—   LAND TRAFFICKING AND THE FERTILE SPACES OF LEGALITY

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Abstract

Land trafficking, responsible for the unprecedented rate of urbanization in many Latin American cities, is often conceptualized through corruption as 'abuses of public office for private gain'. While those involved in the practice rely at times on violence and illegality, their repertoire is sophisticated, allowing them to move in and out of legality as part of their cost–benefit calculations. In this article I argue that land trafficking is based on legalized corruption. I use an ethnographic approach to observe the strategic conduits that are technically embedded in, and opportunistically related to, different municipal processes to legalize illegality. I demonstrate how land traffickers use morphing possibilities between land tenure types (communal, private and government) and mimic development typologies that have gained legitimacy over time. I also show how conflicting, competing and humanitarian rationalities that characterize the state play a crucial role in promoting land trafficking, by grafting illegality and violations onto 'formal' practices.

Introduction

Every day a new land trafficking story emerges in the Peruvian tabloids: 'The poor defrauded by land traffickers: four dead in dispute'; 'The cruel business of land trafficking: a lucrative crime is expanding'; 'Police arrest land traffickers pretending to invade conservation area'; 'District Mayor found working in the circle of land mafias'. These individual stories highlight the criminal, violent and corrupt nature of land trafficking. Taken together, they capture an elusive and powerful system responsible for the unprecedented rate of urbanization in many Latin American cities.

The term 'land trafficking' as used in Peru denotes the illegal appropriation of relatively large pockets of unserviced land, its subdivision into plots, and subsequent resale to low-income purchasers. This practice is the dedicated money-making business of organized groups who do not settle on the land but transact with it. In other Latin American contexts, the terms 'pirate subdividers', 'pirate developers' and 'land speculators' are used to refer to those engaging in similar operations (Foster, 2009).

Many present-day human settlements are established through land trafficking, with inhabitants buying plots, settling on the land and ameliorating their living conditions through a slow and incremental process. The practice can be discerned in a variety of forms and at broad scales in cities throughout the world (see e.g. Angel and Pornchokchai, 1990, on Thailand; Carroll, 1980, on Colombia; and Struyk *et al.*, 1990, on Indonesia). Research on this subject dates back to the 1970s, to studies by Vernez (1974) and Doebele (1977). In Latin America, case studies have mainly emerged from Mexico and Colombia (see e.g. Doebele, 1977; Gilbert, 1981; Gonzalez, 2009; Cunha, 2015), while very little is available on the Peruvian context beyond newspaper and media reports (Calderón *et al.*, 2015; Shanee and Shanee, 2016). Unlike similar operations covered by this research, which refer to land subdivision by owner-developers, in Peru land trafficking operates on government and communal lands that cannot be privatized. It is therefore based in the first instance on property-rights violations.

Notwithstanding that these human settlements emerge through a modality that is deemed illegal, their inhabitants can still climb a ladder of entitlements—from recognition and acquisition of services, to land titling—by engaging with dedicated municipal planning processes. The different stages within these processes shift the narrative from 'illegality' to 'informality' and bestow degrees of legitimacy that ultimately lead to legalization. Since precedents indicate that progress is only a matter of time, newcomers' hope of owning a place to dwell in the city continues to support the lucrative business of land traffickers.

In this article I consider the case of Lima to understand how land trafficking operates and how it is sustained as a modality of urbanization (see Figure 1). I counteract its framing through state failure, dominant in policy and media circles, and contend that the lenses of illegality, corruption, state inaction and implementation failure alone do not adequately help us understand the practice, as they reinforce it as an extralegal system operating outside the state. Instead, I demonstrate in this article how land trafficking is based on close engagement with regulatory frameworks, and is ironically sustained through governing processes and practices that seek to halt land speculation.

Drawing from legality and informality scholarship, I take a relational approach and understand land trafficking to be constituted through a network of diverse actors and embedded within laws and regulations. I draw attention to individuals' agency as much as the performative aspect of legal processes and legal texts that expand the action space for illicit land appropriation by organized groups. I reveal the different mimicking typologies legitimated by law that land traffickers adopt. Using ethnographic methods, I trace strategic conduits that are technically embedded within municipal processes,

FIGURE 1   Human settlements that have been established through land trafficking on the peripheral slopes of Lima (photo by the author, May 2016)

and travel between legal texts and practices to reveal the mechanisms that enable the legalization of illegality.

