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Editorial

The Multifaceted Relation between Formal Institutions and the Production of Informal Urban Spaces: An Editorial Introduction

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The paper provides an introductory theoretical framework for this special issue of Geography Research Forum titled "The Spatial Dimension of Informality: Power and Law". Firstly, the main weaknesses of the traditional 'geography of informality' are analyzed, including its tendency to focus on urban poverty in the 'Global South', to privilege its economic causes, and to treat the phenomenon in terms of clear-cut dichotomies. Then we stress the need for new critical approaches, which consider informality as an ordinary mode of the production of space that is structurally entangled with formality. In particular, the links between formality/informality and power, politics and policy require further investigation. To this end, this paper suggests a 'four-lane two-direction road' model which summarizes the main reciprocal impacts and influences between formal institutions and the production of formal/informal spaces.

Keywords: *Informality, politics of space, public policy, law, administration*

THE TRADITIONAL UNDERSTANDING OF INFORMALITY

For several decades, urban studies focused their attention in particular on human spaces which were imagined as rationally and legally planned and as formally organized. The case of urban planning is paradigmatic: economically, it targeted efficiency; socially, it promised integration and social stability; politically, it ensured inclusive egalitarian citizenship; legally, it conceived only compliance with its prescriptions. Only marginal (and sometimes criminal) people, spaces and economies were deemed to lie outside the comforting embrace of formal planning; their fate was supposed to be rapid disappearance or incorporation into the formal city.

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The utopian dream of modernist geographies started crcaking under the blows of pioneering studies in the 1970s (consider, for instance, Perlman, 1979 and Turner, 1976). However, it is from the vantage point of the 21st century that these modernist geographies prove to be blatantly naive. Against this backdrop, UN-Habitat (2016) points to 1 billion people who live in a variety of 'illegal', unplanned, informal neighborhoods and residential clusters. By 2030, UN-Habitat predicts, about 3 billion people, or about 40 per cent of the world's population, will live in informalities. This (dis)order is characterized by the growth from below of unplanned neighborhoods and towns; the de-regulation of land development; increasing migration (legal and illegal) of villagers and foreigners to poor neighborhoods on the outskirts of cities. Stressing the extent of these geographies, AlSayyad (2004, p. 7) famously described "urban informality as a 'new' way of life," meaning that informality is a normal and stable mode of life in contemporary cities, which is linked to the physical setting of unplanned development, informal economy and unauthorized settlements. This unambiguous statement is reflected in much research that points out that most of the spaces in the urban 'Global South' were built outside formal building rules and planning or in violation of them.

Though informality is currently recognized as a new way of life by both scholars and several international organizations, the study of the 'geography of informality' (Lloyd-Evans, 2008) in urban studies and geography still suffers from some weaknesses that limit its ability fully to grasp the complexity of informality and to present a substantial alternative. Among these weaknesses is the fact that 'geography of informality' privileges the economic causes of informality and usually focuses on general and abstract forces such as rapid urbanization, global capitalist development and neoliberalism. However, in so doing, it underplays the role of specific and concrete forces, in particular at local and national level, in shaping informality. Among them, to be mentioned in particular is the role of public authorities in promoting informalities, for instance, through spatial policies, projects and plans.

Indeed, traditional 'geography of informality' concerns itself with the role that authorities play in informality, yet it usually portrays states simplistically as opposed to informality, because, as Davis (2006) argues apocalyptically, it endangers the rational order and is a major moral crisis. Accordingly, 'geography of informality' focuses on the inability of states to deal with informalities and proposes ideas on how states should increase their effectiveness in preventing informal settlements (or in improving living conditions in the existing ones). These solutions are quite often identified in the formalization of informality, preferably with the help of conventional forms of urban planning and policies. However, in so doing, this 'geography of informality' completely disregards all the cases in which urban planning has regressive outcomes, for instance fostering the spread of informality, the oppression of the urban poor, the neglect of informal settlements (Angel, 2008; Chiodelli, 2016a; Watson, 2009; Yiftachel, 1998).

