# *An Ethnography of Filmscapes: Borders of the Legal and the Legitimate*

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As brought out in the book edited by Pardo and Prato (2019) on *Legitimacy: Ethnographic and Theoretical Insights*, one of the most important paradoxes of law consists in the fact that people often distinguish the moral from the legal and the legal from the legitimate. In this prism, law and legitimacy address different issues. Law makes normative statements in order to make legal action possible and generalizable for all subjects of power. Legitimacy, in contrast, is about articulating the moral and social conditions in relation to which the law can hold its subjects responsible. Thus, what people consider legitimate in their everyday lives may not be legal; while, at the same time, what lies outside the boundaries of law can be seen as legitimate (Pardo and Prato 2019: 7). The role of governmentality, in this regard, is to connect the legal apparatus to moral, cultural and political values (Krase and Krase 2019: 170). Legitimacy connects law to people's daily practises and is often produced through popular cultural forms.

In this article, I first discuss films as mediums through which ideas on law and legitimacy are communicated to public arenas. Western, science fiction and crime fiction genres in particular have addressed the paradox of the legitimacy of law in their narratives. After locating this problematic in the field of film studies, I address two ways in which the differentiation between the moral and the legal and likewise, between the legal and the legitimate, relates to my research on the spectacle of politics and religion in contemporary Turkish cinema.

I suggest, in this context, that the cinema functions as an ideological state apparatus which creates myths and popular visions about law, law making, morality, ethics and legitimacy. Films reflect and intervene into the cultural and aesthetic properties of the spatial and temporal contexts which they portray. They represent and re-interpret collective traumas and social conflicts within certain narrative contexts. In our increasingly mediatized society, as the social and the political increasingly turn into spectacle, the cinema increasingly appears as a governmental device, a *dispositif*.

## Filmic Narratives on Law and Legitimacy

Films often offer narratives on fundamental issues of law and legitimacy.[1] These narratives engage the viewer in the context of a narrative event and suggest a vision on the legitimacy of law, either explicitly or implicitly. Western, science fiction and detective genres, in particular, have frequently highlighted the blurred lines between morality and legality, as well as legality and legitimacy.

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[1] See, for instance, *Amistad* (Steven Spielberg 1997), which addresses the geographical and cultural relativity of law, and *The Secret in Their Eyes* (Juan Jose Campanella 2010), which elaborates on the irrelevance of law with respect to justice.

To illustrate with some examples, Western films such as *High Noon* (Fred Zinnemann 1952) and *Stagecoach* (John Ford 1939) highlight the violence which lie at the heart of sovereignty and question the law's own legitimacy (Mezey 2011: 67). The main theme in this genre, taming the frontier between civilization and wilderness, often coded as lawlessness at the expense of displacing the native Indians, registers the problematic relationship of law to violence.[2] This relationship is taken up by many Western films as a critique of a legally enforced morality. In this genre, the discrepancy of law and legitimacy concerns not only physical but also racial frontiers. *The Searchers* (John Ford 1956), for instance, tells the story of the colonialists' anxiety over interracial sexual relationships and posits a viewpoint on anti-miscegenation laws that banned marriages between whites and non-whites. The interracial sexuality between white men and non-white women was not illegal, despite being morally questionable (Hui 2004: 189), while sexual relations between white women and non-white men were both illegal and illegitimate.

The science fiction genre, too, has raised the issue of the legitimacy of law. Some films like *Blue Mars* (Kim Stanley Robinson 1996) regard the regulatory function of law as the prerequisite of the common good. *Blue Mars* deals with how to build a new society and a legal structure which would overcome social corruption (Vella 2016: 22). However, dystopic science fiction films like *1984* (Michael Radford 1984) contrast the unjust, oppressive legal system implemented by the state with the inherent everyday morality of the people. *Minority Report* (Steven Spielberg 2002), in its year-2054 dystopian setting, also questions the legitimacy of law enforcement. Its narrative centres around mutants who identify potential criminals before they actually commit a crime. As such, the film invites us to reflect upon the ethics of law whose focus shifts from distinguishing the guilty from the innocent to the identification of potential criminals. Another emblematic example is *Gattaca* (Andrew Niccol 1997), a dystopic science fiction which focuses on eugenic practises. This film addresses the relativity and contingency of law. It interrogates how what was once considered an illegal act can be justified by science and become legal (Erdede 2018).

