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## INFORMAL CAPITALISM : SOCIAL ORDER, AGENCY AND DEVIANCE

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### ***I : Introduction***

I wish to make some propositions about research on the informal economy in India and in Europe in the hope that this unorthodox approach to the study of development – working through comparisons between developed and developing countries - generates a comparative research agenda. While an unorthodox approach is not the same as ‘heterodox economics’, the latter is unlikely to be able to flourish without the former.

I make this comparison from the perspective of an institutional approach to the political economy of development and a long-term interest in capitalist accumulation in India’s informal economy, on the one hand, and in poverty, on the other. My practical method is the one pioneered by the anthropologist Polly Hill, who called it ‘field economics’. In this research it has been impossible to avoid an engagement with a range of theoretical approaches to the economy. However, instead of reviewing them here, I will use the additional stimulus of comparative material from political economy and criminology to discuss key features of informal economies – small size and social regulation – and then will comment on Europe’s informal economy from a research base in India’s. This ‘linking’ analysis creates a research agenda.

Since two thirds of India’s GDP is from informal activity (two fifths of India’s manufactured exports emerge from hidden workshops and home-work), since those proportions are growing rather than contracting and since over 90% of India’s livelihoods are in that economy, it is an old, well established and well studied phenomenon - while Europe’s informal economy (as much as 20% of Gross European Product) is thought to be new. Through flows of migrants, criminologists speculate that the practices of that kind of economy may be being imported from developing countries and clashing with established regulative law in Europe (Shapland and Ponsaers, 2007). Meanwhile FDI from the OECD heartland is exploiting looser regulative regimes in developing countries.

But Europe’s ‘informal economy’ is *not* new : development conceived as the transformation from custom to contract has been grounded in the relations between

this kind of economy and the modern state. The concept has survived much criticism precisely because it draws attention to state regulative capacity. At the same time, the informal economy is not an archaic survival of peasant and artisan production but a completely modern kind of capitalism, taking protean forms, in which states which possess the power of enforcement actually choose not to exercise it – at least in the sphere of economic and social regulation.

Mushtaq Khan, interrogating the process of accumulation (2003), has argued not only that states have had to permit *fuzzy*, indistinct property rights in order for initial capital to be amassed prior to investment but also that quite primitive forms of extra-market accumulation *co-exist durably* alongside advanced forms in the current era. He is challenging the classical political economists – Smith, Marx, Weber, Veblen, Schumpeter and others – who expected archaic forms of exchange to be destroyed by the animal spirits of markets, the struggles of wage labour against exploitation and illusion, and the rationality of state bureaucracy and planning, the discipline of machines and technology and the dissolving force of education respectively.

The general expectation took two forms. First, small size firms would be destroyed through economies of scale or the logic of centralisation and concentration. Second, ‘forces for social inertia’ in economic behaviour (Myrdal, 1968), such as ethnicity and religion (surprisingly contemporary – though not observing gender) – would be dissolved by the ‘common economic bonds uniting different groups’ (that was Nehru speaking, quoted in Madan, 1987). Both small size and social regulation characterise the informal economy.

#### *1. Small size:*

In fact it was Marx, more famous for predicting the triumph and then the transcendence of factory-based capitalist industrialisation, who left a little space for small scale production: ‘Manufacturing always rests on the handicrafts of the town and the domestic industries of the rural districts as its ultimate basis’ he wrote (without elaborating) (Marx, 1977, ch 30, p700). Manufacturing needs these forms of production for ‘the preparation of raw material’. Villages might have ancillary labour in agriculture while the main labour force was in industry. The peasantry would never be quite destroyed but would be part of the market creating process. In the colonies (ch 33) the analogue, the independent producer not exploiting wage labour, would compete successfully with economies of scale in European capitalism. Marx then proceeded to list a set of tactics fully worthy of today’s corporate raiders by which ‘the private property of labour’ might be annihilated and the colonies’ competitive advantage hobbled. In fact that competitive struggle persists, as does small scale production below national thresholds for state regulation through registration, tax, employers’ obligations for social security. It even persists without electricity. The ethnocentricity or Imperialist nature of the requirement that a state function like this with all else being residualised as informal activity may be questioned (Shapland and Ponsaers, 2007, p12); but fiscal responsibility, obligations towards labour and even responsibility for leading the process of industrialisation was (embarrassingly for some now) built into the Indian constitution at the start, in defiance of British Imperialism.

