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Corruption, Informality and 'Living Law' in Post-Soviet Uzbekistan

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In search for empirical clues in April 2009, my Swedish colleague and I (hereinafter 'we') travelled to Uzbekistan for an ethnographic field research. The evening flight from Riga to Tashkent Airport on AirBaltic took just under six hours. We arrived at the Tashkent airport in the middle of the night and checked into Radisson Hotel. After rest and breakfast we walked through the streets to a nearby market, *Alay*, to observe informal transactions on the black market for foreign currency. We were welcomed by a group of money changers who immediately approached us, offering their currency exchange services. What struck us was that there were several policemen around; none of them, however, bothered about illegal transactions on the black market, thereby de-facto 'decriminalising' the informal practices of money changers. We next turned our attention to the informal taxi sector. One of our fascinating findings was that almost anybody in Tashkent could work as a taxi driver. There were no taxi stops and we did not have to order a taxi. Waving your hand at the side of the street was sufficient to find a taxi in a minute. Observing the magnitude of the informal taxi sector, we came to realise that informal economy has become a major source of self-employment and income-generating opportunities for many of the urban unemployed. The interaction between the taxi drivers and traffic police is also based on informal rules. During our observations we noticed that taxi drivers often shake the hands of traffic police with money when they break traffic rules, such as exceeding the speed limit.

The above observations have implications for international reports and policy documents that use informal economic practices as an indicator in assessing countries' models of governance and levels of corruption. According to the 2012 Corruption Perceptions Index, released annually by Transparency International (TI), Uzbekistan is among the ten most corrupt countries in the world (TI, 2012). The 'control of corruption' indicator of the World Bank Governance Studies shows an extremely high level of corruption in Central Asian countries (Libman, 2008; World Bank, 2013a). The conclusion of international reports and policy documents seems clear: the term 'informality' has come to be associated with adversity and carries with it the negative connotation of being abnormal and an exception to the rule of law (TI, 2012; World Bank, 2012, 2013a).

Anthropological studies have demonstrated the existence of local perceptions of moral codes and values of informal transactions that significantly differ from Western morality and standards (Werner, 2000; Humphrey, 2002; Wanner, 2005; Polese, 2008; Rasanayagam, 2011; Urinboyev and Svensson, 2013). At a first glance, many of these transactions may come across as bribes; however, these studies show that when taking the local context and culture into consideration, these transactions may very well be considered to be morally acceptable gifts. In the context of Russia, Humphrey (2002) argues towards rethinking bribery, and Ledeneva (2009) differentiates between 'supportive' and 'subversive' functions of informal practices.

Studies also discuss the ‘blurred boundary between gifts and bribes in Kazakhstan’ (Werner, 2000), illustrate the existence of local morality in Uzbekistan, where a ‘little corruption does not hurt anyone’ (Rasanayagam, 2011), and suggest local definitions of corruption in Ukraine ‘If I receive it, it is a gift, if I demand it, then it is a bribe’ (Polese, 2008).

This paper aims to explore the multifaceted meaning, logic and morality of informal transactions in order to better understand the social context informing the meaning of corruption and bribery in Uzbekistan. According to international actors such as the World Bank and Transparency International (TI), corruption is defined as: ‘the abuse of public office for private gain’ (World Bank, 2013a, 2013b) or ‘the abuse of entrusted power for private gain’ (TI, 2012). I argue that the aforementioned definitions of corruption are highly Western-centric and therefore fail to reckon with the local context and needs in non-Western societies such as the Uzbek. I emphasize the need to take into consideration the critique by scholars such as Tanzi (1998) who argue that the meaning of the word ‘abuse’ varies according to local legal and cultural standards. In this paper I argue that the informality, at the higher echelons of government, is significantly different from informal practices at the level of ‘everyday citizen behaviour’. Hence, the assertions that insist only on the negative effects of informal practices seem to disregard the important distinction between the informal (predatory) practices of kleptocratic elites, which have nothing to do with ‘survival’, and the informal coping strategies of ordinary citizens and low-level state officials, wherein they have a ‘getting things done’ philosophy.



