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Exclusion and control in Mexican *ejido* reforms
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Abstract

Among agrarian studies scholars, the unexpected effects of Mexican *ejido* land tenure reform in 1992 still engender perplexity. The *ejido* redistributive land reform had a successful phase of growth and improved welfare (1935-1970). The agrarian community and the *ejido* folded in a fairly homogeneous micro-government body, a plurality of rules of tenure, access and control of natural resources, and a multiplicity of power and authority configurations. But from 1970 onwards the Mexican agrarian reform became increasingly exclusionary and contradictory, precipitating a major crisis in both production and rural welfare.

The 1991-1992 reform was designed to address these crises. For some of its promoters, the purpose of the reform was to generate conditions for communities and their members to exercise autonomy and to build a new system of governance. Nonetheless the public debate back in the nineties, became increasingly polarized between government officials stating that the reform would attract investments and better productive conditions, thanks to a dynamic land markets, and left-wing activists that saw the reform as the dismantlement, privatisation and disintegration of rural communities. However, 20 years later, both predictions have been proven wrong: since 1991, the *ejido* sector has modestly grown –not decreased as it was meant– in terms of surface, number of nuclei and members; only 4% of the total area adopted private property rights.

In the last years, new research has brought insights to understand the moderate but continuous expansion of this land tenure system after 1992, not as “market failure” due to the “peasants’ backwardness”, but as a gradual and on-going process of formation, defense and governance of commons. These studies share a common analytical account: a focus on the direct and indirect effects of the PROCEDE program, which formalized voluntarily and without cost 95% of all *ejido* land from 1996 to 2005.

The initial purpose was largely to formalize existing practices of land tenure. However, using the metaphor of Albert Hirschman, this mainly *trait taking* initiative ended up being deeply *trait making*, and modified practices and property relations. A significant number of case studies have documented that the formalization process led to two possible local readings: one that assumed an inclusive formalization of land tenure; and other an exclusive one. Under what conditions *ejido* reform assumed an inclusive or exclusive shape?

To address this puzzle we will explore two hypotheses: first, that the 1992 legal reform and the regularization process underpinned mutual adjustments between household economic and social decision-making and the nature of local governance arrangements involving *ejido* institutions. Second, that social mobility (migration) and control over agrarian property (titles and land) play fundamental roles in intergenerational and local

power negotiations. As formalization is a complex process that, more than minimize uncertainty, it changes its shape in politically contingent ways, governance evolved in different directions.

The political and legal basis of the ejido as a product of the Mexican revolution.

The social pact which guaranteed stability and peace in the countryside for much of the last century was achieved under the regime of President Cárdenas (1934-1940) after 25 years of armed revolution. Over those years, the peasant revolt was militarily defeated, its political program and main social demands incorporated into the constitutional framework of the new regime, and its leaders subject to repression or absorbed by the political system. In addition, alternative powers that had challenged the state's hegemony in the rural sector -the *hacendados* (large estate owners) and the clergy - were rendered politically powerless, and the new institutional system was consolidated on the basis of a patronage system.

Article 27 of the Constitution, which emerged from the 1917 Constituent Congress, established the state as the sole creator of property and went against the conventional doctrine of natural law - in the sense that the rights of ownership of the land and water belonged *originally* to the nation which “has had and has the right of transferring their control to private individuals, thus giving rise to private property”, and that “the nation shall always have the right to impose on private property restrictions in the public interest”

¹. Even though the Constitution provides that the state is at all times the representative of the nation, in practice by setting up a presidential regime it transfers to the President itself the representation of the nation and thus the role of creating private property. (Gordillo, De Janvry and Sadoulet, 1998). *Article 27* recognized rural property ownership in three forms: small private property, indigenous communal property and *ejido* property, with a differential judicial treatment for the *ejido* and the communal property.

There were also specific legal codes that very strictly regulated the organization of the *ejido* and secured the rights and obligations of the *ejidatarios*. *Ejidatarios* had to work the land directly and they could not hire wage labor. They could not rent the land or sell it. Absences from the *ejido* of more than two years led to a loss of right to the land. All *ejidatarios* had to establish the order of heirs to their land in writing, usually naming a

¹ Constitución General de los Estados Unidos Mexicanos.

spouse or partner as the preferred successor. *Ejidatarios* could vote and be elected to the executive committee of the *ejido's* assembly. They voted for the definition of an internal set of rules that regulated their rights, particularly their access to the community's common lands. Each *ejidatario* also had the right to a homestead (urban) lot on which to establish a residence and to a maximum of twenty hectares of land for direct cultivation

In addition, a number of mechanisms existed through which the state intervened in the internal life of *ejidos*. *First*, there were interventions directed at validating the *ejidos'* internal process of decision-making. All important decisions were made by the Executive Committee –*Comisariado Ejidal*- and the Oversight Committee –*Comité de Vigilancia*- and validated in the *Ejido General Assembly* distributing homestead lots and land plots for cultivation; approving internal rules; requesting credit and other public support such as schools, running water systems, or roads; regulating access to common lands; and defining working rules within the *ejido*. The General Assembly had itself to be validated by the presence of a representative of the Ministry of Agrarian Reform (SRA). Furthermore, convening an assembly was only legal if a representative of the federal government or of the municipal authority endorsed it.

Second, the state intervened in arbitration. Family controversies about the use of land plots or conflicts regarding inheritances had to be settled in state administrative tribunals. These tribunals were part of the structure of the Ministry of Agrarian Reform. They also settled boundary disputes between *ejidos*, between *ejidos* and private landowners, and between *ejidos* and indigenous communities.

Third, the state controlled the flow of public resources to the *ejido*. Since the late 1970s, private banks have made loans to *ejido* members, but before then only state development banks offered this service. In order for an *ejidatario* to receive credit, an official authorization from the *ejido* assembly was required. However, the credit was given to the *ejido*, not the member. Thus all its members were co-liable for the total amount of credit received and had to offer their harvest as collateral. Until the early nineties, all borrowers from the official bank were required to purchase crop insurance from another official institution. In order to secure the harvest as collateral, the official bank established an agreement with the *ejido*, with each member who had received credit, and with the state agency that bought the *ejido's* crop and livestock production. CONASUPO (the National

Basic Foods Company), bought the harvest at an established guaranteed price and issued joint checks for the *ejidatario* and the credit agency. Part of the credit was paid in kind. If the credit was for fertilizer, FERTIMEX, the state agency for the production and distribution of fertilizers, was responsible for repayment and discounted it from the joint check issued the *ejidatario* and the state credit agency. If the credit was for insecticides, other chemical products, or machinery, the state bank established contractual arrangements with the respective private enterprises. In the irrigation districts, an irrigation permit was also required. This permit was issued by the Ministry of Agriculture (SARH).

Fourth, there were extensive social welfare and infrastructure interventions. The Ministry of Education (SEP) established schools and provided teachers. Public organizations for health, housing, food aid, roads, ethnic issues, and recreational activities also intervened. This extensive state intervention into social services focused most particularly on the indigenous communities and the poor *ejidos*, which contributed to the development of a functional distribution of government agencies across *ejidos* and a deepening of heterogeneity in the rural sector: while the social development agencies concentrated on meeting the needs of poor *ejidos* and indigenous communities, the agencies promoting production attended to the demands of private producers and the more prosperous *ejidos*.

Finally there were the specifically political interventions. It seems to be a frequent feature that many public interventions in political or economic markets -- particularly all inclusive interventions sustained over a long period of time and requiring strong monitoring and enforcement devices-- create countervailing responses and secondary markets. In fact, the maintenance of the *ejido* was supported by secondary or "black" markets. (Gordillo, 1988)

For example, the prohibition against selling *ejido* land created a secondary market (Warman, 1980; Gledhill, 1991). Widows and *ejidatarios* who had migrated for good were the primary participants in land sales, while sales of surplus lands or part of an *ejidatario*'s land to resolve severe economic crises were a common feature. The prohibition against renting land created an even more active illegal market, especially in irrigated areas. From the *ejidatarios*' point of view, the temporary rental of a plot of land was a means of economic recovery in case of hardship. Frequently the illegal rental of *ejido* land was related to migration (De Walt, 1979). In some cases, the rightful *ejidatario* migrated for an extended period of time and rented the land to the *ejido* authorities to circumvent the rule

that prohibited him/her from leaving the *ejido* for more than two years. In other cases, an old *ejidatario* or his widow rented the land because they had no children to help work it.

