

Land Tenure

Two Cases Studies:

Menominee Reservation & Mexican Ejidos

Introduction

Since the dawn of human civilization there has been a constant struggle for land and land ownership. This fact is most evident in the social sciences since the use of this issue was a key factor for name production systems: 1 Primitive communism; 2 Slavery; 3 Feudalism; 4 Capitalism; 5 Socialism; and 6 Modern communism. Within those systems the land ownership defines the sector to which people belong and therefore privileges, rights and obligations to which they are entitled. Today for a student interested in International Management of Natural Resources the comprehension of this issue will be invaluable in enhancing the abilities of solving conflicts and planning. The proposed discussion of this topic is Land Tenure and Its Implications in the future Management of Natural Resources. I will be using a comparative analysis of two cases that in recent years faced the challenge of modification in the legal body that regulates land tenure as well as the strategies adopted to adjust the management of the natural resources.

The case studies proposed for this paper differ in geographic magnitude but are similar in conceptual framework. For the American example I will use the case of the Menominee Nation and the management of forestland within their reservation after the change in land tenure regime due to Termination Act of 1954. The Mexican case will be an overview of the actual stages of land management in the country following the amendment to Article 27 of the Constitution in 1992. This amendment modified the land tenure regime in order to meet the requirements for the North America Free Trade Agreement (NAFTA). Despite the fact that these cases are different in scale and that one is already a successful story, there remains an underlying lesson to learn and important aspects to discuss. Finally, it also provides the opportunity to update and contextualize how important the land tenure regime is in the management of any human activity.

The Menominee Nation is one of the surviving Native American tribes. The nation is located in the northeastern region of Wisconsin, and their history can provide enough material for a detailed descriptive paper. However, for the purpose of this discussion I will follow the aspect of land tenure's evolution through time. The emphasis will be on the time period after the Termination Act until the creation of the Menominee Tribal Enterprises (MTE).

In the Mexican case I include a brief explanation of the previous version of Article 27 on land tenure regime after the period of civil war called "La Revolucion de 1910". The reasons for this civil war were based mostly on land tenure and civil rights. If anything could be considered a major victory for either side, it was the opportunity for many landless people to claim a piece of land in the spirit of the new Constitution of 1917. In recent years (particularly during the Salinas administration) this spirit was changed specially to meet the NAFTA requirements for what was called "Security of Investment."

Literature review

Menominee Reservation

As previously mentioned the Menominee Nation is a Native American tribe, one of the five tribes in the state of Wisconsin. The reservation extends over 235,000 acres of which 220,000 acres are forestland. It is located in the northeastern region of the state. This forestland has been under management for almost 150 years, ever since the creation of the reservation in 1854. The major species are white pine, hemlock, sugar maple, red maple, red oak, basswood, and yellow birch (Huff and Pecore, 1995). The management of the forest in the Menominee Reservation proved to be not only sustainable but also economically profitable (Newman, 1962).

In 1908 senator Robert LaFollette introduce an Act that allowed the construction of a modern mill at Neopit to help the tribe process the timber. Later in 1934 the Indian Recognition Act (IRA) determined the role of the federal government and the participation of the Secretary of the Interior in the management of the accountability through a Trust Fund (Huff and Pecore, 1995). The IRA also provided the opportunity for the native tribes to establish their own forms of government within the reservation.

During those years the Menominee Reservation was closely supervised in order to follow the sustainable-yield management of the forest in accordance with this act. However, this principle was not new for the Menominee. Since the establishment of the reservation, the attitude of the Menominee Nation towards their natural resources was clear: “let us do what we do for living” (Shames, 1972).

This kind of management was easily adapted in the reservation and, with the foundation of Menominee Entrepreneurial Incorporated (MEI) in charge of the commercial operations, there was a positive impact on the reservation. The Menominee people were economically successful. They had been paying all bills on time, and even paying the technicians from the federal government in charge of supervising the operations of the forestland and the mill. They had even managed to get an economic surplus in their financial operation of the mill (Shames, 1972 and Kalinoski, 1982). The Menominee obtained income from sale of their timber, which they harvested themselves. In a modern adaptation of their traditional values, the resources of their land allocation covered their needs. Hunting, fishing and farming provided their food supply, and the jobs from harvesting timber and the mill were their monetary income. There was no need to migrate in order to cover any additional needs.

