

**LAND DISPOSSESSION AND JURIDICAL
LAND DISPUTES OF INDIGENOUS
PEOPLES IN NORTHERN MEXICO:
A STRUCTURAL DOMINATION
APPROACH**

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ABSTRACT

This thesis looks at land disputes and the dispossession of Rarámuri communities in northern Mexico by examining the way dominant groups shape the structural conditions for land appropriation and its perpetuation over time. This is pursued by exploring the link between the Rarámuri communities' decision-making power and their potential to resist land dispossession.

The research contributes to a better understanding of the wide variety of dominant actors' tactics behind juridical dispossession of indigenous landholders with ancestral ties to the land. Archive research and interviews regarding Rarámuri communities' agrarian and juridical disputes over the 20th century provided empirical evidence to interpret dominant actors' discourses and practices. These obscure indigenous communities' land claims, while legitimating, normalising and allowing development-led land appropriation through the use of notions of progress, rule of law and political representation.

While the lowest levels of Human Development in indigenous regions in northern Mexico have been found in the Tarahumara mountain range, development discourses and practices tend to neglect historical, relational and political perspectives of development-induced land displacement, thus, invisibilising structural inequalities and perpetuating land dispossession.

The structural domination approach aims at the identification of the main structural conditions that indirectly constrain the Rarámuri's efforts to protect their property or landholding rights from local and external elites engaged in development initiatives. Group dominance and subordination is thus highly influenced by groups' constructed attributes and, therefore, by the position different groups occupy in the social structure.

Archive research and interviews concerning Rarámuri communities' agrarian and juridical disputes over the course of the 20th century revealed domination mechanisms for land dispossession. The thesis argues that these tactics undermine the Rarámuri's decision-making power and, consequently, their potential to resist unwanted development interventions. I conclude that, in contrast to brokerage, self-determining practices have been shown to be more effective for securing and defending indigenous land.

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To my parents Luz María and Horacio

*To the people of Mogotavo, Choreachi, Wetosachi and
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In memory of Augusto Urteaga

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List of Acronyms

ASMAC	Alianza Sierra Madre Asociación Civil Sierra Madre Alliance Civil Association
CAM	Comisión Agraria Mixta Mixed Agrarian Commission
CASMAC	Consejo Asesor Sierra Madre Asociación Civil Sierra Madre Advisory Council Civil Association
CCTP	Copper Canyon Touristic Project
CDI	Comisión Nacional para el Desarrollo de los Pueblos Indígenas National Commission for Indigenous People's Development
CDP	Comité de Defensa Popular Popular Defence Committee
CFD-CCIT	Centro de Fondos Documentales Del Centro Coordinador Indigenista Centre for the Documentary Collection of the Indigenista Coordinating Centre
CIDH	Comisión Interamericana de Derechos Humanos Interamerican Commission for Human Rights
CNC	Confederación Nacional Campesina National Peasants Confederation
CNI	Congreso Nacional Indígena National Indigenous Congress
COLMEX	El Colegio de México College of Mexico
CONABIO	Consejo Nacional para la Biodiversidad National Council for Biodiversity
CONANP	Comisión Nacional de Áreas Naturales Protegidas

CONAPRED	National Commission for Natural Protected Areas Consejo Nacional para Prevenir la Discriminación
CONTEC AC	National Council for the Prevention of Discrimination Consultoría Técnica Comunitaria Asociación Civil
COSYDDHAC	Communitary Technical Consultancy Civil Association Comisión de Solidaridad y Defensa de los Derechos Humanos Asociación Civil
CROC	Commission for Solidarity and Defense of Human Rights Civil Association Confederación Revolucionaria de Obreros y Campesinos
CROM	Revolutionary Confederation of Workers and Peasants Confederación Regional Obrero Mexicana Mexican Worker's Regional Confederation
CSOs	Civil Society Organisations
CST	Consejo Supremo Tarahumara. Tarahumara Supreme Council
CTM	Confederación de Trabajadores de México Workers' Confederation of Mexico
ENAH	Escuela Nacional de Antropología e Historia National School for Anthropology and History
EZLN	Ejército Zapatista de Liberación Nacional Zapatista National Liberation Army
FONATUR	Fondo Nacional de Turismo National Tourism Fund
ICHICULT	Instituto Chihuahuense de la Cultura Chihuahua Institute for Culture
INAH	Instituto Nacional de Antropología e Historia National Institute for Anthropology and History
INEGI	Instituto Nacional de Estadística y Geografía National institute for Statistics and Geography
INI	Instituto Nacional Indigenista Indigenista National Institute
ILO	International Labour Organisation
LCA	Liga de Comunidades Agrarias League of Agrarian Communities
LCASC	Liga de Comunidades Agrarias y Sindicatos Campesinos del Estado de Chihuahua League for Agrarian Communities and Peasant's Unions of Chihuahua State
MNAH	Museo Nacional de Antropología e Historia National Museum for Anthropology and History
NGO	Non-Governmental Organisation
OIT	Organización Internaciona del Trabajo International Labour Organisation
PA	Procuraduría Agraria Agrarian Attorney
PIAI	Programa Interinstitucional de Atención al Indígena Interinstitutional program for the Attentio of indigenous People
PNUD	Programa de Naciones Unidas para el Desarrollo United National Development Programme

PROCEDE	Programa de Certificación de Derechos Ejidales y Titulación de Solares Urbanos Program for the Certification of Ejido Rights and Titling of Urban Plots
PROFECTAR	Programa de Fé Compartida en Tarahumara Program for Shared Faith in Tarahumara
PROFEPA	Procuraduría Federal de Protección al Ambiente Federal Attorney for Environmental Protection
REDD	Reducción de Emisiones por Deforestación y Degradación de los Bosques Reducing Emissions from Deforestation and Forest Degradation
RAN	Registro Agrario Nacional National Agrarian Registry
SECTUR	Secretaría de Turismo Tourism Federal Office
SENSA	Soluciones Empresariales del Norte Entrepreneurial Solutions of Northern Mexico
SRA	Secretaría de la Reforma Agraria Agrarian Reform Federal Office
TUA	Tribunal Unitario Agrario Unitary Agrarian Court
UGOCM	Union General de Obreros y Campesinos de Mexico General Union of Workers and Peasants of Mexico
UNORCA	Unión Nacional de Organizaciones Regionales Campesinas Autónomas National Union of Autonomous and Regional Peasant's Organisations
WWF	World Wildlife Fund

CHAPTER 1. GENERAL INTRODUCTION

This thesis looks at land disputes and dispossession of Rarámuri communities in northern Mexico by examining the way dominant groups shape the structural conditions for land appropriation and its perpetuation over time. It examines the link between the Rarámuri indigenous communities' decision-making power and their potential to resist social injustice. This will be done by questioning the social and institutional mechanisms that allow a dominant group to carry out land dispossession of a subaltern social group with ancestral landholding. The Rarámuri indigenous group is the largest one in northern Mexico and inhabits the northernmost part of the Western Sierra Madre within the state of Chihuahua.

Here, I define subaltern groups as those historically subordinated social group/political subject that have been ignored and denied by dominant discourses in the context of colonial relations¹ (Gramsci, 1994; Guha, 1988; Beverley, 2010). In turn, I define as dominant groups those individual or social actors that have since the period of Spanish colonisation, acquired interests over local resources, and thus compete with and challenge the Rarámuri's resources and rights. Such groups include external and local capital investors, state officers, mestizo settlers and residents. Mestizos are those people that do not recognize themselves as indigenous and are commonly social groups of mixed indigenous and Spanish descent. Because of their affinity to modern ideology and close ties to the prevailing economic and political networks and bureaucracy, the mestizo, together with businessmen and state actors, constitute what I refer to as the dominant actors (See note three in this chapter).

Indigenous peoples, in the Mexican context, are conceptualized as "those that are descendants of the people that lived in the current territory of the country at the beginning of the colonization and that preserve their own social, economic, cultural, political institutions" (CPEUM, 1917). Peoples, in turn, are understood as collectivities that constitute and recognize themselves as a cultural unit, share a common project and are related to a specific territory (Villoro, 1994: 44-49). In other words, a people are a society with its own identity, differentiated from others,

¹ Including ideas of internal colonialism and coloniality

that have been incorporated into a particular national state in a subordinated position (Díaz-Polanco, 2002). Finally, indigenous communities constitute the most concrete expression of the people. Communities are those that belong to a territorial space demarcated by possession, share a common history, hold an organisation system that defines political, cultural, social, civil, economic and religious issues, and finally, exercises their own justice making system (Díaz-Gómez, 2003: 95). For instance, the community of Choréachi, belongs to the Rarámuri people.

Particular attention will be paid to identifying the main structural conditions –such as the historical state-making processes, global political economy, institutional factors, social and power relations as well as subjectivities– that constrain the Rarámuri’s efforts to protect their property or landholding rights from development initiatives. This study aims to understand how state institutions (e.g. agrarian and juridical) in the framework of the modern democratic system, on the one hand guarantee by law equal treatment and just conditions to all citizens while, on the other hand play a significant role in reinforcing social inequalities and injustices. Specific forms of injustice include legal and illegal appropriation of land ownership by development actors. Strategies used by the disputants in their claims for land ownership will be studied, particularly those factors that tip the balance of the dispute in favour of dominant parties.

As an overarching conclusion of the thesis it was found that the main mechanisms of land dispossession by dominant actors have historically been based on undermining subaltern groups’ decision-making power. Conversely, empirical data and archival documents reveal that self-determining practices of subaltern groups strengthen their land-defence strategies. In consequence, a main finding is that the more self-determination - defined as the capacity of peoples ‘to pursue their own ends in the context of relationships in which others may do the same’ (Young, 2004, see below) - is practiced by subaltern groups, the less likely it is for them to be dispossessed of their resources. On the contrary, dispossession practices are premised on the undermining of the decision-making power of local communities, on the negation of the dispossessed as subjects and on the interference in the interpretation of their own way of life. In this sense, the study considers that state and private actors’ aim for economic growth and development at the local level involves institutional strategies of domination and injustice that constrains and

misrepresents local communities' struggles for the exercise of sovereignty² –as it has been historically exercised through indigenous normative systems and recognized by international law- (ILO agreement 169 and CIDH, 2010).

This research is guided by the following overarching question:

How is land dispossession of indigenous peoples perpetuated and still occurring in a political system defined as a representative and democratic republic such as Mexico?

Four sub-questions were designed to address elements of the overarching question:

1. How is land dispossession of indigenous peoples in northern Mexico reproduced over time?
2. What social, cultural and political mechanisms contribute to the perpetuation of land dispossession of indigenous peoples in Mexico?
3. How does the modern democratic state address resource distribution and social justice in a culturally and socially diverse society such as that of the Sierra Tarahumara?
4. How can the notion of decision-making power better explain and reveal domination mechanisms and ways to challenge them?

These research questions were examined in two main spheres for data collection and analysis: First, in three main social dimensions, namely, the global political economy, historical and empirical dimensions. Second, in three main state institutions: the agrarian, democratic and juridical establishments. Both dimensions are tackled by data collection methods such as bibliographic analysis, archive research and ethnographic research. Drawing from the theoretical framework discussed below, the research questions were designed to analyse symbolic and coercive political mechanisms, institutional power as well as social organisation in the exercise of land control. In this sense, a structural approach needs to account for the variety of dimensions underlying complex phenomena such as land disputes and dispossession of a subaltern social group. The purpose of employing a structural approach, as Farmer states, is to document, "...as meticulously and as honestly as we can, the complex workings of a vast machinery rooted in a political economy" (2004:

²A sovereign subject is one that does not recognise another power over his own (Correas, 2010, see chapter 6). Sovereignty was exercised by monarchies and other political regimes before the emergence of the Modern Nation State. Currently sovereignty is reserved to this type of political system, however, this attribute is legitimised by the assumption that sovereignty rests on 'the people' and that it is the duty of the State to represent them.

317). In Farmer's view "Structural violence is violence exerted systematically—that is, indirectly— by everyone who belongs to a certain social order; hence the discomfort these ideas provoke in a moral economy still geared to pinning praise or blame on individual actors. In short, the concept of structural violence is intended to inform the study of the social machinery of oppression" (Ídem).

Under this view, the social structure is lost from sight if aspects such as the political economy, unequal social and political relations, history as well as the everyday assumptions and decisions of good-minded people are neglected from the analysis. The wide range of social, political, subjective and institutional phenomena (semi) permanently sustains domination by particular groups over others, under a process that is perpetuated by the ongoing reinforcement and institutionalisation of its constitutive elements.

The relevance of the subject being researched lies in three significant facts: first, it is a widely known fact that indigenous people and poverty are closely related (Cimadamore, Eversole and Mc Neish, 2005, Hall and Patrinos, 2006; UN, 2009). Moreover, indigenous peoples of Mexico have been identified as one of the poorest social sectors in the country. For instance, recent studies in Mexico have confirmed the direct relationship between being indigenous and being poor (UN 2009; CONEVAL 2008) which is exemplified by the fact that indigenous people experience the lowest levels of human development nationwide (La Torre, 2009; CDI/UNDP, 2006); secondly, social injustice (including development-led) has rarely been considered as an underlying cause of broader forms of social groups' marginalisation and poverty; and thirdly, social injustice has tended to be delinked from broader historical, social and global processes.

While the lowest levels of Human Development in indigenous regions in northern Mexico have been found in the Tarahumara mountain range (Ídem), development discourses and practices tend to neglect historical, relational and political perspectives of development-induced social injustice. After having carried out fieldwork in the area for about seven years I have been questioning myself the root causes of poverty and social injustice among Rarámuri communities. On these grounds, the thesis examines the case study of the Rarámuri people and two different sites in order to contribute to a greater number of variables in the analysis of socio-political inequalities, land disputes and dispossession processes. Both sites

have been targeted by development investments leading to a number of land disputes with a long history of resistance by the Rarámuri against local mestizo and other external actors.

These conflicts are only part of a dynamic that has been exacerbated in the Sierra Tarahumara in the last decade. In the period being studied, both disputes reached the courts and have led to a new and interesting stage of legal, political and symbolic strategies on both sides. However, this is the closest the Rarámuri are getting to recognition of their land rights, as well as of their status as political subjects in land disputes and dispossession.

The first location of the controversy is the Guadalupe y Calvo municipality, where land rights are disputed between the ejido Pino Gordo and the Las Coloradas agrarian community. It involves illegal logging and juridical dispossession by both a mestizo Las Coloradas and indigenous- El Durazno communities over the Choréachi, an Indigenous community historically struggling for the recognition of their land rights. The second location includes three recent land conflicts in the large touristic project 'Barrancas del Cobre' (Or Copper Canyon) and the consequent rush for land acquisition by local elites. Firstly the indigenous community of Mogotavo defends against two private groups of tourism entrepreneurs; Secondly, the indigenous community of Wetosachi faces two brothers owning a large construction company, and thirdly, the indigenous community of Bakajípare came into conflict with their fellow mestizo ejidatarios who ceded land to an individual tourism investor.

All three disputes will allow the elucidation of state formation, particularly that of agrarian and juridical institutions in interaction to the historical inter-ethnic relations and the prevailing social inequality underlying land conflicts. Both cases are staged by the Rarámuri and the mestizos, however, they differ in the motives underlying the legal land dispute, the legal personhood under which actors are facing each other and the interests underlying the abundance of resources. These case studies are, therefore, being used to demonstrate the different and clashing interests, actors and mechanisms involved in land conflicts in the same cultural area.

Data was collected during a one-year period of fieldwork using a combination of ethnographic methods and archival research. The data collection

techniques included 35 interviews and ethnographic observation/diaries in the relevant rural communities –for a period of one month- and NGOs/institutions in Chihuahua city – for a 10-month period. The stay in the state capital mainly involved interviews with institutional actors and the search and consultation of four different historical, legal, public and private, agrarian archives (RAN³ File No. 114.1/276.1; RAN Exp. 551/23; RAN File 84/2007; RAN File, 6/3223, 2294, CFD-CCIT⁴; ENAH-CCIT archive, *Instituto Chihuahuense de la Cultura* Historical Archive and NGOs and legal advisors particular private archives⁵). Additionally, three court hearings in Chihuahua city were attended and observation and notes were taken all over the process.

These methods and techniques provided the data necessary to develop a textual and empirical perspective and to elaborate a detailed analysis of the relationships, practices, processes, and actors involved in the context of the social and legal land disputes at play. Archival research gave account of official certificates of the state institutions’ rulings and titling processes. These documents also provided details about the interactions – such as demands and accusations -between institutions and community right claimants. This data allowed a better understanding of the social and legal dispute processes, the narratives and discourses involved and what determined the outcomes of the controversies. The information was complemented by community members’ and other actors’ testimonies of their historical perspectives and their current views about contemporary developments and factors at play.

1.1. Historical and Political Context

Indigenous people have been common subjects of land displacement throughout Mexico’s modern history. The search for resources and land for large infrastructure projects by political and economic elites has, for centuries, prompted the extensive occupation of indigenous territories throughout the modern era by non-indigenous people -such as the capitalist actors, explorers, state officers, local mestizo settlers - through various means, whether persuasive or coercive. In

³ *Registro Agrario Nacional* (RAN)

⁴ *Centro de Fondos Documentales del Centro Coordinador Indigenista*. Archive in custody of *Escuela Nacional de Antropología e Historia* (ENAH)

⁵ ASMAC archive and the NGO ‘*Tierra Nativa*’ particular archive; Mogotavo’s former lawyer particular archive; CONTEC A.C. Particular Archive

northern Mexico, the earliest displacements were those provoked by the establishment of the Spanish colony in the 16th century, when settlers seized land and forced the indigenous peoples from fertile valleys to the mountainous region; and later in the 17th century, when the search for timber and minerals resulted in the colonisation of the Sierra Tarahumara by the Spaniards and their descendants, who proclaimed themselves 'owners of the land'. In the post-independence era, during the state-building process, indigenous people were subjected to further forms of public and private expropriation and other changes in land tenure systems. Stemming from forceful seizure, a process of legitimizing ownership by legal title was put in place (Wallerstein, 2012).

The agrarian reform resulting from the Revolution of 1910 finalised the terms of the land property regimes of modern Mexico by re-distributing large landholdings as landless peasants became subject to the 'social' (common) land property regime⁶. This agrarian reform guaranteed the integration of landless peasants to a collective property regime, thus preventing accumulation and protecting the new land rights holders (*ejidatarios* and *comuneros*) from other forms of appropriation and privatisation.

The new legal framework, however, disregarded the recognition of indigenous territories and normative systems, which fragmented traditional territoriality and had long-term consequences for the securing of land property rights as collective subjects and differentiated cultural groups (Díaz-Polanco, 1995; Barros, 2000; Bouquet, 2009; Smith, et al; 2009; see chapter six). This redistributive and common property legal framework suffered a further drawback as neoliberal reforms were put in place in the 1990s defining boundaries for individual land plots belonging to common property regimes and legalising their commodification. These reforms, in short, allowed private actors to formalise different forms of access such as renting schemes and conversion of ejido⁷ lands together with communal regimes into private property (Idem).

⁶ Ejido and comunidad are the two common property systems established during the post-revolutionary period, 1910-1936

⁷ "The latin roots of the word ejido is 'exitus', which means exit or end. In Spain the term ejido referred to the commons at the outskirts of the village. During the colonial period the Spaniards used the term for the commonly held lands at the entrance of the exit of the rural villages in the colonies. With the Mexican Land reform and the new Constitution of 1917, the term *ejido* acquires a legal meaning for a specific type of land tenure" (Nuijten, 2003: 163).

In the context of the post-revolutionary agrarian regime and the 1990s counter-reforms liberalising land property, indigenous peoples' ownership of their cultural territories is still considered a critical element of their political agenda (CNI 2009; EZLN 2005; Eversole et al 2005; UN, 2009). However, their current landholdings (titled or not) remain at risk for two main reasons: first of all, it is a widely held view that the Indigenous population occupies a subordinate position *vis-à-vis* the wider mestizo population of Mexican society, thereby, being subject to different historical forms of social and political marginalisation (Villoro, 1998; Bonfil, 2006; Warman, 2003; Esteva, 2001).

Mestizaje (Miscegenation or Mestizoisation) refers to the ideas around cultural and biological fusion resulting from the arrival, migration and colonisation in 1492 by the Spaniards to the continent that would one day be called America. Mestizaje was also understood –according to the modern state ideals– as the identity resulting from a historical process of ‘de-indianisation’ that later on in the post-revolutionary period became an aim of state nationalist and assimilationist policies as it was closer to the European idea of ‘modernity and progress’ (Gledhill, 2003). This state ideology is currently still in place, despite reforms (article 2nd of the constitution) trying to adapt Mexican law to the international human rights framework.

The mestizo is today the majoritarian social group in the Sierra Tarahumara, that has largely controlled local politics and the mainstream economy for more than four centuries. For instance, they have controlled the industry based on resource extraction, extensive exploitation of natural resources and as well as trade, agriculture and livestock-herding activities (Sariego, 2002; González et al, 1994; Levi, 1999). One of the main connotations of the mestizo term in the Sierra Tarahumara is that of those non-indigenous inhabitants of the Sierra. The four indigenous groups of Chihuahua have particular contemptuous ways of referring to the mestizo. The Rarámuri refer to the mestizo as *chabochi*, the Ódami Indigenous group as *obai*, the O’oba group as *dudkama*, and the Warijío group as *yori*.

Secondly, the already globally dominant neo-liberal economic paradigm with the overriding discourse of market liberalisation has permeated all aspects of

national public policies⁸, for example, fostering the conditions for land commoditisation and investment in order to increase business opportunities in rural areas. These processes often involve the creation of extractive (oil, mining or timber) or (large) infrastructure projects (such as roads, dams and hydroelectric stations, touristic projects, airports, and so on) as well as agricultural plantations, livestock, conservation regimes or even mere land speculation.

Recent literature has also given account of the recent trend of global land grabbing –or large-scale land (and resources) transactions and ‘foreignisation’ - encouraged and justified by a global crisis (in food, fuel, energy, finance and the environment), powerful economic actors such as national governments, corporations and private equity funds. Literature on peasant and agrarian studies has flagged warnings regarding the potential effect on peasants’ livelihoods and land loss by various forms of appropriation such as privatisation, seizure, occupation, forced resettlement or nationalisation (Borras, et al, 2011; Lran, 2011; Lund and Lee Peluso, 2011; Borras and Franco, 2010; Fairhead and Leach, 2012; Makki and Geisler, 2011).

Large-scale infrastructure projects require access to land and, therefore, the need to secure ownership over large tracts of territory, encouraging them to challenge the existing common property land regime, which is categorised by Mexican agrarian law as ‘social property’. Therefore, this property regime is currently viewed by development actors as an obstacle to their capital investment purposes, who therefore sometimes misrepresent disputed land as unproductive and empty. As a result, land is appropriated by powerful private actors through diverse procedures of buying, leasing and occupation –legally or *de-facto*, legitimate or illegitimate- occasionally leading to displacement and dispossession of rural people and communities through seizure, land-holders eviction, forced or negotiated resettlement, land grabbing, land foreignisation, landlessness and migration processes (Wallerstein, 2012; Araghi, 2009; Akram-Lodhi and Kay, 2009; Barabas and Bartolomé, 1992; Scott, 1998; Cernea, 1988; 2000; Oliver-Smith, 2009).

Dispossession, in this regard, comprises all these different forms of land acquisition and appropriation by dominant actors, including legal acquisition. The

⁸ For example policies starting in the 1980s oriented to privatisations of public services, cuts in social services, economic deregulation and financierisation of the economy

thesis demonstrates that domination processes have a structural dimension and, hence, norms and institutions favour those social groups and actors better positioned in the social structure, which means that subaltern actors find it extremely difficult to overcome their disadvantaged situation. Under this logic, dispossession is defined in terms of the domination process involved, rather than according to the legality of the operation. For example, by reforming Article 27 of the Mexican Constitution (*Diario Oficial de la Federación*, 1917), development actors have been able to exert political and social pressure against land rights holders (e.g. *ejidatarios*), pushing them to sell their lands to private actors. In this situation, although the *ejidatario* is meant to give its consent to land selling, full independence from external political pressure and information in decision-making is not guaranteed. The result is that the received payment is often not enough to start a new economic project, and the former landholder ends up dispossessed and with no ability to find a place in the capitalist economy.

Dispossession largely goes hand to hand with civil liberties and human rights violations (Amnesty International, 2011; Cernea, 1988, 2000; Barabas and Bartolomé, 1992; Monsalve, 2012; Oliver-Smith, 2009), particularly those stated by international law recognizing indigenous peoples' rights over their territories and natural resources as well as the right to be consulted, guaranteeing the right to prior, free and informed consent as part of the right to self-determination (OIT, 1989).

In spite of the fact that the Human Development and poverty indicators for indigenous people in the Sierra Tarahumara are so low, studies have neglected the role inequities within power relationships play in the chances of subaltern groups to meet their collective social and material aspirations. Mainstream development studies have been more interested in discussing the role of participation in development, rather than that of power inequality and full community decision-making power of indigenous communities in development processes (A few exceptions are Arteaga and Brachet-Marquez, 2011; Lund and Lee Peluso, 2011, Borrás, et al, 2011; Bartolome and Barabas, 1992; Bartolome, 1992). Critical agrarian studies and the recent focus on land grabbing are opening new opportunities for this discussion (Borrás, et al, 2011; Borrás and Franco, 2010).

