vast regions and even on whole countries. The illicit and illegal activities investigated are also various, including for instance drug trafficking, territorial control, informal housing, and corruption. Despite some differences in terms of effectiveness and clarity in its different parts, the volume is overall endowed with coherence and offers to the reader conceptual and analytical suggestions running through the different chapters. For this reason, a final chapter summarizing some of the points that emerged and re-connecting some threads would have been appreciated, also in order to accentuate the comparative perspective of the volume.

Finally, the future work of Chiodelli and colleagues on this topic could benefit from greater attention to and analytical clarification of the dimension of power. It would be particularly fruitful to stress how power is distributed among the different actors, with regard to their economic, cultural, social, and reputational resources, as well as how they are – or are not – able to mobilize these resources in order to pursue their goals. As pointed out by the editors, in fact, the very definition of what is and is not licit depends on the adopted standpoint and on the interplay between different stakeholders characterized by asymmetries of power.

There is, therefore, room for a narrower examination of what is generically defined as the "dominant social perception" in the book, i.e. the set of commonly widespread impressions and opinions about what is licit and what is not in a specific situation. In other words, once due attention is paid to the context, it is possible to go back to questioning who benefits from advantages associated with the phenomena observed and what are the short- and long-term effects for individuals, networks, organizations and institutions. An approach of this kind seems particularly appropriate to develop the interesting reasoning presented in the introduction to

the volume about the possible positive outcomes of the illicit and the illegal behaviour. In this regard, the relationship between the immediate benefits derived from permissive political governance (including illegal and/or illicit actors) and some long-term negative repercussions, such as the loss of trust between citizens and institutions and the legitimization of who is driven by personal interests, should not be neglected. The empirical chapters in the volume offer important insights to deepen these kinds of questions and to reflect on the implications from both a moral and a policy-oriented point of view.

The diverse and rich contents of the book – which have been briefly recalled in this review – makes it suitable for a large audience, both in and outside the academic field. On the one hand, scholars and students from different disciplines, e.g. sociology, criminology, economics, political science, international relations, as well as geography of course, could find many empirical and analytical elements of interests in the volume. On the other hand, the book can also provide useful information and suggestions to public officers and policy makers for political projects and for the definition of new tools in fighting against criminal phenomena. Finally, the book could also rouse the attention of journalists and media commentators, considering the flurry international public debate about the drivers and the effects of the illicit and the illegal.

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## BOOK REVIEWS

**Markets, Places, Cities, by Kirsten Seale. New York: Routledge, 2016, pp. 134.**

**Lionel Francou**  
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*Markets, Places, Cities* falls within the books that succeed brilliantly in the risky comparative adventure. Kirsten Seale, a Postdoctoral Research Fellow at the University of New South Wales (Australia), compares markets in nine cities - located in all continents except for Africa - through a convincing in-depth analysis of different social, cultural and economic contexts. After a first book devoted to informal urban street markets (Evers & Seale 2015), the author is expanding her interest on markets by focusing in this new book more largely on markets' locations, their social effects and transformations in global cities around the world. It questions the relation between globalization and urban transformations, on the one hand, and the pair formed by formal and informal economic and social practices, on the other hand.

Seale develops an interesting critical approach of how several processes in a globalized and capitalist world threaten urban markets (both formal and informal),

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which are central parts of cities as they play an important role in spatial and social representations, among others. Her denunciation of the effects of capitalism comes with the presentation of some alternatives, like social mobilizations and innovative projects of urban development. She also underlines the fact that formal and informal economies and spaces are often close to each other, as they are more complementary than opposed, even if the latter are subject to controls and attempts to erase them.

By resorting to various and numerous data and modes of data collection, the author succeeds to approach the complexity of urban markets. While resting on a solid review of literature, the analyses take shape gradually, leaning on direct observations and photography in order to capture markets' atmospheres, but also on a heterogeneous corpus made of literature, press archives, documentaries, and even videos posted on Youtube or blogs like Tumblr. This abundant documentation enables the author to precisely describe how markets work and how urban transformations structure and affect them.

One could expect that local particularities draw specific markets model in cities located in Europe (London, Antwerp, Amsterdam, and Paris) as well as in Oceania (Sydney), Asia (Beijing, and Hong Kong) or North and Latin America (San Francisco and Rio de Janeiro). However, despite the geographical differences and some specificities, markets are neither entirely local nor entirely global. If "in the popular imagination, few urban sites are more resonant of local place" (p. 46), in these global markets, the author highlights similar kinds of markets and social imaginaries, but also the same manufactured (or counterfeit) objects, for instance. The markets atmospheres and organizations can vary, depending on what they have to offer and what people are looking at (cheap stuff, quality food, quotidian objects,

art, handicrafts etc.). However, these variations between different markets tell us more about the types of markets than about local and cultural specificities.

