

The credibility of (in)formality: Or, the irrelevance of institutional form in judging performance

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ABSTRACT

Informal institutions are often labeled as inefficient or “second-best” compared to formal property rights. Yet, the experience in developing and allegedly “developed” contexts alike demonstrates that informality can perform critical functions without detracting from their performance in socio-economic, political, cultural, and environmental terms. This special issue challenges conventional assumptions on the form of institutions by positing that informal arrangements as they have endogenously emerged *and* persist are functional and thus credible. To achieve this, the collection validates a double prediction of the Credibility Thesis: i) divergent institutions may perform *identically* to the same extent that identical institutions perform *differently*; and ii) institutions do not converge but *diverge* over the course of development. In accordance with the first prediction, the contributions examine the performance of formal arrangements such as lease, ownership, and strata rights as opposed to informal slums, “urban villages”, and self-governed commons. Following the second prediction, the contributions question the prevalence of *formal arrangements* in the Global North (such as the United Kingdom, Greece, and Israel) to the same extent as they ascertain the credibility of *informal arrangements* in the Global South (such as in China, South Africa, and Serbia).

1. Introduction: putting credibility to the test

If the urban village is allowed to persist, will it truly paralyze the urban system, (...) leading to the “cancer” that destabilizes the city's ecology? Or may we derive inspiration and knowledge from it to improve urban planning?¹

(Jiedao Shouwangzhe, 2011 alias “The Street Watcher”)

In a seminal article, the late anthropologist Mangin (1967: 66) criticized a set of widely shared myths of informal settlements that they are “chaotic and unorganized”, “festering sores of radical political activity”, and inhabited by “the lowest class economically, the hungriest and most poorly housed.” As he aptly remarked, to uplift the poor and achieve development, governments often “prevent the formation of new squatter settlements by law and ‘eradicate’ (a favorite word among

architects and planners) the existing ones, replacing them with housing projects” (ibid.: 66).

Regrettably, more than a half century later, Mangin's account is still valid. In the fall of 2017, a fire ravaged a building in Daxing, an industrial district in the fringes of Beijing, inhabited by approximately 120,000 migrant workers.² The fire left 19 people dead including eight children. The incident became the stimulant for a 40-day campaign against illegal structures and “urban villages” that for decades housed the Chinese capital's innumerable migrants employed on construction sites as well as in factories, hotels, restaurants, and delivery companies. Migrants were given little advance warning before being evicted, causing an outcry in Chinese social media that defied censorship (Monster, 2017; Laofengfenglao1, 2017; Andrew, 2017) and making international headlines (Buckley, 2017; Haas, 2017).³

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¹ In Chinese, the phrase “leading to the ‘cancer’ that destabilizes the city's ecology” reads as “*daozi chengshi shengtai shiheng de aizheng*”. This blogger mentions that he/she is employed at the Shenzhen Planning Academy and has been engaged in the upgrading of urban villages for 16 years.

² The fire occurred on 18 November 2017 at Xinjian'er Village in Xihongmen Town, Daxing District.

³ In government documents, migrants were termed the “low-end population” or *diduan renkou*, which was immediately criticized on the Chinese internet. To avoid censorship, netizens often wrote the term in *pinyin* (phonetic script) rather than in Chinese characters (Andrew, 2017) or used synonyms such as ‘D-population’ (e.g. Monster, 2017).

Contrarily, the authorities stated they did not target the migrant population but intended to control the safety of illegal construction and ensure the city's sustainable development (Dai, 2017).⁴ The Daxing campaign is not an isolated incident as the formalization and eradication of informal settlements for the purpose of development frequently occurs around the globe (e.g., Liu & Wong, 2018; Lombard, 2015; Skuse & Cousins, 2007; Zhang, 2018). Yet, the question is: why does development for the disadvantaged so often end in forced eviction?

The concept that informal property rights are inefficient and need changing as societies develop over time originates from a recurring (neoliberal and neoclassical) assumption in the debates over institutions. The assumption relates to the Supremacy of Form or the idea that certain institutional forms (more, in particular, private, formal, and secure property rights) lead to a positive performance (as can be expressed in growth, investments, development, or sustainability). Vice versa, it is conversely assumed that other forms (common, informal, and insecure property rights) would lead to a negative performance.

This special issue tests an alternative hypothesis, known as the Credibility Thesis, which holds that:

“[W]hat ultimately determines the performance of institutions is not their form in terms of formality, privatization, or security but their spatially and temporally defined function.”

(Ho, 2014: 13)

The thesis and its underlying theory are rooted in the rapidly emerging literature that argues for the inclusion of function – rather than form – as a variable in assessing the impact of institutions on development and planning (Agrawal et al., 2014; Dixon, 2012; Chang, 2007; Grabel, 2000). To date, the Credibility Thesis has been applied to various sectors including but not limited to land and water management, labor markets, financial institutions, customary rights, mining, and natural resources (see review below). The contributions of these studies to the understanding of credibility revolve around three themes: i) disproving the relation between form and performance; ii) advancing the methodology around and the measurement of credibility, and; iii) assessing the functions of institutions and the conditions for decreasing credibility. Each of these is discussed below.

For one, concerning the refutation of the assumption of form versus performance, we find, on the one hand, studies that have demonstrated that formal, private, and secure institutions may *fail* to deliver (Miyamura, 2016; Mollinga, 2016; Nor-Hisham & Ho, 2016). Contrarily, other studies ascertain that informal, public, and insecure property rights *can* function, i.e., are credible, according to social actors and economic agents (Zhang, 2018; Clarke, 2018; Marois & Gungen, 2016).

Two, research on credibility has been effectuated through qualitative and quantitative indicators including: 1) the perceptions of institutions (Pero & Smith, 2008), more specifically, along Formal, Actual, and Targeted dimensions known as the FAT Institutional Framework (Nor-Hisham & Ho, 2016); 2) the relative speed of institutional change (Ho, 2018); and 3) endogenous transaction costs (Fan, Yang, Liu, & Wang, 2019).

