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Vargas Falla, Ana Maria; Urinboyev, Rustamjon

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221 00 Lund  
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**Ana Maria Vargas, Rustamjon Urinboyev**

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# Everyday Forms of Resistance to the Law: An Ethnographic Study of Street Vendors in Bogotá

Ana Maria Vargas, Rustamjon Urinboyev

Rättssociologiska Institutionen, Lunds universitet, Box 42, SE-221 00 Lund, Suède.

<ana\_maria.vargas\_falla@soclaw.lu.se>

<rustamjon.urinboyev@soclaw.lu.se>

## ■ Résumé

### **Formes ordinaires de résistance au droit : une étude ethnographique auprès de vendeurs de rue à Bogotá**

La vente dans les espaces publics est l'une des activités économiques les plus accessibles pour beaucoup de personnes vivant dans la pauvreté dans le monde actuel. Cependant, la plupart des vendeurs de rue pratiquent leur activité en désobéissant aux lois qui interdisent ce type de travail. À partir d'une enquête ethnographique conduite à Bogotá en Colombie, cet article explore les idées, perceptions et stratégies des vendeurs vis-à-vis des législations qui interdisent leur activité. Utilisant le concept de *legal consciousness*, les auteurs soutiennent que le non-respect des normes n'est pas uniquement un mécanisme de participation au système économique, mais aussi une arme des plus faibles pour contester le caractère injuste du système politique et économique.

*Économie informelle – Formalisation – Legal consciousness – Pauvreté – Vendeurs de rue.*

## ■ Summary

Selling goods or providing services in public spaces is one of the most accessible occupations for many individuals living in poverty in today's world. However, most street vendors conduct their businesses by disobeying laws that prohibit this kind of work. Drawing on field data on street vendors in the city of Bogotá, Colombia, this article ethnographically explores vendors' ideas, perceptions, and coping strategies in relation to the state law that prohibits street vending. Using the concept of legal consciousness, we argue that street vendors' non-compliance with the law is not only a coping mechanism to participate in the economic system, but also a weapon of the weak to voice their ideas and opinion about the unfairness of the political and economic system in which they live, *i.e.* their lack of trust in the formalization policies to move street vendors to the formal economy, and their demands for better social protection for vulnerable groups.

*Formalization – Informal economy – Legal consciousness – Poverty – Street vendors.*

During the ethnographic fieldwork in Bogotá, Colombia, we visited the office of the local mayor of Suba, one of the city districts, to talk to the official in charge of the formalization programmes for street vendors. It was eleven in the morning and we were sitting, waiting for our appointment. There was one more visitor in the waiting room: Marisol, the leader of the Suba vendors' association. Marisol had an appointment at nine with the same state official. She looked very frustrated and angry as she has been waiting more than two hours. Spontaneously, she began to complain about the ill treatment of street vendors by state officials:

It is like my time doesn't have any value. They ask us to come for meetings and then they cancel in the last minute. They think that because they gave us those tents, we have to be thankful forever; but no, that is our right. We have been vendors for many years and this is the first time the government does something for us. You know the government gave us these tents in the vending zones because they were unable and tired of dealing with us. The police used to come and kick out the vendors. And when they come, we know we have to move, otherwise they take our things. We go to another neighbourhood and wait until the police leave, then we return to our places. Mayors always want a beautiful city without the vendors, but they don't see all the broken roads that make the city even uglier. The government always steals money from the city and they come and pretend we are the problem. We don't do anything bad for the city, you see, we are just selling goods to ordinary people and contributing to the economy of our country, yet we experience everyday police harassment.

This spontaneous encounter with Marisol was an exceptional chance to gain deeper insight into how state policies and laws regulating the vending zones are perceived and challenged by the street vendors. Referring to "tents", Marisol was actually talking about the "transitional zones", a formalization programme aimed to help vendors move to the formal economy. This was the first time we learned about the transitional zones where vendors were allowed to sell without police harassment. The zones had no rental fees or other costs and the only requirement was to be member of a vending association. Hence, the transitional zones appear to be an intelligent public policy solution that enables vendors to sell their products without police harassment. Yet, Marisol was very critical about the state's formalization efforts and told us that the government simply failed on the promises of formalization. We particularly wondered what these promises were, why street vendors were so upset with the government and how the government implemented the transitional zones programme. In fact, ideas generated during this conversation with Marisol at the office of the local mayor turned out to be the seed of the questions raised in this paper.

Vending without a permit is often a violation of public space codes or local laws. Legal norms that criminalize the work of street businesses are common, not only in big cities in Latin America, Asia, and Africa, but also in North America, and Europe. Additionally, street vendors experience bad working conditions, lack of social security, are not covered by maternity leave or pension insurance; many live under the poverty threshold.<sup>1</sup> Street vendors are a worldwide phenomenon making up part of

1. Sharit BHOWMIK, *Street Vendors in the Global Urban Economy*, New Delhi: Routledge, 2010; Debdulal SAHA, "Decent Work for the Street Vendors in Mumbai, India. A Distant Vision!", *Journal of Workplace Rights*, 14 (2), 2009, p. 229-250; Ray BROMLEY, "Street Vending and Public Policy: A Global Review", *International Journal of*

the informal economy, where about 60% of the workers in the world earn their livelihoods.<sup>2</sup>

Most research on vendors' non-compliance with the law focuses on the lack of jobs in the formal economy (the modernization theory), or the existence of complicated laws that do not allow formal registration (the legalist theory), or vendors' need to earn an income to survive (structuralist theory).<sup>3</sup> While these aspects of non-compliance are important, they emphasize the role of vendors as passive actors and victims of the economic recession, thereby overlooking the agency of vendors as actors who are able to subvert the formal structures. Thus, the link between street vendors' non-compliance with the law and their subtle political actions has been largely neglected. With the exception of the literature on the organizations of street vendors,<sup>4</sup> and studies exploring street vendors' resistance,<sup>5</sup> there has been little scholarly investigation of whether and how vendors' individual acts of non-compliance with the law manifest their political claims. This study seeks to address this research gap.