Urban markets are places where people can come across diversity, experiencing individually as much as collectively, living conviviality or familiarity in an environment characterized by an increased proximity. Some social representations, images, and narratives are also attached to them, influencing how they are perceived and experienced. Seale proposes critical views on the effects of capitalism on people, planet, cities, places or even neighborhoods. She underlines the death and life of urban markets, their transformations, from decline to renewal, through rebranding. Besides slow developments, she demonstrates the influence of some big events like the Olympics or the World Cup (like in London or Rio de Janeiro), which contribute to a political acceleration of these changes and to a standardization of urban spaces and markets around the world.

Indeed, the author enlightens several processes caused by global process linked to local contexts that contributes to a decrease of the number of differences between markets. Gentrification and urban renewal policies make original markets disappear or push them outside of city centers, at its margin, out of sight. In addition, this leads, for instance, “to occlude waste’s presence even more by presenting second-hand goods as a statement of cultural capital or taste, rather than a material necessity or consequence of consumption.” (p. 33). The influence of creative city’s social representations and the increasing competition between global cities, linked to tourism attractiveness and expected consumption, is also leading to more urban policies designed and implemented to the detriment of original markets features and atmospheres. Public authorities and private companies create numerous copies of authentic markets, producing a tendency to “placelessness” which is not without ef-

fect on the qualities of places and on what one can feel and live in there. In other words, not only the physical configuration of spaces and goods sold there are affected, but also the experience one may have in them in the sense of an increased impersonality.

If the streets can provide opportunities for informal economic activities, numerous political measures try to regulate them. Public policies, as well as privatization of public spaces, tend to marginalize informal markets and unauthorized street trading, missing to recognize their inputs. Its workers face a “lack of political or symbolic representation in the urban economy” (p. 38), despite their economic and environmental roles (regarding waste valorization, for instance).

This book offers a good contribution to the literature on urban markets and urban transformations in a global world thanks to its demonstration that regardless different socio-economic and geographical contexts, capitalism and privatization have made most markets look the same. Concerning the form of the book itself, we may regret that the pictures illustrating the markets analyzed by the author are not printed in colors, which does not always do justice to the forms and layouts offered for comparison. In addition, on the background, the use of Lyn H. Lofland’s (1998) typology of public spaces (which she names the public, the parochial, and the private realms) would have helped to polish the understanding of markets. Her analysis would have helped the author to describe in a deeper way what is happening into these specific urban public spaces, for example when you meet strangers or when different social groups share a space and are attached to it in various ways. However, it does not affect the fact that this book will be of great interest for researchers in numerous disciplines such as town planning, sociology,



geography or history and for practitioners having to deal with planning or redesigning cities and urban markets.

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## BOOK REVIEWS

**Informal Power in the Greater Middle East. Hidden Geographies, Edited by Luca Anceschi, Gennaro Gervasio and Andrea Teti. New York: Routledge, 2014, pp. 226.**

**Jannis Grimm**

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Before the events of 2011, a prolific scholarship on the Middle East had formed around the study of subaltern politics beyond formal institutionalized channels of influence. Inspired by the works of Asef Bayat, Cilja Harders and Joel Migdal, authors adopting a perspective on Middle East politics ‘from below’ challenged the conception of state institutions as the central fora for political organization. They hinted at the complex entanglement of formal institutions and informal segments of society which constantly modified the modes of governance and the boundaries of state-society relations. In the wake of the ‘Arab Spring’, however, their conceptual groundwork was dramatically overshadowed by a new focus on the changing institutional set-ups of the transition states, and on the revolutionary movements that engendered these changes. Given this research trajectory, it seems appropriate to recall Lisa Anderson’s (2006) seminal ARPS-article ‘Searching where the light shines’ – a note of caution to Middle East scholars not to restrict their attention to the visible institutions of the state and civil society when assessing change in the re-

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gion. The editors of *Informal Power in the Greater Middle East* have taken her warnings to heart. With their focus on the ‘hidden geographies of power’ (p. 3) they offer alternative ways to study the ongoing processes of social transformation in the Middle East beyond the elite vs. street dichotomy. Transcending the ‘Arab Spring’ frame, the 14 free standing chapters include examples from the Maghreb and the Levant, but also discussions of Turkish, Iranian and Turkmen politics as well as case studies from the Horn of Africa. What these well-researched contributions have in common is their focus on the informal channels of interaction between state and non-state actors which co-exist with and complement official institutions, thereby creating alternative accesses to leadership and channels for the distribution of wealth. In the introduction, the editors make this point explicit, underscoring the symbolic power of the Arab Spring in undermining the belief in the formal institutional areas for the articulation and contestation of political interests. In their view, this holds true both for politics from above and from below.

