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Law, Labor, and the Environment on the US-Mexico Border

Introduction

Anthropologists and critical legal theorists are increasingly drawing attention to the relationship between law and culture (Goldberg, Musheno, and Bower 2001; Merry 1992, 1994, 1997; Post 1991; Starr and Collier 1987, 1989). Viewing this relationship as nuanced, variegated and co-constitutive, recent works have highlighted the ways in which law, as the quotidian presence of the state in everyday life, can encourage or discourage new social forms at the most intimate levels of cultural and community life. Law is now less often seen as an abstract and distant reflection of the state with only occasional repercussions in local lives, and more often seen as the very terrain that makes those local lives possible.

Nothing could be truer of the place of law in the US-Mexico border region. Although historically a conflicted and simultaneously connected zone (Alvarez 1995; Herzog 1990; House 1982; Kearney and Knopp 1991; Meed 1992; Stern 1998; Zavaleta 1986), the introduction of the NAFTA and its side agreements has ushered in a new epoch of conflict and connectivity which is distinguishable from earlier periods. Constitutive features of this epoch are the new legal possibilities and the attendant legal culture made possible by the side accords (Carlos Vasquez 1993; Garvey 1995; Kelly 1993; Mikulas 1999; Reblin 1996). Although all elements of contemporary border life are clearly connected with the formation of the NAFTA, the foci of my study pertain directly to this new legal context with its attendant possibilities, obstacles, obfuscations and partial reconfigurations of local power relations.

My dissertation research in Matamoros, Tamaulipas seeks to understand the place of law in the formation of two social movements which speak to distinct, though complementary, domains of Mexican life on the border: the environment and workers' health. The first is that of an environmental justice movement organized by a poor and allegedly contaminated community located on the southeastern outskirts of Matamoros. The name of the group is *Pro Vida Digna*, and their activities are directed primarily toward the rehabilitation of a canal, *El Dren Veinte de Noviembre*, which travels from the city center, through the *colonias*, past the municipal dump, eventually arriving at the ecologically important *Laguna Madre*. Originally constructed to flush the city of rainy season waters, it now serves as a channel for “*aguas negras*”, and it is believed by many to be contaminated with chemical wastes as well.

The workers' justice movement is that of Auto and Custom Trim workers who, under the auspices of the North American Agreement on Labor Cooperation, filed petition 2000-01 in July of 2000 with the US Secretary of Labor's National Administrative Office. The workers allege that they suffer both repetitive motion injuries and reproductive problems as a consequence of their work in these plants. The preparation and submission of the petition was an internationally organized form of legal activism, with a US-based NGO as the coordinating body. Past and present workers believe that the petition has resulted in no tangible results for their health or workplace safety¹.

Analytically focused on the relationship between law and the emergence of new cultural and social forms, my research is ethnographically located in the legally pluralistic and transnational (Merry 1992) context created by the NAFTA side accords. The dual arenas of transnational legal action and the national legal sphere combine to create a field in which the

trajectories of local legal actions may be circuited through transnational avenues with the intention of reinforcing Mexican national law. Through a comparison of the use of law, legal resources, and social mobilization in both an environmental and a workers' justice movement, I aim to develop a fine-grained portrait of the place of law within these movements. I approach the side accords as important grids that, once laid across the border landscape, have facilitated the emergence of new cultural forms by encouraging local actors to pursue certain courses of action consistent with that legal landscape.

Environment, labor, and law on the US-Mexico border

In my dissertation I treat the environment and labor within one analytical framework. There are three principal reasons why this combination will prove productive for a comparative analysis of the roles that law, NAFTA, ideas of justice, and transnational connections play in local social movement configurations and ideologies.

First, law and the new transnational legal processes instituted by the NAFTA side accords powerfully influence local reconfigurations of meanings, social movements, actions, and relations forged with the Mexican state, non-state actors, national or international NGOs. My combination of both a labor and environmental movement within the same study will allow me to forefront the place of law and the side accords in the encouragement of new social forms on the border, and to substantiate this discussion with rich ethnographic data relating to many elements of border life: migration, poverty, border crossings, cross-border coalition building, political challenges, health and environmental issues.

¹Information based on extensive interviews.