Land displacement is, rather, normally approached from policy-oriented perspective (e.g. Cernea, 1988, 2000; Oliver-Smith, 2009) or not even addressed at

all. Nonetheless, the indigenous peoples of Mexico have faced and resisted historical processes of colonisation, state and social discrimination and assimilation, the intervention of mainstream capitalist, market economy and other modern social dynamics. They have pursued their aims through strategies such as armed uprisings and identity-based forms of resistance (e.g. religious festivities), domestic celebrations (corn-beer drinking gatherings reinforcing social networks), cultural practices (exercise of their religious, medical and juridical systems) and the exercise of normative systems (Levi, 1999 and 2002; Orozco, 1992). These issues have rarely been considered by studies analysing development processes.

Despite the great variety of anthropological literature on power in rural Mexico (Hewitt, 1984; Bonfil, 2006; Warman, 1972, 1988; Glantz, 1987; Palerm, 2008; Varela, 1984; Bartra, et al, 1987; De la Peña, 1980), development induced displacement and dispossession has not been critically addressed, for example, by linking, 'the interpretive project of modern anthropology to a historical understanding of the large-scale social and economic structures in which affliction is embedded' (Farmer, 2004: 305). A better comprehension of structural processes would be obtained by examining how to go beyond mere cultural or economic-based interpretations of social issues and, rather, better approach domination and dispossession of market-based development in the context of structural social and political inequality.

1.2. Geographic and Socio-Cultural Context of the Sierra Tarahumara

The Sierra Tarahumara in the state of Chihuahua, Mexico, was chosen as an appropriate site to conduct the research due to a combination of cultural, political and economic factors. Among all 56 ethnic groups in Mexico, the Rarámuri is the largest in northern Mexico, with around 75, 545 people (INEGI, 2005), and has been identified as the one experiencing the lowest levels of Human Development and inter-ethnic inequality in the whole country (Serrano-Carretero, 2006; La Torre, 2009; CDI/UNDP, 2006). Furthermore, the indigenous territoriality and settlement pattern in northern Mexico (so-called- 'dispersal'⁹), is different in relation to that found in Mesoamerica (Mendiola, 2008; Spicer, 1962; Sariago, 2002; Moctezuma and Harriss,

⁹ I use this term due to a lack of a better concept. The description of Rarámuri's settlement pattern as disperse has been controversial in the anthropology of northern Mexico and in legal disputes, for example, it has been a reason for agrarian authorities not to recognise their right to land title.

1997; Branniff, 1997), an area historically privileged as a result of institutions devoted to indigenous affairs and research. This difference is commonly overlooked by policy-making processes, particularly when considering cultural rights in land related issues.

1.3. Previous Fieldwork in the Sierra Tarahumara.

After having researched issues of cultural heritage, development and environmental issues in the Sierra Tarahumara for over five years, I was now particularly interested in better understanding the social and political causes of chronic and extreme poverty in the indigenous communities (Rarámuri and O'oba). Previous fieldwork allowed me to observe that largely social phenomena were determined by the social inequalities that pervaded the region. In particular, the most disadvantaged social groups in the area *vis-à-vis* the mestizos are the four indigenous groups in the area, namely the Rarámuri, O'oba, Warijío and Ódami. Although many issues were explained by inequality, inequality itself had yet to be explained. Chronic poverty, marginalisation from public services, discrimination and exposure to violence were everyday issues for the Rarámuri, whereas the mestizo and external actors control the economic and political processes that shape this panorama. This situation was consistent with the PNUD-CDI (2006a and De la Torre, 2010) reports on human development in indigenous regions, which put the region at the bottom of the national lists in a variety of categories. On these grounds I decided to explore the way inequality processes were created and reproduced over time, particularly through the study of such emblematic injustices as land dispossession. The issue of land appropriation has special significance in a postcolonial country like Mexico, which throughout history has experienced revolts and civil wars resulting in redistributive processes of power, wealth and proprieties previously accumulated by elites.

Despite independence, 'Reform' and the Mexican Revolution, land appropriation by elites by dispossessing indigenous communities and people have been a constant process throughout the country's history. Colonisation of the indigenous area of the Sierra Tarahumara by mestizos has been carried out through a variety of legal and illegal tactics and despite a modern state guaranteeing democracy and a rule of law, indigenous peoples of the region keep experiencing pressure over their land and resources by capital investors, particularly encouraged

by the three main industries developed in the Sierra: Mining, Forestry and Tourism. I focused in the locations of Pino Gordo and the *Divisadero Barrancas/Cañón del Cobre* (Copper Canyon) where indigenous communities were legally challenging local and external elites, relying on civil society organisations.

Three particular features were critical in explaining my focus on such cases: First, I had labor links with the CSO's advocating for the communities; Secondly, the disputes were rooted in longstanding agrarian controversies; and third, the disputes attracted the attention of local and national media and, thus, were widely disseminated. One dispute was related to interests over forest logging, while the other was motivated by touristic interests over land next to the cliff of one of the deepest gorges of the Sierra. Finally, there was a large amount of information regarding those locations, as both the agrarian and the advocates archives were opened to me for full access.

There was a difference between the forestry and tourism industries in terms in the actors' direct involvement in the land disputes and, hence, the way I addressed them. Whereas logging companies do not need land property in order to do business as they obtain concessions from the ejido/comunidades to manage timber extraction, the tourism industry is dependent on property and access to land in order to operate. This implies that logging industry actors' do not get directly involved in communities land dispossession, but the land property rights holders do (such as the *ejidatarios* or comuneros of El Durazno and las Coloradas). On the contrary, private actors and tourism businessmen made early direct attempts to get property rights over 'Mesa de la Barranca' (Mogotavo), 'El Madroño' (Wetosachi) and a portion of Ejido San Alonso (where the indigenous territory of Bakajípare is located) and later went on to displace indigenous communities once the 'Copper Canyon Project' was officially launched. For such reasons, timber company actors are not considered in the picture, as their task is limited to persuading ejidos/comunidades to approve forestry management. Here, actors of dispossession are land rights holders themselves. In contrast, tourism companies operate through their own brokers in order to negotiate and, if necessary, harass community members to give up their lands. This is operated in coordination with *ejidatarios* who operate as their business partners as the case of San Luis de Majimachi and San

Alonso illustrates. At the end both state officers and ejido/comunidad members operate on behalf of private companies in land dispossession processes.

1.4. Scope and Main Theoretical and Conceptual Perspectives

This analytical model, designed to better understand land disputes and dispossession processes, is based on a critical theory perspective and particularly Young's notion of domination, defined as 'structural or systemic phenomena, which excludes people from participating towards determining their actions' (Young, 1990: 38). She explains the process of oppression and domination as a model consisting of five 'faces': marginalisation, cultural imperialism, exploitation, disempowerment and violence (Young, 1990). Although all of these categories are present in one way or another in the political processes leading to land dispossession, I found that in order to account for these specific communities' struggles, it was more appropriate to adapt Young's model to the emerging categories (to be explained below) based on the analysis of empirical data from the relevant case studies in Sierra Tarahumara, namely: the institutionalisation of domination practices, the subversion of political representation and hegemonic cultural representation in the local Rarámuri communities.

Thus, by adapting Young's model, I also found consistency with the Latin American coloniality approach that describes a 'colonial world pattern of power' as consisting of at least three different systems of control: first, the 'colonality of power' which refers to a 'global hegemonic model of power [...] that articulates race and \labour, space and peoples, according to the needs of capital' and those of an euro-centric system of domination (Escobar, 2011: 185, describing Quijano's approach); secondly, the 'coloniality of being', explained as the negation of existence, status and the consideration of people as certain social groups (Maldonado-Torres, 2008); and thirdly, the 'coloniality of knowledge' defined as the hegemonisation and universalisation of a specific Eurocentric kind of knowledge (Grosfoguel, 2007).

These categories were found also to apply in the empirical dimension at the community level and to play a salient role in the case studies examined. In a post-colonial context defined by its cultural diversity and unequal inter-ethnic relations such as those found in the Sierra Tarahumara, the different forms of

coloniality explained by this model operate in a variety of ways. Coloniality here, for example, works through the categorisation of the indigenous condition as inferior and subordinate, and different forms of exclusion and marginalisation (as drivers to dispossession) emerge as a result of such assumptions. The analysis of empirical data linked to relevant academic literature allowed me to formulate three categories of domination occurring in land disputes in the Rarámuri communities, each one supported by a number of strategies: 1) the institutionalisation of domination practices, 2) political representation as brokerage, and 3) hegemonic representations (to be explained below).

This approach revealed concrete domination mechanisms that are critical for the land dispossession of the Rarámuri communities by dominant actors, for instance, the use of a particular notion of law, the subversion of the idea of political representation, and the imposition of an hegemonic view interpreting the dispute. Both the structural domination and coloniality approaches consider issues of history, global political economy and the role of norms, values and institutions as constitutive elements of an oppressive social structure under which subaltern actors find it very difficult to succeed. These same factors are central to explaining the inter-ethnic relations and the dispute process and its outcomes in the Sierra Tarahumara. The proposed model is summarized as follows:

Firstly, the institutionalisation of domination refers to the way in which such specialised state institutions as the democratic, juridical and agrarian ones, rely on legitimacy and a bureaucratic apparatus for the reproduction of the state's forms of internal colonialism (González-Casanova, 2006). The non-recognition of the unique characteristics of indigenous peoples has contributed to favorable conditions for land dispossession. Such institutional practices include the privileging of business-based initiatives, political centralisation, regulation and bureaucratisation of decisions as well as the marginalisation of cultural pluralism in its different forms. In this sense, the institutionalisation of domination practices perpetuates the undermining of self-determination, reinforcing structural domination processes.

Secondly, brokers and other mediators cast themselves as legitimate political representatives substituting the exercise of self-determination by social groups and indigenous and other local communities. These so-called political representatives are granted an aura of legitimacy to take discretionary decisions on behalf of large

number of peoples and collectivities (the represented or the representees). In the end, brokerage is institutionalised in different ways and seen as an integral element of the democratic system as the evidence will illustrate. Mediators, in this way, place the bureaucratic apparatus at their service and render themselves unaccountable for their actions. Privileged strategies include discretion, unaccountability, assimilation and non-recognition of the subaltern actor. In short, assumptions of representation contribute to the legitimisation of structural domination over subaltern actors.

Finally, hegemonic cultural (mis)representations of injustice operates to undermine the subalterns' version about their experience of social injustice, while imposing and privileging a narrative that first hides and then justifies practices of dispossession. Strategies of invisibility, de-contextualisation and criminalisation are used to constrain subalterns' views about themselves and discursive perspectives of land disputes and dispossession. Seen from the wider historical political-economy these hegemonic practices are enforced by modernity/coloniality processes of epistemological displacements, that, based on the idea of race, invisibilises and discriminates diverse and subaltern worldviews and philosophies. Structural domination is also strengthened in the ideological and symbolic dimension rendering it unquestioned by public opinion.

These three domination mechanisms come together to create a structure of constraints for the land defense strategies of subaltern actors, constituted by different forms of brokers, norms/laws, values, assumptions, bureaucracies and hegemonic knowledge. Local communities, however, put into practice a myriad of strategies to assert their property rights and counter attempts at dispossession. These include a combination of historical, political and cultural practices as well as modern forms of accessing and participating in the state's juridical system, such as linking with solidarity networks, and the invoking of cultural rights-based law and jurisprudence. In the first decades of the dispute, the Rarámuri used to rely on forms of political representation (brokerage) that proved fruitless. However, a new repertoire was put in place by allying with civil society organisations, which gave them an understanding of state legal practices and a provided strategical support for culture defence, leading to new forms of land ownership and rights protection.

The thesis argues, then, that the engagement of indigenous communities in juridical struggles has positioned these communities as relevant actors *vis-à-vis* local and external economic and political elites. While indigenous peoples and communities have been made invisible by mestizo society and institutions, this research suggests that the communities' resistance through legal means, not only represents a juridical challenge to land dispossession, but also positions them as serious political and even legal subjects *vis-à-vis* the wider Mexican society. In sum, traditional and emerging practices of self-determination contribute to the weakening of structural domination by counteracting practices of institutionalisation, political representation and cultural hegemony.

1.5. Organisation of the Thesis

Following this introductory first chapter, Chapter 2, in turn, aims to build, clarify and discuss the concepts and theoretical framework to be used in answering the enquiry about how domination over indigenous communities is reproduced over time within a democratic state and to what extent decision-making power of local people is related to land (dis)possession. This is carried out by exploring conceptual and theoretical approaches concerning the question of why social injustice of subaltern actors is perpetuated under the context of modern democracies, by taking into account the social conditions of cultural diversity and development interventions in the area. In order to explain specific domination and dispossession processes in the case studies of Pino Gordo and the Copper Canyon in the Sierra Tarahumara, the chapter explores the potential of explanatory models that go beyond the limitations of positivist approaches: the structural perspective (Young, 1990, 2000) and the branch of Latin American critical theory known as the modernity/coloniality research program (Quijano, 2000, 2007, Mignolo, 2007; Escobar, 2007, Maldonado, 2008; Grosfogel, 2007), both perspectives framed in the wider field known as critical theory.

The main objective of this second chapter is to better understand land acquisition from the standpoint of the global political economy, and to find out how this is later grounded and expressed at the local level, influencing the particular social context of the Sierra Tarahumara and the ongoing struggles for land and resources between different social groups. The explanation of these dimensions is followed by reflection about the pertinence of going beyond individualised and

decontextualised perspectives and, rather, to consider exploring the empirical data through a structural approach. This job is done by drawing on the 'structural injustice' framework of Young (1990 and 2000), who provides a model for the analysis of structural domination as a result of practices and assumptions underlying institutional rules that undermine people's decision-making power. Furthermore, the chapter draws on an account of history and ethnography in the Sierra Tarahumara to examine the way relations of coloniality/modernity have permeated historical social relations in the area, which is seen as an opportunity to answer questions regarding hegemonic notions about what the true knowledge, race and systems of power are meant to be, according to the governing elites of the different historical periods. The Pino Gordo land dispute is seen here as paradigmatic of the colonial pattern of power mainly influenced by the state and capitalist actors at the global level and whose strategic mechanisms acquire specific forms to be applied at the national and local levels.

The discussion then turns to development as a generator of social injustice, and to the underlying apparatuses of knowledge production that subvert the meanings of its impact over local communities. It closely approaches the main question of the extent to which development injustices are constitutive of modern democracies. In this regard, the notion of political representation is found to be critical for the justification of (mega)development. It is explained that state actors assume legitimacy to work for the 'common interest' on grounds of their character as representatives of citizenship, a condition acquired through an alleged democratic electoral process. The chapter finally suggests that counter to the notion of representation is the idea of self-determination. The development apparatus, for instance, assumes the job of misrepresenting decision-making power in different ways (e.g. through ideas of participation or representation). Thereby, self-determination as a community strategy to enforce the protection and defense of property rights remains central to answering questions about the prevalence of injustice under democracy and the underestimated role of communities' traditional decision-making processes in challenging domination.

The Third chapter outlines the methodological foundations of the data-collection and analysis strategy upon which research questions are to be answered. Drawing from the particularities of the research problem and context, the chapter

explains the pertinence of studying land disputes between social groups in the context of social inequality and cultural diversity in the Sierra Tarahumara, and the particular settings of the Copper Canyon and Pino Gordo communities. The chapter also describes the rationale behind using ethnographic and archival research as well as the motivation behind employing qualitative methods and critical theory as data analysis strategies, taking into consideration the interrelation between the global political economy, historical processes and social and power relations at the local level. I stress the importance of such an approach for developing an understanding of the diversity of factors and dimensions involved in land disputes and dispossession between structurally unequal social groups.

Chapter 4 presents a general outline of the Pino Gordo dispute process, and provides answers at a broader and general level to all four sub-research questions by relying on the theoretical framework previously presented. This chapter first gives an account of the empirical information while analysing in detail the developments of Pino Gordo land dispute, exemplifying practices of agrarian state institutions that contribute to land dispossession of the indigenous Choréachi community. This illustrates some of the dominant actors' practices of domination and the mechanisms through which land dispossession process takes place, which are classified in three categories: institutionalisation of domination, political representation and hegemonic representations.

The chapter investigates and explains the way social structural differentiation provides dominant actors a variety of tools to control and undermine decision-making power of subaltern actors. In this way, it addresses the question regarding the identification and understanding of mechanisms of domination. Three main domination strategies were found to be in place: first, forms of political representation that are subverted into brokerage; second, the imposition and privileging of narratives that hide and justify practices of dispossession; and third, the institutionalisation of local forms of political interests and strategies. In the end, it is concluded that these mechanisms allowed non-indigenous actors to appropriate indigenous lands by undermining the indigenous group's sovereignty through legal-bureaucratic, political and discursive means.

The aim of the fifth chapter is to focus on the Copper Canyon dispute, explaining the prevalence of land dispossession processes in the context of the

modern and democratic state by illustrating it with a general description of the social context and history of the dispute process. It starts with a general examination of the Copper Canyon land disputes, allowing a wider perspective of the problem. An initial task is to frame the empirical account on the ideas that were considered to better explain issues of injustice and dispossession. This is done in the first sections of the chapter by exploring the way structural injustice and the modernity/coloniality perspectives explained the disputes and dispossession practices under study.

The second half of the chapter reflects on the important role played by the state in the land dispute in privileging particular epistemologies, while marginalising others. The way notions of political representation are understood are analysed, and how (mis)representations of the disputing actors and the dispute itself are hegemonised by dominant actors. In the first place, the case studies illustrate how the juridical personhood of indigenous disputants is ignored, while local elites' claims are privileged. This, in short, implies the privileging of particular wisdoms over others, disguising the argument under technical and normative language, and, in this way, orienting the course of rulings and other land rights allocation processes. Global political economy processes of touristic investment become materialised in the politics of national tourism policy and megaprojects, which in the case of the Sierra Tarahumara implies the deployment of a wide repertoire of political strategies based on the subversion of the notion of political representation.

As an example, a wide range of officers and bureaucrats sustain their biased decisions on grounds of the alleged legality and legitimacy of their authority. Quijano and others have termed this as coloniality processes, divided into coloniality of knowledge, coloniality of power, and coloniality of being. Counter to these forms and practices of political power, stands the community's strategy – decided within their own autonomous normative systems- of establishing alliances and upgrading the struggle to the international law dimension. This finally resulted in a much more successful route than that of turning to brokers and state institutions in search for advice and support. In short, the section explains the way some dimensions of the struggle are represented, while others are misrepresented

in order to hegemonise specific discourses and narratives that legitimise the dominant actors' position.

The sixth chapter discusses the question of why and how social injustice is exercised and reproduced within a rule of law regime, explaining how modern law and juridical systems have been designed to displace the still existing plurality of normative systems (legal plurality), mainly those of the wide variety of indigenous peoples and communities in the country. By looking at the social and political implications of the juridical process around land disputes between structurally unequal social groups the chapter addresses from a critical perspective the workings of the juridical institutions, and particularly, the colonial/domination design of the juridical system, suggesting that its colonial nature contributes to the domination structure that has perpetuated land dispossession.

A sociological analysis of the juridical dispute and practices has been made by examining empirical data under the light of Young's structural domination and, particularly, the Latin American modernity/coloniality approaches. These frameworks are consistent with the critical juridical studies approach –held by authors such as De Sousa Santos, Foucault and Correias- who look critically at juridical institutions as part of a modern state-building enterprise and their particular performance in the case studies in question. These interpretative frameworks demonstrate how dominant actors normalise and institutionalise power inequalities, thus, reinforcing the unequal social and power structure that prevails and influences land disputes outcomes.

Empirical data analysed through a critical perspective reveals the way power/domination strategies such as political representation, hegemonic representations and institutionalisation of domination perpetuate the conditions that lead to dispossession of subaltern social groups. Finally, the chapter concludes that the practice and experience of the Rarámuri illustrates how the hegemonic practices referred to above can be resisted, and even counteracted, through the exercise of self-determination, influencing in this way, the course and outcomes of land appropriation, defence processes and land loss in development induced disputes.

The seventh chapter: 'State Making and the Constraints to Self-Determination' details and explains how the different forms of mediation and brokerage are portrayed as processes of democratic political representation, which eventually leads to the legitimisation of land appropriation and constrains the exercise of self-determination by subaltern social groups. This strategy is particularly notable in both land disputes studied, as the exercise of domination processes facilitates the successful completion of land dispossession of subaltern groups by dominant actors such as state officers, local brokers and elites and urban businessmen. The subversion of the notion of political representation is practiced in two dimensions, namely, forms of authority embedded in the modern-democratic political system and in brokerage practices at the local level by individuals and organisations.

As part of a structural approach where institutions significantly contribute to the perpetuation of social injustice, this chapter criticises the modern democratic system as a central dimension of domination. The chapter reveals the way in which state institutions not only subvert the purpose of political representation, but utilise it as a mechanism to guarantee legitimacy, discretion and unaccountability. As practised by juridical and agrarian institutions, the narratives of political representation disempower subaltern social groups and undermine their efforts to secure land ownership. However, as other chapters also demonstrate, different forms of autonomous decision-making still endure and are practiced by indigenous communities, strengthening their demands for accountability and consideration as peers by state institutions and other social actors.

The chapter explains how these hegemonic political strategies render political representation ineffective for subordinated social groups, while the alliance between progressive lawyers and self-determining community practices results in more successful achievements. In sum, the analysis reveals some aims and mechanisms through which these social-institutional processes contribute to the shaping of the social structure, perpetuating conditions that disadvantage the struggles of subaltern social groups, such as Choréachi, Mogotavo, Wetosachi and Bakajípare.

The eighth and concluding chapter covers the final considerations of the thesis. It explores Mexican juridical and agrarian institutions by departing from a

critique of the modern state as a critical institution of current structural domination and destitution of indigenous peoples. The chapter analyses modern juridical state institutions as a monopoly over diverse (and subalternised) juridical orders, whose strategical imposition departed from an epistemological displacement that subordinated, and eventually excluded and denied, other competing knowledges and normative orders. According to this, the chapter criticises juridical centralisation and monopolisation of law that has resulted in the negation of legal pluralism within the Mexican state with significant negative consequences for culturally different social groups. In response to the oppressive context in which these subaltern groups are living, the analysis of the case studies show that they have opted both to enforce and exercise their normative systems and decision-making institutions, and to engage in juridical disputes against those that aim at dispossessing them from their land.

By turning to the state juridical system as a dispute resolution strategy, indigenous communities have decided to play the game under '*chabochi*' (*mestizo*) law, although not without proper juridical advice from solidary lawyers and advocates. The engagement of indigenous peoples with solidarity networks of activists and civil society organisations have led indigenous communities to get involved with the debate and language of human rights. As a result, a critical strategy for securing land property has been to get involved in the discussion of cultural and other human rights, and therefore to take decisions together with lawyers about the arguments behind the juridical strategy (e.g. to invoke for international law and cultural rights-based defence strategy).

CHAPTER 2. A THEORETICAL AND CONCEPTUAL APPROACH TO JURIDICAL LAND DISPUTES AND LAND DISPOSSESSION OF SUBALTERN ACTORS.

2.1. Introduction

The unstoppable advance of economic growth in the prevailing capitalist economy increasingly needs to access and commoditise more basic resources such as land and water, in order to increase profit from the satisfaction of consumers' demands. These resources, however, are usually a critical part of the livelihoods of

local communities who often see themselves dispossessed in different ways. Here, research will show that the mechanisms through which dispossession takes place are historical, political, relational, related to the political economy, and, in short, structural. This view is held in contrast to individualist, decontextualised and technical approaches oriented at policy-making processes. Furthermore, there are different forms of legitimising dispossession by structurally well-positioned actors and, in turn, resistance to it from indigenous communities. In this chapter I will look at some of the ways in which this problem has been conceptualised and describe how I draw on specific theoretical perspectives in order to build an explanatory framework based on the way these issues occur in the specific context of the case studies of *Pino Gordo* and the Copper Canyon in the Sierra Tarahumara.

The states' prioritisation of economic growth and development certainly generates jobs, economic opportunities and access to services as the mainstream economic discourse holds. However, this narrative obscures the fact that growth affects and puts at stake in many ways other peoples livelihoods, properties and ways of life. Here I will provide and discuss a conceptual framework to better interpret and explain how development-led injustices occur through the established political and social relationships and institutions at the different levels, despite –or even because of- a political and juridical system that allegedly protects all forms of property, civil rights and other constitutional guarantees. In short, I will build on theoretical ideas of structural injustice (Young, 1990, 2000a, 2000b), modernity-coloniality approach (Quijano, 2000, 2000b, 2007; Mignolo, 2007; Maldonado, 2007, 2008; Grosfogel, 2007) and critiques regarding democracy, law and alternative decision-making processes (Shapiro et al, 2009; Stuart-Mill, 1993; Cabrera, 2009; Pitkin, 1967; Pettit, 2009; Mora, 2009; Morales, 2009; Aguilar, 2010; Hirst, 1990; Young, 2000, 2000b; Gabriel and López-y-Rivas, 2005, 2007). In this way I can address development's social impact and the way it is both operated and obscured in different ways by both political elites, officer/development practitioners and literature, and finally by state institutions such as the agrarian (Nuijten, 2003; Smith, et. al; 2009; Assies, 2008; Randall, 1996; Borrás et al, 2011a, 2011b) and the juridical institutions (De Sousa Santos, 2009; Correás, 2010; Foucault, 1996).