Village mosque in rural Fergana, Uzbekistan. (Photo by the author)

This paper is based on ethnographic fieldwork conducted between 2009 and 2017 in the Ferghana Valley of Uzbekistan. The field site was chosen based on contacts and social networks available to the authors. During these field trips a rich stock of ethnographic material was collected mainly through observations and informal interviews, however for this specific paper, I have chosen to display the essence of two informal interviews. The interviews will be presented in the subsequent sections.

Theoretical framework

In this study, I draw on Eugen Ehrlich's (2002) concept of 'living law' as a theoretical framework for putting informal transactions in a socio-legal context. Ehrlich (2002, p. 493) states that 'the living law is the law which dominates life itself, even though it has not been posited in legal propositions. Ehrlich advises that if we want to glean the patterns of 'living law', we should observe everyday life, actual habits of people, and inquire into people's thoughts on proper social behaviour. Ehrlich in this sense stresses the importance of considering the local context and moral codes when examining the role and rule of law. Hence, what may be defined as corruption, such as nepotism or cronyism, might be regarded as a morally good behaviour according to the local 'living law'. Likewise, Ehrlich's 'living law' could be instructive when trying to understand the validity of Western-centric interpretations of corruption in the context of Uzbekistan where society is mostly based on 'gift economy', kinship networks and social hierarchies. Equipped with the concept of 'living law', it could be inferred that we cannot satisfactorily explore the nuances of corruption in Uzbekistan without considering the local context, moral codes and functional meaning of informal transactions.

Informal interviews

In this section I present the results of two informal interviews with key informants. My aim is to illustrate how things get done and how they are perceived by the ordinary citizens and low-level state officials, and their implications for understanding corruption in the local context. The first interview is centred around *Dilshod*, a traffic policeman and the second focuses on *Umida*, a midwife at maternity hospital in Ferghana. These two key informants were selected on the basis of their daily involvement with the law and/or state officials, knowledge, willingness, and communicability. The interviews lasted from forty-five minutes to two hours, depending on the informants' status, location, and time available. To protect the anonymity of my informants, their names have been changed.

Dilshod, a traffic policeman: *How should I feed my kids when the state does not pay me any salary?*

It is not so easy to work as a traffic policeman in Uzbekistan. We have to communicate with more than a hundred people on a daily basis. We do not have fixed working hours. If you want to get a job with the traffic police, you have to pay a bribe, around 6,000-7,000 USD, to top officials of the traffic police. The biggest problem is, actually, that we do not get paid a salary for our work. The official salary for traffic policemen is 900,000 soum, but in fact, we do not receive any salary. In rare cases, we might receive 10% of this salary, 100,000 soum. Of course, you may wonder how

we survive. Here is the reality for you: Instead of paying salary, our administration provides us with traffic tickets which we may sell to drivers to earn a salary. We usually sell these tickets to drivers who drive without having their seat belt fastened and/or drive cars which do not meet technical safety standards. The price of one traffic ticket is 12,500 soum. So we earn our salary by selling traffic tickets to drivers. Since we do not get any salary, we are not required to return ticket receipts or reports to our administration and can keep the revenues made from the ticket sales.

This is not the end of the story. Our bosses give us the order (i.e. set the standard) to sell at least twenty tickets per day. However, drivers do not violate traffic rules every day. How can we sell twenty tickets per day? If I do not sell twenty tickets per day, I might get a warning from the administration or even lose my job. Under these circumstances, we are under strong pressure to find drivers to sell tickets to. There is also an informal monthly payment called 'gruz' (burden) which we have to pay directly into our bosses' pocket. The amount of this monthly payment ranges from 50,000 to 100,000 soums. We have to make this payment if we want to keep our job. These circumstances compel us to sell tickets even to drivers who act legally. Ordinary people do not know about these problems and therefore hate us. It is politics. We cannot talk about these problems openly.

I know many people look upon traffic police as the most corrupt profession in Uzbekistan. Since we do not receive any salary from the state for our work, the money we earn through selling tickets is completely legal. I am also an ordinary man, like everybody else; I have a family, kids to feed! Instead of giving salary, our bosses force us to earn our salary through selling tickets to drivers. So tell me, how should I feed my kids when the state does not pay me any salary? Had I received a normal salary, I would not bother selling tickets to law-abiding drivers.

There are three main issues that need to be elaborated on in this context.