However MEI was different from any other timber company at the time. Not only was the administrative body designed in a complicated and intricate way in order to fulfill the rules of the IRA, but also the land in which MEI operated was actually communal property. It had more than one purpose. Besides the timber harvest, all other natural resources had to be managed in a sustainable fashion in order to cover the needs of all the Menominee people that lived within the reservation. There was and still remains a need to preserve the Menominee Nation lifestyle in the most extended meaning of the word.

The federal government got involved with management of the land and their resources on the Menominee Reservation since the IRA set the rules for the both the Menominee people and the government. However, the government pulled back little by little and eventually delegated this duty to the Bureau of Indian Affairs (Newman, 1962 and Kalinoski, 1982). As for the financial aspect, the money from the mill operation continued to be managed in a federal trust (Huff and Pecore, 1995).

The Reservation status for the land of the Menominee allowed it to be managed as common property, and the government within the reservation was traditionally tribal-community oriented. However the decision-making process under this management was questioned. This occurred in 1954 when the Menominee filed a claim for revenue from the profits of their own company. The claim caught the attention of some senators and caused them to question the operation of MEI. They were shocked to discover a successful “private” company needing the approval of the Senate to share its profits with the stakeholders. This led to the initiation of the Termination Act (Shames, 1972).

The Menominee Nation faced the Termination Act in 1954. The arguments for those changes were mainly economical. Although the Menominee Entrepreneurial Incorporated (MEI) was running as a private company, it was heavily subsidized and exempt from many taxes. The Termination Act was an attempt to merge a Native American group into mainstream western society. Some arguments put forth in congress were:

1. A private company should not require supervision from the federal government.
2. No private company should be entitled to exceptions in taxes, licenses, etc.
3. They as any other have the right to make their own mistakes. (Kalinowski, 1982).

The reservation is a piece of land historically different from any other, since its conception and establishment. However, this was casually overlooked or dropped from the discussion. The reservation is the last remnant of what was the original source of native lifestyle for the first inhabitants of this land. It may be the ultimate insult to these First Nations. It was impossible to eradicate them so they were geographically constrained to a tiny piece of land of what was formerly their territory. A reservation, even if it contains a modern factory or (in the case of the Menominee) a mill remains the only place where Native Americans can preserve their language, traditions and lifestyle. Those reasons alone should be enough to make a distinction. The Termination Act was a step backwards from IRA.

Paradoxically the economic success of MEI was one of the strongest arguments to promote the Termination Act; to give them total freedom and responsibility to be as any other entrepreneurial enterprise, responsible for their own good. The Termination Act was passed using the logic that if the Menominee people were already doing well with a mill, they were ready to take over without any federal support. The Menominee Reservation was expected to function as any other county, collecting taxes and being able to support them financially. Seeing the impressive numbers of the mill, any economist would be forced to agree with this logic. There was a reluctance to understand that there were subtle but significant differences. The mill was a source of income, but it was managed in a different style and for a distinct purpose. It was a source of employment for the Menominee within their own land. They hired more people than a traditional mill in order to provide as many jobs as possible. The forest was not only for harvesting and selling timber; it was also a place to live as well as to supply food and many other products. The mill was able to pay bills and have a surplus, but if they changed into a traditional county they would lose some income from assistance and they would increase the expenses because of paying many taxes which were previously exempt. In addition, it was a fact that the population was dispersed all over the reservation. As a traditional county they will be expected to provide services such as energy, roads, sewage treatment and so on. Finally, the most dangerous change was the fragmentation of the land and the loss of territorial integrity. The land had been common property, but now it was to become private property assigned to individuals.

The Menominee were forced into the Termination Act not knowing in detail what it was. The Menominee had been claiming revenue from the profits of the MEI. They were told that if they wanted the money they had no choice but to accept the Termination Act. In this way in the future they wouldn't need the approval of anyone to access their money. If the system continued as it had previously, there was always the chance they couldn't get their money at all! Thus the Menominee people consented to this act, (Kalinowski, 1982). They were under the impression that if they did not accept the Termination Bill, they would not have access to their money and a new bill would be imposed without their knowledge which would be much harsher (Shames, 1972). The consequences for the Menominee people and the state of Wisconsin were very negative.

