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Smugglers, *Fayuqueros*, *Piratas*: Transitory Commodities and Illegality in the Trade of Pirated CDs in Mexico

The emergence of “pirated” CDs and DVDs has transformed street commerce and market-places across Latin America, as it has in many regions of the world. The dominant punitive perspective on intellectual property rights defines the unauthorized reproduction and commercialization of copyright-protected material as organized crime. The antipiracy discourse is focused on the control of the commodity, but overlooks the locality and the spatial and political entanglements of the market for piracy. Based on ethnographic material, this article documents the rise of copied CDs in the San Juan de Dios market in Guadalajara, a marketplace that works as a hub for the smuggling of piracy in Mexico. The purpose of this article is twofold: to capture the emergence of pirated CDs in a local context, and to pose questions about the alleged links between piracy and drug trafficking in Mexico. These issues are useful for understanding the entanglement and limits of criminal and informal economies in Latin America. [intellectual property rights, piracy, illegality, Mexico]

Many illegal-labeled activities have much legitimate life in society (or in particular groups), and under such circumstances the state response constitutes bad law, adding to illegality and prosecution, including wars of various sorts, that are morally worse than the original violation. [Heyman and Smart 1999:21]

Introduction

In Mexico, discourses on pirated CDs and DVDs as a new form of transnational crime, organized by international mafias and drug traffickers, have become dominant in the mainstream media. In 2012 the national newspaper *El Universal* claimed ‘Zeta’s “Piracy Tzar” falls’ (Gómora 2012), reporting that a pirated CD smuggler was the lieutenant in the northern state of Tamaulipas, in one of the most violent drug cartels, the Zetas, and responsible for directing attacks against schools and shop owners. Linking organized crime to the retail of unauthorized copies of protected material is not unique to Mexico. Conflicts around the enforcement of intellectual property rights (IPRs) have become visible around the world since the early 2000s, a process encouraged by the copyright lobbies pinpointing the reportedly negative impact and hazards of the unauthorized copying and commercialization of protected material. Antipiracy measures have been “diffused” across the world; the punitive hand of the state targets market-places and street vending. Images of police seizures in marketplaces and bulldozers driving over hundreds of thousands of confiscated “illegal” CDs and DVDs are published in Colombia, Greece, Peru, and the Philippines (Antonopoulos et al. 2011; Karaganis 2011; Mattelart 2009). In parallel to the dominant perspective on illegal drugs, governments have integrated the sale of pirated CDs and DVDs into the national security agenda; policies are implemented under

the so-called “wars” on piracy, a process that in Mexico has delivered utterly unclear results (Aguiar 2012:173–179). These developments are indicative of the impact of neoliberalism on the informal sector, in particular the opening of a cycle of repression against economic activities that have been, in practice, tolerated for years.

Based on interviews with traders, sellers, and law enforcement agents, this text analyzes a time span of more than 30 years of economic transitions in the San Juan de Dios market in the Mexican city of Guadalajara. Since the 16th century, this marketplace has played a pivotal role in the articulation of trading networks: first during colonial rule, later with the smuggling of imported goods, and currently in the organization of commodity chains related to the trade in pirated CDs and DVDs. Digital piracy represents a new phase in the evolution of local markets; it results from the interplay between changing opportunities and structural reforms that can only be understood within their specific contexts. This article seeks to make a contribution to the study of the evolution of illegal markets in Mexico by describing how the market for pirated CDs emerged within a context of multiple illegalities. It also examines the purported overlap between the retail of pirated CDs and other criminal economies, chiefly drug trafficking. The ethnography presented here can help to broaden our understanding of these relationships, and is thus relevant for the development of a critical view on the criminalizing discourse on piracy.

Informality, Copying, and Intellectual Property

Under pressure from the World Trade Organization, among other international agents (May 2009), national governments, including Mexico's, have endorsed far-reaching legal reforms to enforce IPRs in the neoliberal era.¹ Copyright infringement has been integrated into Mexico's security agenda and become a federal crime; unauthorized reproduction and retail of protected material is perceived as a form of organized crime; as a result, sellers are defined as criminals (Antonopoulos et al. 2011; Dent 2012; Lobato and Thomas 2011; Yar 2005). These developments have an impact on the regulation of street commerce and the informal economy at large, which ambiguously moves between cycles of tolerance and repression.