Three, research has examined the functions of institutions such as, for instance, the provision of social welfare (Sun & Ho, 2018), political influence (Zhang, 2018), sustainability (Zhao & Rokpelnis, 2016), and the catering for customary markets (Fold, Allotey, Kalvig, & Moeller-Jensen, 2018). Simultaneously, research has described the conditions under which the credibility of formerly functioning institutions might shift or risk being undermined (Pils, 2018; Zeuthen, 2018).

Within the development and planning of cities and rural areas, informality is often problematized. Considering this, the Credibility Thesis and its underlying theory might have particular relevance. In applying the thesis, this special issue aims to go beyond the existing

studies in several ways.

Firstly, research on the postulate of function over form can be more systematically operationalized by describing, dissecting, and deconstructing the manifestations of institutional forms over time and space. It is why this special issue demonstrates that a double prediction follows from the thesis (see: Section 3), affording possibilities for further verification. In their own ways, each of the assembled contributions will validate one of these two predictions.

Secondly, whereas previous research has validated the Credibility Thesis in different developing settings (such as China, India, Bangladesh, Mexico, Ghana, and Ethiopia), its relevance is not limited to the Global South but extends to the Global North as well. In this light, cases from “high” and “very high” income countries have also been included in this collection of papers.⁵ In this endeavor, the research on credibility is effectively expanded to encompass a wide-ranging series of case-studies in Europe, Africa, South America, Asia, Australia, and Africa.⁶

Thirdly, the majority of the research that aims to refute the assumption between form and performance focuses on either confirming what is believed to be “the factual” (informal arrangements lead to positive performance) or falsifying what is assumed to be “the counterfactual” (formal arrangements lead to positive performance). Rather than focusing on either one of the two, this special issue systematically brings together the empirical evidence on formal *and* informal arrangements in a single research effort.

This article provides the overarching theoretical and methodological framework for the various papers. To this end, it is – apart from the introductory part – divided into four separate sections, each of which reviews one of the following: i) the conventional assumption on the form of institutions; ii) the collection's opposing theoretical stance with special reference to credibility and institutional function; iii) the rationale that binds the contributions; and, lastly, iv) the conclusion that examines the ramifications of the papers in terms of government intervention or ... *non-intervention*.

2. The supremacy of form? Dissecting the assumption

2.1. The discourse

The argument that certain forms are related to the (positive) performance of institutions consists of several principles. First, the assignment of property rights is important for efficient resource allocation. Stated differently, formal rules are essential for the use of a resource or asset that minimizes costs regardless of whether these pertain to land, water, forest, housing, or energy. Second, certain institutional forms have become dominant over time through an

⁵ More specifically, the countries with a “very high” human development index (or HDI) are: UK, Israel, Greece, and Chile. The countries with a “medium” to “high” human development index are South Africa, Serbia, and China (UNDP, 2018). The latter three are also ranked as “upper middle income” by the World Bank as opposed to “high income” for the other countries (World Bank, 2019a). The United Nations Development Program (UNDP) uses the following four categories: very high human development; high human development; medium human development; and low human development. For lending purposes, the World Bank also distinguishes four categories: low income; lower middle income; upper middle income; and high income.

⁶ Thus, the research on credibility involves the following countries and continents: Asia (China, India, Malaysia, Bangladesh; e.g., Clarke, 2018; Zhang, 2018; Nor-Hisham & Ho, 2016; Gomes & Hermans, 2018); Australia (Australia; Easthope et al., this volume); Africa (Ghana, Ethiopia, South-Africa; Fold et al., 2018; Mengistu & van Dijk, 2018; Pero & Smith, 2008; Oranje et al., this volume); Latin America (Mexico, Chile; Monkkonen, 2016; Celhay and Gil, this volume) and Europe (United Kingdom, Serbia, Greece, Israel, Turkey; Sheppard and McClymont, this volume; Zekovic, this volume; Arvanitidis and Papa- giannitsis, this volume; Tzfadia et al., this volume; Marois & Gungen, 2016).

⁴ For more information on Chinese informal settlements, see, e.g., (He, Liu, Wu, & Webster, 2010; Liu, Wong, & Liu, 2012; Ma & Xiang, 1998; Wang, Wang, & Wu, 2009; Wu, Zhang, & Webster, 2013; Zhao & Zhang, 2016).

evolutionary process of trial and error between economic agents and social actors. Three, the rise of Western societies is predicated upon private property that is protected by governments in law. Initially, these principles were propagated through economists such as Coase (1960), Alchian and Demsetz (1973), and North and Thomas (1973). In later years, their writings influenced other disciplines including political science, law, planning, and sociology.

The emphasis on private property is the reason why the argument is regarded as “neoliberal” or “neoclassical” in nature. However, the argument does not limit itself to private property rights but has been extended to include “formal” and “secure” rights as well. It becomes convoluted because the different forms – private, formal, and secure – are intermingled without definition. As stated in a circular argument:

“Secure land titles create access to credit and capital. Legislation to clarify ownership (...) can make investors more secure in their ownership” [emphasis added]

(Palomar, 2002, 74)

To avoid adding to the confusion, let us examine what – in a neoliberal and neoclassical interpretation – the desired forms for institutions (and property rights)⁷ denote:

- Formal = described in law or other official regulations;
- Private = owned by an individual who can exclude others from its use⁸;
- Secure = long term and free from external intervention.⁹

2.2. Persistency of the argument

The assumption on the supremacy of institutional form has been consistently propagated for decades, at least since the early 1950s (Gordon, 1954: 12–3), throughout the 1960s and 1970s (e.g. Demsetz, 1967: 355; North & Thomas, 1973: 1), up to the turn of the millennium (Micelli, Sirmans, & Turnbull, 2000: 370), and well thereafter (Ellickson, 2012: 21). It is important to note that the persistency of the argument not only stretches out over time but also across different resources and assets, more in particular, land, housing, and natural resources. For instance, in the case of land, it is asserted that:

“There is a growing body of empirical evidence which reveals how the formalisation of property rights – specifically *land titling* – can raise the level of investment in developing countries.”¹⁰

(Haas & Jones, 2017: 5; emphasis added)

Likewise, one may find the argument easily extended to housing: “Houses... whose ownership rights are not adequately recorded... cannot be used as collateral for a loan, and cannot be used as a share against an investment.”