We can discern similar problematics in the detective genre as well. For example, *Murder on the Orient Express* (Sydney Lumet 1974) contrasts the rule of law and divine justice to address the ineffectiveness of the legal system. *Eastern Promises* (David Cronenberg 2007), an example of the crime genre, tells the story of how the primordial father is overthrown to restore the symbolic order, underlining the exceptional violence which lies at the root of the law-making mechanism (Kesirli 2008: 72). Likewise, *The Alienist* (2018), a recent example of crime fiction on the streaming platform, Netflix, contrasts the corruption of law enforcers, the New York Police Department, with the morality and rationality of an amateur detective, a criminal psychologist.

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[2] Critical political theorists have addressed the violence intrinsic to law (see Benjamin 2004, Agamben 1999). As, historically, it is often violent conquests and sometimes revolts that give rise to states.

Overall, films not only represent and communicate ideas on law and legitimacy but also act as 'agents of law' (Mezey 2011: 66; Orit 2005). The films' communication of law and legitimacy to public have an afterlife. They have implications in terms of how the individuals' relationship to law is redefined and enacted (Mezey 2011: 66). In this context, there is a dialectical relationship between reality and fiction. Mainstream approaches treat films as fiction which are, at best, representative of social reality. However, by appealing to the collective social unconscious, films construct social reality. They define the borders of legality and legitimacy.

**Legality versus Legitimacy: Formalized Religion and its 'Others'**

I now relate the differentiation between the legal and the legitimate to my research on the spectacle of politics and religion in today's Turkish cinema (Thwaites Diken 2018). My point of departure in this research project was the common origins of the fields of cinema, religion and politics, in terms of the concept of the spectacle (Thwaites Diken 2018: 1). These three fields seem to be autonomous, yet they share homologies in terms of how their internal hierarchies of power are organized. In all three fields, power and legitimacy rely on visual mechanisms and the subject is constituted through spectation, intended as the art of watching.

In the field of politics and power, sovereignty and legitimacy rely on the gaze of the governed.[3] Religious authorities also constitute their legitimacy through the spectators' active participation in religious rituals and their creation of meaning. In our increasingly mediatized society, the cinema serves to mediate politics and religion to the public. Debord (2005) discusses the cinema as the most obvious art form to observe the spectacle. In fact, the cinema is not only a popular cultural form. It also characterizes the operational logic of the fields of politics and religion, which have historically been cinematic. Spectatorship is indispensable to the production of power and legitimacy in these fields. The 'bread and circuses of the Roman state' once served to ensure the consent of the masses. With modernity, we have reality shows, opinion polls, campaigns, Olympics and Oscars, which serve similar purposes. The game has not changed: while the political and the social turn into spectacle, the spectacle itself remains more or less de-politicized.

My aim in this research was to show how the contemporary Turkish cinema functions as part of the spectacle, which serves as a tool for modern governmentality in Turkey. I focused on how the contemporary Turkish cinema articulates and communicates the 'return of religion' in the public sphere — in fact, a global phenomenon in the 2000s — on a thematic and a visual level. Rather than films which make propagandist and explicitly ideological statements on political and religious issues, I selected films that pose philosophical questions on religion, such as truth, being, subjectivity, messianism, heterodoxy, belief and event. The analysis of these

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[3] The figure of the Leviathan is a classic example which shows that sovereign power relies on gaze. Thomas Hobbes (1651) uses the example of this biblical figure, the Leviathan, to suggest that power is a relationship of visibility. The upper part of the giant figure is composed of faces looking up at his face. They symbolize the citizens of the state. The spectator always feels the gaze of the Leviathan from all angles, reminding her of her subjection to that authority.

films aimed to understand the ways in which they accord legitimacy to religion, particularly non-formalized religion, as an organizing principle of social and political life in contemporary Turkey. My research focused on six films: *The Messenger* (Çağan Irmak 2008), *A Man's Fear of God* (Önder Çakar 2006, Atalay and Thwaites Diken 2018), *Let's Sin* (Onur Ünlü 2014), *Sixty-One Days* (Yüksel Aksu 2016), *The Imam* (İsmail Güneş 2005), and *The Shadowless* (Ümit Ünal 2009).