Alternatively, wage labor was hired to replace the labor of family members who had migrated. The *ejido* assembly, which had to be held monthly in the presence of a government official, was frequently conducted without the official's presence, although the latter nevertheless established his presence *ex post facto* in order to obtain favors and perquisites. Sometimes assemblies that had never taken place were invented, with the connivance of the government representative. Credit, insurance, roads, and schools could be obtained in this way, and this method also served to expel *ejido* members, incorporate new *ejidatarios*, and dismiss *ejido* executive committee members.

The secondary markets generated their own political and economic agents: the *ejido* bosses. Since all black markets break the law, it was necessary for these agents to legalize their offences. For example, selling a plot of land was legalized through a process of elimination of *ejidatarios* and new assignments (*depuración y nuevas adjudicaciones*). The seller of the plot ceased to be an *ejidatario* at the time of sale, adducing any legal reason that would suffice, while the buyer was incorporated as a new *ejidatario*. Also, a member of the *ejido* who left for more than two years could be excused from working the land for "health reasons". Without such mechanisms, many of the peasant leaders who had stayed away from the *ejido* for twenty years or more would have lost their land. Sometimes an *ejidatario* would not leave officially but would "lend [his land] without compensation" to the *ejido* executive committee or to a person authorized by the committee, although in fact he did so in exchange for money. The same system was used for renting land. To cover up an *ejidatario*'s absence, his name would always appear on the list of those present at the *ejido* assemblies.

Furthermore, the *ejidatario* was on the credit list of the official bank and even on the list of those taking out insurance with the public agency. To compensate tenants for the shortness of the rental period (which was necessary because of the illegality of the transaction), the *ejidatarios* who rented their land also allowed their respective tenants to use their names. In this way the tenants gained access to official credit, which was subsidized. Some private landowners in northeastern Mexico went so far as to rent not only *ejido* parcels but even entire *ejidos*.

Some of the secondary markets that emerged from interventions in economic matters became highly lucrative businesses. For example, the “disaster business” consisted of feigning damage to the harvest and collecting the crop insurance. In order for this to work, the cooperation of an *ejido* executive committee member was necessary, because he or she was the first to be notified of the “disaster”. The cooperation of representatives of the Ministries of Agrarian Reform and of Agriculture and Water Resources was also necessary, because they were responsible for verifying the supposed disaster. Insurance company agents, official bank representatives, and of course the *ejidatario* himself all cooperated in confirming the “disaster” too. The *ejidatario* collected the insurance for the “damaged” harvest and then sold the same harvest through regular market channels. For the *ejidatario*, this was a way of counterbalancing the low guaranteed prices or simply making a little extra money. And what did the other participants in the deal gain? This is where the official bank agent came in. Credit had been given to the *ejidatario* in installments. The last installment paid out before the disaster claim was filed was endorsed over to the official bank agent, who then collected the money and distributed it to the whole chain of collaborators in this chain of corruption and cronyism (Rello, 1987).

The ejido as a socioecological system

Of the 106 million hectares donated by the government to the farmers through the agrarian reform, 33.7 million hectares were granted as plots and 69 million hectares were granted as common property (Ejidal census, INEGI, 2007). The PROCEDE data on the total number of ejidos and communities (IC) that have obtained their certification in their common lands presents a figure of 62 million hectares out of 69 million hectares of common lands. On the other hand according to the Inventario Nacional Forestal y de Suelos 2004-2009 from the Comisión Nacional Forestal (CONAFOR) 2008, the total forest surface covers 139.6 million hectares, of which 66 million hectares consist of woodlands. According to the Diagnóstico Estratégico Forestal para México 2025 developed by CONAFOR in 2001, 80% of the forest surfaces are owned by 12,000 ejidos and communities, that is, 52.8

million hectares; 15% in private property and 5% in public property. Finally one cannot emphasize enough that Mexico has a rate of deforestation of 600,000 hectares per annum.

The *ejido* is a complex socio-ecological system² integrated from a physical point of view by an area of parcels mainly for agriculture and livestock development, an area of homestead (urban) lots, which normally combine living facilities with in-garden activities and small livestock; and an area of common lands normally forests, pastures, swamps, rivers and ponds.

The ejido governance system combines two intertwined types of institutions. One type of institution – that is to say a combination of rules and norms- is based on the direct social representation of the farmers and the inhabitants of the community –or communities- comprised within an *ejido* with the purpose to organize their livelihoods around the production, exploitation and distribution of the products of the natural resources –land, water, forests and the like- entitled to them through the agrarian reform distributive process. So it is an institution of self-governance and of social representation similar to unions or other forms of associations.

The other type of institution is based on an array of state interventions in the internal affairs of the communities with the purpose of guaranteeing stability in the countryside through controlling the *ejidatarios* (farmers) and its territories. This menu of interventions go from legal attributions to distributed lands, to intervening in the internal decision making processes and arbitration in internal conflicts, to the control of the public resources flows in forms of credit, insurance, public works and anti-poverty programs. So it is also an institution for political control. *The dynamics of this SES is then the result of the tension between the ejido as self-governing institution and the ejido as an institution for political control.*

² A social-ecological system (SES) is “an ecological system intricately linked with and affected by one or more social systems.” (Anderies et al., 2004: 1). It includes the resource users, their governance system, the physical (man-made) infrastructure, and the resource system (ecosystems), and the inter-linkages between them and with external factors (including other SESs).

The *ejido* governance system based on institutions of self-governance has different levels of aggregation from the individual *ejidatario*, its siblings and the neighbours to the extended family to different forms of subcoalitions, working groups organized around a specific productive activity, to formalized associations to the General Assembly and to different linkages to other *ejidos* or groups within the other *ejidos* either in formal or informal networks and associations.

The *ejido* governance system based on institutions of political control also has different levels of aggregation: from the General Assembly to the Executive Committee and, to regional, state and national networks of the corporatist arrangement namely the Confederacion Nacional Campesina – and other national *centrales*³ – and into the political machinery of the dominant party, Partido Revolucionario Institucional.⁴

The dynamics of the *ejido* as an institution of self-governance is guided by norms and rules based on a combination of trust building and reciprocity. Albeit the diversity of the *ejidos* the main norm is ingrained on loyalty towards the *ejido* as a result of past struggles to obtain land and its role in terms of social and political representation within and out of the *ejido*.

³ Throughout a long period –roughly 1940-1970-, the organization of the farmers was expressed above all through the national unions, called *centrales nacionales*. Even the important splits that occurred within the CNC - in 1948, when a large group of peasants encouraged by the formation of a new left-wing party (PPS) formed the Unión General de Obreros y Campesinos de México (UGOCM), and in 1962 when another large group of peasants encouraged by the Cardenista faction in the government and the Communist Party set up the Central Campesina Independiente - adopted the format of a national union. This organic structure was characterized by the following elements: centralized decision-making, vertical chain of command, the political weight of the internal bureaucracy, its role as a passive entity transmitting decisions taken externally, a catch-all organization which introduced an enormous variety of actors and lack of collective identity, a lack of activity on the part of the grassroots units, passive membership and a concentration of political initiative in the leadership and lastly the overall structure determined by political patronage networks. These features were present to a greater or lesser degree in all the peasant national unions, even those which claimed being independent of the government, which suggests that it was the *institutional arrangement as such*, regardless of the ideological concepts which it advocated, that determined its specific functioning

⁴ In 2000 after 70 years of a dominant one party system an opposition party won the Presidency of Mexico for the first time. Before in 1997 the PRI had lost its control over the Chamber of Deputies and in 2000 it also lost its control over the Senate. The PRI still had a majority of the 32 governors but since 1997 has lost the control of the key Federal District where Mexico City is located and since then many governorships have been won by different parties. Nevertheless the integration of *ejidos* and farmers associations within the political party machinery has outlived although weakened the end of the one party regime.

