

Informality in industry and creative economy: a legalist-Austrian approach for the state of Rio Grande do Sul

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Abstract: It is known that creative industries have informal activities and occupations inherent to their nature, some of which cause different effects on the economy. Given this fact, the present work's primary goal is to identify the elements, causes, and effects of informality in the creative sector utilizing a legalist approach, Austrian Economics, and symbolic capital. The main methodology is a bibliographic review of informality and its presence in the Creative Economy. It was possible to build strong operational concepts regarding the bridge between the legalist school and the Austrian School of Economics, perceiving state intervention, its laws, and regulations as harmful to the industry's economic development. This paper's foundation will serve as a basis for the propagation of quantitative research about entrepreneurs in the fashion sector and help study different creative sectors.

Keywords: Informality, Fashion industry, Creative economy, Austrian School of Economics.

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Informalidade na indústria e na economia criativa: uma abordagem legalista-austríaca do Rio Grande do Sul

Resumo: É bem conhecido que as indústrias criativas têm atividades e ocupações informais inerentes à sua natureza, o que gera efeitos diferentes no aspecto econômico. Frente a isso, o principal objetivo deste artigo é identificar os elementos, causas e efeitos da informalidade no setor criativo utilizando uma abordagem legalista, a economia austríaca e o capital simbólico. A principal metodologia adotada é a revisão da literatura sobre informalidade e sua presença na economia criativa. Foi possível construir fortes conceitos operacionais a respeito da ponte entre a escola legalista e a Escola Austríaca de Economia, considerando a intervenção estatal, suas leis e regulamentações como prejudiciais ao desenvolvimento econômico. Esta pesquisa servirá de base para a divulgação dos resultados quantitativos para os empresários do setor da moda, além de ser útil para o estudo de outros setores criativos.

Palavras-chave: Informalidade, Indústria da moda, Economia criativa, Escola Austríaca de Economia.

Informalidad en la industria y economía creativa: un enfoque austríaco-legalista para el estado de Rio Grande do Sul

Resumen: Es conocido que las industrias creativas tienen actividades y ocupaciones informales inherentes a su naturaleza, lo que provoca diferentes efectos en el aspecto económico. Ante este hecho, el presente artículo tiene como objetivo principal identificar los elementos, causas y efectos de la informalidad en el sector creativo utilizando un enfoque legalista, la economía austriaca y el capital simbólico. La principal metodología adoptada es la revisión bibliográfica sobre informalidad y su presencia en la economía creativa. Fue posible construir fuertes conceptos operativos en cuanto al puente entre la escuela legalista y la Escuela Austriaca de Economía, observando la intervención estatal, sus leyes y reglamentos como perjudiciales para el desarrollo económico. La fundamentación de esta investigación servirá de base para la difusión de la investigación de forma cuantitativa hacia los emprendedores del sector de la moda, además de ser de utilidad para el estudio en otros sectores creativos.

Palabras clave: Informalidad, Industria de la moda, Economía creativa, Escuela Austriaca de Economía.

Introduction

Informality is an economic (and therefore social) phenomenon that, since its initial “discovery” in Africa during the 1970s (HART, 1973), has been a constant presence in the macroeconomic organization of several nations, regardless of whether they are developed or not (BECKER, 2004; COLETTI, 2010; GASPARINI; TORNAROLLI, 2009; SKAVRONSKA, 2020). As a modern economic phenomenon that affects financial relations daily across all sectors, this paper proposes a theoretical review of informality, its inferences in the creative economy, and its notorious propensity to create wealth.

For that, this research is organized in two foundations: “informality,” approaching philosophies and schools of study of the object and its connections with the teachings of the Austrian School of Economics; and “symbolic capital, creative economy and legislation,” regarding the organization, definition and its features of inputs and outputs.

As for methodological procedures, a theoretical review on informality was performed, adopting a legalist perspective instead of a structuralist or dualist one. Moreover, the creative economy, its industries, and symbolic capital were studied; symbolic capital is essential for producing and maintaining meaning value for creative and cultural products and services.

Given the initial foundations, through a deductive methodological apparatus, inferences are drawn between informality, industry, and creative economy from a legalistic perspective, offering new perspectives on structuralist issues, interventionism, and the State, which can directly interfere in the creative sectors.

With the present discussion, we seek to build a theoretical contribution on informality through deductive reasoning, offering new visions by applying a legalist approach to the fashion sector as well as other sectors of the creative economy, focused on the Brazilian state of Rio Grande do Sul, known for its fashion market prosperity status.

Informality

What was once understood as an isolated phenomenon in underdeveloped countries (*id est*, in non-modern, low-technology productive structures), informality has become an occurrence in the mainstream economy of nations.

Initially mapped on the African continent under Hart’s (1973) observations that populations were not unemployed but performing jobs with paltry wages and without proper infrastructure, the concept went through many redefinitions until its current conceptions (BECKER, 2004; COLETTI, 2010; RAM et al., 2017).

In the germinal phase of this concept, it was understood as economic activities not recognized, protected, or regulated by authorities, operating under precarious conditions; this definition was named *dualist* (BECKER, 2004), in reference to the opposition between two spheres of the economy: formal and informal.

However, with the temporal and technological advancement of societies – whether developed or underdeveloped – the presence of informality did not disappear but, contrary to the dualist view, it increased dramatically, giving rise to two new schools, *structuralist* and *legalist* (COLETTI, 2010; GASPARINI; TORNAROLLI, 2009; SOTO, 1989).

The structuralist view, primarily based on and Castells (1989), attributed informality to the notion of unprotected work, through cost reduction strategies and outsourced executions, which the authors placed in the context of the so-called neoliberal world.

