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**RETHINKING THE INFORMAL AND CRIMINAL ECONOMY FROM A
GLOBAL COMMODITY CHAIN PERSPECTIVE:
CHINA-PARAGUAY-BRAZILⁱ**

ABSTRACT

The criminalization of Chinese counterfeit goods in the global market demands new approaches to the understanding of well-established binary distinctions such as legal/illegal, licit/illicit, and formal/informal. Based on a multi-sited ethnography in China, Paraguay, and Brazil, I examine five commodity chains of two products – toys and watches – and their regulatory frameworks in terms of merchandise status, business formality, and international transaction legality. Certain merchandise has no legal definition a priori and are produced in the formal economy, but legal variability starts when goods leave the factory. A great interchangeability of a product's legal status existed along its chain according to governance structures, legal cultures, geographical domains, and power relations. These findings suggest that the illicit is a relational category and the so-called criminal economy is not a segmented market, but part of a global process integrated with formality, which is marked by great legal variability within and between nations.

KEY-WORDS: informality; global commodity chain; illicit trade; counterfeits; China; Brazil

INTRODUCTION

When Keith Hart (1973) coined the concept ‘informal income’ in his ethnography on Ghana, the goal was to perceive informal labor as employment. In a debate with the International Labor Organization (ILO), he drew the gaze of policymakers to invisible activities and argued that there was “more going on in the grassroots economy than bureaucratic imagination allowed for” (Hart 2015: 27). Ever since then, the formal-informal dichotomy has been consistently contested in the social sciences. Few contemporary scholars would disagree that the pair is mutually constituted in the most varied economic settings. In the last decades, the literature advanced in several directions, emphasizing the legitimacy of informality through recognition of the complex linkages that the formal and the informal, the legal and the illegal, and the licit and illicit poles maintain to each other. Thus it is sufficiently clear that there no such a thing as a segmented informal economy. Yet the same is not assumed when the subject is the criminal economy, which has been oftentimes remarked as a separate debate from the informal economy – an assumption that this article aims to challenge from an ethnographical perspective.

In the twenty-first century, new – and more complex – legal dualisms have been reinvented at the levels of global governance, state intervention, and global imagery. This binary view is especially prominent when applied to the vast and diverse field of cheap and/or counterfeit Chinese goods, which is commonly described as ‘transnational organized crime’ (TOC) by major organizations like Interpol and the United Nations Office on Drugs and Crime (UNDOC), and, therefore, as part of an isolated sector that is not only informal, but also illegal and illicit. The criminalization of Chinese goods and the informal channels through which they are traded is a relatively new phenomenon that derives from the strengthening of the intellectual property regime at the turn of the century, or the so-called ‘counter-attack’ of the Western corporations (Karaganis *et al* 2011). It is in this context of great criminalization that Hart’s (1973, 2015) ‘realism’ – i.e., the on-the-ground experience that contests major bureaucratic generalizations about what has been kept invisible – becomes meaningful once again.

Relying on ethnographical research in China, Paraguay, and Brazil, this article claims that the same critical debate that shed light on the legitimacy of the informal economy should be employed to examine that which has been portrayed as a criminal economy. That is, the argument is that Chinese counterfeits are not a segmented sector, but rather are part of a complex economic whole that maintains vital links with formal processes, being marked by what I call *legal variability*. I contrast regimes of value and economic settings across nations, as well as the various legal statuses that are intertwined along the global commodity chains (GCC) of cheap and/or copied Chinese goods that stretch from Chinese factories to Brazilian street markets, via Paraguay. ‘Criminal goods’ might be made in the same factory as legal goods. The legal variability starts when these goods leave the factory and embark upon their transactional trade route. Between and across nations, the illicit occurs within a great interchangeability of the legal statuses along the chains, alternating between legal and

illegal, licit and illicit, formal and informal according to governance structures, legal cultures, geographical domains, and power relations.

In order to account for legal variability, I elaborate eight categories to examine the commodity chains of two popular counterfeit products, namely – toys and watches. These categories are: Formal Local Business (FLB), Informal Local Business (ILB), and Legal National Trade (LNT), which refer to the legal and formal status of the place whereby the product is made or traded; Licit International Trade (LIT) and Illicit International Trade (IIT), which refer to the status of the circulation of commodities (i.e., whether via legal importation or smuggling); and Licit Merchandise (LM), Illicit Merchandise (IM), and (Il)licit Merchandise (I)LM, which refer to the status of the products vis-à-vis intellectual property rights. I carried out multi-sited fieldwork in China, Paraguay, and Brazil, and systematized the endless combinations and interchangeability of these eight legal statuses of the same product throughout the trade route. Clearly, this variability crumbles any possibility of framing the market of Chinese cheap and/or counterfeit products as a segmented economy.

The analysis that follows is divided into three main sections, apart from this introduction and concluding notes. The first section examines the debate on the formal-informal divide, especially in the face of global enforcement against piracy in the twenty-first century. The second section discusses methodological considerations of multi-sited ethnography on GCCs, including my ethnographic trajectory in China, Paraguay, and Brazil. The subsequent section presents empirical data, whereby I discuss the legal variability within the five commodity chains of toys and watches.