From a bird's-eye view, my research questions were inspired by two main approaches. First, by Young's structural domination approach (1990 and 2000)

which explains the constitution of social structures and how particular social actors fall within specific positions, according to the way their attributes are valued and assumed by wider social and institutional sectors. Secondly, according to this approach, social actors' opportunities to achieve aspirations are going to be conditioned by the position they occupy in the structure. As assumptions and norms are critical constitutive elements that shape this structure, the historical inferiorisation of epistemologies pre-existing the modern state –such as those of the indigenous peoples- (Quijano, 2000, 2000b, 2007; Mignolo, 2007; Maldonado, 2007, 2008; Grosfogel, 2007) in addition to the way norms/institutions have been built, determine the perpetuated inferior position the indigenous social groups have occupied over long-term processes. Under this focus, I believe the Rarámuri's situation of dispossession and subalternisation, as well as their efforts towards self-determination can be better approached and explained.

2.1.1. Chapter Overview

The overarching question that guides this research enquires about the mechanisms and processes behind social injustice such as land dispossession of subaltern social groups and the way this is perpetuated, particularly under a state defined as a federal republic and representative democracy such as Mexico. This brings me to the examination of the actors' political decision-making processes in the context of land dispossession, as well as of the specific socio-political mechanisms behind the reproduction of social injustice in the context of inter-ethnic tensions such as that of the Sierra Tarahumara, in Chihuahua. Here decision-making processes are understood as the specific normative spaces of the involved actors, where issues are discussed, negotiated and decided in agreement among the community and according to their own rules. Examples of this for state actors are the Deputies chamber, the court, the particular formal and informal officers' meetings, or the specific rulings exercised by the relevant professionals in the area. The indigenous communities, in contrast, discuss, negotiate and decide their issues within specific traditional normative systems, where neighbors' meetings and Sunday community assemblies at the township play a central role in the establishment of legitimate collective decisions.

The importance of these questions lies in the need to better understand how domination over indigenous peoples is constituted and carried out in particular contexts according to the confluence of a number of factors. These include: the global economy, historical relations between the state and indigenous peoples, the specific state making processes, the power structures at the national and local levels and the particular social relationships and subjectivities involved. The generation of knowledge regarding these mechanisms and processes in the Tarahumara context will enable us to better address dispossession and longstanding domination of local and national elites over indigenous communities. To answer these questions becomes increasingly pressing when social injustice itself becomes deliberately and systematically ignored in both practice and discourse. In consequence, domination is facilitated by configurations of practices, values, unquestioned norms and assumptions by a variety of 'well-intentioned' actors that shape the agenda and the narratives of the development process (Escobar, 1995; see section 3.4.) and particularly through the interplay between entrenched and everyday political and institutional practices (e.g. mediation) (Young, 1990) as well as hegemonic knowledges (Quijano, 2000, 2007 and Mignolo, 2007; Escobar, 2007). A clear challenge for the understanding of these issues is to find theoretical perspectives, ideas and concepts to better tackle the question about how domination operates within a federal republic and representative democracy (Issue discussed in chapters 6 and 7).

This chapter addresses its task in the following manner: In the second section, following this introduction, I introduce the problem of land dispossession and injustice in the prevailing context of the global and Latin American political economy and I link this problem with the particular ethnographic context of the Sierra Tarahumara area. In this sense I highlight some of the social issues relevant to the understanding of the historic and social relations as well as the power structure that sets the conditions for the development of processes of dispossession and social injustice. In the third section I describe the general conditions that influence land dispossession and legal disputes in the Sierra Tarahumara under the theoretical perspective of coloniality, which I discuss through the examples of the Pino Gordo and Copper Canyon disputes. In the fourth section I address the general question of why social injustice is perpetuated in democratic and liberal societies by considering the modern nature of development and the way it contributes to social

injustice and the obscuring of dispossession. Later on, in the fifth and final section, I analyse the production of social (in)justice by the development industry practices and the place of decision-making. The section reflects on the authoritarian character of the Nation-state and the way the development industry relates to it. Both phenomena rely on the notion of political representation in order to exert political control over their constituencies, while limiting self-determination. For this reason the concept of self-determination is also discussed according to the critical theory perspective of Young (2004) and Gabriel and Lopez y Rivas (2005, 2007) and the experience of local autonomies in México. In order to address this question, four further issues are discussed: the role of cultural hegemony in negating self-determination by the development bureaucracies/institutions, the defense of political representation by development brokers, the dispossession resulting from this dismissal, and the way in which self-determination strategies of indigenous peoples enforce the protection and defence of their property rights.

2.2. Introduction to the Global Factors of Land Dispossession in Indigenous Mexico under a Structural Injustice Perspective

Throughout the period of American and European imperial interventions, oligarchies, past totalitarian regimes, global neoliberal policies, and national processes of internal colonialism, land dispossession has been a common feature in Latin America due to the longstanding processes of capitalist growth and capital accumulation. These processes are likely to be intensified with the new trends of economic growth by the so-called 'emergent economies' (represented by the group of countries known as BRICS¹⁰ and other national economies such as the so-called 'Asian Tigers'). Carbon market conservation mechanisms (e.g. REDD+), biofuel production and other forms of extractive industries and commercial plantations are thus increasingly demanded by emerging markets and national economies (Fairhead and Leach, 2011; Borras, et al, 2011; LRAM, 2011; Lund and Lee Peluso, 2011; Borras and Franco, 2010).

The clash between market/state institutional actors and local landholders is likely to be extended and aggravated in the next decade for two reasons: On one

¹⁰ Brazil, Russia, India, China and South Africa

hand, due to the normal process of growth as a central characteristic of capitalism - for example, the need to expand its markets, to access new resources (such as water and timber) and to produce more and new commodities. On the other hand, this will be due to the fact that a great proportion of land available for investment, natural resource extraction and high biodiversity levels is possessed by peasant and indigenous societies with common ownership systems (Boege, 2010, Alarcón-Cháires, 2005, Cimadamore, Eversole and Mc Neish 2005, Hall and Patrinos, 2006; UN, 2009).

Neoliberal policies carried out in Mexico in the last three decades have shaped the state's view of the countryside in terms of its economic contribution, rather than as a matter of living standards' improvement or well-being, resulting thus, in cuts to subsidies, commoditisation of natural resources and further inequality. Rural societies have seen their landholding and natural resources undermined, pushing rural peoples to migrate or to find a livelihood in illegal economies. In the meantime, agricultural trade and prices are deregulated, natural resources are commodified and subsistence and small farmers' agricultural production is discouraged in order to meet the increasing demands of the emerging global markets (Quintana, 2003; Calva, 1995; Calva, et al, 1998; Nadal, 2000 and 2011; Durand and Massey, 1992; Massey and Durand, 2002; Cornelius and Bustamante, 1989; Kearney and Besserer, 2004; Borras et al, 2011a).

The complexity involved in these processes is fuelled by the reorganisation of the state and by the global governance of corporations and financial institutions at the level of the global political economy, as well as by the emergence of new social actors and relationships submerged within the networks of longstanding social and power relations and structures. The relationship between global processes of capitalism expansion, power structures, practices and national and imagined hierarchies -from the global to local levels- create particular conditions for natural resources' appropriation, access, dispossession and displacement (Concheiro and Quintana 2001; Concheiro and Quintana, 2003; Borras et al, 2011a; Borras and Franco, 2010; Lran, 2011; Sikor and Lund, 2009; Hann, C.M; 1998; Ribot and Peluso, 2003).

According to this research approach, dispossession goes beyond the limitations of mere cultural, econometric, individualistic, depoliticised and technical

accounts of development-led displacement commonly employed in policy-making literature from the national to the municipal levels (e.g. Cernea, 1988, 2000; Oliver-Smith, 2009). Dispossession, rather, is seen here as a process of social injustice, which requires us to look at power relations and a wide array and complexity of legal, cultural and social relationships and norms. I shall argue that dispossession is rooted in an interaction between the power structures and the historical social and political relationships between actors that are influenced by social mechanisms and hegemonic understandings of political representation, cultural hegemonies, state-making and the continuous institutionalisation of subtle forms of domination.

Motivated by the gap left by econometric and depoliticised accounts of poverty (Alkire, 2002; Sen, 1976; 1999; Foster et. al; 1984; Desai, 1995; Spicker, 2007; Hagenars, 1986; Ravallion, 1992) I chose to draw, rather, on critical social science approaches and particularly on Marion Iris Young's concept of (structural) social injustice. She defines social justice as 'the institutional conditions necessary for the development and exercise of individual capacities to collective communication and cooperation' (Young, 1990: 39). This definition includes 'all aspects of institutional rules and relations, insofar as they are subject to potential collective decision' (1990: 16). Under this logic, 'social justice means the elimination of institutionalized domination and oppression' and social groups own decision-making powers are an element and condition of social justice (1990: 15, 23).

According to Young, two social conditions define social injustice: 'oppression - the institutional constraint to self-development, and domination - the institutional constraint to self-determination' (1990). Domination is, in more detail, defined as the structural or systemic phenomena that exclude people from participating in determining their own actions or the conditions of their actions. According to this view, domination is structural, firstly, because 'the constraints that people experience are usually intended or unintended product[s] of the action of many people' (Young, 1990: 31-32). Secondly, as a structural phenomena domination is the result of the everyday practices of a well-intentioned (liberal) society. As she puts it, the causes of domination '...are embedded in unquestioned norms, habits and symbols, in the assumptions underlying institutional rules and the collective consequences of following these rules' (1990: 41-42; See also Bourdieu, 1977 and Farmer, 2004). Third, its effects are relatively permanent through the reproduction

of relationships and basic social locations (Young, 2000: 95). Fourth, these processes of structural social injustice are fuelled when it comes to indigenous communities, historically discriminated through the valuing of certain attributes as superior (Young, 2000b) and inserted within a 'coloniality matrix of power' (see below) based on an assumed superiority and universality of European cultural models (Quijano, 2000, 2007, Mignolo, 2007; Escobar, 2007).

These ideas largely account for the factors involved in the political and social environment of the relationships between the state, the mestizos and the Rarámuri in the Sierra Tarahumara. The following sections link the structural perspective with coloniality notions of historical epistemological displacements, and describe how this phenomenon occurs in the context of modern democracies. They also examine the implications of this for notions of political-decision making power, and particularly, the concept of self-determination among indigenous communities.

2.3. Land Dispossession and Colonial(ity) Relations in the Sierra Tarahumara

The Sierra Tarahumara is the northernmost portion of the Sierra Madre Occidental (Western Sierra Madre Mountain Range) and is largely located within the state of Chihuahua, although this is partially shared with the states of Sonora, Durango and Sinaloa. This mountain range constitutes a culturally and biologically diverse region whose indigenous inhabitants have experienced and resisted state and capital-led processes of social change aimed at the establishment of colonial relations that has now been integrated into what Quijano (2000b) defines as a 'global pattern of power'. According to him colonialism based on production relations entered a new stage during the so-called 'conquest of America' by the Spaniards in the 16th century. A new world order began with the '...violent concentration of the world's resources under the control and for the benefit of a small European minority –and above all, of its ruling classes-' (Mignolo, 2007: 168).

The new pattern of power or coloniality as defined by Quijano, was constituted by the confluence of at least four different processes: First of all, the creation of the idea of race as the basis of the universal pattern of social classification and social domination; secondly, capitalism, as the articulation of all historical forms of control of labor (as well as exploitation, slavery and servitude), its resources and products; third, the state as the universal form for the control of

collective authority and political domination; and fourth, euro-centrism as the only and legitimate rationality and dominant form for knowledge production (Quijano, 2000b: 202; and 2000: 1-2). What was established in the Americas was a complex world-system of European/ capitalist/ military/ Christian/ patriarchal/white/hetero-sexual/male-based hierarchies or, in Grosfoguel's (2007: 217) terms, hetero-hierarchies. Consequently, those groups not living according to this norm would be, in many senses, erased from the scenario. The notion of 'subalternism' is suitable way to define those subordinated and colonised peoples whose existence has been marginalised, forgotten and denied from social and historical reality in the interest of elites (see definition in general introduction).

The Sierra Tarahumara was seen by the state both as a provider of timber and mineral resources for the colonial project and as a privileged place for the conversion of the 'indios' –subaltern people(s)- souls by the European Franciscan and Jesuit Missionaries. The latter enterprise was less successful than the former, but once the Mexican Nation-State was consolidated, the project of modernity was in a better position to hegemonise the political and social system and it was then that the de-indianisation of the country became a major state policy and aim (Gledhill, 2003, 2004; Villoro, 1996; Bonfil, 2006). The idea of economic progress has been present both in nineteenth century liberal and conservative discourse and practice, as well as in the post-revolutionary regimes of the twentieth and twenty-first centuries. During these periods, ideas of freedom, progress and modernity were commonplace; however, so was the crusade for the assimilation of indigenous cultures by a single and universal mestizo identity. The indigenous culture and society became the target of 'acculturation' campaigns aimed at the undermining of indigenous identities officially portrayed as backward for the sake of a new and modern nation (Villoro, 1996; Bonfil, 2006; for the Sierra Tarahumara see Sariego, 2002).

These efforts were undertaken by different state institutions, but later on permeated the imaginary of large sectors of Mexican society generating wide social processes of discrimination and racism against indigenous cultures as well as the promotion of European culture and phenotypes as the models to follow. This historical process of creation and consolidation of a new pattern of power in post-colonial Mexico has, in the recent decades, intertwined in particular ways with

principles and modern notions of democracy, liberty, rights, citizenship and globalisation. The resulting state is one of a constitutional and liberal republic with a representative democracy. Their underlying principles of economic integration and development interrelate with modernity/coloniality relations of power where structural relations of domination are subtly exerted over subaltern social groups according to status relations or structural position based on gender, ethnicity, physical attributes, age, sexual preference, class (Young, 1990) and even related to epistemic, spiritual, ethnic, gender based hierarchies, or as Grosfoguel (2007) put it –Hetero-hierarchies.

While the rule of law and democracy have, for the past century or more, been central political principles of the modern Mexican state, dispossession of indigenous peoples' lands still occur widely, resembling the colonial forms of dispossession and displacement of the original indigenous inhabitants by Spanish and *criollo*¹¹ colonial settlers (Wasserman, 1987; Aboites, 1995; Weber, 1992). For instance, despite the deep-rooted post-revolutionary agrarian reform, the indigenous peoples in Chihuahua are still largely affected by agrarian disputes (CONTEC, 2005). There are many examples of common forms of unaccountability, omissions, structural domination and dismissing of self-determination involved in juridical disputes. These include: land dispossession of indigenous peoples by private actors, agrarian authorities omissions, conflicts provoked by the same agrarian authorities when settling disputes without any boundary verification on the ground, delayed agrarian justice by judges and the issuing of forestry management permits despite juridical uncertainty concerning the relevant lands, misrepresentations of the problem, laws not recognizing juridical personhood of collective subjects, and others (CONTEC, 2005; archive research, 2010).

The cases of Pino Gordo and Mogotavo are very revealing in this regard. Analysis of these disputes suggests that land dispossession is highly influenced by both structural relations of domination (Young, 1994, 2000) and closely related to this, by an historical hegemony of modern knowledge over subalternised indigenous epistemologies (See Quijano's coloniality of power) that have contributed to normalise the constraining of indigenous groups efforts to determine their own

¹¹ Spanish descendants, born in America

actions and decisions at the social and institutional level, as is illustrated in the following section.

2.3.1. Individuals, Social Relationships and Institutions Sustaining Coloniality in the Sierra Tarahumara

The complexity of these cases, involving an heterogeneity of relationships, institutions, practices, agencies and so on, cannot be reflected in a couple of paragraphs, hence the cases are more fully described in later chapters. First, both situations are rooted in wide historical, national (but not de-linked from the global), cultural and political processes of domination, social change and state making. Secondly, underlying causes of conflict are embedded in the historical global political economy and in the workings of the global market. Thirdly, the outcomes of these processes of land invasion, dispute and dispossession are the result of the everyday subjective decisions and actions of a great number of individuals, institutions and political elites.

Social relations and political structures in the Sierra Tarahumara have been largely shaped by colonial relations up to the present (Cardenal, 1991). The first missionaries and Spanish settlers arrived in the 16th century and the country obtained its independence from the Spanish crown in 1820s. The particular form of colonialism in the Americas was based on the establishment of European systems of production (feudal and later capitalist). These systems, however, were based on slavery, labour exploitation and the marginalisation and, sometimes, cooption of indigenous forms of authority (Bonfil, 2006, Diaz Polanco, 1996, Deeds, 2003).

This historical period left cultural and political patterns that still persist to the present day. However, as Quijano put it, while colonial administrations were replaced, colonial domination continued in the form of the colonisation of the imagination of the indigenous population. In other words, it went from exploitation and the repression of systems of production to the repression of modes of knowing and producing knowledge, followed by the imposition of the rulers' modern systems of knowledge as forms of social and cultural control (2007: 169).

The coloniality's approach (Quijano, 2000a, 2000b; Mignolo, 2007; Grosfoguel, 2007; Maldonado-Torres, 2008; Escobar, 2007) lies in the critique of assumptions that hegemonic euro-centric paradigms are universal, neutral and

objective (Grosfoguel, 2007: 212). Following this perspective, all forms of colonialism in the dependent and independent countries of the Americas, contributed to the establishment of a 'world pattern of power' consisting of the articulation of different systems of control defined as 'coloniality of power', 'coloniality of knowledge' and 'coloniality of being'. These forms of coloniality are seen here as significantly contributing to the prevailing power structure at the national and local levels, becoming particularly relevant to explain situations of injustice and dispossession in contexts of cultural diversity and struggles for resources. Coloniality of power is defined here as a 'global hegemonic model of power in place since the Conquest that articulates race and labour, space and peoples, according to the needs of capital' (Escobar, 2007) and, thus, establishing an euro-centered system of domination (Escobar, 2007: 185; Walsh and Mignolo, 2002: 3; Quijano, 2000:1; and Quijano, 2007: 171).

From this viewpoint, western philosophy conceals, hides and erases the subject that speaks as if she/he was detached from any epistemic location. In this way, western science is able to produce a myth about its own truthful and universal knowledge (Ibid). As the authors argue, this apparent disembodied and unlocated neutrality and objectivity of the 'ego-politics' of knowledge has its roots in Cartesian philosophy of the 'ego-cogito'. This point of view, representing itself as being without a point of view, 'has allowed Western man [...] to represent his knowledge as the only [one] capable of achieving a universal consciousness, and to dismiss non-Western knowledge as particularistic and, thus, unable to achieve universality' (Grosfoguel, 2007: 214). This universalisation now embodied by the state and each one of its institutions, has had enormous implications for indigenous communities pushed to comply with state rules. In this way, local processes of negotiation, conflict-resolution, justice, territoriality and the indigenous condition itself that does not fit the modern canon, have been displaced and marginalised by this 'coloniality of knowledge'.

The Sierra Tarahumara, for instance, became subjected to new hegemonic systems of production, while its population turned into the labour force needed by the mining and forestry industries. In addition, new forms of colonial and state power were introduced, that eventually would privilege those people who became subjugated to the emerging forms of authority, whilst marginalising those who did

not. Over the last century, with the integration of the economies and the consolidation and hegemonisation of the neoliberal economic paradigm, state policies have re-shaped the socio-economic landscape in the countryside by turning as much land as possible into private property and embracing market-oriented intensive agricultural production. This resulted in the dismantling of common property land tenure, the abandoning of incentives for indigenous livelihood systems -such as subsistence agriculture- and, in sum, the undermining of the peasant way of life and further poverty generation in the sector. For the sake of land privatisation, proletarianisation and economic growth.

Coloniality of being (Maldonado-Torres, 2008), in turn, refers to the negation of the existence and the status and consideration as people of certain social groups, such as the descendants of African slaves and the indigenous population. The classic aphorism of 'I think, therefore I am' turned into 'Others don't think, therefore, they aren't' (Walsh, 2005: 22-23). This resembles the colonial term, which to some extent is still in use in the Sierra Tarahumara and other parts of Mexico, of '*Gentes de Razón*' (People of Reason) to refer to white and mestizo people in opposition to indigenous populace.

This type of coloniality is particularly relevant for the case analysed in this research, where, in order to legally dispossess indigenous land-holders, private occupiers ignore their very existence, as the Mexican law has historically done, for example, by negating them the status of legal persons. Such dispossession of personhood would not be possible without the global establishment of imagined hierarchies based on the idea of race (and later on in other forms of class, gender and body difference) (coloniality of power). Furthermore, the universalisation of an hegemonic worldview within the National juridical system, as well as in other state institutions (coloniality of knowledge), was, in Mexico, embodied in the Nation-State's post-revolutionary project of *indigenismo*.

Finally, coloniality of knowledge refers to the hegemonisation and universalisation of a specific and Eurocentric kind of knowledge. In Western philosophy and science the subject that speaks is hidden and erased from the analysis. As Grosfoguel put it: 'This epistemic strategy has been crucial for Western global designs. By hiding the location of the subject of enunciation, European/Euro-American colonial expansion and domination was able to construct a hierarchy of

superior and inferior knowledge and, thus, of superior and inferior people around the world' (2007). Castro-Gómez (2005) calls it the 'point-zero' perspective of Eurocentric philosophies, 'a point of view that represents itself as being without a point of view' (Grosfoguel, 2007: 214). This practice began in the area under study with the evangelisation of the indigenous peoples living in what today is the Sierra Tarahumara. However, new forms of knowledge emerged in the context of modernity, such as science, and bureaucratic-state knowledge (such as juridical or environmental awareness and that of institutionalised education that certified the level of skills a person required to enter into the capitalist labour force). The diversity of local knowledge(s), *vis-à-vis* modern knowledge, worldviews, epistemologies, religious systems and practices, were repressed, displaced and ignored.

As Young (2008) has explained by taking a stance of examining the politics of difference, conditions that determine the social actor's position in the social structure vary significantly. These variations include: established ideals of work according to the social division of labour; body aesthetics hegemonic models; the closeness of the links with the bureaucratic and official political apparatus; the capacity to access professional legal advice, the extent to which the group's identity and particularities are recognised by the socio-juridical system and the philosophy and historical discourse of state institutions towards cultural diversity; the capacity to mobilise resources in order to afford the wide range of expenses involved in legal disputes; lobbying and activism and others.

As was explained in the previous section, a social group is subjected to dynamics of dispossession when its position within the social system conditions its opportunities and life chances. According to Young '[...]these life chances are constituted by the ways the positions are related to one another to create systematic constraints or opportunities to reinforce one another, like wires in a cage' (2000: 94). In contrast, the position others occupy, allows them to be free from the risk of being dominated and even to exercise domination over others. By revealing this structure - and the logic and mechanisms underlying it - it is better understood that land dispossession of Mogotavo and Choréachi communities is guided by unequal power relationships, that tend to reproduce themselves (Tilly, 1998) to deepen

social imbalances and to condition more benefits for the actors with better valued attributes and, hence, in a better position within the structure (Young, 2000, 2000b).

These ideas and forms of hierarchisation had a significant impact on the colonised territories, peoples and communities, including the subalternisation of critical dimensions of the lives of non-European people. The hegemonisation and universalisation of Eurocentric systems of knowledge and power constituted an effective form for the control of knowledge production, inter-subjectivity and the exercise of self-determination of indigenous communities. Rather than making depoliticised and individualist accounts of peoples social reality as if suffering was the result of individual choices and technical solutions, present forms of dispossession and social injustice in the context of a modern, liberal and so-called democratic state are best understood by considering the hegemony of different knowledge and power paradigms over others in social inequality contexts (For a critique of this see Fraser, 1989; and Tilly, 2007).

The neglect of these dimensions in academic analysis and policy-making processes has had profound consequences for societies, and particularly for those peoples falling into the category of subalterns, such as the indigenous peoples of Latin America. An overarching factor is the dominant economic paradigm of capitalism and its neoliberal trend that aims at subsuming and individualising all forms of contention to a process of resolution established by an alleged self-regulated market and by a hegemonic legal and political system. As another dimension, institutional actors allied to local elites put into motion a set of identified strategies of political control, that, together with widespread assumed values and norms undermine the aspirations and opportunities of subaltern actors *vis-à-vis* those of the dominant actors. Those assumed values and norms are enforced through the employment of the ideological apparatus and hegemonic discourses and narratives that serves the purpose of reproducing the coloniality pattern of power and its exercise at the local level.