　　The findings in this article have emerged from research conducted over a five-year period between 2013 and 2018, in a border area between two districts in Lima where desert slopes are rapidly being urbanized: San Juan de Lurigancho (SJL)—the most populous district of Lima, with over 1.1 million inhabitants (INEI, 2018)—and San Antonio (SA) in Huarochiri—a largely rural province (see Figure 2). The area between
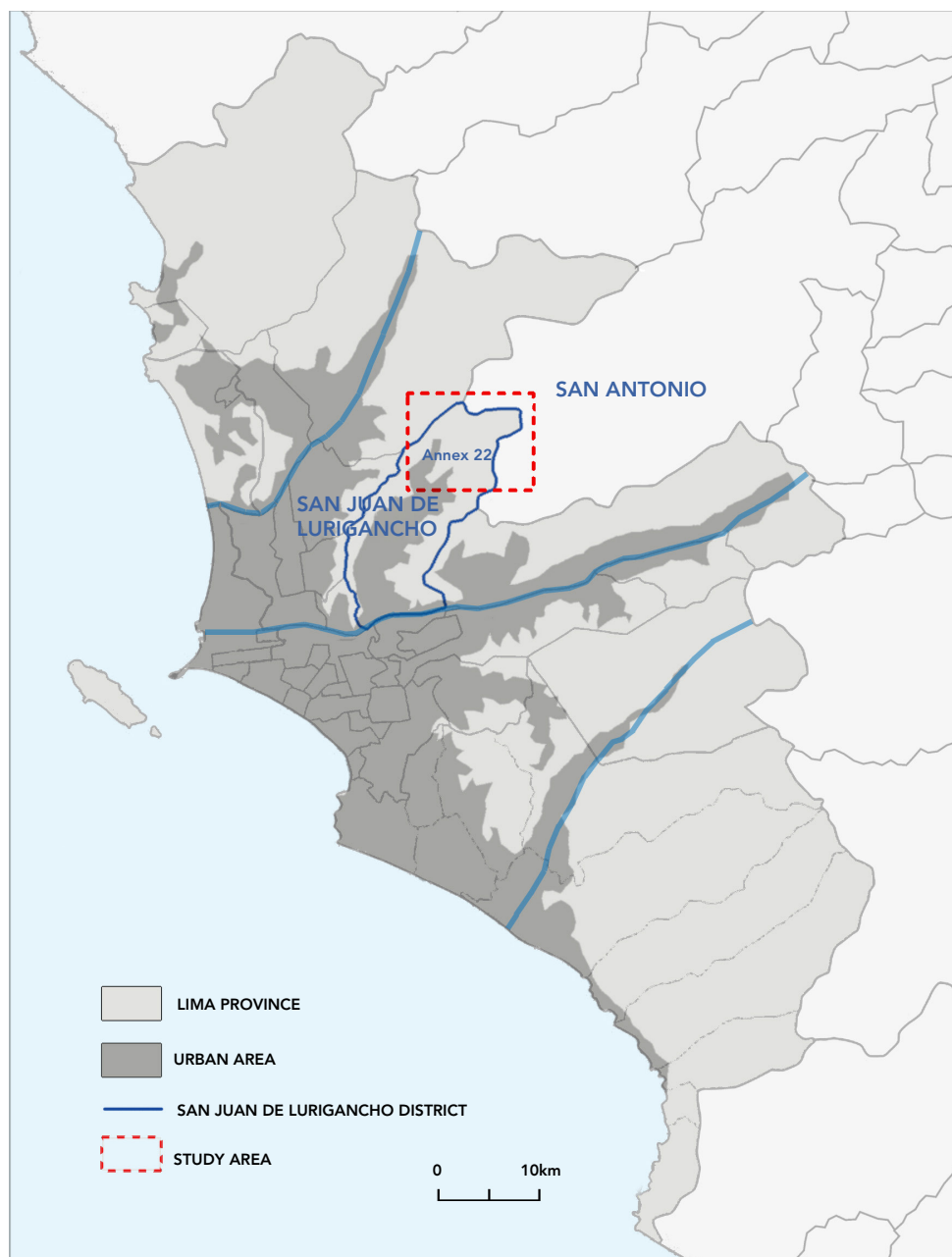
FIGURE 2　Map showing the location of the case study area (*source*: produced by the author)

these districts (known as Annex 22) is characterized by blurred legal responsibilities because of an unresolved border dispute. This, together with the growing scarcity of land in Lima, serves the capital accumulation of land speculators. The area thus provides fertile ground for researching land trafficking.

I draw three conclusions in this article to explain how land trafficking is sustained. First, I contend that, in addition to the violation of laws, legal texts and legal actions are an intrinsic feature of land trafficking. Secondly, the conflicting, competing and humanitarian rationalities that characterize the state play a crucial role in supporting this practice. Thirdly, land trafficking is based on different forms of legal and illegal corruption within dedicated municipal processes, and the practice is enabled through morphing possibilities between land tenure types and actor networks.

Interrogating the 'illegality' of land trafficking

In Lima, land trafficking is the single most important phenomenon that has led to the occupation of high-risk zones, and archaeological and ecological protection sites. It has also led to the appropriation of peasant community land that, by definition, is 'intangible, indivisible and imprescriptible'[1] and therefore non-urbanizable, according to the 1993 Peruvian constitution (Romero Mallqui in Riofrío and Cabrera 2010: 60). Because the claimed land is often located in areas with difficult topographic conditions, inhabitants are exposed to hazardous environments and need to invest a large proportion of their resources to mitigate risks (Allen *et al.*, 2017). Land trafficking is also contributing to urban sprawl and to the establishing of settlements beyond the municipal boundaries that lack the necessary services and infrastructure to provide for basic living conditions.

In the absence of alternatives to low-cost housing, land traffickers provide urban land through a relatively affordable credit system in the form of payment by instalments. As Carroll (1980: 91) notes, 'for the most part the pirate market successfully and competitively supplies a relatively low-quality good for which there is a high demand at a modest price, and no satisfactory alternative'. Although land traffickers fulfil a pressing social need, they are also seen to operate in a dubious world where their claims to land ownership are questionable and their activities often exploitative and unscrupulous (interview with a representative of the Ministry of Housing, Lima, October 2016). These organized groups are known for taking advantage of the precarious juridical situation of purchasers by selling the same piece of land to more than one buyer, evicting dwellers in cases of non-payment and engaging in abusive contractual practices (Cunha, 2015).

Land trafficking is openly condemned in political and media discourses. Over time, the government has devised several instruments and processes to halt the practice. Law No.30230, approved in 2015, enables the state to recuperate invaded lands and 'stop land trafficking mafias from taking advantage of the needs and the lack of knowledge of the poorest' (Ministerio de Vivienda, 2014: 2). The government has also established dedicated district municipal planning processes that incorporate various checks for controlling land speculation. Nonetheless, land traffickers continue to operate, playing a crucial role in the way Lima and many secondary cities in Peru are growing today.

The inability to halt land traffickers' activities is predominantly attributed to state failure and illegality. Many interviewees highlight state inaction and lack of capacity to manage the peripheries of cities where most of the land is being subdivided and sold. The 'hidden' nature of the activities is presented as a hurdle for state intervention: not only is the geographic remoteness of operations seen as a barrier, but so is the use of

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1   The intangible status of communal land refers to the fact that it cannot be owned or transferred; its indivisibility relates to the fact that it must remain intact and cannot be separated or parcelled; its imprescriptible nature refers to its collective nature, and trustees cannot acquire a title to it by prescription, nor can a user get a right to the land by any lapse of time.

typologies permitted by law that can easily go undetected (Felipe, 2004; Riofrío and Cabrera, 2010).