Drawing on field data on street vendors in the city of Bogotá, this article ethnographically addresses the everyday experiences of street vendors, focusing on their ideas, perceptions, and coping strategies in relation to state laws that prohibits street vending. More specifically, the paper explores the following question: What are the relationships between street vendors' everyday acts of resistance to the law and their specific political claims?

We argue that street vendors' non-compliance with the law is not only a coping mechanism to participate in the economic system, but also a way to voice their ideas and opinions about the unfairness of the political and economic system in

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*Sociology and Social Policy*, 20 (1-2), 2000, p. 1-28; John CROSS and Alfonso MORALES (eds.), *Street Entrepreneurs: People, Place, and Politics in Local and Global Perspective*, London: Routledge, 2007; Michal LYONS, Alison BROWN, and Colman MSOKA, "(Why) Have Pro-Poor Policies Failed Africa's Working Poor?", *Journal of International Development*, 24 (8), 2012, p. 1008-1029.

2. INTERNATIONAL LABOR OFFICE (ILO) and WOMEN in INFORMAL EMPLOYMENT: GLOBALIZING AND ORGANIZING (WIEGO), *Women and Men in the Informal Economy. Statistical Picture*, 2012.

3. For a discussion of these theories see: Alejandro PORTES, Manuel CASTELLS, and Lauren A. BENTON, *The Informal Economy: Studies in Advanced and Less Developed Countries*, Baltimore: John Hopkins University Press, 1989; Keith HART, "The Urban Informal Sector in Developing Countries: Employment, Poverty and Environment", *Labour, Capital and Society*, 15 (1), 1982, p. 91-93; Sally ROEVER, "Informal Governance and Organizational Success: The Effects of Noncompliance among Lima's Street-Vending Organizations", *Membership-Based Organizations of the Poor*, 2005, p. 261-278; Ray BROMLEY, "Street Vending and Public Policy: A Global Review", *op. cit.*

4. Ilda LINDELL, "Between Exit and Voice: Informality and the Spaces of Popular Agency", *African Studies Quarterly*, 11 (2-3), 2010, p. 1-11; Bishwapriya SANYAL, "Organizing the Self-Employed: The Politics of the Urban Informal Sector", *International Labour Review*, 130, 1991, p. 39; Martha Alter CHEN, "Women and Informality: A Global Picture, the Global Movement", *Sais Review*, 21 (1), 2001, p. 71-82; Monique COHEN, Mihir BHATT, and Pat HORN, "Women Street Vendors: The Road to Recognition", 2000, <<http://www.popline.org/node/172887>>; John Christopher CROSS, *Informal Politics: Street Vendors and the State in Mexico City*, Stanford: Stanford University Press, 1998.

5. Gengzhi HUANG, Desheng XUE, and Zhigang LI, "From Revanchism to Ambivalence: The Changing Politics of Street Vending in Guangzhou", *Antipode*, 46 (1), 2014, p. 170-189; Griet STEEL, "Whose Paradise? Itinerant Street Vendors' Individual and Collective Practices of Political Agency in the Tourist Streets of Cusco, Peru", *International Journal of Urban and Regional Research*, 36 (5), 2012; Asef BAYAT, "Un-Civil Society: The Politics of the 'Informal People'", *Third World Quarterly*, 18 (1), 1997, p. 53-72.

which they live. We emphasize the need to consider the work of socio-legal scholars, such as Sally Engle Merry, Susan Silbey and Austin Sarat,<sup>6</sup> who argue that an individual act of resistance to the law can be a conscious act that contains political claims. We argue that the scholarship on street vendors from researchers in the fields of urban sociology and planning can benefit from a socio-legal approach that examines the relationships between non-compliance, legal consciousness and political claims.

The paper is organized as follows: The first section presents a literature review that situates this study within the research on the informal economy. The second section provides the theoretical framework of the study based on the concept of legal consciousness and the state-in-society perspective. The third section discusses the methodological considerations of the ethnographic fieldwork. The last section reports the main findings of the study, presents the analysis and the implications for further attempts to regulate the informal economy, particularly street vending.

## I. Non-compliance with the Law: The Result of Lack of Police Enforcement, Complicated Laws or a Survival Strategy. Literature Review

There has been a wide array of research on the regulation of street vendors that has produced theoretically and empirically grounded accounts of various forms and manifestations. The scholarly interest in street vendors is especially prevalent in the fields of economics, sociology, urban planning, and political science, where studies have focused on the business and entrepreneurial side of street vending,<sup>7</sup> the challenges vendors post to public space regulation,<sup>8</sup> social capital and organization among street vendors,<sup>9</sup> formalization of vending,<sup>10</sup> and vending as a survival strategy of the poor.<sup>11</sup> The specific issue of non-compliance with the law

6. Sally Engle MERRY, *Getting Justice and Getting Even: Legal Consciousness Among Working-Class Americans*, Chicago: University of Chicago Press, 1990. Susan S. SILBEY, "After Legal Consciousness", *Annual Review of Law and Social Science*, 1, 2005, p. 323-368. Austin SARAT, "Law Is All Over: Power, Resistance and the Legal Consciousness of the Welfare Poor", *Yale Journal of Law & the Humanities*, 2, 1990, p. 343.

7. Justin W. WEBB *et al.*, "You Say Illegal, I Say Legitimate: Entrepreneurship in the Informal Economy", *Academy of Management Review*, 34 (3), 2009, p. 492-510; Colin C. WILLIAMS and Anjula GURTOO, "Evaluating Competing Theories of Street Entrepreneurship: Some Lessons from a Study of Street Vendors in Bangalore, India", *International Entrepreneurship and Management Journal*, 8 (4), 2012, p. 391-409.

8. Michael G. DONOVAN, "Informal Cities and the Contestation of Public Space: The Case of Bogotá's Street Vendors, 1988-2003", *Urban Studies*, 45 (1), 2008, p. 29-51; Stacey HUNT, "Citizenship's Place: The State's Creation of Public Space and Street Vendors' Culture of Informality in Bogota, Colombia", *Environment & Planning D: Society & Space*, 27, 2009, p. 331-351.