Second, the side agreements are rife with contradictions that become apparent through a focus on the processes themselves, rather than on environment or labor *per se*. As protectionist measures, the accords inadvertently contribute to ongoing processes of national state formation that contrast sharply with the ideology of economic liberalism and a regional free market. At the local and national levels, they provide the means through which Mexican populations can coax their own state into conformity with established environmental, health, and safety laws.

Ironically, it is precisely through this procedure of marginalized Mexican populations applying pressure from below that the US government is perceived as somehow “guiding” Mexico toward democracy (e.g., Orme 1996). Even when it is recognized that Mexico has a set of codified environmental, health, and workplace safety statutes similar to those of the US (Cueva Luna 2001; Quintero Ramirez and Romo Aguilar 1999), the participatory role which the NAO and BECC play encourages the view that the US is pivotal in this process, thus obscuring the diligent efforts of resource-challenged border populations.

Finally, one of the argued advantages of anthropological fieldwork is that it teaches us to understand "the native's point of view". Fourteen months of participant observation fieldwork with a Matamoros community have taught me that any distinction between environmental and workers' health problems is academic. From the perspective of many members of this border community, the two domains are intimately linked and the problems with each can be traced principally to the *maquilas*. There is ample evidence to support this view: first, there is a tacit recognition within the side accords themselves that the material production of *maquilas* is not limited to commodities, but to bodies and the natural environment as well. Second, many anthropologists have drawn theoretical and empirical attention to the importance of locating biology within the nexus of history and the processes and conditions of material production and,

consequently, to the uneven distribution of health benefits, risk, and disease as it pertains to economic development (Denman 1998; Farmer 1997; Hvalkof and Escobar 1998; Scheper-Hughes 1990, 1992; Singer 1998; Singer and Baer 1995).

Research Questions

My dissertation will address a series of nested questions, each of which will be explored ethnographically by looking at the different ways in which the social movements studied linked up with the North American Agreement on Labor Cooperation, the North American Agreement on Environmental Cooperation, and other important aspects of Mexican national law or international relations. These linkages are necessarily staggered and uneven, with specific social effects for each of the movements involved. By examining the inner architecture of the sets of possibilities, avenues of knowledge, and social action which the side accords encouraged, the dissertation aims to determine the ways in which law animated a certain set of goals, a new set of sensibilities, and the development of distinct forms of social movements in the Matamoros area of the US-Mexico border. The following questions will be addressed:

Transparency and opacity

Self-styled descriptions of the petitioning and complaint processes of both the NAAEC and the NAALC make repeated reference to the term “transparency”, reflecting the currency which that term has recently acquired on the global stage and in the hands of the Fox administration. The US National Administrative Offices, the BECC, and the CEC - as well as, in a related context, the new Border 2012 program - refer continually to the democratic nature of citizens’ petitioning procedures and the transparency of the inner workings of each organization. In actual practice, the processes contained within the petitioning and complaint procedures of the

side accords seem to be littered with opacity, seeming dead ends, and misinformation - all of which generate rumors of graft and corruption. My dissertation will document and analyze the objective dimensions of this relative transparency and opacity as it is experienced by different social groups, discuss the function of ambiguity and opacity as a possible technique of political control, and suggest ways in which the actual transparency of different proceedings and relations might be improved.

In the case of the Auto and Custom Trim workers' petition, for example, there were many junctures of informational flows which generally consisted of a combination of distinct, though related, elements: access to information technology and print media, educational levels, social status, income, social connections, and political influence. As a hierarchically and internationally organized process, with a US-based NGO coordinating events at the top and workers providing the necessary information “from below”, the levels of both real and perceived degrees of relative transparency and opacity corresponded roughly to one’s social position within both the international and national hierarchy. That which was transparent and clear to organizers with open-ended information resources seemed opaque and mysterious to many of the workers who had provided evidence for the petition.

The endeavors of the *Pro Vida Digna* over the course of one year were also plagued by problems of opacity, ambiguity, and a historically conditioned ambivalence toward various municipal, regional, national, and international institutions. Throughout their interactions with the *Junta de Aguas y Drenajes de Matamoros*, their participation in the *Comite Ciudadano* (formed as part of the JAD's application for a NADBank loan), their sustained involvement with the North American Sierra Club, and their interest in participating in both the regional workgroups organized under the new Border 2012 program as well as the privately organized

Laguna Madre initiative, the frustration over “opacity” has been a formidable obstacle to their development as a civic association, collectivity, and social movement.