Conversely, other informants claim that the authorities are well aware of where and how land traffickers operate. They perceive the problem to lie in the inadequacy of legal instruments and the limited capacity of weak district municipalities to act in the face of a pervasive and powerful system. At the same time, narratives of corruption dominate the explanations I was given; powerful individuals within the Peruvian state, such as district mayors, are said to deviate from their position to support land trafficking for personal gain. Media accounts also portray land traffickers as groups that act with the complicity of the police, public ministries and judicial powers (Andina Agencia Peruana de Noticias, 2013).

Although I do not contest that acts of bribery, corruption and law violation do occur at multiple levels, the framing of land trafficking through state failure and illegality creates several analytical blind spots. These inadvertently reinforce the conceptualization of land trafficking, and the resultant human settlements, as processes located outside laws that regulate space, and as tangential to the state. In this regard, there is much to be learnt from scholars working at the nexus of informality/ legality. A small but growing number of sociolegal scholars are calling for critical engagement with laws and regulations when examining informal urbanization (Valverde, 2009). Challenging the conventional understanding that the legal apparatus of states is marginal, they show the role that everyday land use planning practices and regularization processes play in governing informal settlements (Connolly and Wigle, 2017), how rules and laws structure the lives of urban dwellers in important ways (Fernandes and Varley, 1998; van Gelder, 2010; Datta, 2013) and the ambiguous and transactional role of states in governing informality (Azuela and Meneses-Reyes, 2014; Wigle, 2014; Müller and Segura, 2017).

Although narratives of corruption—typically defined as 'abuses of public office for private gain' (see Bardhan, 1997)—consider the involvement of the state, they do so by elevating the role of a few individuals deviating from their assumed professional position in what is otherwise understood as a coherent organizational structure (Gupta, 2012). The notion of corruption rests on the existence of an agreed political order that accepts a division between state, society and economy, and the legitimate interactions between them (Williams, 1999). Moreover, policy discourse on the phenomenon of corruption overemphasizes the role of public officials, neglecting the equal centrality of the private sector and citizens to the definition of corruption (Kaufmann and Vicente, 2011). A balanced definition of corruption demands a conceptual shift from government to governance, and the consideration of the interplay of a wide range of actors. As research on the workings of states has shown (see e.g. Das and Poole, 2004; Corbridge *et al.*, 2005), the coherence and homogeneity attributed to government is fictional. The latter is composed of different bodies, at various levels, which might be misaligned in their objectives. Thus, an analysis of how land trafficking intersects with the state requires an engagement with various government institutions, practices and rationalities.

Furthermore, the disproportionate focus on the agency of actors that underpins the narrative of corruption negates the understanding that actions are regulated by structural conditions. For example, it is often assumed that public officials can act in any way they decide, but such a view overlooks the complexity of institutional context and practices of governance (Sundaresan, 2019). Besides obscuring structural factors, the emphasis on individual agency conceals the role of the state in producing and reproducing informality through regulatory and other interventions (Lombard, 2019).

The understanding that 'illegal' and 'informal' practices are not outside of but embedded within the state has been explored by several scholars (e.g. Roy, 2009; Yiftachel, 2009; McFarlane and Waibel, 2012; Sundaresan, 2019). Their analyses of the intricate nexus of informality, law making and everyday enforcement show the

complexity of governing the everyday and depart from an equation of formality with states. Besides showing how states strategically use informality and act in illegitimate ways (see Yiftachel, 2009), scholars are also calling for a critical examination of how law itself produces fertile spaces and is instrumentalized to legalize illegality. Kaufman and Vicente (2011) challenge the conventional definition of corruption by exposing the existence of legal and illegal forms of corruption—legal corruption referring to the possibility of acting within the law but doing so in ways that could be considered illicit or illegitimate. In the context of property restitution in Warsaw, Kusiak (2019) demonstrates the illegality of the legal and judicial systems and how powerful actors such as law-making authorities use the law to legalize their own corruption. They do so by actively exploiting legal ambiguity in favour of certain interests and policy goals while remaining within the legal realm. In principle, judicial mechanisms of legal corruption depend on creating a rhetorical semblance of conforming with the spirit of the law, while intending to violate it (Coslovsky, 2015). Not only do individuals manipulate and work with the law, but the law itself has structuring effects (*cf*. Holston, 2008; Roy, 2009; Kuyucu, 2014). Holston (1991), for example, argues that the dysfunctionality of Brazilian land law must have been deliberately written into it from the beginning, as it cannot be the result of incompetence or corruption alone.

For a number of scholars, the space of action is located at the interface between the law as text and the law as action (Valverde, 2012; Blomley, 2014). The written law requires translation, which leaves room for interpretation, negotiation and manoeuvre. Discrepancies and tensions are created through the practice of everyday regulation of 'legal texts and the way they are applied, enforced, twisted, and blurred in everyday life' (Haid and Hilbrandt, 2019: 559). Along the same line, Kuyucu (2014) argues that the legal certainty we associate with private property is created out of what is believed to be the legal uncertainty, or legal ambiguity, of economic regimes prior to private ownership.

Based on the above scholars' work, analysis of land trafficking and its relationship with the law requires us to critically interrogate how legal semblances are performed, and how legal texts are translated and enacted. It is here where opportunities for the legalization of the illegal can be located. I start from the premise that the legal and illegal are not entirely separate from one another and cannot be understood as fixed states but rather as processes (Heyman, 2013) that involve multiple moralities (van Schendel and Abraham, 2005). I pay attention to the legitimated turning points within the legalization process, as well as to the justifications that accompany them, which are embedded in the conflicting rationalities within the state. Since enacting the law is both an insider and an outsider affair, I consider the practices of actors within and outside governmental institutions.

Research methodology

To unravel practices and actors and to observe the not-so-obvious processes that constitute land trafficking, I used ethnographic methods. Given the criminal and underground nature of the system, I had to get close to my research subject while maintaining a safe distance. To overcome the challenges of researching this sensitive topic, I followed less contentious actors—mainly technicians—and examined technical plans.