9. Sally ROEVER, "Informal Governance and Organizational Success", *op. cit.*; Elin COHEN, *Improving the Business Climate Under the Hot Sun: Do Small Business Associations Make A Difference?*, Stanford: Stanford University, 2010.

10. Sergio FERRAGUT and Georgina M. GÓMEZ, "From the Street to the Store: The Formalization of Street Vendors in Quito, Ecuador", in Isabelle HILLENKAMP, Frédéric LAPEYRE, and Andreia LEMAÎTRE (eds.), *Securing Livelihoods. Informal Economy Practices and Institutions*, Oxford: Oxford University Press, 2013; Hernando DE SOTO, *The Other Path: The Invisible Revolution in the Third World*, London: Tauris, 1989.

11. Regina AUSTIN, "Honest Living: Street Vendors, Municipal Regulation, and the Black Public Sphere, An", *The Yale Law Journal*, 103, 1993, p. 2119; Veronica CROSSA, "Resisting the Entrepreneurial City: Street

among street vendors is often explained as the result of a lack of police enforcement,<sup>12</sup> the existence of complicated laws that do not facilitate the formalization of vendors,<sup>13</sup> or lack of employment opportunities, in which vending becomes a survival strategy of the poor.<sup>14</sup>

The first explanation considers the lack of law enforcement. Since police enforcement is low, non-compliance appears as a rational choice among vendors and constitutes a strategic behaviour.<sup>15</sup> Consequently, using the law is a popular approach among politicians that see higher penalties and more regulation as a solution. In this regard, campaigns to clean up the cities from street vendors by means of massive evictions, confiscations and forced relocations are constantly used in different cities in the world.<sup>16</sup> The most pertinent literature that comes to mind that analyzes the impact of strict regulation is Sergio Peña's "Regulating Informal Markets: Informal Commerce in Mexico City".<sup>17</sup> In this paper, the author demonstrates that street vendors, despite the existence of strict legal regulation, do not comply with the law and instead have created their own regulation systems to avoid the risks and uncertainties of an unregulated market.

The second explanation for non-compliance is the time-consuming, expensive, and complicated bureaucratic procedures involved in acquiring licences and permits to work legally.<sup>18</sup> While this explanation is more optimistic about the existence of street vendors, it also considers regulation to be important and hence the law plays a central role, not to prohibit vending, but instead to regularize the vendors' work. In this regard, the law is used to formalize street vendors creating vending zones, licences and permits. Although formalization through law is still used in

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Vendors' Struggle in Mexico City's Historic Center", *International Journal of Urban & Regional Research*, 33, 2009, p. 43-63.

12. Andrea MCARDLE and Tanya ERZEN, *Zero Tolerance: Quality of Life and the New Police Brutality in New York City*, New York: New York University Press, 2001; Yandi Andri YATMO, "Street Vendors as 'Out of Place' Urban Elements", *Journal of Urban Design*, 13, 2008, p. 387-402.

13. Hernando DE SOTO, *The Other Path: The Invisible Revolution in the Third World*, *op. cit.*; Guillermo PERRY, *Informality: Exit and Exclusion*, Washington: World Bank Publications, 2007; William F. MALONEY, "Informality Revisited", *World Development*, 32 (7), 2004, p. 1159-1178.

14. Regina AUSTIN, "Honest Living: Street Vendors, Municipal Regulation, and the Black Public Sphere, An", *op. cit.*; Veronica CROSSA, "Resisting the Entrepreneurial City: Street Vendors' Struggle in Mexico City's Historic Center", *op. cit.*

15. Mauricio GARCÍA VILLEGAS, *Normas de Papel: La Cultura Del Incumplimiento de Reglas*, Bogotá: Siglo del Hombre, 2011, p. 238.

16. See the cases of Zambia Karen TRANBERG HANSEN, "Changing Youth Dynamics in Lusaka's Informal Economy in the Context of Economic Liberalization", *African Studies Quarterly*, 11 (2-3), 2010; Ecuador Kate SWANSON, "Revanchist Urbanism Heads South: The Regulation of Indigenous Beggars and Street Vendors in Ecuador", *Antipode*, 39, 2007, p. 708-728; Michael G. DONOVAN, "Informal Cities and the Contestation of Public Space: The Case of Bogotá's Street Vendors", *op. cit.*; and Malawi Liam RILEY, "The Political Economy of Urban Food Security in Blantyre, Malawi", *The African Institute Occasional Paper Series, University of Western Ontar*, 1, 2012, p. 1-16.

17. Sergio PENA, "Regulating Informal Markets: Informal Commerce in Mexico City", *International Journal of Sociology and Social Policy*, 20 (9-10), 2000, p. 37-67.

18. Hernando DE SOTO, *The Other Path: The Invisible Revolution in the Third World*, *op. cit.*; Claudia R. WILLIAMSON, "The Two Sides of de Soto: Property Rights, Land Titling, and Development", *The Annual Proceedings of the Wealth and Well-Being Of Nations*, 2010, p. 95.

many cities in the world,<sup>19</sup> street vendors continue to disobey the law and the majority work without a legal permit in most places. One of the most recent studies in this regard is the research of Rodrigo Meneses-Reyes<sup>20</sup> on street vendors in Mexico City. The author shows how strict regulations regarding licences and space for vendors have resulted in few vendors engaging themselves in the bureaucratic process of getting legal permits, while the majority becomes itinerant and mobile in order to avoid regulation and control. Similarly, in an ethnographic study of market vendors in Lima, Daniella Gandolfo<sup>21</sup> showed how vendors, despite formalization efforts, prefer informality arguing that they do not understand why they have to comply with regulations when the nature of their work is mobile and informal.<sup>22</sup>

