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FORMLESS: A Day at Lima's Office of Formalization

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> For academic men to be happy, the universe would have to take shape. All of philosophy has no other goal: it is a matter of giving a frock coat to what is, a mathematical frock coat. On the other hand, affirming that the universe resembles nothing and is only *formless* amounts to saying that the universe is something like a spider or spit. ["Formless," Georges Bataille]

I wonder if Georges Bataille, had he lived to see the aftereffects of the worldwide urban revolution of the 20th century, would have thought to include the phenomenon of informality among the cases he mines for "data" in the first volume of *The Accursed Share* (1988). The place of his attention could have been any African conurbation or any Central American or Andean megacity, like Lima, where in the last few decades millions of new immigrants have drastically remade the national economy by turning the defiant ways of informality into the normal way of doing business.

There, in Lima, two well-known hubs of informal commerce are the markets of Mesa Redonda and El Hueco, south of avenida Abancay in the heart of downtown Lima. It is impossible to say with precision where Mesa Redonda begins and ends because the market expands over hundreds of *galerías* (multiple story buildings) and *campos feriales* (semi-enclosed fairgrounds) within an ill-defined, fluctuating cluster of city blocks flooded with shoppers, vendors, performers, private security guards, and loaders of merchandize pushing their dollies towering with boxes into and out

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of the market. El Hueco, or "The Hole," is a campo ferial inside an enormous hole dug out in the 1950s to lay the foundations of a state building that was never built. In 1997, after thousands of street vendors were forced out of the area, the government, to avoid social unrest, allowed them to relocate into a temporary structure inside the vacant hole; they never left. Today, the two adjacent markets constitute one of Lima's main poles of informal wholesale distribution and retail, over which state and city authorities have little control. In 2001, a ravaging fire, which was sparked inside an informal fireworks depot in Mesa Redonda and killed almost three hundred people, was followed by a few timid crackdowns and, in a sign of utter defeat, by the city's decision to shut off the area to car traffic to make room for the overflow of people and things. Throughout the year, although police are visible on street corners, their presence is erratic and their attitude is of resigned indifference.[1]

I began my regular visits to these markets in the local spring of 2009, just as businesses readied for Christmas and the sun broke through Lima's gray skies for the first time in months. It is difficult to convey the thrill: crossing avenida Abancay and leaving the Centro Histórico behind—Lima's center of political power—to join the throngs on the other side, walking elbow to elbow along contrastingly crowded and unkempt streets, failing to separate the actual experience of the place from the representations of it in the media as dangerous, full of thieves and scammers, the buildings ready to crumble at the slightest earthquake and always on the brink of a devastating fire, but—like everyone else around me—also enthralled by the abundance of things for sale and by the promise of unparalleled bargains.

Stepping from the street into the galerías and campos feriales was to step from one kind of tumult into another: Inside, along slender corridors are rows of vending booths, as many as each space will fit, crammed full, as if compelled by some sort of *horror vacui*, with things arranged in busy, colorful displays. It was like walking into a gigantic, sense-amplifying kaleidoscope in which the sights blended with whiffs of smell from the food stands and blasts of music, dialogue tracks from DVDs, and live singing. The great majority of these businesses function without an operating license, and their layout and content change constantly and not always predictably. Overnight, the stands inside can merge or split or move locations, driven by sudden expansion, the need to evade the fiscal police, or whim; they can change lines of business, sometimes several times a year, from clothes or shoes to Christmas lights and ornaments, to back-to-school supplies, at times challenging the rules governing the issuance of licenses. The markets' plasticity, however, does not stem from a complete absence of organization: Invisibly linking each and

every stand are powerful but loosely structured and changeable social networks and associations, held together at any one point as much by strong reciprocal obligations as by greed, competition, and mistrust. These networks are what make these markets what they are, what sustain them, and, at the same time, what limit their productivity and growth (see Aliaga 2002a).

Given Bataille's lifelong project to develop an economic theory that had consumption (in contrast to production) at the center of its analysis, this is what he might have found to be irresistibly appealing about informality in Lima: its freedom of form and its subordination of profit to the preservation of this freedom through webs of reciprocal obligations and forms of consumption that limit the accumulation of wealth. Informality in Lima would have figured in *The Accursed Share* as one of those unavoidable "detours of exuberance" (1988:13), whose ultimate effect is the profitless expenditure of surplus. It would have appeared as a collection of countless operations charged with a task: to defy the forms of state institutions and bureaucracy and to implicate them in the squandering of resources, exposing informality as not so much a status (legal or social) as a modus operandi against bourgeois form and efficiency, such as these align with received notions of a rational state.[2]

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Mario Jiménez couldn't repress a chuckle when, trying to make a point about the far reaches of informality in Lima, he disclosed that even his office, the formalization division at Lima's municipal government, operates without a proper safety certificate of INDECI, the national institute for civil defense, in charge of enforcing the building code. The elevator in the city-owned building reaches only the ninth floor, so to get to Mr. Jiménez's office in the tenth-floor attic, you must climb a slim staircase that leads up to a large, low-ceilinged room partitioned by wooden dividers into several cubicles. Obtaining an INDECI certificate is a required step in the process of "formalization" currently advocated by the city government, and it is clear that this office would most likely be turned down if it itself were to apply for one.