Moreover, 'geography of informality' tends to focus on the urban poor mainly in the 'Global South', and it associates informality with material expressions of poverty, i.e. as a self-provision of economic resources (De Soto, 2000; Bayat, 2013), with marginality (Wacquant, 2008), and even with a culture of poverty (Lewis, 1959). All these considerations overlook the existence of common urban informalities among the middle and upper classes in the 'Global North' as well, and the rapid emergence of a middle class in the 'Global South' which is still inextricably connected, even if in new and changing ways, to the informal world (Balbo, 2014).

In all these cases, informality is conceived as something separate from the formal sphere – what is usually known as the dualist nature of 'third world' cities (see for example ILO, 2002). In fact, these approaches treat informalities in terms of clear-cut dichotomies: geographical – spontaneous settlements vs. planned land; economic – 'black market economies' vs. formal economy; and legal – illegal settlements vs. legal neighborhoods.

THE CONTINUUM BETWEEN FORMAL AND INFORMAL

The above weaknesses have engendered new critical approaches encapsulating informalities within 'real' world political and social relations. These approaches include informality and self-organization (Castells, 1984) as an expression of deep democracy (Appadurai, 2002), insurgent citizenship (Holston, 2008), familiarization of space (Perera, 2015) and insurgent planning (Miraftab, 2009). They highlight the spatial impacts of structural forces such as institutional settings and collective spatial identities, as famously argued by Roy (2011, 233): "urban informality… is a mode of the production of space… an idiom of urbanization, a logic through which differential spatial value is produced and managed".

To emphasize the idea that informality is a normal mode of space production, some authors have drawn attention to the limitations of reading informality as a strict dichotomy. They have pointed out that the threshold between legal and illegal, formal and informal, is often elastic and mobile. Formality and informality are parts of a single interconnected system, which is: "a complex continuum of legality and illegality, where squatter settlements formed through land invasion and self-help housing can exist alongside upscale informal subdivisions formed through legal ownership and market transaction but in violation of land use regulation. Both forms of housing are informal but embody very different concretizations of legitimacy. The divide here is not between formality and informality but rather a differentiation within informality" (Roy, 2005, p. 149). In other words, formality and informality are a kind of "meshwork… an entanglement between different 'bundles of lines', representing the different flows and practices of the urban world", as noted by McFarlane (2012, p.101), who adds that "the relationship between informality and

formality can shift over time, in a way that is complex, multiple and contingent.…" (McFarlane, 2012, p. 103; on this topic, see also Payne, 2002a, 2002b and 2002c).

Much of the contemporary research on informality rejects a dichotomic and monolithic approach to the issue. On the contrary, it argues that the production of space fuses formal and informal development, but not just in a simplistic way in which formal and informal developments co-exist next to one another; in fact, formal and informal are types of development, practices and processes which in complex and structural manners are merged with each other in a relation which shifts continuously over time, and they are both constitutive of current urban reality.

Against this backdrop, one of the questions that these new critical approaches has started to investigate is the link between the production of informal space and power, politics and policy. For instance, several scholars have noted that certain official rules on land-use seem actually to foster the spread of unauthorized settlements; that certain public officials are involved in the production and management of unauthorized settlements; that official and non-official systems of urban spatial production can coexist alongside each other (see for instance Leaf, 1994 and van Horen, 2000). That said, it seems that there is a need for further research on the relationship between the production of informal space and power *lato sensu*, and, in particular, between the production of informal space and formal institutions.

SPACES OF POWER IN THE FORMAL-INFORMAL CONTINUUM: A FOUR-LANE TWO-WAY ROAD MODEL

In order to advance knowledge on a rarely studied field in geography of informality like power on the formal/informal continuum, it is necessary to discard the notions that there is a clear dichotomy between formality and informality, that informality characterizes the poor, and that public institutions always oppose informality. On the contrary, we consider it essential to start from different notions: the formal/informal continuum in the production of space; the continuous construction and reconstruction of categories of legitimacy and legality; the existence of informality in many sectors and types of development; and the exploitation of informal techniques by formal institutions in order to control territory and society.