The concept of “informal economy” catches all kinds of economic activities that are not officially regulated by the state, including self-employment strategies (e.g., Bunster and Chaney 1985), the street economy (Cross 1998), petty vending (Seligmann 2004), marketplaces, parallel tax structures, and the complex domain that challenges hegemonic definitions of law and order; that is, illegality (van Schendel and Abraham 2005). Hibou (2012) has synthesized these ambiguities: “[I]nformality is everything that goes beyond or cannot be incorporated into formalities.” The informal sector is often analyzed in its opposition to the formal sector: the formal economy is perceived as a modernizing force, and the informal sector as the domain of marginal agents who benefit from the innovation and development of the first (e.g., Alba Vega and Kruijt 1995; Pinheiro-Machado 2008; Portes 2000; Sassen 2000; Swanson 2007). This tension becomes relevant anew in the conflicts around IPRs.

IPRs hardly illustrate the neoliberal principles of free-market ideology or reduction of the state, since they create new spaces of interdiction by expanding policing and punitive action. IPRs can rather be described as the “regulation-in-denial” of the neoliberal state (Peck 2010:xiii) that promotes new bureaucratic formalities. The system of law on which neoliberalism relies does not shrink the state but rather extends controls (Hibou 2012). Jean Comaroff and John Comaroff (2006:26–35) have made a comparable analysis, pointing out the fetishism of the law in the promotion of legal instruments and defining of new forms of disorder and abjection characteristic of the postcolonial condition. Clearly, the protection of property rights on a

world scale is controversial, and it represents a field of conflict where the corporate sector, the nation state, and local actors all have interests at stake. According to Comaroff and Comaroff, "The species of property that have emerged out of the digital revolution have had an especially profound effect on the means of producing and controlling value and on definitions of the licit and illicit" (12), and that the "law has been further fetishized, even as, in most postcolonies, higher and higher walls are built to protect the propertied from lawlessness, even as the language of legality insinuates itself deeper and deeper into the realm of the illicit (22).

From a governmental perspective, programs for copyright protection and antipiracy policies have been defined in terms of a technical question fostering of a one-fits-all perspective. The transfer or diffusion of plans for action from one territory to another to enforce the law is a typical feature of neoliberalism (Evans and Davies 1999), visible in the reproduction of "wars on piracy" around the world. But policies should not be perceived as franchises that can be implemented indistinctly in multiple locations, based on standardized protocols for the interaction between state and society. This approach misses the spatial dimension where local actors (infringers, consumers, and law enforcement agents) are embedded and commodities are mobilized. Locality is the anchor of politics, identity, community, and practice (Appadurai 1996; Gupta and Ferguson 1997) that gives shape to urban street economies and marketplaces. Illegality is constructed on the ground in ways that depend on specific contexts of political density and historical depth.

Further, locality does not just refer to a fixed geographic territory; it also constitutes the social fabric where relations of power are lived out and new definitions of illegality are both instituted and contested. Within such contexts, economic and cultural agents accommodate changing market opportunities, act upon ambiguous loyalties, negotiate the rule of law, and mobilize global commodities and technology. Here, anthropologists play an important role in the study of the introduction of new forms of illegality, as in the case of piracy.

The seminal work by Michael Taussig (1993), Homi Bhabha (1994), Rosemary Coombe (1998), and Néstor García Canclini (1999) set the ground for the study of "others" imitating cultural repertoires of the West. In the context of imperialism and globalization, (post)colonial powers have been successful in setting cultural standards that organize the global market for cultural goods. As culture becomes a commodity, appropriation is legally regulated through commercial access; that is, IPRs.

Since the early 2000s, a body of literature has emerged on dealing with the conflicts around IPRs (see Kariithi 2011). In one perspective, anthropologists are intrigued by the hierarchies of originality and copying that rise from the circulation of unauthorized copies of movies, music, and fashion (Pang 2008; Sylvanus 2007). This line of analysis fits under Taussig's work on mimesis (1993), which situates piracy as a medium. Problems of legibility, originality, and consumption are central within this perspective. In his work on Nigerian circuits for pirated movies, Brian Larkin elaborates:

Pirated images have a hallucinogenic quality. Detail is destroyed as realist representation fades into pulsating, pure light. Facial features are smoothed away, colors are broken down into constituent tones, and bodies fade into one another. Reproduction takes its toll, degrading the image by injecting dropouts and bursts of fuzzy noise, breaking down dialogue into muddy, often inaudible sound. [2004:307]

The pirated good, whether a video or a handbag, is described by its low quality or degradation, or as a transitory or aspirational commodity. These perspectives reproduce the semiotic hierarchy

of cultural imperialism, where the copy is understood as defective or anomalous according to the hegemonic cultural standard. In the theorization of piracy as a question of mediation, discussion is needed on the ontological distinction between “original” and “copy,” which is a debate that ethnographically can build on the local conceptions of “piracy” and “originality” (Nakassis 2013; Vann 2006).