A key finding was that most films in this genre often polarize institutionalized/formalized religion (used synonymously) — Islam, in this case — and pure, authentic, unmediated faith. They provide the spectator with narrative events in which the legitimacy of formalized religion is questioned. The films invite the spectator to think about belief and organized belief, religion and philosophy, and their relationship to truth, and messianic event and revolutionary event. Almost all films that I analysed favoured the 'Others' of formalized religion; namely, folk religion in Anatolia versus state-imposed religion, Alevi-Bektashi Islam versus Sunni orthodox Islam as the official religion of the Ottoman State, authentic religion versus institutionalized religion, heterodox Islam versus orthodox Islam, asceticism and messianic religion. The 'Others' of institutionalized religion are often coded as pure belief and considered to be devoid of and immune to political and social conflict. Hence, beliefs without institutions and mediators are accorded legitimacy.

Some examples will help to illustrate this point. *The Messenger* (Çağan Irmak 2008) contrasts formalized religion used to legitimate the political power of corrupt authorities in the village with Gnostic religion presented as the language of the dispossessed and the source of universal values. *A Man's Fear of God* (Önder Çakar 2006) compares and contrasts the economism of institutionalized religion with asceticism. It shows how formalized religion conceives of divine life as an economic/governmental vocation by accumulating deeds as an investment to be used in the afterlife. When the protagonist cannot legitimate in his belief system what is permissible by the scriptures, he experiences a mental breakdown. The narrative of *Let's Sin* (Onur Ünlü 2014) centres around an unusual cleric who also works as an amateur detective to solve a murder committed in his congregation. The film compares and contrasts his roles as a cleric and a detective (each symbolizing, respectively, tradition and modernity) to question whether theology and philosophy are competing but equivalent ways to reach the truth. *Let's Sin* also favours Alevi-Bektashi beliefs and socialist interpretations of the Quran over the ritualism and the hierarchical power structure of formalized religion. The film accords legitimacy to the former and legality to the latter. *Sixty-One Days* (Yüksel Aksu 2006) privileges the teachings of folk, syncretic Islam over formalized religion, due to its similarities with socialist thought in terms of emphasis on equality and justice. By showing that folk Islam is more suitable to the daily lives of the villagers, the film gives legitimacy to folk Islam and views critically the punitive characteristics of state-imposed religion. The film explores the various meanings of belief to show that belief lies not only in the field of formalized religion but also in politics and philosophy. In what follows, I discuss formalized and non-formalized religion in terms of the distinction between morality and ethics.

**Morality versus Universalistic Ethics as Codex**

It is possible to conceptualize this contrast between formalized religion and its 'Others' in terms of the distinction Bauman (1983) maintains between morality and ethics as codex. He argues that modern ethics is universalistic and aims at formulating a codex, a set of rules and norms organizing peoples' social relations with each other (Bauman 1993: 8). In other words, ethics concern how we relate to the 'Other' and rests on a universalistic conceptualization of this relation. This understanding implies that humans can live in a society thanks to the regulatory mechanism provided by these ethical codes; it reiterates Thomas Hobbes' assumption, in the idea of the social contract, that, in the absence of these codes, humans cannot live in peace and society would plunge into chaos. Bauman argues that this is not the case. On the contrary, he suggests, humans can live as social animals only because they are moral. Hence, morality, an ontological category, comes before ethics, an organizational category whose operational logic rests upon universalistic rationality (Bauman 1993: 125). According to Bauman, morality is instinctive and does not require any external enforcement; nor does it require any regulation into a system. Morality is also ambivalent for it emerges in the context of the ambivalence of the social relationships between individuals.