The fact that no payments accounting for taxes and social security, and wages are below the minimum established by law, the authors define these as the structuralist basis, requiring greater state interference for the protection of the worker, a view adopted as macroeconomic

policy in Latin America (ANDERSEN; MURIEL, 2007; BOUR; SUSMEL, 2010; NERI; FONTES, 2010; PERTICARA; CELHAY, 2010; RODRÍGUES-OREGGIA, 2010; VARGAS, 2010). They claim that flexible work is directly connected to poverty and the exploitation of workers.

In contrast to the structuralist view, the legalist approach discusses the high costs of temporal and financial inputs, as well as a large multiplicity of bureaucratic steps to carry out economic activities in a political system seen as corrupt (BECKER, 2004; RAM et al., 2001; SOTO, 1989).

It is easy to draw links between the structuralist vision of informality and the Austrian School of Economics, which concludes that, no matter how good the intentions, state interventionism in the economy is harmful to agents seeking to perform their activities, and welfarism (welfare state) leads to counterproductive tendencies (HOPPE, 2014; MISES, 2018). Furthermore, since the perceived value is seen as subjective (MENGER, 2007), the order of an individual's actions must be spontaneous, so agents are allowed to negotiate freely, therefore guaranteeing no distortions in information, as knowledge and data are dispersed in society – a fact that makes central planning unfeasible. Hayek (1945) argues that spontaneous order brings social order, with actions and forces coming from groups of individuals moved by self-interest and without the intention of generating order (ROTHBARD, 1990).

Centralization is an economic-political phenomenon of integration that does not correspond to economic integration: the former refers to the State expropriation capacity through regulations and taxation, while the latter correlates to the amplification of labor division and multi-regional market participation between owners and employees (HOPPE, 2014).

Gherzi (1997) then claims that, in the 1980s and 1990s, Latin American countries were subjected to a highly interventionist capitalism, where private property was not a right but a privilege, and reduced entrepreneurial activity, with a low level of competitiveness.

Foremost, the context for the development of informal economic practices can be traced to a deep debt crisis, a decrease in imports, and high commodity prices in the 1980s in Latin America (COLETTI, 2010). The devaluation of the state currency found fertile ground in the creation of deregulated markets, mainly by the less affluent populations, especially those who migrated from the rural countryside to the city, as Soto (1989) demonstrates with the case of the indigenous migration to the capital Lima.

Using Soto's case study (1989) as a framework, the author mapped that the land adjudication process took 207 bureaucratic steps over an average period of 43 months; the opening of a small garment factory took 289 days, with a cost of USD 1.231 – 32 times the minimum wage at the time -, going through 11 stages, two of which were only possible by bribing state authorities.

The act of hampering economic practices and hindering the spontaneous use of private property by laws and regulations proved to be not only harmful – but totally ineffective – to the Peruvian people, as Lima's workforce at the time of the study corresponded to more than 60% of informal enterprises.

Lobaczewski (2014) sees the presence of the State as harmful, claiming that government representatives making centralized decisions that interfere in the social and economic spheres of all agents of society are, most of the times, incapable and inoperative to the necessary practices that

lead to positive outcomes; that way, the State becomes a monopolist of decisions (ROTHBARD, 2012) of a compulsory nature, that is, a kind of non-voluntary social organization (HOPPE, 2014).

Informality has specific characteristics: in micro, small and medium-sized companies, there are no considerable differences in productivity (BIRBUET; MACHICADO, 2009). It represented more than 60% of the Latin American workforce at the beginning of the 21st century, being more common in more rural countries (BECKER, 2004), which did not have costs of taxes, fees, and social security (SOTO, 1989), copyright and royalties (SKAVRONSKA, 2020). It meant greater flexibility in labor relations (NEFF; WISSINGER; ZUKIN, 2005), being an advantage to entrepreneurs who own businesses, work, on average, 10% more hours than their subordinates, and earn 2.5 times more (GASPARINI; TORNAROLLI, 2009).

It is worth mentioning that products and services offered in the informal market are not necessarily illegal. According to Skavronska (2020), however, they might be offered in illegal distribution channels. An example of this illegality in fashion products is the informal occupation of street vendors, called informal occupation (SOTO, 1989), selling counterfeit goods such as shirts, jackets, or sneakers. According to Coletto (2010), this practice is widespread in *camelôs* in Brazil.

Another aspect worthy of clarification is that informality is not only concerned with goods and services. It can even be seen in family learning, such as the passing on cultural *savoir-faire* techniques (BASOLE, 2014), which can affect, increase, and even coordinate material production in creative industries (such as arts, crafts, and fashion).

Entering the informal sphere is a decision based on a simple mathematical calculation made by economic agents, as they evaluate if it is economically possible for them to perform economic activities legally. Deciding for one sphere or the other entails consequences in terms of costs: for example, despite the high costs of belonging to the formal sphere, informal businesses inherently face costs such as no easy access to credit (since they lack formal documents to support their results), limitations to growth (adopting a low profile not to attract the attention of state authorities) and, perhaps, the most severe problem of all is the lack of legal coverage on contracts, as these either do not exist or cannot be applied due to the lack of a legal system to enforce them (SOTO, 1989). The statist-structuralist literature neglects the costs of informality: these costs can undermine small businesses, prevent their growth, and, therefore, be even more expensive (and connote danger) to individuals than those in the legal sphere.

The absence of a legal system that guarantees property rights is consistent with informality, since private property has gradually lost its legality (HOPPE, 2014). Notwithstanding, there are legal guarantees in contracts that can be applied for the defense or request of a legal agent.

Ram et al. (2017, p. 363) state that “it is important to note that the notion of economic informality covers the whole range of business transactions carried out on a non-contractual basis”, and that its absence excludes labor protection (GASPARINI; TORNAROLLI, 2009).

A particular set of industries – called *creative industries* – is recognized for having an “informal” essence, through the absence of contracts and project work (short term), high risks regarding the stability of positions, uncertainties, and flexibility in labor relations (MERKEL, 2019; NEFF; WISSINGER; ZUKIN, 2005).