The dynamics of the *ejido* as an institution of political control is guided by norms and rules based on a *quid pro quo* exchange. Basically social benefits delivered by the public officers in exchange for acceptance of the political regime as it was, which actually meant in exchange for restricted democracy. This *quid pro quo* includes access to public office and political representation in the local and national Chamber of Deputies or in the Senate for the farmers' leaders in exchange for exercising political control which implies both guaranteeing votes for the PRI in the national and local elections and channelling protests through the established institutional arrangements –no mass protest demonstrations, for example.

The main norm albeit the diversity of the *ejidos* is based on loyalty towards the political regime constructed on the allegation that the political regime represents the true aspirations of those farmers' that fought for justice in the countryside in the form of the distribution of lands.

Because it evolved as it was being implemented, many aspects of the machinery of political control emerged randomly. Several elements contradicted each other, and the instruments of control varied from one administration (*sexenio*)⁵ to the next. There were, however, two features of this political machinery that did not vary. *Its inclusive nature* which means that, rather than excluding new social agents or possible dissidents, the regime usually tried to co-opt each group under the existing rules. Secondly there was a strong agrarian ideology, which helped to hold the structure of the *ejido* altogether in that it was the cornerstone for developing reciprocity practices.⁶ This ideology was organized around two basic themes: i) the alliance between the peasants and the regime, with the supposed objective of assuring the progress of the former, and ii) the need to resort to political agents as intermediaries between peasants and the rest of national society.

⁵ Presidential elections occur every six years as well as elections for the Senate. Elections for federal deputies occur every three years. Governors are elected every six years and local deputies as well as majors are elected every three years. In all case re-election for successive periods is forbidden by constitutional law.

⁶ Ostrom emphasizes that strategies of reciprocity are contingent to previous experiences and training and add "the more they have faced retribution the less likely they estimate that free-riding in an attractive option".(2007:198)

The machinery of political control over the *ejidos* was supported by secondary or “black” markets. They played an important role in adapting political and legal interventions to the dynamics of the *ejido* as an institution of social representation. This interaction between two different and frequently contradictory logics affected the way both of them functioned, making them compatible if not convergent through the black markets.

[Insert figure 1 around here see annexes]

The tension between the *ejido* as an institution of self-governance and the *ejido* as an institution for political control is mediated through the presence and persistence of secondary markets (black markets) and its key agents, the local bosses. The major effect of these forms of mediation between the crucial tension was to dilute the role of what could be called the “natural” ideology that stem from the past stories of the *ejido* formation, namely the adherence to the *ejido* and to the national regime based on historic legitimacy. Or to put it simply, the main effect of these forms of mediation was the erosion on the *loyalty link* that governed the relations of the farmers with the *ejido* and with the political regime. This inevitable tension was expressed in the elective structure which determined the way in which the conflicts and struggles in the countryside were to be expressed.⁷ Particularly the role of the monitor –Executive Committee and the Overview Committee, *Comisariado Ejidal and Consejo de Vigilancia-* were radically transformed from a conflict resolution instance into agents of political manipulation and control. The interactions between both type of institutions within the *ejido* and the development of the secondary markets had enormous efficiency and equity costs, both in resource deterioration, in public budget wastes, and more importantly, in the welfare levels of the *ejidatarios*.

As time passed, legitimacy eroded when corruption made its way in the *ejido* leadership and the CNC began to be out of touch to the new and more pressing demands of the new generations of farmers. Initially the government strategy to confront this erosion was to

⁷ See Prseworski, 1985, especially p. 73: “The assertion that social relations structure class struggles must not be interpreted in a mechanical fashion. Social relations ... are a structure of choices given at a particular moment of history”.

promote other farmers' associations different from the CNC but also integrated to the PRI and linked to the basic tit-for-tat arrangement.

Mobilizations as means of production of institutions

The period from mid-sixties to mid-eighties was to be characterized by great instability in the farmers' households not only as a result of migration but also because of a great many conflicts within households, between households, against the ejido bosses (caciques), all of which had as its basic impulse the barriers for accessing land. Within the ejido more people were demanding to transform it. This took the form of a direct challenge to the bosses and a slow and sometimes underground process, generated by the formation of committees of land applicants. In one way or another land-demand committee also created new thinking related to the operation of the ejidos, and its interactions with the state agencies and other farmers. Furthermore, the people involved in this small local movements, found that they were becoming enormously influential in terms of governmental response as a reaction to mobilization -even if it was normally limited within the ejido- and boycott, which took the form of not attending the assemblies and not abiding to its rulings. All these processes led to a new wave of peasant mobilizations.

One phenomenon was beginning to emerge very noticeably in the early seventies: the generational takeover from the original ejido members. It should be borne in mind that most of the ejido members obtained the land between 1930 and 1940. Even though the land distribution did not stop, the number of ejido members and the geopolitical location of the first ejidos made this generational takeover quite significant.

The form it took was different from the first generations of ejidatarios, but perhaps what was most important was a combination of: i) a process of fragmentation of the ejido parcel allowing informally access to land to the eldest son (primogeniture) albeit in a very unstable manner since it excluded the rest of the siblings, ii) the promotion of land applicants committees -formed basically by ejidatarios' sons and landless neighbors - requesting the authorities that the original ejido lands be expanded, and iii) permanent and temporary migration of some of the other siblings, following a pattern in which part of the

household went out to a particular migration area in advance of the others, settled down there and subsequently formed the basis so that the other members of the household could join them later as permanent settlers.

In the peak of the mobilization in the seventies the official associations –official in the sense that they were all members of the PRI- were summoned to create an alliance called Pacto de Ocampo through which they were to guarantee control over the protests. Since the main demand at that time was access to land “channelling the protests” meant to continue the process for demanding land which, after the initial period of land distribution (1935-1963) where more than 40 million hectares were distributed, derived into distributing land of limited agricultural potential.

But the pressure for land was very high and the new leadership emerging from the grassroots saw with contempt what was considered a corrupt and bought by the government leadership. The mobilizations scaled up in their pressure and begun to invade private lands that were given in Presidential Decrees to the farmers’ but which were never formally executed because of the different legal procedures that prevented it to happen. By the end of President Luis Echeverria’s sexenio (1970-1976) the government was forced to expropriated more than 200,000 hectares of the best irrigated lands in the northeast of Mexico and almost 4 million of rain-fed pasture land in what was to be the last major land distribution of the PRI regime.

Two consequences arose from these expropriations in 1976. The wealthiest segment of the business community broke its ties with the PRI regime and in fact was crucial in the political élan the main opposition party, the rightist Partido Accion Nacional got thereafter.

Second, the weakening of the official farmers’ associations gave way to two major networks the Coordinadora Nacional Plan de Ayala at the end of the seventies and the Union Nacional de Organizaciones Regionales Campesinas Autonomas in the eighties

which broke the political monopoly of the government over the farmers and in fact paved the way for the 1992 rural reforms.