Mr. Jiménez and I sat inside one of the cubicles around an old institutional table, talking and waiting for César Miranda, the head of the office and one of my main interlocutors, about the informal markets that I was studying and he was bent on formalizing. Mr. Jiménez is a veteran municipal employee, with, to be exact, 30 years in the city government under his belt. He had been part of a number of urban renewal and reordering programs, including Mayor Alberto Andrade's project of

"recuperation" of Lima's historic districts (1996–2002), which have been for the most part dismantled. He spoke animatedly, if bitterly, about how, under Andrade, he helped formalize 1,385 street vendors in the historic districts by providing them with operating licenses and affixing their stands to specific street corners. "But now, none of this is left," he said, shaking his head. "There hasn't been continuity. [The vendors] do whatever they want, keep their merchandize everywhere, mess up [the streets]."[3]

Leaning back in his chair, Mr. Jiménez's portly torso stuck out from under his sports jacket. Through feelings of frustration, he told stories that betrayed deep knowledge of municipal history and the conviction that regulations to organize economic activity in Lima do not work because of legal and bureaucratic inefficiency. "There are always negative [functionaries] who complicate things," he said, "and there are barriers that are much too high" for those seeking to start a formal business or obtain any kind of license.

I asked him if he believed, along with Hernando de Soto, the Peruvian economist and author of the 1986 bestseller *El otro sendero: La revolución informal*, that "bad laws" and bureaucracy are the main causes of informality. "Bureaucracy *is* a problem," Mr. Jiménez said. "We have to eliminate all obstacles." And he proceeded to illustrate with the following story the kind of entanglement with the law it is impossible to avoid in a place like Lima: He had recently bought a piece of land east of the city to build a country home. The municipal district was taking too long issuing property titles, and the property title is required to obtain a construction license. Facing the possibility of having to postpone construction indefinitely, he proceeded to build without a permit but also following the building code to the letter to avoid trouble. He had just finished building the house when the building code changed and now demanded that all walls be at least five meters removed from the sidewalk. But the house was already built! Existing homes were, of course, exempted from the new rule, but since he had built without a permit, the home didn't really exist according to the district's public records. He was still working to get out of this one.

Mr. Miranda finally arrived. He had been caught up at the SUNAT—the national tax collection agency—paying a fine for failing to turn in an affidavit along with his tax payments for two rental apartments he owns. "People I know who also have rentals ask me why I even bother paying taxes," he said. He said he just has an inclination to do what's right and prefers to ignore suggestions that he is a dupe, the sort of which state bureaucrats love to take advantage.

Mr. Miranda recalled that he and his wife once lived in a house inside a *quinta* (gated compound) in Lima. “Only a few of us in the *quinta* would regularly pay the common charges,” he said. He and his wife were by no means well-off, but they made a point to pay. Others would be permanently behind. “They said they had no money, but you would see them walking around with cell phones; you would see TV satellite dishes popping out of their windows.” He said, “*Es la cultura del perro muerto*—the culture of the dead dog,” referring to the widespread belief that Limeños love to get things for free by playing dead, by pretending to be unaware that they are not paying: A guy goes out to dinner with friends and gets up to go to the bathroom an instant before the check is handed out. *Perro muerto*.

Mr. Miranda has a degree in business administration. He is tall, a bit gangly, and around his mid-forties. He wears slacks and a button-down shirt with rolled-up sleeves. He speaks confidently but also hastily and erratically, as if he were contending with too many ideas at once. The first time we met he warned me about his rambling thoughts, his tendency to digress. But if his speech is jumbled, it is also intelligent and frank, and I had a feeling from that very first conversation that I was dealing with a rare specimen in the world of state bureaucracy.

“But enough of this. On to what you’re here for,” Mr. Miranda said, apparently failing to see the connection between his office’s responsibility—to persuade thousands of informal vendors in downtown Lima to pay for a business operating license—and the experiences he had just recounted. “What do you want to talk about today?”

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More than what the term *formless* means, Bataille was interested in what the term *does* to the things it is meant to designate. To say that something is formless is to debase it, to bring forth a kind of deformation that links it to things in this world that we despise and fear for the challenge they present to our language, structures, and systems. To call something formless is not to say that it lacks or opposes form (Botting and Wilson 2001:7). It is to recall what our structures and systems produce and suppress as they impose order in the world and to affirm this as capable of breaking or deforming those structures and systems from within their limits. In social terms, formless “testif[ies] to something in excess of regulative and homogeneous forms,” an excess that explodes sense and system through their “intense and incomplete movement within and away from governing structures” (Botting and Wilson 2001:2–3, 7; see also Bois and Krauss 1997).

Social science scholars in Peru, however, have interpreted the emergence of informality as an important social and economic force in precisely the opposite

terms. In their accounts, informality exerts a pressure from without: It expresses a demand for enfranchisement, a desire for inclusion from the margins of formal society, and an assertion of citizenship rights in contexts where the state is unable or unwilling to expand its benefits or to expand access to the circuits of the modern economy. The idea that informality is a demand for inclusion—Eliana Chávez calls it a "modality of insertion" into the system (1990:81)—is today largely an unquestioned assumption. In an early rendering of this idea, Hernando de Soto writes:

> The greatest hostility the migrants [from the highlands] encountered [in Lima] was from the legal system. . . . It was tremendously difficult for them to acquire access to housing and an education and, above all, enter business or find a job. . . . The migrants discovered that . . . the system was not prepared to accept them, that more and more barriers were being erected against them, that they had to fight to extract every right from an unwilling establishment. . . . [This is] how *el Perú profundo*, "the unknown Peru," began a long and sustained battle to integrate itself into formal life. [1989:11–13][4]

But understanding informality as a state or system failure assumes confidence in the state as a rationalizing entity, assumes confidence in the idea that the Peruvian bureaucracy is capable of incorporating every economic force or entity into its system. It assumes, in other words, a narrow vision that Bataille would characterize as a "restricted" view of the economy for its reliance on the principles of rationality, productivity, and utility to the exclusion of forms of sociality and economic behavior not wholly governed by these principles. This restricted view is one of political economy as well as of many theories critical of it, including Marxism, which tends to exclude from its analysis déclassé or subproletarian forces for their lack of class consciousness and discipline and their opposition to bourgeois sensibilities (Bataille 1985c; Mehlman 1977). Against this limited perspective, Bataille worked to formulate a "general economy" that countered such emphasis on rationality by attending to the social and economic forces that defy productivity and contaminate bureaucratic form, that is, by attending to the excesses that cannot be systematized and that produce value—Bataille's accursed share—that must be lost despite all attempts to regulate it (1985c, 1988).

