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Urinboyev, Rustam; Dogan, Erhan

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LUND UNIVERSITY

PO Box 117
221 00 Lund
+46 46-222 00 00



Navigating the Legal Uncertainty and Informality in Authoritarian Regimes: Legal Culture, Governance and Business Environment in Uzbekistan

Rustamjon Urinboyev | ORCID: 0000-0001-7226-0483

Associate Professor, Department of Sociology of Law,

Faculty of Social Sciences, Lund University, Lund, Sweden

Visiting Professor, Department of International Law and Human Rights,

Faculty of International and Comparative Law, Tashkent State University of Law, Tashkent, Uzbekistan

Corresponding Author

rustamjon.urinboyev@soclaw.lu.se

Erhan Dogan | ORCID: 0000-0001-5060-4361

Professor, Department of Political Science and International Relations,

Political Sciences Faculty, Marmara University, Istanbul, Turkey

edogan@marmara.edu.tr

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Abstract

Academic debates on law and society relations in authoritarian regimes continue to revolve around issues of the dysfunctional legal system, corruption and informality, clientelistic legal culture, and how the authoritarian regimes in this region deploy law as a means for suppressing dissent. However, in this article, we argue that the legal landscape of authoritarian regimes should not be viewed from the “black-and-white” perspective. Rather, there is a need for a comprehensive account of how the state law and non-state forms of normative ordering engage in mutually transforming interactions and thereby shape the legal landscape of authoritarian regimes. By examining the law as a social field and legally plural phenomenon, our aim in this paper is to contribute, both empirically and theoretically, to scholarly debates on the role of law in authoritarian regimes by showing that the law is not merely a tool of authoritarian control and repression but various social groups and actors can also harness it for their

own purposes depending on the context, time, location, opportunity and situation. These processes will be investigated by presenting ethnographic case studies from Uzbekistan, an archetypal authoritarian regime in Central Asia.

Keywords

law in authoritarian regimes – sociology of authoritarian law – legal pluralism – Central Asia – Uzbekistan

1 Introduction

How does the law work, or not work, in authoritarian regimes? This question has drawn the attention of academic research from multiple disciplines, ranging from political science and comparative public law to the sociology and anthropology of law. Each discipline has relied upon its methodological tools to provide explanations of legal phenomena in authoritarian polities. Whereas political science and legal research have mostly focused on high-level institutions and thus offered state-centric explanations of the role of law in authoritarian regimes, scholars coming from legal sociology and legal anthropology have instead investigated socio-legal phenomena in the everyday lives of people and entrepreneurs living in authoritarian regimes.

The review of extant scholarly literature indicates that research on the functioning of law in authoritarian regimes can be conditionally divided into three broad streams, as elaborated below:

- (1) Law as an expression of the will of an authoritarian regime. This research strand encompasses studies that view the law as a means of political domination by the authoritarian regime, highlighting the regime's full control over the enactment of central laws and regulations in areas that are considered pivotal to maintaining control over the state and society (Bogdanova 2018, Kovács and Scheppele 2018, Şerban 2018, Favarel-Garrigues 2021, Marat and Sutton 2021). Marat and Sutton (2021) showed how the authoritarian governments of Ukraine, Kyrgyzstan, and Kazakhstan have implemented rules to create “smart cities” and “safe society” in a way that allows them to increase their authoritarian approach to governance, thus developing a version of “virtual authoritarianism.” Examining the nexus between international norms and the domestic environment, Zaloznaya et al. (2018) studied how authoritarian regimes are able to radically transform international reforms over key

social issues (e.g., terrorism, environment) and even sabotage them by means of using their internal political power to create a monopoly over the enforcement of these global reforms.

- (2) The legal field as a space of competition between the executive branch and other actors and institutions. This research strand includes works arguing the necessity to go beyond the conventional understanding that views law and legal institutions in authoritarian regimes as solely an expression of the political will of the executive branch (Solomon 2004, 2008, Kurkchiyan and Kubal 2018, Hendley 2020, Lu 2021). These studies illustrate that there is ample evidence that in authoritarian states, there are spaces where the law is not a tool freely manipulable by the executive, but it is manageable also by other societal actors, such as courts, legal practitioners, the business sector, and society at large.
- (3) Parallel legal orders, both formal and informal, operating in an authoritarian regime context. This research strand includes studies that examine the role of law in authoritarian regimes from a legal pluralistic perspective by including in their analysis informal norms and practices, such as social norms, customs, traditions, and moral codes. There is extensive literature focusing on the role of informal norms in shaping the legal landscape of authoritarian regimes (Urinboyev et al. 2018, Gans-Morse 2020, Wilson 2020, Dzmitryieva 2021, Isabaeva 2021, McCarthy *et al.* 2021). Studies have highlighted that informal norms are not simply unspoken/unwritten means to regulate societal relationships, but they have a strong impact on the content and the implementation of official law as well. In particular, the close interplay between official law and unofficial norms can be seen in three specific areas: the economic sector, society at large, and institutional actors such as courts. These works, therefore, demonstrate the existence of strong empirical support for the claim that the operation of law in authoritarian regime contexts is influenced by a complex web of normative forces, where both state law and informal norms play a pivotal role.

