

THE PEASANTS OF EL CEIBAL AND ACCESS TO JUSTICE. LAND RIGHTS AND PRECARIOUS LAND TENURE IN SANTIAGO DEL ESTERO, ARGENTINA

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INTRODUCTION

It has been announced that on June 30, 10,000 hectares of land will be auctioned in Santiago del Estero. As part of the Banco Platense S.A. Bankruptcy case, Winding Up of Company Business / Sale of El Ceibal Land, which will take place at the La Plata Civil and Commercial Court No. 5, public auctioneer and broker Héctor P. Córca will auction lands that include the settlement of San José del Boquerón and the sites of El Ceibal, Boquerón, Tres Varones, Juvenil, San Juan, Nuevo Simbolar, and Babilonia.

Edict. June 25, 2005.

“This wasn’t the first time that someone from outside came around saying that these lands belonged to them,” and that repetition somehow made them stronger.

Voice of a female peasant

It was June 2005 at El Ceibal, a peasant community located in the north of the province of Santiago del Estero, Argentina. A judicial edict had penetrated this peasant world, forcing change on all symbolic objects: the judicial language perfo-

rated the cognitive structures of the subalterns; the peasants' *low voices*¹ (Guha 2000) transformed into *high counter-hegemonic voices*; the monotonous monologue of the litigation was altered by polyphony; some female voices, suffocated by chauvinism, found ways to transform themselves into high public voices.

On June 27, 2005, just two days before the set date, the judge ruled to suspend the auction. Those "with no part" (Rancière 1996) would now be counted as participants. The subalterns could take advantage of this: soon they would own titles to the land they believed to be *theirs*.

The primary focus of this article is to analyze, through the study of a trial that borders on the absurd (yet is not an exception), how a subsistence economy and a peasant way of life were brutally interrupted by an auction, and how subalternity could be momentarily interrupted by the peasants' agency.

The peasants were unaware that the El Ceibal holding, its settlers, and some of its institutions had suddenly turned into the *objects* of a judicial auction.² While excepting the police station and the church, the auction included the hospital, the school, and the recreation grounds. The resolution made it clear that the cultural patrimony would not be affected, meaning "the Jesuit settlements of the area" which date back to 1735 (when the Jesuits built a reduction, a church, and a well).³

In their statements, the peasants appealed to historical legitimacy, explaining to the judge that over 250 families had lived on, and cultivated, these 10,000 hectares in the territory of Santiago del Estero for several generations. It is important to highlight that this is one of the poorest provinces of Argentina: historically marginalized (both economically and geographically) "regional economies," in contrast to the export economies of the Pampas regions where the most fertile lands are located. This hegemonic order means that the "Santiagoño" identity falls somewhere "in between" a national and an ethnic identity (Bhabha 1994).⁴ As a result, unlike other Latin American countries, this region did not undergo an agrarian reform and boasts a significant number of "colonists" and

1 The notion of *low voices* refers to Guha's concept of "small voices." In the Spanish edition of his work, "small" is translated as "bajas," meaning short or low voices. In the present paper, *low* and *high voices* refers to their volume and audibility, to their capacities to be communicated through places of enunciation.

2 The press has used the rhetorical strategy of referring to the land conflict as "towns to be auctioned," stressing that, as the attorney pointed out, this legal concept does not exist.

3 *La Nación* on June 19, 2005, wrote that "One of the towns to be auctioned at the end of the month is a historical site."

4 In Jose Luis Grosso's (2008) statement, "the Indians are all dead," the "Santiagoño" internalizes the hegemonic, colonial, and national exclusion and annihilation of the "Indians." On a terminological level, the dead "Indian" has been internalized, blocking any identification with it. But within its "Argentine" national identity, the "Santiagoño" stands out, as we have seen, through language and ritual, in which the "Indian" (even in its unquestioned homogeneity, but where its historical experiences and traditions can still be saved) is not dead.

"farmers,"⁵ a weak peasant tradition, and an indigenous past erased from the nation's narrative—typical of the "Argentine Pampas."

Currently, over 30% of Santiago's population is rural. About 15,000 families in this province are occupied in a subsistence economy, and about 55.56% of its territory is affected by precarious land tenure. This means farms with undefined boundaries, with land distributed by accidental contract, occupation, or other regimes.⁶

In general terms, peasants represent 11% of the population of Argentina and inhabit mainly the provinces of Santiago del Estero and Catamarca (in the northwest region), Formosa (northeast), and Misiones (Mesopotamia). The majority of their small production units are in precarious economic situations as far as land possession is concerned. This has led to a large number of conflicts over land or territory that have intensified over the last few decades due to the expansion of export agriculture (mainly soy, as well as beans), and has further complicated problems created by the overvaluation of real estate in order to obtain mortgages (Manzanal and Roffman 1989; Dargoltz 1997). The establishment of a neoliberal hegemony has aggravated problems affecting the rights over the land and territories where these individuals reside.⁷

The political situation has deepened the subordination of these individuals who, despite their isolation, have not escaped the changes that have affected the rest of Argentine society. I refer to them as *subalterns*, as they are subordinate not only in terms of "class," but also in terms of gender, age, occupation, and other characteristics (Guha 2000).