My focus is on the Union Nacional de Organizaciones Regionales Campesinas Autónomas –UNORCA- which can be loosely translated as National Union of Autonomous Regional Farmers Associations. The name in itself expresses the purpose and in fact the political strategy followed in its construction. No wonder the approval of its name took more than six years of deliberations. First it clearly indicated that it was to be an organization of regional organizations. The main level of aggregation was the networks between ejidos and indigenous communities at the regional level. The members of this national network were then in themselves regional networks. Second, naming it as “farmers’ associations has a precise purpose: to draw a distinction between those that has already access to land and thus to agriculture, livestock and forestry activities, and which were members of UNORCA, and those that were still fighting to having access to land. This was a strategic choice that was made during the first years of the general deliberation that took as mentioned six years. It was based on an evaluation of the political conjuncture. On the one hand the struggles for access to land were basically captured by a group of lawyers and consultant firms deeply linked with the Ministry of Agrarian Reform that were organized to defuse agrarian mobilizations into the lengthy bureaucratic procedures and at the same time make money out of the needs of landless farmers. When peasants broke with that machinery, they had but one alternative: to mobilize and invade directly the land they were demanding. This strategy worked in early seventies as it lead to the expropriations and donations of an important chunk of land. But after 1976 it became clear that the government would never allow again that to happen. So peasant movements in demand for land were confronted with the likelihood of strong repression if they pursue this avenue. So for the organizers of UNORCA this was one of the strongest reasons to focus only on farmers who had access to land.

The other reason for this strategic decision sprung from the core factors that lead the contestation movements in the early seventies. The internal change in the balance of power within the ejido in favor of the new generation of ejidatarios’ siblings that fought for access

to land was strongly reinforced when many of them actually obtain the land after the 1976 expropriations.

There were three sources of pressure for land. First the siblings of the ejidatarios that organized committees for demanding land within the ejido. Those that obtained land –either thru the process of enlargement of the original ejido or thru the access to land in the vicinity of the old ejidos- deeply transformed it by reducing or destroying the power of the bosses.

The second source of pressure came from the rural workers who migrated to the wealthier regions of commercial agriculture, namely the irrigated districts basically on the North and Northwest of Mexico. In fact most of the expropriations in irrigated lands of the 1976 benefited these migrant-farmers many of which had established themselves with their families since the early sixties. So these new ejidos transformed themselves into the beacons of hope for the democratic transformation of the countryside and in fact played the role of the main springboard for the construction of the UNORCA network. The third source of pressure for land came from the indigenous communities. Most of these communities were given access to land thru the recognition of their ancestral deeds –many of which went back to the pre-colonial years in the 15th century. This mainly happened during President Cardenas years (1934-1940); so by the seventies many of that land had been illegally grapped to the communities by local bosses, powerful politicians and wealth cattle growers or forest business persons. In fact most of the land in possession of the indigenous communities is land for grazing or forestry land. So in the seventies and also triggered by the generational takeover, many occupations of land were in fact made by indigenous peasants that seek to recuperate their lands illegally seized. Again this had a major impact in the internal transformation of the communities.

Finally the crucial word in the UNORCA name is autonomous. It also took most of the six years of deliberations to decide between the word independent and the word autonomous. From the very beginning of this process it was clear that this network should not follow the steps of the official organizations. It could not be part of the government nor of the official associations. So that was the argument in favor of naming it independent. But what about other political parties, especially the then left wing Partido Socialista Unificado de Mexico(PSUM)? The word autonomy won favourable opinions within the founding organizations, based on the idea that farmers should be members of the UNORCA network

irrespective of their political leanings. But the crucial argument that tilted the decision toward the word autonomy was the proposal of assuming as the main purpose of this network the transformation of the ejido from mainly a political control institution to a self-governing institution.

Over the backdrop of the farmers' mobilizations of the seventies and the eighties, the economic demise of the import substitution economic model in Mexico,⁸ and the control by a new generation of technocrats of crucial levers of power in the national government, a sweeping roadmap of structural reforms was implemented in Mexico during the Presidency of Carlos Salinas de Gortari (1988-1994). One of such areas of reforms was the rural area where the convergence of free marketers and social reformers made possible the reforms. These reforms rooted in the recent farmers' mobilizations, expressed in some way an effort from the national government to devolve to farmers and communities their decision process through the redefinition of property rights and other reforms in public agencies. It implied a great deal of local democracy twined with an improved functioning of rural markets related to land, inputs and trade.

The implementation of the reforms was no clear cut success either for the technocrats or for the social reformers. It did give more power in the decision-making processes within the *ejido* and clearer property rights to the farmers, but still the political control machinery though eroding was still in place as well as the functioning of black markets. Two unexpected events had further impacts on the *ejido* and the countryside at large. On the one hand the major economic crisis of modern Mexico in 1994-1995⁹ and on the other the major electoral reform in 1996 that paved way to the demise of the dominant party regime.

⁸ In addition to these policy changes, as a result of the debt crisis of 1982 and the subsequent implementation of stabilization and adjustment policies, a rural development strategy based on the pervasive presence of the government ceased to be economically viable. This strategy was very costly since it was contingent on the massive disbursement of subsidies and soon became highly inefficient and regressive in the sense that the main beneficiaries were the large commercial landowners and corporations. Subsidies were channeled not only to the ejido sector but also and mainly to the private sector in agriculture. These subsidies had different purposes: for the ejido sector, they were intended to grease the machinery of political control; for the private sector, they sought to stimulate production.

⁹ [The impact of the 1994 economic crisis](#)

To analyze the impacts of the rural reforms (1991-1992) on the ejido and the countryside one has to consider first the immense diversity of ejidos –with very different ecological, social and historic backgrounds. In itself this diversity warrants a broad array of differentiated impacts. Additionally, many other legal and institutional reforms implemented some years after have had important impacts. On top of that the economic crisis and the political reform both occurring within as short period of time after the reforms were initially implemented have had long lasting impacts. What results is the difficulty in segregating the specific impacts of the reforms from the other intervening factors.¹⁰ Thus one has to look on the differentiated impacts based on typologies at agro-ecological level and based on response strategies at the household and communities levels. What seems to have resulted is that the national government has lost overall political control over the ejidos and thus created an opportunity for the ejidos to devolve as an institution of social representation. The political machinery has been fragmented and captured either by local elites or new players such as drug dealers. The public agencies have been segmented following the lines of partisanship and patronage.

Comment [G1]: Hablar de esto

The constitutional reform of 1991-1992 and its impacts in policies and institutions

To understand the importance of this constitutional reform one must take into account that the agrarian sector comprises 250 millions acres of land for agriculture, pastures and forestry. It embraces 3.5 million households beneficiaries of the agrarian reform, which means that around 14 million persons plus 6 million neighbors live within *ejido* communities.

It is the decay of the *ejido* system in a global context of political and economic liberalization that induced the profound reforms initiated under President Salinas. For some the purpose of the *ejido* reform was simply to generate a free market of land, for other it was conceived basically as a political reform since it would presumably weaken the links with the government and the one-party system. For others the purpose of the reform was to

¹⁰ The most important predictor on the different adaptation paths to 1991-1992 reforms taken by the ejidos is the certification program (Programa de certificación de derechos ejidales, PROCEDE)

generate the possibility for the communities and its membership to exercise autonomy and to build a new system of governance in the countryside.

The constitutional reform presented two reference points to clarify property rights, establishing the link between prohibitions and rights. On the one hand the prohibition regarding the formation of *latifundios* (large estates), which was maintained in the constitutional reform and second to the obligation of the government through the Executive branch to provide land to those that request it without any timeframe or limitation except for qualifying for a land grant, which was abrogated.

On the other hand, the reformed article 27 introduced communal and ejido property to the constitutional level –before it was only referred to in secondary laws-, in order to end confusion regarding who were the owners of the ejido lands. Such confusion set the basis for the government’s overextended interventions into ejido internal matters. As a result of the reform on article 27 it is now clear that the owners of ejido and communal property are the ejidos and the indigenous communities, which are viewed by the law as separate legal entities. A separate and distinctive treatment was explicitly addressed to each of the three components of an ejido community: the individual parcel, the urban parcel and the common land. The commoners and ejidatarios have user rights to the land within the ejido and as a result of the reform can also take full ownership of their individual parcels. The limits on parcel ownership within an ejido are defined to be either up to 5% of the total area of the ejido land or the limit to the private property regime, whatever results smaller.

Ejidos were vested with the right to govern themselves by providing in turn the general assembly with the right to determine its land use and rights and obligations. This considerably limited, in return, the role and attributions of the Executive Committee – Comisariados Ejidales. The agrarian law creates a new certificate for common land property rights and opens the possibility that such certificates can be used for commercial partnerships and joint ventures provided that the general assembly is in agreement.