This brief survey of the literature on the functioning of law in authoritarian regimes suggests that the legal landscape of authoritarian regimes should not be viewed from the “black-and-white” perspective. Rather, there is a need for a comprehensive account of how the state law and non-state forms of normative ordering engage in mutually transforming interactions and thereby shape the legal landscape of authoritarian regimes. A growing body of literature, especially socio-legal accounts focusing on post-communist context, started to challenge the dominant understanding of the law in authoritarian regimes by producing empirically grounded accounts of how the law is negotiated and

shaped in everyday interactions between state and society, organizations, and individuals, and between law enforcement and other government entities (Solomon and Gadowska 2018, Zaloznaya 2020, Marat and McCarthy 2021). These studies have shown that even in authoritarian regime contexts such as Eurasia, citizens have agency and are able to evade, use, reinterpret, and shape the law in everyday life situations.

These considerations have informed our position in this paper, which is intended to contribute to scholarly debates on the role of law in authoritarian regimes by presenting ethnographic case studies from the Central Asian region, an archetypal authoritarian regime context with a fluid and uncertain legal environment. More specifically, we will focus on Uzbekistan, an authoritarian regime in Central Asia, and examine how ordinary people, entrepreneurs, and state officials navigate the Uzbekistan's legal landscape in everyday life situations. We will explore how and why the legal infrastructure (laws, regulations, and institutions charged with their enforcement) in an authoritarian context such as Uzbekistan, despite its highly coercive and rigid nature, allows ordinary people, entrepreneurs, and state officials to interpret, enforce and reconstruct it with a high degree of flexibility. By seeing the law as a field of competition between various actors, our aim is to shift away from the scholarly understanding that, in authoritarian regimes, the law exists only as a tool for the state to enforce order and suppress dissent and will emphasize that citizens and entrepreneurs shape and evade it in everyday interactions with the state. By examining the law as a social field and legally plural phenomenon (Moore 1973, 1978, Griffiths 1986, von Benda-Beckmann 2002), our aim in this paper is to contribute, both empirically and theoretically, to scholarly debates on the role of law in authoritarian regimes by showing that the law is not merely a tool of authoritarian control and repression but various social groups and actors can also harness it for their own purposes depending on the context, time, location, opportunity and situation.

Having said that, it should be noted that our article's central argument may have limited utility in relation to big businesses and lucrative sectors of the economy where the interests of political and economic elites converge or clash; for example, big businesses and companies (e.g., Akfa, Artel, Durable Beton) owned by or closely linked to powerful state figures. Therefore, our key argument should not be understood as an attempt to demonstrate that both ordinary people and powerful state figures have equal agency and can take advantage of the law's flexibility for their respective benefit. We recognize that the law, while flexing to favour the powerful state figures or business actors closely linked to state officials, may not be flexible for ordinary people and small and medium enterprises lacking influential clout, a "krysha" (roof, protection).

Rather, in this article, our ambition is to focus on meso- and micro-level business arenas where predominantly small and medium enterprises operate and so far, remains out of the sight/interest of central-level political and economic elites. Thus, when we ethnographically attend to meso- and micro-level business arenas, it is possible to glean the patterns of how ordinary people and entrepreneurs navigate and negotiate the legal landscape.

This paper is based on the ethnographic field research conducted by both authors in Tashkent city and Bukhara region in Uzbekistan between 2015–2021, involving ethnographic interviews/case studies revolving around the everyday experiences of (1) a local micro-level entrepreneur and (2) Turkish businessmen operating in Uzbekistan. Before presenting these two case studies, a brief overview of the political and business climate in Uzbekistan will be provided to equip the reader with an understanding of the Uzbekistan's socio-legal context.

2 Political and Business Climate in Uzbekistan

Uzbekistan has long been characterized as a heavily repressive and closed authoritarian regime (ICG 2007, Freedom House 2023). However, the political climate has changed in Uzbekistan over the last six years due to the authoritarian modernization initiatives of the new political leadership (Pannier 2017, Imamova 2023). The death of Islam Karimov, the first president of independent Uzbekistan, was announced on September 2, 2016. For many Western analysts, journalists, business circles, and scholars who write about Uzbekistan, Islam Karimov's quarter-century rule had been politically, economically, and morally oppressive—the brutal suppression of free speech, the merciless fight against political opposition, the systematic abuse of human rights, the extremely high unemployment rate, rampant corruption and the impossibility of doing ethical business in the country (March 2003, Rasanayagam 2011, Ilkhamov 2017, Buckley 2018). Following the death of Islam Karimov, the crucial question for foreign corporations and companies interested in investing in Uzbekistan was thus whether and how these events would affect the modes of governance and business environment in the country, a key empirical question that is explored in this paper through case studies of Turkish and local entrepreneurs in Uzbekistan.