Finally, the third explanation for non-compliance with the law among vendors is a legitimate choice for vulnerable groups to earn a survival income.<sup>23</sup> Non-compliance becomes a moral choice for vulnerable groups excluded from the formal economy. For instance, the study by Rustamjon Urinboyev and Mans Svensson<sup>24</sup> maintain that informal transactions, such as the ones of informal economies, are morally accepted in certain cultural contexts in contrast to legal norms. M. Swanson also illustrates how urban laws that prohibit street vending are often the result of neoliberal policies that aim to clean up the cities from undesired behaviour such as beggary or street vending, without recognizing the economic needs of wide arrays of the population.<sup>25</sup> Street vending in this explanation is connected to poverty, exclusion and lack of opportunities and therefore non-compliance with the law is seen as a moral choice that can have a political meaning. In this regard the study of Mauricio García Villegas on non-compliance with the law in Latin America illustrates how disobedience can be a rebellious act based on a belief of lack of legitimacy of the political system.<sup>26</sup> Similarly, Justin W. Webb *et al.*, insist that activities in the informal economy may be illegal yet they are legitimate because they are supported by informal values.<sup>27</sup>

19. See for instance: Michal LYONS, "Pro-Poor Business Law? On MKURABITA and the Legal Empowerment of Tanzania's Street Vendors", *Hague Journal on the Rule of Law*, 5 (1), 2013, p. 74-95; Daniella GANDOLFO, "FORMLESS: A Day at Lima's Office of Formalization", *Cultural Anthropology*, 28 (2), 2013, p. 278-298; Sergio FERRAGUT and Georgina M. GÓMEZ, "From the Street to the Store: The Formalization of Street Vendors in Quito, Ecuador", *op. cit.*

20. Rodrigo MENESES-REYES, "Out of Place, Still in Motion: Shaping (Im)Mobility Through Urban Regulation", *Social and Legal Studies*, 22 (3), 2013, p. 335-356.

21. Daniella GANDOLFO, "FORMLESS: A Day at Lima's Office of Formalization", *op. cit.*

22. *Ibid.*

23. Justin W. WEBB *et al.*, "You Say Illegal, I Say Legitimate: Entrepreneurship in the Informal Economy", *op. cit.*; Ana Maria VARGAS, "Legal and Social Norms for Development: Why Legal Reform of the Informal Economy Failed to Influence Vulnerable Groups in Developing Countries", in Matthias BAIER (ed.), *Legal and Social Norms*, Farnham: Ashgate, 2013; Kate SWANSON, "Revanchist Urbanism Heads South: The Regulation of Indigenous Beggars and Street Vendors in Ecuador", *op. cit.*

24. Rustamjon URINBOYEV and Mans SVENSSON, "Living Law, Legal Pluralism, and Corruption in Post-Soviet Uzbekistan", *The Journal of Legal Pluralism and Unofficial Law*, 45 (3), 2013, p. 372-390.

25. Kate SWANSON, "Revanchist Urbanism Heads South: The Regulation of Indigenous Beggars and Street Vendors in Ecuador", *op. cit.*, p. 709.

26. Mauricio GARCÍA VILLEGAS, *Normas de Papel: La Cultura Del Incumplimiento de Reglas*, *op. cit.*, p. 274.

27. Justin W. WEBB *et al.*, "You Say Illegal, I Say Legitimate: Entrepreneurship in the Informal Economy", *op. cit.*



In this study, we depart from the scholarly context just described and maintain that those arguments, while very useful to understand street vendors' non-compliance with the law, appear to be incomplete. This is because they do not sufficiently recognize that the vendors are not only trying to benefit from the system (lack of enforcement), or are oppressed by complicated laws (the formalization approach), or are only trying to earn a livelihood (the survival argument). Although we agree that vending is for many a survival strategy, we consider the survival argument to be incomplete. Instead we contend that vendors' acts of non-compliance with the law have a political meaning, visible in their ideas and beliefs about the political system, their rights, and the state. This, in turn, requires the establishment of a relevant theoretical framework.

## II. Street Vendors' Legal Consciousness: A Framework to Study Everyday Acts of Resistance and Non-compliance with the Law

For many years, socio-legal research has studied the cultural processes of resistance to law and its impact on political mobilization.<sup>28</sup> While in the beginning there was optimism about the use of law to achieve social change, different studies soon pointed out the mythic role of rights<sup>29</sup> and the frustrations of social movements to achieve social change through law.<sup>30</sup> While some consider that individual acts of resistance to the law can have a limited impact on society and therefore become trivial,<sup>31</sup> we agree with the studies that assert the power of small acts of resistance to increase the individual's self-dignity and emancipation.<sup>32</sup> The findings of this study illustrate how street vendors' non-compliance with the law can be a political strategy to resist state power and authority, which they consider to be illegitimate.

We consider that street vendors' individual acts of non-compliance with the law are conscious acts that can have a political meaning. This is referred to in the socio-legal literature as *legal consciousness*.<sup>33</sup> Legal consciousness is generally defined as

28. Sally Engle MERRY, "Resistance and the Cultural Power of Law," *Law and Society Review*, 29 1995, p. 11.

29. Stuart A. SCHEINGOLD, *The Politics of Rights: Lawyers, Public Policy, and Political Change*, Ann Arbor: University of Michigan Press, 2010.

30. Michael W. MACCANN, *Rights at Work: Pay Equity Reform and the Politics of Legal Mobilization*, Chicago: University of Chicago Press, 1994.

31. Joel F. HANDLER, "Postmodernism, Protest, and the New Social Movements", *Law and Society Review*, 26 (4), 1992, p. 697-731.

32. Austin SARAT, "Law Is All Over: Power, Resistance and the Legal Consciousness of the Welfare Poor", *op. cit.*; Patricia EWICK and Susan S. SILBEY, *The Common Place of Law: Stories from Everyday Life*, Chicago: University of Chicago Press, 1998.

