

TRE ROLE OF LAW
IN NATURAL RESOURCES MANAGEMENT

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From Legal Norms to Local Land Regulation.
A Case Study From Mexico

Since 1917 and up to the 1992 land legislation reform, the right of access to land was acknowledged by the Mexican constitution. The state had the duty to grant land, mainly under the *ejido* system, to groups of petitioners. The *ejido* was conceived as an instrument through which official land regulation was applied at the local level. The *ejido* is usually made up of individually-managed parcels and a collective area devoted to grazing, and wood collection. The *ejido* governance organization is based on (a) the general assembly, which includes all the *ejidatarios*, and is the highest decision-making body; (b) the *comisariado ejidal* which handles the *ejido* executive power and constitutes also the internal dispute-settling committee; the *comisariado* itself is controlled by (c) the *comité de vigilancia* (vigilance committee) - the 3 members of both groups being elected every three years by the *ejidatarios*' vote in a general assembly meeting². In the common local practice, the expression "the *comisariado*" refers to the president of the *comisariado* (strictly speaking); we will follow this custom here.

Regarding *ejidos*, the agrarian legislation defined a restrictive land regulation, as it created strong constraints in terms of land practices, denying almost any autonomy at the local level. Legally, the land could not be alienated through mortgage, selling, land lease or sharecropping, i.e. the legal apparatus defined an usufruct right in *ejido* land, not a private ownership right, and excluded any market-governed relationships for *ejido* land (these prohibitions were intended to avoid *latifundios* reconstitution).

The 1992 legal reform puts forward as its main goals the liberation of local autonomy and market logic in land regulation. It stipulates the end of land distribution, allows private investment in the *ejidos* through associations between *ejidatarios* and private capital (under *ejido* control in the case of the collective area, without any *ejido* control in the case of the individual parcels), allows tenancy contracts on *ejido* plots (without any *ejido* control, in the case of individual plots), opens the way to legal *ejido* land transactions, under two possibilities: (a) transactions under the *ejido* status, but the buyer has to belong to the same *ejido* and cannot accumulate more than 5% of the *ejido* acreage, and (b) a privatization process, through the voluntary transformation of the *ejido* plots

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² For an overview of the *ejido* system, see DeWalt *et al.* (1994).

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into private property (the restriction being a legal limit of land holding). The new legislation even allows for complete dissolution of the *ejido*.

The arguments justifying the reform reflect quite explicitly the concerns of the Property Rights school paradigm³. The purpose of the reform is (a) to put an end to decades of state paternalism and interventionism: the *ejidatario* has to be considered as an "adult" economic actor able to manage his land in his best interest; (b) to provide security in land property rights, in order to favor productive investments and more efficient agricultural production; (c) to facilitate capital accumulation and technological change in peasant agriculture, through the association with private investors. The 1992 land legislation reform is based on the idea that defining precise transferable property rights and freeing the economic actors from State intervention lead to optimal resource allocation. A private property right is viewed as the best incentive to invest resources in their highest-valued use, and transferability allows resources to move from less-productive to more-productive owners (Pejovich 1990). Under this logic, the release of local individual initiative combined with the commoditization of *ejido* land - through well-defined individual rights and legalization of land markets - is supposed to increase economic efficiency, after decades of bureaucratic State interventionism. This concern for local autonomy in land management is even formulated in the Constitution.

However, the effective impact of the 1992 legal reform has to be analyzed in relation to pre-1992 actual local land practices. The central point here is that this impact may not be as straightforward as claimed by the land law reformers (and by some of their opponents), especially when the land regulation role of the *ejido* institution was merely formal.

It is possible to define, *ex ante*, two contrasting models regarding the impact of legal changes on the local land regulation system. In this first model, the pre-1992 law was effective in regulating the local land system through a restriction of individual land tenure practices; the only choices that the *ejidatario* had were what crop to produce and how to produce it. Under this model, the impact of the legal change is dramatic, with a shift from a global socio-political to a local economic land regulation. Under the second model, the pre-1992 law lacked any effective land regulation power. The local land game was organized between individuals, without legal control. As such, the 1992 reform does not represent a major break in terms of local land practices: there is no fundamental change in the rules governing these practices, or in the nature of socially recognized (but illegal) land rights. The change stems from the legalization of already developed local rules. Such a change has no impact when no transaction costs were associated with the illegal character of these practices. Where there were transaction costs, i.e. when the legislation could not prevent the transactions but let uncertainty hang over their completeness and irrefutability (especially in a context of conflictive local social relationships), the change might not be just formal. However, it would remain a change in relative factor prices, not in the logic of land regulation.

³ See Téllez (1994:235-260), and Prádenes de la República (1991); on the Property Rights school, see the classical writings of Demsetz (1967), Furubotn and Pejovich (1972), Alchian and Demsetz (1973), de Alessi (1983).

These two models can be considered as the extreme opposite ends of what we believe is a continuous spectrum which broader empirical investigation of the highly heterogeneous *ejido* sector would reveal. We will explore this issue through the study of the *ejido* Soledad, showing how actors refer to different normative repertoires, from legal regulation to self regulation, to handle land practices.