The Menominee people found themselves facing a new challenge that once more put to a test its determination to preserve the native ways.

The reasons for explaining the success of the MEI are abundant. The first is a management that was oriented towards sustainability rather than completing quotas of timber. Another significant reason is the participation of qualified technicians in the management (Newman, 1962). Yet promoters of the Termination Act insisted on ignoring those reasons for success and forced the Menominee people to compete as any other enterprise along with an entire community that suddenly was obligated to fulfill a series of requirements identical to any other county in the U. S. The outcome was the worst possible. In the year 1967 alone the cost to the federal government for services to Menominee County was 1.4 million dollars. Before the Termination the Menominee had been able to pay for these services. After the Termination, overestimation of harvesting quotas, the elevated cost of upgrading machinery, new taxation costs and many other factors turned the promise of a brilliant new future for the Menominee people into a nightmare of economical collapse. The previous stage of economic success was long forgotten.

In the succeeding years a scattered Menominee nation (now Menominee County) was struggling to come back. The most dramatic effect was the exodus of many Menominee people to closer cities in order to get jobs and income wherever they were available (Shames, 1972). However the most important effect was the loss of integral territory. Once the reservation status changed, the land went from communal property to individual allotment. The tribal government tried to preserve land as a unit even though there was the opportunity to sell some of the land in order to generate income. Despite their efforts, in 1967 the Tribal Council planned to develop one resort area along Legend Lake. They hoped to promote tourism in the area and generate income. This forced the Menominee to sell some of the land (Shames, 1972). Years later in 1970, with the confirmation of the Determination of Rights and Unity for Menominee Stockholders (DRUMS) (Shames, 1972), one front of legal battle to gain control over MEI was opened. The project of Legend Lake failed to bring tourism to the area and created more problems than solutions. The appearance of DRUMS stopped the future development of the project and provided a unified front of the Menominee who were attempting to get total control

over MEI (Shames, 1972). During the early 70's there were even violent protests from the Menominee against the federal government. In 1973 during the Nixon administration the government finally pulled back and introduced the Restoration Act (Huff and Pecore 1995). The Restoration Act reinstated the rights of the stakeholders of MEI and as a result the Menominee Tribal Enterprises (MTE) was founded to replace MEI.

The reservation status was reinstated in 1975 and the land went back to community ownership. Under this status the land cannot be sold or traded without congressional approval (Huff and Pecore, 1995). A new Tribal Constitution was promulgated in 1976 which recognized the Menominee nation as a self-governing and sovereign nation. A new government took office in 1979 (Huff and Pecore, 1995).

Today the Menominee reservation is recovering, both socially and economically. The sustainable management of all the resources provides a positive example for many. MTE sells only non-food products, and the hunting, fishing and trapping activity has been heavily regulated. While MTE still carries some legal issues from the old MEI, in general its financial operations are in good balance (Huff and Pecore, 1995)

Mexican Ejidos

In order to understand exactly what an Ejido in Mexico is, it is important to review Mexican history in the previous century. Before the civil war of 1910, both the previous stage of the productive system as well as the structure of society were comparable to European feudalism. The entire Mexican territory was divided into "Haciendas" and the Haciendas were private property. The extent of the Haciendas was enormous, sometimes as large as an entire state. The Terrazas family had a saying "nosotros no somos de Chihuahua, Chihuahua es de nosotros" (we are not from Chihuahua, Chihuahua belongs to us). The entire Mexican national territory was owned by only a few large landowners. Most of the people had been subjugated and stripped of their land. They were literally, at that time, servants for landlords.

In these conditions the landless people were by far the largest population group. During the civil war of 1910 the major cohesive factor was the fight for a piece of land. The motto for Emiliano Zapata, who was one of the most prominent historic figures of this war, was clear: "La tierra es de quien la trabaja" (The land belongs to the ones that

work it). This was affirmed at the end of the civil war, when the new Constitution was promulgated in 1917. In it Article 27 entitled the right of any Mexican to claim a piece of land to provide food for his family and himself, and in some cases to have access to an urban piece of land on which to build shelter.

The concept of Ejido was not new in 1917. It is an old Spanish institution which was established in Mexico in 1523. The word was originally “Exido”. It shares the same Latin root “exitus” as “exit” in the English language, and it refers to the land that is far away from the population nucleus in the “exits”. Exido, in those years, was the land that was usually used by all members of the community for grazing, or harvesting wood for fuel (Rivero, 2003). After the civil war the new Congress somehow updated and redefined the concept into modern Ejidos.

