

Legal Pluralism: Interactions Between Official and Unofficial Laws: The Case Study of a Multi-ethnic Community Farm

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Abstract

A multi-ethnic community farm, located in California, was created in 2011 to be commonly exploited by refugees and emigrants from different countries.

This paper aims to describe, as an observable fact, how distinct non-state normativities behave and relate in their dynamic process of interaction, surpassing the usual state/local law bases of analysis.

The farm was approved by the state authorities and the NGO has created its regulations. Concomitantly, the distinct communities of farmers have defied and transformed the farm's regulations by incorporating their competing legal land tenure regimes and legal postulates in the same structure of the unofficial law of the farm, through a common frame of meaning and the enactment of the "autonomy rule". This has allowed the growers to follow their normativities inside the farm. However, its creation process and daily practice also exposes the relevance of the official law in its constitution, shape and function.

Key words

Legal pluralism; legal culture; cross-culture interaction

Resumen

En 2011 se creó en California una granja multiétnica comunal, para que fuera explotada en comunidad por refugiados y emigrantes de diferentes países.

Este artículo pretende describir, como hecho observable, cómo se comportan y se relacionan normativas no estatales en un proceso dinámico de interacción, superando las bases de análisis estado/local habituales del derecho.

Las autoridades estatales aprobaron la granja, y la ONG creó su propia normativa. Al mismo tiempo, las diferentes comunidades de agricultores han desafiado y transformado el reglamento de la granja, incorporando sus regímenes legales de tenencia de tierras vigentes, y los postulados legales en la misma estructura del

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derecho no oficial, a través de un marco común de significado y la promulgación de la "norma de autonomía". Esto ha permitido a los productores seguir sus normativas dentro de la finca. Sin embargo, su proceso de creación y práctica diaria también pone de manifiesto la importancia del derecho oficial en su constitución, forma y función.

Palabras clave

Pluralismo jurídico, cultura jurídica; interacción multicultural

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1. Introduction

1.1. *The social context*

A multi-ethnic community farm of 2.3 acres, located in California, U.S.A, was created to be commonly exploited by refugees and immigrants. The idea of creating a community farm came from a NGO. Initially, three different groups: Cambodian, Latino and Somali Bantu together with the NGO, intervened in the bureaucratic process of requesting authorization of the City Council and further took part in the exploration of the farm. The farm was approved within the legal terms set by the state authorities and the NGO took the initial role of creating its regulations. Concomitantly, the diverse communities of farmers, with its own set of laws and traditions, defy and transform the laws emanated by the state authority and NGO.

Under the theoretical frame of legal pluralism this paper aims to describe, as an observable fact, how distinct non-state normativities behave and relate in their dynamic process of interaction.

1.2. *Legal pluralism*

Legal Pluralism is defined as a universal social fact (Menski 2006, p. 82-83) in clear opposition to the ideology of legal centralism (Griffiths 1986, p. 4, 38-39). If once the main connotation of legal pluralism was the relations and interactions between different legal normativities on colonial and post-colonial societies (Merry 1988, p. 872), the shift of focus of legal pluralism towards "relations between dominant groups and subordinate groups" (Merry 1988, p. 872) expanded the identification of its occurrence in almost any society (Merry 1988, p. 873). Global human mobility became the main trend of the current world's state of affairs and as a result, the coexistence of plural normativities and their interactions in the same social context are ubiquitous and enduring. By the fact individuals understand themselves and the world around them through networks of social groups to whom and within its boundaries they build a sense of belonging (Cotterrell 2006, p. 65-68), the systems of beliefs and practices shared by the individuals are adjusted, reproduced or transformed within those social groups. The plural normative order of social life in the host country arises from the distinctive normativities generated inside them (Berman 2009, p. 227). Therefore, the existence of different social groups, occupying the same social context, makes the latter a myriad of different normative systems, from different sources, which interact, compete and overlap with each other (Griffiths 1986, p. 4, 38-39, Merry 1988, p. 869-872, Moore 2001, p. 106-107).

Different authors have different perceptions of how encounters between distinct legal normativities in the same social context should be studied. In the following paragraphs, I summarize the most prominent ideas of legal pluralism, presenting my critique and justifying the theoretical framework applied in my research.

1.2.1. Cotterrell's legal concept of community

Cotterrell draws his definition of law and legal pluralism from the existence in social life of a plurality of communities through which the individuals achieve their identity and sense of belonging and make a meaning of social life (Cotterrell 2006, p. 66-67). A legal concept of community (Cotterrell 2006, p. 65-78) is the conceptual tool to look for the connection between diversity in law and plurality of social life. Different communities, with their ongoing definition of boundaries and their own interpretative meanings, create, interpret, and express law in their social relations (Cotterrell 2006, p. 68). For Cotterrell law is all that arbitrates in the self-regulation of communities in order to keep the kind of necessary trust to sustain the relations between the individuals (Cotterrell 2006, p. 28). Therefore, as long as multiple communities coexist and interact in the same social context, legal pluralism is the

complex set of different regulations emanating from those collectivities (Cotterrell 2006, p. 36-38).

Cotterrell's legal concept of community is comprised of three requirements: stable and sustained level of interactions; sense of being part of a unit beyond the individual's sphere and the definition of boundaries dividing insiders from outsiders of the group (Cotterrell 2006, p. 70-71).

As a result, Cotterrell typifies four kinds of collective involvement, although not encompassing the endless possible empirical combination of the four types: traditional community, instrumental community; community of beliefs, and affective community (Cotterrell 2006, p. 69).

1.2.2. Moore's concept of "semi-autonomous social field"

Moore belongs to the group of authors who avoid the conceptualization of law and accept legal plurality as an intrinsic fact of society (Merry 1988, p. 878-879, Tamanaha 1995, p. 515-518, 534-535).

Through her concept of the semi-autonomous social field (Moore 1973, p. 719-23) Moore creates a methodological tool to describe and analyze the relations between law and society without necessarily engaging in a scientific conceptualization of law (Moore 1973, p. 742-745).

A semi-autonomous social field is a social field with rule making capacities and aptitude to induce compliance of its rules to its members based on the values of the relationships itself (Moore 1973, p. 720-723).

Moore's approach to legal pluralism is envisioned by the way state law is accepted, transformed or resisted by the normativities operational in the social field (Griffiths 1986, p. 36, Moore 2001, p. 107) as well as by the way the field is influenced and affected by the external legal and social milieu (Moore 1973, p. 742-745, 1978, p. 55-58).

State law is not the only normative force interacting in a particular social field. In fact, state legislators have to acknowledge that between the law of the state and the individuals, a complex factual grid of relationships, which have spontaneously created their own set of rules and values, changes the impact of state law and deprives it of its potential for social control (Moore 1978, p. 2, Griffiths 1986, p. 33-34).

However, even if Moore does not conceptualize law, she nevertheless uses the term law in regard to state-normativity while considering the non-state normativities created in the social field as non-legal (Moore 1973, p. 743-745, 2001, p. 107).

1.2.3. Griffiths' theory of legal pluralism

For Griffiths law is all "self-regulation of a semi-autonomous social field", overcoming, with his definition, what he called Moore's "last-minute lapse into legal centralism" (Griffiths 1986, p. 38). For Griffiths, law is an observable fact, coming from different sources and with different empirical materializations, which do not have to incorporate the formal and political requirements of law endorsed by legal centralist ideologies (Griffiths 1986, p. 8).

Legal pluralism is for Griffiths, an empirical state of affairs where distinct semi-autonomous social fields, with their distinctive normativities, interconnect, overlap, conflict, creating a complex grid of different laws operational in society (Griffiths 1986, p. 38-39).

1.2.4. Tamanaha's non-essentialist version of Legal Pluralism

For Tamanaha, there are as many concepts of law as authors who study legal pluralism (Tamanaha 1995, p. 503-518, 534-535). Some, in the line of Ehrlich's living law (Ehrlich 2002) and Malinowski's understanding of legal norms as arising

“out of the very processes which they govern” (Malinowski 1926, p. 122-123) identify law with the order that regulates a concrete pattern of behavior which people accept and comply with as part of their social relations (Malinowski 1926, p. 55-59, 63-68, 122-129, Ehrlich 2002, p. 3-25, 39, 83-86; Tamanaha 1995, p. 503-506). Others identify law with the process of differentiation of legal percepts into institutions, with authority to enforce rules once the legal order is disrupted (Tamanaha 1995, p. 506-511, 2000, p. 297, 302-306).