33. Sally Engle MERRY, "Legal Pluralism", *Law and Society Review*, 22, 1988, p. 869; Susan S. SILBEY, "After Legal Consciousness", *op. cit.*; Mary E. GALLAGHER, "Mobilizing the Law in China: 'informed Disenchantment' and the Development of Legal Consciousness", *Law and Society Review*, 40 (4), 2006, p. 783-816; Orly LOBEL, "The Paradox of Extralegal Activism: Critical Legal Consciousness and Transformative Politics", *Harvard Law Review*, 120 (4), 2007, p. 937-988; Leisy J. ABREGO, "Legal Consciousness of Undocumented Latinos: Fear and Stigma as Barriers to Claims-Making for First-and 1.5-Generation Immigrants", *Law and Society Review*, 45 (2), 2011, p. 337-370; Laura Beth NIELSEN, "Situating Legal Consciousness: Experiences and Attitudes of Ordinary Citizens about Law and Street Harassment", *Law and Society Review*, 34 (4), 2000, p. 1055; Austin SARAT, "Law Is All Over: Power, Resistance and the Legal Consciousness of the Welfare Poor", *op. cit.*

the ideas provided by ordinary people about the law, legality and rights.<sup>34</sup> In this tradition, law is seen as a constitutive element of social reality and not only an apparatus designed to intervene in society.<sup>35</sup> Thus, legal consciousness is a useful analytical concept that allows us to explore and understand how vendors use their ideas and understandings of law to resist power and domination.

Street vendors' acts of non-compliance with the law also remind us of the "subtle forms of everyday resistance" that James Scott<sup>36</sup> described in his book, *Weapons of the Weak: Everyday Forms of Peasant Resistance*. For J. Scott, the resistance is manifested not only in visible historic events such as organized rebellions or collective action, but can also be observed in subtle but powerful forms of "everyday resistance" (e.g. foot dragging, evasion, false compliance, pilfering, feigned ignorance, slander and sabotage) in which both individuals and groups resist without directly confronting or challenging dominant norms.<sup>37</sup> J. Scott's idea of peasant resistance/non-compliance with the rules can be compared to how street vendors in different parts of the world continue to remain a resilient phenomenon, no matter how strict the laws are. Hence, the subtle forms of everyday resistance/non-compliance with the law also occur when street vendors in different cities of the world sell their products, despite the diverse laws that prohibit this type of work.

There is also a strong support for the legal consciousness perspective in the field of political science. Joel S. Migdal<sup>38</sup> emphasizes the plurality of social forces (legal orders). His theory of "the state-in-society" is a useful tool for studying the clashes and interactions between state structures and social forces. J. S. Migdal maintains that all societies have ongoing battles among different social forces (the state being one of them) pushing different versions of acceptable social behaviour. States face enormous resistance from other social forces in implementing their laws and policies, since their laws and regulations must compete with the norms of other social forces that promote different versions of how people should behave. Also, Michel Foucault's explanation of power, and his descriptions of micro powers in society are comparable to the ideas of Joel Samuel Migdal.<sup>39</sup>

From this perspective, street vendors can be regarded as "social forces" that promote alternative versions, to those of the state law, as to how street vendors should be regulated. Armed with the concept of legal consciousness and the state-in-society approach we studied the phenomenon of street vendors' non-compliance with the law in relation to their political claims.

34. Laura Beth NIELSEN, "Situating Legal Consciousness: Experiences and Attitudes of Ordinary Citizens about Law and Street Harassment", *op. cit.*

35. Mauricio GARCÍA VILLEGAS, "Symbolic Power without Symbolic Violence? Critical Comments on Legal Consciousness Studies in USA", *Droit et Société*, 53, 2003, p. 137-162.

36. James C. SCOTT, *Weapons of the Weak: Everyday Forms of Peasant Resistance*, New Haven: Yale University Press, 1985.

37. *Ibid.*

38. Joel Samuel MIGDAL, "The State in Society: An Approach to Struggles for Domination", in Atul KOHLI, Vivienne SHUE, and Joel Samuel MIGDAL (eds.), *State Power and Social Forces: Domination and Transformation in the Third World*, Cambridge: Cambridge University Press, 1994, p. 7-36.

39. Alan HUNT and Gary WICKHAM, *Foucault and Law: Towards a Sociology of Law as Governance*, London: Pluto Press 1994.

### III. Methodological Considerations and Main Findings

This paper is based on four periods of ethnographic field research between 2011 and 2014 in Bogotá, the capital city of Colombia.<sup>40</sup> During the field trips, a rich ethnographic material was collected mainly through observations, semi-structured interviews, and informal interviews. A total of 169 semi-structured interviews and 50 informal interviews were conducted in different vending sites in Bogotá. The interviews and observations mainly addressed street vendors' everyday experiences with: urban laws; the police; street vendors' associations; the government and its formalization programmes; and other power relationships that could affect their ability to conduct businesses. The interviews focused on two types of street vendors: those who sell in the transitional zones and those working outside the zones. The emphasis of interviews and observations was on understanding the everyday experiences of street vendors with the state law and law-enforcement bodies (e.g. police, state officials in charge of street vendors). More specifically, we explored vendors' ideas and perceptions about their rights and entitlements, their views about the role of the state, their interpretations of legality, their moral frame and ideas on proper regulation of vending zones, and the tactics and strategies that they utilize when negotiating or manoeuvring around the law. While some vendors were sceptical about participating in the research, the majority agreed to answer our questions after we explained that this was academic research and we had no connections with the government. The interviewees were asked for their consent to participate in the study and their names and whereabouts were anonymised. We spent many hours at their vending sites and all of the interviews were conducted while they were working. For this paper, we have chosen to present examples of the most relevant observations and three informal interviews in the following sections.

#### III.1. Study of Non-Compliance with the Law Among Street Vendors in Bogotá

As in many other cities in the developing world, street vending is a major phenomenon in Bogotá. Estimates indicate that there are about 80,000 street vendors in the city.<sup>41</sup> Between 1998 and 2003, city mayors Peñalosa and Mockus tried massive evictions and forced relocations, which led to the loss of livelihoods for many vendors.<sup>42</sup> Vendors protested, but most importantly they became resilient to the attempts of the government to eliminate this kind of economic activity. Vendors learned to run away from the police and slowly came back after evictions. Some stopped working on the streets, some found new jobs, yet new and old vendors

40. The first author conducted all the four periods of field research, which in total account for more than six months. The empirical material is part of a PhD project of the first author financed through the University of Milan and Lund University and it is titled "Working in the Streets: Understanding Social Control and Welfare at Work". The results will be published in a monograph in 2006. The second author, from post-Soviet Uzbekistan, and colleague of the first author at Lund University, contributed to the design of the theoretical framework, literature review and data analysis process, thereby adding an "external" flavour to the study.

