



LUND
UNIVERSITY

The Brazilian *jeitinho*: an empirical investigation into the influence of state laws on its perception

Tales de Oliveira Custódio

Lund University
Sociology of Law Department

Master Thesis (SOLM02)
Spring 2021



Supervisor: Rustamjon Urinboyev

Examiner: Peter Scharff Smith

Abstract

Brazilian *jeitinho* is a widespread informal practice that seeks to solve a problem without necessarily considering the rules. The aim of this thesis is to investigate how individuals who relate in different ways with state laws perceive this practice. In this context of informality, Ehlich's living law was applied to analyse the *jeitinho* as a Brazilian type of norm of conduct. Hertogh's legal alienation theory was used to understand the degree of identification and awareness of the law among participants and to develop different normative profiles. Semi-structured interviews were conducted with public servants, entrepreneurs and private sector employees. The findings indicate that there is a relationship between the perception of *jeitinho* and different levels of identification and awareness of the law. The use of a socio-legal approach is a novelty in research on the *jeitinho* that has allowed new findings on the relationship of informality and the role and rule of law in Brazilian society. The *jeitinho* endures because of its function in filling the gap between official institutions and everyday life of Brazilians, being an important norm of conduct recognized by them.

Keywords: Brazilian *jeitinho*, informality, state laws, living law, legal alienation

Acknowledgements

This publication has been produced during my scholarship period at Lund University, which was funded by the Swedish Institute, as part of the SI Scholarship for Global Professionals programme.

I am grateful for all the support that the Department of Sociology of Law at Lund University provided me during the Master's programme, especially to Ida Nafstad who accompanied our class during this period.

I also gratefully acknowledge the support and guidance of my supervisor Rustamjon Urinboyev during the writing of this thesis.

Finally, I thank my family and my life partner, Aline, for always supporting me and being by my side.

Table of Content

Abstract	2
Acknowledgements	3
Table of Content.....	4
1 Introduction.....	5
2 Background	9
3 Literature review	13
3.1 <i>Jeitinho</i> as a multifaceted practice	13
3.2 <i>Jeitinho</i> and other informal practices	16
3.3 <i>Jeitinho</i> through socio-legal lenses	18
4 Theoretical framework	20
4.1 Living law	21
4.2 Legal alienation.....	23
4.3 Building the theoretical framework.....	28
5 Methods.....	30
5.1 Semi-structured interviews.....	30
5.2 Ethical issues	33
5.3 Data analysis process	34
6 Presentation of the empirical data and analysis.....	35
6.1 General considerations about <i>jeitinho</i>	36
6.2 The dimensions of <i>jeitinho</i>	38
6.3 Normative profiles: Legalists, Loyalists, Cynics, and Outsiders	40
6.3.1 Civil servants.....	42
6.3.2 Entrepreneurs	43
6.3.3 Private sector employees	45
6.4 Perceptions of <i>jeitinho</i>	47
6.4.1 Civil servants.....	47
6.4.2 Entrepreneurs	48
6.4.3 Private sector employees	50
6.5 Concluding remarks	51
7 Conclusion.....	55
References	59
Appendix I.....	65
Appendix II	67

1 Introduction

Brazil is a country of continental proportions. With a population of over two hundred million, it is the fifth largest country in the world and the ninth largest economy (World Bank, 2019). Its magnitude goes hand in hand with its inequality. Brazil is the ninth most unequal country in the world (World Bank, 2018). To understand how a country with so much potential has so much inequality, it is necessary to understand the historical, social and political factors that have shaped – and continue to shape – this nation.

Among several factors that seek to understand the reasons “why Brazil is Brazil” (DaMatta, 1984), one of them focuses on the attitude of the Brazilian people towards law. One facet of this behaviour is called *jeitinho*. There is no possible translation that expresses its essence. *Jeitinho* is the diminutive of *jeito* (way or manner). It refers to ways of doing things without necessarily following what is official, recommended, or legal. Thus, it is a manner of solving problems without necessarily resorting to official or legal channels.

This creative capacity to solve problems arises from historical factors (DaMatta, 1984, 1997; Rosenn, 1984; Holanda, 2012; Matos and Ramos, 2016) and it has been the subject of study in several disciplines with different focuses. However, it is clear that there is a lack of research on the Brazilian *jeitinho* from a socio-legal perspective. This informal practice interrelates with categories relevant to sociology of law, such as normativity, compliance, enforcement and absence of laws, legal culture and legal consciousness. These interrelations reveal a fruitful field of research on the *jeitinho* through socio-legal lenses. Moreover, it demonstrates how sociology of law can be important in contributing to the understanding of this phenomenon.

In this context, the aim of this research is to investigate the relationship between the understanding of state laws and the perception of *jeitinho*. Thus, it seeks to examine how individuals who relate in different forms with state laws perceive this practice. The sample was divided into three subgroups: public sector, entrepreneurs and private sector employees. With this, individuals were grouped according to their relationship with the law in order to assess whether this interaction may influence the perception of the *jeitinho*. Through interviews with civil servants, entrepreneurs and private sector employees, I seek to investigate the participants' perception of this informal practice, and whether the degree of identification and awareness of the law influences their perception.

The research questions that this thesis will address are:

Main RQ: How do individuals with different relationships to state laws perceive the *jeitinho*?

In order to answer this question, this research will need to answer additional questions that will help to design the framework for this thesis, namely:

RQ1: Does the degree of identification and awareness of the law have an influence on the perception of *jeitinho*?

RQ2: What is the social function of the *jeitinho* for the respondents?

Therefore, from a socio-legal perspective to investigate the perceptions of Brazilian *jeitinho*, I intend to contribute to the development of a new approach to understanding this informal practice. However, in order to avoid “reproducing the wheel” (Banakar, 2019), my starting point will be to acknowledge that there is a gap between Brazilian state law and daily life. It is in this context that the *jeitinho* becomes an alternate way that Brazilians have found to solve their problems. For this reason, it is relevant to understand this practice through a socio-legal perspective.

Beyond understanding how *jeitinho* is perceived by individuals who relate in different ways to the law in the Brazilian context, this thesis aims to contribute to socio-legal debates to understand the role and the rule of law in non-western countries. In this sense, the data collected will also be analysed seeking to investigate what implications the study of the *jeitinho* through a socio-legal approach has for understanding the role of informality and the rule of law in non-Western societies.

The structure of this thesis will be as follows. First, the *jeitinho* will be situated within the Brazilian context through historical, political and sociological perspectives. This chapter will discuss under what conditions the *jeitinho* became an influential practice and its role in Brazilian society. It will be shown that the implementation of a predefined European legal system in Brazil generated a gap between public institutions and Brazilian society. With the detachment between state laws and Brazilian reality, informality had the role of filling this space, offering unofficial ways to guide social life. It is in this context that the *jeitinho* emerges as an important informal Brazilian practice.

In the literature review chapter, I will present how the concept of *jeitinho* has been addressed in academic debates, which will highlight its multifaceted character and the

difficulty of fitting this complex informal practice into predetermined structures. Additionally, I will discuss *jeitinho* within the context of other similar informal practices, in an effort to demonstrate the peculiarities of each practice and the importance of avoiding imprecise comparisons between them. Finally, I will demonstrate the gap in the literature and how sociology of law can contribute to this debate.

Next, I will present the two theories that will build the theoretical framework for the analysis of this study: living law, by Eugen Ehrlich, and legal alienation, by Marc Hertogh. Although Ehrlich's theory was developed almost a century ago, it is still very relevant when studying contemporary societies (Deflem, 2008), having great relevance when investigating how formal and informal structures engage in these groups (Urinboyev, 2013). In this context, considering that living law is the law that dominates life even though it is not posited in legal prepositions (Ehrlich, 2002), this theory will help in the analysis of the social function of the *jeitinho* within Brazilian society. Additionally, legal alienation is linked to legal consciousness theory and seeks to understand “why some people turn their back to law” (Hertogh, 2018, p. 15). Hertogh (2018) admits that the development of legal alienation theory was strongly influenced by Ehrlich's work, since the notion of living law is important for understanding legal consciousness and legal alienation. The four types of legal alienation, as well as the normative profiles discussed by the author, will help to understand whether awareness and identification with the law are factors that influence the perception of *jeitinho* by individuals who interact in different ways with state norms.

The methods chapter will describe the methodological premises under which this research will be conducted. It will describe how semi-structured interviews were chosen as the most appropriate research method to answer the questions posed in this thesis. In this sense, it will discuss the strengths and weaknesses of this methodological choice, as well as address questions regarding reliability, validity, generalizability and implementation of the method. The ethical implications are also discussed. The Brazilian *jeitinho* may involve illegal or unethical practices or activities that may cause some kind of embarrassment to those who report them. In this sense, it was essential to take the necessary steps to ensure that the ethical premises in research were followed.

Finally, the analysis chapter will examine and discuss the data collected through the interviews. The data was analysed using the two-stage approach (Miles *et al.*, 2013), where the raw data of the transcripts is first processed, reducing the volume of information

and then identifying patterns in the data. Next, a coding hierarchy technique (King, 2004b) was applied, in which the quotes were gathered into groups with similar codes. The heterogeneous profile of the sample will be presented in order to discuss the perceptions of *jeitinho*. In this sense, two distinct dimensions of the *jeitinho* were identified, each one comprising a negative and a positive aspect. The first dimension is related to the possibility of the *jeitinho* causing harm to a third person, while the second is related to breaking a law or solving a problem. As will be observed, these dimensions can intertwine in the same practice. However, it will be demonstrated how one aspect of each dimension becomes more relevant in the individual's perception. Next, normative profiles will be suggested for each subgroup of the sample according to Hertogh's (2018) theory of legal alienation. Finally, the perception of each subgroup based on the normative profiles will be presented and the results will be discussed.

To conclude, the outcomes will be presented and discussed, answers to the research questions will be suggested, as well as the limitations of this research will be addressed. Possible future research on the relationship between state laws, *jeitinho* and other informal practices will also be indicated, as well as the role of the sociology of law as a necessary and relevant perspective for understanding the social function of informal practices in modern societies.

2 Background

There is no single definition for the *jeitinho* (Duarte, 2006; Matos and Ramos, 2016; Barbosa, 1992). Guerreiro Ramos (1966), one of the leading Brazilian sociologists of the last century, defines *jeitinho* as a genuine Brazilian process of solving problems, without considering rules, codes or laws. For Barbosa (1992), *jeitinho* is a special way to solve a problem, a forbidden situation, or a creative solution to an emergency, whether in the form of swindling some rule or norm, or using conciliation or cleverness. She argues that the strategy adopted has to produce results in a very short term. In other words, it has to be an efficient and quick way to deal with the problem (Barbosa, 1992). Matos and Ramos (2016) emphasize that when it comes to the resolution of problems, “it is a manner by which one gives emphasis to the familial, personal and emotional bonds over formal, political and legal rules, even when the problems are indeed political, legal and economic” (Matos and Ramos, 2016, p. 756). Rosenn states that:

That Brazilian laws and regulations are regularly twisted to the demands of expediency does not make Brazil unique. The bending of legal norms to expediency occurs to some extent in all countries. It is especially common in Latin America, where the gap between the law on the books and actual practice is notoriously large. What is striking about Brazil is that the practice of bending legal rules to expediency has been elevated into a highly prized paralegal institution called the *jeito*. The *jeito* has become an integral part of Brazil's legal culture. In many areas of the law, the *jeito* is the norm and the formal legal rule is the exception (Rosenn, 1984, pp. 2-3).

To better demonstrate how someone asks for a *jeitinho*, Paiva (2018) and Duarte (2006) draw a comparison showing that just as in English a person might say "can you do me a favour?", the same applies to *jeitinho*, where someone might ask to "give a *jeitinho*" to some situation or problem. Regarding the acceptance of this practice by Brazilian society, it is possible to state that the *jeitinho* is a central element of Brazilian cultural identity (DaMatta 1984, 1997; Barbosa 1992; Duarte, 2011). It is present in every aspect of Brazilian life (Rosenn, 1984; Rega, 2000), being utilised by everyone, from the poorest to the richest (Barbosa, 1992). These statements indicate that *jeitinho* is a legitimate social practice (Paiva, 2018), being a ‘hermeneutic key’ to understand Brazilian culture (Amado and Vinagre Brasil, 1991).

As mentioned above, this practice can be described in different ways. In this sense, *jeitinho* can be understood as a “clever dodge to bend the rules” (DaMatta, 1991, p. 189), a way to ‘by-pass’ rules or regulations (Rosenn, 1971), a Brazilian style of ‘social navigation’ to deal with impersonal norms (DaMatta, 1984), an “informal problem-solving strategy” (Duarte, 2006, p. 510) or a “preference of improvisation over planning and of ad hoc solutions rather than respect of general rules” (Matos and Ramos, 2016, p.756).

Drawing on the literature (Barbosa, 1992; Duarte, 2006; Matos and Ramos, 2016; Paiva, 2018), it is possible to identify some features of the *jeitinho*. It involves a conscious act of bending or breaking the rules; it is usually a response to an extraordinary or unforeseen situation; it provides a short-term solution – rather than a long-term solution – to a problem; it is normally a self-serving tactic, but can also be altruistic; it works more effectively if is used between people who know each other, but also can be used between strangers. In addition, Barbosa (1992) highlights two other features. The first is that the *jeitinho* transactions may involve a more extensive reciprocity than just direct reciprocity between two people, which she defines as ‘diffuse reciprocity’. Based on that concept, anyone can benefit from the *jeitinho*, even if he or she is not the one who originated the practice. The second is that it requires certain techniques to promote *simpatia* – which can be defined as an “immediate affinity felt towards someone, created by the perception that this person is charming, warm and friendly” (Duarte, 2006, p. 510) – like a smile or a gentle tone of voice.

This last feature is directly related to an element present in the development of a Brazilian archetype called the *cordial man*. Sérgio Buarque de Holanda, in his seminal book *Roots of Brazil*, presents the term as a definitive trait of the Brazilian character. However, this ‘cordiality’ does not mean only kindness or being friendly. The term comes from the Latin *cordes*, which expresses a subordination of reason by the heart. In this way, the cordial man is a reference to the preference for an intimate, familiar and personalistic sphere, as opposed to institutionalized and general practices (Holanda, 2012). Duarte (2011, p. 32) claims that the cordial man archetype has become embedded in the collective consciousness of Brazilian society, acting as an underlying structure that organises and influences behaviours and attitudes. In this sense, the *jeitinho* is used in Brazilian society to mediate between the personal and the impersonal in order to solve problems (DaMatta, 1984). Through the *jeitinho*, the cordial man seeks to reduce the distance between the

personal and the state spheres, establishing an area of ‘normative indeterminacy’: “cordial means the pattern of behavior hardly fitted for hierarchy or for the constraints established by the Law” (Matos and Ramos, 2016 p. 756).

Duarte (2011) claims that *simpatia* and charm are the core elements of the personalism that characterises Brazilian society. Her findings suggests that these two elements are strategically used to establish or enhance personal relationships. She also divides the *jeitinho* into three dimensions: “the *jeitinho* as a perceived Brazilian way of being; the *jeitinho* as a creative Brazilian style of solving problems; and the *jeitinho* as a subversive practice that entails bending or breaking the rules to ‘get things done’” (Duarte, 2011, p. 44).

