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Translating Institutional Templates: A Historical Account of the Consequences of Importing Policing Models into Argentina

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Abstract

This article focuses on the translation of the French and English law enforcement models into Argentina and analyzes its consequences in terms of social order. Whereas in the former two models the judiciary and police institutions originated in large-scale processes of historical consolidation, in the latter these institutions were implanted without the antecedents present in their countries of origin. The empirical references are Argentine police institutions, particularly the police of the Buenos Aires Province, observed at two moments in which the institutional import was particularly intense: towards the end of the nineteenth and beginning of the twentieth centuries, and at the end of the twentieth century. By way of tracing these processes of police constitution and reform, we show how new models of law enforcement and policing interacted with indigenous political structures and cultural frames, as well as how this constellation produced a social order in which legality and illegality are closely interwoven. The article is an attempt to go beyond the common observations regarding how an imported model failed; instead, it dissects the effects the translation actually produced and how the translated models transform into resources that reshape the new social order. A crucial element, the article shows, is that these resources can be instrumentalized according to »idiosyncrasies«, interests, and quotas of power.

Keywords: institutional import, police, politics, social order, Argentina



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Introduction

The notion of plural normative orders usually refers to the coexistence or interaction of different systems of norms in any geographical space defined by the boundaries of a nation state. Normative orders that differ from the official legal system (i. e., state law) are recognized as such – and not simply outlawed – due to their legitimacy, expressed as being an accepted way of guiding behavior and social expectation within a given community or social group. For the purpose of the argument presented in this article, it is worth stressing that those who represent these coexisting normative orders make *public claims* about their validity. The resulting social order, therefore, contains *publicly* recognized procedures and mechanisms aimed at the coordination and adaptation of the normative orders mentioned.

This article presents a different case of normative pluralism. In what follows we present the case of a plural normative order in which the normative order that differs from the official legal system is legitimate, in the sense that it is a socially accepted way of guiding behavior, but is not – and cannot be – publicly recognized. More specifically, this article describes a social order created by the interaction of the official legal system and a well-rooted informal and illegal system of norms. Although we do not use the term »corruption«, the phenomenon at stake could also be described as a social order in which the legal system interacts with generalized state corruption. In the language of the so-called informal institutions, those understood as »socially shared rules, usually unwritten, that are created, communicated, and enforced outside officially sanctioned channels«,¹ this article deals with a type of informal institution which »structures incentives in ways that are incompatible with the

formal rules: to follow one rule, actors must violate another«. ² We do not assign the same moral value to both normative orders; however, we do try to capture the relevance of informal and illegal sets of norms as socially accepted ways of guiding behavior, producing justifications, and expecting future events, because it unavoidably affects the workings of the official normative order. In short, this article dissects the history of a social order composed of both an official system of norms and a system of norms that is illegal but socially accepted.

It is contended that this particular type of social order is not an isolated case of institutional corruption, but the result of the translation or import of law enforcement models from »central« countries into a »peripheral« one. Whereas in the former the judiciary and police institutions originated in large-scale processes of historical consolidation, in the latter these institutions were implanted without the antecedents present in their countries of origin. The empirical references are Argentine police institutions, particularly the police of the Buenos Aires Province, observed in two moments in which the institutional import was particularly intense. The first moment coincides with the first phase of globalization, towards the end of the nineteenth century and the beginning of the twentieth century. This period saw the creation and consolidation of the Argentine Federal Police and, in consequence, of the police of the Buenos Aires Province. The second moment coincides with the second phase of globalization towards the end of the twentieth century, as political authorities, interested in turning to a model that would overcome the recognized shortcomings of the previous model, tried to reform the Buenos Aires Province Police.

By way of tracing these processes of constitution and reform of the Buenos Aires Province Police, we

1 HELMKE/LEVITSKY (2006) 5; see LAUTH (2000).

2 HELMKE/LEVITSKY (2006) 15.

show how new models of law enforcement and policing interacted with indigenous political structures and cultural frames, and how this constellation produces a social order in which legality and illegality are closely interwoven. The article, therefore, is an attempt to go beyond the common observations regarding how an imported model *failed*, instead dissecting the effects the translation actually produced. We observe the effects of the »cultural translation« of such normative orders and pay attention both to different concrete practices stemming from this translation and to the new meanings imparted to the traditions of the new social environment. As we inquire into these processes, we are able to observe how different legal orders compete and how social actors, collective and individual, are either conditioned by them or succeed in instrumentalizing them for their own interests.