Modernity rests on the formulation of an ethical codex which regulates social relations. Law can be thought of as an ethical codex in this sense. The *raison d'etre* of the foundations of law is external to the inherent morality of the individual. To put it differently, the legal apparatus regulates categorizable social relations among atomised individuals. The legal apparatus does not address the ways in which the moral person relates to the 'Other' and defines the self vis-a-vis that 'Other', and it does not address the social bond as an ambivalent, undefinable, existential necessity. So, morality cannot be reduced to ethics, a codex; morality, not any ethical codex, is what constructs legitimacy.

Formalized, official religion organizes itself around a codex which aims to issue universalistic laws applicable to all believers, regardless of the social and historical context. This codex rests on the assumption of an isolated believer, the sum of whom makes up the community of believers, bonding with each other through the medium of this codex. Codex aims to discipline and govern believers as subjects of the religious apparatus that claims to be the sole representative and interpreter of God's word. Against this background, organized religion relocates the inherently moral humans within the governmental machine of formalized religion.

In the films analysed in my book on *The Spectacle of Politics and Religion in the Contemporary Turkish Cinema* (2018), we see that, in the absence of a regulatory mechanism, the believer is constituted as the subject of a messianic truth-event, in direct relationship with God, as in *The Messenger*; as the subject of a contemplative authentic religion, as in *A Man's Fear of God*; as a subject aiming at unification with divine love which requires no demonstration or expectation, as in *Let's Sin*; and, finally, as a revolutionary subject who challenges the institutionalized religion's monopoly on truth telling, as in *Sixty One Days*.

In all these films, legality is represented by formalized/institutionalized religion. Furthermore, institutionalized religion, as it is represented in these films, reflects the paradoxes of law: what people consider as moral need not be legal and what is legal need not be legitimate in the eyes of the people (Pardo 2000). In *The Messenger*, political authority, who speaks on behalf of formalized religion, is not acknowledged as a legitimate authority by the villagers. The protagonist is presented as someone who suits the teachings of religion to his own interests. In *A Man's Fear of God*, the representative of formalized religion is the sheikh of a sect who indirectly accumulates and manages wealth under the guise of serving God and the community (by educating disciples and opening Quran courses). The sheikh's economistic perspective is contrasted by the perspective of a simple believer, Muharrem, for whom belief is all about living a life devoid of sin. The director, criticizing the capitalist orientations of organized religion, attaches legitimacy to the simple disciple's position. *Let's Sin* also casts in a positive light its protagonist, the non-traditional Muslim cleric who plays chess (symbolic of modern rationality), listens to Alevi-Bektashi folk music and plays a stringed instrument. In this film, humour serves to question the legitimacy of formalized religion. *Sixty-One Days* also employs humour to question the legitimacy of the dogmatic discourses of the official representative of orthodox religion, the state appointed cleric in the village. The film attributes legitimacy to folk Islam[4] and represents it in a cosy, colourful, carnivalesque setting. Overall, it can be said that the majority of the films accord legitimacy to unregulated, non-formalized, pure religion without a codex and question the legitimacy of formalized religion despite its legality.

**Legitimacy as Normalization and Hegemony**

We can also think about legitimacy in terms of Foucault's (1995) understanding of the subject's willing participation in governmentality through disciplining the self. For Foucault, government does not only refer to the exercise of power from above by the state and bureaucracy; it also refers to the administration of populations and their biological processes, such as birth, death, education and fertility. In this context, Foucault distinguishes sovereign power from bio-power. Sovereign power is exercised through juridical mechanisms, while bio-power concerns the reproduction of the subject and his or her life world, including his or her body and sexuality. In other words, sovereign power is a juridical form designed to distinguish between who obeys the law and who does not. However, power is experienced not only as an external force. Bio-power includes the implementation of certain technologies to render the human conscious and the human body docile and functioning in the system (Foucault 1995: 163-167). In this sense, discipline is a technology of power. Modern institutions like schools, hospitals, army, religious institutions subject the humans to certain disciplinary discourses and practises in order to reproduce them as docile subjects. In this context, bio-power is not experienced externally.