This term is, as far as I am aware, the one that best permits us to understand the situation of rural individuals in these regions and the socio-political processes (de/re-territorialization) that affect them. The concept originates from Antonio Gramsci's political thought, and, particularly, from his 1934 essay "Ai margini della storia (Storia dei gruppi sociali subalterni)." At first, Gramsci in his writing used the term "subaltern" interchangeably with other terms: the word "subaltern" referred to anything that was inferior to anything else, not in terms of class alone. The Indian Subaltern Studies Group, in attempting to incorporate the peasants' suppressed

5 The male and female colonists and farmers formed a historical group with significant social and political weight within the Pampean region, and their interests gained institutional representation with the foundation of the Argentine Agrarian Federation in 1912, provoking a peasant revolt known as the Cry of Alcorta. The colonists had a foothold in the export sector from the late 19th century. Colonists are defined as holding up to 200 hectares (Bidaseca 2005).

6 A study shows that Santiago—with 55.56% of the country's total landholdings—and Jujuy, another province from the Northwest, with 37%—has the highest percentage of precarious land tenure in the country. CELS report (2002) www.cels.org.ar/common/documentos/informe_2002_cap_10.pdf.

7 In Ricardo Dagotto's recent study regarding the 2002 census, published at the Latin American Center for Rural Development, he reveals that small producers had "a relationship with the land which amounted to occupation, without the titles or any documentation to prove their capacity as owners, and occupied around 7.7 million hectares, a number that only takes into consideration those occupants with permission to reside." (*Cash*, August 5, 2007, p. 6).

history into historiographic discourses, used “subaltern” to refer to anyone with “a general attribute of subordination” that may be manifested in terms of class, caste, age, gender, etc. (Guha 2000), and also as synonymous with “the people,” to illustrate the demographic difference between the people and the elite. The concept, as used by the Indian subalternists, reaches beyond its definition within the political, economic, and cultural planes and designates a communicational reality.

These individuals stand apart from any social mobility but still search for a place where they can be heard. From the anti-degradation political perspective of Gayatri Spivak (1985), the individuals’ position is heterogeneous and complex, and is implied in relationships (class, race, gender) that set them aside from any form of social mobilization. But mainly it implies a double failure: the inability of the historian to recuperate the voices silenced by imperialist historiographic discourse, and the subaltern’s inability to speak. This is not because the subaltern “is mute,” she explains, but because he or she lacks a place of enunciation. The subaltern’s voice does not exist because if the subaltern spoke or represented his or her self, he or she would cease to be “subaltern.” Spivak (1988) understands that the only possible political option for subalterns is to stop being subalterns, intensify their voice, and make it their own. For this reason, I refer to their voices as their political instruments, practicing, within the context of this case, what I call a “theory of the voices.”

Guha defines “small voices” as those that “remain suppressed by the noise from the state authorities [...] The dominant voice of ‘the state’ drowns out the sound of protagonists with low voices. As a result, we don’t get to hear them” (2002:20, back-translation from the Spanish). A “high voice” is the opposite of a low voice. We can only understand its status in terms of *hegemony*. Hegemony implies a group of practices, discourses, strategies, and devices which form a clearly defined “consensual” bloc that legitimizes the dominance of specific social groups over others. For Gramsci (1976), hegemony relates to a way of understanding domination not only as economic, but also as social. It is a way of understanding the social as a cultural construction of consensus and simultaneous resistance processes.

In this sense, a high voice does not allow a low voice to be heard, and the low voice remains subaltern as if there were no voice at all, or as if the sounds that it made could only express pleasure or pain (Rancière 1996); simply put, the high voice is the denial of the other. Rancière refers to Aristotle when he argues that “the simple opposition between logical animals and phonic animals should not in any way be the foundation for politics” (36). There is an order that has to do with “the symbolic distribution of bodies that divides them into two categories: those that can be seen and those that cannot be seen, those for which there is a logo—a commemorative word taken into consideration—and those for which there are no logos, those who truly speak and those whose voice, to express pleasure and sorrow, only imitates the articulated voice.”

Even so, the low voices often agree with the high voices—with the dominant hegemony’s discourse—thus directly joining the social “consensus” established by the high voices. These voices are, according to my understanding, mimetic voices. The high voices are not necessarily hegemonic voices, although they may well be.

They are those with the higher tone, the ones that are most heard. This does not necessarily refer to shouting. They are the voices of the state that drown out the low voices. They are the voices of the media. Low voices can also reproduce hegemonic discourses and indirectly collaborate with the dominant order. And if we can say this, we can also conclude that there are low voices that do not reproduce the hegemonic logic, but do not reach the level of strength necessary to confront the hegemonic voices, whether high or low. What turns them into high voices is their intensity, meaning the capacity to generate, through the resources available, an enunciation space with the capacity to impose certain discourses, individuals, gestures, and even jargon. These intensities are the materials used to build a hegemonic voice or a counter-hegemonic voice. (Bidaseca et al. 2007).

In order to interpret the processes of transformation that have taken place in the agricultural sector of Argentine society within the past two decades, this article analyzes the economic, legal, and political obstacles affecting small-scale peasant production units in Santiago del Estero in the context of a lawsuit and its impact on the domination/resistance of rural subaltern actors. The article also looks at how the position of the individual within a judicial process of which he or she is not considered to be a part has changed and how this also contributes to rethinking theoretically the concept of subalternity.