Bataille was interested, then, in the power of formless to summon the force of base materiality, which is unassimilable to the principle of utility. In its undoing of form and formal categories, formless, like base matter, is "foreign to ideal human

aspirations, and it refuses to allow itself to be reduced to the great ontological machines resulting from those aspirations" (Bataille 1985d:51).

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Avenida Abancay is one of two main thoroughfares cutting across downtown Lima and connecting, through impossibly congested intersections and bridges over the Rímac River, the large and densely populated southern and northern districts of the city. With its hundreds of informal buses and microbuses inching through it all hours of the day, picking up and dropping off millions of travelers, Abancay and its adjacent streets are a holdout of informal vending in the downtown area. There, it is still possible to see, in all its effervescence, the kind of entrepreneurship that inspired de Soto to argue 25 years ago—just as Sendero Luminoso was ravaging the countryside and threatening to take over the capital—that the most radical rebellion against the status quo in the history of the Peruvian republic was actually already taking place, in front of our very eyes, in the streets of Lima.

I remember when de Soto's book came out in 1986. Other works had already advanced some of its main arguments—that economic informality amounted to a revolution, for example—but these works were mainly academic and had therefore a limited reach (Matos Mar 1984; Grompone 1984). Conversely, *El otro sendero* was written to be a book with commercial appeal; it sought to speak directly to the urban middle classes, who were only now waking up to the reality of a city transformed by migration and the violence of Sendero, as well as to the urban poor and working classes who, largely through the book's well-publicized arguments, would soon learn that their businesses, their homes, their aesthetic taste, their mode of being in the city, and, alas, their very persons were "informal."

De Soto's main argument was that, beginning in the 1940s, immigrants in the city had arrived by the millions, full of energy and ideas, only to find no jobs and endless hurdles to their business initiatives. The cause of these hurdles was, primarily, the degree of politicization of the law. Peru's economy was dominated by powerful economic interest groups whose aim was to influence the production of laws in their favor. This had resulted in a plethora of particularistic and contradictory norms that made creating and running a formal business absurdly costly and impractical. De Soto argued that this politically managed economy was not a capitalist economy; it was the direct legacy of mercantilism, the system that Spain had imposed in the 16th century in its American territories. It was against this mercantilist system, with its networks of privilege and its tangled edifice of laws, that "the informals"—*los informales*—had mounted an insurrection.

The insurrectionary character of informality was not just affirmed in *El otro sendero*; it was also conveyed in the tone of alarm that crept into de Soto's descriptions of millions of immigrants disrupting the existing order with their radically new ways of being urban in the city, their strange music, the strange smells rising from their sidewalk stoves, and of the upper and middle classes retreating in fear and disgust behind fenced-in homes and compounds. From the book's opening pages, one gets a sense that informality had, in de Soto's view, done much more than just transgressed the limits of the law. The informals, he wrote,

> have openly disobeyed the law and defied institutions, creating a breach through which the rest of society is also deserting the formal sector. As the informals have advanced, the Peruvian state has fallen back, viewing each concession as temporary, "until the crisis is over," when in fact it is being forced to adopt a strategy of steady retreat, a retreat that is gradually undermining its social relevance. [1989:13]

At its most basic, de Soto defined informality as "the use of illegal means to satisfy essentially legal objectives" (11). This definition would later be echoed by other, more comprehensive characterizations that stressed informality's avoidance of regulation (e.g., Centeno and Portes 2006). But critical to de Soto's argument was that businesses' extralegal status mattered because it made them inefficient and wasteful, in his words, generative of "tremendous losses" (152). Informality created for businesses risks (of detection and sanction) and costs (to avoid detection and sanction) that, in turn, made it nearly impossible to access credit. This resulted in inadequate capital/labor ratios, low levels of productivity, and a general wastefulness that could lead only to underdevelopment (see Centeno and Portes 2006 for a left-liberal, but largely concurrent, perspective).

De Soto argued that individuals who resorted to informality had no other real choice, that given the chance through efficient or "good" laws, they would formalize in a heartbeat. Two decades of legal reform following the publication of *El otro sendero*, however, have led to a trend that is less one of massive incorporation into the state's regulatory apparatus than, as described by de Soto in the quote above, of growing "informalization" of the law and the state apparatus through legal concessions and more flexible regulations, a sort of hemorrhaging of formality through the gaps created by informality's continual breaches of the law. De Soto's ultimate inability or reluctance to recognize the real scope of this hemorrhage partly explains his deeply frustrating experience entering government in 1990 under Alberto Fujimori.

But what did de Soto mean by *formality*? In the Peruvian context, what exactly is form?

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As I had done before, I asked Mr. Miranda to proceed with what he would do on a regular day, and he called his team to a meeting to plan the day's outing. Mr. Jiménez and the rest of the team stood around the table, and Mr. Miranda pulled out a chart that listed the markets in Mesa Redonda that were somewhere on the path to formalization. He went down the list with his finger, summarizing the status of each business:

> Galería El Milagro is 18 stands, but they include four *cantinas* [bars that expend alcohol]. They cannot obtain a license until they close those cantinas.
>
> Campo ferial El Umbral needs to renumber the stands because a few of them have merged. The vendors refuse to change the numbers.
>
> Campo ferial El Hogar has built, without permission, an internal passageway to the market behind it. They have to close it, or the markets will have to apply for a joint safety certificate.
>
> Galería Las Américas has acquired corporate status and their INDECI certificate, but they do not want to apply for a license. "We just don't want it," they say.