For Tamanaha law “has no essence” (Tamanaha 2000, p. 313) by the fact that law manifests itself differently in each social context and historical moment (Tamanaha 2000, p. 313). An aprioristic scientific concept does restrict the researcher’s ability to identify empirically the endless possible manifestations of the law (Tamanaha 2000, p. 312-314).

Rather than a scientific concept, Tamanaha’s non-essentialist version of law is formulated in terms of the appropriate method for its identification in the empirical realm (Tamanaha 2000, p. 313).

According to the author, law is whatever is recognized by the agents as law in their social practices (Tamanaha 2000, p. 315-319, 2008, p. 396).

Social practice encompasses a certain behavior and the meaning of the interpretative community that supports and provides continuation for that behavior (Tamanaha 1996, p. 176-180). Agents attach a meaning to a certain action whereby they recognize it as a standard to follow and against which people judge their attitudes and behaviors (Tamanaha 2000, p. 314). Through the description and analyzes of the social practices of a certain group, researchers will identify to what observable fact, agents have recognized and attached the label law (Tamanaha 2000, p. 314-319). “A state of legal pluralism, then, exists whenever more than one kind of law is recognized through the social practices of a group in a given social arena, which is a relatively common situation” (Tamanaha 2000, p. 315).

1.2.5. Chiba’s tripartite model of law

Chiba does not discern the legal from the non-legal in the sense that the dichotomy itself is a reproduction of a westernized and centralist assumption of law (Menski 2006, p. 119). Law, in its structure, is plural, and as an aspect of culture, law “should include all regulations, however apparently different from state law, which the people concerned observe as law in their cultural tradition, including values systems” (Chiba 1986, p. 4).

For Chiba, his hypothesis of a structure of law is comprised of three levels: official law, unofficial law and legal postulates. These three levels are always interacting with each other not only within each level but between the three levels (Chiba 1986, p. 5-9).

Official law is “the legal system sanctioned by the legitimate authority of a country” (Chiba 1986, p. 5). Therefore, state law is one between many official laws. Different legal systems might be incorporated in state law or even parallel legal systems may be recognized, accepted or developed under the authority of the country (Chiba 1986, p. 5) becoming part of the overall structure of the official law (Chiba 1986, p. 5). Official laws have first to have authority on their own, be coherent between them, which does not mean that conflict will not arise through the course of mutual interactions. Further, official laws have to be recognized by state’s authority (Chiba 1986, p. 5-6).

Unofficial law is the legal system emanated through the general consensus of a certain group, recognized in formal rules or unconsciously through patterns of behavior (Chiba 1986, p. 6). However, only those practices that have an impact over the efficiency of the official law by rejecting, modifying or transforming it, are qualified as unofficial law (Chiba 1986, p. 6). For Chiba, the official law’s

effectiveness is correlated with the way the unofficial laws and its cultural milieu has received it (Chiba 1986, p. 6).

The third component of Chiba's conception of law is legal postulates (Chiba 1986, p. 6) described as a "value principle or value system specifically connected with a particular official or unofficial law, which acts to found, justify and orient the latter" (Chiba 1986, p. 6). Legal postulates represent the social and cultural structures of a group, which constitute the basis for its overall organization (Chiba 1986, p. 6).

Legal postulates, supporting both systems of official and unofficial laws, may also interact and conflict with each other as well as with the rules of each system, resulting in the latter's improvement or transformation (Chiba 1986, p. 6-7).

1.2.6. Critiques and theoretical frame

The previous theories of legal pluralism have in common the rejection of a unified single order drawn by the state (Merry 1988, p. 873) but not all of them comprise a possible framework for the analysis of the interactions between non-state normativities.

If law is the self-regulation of a community, as Cotterrell frames it, therefore law is a non-distinguishable order from other social normativities which are also an essential element for expressing and supporting the kind of trust relationships necessary to maintain the interactions inside the groups.

Cotterrell tries to overcome this point by asserting the purpose of social scientists to expand the perspectives about the law even by taking in consideration the lawyer's point of view, as an element of the overall legal experience (Cotterrell 2006, p. 37).

However, in a state of affairs where one focus of analysis concerns the interactions between non-state normativities and where the lawyer's perspective is not relevant to be taken in consideration, Cotterrell's concept diffuses law in the wider category of social normativities, offering no possible ways to pulling it apart.

In Moore's approach, though legal centralism is rejected (Moore 1973, p. 744), by regarding the self-normativities of the field as non-legal and the state normativities as legal (Moore 2001, p. 107), state law becomes, nevertheless, the only reference point for identifying law.

Both Cotterrell and Moore assume the self-regulation, either of the community and the social field respectively, as a set of normativities already operational in a given social arena. Both focus on the interactions between inside and outside normativities as the basis for their descriptive accounts of legal pluralism. However, what brings about those self-regulations, what happens inside the boundaries of both communities and social field, is likewise an ongoing interplay between distinct non-state normativities that should be studied. Their analysis covers only a part of a wider picture of legal pluralism thereby making their concept of law and legal pluralism inadequate tools for the study of the interactions occurring between non-state normativities.

Griffiths' assertion of legal pluralism goes beyond the relations between field normativities and state law, to include the processes of interaction, connection and conflict between social fields. However, by asserting law has a constitutive feature of every social field, and that every social field is more or less legal depending on the degree of law's differentiation and institutionalization (Griffiths 1986, p. 38), Griffiths does not endow the researcher with an empirical tool capable of making law an observable fact. More so, where the field has no specialized functionaries and law is immersed in many other social activities (Menski 2006, p. 118).

On the other hand, Tamanaha's non-essentialist approach identifies non-state normativities as legal, based on the self-recognition of law by the agents. However, when agents decide to enter in a practice and recognize it has a standard, the

question that follows is what kind of label has to be attached to it in order to be considered law. Do agents have to use the term law?

In the beginning of this chapter, we explained how agents, who cross borders, are in a state of awareness of different normativities. The agents might label as law, the normativities that have prevalence in the host society and use other labels, more familiar in their legal culture, to express and give meaning to normativities immersed in their social practices.

In my research field, I encounter rules that were labeled as laws but not followed by the growers, and practices followed by the growers, which they did not consciously recognize as law.

This disentanglement between label and practice does not mean that for the agents both are not laws. By the contrary, it may be the reflection of the ongoing interactions between two kinds of legal systems.

Although the concept of social practice is relevant for the identification of law, the label which agents attached to it must be envisioned as a possible outcome of legal pluralism not as a test for the exclusion of law.

Differently from Tamanaha, Chiba defines the unofficial law as the legal system emanated from a group's general consensus which may be "either consciously recognized and expressed in formal rules, or unconsciously observed in particular patterns of behavior" (Chiba 1986, p. 6) surpassing, this way, the difficulties over Tamanaha's conception of the self-recognition of law by the agents.

Chiba's structure of law includes both "weak" and "strong" (Griffiths 1986, p. 5-6) views of legal pluralism.

The structure of Chiba's official law comprises the "weak" (Griffiths 1986, p. 5-6) view of legal pluralism, displayed in the understanding that official law comprises other normativities besides state-law.

Among the weak or formal view of legal pluralism, one can distinguish between strong official pluralism, expressed when the whole system of non-state authorities are officially recognized by the State, granting the latter the rights to the communities to live according to their own distinct laws (Hoekema 2005, p. 16) and weak official legal pluralism, when state authorities grant some official space for the use of local rules in conflict resolution, or incorporates institutions from non-state sources or solely grants circumstantial exceptions to accommodate different legal sensibilities (Hoekema 2005, p. 16-17).

The weak view of legal pluralism is, therefore, implicit in Chiba's understanding of the plurality of laws contained within the structure of the official law.

The "strong" (Griffiths 1986, p. 5-6) or empirical view of legal pluralism is asserted in the factual coexistence of distinct legal norms emanated from different groups, formed outside the state's authority and how they empirically coexist and interact, as a matter of social fact, with each other and with the state (Hoekema 2005, p. 4). Transposing to Chiba's tripartite structure of law, empirical legal pluralism is displayed through his concept of unofficial law as well as through the interactions occurring in everyday life between official and unofficial law.

Chiba's tripartite structure offers the most holistic and integrative concept of law.

Taking Chiba's broad concepts of official and unofficial law, this thesis analyzes the interactions between non-state normativities: the distinct communities and NGO's normativities, overcoming the dichotomy state law/local law, which still dominates current empirical analysis of legal pluralism.