Parcel land within an ejido will be able to enter commercial arrangements in two ways: within the ejido through the selling of parcel land rights to another member or neighbor and

by notifying the National Agrarian Registrar of the change in property rights. However, when the sale of the parcel is to an individual that is not a member of such community, it is needed to have complete dominion of the land. Complete dominion (*dominio pleno* in Spanish) of the land can only be adopted through the local assembly, with a quorum of half plus one the number of members, and with a majority vote of 66% of those present in the assembly. Homestead lands –urban plots within the community- are confirmed as private property and the owners were to be provided with property titles.

Regarding the Pequeña Propiedad Individual de Tierras Agrícolas, Ganaderas o Forestales (small individual private property regimen of land for agriculture, cattle ranching or forestry purposes¹¹), the reform upholds the original constitutional limits regarding extension in relation to quality: 100 Ha (250 acres) of irrigated lands or permanently humid soils, or its equivalent of 200 Ha of rain-fed lands, 400 Ha of pasturelands or 800 Ha in forests or arid pasturelands. It was also uphold the size limit on cattle ranching land necessary to maintain 500 large cattle or its equivalent in smaller livestock. Commercial associations can be integrated by up to 25 individual members who contribute land to the association, in such manner that the total extension of association's property is limited by the summation of the limits of the small individual property regime. For instance, in the case of irrigated lands the limit for an association is of 2,500 hectares. All land owned by members of the association is accounted towards the total regardless if this land is inside the association or not. The purpose of those partnerships is limited to production, transformation or commercialization of agricultural, livestock or forestry products and its derivatives.

¹¹ The private sector in the rural areas is least known in terms of land distribution, registered private land and socio-economic characteristics. According to the recently released 2007 Agriculture Census (2009) the private sector has 70 million hectares and 1.7 million farmers. This figures nevertheless underestimate the actually distribution of private land since around one million farmers are owners of private plots of an average of one hectare. Because of the radical agrarian reform process in its first decades (1920-1940) and the role of ejidatarios and comuneros in support of the one-party regime (1929-2000), as well as of the crucial role that secondary and black markets have played in the functioning of the agricultural sector in Mexico; *private property and private investments in the countryside has always been an area of opaqueness and lack of clear information*. Unfortunately I do not think that the constitutional reforms of 1991 that legalized most of the until then illegal practices and thus intended to bring transparency to the rural markets has made a real change in terms of public knowledge of private investments in the countryside.

A Federal Agrarian ombudsperson was created to monitor rural inhabitants' rights. Agrarian judicial courts that depend directly of the judicial branch were also established for conflict resolution. The agrarian courts are organized by a supreme court and assisted by a lower court. There are 34 unitary courts distributed throughout all of the Mexican Republic, they have their own jurisdictions and autonomy. These courts are in charge of dictating sentence over agrarian cases regarding property rights controversies.¹²

The Agrarian Cadastre and Registrar had the task of titling of the more than 250 million acres to individual farmers and communities. By 2006 according to the official reports it had accomplished around 93% of its overall target.¹³

[Insert here table 1 and table 2 see annexes]

Between the mid-1980s and the mid-1990s, communities in Mexico experienced very significant policy changes at the national level, including the signing of the GATT, the reform of Article 27 in 1991 and of the agrarian law in 1992 and the accompanying laws reforming the mining, agriculture, water, and forestry sectors during the nineties, the 1994 economic crisis, and the signing of NAFTA in 1994. These changes sought to generate both economic liberalization and political democratization at the national level and in communities. (Gordillo, 2007; Gordillo, de Janvry and Sadoulet, 1997).

The actual outcomes, however, have been highly debated, uncertain, and hard to measure given the multitude of changes occurring within that period. To some, reforms reversed the gains of grassroots organizations from the early 1980s (e.g. Silva, 1997), and have undermined inter-community associations (Taylor, 2001). At the community-level, “the agrarian communities obtained more autonomy, but their abandonment was also increased” (Merino, 2004, p. 195), particularly through a marked reduction in government supports. In

¹² The weakness of enforcement institutions combined with serious gaps in some laws –in the environment laws related to land use and in the Agrarian Law relate to simplifying procedures to attain full domain of parcel ejido land, as well to the management of common lands- and the absence of others – particularly a unified code to creating incentives for private investments-, has made that certain public programs – basically three, PROCAMPO, ALCAMPO and ASERCA- tend to overrun, override and supersede laws and regulations and end up, by fiat, defining such areas as changes in land use and investment incentives.

¹³ PROCEDE

addition, initial research shows that internal democratization of communities has not occurred as expected, and rather there have been new forms of intervention by local governments (Klooster, 2003). Ironically, the PROCEDE titling program *increased* land tenure insecurity in some communities because of its delayed implementation (e.g. Vasquez-Leon & Liverman, 2004)

Two things are certain, however. First, **the reform process has produced different** results across the vast number of communities. Second, the reform has been accompanied by a **series of organizational and institutional innovations** at the local level, which can be understood as socially adaptive strategies in the face of the policy changes described above. Two of the most discussed have been the creation of community enterprises (CFEs specially but not exclusively in the forestry communities) independent of, but connected to, traditional community institutions (see Antinori and Bray, 2005), and the creation of intra-community groups (“Rural Production Societies”, “work groups”, “sub-coalitions”) for productive activities such as the extraction and commercialization of wood (Munoz-Pina, Janvry, & Sadoulet, 2003; Taylor, 2003). To some, work groups have been a way to democratize previously corrupt and centralized community institutions ruled by local bosses (caciques), and might provide larger and better distributed economic rents for individuals in the community. However, according to some actors, the working groups model leads to social irresponsibility in the sense that investments in social services and community enterprises are reduced. While in the communal model of production there is a part of the community’s revenues that are usually reserved for the community, in the WG model these are eliminated or reduced. There is also usually more inequality as some WGs do better than others or appropriate a great majority of resources, and it might lead to total disintegration of the community.

In addition, there have been significant changes in the inter-community peasant and associations. Associations have changed from political organizations to economic organizations mostly oriented in fomenting autonomous productive activities.

In the face of so many policy changes at the national level, including long periods of abandonment, many communities have shown great resilience and adaptive capacity, generating their own institutions for forest management (Bray et al., 2004). At the local level, the division of the organization of community productive activities into work groups or sub-coalitions poses both challenges and opportunities for community governance (Bray et al., 2006; Taylor, 2003). Migration also poses challenges both for household production strategies and for community institutions. Drug production and trafficking and changes in international economic and development policy are also affecting communities. In this context we wish to explore how the conflicting purposes of the 1991 reforms incarnated in rural policies and institutions affected the governance institutions of the ejido and what scenarios can be predicted on the future of ejido and its governance structures. Specifically we wish to respond to the following questions:

- How robust have Mexican communities in the face of different institutional, economic, and ecological changes?
- How have different communities adapted to these changes? How have different community characteristics influenced adaptation? What adaptation strategies have been more successful than others?
- Have these adaptations enhanced or reduced autonomy and self governance at the community level?
- And finally what have been the impacts of these adaptations in the overall governance in the Mexican countryside?

The ejido project: policy implications for the future of the ejido

Although much more research is needed to revise the very complex impacts of the 1991 property rights reforms, four issues related to the political economy of agrarian reforms must be highlighted:

1. A land tenure reform is usually part of a broad economic and political reform. Sometimes these reforms are a consequence of a social revolution as it occurred in China and Mexico. Other times the land tenure reform is a result of “special circumstances” related to the place of the country in the international arena or as a result of a major warfare. In all cases, there is a common trait: the displacement of a political coalition from government.