This is evidenced by the first section, ‘Redistributing Power Relations through Informal Alliance’, which has the greatest coherence and centers on the historical role of informal powers and resources as tools for challenging, but also for the reification of socio-political power relations. In this section, Trombetta’s analysis of power structuration in Syria is particularly noteworthy as a critique of statist categories in the study of regime trajectories. Formal institutional setups, he argues, are often merely symptoms of an underlying informal power balance that cuts across institutions: “real power *can* be hidden beyond the exposed/institutional power” (p. 36). To operate, authorities need both levels of power – which places the formal and the informal in a dynamic dialectical relationship, Sadiki asserts (p. 11). The corollary of this is that “power cannot ever be entirely monopolized by

one social institution” (p. 41). This can work in favour of subversive forces, such as in Palestine, where traditional clans and kinship networks prevent Hamas and Fatah from achieving full control over their respective territories (see chapter by Alone), or in Turkey, where informal proxy relationships enable banned actors to continue their political work under conditions of authoritarian closure (see chapter by Bacik).

The subsequent section ‘Radicalization and Conflict’ examines this subversive potential for contexts where the architecture of power experienced a significant rupture that reconfigured power relations – either through a revolution, such as in 1979 Iran (chapter by Adib-Moghaddam), or through foreign intervention, as in the case of Iraq (chapter by Isakhan). The cases presented in this section are all highly interesting in their idiosyncrasies. For instance, an excellent study of the Darfur conflict concentrates on state engendered tribalism as a mechanism for the radicalization of political practices across the formal-informal dyad (chapter by Bassil); another chapter sheds light on Somali NGO networks as agents of state transformation (chapter by Saggiomo). The link between these contributions, however, remains vague at best, as does their conceptual relation to the theoretical underpinnings discussed in the introduction. Likewise, the final section on ‘Resistance, Co-optation, Centralization’, an attempt to map the vertical and horizontal patterns of interaction between different contenders, lacks coherence. Certainly, to consolidate their position within national power hierarchies, all the discussed actors relied on both formal and informal resources and strategies – but each in a different way, making it hard to draw parallels between the individual case studies. Moreover, the contributions cover not only different countries, but also alternate in their focus on civil society (in Morocco and Egypt) or elites (in Turkey and Turkmenistan), adding additional layers of difference. The final chapter by Teti makes an effort to situate

the chapter within broader debates on democratization and the role of civil society. However, it offers no comprehensive concluding remarks that could bring together the different cases and reconcile the different aspects discussed in the book. The ‘hidden geographies’ of the formal-informal nexus, unfortunately, remain hidden.

Notwithstanding, *Informal Power in the Greater Middle East* is a carefully researched and highly readable collection of excellent studies. The strength of these contributions is in their detailed empirical descriptions – an emphasis that may disappoint comparativists and prevent the volume from intervening in larger disciplinary debates on democratic backsliding or the global representation crisis. However, despite the lacking comparative angle, the collection makes a significant contribution to the post-Arab Spring research agenda: by extending its geographical focus to peripheral and understudied cases in the Greater Middle East; by exposing the dichotomy between institutional and informal politics as an elusive normative demand rather than an empirical reality; and by illustrating the need for further engagement with notions of informality beyond the limiting frame of ‘culture’.

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## BOOK REVIEWS

**When Informal Institutions Change. Institutional Reforms and Informal Practices in the Former Soviet Union**, by Huseyn Aliyev. Ann Arbor: University of Michigan Press, 2017, pp. 284.

**Giulia Prelz Oltramonti**

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*When Informal Institutions Change* by Huseyn Aliyev is a clear and informative appraisal of informal processes in the Former Soviet Union, as well as a good and pleasant read. It explores the relationship between informality and institutional change and, in order to do so, provides a fair account of both conceptual realms and detailed case studies by offering a comparative perspective on them. For all intents and purposes, the book is composed of two large sections that “talk” to each other, with the first part (chapters 1-3) supporting the development of the three case studies in the second part (chapters 4-6), which in turn offer ample empirical material to illustrate the more general and theoretical topics dealt with at the beginning.