Mr. Miranda paused to tell me about some imported, secondhand leather jackets he had recently seen at Las Américas. "Your eyes pop out," he said excitedly when a visitor was announced. It was Hilda Quezada, a stand owner at Galería Adonis on jirón Azángaro. Ms. Quezada had volunteered to process the galería's corporate license and wanted to inform Mr. Miranda of her progress.

Galería Adonis—"everything having to do with beauty," Ms. Quezada informed me—is made up of beauty salons and supplies stores. The salons, which require a regular and abundant supply of water and electricity, are not all outfitted with sinks and meters. Ms. Quezada spoke of the difficulties of exacting payment from businesses to cover common electricity and water charges. With these difficulties, imagine an attempt to exact payment for things that, compared to running water and power, salon owners deem superfluous. The businesses had agreed to obtain an operating license, but when she approached them to collect the fee, they refused to pay. Ms. Quezada was frustrated. Only when she resorted to an extreme measure and ordered the security guards to shut down the galería during

peak hours did she see some money trickle in. They became angry and said to her, “Who do you think you are, the owner [of the galería]?”

Business owners do not like paying, Ms. Quezada said. “It’s understandable [not wanting to pay fees] when the person is just starting,” she said, “but later . . . ” Her statement ended with a gesture that suggested something that is obvious to anyone walking in the vicinity of avenida Abancay, that most of these businesses are anything but hurting for revenues. “They don’t want to pay,” she said again. “However, there is never a problem collecting enough for their patron saint feasts and their business anniversary parties.”

This was not the first time I had heard that complaint nor would it be the last. On another occasion Mr. Miranda said to me, “These vendors have money. You go to their parties, and you don’t believe your eyes. They celebrate their anniversaries, go all out for the parties they hold for their patron saints. They are great devotees, and what they donate! I think I have an invitation here,” he said, scrambling through his desk drawer. “They list the donations on the invitations: 30 cases of beer, 50 of this, 50 of that,” he said. He said that for the parties thrown by the vendors on avenida Argentina, the organizers block off the road, and, in shocking contrast to the real or imagined poverty of the individuals running the stands, the vendors have an all-out extravaganza. The Backus Corporation, the largest producer and distributor of beer in Peru, donates the assemblage and use of a stage—an incentive, we can assume, for the large quantities of beer the attendees to the party will consume; this is, Mr. Miranda said, if the vendors do not opt for renting a more expensive indoor facility for the occasion. These are the same vendors who, time and again and often with a straight face, will tell city authorities like Mr. Miranda that they do not have enough money to pay for a license.

When a few months later El Hueco’s yearly newsletter for 2009 came out, it reported on 11 celebrations that had taken place in the prior 11 months, including parties with live music to observe Worker’s Day, Mother’s Day, National Pledge of Allegiance Day, Father’s Day, and Women’s Day. The festivities included a soccer championship with 17 teams that competed for two trophies and culminated in a closing ceremony with a live orchestra as well as a number of October celebrations marking the month of El Hueco’s patron saint, the Lord of Miracles. The newsletter reported that, during the city-wide procession, the shrine of the Lord of Miracles was met at the market’s entrance by a 20-square-meter carpet of flowers paid with donations by the vendors, whose names were made public during the ceremony (Cooperativa 2009).

This is a continual source of confusion for officials like Mr. Miranda: the fact that life at these markets seems to transpire according to two incompatible sets of values—Larissa Lomnitz speaks of "rival ideologies" (1988)—whereby vendors act guided by a shrewd understanding of market rationality and a strong work ethic and, at the same time, by ideals that seem inimical to that rationality and ethic. The daily reality of productive labor with the goal of accumulation coexists not just with a high tolerance for uncertainty and risk (the risk of total confiscation, for example) but also with a proclivity to spend lavishly for moments of collective effervescence. (Note that the events described above are for stand owners and vendors only and have no obvious promotional ends.)

This fluctuation between ebbs of production and flows of expenditure, in which the stress is on spending and feasting, rather than on profiting, is at the core of Bataille's critique of political economy, and it must be understood as partaking of the Maussian logic of the gift, in which self-interest mingles with selflessness, obligation with freedom, and calculation with abandon toward forms of consumption that, importantly for Bataille, are fundamentally collective in character.[5] Bataille's critique is a radical amplification of this logic as well as of the "substantivist" views that it helped spawn among economic anthropologists like Marshall Sahlins in the United States and Lomnitz in Latin America, for whom economic behavior is always socially and materially embedded. Not rooted in abstract principles like rational choice nor reducible to productivism, these forms of nonproductive expenditure are linked to types of sociality—solidarity or rivalry, for example—that are often incompatible with the instrumental rationality assumed by de Soto, Portes, and the broader (neo)liberal project of deregulation that has dominated economic policy in Peru in the past two decades.

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Keith Hart, the anthropologist who authored the 1973 paper from where International Labor Organization researchers first borrowed the concept of "informal economy," was concerned with the question of form at the outset. The focus of his paper was the economic strategies of immigrants in the city of Accra, including nonwage labor and activities undetectable by conventional economic instruments. Hart resorted to Weber's theory of rationalization to distinguish these types of work from those measurable by economists: For Weber, capitalism relies on a specific mode of rationality that he calls "formal rationality"; this is "formal" in that it depends on abstract laws promoted by the "rational state" to make all operations calculable and predictable (1981). Hart's nomenclature—formal/informal—which made a splash in the development and academic worlds, arose from a reasoning of

this sort: If businesses that run with some measure of bureaucracy and recruit labor on a regular basis and for calculable or fixed rewards can be said to be "formal," then, by extension, enterprises and types of work not organized in this way must be "informal" (1973).