Symbolic Capital, Creative Economy, and Legislation

The creative industry is classified as a set of sectors whose primary input is creativity, and output, intellectual work, being intangible (PINHEIRO; SILVA, 2019) or hybrid, as in the case of fashion (CIETTA, 2017), for the reason that the product must have a textile portion (tangible) and brand marketing and sales (intangible). For Valiati (2013), the creative economy is consistent with economic activities whose wealth-generation capabilities come from creative-related assets.

In its history, the creative economy, and – therefore, creative industries – has its roots in the Frankfurt School, notorious for giving to culture and arts an elitist and intellectual view as the basis of Marxism. In contrast, a view of production and commercialization of cultural assets is seen as malevolent exploitation (SCOTT, 2001).

Potts and Cunningham (2008) appoint four principal business models for creative enterprises, based on welfare, competition, growth, or innovation. The welfare model is often the most common framework regarding core activities (performing arts, audiovisual, editorial and publishing, cultural expressions, music, and patrimony) in the creative economy, because “creative industries are hypothesized to have a net negative impact on the economy, such that they consume more resources than they produce” (POTTS; CUNNINGHAM, p. 235, 2008).

Furthermore, encompassing culture as a product or service, a pro-interference view can be seen in Silva and Ziviani (2021). They long for the creation of more job vacancies in the cultural sector through the welfare creative business model; the authors recommend vacancy generation through the law, that is, a clear example of structuralist interference in the creative economy sector.

Establishing that the Creative Economy and the Creative Industries do not share the same meaning is essential. The Creative Industries (CI) are part of the Creative Economy: the economic sector based on creativity and ideas (called intellectual capital) to generate value for products and services (MADEIRA, 2014). The creative economy clusters the various areas of the creative industry, such as fashion, design, arts and crafts, audiovisual production, and publishing.

According to the author, the success of the creative economy – also called the “orange economy” – is given by the so-called post-industrial capitalism, where knowledge is applied in technology and human capital. Post-industrial capitalism represents an advance in itself, allowing new ways to explore different production factors to obtain new products or services; using multiple production factors creates value-adding links to production, under the concept of roundaboutness (BÖHM-BAWERK, 2004).

Among all the Creative Economy models available, the SEPLAG (2021) (Secretariat of Planning, Governance, and Management⁴) from the Rio Grande do Sul state decided to divide the “orange economy” into four major areas: culture, media, functional creations, and technology – which have groups of activities such as publishing, fashion, and design in their ramifications (BRASIL, 2021). Table 1, below, represents the conjecture.

⁴ Author’s free translation for “Secretaria de Planejamento, Governança e Gestão”.

Table 1 – Creative economy areas, groups, and activities

Area	Group	Activities
Culture	Heritage and traditional cultures	Traditional cultural expressions Popular culture Heritage, museums, and libraries Craftsmanship Gastronomy
	Visual and performing arts	Visual arts Performing Arts (theatre and dance) Song Photography Show houses Recording studios Producers
Media	Publishing and media	Book publishing, newspapers, and magazines Publishing integrated into the printing of books, newspapers, and magazines Marketing of books, newspapers, and magazines Internet portals and content providers
	Audiovisual	Movie and audiovisual production, distribution, and Open TV exhibition, radio and cable TV activities
Functional Creations	Architecture, design, and fashion	Architectural services Product design Fashion design Fashion production and marketing Marketing of design-related products
	Advertising and market research	Publicity agencies Opinion research agencies
Technology	Teaching and research	Teaching arts, culture, and languages Academic research activities in the humanities, health, and exact sciences. University institutions
	IT and software, research and development	Equipment manufacturing Equipment sales Creating computer programs game industry

Source: BRASIL, 2021.

Brazil's biggest share of creative enterprises consists of micro and small firms. According to Itaú Cultural report⁵, in 2019, of 140.283 enterprises, 118.321 (84,3%) were considered micro, 18.444 (13,14%) small, 2.463 (1,7%) medium-sized, and only 1.055 (0,75%) large companies; and the fashion sector was dominant in the micro, small and medium-sized companies.

⁵ Available in: <https://www.itaucultural.org.br/observatorio/paineldedados/pesquisa/total-de-empresas-criativas>.

The authors take Law No. 6.938/81 to define an enterprise according to its size, which is something decided by the State, the compulsory institution responsible for regulations and interferences in the economic sphere. This law states that a medium-sized enterprise has an annual gross revenue greater than R\$1.200,000 and equal to or less than R\$12.000.000,00; a large enterprise has an annual gross revenue greater than R\$ 12.000.000,00 (BRASIL, 1981).

Micro and small enterprises are contemplated by the complementary Laws No. 123/2006 and No. 128/2008, which divide the micro-sized entities into microentrepreneurs (MEI), that is, an individual with annual gross revenue up to R\$ 81.000,00 and microenterprises as businesses with yearly gross revenue equal to or less than R\$ 360.000,00; finally, an enterprise is considered small if its annual gross revenue is greater than R\$ 360.000,00 and equal to or less than R\$ 4.800.000,00 (BRASIL, 2006, 2008).

Take the MEI as an example. In order to be able to formalize it, the entrepreneur needs to follow a series of steps, such as consulting with the municipality before starting the process, so that they can verify and confirm if the address or place where he/she wants to establish his/her business is approved. It should be noted that each municipality has its own laws, rules, and procedures; each one can establish rules and regulations for the operation of businesses – a factor that can confuse, delay and hinder the creation of a business, as seen in Soto (1989).

According to Complementary Law No. 123/2006, the Individual Microentrepreneur (MEI) is exempt from any cost to open and register the company. However, after formalization, he/she is obliged to pay its taxes monthly, which include Social Security (in the amount of 5% of the national minimum wage); ICMS (taxation on goods circulation and provision of services) at the state level, in the activities of industry, commerce and interstate and/or intercity transport; and the ISS (taxation for services) at the local level, in the activities of Provision of Services and Municipal Transport (BRASIL, 2006).