Finally, I would like to mention that this article was developed in relation to the analysis of the transformations occurring in post-communist Russia, the diverse logics of accumulation, and the presence/absence of peasant organization studied in detail by Visser in this thematic issue.

THE EXCLUDING MODERNIZATION

Since the 1960s, some transformations implemented in the Santiago del Estero region resulted in the valorization of lands that participated in "regional economies" (whose agents are the peasants) and that were "marginal" to capitalism, compared to richer and more valuable land in the Pampas (located to the east of the center of the country), whose agents are known as "colonists" or "farmers."

Studies carried out by Manzanal and Rofman (1989) mention the revaluation of lands in Santiago del Estero as early as the 1960s as a consequence of the expansion of the agricultural frontier, driven by the prosperous cycle of Pampean cattle breeding between 1960 and 1970, and due to the introduction of export-oriented farming that had previously been concentrated in the Pampas and its surrounding provinces. As I mentioned earlier, the expansion that occurred during this time was due to export-oriented farming (soy and beans), as well as the overvaluation of real estate in order to obtain mortgages (Dargoltz 1997).

In the years between 1970 and 1977, land was concentrated at a fast rate, revealing a problem that has not only continued but has also worsened, and that coexists with a significant presence of small producers. The 1988 National Agriculture Census calculated that farms with less than 25 hectares of land and those without defined boundaries represented 69% of the province's farms, and occupied 1.15% of its total surface area.

In this context of land valorization and property concentration, the first “silent” evictions of peasants from the land they occupied began to occur toward the end of the 1960s, due to demand from enterprises that wished to claim that land as their own. These enterprises (the majority of which were not located in the province) achieved these evictions by presenting property deeds accredited in Buenos Aires. During this period, peasants did not fight for their rights as legitimate occupants of the land (Alfaro 2000).

In order to understand this process of “silent exclusion,” the national and provincial political contexts must be taken into consideration. This was a time of limited democratic governments and prolonged periods of dictatorship, until the advent of democracy in 1983.

At the provincial level, this period was marked by the so-called “Juarist” hegemony, named after the governor Carlos Juárez, who had occupied various public positions since the 1950s and returned as governor under democracy. His power was buttressed by a lack of independent oversight from a judicial system lacking both effectiveness and efficiency. The relationship of “automatic alignment” between the government and the provincial legislature,⁸ along with a vast system of patronage (unsurprising in a province where 58% of all jobs are provided by the provincial government), resulted in the repression of civil and political liberties. As a consequence, while Juárez managed the province politically, his financial partner, the Ick Group, controlled the main privatized public enterprises (among them, the Bank of Santiago and the electricity and water companies) and the media (print, television, and radio).

These political practices were replicated both inside the party system and within the most private spheres of society, creating an authoritarian mentality. In this way, Juarist politics, based on the repression of civil and political liberties, made it impossible for any civic organization to emerge and grow, and prevented any activities that might be disruptive to the established order (Barbetta and Bidaseca 2004). Given this authoritarian context and the lack of a tradition of trade union activity, the Santiago del Estero Peasant Movement (MOCASE) rose to become one of the most important such movements both locally and nationwide, as shown in a number of studies (Farinetti 2000; Alfaro 2000).⁹

8 2002 Ministry of Justice report, “Security and Human Rights in Santiago del Estero.”

9 Unlike the farmers gathered at the “Federación Agraria Argentina” (created in 1912), peasants in Argentina have not had representation at the national level. The most important regional peasant organizations were the “Ligas Agrarias” in the 1970s, but these failed to develop in the province of Santiago del Estero. On August 4, 1990, the Peasant Movement of Santiago del Estero (MOCASE) was formally constituted in the town of Quimilí. Its actions are based on the struggle for land and rural development: production of cotton, meat, milk, and cheese. Its sphere of influence is primarily local but is related to other rural organizations (Mesa de Pequeños Agricultores Familiares; Asociación de Pequeños Productores de Córdoba; Unión de Trabajadores Rurales sin Tierra, de Mendoza; and the Movimiento Campesino de Formosa, among others), the Movimiento Sem Terra (Brasil), and the international “Via Campesina.”

This micro-process can best be understood by analyzing macroeconomic politics. The 1990s saw the end of the system of state protection that had developed in Argentina since the 1940s. This vast institutional net (which included elements such as a Price Regulation Board, a Meat Board, and subsidies for producers) had permitted the coexistence of small, medium, and large farms in the agrarian structure throughout most of the 20th century. It was destroyed by Presidential Decree No. 2284 in 1991 under the neoliberal government of Carlos Menem (1989–99). The new measures of economic deregulation and privatization specifically affected prices. In the case of cotton production—a traditional industry in Santiago del Estero—the decrease in prices had direct repercussions for the development and sustainability of the cooperatives that marketed the production of the peasant economy.

In addition, between 1998 and 2002, Santiago del Estero increased its farmland by 379,000 hectares, which had to do with two factors pertaining to the commercialization and availability of land: a) the so-called “Pampeanization of the forest,” which refers to the expansion of agricultural boundaries resulting from the need for more land for soy cultivation (the so-called “soyization” of Argentinean agriculture); and b) the deforestation of 306,000 hectares during that period. According to a report by the National Secretary for the Environment, Santiago became the province with the largest loss of native forests.