The land game rules at the *ejido* La Soledad before the 1992 reform

The *ejido* La Soledad is located in the state of Tlaxcala, 50 miles northeast from Mexico city, on the altiplano⁴. It was founded in 1938, when a group of 38 former *hacienda* laborers was given 1540 hectares of wooded highland taken from the abandoned *hacienda* of San Bartolomé del Monte. At first, the forest services prohibited the *ejidatarios* from clearing more than half an hectare each, and the political and military situation was still confused, so that most of the *ejidatarios* chose to go on living in the abandoned *hacienda* buildings, and earned their living from small scale illegal forestry activity. Only a few families decided to settle on the *ejido* land, clearing little parcels for staple food production.

In 1947, the new owner of the *hacienda* drove away, with the army's help, the remaining families who moved to the *ejido* and founded the village of La Soledad. By that time, the prohibition of clearing was still in force, so that each *ejidatario* just cleared on his own a small plot, all the smaller since he just owned a few hand tools. The main productive activity was small livestock (goats and sheep). According to a strong rumor in La Soledad, permission to clear part of the forest was delayed because the first *comisariados* received money from the owner of the *hacienda* in order not to pass on the requests to the forest services.

Finally, in 1962, the *ejido* obtained a permit to clear 150 hectares and shared them out among the 38 initial *ejidatarios* and their sons older than 18, which made a total of 55 beneficiaries. The benefits acquired from the selling of the wood were mostly invested in purchasing 400 hectares of private land from the *hacienda* (230 ha of arable land, 170 ha of forest). This transaction was achieved with the help of the agrarian authorities, which negotiated with the *hacendado*, i.e. forced him to sell at a very low price under the threat that the land would otherwise be confiscated. As for the *ejido* land, the private-property land

⁴ The data were collected in the *ejido* during two periods of surveys conducted in 1994 (four months, two surveyors) and 1995 (two months, one surveyor). We collected data on a village basis (land tenure history, etc.), and on the basis of a 35 *ejidatarios* sample for a better description and understanding of land practices. During the 1995 survey, we complemented the information collected about land practices, and attended the implementation of the *ejido* land titling and registration program (Procede). Although going back to the same *ejido* led to a better acceptance of our research, because of the establishment of personal relationships with many *ejidatarios*, we must emphasize that the land issue remains a tough one, and we still could observe reluctance to give some information. But although it might take a long time to get local and sometimes partial information, there is no other way to handle that issue, as the data we are dealing with here were not registered in any statistical records.

was distributed equally (with the respective property titles) among the 55 *ejidatarios*. Thus, every *ejidatario* in 1962 also became a private landowner. This is quite an original situation. Later, we will discuss whether a producer manages both types of land in a different way.

This land could have been incorporated under the *ejido* status, but the *comisariado* felt it would be more convenient to keep it as private property, because of the greater freedom of action, and because of the possibility to use the property titles to secure loans. This decision was not easy to make, though, and the *comisariado* had to face distrust and protests from a large group of *ejidatarios* who feared that private property would not be as secure as an *ejido* status; it seems that this group was partly manipulated by a former *comisariado* who saw his local influence decreasing.

In 1972, 30 hectares were cleared from the *ejido* collective forest and distributed to 15 young landless sons of *ejidatarios*. At last, in 1975, the *ejido* was given a 80 hectare extension taken again from the *hacienda* San Bartolomé (40 ha of agricultural land, and 40 ha of forest) to be distributed among 28 young *ejidatarios* or landless sons of *ejidatarios*. After a few years of collective cultivation imposed by the agrarian authorities, the arable land was parcelled out at the end of the 70's (see below).

Table 1. Land acreage, tenure and land-use at La Soledad, 1995

	Ejido (ha)	Private Property (ha)
Collective (wood, grazing)	1340	-
Individual (wood)	-	170
Individual (agricultural)	280	230

Nowadays, the *ejido* La Soledad includes 85 *ejidatarios*, 55 being also private land-owners⁵. The usual individual arable land acreage is 7 hectares (3 of *ejido* and 4 of private property) with a minimum of 2 ha (*ejido* only) and a maximum of 100 ha (mostly private property).

Rules and practices regarding the *ejido* land before the 1992 reform

In the *ejido* La Soledad, we have identified several land practices, and compared them with the legal rule which was supposed to be followed: the initial land allotment; land transactions; individual plot clearing, the parcel been taken from the common *ejido* landholding; the 1975 extension ("*ampliación*") management and appropriation; logging and grazing activities in the common areas; and tenancy contracts.

⁵ In the following pages, the word "*ejidatario*" will refer to anyone having access to an individual *ejido* plot, either owning also private land or not. "The *ejido* La Soledad" will be restricted to the *ejido* strictly speaking; "La Soledad" will design the community (both *ejido* and private land).