The book presents a good review of the literature on informality across disciplines and geographical areas, as well as on alternative understandings of informality as institutions, networks and practices. It also includes, refreshingly, a

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brief but sound reflection on how we can study informality. In fact, the first chapter provides a coherent and sturdy framework that supports the development of two enlightening chapters on informality in the wider post-Soviet space and three additional chapters on the specific cases of Georgia, Moldova, and Ukraine.

In its bid to chart informality, the author provides an overview of the most well-known informal practices, detailing variations that span from Asia to Latin America (chapter 2). But tracing informality globally is not the aim of the book; and so, while adequately embedding this study in a larger literature, the author successfully maps informality in the Former Soviet Union (FSU). While focusing on a comparative appraisal of former Soviet countries, the author also underlines the differences between the FSU and other post-socialist contexts. In so doing, and in line with a number of comparative studies carried out in the late 1990s and early 2000s, he argues in favour of a post-Soviet specificity (due to the Soviet legacy and problems of postcommunism). Similarities and differences across regions of the FSU are sketched out, discussed, and analysed. What emerges are both country-specific elements of informality and a more uniform culture of informality which exists throughout the FSU. Here, Aliyev usefully underlines the cultural dimensions of informality, depicting the culturally specific traits of the various declinations of the one phenomenon. In turn, the tension between the local/national on one side, and the regional/post-Soviet on the other, clearly emerges as one of the book's key leitmotifs. This sort of tensions, which blur linear and simplistic analyses, is recurrent and concerns not only the abovementioned geographical dimension, but also the temporal one. As a consequence, while Aliyev maps the establishment of contemporary informality through the impact of Soviet legacies, he also factors in the specific issues brought about by post-Socialism. In other words, he couples distant



and near past as key components of today's systems, which are then affected by more recent institutional reforms. Crucially, this complementarity is then applied to the analysis of the three case studies. In other words, the author shows that Georgian, Moldovan, and Ukrainian informal institutions are the result of Soviet and post-Soviet practices, which have, at first sight, fused into each other but which can – and are, in the case of this book – carefully be unpacked.

Chapter 3 makes for a heavier – although necessary – read. It is a thick, informative, and largely theoretical review of the relationship between informality and institutions in times of institutional changes. Inevitably, it includes a review of the literature on issues such as democratisation, transition, and modernisation, and ties the relevant debates to the evolution of informal practices and their relevance in the institutional make-up. Here again, there is a comparative dimension that nurtures the analysis: the author insists both on the regional dimension, by including just as many examples from the Russian Federation and Central Asia as from the west of the Former Soviet Union, and on a wider one, including other post-socialist contexts.

In light of this first substantial and conceptual half of the book, chapters 4 to 6 provide thorough investigations into the specific realms of Georgia, Moldova, and Ukraine, organised largely along chronological lines. While readers will be familiar with some of the dynamics, names, and events sketched out here, they will surely appreciate the tracing of such intricate case studies through a longer and comprehensive time span. All three chapters include the multiple temporal dimensions of Soviet and early post-Socialist periods, in addition to the reform spells of the 2000s, as determinants of the more recent state of affairs. The author dedicates ample room to answering the research question of the book, namely assessing the impact

of institutional reforms on informal practices and outlining the peculiarities of each case. This in turn allows for a last round of comparative analysis on the following dynamics: when, why, and how reforms affect informality and, more specifically, informal institutions. Aliyev's results are clearly sketched out, bringing the book full circle from its introductory chapter. He shows that informal practices and institutions are crucial determinants of the outcome of institutional reforms and that "informal institutions are not always bad". Granted, this last point has been argued before; however, through its methodical investigation, Aliyev proves – once again and convincingly – that this holds true.

Aliyev's *When Informal Institutions Change* is an insightful and dense study of informality in the FSU, focusing on the nexus between institutional reforms and informal practices. It is an enlightening read for scholars working on governance, informality, and/or the post-Soviet area. Well structured, well written, well researched, the book makes for an excellent read on a subject matter that is far from straightforward.