In general terms, the “exclusive” modernization experienced by the agricultural sector as a result of the increase in technology and production—especially of soy—made it very difficult for small and medium farms to compete on a national level. This process had a number of implications: a) social effects, expressed in the results of the 2002 National Agricultural Census (INDEC) which found 297,425 farms, a decrease of 103,405 (or 24.5%) since 1988; b) concentration of land ownership;¹⁰ c) loss of sustainable practices, shown in the increase in soy production and the reduction in corn and dairy farming, among others; and d) the sale of land to foreigners (around 17 million hectares).

As far as economic variables are concerned, in a general study on the agricultural sector in the 1990s, Teubal and Rodríguez (2001) analyze the increase in rice, chicken, corn, potato, and soy production and reflect on the consolidation of some agro-industrial complexes and the promotion of soy exportation. For regional economies, their analysis highlights the vulnerability of producers due to the dramatic fall in

10 The latest National Agricultural Census, from 2002, registers 318,000 farms in the country, occupying 171 million hectares of land. When compared to information gathered in the previous census, there is a decrease of 24.5% in the number of farms (in 1988 there were 378,000) and a decrease of 3.4% in the land surface involved in farming (in 1988 it occupied 177 million hectares). Also, the average size of the farms has increased by 28% to 538 hectares, reflecting the disappearance of smaller farms. It is worth pointing out that, according to Scaletta (2007), even though the 2002 census information shows, for example, that 1.3% of proprietors own 43% of the 170 million hectares in use, land concentration is difficult to estimate due to the lack of a national registry. There is also no law that would make it a requirement to record the activities of joint stock holders of rural real estate or farms, thus making it impossible to verify the land surface accumulated by the same title holders (*Cash*, May 8, 2007).

agricultural prices, which in turn caused a decline in the volume of production (for example, the amount of cotton sown was reduced by 50% between 2000 and 2001) and in general income.

This “agribusiness” model, which emerged following the loosening of state regulations, began to modify the national and political agricultural geography due to the expansion of soy monoculture. Sustained by a model known as “agriculture without agriculturists,” it caused a national “food sovereignty” problem and led to an increase in territorial conflicts.

All these processes translated into increased legal insecurity for the original inhabitants of agricultural lands. This issue will be the focus of the next section.

EL CEIBAL

Lote El Ceibal consists of six settlements: Boquerón, Tres Varones, Juvenil, San Juan, Nuevo Simbolar, and Babilonia. As I mentioned earlier, the people of El Ceibal have had tenure over each of these settlements for several generations. The town of San José Boquerón was founded during that time, and houses were built throughout the land. Peasants practice subsistence agriculture, cattle breeding (sheep and cows) and grazing, and the shared use of the forest.

Historically reduced to subsidizing the development of the tanning and railway industries, the forest is, to the peasants, a source of work and food. The Santiago *quebracho* forest is located in the semi-arid Gran Chaco Americano ecosystem, which occupies the second greatest land surface in South America after the Amazon basin. It is home to white and red *quebrachos*, mistols, itins, and carob trees; it is also the home of the giant armadillo (an endangered species), the rainbow boa, the melero bear, various breeds of peccary, the Black Howler monkey, talking parrots, and numerous other species of armadillos.

A church was built on the land, on the ruins of a Jesuit settlement built six centuries earlier during the Spanish invasion. There are primary schools, a cemetery, a hospital, a police department, electricity and water plants, and the headquarters of the Peasants’ Organization OCCAP (Organización de campesinos de Copo, Alberdi and Pellegrini).

Almost all of them descend from the first settlers ... not all of them are descendants of Cuellar [the surname of the first family to own the land], but they do descend from the other families that lived alongside the main family. So it is the same community. Most descend from indigenous people, because when the main settlers arrived they merged with the original indigenous settlers. They coexisted peacefully. (Interview with a peasant leader, June 15, 2006).

Land ownership between the families was *de facto*, in accordance with customs and usage, without the need for formal property titles. However, property titles for the land, assigned by the provincial government, could be used as guarantees for financial transactions at the Banco Platense. The peasants from El Ceibal were

unaware of this situation. Their everyday lives had been disconnected from the financial status of the property titles until the Bank went bankrupt in February 1997 and they came into contact with that world.

The Central Bank ordered the closure of the Banco Platense after proving lending irregularities. The case, filed by almost 2,000 small savers from La Plata, Berisso, and Ensenada (located in the province of Buenos Aires) was a turning point for the settlers. In 1996, the bank's clients initiated a civil-law case to recover their funds; among the assets affected by the seizure were the six lots that made up El Ceibal. The judge ordered the property titles auctioned in order to pay off the bank's debts to its creditors.