(De Soto, 2000: 6)

as it is applied to natural resources:

“Wherever we have public [resource] ownership we find overuse, waste, and extinction; but private ownership results in sustained-yield use and preservation.”

⁷ In other words, whereas a property right (such as land lease, customary law, or ownership) is an institution, an institution (such as marriage, markets, or the federal reserve) may not necessarily be a property right. In this context, an institution is defined as a “set of rules” (Ho, 2017: 9) and a property right as a “right to a benefit stream” (Bromley, 1991: 22).

⁸ More in particular, the exclusion from using that which the institution or property right governs, such as a resource or an asset.

⁹ Implying, for instance, that a property right could be held for 50 years or 99 years and cannot be altered or revoked without explicit consent of the right bearer.

¹⁰ A variation to this argument can be found in Zheng, Gu, and Zhu (2019) who argue that formal land property rights have led to less rural-urban migration.

(Smith, 1981: 444)

One may wonder why the argument on the supremacy of form is so persistent. There are two likely reasons.

For starters is the simplicity, and therefore, appeal of the argument. The supremacy of form holds out a promise of certain wealth as long as one adheres to private, formal, and secure property rights. Furthermore, it is a promise of justice and equity, a multi-functional tool to shield the poor from eviction and expropriation. In this sense, the argument is mooted as a panacea against social and economic ills – be it poverty, vulnerability, or underdevelopment.

The second reason for the tenacity of the argument lies in the interests and stakeholders that it represents. It favors a market-based approach to urban planning, propagating the growth of cities through real estate development.¹¹ In the words of Davy and Pellissery (2013: S72):

“Forced evictions mostly occur for the sake of the formal economy and the planning system. The beneficiaries of forced evictions are real estate developers, the housing industry, city marketing and public service companies...”

In this sense, the neoclassical argument on the supremacy of form offers a justification for predatory rule. As heterodox economists Freeman and Carchedi (1995: ix) noted:

“Official economics, for deep material reasons, is an ideological endeavour. It sanctions what is; if it fails to do so then sooner or later it does not get paid.”

2.3. The problem

The argument on the supremacy of form has spawned a series of studies that seek to establish (cor)relations between private, formal, and secure rights, on the one hand, versus higher GDP, less transaction costs, and rent dissipation on the other hand (or by extension, better education, health care, and life expectancy). However, the problem that haunts these endeavors is the impossibility to establish a straightforward relation between form and performance.

For every study that claims a positive relation (e.g., Lawry et al., 2017; Wang et al., 2015; Galiani & Schargrotsky, 2010), there are as many to the contrary. For instance, a study on the titling of informal settlements “questions the implementation of these titling programs, which aim to deliver secure tenure and, more broadly, achieve economic development” and ascertains “that formal deeds do not necessarily lead to secure tenure” (Choplin & Dessie, 2017: 49). Similarly, contradictory findings on, for instance, slum upgrading have been presented by Jones (2017) and King (2003) and extend to informal housing (Gonzalez, 2009; Ward, Souza, Giusti, & Larson, 2011), urban land (Monkkonen, 2012), and rural land (Payne, 2009; Sjaastad & Cousins, 2009). With regard to the latter, it was ascertained that:

“[L]and title holders are not statistically significantly different from non-title holders (...), despite greater access to investment capital from wage earnings and higher levels of education. The effects of land titling on long- and medium-term land investments are also limited.”

(Sitko, Chamberlin, & Hichaambwa, 2014: 791)

In the context above, it has been argued that we should move away from analyses in which we “merely describe the characteristics or attributes” of institutions (i.e., form variables) when, instead, it is the “performance or quality measures” (i.e., function variables) that are plausibly more important (Aron, 2000: 128). For this reason, Agrawal et al. (2014: 277) noted that studies on the effects of institutional form “demonstrate the difficulty of meaningfully interpreting interventions or their effects from their form alone” and “highlight the importance of focusing on how interventions function.”

¹¹ As Gil (2019: 39) aptly describes it, the argument is part and parcel of what can be described as an “enabling markets regulatory discourse.”

3. The credibility of informality

“[N]ew-classical theorists deny the significance of factors endogenous to all societies which significantly influence the likelihood of a policy's success and hence its credibility.”

(Gabel, 2000: 11)

If the Credibility Thesis would hold or, as otherwise stated, if the form of institutions is secondary to understanding performance, two predictions follow:

- One, *different institutional forms may perform identically to the extent that identical forms perform differently*. This entails that informal property rights can perform as well as those that are formal to the same degree that formal rights may succeed in some cases while failing in others.¹² This ramification may be termed the First Prediction of Credibility.
- Two, *institutions do not necessarily converge in the course of development*. Stated differently, institutions may co-exist in *different* forms in *similar* spaces and times. *Ergo*, informality may play an equally important role in the Global North as it may in the Global South.¹³ This ramification may be termed the Second Prediction of Credibility. In the sections to follow, we will examine these predictions in greater detail.

3.1. The first prediction: divergent forms may perform identically

“Informality is not merely an insufficiency, because informal settings often entail local versions of the social contract that tie together the residents of an informal settlement (...) stronger than formal settings do.”

(Davy & Pellissery, 2013: 70)

The quote above underscores the prediction that different forms – formal as well as informal – may perform well or equally well in socio-economic, political, cultural, or environmental terms. Let us consider this.

