Ethics, evaluation, and economies of value amidst illegal practices

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Abstract
This special issue focuses on illegal practices and the forms of value produced as people engage in them. Embracing a methodological orientation that attends to criminalized networks and the values they structure from the inside, the contributions included here highlight micro processes of exchange and evaluation. By linking the study of local worlds to the apprehension of wider structural and cultural dynamics and processes, the collection develops a critical perspective on formal law’s legitimizing and delegitimizing effects with respect to the ethical and economic values illegal activities produce.

Keywords
Illegality, value, evaluation, economy, ethics, intersubjectivity

This special issue focuses on illegal practices and the forms of value produced as people engage in them. Official state policies, transnational governmental organizations, and international legal frameworks typically portray illegal activities as being bereft of moral value, economically inefficient, and ultimately threatening to the modern nation and the expectations of modernity wrapped up with its social, political, and legal construction. The articles collected here build on recent work in the study of illegality (Comaroff and Comaroff, 2006b; Heyman, 1999; Nordstrom, 2007; Reno, 2000; Roitman, 2004; van Schendel and Abraham, 2005). They demonstrate that values associated with modernity, morality, security, and legitimacy, as well as various kinds of economic value that are integral to the regular functioning of formally regulated markets, are actively produced as people engage in

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illegal activities. By linking the study of micro processes of exchange and evaluation to the apprehension of wider structural and cultural processes, the collection develops a critical perspective on formal law’s legitimizing and delegitimizing effects with respect to the value(s) illegal activities engender.

This special issue also addresses the question of how multiple value systems intersect in the arena of illegal activity. Contributions by Kedron Thomas, Rifke Jaffe, and Steffen Jensen offer lucid examples of how illegal regimes of ethical and economic value come to undermine, challenge, and/or support state-based forms of governance (see also Thomas and Galemba, 2013). Andrew Walsh, Laurens Bakker, and Bjorn Thomassen document pluralistic regulatory environments, where the hegemonic value systems that state governments and international political and economic institutions promote exist alongside values related to senses of place, community, and charity, respectively, that take shape as part of the regular workings of criminalized kinds of economic exchange.

In this introduction, we outline a set of theoretical and methodological orientations that guide the authors’ contributions. In addition to highlighting the production of value(s) and intersection of multiple value regimes in the context of illegal practices, this special issue contributes on a general level to anthropological theories of value and points to the utility of an intersubjective frame for understanding the sociopolitical construction of illegality. The papers also illustrate how recent theorizing around processes of evaluation can be enhanced by attention to illegal activity. After discussing each of these points of intervention, we turn briefly to the conditions of violence that so often circumscribe or constitute illegal practices in order to assess how value(s) figure into the promulgation of violence and efforts to promote security.

**Value theory in the social sciences**

Despite longtime engagement with the concept of “value,” (Appadurai, 1988; Berking, 1999; Douglas, 1979; Durkheim, 1892; Godelier, 1999; Simmel, 1995; Strathern, 1988; Tarde, 1898; Wiener, 1992) the term continues to represent a Gordian knot for sociological and anthropological analysis. Marcel Mauss’s *The Gift* (1925) opened the way for crucial analysis of and reflection on the role of the symbolic and imaginary in the production of value (Bateson, 1936; Benedict, 1934; Firth, 1953; Keane, 2006; Kluckhohn, 1951; Kuechler, 2004; Kuheling, 2005; Mead and Metraux, 1954; Miller, 2005, 2008a, 2008b, 2009; Myers, 2001; Nadel, 1951; Rowlands, 2005). Building on this humanistic and interpretive approach and drawing on frames of exchange and personhood (Douglas, 1966; Douglas and Wildavsky, 1982), social anthropologists and economic historians have exposed a diversity of economic “morailties” (Brown and Milgram, 2009; Fassin, 2009; Gaggio, 2007; Geyer, 2004; Maurer, 2012; Pardo, 1996, 2004) and argued for approaches that take the production of economy to be a fundamental human project of meaning making (Graeber, 2001; Hart et al., 2010; Maurer, 2005).
Writing along these lines, anthropologist Daniel Miller proposes to bridge the traditional gap between “value” in the economic sense of price and “values” in the sense of inalienable ethical orientations by analyzing how individuals reason with the term “value” in everyday life (Miller, 2008b). Seeking to go beyond reductionist theories of value (e.g. Marxian labor theory) and collective representations of the concept (e.g. “consumer values”; see also Strathern, 1988), he advocates ethnographic attention to the pragmatic strategies and processes of evaluation that consumers employ when deciding what to buy.