Against this backdrop, a 'four-lane two-direction road' model can summarize the main reciprocal impacts and influences between formal institutions and informal/formal space (see Figure 1).

The First Direction: From Formal/Informal Space to Formal Institutions

The first direction in the model goes *from formal/informal space to formal institutions*. It assumes that power works in multiple directions; thus the production

of space has its impact on formal institutions as well (and not only vice-versa, as sometimes assumed).

The first lane refers to the *influence* of informal space on the decisions and acts of formal institutions. Challenging the clear-cut dichotomy between formality and informality, formal institutions have to work in a complex political environment that does not permit instinctive and plain implementation of the (urban) law and policy. Rather, the reaction of formal institutions can range from delegalizing to legalizing, from recognition to denial, from formal to informal acts – based for instance on logics of capital, territorial control, identity of people involved in informal development, and their negotiation power. One of the results of the varied reaction of formal institutions is that urban rights and opportunities are often ranked hierarchically. Rather obviously, informal development by privileged groups influences formal institutions differently from informal development by underprivileged groups. The contemporary spatial regime enables development initiatives by privileged groups, which are accorded extensive *de facto* rights beyond the bounds of the law. Nevertheless, this does not necessarily mean that underprivileged groups lack any power: on the contrary, they often manage to compel formal institutions to act and decide, willingly or unwillingly, in relation to the informal space and economies created by them.

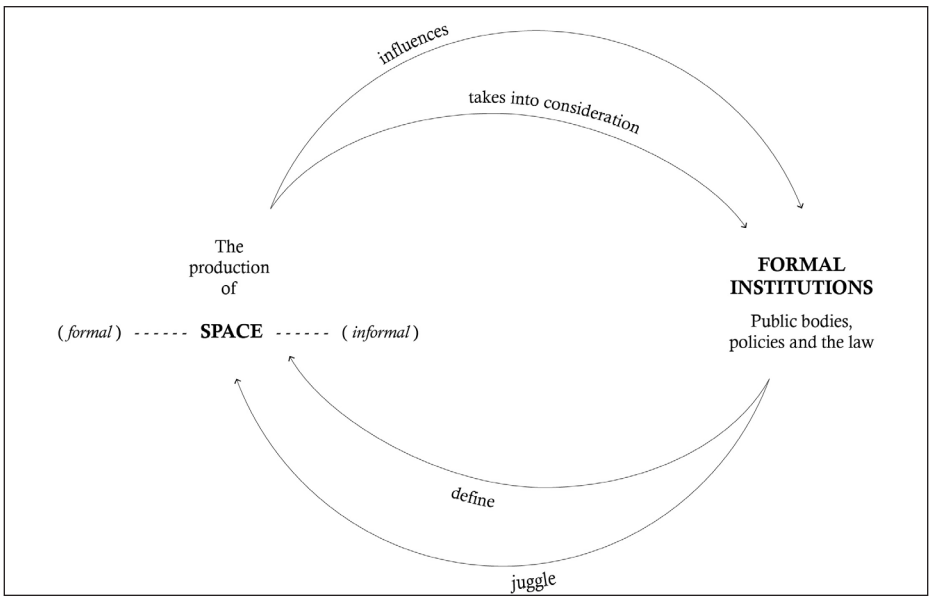

Figure 1: The complex nexus between formal institutions and the production of (formal and informal) space

The second lane refers to the relation of the production of informal spaces with formal institutions, and in particular with the law. We name this lane '*takes into consideration*'. More precisely, it refers to the nexus between formal (planning and building) rules and the transgression of these rules – this transgression being one of the main reasons for the informal/illegal nature of these settlements. Legal geography customarily perceives unauthorised settlements only as deviations from, or negations of, rules. Hence, rules and transgressions are usually conceived as two separate and unrelated spheres. However, this view is unsatisfactory, because it forgets that, in many cases, the law, *even when violated*, has a certain cause-and-effect relation with the actions of the transgressor. This idea is conveyed by Amedeo Conte (2000 and 2011) through the notion of *nomotropism*, which refers to 'acting in light of rules'. Acting in light of rules does not necessarily entail acting in compliance with rules; in fact, one can act in light of rules also when transgressing them. Think, for instance, of a thief. When s/he steals, the thief knowingly breaks the law, but hides her/his face in light of the legal penalties for his act. One of the consequences of the concept of nomotropism is that a rule can have a causal effect on the action, even if the action does not correspond to what is prescribed by the rule: in other words, the action 'takes account' of the rule while not adhering to its prescriptions (Conte, 2000 and 2011). Examples of nomotropic action can be found in many informal settlements around the world (Chiodelli and Moroni, 2014). This sheds new light on the great complexity of the nexus among informality, transgression and rules, and shows once again that formal institutions and informal spaces are closely interrelated spheres.