A second perspective is visible in the study of the global commodity chains (Aguilar 2012; Lin 2011; Mathews, Lins Ribeiro, and Alba Vega 2012; Yar 2005), in which pirated goods circulate, and the legal or moral conflicts emerge from the trade in these products. As Gomez Mejia states, these studies offer general descriptions (Mattelart 2009) that often depart from a normative perspective (Antonopoulos et al. 2011; Karaganis 2011; Wang 2003). The ethnography elaborates on the social construction of legality, and the extent to which illegality can be perceived as a moral process (Dent 2012; Thomas 2012).

In a third perspective, work by Ana Ochoa (2003), Hsiao-hung Chang (2004), Tanja Bosch (2010), and Jade Miller (2012) thematizes subversion, resistance, and the creation of non-hegemonic circuits for the circulation of culture through the infringement of copyrights. Here, piracy is studied as an alternative domain that facilitates access to cultural commodities and as a buffer to conditions of inequality.

There is, however, much less known about the development of the commercial activities among street vendors and in marketplaces—that is, about the genealogy of the trade in piracy—where piracy becomes “all at once” available. My argument is that the appearance of pirated products is more than commodity hopping. Piracy constitutes a particular phase in the organization of the informal economy; it results from both individual choices and structural changes, and it is embedded in contexts of illegality that precede the trade in unauthorized copies. As described below, smuggling was an early economic arena that belied neat distinctions between legality and illegality, and which prepared the ground for later forms of criminalized trade.

The San Juan de Dios Market: Moving from *Fayuca* to Piracy

As in many other nations and colonies, smuggling in Mexico was a key factor in the development of the economy and international trade by the 16th century. Maritime pirates challenged the trade networks and sea routes imposed by colonial authorities; in some cases, they ambiguously cooperated with royal houses, becoming a sort of trade militia on the seas, a situation that in the long run provided them political power (Braudel 1966; Hobsbawm 2000). At this stage, pirates were smugglers who snatched goods from imperial ships and later traded them with antagonist colonizers or supplied the “illegal” market. After Mexico won independence from the Spanish empire in 1821, smuggling did not lose its economic relevance; it was a mass phenomenon that helped different populations to settle and urbanize Northern Mexico (Bernecker 1994). During and after the Mexican Revolution in the 1900s, smuggling and banditry were among the factors that helped form the new political order (Knight 1986). Outlaws established control over populations and resources, ultimately becoming state agents who developed means of coercion. In the aftermath of the Mexican Revolution, illegality and corruption became part of the status quo imposed by the Partido de la Revolución Institucional (Party of the Institutional Revolution; PRI). In the consolidation of the one-party system that monopolized Mexican politics from the 1920s until the 1990s, corruption and illegality became chief political resources (Camín Aguilar and Meyer 1993; Lomnitz 2000). In addition, street and market vendors were integrated to the political system as PRI-affiliated members under the sector popular in the 1950s (de la Peña 1996).



Figure 1: Since the 16th century, the San Juan de Dios market articulates trading networks in the West of Mexico. Photo: Aguiar, 2011.

Under the influence of the Import Substitution Industrialization (ISI) model in Mexico, smuggling in the 20th century played a supplementary function within the controlled market for consumer goods. With the rise of the consumer society in the 1950s, one of the primary markers of a modern and urban lifestyle was access to electronics and other household appliances. Smuggling became popularly known as *fayuca*²: not only the importation of televisions and radios, but also clothing and any kind of luxury product that was trafficked from the United States into Mexico and sold on the black market.³ One of the first studies on *fayuca* was carried out by Oscar Lewis (2011[1961]), who documented the life stories of *fayuqueros* (*fayuca* smugglers or sellers) in downtown Mexico City. *Fayuca* was a profitable business throughout the 1970s and 1980s (Alba Vega and Kruijt 1995), but that ended when Mexico signed the North America Free Trade Agreement (NAFTA) in 1994. As imports became available in formal retail shops, the *fayuca* for electronics declined.⁴

The rise and collapse of the trade in *fayuca* had a profound impact on the economy of the San Juan de Dios market. The marketplace is located in the historical downtown of Guadalajara, and it was the first trading post founded by the Spanish colonizers in the late 16th century. The market building now counts three stories, where more than 3,000 sellers work everyday in 1,600 stands (see Figure 1). Although there are no official records on the number of visitors, municipal authorities estimate up to 30,000 people per day shop on a busy weekend. As is the case with all marketplaces and street vending in Mexico, no governmental project has



Figure 2: The allies in the San Juan de Dios market. Photo: Aguiar, 2011.

ever formalized these economic activities. Trade thus takes place in a context of ambivalent governmental control, where market tenants pay taxes in the form of a municipal license fee that allows them to rent the stall, but there is little additional control over the activities they carry out or on the revenues they produce. The presence or absence of the state in the marketplace (Das and Poole 2004; Galemba, this issue) may explain why activities like the trade in *fayuca*, prostitution, and drug trafficking, although illegal, take place out in the open.