Table II. *Ejido* land : rules and practices, a synopsis

	Legal norm	Local practice
Initial plot share-out	Delegation to the <i>ejido</i> assembly, under control of the state agrarian authorities	Delegation to the <i>ejido</i> assembly (consensus); lack of official control
Transactions	Forbidden	Law is respected
New plot clearing	Delegation to the <i>ejido</i> assembly under control of forest services	No <i>ejido</i> assembly control; <i>comisariado</i> agreement; or self-regulated clearings
" <i>Ampliación</i> " plot working	Collective	Parcelling into individual plots after a few years, without informing any external authority
Uncultivated plot	Forbidden	Case not occurred
Forestry	Collective, under control of the state forest services	Actual forest services control and collective use (church, school, land purchase) Unauthorized individual charcoal making
Grazing zone	Collective internal control	No control
Tenancy contracts	Forbidden	Extremely common. Some self-regulation

Land parcelling out

As an institution governing access to land, the *ejido* had to proceed to an initial allotment of the granted land among the *ejidatarios*, under control of the state agrarian authorities. In La Soledad, the *ejido* foundation did not coincide with any share-out, because of the forest clearing prohibition. We have seen that in 1947, each *ejidatario* just cleared a small parcel on his own. No collective clearing organization was set up, nor was any control of the state agrarian authorities reported. Stages of land parcelling out occurred in three occasions later in the history of the *ejido*, in 1962, 1972 and 1979 (see *supra*). What emerges considering these three situations is that sharing the land out was always the *ejido*'s responsibility alone. Relying on an internal consensus, the *ejido* defined who was going to benefit from the land distribution, then measured the parcels and assigned them by drawing lots. Agrarian authorities did not intervene. In 1962, they were asked to by the *comisariado* who was looking for "higher-level control" in order to prevent any local conflict, as the local situation was tense; nevertheless, they did not respond. Quite logically, agrarian authorities were not even informed when the collective extension (*ampliación*) was illicitly divided up (see below).

Land transactions

At La Soledad, only two transactions were reported in the *ejido* before 1992. Both took place in 1991, that is, only a year before the legislation reform. Obviously, the legislation regarding *ejido* land transactions was mostly respected. Evidence from other *ejido* case studies (DeWalt *et al.*, op. cit.) shows that land selling was common in many *ejidos*. Why did the same process not succeed in the *ejido* La Soledad? The legal prohibition was known by all the *ejidatarios*, but as we will see further, this is not a sufficient reason to account for the respect of the law. The coexistence of private property land might help explain this: although there was almost no transaction of *ejido* land, a market for the private land appeared as soon as the *ejido* bought land from the *hacienda*; since 1962, approximately 20 to 25% of the private property acreage has been exchanged.

The *ejidatarios* knew transactions on *ejido* plots were not legitimate and that they were taking a risk of the transaction being contested by the general assembly or the *comisariado*. Thus, compared to *ejido* land, the private property parcels provided more secure conditions for a land market. The two *ejidatarios* who purchased an *ejido* plot in 1991 did face problems with some members of the *ejido* assembly which first wished to cancel the transactions, arguing that if the seller did not need the parcel anymore, it should be reallocated to the school or to somebody with not much or no land at all, who really needed it. The sellers then argued that they would keep their land rather than turn it back to the *ejido*. Finally, both transactions were accepted - in one case, the buyer was the *comisariado* himself, which probably helped. In other words, part of the *ejido* assembly tried to enforce the rule prohibiting transactions, but an arrangement was reached on the basis of personal relationships.

From the two *ejido* plot transactions we were told about, it appears that the *ejido* land was less valued than private property land, holding land quality constant: the *ejido* plots were exchanged respectively at the prices of 5,000 and 7,000 pesos per hectare, while the usual price for one hectare of private land is about 15,000 pesos, and up to 20,000 (for the same quality). This has to do with the fact that the bundle of rights associated with an *ejido* plot was considered, before the 1992 land legislation reform, of less value than the one associated with the private parcel, for two reasons: the uncertainty surrounding the transfer of the *ejido* right and an easier access to credit. The possibility of mortgaging private land gave access to private bank credit and thus, freed the producer from the often inefficient and restrictive *ejidal* bank. Indeed, the three families who bought more land are also the ones with greatest credit needs; in a few cases, they even purchased private wooded land although wood cutting was prohibited, just in order to get more property titles to use as loan collateral.

Plot clearing

Apart an organized allotment of land, the *ejidatarios* can have access to an individual parcel by a second means: clearing of an individual, isolated plot, taken from the collective area. In the *ejido* La Soledad, individual plot clearing used to be quite common and usually allowed an *ejidatario* to double the

acreage he controlled. In theory, according to the *ejidatarios* themselves, any *ejidatario* wishing to open a new parcel must present his case to the *ejido* assembly and obtain its agreement, and must also obtain the agreement of the forest services if there are trees to cut off. In practice, some *ejidatarios* did not ask for permission, and others came to an agreement directly with the *comisariado* without referring to the *ejido* assembly. Most of those who opened new plots did not respect the assembly-agreement rule they themselves expressed as a norm.

Anyway, the total extent of this way of access to land is low relative to the total *ejido* land area (approximately 10 % of the arable land, and less than 2% of the total *ejido* tract). What has to be stressed is that not all the *ejidatarios* took advantage of clearing some land in such a way. In our sample, 14 out of 35 *ejidatarios* never cleared any parcel individually. This illustrates two points that deserve attention. The first point is a cohort effect, that is to say, the older the *ejidatario* is, the greater the probability that he will have opened at least a new plot; no plot clearing was even reported in the last 10 years. The second one is an unequal parcel clearing opportunity among *ejidatarios* of the same generation. As a consequence, disparity in individual *ejido* land endowment for the same age class can be observed (from 2 to 6 hectares).