It has been more than six years since Shavkat Mirziyoyev took over the leadership of Uzbekistan. In contrast to early pessimistic predictions, new president Mirziyoyev emerged as a reform-oriented, ambitious, and pragmatic leader, openly acknowledging the failure of the Karimov-era

governance practices (Gazeta.uz 2016). He has presented himself to the world as a reformer and expressed eagerness to modernize the country and create a favorable business environment to attract foreign investors to Uzbekistan's largely under-exploited market. It seems there is an understanding within the higher echelons of the government that the political regime has already hit a dead end, and the only way to ensure the regime's longevity and improve the economic and social situation is to attract foreign investments and best practices and technologies. However, despite the new leadership's reformist agenda, it should be noted that a significant amount of the Karimov-era governance and business practices are still dominant (Lasslett 2019a). There is still strong government interference in the economy, and informal, unwritten rules shape the business life in Uzbekistan, which leads to widespread corruption and violations of investors' rights (Lasslett 2020). In their intriguing report "A Dance with the Cobra: Confronting Grand Corruption in Uzbekistan," Lasslett, Kanji and McGill (2017) maintain that there are three currencies of power in Uzbekistan which shape the business environment and legal culture: (a) personal connections and the networks to which you belong, (b) tribute (payments to secure loyalty or services), a widespread practice locally known as "dolya," and (c) violence which involve the use of threats, fear and coercion by law enforcement and the state's security services to keep target audience and general population under control. Even though the use of coercive methods has significantly decreased in the post-Karimov period, personal connections, networks, and informal payments continue to shape everyday business life in the country. Therefore, in order to better understand the "rules of the game" in Uzbekistan's market, it is necessary to revisit the Karimov-era business climate, which was largely characterized by the alliance and struggles between business elites and high-level government actors.

Corrupt schemes and practices revolving around Gulnara Karimova, daughter of the late President of Uzbekistan, is a relevant example in this respect. The investigative report by Lasslett, Kanji and McGill (2017) indicates that by 2003/04, Karimova and her team had effectively established themselves as a racket in Uzbekistan's telecommunications sectors, which meant that any prospective investor interested in entering Uzbekistan's market had to pay one of Karimova's proxy companies an entrance fee (dolya), an illegal practice which violated Uzbekistan's law, international law and foreign bribery legislation. As a result, three major international telecom brands, namely Telia, VimpelCom and MTS had succeeded in entering Uzbekistan's market by the end of 2007, an outcome which would not have been possible without the stewardship of Gulnara Karimova. It is alleged that these corrupt schemes generated at least \$850 million for Karimova. In fact, the telecommunications sector was just one

among many other sectors of Uzbekistan's economy, which was controlled by the Karimova syndicate. A drastic turn in Gulnara Karimova's 'successful business practices' was an exposé by Uppdrag granskning (Sweden's leading investigative journalism TV show) in September 2012, which presented a number of revelations about Telia's (the Swedish telecom giant) corrupt and unethical business practices in Central Asia. The culmination of these revelations was the so-called 'Uzbekistan affair'—the 3G-licencing process in Uzbekistan, which provided solid evidence of how Telia, in an attempt to acquire a 3G license in Uzbekistan, made extensive monetary transfers (over €200 million) to an offshore company, Takilant, which was linked to the late President Islam Karimov's family (Schoultz and Flyghed 2016). Takilant was 'nominally owned' by an assistant to Gulnara Karimova¹ (Lasslett *et al.* 2017), and it is deemed to have earned over €200 million between 2007 and 2010 as a result of the licencing deal (Schoultz and Flyghed 2016). This corruption scandal sent shockwaves rumbling across Sweden, the EU, the United States, and Uzbekistan, eventually resulting in criminal charges against the former Telia CEO and two other senior officials for their involvement in the bribery scheme. As a result of legal proceedings against the company, Telia agreed to pay \$965 million to resolve charges relating to violations of the Foreign Corrupt Practices Act (FCPA). Telia's 'Uzbekistan affair' was not the only case in which foreign companies and business actors were involved in corruption scandals associated with Gulnara Karimova. Similarly, VimpelCom, the Amsterdam-based telecom company, also faced criminal charges for paying massive bribes to Gulnara Karimova in order to enter the Uzbekistan's telecommunications market; as a result, the company agreed to pay US\$835 million to settle US and Dutch charges (The Guardian 2016).

The abovementioned corruption scandals revolving around Uzbekistan's telecommunications sector appear indicative of several parallel and contradictory tendencies regarding the legal cultures and business environments in the country:

- (1) Uzbekistan is a risky market but a potential moneymaker due to its largely under-exploited market (so-called high-risk, high-gain market). Companies entering Uzbekistan have to relate to the local business environment and legal culture, which may collide with the laws and business ethics of the countries from which they originate. Profit-based mechanisms, in combination with a regional tradition of shadow economies and

¹ It has now been established in the Swiss courts that Gulnara Karimova is the ultimate beneficial owner of Takilant. Indeed, Karimova has argued in Switzerland that she is the owner of Takilant in order to have standing in asset recovery efforts.

practices, can create pressure and opportunity to “cut corners.” Given the existence of a large shadow economy and the ‘eagerness’ of Uzbekistani state officials to act as a “krysha” (literally ‘roof’ in English) for businesses, it is very difficult to conduct business in an ethically responsible way.

