

Introduction: Studying Work Regulation Processes Beyond the Formal/ Informal Divide

Africa Spectrum

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Abstract

This introduction provides an outline of what an approach to work regulation processes beyond the formal/informal divide might look like. The first section briefly reviews the different approaches to informal economies that have been developed since the early 1970s. The second section takes a step back from this literature to draw attention to the intellectual and political weaknesses of the concept of informal economy. Building on this critique, the third section proposes avenues for studying work regulation processes beyond the formal/informal divide. To conclude, the fourth section highlights the contributions that the articles of this special issue bring to the analysis of work regulation and labour dynamics in Africa.

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Africa, work, regulation, informal economy, development discourse

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According to the International Labour Organisation's report of 2018, 61.2 per cent of workers and 80.9 per cent of economic units in the world are in the informal economy. For sub-Saharan Africa, these percentages are as high as 85.8 per cent and 92.4 per cent (ILO, 2018). When such a high number of economic activities are lumped together under a single umbrella concept, there are good reasons to question its relevance. Given the poor quality of datasets in many countries, especially in Africa, the abovementioned figures should also be taken with serious reservations (Jerven, 2013). They often say more about the production of statistics by state administrations than about the dynamics of the labour market and the life of workers.

To be sure, these problems of defining and measuring the informal economy are probably as old as the concept itself. For fifty years now, social scientists have been discussing the consistency of the concept and the criteria used to measure it. They have nevertheless failed to propose an alternative conceptual and theoretical approach (Eckert, 2019a: 162). Most studies on the subject continue to use the concept and to cite the corresponding figures of the ILO. Various explanations are provided to account for this persistent use of this concept. As explained in more detail below, however, they remain unsatisfactory for two main reasons. The persistent use of the formal/informal dichotomy prevents social scientists from understanding how work is regulated in more detail and leads them to reproduce the colonial epistemology in which it is rooted.

Building on this critique, the aim of this special issue is to explore new avenues for studying the regulation of work beyond the formal/informal divide.¹ To do so, its contributors have adopted an ethnographic perspective. Based on long-term research in various sectors (construction, transport and trade) and countries (Cameroon, Democratic Republic of the Congo, Senegal, and Burkina Faso), the following articles focus on how official rules are used in practice by state agents and workers, including those commonly classified as "informal" and thus theoretically not subject to such rules.² In doing so, they shed new light on various dimensions of work regulation processes and their structuring effects. The complexity of these processes and effects call for an approach that does not reduce them to an interplay between two opposing logics, the formal and the informal.

The purpose of this introduction is to provide an outline of what such an approach might look like. The first section briefly reviews the different approaches to informal economies that have been developed since the early 1970s and their contribution to our understanding of political economic dynamics in Africa and beyond. The second section takes a step back from this literature to draw attention to the intellectual and political weaknesses of the concept of informal economy. Building on this critique, the third section proposes avenues for studying work regulation processes beyond the formal/informal divide. To conclude, the fourth section highlights the contributions that the articles of this special issue bring to the analysis of work regulation and labour dynamics in Africa.

Approaches to the Informal Economy

The concept of "informal sector" was first coined in an ILO report on Kenya (1972) and a journal article by K. Hart (1973) on Ghana in the early 1970s.³ It referred to all the

non-wage activities that urban Africans perform to earn a living. These informal activities shared two main characteristics: they entailed self- or family employment, and they escaped state control. Both publications agreed that, far from being limited to the street hawker or the match seller, the informal sector encompassed a wide range of occupations that provide essential services to the urban poor: masons, carpenters, metalworkers, building contractors, and so forth. Although most of these occupations only allowed the urban poor to survive, some could be viewed as productive and profitable.

The concept of the informal sector was an important innovation at the time. Since the colonial era, African economies had been imagined as composed of two sectors, the “traditional” sector (subsistence agriculture) and the “modern” sector (wage employment in enterprises). In the period after the Second World War, however, cities faced a rapid increase in the number of rural migrants that the so-called modern sector was unable to absorb in the short term. State authorities and social scientists imported the concept of “unemployment” to characterise the living conditions of this urban proletariat caught between the traditional and the modern sectors and the problem this proletariat represented for maintaining social order (Eckert, 2019b; see also Cooper, 1996).

The ILO report and Hart’s article suggested that this concept of unemployment was inappropriate for three reasons. First, the people to whom it was applied could not only be viewed as formal job seekers; they had migrated to the city to pursue new income opportunities in general, including in the informal sector, not exclusively in the formal sector. Secondly, they could not simply be seen as unemployed or inactive; most of them worked very hard to earn a modest livelihood. Finally, and most importantly, the working poor were not just to be seen as a problem or a danger. Although they often lacked resources to develop their businesses, many of them were animated by a genuine entrepreneurial spirit. As a result, the informal sector was best understood as a dynamic sector with an autonomous capacity for growth. With this conviction, the ILO report made a series of recommendations (e.g. to provide financial support, technical assistance, and training to would-be entrepreneurs) to improve employment conditions in the informal sector.