Mechanisms employed for the subjugation of indigenous communities are not only designed to consummate domination, but also for hiding it from view. This strategy is an essential part of its effectiveness. It is first induced by the coloniality of knowledge that universalises the principles of modernity and the European (essentially western) cultural patterns of consumption, body image and aesthetics,

aspirations to progress, growth and development. At a second stage, institutional discourses and local elites' narratives adapt and reinforce these representations through the reinterpreting and undermining of the subaltern's view about themselves (e.g. as done by indigenistas policies), sometimes even denying their own existence as legal -and hence sovereign- subjects (e.g. federal legislative power in 2001, agrarian officers and tourism investors). In contrast, the dominant discourse encourages local aspirations to economic growth, modernity, consumerism and rule of law. The enforcement of these representations is aimed at guaranteeing widespread social consent (ala Gramsci's hegemony) to the inequalities, and hence, injustices resulting from the consolidation of a market-oriented economic model, but most important, to a political system where decision-making is concentrated on elites, legitimised by political representation and electoral practices and, therefore, represented as a democracy.

2.4. State and Development-Induced Social Injustice in Liberal and Democratic Societies? A Problem of Negation and De-Politicisation

In this section I will establish the way I understand development in terms of the research questions regarding land dispossession of indigenous communities. Basically, large infrastructure (public or private) investment in rural communities, unconsulted at the local level, but legitimised under the argument of 'public interest', obscures the negative impacts at the community and regional levels by presenting itself as an instrument of progress/modernity resulting from a process of political representation, a democratic system and a rule of law.

De Sardan defines development as the 'sum of the social processes induced by voluntarist acts aimed at transforming a social milieu, instigated by institutions or actors who do not belong to the milieu in question, but who seek to mobilize the milieu, and who rely on the milieu in their attempt at grafting resources and/techniques and/or knowledge' (2005: 25). This concept, however, falls short of explaining the underlying ideologies, practices and systems of power behind it, particularly its hegemonic branch, that stemming from modernisation theory and orthodox economic development policies. In a more critical approach that looks at development as an essential part of the prevailing global capitalist system, hence, as a political phenomena (an approach named as 'populist' by De Sardan), Escobar defines it under three axes: the 'forms of knowledge that refer to it', the 'system of

power that regulates its practice', and the forms of subjectivity fostered by discourse (1995: 10). This view, representative of the post-development perspective, looks at development as a continuum of modernist and colonialist paradigms and enterprises. Development as a discourse, in turn, is a normative concept that means anything, whose emptiness has dominated the public debate for about half a century while guiding the steps of all governments' planners (Esteva, 2009: 1).

As such, development can be found in both democratic and despotic states, in both northern and southern countries, and a target to meet both by right and left wing governments (Escobar, 2010). However, the point here is about decision-making power in development contexts. As Esteva puts it, 'it is not possible to trust our own noses, we should trust those of the experts, that are going to take us to development. It is not possible to dream our own dreams. They have been already dreamt, the dreams of the developed are seen as those of our own'¹² (2009: 445). Following these lines, and from the dominant actor's view, modern development, becomes a '*raison of state*' and being such a high aspiration, any affectation to third parties is a minimal side-effect and could never be compared to the large scale and long-term benefits provided to wide sectors of the population (Scott, 1998).

Even though mainstream discourse understands both structural macro-economic reforms and large infrastructure projects (World Bank, Inter-American Development Bank and so on) as allegedly aiming at the satisfaction of the needs of whole populations, there is a wide body of literature questioning such practices and discourses and showing intentions different to those stated in the plans (Escobar, 1994; Ferguson, 1994; Sachs, 2010; Esteva, 2010). The point here is not about whether or not development represents a way to improve people's living standards, but about the way the mainstream neo-classical branches of development as injustice-generating investment capital not just foster, but also obscure, and later justify intervention, rights violation and the constraining of self-determination.

Natural resources and land utilised for raising large infrastructure projects are usually not without previous users or owners with rights over that land. For example, when land is threatened by modern development investment, dominant actors first persuade, then force original landholders to sell or even seize it by force. If a legal dispute is instigated, however, a long legal process can occur and is likely to be subjugated to a process of structural domination. Even though recent neoliberal

¹² My translation

development planning has included community participation in its discourse, informed consent, self-determination of local stake-holders, and recipients' benefits, are hardly considered in planning and implementation. Instead, agents directly or indirectly involved just have to follow the rules for the dispute to be settled in favour of the social elites.

At the same time, the larger the project, the larger the social and cultural impact on communities. In this case, the expected result ranges from the project's failure to widespread community resistance. In these situations, the state's discourse tends to assume that a small group of discontented people 'oppose development', 'oppose modernity', or oppose whatever buzzword is found useful for an effective political discourse (Salmón, 2011). These statements tend first to hide, minimise, deny and, if necessary, to overtly naturalise and normalise the claims of injustice of the affected peoples once the issue entered into the public agenda (Dorling, 2010). This negation of injustice and justification of intervention is not exclusive to development practitioners, but it is also a common feature of a wide sector of the more positivistic sector of development studies academia. In short, there is evidence to suggest that there is room for socio-political perspectives in development studies, and particularly, a need to look critically at development-induced social injustices.

There are many ways in which the discussion of social injustice has been largely skipped in the academic debate of the dominant orthodox perspective of development studies. One example is the focus on economic growth as a positivistic mainstream approach in development studies. This idea disregards any notion of justice, or human rights issues under the argument and fallacy that once economic stagnation is overcome, growth is going to bring wealth, trickling down to a greater number of people. In sum, positivistic approaches and orthodox economic science, thus, still prevail and predominate in development studies (Fraser 1989; Tilly, 2007; Mosse, 2007).

The social aspect of justice is, then, displaced by the economic justification of injustice. In another example, narrow disciplinary perspectives tend to depoliticise issues and explain the phenomena according to their own technical conceptual apparatuses. For instance, anthropology tends to base its critique of development under culture-based approaches despite the fact that social phenomena are complex

and constituted by multiple dimensions. The same applies to disciplines such as law, philosophy, the environment, and others.

In positivistic approaches of development studies, for example, a significant part of the literature tends to look at poverty and inequality as the result of particular 'variables' that only occur at a specific point in time. These explanations disregard the contribution of history, culture, power or social relationships in creating the conditions for social inequality. Under these views poverty is not related to the unequal positioning of actors in the social structure and, therefore as a result, the poor tend to be blamed for their own condition (Tilly, 2007; Mosse, 2010).

While injustice is political, politics is about power imbalances and vertical power relations governed from the global political economy downwards. The depoliticisation of issues and obscuring of injustice are common in development and public policy. Issues are depoliticised because our own position as development practitioners or scholars is conditioned, shaped and obscured by power relations and imbalances. If we want to better understand long-term processes such as chronic land dispossession of indigenous communities, these issues should not be neglected, but on the contrary, it should be recognised that politics at different levels facilitate development processes and social injustices. Law and development policies themselves cannot shape the reality according to planned and controlled interventions. Human beings are fully involved in these processes and they are critical agents of subjectivities and power relations.

If what is needed is a change of approach to tackle critical categories which are commonly ignored, a first step to take is to acknowledge that the development industry is today a common source of social injustice. A second step would be to depart from the assumption that these injustices have political roots. A third one is to take a relational approach, where society is seen as comprised of social and political relations and heterogenous categories of social groups, institutions, individual agency, interlinked in complex forms and with boundaries increasingly blurred (Tilly, 2007; Gledhill, 2004b). Such an approach aims to reveal those social, cultural and political mechanisms that are hidden from view by unidimensional positivistic perspectives. In this case, critical elements of the social structure are found to highly influence domination processes, coupled with a set of

strategies aimed at misrepresenting development-led social injustice through means such as media, discourses, narratives, testimonies and legal arguments in order to get society's or institutions' consent to land dispossession.

Earlier accounts of power relations used to depart from a critique of the direct political control exerted by a specific political system or a particular authoritarian actor. However, conventional forms of domination and hegemonic relationships stemming from liberal democracies, nowadays contribute to social groups' suffering while being neglected by academic analyses.

Political power should no longer be understood as held and exerted by a monolithic agent (e.g. a single strongman) that can only be addressed through technical solutions (e.g. top down policy making or economic reforms) (See Fraser, 1989). Rather, the task at hand lies in examining a structure of marginalisation and domination strongly rooted in society, culture, power and institutions, but in which different agents are intertwined in complex ways and whose practices are particularly determined by unbalanced, everyday power relations.

2.4.1. Modern Juridical Institutions: A Critique to the State, the Judicial Power and the Agrarian Tribunals

The state has been an historical development with critical implications for all societies at a global level. Early anthropological accounts have looked at societies without state as a privileged subject of study (e.g. Fortes and Evans Pritchard, 1967; Mair, 1977; Clastres, 1978). These studies have shown that human groups can be socially structured and organised around notions of territory, kinship, and/or different forms of individualism, horizontality, segmentation or dispersion, without necessarily adopting forms of institutional centralisation.

However, perspectives of the state are diverse, and it is not one of the objectives of this research to enter into that discussion. Instead, I will mention a few characteristic elements of the modern nature of the state before examining to the issue of the juridical system. Conquest, control over a particular territory, a claim of sovereignty¹³, a centralized political, administrative, coercive and ideological control

¹³ See Weber's classical definition of the state as the 'Institution that claims the monopoly over the legitimate use of physical violence in a given territory' (1984, from Rodriguez, 2006).

apparatus, a claim for an unified and homeneous national identity, and a unique and official legal framework are a few examples of the main constituent factors of the state. Rodriguez, for instance, defines the state as an 'institutional framework, that in order to be legitimised, requires an idealisation or fiction, which is, generally, that of [the] common good' (2006: 203).

Particularly, the notion of sovereignty is now crucial for the idea of state. A sovereign subject does not recognize another power over his own (e.g. the king or the modern state) (Correas, 2010) and its underlying principle is the 'the state of exception' – understood as the 'suspension of rules and conventions creating a conceptual and ethical zero-point from where the law, the norms and the political order can be constituted. The concept of sovereignty stands in opposition to that of Suzerainty, which in the feudal world referred to the state of subjection in which an individual was situated in a social hierarchy (e.g. the relationship between a lord and his serfs). Thus, what made a king sovereign was that he did not recognize another power over his own. In this sense, the modern state is the king's heir and has been constituted around the idea of sovereignty: there is no power over it (Correas, 2010).

Although influential political ideals of the French Revolution (e.g. Rousseau) sustained the notion of people's sovereignty, the modern nation-state at present stands as the main vehicle of sovereign power (Blom-Hansen and Stepputat, 2006: 296). In this sense, although the legitimacy of modern state institutions rests on the ideal of popular sovereignty, the practice of popular sovereignty and the idea that the state acts in the interests of citizens is highly questioned (Przeworski and Wallerstein, 1986). Popular sovereignty has been historically vulnerable to state authoritarianism, the imperfections of the democratic system, and particularly, to de-facto powers such as private property and the concentration of the ownership of capital and the means of production (Idem).

The exacerbation of market liberalisation and the state's withdrawal from most of its social responsibilities has given way to the emergence and increasing influence of de-facto sovereignty as 'the ability to kill, punish, and discipline with impunity wherever it is found and practiced' (Blom-Hansen and Stepputat, 2006: 296). In this regard, entities such as the financial sector, transnational corporations,

or even organized crime have come to play an increasingly influential role in shaping the exercise of justice, public security and prosecution functions.

In sum, whereas the state has appropriated sovereignty from the peoples as the original sovereign subject, it has also ceded it to actors representing economic power. In consequence, the people as the original and former sovereign subject has to be invisibilized and discredited in order to justify an emerging monopoly over sovereignty.

State and Modernity

To understand the process of state formation goes beyond the objectives of this chapter. However, it is important to raise some issues about modern state-building before we get to the argument about the institutional constraints to indigenous peoples' land ownership. For González-Casanova, the modern state in Latin America began with the oligarchic state, 'that of land owners and ranchers, planters and overseas businesspersons...'. The oligarchic liberal state evolved next, 'which initiated a capitalist order linked to the world market'. Then the welfare state emerged that 'developed a strong public sector, which took over the management of infrastructure and became the promoter of the "private sector"'. And finally, and almost simultaneously, the 'national security state' and the 'neoliberal state', came into being, which emerged from all the previous forms of states (1993: 68-69).

In contrast to early forms of states, which which were not necessarily associated with the concept of 'nation', the modern state is by definition a Nation-State. This modern nation-state carries the assumption that its emergent institutional framework encompasses a nation with a single and homogenous identity. This applies to state formation over peoples as diverse as those in Europe, India, Africa, North America, Latin America and so forth (De Sousa Santos, 2009: 164).

This point lies at the root of the Latin American modernity/coloniality research programme represented by the work of Walter Mignolo, Anibal Quijano and others. Under this view, the state represents an institution of modernity *par excellence*, for example, the notion of expert knowledge related to capital formation and to centralized administrative apparatuses. Drawing from Habermas, Escobar links modernity with the rationalisation, universalisation and individualisation of the life world (2007: 182). In this sense, the modern state would be a system of rules

governing a territory around principles of rationalisation, universalisation and individuation (Foucault, 1996).

For Quijano, one of the conditions in which colonialism perpetuated itself through a 'coloniality' pattern of power is by the consolidation of the hegemony of the state as a new system for the control of collective authority. The emerging independent state in Latin America was not a nation-state in terms of its population, it was founded not by the original inhabitants, but by the descendants of the colonisers (2007:301). The state, in this sense, was constructed under the same epistemic foundations that sustained the hegemony of the European models of knowledge production. As such, the local context was invisibilised, to be converted into a place without a place, a universal (Quijano, 2007: 177).

This was the continuation of the tendency to convert local history into a global design -or what Mignolo (2007) calls 'Geopolitics of Knowledge'. For example, the local history of Castilla was first universalised over most of Indo-America where the Castilian language was eventually established, and later on, with the coming of independence, the local centre of origin of the new Nation-State, in this case Mexico, was universalised all over the territory to invent the homogenous national identity of the new Mexicans, notwithstanding the prevalent cultural diversity all over the conquered territory.

As Esteva put it:

"This obviously foreign invention scarcely took into consideration the realities and desires of the Mexicans themselves [...] in 1824, the Constitutive Act of the federation crystallized this invention, shaping it in the mold of the states it sought to imitate. In particular it imitated one, as is revealed in an innocent statement by the founding fathers of the nation: "All of our steps have followed the model of that happy republic, the United States of America" (2001: 120).

The idea that the Mexican nation belongs to the western world is grounded in the prejudice of understanding *mestizaje* (miscegenation) as 'the defining condition of the national being, that it is what has permitted the country's integration', says Esteva (op. cit: 121). A wide body of literature gives accounts of how the state's paradigm of *mestizaje* transcended political periods and was particularly converted into an hegemonic policy in the post-revolutionary period

through indigenismo (Villoro, 1996; Sariago, 2002; Bonfil, 1970; Gledhill, 2003, 2004a, 2004b; Florescano, 1996; Pozas, 2006; Hewitt de Alcántara, 1984). The implications of this position were not just about the racist refusal of recognising the plurality of peoples existent in the national territory, but also about the practice of different forms of deliberated and directed interventions directed to the cultural assimilation of indigenous and black populations mainly through education, production models, development programs and so forth.

2.4.2. Does Democracy Guarantee Social Justice?

The debate about the concept of democracy is both abundant and diverse. It is not an aim of this research to engage deeply with such discussion, nor to take the concept as a given, but to look at it critically, understand it as a particular (liberal) political system, and consequently, to examine the real and particular practices and conditions on the ground that such a system promotes or counteracts. This is relevant for understanding local processes of social injustice because modern liberal democracy as a political system contributes to shaping the structural conditions under which the struggle for resources between unequal actors takes place.

From the starting point of Tilly's definition of a democratic regime as the degree to which 'political relations between the state and its citizens feature broad, equal, protected and binding consultation' (Tilly, 2007: 13-14), I ask why, even though democracy has become a mainstream and dominant political ideal and practice, at the same time indigenous communities become subjugated to processes of chronic marginalisation and injustice within so-called modern democratic regimes. In other words, this chapter's main research question tries to find the specific forms in which democracy is, to say the least, failing to address the issue of social injustice.

The concept of democracy itself has been increasingly subjected to sharp critique, both from civil society and from academic perspectives of the social/political sciences. Mexico's democracy is a clear example of this. For example, the UN's Human Development Report of 2002 found that 140 out of 200 countries had multiparty elections, and 82 out of these 140 met the conditions for the exercise

of democracy. However, just 32 of these were consolidated democracies (Morales-Mena, 2009: 83). For the specific case of Mexico, the democratic credentials of the country were assessed by the Mexicans interviewed for the Latinobarómetro Project with a 5.9 out of 10,¹⁴ (2011: 44). The Polity report in turn (Polity, 2010), examines concomitant qualities of democratic and autocratic authority of states in the world system. The 'Polity Score' ranges from -10 (hereditary monarchy) to +10 (consolidated democracy) with Mexico scoring 8 in the last report. Finally the Freedom House report, puts Mexico as a 'partly free' state with a score of 3 in both civil liberties and political rights out of a range of 1 to 7, where 1 represents the most free and 7 the least free rating (Freedom House, 2012).

Regardless of the compromising position of Mexico in these assessments, the percentage of null votes in the 2011 federal elections increased from 3.66% to 5.57% (IFE, 2010: 27) possibly influenced by an emergent null vote campaign promoted by different sectors of civil society, social movements and intellectuals, who question both the authenticity of political parties and the electoral system. In regard to abstention levels, voter participation reached 44.61%, putting Mexico at the 118th place out of 154 countries with democratic elections (Oñate, 2010: 258).

Today, increasing political discontent in Mexico is hardly deniable, and important factors for this have been events such as the controversial 2006 and 2012 presidential elections and their contested results, the continuity of neoliberal policies and the rampant drug-related violence that in the recent presidential period has left more than 95,000 deaths plus disappeared, and alarming levels of human rights violations as a result of social movements and activists repression, forced displacement, forced disappearances, political prisoners and discrimination (Beittel, 2011; Comité Cerezo, 2010; Comité Cerezo, 2011; Equipo Bourbaki, 2011; Human Rights Watch, 2011; Informe sobre la Desaparición Forzada en Mexico, 2011; NRC/IDMC, 2010; Tlachinollan, 2012; ONU, 2011; UNAM/IIDC, 2011).

In this context, the juridical and security institutions have been the most contested by civil society and public opinion. This widely spread process of social distrust and indifference regarding electoral politics runs parallel with the results of other reports and indexes such as the Human Development Report for Indigenous

¹⁴ Not far away from the least qualified (Honduras with a 5.2) and far away from the better qualified (Uruguay, with 7.7)

Peoples in Mexico (De la Torre, 2010). The fact that Mexico's inequality is one of the sharpest worldwide (OECD, 2011) raises questions about the quality of its democracy and the will and capacity of its state institutions to address the most urgent social problems, beginning with those of social justice.

Within the democratic state, the most widely accepted and prevailing institutional framework has been that of political representation. This system stems from the liberal tradition, and its advocates argue that it solves the problems that the growth and increasing complexity of societies offer to the practice of democracy and governability (Pitkin, 1967; Young, 2000; Stuart Mill, 1993).

Political representation as a democratic and republican principle -in Europe and consequently other parts of the modern world- was highly influenced by the French Revolution of the late 18th century. In Mexico, forms of representative government and elections date from the early 19th century -still in the colonial period (Aguilar Rivera, 2010: 11). Actually, as Garsten (2009) and Ulloa (2009) also recalls, the idea of representation in the country has been practiced, even beyond the context of modern democratic regimes. For example, a King claims to be representative of the people in some ways, and elections can be carried out in authoritarian regimes, whereas liberal democracy in Mexico only took shape in the 20th century (Aguilar Rivera, 2010: 11).

The idea of representation has been in conflict with the idea of popular sovereignty. Under Rousseau's perspective, as sovereign subjects, people could not be transferred or alienated, hence, they could not be represented by anyone else. Any claim, by institutions or any government, of holding people's sovereignty was associated by the author with corruption, an inheritance of the feudal past or a form of usurpation of people's sovereignty (Rousseau, 1997, quoted by Garsten, 2009: 93, 97).

Despite the influential character of Rousseau's ideas, the concept of popular sovereignty never consolidated in the west nor in post-colonial America to the extent conservative and liberal thought and politics did. In consequence, the idea of representative government was established as a pillar of modern democracy. Nonetheless, the principles of direct democracy and popular sovereignty have continued to be present in different ways in academic debate as well as in the praxis

of collective action and mobilisation, while the liberal notion of political representation is increasingly called into question.

Ideally, political representation translates people's will into government policy (Garsten, 2009: 90; Morales-Mena, 2009: 76). For Pitkin, political representation is a process based in different inter-communicative relationships between society and the state, centred in the transmission of the voice of citizenship to the public sphere (Quoted by Cabrera Lavara, 2009: 59)¹⁵.

Although the ideals behind these conceptual definitions sound appealing, analyses of empirical data questions the efficacy of political representation, particularly in the case of those people at the lower levels of the social structure. Several scholarly analyses contribute to normative definitions of it, however, those ideal concepts have been unable to harmonize theory and practice.

Critiques to representation stress the fact that far from 'making government effectively accountable and open to public influence', it legitimizes governmental power and minimizes political participation. In consequence, a small number of parties dominate the political process and hence monopolize the mainstream political agenda (Hirst, 1990: 3-6). Other authors criticize representative government, for excluding the citizen from decision-making, pushing her/him 'to delegate its duty and to adapt her/his public life to a mere procedure of consent which she/he faces just in particular periods of time'. In this way, the task of the political parties gets reduced to the 'nomination of candidates that eventually will be ratified or rejected by the citizens, to the detriment of the role of its integration to public life'¹⁶ (Mora-Velazquez, 2009: 44).

¹⁵ Although the idea of representation has not been limited to so-called democratic systems, it is with these that have been mainly associated. However, representative governments are not monolithic and there are different categories of them. Pettit, for example, offers a basic distinction between two kinds of representation: Indicative and Responsive. The former refers to the appointment of a representative by a representee population, 'with a view of having things done as it would do them', in other words, how the representative (proxies) act 'is indicative of how the representees would act'. Responsive representatives (deputies), instead, 'act for or speak for the representees' (Pettit, 2009: 65). In turn, deputies divide into delegates (directed) and trustees (interpretive). The former is directed by the representees, while the latter have an 'interpretive discretion in determining how to construe their representees' (Pettit, 2009: 65).

¹⁶ My translation

At present, unseen levels of political instability and civil society contestation through mobilisation reveal the modern state's significant decrease in the levels of legitimacy. This has resulted, in the case of Mexico, on one hand in an increase of absenteeism and null votes, and on the other, in an increasing demand from the public for political reform (Muñoz-Ledo, 2010; Fajardo-Sotelo, 2011; #YoSoy132Media, 2012; La Mera Constitución, 2012; De Sousa Santos, 2010) towards a more participatory system, or even of a new political constitution, as has been done recently in some South American countries (Escobar, 2007; Prada, 2008; Perez et al, 2010)¹⁷.

While this complexity is more common in unequal societies, it is essential to understand how development-created injustices are also a constant feature of democratic regimes and liberal societies. Indeed, there is evidence to suggest that the mechanisms of modern democracy are not a constraint, but a driver of domination processes. This issue is discussed in the following section.

2.5. Development-Induced Injustice and Political Representation.

The past section suggested that the social impact of development such as land dispossession should be understood as relational and political, rather than only technical and positivistic. A political approach to development, however, is not only about analysing power relations, but is also about recognising that they lie at the heart of institutional practice, which, combined to an unequal, constructed social structure perpetuates the dynamics that drive social injustice and dispossession. This section will discuss the way in which the state's mechanisms of political control are reproduced by development and related actors, such as the acquisition of legitimacy through the fallacy of political representation and other means of undermining communities' self-determination. Finally, this section will conclude by analysing the potential of today's local communities for exercising political decision-making for the defense of their land property rights.

¹⁷ Scholar and activist critiques to the democratic system are focused on issues of unaccountability of both public servants and political parties, opaque funding processes of political parties and electoral campaigns, undemocratic internal electoral processes, electoral propaganda substituting government plans and platforms, wide gaps between the interests of parties and those of citizenship, unfair rules of the electoral law, lack of participatory and direct democracy mechanisms, lack of rule of law, insecurity crisis, among others recently raised by civil society.

Although closely related in many ways to private and business-oriented enterprises, state-led development is one of the critical sectors within the development industry and particularly, high modernist megaprojects. As previously remarked, the social impact of development practices are rarely unchallenged by the affected social actors and the solidarity networks of civil society. However, the state bases development's legitimacy on the powerful and, however, increasingly contested argument of political representation in the framework of a democratic political system.

The Modern Nation-State is a whole historical apparatus of centralised administrative and political institutions, and its authority tends to be based on a so-called democratic-electoral system where voters elect authorities under the party system. The principle of this is that the candidate elected by a majority of voters represents the interests and wields the mandate of the citizens and constituencies of the wider population. The political head of the executive power then, allegedly becomes the legitimate representative of the general citizenship or that of its jurisdiction. Constitutional law might state that sovereignty lies in 'the people', however, by alleging the large size, complexity and diversity of today's society, this sovereignty is ceded through electoral processes or institutional normativity to political representatives. In sum, modern societies, being so complex and diverse, cede their sovereignty to a political representative through a democratic arrangement (see chapter 8).