In fact small scale forms of production - together with generally overlooked petty trade and services - are the cockroaches of development. In case I am accused of anti-

cockroach-ism, let me explain that it is the capacity of the cockroach to persist aggressively and to survive through all misfortune, disaster and transformations of environment that it has in common with petty production and trade. These forms of production can be found all over the world, from small scale mining in Bolivia, through cosmetics and shoes in Nigeria, rice in West Bengal and traders on Italian beaches. The law of one technology does not hold: a range of technologies, contractual and organisational forms operate simultaneously. Because of their numbers they often appear superficially to embody the perfect competition of the textbooks; but beneath the surface, they are frequently found to bear a fractal resemblance to networked MNCs in which oligopolies control a mass of small firms through credit, raw materials supplies and marketing outlets – a very old form of ‘contract’ production.

There is a range of conditions under which small-scale, unregistered production persists in a developing country like India as well as in Europe. First, it may be functionally useful for formal firms and for capital accumulation. Cost and risk may be shed from large firms through outsourcing, subcontracting and home-working. Obligations to labour may be offloaded. The state’s infrastructural responsibilities may be avoided. So the state does not enforce laws it may - or may not - create through which the super-exploitative advantage of petty production would be abolished. Second, small production and trade thrive because capital is unable to accumulate sufficiently for the revenue from tax to outweigh the costs of its collection; so the state cannot enforce measures that would poison the only nutrient bed there is. Third, the state inadvertently subsidises the reproduction of small enterprise (through interventions aimed at the household, or through condoning the onward lending of ‘formal’ credit on terms and conditions which prevent the borrowers from accumulating). By so doing it creates small enterprise because to stop mass unemployment, widespread malnutrition etc it has to implement policies that have the effect of preventing accumulation while also preventing the destruction of small scale production, trade and services.

Combinations of these forces may operate at a given time and place such that it would be very difficult systematically to test these explanations.

Activity in the informal economy is not so small either. Informal activity thrives inside large and complex corporate, state and para-statal organisations, wherever there is pressure on cost, poor enforcement capacity and/or non-compliant tax cultures. Economic crime can therefore be very widespread. It takes the common forms of chicanery in transactions (especially against the weaker party to the transaction), extortion in credit and finance, oppressive and illegal labour practices and tax evasion. Yet despite (or because of) the existence of police, vigilance and inspection forces, the amount of crime reported in Oxford every 24 hours equals that reported in an Indian market town of the same population in 3 months.

## *2. Social forms of regulation:*

Like the law of one technology, the law of institutional convergence does not hold either. In absence of state regulation, the informal economy is not unregulated. Institutional diversity is of the essence. Forms of social regulation bring order to the rich complexity of forms of production, contract and exchange relations. Kate Meagher, working on Nigeria, calls their study ‘identity economics’ (2004). My own

project in Indian ‘identity economics’ shows how aspects of identity are reworked to become regulators of the non-state regulated economy which structure and stabilise accumulation. Age/generation, gender, caste, ethnicity religion and place constitute regulative forces all of which play a role in class formation. Ethnicity and caste for instance persistently structure recruitment and occupation. Caste and ethnicity lies behind modern-sounding (but-guild-like) business associations - which are obstacles to capital and labour also confidently predicted to disappear. These small units of accountability and of collective action police entry, organise apprenticeships, calibrate weights and measures, regulate derived markets (labour, porters, transport), adjudicate disputes, guarantee livelihoods, respond to individual or collective misfortune and accumulate the funds necessary to represent their interests, shape the way policy is implemented and collectively evade tax. In this corporatist project, the interests of labour are conspicuous by their absence (Basile and Harriss-White, 2000). When the state does not or cannot intervene, these identities make a structure of accumulation, one which may also pervade the state.

Once created, it is hard to destroy such institutional arrangements. So state and social forms of regulation co-exist.