For one, there is ample literature that has ascertained that informal institutions may fulfill a credible function in the provision of social security to low(er) income groups, which pertains to land (Ding, 2003; Guhan, 1994; Wang, Tong, Su, Wei, & Tao, 2011) and the built structures on top of it (Zhang, 2018). Informal institutions may also provide better access to urban resources and a stronger sense of community (Celhay and Gil, this volume). Moreover, for a long period of time, research has argued that informal institutions can play important economic roles (Hart, 1973) which, again, was ascertained in the case of land (e.g., Fold et al., 2018) and the built structures on top (Sun and Ho, 2017). By illustration and many years before “urban villages” and informal housing became prevalent in the Chinese “cityscape”, Zhang (1997: 85) observed:

“[M]ore than just residential space, much of this informal construction also provides space for economic activities such as retailing, restaurants or small workshops, which in aggregate are seen to be vital to the economy of the city's neighborhoods.”¹⁴

¹² Put differently, this prediction is formulated *contrary* to the assumption that informal rights do not perform as well as those that are formal (= different forms perform differently) inasmuch as formal rights lead to development (= similar forms perform equally).

¹³ The terms Global South and Global North, in this context, refer to low/middle/high income countries versus very high income countries that can be situated in every location and thus do not necessarily refer to the geographical south or north.

¹⁴ Consequently, as Orlik and Wan (2017) ascertained in the case of the recent demolition of informal settlements in Beijing, it could negatively affect economic growth, decrease the local labor force, and generate inflation as cheap labor is replaced by more expensive labor.

Lastly, research has also pointed to the *political* function that informal settlements may fulfill; more, in particular, in the capacity of “vote banks” for politicians seeking election or re-election. Differently worded, “to capture the votes of slum dwellers (...), politicians allow new settlements to arise and legalize illegal settlements wherever there has been a protest against eviction” (Zhang, 2018: 884).

The first prediction also entails that formal institutions may fail to the same degree that they may function. In this context, consider the research that has demonstrated that formalization can lead to the emergence of “empty institutions” (Ho, 2016). In this situation, the newly desired rules develop into mere symbolical rules detached from actors' behavior (Aalders, 1984; Aubert, 1966)¹⁵ or exist merely by the grace of continuing informality (Patel, 2013). Equally important are the studies that have furnished evidence of formalization leading to non-credible arrangements coupled to contestation, rising inequity, and cleavages (Andre & Platteau, 1998; Boone, 2019; Everingham, 2001; Peters & Kambewa, 2007).

3.2. The second prediction: the myth of convergence

The term institutional convergence refers to the idea that institutions gravitate towards commonly shared forms over the course of development. In the words of political scientist Inglehart (1997: 17): “In a given economic and technological environment, certain trajectories are more probable than others: (...) in the course of history, numerous patterns of social organization have been tried and discarded, while other patterns eventually became dominant.” Within this reading, formal institutions are regarded as the apex of development; in other words, modern, industrialized, and highly developed societies are governed by clear, secure, and formal regulations rather than by those that are indistinct, insecure, and informal.

In contrast, should the Second Prediction of Credibility be validated, i.e., institutions do *not* converge, we should be able to witness – at any given time and space – countless shades of formality and informality that co-exist in equally countless combinations. This implies that formality is not the prerogative of development but, rather, a myth created to blind us from seeing an omnipresent institutional variety. In this context, Portes and Sassen-Koob (1987: 30) critiqued the belief that “informal economic activities are primarily a feature of Third World economies, in which they function as a refuge from destitution (...) presumably destined to disappear with the advance of modern, industry-led growth.” About this, they concluded:

“These assumptions, including the identification of informality with conditions in the less developed countries, are wrong (*ibid.*: 30)”

There is ample empirical evidence that supports the Second Prediction of Credibility regardless of whether we look at the United States (Sullivan & Olmedo, 2014; Ward & Peters, 2007), the United Kingdom (Leonard, 1994), continental Europe (Pamuk, 1996), or other places in the developed world (Gërxhani, 2004). For this reason, Leonard (2000: 1069) discussed the “*global* nature of the informal economy” [emphasis added].

4. The rationale

In the upcoming sub-sections, we will expound on the special issue's rationale around which the contributions have been structured. More specifically, we will discuss: i) the concept of informality (as opposed to illegality and extra-legality); ii) the way of validation; and iii) the main thrust of each of the contributions.

¹⁵ This process of detachment has also been described – in organization sociology – as the “decoupling” of daily human activities from institutions (Meyer and Rowan (1977: 357).

4.1. The concepts: the illegal, extra-legal and informal

When considering institutions and property rights that operate outside statutory law or regulations, one encounters a dazzling variety of words to describe these – illegitimate, illicit, clandestine, unlawful... Here, we will define three that are considered optimally appropriate for describing non-formal institutions as they exist on a *continuum* of co-existing degrees: informal, extra-legal, and illegal.

Let us begin with the term that is perhaps easiest to understand due to its connotation to the state and its laws, i.e., “illegal.” According to the *Oxford English Dictionary* (2017), the word refers to something that is “contrary to or forbidden by law, especially criminal law.” The reference to criminality suggests the transgression of statutory rules to a certain or (more) severe extent. *For this reason, we define illegal as an activity or matter that contravenes the law, lacks state sanctioning, or is prohibited.*

An interesting, yet crucial, variation to “illegal” is the term “extra-legal.” The contraction of “extra” (= outside) with “legal” (= pertaining to the law) underscores what it denotes: an activity or matter that functions *outside* of the law. Thus, its ontology is also determined vis-à-vis the law; id est, the extra-legal does not exist without or separate from the law. Contrary to the word illegal, however, the word appears a degree *less* in contravention with the behavior or norms that the state sanctions or prohibits. Having said this, we posit that its existence results from carelessness or disregard on the part of the state rather than from intention. *Therefore, we define extra-legal as an activity or matter that is neglected as a result of which it operates outside the law.*

This brings us to the last term we seek to define. i.e., “informal.” In the 1950s and 1960s, the informal was the exclusive terrain of sociologists and anthropologists, and was largely disregarded by economists. It was not until Hart’s (1973) paper on the “informal sector” and the subsequent launch of the term into the debates on development by the International Labor Organization (ILO) that it became a serious issue of study in economics.¹⁶ However, what “the informal” constitutes and how it is positioned vis-à-vis illegality remains ambiguous. In a popular reading, it is regarded as an activity “carried on by *self-employed* or independent people on a *small scale*, especially unofficially or *illegally*” (Merriam-Webster, 2017, emphasis added).