41. El Nuevo Siglo, "Ipes Defiende a Vendedores Ambulantes", April 23, 2003, <<http://www.elnuevosiglo.com.co/articulos/4-2012-ipes-defiende-vendedores-ambulantes.html>>. Accessed on May 11, 2015.

42. Michael G. DONOVAN, "Informal Cities and the Contestation of Public Space: The Case of Bogotá's Street Vendors, 1988-2003", *op. cit.*

came back after the police slowed down control. Since 2004 the government in Bogotá has tried multiple programmes to formalize and organize vendors in vending sites. Despite the introduction of numerous formalization programmes, the majority of vendors continue to work outside the law.

Law and legality are constantly challenged by non-formalized vendors, since the law defines sidewalks and streets as places that should be free from vendors.<sup>43</sup> Under these circumstances vendors have to utilize strategies and tactics of mobility and organization to avoid evictions and legal control. Most vendors we encountered outside the vending zones were mobile, or at least were able to move when the police came. Hence, their capacity to move around is their main weapon against police eviction and control.

Our research was developed based on one of the state programmes called “transitional zones”, a formalization programme aimed to help vendors move into the formal economy. The legal directive that created the zones states they are temporary spaces for up to a period of two years, with the possibility to be renewed for one additional year. The zones have no rental fees or other costs and the only requirement is to be member of a vending association. Vendors often use the terms “formalization”, “vending zones”, and “tents” as synonyms. The main condition of the formalization programme is that during the period of two years, the associations of vendors should consolidate their businesses, take part in training on entrepreneurship, receive micro-credits, and generate a productive project to leave the streets.

In the different street vending sites visited in seventeen zones located in eleven districts, none of the transitional zones had met the goal of completing the transition to become formalized within the time limit of three years. Most of the zones had existed for five years and the vendors were reluctant to leave the tents, and thus they continued to operate semi-legally. Most of the vendors we met claimed that the government failed to help them find jobs or to create better businesses. Because of this, they insisted that the state does not have the moral right to dismantle the tents. In case of forced evictions or relocations, the vendors related that they were ready to fight for their right to be there. Thus, the formalization programme conditions seemed unfair and unjust to the vendors, which led them to disobey the legal terms of the zones.

The experiences of Marisol, one of the leaders of the vending associations, which were quoted in the introduction to this paper, are illustrative of how street vendors express their discontent with the state and its policies. The views of the state officials on street vendors were, however, somewhat negative. When interviewing one of the officials in charge of the formalization programme, he appeared to be largely unaware of the very essence of why vendors continued to sell on the streets. Instead of trying to explore the causes, the main concern of officials was to enforce the laws and clean the streets of vendors. One state official, for instance, related the story of a programme called “*mecato social*” (“social snacks” in English) for

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43. Police Code of Bogotá, Acuerdo 79 from 2003.

old people or people with disabilities. The official complained that one vendor with a disability was making around 3 million Colombia pesos a month (1,300 USD), even more than what she was earning as a state official. Although the government reached a compromise with this vendor to use the location for only two years, after the expiration date, the vendor refused to leave and declared they would have to drag him to death to get him out of there. The official explained that because he was disabled no one would dare touch him. In another interview, Lina, the state official coordinating the programme at the central level, stated: “We gave the vendors everything – support and training – but the only thing they want is to stay on the streets”.

The vendors interpreted their acts of non-compliance with the law from a different moral standpoint. When we asked what the law meant to them – specifically evictions, police detention, and the formalization programmes – they were very critical of the role of the state, seeing it merely as an agent of injustice. They often used phrases such as, “We have the right to work”, when police tried to evict them from the vending sites. Vendors claimed that, “We are not robbing or stealing from anyone. This is our normal job” or “Nobody owns the street and we all have the right to survive”.

### III.2. The Need for Better Social Protection for Vulnerable Groups

In this section, we chose to present the results of three informal interviews with street vendors, because of their typicality and representativeness. Our aim is to demonstrate the reasons why vendors continue to stay in the informal economy, their interpretations of what is legally right and wrong (*i.e.* the law according to the vendors). We also asked them how they perceived the state and its laws and how they perceived the political and economic system in which they live. Clara is a mother of four children who sells orange juice at a bus stop. Teresa is a sixty-nine-year old woman who sells aromatic water and coffee in one of the vending zones. Edwin is one of the leaders of the vendors at the city level. To protect the anonymity of our informants, their names have been changed.

*Clara: “My work is legal, and illegal work is stealing or doing something wrong”.*

I stopped working at the grilled chicken restaurant when I was pregnant with my third daughter. You know the work there is heavy and you don’t get much money. One of my neighbours was working with an orange juice cart and I asked her to help me to get into that business. She showed me where to buy the oranges and I started with a small table and the orange press. The good thing about orange juice is that you sell it in the mornings and then I have the afternoons free and can be home with my daughters after school. When I was working at the restaurant we started at eleven in the morning and finished at nine at night. I left my first daughter with one of my neighbours and paid her. She was also taking care of other kids in the neighbourhood. I did the same with Juliana, my second daughter, but when I was pregnant with Lady, I had to quit. The work in the restaurant was heavy and the pay was not good. Mr. Gomez did not want to pay for all the hours we worked and he said we should be happy we had a job. There was no maternal leave or pension insurance; human labour was too cheap. Here I work hard, but at least I know that the money I earn is for me. The

sales change but I can make 30,000 Colombian pesos (15 USD) on a bad day and maybe 40,000 on a good day.

I am very frustrated with the police and government. They always come and harass me as if I were doing something illegal. My work is legal, and illegal work is stealing or doing something wrong, so the police do not have the right to keep me from earning a living for my family. We work like anyone else in this city and we should have the right to social security, but the state does not provide these things for us, so we have to work hard and save for a rainy day and retirement.