2. Sometimes land tenure experts have used a simplistic typology on land reforms: those initiated from the “top” and those initiated from the “bottom”. In fact, all land tenure reforms have always been initiated from the top; that is to say, an enlightened elite with a sense of statehood conceives reforms as the means to consolidate its power vis-à-vis competing elites. A visionary elite not only displaces competing coalitions, but does it by reconstructing the State in its political, economic and legal relations. Land tenure reform is crucial in this context because by recognizing rights on property it recognizes rights to participation. Citizenship is not only achieved by recognition of political rights, but by recognition that the use of those political rights might and should lead to the welfare of the citizen and his siblings. A land reform initiated from the top does not operate in a social vacuum. Of course, pressure from the bottom - the existence of social movements in the countryside - many times precedes and determines the emergence of political elites willing to push for land reform. The reasons to advocate land reform are different and are in general threefold, based on economic, political and social considerations. But if one would want to single the main thrust, it would usually be governance. Not in the sense that land tenure reform comes only when major civil disruption occurs or is foreseen, but also when the consolidation of political elite requires popular support.

3. Land tenure reforms are sometimes reduced to one sole meaning: redistribution of land either through confiscation or through buyouts. That was of course the meaning of the traditional agrarian reforms such as the Mexican and the Chinese reforms that were implemented during the first half of the XX century, as well as those proposed during the sixties in Latin America under the umbrella of the Alliance for progress that the Kennedy-Johnson’s administrations launched. Two lessons drawn from those experiences a) the need

to accompany the land reform with other institutional reforms regarding land tenure and rural development, b) the need to accompany land reform with policies reform; have helped clarifying the more embracing concept of land tenure reform. Security of land tenure is not only linked with the legal framework but with the institutions that support that legal framework. What those institutions bring with them is the rules by which land tenure transactions are organized. So land redistributed only acquires the true meaning of a right when the institutional arrangements support the different rights included in the land tenure reform redistribution process.

4. The 1991-1992 rural reforms in Mexico were conceived in four different but interlinked dimensions: reform of public institutions, reform of the legal framework, reform of the policy instruments and transformation of the relation between the peasants and the State. The approach taken for the legal reform is relevant for this discussion. First it was recognized that there was a rift between the legal prescriptions and the real world. Land transactions were developing all over the countryside even if they were prohibited. But because they were prohibited the insecurity of the arrangements obliged all actors to define them within a very short time span, thus discouraging long-term investments in the land. Although for many the removal of these obstacles was essential for external and even foreign investment, what was actually sought with the legal reform was to remove obstacles so that the peasants themselves could invest in their own land. Of course that needed clarity on who was the real owner of the land. Secondly, it was recognized that the characteristics of the land transactions was so vast and diversified that it was impossible to even attempt a classification which if done would create new rigidities. So by taking as the basic approach the need for a very flexible legal framework the discussion focused on the nature of the transactions. One common denominator was found: the need for the peasants to have at their disposal a wide array of options to be used by the peasants themselves according to the very changing circumstances they encountered. Thirdly, it was recognized that land markets already existed in the form of segmented markets but because the transactions involved were not legal the entry and participation in those markets were defined by a set of casuistic and discretionary informal rules set by specific agents. These agents were mainly public servants and peasant leaders who, because of their connections with peasants and

government officials, were able to define informal rules to realize illegal transactions. Thus clarifying rules in land transactions meant to challenge the role of these agents. Thus, fourthly, it was clear that the land tenure reform was not only a legal reform. It was an economic reform in the sense that it recognized the existence of land markets and consequently of various types of transactions. But it was also and foremost a political reform in the sense that it implied the displacement of a category of social agents who benefited from the former arrangements. At the same time it created the potential for the constitution of peasants as an important autonomous force.

BIBLIOGRAPHY

Anderies, J.M., Marco A. Janssen, M.A. and Ostrom, E. (2004), A Framework to analyze the robustness of the Social-Ecological Systems from an Institutional perspective, *Ecology and Society*, 9(1):18

Centeno, M.A., (1994), *Democracy within Reason*, The University Pennsylvania State University Press, University Park, Pennsylvania, USA.

Consejo Nacional de Población, (2004), *La nueva era de las migraciones. Características de la migración internacional*, Secretaría de Gobernación, México.

Consejo Nacional de Población (2006), *Situación demográfica de México*, Secretaría de Gobernación, México.

De Janvry, A., Gordillo, G. and Sadoulet, E. (1997), *Mexico's Second Agrarian Reform: Households and Communities responses*, Center for U.S.-Mexican Studies, University of California, San Diego.

De Walt (1979): *Modernization in a Mexican Ejido: A Study in Economic Adaptation*, Cambridge, MA, Cambridge University Press.

Fox, J. and Gordillo, G., (1989) "Between State and Market: The Campesinos' Quest for Autonomy in Rural Mexico," in Wayne Cornelius, Judith Gentleman, and Peter Smith, eds., *Mexico's Alternative Political Futures*, La Jolla: Center for U.S.- Mexican Studies, 1989 (2nd printing, 1990) [reprinted in: *Investigación Económica*, 48(190), 1989 and *Cuadernos Desarrollo de Base*, 2, 1991 (in Spanish)]

Giugale,M., Lafourcade,O., and Nguyen Vinh,H.,(2001), Mexico: A Comprehensive Development agenda for the new era, Washington,D.C.,World Bank.

Gledhill, J. (1991): *Casi nada. A Study of Agrarian reform in the Homeland of Cardenismo*, Austin, Texas, University of Texas Press.

Gordillo,G.(1982) *El movimiento campesino, la nueva ola* In “El Desafío Mexicano”, Ed. Océano, México

Gordillo,G.(1988),*Estado, Mercado y Movimiento Campesino*, Ed. Plaza y Valdés, México

Gordillo,G. (1993), *Más allá de Zapata*, Ed. Cal y Arena, México.

Gordillo.G., De Janvry,A. and Sadoulet,E.,(1998),*Between political control and efficiency gains: The evolution of agrarian property rights in México* in ECLAC Review.

Gordillo,G. and Lewin,P. and Wagner,R: (2004), *Una transición permanentemente trunca: Estado y sociedad rural en México (1975-2000) en 25 años de Desarrollo Social en México*, Banco Nacional de México/Citibank.

Gordillo,G.(2008), *La reconstrucción de las instituciones rurales*, en *Revista española de estudios agrosociales y pesqueros*,Numero monográfico. Crecimiento agrícola y persistencia de la pobreza rural en América Latina,num 218,2/2008,Madrid.

Gordillo G.,(2008),*Movements from Below, Reforms from Above: The 1991 context for the Mexican property rights reform* in *Workshop in Political Theory and Policy Analysis Mini-Conference*, April,Bloomington,Indiana.

Greene, K. (January 2008), *Dominant Party Strategy and Democratization*, *American Journal of Political Science*, Vol. 52, No. 1, Pp. 16–31

INEGI, *Censo agropecuario 1991, Censo agropecuario 2007, VII Censo Ejidal,1991 VIII Censo Ejidal,2001, IX Censo Ejidal (Initial Results) 2008* .

INEGI,(2007) *Núcleos agrarios. Tabulados básicos por municipio. Programa de Certificación de Derechos Ejidales y Titulación de Solares. PROCEDE. Concentrado nacional*

<http://inegi.org.mx/inegi/default.aspx?s=est&c=10202>

Klooster, D. (2003). *Campesinos and Mexican forest policy during the twentieth century*. *Latin American Research Review*, 38(2), 94-126.

Merino, L. (2004). Conservación o deterioro. El impacto de las políticas públicas en las instituciones comunitarias y en las prácticas de uso de los bosques en México. D.F., Mexico: Instituto Nacional de Ecología (INE).

Muñoz Aguirre, Ch. (2006:89-106), Cambio demográfico y desarrollo social de los jóvenes, in Consejo Nacional de Población, Situación demográfica de México, Secretaría de Gobernación, México.

Muñoz-Pina, C., Janvry, A., & Sadoulet, E. (2003). Re-crafting rights over common property resources in Mexico. *Economic Development and Cultural Change*, 52(1), 129-158.