The boom in the sale of smuggled goods in the 1980s turned the San Juan de Dios market into a *mina de oro* (gold mine). Stalls became highly desirable retail points for smuggled TVs, stereo systems, video players, vacuum cleaners, microwave ovens, clothing, perfumes, and novelties (see Figure 2). The merchandise was mainly brought to the San Juan de Dios market through two corridors. The shortest and most used route, from Laredo (Texas) to Guadalajara, which is about thousand kilometers (approximately 621 miles), could be traversed in one day by car. *Fayuqueros* made arrangements with the customs officers on the Mexican side to be able to clear the goods.

The second corridor ran from Los Angeles and San Diego to Guadalajara; this was a more costly and complex route, since smugglers had to fly the 2,500 kilometers (about 1,553 miles) to get to the United States, then ship the merchandise to Mexico, which represented extra risks and expenses. Once in Guadalajara, merchandise was sold at the San Juan de Dios market, which became *la meca de la fayuca*, where consumers from all social backgrounds bought the highly desirable commodities.

Since the *fayuca* supply chain depended on critical contacts with owners or managers of electronics shops in the United States, with customs officials at the international border, and with police in the Mexican interior (particularly commanders in the states of Jalisco, Zacatecas, and Nuevo León), *fayuqueros* often preferred to manage the supply and transport themselves. They became highly specialized agents and developed exclusive knowledge and

networks for the supply, transport, and wholesale of merchandise. Throughout the 1980s and early 1990s, the *fayuqueros fuertes* (strong), a group of ten or twelve dominant smugglers, managed to accumulate stalls at the San Juan de Dios marketplace and create clientelistic networks with sellers who became dependent on the *fayuqueros*' supply chains. Market sellers came to perceive these dominant individuals as *líderes* (leaders), since they provided both the merchandise and the security necessary to carry out this kind of illegal commerce. *Fayuqueros* amassed fortunes from smuggled goods, and then actively invested in real estate, shops, and other businesses within the formal economy of Guadalajara.

The case of Sergio,⁵ one of the *fayuqueros fuertes*, illustrates the internal organization of *fayuca*. His position as a leader was dependent on critical social capital; in this case, it was his relationships with the police officers and subcommanders of the federal police who surveilled the roads from Laredo to Guadalajara. Sergio closed *arreglos* (agreements) or worked with *iguales* (a seasonal agreement based on a fixed amount for a whole period to 'equal' the value of the smuggled merchandise, a sort of extralegal tax) with these officers to be able to mobilize the merchandise across Mexico. *Arreglos* were made with lower-rank officers in the event of a revision on the road; yet, the *iguales* implied the involvement of a commander who passed down orders to police officers. In order to reach these agreements, Sergio had contact with a police commander, whom he never met but with whom he negotiated the amount due in bribes. The bribes were, however, never paid directly to the commander. In conversation, Sergio reckoned about this obscure figure: "The head will never show his face" (in interview, June 2005). Agreements were instead reached by telephone, then a lower-ranking officer would come to collect the *cuota* (bribe). Officers would also come to the marketplace or make an appointment with Sergio at a restaurant, and always at a different eatery chosen by the police officer. Once the appointment was made, Sergio would wait, somewhat anxiously, at the table with the money in an envelope; the police officer would pick it up and leave immediately. Sergio knew that he only had to hand over a full envelope and then leave. No words were exchanged. Sergio understood that *ser derecho* (being straightforward) was the basis of the mutual trust necessary for such arrangements.

The delivery of an envelope was a standard mechanism that police used to collect *cuotas* from *fayuqueros* and sellers. Like Sergio, Gregorio was a smuggler who shipped merchandise from Laredo (and El Paso) to Guadalajara; supplied vendors, including those at the San Juan de Dios market; and had agreements with commanders. And, like Sergio, Gregorio was aware of having to be *ser derecho*:

The thing was that you would not try to fool them [the police]. If you wanted to work, you were to work like this and like that [to meet the conditions set by the police]. I was delivering an envelope between the first and the tenth of every month to the hotel I was told, where [the police commander] was staying. I had to deliver the *igual* in an envelope with my name on it, just like that. I did not see him . . . just carried it out [the agreement] . . . By knowing that I was keeping my word, they would keep theirs. If you tried to fool them, poor you, you would lose your merchandise and even end up in the can. That is the way it was. [Interview, March 2009]

Ultimately, paying the *cuota* and being straightforward were in the common interest of both the smugglers and commanders. "Those were unspoken values, the different police units would go with that; when you were already set up with a commander, that was respected," stated Gregorio (field note, March 2009).