It does not seem that any direct clash occurred as a consequence of this spontaneous plot clearing (in other words, anybody that opened a plot could keep it). But although the rule was not *a posteriori* enforced by the *ejido* authorities, it seems that the *ejidatarios* obeyed *a priori* "working rules", distinct from the local-normative rule previously mentioned. In particular, in most of the cases, the increase in land endowment corresponded to clearing the surroundings of a parcel obtained by allotment, when these surroundings were either sparsely wooded, or not wooded at all, in order to avoid any confrontation with the forest authorities. The fact that no plot clearing was reported in the last 10 years is a reflect of an increased scarcity of unwooded and uncleared areas.

Lastly, personal relationships appear to be relevant in the understanding of the clearing pattern inequality. Individuals who opened more parcels than others were on good terms with the *comisariado* of that time, or were the *comisariado* himself.

"Ampliación" parcel management and appropriation

As described earlier, an extension was granted in 1975 to a group of 28 young *ejidatarios* under the condition, imposed by the agrarian authorities, that the agricultural land would be collectively cultivated. This was not an isolated case: during the mandate of President Etcheverría (1970-1976), there was a broader attempt to promote collective organization in the *ejido* sector, in order to benefit from scale economies. With no previous experience of collective work, the *ejidatarios* of La Soledad attempted to cultivate barley collectively, with the help of the *ejidal* bank, which supplied credit, technical support and rented combine harvesters. The collective experiment failed after a few years due to organizational problems: not all the *ejidatarios* attended the work summons issued by the assembly, and more generally, the *ejidatarios* felt that they

did not have enough incentive to work hard since the product surplus they would get from any extra work would be shared among the whole group of *ejidatarios* (this collective-action concern was expressed explicitly by the producers interviewed). Although it was a relatively small group of people who had always known each other, free-rider behavior led to failure of the collective experiment. Indeed, although it was possible to design a remuneration system that took into account the individual's actual work, such a system was not adopted because the free-rider *ejidatarios* claimed an equal distribution of the benefits based on familial or friendship relationships. After a few years, the group of *ejidatarios* decided to parcel out the collective plot, so that each *ejidatario* would be entirely responsible for his work. The agrarian authorities were not informed of these changes in the work organization and land appropriation modes, because *ejidatarios* feared problems.

Collective logging organization

The *ejido* wooded land is part of the collective area. In La Soledad, the forest played a very important role in *ejido* development. We saw that the benefits from the 1962 clearing were invested in the purchase of private land, and the annual sale of wood allowed for public services such as the building of the school and the church (even though the agrarian law prohibited the use of the *ejidos'* incomes for religious purposes). Logging is carried out under the strict control of the state forest services which deliver permits for the wood to be cut down and transported by truck to nearby sawmills. Each year, the *ejido* applies for a logging permit, then the forest service officers determine the allowed volume and come to mark the trees to be cut down. The *ejidatarios* fell the trees and sell them⁶. The forest authorities do not make frequent inspections in the forest, but there is an effective control of the logs transported by road. Because of the strict external control, forestry regulations are generally respected. However, there has always been illegal charcoal making on a small scale. Although it is an activity repressed by forest authorities (which can destroy the ovens, and give fines), it is possible to avoid the forest authorities, since the charcoal ovens are well hidden inside the forest, and transporting charcoal to the markets is far more discreet than log loads. Charcoal making is tolerated by the *ejido* if the *ejidatarios* concerned have little or no individual land, and since it is considered as a low-prestige activity. Yet charcoal making is sometimes criticized when it is done by "large" landowners' sons, because it is argued that they could do it on their own wooded parcels. The fact that no *ejidatario* has been prevented by the *ejido* from making charcoal may perhaps be explained more easily by considering that charcoal making does not use the same species of trees as those sold for wood. In other words, charcoal activity does not impinge on other sources of *ejido* income.

⁶ Some *ejidatarios* also own a wooded plot (3-4 hectares each). So far, they have never got a cut permit, the forest authorities arguing that the acreage is too small.

Grazing zone

In the *ejido* La Soledad, the grazing zone covers very sloping and/or wooded areas as well as the individual plots after harvesting. Individual parcels excepted, the grazing zone belongs to the collective area of the *ejido*, as does most of the wooded land. In contrast to the case of the collective forest, there is no *ejido* management of the grazing zone. At the most, owners of big herds are asked to contribute some animals to the village feast. Despite of the lack of rules, overgrazing does not appear to be a problem, because livestock production is regulated by other factors such as labor availability or decreasing meat prices. Thus, whether considering the wooded area or the grazing zone, the *ejido* La Soledad does not witness the well-known "tragedy of the commons" (Harding, 1968).

Tenancy contracts

Tenancy contracts were and still are widespread among the producers of La Soledad, who turn to them indifferently either on *ejido* or private land. Nevertheless, before the 1992 reform, the *ejidal* law stipulated that tenancy contracts were forbidden on *ejido* land (with some exceptions for widows, disabled people, etc.), otherwise the land could be confiscated and granted to someone else. According to our survey, 20% of the cultivated area in 1993 and 30% in 1994 was sowed under a tenancy contract, and it seems that these proportions were similar before 1992. Out of the 35 producers surveyed, 20 in 1993 and 25 in 1994 participated in at least one tenancy contract; only one producer declared he had never taken or given a parcel under a tenancy contract.

Tenancy contracts at La Soledad are usually negotiated on a short-term basis (one year), and include three types: land lease contracts (at the beginning of the cropping season, the tenant pays a certain amount of money to the owner, then he is free to grow any crop); "al tercio" contracts (the tenant is in charge of all the whole productive process and the owner receives one-third of the standing crop); "a medias" contracts (the production process is generally managed by both the owner and the tenant; each one receives half of the standing crop).