First, the interview shows the existence of a shared language among traffic policemen that serves to reconstruct the meaning and application of traffic laws. When describing his informal practices, the traffic policeman tends to use the expression 'selling tickets to drivers' rather than saying 'imposing a fine on drivers.' This expression also reveals that traffic police look at traffic tickets as a commodity for earning income rather than a means to enforce state traffic laws.

Second, the traffic policeman's reasoning is important to better understand the difference between predatory practices and survival strategies. Notably, the traffic policeman makes a distinction between salary earning (ticket selling) practices, and the payments he makes to high-level police officials, such as the bribe he paid to get a job, or the



Driver attempts to bribe a traffic camera in order to escape a fine. Cartoon from uzbekistanillustrated.com.

'gruz' payment he makes every month. As he claims, his salary earning (ticket selling) practices are completely legal, since he does not receive any salary from the state for his arduous work, whereas he expresses dissatisfaction with the informal payments he has to make to high-level police officials. Nevertheless, irrespective of their predatory or survival character, both of these practices fall within the interpretation of corruption adapted from Western moral and juridical codes. Certainly, such an interpretation is quite normal and legitimate in the context of Western welfare states where public authorities provide formal means of survival. But, is it appropriate to interpret the policeman's actions as illicit in the context of Uzbekistan, where the state fails to provide even a basic salary to traffic police? In the light of these problems, one conclusion could be that informal practices allow low-level state officials such as traffic police to survive in the absence of decent salaries.

Third, it is also necessary to acknowledge the fact that corruption has different meanings and logic within different levels of society, and that there is a difference between masses of low-level officials on the one hand and the smaller group of state elites on the other. For instance, the elite level corruption, rent-seeking, and 'clan struggles' described by scholars such as Ilkhamov (2004) and Collins (2006) are not the same as the everyday 'getting things done' practices of low-level traffic policemen.

Umida, a midwife: *'I will not be able to feed my kids if I follow the law'*

I know maternity hospitals are often criticized for being one of the most corrupt places in Uzbekistan. But those people and organizations who label us 'corrupt' are unaware of the serious problems we face in our daily working life. I think all problems are connected to the state and system. During the Soviet era, the state provided everything for hospitals and physicians received a good salary. But, after independence, the state significantly decreased financing for hospitals. There is a serious shortage of medical equipment. Hospitals are over-crowded. Electricity and gas cuts are very common. The state does not supply us with necessary medicaments.

According to law, all maternity hospitals are state-owned in Uzbekistan, which means giving birth in a hospital must be free of charge. But this law is rarely enforced in practice. Almost everyone pays for maternity services. Of course, we accept their payment informally through hand-shaking. Often, people themselves slip money into our pocket. Such informal payments are called 'suyunchi' (literally 'joy' in English), where the father or relatives of the new born baby give cash (or sometimes expensive gifts) to the midwife and nurses who deliver the baby. 'Suyunchi' is usually given after the birth of a child. The amount of 'suyunchi' varies from one case to another, ranging from anywhere between 50,000 to 500,000 soum. If it is an uncomplicated vaginal birth, people give us 'suyunchi' of around 50,000-100,000 soum. In cases of complicated vaginal births or C-sections, we receive a lot more 'suyunchi', approximately 300,000-500,000 soum.

I know my actions are illegal according to law, but real life circumstances force me to expect suyunchi from patients. Law and real life are completely different things. You will understand what I mean after I explain my work conditions. First, it is very difficult to get a job at a maternity hospital. For instance, if you want to work as a nurse at our hospital, you must pay a bribe of at least 500 USD to top health officials. Second, our salaries are extremely low. A midwife's monthly salary is 280,000 soum, around 100 USD, and a nurse's salary is 180,000 soum (65 USD). Isn't it frustrating when you pay a 500 USD bribe in order to get a job with a 100 USD salary? Our salary is very low, but I have to feed my kids. I studied for five-six years to become a midwife, but I do

not receive a high enough salary to live on from the state. Due to my good education, I believe I should earn more money than people who sell potatoes at the bazaar. I, too, have my own dreams, so I want to have a good salary. Everything is expensive at the bazaar. For example, one kilo of meat costs 17,000 soum and one sack of flour is 60,000 soum. I have to buy clothes for my kids. So, you see, it is impossible to survive on my 280,000 soum salary. Since the state does not reward me properly, I have a full right to supplement my salary through *suyunchi*. I do not force anyone to give 'suyunchi', but I expect people to respect my work and people themselves voluntarily reward me. This is the only way to feed my kids and I do not see any other alternatives. I will not be able to feed my kids if I follow the law. Therefore, it is quite understandable that we expect people to thank and reward us for our efforts.