Later, in a 1987 economic dictionary entry, Hart expounded on this: Form, he wrote, is "what is regular, predictable, reproducible, and recognizable"; it is "the presumptively invariant in the variable—'presumptively' because what is held to be invariant (the rule) is rarely so in practice" (845). What we call "formal economy" and employ as a point of reference for informal economic behavior is thus really "whatever passes for regularity in our contemporary understanding, here the institutions of modern nation states, the more corporate levels of capitalist organization and the intellectual procedures devised by economists to represent and manipulate the world" (845). Labeling something "informal" is, in other words, merely our way of indicating that it escapes these ways of representing reality; it is our way of contrasting it to what we have come to imagine as the formal, normative organization of our economy. While informality is assumed to be "irregular, unpredictable, unstable, even invisible," it does not really exist as such in any empirical way. It is that which we cannot control or comprehend from the vantage point of and with the instruments afforded by normative organization (846).

The issue of form—which I am certain is also at the heart of de Soto's concerns—was, however, neglected in *El otro sendero* in a fundamental way. Early in the book, de Soto explains that informality is not a precise or static sector of society easily contrasted with formality; it is, rather, only a "shadowy zone which has a long frontier with the legal world and where individuals find refuge when the cost of obeying the law outweighs the benefits" (12).[6] Like Hart, de Soto states that individuals are not informal—their deeds and activities are. But in his desire to positively capture that "shadowy zone" and elucidate it for his readers, de Soto's argument in the rest of the book relies on an ostensibly identifiable, but by his own account completely fictional, group of people: "the informals," whom he puts at the helm of the revolution against the "formal order," where "the formals" belong.

This is more than a problem of reification. The terms de Soto employs throughout the book work powerfully against the argument he so doggedly develops, which is that Peru has never really had a capitalist economy and has never really had a formalistic legal system. It is from this argument that a more complex and persuasive picture emerges: not that of two, more or less distinct "formal" and "informal" worlds in some way interlocked with one another, but that of two forces within the economy, one pushing toward Weberian form and the other toward Bataillean

formless, coalescing and colliding in a frenzy of mimesis and contagion that produce social and material realities unassimilable to one another.

In de Soto's picture of 1980s Peru, entrepreneurial success is completely dependent on political favoritism. Ninety-nine percent of laws are produced by the executive branch disregarding formal legislative procedures and avoiding democratic consultation, and they are produced in response to particularistic concerns and private economic interests. Few of these new laws are ever made public through the usual channels, and many of them sustain regimens of exception, engendering countless little autonomous worlds operating legally outside the law.[7] Law production, in other words, functions as a region of confluence in which initiatives within government to move state bureaucracy toward Weber's "rational state" encounter all sorts of particularistic claims and demands for concessions. These often imitate informality's techniques, regulations, and modes of action and evoke what de Soto refers to as the "mimetic state" (55).

This state of affairs, which de Soto traces back to before the inception of the Peruvian republic, came to a head when Alberto Fujimori became president in 1990. His victory was itself made possible by the outright support of "the informals," a term now usually mapped onto the urban poor and subproletariat, who, many argued, had by then become an important political force (e.g., Grompone 1991). In this event, de Soto saw an opportunity, and, shortly after the elections, he became Fujimori's principal adviser and personal representative. In this capacity, de Soto oversaw a number of programs for legal reform following the recommendations outlined at the end of *El otro sendero*: procedural simplification, decentralization, and deregulation. But once his programs had become part of the Fujimori state machinery, they were put to work to secure votes during the reelection campaign of 1995. The relationship between Fujimori and de Soto soon soured. But by 1996, when de Soto fully stopped overseeing government programs, his ideas regarding simplification and deregulation had been so widely embraced that, despite their political inflection, they were adopted by subsequent governments as what is merely reasonable to do. Mr. Miranda's formalization program with the city government was part of the legacy of de Soto's and the Peruvian state's brief but total mutual embrace.

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Mr. Miranda and the rest of the team put on their official bright-yellow vests and headed out of the office. We would start at El Umbral in Mesa Redonda. You could see, as we walked across Abancay, countless looks surreptitiously turning away to avoid coming into eye contact with the vests' bearers; sometimes, only a

slight, nearly imperceptible stiffening of limbs betrayed the sudden discomfort the presence of these men generated in this area of the city.

At El Umbral, a man called Señor Víctor, the new president of the vendors association, welcomed and shook hands with all of us. El Umbral's vendors association was officially registered with the city in 2002, but a series of rulings and appeals documented in a 2005 Mayor's Resolution gives an idea of the sinuous, hesitant path toward formalization the vendors have taken since the beginning, managing to avoid closure but also full compliance with the law. Señor Víctor had been recently voted in as president, but as is typically the case with vendors associations, he had no real representational power: All decisions, even those as small as the renumbering of stands, required a full roster of signatures of stand owners. Because their main function is of a defensive kind, vendors associations kick into full gear mainly when threatened by the municipal government. At other times, they tend to become diffused, suspended by inaction or disagreement, eagerly coalescing again only around feasts and recreational events (see also Aliaga 2002b:24–25).

Señor Víctor proceeded to shut down the market's two doors—"otherwise, no one will show up," he said—to force vendors to gather for a meeting with Mr. Miranda. A small crowd assembled in the dim space among stands overflowing with Christmas ornaments and packed with DVDs—pirated DVDs—whose bright cases were masterfully displayed to get your attention and never let it go. A single beam of natural light shone from an opening in the ceiling onto Señor Víctor.

"Compañeros!" he called out in the style of the labor union leadership of the past. "Mr. Miranda is here to explain why we have to change the numbering of our stands in order to obtain a license." He urged everyone to have an open mind and give Mr. Miranda the benefit of the doubt. "Please listen first, compañeros; then you will be able to ask questions. Thanks, compañeros!"