Not only that. While the dissolving forces of modernity are at work, while capital and labour become mobile and labour forces cosmopolitanise, the opposite occurs at the same time and in close spatial proximity (Parry,2007) and so-called archaic and antediluvian forms of regulation co-exist and can and do intensify.

In social science, we have great difficulty theorising these processes.

## ***II: Five Comments on Informal Economies***

1.

### *Definitions and processes.*

The informal economy illustrates one of the challenges of heterodoxy. Such is the proliferation of subfields involving the idea of informality that the same phenomenon is known by many terms (market/economy/growth/private sector/formal sector/business/capitalism) - and vice versa : a given term may have many meanings (take capital for instance). The very definition of the informal economy is highly contested : it may involve organisation (self-employment); small size (with or without paid labour); income (poverty) ; being unlicensed (so that it encompasses activity within large ‘formal’ organisations); licensed but not by the state; licensed but not for key purposes of registration (such as tax); a set of sectors - with or without agriculture.

It was originally expected to be marginal and transitional – the formal economy would destroy it. When it did the opposite in developing countries it was understood to be structural – the formal economy used it and depended on it. Now it is being accepted that it is an integral part of the global economy, meshed with formal global processes and with its own dynamic. Given this flux, mainstream sociology would replace the idea altogether with that of social networks (Meagher, 2004). But ‘social networks’ reduce the relations of informality to nodes and flows and do away with the richness and the specificity of the power expressed in the regulation of informal activity. Further, by denying it status as forms of instituted capitalism, their logic and dynamic are airbrushed out of the frame.

The key strength – ‘cockroach-like quality’ – of the concept lies in the way it draws attention to what lies beyond the boundaries of state regulation. The British state regulates the informal economy through changes in social security entitlements, changes in the legal status of casual labour, changes in the medicalisation of unemployment and changes in the fuzziness of the boundaries between home and work (Mollona, 2005). The British informal economy *is* a residual. The Indian state also has a comprehensive (and continually amended) legal framework for both the state-participative and state parametric regulation of the economy. The Indian informal economy is *normatively* residual. However, law provides incentives for creative compliance and pre-emptive development - and by definition laws criminalise (McBarnet, 2003; Stern 2006). Law may be necessary however but it is not sufficient to criminalise effectively. Lack of enforcement capacity and/or complicitous non-enforcement create cultures of non compliance in which the law does not count at all and both state and economy are socially regulated. It is the degree of enforcement of regulative law which defines the extent of pre-emptive activity and the informal economy. Enforcement is socially embedded and itself ‘informalised’.

Then we enter an ‘Alice Through the Looking Glass’ world. There is a Tamil saying : ‘an honest man is he who does not know how to live’. We know from Eastern Europe and Russia that in societies with pervasive corruption, the law abider is the ‘deviant’ and may actually be punished – as may those who refuse to punish the ‘deviant’ (Varese, 2000; Ledeneva and Kurkchiyan, 2000).

Informal economies regulated through social practice will have as many kinds of deviance as there are social rules to break. Control is achieved with methods that are illegal (threats, the seizure of documents; physical force) (Shapland and Ponsaers, 2007). We know very little about the means of enforcement.

What are the new challenges? Policy, politics and police have the same linguistic root : their relationships to the informal economy cry out for research! Research is needed on how institutions police themselves; on cultures and subcultures of non-compliance and their impact on revenues; mismatches between effective work rights and benefits; threats to the autonomy of the public sector.

2.

*‘Unbridled capitalism’ and the association between the informal economy, and residual activity, poverty, social exclusion, young (migrant) socially disadvantaged people and ‘invisible sites and spaces’.*

In Europe, informal activity consists of repairs, spares, scrap; transport, retail, personal services (including protection) and construction, the products of theft and illegal commodities (Mollona, 2005; Shapland and Ponsaers, 2007). While (small) arms and drugs are best documented, other important globally traded illegal products include art and antiquities, stolen cars, wildlife products, nuclear material and other toxic wastes and trafficked women and children for domestic and sexual slavery.