Article 27 established that it was the responsibility of the new government to provide land and water in sufficient quantity to satisfy the needs of the Mexican population. This article was written immediately after a civil war. Under those conditions the prevalent feelings were mistrust and deception, so that statement was accompanied with many restrictions for the new land tenure regime:

1. Inalienability
2. Imprescriptibly
3. Not for embargo
4. Not transmissible
5. Not for mortgage
6. Not for rent
7. Un-taxable
8. Not for cession
9. Not for exploitation from third parties
10. Not for any kind of indirect exploitation
11. Not for exploitation by any kind of hired workforce (Rivero, 2003).

Since the number of landless people was so overwhelming for the incipient government, the duties of administering the article were divided. The federal government would administer the land as a whole. This unit is the actual Ejido. A local authority was assigned to handle the individual allotment distribution on a community basis and so “Comisariado Ejidal” (Ejidal Councils) were born. The Ejido is an amount of land that was formerly part of a Hacienda. Thus under the new government this land was expropriated and presented to the peasants to claim ownership. However, there were the

heavy regulations and restrictions listed above. One council for each Ejido managed the common affairs related to the Ejido. This council was elected by a general assembly of all members of the Ejido. They were traditionally called “ejidatarios”. If an ejidatario abandoned his land for two consecutive years, there was a risk of losing his parcel. (Warman-Gryj, 1994).

From the beginning, the Ejidos differed in extension and conditions. On the northern region of the Mexican country, Ejidos were massive and the number of ejidatarios was small, while in the central and southern areas the ejidos ranged in size from medium to small while the number of ejidatarios was bigger. This represented a problem for the new government in terms of management and policy making for the agricultural sector.

Two new federal entities were created: the Ministry of Agrarian Reform and the Supreme Court of Agrarian Affairs. The Ministry of Agrarian Reform was in charge of the establishment of ejidos based on the availability of land expropriated after the civil war and considering the original number of members in that particular community. It was also responsible for insuring that the ejidos follow the rules of Article 27 and the Agrarian Law. Mexican judicial powers created the Agrarian Affairs branch of the Supreme Court, to deal exclusively with agrarian conflicts about limits or borderlines and the loss of membership from an ejido. At the time it was instituted, this new regime of land tenure was considered the most beneficial for the majority of the population.

The ejidos were intended for personal needs. However, because it was difficult for the government to manage individual properties, the structure of management (Ejido Council) created by the government was designed to manage the entire ejido as common property. The ejido is a dynamic entity; the ownership of a parcel of ejido can change from one owner to another in a short period of time. Also, a case could arise that demographic growth might require formerly forested land to be converted to agricultural use. Finally there is one particular type of ejido, the Urban Ejido, where ejido members are allowed to build housing. This particular exception was created when the original housing was provided within or nearby the Hacienda with the result that, after the expropriation, the landless also became homeless. Also it was common for some Haciendas to refuse to sell their houses. They kept these as private property to retaliate

for the loss of the land. To address this problem, the new government created the Urban Ejido, the only one that allowed housing. In all other respects the same rules applied. The urban ejidos were not allowed to be sold, trespassed upon, rented out, or even passed on through inheritance. It is important to note that Article 27 and the Agrarian Law regulated all types of Ejidos.

Because Ejidos did not provide full rights of ownership, no financial aid could be acquired via loans and mortgages. Some of the principles of Article 27 were contradictory or not feasible. For instance, even though the article states that the government must provide enough land and water for any peasant, the land is limited. This principle seems to assume that the land is limitless or somehow elastic (Warman-Gryj, 1994). The physical reality is that there is no such thing as unlimited land. It stands to reason that population growth will eventually surpass the land available. From 1917 to 1992 the government has been distributing 103.5 million hectares into 30,000 different ejidos. This land represents more than half of the Mexican territory (Warman-Gryj, 1994)