Partida Bush, V. and Martínez Herrera, M.A., (2006:167-190), Migración interna in Consejo Nacional de Población, Situación demográfica de México, Secretaría de Gobernación, México.

Reina Bersal, A. and Hernández Esquivel, J.C., (2006:191-206), Poblamiento, desarrollo rural y medio ambiente in Consejo Nacional de Población, Situación demográfica de México, Secretaría de Gobernación, México.

Rello, F. (1987): *State and Peasantry in Mexico: A Case Study of Rural Credit in La Laguna*, Geneva, United Nations Research Institute for Social Development (UNRISD).

Silva, E. (1997). The Politics of Sustainable Development: Native Forest Policy in Chile, Venezuela, Costa Rica and Mexico. *Journal of Latin American Studies*, 29(2), 457-493.

Taylor, P. L. (2001). Community Forestry as Embedded Process: Two Cases from Durango and Quintana Roo, Mexico. *International Journal of Sociology of Agriculture and Food*, 9(1), 59-81

Taylor, P. L. (2003). Reorganization or Division? New Strategies of Community Forestry in Durango, Mexico. *Society & Natural Resources*, 16(7), 643-661.

Tellez, L., (1994), *La modernización del sector agropecuario y forestal*, Fondo de Cultura Económica, México

Vasquez-Leon, M., & Liverman, D. (2004). The Political Ecology of Land-Use Change: Affluent Ranchers and Destitute Farmers in the Mexican Municipio of Alamos. *Human Organization*, 63(1), 21-33.

Warman, A. (1980): *We Come to Object: The Peasants of Morelos and the National State*, Baltimore, MD.

Warman, A. (2000),

Wilshusen, P. R. (2005). Community Adaptation or Collective Breakdown? The Emergence of “Work Groups” in Two Forestry Ejidos in Quintana Roo, Mexico. In D. B. Bray, L. Merino-Perez & D. Barry (Eds.), *The Community Forests of Mexico: Managing for Sustainable Landscapes*.

World Bank, 2001, *Mexico Land Policy, A decade after the ejido reform*, Report 22187 ME, Washington, D.C.

World Bank, (2005), *La pobreza rural en México in Generación de ingreso y protección social de los pobres*, Washington, D.C.

World Development Report, (2008) *Agriculture for Development*,

<http://econ.worldbank.org/WBSITE/EXTERNAL/EXTDEC/EXTRESEARCH/EXTWDRS/EXTWDR2008/0,,menuPK:2795178~pagePK:64167702~piPK:64167676~theSitePK:2795143,00.html>

ANNEXES

TABLE 1: CHANGES IN THE COMPONENTS OF THE EJIDOS AND ICs (1991-1992 REFORMS)

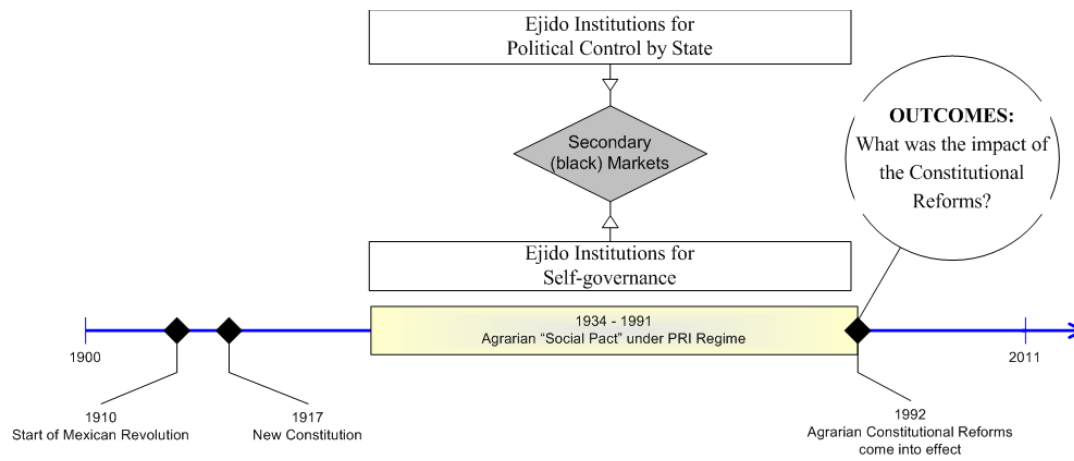
COMPONENTS OF THE EJIDO	THE EJIDO AND ICs BEFORE THE CONST REFORM IN 1991	THE EJIDO AND ICs AFTER THE 1991 REFORM
URBAN PLOT	NORMAL PRIVATE PROPERTY	NORMAL PRIVATE PROPERTY
PARCEL	AS PRIVATE USUS FRUCTUS	DIVERSITY OF PROPERTY RIGHTS AS FARMER DECIDES FROM USUS FRUCTUS TO FULL PRIVATE PROPERTY
COMMON RESOURCES	COLLECTIVE USUS FRUCTUS	CONDOMINIUM PROPERTY

TABLE 2: NEW RULES WITH THE REFORMS

EJIDO RULES	WITHOUT REFORM	WITH REFORM
Forced to work the land directly	YES	ELIMINATED
Could not hire wage labour	YES	ELIMINATED
Could not rent the land or sell it.	YES	ELIMINATED
Absences from the ejido led to loss of right to the land.	YES	ELIMINATED
Order of heirs to their land in writing, usually naming a spouse or partner as the preferred successor.	YES	YES

Ejidatarios could vote for and be elected to the Executive Committee of the ejido's Assembly.	YES	YES
Executive Committee automatically membership to the PRI.	YES	ELIMINATED

FIGURE 1: GOVERNANCE STRUCTURE OF THE EJIDO OVER TIME¹⁴



THE PROCEDE PROGRAM¹⁵

¹⁴ This figure was elaborated by profesor Armando Razo from the University of Indiana at Bloomington

¹⁵ This description can be found in Mexico Land Policy, A decade after the ejido reform, 2001 Report 22187 ME, World Bank

Land regularization program: All of the legal elements and institutional arrangements were supposed to feed into a program of land regularization (PROCEDE; Programa Nacional de Certificación de Derechos Ejidales y Solares Urbanos), the purpose of which was to resolve boundary conflicts, regularize land tenure, and issue property rights certificates. This program, which complements the constitutional reforms of 1992 and which was started in 1993, consisted of several components: Following a general dissemination campaign and presentation of the program to the general assembly, the highest decisionmaking organ in the ejido, members are free to join this process which, during a period of 12 to 18 months, allows ejidatarios to choose their property rights regime, delineates ejido boundaries, measures

individual plots, and eventually issues certificates to individually owned plots (including house plots), as well as communally managed lands to each individual.

Institutional responsibilities. Under the general principle that each ejido decides in complete autonomy whether to join PROCEDE, there is a need for inter-institutional coordination in order to facilitate such a decision and to implement the program in case this decision is positive. The main institutions involved and their responsibilities are as follows:

- * The SRA is responsible for the program coordination, the collection of the basic documentation and information used to guide overall implementation, coordination with other institutions, and monitoring. Due to the severe budgetary limitations, the SRA has often not been able to comply with this mandate and much of the coordination and monitoring function was taken over by the PA.

- * The PA supervises the internal coordination of the ejidos' certification process, mediates in

conflicts over land rights between ejidatarios and other members of the community (avecindados, posesionarios, private farmers, etc.), ensures that the procedures followed abide by the Law, and protects the rights of the parties involved.

- * INEGI (Instituto Nacional de Geografía e Informática) is the institution responsible for the

technical-operative tasks which allow ejidatarios to identify the areas to be certified, define their geographical coordinates, measure their borders and limits, and produce the resulting cartographic material. It was envisaged that this would result in the transfer of capacity that

would eventually enable the RAN to carry out these functions independently.

* The RAN (Registro Agrario Nacional) is expected to formalize the land rights acquired by

agrarian subjects. It thus enforces the assembly's decisions and the agreements reached by the parties involved by inscribing and certifying the legal validity of the elaborated cartographic material, expediting and certifying the titles to the land, and by ensuring the juridical and documentary certainty.