LEGAL DUALISMS: FROM INFORMAL TO CRIMINAL ECONOMY

The social sciences have a long tradition of challenging the formal-informal divide, arguing that unregulated, unprotected, unregistered, and/or undeclared economic activities are not part of a segmented market. At present, the scholarly literature has demonstrated that informality is intertwined with (or maintains the same logic as) formality, through several types of linkages (see Chen 2007; Hart 2015; Malaney 2004; Meagher 2013). Informal practices and/or networks are embedded in – and contribute to – registered or formal businesses, state bureaucracies, and global production networks (GPN) (Harriss-White 2010; Lomintz 1988; Phillips 2011) in both developing and developed countries (Castells and Portes 1989). The nature of such linkages might be perceived as positive, by fostering entrepreneurship and economic growth (Malaney 2004; De Soto 1989; Williams and Martinez 2014), or negative, by maintaining structural poverty and keeping society's most vulnerable sector under precarious subcontracts (Harriss-White and Gupta 2001).

When the formal-informal divide is contested, a moral issue is addressed (directly or indirectly), as informality is argued to be a legitimate economic activity. Such an argument challenges the simplistic logic that aggregates values to opposite poles, e.g., the formal as moral versus the informal as immoral (Noronha 2005). Indeed, the dualism moves beyond the formal-informal divide and applies to other pairs, such as legal and illegal, licit and illicit, moral and immoral, all of which are in the process of

being rearranged with one another. For example, an informal business might be licit and partially legal, with some formalized economic activities (Castells and Portes 1989; Noronha 2005; Telles and Hirata 2007). In addition, the global circulation of commodities ‘might convert the illegal good into something quite legal, or vice versa, depending on the regulatory space it occupies or passes through’ (Van Schendel and Abraham 2005: 15).

However, while much has been discussed about legal variability and rearrangements between pairs, little is said about how criminal economy is integrated into such a debate. For example, Castells and Portes (1989) outlined a basic scheme that exposed the variability of legal systems in a given commodity chain. Through an abstract model they argued that while licit merchandise could be traded in the informal economy, the opposite was not true: an illicit good or service would be logically commercialized in the informal economy. In the same fashion, Chen (2007: 6) segmented illegal processes and illegal services and goods: ‘While production or employment arrangements in the informal economy are often semi-legal or illegal, most informal workers and enterprises produce and/or distribute legal goods and services. Admittedly, one part of the informal economy – the criminal economy – operates illegally and deals in illegal goods and services’. Thus, the informality debate rarely considers the relationship between formal processes and illegal goods. The result is that the premise that the criminal economy is a separate debate from informality is commonly accepted (see Chen 2007; Phillips 2011; William and Martinez 2013).

While the purpose of this separation is to highlight the legitimacy of the informal economy, an adverse consequence of neglecting the importance of the criminal economy in the informal debate is that the illicit – what is socially perceived as unacceptable (Van Schendel and Abraham 2005) – is taken for granted and little scrutinized. The criminal economy is indeed a contested notion that encompasses different types of economic practices, and diverse and legitimate commodity chains. By looking at counterfeits – which have been framed by international organizations as one the main crimes of the twenty-first century – *this article reconsiders the idea that the criminal economy is a separate debate from the informal economy and demonstrates that they are precisely part of the same discussion.* The articulation of criminal and the formal/informal economy occurs for two reasons. 1) Ethnographical data suggests that which is meant to be an illegal product may be produced and sold in the realm of the formal economy, and that the opposite is also true: some legal products may be classified by law authorities as illegal. Throughout the social life of (an illicit) commodity, by means of objective and subjectivity evaluations, the legal status of goods, services, and processes will alter significantly. 2) At the level of global governance and state intervention, the very notion of the informal economy has been subject to criminalization in developing countries. The following section discusses how informality and criminality have been linked up in the twenty-first century.

The political economy of the criminalization of counterfeits and informality

The dualistic perception of the economy not only persists in the twenty-first century, but has been permanently refabricated in new and more complex forms, at the level of both state policymaking and global governance. This takes place in face of China's large presence in the global economy, on the one hand, and the strengthening of the intellectual property regime, on the other hand (Bird 2005; Johns 2011; Karaganis *at al* 2011). Thus, the need to revisit the well-established debate on legal dualisms from the perspective of the criminal economy emerges in a global context of increasing criminalization of Chinese counterfeits, as well as the processes through which they are traded.

For organizations like Interpol, the United States Trade Representative (USTR), and the UNDOC, the trade of Chinese counterfeits is placed under the same umbrella as several types of TOCs. A copied watch is perceived to carry the same degree of 'immorality' as the illegal trade of weapons, for example. In addition, the label 'piracy' offers little differentiation between disparate types of intellectual property infringement, such as trademark, patent, and copyright. Through this altogether ill-considered manner, counterfeits are described as dirty, dangerous, and potentially deadly (UNDOC 2010, 2014); a plague or a lethal virus from the developing world (Allun and Gilmor 2012). This description implies penal sanctions and social stigma will result from a wide and heterogeneous array of practices. Such a discursive normativity produces concrete impacts on the ground, as many developing countries accept the decree to employ greater police enforcement against piracy and informal street markets in order to avoid being excluded from international trade restricted circles, such as the Generalized System of Preferences of the USTR.