Practices of elected political representatives are then legitimised and can only be formally contested either by the same state's political and juridical institutions or by civil society organisation and mobilisation. However, the implication of this system is that the sovereignty acquired by the state is accordingly derived from -what the law refers to in abstract as - the people (See chapter 7 for critiques of representation, Shapiro et al, 2009; Stuart-Mill, 1993; Cabrera, 2009; Pitkin, 1967; Pettit, 2009; Mora, 2009; Morales, 2009; Aguilar, 2010; Wallerstein and Przeworski, 1986).

The state then becomes a large bureaucratic, coercitive and ideological structure whose institutions intervene in an increasing number of aspects of peoples lives with the resulting loss and constraint of individuals and social groups' decision-making power over their own lives and aspirations (Scott, 1998). This

standpoint of this thesis is that by focusing on self-determination regarding land dispossession of indigenous peoples, it is easier to better comprehend the institutional and broader structural constraints to the securing of the subaltern's land ownership. The rest of the section will explain how these political strategies are reproduced in development processes, as they are an extension and a mediator of capitalist and state institutions and bureaucracy.

2.5.1. Mechanisms of Domination: The Obscuring of Self-Determination by the Development Bureaucracies and Scholarship

If, as Ferguson puts it, the 'development apparatus' side effects are comprehended 'as unintended yet instrumental elements [...] that has the effect of expanding the exercise of a particular sort of state power while simultaneously exerting a powerful depoliticising effect' (1994: 21), we can infer that ideas of social injustice have been ignored by positivistic approaches of mainstream development academia and the 'development apparatus'. Development academia is rich in concepts aiming to advance reforming the development industry by, for example, 'putting people first' (Cernea, 1986) or by addressing the 'voices of the poor' (Narayan and Petesch, 2002). It rarely tackles, however, the underlying root and structural causes of the problem. Notions of Good Governance, Empowerment, Citizenship, Decentralisation, indigenous Knowledge, Participation and so on are well-known development buzzwords (Cornwall, 2010). With the exception of political theory, post-development literature and some other rare publications (e.g. Leftwich, 2000; Green, 2008; Hickey and Bracking, 2005; Mosse, 2005 and 2007, Escobar, 1994; Scott, 1987; De Sardan, 2005; Tilly, 1998; Peluso, 1994; Murray-Li, 2007) the discussion about political-decision making power and self-determination in development has been neglected to some extent in academic analysis of development studies (Mosse, 2010).

The notion of 'Participation' is a good example of how power issues are not tackled deeply enough to critically understand the wider political context (Cornwall, 2011; Cooke and Kothari, 2001). Development institutions allow and even encourage their 'target population' to participate to some extent in their programmes. However, such participation does not challenge the real decision makers but, rather, legitimises the development intervention. Development could be then open to certain forms of democratisation, but does not recognise political

decision-making power and sovereignty of the people they are alleging to serve. Thus, if we start from the assumption that justice refers to the necessary conditions for the achievement of social groups' aspirations (Young, 2000a), the examination of the idea of decision-making and self-determination in development processes is critical.

In this sense, a development industry that decides not to contribute to domination processes should distance itself from participating in the '...set of relations that makes an agent able to interfere arbitrarily with the actions of others' as Young mentions in her definition of domination (Young, 2000: 171). Analysis of critical literature and fieldwork data, however, suggests that a development committed to social justice is not the rule but, rather, development is increasingly criticised and highlighted as a synonym of intervention and domination. What, then, would be the template for a good relationship between real self-determination and development?

2.5.2. Brokers, Representatives and Mediators in Development. Agents of Dispossession?

Access of rural people to bureaucratic procedures and know-how is particularly difficult in a context of such large cultural and social gaps between them and the modern state. Brokerage has been related to 'an outcome of a weak state unable to impose its rationality on local areas, and enlisting patron-client relationships to reduce the unpredictability of the state's efforts at intervention and control' (Mosse, 2006: 11). It has also been described as a mode of political action specialising in the 'acquisition, control, and redistribution of development "revenue"' (Idem).

The cacique has been a central element for the analysis of the Mexican countryside's power structure (See Bartra et al, 1986). For Esteva (1981: 46), the cacique was forged in the post-revolutionary period by bringing together the productive effort without organising it. His background has been plural, but always related to different kinds of leadership. Over the time, his function focused on the mediation between the peasants and the so-called 'National Society'. Mexican scholarship has defined it in a variety of ways, but basically, it has been associated both with two-way political representation and economic functions in relation to

productive relations. Caciquismo took a new impetus with the launching of the agrarian developmentalist project after the Cardenista period, which aimed at capitalist accumulation influenced by North American interests in Mexico (Idem).

As a translator, the broker provides meaning to the state's interests and practices directed to rural local contexts, while the inverse also applies, establishing thus, a position of 'facing two directions at once' (Idem). This social relation has been viewed both as the satisfaction of others' needs and as an oppressive relationship (Biershenk et al, 2002, quoted by Mosse, 2006: 16). In the first example 'brokerage is required by the co-existence of different rationalities, interests, and meanings, so as to produce order, legitimacy, and "success" and to maintain fund flows' (Mosse, op. cit: 16), while the second example refers to the patronage character that this representation embodies. These patron-client relations are made possible through the operation of a generous protector that will not tolerate the slightest protest or failure for gratitude on the part of the client (for a study of mediation processes in the Sierra Tarahumara see Lartigue, 1988).

A patron is in a position of power (superiority) over a subordinated client, and is expected to render them higher level services in exchange for lower level services, but enough to enable him (usually) to exert power in such society (Amsbury, 1979:91-101). Vulnerable people, then, turn to patrons in order to secure a few resources at the expense of discounting them for the future. This 'Faustian Bargain' consists of the postponement of 'strategic preparation for the future' for 'survival and security in the present' (Wood, 2003: 455).

2.5.3. Self Determination and Non-Domination in Development

Development bureaucracies generally have little respect for local social groups' self-determination in relation to development interventions, not to say mega projects. Examples of this are provided by abundant literature tackling the impact of high modernist enterprises –as called by Scott (1998) over local communities (Cernea, 1988, 2000; Bartolomé, 1992; Pérez Quijada, 1992; Barabas and Bartolomé, 1992; Gellert and Lynch, 2003; LRAN, 2011; Lund, and Lee Peluso, 2011; Borrás and Franco, 2010; Scott, 1998; Oliver-Smith, 2009). Political and economic decisions in development practice are usually guided by alliances between powerful actors and interests at the highest levels of power, particularly when talking about large

development projects that have the greatest social impact. These effects on local communities have been recognised by human rights organisations (Amnesty International, 2011) and even by supranational organisations such as the UN (2008, 2009) and its labour-related body the OIT (Agreement 169), by recognising the need to enforce the normativity and exercise of the right to prior, free and informed consent. This principle begins from the fact that indigenous peoples have their own decision-making systems under collectively accepted mechanisms and this is the appropriate instance to take decisions about consent regarding external intervention. The potential of these stances is higher than that of granting consent through administrative procedures.

The reach of these local decision-making systems is continually and empirically demonstrated in the everyday life of indigenous communities (Nolasco, 1997). They represent the most concrete way of exercising their collective self-determination in relation to both internal and external affairs. Communities' self-determination in the development process has been neglected not only by the (dominant) development actors, but by the development studies academia as well. As positivistic, economic, technical or depoliticised approaches are employed to address human rights issues, social injustice is, however, not avoided at the long term. There are a number of different forms in which collective action faces the vertical forms of state intervention in the local spheres. These include passive direct action as well as everyday forms of resistance, defensive and active forms of organisation (Scott, 1998; Levi, 1999; 2002).

In the case studies tackled in the thesis it was found that autonomous political decision-making take different forms when involving indigenous peoples engaged in legal disputes and defence over land. Self-Determination in Mexico's academic literature (Díaz Polanco, 1996, Gabriel and López-y-Rivas, 2005; Gabriel and López-y-Rivas, 2007; López Bárcenas and Espinoza, 2007; Stavenhagen, 2008) has been mostly associated with the idea of autonomy, as a 'resistance process through which ethnic groups or underground, denied, or forgotten peoples strengthen or recover their identity through the vindication of their culture, rights and administrative-political structures'¹⁸ (López y Rivas, 2010). Even though state institutions have permeated many spaces of society by establishing their own

¹⁸ My translation

hegemonic discourses, ideology, notions of democracy and representation, subaltern social groups still find gaps where they can exercise autonomic decision-making as a way to resist, challenge and overcome the particular disadvantages of being a subaltern involved in processes of structural domination.

The debate about self-determination has been present in the indigenous social movements discourse in Latin America and beyond, and the principle is already recognised in international law conventions (Mejía and Sarmiento, 1987; Gabriel and López y Rivas, 2005; Gabriel and López y Rivas, 2007, Díaz Polanco, 1996; Álvarez, 2008; López Bárcenas, n/d; Young, 2000b; Kimlicka, 1995; UN, 2007; OIT, 1989; CIDH, 2010). In Mexico, the Zapatista movement starting in 1994, became a benchmark for the promotion of autonomic processes in indigenous communities, by vindicating their right to self-government and self-management as a radical form of self-determination *vis-à-vis* the state¹⁹. The zapatista former '*caracoles*', 'autonomous communities' or '*Juntas de Buen Gobierno*' or current '*Municipios Autónomos Revolucionarios Zapatistas*' have had different forms of constitution according to their own processes of organisation (Diaz Polanco, 1996, Gabriel and López y Rivas, 2005; Gabriel and López y Rivas, 2007; Harvey, 1998; Pérez, 2004; Holloway and Pelaez, 1998). There are also those forms of autonomy that are not necessarily a result of the zapatista political organisation or affiliation, but of other general processes of reflection and organisation, linked with solidarity networks such as the autonomous communities outside the state of Chiapas (Ostula and Cherán in Michoacán, San Juan Copala in Oaxaca, or the *Policía Comunitaria de la Región de la Costa Montaña de Guerrero*) (Soriano, 2009; Gledhill, 2004).

However, this model did not only permeate those spheres of the indigenous societies in Mexico, but had indirect influence over cultural rights (López Bárcenas

¹⁹ The controversy of the 1990s San Andres accords and the struggle for constitutional changes towards the recognition of indigenous self-determination in Mexico gave place to a heated academic and political debate about whether or not such recognition threatened the unity of the Mexican Nation-State. Voices that argued that self-determination equalled the 'balcanisation' of the country proved to be unsustainable. As previously described, indigenous peoples claims were not oriented to their secession from the Nation-State, but on the contrary, their aim was to be really included with all the rights and responsibilities, and at the same time, to recognise the nation as being formed by different peoples with different cultures and forms of organisation that should be legally respected as they always have operated. The slogan of 'Never again a Mexico without us' is a clear expression of the principles behind their demands, in a similar vein to Young's definition of self-determination as relationship and connection among peoples.

and Espinoza, 2007; Stavenhagen, 2008), ethnic citizenship (De la Peña, 2002) and recent civil disobedience processes (Atenco, the APPO, Sicilia's '*Estamos Hasta la Madre*'²⁰ Movement, the '*indignados*'/Occupy Movement, and more recently, in the context of the presidential elections, the #*YoSoy132* student movement). This and the existing and longstanding traditional political organisation processes have clearly influenced other forms of indigenous struggle relying on recent reforms and jurisprudence regarding collective rights. Rarámuri indigenous communities and peoples such as Choréachi and Mogotavo, employed their normative systems to decide to make alliances with civil society organisations, activist lawyers and certain actors of state institutions to face dispossession attempts within the juridical institutions themselves, as well as relying on recent reforms and conventions of international law (Merry, 2006; Monsalve, 2012; Sieder, 2002).

Under these circumstances Young's (2004) concept of self-determination as non-domination and as facilitating relationships and connections among people becomes critical. Young argues that 'peoples can only be self-determining if the relations in which they stand to others are non-dominating' (2004: 177), a condition ensured when relations between peoples are 'regulated both by institutions in which they all participate and by ongoing negotiations among them' (2004: 177). While other international law definitions interpret the concept as non-interference²¹ (2004: 178), Young notes that this view fails to recognize the interrelatedness between subjects, social groups and peoples.

For Young, 'an adequate conception of autonomy should promote the capacity of individuals to pursue their own ends in the context of relationships in which others may do the same' (2004: 184). She points out, for example, that while indigenous peoples call for autonomy 'they do not claim such a blanket principle of non-interference' (2004: 187). Rather, '[t]heir claims for self-determination [...] are better understood as a quest for an institutional context of non-domination' (2004:

²⁰ 'We are Fed Up'. An expression referring to the feeling of discontent resulting from drug related violence and the role of the state's security strategy that has left more than 50,000 killed in five years of the Calderon presidential period

²¹ UN General Assembly resolution 1541, The Covenant on Economic, Social and Cultural Rights and Covenant on Civil and Political Rights of 1976, the Helsinki Final Act of 1975, the Conference on Security and Cooperation in Europe Self-Determination can be defined as recognition of separate independent sovereign states, the freedom to determine peoples and countries own political status, and freedom from external influence in choosing their own form of government and the UNDRIP, 2007

187). To be free from domination would mean that nobody ought not to constrain, or interfere for the sake of their own ends with peoples institutions of governance, decisions or interpretation of their own way of life (Íbid).

According to Young, interdependence also means that ‘people cannot ignore the claims and interests of those others when their actions potentially affect them [...] Insofar as outsiders are affected by the activities of a self-determining people, those others have a legitimate claim to have their interests and needs taken into account even though they are outside the government jurisdiction [...] Insofar as their activities affect one another, peoples are in a relationship and ought to negotiate the terms and effects of the relationship’ (2004). This view recognises that self-determining peoples are not free from interference, nor to interfere to others, so acknowledgement of the legitimate interests of everyone is necessary (Young, 2000b, 2004).

Whereas in Mexico the expression of indigenous autonomy *par excellence* are the Zapatista’s ‘*Juntas de Buen Gobierno*’ and autonomous municipalities (See above), a context-based analysis should be made, as autonomy has been adopted and adapted by indigenous communities according to their own conditions, strengths and weaknesses. How then does self-determination lead to property security for northern Mexico indigenous communities? The two relatively small communities of the Sierra Tarahumara examined reveal a diverse repertoire of spaces, mechanisms and relationships that influence the conditions in which autonomous forms of governance and decision-making are exercised.

Historical marginalisation and injustice, and hence domination, of indigenous peoples in Mexico were key motives for the zapatista uprising and for the later social movements. It is also the argument behind Mogotavo and Choréachi when they sued their neighboring agrarian communities and private businessmen. Their claim for justice is based on demands for being recognized as subjects with rights, as villages and existent indigenous peoples whose ancestral possession of land has been dismissed through fraudulent mechanisms and corruption. Such principles are recognized by international law as free, prior and informed consent, as part of their right to self-determination (UN, 2008; OIT, 1989). If domination is interpreted as the constraint of other people’s decision-making (e.g. governance institutions) and control over their way of life, then the notion of freedom from

domination is present in this claim (Young, 2004). Under this logic, the peoples of Choréachi and Mogotavo campaign for a fair trial, one that guarantees the consideration of their very existence as land holders and villages; their cultural difference and rights; their equal status as citizens *vis-à-vis* the mestizos, and their character as legal persons.

Under this view, autonomous processes of social organisation for political decision-making are complex and changing. However, the instruments and strategies available to indigenous groups goes beyond the idea of autonomic communities and encompass other practices of autonomic decision-making systems and their realisation as autonomous juridical subjects, by making alliances, turning to collective action, while acknowledging state juridical instruments and rules of the game under collectively accepted conditions. These strategies, some contemporary, some resulting from longstanding self-government systems, some based in local actions and others based in international action and alliances, have been there and been practiced in different social and institutional spheres, such as normative systems, solidarity networks of legal advocacy for indigenous peoples struggling for land rights, conversations carried out in religious celebrations or other festive gatherings.

The self-determining options practised by Choréachi and Mogotavo are notably expressed in the relationship between social groups and state institutions, as well as in the available political instruments and political decision-making mechanisms at hand. In addition to views of autonomies as collective processes of self-organisation, there are also everyday varieties of resistance against forms of external oppression, self-determination spaces and available strategies in the context of juridical land disputes. These sorts of self-determining everyday practices lie at the core of focus of the present thesis, as it appears to be critical for the understanding of resistance and vulnerability to land dispossession. The empirical context of these practices is clearly seen in the Rarámuri by their normative systems and other traditions, celebrations and political and social practices (described and analysed elsewhere in the thesis).

The relevance of analysing self-determination in development processes is exemplified by the right to prior, free and informed consent (PFIC) of indigenous peoples stated in the Agreement 169 of the International Labour Organization. As

different indigenous peoples have different decision-making systems, consent to large projects affecting communities should be given according to their own forms and procedures. Normative systems and the exercise of other forms of de facto community organisation can be so influential politically that it can go beyond the exercise and compliance of the legal procedure of PFIC, turning to strategies such as direct action (legal action, mobilisation, activism, boycotts, lobbying and so on) that even forces extractive companies to abandon their projects in indigenous territories.

These are a few forms that self-determination can take, as each social group take decisions according to their interests and the social, cultural and historical context. What is important at the end, is not the kind of decisions they take (e.g they can decide to ally to external actors if they think it is needed), but whether decisions are taken according to what they all agree is the community's will without external intervention or coercion. However, with or without state recognition, the fact that they are reflecting and taking actions about their structural position vis-à-vis dominant groups puts into question their subaltern condition and rather, visibilises them, pushes the law to recognize them as juridical persons and, in sum, pushes dominant actors to recognise them as juridical and political subjects.

2.5.4. Conclusions

The chapter focused on establishing a theoretical framework with which to conceptually define and understand the issue of land dispossession of indigenous communities in northern Mexico and, particularly, to answer the overarching question of how this problem is perpetuated in a democratic regime and how this is related to the involved actors' decision-making power. This question is understood in the context of development processes and development-induced displacement of communities, such as that occurring in the case studies of *Pino Gordo* and the Copper Canyon. Rather than choosing to interpret development processes as part of the normal course of social change from depoliticized and positivistic perspectives, the chapter develops an explanatory framework that draws upon a critical theory approach that accounts for different dimensions of power relations and for the historical nature of domination over subaltern groups, such as the Rarámuri indigenous communities.

In order to organize and establish the ideas and concepts around these questions, the chapter first explored the way land dispossession is influenced by processes taking place in the realm of the global political economy. Here, phenomena encouraging global land grabbing and private control over natural resources are examined, while trying to understand the groups of people affected by them, and the most vulnerable land property schemes. The inherent character of growth in capitalism, the design of global economic policies, such as neo-liberalism and the increasing influence of supranational financial institutions, exercise a critical influence in nation-states' economic agenda. At another level state institutions become the link between global and national governance, social and institutional actors. As mechanisms of social injustice cannot be understood in isolation but, rather, as part of a wider context and a complex network of social and political relationships, the employed approach looks at the social actors interplay with institutions in a context shaped by norms, beliefs and interests.

This theoretical framework is designed in order to account for an explanation of complex social phenomena such as that of the Sierra Tarahumara in Chihuahua, México. First of all, I adopted a structural approach (Young, 1990, 2000, 2000b) to domination processes, in order to better capture the foundations of status differences and political inequality resulting in land dispossession in pluricultural and postcolonial contexts such as that of indigenous Mexico. The structural injustice/domination theory of Young provides an explanatory approach that looks at the role of institutions, norms, values and assumptions in the creation of a permanent social structure that reproduces the adverse conditions (e.g. dispossession) for subaltern social groups such as indigenous communities. Secondly, the coloniality perspective served to account for contemporary processes of coloniality as a pattern of power consisting of control over historical processes of knowledge production in order to shape a system creating particular hierarchies and privileging actors with specific attributes (Quijano, 2000, 2000b, 2007; Mignolo, 2007; Maldonado, 2007, 2008; Grosfogel, 2007). These ideas were explained by grounding them on the social, historical, cultural and political context of the Sierra Tarahumara and particularly on the disputes over resources and land by social actors in interethnic and socially unequal arenas

In the following stage, I establish a working definition of development based in post-development literature that put into question the previously undisputed idea of development (Escobar, 1995; 2009; 2010; Ferguson, 1994; Sachs, 1992; Mosse, 2005), while framing the concept in the critical theory approach, as well in the inquiry about development-led social injustice. Here, I explain why I believe there are limitations in the way social injustice has been approached by both development practitioners and the development studies academia. This perspective reveals the way the development industry mirrors state institutions and political practices. In this case, I discuss how political representation has served as a pillar of the so-called modern democracy, as state institutions and development actors rely on a notion of political representation that grants them the authority and legitimacy needed to obscure social injustices. The analysis of political representation, however, reveals that far from representing the 'stakeholders' or the community's interests, it is a fallacy that serves the purpose of constraining peoples and local communities' self-determination for the sake of maintaining the global (to local) pattern and structures of power.

The final section discusses the concept of self-determination and how it has been conceptualized in the literature, the way it has been discussed in Mexico and put into practice by *zapatismo* and southern Mexico's indigenous and rural communities. In particular, I have looked at the possibilities of everyday forms of Rarámuri political decision-making, such as normative systems and political negotiation *vis-à-vis* external actors, to counter development interventions.

Although some of these concepts have been widely discussed separately in the literature, I show the importance of looking at the interrelationships between social injustice, development, modern democracy, law, and self-determination. In this sense, the research has illustrated the extent to which these issues have been neglected by the development industry and a large proportion of academia. In short, the analysis reveals the need to address the critical role decision-making power plays in development-led injustice (such as land dispossession), as processes of political representation have been shown to serve the purposes of development and political and economically powerful actors, while that of self-determination serves to secure local forms of land property and possession as well as respect to communal and indigenous forms of territoriality. In this sense, the structural

domination and coloniality approaches help to explain the way institutions and social subjectivities have supported the normalisation and justification of indigenous communities' land dispossession by undermining their self-determining power. This has been shown to constitute a critical force for land-defense and securing property rights.

CHAPTER 3. METHODOLOGICAL FOUNDATIONS OF DATA COLLECTION AND ANALYSIS IN THE CONTEXT OF LAND DISPUTES AND SOCIAL INEQUALITY

3.1. Introduction

This chapter outlines the methodological foundations of the data collection and analysis strategy upon which research questions are to be answered. A qualitative research approach was chosen for the examination of two case studies in the Tarahumara mountain range in northern Mexico. Data collection methods were based first, in archival research and secondly, in a combination of ethnographic techniques and informal/unstructured interviews. A critical realist epistemological stance was adopted in order to better address the dialectic relationship between realist and social constructivist/interpretivist approaches to social inequality. The Critical Realism theory of knowledge aims at the interpretation of mechanisms and structures of oppression by harmonising ontological realism, epistemological relativism, and judgemental rationality (Bhaksar, 1989). They are seen as changing and modeled by subjectivity, where the oppressed can determine their self-emancipation. The methodological strategy was considered a suitable approach for critically examining the social disputes for resources in a context of social inequality, as it accounts for a variety of factors, such as historical processes, complexity, multidimensionality, relationships and the subjectivity involved.

The first section gives an account of the interrelation of questions, methods and case studies. It first explains the rationale and evolving nature of the research questions, and the context in which they emerged. Secondly it describes in more detail the methodological approach and epistemology which supports the interpretation of data. The third section tackles both the rationale behind the selection of case studies and the ethnographic and historical description of the research context of the Tarahumara mountain range and the specific research locations of Choréachi and Mogotavo. The fourth section explains the specific data

collection methods, the way they were utilised and how data was finally analysed. And finally, ethical issues in the research process are addressed in the fifth section of the chapter, where I explain some of the ethical dilemmas I faced in fieldwork and the ways these were dealt with.

3.2. Research Design-Process and Methodological Approach

3.2.1. Questions, Case Studies and Methods.

In this process, however, I found a significant gap: existing research and literature on the subject was very much conducted under positivistic perspectives and approached through econometric and quantitative methods. Therefore, qualitative research literature on poverty was scarce or lacked the historical and global sociological context and, hence, resulted in depoliticised accounts of material life conditions.

While writing my research proposal I started engaging with the literature of critical theory, as its political approach complemented the anthropological perspectives that I had been working with over the past few years. At the same time I realised I had to look instead to a different concept -rather than that of poverty- that explained the multidimensionality of destitution and inequality in indigenous Mexico. Due to its focus on causality and multidimensionality, I found the notion of social exclusion to be a promising approach; that rather than the idea of poverty, the notion of social exclusion accounted for social relations, multidimensionality, causality and other dimensions neglected by quantitative approaches. There was something missing, however, and later on I found that the concept fell short of explaining subjectivity, power and the central mechanisms of the complex phenomena that I observed in the communities during fieldwork. Instead, Critical Theory literature, especially the work of Foucault, Bourdieu, Gramsci, the Modernity /Coloniality Research group, Marion Iris Young and Nancy Fraser, inspired me to explore domination as a central concept to explain land dispossession of indigenous peoples.

Furthermore, structural approaches to domination processes, allowed me to distance myself from both individualistic approaches that tend to exaggerate the role of agency (sometimes blaming the 'poor' or oppressed for its own condition) and deterministic perspectives that attributed social change or political control to one single or monolithic dimension (such as culture, the state, capitalism, and so on). Instead, I began to consider the multiplicity and complexity of actors,

institutions, relationships, social norms and assumptions -over a historical period of time and in a specific global context- prevailing in contexts of domination, in addition to the effects of structure/agency and collective action of subaltern communities in negotiating and resisting intervention.