In order to “work in peace,” Sergio was paying about 3 million Mexican pesos (US\$270,000) per year to cover his own stalls (10 or 12 at that time) and the other 200 stalls he was representing as a “market leader.” There was no regular schedule set for the payments. According to Sergio, it was more of a “sudden request” that he was expected to meet a couple of times a year. In turn, Sergio would then collect cuotas from the sellers to meet the payment: “[T]hat was when they [sellers in Sergio’s supply chain] began to call me a leader, that I was the leader, and the only thing I was doing was the cuotas and they took me as their leader” (field note, June 2005).

At the peak of the fayuca trade, a major structural adjustment took place in Mexico. The introduction of NAFTA in 1994 meant, in the short term, the end of the fayuca cycle. Once tariffs and commercial barriers were removed, retail shops were able to import electronics and sell them for about the same prices as the smugglers did and, more importantly, shops offered services fayuqueros did not, such as warranty and credit systems. Sellers in the San Juan de Dios market could not compete. The traffic in smuggled electronics began to collapse across Mexico by the mid-1990s. However, the connections and knowledge that the fayuqueros had acquired proved useful: it was the basis of the social and political capital necessary to continue making money. Sergio put it this way:

The fayuca was over for us; it was over when NAFTA came, our misfortune. Before, if you wanted to buy a TV, you had to pay in full. Shops began to sell on credit, with payments of 80 or 100 pesos a week, and people with no cash went to the shops. And it cost double for them, but it was over for us . . . when I started to travel [in the days of fayuca], I made my contacts with the customs and federal police, because at that time I took over the control on the customs and the federal police. I began to collect the cuotas for them, because everybody was with me [fayuca retailers in the market]. [In interview, June 2005]

Sergio adapted to the changing environment, however, and began, first, to trade in copies of audio- and videocassettes, and later, CDs. The unauthorized reproduction of Hollywood films and pop hits became a major commercial strategy for many like Sergio. It marked the emergence of “piracy” retail in the economy of the San Juan de Dios market. The replication of movies and music—*copias pirata*—became an economic survival strategy for fayuqueros who had been put out of business.

Making use of contacts in *el otro lado* (in the United States), fayuqueros got their hands on blank cassettes and original material to copy. They reproduced audio- and videocassettes for wholesale among vendors under their leadership in the marketplace or for retail directly to consumers. The case of Sergio illustrates the process:

I began to slow down with the fayuca when I started to sell movies. Because I was the first pirate [he laughs, showing a sort of pride]. I was the first to introduce movies. We did not have equipment to reproduce with good quality, but they were good movies [i.e., copies]. I was travelling a lot to the U.S., I began to bring my own original movies and, as I was selling many video recorders, I began to reproduce them . . . and then began to sell them. I had 20 video recorders reproducing; I just used them for eight days and then sold them. Every eight days I was changing the video recorders, so my movies were always of good quality because I had new recorders. [In interview, June 2005]

By selling the VCR recorders he used to reproduce movies, Sergio’s new venture required nearly no new investment. Nevertheless, the magnetic technology of audiocassettes imposed

a number of limitations regarding the quality of the copies and the speed of production. Every hour of run-time took one hour to copy, and the image and sound differences among the “generations” of copies was noticeable. The later introduction of digital technologies made the reproduction process quicker and cheaper, and improved the quality of the copies because digital technology allows endless reproduction at the quality level of the original. Pirate copies were thus the same as the original. This technological improvement gave the final boost to a pirated media sector that had idled for several years.

“*Cuando entró la piratería* (when piracy began),” as Sergio put it, the fayuqueros turned into piracy entrepreneurs. They approached fruit, vegetable, and handicraft vendors with appealing plans to sell pirated CDs on consignment and even via loans, or offered them relatively large sums of money to hand over their stalls. Since fresh food and handicraft retail are marginal activities in the marketplace, small-scale vendors, especially widows and women working alone, were receptive to these offers. Piracy entrepreneurs tended to regard women as vulnerable vendors who would stop with their own goods, and start selling pirated recordings or pass on their stalls, in exchange for cash.