Regarding the historical roots of the cordial man, Freyre (2003) refers to the colonial period in Brazil – characterized by an agrarian society with the predominance of large monocultures, especially of sugar cane –, where the relationship between masters and slaves created the ideal conditions for intimacy, subjectivity and the personalism characteristic of Brazilian society. Holanda (2012) claims that throughout Brazilian history, it is possible to verify the constant predominance of particular wills that find their own environment in closed circles with little access to an impersonal order. In this way, the relationships developed in domestic life have always provided the obligatory model for any social composition in Brazilian society. This occurs even where democratic institutions, founded on neutral and abstract principles, intend to establish anti-particularist norms (Holanda, 2012).

This duality between personal and institutional is also addressed when analysing the development of the Brazilian state and its legal system. DaMatta (1984) argues that the legal institutions and the political system in Brazil were designed as a reproduction of European models (especially Portuguese and French models). This gap between state laws and the reality experienced in the Brazilian context makes broader community arrangements impossible, so that Brazilians are led to rely only on informal and emotional measures, an attitude reflected in the country's long history of political corruption. In this context, the solution of problems of any kind by the *jeitinho* does not give rise to any general normativity. Each solution exists per se and only for itself, and is often unrepeatable in the future, which guarantees the perpetuation of the exceptionality and the violation of basic principles, such as legality and impartiality, leading to an even greater detachment of reality from state law (Matos and Ramos, 2016).

Likewise, Holanda (2012) states that the lack of compliance with the law by Brazilians can be justified by the artificiality of the legal institutions and the abuses made by the Portuguese during the colonial period. This distancing has generated a non-friendly relationship of Brazilian people with what is official, legal, or anything that is imposed by the authorities. Rosenn (1971) also emphasizes the connection between *jeitinho* and the personalistic characteristic of Brazilian society, as well as the pervasiveness of the practice as a response to the excessive and distant legalism and formalism inherited from Portuguese colonizers. Matos and Ramos (2016, p. 770) agree on the existence of a gap between the political and legal system on the one hand and Brazilian reality on the other, stating that the main feature of Brazilian legal doctrines was the profound lack of knowledge of the real and actual Brazil. Holanda summarizes:

We brought from strange lands a complex and finished system of rules, not knowing how it would fit the conditions of Brazilian life and with no thought of the changes that such conditions would impose. In fact, the impersonal ideology of democratic liberalism has never become naturalised among us. We have only effectively assimilated these principles to the extent that they coincided with the pure and simple denial of an uncomfortable authority, confirming our instinctive horror of hierarchies and allowing us to treat rulers with familiarity. Democracy in Brazil has always been an unfortunate misunderstanding. An agrarian and semifeudal aristocracy imported it and tried to accommodate it, where possible, to its rights or privileges, the same privileges that had been in the Old World the target of bourgeoisie fighting against aristocrats. And so, they were able to incorporate into the traditional situation, at least as a façade or external decoration, some principles that seemed the most appropriate for the times and were praised in books and speeches (Holanda, 2012, p. 160)

As Matos and Ramos (2016, p. 770) state, this divorce between the reality of the people and the political and legal structures perpetuates itself throughout Brazilian history, and it is what shapes much of twentieth-century Brazil, with a mixture of economic liberalism and political authoritarianism, guaranteed through military help. This means that the *jeitinho*, as a tool to overcome problems, has been adapted to the Brazilian development processes, having always as a background the gap between political institutions and state norms, and the reality of the Brazilian people.

3 Literature review

3.1 *Jeitinho* as a multifaceted practice

This attitude of ‘bending the legal rules’ has generated a debate in the literature about the positive and negative aspects of this practice. Pearson (2015) claims that the *jeitinho* could be seen as a positive trait of Brazilian culture because it is an expression of resourcefulness and informality, although the concept also extends to unethical behaviour such as queue-jumping and illegal practices, for example, when a parent bribes a driving instructor so his son can pass the test.

Some authors emphasise one aspect more than the other. On the one hand, authors (Rosenn, 1984; Cavalcanti, 1991; Levine, 1997; Rega, 2000; Arrieta, 2012) associate *jeitinho* with negative features, stating that it resembles an illegal or corrupt practice. On the other hand, authors (Pereira, Pinheiro and Kunz, 2014) have associated *jeitinho* with positive aspects, such as creativity and innovation. However, what was found more frequently in the literature were authors supporting the multifaceted character of this practice, stating that the *jeitinho* has positive, negative and neutral aspects, depending on the way in which it is approached. Additionally, the literature shows the interest of different fields of knowledge in the practice, which reveals an interdisciplinary quality of the *jeitinho* as an element of study. These arguments will be illustrated in the following paragraphs, with the presentation of some studies.

One of the first empirical studies focused on *jeitinho* was carried out by Livia Barbosa (1992), where she conducted a study with two hundred participants from cities such as Recife, João Pessoa, and Rio de Janeiro, conducting interviews and applying questionnaires with individuals from different social classes and age groups. This diversity of participants made it possible to observe that the *jeitinho* is a widely recognized phenomenon, since all the interviewees expressed their knowledge of the term ‘Brazilian *jeitinho*’. The definition for respondents in general has not changed. For most, the *jeitinho* is a ‘special’ way of solving a problem, circumventing a ban, getting rid of a delicate situation. It is also seen as a creative solution that makes use of skills such as cleverness, circumventing rules and norms in search of some purpose. In general, individuals have claimed to be users of the *jeitinho*, pointing out that this practice is common in the daily life of Brazilians (Barbosa, 1992).

Park *et al.* (2018) interviewed 28 Brazilian professionals working for both national and international companies to understand in which situations *jeitinho* is perceived as an ethical or unethical attitude toward business. The results suggest that Brazilian *jeitinho* could be understood in two opposing ways, as a creative solution or as synonymous of corrupt and illicit practices, and that the “motivations for its use seem to relate to the possibility of making something possible or more efficient, regardless of the requirements of the formal procedures set down by norms, laws and rules” (Park *et al.*, 2018, p. 421).

Similarly, Resende (2015) investigates the effect of the perception of the *jeitinho* and moral identity on ethical behaviour at work. The study, with the participation of 293 workers from public and private organizations, indicated a positive and significant relationship between the facets of moral identity and ethical behaviour and a positive and significant relationship of *jeitinho* with unethical behaviour. The author argues that *jeitinho* can distort what is considered right or wrong in order to achieve the desired result. “For example, lying to the boss that you are sick to take a day off may seem wrong, but if that day off is used to solve personal problems, it can look right because the person was able to give a *jeitinho* to resolve his issues” (Resende, 2015, p. 85).

Lima, Fraga and de Oliveira (2016) carried out a study on organisational culture in the administration of the Court of Justice of Bahia (TJBA), interviewing 37 civil servants on their perception of the administrative reform of the judiciary. The conclusion was that the proposed reform model would face difficulties in its implementation, due to the difference between the 'Brazilian culture' and the suggested proposal. This conclusion is in line with what Amado and Vinagre Brasil (1991) have found in their seminal article called *Organizational behaviors and cultural context: the Brazilian "jeitinho"*. The authors sought to identify the influence of Brazilian culture on the management of organisations founded or based in Brazil. The conclusion was that the use of practices originated in ‘more advanced’ cultures has proven that such transpositions are doomed to failure, or take much longer to become functional if the local culture is not taken into account (Amado and Vinagre Brasil, 1991). The interviewees from the TJBA study (Lima, Fraga and de Oliveira, 2016) affirmed that the *jeitinho* is a common procedure in the court, and that it occurs with the aim of dealing with a situation to the benefit of the citizen. This situation is well illustrated in the following response from an interviewee:

A crying mother arrives bringing a child custody case that has priority over other such cases, but there are 20 of these and all have priority. This mother

has come here in tears [...] and you are going to dispatch. You are disparaging the others? If you think like an accountant, you are. But no, you want to help someone who came begging for help, a mother weeping. It's a parent who wants to bury a child who has no birth certificate... And what do you do? You really end up moving her to the head of the queue. It's the reality. It'd be hypocrisy if I said... Everybody knows that the case down at the bottom of the pile comes up to the top. It's not to gain anything. I'm an honest person. (Lima, Fraga and de Oliveira, 2016, p. 906).

The study of Pedroso, Massukado-Nakatami and Mussi, (2009) presents a comparison between the characteristics of the *jeitinho* and behaviours that are commonly found in Brazilian entrepreneurs. The result was that the positive aspects of the *jeitinho*, such as innovation, flexibility, creativity, adaptability, among others, were identified in the Brazilian entrepreneurship profile. As for the aspects considered as negative of the *jeitinho*, such as inadequacy to norms, propensity to corruption, were present with restrictions or were absent.

Another area of knowledge that seeks to investigate the *jeitinho* is psychology. The same group of researchers (Rodrigues *et al.*, 2011; Ferreira *et al.*, 2012; Akira Miura *et al.*, 2019) developed two interesting quantitative analysis tools for the *jeitinho*. The first one, called Personal *Jeitinho* Scale, consists of 37 situations that seek to capture the core aspects of *jeitinho* and to relate them to only one of the following categories: harm to others, trickery, disregard for rules, *simpatia*, and creativity. This list of behaviours was presented to participants who had to indicate the level of similarity of their own behaviour to the one presented on a 6-point scale. The second is called the Brazilian *Jeitinho* Questionnaire, which consists of a questionnaire with 21 scenarios in which the respondent is asked the probability of behaving as the person in the hypothetical scenario in an 11-point scale. The scenarios are divided into three parts, each one illustrating a different form of *jeitinho* according to the authors. "The first factor, Creativity, describes situations in which the main actors use creative solutions to solve a problem without violating a social or legal norm. The second factor, Corruption, consists of scenarios in which the problem-solving strategy involves illicit means. The third factor, Social Norm Breaking, focuses on strategies that bypass social norms in order to solve a problem" (Akira Miura *et al.*, 2019, p. 11). Ferreira *et al.* (2012) claims that these three factors have different associations with psychological and control variables, suggesting discriminant

validity and supporting the notion of *jeitinho* as a multifaceted construct. The authors found that individuals with strong moral attitudes towards not breaking social and legal norms are less likely to engage in *jeitinho* behaviours. Akira Miura *et al.* (2019) focused on the individual difference processes of *jeitinho*, mapping their structure and exploring the role of personality dimensions related to it. Their results show that personal *jeitinho* has two dimension: *Jeitinho Simpatico*, linked with positive social interactions and creativity; and *Jeitinho Malandro*, which captures behaviours involving the use of deception and trickery.

In the legal field, *jeitinho* is often linked to corruption (Arrieta, 2014; Rodriguez, 2016), hence reinforcing its negative facet. Arrieta (2014, p. 160) claims that “Brazil has historically confronted endemic corruption, illustrated by a cultural paradigm, *jeitinho*”. In her article, the author claims that it is imperative to overcome the *jeitinho* through reforms in the anti-corruption legislation (Arrieta, 2014). Rodriguez (2016) also relates *jeitinho* with corruption, calling the former an ‘epistemological shortcut’, used without much academic rigour and according to the author's occasional interests (Rodriguez, 2016, p. 63).

3.2 *Jeitinho* and other informal practices

Brazilians claim that the *jeitinho* is a genuine Brazilian practice (Barbosa, 1992). However, it is possible to state that several cultures have adopted the use of informal practices in their daily relations (Ledeneva, 2018). This topic does not intend to provide an in-depth study of other informal practices, but to contextualise and relate them to the *jeitinho*, aiming to identify in the literature how these practices were compared to the *jeitinho*.

In business and management studies, it is most common to associate *jeitinho* with *guanxi* in China, *blat* in Russia, *wasta* in the Arab culture, *yongo* in South Korea, *rushyldyq* in Kazakhstan and ‘pulling strings’ in the United Kingdom (Smith *et al.*, 2011; Smith *et al.*, 2012; Park *et al.*, 2018). *Guanxi* means relationship (Yang, 2018) or connection (Smith *et al.*, 2012) in Chinese. Chen and Chen (2004, p. 306) describe the term as an informal particularistic personal connection between two individuals who are bounded by an implicit psychological contract to follow the norm of *guanxi*, such as maintaining a long term relationship, mutual commitment, loyalty and obligation. In this sense, “*guanxi* is a dyadic social exchange relationship, in which one person helps the other, and in return,

the other owes a social debt [...] there is affect or good feelings (*renqing*), a mutual obligation to help the other, and reciprocity, or the expectation of repayment at a later date” (Yang, 2018, p. 70). Similarly, *blat* is related with an exchange of favours, or ways of getting things done using personal contacts (Ledeneva, 2018). Smith *et al.* (2012) argues that *blat* is a specific form of *svyazi*, which is similar to *guanxi*. *Wasta* means ‘going in between’ and is a practice widespread in Arab nations, where one may achieve his goals through links with key person (Hutchings and Weir, 2006). These connections are personalistic and frequently come from family relationships or close friendships (Cunningham and Sarayrah, 1993). Similarly, in South Korea, *yongo* is related to affective ties and networks based on kin, education and region (Park *et al.*, 2018). In Kazakhstan, *rushlydyq* refers to the use of extended kinship ties (clanism) (Ledeneva, 2018). For non-titular citizens of Kazakhstan, it can be perceived as corrupt (Park *et al.*, 2018). Finally, ‘pulling strings’ refers to obtaining favours through links with influential persons (Smith *et al.*, 2012), or to secure preferential treatment or access to services and information using useful connections (Ledeneva, 2018).

In Latin America, there are also several practices that are related to the *jeitinho*, such as *palanca* in Colombia and Mexico, *pituto* and *compadrazgo* in Chile, *sociolismo* in Cuba, and *favorsito* in Mexico (Duarte, 2006, 2011; Paiva, 2018, Ledeneva, 2018). *Palanca* is the use of personal connections with privileged or influential persons in order to receive preferential treatment (Baez-Camargo, 2018). Similarly, *pituto* means the use of connections to gain some advantage, usually related to get a job, regardless of merit (Ledeneva, 2018). Closely related to *yongo* and *wasta*, *compadrazgo* is defined as a system of exchanges of favours within an ideology of friendship (Ledeneva, 2018). On the other hand, *sociolismo* is closer to the definition of *blat*, as it means “the use of social networks to obtain goods and services in short supply to circumvent state rationing and the inefficiencies of the command economy” (Ledeneva, 2018, p. 397). Additionally, when related to corruption, *jeitinho* is compared to *trinkgeld* in Germany, *bustarella* in Italy, ‘speed money’ in India, *backsheesh* in Egypt, *vizyatha* in Russia, *mordida* in Mexico, and *graisser lapatte* in France (Cavalcanti, 1991; Santos, 2018).

As can be observed, informal practices are present in a variety of cultures, with similarities and differences between them. What makes a practice distinguishable from others depends on the lenses through which they are analysed, the context and their impact (Park *et al.*, 2018).

From a '*jeitinho* standpoint', the following study gives an interesting perspective. Smith *et al.* (2012) carried out a comparative study seeking to verify whether there are distinctions between informal practices in different locations (*guanxi*, *wasta*, *jeitinho*, *svyazi* and pulling strings). To this end, they presented scenarios exemplifying the different informal influence styles for managers from different countries (Brazil, Russia, Singapore, Saudi Arabia and the United Kingdom). The results indicate that all five informal practices were rated both representative of their local designation and typical of what occurs within their local cultural contexts. However, "only *jeitinho* can fully satisfy the criterion of uniqueness. The *jeitinho* scenarios were perceived as significantly more typical by Brazilians than by any of the other populations that were sampled" (Smith *et al.*, 2012, p. 342). This result is consistent with what the Brazilian literature has to say on the subject. Barbosa (1992) states that the difference between other equivalent cultural practices and the Brazilian *jeitinho* is the 'social weight' attributed to the *jeitinho* by Brazilian society. In this sense, Duarte (2006, p. 511) says: "the *jeitinho* has crystallized into a social category because Brazilians recognize it, value it and use it to define a certain style of solving problems perceived as 'essentially' Brazilian".