We take this double semantic register and pragmatic approach as particularly pertinent to the study of how ethical and economic value gets worked out as people engage in illegal practices. The case studies collected here reveal that questions of ethics, legitimacy, and economic viability and value are especially relevant for people whose lives and livelihoods have been criminalized. Bjørn Thomassen’s contribution, for example, illustrates how begging in the streets and plazas of Rome constitutes a “liminal” activity, where religious conceptions of saintliness and values of space and belonging mix with perceptions of threat and danger to shape an urban economic activity oriented toward survival. Also drawing on a value frame, Kedron Thomas examines strategies of concealment among indigenous Guatemalan entrepreneurs whose economic success is constantly under perceived threat by extortionists as well as state authorities. In both of these contexts, concepts such as value, right, and responsibility get negotiated relative to ordinary tasks and interactions, and, to Daniel Miller’s point, retain their polysemic qualities.

Illegality, intersubjectivity, and liminality

We are also interested in this issue in how an unfolding theoretical perspective in anthropology on intersubjectivity (Duranti, 2010; Jackson, 1998; Latour, 1993, 2005; Latour and Lepinay, 2010; Tarde, 1895) can be methodologically useful for the study of illegality. An intersubjective approach emphasizes how actors, meanings, and values are constituted in relation to people and things across networks of practical engagement. In particular, the papers collected in this issue demonstrate how categorizations such as ethical/unethical and legal/illegal come to mean something not simply through official acts and pronouncements but, rather, via the accumulated and ordinary interactions of people for whom the definitions matter in particular ways. Moreover, and in keeping with Thomassen’s formulation (noted above), the papers reveal that practices are more often liminal than fixed when it comes to ethics and legality.

The social scientific application of categories such as ethics and legality can obscure the generally fluid movement of subjects and objects across networks of value and contexts of exchange. In the articles that follow, commodities including money, weapons, intellectual property, and precious stones are transacted in ways that are deemed illegal. At the same time, these transactions are linked to formal
economies and legal consumer practices, and to the organization of militaries, civil and political institutions, and communities. For example, Rivke Jaffe and Laurens Bakker examine criminal networks in Jamaica and Indonesia, respectively, by tracing out micro relations of reciprocity and exchange between state agents and underground bosses, replacing the conceptual divide between legal and illegal actors with an inclusive and complex portrait of politics and civil society.

The same goes for affects and experiences such as trust, risk, sympathy, violence, and security. Steffen Jensen looks at affective relationships among young men in Manila who belong to criminalized fraternal organizations in order to understand how experiences of doubt, risk, and insecurity underwrite senses of affinity and ritual practices of affiliation at local and national levels. Whereas social scientists have tended to study illegal practices by focusing on compartmentalized shadow versus official networks and on the role of the state in modeling and managing frontiers of “legality” (Bayart et al., 1997; Comaroff and Comaroff, 2006a; Das and Poole, 2004; Nordstrom, 2007), we endorse a method and theory that foregrounds the crossing of such conceptual and practical boundaries and the economic and ethical value generated through such transgressions. The methodological challenge, as Latour and Lepinay (2010) argue, is to properly appreciate shifting value(s) from the inside, up close, and in small numbers.

Moving back and forth across traditional conceptual divides enables the contributing authors to assess the implications of illegal activity for citizen–state relations. For instance, articles by Thomas and Walsh examine the moral lives of indigenous entrepreneurs in Guatemala and Madagascar, respectively. Their business ventures fall outside the regulatory scope of the state, but the normative values, forms of evaluation, and market strategies that define their work nonetheless emerge from contexts of intense capitalist competition shaped by state and non-state regulatory structures. There are also deep feelings of struggle, loss, and affinity with regard to the state, to territory, and to shared ways of life that emerge across the value chains (Gereffi et al., 2005) in which these entrepreneurs are embedded.

Indeed, across the special issue, we find that people involved in criminalized forms of work and networks of exchange sometimes come to see the act of defying state authority as an ethical practice in and of itself (Austen, 1986; Cohen, 1986; Hobsbawm, 1981). Especially in places where authoritative claims to rule of law have facilitated the marginalization of certain groups, the exploitation of resources (with regard to the struggle for land tenure, see Gledhill and Schell, 2012), and even violence (Mattei and Nader, 2008), or where state bureaucracies are otherwise felt to produce political and juridical inequality and make life more difficult for citizens, belonging to a criminal organization, ignoring the law and its demands, or positioning oneself at the margins of the legal-bureaucratic landscape are sometimes experienced as forms of resistance, protest, or struggle for political visibility (Englund, 2006; Herzfeld, 2004, 2009). Without reducing illegality to a form of resistance, then, the papers collected in this special issue analyze the processes of ethical reasoning that attenuate the framing of
particular activities as criminal and those that call into question the moral authority of the law.