Though this study reveals processes and circumstances that cannot be generalized, nevertheless it has a heuristic value: it illuminates further research aimed at capturing homologous processes in other social contexts. As noted when we formulated the concept of »clusters of order«,³ the hybridization of traditionally mutually exclusive spheres – of the legal and the illegal – functions as the foundation of the social order in many social contexts, and this can also be observed in the case presented. In this way, the case reveals how the interplay between different models of law enforcement, which came into contact with one another due to globalization, leads to the constitution of diverse types of legal and social order. This perspective, therefore, attempts to see beyond the classic view that the import of a model implies its exact translation into the new context, suggesting instead the idea that this translation implies the introduction of a set of resources. The crucial element is that these resources can be instrumentalized according to »idiosyncrasies«, interests, and quotas of power. These resources intervene and play a major, though not determinative, role in the constitution of the social and legal order.

The article proceeds as follows. In the next section we introduce a characterization of the different models of law enforcement developed in central countries, before showing how they were »translated« into the Argentine social context in

the aforementioned two instances. Following this, we discuss the concept of the cluster of order as an instrument for interpreting processes such as those that took place in Argentina. Here we compare the ways in which the problem has been analyzed and highlight the advantages introduced by the perspective presented in this article. In the final section, we show how this perspective contributes to a novel understanding of the globalization of normative orders, especially helping to overcome socio- and ethnocentric views of the problem at stake.

Two Models of Policing and Their Evolution

From the very beginning, the formation of the Argentine police, including the force responsible for the province of Buenos Aires, was influenced by two models in tension. The first originated in France and the second in the United Kingdom, although the latter was further developed in the United States, where a number of particularities came to be incorporated into the model. It is worth emphasizing that the models orienting the formation process of the Argentine police were not consistent. As we will show, the models were different and even opposed in some cases. In the Argentine case, the hybridization resulted from efforts aimed at solving the practical problems generated by one model by using the potential advantages of the other.

The French model that was originally introduced in Argentina also experienced a dual beginning. In principle, the enforcement of the law at the hands of police organizations was conceived in the seventeenth century in order for the absolutist state to consolidate its power. It was a centralized model with a strong militarist bias, whose purpose was to strengthen territorial unity by promoting a universal norm enforced by a central power.

However, as a consequence of the emergence of more populous cities and the resulting formation of a new urban class during the Napoleonic Reforms, the police incorporated a key function: to control and order the urban space. In that sense, in addition to the task of fighting crime, the police assumed an ordering and moralizing function,

3 DEWEY/MÍGUEZ/SAÍN (2017).

especially in relation to problems such as the circulation of people and transport, overcrowded housing and hygiene in the cities. Thus, in spite of the mutation from a macro-political to a micro-political function, in both cases the police was a centralized institution operating »over« civil society, controlling it and performing a civilizing role.⁴

Contrary to the French model, the formation of the British police was inspired by the liberal ideals that developed from the seventeenth century onwards. It was a police force created with the intention of promoting security throughout the territory as well as ensuring the prosperity and well-being of its inhabitants. Thus, although the police force was created with the obvious task of combating crime, this particular goal was actually embedded in another, more general aim: the mediation of everyday conflicts and the promotion of a social order that would facilitate economic exchange and commerce.⁵

Seen from this perspective, this model of policing sought, in addition to controlling and disciplining citizens, the constitution of a police power based on civil society consents and oriented toward their reproduction. However, when this model was imported into the United States, the context required that it was only partially adopted. Tensions in specific spheres of American society, particularly those related to issues of race, made it difficult for the police to withdraw from the conflicts affecting the population. Thus, broadly speaking, the American police tended not to intervene in everyday conflicts as an instance of regulation and pacification, but tended to act as an interested party, operating as a disciplinary force upon the weak sectors of society (i.e., the more disadvantaged ethnic groups).⁶

As already pointed out, unlike in Europe or the United States, the French and Anglo-Saxon models employed in Argentina did not operate independently, but constantly alternated with one another in successive police reforms, of which the main aim was to overcome the shortcomings and difficulties present in the Argentine police. However, it is worth mentioning that such alternation was not a planned introduction of features of the two

models. In the next section, the paper shows that the successive police reforms were a juxtaposition of partially different models that resulted in a sort of institutional palimpsest containing its own particular dynamics, tensions and emerging features.

The Formation of the Buenos Aires Police Force

The formation of more or less professionalized police services in Argentina, and particularly in the Buenos Aires Province, is the result of a long process which began during the consolidation of the national state in the second half of the nineteenth century, and ended with the emergence of Peronism in the mid-twentieth century.⁷ Before this period, policing in Argentina was the task of rural militias, commonly staffed by agents with dubious legal records that operated inorganically, controlling rural banditry and political dissidents, as well as committing fraud, if necessary.⁸ From 1880 onwards, a process of centralization and professionalization took place among the police of the Buenos Aires Province. The legislature passed a law in 1880 that created the police force of the province, and in 1890 the *Reglamento General de Policía* was enacted.