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## BOOK REVIEWS

### **Marginal Urbanisms. Informal and formal development in cities of Latin America, Felipe Hernández, Axel Becerra (eds). Cambridge Scholars Publishing, 2017, pp. 214**

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Being informality such a complex and polymorphous question, a challenge for Hernandez and Becerra was to bring together a series of essays from different perspectives and fields. This book offers a wide range of not only Latin American urban landscapes, but also methodologies, and ways to interpret the issues related to marginality. The reader may get a bit confused with the sequence of such diversified essays: from historical analysis, based on the study of pictorial sources (e.g. Priscilla Connolly), to more sociological approaches of specific case studies (e.g. Fernando Luiz Lara, Melanie Lombard or Jaime Hernández Garcia), passing through architectural considerations and even aesthetic debates (e.g. Christien Klaufus or Axel Becerra). Although radically heterogeneous, the chapters of this volume share a common theme and purpose, brilliantly presented by Hernández's introduction: Basically to re-address urban strategies towards marginality, in more inclusive terms.

Considering the growing number of policies and programs that have tried to address developmental issues in deprived areas of Latin-American cities over the

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past twenty years, the book aims at revising such interventions to understand their failures and propose alternative approaches. For Hernández, urban development strategies have been driven by what he calls “physical determinism” (p. iv), which means that they were based only on material aspects, like infrastructure provision (roads, schools, transport etc.) According to him, this way of addressing urban issues has proven insufficient to include marginalized populations to the urban life and economy. This idea is not new, and the criticism towards liberal and neo-liberal developmentalists policies promoted by government and international agencies are numerous, especially in urban studies. Nonetheless the way this claim is articulated to the specificity and history of Latin American cities in *Marginal Urbanisms* makes this book a major contribution to the literature regarding this topic and a compulsory reading for urban practitioners.

There are two valuable arguments in this volume. First, the authors show how marginality is anchored in social processes, linked to Latin American colonial history and the way cities were planned under Spanish and Portuguese domination. The analysis of trajectories of urban strategies over time reveals the perpetuation and reproduction of segregationist patterns through “double-faced state policies” (Connolly p. 25), both allowing and excluding some areas from the “formal” city. For this reason, the large infrastructure projects are doomed to failure, since they do not address the root of the problem. The other two essays included in *Part II* enlighten how capitalist logics and private interests inherent to these programs end up consolidating the spatial and social exclusion of poor areas. The decision to place the volume under the aegis of “marginality”, rather than just “informality”, appears pretty illuminating here. Moving the cursor from the strict dichotomy of formal/informal to the wider question of “marginal urbanisms” –and implicitly, the re-

lation to the center— allows an interesting communication with the broader debates opened by the dependency theory —born in Latin America! The solid set of tools and concepts deployed by Hernández in the *Introduction* is very helpful to think Latin American urban issues in a more systemic way.

Secondly, the authors tend to illustrate the architectural resistances and innovative community solutions that have emerged in marginal areas of Latin American cities. Through the concept of “place-making”, which refers to the appropriation of space processes, Melanie Lombard stresses the agency of residents in marginalized areas, acknowledging their creativity. Jaime Hernández García, goes even further, comparing the difference between formal and informal decision-making processes that lies in the individuals who make the decisions such as professionals, in the formal cities versus the community in informal settlements. Based on this, informal practices are rehabilitated as a source of credible and innovative tools for urban planning and management. They guarantee a good alternative to neo-liberal developmentalist policies, often based on misleading statements (*Part I*), and driven by counterproductive interests (Harvey 2012, *Part II*). The original contribution of the volume is to call for a stronger participation of universities, to encourage and strengthen participatory approaches of urban planning and management in marginalized areas. The resulting experimental projects designed by students and academics —the so called “studio practices”— are presented as a good way to make a bridge between official urban programs and the inventiveness of informal practices found in the communities.

To this extent, *Marginal Urbanisms* invites the whole urban community, practitioners and investigators all mixed up, to re-engage with the issues of marginality

in the cities of Latin America, on a more comprehensive way. It would have been interesting to investigate the community of urban decision-makers itself, ethnographically. Luiz Lara gets close to such kind of analysis when he highlights the close ties of a Brazilian Minister of cities with the construction industry. However, we could go further, and formulate the hypothesis that some of the individuals involved in the urban decision-making processes carry with them mental schemes or principles which tend to reproduce segregation or domination patterns. For example, in the case of Latin America, we know that most of the decision-makers and high-skilled professionals have completed their degrees in Northern Universities, in the United States or Europe: maybe they were influenced by models that could not possibly fit in cities like Bogota or Mexico, characterized by a “rule of disorder” (Connolly p. 42).