- (2) Uzbekistan is a challenging environment when it comes to navigating and understanding its legal culture and business and economic context. In spite of the recent positive developments, foreign companies willing to enter or already operating in the country should be wary of inconsistent business ethics standards—and the peculiar way in which the rule of law is interpreted and applied in the region, also called “the local way of doing business.” In other words, companies should be aware of the difference in legal cultures, often resulting in a different understanding of business ethics, which leads to a conflict between (a) what is considered moral, socially acceptable, or even legal in the region and (b) what is considered good practice, in line with international law and international standards. There is little knowledge of how to deal with the Uzbekistan’s market regarding access, business development, cultural adaptation, business ethics, and corporate responsibility. Companies operating in the country have been led by a trial-and-error approach, often keeping the results of their experiences to themselves. As a result, little is known about how to operate in Uzbekistan’s market. However, as we will show in the next sections, owing to their cultural competence and flexibility to local conditions, Turkish businessmen managed to find ways to adapt to and operate in Uzbekistan’s market, although their business practices are not fully in line with the law.
- (3) Another key takeaway from corrupt schemes between Karimova and Telia, VimpelCom and MTS is that political and economic/business elites are intertwined in mutually dependent relationships. A series of investigative reports by Kristian Lasslett published on the Open Democracy website serve as good examples of how the state and private sectors intertwine in Uzbekistan (Lasslett 2019a, 2019b, 2020). When entering Uzbekistan’s market via dubious channels, three telecommunication companies were aware that the law flexed to suit those in power. Based on this understanding, they relied on illegal and extra-legal practices as a means to gain access to the telecommunications sector. This strategy, in addition to securing licenses and frequencies, also assured favourable decisions regarding tax and currency exchange. In this regard, as Lasslett, Kanji, and McGill (2017) argue in their report, it would be very naive to assume that Karimova’s case is an example of individual deviance. Rather, the analysis of Karimova’s corrupt schemes shows the complicity

of a myriad of high-level state institutions and actors (e.g., cabinet, government committees, ministries, the courts, sector regulators, and the security services). Thus, the analysis of Karimova's case illustrates the convergence of political and economic elites in Uzbekistan, a key factor which needs to be considered when examining the basic features of business environment in the country.

3 Case Studies

In this paper, we will present two case studies to support our aforesaid argument that, in authoritarian regime contexts, we need to view the role of law as a social institution in the sense that (a) the law is a field or space of competition between various actors, and (b) the law is a legally plural phenomenon, which is negotiated and reconstructed when it comes into contact with society's informal norm structures. To empirically illustrate these processes, we present two case studies focusing on the social life of the law and how it is experienced by business actors: (1) a case study of the everyday experiences of the micro-level entrepreneur in Bukhara region of Uzbekistan, and (2) a case study of the everyday experiences of Turkish businessmen operating in Uzbekistan. It should be clarified that these two case studies emerged from two separate field studies. Because we collected our ethnographic material in two different locations and periods, we present each fieldwork separately. This allows us to provide a detailed and clear description of our fieldwork, including the data-collection strategies and the selection of informants and fieldwork sites.

The case study focusing on Shurik, micro-level entrepreneur in Bukhara, resulted from the first author's ethnographic fieldwork carried out between January 2015 and September 2016 in Uzbekistan. Throughout that period, the first author maintained regular contact with Shurik and closely followed the developments in his life through intensive fieldwork and smartphone-based communication. Observing his life enabled the first author to construct a narrative on Shurik's everyday experiences of the Uzbekistan's legal system—ethnographically and biographically—showing the struggles, alliances, and power dynamics among various formal and informal actors involved in regulating the business and economic life.

The case study focusing on Turkish business actors was conducted by the second author during three periods of fieldwork in Tashkent. The first field research was conducted during April–September 2021, the second field research took place in February 2022, and the last one was undertaken

during July-August 2023. During these field trips the second author conducted 20 ethnographic interviews with various Turkish business people operating in Uzbekistan. Hence, the case study on the everyday experiences of Turkish businessmen resulted from these interviews.

Both of us (the co-authors) have extensive expertise in conducting fieldwork on law, society and governance issues. The first author, being a native Uzbek, possessing a pre-understanding of the local conditions and situations, whereas the second author, from Turkey, were well-connected with the Turkish business community in Uzbekistan. Our fieldwork, in this sense, combines both 'internal' and 'external' perspectives on the business environment and legal culture in Uzbekistan, the strategy that may provide a more holistic view of the field site in question.

It should be stated here that the interview material presented in this article is an expression of the perspectives of the business actors operating in Uzbekistan. Whether what they say reflects the "truth" or "reality" cannot be verified, which means we will just reflect on their vision and understandings as a lens to analyze the business environment in Uzbekistan. The case study on Bukhara-based entrepreneur will be presented first given that it illustrates the Karimov-era business practices, while the second case study focuses on Mirziyoyev era, and therefore comes second, which will allow us to clearly bring out the changes between periods.

4 Case Study 1: a Case Study of the Everyday Experiences of a Micro-Level Entrepreneur in Bukhara

In this section, we will present the case study of Shurik, a local, micro-level entrepreneur in the Bukhara region, in order to illustrate the everyday business realities in Uzbekistan under Islam Karimov's quarter century rule. The main figure of this case study, Shurik, male, 38 years old, lives in the Bukhara region of Uzbekistan. Shurik has a bachelor's degree in law from one of the prestigious law universities in Tashkent city. But due to the fact that he comes from a low-income family and has no strong connection with the 'people of influence' within the government circles, he could not find a job in the legal field. Instead, he decided to try his luck in the business sector.