During its formation process, the police of the Buenos Aires Province originally adopted the French model, and the beginning was characterized by an attempt to organize the heterogeneous mosaic of provincial militias into a unified force. The police force was assigned the function of promoting the consolidation of the administrative power at the national level and the control of the emerging urban class. The latter were characterized by a double origin. On the one hand, they were marginal sectors of the rural world that migrated to urban centers; they settled in the suburbs and combined both rural and urban economic activities. On the other hand, towards the end of the nineteenth century and until the 1929 financial crisis, mass migration from Europe meant that a significant new actor became the subject of police surveillance, because new habits and political ideas

4 BERLIÈRE (1996).

5 SALVATORE (2010).

6 EMSLEY (1983).

7 BARRENECHE (2010).

8 MILLER (1986).

of the »migrants«. Thus, similar to the French model, the goal behind the professionalization of the police force was to consolidate the power of the national state and to extend it at the provincial level with a civilizatory spirit. In doing so, the expected result was a police force that promoted a new moral and civic order among immigrants and in traditionally rural sectors.⁹ As Kalmanowiecki¹⁰ asserted, the police became an organization with a military ethos that attributed to itself heroic ideals associated with the creation of the nation and took a negative view of democracy, which they saw as a regime that complicated the control of the emerging marginal actors – rural bandits, peasants, people practicing undesirable occupations (*mal entretenidos*) and other actors with similar stigma attached to them.

However, these attributions and self-perceptions of the police provoked constant problems of legitimacy. Because of its commitment to a disciplinary role in society, the police force was perceived as a power external to society and was rejected especially by the poor. »Police and no more [y basta]«¹¹ was a common negative expression that clearly suggested the widespread feelings«. The problems posed by a police force lacking enough legitimacy did not go unnoticed, above all for the political groups that, towards the beginning of the twentieth century, tried to represent the emerging middle class sectors, as did the Partido Radical under the leadership of Yrigoyen. This led to a redefinition of the role of the police and to the incorporation of an ideal closer to that of the Anglo-Saxon model. Such redefinition implied an attempt to increase professionalism and to replace the patriotic and military ethos with an ideal of the police as an organization of public servants, functional to the democratic order, and willing to »understand« the everyday troubles of the working class.¹²

However, these police professionalization programs were introduced in a context replete with tensions that, in the end, provoked significant variations in the way such programs were implemented. As we will see, the first policies aimed at centralizing administration and exerting social control came into conflict with political structures

at the local level, where local police forces colluded with public servants. They informally governed connections to illegal businesses such as prostitution and gambling, not only for their own personal benefit, but also to provide a source of resources for supporting official functions carried out by police agencies. At the same time, this collusion led to the deployment of actions and tactics, usually carried out by the police, aimed at controlling and harassing the political opposition in favor of local caudillos. This illegal function of the police – which continued throughout the twentieth century and usually targeted emerging social segments politically opposed to governments – clashed with the model that sought to legitimize police work by way of stressing the role of police officers as public servants. Significant events that took place at the beginning of the twentieth century show that as the role of police forces was being redefined, a tendency emerged simultaneously in which disciplinary actions increasingly targeted disadvantaged segments of society.

A clear example of this contradiction is the bloody repression carried out by the Yrigoyen government in 1919. However, this tendency critically deepened following the coup d'état that overthrew Yrigoyen and replaced him with Alvear in 1930. In the period between the coup d'état and Peron's rise to power in 1945, a series of conservative governments came into power by way of electoral fraud, a practice in which the police forces were very much involved. During this period, the tensions created by the juxtaposition of the two models of policing became evident. The attempts to professionalize and administratively centralize the police organization remained, but, at the same time, large portions of the political structure rested on the ongoing police intervention in politics, a »service« that consisted of controlling the political opposition and organizing electoral fraud.

This political role, supported by collusion with local political leaders or the protection they provided, resulted in a situation in which each local police station developed a great deal of autonomy from the central power. The difficulties the central administration had in financing the police, espe-

9 GALEANO (2007) 115.

10 KALMANOWIECKI (1998) 305.

11 KALMANOWIECKI (1998).

12 KALMANOWIECKI (1998) 309, (2000).

cially in distant locations, and problems regarding access to accurate information, supported these robust colluded relationships between the police and local powers.¹³ Although the central administration was able to provide funds for salaries, the availability of resources for important everyday policing tasks (transport, supplies, repairs, etc.) depended on funds provided by local political administrations. Moreover, the central administration had poor access to information about hiring and promotions, which meant a strong dependence on local politicians who constantly influenced the new appointments. Thus, each jurisdiction within the province developed a great autonomy and shadow relationships with the local political power, while the central administration was unstable and unsuccessful regarding the implementation of long-term policies that would transcend everyday problems.

