



nation's soil and are meant to provide a means through which indigenous people can exercise collective rights - including, for instance, some levels of self-government or the right to hold land collectively.

As is the case in other countries, the new Argentine laws grant legal personality to indigenous settlements and institute them as legally and administratively defined corporate persons that are known as 'Indigenous Communities.'

In this context, corporate personhood has nothing to do with huge profit-making corporations. Instead, it is a fiction that allows states to delegate the internal organisation of indigenous communities on the basis of a separate, culturally-articulated and historically experienced identity. In so doing, the fiction of corporate personhood establishes a relationship between two legal entities (Riles 2011: 35) - the state and the Indigenous Community.

You might say that the recognition of indigenous corporate institutions exemplifies the old idea that "the law does not create [the corporation's] personality, but finding a group engaged in some common pursuit, endows it with a definite legal capacity" (Deiser 1908: 138). In other words, you could argue that the state accepts that indigenous people have a different culture and recognizes that difference by registering their settlements as separate, autonomous, legal persons that are thereby expected to manage their own internal affairs.

In this sense, legal personhood would effectively render the internal arrangements of an Indigenous Community "opaque" (Riles 2011: 35) to external agents. This would be so because, in choosing not to become involved in the internal affairs of Indigenous Communities, the state would "look no further" and "delegate" (ibid) the internal organisation of Indigenous Communities on the basis of cultural difference. Put differently,

the law would create something like a culturally informed corporate veil.

Now, to be entirely honest, before I left for fieldwork, the idea of corporate legal



personhood was not something I'd ever given much thought to. Sure, I'd heard talk about 'the corporate veil' before, especially during the Enron scandal which exploded while I was still in high school. But I think it's fair to say that the legal fiction of the corporate person was not at the top of my research priorities when, several years later, I prepared to conduct long term fieldwork in an indigenous community of the Argentine Chaco. Imagine my surprise then when, two days after settling in what would be my host community, I overheard one of my new Guaraní neighbours telling another that 'legal personhood is the soul of the community.'



Photo by Agustin Diz

As I soon learnt, among the Guaraní of the Argentine Chaco the legal fiction of corporate legal personhood – what people referred to as “the legal personhood” (*la personería jurídica*) or simply as “the personhood” (*la personería*) – was an everyday concern.

Our concern in this week's thematic thread is to explore what we call living fictions. This means going beyond the mere technical aspect of legal fiction, to explore instead the way in which people grapple with these fictions on the ground. Doing so allows us to see the ways in which legal fictions are lived; that is, how people stretch the assumptions that inform fictions, and how these assumptions simultaneously stretch people's lives.

This approach has to do with looking at how social life overflows the bounds of the technically defined fiction and is intended to shed light on the way in which fictions have a real (often unintended) effect on day to day social life. With this in mind, the discussion that follows explores how the recognition of Guaraní settlements as Indigenous Communities had practical consequences that struck at the heart of local politics. In particular, today's post focuses on the way in which Guaraní leaders used documents to recreate the Indigenous Community as a



corporate person.

My Guaraní neighbours realised, for instance, that if they were not legally and administratively recognised as Indigenous Communities, they would never be able to obtain a land title. They also knew that when negotiating with external actors, they would be asked to demonstrate the legal standing of their community and of the leaders that represented it. As a result, leaders had to have a certificate from the National Institute of Indigenous Affairs stating that they were in fact the legitimate authority of the community. As a result, legal recognition, local leadership and pieces of paper became intimately entwined:

a recognised leader who had the right pieces of paper could approach a politician and make legitimate demands on behalf of his or her community, but a leader that did not have these documents did not stand a chance.

The real problems was that, in practically every Guaraní community, multiple factions existed. As a result, people rarely accepted a leader's claim to legitimate authority without question. Additionally, the opacity that the legal fiction of the Indigenous Community created meant that, a priori, the state did not have a way of knowing how internal affairs were being run. It could not, for instance, determine if local elections had been held or if, they had, it had no way of ratifying the results.