Law No. 123/2006 also covers Micro and Small Enterprises. The Microenterprise (ME) is characterized by its gross income of up to R\$ 360.000,00 per year, while the Small Business (EPP) income will be from R\$360.000,00 to R\$ 4,800,000,00. It should be noted that in these two modalities, there is no limit to the number of employees, and the average cost for opening will vary according to the state, ranging from R\$ 500,00 to R\$1.500,00 (SERVIÇO BRASILEIRO DE APOIO ÀS MICRO E PEQUENAS EMPRESAS, 2019).

Also, according to SEBRAE (2021), to choose a name, it is necessary to consult the viability of the name at the State Board of Trade or the Civil Registry of Legal Entities. After consultation and feasibility, the name is registered with the Board of Trade. It is noteworthy that it is also necessary to indicate the company's areas of activity, since all regulation and taxation will depend on this aspect.

Regarding taxes, these will be defined according to the selected tax regime. According to Law No. 123/2006, there are eight taxes that Microenterprises and Small Businesses must pay, namely: IRPJ (corporate income tax), ISS (taxation over services), CSLL (social contribution on net income), COFINS (contribution to social security), ICMS (tax on the circulation of goods and services), PIS (social integration program), PASEP (taxation for government workers asset's) IPI (taxation over industrialized products), CPP (social security contribution) (BRASIL, 2006).

Thereby, a small business or a micro-entrepreneur in the Creative Economy – by its nature, composed mainly of micro and small businesses – must comply with a large set of regulations in law in a compulsory manner.

It is also characteristic of creative economy outputs the consumption of goods or services that contain inherent symbols or meanings, located in the immaterial plane (BLYTHE, 2001; BOLIN, 2005; HARTLEY, 2005; LAWRENCE; PHILLIPS, 2002) or in a hybrid way, as in case of fashion that makes use of specific meanings in material (textile) and immaterial properties (CIETTA, 2017).

In such a way, when approaching an economic sector that carries the particularity of the predominance of immaterial output, it is emphasized that capital permeates its meaning as a factor of production, finding other aspects that Bourdieu (2007) classifies as symbolic capital.

Symbolic capital is that material or immaterial capital whose meaning is based on a prestige image (BOURDIEU, 2007), where businesses promote an imagery perspective of the representation of something that adds value to the product or service offered (IHLEN, 2018). Thus, a garment, a costume, a shoe, or even an accessory – a fashion product – carries an immaterial value, mainly due to its perceived characteristics (brand and quality).

Methodological Procedures

Bibliographical research is the primary methodology adopted, reviewing literary materials that underwent previous analytical treatment (GIL, 2002) and were used for the theoretical basis. Another methodological apparatus used was the deductive method, which, according to Prodanov and Freitas (2013), starts from general discussions about facts and principles and predicts particular results through logical deduction.

For mapping the informal economy, direct household research methods are used (BECKER, 2004; GASPARINI; TORNAROLLI, 2009); in Brazil, one type of collector of such data is the continuous National Household Sample Survey (PNAD) (SILVA; ZIVIANI, 2021). According to the same report, we have an average of 62.14% of the formal working population in the creative economy, compared to 37.86% of the informal sector, representing 6.857,688 creative workers.

Estimating the metrics of informality in Brazil, as well as the method of its collection, we start with a deduction of the legalist perspective in union with the Austrian School of Economics to build a sufficient theoretical framework for application in such numbers.

Inferences

The legalist school can share direct lines with the philosophy of the Austrian School of Economics, especially regarding the interpretation of the level of informality created by the State. It is recalled that the Austrian School sees the State as the coercive territorial monopolist, that is, a non-natural monopolist (ROTHBARD, 2012), while the connection between the legalist school and Austrian Economics can be seen in Soto (1989), as he claims that imposed regulations (created and seen as legitimate for the State) are the factors causing informality.

Structuralist literature applied to the economic and social reality of Latin America by Andersen and Muriel (2007), Bour and Susmel (2010), Colleto (2010), Neri and Fontes, (2010), Perticara and Celhay (2010), Rodríguez-Oreggia (2010) and Vargas (2010), and globally in Portes and Castells (1989), may represent a compromise between the approximation of flexibilization of work relations and cost-cutting and informality.

One approach, *per se*, does not cancel out the other: we can build on the structuralist view of informality at the heart of cost-cutting and flexible working relationships. However, this raises some points for debate.

Firstly, reading the authors' studies above, we note that flexible working notions are not enough to explain the poor conditions of infrastructure, technology, and workers' earnings in Latin American countries. A less technologically qualified workforce does not encompass a voluminous set of production links that enrich the output, according to Böhm-Bawerk (2004) concept of roundaboutness, so a product of poor quality cannot be desired by the entrepreneur, often seen as the tyrant behind labor exploitation by those structuralist authors.

Much less is it in the self-interest of the owner of the enterprise, whether informal or formal, that his workforce is poorly paid and working in precarious conditions, reducing motivation, well-being, and quality of life at work despite not being a viable alternative to micro and small companies (SUBRAMONY et al., 2008) – it is worth to recall that micro and small companies make up about all of the creative economy enterprises.

Taking the MEI perspective, it is an attempt to facilitate access to legality. Still, the simple existence of a set of bureaucratic steps that demand time and capital investment (often scarce to poorer individuals) and dependency on State approval, as well as relatively high respective tax charges for a small business, may represent some issues that still drive away a good portion of workers and entrepreneurs. We must remember that the micro category is: a) the most dominant in the Brazilian creative economy; b) the measure of informal workers in 2019 was around 40%. That said, while still not ideal, flexibilization can represent the beginning of a prolific path for entrepreneur activity, being a notorious upgrade compared to the study of Soto (1989).

