



HECTOR CALLEROS

POLITICAL COMMUNITY, FOUNDINGS AND INDIGENOUS PEOPLES

A CASE STUDY
OF CHIAPAS' LACANDON COMMUNITY



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To León

List of acronyms, abbreviations and terms

AGA: General Agrarian Archive

ARC: *Alianza Revolucionaria Campesina*

ARIC ID: *Asociación Rural de Interés Colectivo Independiente y Democrática*

ARIC UU: *Asociación Rural de Interés Colectivo Unión de Uniones Ejidales y Sociedades Campesinas de Produccion Rural de Chiapas*

ARIC UU Histórica: *Asociación Rural de Interés Colectivo Unión de Uniones Histórica*

ANCIEZ: Alianza Nacional Campesina Independiente Emiliano Zapata

ASRA: Archive of the Ministry of Agrarian Reform in Mexico City

ASRA Txt: Archive of the Ministry of Agrarian Reform in Chiapas

APO: Agrarian Procurator's Office (*Procuraduría Agraria*)

AIMMGM: Association of Mining Engineers, Metallurgists and Geologists of Mexico (*Asociación de Ingenieros de Minas, Metalúrgicos y Geólogos de México*)

CAM: *Confederación Agrarista Mexicana*

CAMIMEX: Mexican Chamber of Mines

CBD: Convention on Biological Diversity

CCI: *Central Campesina Independiente*

CDHFBC: *Centro de Derechos Humanos Fray Bartolomé de Las Casas*

CERD: Committee on the Elimination of Racial Discrimination

CIOAC: *Central Independiente de Obreros Agrícolas y Campesinos*

CNC: *Confederación Nacional Campesina*

CNDH: National Human Rights Commission (*Comisión Nacional de Derechos Humanos*)

- CNPA: *Coordinadora Nacional Plan de Ayala*
- CNPI: *Coordinadora Nacional de Pueblos Indígenas*
- Comunero: member of the Lacandon Community
- CONANP: National Commission for Protected Natural Areas (*Comisión Nacional de Áreas Naturales Protegidas*)
- CONEVAL: National Council for Evaluation of Social Development Policy (*Consejo Nacional de Evaluación de la Política de Desarrollo Social*)
- COSOMER: Programme for Attention to Social Conflicts in Rural Areas
- CPM: Corporatist Peasant Movement Organisation
- CS: Communal Statute
- DOF: *Diario Oficial de la Federación*
- EZLN: Zapatista Army of National Liberation (*Ejército Zapatista de Liberación Nacional*)
- FIFONAFE: Trust of the National Ejidal Development Fund (*Fideicomiso Fondo Nacional de Fomento Ejidal*)
- FEMOSPP: Special Prosecutor's Office for Social and Political Movements of the Past (*Fiscalía Especial para Movimientos Sociales y Políticos del Pasado*)
- IACHR: Inter-American Commission on Human Rights
- IACtHR: Inter-American Court of Human Rights
- IAHRS: Inter-American Human Rights System
- ICCPR: International Covenant on Civil and Political Rights
- ICESCR: International Covenant on Economic, Social and Cultural Rights
- ILO C169: International Labour Organization on Indigenous and Tribal Peoples Convention 169
- INALI: National Institute of Indigenous Languages (*Instituto Nacional de Lenguas Indígenas*)
- INEGI: National Institute of Statistics and Geography (*Instituto Nacional de Estadística y Geografía*)
- INPI: National Institute of Indigenous Peoples (*Instituto Nacional de los Pueblos Indígenas*)
- IPM: Independent Peasant Movement Organisation
- IPs: Indigenous peoples
- ISG: Indigenous self-government
- LC: Lacandon Community (*Comunidad Zona Lacandona*)
- LF: Lacandon Forest (also: Lacandon Rainforest, Lacandonia)

LGEEPA: General Law of Ecological Balance and Environmental Protection
(*Ley General del Equilibrio Ecológico y la Protección al Ambiente*)

MABR: Montes Azules Biosphere Reserve

MOCRI: *Movimiento Campesino Revolucionario Independiente*

NAFTA: North American Free Trade Agreement

OPPDIC: *Organización para la Defensa de los Derechos Indígenas y Campesinos*

OCEZ: *Organización Campesina Emiliano Zapata*

OAS: Organization of American States

PFII: United Nations Permanent Forum on Indigenous Issues

PNAs: Protected Natural Areas

PRI: *Partido Revolucionario Institucional*

QTL: Quiptic Ta Lecubtesel

QTL/UU: *Unión de Ejidos / Unión de Uniones Queptic Ta Lecubtesel*

RAN: National Agrarian Registry (*Registro Agrario Nacional*)

RAN Txt: Agrarian National Registry, Chiapas Office

SEDATU: Ministry of Agrarian, Territorial and Urban Development (*Secretaría de Desarrollo Agrario, Territorial y Urbano*)

SEMARNAT: Ministry of Environment and Natural Resources

SIMEC: Information, Monitoring and Evaluation System for Conservation

SG: self-government

SD: self-determination

SERAPAZ: *Servicios de Apoyo a la Paz*

SRRIP: Special Rapporteur on the Rights of Indigenous Peoples

UCISECH-CEOIC: *Unión Campesina Indígena de la Selva de Chiapas Xi'Nich*

UCD : *Unión Campesina Democrática*

UNDRIP: United Nations Declaration on the Rights of Indigenous Peoples

UNORCA: *Unión Nacional de Organizaciones Regionales Campesinas Autónomas*

USMXCA: United States-Mexico-Canada Free Trade Agreement

USAID: U.S. Agency for International Development

Acknowledgements

In Mexico, the issue of indigenous lands has been a source of contention for centuries. During my undergraduate studies in Political Science (Facultad de Ciencias Políticas y Sociales – UNAM), the significance of the study of Indigenous Peoples became particularly evident, as the Zapatista Army of National Liberation (EZLN for its acronym in Spanish) launched their movement. My interest in the subject is the result of a combination of my professional experience and academic interest in social conflict. This book aims to contribute to ongoing discussions on theoretical frameworks within political science for the study of Indigenous Peoples.

I would like to express my gratitude to all those who have made a valuable contribution to this book in various ways. I would like to express my sincerest gratitude to the Science and Technology Council of Mexico (CONACYT) for its robust support, which enabled me to pursue my research on the land conflict in the Lacandon Rainforest as a doctoral project. I am also deeply grateful for further funding that allowed me to return to Mexico to continue my research on indigenous peoples in North America at El Colegio de Tlaxcala, A.C.

I am grateful to the Institute of International Relations (*Instytut Stosunków Międzynarodowych*) at the University of Warsaw for providing the setting to continue my research on key concepts of political theory. I would like to express my gratitude to Dr. Anita Oberda and Dr. Jakub Zajączkowski for their kind reception. Upon my arrival at the institute, I had already conceived the idea of writing this book; however, the challenges of academic life have influenced the timing of this project.

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Introduction: An Indigenous Community in the Lacandon Rainforest (1972–2023)

This book contributes to integrating a broader discussion about indigenous peoples (nations, communities and tribes) into political theory. Centred on the notion of ‘political community,’ it presents and closely examines a case study, through which it explores the process whereby an ethno-cultural group transforms into a political entity. This process is analysed based on the concepts of self-determination, autonomy, self-government and consent. A central claim of the book is that these four concepts are crucial components of an adequate framework for analysing indigenous nations, communities and tribes, in relation to notions such as ‘people,’ ‘territory,’ and ‘institutions.’ The book’s argumentation draws extensively on the conceptual progress that has come about through the adoption of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), in terms of the recognition of indigenous peoples at the international level. As a result, this framework offers a critical lens through which the narratives surrounding the establishment of political orders can be scrutinized.

Empirically grounded in the case study of the *Comunidad Zona Lacandona* (Lacandon Community) – an indigenous community located in Chiapas, Mexico – the book contributes to a re-examination of the dominant narratives about how political orders were founded. These ‘foundings,’ which encompass the prevailing political narratives and practices – along with historical accounts that define the birth of contemporary states – are relevant today because they are the anchors of political authority and sources of democratic legitimacy. The case study of *Comunidad Zona Lacandona*, a multi-ethnic community established in Mexico over the period 1972–1979 by

means of governmental action (i.e. land reform), serves as a vivid illustration of the process of transitioning from an ethno-cultural group to a ‘political community.’

The implementation of a land reform programme – through policy actions known as ‘recognition and titling of communal lands’ (1972) and the subsequent negotiated incorporation of land-claimant groups of Tzeltal, Chol, and Tzotzil speakers (1976–1979) – led to the formation of the Lacandon Community (LC). Seeking to understand this process better, this book examines the broader historical context of how Mexico’s Revolution (1910–1921) radically reformed its land tenure system. Codified in the country’s Constitution of 1917, this new system laid the foundation for indigenous peoples’ land claims. Moreover, in understanding the configuration of the contemporary territorial base of indigenous communities, such as the one considered in the case study, the analysis of two policies is important: land policy and environmental policy. The issues addressed by these policies are central to the current realities of indigenous peoples in the twenty-first century, including threats to their indigenous lands, territories and ecosystems, which in turn jeopardize their way of life.

By tracing out the transition from an ‘indigenous community’ to a ‘political community,’ this book identifies the core constituent elements of a political organization. For a political community, those elements are ‘a people,’ ‘a territory’ and ‘forms of organization.’ Similarly, for an indigenous community, the core constituent elements are a people, a territorial base and cultural institutions. These constitutive elements are recognized not only in Mexico’s Constitution, but also in international law and human rights law such as the 2007 United Nations... (ILO C169). the 2007 United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and the 1989 International Labour Organization Convention no. 169 (ILO C169).

The book also discusses the notion of indigeneity – ‘a people’ often being defined in terms of historical continuity and varieties of membership criteria. As indigenous communities are part of constitutional states, membership has been codified in national legal systems – which the case study examined herein illustrates. Moreover, an association with a particular territory is strongly implied in definitions of indigenous peoples, and this association is perhaps the main challenge that indigenous peoples have faced throughout their entire history. In this regard, the case study illustrates the discussion on the topic of ‘traditional occupation.’ Furthermore, indigenous customs

and practices ('indigenous institutions') illustrate the dual life of indigenous peoples in contemporary constitutional states: indigeneity is reproduced in traditional customs, to which self-government provides an administrative and a political element. At the same time, indigenous communities are part of larger socio-political orders (constitutional republics) – and their existence has been internationally acknowledged and recognized.

The indigenous community, defined in these terms, poses a challenge to the authority and legitimacy of contemporary constitutional democracies. This entails that the 'foundings' of contemporary states, being the anchors of their political authority and the source of their legitimacy, are vulnerable. Indigeneity de-authorizes political origins. In addressing the problem of 'foundings' as a problem of authority and legitimacy in democracy, the book suggests a model of engagement between indigenous peoples and states on the basis of the four concepts of self-determination, consent, autonomy, and self-government.

A Multidisciplinary Approach to Studying Indigenous Peoples

This study adopts a multidisciplinary approach. While primarily concerned with core concepts of political theory, it draws upon a number of other academic disciplines, including sociology, law (constitutional, agrarian, international and human rights), history, anthropology and ethno-history. Two seminal works that have informed the central arguments of this book are those of James Anaya (2004) and Angélica Bernal (2017). Because this book explores the conceptualisation of an ethno-cultural group as a political entity, it draws from political theory such concepts as self-determination, autonomy, self-government, and consent (discussed in Chapters 1, 6, and 7). It also includes a thorough review of the relevant literature in the fields of anthropology, ethno-history and agrarian law – specifically on the historical identity of the Lacandon Indians,¹ and the issue of land restitution within Mexico's land reform. Regarding international law and international human rights law, it references the Inter-American norms and jurisprudence, the 1989

¹ Previous studies on the Lacandons include: Thompson (1970), Scholes and Roys (1948), Pons Saez (1997), Boremanse (1998).

International Labour Organization on Indigenous and Tribal Peoples Convention (ILO C169), and the 2007 United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).

The book heavily draws upon and presents observations and insights gained throughout my academic career. The case of the Lacandon Community has consistently served as an empirical foundation for my research. My approach to Indigenous affairs has evolved over the years.

As it focuses on the constitutive elements of such a community – ‘people,’ ‘territory,’ and ‘institutions’ – the book tries to integrate the conceptualisation of self-determination, autonomy, self-government, and consent as developed within the internationally recognised rights of Indigenous Peoples.

Archival work and fieldwork have been fundamental in ensuring that this book is firmly grounded in the relevant data. This is the result of long-term research on social conflict and political process that began as a doctoral project at the University of Leeds – a project that focused on the dynamics of landed conflicts over indigenous lands. Later, during my tenure at El Colegio de Tlaxcala A.C. (COLTLAX), I was able to examine more closely the political processes in which the Lacandon Community was involved, addressing land disputes and examining international human rights debates regarding indigenous peoples’ territorial claims. These research efforts resulted in three academic articles on topics such as political process, indigenous identity, and claims over territory and natural resources. Additionally, supported by a grant from Mexico’s Science and Technology Council (CONACYT), I researched the topic of indigeneity and constitutional democracy, which led me to examine the experiences of Native Americans in the United States of America. That research resulted in two publications. I returned to more mainstream strands of Political Science during my research visit at the Institute of International Relations at the University of Warsaw. Sponsored by an academic exchange programme between Mexico and Poland, I focused on studying the institutions of constitutional democracy and concepts such as consent, dissent, consensus, legitimacy, and resistance. From this period, three articles were published on the political institutions of Mexico, Poland, and the United Kingdom – I was able to complete this work during a subsequent brief research visit to the Research Institute of the University of Bucharest.

My incorporation into the American Studies Center (ASC) at the University of Warsaw provided me with an opportunity to reflect on the methodological approach I had taken throughout my career. The product of that

reflection was an article published in *Revista Mexicana de Ciencias Políticas y Sociales* (Calleros Rodríguez, 2022). At the ASC, I continued to explore the topics of Constitutional Democracy and ethno-racial diversity in the United States. At the same time, I began to explore different sources of data: I examined census data in relation to indigenous peoples in both, Mexico and the United States. Some further publications resulted from that effort.

Also in terms of data, in the summer of 2019, I visited the historically significant *Archivo General de Indias* (AGI) located in the Iberian city of Seville. This visit marked a significant shift in my research towards examining primary historical sources of the European expansion to the continent of America. Following in the footsteps of Jan de Vos, I read seventeenth and eighteenth-century manuscripts classified under the name Guatemala. Those primary sources have provided insights into the historical processes of establishing a new political order from which ‘indigenous’ populations would emerge. The experience of researching this archive greatly contributed to informing the discussion developed in Chapter 7 – originally published in the journal *Ameryka Łacińska – Kwartalnik analityczno-informacyjny* (Calleros-Rodríguez, 2023).

Archival research has constituted an important aspect of my professional trajectory. Data for this book has been sourced from various archives over different stages of my research career. Additional sources include census data (Calleros & Ibarra, 2022) and geographical data (Calleros-Rodríguez & Guevara Romero, 2016).

In addition to this, fieldwork observation, interviews, and document collection have been conducted in the towns of Nueva Palestina, Metzabok, Najá, Lacanjá Chansayab, and Frontera Corozal. The data collection process has included visits to relevant Chiapas cities such as Ocosingo, Palenque, San Cristóbal de las Casas, and Tuxtla Gutierrez. Additionally, I collected data from the agrarian archives of the Ministry of Agrarian Reform (ASRA), the National Agrarian Registry (RAN) in Mexico City and Tuxtla Gutierrez (Chiapas’ capital), as well as the General Agrarian Archive (AGA)

Crucial data, in the form of official documents, were obtained through Public Information Requests (PIR). Secondary sources encompass websites, reports, human rights recommendations, press releases, legislation proposals, and judicial decisions from national, multilateral bodies, and private organizations.

Fieldwork for the case study included a preliminary investigation in January 2007, followed by further visits in March–June 2008, January 2010, and September 2015. Semi-structured interviews were conducted during those periods. The names of informants have always been kept anonymous.

Overall, the case study presented in this book still remains very much relevant today, as the dynamics of social conflict persist and new ones emerge – including the criminal violence that has become a significant problem in the Lacandon Rainforest.

The Case Study

The Lacandon Community

This book is centred around the case of the *Comunidad Zona Lacandona* (Calleros-Rodríguez, 2013, 2014; Calleros-Rodríguez & Guevara-Romero, 2016). The Lacandon Community (LC) is located in Lacandonia (Chiapas, Mexico);² it has the status of an ‘agrarian community’ established through an agrarian restitution procedure called ‘recognition and titling of communal lands.’³ Since it received land in restitution in 1970s, this community has been advocating for its rights over land, territory and natural resources.

Thus, within Mexico’s land reform, the LC was established by two presidential decrees. The first was a Presidential Resolution on the Recognition and the Titling of Communal Lands (*Reconocimiento y Titulación de Bienes Comunes*), officially enacted on 6 March 1972. By means of this procedure, sixty-six Lacandon Indians, together representing some 350–400 people (Paladino, 2005), received 621,324 hectares of tropical forest in southern Mexico in restitution. The decree established that this land was made up of a combination of tracts originally slated to be national parks, lagoons, archaeological sites (30,365 hectares), national lands (160,211 hectares), private holdings (423,745 hectares) and land that could have been reserved

² The Lacandon Rainforest is in the eastern part of Chiapas, in the Usumacinta River basin, contiguous with Guatemala’s El Petén region and the Yucatán peninsula.

³ Article 27 of Mexico’s 1917 Constitution established tenure principles for different land-based communities: *ejido*, agrarian colonies and agrarian communities (recipients of land restitution actions).

for the creation of land-based settlements (*ejidos*)⁴ through land reform (de Vos, 2002: 101–4; Ascencio, 2008: 39). The second decree – the Presidential Resolution on the Recognition of Communal Agrarian Rights in the population centre called Zona Lacandona (*Resolución Presidencial sobre Reconocimiento de Derechos Agrarios Comunales en el núcleo de población denominado Zona Lacandona*) – dates from 8 March 1979 and recognized the land rights of a further 1,452 non-Lacandon members of the community (*comuneros*). Since 1979, then, the LC has become a multi-ethnic community incorporating Tzeltal and Chol, plus a small number of Tzotzil indigenous families as land-right holders.

The LC has 1,450 land-right holders, or *comuneros* (Ascencio, 2008: 129), and a total population of 16,879 inhabitants (Calleros-Rodríguez & Guevara-Romero, 2016). The population lives in language-based settlements: Lacandons live in Lacanjá Chansayab, Najá, Metzabok and Ojo de Agua Chankin; Tzeltals (and Tzotzils) live in Nueva Palestina, and Chols in Frontera Corozal (Figure 2). It has a three-tier governance structure (community level, settlement level and ward). The territory of this community encompasses lagoons,⁵ archaeological sites (de Vos, 2002: 105) and seven protected natural areas (PNAs)⁶ which together cover 350,250 hectares of its land (CONANP, 2006a,b).

The Lacandon People

At the core of the agrarian community known as the Lacandon Community is the Lacandon people (Calleros-Rodríguez, 2013). Their history is documented in numerous documents, dating back to the eighteenth century – with 1793 often cited as the starting point of their documented presence in Lacandonia (de Vos, 1980/1996; Inaremac, 1985; Aubry, 1987). The nineteenth century also provides accounts of them, including references to their

⁴ The land reform programme granted land in the form of ‘*ejidos*’ to groups of landless peasants, conferring them the usufruct of land rights both as individuals and collectively.

⁵ El Cedro, Lacanjá, Miramar, El Ocotal, Santa Clara, Petjá, Itzanocú, La Maroma and Metzabok.

⁶ Biosphere reserves (Montes Azules and Lacant-Tún) and protected natural areas (Chan-Kin, Najá, Metzabok, Yaxchilán and Bonampak).

presence along the banks of the Usumacinta River in 1834 (Tozzer, 1907/1962, p. 52). Later, in 1877, explorer Juan Ballinas (1951, p. 38; Baer & Merrifield, 1971, p. 53) met a group of Lacandons by the Jataté River during his search for a route to El Petén. The twentieth century saw an upsurge in historical mentions of the Lacandon presence. In 1905, Tozzer (1907/1962, pp. 20–33) observed scattered groups west of the Usumacinta River and south of Teno-sique and the rivers Lacantún and Lacanjá, with similar reports and accounts corroborating these observations (Baer & Merrifield, 1971, p. 129; Interview 11). Between 1927 and 1943, Lacandon *caribales* were found in several locations, constantly moving around as a result of disease, family separations, and the scarcity of marriageable women (Baer & Merrifield, 1971, p. 37). From the 1940s onwards, interactions between the Lacandons and the outside world intensified. In 1944, there were 10 *caribales*⁷ (Villa Rojas, 1967b, p. 468; DUBY, 1944) and more groups were reported in 1945⁸ (Baer & Merrifield, 1971, p. 43). A significant event occurred in 1964 when a group of Lacandons in Monte Líbano was displaced by timber company operations, leading them to flee to the Metzabok Lagoon (de Vos, 2002, p. 111). By 1967, settlements were reported in northern Lacandonia⁹ (Villa Rojas, 1967b, p. 481), with several *caribales* scattered throughout the rainforest and a group from San Quintín relocating to Lacanjá Chansayab (Baer & Merrifield, 1971, p. 131). These records collectively suggest that the Lacandons traditionally inhabited a vast territory in the region.

Throughout the nineteenth century, the Lacandons witnessed various transformations of the territory they have traditionally occupied: Mexico's boundary dispute with Guatemala (1821–1895), the Tabasco dispute with Chiapas over the jurisdiction of Lacandonia (1898–1912), the formation of large estates (1889–1972), and the development of commercial logging (1863–1989) (Valdez, 2006; de Vos, 1996; Holden 1994). In the twentieth century, factions of the Mexican Revolution used logging concessions and land rights to consolidate their power. In the 1950s, the arrival of landless indigenous settlers to Lacandonia led to its 'agrarianisation' (González

⁷ Peljá, Metzabok, Arena, Santo Domingo, Chocolja, Lacanjá, Laguna Chan, El Cedro, El Desempeño and San Quintín.

⁸ Miramar Lagoon, Sic Rum and Ya'ririXa'n.

⁹ La Arena, Yukman Babar, Pasa Macho, Santo Domingo, and Ilusión; also Najá, Het-já and Río Perlas located between Het-já and Tenosique.

Pacheco, 1983; Valdez, 2006; de Vos, 2002; Paladino 2005; Villafuerte et al., 2002; Leyva & Ascencio, 1996/2002; Lobato 1979). In the 1970s, the Mexican State changed its traditional role in the region: shifting from a role limited to issuing concessions, property titles, customs, and overseeing logging and rubber tapping (Dichtl, 1988, p. 37) to the direct exploitation of resources: parastatal lumbering (1974–1989), oil exploration (1976–1981) and drilling (1984–1992) (de Vos, 2002; Barreda, 1999). Current concerns involve governmental interests in uranium (Diaz-Polanco & Sanchez, 2002, p. 60) and water resources (Interview 10), not just ecosystem conservation. The Lacandons have also witnessed a shift in the types of actors who have entered the rainforest: shifting from workers, explorers, Christian missionaries, Maoist activists and Marxist-Leninist guerrillas¹⁰ to government officials, NGO activists and international donors. More recently, Lacandonia has seen the rise of various forms of trafficking (people, wildlife and merchandise), accompanied by an increased military presence.

A Periodisation of the History of the Lacandón Community

Perhaps one of the most significant crises the LC has faced since its establishment in 1972 came in 2014, when the leadership of the Lacandon *comuneros* was openly challenged by non-Lacandon community members. Although the leadership was eventually re-established, the incident revealed the fragility of the principle of Lacandon pre-eminence in a plural indigenous community.

Over its fifty-year history, the LC has experienced ongoing tensions and conflicts. This history can be divided into five periods. Interestingly, these seem to align with Mexico's six-year presidential terms, suggesting that the country's political system imprints the dynamics of its six-year cycles upon the Community.

The First Period (1972–1999) was marked by the LC's efforts to have federal land authorities to complete the boundary demarcation of its land tract, as the land was also claimed by several neighbouring communities (*ejidos*). This dispute falls within the realm of agrarian politics – which often involves

¹⁰ For a discussion on the presence of the EZLN in Lacandonia see Legorreta (1998); Orive and Torres (2010) and Santiago Quijada and Balderas Domínguez (2008).

securing land tenure for landless claimants, typically spearheaded by ‘social organizations’ (see Chapters 4 and 5). Since the lands of the LC are rich in natural resources, ecosystem conservation has been a policy imposed on the region. Environmental conservation became a main goal for governments, through agencies such as CONANP and in partnership with non-governmental organizations. The *comuneros* have continually criticized this policy and its civil society partners (Mandujano, 2019, 2020). The environmental authorities (federal and state) will rely on organizations such as *Natura y Ecosistemas Mexicanos* to enforce environmental policy. In this complex arena of competing interests and objectives, political parties have sometimes represented the *comuneros*’ position in Mexico’s federal Congress (Partido del Trabajo, 2019).

The Second Period (2000–2006) saw the implementation of the Comprehensive Attention Programme for Community Assets in the Lacandon Rainforest and MABR (*Programa de Atención Integral a los Bienes Comunes Zona Lacandona y Reserva de la Biosfera de Montes Azules*), a public policy action that operated from June 2003 to December 2006 with the objective of addressing land disputes (Ascencio, 2008). It was the last and most extensive agrarian policy aiming to cooperatively resolve the presence of human settlements within the boundaries of the LC, demonstrating the unavoidable necessity of government intervention to solve land disputes. The programme was also important as it initiated a round of negotiations and agreements between the parties involved in agrarian disputes in the region.

The Third Period (2006–2012) was a time of contrast between the government authorities’ priorities of enforcing environmental policy and the LC’s main goal of continuing to resolve the issue of irregular settlements within its lands. By 2008, the LC sought resolution through ‘dialogue and concertation with neighbouring towns and organizations,’ a premise that often led to tension with the authorities (federal and state) over matters of land tenure and the environment. The LC, after deliberations of its general assembly, decided to try to peacefully settle land disputes through negotiations with relevant stakeholders (i.e., *ejidos* and social organizations) in areas such as El Desempeño, Zona Norte, Cañada Agua Azul, Cañada Amador Hernández, Río Negro Basin, Cerdón del Chaquistero. This approach of ‘negotiated land disputes’ stood in contrast with the environmental authorities’ priority of securing protected natural areas (PNAs) by evicting irregular settlements. For many in the LC, that policy merely perpetuated land conflict in a region

where there were no viable economic subsistence alternatives. The issue of the lack of economic alternatives for the populations that live near or within the protected natural areas (PNAs) suggests that the problem of environmental conservation cannot necessarily be reduced to one of agrarian politics, but rather seems to be one of human subsistence. If so, then the viability of PNAs might depend on building economic options for human populations, in such a way that the conservation of nature is compatible with social life. Nevertheless, for the authorities, continuing to negotiate with groups illegally settled within the perimeter of PNAs was an absurd policy. They argued that the LC 'should not negotiate with the groups that were occupying its territory if only because that approach would incentivize new land seizures,' accusing the LC of trying to capitalize on agrarian politics. At the same time, the environmental authorities exposed themselves to accusations of fostering social division in the region – precisely when social actors, the LC and social organizations, were trying to peacefully settle land disputes.

Government authorities were criticized for failing to resolve agrarian and environmental issues over more than four decades, for aggravating conflicts, and for contributing to land loss in protected areas. And so, in the years 2006–2012, land regularization ceased to be the priority objective of government action. Instead, the priority was placed on trying to evict the irregular settlements within the boundaries of the Montes Azules Biosphere Reserve (MABR). In this period, agrarian problems that remained pending from the previous period with eviction initiatives were addressed. But for the LC, a policy of evicting groups would once again generate conflicts; for several *comuneros*, it was preferable to settle disputes through negotiation. Another point of tension with authorities was in terms of the enforcement of environmental policy. For example, as the LC would refuse to file the corresponding criminal complaints so that evictions could be carried out, it was exposed to pressure from federal and state authorities. Refusing to file the complaints would open it up to accusations of allowing invasions within the MABR, for instance (Partido del Trabajo, 2019).

The Fourth Period (2012–2018) was notably marked by the election of a non-Lacandon community member as community leader (2014–2017), in a break from the agreements that had led to the incorporation of non-Lacandon members into the Community in the late 1970s. This election, forming part of a *fait accompli* policy intended to force negotiations, aimed to alter the existing power dynamic within the Community. In a show

of determination to develop a policy of negotiating land disputes with neighbouring *ejidos*, some non-Lacandon *comuneros* (i.e., Tzeltal), mostly from Nueva Palestina, decided to elect a leader on their own, exhibiting a form of ‘grass-roots politics’ (SERAPAZ 2020). This was viewed by some as an attempt to destabilize the LC and, more broadly, an attempt at changing the politics of the region by empowering communities to challenge top-down public policy. The role of SERAPAZ, along the lines of the Catholic church in the region, deserves special attention. However, this form of *fait accompli* politics is often confronted with legal actions – as well as with a ‘politics of control’ (below).

The Fifth Period (2018–2024) has seen the wider Lacandon Rainforest region grappling with issues of security and criminal violence, becoming a focus of attention that overshadows traditional issues of land tenure and environmental conservation. In 2023, the federal government described the rainforest as a ‘new territory for drug [trafficking]’ (Mandujano, 2023c). The new reality of criminal activity and violence – marked by clandestine airstrips, drug seizures, murders and disappearances of people, and forced displacement of communities – was publicly acknowledged by President Andrés Manuel López Obrador at a news conference (Mandujano, 2023a). The federal government identified rainforest regions such as San Quintín, Benemérito de Las Américas and Frontera Corozal as being under the control of organized crime groups that conduct criminal operations. In a letter responding to this government evaluation, the LC authorities denied these claims (Mandujano, 2023b).

The operation of criminal groups within or near protected natural areas is not uncommon. In the Lacandon Rainforest, however, the problem is further aggravated by its proximity to the international border with Guatemala – an economic and commercial zone where unregulated economic and commercial activities abound (Devine et al., 2020; Galemba, 2017). In addition, insurgency is also present. Almost thirty years after the Zapatista uprising, the EZLN has reaffirmed its struggle and has called on new generations not to forget it. The year 2018 was a tense year for the Zapatistas, who denounced military overflights (Mandujano, 2018a) and had run-ins with the army (Mandujano, 2018b).

During the period 2018–2024, problems of land tenure and environmental conservation in the region received attention at the federal level, both in Congress and within the presidential cabinet. By 2019, the fate of illegal

settlements within the strategic MABR appeared to divide cabinet deliberations (SEDATU, 2021; CONANP, 2019b).

Environmentalism has been a defining policy for Lacandonia. Environmentalists denounce the practice of ‘agrarian politics’: a practice based on land claims, invasions of land tracts, government expropriations and compensation paid by governments. They see agrarian politics as a form of business, which they aim to hinder. They claim to have a long-term vision of heritage conservation and protection (Mandujano, 2019). However, the fact that protected natural areas are located within indigenous territories makes claims against them more visible. Communal authorities, in turn, have denounced and accused federal environmental policy’s partners (i.e., *Natura y Ecosistemas Mexicanos*). Accusations against them range from the commercialization of natural resources to questioning their ethics and the social viability of environmentalism. Others involve concerns about alleged foreign interests associated with USAID – allegations that have been denied (Rodríguez García 2017 – while still other criticisms focus on the compatibility of ecosystem conservation with the rights of indigenous peoples.

The structure of this book

The remainder of this book is divided into three sections. The first section (‘Framing the Discussion on Indigenous Peoples in Mexico’s Lacandon Rainforest’) lays the groundwork for the discussion on the Indigenous Community and the conceptualization of the political community. Chapter 1 (‘Political Communities in Indigenous Lands’) examines the elements of a people, territory and forms of organisation (i.e., institutions) as constitutive of political order. Next, Chapter 2 (‘Land Policy and Indigenous Rights in Mexico: Threats and Challenges’) presents the development of the topic of Indigenous land rights in Mexico. Chapter 3 (‘Indigeneity and State Formation in the Lacandon Rainforest’) examines the historical context specific to the Lacandon Rainforest, as a way to understand its ethno-cultural composition.

The second section (‘What is a Political Community?’) analyses the case study that forms the core of this book. It explores, in Chapter 4 (‘A People’), the concept of ‘a people,’ its territorial bases and its social institutions. Specifically, it examines the issue of the historical continuity of the Lacandons in relation to the concept of ‘traditional occupation.’ This chapter

also describes the process of establishing the LC and lays out the implications for multiple land-claimant groups. In Chapter 5 (‘Territory, Land and Natural Resources’), the central argument is that the LC, a product of Mexico’s land reform, is a multi-ethnic indigenous community with land rights protected by international law (i.e., the Inter-American norms and jurisprudence on the rights of indigenous peoples). The chapter also examines the issue of protected natural areas in indigenous lands. Chapter 6 (‘Indigenous Self-Government and the Dual Thrust’) raises the question of indigenous self-government in the context of the landed conflict in the Lacandon Rainforest. Taken together, these chapters argue that what is constitutive of a political community (a people with a territorial base and institutions) is, similarly, constitutive of the community examined in the case study.

The book’s third section consists of Chapter 7 (‘Indigenous Peoples and Polity Formation’). It touches on the topic of indigeneity and political community. The politics of ‘founding’ places indigenous peoples in the debates about political origins. The discussion borrows from the UNDRIP’s conceptualizations of self-determination, autonomy, self-government, and consent to argue that the existence of indigenous peoples in contemporary (democratic) states effectively challenge the narrative of the foundations of a political order. The final Chapter 8 then presents the overall conclusions.

The introduction and Chapter 3 draw from an article published in the journal *Identities* (Calleros-Rodríguez, 2013). Chapter 4 is partly derived from articles published in the journals *Desenvolvimento e Meio Ambiente* (Calleros-Rodríguez & Guevara-Romero, 2016), *Identities* (Calleros-Rodríguez, 2013), and *Journal of Peasant Studies* (Calleros-Rodríguez, 2014). Moreover, Chapter 5 is also partly derived from Calleros-Rodríguez (2013) and Calleros-Rodríguez and Guevara-Romero (2016). Finally, Chapter 7 tries to refine the arguments published in the journal *Ameryka Łacińska – Kwartalnik analityczno-informacyjny* (Calleros-Rodríguez, 2023).

SECTION I

Framing the Discussion on Indigenous Peoples in Mexico

Chapter 1

Political Communities in Indigenous Lands

1.1. Introduction to Indigenous and Political Communities

This chapter explores the relationship between indigenous communities, land, and rural politics, analysing how indigenous communities and their communal lives are conceptualized in significant legal documents, such as Mexico's 1917 Constitution, the 1989 International Labour Organization on Indigenous and Tribal Peoples Convention (ILO C169), and the 2007 United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). The elements of membership (a people), territory (country) and forms of organisation (institutions) are found to be central to their conceptualisations – elements which, this book highlights, exhibit a close definitional proximity to the components that in political theory are regarded as constitutive of a political community.

1.2. Land and Indigenous Communities in Mexico

The study of indigenous communities in Mexico incurs a variety of issues. The country has one of the largest indigenous populations in the world. Mexico's overall population is 119,930,473 (INEGI, 2020a), of which 25 million self-identify as indigenous persons (INALI, 2020). In addition to Spanish, 63 other languages are spoken, with over seven million speaking an indigenous language, mainly Náhuatl, Maya and Tzeltal (INEGI 2020b).

One of the defining aspects of an indigenous community is its attachment to land. The issue of indigenous communities in Mexico is addressed in the country's Constitution of 1917 – namely, within the legal framework of land reform (i.e., the Agrarian System). Indigenous peoples gained access to land through land reform, but ethnic identities were not a relevant criterion in land claims (see section 2.2.2. 'Indigenous Land' below).

In Mexico, some indigenous communities also have territorial foundation in the form of municipal jurisdictions. Municipalities have been at the centre of indigenous life. In Mexico's three-tier state structure, the federal republic is composed of 32 states and 2,457 municipalities (INPI, 2017)¹: of those municipalities, 623 are 'indigenous municipalities,' 251 municipalities have 'indigenous presence'; 1,543 municipalities have a 'dispersed indigenous population' and 33 municipalities are 'without indigenous population.' Policymakers have noted that within those municipalities with more than 30% of indigenous population there are more than 6,000 agrarian nuclei – 79% of these are *ejidos* and 19% are agrarian communities (see DOF, 2014). Although indigenous peoples own land in the form of private property, social property is the predominant form of tenure (in terms of social property, *ejidos* are far more common than agrarian communities).² It is important to note that not all social property is owned by indigenous people; however, some indigenous communities do own significant tracts of land. This fact makes indigenous peoples central actors in national environmental policies (Boege, 2008). Lands owned by indigenous peoples represent approximately 14.3% (or 28 million hectares) of the country's total territory, and almost half of its main basin headwaters are inhabited by indigenous peoples (Toledo et al., 2019, p. 40).

Since these two landed foundations, the agrarian system and the federal structure of Mexico's state, indigenous communities have been part of the

¹ An estimate of the indigenous population based on the criteria of households and its main sociodemographic indicators based on the Intercensal Survey 2015, carried out by INEGI. Cf. also Figueroa (2020).

² Robles Berlanga and Concheiro (2004: 5), based on different sources of data that included the 1991 INEGI's Censo Agropecuario, reported that *ejidos* and agrarian communities with an indigenous population owned more than 22 million hectares (22% of the area owned by *ejidos* and communities); they also reported that roughly one in five *ejidos* and communities have indigenous peoples as land reform beneficiaries.

country's political system. These foundations underpin a form of rural politics that has always been a complex and conflictive arena (Assies, 2008; Petras & Veltmeyer, 2001). Land reform dominated rural politics throughout the twentieth century. Specifically, land reform beneficiaries became part of a political system that demanded corporatist support and electoral loyalty to the Revolution's dominant force, the *Partido Revolucionario Institucional*. Land claimants outside the corporatist system organized what has been identified as the 'independent peasant movement,' from which they pressed for their land (and other) demands through social mobilization and electoral politics (Grammont & Mackinley, 2009; Mackinlay and Otero, 2004; Rubio, 1996; Paré, 1990). Moreover, armed land struggles have continued to exist as vestiges of the Revolution, until the rise of the *Ejército Zapatista de Liberación Nacional* in the context of neoliberal policies. Therefore, the study of indigenous communities in Mexico has been centred on land and rural politics.

1.3. Frameworks to Examine Indigenous Communities

This section examines three legal documents – Mexico's 1917 Constitution, the 1989 Indigenous and Tribal Peoples Convention (ILO C169), and the 2007 United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) – to analyse the way in which they have conceptualised indigenous peoples as collectives. The analysis reveals that the elements of membership (a people), territory (country) and forms of organisation (institutions) are central to their conceptualisation. The section further examines scholarly research into indigenous communities as cultural collectives, which underscores the importance of cultural, historical, and territorial dimensions in defining their identity and autonomy in more general terms.

1.3.1. Mexico's Constitution

The Mexican Constitution explicitly acknowledges the existence of indigenous peoples within the country. The country's legal framework incorporates ethno-linguistic and geographic criteria to acknowledge the existence of indigenous peoples. Additionally, the country's subnational (state-level) constitutions and laws recognise indigenous peoples and communities. Furthermore, the indigenous community, in its capacity as a landowning

collectivity, has existed within the legal framework of land reform, specifically the Agrarian System.

Indigenous land rights are enshrined in Article 27 of the Constitution – which, since its enactment, was the subject of a major revision in 1992. Further legislation addresses issues such as water, natural resources, and underground resources. Of particular importance is the Agrarian Law (*Ley Agraria*), which regulates constitutional Article 27 in matters relating to indigenous lands (Gallardo Zuñiga, 2006a). At the local level, there are instances of customary practices (*Usos y Costumbres*). It is important to note that the authorities of communal landholdings (*ejidos* and agrarian communities) established under land reform legislation (*Ley Agraria*) may not be the same as the traditional (customary) indigenous authorities. Indeed, conflict between agrarian and traditional authorities is not uncommon.

Moreover, the Constitution, particularly through Articles 18 and 115, reinforces the protection of human rights for indigenous communities. Article 1 states that ‘all individuals shall be entitled to the human rights granted by this Constitution and the international treaties signed by the Mexican State, as well as to the guarantees for the protection of these rights.’

Furthermore, the Constitution’s Article 2 recognizes the right of indigenous peoples to self-determination and establishes preferential access for indigenous peoples to the natural resources in the areas they inhabit. This article stipulates that the Mexican Nation is ‘unique and indivisible’ (the sovereign principle); however, it recognises that it is ‘multicultural’ in its composition ‘based originally on its indigenous peoples.’ In this article, indigenous peoples are described as ‘descendants of those inhabiting the country before colonization and that preserve their own social, economic, cultural and political institutions, or some of them’ (Article 2, as amended on August 14, 2001). Moreover, indigenous identity is understood as a matter of self-identification and awareness: ‘Consciousness of indigenous identity will be the fundamental criteria to determine to whom the provisions on indigenous people apply’ (Article 2, as amended on August 14, 2001).³ Constitutionally, then,

³ The Mexican Constitution handles the concept of sovereignty by embracing a nuanced approach that acknowledges (in Article 2) both the indivisibility of the Mexican Nation and the existence of indigenous communities. The latter is acknowledged to have their own distinct cultural, economic, and social identities, and are settled in specific territories and governed by their own authorities and customs. Indigenous communities have

indigenous peoples form a number of ‘communities’ that often constitute ‘a cultural, economic and social unit settled in a territory and that recognizes its own authorities, according to their customs’ (Article 2, as amended on August 14, 2001).