However, this definition is hopelessly inadequate. To begin with, it adds to the confusion by using the illegal in conjunction with the informal. Moreover, the suggestion that its distinguishing features are the scale and organization of work does not accord with what can be witnessed empirically. For instance, the construction of informal housing in China can hardly be characterized as “small scale” with an estimation of it being one-third of the total urban housing stock (Li, 2014). Moreover, staying with the Chinese example, reference to “self-employment” does not capture its mode of production by which many informal homes were constructed through a collusion of commercial developers, local authorities, and rural collectives (Sun & Ho, 2018: 893–4).

In the context of the above, Kolocek’s observation might be helpful, who noted:

“Institutional forms that are illegal, but considered credible by governments, are more likely to be called informal.”¹⁷

With this statement, we appear to be approximating the heart of the matter: some type of awareness, no matter how feeble or strong, of the function that the informal may fulfill. Somehow, the informal fits a purpose or function to tacitly condone it but only *as long as* it continues to fulfill that function. It is why governments are able to disregard informal settlements for decades as they serve to replace non-existent and

failing social housing programs only to suddenly more forcefully regulate them when that purpose is no longer needed (see the Chinese Daxing event at the beginning of this contribution).

In this context, and contrary to the illegal and the extra-legal, the informal appears to be *least* in contravention with the behavior or norms that the state sanctions or prohibits. Furthermore, the term is more comprehensive than extra-legal: the informal is not just construed vis-à-vis the law (operating outside of the law). It may also be the result of a legal vacuum. *Therefore, we define the informal as an activity that is silently condoned by the state as a result of which it operates outside or in the absence of law.*

All of that discussed above has been condensed into Fig. 1.

4.2. The validation

As described above, this special issue aims to validate a dual prediction of the Credibility Thesis. To achieve this, it:

- Examines *the informal* to demonstrate that divergent forms may perform identically while examining *the formal* to demonstrate that identical forms may perform divergently.
- Examines the formal in a *developing* context and the informal in a *developed* context to demonstrate that institutions diverge rather than converge in the course of development.

Beginning with the first prediction, one set of papers ascertains that informal institutions can perform as equally well (for providing access to social welfare, proximity to work, a sense of community, quality of life, ecological sustainability, or a place to live) as is claimed for formal institutions. In sum, *divergent forms (informal or formal) may perform identically*. This is demonstrated multiple times with regard to, for instance, informal settlements, self-built housing, low-impact development, and urban green space.

Another set of papers provides substance to the concept that the same formal institutions such as strata rights, ownership of housing, or land lease can have entirely different effects around the globe. At times, the formal institution succeeds and, at other times, it fails to deliver on what it is supposed to do regardless of considering the access to mortgage, security against eviction, or the transfer of economic assets. In sum, *identical forms (formal institutions) may perform divergently*.

With regards to the second prediction, the papers that investigate informal institutions not only show that these institutions can work perfectly well, however, they also demonstrate that this is not limited to the Global South but equally extends to countries in the Global North or those featuring “very high” development (as ranked by the United Nations). Cases are shown as coming from the United Kingdom, Israel, Greece, and Chile. At the same time, it is indicated that formal institutions also have a critical role to play in the Global South albeit in surprisingly different and sometimes unequivocally contradictory ways than those predicted in a neoclassical reading. Here, cases on strata rights, housing ownership, and land lease are brought together from China and South Africa. In sum, *institutions diverge rather than converge in the course of development*. All that has been discussed is condensed in Fig. 2.

In accordance with the described validation, the contributions of this special issue are distributed over the following parts:

- 1) The formal in a developing *and* developed context;
- 2) The informal in a *developing* context;
- 3) The informal in a *developed* context.

Below, the three parts will be discussed in greater detail.

¹⁶ For more information, see the literature review in (Gërxhani, 2004).

¹⁷ Michael Kolocek (University of Dortmund) posited this statement during the PLPR special sessions on the Credibility of Informality (Hong Kong, 20–25 February 2017); more info at www.recoland.eu/faq.

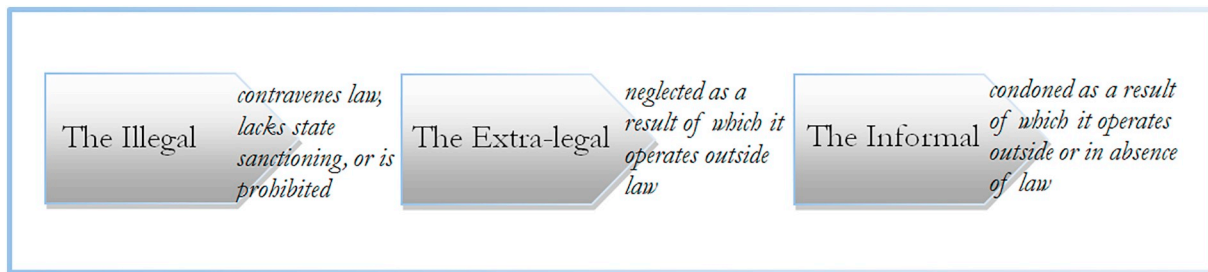


Fig. 1. Continuum of informality and illegality.

Note: Arrows and rectangular intentionally shaded to depict the concept of a continuum.

Source: Illustrated by author.

	Developed context	Developing context	Outcome
Informal institutions	Urban green space, plotlands, low-impact dwellings, customary settlements in UK, Israel, Greece & Chile	Slums, informal settlements, self-built housing in South Africa, Serbia & China	Informal institutions function equally as formal ones (i.e. divergent forms perform <i>identically</i>)
Formal Institutions	Apartment ownership in US/Canada/UK/Ireland/Hong Kong/Singapore	Housing ownership, lease & strata rights in China & South Africa	Formal institutions function differently (i.e. identical forms perform <i>divergently</i>)
Outcome	Informality plays equally important role in Global North as in Global South (i.e. institutions do not converge over development)		

Fig. 2. Cases and findings.