Labour laws, however, not allowing flexibilization on a contractual basis between employer and employee disrupts spontaneity and despises the idea of subjective value – the regular employer in small firms may not be able to pay the minimum wage – a problem regarding flexibility and free agreement between working parts previously reported by Ram et al. (2001) – and, if fearing the criminal consequences of operating informally, may not hire a worker in need of a job, diminishing both the employability level and his/her production – with which if they could produce more and better, they would be able to pay better wages and hire more workers.

Moreover, the welfare model of Potts and Cunningham (2008) reflects the interdependency of creative products and services, reinforcing interventionism. Economic sectors wasting more resources than producing wealth is not only economically impracticable but denies incentives for higher production and creates a vision of interventionism that causes damage across public spending and the cultural sectors. Being products and services promoted in

the market, they shall be, from the Austrian Economics perspective, treated as equal with no privileges whatsoever, recalling that interventionism and its assistentialism are counterproductive (HOPPE, 2014; MISES, 2018).

The most alarming flaw of the structuralist approach may be to request greater State interference and to see it as a panacea for solving the problem of informality. As seen in Coletto (2010), the State and its judicial system are unable to keep up with the countless number of labor cases, a paradoxical view that finds in Hoppe (2014) a pertinent explanation: legislative codes seek to regulate all actions and end up inflating finite courts, in addition to the fact that legislation changes a lot, causing judicial insecurity and disrespect for law and social order.

When Silva and Ziviani (2021) prioritize positions in the cultural sectors (in formal sectors), they do not perceive two critical facts, one under the legalistic logic and the other under the Austrian School view.

In the first instance, it should be noted that, in 2021, 37.86% of the Brazilian working population in the creative economy was mapped as informal, representing 2.537.344,56 individuals. It is clear that, due to the existence of informal costs (commonly omitted by structuralists) limiting the progress and development of both the entrepreneur and his employees, informality is a phenomenon that harms both economic spheres, as the State also fails to profit from its expropriation and, as in the case of Bolivia (ANDERSEN; MURIEL, 2007), large companies and multinationals (always formal) paid taxes omitted by informal ones, impacting their price structure, making stakeholders or business owners reflect whether it is really worth investing in the country.

The loss of important and world-renowned businesses that have a vast specialized workforce can be very harmful to the economic development of geographical space, whether big (the entire nation) (PORTER, 1998) or small (a neighborhood), especially in the creative industries linked to the knowledge economy (MADEIRA, 2014).

Thus, from the legalist point of view, lowering the costs of entry, maintenance, and facilitation of processes entering the economy and carrying out economic activities in a *laissez-faire* market structure (preferred, also, by the Austrian School) can be beneficial to productive parts.

In addition to such visualization, the super creation of job vacancies without indicators of the actual need (which cannot be covered by any central organizer) of labor will seem beneficial to the first step. However, it will depend on its maintenance of constant inflation and progress, which, in the long run, will inevitably result in mass unemployment (HAYEK, 1985).

It is known that inflation, by the logic of the Austrian School, is the loss of state currency's purchasing power due to excess issuance without the necessary demand. If the structuralist solution is adopted, the State artificially generates more positions, increasing inflation. Workers will soon be unemployed *en masse* (HAYEK, 1985) and, with a devalued currency, will be pushed into poverty.

The inability of a central organizer to “discover” whether or not there is a real need to allocate skilled labor for a given time is natural, reflecting Hayek's (1945) knowledge problem. It states that, given the dynamism of society, a single organizer cannot manipulate

all micro and macroeconomic processes, because knowledge, need, scarcity, or abundance informations are dispersed in our society and subject to sudden changes. In such a way, only spontaneous forces in a free market can offer the most effective solutions and, in the shortest time to the market's problems, understood as a process.

Therefore, the view of the economy as an exact science, not dynamic and dependent on social agents, represents an old danger, which has already affected societies in the past and continues to threaten social groupings (HAYEK, 1985).

Therefore, for legalistic and Austrian School approaches, intervention is harmful and contrary to development. Not only for the examples cited above, but also as seen in Ram et al. (2001), the establishment of a minimum wage and the freezing of maximum working hours were sufficient factors for the so-called "regulation shock" that collapsed one fashion business and pushed the other to sell inferior and even illegal products (counterfeits) – emergency measures taken by the sole owner and worker of a brand on the verge of bankruptcy in the face of regulations.

Andersen and Muriel (2007) confirmed this hypothesis by suggesting the modernization of labor laws. In their case study, the Bolivian government forced the removal of female workers from their jobs on maternity leave and prohibited night work for them. The causes, however, were that women, paid in a devalued and fiat currency (fiat money) that did not guarantee a decent quality of life, worked overtime, earning off the books. At the same time, an example of informality and formality, given that company was aware of the law regarding the removal and the "prohibition" of night shifts.

Laws and regulations such as the ones mentioned above play a counterproductive role. Such cases reflect that the structuralist position, contrary to the flexibilization of labor relations, pushes workers to the informal sphere, sometimes putting them in emergency situations. The situation is paradoxical: disarming economic agents from their production processes and preventing them from growing to improve these, adding more links in their chain and generating greater values for society as a whole turns out to be an exclusive and regressive process – progress turns to the dualistic view of jobs with lousy infrastructure, technology, wages, and incomes.

Therefore, the structuralist demonization of flexibilization does not take into account the character of sectors of the Creative Economy, which are characterized by highly flexible relationships (MERKEL, 2019) and subjective values of types of capital other than financial (BOURDIEU, 2007).

Bourdieu's symbolic capital, a factor that intrinsically belongs to the creative economy sectors, can be a driver of informality. Take as an example the acquisition of a sneaker from a brand "N," which, in the original model, would cost an "X" price, can be acquired in a counterfeit version for a considerably lower amount, since the good (sneaker) is not the object of desire, nor the symbolic capital, but the brand and its social representations. Such acquisition encourages not only the informal part of the acquisition of a good, but also piracy, thus appearing both in the informal and illegal spheres of commercialization.