Projecting his voice forward, Mr. Miranda addressed the vendors. But rather than explain why they needed to renumber the stands, he emphasized the harmlessness of the measure and its insignificance in light of the newly granted opportunity to obtain a license. "We managed to convince the mayor to do away with regulations demanding unrealistic things of businesses like yours," he said. Until a year ago, a law had required that campos feriales—which operate out of pre-fabricated structures—had to build a permanent one in order to formalize. Bound by those regulations, there had not been much Mr. Miranda could accomplish in the way of formalizing businesses short of the gargantuan task of tearing down and reshaping the entire informal commercial world of downtown Lima.

"Can you imagine having to do that? It would be the end of El Umbral as we know it! But you don't have to do that anymore," Mr. Miranda said, referring to the city's decision to amend the law and, in the name of simplification, extend the benefits of the formalization program to markets like El Umbral.

"I'm in this office only one more year," Mr. Miranda said, "and I can't promise the regulations will not change again after that." (Mayoral elections were scheduled for October 2010.) "But I can promise you," he continued, "that if you acquire an operating license now, it will not be taken away from you. This is not a temporary license but a definitive license!" he said keenly, almost fervently to the crowd, where several people now nodded affirmatively.

Two or three questions followed, including one by Señor Víctor: "With all due respect," he said to Mr. Miranda, "I am concerned about some paperwork I've initiated at the courts claiming two stands neighboring mine that have been abandoned by their owners, and the paper trail refers to them with their current number. What's going to happen when the numbers change?"

"The old numbers will appear in every stand below the new ones . . . so there will be continuity," Mr. Miranda explained, his voice trailing off as someone standing behind me muttered under her breath, "Abandoned by their owners! Ha!" in a way that was meant to be heard by those around her, including me. Chuckling, she said, "A *ratero* is what he is!—a thief!" asserting that Señor Víctor's claim on the stands was anything but legitimate.

I turned to her. "Everybody knows that," she said to me, eliciting quiet nods of approval by other women. She was the former president of the vendors association. "A much better president," one of the other women said as they continued to level their accusations at Señor Víctor in the bitterest, but also vaguest, of terms. "A complete thief he is," the former president said again.

Wrapping up the visit, Mr. Miranda exhorted the vendors to help Señor Víctor meet the cadastre office's simple request. But the animosity toward him from other stand owners made it seem like a daunting task.[8] The doors to the market were rolled up again. It was getting hot. Mr. Miranda, his team, and I rejoined the throngs outside.

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In a way it is surprising that de Soto did not make more of a connection between the notion of "state mimesis" and his ideas of simplification and deregulation because what he proposes, time and again, is that informal norms and organizations be used as models in our efforts to devise procedures that will work. He writes,

> It is necessary to find inspiration in what works. . . . We must draw on [hay que beber de] [informality's] extralegal system which . . . is respected by the majority of the population. . . . The spontaneous generation of extralegal norms by informals have initiated a reform of the status quo, pointing the way that legal institutions must go if they are to adapt to new circumstances and regain social relevance. [1989:298–299]

In another way, it is not surprising that de Soto failed to see the connection between simplification and deregulation and state mimesis because it would have brought out the irony of encouraging state bureaucrats to "drink up" from informality's extralegal norms and cast simplification as rather an excellent instance of the formless doing its job of deformation. It would have instead cast simplification and deregulation—his proposed ways of subsuming informality's modus operandi under the rationalizing power of the state—as the contagious seeping of informality's modus operandi into the state apparatus.

A significant dimension of the vendors' organizations and regulations that de Soto notes but does not factor into his suggestions is their extremely contingent and mutable character. These organizations come into being and dissolve, become active or inactive as need of them arises among vendors to act before the city or state as a front. Norms are crafted and adopted, valued or ignored, depending on the degree of cohesiveness of the group (which is usually low) and on perceptions of whom the norms benefit or whom they hurt (Aliaga 2002a, 2002b). Leaders within organizations are democratically elected but just as easily deposed when tides of support change because of suspicion, animosity, or rivalry. "Pragmatic," the adjective de Soto uses to describe the general attitude of "informals" toward leaders, institutions, and norms fails spectacularly to capture the subtle and changeable character of informality's "shadowy zone."

In this shadowy zone one finds not only informal activities and transactions but also activities and transactions that border on or cross over into criminality; as a walk through informal markets like Mesa Redonda makes immediately obvious, informality in Lima is today largely indistinguishable from piracy, contraband, and brand forgery. This radical fluidity is one of informality's most interesting and most confounding features. What for de Soto is a laudable pragmatic attitude, for example, is also precisely what makes many Peruvians so accepting of illegality; what is often lauded as flexibility is also what makes informality conducive to the exploitation of the weak or unprotected; and what is lauded as its collectivism is also what often justifies undemocratic behavior. Such is the business world in

whose forms of organization and regulations the Peruvian state, following de Soto, must find inspiration for its legislation.

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Mr. Miranda's boss in the city government is Juan Boza, the person who oversees all projects of formalization in downtown Lima's commercial world. I met Mr. Boza in his office, at the end of a cavernous sequence of hallways guarded by a locked security door. His office was sparse, decked with a desk and chairs that were frugal even for institutional standards.

He invited me to take a seat while he made two espressos in a coffee pod machine, the office's only luxury item. As the coffee brewed, he said that informality is "a culture deeply rooted in our country." He said, "As a country we have lost the battle [against informality] because this goes hand in hand with the loss of all respect for authority." It is true that formalizing a business is often costly and difficult, Mr. Boza said, and that the law can be confusing and the paperwork tedious. "And the bureaucratic mind behind all this is terrible," he said. "But today this is all just an excuse not to go into formality." I asked him to explain. "The reality is that the vendors want mobility, to be free," he said, and the kind of freedom vendors want comes from being unfettered by the law, no matter if it is "good" or "bad."