Thus, Article 2, as a cornerstone of Mexico’s legal framework, recognises indigeneity by invoking three main criteria. Firstly, it acknowledges the indigenous communities as those descendants of the original inhabitants who to some extent maintain their distinct social, economic, cultural, and political institutions – thus forming what can be termed an indigenous ‘demos.’ Secondly, it emphasizes their connection to specific territories, highlighting the significance of geography and land in their identity. Lastly, Article 2 points out the importance of indigenous institutions, how these communities, deeply rooted in traditional territories, organize themselves according to their own customs and traditions. The article solidifies the foundation of Mexico’s recognition of indigenous peoples. This comprehensive recognition affirms and integrates aspects of historical legacies, self-identification, ethno-linguistic practices and territorial attachment within the constitutional narrative. By defining the indigenous community through the lenses of people, territory,

the right to self-determination, but this will be exercised without threatening national unity, within the framework of the Constitution. As such, there is no dual sovereignty in Mexico. The Constitution recognizes and protects the indigenous peoples’ right to self-determination, and it sees the right to autonomy as a consequence of this recognition and protection. This means that indigenous customs cannot stand in contradiction of the Constitution; in no case shall communitarian practices limit the electoral or political rights of the citizens in the election of their municipal authorities.

The logic of the Constitution is such that since it recognizes and protects their right to self-determination and consequently to autonomy, indigenous peoples can determine their own internal forms of coexistence and organisation (social, economic, political and cultural). It also allows for them to apply their own legal systems in internal conflicts – within the principles of the Constitution. Moreover, they can elect their own authorities or representatives to exercise their own form of internal government (in accordance with their traditional rules, procedures and customs). Furthermore, they can elect indigenous representatives for the town council in those municipalities with indigenous population. State constitutions and laws recognize and regulate these rights in the municipalities, with the purpose of strengthening indigenous participation and representation, in accordance with their traditions and regulations.

In this book, English translations of the Mexican Constitution of 1917 are taken from constituteproject.org (2015).

and organizational practices, the Constitution delineates the indigenous community as one that encompasses a distinct cultural, economic, and social unity.

Moreover, Article 2 clarifies the relationship between indigenous communities and the Mexican state. The 2001 amendments to this article emphasize that ‘indigenous people’s right to self-determination shall be subject to the Constitution in order to guarantee national unity’ (Article 2, as amended August 14, 2001). Under the logic of the article, the indigenous communities are part of the Mexican Nation; their right to self-determination is conditioned by the Constitution within the federal structure of Mexico’s state. From here, Article 2 recognizes the right of indigenous peoples to self-determination and establishes preferential access for indigenous peoples to the natural resources in the areas they inhabit. Further legislation also addresses issues such as water, natural resources, and underground resources.

Consequently, Articles 1 and 2, as well as Articles 18, 27, and 115 of the Mexican Constitution provide the legal framework to define indigeneity.

1.3.2. The Indigenous and Tribal Peoples Convention, 1989 (No. 169)

The 1989 International Labour Organization’s Indigenous and Tribal Peoples Convention 169 (C169) provided international legitimacy to indigenous demands. As a legal milestone aimed at guaranteeing principles of autonomy, participation, and the right prior consultation, C169 shapes how an indigenous community can be conceptualised as a political community and also frames indigenous–state relations on aspects such as respect, safeguards, recognition, protection of their rights, lands and territories and cultural institutions. Moreover, it consolidates a legal framework that associates territory with the integrity of indigenous cultures (Article 14); It asserts that the rights of the indigenous peoples to the natural resources located on their ancestral lands be explicitly protected. Those rights imply their ability to engage in the use, management, and preservation of those resources. Moreover, they should participate in the benefits of commercial exploitation of those resources. Furthermore, they should receive fair compensation for any damages on their lands, territories or resources (Article 15). Thus ILO Convention 169 together with the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) solidify the position of indigenous rights within the international legal system.

In particular, C169 recognised indigenous and tribal peoples' presence by drawing attention to their role in the international system and by contributing to the cultural diversity and social and ecological harmony. Moreover, C169 recognises the aspirations of indigenous peoples 'to exercise control over their own institutions, ways of life and economic development and to maintain their identities and cultures within the States in which they live' (ILO C169 Preamble). It implies that, generally, indigenous peoples were 'unable to enjoy their fundamental human rights to the same degree as the rest of the population of the States within which they live.' Consequently, their 'laws, values, customs and perspectives have been eroded' (ILO 169 Preamble; Picq, 2018).

Like UNDRIP, C169 was the product of international deliberations. It was preceded by the Indigenous and Tribal Populations Convention of 1957 (C107). C107 was 'the first attempt to make Indigenous peoples subjects of international law with territorial rights' (Picq, 2018, p. 110). C107 was criticised for seeking assimilation over autonomy. When it was first enacted, assimilation was regarded as a desirable prospect. Convention 107 was replaced in 1989, with the adoption of Convention 169, which 'became the most powerful and most invoked international treaty for indigenous rights' (Picq, 2018, p. 110). C169 moved away from assimilation and became the first international legal tool 'to explicitly affirm Indigenous rights to self-government and to validate the distinctiveness of Indigenous cultures' (Picq, 2018, p. 110). It was a meaningful step in recognizing the collective nature of indigenous peoples: 'peoples' was a plural noun that 'marked a legal stand on the collective nature of Indigenous rights, bridging the political controversy between individual versus collective human rights' (Picq, 2018, p. 110). C169 validated a model of differentiated rights against assimilating forms of citizenship.

Importantly, C169 defines indigenous peoples as those who, 'on account of their descent from the populations which inhabited the country, or a geographical region to which the country belongs, at the time of conquest or colonisation or the establishment of present state boundaries and who, irrespective of their legal status, retain some or all of their own social, economic, cultural and political institutions' (Article 1). They are additionally defined as having their unique cultural identities, as much as their own social, economic and political customs, traditions, and institutions (Articles 2, 5, 6, 8). Furthermore, C169 applies to collectives, to tribal and indigenous peoples,

as it recognises a distinction between these collectives and other sections of a national community. That distinction is based on the acknowledgement of their own customs, traditions and institutions. As collectives, indigenous peoples have a dual relationship with the state under C169, which means that they are members of the national community⁴ so they have rights of citizenship and other rights as granted to all citizens, as well as the corresponding duties (Article 8).⁵ At the same time, they have their own set of institutions whose existence is recognised and which they have the right to retain unless they are incompatible with fundamental rights (Article 8). In terms of the territorial base of indigenous peoples, C169 states that governments are to take steps as necessary to identify the lands which the peoples concerned traditionally occupy, and to guarantee effective protection of their rights of ownership and possession (Article 14). This definition of indigeneity puts historical continuity in contexts of colonisation at the core of the indigenous experience. Indigeneity stresses those populations that have found themselves subject to political orders that are not of their making and to which they did not consent (Anaya, 2009; Daes, 2009). Indigeneity emphasises that the above-mentioned political orders have continued to limit their ability to live and develop freely as distinct groups in their homelands (Anaya, 2009).

Another important aspect of C169 is that it framed indigenous–state relations around concepts like respect, safeguards, recognition, protection. For C169, the term ‘peoples’ does not imply the recognition of rights under international law (Article 1) so, the nation state is not to be divided. In an international system made by nation states, the Convention calls on governments to respect the special importance for the cultures and spiritual values of the peoples concerned of their relationship with the lands or territories which they occupy or use (Article 13).

In terms of safeguards, C169 calls on states to establish means for their full development (Article 6); it calls on them to implement measures for the protection of indigenous peoples as individuals and collectives. It further calls for the development of forms of protection for their social and cultural identity. (Article 2; 4). Moreover, these peoples inhabit territories that are to be safeguarded along with the resources they contain (Articles 7; 15). Indigenous peoples should not be removed from the lands which they

⁴ Indigenous peoples are regarded as part of national communities (Article 2).

⁵ enjoyment of the general rights of citizenship, without discrimination (Article 4).

occupy (Article 16). Instead, they are expected to participate actively in the formulation, implementation and evaluation of plans and programmes for national and regional development which may affect them directly (Article 7). States are expected to ‘take measures, in co-operation with the peoples concerned, to protect and preserve the environment of the territories they inhabit.’ (Article 7). Moreover, C169 calls for the recognition of the rights of ownership and possession of the peoples over the lands which they traditionally occupy (Article 14).

Furthermore, C169 lays out principles on consultation (Article 6). The Convention expects states to protect (Article 2) and safeguard indigenous peoples and their institutions (Article 4), as well as to respect their values, practices and institutions (Article 5). Moreover, the recognition of indigenous institutions and territories is acknowledged as their beliefs, institutions and cultural life is connected with lands and territories (Article 7). They have a relationship with lands or territories which they occupy or use in a collective way (Article 13). The term ‘territory’ covers the total environment of the areas which the peoples concerned occupy or otherwise use (Article 13). Thus, in framing indigenous–state relations, C169 has provided both of them with a framework for legislative and public policy measures that support indigenous claims (Picq, 2018).

In sum, Convention 169 has laid a robust foundation for indigenous-state relations, focusing on respect, protection, and recognition of indigenous rights. It provides a comprehensive framework for legislative and policy measures to support indigenous claims and ensure their participation and representation in matters affecting their communities and territories.

1.3.3. United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)

Building on both the empirical reality of several indigenous communities from around the world and the principles of international law, the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) aims at ensuring the continuation of the indigenous community as stated in its articles. It has done so by acknowledging the existence of a people (*demos*), a land base on which the people has lived (land and territory), and the existence of indigenous forms of self-organizing for political, economic, social and cultural purposes (institutions). First of all, the ‘indigenous demos,’ as defined

by UDNRIIP are made up of individuals or collectives that are part of larger societies – and, of course, are part of humanity. The Declaration, in acknowledging the existence of a people, effectively identifies ‘a demos’: it defines indigenous peoples as ‘distinct’ peoples who have the right to belong to an indigenous community or nation based on their traditions and customs (Article 9). In terms of membership, UNDRIP recognises the right ‘to select the membership of their institutions in accordance with their own procedures’ (Article 33). It further recognises that members ‘have the right to determine their own identity or membership in accordance with their customs and traditions’ and ‘the right to determine the responsibilities of individuals to their communities’ (Article 35).

That indigenous peoples could be regarded as ‘a demos’ would be a consequence of their collective character. UNDRIP recognises and affirms that ‘indigenous peoples possess collective rights’ and those rights are ‘indispensable for their existence, well-being and integral development as peoples’ (UNDRIP Annex 2007). Moreover, the indigenous demos has a relation to constitutional states. UNDRIP acknowledges that indigenous peoples are able to establish a political organisation. Self-determination is a right indigenous peoples have, according to the UNDRIP, by means of which they can freely determine their political status and freely pursue their economic, social and cultural development (Article 3). The recognition of the right to self-determination further means that IPs have the right to autonomy or self-government in their internal and local affairs, as well as ways and means of financing their autonomous functions (Article 4).

Self-determination gives rise to a ‘dual thrust’ of relations with constitutional states: in other words, one of the effects of the acknowledgement of the right to self-determination is the creation of a twofold relation with those states. In that relation, indigenous peoples are not only part of constitutional states, but also part of larger societies. This ‘dual thrust’ reinforces the notion that indigenous peoples are distinct (i.e., they have their own ‘membership’ as both individuals and members of a group), but that they are part of the national societies within which they form collectives. Furthermore, one of the effects of the ‘dual thrust’ is that indigenous peoples have right to a nationality (Article 6); the right to obtain citizenship of the States in which they live (Article 33), and the right not to be forced into assimilation or experience the destruction of their culture (Article 8).

The Declaration identifies indigenous peoples as part of ‘humanity’ and therefore free and equal to all other peoples and individuals; as such they have the right to be free from any kind of discrimination in the exercise of their rights, based on their ancestry or identity (Article 2). UNDRIP also recognizes and reaffirms that ‘indigenous individuals are entitled without discrimination to all human rights recognized in international law’ (UNDRIP Annex 2007); it further affirms that ‘all peoples contribute to the diversity and richness of civilizations and cultures’ and that that is a ‘common heritage of humankind’ (UNDRIP 2007). In terms of control over their land, territories and resources contributes to their cultural continuity, UNDRIP lays out the expectation that states should ‘give legal recognition and protection to these lands, territories and resources’ (Article 26). Also on continuity, the Declaration stresses that control ‘over developments affecting them and their lands, territories and resources will enable them to maintain and strengthen their institutions, cultures and traditions’ (UNDRIP Annex 2007).

Second, UNDRIP recognises the existence of indigenous institutions as ‘distinctive institutional structures,’ with cultural (i.e., customs, spirituality, traditions, procedures, practices) and juridical systems or customs (Article 34). The Declaration also recognises that indigenous peoples have the right to promote, develop and maintain their institutional structures and their distinctive customs, spirituality, traditions, procedures, practices and, where they exist, juridical systems or customs, in accordance with international human rights standards (Article 34). UNDRIP states that indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully in the political, economic, social and cultural life of the State (Article 5). UNDRIP urges states to recognise indigenous forms of representation and decision-making (Article 18) and establishes a right ‘to maintain and develop their political, economic and social systems or institutions’ (Article 20). It also stresses that indigenous peoples should be consulted through their own representative institutions (Article 19). Consent should be stated freely, in advance and based on information, and should be expressed before adopting and implementing legislative or administrative measures that may affect communities (Article 19). Thus, as UNDRIP recognises the political character of indigenous peoples: regarding the right to self-determination, they should freely determine their own political status and pursue their development (UNDRIP Annex 2007), and have the right to determine

and develop priorities and strategies of development (health, housing; economic and social programs) (Article 23). UNDRIP assumes that recognizing their rights will enhance harmonious and cooperative relations between them and the State and dismisses claims that doing so may jeopardize the integrity of the state. Instead, UNDRIP calls for 'partnership between indigenous peoples and States' and, at the same time, discourages 'any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States' (Article 46). The assumption is that UNDRIP's recognition of their rights will enhance peaceful and cooperative relations between the State and indigenous peoples.

Third, UNDRIP acknowledges the existence of a land base on which the people has lived. It recognises rights over lands, territories and resources which are traditionally owned or otherwise occupied or used (Article 27); it also recognises customs, traditions and land tenure systems (Article 26). On land and territories, UNDRIP addresses three broad issues: it establishes that 'Indigenous peoples have the right to the lands, territories and resources' based on 'traditionally owned, occupied or otherwise used or acquired' land, territories and resources. Similarly, traditional ownership, occupation or use are the basis for the recognition of indigenous 'right to own, use, develop and control the lands, territories and resources.' Additionally, the Declaration establishes that indigenous peoples shall not be forcibly removed from their lands or territories; it states that they inhabit their lands or territories, therefore, no relocation shall take place without their free, prior and informed consent and after agreement on just and fair compensation and, where possible, with the option of return (Article 10). Moreover, on the development of land, territories and resources, UNDRIP stresses control by indigenous peoples over developments affecting them and their natural assets. Simultaneously it stresses that the survival of the community, its ability to 'maintain and strengthen' indigenous institutions, cultures and traditions is link to the control 'over developments affecting them and their lands, territories and resources' (UNDRIP Annex 2007). Furthermore, on the use and conservation of resources, UNDRIP states that indigenous peoples have 'the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources' particularly in connection with the development, utilization or exploitation of mineral, water or other resources (Article 32). Conversely, it establishes 'the right to the conservation and protection of the environment and the productive capacity of their

lands or territories and resources’ (Article 29) and asserts that recognizing indigenous knowledge, cultures and traditions contributes to a sustainable development and environment (UNDRIP Annex 2007). Finally, in recognizing these rights, UNDRIP expects states to ‘give legal recognition and protection to these lands, territories and resources’ (Article 26) and to strengthen their ‘distinctive’ spiritual relationship with their traditionally owned or occupied and used lands, territories, waters and coastal seas and other resources’ (Article 25).

1.3.4. The Indigenous Community as a Collective

The above analysis of Mexico’s 1917 Constitution, ILO C169, and UNDRIP has revealed certain underlying commonalities: in each case, the concept of indigeneity encompasses critical elements such as a collective identity (a people), a connection to specific territories (territorial base), and distinct organizational structures (institutions). As this section will show, these components are also crucial in framing the understanding of indigenous communities as cultural collectives in academic research.

Some scholars studying indigenous communities have defined them as ‘social spaces that bring together a group of interdependent people because of the political, transactional and parental relationships historically established between them’ (Clavero, 2009, p. 105). Various features that have been identified to define an indigenous community make references to ‘a people,’ to a geographical location, and to customary forms of organisation. For instance, in terms of ‘a people,’ some features that identify its ‘demos’ are a communal identity (the possibility of linking collectively with the state and its institutions as social units with specific interests), a common history (especially oriented towards the trajectory of the locality in time), as much as a distinctive belief system in the form of rituality (which synthesizes and expresses the bonds of solidarity and cooperation that define community membership) or religiosity. Researchers have identified these features in various regions of the wider American continent. In terms of geographical location, related to the wider topic of land and resources, two features that define the indigenous community are a historical relation with a territory (communally owned and symbolically meaningful) and a communal control over the products of that territory (adjudication of land parcels, resolution of conflicts, common defence of its limits). In terms of customary forms of organisation,

in turn, indigenous institutions include their own forms of socio-political organization (self-government) that regulate social life (social organization and ‘cargo system’)⁶ and the ‘household mode of production’ – which defines the insertion of a group in economic, political and cultural structures – those of the community. A further form of institution is that of reciprocity, which articulates production relations and maintains social and redistributive consumption. Solidarity (i.e., *tequio* as unpaid work oriented towards common benefit) is also a widely researched feature (Clavero, 2009, p. 106). Thus, these various features characterise the demos, territorial grounding and institutions that are together often acknowledged as the attributes of political communities.

Two further cultural identifiers are language and religion. Indigenous communities have been often defined in terms of linguistic affiliation, with implications for academic research, law, and public policy. For instance, to address linguistic groups, Mexico established a National Institute of Indigenous Peoples (INPI for its acronym in Spanish) as well as a National Institute of Indigenous Languages (INALI for its acronym in Spanish). These two federal agencies have compiled an atlas of indigenous groups in Mexico (<https://atlas.inali.gob.mx/>), identifying 68 ethnic groups. One example of ethno-linguistic groups is Chiapas’ Tojolabal population (Lisbona, 2009). This approach underscores the role of language and culture in the definition and recognition of indigenous collectives.

The extent to which ethno-linguistic groups match up to political identities is something that has evolved quickly since the end of the twentieth century. If language shows the plurality of cultures, religion is a feature that further presents the extent to which indigenous communities are not only diverse, but also subject to social change. Christian denominations, either Catholicism or Evangelism, have tried to define the indigenous community in terms of biblical experiences. Those narratives appear to link biblical stories with theological canonisation of ‘the Indian’ (Lisbona, 2009). For instance, the Tojolabal people can be likened to an oppressed people as depicted in the bible’s Old Testament. Catholicism has made attempts to overlap the conceptualisation of the indigenous community with forms of the Catholic community in theological terms: Liberation Theology, for instance,

⁶ Topete Lara & Díaz Araya (2014).

has seen its conversion into an ‘Indian theology’ (see Castillo Morga, 2016; Lisbona, 2009). These efforts portray and project a religious ideal community.

Thus, if the indigenous community is a collective that refers to geographically situated ‘people’ that have their own cultural practices (i.e., institutions), then language and religion are two elements that help us to understand diversity and change. Religion allows for an assessment of change within the indigenous population. Religion also allows us to understand the extent to which the indigenous community has been regarded as being part of Christian Catholicism. The case of the Tojolabales seems to suggest that religious pluralism can lead to conflict. Within indigenous communities, religious intolerance can manifest itself to the extent that families and/or individuals are expelled from the community for professing a different faith (evangelism, for example). In this model of conflict, being Catholic seems to mean being ‘traditional’.

Change in the indigenous community, as seen through language and religion, for instance, contradicts the notion of self-regulatory harmony, which is often presupposed on the basis of solidarity and homogeneity. Indigenous communities are often portrayed as egalitarian, consensual, and stable, yet this ideal type struggles to hold up under empirical scrutiny and risks obscuring complex social interactions at play within indigenous communities. Indeed, as these communities increasingly interact with local, national, and global actors and environments, their ‘traditional solidarities’ are being redefined (Lisbona, 2009). This exposure to broader cultural exchanges is reshaping indigenous identities and practices.

Researchers often look at the indigenous peoples of Oaxaca and Chiapas to assess experiences of change in terms of territorial presence, political affiliation, social standing, and faith (Clavero, 2009). Change, therefore, is not just a theoretical possibility but a lived reality for many indigenous communities, as interrelations with surrounding environments have grown in intensity, dynamism and complexity. Consequently, change brings to light problems beyond those of mere identity – they include topics such as the monetisation of communal life as service economies develop in certain localities, thus complementing or replacing peasant economies. In political terms, change entails a realignment of indigenous politics in terms of electoral and ideological affiliations.

1.4. The Constitutive Elements of a Political Community

Now let us turn our attention to the concept of a ‘political community.’ A political community is generally agreed to be composed of three essential elements: a people, a territory, and a government. A political community, however – as a people that inhabits a defined territory and has a government – does not come into existence by a natural process of growth and development. Rather, the political community is a human-made construct.

1.4.1. The Demos

First of all, in establishing the composition of the ‘demos,’ there are three pertinent notions: kinship, the ‘open community’ and the ‘dual thrust.’ In defining the identity of the members of the indigenous community, two issues matter: Who is a member, and how is membership defined? Membership is a central issue, as it establishes who is included in or excluded from the community – a central question in political theory and a central topic in discussions on political community based on gender, race, language and religion.⁷

Kinship

In trying to establish who the members of a certain community are and how they are defined, kinship (i.e., blood relationship and common descent or, alternatively, membership by virtue of birth) offers one type of answer. In fact, kinship has been a classic criteria for establishing membership to an indigenous community: a form of membership obtained by virtue of birth. Kinship has been reputed to serve as the foundation of a community or a people rooted in tradition (i.e., ‘tribe,’ ‘nation’). However, this concept faces challenges due to its implied association with evolutionary distinctions, particularly the notion of ‘stages of development’ or ‘stages of civilization’ which deny those groups a common and shared humanity. In the early twentieth century, European scholars posited kinship-based societies could not be seen

⁷ Giorgio Agamben’s (1988) ‘*homo sacer*’ thesis is that the political realm itself is constituted by making an exception of the very people in whose name it is created. *Homo sacer* emblemizes the sovereign’s power over life and death, the power to designate a life that is worth neither saving nor killing.

as part of civilised peoples – perpetuating the idea of hierarchical stages of civilisation/development of human groups. Being kinship-based has therefore had the connotation of being a ‘primitive’ society. Even in our century, such distinctions between ‘primitive peoples’ and ‘civilised peoples’ have not entirely faded. Discussions on ancient societies have often characterised them as ‘*societas*’ – a form of social organisation of what were deemed to be savage and barbarian peoples – as opposed to ‘*civitas*’. If *societas* were found among peoples and tribes where members were part of kinship groups, then *civitas* were regarded as political societies in a state of civilisation where people were organized within territorial units such as farms, towns, states (Morgan, 1877). Despite its historical baggage, however, the concept of kinship retains analytical force as it stresses the relation of the individual with the group through family ties. Extensive research has identified the household as both a unit of analysis and a constitutive element of community structure. This perspective emphasizes the roles household members play, since an ‘active member is an individual who participates in the various spheres of collective life and demonstrates his willingness to contribute to community existence’ (Clavero, 2009, p. 107;).

On the other hand, the extent to which kingship is an evolved form of kinship is a different matter of discussion (see Tridimas, 2016; Turner, 2012; Roobol, 2011; Jonasson, 2010; Huntington, 1966). Both kinship and kingship confront a definitional problem:

In some early polities, which cannot yet be called states in a modern sense of the word, clans succeeded in allocating the monarchy for their own clan and successively for their own family. The sacral element was essential, because the given family was considered to be chosen by the gods or God. In this way monarchical dynasties originated. (Roobol, 2011, p. 273)⁸

The concept of kingship introduces a complex tension between constitutive principle and population: how the state defines its relationship to the ‘people,’ or even to the ‘nation’ in its own constitution – the document of its solemn foundation (Coakley, 2011). The issue branches into further debates

⁸ Many of the monarchical families not only succeeded in making their power hereditary, but also in legitimating that heredity by appealing to the sacral character of their power. They have also tried to free themselves from the traditional limitations of what has been called medieval constitutionalism and parliamentarism (Roobol, 2011: 274).

regarding the very compatibility of monarchy with democracy (Jonasson, 2010; Huntington, 1966).

The role of kingship as the foundation for a hereditary head of state in contemporary monarchies has become a peripheral topic of discussion, despite the fact that there are eleven surviving European monarchies, including two particularly prominent ones in the United Kingdom and Spain: 'in 2008 only 20% of Europeans are citizens of a country with a hereditary head of state' (Roobol, 2011, p. 284). In the United Kingdom, for instance, 'the Crown is one of the few remaining institutions that binds the United Kingdom of Great Britain and Northern Ireland into a single political system' (Turner, 2012, p. 87). In such a system, a royal family is equally significant as a royal wedding – signifying a strong religious (i.e., Christian Anglican) meaning beyond that of a 'harmless distraction.'

In trying to understand the problems which modernization poses for such traditional political systems, Huntington considered monarchies as 'traditional institutions in modernizing countries' (1966, p. 764). On the other hand, one argument in support of a hereditary office is quite simply counter-democratic: 'hereditary succession is a rational response to the risk that an outsider without the relevant knowledge occupies office,' as 'the offspring of the sitting ruler, whose job involves several idiosyncratic and context-specific elements, may be best placed to succeed by virtue of familiarity and training for the profession from an early age' (Tridimas, 2016, p. 44). Others would stress an economic and cultural argument: 'One does not have to be excessively pragmatic to realise that the Crown is an economic asset for the tourist industry, for British fashion and in branding the British lifestyle' (Turner, 2012, p. 88). It is therefore evident that a 'hereditary principle' constitutes a fundamental tenet of some contemporary political systems. In its most traditional expression, as in the United Kingdom, the 'people' are defined essentially as the set of subjects of the king or queen, and the monarchy is embedded in a social structure that continues to recognise residual aristocratic privilege. Yet in all of Europe's monarchies, personal allegiance to the monarch has substantially been replaced by modern citizenship as the defining criterion of membership of the political community (Coakley, 2011:273).

The Open Community

The debate on membership within a political community brings to light the paradoxical nature of the 'open community' concept. This argument posits

that a community can be considered 'open' if it has the capacity to assimilate outsiders – a viewpoint that seemingly conflicts with kinship-based membership, which is grounded in blood relationships and common descent. For example, one perspective maintains that:

[t]he community of a tribe is and must remain restricted to individuals of common descent, all of whom are personally known one to another. One who does not belong to the tribe is a stranger and an enemy. A tribe grows into a people through the influx of extra tribal individuals and their participation in the life of the community. (Husserl, 1939, p. 133).

Thus, the definition suggests that 'Whoever participates in the community life in the matters of usage, language, and beliefs belongs to the community as one of us' (Husserl, 1939, p. 133). That a tribe 'does not possess this faculty' of adopting non-members is, in itself, a defining issue of what an open community is.

One of the implications of this argument is that an indigenous community might not qualify as a people if it lacks this ability to integrate outsiders, implying that only an 'open community' meets the criteria of a political community: 'one becomes a member of the people-community by adopting and making one's own its cultural tradition' (Husserl, 1939, p. 134).

Nevertheless, the difficulty of incorporating non-members into a political community represents a complex challenge, as evidenced by historical precedent. One argument claims that a people is an open community, implying that a people is distinguished by its ability to assimilate outsiders. According to this view, it is individual choice, rather than kinship, that defines community membership – a key element in defining a political community. One implication of this 'open community' argument, then, is that a tribe does not possess the capability of assimilating outsiders. However, this argument faces a problem of consistency when juxtaposed against contemporary debates on immigration and white supremacy in the United States of America, for instance. These debates demonstrate how 'open societies' may facilitate membership for certain groups while simultaneously impeding it for others, thereby underscoring the contested nature of inclusion within democratic contexts.

The notion of an 'open society' appears applicable to European migrants seeking a place in America (Parekh, 1981; Husserl, 1939), indicating that history and circumstances significantly influence the problem of how members

of a community come to be established. In the late nineteenth and early twentieth centuries, definitions of political community were preoccupied with delineating exclusive rights of membership to national communities. Furthermore, advocating for an open community suggests that while ‘a people’ may constitute ‘a community,’ not every community rooted in tradition constitute ‘a people.’ The discourse on open societies poses the question of the extent to which non-members can be included and if tradition can be acquired (Husserl, 1939, p. 134). The idea that kinship is an anachronistic way to establish membership of a community needs to be reconciled with twentieth-century forms (Benzell & Cooke, 2016). Monarchical regimes and aristocracies are also forms of kinship. Thus, the argument that a community cannot be political since non-members have no available mechanism to become members is highly contentious. For indigeneity, historical continuity is important.

Moreover, the open community argument works well in a world that assumes that ‘life in and with the community of a people does not constitute the whole existence of men’ (Husserl, 1939, p. 134). In such an argument, ‘to be a man is to be something more than a member of a people and something different.’ In a state, ‘[t]he members of a political community are not only subjects but also citizens’ (Parekh, 1981, p. 165). They are subjects in the sense of being subject *to* its laws (i.e., affected by it or to be likely to be affected by it); they are citizens in the sense that they are the subjects *of* its laws (i.e. making those laws).

The ‘Dual Thrust’

Furthermore, if kinship alone has been a foundation of a community life, how can solidarity be generated outside kinship lines, and how can kinship deal with territorial expansion? In a state, as a political community, members are subjects, but also citizens.

International law instruments like ILO and UNDRIP recognise the collective feature indigenous communities. In their logic, a native tribe would be regarded as a people, suggesting that ‘a community,’ including communities rooted in tradition, can be ‘a people’; they avoid attributing tradition an indefinite value and reject assumptions of hierarchical stages of cultural advancement. Instead, they acknowledge and recognise kinship – and its relationship with territory – as aspects of territorial contiguity, highlighting how larger political entities have historically incorporated smaller ones through territorial expansion, thereby broadening the membership base of the political community.

The ‘dual thrust’ refers to the relationship between the members of a political community to the community as a whole. The indigenous community is a local social unit often articulated as part of larger (national) structure. The distinction between people and nation is important: the extent to which the nation is understood to be the product of ‘a people’ with a legal status, in other words if the people predates the nation, provides a way to guide the discussion.⁹ The indigenous community is a collective that has been internationally recognised as such by UNDRIP and C169. Membership, therefore, is meaningful as it encompasses all aspects of life (Lisbona, 2009; Clavero, 2009;).

1.4.2. Territory

The indigenous community has a recognised territorial base – territory is the actual setting from which communal life and culture emanate; it is a constitutive element of a community. A geographical emphasis is important to understand the variety and quantity of boundary- and limit-related conflicts. Territoriality is an axiom of the political community,¹⁰ as it needs a territory of its own to enable its members to secure their material needs and social, cultural and political reproduction. In Mexico, for example, both Articles 2 and 27 of the Constitution lay the foundation for the indigenous land base. As noted above, the Constitution establishes, in Article 2, that ‘[a]n indigenous community is defined as the community that constitutes a cultural, economic and social unit settled in a territory and that recognizes its own authorities, according to their customs.’ Also, Article 2 recognises indigenous people’s right to ‘[a]ttain with preferential use of the natural resources of the

⁹ Since the late-nineteenth and twentieth century, definitions of political community were influenced by geographically contextual issues. In Europe, state and nation were twinned concepts of political life, characterized by a wave of nationalism. ‘The idea of the national state (*Nationalstaat*) becomes the dominant political idea on the European continent.’ (Husserl 1939: 127)

¹⁰ In discussions of consent within political communities, the importance of a territorial foundation – established through the consent of the people – is often overlooked in favour of an emphasis on the collective will to form organs of self-government. However, what both historical analyses of so-called ‘primitive’ governance systems and contemporary studies on indigenous communities suggest is that territory is an important element in the existence and subsistence of a political community.

sites inhabited by their indigenous communities' (Article 2.A.VI), with strategic resources being an exemption.¹¹

The territorial base is a safeguard of a political community; without it, its existence is precarious. Moreover, a territorial presence is needed, a common, shared space where a public life is developed as a collective identity. The territorial base is the foundation of a concrete association between a people and a country: 'Before a nomadic tribe can hope to become a people it must settle down' (Husserl, 1939, p. 135). Although the boundaries of a people's country might not be sharply defined, such an association implies an exclusive claim over territory that goes hand-in-hand with regulations and restrictions on community membership. Changes in the territorial base of indigenous communities is a major topic, both historically and in the present.

Territory has also been understood as part of a collective self-awareness, rather than merely a tract of land which a group of individuals happen to occupy (Parekh, 1981, p. 155). The significance of a territory is primarily as the public space of a political community (Parekh, 1981, p. 154), where the community manifests itself territorially. Territoriality is intertwined with deliberation: a territory becomes humanized by 'words and deeds' in the past and present. As such, speech and action are forms of appropriating the ground: 'a piece of land belongs to a group of people not by some natural and inalienable right, but because they have politicized it and made it an essential component of their corporate identity' (Parekh, 1981, p. 155). Moreover, the significance of a territory extends to deliberation itself, emphasizing political engagement as a way of resolving conflict. It is claimed that a political community is based on debate and discussion; the territory thus provides a foundation for the political, as a tangible representation of the political

¹¹ Article 2.A. stipulates that 'This Constitution recognizes and protects the indigenous peoples' right to self-determination and, consequently, the right to autonomy, so that they can: (...) '[m]aintain and improve their environment and lands, according to this Constitution' (2.A.V) and '[a]ttain with preferential use of the natural resources of the sites inhabited by their indigenous communities, except for the strategic resources defined by this Constitution. The foregoing rights shall be exercised respecting the forms of property ownership and land possession established in this Constitution and in the laws on the matter as well as respecting third parties' rights. To achieve these goals, indigenous communities may form partnerships under the terms established by the Law' (2.A.VI).

space forged by its citizens.¹² In this sense, territory is part of the political life of a community: public life with regards to the present and the history of deliberations, decisions, and institutions. The public/private distinction posits a realm where citizens can meet, exchange opinions, persuade one another and distinguish themselves (Parekh, 1981, p. 168). Furthermore, the significance of a territory also relates to collective identity: ‘a political community is organized public space’ (Parekh, 1981, p. 154). Thus, a political community is a collective with relationships centred on authority (obligation), power (persuasion) and force (coercion),¹³ while the territory is a home and the location of its roots, thus serves a purpose in defining political identity. The territory is the concrete, visible and identifiable embodiment of the political space created by individuals (Parekh, 1981).

¹² If ‘politics’ encompasses only what takes place within the polity, i.e., within the machinery of government or within the political parties in electoral cycles and the legislature, the implication is that only what takes place within the constitutional bodies or electoral arena is political. This, however, would provide an incomplete picture of the life of a community. Placing the centre of the political on the state and within its institutions would result in a narrow view of politics, inevitably missing the broader spectrum of political activity that exists within human communities (Picq, 2018).

¹³ Within a political community, as a human collective, relationships are structured around key concepts such as *authority* (which entails obligation), *power* (associated with persuasion), and *force* (which involves coercion). These foundational elements employ the languages of obligation, persuasion, and coercion, respectively, embodying three diverse forms of political interaction. Authority within such a community is derived from the consent of its members (the citizens, the governed); it is consent (a constitution, contract, consensus) backed by power. In a political community, ‘authority exists to lend formal legitimacy to power, and force to enforce its decisions on recalcitrant individuals’ (Parekh, 1981: 162). In that sense, power is the political community’s ‘life blood.’ Law is binding because it is enacted by the legitimate authority, and it is supported because content for it is derived from a certain consensus. Moreover, persuasion (power) is always a ‘power potential, a potency, not a measurable and tangible entity like strength or force.’ (Parekh, 1981). Power ‘springs up between men when they speak and act together and lasts as long as they stay together’ and ‘[u]nlike authority power cannot be institutionalized but must be continually won afresh’ (Parekh 1981: 162). Coercion, in turn, underscores the fact that politics does not exclude the exercise of power and violence.

1.4.3. Institutions

Mexico's Constitution recognises the right of indigenous peoples to decide their internal forms of coexistence: their social, economic, political and cultural organization (Article 2.A.I). It allows them to employ their legal systems to address and resolve internal disputes, provided these systems adhere to the Constitution's overarching principles, safeguard fundamental and human rights, and, importantly, uphold the dignity and safety of women. Additionally, the Constitution respects and recognizes the processes through which indigenous communities select their leaders. Specifically, it acknowledges the right of these communities to elect their authorities or representatives through traditional rules, procedures, and customs. This ensures indigenous women and men have the equal right to vote and stand for election, and it guarantees them access to public offices or elected positions. This access is contingent upon being chosen or appointed within a framework that honours both the Constitution and their traditional governance methods.

The Constitution mandates that the subnational legal framework should recognize and regulate the representative rights in the municipalities. It is expected that such regulations should strengthen indigenous peoples' participation and political representation, in accordance with their traditions and regulations. Furthermore, ensuring their access to state jurisdiction is a priority, and to protect this right, in all trials and proceedings that involve natives, individually or collectively, it is imperative that their customs and cultural practices must be taken into account, in compliance with the stipulations of the Constitution. Language becomes important in securing access to state jurisdiction. Article 2 guarantees that indigenous people have, at all times, the right to be assisted by interpreters and legal counsels who are familiar with their language and culture. The same article also establishes their right to maintain and enrich their language, knowledge, and all the elements that constitute their culture and identity. Regarding land and natural resources, the exercise of rights must adhere to the forms of property ownership and land possession established in the Constitution and in the relevant laws, while also respecting third parties' rights. However, the Constitution limits their relationship to natural resources, particularly in terms of what it regards as strategic resources.

Additionally, the Constitution recognizes and protects indigenous peoples' right to self-determination – consequently, it recognises and protects

the right to autonomy (Article 2.A). The indigenous community has its own form of internal government, a political organisation once described by scholars as ‘primitive government.’¹⁴ Like the state, the indigenous community has a demos, a land base, and forms of organisation to handle its internal affairs. Even the most primitive political community is already organized, insofar as there is a distribution of functions between public institutions. An indigenous community owns a communal life rooted since ‘time immemorial,’ accommodated into larger political structures (i.e., the state).

In a political community, power is rendered political by organization (Husserl 1939). It is through organization that power attains such stability and efficiency as unorganized power can never acquire. It is widely believed that the organisation of power, therefore, reflects a general will – a collective intent focused on the accomplishment of practical aims – although not every association which pursues joint practical aims is a political community (i.e., a railroad corporation or a cancer research society are not communities). In the logic of this argument, a state comes into existence when the political community adopts a constitution, by which they ‘create and structure the public (constitution) and private realms (positive laws) (Parekh, 1981, p. 156). A constitution not only articulates and defines the collective identity of a community; it also specifies ‘the conditions on which a political community is constituted and which a citizen must accept in order to become its member’ (Parekh, 1981, p. 164). The constitution determines the character of the state as a voluntary association and the constitution represents its terms of agreement. Power at the disposal of the political community is derived from the individuals who make up the community.

1.5. Chapter Conclusions

The examination of political community within the context of indigenous peoples, as explored in this chapter, provides some insight into the complex relationship between such peoples, their territories, and the political structures that govern their existence. Central to this analysis are the foundational elements that constitute a political community: a people (demos), a territory,

¹⁴ See Morgan (1877); Malinowski (1947), Maine (1861), Aguirre Beltrán (1953), and Schapera (1956).

and a form of organization (institutions), each of which is deeply intertwined with the identity, autonomy, and rights of indigenous communities.

Firstly, the chapter has underscored the importance of recognizing indigenous peoples as distinct political communities with inherent rights to self-determination, as affirmed by national and international legal frameworks like Mexico's Constitution, ILO C169, and UNDRIP. These documents collectively emphasize the crucial elements of membership, territorial attachment, and self-organization, highlighting the need for indigenous communities to be acknowledged and respected as political entities with their own unique identities and governance structures.

Secondly, the relationship between indigenous peoples and their land is highlighted as not only a matter of cultural and spiritual significance but also a central aspect of their political identity and autonomy. The land serves as a foundation for the social, economic, and political life of indigenous communities, underpinning their rights to self-governance and participation in wider political systems.

Thirdly, the chapter has considered the internal and external dynamics of indigenous political organization, exploring how indigenous communities govern themselves according to their customs and traditions while also interacting with national and international political structures. The recognition of indigenous forms of governance and the right to self-determination is crucial for ensuring their participation in decision-making processes that affect their lives and territories. This includes the need for adequate representation and the protection of their rights within national legal systems, as well as respect for their own legal systems and governance practices.

In conclusion, the chapter has posited an understanding of the political community within indigenous lands that emphasizes the intertwined nature of people, territory, and organization in shaping the identity and autonomy of indigenous communities. It calls for a greater recognition and protection of indigenous rights within national and international frameworks, highlighting the need for policies and practices that respect their unique identities, governance structures, and connections to the land. By embracing these principles, it is possible to foster more inclusive and equitable political communities that acknowledge and uphold the rights and contributions of indigenous peoples to the broader society.