Therefore, what defines the importance of a particular practice within a context is the value that those individuals attribute to the practice, in other words, its 'social weight'. Hence, it is not possible to state that a particular practice is more or less significant or relevant than another. Nelken (2013) warns that when comparing different realities, there is a risk of oversimplification and stereotyping, especially when the complexity of the reality that will be studied is not known. What I tried to show in this chapter was the 'weight' of the *jeitinho* in Brazilian society, which evidences the importance of studying this phenomenon, given its relevance for Brazilian culture.

3.3 *Jeitinho* through socio-legal lenses

As previously presented, the *jeitinho* has been the subject of study of several areas, such as history/anthropology/sociology (DaMatta, 1984, 1997; Rosenn, 1984; Freyre, 2003; Holanda, 2012; Matos and Ramos, 2016) psychology (Rodrigues *et al.*, 2011; Ferreira *et al.*, 2012; Fernandes, Perallis and Pezzato, 2015; Akira Miura *et al.*, 2019), business and management (Amado and Vinagre Brasil, 1991; Duarte, 2006, 2011; Pedroso, Massukado-Nakatami and Mussi, 2009; Park *et al.*, 2018), public administration (Resende, 2015; Lima, Fraga and de Oliveira, 2016; Braga and Bezerra, 2017; Egito and Monteiro, 2018), economy (Pimentel, 2009) and law (Arrieta, 2014; Matos and Ramos,

2016; Rodriguez, 2016). They show that this practice manifests itself in different ways (Barbosa, 1992), having positive and negative aspects (Duarte, 2006, 2011; Fernandes, Perallis and Pezzato, 2015), and is a multifaceted phenomenon (Rodrigues *et al.*, 2011; Ferreira *et al.*, 2012; Paiva, 2018; Akira Miura *et al.*, 2019).

After reviewing the literature on *jeitinho*, it can be stated that research on this informal practice has a gap regarding individuals' perception of the practice in relation to different understandings of the law. In other words, there is a lack of research on how different relationships with state laws can influence the perception of the *jeitinho*. These findings reaffirm the need to study and investigate the *jeitinho* from different standpoints, due to its multiple facets. In this sense, socio-legal theories may contribute to the understanding of this Brazilian phenomenon, adding new possibilities of interpretation and understanding of this practice in relation to society and the law. This approach can help investigate the relationship between *jeitinho* and state laws. From a socio-legal perspective, this study can investigate different forms of understanding the law, and how these understandings may influence individuals' perceptions of this practice.

In the next chapter, I will present the theoretical framework that will be used in this study to analyse the *jeitinho*. It is composed of two theories developed within the sociology of law. The first is living law, by Eugen Ehrlich, and the second is legal alienation, by Marc Hertogh.

4 Theoretical framework

As Banakar (2019) states, a theoretical framework seeks to identify concepts, processes, relationships and assumptions that will guide and are central to the study. In this sense, developing an appropriate theoretical framework is essential to achieve the research objectives. As previously discussed, *jeitinho* is an informal practice that is widely present in the Brazilian context. Due to the detachment between legal institutions and everyday life, *jeitinho* frequently becomes the only way individuals have to solve a problem or bend a law when it becomes an obstacle. Ehrlich's living law theory (2002) provides the foundation for understanding the recurrent phenomenon in non-Western societies that is the importance of "norms of conduct" such as the *jeitinho* for that community. In these settings, informality plays an important role in regulating the lives of individuals, and this occurs for a variety of reasons. In the Brazilian context, as seen above, one of the reasons is the distance between the legal text and the reality lived. It is in this context that the *jeitinho* becomes a norm of conduct, observed and practiced by individuals.

The objective of this paper is to identify how individuals who relate to the law in different ways perceive the *jeitinho*. In other words, it seeks to verify if the relationship that individuals have with law may affect this perception. Interviews were conducted with civil servants, entrepreneurs and employees from the private sector to verify if the way these subgroups relate to the law can influence their perception of *jeitinho*. For this purpose, Hertogh's (2018) legal alienation theory will be used to assess whether there is a predominant normative profile in each subgroup. Legal alienation theory is part of legal consciousness theory and seeks to understand the reasons why individuals turn their backs to the law. Thus, it seeks to ascertain whether factors such as identification with and awareness of the law are relevant in making this decision. In the interviews conducted with these three subgroups, the degree of awareness and identification of the participants was measured and a normative profile was proposed.

The theories of living law and legal alienation will guide the methodological design and analytical framework of the research. In this way, the Brazilian *jeitinho* will be addressed as a norm of conduct of the Brazilian society, present and recognised by its citizens. On the other hand, legal alienation will provide the theoretical framework to verify if the understanding of the law by individuals may affect their perception of the *jeitinho*. In the following sections, the two theories that will form the theoretical framework of this research will be presented.

4.1 Living law

Eugen Ehrlich (1862–1922) was an Austro-Hungarian legal scholar who received legal training at the University of Vienna, and spending most of his academic career in the University of Czernowitz, in a region called Bukowina, which is now part of Ukraine, but that was formerly part of the Austro-Hungarian Empire, Romania and Soviet Union. This region was home to diverse ethnic groups – such as Armenians, Germans, Hungarians, Jews, Roma, Romanians, Russians, Slovaks and Ukrainians – with a high degree of cultural and linguistic diversity. The experience of observing a multicultural society, in which a central empire, geographically and culturally distant from Bukowina’s reality, dictated the state law contributed to Ehrlich's development of his living law theory (Deflem, 2008, pp. 89-90; Urinboyev, 2013).

Ehrlich's theory is still relevant to academic debate, despite having been developed over a century ago (Deflem, 2008; Urinboyev, 2013), and is one of the foundations of sociology of law (Ziegert, 2002). For Ehrlich, almost all legal science is practical in orientation (*Rechtslehre*). However, he proposes to establish an independent body of thought on law, developing a theoretical science (*Rechtswissenschaft*) that is based on a study of the social reality of law. This perspective is based on a notion of social associations, defined as social relations in which people recognize certain rules as binding and regulate their conduct according to those rules. These relations can range from simple interactions between two people to complex ones, such as the case of the state (Deflem, 2008).

According to Ehrlich (2002), those associations are based on four ‘facts of the law’: usage, relations of domination and subjection, possession, and disposition or declarations of the will. Usage is the fact that a practice remained existing for a period of time. Relations of domination and subjection are what regulate hierarchical relationships (family and state, for example). Possession is related to the fact that benefits can be derived from property. Finally, disposition or declaration of the will refers to the intentions expressed in contracts and testaments (Ehrlich, 2002). Thus, any legal proposition is always preceded by the facts of the law: “the legal propositions concerning marriage and family presuppose the existence of marriage and family as associations. Likewise, there must be possession before there can be laws regulating property” (Deflem, 2008, pp. 90-91).

For Ehrlich (2002), it is the ‘norms of conduct’ rather than the ‘norms of decision’ that guide social life. This means that, in most cases, those norms that are shaped through social relations in everyday life (norms of conduct) are the ones that will guide how social life will be conducted. This does not mean that legal propositions (norms of decision) do not affect society. However, for Ehrlich, their influence will be less than the norms of conduct: “the legal propositions are not intended to present a complete picture of the state of the law” (Ehrlich, 2002, p. 488). Therefore, Ehrlich (2002) refers to the ‘whole of law’ dominating the social life as ‘living law’. Deflem (2008, p. 91) summarizes: “Because living law is primary in social life, Ehrlich considers it central to the development of juristic law. However, while a society’s social relations and cultural conditions influence the development of juristic law, the latter has much less of an influence on living law”. In other words, any legal operation is a social operation, that is, operations that reproduce the social structure, but not all social operations are legal operations. However, as Ziegert (2002) warns, this does not lead to a dualism between living law and ‘official law’. What this distinction proposed by Ehrlich implies is that any law is made of the same material as social life at large, and that ‘norms of conduct’ connect individuals to a network of expectations, which are dependent on each other (Ziegert, 2002). In Ehrlich’s words:

The living law is the law which dominates life itself even though it has not been posited in legal propositions. The source of our knowledge of this law is, first, the modern legal document; secondly, direct observation of life, of commerce, of customs and usages, and of all associations, not only of those that the law has recognized but also of those that it has overlooked and passed by, indeed even of those that it has disapproved. (Ehrlich, 2002, p. 493)

For Treviño (2013), this network of expectations created by living law generates an amicable environment, in which ‘social associations’ are predominantly peaceful and stable, as opposed to what usually occurs when the state apparatus is employed. As Deflem (2008, p. 91) states, “The goal of living law [...] is not primarily dispute and litigation, but peace and cooperation”.

Unlike Roscoe Pound, for whom legal pluralism means considering the diversity of interests among different political groups as they pursue recognition in a liberal democracy, Ehrlich is more interested in a *cultural legal pluralism*, which seeks to investigate the legal order of a multitude of mutually related communities. For Ehrlich, society is based on a sum of social associations that coexist with a legal order. In other

words, legal pluralism is an inherent quality of society, being based on many types of associations in which people are interrelated (Treviño, 2013, pp. 43-44).

To conclude, Cotterrell (2008, cited in Treviño, 2013, p. 50) asserts that it is this perspective of an insider-outsider, which Ehrlich developed by having knowledge of the legal doctrine and experiencing the reality of Bukowina, that made it possible for him to develop living law theory.

For this thesis, Ehrlich's theory will be employed as a way of understanding society from its 'inner order of associations'. Therefore, the *jeitinho*, with its 'social weight' for the Brazilian society (Barbosa, 1992), is an interesting example of living law. Furthermore, living law theory is of great relevance when attempting to understand how in contemporary societies informal and formal structures are intertwined (Urinboyev, 2013). Ehrlich's theory will allow the study of this practice through socio-legal lenses, understanding this norm of conduct as a manifestation of the living law in the Brazilian context.

4.2 Legal alienation

Although there are not many studies on legal alienation, it is not possible to say that there is a singular concept among researchers, with the term previously used in empirical and theoretical studies (Hertogh, 2018). What can be observed is that the authors who used this term have a mutual interest in researching the *attitudes of individuals towards the law in different contexts*, what Shamir (2013) claims to be an umbrella concept for expressions like "citizens' attitudes towards the rule of law, their perception of the role of the judiciary in dispute resolution, legal alienation and perceptions of the legal neutrality" (Shamir, 2013, p. 3).

Among the empirical studies that use the concept of legal alienation, Gibson and Caldeira (1996) use the term as an indicator in their study on legal cultures of Europe, where they found "a fairly strong correlation between the measures of attitudes towards rule of law and legal alienation" (Gibson and Caldeira, 1996, p. 68). Genn (1999) refers to the term to demonstrate that respondents to his study experience a sense of disconnection from institutions and the legal system. Similarly, Shamir (2013) uses legal alienation in her study about the influence of age of immigrants from the former Soviet Union in Israel on their attitudes towards the legal system. In their book *The Ethos of the Hong Kong Chinese*, Siu-Kai and Hsin-Chi (1988) use the term to classify the respondents that had

difficulties understanding the law, as well as those who believe that the trials and laws of Hong Kong are unfair or unjust.

As for the theoretical studies, Wilkinson (2010), when analysing Hart's concept of law, refers to the term alienation to claim that its realization depends more on the social and political factors that condition our attitudes towards the law than the very nature of the law itself. In addition, Teubner (2001) uses Spencer Brown's re-entry theory to state that the alienation effect is historically variable and not a universal attribute of the law in itself.

Hertogh (2018) argues that, although there are references in the literature to the concept of legal alienation, it is usually addressed superficially, without the possibility of operating it for use in empirical socio-legal research. In order to develop his analytical framework, he states that:

‘legal alienation’ will refer to the perceived distance between ‘internal’ and ‘external’ understandings of law. Legal alienation can be defined as a cognitive state of psychological disconnection from official state law and the justice system. When people are listening to the discourse of the law, they are no longer able to identify their voice at all. Instead, they hear a foreign, distant and incomprehensible voice (Hertogh, 2018, p. 55).

The concept developed by Hertogh is literally the junction of the definition brought by Gargarella (2011) with Friedman's (1975) idea of division between internal and external understandings of law. That way, Gargarella (2011, p. 24) contributes to the development of Hertogh's concept by stating that when people hear the discourse of law they are not able to identify their voices, only an illegitimate, distant voice, which, because it is endorsed by the state force, is able to impose its will on those who do not understand it, do not adhere to it, or directly reject it. For his part, Friedman (1975) presents the distinction between internal legal culture (the one of those who perform legal tasks, such as judges and lawyers) and external (the legal culture of the population in general).

With this in mind, Hertogh intends to move away from previous studies on legal consciousness, which, according to him, focus on the “‘old’ gap between the law in the books and the law in action”, to focus on a “‘new’ gap between internal and external perceptions of law” (Hertogh, 2018, pp. 14-15). In other words, “unlike previous studies, that examine why people turn to law” he intends to look at “why some people turn their back to law” (Hertogh, 2018, p. 15).

Hertogh then proposes a classification suggesting different dimensions of legal alienation. To do so, he takes Seeman's theory as a starting point, in his seminal article called *On the meaning of alienation*. In this work, Seeman (1959) proposes a division into five different dimensions, or meanings, for alienation: powerlessness, meaninglessness, normlessness, isolation, and self-estrangement. Hertogh, in his turn, following Freeman's typology, suggests the adaptation to the field of law in four possible dimensions: legal meaningless, legal powerlessness, legal cynicism and legal value-isolation (Hertogh, 2018).

Legal meaningless, in the author's words, is "the sensed inability to understand the law and to predict the outcome of legal processes" (Hertogh, 2018, p. 55). To illustrate this type of legal alienation, Hertogh (2018) refers to the fictional character Josef K., from Franz Kafka's book *The Trial*, as a good example to characterize it. Thus, it is possible to state that this is a dimension in which legal practices, whether those of a court or legal procedures of any sort, appear to be quite a puzzle, seeming inappropriate or meaningless to those who are not familiar with such practices. Seeman (1959, p. 786) characterizes it by "a low expectancy that satisfactory predictions about future outcomes of behaviour can be made".

While legal meaningless is related to the inability to predict outcomes, legal powerlessness is related to the inability to control the outcomes of a legal process (Hertogh, 2018). Therefore, the focus of this type is on the inability to control the results. In this way, it is very much linked to the feeling that the law is not on my side, or that my interests are not well represented by it, as well as the perception that the law reflects the opinion of those who want to control me. Seeman (1959) states that this perspective of alienation has its origin in the Marxist view of the capitalist society in which the worker is alienated insofar as the means of decision are expropriated by the employer. In his words, "this variant of alienation can be conceived as the expectancy or probability held by the individual that his own behavior cannot determine the occurrence of the outcomes, or reinforcements, he seeks" (Seeman, 1959, p. 784).