There are two main issues that need to be emphasized:

First, the midwife's story shows that the gap between law, which states that maternity services should be free of charge, and actual delivery (the lack of state financing for hospitals and low salaries), forced maternity hospital workers to search for informal coping strategies that help them survive in the absence of decent salaries. As midwife asserts, she will not be able to feed her children had she followed the law. Seemingly, since Uzbek authorities fail to secure the basic needs of its citizens, so the state officials such as midwives and traffic policemen do not feel any moral obligation to act in compliance with the law. According to the midwife's moral code, her informal practices are completely 'legal', and she has a full right to reap the benefits of her good education. Subsequently, informal transactions that are interpreted as corrupt in the Western moral and juridical codes could be regarded as a morally acceptable behaviour according to the 'living law' of maternity hospitals in Uzbekistan. This example illustrates that the actions and working practices of hospital workers are more shaped by a living law rather than the state law.

Second, the midwife's story indicates that the kleptocratic practices of the high level state officials (elites) should be distinguished from the informal practices of ordinary citizens and low-level officials that have a different meaning ('to get things done'). Hence, the midwife's informal practices significantly differs from the predatory practices of kleptocratic elites, such as 'rent-seeking strategies among local prokurators (prosecutors) in Uzbekistan' (Markowitz, 2008) or the 'battle for cotton' between the central government and regional elites in Uzbekistan (Ilkhamov, 2004). In this regard, the rent-seeking strategy of local prokurators is not comparable to the *suyunchi* that midwives and nurses receive from ordinary citizens. However, both transactions are illicit according to Western-centric interpretations. This leads us to the conclusion that we need to take the local context and moral codes into account when measuring corruption in social settings such as Uzbekistan.

Discussion and conclusions

I have argued that Western-centric interpretations cannot satisfactorily explain the nuances of corruption in Uzbekistan, and that there is a need to make a distinction between the informal practices of kleptocratic elites, which have nothing to do with 'survival', and the informal coping strategies of the ordinary citizens and low-level officials. All four interviews

demonstrated the existence of local morality and norms (living law) that significantly differ from the Western juridical and moral codes. As the findings indicate, informal economic practices are not automatically negative; rather, they may serve as an alternative welfare structure to the formal economy when the state and its policies fail to meet the basic needs of its citizens. It could be stated that there is a need to distinguish between informal survival (coping) strategies and more predatory transactions where resources go from weak to strong. Consequently, the informal transactions that are interpreted as 'corrupt' by international bodies such as TI are not necessarily named or recognized as such by the local population. Similar points have been made before by scholars such as Werner (2000), Humphrey (2002) and Polese (2008). In that sense, my research could be said to empirically support the findings of previous research. My research differs in one aspect from previous research by bringing together and comparing the perspectives of both state officials and ordinary citizens, and exploring informal transactions through a 'living law' perspective. By utilizing this concept, I question the validity of the Western-centric interpretations, and underline the importance of understanding the 'living law' of the society, in which corruption is being discussed and/or measured.

The results can be summarised in three points: (1) informal transactions are deeply embedded in coping strategies; (2) international legal definitions of corruption should be sensitive to heterogeneity of informal transactions; (3) when talking about (or measuring) corruption,



Wedding ceremony in rural Fergana (photo by the author).

social norms, moral codes and local perceptions should be considered. If this is not taken into consideration, informal transactions that are not corrupt run the risk of being labelled as illicit. This study has shown that informal transactions that are considered to be corruption in a Western-centric interpretation have little to do with abuse. Rather, informal coping strategies are incorporated into Uzbek culture as a rational way of 'getting things done.' Hence, anti-corruption measures are not simply a matter of getting people to obey the juristic law. They are, more importantly, about understanding 'living law' and promoting socio-economic change.

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