An indigenous community is constituted by a people that inhabits a defined territory and has traditional ways of internal organisation – as Mexico's

Constitution puts it, as we have seen, indigenous peoples 'are those who descend from populations that lived in the current territory of the country when colonization began and who preserve their own social, economic, cultural and political institutions.' Once regarded as 'primitive societies' in academic literature, contemporary indigenous communities represent the continuation of historical global processes that integrate them into the broader human experience. Consciousness of indigenous identity is the fundamental criteria to establish to whom the provisions on indigenous people applies. More broadly, indigenous communities are defined by three central elements: a people, a territorial base and vernacular forms of organisation: as this chapter has shown, this is the case in Mexico's 1917 Constitution, as well as in the 1989 Indigenous and Tribal Peoples Convention (ILO C169) and the 2007 United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).

In political theory, a 'political community' is understood to be a human-made construct, one that does not come into existence by a natural process. Yet, the indigenous community has been recurrently defined as being constituted by three essential elements: a people, a territory, and a government. First of all, in establishing the composition of the 'demos,' questions like who is a member and how is membership obtained have been answered by looking at issues such as kinship, the 'open community' and the 'dual thrust.' Second, territory plays a critical role, as the actual setting from which communal life and culture emanate; it is axiomatic to a political community since it needs a territory of its own to enable its members to secure their material needs and social, cultural and political reproduction. In Mexico, constitutional articles provide the foundation for the indigenous land base. Third, the indigenous community has its own form of internal government, although perhaps not as organised power reflecting a common will. Mexico's constitution recognizes and protects indigenous peoples' right to self-determination and, consequently, it recognises and protects the right to autonomy.

Chapter 2

Indigenous Land Rights in Mexico: Threats and Challenges

2.1. Introduction

This chapter examines the topic of indigenous land rights in Mexico, a country with one of the largest indigenous populations in the world. Indigenous land rights, established in both the country's constitution and internationally, is a topic that has attracted scholarship in specific fields, including security of tenure, titling and land restitution.

The place of the indigenous community in Mexico was framed by the fighting forces of the Mexican Revolution (1910–1921). As land became the central point in those struggles, the topic of indigenous land rights defines that place. Originally regarded as an issue for 'agrarian reform' policies, indigenous land rights are now understood in terms of human rights, as well as environmental conservation. Under these new approaches, Mexico is being urged to update its land tenure system to bring the provision of indigenous land rights in line with international standards (HRC 2018).

The research interest in these areas could possibly be a response to global and national threats to indigenous lands, territories and natural resources. In sharp contrast with disastrous attempts at land reform in Guatemala (Taylor-Robinson & Redd, 2003), Brazil (Robles, 2018; Prieto, 2017), and Chile (Bellisario, 2007), Mexico succeeded in transforming its land tenure system early in the twentieth century. During the final years of that century, land tenure regimes in Europe's central and eastern regions and the former Soviet Union 'transitioned from centralized to liberalized agriculture' (Rozelle &

Swinnen, 2004). In Africa, land-related issues are ever-present in public debate (Akinola & Wissink, 2019).

The first section of this chapter reviews the agrarian system and its legal framework, before detailing the place of indigenous land rights in that system; it also shows how human rights have gained importance in the last few years. The next section presents important examples that illustrate the challenges in indigenous lands, resources and territories: from food production to infrastructure and energy projects, as well as mining and environmental conservation. The latter is perhaps an area where threats to indigenous lands, territories, and ecosystems were not originally anticipated. The role of technology in enhancing the sense of threat to indigenous resources and lifestyles is explored. Finally, throughout the chapter, concepts that have enhanced our understanding of the ways in which indigenous lands have become contested arenas are identified and analysed.

2.2. The Agrarian System

Indigenous land rights are an important part of Mexico's agrarian system. This system is the outcome of land reform introduced in 1915 in a context of drastic political change: the Mexican Revolution (1910–1921) and Agrarian Reform (1915–1992). The Constitution of Mexico (*Constitución Política de los Estados Unidos Mexicanos*) establishes, in Article 27, the foundation for the creation of land tenure system that recognizes 'social property' or communal landholdings in the form of *ejido* and *comunidades agrarias* (agrarian communities). Although the Constitution also recognized private property, it introduced size limitations on land extensions, including those for productive and commercial uses (Gallardo Zúñiga, 2006a).

The agrarian system in Mexico was reformed in 1992 as part of a package of economic structural adjustment policies. Regarded as a 'second agrarian reform' (de Janvry et al., 1997; Cornelius & Myhre, 1998; DeWalt et al., 1994) or a 'neoliberal counter reform' (Deere and León, 2000), the 1992 adjustments failed to either incentivize land markets or privatize social property on a large scale.

Mexican rural politics has always been a complex and conflictive arena (Assies, 2008; Petras & Veltmeyer, 2001). Land reform dominated rural

politics throughout the twentieth century.¹ Specifically, land reform beneficiaries were captured within a political system that demanded corporatist support and electoral loyalty to the Revolution's dominant force, the *Partido Revolucionario Institucional*. Land claimants outside the corporatist system organized what has been identified as the 'independent peasant movement,' from which they pressed for their land (and other) demands through social mobilization and electoral politics (Grammont & Mackinley, 2009; Mackinlay & Otero, 2004; Rubio, 1996; Paré, 1990). Moreover, armed land struggles first existed as vestiges of the Revolution, until neoliberal policies revitalized them. Such is the case of the *Ejército Zapatista de Liberación Nacional*.²

2.2.1. The Legal Framework of the Agrarian System

Indigenous land rights are embedded in the agrarian system, specifically in the aforementioned Article 27. This article has undergone several reforms and additions since it was enacted – the most significant having come in 1992. Articles 18 and 115 of the Constitution also recognize certain rights relevant to indigenous communities and peoples. Constitutional reforms have reinforced safeguards for human rights: as noted above, Article 1 states that 'all individuals shall be entitled to the human rights granted by this Constitution and the international treaties signed by the Mexican State, as well as to the guarantees for the protection of these rights,' while Article 2 additionally recognizes the right of indigenous peoples to self-determination and establishes preferential access for indigenous peoples to the natural resources in the areas they inhabit. These articles suggest that constitutional supremacy is a principle that safeguards indigenous rights, including land-related rights. Issues such as water, natural resources, and underground resources are addressed

¹ The nineteenth century is characterised by the formation of the Mexican State and the negotiation of an international boundary with Guatemala, by policies of identifying and surveying the vacant lands in frontier regions, and, finally, by the granting of concessions for commercial lumbering. All these processes threatened the existence of several indigenous communities. For further reading on nineteenth-century indigenous lands see: Kouri (2002), Tutino (1988), also Purnell (1999), Holden (1994). For a review of the colonial period see Orozco (1914/1975), Prem (1992), and McCreery (1994).

² On the Zapatistas in the context of resistance and oppression see Stahler-Sholk (2020). On the Zapatista rebellion see García de León (2005), Estrada Saavedra (2005), Harvey (1998).

by further legislation. The Agrarian Law (*Ley Agraria*), for instance, regulates constitutional Article 27 in matters relating to indigenous lands (Gallardo Zúñiga, 2006a) and there are instances of customary practices (*Usos y Costumbres*) at the local level.³

Security of tenure has been a major goal of the agrarian system (Bobrow-Strain, 2004; de Janvry et al., 1997; Thiesenhusen, 1996; Silva Herzog, 1974). Since 2001, jurisprudence has addressed issues related to land, territories, and natural resources. From this time on, Mexico's Supreme Court (SCJN) has adopted a less inattentive role on topics such as the recognition of the juridical personality of indigenous peoples, indigenous territories, and consultation rights (Bailón, 2019, p. 142). International legal instruments⁴ are also part of this framework on indigenous land rights.⁵ It is worth noting that international legal frameworks have opened debates within Mexican legal, academic and political circles on the legitimate hierarchy of international treaties (i.e., Supreme Court case 293/2011), and has enabled calls for reform of 'the agrarian legal regime' in order 'to bring it into line with current international standards on the rights of indigenous peoples' (HRC, 2018, para. 99). In 2013, a major case on human rights revolved around the value of jurisprudence issued by the Inter-American Court of Human Rights (SCJN, 2013; Perseo, 2013; Cossío Díaz, 2008).

The institutional structure of the agrarian system operates at federal level within the sphere of the executive power. The Ministry of Agrarian, Territorial and Urban Development (*Secretaría de Desarrollo Agrario, Territorial y Urbano* or SEDATU) is the institution charged with public policies for land use, rural development, and tenure security (SEDATU, 2020),

³ The authorities of communal landholdings (*ejido* and agrarian communities) established under land reform legislation (Agrarian Law or *Ley Agraria*) may not be the same as the traditional (customary) indigenous authorities; conflicts between agrarian and traditional authorities are not uncommon.

⁴ Article 133: '[a]ll the treaties made and executed by the President of the Republic, with the approval of the Senate, shall be the supreme law of the country.'

⁵ For instance, the International Labour Organization (ILO) Indigenous and Tribal Peoples Convention, 1989 (No. 169), ratified by Mexico in 1990; the International Convention on the Elimination of All Forms of Racial Discrimination, ratified by Mexico in 1975; the American Convention on Human Rights, ratified by Mexico in 1981, and its interpretation in the case law of the Inter-American Court of Human Rights; and United Nations Declaration on the Rights of Indigenous Peoples (HRC 2018, para. 13).

and agrarian tribunals are also part of this system (Bárcena, 2017; Gallardo Zúñiga, 2006a; Gómez de Silva, 2002; Randall, 1996). In this institutional structure, the Agrarian Procurator's Office (*Procuraduría Agraria*) is dedicated to defending the rights of land reform beneficiaries by providing legal advice, arbitration, and legal representation, as well as promoting the reconciliation of interests in land dispute cases (PA 2020). The National Agrarian Registry (*Registro Agrario Nacional*) provides legal certainty for social property through the control of land tenure and rights established in respect to *ejidos* and *comunidades*; it also manages the General Agrarian Archive where 'all information on the country's social property' is archived (www.gob.mx/ran).

2.2.2. Indigenous Land

Indigenous peoples have gained access to land through land reform. However, during land reform, ethnic identities were not a relevant criterion in land claims. This perhaps explains the difficulty of establishing a relationship between indigenous identity and land tenure (Torres-Mazuera et al., 2018, p. 10; Robles Berlanga & Concheiro, 2004), although some have suggested the existence of a conceptual problem (de Gortari, 1997; Warman, 1985).

Available data is dynamic and difficult to reconcile. In 2020, the agrarian registry reported a total of 32,193 units of social property in Mexico: 29,787 *ejidos* (RAN, 2020a) and 2,406 agrarian communities (RAN, 2020b). Recently, the Constitutional Reform Initiative on the Rights of Indigenous and Afro-Mexican Peoples (INPI 2021) reported that a quarter of the country's social ownership of land and natural resources is located in indigenous peoples' territories. The Initiative's figures identify 4,786 *ejidos* and 1,258 agrarian communities – plus 304,000 private smallholdings in indigenous regions (INPI, 2021: 72).⁶ However, the same official document also states that of the 31,965 *ejidos* and agrarian communities in the country, around 7,671 are indigenous or have an indigenous population (INPI, 2021, p. 83). One of the endemic problems facing the agrarian sector is the discrepancy in the number of agrarian nuclei. Nevertheless, in terms of population, the estimation is that there are more than 5.6 million *ejidatarios*, *comuneros* and

⁶ Earlier estimations of indigenous land tenure identified 5,562 *ejidos* and 1,268 agrarian communities with indigenous population (Torres-Mazuera et al., 2018: 11; Robles Berlanga & Concheiro, 2004).

smallholders (Morett-Sánchez & Cosío-Ruiz, 2017) – among Mexico's overall population of 119,930,473 (INEGI, 2020a), 25 million of whom self-identify as indigenous persons (INALI, 2020).

To understand the role of indigenous land rights and natural resources in Mexico's agrarian system, it is important to understand the country's three-tier governmental layout. As noted in the previous chapter, Mexico is a federal republic with 32 states and 2,457 municipalities (INPI, 2017), including 623 'indigenous municipalities,' 251 with an 'indigenous presence,' 1,543 with a 'dispersed indigenous population,' and 33 without indigenous populations. Assessing indigenous land ownership is complicated. While some land is privately owned, most is held as social property, mainly through *ejidos* rather than agrarian communities. Not all social properties are owned by indigenous peoples, but many communities have substantial land holdings (Robles Berlanga & Concheiro, 2004). This makes indigenous peoples crucial to national environmental policies (Boege, 2008). Indigenous lands comprise about 14.3% (28 million hectares) of Mexico's land, including nearly half of the country's main basin headwaters (Toledo et al., 2019, p. 40).

The issue of traditional or customary usufruct of land and natural resources is difficult to assess since there is such a large diversity of forms of land usufruct.⁷ It is still possible to identify 'indigenous' characteristics of the usufruct of the land different from those of other rural populations⁸; however, it is difficult to assess that lands owned by indigenous peoples are primarily for communal use, or that an equity criterion – everyone has the same rights and the same amount of land – prevails in the individual allocation of land.

2.2.3. The Centrality of Human Rights

Globally, under the broad umbrella notion of 'human rights,' the protection of indigenous land, territories, and resources as well as their cultures and traditional lifestyles has now gained recognition. In Mexico, the agrarian system, which has recognized indigenous land rights, has been updated to be more in line with the international human rights standards set by the

⁷ For a recent discussion about the gap between legal rules and actual practices within *ejidos* and communities see Torres-Mazuera (2016).

⁸ See Contreras and Mariaca (2016).

Inter-American and United Nations Human Rights systems. Mexico's constitutional human rights reform in 2011 better aligned the country's legal system with international human rights frameworks. The emphasis placed on human rights has had a certain impact on agrarian politics. Peasant and indigenous organizations and movements have shifted towards defence strategies based on international human rights instruments. The nature of their activism has evolved, particularly in the wake of the 1994 Zapatista uprising, which challenged neoliberal policies such as free trade agreements (from NAFTA to USMXCA). Scepticism towards environmental conservation policies has become more visible in recent years.

Nevertheless, as violence – in the form of harassment, murder, reprisals, and forced displacement – continues, the country's agrarian system has fallen short of meeting not only current needs of indigenous peoples, but Mexico's international obligations. UN human rights monitors often recommend the creation of – or reform of existing – institutions and legislation as a way to resolve these problems. For instance, UN observers have stated that the agrarian system needs to recognize 'the right of indigenous peoples to the land, territories and natural resources that they have traditionally owned, occupied, used or acquired' (HRC, 2018, para. 18.). Existing 'procedures available for land rights recognition are neither simple nor accessible and can involve lengthy legal proceedings,' such as in cases involving border disputes with fellow communities or private landowners. Procedures are even harder to access when state and agrarian authorities or third parties promote the exploitation of natural resources in indigenous territories (HRC 2018, para. 19). Difficulties in 'gaining access to justice' (i.e., protracted and expensive legal proceedings) and 'delays in the handling of agrarian cases,' which often cause 'conflicts within and between communities,' have been common. That the system is apparently open to manipulation, particularly when land and natural resources are at stake, is a further area of concern (HRC, 2018, para. 20–21; CNDH 2016b).

Public and private projects in such areas as infrastructure, mining, energy production, tourism, real estate, water, food (production and security), as well as environmental conservation are frequently carried out by means of force and violence. Major flaws in the judicial and governance systems fail to curb this use of force or violence. Furthermore, any attempts to counter violence perpetrated on indigenous peoples need to take into account structural issues such as poverty, economic inequality, and social stratification.

2.3. Threats and Challenges to Indigenous Lands

As historical, political, economic, and social factors have shaped indigenous land claims (Ojong, 2020), one issue that remains particularly prominent is the persistent dispossession or appropriation of land and natural resources. The term ‘land grabbing’ refers to ongoing global and large-scale commercial land transactions, involving states, corporations, multilateral bodies or civil society engaging with local indigenous actors (Hall et al., 2015; Borras, Kay, et al., 2012; Borras, Franco, et al., 2012). Land grabs, it has been argued, are ‘a major threat to the lives and livelihoods of the rural poor’ (Borras et al., 2011).

Land grabbing processes are both manifold and complex, and suggest that (re)distributive land policies have given way to global forces (Borras, Kay, et al., 2012; Borras et al., 2011). In attempts to understand responses to this phenomena ‘from below,’ attention has focused on directly affected indigenous communities in coalitions with civil society groups (Hall et al., 2015). Conversely, for many in the public and private sectors, the exploitation of natural resources is a source of economic opportunity for the rural poor. In terms of private investment, ‘appropriations’ of land for food (i.e., efficient farming, genetically-modified grains such as maize), fuel (i.e., biofuels), energy production, or water are less difficult to justify. On the other hand, for governments, the objective is to find ways to attract foreign investment and finance their public projects. The appropriation of natural areas, however, illustrates not only the global demand for resources from newer hubs of global capital, but also the penetration of corporate capital into indigenous localities and economies. Global resource grabbing, therefore, conceptualizes contemporary processes in which indigenous rights to lands and natural resources still require affirmation and protection.

Furthermore, innovative technologies and techniques deployed to exploit nature increase the ways in which indigenous peoples, their lands, natural resources and cultural heritage are threatened. Debates on food security illustrate this point: in 2007, the campaign *Sin Maíz No Hay País* (No Maize, No Country) was launched to promote native maize biodiversity. As a crop originating from Central America, maize is a cultural symbol that has in Mexico become an arena of debates on transgene flow into local maize varieties, as well as the legal, political, environmental, and bio-cultural implications of genetically modified crops (González-Ortega et al., 2017; Agapito-Tenfen

et al., 2017; Quist & Chapela, 2001). The issue has articulated ‘multisector alliances’ on both sides: corporations, experts, ‘agrarian elites’ and policymakers have promoted and built common understandings in favour of bio-technology. On the other side, indigenous and non-indigenous organizations, as well as scientists, have counter-argued, politically opposed and socially resisted the spread of genetic engineering techniques on the basis of maize’s symbolic value (Motta 2015; Pechlaner & Otero, 2008; Graddy-Lovelace, 2017; Mann, 2011). In these debates, terms such as ‘colonial corporate agriculture’ have helped galvanize wider social support (Graddy-Lovelace, 2017; Pechlaner & Otero, 2008; Simmons, 2016). Additionally, the notion of ‘bio-cultural heritage’ – a concept that implies ‘indigeneity’ – projects a future of indigenous farming under threat from free trade policies, intellectual property right regimes, and global corporate investments (Motta, 2015, p. 580). Bio-cultural heritage opposes, to some extent, certain aspects of bio-technology (Boege, 2008; also Toledo & Barrera-Bassols, 2008; Vogt & Barrera-Bassols, 2010).⁹ The notion has a geographical meaning (Boege, 2008) consistent with bio-diversity, ethno-diversity and agro-biodiversity. Both terms ‘colonial corporate agriculture’ and ‘bio-cultural heritage’ articulate indigeneity in relation to solidarity and proclaim locally-based, non-commercial agriculture as viable locally-built solutions to global problems. The fact that maize, a symbol of bio-cultural Central American heritage, has become an arena in which resistance to corporate agriculture has been initiated, highlights how the scientific and commercial value of plant and crop genetic resources conflict with the ‘intrinsic value’ they possess in ‘ecosystems and traditional communities’ (Jefferson et al., 2018). Legislation and public policy debates continue (Ortega-Villegas et al., 2018; Espinosa-Calderón et al., 2014), such as the ongoing debate on seed and plant legislation (*Ley Federal de Variedades*

⁹ There are concerns for the loss of native and regional germplasm. Boege, for instance, proposes the development of policies ‘for the stewardship of indigenous agriculture and native germplasm’ (2008: 199). He maintains that transnational biotechnology companies, and others, try to appropriate the genetic resources of maize with the intention to place those resources in germplasm banks so that biotechnology companies can ‘improve’ the germplasm (Boege 2008: 199). He contends, however, that this is an operation of ‘expropriation’ of collective biological resources with commercial goals that only result in the economic exclusion and further marginalization of indigenous populations and small producers.

Vegetales) illustrating tensions between technology and forms of indigeneity (Gómez, 2020).

2.3.1. Energy and Megaprojects

Land and resource grabs are thus characterized by large-scale commercial land deals carried out through mechanisms such as food security initiatives, energy/fuel security ventures, and climate change mitigation strategies (Borras, Kay, et al., 2012). The impact of the energy sector on indigenous territories is considerable. Mexico's 2013 reform of the energy sector encouraged the development of wind energy, which is a common instrument in climate change mitigation strategies; however, scholars and human rights monitors have acknowledged the existence of conflicts in places such as Juchitán (Oaxaca), and 'repressive techniques' have been employed by state and non-state actors against popular opposition to the construction of wind parks on communal lands (Dunlap, 2018; HRC, 2018, 48).

Similarly, large infrastructure projects have provoked opposition and resistance from the communities whose livelihoods, landscapes, resources, health, and cultures are directly affected. Examples include the ongoing Mayan Train megaproject in southern Mexico (Camargo & Vázquez-Maguirre, 2020), and the recently completed Los Pilares-Bicentenario dam.¹⁰ Located on the Mayo River in Sonora, this dam will flood a substantial area of forest, the most productive in the territory, and affected indigenous communities and their leaders, together with scholars and activists, have been challenging the 'imposition' of this infrastructure project on their localities since 2011. For indigenous communities living in conditions of extreme poverty, benefits from such projects rarely materialize and are certainly not anticipated (Haro & Martínez, 2019:16; HRC, 2018¹¹). In July 2020, the Kabueruma network

¹⁰ The Los Pilares Bicentennial Dam is located on the banks of the Mayo River, in San Bernardo, Álamos, (Sonora, Mexico). According to the construction company, it is a storage dam for flood control and protection of the basin downstream of the Río Mayo (www.construplan.com.mx/proyecto/presa-pilares).

¹¹ Former Supreme Court Justice Jose Cossío Díaz has examined the question of 'what to do in the face of the imminent claims of those who, due to their indigenous condition, intend to be taken into account in national projects that may affect them?' (Cossío Díaz, 2020).

that is monitoring the project described the flooding the Los Pilares reservoir as a 'violation of Mexican justice and a death sentence for the Guarijío tribe' (personal communication with Dr. Armando Haro, El Colegio de Sonora, Red Kabueruma, Sonora, México, 10.07.2020).

2.3.2. Mining in Indigenous Territories

As with large infrastructure projects, large-scale mining projects provoke opposition and resistance at a local level. Mining has flourished as governments throughout Latin America have tried to attract foreign investment to develop their economies.¹² This follows a series of legal and policy reforms since the early 1990s that continued until at least 2018. In Mexico, the 'success' of extractive industries is measured not only in terms of foreign investment (USD 5.2 billion in 2015), but also in production: the country holds a top ranking position as a global producer of silver, gold, copper, and other minerals (Holland 2018). Innovative technologies have contributed to making this possible¹³

As with the Los Pilares-Bicentenario dam, investment in mining is not expected to have a distributive effect in the indigenous and rural areas where operations are conducted (PFII, 2013, para. 5). As mining operations have advanced into indigenous regions, the resulting degradation is visible

¹² 'Between 2000 and 2010, a total of 26,55924 mining concessions were granted in Mexico, the equivalent of 35% of the national territory.' Most of them are located in traditional mining areas (Sonora, Durango, Zacatecas, Chihuahua and San Luis Potosí), although smaller operations occur in Guerrero, Oaxaca, Chiapas, Puebla, Michoacán and Veracruz (PFII 2013, para. 38; also UNAM's multicultural nation project: www.nacion-multicultural.unam.mx).

¹³ Technological advances in the mining industry have facilitated the reinvention of mining and expanded capabilities by facilitating exploration and making 'the exploitation of previously inaccessible mineral reserves' economically viable (Tetreault, 2015: 50). For the industry, mining technology is presented as a matter of extraction efficiency, profitability, environmental sustainability, as well as a health and safety workplace tool (CAMIMEX, 2019, 2020). Moreover, CAMIMEX points out that in 2019, the Mexican mining sector plans to invest 56.4 million dollars 'in the area of technological research and development' (CAMIMEX, 2019: 10). On the other hand, as latest generation technologies, highly efficient in economic terms, often have several negative environmental and social consequences, researchers develop solutions to address mining-related problems like water pollution (see Bazúa-Rueda et al., 2020).

in terms of the ecosystems and inhabitants' health (WGIA 2018).¹⁴ The United Nations Permanent Forum on Indigenous Issues (PFII), for instance, has documented both the impact of extractive companies on indigenous peoples, and the impact of mining operations in indigenous territories (PFII, 2013). According to their report, the Mexican Chamber of Mines (*Cámara Minera de México* – CAMIMEX) and the Association of Mining Engineers, Metallurgists and Geologists of Mexico declare that their activities are carried out 'in a sustainable manner, in compliance with the environmental standards and international codes of conduct established for such industries' (PFII, 2013, para. 1.). However, rather than viewing these issues as merely shortcomings in industrial standards, any analysis must also address the role governments have played in allowing these situations to occur. As governments continuously attempt to secure foreign investment, extractive industries have asserted their economic significance in attracting investment and creating jobs (PFII, 2013, para. 4 and 30), which perhaps helps explain governmental inaction or toleration in, at least, two regards: 1) in guaranteeing and ensuring respect of indigenous peoples' rights, 2) in guaranteeing and ensuring that national and transnational institutions and extractive companies fulfil their legal obligations (PFII, 2013, para. 61). Concern about this situation has been demonstrated by other human rights monitors: both the Special Rapporteur on the Rights of Indigenous Peoples (SRRIP) and the Committee on the Elimination of Racial Discrimination (CERD) have concluded that the Mexican authorities have failed to implement constitutional provisions – and international standards – regarding the relationship between indigenous peoples and extractive industries; these bodies have expressed 'deep concern at the growing tensions between outsiders and indigenous peoples over the exploitation of natural resources, especially mines' (PFII, 2013, para. 52; CERD, 2012, para. 17). Indigenous communities, leaders, and human rights activists experience the 'muted consent' of the government to these violations, particularly through the failure to ensure the participation of indigenous communities in consultative processes and the securing of their free, prior and informed consent before companies are granted concessions and permitted to operate in indigenous territories. Some protests

¹⁴ Major damage to health occurred at Los Filos and El Bermejil (State of Guerrero), exploited by the Canadian company Gold Corp in the indigenous culture zone of Balsas Mezcala.

have attracted international attention, including the landmark case regarding the expropriation of the sacred desert of Wirikuta near the town of Real del Catorce (San Luis Potosí), which is a seasonal pilgrimage site for the Huichol people of Jalisco, Durango and Nayarit (Boni et al., 2014; PFII, 2013, para. 52). Other protests, however, have been criminalized or met with violence. A persistent increase in not only the number of conflicts in Mexico, but also the level of violence, has been viewed by multilateral agencies as a problem to be solved through new or reformed institutions, laws, and public policy, or by ensuring free, prior and informed consent. Observers for the United Nations have often found that ‘authorities have failed’ to hold ‘binding, free, prior and informed consultations with indigenous communities on mining projects within their territories’ and that procedures for consultation are non-existent (PFII, 2013, para. 60). These failings also occur in the private sector: the PFII, for instance, has recommended that CAMIMEX ‘develop mechanisms to ensure that indigenous peoples are consulted and give their prior, free and informed consent before exploration and exploitation begins’ (PFII, 2013, para. 65). Resistance and opposition to mining projects have been met with increased violence and even murder (CEMDA, 2019). Mexico ‘remained one of the most dangerous countries in 2019 for activists who defend the environment and human rights’ (IWGIA, 2020, p. 442). In trying to understand these facts, scholars have considered these actions as instances of resistance and opposition ‘from below’ (Hall et al., 2015), as forms of ‘bio-cultural engagement’ (Brandt, 2014) or, alternatively, as the effects of processes of ‘accumulation by dispossession’ of the land, the water and cultural landscapes owned by indigenous communities and small farmers (Tetreault, 2015).’

2.3.3. Conservation

Researchers have argued that the appropriation of land and natural resources for environmental policies should be part of the land grabbing debate (Fairhead et al., 2012; Hall et al., 2015; Rocheleau, 2015). Green grabs ‘take multiple forms and result in diverse politics from below’ (Hall et al., 2015, p. 480). In Mexico, where there are several protected natural areas, environmental conservation has faced its own set of problems, since inhabitants of these areas are most often living in poverty. Researchers have been advised to address ‘not only ecological but also economic and social aspects’ involved in the operation of protected natural areas that ‘have some anthropogenic interaction

or a human settlement’ (Pinkus-Rendón et al., 2018, p. 555). The country’s ombudsman (CNDH) has raised concerns about the management of protected areas in indigenous territories in a landmark general recommendation (CNDH, 2016b). It has been claimed that this recommendation has clarified the inter-relation between human rights and protected natural areas, and conservation issues in relation to Mexico’s constitutional and international obligations (UNAM-CNDH, 2019, p. 295). Regrettably, compliance with the recommendation has been ‘very limited’ and its impact has been ‘less than expected and desirable’ (UNAM-CNDH, 2019, pp. 297–298). This recommendation, however, has joined similar concerns raised by international human rights observers in stating that the creation of protected areas in Mexico has led to violations of indigenous land rights, forced evictions, and restrictions on traditional access to land and natural resources (HRC, 2018; CNDH, 2016b; UNAM-CNDH, 2019). Problems in this area are exemplified by the situation of the Cucapá people in Baja California: ‘their traditional fishing activities have been seriously limited by the creation of a protected area in their ancestral lands and illegal fishing in the region has inhibited traditional fishing, which is necessary to preserve their culture’ (HRC, 2018, para. 28).

2.4. Recent Developments

The conflict over indigenous lands is a long, persistent and complex issue despite attempts to bring about a long-lasting solution. In trying to assess the magnitude of the agrarian conflict in indigenous regions, the Agrarian Prosecutor’s Office estimated that of the approximately 7,671 agrarian nuclei with indigenous population, there are approximately 200 indigenous communities with agrarian conflicts with third parties (INPI, 2021, p. 83). Equally, in trying to assess the legal, political and organizational strategies available for communities to defend their lands, it is important to understand the evolution of land conflict. In terms of land related conflict, there are two key varieties: those affecting individuals and others affecting entire communities (INPI, 2021, p. 83). Conflicts over rights can probably be expected to grow – in conjunction with changes in economic activities, urbanization, monetization, migration. There are specialized agrarian courts that deal with land conflict: from 1992 to 2021, a total of 1,113,591 such resolutions were issued (Chavira, 2021). However, when the execution of judicial decisions intensifies

disputes and even triggers violence, judicial decisions do not seem to provide a long-lasting solution. Indigenous land conflict is more than a mere legal dispute. It is possible that the losing parties in a court case may try to keep possession of the land and prevent the execution of a judicial sentence – even by violent means. To resolve ancestral disputes over ownership and/or possession of rural and traditional lands, a negotiated solution may be a better approach to resolving the conflict.

The main problem today is the existence of a process of dispossessing indigenous lands and natural resources. In recent years, concessions and licenses have been granted for the use of natural and mineral resources without taking into account the indigenous peoples and communities that live there. This process has not only generated conflicts, but has led to serious violations of the human rights. Activists who defend the environment and human rights who have faced harassment, threats, repression and attacks against their lives. In 2019, ‘at least 14 activists and defenders of the environment belonging to several different Indigenous Peoples were murdered’; it is also reported that such cases take place ‘in the context of territorial conflicts, opposition and resistance to megaprojects involving infrastructure, extractive industries and energy production’ (IWGIA, 2020, p. 443).

In the federal government, there seems to be a common understanding about relying on alternative dispute resolution mechanisms such as conciliation (INPI, 2021). Targeting instances of indigenous land disputes, federal land conflict public policy has tried the conciliation of interests as the preferred way to resolve agrarian conflicts in rural areas. The ‘Programme for Attention to Social Conflicts in Rural Areas’ (COSOMER), originally introduced in 2003 and extended in 2021, has sought to grant legal security in land tenure, through the recognition and accreditation of individual and collective rights (DOF, 2021). In governmental circles conciliation has become a strategy to deal with long-standing problems, with the potential for violence, in which there have been agrarian court rulings that were considered ‘impossible to execute’ but which conciliation makes possible.

It is from the approach to negotiated and mutually agreed solutions that the policy towards the Yaqui People seems to be emerging. Over the period 2019–2021, the Yaqui and the federal government started a process that has led to a justice plan – summarized in three broad actions: 1) the restitution of their lands, up to 20,000 hectares, 2) access to water for human consumption and for agriculture, 3) infrastructure to improve life conditions

in communities and towns: introduction of drainage, improvements in roads, housing, and education (GdM, 2021).

In terms of the challenges of ‘recognition’ and its implication in land rights, the recently formulated ‘Initiative for Constitutional Reform on the Rights of Indigenous and Afro-Mexican Peoples’ (*Iniciativa de Reforma Constitucional sobre Derechos de los Pueblos Indígenas y Afromexicano*) has tried to address the issue. Premised on the recognition that Mexico is a diverse, multicultural and multilingual country, the constitutional reform initiative arises from an extensive consultation process over the period 2019–2020. Its purpose is to recognize indigenous and Afro-Mexican peoples and communities as subjects of public law, with full capacity to freely decide their forms of government and organization, as well as their integral development and common well-being, with respect for their cultures, and the sustainable use of their lands, territories and natural resources (INPI, 2021, p. 12). In addition, the constitutional reform is an attempt to harmonize Mexico’s constitutional, legal and institutional framework with international standards: ILO Convention 169 (ILO, 1989) the United Nations Declaration on the Rights of Indigenous Peoples (United Nations, 2007), and the American Declaration on the Rights of Indigenous Peoples (2016). In 2017, the recommendations were reiterated by the Special Rapporteur on the Rights of Indigenous Peoples, Victoria Tauli-Corpuz, in her visit to Mexico (HRC, 2018): It was suggested to ‘harmonize our national legislation with the advances that have occurred in the international legal regime, particularly with the adoption of The United Nations.’ The proposed reform also responds to the recommendations formulated in 2003 by the UN Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous Peoples, Rodolfo Stavenhagen.

The relationship between the courts, the Executive and the Legislature has shown some dynamism. In 2018, Congress approved the law creating the National Institute of Indigenous Peoples (2018). During the 2019–2021 period, the Executive began a process of formulating a constitutional reform proposal (above) that is expected to be discussed in Congress. The Judiciary has established jurisprudence (TEPJF, 19/2014) and criteria (TEPJF SUP-JDC-1865/2015) on the right to self-determination and autonomy. In Constitutional Controversy 32/2012, promoted by the community of Cherán (Michoacán), the Supreme Court of Justice established that the traditional authorities had the right to promote constitutional controversies and

indicated that the right to self-determination includes the power to freely determine their form of organization (INPI, 2021, p. 138). It is also true that the UN Special Rapporteur in his recommendation to Mexico indicated that that ‘courts, including the Supreme Court, should speed up existing procedures to ensure that rulings in favour of indigenous peoples are implemented’ (HRC, 2018, para. 98).

2.5. Chapter Conclusions

This exploration of indigenous land rights has shed some light on the complexities surrounding the attendant struggles and aspirations. This chapter has touched on a variety of issues, showing how they intersect with public policies and private sector interests, covering environmental conservation, infrastructure, agriculture, mining, and energy. Despite technological advancements that facilitate such projects, indigenous communities often find themselves at a disadvantage in dealings with the promoters of private and public projects.

Indigenous communities, leaders, activists, and scholars have acknowledged that despite robust constitutional provisions and existing institutions, their rights, lands and ecosystems continue to face threats. Multilateral observers have encouraged indigenous peoples ‘to continue developing and strengthening their own legal, political and self-determination initiatives, taking into account international human rights standards’ (HRC, 2018, para. 132).

While the solutions proposed by multilateral human rights observers have largely focused on creating or reforming institutions, laws and policies, or on mechanisms of consultation and consent, academic debates have concentrated on analysing the global and national dynamics of natural resource appropriation. Researchers have tried to understand how locally affected communities have responded to contemporary challenges (Hall et al., 2015; Tetreault, 2015; Brandt, 2014). At the same time, this has always been a multi-disciplinary field, and the frameworks of research on these topics have shifted since the early 1990s. New perspectives which emphasize biodiversity conservation, sustainable development and ethno-ecological aspects of indigenous communities and their regions (Toledo, 2010; Toledo & Barrera-Bassols, 2008) are contributing to our understanding of the complex processes and forces that currently threaten indigenous lands, territories and ecosystems.

Chapter 3

Indigeneity and State Formation in the Lacandon Rainforest

3.1. Introduction

Throughout the twentieth century, extensive research has been conducted on the Maya-speaking peoples of Guatemala, Chiapas, and the Yucatan Peninsula, covering a wide variety of topic. Drawing upon this work, this chapter explores the interplay between indigeneity and state formation in the Lacandon Rainforest. It considers the historical diversity and linguistic identification of the region's indigenous groups, their shifts over various historical periods, and the impact of colonization and state policies on their societies.

Research has registered the transformation of the rainforest and its inhabitants (Calleros-Rodríguez, 2013; 2014; Calleros-Rodríguez & Guevara-Romero, 2016). The existing body of research ranges from ethnographic studies (Tozzer, 1907/1962; Boremanse, 1998; Eroza Solana, 2006; Marion Singer, 1999; McGee, 2002; Perera & Bruce, 1985) to ethno-linguistic studies (Vogt, 1969/2015; Villa Rojas, 1969a; Bruce, 1968), in addition to other streams of research focusing on oral tradition (Bruce, 1976), mythology (Boremanse, 1989; Bruce, 1979). Moreover, the social forms of organization (Marion Singer, 1999; McGee & González, 1999) and their ethnobotanical knowledge and use of medicinal plants (Kashanipour & McGee, 2004) has also attracted attention. Other students have focused on belief systems: cosmology (Marion Singer, 2000), religious rituals (Boremanse, 2007; McGee, 1990; Tozzer, 1907/1962; Blom, 1954) and the religion-man-nature trilogy (Roblero Morales, 2008). Furthermore, others have studied traditional subsistence

economy (Contreras Cortés et al., 2013; Baer & Merrifield, 1971; Diemont & Martin, 2009) and the development of the service economy (Espeso-Molinero & Pastor-Alfonso, 2019). Finally, others have look at the Lacandon Rainforest as a recipient of environmental policies (Kosoy et al., 2008).

The geographical and linguistic identification and distribution of human groups that have inhabited the Lacandon Rainforest are defined by two key factors. The first is the historical diversity of the areas. For centuries Central America has been one of the main regions of indigenous cultures, with the rainforest being a particularly multilingual region (inhabited by Chols, Tzeltals and Lacandons, as well as Tojolabals and Tzotzils, coexisting with one another) – although inter-ethnic relations drastically shifted in the sixteenth century, when peoples from Atlantic Europe settled. The second element is the significance of change in historical periods: from the splendour of the ancient Maya (tenth to fifteenth centuries), to the Spanish period (fifteenth to nineteenth centuries), to the Mexican period (subdivided into 1821–1910; 1910–2000; 2003–2023).

3.2. Three Indigenous Groups

Maya-speaking peoples from Mesoamerica occupy a virtually continuous territory stretching across southern Mexico, Guatemala, and Honduras. In terms of its diversity, the Lacandon Rainforest has three main indigenous groups – Lacandons, Tzeltals and Chols – which are all part of this family of Mayan (or Mayance) peoples and languages (Villa Rojas, 1969a; Vogt, 1969/2015).

The Lacandons, in particular, have had a documented historical presence in the area where the *Comunidad Zona Lacandona* (Lacandon Community, LC) has been established, while the Tzeltal and Chol speaking groups both moved in from nearby areas at various times in the past. Similarly, the Tzeltal are a large Mayance group residing in central Chiapas. The groups of Tzeltal settlers who formed Nueva Palestina were from areas northwest of the rainforest (Ocosingo) and several places to the north (Simojovel, Pueblo Nuevo Sitalá, Yajalón, Chilón, Bachajón, Guaquitepec, Sitalá, Petalcingo, Sabanilla, Tila, Tumbalá, Salto de Agua, Huixtán, and Oxchuc). As for the Chols, those groups of settlers that became incorporated into Frontera Corozal were overwhelmingly from today's municipalities of Sabanilla, Tila, Tumbalá, and Salto de Agua (Paladino, 2005, 79). In both cases, the places of origin of the Chol

and Tzeltal settlers have been perpetuated in the names of their wards (*barrios*) within Frontera Corozal and Nueva Palestina. The geographical presence and the population sizes of Tzeltal and Chol speakers suggest that the groups that make up the LC are part of the largest and dynamic original cultures in the Western meridian.

3.2.1. Lacandons

Research on the Lacandons is abundant. Ethnographers have divided the Lacandon Mayans by their geographical location into two subgroups: those of the South and the North (Baer & Merrifield, 1971; Boremanse, 1986; Eroza Solana, 2006; *inter alia*). Within the first are the communities of Lacanjá-Chansayab, Bethel and San Javier and the second are Najá and Metzabok, and very little mentioned in Ojo de Agua Chankín.

There has been some discussion about the relationship between the current Lacandons and the historical ones, based on language or ethnographic information. In this discussion, significant cultural differences have been suggested between the current and historical Lacandons (Eroza Solana, 2006).

The literature has considered two interpretations of the term 'Lacandons': one where it refers to all the rebellious indigenous people who inhabited the rainforest during the colonial period (Boremanse, 1978). Another proposed interpretation is as a reference to a group speaking the Chortí language, which inhabited a small island located in the Lacantún River, at the southern end of the forest. Its members called themselves 'those of Lacamtún,' which means 'great rock' or 'standing stone' in Chortí. Hispanised, the word became *Lacandón* or *Lacandónes* (de Vos, 1980; Eroza Solana, 2006).