As a result, in this thesis, I look to the structure of the unofficial law in the same perspective as one does regarding the official law, a structure that is also plural and might incorporate normativities from different sources, what I call "weak and strong

forms of unofficial recognition". I also look to the interactions between the official and the distinct unofficial laws of the farm and how they mutually constitute and influence each other.

2. Methodology

2.1. *Ethnographic fieldwork*

Most of my data was drawn from ethnographic fieldwork (Clifford 1988, p. 23-24) on which I engaged in the intersubjective experience of observing, participating and interacting with the growers (Clifford 1988, p. 23-24). The results of the fieldwork might be described as a realist account of what was observed in the field (Maanen 1988, p. 45-72), but it is nonetheless a subjective construction based on how the researcher came to know a particular reality (Clifford 1988, p. 21-54).

During my field trips, I took notes in the field with reference to events, conversations and interactions (Berg 2004, p. 173-177) I experienced in the farm. I would transcribe the notes to another note book the same day, adding the details and other important contextual information (Berg 2004, p. 173-177).

The events captured through my observations were based on my own perspective over the facts and on a set of non-controllable variables which characterized the ongoing activities in the field (Clifford 1988, p. 21-54, Maanen 1988, p. 73, 95). Therefore, my fieldwork progressed through an ongoing self-reflective attitude of making sense of a little-known social world, with unanticipated reactions and interactions from the growers, but always aware of my own voice and limitations in the process (Berg 2004, p. 154-157) of how my bias and cultural features interconnected with the facts observed, how they were observed and understood. As a result, and in order to make my data as objective and precise as possible, I decided to collect data from different sources.

2.2. *Data collection*

Data was collected through a multi-method comprehending: complete observer, observer-as-participant, informal interviews, semi-structured in depth interviews and analyses of documents.

2.2.1. Complete observer and observer-as-participant

From May 7th to June 15th of 2012, I spent an average of 5 hours every day at the farm. The time frame chosen was based on a first stage of observation (Berg 2004, p. 170-172) and on grower's information regarding when people would usually come to the farm (Berg 2004, p. 171-172).

Through observation, listening and posing clarifying questions (Berg 2004, p. 172-173), I was able to draw information regarding which growers would go more frequently at what times; which kind of interactions, activities and behaviors happened more frequently and repeated every day.

The presence of an observer in the social context, even if not interacting directly with the growers, may impact and change the grower's natural behavior. In order to minimize the impact of my presence as a researcher, acknowledged by all the growers in site, I was at the farm on a daily basis and participated, as much as possible, in some of the grower's routine activities (Berg 2004, p. 163). I tried to make the growers as familiarized as possible with my presence, in order to minimize my impact and achieve a certain "unnoticed" standing at the farm.

During the course of fieldwork, I participated in the six formal events held during that time: two communitarian working days, one Latino's meeting, one Cambodian meeting and two leaders' meetings.

My participation in the meetings granted me with important information concerning the distinct ways growers thought about the issues in the agenda - collective problems and how to deal with them – but also how they communicate differently their points of views.

Through observation and participation I gathered data regarding the daily practices and interactions at the farm. However, the meaning of those activities, from the perspective of the growers, had to be assessed through informal interviews and semi-structured in depth interviews.

2.2.2. Informal Interviews

I conducted informal interviews to 27 different growers, with time ranging from 15 minutes to 1 hour. It happened very often to have more than one informal interview with the same grower at different moments. Being able to talk with the same grower more than once, gave me the possibility to develop trust relationships, that resulted in more deep and extended conversations and adjusting myself as an interlocutor to the personal communicative specificities of the growers.

Although informal interviews had different starting topics, I tried to introduce the same issues in conversation to give a reasonable consistency for further comparison and analysis of the answers. Examples of topics were: What does the farm mean to you? How often do you come and which plots do you grow? What did you do back in your country? How farming was organized in your country? When did you arrive? What has changed in your life when you came to U.S.? How is the organization of the farm? What are the rules? What do you see as different and similar between each group's organization and farming?

Language was an obstacle preventing me to interact deeply and extensively with some growers. I do not have the language skills of speaking Cambodian nor Swahili. This difficulty had to be circumscribed by interacting mainly with the growers who spoke English or Spanish.

2.2.3. In-depth semi structured interviews

I conducted five in-depth semi-structured interviews (Rosenblum 1987, p. 388-390). The semi-structured interviews allowed me to pose questions within certain categories and simultaneously providing flexibility enough to digress from the guide and go far beyond while allowing the interviewees to develop their thoughts about the subjects of their most concern (Witzel 2000, art. 22). The main topics covered in the interviews were the relations of the community with the farm; the relations between communities; the relations between the community and the NGO.

Three in-depth interviews were conducted with the growers that had a position of community leader in the farm. These growers delivered important information regarding the meaning of the practices observed in the field and the kind of interactions and mutual understandings going on between the growers.

The other two in-depth interviews were conducted with the NGO's manager and with a non-community grower. Regarding the latter, by the fact that he did not belong to any of the communities but had good personal relations with them, he could provide me with his inside/outside insights about the communities and their practices at the farm.

The interviewees were two women and three men with ages ranging from 27 to 60. The interviews were recorded with the informed consent of the interviewees with the express regard that their identities would remain confidential (Berg 2004, p. 62-67). The interviews had an average length of one hour and were conducted in English and Spanish. Later, I listened to the recordings several times and transcribed all the relevant information.

2.2.4. Documents

I had access to the NGO's list of official growers, to the contracts signed between the NGO and the official growers and to the initial plan of the farm.

2.3. Data analysis

First, I set down information from the field notes, interviews and documents dividing it by ethnic community: Cambodian, Somali Bantu and Latino. Afterwards, data was carefully read in order to find behaviors and meanings which I identified under the same sub-codes (Berg 2004, p. 266, 278-281): 1) practices and organization of farming in origin countries; 2) practices and organization of farming in U.S., identification of the growers; 3) cross-culture communication; 4) description of life styles in origin countries and U.S.; 5) meaning of farming and land for the growers; 6) episodes of interactions between the growers (Darlington and Scott 2002, p. 143-146, 152). After this stage, I applied an interpretative style of analysis (Berg 2004, p. 266) to find common meanings and descriptive accounts of behavior by community. Subsequently, I divided again the data and rearranged it but now only under the same sub-codes. Data was then analyzed applying the same interpretative style (Berg 2004, p. 266), to find commonalities and distinctions across communities (Berg 2004, p. 287-288).

3. Results and discussion

3.1. A common framework of meaning

Both Somali Bantu and Cambodian refugee growers emphasized the overwhelming role that money, and its use, has taken in their lives. They explained that in their countries one did not have to engage so fully in the actions of earning and spending money to fulfill their basic needs. Food came from farming, land was provided by the village or inherited from the parents and the family house was built with the joint effort of the village and families. Currently living in an economic and social system where money and opportunities are proportionally related, the shortage of money adding the cultural and language barriers to navigate comprehensibly in both systems, challenges the groups with a context of scarce opportunities and of social and economic vulnerability.

The Latinos, on the other hand, revealed other social and legal constraints, as race and legal status, which make them feel continuously outsiders of the dominant society.

All the groups are aware of their current social, economic and legal vulnerability and perceive themselves as being at the margins of the dominant society.

The three groups met each other for the first time during the City Council's bureaucratic procedure for the farm's approval. In their very first meeting before the Mayor, the leaders expressed their surprise regarding how all groups were asserting the same points of views, defending the same perspectives and together making a common discourse concerning the social and economic conditions commonly shared.

Through the 2 years that the public procedure took until its final decision, relevant commonalities were mutually acknowledged by the groups: they had all been displaced from what was once familiar, they shared a common past of misfortune, they lived a current social context of scarce opportunities, and all of them valued and needed the land.

"I have seen the Cambodians and Latino community leaders at the city council we stand there, as they stand and start talking about farming, I talked about farming, they talked about farming, and it was like oh he is supporting my point, he is supporting my point we all one team we are all the same group, we all talked the same idea support the same garden (...) when I realized we were the same."

Somali Bantu leader

"The majority of people that comes here are immigrants, and regarding the Hispanics the majority that comes here are undocumented and you know how the government is right now, so is natural that people don't want to walk in the streets and they hide themselves because someone can talk to you and can be the police or work for the immigration but like us, the others are in the same way. We were in the meeting where there were Somalis and others and there, they also said that they are afraid, they went through wars and have suffered, so everybody in some sort of way had in their lives mistreatment and each one of us have to overcome them to be here.