Legal cynicism, as stated by Hertogh (2018), or normlessness, according to Seeman (1959), derives from Durkheim's description of anomie, which denotes the situation where the social norms – or legal norms, in this case – that regulate individual conduct are no longer effective and, therefore, do not matter anymore (Seeman, 1959). According to Sampson and Jeglum Bartusch (1998, p. 782) legal cynicism consists in "a state of normlessness in which the rules of the dominant society (and hence the legal system) are

no longer binding in a community or for a population subgroup”. For Hertogh (2018, p. 56), there is “an expectancy that the law doesn’t matter anymore”.

Finally, isolation (Seeman, 1959) or legal-value isolation (Hertogh, 2018) seeks to define those who “assign low reward value to those legal goals or beliefs that are typically highly valued in a given society” (Hertogh, 2018, p. 56). This perception occurs when there is a significant separation between the values that the law and the state attempt to protect from the personal values of an individual.

Seeman (1959) is concerned with another type of alienation, which Hertogh does not address, perhaps because of its remote connection to the concept of legal alienation. This "fifth" type of alienation is called self-estrangement and consists in “the degree of dependence of the given behaviour upon anticipated future rewards, that is, upon rewards that lie outside the activity itself [...] refers essentially to the inability of the individual to find self-rewarding activities that engage him” (Seeman, 1959, p. 790).

The four types of legal alienation designed by Hertogh can be seen as different degrees of the perception of law and the justice system by each individual or social subgroup. In this way, it is possible to create a scale that gradually increases from legal meaninglessness, through legal powerlessness and legal cynicism, up to legal value-isolation on the other side.

Legal meaninglessness	Legal powerlessness	Legal cynicism	Legal value-isolation
Sensed inability to understand the law and to predict the outcome of legal processes.	Sensed inability to control the outcome of legal processes; and the feeling that the law is restrictive.	Feeling that the rules of the justice system are, or should be, no longer binding.	Perceived gap between the values of the law and one’s personal values.

Table1 - Spectrum of legal alienation (Hertogh, 2018, p. 57)

As for the normative profiles, Hertogh argues that studies on legal alienation generally focus on two questions:

- Are people aware of the law? How much do they know about the legal system in general, about the official rules and regulations, or about a particular court case?

- Do people identify with law? To what extent does the law reflect their own personal values, their own sense of right or wrong, and their own idea of justice?

Based on these two questions, the author has systematically developed a two-by-two matrix in which he addresses both questions. The first question is called the cognitive

dimension of legal alienation - and is arranged on the horizontal axis, measuring the degree of awareness - while the second question is the normative dimension - on the vertical axis, measuring the identification degree.

		AWARENESS	
		+	-
IDENTIFICATION	+	I. Legalists <i>(informed identification)</i>	II. Loyalists <i>(uninformed identification)</i>
	-	III. Cynics <i>(informed alienation)</i>	IV. Outsiders <i>(uninformed alienation)</i>
		-	-

Table 2 – Normative profiles (Hertogh, 2018, p. 58)

The first profile, called legalists, portrays those who identify with the law as the same time as having a high awareness of the systems of justice and the law. Hertogh (2018), however, points out that this is not an exact representation of reality, because people are generally not well aware of legal rules and not everyone identifies equally with the legal rules. This explains the importance of other profiles to understand people's behaviour towards the law.

Loyalists, on their turn, have an identification with the law, although they do not have a complete understanding of it. “They have a general idea of what the law is and they trust that it will be all right. They feel that the legal system should be respected and that it generally serves them well” (Hertogh, 2018, p. 58). Consequently, we can include in this profile those who, even without knowing why, trust the justice system and those who operate it to resolve their issues, in an almost innocent belief that the state and its institutions are more capable of judging what is "right".

Like the legalists, the cynics are people who generally are aware of the law. However, the difference between the two profiles is that the identification of the cynics with the law is much lower, which makes them critics of the law and the institutions (Hertogh, 2018).

Finally, the last profile, which the author calls outsiders, are those who have low identification with the law, as well as low awareness of it: “this is the mirror image of the

first profile. While ‘legalists’ regularly turn to law, the ‘outsiders’ have turned their backs to law” (Hertogh, 2018, p. 59).

Hertogh (2018) suggests reading table 2 through a sliding scale, where on one side you find the legalists, moving through the loyalists, the cynics, and reaching the outsiders. Moreover, each profile can be identified with more than one type of legal alienation at the same time. With the exception of legalists, where there is no evidence of legal alienation in any way, all other three can fall under the different types of legal alienation. This will depend on the analysis that is being made.

To conclude, two observations must be made. The first is that normative profiles are not related to people, but to behaviours and attitudes towards the law. In this way, a person can be fitted into different profiles, depending on the context studied. Second, profiles are not absolute categories. This means that within an evaluation it is possible that one profile is identified as more or less “loyalistic” than another, for example. In the same way, law can embody different things, generating different perceptions and understandings of it. Thus, an individual will certainly fit into different profiles, depending on what law means in the context under study.

4.3 Building the theoretical framework

As discussed in this chapter, Ehrlich's living law suggests that there are other norms that regulate life in society that are parallel with state laws. These norms are shaped through social relations in everyday life. It is precisely in this context that the *jeitinho* emerges as a way for individuals to solve their problems due to the distance - or absence - of legal institutions in their daily lives. Therefore, *jeitinho* is part of Brazilian living law as a norm of conduct that guides social life. Although not used as an analytical tool in this study, living law theory is the basis for understanding the *jeitinho* as an informal Brazilian practice. It gives the notion that the *jeitinho* is an important alternative to state law and that, due to the inefficiency of the latter, it becomes a way for individuals to solve their problems and establish connections based on these inner order of associations.

Hertogh's legal alienation theory is relevant for the analysis of this thesis as it will allow us, in addition to the living law theory, to understand under what circumstances people use *jeitinho* and how they perceive this practice. More specifically, legal alienation theory will provide the necessary framework for identifying the degree of identification and awareness of participants in relation to state laws, and whether this influences their

perception of *jeitinho*. As *jeitinho* is a multifaceted practice that presents itself in different ways (Duarte, 2011), this understanding of the law can be analysed in different contexts. Because of this, interviews were conducted with individuals who have different interactions with state law: civil servants, entrepreneurs, and private sector employees.

The theoretical framework combining living law and legal alienation theories will provide the basis for the analysis of this thesis. This is novel in the study of the *jeitinho* and the results will be important to contribute to the understanding of this informal practice through a socio-legal perspective. The approach to this problem from a sociology of law standpoint will bring into focus the understanding of law in the construction of the perception of the *jeitinho*. The next chapter will present the methodological premises that will conduct this paper.

5 Methods

The main objective of this thesis is to investigate how individuals who relate to the state law in different ways perceive and interpret the *jeitinho* within the Brazilian context. In addition, it seeks to investigate whether the level of knowledge and identification with the state law can affect this perception.

In order to accomplish these goals, the choice of the appropriate method for data collection becomes an essential step in the research process. In this context, a socio-legal approach for this scientific endeavour provides valuable resources for data collection and analysis. Given that the main objective of this research is to investigate the perception of different individuals about a social practice, a qualitative approach was chosen, where it would be possible to collect and analyse the data in an in-depth manner, seeking to obtain relevant information for the research purposes.

This chapter will present the data collection process and the methodology of this thesis. The following paragraphs will present the methodological choices in detail and the rationale behind these choices. It will also discuss the advantages and disadvantages of the chosen methodological approach, as well as the ethical issues surrounding the research.

5.1 Semi-structured interviews

The empirical data for this thesis came from semi-structured interviews with three different groups: government representatives/civil servants, private entrepreneurs, and employees from the private sector. The reason for dividing the sample into three subgroups is to represent distinct forms of interaction with laws. With this, it was possible to identify if there are patterns in the perception and interpretation of the *jeitinho* in each sub-group, and if this perception can be influenced by the relationship with the state law. In addition, this division can help to investigate whether the relation each sub-group has with the state law can influence their perception of the *jeitinho* and of state law itself. I conducted five interviews in each group, totalling fifteen interviews, where I asked how the *jeitinho* is present in the daily lives of these individuals, what are their opinions about it, and also if they could identify examples of the practice. The interviews lasted on average 50 minutes, always in accordance with the availability and willingness of the interviewee.

The choice to use semi-structured interviews is for methodological and epistemological reasons. The use of interviews in qualitative research, as Kvale (1983) asserts, aims to understand the research topic through the interviewee's perspective, comprehending how and why they have that particular perspective. Madill *et al.* (2000) suggest a classification of epistemological positions within qualitative interviews. This classification has on one side the 'realist' approaches, which assume that the statements produced by participants in interviews have a direct relation to their 'real' experiences in the world beyond the interview situation. On the other side are the 'social constructionist' approaches, which see the account as a text produced in the specific interview setting, to be analysed in terms of the discursive strategies employed and the resources used by the interviewee. In the middle ground is the phenomenological approach, which will be used in this study. This approach recognises that the text produced in the interview situation is shaped by the context, but disagrees with the position that it does not necessarily bear any relation to the interviewee's wider experience. Another key feature of this approach is the emphasis placed on the need for the researcher to consciously set aside his/her presuppositions about the phenomenon under investigation. This means not only reflecting on his/her assumptions about the phenomenon, but also being conscious of how the researcher might influence each stage of the research process (King, 2004a).

The interviews were conducted in Portuguese, under an agreement of anonymity and confidentiality. When permitted, they were recorded for subsequent transcription. Due to the pandemic some interviews were conducted online, while others were face-to-face, depending on the interviewee's choice. The interviews lasted on average 50 minutes. The selection of the interviewees took into consideration, primarily, whether participants are civil servants, entrepreneurs or workers/individuals who do not have a direct and regular relationship with the public administration and state norms. Subsequently, I looked for a heterogeneous group trying to represent different ages, gender, academic background and geographical region. This diversification seeks to avoid interviewing, for example, individuals with the same background, which may compromise the range of opinions about the *jeitinho*. However, due to the relatively small sample for this study, this variety may be compromised, which must be taken into account in the analysis of the data.

The main purpose of the interviews is to understand the perception of individuals who interact in different ways with state law about *jeitinho*. Subsequently, I will try to investigate whether identification and awareness of the law are factors that influence this

perception. An interview guide was developed, containing the main topics to be addressed during the interview. Instead of using the word *jeitinho*, it was decided to present the research as being about informal Brazilian practices. This was done in order to check if participants would spontaneously mention the *jeitinho*. Participants were asked whether Brazilians have any particular way of handling everyday situations, solving problems or bending the rules. This approach is in line with techniques used by the World Bank in interviews and surveys on corruption (Kaufmann *et al.*, 2001), where questions are designed to elicit information without the respondents incriminating themselves. The interviewees were asked about their opinion on *jeitinho* and if they can give examples of situations in which *jeitinho* was used in their daily lives and work, and whether or not they agree with the use of the practice in the context presented. The following questions addressed the influence of state laws on the interviewee's daily life and their awareness and identification with them. The interview guide and consent form can be found as appendices at the end of the thesis

Throughout the interview, the participant was allowed to intervene for any observations. The interview guide merely served as a guideline and the development of the interview depended on the context in which it took place. For example, in some cases the interviewee himself brought up some of the topics. In other cases, I had to introduce them where they naturally fitted during the interview. With the data collected, it was possible to analyse and compare the answers in order to verify whether there are patterns or not regarding the perception of *jeitinho* as well as the influence of the identification and awareness of the law on this perception.

According to King (2004a), this type of interview is ideally suited to examine topics where different levels of meaning need to be addressed. When examining individuals' perceptions of an informal practice, this research explores different levels of meaning and understanding about it. In this context, semi-structured interviews will provide a setting in which these different levels can be addressed. Another advantage of using this method is that most participants readily accept to participate in the study. King (2004a) claims that this is due to the familiarity with the method and that most people like talking about their work and life. Considering the timeframe to carry out this study, this was a factor considered when choosing the method.

On the other hand, despite the participants' willingness, developing the interview guide, conducting the interviews, transcribing and analysing the data are highly time-consuming

activities. For this reason, the sample size had to be very well planned in order to avoid compromising the data analysis. After much thought, I decided on a sample size of fifteen participants as I judged that it would be possible to conduct all of the activities mentioned within the set timeframe. In this context, King (2004a) also highlights another difficulty faced by researchers using interviews, which is the feeling of data overload as a result of the huge volume of rich data produced. In this situation, the author suggests that the researcher ask himself whether this addition will improve the understanding of the topic studied in any way. Other suggestions are to turn to literature for examples of how other studies have solved problems regarding data analysis, and to seek help from other more experienced researchers.

5.2 Ethical issues

The fact that the interviews addressed a sensitive subject has to be considered at all stages of the research. As previously discussed, *jeitinho* is a multifaceted practice that can have different meanings, depending on who analyses it and in what context. Therefore, it should be noted that interviewees addressed situations that might be considered illegal, unethical or even embarrassing to them. Some precautions were taken throughout the research due to this, as follows.

When the invitation was made to the participants, it was made clear what the interview purposes were. Without mentioning the term *jeitinho*, it was explained that the research aimed to investigate the perception of individuals who interact in different ways with state law about informal practices in their daily lives within the Brazilian context. Participants were assured of their anonymity and the confidentiality of the information provided, as well as that all the material will be used only for the research. These points were also repeated at the start of the interview and the interviewee was asked for permission to be recorded. At the end of the interview, the possibility of providing feedback was offered, containing the main conclusions of the study. Any disclosures made during interviews will be considered for research purposes only. After the transcription and analysis, the sensitive data collected was subjected to a process of de-identification of their authors, in order to prevent them from being used by third parties for purposes other than those proposed in this research.

Another ethical issue to be considered, which has already been mentioned, is regarding the researcher's assumptions and beliefs. Although I am aware that it is impossible to

dissociate them completely from the research process, my position as a researcher should always be aware of what my assumptions and beliefs are and how they may influence the whole research process, from the development of the research question to data collection and analysis. In addition, my relationship with the interviewees during the interview should be taken into account in order to understand how my role as an interviewer may influence the outcome of the research.

Finally, one last aspect to be considered is in relation to language. All the data was collected in Portuguese and subsequently translated to English. In this process, there may be interpretive inaccuracies between what was originally said by the interviewees and what was translated. To avoid these problems, participants were offered feedback on their interviews, and were asked if further contact could be made in specific cases where there might be any possibilities of divergence.

5.3 Data analysis process

For the analysis of the data collected, I first used the two-stage approach recommended by Miles *et al.* (2013). In the first stage, I worked on the raw data coming from the transcripts in order to reduce the volume of information and prepare it for the next step, which consists of identifying patterns – or the absence of them – in the data. The interview guide was important in this process, as it addressed the topics that are of most interest to this research, such as the identification of the *jeitinho* as a specifically Brazilian informal practice, definitions and examples of *jeitinho*, its social acceptance, its applicability in everyday life, as well as participants' awareness and identification of state laws.

After this first analysis, I applied the hierarchical coding technique, suggested by King (2004b). This technique consists of organising the interviews into a series of quotes, and then assembling groups with similar codes. This process enabled the identification of patterns or topics in participants' responses, which will be especially interesting for this research given that participants were divided into three subgroups that relate differently to state laws. Thus, this outcome helped to identify whether the relationship with state laws influences the perception of *jeitinho* or not. Similarly, data related to identification and awareness of state law provided evidence to assess whether these factors affect the perception of *jeitinho*. These findings were cross-tabulated, presented and discussed in the following chapter.