The political functions of ambiguity and "ignorance"

The side accords rely on a discourse of transparency in order to legitimate the NAFTA as a trade agreement with democratic potential. Yet local level experiences of political opacity and lack of access to information - which generate feelings of frustration, mistrust, and suspicion - contrast sharply with the claims of NAFTA created institutions.

In my interviews with Auto and Custom Trim workers, for example, I found that they were at once guarded, suspicious, *and* information-seeking; a combination of unusual traits which I attribute to the opacity and secrecy that surrounded the very petition which they had participated in. They were aware that a process had taken place whereby their corporeal experiences had served as the raw material for the production of legal documentation or "proof" of *maquiladora* violations of health and safety rights, yet were *unaware* of the outcome of this petition. Not surprisingly, the void left where information should have been was filled with any number of conjectures, rumors, and speculations. The blockage of informational flows - by those same parties most capable of and responsible for keeping them open - allows any number of parties to simply blame workers for their "ignorance", and simultaneously be relieved of any responsibility they might accumulate as a consequence of having done work on the behalf of these same workers. The workers' lack of access to technology and information resources undermines their potential ability to represent themselves, and obliges them to rely on third party intermediaries.

For the *Pro Vida Digna*, a general and insidious lack of information encouraged a great sense of mistrust and suspicion toward fellow Mexicans, city officials, rival political or ecological groups, and even other members of the *Pro Vida Digna* itself. Other Mexicans were repeatedly viewed as withholding information for their own benefit. In contrast, the North Americans with whom they came in contact during the year (professionals, scientists, NGO workers, this fieldworker) were ritually viewed as benevolent and naturally disclosing. These stereotypes of national character were embedded in and produced by a local political economy shaped by the competition for scarce resources - whether of funds, information, or political influence.

In both cases, a competition for various forms of resources encouraged an excessive dependency on foreign actors. The problematic and often conflict-ridden relations which result from this dependency encourage rumors, speculations, and sensibilities which are ultimately counterproductive of any efforts toward sustainable development and a more democratic distribution of power within this arena.

Transnational connections, Mexican, and non-Mexican actors

What contributions have the petitioning processes of the NAAEC and NAALC made to a reformulation of relations between state and non-state actors? How have the connections developed with US-based NGOs by grassroots environmental and labor justice groups strengthened or transformed the positions of these groups vis-à-vis the Mexican state? Are they limited to an institutional and organizational form of support that nevertheless does not change the form of civic associations' relations with the state, or do they represent a "new" configuration

of relations more consistent with the logic of transnationalism and the supposed "withering away" of the state?

As stated at the outset, these two movements linked up in distinct manners and to varying degrees with the respective accords. Law, per se, has played a lesser role in the activities of the environmental justice group. Their actions have been motivated more through a reaction to a local environmental context which, in turn, has served as a springboard for greater engagement with legal processes - either the NAAEC or Mexican environmental and human rights laws. The visions and objectives of this movement have been, in some ways, contingent on the goals and ideals of the charismatic leader of the organization. At one time a labor rights educator with the *Comite Fronterizo de Obreras*, the PVD's president aspires to accomplish with environmental laws that which she at one time tried to achieve with the *Ley Federal de Trabajo*; namely, to educate the populace of their actually existing rights as they are inscribed in the Constitution and federal labor, health, safety, and environmental laws. Somewhat ironically, it has been precisely the support received by the *Pro Vida Digna* from the Sierra Club which has enabled it to establish itself as a civic association, and to negotiate with municipal and regional authorities from that position. If the goal of the *Pro Vida Digna* is the clean up of the *Dren Veinte de Noviembre* canal, they intend to accomplish this by pressuring the government into fulfillment of its social compact.