Latino leader

More importantly, each group understood that the opportunity would only be given with the joint participation of the others.

All groups expressed that land connects them to their home countries, the ways of life of their fathers. Somali Bantu and Cambodian leaders expressed that people were depressed, living in apartments, not having anything to do, worried about their lives. The Somali Bantus and Cambodians talked about how farm is part of the livelihood, growing one's own cultural food, sharing the food within the community but also entailing the acquisition of more independence from the system, the possibility of earning extra-income by selling the food in the local market. All the groups expressed the freedom and relaxation enjoyed from the practice of harvesting, freedom from society rules, outside pressures and forced rhythms of life.

The possession and harvest of the land means to all groups the possibilities of having autonomy, not only as a form of livelihood through the acquisition of economic resources as food and income but by being a space which allows growers to express and practice their inner cultural selves.

As a consequence of the interactions occurred during the bureaucratic process for the farm's approval, the groups recognized having the same needs. Through interaction, the distinct groups recognized having a common interest regarding the farm and a similar social and economic position in the dominant society: common fragility, scarce recourses, foreigners, lower mobility, insecurity and a common economic and symbolic meaning attached to land.

Through the interpersonal interaction of different others, a common interest across diversity was acknowledged, a common identity was built and a common action was planned. Nevertheless, what have prompted that interaction, in the first place, were the terms in which the land opportunity was presented by the NGO: less than one hectare of land to be shared by all and the necessary involvement and interdependence of all groups in the process.

"And how they said if it wasn't for the IRC or if we had not a plot in this farm, I would not speak to them and here we learn, we come, we come in groups and here we talk together"

Latino leader

The same process of interaction across diversity that has taken place during the licensing period is reproduced in the everyday life of the farm. The farm discloses specific conditions of coexistence, which enhances precisely the aspects of human curiosity for the unknown and to relate to the other and interact with the other as unknown and strange (Gurevitch 1988, p. 1180-1184).

The cultural diversity in the distinct ways of harvesting, of planting food, of cooking food, are opened and disclosed in the farm and can easily be observed and acknowledged by the growers. Everyday, new common frames of meaning regarding plantation, food, are being developed and enhanced. Curiosity and difference becomes the topic generating interactions and relationships between the growers.

"My husband always drunk coffee, coffee, coffee, I did not know about the lemon tea, but when I came here I found the lemon tea with the lemon grass in the garden, from the Cambodians, and now my husband only drinks lemon tea. Even with the few English that I know I like to ask and share to different ethnicities, what is that? How do you cook? Normally in the street if my neighbor is from Cambodia or Philippine I do not go to their house to see what she eats or cooks, but here you see this. Here we can discover their vegetables, how they grow, how they cook, what they eat and also here you can eat their food and exchange recipes"

Latino Grower

"The Asians learn from Africans to raise their beds. They learned by seeing it because they used to grow in flat land. They copy the Zimbabwe people; it was hard to see because they all have pride, in my country with do like that. They had to change, to adjust. For instance the Africans had to change the season to grow corn. They did not know how to grow and what to grow. The techniques of germination of the Asians they do their germination process, and they put the rice mat on top. People are copying it. We all are pulling out of each other. They walk and see how the others are growing. They trade seeds and baby plants. They know enough English to talk about this back and forward."

Grower

By facing the experience of encountering strangeness and feeling as strange and before the fact that opportunity of land will necessary entail the involvement of others, the growers reveal an aptitude of accepting the coexistence of a plurality of different others with different practices which, even if not understood, are accepted without breeding disruption, anger or intolerance.

"I feel that they have the children more lose for them and us, by the contrary, we have them very close to us more under our vision. And we say they should not do or if someone says to me that my child did something I will call its attention. But they seem not to do anything even if you say them. The problem is that we don't know how they raise them and take care of them. We have seen how they do it but we don't know exactly how they raise children".

Latino leader

To this state of affairs, Gurevitch calls the other side of dialogue or the ability "not to understand" the strangeness of the other (Gurevitch 1988, p. 1184). For Gurevitch, sameness is just only one side of the dialogue because "human nature, in general exhibits the opposite tendency, that is, towards curiosity, wonder, adventure, and relating to the other (and to the self) as unknown and strange" (Gurevitch 1988, p. 1180-1184). Gurevitch describes "crossing borders" as one example where individuals are challenged with both estrangement of others and themselves, having to reconstruct their identity and their relations towards others.

The distinct groups have created a common and larger frame of meaning based on a common social, cultural and economic position before the dominant society and a common value and interest associated to the use of land.

As Gurevitch, referring to dialogue, puts it: "Being self-contained and, at the same time, a part of a common universe, is the very essence of dialogue (...) The true understanding of dialogue maybe reached only when disparate selves are acknowledged within the larger common framework of meaning" (Gurevitch 1988, p. 1197).

The boundaries of this community of farmers can also be metaphorically associated with the fences built around the farm which marks a clear distinction between the land and the exterior surrounding sites; a symbolic division between the farmer's contexts of life and the outside contexts of the dominant society. The fences generate a perception of limitation and confinement, where the land opportunity is only limited to that 2.3 acres.

However, inside the community of farmers, within the boundaries of the farm, new borders are created dividing the once "one team" into different communities.

During the process of land division, each group was allocated with 20 plots. According to the group leaders, they decided to separate the three initial groups into three different places in the garden. Their reasoning for the division of the land was based in two important assumptions: conflict would be minimized and cooperation would be enhanced if the groups were divided by language, culture, habits.

Although the position of some growers in the farm are currently more mixed, the definition of the space in three different areas: Asians, Latinos and Africans, is still evident in the field.

The members of the community of farmers share the larger common framework of meaning referred above, being the outsiders the dominant system and its institutions. Within the farm, new inside and outside boundaries are created based on the distinctive cultural characteristics of each group.

However, this inside division does not mean that the previous understanding of the farmers as a joint group, seekers of the same opportunity ceased to exist.

By the contrary, it is exactly in the confluence between common identity vis-à-vis distinctive practices; of official law vis-à-vis distinctive group's normativities, that a common rule, which I call the "autonomy rule", was enacted by the farmers. The "autonomy rule" allow the communities to practice their distinct land tenure regimes inside the farm as simultaneously help minimizing potential conflicts which could disrupt the preservation of the whole farm and of the land opportunity to each community.

3.2. The official law of the farm

The use of 2.3 acres of public land was temporarily granted, for three years renewed, by the City Council to the NGO. The state authority did not grant the land directly to the growers.

The legal postulates (Chiba 1986, p. 6) of capitalism and individualism give rise to the official law's concept of private propriety, as the expression of the individual's right to acquire, accumulate and allocate resources according to its own individual plans. However, growers are not holders of any private propriety right over the plots. In addition, there is no collective right in the official law from which growers could have claimed collective ownership or autonomy over the management of the land. Thereby, growers are not holders of any property right or legal autonomy. As such, selling, transferring, or leasing the plots is forbidden by the official law, even if those actions would provide for better allocation of resources according to each community distinctive plans.

Moreover, the City Council withholds the discretionary power to take over the land by the end of the triennium or when public interest so request. As a result, the growers have solely the ability to use temporarily the land, through the management of the NGO. The latter drafted and signed with each individual grower a contract setting the terms for the use of each plot. The rules of the contract are identified by the growers as being the rules of the farm. Some of the most important rules identified by the growers are reproduced under the following clauses of each individual contract:

1. Growers will have individual plots and may enter another grower's plot only if she/he has permission. Growers cannot sell or transfer plot to another. IRC determines at its own discretion who they may grant access to the plot.
2. Each grower is responsible for the maintenance of his/her own plot. If a plot has gone untended for more than 2 weeks, a member of the IRC staff will place a sign in the plot requesting that the grower call us and return to care of the plot. If, after another week there are no signs of improvement to the plot, the IRC has the right to give away your plot to another grower.
3. Children are always welcome in the gardens with parental supervision. Parents are required to supervise their children at the NRCF¹ site.

Alongside the contract, there is another rule issued by the NGO: obligation of the growers to attend community working days.

The NGO's rules were created, incorporating in its configuration, the same legal postulate of individualism and private/public property shared by both public concession and state law: individual assignment of the plots; prohibition to transfer, negotiate or sell the plots; prohibition of entering in someone else's plot; obligation of the grower to use the plot assigned, parent's responsibility to supervise children. Besides, the NGO's discretionary power to assign and recall the plots as stated in the contract, is an extension of the discretionary power held by the state's authority. As a consequence, the NGO holds a list of the official users of the plots and a waiting list of growers requesting a spot in the farm whenever a plot becomes vacant.

