

The dismantling of forest commons in Spain

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1. Introduction

In Spain there is a large tradition of obtaining natural resources from forest commons, which had been documented since the Germanic tribes invasion to the Iberian Peninsula, in the fifth century. These tribes introduced the concept of woodlands collective property in the northwest areas of the peninsula. Through the collective property regime, forest resources were used by local communities, a management regime that –according to some authors– resulted in a supportive and sustainable use of forest (Aranda, 1996). Some centuries later, during the Christian Reconquest and due to the land concession strategy followed by medieval kings to promote the settlement of Christian population that displaced Muslims from the newly gained territories, the communal regime was generalized to other parts of the peninsula. The land privileges granted to the Christian populations consisted in common lands –including woodlands– that the new settlers, organized in village councils or *concejos*, could communally manage and exploit (Behar, 1983; Pardo and Gil, 2005). At that time, forest commons became the most habitual type of tenure of Spanish woodlands, a land tenure type that persisted until the nineteenth century.

Thanks to the communal land tenure, during the Old Regime rural communities were able to obtain freely goods from their surrounding woodlands. Forest-related resources guaranteed the economic persistence of many mountainous societies, and particularly, the subsistence of the poorest households in those peasant societies (Linares, 2000; Jiménez, 2002). Forest commons were used for pastures and for the collection of firewood, charcoal, wood, fruits, roots, medicinal plants and ice, among others. Forest commons were also a source of food as result of hunting, fishing and gathering activities and through the presence of crops in common lands. The versatility of the raw materials offered to peasants' economies enhanced the development of multiple local occupations such as woodcutter, sawyer, carpenter or charcoal burner, as well as industrial activities of great importance like the naval shipbuilding, highly consumer of wood (Rey, 2004).

The large variety of products obtained from forests was the consequence of the integral exploitation that rural communities made of all economic and ecological opportunities brought to them by the surrounding environment. This diversity provided to peasant communities a notable adaptation capacity towards changing conditions. For instance, forest commons diversity allowed households to confront market fluctuations in which Old Regime peasants depended on

labour demand or for agricultural and forest products trade. Communities' use of diversifying income sources was a reasonable strategy to avoid risks linked to the changing dynamics of the market (Moreno, 1998). Another example of the strength derived from the communal lands comes from the easy adaptation of local communities to resource limitation due to changes in socio-environmental conditions. Thus, forest commons requirements were easily modified according to the volume of available resources and peasants' needs at different periods. For instance, in Cantabria, a region in northern Spain, farming cultivation or grazing pastures were enlarged at the expense of forest commons territories as a response to bad harvesting years or to increasing crops or cattle demand (Vázquez, 2016).

2. Commons regulations during the Old Regime

Authors argued that the clue for the persistence of the communal lands until the end of the eighteenth century was that commoners –i.e., users of the commons– individually exploited the available resources under a depletion threshold (Moreno, 1998). In addition, there was a social consensus for a conservative management of the communal resources, mainly oriented to safeguard resources availability for the future. From the consensus emerged a set of traditional collective norms oriented to guarantee the preservation of the economic and social activities carried out in common lands. Mostly, communal forests were regulated by local ordinances focused in the conservation and promotion of the profited goods. For instance, in Tudes, Cantabria, local ordinances reacted against the enclosing process occurred in the region during the sixteenth century driven by the increase of agricultural crops to respond to population growth. In 1591, the Tudes Concejo banned the 'tradition' of enclosing and ploughing forest commons, in order to amend the reduction of livestock activity in common pastures in favour to private farming (Vázquez, 2016). Close to Tudes, in the village of Potes, 1619 local ordinances forced each neighbour to plant in common lands two individuals of chestnut, walnut or ash species per year. Same neighbour was able to collect the fruits produced by the trees in later stages (Pérez-Bustamante and Baró, 1988). It is worth mentioning that the historiographical evidence suggest that there was also a group of informal rules that, being acknowledged by all members in the community, were not written down, but were mainly orally transmitted (Moreno, 1998; Piqueras, 2002; Rey, 2004).