At the beginning of 2015, Shurik started arrangements to open a private kindergarten (daycare). In order to open a private kindergarten, Shurik needed a building with many rooms that could accommodate up to 80 children on a daily basis. Luckily, his classmate Jabbor was a state employee and occupied a key position in one of the local government agencies in Bukhara. Thanks to

Jabbor's support, Shurik rented one of the floors of the local government building where Jabbor worked and renovated the entire floor with his own funds. It was a lot cheaper to rent office spaces from state-owned buildings than privately owned buildings. This was due to the fact that offices from state-owned buildings were rented through acquaintances and informal channels. Usually, half of the rent price is reflected in official documents. For example, the rented space is indicated as 40–50 square meters in the official documents, but in reality, the actual size of the space may be up to 200 square meters. It is possible to make such an arrangement only if one has an acquaintance (*tanish-bilish*) willing to take a risk in exchange for monthly informal payment (*dolya*). Shurik's office renting strategy was not an exception to the rule but was in line with the informal business practices which have become commonplace among many entrepreneurs in Uzbekistan. The state has little control over these illegal schemes due to the fact that state officials in charge of enforcing laws and regulations are themselves corrupt and take *dolya* from entrepreneurs for ignoring such infractions.

After two months of hard work involving the use of various informal and extra-legal strategies, in the spring of 2015, Shurik managed to open a private kindergarten with 21 employees and with the capacity to accommodate up to 100 children. Although Shurik himself was in charge of running the kindergarten, he fictitiously registered his wife as the director, given that his wife had a college degree in childcare and kindergarten education. All 21 employees were formally employed and received a salary through official channels. Shurik, having formal legal training, understood that tax authorities would use every opportunity to find his mistakes and squeeze money from his business. But, in order to reduce the costs associated with employee tax and social security contributions, Shurik paid part of his employees' salaries in cash, meaning that employees received half of their salaries officially through their bank account and another half unofficially inside the envelope. Such undeclared "envelope wages" regulated by verbal unwritten agreement is a typical practice among many businesses operating in Uzbekistan. These informal arrangements allowed Shurik to operate his business successfully, and within a short period of time, Shurik was able to buy a Chevrolet Malibu, one of the most expensive, luxurious, and locally-produced cars in Uzbekistan.

However, Shurik's success did not last long. Six months after, a team of law enforcement officers consisting of a tax service official, a deputy district prosecutor, and a member of the state sanitary epidemiology center, raided the kindergarten without any prior notice or warning and checked and sealed the cash register and other documents belonging to the company. Unofficially, the law enforcement team also included one representative from the National

Security Service (SNB) who acted as the head of the investigation team. Other members of the investigation team, officers from the tax service and prosecutor's office, obediently followed the order and instructions of the SNB officer. Raids organized under the direct supervision of security service personnel were a common practice in the business world of Uzbekistan, especially during the Karimov era when the security services wielded enormous power and influence.

Having learned that the kindergarten was under raid, Shurik quickly arrived and presented all required documents to the law enforcement team. But the security service officer implicitly stated that his kindergarten would be shut down even if all the documents were in place/correct. In turn, the tax officer found minor errors in the documents and imposed a huge fine. In Shurik's view, this raid was organized intentionally by someone who wanted to take over Shurik's kindergarten business and used the security service official as a means to realize his objective. According to Uzbekistan's legislation, the security service official had no authority to ban Shurik's business. Businesses can be shut down only after the issuance of a court order. However, with the unofficial instructions of the security service official, daily operations of the kindergarten were suspended by the state sanitary-epidemiology center using the pretext that "cooking facilities and dishes in the kitchen do not comply with the sanitary standards." Then, upon the initiative of the tax authority and sanitary-epidemiology center, Shurik's case was transferred to the district court.

Not wanting to lose the business, for which he had worked very hard to establish, Shurik sought the help of his acquaintances who worked in various government agencies. But his acquaintances advised that if there was a security service officer involved in the raid, it was useless to fight back through legal channels. So, they advised Shurik to accept his fate and stop the business. This advice rested on the sober assessment of the everyday business realities, which was characterized by large-scale raids carried out against successful entrepreneurs who did not have strong "krysha" (protection) provided by high-level state officials. As anticipated, the outcome of the court proceedings was not favorable: Shurik's kindergarten business was shut down, and he was ordered to pay a large amount of fine for failing to comply with the law. Even though Shurik appealed the decision of the district court at higher level courts (both on regional and central levels), his complaints over the illegal and disproportionate actions of law enforcement bodies remained unaddressed. In Shurik's view, even if he won the case and fulfilled the tax and bureaucratic requirements imposed by the state sanitary-epidemiology center, he would still be

under pressure from the security service, which would not allow him to run his business smoothly. Eventually, Shurik stopped his business activities and decided to move to Russia as a migrant worker.