Applying Chiba's working hypothesis (Chiba 1986, p. 5-7), the terms of concession of public land as well as the terms of the NGO's rules are part of the whole structure of the U.S. official law. Although with effect in the particular context of the farm, both concession and contract are recognized by state law as legal and binding instruments, whose content is in consonance with the legal postulates of individualism, private property, and ownership. Because the farm is public land, growers have no legal entitlement to it and no ownership to claim. The contract is a unilateral instrument which defines the legal use of the land in a temporary basis and with restrictions regarding transactions, collective management and autonomy. In order to overcome those restrictions and take over the control of the opportunity in terms much more stable and suitable than the ones framed by the official law, the growers have set in the field their own set of normativities, which, in Chiba's working hypothesis, characterizes the second element of the overall structure of law.

3.3. The unofficial law of the farm

3.3.1. The Somali Bantu unofficial law

Around 400 Somali Bantu refugees, living currently in San Diego, were resettled in U.S. approximately 8 years ago. They are part of a single community of beliefs, traditions and language. They share the same difficulties of living in the U.S. as well as keeping the promise of being a livelihood source for the families overseas. Using Cotterrell's typology (Cotterrell 2006, p. 69-73), the Somali Bantu community encompasses all three types of communities: traditional, beliefs and affection.

Back in Somalia, the social organization was based on the village unit. The village boundaries were defined by families. The village names identify the elders from whose lineage the individuals are related to, and all villages were family related.

In San Diego, the Somali Bantu community was officially born when they got a grant to create the Somali Bantu association. The previous institutional and social structure of the village unit and its leadership council had to adjust to new social

¹ NRCF is the acronym of the communitarian farm's name.

and legal environments. They have created a legal association to seek for opportunities and better interact with the U.S. system. Therefore, instead of being Somali Bantu refugees, with all the difficulties associated with that label, they have framed the group within the American legal system, easier to be recognized and accepted by the host country.

Traditionally, leadership is a social and political position within the group given to elder men, who show leadership features: wise, patient, truthful, knowledgeable of the law, history and traditions of the Somali Bantu. In the U.S., the traditional council is now identified with the executive bodies of the association, including not only the traditional leaders but younger men who know how to write and speak English and can easily provide information in order to increase the range of opportunities for the community.

What the community demands is the leader's responsibility to provide. The individuals delegate in the leader's authority the resolution of their individual concerns and the leaders are legitimized by the way they provide those needs. The council works on an extended list of issues: funerals, raising children, cultural identity, access to public services, domestic violence, training in U.S. legal system and access to livelihood resources. These issues are addressed by the whole community, through their political structure and social organization. Likewise, social and economic opportunities are also promoted and managed collectively.

This feature of the community must be emphasized because it covers all aspects of their legal and social practices at the farm: the collective responsibility of the community to take care of issues that from a western perspective would be assigned to the individual's sphere. Back in Somalia social control over the children was carried by the whole community regardless of who had the parenthood. The land was administered collectively by the village, and each family had their own share in it. In daily life people would have the same routines of farming together and sharing food.

The Somali Bantu social and legal systems are structured on the basis of legal postulates (Chiba 1986, p. 6) of village unit and collective responsibility over the livelihood and well-being of individuals.

In the farm, 20 plots were assigned by the NGO to the individuals identified by Somali Bantu community leader. In the official records of the NGO, the Somali Bantu farmers are still single individuals and families who have signed the contract for the use of one single plot. However, the reality of the field contradicts the content of the NGO's list and therefore the content of the clauses of the contract.

The Somali Bantu growers are constituted by 8 Mamas who, driven by the leaders of the community, jumped in and took control over the plots. Mama is a respectful term to name the elder woman of the community. These elder women are the ones that know how to farm because they have spent most of their lives farming in Somalia. The Mama's group harvests the vegetables, sells them together and part of the proceeds are deposited in a banking account opened in the name of the Somali Bantu community. If someone dies, for example, part of the funeral is paid with the collective savings of the community in San Diego. Also the money is important to make possible trips to other states in the U.S. for attendance to rituals and ceremonies.

The Mama's farm more than one plot and some of the plots don't even have fences separating them because the Mamas work together, helping each other watering the plots and harvesting. Through the Mamas system the Somali Bantu community runs collectively the land. This system is also an expression of a cultural practice of sharing land, food and labor.

Through these practices the Somali Bantu community has maintained in the field, their own land tenure system.

“The Somali Bantu we really did not have no problems with the rules but we really wanted for example what to say, to express the culture, to say we have to be aware and other people to know that sometimes is like...we, the Somali Bantu I can...someone can go to my garden and pick up stuff and in the rules it says that you cannot enter into someone plot without his permission if you take somebody else than to other person you are doing stealing, does are the kind of things that are going to affect our tradition, because I can go to someone's plot and get food as long as they know that, I go there or anyways maybe I am picking stuff for her or she is sending me picking stuff from her garden, we will never go to other people's garden who don't understand our culture, but you will see Somali Bantu going to different people's plot and picking up stuff they are not stealing that is our culture, we share, this is what people have to be aware of. If I see something good in a garden I will go there and get it and then I will tell to the person that I get it and she will never get mad”

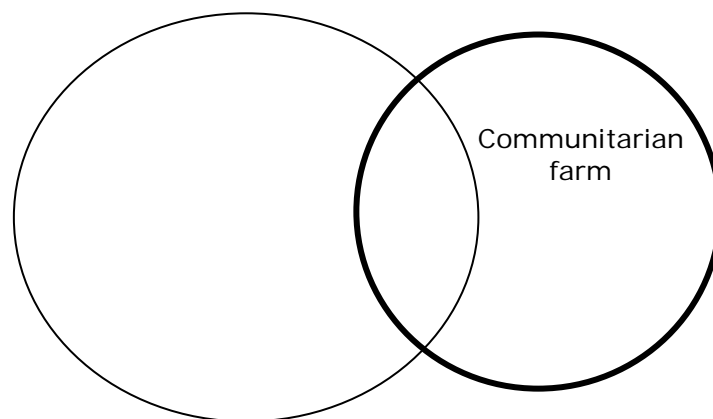
Somali Bantu leader

For Somalis picking someone else's vegetables is not seen as stealing because it arises from a practice connected with the collective management of the land.

The role of the leader is also important. The leader of the community is the one who gives commands, advises and assistance to the Mamas. If one plot seems neglected, the leader will call the grower and immediately the Mamas will come to take care of the plot in order to avoid the NGO's intervention. The Mamas assume the role of taking care of almost all the Somali's plots, under the instructions and organization of the community leaders.

The community farm is an opportunity that it is not only explored for the benefit of the Somali Mamas, but an opportunity, collectively run, for the benefit of the whole community. The unofficial law of the Somali Bantu community is expressed through these distinctive social, legal and economic systems: collective land tenure and collective responsibility. The Somali Bantu collective land tenure as well as its legal postulate of village unit and collective responsibility, conflicts with the official rules of the farm and their legal postulates based on individualism and individual responsibility.

Figure 1. Boundaries of the Somali Bantu Community



The intersection area determine the interaction of the Somali Bantu Community with the communitarian farm.

3.3.2. The Cambodian unofficial law

From all three communities, the Cambodian growers are the ones that have been longer in the U.S. All of them were born, raised and got married in Cambodia, and between the 1970s' and middle 1980s' they came to U.S. with refugee status. All of them have experienced the traumatic loss of families and friends under the regime of the Khmer Rouge, being dispossessed of their lands. They all lived in villages where farming was the main economic activity engaged by the family unit and land the most valued asset. All Cambodian growers farmed as part of their livelihood.

Following marriage, In Cambodia, the new couple would receive a part of the family's land, where they would build their house and farm. The aim of the family was to gradually acquire more land and increase their earnings from farming. As one Cambodian grower explained, for someone who has grown in a farm in Cambodia, having a land means happiness and freedom. Back in Cambodia, having a land meant that one could live by working in the field, following its own rules and rhythm, earning some money, and having the rest of the time to enjoy and relax. Land and family were the most important economic and social units. These previous understandings were turned upside down when they came to U.S.