In the early 1970s, it was still possible to believe that the existence of this sector was due to a time lag between the growth of the urban population and the growth of the modern sector in developing countries (Maul et al., 2019). Development experts assumed that, with time, these countries would industrialise, and most urban dwellers find salaried employment. As a result, the informal sector, like the traditional sector, would shrink. A decade later, it became clear that this prediction was not going to materialise. Far from having disappeared, the informal sector had continued to grow in most developing countries. Furthermore, a similar phenomenon was beginning to emerge in socialist countries, even though they were more industrialised. The fact that many people in these countries had formal jobs did not prevent them from turning to the informal sector to meet basic needs.

The persistence and growth of the informal sector gave rise, in the 1980s and 1990s, to a more liberal approach to the informal sector among development experts, notably in the circles around the World Bank group. From this perspective, the sector’s development

was less the result of a delay in the modernisation of the economy than in the modernisation of the state. If the urban poor developed informal activities, it was because they had no other option than to escape the multiple constraints imposed upon them by the state and its agents (bureaucratic red tape, overtaxation, racketeering, undersupply of essentials, and so forth). It is the presence of these political constraints, not their level of economic development, that third world and second world countries had in common; all were ruled by authoritarian regimes riddled by bureaucratic control. The problem behind the development of the informal sector was understood to be the nature of the state, which did not provide the necessary conditions for the development of indigenous capitalism.

In line with this premise, the entrepreneurial potential of the informal sector was forcefully stressed (de Soto, 2001, 2002; Fields and Pfeffermann, 2003; Maloney, 2003). The sector was no longer viewed as a reserve army of unemployed workers, but as a breeding ground for barefoot entrepreneurs struggling to develop their businesses on the margins of the state.⁴ To invigorate these entrepreneurs' potential, the role of the state had to be reduced and rationalised. In de Soto's work (2001, 2002), which became popular among development experts at the time, the solution was to simplify administrative procedures, enforce the rule of law, and legalise the property rights of the poor to enable them to access credit and capital. This type of analysis lent credence to the neoliberal reforms that the World Bank and the International Monetary Fund imposed on third world, and then second world countries in the 1980s and 1990s. More recently, it has also inspired various programmes to empower poor entrepreneurs, from micro-credit to Bottom-of-the-Pyramid initiatives (Elyachar, 2005; Roy, 2010; Dolan and Roll, 2013).

Neo-Marxist researchers challenged this liberal approach to the informal sector. In their view, it is based on the flawed assumption that the informal sector is composed of self-employed workers, and that they can therefore be identified with capitalist entrepreneurs (Breman, 1996; see also Rizzo, 2016). However, what at first sight appears to be self-employment often conceals various forms of dependent work. Since most informal workers do not own their means of production, they have no other option than to sell their labour power to someone else. The jobs that they get are generally poorly paid and precarious. Only few manage to get out from a day-to-day existence to start an upward entrepreneurial trajectory.

From this critical perspective, the "informal" is the result of a deliberate political strategy to place activities outside the realm of legality and legitimacy (Benton et al., 1989; Lautier et al., 1991; Smart and Heyman, 1999). Such activities do not escape state control; rather, they are governed by a regime of exception, which suspends workers' rights (Roy, 2005). Informalised workers are subject to the arbitrary power of state authorities, who can repress, tolerate, or support their activities. Of course, this regime of exception tends to benefit enterprises, as it allows them to prevent workers' unionisation, evade taxes on labour, and drive wages down; in other words, it gives them access to a cheap and flexible labour force. Those who work for such enterprises, whether salaried or not, can be viewed as an exploited working class, who plays a key role in processes of value production and profit accumulation.

Although their own work is not necessarily underpinned by a capitalist logic of profit and accumulation, it must be resituated within the global value chains of the capitalist system (Portes, 1978; Bernards, 2019; McDermott, 2021).

This broadening of the scale of analysis – from individual workers to state policies and the dynamics of the global capitalist system – made all the more sense as informality – understood as a regime of exception – appeared less and less to be a unique feature of developing countries. Since the 1970s, the transformations of the capitalist system (the tertiarisation of the economy, the development of subcontracting, etc.) and the implementation of neoliberal reforms (changes in labour legislation, the reduction in social rights, etc.) have led to an increase of precarious jobs on a global scale, including in the global North (Harvey, 1989; Munck, 2002). All over the world, the standard employment relationship, which had served as a model for employment policies in the period 1940–1970, seemed to have become the exception rather than the norm (Ferguson and Li, 2018; Barchiesi, 2019; Eckert, 2019a). Although this evolution has not affected all countries and sectors alike, it has helped blur the boundary between the formal and the informal (Hart, 2005). According to J. Breman and J. Vanderlinden (2014), the entire world is being confronted with the rise of a new labour regime of informality.