Conducting in-depth interviews while shadowing technicians within and outside government institutions allowed me to gain a detailed understanding of the processes within municipal structures and how they relate to land traffickers' activities. As the case study area is located between two districts, I also conducted interviews with officials from the different district municipalities, authorities from national government institutions and academics who have worked on land markets in Peru. In addition to following the grounded approach of transect walks and field observations, I also interviewed settlement leaders, inhabitants (newcomers and long-term settlers) and the guards employed by land traffickers.

Technical layout plans provided another productive entry point to this research. These important artefacts are used at every stage of development to delimit the area claimed, to plan and implement plot subdivision, and to coordinate the various municipal stages. By examining how layout plans were circulated between actors and institutions, I was able to uncover interconnections between sites where they appeared, and to subsequently examine the practices within these sites. I used this technical focus to move close to an otherwise difficult, contentious and underground topic, because I could engage my informants on land trafficking mechanisms through seemingly mundane, neutral and everyday procedures.

The 'legality' of land traffickers

Land traffickers engage with various municipal structures, depending on the tenure type of the land they appropriate. In this section, I explain the different typologies they mimic, which include invasions and settlement expansions on government land, and housing associations or cooperatives on communal land.

–   Invasions

Invasions of government land have been the main form of land acquisition in Lima since the 1940s and are said to account for 90% of the city's growth (Turner, 1969; Collier, 1976; Dietz, 1977). Invasions refer to the seizing of land by an organized group. They often occur at night, and on an agreed date (Matos Mar, 2010). The law states that if an occupation remains uncontested after 24 hours, the occupants become *possessionarios* ('holders'). In the absence of affordable land and housing for the urban poor, this form of land acquisition has been tolerated—and even seen as a solution for the housing deficit. In 1961, with the passing of the Ley de Barriadas № 13517 (Law of Barriadas), settlements that developed through invasion were formally acknowledged in Peru and integrated into the planning system. At the same time, the law prohibited new invasions. A dedicated process known as *saneamiento físico y legal* (physical and legal regularization) was put in place by the state. Conceived as a linear process (Felipe, 2004), it facilitated the physical layout of existing settlements in accordance with planning standards and their legal formalization. It is still applied to the present day and consists of different stages at the district municipal level: from the recognition of settlements and their certification (which enables them to acquire basic services) to achieving land titling by the Commission for the Formalization of Informal Property (COFOPRI) for settlements that were established before the cutoff date of 31 December 2004. Those established after this date can only gain recognition and certification to qualify for water and electricity from service providers.

The process of *saneamiento físico y legal* is exclusively followed in the case of settlements on government land and is based on a reversed urbanism model, whereby inhabitants settle first and then slowly consolidate their settlement. They organize as *agrupaciones familiares* (AFs) or community organizations, which de facto govern all collective affairs in the neighbourhood and act as the interface with government institutions and programmes.

A genuine invasion is defined as an occupation carried out by a group of people seeking to live in a particular area as their sole abode. By contrast, land traffickers stage an invasion on government land and establish a fake AF. The decision where to invade is taken a priori (interview with civil engineer, October 2016). From the onset, alliances with officials and technicians allow land traffickers to acquire classified spatial information held within the public registry or the district municipality, to identify government land that has not yet been claimed (*ibid.*). In many instances, leaders of adjacent settlements also collaborate to identify such land (interview with secretary of settlement, February 2016).

The occupation takes place on an agreed date by a group of people appointed to stage an invasion of a piece of land. They build a few cabins as place keepers to give the

impression of habitation so as to safeguard the land against potential invasion by other groups (see Figure 3). This is an important step for passing the recognition and certification stage of the municipal process (interview with community leader, October 2016).

A civil engineer is commissioned to produce a settlement layout plan; this must be done with 'utmost importance and urgency', as an engineer explains, because land traffickers 'have to move very fast to ensure that the operation is successful and authorities, or other actors with vested interests, do not intervene' (interview, October 2016). The layout plan provides a guide for the subdivision of plots and the allocation of plots to buyers. It is also a compulsory document for several checks that municipal technicians undertake within the dedicated process of *saneamiento físico y legal*. The layout plan follows planning conventions; the settlement's spatial organization must, in turn, be implemented according to the layout plan. Consequently, the plan functions as the legal text preceding territory and ensures that actions on the ground comply with urban norms and regulations (see Figure 4).

One of the first municipal checks entails ascertaining that the reality on the ground matches the layout plan. A municipal technician visits the field to check that the width of roads and the size of plots and public spaces comply with the regulations. He also verifies that people are living on the plots shown on the layout plan. The head of the urban development office in the municipality of SJL explains:

> We, at the municipality, are here to stop speculative enterprises and have to therefore verify whether there is habitation. Eighty per cent of the plots drawn must have people living in them for the plan to progress (interview, October 2016).