At the same time, and for this very reason, the focus on Latin American specific issues appears as a decisive choice. It permits the authors to get into deeper debates and arguments. However, one criticism could be made related to this matter, is that the essays could precisely make stronger use of Latin American corpus of literature on the topic –the authors themselves seem to regret the hegemony of Anglo-Saxon and Northern publications (see: Hernández p. xxxv, Davis p. 23). The call for more adaptative and localized urban solutions could come to hand with the promotion of regional theories, concept and methodologies. One could think for example of some academics from the University of Sao Paulo, who promote, following Appadurai’s work (Appadurai 1996), an “experimental ethnology” and the description mode to enter urban complex issues (Telles da Silva, 2007). This kind of proposal could have been a source of inspiration for the authors of the volume. For instance, description of urban landscapes or daily-life can offer an interesting alter-

native to the quite redundant reference to commonplaces and questionable statistics on urbanization.

Overall, *Marginal Urbanisms* remains a fundamental contribution to both the urban and Latin American studies. The diversity of aspects tackled in this volume allows a wide understanding of the issues of informality, and a rich inter-disciplinary dialogue.

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*Laurie Servières*







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## BOOK REVIEWS

### **Gender and Informal Institutions, by Georgina Waylen (Ed.). London: Rowman & Littlefield International, 2017, pp. 238.**

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Within the theoretical framework of feminist institutionalism (FI), *Gender and Informal Institutions* is a collective work encompassing contributions from leading scholars in the field, which examines how formal and informal institutions interact, to what extent informal institutions are gendered and the roles they play in promoting gender equality. Georgina Waylen's edited collection aims at deepening our knowledge of informal institutions and further develop FI, a novel approach to the study of politics, which combines gendered analysis with institutional theory. From an analytical standpoint, it moves past traditional gender-blindness of existing institutionalism, and delves into gendered dynamics of institutions, showing the idiosyncratic aversion to change of masculinized political institutions. This excellent volume highlights that removing formal barriers is not sufficient to reach gender equality, but it is also necessary to address those informal norms, rules and processes that influence politics and reiterate gender biases.

The three research questions at the core of the book are: How should informal institutions be identified, defined, and classified? What are the best

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methodologies to analyse them? What are the implications for policies aimed at achieving gender equality? These research questions not only are extremely relevant and timely, but the arguments put forward represent valid contributions in the development of political science, from ontological, epistemological and methodological perspectives. While there are some differences among authors' standpoints, the volume crucially contributes to the efforts in developing greater clarity about key concepts and their operationalization and how they relate to gender politics, thus enhancing the understanding of informal institutions in a range of different contexts and developing FI. The variety of methods employed range from in-depth qualitative case-study analysis, 'rapid' ethnography, large N quantitative data research and qualitative meta-analysis, suggesting that a broad approach to the selection of methods is necessary to offer different insights and perspectives to the multi-layered and often unpredictable processes and outcomes that institutions produce. Therefore, methodological pluralism is a potential benefit to the broader field of feminist political research.

The book, which explores various informal institutions in different areas of the political spectrum, is inevitably going to spark debates about gender and institutions. In a definitional effort, Chappell and Mackay trace the contours of informal institutions as "enduring rules, norms and practices that shape collective behaviour [...] that have a collective effect; are usually not codified; are enforced through sanctions and rewards from within and outwith an institutional arena" (p.27). A number of chapters (Waylen, Chappell and Mackay) examine the relationship between formal and informal institutions. Hijonosa, for instance, highlights how in reaction to a new gender-friendly formal rule on gender quota, an endogenous informal rule based on the manipulation of recruitment and selection

procedure has emerged in Uruguay. Leah Culhane discusses how localism, understood as a cross-party institution informing decisions at the local and central levels, shapes political recruitment and how this translated into male parliamentary over-representation in Ireland. As the stereotypical political broker is masculinized in itself and favours candidates with strong networks and long-established history, localism side-lines merit and prevents institutional change. Taking the Australian construction industry as a case study, Louise Chappell and Natalie Galea, through 'rapid' ethnography, analyse homosocial loyalty (social and political bond between people of the same sex), presenteeism (expectation of physical presence at work rewarding long working hours) and total availability (prioritizing work above anything else). They show how these three informal institutions have a collective effect and a sanctioning enforcement mechanism attached. A couple of chapters (Verge and Claveria, and Franceschet) focus on how informal rules operate in the political arena, focusing on party patronage and men's over-representation among cabinet ministers. Other authors (Piscopo and Nazneen) look at the role of female networks in promoting gender equality policies, in Mexico and in Bangladesh. Elin Bjarnegård and Meryl Kenny review the existing research on gendered dynamics in political recruitment and argue for the adoption a holistic problem-driven approach to get a better understanding of the critical pathways prior to political enlistment.