Nevertheless, communities not always fully agreed on the local regulations to manage the commons. On the contrary, disagreements were habitual due to the presence of different social groups whose exploitation interests may not exactly corresponded or were even opposed (Moreno, 1998). As an example, in Spanish northern coastal areas like in the Basque Country, the growing pressure of naval shipbuilding and steel industries that occurred from the thirteenth century onwards provoked the subordination of *concejos* interests, such as the domestic use of firewood or timber and pastures for cattle, to the industrial activities (Aragón, 2003). This was also the case in La Rioja, an inner region limiting to the Basque Country in which common lands represented more than four-fifths of the mountainous area during the eighteenth century. The

importance that the wool market used to have in the economy of this region resulted in the allocation of the communal areas to pastures for wool animals, which belonged to local influential families, but grazing displaced activities of other community members –that were traditionally performed in common lands– to private lands (Moreno, 1998).

This latter case also exemplifies how, along with the diverse interests between productive sectors, the access and use of communal lands varied according to the social framework of a given historical time. In this case, common lands and uses were part of an Old Regime social structure, which presented high social and economic inequalities. Access rights differed between the powerful members of the community, who could benefit from a higher portion of the common heritage, and the peasants, who obtained from the commons a reduced complementary goods, but which still represented an essential resource for their subsistence. Hence, in La Rioja communal lands, the powerful local actors –who ultimately were the owners of the wool animals–, influenced the regulation of common lands with the aim to guarantee the free access of their cattle to the collective pastures whilst other less influential commoners had to resort to small fenced private areas to carry out their agricultural practices (Moreno, 1998; Sanz, 2002).

With all, the existence of intra-community confrontations frequently was compatible with the persistence of solidarity mechanisms among neighbours and the existence of certain social cohesion within the community. It has been argued that this was so, on the one hand, because although influential members had an advantageous access to common lands, they were aware of the necessity to preserve those communal resources as a way to cushion social discontent; and on the other hand, because although social cohesion did not imply economic equality, it enforced members' integration to the system to the point that they defended it (Moreno, 1998).

Consensus over sustainable use of resources emerged from the economic role commons played in rural communities. Moreover, such consensus had a place in daily decisions oriented to maintain the use of collective areas, usually by trying to make traditional uses compatible with long-term preservation of the resources. The main source for the study of collective customs are local ordinances, which, despite their specificity to each local community and time period necessities, match with the general scope of conservation and promotion of communal goods. As result, although ordinances structure was very different among Spanish regions, as a whole, they generally regulate rights to access and use the commons, and the monitoring and punishment of transgressions to the code (Moreno, 1998).

Regarding the woodlands, most usual norms consisted in the banning of hurtful forest-related practices such as felling or debarking trees, extraction of resin, slash-and-burn agriculture, or the entrance of certain livestock species to wooded areas. For instance, in Leon, a northeast region of Spain where in the eighteenth century communal lands represented more than three quarters of the mountainous areas, local ordinances described in detail how to maintain forest commons' tree coverage. Woodcutting was only allowed in the areas assigned for timber extraction and it was compulsory to control and punish the non-compliance of this norms.

Moving to southern regions, in the mountainous areas of Salamanca and north of Extremadura, local ordinances fixed the gap periods to be maintained between cork extraction of oak trees and forbade grazing in areas affected by fires (Rey, 2004). It is remarkable the regulation existing in these regions for chestnut forests (*Castanea sativa* Mill.), a species employed during the Christian Reconquest as a mean of claiming property for communal lands (Ríos-Mesa et al., 2011). Local ordinances of a village in Salamanca, named *Miranda del Castañar*, established in which period the cattle could graze in chestnut groves and banned chestnut felling except for domestic purposes and only after having previously obtained *concejo* permission. In some areas devoted to livestock refuge during the winter seasons, timber or firewood extraction was totally excluded (Rey, 2004).

The monitoring and punishment of common lands forest abuses, as it has been previously mentioned, was normally carried out by the commoners themselves. The key role that forest-related goods played for the subsistence of peasants' economies, particularly in mountainous regions, resulted in commoners' interest in supervising the accomplishment of local norms in their forest commons. As an example, the importance that the pastoral activity had for rural communities in Cantabria favoured the control by the commoners of foreigner cattle grazing within their *concejo* jurisdiction, which translated in commoners retaining the animals until their owner –frequently from boundary villages– paid a fine for release them (Vázquez, 2016). Thanks to this monitoring, forest commons did not present a level of depletion as greater as other types of forests, like royal ones, opened to everyone, and thus, less controlled and systematically more exploited (Rey, 2004).