In the *ejido* La Soledad, tenancy contracting has not been discouraged; clearly it resulted from a consensus agreement among the *ejidatarios*. Moreover, before 1992, legal regulation of tenancy contracts was rarely if ever known. Most *ejidatarios* viewed tenancy contracts as permitted on *ejido* land. Some of them added restrictions, allowing tenancy contracts only if (a) the two parties were *ejidatarios*; or (b) the *comisariado* had given his agreement; or (c) the same plot was given to the same tenant for at most two years. It is interesting to observe that these limitations formed an individual rule for the *ejidatarios* who expressed them, that rule being distinct from the legal rule (which prohibits any contract), and from the unofficial tacit *ejido* rule (which allows any contract). These individual rules regarding tenancy contracting were designed by some *ejidatarios* in order to decrease the uncertainty they perceived regarding tenancy contracting, uncertainty stemming from information about tenancy problems in other *ejidos*, and rules followed there to manage tenancy

relationships. Thus, in the same *ejido* and for the same land use practice (tenancy contracts), people were seen to follow different rules, none of them being the legal one.

Discussion

From the law to the practices

The *ejido* statutes, as defined by the agrarian reform, and left almost no room for locality-specific regulation; in particular, they prohibited land markets. The study of the land practices at the *ejido* La Soledad before 1992 revealed that even if not all the legal rules were circumvented (see the prohibition of selling), there was still a gap separating most of the land practices from the land law. We found three main reasons for the existence of such a gap:

(a) The land law did not allow for enough flexibility. In the zone we studied, agricultural activities essentially take place in a market environment. Farmers (either *ejidatarios* or private owners) have always individually grown crops or livestock, and were integrated into the market, which provided for a potential economic stratification of the production units; in La Soledad, stratification began as early as the 1950's. This differentiation process has resulted in a discrepancy between an increasing variability in nonland factor endowment and the fixity of the land endowment (the law aimed at freezing the land structures inherited from the agrarian reform). The frequent recourse to tenancy contracts can thus be seen as a means of improving access to land and thus increasing flexibility in production, in line with local production factor complementarities between farms.

b) Relatively few *ejidatarios* knew about the law. During the survey, we emphasized the question of whether or not the *ejidatarios* were aware of following or infringing the legal rule. Very striking is the degree to which the most elemental rules were unknown or very partially known, either by the *ejidatarios* or by the *ejido* authorities, which are supposed to have a better access to information because of their contacts with the administration. The confusion was increased by the fact that the former land law itself was often vague, for instance regarding the respective duties of the general assembly, the *comisariado*, and the vigilance council (DeWalt *et al.* op. cit., Heath 1992). Practically, in most of the *ejidos* in Mexico, the decisions ended up in the *comisariado's* hands. La Soledad was not an exception, since many *ejidatarios* sincerely thought that everything was allowed as soon as you had the *comisariado's* agreement, who was conferred much more power than planned by the law.

c) Even when known, the law was not always considered legitimate. This had to do with the complex and ambiguous relationship the *ejidatarios* maintain with the Mexican State. In particular, they were aware that land was given to them by the State, but tended to consider land as their own (distinguishing between the forest and grazing zone which is viewed as collectively owned, and the arable land which is referred to as individually owned). Under this logic, the State had no legitimate right to interfere in land concerns. At a lower

level, the *comisariado's* authority in La Soledad (and thus the rules he was likely to enact) was (and still is) not viewed as legitimate. Although the *comisariado* is elected by the *ejidatarios*, most of them agree to think that he just uses his office in an opportunistic way, to help his friends and himself. For instance, according to a persistent rumor, the successive *comisariados* keep for themselves the interests generated in the bank account where the income from collective logging were deposited. The *ejidatarios* also argue that most of the time these offices are given to members of the three wealthier families, whose economic power is suspected not to be independent from their political power. At a more general level, as mentioned above, legitimacy problems can arise from the failure of the law to specify the duties of the *ejido* bodies. This also explains why each *ejidatario* talks of his *ejido* land as if he does not care about possible *comisariado* or assembly disagreement. Each *ejidatario* generally considers that the other *ejidatarios'* land practices are not his concern, which helps to understand why most of the rules were not *a posteriori* enforced. Effective enforcement would have required widespread protest, instead of isolated and often unexpressed resentment. Anyway, if external authorities had effectively enforced the law and strictly controlled the *ejido* land practices, the *ejidatarios* would have eventually acquired a perfect knowledge of the law, and whether considering it legitimate or not, would have had to respect it.

d) The non-enforcement of the law by the agrarian authorities appears to be a necessary condition for the local level prevailing -to a certain extent- over the national one. Although the law made available a set of repressive measures, including land confiscation by the *ejido* and reallocation to other landless members of the village, none of them were reported at La Soledad. It seems that the agrarian reform authorities did not wish to hear what actually happened inside the *ejidos*. In the case of La Soledad, they were helped by the fact that no *ejidatario* went to denounce anything he thought unfair or illegal; the possible clashes were always internally settled or remained unexpressed. The only occasion when the agrarian authorities were asked to intervene was during the 1962 allotment (of private property land), but they did not do anything.