As a consequence, the criminalization process does not focus exclusively on what is considered to be illegal goods, but it also encompasses the means through which they are traded. As street markets across the Global South distribute so-called physical piracy and counterfeit goods, the intellectual property regime has paid close attention to the informal economy. The USTR Special 301 Reports have declared that street markets should be the primary focus of state enforcement against piracy in the developing world. The combination of the trade of illicit goods and the informal economy are thus associated with TOC. Some countries like Brazil have adopted this framework by linking informality with illicit practices, namely piracy and smuggling, and by deploying strong police violence to enforce intellectual property law (Castro and Mizukami 2013; Pinheiro-Machado 2017).

The criminal discourse maintains what Phillips (2011) called attention to a persistent distinction between a formal (or licit) 'core' and an informal (or illicit) 'periphery', which misleads the geographical profile of global informality (or criminality). The criminalization creates new economic and legal dualisms to respond to a process in which boundaries between the legal and illegal, 'core' and 'periphery', have become increasingly blurred. From the 1980s on, multinational enterprises have outsourced production to Chinese factories and benefited from labour flexibilization and decreased production costs. On the ground, multinationals and Chinese firms that

produce cheap and/or copied goods share the same space, and they enjoy similar economic advantages from informality. Consequently, the legal and moral degradation of informal street markets and the trade of Chinese goods – and the opposite, the upgrading of multinationals and brands from developed countries – are related less to the production process, or even the product, than to the different regimes of value, power, and legality that a commodity will face throughout its transnational itinerary.

RESEARCHING COUNTERFEITS FROM A GLOBAL COMMODITY CHAIN PERSPECTIVE

The purpose of this article is to critically examine the notion of criminal economy from the perspective of the legal dualism debate; as such, to examine the GCC of counterfeits is the method that enables the achievement of this aim. Studies on GCCs trace the different economic activities that are part of the commodity's history, such as design, production, promotion, distribution, sales, and consumption (Gereffi 1999). In particular, ethnographies on productive systems seek out 'the connections, stages, phases and hands through which a product passes and is transformed, combined, manufactured and distributed between producers and consumers' (Bestor 2001: 80). At present, both GCC and informality scholars have paid close attention to the multifaceted nature of the linkages between the formal and informal economies throughout the international circulation of commodities (Meagher 2013; Phillips 2011).

The study of the GGCs of counterfeits is a methodological choice for the ethnographical work because the global circulation of commodities uncovers the legal versatility that unfolds throughout the 'social life of commodities' (Appadurai 1988). Objects and processes *become* (il)legal, (in)formal, and (il)licit according to national and supranational regulatory regimes as well as according to authorities' evaluations. My multi-sited ethnography¹ sought a systematic approach to the GCC, looking at the totality of the world-system (Marcus 1995), and was meant to de-localize the counterfeits and to situate them as part of an interconnected global whole. For instance, a replica Rolex being sold by a street vendor who runs away from the police is part of global and hegemonic images crafted about fakes. As a result of the criminal discourse, that commodity is commonly assumed to be part of a segmented market: made in dark, hidden, and underground factories that exploit children in China. By tracking the Chinese origin of some products that I encountered in the informal street market in Brazil, my ethnographical data suggested a reality that diverged vastly from such imagery: a fake Rolex is the final product of a global and diverse assemblage that intertwines several regimes of legality. Illegalities emerge in the fissures of transnational paths, since a commodity may leave the factory licitly and formally but arrive in Brazil illegally.

¹ It is noteworthy that I did not research a single type of product, but I rather tracked a diffused set of cheap and/or copied commodities. The ethnography went deep into the nodes of the circuit (Ribeiro 2010), instead of opting for the constant mobility and verticality characteristic of multi-sited ethnographies that follow 'the thing'.

I conducted a multi-sited project through which three ethnographies were carried out from 1999 to 2014. I tracked a productive and distributive system from end to end: from Chinese factory to Brazilian street market via Paraguayan free-trade zone. This trade route formed in the 1980s and dealt with cheap, shoddy, and copied Chinese products. Several GCCs operated within it. The goods were produced in small- and middle-sized factories in Shenzhen, China, exported to Ciudad del Este, Paraguay by Chinese migrants, and finally smuggled to Brazil by Brazilian low-income traders (*camelôs*), who sold these goods in informal street markets known as *camelódromos*. The trajectory of the research process, however, started in the reverse direction.

From 1999 to 2004, I carried out ethnography at the *camelódromo* in the city of Porto Alegre and travelled with *camelôs* in their weekly excursions to Paraguay. I systematically followed the everyday routines of seven families and formally or informally interviewed 120 people, including authorized and unauthorized street vendors, shop owners, policymakers, and authorities. Afterwards, for ten months, during 2004 and 2005, I lived in the vicinity of the Brazil-Paraguay border to conduct ethnography in the shops of Taiwanese and Chinese mainlanders who imported goods from China. I also interviewed 17 police officers and other authorities who controlled the border trade. Lastly, between 2006 and 2007, I conducted nine months of fieldwork in factories and distribution centres for counterfeits and other cheap manufactured goods in the city of Shenzhen. I visited seven factories, whose goods included toys and watches, and interviewed approximately 50 people, including the relatives of my Paraguayan informants, other factory owners with whom I established contact by myself, and local authorities. In 2010, I returned to Foz do Iguaçu, Brazil for a follow-up field visit, and in 2012 I returned to Shenzhen for the same purpose. Finally, in 2009 and 2014, I returned to the field site in Porto Alegre. I conducted short-term but intensive ethnography to follow up with families I had formerly studied regarding a policy that formalized the street vendor market into a shopping mall.