However, when community needs were higher than the available resources, such as in inner areas with climatic limitations or when new ordinances were oriented only for the benefit of the influential members in the community and poorly accepted by the peasants, restrictions had to be enforced. This was done by *caballeros de sierra*, a sort of local forest rangers committed to control the use of forest commons (Parrotta and Troster, 2012). This was the case, for example in Madrid, a central inner region of Spain, where the reduced number of trees and common lands usurpations by some local caciques led to the promulgation in 1567 of very restrictive ordinances –issued to prevent an increasing deterioration of the tree coverage– and the yearly establishment of *caballeros de sierra* (Rey, 2004).

3. Peasants' contestation to external threats before the nineteenth century

Although intra-community confrontations regarding the use of commons arose as a consequence of the social differentiation process occurring inside peasantry, most frequently social forces came together against external threats to their community (Moreno, 1998). This was the case, for instance, when nobility members exerted their influence for the usurpation of commons lands. Thus, in 1768 in a large forest common of Valencia, coastal region located in southeast Spain, the marquis Morella Antonio Belluga y Moncada divided the local common

land and distributed it among the landowners of the area. Community members complained about the land distribution to the Council of Castile indicating that the forest was of common use and accusing the marquis and other landowners of common lands usurpation. In 1779, the Council urged to re-establish the communal regime of the area, so that neighbours could freely profit from grazing, and gathering fruits from the forest common.

Before the eighteenth century, main conflicts consisted in jurisdictional disputes regarding communal territories. Part of these problems came from the original nature of the commons, most of them created during the Christian Reconquest period of the Iberian Peninsula. In the Reconquest process, the crown, ultimately owner of the common lands, granted charters (*cartas-puebla*) to *concejos*, transferring them the management and use rights of common surfaces (Wing, 2015). Whereas these concessions detailed the parameters for an acceptable use of the commons, territorial boundaries were not clearly defined. These blurred limits later resulted in jurisdictional conflicts among *concejos* themselves, but also between *concejos* versus nobility, and *concejos* versus the crowd, provoking serious disputes due to usurpations, land abuses, and inequalities in resources' access and use rights (Aragón, 2003).

The first type of conflicts, among *concejos* themselves, comprised usurpations between neighbouring communities with boundary territories or in depopulated areas, without recognized owner. The second type of conflicts, among *concejos* and nobility, consisted on a social struggle starting with neighbours' opposition to pay canons for using the common lands, and habitually followed by the succession of litigation-resistance-judgment-agreement. The agreements, named *concordias*, were meant to indemnify the non-payments of canons when judgments sentenced in favour of nobility (Piqueras, 2002). The third type of conflicts, between *concejos* and crowd, will be further analysed below due to its similarities with the process of commons' dismantling followed later by the liberal politics that emerged in Spain after the Old Regime (nineteenth century).

Firstly, it should be remarked that, despite common lands were initially favoured and promoted by Spanish Christian crowd, over the centuries, royal policies regarding the communal lands management evolved towards a greater interventionism (Ramos, 2007). Interventionist policies grew particularly, from the beginning of the sixteenth century, when the king Philip II attributed the decay of Spanish naval shipbuilding empire to a negligence in woodlands conservation. Aiming to avoid further negligences, the crowd issued norms applicable to forests located nearby the coastal areas. These regulations contained a set of environmental rules with important social implication as they established monitoring systems among community members. Nonetheless, regulations did not achieve their purpose, as rural societies were not committed to the new code and they offered resistance to crowd efforts to privatize forest commons. Thus, peasants continued carrying out practices like the felling and debarking of trees or the ploughing of forested lands for its transformation into crops (Rey, 2004).

Regulations' unsuccessful result led to the promulgation of newer and more restrictive ordinances in 1748. Indeed, some authors have considered these ordinances as a first attempt

of appropriation of the forests by the State (Valbuena-Carabaña et al., 2010). From the very beginning, there was a great opposition of the peasantry to the ordinances. Initially, resistance took legal forms, with peasants' complaints of common lands usurpations and the unclear legal concepts of ownership and use employed by the State during their intervention of forest commons. In northwest regions, like Galicia, regional governments claimed that woodlands provided not only pastures and agricultural areas to rural societies, but also firewood and timber for the construction of houses and crop fences, furniture, and raw material for multiple occupations. There were also accusations of forest abuses committed by the State agents, and errors in species choice. Additionally, community members also used resistance techniques such as the ruin of afforestation areas, bad practices of pruning in trees, no clearance of scrubs, or land usurpations (Rey, 2004).