Therefore, the suggestion is that, given that the value is subjective to the individual (MENGER, 2007) and that intervention is ineffective, labor relations should not be disturbed by the State, which should be kept in inaction, allowing, thus, the spontaneous order to take place (ROTHBARD, 1990), respecting the contract structure that must have legal applicability to be imposed (SOTO, 1989), safeguarding both parties in mutual and voluntary cooperation. As Hoppe (2014, p. 140) claims: “justice and economic efficiency demand a pure and unrestricted private property society – an “anarchy of production” in which no one rules anyone, in which all relations between producers are voluntary and therefore mutually beneficial.”⁶

Final Considerations

Given the theoretical reflection raised, it was possible to check a firm approximation between the legalist approach regarding informality and the economic principles of the Austrian School, especially at the heart of state interventionism, taken as unfavorable for social progress and economic development.

The elucidation of symbolic capital, inherent to the goods and services of the creative sectors, can pose a danger to the issue of informality and the fine line between the informal and the illegal, as well as a large number of bureaucratic procedures (which have decreased significantly for MEIs in recent years, but still represent dangerous numbers), besides taxes that affect creative entrepreneurs can be harmful to development. Structuralists emphasize looking at large companies, which a large amount of taxation and bureaucratic procedures can hardly prevent their activities; this is not true for micro and small enterprises – which were equivalent to more than 96% of Creative Economy enterprises in Brazil in 2019 -, whose resources are particularly scarce.

Such operational concepts from the Austrian School, legalistic approach, and symbolic capital will serve as essential foundations to expand the present research, which will employ the foundation based here for the quantitative mapping of fashion entrepreneurs in the state of Rio Grande do Sul, in order to confirm the degree of informality and the application of the Austrian-Legalist theory. The authors also suggest taking the current paper as a theoretical framework for further Creative Economy studies related to regulation.

⁶ Author’s free translation.

References

- ANDERSEN, Lykke; MURIEL, Beatriz. **Informality and productivity in Bolivia**: a gender differentiated empirical analysis. Working Paper n. 7/2007. La Paz: INESAD, 2007. Disponível em: <https://econpapers.repec.org/paper/advwpaper/200707.htm> Acesso em: 20 maio 2022.
- BASOLE, Amit. **Informality and flexible specialization**: labour supply, wages and knowledge flows in an indian artisanal cluster. Working Paper n. 2014/07. Boston: UMass Boston, 2014. Disponível em: http://repec.umb.edu/RePEc/files/2014_07.pdf Acesso em: 20 maio 2022.
- BECKER, Kristina Flodman. **The informal economy**. Sundbyberg: SIDA, 2004.
- BIRBUET, Juan Cristobal; MACHICADO, Carlos Gustavo. **Understanding productivity levels, dispersion and growth in the leather shoe industry**: effects of size and informality. Working paper n. 08/2009. La Paz: INESAD, 2009. Disponível em: <https://www.inesad.edu.bo/en/2009/08/20/understanding-productivity-levels-dispersion-and-growth-in-the-leather-shoe-industry-effects-of-size-and-informality/> Acesso em: 20 maio 2022.
- BLYTHE, Mark. The work of art in the age of digital reproduction: the significance of the creative industries. **Journal of Art & Design Education**, West Sussex, v. 20, n. 2, p. 144-150, 2001. <https://doi.org/10.1111/1468-5949.00261>
- BOLIN, Göran. Notes from inside the factory: the production and consumption of signs and sign value in media industries. **Social Semiotics**, Abingdon, v. 15, n. 3, p. 289-306, 2005. <https://doi.org/10.1080/10350330500310061> Acesso em: 20 maio 2022.
- BÖHM-BAWERK, Eugene von. **Capital and interest**: a critical history of economic theory. London: MacMillan, 2004. Disponível em: https://cdn.mises.org/Capital%20and%20Interest_0.pdf Acesso em 20 maio 2022.
- BOUR, Juan Luis; SUSMEL, Nuria. Informalidade laboral na Argentina. **Cadernos Adenauer**, Rio de Janeiro, v. 11, n. 2, p. 4-15, 2010. Disponível em: https://www.kas.de/documents/252038/253252/7_dokument_dok_pdf_20481_5.pdf/4793b7e8-5903-7486-4d12-62d395003b24?version=1.0&t=1539660748027 Acesso em: 20 maio 2022.
- BOURDIEU, Pierre. **A economia das trocas simbólicas**. 6. ed. São Paulo: Perspectiva, 2007.
- BRASIL. Lei nº 6.938, de 31 de agosto de 1981. Dispõe sobre a Política Nacional do Meio Ambiente, seus fins e mecanismos de formulação e aplicação, e dá outras providências. **Diário Oficial [da] República Federativa do Brasil**: seção 1, Brasília, DF, ano 119, n. 167, p. 1, 2 set. 1981. Disponível em: http://www.planalto.gov.br/ccivil_03/leis/16938.htm Acesso em: 31 maio 2022.
- BRASIL. Lei complementar nº 123, de 14 de dezembro de 2006. Institui o Estatuto Nacional da Microempresa e da Empresa de Pequeno Porte. **Diário Oficial [da] República Federativa do Brasil**: seção 1, Brasília, DF, ano 143, n. 240, p. 1, 15 dez. 2006. Disponível em: https://www.planalto.gov.br/ccivil_03/leis/lcp/lcp123.htm Acesso em: 31 maio 2022.
- BRASIL. Lei complementar nº 128, de 19 de dezembro de 2008. **Diário Oficial [da] República Federativa do Brasil**: seção 1, Brasília, DF, ano 145, n. 248, p. 1, 22 dez. 2008. Disponível em: http://www.planalto.gov.br/ccivil_03/leis/lcp/lcp128.htm Acesso em: 31 maio 2022.
- CIETTA, Enrico. **A economia da moda**: porque hoje um bom modelo de negócios vale mais do que uma boa coleção. São Paulo: Estação das Letras e Cores, 2017.
- COLETTO, Diego. **The informal economy and employment in Brazil**: Latin America, modernization, and social changes. New York: Palgrave MacMillan, 2010. https://doi.org/10.1057/9780230113992_1
- GASPARINI, Leonardo; TORNAROLLI, Leopoldo. Labor informality in Latin America and the Caribbean: patterns and trends from household survey microdata. **Desarrollo y Sociedad**, Bogotá, n. 63, p. 13-80, 2009. <https://doi.org/10.13043/dys.63.1>