**Value and evaluation**

Apart from instituting the humanistic approach to the study of value, Marcel Mauss’s work (1925) constitutes a basis for sociological analysis of the intersections of multiple value systems. These intersections have been discussed often through the lenses of trustworthiness and risk assessment, which demonstrate the importance attributed by research populations to shared values (Bachmann and Zaheer, 2006; Hardin, 2004; Ostrom and Walker, 2003). The place of values in decision-making is also evident in recent work in the anthropology and cultural sociology of institutions that has emphasized processes of “evaluation” (Bowen, 2010; Lamont, 2012; Lamont and Thevenot, 2000; Law and Mol, 2002) shaped by broad discourses and rooted in everyday practice. As Boltanski and Thevenot (2006) point out, people routinely engage in multiple forms of evaluation tied to disparate value regimes to make sense of their worlds and justify their actions. Thevenot (2002) demonstrates, for example, how a government agency might simultaneously justify a construction project in terms of environmental, economic, and social value, with each line of argument appealing to a unique set of public values and requiring a particular kind of evidence. This model has been sorely understudied outside of formal and licit organizational contexts. We find, in fact, that illegal practices are especially productive sites for tracing processes of moral evaluation and ethical justification since criminalized populations face institutionalized obstacles to legitimacy. Bjorn Thomassen’s contribution illustrates this nicely. His reflection on the moral world of begging in Rome reveals both how market systems shape the practice and how a set of norms emerge from the everyday encounters between beggars and those whom they approach, norms by which the practice of begging comes to appear as “respectable” to both groups involved.

While illustrating the multiple forms of evaluation that correspond to particular illegal activities and their contexts, we also find evidence across the papers that criminalized populations evaluate themselves and their worth at least partly in relation to the “global hierarchy of value” (Herzfeld, 2004; Schramm, 2000), a concept that draws attention to the increasingly homogenous set of cultural and ethical standards that now pervade local worlds. Thus, modernity, authenticity, and citizenship are common values to which the populations presented here make appeals. Furthermore, and in keeping with an older literature on legal pluralism (Merry, 1988), the papers demonstrate that criminalized groups often incorporate the symbolic power of state law and other formal state and civil institutions (Bakker et al., this issue) as they make meaning out of and provide justification for their lives and livelihoods. They also generate new signs of status and sovereignty. Brand names, gemstones, and acts of begging (Thomas, Walsh, Thomassen, respectively, this issue) are re-signified as illegal actors lay claim to authority and legitimacy.
Violence and security

Violence and security emerge as notable themes across this collection. Anthropologists have suggested a variety of terms to describe the perceived increase in violence carried out by non-state actors, including criminalized populations, over the past half-century (Aijmer and Abbink, 2000; Chatterji and Metha, 2007; Das, 2007; Krohn-Hansen, 1994; Riches, 1986). For example, scholars working in Latin America posit that the general collapse of authoritarian regimes in the region and the set of globalized structural reforms that have concentrated material resources within an entrepreneurial private sector have resulted in the “neo-liberalization of violence” (Benson et al., 2008) or the “democratization of violence” (Godoy, 2006). Goldstein and Arias (2011) dub this situation “violent pluralism,” and emphasize not only the spread of violence but also its institutionalization as part of the political process within (relatively) newly democratic regimes (see also Bakker et al., this issue).

Consequently, we are interested in how various forms of value accrue (and have accrued historically) via violent means in each case study, how conditions of insecurity and structural violence figure into projects of evaluation among marginalized and criminalized groups, and what the cultural legitimation of violence means for state sovereignty and state-citizen relations. Read together, the papers suggest that the use of violent means does not preclude the production of ethical or economic value; in contrast, violence is an historically and empirically value-laden and value-oriented activity. It appears as a condition of possibility for illegal markets and emergent value regimes, a response to physical, economic, and legal insecurities, and a strategy that variously-positioned actors take up to circumscribe their legitimacy (and these contexts often overlap within the cases presented).

Attending to the social structures that permit and sometimes impel violence is but one way in which the authors present sets of intersubjective relations against wider backdrops of state and transnational processes. Each case is presented in relation to the dynamic and often broad cultural and political-economic structures that put people in a position of “illegality,” processes, we note, that place a special burden of justification, legal and otherwise, on criminalized groups.

In closing, we encourage anthropological investigation that figures illegal activity as part of the normal flow of everyday life, and illegality as a politicized category that says less about what targeted groups and individuals are doing and more about the values and goals of states and transnational organizations. Ethnography, we contend, that enables us to see how illegal practices produce ethical and economic value and are integral to multi-scalar value chains also encourages a more complex politics of illegality across social scientific and policy arenas.

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Author Biographies

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