The Second Direction: From Formal Institutions to Formal/Informal Space

The second direction goes *from formal institutions to formal/informal space*, and represents the power of sovereign, professional institutions and law to produce both formal and informal space. This direction has two lanes.

The first lane points to the basic fact that formal institutions *define* legal and formal land use. This usually happens through a *de-jure* and formal façade known as 'urban planning', which is shaped by the rule of law and is a process of the law (Booth, 2016). Much has been written not only on its progressive aspects – from Weber's legal rationality, through Faludi's (1973) rational planning, to Forester's 'planning in the face of power' (1989) – but also on its regressive aspects (see e.g. Flyvbjerg 2002; Watson, 2006; Yiftachel, 1998). Among the regressive aspects, to be stressed in particular is the fact that legal definitions of land use and building rules are often used to deprive certain underprivileged groups of the right to live in a specific space, or to keep them in a state of permanent precariousness, control and exploitation (Chiodelli, 2017). Note that this use of planning as a means to discriminate against specific groups is not a distinctive characteristic of regressive planning regimes alone; on the contrary, it is something intrinsic to planning which cannot be avoided (Mazza, 2016). Urban planning is by its nature 'definitional':

when it defines what is allowed in the space (in terms of land uses or building densities, for instance), it simultaneously defines what is forbidden. Put otherwise: every public action of subdivision, allocation and shaping of space establishes a specific order of things and people on the land. This order is never neutral, not only because it is related to the goals and values of those who hold public power, but also because it influences, directly and indirectly, the rights, possibilities, possessions and endowments of people who inhabit and use the space. "Things could always be otherwise and therefore every order is predicated on the exclusion of other possibilities. It is in that sense that it can be called 'political' since it is the expression of a particular structure of power relations" (Mouffe, 2005, p. 18).

This echoes certain ideas on power and law: in particular, the questions of who decides what is legal and what is illegal, or what is formal and what is informal. As Roy (2005, pp. 149-150) describes: "The planning and legal apparatus of the state has the power to… determine what is informal and what is not, and to determine which forms of informality will thrive and which will disappear. State power is reproduced through the capacity to construct and reconstruct categories of legitimacy and illegitimacy… informal property system is not simply a bureaucratic or technical problem, but rather a complex political struggle".

The second lane in the second direction refers to what the 'real' expectations of land use are: either formal (i.e. according to master planning) or informal. This lane upholds the idea that formal institutions *juggle* between formal and informal performances – acting formally when the provisions of the legal system serve their interest, and acting informally when the provisions of the legal system prevent realization of their interest (Hussain, 2003). We name this juggling 'gray governance' (see Roded et al. in this issue). Formal institutions act deliberately in various ways, ranging from formal to informal, to achieve their legitimate or illegitimate goals. These ways include formal acts, legalizing informality, delegalizing formality, emergency laws, maneuvering among a variety of legal systems, and more (see Tzfadia, 2013 and 2016).

Gray governance questions the meaning and real function of urban planning represented in the first lane, which becomes but a dim and ineffectual 'background noise' aimed, in most cases, only to maintain a façade of legal-rationality and formality – which are so needed for legitimacy (Meyer and Rowan, 1977). Gray governance goes beyond 'institutional theory', which questions if the formal structure promises efficiency (Meyer and Rowan, 1977, DiMaggio and Powell, 1983). Gray governance also goes beyond 'informal governance' theory, which contends that "a certain group of decision makers agree informally to advocate or enact particular policies, while still acting in formal decision making contexts" (Røiseland, 2011, p. 1019).