In fact, the agrarian authorities could not afford to exert direct control over the *ejido* sector. This *de facto* policy of non-enforcement perhaps can be better understood if we consider that all successive governments since the agrarian reform belonged to the same party, the Institutional Revolutionary Party (PRI). Their objective was not to enforce the principles of the agrarian reform, but rather to ensure political longevity for the PRI by means of political control over rural organizations such as the *ejido*, which can be seen as an instrument of the state in the agrarian sector (Hoffmann, 1995). As long as the political control was efficiently exerted, land regulation enforcement remained relegated to the background. When land regulations were enforced, it often was just a pretext for the agents of the agrarian authority to get some extra income.

Thus, either the *ejido* authorities or the *ejidatarios* were *de facto* given some authority over local land regulation.

Local land regulation at the *ejido* La Soledad

The existing gap between the land law and local land practices before the 1992 land legislation reform does not mean that there was no land regulation in the *ejido* La Soledad. In other words, no chaos was observed. In fact, we already came across three rule levels the *ejidatarios* of La Soledad could refer to, regarding the *ejido* land practices:

- *The law* (agrarian law and forest regulation) enacted by the Mexican government, which is, at best, partially known by the *ejidatarios*. Its impact has been seen in relation to transactions in *ejido* land, and to the collective logging activity.
- *The normative local rules*, which define, on the basis of an explicit consensus, how things are supposed to be done relating to land practices within the *ejido*. The normative rules are not written down like the agrarian law, but they can be freely discussed in assembly. They are known by all the *ejidatarios* but are not necessarily respected. Here we find the local freedom to enter into a tenancy contract, the rule by which land share-out is run by the general assembly in an egalitarian way (which is respected), or the rule by which individual plot clearing is submitted to previous agreement from the general assembly (which is not).
- *The working local rules*, i.e. how things can actually be done relating to land practices. These rules define the conditions under which normative local rules can be infringed with little risk of getting into trouble. As the normative rules, the working rules are known by all the *ejidatarios*, but they remain implicit, i.e. they have not been discussed in assembly. Obviously, personal and power relationships come into play at this level. For example, we saw that a new parcel can be individually cleared without the agreement of the assembly if (a) it is adjacent to a previously cleared plot, and/or (b) it is not wooded or little wooded, and/or (c) the *comisariado* is a relative or a close acquaintance of yours.

The existence of these normative and working local rules differing from the legal frame implies a kind of consensus among the *ejidatarios*. Here we have to differentiate genuine consensus, associated with the normative rule, from grudging acceptance, or forced consensus, associated with the working rule. The forced consensus conveys the idea of personal relationships: power relationships for the wealthy, who frequently hold the *comisariado* position, but also client-patron relationships for the poor, e.g. charcoal making. Even if some *ejidatarios* are dissatisfied with a working rule, it is generally respected on the basis of power relationships; dissatisfaction generally is not publicly expressed. Thus, direct confrontation is avoided through the forced consensus, but it does not prevent the accumulation of resentment. The *ejido* La Soledad, along with many other *ejidos* in Mexico, is plagued with internal rivalry and factionalism.

So far, we have focused on *ejido* land management, and have not answered the question previously asked: Is there a difference in the way a given producer manages his *ejido* and his private land? The answer is related to behavioral uncertainties. Although the *ejidatarios* talk as if they had appropriated their *ejido* plots, effective power relationships within the *ejido* can create uncertainty about practices that contradict both the land law and the normative local rule,

depending first on whether or not one is the *comisariado's* client, and second on the risk of disputes within the assembly. For example, we were told by an *ejidatario* that he did not want to get into trouble with the *comisariado* by clearing an *ejido* parcel, and preferred to clear a part of his own wooded private plot where there were few trees. The uncertainty issue can also explain why land transactions mostly involved private land, and why the few *ejido* parcels that were sold were sold at a lower price than private plots. The *ejido* land market was not considered legitimate by the *ejidatarios*, and attempts were made to cancel the transactions. So uncertainty can account for a differential management of *ejido* and private land. Uncertainty was not such a problem for tenancy contracting, which came under a genuine consensus within the *ejido*, because it is seen as an arrangement allowing temporary complementarities between the needs of two actors, for their mutual benefit. As a consequence, there was in general no difference in tenancy contract management between *ejido* and private land. As mentioned, in some individual cases uncertainty was re-created from fragmentary information recollected from other *ejidos*, with the fear of plot-confiscation due to a tenancy arrangement. Generally, individuals showing such fear did enter into tenancy contracts (which proved to be almost indispensable to the long-run functioning of the production units), but added some specific features to the tenancy contract - two-year contract maximum, or each year with a different tenant, etc.

Ejido land practices before the 1992 reform can thus be summarized as follows:

- * before the 1992 reform, there was a local form of land regulation (partly independent of the law), based on individual and collective rules; this local regulation played a central role in the local land game;
- * individual land practices took into account the framework formed by the two higher levels (the national law and the normative local rule). Nevertheless, this framework was altered by (a) the often very incomplete information held by the *ejidatarios*, and (b) the margin of action allowed to them by the noninterventionist practices of both the agrarian authorities and the general assembly, which reduced the perceived likelihood of possible repressive actions;
- * the *ejido* played a regulatory role when collective issues were concerned, although personal relationships influenced this. Otherwise, land practices were up to the individuals;
- * the effect of tenure on land transactions: those who sold land, sold private land, for which the market conditions were more secure. There is no influence of tenure on tenancy contracts;
- * the local form of regulation leads to concealed resentment.