FIGURE 3   Makeshift cabins, said to have 'mushroomed in the dead of night', erected by land traffickers during a staged invasion (photo by the author, May 2016)
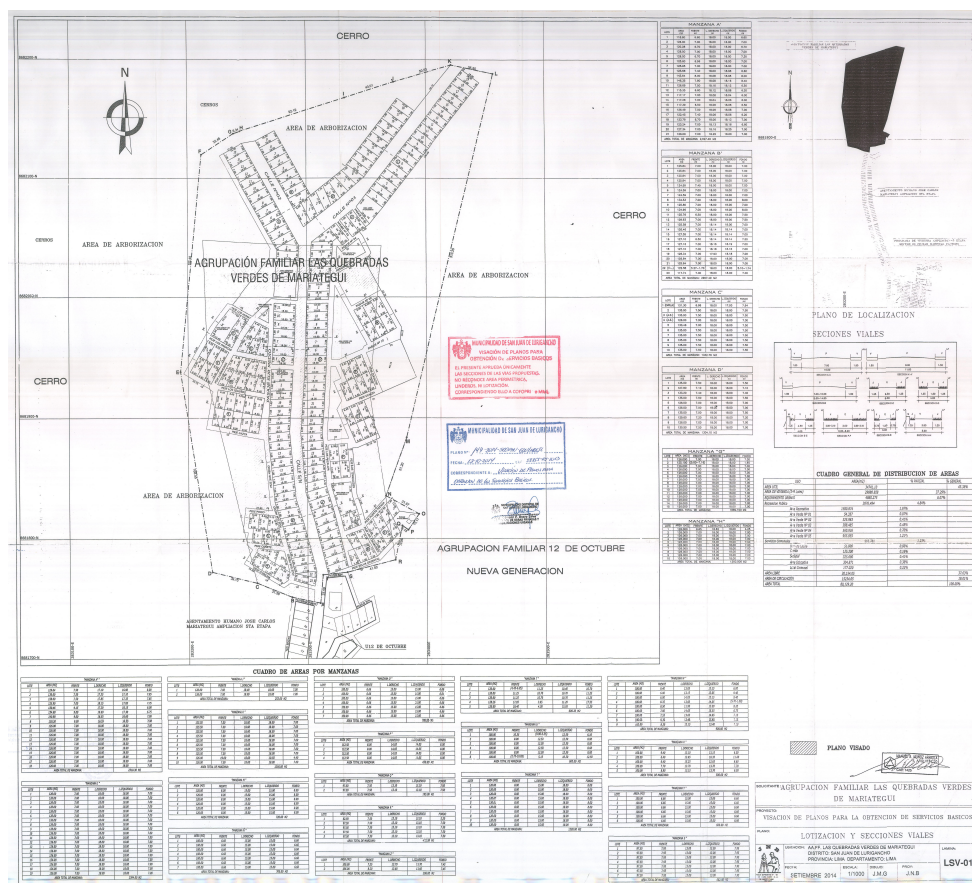
FIGURE 4   Example of a settlement layout plan (photo by the author, May 2015)
(*source*: Agrupacion Familiar 12 de Octubre)

Because the cabins appear to indicate that people are residing in the area, this check is easily passed. But inhabitants of adjacent settlements report that in most cases technicians are fully aware that the cabins are empty, and approve the layout plan in exchange for a fee. Regardless of such instances of bribery, an appearance of habitation on the ground that is consistent with the representation on the layout plan creates a rhetorical semblance of adherence to the spirit of the law, thus averting any potential contestation.

After this first check, the municipal technician copies the coordinates of the invaded area's perimeter from the layout plan to the AutoCAD file held in the municipality (see Figure 5). If no superposition with other perimeters is evident, the coordinates of the claimed area are fixed on the digital file and the layout plan is stamped and returned to the applicants, thus completing the recognition stage.

Despite the sedimentation of the perimeter on the digital files, officials emphasize that at no stage of the district municipal process is the perimeter officially certified. The head of the urban development office in the municipality of SJL elucidates:

> Because people are informal, they are not owners of the land—they are only *possessionarios* [holders]. We cannot therefore delimit the territory as if it were theirs. We take the perimeter only as a point of reference; it's a graphic issue (interview, October 2016).
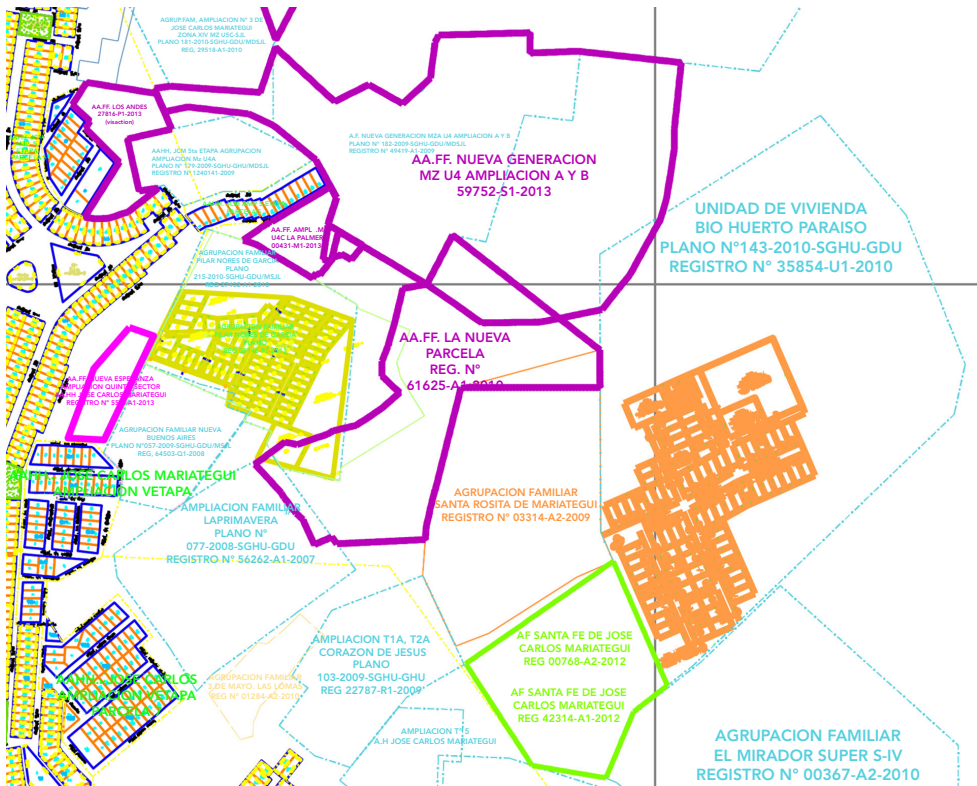
FIGURE 5   A snapshot of the digital AutoCAD file, which shows the plots of the lower titled areas; the polygons represent the recognized AFs (*source*: Municipality of San Juan de Lurigancho, photo by the author)

However, he also goes on to explain:

> Once we have the new coordinates in our files, if another settlement submits a plan that clashes, we refuse it and ask for it to be amended (*ibid*.).