Source: Drawn by author.

4.3. The contributions

4.3.1. Formality in developed and developing contexts

The first contribution in this part delves into a property right legally known as a condominium, apartment right, or strata title. The millions of inhabitants in the world's metropolises are generally housed in high-rising apartment buildings. The property rights governing such buildings are complex as they comprise the ownership of the apartments and that of common structures such as the roofs, the fundaments, hallways, staircases, and elevator shafts. There are numerous studies that aim to generate classifications or taxonomies of the way that apartment ownership is defined. However, these efforts are endless as apartment ownership is defined differently depending on a country's history, culture, and polity.

Rather than focusing on the form of apartment ownership, the contribution by Easthope, Van den Nouwelant, and Thompson examines the way it functions. Based on a wide-ranging series of in-depth interviews ($n = 129$) with respondents coming from Europe, North America, Australasia, Asia, and Africa, they ascertain the validity of the First Prediction of Credibility. In their words:

"We demonstrate that similar legal systems of apartment ownership can result in very different outcomes for apartment owners in practice, just as different legal systems can result in similar outcomes. This is because the relationship between legal systems of ownership and the experiences of owners is mediated by their local social, cultural, economic and political context." (see Easthope et al., this volume)

The following contribution examines a different formal right: the leasehold or land lease. Under leasehold, the user (lessee or tenant) pays the owner (lessor or landlord) for the use of a plot of land or a

building. In China's transition from a centrally planned economy to a market economy, one of the enduring debates is on an important Socialist legacy: the public ownership of land. As it stands, China has left public land ownership intact, the result of which property in Chinese cities is governed under leasehold: a person can purchase the ownership of individual apartments (and houses) while the land can be leased for a maximum term of 70 years. Scholars have been heavily divided over the issue of whether China's urban property rights are sufficiently secure to allow for sustained investments and growth (see, e.g., Palomar, 2002 versus Clarke, 2018).

Against this backdrop, the article by Zheng and Ho examines urban residents' perceptions of and experiences with land lease and housing ownership. Through a large-scale survey conducted among 1100 respondents in ten large and medium-sized cities, it was discovered that formal title to housing ownership (or *fangchanzheng*) is largely thought of as being important during market transactions. Interestingly, much less significance was indicated regarding the land use or lease permit (*tudizheng*) as well as the lease term (popularly termed *qishi nian chanquan*).¹⁸

At this point, a paradox emerges: urban residents in China do not have a consistent preference for a "full bundle" of formal rights. However, this has not deterred them from the large-scale purchase and sale of property during the past decades. Thus, contrary to the claim that formal rights are universally credible, it is determined that "incomplete" formal institutions may be regarded equally credible according to social actors. In this sense, the case of Chinese urban real estate disproves the existence of a direct relation between formal form

¹⁸ Although the lease is often referred to as a "70 years' property right" in Chinese popular parlance, the lease term can be shorter than this period.

and positive institutional performance. It is yet another confirmation of the First Prediction of Credibility: different forms may perform identically inasmuch as identical forms may perform differently.

4.3.2. Informality in a developing context

Having scrutinized the formality in developed and developing contexts, this section proceeds to examine the credibility of *informal* institutions in a developing context. It begins with a contribution on South Africa by Oranje, van Huyssteen, and Le Roux. Their contribution examines the large-scale migration to non-metropolitan urban centers and the way in which – in the absence of state-supported facilities – informal institutions endogenously emerge to ensure the provision of basic necessities such as social security, shelter, water, and electricity. In so doing, Oranje and his co-authors, provide a comprehensive account of how the scale and speed of human movement and the settlements that arise from it outpace the state's organizational and anticipatory capacities only to be effectively absorbed through the spontaneous, endogenous emergence of institutional arrangements on the ground.

A similar dynamic is exposed in the paper by Zekovic, Petovar and Nor-Hisham on urban Serbia. They demonstrate how large-scale informal but banned construction fulfills a function in the provision of housing for those with no access to the formal property market. Simultaneously, the state's explicit prohibition raises questions about the meaning of illegality. Despite the ban, illegal construction is substantial, accounting for approximately 44% of the housing stock in Serbia's cities (or 2.05 million units). Initially, this illegal construction emerged to accommodate the innumerable migrants that sought refuge in the country after the dissolution of former Yugoslavia. In later years, a new surge of informal, illegal construction was initiated in response to the privatization of land use and tenancy rights coupled to newly arisen opportunities for rent-seeking and corruption.

In the subsequent contributions, we examine informality in China; a context categorized as “high development” yet, in light of other indicators such as institutional reforms, environmental degradation, and urban planning, still not considered part of the “Global North.” In a series of closely related articles that proceed through three levels of analysis (macro-meso-micro), it will be ascertained that informal property rights did play a credible function: 1) the avoidance of slums to the extent that can be observed in cities in Latin America or Southeast Asia; 2) serving as the “lubricant” of a development that has led to a historically unprecedented urbanization in speed, scope, and scale; and 3) the absorption and buffering of a significant shortage of affordable housing for low(er) income groups.

The first paper in the “China triptych” analyzes the way in which the property rights structure was used and affected urbanization at the macro-level. Liu and Zhang contend that the institutional structure of state-owned land in the cities and collective-owned land in the countryside has had a two-sided, by and large, credible effect. On the one hand, it enabled government – and particularly local government – to engage in the large-scale transformation of rural land into urban construction land by relying on an extremely profitable sale of land lease rights. On the other hand, it allowed farmers and rural collectives to develop village collective land for commercial purposes through the informal construction of housing that subsequently provided direly needed affordable social housing.