In the late seventeenth century, Spanish records make reference to the presence of Lacandon groups in the region known as Lacandonia and their subjugation (*reducción*). It is argued that the first reports that correspond to the current Lacandons are those that account for the 'reduction of the Lacandons of San José de Gracia Real' in the period 1788 to 1797 (de Vos, 1980/1996; Eroza Solana, 2006, p. 7). In the nineteenth century there were attempts at Christianization, between 1814 and 1862. Based on the records of these events, it has been interpreted that the majority of the Lacandons contacted belonged to various lineages, whose members were distributed between the Guatemalan Petén and the south of the Lacandon Rainforest (de Vos, 1980/1996).

3.2.2. Chols

Chol (or Ch'ól) is one of the indigenous languages with the largest number of speakers in Mexico, and among the four most spoken of the Mayan family (Alejos & Martínez, 2007). The Chols belong linguistically, culturally and territorially to the Mayan family. Like the Lacandons, historical and archaeological sources denote a direct relationship with the ancient Mayans of the classical civilization (Alejos & Martínez, 2007). Linguistic and historical studies show that the current Chols are direct descendants of the ancient Cholana population. The same sources suggest that the Chol villages of the Sierra Norte of Chiapas precede the Indian towns founded by the Spanish, and are not towns created with populations from other regions. Although historical references are scarce, there is abundant evidence of the above in the toponymy of the region, in the traditional religious cult and in the painting, sculpture and glyphic writing present in archaeological sites.

3.2.3. Tzeltals

The Tzeltal peoples, part of the broader Mayan group, are also one of the largest linguistic groups in Chiapas, as well as in Mexico. Only parts of its past are preserved in its oral tradition (Bartolomé, 1997 in Gómez Muñoz, 2004, p. 25). Their settlements in the Chiapas Highlands are thought to date back to between 500 BC and 750 BC. From the year 1200 AD, their linguistic and geographic settlement pattern differentiated into Tzotziles and Tzeltals. The main and oldest Tzeltal regions are located in three regions (Gómez Muñoz, 2004, pp. 38–40): the northern region (Sitalá, Yajalón, Chilón, Bachajón, Ocosingo); central region (Altos, Chanal, Oxchuc, Tenejapa, Cancuc, Altamirano, Abasolo) and southern region (Teopisca, Amatenango, Aguacatenango, Pinola, Sitalá, Socoltenango, Yajalón, Chilón, Ocosingo, Amatenango del Valle and Aguacatenango) (Vogt, 1969/2015; Esponda, 1994; García de León, 1985/1996; Martínez Peláez, 1977; Viqueira & Ruz, 1995; Villa Rojas, 1975, 1990; de Vos, 1996; Wasserstrom, 1992).

3.3. Polity Formation in the Lacandon Rainforest

The passing of time is a significant element in the Lacandon Rainforest. As noted above, it is possible to refer to three major eras: ancient times (tenth to fifteenth centuries), the Spanish Colonial period (fifteen to nineteenth centuries), and modern times (subdivided into a liberal period, 1810–1910; revolutionary period, 1910–2000, and current period, 2000–2023).

By the tenth century, ancient urban centres such as Palenque, Yaxchilán, and Bonampak had declined, with only small communities remaining (Eroza Solana, 2006). The fifteenth century is crucial in the timeline of the region, for understanding the formation of a new, widespread social order. The fifteenth to the nineteenth century is a period in which the ‘Mayan region’ was inhabited and had acquired a system of lineages without a system of centralized social organization (Boremanse, 1986; Eroza Solana, 2006). In the fifteenth century, a period of forced population reorganization began – Lacandonia became a region of refuge for groups that wanted to escape the Spanish invaders.

When the Spanish entered the region, many groups resisted their persistent attempts from refuges in the rainforest. They resisted relocation (*reducción*) attempts until they were eradicated from the area and relocated to ‘*pueblos de paz*.’ It is thought that these were groups speaking, mainly, the Chol, Chortí and Tzeltal languages (de Vos, 1980/1996). Specifically, the Chiapas highlands were conquered between 1523 and 1528. The conquest and reduction of Guatemala began 1524 and ended with the surrender of the Itza in 1697. The conquest of Yucatan lasted from 1527 to 1546. A radically different new order was established with centres in Guatemala City, Quezaltenango, Merida, and San Cristobal de las Casas.

The processes of polity formation were experienced differently for every group. The year 1524 is when the Spanish invaders met the Maya groups of what is today Chiapas (de Vos, 1996, p. 31). ‘Chol’ (or ‘Chol’), on the other hand, was the name given by the Spanish to refer to the region where several groups coexisted with close ties, not so much political as cultural and linguistic. At the time of contact, the Chols did not form a state unit, although the Spanish considered them a ‘nation,’ referring, more than anything, to a region that they were unable to subdue (Alejos & Martínez, 2007). The Cholanos of yesteryear occupied a strip that extended from eastern Tabasco, passing through northern Chiapas, the Lacandon Rainforest, southern Petén

and Belize, to eastern Guatemala and western Honduras ('the Media Luna cholana'). It has been suggested that the population of the 'Media Luna' may be the direct descendants of the ancient Mayans, architects of the civilizational development of the Classic Period. After their military subjugation, the Cholano peoples of the Media Luna were seriously diminished. Several of them disappeared, such as the legendary Chols and the Lacandons of the Guatemalan Manché. In Hispanic sources, the Chols appear as enemies of the Itzás. Both Itzás and Chols were the last to resist Spanish rule in the region known as Guatemala's El Petén (see Alejos & Martínez, 2007).

These processes of polity formation ushered in a new order, establishing institutions that reshaped the social, economic, and political fabric. Among these were: '*reducción*,' '*la encomienda*' and '*repartimiento*.' '*Reducción*' consolidated scattered indigenous populations into centralized settlements to facilitate religious conversion, tighten governance, and cultural assimilation. As a strategy of concentrating dispersed populations in a single population centre, in some cases, this entailed the dismantling of existing social structures (Gonzales Lombardi, 2016). These settlements served as hubs for imposing the coloniser's beliefs, norms, and economic practices. Moreover, '*encomienda*' established a relationship of patronage, whereby the Indians owed obedience to the beneficiary (*encomendero*). It was an institution in which a single individual was granted authority over a group of indigenous peoples; the institution allowed Spanish colonists to extract labour and tribute from indigenous communities in exchange for supposed protection and religious teaching. It appears that the *encomienda*, as an institution, tried to reconcile different goals. Politically, it served to reconcile the feudal aspirations of the colonists with the authority of the Crown. Equally, it served to reconcile the Catholic Church's goals with those of the Iberian Crown. Economically, it tried to reconcile the benefit of the Spanish Crown – through the tribute paid by the colonists (*encomendero*) – with the economic benefit of the colonists – whose landholdings were exploited through the work of subjugated populations. It also tried to reconcile the Indigenous' freedom with their economic exploitation (see Zavala, 1935, in Camacho Quintero, 2008, p. 43). However, this system often led to exploitation, with colonists prioritizing economic gain over their responsibilities. Furthermore, '*Repartimiento*' represented the initial stage of an organised initiative to integrate indigenous peoples into the economy as active participants. This was achieved through the sale, albeit involuntarily, of their labour. For the Spanish Crown, this was a rectification

of circumstances observed in *Encomiendas* – in which indigenous populations were regarded as mere factors of free production (Spanoghe 1997). Although intended to be less oppressive than ‘*encomiendas*’ by limiting labour time and offering wages, it still resulted in significant exploitation.

These institutions implied the subjugation to new forms of authority, economic activities, and cultural frameworks. The reductions are particularly important because they marked processes of creation of new communities; these were population centres in which dispersed indigenous populations were grouped – the purposes were both religious (Christianization) and political (government) and social (cultural assimilation).

3.3.1. The Nineteenth Century

A second process of polity formation started in the nineteenth century. An important feature of this process was the demarcation of an international border between two republics that emerged from the former Spanish-controlled territories: Guatemala and Mexico. State jurisdiction over Lacandonia has been the result of both international and national negotiations. Before the boundary was agreed, the rainforest was a single unit where both countries exerted ambiguous control (de Vos, 2002, p. 14; Valdez, 2006, p. 261). At the end of the Spanish control over Central America, Chiapas separated from Guatemala in 1821, and was annexed to Mexico in 1824. In the period 1821–1895, Guatemala and Mexico disputed the jurisdiction over Lacandonia (de Vos, 1996, 2002; Valdez, 2006; González Pacheco, 1983). Thus, as jurisdiction was uncertain in the period 1824–1882, the development of private property and the attendant economic activities created incentives to demarcate a boundary, in the second half of the nineteenth century. The international border was laid out by the Boundaries Treaty of 27 September 1882 (and 2 May 1883). The México-Guatemala border was finally settled on 1 April 1895 (González Pacheco, 1983; de Vos, 1996; Valdez, 2006).

Within this broader second process of polity formation, a subnational level of formation also applied to the settling of the inter-state boundary between Chiapas and Tabasco. Over the years 1898 and 1912, Tabasco disputed Chiapas’ jurisdiction and taxation of the region, arguing that commercially, and in the protection of the territorial integrity of Mexico, Tabasco, rather than Chiapas, should exert jurisdiction over the rainforest (de Vos, 1996, p. 127). A second element in that process of state formation was the

development of a capitalist economy. The state introduced rules of access to, and use of natural resources, as this facilitated the dynamics of land surveying, large estate formation, and resource extraction.

There was increasing demand for land: the years between 1856 and 1875 saw processes of land dispossession and the formation of large estates. The dispossession of indigenous communal lands amplified towards the end of the nineteenth century. In 1878, the federal government decreed the suppression of collectively owned lands, which were sold to the highest bidder. The assets of the Church were nationalized and sold.

3.3.2. Large Estate Formation

Land concentration in Chiapas started in the late nineteenth century (1880–1895); it was the outcome of different ‘liberal legislation’ on land, with the effect of introducing a process of land concentration by easing the accumulation of land instead of promoting the formation of smallholdings took place. The formation of the large estates as private property in Lacandonia began in the nineteenth century. Land policies were fundamental to the formation of land tenure patterns (Valdez, 2006; de Vos, 1996, 2002, Holden, 1994; Gonzalez Pacheco, 1983; Kouri, 2002). Private property and large estates were consolidated in the first years of the twentieth century, albeit with some regulations on land tenure (Holden, 1994) and resource use (de Vos, 1996). In the years 1902–1909, Lacandonia was private property. The development of a capitalist economy was centred on the exploitation of natural resources. Property ownership was monopolised by a handful of people that were politically and commercially linked to the Porfirian political elite – some property titles were ratified by President Venustiano Carranza in 1920. Land surveyors had become large landholders and they exploited timber, rubber and resins through government concessions (González Pacheco, 1983). State authorities introduced a level of restrictions on land surveying (Holden, 1994) and logging (de Vos, 1996, p. 75). Some decades later, the dismantling of the large estates emerged out of the Revolution (see Holden, 1994; de Vos, 1996; González Pacheco, 1983), which laid the foundations for a new land tenure regime – used by revolutionary factions to consolidate their power.

3.3.3. The End of the Large Estates and Private Lumbering (1917–1949)

The Mexican Revolution (1910–1921), although it initially led to contradictory outcomes, would radically transform the region by changing the rules of land tenure, labour and resource use. When Chiapas was under the control of the Revolutionary forces of Venustiano Carranza, legislation was instituted against semi-forced labour (Valdez, 2006; also Reyes Ramos, 1997). However, this economy was characterized by a need for both permanent and temporary labour; this significant demand for indigenous labour resulted in the development of semi-enslavement practices. As such, Carranza's Usumacinta Brigade established timber camps in 1913, in the nearby town of Tenosique (Tabasco) (de Vos, 1996; Valdez, 2006). However, the Mexican Revolution and land reform did not interrupt lumbering in the rainforest and did not dismantle the large estate immediately. Most of the lumber companies survived the years 1911–1917 (de Vos, 1996, p. 230). Timber concessions and land rights were weapons in the consolidation of revolutionary factions (Holden, 1994; de Vos, 1996; Reyes Ramos, 1997). Instead, Chiapas' landed elite responded vigorously to the Revolutionary regime's and policies – including land reform. This counter-revolutionary movement was effective in keeping control of the State (Reyes Ramos, 1997; García de León, 2002).

In the development of private property and the establishment of a resource-extraction economy, lumbering (1863–1949) played an important part. The operation of timber companies was the starting point for the development of private property in the rainforest (Valdez, 2006, de Vos, 2002 and Gonzalez Pacheco, 1983). The history of lumbering is a history of capitalism (investment, commercial competition, natural resource exploitation and state regulation). This commercial activity developed in close parallel with the formation of the large estate – presumably, at the expense of the Lacandons. This activity was conducted in an internationally disputed jurisdiction – the banks of the region's rivers (de Vos, 1996). In Lacandonia, the history of lumbering centres around large logging companies (de Vos, 1996, p. 102): Casa Bulnes, Casa Valenzuela and Casa Jamet y Sastre; also Romano y Compania (1892), Schindler y Gabucio (1893) and Troncoso-Cilveti y Compañía (1894).

The decline of the lumbering industry began in the 1920s. In the period 1920–1934, the latifundia started to be dismantled (Valdez, 2006; de Vos,

1996), although lumbering was not discontinued as an economic activity. The decline of the lumbering industry was prolonged until 1949, at which time the state issued legislation banning the export of timber as a raw material. The decline of lumbering was further intensified by environmental restrictions (de Vos, 2002).

Moreover, the role of state-led resource exploitation in Lacandonia also has an important place. From the mid-nineteenth century until the 1970s, the role of the state was limited to issuing concessions and property titles, customs, and the supervision of logging and rubber tapping (Dichtl, 1987). Lumbering did not disappear with land reform. Mexican governments have generally explored ways to exploit the natural resources available in the Lacandon region. From the 1970s, and through the 1980s, the rainforest became a recipient of public policy attention (Dichtl, 1987): from infrastructure (i.e., dams), oil explorations (de Vos, 2002; González Pacheco 1983) to conservation – such as the creation of the Montes Azules biosphere reserve (1978). Instead, lumbering continued until the state took over the activity in the 1970s. Private capital was driven out of the rainforest by expropriating large landholders and introducing a parastatal lumbering operation. Parastatal lumbering, after the creation of the LC, has been the second most important state intervention in Lacandonia (González Pacheco, 1983; Paladino, 2005; Dichtl, 1987).

However, there were other concerns, too – increasing concerns regarding the conservation of natural resources. President Avila Camacho (1940–1946) issued a law (1942) to create a rainforest policy in the country; it created a system of concessions for 50 years or more, with the aim of supplying raw material for several industries, including mining, paper, construction, transport, and war materials (González Pacheco, 1983). In 1949, the state banned the export of unprocessed timber, and the period 1950–1972 became an era of trans-national capital and the redefinition of Lacandon land rights.

From the perspective of land reform, Avila Camacho's legislation dealt a major blow against the *ejidos* and agrarian communities, which were becoming the owners of the largest portions of the national forests (González Pacheco, 1983, p. 156). Thus, while private ownership had been dominant in terms of presence and activity in the rainforest, this changed in the 1950s and 1960s, a period of transformation of land tenure in Lacandonia. In fact, land reform would be the bridge from the enclave economy into an agrarian society. Starting in the 1950s, lumbering was in competition with settlers

and cattle ranching and farming (González Pacheco, 1983), an activity that expanded from Tabasco and was stimulated by the state. There were competing interests over the region, illustrated by the changing forms of access to, and use of, land and natural resources.

The post-revolutionary regime (1910–2000) introduced several policies that transformed the Lacandon Rainforest. On the one hand, the most important was land reform. Changing the rules of land tenure meant the cancellation of private titles. Land reform first – and later conservation policies – would dismantle the private property regime. Some latifundia escaped land reform up until the 1960s; others became part of national lands (de Vos, 2002, p. 197). The presence of timber companies and the surge of colonisation led to competition between private loggers and land reform officials, who channeled migration to areas where loggers wanted to exploit or land reformers wanted to colonise (de Vos, 2002, p. 76). On the other hand, the state – the driver of transformations in the region – engaged in resource extraction activities. A parastatal company (Cofolasa) tried to extract wood in 1974 (de Vos, 2002, González Pacheco, 1983).

The colonisation drive in Lacandonia was the product of diverse state interventions. The wider Lacandonia region was a major target for directed colonisation.¹ Changing land tenure in the region had political effects in the transformation of both the landed elite and the landless peasants – both central to the political order the Revolution sought to overturn.

One of the most immediate effects of the complex settlement processes in Lacandonia was the emergence and structuring of disputes and conflicts arising out of different resource-use strategies and access to those resources. Indeed, as the population grew in a region where access to resources and resource-use strategies were changing, tensions, disputes and conflict naturally arose. The region also underwent an economic transformation, moving from extractive activities to the twin conflicting goals of colonisation (small private farming and subsistence farming – *ejidos*) alongside efforts towards resource conservation (Lobato, 1979; de Vos, 2002). In terms

¹ In particular colonisation policies were reinforced under the administrations of Presidents Manuel Avila Camacho (1940–1946) and Miguel Alemán (1946–1952). The establishment of colonies meant the dismantling (expropriation) of the large estates; these expropriations were resisted in court and were further complicated by numerous land sub-divisions and buy-and-sell transactions (Lobato, 1979).

of workforce, the region transitioned from a place for workers of extractive industries to one for smallholder and *ejido* beneficiaries. In this context, the Lacandons encountered and became acquainted with the temporary workers of extractive industries (Dichtl, 1987).

Extensive research has been done on the process of colonisation, highlighting different aspects (e.g., settlers' motivations, places of origin, the internal dynamics of migration and destination, magnitude and composition). Throughout the twentieth century, Lacandonia became home to a variety of settlers, with significant migration occurring between 1948 and 1978 (Hernandez, 1978; Lobato, 1979). Research has identified four types of dwellers: 'first residents' (Lacandons); 'spontaneous settlers'; state-sponsored settlers; and individual small landowners or ranchers (PRODESIS, 2008; Legorreta, 1998; Leyva & Ascencio, 1996/2002; Lobato, 1979; Hernandez, 1978).

The '*first residents*' were the Lacandons, the sole inhabitants before colonisation began. Land reform dramatically altered their lives, as landless former peasants gained land at the expense of smallholders (Lobato, 1979). Planned colonisation clashed with 'spontaneous migration,' leading to land being turned into *ejido* allotments for landless Tzeltal and Chol settlers and relegating small private property to a secondary role.

'Spontaneous settlers' came as a result of agrarian and pro-indigenous (*indigenista*) policies, which directed land petitioners from Chiapas' highlands to Lacandonia, fostering settlement formation on the fringes of the rainforest. They had had left the *fincas* of Ocosingo, Altamirano, Comitán and Las Margaritas (Paladino, 2005). The first wave of colonisation in the early 1950s was largely spontaneous, and involved Tzotzil speaking settlers from Chiapas' highlands and Tzeltal speakers from Bachajon and Tumbalá (Hernández, 1978). This 'mass colonisation' prompted logging companies to divide up and sell their lands to multiple buyers, to avoid the application of agrarian laws (Dichtl, 1987; Gonzalez Pacheco, 1983). Settlers had very different cultural and socio-economic backgrounds. Those who went to the western part of Lacandonia came mostly from the municipalities of Altamirano, Comitán and Las Margaritas. In contrast, those who settled in the eastern part were from the Los Altos region, probably as a result of the forest's proximity to the Tzeltal region (Hernández, 1978). In East Lacandonia, those who later formed Nueva Palestina came from Simojovel, Yajalón, Chilón, Bachajon, Guaquitepec, Sitala, Petalcingo, Sabanilla, Tila, Tumbalá, Salto de Agua, Huixtan, Oxchuc, Ocosingo, Pantelho and Petalcingo. Other Chol speaking

settlers came mostly from Tila, Tumbalá, Salto de Agua, Yajalón and Sabinilla, and they became the *comuneros* of Frontera Corozal. Tzotzil speakers came from Chamela, Tenejapa, Simojovel and Huixtán; and Tojolabales from Las Margaritas. There were also settlers from Tuxtla City and San Cristobal.

In the directed migration to Lacandonia, land distribution was used as an incentive for colonisation that aimed to populate empty pockets of the national territory, to foster economic development and to deal with the challenges of a growing population (Gonzalez Pacheco, 1983). On the other hand, most of the land-based settlements (*ejidos*) in Lacandonia were land allotments to landless peasants who spoke Tzeltal, Chol, Tzotzil and Tojolabal (Lobato, 1979; Paladino, 2005).

Lastly, *Nuevos Centros de Población Ejidal* (NCPEs) grew in importance between 1965 and 1976. Through this legal mechanism, land was granted to the landless in locations far away from their places of origin. Introduced in 1921,² NCPEs became the only option for colonisation once private colonisation on national lands was banned in 1962. This policy brought people to Lacandonia from the states of Oaxaca, Tabasco, Veracruz, Sinaloa, Guerrero and Michoacán (Paladino, 2005; Lobato, 1979; Hernandez, 1978).

3.4. Chapter Conclusions

This chapter has traced out some of the complex history of the Lacandon Rainforest. It has detailed the historical presence and cultural characteristics of the Lacandons, Tzeltals, and Chols; it has shown how these indigenous groups navigated the challenges of colonization, new land tenure systems, and state-led policies that reshaped their traditional ways of life (Calleros,

² Throughout the nineteenth and twentieth centuries, the occupation of largely inhabited territory was an important policy goal. Colonisation laws were enacted in 1823 (Gallardo Zúñiga, 2006), while the land surveying legislation of 1875 and Colonisation Law (*Ley de Colonisation* – 1883) were aimed at establishing new settlements (Holden 1994). Public land surveying (1875) and the Colonisation Law (1883) granted concessions for land surveying and the identification of vacant lands was linked to the establishment of colonies (Holden 1994). Colonisation became a focused public policy through various legal measures, including the *Ley de Tierras Libres* of 1923, presidential decrees of 1924 and 1925, *Ley Federal de Colonizacion* of 1926, and the colonisation legislation of 1948 to promote agriculture based on small private properties.

2013). We have reviewed some of the broad spectrum of scholarly research into the area and its indigenous peoples and outlined the historical epochs that have shaped this region, from its ancient Mayan cities to the impacts of Spanish colonization and modern state policies, showcasing the rainforest's pivotal role in regional history and identity formation. Moreover, the chapter has discussed the delineation of borders and the impact of liberal land policies on the rainforest, setting the stage for future conflicts over land and resources between Mexico, Guatemala, and the indigenous inhabitants. It has reflected on the transformative effects of the Mexican Revolution and subsequent land reforms on the region, marking a period of conflict, change in land tenure, and the struggle for indigenous labour rights amidst evolving economic practices.

SECTION II

What is a political
community?

Chapter 4

————— A People

4.1. Introduction

The situation of the Lacandon Community of Chiapas serves as a good case for examining the extent to which an ‘indigenous people’ can be regarded as constitutive of a political community – in light of the other two constitutive elements, a territory and institutions. A key point in this regard is to establish what the criteria for membership within an indigenous community are and how members are identified. Given the significant implications of who is included in or excluded from the community, the question of whether membership is a matter of individual choice or of traditional kinship-based ties becomes highly relevant.

4.2. The *Comunidad Zona Lacandona* (Lacandon Community)

The population of the Lacandon Community is showing an upward trend, as is evidenced by data from various localities (Table 1) (Calleros-Rodriguez & Guevara-Romero, 2016). Population growth is primarily seen in such localities as Nueva Palestina and Frontera Corozal.

As noted in the introduction, the current situation of what is today the Lacandon Community represents the outcome of land reform and negotiations with land claimant groups over the period 1976–79 (Calleros-Rodriguez

Table 1. The Population of the Lacandon Community

		2020	2010	2000	1990
Chiapas state		5543828	4,796,580	3920892	3,210,496
Ocosingo		234,661	198,877	146696	121,012
	Loca	POBTOT	POBTOT	POBTOT	POBTOT
Nueva Palestina	418	11,984	10,588	7,444	5,542
Crucero Nueva Palestina	667	20	20	36	7
Nueva Palestina	3135	113	*	*	*
La Independencia ([Nueva] Palestina)	823	187	78	28	68
[Nueva] Palestina	1596	26	*	30	1
Frontera Corozal	431	6,111	5,184	4,150	2,939
Crucero Corozal	577	29	51	67	79
Corozal	2947	79	78	*	*
Lacanjá Chansayab	595	165	379	282	218
Bethel	671	166	204	151	88
Naha	600	264	198	162	147
Puerto Bello Metzabok	730	131	96	61	107
San Javier	417	29	87	69	52
Crucero Bonampak	2642	21	40	*	*
Bonampak [Zona arqueológica]	569	*	11	12	4
Ojo de Agua Chankin	2813	16	21	*	*
		Total	Total	Total	Total
		19,128	16,957	12,434	9,183

Source: Based on INEGI - ITER 2020, 2010, 2000, 1990, www.inegi.org.mx

2013; 2014). Those negotiations led to the integration of Tzeltal, Chol, and Tzotzil-speaking members into this agrarian community.¹ As a result of land restitution and the negotiated incorporation of non-Lacandon *comuneros*, what is today the *Comunidad Zona Lacandona* (LC) currently

¹ Mexico's 1917 Constitution established different principles of land tenure: *ejido* allotment, *ejido* allotment extension, new centres of population (NCPE), and 'recognition and titling of communal lands.' The latter, established in 1927, was a procedure that returned land to its 'original' communal owners under the assumption that they were dispossessed or subject to disentanglement (Ferry, 2003; Kouri, 2002).

has a population of 19,128 inhabitants (see Calleros-Rodríguez & Guevara-Romero, 2016). The LC is characterized by a land-sharing arrangement involving 1,450 land-right holders or *comuneros* (Ascencio 2008, p. 129), who are predominantly speakers of four different languages residing across five different settlements: Lacanjá Chansayab, Najá, Metzabok, Nueva Palestina, and Frontera Corozal – plus Ojo de Agua Chankin (Figure 2). This multi-ethnic community has a three-tier governance structure (the overall community, the sub-community, and the ward) where the Lacandons wield authority as the communal leaders.

Despite these resolutions, however, the perimeter of the LC has not been fully demarcated. In the demarcation exercises that have been conducted by agrarian authorities, the *comuneros* have seen a continued reduction in the size of their land (Ascencio, 2008). This lack of full demarcation is a point of dispute with fellow indigenous communities (Ascencio, 2008; Legorreta, 1998; Harvey, 1998). These conflicts hinge on the incompletely delineated boundaries of the communal lands in Lacandonia, and have involved several disputes between a large number of settlements and land-based socio-political actors. Over a forty-year period beginning with the creation of this community (1972–2012), agrarian archives reported eighteen episodes of conflict and violence. This conflict has been characterized by evictions, invasions, relocations, threats of various sorts, incarcerations, and violent clashes, including violent evictions of groups of settlers (Table 2).

Throughout this period, the LC has been pressing the agrarian authorities to complete the demarcation of its tract of land. Different groups of land claimants (*ejidatarios*, small owners and landless groups) have contested the ownership of the land through the agrarian courts and through social mobilisation, insisting on the validity and legality of their own land tenure rights and opposing the completion of the LC's boundary demarcation (Figure 3). This agrarian conflict stems from several factors, including the uneven distribution of land, unfinished land applications that have left landless people with no option but to occupy 'vacant' lands, and claimants falling prey to local leaders, who have organised invasions of already occupied land. In some cases, land occupiers without legal rights have received compensation in exchange for vacating the plots, only to reoccupy the same land after receiving such payments or to be replaced by other groups. In other cases, land programmes have created as much conflict as they have solved (Villafuerte et al., 2002; Bobrow-Strain, 2004; Warman, 2001).

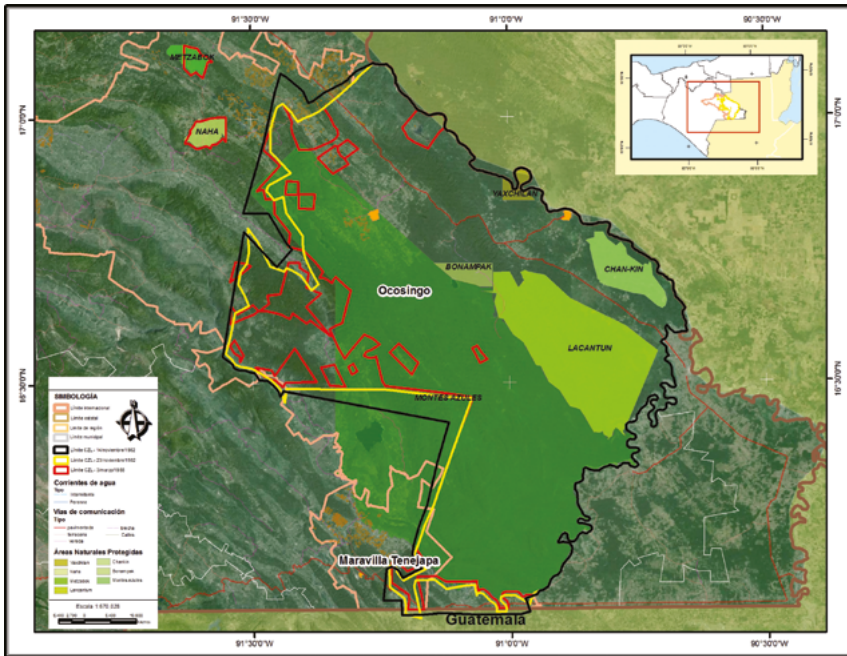


Figure 1. Chiapas, Lacandonia and the Lacandon Community

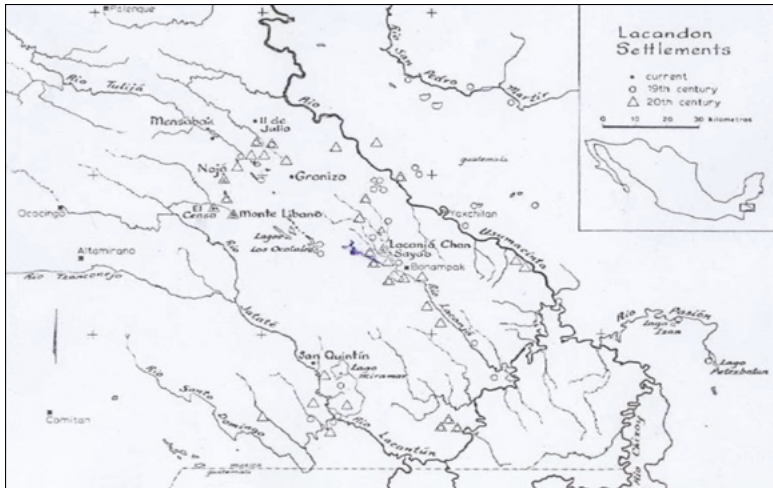
The perimeter in black refers to the first demarcation that was made of the LC polygon (November 14, 1982); the perimeter in yellow refers to the second attempt to demarcate the polygon (November 23, 1982). The perimeter in red marks the third attempt to demarcate the aforementioned polygon (March 3, 1988).

Source: based on: (1) Geostatistical Framework, 2013 from INEGI; (2) ANP, 2015 of CONANP; (3) Ministry of Agrarian Reform. Comprehensive Programme for the Lacandon Community and the Montes Azules Biosphere Reserve (MABR). Main results. April 2007. Mexico. [Presentation obtained through request for access to public information].

Source: Calleros-Rodriguez & Guevara-Romero, 2016.

This persistent conflict over land tenure since 1972 and the LC's responses have led scholars to characterize the LC in various ways: as an 'institutional conservationist community' (Wolff, 1957), as a 'subsidised and protected community' (García de León, 2002) and as part of an oppressive political system that has prompted an indigenous rebellion (Boremanse, 1998; Legorreta, 1998). The legitimacy of its land rights has also been questioned on the grounds of an alleged lack of 'ethnic authenticity' (de Vos, 1980, p. 2002).

By creating the LC, agrarian authorities left a number of land claimants without land, although many of them were presented with the option of becoming part of it as *comuneros*. A refusal to accept the agrarian



Map 1. Traditional Lacandon Settlements, Nineteenth and Twentieth Centuries

Source: Nations (1979: 12).

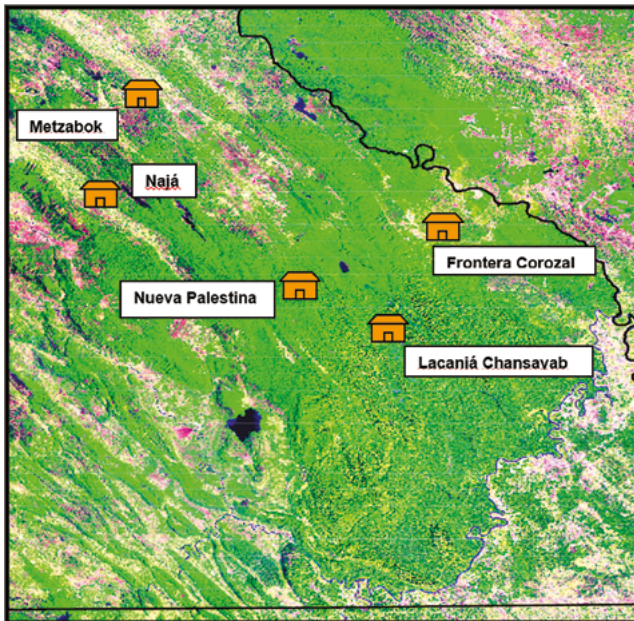


Figure 2. The Lacandon Community and its Sub-communities

Source: drawn up based on the map of Semarnat-Conanp (2007: 7).

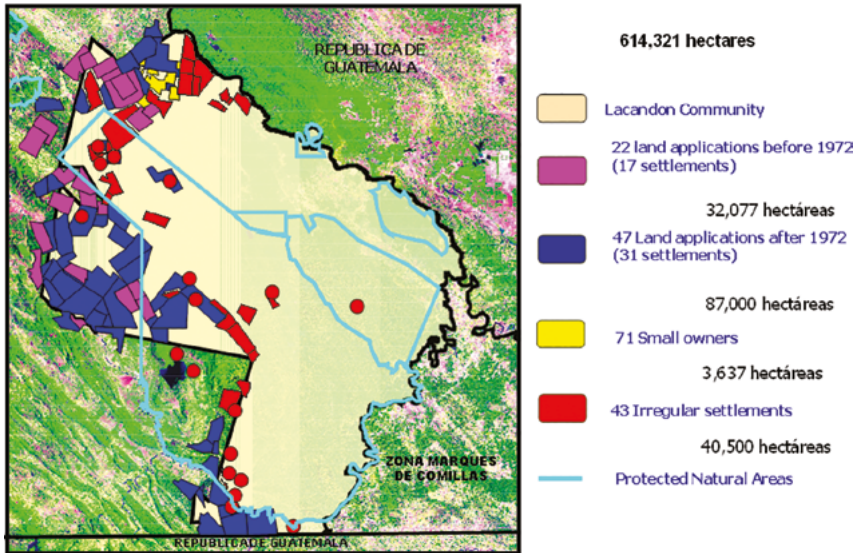


Figure 3. Original Tenure Problem of the Lacandon Community (614,321 hectareas)

Source: drawn up based on Semarnat-Conanp (2007: 12).

authorities' alternatives together with the LC's vigorous and effective defence of its land rights have led to inter-communal conflict. Indeed, the agrarian archives contain evidence of eighteen episodes of conflict and violence characterised by evictions and eviction threats, invasions and invasion threats, relocations, violent clashes, and incarcerations of *ejidatarios* and government officials. There have been at least seven cases of violent evictions of groups of settlers, with most disputes taking place in the valleys of San Quintín Valley (*Las Cañadas*) and Santo Domingo. Throughout the period 1977–1989, some *ejidos* were effective at stopping the surveying and demarcation of the LC's tract. In 1982 and 1983, *comuneros* evicted smallholders (from the settlements of La Confidencia, Camino de Tsendales and Nuevo Chihuahua) and imprisoned others (San Javier) on the grounds that they were working on their lands. In March 1984, there were again evictions of settlers from San Javier – with the help of the army – and from El Desempeño. These evictions occurred in parallel with the agrarian authorities' attempts to demarcate the LC's tract during the period 1982–1988 (Table 2 and Figure 4). These cases illustrate how the LC has clashed with *ejidos* and smallholders in disputed

Table 2. Instances of Conflict in Lacandonia (1974–2012)

Action	Actors	Year	Event
Eviction	Army	1975–1976	The army evicted five settlements and burnt three of them. ¹
Eviction	LC	1977	Settlement Balun Canaan, by Frontera Corozal. ²
Violent confrontation	ARIC UU	1977	July 1977. Violent confrontation in <i>ejido</i> La Nueva Providencia over a tract of land. QTL supported La Nueva Providencia against a cacique supported by agrarian authorities. ³
Eviction	ARIC UU	1982	August 1982. Eviction carried out by Nueva Palestina. 139 houses burned down in the settlements Nuevo Progreso, Flor de Cacao, ⁴ Cintalapa, and San Antonio Escobar – members of the QTL, geographically close to Nueva Palestina. One elder and one child were reported dead. Fifty-eight people were kidnapped and families were evicted (Legorreta 1998: 150). In 2006, the LC decided not to regularise their land, so Flor de Cacao faced eviction.
Eviction	Sinaí	1983	June/July 1983. Eviction of Sinaí smallholders (settlements: La Confidencia, Camino de Tsendales and Nuevo Chihuahua). 49/50 smallholders had been working since 1974 on national lands. In March 1986, the case was represented by <i>Alianza Revolucionaria Campesina</i> (ARC-PRI).
Incarcerations	San Javier	1983	June 1983. Fourteen individuals were incarcerated when working within the LC's tract. The group received 1,685 hectares for twenty-three families, who established 'Sociedad de Producción Rural San Javier' affiliated with the <i>Central Campesina Independiente</i> (CCI).
Eviction	Santo Domingo	1984	Violent eviction, with police cooperation, in the Santo Domingo gorge ⁵ – members of QTL/UU.
Eviction	El Desempeño	1984	Guadalupe, San Pedro, El Paraíso, Navalán, La Laguna, Bejucal, Santa Rosa, Nueva Sonora, La Gloria, Palmar, La Delicia, El Triunfo, Nuevo Jerusalén, Niños Héroes, Nuevo Chamizal, San Jacinto Lacanjá, Flor de Cacao, Viejo Velasco, Nuevo Tumbalá, and San Antonio Escobar. ⁶
Eviction	San Javier	1984	March. Eviction of smallholders: San Javier, El Silencio, and La Confidencia.
Eviction	Santa Clara	1987	August. Santa Clara smallholders.
Eviction threats		1989	10 March 1989. The LC's general assembly votes to evict ten settlements and eighteen ranches.
Invasion	LC	1990	February 1990. A group of people attacked twenty-seven families of Nueva Palestina over excess land occupied by <i>ejido</i> Cintalapa. On 15 February 1990, LC sued <i>ejido</i> Cintalapa for invading its land ⁷ . These <i>ejidos</i> were members of the QTL/UU.
Invasion threats	LC/ Metzabok	1994	February 1994. Invasion threats on Metzabok made by El Tumbo, Nueva Esperanza, Piedrón, and San Jose Patihuitz.

Table 2. cd.

Action	Actors	Year	Event
Invasion threats	LC/ Najá	1994	Neighbouring <i>ejidos</i> .
Incarceration	LC	2005	LC members and SRA personnel incarcerated in Santo Domingo.
Eviction threats	El Desempeño	2006	Settlements Flor de Cacao, San Jacinto Lacanjá, Ojo de Agua, El Progreso, and Viejo Velasco had been located here since an agreement was signed with the LC in 1984.
Violence	LC-Xi'Nich	2006	Viejo Velasco (Xi'Nich) vs. LC's sub-community of Nueva Palestina.
Threats of relocation	Rio Negro	2003–2012	Conanp resisting regularisation of settlements San Gregorio, Salvador Allende and Ranchería Corozal, located within MABR and the LC.

Sources: RAN Txt, Ascencio (2008), CDHFB (2006), Tejeda Cruz (2002), Legorreta (1998) and Lobato (1979).

¹ Huts burning in the rain forest received media attention in Mexico City (Lobato, 1979: 145).

² Tejeda (2002: 156, 183).

³ Legorreta (1998: 90).

⁴ CDHFB (2006).

⁵ RAN Txt Minute 6 April 1984. Acta levantada en Cintalapa para atender desalojos en cañada de Santo Domingo: Cintalapa2, Lacanjá Tzeltal, Limonar, San Antonio Escobar, Chamizal, San Jacinto, Nuevo Tila, Nuevo Jerusalén and Nuevo Progreso.

⁶ RAN Txt 93-92/171.

⁷ RAN Txt 123/205.

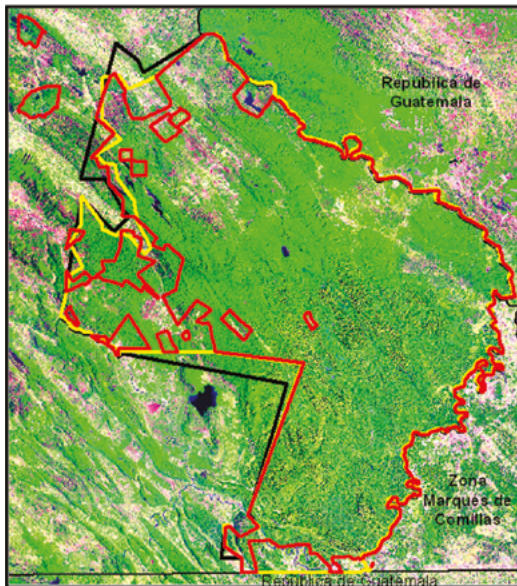


Figure 4. The Demarcation of the Lacandon Community

Source: SRA 2007b: 6 ppt.