LEGAL VARIABILITY

Under the umbrella of what I am calling legal variability are two different processes that I observed within the China-Paraguay-Brazil trade route. First, along the same chain, disparate legal statuses of goods and processes are combined with one another, which are related to the merchants' strategies for navigating through legal and illegal mechanisms. Such variation is related to objective criteria based on the regulatory framework that determines what is (il)legal, (in)formal, and (il)licit in each country. Second, some commodities suffer legal metamorphoses according to external evaluations. For example, a *Bolex* wristwatch may be considered a licit or illicit product, according to the place where it is traded. In this case, the legal criteria are more obscure and are subject to overlap between objective and subjective factors. Nations have different intellectual propriety laws; therefore, a commodity may leave China legally and arrive in Brazil illegally. But how is illegality perceived in Brazil? Beyond what is written in the law, illegality is ultimately defined by local authorities who subjectively evaluate the illicitness according to the national legal culture and power relations at

stake. With respect to the latter, in Brazil, the *Bolex* wristwatch will be judged differently depending on if it is sold in a formal or informal business. Lastly, it is noteworthy that, in many of the cases presented below, the very boundary between objective and subjective criteria is blurred. For example, when Brazilian authorities subjectively define that a Bolex is illicit when traded in the realm of the informal economy, they possess not only a certain level of legal support and/or ambiguity but also political and social legitimacy to do so.

Regulatory Framework

In the post-Mao era, Chinese labor laws, although evolving quickly, have been marked by an intensive outsourcing system and flexibilization of the workforce (Kuruville, Lee, Gallagher 2011; Lee 2007, 2008; Tomba 2003), which are legitimated by the central government. Additionally, China has historically neglected intellectual property rights to a greater degree than Western countries (Alford 1995; Dimitrov 2009; Mertha 2005; Potter, 2001). Brazil, the other end of the chain, has a rigorous labor law, but in recent decades the proportion of the population that works in the informal economy has consistently been close to 50% of the labor force (Malagutti 2000, IPEA 2016²). Paradoxically, although a vast number of people depend on informal employment, this activity has been historically marginalized and stigmatized at the Brazilian nation-building level (Oliveira 2003; Oliven 1980). The country has adopted strong law enforcement against intellectual property infringement (Castro and Mizumaki 2013) and has followed international recommendations, focusing on the repression of informal street markets. In Paraguay, Ciudad Del Este operated as an *entrepôt*. To this end, a state policy stimulated international trade by developing one of the most flexible free-trade zones in the world and offering negligible importation taxes that hovered around 1% (Toledo Piza 2017³; Rabossi 2004). In sum, in their differing roles as producer, *entrepôt*, or place of consumption, these three nations differ not only in their laws, but also in their political and economic interests with regard to trading Chinese goods.

From these brief points, it is possible to assume that the Brazilian, Paraguayan, and Chinese legal regimes towards illicit practices (i.e., smuggling and intellectual property infringement) and informal activities (i.e., non-regulated labour/trade) differ from one another in normative aspects. Each of these three countries has both a singular legal system (objective factors), and a unique interpretation of the law (subjective factors). Notions of what is formal and licit will vary among nations; so, too, do notions of what is socially constructed and perceived as morally acceptable. In addition, the ethnographic work suggests nuances within the nations themselves; contextual power influences the legal status of merchandise. This variation affects not only what is (il)legal within different national legal frameworks, but also what is *judged* to be legal by local authorities. Cheap Chinese products may be evaluated in a biased manner according to the person and the place where these goods are traded. Power and

² Report launched by Instituto de Pesquisa e Estatística Aplicada (IPEA).

³ Personal communication. Douglas Toledo Piza is doing a PhD (Sociology/New School for Social Research) about the tax systems of the free trade zones in Paraguay.

subjectivity also shape the legal aspects of certain products, and traders' morality responds to this.

The analysis covers three 'nodes of the system' (Ribeiro 2010): the centres of production (China), distribution (Paraguay), and consumption (Brazil). Based on business models I came across in my fieldwork in Guangdong, China, the factories all operated within the realm of the formal Chinese economy (LFB) in which licit merchandise is produced. Informalities may permeate the production system, including the infringement of labour rights, the neglect of safety inspections, and the insertion of a trademarked logo. However, a priori, the productive process is formal, legal, and licit. Once a commodity leaves a factory in China, the merchandise will encounter different regimes of legalities. There are endless possible arrangements and combinations among these eight legal statuses:

1. LIT: Licit International Trade
2. IIT: Illicit International Trade
3. LM: Licit Merchandise
4. IM: Illicit Merchandise
5. (I)LM: (I)Licit Merchandise = ambiguous status
6. LNT: Legal National Trade
7. FLB: Formal Local Business
8. ILB: Informal Local Business

In Paraguay, import taxes for the Ciudad del Este's traders are minimal, which has encouraged the legal conduct of international trade, including merchandise declaration. Many Chinese migrants in this study legally imported their merchandise from China and declared all of it (LIT). However, other migrants who possessed less economic capital declared just a tiny portion of their goods and smuggled the rest (IIT). Most of the migrant traders I contacted in my fieldwork had formalized their shops and employees (FLB).