6 Presentation of the empirical data and analysis

The research sought to interview individuals of different ages and professional backgrounds in order to enrich the sample. Since the main objective of the research is to investigate how individuals who interact with state laws in different ways perceive the *jeitinho*, the variety of the sample is an important factor in obtaining a range of perceptions of this informal practice in the Brazilian context. The interviewees were selected observing this criteria, seeking to have a heterogeneous group. The selection of participants was first based on the personal contacts of the researcher and second by applying the snowball technique, in which the participants themselves indicate new participants for the research. Confirming one of the advantages of semi-structured interviews presented by King (2004a), all those invited agreed to participate in the research.

The selected sample consists of fifteen participants, composed of five civil servants, five entrepreneurs and five employees from the private sector, formed by nine males and six females. They work in a wide range of fields, with an average age and years of experience of 40.86 and 18.26 respectively. The oldest interviewee is 59 years old and the youngest is 25 years old. The interviewee with the most professional experience has 29 years of experience and the one with the least has 3 years. Table 3 presents the profile of the interviewees.

Respondent profile

#	Age	Gender	Group	Industry/sector	Years of experience
1	32	Male	Public sector	Firefighter	10
2	31	Male	Public sector	Finance	8
3	56	Female	Public sector	Legal	28
4	52	Male	Public sector	Education	29
5	59	Female	Public sector	Health	26
6	32	Male	Entrepreneur	Health	12
7	38	Male	Entrepreneur	Tourism	22
8	40	Male	Entrepreneur	Entertainment	22
9	51	Male	Entrepreneur	Food	31
10	42	Female	Entrepreneur	Fashion	12
11	38	Female	Worker private sector	Education	19
12	32	Male	Worker private sector	Sports	8
13	40	Male	Worker private sector	Music	24
14	25	Female	Worker private sector	Civil aviation	3
15	45	Female	Worker private sector	Food/Sales	20

Table 3 – Respondent profile

6.1 General considerations about *jeitinho*

The first question of the interview guide was asking whether the participant could identify a specific Brazilian practice to solve problems or circumvent rules or laws. The objective was to verify if the interviewees consider that Brazilians have a specific type of informality and if they called this practice *jeitinho*. Eleven participants agreed that Brazilians have a specific form of informality and four spontaneously named this practice the Brazilian *jeitinho*.

The following questions addressed topics such as whether they had ever heard or witnessed the practice of *jeitinho* in their daily lives and at work, whether they considered it a way of getting things done, whether they had ever used it and whether they would do it again. Table 4 summarises these answers.

#	Agrees that there is a specific Brazilian form of informality / Identified it as <i>jeitinho</i>	Witnessed or heard about it in their daily life/work	Considers it a resource to solve a problem or help get things done	Used the <i>jeitinho</i> in his/her daily life or work/Would do it again
1	Yes/No	Yes/Yes	Yes	Yes/Yes
2	Yes/Yes	Yes/Yes	Yes, in some cases	Yes/No
3	Yes/Yes	Yes/Yes	No	No/-
4	Yes/No	Yes/Yes	Yes, in some cases	Yes/Yes
5	Yes/No	Yes/Yes	Yes, in some cases	Yes/Yes
6	No/-	Yes/Yes	Yes	Yes/Yes
7	Yes/No	Yes/Yes	Yes, in some cases	Yes/Yes
8	No/ -	Yes/Yes	Yes	Yes/Yes
9	Yes/Yes	Yes/Yes	Yes	Yes/Yes
10	No/-	Yes/Yes	Yes	Yes/Yes
11	Yes/No	Yes/Yes	Yes	Yes/Yes
12	No/-	Yes/Yes	Yes	Yes/Yes
13	Yes/Yes	Yes/Yes	Yes	Yes/Yes
14	Yes/No	Yes/Yes	Yes	Yes/Yes
15	Yes/No	Yes/Yes	Yes	Yes/Yes

Table 4 – Perceptions on *jeitinho*

Although not all participants identified a specific Brazilian type of informality and consequently did not name it *jeitinho*, the finding that all participants had heard of or witnessed situations involving *jeitinho* both in their daily lives and at work, shows how this practice is widespread in the Brazilian context. The answers highlight how common this practice is, in professional settings and in daily life, being perceived as a ‘naturalised’, ‘recurrent’, ‘frequent’, ‘all the time’, ‘on a daily basis’ practice. As shown in Table 4, only one interviewee does not consider the *jeitinho* a resource that helps get things done.

Similarly, the same interviewee was the only who states that she has never used it. Thirteen of the fourteen who have used it would do it again.

These findings are in line with what the literature shows about the *jeitinho* in the Brazilian context. As Barbosa (1992) states, this is a practice widespread in Brazil, present in all kinds of situations and frequently practiced by Brazilians. Therefore, the *jeitinho* can be understood within the living law theory as one kind of ‘social association’, present and practiced widely by Brazilian society, becoming a norm of conduct, perceived and recognized by members of this society. The following statements supports this argument:

#10	<i>I can't see our society without the jeitinho, we need it to make things happen</i>
#3	<i>I don't see it ending any time soon, it's very well established. It's practically a law</i>
#9	<i>It has become a rule for Brazilians</i>
#5	<i>It is implicit in all relationships</i>

Table 5 – Quotes about *jeitinho* as an example of living law

At this stage, it is already possible to make some observations regarding the three sub-groups. Among the civil servants (#1 to #5), there is the only interviewee who does not consider the *jeitinho* a resource to solve problems, as well as the only interviewee who stated that he has already practiced it, but would not do it again. Moreover, this sub-group includes three of the four interviewees who consider this practice a resource to solve problems just in some cases, but not completely. Finally, it is the only sub-group where all agree that Brazil has a specific type of informality, with two of them naming it *jeitinho* - out of a total of four across the sample. Among the subgroup of entrepreneurs (#6 to #10), it is noteworthy that three out of the four in the sample do not recognise a specific Brazilian informality. Only one participant named it *jeitinho*. All of them have used it and would do it again. Within subgroup of private employees (#11 to #15), only one does not agree that there is a specific Brazilian informality and only one of those who agree that there is a specific informality named it *jeitinho*. Like the subgroup of entrepreneurs, all of them have used it and would do it again. These findings indicate that among public servants on the one hand there is a greater agreement in identifying a specific Brazilian informal practice and naming it *jeitinho*. On the other hand, this subgroup is the only one that does not fully agree with its use. Comparisons between the three subgroups will be further elaborated in an appropriate topic.

Informality is present in the daily life of Brazilians and the *jeitinho* is an important ‘norm of conduct’, established and practised by individuals. However, the perception of this practice may vary across a broad spectrum. These perceptions of the *jeitinho* will be discussed in the following topic.

6.2 The dimensions of *jeitinho*

Perceptions about *jeitinho* may vary among individuals according to their experiences and beliefs. In the research sample, it was possible to identify individuals who see *jeitinho* as more positive, more negative or both.

	Negative	Positive
	Harm to someone	No harm done to anyone
Example given by the interviewee	<i>Someone who parks their car in a space for the elderly or disabled (#11)</i>	<i>Sold a sightseeing tour and the customer was late and missed the bus. To avoid missing the whole tour, he drove the customer in his private car to the meeting point and the customer was able to take the rest of the tour (#7)</i>
Opinion about the example	<i>I disagree because it is very easy for many people to take advantage of this and those who need it end up not having the right to use it (#11)</i>	<i>I agree. It won't be the first time or the last. Things that are out of your comfort zone happen frequently and you will need new solutions so you don't lose the client (#7)</i>
	Broke a law	Solved a problem
Example given by the interviewee	<i>Employees taking company items home as more items were delivered than were ordered (#5)</i>	<i>Raffle tickets to a sporting event among workers to motivate them to work and deliver the expected outcomes on time (#12)</i>
Opinion about the example	<i>I totally disagree. I have never done that in 26 years of work (#5)</i>	<i>I don't regret it, I don't see it as corruption. I solved the problem and gave opportunities to people who were working hard (#12)</i>

Table 6 – Dimensions of *jeitinho*

As for the positive aspects, attributes such as creativity, innovation and cleverness were emphasised. On the other hand, when addressing the negative side, elements such as lack of ethics, abuse of power and corruption were highlighted. However, the majority of the responses were those that could identify both sides of the practice. In this sense, it is possible to divide the perception of it into two dimensions. The first is when analysing whether the practice will harm someone or not. It is generally seen as positive when it does not harm anyone and negative when another person is affected. The second dimension is in relation to the use of *jeitinho* to solve a problem or break the law. When one seeks to solve a problem, the perception tends to be more positive and when one goes against the law more negative.

The examples above illustrate some of the distinct perceptions of *jeitinho*. Of course, in many cases the two dimensions presented may get mixed up. For example, parking in a space for the elderly also breaks the law. The ticket lottery also caused no harm to anyone. However, what can be observed is that one dimension prevails over the other. Parking in a forbidden space bothers more because of the harm caused to a third party than because it is against the law. This difficulty in accurately classifying the practice is also expressed in relation to its acceptability. Interviewees stated that they find it difficult to define an example of the *jeitinho* just as right or wrong, due to its prevalence in society:

#14	<i>The threshold of what is acceptable or not is hard to know</i>
#2	<i>Because it is such an established practice in society, it is very difficult to judge in many cases</i>

Table 7 – Quotes about how difficult is to categorize the *jeitinho*

Almost all interviewees addressed the personal and immediate aspects of the practice. This means that they perceive the *jeitinho* as a practice that usually seeks self-benefit or an instant result:

#3	<i>You don't see someone using the jeitinho in favour of a community, it's always individual</i>
#8	<i>One of the purposes of the jeitinho is for someone to take immediate advantage for himself, without realising that affecting the collectivity will affect him as well. It is a way to try to get the most benefit for yourself</i>
#13	<i>It is used for your own benefit or to have less trouble for yourself. It's a question of individualism, of taking advantage [...] A lack of collective sense</i>
#5	<i>It seeks self-benefit more than collective benefit</i>

Table 8 – Quotes about individualism and immediacy of the *jeitinho*

The data presented in this topic reinforces the argument that the practice of *jeitinho*, not only is widespread in Brazilian society, but also involves different types of behaviours and perceptions. These findings confirm that this is a complex type of informality that manifests itself frequently and in different ways within the Brazilian society. Despite the various ways in which it is expressed, *jeitinho* is widely recognised by individuals. This wide recognition of the *jeitinho* demonstrates how in the Brazilian context informal practices are relevant in the daily and professional lives of people. Informal structures intertwine with formal structures and offer individuals alternatives to the official channels. In this sense, the *jeitinho* operates as an important norm of conduct widely used by Brazilians. In non-Western cultures, informality plays a significant role, which is in line with the findings presented in this topic.

Before exploring the differences identified in each subgroup, the next topic will discuss the interviewees' relationship with the law. The findings on the respondents' identification with and awareness of the law could help in understanding their relationship and perception of the *jeitinho*.

6.3 Normative profiles: Legalists, Loyalists, Cynics, and Outsiders

Hertogh (2018) states that the normative profiles developed as part of the legal alienation theory should not be understood as fixed and immutable definitions. The author suggests reading Table 2 through a sliding scale, where it is possible to identify different degrees in each profile. In addition, another limitation identified by the author is that normative profiles are not related to persons, but to behaviours and attitudes towards the law. In this sense, the analysis will be based on the answers given in the interview, in which participants are asked about their perception of the law and the *jeitinho* in their daily life

and work. Thus, the research aims to identify if the variation in the participants' perception of the law influences their perception of the *jeitinho*.

The questions on the relationship of the interviewees with the state laws covered their opinion about the laws in their daily life and work, the influence of the law on their activities, the degree of awareness and identification with the law and examples of how the law influences their daily and professional activities.

The results show that despite recognising the importance of having laws and following them, the interviewees are critical of the amount and content of state laws. They generally tend to attribute high relevance to laws in their daily lives and the importance attributed to laws at work is varied. As for awareness and identification, there is a tendency to agree in parts with the laws, as well as a tendency to feel partly familiar with the laws. Regarding the need to comply with regulations to satisfactorily perform their duties at work, the general answer was yes. As for the need for creative navigation when laws are too strict, the most frequent response was also positive. Table 6 presents the main findings on the normative profile of the participants.

	Identification with / awareness of the law	Relevance of the law in daily life / work	Would rather there were more or fewer laws	Needs to comply with laws at work / Needs creative navigation when the law is too strict
1	3 / 2	3 / 3	Fewer	Yes/Yes
2	4 / 4	4 / 4	Needs update	Yes/Yes
3	4 / 4	4 / 4	-	Yes/Yes
4	4 / 3	4 / 4	More specific	Yes/Yes
5	4 / 4	4 / 4	More specific/Needs update	Yes/Yes
6	3 / 2	3 / 2	Fewer	Partially/Yes
7	2 / 3	4 / 2	-	Partially/Yes
8	3 / 3	4 / 2	More	Yes/Yes
9	3 / 2	4 / 4	Fewer	Yes/Yes
10	3 / 2	3 / 3	Fewer	Partially/Yes
11	3 / 3	3 / 3	Fewer/Needs update	Yes/Yes
12	3 / 3	3 / 2	Fewer	Partially/Yes
13	4 / 3	3 / 3	Fewer	Yes/Yes
14	3 / 3	3 / 4	Fewer	Yes/Partially
15	3 / 3	3 / 3	-	Yes/Yes

Table 9 – Normative profiles

In order to have a reference for comparison, a set of values were defined for the answers. Regarding the identification of the law, the answers were classified as: “totally disagrees (1)”, “disagrees more than agrees (2)”, “partially agrees (3)”, “agrees more than disagrees

(4)” and “totally agrees (5)”. The answers concerning the awareness of the law were assigned the following values: “no awareness (1)”, “not enough awareness (2)”, “partial awareness (3)”, “sufficient awareness (4)” and “full awareness (5)”. Regarding the perception of the relevance of the law, answers were classified as: “no relevance (1)”, “low relevance (2)”, “relevant (3)” and “high relevance (4)”. These values will be represented in the following table on a scale of 1 to 5 for answers about identification and awareness of the law (column 1) and on a scale of 1 to 4 for answers about the relevance of the law in daily life and work (column 2).

6.3.1 Civil servants

The subgroup of civil servants (#1 to #5) showed the highest level of identification and awareness of the laws, as well as was the group that attached most importance to the laws in their daily lives and work. With regard to the preference for more or fewer laws, this was the subgroup that showed the greatest variance, with participants preferring fewer laws, more laws and neither. What is noteworthy in this aspect is that it was the subgroup that mostly commented on changes in the law, wishing there were updates and more specific laws for their activities. All participants agree on the fact that they have to comply with the law to perform their work and on the need for creative navigation when laws are too strict.

The results for this subgroup are in line with what was expected. As interviewee #2 states below, the performance of those who work in the public service is highly regulated by law. This brings these individuals closer to the law, which may explain their higher awareness and, in a way, higher identification than in the other subgroups. This familiarity with the law may also explain the variation in preference for more or fewer laws. Since their activity is subordinated to the law, the type of activity has significant influence in the decision of wanting more or fewer laws.

The main argument in this subgroup was that the law often constrains the actions of public actors, making it difficult to provide the desired service. They point out that often the law is not made based on the reality in which it will be applied, generating this gap that needs to be filled by extra-legal actions of public agents. Another argument presented by three individuals from this subgroup was that despite having to comply with the law to perform their work, they follow the laws with a "critical perspective", always seeking to deliver a

better public service, even if this requires the use of creative manoeuvres. Table 7 presents some quotes from this subgroup.