In comparison to previous studies, this neo-Marxist approach proposes a broader conception of the informal economy. First, it is no longer viewed as an exclusively urban phenomenon; it also includes informal activities in rural areas (in agriculture or not). As workers, but also commodities, techniques, and ideas circulate between the urban and the rural, they are part of broader economic systems. Second, the informal economy is no longer viewed as confined to an informal sector distinct from a formal one, as formal enterprises also make use of various forms of informal employment. This broader perspective captures the “functionality” of informal activities to the capitalist system. Finally, the informal economy is no longer seen as unique to developing countries; it also blooms in the developed countries of the North – the “core” of the capitalist system (Portes and Sassen, 1987; Sassen, 1994).

This brief overview of approaches to the analysis of informal economies since the 1970s does not do justice to the wealth of empirical studies on the subject. Together, they have indubitably improved our knowledge of the livelihood practices of the poor in Africa (and elsewhere). They have shed new light on – among other dimensions – their life trajectories, cultural ethos, social world, dependent relationships with capitalist firms, and capacity to organise politically. The question remains, however, whether and to what extent scholars and policy makers’ persistent use of the concept of informal economy has unnecessarily limited how African political economies are imagined, represented, and understood.

Informality and Development Discourse

The development of these approaches in the study of informal economies has been accompanied by a discussion on the relevance of the concept of the informal sector itself. From its inception, social scientists pointed to the limitations of the concept: it

lumps together heterogeneous activities, it ignores their multiple linkages with the formal sector, there is no reason to limit such activities to urban areas, and so forth (Lautier, 2004). It is these limitations that led to the development of the broader approach to informality described above.

Following these developments in the social science literature, the ILO has considerably broadened the scope of its reports on the “informal economy.” They now include figures on the agricultural sector, which is viewed as an integral part of the informal sector, and informal employment in the formal sector. They also cover the different regions of the world, including Europe and North America. In theory, the ILO no longer considers informality as specific to an employment status (the self-employed worker), to an economic sector (the informal sector), or to a given area (the cities of developing and emergent countries). The ILO’s broader definition of the “informal economy” attaches it to all economic activities that are unprotected under the law and therefore tend to present “decent work deficits.” What these activities have in common is that they are poor-quality, unproductive, and unremunerative jobs characterised by the absence of rights at work and inadequate social protection (ILO, 2002: 4).

This broader approach does not, however, solve the problem of the vague and normative nature of the concept of informal economy. On the contrary, it encompasses an even larger range of work situations, including various forms of wage employment and informal enterprises in rural areas. The concept’s fuzziness is largely acknowledged in the social science literature, most authors conceding – before using it – that the concept is inconsistent, nebulous, or sloppy. Furthermore, the concept continues to define so-called “informal” practices negatively with reference to the ethnocentric model of “decent” salaried employment: they are understood as *informal*, *non-standard*, or *wageless* forms of work (Denning, 2010; Monteith et al., 2021; Haid and Hilbrandt, 2019; Ferguson and Li, 2018). This characterisation of the other (or what they do) by what they are not (or what their activities are not) is typical of development discourse. It is this absence of, or deviance from, Western norms, that justifies the principle of trusteeship (i.e. the intervention of external actors to improve the lot of the underdeveloped other and to lead them on the path to progress) (Li, 2007). The development-oriented nature of the concept is once again evident in ILO reports and programmes. Despite changes in how it defines the informal sector, in practice, its approach to the problem of informality has largely remained unchanged. Its priority remains to promote the “transition from informality to formality” by supporting development programmes for the benefit of the poor and vulnerable in developing and emergent countries (ILO, 2014).

In a nutshell, the concept of informal economy is best understood as a development concept rather than a sociological one (Escobar, 1995; Ferguson, 1994; Cornwall and Eade, 2010). International organisations, such as the ILO and the World Bank, have championed it for its policy implications, not for its heuristic qualities (Bromley, 1978). Today, the ILO readily admits that the informal economy does not look the same from one country to another, and that it covers a wide range of work situations (see, e.g. ILO, 2014). At the end of the day, however, this diversity does not really matter. What counts for development organisations is that it exists (it can be measured),

that it is a problem (it is characterised by decent work deficits and weak productivity) and that it requires corrective action (a transition to formality). The concept is not used to understand social reality in its complexity, but to construct an anomaly and, in doing so, to justify development organisation's intervention.

The problem is different for social scientists. As discussed in the next section, the formal/informal dichotomy prevents them from developing a nuanced understanding of how work processes are regulated. It is also inevitably grounded in a colonial (binary and evolutionary) epistemology, which reduces the economy to a normative opposition between two realms: one (the formal) is subjected to state regulation and offers "good" jobs, and the other (the informal economy) escapes state regulation and offers "bad" jobs. This opposition is embedded in a network of broader oppositions between strong and weak states, developed and developing countries, and so forth. Together, these pairs of opposites form a coherent semantic structure that underpins development discourse since the colonial period. From a practical perspective, the use of the formal/informal dichotomy in science social research has contributed to reproduce this colonial legacy by making the livelihood practices of the poor legible to international organisations, and bringing them into the realm of their development programmes (Scott, 1998).