The different contributions make up an extremely well-crafted picture of the invisible sets of norms, rules, and patterns that ensure the preservation of gender unbalances in political institutions. Overall, it can be safely assumed that it's a book about power. About how vicious rules, stealth but well-established practices, self-serving norms reproduce self-surviving mechanisms of framing otherness, subjugation, oppression and exclusion. By analysing different cross-country

informal institutions, the book takes up the challenge of looking inside the black box of institutions. First, it sets the ground by theoretically underpinning the concept of formal and informal institutions, their interactions, and the role of networks within the broad category of informal institutions. Even though the authors employ different methodologies, from qualitative analysis to a mixed-method approach, the *fil rouge* lies in understanding how this kind of research can inform gender equality strategies. The normative aspect of feminist institutionalism is evidenced by the claim that unveiling informal gendered norms, structures and practices means also that they can be reshaped, or better ‘regendered’ to disrupt current patterns of power unbalance and inequality (p.32). In this sense, the book sets the way for transformative processes and outcomes in political institutions.

The scope of the highlighted dynamics of gendered power inequalities and their gendered effects is quite telling, as they are entrenched in many aspects of political life (candidate selection and recruitment, party office, representation in the executive branch, equality laws implementation). Also, the spread of the empirical cases, which cover nearly all continents, suggests that the patterns through which gendered norms operate are not solely confined to certain kind of political systems, but they are cross-cutting in different societies, demonstrating the relevance of the issues at stake.

The overarching assumption of the book is that knowledge construction and research development are explicitly linked to emancipatory political practice from a normative perspective, thus enriching feminist institutionalist theory, providing key insights on power, institutions, and advocating for gender equality norms. Translating research findings into practice is potentially the area where most work still needs to be done, because identifying deviant dynamics is essential but

converting prescriptions into societal change is somewhat harder, and possibly further research should delve deeper into practical strategies that might be adopted. Moreover, while it is important to focus on defining concepts in an effort to divide “what is” from “what is not” (i.e. political institutions, formal vs. informal institutions, informal institutions *per se*), it would be useful to find a more unitary cohesion and agreement within the discipline, as it is new and it runs the risk of fragmentation into “one head, one definition”, weakening the effort of finding common ground and developing a common research agenda. Nonetheless, it is clear there is consensus on informal institutions being tenacious to be modified because of their embedded and non-explicit nature and their interacting effects, which shape political and policy outcomes. Therefore, even though the task is daunting, as the different authors are faced with the challenge of seeing the invisible, revealing hidden practices, exposing the social mechanisms of alienation, and disentangling intangible webs of power, *Gender and Informal Institutions* represents an extremely valid beacon for developing further research.

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## BOOK REVIEWS

**Corruption and Norms. Why Informal Rules Matter, edited by Ina Kubbe and Annika Engelbert, Palgrave Macmillan, 2018, pp. 370.**

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International policy-making forums often acknowledge that anti-corruption policies and strategies must consider the presence of local informal norms (e.g. Camargo et al. 2017; Banuri 2012). *Corruption and Norms* contributes to this notion, as well as to the existing subject-matter literature, through its different theories, case-studies and hypotheses, and a critique of the different norms that characterise corrupt practices across the world.

By analyzing the prevalence of informal norms over anti-corruption principles, the book successfully explains the challenges remaining in the fight against corruption, whilst simultaneously highlighting the breadth and depth of anti-corruption literature.

The edited volume is divided into three core sections; Part I starts with a theoretical discussion of how informal norms, social or cultural, shape the understanding of corruption, its acceptance or rejection by society, Part II presents a set of country specific perspectives across a variety of regions and settings, whilst Part III intro-

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duces the international dimension of the topic through a synopsis of cross-border instruments and practices surrounding anti-corruption norms.

With methodological rigour and often lengthy introductions to the different research guiding methods, the authors unite in their investigation of political, economic and social scenarios affected by corruption, illustrating how the former may be better understood through the analysis of specific contexts and prevailing informal practices.