Research conducted by Barreneche¹⁴ about the obstacles blocking attempts to reform the police institution clearly illustrates that the real and concrete model of law enforcement resulted from such complex combinations and contextual elements. During the reforms introduced by the central administration after 1936, under the supervision of the then Chief of Police, Pedro L. Ganduglia, local political leaders and police officers' fierce resistance to the professionalization of the police became evident. One of the first efforts was to revise pre-existing appointments, as well as to introduce new requirements for accessing the police force. Ganduglia, for example, suspended all police officers until their specific functions could be established; prohibited police officers from visiting the administration offices with the aim of limiting peddling; and assigned police inspectors the task of gathering information about the functioning of each police station of which they were in charge. Additionally, the «police of investigations» was created and charged with the task of controlling the work of local police organizations. One of the most important goals of this new force was to supervise the tolerance shown toward illegal practices like gambling and prostitution. However, this supervision could only be partially implemented

since, at least to a certain extent, the funds the police collected from these illegal activities were used for the everyday workings of the local police.

An additional element of Ganduglia's reform was the control of the administration of funds and the gathering of information about the appointment of staff in each police station in the province. The goal was twofold: On the one hand, to check the actual destination of funds provided by the central administration, since in many cases funds allocated for maintaining and purchasing weapons and ammunition were diverted toward different purposes. Probably, one of the most polemic elements of the reform was the requirement, introduced in order for the authorities to be able to monitor the illegal enrichment of police officers, to submit a «Sworn Declaration of Property». On the other hand, the goal of the administrative control was to check if the staff appointed in the province fulfilled the basic requirements for working as police officers. This was necessary due to the common practice of appointing individuals with criminal records or people who did not actually work for the police, but for local caudillos instead.

As we mentioned above, these attempts to reform the police faced several obstacles, which in the end prevented the materialization of the changes introduced. For example, the difficulties in accessing information could not be easily overcome, a problem that, in practice, strongly interfered in the adoption of higher standards. Incorporations and promotions continued to depend on local politicians' recommendations, even when the appointments were ratified by the central administration. An additional example relates to the preliminary administrative proceedings, which were subject to an attempt made by the central administration to limit their production at a local level. In the provincial parliament, the political opposition, including members of the Conservative Party, were united in their reaction to this change, which would basically take away from them the administration of sanctions and investigations. This, again, showed that large parts of the structure of power rested on the possibility to control the local police.

13 ZIMMERMANN (2007); ZIMMERMANN (1998).

14 BARRENECHE (2007a); BARRENECHE (2007b).

Nevertheless, in spite of the aforementioned attempts, the interest in using the police as an instrument for harassing the political opposition – an objective still shared then by the central political authorities and the local branches of the party – persisted. In fact, during the period in which the reforms took place, the governor of the Buenos Aires Province declared his mission to be the »repression of communism« and gave the police a central role in this task.¹⁵ This function was connected with the pre-existing idea that the police should play a central role in the control of marginal populations and the repression of crime. Hence, the attempts to change the way the police operated were hampered by a strong dependency on political authorities: despite all good intentions, the interest held by the official party in controlling the political opposition was still present, as were the links with the local powers who were interested in »governing« or »adminstrating« the crime instead of »fighting« it.

In sum, the result of the constitution process of the provincial police was a force whose design was based on two models in tension; it was designated to fulfill contradictory functions; and it was built on an institutional structure with its own traditions. While the police were in charge of regulating the common issues of everyday life and unifying the territory, the same police had to perform the role of disciplining society, harassing political opposition, and moralizing to the subaltern – functions that stand in open contradiction with the first purposes mentioned. At the same time, the structure of institutional power rested on illegal practices resulting from the collusion between public servants and police officers: both illegally administrated crime instead of repressing it, and thus created a source of resources for financing political, as well as police, activities. This constellation of power relationships made clear that, more than being a contradiction between the legal and the illegal, both were complementary. During the Peronist government (1946–1955), following the phase of reforms, the models in tension were consolidated. Initially, different policies introduced by the Peronist government tried to strengthen the

power of the central police administration, the main purpose of which was to dismantle networks of local power that favored the Conservative Party. This implied a certain autonomization and militarization of the way the police was organized and led to increasing independence from the political power. However, this coexisted with the aspiration of the Peronist party to assign the police with a role clearly oriented towards social assistance.¹⁶ Moreover, using their own connections at a local level, the new political authorities aimed to restructure the links between the police and the local political powers. In the end, during the Peronist administration, instead of such ties being broken up, the original model of policing was consolidated.