From the beginning some Ejidos were more successful than others. The main reason was the varying amount of land that an ejidatario can get. In the north of the country, the parcel that an individual could get might be as much as 15 hectares, while in the south or central areas of Mexico the allotment might be as low as $\frac{1}{8}$ of a hectare. Again, what the law states is in conflict with the physical reality. The law established 10 hectares as an adequate size plot for any individual, but the actual number of ejidatarios and the total area of the ejido were the factors which actually determined the final size of the allotment (Rivero, 2003). However, since the most valuable land was in the central area of the country, it was there that the majority of the urban ejidos were established. People could have a small piece of land for agricultural purposes, and could also be awarded another small piece of land for housing. This unique combination promoted the practice of people using their agricultural land to grow food for their families, although most did not grow enough to sell for profit. They usually planted beans and corn for the use of their own families. Thus they were not full-time farmers, but moved into cities for regular jobs in factories or service industries (Rivero, 2003). When people talk about the success of Mexican farmers, they probably refer to ejidatarios of northern Mexico.

Conversely, when they talk about the failure of the agricultural system, they are most likely referring to the central and southern ejidos.

Since the 70's many people including even ejidatarios have complained about the restrictive rules of ownership. They suggested a profound revision of Article 27 (Warman-Gryj, 1994 and Rivero, 2003), but in those years everything relating to reform of Agrarian law was overlooked as Mexico turned its economic base to oil. It was during Salinas de Gortari administration (1988-1994), when the topic raised again. Unfortunately at that time everybody generalized ejido as the major cause for the failure of Mexican agriculture in the competitive global market. The future inclusion of Mexico in the NAFTA (Diego, et al, 1998) was in jeopardy. The dream of prosperity from oil was gone and all the bad policies implemented in the 70's, especially all kinds of exemptions and subsidies for farmers, were now burning a hole in the federal budget. The federal administrators blamed the ejido exemptions, subsidies, and other government support for not promoting a change from subsistence farming into commercial, highly profitable agriculture (Martin, 1993). It is partially true that the presence of the state never encouraged entrepreneurial ventures. However, it was the bad policies in the 70s the reason for that presence.

The high demographic concentration in the central area along with the topography of the south necessitated really small allotments of land for any ejidatario in these areas. There was never a chance at all for commercial entrepreneurs. It was unrealistic to think that a person with a $\frac{1}{8}$ hectare allotment can farm his family out of poverty, but it was clear that by giving him some help via subsidies and tax exemptions, he and his family would be able to survive. The reasons for success in the northern Ejidos are also clear. There were the necessary conditions for commercial farming: large parcels of land, flat levels or minimal slopes, and an abundant underground supply of water. There was a steady, reliable workforce of both men and animals. There was also enough room for crops other than corn and beans. The exact opposite conditions explain the reasons for failure in commercial agriculture in most of the ejidos in the central and southern areas. However, justifications for the amendment of Article 27 blamed the land tenure regime as restricting complete, full rights of ownership, rather than as guarantees for investors that any infrastructure built will remain under their control. Without these guarantees, there

was a lack of incentive to start commercial enterprises and partnerships with local ejidatarios. These issues were long discussed in meetings prior to signing the NAFTA (Martin, 1993).

During the meetings for settling the NAFTA proposal, representatives of the USA and Canada decided because of the ejido land tenure regime, Mexico was unable to meet the requirements of security of investment. The principle of community ownership was an obstacle for both countries at the time, but even more risk was provided by the principle of exclusion. Only community members could be ejidatarios, and, with half the territory in that situation, not a single investor would feel comfortable establishing a future development (Diego, et al, 1998).

The amendment was passed in the Congress in January 1992 with 349 votes in favor and 24 against. This change was possible because one party had hegemonic dominance in the Congress at that time (Diego, et al, 1998). The new law established that the distribution of land was accomplished and therefore the Ministry of Agrarian Reform should be dismissed. The final task of this Ministry was to deliver to individuals Certificates of Agrarian Possession and those are by law equivalent to Titles of Property. In 1993, in order to fulfill this task, the Salinas administration launched the National Certification Program: known by its acronym in Spanish as PROCEDE (Appendini, 2001).

Again the major impact of the amendment is to make it possible to sell ejidos to anyone and to lose territorial integrity with outsiders. With an economic struggle in the mid 90s some people cashed out their ejido land, but the only one that has high value is the urban ejido. The result could be expected with no shelter the other place that an ejidataro could live is his agricultural ejido land, but it means that now he has nothing or too little land for growing food. Additionally there is the pressure for new services required: water, electricity, sanitation, etc. The much-criticized subsidies to ejidatarios with small pieces of land continue, and now a new program of subsidies in cash is necessary for those ejidatarios that no longer possess land for growing crops.