The strong methodological rigour of the case-studies is, however, not always matched with an equally strong debate on the impact of the particular research findings or the very realities under analysis. It often appears that, if asked, most contributing authors would lack an answer to the “So what?” question (Selwyn 2014). For example, in *Micro-perspective on the Gender-Corruption Link* Alexander identifies welfare state and egalitarian values as favouring gender equality and honest elections, but does not provide a clear discussion on its meaning or consequence to the overarching debate. The different chapters appear targeted at confirming their own individual hypotheses rather than reflecting on the research’s impact and its relation to the edited volume’s guiding theme.

Gutterman and Lohaus’ chapter, entitled *What is the “anti-corruption” norm in Global Politics?* is perhaps closest to the overarching theme offering an interesting overview of how international relations (IR) shape anti-corruption principles and informal norms. The authors suggest that the implementation and diffusion of anti-corruption is an IR principle and that, as such, relevant policy-making encounters three core challenges, namely, *sovereignty*, *implementation* and, *discourse and framing*.

Albeit inadvertently, the afore-mentioned challenges – having been neglected by the editors – emerge as a commonality in all chapters. The majority of chapters embrace the concept of *sovereignty* as the most frequently used tool to reject external practices



derived from what has elsewhere been described as networks of experts lacking accountability and local know-how (Slaughter 2004). The country-specific case-studies, furthermore, demonstrate how popular rejection of anti-corruption reforms often results from the externally perceived nature of the norms, and the belief that, in the local context, these are not considered immoral or criminal.

Zakaria, Eiró, Simral, and Bu's discussion of religion, welfare, politics and trade as areas in which anti-corruption norms continue to find obstacles further stresses the ongoing challenge of *implementation*. In this respect, authors broadly agree that costs, benefits, morality or specific enforcement requirements are accountable for the difficulties in upholding anti-corruption principles and, therefore must be the focus of future strategies.

Finally, the challenges related to sovereignty and implementation are often sourced from basic *discourse and framing* issues. Johnston's recollection of Oskar Schindler's own corrupt behaviour in order to save the lives of thousands during the Holocaust is the archetypal conversation starter for Köbis et al and, to an extent, Koebel's thoughts on the South African reality. Broadly these authors discuss how the framing of anti-corruption in different settings, including moral, ideological and ethical implications may be key to the success or failure of any given policy. Generally, findings suggest that the premise "Corruption is detrimental and should not be performed nor condoned by anyone, anywhere at any time" (p. 361) is far from being widely accepted, or understood.

The purpose of the edited volume, through engaging with theory and applied methods, appears to be the confirmation that more importance should be given to the understanding of informal norms, their interpretation, and also adoption of anti-corruption standards and practices. Sovereignty, implementation and discourse emerge as key elements characterising the different discussions which, moreover,

find common ground in their identification of western bias. In essence, the debate over the role of sovereignty, enforcement, and discourse proposes that the real research question is not whether anti-corruption is a robust global norm, but to what extent it can be strengthened.

Avoiding a lengthy debate on the origin of anti-corruption and western bias (see Huntington 1993), another overarching theme of this edited volume is the perception that anti-corruption norms are indeed a “western tool” to pursue economic or political advantage. Chapters by Kubbe, Bu, Koeble, Gutterman and Stiernstedt and Button include reflections on how the origin of anti-corruption norms – if external to the society they’re implemented in – may disturb the effectiveness of implementation by failing to correspond to local standards of right and wrong, accepted or unacceptable.

Similarly, Jackson mentions, in relation to his analysis of informal norms in Kosovo, that leadership and trendsetters are crucial to change mentalities and behaviour. Stiernstedt and Button affirm that whilst “morality obviously has a role in any successful anti-corruption effort [...] it is important to understand the limits of norms and values” (p.362). Hough and Easton furthermore claim that the first step towards change is acknowledging the problem.

Contributors to this edited volume propose that the right balance between anti-corruption policies and informal norms can only be achieved through inter-state cooperation and the kind of dialogue most frequently practiced within international organisations (see Simral’s chapter on *The Strengths and Weaknesses of Political Finding Regulations*). Tackling the effects of informal norms, ultimately, calls for the coordination of action at the international level as discussed elsewhere by Barnett and Finnemore (2004) in their debate on whether international organisations can be standard and principle setters.

The edited volume offers an instructive view of corruption in its many forms, as well as an illustration of informal norms as challenges to anti-corruption. It calls for additional debate on how these issues are and should be managed at the international and local levels. Its depiction of how informal norms continue to shape individuals and institutional actors alike is an important contribution to literature, which should be further pursued not just as an academic exercise but with a view to promote change and the progressive development of anti-corruption norms.

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