With respect to family, the grower's children, born and raised in U.S., neither understands nor obeys the Cambodian social and family duties. In Cambodia it is the children's duty to respect the parents, support them and take care of them. The economic livelihood of the family depends on the continuation of this cycle of duties: the parent's duty to raise children and introduce them to the economic activities of the family, as farming and housework, and the children's reciprocal duty to take care of the parents, once they become old. In the U.S., according to the growers, these duties to respect elders and care for the parents is neither taught nor valorized in society.

Cambodian growers showed in the farm a practice of non-interference or disturbance of others. The individual's responsibility and authority to impose duties and obligations to others starts and ends within the family unit. As a result, the growers show a resistance to assume authoritarian behavior, to telling someone what to do as well as having someone telling them what to do, unless they recognize the other as a leader with authority.

The Cambodians decide, exert control, protect their autonomy and free will, and define their responsibility within their own private sphere which boundaries are identified with the family unit. Within that sphere they include the organization of their work, of their business, the allocation of resources, family relations and much more aspects of life. For that reason, Cambodian growers state that their lives in the U.S. have being constantly disturbed. They lack a sense of how to navigate in the system with so many rules, regulations which permanently invade and constrain one's private sphere as well as opportunities for improving their livelihood.

Thus, their strategy is always to be under the radar of the official entities, adopting non-interference, non-authoritarian and non-disclosure attitudes. Additionally, most of the time Cambodian growers don't feel comfortable engaging in public discussions, interacting, interrupting, replying to others, showing publicly their dissent before an audience or expressing their opinion.

The Cambodians are a traditional community and a community of beliefs (Cotterrell 2006, p. 69-73), their legal postulate (Chiba 1986, p. 6) as a value principle of their legal system is based on the family unit and in the respect owed to the family's sphere for managing most of aspects of its social and economic life.

At the farm, the Cambodians are organized by 5 independent family units, each of them, neither interfering nor having authority over the other. The possession and use of land is done for the economic benefit of the family, and through their social practices, the families' have developed a system of land similar to the procedures of land acquisition in Cambodia.

Officially, as it appears in the records of the NGO, there are 15 Cambodian growers in the garden taking care of 15 plots. However, the reality of the Cambodian community in the field is comprised only by three couples, and two widows. These 5 families take care of all 15 Cambodian plots. One of these growers waters and harvests daily 7 plots and sells the products of the land. Two of those plots belong to the Cambodian leader and to his father, who are family related to the grower. Another Cambodian family takes care of 5 plots.

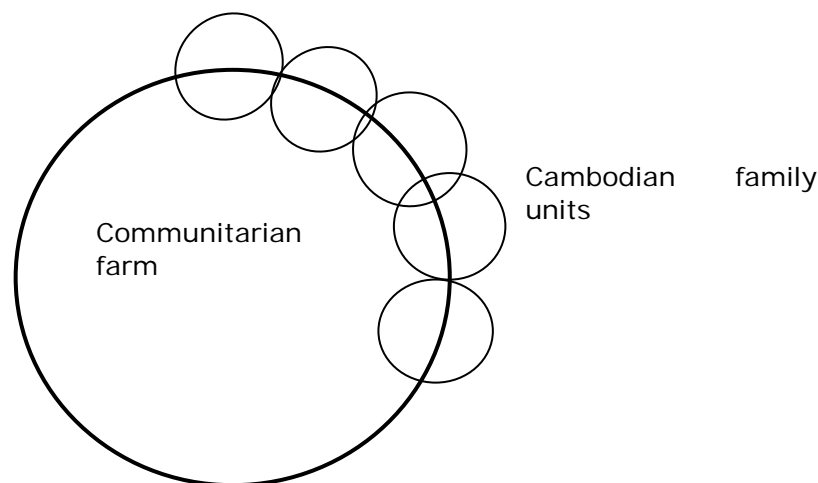
At first, it was explained that they were only helping people that could not temporarily farm. Later the explanation regarded a more durable transfer of the land from one family to the other. By the end of the fieldwork, growers outside the Cambodian community asserted that a family would give the use of the plot to another family receiving as payment part of the proceeds from the sales of vegetables. Even if the official law of the farm forbids transfers, the latter is in fact, the outcome of the Cambodian practices, the unofficial law of the group.

The families that could not harvest anymore negotiate with the families in the field the opportunity of using their official plots and therefore expanding the limitations of the rule: one plot one grower. This practice gives to one family more possession of land and the possibility to increase the household income. Instead of distributing the initial plots to new growers, the practice was the gradual acquisition of more land by some families. On the other hand, the growers that use the plots are maintaining them green and cleaned which exempts the NGO from revoking the plots or even becoming aware of the negotiations and transfers of land going on within the Cambodian community.

For the official growers who have transferred the land, they acquired the economic benefits of receiving a share of the profits or other kind of payments. This distinctive collective mechanism also allows the Cambodian families on site to maintain control over the land.

The Cambodian land tenure regime as well as its legal postulates of family unit and autonomy to manage most of their social affairs, conflicts and contradicts the official rules of the farm and its legal postulates.

Figure 2. Boundaries of the Cambodian Community



The intersection area determine the interaction of the Cambodian Community with the communitarian farm.

3.3.3. The Latino unofficial law

The Latinos, as they call themselves, are mostly growers coming from Mexico with a few from Honduras and Guatemala. All of them came to the U.S. as undocumented immigrants. Some, already in the U.S. for 20 and 30 years acquired legal status while others, who came more recently, remain undocumented.

There is an emotional as well as culture attachment to the land. For all of them farming is part of their childhood memories of harvesting with their parents, of having ranches, growing their own food. These activities are impossible to follow in the U.S because most of them live in apartments. They also enjoy farming because it relaxes from the stress of work. The majority of the growers have a job therefore they don't sell the products of the land or make a livelihood out of the farm.

The frames of meaning and values shared by all of them can be better understood through the institution they have created to defend their interests at the farm and manage their plots: "Campesinos Unidos". The Latinos might or might not know each other outside the farm, but inside of it they belong to a common project, with meetings and decision-making procedures led by its leader. Before the garden was created, the Latino's leader was already an active member of an organization aimed to protect and defend undocumented Latino immigrants. During that activity, the Latino leader met the previous manager of the NGO who proposed the creation of the community farm with the involvement of the Latino community. The leader called her neighbors in a meeting at her house and took note of the families that would like to have a plot at the farm. Currently in the garden, only few, of the initial Latino families, are still part of it. The rest of the growers came afterwards.

Most of the Latinos are coming from legal and social backgrounds where communitarian work, communitarian management of common goods, common property and public assembly are a social practice, and the "Campesinos Unidos" is a reflection of it.

Most of them do not speak English and their basic rule of understanding and decision-making is what they call "practicando" which means engaging in discussion and sharing points of views. The "Campesinos Unidos" is an instrumental community (Cotterrell 2006, p. 69-73). Besides the collective management of the plots, it has an additional aim: expand the opportunity of farming to the largest possible number of Latino immigrants. As a result, their community is much more open to outside Latinos and has greater flow of people. The Latino's leader reserves at her own discretion, the decision of assigning the next Latino vacant plot. If someone cannot work on the garden anymore they talk to the leader and she will assign that plot to the next Latino grower of her waiting list. After assigning the plot, the Latino leader contacts the NGO explaining that the plot became vacant and that someone else is already working on it.

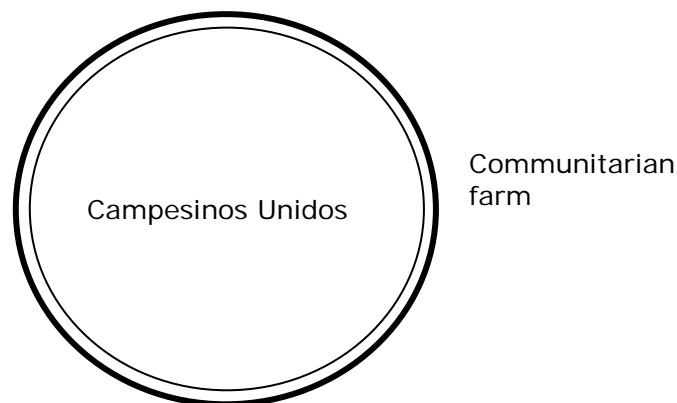
The Latino leader became the head in controlling the entrance of Latinos in the farm. Two important conditions for admittance were established by the leader: the candidate must be Latino and share the same fragile legal and social position as the others. However, during the interview she expressed some discontent regarding how the current NGO manager was attempting to centralize all waiting list decisions and bring the decision-making under her control. This means that the current NGO manager has acknowledged the leader's control over the access of Latinos to the farm and on the other hand, is attempting to revoke it and unbalance the Latino's system of collective land tenure. Currently, anytime a Latino expresses to the leader their wish of having a spot in the garden and she does not have plots available, she talks with different growers in the farm proposing the creation of partnerships, where both grower and new comer will share the plot: "compartir el terreno".