* State and local governments and, in exceptional cases also other institutions, participate in the coordination and promotion of PROCEDE and the provision of operative and legal support. The presence at the assemblies of notaries (Fedetarios Publicos) is required by Law. In addition, minor roles are played on a case by case basis by institutions such as SAGARPA, SEDESOL, and SEMARNAP.

Procedural safeguards: The main organ of the ejido involved in PROCEDE is the Assembly that is required to follow the procedures (i.e. prior notification and having a quorum) prescribed by the Law for extraordinary decisions. The ejido assembly has the authority of subdividing the community's lands between common lands, individual parcels, and settlement area. The RAN is assigned the role of defining the technical guidelines to be followed by the assembly for the measurement and delimitation of the land within the ejido. Given the importance of land access and land ownership, a number of procedural safeguards such as minimum lead times and quorums for meetings and supervision of assemblies by

independent lawyers and the Procuraduria Agraria have been put in place to minimize the risks of political maneuvering. In addition, there are safeguards (Art. 61) which allow, within 90 days of the assembly, an appeal against any decisions taken by an extraordinary assembly by a minimum of 20 percent of the ejidatarios, if they believe their rights have been violated. The PA acts as an independent ombudsman and can appeal against the assembly's decisions in case there is reason to believe that the assignment of the ejido land has been conducted with serious legal flaws, or when public order may be at stake.

The RAN, which is required to help the ejido in the process, inscribes the certificates that have been generated in the Registro Publico and provides the general plan of the ejido

which reports in print the internal subdivision of the ejido's parcels. This plan is important for two reasons. First, it draws the internal boundaries precisely and is available to the whole community for consultation. This transparency is likely to reduce the likelihood of new conflicts over the certified land and support an individual's claim over some land in front of the community. Second, should the ejido decide in the future to formally assign new rights over parts or all of the common lands, this will be done on the basis of the existing documentation. It therefore lays the legal foundation for orderly future changes in property rights.

The process of certification. The typical operative process that characterizes PROCEDE is organized in ten steps or phases which are described in Figure 1 and described in more detail below. The first three phases are completed before any institution is actually involved with the ejido directly, while the last two are conducted after the previous five phases have been concluded within the ejidos. This long process requires substantive preparatory work to identify which ejidos are to be approached; checks and balances throughout to ensure that the process is transparent, fair and accepted by all, the autonomy of ejido decision making, and technical input in the demarcation of boundaries. In order, the steps are the following:

1. The three institutions representing the Agrarian Sector and the INEGI for the State Committee conduct a qualitative and quantitative planning of the areas and ejidos that are to be targeted, examining the amount of resources that are available for the tasks.
2. To begin the examination of a given ejido in order to assess its suitability for PROCEDE, the RAN supplies the *Carpeta Básica*, i.e. the legal documents pertaining to the history of the ejido. Documents included are the decrees of constitution of the ejido, subsequent modifications, records on additions and expulsions of ejidatarios, and other pertinent evidence. These documents are analyzed by the PA and on the basis of this examination the institutions determine whether the ejido can be approached or whether there is a need for prior resolution of conflicts, either within or outside the ejido.
3. The PA's *visitadores* (representatives) explain to representatives of the ejido the nature of the Program, how it intends to reach its objectives, and the procedures to be followed. If permission is granted by these representatives to proceed, an Information and Consent Assembly is convened.

4. The Information and Consent Assembly requires a quorum of at least 50 percent of the ejidatarios. Ejidatarios are informed about the programs' goals and procedures. Should the Assembly approve the program and decide to go ahead, the RAN is notified of the resolution, and an Auxiliary Committee of ejidatarios is formed that is responsible for the execution of next steps in implementation of the program.
5. The Auxiliary Committee, together with the teams from PA and INEGI, determines how the ejido lands are divided and trace out the demarcations between plots, between common, urban, and parceled lands, and the ejido's limits. A sketch map of the land within the ejidos is prepared. All of this work requires the consent of the ejidatarios that own the plots. Declarations of consent by the interested ejidatarios are formally annotated and are included in individual files that include all the relevant information so far collected. During this process, records on land occupancy by subjects without a formal title are also collected.
6. The results and materials obtained during the previous phase are presented to a second assembly. The assembly's assent is required to proceed to the next phase.
7. At this point the INEGI begins the phase of measuring plots, common lands, settlement areas, identifying in each case the purpose of the area in which different types of plots are located. Maps and printouts based on the information generated are generated. Finally, the individual files are completed with the data collected during this phase.
8. An Assembly of Delimitation, Assignment, and Entitlement to Land is summoned. This is the most important assembly of all, as ejidatarios, avecindados, and posesionarios are required to participate to approve all of what has been so far or concluded. Individual files, maps, and the Ejido Plan (which shows how the lands are distributed according to their function) are displayed for the 8-15 days preceding the assembly. The quorum required for the assembly to reach an agreement is 75 percent of the community members. A Public notary (Fedatario Publico) and a representative of the PA are required to assist for the assembly to have legal validity. If the Assembly approves, a request of inscription of the agreements reached on the entitlements to plots, common lands, and urban plots is sent to the RAN.
9. The PA delivers the request for inscription to the RAN with all of the supporting material. The RAN processes the request and produces the titles that certify the results of the Assembly. The titles to the urban plots are inscribed in the Public Register of Property.

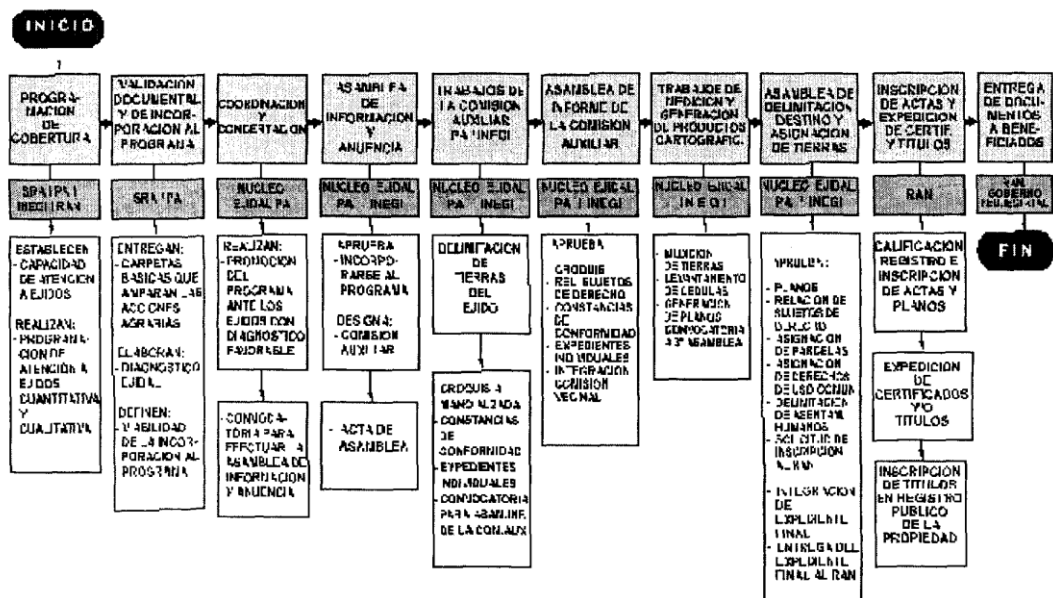
10. The RAN delivers the titles or occupancy certificates to their owners. The delivery of these documents is made in public acts to which State and Federal authorities, and the State Committee are required to participate.



PROGRAMA DE CERTIFICACION DE DERECHOS EJIDALES Y TITULACION DE SOLARES



**ETAPAS DEL PROCEDIMIENTO GENERAL OPERATIVO
SRA / PA / INEGI / RAN**



The RAN which is required to help the ejidos in the process provides the certificates that have been