Such freedom from legal norms, it soon became clear, was intimately tied in Mr. Boza's mind to freedom from certain norms of comportment. "Lima and the principal cities in Peru have been invaded by people who come from areas where there are permanent and casual markets and fairs," he said. "That is the work style they have brought here to Lima," his reference to vendors' "work style" pointing beyond their mere rejection of regulation. "It is nothing unusual for them to eat sitting on the curb, to raise their child like that, in the dust, to have food brought to their stand and eat while they work," Mr. Boza said. "They don't have the notion of [the benefits of] having security, of having a license, of working in a clean place and having a bathroom. They say: 'To provide a bathroom to our clients? Why? We don't have one ourselves!'"

Mr. Boza first started at the city government as a consultant paid by the World Bank. He was charged with looking into the operating license issuance process. What he found, as was expected, was that the process was hampered by a morass of unclear, contradictory regulations. Following his findings, he was asked to design a simplified set of procedures to obtain a license. This new set of procedures, which earned him a national award, was launched in 2006 under a program called "Licencia ¡Ya!"

"I don't want to hear that, at the level of operating licenses, the procedure is not simple," he said of his program. "What's more, we have reduced the costs." Indeed, fees to obtain a license—depending on the size of the market—can easily amount to just a few soles per stand, quite affordable, considering the profitability of markets like Mesa Redonda and the fact that it is a lifetime license. He said that right after the program was launched, he and a group of clerks from his office went to Mesa Redonda, bringing along all the right forms and official stamps and a portable cash register to be able to receive payments and issue individual licenses on the spot. In addition to reducing costs in money, he thought, if he eliminated costs in time by saving vendors a trip to the government offices, they would flock to the clerks.

Mr. Boza was astonished to find that despite his offer to issue inexpensive, on-the-spot, lifetime licenses, the interest in obtaining one was minimal. Only a handful of vendors took advantage of the opportunity. "If before the excuse was, 'The procedures are too complicated,'" Mr. Boza said, "now it is 'I don't have the money . . .' or 'I am saving to pay for [the license] . . .' or 'let me get through the Christmas campaign . . . ' or 'the back-to-school campaign . . .'" and so forth.

The bottom line is that many vendors prefer to remain informal, prefer to inhabit a world that is strategically free from state regulation—interest in the acquisition of licenses and the payment of fees is there only to the extent that these guarantee the preservation of this freedom. Vendors prefer to retain their autonomy despite the risks and costs this entails, and this willingness to potentially be confiscated of everything, to face devastating loss by fire—rather than be subsumed by state regulation and the ethic and aesthetic changes this would bring about—make informality unassimilable to Weberian form. But if the vendors' "work style," as Mr. Boza put it, with its attendant hazards and denial of bourgeois values, is a source of anxiety and contempt toward informality among middle-class Limeños, it is surely also a source of their deep attraction toward it, of the excitement and pleasure they derive from it. These downtown markets are thus enveloped in an aura of transgression, sustained by what Mr. Boza characterized as vendors' desire for mobility and freedom, which, in his words, is "deeply rooted in our country."

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It was getting close to lunchtime. The team disbanded, and Mr. Miranda and I made our way south toward El Hueco, where we would meet with the president of the vendors cooperative. El Hueco was negotiating a loan with two large banks

for the construction of a five-story building, and I hoped to find out the process by which a market like El Hueco had access to millions of soles in formal credit.

As we crossed the center of Mesa Redonda, Mr. Miranda suddenly turned on his feet and disappeared inside a store. He inspected a box of video recording minidiscs and concluded that they were not the right kind for his camera. The way to buy something in Mesa Redonda, he explained with a certain satisfaction, was to enter several stores and ask for the price; there would always be one that sold it cheaper than the rest. And with this piece of advice imparted by the chief of the city's Formalization Office, we got on our way again, as I remarked to myself on the overwhelming force of informality's allure, effecting yet another instance of the formless doing its "job."

We ran into a group of loaders of merchandize, their dollies stacked high with cardboard boxes stamped with "Made in China." The boxes, Mr. Miranda said, were on their way to the interior, the highlands, the lowlands, who knows where else; they would be loaded onto vehicles taking cargo to markets around the country.

Mr. Miranda then stepped into a DVD stand. "The best one in all of Mesa Redonda," he said. By the "best" he meant that the pirated copies of Hollywood, indie, and local films were generally of good quality, and if you were to be stuck with an American movie dubbed, say, into Russian or Greek, you only needed to bring it back to get it exchanged.

And this is where this story ends, with Mr. Miranda and me engrossed in the stand's homemade DVD catalog, excitedly sharing our views on the films for sale, and from time to time looking up at the large HDTV hanging from a beam in the ceiling playing the DVD of a popular Hollywood film that, Mr. Miranda and I both knew, had not yet been officially released on DVD.