On June 7, 2005 the peasants were made aware of the auction through the media, and the news spread through the community like wildfire. An edict published in the "Campo" section of a national newspaper announced the sale by judicial auction of 10,000 hectares of land, named the "El Ceibal lot," with a minimum starting bid of 1,826,188 Argentine pesos (the estimated value of the property was, at that time, around 2,800,000 Argentine pesos).¹¹

In order to understand the conflict's origin, one must know how Banco Platense had become the "owner" of this land. As a settler who was born and continues to live on the lot explains in an interview:

These lands were originally given to the first colonizers by the king of Spain [...] they were usually allotted a typical parcel of 3 leagues across by 3 leagues deep [...] The commander who at that time was the highest authority in the area was Juan Cuéllar. The royal army transferred these lands back to him in the eighteenth century [...] Well, there were certain rules: for example the lands could not be sold, the neighbors had to live peacefully, form a community, and there were various other conditions that were transmitted from generation to generation [...] Families lived this way for centuries, working the land [...] The founding family paid all the taxes until around 1930, but afterwards it became more difficult because of the increase in population and the lack of money. The community was self-sufficient, with an economy based primarily on food production [...] Then, the person in charge of making these payments, who lived in the city, became disconnected from this way of life and stopped paying the taxes. This led to the accumulation of a large debt, which became impossible to pay.

A report produced by the Faculty of Forestry Sciences of the National University of Santiago del Estero (UNSE) in July 2003¹² explains that the property was subdivided in 1961, when a private owner (the El Poroto farm) took over the land. The allotments had already been given their current names: "It could have its origin in stocks and

11 The newspaper *La Nación* from June 17, 2005, provides this information and refers to the website of the real estate agency in charge of the auction. This is available at: www.coricacampos.com.ar/ElCeibalEdicto.htm.

12 Available at: www.coricacampos.com.ar.

rights but there is no logical explanation of how the titles were obtained [by the Banco Platense] without a court decision. From a technical point of view *it is a title without land.*"

Interviewees recall that Banco Platense was mentioned as a proprietor on the property register in the 1970s. However, the registered proprietors never formally filed for ownership. Meanwhile, the families continued to live and work there.

Apparently, sales were made at the notary's office or elsewhere, but they never took possession. During Lanusse's military government,¹³ an "enterprise" appeared which consisted of proprietors claiming that they would provide work for the people so long as they collaborated and accepted the titles. At the time, we refused. What work would they bring us – woodcutting? That was the only thing they could give us, because they wanted to set up a wood mill [...] which would not only dismantle the woods, but would also destroy all the resources upon which the community relied [...] The owner of a company called "El Ceibal" [...] offered to "donate" us 40 hectares to build a town, take all the people off their property, and put us there, in a settlement, all of us residents, who by this time were occupying around 10,000 hectares, which is the original area of the land. It was a company from the capital of Santiago del Estero [...] And the farm that they established was later abandoned and passed on to other companies that went bankrupt, and then appeared C. [the main stockholder of the bank] and the Banco Platense as the mortgage guarantor. Then the Banco Platense went bankrupt, and that is the origin of the auction.

Various organizations (OCCAP, NGO El Ceibal) and the peasants themselves worked to publicize the situation, using the media to halt the legal proceedings on two separate occasions. Through a series of collective protest actions (such as petitions and road blockages) they made the provincial government file their claim through an ombudsman¹⁴, thereby counteracting their exclusion from the process.

As the trial was about the bank's debt to its creditors, this intervention was made by a "third-party domain" through which the ombudsman acted in representation of the El Ceibal community. The fact that the trial was focused on the bank's bankruptcy and not on the property titles also meant that the process took place in the city of La Plata (1,100 kilometers away from the holding) and not in the provincial capital of Santiago del Estero (300 kilometers away). As a result, in order to prevent the lands from being auctioned, the ombudsman, the municipal commissioner, and the representative of the inhabitants of San José del Boquerón on several occasions had to travel to La Plata to present their case to the judge, creating additional cost for the peasants.

13 Alejandro Agustín Lanusse was the nation's *de facto* president from 1971 to 1973.

14 This is an official in the provincial justice system, whose functions are defined by Article 86 of the National Constitution as "the defense and protection of human rights and other rights, guarantees and interests sheltered under this Constitution and the laws, in the face of deeds, acts or omissions of the Administration; as well as the control of public administrative functions."

Shortly after the judicial auction was suspended, various measures were taken (though some families had already begun this process prior to the auction) to initiate the usucaption trial. In this way the residents were able to obtain titles from the judge, acknowledging their rights as proprietors (Bidaseca et al. 2007).

The auction currently remains suspended. The “partnership” between the peasants and the ombudsman that managed to stop the auction and change the course of the events, making it possible for the peasants to obtain property titles, highlights the political power that subalterns can obtain when confronted with judicial and political obstacles that affect peasant rights. I shall discuss this in greater detail in the following sections.

PEASANTS AND ACCESS TO JUSTICE

In Argentina the absence of serious land ownership regularization policies is a real problem for subaltern peasants (as it hinders access to credit and also leads to legal insecurity as far as conditions of ownership are concerned); for the “recipients” of public policies and as far as the use of land for production is concerned.

“Precarious land tenure” clearly implies legal insecurity. The percentage of farms that occupy “private” land throughout the whole country is high (in some provinces this is due to a lack of available land).¹⁵ This is a particularly serious phenomenon in the Argentine Northwest, where the province of Santiago del Estero is located. There the figure reaches approximately 23% (Proinder 2000).

Conflicts can arise from the occupation of state lands, from privatization, or from the creation of communal farms given as gifts by the Spanish crown prior to the formation of the Argentinean nation-state.