A contradiction emerges: although the perimeter is not officially recognized, it is tacitly upheld and safeguarded by the municipality, since all subsequent overlapping claims are rejected. This demonstrates the conflicting rationalities between controlling and enabling land trafficking. The municipal stamp lends currency to layout plans and makes it possible to claim and defend territory. This further encourages the production of plans and the continuous occupation of the slopes. Similarly, many of the other checks later in the municipal process, designed to control speculation, are paradoxically counteracted by the layout plan. For example, at the certification stage, technicians ascertain that the area of plots and the total area within the perimeter are roughly equivalent. If the area without plots appears disproportionately large, the district municipality may reject the layout plans because, as explained by an official:

> we are not land traffickers here in the municipality. This is the law of the people who really want to live here, not for them to make money. So, when they come here with a big perimeter, we ask them to reduce it to the area they are occupying. But how much is enough? Well, we just look at the plan and see if it looks right compared to the area of plots (interview with official from the municipality of SJL, May 2015).

One way to avoid rejection of the layout plan while still retaining the 'extra' area within the perimeter that will be plotted and sold in the future, is to use labels such as 'green area', 'area for forestation' or 'area for communal facilities'. In principle, these 'reserves' are allowed on the layout plan since they demonstrate that 'good' planning principles are being applied. In this way, land traffickers can secure large areas of government land that go beyond the area they have divided into plots and on which they have erected makeshift cabins.

Land traffickers only engage with the initial processes of the *saneamiento físico y legal* that helps them secure the territorial claim. Once plots have been sold, they move on to occupying another area further upslope, leaving the buyers to organize as a genuine AF and engage with the subsequent stages to acquire water and electricity from service providers.

By mimicking a genuine invasion, the new settlement adjoins existing ones by extending primary routes and assuming a similar size to that of the surrounding AFs. The entire operation, including the selling of plots, is quite visible to other inhabitants of the area. As one settlement leader explained during a transect walk:

> This is where Don Virgilio operates. He has good friends in the district government and once he settles somewhere, nobody bothers him. He will present a certified plan claiming that there is a new AF here, whereas you can see only rocks and empty shacks. Then, little by little, the shacks will be sold to those in need. They will be told that SEDAPAL [water authority] will soon come and provide water to the area. Once people have bought a plot, they will just have to find a way to buy water from neighbouring settlements and build their own staircases and roads (interview, May 2016).

The layout plan generates a transcendental 'truth effect', conveying an image of territorial certainty and legal validity. It also conjures up a sense of progress that people easily buy into. As a former settlement leader explained:

> When people come here looking for a plot, they are shown the plan and they believe that the settlement can progress fast and that, one day, they will get their titles. They have no knowledge of what the different stamps on the plan mean, but the buyers take it that if a settlement has its plan, it can be formalized (interview, May 2015).

–   Settlement expansion

In addition to invasions to establish new settlements, land traffickers also mimic the modality of expansion. Expansion denotes the natural growth of a settlement owing to the younger generations moving out of their parents' homes to start families of their own. Settlers will typically claim more land for their families beyond an area's original perimeter. Although a law was passed in 2004 to make all forms of land invasion illegal, the district municipality still tacitly accepts expansions (interview with official from the Ministry of Housing, May 2015). In the case of expansion, the leaders of the original settlement submit documents to the district municipality for recognition and certification. These include layout plans that incorporate the new area claimed. In many cases I came across, the documents of adjacent settlements were acquired by land traffickers for a fee so as to pass the newly claimed areas as expansions. A market for layout plans thus exists, especially of settlements established before the cutoff date of 31 December 2004, since these enable settlements to navigate the municipal process to eventually secure land titling (interview with civil engineer, February 2015). As explained by the civil engineer:

> Although the settlements might have formed in 2009 or 2010, they can simply be presented as an expansion of an original settlement that was in possession of community members since 2003, who have not yet legalized their documents. The applicants use the same stamp, signature, resolution and plan as the lower settlement to get legal recognition (interview, February 2015).

Based on satellite images, I was able to corroborate that many settlements in the case study area did not exist before 2004, yet leaders claim this to be the case, and documents seem to confirm this.

In the case of expansions, the process of *saneamiento fisico y legal* is once again followed to secure the land. The appropriation of the records of established settlements to secure recognition for newly claimed land lends continuity to the land traffickers' business within the remit of legality.

–   Housing associations

For many decades, another way of accessing land to form human settlements has been through housing associations or cooperatives. A housing cooperative is an autonomous association of people who have come together voluntarily to satisfy their housing needs and aspirations on collectively bought private land. These associations have a legal status, and are based on the democratic participation of its members, who share collective activities equally (de Soto, 2001). In cases that involve housing associations or cooperatives, land traffickers mimic a real-estate development model.

Whereas invasions of government land are based on reversed urbanism, any development on private land is required to follow a conventional urbanism model, which means that parcelling, building and occupation must progress in a linear way. Occupation may only take place once housing structures and communal areas are complete. In the case of private property, the district municipality process that applies is called *habilitaciones urbanas* (urban development) and is subject to different checks to ensure compliance with planning regulations.

Since government land in the study area has been exhausted and most of the remaining land belongs to the peasant community of Jicamarca, land traffickers now appropriate communal land, which they demarcate as private property. By definition, according to the 1993 Peruvian constitution, communal land cannot be subdivided, bought or sold (Romero Mallqui in Riofrío and Cabrera, 2010). There are conflicting accounts of how such land becomes privatized. Some traffickers claim to be part of the Jicamarca community, maintaining that the housing association they establish is on land directly allocated to them by the leaders (interview with guard of housing association, November 2016). Others declare that they have bought the land from the Jicamarca community and are therefore private property owners (interview with elder, May 2017). Various news articles report the falsification of ownership documents (Uceda, 2015). My research in the case study area confirms that many housing associations that claim to be settled on private land are indeed on communal land. Once the land has been 'privatized', the housing association is registered within the district municipality, and the area is developed as real estate.

In the same way as those who plan invasions and expansions rely on spatial information to identify 'free' areas, those operating on communal land follow a similar process. Because registration of private property is not compulsory in Peru, the public registry holds no comprehensive records of owners. Moreover, up-to-date official maps of the periphery do not exist. Thus, land traffickers resort to information passed on by officials within district municipalities and successfully falsify documents since these are difficult to verify.