ABSTRACT

In 2009–2010, a team of officials at Lima's Office of Formalization worked to formalize (legalize) the hundreds of markets that operate informally in the downtown area of the city. To persuade businesses to apply for an operating license, the Office lowered the threshold of requirements and simplified the procedure. This strategy was akin to the legal reform program promoted by Hernando de Soto's 1986 influential study of informality, El otro sendero: La revolución informal. But at what point does simplifying the law, in its aim to bring state regulation closer to the realities of informal vendors, produce, rather, the informalization of the legal and bureaucratic apparatus? Drawing on fieldwork at Lima's Office of Formalization and at the downtown markets of Mesa Redonda and El Hueco, this article is an ethnographic examination of

informality not as the absence of legal or bureaucratic form but as a sequence of countless operations engaged in its deformation. Georges Bataille's theories of general economy and l'informe (the formless) frame this study of the formlessness of bureaucratic form and of informal vendors' unrelenting desire for autonomy from the state. [informality, political economy, urban culture]

NOTES

1. There were other fires, of less magnitude and with no fatalities, in 2005 and 2012.
2. Informality estimates are plagued by indeterminacy. Still, here go a few: Peru's informal sector accounts for 59% of the economy and is the third largest in Latin America after Panama and Bolivia (Schneider et al. 2010). Nationally, informal employment accounts for 69.9% of the active labor force (Velazco 2011) and, in Lima, for 60% (Gamero 2007); street vendors, retailers, and stand vendors account for about 28% of the city's informal sector (Budlender 2009).
3. My conversations with members of Lima's formalization division at the Municipalidad de Lima and at the markets of Mesa Redonda and El Hueco took place between August 2009 and January 2010, and the summers of 2010 and 2011. All names and identifying details have been changed.
4. I use June Abbott's translation in de Soto 1989 unless otherwise indicated.
5. Bataille's emphasis on spending and collective experience distinguishes his notion of consumption from that of material culture studies, which emphasizes acquisition, appropriation, and function (see, for example, Miller 2006).
6. "Shadowy zone" is my translation of *zona de penumbra*.
7. Examples are informal street vendors who secure a spot in the street by paying a special "tax"; informal real estate developments that are later allowed to "regularize" titling of property; or the entire public transportation system (except for the brand-new branches of El Metropolitano).
8. Aliaga 2002a is an in-depth study of mistrust in informal vendors' networks.

REFERENCES CITED

Aliaga Linares, Lissette

2002a Sumas y restas: El capital social como recurso en la informalidad. (Las redes de los comerciantes ambulantes de Independencia). Lima: Alternativa.

2002b El capital activo de los comerciantes ambulantes: Un análisis cualitativo de sus redes sociales. Revista hispana para el análisis de las redes sociales 2:3.

Bataille, Georges

1988 The Accursed Share: An Essay on General Economy, Vol. 1: Consumption. Robert Hurley, trans. New York: Zone Books.

1985a Visions of Excess. Selected Writings, 1927–1939. Allan Stoekl, ed. Allan Stoekl, Carl R. Lovitt, and Donald M. Leslie, Jr., trans. Minneapolis: University of Minnesota Press.

1985b [1929] Formless. *In* Visions of Excess, Bataille, p. 31.

1985c [1933] The Notion of Expenditure. *In* Visions of Excess, Bataille, pp.116–129.

1985d [1930] Base Materialism and Gnosticism. *In* Visions of Excess, Bataille, pp. 45–52.

Bois, Yve-Alain, and Rosalind Krauss

1997 Formless: A User's Guide. New York: Zone Books.

Botting, Fred, and Scott Wilson

2001 Bataille. New York: Palgrave.

Budlender, Debbie

2009 Informal Economy. Budget Analysis in Peru and Metropolitan Lima. Budget Briefing Note No. 3. Commissioned by WIEGO.

Centeno, Miguel Ángel, and Alejandro Portes

2006 The Informal Economy in the Shadow of the State. *In* Out of the Shadows. Political Action and the Informal Economy in Latin America. Patricia Fernández-Kelly and Jon Shefner, eds. Pp. 23–48. University Park: Pennsylvania State University Press.

Chávez O'Brien, Eliana

1990 El empleo en los sectores populares urbanos: De marginales a informales. *In* De marginales a informales. Gustavo Riofrío, ed. Pp. 71–124. Lima: DESCO.

Cooperativa de Servicios Especiales Mercado Central Limitada, "El Hueco"

2009 Newsletter.

de Soto, Hernando

1989 [1986] The Other Path. The Invisible Revolution in the Third World. June Abbott, trans. New York: Harper and Row.

Gamero, Julio

2007 Precarización y empleo formal. ¿Punto de inflexión? Coyuntura: Análisis Económico y Social de Actualidad 3:14. CISEPA: PUCP.

Grompone, Romeo

1984 Talleristas y vendedores ambulantes en Lima. Lima: DESCO.

1991 Perú: La vertiginosa irrupción de Fujimori. Buscando las razones de un sorprendente resultado electoral. Revista Mexicana de Sociología 52(4): 177–203.

Hart, Keith

1973 Informal Income Opportunities and Urban Employment in Ghana. Journal of Modern African Studies 11(1):61–89.

1987 Informal Economy. *In* The New Palgrave: A Dictionary of Economics, Vol. 2. John Eatwell, Murray Milgate, and Peter Newman, eds. Pp. 845–846. London: Macmillan.

Lomnitz, Larissa

1988 Informal Exchange Networks in Formal Systems: A Theoretical Model. American Anthropologist 90:42–54.

Matos Mar, José

1984 Desborde popular y crisis del Estado. Serie Perú Problema 21. Lima: Instituto de Estudios Peruanos.

Mehlman, Jeffrey

1977 Revolution and Repetition: Marx/Hugo/Balzac. Berkeley: University of California Press.

Miller, Daniel

2006 Consumption. *In* Handbook of Material Culture. Chris Tilley, Webb Keane, Susanne Küchler, Mike Rowlands, and Patricia Spyer, eds. Pp. 341–354. Los Angeles: SAGE.

Schneider, Friedrich, Andreas Buehn, and Claudio E. Montenegro

2010 Shadow Economies All over the World. New Estimates for 162 Countries from 1999 to 2007. Policy Research Working Paper 5356. Washington, DC: The World Bank.

Velazco, Tatiana

2011 Empleo informal y políticas de protección social en el Perú. Retos y oportunidades para el nuevo gobierno. Lima: WIEGO, CIES.

Weber, Max

1981 [1927] General Economic History. With a new introduction by Ira J. Cohen. New Brunswick, NJ: Transaction Books.