Shurik's case illustrates that Uzbekistan's business environment is characterized by informal power geometries, which create unequal power relations and erodes the basic principles of the rule of law and market economy. Due to the lack of the rule of law and arbitrary law enforcement, entrepreneurs with "krysha" have an advantage in the competition for resources, while entrepreneurs like Shurik with little or no connections have a limited chance to compete with the business actors who are well connected to 'people of influence.' However, having said that it should be emphasized that the case study of Shurik reflects the Karimov-era raids, which often took place with the involvement of security services. In the post-Karimov era, there have been attempts to reduce the interference of law enforcement bodies in the business sector. Especially, sudden raids by law enforcement bodies ceased, and business actors were informed beforehand about tax controls. These processes will be shown in the next section where we will present the case study of the Turkish businessmen operating in Tashkent.

5 Case Study 2: Everyday Experiences of the Turkish Businessmen in Tashkent

In this section, we present the results of our interviews with the Turkish businessmen operating in Tashkent. The reason why we focus on the experiences of Turkish businessmen can be explained by the fact that there are many small, medium, and big-size business Turkish citizens doing in Uzbekistan. Another reason is that Turkish businessmen, unlike European businesses, understand the local context better due to the cultural and linguistic ties between Turkey and Uzbekistan. But, at the same time, it should be noted that there are still key cultural differences. Turkish businessmen, as they are foreign to Uzbekistan, can be seen as a cultural outsider group that came with the value sets and experiences of a different country and can easily see margins and abnormalities and could develop a language to express their critical observations about the nature of the legal environment in Uzbekistan. What is normal for a local Uzbekistani businessman is not often considered normal for a Turkish businessman. The interviews showed that with their critical/foreign eyes, Turkish businessmen could show us the contours of the system better. Conversations with local Uzbekistani businessmen are telling in this respect. The Uzbekistani

business people were highly critical of the business understandings and way of acting of the Turkish businessmen. One Uzbekistani professional who had worked with Turkish businessmen for some time said,

They do not understand the social graces and peculiarities of Uzbekistan's culture. They would act quite in a rough, impolite way, and the Uzbek state and society would respond to them in the same way, which would be avoided if they knew the sensitivities of society in Uzbekistan.

Locating and recruiting Turkish businessmen for our research involved numerous formal and informal strategies. We found the names and phone numbers of the businessman through two different strategies. First, we visited the Turkish embassy in Tashkent and talked with the Commercial Attaché there and asked him to provide us with a list of Turkish businessmen in Uzbekistan. The Attaché shared a list of the Turkish businessmen operating in Uzbekistan, including their telephone numbers. The list was not up-to-date. Some of the businessmen provided in the list were no longer operating in Uzbekistan. Some telephone numbers were not correct. However, we took the list as a base and contacted them. As the number of businessmen on the list was high and as the varieties of sectors were diverse on the list, we decided to focus on three different sectors. The construction industry, the textile industry, and the food industry. The second strategy involved the use of snowball sampling. We asked the businessmen whom we interviewed to help us in finding more participants for our research. This approach enabled us to find more participants for our research. Our interview questions covered such issues as (a) how to start a business, (b) problems that they faced in the license-receiving stage, (c) problems with tax controls and tax payments, (d) health and working conditions; (e) interactions with the law enforcement system and legal institutions; (f) problems regarding property rights, (g) problems in getting foreign currency and transferring a company's profits to other countries, (h) problems regarding the enforcement of contracts; (i) the role of the court system in ensuring and protecting foreign investors' rights; and (j) issues around the daily life of businessmen, like traffic controls and petty bribes.

6 Turkish Businessmen's Everyday Experiences of the Law

First, we tried to understand why and how Turkish business actors decided to invest in Uzbekistan. As our findings indicate, most of the small and medium-sized Turkish investors were adventurers, not afraid of taking high risks. One

clear message which will be shown through interviews is that Uzbekistan is a high-risk but high-gain place, so foreign business actors can either make a fortune or go bankrupt completely. Many Turkish businessmen we interviewed understood that they came to a legally uncertain business environment that carried a lot of risks but, at the same time, opportunities. True, we did not have a chance to talk with the ones who lost in this adventure and had to return to Turkey. The ones whom we interviewed mainly spent many years in Uzbekistan and successfully established their businesses. Marriage and developing deep contacts with the Uzbek society were also one of the reasons why they decided to stay longer in Uzbekistan. Referring to Uzbekistan as a high-risk country for businesses also had to do with the tragic history of Turkish business in Uzbekistan during the late President Islam Karimov. For instance, we interviewed one of the biggest Turkish investors in Uzbekistan, who lost almost all his capital and properties with a single decision of the Uzbek administration. At that time, late President Karimov requested the Turkish authorities extradite the Uzbek opposition leader who was residing in Turkey at that time, but his request was not fulfilled. As a result, many Turkish businesses operating in Uzbekistan were shut down by the Uzbek government. Many Turkish businessmen were deported in a few days from Uzbekistan, and their properties were confiscated. Some of them were imprisoned, and they spent long times there in fear. Despite these pressures, many Turkish businessmen preferred to stay, or if they were deported, returned to Uzbekistan due to personal bonds or other reasons. Uzbek President Mirziyoyev once stated that such a mistake would never be repeated, but this does not give full relief to the Turkish businessmen who invested in this land. Due to their traumatic experience, many Turkish businessmen we interviewed expressed the fear that similar pressures might happen again in the future. Nevertheless, they prefer to stay in the country and keep investing and having an eye on alternative exit strategies.