India’s informal economy also includes entire industrial clusters making goods for export are off-bounds to the state. The black economy is focussed on retail inventory, construction and real estate, the film industry, precious metals and the products of tax evasion (Roy, 1996). Estimated at 40% of GDP ten years ago (Kumar, 1999; 2005),

and growing, it is not marginal and confined to socially excluded people, it is central and involves the prominent and socially powerful. It is not confined to services, it includes production and property rights protection; it includes informal institutions of economic/'social' security - all key responsibilities of the state (Harriss-White, 2006).

Though the poor are in the informal economy not all the informal economy is poor by any means. Poverty and informality may be more co-terminous in Europe than in India. The idea of invisibility sits awkwardly with the idea that the informal economy is distinguished by personalised face to face transactions. For sure it is, but the informal economy is not the only economic activity to require face-to face transactions. Nick Emsler in the UK found 90% of transactions in the corporate economy, full of expert systems, were actually personalised. The idea of social exclusion also sits awkwardly in a socially regulated economy such as India's where only 3 % of the workforce is in trades unions, only the top 7 % have access to social security and where a mere 0.4% of firms supplies 58% of commercial tax revenue (Harriss-White, 2003; Jairaj and Harriss-White, 2006). In this 'Looking Glass' world, the socially included majority lacks the access to state-power and the socially excluded minority is the power elite.

When the state supplies neither the collective preconditions for competition nor the means of redistribution, we need to know much more about how institutional 'substitutes' are made in the informal economy. Guilds and trade associations take on many of the functions of the state. They facilitate economic activity but at the same time they constrain it. They are necessary, arbitrary, incomplete and exclusionary. Policy processes have to negotiate these political realities.

The *newness* of the discovery of the dynamic of informal capitalism is a product of the wilful ignorance of the specific and the historical on the part of mainstream social science, a failure to understand the logic of commodification (Huws, 2003). Every labour-displacing technological innovation with monopoly rent for innovation has always created waves of employment in ancillary industries – following the same processes of craft to mass production and of risk and cost shedding. Huws has shown how the home has been transformed from the site of production for use, to being a site of consumption and increasing amounts of 'consumption work' shed by firms controlling production and is again often also a site of production but now for the market and often hidden from the state.

3.

*The blurred boundaries of formal and informal activity:*

The informal economy is found to penetrate the formal economy. It penetrates not only in the way I described at the outset (where smallness is functionally useful) and not only after Sennett (2006) who recognises the proliferation of small scale production as 'the' new 'global business model'. This 'model' is expressed in a distinctive 'market-driven politics' (Leys, 2001). Corporations now employ political specialists to lobby in a hidden and not formal kind of politics in order to shape state regulation to their advantage (see Szlezak, 2006 for hidden, informal and undemocratically accountable market-driven politics in the case of the privatisation of Argentinian pensions). Tax specialists avoid revenue obligations (McBarnet, 2003). Special conditions for environmental and labour standards are informally negotiated.

Labour relations are informalised: large corporations in India have sizable proportions of their labour force casualised and rightless (Kaur, Ghosh and Sudarshan, 2007); employees in the UK can be simultaneously employers - and the process generates its own resistance (Mollona, 2005). I started by characterising the Indian economy as two thirds informal; but the one third that is formal contains examples of all these practices.

Practical challenges involve the capacity of the complex organisation to enforce and control these informal practices. In the intertwining of state and the informal – the secular and the un-secular - legitimacy is given to social regulation. Illegal organisations come to resemble legal ones; more needs to be known about the mechanisms and consequences of this process. The formal state generates an informalised para-state or shadow-state which exists beyond and is defined by the bounds of state enforcement.

In industrial clusters based on petty commodity production and process specialisation other logics combine with capitalist markets : the super-efficiency/super-exploitation of the petty commodity form; the household reproductive imperatives of migrant (transnational) families (Castles, 2003) ; cross-generational control (Mollona, 2005); portfolios of livelihoods, reproductive work and consumption work (Huws, 2003); other values than the profit/wage relation ensuring informal work persists (autonomy; ritual hierarchy etc (Ruthven, forthcoming)).

New questions for research concern the political and policy implications of these logics: do (lack of ) rights at work shape (lack of ) rights of social security or access to help in time of need?

4.