It must be emphasized that in Argentina, the law specifies three states of land occupation: *proprietor*, *possessor*, and *holder* of the land.¹⁶ The *possessor* is a person who lives, works on, or otherwise uses the land as if he/she were the sole owner. The law refers to this as “intention to own” (this is proven by the person’s feelings toward the land). Unlike the possessor, a holder is a person who occupies the land but is aware that it is owned by someone else. He/she performs acts of possession but in someone else’s name. He/she lacks the “intention to own” and does not feel like the owner of the land.

This means that the possessor aims to be the proprietor of the land and does not acknowledge another person as proprietor; he/she works and lives there. A person has the possession of the land if he/she shows the “intention to own” and performs “acts of possession” (for example, living and working on the land, paying the taxes,

15 In research recently carried out in the northeastern province of Misiones, Argentina, I have analyzed the occupation of “private” lands by colonists and the nationalist rhetoric that defines them as “intruders.” My research uncovers a mechanism that hides a process of *foreign ownership of the excluded* sustained in the radicalization of the “foreign” qualities that are used to justify the internal exclusion and stripping of citizenship rights of individuals holding the same citizenship (Bidaseca 2007).

16 For example, when the land is rented (leased) or borrowed (*commodatum*).

and making “improvements” such as pens, fences, dams, gardens, wells, cemeteries, ranches, barns, paddocks, trails, or boundaries). The possessor can acquire ownership of the land after a period of time through the usucaption trial (prescription or Twenty-Year Law, in which the possessor is represented before the justice system in defense of his/her possession).¹⁷ In the case of El Ceibal, the peasants are the possessors of state-given land. However, in all of these situations the peasant’s rights are not recognized.

The lack of economic resources, the town’s distance from the main city centers, and the peasants’ weak cultural capital and access to justice places them in a precarious position compared to those who aim to hold titles to the land. As a result, the *possession of the land* is frequently violated, as are the following fundamental rights: the right to life; the right to live in a healthy environment, and, in the case of the female peasants who have historically been silenced, the right to a voice.

Concerning the court case involving the El Ceibal holding, its inhabitants, and their institutions, my intention is to emphasize the *exclusion* of settlers from a trial that directly involves them.

The two sides represented in the trial were the bank and its creditors. If, in real terms, the peasants are not directly affected by the auction, in procedural terms they are likewise not part of it, as they are neither creditors nor debtors.

However, the peasants’ claims and their collective actions made it possible for the ombudsman from Santiago del Estero to intervene. While representing both the settlers and the power conferred by the provincial constitution, he requested the suspension of the auction by using a procedural tool called “third-party domain,” which enables the incorporation of an “outsider” to the trial to assert his rights over the property in question. Third parties not only constitute a procedural institution that has its foundations in adjective law; the concept is also anchored in the National Constitution, which guarantees the inviolability of rights and property (Articles 17 and 18) and permits the intervention of the ombudsman whenever the rights or domain of a third party are threatened by a trial. The ombudsman’s function was essentially to present corroborating documentation for the peasants’ ownership claims. This mainly consisted of death certificates, birth certificates, and El Ceibal residency certificates.

The peasants demanded that their rights to ownership be acknowledged under current national norms. In the so-called *usucaption*, or *acquisitive prescription*, an ordinary trial takes place in which the plaintiff is the person who requests acknowledgement of his/her condition as the possessor of the real property for a consecutive period of twenty years in a public, peaceful, and continuous way. The defendant is the person who is the legal proprietor of the real property (who appears in public registries of real properties) and the person who, during that twenty-year

17 The Civil Code of the Republic of Argentina, which lays the legal foundations of civil order in Argentina, was approved on September 25, 1869 through Law No. 340, and entered into force on January 1, 1871. The Civil Code regulates usucaption. In 2007 a Single Register of Possessors was created by the provincial government for the purpose of holding a census of peasants in this province. But even these data were not published.

period, has neglected or made no possessory acts that denote his/her intentions to remain on the property. The prescription is an institution created to avoid legal insecurity. It could even be said that it implicitly acknowledges the social function of the land (Bidaseca et al. 2007).

Even so, it is worth mentioning that the costs involved in making these rights of possession “accomplished” (achieving full ownership rights)¹⁸ make the *usucaption* an expensive judicial process. Firstly, the peasants have to contract a professional (a land survey engineer) to draw up plans, based on which the twenty-year prescription trial can be initiated. Prior to this, another plan must be drawn up to indicate land measurements; the improvements are then verified, and a lawyer must be hired to initiate the prescription trials. This whole procedure is incredibly expensive for the peasants, who incur the costs of hiring these professionals as well as the fees to begin the trial (even if they are later freed from paying court costs), transportation, etc. As one lawyer explained, “a peasant who wants to obtain the title has to make a considerable investment, which is often impossible.” In addition to this, “if a peasant wants to make a complaint about the usurpation of property—the Penalty Code states that usurpation can be denounced by the person who is the possessor, without needing the property title—but the police refuse to receive the complaint, arguing that they don’t have the papers, this is another, more subtle, way of repressing the peasants, denying them access to justice” (Interview with Luis Santucho, 2002).