After the first two terms of government under Peron, the recurrence of dictatorship terms doubtless deepened the interdependence between the police force and the political authorities, as well as accentuated the military and repressive ethos. However, it was during the dictatorship period (1976–1983) that the collusion mentioned gained new momentum. The concentration of power in the hands of security forces allowed them a level of autonomy and impunity that not only reached its zenith, but also provided a new impulse to the illegal extraction of resources. Emblematic practices such as kidnapping, also aimed at financing political activities, and the extermination of political opponents was carried out together with common economic crimes, including the appropriation of abductees' properties.¹⁷ These crimes undoubtedly indicate a further deepening of the aforementioned collusion. Whereas police forces traditionally participated in the administration of »crimes without victims«, such as prostitution and gambling, the military dictatorship introduced a set of new practices, the most emblematic of which being the direct execution of violent crimes, such as kidnapping and robberies.

Once democracy was re-established in 1983, new attempts were made to reform the police, and their main purpose was to subordinate police power to the civil authorities, as well as to eradicate the use of repressive and criminal practices by police forces. A detailed description of these at-

15 BARRENECHE (2010).

16 ISLA/MÍGUEZ (2011), PEREIRA/UNGAR (2004).

17 BARRENECHE (2007b).

tempts fall outside the scope of this article; however, in the following section we focus on the reform implemented at the end of the '90s. We show that in this new phase of globalization, the import of law enforcement models was once again strongly conditioned by indigenous traditions and local institutional arrangements.

New Wine into Old Wineskins: The Zero-tolerance Policy of the '90s

As already mentioned, in the years after the reestablishment of democracy that took place in 1983, a series of attempts were made to reform the police institution: subordinating it under civil control, redefining its military and repressive ethos, and stressing the role of the police as an agent that regulates conflicts in society. However, even when these aims were present in discourses and projects in Congress, reforming the police was never a central concern for politicians under the first democratic governments, probably due to the fact that »public security« was not a central concern in society. Around the mid-90's, however, this constellation underwent a drastic change. During the second term of the Menem administration, crime rates increased significantly and public opinion deemed public security to be an urgent problem, leading to its swift entry into the political agenda. Hence, attention was shifted towards the police of the Buenos Aires Province, an institution whose staff was usually involved in crime – unsurprisingly, the same crimes as those common during the dictatorship: robbery and the kidnap of business people.¹⁸

These attempts at reform were not isolated from international tendencies. One of the most important initiatives for reforming the Buenos Aires Province Police in 1998 included the introduction of »zero-tolerance« policies, which were popular as a crime-reduction strategy in New York.¹⁹ The zero-tolerance model implied the strict control of all kinds of law-breaking behaviors. In other words, by promoting civic conduct that viewed transgressions with extreme severity, the model aimed at a rapid reduction in crime. This policy was associated with the introduction of technology

into the fight against crime, including the production of maps indicating the locations of crimes and crime hotspots, as well as the rigorous observation of efficiency in each police station and the ongoing measurement of the evolution of crime. Moreover, these new methods for quantifying and mapping police activity were associated with a system of rewards and sanctions, according to which the more effective units were rewarded with additional resources. This system also implied a strict control of every form of police misbehavior or corruption, including all kinds of collusion with outlaws.

The introduction of this model of police management in Buenos Aires implied a fusion of traditions and long-term patterns inscribed in the »cop culture« of the police of the province. From the very beginning, the idea of a »strict control« of crime was associated with militarized traditions that had been an integral part of the police ethos since its constitution a century ago and which had been further strengthened under the dictatorship. The policy of zero-tolerance thus stimulated traditional repressive practices that included torture and homicide as resources for fighting crime. The evolution of the rate of minors killed in confrontations with the police clearly illustrates the consequences of such a policy: between 1996 and 2002 the rate of minors killed increased by 232%.²⁰ It is worth mentioning that many »confrontations« between police officers and young criminals were not the result of officers combating criminals lawfully, but the consequence of disputes related to illegal business. In other words, many instances involving the torture and/or homicide of minors were the outcome of settling scores between police officers participating in illegal business and youngsters recruited by the officers themselves to commit crimes. For this reason, the model of zero-tolerance did not work as an effective inhibitor of crime, but instead became a legitimating mechanism for illegal police practices: violent and criminally minded police officers suddenly received additional leeway for acting illegally.

Although police institutions played a prominent role in this new scenario, they were not alone in the extra-legal governance of crime. As we could observe throughout the entire history of the police in Argentina, this illegal governance was the result

18 SAÍN (2004); SAÍN (2008); CAMOU/MORENO (2005).

19 PEREIRA/UNGAR (2004); FUENTES (2005); EATON (2008).

20 ISLA/MÍGUEZ (2011).

of the collusion of many actors within the political system, as well as high-ranked public servants such as ministers and mayors. Such collusion between police officers and criminals, as we have already mentioned, originated in the fact that both actors – the police institution and politicians – benefited from the illegal collection of resources. That is, even when the resources gathered through the illegal participation in crimes usually ended up in private pockets (corruption in the traditional sense), the resources were also used for the financing of normal police activities and the political system.