'Gray spacing' is a sub-set of gray governance referring to situations in which formal institutions act informally or advance the informal development of *space* through various 'technologies' of developments and land possessions, aimed at contributing to territorial control and social hierarchies (Tzfadia and Yiftachel, 2014;

Yiftachel, 2009). The result, 'gray space', is a mixture of legal statuses of developments which defines the scope of rights, legitimacy and legality of different groups: from 'upgraded grayness', which refers to groups which enjoy more rights than the law permits, to 'survived grayness', which concerns groups which are denied the rights that the law should guarantee.

THE SPECIAL ISSUE

The four-lane two-direction road model emphasizes that formal and informal spaces, decisions, actions and actors play multiple power games that result in regressive and progressive outcomes, as well as the polarization of rights and citizenship – and this is probably the broad conclusion of this special issue. Although each article in this special issue contributes to this broad conclusion, it is possible to categorize them according to the above-mentioned lanes in our model.

The First Direction: From Formal/Informal Space to Formal Institutions

The first direction, the one that analyzes the reciprocal impacts between space and institutions, attracts the attention of many of the articles in this issue.

On the first lane – the one that centres on the *influence* of informal space on the decisions and acts of formal institutions – Abel Polese, Jeremy Morris and Lela Rekhviashvili focus on competition for public spaces between street vendors and public authorities in Georgia. This competition reveals that informality is a space where formal institutions and citizens negotiate and compete for power, where certain aspects and mechanisms that regulate public life in a given area are played out. Thus informality is able to influence the decision- and policy-making process, at local and national levels, beyond the dichotomy of legality/illegality.

Spaces of competition and negotiation are also evident in development projects – as Batya Roded, Arnon Ben Israel and Avinoam Meir show in relation to the project to upgrade Road 31 in Israel. This project seriously interfered with the gray spaces of Bedouin communities: informal and unrecognized settlements along the road. Neither planning officials nor the contractor pursued public participation because, formally, there were no settlements there. However, desperate to expedite the project, the contractor employed informal practices in planning and in negotiation with the Bedouin communities. In fact, these informal practices facilitated the project. Despite the formal policy of non-recognition, only by leaving the informal reality intact could the conflict be resolved satisfactorily. Paradoxically, therefore, 'gray governance' may facilitate efficient mechanisms and be beneficial to both sides.

Similarly, Oren Shlomo concludes that informality as governmental practice may be an efficient mechanism. His study focuses on the sub-formalization of Palestinian schooling in occupied East Jerusalem. Against the backdrop of the ambition of the Israeli authorities to formalize schooling in the contested city of Jerusalem, sub-for-

malization becomes the mode to formalize the informal schooling that Palestinians have developed informally. This mode is characterized by a constant deviation from professional and administrative Israeli national norms, in both methods and outcomes. This means that the formalization of the informal is based on informal methods. Nevertheless, the result is usually inferior solutions and irregular arrangements of service provision. Thus, sub-formalization represents a steady state of administrative and functional exception which becomes a structural and normalized feature of the entire education system. It serves as a governmental mechanism that enables the State of Israel to increase its presence and control over the city, while at the same time continuing with acute discrimination against Palestinians.

Also the article by Anna Mazzolini on Maputo, Mozambique, is an important contribution to the discussion on the impact of the production of formal/informal spaces on formal institutions. Mazzolini focuses in particular on the building needs and practices of the rising middle-class in Maputo. In a context of the failure or inadequacy of existing formal planning, in several areas of the city a sort of 'inverse planning', as Mazzolini terms it, has emerged: in recent years, several groups of mainly middle-class citizens have started to carry out self-organized planning for their neighborhoods, negotiating with the municipality on the recognition of their plans and the issue of legal land-use rights. This is something more than simple reaction by formal institutions to the informal production of the space by some sort of legalization or recognition, as happens in many cities in the 'Global South'. In this case, there is an informal, spontaneous and self-organized production of planning processes and documents which seek (and achieve) inclusion in the formal planning system and represent the citizens' answer to the failure of the official planning institutions.