Several reasons can be given to account for social scientists' enduring use of the concept. First, it has allowed them to make connections with international organisations, obtain funding, and give some political import to their own research (all cite the figures of the ILO on the importance of the informal economy). Organisations, such as the ILO and the World Bank, have played a key role in the development of social science research on informal economies over the past fifty years. Second, as we saw in the previous section, the concept has crystallised contradictory (liberal *versus* socialist) political projects which have influenced how social scientists understand informal economies: for some, the potential of informal entrepreneurs is hampered by the constraints imposed upon it by the state; for others, informal workers are exploited by capital because of the state's inability to protect their labour and social rights. This ideological debate, which is still alive in the recent literature, has given the concept some political weight. Whatever their ideological orientation, for a number of social scientists, abandoning the concept of informal sector would mean abandoning the political project with which they associate it. Finally, in connection with the two previous points, the concept has offered social scientists doing research in different sectors and countries the opportunity to network and participate in a broader scientific conversation (e.g. participating to the same conferences, contributing to the same edited volumes, or collaborating on the same comparative research project). Since the 1970s, the informal economy has become an umbrella concept for an extraordinary wide range of research (see, e.g. Ledeneva, 2018).

For all these reasons, it is difficult to distinguish the way in which the concept of informal economy is used by international organisations and social scientists. Its success over the past fifty years highlights the enduring influence of the development paradigm on the social science research agenda in Africa (Bierschenk and Mongbo, 1995). The question now is how we could break with this legacy and study the dynamics of labour beyond the formal/informal divide. Before providing some suggestions along these lines in the next

section, let me point out the limitations of the two main solutions offered to this problem in the literature.

The first is to take the two terms as poles in a continuum with most economic activities falling in between. Subjected to hybrid forms of governance, combining both formal and informal aspects, all economic activities show various shades of grey (see, e.g. Guha-Khasnobis et al., 2006; Chen and Carré, 2020; Smart, 2021). This is a convenient solution, but it replaces the binary with a continuum without questioning the supposed fundamental differences between the formal and the informal.

A second solution, to which we already alluded above, is to understand the informal as a state of exception, the result of a political strategy aimed at marginalising the livelihood practices of the poor (Lautier et al., 1991; Roy, 2005). The focus here is on the often ambiguous relationships between international organisations, state agencies, trade unions, and the informal workers themselves involved in (in-)formalisation policies. Such an approach has the merit of considering the informal economy as a political construct, not a reality that would exist out there, independently of the concept. Since its aim is to understand how economic activities are (in-)formalised, however, it remains grounded in a binary epistemology.

Since the early 2000s, a series of publications have come out with promising (sub-) titles, such as “rethinking,” “reconsidering,” or “revisiting” informal economies (Hansen and Vaa, 2004; Chen and Carré, 2020; Meagher, 2010; Guha-Khasnobis et al., 2006). In light of the critique developed above, such titles are misleading. What these publications propose are new avenues for understanding and solving the “problem” of the informal economy. While they acknowledge that the concept itself poses difficulties, they do not question it. Their authors – most of them researchers working in close collaboration with international organisations – endorse their position on this point: a) although the informal economy encompasses a variety of enterprises and jobs, they have in common being unregulated by the state and offering poor working conditions; and b) thus, measures must therefore be taken to formalise these activities and protect workers. In other words, the scientific relevance of the concept is secondary to its policy implications.

The Regulation of Work

A possible source of inspiration for moving beyond the formal/informal dichotomy is to follow the analytical shift made by Latour (1997) to redistribute the dichotomy between nature and culture. For this author, this dichotomy – which is constantly reproduced by scientific discourse – is at the basis of the colonial “great divide” between the West and the rest. Yet, it is insufficient to understand the interactions between humans and non-humans. To move beyond the nature/culture dichotomy, Latour calls for adopting a bottom-up approach to look anew at the ways in which humans and non-humans compose the world we live in. The difference is that our starting point here is not the relation between scientists and non-humans, but that between state agents and workers, and

what is at issue is not how we understand the role of science, but how we understand the role of the state and the law in work regulation processes.

Our ethnographic approach in this issue focuses on the processes involved in the regulation of work. By work, we mean any activity providing a livelihood. This implies rejecting any *a priori* distinction between work (the salaried worker) and economic activity (the self-employed worker). Both forms of work may implicate various degrees of dependence and exploitation. Furthermore, this distinction can itself be viewed as the product of formalisation policies promoted by international organisations, governments, and trade unions since the 1970s. By regulation, we refer to the ways in which the actors involved use official rules to organise labour. This broad understanding of the concept of regulation takes its inspiration from the tradition of legal anthropology (Moore, 1978; see Dupret et al., 2020).