The negative consequences resulting from forest commons intervention concluded with the reform of forest policies in 1790, which finally turn to a balance between State and rural communities interests' ones, with the government allowing traditional practices in forest commons again (Rey, 2004).

4. The dismantling of commons in the nineteenth and twentieth centuries

The feudalism crisis and the transition of Europe to capitalism gave rise to the establishment of a new liberal framework that initiated a process of privatisation of communal resources in the nineteenth century in Spain. This process provoked a social transformation due to the different interests of each social group. First, previous feudal middle class, foreshadow of the bourgeoisie, seek to move upward in the social ladder by emancipating from the feudal social order. Second, peasants defended the resources they used for the subsistence of their household economies, in a period of time in which collective uses acquired a higher importance as support of the way of life of many rural families. Thirdly, the State and local entities, often in debt, look forward to revitalize municipal rents and enforce their management rights over local lands (Sanz, 2002).

All together contributed to, by the beginning of the twentieth century, traditional practices experienced a progressive decline, resulting in the disappearance by mid-century of the supportive role that commons had once played for the persistence of rural communities (Piqueras, 2002; Ortega, 2012).

4.1. The process for the commons' dismantling

Privatization strategies of the commons broke the social structure and cohesion between rural communities' members, ending up with the traditional solidarity among peasants (Sanz, 2002). Piqueras (2002) distinguishes among three ways of commons' dispossession: legal disposals, nobility appropriation, and land usurpations.

Legal disposals

Following the liberal movement spread through Europe at the end of the Old Regime, a set of legal codes were issued in Spain with important consequences for the Spanish communal system. The new legal framework enforced the usurpation of common lands and use rights accentuated since the seventeenth century. First, the new legal code written down in 1812 did not recognize the presence of communal property in Spain, despite the large tradition of exploitation of forest commons in the country. Second, the new legal framework enforced the usurpation of common lands through the disentailing policies approved in 1855, extended until 1924. And finally, the third way in which the new legal framework enforced the usurpation of common lands was by a disempowering process of the traditional forms of self-regulation historically performed by the *concejos* over their resources.

To put in practice the disentailing policies of *concejos'* properties, liberals based their ideas on the underutilization of communal resources. The original aim of this policy was to increase the number of rural small land-owners by releasing to the market land properties that were, according to liberal terms, lying stagnant. However, the law did not achieve the objective of creating a better land distribution, as vast quantities of property were acquired by an increasingly dominant bourgeoisie, particularly in the latifundist areas. Interestingly, the liberal political discourse adopted the opposite criteria for justifying years after the establishment of a state forest monitoring for the management of common forest-related resources survival from the disentailing process. By then, the overexploitation that rural communities exerted over public woodlands –property regime in which forest commons were included during the disentailing process– led to the creation of a technical administration to supervise forest uses. Thus, in 1863 the monitor of forest commons by a State Forestry Administration was implemented, with the aim to control custom uses by including them in annual forest management plans. However, as reported by many authors, those plans overly restrictive to traditional uses as their purpose was to avoid the use of woodlands by the local communities (Cobo et al., 1992; Moreno, 1998; GEHR, 1999; Linares, 2000; Piqueras, 2002).

Nobility appropriation

During the Old Regime, the privilege status of feudal lords allowed them to gain a dominant position over the rest of social classes, and thus enjoying of higher access and use of common lands than the rest of community members. In many occasions this privilege led to usurpations of collective uses. This is the case, for example, of Enguera village, in Valencia, which in 1846 sued to the Dukes of Cervellon for the usurpation and use of local woodlands. The court declared that those forests belonged to the Dukes, but that neighbours could use them from cattle grazing and extraction of timber and firewood without paying any tax. The final agreement between the Dukes and the community members was to give a portion of the former forest

commons to the nobles, in exchange of free access to the rest of the forested area (Piqueras, 2002). The example shows how, during the establishment of the Liberal Regime, the occupation of local positions of power was an essential instrument for the bourgeois to continue with the enlargement of their personal domains at the expense of common lands (Sanz, 2002).

Their representation in local institutions guaranteed the nobles keeping relations of dependency and dominance over other members of the community. Besides, the control of the local governments enabled local elites to increase their properties on the detriment of common lands and uses. There were multiple patterns of appropriation: from the allocation of private uses in local lands, to the encroachment of common lands for private exploitation, or the encouraging of municipal debts in order to solve them later by transferring public lands in which common lands were included (Sanz, 2002).