The next contribution takes us to the meso-level of analysis. Chen presents the case of Shenzhen, a city known for its breakneck transformation from a sleepy town into a booming metropolis. When Shenzhen was established as China's first Special Economic Zone in 1980, there were approximately 30,000 inhabitants. Today, the city houses over 12 million people or 400 times more. As the city could not manage a migratory influx of that magnitude, the authorities disregarded the massive construction of informal housing. The city's built-up area exploded from just 300 ha to 863,000 ha in 32 years (see Chen, this volume). Drastic conditions require drastic measures, and

Shenzhen *extra-legally* nationalized neighboring villages to satisfy the demand for land. Although the central authorities later outlawed this move, the situation has been allowed to persist to date.¹⁹ Chen's account demonstrates how informal institutions establish credibility through an intricate process of competition with and political bargaining over formal institutions.

The final paper of this series examines the micro-level. Informal housing in China is popularly referred to as “Small Property Rights Housing” as opposed to housing with “big” ownership that encompasses the “full” bundle of rights. Sun and Ho provide a view below of how the institutional arrangements of Small Property Rights Housing are perceived by buyers based upon a survey ($n = 291$) in seven different cities. It must be noted that most of the buyers belong to low and lower income groups. The overall majority of the respondents (93%) felt that – despite the lack of full ownership – they *are* the owners with, respectively, the rights to inhabit (98%), to inherit (71%), and to sell the property (58%). Paradoxically, close to two-thirds of the respondents *are* aware that their property lacks formal ownership.

It is concluded that the informal Small Property Rights Housing in China appears to provide a credible alternative to formal social housing. In this regard, Sun and Ho's paper reaches a strikingly similar conclusion as was found in a highly developed context over 19,000 km away. As stated in the final contribution of the next section:

“[E]ven within well-functioning urban areas where there is strong protection to private property rights, urban informality may still provide a better geography of opportunities than formal homeownership.”

(Celhay and Gil, this volume)

4.3.3. Informality in developed contexts

It is often believed that, over the course of development towards highly industrialized, urbanized economies, informal institutions cannot fulfill a credible function and are replaced by those that are more formal. The last section of this special issue aims to falsify this by bringing together four cases on a highly developed context or, more specifically, an environment featuring a “very high” Human Development Index or HDI (UNDP, 2018).

Being the cradle of the Industrial Revolution, the United Kingdom belongs to a “first generation” of early urbanized, industrialized nations. Interestingly, and spawned by the very same urbanization and industrialization, it has witnessed grassroots movements in favor of self-reliance and self-sufficiency away from the state. The contribution by Sheppard and McClymont examines two of these, a historical and a contemporary case: the 19th century plotlands and Low Impact Development (LID).

The plotlands movement refers to citizens occupying small pieces of land on which self-built settlements were established in southeast England from the late 1800s up to the Second World War. Plotlands were a peculiarly English phenomenon that existed outside of planning regulations and were driven by citizens' desires to own a plot of land, no matter how small.

The contemporary LID movement aims to minimize the environmental impact by making use of local, recycled, and renewable materials in delivering affordable, low, or even zero carbon housing. At the same time, the movement also encourages self-sufficiency in terms of waste management, water, energy, and other needs. With an analysis of the drivers, dynamics, and functions of these movements, Sheppard and McClymont ascertain that, despite extensive government control and planning, credible informal developments occurred throughout the history of the United Kingdom.

The next contribution in this section brings us to a country that is,

¹⁹ More information on the features of the Chinese state and governance can be found in (Shue, 2018).

by historical fate, tied to the United Kingdom as one of its former mandates: Israel.²⁰ Upon its establishment in 1948, Israel was a “poor new state hopelessly indebted to the outside world” (Shalev, 1999: 124). Today, it is ranked in the world's top 20 nations as measured by the United Nation's HDI, preceding even France, Austria, and Luxembourg.²¹ Israel is highly urbanized with a metropolitan populace of 90,3% of the total population of over 8,3 million people (United Nations Department of Economic and Social Affairs, 2017: 19).

In this context, Tzfadia, Meir, and Roded examine the spatio-temporal function and credibility of municipal authority, sandwiched between statutory and customary law. To this end, they present an empirically rich, case-study on Kseifa, a site that is a local Bedouin municipality in Israel's Southern District.²² Legally speaking, customary rights have been delegitimized, the result of which the Bedouin settlements are illegal and, at best, informal, side by side with legal and formal ones. At the same time, the Bedouin community is heterogeneous and fragmented into three major groups, i.e., landlords and landless Bedouin living within Kseifa as well as landlords living outside the municipal jurisdiction. All three groups are registered as Kseifa residents entitled to certain political, economic, and social rights. As the municipality balances the interests of the groups while maneuvering between statutory and customary rights, an amalgamated, multi-dimensional functionality emerges, aptly termed “gray governance.”

The third paper by Arvanitidis and Papagiannitsis leads us to Greece, categorized as a “high income” economy by the World Bank (2019a).²³ In central Athens, the Greek capital, can be found the Navarinou Park, a verdant oasis that is concurrently a playground, open-air cinema, and a vegetable garden. Once an unprepossessing parking lot, it was turned into a vibrant community garden on a wave of informal urbanism and collective action. In many ways, the Navarinou Park is currently a functional, long-standing, and credible commons that successfully serves the manifold functions of the local community in recreational, socio-political, and environmental terms. The question is: how was this achieved? By pooling Ostrom's Socio-Ecological Systems (SES) with the Credibility Theory – more specifically, the Formal, Actual and Targeted (FAT) institutional framework – this paper dissects a surprising answer to this question.

Likewise as the preceding cases, the final paper examines a high-income economy: Chile. Three decades after the end of Pinochet's military rule in 1990, Chile is currently one of Latin America's prime economic success stories. Its poverty rate declined from 36% in 2000 to 8.6 in 2017 (World Bank, 2017). Chile also joined the Organisation for Economic Co-operation and Development (OECD) in 2010, being the first Latin American country to do so. Having said this, much of the recent social movement against the Piñera Government is driven by widespread discontent over the divide between the rich and the poor (Lewis, Fernandez, & Dominguez, 2019).