At the centre of work regulation processes are interactions between state agents and workers. To study the work of state agents, we move away from a monolithic conception of the state. There is not one state machine, but various state administrations with distinct missions, powers, and resources. The contributions to this special issue accordingly draw attention to the materiality of state agents' work. It is influenced by the material means at their disposal and the physical nature of the economic activities under their supervision. In Douala, it is easier for them to raid construction sites along major roads than inside city blocks, where roads are in a bad state (see Bakebek, this issue); in Kisangani, state agents can only control boats in ports, as they have insufficient equipment to track them on rivers (see Lambertz, this issue); in Kinshasa or Ouagadougou, on the other hand, they have no difficulties collecting taxes from traders established in and around the city's great market as they are established in a fixed location (see Mesa, this issue; Ayimpam, this issue).

However, the materiality of regulation is not limited to the physical constraints encountered by state agents in their control work. It affects the very nature of regulation, what is commonly lumped together under the category of the "formal" covering in practice a set of heterogeneous "formalities." These formalities first consist in documents that workers must complete and/or display to be in order with the law (Hull, 2012). The use of such documents (how they are imposed, negotiated, forged, and so forth) offers a fruitful starting point for studying work regulation processes (see Bakebek, this issue). Formalities also include various objects, such as cars, offices, uniforms, or stamps (Hansen and Stepputat, 2006). Like documents, these power symbols are used by state agents to impose their authority over workers and control their activities.

Particular attention must accordingly be paid to the bluff practices of state agents and their performative effects (see Cissokho, this issue; Lambertz, this issue). To use Goffman's terms, interactions between state agents and workers involve impression management work (Rubbers, 2007). State agents commonly pretend to have more powers than they actually have by threatening workers with a thorough inspection, a fine, or imprisonment. In response, workers often attempt to soften them up (they show them respect, make them small gifts, etc.) or to gain the upper hand over them (they claim to know the law, to have political connections, etc.). It is nevertheless important to avoid reducing state agents' bluff practices to false pretense. As the contributions of

Cissokho and Lambertz in this issue suggest, the weaker their authority, the more they tend to take state power rituals and symbols seriously, as these enable them to command respect for their work and, in some cases, to earn a living. Insofar as rituals and symbols have a real impact on workers' behaviour, they also participate in the regulation of their work practices.

To avoid the pitfalls of the formal/informal dichotomy, it is also necessary to move away from a mechanical understanding of law enforcement. As the anthropological literature on the state in Africa shows, state agents are not confronted with an alternative between enforcing the law or not. They have discretion in adapting official rules to situations (Blundo and Olivier de Sardan, 2006; Bierschenk and Olivier de Sardan, 2014). The way in which they do so largely depends on the organisation of work in their administration, on workers' social characteristics, and on the social ties they have with them. In other words, the work of state agents is governed not only by official norms, but also by other types of norms, such as the practical norms specific to an administration, or the etiquette norms that prevail in the wider society (De Herdt and Olivier de Sardan, 2015; Ayimpam and Bouju, 2019). These other types of norms play a key role in the regulation work of state agents. However, they are generally not disconnected from official rules. It is essential to move away from a binary formal/informal approach, which emphasises the existing gap between formal and informal norms, in favour of an approach centred on the uses of the law. From this perspective, state agents are not confronted to an alternative between formal and informal norms; they take into account various norms when adapting legal rules to situations.

As a matter of fact, the following contributions suggest that very few economic activities escape the power of the state and the law in Africa. Even in the Democratic Republic of Congo, ranked among the most informalised economies of the world, state agents are literally everywhere. Depending on the resources at their disposal, they exert various degrees of control over economic activities, and official rules generally play a crucial role in this process (see Mesa, this issue; Lambertz, this issue). Indeed, the fact that the law is ordinarily negotiated and circumvented does not mean that it is ignored (Rubbers and Gallez, 2012). State agents use it to justify the taxes they demand from workers. In return, workers often develop a deep knowledge of the laws regulating their trade or profession and make sure to give their activities at least the appearance of formality. This allows them not only to protect themselves from state agents' extortion practices, but also to claim their rights in case of conflict, to display their economic status, and to organise their own activities.

This brings us to the role of workers in the regulation of their own activities. These workers may themselves call the livelihood activities that fall outside employment in enterprises or administrations "informal." Such use suggests that people in Africa and elsewhere have to a certain extent internalised the standard employment model championed by the ILO, governments, and trade unions since the 1970s. What was originally a public policy concept has become a widespread popular concept. It is important, however, to study the pragmatic uses of this popular concept (or its local equivalents) in more detail. In the Democratic Republic of Congo, for instance, the "informal" is

often associated in popular discourse with virtues, such as force, cunning, and resourcefulness (Petit and Mulumbwa, 2005). So, the lexicon of the “informal” gives access to a moral economy that legitimises livelihood practices condemned in official discourse. It would be interesting to extend this approach to the ways in which the term “informal” is used by international experts, political leaders, and state agents to better grasp the different value regimes with which it is invested when it travels from one context to another.