The market for stolen auto parts in the Buenos Aires Province provides us with a clear example of the way in which crime, police, and politics are interwoven.²¹ In an interview with Marcelo Saín, Deputy Security Minister of the Buenos Aires Province, he told us the following: »How do you think the police finance an intelligence investigation? Let's say they're following drug traffickers. You need a car, to fill it with gas, perhaps spend some nights in a hotel, to eat something, the equipment, etc. ... well, there's no budget for that. For that, there is *caja* [illegally earned money]«. Saín, who in 2003 was part of the government responsible for introducing a significant police reform, explained that the money collected by police from actors operating in the market for stolen auto parts is not only funneled toward private purposes; public functions are also funded, such as repainting police stations, or topping up the meagre pensions of retired officers. Former Supreme Court justice Eugenio Zaffaroni gives a similar account of the situation.

It is traditional [...] that police agencies' budgets are large but that salaries and expenditures for operative matters are neglected. This is the result of corporative, vertical and authoritarian organizations in which decisions are imposed from the upper echelons and any discussion about the allocation of resources is absent. As a consequence, this lack of resources needs to be compensated with an illegal collection of resources carried out by police officers. To a great extent, the benefits of the so-called subterranean

criminal system are meant to complement the state budget. This leads to the paradox that the crime prevention agency is funded by criminal acts. (Zaffaroni as cited by Saín 2008, 160).

The Internal Affairs Unit (*Asuntos Internos*) keeps official records relating to the funding of the police. These records state that materials necessary for carrying out ordinary police duties – paper on which to print citizens' complaints, gas to fuel the cars intended to pursue or transport criminals – are usually funded by resources collected in illegal markets such as that for stolen auto parts. Extra funds are obtained through the common illegal practice of budget inflation, in which police staff at all levels of the organization exaggerate, for example, monthly gas consumption, a practice corroborated by both Saín and Carlos, a supervision officer. Saín and Carlos were in agreement that the purpose of the collected money was often to bolster salaries or cover a range of minor expenses in police stations.

As well as helping to fund normal policing activities, monies collected from car-lifters and dismantlers in the market for illegal auto parts also go toward political campaigns. Eaton describes how mayors take the opportunity to »derive substantial funds from the illicit conduct of police officers, funds that are useful in hard-fought and increasingly expensive political campaigns«. ²² Carlos, the supervision officer, explained that »during campaign times there is an increase in crime because the police let the rackets do their work. Letting their businesses run is a means for politicians to raise money during campaign times.« These phases, he said, were characterized by »a decrease in drug seizures; there is a need to sell. The deal for the mayor is to win money that is then passed on to the chief officer. And it is also meant for other things.« Informal arrangements such as these reveal a long-standing pattern of institutional behavior in which both the police and political actors are implicated. All indicators mentioned by the interviewees – the resources collected, strict norms, rules governing how business is to be conducted, a code of silence among police officers – point to the existence of informal institutions

21 DEWEY (2012).

22 EATON (2008) 19.

that function smoothly in order that police hierarchies are reinforced and political careers can be funded.

Defining the Emerging Social Order

The case presented above suggests, at least in principle, something relatively evident: the translation of an institutional model into another social context does not mean that the effects observed in the source context will be the same at the destination. Of course, variations are associated with differences in the indigenous institutional traditions and to the availability of actual resources in the same context. In that sense, the case described in this article confirms, but also contests, the argument about the significant difficulties related to state formation in Argentina and in other similar cases.

As, for example, Peter Waldmann²³ asserted, one key problem that occurred during the process of translating law enforcement models originating in European or North American contexts into South America is that the translation required legislation far beyond the real possibilities of the indigenous state agencies. In other words, the lack of available resources did not allowed public agencies to guarantee effective law enforcement throughout the entire territory. This situation not only impeded an actual and universal enforcement; it also had a twofold effect. On the one hand, the law was administered in a discretionary manner and conditional to balances of power and reciprocity ties among the actors involved. On the other hand, it affected the legitimacy of the law, since the arbitrary enforcement of the law created a generalized distrust in society regarding the impartiality of the authorities in charge of enforcing the law.

However, a limitation of this perspective is the analysis of the consequences of the translation in terms of the negative. The effects of the translation are assessed taking into account only the limitations, or what the legal model has not achieved, and excluding what the translation actually generated. On the contrary, a perspective centered on all normative orders that give shape to the actual

social order needs to circumvent the idea according to which legality and illegality are – in real life – mutually exclusive dimensions. As shown in the previous sections, the resources introduced by a »failed« model are recycled and used for the production of a new order. For example, the distinction between legal and illegal practices served as a resource for a selective enforcement of the law, the capture of resources, and their reintroduction into both the police and the political system.

