
Later published as:

Available from: http://dx.doi.org/10.1353/sais.2013.0004

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Shadow economies in international communications: connecting parallel debates

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Article forthcoming in SAIS Review of International Affairs
Pre-press version – not for citation
March 2013

ABSTRACT Public policy is typically focused on reducing and containing shadow trade, yet it is also useful to understand why such activities exist and how they connect with the formal economy. This is of particular relevance to the current discussion about intellectual property rights. Tracing some connections between the shadow economies debate and the “global piracy” debate, I show how today’s communications environment is characterised by different but intersecting modes of economic organization. The formalized consumption patterns underpinning international IP trade are not the natural state of affairs from which shadow economies depart, but rather a historically specific market environment that has been politically produced and must be constantly maintained.

The informal or “shadow” economy, as a policy concept, is now four decades old. The notion of an unregistered and unofficial zone of economic activity emerged from discussions about third-world employment, and has been central to development policy discussions since the International Labor Organization (ILO) incorporated the idea into its research programme in the early 1970s. In its original formulation, the informal economy referred to employment and other economic activity taking place outside the industrial economy and beyond the purview of the state: street vending, petty commodity production, urban agriculture, barter-based exchanges, and other forms of irregular work. In contemporary usage, the term has a wider meaning and encompasses off-the-books activities of all kinds, from babysitting to tax scams. It is also used, especially in its shadow economy variant, to refer to black-market trade in illicit services and commodities, from cocaine to child pornography. (Definitions vary considerably, but for the
purposes of this discussion, I use “shadow” and “informal” interchangeably to refer to economic activities, licit and illicit, taking place out of view of the state.)

Early research on the shadow economy took place in a national context, but the questions it raises are global in nature. Informal production and exchange is widespread in rich and poor nations, in the global North and South, on the streets and on the Internet. Informality was originally viewed as a marker of underdevelopment, and policies were designed to reduce or contain it. However, many scholars argue that informal activity has been growing in the information age, that recent shifts in economic structure have paradoxically increased the scale of informal exchange, and that informality is dynamically linked to (rather than existing outside) the regular economy.¹

These relations between formal and shadow economies are visible across a range of current problems: worker exploitation and sweatshop labor; the rise of narco-economies and private armies, often working in tandem with states; tax evasion by individuals and multinational corporations; corruption at all levels of government; and, more generally, the increasing complexity and opacity of the global economy, which frustrates governance structures set up around a paradigm of heavy industry and nationally-bounded trade.

Theoretical and empirical debate about the shadow economy is advanced in some areas, such as sociology and economics. It is also beginning to take shape in political science and governance research.² However, we have not yet begun to apply the insights from this line of research to one key aspect of global society: the media. This is somewhat surprising, given the intensity of discussion around both media systems and shadow economies in terms of their significance to international affairs.

This paper takes as its point of departure the idea that many of today’s media-related controversies – particularly the debate about global piracy, but also anxieties about social media, cybercrime, Internet censorship, and freedom of speech – concern the same fundamental issue that preoccupied the ILO researchers: namely, how to explain interactions between formal activities, informal activities, and governance structures. In what follows I make some links between the parallel debates, and explore the implications for a particular policy problem: international enforcement of intellectual property rights (IPR). Rather than seeking only to constrain informal activities, I argue that policy development would benefit from understanding

the diverse ways that formal and informal economies shape each other, that such an understanding may lead us to question the normative claims of IPR governance more generally, and that the global piracy “problem” can be viewed as a conflict between different but intersecting modes of economic organization.

Explaining shadow media markets

International relations approaches to media analysis, as exemplified in the academic discipline of international communications, have traditionally been grounded in a mass communications paradigm where the press, broadcasting, postal system, and radio are the central organs of public culture, leading to a corresponding focus on formal media institutions like news wire agencies, state broadcasters, and telecommunications providers. Such a paradigm is showing its age today when social networks are, in many nations, central sites of political mobilization; when the dramatic expansion of mobile technology has erased the political geographies of fixed-line telephony; when vast amounts of media content circulate through online and offline pirate networks, from street markets to Bit Torrent; and when YouTube and other video sites have become first-release channels for war footage.