This system of partnerships is well implemented and sanctioned in practice by the general consensus of the whole group, which makes the leader proudly say that the Latinos have managed to keep the 20 plots but have also managed to have in the garden almost 40 Latino families. Once the partnership is created the growers negotiate between themselves what kind of food they will plant and how they will split the water fees. Yet, this partnership system comprehends another sort of duties: the grower must join the "Campesinos Unidos" and get involved and concerned with the farm as whole.

Every first Sunday of the month the "Campesinos Unidos" held their own meetings at the farm where they share their concerns in a public assembly with the direct participation of all Latino growers. The concerns regard not only the Latino's plots but the whole garden, including the parts that are shared by all growers – the common parts.

The legal postulates (Chiba 1986, p. 6) of the community can be traced in a certain economic and political ideology based on solidarity, socialization and cooperative spirit.

Figure 3. Boundaries of the Latino Community



The intersection area determine the interaction of the Latino Community with the communitarian farm.

3.4. The structure of the "unofficial law"

The farm constitutes a unique social and economic opportunity. As a result, the communities kept their own legal practices of collective land tenure overturning the official rule of one grower one plot, in order to preserve the access and control over the opportunity.

Therefore, maintaining their own land tenure rules is not only about an expression of an identity, an element of cultural identification but is the only available solution for the communities to hold control over a scarce and valuable resource.

If the communities had assimilated the official rules of the farm, they would have lost already their land or would have only kept a few plots limiting the opportunities to a few growers. With time, the farming opportunity would have run out for all of them.

How to take opportunities and how to allocate and manage resources requires a cultural approach rather than one way or top-down solutions, by the fact that economic, legal and organizational aspects of the communities are linked with the distinct ways the communities understand themselves, their needs and the surrounding context.

The coexistence of three different land tenure regimes and legal postulates in the farm constitutes a state of empirical legal pluralism.

But in which terms have the distinctive communities interacted and managed the tensions caused by the coexistence of three different collective land tenure systems? How have the different communities structured the unofficial law of the farm?

Leaders and growers avoid getting into conflict because conflict might involve the intervention of the NGO and its discretionary authority and decision. At the same time, leaders want to maintain and secure the plots for each community.

As explained by the Somali Bantu community leader concerning the leader's way of knowing and respecting the practices of each group:

"This kind of stuff you have to be aware of and tell, it is being our way and the leaders already know it and leaders tell to other leaders"

Somali Bantu leader

Regarding conflicts between communities:

"Cambodians have little problem with Cambodians but with Spanish and Somalis people don't have. So far we did not have any problems, the only problems is within each community."

Cambodian leader

"Here there is no serious problems, because everyone is happy with the plots they have and we know that we are not the owners of this. It is very clear according to the contract, if we don't preserve it. So we try to keep it, but we do not go much in problems because they can take it from us so when there is conflict we try to resolve it, if someone cannot take care of the plot, talk to us and we resolve it. Or if someone claims this land is mine we go and see, this is the tap water, this is the tap water we measure and that's it. We try to overcome all this differences."

Latino leader

The communities have surmounted the conflict through the creation of a common rule, whose content was not imposed by a hierarchical authority but created as a consequence of the mutual recognition of each community's distinct ways of life as well as the vulnerability of the opportunity and potential intervention from outsiders. I call this rule the "autonomy rule".

The autonomy rule can be expressed in the following terms: the right of each community to manage their initial plots according to their own ways, expressed by behaviors of non-interference from others.

What stands out as the most important outcome is the mutual recognition of all distinct land tenure regimes with equal value and the collective right of each community to live according to its own ways.

If one Cambodian family has five plots while one Latino family has only half of plot, the communities accept as fair the equal autonomy given to each community, even if the distributive outcome, from an official law's perspective, would be regarded unequal.

The growers from each community sanctioned the unofficial rule of autonomy. But the rule was also sanctioned through the social practices of other agents in the field: growers with no community. One example is a grower from Uganda, which came to the farm right after its beginning. Currently, besides her individual plot, she harvest parts of the Somali Bantu land. By understanding the unofficial law of the farm, she engaged in negotiations with the Somali Bantu leaders and growers. As a result, they provided her with the use of small parts of their plots which they do not need. She has also engaged in negotiations with a plot from another non-communitarian grower, reproducing the Cambodian system.

The autonomy rule has had impacts on the effectiveness of the official law. As long as the collective management of the plots continues, the growers included in the NGO's list will never lose their status of official users of the plots. On the other hand, as long as the growers in the NGO list will keep their status as users; the communities can maintain their system of collective land tenure.

By handing over the use of the land to the communitarian system and by guaranteeing, through that system, that plots will continue to be officially allocated to the growers named in the NGO's list, the official users and their communities have accomplished a transformation over the content of the contract. The users don't use the plots but they will not lose them either.

At the same time, the collective land tenure systems have belittled the effectiveness of the remaining clauses of the contract as: one grower - one plot; individual use of the plot; prohibition to transfer the plots; NGO's discretion to assign the plots; grower's responsibility for the maintenance of his/her own plot. Furthermore, this symbiotic system between official users and communities made

the garden as a whole, less available to outsiders and therefore securing, in a long run, the use of the land by the communities on the site.

Moreover, through the “autonomy rule” the communities have incorporated into the structure of the farm’s unofficial law distinct rules and legal postulates which have to negotiate between themselves in order to achieve a possible basis for solving conflicts of legal pluralism within its structure, not only regarding the land tenure regimes but also regarding other collective issues.

The Latinos, through their Association “Campesinos Unidos” are the group that has a compelled behavior to do communitarian work associated with a meaning of shared responsibility beyond the boundaries of their plots. The Latinos have a more abstract and extended sense of belonging to a wider and undifferentiated group as well as a sense of social work not connected with livelihood or profit.

As pictured in figure 3, the Latino’s responsibility and concerns comprehends the farm as a whole.

Differently, the farm is an instrument of livelihood for the Somali Bantu community. As a result, growers do not perceive the common parts of the farm located outside the boundaries of their community as part of their duties. On the other hand, mutual help and the sense of collective work and care are based on the network of relations lived inside the Somali Bantu community.

As showed in figure 1, the Somali growers perceive themselves as belonging first to their ethnic group and to the part of the farm that is an instrument for the livelihood of the Somali Bantu community.

For the Cambodians, the family’s responsibility of work starts and ends within the family, meaning within the boundaries of the family’s plots. Regarding the common parts of the garden they don’t considered their work responsibility. Working is a form of livelihood, as a result, they resist engaging in an activity that is situated outside the boundaries of their plots and it has no direct economic benefit for the family. Figure 2 represents the Cambodian grower’s conception of responsibility and action as circumscribed to the family unit and family’s plots. In addition, both Cambodian and Somali Bantu land tenure systems, makes them less able to be a working force for the benefit of the garden: few workers and more plots to take care of.

The distinct communities share different visions of the world, different understandings of solidarity, responsibility, which makes it difficult to establish common rules of behavior inside the farm beyond the mutual recognition of each one’s land tenure regime.

During a communitarian assembly, growers discussed how they should intervene on children’s misbehaviors. From a Somali Bantu perspective, immersed in its legal postulate of collective responsibility, it should not be the sole responsibility of the parents to take action over their children but the whole community’s responsibility to exert social control over the matter, even if one has no degree of relatedness with the child or parents - the responsibility should be assumed by all growers.

From the Latino’s point of view it is the parent’s responsibility to supervise their children and to teach them how to behave. However, during the conversation and based on its legal postulate of solidarity and cooperative spirit, it was said that social control exerted by outsiders of the family might be possible, only if between the parents and the outsiders an interpersonal relationship exists which provides the child with the example of shared authority.

The Cambodians shared a different vision of responsibility and social control attached to the family unit and to the boundaries of their plots. According to the Cambodian growers one has only authority to act when his plot is at stake.

Otherwise, the responsibility and authority to raise a child belongs to the family unit and not to outsiders.