The most important objective of land traffickers, besides checking for free areas to claim, is to maximize access to new areas of virgin land in the desert while

minimizing their investment. Most investment is directed towards cutting new roads, since roads provide access and are the single most important factor in capitalizing remote land (interview with road engineer, May 2017). Unlike invasions and settlement expansions that follow the scale of genuine AFs and are located adjacent to existing settlements, housing associations claim much larger areas of land situated deep in the desert (see Figure 6).

The layout of access routes and the subdivision of plots are subcontracted to road engineers, who produce layout plans, which are compulsory for navigating the different stages of the *habilitaciones urbanas*. The municipal process requires the private property owner to first submit the proposed plans. A municipal technician then uses these to verify that norms and building regulations are followed prior to and during construction (interview with official from the municipality of SJL, May 2016). In areas demarcated as high-risk, the owners must also comply with risk mitigation measures and obtain a certificate from the municipality's Department of Civil Defence before installing services. Regardless of these rules, land traffickers partially engage with this formal process too. As in the case of simulated invasions and expansions, they comply with the very first stages of property registration to ensure that the perimeter of the claimed area is incorporated into the municipally held digital file. Upon analysing one such file, I noticed that it contained the perimeters of the AFs and of 'private property' under such labels as cooperatives and housing associations. The private properties stood out as islands surrounded by otherwise vast expanses labelled Jicamarca community land, making their alien nature all too visible.

Once a property has been registered successfully, the municipal stamp that is given upon completion of this process lends the physical plans a degree of legitimacy, instilling confidence in those who are considering buying a plot. The head of works

FIGURE 6   A new road has been cut into the steep desert slope to provide access to virgin land to be capitalized by land traffickers (photo by the author, October 2017)

of San Antonio municipality explained how land traffickers use certified plans to take advantage of innocent buyers:

> Because they [the land traffickers] have a certified plan, people believe they are buying a property that will have water and all other services. But later, the buyers realize that they are only acquiring a 'possession'—nothing else. In this way the traffickers take advantage of people's ignorance but also of the assistance we give them here in the municipality, because we continue recognizing and registering perimeters of so-called private properties and certifying their plans (interview with official, May 2017).

Once the plots have been sold, land traffickers abandon the property without fulfilling their enticing promises of a fully serviced development, leaving these vulnerable inhabitants in a worse-off position than if they had bought into a genuine AF. First, the price of their plot is calculated at a higher rate than in a genuine AF because it supposedly includes municipal services. Second, in contrast to genuine invasions, in which the community organization forms the basis of all collective works, the buyers acted individually. They soon find themselves lost and unable to navigate the complex formal processes for acquiring services without the support of an established collective. Third, because their plots are considered private property, they find themselves trapped in a long process to consolidate the settlement and obtain infrastructure and services. Since the plots are not located on government land, buyers theoretically cannot follow the municipal process of *saneamiento fisico y legal* for basic services acquisition. Moreover, they do not have the resources to follow the onerous processes of conventional urbanism that are demanded for private property through *habilitaciones urbanas*.

Having found many poor inhabitants and buyers abandoned in this situation, the municipality created a special process for converting newly emerged settlements on private property/communal land into government land. The head of the municipality of SJL explains why they had to act:

> Such injustices were too many to ignore. We have accepted that we have to support people who purchase plots. They are poor; they have been cheated and are now in a dead-end situation if their area remains private property, because they cannot access services. We cannot leave them like this, so we allow them to do as for a normal invasion and follow the same process of certification of plans for basic services (interview, May 2017).

In such cases, the inhabitants of the private property have to organize themselves in the same way as an AF would in a conventional invasion and apply for the land to be expropriated. Based on the 1999 law governing general expropriation, the land then reverts to the state. In the case of peasant community property, the law declares that the communal land is imprescriptible except in cases of abandonment (Webb *et al*., 2006: 25). Thus, expropriation by the state becomes a means of formalizing 'informal' possessions on communal and private land.

These findings illustrate how land trafficking is based on mimicking the typologies that have gained legitimacy over the years and have been integrated into the country's legal systems. They also show that the practice is sustained by the looping of one typology into another through shifts from illegality to legality, and the morphing between tenure types—from communal to private land, from private to government land, and back again to private land. Besides many instances of observable bribery that exemplify illegal corruption, legal corruption is evident through different possibilities for achieving legality over time. Even if only for a limited period, land traffickers follow

the rules and regulations within the municipal processes that ensure the legalization of illegality. This calls for an interrogation of temporality within legal and illegal corruption, as these weave in and out of one another depending on the path of least resistance to reach the ultimate goal of securing legal status for land-trafficked areas. My findings also show the double function of the state's humanitarian rationality: by supporting inhabitants through the expropriation of 'privatized' land, it simultaneously endorses land trafficking. In addition to the productive spaces within regulations and those created through the conflicted rationality of the state, the competition between different government entities plays a role in promoting land trafficking, as I demonstrate in the next section.

Legal corruption as an externality of a competitive and conflicted state

The district of San Juan de Lurigancho (SJL) in Lima province and the district of San Antonio (SA) in Huarochiri province have had an ongoing boundary dispute since 1945. At the border between the two districts, a grey zone prevails: the provinces' cartography and their respective responsibilities for the area are blurred, making it fertile ground for land trafficking. According to the administrators of the province of Huarochiri, the district of San Antonio was created under a 1945 law and has a clear territorial delimitation. However, the judicial powers and the constitutional tribunal questioned municipal ordinances that were used in the district's law of creation. In 2004, the high court established that the authority for the territorial demarcation undertaken by the provincial municipality of Huarochiri lies with the Congress of the Republic (Gutiérrez, 1998), but to this day, the Congress of the Republic has not established the area's boundaries. According to the National Geographic Institute (IGN), which is in charge of cartographic demarcation on national maps, the resolution of the border between SJL and SA will take time, given the complicated nature of the guiding principles for delimitation (interview with IGN official, October 2016). While residents wait for the official verdict, differing kinds of documents for laying claim to territory are used and upheld, because these cannot be verified or tied to authoritative cartographic databases.