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[4] Folk Islam is also called heterodox Islam, the anti-thesis of orthodox Islam. It is a vernacularized religion, adapted to the everyday life of the people. Its teachings syncretize scriptures with the wisdom of Sufism and local beliefs. It is also said to be heavily influenced by pre-Islamic shamanic practises (Ocak 2010).

Foucault sees power as diffuse. It is not possessed, but enacted; not concentrated, but dispersed; and, finally, not macro, but micro. In this sense, power is a 'regime of truth' which produces its subjects (Foucault in Rabinow 1991).

This is an understanding of bio-power as a set of 'discursive practises' that define the normal and the deviant and train the subjects of power to accept these norms and standards. Medical science, for example, holds the monopoly on distinguishing the normal from the pathological. Education teaches the subjects of power standards of acceptable behaviour in society. Thus, subjects of power discipline themselves and internalize these social norms and behavioural standards. Foucault's emphasis on bio-power and normalization resonates with Gramsci's concept of hegemony (1971). Discipline means the hegemonic acceptance of external norms by the subjects of power. In this sense, legitimacy overlaps with hegemony. What constitutes the legitimacy of power is the willing self- discipline of the consenting subject.

In the previous section, I have differentiated formalized religion from non-formalized religion and have discussed this differentiation in terms of legality and legitimacy. Here, I look at the legitimacy accorded to non-formalized religion from a different angle. Almost all films analysed in my book (2018) represent formalized religion as an external force (imposed, that is, by the state, through the Directorate of Religious Affairs) and non-formalized religion as a hegemonic force, suitable to the psychological and material needs of the subjects and their moral make up.

Considering that the Turkish cinema, especially before the 2000s, has thematically and visually articulated these problematics with reference to modern ideologies of the nineteenth and twentieth centuries, we can say that 'the return of religion' in today's Turkish cinema has accorded non-formalized religion more legitimacy to comment on social and political problems. Almost all films analysed in my book provide a political critique of institutional religion. At the same time, however, this polarization of religion de-politicizes other forms of politics and criticism rooted in modernity. After the 'return of religion' in the cultural field, modern problematics like gender, equality and revolution have come to be discussed within the orbit of religion. In other words, a critique of formalized religion which points at non-formalized religion as its alternative in fact highlights the increasing hegemonic status of religion in the organization of social and political life. Hence, the 'return of religion' has manifested itself globally in various forms, like an increasing interest in New Age religions, mysticism and so on.

For instance, *The Messenger* discusses social inequality with reference to Gnostic religion, which presents itself as true religion and sees salvation in the messianic event to come. *A Man's Fear of God* suggests that the protagonist would be able to keep his pure belief, if he had continued to live an ascetic life and not dealt with the financial affairs of the sect, representing organized religion. *Let's Sin*'s discourse points at the religious sources of revolt by referring to socialist tendencies in the scriptures and the history of Islam. The protagonist, while questioning whether philosophy and theology establish the same kind of truth, seeks answers in anthropology, political science and detective work, which is the allegory of

modernity in the film. Yet, finally he chooses pure belief over reason, donating his books to an antiquarian and thanking God for losing in chess. *Sixty-One Days* is an exception in this regard. It shows how a child who cannot fast, and thus perform one of the five pillars of Islam, grows up to be a revolutionary who dies in a sixty-one-day hunger strike during the 1980 military coup in Turkey.

Overall, we can say that almost all films analysed in my book ideologically position themselves as advocates of pure, non-formalized belief vis-a-vis organized religion and are critical of its internal hierarchies. Yet, they articulate an anti-modernist position on social and political problems, accord legitimacy to non-formalized religion and verify its hegemonic status in the organization of society, while suggesting that formalized religion, despite being legal, is not necessarily legitimate.

Modern political theory generally discusses legitimacy in terms of consent. However, it must be noted that the organization of belief as formalized, ritualistic religion corresponds to the organization of politics as spectacle. In both cases, it seems that consent depends on people's voluntary participation in the governmental machine. However, while discussing the notion of legitimacy, this consent and its agent—that is, the mythic subject and her free will in the society of the spectacle—remain part of another paradox to be addressed.

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