The diversity of activities within these heterogeneous “shadow economies of media” can be represented with a few examples, none of which are well captured within existing international communications paradigms:

- **Shadow media markets – licit (e.g. unregistered second-hand trade)**
- **Shadow media markets – illicit (e.g. commercial piracy)**
- **Shadow nonmarket exchange (e.g. non-commercial peer-to-peer file-sharing, tape swapping)**
- **Shadow media production (e.g. user-generated media, community media, underground publishing)**
- **Shadow media regulation (e.g. volunteer Internet moderators, Internet NGOs, moral police)**

The cumulative scale of these and other shadow media circuits is significant and can be explored from several different analytical perspectives. Public policy is typically focused on how to regulate and contain informal media activities through policy change and legal reform. However, it is also useful to draw on the informal economies debates to help us explain why such informal media activities exist and how they connect with formal systems.

Let us focus for a moment on informal illicit media markets – specifically, on their most obvious manifestation: media piracy (commercial bootlegging of software, videos, DVDs, books,
and other media goods). U.S. government agencies and industry groups invest a great deal of
effort in monitoring global piracy through field studies and containing it through international
governance mechanisms, most notably the USTR’s Special 301 process. Combating piracy of
Hollywood movies and Silicon Valley software abroad is a major policy objective, and significant
resources are marshalled in service of this aim.

If we view the issue through the lens of the shadow economies debates, as opposed to a
criminological or enforcement paradigm, new and productive complications arise. One line of
enquiry is to consider the correlation between economic development and informality, and thus
the degree to which high levels of shadow sector activity in other areas of the economy are likely
to correlate with high levels of shadow media trade.

Since the 1970s, researchers have compared the sizes of shadow sectors within poor and
rich nations. Analyses by the Austrian economist Friedrich Schneider suggest informal activities
account for an average of 13 percent of GDP in OECD nations and around 37 percent in Sub-
Saharan Africa and the transition economies of Eastern Europe and Central Asia – though given
that informal activity by its nature is impossible to measure accurately, the real figures are likely
higher. In the most impoverished and war torn nations where conventional industry barely
exists, the informal economy is for all intents and purposes the real economy – a reality captured
in anthropological studies, such as Carolyn Nordstrom’s research in Angola.3

Media and communications systems, which are embedded within a wider political
economy, can be expected to follow the pattern to some degree, while also having their own
specificities. Hence it is not surprising that nations with high levels of shadow activity, and where
enforcement resources are limited or devoted to more pressing concerns, will tend to have larger
pirate markets. This is the first point to be made: that the formalized consumption patterns
underpinning international IP trade are not the natural state of affairs from which informality
departs, but rather a historically specific market environment that has been politically produced
and must be constantly maintained.

The equation between “development” and formality is not a hard and fast rule, of
course. Many Mediterranean economies, such as Greece and Italy, are heavily informal, with long
and enduring traditions of street trade, unregistered labour, piracy, and so on, despite being
structurally advanced in other respects. The relation is never straightforward; nonetheless, seeing
the problem in this way helps to put in context the normative claims made by various actors in
the copyright wars. A distinction should also be drawn here between licit and illicit activities
within the shadow sector. Pirate trade is informal and copyright-infringing, but it is not

3 Carolyn Nordstrom, Global Outlaws: Crime, Money, and Power in the Contemporary World (Berkeley: University of California
equivalent to trade in guns or drugs, as media goods themselves are not illegal in most nations. It is therefore appropriate to view the global IP problem as a market issue rather than a moral issue. The prevalence of piracy around the world may be more to do with the structure and organisation of media markets, which frequently combine informal and formal elements, than with other criminological factors, such as a pirate “culture” in developing nations or the involvement of organized crime gangs.4

It seems reasonable, then, to posit a relation of some sort between shadow economies in general and shadow media economies in particular. This relation, rather than anything to do with character or criminality, helps to explain the organizational differences between heavily informal and piratical media markets – in much of Latin America and Southeast Asia, for example – and the more orderly and regulated commercial environments of Europe and North America.

Now let us move on to consider some further issues that complicate this picture, including the simultaneously formalising and deormalising capacities of digital technology.

The specificity of the Internet

Informal economies cannot simply be dismissed as evidence of underdevelopment, as a primordial residue; they are also produced through the economic structures and governance mechanisms of the information age. We are seeing this counterintuitive phenomenon – the growth of informal economies due to increasing technological complexity – in current Internet culture.

If we shift our gaze from pirate trade in hard goods (books, DVDs, CD-ROMs) to online piracy, we see that the threat to intellectual property is coming not from outside the first world but from within: from Internet users in rich countries sharing content via peer-to-peer networks and other decentralized digital platforms. How can we account for this blossoming of shadow activity at the heart of the most advanced economies?