As a result, national laws do not suffice to regulate property for peasants, and trials carried out at a provincial level¹⁹ often end up violating not only the general principles of justice and equality but also the Constitution, as they ignore existing guarantees and the right to defense in trial.²⁰

Factors conducive to inequality—including the limited access to justice for peasants wishing to request the regulation of land tenure, the poor publicization of government acts, the shortage of resources, and the peasants’ own way of life, which is incomprehensible to the urban judges—continue to worsen, further weakening the possibility that subaltern individuals might remain on the land they consider their own. Yet the strength of peasant solidarity and available public resources can shake off the last trace of hegemony. The next and final section will focus on the tensions and (im)possibilities provoked by the collective action regarding the inclusion of the peasants in the trial and the actions that interrupted the judicial process.

18 At the moment of the demand’s deposition, it is required that precise plans of the lot to be prescribed be attached in order to participate in the acquisitive prescription trials. Civil and Commercial Procedures Code of the Province of Santiago del Estero and Modifying Laws. (Bidaseca et al. 2007)

19 Article 182bis of the Criminal and Correctional Code of Procedures of the Province of Santiago del Estero awards the judge the right to evict a peasant facing an accusation of property usurpation, based merely on the statement of the person who appears as the land’s title holder.

20 Article 18 of the National Constitution and international human rights agreement incorporated into it after the constitutional reform of 1994.

COLLECTIVE ACTION AND THE POSITION OF THE INDIVIDUAL

In the words of Pierre Bourdieu, “it could be said that the dominant always exist, while *the dominated only exist when they mobilize themselves or find representation*” (1993:159; my emphasis).

The peasants began to organize themselves when they became aware of the legal situation: the so-called *low voices* were able to increase their intensity and audibility to become *high counter-hegemonic voices*. Assuming that their demands can reveal the contingent character of the places they have been assigned and modify the position of the individual, my questioning focused on listening to these *low voices becoming high voices*: Do they question this fixed identity? Do they resist the automatic identification imposed by positive law? Does this litigation open up processes whereby the community becomes a political community that disputes the normality of everything? Is a political voice arising from these low voices or is it still mere “noise”? (Rancière 1996). And as far as the *high voices* are concerned, I ask: What mechanisms do these high voices of economic and financial power use to continue their process of accumulation?

As mentioned earlier, the people from El Ceibal found out about the existence of “another” landowner from the media. They came together and petitioned the authorities to defend them.

We have already seen that the Banco Platense’s Bankruptcy trial involved only the creditors and the debtors and left out, legally speaking, those who live on the land. In other words, the judicial order found a way to guide the action of those individuals that actually occupy the disputed land, legally destroying the conflict’s political potential, while also translating the peasants’ language into legal language.

Those with no part in the trial became visible to the outside world. By coming together and intensifying their voices they were able to intervene in a process that excluded them.

This is just another example of Santiago’s chronic problem, the threats of eviction that are constantly hanging over peasant families. This is not the first time that the population has come under threat. In 2002, our lands were about to be auctioned. What we did was encourage the whole population to come together and resist. We obtained legal counsel from a group of lawyers, and at that moment we sent a request—not to the Court of La Plata, where the Banco Platense’s bankruptcy case is taking place, but to the bank itself—asking to be informed of the conditions of the trial and the accusations, so that we could develop our own strategy. We sent a letter, but they never replied. (Cuéllar 2005)

One of the first actions that the peasants took was to write a collective letter to the judge signed by the inhabitants of the land. In this letter they requested that their rights as “legitimate possessors” be acknowledged:

We, the undersigned, owners (peaceful, public, and uninterrupted possessors for over 20 years) of land within the territory called El Ceibal in the departments

of Copo and Pellegrini of this province, request more days to attend, since we are over 200 peasant families with limited resources and are located at a significant distance from all the capitals. Due to economic restrictions, we cannot use a lawyer based in the city of La Plata and travel there. We want to express that we are the only owners of this land since we have possessed it for many years, from generation to generation. The history of settlers on this land dates back to before the Spanish conquest, and we are unaware of anyone else obtaining the deeds to this land prior to our settlement. Some of the settlers who are ninety years of age or more do not remember anyone else beside ourselves and our ancestors having inhabited, worked, or lived in this place. We seek to protect our claim to not concede our land, as we disregard any registered holder. We seek protection under the Provincial National Constitution, Art. 75, section 22, 25 of the Human, Social, Political, and Economic Rights of the National Constitution, and applicable norms of the Civil Code. We shall present our case before the Human Rights Agency, social pastoral authorities, and the Bishopric of Santiago del Estero, and we will make full use of all opportunities to enforce our rights [signatures follow]. (Document sent to the Civil and Commercial Court No. 5, La Plata, Buenos Aires, May 21, 2005)

The peasants countered the deterritorialization efforts of the hegemonic model in every way possible: they sent letters to the judge, made requests for representation to the provincial government, allied themselves with other peasant organizations and social movements, forged links of solidarity with Santiago migrants residing in Buenos Aires,²¹ and made use of the mass media, including the Internet.

While they sought to organize themselves, they also had to confront the limits of representation: a group cannot exist without delegating some power to a single person who can represent it.