As more and more tenants *se convirtieron a la piratería* (turned to piracy retail), the slice of the pie became smaller. Entrepreneurs and sellers competed against each other, lowering prices. In the early 2000s, a pirated music CD with ten songs cost a consumer between 20 pesos (US\$1.60) and 30 pesos (US\$2.50). By 2012, as more sellers turned to piracy and new formats appeared, the price for an MP3-formatted CD with 100 to 300 songs cost 10 pesos (US60 cents) to 15 pesos (US\$1.25). The pricing strategy became a race to the bottom, which in the end cannibalized the market and reduced the profit margins for both the entrepreneurs and retailers.

Another macroscale, structural change again transformed the San Juan de Dios market in the mid-2000s. China became a more dominant trade partner with Mexico, and eventually Chinese entrepreneurs gained control over the commodity chains linking factories, shipping, and import companies. The corridors that fayuqueros used to mobilize merchandise became obsolete. Blank CDs are now increasingly imported from China, arriving by ship to the Mexican harbors of Manzanillo and Lázaro Cárdenas, both on the Pacific coast. These new geographies, actors, and networks pose new sets of problems for traders in the San Juan de Dios market. Don Roberto, one of the piracy entrepreneurs, reported to me that he does not control his own supply chain. Before the advent of cheap blank CDs from China, don Roberto flew to Los Angeles each month to arrange a shipment. But this scheme is no longer competitive within the open but Chinese-dominated market for pirated CDs.

It is now Chinese immigrants who appear in the marketplaces and approach traders with the offer to supply them with pirated media, much in the same way that Mexican piracy entrepreneurs organized vendors as part of their personal networks in the 1990s.

There was a little Chinese lady. Pretty. She dressed fancy like Madonna. She invited us for breakfast. And we went. She was bringing a silver disc [CD of low quality]. I told her that computers wouldn't normally be able to read that kind of disc, nor the burners. But there is another kind of CD, it is blue, it's expensive, and almost never fails. But nobody wanted it. There are different qualities of CDs and you depend on what they actually send you. [Don Roberto, December 2010]

In this new order of global commodity chains led by China (Lin 2011; Xiu 2010), Mexican piracy entrepreneurs have been marginalized once again. They must acquire new skills and abilities in order to survive economically within this context.

The kinds of informality and illegalities that describe the piracy trade are also different now than in the past. Blank CDs arrive in Mexico as *contrabando técnico* (technical smuggling), meaning that taxes have been paid for only a part of the import, or that the process is based on forged documents. As opposed to the fayuqueros who introduced merchandise illegally, the shipments of CDs are at least partially registered at ports by customs upon arrival.

Moreover, the trust among parties built on being straightforward, which characterized the relations between fayuqueros and state agents, have been replaced by ambiguous arrangements organized around kinship among the Chinese entrepreneurs. Estranged from the new trading networks, Don Roberto has been fooled:

I was selling one container per month [that] I bought here in Guadalajara with 212,000 pieces [CD cases]. It came from the United States. But the ones from China are a little bit cheaper, thinner. I would earn a bit more I thought I would not need them [the importers] to work, and could be the head [of my own chain]. But the circle is very closed. I didn't manage. From whom would I buy? Who would bring it here? . . . Then I realized it [the CDs] came by ship in a container You have to pay half in cash, and once the merchandise is sent, they send you a pay order by Internet and you have to deposit the rest. But then the following happens: you order a case of 20 grams [the weight of the unit that defines its quality] and they send one of 15 [i.e., a cheaper, inferior one]. It is not what you agreed [to] The same happens with the discs. Just imagine. They really put you down with just one order of 200,000 discs. That is the bad thing about it. [In interview, December 2010]

After don Roberto was cheated with one container he ordered from a Chinese broker, he decided to abandon the CD trade. The import and shipping process is too uncertain, and he cannot control the chain to his benefit. He is in his sixties now, and has resigned himself to selling sugarcane juice in one of his stalls in the San Juan de Dios market.

The rise of a market for pirated videocassettes and then CDs was an adaptive response to the collapse of fayuca. In the 2000s, changes in the trade and supply routes were noticeable: transnational (Chinese) brokers who organized trade in a realm of semi-illegality replaced local agents who organized completely illegal trade. The case of the San Juan de Dios market demonstrates that the trade in pirated CDs is embedded in a context of illegality that precedes the rise of piracy, and that the actors who organize supply chains are highly specialized agents who work within a competitive and open environment regulated by market demands.