The informal economies literature has some more useful ideas to offer on this count. Social scientists including Manuel Castells and Saskia Sassen have researched widely on the topic of informality in advanced nations. Sassen’s research on informal labor in New York City traced a set of connections between off-the-books service sector work (informal cleaning, transport, domestic, and other low-end labor) and the high-tech mutations of the financial and

4 The claim is often made by industry groups, and was the subject of a high-profile RAND report, based mostly on secondary sources; but there is little empirical evidence to suggest a systematic link, especially in digital markets. For a detailed rebuttal see Joe Karaganis (ed.), Media Piracy in Emerging Economies (New York: Social Science Research Council, 2011).
informational industries. “Informalization,” she argued, “must be seen in the context of the economic restructuring that has contributed to the decline of the manufacturing-dominated industrial complex of the postwar era and the rise of a new, service-dominated economic complex.”

This idea has implications for the intellectual property debates, and specifically for discussions about the effect of the Internet on established media markets. The Internet needs to be understood as a Janus-faced actor which expands formal and informal economies simultaneously. It exerts a deforming pressure on established media markets and state projects, and informal media consumption and exchange – defined as interactions taking place outside the channels laid out by media institutions, public broadcasters, and corporations – has risen with the advent of new digital innovations (especially peer-to-peer and video streaming). Paradoxically, it also formalizes: it generates new commercial spaces and technologies, from micro-payment systems to surveillance and data-mining, that turn everyday interactions into statistically enumerated commercial data and bring more and more private activity under state and corporate oversight, allowing for new monetization opportunities. Formal markets are created out of what appears to be rampant informality.

Social networking sites are an exemplary case in this respect. On the one hand, they have a deforming effect on established communications systems: they weaken our reliance on established media systems, and provide an infrastructure in which amateurs become newsmakers and content distributors. On the other hand, they effectively formalize what would earlier have taken the form of private communications by bringing them into an organized, commercial space. When we share content on Facebook or Twitter, we make such content subject to legal terms and conditions, we expose it to surveillance by authorities and corporations, and we allow it to be archived and commercially harvested. It becomes visible and statistically enumerable. Thus social networking sites pull in both directions simultaneously. They are a massive extension of centralized media distribution (everything goes through the central servers) while also fertilizing decentralized many-to-many communications (in contrast to the one-way broadcast model).

This environment is the new frontier for the copyright wars. Multi-directional, many-to-many systems are not well suited to the kind of media trade structures around which the current IP enforcement paradigm is organized. Yet they offer the capacity, built on proprietary surveillance and metrics technologies, to construct what could possibly be the most centralized,

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monitored, and organized (in other words, *formal*) media consumption system we have yet seen. Facebook, YouTube, and Spotify provide a glimpse of this potential future.

In this case, the equivalence between formal/public and informal/private, which has been central to the shadow economies debates, gets scrambled. The old equation of formalization with economic development dissolves into a different kind of relation, in which shadow and formal economies appear to be intricately linked, co-dependent, and evolving in tandem. Policy approaches to the informal sector therefore need to take into account the centrality of shadow economies to processes of industry change and reinvention.

**Whither the state?**

Let us turn now to the role of the state within shadow media economies, and to some more general implications that arise from the relationship between informality and governance.

Policy approaches to the informal economy generally seek to formalize irregular economic activity: to drag it “into the light” and make it subject to oversight and regulation. Implicit in this policy prescription is the idea that economic transactions in general, and employment in particular, should be subject to centralized measurement, oversight and taxation. Libertarians and free market advocates do not share this view, of course, but with one or two exceptions, they have not played a prominent role in the discussion, which takes for granted the normative ideal of a regulating and benevolent state apparatus.

Media presents a paradox in this respect. It is not like any other industry; rather, communication is a human process that exceeds the industries built around it. Total opacity and formalization of communications is neither possible nor desirable, as it would remove the privacy rights of citizens. No government in history has managed to completely regulate communications. Even the most authoritarian states feature vibrant informal media systems, such as the *samizdat* underground publishing networks in the Soviet Union or the smuggled pirate DVDs that flow into North Korea from China and offer its citizens the rare pleasure of unauthorized entertainment.