CONCLUSIONS

This article focuses on a court case that borders on the *absurd*, a trial that resulted from the clash between the neoliberal and the peasants' logic and is not an exception. Similar events, some of them more widely publicized, took place in other towns of this province (in the communities located in the Guampacha area), as well as elsewhere in Argentina, such as Amores (in the province of Santa Fe), and in the province of La Rioja.

Currently, the auction is officially suspended, a testimony to the effectiveness of the peasants' actions. What is suspension if not the interruption of time? Absurd and suspenseful, this narrative appears almost as a fiction, in which the history of this territory's occupation since the Spanish period mixes, in a mysterious and almost surreal way, with the arrival and eventual crisis of the financial capital. The peasants

21 "Our Roots" is a group of thirty young men and women, born and raised in rural areas of the province of Santiago del Estero, currently residing in the City of Buenos Aires and the Province of Buenos Aires, that came together as a result of the auction and donated money so that their communities could obtain approval for their plans.

must confront an impersonal adversary (the bank) and small savers, who are claiming their due from 1,200 kilometers away. The people of El Ceibal were unaware that they were part of other people's speculative game, and in dramatic fashion became the protagonists of an odyssey, facing a future in which they may still be evicted from their land. It was the echo they found in the media, and in the "partnership" between the peasants and the ombudsman that converged to halt the auction and to change, though not yet definitely, the course of events, opening the way to the acquisition of the property titles. If the judicial auction had never been proposed, perhaps this process of judicial and symbolic acknowledgment would have never been initiated.

Without doubt, the judge's first ruling in this case was absurd. Following a moment's reflection outside the domination and logic of hegemony, this absurd public auction, which included persons, settlements, and public buildings, generated the mobilization of peasants and the intervention of the ombudsman as a representative of the settlers. The auction of the six lots was stopped shortly after it was initiated, but the process was reinitiated following a judicial ruling to exclude public spaces from the auction, but not the pieces of land occupied by the inhabitants, which is why it was halted once again.

The processes these peasants are experiencing, with dissimilar historical trajectories from their peers in Russia, enable us to establish some points of comparison with developments in Russia (such as market reforms based on a hegemonic neoliberal model and the introduction of private property). The main differences that we observe are with what Visser refers to as "accumulation logics" and the "absence" in Russia of a peasant movement similar to those active in some Latin American countries, where oppression is counteracted through collective actions in public places.

Santiago del Estero is still characterized by paternalism, patronage, Juarism, and other *isms*. In the new agribusiness model, the mechanisms that the high voices of economic and financial power use to reproduce their accumulation process have been modernized. The legal "success" achieved by the peasants of El Ceibal has come with economic, and, even more so, symbolic costs.

This case study must therefore be placed in the general context of peasant mobilization in the province and in Argentina from the mid-1990s. It is also important to stress that this "successful" collective action of El Ceibal is an exception for two reasons: first, peasants in two parts of El Ceibal (Tres Varones and Nuevo Yuchan) have recently succeeded in obtaining community ownership titles; second, the peasant leader of OCCAP was elected provincial senator on November 30, 2008—the first time that a peasant woman in Santiago del Estero has been elected as a representative of the peasants.²²

This "successful" narrative where the subordination of peasants is interrupted happens in the fields of media and law. Although the logic of law can suspend political litigation, it can also be a space where fissures and contingencies are produced, proto-politically. The peasants from El Ceibal never challenged the judicial logic as

22 She was elected on the ticket of *Compromiso social*, the province's majority party.

such, rather they tried to be included within it. They submitted themselves to the dominance of legal knowledge and learned its language. During this time they progressed toward obtaining their individual ownership titles. The judicial system and the liberal legislation are driven by the individualistic logic of private property and leaves no space for communitarian demands. Staying within the parameters of state law usually means that peasant customs and traditions, such as fencing in land or discussing how to share spaces and resources that belong to the community, are ignored in favor of other logics. In the words of the peasant leader:

When the judges say that it has to be individual, we say to them, how can it be individual? If I have a dam, ten of us have a dam. We can't give everyone a piece of dam. The dam and the well belong to the community. The prescription cannot be individual because a perforation or a well is nothing [...] and, what do you do if there are ten of you, do you split it into ten parts?" (Interview with a peasant leader from El Ceibal, 2007).

Since this process began, the settlers have achieved the following: the judge has allowed one of the settlers (the current municipal commissioner) to participate in the trial as a chosen representative by the settlers; the trial has been stopped twice; the city judge traveled a thousand kilometers to submit a subdivision of the land and to arrive at a new resolution regarding the auction ("that out of 10,000 hectares, only three or four thousand could be auctioned because they are neither inhabited nor exploited as a means of subsistence for the settlers"—cited in the online newspaper *Panorama.com*, May 13, 2008).

Or the peasants, "to take an oath" in the trial meant delegating their suffocated voice to representation by expert knowledge. Yet their initially low voices intensified in other places, in the public space, becoming high counter-hegemonic voices. The female voices also showed signs of change, interrupting spaces usually dominated by male logic.

They ceased being subalterns (in Spivak's sense of the word), they intensified their voices when they found a place of enunciation through, and in spite of, representation. In those instances where subaltern pride arises, *political symbols* are formed, enabling us to consider investments in terms of economic and legal oppression in the cultural palimpsests, among the diacritics of power that instill, once again, the *absurd*.

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