Despite the fact the NGO manager interrupted the discussion to move on to the next point of the agenda while the growers were still in the process for reaching a common solution, the discussion revealed a vibrant exchange of conflictive conceptions of responsibility, immersed within the structure of the unofficial law of the farm. More importantly, it was the fact that growers were interacting, trying to find a larger common point of agreement while respecting the communities' different perspectives. At some point of the discussion they agreed that if the child's misbehavior is not addressed immediately, the problem will become uncontrolled, affecting other growers in the future. Moreover, any damages caused by the child should not be concealed, but openly discussed between the parents and the growers. The larger common framework of meaning that was starting to be drawn through interaction was avoidance of conflict, compensation for damages and assumption of responsibility.

Even within the unofficial law of the farm, conflicts are a dynamic component of it, pushing the growers to mutually interact and find solutions for a certain definition of the "commons" of the garden and to achieve ways to deal with that tension and resolve the conflict by themselves.

The groups are aware that they cannot surpass an acceptable threshold of conflict if they want to avoid the official laws, the discretionary intervention of the NGO's decision and maintain the control over the land.

In fact, much of the NGO intervention is avoided by the growers or dealt with it in a strategic way through the intervention of the community leaders:

A few examples:

- a) While in community meetings with the NGO manager, the Cambodians are quite reserved and silent, the leader, by the contrary, assumes an almost histrionic attitude, speaking out loud, being the only one engaging in the discussion as the representative of the community. One could argue that this aspect might restrict the possibility of Cambodian growers to freely share their points of views in the meetings, but the reason is to take the public focus out of the Cambodians in order to keep them under the radar of the official entities. In one meeting only between the NGO and the Cambodian growers, the growers would speak and discuss in Cambodian and the leader would only translate to the NGO manager a few words of what has been said. He is a filter protecting the Cambodians and controlling the NGO's knowledge and information. However, every time a grower wanted to express an opinion that he would feel comfortable with, which would not jeopardize their position in the farm, it would feel at ease to express it in English directly to the NGO manager.
- b) Regarding one conflict between Latino growers, the Latino leader was unable to impose her authority and she knew her decision would be refused by the grower. Therefore, the Latino leader took the initiative of having a meeting with all community leaders and the NGO manager and presented to them the conflict as well as her proposal for the resolution of the problem, which everyone accepted. By doing so, the Latino leader controlled the process and the resolution of the dispute.
- c) In a dispute regarding the appropriation of a path way by a newcomer, the discourse used by the grower, during the dispute, was one based on the fairness and authority of the official rules of the contract. He claimed that the rules of the farm, set in the contract, are "one person one plot". Therefore, if someone cannot use the plot, the land should be given to the next grower in the NGO's waiting list. As a newcomer, the grower had no time to become aware of the unofficial law of the farm regarding the transfer

of plots between growers. He still does not understand why some growers are allowed to harvest more than one plot, violating the contract rules. However, in the process of deciding the dispute, the leaders were involved in the process, the NGO manager talked to them and with the growers involved and did not question the system of transactions that were being targeted by the grower.

Although she had seen how the Mamas harvest together more than one plot, how one Cambodian family takes care of many plots and has acknowledged the Latino's leader control over the Latinos access to the farm, the NGO manager resorts to a pragmatic attitude of unresponsiveness towards the communities' violations of the official law. This passive attitude is also the result of the effectiveness of the "autonomy rule" through which minimization of conflict has been achieved by the communities as a necessary condition to avoid the effectiveness of the official law inside the farm

By having integrated all competing legal systems in the same structure of law, the solution for conflicts within and between communities comes through the intervention of the community leaders and the negotiation between the groups rather than from imposition of one group towards the others.

Through the "autonomy rule" the communities maintain the control over the land and make the use of it according to their own specific needs and distinct practices.

But if the "autonomy rule" allows the practice of the distinct land tenure regimes of each community as the way for the groups to maintain a space of freedom, control and collective identity, it also reveals the determinant role that the official law still has inside the farm, because the social control exerted by it still plays a relevant part in the structure and function of the rule.

Inside the garden, the NGO presence represents the official laws and its power to take the land out from the growers, if they are not able to practice a pacific coexistence inside the farm. Therefore, the "autonomy rule" is also the result of the social control carried by the power of the official authority (it's always imminent intervention) forcing the communities to minimize conflict in order to safeguard their autonomy.

As we have seen during the process of the farm's licensing, the interpersonal interaction of the different communities was prompted in the first place, by the practices and terms in which the land opportunity was presented by the NGO: less than one hectare of land to be shared by all and the necessary involvement and participation of all groups. On the other hand, the terms of the opportunity reflect the vulnerability of the communities and their difficulties to have access to the same resource by other legal means (ownership, lease).

Therefore, the initial drivers of the dynamics between the different communities and their distinct normativities were the state law and the NGO practices.

In the everyday life of the farm, the "autonomy rule" serves the interest of the communities, granting the possibility of turning the NGO contracts and regulations ineffective. However, the result of the enactment and practice of the rule is the compliance of the communities to the social control of the official law, because they are all aware they cannot surpass an acceptable threshold of conflict if they want to avoid the official laws and the discretionary intervention of the NGO's decision.

And that threshold of conflict - as a moment which marks the end of the communities control and autonomy and the beginning of NGO's intervention and its official laws- is neither fixed nor granted but it's constituted by the way both official and unofficial laws interact and respond to each other and the practices of the communities and the NGO manager in the field.

It depends, on the one hand, on how the NGO manager envisions the communitarian farm, its role on it and interprets what kind of “conflict” requests its intervention, on the other hand, on how the communities will act and/or react towards that threshold of conflict in order to reduce their vulnerability inside the farm and maintain their control and autonomy over the land (through the autonomy rule, by enhancing cooperation, by finding ways to avoid and negotiate conflicts between themselves).

4. Conclusion

The interaction between the community leaders and growers, first during the bureaucratic process of licensing the farm and afterwards, during its everyday life, set the ground for the creation of common frames of meaning and action among them.

The growers were able to shape a common universe around the commonalities of their experience as refugees and immigrants, around the symbolic value of land and the economic and social vulnerability they all share in the dominant society.

Likewise, in the farm, growers become familiarized with the different ways the others dress, the distinct ways they physically harvest the plots, the distinct techniques applied, the different vegetables and food they grow. Instead of keeping the dissimilarity concealed behind a veil of sameness, the farm is the space where those differences are openly revealed everywhere at any time and are object of observation, interaction and mutual recognition.

In the farm, the communities understood how their distinct social and legal systems claim for a different treatment, as a way to overcome their social and economic fragility and grant autonomy and control over that important social and economic resource. By accepting each other as equal associates in the common enterprise of the farm and by recognizing their distinct land tenure regimes as equally valuable, the communities have incorporated them and their legal postulates in the same structure of the unofficial law of the farm. Through the enactment of the “autonomy rule” the growers have been able to follow their land tenure normativities and avoid or resolve conflicts between them.

Nevertheless, the common goal of avoiding conflict is also a consequence of the, at least, potential presence and intervention of the official laws and authorities.

The threshold upon which conflict inside the farm might lead to the intervention of the official laws and authorities is never a fixed one but always in constant redefinition by all parts involved, depending on many factors: how the growers, through the everyday interaction inside the farm, may establish new common frames of meaning in order to negotiate, resolve or avoid conflict generated by unofficial legal pluralism; how the NGO manager, through the interaction with the growers, will become more passive or active to impose the official laws and how the official and unofficial laws may mutually influence and change each other.

A focus on interactions between non-state normativities has revealed that the terms managed by the communities to allow the expression of their inner cultural selves and practice their own land tenure regimes are not solely determined by the effectiveness of the official law or the effectiveness of the unofficial laws of each community but by the way, both sets of legal rules and legal postulates and the opportunities that both entail, relate to each other (responding, reacting, accommodating, influencing) and mutually constitute the ongoing practices observed inside the farm.

The interaction between the growers in the first moment only happened as a consequence of the social, economic and legal constraints lived by all of them outside the farm and the kind of land arrangement, made available to them, by the dominant society. As a result of their equal lack of opportunities and vulnerability,

the communities have emphasized their commonalities, have strengthening their interpersonal relations and have mutually recognized each other's land tenure regimes (the autonomy rule).

But if the "autonomy rule" serves the purpose of land control, by the communities, as a necessary arrangement for their cultural and economic autonomy inside the farm, it also discloses how the social control (threshold of conflict) exerted by the official law has influenced and determined the design of the rule and its practice.

The growers keep the official laws and the NGO intervention out of the farm as long as they concede, in some degree, to the social control exerted by the official laws and the NGO manager practices.

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