Results from previous research in the area suggested that the colonial process of land displacement and dispossession had not yet finished and, in this context and for several reasons yet to be explained, to hold an indigenous identity highly increases the chances of being dispossessed from land ownership. The question I considered relevant in this context was why and how particular social groups were systematically marginalised and chronically and gradually dispossessed by a wide variety of social actors rationally arguing that they “just do their jobs”. This led to the question of what social, political and economic factors influenced this process and what were the dimensions (such as individual, institutional, relational, epistemological and others) in which these mechanisms operate.

Anyone visiting the communities of the area will immediately see the prevalent levels of extreme poverty among indigenous peoples. Recent reports (CONEVAL, 2011; CDI/PNUD, 2006a: 7-11; De la Torre, 2010) supported accounts for this sharp situation in the area in relation to the rest of the country. Being myself a Chihuahua resident, I was particularly interested in understanding these causes in order to make an analytical contribution as a researcher to better address these issues. But especially, I wanted to examine decision-making power underlying both, marginalisation and dispossession practices that deepen poverty.

A short fieldwork period of one week in April 2010 allowed me to identify more clearly land disputes in Pino Gordo and the Copper Canyon, and the particular social and legal processes behind them. In addition, the people whom I met during my previous job as researcher were involved in the legal advisory and accompanying processes. Land disputes were then chosen for the analysis of case studies and proved to be suitable to the planned inquiry, since their profile showed complex trajectories of historical and social conflicts intertwined with legal processes riddled with irregularities and influenced by a range of social mechanisms very much entrenched in Mexican political history and culture.

However, as the disputes were first staged at the agrarian administrative level and then shifted to the juridical institutional structure, the performance of state institutions in disputes became critical for the direction of the course of the

events. It is undeniable that the actor's agency has also determined in different ways significant outcomes of social processes. Most accounts of the dispute by local actors, however, are limited to recent records, and those of the early stages where described in general terms, missing important details of the actions and mechanisms performed over the entire process. My previous engagement with research in the area as a research anthropologist, gave me the opportunity of accessing relevant historical archives that registered, on one hand, the voice of the social actors through informal letters and formal institutional requests, and, on the other, the official position of the institutions through certificates, arguments, negotiations, rulings, analysis of evidence, reports, newspaper notes, and maps over a period of not less than 80 years from most of the 20th and early 21st centuries.

By having adopted a structural approach to processes of domination and at the same time by having had access to relevant historical archives I found the opportunity to look at the working of institutional action and hence of agrarian and legal development of dispute and dispossession. The role of the state (see chapter 7) is not limited to governmental practices but, rather, goes beyond them, encompassing also the legislative and the judicial power, as well as other institutions and organisations linked in different ways to the governmental sphere. The resulting and changing framework of institutions, norms and rules, organisations and forms of authority constrain the achievement of peoples' and social groups' aspirations in a range of forms, and this is clearly reflected in the archive documents' accounts. Short and intermittent fieldwork periods in communities were also carried out, which were richly rewarding in accounting for people's views and experiences regarding their problems, as well as in the context of disputes such as court hearings or community meetings.

To adopt a domination approach means that we separate our outlook from individualistic, 'blaming the oppressed' views and, rather, look at the (structural and unequal) conditions beyond the reach of those affected that allow social injustice to take place. The constraining of people's attempts to achieve their aspirations lies at the core of the definition; however, these constraints are not the result of direct repression, but, rather, of the accepted norms and everyday actions of institutions and individuals. As Bourdieu put it: 'Domination is not the direct and simple action exercised by a set of agents ('the dominant class') invested with powers of coercion. Rather, it is the indirect effect of a complex set of actions engendered within the network of intersecting constraints which each of the dominants, thus dominated by

the structure of the field through which domination is exerted, endures on behalf of all the others' (Bourdieu, 1998: 34).

In short, the journey to find relevant research questions for a social context entrenched in extreme poverty as a result of historical, deliberate and hidden marginalisation led me to consider a structural approach to more fully appreciate institutional practices, assumptions and norms in perpetuating processes of domination of some social groups over others. As a heterogeneity of mechanisms (such as forms of authority, persuasion, assumptions, bureaucratisation, discretion and others) are involved, a combination of archive research and ethnographic methods were deemed convenient to capture those multiple dimensions of the phenomena. The cultural area and settings were chosen for two principal reasons. First, because my own aim of contributing to some of the most impoverished communities of my country, and secondly, because the case studies constituted significant and, at the same time, emblematic longstanding community struggles for land and juridical disputes where a combination of practices of self-determination and solidarity organisations have helped indigenous people resist pressure of unaccountable state institutions and its alliances with local power brokers.

3.3. Methodological Approach and Epistemological Stance

As Mason states: 'anthropologists have of course for many years been practicing qualitative research in the form of ethnography' (2002). This research adopts a qualitative methodology for both data collection and analysis. I contend that this approach best captures a wide array of dimensions of disputes and domination processes such as relationships, meanings, behaviors, definitions, representations, symbols, social processes and others, while accounting for the needed depth, detail, complexity, reflexivity and sensitiveness to context the social world offers.

Qualitative methods also offer a flexible methodology that, on one hand aims to 'discover and faithfully represent the true nature of social phenomena' (e.g. ethnography)(Hammersley, 2002: 66), while on the other 'is grounded in a philosophical position which is broadly 'interpretivist' (Mason, 2002: 3). In this sense, although this research cannot fully detach from the long positivist tradition of

the social sciences finding patterns and testing hypothesis, it is still strongly based in a social constructivist epistemology, considering discriminatory social constructions as constitutive of existing unequal social relations and systems of norms, leading to visible and measurable material imbalances.

The social science perspective of critical realism serves as a suitable epistemology to approach the kind of complexity that processes of domination pose. While it departs from the idea that there is a world out there, it acknowledges that all observations are made from certain subjective perspectives. As Danemark *et al* point out: 'critical realism claims to be able to reconcile ontological realism, epistemological relativism, and judgemental rationality' (1997: 10). At the same time, the 'critical' part of critical realism's contributions lies in its concern with the transformative potential of society. This perspective 'conceives the world as being structured, differentiated and changing' (Bhaskar, 1989: 2, 7). Here, dynamism is not just a natural process beyond human agency, but also presents the possibility of changing the structures that constitute society by understanding the underlying mechanisms involved in the reproduction of oppression.

In this relational approach, a society is comprised of complex internal and dynamic relationships. Because the social world is a social product which is permanently subject to change and transformation, there is the possibility of changing oppressive structures. In order to emancipate themselves, subaltern groups need to know these structures and comprehend how they work. In this view, the process of human emancipation involves a process of structural transformation (Bhaskar, 1989: 7, 187).

3.4. Research Context

3.4.1. Support from Institutions and Organisations for the Research Process

Prior to my postgraduate studies, I became familiar with agrarian conflicts facing several of these indigenous communities. The federal institution where I am based –The *Instituto Nacional de Antropología e Historia*- regularly receives requests for the elaboration of cultural expert reports (testimony) to serve as evidence for Native title disputes and other land-related legal controversies. One of my close colleagues specialised in this field, and I had the opportunity to be involved in the

elaboration of an expert report processed for San Luis de Majimachi ejido. I also participated in a monthly roundtable with different institutions²² dealing with indigenous issues in the Sierra Tarahumara, where establishments working on legal advocacy for indigenous communities and agrarian ministries shared and discussed their experiences in the field. Previous research and fieldwork also gave me the opportunity to witness the agrarian problems that communities were facing and to hear about it from the people themselves.

The first idea that surfaced when designing my methodological stance was to base my research methodology in ethnography and interviews, complementing the data with archive research, which I knew provided detailed agrarian data. This balance shifted when doing preliminary exploration on the ground as I surprisingly received full access to the archives that required reviewing. The Archivo Agrario Nacional, as a federal office, grants special considerations to members of other federal research institutions, which applied in my case. Furthermore, previous experience researching indigenous rights and relationship to institutions, allowed me to meet members of several human and environmental rights NGO's that were dealing with the legal advisory of Mogotavo, Choréachi, Wetosachi and Bakajípare communities.

Organisations such as CONTEC, *Alianza Sierra Madre*, *Tierra Nativa*, COSYDDHAC and related activist lawyers granted me access to their archives. They accepted my request for interviews and were of great help in introducing me to key people and even to whole communities. The archive of the *Escuela Nacional de Antropología e Historia Unidad Chihuahua* has an extensive collection of documents regarding the former *Centro Coordinador Indigenista* of the indigenous affairs federal office (CCIT-INI), which has open access to anyone requesting it. This unexpected access to these very valuable documents, in addition to the levels of drug related insecurity in the Sierra Tarahumara²³ led to my decision to give primary attention to archive research and carry out the fieldwork at another time.

Archive and fieldwork research took place in four intermittent periods of time. I was based in Chihuahua, the state capital where most of the federal

²² Programa Inter-Institucional de Atención al Indígena (PIAI). Inter- Institutional Program for the Attention to Indigenous Peoples

²³ The situation was uncertain after two years of started the so-called 'war against drugs' by the Felipe Calderon administration

delegations of different ministries are located. The same is true for research centres and the headquarters of the main NGOs working in the Sierra Tarahumara. During my stay in Chihuahua city, I worked from my office in the *Centro INAH Chihuahua*, from where I contacted people to arrange interviews or arrange access to the archives. Hence, periods of archival research and interviews in the city were not fixed. In this sense, research in Chihuahua city was carried out according to the appointments made and the time available to consult the archives. Apart from the Sierra Tarahumara, the only trip I made was to Mexico City in order to consult the Federal Ministry of Tourism (SECTUR) library, the *Colegio de Mexico* (COLMEX) and the *Museo Nacional de Antropología e Historia* (MNAH) libraries and to buy relevant books related to the research

According to Yin, the case study is a suitable research strategy when a 'how' or 'why' question is being asked about a contemporary set of events, over which the investigator has little or no control (2003: 3). Because this applies to the present research, this type of analysis was chosen as a suitable way of organising the data obtained from two different contexts within Rarámuri indigenous territory. However, two clarifications should be made in advance: first, research is based on one case study –the Rarámuri people- and, secondly, case studies have a situated historical dimension.

All over Mexico and Latin America land dispossession is common, however, the indigenous territories within the Sierra Tarahumara contains common features that deserve special attention, and land disputes and deprivation operates through a diversity of factors and mechanisms. In order to account for this diversity, two separate case studies from the area were chosen according to two distinct development projects and economic opportunities: Logging in *Pino Gordo* and the Copper Canyon touristic project. The former consists of a social and legal dispute for collective land property rights involving the indigenous communities of El Durazno and Choréachi and the mestizo comunidad of Las Coloradas. The latter, involves land defence by three indigenous – and neighboring - communities, namely, Mogotavo, Wetosachi and Bakajípare, who face dispossession and eviction threats from private sectors such as real estate and construction companies, hotel owners and the state tourism office itself.

The significance of the *Pino Gordo* dispute lies in the multiple stages and forms of dispossession experienced by the indigenous community of Choréachi by its neighboring mestizo and indigenous communities, as well as in the evolving nature of the social and legal dispute for the acquisition of land property rights.

The indigenous community of Choréachi is an indigenous political unit constituted by a number (approximately 40) *ranchos* positioned around a township, where general political affairs and community ceremonies of the community are organised. In the 1930s a group of people from the indigenous community of *Pino Gordo* requested land grants from the federal government for the creation of an ejido encompassing the whole of the indigenous territory of *Pino Gordo*. The land dispute in question was later established against both the internal *rarámuri* rancho of El Durazno and the neighboring mestizo agrarian community of Las Coloradas. The core of the dispute was the recognition of agrarian rights to certain groups of people in the first case, and the definition of agrarian communities boundaries in the second case.

In turn, the Copper Canyon project case studies hold the distinctive feature that two of the communities have no legal personhood in terms of land ownership, while the third one is an indigenous community belonging to ejido San Alonso challenging mestizo majority decisions against their interests. The three communities are facing attempts to take over and privatise their lands in different ways, including eviction threats.

The second *Rarámuri* group is constituted of the indigenous community of Mogotavo²⁴, which has requested land grants from the federal government two times, both of which have been denied. The lack of property rights and their strategic localisation at the edge of the Copper Canyon made their territory a target of private touristic investors and the state government. The touristic investors assumed that the communities were illegally settled on the land, and in the context of a major investment by the federal government, they proceeded with a strategy for displacement and resettlement.

²⁴ The case study includes the examples of two additional pueblos, namely *Wetosachi* and *Bakajípare*, that also face dispossession attempts in the context of the Copper Canyon Touristic Project.

A second clarification refers to the fact that the case studies have a situated historical dimension beginning in the 1920s that provides information about the first stages of the agrarian controversies, while ethnographic techniques and interviews are sources of rich information about the late stages of the disputes and the social background of the problems.

In the selected approach, the historical and social contexts are central for understanding the exercise of more specific power mechanisms. The next section offers an overview of the historical, cultural and social background in the area of study in order to provide the necessary elements to contextualise the historical social relations surrounding the issue of land disputes.

3.4.2 Social-Historical Overview of the Region under Study

The Sierra Tarahumara constitutes the northern portion of the Western Sierra Madre Mountain Range in the state of Chihuahua, Mexico, covering an area of about 65,000 km². Several climatic and ecological zones can be found in the region such as the eastern valleys and grasslands, mountain forests (over 2000 metres above sea level), mile deep gorges (*barrancas*) and canyons up to 1,200 m above sea level (Salomón, 2000; Mancera, 2004).

Four main river basins (Conchos, Fuerte, Mayo and Yaqui) originate in this mountain range, which during the colonial period, was inhabited by different native Uto-Aztec language speakers. The European settlers in the region came upon the so-called 'discovery' and, throughout colonial period, searched for rich mineral deposits and established a catholic missionary system led by Jesuits and the Franciscan order (Molinari and Porras, 2001).

At present this region is inhabited by approximately 322, 855 people (INEGI, 2005), of whom a quarter is indigenous, originating from four indigenous groups (*Rarámuri*, *O'oba*, *Guarijío* and *Ódami*)(See table 4). The other three quarters of the population are *mestizo* people -from European and indigenous mixed backgrounds- (Sariego, 2008). Although during the eighteenth and nineteenth centuries *Rarámuri* territory reached the fertile river valleys, they were later displaced by Spanish and *mestizo* settlers in the western mountains (Merrill, 1988; Pennington, 1963; Deeds, 2003).

Largely, just municipal capitals or villages next to the main roads have some level of urbanization. Health, education and other public services mainly tend to concentrate in the municipal capitals. Small villages away from the main roads normally lack the availability of services or other infrastructure. Some exceptions are boarding schools, small clinics or staple stores in the indigenous townships. More details about the availability of specific services in the relevant villages can be found below in section 3.4.4. and in Tables 1-4.

Their livelihood relies on a dual economy of small agriculture based on maize and supported mainly by diversity of beans, pumpkins and potatoes and, to a lesser extent by livestock. However, the income is increasingly dependent on a cash economy based on migration, governmental cash transfers and local wage labour in logging, mining, ranching, illegal drug cropping (*'amapola'* poppies and *cannabis*), as well as work in governmental services and community projects (Molinari and Porras, 2001; González, 1982).

Today indigenous people live mainly in a so-called 'dispersed' settlement pattern or *rancherías* which allow them to shift between agriculture and goat herding, thus challenging low land fertility while taking advantage of vast forest plateaus and valleys owned by *ejido* or community.

Indigenous territoriality in northern Mexico has been characterized by a model of distant dwelling-houses or *ranchos* that has allowed people to dispose of a variety of agricultural plots, whose considerable distance from each other and low fertility of the soil pushes them to practice a mobile agriculture and goat herding. Ranchos can be constituted by one –up to three- houses, and in turn the *ranchería* by various ranchos, usually no more than 20 dwelling houses. The township –main *pueblo* or *pueblo-cabecera*- structures the social and political territoriality of the *rarámuri* political unit with variations for the *warijíos*, *ódami* and *o'oba* groups (Mendiola, 2008; Spicer, 1962; Sariego, 2002; Moctezuma and Harriss, 1997; Branniff, 1997; González et al, 1994).

The Rarámuri township could be constituted by more than 20 dwelling houses, as well as the school, clinic, the agrarian office, grocery stores and the temple as the organizing axis between the majoritarian pagótame²⁵ rarámuri. The

²⁵ Baptised. Choréachi, rather, is a gentile –non baptised- Rarámuri community

temple is commonly been used both as a ceremonial center and as a place of meeting for the indigenous government of the whole pueblo, including the assembly. The pueblo, or community, is the entire territory that constitutes a political unit-normative system and houses the *rancherías* that are assigned to a particular indigenous authority system: a community assembly, the main governor and the group of authorities with different and specific functions. These authorities, elected in an open and general assembly by all the adult men and women of the political unit, are assigned to a delimited territory or pueblo, defined by specific ranchos and *rancherías* (González et al, 1994).

Historically *mestizos* tend to control political affairs at the municipality and local levels. The *ejido* secures land availability for agriculture, housing and mobility and, as a collective, this is where decisions are made regarding forestry and other natural resources and land issues takes place. Although *ejido* authority lies in the assembly, the *mestizo* monopoly over external affairs and skills such as the Spanish language allows them to establish the local *ejido* agenda. Likewise, exerting power over the *ejido* permits local bosses and outsider interests such as local government and private sectors to impose their views over indigenous perspectives and territories (Levi, 1999).

Three out of the four indigenous groups in the Sierra sustains an autonomous political system closely linked to a syncretism of indigenous-Catholic religious systems that date back to the Spanish colonial era (De Velasco, 1987; Molinari, 2001; Robles, 1994). This political unit is based in the township centre where the community's church is located. It manages internal affairs and is headed by a council of authorities divided into various religious, political, and juridical (consuetudinary law) functions. Even though these assemblies (or *cabildo* meetings as they use to call them) are headed by democratically-elected governors, the main authority lies in the assembly itself, and *mestizos* or outsiders have no voting rights (Urteaga, 1994; Gonzalez, 1982; Vinicio, 2005; Villanueva, 2008; Saucedo, et al, 2007, unpublished).

Table 1. Sierra Tarahumara municipalities territorial extensión and different services availability

Municipality	Territorial extension	Total population	Households	% with no sewerage	% with no electricity service
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Bocoyna	2710	29,907	7,402	65.56	29.95
Guadalupe y Calvo	9073	51,854	10,328	67.62	52.27
Urique	3247	19,566	4,512	71.03	44.79
State	247,514	3,241,444	813,273	8.11	3.73
Total municipalites ST	72,920	322,856	76,895	58.92	32.82

Table 2. Economic indicators by municipality

Municipality	% Population with no income	%Marginality index	Marginality level	Huan development index
Bocoyna	11.93	0.31599	High	0.694
Guadalupe y Calvo	44.28	1.92571	Very high	0.591
Urique	38.08	1.93279	Very high	0.572
State	4.62	-0.56310	Low	0.82
Total mpalities.	30.29	0.67266	Very high	0.648

Table 3. Access to health and security indicators

Municipality	% Health services rightful claimant Population	% Health services non rightful claimant Population	Crimes against health (x 1000 inhabitant)	Homicides per 100 inhabitants
Bocoyna	26.05	72.91	0.94	0.87
Guadalupe y Calvo	23.94	75.31	1.64	2.24
Urique	14.39	84.72	0.97	2.10
State	58.35	35.96	1.63	0.51
Total	27.62	70.70	1.18	1.68

Table 4. Access to education and indigenous languages speaking population

Municipality	% Illiterate population	% Population with primary education	% Population without schooling	% Population > 5 years speaking indigenous languages
Bocoyna	16.65	17.30	15.13	24.79
Guadalupe y Calvo	24.15	13.20	24.14	28.86
Urique	32.11	14.08	32.24	49.06
State	5.53	18.98	4.63	27.13

Total	20.83	18.63	19.69	3.48
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Tables 1-4: Murillo-González, 2007.

3.4.3. Natural Resource-Based Capital Accumulation and the Policy Context in the Sierra Tarahumara

The abundance of natural resources has guaranteed satisfactory livelihoods, either to indigenous people or, since colonisation, for the *mestizo* population. The quality and amount of timber and minerals has attracted a variety of foreign actors since the colonial period for capitalist, cultural and religious purposes. The region has been a place of cultural contact as a result of its colonisation and settlement by the *mestizo* (Sariego, 2002, 2008; Lartigue, 1983).

Throughout their presence in the area, mining –since colonial times- and forestry –for more than a century- have had economic ups and downs dictated by internal and external market conditions (Sariego, 2002; Lartigue, 1983). State policies have fluctuated between private and state control of the sectors, and since the 1980s neoliberal policies have shaped the sectors’ influence through liberal constitutional reforms and free trade agreements with the US and Canada. These activities have been key factors in introducing the market economy to the centre of indigenous territories, restricting, as a result, indigenous people’s access and control over land and natural resources (Boege, 2008; Sariego, 2002; Herrera, s/f; Lartigue, 1983). In addition, mining and forestry in the region have historically been major factors of cultural change, hybridisation and acculturation by accumulating capital by local elites in the indigenous populated areas, fostering the creation of urban centres, provoking migration and immigration processes, shaping and reproducing power relations, and generally fostering the penetration of state institutions, such as education, in the localities (Gonzalez, et al, 1994; Sariego, 2002, 2006, 2008; Cardenal, 1991; Herrera, s/f; Guerrero et al, 2001).

For instance, since the Mexican revolution (1910-1920s) and the consolidation of the revolutionary party, state policies on indigenous affairs have been applied in Mexico through a federal indigenous affairs office (CDI or *Comisión Nacional para el Desarrollo de los Pueblos Indígenas* and former INI or *Instituto Nacional Indigenista*). Its influence in the Tarahumara region dates from the early

1950s and is a reflection of particular ideologies, discourses, policies and practices that became known throughout Latin America as *indigenismo* (See Sariego, 2008; Bonfil, 2006; Villoro, 1996). Given the state aim of forging a modern idea of Nation, these *indigenista* policies were characterised by their aim to integrate, acculturate and in some stages clearly assimilate indigenous identities to the nation state through the cultural mixing of both the pre-columbian and colonial-Hispanic pasts (*mestizaje or miscegenation*) and through the eradication of indigenous languages.

This task was largely carried out through its development agenda (see my discussion on the concept of development in section 2.4.), taking much-needed services and infrastructure to several isolated indigenous areas, and promoting productive projects such as ejido-based forestry and tourism²⁶.

Forestry has been a fundamental economic activity for more than a century in the region. Indigenous people have been central not only as a labour force, but as administrators of sawmills, and land-owners through common property agrarian systems with timber processing companies. Conflict and negotiation between mestizos and indigenous people with this sector is shaped according to the actors' own economic agendas. Tourism is a strategic sector for economic growth, which often requires resources such as land, water, landscapes, labour, local culture and others. In the region's recent history, indigenous peoples have not been included in decision-making processes in this sector.

Early industrial forestry in northern Mexico is associated with mining needs of timber in the XVIII century. During the porfiriato period (late XIX to early XX) the forestry industry in the area grew as a result of the building of large scale railway system. North American companies in charge of these enterprises are the first ones getting concessions for logging exploitation in 1880s, dominating the activity in the area until the Mexican revolution of the 1910s. In the 1920s the activity enters into a decreasing wave, but it is passed the first forestry law with a conservation profile. However, conservation in forestry has been historically undermined by the productivist character of the post-revolutionary agrarian reform law.

²⁶ However, *indigenismo* also became a large bureaucratic apparatus consistent with the authoritarian and clientelist character of the revolutionary government of this period. This contributed to sustaining many of its corrupt practices and its corporate profile through its relation to the local *mestizo* power structures (Sariego, 2008).

The industry strengthened after the WWII due to the increasing demand of the north-american market (Herrera, op. cit: 2; Lartigue, 1983; Weaver, 2000: 2). Private capital and the local industry acquires a renewed impulse in the forestry sector in 1930s, when a group of local businessmen obtain control over different regions of Chihuahua, some of them by acquiring property of large portions of forested land that were included with the purchasing of the Northwest Railway in 1946. Different laws and reforms approved in 1940s-50s gave authority to the Agriculture Ministry as regulator of the activity, and granted control over forested territories to ejidos and comunidades, as well as created state owned enterprises. A good example is PROFORTARAH, a 'para-estatal' that controlled management and production, fostered ejido self-management and production, but at the same time was highly prone to inefficient bureaucracy, centralism, corruption and corporatism as most of the sector in the regime under PRI rule.