Perspectives opened by the 1992 reform

About how difficult it is to predict the consequences of a reform

A first difficulty arises from the subjectivity of the decisions-making models, and the information issue.

First, the 1992 reform was enacted based on a technocratic model of reality, inspired by Property Rights theory and neoliberal ideology. This model (as with any model) makes several assumptions regarding individual behavior (mostly the assumptions of neoclassic theory), which may prove to be wrong.

Second, since we focus on the actual consequences of the reform at the local level, we cannot assume "that state or bureaucratic ideologies are internalized, interpreted, and deployed by state officials and beneficiaries along broadly uniform patterns" (Zendejas and de Vries 1995:3). In other words, depending on the local situation, the implementation of the reform by the regional and local authorities is likely to be heterogeneous. This results from differing interpretations of the new law, and from the often tense relationships between the institutions involved, namely the old agrarian reform ministry and the new "Procuraduría agraria" (Nuyten 1995).

Third, individuals act based on their own conceptual models of the reform, which are likely to differ greatly from the technocrats' one - we saw the huge informational deficiency among the *ejidatarios*. From a rapid survey about the main issues of the reform, we concluded that none of the producers understood the whole content of the legal reform. What the *ejidatarios* remember from the reform is mainly the authorization of *ejido* land transactions. But none of them knows the associated restrictions on transactions regarding parcels which are not privatized (such as the rule that transactions can only take place among *ejidatarios*). The new measures concerning credit (possibility to mortgage *ejido* land, or more precisely, to mortgage the usufruct of the *ejido* parcel) and association with private capital are only known (sometimes imperfectly) by those *ejidatarios* who have a public position. This can be understood if we remember that La Soledad is located in a marginal region and is unlikely to be concerned by these new measures. What is more worrying is that only three *ejidatarios* knew the difference between the *ejido* title certification program (which only aims at providing the *ejidatarios* with individual *ejido* titles) and the plot privatization proceedings (which is just a radical option opened by the 1992 reform). Two fears are almost universally expressed by the *ejidatarios*: that the reform is aimed at raising a new tax on *ejido* land, and that the reform will lead to the return of latifundism and class relations between large land-owners and neo-laborers who would have sold their land because of economic pressure. Although the agrarian authorities have organized several meetings to inform the *ejidatarios*, there remains a huge information gap.

From the distance between the national model, the regional administration models and the multitude of individual models, it can be inferred that the local consequences of the 1992 reform are quite difficult to predict. Our ability to predict is limited by two specific problems: the short-term nature of our analysis, and the *ceteris paribus* condition. First, the land legislation reform is so new that it is too early to draw conclusions about its effects. Although the re-

form was voted in 1992, its implementation has been delayed because it called for a title certification program (Procede) which required extensive land measuring and registering. This program was completed until the end of 1995 in La Soledad, and the *ejidatarios* postpone action until it was done. Second, it is impossible to know which events that followed the 1992 reform were caused by the reform itself rather than by other factors. Indeed, Mexican agriculture is going through a transition period, not only in terms of land regulation, but also in terms of changes in product and input prices, credit and marketing conditions, etc. (structural adjustment policy). So, changes in the land practices might be due more to the general deterioration in the production conditions than to the land legislation reform.

Achievements and perceptions of the 1992 land reform at the *ejido* La Soledad

An increase in the ejido land transactions, which needs to be interpreted in context

One of the arguments of the opponents of the reform was that it would lead to an explosion of *ejido* plot sales, leaving the *ejidatarios* without land or alternatives in terms of jobs out of agriculture. At La Soledad, eight *ejido* land transactions were reported since 1992. By comparison with the two which occurred before 1992, we might conclude that a dramatic shift was induced by the reform. However, these *ejido* plot sales need to be interpreted considering the whole local land market (*ejido* and private property). In the case of La Soledad, the 1992 reform did not release an essential bolt, as most of the *ejidatarios* could previously resort to transactions on private land. It seems that the increase in *ejido* land transactions was accompanied by a decrease in private land transactions (two sales). This "shift" could be explained by two factors linked with the current situation, and likely to induce a demand for *ejido* rather than for private land. On the one hand, buying *ejido* land at the time of the Procede process allowed the plots to be directly registered at the buyer's name, saving the registration costs. On the other hand, *ejido* land remains cheaper than private land, for an equivalent quality. There might be several reasons for this. First, *ejido* titles were not given until the end of 1995; although the land survey and titling process began more than a year earlier, the *ejidatarios* remained unsure whether they would even actually receive the titles from the Procede officials. Second, during the current economic depression, even the wealthiest families cannot afford to pay what they used to pay for land, and since it is a marginal zone, external land buyers are not attracted. The land market remains community-oriented, and quite limited.

Recognizing the local level in land management: the implementation of Procede program

The 1992 land reform acknowledges the local level as a relevant level for land management. Illustration of this fact can be provided by studying of the implementation of the *ejido* title certification program (Procede) at La Soledad. The Procede program includes two steps: first, land measuring and registering, and second, distribution of individual titles. The *ejido* parcel title mentions the size and location of each individual plot. The common area title mentions the individual proportional rights upon the common zone. The objective is to provide secure and certain property rights. The program is free and is carried out after approval by the general assembly, under one condition: lack of conflict related to land, either with the neighboring *ejidos* and private landowners (regarding the *ejido* boundaries), or within the *ejido* (about individual parcels). The program acknowledges the local level in two ways.