On Illegality and Difference: Pirated CDs and Illegal Drugs

Since 2006, Mexico has faced a security crisis that has surpassed the capabilities of local and national authorities. Criminal violence expands in public spaces. According to the Mexican government, this conflict is caused by cartels of drug traffickers, although national and international organizations have documented different forms of (state) violence against citizens: killings and kidnappings by state and private actors have had social and political motivations (Human Rights Watch 2011; Kenny, Serrano and Sotomayor 2012). In border cities, up to 88 percent of the local police forces are rated as “not recommendable,” as noted by former President Felipe Calderón (2006–2012), given their proven involvement in criminal activities, particularly drug trafficking and kidnapping (Becerril and Ballinas 2008). The death toll in Mexico rose to 60,000 victims during Calderón's administration, with an additional 20,000 people going missing.⁶

In the midst of these developments, a recurrent claim about the links between drug trafficking and piracy has spread through Mexican media; on TV shows and in newspapers, the notion that the trade in pirated CDs is in the hands of drug traffickers has been circulating at least since 2009. The discourse maintains that piracy has become a side business for drug trafficking, creating more revenue and enlarging traffickers' entrepreneurial realms. Headings such as *Piratería, el otro frente del narco* (Piracy, the drug traffickers' other front) (Gómez 2009) or *El narco lava dinero con piratería* (Drug traffickers launder money via piracy) (CNNExpansión 2010) resonate with a criminalizing discourse that international actors such as the music copyrights lobby encourage. The International Federation of the Phonographic Industry (IFPI) argued in 2004 that criminal organizations are involved in piracy, and that the sale of pirated CDs and DVDs finances international Islamic terrorism and is linked to drug and human trafficking (IFPI 2004). This is likely the first published account on the alleged presence of drug traffickers in the organization of piracy; no police or intelligence sources are cited on the document.

The document published by IFPI has had lasting effects. News briefings in Mexico make reference to documents from IFPI or the International Intellectual Property Alliance (IIPA), a private sector coalition that represents U.S. copyright-based industries (music, movies, software, and printed publications). IIPA issues its Special 301 Report annually on countries that represent a challenge for IPRs enforcement. These organizations' statements fit well within long-established discourses regarding the overlap between *fayuca*, drug trafficking and *comercio fronterizo* (cross-border trade) in Mexico, through which parallels of multiple criminalities have been alleged (Alvarez 2012; Sandoval 2012).

A number of scholars in Mexico have echoed this criminalizing perspective in publications often financed by institutions based in Washington, D.C. (see Bergman 2010). The *Diálogo sobre Seguridad Pública con Enfoque de Derechos Humanos* (2012; Dialogue on Public Security with a Focus on Human Rights), an initiative in Mexico to create a dialogue among politicians, civil organizations, and professionals on security issues, began with the assumption that piracy forms a threat to security and is run by drug barons.

Piracy is also equated with organized crime in that the Mexican judiciary awards the same sentencing to pirates as to drug and weapon traffickers, kidnappers, and human smugglers. One may expect sources or empirical evidence to sustain such affirmations and associations; however, these documents present no empirical material on which to base this analysis and set of judicial practices.

Even more problematic, the Procuraduría, de la República (attorney general's office) uses the reports produced by IFPI as sources for its annual reports,⁷ notwithstanding that the analysis produced by the federation is controversial. There is no transparency regarding the data, methodology, techniques, or the grounds for the reports' stated conclusions. No less relevant is the fact that they are prepared by a party that has a commercial interest in the issue: the industries whose profit is based on copyright. This is a critical issue, as the knowledge about illegal activities that directs public policies is coming from international agencies or market research for the corporate sector. As the power of the corporate sector encroaches on the field of security policies, the nation-state seems to work more as a franchise than as a sovereign apparatus producing its own knowledge and setting its own security agenda.

The criminalizing discourse surrounding piracy is a relevant case for studying the circulation of institutional knowledge in the neoliberal era. The examples spelled out above illustrate how the discourses produced by the private sector circulate across institutions, and once incorporated by the government and professionals, win legitimacy. As the reproduction of a criminalizing

discourse on piracy comes full circle, the representations articulated by the lobby, and later replicated by state actors, media, scholars, and think tanks, become the hegemonic discourse on piracy that takes the stigmatization of the informal seller a step further, turning him into a criminal. This is a risky endeavor.

Previous campaigns against piracy in Mexico financed by the Mexican Institute of the Industrial Property (IMPI) and the Mexican Association of Phonographic Producers AMPROFON (a subsidiary of IFPI) were based on a moralizing discourse. Admonishing citizens that it is morally unacceptable to infringe copyright by buying a pirated CD proved unsuccessful, however;⁸ and so while linking piracy to drug trafficking in the current climate of expanding violence in Mexico is a serious accusation, it is more efficient. Who would willingly “subsidize” drug cartels and violence by buying illegal CDs? The question is whether this view corresponds to the way piracy actually works.