Several thorny policy problems thus appear. In liberal democracies, from the point of view of day-to-day governance, the question around informal media economies is about finding the optimal combination of formal and informal activities, and deciding where the boundaries

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7 The work of Peruvian economist Hernando de Soto is a notable case here.
between state business, markets, and private life should be drawn. Such dilemmas play out across a wide range of current regulatory debates: licensing protocols for new technologies (such as open-spectrum wifi), the enforcement of defamation and privacy laws in online spaces, and fair-use exceptions to copyright, for example.

For critical analyses of governance, however, the policy question around informality is different and requires us to consider, among other things, the already-existing involvement of states within these spaces and the various ways in which they seek to utilize informality for political ends. States actively produce informal economies by declaring certain kinds of activities to be legal and others illegal, by measuring certain things and not others, and by declaring certain “zones of exception” where law is not enforced. If we take a wider view of the governance of informal economies, the policy question becomes more complicated.

The intellectual property debates provide numerous counter-intuitive examples here, suggesting that governance and informality are not mutually exclusive, and that IP is a strategic turf to be approached from many different angles. In Peru, for example, it has been claimed that the Fujimori government actively promoted book piracy in order to undermine left-wing publishing houses. The government of Antigua and Barbuda is threatening to build a “pirate site” stocked with U.S. content as a legal response, sanctioned by the WTO, to a trade dispute with the United States. In Russia, groups within the government are actively involved in the shadow media business, offering political protection to pirates, while anti-piracy raids by intelligence agencies are used as a political strategy to crack down on dissidents.

Cybercrime is another interesting example. For every nation, information security is a top strategic and trade priority: policies are in place at the highest levels of government to address the threat of malicious viruses, hacking, and other nefarious activities. Yet many states surreptitiously carry out cybercrime attacks, either directly or via proxies, as part of defence strategies. The New York Times recently claimed that the Chinese military and its proxies have been hacking the paper’s computer systems for years. The U.S. and Israel developed the Stuxnet computer virus, which temporarily put Iran’s uranium enrichment on hold. Complex connections between criminal computer hackers and Turkey’s “deep state” apparatus, where hackers are engaged as intelligence proxies and partners, have also been documented.

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Such actions connect with the shadowy world of the informal economies and fly in the face of the ideal of smoothly functioning cyberspaces and global media markets. Yet they also naturally form part of the everyday business of statecraft: nation-states claim the right to police their own media environments and to pursue strategic objectives by whatever means necessary. Seen from this perspective, the borders between the formal and “shadow” economies are rather hard to make out.

The informal economies paradigm therefore represents an opportunity not only to diagnose and explain the presence of informal activity, but also to rethink, at a more systematic level, the mutually constitutive relationship between states, formality, and informality.

**Conclusion: the movable boundaries of the formal economy**

In this paper, I have suggested that the current debate about media systems in the digital age is in a similar situation to the informal economies discussions of the 1970s. It is faced with the task of explaining a communications environment characterized by unprecedented complexity (in terms of the increased range of platforms for and take-up of communications technologies), density, and a corresponding shift from national to transnational scales of interaction.

The policy issues raised here are extremely complex, and responses will vary according to the specific issue at hand. Perhaps, though, there is a wider point to be made about the relationship between formal and informal economies. In a classic study from the mid 1980s, a group of American sociologists noted that analysis of informal economies can also help to enrich our understanding of formal structures, institutions, and bureaucracies. “Instead of imagining that openness in business and government characterizes Western industrial democracy,” they suggested, “perhaps we should make the assumption that beneath every formal institutional arrangement there is an informal set of customs and practices that are not themselves wholly explicable as rules or norms”.14

This is a useful reminder of the political stakes of the informal economies debates. When we take seriously the linkages between informal activities, formal activities, and the state, we emerge with a rather more complex picture of governance, in which the normative goals of regulatory policies are themselves configured around a certain understanding of the proper relationship between formality and informality – an ideal which is constantly in flux.

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Current debates about intellectual property enforcement offer a useful set of case studies in which to explore these problems. There is an opportunity here to develop a more nuanced account of the relations between shadow and formal media economies, and what this might mean for the overlapping stakeholder groups in these debates, including producers, distributors, audiences, citizens, and governments.

Policies to contain and manage shadow trade are clearly needed, and there are usually very good reasons to do this. At the same time, it also useful to remember that the boundaries of the official economy are mobile, and that any attempt to change this relation will also alter the “variable geometry” between formal and informal worlds. The messy media systems of the Internet age may well prove to the ideal testing ground for social scientists’ next round of theoretical and empirical investigation into shadow economies.