During this period, the federal Indigenous Affairs Office promoted forestry as the axis of economic development in the Sierra Tarahumara, pushing for an indigenous self-management model of forestry, an experiment that besides being highly subsidized, later involved the participation of private capital and of traditional forms of corporatism, finally closing after ten years of being launched (Herrera, op. cit; Lartigue, 1983; Weaver, 2000; Sariago, 2002). Subsequent laws in the 1960s and 1970s were oriented to decentralize forestry services, reduce overexploitation, and establishing a social forestry management system (Pérez, 2005). The 1980s saw the approval of new laws replacing state for private owns enterprises, but also, strengthening conservation mechanisms (Sariago, 2002 and Weaver, 2000). By the mid 1950s, the World Bank promotes the Programa de Desarrollo Forestal Chihuahua-Durango, which was aimed at modernising forestry infrastructure and making forestry ejidos competitive as producers and administrators. The project failed to prosper due to a variety of factors. For example, the adverse results of environmental impact assessments that showed the region as unsuitable to sustain extractive projects of such scale. In addition, the project raised the concern and activism of a number of local, national and international environmental and human rights organisations whose moral and political influence in the region as well as their active mobilisation played an important role in the final closure of the project (COSYDDHAC and TCPS, 1999: 54).

In the post-revolutionary period, forestry policy in northern Mexico has largely been shaped by common property land tenure systems -*ejido* and *comunidad or comuneros*. These policies have overlooked and displaced indigenous territoriality as well as social and political organisations whose influence or control over common property land governance has been decreasing (Crespo, n/d; Correas, 2008; Ibarra, 2006; López Bárcenas, 2005; Escobar-Ohmstede, 1990). Even in *ejidos* where indigenous people represent the totality of the membership, it is not uncommon for timber companies' interests in accord with the *ejido's* authorities to prevail through the signing of unfair contracts with ejidos (Cardenal, 1991).

Without control over the transformation and marketing of timber production, the *ejidos'* benefits are limited to those derived from supplying timber to the companies. At the same time regulations and technical criteria for forest conservation have been overlooked, and instead, exploitation rhythms are determined by international market demands and exploitation opportunities (Herrera, n/d; Lartigue, 1983; Weaver, 1996, 2000, Chapela, 2009).

At present the forestry policy model in Mexico is described by Perez-Cirera as a co-management scheme of regulated social forestry, oriented towards the *ordering* of timber and non-timber forest products extraction for sustainable use and commercialisation (2004: 1001). Forested lands proprietors agree contracts with private logging companies, but the technical requirements are mediated by forestry engineers and consultants. The whole process is regulated by three main environmental agencies: SEMARNAT, the environmental ministry; PROFEPA, the environmental attorney; and the CONAFOR, the forestry office.

Coupled with this are ecosystem conservation policies such as payment for environmental services with a stress on water and soil conservation and, more recently, tree plantations (Chapela, 2009). Furthermore, it is expected that the REDD+ (Reducing Emissions from Deforestation and Forest Degradation) strategy will come soon to orient and regulate all conservation national policies.

One of the critical factors in the conflict-ridden nature of mining and forestry operation results from the relationship between the companies and local brokers. Communities are excluded from decision-making processes and access to information. Meanwhile power-holders, usually *mestizos*, take advantage of

patronage, clientelism and other political strategies in order to maintain political control and resource hoarding (Perez-Cirera, 2004; Cardenal, 1991; Herrera, n/d; Lartigue, 1983).

The natural landscape, wilderness and rural cultural life have become crucial factors in the emergence of a third economic activity: tourism. While the mining industry had not yet recovered from depression during the 1990s, the forestry industry entered into a period of crisis in this decade because of the low prices of timber on the global market. This was negatively reflected within the local economy of Chihuahua and particularly in the employment sector of the Sierra Tarahumara (Sariego, 1998b). In this context, tourism emerged as viable alternative to boost the local economy. Taking into account the particular landscapes of the woodlands, a system of canyons and rivers, cascades, lakes, geological formations, high levels of biodiversity, and a significant pre-Columbian, colonial and indigenous cultural heritage, these factors converted the region into a target of economic policies and private investment in the eyes of local and national neo-liberal policy-makers (Sariego, 2002; Sariego, 2001; Mancera-Valencia, 2004).

Although tourism in the area dates from the 1960s²⁷, this sector picked up significantly in the last decade, fostered by the singular natural and historical heritage of the area as detailed above. Since the 1960s, tourism began on a small scale in some places in the Sierra, with local middle class people offering accommodation and restaurant services nearby sites as cliffs, cascades or lakes. During this period hotels were established by local elites, and in the 1990s, the firsts local indigenous tourism projects with “rustic” cabins and guided tours began to be supported by the government, cultural and environmental rights-based civil society organisations (De la Torre, 1999; CDI, 2006).

By the mid 1990s the federal and state governments announced the Plan Maestro Barrancas del Cobre, a major investment programme, to be financed for a period of 10 years by the Inter-American Development Bank (IADB) and the World Bank, to foster touristic infrastructure. The area covered an extent of 24,000 Km², including nine municipalities. While scholars and Human Rights NGOs published a range of critiques on the social, environmental and cultural impact of the project

²⁷ COSYDDHAC, 2001: 35

over the communities, further information regarding the plan was not released for the following 15 years (COSYDDHAC, 1996: 32; Sariago, 2001; Mancera et al, 1998).

Meanwhile, the federal indigenous affairs office or National Commission for the Development of indigenous Peoples (CDI) started to promote the development of indigenous touristic projects at the national level. The programme consisted of supporting self-management experiences, however, most of them were unsuccessful (CDI, 2006). At present, they offer financing, training, support and promotion to local projects, while facing several difficulties such as complying with environmental impact assessments, low occupancy rates and administration (Ibid).

Low scale tourism and a few state investment and programs (such as the creation of the modernisation of the *Chihuahua al Pacífico* (*ChePe*) train and railway the construction of *Situriachi* Dam, and the International Adventure Tourism Festival) were developed during the 1990s and the first half of the 2000's, until the implementation phase of the CCTP was finally announced by the federal and state governments in January 2009. The project, which will be developed in phases over a period of 10 years, is expected to require a total investment of 243 million dollars for the first phase, 87 millions for the second and 39 millions for the third phase (Valles, 2009; Skycraper, n/d).

The first phase involves the construction of an aerial tram, allegedly the longest in Latin America with a total running distance of 3.4 miles, plus a 4100 m long and 450 m high system of eight zip lines and everything was already installed and inaugurated in September 2010 (Valles, 2009; Creative Urban Project, 2010). The project also envisages further state investment for projects such as an Eco-tourist park, a new train station, a new airport in the nearby town of Creel, water provision infrastructure and new roads connecting touristic attractions. Additional features such as hotels, restaurants, a 18 hole golf court, bungee jump (allegedly the 2nd highest in the world), a high mountain sky centre, a parachute simulator, a zip rider, casino, trailer park, spas, convention centre and apartments will also be added. The tourism secretary expects that tourism will increase from the current 350 thousand visitors per year to over two million (Valles, 2009)²⁸.

By the year 2005, however, the state and federal governments re-launched the Plan Maestro Barrancas del Cobre, now consisting on large-scale projects such as cable railways, sky slopes, casinos, five stars hotels and golf courses (FONATUR, 2002; Sectur, Fonatur and Chihuahua state government, 1995; Morones Ochoa y Asociados S.C; 1996). Local initiatives, namely indigenous touristic projects, were not included in the plan, and although the creation of a community advisory council was considered, the idea was soon discarded.

The experience of the tourism business in the region has showed the disadvantageous position of indigenous peoples within the prevailing touristic model. Previous critiques from scholars and civil society organisations (COSYDDHAC, 1996: 32; Sariego, 2001; Mancera et al, 1998) warned about the social, cultural, economic and environmental problems of top-down touristic initiatives. These include lack of adequate solid waste management systems, reliance on private investment, which in turn, fosters social inequality, misrepresentation of indigenous cultures as exotic, lack of community-based approaches and, particularly, a lack of representation of local residents or indigenous peoples in the decision-making process. In addition, new sets of problems have recently arisen: on the one hand the lack of water supply to central touristic cities; on the other, land disputes between local and foreign private investors and indigenous people living within common property agrarian systems.

In short, this inter-ethnic region has become an arena in which contention have continually emerged. The capitalist interests of resource extraction companies overlaps and sometimes clashes with indigenous livelihood systems such as agriculture, which is reliant on fertility provided by forests and water bodies usually negatively impacted by forestry and mining. Increasingly, forestry, tourism and mining industries require indigenous labour, while at the same time, indigenous peoples' access to resources and territory has decreased. In this context of social inequality, emerging global interests, development and conservation policies and programs are increasingly contested by the indigenous people, researchers, sectors of the Catholic Church, and a range of critical NGOs, who claim that the touristic initiatives will reinforce and reproduce the prevailing power structure.

However, the same touristic plans have been regarded with hope and optimism by the state, economic elites, local *mestizos* and some sectors of developmentalist civil society organisations. After more than a century of extensive timber extraction, urbanisation and other related development interventions, the region's natural resources are now highly degraded, with loss of biodiversity, the spread of exotic vegetation, forest fires, water pollution and scarcity due to land degradation, desertification, deforestation and loss of habitat for local fauna, among other symptoms (WWF, 2005).

Moreover, respect for human and cultural rights has severely deteriorated, especially in a context of open violence between Mexican drug cartels and militarisation due to the so-called 'war against drugs' started by the Felipe Calderón regime. This 'war against drugs' consisted of the privileging of a strategy based in the military prosecution of the drug cartels that has resulted so far in about 95, 632 casualties and tens of thousands disappeared throughout Calderon's presidency according to INEGI (quoted by Milenio, 2012; and more information on Beittel, 2011; Equipo Bourbaki, 2011; Human Rights Watch, 2011; NRC/IDMC, 2010; ONU, 2011; UNAM/IIDC, 2011). This situation has prevailed with particular intensity in the Sierra Tarahumara as a crucial place o drug cropping and traffick.

As is common in Latin America, indigenous people comprise one of the country's poorest social sectors (Cimadamore, Eversole and Mc Neish 2005, Hall and Patrinos, 2006). After decades of adverse and contradictory state policies, coupled with discriminatory attitudes of the dominant national society against the indigenous peoples (Rarámuri, Guarijío, O'oba and Ódami), the Sierra Tarahumara in the Western Sierra Madre Mountain Range has become a vast indigenous region widely recognised as one of the most marginalised in the country (CDI/PNUD, 2006a: 7-11; De la Torre, 2010).

3.4.4. Research Settings and Locations

3.4.4.1. Indigenous Community and Territory of Choréachi

Choréachi is the name of the main *ranchería* of a complex consisting of a ceremonial and political centre that extends its jurisdiction to a series of ranchos

(hamlets), rancherías (groups of hamlets), parajes (cleared spot or place) and oteros²⁹ (Villanueva, 2012: 1). It is a community of Rarámuri indigenous people belonging to the gentiles or *cimaroni*, that is to say, a conservative wing of the group, which is reluctant to accept Christian institutional action and sacraments in their religious system. Apart from this, the social and political organisation – and normative systems- remain within the pattern described above for the rarámuri group overall, considering that every single community and pueblo keep their own particularities as a result of the autonomy practiced within the group (See Urteaga, 2004; González; Villanueva, 2012; Ramírez, 2007; Brouzes, 1998; Orpinel, 1999).

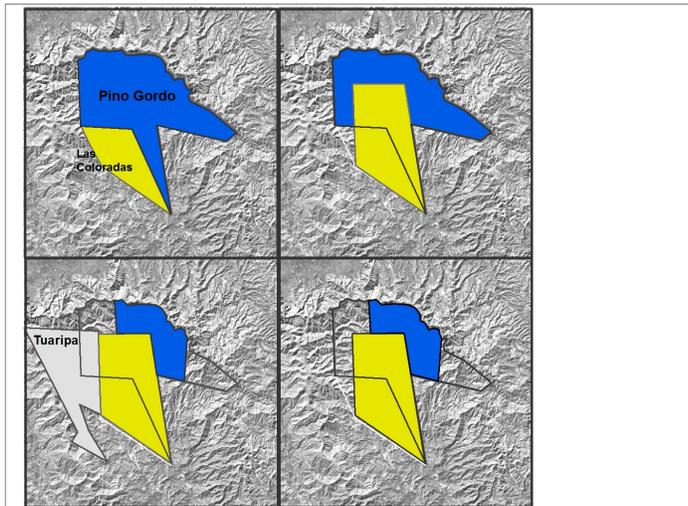


Figure 1. Land boundaries transformation over the dispute process between Pino Gordo, Las Coloradas and Choreachi (Palencia, 2010)

The community complex in question is located next to the Sinforosa Canyon, while the urban city of Guachochi is situated at the extreme opposite of the canyon. It is inhabited by more than 433 people and 150 families distributed over 56

²⁹ These spaces are human settlements, agricultural land, ceremonial sites or spatial references (Villanueva, 2012: 5) (My translation)

ranchos and rancherías³⁰ (González, 2009: 90, and fieldwork, 11/10/10) and situated in the Guadalupe y Calvo Municipality, Turuachi Section, state of Chihuahua, Mexico. The ejido comprises an extension of 32,794-41-6 hectares of which 28, 865-28-75 are disputed by El Durazno and Las Coloradas (Orpinel, 1999: 9). The territory recognised by the community is traced upon the Verde river to the spot known as ‘Cerro Pelón’ o ‘del Rayabo’, from there to ‘Cerro Pino Gordo’, then to ‘Cerro de Guasachike’, and finally from ‘Cerro de Guasachike’ to ‘Cerro de Coyeachi’ (Choréachi Pueblo, 2007³¹, see figure 1).

Reports state that the Pino Gordo lands contain ‘one of the largest continuous tracts of open pine-oak forests to be found anywhere in the Sierra Madre Occidental’ (Miller and Gingrich, n/d, from Lammertink 1996), and the Corridor Sinfrosa Canyon –where Pino Gordo is included- constitutes one of the most suitable ‘habitats for the flora and fauna diversity particular of the Sierra Tarahumara because of its level of endemisms’³² (CONABIO)³³.

The livelihood system fits the model described above for the indigenous peoples of the Sierra Tarahumara. It is based on production of crops such as corn, beans, broad beans, pumpkin, and in some places, potato, peas, oats, tomatos, as well as the harvesting of fruits such as apples, peaches and oranges. To a lesser extent they rely on their livestock of goats for the production of milk, fertiliser and meat consumption when needed. Edible plants and other non-timber forest products complement their diet, together with an increasing consumption of staple products bought in the two local shops found in Choréachi. Cash income is provided by short-term migration to plantations or by wage labour opportunities in Chihuahua, Sonora or Sinaloa, but some people turn to marihuana and amapola poppy crop production, which is later gathered and sold to outside mestizos.

³⁰ Choréachi, Napuchi, Cerro Paloma, Basigochi, Parralito, Koyachi, Tierra Blanca, Buena Vista, Sitánachi, Sikochi, Sawárare, Cordón Largo, El Terrero, Cordón El Manzano, Sikorachi, Cumbre del Manzano, Los Flacos, Mesa Rayabó, Cieneguita, Bajichi, Alamo, Rosánachi, Rancho Pelón, Chimórare, El Carnero, Okórare, Mesa del Durazno, Chiwite, Wisarochi, El Rincón, El Capulín, Pino Seco, Rancho Chinaka, Murachochi, Piñón, Wilimuna, Mesa de la Sal, La Cueva, Los Faldeos, Arroyo de la Rata, La Mesita, Batayechi, Wamora, Wasachike, Rojasárare, Witosachi, Barrilito and Chapote (Villanueva, 2012; Orpinel, 1999; González, 2009: 90)

³¹ Demand for nullity for all legal actions regarding land granting of ejido *Pino Gordo* (Provided by ASMAC)

³² My translation

³³ http://www.conabio.gob.mx/conocimiento/regionalizacion/doctos/rtp_027.pdf

All communities lack basic services such as ducted water, electricity, clinics, or paved roads. With the exception of the main ranchería of Choréachi, none of the communities possess a staple store, school, not to mention a church. The operation of the school in the township is highly irregular, due to a combination of teachers' absenteeism and lack of attendance by school children. Few officers and public servants visit the communities. Sometimes they are visited by anti-drug operatives or soldiers from the Mexican army, or by teams of health visitors as part of the cash transfers program Oportunidades, a Federal Government health and welfare program directed towards women. Cash is delivered to those entitled to the program in one of the two staple stores of ranchería Choréachi (fieldwork research, 2010).

Access to the main ranchería is through two different means. The first is to take an 8 hour trip by automotive vehicle. The second option is foot hiking through the Sinforosa Canyon, driving from Chihuahua to the city of Guachochi and then to the setting of Cumbre de Sinforosa, which is at the edge of the Cliff. The hiking starts here and then goes down through the river to the bottom of the canyon, continuing up to the other side, and then taking the path through the sierra crossing a few ranchos or hamlets before arriving at ranchería Choréachi in a two day and one or two nights trip.

3.4.4.2 Indigenous Community and Territory of Mogotavo

The second case is the indigenous Rarámuri community of Mogotavo. It consists of a complex of four Rancherías³⁴, 26 ranchos, 42 domestic units and 215 people overall (Meza, 2007: 8-9). It is situated in San Rafael section, Urique municipality. The total extension covering the group of Rancherías is of about 2,059 hectares (see figure 2). Gingrich describes Mogotavo as '...a stunningly beautiful mesa just two kilometers east of the Hotel Divisadero and train station. The Mesa de Mogotavo is the most spectacular vantage point in the region, directly above the confluence of the Urique and Recowata rivers, with a panoramic view of over 100 kilometers of the most spectacular section of Copper Canyon' (2009: 1).

³⁴ Rancherías Mesa de Mogotavo compounded by the ranchos Witasochi, Wjichagorare, Bajisochi and Mogotavo. Bajichi consists in the ranchos Wachogare, La Cueva, Bajichi and Rojampo. Ranchería La Manzanilla comprises the ranchos Rporachi, Chuwasike, Rikubitare, Chubachi, Napuchi, Chiniguchi, Corachi, Las Lajas, Tegerachi, Rancho Corona, El Pozo, El Aguaje, El Bordo and Tolirachi. Divisadero consists in Divisadero and Mesa de la Barranca

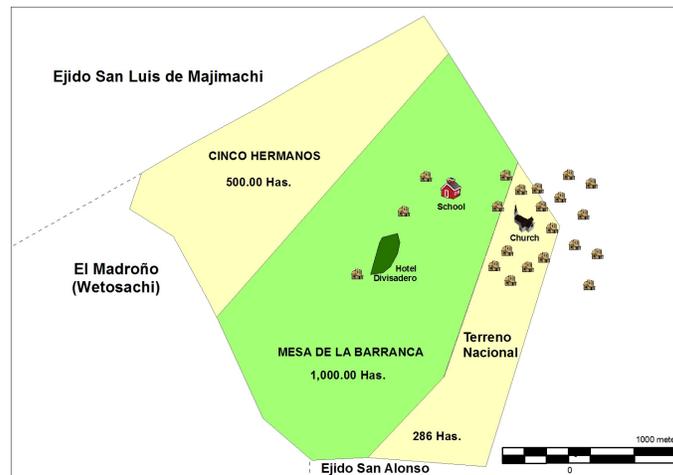


Figure 2. Land boundaries of the Camarena family overlapped to Mogotavo indigenous territory (Source: CONTEC, 2010).

The Rarámuri of Mogotavo maintains the livelihood pattern as previously described. This is consistent for the whole group in this region, however, due to the low levels of soil fertility and the proximity to roads and to the touristic center of Divisadero Barrancas touristic center, they also rely on wage labor in Divisadero, San Rafael, Chihuahua city, Delicias, and Cuauhtemoc as well as in plantations in the neighboring state of Sonora. In this sense, Mogotavo's links with capitalist relations is higher than in other indigenous communities. This is particularly true for Mogotavo's women artisans who sell their crafts in the visitors' areas of the Copper Canyon overlook and the train station.

As Mogotavo has no legal agrarian recognition (no ejido nor comunidad), the community is divided between the limits of the San Luis de Majimachi ejido, unclaimed federal lands, other privately owned claims held by the Camarena family and, very recently, land controlled by *Soluciones Empresariales del Norte* (SENSA) a touristic enterprise. However, the community is organised as a *de facto* agrarian commons, having for several years established their own authority structure with regular community meetings. Overlapping this agrarian organisational system, Mogotavo has its own normative system (Correas, 2010; see chapter 6) through which internal issues are discussed by democratic decision-making processes that are based on the assembly's authority. As is common in Rarámuri communities, meetings are organised around the Catholic Church.

Early registers of the Mogotavo community can be found in the neighboring municipality Jesuit Mission archive of Sisoguichi, which contains baptismal (parish) certificates dating back to 1912. However, archaeological research establishes an antiquity of human settlement in the area that is approximately 300 years old (Meza, 2007; Chacón, 2007).

Mogotavo can be accessed by car on paved roads, departing from the tourist town of Creel towards the Copper Canyon Vista point (See figure 2). Alternatively, it can be reached by train, either from the city of Los Mochis, Sinaloa on the west coast of Mexico, or by departing from the capital city of Chihuahua through the *Chihuahua al Pacífico* train route (also known as *ChePe*).

People from the neighboring indigenous communities of Wetosachi, and Bakajípare, both in the municipality of Urique, were also visited and interviewed, in addition to those from larger towns such as Areponapuchi, San Rafael, Creel, Bocoyna, and the capital city of Chihuahua.

3.5. Fieldwork Context and Process

The fieldwork conducted in the Sierra Tarahumara was divided into three stages. From the 11th to the 18th of October of 2009 I travelled to Choréachi for the first time, accompanied by *Alianza Sierra Madre A.C.* (ASMAC) staff. The aim of the trip was for *Sierra Madre* to organise the trip of a contingent of community members to Chihuahua, as a Las Coloradas lawyer notified Choréachi women to testify at the court hearing –maybe thinking that they were not going to be able to attend. For me it was a prospective visit, since there was no chance to carry out interviews of my own as I was subjected to ASMAC's staff agenda. The trip was productive because I had the chance to be introduced to the Choréachi people in a general 'cabildo' (or assembly) meeting, where I presented the aims of my research and got the community's permission to return and carry out interviews with different community members. During the visit, I became familiar with some of the community leaders, the setting itself and the history and details of the dispute during conversations and long walks with staff and community members.

The Chihuahua-Choréachi journey was made by truck, taking the Chihuahua-Guadalupe y Calvo route; while the Choréachi-Guachochi three day journey was accomplished by trekking through the Sinforosa Canyon accompanied by 125 people,

mostly women –some of them elderly, or with children-. This fieldwork stage continued in Chihuahua city where the hearing was going to take place on the 20th of October. Ethnographic notes were taken over the hearing registering the actions and comments of the participants, the legal language and contents of the questions, the protocol, description of the setting, the arguments of the lawyers and the general progression of the meeting.

The second fieldwork period took place from the 4th to the 12th of April 2010 when I travelled to Choréachi, first driving from Chihuahua to Cumbres de Sinfrosa, and then hiking from there to Arroyo de la Rata (The Stream of the Rat) in Choréachi. The journey was made with the guidance and company of Sebastián³⁵, a Choréachi indigenous authority specially appointed by the indigenous government to guide me and translate for me during my fieldwork. He is one of the few, or maybe the only literate member of the community and hence, the one usually in charge of foreign affairs for the community. Without the guidance of Sebastián, fieldwork would have been highly difficult and risky.

Distances between the ranchos were significant: from 15 minutes to 1 hour walks, when knowing the routes, compounded by highly difficult to discern paths, scattered all over the mountains. Moreover, Spanish is seldom spoken, especially by elders – including the indigenous authorities. Things became more complicated as it was the Easter ceremonial period, the most important religious festival for the indigenous people of the four groups throughout the region. Despite the fact that the gentile Rarámuri have not accepted the Christian faith, they carried out a highly indianized Holy Week festivity -with minor Christian symbols. Celebrations took place all over the weekend and drunkenness was widespread. After the celebrations most of the elders I wanted to interview were absent, either continuing the party or going off to work. Despite the difficult conditions and the festive period, I carried out five informal interviews with key community members. The fact that they lived in the area and the ethnographic notes taken provided meaningful information that helped me to understand from another point of view and experience the context and importance of the dispute for the Choréachi people.

The difficult conditions of Choréachi differed significantly with those found in the route Creel-Divisadero, where Mogotavo is located. The period covered the

³⁵ Pseudonym

10th to the 27th of June of 2010. Relevant communities are easily accessible by paved roads and communities are much smaller than Choréachi. Moreover, I had a car, thus facilitating movement from one location to another; however, travel between the *rancherías* had to be done by hiking. A total of 14 interviews were carried out in the area. Five interviews were conducted with community authorities, three with indigenous representatives before the municipal authority, one with a mestizo broker, four with human rights activists and development practitioners, and two with government authorities. All interviews with community members were undertaken in the company of a couple of young filmmakers who were preparing a documentary about the touristic project and the Mogotavo community.

Previous approaches to community members were carried out, firstly in a hearing taking place in the agrarian court in Chihuahua, Chihuahua (12/04/10); secondly in a short visit with the legal advisors of both Mogotavo and Wetosachi (april-may); and thirdly in a closed meeting in Creel town, between human rights organisations, members of communities threatened by the touristic project and the United Nations Human Rights Special Rapporteur in Mexico, Alberto Brunori (30/05/10). Apart from the communities of Mogotavo, Wetosachi and Bakajípare, people in other towns such as human rights activists in Creel, indigenous regional representatives and government officers in San Rafael, and brokers in Areponapuchi were addressed. While in Creel, where I was based, I rented a small hut for the eighteen days of my stay and moved from one place to another depending on the appointments for interviews or the plan for community visits. Community members had been previously introduced to me by NGO's in their meetings and there were no problems in establishing interviews, with the exception of those who were away from the ranchos or communities.