#1	<i>With laws, many things are restricted, bureaucratic. I look for ways to bring more efficiency into the work. This ends up being necessary to make things happen. The right way is too rigid</i>
#2	<i>My knowledge of the law is because I need it on a daily basis. At work, I can only do what the law requires me to do</i>
#3	<i>I don't want more laws. Too many laws hinder. It would be best if they were more effective</i>
#4	<i>There are many laws. There are some that get in the way, that don't bring benefits. They are too generalised and could be more specific</i>
#5	<i>I always try to base myself on the law, but with a critical and reflective attitude. Not all laws seek to make life easier</i>

Table 10 – Quotes from the subgroup of civil servants

Based on the responses of civil servants it is possible to state that according to the normative profiles presented by Hertogh (2018), this subgroup is within the Legalist profile, with some aspects of the Cynics and a smaller part of the Loyalist profile. This means that they have substantial knowledge and identification of the laws and in general seek to follow them (Legalist). However, often the laws are an obstacle to perform their duties and they make an *informed decision* not to blindly follow the law and seek for alternatives (Cynics). In few cases, they feel that even without having full knowledge of the laws, they are generally right and should be followed (Loyalists).

6.3.2 Entrepreneurs

The second subgroup, composed of entrepreneurs (#6 to #10), presented the lowest degree of identification and awareness of the law among the three subgroups, with the only case of a participant who disagreed more than agreed with the law. Regarding the relevance, they believe that the law is relevant for their daily activities and less important for their professional activity. In general, they would prefer to have fewer laws (three of the five respondents). This was the subgroup that had the most partial opinions about the need to comply with the laws in order to perform their work. Finally, all agree that there is a need for creative navigation in cases where the law is too strict.

The fact that this subgroup presented the lowest degree of awareness of the law is interesting. It is generally assumed that entrepreneurs are expected to have significant knowledge of the law in order to start and run a business. Nevertheless, what the majority of the subgroup reported is that when the law is a barrier to doing something, they consult a specialist such as a lawyer or an accountant. Regarding identification, the low level found is understandable, considering the barriers reported by entrepreneurs concerning the Brazilian legislation. Noteworthy is the high level of importance given to the law for day-to-day life, in contrast to the low level of law in relation to business activity. The partiality towards the need to comply with laws is also notable.

The approach of the entrepreneurs interviewed with the law is directly associated with the notion that following the law brings costs to the business. The answers given revolve around the need to *hide* from the law in order to *survive* in a highly informal economy that offers no guarantees to the entrepreneur. Therefore, interviewees emphasize creativity in the Brazilian entrepreneurial context as an outstanding characteristic. As seen previously, this creativity could be used to solve a problem or to hide from, bend, or break a law. The following comments support these arguments.

#6	<i>Laws bring costs. We try to "hide" to reduce them. It would be more expensive, time consuming and difficult to stay in business. We don't comply with everything because it's very costly</i>
#7	<i>It's more common to do the job "on the side", without an invoice or receipt. It's the only way that entrepreneurs have to survive today. If you want to be legal from the start, it will be difficult to stay in the business. And the benefits of being legal are not justified</i>
#8	<i>If we were to follow the letter of the law, we would go out of business. The operational cost would be greater than the profit. It would make it unviable</i>
#9	<i>I don't feel familiar with the law. Either you work or you study the law. Brazilian law is exaggerated, it is difficult to know everything. It is not a surprise that we need a lawyer and an accountant to do things. There are laws that I think don't work, they hinder business activity</i>
#10	<i>In Brazil, we need to resort to creativity to stay in business</i>

Table 11 – Quotes from the subgroup of entrepreneurs

Considering Hertogh's (2018) normative profiles, it can be stated that this subgroup lies mostly within the Cynic and the Outsider profiles, with a share of the other two profiles.

This means that they are generally critical of the law (Cynic). When they decide to "hide" from the law to avoid its costs, they could fit into the Outsider profile, that is, when they decide to turn their back to the law. However, this does not mean that there are not moments when they are aware of and follow the law (Legalist). Finally, because they attach a high degree of relevance to the law in their daily lives, we should also consider them within the Loyalist profile.

6.3.3 Private sector employees

Finally, the subgroup of employees from the private sector (#11 to #15) presented average levels of identification and awareness with the law, in comparison with the other two subgroups analysed. Regarding the importance of the laws, it was the most homogeneous group in relation to the relevance given to them on a daily basis, and presented small changes in the relevance given to them in the professional environment. It was the only group in which there was no participant who would prefer to have more laws, with four wishing for fewer laws. With the exception of one participant in each question, all agree that they must follow the laws in order to do their job and about needing creative navigation when the laws are too restrictive.

Respondents in this subgroup work in different sectors with different activities. The fact that they present an average level of identification and awareness of the law in comparison to the other two subgroups could be justified by the extent of their involvement with the law. When work is highly regulated by laws, as is the case with civil servants, or when it is necessary to go through bureaucratic processes in order to work, as is the case with entrepreneurs, the approach to the law inevitably becomes greater, engendering a wider range of opinions, whether in favour of or against the law. This might also have been the reason for the average perception of the relevance of the laws. The preference for fewer laws can be both justified as a natural consequence to their alienation from the law, or an indication that, despite the average perception of the relevance of the law in their lives, it still hinders more than it helps.

The interviews bring arguments that reinforce this average perception of the law. In general, in the professional environment, participants report not thinking much about laws or regulations when making decisions. The exception to this is participant #14, a commercial airline pilot, who states that her sector is highly regulated and that there is not much room for creative navigation as this can cause insecurity for passengers.

However, as we will see in the next section, even in this case *jeitinho* is practiced. Because they do not ponder much on the law, they often act on "hunches", as well as seeking to act according to ethical principles or what senior colleagues claim is the law. They feel frustrated in following the law, as they perceive that others do not act correctly. Hypocrisy in society regarding following laws was a point raised by some participants in this subgroup. There were also arguments raised that the law is not always “black/white” or “right/wrong”, often having a grey area.

#11	<i>Many times we base our decisions on hunches. [...] Laws change and we memorise old laws and stick to them. A senior colleague says "that's the way it is", but it's not always the case</i>
#12	<i>I don't think much about laws. I carry out my work without worrying too much about it. I act the way I think is right. [...] People will feel less bad about committing infractions because of the disconnection of laws from reality. They will not follow the rules while no one else does</i>
#13	<i>Sometimes we do things against the law that apparently nobody thinks are against the law. [...] We feel good breaking the law because we think that the government is always stealing from us. We don't trust the people who make the laws. Law does not always have a right/wrong side</i>
#14	<i>I follow the laws and rules as standard, but I use a lot of <i>jeitinho</i>. [...] I enjoy breaking them and questioning them. [...] It is essential to have laws, but it is important to rebel so that the laws we don't agree with can be changed</i>
#15	<i>I don't think much about laws in my daily life and work</i>

Table 12 – Quotes from the subgroup of private employees

The average profile described in the paragraphs above, indicates that private sector employees can be placed in the four normative profiles. However, it is possible to observe a greater predominance of the Loyalist profile, followed by the Outsider and Cynic profiles and, to a lesser extent, the Legalist profile. This means that private employees do not attach much importance to the law in their activities, although they do have a certain trust in the law (Loyalist). When they need to, they learn about the law and comply with it, but with a certain amount of criticism (Cynic). On the other hand, they understand that they do not need to comply with the law because nobody else does or to show their dissatisfaction with it (Outsider). In some cases, they know and agree with the law they follow (Legalist).

After analysing the normative profiles of the three sub-groups, it is possible to investigate how the *jeitinho* is perceived in each of them, seeking to verify whether the understanding of the law influences in any way the perception of this practice. The next section will present how each subgroup perceives *jeitinho*, which practices are considered positive and negative, and how the normative profile may or may not influence this perception.

6.4 Perceptions of *jeitinho*

6.4.1 Civil servants

As can be seen in Table 4, the subgroup of public sector employees was the one that most identified a specific Brazilian informal practice and named it *jeitinho*. Moreover, it was the only one that presented someone who does not consider the *jeitinho* as a resource and the only one who has already practised the *jeitinho* but would not do it again. Interestingly, as can be seen in Table 9, the two interviewees (#2 and #3) consider the need for creative navigation when laws are strict and do not allow things to be done. This means that part of this subgroup does not consider the use of creativity to bend the law as a dimension of the *jeitinho*. This could be related to the Legalist profile values, where the closeness to the law may influence the perception of the *jeitinho* as something more negative.

This example reflects a greater tendency in this subgroup towards a negative perception of *jeitinho* when compared to the other two subgroups. For participants in this subgroup, the *jeitinho* is reprehensible when it is harmful to others. The perception towards the *jeitinho* when it is an illegal practice varies according to its purpose. At work, as can be seen in the examples below, there is often a relaxation or breaking of the law aiming at efficiency, reducing bureaucracy or adapting the law to the reality in which it applies. Working in the public sector, which is always bound by the law, means that creativity and the attempt to solve problems often violate the legal provision, even if the ultimate goal is to increase the quality of work.

#1	<i>In order not to go through a bureaucratic hiring process, which would create more delay, I decided to paint the headquarters inside one year and outside the following year. If I had done everything together, the process might not have been concluded yet. It is against the law because the same type of service cannot be contracted in instalments, but I decided to do it this way because we needed to finish the painting as soon as possible due to the maintenance of the building</i>
#2	<i>I have had to add or remove steps in a process due to pressure from superiors. [...] It is reprehensible, but I did it because of pressure from my superiors, which if I didn't do, I imagine I would be penalised. I wouldn't do it again, only in a last case scenario</i>
#3	<i>I strongly disagree with this practice. Because the public sector is a place where no one has to have privileges. People have to be treated equally, without discrimination</i>
#4	<i>Scholarships are crucial for some students. In order to prevent some from being left without them, we offer scholarships from other programmes that had scholarships remaining. This way, they are officially linked to one programme, but doing another one in practice. This is to prevent further dropouts</i>
#5	<i>Two faces of the jeitinho. One that generates damage to the collectivity and another that is a flexibility in the legal process with the purpose of promoting a more humane process. The one I support is the second</i>

Table 13 – Quotes from the civil servants about their perception of *jeitinho*

This demonstrates that a more critical view of the law (Cynics) plays an important role in the perception of *jeitinho* for this subgroup. When they understand that the law does not offer the best solution for a specific situation, they agree to use *jeitinho* to bend it to improve their performance. On the other hand, when they are forced to go against the law to benefit a third party interest, the practice is reprehensible.

6.4.2 Entrepreneurs

For the subgroup of entrepreneurs, following the law means costs. In a context where informality is predominant, that is, the ‘norms of conduct’ are significantly important, the *jeitinho* stands as a relevant type of practice for the success of the business. Using it to reduce operational costs - whether by finding creative solutions, hiding from the law or breaking it –, is something that can be decisive for the survival of the company. The perception of the *jeitinho* for entrepreneurs tends to be the most positive among the

subgroups. Creativity, innovation and the ability to solve problems are highlighted when addressing *jeitinho*. These findings are in line with the study promoted by Pedrosa, Massukado-Nakatami and Mussi, (2009) in which predominantly positive aspects of *jeitinho* were identified among Brazilian entrepreneurs.

A practice often mentioned by participants is to pay for services without invoices, in other words, without paying the proper taxes. Another practice highlighted was the high frequency of verbal agreements between dealers, based on mutual trust. Trust is an aspect also mentioned regarding the importance of maintaining a good relationship with other suppliers. There is a norm of conduct of paying a commission for recommendation when someone offers your service to an interested client. This is not a verbal agreement, but a standard practice. The commission is paid without anyone asking for it. Those involved in the business understand the rules and act accordingly to maintain a good relationship and have more chances to succeed. Despite the competitive scenario, there is also cooperation among entrepreneurs to share *jeitinho* practices in an attempt to obtain some advantage or to reduce costs.

#6	<i>Do a job with invoice or without invoice. If I get a discount, great for me. My budget is tight. It's quite common for a small or medium business. "Do you need an invoice?" [...] Surely other companies also use jeitinho. We give each other tips on how to do certain things.</i>
#7	<i>In my other job where it was necessary to mix products, the companies used smaller doses of the most expensive products to make the mixture more profitable. As the client doesn't have the technical knowledge, they accept. But everybody in this field knows that</i>
#8	<i>At work, you have to have a good relationship in order to be recommended. There is a sales bonus for being recommended for a job. Everyone knows that this is how it works. It's something we do to stay in business</i>
#9	<i>I receive an expired product. I'm not going to return the entire order and reorder it. I arrange with the delivery man to exchange the expired product without having to register the whole thing. He takes the expired one and brings me a proper one.</i>
#10	<i>There are agreements with suppliers that are made on the basis of trust, when I need to exchange a damaged model for example</i>

Table 14 – Quotes from the entrepreneurs about their perception of *jeitinho*

As can be noted, informality is widespread in the daily life of Brazilian entrepreneurs. Besides state laws, other norms of conduct need to be learned and complied with by individuals in order to succeed. The *jeitinho* is an inherent practice of business activity and is perceived as a way to solve problems and reduce costs.

As a result, the negative aspects of the *jeitinho* dimensions, such as harming a third party or going against the law, are not as relevant for this subgroup. On the other hand, participants highlight the positive aspects of *jeitinho*. The predominance of the normative profiles Outsider and Cynic in entrepreneurs helps to explain this perception. Most of the time, entrepreneurs are critical of the law and seek ways to reduce the costs of their activity, often turning their backs on the law. Moreover, in addition to state laws, other norms of conduct must be observed by this subgroup, which may also have an influence on the decision to follow state laws.

6.4.3 Private sector employees

As for the subgroup of private sector employees, the average normative profile presented before reflects their perception of *jeitinho*. They recognise that it is practised by everyone, in all sectors. As for the negative aspects of the *jeitinho* dimensions, perceptions vary. In general, they understand that if the *jeitinho* generates harm to a third party, it should not be done. However, there may be cases in which the practice is justified, that is, even if there is harm to a third party, due to some greater need, the practice is justifiable. As for going against the law, this aspect does not make the practice reprehensible.

This could be explained by the degree of legal alienation identified in this subgroup. The law is not a preponderant element in the life and work of these individuals. Hence, following the law or not is not decisive in many cases. On the other hand, this also may contribute to the subgroup's perception of the *jeitinho* being more positive than negative. Thus, the negative aspects of the *jeitinho* dimensions (harming a third party and going against the law) are overlooked, and in many cases justified, while the positive aspects are emphasised. Among the positive aspects, creativity and the ability to solve problems stand out in this subgroup. In this sense, *jeitinho* is seen as something that needs to be done to make 'life less impossible'.

The examples given by the participants are the most diverse, illustrating how the *jeitinho* can be perceived in different ways.