In any case, the fact that people use the term “informal” to label their activities does not necessarily mean that they are actually so (i.e. that they escape state control, the payment of taxes, the obligation to follow certain official rules, and so forth). Beyond actors’ point of view, more attention needs to be paid to their regulatory practices. Although workers generally have considerable autonomy in doing so, it is often difficult to understand how their trade is organised without reference to the corresponding legal framework. The law is not only a “regulating rule,” but is also a “constitutive rule” of the game for the workers themselves (Giddens, 1987: 68–69). In the construction sector in Douala, Bakebek (this issue) argues, most work contracts are concluded orally in the light of the law. From this perspective, the law is neither ignored nor expressly circumvented (Chiodelli and Moroni, 2014). Signing a written contract is simply understood by the workers as a lack of confidence from the entrepreneur in their skills and loyalty and an unnecessary constraint for what is only, at the end of the day, a temporary work arrangement.

Although the navigation rules on the Congo river and its tributaries have not been in force for decades, the crews of the *baleinières* studied by Lambertz (this issue) remain attached to them. These artisanal boats are not subjected to any technical inspection, yet their owners must register them, an obligation they are keen to fulfil. Boat registration is, for them, a key symbol of their material success: it officially proves that they have become “armateurs.” A similar observation can be made with respect to working conditions on the boats. The fact that they violate labour laws does not prevent their crew members from being picky when it comes to their titles and the benefits attached to them. This attention to forms and formalities suggests that, independently of their interactions with state agents, workers cultivate a certain “legal consciousness,” and that this consciousness is embedded in the everyday organisation of their work (Rubbers and Gallez, 2012; see Ewick and Silbey, 1998).

As the articles of Mesa and Ayimpam on traders in Kinshasa and Ouagadougou show, some categories of workers (here, vendors) have set up “trade unions,” “associations,” or “cooperatives,” which fulfil various economic, social, and political functions for their members. As such, these unions can be viewed as regulatory bodies in their own right. They have the power to settle disputes between members, and to impose their own rules in the sector. They are also recognised as legitimate intermediary bodies by state authorities, who can call upon them to collect taxes, enforce legal measures, or implement reforms in the sector. In return, their representatives put pressure on state authorities to change the rules affecting their trade and defend their members’ interests. In some cases, these trade unions develop a real mobilising capacity, which gives them the power to influence the political game (see, e.g. Lindell, 2010). Their role in the regulation

of work cannot, for this reason, be completely dissociated from their implication in the political field and the dynamics of patronage networks.

Finally, the study of work regulation processes can contribute to analysing the dynamics of inequality within a given sector in a new light. Our assumption is that the inequalities these processes generate do not necessarily come down to a binary opposition between the formal and the informal. In most cases, it is possible to identify several regulatory regimes, which involve different procedures and categories of state agents. For workers, these regimes do not offer the same advantages and disadvantages: they vary depending on the size of their business; they do not involve the same costs; and they do not expose them to the same risks of control and prosecution (Rubbers, 2007). As a result, the existence of various regulatory regimes tends to reflect, and at the same time, amplify the existing inequalities between workers.

The Articles

Based on ethnographic research carried out over the past ten years, the articles of this special issue shed new light on different dimensions of the regulation of work in Africa.

Authored by Sidy Cissokho, the first article focuses on the ordinary work of labour inspectors in Dakar, Senegal. In a sense, since their mission is to make sure that the provisions of the labour code are respected, this work is at the heart of this issue. Over the past two decades, the resources made available to inspectors have increased considerably, enabling them to carry out more inspections, consultations, and mediations throughout Senegal. However, their numbers remain insufficient to have an impact, especially since they limit their inspection work to “formal” companies – a subjective quality, which agents determinate on the basis of companies’ sector of activity and the size of their buildings. Since the state has stripped them of their sanctioning powers, inspectors also have a weak authority over their interlocutors. Their work basically consists of making suggestions to employers or convincing them to reach an agreement with their employees. To do this, Cissokho shows, they must assert their superiority and impartiality over the parties present by showcasing their symbolic power as state representatives and their expertise in labour law. The result of this power performance is paradoxical. Labour inspectors use the law (and the threat of taking the case to court) as leverage to convince employers and employees to reach an agreement outside the law. This is because, from their point of view, the issue is not whether the situation is formal or informal – they usually lack information to settle this point. Rather, their goal is to use the law as a tool to orient, and reform, the employment practices of employers.