The perimeter in black refers to the first survey and demarcation procedure (14 November 1982); the perimeter in yellow colour marks the second bounding procedure (23 November 1982); and the red perimeter indicates the third bounding procedure (3 March 1988).

areas in proximity to its settlements of Najá, Metzabok, and Nueva Palestina. The most recent case of inter-communal violence took place in 2006 between the LC (Nueva Palestina) and the Viejo Velasco settlement,² in the Santo Domingo Valley (SRE, 2009; CDHFBC-CCOCVV, 2007; CDHFBC, 2010; RAN Txt, 441/CAJ74/2006).

4.3. The Debate on the Identify of the Lacandons

The issue of the identity of the Lacandons and their historical continuity is worth discussing, since it relates to claims of traditional occupation of the Lacandon Rainforest (Calleros-Rodriguez, 2013). There are two dimensions of 'the people' that are worth examining (Map 1).

First of all, the Lacandons were fruit gatherers, living in isolated, extended family groups (10–15 members) scattered in housing clusters (*caribales*) throughout Lacandonia; every three to five years, these groups would move on to a new settlement, opening up new areas for cultivation (Baer & Merrifield 1971, pp. 104–5). However, there is debate on the identity of the Lacandon Indians (Calleros-Rodriguez, 2013). Ethno-historian Jan de Vos (1980) claimed that there are two groups of Lacandon Indians across history, which are unrelated. The Historical Lacandons (HL), whom he calls *Lacandones*, lived in an area within the Lacandonia named *Lacam-Tun* (Miramar Lagoon) in the sixteenth century and in *Sac-Bahlán* (at the confluence of rivers Jataté, Ixcán and Lacantún) in the seventeenth, and spoke a Mayan-Chol language (de Vos, 1980, pp. 214, 247). The other group, the Contemporary Lacandons (CL), whom he called *Caribes*, have lived in Lacandonia only since the seventeenth Century (de Vos, 1980, p. 214). They are speakers of a *Maya-Yucateco* language with origins in the Yucatan peninsula (Mexico) or El Petén (Guatemala). De Vos claimed to have established the historical connection between the Indian settlement (*reducción*) of San José de Gracia Real and those of Najá, Metzabok and Lacanjá Chansayab; he argued that the ancestors of the LC are the Indians that were met near Palenque in 1786 and lived in the *reducción* in the period 1793–1807 (de Vos, 1980, pp. 224–225). In turn, the ancestors of the latter were the Indians from Yucum and Petenacte

² In April 1984, a census, conducted after *comuneros* burnt the settlement, reported eight individuals eligible for *ejido* land allotment.

(1980, p. 230). De Vos suggested that in the nineteenth century, they were given the name 'Lacandons' by several authors whom they entered in contact with (1980, p. 230). Contact between the Lacandons and wider society increased when the Mayan frescoes of Bonampak were found in 1945 (Dichth, 1987; Baer & Merrifield, 1971; Duby, 1944). In addition to this, de Vos further claimed that the CL have no relation whatsoever with the Historical Lacandons that were subjugated by the Spaniards in 1695. According to de Vos, therefore, the name 'Lacandon' makes reference to two very different ethnic groups; the HL, who were last mentioned in official records in 1769 (de Vos, 1980, p. 17), and another group that emerged in 1793 with the same name. This conclusion is based on written records found in Guatemala and Spain (de Vos, 1980, pp. 222, 229). The objective of his research was to clarify two 'myths' regarding the Lacandons (1980, p. 21): the assumption that the CL were the descendants of the HL and that the former lived without contact with the wider world until recently. His conclusions have been invoked by activists of social and non-governmental organisations (NGOs) to mobilize against the Lacandons – and the LC *comuneros* – and to politically challenge their land rights. However, in contrast with de Vos' arguments, the IAHR's opinion is that for the purposes of the protection of the right to communal property, the relevant traditional territory 'is that of the community itself, and not that of its historical ancestors' (IACHR, 2010, p. 32; see *Xákmok Kásek Indigenous Community Vs Paraguay*).

De Vos made three claims that deserve closer examination. First of all, he dismissed the land rights of the CL on the grounds of a lack of connection with the HL: 'it has been relatively easy to identify so-called present-day Lacandons as descendants of foreigners coming from outside [Lacandonia], who have no right to the name, and even less to the identity of the disappeared tribe' (1980, p. 10). As such, the CL cannot be regarded as the original dwellers of Lacandonia, or the legitimate owners of the rainforest (de Vos, 1980, p. 231). By making this claim, de Vos not only challenged the land rights of the Lacandons, but also attributed those rights to others indigenous groups. In fact, he argued that 'if there is a historical title of property over Chiapas rainforest, it should be for the Tzeltal and Chol dwellers that now live in more than two hundred settlements scattered around the Lacandon rainforest' (de Vos, 1980, p. 248). He supported this claim on the grounds that those two groups had been evicted from Lacandonia in the sixteenth century and suggested

that the descendants of those evicted groups were returning to the rainforest in search of land in the mid-twentieth century (de Vos, 1980, p. 247).

Second, de Vos argued that the CL cannot be considered as the original dwellers of the Lacandonia or their descendants 'as the legitimate owners of the Lacandonia despite their canonisation as such by public opinion, government propaganda, and a dubious agrarian procedure' (de Vos, 1980, p. 231). This situation, in his view, had occurred because the CL had stolen the name of the 'original' Lacandons (1980, p. 22).

Third, de Vos made reference to concepts of ethnic purity, using words such as *pureza*, *no mezcla* and *contagio* (1980, p. 247), which reflect a static and narrow conception of culture and identity on his part. Other students of the region, however, have observed that on the matter of Lacandon identity there is still no conclusive evidence.

In short, de Vos concluded that the land restitution of 1972 on behalf of 350 CL is a dubious agrarian action based on two myths (which he sought to clarify), supported by vested interests in the land restitution procedure on behalf of the Lacandon Indians.

4.4. The Creation of an Agrarian Community

The second dimension of a 'people' is in relation to land reform. In the process of returning land to the Lacandon Indians ('restitution'), the land reform authorities created an agrarian community as a legal recipient of the land (Document 1). According to the Restitution Decree, land transactions between 1898 and 1971 had resulted in the lands of the Lacandons being invaded and illegally occupied and, therefore, restitution meant returning the lands that have historically belonged to them.³ Its creation resulted in the unification of several and scattered Lacandon settlements into one 'Lacandon tribe.' The Decree indicates that the villages of Najá, Metzabok, Zapote Caribal and Lacanjá Chansayab applied for land allotments on April 1971 in four separate procedures (ASRA Txt, files 276.1/787; 276.1/1009;

³ There has been a Lacandon presence since at least 1786 (de Vos 1980); there are also accounts of the existence of scattered settlements in the nineteenth century (Tozzer, 1907/1962; Villa Rojas, 1967b; Baer & Merrifield, 1971; DUBY, 1944; Blom & DUBY, 1956/2006).

3-0003

SOLICITUD DE TIERRAS EJIDALES

C. LIC. JOSE CASTILLO TIELEMANS
GOBERNADOR CONSTITUCIONAL DEL ESTADO
PALACIO DEL PODER EJECUTIVO
Tuxtla Gutiérrez, Chiapas.

Los suscritos vecinos del Poblado "CHAN SAYAB", Municipio de Ocosingo, Estado de Chiapas, México, ante usted, con el debido respeto comparecemos para solicitarle con fundamento en los Artículos 27 Constitucional y 50 del Código Agrario en vigor, manifiestemos que como todos los que formamos este Poblado, Personas de RAZAS INDIGENAS "LACANDONES", y carecemos en lo absoluto de tierras indispensables para trabajar y de ella sacar el sustento diario para nuestras familias y la Educación de nuestros hijos, con éste motivo estamos elevando la presente solicitud de tierras Ejidales en los términos siguientes.

PRIMERO:- Tenemos Por presentados con la presente solicitud de tierras Ejidales para éste Poblado, que hemos denominado "CHAN SAYAB", de la Municipalidad de Ocosingo, Chiapas.

SEGUNDO:- Que se nos acuse recibo de esta Solicitud de Dotación de tierras a cargo de FELIPE BAER, INSTITUTO LINGUISTICO, Apartado Postal 84, San Cristóbal Las Casas, Chiapas.

TERCERO:- Que sea en ordenar a quien correspondiere se instale en el terreno respectivo, dándonos aviso de su procedimiento gratuita

Registro Agrario Nacional
Copia simple, expediente

CUARTO:- Señalamos como terrenos susceptibles de ser declarados Terrenos Ejidales, los localizados 20 Kilómetros antes de que lleguemos en medio de los Rios denominados "CENON" y "LACANJA", del Municipio de Ocosingo, Chiapas.

En espera de vernos obsequiados con nuestra petición en los terminos de la Presente Solicitud, le anticipamos nuestros Agradecimientos y le protestamos nuestros más cumplidos respetos.

Poblado "CHAN SAYAB", Municipio de Ocosingo, Chiapas, diciembre de 1968, mil novecientos sesenta y ocho.

F I R M A S :

NA-BOR	CHANKIN ENRIQUE <i>Chankin Enrique</i>	CHAN-BOR
MARIA	CARMITA NA-BOR	NAJ QUIN ROSA
NAJ BOR	CHAN NUNC	MARIA CARMITA NAJ-QUIN.
NAJ BOR	QUIN OBREGON	HEALEY KIN
2381 1-1 CARLOS CHAN BOR <i>Carlos Chan Bor</i>	CHAN BOR	<i>Healey Kin</i> ALFONSO
JOSE PEPE <i>Jose Pepe</i>	MIGUEL	JUAN CHAN BOR <i>Juan Chan Bor</i>

Document 1. Lacanjá Chansayab's ejido application of 1 December 1968

Source: AGA Chan Sayab 23/32381.

276.1/1099; 276.1/1032; SRA et al., 2006, p. 6; Nations, 1979) but these claims were merged by the agrarian authorities. The agrarian land petitions were concentrated in one single land application which they called '*Comunidad Zona Lacandona*,' thereby turning the Lacandons into *comuneros*. Moreover, the Decree stated that the villages of Najá, Metzabok, Zapote Caribal and Lacanjá Chansayab had a single leader (Ascencio, 2008, p. 37 and SRA et al., p. 6).

Contrary to the view of the Lacandons implicit in the decree, however, anthropological evidence suggests that the Lacandons themselves were not a unified group (Nations, 1979; Villa Rojas, 1967a, 1967b; Blom & Duby, 1956/2006; Baer & Merrifield, 1971). Likewise, it is not clear if the settlement Zapote Caribal, mentioned in the Decree, has ever existed (de Vos, 2002, p. 105; Trench, 2002) or if this refers to the settlement of Ojo de Agua Chankin. Currently, there are three Lacandon settlements. The first, Lacanjá Chansayab, located in the south of Lacandonia, is the centre of the whole community. Its history was influenced by the arrival of missionaries reputed to have started the congregation of Lacandon family groups (Interviews 3; 4; Trench, 2002, p. 102). The second, Najá, is located in the north-western part of Lacandonia. The third settlement, Metzabok is located in the same area and was subject to a large number of legal manoeuvres by agrarian authorities prior to its incorporation into the LC. The decree of 1972 was amended in 1975 to include the tracts of both Metzabok and Najá (AGA *Puerto Bello Mexaboc*, Censo Agropecuario, 2007; CONANP, 2006a,b).

Moreover, in the process of land restitution, the Decree does not make reference to two previous Lacandon attempts to have their land rights recognised (DOF, 1972). Agrarian archives contain the documents of two land applications for land allotments (*ejido*) prior to the land restitution of 1972. The first Lacandon *ejido* application was made on 2 April 1934.⁴ The second application was made on 1 December 1968 by the 'Chan Sayab' settlement (Document 1), by a Lacandon group requesting allotment from national lands located within twenty kilometres of the convergence of the rivers Lacanjá and Cedro (AGA *Chan Sayab. Cancelada*). Agrarian authorities conducted a census on 3 July 1969 and created a report on the basis of the information they

⁴ A group of 25 Lacandons from '*Puerto Bello Metzaboc*' were granted 1,060-00-00 hectares of national lands through a Decree dated on 26 August 1967 – enforced until 1975 (AGA. *Puerto Bello Mexaboc*).

uncovered. First, it stated that the settlement of Chansayab had a population of 68 individuals, 12 of whom qualified for land allotment, yet agrarian law required the presence of at least twenty potential beneficiaries for a community to be eligible for *ejido* allotment (Gallardo Zúñiga, 2006a, p. 51). Second, the report indicates that the applicants were Lacandon Indians, and that they had reserved a 5,000 hectares tract which, they claimed, they had been occupying for a long time. Third, it mentions that the tract may lie on national lands. However, this land application was formally cancelled in 1979, on the grounds that there were less than 20 beneficiaries (AGA *Chan Sayab. Cancelada*). The Decree of 6 March 1972 does not make reference to the *ejido* applications of 1934 and 1968.

Thus, whilst the Lacandon Indians applied for land allotment, the Decree of 1972 started a process of returning them a large tract of land in the territory where they have traditionally lived; however, in the process they were unified into one community and turned into *comuneros* with a single leadership recognised by agrarian authorities.

4.5. The Creation of a Multi-ethnic Agrarian Community

The outcome of these two dimensions was the establishment of a multi-ethnic landed community within the framework of land reform (Calleros-Rodríguez, 2013, 2014). The process of land restitution involved the creation of a new collective entity that is endowed with agrarian roles, functions and responsibilities. The Decree of 1972 originally established the Lacandons as the only rightful owners of the rainforest (Dichtl, 1988, p. 50). However, Indigenous landless settlers arrived in the region in the late 1950s from other regions of Chiapas in search of land and for ways to secure the tenure of the land they were occupying (Paladino, 2005; de Vos, 2002; Leyva & Ascencio, 1996/2002).

The integration of 1452 Chol, Tzeltal – and a few Tzotzil – indigenous land-right holders into the LC was intended as a solution to competing land claims. In the mid-1970s, twenty-three settlements in the eastern part of the Lacandonia were incorporated into it through the Decree of 8 March 1979. Negotiations took place between 1974 and 1979 amongst Tzeltal, Chol settlers, agrarian authorities and the Lacandons (Paladino, 2005). In April 1976, the integration as *comuneros* was formalized, and the construction

of a settlement for the Tzeltals (Nueva Palestina) and Chols (Frontera Corozal) began (de Vos, 2002, p. 117; Paladino, 2005; Lobato, 1979). Another agreement was signed on 30 March 1977 (*Convenio sobre los derechos de grupos choles y tzeltales en la zona Lacandona*) by the Governor of Chiapas and the relevant agencies and representatives of the Lacandons, Tzeltals and Chols. This agreement formalized an internal governance structure, a system for the distribution of timber royalties amongst the groups, and outlined the intention to designate subdivisions of the territory for each group. The relevant presidential resolution was signed on 18 December 1978 and published on 8 March 1979 (DOF, 1979); consequently, 21 settlements (8 Chol and 13 Tzeltal) were incorporated into the community.

Nevertheless, despite the successful integration of these claimants, the agrarian authorities failed to persuade settlers in the valleys of San Quintín (*Las Cañadas*) and Santo Domingo to join the LC; those groups remained in their settlements to defend their land right and resisted the agrarian authorities' plans (Villafuerte et al., 2002; Legorreta, 1998; Harvey, 1998). In 1994, several of those *ejidos* joined the EZLN. In this way, restitution came to generate conflict over the period 1972–2012, as explained below. Thus, the community became a multi-ethnic landed indigenous community composed of three language-based groups (Lacandons, Chols, Tzeltals) sharing the ownership of a large tract of land. In this case, multi-ethnic composition is not only the outcome of negotiations amongst different groups, but also a solution to competing land claims. The IAHRs still protects multi-ethnic communities (IACHR, 2010, p. 12; *Case of the Xákmok Kásek Indigenous Community v. Paraguay*).

4.6. Opposition to Land Restitution – Arguments

There are two ways in which the land restitution procedures have been opposed: one has involved questioning the rationale of the legal-administrative decision, the other has involved conflict (Calleros-Rodríguez, 2013).

As for attempts to challenge the legal-administrative decision itself, various scholars (de Vos, 2002; 1980; Legorreta, 1998; García de León, 2002) have called the land restitution to the Lacandons into question on three different counts. First of all, a large tract of land was granted to an indigenous group that lacked land titles. It has been argued that whilst the 1972 Decree credits

the ancient, continuous and quiet possession of land by the Lacandons, they were granted the land even though no indisputable evidence (i.e., primordial titles to credit the claim) was produced to support the claim of possession (Ascencio, 2008, p. 39). Contrary to this argument, the IAHRS has established that indigenous territorial rights are not subject to their express recognition by the State, and the existence of a formal title to property is not a requirement for the existence of the right to indigenous territorial property under the Convention⁵ (IACHR, 2010, p. 27). It has also established specific requirements for the recognition of property rights. For instance, based on the cases *Awás Tingni Vs. Nicaragua*, *Sawhoyamaya Indigenous Community Vs. Paraguay* and *Xákmok Kásek Indigenous Community Vs. Paraguay* it has established that ‘as a result of customary practices, possession of the land should suffice for indigenous communities lacking real title to property of the land to obtain official recognition of that property, and for consequent registration’ (IACHR, 2010, p. 47; Pasqualucci, 2009, p. 97). The foundation of territorial property lies in the history, not necessarily in the historical continuity of an indigenous community; instead, it lies on the historical use and occupation that give rise to customary land tenure systems. Therefore, indigenous territorial rights exist even without formal title to property.

Second, this land restitution has been criticized as a populist, demagogic, and paternalistic decision made by a corrupt government system that singled out the Lacandons and rewarded them with timber royalties (de Vos, 2002, p. 113; Nations, 1979, p. 113). It has been argued (Lobato, 1979) that in the early 1970s the Lacandons saw the restitution of lands that the Chiapas governor had an interest in, where he succeeded in replacing private lumbering with state-led lumbering. In 1974, two years after the establishment of the LC, a presidential decree created a parastatal timber company (*Cofolasa*), and obtained a 10-year timber concession from the Lacandons (de Vos, 2002, p. 113; Nations, 1979, p. 111). This argument implies that the land was given to the Lacandons because it would be easier to negotiate unfair deals with ‘350 illiterate Lacandons than with 50,000 Tzeltal and Chol settlers’ (Nations, 1979, p. 112; Legorreta, 1998, p. 88). The existence of vested interests as the drivers of the LC’s land restitution has been recognised by agrarian authorities: ‘the “unquestionable” purpose behind this land restitution was the exploitation

⁵ See cases *Mayagna (Sumo) Awás Tingni Community Vs. Nicaragua* and *Saramaka People Vs. Suriname*.

of precious wood through Cofolasa' (SRA, et al., 2006, p. 35). Yet this argument does not fundamentally undermine the right to land of any indigenous community; it merely gives further evidence of the discretion which agrarian authorities have had in handling the land reform programme.

The third and final critique levelled against the land restitution is that the restitution granted 'too much land for too few people,' in a decision of extraordinary generosity on the part of the State for granting a large tract of land to a numerically small indigenous group. A similar argument has been employed when various actors (private, public, social) have opposed the granting of 'expansive areas of land and resources to relatively small groups of people' in Nicaragua, Peru, Bolivia and Colombia (Stocks, 2005, p. 85). This argument is a way of acknowledging the existence of a variety of political, economic and social interests that want the land (Erueti, 2006, p. 544; Stocks, 2005, p. 88). In Mexico, de Vos (2002, p. 105) raised this point to question the Lacandon land restitution; he argued that land restitution had in fact turned the Lacandon Indians into *latifundistas*, owners of a large estate – contrary to the spirit of land reform (de Vos, 2002, p. 105). However, the IAHRs has established that regarding indigenous and tribal peoples' rights over lands and natural resources, the occupation of a territory by IPs is not restricted to the nucleus of houses where its members live; it has also established that Indigenous property rights in principle extend over all of those lands and resources that indigenous peoples currently use, and over all of those lands and resources that they once possessed and of which they were deprived (IACHR, 2010, p. 31; also ILO Convention 169, Article 13).

Thus, these three lines of argumentation – pointing to a lack of titles, to the existence of vested interests behind the land restitution and to an excessively large tract of land being originally returned to the Lacandon Indians (and shortly thereafter shared with other indigenous groups) – nevertheless do not invalidate their land rights. On the contrary, according to the IAHRs norms and jurisprudence, the *comuneros* can be regarded as bearers of the rights to property and ownership over the lands and resources they have historically occupied (Calleros-Rodríguez, 2013).

4.7. Opposition to Land Restitution – Conflicts

The other way of objecting to the land restitution procedure has taken the form of conflict (Calleros-Rodríguez, 2013, 2014). The outcome of the recognition of indigenous land rights has been a contested process as it involves implementing new tenurial rights that define property rules in practice (Larson, 2010; Finley-Brook & Offen, 2009; Kent, 2008; Stocks, 2005).

As indicated above, the Decree of 1972 created problems between the Lacandons and third parties since 1972. It established that land reform nullified private property that had originated in 1898 in Lacandonia; it cancelled property land titles issued in 1920 over 240,468 hectares (de Vos, 2002, p. 103). The Decree also overlapped the restituted land with land which several other indigenous landless groups (*ejidos*) were claiming. For instance, under the Decree, the LC's original land grant received 627,912 hectares, but 13,591 hectares were deducted because land was already allotted to the *ejidos* El Censo, Taniperla, Agua Azul, Perla de Acapulco, El Zapotal, San Caralampio, Santa Rita, El Limonar and Santo Domingo (de Vos, 2002, p. 101). This overlapping of tenurial rights with several indigenous land claimants in the eastern part of Lacandonia was a major problem (Figure 4).

Furthermore, the Decree affected land claimants and, consequently, created conflicts. Groups of landless indigenous land claimants learned of the land restitution to the Lacandons two years after the Decree was issued (Legorreta, 1998, p. 79), when they were informed that they would have to evacuate the lands they were occupying and were claiming for themselves through land reform. In particular, this affected the *ejido* land applications of 38 settlements. These groups responded in two ways. First, the 21 settlements (8 Chol and 13 Tzeltal), mentioned above, accepted to be incorporated in the period 1976–1979. Second, 17 settlements rejected incorporation into the LC and continued fighting for the recognition of their *ejido* rights. By the beginning of 1976, the settlements of the San Quintín Valley organized and mobilized under the name *Queptic Ta Lecubtesel* (QTL) (Legorreta 1998; Harvey 1998). This organisation opposed and halted the demarcation of the LC's boundaries in the places where they disputed land rights. Some claimants' rejection of a negotiated incorporation, mostly in the Western part of Lacandonia, is the origin of the inter-communal land-based conflict in the region. QTL adopted several names, but beginning in the early 1980s it was displaced by the EZLN as the major political actor in Lacandonia defending agrarian

rights against the authorities – amongst other demands (Legorreta, 1998; Harvey, 1998; Collier & Quaratello, 1994).

Lastly, the agrarian authorities violated not only land rights, but also constitutional rights by failing, in 1971, to provide appropriate notification of the conduct of agrarian procedures in land where third parties had interests in the respective tract, as in the case of Campo Cedro (SRA et al., 2006, p. 6). The effective recognition of the LC's communal property rights came into conflict with third parties' land claims which have been addressed through land regularisation programmes over the period 1972–2012 (Calleros-Rodriguez, 2010, 2014).

Conflict with third parties and the effective recognition of indigenous communal property rights is not uncommon (Larson 2010). The IAHR has identified that the main mechanism for guaranteeing indigenous territorial property rights and avoiding conflicts is the delimitation, demarcation and granting of title of their territories (IACHR 2010, p. 41; see the cases *Awastingni Vs. Nicaragua*; *Saramaka People Vs. Suriname*; *Comunidad Yakye Axa Vs. Paraguay*; *Comunidad Indígena Sawhoyamaxa Vs. Paraguay*; *Comunidad Indígena Xákmok Kásek Vs. Paraguay*).

4.8. Recapitulation

This case study has examined a specific instance of land restitution involving territory traditionally occupied by the Lacandon Indians, as implemented and enforced under the framework of land reform (Figure 2). This chapter has highlighted the arguments questioning this restitution: that the community as such was a creation of agrarian authorities, that titles are lacking, that there exist vested interests behind the land restitution, that an excessively large tract of land that was originally returned to the beneficiaries and, finally, that conflicts with third parties have been generated as consequence of the restitution. So far, I have pointed out that that these claims are in contrast with the norms and jurisprudence of the IAtHR and the IAHR as a whole, and that the former does not fundamentally challenge the land rights of the members of the LC.

Indeed, the IAHR has recognized the importance of the relationship of indigenous peoples with their ancestral lands as a source of their cultural identity and part of their legacy to future generations, providing them with further protection. This level of protection reassures the land rights of the LC's members. Therefore, as land restitution is a contested process, this

community has its land rights protected by the jurisprudence and norms on indigenous peoples that the IAHRs has developed; in so doing, this analysis contributes to the understanding of the case study by questioning the established academic opinion on it and by linking it to the Inter-American opinion on land restitution and traditional occupation. Finally, the analysis of this case study provides evidence to illustrate the concepts of indigenous land restitution and traditional occupation. However, the relationship between the LC and the state has been complex and difficult over the period 1972–2022.

4.9. Conflict over Land

The LC's relationship with the state is complex due to its ownership of a large tract of land with rich biodiversity. Challenges have come from actors with competing land claims: corporatist and independent *ejido*-based organisations, guerrillas, and NGOs.

Generally, agrarian conflict in Lacandonia has been part of the broader post-revolutionary agrarian conflict in twentieth-century Mexico. The LC has engaged in both conflict and cooperation with the state as well as with a variety of land-claimants, organised mainly around *ejidos*. The variety of *ejidos* and private smallholders that the Community has clashed with provides evidence of the plurality of actors and complexities of their relationships within this region (Table 3). These include land claimants represented by corporatist peasant organisations that are the 'historical allies' of Mexico's post-revolutionary state (Mackinlay & Otero, 2004; Warman, 2001; Paré, 1990; Rubio, 1987).

Specifically in Lacandonia, corporatist organisations such as the *Confederación Central Campesina* (CNC) have had little presence in the region, although they have been active in the San Quintín valley (Estrada Saavedra, 2005; Legorreta, 1998; Le Bot, 1998). This type of corporatist organisation has not supported the LC; on the contrary, there is evidence of confrontations taking place in the 1980s between *comuneros* and the corporatist organisations representing the interests of *ejidatarios* and smallholders in the Sinai and San Javier regions (AGA *Comunidad Zona Lacandonia*; AGA *Chan Sayab*; AGA *Nuevo Mariscal*).

The LC has also clashed with organisations of the 'independent peasant movement.' During the 1970s, peasant organisations began to break away from corporatist ones due to their limitations and failure to represent their

Table 3. Political plurality of the Lacandonia region

Organisation	Type of Actor ¹	Year	Members
Alianza Revolucionaria Campesina	CPM	1986–87	Smallholdings Chihuahua and Sinaí
Confederacion Nacional Campesina	CPM	1983	San Javier
Central Campesina Independiente	IPM	1983	San Javier
Coordinadora Nacional Plan de Ayala	IPM	1983	Ixcán
Queptic Ta Lecubtesel	IPM	1974–93	26 <i>ejidos</i>
ARIC Independiente y Democratica	IPM	1998	Several ²
ARIC UU Historica	IPM	1996	San Jacinto Lacanjá and Ojo de Agua El Progreso and Nuevo Villaflores
Confederación Agrarista Mexicana	CPM		Lazaro Cardenas and Nuevo: Reforma, Betel, Progreso, Tumbala, Jerusalén, Tila, Pedregal and Mariscal.
Alianza Nacional Campesina Independiente Emiliano Zapata	IPM	1996	Ramon F. Balboa, Santa Martha Corozal
10 de Abril / UCD/ CNPA	IPM	1994	Santa Clara/ El Desempeño
Movimiento Campesino Regional Independiente	IPM	1994	Santa Clara
Unión de <i>Ejid</i> os Fronteriza Sur	CPM	1994	Santa Clara
Unión de <i>Ejid</i> os Mayor Julio Sabinés	CPM	1994	Santa Clara
Confederación Nacional de Pueblos Indígenas (CNPI)	CPM	1996–98	Several ³
Solidaridad Campesina Magisterial	IPM	1999	Sol Paraíso and Santa Cruz
Unión Campesina Indígena de la Selva de Chiapas Xi'Nich	IPM	2006	El Desempeño: Flor de Cacao, Ojo de Agua el Progreso, San Jacinto Lacanjá and Viejo Velasco.
Unión Campesina Indígena de la Selva de Chiapas, Xi'Nich, CEOIC ⁴	IPM	2004	Reforma, Lázaro Cárdenas and Nuevo: Betel, Progreso, Tumbalá, Jerusalén, Tila, Pedregal and Mariscal.

¹ CPM: Corporatist Peasant Movement Organisation and IPM: Independent Peasant Movement Organisation.

² CIDSCZL 1998; Villa Las Rosas, El Jardín, El Suspiro, Guadalupe Tepeyac, San Gregorio, San Antonio Miramar, Salvador Allende, El Zapotal, Agua Azul, Candelaria and Viejo Velasco. Buen Samaritano, and Nuevo Israel.

³ From 1995– 1998, relocation offers outside the territory of the LC were made to Cintalapa, Lacanjá Tzeltal, Santo Domingo, and Francisco Villa La Laguna but not accepted (CIDSCZL 1998; CIDSCZL 1996).

⁴ These Chol settlements refused relocation to Frontera Corozal (1976–1977), choosing to remain where they were; but they were evicted twice by the police and Nueva Palestina's *comuneros*. An agreement signed on 24 October 1984 allowed them to stay in El Desempeño but, they were again threatened with relocation (March 2004). They legitimately possess land in that region (CDHFBC 2/15/3 Marzo 2004).

Organisation	Type of Actor ¹	Year	Members
Augusto D'Argence Velez / Xi'Nich	IPM	1993	Santa Clara ⁵ , Viejo Velasco et al ⁶
Unión Campesina Indígena de la Selva de Chiapas, Xi'Nich, CEOIC.	IPM	1994–96	El Desempeño
Organización para la Defensa de los Derechos Indígenas y Campesinos ⁷	CPM	2007	Several

Source: CIDSCZL 1998; CDHFBC files 2010-2000; AGA *Comunidad Zona Lacandona* [29 July 1994/014].

⁵ AGA archive has documents of Santa Clara smallholdings. On August 1982, Santa Clara's owners dissolved their association so each individual could have full ownership of a tract (AGA CZL [29 July 1994/014]). Agrarian authorities failed to recognise the transaction and some plots of Santa Clara were reportedly sold twice. In 1993, President Salinas committed to solving this problem as smallholders wanted compensation for over 983-00-00 hectares. On 28 September 1993, an inspection in the region was scheduled with the agreement of Xi'Nich.

⁶ La Culebra, El Limonar, Busilija, Nuevo Tumbalá, San Antonio Escobar, Nuevo Tila, San Jacinto Lacanjá, Manuel Velasco Suarez, Flor de Cacao, Nuevo Jerusalén, and Nuevo Lazaro Cardenas.

⁷ CDHFBC 2007 [Press release 18].

demands. Since the 1970s, the *comuneros* have been reluctant to join forces with groups led by independent peasant organisations and civil society actors, whose repertoires of political action entail resistance, sustained mobilisation, the politicisation of grievances and demands, or even armed resistance against the state. These actors have engaged in marches, demonstrations, seizures of government premises, the detainment of government officials, and road-blockades (Inclán, 2009; Grindle, 1990; Rubio, 1987), as well as invasion threats, eviction threats, invasions, evictions, and harassment. The LC has engaged in conflicts with several organisations of the independent movement (Tables 2 and 3): Coordinadora Nacional Plan de Ayala, *Quiptic Ta Lecubtsel* (QTL)⁶ and Xi'Nich (Villafuerte et al., 2002).

⁶ Since 1974, Liberation theologians from San Cristóbal's Catholic diocese, with the advice of Maoist activists, built up coalitions of indigenous (Chol, Tzeltal, Tojolabale, Tzotzil) *ejidos*. Following a strategy of socio-political growth along the lines prescribed by the agrarian legislation, in 1975, *ejidos* united in *uniones* (*Unión de Ejidos Quiptic Ta Lecubtsel*). In 1980, this organisation and five others united to create the *Unión de Uniones Ejidales y Grupos Campesinos Solidarios de Chiapas* (UU), representing 140 *ejidos* in 13 municipalities of Chiapas; it joined nation-wide peasant organisations (de Vos, 2002: 281). Later, in 1988, the UU adopted the form of *ARIC Unión de Uniones Ejidales y Sociedades Campesinas de Producción Rural de Chiapas* (ARIC UU), representing 95 *ejidos* and 26 ranches (Legorreta, 1998: 200). In 1994, with the Zapatista uprising, the organisation had to choose between rebelling against the state and continuing to negotiate; this dilemma

Moreover, this Community has also had issues with the guerrillas of the Zapatista Army of National Liberation (EZLN). The Zapatistas were not the first armed group to have operated in Lacandonia (FEMOSPP, 2006; Muñoz Ramírez, 2003; de Vos, 2002); Metzabok's *comuneros* have witnessed operations against guerrillas in the nearby *ejidos* Taniperlas, El Censo, and Damasco (Interview 4). Throughout the 1970s, 1980s, and 1990s, Najá and Metzabok faced problems over land with several neighbouring *ejidos*.⁷ For instance, Najá has had several land-related problems with the *ejidos* Villa Las Rosas, El Jardin, Ignacio Zaragoza, and Lacandon. Similarly, Metzabok has had problems with the *ejidos* Damasco, El Tumbo, Agua Dulce, and Tehuacán. According to the *comuneros*, when the Zapatistas rose in arms in the mid-1990s, both, Najá and Metzabok received threats that their lands would be invaded and their crops incinerated (Interview 5). Once the EZLN gained full control in Las Cañadas, abuses of non-Zapatista peoples in the region were committed (Legorreta, 1998, p. 294); similar abuses were suffered by the people of Najá (Interview 5 and Interview 6). The authorities of Metzabok asked the governor of Chiapas to call upon neighbouring *ejidos* to leave it alone. Lacandon *comuneros* suspected that the *ejidos* El Tumbo, Nueva Esperanza, San Jose Patihuitz, and El Piedrón were preparing to invade Metzabok's land. The Lacandons also feared being attacked at night, and explained that El Tumbo tried to take possession of Metzabok's lands in 1991 (RAN Txt, 28/02/1994). Apparently, in 1996, the Zapatistas approached Nueva Palestina with the intention of attacking, but changed their plans when they realised that the settlement was larger than they had thought (Interview 3).

led to its fracturing into ARIC Independiente y Democrática and ARIC 'Oficial' (Orive & Torres, 2010; Legorreta, 1998; Harvey, 1998).

⁷ The LC's first land invasion case refers to Najá's complaint (1 May 1973) against the *ejidos* El Jardin, El Sibal, and Lacandon (RAN Txt, 1/05/1973). In 1981, the Community requested the help of the Governor of Chiapas in evicting groups of smallholders that purchased land in the region and were threatening to expel the Lacandons with firearms (RAN Txt, 111/160 1981). On 7 March 1985, communal authorities complained that the *ejidatarios* of Lacanjá Tzeltal were farming on LC's land. Later in the 1990s, it brought criminal charges of invasion against the *ejido* Cintalapa (RAN Txt, 15/02/1990). In that year, Metzabok requested the President's intervention to stop the *ejido* Damasco from invading its lands (RAN Txt, 10/06/1990). It also filed a legal complaint against the *ejido* El Tumbo because it claimed that members of the *ejido* were working on Metzabok's lands (RAN Txt, 21/08/1990).

Furthermore, it is claimed that the Zapatistas tried to infiltrate the LC – a witness recounts that, around 1996, someone from Nueva Palestina had links with the Zapatistas, but was evicted by the *comuneros* (Interview 7). Another testimony recalls that, also in 1996, the Community retaliated against twenty of its own members that sympathised with the EZLN (Interview 8). Furthermore, there is also evidence suggesting that the Zapatistas courted the *comuneros* of the LC; a Lacandon leader explains that the *comuneros* received invitations to join the Zapatista movement (Interview 1). These testimonies report that letters (apparently two) asking the *comuneros* to join the armed movement were exchanged. The *comuneros* turned down those invitations, responding that they respected the armed movement – and would like them to return this respect. The LC was of the opinion that it had learned how to negotiate with the government (Interview 1). The Community's reluctance to join the armed political project or *ejido*-based organisations of the independent peasant movement reinforced criticisms concerning its political standing and brought accusations that it has been instrumental in the state's policies for the region. On the contrary, for the *comuneros* the problem seems to be the willingness to solve agrarian matters. For instance, in March 2008, illustrating this opinion with his experience in negotiating the LC's land dispute with the 6 de Octubre settlement, a Tzeltal senior *comunero* expert on agrarian matters declared that whilst they were interested in a negotiated solution to the land disputes:

[t]he Zapatistas don't accept conciliatory dialogue with the LC ... (...). That [the 6 de Octubre settlement] is still pending but they don't want to negotiate with the LC, what they want is to take possession of the land without the interference of the government; that's how it is with the Zapatistas (Interview 2).

In addition to this, the Zapatista uprising made Lacandonia the centre of regional, national, and global activism. The Community has found itself in confrontation with the *Neozapatismo* (Leyva, 2002, p. 74), a network of civil society organisations located not only in Chiapas but also in cyberspace that operates in Lacandonia and anywhere in the world. This network has provided support and legal advice to some *ejidos* in cases of land disputes and evictions, and they have opposed, denounced, and mobilised resources locally, nationally, and globally to draw attention to the way in which evictions have been carried out. An examples of this is Amnesty International's (2007) action on behalf of the 2006 conflict between the LC and Viejo Velasco,

a case that a human rights group of Chiapas took to the Inter-American Commission on Human Rights (see CIDH, 2020; also SRE, 2009; CDHF-BC-CCOCVV, 2007, p. 2; CDHFBC, 2010; RAN Txt, 441/CAJ74/2006).

Thus, the *comuneros* have disputed land with a variety of actors, but they have been consistent throughout this process in their determination to not be dragged into political, ideological, and religious projects that they do not support or view as beneficial for advancing what they perceive as legitimate agrarian demands. They have continually requested the demarcation of their territory and the removal of illegal settlements from their land. However, when their negotiations with the state have failed to provide a satisfactory solution to these demands, they have turned to contentious action to find a solution by mounting pressure on agrarian and environmental authorities. In addressing these demands, the state has had different approaches, with interventions in agrarian matters and disputes not necessarily being made on the LC's behalf, but also on behalf of its counterparts (Calleros-Rodríguez, 2013, 2014).

4.10. Chapter Conclusions

The LC is a multi-ethnic community established by land reform in 1972 through public policy actions known as 'recognition and titling of communal lands.' The recipient was initially the Lacandon indigenous group, but through negotiations during the period 1976–79, groups of Tzeltal, Chol, and Tzotzil-speaking were also incorporated.

The indigenous community that emerged from Mexico's Revolution and its land reform programme does not restrict membership to individuals of common descent. In the case of the LC, political change (i.e., the Mexican Revolution) and public and policy have framed the answer to that question, to a large degree. Kinship has been an important criterion for establishing membership to an indigenous community, but communities like the one in this case study were open as they accepted non-members. In the realities of land reform, one becomes a member of the people/community not so much by 'adopting and making one's own its cultural tradition' (cf. Husserl, 1939, p. 134), but by being eligible for a land reform action.

This chapter has identified three contentious issues in the debate on the identity of the Lacandon people, which are important to consider in order to gain a deeper understanding of the competing land claims – as will be

discussed in the following chapters. With regard to the land reform programme, restitution meant the return of lands that had historically belonged to the relevant individuals. One objection to the land restitution procedure has been about the historical identity of the Lacandons. The restitution procedure had the effect of recognising the existence of the Lacandons as a people who have inhabited a territory since time immemorial and whose form of organisation has adapted to the times.

A second objection to the land restitution procedure has involved questioning the rationale of the land reform programme (i.e., the legal-administrative decision) itself. This is particularly the case given that the Restitution Decree was based on the premise that all land transactions that took place between 1898 and 1971 had resulted in the lands of the Lacandons being invaded and illegally occupied. In the context of the land reform programme, restitution entailed the return of lands historically belonging to the Lacandons. Consequently, in the process of returning land to the Lacandon Indians, land reform authorities established an agrarian community as a legal recipient of the land. Furthermore, the creation of this community resulted in the unification of several scattered Lacandons settlements into one legally recognised entity, the 'Lacandon tribe.' Consequently, the act of restitution resulted in the concentration of the land into a single entity that was legally recognised by the state. This process involved the creation of a new collective entity that was endowed with agrarian roles, functions and responsibilities.

A third objection to the procedure was in terms of a decision that, it has been argued, fostered conflict. Since 1972, land-based disputes have persisted, characterised by evictions and eviction threats, invasions and invasion threats, relocations and violent clashes. In fact, the establishment of the LC resulted in numerous land claimants being deprived of land. However, many of them were presented with the option of becoming part of the LC as comuneros. Thus, the integration of 1452 Chol, Tzeltal – and a few Tzotzil – indigenous land-rights holders into the LC was a solution to competing land claims. Consequently, the incorporation of non-Lacandon members led to the establishment of a multi-ethnic landed community within the framework of land reform. Conversely, the refusal of many land claimants to accept incorporation into the LC led to the formation of a strong opposition to its existence. This has been the core of the land-based inter-communal conflict that has existed in the Lacandon Rainforest since 1972. At least seven instances of violent evictions of groups of settlers have been documented.