#11	<i>It is the only way to achieve some things. By the examples we have in society and family, it's often passed on from father to son. [...] When I worked in a shopping mall, we were told to make unregistered sales because part of the rent was calculated by the shop's turnover</i>
#12	<i>Jeitinho has the function of making life less impossible [...] I ended up becoming friends with managers very quickly, creating an intimate relationship. A faster and more effective relationship for doing business</i>
#13	<i>If you wanted to play in the pub again, you had to pay part of the money you earned to the manager. It's something no one speaks about, but everyone knows. Same on the radios. You have to pay for them to play your songs</i>
#14	<i>Instead of flying in a straight line, the course flies over a few cities on the way. I've witnessed them making up a meteorological formation to fly straight and save time. [...] It's hard to say if I agree. It has two sides. Earning company fuel/time x against the rules</i>
#15	<i>I think its function is to make people's lives easier. Without it, it would be very difficult to do things and life would be much more difficult. [...] A customer familiar to us has his card declined when paying, we wrote down the amount and he paid another day</i>

Table 15 – Quotes from the subgroup of private employees about their perception of *jeitinho*

As can be seen, the average normative profile found in this subgroup, with a predominance of Loyalist, Cynic and Outsider profiles, reflects the perception of the *jeitinho* for these individuals. This means that for them the *jeitinho* is practiced widely in society and by all citizens. Moreover, it is a practice that is passed "from father to son", following the example of what they witness being done within society. Thus, individuals learn and reapply this norm of conduct. This recognition reinforces the idea of the *jeitinho* as a type of norm known and applied by all members of society. Their average awareness and identification with the law influences the perception of the *jeitinho*, relativizing the practice according to the purpose for which it was used. In other words, for them, it is not possible to judge the practice of the *jeitinho* without considering the context and the reasons why it is done.

6.5 Concluding remarks

The analysis of the interviews presented interesting findings. It showed that the *jeitinho* is a practice present in the daily lives of all participants, regardless of their perception.

They speak openly and freely about the use of the practice, regardless of whether it is recognised as illegal. This behaviour reinforces the thesis that the detachment between the state laws and their daily lives engenders a sense of confidence in recognising the use of the *jeitinho*. This behaviour is also observed in other non-Western contexts, where many types of unlawful behaviours are discussed much more freely than foreign researchers might recognize (Gans-Morse, 2012). Moreover, it is frequently used in daily life and at work, demonstrating its permeability in different social groups.

The interviewees were divided into three subgroups, namely, public sector, entrepreneurs and private sector employees. They have different ages and years of experience, and work in different areas within their sectors. The results with this heterogeneous sample have two implications. First, that the *jeitinho* is a recognised and inherent practice in Brazilian society. Second, that perceptions of it may vary according to the relationship of individuals with the law.

Although this perception varies, there are some common observations. As already mentioned, *jeitinho* is recognised as a recurring practice in society. Because of its various purposes, two dimensions in which it is perceived have been suggested. The first is related to the possibility of generating harm to a third party or not, with a tendency to be perceived as negative when it generates some harm and positive when it does not affect a third party. The second dimension relates to going against a law or solving a problem, being generally recognized as negative when it breaks the law and positive when it seeks to solve a problem. Although it is possible that both dimensions and negative and positive aspects are present in the same practice, what was found in the interviews is a greater tendency for one of the aspects to be present in each dimension.

Nevertheless, it was found that the interviewed subgroups have a distinct understanding of state laws. Applying Hertogh's (2018) legal alienation theory, different normative profiles were suggested for each subgroup. The public servant subgroup has a more Legalist profile, with part of the Cynic and to a lesser extent Loyalist profiles. This means that as a rule they are aware of and relate to the law. However, there are times when they are critical of it and bend it to better fit reality. At a lesser level, they have no awareness of the law, but trust that it is being applied well. The perception of the *jeitinho* for this subgroup is more negative than positive, comprising the only singular cases in the sample that claim to have never used the *jeitinho* and that have done so but do not intend to do it

again. The higher level of awareness and identification with the law in this subgroup may explain this perception.

The second subgroup, consisting of entrepreneurs, showed the lowest level of identification and awareness of the law of the three subgroups. They fit more within the Cynic and Outsider profiles. For entrepreneurs, following the law means increasing their operating costs. This explains the tendency to have a critical view of the law (low identification) and often decide to turn their back on the law, hiding from it to cut costs and time. The perception of *jeitinho* for this subgroup tends to be more positive, with participants highlighting aspects such as creativity, innovation and the ability to solve problems.

Finally, the subgroup of private sector employees demonstrated an average level of identification and awareness of the law. They are almost equally situated in the four normative profiles, with a greater predominance of the Loyalist profile, followed by the Outsider, Cynic and Legalist profiles. For them the law is not as important in their day-to-day decision-making as it is for the other two subgroups. This affects the perception of the *jeitinho* in the sense that following the law or not is not a very relevant factor. Thus, the negative aspects of the *jeitinho*, such as causing harm to a third party and breaking the law, can be relativized according to the reasons that motivated the *jeitinho*. The positive aspects are considered to a lesser extent than for entrepreneurs, also depending on what justified the practice.

The results show that there is a correlation between the understanding of the law and the perception of *jeitinho*. In this sense, individuals who have a more Legalist normative profile, that is, with a higher level of awareness and identification of the law, tend to emphasize the negative aspects of the *jeitinho*. This does not mean that, for these individuals, the *jeitinho* cannot be perceived as a creative practice, which does not cause harm and solves problems. However, they tend to emphasise the negative aspects of the *jeitinho*. On the other hand, as levels of identification and awareness of the law decrease, there is a tendency to perceive the *jeitinho* in its positive aspects. This means that the less identified or less aware of the law, the more positively the *jeitinho* is perceived.

These results cannot be considered in exact terms as they are subjective values involving assumptions, beliefs, expectations and perceptions. However, it is possible to affirm that the aforementioned tendency exists. This finding supports the arguments about the

detachment between laws and society in the Brazilian context, mentioned in chapter 2. In settings where informality plays an important role, the level of legal alienation becomes an influential factor in the perception of the positive and negative aspects of informal practices.

7 Conclusion

The data collected confirms what was verified in the literature review regarding the *jeitinho*. It is a widespread practice in Brazilian society and manifests itself in different ways. Due to the gap between legal institutions and Brazilian reality, this informal practice has become an important resource to "lubricate relationships" (interviewee #2), to "get things done" (Duarte, 2011, p.44), and to "make life less impossible" (interviewee #12). As an alternative to state laws, *jeitinho* has spread throughout Brazilian society and is an example of how norms of conduct are relevant to society, especially when official interventions do not have the intended results.

The secondary questions of this research are related to the social function of the *jeitinho*, and whether the degree of legal alienation can influence individuals' perception of it. Living law theory shines a spotlight on the importance of informal practices in the Brazilian context, showing that the social function of the *jeitinho* is to fill this gap between the needs of citizens and what the laws are intended to regulate. Moreover, it demonstrates that the *jeitinho* endures as an important social mechanism because of its relevance to Brazilian society and due to the need of Brazilians to solve their problems, even when laws do not fit in reality or become an obstacle. Thus, the answer to this research question lies in understanding the *jeitinho* as a norm of conduct present in the Brazilian social fabric and recognized by its individuals, which shows the relevance of Ehrlich's living law to understand informality in contemporary non-Western societies. Moreover, the identification and awareness of the law were factors that influenced the perception of the participants. The results of the interviews show that although there are similarities among the respondents in their perception of *jeitinho*, some opinions are particular to each subgroup and reflect their attitude towards state laws.

After having offered answers to the auxiliary questions, it is possible to discuss the main research question. The subgroup of civil servants has a more Legalist normative profile, with some aspects that can be placed within the Cynic and Loyalist profiles. As a result, they have a more negative perception of the *jeitinho*, compared to the other two subgroups. For them, *jeitinho* is positive when it tries to solve a problem, such as making a bureaucratic process more efficient or adapting a law according to the specificities of reality. However, when *jeitinho* results in harm to third parties or goes against a law, they tend to disapprove the practice of this type of *jeitinho*. The subgroup of entrepreneurs have a different approach to the law. They fit more into the Cynic and Outsider normative

profiles, with a smaller portion in the Legalist and Loyalist profiles. The Cynic profile demonstrates how critical they are of the law, that is, the low degree of identification they have with the law. For them, following the law means costs for their business. This makes the perception of the *jeitinho* for this subgroup more positive than for the other two. In a highly informal context, complying or not with the law can mean the survival or not of the business. The participants highlighted aspects such as creativity, innovation and problem-solving capacity. The practice of the *jeitinho* is used to solve problematic situations as well as to try to hide from the law and its consequences. The last subgroup, constituted by employees from the private sector, reported average levels of identification with and awareness of the law. They were situated partly in the four normative profiles, with a predominance of the Loyalist, Cynic and Outsider profiles. To carry out their daily activities, they do not consider what the law dictates as much as the other two subgroups. This level of legal alienation influences the perception of the *jeitinho*. For them, even if the *jeitinho* causes harm to others, depending on the motivation, it may be justifiable. As for going against a law, generally this is not an aspect that makes them condemn the practice. They tend to emphasise more the positive aspects, such as creativity and the ability to solve problems.

The contribution of the results of this thesis to existing research on *jeitinho* is threefold. First, rather than using a homogeneous sample, it seeks to investigate through a sample separated into three subgroup patterns of perception, searching for the reasons for which these patterns are formed. By doing so, it demonstrates how *jeitinho* is a complex practice that can be perceived in different ways. Second, it innovates in this field of research by looking at the relationship between the understanding of the law and the perception of the *jeitinho*. The analysis of this relationship broadens the possibilities of research and provides a better understanding of the ways in which the *jeitinho* is perceived, as well as the role of state laws in non-Western societies where informality is significantly important. Finally, it innovates by investigating the *jeitinho* from a socio-legal approach. As Banakar (2019) states, what makes a "piece of research" in sociology of law socio-legal is not necessarily the empirical data collected, but the combination of other factors such as the research problem, the research questions, and the theoretical framework that will be applied to analyse the data. Therefore, with a socio-legal approach it was possible to study the *jeitinho* as a Brazilian norm of conduct, as well as to understand the role of

legal consciousness and legal alienation in the perception of this informal practice, something that had not been done previously in existing research on *jeitinho*.

On the other hand, this research may also offer insights to socio-legal debates on living law, legal consciousness and legal alienation. The findings of this paper indicate that the relationship individuals have with the laws in the Brazilian context influences their perception of the *jeitinho*. The perception of laws and informality by the members of a society is an interesting object of research for investigations within sociology of law. The contribution of this study is to demonstrate that the presence of informality in non-Western countries is significant, constituting an important norm of conduct and being a contemporary case of living law. By seeking to analyse the perception of *jeitinho* in comparison to different interpretations of state laws, this research contributes to understanding the *jeitinho* as a way for individuals to fill the gap of formal norms in their lives. In the Brazilian context, as discussed in this study, this gap can be explained by the importation of European legal models to the Brazilian reality, without regard to the specificities of this society. This alienation of the state institutions from social life has made it necessary for individuals to seek alternatives to the official rules to solve their problems and 'get things done'. These findings support the idea that Brazilian society is influenced by many norms that go beyond state laws. The detachment of state institutions from the Brazilian reality has enhanced the need for individuals to seek other informal ways of regulating and governing their lives.

This study has an exploratory approach, as no research has been found using socio-legal methodology and theories to study the Brazilian *jeitinho*. Therefore, the limitations of this research are related to this and to the size of the sample analysed. As for the exploratory aspect, the limitation is due to the novelty of researching the *jeitinho* from a socio-legal approach and for aiming to investigate the relationship between different individuals' understanding of the law and the influence of this understanding on the perception of the *jeitinho*. As for the sample size, the respondents may not accurately reflect the perceptions of the three subgroups about *jeitinho*, which would require further research on this topic. Future empirical work can test, question and validate what is presented in this paper. In this sense, this thesis opens the way for future research on the relationship between the influence of the law and the perception of informal practices in the Brazilian context. As initially presented, Brazil is a country of continental proportions and the perception of the *jeitinho* may vary in different regions, for example. Other possibilities for further studies

include the comparison of the perceptions of the Brazilian *jeitinho* with other informal practices such as *guanxi*, *blat* and *wasta*, and whether the identification and awareness of the law by individuals in those countries influences their perception of informal practices.

Sociology of law can contribute enormously to studies of informality in different contexts. The methodological and theoretical possibilities provided by a socio-legal approach offer new perspectives on the subject. The relationship between laws and society has been one of the central debates in sociology of law. From this point of view, this approach to informality can answer questions that could not be addressed in previous research. This paper sought to understand how individuals who relate in different ways to state laws perceive the practice of the Brazilian *jeitinho*. What was found is that understanding of the law is directly connected to different perceptions of the practice. This finding supports the thesis that state laws and informalities coexist as norms to be observed and complied with by individuals in a community. In a society with increasingly complex and dynamic social relations, the study of informality from a sociology of law perspective becomes more fundamental and relevant.

References

- Arrieta, L. B. (2014) 'Taking the jeitinho out of Brazilian Procurement: the impact on Brazil's Anti-Bribery Law', *Public Contract Law Journal*, 44(1), pp. 157–178.
- Akira Miura, M., Pilati, R., Milfont, T. L., Ferreira, M. C., and Fischer, R. (2019) 'Between simpatia and malandragem: Brazilian jeitinho as an individual difference variable', *PLoS ONE*, 14(4), pp. 1–16. doi: 10.1371/journal.pone.0214929.
- Amado, G. and Vinagre Brasil, H. (1991) 'Organizational behaviors and cultural context: the Brazilian 'jeitinho'', *International Studies of Management and Organization*, 21(3), pp. 38-61.
- Baez-Camargo, C. (2018) 'Mordida (Mexico)', in Ledeneva, A. E. (ed.) *Global Encyclopaedia of Informality, Volume 1 : Towards Understanding of Social and Cultural Complexity*. London: UCL Press, pp. 171-174.
- Banakar, R. (2019). *On social-legal design*. Lund University.
- Barbosa, L. (1992) *O jeitinho brasileiro: a arte de ser mais igual do que os outros*. Rio de Janeiro: Campus.
- Braga, S. P. and Bezerra, E. V. (2017) 'O jeitinho brasileiro: as pequenas corrupções diárias e seus reflexos na morosidade da justiça', *Revista de Política Judiciária, Gestão e Administração da Justiça*, 3(1), pp. 17–33. doi: 10.26668/IndexLawJournals/2525-9822/2017.v3i1.2160.
- Cavalcanti, P. R. (1991) *A corrupção no Brasil*. São Paulo: Companhia das Letras.
- Chen, X.P., and Chen, C.C. (2004) 'On the intricacies of the Chinese guanxi: a process model of guanxi development', *Asia Pacific Journal of Management*, 21, pp. 305–324.
- Cunningham, R.B., and Sarayrah, Y.K. (1993) *Wasta: the hidden force in Middle Eastern society*, Westport, CT: Praeger.
- DaMatta, R. (1984) *O que faz do Brasil, Brasil?* Rio de Janeiro: Rocco.
- DaMatta, R. (1997) *Carnavais, malandros e heróis: para uma sociologia do dilema brasileiro*. Rio de Janeiro: Rocco.