GHERSI, Enrique. The informal economy in Latin America. **Cato Journal**, Washington, DC, v. 17, n. 1, p. 99-108, 1997. Disponível em: <https://www.cato.org/sites/cato.org/files/serials/files/cato-journal/1997/5/cj17n1-8.pdf> Acesso em: 20 maio 2022.

GIL, Antônio Carlos. **Como elaborar projetos de pesquisa**. São Paulo: Atlas, 2002.

HART, Keith. Informal income opportunities and urban employment in Ghana. **The Journal of Modern African Studies**, Cambridge, v. 11, n. 1, p. 61-89, 1973. <https://doi.org/10.1017/S0022278X00008089>

HARTLEY, John. **Creative industries**. New Jersey: Wiley-Blackwell, 2005.

HAYEK, Friedrich August von. **Desemprego e política monetária**. Rio de Janeiro: José Olympio, 1985.

HAYEK, Friedrich August von. The use of knowledge in society. **American Economic Review**, Pittsburgh, v. 35, n. 4, p. 519-530, 1945. Disponível em: <http://www.jstor.org/stable/1809376> Acesso em: 9 jun. 2022.

HOPPE, Hans-Hermann. **Democracia: o Deus que falhou**. São Paulo: Mises Brasil, 2014.

IHLEN, Øyvind. Symbolic capital. In: ROBERT, Heath; WINNI, Johansen (org.). **The international encyclopedia of strategic communication**. Hoboken: Wiley-Blackwell, 2018. <https://doi.org/10.1002/9781119010722.iesc0190>

LAWRENCE, Thomas B.; PHILLIPS, Nelson. Understanding cultural industries. **Journal of Management Inquiry**, Thousand Oaks, v. 11, n. 4, p. 430-441, 2002. <https://doi.org/10.1177/1056492602238852>

LOBACZEWSKI, Andrew. **Ponerologia: psicopatas no poder**. Campinas: VIDE Editorial, 2014.

MADEIRA, Mariana Gonçalves. **Economia criativa: implicações e desafios para a política externa brasileira**. Brasília, DF: Fundação Alexandre de Gusmão, 2014.

MENGER, Carl. **Principles of economics**. Auburn: Ludwig von Mises Institute, 2007. Disponível em: https://cdn.mises.org/Principles%20of%20Economics_5.pdf Acesso em: 20 maio 2022.

MERKEL, Janet. 'Freelance isn't free.' Co-working as a critical urban practice to cope with informality in creative labour markets. **Urban Studies**, London, v. 56, n. 3, p. 526-547, 2019. <https://doi.org/10.1177/0042098018782374>

MISES, Ludwig von. **Intervencionismo: uma análise econômica**. 3. ed. São Paulo: Mises Brasil, 2018. Disponível em: <https://www.mises.org.br/Ebook.aspx?id=168> Acesso em: 20 maio 2022.

NEFF, Gina; WISSINGER, Elizabeth; ZUKIN, Sharon. Entrepreneurial labor among cultural producers: 'cool' jobs in 'hot' industries. **Social Semiotics**, Abingdon, v. 15, n. 3, p. 307-334, 2005. <https://doi.org/10.1080/10350330500310111>

NERI, Marcelo; FONTES, Adriana. Informalidade e trabalho no Brasil: causas, consequências e caminhos de políticas públicas. **Cadernos Adenauer**, Rio de Janeiro, v. 11, n. 2, p. 16-23, 2010. Disponível em: https://www.kas.de/documents/252038/253252/7_dokument_dok_pdf_20481_5.pdf/4793b7e8-5903-7486-4d12-62d395003b24?version=1.0&t=1539660748027 Acesso em: 20 maio 2022.

PERTICARA, Marcela; CELHAY, Pablo. Informalidade trabalhista e políticas públicas no Chile. **Cadernos Adenauer**, Rio de Janeiro, v. 11, n. 2, p. 24-33, 2010. Disponível em: https://www.kas.de/documents/252038/253252/7_dokument_dok_pdf_20481_5.pdf/4793b7e8-5903-7486-4d12-62d395003b24?version=1.0&t=1539660748027 Acesso em: 20 maio 2022.

PINHEIRO, Cristiano Max Pereira; SILVA, André Conti. Afinal, o que é (e o que não é) indústria criativa? In: DOMINGUES, Juliano (org.). **Mídia e cultura contemporânea**. Porto Alegre: Editora Fi, 2019. p. 32-49. (Série linguagem, v. 4). Disponível em: <https://www.editorafi.org/linguagem-e-mercado> Acesso em: 20 maio 2022.

PORTER, Michael Eugene. **The competitive advantage of nations**. London: Palgrave MacMillan, 1998.

PORTES, Alejandro; CASTELLS, Manuel. World underneath: the origins, dynamics, and effects of the informal economy. In: PORTES, Alejandro; CASTELLS, Manuel; BENTON, Lauren A. **The informal economy: studies in advanced and less developed countries**. Baltimore: Johns Hopkins University Press, 1989. p. 11-37.