The claim was that NAFTA and the security of investment will lead to a better agricultural sector. The numbers do not support that affirmation. Despite the changes in the law for land tenure regime, the agriculture sector in Mexico did not improve. It was quite the opposite- in the last decade, U.S. agricultural exports to Mexico grew, from \$4.1 billion in 1993 to \$7.9 billion in 2003 (GAO, 2005). The claim that integrating Mexico into NAFTA in order to improve its development and, therefore, the need to change the law in land tenure, seems today to be unjustified.

Critique

Land Tenure is a key factor for the management of natural resources. The Menominee reservation provides a good example. The past success in adopting a “new” sustainable-yield management was the result of a traditional community-oriented approach. Any resource which is common property or is considered a strategic need requires constant supervision and commitment in order to be successful. Following the principle that the success of all is eventually the success of one is much easier said than done. If management compromises the availability or preservation of resources, the future consequences could lead to their eventual loss. When the logic of western society prevailed over the idea of the different and unique lifestyle of the Menominee people, the federal government decided to terminate any assistance or support to this group.

The consequences of the Termination Act were negative because requiring a community operation to compete with the rules of open market overnight is impossible. Nevertheless a community-oriented company is not seeking a rate of profit over investment or to get rich over a short period of time. Rather, its goal is to preserve their resources and maintain their integrity. “Sustainable” does not mean to get money back in a prescribed brief period of time. It means to live and preserve the same amount of money and resources with little variance over time.

The Menominee operation hired more people than any other mill in the area. Why? Because the purpose of the mill was to help the members of the community obtain an income. There was no need to make a huge profit. The stakeholders were not asking for

profits via shares, but rather to have employment. Would this be possible under another scheme of land tenure? Yes, if there was a strong sense of unity combined with an identifying factor of uniqueness. The Menominee is not only an ethnic group; it is a group with territorial integrity. Even though the reservation is in many ways an imposition of a geographical constraint, it is the place they have come to call home. In a commercial forest land operation, is a worker willing to spend extra time caring for the new seedlings that were just planted? Probably not, because his loyalties are elsewhere. The Menominee have a personal interest and investment because they live in this space. They care for the new trees and the forest because this is their chance to obtain economic security as well as to preserve their lifestyle and tradition. Herein is the key to success. The actions of one benefit all and will make the goal of sustainable management possible.

While the reservation was a place that provided the Menominee a place to live, the ejidos were designated agricultural land or forestland. The original intent was not to allow the building of any kind of housing. The land was to be used to grow crops or harvest both timber and non timber products for sale. The income generated was to be used to provide food. Usually the ejidos were within walking distance of a community settlement. As a matter of fact, a person was required to be part of a community in order to have access to an ejido. If it was agricultural land, the ejido was divided into individual units with the same allotment for all members. If it was forest it was not divided unless the resources of harvesting forest products were not enough to provide food for families. In that case the council might decide to clear cut and transform the forestland into agricultural land. Even though the management was community-oriented, the allotment was for individual purposes. Then why were people so angry with the Amendment of 1992 which gave them full rights of ownership to the land? It was because the day to day affairs had been handled within a community structure: the council. While the law was restrictive for many in the ejido system, operations of the individual allotments were handled quite well within the structure of the council, which was, after all, a group of peers with the same problems and the same interests. They provided a measure of security and comfort.

During the 70s some sharp ejidatarios could foresee that the world was changing and that in order to adapt, the rules of the ejidos needed to be updated and modernized. The interests of these men tended to be self-serving, but at the time most people in Mexico were preoccupied because of one resource: OIL. The shortage of oil on the world market was a terrific windfall for the Mexican economy. Mexicans tended to consider money from oil as a panacea which would magically solve all the problems of Mexican society. At that time it would have been a wise investment had the government chosen to spend some of the oil money to provide credit or training to the ejidatarios. This would have not only benefited the ejidatarios, but it would have given them incentives to work and it would also have eliminated the heavy burden of the expensive subsidies. Moreover, if the small individual allotment was problematic, one solution could have been to modify the law and place the smallest ejidos under regional supervision. In that way the individual allotment would have been respected but councils would have been able to direct the actions towards reasonable common goals. While the structure was in place, it was never utilized in a way to take full advantage of it.