First, it recognizes the right of the conflicting parties to resolve disputes out of court. If no solution is found, the dispute is carried to the agrarian courts. The Procede program is suspended until the sentence is passed, which can last a long time. Resolution of conflicts out of court would allow for faster implementation of the program, which would be in everyone's interest. At La Soledad, the Procede officials strongly encouraged the *ejidatarios* to settle disputes out of court.

Second, as soon as there is no unresolved disputes, the program recognizes the *de facto* land rights situation, as validated by the *ejido* assembly (including individual endowment disparities, previous transactions, unauthorized plot clearing, etc.). Thus, the *ejidatarios* have a major stake in Procede, as it provides official titles that definitively legitimize their access to land. The Procede program therefore offers the *ejidatarios* a good opportunity to express and try to resolve previously concealed grievances related to *ejido* land inequalities, especially those that arose from illegal practices.

In the *ejido* La Soledad, six *ejidatarios* (out of 85) refused to be involved in Procede, because they did not see the advantages of getting titles and were afraid of possible new taxes. Once again, the lack of information and the distrust of the government come to light. In spite of this, the program was implemented for the other *ejidatarios*.

On several occasions, *ejidatarios* took the opportunity to solve relatively minor disputes out of court during the Procede process, typically in cases of boundary controversies which popped up when parcels that were supposed to be identical were measured as having different sizes. The important point to underline here is that there were still many more fundamental and sensitive long-standing conflicts which the *ejidatarios* did not take advantage of the opportunity to express. Therefore, putting the responsibility for local land arrangements in the hand of the *ejidatarios* resulted essentially in the recognition of the status quo stemming from the forced consensus.

Are the ejidatarios willing to accept a market regulated ejido land game?

Although market factors clearly affect some land practices at La Soledad, the relationship between the *ejidatarios* and the land market is far more complex than assumed in the Property Rights theory. The market features observed in their land modes management are mostly associated with tenancy contracts, concerning which there was a consensus among the *ejidatarios*. However when we consider the new opportunity for the *ejidatarios* to sell their *ejido* land like any other commodity, we observe that it worries the majority of the *ejidatarios* because it goes against their patrimonial conception of land: land is not only a production factor, but also the basis for the livelihood of the family over generations. In particular, almost all *ejidatarios* mentioned their fear of a return to latifundism and class relations in agriculture, even though the reform includes some safeguards against this. Obviously, this fear is fed by their awareness of the economic crisis, from which some wealthy local producers could benefit.

Are the ejidatarios willing to break up the ejido as an institution?

Besides being the organization that governs access to land as a productive resource, the *ejido* has often remained during decades the only entity organizing local life and managing the communities' interests: access to public services (water, electricity, school, etc.), credit, links with the local political system, and mediation between the State structures and the community. As a result, to be an *ejidatario* means more than holding an usufruct right in land; it gives access to the inner workings of local economic, social and political life. As such, the *ejido* is (or may be) a multi-purpose institution (Hoffmann and Colin 1995).

The 1992 land legislation reform opens the way to a dramatic institutional change: the privatization of arable *ejido* land and even the dissolution of the *ejido*. However, the survey shows clearly that the *ejidatarios* of La Soledad do not wish to break up their *ejido*. Research realized in some *ejidos* of the Mexican Gulf zone led to the same conclusion: "... the *ejidatarios*' capacity of identification with the *ejido* system is amazing. Particularly striking are their efforts to protect the *ejido*'s image, at least in their speeches, and even if there is obvious evidence of its dysfunction. ... contestation is aimed towards individuals, not-towards the institution, which remains almost untouchable" (Hoffmann, op. cit.). A similar conclusion is drawn from a study currently being conducted in four *ejidos* in Southern Tamaulipas (Blanchot *et al.*, 1996). Disrupting the *ejido* as a multi-purpose institution might bear a high cost.

Conclusion

Mexican agrarian legislation ruled out any market-type regulation of *ejido* land and defined a highly constraining framework for local land practices. The 1992 land legislation reform constitutes a major break, as its purpose is to introduce the market logic in the *ejido* system, and to allow for local autonomy in land practices. The supporters of the reform -as its denigrators- implicitly postulate a

"normative vacuum" (Griffiths 1986) between the state regulation and individual behavior. However, the crucial issue to understand the concrete and effective impact of the 1992 reform rests on the distance existing before 1992 between land legislation and the local socially accepted land regulation norms and practices. In this case study, we analyzed the set of rules followed by the ejidatarios to regulate their land relationships before the 1992 reform. It was shown that these rules were in part locally designed; in such a case, the local impact of the legal change in land regulation might not be as dramatic as one would expect.

With the three layers of rules we brought to the fore in the ejido land practices (the law, the normative local rules, the working local rules partly dependent on the location of the actors in the local web of personal relationships), we found in La Soledad what Moore (1973:720) calls a semi-autonomous social field, characterized by the capacity to build local rules and to enforce them, and at the same time affected by the larger context. Any empirical as theoretical attempt to understand the effective relationships between the change in Mexican land legislation and land practices have to take into account such local legal pluralism.

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