In other publications, we have used »clusters of order« to describe the social order resulting from how the new institutional models translated into the new context interact with indigenous traditions and balances of power. These clusters of order emerge in spaces in which the state's formal means of social domination face considerable opposition; nevertheless, the state is still found to be informally and/or illegally present. Goods and services in these spaces are thus provided as a consequence of legal and extra-legal actors interacting with one another. This, in turn, leads to the formation of a regime of domination characterized by the interconnection of patrimonialistic and rational bureaucratic principles.

Thus, it is possible to affirm that areas in which the domination of the state's rational institutions is contested do not necessarily demonstrate a complete lack of some form of domination or that no authority exists. When legal and extra-legal actors, private companies and public agencies, or local and foreign actors form alliances that are subject to two different but inextricably linked sets of rules – one formal, one informal – an interdependence is evident that builds the exact momentum needed to generate the relevant economic resources, authority and social order.

It is useful to consider Erdmann and Engel's definition of neo-patrimonial rule here: »a mixture of two co-existing, partly interwoven, types of domination: namely, patrimonial and legal-rational bureaucratic domination.«²⁴ The prevailing forms of domination in the clusters under investigation are patrimonial, and relations between rulers and ruled are, therefore, based not on impersonal social norms or laws, but on interpersonal ties and alliances. In this environment, there is an awareness of the existing formal laws and bureau-

23 WALDMANN (2002).

24 ERDMANN/ENGEL (2007) 105.

cratic and rational administrative principles, but there is a lack of adherence to them in practice. The vital element is the fact that legal-rational rules in the context of particularistic power relationships are able to generate new possibilities for action. Even more crucially, this scenario also generates additional room for the selective enforcement of the law, which we demonstrated in the case of the Buenos Aires Province Police. This last factor carries great weight: as is the case in legal orders, norm enforcement instances are required in order to regulate the internal coordination of clusters of order, a task that may be carried out by state actors acting informally, particularly in the case that some practices are met with social acceptance and positive externalities are produced.²⁵ Within such contexts, various kinds of actors have »a certain degree of choice as to which logic they want to employ to achieve their goals and best realize their interests«. ²⁶ This leads us to conclude that the cultural layers that form the basis of the authority and domination within a cluster of order are characterized by ambiguity. Actors participating in these clusters need not lean toward one form of domination or the other (rational or patrimonial). Where there is no preference for either form, such principles may be combined according to circumstantial conditions.

Conclusion

This article presented a case of normative pluralism in which the normative order that differs from the official legal system is legitimate, in the sense

that it is a socially accepted way of guiding behavior, but cannot be publicly recognized as such. The main feature of the alternative system of norms is that structures incentives that directly contradict official norms and lacks formal legitimacy. Despite this, however, the unofficial normative order is stimulated by state and political actors and the result of a historical dynamic in which the import of law enforcement models plays a major role.

From the point of view of the translation of normative models, the case presented here confirms the intuitive prediction: the translation of the model does not assure the same effects in its new contexts. However, the article makes clear that in order for us to better understand normative orders; we need to transcend approaches centered only on the deviation from the translated model. In this article, we show how the translated model transforms into resources that reshape the new social order. More specifically, the emerging social order results from the interplay between translated institutional models and indigenous balances of power.

Nevertheless, the relativism introduced by the notion of clusters of order should also be controlled. It is also true that alternative forms of order may optimize – or not – processes of cooperation and foster trust in public authorities. The case presented suggests that, in comparison with the ideal normative model, the levels of cooperation and trust are lower, and this might stimulate a continuous search for new models that overcome the shortcoming of the previous one. ■

Bibliography

- BARRENECHE, OSVALDO (2007a), *La Reorganización de Las Policías En Las Provincias de Buenos Aires y Córdoba, 1936–1940*, in: http://www.unsam.edu.ar/escuelas/politica/centro_historia_politica/material/Barreneche.pdf (accessed: 24.07.2017)
- BARRENECHE, OSVALDO (2007b), *La Reforma Policial Del Peronismo En La Provincia De Buenos Aires, 1946–1951*, in: *Desarrollo Económico* 47, 225–248
- BARRENECHE, OSVALDO (2010), *De Brava a Dura: La Policía de La Provincia de Buenos Aires Durante La Primera Mitad Del Siglo XX*, in: *Cuadernos de Antropología Social*, 31–56
- BECKERT, JENS, MAÍYAS DEWEY (2017), *The Architecture of Illegal Markets. Toward an Economic Sociology of Illegality in the Economy*, Oxford