Here again documents proved invaluable, but in this case it was Guaraní leaders themselves who produced them. One of the key accessories of a Guaraní leader was a backpack full of documents that included a communal meeting minutes book, copies of letters previously delivered to a range of authorities, letters received from a range of authorities, legal certificates, agreements, contracts, spare pieces of paper and a few pens. Unsurprisingly, 'being good at papers' was one of the defining traits of a capable Guaraní representative.



Leaders used all of their bureaucratic tools and acumen to persuade external agents of the legitimacy of their standing. They strove to produce documents that expressed communal collectiveness and solidarity. Petitions to the National Institute of Indigenous Affairs included references to ‘general assemblies’, and talk of ‘collective growth,’ ‘coherent opinions’ and of the ‘consensus’ reached by ‘the people in general.’ References to internal struggle were often elided or at

most described as the actions of subversive delegates who ‘divide the community and fail to acknowledge the authorities that were traditionally elected by general assembly.’

My point here is not to suggest that the documents that leaders produced were false. Instead, I want to highlight the extent to which they were a way in which leaders attempted to harness the potential of the Indigenous Community as corporate person. These documents were not intended to faithfully record historical events. Instead, they were a politically valuable form of action that was of central importance to Guaraní leaders because they allowed them to elicit responses from external entities. Put differently, in these documents, leaders undertook the ‘interpretative labor’ (Graeber 2012) that the legal frame of the Indigenous Community afforded, and they did so by invoking the institutional traits and ideals that made up the community as corporate person.

At heart, these documents were essentially a bureaucratic performance of cohesion and unity – a locally desirable and legally valuable state of being.

We might therefore look at the content and production of these documents as particular kinds of “writing acts” (Fraenkel 2007; Allard 2012). As such, their



“truth value” (Austin 1962) was of secondary importance. In other words, and to continue within Austin’s framework, the importance of documents as acts is to be found in their perlocutionary nature (Austin 1962). This is because documents were crucial for the creation of the community as a corporate institution. The implication being that, in the face of pervasive factionalism, the legal corporate personhood of the Indigenous Community could only be enacted in documentary form. These documents, fictions in themselves, became bureaucratic facts as state officials and company representatives took them up and acted upon them.



[Corporate personhood](#). Image by [Jared Rodriguez / t r u t h o u t](#) (flickr, [CC BY-NC-SA 2.0](#))

Ultimately it was these state officials and company representatives who had to determine which documents were valid and legitimate, and which were not. The irony is that, inasmuch as leaders’ use of documents required the judgement of external actors, they actively undermined the autonomy that the Indigenous Community was meant to grant in the first place. What originally looked like a benign fiction that enhanced legal recognition and entitlement, becomes a subtle way in which accountability is reallocated from the community itself to powerful external actors instead. In other words, the *lived* fiction of the Indigenous Community creates the opposite of what the *legal* fiction of corporate personhood initially sought to achieve. In creating a legal platform for leaders to present themselves as representatives, the fiction of the Indigenous Community also strengthened the role of the leader while weakening that of the assembly.

However, from the perspective of politicians and bureaucrats the decidedly political implications of these fictions were mere technicalities. For the provincial secretary of state it was simply a matter of ‘clarifying’ a conflict-ridden community’s internal structure and ‘healing it as an institution’ so that there were no cases of duplicate leadership. For an official in Argentina’s National Institute



of Indigenous Affairs it was just a matter of ‘impressing the legal framework upon the “territory.”’

The expressions of these two officials demonstrate how, from some perspectives, legal fictions can be seen as mere technicalities, things that need to be impressed onto a lifeless territory, arrangements that can be clarified and healed; but for those who live within them, fictions often imply a tremendous amount of political work, conflict and struggle.

As is apparent from the Guaraní example, fictions that are created to recognise particular social situations often end up creating new conditions, ones that overflow the boundaries that the fiction first sought to recognise. When we shift our focus from the technical assumptions that inform the fiction to the ways in which people at various levels deal with these assumptions, different social dynamics come into view.

As anthropologists, our long-term engagements on the ground provide us with an opportunity to explore these – lived – aspects of the fiction and to trace the ways in which they become unpredictable facts of life.

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