In Brazil, street vendors (ILB) bought their products from a wholesale market in Paraguay and could declare their goods via the *Sacoleiro Law*, which eases the importation process from Paraguay for informal traders (LIT), although they generally smuggled their products (IIT) through a process known as 'ant smuggling', namely smuggling tiny fractions of products over the course of several trips. In the Brazilian criminal code, there are two types of smuggling, *descaminho* and *contrabando*. The former refers to undeclared licit merchandise (LM), and the latter refers to undeclared illicit merchandise (IM). Furthermore, many street vendors avoided the crime of smuggling (IIT) by buying their goods in São Paulo, that is, within national territory, which configures a Legal National Transaction (LNT).

In Porto Alegre, the street vendors were registered with the city government but worked in the realm of the informal economy (ILB), that is, they were legal from the point of view of government authorization, but illegal in terms of labour and tax regulations. Unlicensed *camelôs* (locally known as *ambulantes*) were illegal from both viewpoints. These two groups were intensely criminalized in twenty-first century

Brazil, especially after 2002, when Brazil was placed on the Priority Watch List of the USTR. The Special 301 Reports required firm action from the Brazilian government, especially on the Brazil-Paraguay border and in *camelódromos* (informal street markets). As a consequence, in response to local, national, and international pressures to enforce laws against piracy and the informal economy, these two groups of *camelôs* were formalized in Porto Alegre in 2009 and were allocated into a low-income shopping centre (then a FLB). This happened after an intensive process of criminalization of the informal street markets in the city, which was marked by frequent police crackdowns and daily news about the criminal nature of the informal street markets.

As a consequence of this context of criminalization, there was a great likelihood that legal merchandise (LM) could be considered illegal (IM) by local authorities, as the ethnography will discuss. In order to draw comparisons between the legal metamorphoses that merchandise and practices undergo, I also included two other economic formal actors (FLB) in the diagrams below: a dollar store (known as ‘\$1.99’) and a shop in a middle class mall. Some street vendors possessed stall licenses and also owned formal shops, so they traded the same merchandise through multiple legal channels.

Toy commodity chain

The Shenzhen toy factory in my ethnography exported products internationally. I had previously known that I would see counterfeits (IM) being made there. In my first visit, the owner made a great effort to show that everything in the factory was regularized; the internal migrant labourers received Shenzhen’s minimum wage and worked the number of hours that were permitted (FLB). I asked the owner Xin (then 27 years old) about the location of the *fake* products. He looked at me with surprise and mentioned that his main client was a famous Dutch brand of luxury teddy bears (LM). However, I later saw two identical boxes of teddy bears that were addressed to two different places: a Dutch company and a Chinese company. In both cases, the product left the factory without a brand label attached, which enabled Xin to work legally and without responsibility to intellectual property law. Chinese local inspection authorities, with whom he kept a close personal relationship (*guanxi*), visited his factory regularly and everything was considered correct. The exploitation of a couple of children, the assignment of excess work hours to employees, the use of cheaper materials than the ones that had been ordered – facts that I came across after some time in the field – were some of the invisible illegality that happened on the plant floor, but that that were hidden beneath a formal façade.

The factory was also licensed by Disney (LM) to produce a certain type and a certain number of Mickey Mouse dolls. Unlicensed versions of the same product were also produced using cheaper materials (IM). Beyond Disney teddy bears, the factory produced shoddy dolls that had a Chinese brand.

[Figure 1]

Figure 1 outlines several possibilities of legal variability throughout the commodity chain of a cheap toy labelled with a Chinese brand, which is a legal brand within the Chinese legal intellectual property repertoire, however this legality may be contested outside China. This is a typical type of low-quality and cheap product that was once traded in Ciudad del Este and in the street market in Porto Alegre by extension. Cases 15 and 16 are the most paradigmatic in the figure. They refer to an informal street vendor (IFB) who legally imported merchandise from Paraguay (LIT) or purchased it in São Paulo (LNT). However, the licit status of his product was contested, which does not happen in formal businesses. That trader could be the end of a chain that started in route 1; the entire formal, legal, and licit international cycle started in China but became illicit at the very end of the chain.

In Brazil, cheap Chinese products were criminalized as a result of global enforcement against piracy and the informal economy. In my interviews with a national authority in Porto Alegre in 2012, I was told that this type of product that was sold by street vendors was illicit *pirated* merchandise because it was a dangerous product and was often smuggled into national territory, a characterization that conflated illicit smuggling and illicit merchandise. Medeiros, among many other national authorities in charge of conducting the anti-piracy operation in Brazil, declared that smuggling and falsification were treated as synonymous in the policy-making realm (Medeiros 2005); the mere fact that traders practiced smuggling (IIT) transformed their legal merchandise (unbranded toys do not constitute intellectual property infringement) into counterfeits (IM), associating two distinct legal processes into an illegal bloc. This is the type of situation in which subjective and objective criteria are not clear to frame the legality of merchandise

In a 2006 interview in which I sought to learn about the route of goods that arrived in Paraguay, an official with the federal police from Foz do Iguaçu who oversaw the smuggling sector told me that everything that came from China was ‘bad and criminal’. When I asked her where the products originated, she said she did not know. During the interview, her colleague told me that they had learned about piracy through a series of lectures that Adidas and Nike had put on for them. Most of my interviews with officials and experts revealed a tremendous degree of ignorance about the commodity chain; this ignorance, in turn, reproduced a pasteurized view of cheap Chinese goods, counterfeits, smuggling, and crime – oftentimes all were considered synonymous with piracy.