Chapter 5

Territory, Land and Natural Resources

5.1. Introduction

An indigenous community typically has a recognised territorial base. However, as the previous chapters have demonstrated, in the academic discussion over the Lacandon Community – the result of a land restitution to the Lacandons and the subsequent negotiated incorporation of several non-Lacandon indigenous groups – the land rights of the Lacandon people have been a repeated point of debate and conflict (Calleros-Rodríguez, 2013, 2014).

A territory is the seat of indigenous life and culture; it guarantees the social, cultural and political reproduction of the community, serving not only as the heart of cultural and social life but also as the basis for political and material sustainability. Territoriality thus must be recognized as intrinsic – even axiomatic – to the concept of a political community. Furthermore, a territorial base creates an attachment to a specific place that defines identity in relation to it. In that sense, it is a constitutive element of a community. Mexico's constitutional Articles 2 and 27 provide the grounds for a territorial basis of indigenous peoples. Furthermore, as a community needs a space of its own in which to develop its own distinctive political identity, territory becomes part of its political life as well. If 'a political community is organized public space' (Parekh 1981, p. 154), territoriality affords the spatial manifestation of the community, including a space and a place for deliberation. Territory, therefore, is a foundation for 'a people' to deal with what takes place within the polity (see Picq, 2018). Nevertheless, the topic of the indigenous land base is perhaps the biggest challenge indigenous peoples have long confronted, indeed since 1492.

Table 4. Agrarian Actions on the Lands of the Lacandon Community

Agrarian Action	Publication Date	Date Pres. Res., Decree, Sentence	Surface (Hectares)	Enforcement Date	Registration Date	Affected Surface	Promoters
RTBC	06/03/1972	26/11/1971	614321	12/04/1988	29/08/1989	500806.1271	NINGUNA
EXPROPRIATION	11/01/2005	10/01/2005	1125.212405	28/01/2005	11/02/2005	1125.212405	SRA
EXPROPRIATION	11/01/2005	10/01/2005	1731.807039	28/01/2005	11/02/2005	1731.807039	SRA
PROCEDE	-	-	0	-	28/12/2005	0	NINGUNA
EXPROPRIATION	29/12/2005	21/12/2005	1525.6651	26/06/2006	13/09/2006	1525.6651	SRA
EXPROPRIATION	29/12/2005	21/12/2005	95.329	19/06/2006	13/09/2006	95.329	SRA
EXPROPRIATION	29/12/2005	21/12/2005	1267.9004	16/06/2006	13/09/2006	1267.9004	SRA
EXPROPRIATION	29/12/2005	21/12/2005	1883.9488	12/06/2006	13/09/2006	1883.9488	SRA
EXPROPRIATION	29/12/2005	21/12/2005	1728.8304	19/06/2006	13/09/2006	1728.8304	SRA
EXPROPRIATION	22/02/2006	17/02/2006	986.0503	12/06/2006	13/09/2006	986.0503	SRA
EXPROPRIATION	22/02/2006	17/02/2006	971.4784	21/06/2006	13/09/2006	971.4784	SRA
EXPROPRIATION	22/02/2006	17/02/2006	334.3973	12/06/2006	13/09/2006	334.3973	SRA
EXPROPRIATION	22/02/2006	17/02/2006	157.3045	15/06/2006	13/09/2006	157.3045	SRA
EXPROPRIATION	22/02/2006	17/02/2006	433.8275	23/06/2006	13/09/2006	433.8275	SRA
EXPROPRIATION	22/02/2006	17/02/2006	905.8057	27/06/2006	13/09/2006	905.8057	SRA
EXPROPRIATION	08/06/2006	19/04/2006	4545.2331	09/07/2006	13/09/2006	4545.2331	SRA
EXPROPRIATION	08/06/2006	19/04/2006	190.7626	18/07/2006	13/09/2006	190.7626	SRA
EXPROPRIATION	08/06/2006	19/04/2006	1432.5902	09/07/2006	13/09/2006	1432.5902	SRA
EXPROPRIATION	28/11/2006	24/11/2006	348.5494	29/01/2007	16/04/2007	348.5494	SRA

EXPROPRIATION	28/11/2006	24/11/2006	257.0477	05/02/2007	16/04/2007	257.0477	SRA
EXPROPRIATION	28/11/2006	24/11/2006	55.1991	01/02/2007	16/04/2007	55.1991	SRA
EXPROPRIATION	28/11/2006	24/11/2006	79.8924	07/02/2007	16/04/2007	79.8924	SRA
EXPROPRIATION	15/02/2007	14/02/2007	2864.1842	17/03/2007	16/04/2007	2864.1842	SRA
EXPROPRIATION	15/02/2007	14/02/2007	591.316	14/03/2007	16/04/2007	591.316	SRA
EXPROPRIATION	15/02/2007	14/02/2007	2800.7863	25/02/2007	16/04/2007	2800.7863	SRA
EXPROPRIATION	15/02/2007	14/02/2007	402.858	09/03/2007	16/04/2007	402.858	SRA
EXPROPRIATION	15/02/2007	14/02/2007	318.5195	22/03/2007	16/04/2007	318.5195	SRA
EXPROPRIATION	15/02/2007	14/02/2007	25.7867	07/03/2007	16/04/2007	25.7867	SRA
EXPROPRIATION	08/05/2007	04/05/2007	14096.9718	14/08/2007	15/08/2007	14096.9718	SEMARNAP
EXPROPRIATION	15/02/2007	14/02/2007	787.2275	15/06/2007	22/02/2008	787.2275	SRA
EXPROPRIATION	18/07/2007	16/07/2007	1141.0513	20/09/2007	22/02/2008	1141.0513	SRA
EXPROPRIATION	29/12/2005	21/12/2005	735.9235	28/09/2007	08/05/2008	735.9235	SRA

Source: <https://phina.ran.gob.mx/consultaPhina.php> (retrieved 26.04.2023)

The information contained in the Register and History System of Agrarian Nuclei (PHINA) is solely of a statistical and informative nature.

In the making of the LC, there are 31 legal actions (*acciones agrarias*). The current surface area of its tract is about 446,476 hectares (Table 4). An underlying problem of those actions is the fact that the perimeter of the LC has not been fully demarcated since it was created in 1972 – which, as discussed in the previous chapter, is due to disputes with fellow indigenous communities (Ascencio, 2008; Legorreta, 1998; Harvey, 1998).

5.2. Indigenous Land Restitution and Traditional Occupation in Lacandonia

Indigenous territoriality is a complex topic (Calleros-Rodríguez, 2013). Two inter-related issues that are worth considering are the topic of land restitution and traditional occupation. The issue of indigenous rights and access to ancestral lands has continually gained importance in several countries such as Guatemala, Mexico, Norway, Finland, Botswana, and New Zealand. As such, international standards concerning the rights of indigenous peoples have recently been established and influenced the work of several multilateral institutions including the United Nations, the World Bank and the Inter-American Development Bank. These standards have also influenced states' practices. The two topics of indigenous land restitution and traditional occupation have been addressed by ILO's C169 and UNDRIP. Based on the provisions of these instruments of international law, the Inter-American Human Rights System (IAHRS) has interpreted the American Declaration of the Rights and Duties of Man (Declaration Article XXIII) and the American Convention on Human Rights (Convention Article 21) to address several problems faced by indigenous peoples in the continent (IACHR, 2010).

5.3. The Principles of Traditional Occupation and Land Restitution

5.3.1. The Inter-American Human Rights Instruments

Based on provisions of international law applicable in the Americas, states have taken measures to recognize and protect indigenous peoples' rights over 'land and natural resources on the basis of their traditional tenure' (Anaya

& Williams, 2001, p. 84; see also Calleros-Rodríguez, 2013, 2014). The initial steps in this direction started in 1948 when the Organization of American States (OAS) General Assembly recognized Indigenous Peoples (IPs) as special subjects of international concern in the Inter-American Charter of Social Guarantees (Anaya & Williams, 2001, p. 33). Internationally, the special concerns of the IPs were first officially recognized by the United Nations in 1957 with the ILO Convention Concerning the Protection and Integration of Indigenous and Other Tribal and Semi-Tribal Populations in Independent Countries (Bravo, 1996, p. 530). In more recent years, the norms and jurisprudence of the IAHRS has helped develop the minimum requirements for IPs' right to communal property over their lands, territories and natural resources. Several OAS Inter-American Court of Human Rights (IACtHR) rulings¹ – plus other related cases and reports of twelve countries² – comprise a *corpus iuris* that has direct influence on all OAS members with regard to the protection of indigenous property rights (IACHR, 2010). This *corpus* is based on the Declaration (Article XXIII) and the Convention (Article 21), interpreted in light of the provisions of the ILO Convention No. 169, the UNDRIP and the Draft American Declaration of the Rights of Indigenous Peoples, amongst other sources of international law. Based on this *corpus*, the IAHRS has focused on a central demand of the indigenous human rights movement: 'the protection of indigenous peoples' rights over traditional lands and natural resources' (Anaya & Williams, 2001, p. 36; see also Hutchinson et al., 2006; Erueti, 2006) and it has established corresponding international legal obligations for OAS states.

The Inter-American Commission on Human Rights (IACHR), which functions within the OAS, has responded to the concerns of IPs. The IACHR has prosecuted important cases before the IACtHR, as the latter has the authority to issue decisions that are binding on states as a matter of international law (Anaya & Williams, 2001, p. 35).

¹ See IACtHR H.R., *Case of the Xákmok Kásek Indigenous Community Vs. Paraguay*, 2010; IACtHR H.R., *Case of the Saramaka People Vs. Suriname*, 2007; IACtHR H.R., *Case of the Sawhoyamaya Indigenous Community Vs. Paraguay*, 2006; IACtHR H.R., *Case of the Yakye Axa Indigenous Community Vs. Paraguay*, 2005; IACtHR H.R., *Case of the Mayagna (Sumo) Awas Tingni Community Vs. Nicaragua*, 2001.

² Belize, Bolivia, Brazil, Colombia, Costa Rica, Guatemala, Nicaragua, Paraguay, Peru, the United States, Suriname, Venezuela.

On indigenous and tribal property rights, the IAHR has advanced four general considerations (Calleros-Rodríguez, 2013). First, that there is a special relationship between Indigenous and Tribal Peoples and their territories; this relationship is protected by international human rights law (the Convention and the Declaration) and it is fundamental both for the material subsistence and for the cultural integrity of indigenous and tribal peoples (IACHR, 2010, pp. 20–21). Second, the IACtHR has characterized, on several occasions, the right to territorial property ‘as a right whose bearers are the individual persons that make up indigenous or tribal peoples, and whose exercise takes place within collective property systems’ (IACHR, 2010, p. 24). Third, that Inter-American jurisprudence has characterized indigenous territorial property ‘as a form of property whose foundation lies not in official state recognition, but in the traditional use and possession of land and resources’ (IACHR, 2010, p. 26); therefore, indigenous and tribal peoples’ territories belong to them by right of their ancestral use or occupancy. Given that the foundation of territorial property lies in the historical use and occupation which gave rise to customary land tenure systems, indigenous and tribal peoples’ territorial rights ‘exist even without State actions which specify them’ or without a formal title to property (IACHR, 2010, p. 27). Moreover, the IACtHR has established that that as a result of customary practices, ‘possession of the land should suffice for indigenous communities lacking real title to property of the land to obtain official recognition of that property, and for consequent registration’³ (IACHR, 2010, pp. 26–27), and that ‘indigenous peoples who have been deprived of the possession of the territory they traditionally occupied retain their property rights and have the right to restitution of their lands’ (IACHR, 2010, p. 27). Fourth and final, the IACtHR has insisted ‘that the right of indigenous peoples to administer, distribute and effectively control their ancestral territory, in accordance with their customary law and communal property systems, forms part of the scope of the right to property’ encompassed by the Convention (IAHCR, 2010, p. 31).

³ *Case of the Mayagna (Sumo) Awas Tingni Community Vs. Nicaragua and Case of the Sawhoyamaya Indigenous Community Vs. Paraguay.*

5.3.2. Mexico's Land Reform (1915–1992)

There is substantial variation in the degree of legal recognition of indigenous rights around the world. In Latin America, land reforms undertaken widely in the 1960s, providing the first important examples of recognition of indigenous land claims since the colonial period, have faced problems in the recognition of indigenous lands (Roldán Ortega, 2004).

In Mexico, land reform has provided the framework within which issues of traditional occupation and land restitution were addressed, albeit with difficulties (Calleros-Rodríguez, 2013; 2014). Article 27 of the Constitution, which was a product of its Revolution (1910–1921) introduced different principles of land tenure to address the agrarian problems; this article also recognized the dispossession and disentanglement of indigenous peoples – and other landed communities or towns – that had occurred during the nineteenth century. Article 27 was reformed in 1992, aiming at the conclusion of land reform, the creation of land markets, the parcellation of land and improvements in tenure security; however, in 1994, the uprising of the *Ejército Zapatista de Liberación Nacional* (EZLN) brought the agrarian issue back into the public arena. This rebellion led to the signing in 1996 of the Agreements of San Andrés (Chiapas) which were translated into a law proposal on Indigenous Rights and Cultures presented to Congress in 2001 (Roldán Ortega, 2004). The proposal has been criticized for its failure to address the demands of autonomy of some indigenous groups; it shows Mexico's commitment to indigenous rights as it has incorporated them in its Constitution and has signed international agreements. However, it also shows that the country still has further progress to make in its regulatory framework and in recognising indigenous land rights.

5.3.3. Land Restitution within Mexico's Land Reform

In particular, the Restitution and Titling of Communal Lands (Restitution) was an agrarian procedure introduced to return land, and other natural resources like water sources and forests, to IPs and towns when they have owned land but had been dispossessed or disentangled. Restitution does not stipulate limits to the land that can be titled; unlike the *ejido* allotment, it does not grant land in terms of an amount that is sufficient to satisfy the needs of a group of claimants (*ejidatarios*). Instead, through Restitution

a community recovers the lands of which it was dispossessed, without the extension of the tract being taken into account (Hinojosa Ortiz, 1983). In 1970, Supreme Court jurisprudence established that Restitution and Titling of Communal Lands decrees do not create rights; they only recognize rights of possession (see AAR 8190/50; also Cossío Díaz, 2020; Bailón, 2019).

For Restitution to occur, it required the fulfilment of two conditions. First of all, the affected group had to produce primordial titles over the lands it was claiming. A strict interpretation of the agrarian law would argue that land restitution should not proceed when it is only based on the claim of possession and quiet usufruct of land (Hinojosa Ortiz, 1983, p. 72). However, in practice, restitution turned out to be a problem since many claimants lacked titles to prove ownership. In other cases, titles were produced, but they gave poor details of the location of the claimed lands (Hinojosa Ortiz, 1983, p. 66; Orozco, 1914/1975). Given these hurdles, land reform granted this status to only 2,186 agrarian communities – including the LC.

To address the problem of the lack of titles, the agrarian law of 1971 introduced a procedure called '*doble via ejidal*' which was a twofold mechanism for the allotment of land to indigenous groups; if a community could not prove the dispossession of their lands, they could still have access to the land through land allotment (*ejido*). Most of the beneficiaries (indigenous communities) were allowed to start either land restitution or *ejido* allotment procedures and to change status later (Gallardo Zúñiga, 2006a, p. 52). Agrarian communities and *ejidos* are owners of the land they have been endowed with and have legal personality. The second condition is that claimants should have been dispossessed according to the terms of the federal agrarian law (Hinojosa Ortiz 1983, p. 63) since restitution procedures assume the pre-existence of a town or village that was dispossessed. In this way, the action of restitution cancelled the legal validity of lands that were dispossessed (Hinojosa Ortiz, 1983, p. 61). Land reform recognized two forms of communal land dispossession: 1) sales conducted by any authority (*enajenaciones*) in the terms of the Disentailment Law of 1856 and 2) concessions, sales or any other transaction – including actions by surveying companies – conducted between 1 December 1876 and 6 January 1915 by any federal or sub-national authority that had led to invasion or illegal occupation of communal lands. Thus, within the land reform framework, the Lacandons received in restitution 614,321 hectares of land in 1972; the Restitution decree credited them with the ancient, continuous and quiet possession of a large part of Lacandonia; it

created an official history that matched land reform's generic interpretation of the dispossessed indigenous community – as developed by Andrés Molina Enriquez (1909; see also Shadle, 1994; Kourí, 2002). However, as discussed below, the Lacandon experience hardly matched those assumptions.

5.4. Traditional Occupation

5.4.1. The Opinion of the Inter-American system

As the recognition of communal territories is a contentious process (Calles-Rodríguez, 2013, 2014; Larson, 2010; Kent, 2008; Stocks, 2005), in seeking to identify the traditional territory of a particular community, the IAHRs has looked at evidence – including technical studies and documentation – of the historical occupation and use of the lands and resources by members of that community, of its development of traditional subsistence. The norms and jurisprudence of the IAHRs have established that a key element in the determination of when a given group can be regarded as indigenous 'is the historical continuity of its presence in a given territory, and, for indigenous peoples, an ancestral relationship with the societies that pre-existed a period of colonization or conquest' (IACHR, 2010, p. 11). Quite recently, in the *Awás Tingni Vs Nicaragua* case, the IACtHR rejected the argument (*terra nullius*)⁴ that lands were legally unoccupied until the arrival of colonizing powers (IACHR 2010; Finley-Brook & Offen, 2009).

5.4.2. Lacandon Traditional Occupation

The IAHRs has established that Indigenous property rights over territory extend in principle to all lands and resources currently used by Indigenous peoples. The IAHRs has also established that Indigenous property rights over territory extend to lands and resources previously possessed by Indigenous peoples, which they were deprived of and have maintained a special relationship with (IACHR, 2010, p. 3; also ILO Convention 169 Article 13). Not only do these norms and jurisprudence challenge de Vos' conclusions, but several

⁴ Also see International Court of Justice, *Western Sahara* case, *ICJ Reports* 1975.

ethnographies recording the traditional occupation of the Lacandons in the rainforest also challenge them, too. According to these records, the CLs have a historical relation to the land spanning more than two centuries.

There are many historical records of the Lacandon presence in the region (Calleros-Rodríguez, 2013, 2014). In the research on the contemporary Lacandon people, the eighteenth century (1793) has been suggested to mark the beginning of their history (de Vos, 1980; Inaremac, 1985; Aubry, 1987). There are several accounts from the nineteenth century. For instance, one of those accounts refer to Lacandon presence in the banks of the Usamacinta River in 1834 and another from 1877 (Tozzer, 1907/1962; Baer & Merrifield, 1971). The Lacandons of the nineteenth century witnessed the transformation of the territory they were occupying. In the twentieth century, records of Lacandon presence in Lacandonia multiply (Tozzer, 1907/1962; Baer & Merrifield, 1971). From the 1940s onwards, the Lacandons were exposed to more intense contacts with the outside world (Villa Rojas, 1967b; DUBY, 1944; Baer & Merrifield 1971; de Vos, 2002). The historical and ethnographic record suggest the existence of traditionally occupied territory in what is today the Lacandon Rainforest of Mexico. Moreover, in the twentieth century, the Lacandons also witnessed the change in the actors entering the region: shifting from workers, explorers, Christian missionaries, Maoist activists and Marxist guerrillas to government officials, NGO activists and international donors. Recently, Lacandonia has witnessed the rise of organized crime activities.

The place of the Indigenous community in the process of formation of larger political entities (i.e., nation-states) is important. In Mexico, the Revolution (1910–1921) was a process from which the forces, ideas and ideals important in shaping the territorial base of contemporary indigenous communities emerged. In other words, the Mexican Revolution reconfigured the Indigenous community specifically through the public policies derived from it. Governmental action by means of public policies has been consequential for Indigenous populations. On the other hand, the international order has also shaped them although in different ways (see Picq, 2018). In other words, the process of configuration of a political order, with its local, national and international dimensions, has an impact on indigenous communities. Significantly for Indigenous populations, one of the major implications has been felt at the territorial level. These topics are explored further, from a theoretical perspective, in Chapter 6.

5.5. Public Policy: Land Conservation and Development

A territorial base positions the indigenous community as an interlocutor of the government in relation to the implementation of environmental policy.

Indigenous territories are deeply influenced by public policies, on the federal, state and municipal levels. In terms of the territorial base of the LC, two public policies have been decisive – one concerning land, the other concerning environmental conservation. The impact of these policies on the LC can be seen in the creation of a legal framework and governmental programmes, as much as the country's political context.

The profound influence of public policy on the lives of Indigenous peoples has been a central topic of academic research. One of the most significant findings is that public policies have undoubtedly largely failed to improve their living conditions. With a territorial base as a point of reference, it is possible to observe the demographic dynamic and socio-economic transformations within contemporary Indigenous communities.

Public policy acts as the concrete tool by means of which states subject populations to concrete actions, structures, processes, systems and dynamics. It is problematic that populations cannot influence the policy making process in a way that is more satisfactory to them. Internationally, human rights frameworks have tried to define principles to inspire public policies responsive to the needs of Indigenous populations.

5.5.1. Environmental Conservation Public Policy

Protected Natural Areas (PNA) in the Lacandon Rainforest are the product of several decades of Mexican environmental policy aimed at conservation (Calleros-Rodriguez & Guevara-Romero, 2016). As such, the region has been a recipient of public policy. The policies that have been implemented in the region range from land distribution and colonization to logging; other examples include policies aimed at agriculture and livestock farming. The region has therefore been subject to contrasting policies regarding the use of natural resources. Overall, these policies have established systems, structures, processes and relationships that have shaped the access and uses of natural resources for different population groups in the region.

Demographic diversity entails a variety of forms of interaction with the environment, which may then become incentivized or sanctioned by public policy. Contreras Cortés et al. (2015) studied the natural resource management strategies of the Lacandons. While their practices may have minimal impact on ecosystems, they nevertheless stand in contrast with the practices of other groups in the area (Costedoat et al., 2015; Meli et al., 2015). Research into curbing deforestation has examined the effectiveness of PNAs (Figueroa & Sánchez-Cordero, 2008) and the participation of local populations in the management of natural resources (Legorreta et al., 2014).

A significant emerging issue in environmental policy is the problem of legitimacy in the creation of PNAs, given that, in Mexico, environmental policy has operated with disputed participation of local populations (Legorreta & Márquez, 2014; Bezaury-Creel & Gutiérrez, 2009). Studies of this type argue that the relations between government (the environmental sector) and society (the Indigenous community) are marked by a lack of civic engagement. Consequently, cooperation is complicated when there is no culture or democratic practices between the institutions and the owners of the land (i.e., Indigenous populations). A relationship devoid of civic engagement is authoritarian and ineffective in enforcing environmental legislation (Legorreta & Márquez 2014). The lack of negotiation and consent in the terms and content of the relationship is counterproductive for the operation of the PNAs and environmental policy in general. Other investigations have identified different problems in the functioning of the biosphere reserves: Tehuacán-Cuicatlán (Lee, 2014), Ría Celestún (Pinkus-Rendón & Pinkus Rendón, 2015), El Vizcaíno (Lagunas-Vázquez et al., 2008) and the Monarch Butterfly (Brenner, 2009; Merino & Hernandez, 2004). These problems underscore the broader difficulties in managing and operating PNAs and environmental policies when local populations are not adequately involved in the governance and policy-making processes.

5.5.2. Indigenous Lands and Environmental Policy

Protected Natural Areas (PNA) are examples of how public policies can reconfigure Indigenous territories. By 2024, Mexico's government, through the National Commission of Protected Natural Areas (CONANP), operates 226 Protected Natural Areas in different categories (CONANP 2019a). PNAs are the main conservation instrument in Mexico.

The LC is located in a region that, as we have noted, has been subject to contradictory policies for the use of natural resources. If the agrarian reform turned the Selva Lacandona into a destination for small agrarian societies (*ejidos*), environmental policy configured it as a conservation region. Many other policies have also operated in the region (health, education, social assistance and productive stimulus).

The ANPs that exist in the Selva Lacandona are the product of four decades of Mexican environmental policy (legislation, institutions and programs). The LC is home to two biosphere reserves (Montes Azules and Lancan-Tún), seven protected areas (Figure 5 and Table 5), two natural monuments (Yaxchilán and Bonampak) and three flora and fauna protection areas (Najá, Metzabok and Chan-Kín).

Internationally, Mexico is a global player in terms of biodiversity conservation. Of the biosphere reserves registered in UNESCO's World Network of Biosphere Reserves, two are located in the Lacandon Rainforest, on LC lands: Montes Azules (1977) and Najá-Metzabok (2010). On the other hand, according to the classification of the National System of Protected Natural Areas (SINAP),⁵ the lands of the LC include Montes Azules (2000), Lancan-Tún (2000), Chan-Kín (2000) and Bonampak (2003).⁶ The institutions that handle environmental policy has been consolidated since the Earth Summit, Rio Janeiro (Brazil, 1992) (Bezaury-Creel & Gutiérrez, 2009).

In terms of environmental policy, various instruments have configured the Selva Lacandona as a conservation region, in addition to the PNAs. Another instrument has been the Ecological Planning of the Territory (Azuela et al., 2008) as well as programs aimed at the population that inhabits areas under conservation. One more instrument of environmental policy is international cooperation. Specifically, three multilateral instruments are the Man and the Biosphere (UNESCO) programme, the Convention on Wetlands (Ramsar Convention) and the World Heritage Convention. International cooperation has a regional scope, for example, since 1994, the Mesoamerican Biological Corridor is a Central American cooperation initiative in which Panama, Costa Rica, Nicaragua, Honduras, El Salvador, Guatemala, Belize and Mexico participate. Its central objective is international

⁵ *Reglamento de la Ley General del Equilibrio Ecológico y Protección al Ambiente.*

⁶ September 2014, http://www.conanp.gob.mx/que_hacemos/sinap.php (Retrieved 9.06.2015).

coordination in terms of biodiversity conservation and sustainable use of resources (CONANP SEMARNAT, 2009). Another form of regional cooperation has been with Europe, through the PRODESIS-EPYPSA program (2008). In terms of bilateral cooperation, Mexico has worked with Guatemala and Cuba to twin protected areas. Lastly, cooperation with the United States (USAID) began in 1987 (CONANP SEMARNAT, 2009).

PNAs have nevertheless faced some persistent problems. These have included a lack of continuity in the programs, insufficient budgets, a lack of intergovernmental articulation, private interests, a lack of application of the law, a lack of territorial planning (de la Maza & de la Maza, 2005) and deficiencies in the decrees of the areas and management plans (CNDH 2016a; Azuela et al., 2008). Further compounding these problems is the diversity of actors involved, with different conceptions of the use of the territory and the different practices of Indigenous peoples (CNDH 2016a; Azuela et al., 2008; de la Maza & de la Maza, 2005). All this is added to the chronic problems marked by the region in which the areas are located: remoteness, communication difficulties, and varying levels of awareness, organization and mobilization among the inhabitants.

Another problem pertains to the ownership of the land where the ANPs are created – often places where human settlements already existed (Bezaury-Creel & Gutiérrez, 2009; Interview 13). Federal ANPs are generally created on social property (*ejidos* and agrarian communities). For example, ANPs occupy 10,722,458 hectares of such social property (Bezaury-Creel & Gutiérrez, 2009, p. 391). A major concern is that many ANPs have been created without prior consultation with the inhabitants and owners of the designated territories (de la Maza & de la Maza, 2005; SEMARNAP 2000). The law establishes and requires social participation schemes and processes; however, accusations that there is a lack of initial consultation persist. Another problem has been the restriction in the use of natural resources that the population that lived legally used until the creation of the ANP (Legorreta et al., 2014; Paré & Fuentes, 2007).

The decree creating an ANP and its zoning create types of property:

In many cases, these decrees are followed by other types of norms – such as management programs and ecological norms – by means of which it is sought to regulate the access and use that a certain population makes of natural resources, and so guarantee their conservation. (Legorreta & Márques, 2014, p. 131).

An unspoken problem is the confiscatory threat:

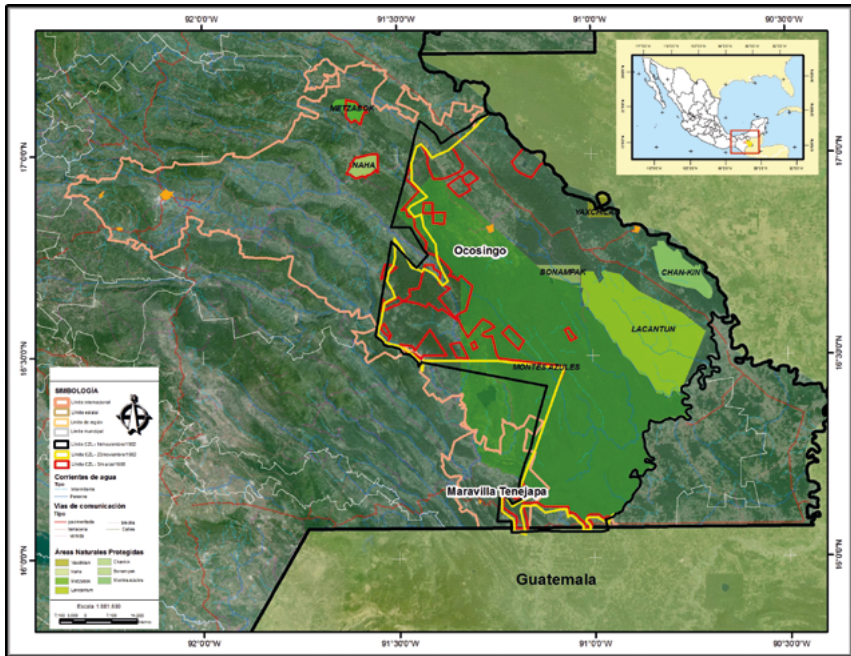


Figure 5. The Location of Protected Natural Areas

Source: drawn up based on 1 Marco Geoestadístico, 2013 INEGI; 2 ANP, 2015 CONANP; Calleros-Rodríguez & Guevara-Romero, 2016.

Table 5. Protected Natural Areas in the Lacandon Community

Name	Creation	Category	Extension (Has)	LC's Surface	% LC's Surface
Montes Azules	1978	Biosphere Reserve	331,200	262,000	50.4
Lacan-Tún	1992	Biosphere Reserve	61,874	61,873	12.3
Chan-Kin	1992	Flora and Fauna Protected Area	12,185	12,184	2.4
Yaxchilán	1992	Natural Monument	2,621	2,621	0.5
Bonampak	1992	Natural Monument	4,357	4,357	0.9
Najá	1998	Flora and Fauna Protected Area	3,847	3,847	0.8
Metzabok	1998	Flora and Fauna Protected Area	3,368	3,368	0.7
Total Area				350,250	68%

Source: drawn up based on www.conanp.gob.mx/que_hacemos/reservas_biosfera.php (retrieved on 11.02.2015); updated with data from http://sig.conanp.gob.mx/website/pagsig/datos_anp.htm (retrieved on 26.04.2023).

Mexico is one of the few countries in the world where the lands of the reserves and national parks do not belong to the nation, but rather have private owners, be they *ejidos*, communities, or smallholders. In practice, it has been seen that this is an element that generates great obstacles for the correct management and protection of ANPs. (Moctezuma, 2016)

This type of stance seems to support accusations of appropriation of nature (Fairhead et al., 2012), accusations of environmental authoritarianism (Legorreta et al., 2014) and results in a sense of distrust among land-tenure rights holders towards environmental authorities.

Human rights have provided a framework for addressing these issues. For example, as of 2015 the management programs of Lacan-Tún and Chan-Kín were still pending completion. Highlighting this issue, the Mexican National Human Rights Commission (CNDH) published a set of recommendations⁷ from the Ombudsman of Mexico, emphasizing the deficiencies in the management of federally protected natural areas and their impact on human rights. This document, addressed to the Ministry of Environment and Natural Resources (SEMARNAT) and the National Commissioner for Natural Protected Areas (CONANP), criticized the absence or non-implementation of essential governance tools for the management, administration and zoning of protected areas, leading to human rights violations (CNDH, 2016a,b). The CNDH's recommendations had three objectives: to emphasize a human rights perspective on protected areas, in opposition to purely environmental schemes; to assess the current legal framework governing environmental matters; and to promote the adoption of best practices in environmental management. The CNDH concluded that the ecosystems in some ANPs have deteriorated, which could possibly lead to the loss of their protected status.

5.5.3. Demographic Dynamics

Having a presence in a defined territorial base also positions an Indigenous community as a social group facing its own distinct demographic issues (Caleros-Rodríguez & Guevara-Romero, 2016). In the Lacandon Rainforest there are approximately 73 rural localities and 2 urban localities, whose population

⁷ *Recomendación General número 26 sobre la falta y/o actualización de programas de manejo en áreas naturales protegidas de carácter federal y su relación con el goce y disfrute de diversos derechos humanos*

amounts to 18,837 inhabitants: thirteen localities are within the MABR and their population amounts to 3,065 inhabitants (Figure 6).

Table 1 presents the localities of the study area as delineated by INEGI (2020), indicating a total population of the LC of 19,128. The table shows that there has been population growth mainly in localities such as Nueva Palestina and Frontera Corozal, with almost 50% increases in population; in the case of Nueva Palestina its growth has occurred within the ANP Montes Azules. Note that all population growth implies the development of diverse economic activities, but also the transformation of the environment.

A relevant point to consider is the relationship between traditional practices regarding natural resources and population size. For example, the Lacandon natural resource management strategies have minimal impact on ecosystems (Contreras Cortés et al., 2015). The Lacandons are able to live

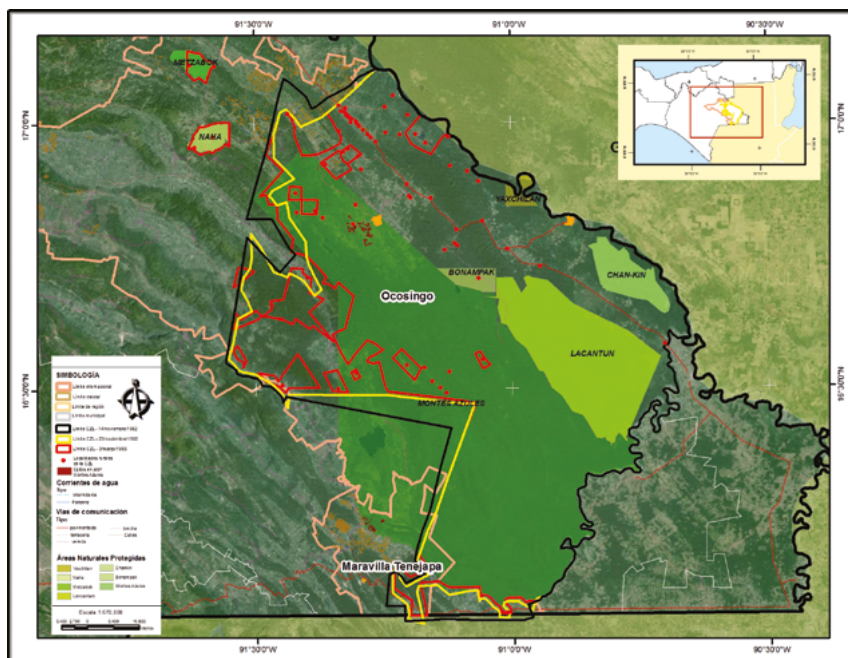


Figure 6. Rural Localities within the Lacandon Community.

Source: drawn up by the autor based on: 1 Marco Geoestadístico, 2013 de INEGI; 2 Límite de Comunidad Lacandona; 3 ANP, 2015 de CONANP; 4 Límite ejidal del Registro Agrario Nacional; Calleros-Rodríguez & Guevara-Romero, 2016.

in a relationship of low intensity of natural resources, albeit with a low population size and ecological practices that may not be compatible with a growing population in the rainforest (Contreras Cortés et al., 2015; Dichtl, 1987). The demographic dynamics in the region, including urbanization and increased consumption, might drive significant changes in the utilization of natural resources. Therefore, while environmental conservation policies may benefit from the traditional practices of local populations like the Lacandons, it is important to note that the rainforest is also home to other groups. For example, the population of Nueva Palestina (speakers of the Tzeltal language) and Frontera Corozal (speakers of Chol) predominantly engage in agricultural and livestock activities, which tend to attract the young population (Legorreta et al., 2014).

Population growth sheds light on the expansion in the use of natural resources:

The established relationship, saying that these people are poor because they have restrictions on the use of their resources, is false. You see the places where there are no restrictions; even where the few legal restrictions that exist are ignored, such as in the mountains of Chiapas, and the situation of poverty is much more pronounced than in the rainforest. That's not the relationship. (Interview 13)

For government bodies implementing environmental policies, the standards of living of this Indigenous population, specifically in terms of poverty, pose significant challenges. According to the National Council for the Evaluation of Social Development Policy (CONEVAL, 2010), the municipalities inhabited by the LC population experience a very high degree of marginalization. This reflects serious deficiencies in access to education, inadequate housing, and a lack of essential goods, which are crucial for the development of basic capacities. Another indicator, the degree of social disadvantage, remains high despite some access to education and basic services, highlighting their insufficiency. This issue is compounded by the spatial dispersion in the study area, as the provision of basic services is primarily focused on urban areas, which are far removed from these predominantly rural localities.

Each of these indicators reflects the deep levels of poverty that exist within the LC – despite being surrounded by rich natural wealth. For most of the members of the LC, making use of these natural resources is not just an option but a necessity for subsistence. As PRODESIS (2008) outlines in its *White Paper on the Lacandona Rainforest*:

Forest extractive activities have been the predominant ones in the economic history of the region. The exploitation of precious woods, practiced commercially for more than a century, before the process of settlement and colonization, was concentrated in the cutting and sawing of mahogany and cedar. In addition, chewing gum, rubber and barbasco have been extracted and, currently, the collection of camedor, *xate* and pita palm leaves is important.

This history underscores the vital role natural resources play in the economic and social fabric of the LC, highlighting the persistent tensions between environmental conservation efforts and the socioeconomic needs of the local populations.

5.5.4. The Economy

The economic activities of the Tzeltal ethnic groups, as well as of the Chols, include cattle raising, which is an expansive activity that uses lands that were previously dedicated to agriculture (Legorreta & Márquez, 2014). Corn and beans, the main source of food, are currently cultivated under the slash and burn system, a technique that involves deforestation of the vegetation cover of the plot to be used for planting. However, the demands of a large population for beans and corn cause overexploitation, soil erosion, and loss of soil fertility due to reduced rest periods (Legorreta & Márquez, 2014). These groups also practice the extraction of non-timber forest resources such as camedor or *xate* palm, whose leaves are used mainly for floral arrangements and which have been collected year-round in the rainforest since the 1970s (Buda & Trench, 2007; Sánchez & Valtierra, 2003). This economic activity, important in the LC, is not carried out in a sustainable manner, since the quantities extracted exceed the limits that allow for environmental replenishment (Legorreta & Márquez, 2014).

The traditional economic activities of the Lacandons, in turn, include, hunting, fishing, weaving (clothes, hammocks, bags), basketry, beekeeping, trading (crafts), and gathering (Tozzer, 1907/1962; Villa Rojas, 1967a). However, ecotourism has developed since the 1990s.⁸ This service-economy development has generated intra-community tensions between those

⁸ Tourism is not a recent activity. For the Lacandons, since 1945, with the discovery of Bonampak, they informally became hosts and tourist guides and artisans with tourists, explorers who arrived on planes from Tenosique, Palenque, San Cristóbal.

who have access to resources and the capacity to organize a business activity such as transportation (taxis; water transportation), lodging and food services (Interview 12). More generally, economic activity has diversified. For example, cattle raising faces a challenge in that the land is not suitable in Lacandonia; the way in which it has been practiced leads to the opening up of larger grazing areas with little technology, but employing the whole family (Interview 9). Moreover, environmental conservation policies have incentivized salaried jobs. The hiring of personnel for monitoring tasks is another issue in tension with the environmental authorities because the community members want their own relatives to be hired for these salaried tasks, rather than outsiders. The ANP programs have indeed diversified the employment options in the area, for example, creating the role of park ranger (Interview 9), but economic development is incomplete if the programs do not take into account the problems that the community considers important. The LC's experience with ecotourism suggests that economic development opportunities are not widespread, but are reduced to a number of people with capital (Legorreta & Márquez, 2014). Nevertheless, some economic alternatives may be in the process of taking shape.

5.6. Chapter Conclusions

As this chapter has shown, in the configuration of the territorial base of the LC, two public policies have been decisive: land and environment. Environmental conservation in indigenous territories like the Lacandon Rainforest is about much more than natural resources; it is a problem that touches on demographic dynamics as much as economic development. Moreover, larger historical events have repeatedly reshaped the lives of these indigenous communities, highlighting the complex interplay between environmental policies and the social, economic, and political fabric of indigenous life. This ongoing reconfiguration highlights the need for policies that are environmentally sound as much as socially non-discriminatory and culturally open to diversity. It is essential to ensure that the rights and needs of indigenous populations are at the forefront of conservation efforts.

Chapter 6

Indigenous Self-Government and the ‘Dual Thrust’

6.1. Introduction

The concept of indigenous self-government (ISG) has been framed in terms of what James Anaya termed the ‘dual thrust’ (Anaya, 2004). This refers to the simultaneous needs of developing indigenous institutions and integrating them into a larger political order. This approach is compatible with Democratic Theory, which posits self-government (SG) as a system where governance must align with the will of the governed – as discussed by thinkers like Przeworski (2009), Green (1990), Steinberg (1978), Partridge (1971), and Plamenatz (1968). Self-government should be achieved through institutionalized processes (Dahl, 1989).