25 BECKERT/DEWEY (2017); DEWEY/MÍGUEZ/SAÍN (2017).

26 ERDMANN/ENGEL (2007) 105.

- BERLIÈRE, JEAN-MARC (1996), *Le monde des polices en France XIXe–XXe siècles*, Bruxelles
- CAMOU, ANTONIO, JOSÉ MORENO (2005), *Crisis, Reforma y Contrarreforma Del Sistema de Seguridad de La Provincia de Buenos Aires: La Cultura Institucional, Los Actores Políticos y La Misión de Los Reformadores*, in: KAMINSKY, GREGORIO, *Tiempos Inclementes: Culturas Policiales y Seguridad Ciudadana*, Buenos Aires, 141–172
- DEWEY, MATÍAS (2012), *Illegal Police Protection and the Market for Stolen Vehicles in Buenos Aires*, in: *Journal of Latin American Studies* 44, 679–702
- DEWEY, MATÍAS, DANIEL PEDRO MÍGUEZ, MARCELO FABIÁN SAÍN(2017), *The Strength of Collusion: A Conceptual Framework for Interpreting Hybrid Social Orders*, in: *Current Sociology* 65, 395–410
- EATON, KENT(2008), *Paradoxes of Police Reform: Federalism, Parties, and Civil Society in Argentina’s Public Security Crisis*, in: *Latin American Research Review* 43, 5–32
- EMSLEY, CLIVE (1983), *Policing and Its Context, 1750–1870*, London
- ERDMANN, GERO, ULF ENGEL(2007), *Neopatrimonialism Reconsidered: Critical Review and Elaboration of an Elusive Concept*, in: *Commonwealth & Comparative Politics* 45, 95–119
- FUENTES, CLAUDIO(2005), *Contesting the Iron Fist: Advocacy Networks and Police Violence in Democratic Argentina and Chile*, New York, London
- GALEANO, DIEGO(2007), *En nombre de la seguridad: Lecturas sobre policía y formación estatal*, in: *Cuestiones de Sociología*, 102–25
- HELMKE, GRETCHEN, STEVEN LEVITSKY (eds.) (2006), *Informal Institutions and Democracy: Lessons from Latin America*, Baltimore
- ISLA, ALEJANDRO, DANIEL PEDRO MÍGUEZ(2011), *Formations of Violence in Post-Dictatorial Contexts: Logics of Confrontation between the Police and the Young Urban Poor in Contemporary Argentina*, in: *International Journal of Conflict and Violence (IJCV)* 5, 240–260
- KALMANOWIECKI, LAURA (1998), *Soldados Ou Missionários Domésticos? Ideologias e Autoconcepções Da Polícia Argentina*, in: *Revista Estudos Históricos* 12,22, 295–324
- KALMANOWIECKI, LAURA (2000), *Origins and Applications of Political Policing in Argentina*, in: *Latin American Perspectives* 27, 36–56
- KALMANOWIECKI, LAURA (2003), *Policing the People, Building the State*, in: DAVIS, DIANE E., ANTHONY W. PEREIRA (eds.), *Irregular Armed Forces and Their Role in Politics and State Formation*, Cambridge, 209–231
- LAUTH, HANS-JOACHIM(2000), *Informal Institutions and Democracy*, in: *Democratization* 7, 21–50
- MILLER, WILBUR R. (1986), *Police and the State: A Comparative Perspective*, in: *American Bar Foundation Research Journal* 11,2, 339–348
- PEREIRA, ANTHONY W., MARK UNGAR(2004), *The Persistence of the Mano Dura: Authoritarian Legacies and Policing in Brazil and the Southern Cone* (presented at the Latin American Studies Association, Las Vegas), http://desa1.cejamericas.org/bitstream/handle/2015/3596/UngarMark_xCD.pdf?sequence=1&isAllowed=y (accessed: 24.07.2017)
- SAÍN, MARCELO FABIÁN(2004), *Política, Policía y Delito: La Red Bonaerense*, Buenos Aires
- SAÍN, MARCELO FABIÁN(2008), *El Leviatán Azul*, Buenos Aires
- SALVATORE, RICARDO (2010), *Subalternos, derechos y justicia penal. Ensayos de historia social y cultural Argentina 1829–1940*, México
- WALDMANN, PETER (2002), *Der anomische Staat: Über Recht, öffentliche Sicherheit und Alltag in Lateinamerika*, Opladen
- ZIMMERMANN, EDUARDO ALBERTO (1998), *Poder Judicial, la construcción del estado, y el federalismo: Argentina, 1860–1898*, in: EDUARDO POSADA-CARBÓ (ed.), *In search of a new order: essays on the politics and society of nineteenth-century Latin America*, London: Institute of Latin American Studies, 131–152
- ZIMMERMANN, EDUARDO ALBERTO (2007), *Centralización, justicia federal y construcción del Estado en la Organización Nacional*, in: *Revista de Instituciones, Ideas y Mercados* 46, 265–292