A poignant expression of that divide is the slums in Chile that have not only persisted but have even doubled since 2011 (De la Jara, 2018).²⁴ In an effort at urban renewal, the Chilean Government resorted to slum demolition, relocation, and the rehousing of low-income groups in affordable housing. Through a survey ($n = 1588$) conducted in Santiago, the Chilean capital, Celhay and Gil contrasted the

credibility of informal housing as opposed to the newly provided affordable housing. By developing new indicators for the measurement of credibility – perceptions on location and neighborhood security – they ascertain that for low-income households there is a trade-off between housing formality (legally owning a house) and certain relevant variables associated with the access to critical urban resources.

5. Discussion and conclusion

“Promoting rural land titling (...) strengthens farmers' capacity and means at self-protection.”

(Li cited in Hu, 2016)

“Farmers' housing land is being titled, which seems a good thing. Yet, I have received word via various channels that this is less and less the case. Why title?”

(Le, 2017)

These contrasting citations capture the dilemma of institutional form: why does the formalization of property rights not necessarily result in protecting the weak and vulnerable? The answer lies in the thesis of this special issue: institutional function presides over form when it comes to performance.

Assuming a benevolent rather than a predatory state – in which case, no form whatsoever will be a guarantee – what interventions could be considered if one wanted to do “the right thing”? At this point, we need to realize that formalization is but one type of intervention positioned on a wide continuum of policy tools to be considered in line with a similarly wide continuum of credibility.²⁵ Formalization, in fact, is a strongly interventionist measure, ordaining the behavior that *must be done*; for instance, adhering to spatial plans or applying for permits to cut trees.

Yet, when investigating the way that institutions function at a given time and space, property rights arrangements that are highly functional and credible but simultaneously exist *outside* of the law might be encountered. Despite appearances of being informal, disordered, or unplanned, such arrangements may fulfill critical functions for actors as these have endogenously emerged to fill the socio-economic and political niches left open by the state. Informal, extra-legal arrangements that persist outside of the reaches of the state generally result from having been “neglected” or “silently condoned” (see Section 4.1).

In either case, regardless of whether they result from unconscious neglect or tacit approval, the passage of time *does* create certain obligations on the part of the state. If informal property rights have been allowed to exist for a given period of time, for instance, ten or 20 years, there should be some recognition of these rights. Legally known as “acquisitive prescription”, this entails that someone is regarded as the owner of an asset if no appeal is lodged within a specified term.²⁶ From this follows that forced eviction, as witnessed, for instance, in the case of Daxing where informality was condoned for decades (see: beginning of this article), is to be defined as “an activity or matter that contravenes the law.”

The eradication of the informal via command, control, and prohibition often results in heightened contestation, conflict, and cleavage or, at best, a (persistent) reemergence of that which was prohibited.

²⁰ From 1920 until 1948, Israel was part of the Mandatory Palestine or British Mandate of Palestine after it was carved out of Ottoman Syria following the end of the First World War.

²¹ As measured by the data released by the UNDP in 2017.

²² The Israeli state is divided into six districts or *mehozot* in Hebrew: Jerusalem District; Northern District; Haifa District; Central District; Tel Aviv District; and Southern District.

²³ The Greek economy is ranked as the 51st largest in the world featuring a nominal GDP of 218 billion US\$ in 2018 followed by New Zealand and Qatar (World Bank, 2019b).

²⁴ For an important part, this increase is the result of mass migration from countries such as Haiti and Venezuela.

²⁵ In this regard, see the Credibility Scales and Intervention (CSI) Checklist developed to demonstrate this continuum of policy tools (Zekovic et al., this volume; Arvanitidis and Papagiannitsis, this volume).

²⁶ Some countries use different terms to distinguish whether property has been acquired in “good” or “bad” faith. In the Netherlands, for instance, acquisitive prescription (or “bevrjndende verjaring”) implies that someone can become an owner of property after a term of ten years in the case that the property has been acquired in “good faith” and a term of 20 years when this has been done in “bad faith”. For more info, see (Van Es, 2011). An interesting case in which the Dutch municipality of Bergen lost a plot of land to a private person is described by (Liebrechts, 2016).

Consider this, if a refugee camp is cleared by armed forces for the 35th time in three years only to spring up at another place, as recently happened in Paris (AFP, 2018), it may be wondered what rallies greater credibility, the act of clearance or that which was cleared?

If an institutional set-up works within a given spatial context, from an urban and regional development point of view, it is probably wisest to leave it untouched. The contributions assembled here have provided further proof for such an approach by validating a double prediction of the Credibility Thesis – institutions diverge over development, and divergent institutions may perform identically as much as identical institutions may perform divergently. More specifically, the contributions demonstrated that:

- Informal arrangements can perform certain functions such as the provision of housing, employment, schooling, and basic utilities as equally well as those that are formal;
- The same formal institution may perform differently over time and in space as demonstrated in the case of strata rights, housing ownership, and land lease;
- Credible, informal arrangements are not a distinguishing feature of the Global “South” but also extend to the Global “North” as shown in the cases of the United Kingdom, Israel, Greece, and Chile.

In closing, there may be another instance that may warrant being extremely cautious with any new institutional interventions: in the *absence* of knowledge of the credibility of institutions as can be ascertained by the study of their functioning. If one does not understand why institutions have emerged and exist as they do, the baseline of government action should be predicated upon *precautionary non-intervention*. It is what Bromley (2005: 32) phrased as “doing no serious harm.” It is undoubtedly not the first time in history that governments, under the banner of good governance and ordered planning, extirpate that which perfectly functioned informally or, as Davy and Pellissery (2013: 72) noted with a tinge of dark irony:

“Many governments violate the right to housing (mass eviction of residents from informal settlements) in order to fulfil the right to housing.”

CRedit authorship contribution statement

Peter Ho: Conceptualization, Methodology, Writing - original draft.

Declaration of competing interest

The author declares that there are no known conflicts of interest associated with this publication.

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