On the other hand, in the first decade of the 2000s in Brazil, sunglasses, CDs, and cigarettes had greater associations with piracy than toys did – as a result of lobbying by these sectors. A Chinese-branded doll was considered less illicit than these products and had margins of flexibility in terms of its legality. Although the discourse encompassed all Chinese goods, most crackdowns specifically focused on the abovementioned products, following lobbying by the sector in question. Once, when I was at the stall of Chico (in his 30s), my main informant in the *camelódromo*, the local authorities came, aggressively threw some toys on the floor, and said, ‘This is all smuggled shit but today I will let them pass’.

Toys could sometimes be considered legal, sometimes considered illicit piracy. However, this legal vulnerability, which was subject to authorities' judgment and national interests, did not occur in the large toy shops that existed in middle class malls. Cheap dolls produced in China are found in these shops and nobody questions their legal status. It is assumed they are 'good' products because they are traded in a formal business. Between these two extremes – an expensive shop and a street stall – exists small commerce. Dollar stores, for example, are respected businesses in the local sphere and their merchandise is socially tolerated. According to this neoliberal meritocratic narrative, dollar store owners, unlike *camelôs*, are small traders who struggle against the Brazilian tax system, generate formal jobs, and deserve institutional support to grow. Yet in my trips to Paraguay with street vendors, I observed that half of the travelers were dollar store owners. Both street vendors and dollar store owners purchased the same merchandise from the same places and imported and/or smuggled them in the exact same way. Moreover, over the course of my fieldwork, I met many street vendors who also kept a dollar store to maintain a façade of legality. When the street vendors were formalized in 2009, removed from the streets, and allocated into a low-income mall, public negative narratives about street vendors' products ceased.

In light of these examples, it is possible to assume that it is business formality – and not product quality, safety regulations, intellectual property infringement, or the international transaction's legality – that shapes the legality of what is, in its origin, licit merchandise. This assumption is especially evident in case 5: a formal trader (FLB) who smuggled goods from Paraguay, and whose products may have come from route 4; the end of an IIT. Indeed, as a result of several layers of criminalizing discourse, cheap Chinese branded products are not automatically trusted worldwide, and consequently they are more vulnerable to subjective legal judgments, which produce different legal interventions.

[Figures 2 and 3]

Figures 2 and 3 refer to the type of Chinese factory I came across that was licensed to produce Disney products but also traded the surplus at a cheaper price. Licit merchandise includes a certain number of these pieces, which traded under the Disney license. Beyond this quota, the remaining products – which employed the same or cheaper materials – were considered illicit counterfeits. As a consequence of such similarities, it was nearly impossible to discern between the two versions in many wholesale shops in Ciudad del Este and São Paulo. Therefore, as Figure 3 shows, an illicit copy could smoothly circulate internationally.

From the merchants' viewpoint, in the three field sites, the criminal, the illegal, the 'fake' was always seen as an activity practiced by the other, the neighbor. Traders used their legal activities to accuse their competitors, for example. Factory owners inevitably complained about other businesspeople who did not use the same safe working conditions. Taiwanese traders and licensed street vendors denounced undocumented and unlicensed traders, respectively, for selling 'illegal products' of

poorer quality. This relationship with legality was not simply an elaboration to convince the anthropologist, but a manner through which traders distinguished themselves in a highly competitive market that is internationally known for its criminal dimension (see Pinheiro-Machado 2017).

In this fashion, most traders in Porto Alegre and Ciudad del Este did not consider their Disney toys to be fake products. In midst of the process of the criminalization of people and goods, traders maintained their own regime of value towards their merchandise. As the traders themselves were alienated from the production system, they strongly believed in the authenticity of their products. For example, Taiwanese traders built their identity and differentiated themselves from mainlanders by adopting a discourse related to the authenticity of their goods. The same happened amongst authorized street vendors, who often mentioned how ‘good’ their merchandise was, in contrast to the supposedly low quality products sold by unauthorized street vendors. Even the most experienced *camelôs* or Chinese traders themselves could not know if their Mickey Mouse was licensed or not. Indeed, the same was true for any kind of Disney licensed product; the fake and genuine versions were practically identical. To prove their legitimacy, many traders showed the label that displayed the licensed brand, but this meant very little, as the non-authorized copies could easily bear a similar label. Rui (then 62 years old), an experienced *camelô*, took me to the most expensive wholesale market in Paraguay and explained that his products were genuine because he purchased them in Paraguay’s most expensive shop, thereby proving that his stuff was ‘genuine good stuff’ – in his words.

As with the case of the doll, an enormous inequality is embedded in the classificatory regime of value of the same Mickey Mouse that is sold in both a formal shopping mall and an informal street stall. In both cases, as a result of a wide international chain, the product’s origin may be unknown, and informality will be a decisive factor in defining illicitness. For example, in cases 27, 28, and 29, an a priori licit merchandise could be considered counterfeit (IM) during intense crackdowns on the informal market. The situation changed after 2009, when the street vendors were formalized and normative control over their products diminished tremendously, but some consumers and authorities could still doubt the origin of the products. The opposite situation happened in the cases 34, 35, and 36, when the same product (a priori a counterfeit [IM])—which could have followed a route that was identical to the informal street vendor’s products—was never considered illicit.