The labor side accord figured more directly in the organization of the workers' justice action. Although originating with the investigations of a worker within the plant and subsequent workers' meetings organized by the CFO², the coordination of the Custom and Auto Trim

²Based on my interviews with workers and two former coordinators of the Matamoros chapter of the *Comite Fronterizo de Obreras*.

workers' complaints into a petition filed with the US NAO stemmed primarily from the efforts of a US based NGO, the *Coalition Pro Justicia Maquiladoras*, and, secondarily, a Matamoros chapter of the national Youth Workers' Ministry, or *Pastoral Juvenil Obrera*. The reason that the CJM was capable of organizing the formerly inchoate mass of workers' experiences into a legal complaint can be attributed to the greater resources which were available to them; they had political connections, the services of trained professionals, libraries, and internet capabilities. The workers, in contrast, were unaware of the potential exchange value of their experiences. Thus the NAAEC itself - the structures, institutions, discourses that surround it - as well as the uneven distribution of "limited" versus "unlimited" fields of vision - encouraged this particular organization of Mexican and non-Mexican, state and non-state actors.

Law and Place-Making

Lastly, many of the environmental rehabilitation activities undertaken by the *Pro Vida Digna* might properly be considered sustained efforts at *place-making*. At the local level, they mirror large scale economic patterns. Just as the *maquiladora* sector - once considered a temporary and extraneous sector of the Mexican economy - burrows in as a seemingly permanent feature of the local and national economy, so, too, this community is settling in and transforming what were once temporary and contaminated squatter camps into permanent urban residences.

Although the activities of the *Pro Vida Digna* have not been animated principally by the NAAEC, the support which they have received from the US based Sierra Club has given them sufficient organizational identity to become participants in the Matamoros *Comite Ciudadano*, organized by the *Junta de Aguas y Drenaje*. The Sierra Club's "Beyond the Borders" program which the *Pro Vida Digna* has been participating in aims at both environmental rehabilitation as

well as the strengthening of political power of grassroots groups. The latter is actually seen as the means for achieving the former. Somewhat paradoxically, then, place-making and, much less self-consciously, state-making activities are achieved within a single course of action.

In terms of their relations with the Sierra Club, members of the *Pro Vida Digna* see their reliance on this organization as a somewhat contingent circumstance consistent with infringement of their environmental and human rights by another predominantly US entity: the *maquilas*. They are pragmatic about it. They hope to eventually progress beyond this circumstance of foreign dependency, just as they aspire to eventually develop sufficient clout to pressure the local government into preservation of their immediate natural and urban environments.

Conclusion

The themes outlined in this proposal will be used to think through the material accumulated during my fieldwork period, and they will reverberate throughout the dissertation. These questions, problems, and issues have emerged in the context of the fieldwork experience itself. They are problems which I consider worthy of attention if the possibility for more equitable forms of development and justice is to be attained by Mexican populations on the US-Mexico border.

In order to write the dissertation, I will draw on data collected during more than fourteen months of fieldwork. This material includes the following: more than sixty interviews with people located in various positions in the local social structure and within these movements; extensive participant-observation with the *Pro Vida Digna* including attendance at weekly meetings, assistance with various logistical and organizational tasks, facilitation of

communication between NGOs and this group, visits to city officials, and other sundry tasks integral to participation in an activist movement; participation in efforts for cross-border coalition building with a Brownsville environmental group; a sustained and intensive participation in the life of single family which has allowed me to witness on a daily basis what life is like for migrant and marginalized communities on the border; extensive oral histories with some members of this family; copies of primary documents of both of the social movements; articles collected from the local newspaper, *El Bravo*; and daily fieldwork notes in which my observations have been dutifully and systematically recorded.

The dissertation will be organized in a conventional format and will consist of an introduction and six chapters. The first chapter will be devoted to a detailed description of the local setting and the populations under study; chapters two and three will explore the Auto and Custom Trim workers' petition, embedding it in the vast literature concerning Mexican union politics, workers' rights, national economic development, globalization, NAFTA and the NAALC; the fourth chapter will document the social context and history of the *Pro Vida Digna* until November 2001; and chapter five will discuss in a detailed manner their multiple activities and engagements over the past year. The sixth and final chapter will be devoted to analyzing the complex themes that I expect to percolate throughout the text, and will provide at least implicit suggestions for how justice opportunities for border groups can be improved in the new NAFTA context.

Upon completion of the Ph.D. in Anthropology at New School University, I intend to pursue a career of teaching, writing, and research, and to keep a sustained focus on the US-Mexico border area throughout my academic career.

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