*Blurred boundaries of crime and deviance:*

Criminal activity has been identified by Shapland and Ponsaers (2007) as consisting of activities such as prostitution, trafficking, offshore finance and money laundry, drugs, weapons, counterfeit goods. To this list we added art/antiques, wildlife products, toxic and radio-active waste. All these activities are thought to be increasing and their instituted form is thought to be that of the transnational criminal organisation (TCO).

Like transnational corporations (TNCs), TCOs exploit national regulative boundaries, but their objectives are to gain access to goods by circumvention, elude enforcement and exploit difference in the criminal justice systems. Like TNCs , some TCOs have a global reach, while others span large, continental regions. While TNCs locate headquarters for tax advantages, TCOs have home bases, entrepots and financial servicing in corrupt, weak and/or collusive or collapsed states . While TNCs are structured through vertical integration and/or process specialisation, TCOs are networked or cellular in organisation to reduce risk and resist control. TCOs are notably embedded in family or ethnicity and/or place, forming loose confederations based on kin. While TNCs develop diversified productive and financial portfolios, those of TCOs focus on physical protection, high-tech (counter)intelligence equipment, consumption and expansion of their sector. Contracts are famously enforced by a culture of loyalty and the threat and practice of violence. In host states, formal institutions may be co-opted in a nexus of

collusion with state apparatuses and banks. The security of governance and economic growth is jeopardised by such arrangements.

But this criminological classification provokes further questions about the equivalent of criminal activity in the informal economy where a vastly greater diversity of legal goods are produced, traded and consumed. If deviance is defined – perhaps idiosyncratically – as behaviour which breaks informal rules, then are there goods and activities which are ‘deviant’ in relation to the rules of the informal economy (while not necessarily being criminal in relation to the (un-enforced / unenforcable) laws of the state)?

Certainly. Dowry for example has been outlawed for decades in India. Since business alliances are routinely conducted through strategic marriages involving dowries, a dowry-less marriage would be – and is – deviant behaviour which faces serious social sanction. The share in share-cropping contracts and the minimum wage in a casual labour contract are set by law and widely observed in the breach; but recent research shows exactly how the re-negotiation of customary norms is policed by the threat of withdrawing the contractual arrangement altogether (Olsen and Neff, 2007).

While deviant behaviour is not always criminal, criminality and deviant behaviour are quite closely related. Organised criminals may capture the state; and relate in a state of osmosis to corporate industry and to the informal economy. Transnational criminal organisations come to resemble formal business. (It’s another point to argue that, while distinctively *different* from formal activity, they are *necessary* to it, which can be done for the case of offshore financial centres (Harriss-White, 2002)). Meanwhile in the informal economy, fixers, carriers and intermediaries may be recruited to TCOs. They may also be necessary to the relation between MNCs, TCOs and states. Parallel practices of taxation, redistribution, physical protection and punishment can develop to challenge the monopoly of coercion and taxation conventionally vested in the state but actually being developed in many places by a nexus of regulative and ‘governance’ institutions in the criminal/black and informal economies.

These informal institutions and practices de-legitimise the state, increase physical insecurity and create contagious effects in the economy.

In the ‘Looking Glass’ world of the informal economy, agency – and the action and reaction of those who struggle for gender empowerment or caste reform or access to legal mechanisms of compliance or redress – need re-interpretation. We would then understand and re-classify behaviour celebrated as the exercise of ‘agency’ as consisting of ‘deviance’ from - and transgressions of - the established dispositions and practices of informal institutions. And indeed it is useful to re-conceive how political agency might be perceived and experienced as deviance by those maintaining informal order and responsible for the stabilisation of accumulation (whether or not they are actively conscious of this role) : for institutions must police practices. It would also be useful to know more about the punishment of infractions of informal order, for these practices or their threat must be central to the process of institutional change.



*Liberalisation, globalisation and the proliferation of sites of clash between formal law and normative jurisdictions and governance arrangements.*

The concept of an informal economy operating through 'free and unregulated' markets naturalises the transactions of capital. But no market is free: capitalism has been very carefully constructed.