This type of dispossession of the commons was justified by liberal politicians. Thus, in 1813, the seventh Count of Toreno –liberal deputy– affirmed that communal property, by being of everyone, was ultimately not preserve by anyone. In his opinion, wealthy people were the unique ones really using the commons, which, when transformed to private property had an owner interested on cultivated them; whilst in the opposite case, no one would take care of their preservation (Piqueras, 2002).

Encroachment and usurpation

Encroachment and distribution of common lands were already performed before disentailing policies; however, the phenomenon accelerated from nineteenth century, with the liberal policies. The commodification of land tenure, the inequality of land accumulation process, and the substitution of livestock activity for subsistence agriculture attending to new market demands resulted in the proliferation of privatising mechanisms among peasantry (Piqueras, 2002; Rey, 2004).

Some authors consider this tendency as a way to release workforce for landowners, as peasants, deprived of their traditional means of subsistence, were forced to sell their labour in the market. Statements such as the ones claimed by Fermín Caballero –liberal intellectual– reflect this idea. Thus, this author wrote, in 1863, that the commons were enhancers of laziness and bad practices, promoters of ideas against proprietorship, and producers of detestable customs from immature societies, among others. Caballero justified the enclosing of commons for a better care of moral and good habits in benefit of the agriculture (Moreno, 1998; Piqueras, 2002).

4.2. Peasants' contestation to external threats after the nineteenth century

The growing pressure exerted on the commons during the course of the eighteenth century led to a new period of rural conflict in response to the liberal policies emerged during the nineteenth century (Piqueras, 2002). Indeed, the issue was a kind of underlying conflict in the Spanish rural societies, that flourished when peasants tried to maintain their economical subsistence. But, in contrast to the resistance practiced during the Old Regime, consisted in a set of very heterogeneous typologies of conflicts which combined individual and collective actions (Sabio, 2002). Thus, whilst during the Old Regime peasantry habitually contested external threats to the commons with actions like illicitly felling trees or encroachment of common lands, their forms of contestation to the liberal policies included a set of individual, unplanned actions as the occupation of fields, illegal pastoral activities, moving of boundary makers or fires, with organized movements among community members such as the collective purchase of former forest commons put up for sale due to Disentailment (Gavira, 1998; Linares, 2000; Piqueras and Sanz, 2007; Arango, 2009; Valbuena-Carabaña et al., 2010).

Among the tactics for the preservation of traditional forest commons are remarkable the protests against the abolishment of communal property rights that arose in north-eastern regions of the peninsula, as well as the protests for the defence of historical rights to profit communal goods, which emerged over the rest of Spain.

In northeast areas of the peninsula, most forest commons were characterized by presenting collective ownership. This collective ownership belonged to the neighbour community members of a specific woodland area. In these forests, neighbours acquired use rights of forest commons through their residential condition (Caballero, 2015). Nonetheless, the liberal state –in his eagerness of privatizing whether commercially exploit forest-related resources– denied the presence of communal property in Spain and considered these forests as public property. To avoid state usurpation, many rural communities decided to privatize themselves the common areas by distributing them among the neighbours. With distributions, communities also aimed at maintaining the integral, multiple uses of former communal areas (Soto et al., 2007).

However, in many occasions, conflicts were generated by the defence of common goods' use rights against prohibitions issued by the liberal administration. The demands of commercial exploitation of common lands, mostly forests, were in confrontation with traditional uses, which were also considered incompatible with the scientific forestry approaches raised during the nineteenth century. Rural communities' access to land, pasture and common goods became thus threatened (Soto et al., 2007). Peasantry resistance against limitations to the profiting of common forests and their increasing privatization was expressed through diverse forms of protest, defending their collective interests from external attacks (Cobo et al., 1992; Sabio, 2002).

Notably, everyday forms of resistance of Spanish peasantry was the most abundant and efficient form of contestation against the usurpation of forest commons made by the State. Initially, disputes consisted in legal actions –as recourse to the courts–, frequently ending up in conflicts like frauds, hiding of lands, threats to forest administration officials, non-payment of

taxes, moral discredit of elite members, non-cooperation, obstruction, coercion and violence with largest industrial timber producers... This various forms set up a tenacious resistance of peasant communities (Hervés et al., 1997; Sabio, 2002).