Peter Lambertz’ article continues this analysis by focusing on the material dimension of regulation and the use of official rules, documents, and symbols by workers themselves. The *baleinières* (wooden boats powered by an engine) of his study handle more than half of the river transport around the city of Kinsangani in the Democratic Republic of Congo. Since they are on water and navigate at night most of the time, the state has little control over these boats’ traffic. In the port of Kinsangani, however, they are controlled by several state administrations for whom their owners and crews

must fulfil various formalities and to whom they must pay various taxes. Three points can be drawn from Lambertz's analysis of these interactions. First, it highlights the material dimension of regulation, the constraints that water, and the night, impose on the state's capacity to control the traffic of baleinières. Second, it draws attention to the importance of rules, documents, and official symbols not only for state agents, but also for boat owners and their crews. In the absence of effective state control and regulation, the workers themselves use official rules – those currently in force or those that were in force in the past – to organise their work. This observation leads the author to claim in the conclusion that “It is baleinières who appropriate the regulating standards of the state and its international partners, and not the other way round.” The last point is that it is difficult to distinguish between formal and informal workers among the crews of baleinières. Although boat owners and crews negotiate formalities with unequal success, they are all confronted to the same formalities, which are not the same as for barges (larger boats, which navigate the Congo River between Kisangani and Kinshasa) and canoes (smaller boats, which navigate secondary rivers). There are therefore various regulatory regimes connected in complex ways to the inequalities characteristic of the Congolese river transport sector.

The following two articles both draw attention to the multiplicity of actors involved in the regulation of urban markets in two capital cities – Kinshasa in the Democratic Republic of Congo and Ouagadougou in Burkina Faso.

Héritier Mesa's article analyses changes in the regulation of commercial activities following the destruction of Kinshasa's central market in 2021 and – while awaiting its reconstruction – the creation of a temporary market in neighbouring streets. As Mesa shows, the formal/informal dichotomy is inadequate to account for the complexity of the regulation processes involved. Far from being outside state control, this market is under the influence of a large number of state representatives, who work at different levels in various state bodies and administrations. Control of access to market spaces offers these representatives a major source of rents. In addition, market regulation is largely delegated to intermediaries, such as *chefs de pavillon* (who administered a specific area of the central market) or vendors' unions (who represent the interests of vendors dealing with a certain category of goods). As the role played by these intermediaries shows, the relationships between state agents and workers fluctuate between confrontation, alliance, and various forms of accommodation. They cannot be simply reduced to a dialectic between the formal and the informal. Finally, although they are routinely circumvented and negotiated, official rules and procedures are omnipresent in these interactions. As Mesa argues, the formal/informal opposition fails to capture the ways in which official rules are adapted in practice and the consequences that these regulatory practices have for vendors and their ambition to gain access to a more strategic market space.

The context of Sylvie Ayimpam's article on the great market of Rood Woko in Ouagadougou is different. Following a fire in 2003, this Burkina Faso was rebuilt with the support of the *Agence Française de Développement* (AFD). The article shows that the safety rules imposed by the AFD to prevent another fire have been circumvented by the vendors: they continued to store their goods in the shops, to expose their goods

on the passageways, and to sublet their shops. The result is that the new market has four times as many traders as expected, and the risk of fire is once again high.

To account for vendors' practices, Sylvie Ayimpam highlights their business strategies. She also points to the pressure exerted by politicians who have invested in shops and derive revenues from their activities. Finally, she stresses the role of vendors' unions, who have not kept their promises. During the consultation before the reconstruction of the market, state authorities and the AFD accommodated their request to keep the same number of shops in return for compliance with safety rules. Once the new market was built, however, the unions did nothing to enforce these rules. In a sense, this resistance from vendors' unions marks a failure of government's effort to place the "informal sector" under control since the late 2000s. Within this strategy, unions were expected to represent the "informal" sector and thereby facilitate its administration. The example of the great market shows that the unions have been able to use this strategy for their own benefit and select the measures implemented.

The last article of this special issue, written by Ludovic Bakebek, proposes an analysis of the contractual practices of construction workers in Douala, Cameroon. Whatever the type of activity under scrutiny, most studies on African economies assume an a priori distinction between a formal and an informal sector. Bakebek's article shows that this distinction is inappropriate for studying employment conditions in the construction sector. On the one hand, having a "formal" job in a company offers no guarantee in terms of job and income stability. Consequently, those who have such a job seek to develop self-employed activities on the side. On the other hand, having an "informal" job is not necessarily synonymous with job and income insecurity. Most construction workers remain employable in the sector by developing their technical skills and their network of professional contacts.

To study employment conditions from another perspective, the author focuses on the different norms involved in the contracts that bind construction workers to each other. This approach allows him to distinguish between three statuses among construction workers, those of labourers, skilled technicians, and project managers. What differentiates these categories of workers from each other is not the formal or informal nature of their employment contracts, but their level of school education, their technical skills, and their social capital both in the sector and in the state apparatus. If formalities (having a formal work contract, for instance) are viewed as a form of capital, it is clear that this formal capital has a weak influence on construction workers' career trajectories.