At that time fully half the Mexican territory had no official owner. However, much of the land in Mexico was utilized for farming, grazing, or forestry. Some local companies actually used ejido land for mining. This is clearly a violation of the rules of ejido ownership. Local councils had been able to set an agreement, but this was more by accident than as a result of policy making and real coordinated management between councils and federal government. The Salinas administration overlooked this reality and rather than use federal power to take a firm stand, the solution was to dismantle the entire ejido structure. They also totally ignored the spirit of the ejido; any person no matter how poor will have access to a piece of land to grow his own food. Under the new Amendment of 1992 this was no longer the case. Because the distribution of land was an accomplished fact, the market would henceforth set the rules for gaining access to land. In 1994 when NAFTA was launched, the Ejercito Zapatista de Liberacion Nacional (EZLN) appeared on the scene. This provided clear evidence that some people were in disagreement with all the changes made. More importantly, by using the last name of the famous civil war hero General Zapata, they forced people to remember that access to land had been considered a major victory for the poor and landless.

So far the outcome of the amendment has been mixed. The lands that have been purchased are the highly valued urban ejidos, some forest lands, and some mangroves along the shoreline which could possibly be used for future tourist development. The Ejidos in the north remain the ones that appeal to commercial entrepreneurs. The cashing out of urban ejidos for some ejidatarios has promoted the conversion of agricultural land into new urban settlements. These settlements, of course, require services. The expected boost to the economy of Mexico from this new law never happened.

In the cases of both the Menominee and the ejidos, the change of land tenure regime was promoted from the higher levels of government, the top to bottom decision-making process. Both were justified for economic reasons rather than for management purposes. The previous land tenure regimes had been proven to be functional. The reservation status prior to the Termination Act was a regime that allowed the Menominee Nation to preserve their identity, traditional management, economical income and territorial attachment. In Mexico the diverse forms of land tenure regime after the civil war, especially after the promulgation of the 1917 Constitution, allowed the building of the foundation of modern Mexican society. In both cases the role of central government was a key factor for all regulations within these land tenure regimes. Apparently in both cases this role was seen as an impediment for future economical development and, with that in mind, politicians at the federal level started to promote a change toward these land tenure regimes. Since, in both cases, the presence of agents of the central government was substantial, the promotion of change was relatively easy to impose. Moreover, the ones affected by this change had no opportunity to stop it.

The Menominee were able to return to their previous status, because they are a small and compact group. Their territory comprises only a tiny portion of the land in Wisconsin and a miniscule fraction of the territory of the United States. By contrast, in Mexico the geographical magnitude of the ejido system is a significant factor. Federal governments cannot afford to give up entire regions. If anyone tried to unify half the territory of Mexico, consisting of numerous plots scattered throughout the country, he would be almost certain to fail. The major lesson of the Menominee experience seems to

be that their fight was not merely for land, but for a need to recover their rights and to preserve their lifestyle and traditions. A common need is a cohesive factor that provides a sense of belonging. Communities today are more dynamic than ever. There are few examples of truly unique communities. Even ethnicity no longer provides a sense of community. A group that shares a common need such as access to water, better income, etc., will become more cohesive and better organized. As result, management is easier to establish. The Menominee people succeeded in regaining reservation status because the need of the group was more important than the need of the individuals. The land tenure regime as community ownership reinforces that fact. The Mexican example is totally different in the organization of their land tenure regime. It was originally established to provide a fast way to address the problems of a large group of people. The government was convinced that tending to the problems of the poor and landless on an individual basis would have been overwhelming and taken far too long. As mentioned, there was a time in the 70s when there was an opportunity to make a change. At that time ejidatarios were not struggling economically and there was a lot of room for experimentation. At the present time both economic and political conditions made this impossible. No party in the congress has the required number of votes to make changes in the constitution. In addition, everyone has different views of the land tenure regime.

While it is not possible now to think of a change for Mexico, the Menomonee provide an example and an inspiration. Using their example, it may be possible to tackle one ejido at a time. It is necessary to look for the need that will unify the group and use that need as a starting point. Land tenure regime helps to establish management, but it is the people that actually live on the land that put it into practice.

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