As Leys has shown (2001), the globalisation of finance, manufacturing and trade, extending to the commodification and the privatisation of the public sphere has led to a proliferation of international and national law – laws for the commodity form, the labour process, finance, demand and risk management. We do not live in an era of de-regulation; it is one of rampant re-regulation. Even the process of re-regulation, the core functions of the bureaucracy, are being commodified and privatised. We need to know more about how this process operates politically. There is plenty of evidence from developing countries that the process actually creates expanded niches for corrupt transactions rather than destroying corruption in the way the new political economists had predicted. Both 'new' and challenging to theory however is the idea that resistance to privatisation and commodification or behaviour in defence of the public sphere might become a form of political deviance or even a crime.

The expansion of unsystematic public and private law associated with FDI, the rapid evolution of global governance institutions with overlapping scope - often chasing events - necessarily create legal pluralism and legal imperialism (and the 'law and development fiasco' of the 1970s is being revisited at this moment in Iraq (Trubek and Galanter, 1974)). At the same time, FDI searches for loose regulative regimes, particularly with respect to tax, labour and environmental/phytosanitary standards. But having found them, FDI needs loose, 'parallel' arrangements for trade and finance in order to globalise the product of such regimes. In extreme cases, OFCs are used for the financial support of internal conflicts in collapsed states. Whatever may be the trend of 'new wars', those institutions of parallel informal globalisation can be used, as formal institutions are constantly being used, for new economic processes and activity.

Europe is witnessing an expansion of voluntarist/collective/self regulation. Is this capital's way of pushing agendas which are necessary for its further evolution but unpopular with states? Or do such institutions result from the lack of state-regulative capacity - from the triumph of capital over states it has hollowed out? Such questions can only be answered by detailed empirical research. In India collective self regulation has long been the norm in the informal economy. Its 'formal' global analogue (collective / 'voluntary' labour and environmental standards for instance) is manipulated opportunistically - in the 'symbolic factory' which exists simply for purposes of inspection (Ruthven, forthcoming).

What may be new and in need of research is the proliferation of institutions expressing a non-statist corporatism which pushes the interests of labour to foot of the agenda and expresses totalising ideologies other than statist ones (such as those of caste, patriarchy and place/locality).

*Conclusion:*

What's new and challenging for research?

The acknowledgement that the informal economy is integrated into the global capitalist economy reveals an entire set of structures, institutions and practices which other ways of labelling it hide. These include the co-existence of primitive and advanced forms of accumulation in Europe and in India; rapid and rampant commodification (the commons, waste, internet, radio waves, the household, the body, genes and life, the state, the policy process, the means of enforcement; the means of punishment; the means of conflict resolution); state-regulated 'enclosure' and privatisation without violence (CO2); capital starting to undermine its own existence conditions; novel hybrid (formal/informal) governance and regulative institutions; residualised roles for core state bureaucracy; acute co-ordination problems ('policy considerations are informalised' ; 'lack of institutional control'); revenue flight; loss of enforcement capacity and thus of legitimacy; loss - or failure - of the capacity to protect labour.

Even if the problems for the state may not be entirely new – think of the English state's institutional experiments at the time of the land enclosures – the pace of change is unprecedented. Commodification charges ahead of state regulation and thus necessarily and inevitably has to be informally regulated. The socially regulated 'informal' economy is certain to grow.

We need to map spaces, forms of organisation, forms of employment and of shock absorption to labour; and flows of money, commodities and labour; and to examine the boundaries between the state-regulated and the informal; the legal and the illegal; economic regulation and social rights; state capacity to enforce compliance and state capacity to redistribute and to protect. The same procedure needs following for deviance from socially regulative norms, where we know too little about the forms of authority to police and the threats and practices of punishment when agency is experienced as deviance.

We may thereby better understand many aspects of development which economic orthodoxies and some heterodoxies have got wrong and which are currently poorly understood and theorised. These will include the persistence of institutional diversity; the hard regulative roles in the economy of 'soft' institutions which theorists site outside the economy (in the family, kinship group, caste, biradri, ethnicity etc); and the co-existence of institutional cosmopolitanisation (involving the destruction of institutions) with institutional re-working (functional for market exchange) and institutional reinforcement (resisting destruction or re-working). Unless it is explicitly devoted to transforming such institutions, development policy air-brushes them away. Yet these institutions are at the heart of all development involving the informal economy, and the informal economy is at the heart of economic development.

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