Watch commodity chain

In the productive node of the trade route (i.e., Guangdong), I visited one of the biggest watch wholesale centres in the world (FLN). I found all types of watches, from expensive replicas (e.g., Rolex, Gucci, D&G, Cartier, etc.) to *shanzhai* – the cheapest type of copies that change a letter of the brand, such as Bolex and Cucci, which have controversial legal status and are sometimes labeled as a copy, sometimes as creative grassroots mimicry (Beebe 2014). Later, I visited the factory where these watches were produced and found a modern building that housed buckle production. The factory re-

sold the watches to another company, which I also visited, that produced the machinery and assembled several watch designs, according to client request. They sell watches without brand labels. The Chinese or international client that owns the trademark rights buys the watches through a legal transaction and then inserts their brand on the watch. Through this logic, any formalized small family-run business can legally order different pieces, bucklers, wristlets, and machinery, then assemble a watch themselves by attaching a (theirs or otherwise) brand to it. As a result, most of the productive chain of the replica Rolex or its *shanzhai* Bolex that I found in the wholesale market existed in the formal economy (FLB) in China.

The factory shown in the Figures 4 and 5 produces watch machinery and resells it to local dealers that assemble the final product. Like the toy factory, in principle, this is a formal business (FLB) in which informalities may permeate the production system. I will examine two types of wristwatches – a *shanzhai* and a replica – to further the argument about the ambiguity of certain Chinese-made products. Branded watches differ from Disney toys in that they are luxury goods that are made with unique materials and partially handcrafted. A watch replica, therefore, may succeed in the simulacrum but will rarely possess the same material properties as the genuine product.

From the intellectual property enforcement perspective, a Bolex watch (instead of Rolex) may be accepted as a genuine product by international courts. Nations will not necessarily accept requests from large corporations to follow the TRIPS Agreement when the infringement is not directly observable or objectively identifiable and for this reason, ‘it often fails to rise to the level of outright identical-mark-on-identical-goods counterfeiting’ (Beebe 2014: 849). In these cases, the margin for classifying counterfeiting is more negotiable and ambiguous. However, in recent years, large corporations have won the majority of intellectual property infringement lawsuits, alleging that *shanzhai*, even if not identical in form, cause commercial damage to a brand’s image (Beebe 2014).

Figures 4 and 5 showcase a factory that produces watch machinery and supplies it to local firms, who then assemble and attach brand labels to the watches. The legal path of the exact same products – made in the same place with the same materials – will differ according to the brand attached to it. The very same watch that possesses the Chinese brand Bolex will have several possible routes for transnational circulation, as a consequence of its ambiguity.

[Figures 4 and 5]

Figure 4 refers to a *shanzhai* watch, such as a Bolex. It shows that different regulatory regimes may operate when a Bolex is traded. The Bolex can be legally or illegally imported to Ciudad del Este and São Paulo [43, 44, 45, 46]. National authorities will not immediately categorize it as a counterfeit. Again, the formal status of the business may define the legality of the merchandise. I have encountered a Bolex watch (or a Cucci, Gartièr, etc.) in a fancy shop that traded ‘funky’, ‘gentrified’, and unique trinkets [47,48, 49]. The Bolex’s authenticity in that pricy place was not at stake,

even though it could have been smuggled from Paraguay [47]. It was re-signified and legitimized and seen as a humorous caricature. Consequently, it was also overpriced (USD 50 in 2011). In a dollar store, a *shanzhai* watch was just considered ‘shoddy’; it was neither overpriced nor enforced by local authorities.

Nonetheless, the very same watch, if placed within low-income commerce would receive constant legal scrutiny. The political and economic moment could alter its regime of legality. Similar to the doll and the Mickey Mouse, it could sometimes be considered shoddy, sometimes a criminal product [56, 58, 59]. Because of the overwhelming criminalizing discourse towards street vendors in twenty-first century Brazil, especially towards unlicensed street vendors – the most vulnerable economic actors in the studied chain and often described by local media as the middlemen of a broader mafia – regardless of what they sold or if they bought their products through legal channels, the overall attitude towards their merchandise was always related to harmful piracy [61].

The case of the Rolex replica (Figure 5) is less ambiguous. The replica may be legally traded as a licit product when the brand is not attached to it. Consequently, a great level of legal variability will be allowed. However, if the Rolex replica is assembled and exported from China as such, its transnational path will be much more limited and illegal. At the final selling point in Porto Alegre, the product could be illegally found amongst the unlicensed street vendors [66], and in the low-income commercial center [66, 67, 68] after 2009 (formalization).

Shops in a middle-class mall in Brazil could not sell Rolex replicas the way they could sell Chinese-branded toys and *shanzhai* watches. My main group of informants, licensed street vendors, did not sell Rolex replicas for this reason; they were expensive, a ‘clear falsification’. In 2009, however, after many years of pressure from an association of formal shop owners (*lojistas*), the street vendors were formalized and allocated into a low-income shopping mall, and became micro-entrepreneurs (FLB). This policy changed the nature of the products they sold. While one might expect that they would trade more licit merchandise (LM), the exact opposite occurred.

In my ethnographic research conducted in 2009 and 2014, I observed that the traders could not afford their rent prices if they only sold cheap trinkets, as the consumers who patronized the shopping mall were not looking for small items. In addition, they were highly encouraged by local authorities and economic institutions to stopping being ‘smugglers’ by avoiding Paraguay. As a result of these multiple pressures, but also as a matter of status as well, many traders bought their products in São Paulo (LNT) and abandoned smuggling from Paraguay (IIT). Some traders were replacing the shoddy trinkets from Paraguay with illicit luxury watches, replicas, and clothing from São Paulo. From the street vendors’ perspectives, to be legal meant trading more expensive and ‘fancy’ counterfeit products, which suggests that (a) authenticity is a locally constructed concept and that people’s understanding of the intellectual property regime is not linear (Vann 2006); and (b) formalization is merely a legalization of working practices, and does not predict any legalization of commodities.