Within the legal framework, a remarkable form of contestation consisted in the collective purchase of forest commons affected by disentailing policies. This was done through the creation of neighbour societies that would pool capital for being able to collectively bid in the auctions and buy disentailed woodlands. Each commoner, often having to resort to loans, would pool money according to his possibilities. This collective action to avoid the loss of historical uses of the commons took place in many regions, particularly the north and inner Spain (Montiel, 2005; Medrano et al., 2013). This was the case, for example in Aragon, where the strategy followed by communities consisted in buying the most advantageous lots in order to avoid their acquisition by foreign buyers who habitually after the bid resold the lands a higher price. If lots could not be acquired, another strategy to prevent the acquisition of land by foreigners consisted on offering very high prices, and soon after, cancelling the sale. Sometimes, this way of obtaining common goods was accompanied by intimidations to foreign buyers and pressure to forest officials in order to reduce the price of the lots (Sabio, 2002).

This type of contestation also appeared in southern regions of Spain like Granada, where neighbours associated themselves to buy forest commons to local municipalities. That was the case of *Sierra de Güejar* mountainous area, which in 1864 created an association to acquire and regulate the access and management of their forest commons. The association drafted in 1866 a regulation specifying that neighbours were the legitimate owners of those common lands, and later, in 1907, included that the association had the capacity to take legal actions for the defence of communal uses and against usurpations (Ortega, 2012).

There were also episodes of resistance in not so legal ways. For instance, in El Bierzo, Leon, the contestation of local inhabitants to the state usurpation of their historical forests rights consisted on the damage of the natural resources in order to avoid their normal exploitation. This form of dispute, although it had long-term negative consequences for tree coverage, it impeded the exploitation of forest commons by the outsiders who bought them during disentailing process (Piqueras, 2002).

4.3. Adaptation

Although peasants' contestation had important successful results, rural community did not resist economic liberal policies assault nor the removal of social cohesion linkages existing during feudalism (Moreno, 1998). Factors that contributed to the dismantling of collective heritage in Spain include 1) the establishment of a monitoring ranger corps in 1876 as support to the constraint of traditional uses contained in the forest management plans written down by State Forest Administration; 2) the positioning of those plans to a higher influence of market forest-related products demand, reducing the multiple use of forest resources; 3) the

transformation of small peasants into labourers for being able to participate in the market and obtain from it good previously acquired in the forest commons; 4) the substitution of concejos by local administrative entities conformed by most powerful community members; and 5) the aggressive and contradictory State intervention to communal lands.

The fragmentation of common goods in nineteenth century Spain meant the unbalance of agricultural activities and contributed to leave peasants without enough lands with complementary uses. In the medium term, the dismantling of commons implied a profound historical change of the way that human activities interact with natural resources, with the subsequent implications to landscape, social structures and economic activities. Unsurprisingly, at the beginning of the twentieth century, common lands survived to Disentailment became in many cases, with the exception of forest commons, residual for rural families' economic activity (Piqueras, 2002).

5. Conclusions

Although during the Old Regime there were horizontal and vertical conflicts due to common lands, the essential role that common goods had for rural household economies motivated a social resistance to the appropriation of communal lands. Strategies like the protectionism of local economy, resilience of products obtained from forest commons and complaints over the use and legal definition of common lands represent forms of contestation for the defence of community customs and rights to external threats such as a growing influence of the market and privatization attempts by State. These forms of contestation also reinforced the social cohesion of pre-nineteenth century rural communities (Moreno, 1998; Piqueras, 2002; Ortega, 2012).

However, the dismantling of communal lands during the liberal period in the nineteenth century resulted in a reduced volume of publicly owned property, mostly communal. This surface reduction, at the same time as the persistent limitation to traditional uses, favoured a shift of peasants' activities to less diverse exploitations in private properties.

Acknowledgment

This research was supported by the Agència de Gestió d'Ajuts Universitaris i de Recerca AGAUR of the Government of Catalonia (2015FI_B00333) and by the Spanish Ministry of Economy and Competitiveness through the research project 'Citizen Science and traditional agroecological knowledge: How to increase citizen's participation in the Spanish inventory of traditional knowledge related to biodiversity?' (CSO2014-59704-P). This work contributes to ICTA 'Unit of Excellence' (MinECo, MDM2015-0552).

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