POTTS, Jason; CUNNINGHAM, Stuart. Four models of the creative industries. **International Journal of Cultural Policy**, Abingdon, v. 14, n. 3, p. 233-247, 2008. <https://doi.org/10.1080/10286630802281780>

PRODANOV, Cleber Cristiano; FREITAS, Ernani Cesar de. **Metodologia do trabalho científico: métodos e técnicas da pesquisa e do trabalho acadêmico**. 2. ed. Novo Hamburgo: Feevale, 2013. Disponível em: <https://www.feevale.br/Comum/midias/0163c988-1f5d-496f-b118-a6e009a7a2f9/E-book%20Metodologia%20do%20Trabalho%20Cientifico.pdf> Acesso em: 20 maio 2022.

RAM, Monder; EDWARDS, Paul; GILMAN, Mark; ARROWSMITH, James. The dynamics of informality: employment relations in small firms and the effects of regulatory change. **Work, Employment & Society**, London, v. 15, n. 4, p. 845-861, 2001. <https://doi.org/10.1177/095001701400438233>

RAM, Monder; EDWARDS, Paul; JONES, Trevor; VILLARES-VARELA, María. From the informal economy to the meaning of informality: developing theory on firms and their workers. **International Journal of Sociology and Social Policy**, Bingley, v. 37, n. 7/8, p. 361-373, 2017. <https://doi.org/10.1108/IJSSP-06-2016-0075>

RODRÍGUEZ-OREGGIA, Eduardo. Informalidade do trabalho e políticas públicas na América Latina: o caso do México. **Cadernos Adenauer**, Rio de Janeiro, v. 11, n. 2, p. 34-37, 2010. Disponível em: https://www.kas.de/documents/252038/253252/7_dokument_dok_pdf_20481_5.pdf/4793b7e8-5903-7486-4d12-62d395003b24?versio n=1.0&t=1539660748027 Acesso em: 20 maio 2022.

ROTHBARD, Murray Newton. **A anatomia do Estado**. 2. ed. São Paulo: Mises Brasil, 2012.

ROTHBARD, Murray Newton. Concepts of the role of intellectuals in social change toward laissez faire. **The Journal of Libertarian Studies**, Auburn, v. 9, n. 2, p. 43-67, 1990. Disponível em: <https://mises.org/library/concepts-role-intellectuals-social-change-toward-laissez-faire-0> Acesso em: 22 maio 2022.

SCOTT, Allen J. Capitalism, cities and the production of symbolic forms. **Transactions of the Institute of British Geographers**, London, v. 26, n. 1, p. 11-23, 2001. <https://doi.org/10.1111/1475-5661.00003>

SECRETARIA DE PLANEJAMENTO, GOVERNANÇA E GESTÃO DO ESTADO (SEPLAG). Norma técnica 43, 2021.

SERVIÇO BRASILEIRO DE APOIO ÀS MICRO E PEQUENAS EMPRESAS. **Categorias de formalização de empresas**. [S. l.]: SEBRAE, 2019. Disponível em: <https://www.sebrae.com.br/sites/PortalSebrae/ufs/pr/artigos/categorias-de-formalizacao-de-empresas,4a0dca91c761e610VgnVCM1000004c00210aRCRD#:~:text=O%20BNDS%20> Acesso em: 23 maio 2022.

SERVIÇO BRASILEIRO DE APOIO ÀS MICRO E PEQUENAS EMPRESAS. **Como abrir uma micro ou pequena empresa**. [S. l.]: SEBRAE, 2021. Disponível em: <https://www.sebrae.com.br/sites/PortalSebrae/artigos/como-abrir-uma-micro-ou-pequena-empresa,c415226b84fd7710VgnVCM100000d701210aRCRD> Acesso em: 23 maio 2022.

SILVA, Frederico Augusto Barbosa da; ZIVIANI, Paula. **Mercado de trabalho da cultura: considerações sobre a meta 11 do Plano Nacional de Cultura (PNC)**. Rio de Janeiro: IPEA, 2021. <https://doi.org/10.38116/td2715>

SKAVRONSKA, Iryna. Creative industries and the informal sector: Ukraine's experience. In: UNCTAD ILLICIT TRADE FORUM, 2020, Geneva. **Proceedings** [...]. Geneva: UNCTAD, 2020. Disponível em: https://unctad.org/system/files/non-official-document/DITC2020_Contribution_UNCTAD%20Illicit%20Trade%20Forum_Skavronska_en.pdf Acesso em: 30 maio 2022.

SOTO, Hernando de. **The other path: the invisible revolution in the third world**. New York: Harper & Row, 1989.

SUBRAMONY, Mahesh; KRAUSE, Nicole; NORTON, Jacqueline; BURNS, Gary N. The relationship between human resource investments and organizational performance: a firm-level examination of equilibrium theory. **Journal of Applied Psychology**, Washington, DC, v. 93, n. 4, p. 778-788, 2008. <https://doi.org/10.1037/0021-9010.93.4.778>

VALIATI, Leandro (org.). **Indústria criativa no Rio Grande do Sul: síntese teórica e evidências empíricas**. 2. ed. Porto Alegre: FEE, 2013. Disponível em: https://arquivofee.rs.gov.br/wp-content/uploads/2014/03/20140312_mapeamento-da-industria-criativa-no-rs.pdf Acesso em: 20 maio 2022.

VARGAS, Cinthya Pastor. Informalidade do trabalho e políticas públicas no Peru. **Cadernos Adenauer**, Rio de Janeiro, v. 11, n. 2, p. 38-47, 2010. Disponível em: https://www.kas.de/documents/252038/253252/7_dokument_dok_pdf_20481_5.pdf/4793b7e8-5903-7486-4d12-62d395003b24?version=1.0&t=1539660748027 Acesso em: 20 maio 2022.

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