A Turkish businessman shared with us a story regarding another businessman, whom we call Ertugrul (pseudonym), who invested in Uzbekistan recently. Ertugrul invested in a very dynamic way and spent a lot of money. However, at one stage, one day, his staff in Uzbekistan learned that the land which was given to them for property development was taken from their hands and given to another businessman with a very high-level decision. This brings us to the question regarding the guarantees provided to contracts and property ownership by the legal system. At least two Turkish businessmen with whom we held interviews stated that legal guarantees provided for private property were not fulfilled.

This situation leads us to discussions regarding the role of legal institutions, such as courts in authoritarian regime contexts. Normally, when a

businessman's property rights are violated, he/she can seek redress from the courts. However, in authoritarian regime contexts with a weak rule of law, the outcome of the court case is determined on the basis of the principle "with whom you are competing." If the property belonging to foreign businessmen is taken by another strong influential figure within the system, the court decisions might not be favorable to foreign businessmen. Here interviewees reported an interesting detail, as presented below:

There is a principle running here. Courts are accessible and would be manipulated, but the one who reaches court first and sets a deal has the advantage, and if a deal is reached, the court will not change its position even if you offer them more than the other party. So private property is not guaranteed with the system.

Based on our interviews with Turkish business actors, we inferred that foreign investor/businessman should not invest in the spheres of the economy where the interests of local influential business elites intersect. Of course, finding such an unexploited area of the economy would be quite difficult given the everyday business realities in Uzbekistan and that local elites would be found in most sectors where there is a possibility to make a profit. An alternative, and more feasible, strategy would be for Turkish business actors try to obtain a clout, either by building ties with powerful prosecutors or officials from the state security service. For example, in Tashkent's construction industry, it is possible to see such patterns where foreign developers often made substantive use of the former mayor Jahongir Ortiqhodjaev's companies (Lasslett 2019b, 2020). It is an open secret in Uzbekistan that political and economic/business elites are closely interlinked. Often, it is actually the state officials that informally own large businesses in the country. The relations may also be in the form of patronage. High-level state officials (e.g., minister, governor, public prosecutor, judge, state security service official, head of the tax department, or customs officials) frequently provide protection and privileges to businesses in terms of establishing a monopoly over the provision of services or goods, winning various tenders, avoiding high taxes or fines, lowering customs duties and tariffs, acquiring land in key areas, etc. These business practices have become the norm of business life during the Karimov era and still continue to shape the business climate in Uzbekistan. One clear example is the Tashkent City mega-project, a large-scale construction project valued at \$1.3 billion. A series of Open Democracy investigations show that a number of companies involved in the construction of Tashkent City are closely linked to Mr. Jahongir Ortiqhodjaev, the governor of Tashkent (Lasslett 2019b). According to the 2022 Cabinet of Ministers Resolution of Uzbekistan, government officials, law

enforcement officials, as well as high-ranking officials and specialists in the public sector are not allowed to participate in business activities financed by the government.

This construction project is just one example of a series of similar informal transactions and patron-client relations that are part and parcel of the business climate in Uzbekistan. Investors interested in investing in Uzbekistan have to deal with the reality that the boundary between political and economic power is blurred and that in order to succeed, foreign companies should also be able to establish close relationships with political elites. When making investment decisions or operating in the Uzbek market, it becomes clear that what matters is not so much the quality of the laws but how they are interpreted and applied in practice, which are crucial for predicting the outcome of business disputes (Urinboyev and Svensson 2013). Given that the distance between laws, declarations of intent, and the real situation is very far in Uzbekistan, it is important to have knowledge of unwritten rules and practices.

Another important point frequently referred to was the outdated nature of the technical regulations. This was mainly referred to by the people who work in the construction industry. One company owner civil engineer stated that technical regulations are skillfully used by the state officials to generate rents:

The technical standards are out fashioned and left from the Soviet times. They are not renewed. Technical staff who are supposed to control the technical drawings and static calculations of the buildings are trained with old standards. The level of technical education is below the old standards now. So, they do not know the new technologies and techniques they do not even know the old ones, but they hold some positions, and they try to squeeze some benefits of these positions. They are underpaid, so if you know how to bribe, you can pass any plan. However, it is time and energy-consuming thing to struggle to pass the newest technology from the authorities. You cannot make lighter, stronger, and more functional buildings with relatively low costs in this business environment. According to how and what they say, it is impossible to do business without *otkat* or *para* or *shapka* in the system. It is almost accepted natural to do business with this way in the country.

The above interview excerpt shows that Turkish business people use bribery to get around rent seeking activity by state officials using (abusing) the law. Of course, this is one important survival tactic. However, it should be noted it is a double-edged sword. For example, when Turkish businesses were expropriated under Karimov, Uzbekistan's law enforcement bodies took these survival strategies used by the Turkish business community as the legal grounds for

persecuting them and stripping their assets (i.e., “you have bribed officials,” “not declared salaries,” etc.). So, while these survival mechanisms help them at a day-to-day level, it also renders them vulnerable when being persecuted by bigger fish. These concerns were voiced by some of our informants who, reflecting on badly Karimov treated Turkish business people, stated that one must stay from bribery if it is possible to do his/her business properly even if it is time consuming and costly.