However, in indigenous communities, the organization of power is not defined by ‘consent’. In fact, many indigenous communities have *de facto* retained their own institutions of autonomous governance – in some instances, those are based on tradition. In the indigenous community, the organization of power relations is defined by continuity. Continuity is important to secure the reproduction and preservation of indigenous societies, and to secure and protect their territorial base. In fact, the organization of power is assumed to reflect ‘specific cultural patterns’ rooted in traditional customs and practices (Anaya, 2004). From here stems the assumption that the right to SG implies both the right to a culture as much as the right to a land.

Moreover, ISG must navigate the coexistence with larger political structures, such as national and international institutions. This dual thrust

requires a delicate balance between the need to develop indigenous institutions (self-government, autonomy) and the development of the community within a larger society. In other words, the balancing act of the dual thrust strives to affirm the place of indigenous communities within the larger political order while allowing them to achieve self-government.

6.2. The Lacandon Community and Self-Government

The organization of power within the Lacandon Community (LC) raises questions about the type of political order that has been in place since it was established in the 1970s. The LC has historically been portrayed as being subject to political manipulation by the state (de Vos, 2002; García de León, 2002; Legorreta, 1998, Boremanse, 1998, Nations, 1979). The internal organisation of the LC follows the format established by the Mexican land reform policy for its beneficiaries. This means that the structure for the management of communal affairs has a basis on Mexico's constitutional system. Specifically, the framework established for land reform beneficiaries¹ is defined in the Constitution's Article 27² and the Agrarian Law – the LC's communal statute (CS)³ follows the principles established by that legal framework. Therefore, the LC follows the agrarian model of governance introduced by

¹ Regarding the procedure of restitution of lands, forests and waters to indigenous communities, the authorities had to verify the authenticity of titles, or it could be the case of a community with *de facto* tenure – lacking *titulo primordial*. Communal tenure is the oldest forms of tenure in the country. There are 2,218 agrarian communities who had been recognised through '*Reconocimiento y confirmacion de bienes comunales*' and even their lands have been titled (Gallardo Zúñiga 2006b). Other communities exist but might lack legal status – or have not been recognised and recognition will be resolved by judicial-agrarian courts.

² Article 27, section VII of Mexico's Constitution states that the general assembly is the sovereign body of the community; that the commissariat of communal goods is democratically elected; and the commissariat represents the community and is responsible for the enforcement of the resolution of the assembly according to stipulation of the Agrarian Law of 1992.

³ The Communal Statute of 1992 incorporated the multi-tier governance structure (Interviews 3; 22), so it is a synthesis between the articles of the agrarian law and the internal rules that LC's members (i.e., *comuneros*) have agreed upon; it also sets up a framework for the partition of the territory and access to natural resources.

the land reform programme. Moreover, the LC's internal organization is the product of negotiations that took place amongst agrarian authorities, land beneficiaries (i.e., Lacandons) and land claimants (Chol and Tzeltal groups). Those discussions took place over the period 1972–1979, culminating in the signing of an agreement in 1977 (*Convenio sobre los derechos de grupos choles y tzeltales en la zona Lacandona*) – the outcome of a series of negotiations.⁴

6.2.1. Pre-eminence and Representation

The political organization of the Lacandon Community replicates the structure of the land reform's *ejido*. Thus, in the LC, the general assembly of members (*comuneros*) is the 'sovereign' communal body – whose membership includes all of the holders of land rights. Additionally, the Community has a Board of Communal Goods and an Oversight Council. In this threefold language-based community of Lacandon, Chol and Tzeltal speakers, a key premise in the political organization of the LC rests on a principle that can be termed 'Lacandon pre-eminence', which means that the numerically inferior Lacandons need to be the heads of the Community.⁵ Originally, the 1977 Agreement established a council in which one representative of each of the three ethnic groups (Lacandon, Chol, Tzeltal) could meet to discuss communal affairs; it was a body in which the Lacandons had the power of veto, which was confirmed in the Communal Statute (CS).

The Community has a Board of Communal Goods and an Oversight Council, which deliberate and implement decisions taken by the members' assembly. Both are collective bodies with a chair, a secretary, and a treasurer; the chair of the Board of Communal Goods is the head of the Community (called the *Presidente del Comisariado de Bienes Comunales*). The founding arrangements of the LC stipulates that a Lacandon will always chair both of these bodies, whereas the posts of secretary and treasurer will be filled by Tzeltal and Chol *comuneros* in alternation.

The six-member Board of Communal Goods (*Comisariado de Bienes Comunales*), much like in *ejidos*, has the functions of an executive committee;

⁴ Agreements and discussions dated from: a) 10 July 1974, b) 22 June 1975, c) 30 March 1977, d) 9 March 1979.

⁵ Article 8 of *Convenio Sobre los Derechos de Grupos Choles y Tzeltales en la Zona Lacandona* (30 March 1977).

this body is responsible for the daily administration of the communal affairs and represents the LC in relations with outside actors and agencies. The six-member Oversight Council (*Consejo de Vigilancia*), in turn, has the duty to solve internal disputes regarding land as well as to ensure that the Communal Board does the job it is expected to do.⁶ Such is the structure of the LC as a whole, and a similar structure is in place in each of its five sub-communities, to handle its own particular affairs.

6.2.2. Pre-eminence and Power Sharing

Although established on the pre-eminence of the Lacandon group, at the same time this structure operates over a plural community. The communal statute refers to the membership of the community along ethnic lines: Lacandons, Chols and Tzeltals. The election and appointment of communal authorities adopted the principle of the Lacandon pre-eminence. The rule was that the head of the Community must be a Lacandon *comunero* who lives in Lacanjá Chansayab, although in principle the individual may also be a Lacandon from Najá or Metzabok (Interviews 26; 21).

The membership of the Communal bodies is a reflection of the ethnic composition of the LC, as quotas give representation to the other groups in the self-government structure. Originally, only Lacandons were members, but *comuneros* became more diverse with the inclusion of Chols and Tzeltals. The shift in representation occurred in the period 1996–1999. In the election of communal authorities of 16 February 1996, Mr. Carmelo Chambor Yuk handed over the leadership to José Mayorga Moreno (1996–1999) and, for the first time, *comuneros* from Nueva Palestina and Frontera Corozal were elected to the posts of Secretary and Treasurer of the Communal Board. Over the period 2003–2005, a non-Lacandon held a post in the Oversight Council, as one of its secretaries (Pedro Cruz Gutiérrez); however, the Lacandons of Najá and Metzabok took up all the Council positions for the period 2005–2008. In the 2008 election, no *comunero* of Najá was elected to the Communal Board, whereas Metzabok had only Enrique Valenzuela as a substitute on the Oversight Council (Interview 28kp).

⁶ The arrangement of the LC stipulates that a Lacandon will always chair both of these bodies; the posts of Secretary and Treasurer would be alternately filled by Tzeltal and Chol *comuneros*.

The quota system of representation is reproduced on the sub-community level (Najā, Metzabok, Lacanjá Chansayab, Frontera Corozal, and Nueva Palestina). Each sub-community should have a member in the bodies of authority. However, Najá and Metzabok are less active on the broader issues of the Community. *Comuneros* from these settlements are elected for secondary and substitute posts, mostly in the Oversight Council. By 2005, the elections of communal authorities from Najá and Metzabok were not really taken into account, as they rarely joined the meetings in San Javier, and had their own ways of dealing with the relevant issues.

In the communal elections in 2008, NP and FC expanded their presence in the Communal bodies. Tzeltal and Chol *comuneros* became substitute heads of the Board and Council, positions that had previously always been held by Lacandons (Interview 16). *Comuneros* from Najá have served in communal positions of authority since 1996 and have shared posts in the Oversight Council with Lacanjá Chansayab. Metzabok has participated during different periods, (1981–1989, 1992–1996, 2005–2008 and 2008–2011), with posts being held by Bor García, Enrique Valenzuela Martínez, and Rafael Tárano.

Thus, the rule of Lacandon pre-eminence has applied to the election of those bodies. Its operationalisation has meant that the head of the LC has been a Lacandon *comunero* – who preferably lives in Lacanjá Chansayab – although as we have noted, in practice, that individual may also be from Najá or Metzabok as well. In the period 1981–1989, the secretary of the LC was from Metzabok. However, there has been a recurring struggle to keep a balance of power not only among the five settlements, but also among the among the three groups: Lacandon, Chol, and Tzeltal.

6.2.3. Decision-Making

The General Assembly of Members

The General Assembly of *comuneros* is the main institution of the Lacandon Community, the keystone of its indigenous self-government – although it is stipulated by federal agrarian law, rather than being a customary institution. Being the main political institution of indigenous community life, it is composed of by all land-rights holders of the three linguistic groups. The general assembly channels the political life of the community and performs two major functions: one electoral and another as a decision-making body.

The Electoral Function of the General Assembly

Periodic electoral renewal of communal authorities is part of the structure of self-government. In the LC, the General Assembly of *comuneros* is important as the body that elects the community authorities. Elections have been carried out regularly, taking place every three years. Authorities are elected by majority of votes; votes are cast only by land-rights holders. The agrarian law stipulates the eligibility criteria for authorities of agrarian communities and *ejidos* (Gallardo Zúñiga, 2006b, p. 54). For instance, eligible individuals (*comuneros* or *ejidatarios*) should have worked in the community for at least six months before the election, should not have a criminal record, should be a holder of land rights, and should work in the *ejido* whilst serving as authority. In addition to periodical renewal of authorities, there is a ban stipulated by the agrarian legislation on consecutive re-election of the same communal authorities (Gallardo Zúñiga, 2006b, p. 54), thereby making the emergence of strongman leaders (i.e., *caciques*) unlikely.

In the LC, authorities have been elected periodically at least since 1992. There is no record of the existence of a strongman leader (*cacique*) in the Community, or in its sub-communities. Nevertheless, it is possible to find instances of strong leadership, especially from *comuneros* serving non-consecutive terms as heads of the Community (Appendix F). For instance, Mr. David Gonzalez Sansores served as chair of the communal board in 2003–2006 and in 2008–2011. Other strong leadership has been shown by from Messrs. Gilberto Kin Faisán (1989–1992) and Carmelo Chambor Yuk (1981–1983, 1992–1995, 2000) and Juan Chambor Yuc (1983–1988). Leaders have to have the ability to deliver (Interview 24) and the job demands skills such as expertise in administrative issues, government contacts, literacy skills, fluency in Spanish, commitment, and grasp of agrarian law. Moreover, at the level of the sub-communities, the closest case of a strongman has probably been that of a former sub-communal leader of Nueva Palestina and former municipal councillor, who stepped down after allegations of financial fraud in the municipal council. Frontera Corozal has a strong historical leader (Mr. Pedro Diaz) and faces strong rivalry from ecotourism service providers (Escudo Jaguar). Nevertheless, strong individuals have not developed *cacique*-style forms of leadership (Interview 31).

In the more recent elections held in the 2014, 2017, 2019 cycles, certain issues have come to the forefront. Briefly put, these elections played out as follows: in 2014, the General Assembly of *comuneros* elected a non-Lacandon

leader (a Tzeltal-speaking *comunero*); this was a decision reached by a faction within the general assembly – a decision that did not follow the required formalities and was thus not recognized by the relevant (i.e., agrarian) authorities. The election of 2017, in turn, restored the leadership of the community to the Lacandon *comuneros* in the wake of the 2014 leadership crisis. In 2019, the General Assembly of members carried out its electoral function and communal authorities were renewed, despite the existing internal tensions.

The 2014 to 2017 period was particularly critical as it ended a 35-year agreement by electing a non-Lacandon as the community leader, employing *fait accompli* tactics to create new realities necessitating negotiations. On 29 April 2014, the initial assembly to elect community authorities was disrupted by conflicts between two groups vying for control. More substantially, there were accusations that environmentalist outside groups wanted to ‘impose a person related to Julia Carabias’ (Partido del Trabajo, 2019) (more on this below). Thus, given the difficulties and confrontations between Lacandons with Tzeltals and Chols, a second assembly was held on 16 May 2014 – in the Tzeltal-speaking settlement of Nueva Palestina. There, Mr. Emilio Bolóm Gómez of Nueva Palestina was appointed as leader.

This marked a significant shift, as it was the first-ever non-Lacandon mandate. The Assembly entrusted the new leader to continue with a policy that had been enunciated in the 2008: to complete the boundary demarcation of the largest tract of land under the premise of negotiated agreements with the groups that hold those lands irregularly. It is also significant because it marked an attempt to at establishing a bottom-up policy: a grass-roots attempt to establish the premise of dialogue and agreement with neighbouring towns and organizations. In contrast to this conciliatory position – that spans the years 2008–2014 the election of a non-Lacandon *comunero* was contrary to the environmental policy promoted by the authorities. It was a show of determination and strength of Tzeltal speaking *comuneros*. But at the same time, the attempt of Tzeltal *comuneros* to lead the community with or without the participation and/or consent of the Lacandons (SERAPAZ, 2020) had limits that made themselves evident. The election was challenged by legal means that ultimately prevailed, as the electoral procedure was not recognized by agrarian authorities – as demanded by law and the communal statute. Equally, the election was challenged by political means that not only also prevailed, but also triggered a conflict with environmental authorities – and its civil society partners (SERAPAZ, 2020). For organizations

such as SERAPAZ, the election of a non-Lacandon leader was more than an attempt at destabilizing the LC, it was an effort at changing the politics of the rainforest. More generally, the period 2012–2017 period should perhaps be seen as the logical development of the 2003–2006 agrarian regularization program that had prioritized the negotiation of land tenure disputes.

In the elections of August 2017, in turn, internal tensions were related to the duality of positions regarding the existence of illegal settlements within community lands. On the one hand, some agreed on a policy of 'negotiations' with those groups; on the other hand, others agreed with a policy of evictions. In the election, the Lacandon *comunero* who was elected community leader gave his fellow members the impression that he was close to the position of federal authorities on the issue of evictions. In this way, the 2017 community leader election expressed two positions on land and environmental issues, but also revealed a legitimacy problem – since more than 600 community members had not attend the election, because they expected that the proceedings would be manipulated.

Lastly, in 2019, the general assembly of members carried out its electoral function on 25 June. The communal authorities were renewed despite the existing internal tensions.

The Decision-Making Function of the General Assembly

The General Assembly is the main decision-making body of the LC. It is the 'sovereign' communal body, as its membership is comprised of all holders of land rights. As a decision-making body, the members of the community, together in a meeting in certain place (i.e., Parador San Javier), join to convene the Assembly and take part in deliberations and votes on matters that concerns them. The Assembly approves or rejects decisions made by the communal board.

The main issue is land. The LC's main objective has been, for its entire history, the boundary demarcation of its main tract of land. For instance, in 2011, during the election of community authorities, the General Assembly showed an interesting aspect of its decision-making function. It had to work out the policy it would adopt on the two most crucial issues: land disputes and environmental conservation. The outcome was the election of community authorities with a 'conciliatory vision' on land issues (i.e., to continue with the negotiations); this was the decision of the General Assembly – and the expression of a broad understanding within the Community and its five sub-communities

(Lacanjá Chansayab, Nueva Palestina, Frontera Corozal, Najá and Metzabok) in favour of continuing negotiations on agrarian issues with relevant lands claimants. The adoption of this policy, it was assumed, would facilitate the continuation of their efforts to complete the boundary demarcation of their land tract. The conciliatory element is given by the intention to seek negotiated agreements to put an end to land invasions (Partido del Trabajo, 2019).

Perhaps another aspect shown by the 2011 election is the attempt by external actors – parties interested in enforcing federal environmental policy on protected natural areas within the lands of the Community – to influence the LC's electoral process. Repeatedly, LC's *comuneros* have pointed at Julia Carabias – an NGO operative, former government official and environmental scientist – as a person interested in influencing the process of electing community authorities (Partido del Trabajo, 2019) by promoting people environmentalist NGOs felt they could better work with. Their goal seems to be pushing forward environmental policy: evicting illegal settlements within protected natural areas such as the Montes Azules Biosphere Reserve. For the LC, pursuing such a policy would imply the interruption of negotiations with several landed settlements (*ejidos*) and social organizations that had been underway. As we have noted, for the LC the main goal is to ensure the completion of the boundary demarcation of its tract. Despite efforts, however, the attempt at influencing the election of communal authorities was not successful in 2011. Thus, the LC's General Assembly is an institution in which community members define policies on matters that concern them; its proceedings and decisions determine the policies the Community will adopt on the topics that make up its agenda.

6.2.4. Geographical Realities and Tiers of Self-government

The government structure responds to the circumstances of having a large, diverse and dispersed population over a large territory. Specifically, the three-tier self-government structure solves the problem of having a large population in five geographically separated settlements. Day-to-day communication amongst the sub-communities exists, but the distances between the settlements create problems in terms of money and time.

Communal-level authorities constitute the first, top tier of self-government. This is a sort of general government for the whole of the community; communal leaders deal with external issues, represent the community before

government tiers (municipal, state and federal); they also act as arbiters or mediators in internal disputes. For instance, when Najá and Metzabok have their territories invaded by neighbouring communities, the communal leadership have gotten involved to support and defend members and territories (Interviews 18; 20). In other cases, however, issues do not fall clearly within the jurisdiction of either the communal or sub-communal authorities. Moreover, the authorities deal with land issues and larger programmes for the LC and its natural reserves, although sub-communal authorities frequently attend meetings with the communal leader. While some issues require the tandem action of communal and sub-communal authorities, each has its agenda.

The five sub-communal authorities constitute a second tier. They have the role of focussing on the rest of the various needs of their particular settlement – e.g., the paving of roads and streets there. This tier of self-government has clear and defined functions; it is limited, however, as sub-communal administration often has to go through the leader of the Communal Board to submit petitions directed to government agencies at municipal, state, and/or federal levels. However, since the formal representation lies with the leader of the Communal Board, he has to sign any petition that sub-communities make to municipal, state, and federal agencies. On the agenda on the sub-community level are issues like the provision of services and infrastructure along with land-related problems particular to the community (Interview 19). At this level, different problems arise in the relationship of the sub-communities and the way they perceive each other:

Nueva Palestina does not uphold the agreements reached within the community. The Lacandons go along with the majority or minority. All of them want to be bosses; they cannot organise collectively for work as everybody looks out for their own interests. (Interview 9)

It is the duty of the communal authorities to deal with land issues and larger programmes for the Community and its natural reserves, but some sub-communal authorities frequently attend meetings with the Lacandon leader on such issues. Some *comuneros* criticise the sub-communal authorities for excessively focussing on land issues and neglecting the rest of the needs of the people.

The tracts of land of Najá and Metzabok are part of the greater LC, and their membership is a measure for protecting their lands and livelihoods; nevertheless, they rarely join meetings of the authorities and say that they have their own affairs and ways to deal with them (Interview 20). Some *comuneros*

are reportedly neglected, like the Lacandons of Ojo de Agua Chankin, and little attention is said to be paid to Najá and Metzabok (Interview 10). Moreover, some issues do not fall clearly within the jurisdiction of either the communal or sub-communal authorities, like the conflict with Viejo Velasco where sub-communal authorities would urge communal ones to deal with these issues since the problem relate to land (Interview 17); however, the communal leader could have argued that the issue is happening in the territory of Nueva Palestina.

Thus, Communal authorities constitute the first tier of self-government as a sort of general government for the whole of the community, while the sub-communal authorities constitute the second tier focussing on the different needs of each settlement. The ward constitutes a third tier of government; it is limited to organisational and transmission of information and decisions reached at the upper two levels of government. The ward level exists in Lacanjá Chansayab, Nueva Palestina and Frontera Corozal.

6.3. The Dual Thrust: Indigenous Self-government and Intra-community Politics

To understand the political dimensions within indigenous self-government, this section examines three relationships: the General Assembly vis-à-vis the Communal Board, the leader with respect to the assembly, and the Community vis-à-vis the sub-community.

The first example is the relationship between the Communal Assembly and the Communal Board. Dealing with the General Assembly of *comuneros* is a challenging job for the communal authorities; as the main decision-making body, the Assembly approves or rejects the decisions made by authorities (Interview 28kp). However, the decisions that shape the life of the community exhibit something of a balance between the communal authorities and the communal assembly.⁷ Managing that balance requires the authorities

⁷ The integration of the structures of governance is the result of intra-community cooperation; the election of communal authorities requires the cooperation of the three groups (Lacandons, Chols and Tzeltals). Cooperation is only the outcome of a cyclical struggle to keep a twofold balance of power: among the three groups, and among the five settlements.

to be able to continually count on the support and cooperation of fellow *comuneros*. Decisions are taken by the Assembly – although the leaders do have an important say in framing and putting issues to it, it is the latter that ultimately has the final say. Therefore, decisions adopted by the LC are the product of issues discussed and put before the Assembly by its collegiate leadership.

In the relations between the leader vs. the assembly, in turn, continued trust and cooperation in the operation of the structure of self-government is needed. The management of the LC requires that the leader have sustained support from the Assembly as it is the main decision-making body, including because it is a political body. Leadership requires a leader to have the ability to gather the support of the community (including Chols and Tzeltals). The job of communal leader is 'easier' for someone who has the 'natural' support of the community, as that a leader has to be a person open to listening and responding to people's concerns (Interview 22). He needs to have the ability to deliver (Interview 24) as much as experience and knowledge of the Community's issues (Interview 22). Thus, the job demands skills such as expertise in administrative issues, government contacts, literacy skills, fluency in Spanish, commitment, and a grasp of agrarian law. Moreover, the management of the LC is not constrained by the rules of the communal statutes: 'as the behaviour of the people is like another statute book' (Interview 24). A leader must have convictions and opinions in order to be motivated to remain in the position, in the face of the insults and criticisms that he will undoubtedly receive (Interview 24).

Lastly, the relationship of the Community as a whole vis-à-vis the sub-community implies an important power relation. There is evidence suggesting that the LC and its sub-communities act as checks on the leaders at both levels: communal and sub-communal (Interview 25.) Instead of strongmen (*caciques*), evidence collected in interviews and by observation suggests the existence of sub-community-level factions that project their members and their positions on issues not only at the level of the sub-community but also at the level of the general assembly. Thus, strong leadership has not been a problem for the LC. There is no record of the existence of a strongman (*cacique*) in the Community, though it can be claimed that some strong leaders figure in the sub-communities. The interaction between the leader and the people imprints a dynamic to the community. Elections have become cyclical mechanism to keep a balance of power. While strong leadership in agrarian bodies is common, the lack of it in the LC may be

explained by its size. Size is an important element of self-government, given the balance of power amongst three groups (Lacandon, Chol and Tzeltal) and five settlements. The periodical renewal of authorities combined with a ban on consecutive re-election of authorities is in accordance with to agrarian legislation (Gallardo, 2002, p. 54).

Both the ethnic composition and the geographical distribution of the community require communal leaders to cooperate with one another. In this sense, plurality becomes a tacit issue for self-government. It seems that decisions very often are taken in agreement between the communal authorities and the communal assembly. When the communal authorities meet, it is often in the presence of sub-communal authorities as well – at least from Frontera Corozal and Nueva Palestina. Sometimes, when decisions are put before the General Assembly, they have been previously discussed at sub-communal assemblies (Calleros-Rodriguez, 2010).

Overall, therefore, the decisions adopted are the product of issues discussed and put before the assembly by the collegiate leadership; decisions are taken by the assembly, although leaders have weight in framing and putting issues to the assembly. For instance, on agrarian affairs, an elder *comunero* member of the agrarian negotiation team (*comisión concertadora*), explained the background to one such decision as follows:

‘In 2003 the dialogue was started again, but in another form... the government [federal and state] organised the dialogue with the pending settlements... (...) on the bank of the Usumacinta River there are three [‘invaders’]: Flor de Cacao, San Jacinto and Ojo de Agua. On the Rio Negro bank, there are Salvador Allende, San Antonio Miramar, Nuevo San Gregorio; but two settlements are in talks for their regularisation, Salvador Allende and Nuevo San Gregorio. This [issue] has been discussed widely at the General Assembly of 28 October 2006, which approved the regularisation of the two settlements on the Rio Negro bank. The other settlements like Nuevo Israel and Nuevo Salvador Allende will have to be relocated, because they are within the Montes Azules reserve. All of them are within the reserve, but Salvador Allende and Nuevo San Gregorio, due to the long time they have been there, in that location, are going to be regularised’ (Interview 14).

These three relationships – the General Assembly vis-à-vis the Communal Board, the leader in relation to the assembly, and the Community compared to the sub-community – demonstrate the intricate dynamics of power, politics, and decision-making within indigenous self-government. This structure

ensures that the assembly not only represents but also enacts the collective will, maintaining a balance of power that is vital for the community's continued viability. Moreover, the electoral and decision-making functions of the General Assembly underscore the unique aspects of indigenous polities, reinforcing the notion that Indigenous Peoples (IPs) have distinct memberships and autonomously manage their own affairs.

6.4. The Dual Thrust: Indigenous Governmentality

How an indigenous community manages its internal affairs is at the heart of indigenous self-government (ISG), which seeks to balance the development of indigenous institutions (self-government and autonomy) within a larger society. According to Anaya (1996, p. 110), ISG represents a 'sphere of governmental or administrative autonomy for Indigenous communities' (Anaya, 1996; 110) that deals with internal affairs, such as the development of capabilities to handle its internal agenda and keep its authorities in check (i.e., accountability). The need to develop institutions of self-government is directly tied to the effective management of internal affairs. Moreover, managing these affairs is part of the development of the community within a broader society – which is often marked by a complex relationship with different tiers of state jurisdictions. For instance, municipal authorities deal with issues such as water supply, rubbish collection, policing, sub-national jurisdictions are often concerned with educational services and social policy, while federal authorities are concerned with issues such as land, environment, social policy, energy supply, health, religion, economy, farming. Three issues of indigenous self-government are marked by the development of management capabilities, the internal agenda and its forms of accountability.

6.4.1. Management Capabilities

The effective management of communal affairs requires the development of robust administrative capabilities, enabling the indigenous community deal with the demands of its large and geographically disperse population. For example, having trained personnel to handle its administrative issues could allow the community to better respond to the complexities of its relationship with three state jurisdictions. The case study highlighted specific deficiencies

in managing natural resources (Interview 151mh), pursuing the agrarian agenda, and handling the demands of an increasing population.

Remuneration for *comuneros* who serve the community is an important issue. Serving as a communal authority is traditionally seen as a voluntary service, requiring significant time and effort without financial compensation. This can lead to economic hardship for the families of those in roles of authority, as managing community affairs is a demanding and time-consuming task that often involves addressing complex issues. Despite the strong bonds of solidarity, conflicts can develop between authorities and community members, which may persist even after leaving office. As the financial burden from this service can easily be translated to authority's families, the CS states that communal authorities and their families should be supported materially or economically, and some *comuneros* think that paying a wage to the communal authorities would be a positive step, as it would alleviate the burden on the families of the authorities.

To fund its operations, the LC's community authorities have traditionally relied on contributions from its members. The LC 'taxes' its *comuneros* to keep the community operating. The communal authorities pay for the expenses of the office's management through monetary 'co-operations' every time authorities need to go to a government office in a different city (Palenque, Ocosingo, San Cristobal, Tuxtla Gutierrez and Mexico City). These pay for transportation, meals, photocopies and other payments. This form of taxation entails at least two problems: monetary cooperation, for some *comuneros*, has come to be perceived as a burden. Equally, some people may feel that leaders ask for too much money, and there are expectations that they should deliver results proportionate with their budgets. Moreover, concerns about transparency and the management of these funds often arise, leading to complaints or suspicions about financial mismanagement.

The authorities require small-sum contributions from the people to manage communal resources. These contributions raise the topic of accountability as an important aspects of the relation between community authorities and *comuneros*. The absence of effective mechanisms to monitor and control spending exacerbates these concerns (Interview 24). Instances of misconduct have occurred in the past. The development of the capacity to get things done rests on having permanent personnel, entailing a need of training and salaries to perform the administrative work at the sub-communal and communal tiers of self-government.

6.4.2. Accountability

Accountability within indigenous self-government refers to the community members' ability to hold leaders publicly responsible for their decisions and actions – a capacity that is also relevant for fostering more democratic relations within the community. This accountability is particularly significant in managing communal finances, where conflicts have often arisen. For instance, between 2003 and 2006, conflicts emerged due to a lack of accountability concerning the management of compensation funds paid by the government for lands the community agreed to relinquish to land-claimant groups. Accusations of embezzlement are not uncommon, suggesting a need for more robust financial oversight.

Comuneros with experience in leadership posts nevertheless argue that misappropriating money from government programmes is very difficult because proof of expenses has to be produced to the relevant agency, and the individual who receives the money can be tracked down as he has to sign a number of documents (Interview 24). Despite these precautions, there seems to be a lack of clear mechanisms to control spending effectively. For example, during the land regularization program from 2003 to 2006, the LC received a substantial sum for land sold, with part of this money (\$1,200,000 MXN) allocated to a communal fund. Yet, without stringent controls, the potential for financial mismanagement remains.

The General Assembly plays a crucial role in this context, with the power to call authorities to account and resolve disputes, ensuring the community's interests are served (Interview 17). Communal authorities have been ousted twice on accusations of misconduct and mismanagement; there are rules for the removal of authorities from office (Gallardo, 2002, p. 54, CS Article 26, also Agrarian Law Article 37). Authorities elected for the period 10 April 2002 – 10 April 2005 were removed on 23 January 2003, and new ones were elected to complete the term. Similarly, those elected for the term 10 April 2005 – 10 April 2008 were removed on 18 August 2007. One of the challenges to the governance structure of the LC is to develop better ways to control not just the conduct of its authorities, but its finances and resources (Interview 18).

Accountability is important in the relation between the leaders and the community, as the capacity of community members to hold leaders responsible for their actions. This is a 'seed of accountability' which can be understood in line with Fox's approach: 'It takes up the challenge posed by Michels' classic political

sociology puzzle of the “Iron Law of Oligarchy”, asking which factors make it possible for members to hold their leaders accountable. The capability to remove authorities from office represents a practical application of accountability and can act as a significant counterbalance within the community. This process not only checks potential abuses of power but also reinforces the governance structure, ensuring that leadership remains responsive and responsible to those they serve. The consolidation of indigenous self-government as a system that is more accountable, effective and legitimate to its members requires the strengthening of mechanisms, where the community actively participates in and influences its leadership and decision-making processes (Fox, 2007, p. 78).

6.4.3. Agenda

The communal agenda has long been dominated by agrarian affairs – not only at Community level, but also at sub-community level (Interview 27). Those issues have dominated the work of authorities to such an extent that some feel that this has made them neglect other urgent issues, such as social and economic (production) needs of the Community’s population. In fact, for indigenous self-government, it is difficult to handle the variety and complexity of the issues that populate its agenda. For instance, a communal authority elected in 2008 concedes:

We have given them little attention, I admit; the needs of the community have forced us to focus on finishing the bounding of the territory. When this is over, we’ll start to look at social and economic issues... and lay the foundations for the use of natural resources of each sub-community (Interview 23).

One young non-*comunero* has similar observations:

The *comuneros* neglect various areas, as they focus on one single issue. Here they have bet 100% to the agrarian issues... and there is no room for other things important for the development of the community, like health issues... the health centre... there wasn’t even there a thermometer to take my temperature when I got ill... there were no medicines there, neither. The doctors say that it is up to the sub-communal authorities to apply for medicines [to the Chiapas State health authorities]... this is overlooking something that is very important. It’s only one single example of other things that have been neglected at the expense of leaning all weight on agrarian issues, which are very important, but I feel that those issues are as important as other areas, and there is where I think they have failed...’ (Interview 31).

A strong emphasis on agrarian issues has meant the neglect of other areas such as social development (Interviews 27; 30). Communal authorities at both communal and sub-communal levels are tasked with addressing social development concerns, there is a perception that they are less engaged in communal affairs and more focused on their own issues. This is compounded by the greater autonomy exercised by Najá and Metzabok in managing their own internal affairs (Interviews 26; 20; 10). This disparity suggests a need for a more balanced approach to governance that equally addresses both agrarian and social development issues to ensure comprehensive community development.

The economic life of the community represents a significant part of its agenda, particularly as the community and sub-communities are under enormous pressure to find ways to secure the livelihoods of their growing population. The community faces a number of challenges, such as the regulation of commercial services (cyber-cafes, shops) and transportation services (taxis, minibuses). More broadly, these pressures have been expressed in demands for more land for farming and cattle ranching, or calls for the lifting of restrictions on the commercialisation of some plants (i.e., *xate*). Economic activities such as farming and cattle ranching are central to the economies of Nueva Palestina and Frontera Corozal, despite the objectives of the Lacandons and environmental authorities. Lacandons see environmentalism as a way to protect their resources. In contrast, the Chols and Tzeltals fear that it threatens their livelihoods, although they accept the importance of biodiversity conservation. As another young non-*comunero* commented:

[In Frontera Corozal] every day the community gets bigger. Probably that is not the problem... the big problem I see is the misuse of natural resources. In social issues, Frontera Corozal is very well organised... there are organisations. Tourism is an important activity... (...) Nueva Palestina is just like Frontera Corozal, except that cattle raising is very strong over there, but they need encouragement or training to use their natural resources in a better way (Interview 9).

The extent to which the state plays with these internal differences on the use of natural resources and the economic implications has been a source of problems. For instance, *comuneros* of Lacanjá Chansayab complained that Nueva Palestina and Frontera Corozal are clearing too much of the rainforest cover, and that Nueva Palestina in particular has entered into its land to use natural resources that the Lacandons have not exploited. The Lacandons have

complained that they feel under siege by fellow Tzeltal and Chol *comuneros*; they fear Nueva Palestina and Frontera Corozal will invade lands and deplete the rainforest. In feeling that they are facing threats to their land, the Lacandons have thought of new ways to address the pressure on land:

In some cases, people of the Community itself live within the Montes Azules biosphere; but if the demands [employment and source of income] are not addressed; [then the problem] is serious because [the people would] deplete the natural resources... to reduce this, the federal and state governments have to make a major investment in the community to give young people sources of income (Interview 23).

Finding alternative sources of employment and income (i.e., eco-tourism) is seen as a way to stop natural resource depletion. However, some think that a viable alternative is to give cleared areas (where evictions have occurred) to the landless sons of *comuneros*: ‘we want to see production and to involve the community in it’ (Interview 29).

6.5. The Dual Thrust: Indigenous Self-government and the Larger Society

That the indigenous community as a local social unit often articulated as part of larger (national) structure is the second element of the ‘dual thrust.’ The area of interaction of indigenous self-government with the state is about power, politics, public policy arenas, contentious collective action and control. These are the elements that define part of the relationship with the Mexican state.

6.5.1. Power

In relation to power, two phenomena that need conceptualization in indigenous politics are coalition formation and factionalism. The case study brought to light the existence not only of three linguistic groups of members (Lacandon, Tzeltal and Chol) living in in five separate ‘towns’ (named sub-communities), but also different factions of opinions and interests within each of those groups – and within each town.

Factionalism and coalition forming are two important political dynamics that take place in relation to the General Assembly – specifically, during the election of community authorities and decision-making. The alliance of at least one of the three linguistic groups (Lacandon, Tzeltal, Chol), or a faction within a bloc, is important to secure the approval of a decision. In several critical moments, the participation of external actors (i.e., federal government agencies) is expected. On the other hand, in processes of electing community authorities, one can encounter accusations of external interference – two examples being the 2011 and 2014 election of community authorities. The dynamics of coalition-forming and factionalism deserve research beyond the scope of this work, but the key field in which those dynamics can be observed involves issues of land.

In both community elections and decision-making processes, at least two distinct factions typically emerge within the Assemblies. Often, one faction aligns closely with the environmental authorities and allied NGOs, while another seeks to distance itself from federal policy priorities, such as negotiations concerning land invasions by groups that have settled within community lands. Thus, intra-community politics, especially regarding coalition formation and factionalism, play a pivotal role in shaping critical community outcomes. These dynamics are especially pronounced in matters related to land, which are vital to the LC, influencing both the election of community authorities and broader decision-making processes.

6.5.2. Arenas

Public policy is instrumental in framing the relationship between a government and social actors, such as an indigenous community. As the latter tries to achieve self-governance, the analysis of public policy becomes important. To respond to public policy challenges, an indigenous community needs to develop capacities to deal with specialized, complex and varied issues. Strengthened indigenous institutions are thus required and important for the life and reproduction of the indigenous community itself. However, the challenge for them consists in developing in a way that allows them to become actors that are 'relevant and powerful in the public sphere' (Porsché et al., 2022). For a political analyst studying indigenous politics, on the other hand, the challenge consist in researching forms of indigenous 'institutionality'.

6.5.3. Politics and Control Politics

Politics also shapes the relationship between the state and the indigenous community, particularly within the structures, systems and processes of the larger political order (i.e., the Mexican constitutional system). This presents significant challenges to a social [indigenous] group trying to self-govern its community life. The historical context of the case study presented here study suggests that governmental efforts at exercising control over the LC are frequent. If political control is part of the experience of indigenous communities, it is because governmental action has impacts on them. The coexistence of the indigenous community within larger political institutions has implications felt within the community (disagreements, tensions, tensions or even conflict) in relation to, for example, public policy regarding land and/or environmental matters. Those implication are further exacerbated when government's environmental authorities, for instance, began to favour or finance projects of some groups at the expense of others. Access to public funds is crucial for either alleviating or exploiting intra-community tensions.

In discussing indigenous self-government, we must consider the forms of political control, especially since they constitute a form of relationship that can be deployed by larger political orders (i.e., states) over smaller entities, for specific purposes (i.e., public policy implementation). Political control is an aspect that derives from the coexistence of an indigenous community within a larger political order (municipal, state, federal). In fact, indigenous self-governments often have to respond to pressure tactics, harassment and police arrests, judicial harassment, conditional access to public funds, as well as 'cooperative' dynamics conducted by higher authorities.

The case study revealed that such 'control politics,' to which indigenous communities are subjected given that they are part of a broader political order, is indeed the experience of the LC as well. This has included, for instance, the arrest of certain LC members (*comuneros*, advisors or allies) in 2014, in the context of the election of community authorities (Partido del Trabajo, 2019). The individuals who were arrested were in opposition to the enforcement of environmental policy – through an alliance with *comuneros*, environmental authorities and the NGO *Natura y Ecosistemas Mexicanos*. The imprisonment of LC *comuneros* and advisors was a way to put pressure on those who favoured land negotiations over environmental protection (i.e., the forced eviction of illegal settlements located within the MABR). *Comuneros*

were then taking advice and legal support from Servicios de Apoyo a la Paz (SERAPAZ).

Such control politics, it has been claimed, also adopts another mechanism: the granting of formal recognition to agrarian proceedings. Under federal agrarian law, the authorities (i.e., on the federal level) have to grant their recognition to such proceedings – such as the election of community authorities. For instance, the LC General Assembly in 2014 elected a non-Lacandon as leader, thereby breaking with the community statute, but above all with federal law. Consequently, the agrarian authorities (i.e., the Agrarian Attorney of Chiapas) did not attend the proceedings related to the election. The non-Lacandon leader was not formally recognized by the pertinent (agrarian) authorities, in line with the procedures of agrarian legislation – which governs the relationship between the State and the agrarian communities (see Chapter 2).

A third form of political control is exerted by regulating access to public funds. Again, in the 2014 election, it has been claimed that federal authorities (SEDATU and FIFONAFE) 'generally suspended the delivery of the moneys so as not to continue with the boundary demarcation' within the Community (Partido del Trabajo, 2019).

The fourth form of political control proceeds by means of influencing community life. It has been claimed that environmental authorities (SEMARNAT, CONANP; Chiapas State government) financed a group of Lacandons to hire legal services to challenge the proceedings of the General Assembly of *comuneros* of 16 May 2014 in order to dismiss the (non-Lacandon) community authorities that had been elected at that general assembly. The legal challenge was filed before the agrarian tribunal of district 54 (agrarian judgment 125/2015). The process of designating the community authorities was left to the Agrarian Attorney's Office.

If political control illustrates the place of the indigenous community within a larger political order (i.e., the federal republic of Mexico), as *comuneros* try to manage their own community affairs (through self-governance), then research on indigenous politics could focus on how to develop indigenous institutions so they can respond to the realities and challenges of political control.

The study of indigenous self-government has to consider the forms of political control, within the broader society. The development of indigenous self-government institutions in this context requires not only awareness

of these control dynamics but also strategies for mitigating their influence. Although control politics is a method used by authorities to ensure the cooperation of social groups in the execution of public policy, it has its limitations. When control politics exacerbates tensions with a given social actor – for example, when community leaders or its advisors are arrested – governments (federal, state, municipal) can change course and propose cooperation or ‘dialogue’ (see Partido del Trabajo, 2019). In such a situation, public spending can replace pressure, harassment or persecution. Budget allocations are part of this tactic. For example, the federal government allocated funds (some 92 million pesos) for 52 communities settled in the area of the LC’s largest tract of land. According to one account, the purpose of public spending was to ‘create a program of productive and reorganization projects within the LC’ (Partido del Trabajo, 2019).

6.5.4. Contentious Action

In discussing indigenous self-government, various forms of contentious collective action need to be acknowledged. Indigenous communities frequently resort to such measures in reaction to a politics of control imposed by larger political entities (the Mexican State: municipal, state, federal). Control politics is often understood as involving pressure tactics, harassment and police arrests, judicial harassment, conditioned access to public funds, as well as ‘cooperative’ dynamics conducted by authorities. Control is a form of political relationship that can be deployed by larger political orders over smaller ones, for specific purposes (i.e., the implementation of agrarian and environmental public policy).