*Teresa: "If the government wants me to stop working as a vendor, then they have to give me a proper pension".*

I used to work as a housemaid for a family in Boyacá, but my sons and daughter moved to Bogotá, so I had to move with them. I grew up on a farm and I only completed elementary school, so when I came to the city it was difficult to find a job. In the cleaning company, where my daughter works, they told me I was too old at 69 to start working. I don't have a pension because when I was young I worked as a maid for a woman from my town. But she never enrolled me in the pension insurance plan. Now I have to find a way to survive.

I sell aromatic water on the streets. I cannot make much money with this business, but this is the only thing I can do at my age. I buy the herbs and fruits in the morning in Paloquemao (a big market) and then I come here to the vending zones and start cooking at noon. People like my aromatic water because I use not only herbs, but also some fruits and lemon. I am happy with 15,000 (7 USD) a day, and this money is enough to meet my minimum needs since my daughter helps me. The government said we have to give back the tents if we don't formalize, but I am happy with my business. I don't understand why the government is so keen to get rid of us. I only sell aromatic water and people like my drink. If the government wants me to stop working as a vendor, then they have to give me a proper pension.

*Edwin: "Informality is the fault of the state that is corrupt and spends the tax payers' money on fraudulent contracts instead of providing education and health for our children".*

Informality is everywhere. It is the fault of big businesses that want to hire their workers on temporary contracts so that they can avoid paying into social security. It is the fault of the state that is corrupt and spends the tax payers' money on fraudulent contracts instead of providing education and health for our children. We street vendors represent the most visible side of informality, but in reality informality is everywhere. They should stop making laws to take the vendors off the streets. Informal workers like vendors should be entitled to education, housing, and healthcare. It is sad to see how elderly people with cancer or with disabilities have to sell on the streets because they have no protection from the state. What the state needs to do is to teach the police how to treat hardworking people like us. It is the police who do not allow us to work legally. I don't understand why the government doesn't let us work in peace; it's not as if they don't have other problems like crime and other stuff.

### III.3. Non-compliance Among Street Vendors as a Way to Claim Social Security Rights

To what extent are the stories of these three vendors comparable? We argue that they are comparable with respect to their critical views and political voices about the role of the state. Their personal and family backgrounds, types of goods they sell, and other details may vary, but their reasoning about the unfair and unjust nature of the state law and their claims for state social support are similar. In this connection, there are three main issues that need to be emphasized:

(1) Clara's story shows that employment in the formal sector is not flexible and does not meet the needs of women, since she was not entitled to enough time of maternity leave when she had to take care of her children. Surprisingly, informal work on the streets provided more opportunities for Clara to maintain a reasonable work-life balance as she had more free time and flexibility to look after her children. Because of the inability of the state to secure maternity leave and childcare opportunities in the private sector (e.g. in the restaurant where Clara worked), it compels its citizens to move to the informal labour market where there is more flexibility to achieve a balance between being a mother and a worker. Due to these factors, Clara disregards the state law, which prohibits street vendor work, and she claims that her work is completely legal. Clara's reasoning about her work can be regarded as an expression of her political voice and discontent with the state and its laws. Her consciousness of social security laws that entitles mothers to maternity leave makes her critical of her employer at the restaurant. While the laws regulating social security in Colombia are not applied in many cases and employers can manage to avoid legal enforcement, Clara's response shows that her ideas about rights play an important role in her fight against what she considers an unfair political system. Clara does not take her fight to the court as she does not have the time, money or trust in the legal system. Following S. Silbey's postulates about legal consciousness,<sup>44</sup> we see how Clara does not only express her ideas about the law, but she also connects them to a general feeling of lack of trust in formal jobs where she has experienced exploitation, lack of social security and no enforcement of the law. Instead, Clara's non-compliance with the law is a political strategy broadly perceived to provide care for her daughters in a country that lacks adequate day-care for children.

(2) Teresa's story is similar to Clara's in the sense that she also regards street vendors as the only available site where it is possible to find an alternative to the state approved forms of economic security. Being 69 and not having any pension, Teresa is compelled to turn to the street vending zones as a possible workplace and social safety net. Teresa's story also depicts the formalization programme as a way to get rid of the vendors. Teresa, like Clara, resists the state and its laws by continuing to sell despite police controls or government harassment. For Teresa, vending is a right when there is no other protection for elderly women like her. Non-compliance with the law is then a political strategy to claim the right to a social safety net for older people. This indicates that street vendors constitute a powerful, but covert social force, using J. S. Migdal terms,<sup>45</sup> which promotes an alternative to the state version of how people should behave in everyday life and socio-economic relations. This claim is particularly reinforced by the views of Edwin, one of the leaders of the vendors' association at the city level, who asserts that the state's attempts to regulate street vendors are

44. Susan S. SILBEY, "After Legal Consciousness", *op. cit.*

45. Joe Samuel MIGDAL, "The State in Society: An Approach to Struggles for Domination", *op. cit.*

not in accordance with the principles of social justice and human rights, having a different legal consciousness than the one upheld by the state.

(3) Being a city-level leader of a vending association, Edwin openly criticizes the laws and policies of the state. One of his central arguments is that vendors have the moral right to sell on the street, whereas the laws of the state prohibit vendors from selling on the streets. As reported in Clara's and Teresa's interviews, Edwin also refers to the state's inability to secure even the basic needs of its citizens. In the light of the state's impotence, Edwin claims that street vendors should not be prohibited, but instead facilitated and encouraged to work, given their important role in poverty reduction. Edwin and many other vendors disagree with the neo-liberal discourse stating that vendors are taking advantage of the system for their individual benefit, occupying the streets as public space invaders. Non-compliance with the law is for Edwin a political strategy to claim the right of people to earn a minimum to support their lives.