, My return to the field in Porto Alegre suggested that formalization does *not* foster legalization at various levels; rather, formalization incentivized the trade of

counterfeits. This finding challenges the scholarly argument that illegal products will be traded in informal businesses. The unintended consequence of a major formalization and legalization policy, therefore, was the commercialization of illicit merchandise (IM). Now formalized (FLB), many traders do not practice smuggling (LIT) but instead sell illicit merchandise (IM), which indicates that the arrangement of legal regimes is plural, unexpected, and cannot be anticipated by simplistic dichotomy logics.

In short, the Bolex and the Rolex are the same product, when considering their material properties and origin. They primarily differ in the first letter of their brand name, which evokes different power disputes. Their regimes of value and their criminal statuses also differ radically. The international circulation of a Bolex is wider than the circulation of a Rolex replica because the former finds mechanisms for legal variability as a response to its ambiguity. The ethnography showed that a mere Bolex may be considered criminal counterfeit, shoddy product, ‘good stuff’, or ‘cool stuff’ depending on the perspective.

CONCLUDING NOTES

When I was preparing myself to do fieldwork in China, I watched documentaries and read several books (i.e., Naím’s [2010] *Illicit*) that discussed the harms of the counterfeit Chinese industry. They all presented a homogenous picture, such that I was convinced that my fieldwork would pose some risks to my personal security. This was a result of global imagery that has been produced by major organizations and Western mainstream media about Chinese cheap and/or counterfeit goods, which segments and criminalizes an economic sector that is actually plural. The separation of the counterfeit industry from the formal economy is corroborated by what Karaganis *et al* (2011) called ‘the magical numbers’, that is, the unreliable statistics about, on the one hand, the large profits made by such an economic sector, and on the other hand, the losses caused to the formal sector (see, for example, *The Economist’s* *Stamping it Out* 04/23/2017).

The ethnographical cases presented in this article reveal that a profit-making legal divide is a discursive fiction: the counterfeit market is actually marked by a significant level of formality. The premise that illegal goods are traded informally was not verified in the fieldwork. Genuine and fake products are part of an integrated economic dynamic through which money and goods circulate globally as a result of a process that outsourced the production line to China. By pursuing a systematic approach to the GCC of toys and watches, my research encountered great legal variability on the ground. This article attempted to deconstruct the notion of counterfeit as an illegal monolithic bloc. It demonstrated that several possible combinations of legal statuses existed along a commodity chain, and furthermore that some products had no fix legal definition a priori. Instead, merchandise suffered legal metamorphosis, becoming legal or illegal, according to the context.

Furthering the analyses presented earlier in the paper, I would like to draw attention to two aspects that explain the legal variability (though I am aware that many other aspects could be explored in this concluding section). First, from an insider’s

perspective, merchants usually opt for formal channels. Informality might be an option based on cost (Chen 2007), *but formality is a strategic and moral choice*. My informants, from China to Brazil, sought to maintain linkages with the formal economy to the extent possible, because: 1) increased formality avoided the high costs of illegalisms, such as lost merchandise; 2) in terms of reputation, they viewed themselves as legal economic actors, thus their trade identity comprised the formal practices they employed – not the illegal ones – because no one saw him/herself as a criminal subject.

Second, from an external viewpoint, *illicit was, to a great extent, determined by informality*, especially in respect to ambiguous products (i.e., products whose intellectual property infringement is not evident). Normatively, what is considered ‘formal’ and/or ‘licit’ in China, Paraguay, and Brazil differs according to the nations’ disparate historical paths, as well as economic and political interests. Beyond the normative disparity, the social construction of the law influences what may be judged by local authorities to be licit merchandise. Certain cheap Chinese merchandise is particularly vulnerable to subjective judgments and, consequently, to suffer legal metamorphosis. Thus, when considering the Rolex replica and the unbranded doll, the *shanzhai* products are empirically insightful because they cannot be clearly situated between the licit and the illicit realm. They may be licit in China where they are formally produced (and where the brand is registered), legally exported to and traded in Paraguay, but not immediately recognized in Brazil. The data suggested that the more informal the business, the more the merchandise tended to be judged as illicit by local authorities. Thus, although a *shanzhai*’s status is legally ambiguous, the effects of its criminalization, especially when traded in the realm of the informal economy in Brazil, is a concrete social fact on the ground. When the police arrive in street market and confiscate all the goods, there are no margins to negotiate the legitimacy of the products: they are all considered criminal goods indiscriminately.

Finally, definitions regarding formal and informal, legal and illegal, licit and illicit, moral and immoral are not static, but instead mutate in time and space. A GCC analysis of cheap and/or Chinese counterfeit goods unveils frictions across different national and intra-national legal systems, deconstructs legal and economic dualisms, and suggests more complex forms of linkages between formality, informality, the and criminal economy than are currently conceptualized in the literature. The figures presented here did not cease all possible interpretations about the legal variability that exists in these commodity chains, but rather open a methodological path to critically analyse the social life of what has traditionally been considered criminal goods.

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