Throughout its existence, the LC has responded to public policies and those tactics by means of contentious collective action. This form of political action is part of the long tradition of land-based (i.e., agrarian) politics extending since the end of the Mexican Revolution in 1921 (see Chapter 2). Collective action in response to government decisions and priorities has indeed been recurrent in the LC’s fifty-year history (see Chapters 4 and 5). Recently, mobilizations have taken place in relation to the election of community authorities. In May 2014, the election of a non-Lacandon leader was met with opposition by agrarian and environmental federal and state authorities (Partido del Trabajo, 2019). To secure the release of the detained leaders, advisors and allies of the *comuneros*, the LC engaged in a form of contentious

collective action, in alliance with other land-based actors (i.e., social organizations) able to mobilize support at local, state and even national level. This action succeeded in securing the release of the arrested individuals (Partido del Trabajo, 2019; SERAPAZ, 2021). The events of 2014 provide one of the latest examples of how collective action emerges as a form of resistance to contest and challenge authorities' actions and/or decisions and to mount pressure on the authorities.

6.6. Chapter Conclusions: Communal Self-Government

Indigenous self-government is a form of organized power. Political organization on the part of an indigenous community has been framed in terms of a 'dual thrust' – entailing the development of its own institutions alongside its development within a larger socio-political order. This duality confirms the place of indigenous communities within states.

In terms of self-government, the Lacandon Community has had power organized in a way that replicates the structure of land reform's *ejido*. Although based on the premise of the pre-eminence of the Lacandon group, this structure operates over a plural community; the membership of the community bodies reflect the ethnic composition of the LC. The government structure responds to the circumstances of having a large, diverse and dispersed population over a large territory. Specifically, the three-tier self-government structure solves the problem of having a large population in five geographically separated settlements. In this structure, the General Assembly of *comuneros* is the main institution; it is the 'sovereign' communal body as its membership is comprised of all of the holders of land rights. Moreover, its periodic electoral renewal of the communal authorities is part of the structure of self-government.

The 'dual thrust' means that the political dimension within indigenous self-government can be observed, for instance, in relationships involving the Communal Assembly and the Communal Board, as well as in relations between leaders and the Assembly. Evidence of political tensions within the indigenous community can also be seen in the relationship between the LC and its sub-communities.

Indigenous self-government has an administrative aspect. The governmental dimension of the internal life of a community can be assessed regarding the development of management capabilities, the internal agenda and its forms of accountability. These political and administrative elements mark the internal sphere of indigenous self-government. As this chapter has sought to show, regarding the connection of the indigenous community with the larger society, which is the second aspect of the 'dual thrust,' the interactions between the LC and the State can be defined in terms such as power, politics, public policy arenas, contentious collective action and control.

SECTION III

Polity and Indigenous
Community

Chapter 7

Indigenous Peoples and Polity Formation

7.1. Introduction

The formation of a polity, or its ‘founding,’ marks the birth of a political community (Calleros-Rodríguez, 2023). A founding is an event after which a community is no longer a loose group of individuals in ‘a state of nature.’ Dominant views of ‘founding’ in contemporary political systems (i.e., constitutional democracies) take the form of narratives and practices that define the birth of a nation or state. Foundings are original moments of creation, from which a system of government and its people are said to exist.

Such views, validated in past and present accounts, are regarded as ‘authoritative binding origins.’ The outcome is the projection of the founding event as the anchor of political authority and the source of its legitimacy. These visions, however, are problematic in three ways: with respect to *original authority*, in terms of the *representation and the people*, and regarding *democratic self-constitution*. Together, these problems are often understood to de-authorize political origins; such de-authorization means that the polity lacks legitimation. Delegitimation increases as political origins (‘foundings’) are called into question from the perspective of power relations. In the foundation of a political order, conquest, civil wars, revolutions, revolts, protests, social movements are at the centre of events, at least as much as constitutional conventions.

This chapter examines theoretical narratives about the ‘founding’ of political orders while trying to identify the place of indigenous peoples

in those narratives. It examines how culturally and territorially-based groups transition to being a land-based political entity (i.e., agrarian community). In assessing how to democratically incorporate indigenous peoples (IPs) into larger polities (i.e., nation-states) and to address claims of delegitimised ‘foundings,’ the analysis follows the line of argumentation developed by Angélica Bernal (2017). Moreover, it proposes a model premised on the concepts of self-determination, autonomy, self-government, and consent as laid out by the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). The model suggests a counterpoint from which to examine Bernal’s (2017) framework (‘foundings-beyond-origins’) and, at the same time, it posits a model of engagement between indigenous peoples (IPs) and states.

7.2. Approaches to the Study of Political Foundings

Debates about political origins (i.e., foundings) are central to both constitutionalism and political theory. From the perspective of indigenous peoples, the question of how to democratically incorporate them into polities, whilst at the same time supporting and enabling them to pursue self-government, autonomy, self-determination and territorial control, is a contemporary part of those debates. Various scholars have examined the problem of the extent to which IPs challenge ‘founding’ narratives and existing political orders grounded in those narratives. Critical historians, scholars of nationalism and postcolonial societies have looked at problems of authority, legitimacy and change – which are issues innate to any political order.

The ‘common view of founding,’ originating from the contractual tradition of Jean Jacques Rousseau and John Locke, has been used to legitimise the exercise of state power and creation of political orders. A constitution, as a legal document that lays out and establishes political authority and fundamental rights is a concrete manifestation of the social contract – a founding moment. It is accepted that a constitution engenders a new political community through voluntary agreement between equal parties (Bernal, 2017). A constitution emerges from ‘foundational invocations’ (events, ideals, leaders and places) to assert and legitimise political claims, produce consensus and civic unity, as well as to support the authority and sovereignty of a state. Those invocations serve to recreate the founding moment as a point of origin and civic unity as much as one of state sovereignty.

However, unfolding realities and academic research have shed a very different light on founding events, as nexuses of contestation where events, ideals, leaders and places are challenged. Observers have highlighted some of the problems behind founding events by identifying exclusions, inequalities, protracted tensions or open conflicts. Scholars often confront political origins with the realities of power in recurrent debates about the meanings of a founding events. Foundational invocations, viewed as constructed phenomena, play a role in unifying contemporary citizens. In these invocations, the premise is that a 'people' or a 'polity' is not born at the moment when a declaration pronounces the independence of a colony, or when a constitutional text proclaims a new political order. Instead, the moment of a political community's birth seems to take place through 'the symbols that evoke the imagination and effect of citizens to forge themselves into members of a shared nation' (Bernal, 2017). From the perspective of international human rights law, efforts have been made to accommodate indigenous peoples within states in a way that is compatible with self-determination, self-government, autonomy, and control over their territories (Charters & Stavenhagen, 2009; Allen & Xanthaki, 2011; Pulitano, 2012; Short et al., 2019).

For historians, the problem of the foundation of a polity is the problem of a particular interpretation of an original founding event. Confronting historiography with 'national celebrations,' historians have long highlighted problems behind founding events as they bring to attention the exclusions, disagreements, conflicts, and dynamics – often complex and intertwined – that shape original founding events. An example is the narrative of the 'civilising' European settler in relation to indigenous societies (Wolfe, 2006).

Similarly, Postcolonial Studies have highlighted the problematic character of 'the coloniality of power' in numerous places around the world. Coloniality is a legacy of events that unfolded in the late fifteenth century, a legacy which still informs political, economic, and cultural relations in the twenty-first century. In fact, current references to 'internal colonialism' suggest that certain populations (i.e., Indigenous peoples) are still in a situation of vulnerability and domination through the manifold logics of subjugating forces. In both Anglo America and Latin America, the retroactive memorialization of constitutional foundings recreates the founding moment not only as a point of origin and civic unity, but also as a plank of state sovereignty. In Postcolonial Studies, attention is focused on the problem that emerges with such a 'new beginning' narrative, since postcolonial societies have to

acknowledge, confront and/or address practices of violence, exploitation, inequality and exclusion. In post-colonial settler societies, like the United States or Canada, the construction of the founding moment in postcolonial contexts reflects the fact that the majority of the population is made up of colonizers. In non-settler societies, however, the majority of the population is the colonized. In neither case, however, is the founding a clean break with the past, nor can it be portrayed as such. It is from here that claims of ‘internal colonialism,’ such as those developed by indigenous peoples, emerge.

Moreover, studies on processes of nation formation provide insight into understanding power struggles rooted in historical periods such as colonial times. Scholars of nationalism has revealed the dynamics through which the past, including founding events and accounts of political origins, are constructed phenomena that function to unify citizens in the present (Bernal, 2017, p. 6). Benedict Anderson (1983) sees founding moments as the moment when a nation is born: when ‘unity’ is achieved through symbols that evoke the imagination and motivate citizens to forge themselves into members of a shared community that binds them together in a fundamental way, that ensures the everyday stability of a political community.

As the analysis is centred on ‘the people’ that make up a political community, ‘peoplehood’ has been used as an analytical tool to approach processes of polity formation (Smith, 2003). As the analysis of ideas, ideals, and narratives in political life suggest, claims to peoplehood are made in the name of communities. Peoplehood ‘inserts citizens into a shared political lineage as the progeny of common forefathers and unifies them across time to a shared political project.’ The founding of ‘a people’ (peoplehood) posits answers to fundamental questions about where the group comes from. The claim of constituting a ‘people’ is a specific kind of political claim beyond allegiance or commitment; it is a claim shaped by the intertwining of 1) understandings of popular sovereignty, 2) understandings of membership (languages, religions, cultures), and 3) the ongoing reorganization of political space along national boundaries. The argument of peoplehood is useful to understand that a ‘founding,’ as an original moment of creation of a political community, takes place on inhabited territories where power struggles exist.

Furthermore, indigeneity provides a different perspective. Indigenous peoples demonstrate how the ‘founding’ is a contentious and dynamic point of origin, since indigenous history does not start with the establishment of trans-oceanic polities (i.e., empires) or constitutional republics. Students

of indigenous history and politics claim that indigenous communities are 'a different kind of social system from the multicultural, market-based nation-state, where culture and religion would be largely removed from the political process' (Champagne, 2013, p. 19). As Indigenous peoples are one of the main outcomes of coloniality, indigeneity is an axiom of founding a polity (Rifkin, 2009; Morgensen, 2011). Specifically, the problems posed by the founding of constitutional republics has been addressed throughout the twentieth century by way of different mechanisms: acculturation, assimilation, or multiculturalism. More recently, Indigenous peoples have been acknowledged in their collective identity (Anaya, 2004; Corntassel, 2003; Schulte-Tenckhoff, 2012).

It has been argued that settler colonialism is exemplary of the processes of biopower: 'settler colonialism produces settler societies by pursuing the elimination of Indigenous peoples via amalgamation and replacement' (Morgensen, 2011, p. 52). It is important to consider Indigenous peoples' position within Agamben's thesis. In applying Agamben's view of exception and sovereignty to the experiences of IPs (Rifkin, 2009), sovereignty is confronted with the status of Native Peoples in North America. Finally, in considering how to incorporate indigenous peoples into polities in a democratic way, while enabling and supporting IPs identities, the global discussion has relied on human rights perspectives (Charters & Stavenhagen, 2009; Allen & Xanthaki, 2011; Pulitano, 2012; Short et al., 2019).

7.3. The Common View of 'Foundings'

A 'founding' is understood as 'the birth of a nation, an original moment of creation after which a regime and its people are said to exist' (Bernal, 2017, p. 1). This is the 'common vision' of the foundation of political order that has informed not only constitutional law, but also the practice and theory of politics. This view refers to 'the original event at which a constitution is drafted and a democracy attains legal identity and political authority'. The function of a founding is to be a point of consensus, agreement and civic unity as much as a 'source of universally binding commitments, beyond and above ordinary politics' (Bernal, 2017). In this way, a founding defines the birth of a political community, an event from which a community is no longer a loose amalgamation of individuals in 'a state of nature,' or a 'colony'. A founding is the most

definitive and superlative moment of a constitutional democracy because through this moment, it establishes a political order. In fact, a founding establishes the rules of the game, it grounds political authority and legitimacy, and forges a political ‘we, the people’ that binds and unifies a social group for a perpetual future (Bernal, 2017, p. 2). Thus, a founding is an authoritative beginning: a singular, superlative moment of origin and creation that establishes the foundations of democracy – with its laws, institutions, rights, forms of authority and legitimacy. The result of this ‘authoritative beginning’ is the projection of the founding event as the anchor of a political authority and the source of its legitimacy.

The foundationalism that stems from this authoritative beginning establishes the grounds for at least two consequences. One is the immunity of original founding events from critical inquiry regarding exclusions and injustices, and the contentious character of original political arrangements (Bernal, 2017, p. 4). Foundationalism may impede an understanding of how certain groups have shaped the existing political order. Implied is the de-politicisation of the establishment of a political order, by obstructing or distracting the understanding of how various groups shaped the existing political order.

The other consequence is the uncritical legitimatisation of potentially undemocratic politics. It de-politicises the establishment of a political order by rendering flat the contingency and power struggle involved in the making of political orders, by masking disagreements, conflicts, injustices, violence, and exclusions ‘present in the original founding events of constitutional democracies’ (Bernal, 2017, p. 2). The acceptance of incontrovertible authority and legitimacy of the original founding events and actors introduces a de-politicisation of the establishment of a political order.

In the common view, therefore, the founding is an extraordinary moment of beginning that constitutes a people (i.e., political community) and a state (i.e., constitutional republic); it binds them together in a fundamental and perpetual contract. However, Bernal argues that a founding is unsuitable as an authoritative beginning as it provides a distorted and mythologized view of the beginning of political authority (Bernal, 2017, p. 4; also Dahl, 2001). Bernal’s analysis is persuasive, as she considers both ‘the people’ and the ‘institutions.’ However, a critique of foundationalism is incomplete if it does not examine the territorial – and environmental – aspect of the establishment of a political order.

7.4. Questioning Founding Assumptions

A political order, rarely something settled, is often ‘underauthorized.’ For Bernal, a founding is a ‘constitutive action that transforms and reshapes the foundations or constitution of a political order’ (2017). Because a political order is often ‘underauthorized,’ this problem prompts us to ‘reconsider the relationships among foundings, authority, and politics.’ The presumption is that established authority may have ‘many cracks at its base.’ The source of these cracks is politics, as any attempt to declare the authority of a political order as neatly established at its origin is negated by ‘messy, conflictual, real-world politics’ (Bernal, 2017, p. 10).

Because they take place in the realm of politics, foundings, too, are therefore underauthorized. The ‘politics of underauthorized authorizations’ is a mode of engagement with the problems and politics of founding in constitutional democracies. Such politics address the fact that the foundations of political orders – including their sense of authority and legitimacy – ‘are necessarily incomplete and open to unsettlement’ (Bernal, 2017, p. 11).

7.4.1. The Underauthorized Political Order

That foundings are almost always incomplete, uncertain, and unstable is only revealed by politics. In fact, politics reveal the underauthorized character of founding in three particular ways. Firstly, by taking into account the passing of time: this means that no constitutional design ‘will deliver an institutional and political system that at its origins can completely and fully accommodate what might be necessary for its continued functioning and acceptance by its members’ (Bernal, 2017, p. 12). Politics takes place over time: it brings changes to political and legal settlements, and in the necessary reconstruction and/or interpretation of founding events. The passage of time reassesses the purpose of old institutions; it brings in new values and interpretations of original principles that better express the commitments of citizens (Bernal, 2017, p. 12).

Secondly, politics contributes to the underauthorized nature of political origins as politically constituted phenomena. Foundings create order, community, collective action, but also conflict and disagreement. Both conflict and disagreement are features of founding politics that resist political settlements and constitutional agreements. Thirdly, ‘the people’ is a notion

intended to unify, yet at the same time it is contingent and evades unification. Indeterminate, uncertain, and unstable, it resists closure, and in this testifies to democracy's openness. While a figure of self-authorization, it is also one of underauthorization (Bernal, 2017, p. 12).

7.4.2. Reassessing the Problems of Founding

There are three political problems that delegitimise the foundation of a political order: one centred on authority (*the problem of original authority*), a second on legitimacy (*the problem of the lawgiver and the people*), and the third on dissent (*the problem of democratic self-constitution*).

The problem of contested authority (*original authority*) relates to the status of a historical event as the moment of founding, grounded on the original authority of a founding event, text, and actor(s). Authority is necessarily incomplete due to an intrinsic element of any society: politics as the foundation of political authority is persistently faced with competing political accounts and forces that emphasize its relative character and question its universal appeal. One group's exalted constitutional founding may be another's moment of capitulation, imposition, or illegitimate democratic debacle (Bernal, 2017, p. 11). This challenges the superlative status granted to political and legal origins and the legitimacy of this status in a constitutional democracy (Bernal, 2017, p. 14). Authority, therefore, is politicized by the constancy of injustices and exclusions from equal participation and decision making.

Legitimacy is a second problem that underauthorizes the establishment of a political order. Legitimacy touches on the unstable and uneasy relationship between founders and constituent publics (*the problem of the lawgiver and the people*). For Bernal, founding processes often see a bifurcation between those who propose, formulate, and enact foundational change (i.e., founders) and those who rally behind, support, and accept or reject such change (i.e., the people). This bifurcation permeates the interrelation between leaders and constituent publics (2017, p. 15). The problem of legitimacy is one of incomplete consolidation. At the centre of this problem lies the acritical legitimization of a polity and the potentially undemocratic politics conducted on the basis of the incontrovertible authority and legitimacy of original founding events and actors. Legitimacy is a constant problem for political order and a springboard for resistance to political settlements and constitutional agreements. Moreover, politically constituted foundings create new

forms and moments of collective action and organization rooted in conflict and disagreement that lead to the delegitimation of a given political order.

Dissent is a third underauthorizing element of a political order. The issue of democratic self-constitution raises the question of the people's legitimate authority. The problem is that in assertions of founding as a constitutional democracy's greatest moment and shared point of origin, generally 'there are competing political accounts and forces that underscore its relative nature.' At issue is the construction of the people's constituent power, and the tenacity of exclusion long after a founding event. Next to images of constituent assemblies, in which victorious, decisive actors claim to represent the 'will of the people,' there is a diversity of voices 'that beg to differ' (Bernal, 2017, 15).

These three problems underauthorize a political order. Any attempt to declare that a political order is neatly established at its origin will contrast with real-world politics. By focusing on these problems, Bernal presents a framework that politicizes the question of constitutional authority to address long standing injustices, inequality, and exclusion from participation and decision making. The 'founding-beyond-origins' framework 'expands the analysis to include a broader set of actors, sites, and dynamics implicated in founding and refounding processes' (Bernal, 2017, p. 227). However, the framework implies certain notion of the passing of time, where an 'authoritative beginning' is a thing of the past, not the present or future.

7.5. An Alternative Approach to Political Origins

As founding marks a political origin, it is seen as a 'point of consensus, agreement, and civic unity,' and a 'source of universally binding commitments, beyond and above ordinary politics.' As an authoritative moment, it fixes something supreme in the life of a constitutional democracy, its supreme law and a defining set of political principles, rights, and values, anchoring its continued life. Bernal's foundings-beyond-origins framework shifts the emphasis from an analysis of foundings as constitutional settlements, to the emergence of unsettlements and, thus, to the incompleteness of founding processes and foundation building. This vision focuses on politics and thus privileges contestation over unity, incompleteness over consolidation, and creative unsettlement over perpetual binding. However, the framework is mainly concerned with a general understanding of 'the people' and 'the rise

of new institutions, laws, norms, and political values' (Bernal, 2017, p. 227). The implied notion of time is a further limitation. In fact, time is implicit in the role that politics plays as the unsettling factor of a political order.

A more comprehensive analysis is needed to address those limitations and to analyse the underauthorized character of preexisting politics. To this end, the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) introduces a notion of time as much as ideas about 'peoples' – and their institutions, and their physical environments – on the basis of international human rights law. It is possible to reframe the problems of unsettled and incomplete political origins within the scope of ideas provided by UNDRIP. The Declaration represents an internationally agreed understanding of the minimum content of the rights of IPs, based on international human rights law; it contains a set of principles and norms that recognize and establish the fundamental rights of IPs within the international normative system; it confirms the long legacy of IPs in international law,¹ and it places IPs within international arenas to further their interests and support their physical and cultural survival. UNDRIP was approved by the United Nations General Assembly. In fact, building on international human rights law, it recognises IPs' rights as inherent and comprehensively covers civil, political, economic, social, cultural, and environmental rights. UNDRIP places IPs in an international context within the international human rights system by recognizing their legal and political existence as subjects of international law, with specific rights and obligations, particularly the right to self-determination (Charters & Stavenhagen, 2009; Felipe Gómez, 2019; Burger, 2019; Lenzerini, 2019; Phillips, 2015; Anaya, 2004).

7.6. UNDRIP and a Critique of the Foundings-Beyond-Origins Framework

The framework developed by Bernal suggests that authority, legitimacy, and dissent are problems that call into question the foundation of a political order. That framework focuses on two elements ('the people' and 'their institutions') which are insufficient to highlight the complexities of polity formation. For

¹ See the Valladolid debates (1530s) and the discussion in the 'Early Naturalist Frame'; see Anaya (2004, pp. 16–18).

instance, the people entails plurality, the relevance of time (perpetuity, continuity, contingency), the ecosystem (land, territory, and natural resources), as well as the international order. These all are important elements in the process of polity formation.

7.6.1. The People: Plurality, Collective Rights, and Equality

Plurality acknowledges the variety of social groups within a polity. Plurality in a demographic body is not fictional, anecdotal, or incidental. Plurality is a historical fact: indigeneity stems from conquest and colonization between the fifteenth and nineteenth centuries. Moreover, plurality is a constitutive feature of political communities: rarely a homogenous crowd, ‘the people’ is a collection of individuals whose features bring them together in various contrasting and even conflicting ways. Plurality has been internationally recognised: the integration of specific groups into a wider society is not only a matter of national politics as it has received international attention. Through a politics that acknowledges plurality, UNDRIP has attempted to strengthen the distinctiveness of indigenous societies within the institutional frameworks of existing states. A politics of plurality is based on ‘harmonious and cooperative relations’ between IPs and states, and the principles of justice, democracy, respect for human rights, non-discrimination, and good faith.

Furthermore, the recognition of collective rights acknowledges that IPs’ rights and identities are exercised and carried out collectively as peoples (Montes & Torres Cisneros, 2009; Henriksen, 2009). Recognition of collective rights also implies recognition of the plurality within ‘the people.’ Both plurality and collective rights are understood in terms of legacies that value the role of time in understanding political origins as historical experience. Plurality predicates equal rights on the basis of respect for differences and compliance with human rights.

7.6.2. The Ecosystem

The U.N. Declaration contributes to the analysis of political origins by internationally recognising the physical elements (land, territory, and natural resources) that are not only central to IP’s identities, but have also been at the centre of their historical struggles. In fact, indigeneity challenges the authority, legitimacy, and consensual aspects of the territorial base of a polity.

Consequently, it relates to debates and social struggles about territorial rights, between the territorial integrity of a state versus the rights of indigenous peoples to traditional territories.

There are a number of elements to consider here. Firstly, 'territorial integrity' is interpreted within UNDRIP in relation to the territory of states and efforts to guarantee and protect IPs territorial integrity; it defines territory (Article 25)² and acknowledges the concept of 'indigenous territory' (Article 26). Secondly, UNDRIP considers a people's traditional physical environment as an ecosystem where they develop a communal life. This environment – the lands, territories and natural resources – has been historically marked by dispossession and threats of dispossession (Montes & Torres Cisneros 2009, 163). The core of indigenous struggles is the assertion of their rights over traditional lands, territories and resources that the states in which they live deny the existence of, or do not legally recognise (Henriksen, 2009, p. 83; HRC, 2018). A number of provisions in UNDRIP address the issue of lands, territories and natural resources: articles 25, 26, 28, 32, and 46.1. Thirdly, in regard to the relationship of IPs with the lands, territories and natural resources that 'they have traditionally owned, occupied or otherwise used or acquired,' time immemorial is a meaningful concept. The reference to time raises the issue of restitution for lands, territories, and resources that IPs have 'lost' in a distant past. Fourthly, UNDRIP recognises IPs' right to redress by means of restitution or compensation for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent ('FPIC') (Article 28).

Lands, territories, and natural resources are, thus, fundamental to an understanding of political origins. This widens the understanding to topics such as territory (territorial integrity of existing states vs. indigenous territory) and redress (restitution and compensation). As consent (free, prior, and informed) and autonomy are mechanisms with which to deal with these matters, the ecosystem is constitutive part of political origins. Thus,

² Article 25: The term 'territories' refers to the physical space that enables the survival of IPs through the reproduction of their culture. This is distinct from 'national territory' or 'nation state,' referring to the entire symbolic space in which a particular indigenous culture has developed, including not only land but the 'sacred landscape' that corresponds to their world view and reflects IPs' capacity to demarcate space differently from other societies.

the ecosystem, as a space for relations between IP and State, takes free, prior, and informed consent as a way to assert indigenous rights over lands, territories, and resources (Article 32). The requirement for FPIC in relation to natural resources, whether for conservation or development (Article 32), is recognised in UNDRIP as a right for IPs and an obligation for states (Carmen, 2009). This expectation of FPIC indicates that IPs have the right to veto projects they consider to be harmful and challenges states' public policies (Montes & Torres Cisneros, 2009; Eide, 2009). While autonomy confirms the centrality of consent in matters relating to the ecosystem, the degree of autonomy that states are willing to recognise and the degree to which they are likely to maintain authority over certain regions do vary.

7.6.3. Time: Contingency, Perpetuity and Continuity

In a political order, it could be argued that the concept of time is always structured according to context and has various dimensions. Politics takes place over time, where change is a constitutive feature. As a contingent element of a constituted political order, time generates new needs. As time passes and as new needs arise, old institutions may no longer be appropriate, and new values and interpretations will emerge that better express citizens' realities. In Bernal's framework, there is a tacit notion of 'the passing of time' which reveals how founding has distorted the past and has masked 'undemocratic politics in the present' in such a way that privileges some founding action and actors at the expense of others. Therefore, contingency is a crucial problem of political origins. The passing of time reveals the instability of founding, that '[n]o amount of careful design will deliver an institutional and political system that at its origins can completely and fully accommodate what might be necessary for its continued functioning and acceptance by its members.' (Bernal, 2017, p. 12)

The passing of time challenges assumptions of perpetual bindings to a constituted polity. As the perpetuity of a political order is a fiction, contingency then raises the issue of political change. The analytical framework based on UNDRIP suggests the notion of 'time immemorial' encompassing a number of different elements such as customs, plurality, ancestry, indigeneity and territoriality. The notion of IPs as collective peoples who have inhabited geographical areas since time immemorial, predating the foundation of constitutional republics, complicates founding narratives. This notion of time that appeals to an ancient past, materializes in the present in the form

of indigenous traditions and lifestyles as much as legacies of violent conquest and colonization.

Time immemorial exhibits the limitations of Bernal's critique in three ways. Firstly, in regard to the plurality of 'a people' who are distinct from other sections of a national community: time immemorial acknowledges this plurality, recognising IPs as collectives with distinct social, economic, cultural customs, traditions, as well as political institutions. Secondly, time immemorial privileges a collective descent of peoples that predate political origins. Thirdly, time immemorial refers to the legacies of violence experienced by populations subjected to forms of political conquest or colonization. Finally, Bernal's framework is insufficient in that it fails to identify the historical continuity evident in the experiences of indigenous peoples, which challenges the founding narrative. It might be suggested that the framework's scope to study 'peoples' as descendants of societies that experienced conquest or colonisation in the past is geo-historically limited.

7.6.4. The People' and the International Order

Political communities exist within a broader international order. This is an axiom that is implicit in challenging a founding narrative. For indigenous peoples, UNDRIP has created a basis for internationally guaranteeing and protecting their rights through a politics of plurality, and international instruments (ILO Conventions on Indigenous Populations)³ and institutions (United Nations). The aim has been to address obstacles to the integration of IPs into wider social bodies (Eide, 2009). International recognition of plurality expands to the right to self-determination (SD). The scope and content of this right for particular members of 'the people' takes the assumption that SD can help preserve their cultural identity and take collective authority over decisions relating to land and territory. Equal rights and SD are to be provided, according to UNDRIP, through respect for difference and compliance with human rights legislation (Diaz, 2009). Article 3 expressly recognises IPs as fully entitled to the right to SD. The key aspects of SD are collective authority over the nature and scope of development activities relating to the land and territory in which they live and the right to preserve cultural identity

³ Convention No 107 is an antecedent of ILO Convention 169 on Indigenous and Tribal Peoples, adopted in 1989.

(Eide, 2009, p. 45). This international dimension has to be added to the ‘dual thrust’ implied in the idea of indigenous self-government. The coexistence of indigenous institutions with constitutional ones, in fact, confirms indigenous participation in the larger political order and by allowing them ‘to achieve meaningful SG’ guaranteed and protected internationally.

7.6.5. Contradiction and Limitations

UNDRIP provides a thorough counterpoint from which to analyse the common view of founding as much as the limitations of its critics. UNDRIP recognises that the territorial base of the people politicises the entire ecosystem. Moreover, rather than a tenuous notion of ‘the passing of time,’ the Declaration stresses the importance of historical continuity (of peoples in communities, institutions, and territorial presence) to inform a notion of founding that acknowledges the pre-existence, of certain demographic groups (i.e., indigenous peoples), to founding events. The Declaration goes beyond other international legal instruments in terms of recognizing indigenous rights and despite its analytical and political strength. It has been criticized, however, for not adding new rights, but simply being ‘a statement of what already exists in customary international law’ (Engle, 2011, p. 163). Other critics highlight the fact that the Declaration ‘does not address indigenous political, cultural, and territorial claims on a government-to-government or culture-to-culture basis’ (Champagne, 2013). A more significant limitation of this international declaration is the substantial shortfall between formal proclamations and enforcement (Gómez Isa, 2019, p. 16). Critics have also highlighted contradictions in UNDRIP’s approach (Gómez Isa, 2019; Champagne, 2013; Glenn, 2011; Engle, 2011), such as its lack of an indigenous framework; instead, it is argued, the Declaration is based on international law and it expresses indigenous rights within a non-indigenous framework (Glenn, 2011). Furthermore, UNDRIP has been criticized for its ‘uneasy compromise between irreconcilable principles of social action’ (Engle, 2011, p. 163): while UNDRIP has expanded collective rights to culture and self-determination, it has also been accused of limiting SD and collective rights (Engle, 2011, pp. 144–148). Notably, it fails to recognise IPs’ right to independent statehood (Cambou, 2019, p. 45), although being anchored on the principle of SD. Therefore, ‘the rights of indigenous peoples to SD, under the UNDRIP, must be implemented in accordance with the principle of territorial integrity and political unity

of sovereign states' (Cambou, 2019, p. 45). Despite these variety of criticisms and limitations, UNDRIP does provide an analytical framework in which to analyse indigenous struggles.

7.7. Plurality: An Analytical Framework

As the relationship between IPs and states reflects ongoing, contestational, unsettled, and incomplete political origins, indigeneity as a notion, grounded in UNDRIP, can analytically address these problems. A politics of plurality, premised on international human rights law, appeals to culturally-distinct peoples with their own customary institutions and traditional territorial bases; this form of politics also conceptualizes indigenous peoples as collective groups who participate equally in the governing institutions under which they live. Thus, a politics premised on plurality in relation to peoples (i.e., distinct collectives) and territory (i.e., a territorial base) and an acknowledgement of historical continuity (i.e., time immemorial) is a politics of plurality. This form of politics, grounded in UNDRIP, specifically refers to the concept of self-determination (SD) to present a model for engagement between IPs and states. Such a model relates to a people, territory, state/society, and the international order. It acknowledges 'diverse collective units with different identities' that can participate equally in the governing institutions under which they live (Cambou, 2019, p. 45).

First of all, the cornerstone of this model is the essential contention of the notion of SD: that human beings (individuals and groups) are equally entitled to be in control of their own destinies and live within governing institutional orders that are devised accordingly. Moreover, UNDRIP posits that IPs have the right to freely determine their political status and pursue their economic, social and cultural development as they have the possibility to exercise SD (Montes & Torres Cisneros, 2009). SD connects with debates on founding: UNDRIP has recognized IPs' right to freely determine their political status and pursue their economic, social and cultural development in the context of their co-existence with states. However, the principles of territorial integrity and the political unity of sovereign states mark conceptual boundaries (Eide, 2009; Cambou, 2019). Prior to 2007, ILO Convention 169 was the only international instrument specifically providing for the recognition of indigenous rights.

Additionally, as autonomy refers to the capacity of an agent to act with 'the degree of independence and control over its own internal affairs that an autonomous entity generally enjoys' (Hannum & Lillich, 1980), autonomy is therefore a way of providing a group with 'actual powers and resources for self-governance within a state' (Sanders, 1986). In the Political Science literature, autonomy is considered as having two dimensions (Lijphart, 2004): one that is institutional and applicable to deeply divided societies, and another where it can be a mechanism for resolving tensions and redistributive issues between a central government and spatially concentrated, culturally distinct groups. Autonomy implies either the defence or reconstitution of indigenous identities, traditional lifestyles, and traditional territories within existing state institutions (see González et al., 2010; Clavero, 2009;). In this model of engagement, autonomy is addressed by recognizing distinct cultures (i.e., institutions rooted in time immemorial) and territories. Therefore, autonomy involves institutions or 'spheres of governmental or administrative authority appropriate to their circumstances' (Anaya, 2004).

Third, in the model of engagement, Self-Government (SG) is instrumental in the achievement of Self-Determination (SD). The core premise of SG is that government must function according to the will of the people being governed (Steinberg, 1978). The ideal behind the founding of modern representative institutions has been the 'self-government of the people' (Przeworski, 2009). Thus, there is a point of theoretical connection between SG and consent (Przeworski, 2009; Steinberg, 1978): SG is achieved through political institutions that reflect 'specific cultural patterns' and that permit those being governed to be 'genuinely associated with all decisions affecting them on a continuous basis' (Anaya 2004, p. 112). In this model, SG refers to a 'people,' a population with a cultural identity, and therefore implies a right to culture (Anaya, 2004) while acknowledging internal conflict and diversity within communities. This model also touches on territory: a population with a cultural identity implies a territorial base. Thus, as the protection of a culture often requires the protection of a land base, a right to SG implies a right to land as much as culture.

Finally, this model of engagement promotes the recognition and practice of free, prior and informed consent (FPIC). In political theory, what is achieved through the giving of consent is the right and obligation on the part of the consentor to allow those rights to be exercised. The granting of consent is an intentional granting of permission, given freely by an autonomous

rational agent (Plamenatz, 1968). Consent is defined in UNDRIP as a process of consultation in relation to indigenous lands, territories, and resources: a process of gathering information, views, and opinions for consideration in processes of deliberation and decision making. A collective decision to grant or withhold consent is achieved through consultation and community participation (PFII, 2005). Thus, for peoples with a territorial base and a relationship with their physical environments from 'time immemorial,' FPIC is a potentially useful tool for collective survival in regard to cultural heritage and forms of internal organization, and for redressing legacies of continued exploitation, discrimination, oppression, and rights violation over traditional lands, territories, and natural resources. While the granting of consent is a collective (communal) decision for an indigenous community, achieved without interference from external actors, it is often in response to external proposals for the conservation or exploitation of territories and natural resources. The recognition and practice of FPIC has been encouraged in international law by ILO Convention 169 and the Convention on Biological Diversity (CBD).

7.8. Chapter Conclusions

A founding defines the birth of a political community as an event from which a community is no longer a loose amalgamation of individuals in 'a state of nature' or a colony overseas. Dominant views of 'founding,' in contemporary political systems are narratives and practices, as well as historical accounts, that define the birth of a nation or state. The projection of the founding event as the anchor of a political authority and the source of its legitimacy faces problems that de-authorize political origins. While Bernal's critique of founding is highly persuasive, her argument fails to incorporate the experience of indigenous peoples into constitutional states. To address the claim of de-authorization of 'foundings,' this chapter has proposed a model premised on the concepts of self-determination, autonomy, self-government, and consent as laid out by UNDRIP. This is a model of engagement between indigenous peoples and states.

Chapter 8

Overall Conclusions

This book has been concerned with the analysis of how an ‘indigenous community’ transitions from a traditional ethno-cultural group into a ‘political community.’ In fact, indigenous communities have already been recognized as political entities. Defined nationally (by constitutions) and internationally (by declarations, conventions and human rights legal systems) in terms of ‘peoples,’ with a ‘territorial foundation’ under which this collective lives according to their own ‘customary institutions,’ the contemporary indigenous community is, therefore, a political entity.

In this regard, the case study examined herein empirically illustrates the characterisation of an ethno-cultural group into a political community. Moreover, the existence of indigenous communities poses a challenge to the authority and the legitimacy of constitutional democracy. Indigenous peoples are part of larger political entities – whose existence has been internationally acknowledged and recognized. Furthermore, to understand indigenous communities as political communities, this book has introduced an analytical framework that conceptualizes the indigenous communities in relation to notions such as ‘a people,’ ‘territory,’ and ‘institutions’ and that, at the same time, is useful to question dominant narratives of ‘founding.’ The framework introduces a model of engagement between indigenous peoples and states on the basis of the concepts of self-determination, consent, autonomy, self-government – as defined within international human rights law (i.e., UNDRIP).

The case study of the LC, a multi-ethnic community established by land reform in 1972–1979 through public policy actions known as ‘recognition and titling of communal lands’ and the incorporation (1976–79) of groups of Tzeltal, Chol, and Tzotzil-speaking, has been used to analyse how an ethno-cultural group may transition into a political community. Mexico’s Constitution recognizes that indigenous communities are established by a people that inhabits a defined territory and is organised to handle

its internal affairs – as in political theory. Indigenous peoples are also part of international orders. International human rights frameworks have provided protection to indigenous rights. Within those orders, indigenous peoples in the twenty-first century struggle with complex processes and forces that threaten them.

In terms of the constitutive elements of a political community, the definition of ‘a people’ leads to a discussion of membership. In that type of discussions, two criteria are important: membership and historical continuity. First of all, in defining ‘a people,’ kinship has been an important criterion for establishing membership to an indigenous community, but in several cases, land reform opened the door to the incorporation of other criteria beyond kinship. In the realities of land reform, one becomes a member of the people/community not so much by ‘adopting and making one’s own its cultural tradition,’ but by being eligible for a land reform action. Second, when defining a people is the issue of historical continuity, the extent to which a group of people is regarded as inhabiting a defined territory since time immemorial is invariably contested.

Equally, in terms of a territory, indigenous peoples very often have a geographical base – in fact, keeping access and tenure over ancestral territories is perhaps the biggest challenge indigenous peoples have confronted since 1492. First of all, territoriality has traditionally secured the given community’s chances to meet its material needs. Second, territoriality provides the seat of the life and culture of a community – as it guarantees its social, cultural and political reproduction. Third, it is a foundation of an identity: it creates an attachment to a specific place that defines identity in relation to it. Fourth, territoriality affords the spatial manifestation of the community, including a space and a place for deliberation (see Picq, 2018). Territory, therefore, is a foundation for ‘a people.’

Mexico’s constitutional Articles 2 and 27 provide the grounds for a territorial basis of indigenous peoples. The situation examined in the case study is the product of a land restitution procedure – within the land reform programme – that recognizes land rights of the Lacandon people. However, the LC’s membership is not entirely based in kinship. The LC recognized the land rights of 1,452 non-Lacandons members (*comuneros*). In fact, as has been examined in this book, the inclusion of Tzeltal, Chol and Tzotzil indigenous beneficiaries is the outcome a negotiated incorporation into the LC.

In the configuration of the contemporary territorial base of indigenous communities, two public policies have been decisive: land and environment. Environmental conservation in indigenous territories entails, in the Lacandon Rainforest, much more than natural resources; it is a problem that touches on demographic dynamics as much as economic development. These topics relate to connection of the indigenous community with larger political entities as larger historical events have effectively, and recurrently, reconfigured the lives of indigenous communities.

In the contemporary world, the place of indigenous communities within states is characterized by certain duality (Anaya, 1996): the development of indigenous institutions in parallel to the development of the indigenous community within a larger socio-political order – and recognized internationally. However, the development of indigenous institutions (i.e., self-government) is contradicted by the case study examined herein: the LC does not have a customary form of organization, instead it has adopted the structure prescribed by Mexico's legal system for the beneficiaries of land reform. The second element of that duality is the connection of the indigenous community with the larger society (state). Defined in terms of power, politics, public policy arenas, contentious collective action and control, that connection reveals a political dimension of indigenous self-government. Indigenous self-government, however, also has an administrative aspect that requires strengthening in terms of its capabilities to process its internal affairs as much as its relationship with the State and social actors. These two elements, the political and the administrative, effectively mark out the most important spheres of indigenous self-government.

Finally, as political authority and legitimacy are central to debates about democracy, the book has shown the extent to which indigenous claims de-authorize political origins. Indigeneity questions the narratives and practices, together with the historical accounts, that define the birth of contemporary states. In fact, indigenous peoples de-authorize political origins. Consequently, a model of engagement is needed to address those de-authorizations.

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This book contributes to the understanding and conceptualisation of the place of indigenous peoples in contemporary political systems by presenting and examining a case study of the Comunidad Zona Lacandona (Lacandon Community or LC), located in Chiapas (Mexico). The author explores the concept of 'political community' in relation to such an indigenous community. The case study provides a foundation for understanding and conceptualising the constitutive elements of a political community: a people, a territorial base, and forms of social, cultural, economic and political organisation.

To gain a deeper insight into the significance of concepts such as 'people', 'territory', and 'institutions', this book presents a conceptual framework for analysing indigenous peoples, nations, tribes and communities, with a particular focus on the principles of self-determination, autonomy, self-government and consent. The framework is based on the conceptual foundations established by the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and emphasises the critical role of those four concepts.



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