All three interviews indicate that the state's law and policies regarding street vendors are perceived by vendors as an unjust system of rules. There is an obvious discrepancy between the state law and the moral codes of vendors, which explains why the state's numerous formalization programmes cannot eradicate street vendors. Thus, addressing vendors' non-compliance with state laws is not just a matter of introducing stricter laws, but is more importantly about addressing their social security concerns. From this perspective, the apparent resilience of street vendors in Bogotá resides in their embedded moral codes (legal consciousness), and can be viewed as a political reaction to the state's inability to secure the basic needs of its citizens.

#### IV. Analysis and Implications

We started this paper by asking whether street vendors' everyday acts of resistance to the law that regulates their work can produce political meanings. In this respect, our observations and interviews demonstrated the existence of two important political claims from street vendors' ideas about the law. First, the stories of vendors in the transitional zones showed their lack of trust in the formalization policies. There, vendors claimed the need to receive better support to improve their working conditions and rejected the focus of the state on moving them off the streets. Second, the interviews with non-formalized vendors, as well as with their leaders, showed their critical position about the inability of the formal social protection system to secure the basic needs of the vulnerable strata of the population when the police continue evictions and harassments. Hence, our empirical findings exhibited the existence of a collective legal consciousness among street vendors that is critical of the legal system regulating their work. In this sense, our results support previous findings of the research on legal consciousness<sup>46</sup> that demon-

46. Sally Engle MERRY, "Legal Pluralism", *op. cit.*; Susan S. SILBEY, "After Legal Consciousness", *op. cit.*; Mary E. GALLAGHER, "Mobilizing the Law in China: 'informed Disenchantment' and the Development of Legal Consciousness", *op. cit.*; Orly LOBEL, "The Paradox of Extralegal Activism: Critical Legal Consciousness and Transformative Politics", *op. cit.*; Leisy J. ABREGO, "Legal Consciousness of Undocumented Latinos: Fear and



strates the role of people's ideas about the law in their resistance to power and domination, thereby voicing their discontent with the political system.

An unexpected finding involves the vendors' ideas and experiences with the vending zones. Vendors are critical about the government efforts to formalize their work and insist that formalization is just about getting vendors off the streets. The data illustrate how vendors fight for permanence in the vending zones, despite the three-year limit. Many insisted that they have the right to be there, that they were there before the vending zones were established and that they will continue to be there even if the government removes the tents. In this regard, the vendors' acts of non-compliance are conscious acts of resistance to the law, making use of legal consciousness "against the law", in the terms of P. Ewick and S. Silbey.<sup>47</sup> Thus, our empirical material is also in line with J. S. Migdal's argument<sup>48</sup> that there exist different social forces in society pushing for different versions of acceptable social behaviour, which results in the creation of conflictive normative systems.

In conclusion, our empirical findings show how street vendors' non-compliance with the law in the city of Bogotá constitutes a powerful act of resistance, and in this sense, a contemporary example of J. Scott's "weapons of the weak".<sup>49</sup> While the main driver of street vendors continues to be their need to earn a living for their families (the survivalist argument), they also explain their work on the streets as the result of a lack of state support to formalize their businesses, as well as the inability of the formal social protection system to secure their basic needs. Having a legal consciousness about what they consider right and wrong is essential for street vendors to manoeuvre around police officers. Vendors are aware of the spaces of power and resistance in the law and use them to claim informally a better live. Being mobile is also essential to resist the law, as the police have limited resources to control the streets, and vendors can make use of time and space to resist.

Considering that most of the workers in today's world earn their livelihoods in the informal economy, it is essential to understand their ideas about the law that classifies them as informal (legal consciousness) in order to improve their working conditions. In this sense, we criticize studies that focus on the need to create "better laws"<sup>50</sup> and insist on the need to add to the debate the political questions of legitimacy, poverty and inequality. Thus, the response to non-compliance with state laws is not just a matter of getting informal workers to obey the laws, but is more importantly about addressing their economic security.

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Stigma as Barriers to Claims-Making for First-and 1.5-Generation Immigrants", *op. cit.*; Laura Beth NIELSEN, "Situating Legal Consciousness: Experiences and Attitudes of Ordinary Citizens about Law and Street Harassment", *op. cit.*; Austin SARAT, "Law Is All Over: Power, Resistance and the Legal Consciousness of the Welfare Poor", *op. cit.*

47. Patricia EWICK and Susan S. SILBEY, *The Common Place of Law: Stories from Everyday Life*, *op. cit.*

48. Joe Samuel MIGDAL, "The State in Society: An Approach to Struggles for Domination", *op. cit.*

49. James C. SCOTT, *Weapons of the Weak: Everyday Forms of Peasant Resistance*, *op. cit.*

50. Hernando DE SOTO, *The Other Path: The Invisible Revolution in the Third World*, *op. cit.*

### ■ Les auteurs

**Ana Maria Vargas** est doctorante à l'Université de Milan (Italie) et à l'Université de Lund (Suède). Elle s'intéresse particulièrement à la façon dont le droit et d'autres formes de régulation influencent à la fois le développement ou les luttes contre la pauvreté. Son domaine de recherche concerne également l'État de droit, la question du développement, les droits de l'homme, l'économie informelle et le contrôle social. Elle a notamment publié :

— « Legal and Social Norms for Development: Why legal reform of the informal economy failed to influence vulnerable groups in developing countries », in Matthias BAIER (ed.), *Social and Legal Norms*, Farnham : Ashgate, 2013.

**Rustamjon Urinboyev** est chercheur au département de sociologie du droit de l'Université de Lund (Suède). Ses recherches portent sur les relations entre l'État et la société, les structures de gouvernances pré-soviétiques (islamiques) en Asie Centrale, l'économie informelle, le pluralisme juridique, la corruption et la gouvernance des migrations. Il a notamment publié :

— « Corruption in a Culture of Money: Understanding Social Norms in Post-Soviet Uzbekistan », in Matthias BAIER (ed.), *Social and Legal Norms*, Farnham : Ashgate, 2013 ;

— « Living Law, Legal Pluralism, and Corruption in Post-Soviet Uzbekistan » (avec Måns SVENSSON), *The Journal of Legal Pluralism and Unofficial Law*, 45 (3), 2013.