In short, the explicit influence of informal spaces on formal institutions is assessed by the four articles. It seems that informal spaces have the power to direct formal institutions, to negotiate with formal institutions, and even to cause formal institutions to act informally. Yet this explicit influence should not be considered as a single alternative.

The second lane – 'takes into consideration' – explores different situations in which formal (planning, building and property) rules have a direct (causal) influence on the development of informal settlements and buildings, even if these settlements and buildings violate those rules.

Emmanuel Frimpong Boamah and Margath Walker focus on Accra, Ghana. They show that the entire urban space is the result of a complex mix of rule violations and compliances. More than a binary juxtaposition of simple formal and informal spaces, Accra is a mix of different *nomotropic urban spaces*, that is, a patchwork of spaces in which, at the same time, different legal systems (the customary one and the statutory one) are simultaneously complied with, transgressed, or taken into consideration. In a dual legal land system society like Ghana, the definition of what is 'informal' or 'illegal' is even more blurred: in fact, in the majority of cases, build-

ings comply only with a part of the rules of one of the two legal systems in force. They do so according to the contextual conditions, the needs of the owners, and the opportunities offered by one of the two systems compared to the other.

In her study on Italian unauthorized building (so-called *abusivismo*), also Elisabetta Rosa, as in the previous case of Frimpong Boamah and Walker, investigates the urban realm through the lens of the concept of nomotropism. In particular, Rosa dissects transgressions of planning and building rules and reveals the great variety of possible forms of violations. She identifies seven kinds of nomotropic transgressions (that is, transgression in light of rules) in the case of unauthorized buildings in Italy. Her research questions the dualistic and oppositional interpretation of legal vs. illegal, both by showing the internal variety of the illegal sphere, and analyzing some cases in which rules *follow* the transgression: that is, rules are developed *a posteriori* in light of the transgression that they are intended to legitimize. In this latter case, the impact of the production of informal space on formal institutions is even more blatant: informality induces public institutions to produce specific, new norms.

The Second Direction: From Formal Institutions to Formal/Informal Space

The second direction represents the power of sovereign, professional institutions and law to produce formal and informal space. We define two lanes in this direction.

The first is the legal and formal *definition* of land use, which serves as a means to control society and space. Yael Arbel recounts the story of Dahmash, an informal village in the heart of Israel inhabited by Arab citizens of Israel. The state's democratic procedural discourse and formal planning define the land of the village as farmland. This 'formal' definition is used in court to deny and cover over an ethnocratic discriminatory reality that delegalizes any construction of houses by the people who have lived there for generations: i.e. formal planning in ethnocratic context works as a process of dispossession. In this setting, the Israeli court can hardly be a helpful space of contestation. Arbel employs Nancy Fraser's theory of justice to explore three aspects of injustice in the case of Dahmash: distribution, recognition and representation.

The second lane focuses on situations in which formal institutions act informally or advance the informal development of space. Ilan Amit and Oren Yiftachel investigate how suspensions of law and creation of buffer zones in Hebron and Nicosia, which are controlled by contemporary colonial regimes, provide colonial ideas of territorial control. Buffer zones in occupied and colonized cities constitute markers of 'gray spaces', where law is suspended under (putatively) temporary colonial sovereignty. Their formation formalizes a process of 'darkening' these uncontrolled unplanned spaces, turning what is temporary into indefinite and even permanent. As such, suspension of law and buffer zones are significant tools in simultaneously formalizing spatial demarcation while creating informal spaces, causing the emergence of layered ethnic urban citizenship.

NOTES

1. Yet, informality has more than geographical aspects: it is also blatant in markets which survive partially or fully on informal income – especially in the 'Global South', although the phenomenon is also spreading northwards.
2. On informality in luxury glass towers see e.g. Ghertner (2015).
3. Informal governance refers for instance to deliberative policy, participation and collaborative governance (see Peters, 2007).
4. The reader should bear in mind that this categorization is perforce somewhat rough: in fact, all the articles contribute to illuminating more than one lane.

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