A restaurant owner was quite unhappy with the tax system. But, as he states, later, he learned how to navigate this barrier by adapting to the Uzbek business climate, which involved the use of informal strategies:

They were cutting the tax on not yet-earned money, and they did it without asking me. They directly cut the amount from my bank account. All the earnings of the restaurant as a legal personality have to be kept in the bank, and this provides very little maneuvering place for business owners like me. But I found some ways to alter this by just buying on paper or paying more for the things that I purchased this way, I could take some money out of the system, and this money provided me with the cash that I needed to run my business.

It should be clarified here that a restaurant owner had to invent informal/extra-legal strategies to navigate the system, as he needed cash to run his business. The amount that he took out of the system was used as his cash. So, it is not the state's practice here that creates a barrier, but it is the distance or gap between what is legally required and everyday business realities and needs that require such informal strategies. In a market where you have a high degree of informality and cash flow if the state forces business actors to act without cash to avoid any tax evasion, that will not work. The state either needs to make the whole market formal or should find some ways to give relief to those who suffer from this duality in the market and state practices.

Another interesting example of informality is a case of a Turkish shop owner. A shop owner complained about the tax controls. “They simply set me a game,” he said. Somebody came to the shop to use his services. After that person left the shop, a group of tax controllers came and accused him of not issuing a receipt. Then, they charged the Turkish shop owner a very high fine for not complying with the law and evading the tax payment. But that a Turkish shop owner was also creative and quickly realized that with some informal payment, he could reduce the amount of the fine. As a result, he paid a lot less fine to the government owing to his creativity and ability to find a ‘common ground’ (obshiy yazik) with the tax service officials. Here, the problem is not that Turkish shop owner is not allowed to avoid taxation by not issuing

receipts. The point here is that even though the tax office has a system to fight tax evasion, this system can be bypassed if you know how to operate in the system. So, tax controls just increase the resource-squeezing power of tax controllers in relation to business actors, but it does not serve the purpose of stopping tax evasion.

As can be understood from the interviews, there are several issues that are observed and reported as inconsistencies between the laws and their implementation. Turkish business actors were prone to work in an informal working environment by setting up some personal contacts and bribing the Uzbek authorities. At this point, it can be concluded that those were the Turkish business actors who were spoiling the system. However, as was reported by Turkish business actors, it was almost impossible to do business without making informal mechanisms work. So, Turkish business actors quickly adapted to the informal business environment and learned how to do business without being pushed to legal and administrative corners within the system. They act like Uzbek actors within the system. They easily overcome the language barriers by learning Turkish and some Russian, religion-wise they are welcomed by the local community. Culture-wise, they consider themselves from the same cultural community as Uzbeks. All these advantages make them resilient actors within the system. Today even though there are no great barriers in front of them, they still face some administrative and legal challenges; however, they do not fight these problems but try to adapt to and take advantage of a weak rule of law system. They just take those challenges as given/granted challenges and do not fight with them but just try to solve the problems just like the Uzbeks do.

7 Discussion and Concluding Remarks

In this article, we tried to investigate the interconnections between the business environment, governance, and legal cultures in Uzbekistan through the case studies of Turkish businessmen in Tashkent city and a local micro-level entrepreneur operating in the Bukhara region. By using these two cases, our aim was to understand the functioning of Uzbekistan's business environment both from an outsider and insider experiences. Our fieldwork findings indicate that despite the notable differences between Turkish and local business actors regarding their knowledge of the local legal culture, informal rules, and business realities, both groups of business actors face similar challenges in navigating the uncertain and fluid legal environment. Our case studies illustrate that Uzbekistan's legal landscape is a field of competition between formality and informality, which means that for one to succeed as a businessman, it is not

sufficient to possess a deep understanding of the laws and regulations, but it is also equally important to be a street smart and have the capacity to adapt to the informal and corrupt legal environment.

Through the case studies of Turkish business people and the Bukhara-based entrepreneur we aimed to show is a discrepancy between the official legal rules and informal/illegal practices which needs to be accounted for when analyzing the business environment in contexts such as Uzbekistan, where the legal system is a battlefield among competing forces. These points led us to argue that understanding the role and the rule of law in fluid and uncertain legal contexts such as Uzbekistan entails not only an analysis of ‘law-in-books’ (Pound 1910)—formal, written laws, regulations, and policies—but also an examination of ‘living law’ (Ehrlich 1912)—informal rules and extra-legal practices that permeate everyday life in both state-level and nonstate arenas. Hence, we position this article as a sociolegal analysis of how the state law and nonstate forms of normative ordering engage in mutually transforming interactions in authoritarian contexts.

Having said that, it should be noted that our research findings are not generalizable given the qualitative nature of our research. We mainly covered the experiences of small and medium-sized business actors, which implies that the rules of the game regulating big businesses might differ depending on the context and sector of the economy.

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