- Deflem, M. (2008) *Sociology of law: visions of a scholarly tradition*. Cambridge University Press.
- Duarte, F. (2006) 'Exploring the interpersonal transaction of the Brazilian jeitinho in bureaucratic contexts', *Organization*, 13(4), pp. 509-527.
- Duarte, F. (2011) 'The strategic role of charm, simpatia and jeitinho in Brazilian society: a qualitative study', *Asian Journal of Latin American Studies*, 24(3), pp. 29–48.
- Egito, R. S. and Monteiro, W. F. (2018) 'O jeitinho brasileiro: analisando suas características como ferramenta de conveniência e seus prejuízos sociais', *Revista Estudos e Pesquisas em Administração*, 2(2), pp. 128–146. doi: 10.30781/repad.v2i2.6254.
- Fernandes, D. M., Perallis, C. G. and Pezzato, F. A. (2015) 'Creativity, Brazilian "jeitinho", and cultural practices: a behavioral analysis', *Behavior Analysis: Research and Practice. (Behavior Analysis: Brazil Special Edition)*, 15(1), pp. 28–35. doi: 10.1037/h0101067.
- Ferreira, M. C., Fischer, R., Porto, J. B., Pilati, R., and Milfont, T. L. (2012) 'Unraveling the mystery of Brazilian jeitinho: a cultural exploration of social norms', *Personality And Social Psychology Bulletin*, 38(3), pp. 331–344. doi: 10.1177/0146167211427148.
- Freyre, G. (2003) *Casa-grande & senzala: formação da família brasileira sob o regime da economia patriarcal*. 48th edn. São Paulo: Global.
- Friedman, L. (1975) *The legal system: a social science perspective*. New York: Russell Sage Foundation.
- Gans-Morse, J., (2012) 'Threats to property rights in Russia: from private coercion to state aggression.' *Post-Soviet Affairs*, 28 (3), 263–295.
- Gargarella, R. (2011) 'Penal coercion in contexts of social injustice'. *Criminal Law and Philosophy*, 5(1), pp. 21–38.
- Genn, H. (1999) *Paths to justice: what people do and think about going to law*. Oxford/Portland Oregon: Hart Publishing.

- Gibson, J., and Caldeira, G. (1996) 'The legal cultures of Europe'. *Law & Society Review*, 30(1), pp. 55–85.
- Hertogh, M. (2018) *Nobody's law: legal consciousness and legal alienation in everyday life*. Palgrave Socio-Legal Studies Series. London: Palgrave Macmillan.
- Holanda, S. B. (2012) *Roots of Brazil*. Trad. G. Harvey Summ. Notre Dame: Notre Dame University Press.
- Hutchings, K. and Weir, D. (2006) 'Understanding networking in China and the Arab world: lessons for international managers', *Journal of European Industrial Training*, 30(4) pp. 272-290.
- Kaufmann, D., Pradhan, S., and Ryterman, R., (2001) 'World Bank finds new ways to diagnose corruption symptoms.' *Beyond Transition: The Newsletter about Transforming Economies*, 10 (1), 10–11.
- King, N. (2004a) 'Using interviews in qualitative research', in Cassell, C. and Symon, G. (eds), *Essential Guide to Qualitative Methods in Organizational Research*. Thousand Oaks, CA: Sage Publications.
- King, N. (2004b) 'Using templates in the thematic analysis of text', in Cassell, C. and Symon, G. (eds), *Essential Guide to Qualitative Methods in Organizational Research*, Sage Publications, Thousand Oaks, CA.
- Kvale, S. (1983) 'The qualitative research interview: a phenomenological and a hermeneutical mode of understanding', *Journal of Phenomenological Psychology*, 14(2), pp. 171-196.
- Ledeneva, A. E. (2018) *Global Encyclopaedia of Informality, Volume 1: Towards Understanding of Social and Cultural Complexity*. London: UCL Press.
- Levine, R. (1997) *Brazilian legacies*. New York: ME Sharpe.
- Lima, D. M. C., Fraga, V. F., and de Oliveira, F. B. (2016) 'The paradox of the reform of the Judiciary: Clashes between the new public administration and the organizational culture of the "jeitinho"', *Revista de Administração Pública*, 50(6), pp. 893–912. doi: 10.1590/0034-7612152761.

- Madill, A., Jordan, A. and Shirley, C. (2000) 'Objectivity and reliability in qualitative analysis: realist, contextualist and radical constructivist epistemologies', *British Journal of Psychology*, 91(1), pp. 1-20.
- Matos, A.S.M.C., Ramos, M.M. (2016) 'Brazilian legal culture: from the tradition of exception to the promise of emancipation'. *Int J Semiot Law* 29, pp. 753–778. <https://doi.org/10.1007/s11196-015-9449-2>.
- Miles, M. B., Huberman, A. M. and Saldaña, J. (2013) *Qualitative Data Analysis: A Methods Sourcebook*. Thousand Oaks, CA: Sage Publications.
- Nelken, D. (2013) 'Comparative sociology of law', in Banakar, R. and Travers, M. (eds.) *Law and Social Theory* (2nd ed.). Oxford: Hart.
- Paiva, F. (2018) 'Jeitinho (Brazil)', in Ledeneva, A. E. (ed.) *Global Encyclopaedia of Informality, Volume 1 : Towards Understanding of Social and Cultural Complexity*. London: UCL Press, pp. 43-46
- Park, C. L., Nunes, M. F., Muratbekova-Touron, M., and Moatti, V. (2018) 'The duality of the Brazilian jeitinho : An empirical investigation and conceptual framework', *Critical Perspectives On International Business*, 14(4), pp. 404–425. doi: 10.1108/cpoib-04-2017-0022.
- Pearson, S. (2015) 'Petrobras shows corruption is now a high-stakes game in Brazil', *The Financial Times*, 15 April.
- Pedroso, J. P. P., Massukado-Nakatami, M. S., and Mussi, F. B. (2009) 'A relação entre o jeitinho brasileiro e o perfil empreendedor: possíveis interfaces no contexto da atividade empreendedora no Brasil'. *Revista de Administração Mackenzie* 10(4) pp. 100-130.
- Pereira, G. T., Pinheiro, C. M., and Kunz, M. A. (2014) 'Criatividade à brasileira: o jeitinho para driblar crises', *Pensamento & Realidade*, 29(3), pp. 61–72.
- Pimentel, J. T. (2009) '*A institucionalidade do "jeitinho brasileiro": regras implícitas ou hábitos dos indivíduos? Uma discussão das abordagens institucionalistas à luz dos intérpretes do Brasil*'. Porto Alegre: UFRGS.
- Ramos, A. G. (1966) *Administração e estratégia do desenvolvimento: elementos de uma sociologia especial da administração*. Rio de Janeiro: FGV.

- Rega, L. S. (2000) *Dando um jeito no jeitinho: como ser ético sem deixar de ser brasileiro*. São Paulo: Editora Mundo Cristão.
- Resende, M. M. (2015) *Jeitinho brasileiro tem jeito? O efeito do jeitinho brasileiro e da identidade moral no comportamento ético nas organizações*. Brasília: UnB.
- Rodrigues, R. P., Milfont, T. L., Ferreira, M. C., Porto, J. B., and Fischer, R. (2011) 'Brazilian jeitinho: understanding and explaining an indigenous psychological construct', *Interamerican Journal of Psychology* 45(1) pp. 27-36.
- Rodriguez, J. R. (2016) 'Against textualist fanaticism: corruption, the Brazilian way and the rule of law', *Novos Estudos CEBRAP*, 35(1), pp. 60–77.
- Rosenn, K. S. (1971) 'The jeito: Brazil's institutional by-pass of the formal legal system and its development implications'. *The American Journal of Comparative Law* 19 pp. 516– 49.
- Rosenn, K. S. (1984) 'Brazil's legal culture: the jeito revisited', *Florida International Law Journal* 1(1), pp. 1-43.
- Santos, E. J. M. (2018) *Corrupção eleitoral, princípio da proporcionalidade e proteção jurídica insuficiente*. São Paulo: Pontifícia Universidade Católica de São Paulo.
- Sampson, R. J., and Jeglum Bartusch, D. (1998) 'Legal cynicism and (subcultural?) tolerance of deviance: the neighborhood context of racial differences'. *Law & Society Review*, 32(4), pp. 777–804.
- Seeman, M. (1959) 'On the meaning of alienation'. *American Sociological Review*, 24(6), pp. 783–791.
- Shamir, J. (2013) 'The influence of age on the attitudes towards the rule of law: the case of immigrants from the Former Soviet Union to Israel'. *Journal of Law and Social Deviance*, 5(1), pp. 1–100.
- Siu-Kai, L., and Hsin-Chi, K. (1988) *The ethos of the Hong Kong Chinese*. Hong Kong: The Chinese University Press.
- Smith, P.B., Huang, H.J. Harb, C., and Torres, C. (2011) 'How distinctive are indigenous ways of achieving influence? A comparative study of guanxi, wasta, jeitinho and "pulling strings"', *Journal of Cross-Cultural Psychology*. 43(1), pp. 135-150.

- Smith, P. B., Torres, C., Leong, C. H., Budhwar, P., Achoui, M., Lebedeva, N. (2012) 'Are indigenous approaches to achieving influence in business organizations distinctive? A comparative study of guanxi, wasta, jeitinho, svyazi and pulling strings', *International Journal of Human Resource Management*, 23(2), pp. 333–348. doi: 10.1080/09585192.2011.561232.
- Teubner, G. (2001) 'Alienating justice: on the surplus value of the twelfth camel'. In Nelken D, and Pribán J. (Eds.), *Law's New Boundaries: Consequences of Legal Autopoiesis*. Aldershot: Ashgate. pp. 21–44.
- Treviño, A. J. (2013) 'Sociological jurisprudence', in Banakar, R. and Travers, M. (eds.), *Law and Social Theory* (2nd ed.). Oxford: Hart.
- Urinboyev, R. (2013) *Living Law and Political Stability in Post-Soviet Central Asia. A Case Study of the Ferghana Valley in Uzbekistan*. Ph.D. Dissertation, Lund Studies in Sociology of Law. Lund University.
- Wilkinson, M. (2010) 'Is law morally risky? Alienation, acceptance and Hart's concept of law'. *Oxford Journal of Legal Studies*, 30(3), pp. 441–466.
- World Bank (2018) *Gini index (World Bank estimate)*. Available at: <https://data.worldbank.org/indicator/SI.POV.GINI> (Accessed: 12 March 2021).
- World Bank (2019) *GDP (current US\$)*. Available at: <https://data.worldbank.org/indicator/NY.GDP.MKTP.CD> (Accessed: 12 March 2021).
- Yang, M. (2018) 'Guanxi (China)', in Ledeneva, A. E. (ed.) *Global Encyclopaedia of Informality, Volume 1 : Towards Understanding of Social and Cultural Complexity*. London: UCL Press, pp. 75-79.
- Ziegert, K. A. (2002) Introduction to the Transaction edition. In: Ehrlich, E. *Fundamental principles of the sociology of law*. Transaction Publishers.

Appendix I

Interview Guide

Before the interview

Introduce the researcher

Thank for participation

Introduce aim of the study (terms and conditions, outcome)

Explain the interview procedure (audio recording, taking notes, participant can stop)

Signing consent form

Ask if there are any questions about the procedure of interview or the research

Interview Questions

1. General Questions

Demographic details (age, gender, educational background, marital status)

Work related questions (role in the company, years of experience, how many years working in the current position)

2. Informal practices

Are you capable of identifying any traditional Brazilian way of solving problems or getting around the rules?

What are your opinions about the use of informal practices in Brazil?

Have you witnessed or heard of the use of this practice (or in case he/she does not identify *jeitinho* as a Brazilian practice: any informal practice) in your daily life?

Could you give one (or more) examples?

How did you feel in this situation? Do you agree with the way it was used? Why do you agree/disagree?

Have you witnessed or heard of the use of this practice in your work?

If yes, how common it is in your daily work? Do you know whether this practice is also used in other organizations?

Could you give one (or more) examples?

How did you feel in this situation? Do you agree with the way it was used? Why do you agree/disagree?

Do you consider it a resource, something that helps get the things done, in your daily life and/or work?

Have you ever needed to use it in your professional or everyday interactions?

Could you give one (or more) examples?

What do you think about your attitude? Would you do it again? Why?

Do you have anything else to say about the use of informal practices in your work or everyday life, based on your experiences?

3. Legal alienation and state laws

In general, how would you define your relationship with state laws? Do you consider that you are familiar with the laws? Do you generally agree with the state laws?

In your work, how much importance would you attach to laws?

Do you think you need to know and comply with the laws to be able to perform the duties related to your profession? Is there any need for creative navigation when rigid laws do not allow one to get the things done?

Do you consider your current knowledge of the law adequate to carry out your work satisfactorily?

Do you agree with the laws you need to follow to perform your work?

Could you give one (or more) examples of how the law affects your work?

Do you agree with the impact that laws have on your work? Do you consider this to be a more positive or negative effect?

If you had a choice, in your work environment, would you prefer to follow the laws more or less?

In your daily life, how much importance would you attach to laws?

Could you give one (or more) examples of how the law affects your daily life?

Do you have anything else to say about the influence of state laws in your work or everyday life, based on your experiences?

4. Conclusion questions

In your opinion or from your experience, why do Brazilians use the *jeitinho* as a way of solving problems or bending the law?

In your opinion or from your experience, do you think Brazilians have sufficient knowledge of state laws? Do they identify with such laws?

In your opinion or from your experience, why does the *jeitinho* still exist in Brazil? What is its function?

Is there something else, which you would like to tell us about *jeitinho* and state laws in the Brazilian context?

Appendix II

Interview Consent Form

Working Research Project Title: Informal practices and state law in the Brazilian context

Researcher: Tales de Oliveira Custódio, Master Student in Sociology of Law at Lund University

Purpose of the Research: To examine how individuals who relate in different ways to state norms perceive informal practices in their daily lives. The project analyses how government officials/civil servants, entrepreneurs and ordinary citizens perceive informal practices and whether the degree of identification and awareness of the law influences this perception.

What will you do in this research: If you decide to participate in our research, you will be asked to participate in one interview. You will be asked questions about your daily life and experiences in your work with law and informal practices. If you give permission, we will tape record interviews so we do not have to make so many notes. If you do not want us to tape record the interview, we will take only written notes during the interview. Your name will not be stated at all during and after the interview.

Time required: The interview will take approximately 1 hour.

Risks: We do not anticipate that there are any risks associated with your participation, but you have the right to stop the interview or withdraw from the research at any time.

Benefits: This is a chance for you to tell your story about your experiences concerning your relationship with state laws and informal practices. Your answer will contribute to better understanding the influence of informal practices and the relationship between them and state laws.

Confidentiality: Your responses to interview questions will be kept confidential. Your actual identity will be kept strictly confidential. You will be assigned a random numerical code that will fully anonymise your identity. If you allow us to tape record the interview, the recording will be destroyed as soon as it has been transcribed. The data you give us will be used only for academic purposes and we will not use your name or information that would identify you in any publications and conference presentations.

Participation and Withdrawal: If you feel uncomfortable in any way during the interview session, you have the right to withdraw from the interview. You may skip any question during the interview, but continue to answer the rest of the questions. In case you allow us to tape record the interview, at any point of time you are fully entitled to withdraw by informing the researchers that you no longer want the interview to be taped.

To contact the researcher: If you have questions or concerns about this research, please contact: Tales de Oliveira Custódio. Email: talescustodio@gmail.com

Supervisor: Dr. Rustamjon Urinboyev – Associate Professor at the Department of Sociology of Law at Lund University. Email: rustamjon.urinboyev@soclaw.lu.se

Agreement: I have been provided with sufficient information about the aims of this research project. The purpose of my participation as an interviewee in this project has been adequately explained to me and is clear. I have been given the explicit guarantees that the researchers will not identify me by name or function in any reports using information obtained from this interview, and that my confidentiality as a participant in this study will remain secure. Hence, I agree to participate in this research project. I have been given a copy of this consent form co-signed by the interviewer.

Participant's Signature

Date

Researcher's Signature

Date