To conclude, there is one last cautionary note. It may be argued that the formal/informal dichotomy has become so entrenched among policy makers, social scientists, and even in ordinary language, that it is illusory to seek abandoning it. This is true: it does not differ in this respect from other dichotomies, such as nature/culture or man/woman, that have been put into question in the social sciences over the past thirty years or so. The aim of this special issue, however, is not so much to forbid the use of this opposition (several contributors continue to use it) as to draw attention to its limits and, on the basis of this critique, propose another approach for understanding the dynamics of labour in Africa. As we have seen above, this approach takes as its point of

departure work regulation processes. The following contributions highlight various dimensions to be taken into account in the study of these processes and their structuring effects. They also illustrate the insights that can be gained from such an approach to analysing the dynamics of labour in different sectors. Focusing on regulation in this way does not preclude studying the implementation of formalisation policies or the pragmatic uses of the term “informal” by the actors themselves. It only implies considering informality as an emic concept and nothing more for two reasons: it often hides more than it accounts for what is going on in practice. The conceptual formal/informal framework also reproduces the binary evolutionism through which African economies have been imagined since the colonial period. Whatever the merits and weaknesses of the approach foregrounded here, it is now time to take a fresh look at the dynamics of labour on the continent.

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Notes

1. This special issue is the outcome of a seminar held at the University of Liège, Belgium in June 2022. It builds on ideas first developed with the Regulating Work research project led by B. Rubbers and F. Pichault in this university.
2. By workers, we mean all working people, whether employed or self-employed. By state agents, we mean all state employees, including state authorities and senior civil servants. Having said this, we are above all concerned here with street-level bureaucrats.
3. This section reviews how social scientists have used the concept of ‘informal sector’ over the past fifty years. This implies mentioning this concept, as well as other concepts from the past, without endorsing them. For ease of reading, however, they have only been put in inverted commas the first time.
4. Although they did not necessarily endorse a liberal standpoint, social scientists at the time were influenced by this new perspective on informal economies. In their studies, they focused on the ethos of indigenous entrepreneurs, the adaptative capacities of their social networks, and their tactics of resistance to the state (see, e.g. Mac Gaffey, 1987; Grégoire and Labazée, 1993; Ellis and Faure, 1995; Tripp, 1997).

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Author Biography

Benjamin Rubbers received his PhD degree in Social Anthropology from the Université Libre de Bruxelles and the École des Hautes Etudes en Sciences Sociales in 2006. After a postdoctoral fellowship at the University of Oxford, he was appointed Professor at the Université de Liège and Lecturer at the Université Libre de Bruxelles. Since 2015, he has been a Research Associate at the Society, Work, and Development Institute of the University of Witwatersrand. His research focuses on social change in the Congolese Copperbelt, where he has done frequent fieldtrips since 1999. His PhD thesis looked at the social world of white businessmen, who played an important economic and political role in Congo before the mining boom. After the completion of his thesis, Benjamin carried out two other research projects, the first on the life trajectories of Gécamines workers and the second on the everyday functioning of local justice courts. In 2014, he was awarded an ERC Consolidator grant for the WORKinMINING project, which dealt with the power games involved in the HR management practices of new mining projects in Central Africa. To study these micropolitics of work, a team of six researchers conducted ethnographic research with workers, trade unionists, human resources managers, and state actors in Congo and Zambia from 2016 to 2019. Since 2019, in collaboration with another colleague from the University of Liège, Benjamin leads a collective and comparative research project on the regulation of work in the construction and transport sectors in Cameroon and Belgium. The aim of this project is to provide new avenues for studying the dynamics of work beyond the formal/informal dichotomy and the North/South divide underlying it. In total, Benjamin is the author of three monographs and around 30 contributions to international journals or edited collections. He also (co-)edited five journal special issues or edited volumes. These publications touch on various core themes: work, livelihood strategies, mining, corporate governance, capitalism, public reforms, and the uses of law.

Introduction : Etudier les processus de régulation du travail au-delà de l'opposition formel/informel

Résumé

Cette introduction dessine les contours d'une approche des processus de régulation du travail qui va au-delà de l'opposition formel/informel. La première section dresse un rapide état des lieux des différentes approches qui ont été développées pour étudier les économies informelles depuis les années 1970. La deuxième section prend ses distances avec cette littérature pour attirer l'attention sur les faiblesses intellectuelles et politiques du concept d'économie informelle. Prenant appui sur cette critique, la troisième section propose des pistes pour étudier les processus de régulation du travail au-delà de l'opposition formel/informel. Pour conclure, la quatrième section met en exergue la contribution que les articles de ce numéro spécial apportent à l'analyse de la régulation et des dynamiques du travail en Afrique.

Mots-clés

Afrique, travail, régulation, économie informelle, discours du développement