The case of the San Juan de Dios market shows that piracy entrepreneurs are embedded actors with their own commercial biographies. In the past, they were agents who ran their own supply chains (corridors), regulated the demand and prices for pirated CDs (market), and organized the spaces (location) where the commodities were exchanged. Today, the integration of Chinese entrepreneurs into the informal economy reveals the piracy trade as an open and competitive economy, run not by organized crime syndicates but immigrants and their kin. In the northern states of Tamaulipas, Nuevo León, or Coahuila, it is possible that drug cartels control the locations where pirated CDs are sold—for instance, the plazas (territories) dominated by the Zeta cartel—but that does not imply that “narcos” have control over the supply chain or the market for pirated CDs in Mexico. A finer analysis is necessary in order to document and better understand the differences between a corridor, a market, and a location in the organization of illegal economies that surround piracy.

Final Remarks: The Continuum of Illegality

In *Smuggler Nation*, Andreas (2013) reminds us that trafficking and the domain of illegality are the basis on which the economic hegemony of the United States is built. Nevertheless, America suffers from “historical amnesia”; it has embarked on a global campaign against economic activities that contravene the system of law promoted within neoliberal ideology and the knowledge economy. IPRs epitomize this process and illustrate the conflicts and asymmetries in the introduction of international regulations over specific localities, such as the criminalization of the retail of unauthorized copies of movies in the San Juan de Dios marketplace.

The evolution of illegal activities observable in the ethnography of the San Juan de Dios market helps us to understand that the trade in pirated CDs represents a new phase in a larger process. The actors running the supply chains have historical depth; they accumulate knowledge as much as social and political capital, which they convert into political and economic resources in order to negotiate with state actors and to adapt to changing market conditions. The market for fayuca profited from the restrictive policies of the ISI model in Mexico. Once neoliberal reforms took hold, fayuca lost its function. Smugglers found a new opportunity with pirated music and films, a process fostered by the development of digital technologies.

The transition from fayuca to pirated CDs makes evident that piracy takes place within a continuum of illegality: actors shift from one illegal commodity to another, following market demands, creating new niches, and benefiting from existing opportunities. The illegal nature

of the good defines its market value. While the commodity may be transitory, the ability of actors to adapt and capitalize on existing resources is crucial.

Piracy of music and films is a relatively new activity, and state and private actors have played a crucial role in constructing it as an illegal activity. The alleged links between piracy traders and drug traffickers in Mexico, a view promoted by the copyright industries and echoed by the media and professionals, represents a new phase in the circulation of criminalizing discourses. In a context of expanding drug-related violence, this accusation might be successful in nurturing a moral panic and preventing consumers from buying copied CDs on the streets. Nevertheless, the commercial biographies of piracy entrepreneurs at the San Juan de Dios market show that piracy is a highly competitive and specialized economy, open to new actors who can secure dominant positions in the organization of global supply chains.

Notes

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1. The Merida Initiative, signed by Mexico and the United States, places pirated products among the flows of illegal goods that threaten the security of the region. For detailed description on the evolution of the legal framework on piracy in Mexico, see Aguiar (2012).
2. The word *fayuca* is a derivation of *falluca*, which means countryside peddling. *Falluca* comes from *falla*, a net with which women used to cover their heads, which has its origin from the French *faillie* (tissue; headpiece). From the noun *fayuca*, there are a number of derivations: *fayuquear* (trafficking); *fayuquero/a* (who traffics with *fayuca*) (cf. Colegio de México 1996).
3. Smuggling in *fayuca* refers to the illegal introduction of finished products from the United States into Mexico for the consumer market.
4. Nevertheless, *fayuca* is still a relevant economic domain, particularly the trade in smuggled second-hand clothing (Gauthier 2007). See also Bruns and Miggelbrink (2012).
5. The names of the interviewees are pseudonyms.
6. See the accounts by the civil organization on the website No+Sangre (<http://nomassangre.org/>; accessed August 3, 2013).
7. See the 2008 and 2009 yearly reports on the general attorney's official website (<http://www.pgr.gob.mx/>; accessed August 3, 2013).
8. In the early 2000s, spots were broadcasted on TV and in movie theaters with a moralizing discourse against the purchase of pirated products. These campaigns were financed by the federal government through IMPI, and through IFPI via its local representative AMPROFON.

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