The different districts do not currently integrate their separate cartographic systems. Deliberate omission of spatial information that is not in itself difficult to acquire allows both districts to avoid validating boundaries. An official from the municipality of San Antonio explained this as follows:

> If we enter their [SJL] spatial information into our base maps, it is as though we are accepting it and endorsing it as true. Part of San Antonio figures on San Juan de Lurigancho's cartographic files because it is unlawfully claiming it. According to the law we were formed in January 1945. We in San Antonio have the law of creation, the others do not. They have a decree from the mayor. So, who has more right, judicially speaking? It is us, of course (interview, May 2017).

While the conflict over the border remains unresolved, the municipality of San Antonio relies solely on information passed on by settlements and housing associations that decide to belong to its jurisdiction. Cases exist where settlements have a double certification, one from each district. As the chief of works elaborated, 'people take advantage of the chaos they themselves generate, and within this they can facilitate their illegal activities' (interview with official from San Antonio, May 2017). Those engaged in land trafficking can use different sets of spatial information to support their operations precisely because this information cannot be validated or rejected while the border dispute continues. The fragmentation of spatial information and proliferation of inconsistency increase opportunities for land speculation.

The final border between SA and SJL will be decided through a process that will involve all inhabitants being asked which district they wish to belong to (interview with official from IGN, May 2017). As a result, each district believes it is in their best interest to incorporate as many new AFs and housing associations as possible into their jurisdiction. Consequently, competition is fostered between the two districts, and the current rivalry is fuelling a scramble for territory in this grey zone. Since new inhabitants will allow districts to have greater influence over the final border decision, while also increasing revenue through taxes, the recognition and registration of settlements has sped up in an unprecedented way. This supports land traffickers' operations, allowing them to move efficiently and quickly to continuously capitalize on virgin land. Settlement legalization processes are used by districts in ways that go against the overarching and normative objective of the state 'to govern and control land speculation'. As much as land trafficking is supported by authorities' active deviation from and abidance by the law, my findings show that the practice is also reproduced through the competing and conflicting rationalities within the state. This research thus contributes to the theorization of legal corruption by not only emphasizing the state's meditated actions but by advancing the notion of legal corruption as an externality of sociopolitical relations.

Conclusion

In this article, I have argued that land trafficking, conceptualized through illegal corruption, hides the possibility of considering how law, legal texts and legal processes themselves support the legalization of illegality. The illegal, illicit and criminal become entwined by overlapping regulating spaces, and both land traffickers and state actors move in and out of legality.

This research has produced empirical data on an under-investigated area, revealing the different mimicking strategies adopted by land traffickers in Lima to capitalize on desert land; namely, the staging of invasions and settlement expansions on government land and the setting up of housing associations on communal land. These typologies proceed with degrees of legitimacy, as their fraudulent nature is difficult to pinpoint. Their close engagement with dedicated planning processes buys land traffickers enough time to secure claims, and subdivide and sell plots, before vacating the area. Timing is therefore crucial. Cost–benefit calculations determine how long legality is inhabited.

These findings add to the existing literature by revealing the temporality of legal and illegal corruption and their inter-woven nature. While land traffickers rely at times on violence and illegal corruption, their repertoire is more sophisticated, allowing them to straddle the formal and the informal as it suits them, while moving back and forth at different times to work within legality and outside of it.

The productive spaces within municipal processes are apparent. The first stages of the *saneamiento fisico y legal* (for government land) and of *habilitaciones urbanas* (for private land), devised to control land speculation, are ironically the very stages that enable land trafficking by safeguarding the perimeter of areas claimed. A paradox becomes evident: regulatory processes appear to promote illegality at the same time as they attempt to tackle it. Different moralities are at play: local authorities bail out victims of land trafficking partly out of decency and partly out of self-interest, because of existing disputes with neighbouring districts. The complex and often contradictory ways in which different parts of the state work, with and against one another, become clearly visible through this research. The conflicting and competing rationalities within the state and its humanitarian posturing support land trafficking by grafting illegality and violations onto 'formal' practices.

My findings demonstrate how the legalization of illegality relies heavily on technical procedures. Technicians and technologies emerge as important actors. These

have often been overlooked in processes deemed informal/illegal in urban studies and planning scholarship. A critical interrogation of these technical procedures and legal instruments provides a significant opportunity for reflection, particularly because these produce their own effects. In relation to the urbanization of Lima's slopes, layout plans are highly performative, enabling claims to land and substantiating shifts to legalization. These findings prompt us to consider how the capacity to consciously operate in and tap into the full potential of the legal system is not only dependent upon each individual's social and cultural capital, and knowledge of the law, but also rests on the agency of the instruments used. More research is therefore needed on the sociotechnical assemblages in legalization processes to fully understand mechanisms that sustain forms of urbanization deemed informal/illegal.

This article shows the various mutations between land tenure types, municipal processes and actors' networks. In the case of housing associations, operations are wrapped up once all plots have been sold, and the land can change tenure type from private to government. This is a reversion to the modus operandi of genuine invasions that subsequently gain access to government support. The looping of one typology into another means that the networks of actors also morph. Land traffickers are replaced by inhabitants organized as an AF. Multiple shifts occur through different forms of legal and illegal corruption. A cyclical movement is triggered, during which communal land is privatized before subsequently being expropriated and turned into government land, to finally be privatized again through land titling of individual plots. An interrogation of these shifts within urbanization and legalization processes requires longitudinal methodologies to fully appreciate these mutations. A temporal examination is therefore an important consideration in urban studies and planning, as it brings attention to non-linear and iterative movements that occur between illegality and legality, and between tenure types.

In the face of such mutations, the term 'land trafficking'—used only in Peru—seems quite fitting. Because trafficking often denotes a system in which the main components move (such as in the case of drug or human trafficking), we might think it odd to associate it with land, which is fixed in place. However, land becomes liquid through the shifting and morphing of different tenure types and moralities through which it is approached. Understanding the relationship between mobility and durability in urban processes in this way provides a fruitful area for policy making and further research.

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