3.6. Data Collection Methods and Analysis

3.6.1. Fieldwork, Ethnographic Techniques and Unstructured Interviews

In total, 35 interviews, observation and ethnographic notes were carried out. Interviews and ethnographic methods enabled me to make an account of community members perceptions, views, and narratives of the histories related to the land disputes in the context of their own communities and the outside –such as the hearing and the journey involved. Peoples' opinions acquire particular meaning

when contrasted with each other and with what the archive documents reveal. At the same time, observing everyday relationships in context provides further understanding of the ongoing social processes and the complexities involved when multiple actors, combinations of interests, changing processes, norms, culture and the consideration of my own position in the setting are taken into account.

Although I have done ethnography in the Sierra Tarahumara for 5 years previous to my PhD research, this time research was not based in ethnography, but on a combination of archive, interviews and some ethnographic techniques. The ethnographic method is based on the premise of 'entering into close and relatively long-term contact with people in their everyday lives'. In this sense, 'we can come to understand their beliefs and behavior more accurately, in a way that would not be possible by means of any other approach' (Hammersley, 2002). To carry out this method, according to Hammersley, allows us to better 'understand the perspectives of others, rather than simply judging them as true or false' (Ibid: 68). Although I did not spend long periods of time in the community, my fieldwork strategy was based on staying short periods in the community with relatively close contact to residents and by relying on the networks previously established through the work of NGOs in the area. This allowed me to easily gain the confidence and trust from the community members involved in the defence processes, as well as in receiving the necessary support and advice to move easily all over the ranchos.

Ethnographic notes were taken in the greatest quantity during my stay in Choréachi. A field diary was carefully written every day, with the observations, notes, and comments from interviews with the people. The method of participant observation was carried out in the sense that for most of the fieldwork period I was not alone, but with a member of the community that supported me by visiting the different households, *ranchos* and *rancherías* as well as establishing informal conversations in every visit. The Holy Week celebration was an opportunity to immerse myself in the most important Rarámuri festivity of the year, and share their conversations, laughs and the enjoyment of the dances, ceremonies, sports and weddings taking place (see Kennedy, 1970; Merrill, 1988; De Velasco, 1987; Bonfiglioli, 1995). However, at the same time, the short duration of the visit (eight days in April, plus previous seven days in October), the settlement pattern, the difficulties of access, and the lack of Rarámuri language skills impeded my

integration to the community. In sum, six unstructured interviews were carried out with key actors in Choréachi, one of them translated simultaneously by Sebastián the guide and translator (when needed), and all of these complemented by ethnographic notes, informal conversations and observation. Observation notes of both Choréachi's and Mogotavo's hearings at the court were also carried out, in order to better understand the dynamic and the inequalities involving the juridical process and relationships.

More interviews were done in Mogotavo and surrounding communities of the Copper Canyon, but I found limitations to carrying out fieldwork in the settings because of the wide variety of interviews to make and communities³⁶ to visit in the area in such a short period of time. Research in Chihuahua City consisted of carrying out both archive research and unstructured interviews. 13 interviews were conducted with NGO staff, scholars, governmental officers and community members visiting the city. Six of those interviews were with the same person because of his significance as a lawyer for both Choréachi and Bakajípare communities. Later on, once back in the United Kingdom, three additional interviews were carried out by internet chat to two lawyers and one community member. See tables 5 and 6 in annex for further data.

3.6.2. Archive Research

Eight archives were consulted: the *Registro Agrario Nacional* (RAN), *Archivo del Centro Coordinador Indigenista de la Tarahumara* (CCIT) in the *Escuela Nacional de Antropología e Historia* (ENAH), the historical archive of the *Instituto Chihuahuense de la Cultura* (ICHICULT), and the private archives of the NGOs advocating for the communities, *Alianza Sierra Madre* A.C; *Tierra Nativa* A.C; *CONTEC* A.C; and the particular archive of then Mogotavo lawyer, Homero Saldanha³⁷. Another interesting source was the library of the federal Ministry of Tourism (SECTUR) in Mexico City³⁸, where a wide range of grey literature, documents, projects, and programs -many of them relating to the Copper Canyon Touristic Project - can be found.

³⁶ Wetosachi, Mogotavo, Bakajípare, San Rafael, Creel, Areponapuchi

³⁷ Pseudonym

³⁸ The SECTUR library (Centro de Documentación or CEDOC) has online access service, where I also registered and accessed several documents from home.

Other documents were also taken from my own personal archive as well as those provided to me by colleagues from their own archives. Likewise, many papers came from community members such as indigenous members of San Rafael and Mogotavo, or even official documents downloaded from the internet from institutional webpages such as the Federal Ministry of Tourism, the *Cámara de Diputados* (local deputies chamber) *del Estado de Chihuahua* and the federal senate. An environmental assessment of the zip line was obtained through an 'access to information' or 'transparency' request procedure to the state tourism office.

In my previous relationship as a researcher I established links with some human rights-focused civil society organisations (e.g. CONTEC and ASMAC), which in the context of my fieldwork granted me access to their archives. The situation was similar with governmental archives. For example, based on an institutional request, total access to the National Agrarian Registry (RAN) was granted due to my affiliation with the federal National Institute of Anthropology and History (INAH). Although access to the archive is free to public, institutional access entitled me to make photocopies of specific documents, which allowed for a more careful revision at home and at the university in the U.K. Documents from particular archives of various NGOs were selected and provided by members of staff themselves according to their own criteria; however, selection was made after a discussion about my information needs. This method saved a significant amount of time, as I did not have to search over the entire archives.

Prior to archival research, I had no specific category of documents in mind, and, hence, I was open and ready to make the most of any information to be found. Documents contained in archives can be divided into three types. First, legal documents such as rulings, certificates, minutes, accords, lawsuits or deeds, which were mainly found in the RAN, NGO's and CCIT-ENAH archives. Secondly, grey literature, reports, projects and programs, found in the SECTUR library and NGO's archives. Thirdly, letters interchanged between the communities and state institutions and between state institutions themselves accessed in the CCIT ENAH and RAN archives. Books and articles were also found in the archives, and some were of high interest, such as old writings and publications related to the indigenista ideology in Chihuahua before the revolution and early touristic promotion and

publications in Chihuahua by the chamber of forestry. The ICHICULT historical archive was rich in this kind of material.

Overall, archive research provided me enough data to reconstruct the agrarian history of the land disputes of *Pino Gordo*, Mogotavo, Wetosachi and Bakajípare. Rulings, deeds, letters and lawsuits, together with reports, projects and other publications were critical to making a chronology of the dispute. They were also crucial for finding out the different role actors played in the dispute processes, the kind of legal actions and arrangements actors took over a period of more than 80 years in order to push their agendas and generally, the critical situations that decided the course of the dispossession process.

3.7. Data analysis. Documents and Interview Analysis

Data analysis consisted, first of all, in the classification of the documents obtained in the archives and the elaboration of a chronology of relevant events related to the social conflict and juridical land disputes. After the fieldwork, the history of the case studies, contained in the archive documents, was not yet fully clear to me. Nonetheless, the examination and analysis of the files, interviews and ethnographic notes allowed me to better understand the different stages and periods of the disputes as well as the links between events. The first version of the chronology was a rough collection of a wide variety of different events, which at that moment did not make sense because of the wide range of factors, actors, and relationships involved. After a second stage of analysis and summarising of the history, the analytical chapters were written in a dialectical relationship between the case studies and the conceptual and theoretical perspectives that, I thought, fitted well with the research context and case studies.

In addition to archival documents, analysis of interviews, books, articles and recent newspaper stories and other institutional online documents also contributed to the reconstruction of the land dispute histories and the interpretation of particular topics. These materials were codified by establishing categories according to topics and dates, and furthermore, these were first translated to English, then listed and, if appropriate, included in the chronology. The resulting land dispute histories (or sub-case studies) passed through different processes of analysis, summarising and writing, depending on the purpose it was made for. For example, the first text was written for the empirical chapters. Secondly, the *Pino Gordo* history

had to be re-written in a different way for a paper to be presented in a PhD workshop in Copenhagen, which later turned into a journal article (Almanza, 2012). A third round of writing consisted of making shorter summaries of the case studies made for subsequent chapters, to remind the reader what these studies were about. The longer summaries of the empirical chapters, however, were omitted for the sake of succinctness and replaced by shorter ones. These exercises allowed me to make clear the categories of actors and domination mechanisms involved in the land disputes.

The task of finding categories of domination took most of the chapter writing process. Through the explanation of the influence of tourism in the global economy and cultural change processes, the empirical chapters revealed the importance of cultural imperialism and coloniality of knowledge, as well as the importance of looking at domination and power inequality from a structural approach. However, every subsequent chapter unveiled different dimensions of oppression found in the case studies. Juridical and agrarian institutions were found to be critical for the constitution of the domination structure. The analysis reveals that direct oppression by individual actors over the communities decreases over time, while that of structural domination increases. The study of the historical process –aided by archive research– revealed that the exercise of power tends to be institutionalised over the decades, as actors did not need to exert direct coercion anymore but, rather, could rely in institutional practices that reproduce oppression over indigenous communities. Local elites, for example, negotiate with state actors, and it is they who undermine the communities’ interests through legal and institutional action and an *ad hoc* narratives for the reinforcement of hegemony and coloniality.

3.8. Ethical issues

The data collection process *per se* did not posed any risk to the moral or physical integrity of research participants. Land disputes and related conflicts are currently limited to the legal and institutional sphere and researchers are not seen as threatening for the actors involved in the dispute.

Under the adopted approach, wider processes of dispossession and broad domination processes were not only a matter of individual actions, but rather were constituted by a wide variety of factors such as established norms, group

participation in public issues and individual and group attitudes towards specific culturally differentiated groups.

My positionality as a researcher is that of white, male, urban *mestizo* PhD student and a researcher from a Federal institution, originally with no links with the local power structures. However, the way they saw me was conditioned by my gender, physical, cultural and other attributes different than those they are used to deal with in their communities. While they could be more confident about talking to an outsider, the opposite could also be the case. Because people are not quite familiar with the term 'researcher' or 'anthropologist', I decided to introduce myself as a university student doing a 'study for my university' (*estudio*) which in this context is clearer than saying 'research' (*investigación*). In every introduction I made clear that I was not in a position of power or authority *vis-à-vis* the social actors, by not doing anything that could identify me with particular group interests. I believe that awareness of my role as researcher became clearer and more widespread over time. This reduced the chance of people taking me as an authority or someone with influence and power or with vested interests in the area. Apart from being introduced as an anthropologist, many interviewees and research participants were aware of my links to advocacy NGOs as my first visits were made together with staff from Alianza Sierra Madre (Choréachi), CONTEC (Wetosachi), and Tierra Nativa. The way this knowledge might have biased their answers is still uncertain to me. On the one hand they might have been more confident about talking about certain issues, but on the other hand, that might have closed the door to speaking to peoples from opposing villages such as Las Coloradas and El Durazno.

I am also aware that as a student I am not entirely out of the context of dominating relations and the academia where I am based is a representative of dominant forms of knowledge imposed in the context of the world pattern of power mentioned by Quijano. As this system tends to reproduce hegemonic practices such as taking for granted certain critical issues which are assumed to be unquestioned, my intention is to put in the discussion agenda those assumptions, concepts and questions that are normally neglected or taken for granted by positivistic approaches of Development scholarship.

Participants were selected according to the extent their activity was relevant to the research problem. Informed consent was fulfilled by asking, first, in their traditional communal assemblies when relevant, and later, during every individual

interview. It was also clear for research participants that the identity of the interviewees remained confidential and the need for informed consent was fulfilled. All interviewees' names in this thesis have been anonymised.

No payments or incentives were involved in fieldwork. I have been researching indigenous people issues in Mexico for the past 10 years and my own research policy is not to give incentives, nor payment to research participants as participants' independence could be undermined. My own academic community largely shares this policy. In a country like Mexico, giving payments or other specific incentives has different connotations. It can be taken as paternalism, bribery, or some vague form of aid that is not clear whether it's going to be indefinite or merely payment for saying just what the researcher wants to hear. Two exceptions, however, were applied to this rule: first, basic human relationship gestures are a *de rigueur* practice in fieldwork in order to create a good social atmosphere, such as the offering a soft drink, a cigarette, a sweet to the participant's children, and so on; secondly, non monetary incentives such as some food to share for the occasion or any other significative gift with a particular meaning regarding the relationship between researcher and the research participant. What is commonly more appropriate for thanking people for their collaboration is communal work or relations of reciprocity, such as helping in the harvest, transporting people from one village to another, or helping with some skills in relation with reading, writing, sharing pictures, or sharing food in a collective celebration. As a form of gratitude, I agreed to buy some sacks of corn and a few other staples for Sebastián's family upon his request. When arriving at his hamlet, his family informed him that they had run out of corn, the basis of their diet.

Data collected and produced such as field notes, publications, reports and/or presentations about the fieldwork and preliminary research results were anonymised by using pseudonyms for research participants and other actors mentioned. Largely all of the data collected were primary sources, either documentary or obtained from sources such as observation and interviews and did not compromise the confidentiality of data about third parties.

Finally, as per the University's requirements, I secured ethical approval for my research from the International Development Ethics Committee on the 9th of July of 2009.

3.9. Conclusions.

This overview demonstrates that the chosen epistemology, methodological strategy and research techniques provided the precise means to reveal and explain causal factors behind the dispossession of indigenous communities such as the exercise of political relationships, mechanisms and hegemonic discourses in the contexts of social inequality status stratification and modern democracy.

The chapter detailed the methodology designed to gather empirical information on the particular context of land disputes in indigenous territories of northern Mexico. It first describes the rationale behind the selection of the methodological approach and the epistemology behind the research. By skipping mainstream positivistic approaches and, rather, opting to look at land dispossession of indigenous peoples through qualitative methods, a critical theory and structural approach, the analysis reveals a variety of influencing relationships, actors and institutions otherwise hidden from the picture. Qualitative research, among other features, involves the examination of subjectivity, critical self-scrutiny or active reflectivity by the researcher, which creates awareness of the role of context, culture and the character of the researcher himself in the inquiry process (Mason, 2002: 5). This was particularly relevant when analysing the complexities and multidimensionality involved in contexts of social inequality and domination of powerful actors and institutions over weaker groups and people.

The description of the research problem as well as the motivations underlying the selection of the case studies and research questions demonstrated the relevance of explaining the context and the processes underlying the chronic nature of land dispossession of indigenous people. It also highlighted the reasons behind choosing a critical theory approach: its potential to address the social complexity involving long term relations of domination, power relations and the possibility of emancipation of subaltern social groups. In turn, the overview of the general social context of the Tarahumara mountain range area describes in more detail the encounter between the Rarámuri communities and specific development processes in the area, thus providing basic elements of the multidimensional context that articulates the way the particular political mechanisms work for the perpetuation of the domination process. Finally, the specific methods and

instruments that enabled data collection and analysis are described in greater detail, coupled with an account of the ethical concerns involved in the research process.

In short, qualitative methods such as archive research and ethnographic methods combined with a critical theory approach was best suited to providing a detailed identification, description and analysis of the factors that contributed to the perpetuation of land dispossession of indigenous communities over time as well as its flourishing in modern democracies.

CHAPTER 4. THE PINO GORDO LAND/FOREST DISPUTE: LONG TERM INSTITUTIONAL CONSTRAINT TO INDIGENOUS COMMUNITIES' LAND PROPERTY.

4.1. Introduction

This chapter examines in more detail the dispossession mechanisms involved in the *Pino Gordo* land dispute by looking at it through Young's structural domination approach. It considers that social structures constituted by norms and individual's assumptions act together to produce specific possibilities for some groups, discouraging them for others and leading to a self-perpetuating circle. Given the focus on historical processes, I provide a chronological overview of the social and juridical dispute for the *Pino Gordo* ejido between the communities of Choréachi, Turachi/El Durazno and the Las Coloradas. Under such an approach, the concept of 'positional difference' (Ibid) describes the unequal distribution of power between a range of social actors involved in a particular land dispute, where socially constructed and assigned attributes -such as race, class or legal personality- determine social group's opportunities in achieving their aspirations. These ideas are exemplified by a description of the Choréachi indigenous community's struggle to obtain land property rights and how they repeatedly lost various opportunities for agrarian recognition resulting in the loss of their legal personality as *avecindados* (Landholders) to the agrarian communities of ejido *Pino Gordo* and Las Coloradas comunidad.

The chapter then goes on to explore three different dimensions of domination processes operating in the ejido *Pino Gordo* case, namely:

institutionalisation of domination (ID), political mediation/representation and hegemonic cultural representations. First, ID refers to how the state aims at the centralisation of political institutions and the establishment of a unified national identity. I investigated the role played by the privileging of hegemonic notions of modernity and mestizo identity, while displacing indigenous identities from the national imaginary as is explained by the 'coloniality' approach. An example is provided to illustrate how the agrarian institutions undermined indigenous territoriality and set conditions for the operation of a process of land dispossession against the community of Choréachi.

Second, brokerage practices seen as forms of political representation discourage and undermine communities' self-determination. In other words, modern notions of political representation have replaced autonomous political decision-making by creating the need for mediating social relationships and by transferring communities' sovereignty to brokers and institutions that eventually assume the attribute of taking decisions on behalf of the alleged representees. Here I analyse how decisions regarding the allocation of land property rights are taken and the nature of political representation as practised by agrarian, juridical and democratic institutions and brokers. To what extent does political representation provide legitimacy for representatives of these institutions and brokers to take discretionary decisions and to what extent are they accountable for their actions? The chapter also investigates the relationships between different brokers and indigenous peoples, as self-determining collective legal persons. In doing so, we will investigate how mediation practices represent a central strategy of obscuring, decontextualisation and criminalisation of alternative critiques of land disputes/dispossession, and explores the way hegemonic representations impose privileged narratives that obscure and justify dispossession.

The chapter closes by discussing the way (mis)representations of the Rarámuri, their culture and political organisation and all aspects related to their culture contribute to symbolically undermine their legal and political personhood. This practice is expressed in different ways, which I define through five different terms: invisibilisation, depoliticisation, unidimensional interpretations, individualisation, de-historicisation and criminalisation. These symbolic struggles on one hand define the subaltern actor by portraying it as inferior and, hence,

justifying its domination; on the other hand they interpret dispossession in ways that legitimise the elites' business agenda.

4.2. Pino Gordo (EL Durazno and Choréachi) and Las Coloradas Land Dispute. Juridical Institutions and Power: Between Legality and Subjectivity.

Before beginning the analysis of the exclusion process in *Pino Gordo*, it is important to mention that the juridical dimension was found to be the central dynamic in the dispute due to its direct relationship to state-building and state institutions, where state-building is seen as linked with the modern and liberal-democratic-representative state. Although history and political-economy have been considered central categories for the analysis of the case studies, some issues go beyond the dispute period. Therefore, it is important to highlight some salient features of Mexican history that have affected the course of the land disputes.

As a result of state-making historical processes (Pre-colonial, Viceroyalty, Independence, Reform, Revolution and neo-liberal periods), Mexico became a modern-liberal state shaped by a positive law and a representative liberal-democracy. The country's political system has been variously described and defined as having different characteristics, such as dependence from American economic imperialism, an internal colonialism, a '*presidencialista*' system, and for being strongly influenced by oligarchic and corporatist interests, combined with an electoral democracy (González-Casanova, 2006, 1993, 1986). A recent paradigm is that of the neoliberal economic policy. These characteristics leave little space for the consideration of a pluri-cultural notion of the nation and to proper democratic representation of citizenship, cultural heterogeneity and social inequalities.

Under this view, Mexico fits Esteva (2001), Mignolo (2007) and Quijano's (2000) view of the state as a foreign invention: 'as a homogeneous nation-state, despite the fact that the country, at the time of independence, was made up of not one but many peoples' (Esteva 2001: 3). The newly invented nation was the result of the colonial aim to extend Eurocentrism to the New World as a discourse and practice that incorporated the habitus (following Pierre Bourdieu) of the dominators and the dominated. Here, domination is not only practiced by some men

over others but also by one knowledge over others, a knowledge that legitimized colonial domination and its universal pretensions to validity (Quijano 2000; Mignolo 2007; Grosfoguel 2007).

The naturalisation of an alleged domination of a 'superior' over 'inferior races' was the foundation of what Quijano calls the Coloniality of Power (Quijano in Castro, 2007: 76): 'the imagery of whiteness, produced by the discourse of blood purity, was an aspiration internalized by all sectors of colonial society' (Castro, 2007: 78). In the case of the Mexican Nation, a hegemonic type of knowledge production prevailed and denied not just the cultural diversity of the original peoples inhabiting the territory, but particularly, the diversity of the knowledges at play. Such a model was embodied by the institutions addressing cultural and indigenous issues' by the broader society and, particularly, by the entire state and economic elites within an electoral democracy. This is the general context that influences both the wider processes and specific actions as described below.

4.2.1. Eighty Years of Multiple Disposessions and Land Dispute

This section presents a general overview of the Pino Gordo land dispute in a chronological order and sets out the critical events that give sense to the history of the controversy. This overview sets the stage for a better understanding of the particular aspects to be analysed later on. It was shaped drawing from interviews, but mainly from historical, juridical and agrarian archive research.

The Pino Gordo land dispute involves, on the one hand, two groups of competing indigenous ranchos and rancherías within the ejido, *Pino Gordo*, and on the other hand a mestizo agrarian community aiming at the dispossession of two indigenous communities (For a detailed description of the communities see chapter 2). The dispute also involves a plurality of mediators such as state officers, NGO representatives, lawyers, local brokers, plus other forms of authority embodied in the practices of subjects.

Ejido petition and the roots of the controversy

The decade 1930-1940 is marked by the petition by 50 indigenous people of the community of *Pino Gordo*³⁹ to the Mexican state for ejido granting (González, 2009: 90; and fieldwork, 11/10/10). The ejido granting refers to a process of restitution of collectively owned land to landless peasants, while the *comunidad* (or agrarian community) was designed to recognize previous collective possession over land before the Mexican Revolution. The crucial difference is that ejido land is granted just to those people who signed and presented the petition, whereas the *comunidad* is granted to all landholders, as it recognizes ancestral communal land possession (Ley Agraria, 1992).

A critical development in this dispute has been the fact that land was first requested, and later on granted as an ejido by the federal government. If *Pino Gordo* had requested land granting as an agrarian community in the 1920s, there would have hardly been any controversy about who the property rights holders were, as all landholders would have had the right to be recognised. Instead, land was granted as *ejido* and for this reason the historical conflict between the two groups of petitioners - *Pino Gordo* and Coloradas- later escalated to a new level. These kinds of misunderstandings are normally the result of the wide gap that separates the state institutions and officers from rural people and particularly from a 'gentile'⁴⁰ *Rarámuri* group. Here, that gap was increased because of lack of knowledge of the workings of bureaucracy, law and mediation networks, combined with the government's dismissiveness toward the indigenous communities' needs for information, communication and interpretation *vis-à-vis* the state.

The decade 1940-1950 passed without any land being granted to *Pino Gordo*. Although the petition for land had been presented in the 1930's, the *Pino Gordo* petitioners were not able to make the government officers accountable for their job. In addition, due to a misunderstanding⁴¹, petitioners refused to take part in a census required by the agrarian office to follow up the land granting procedure. Evidence (RAN archive) suggests that they argued that the petition was for *comunidad*, and not for ejido, as the census procedure pointed out. As a result the state governor

³⁹ Constituted by more than 56 *ranchos* and *rancherías*

⁴⁰ Gentile *Rarámuri* communities –also known as cimaroni- do not accept catholic evangelisation, on the contrary, baptized *Rarámuri* are known as *pagótame*

⁴¹ *Pino Gordo* petitioners, allegedly, did not accept granting as ejido as they had made the petition for agrarian community. Official version stated that petitioners were reluctant to be registered in the official list or census (RAN Exp. 551/23: 10, 210).

issued a negative ruling in response to *Pino Gordo's* request for recognition as ejido. The agrarian authorities retained the file for seven years despite the advocacy of the indigenous affairs federal office (INI, stands for *Instituto Nacional Indigenista*). The *Pino Gordo* petitioners had neither influence nor communication with the agrarian authorities to push for the procedure to be followed up.

In the next decade (1960-1970), as *Pino Gordo's* property rights remained unsettled, the *comunidad agraria* Las Coloradas began to systematically invade *Pino Gordo* for illegal logging purposes. This was continually stopped by *Pino Gordo* residents' legal actions and by the advocacy of the INI and the corporatist organisation Consejo Supremo de la Tarahumara (CST)⁴². Nonetheless, the logging was repeatedly restarted by the mestizos and usually backed by forestry and agrarian authorities. These actions reveal the high level of involvement of the state institutions with influential local actors, and the privileges the latter receive for promoting business initiatives, while dismissing other demands based on environmental conservation claims (Gledhill, 1999; Nuijten, 2003).

In 1961 a presidential resolution granted *Pino Gordo* villages 3000 hectares of land for the creation of the ejido, plus an extension of 11,412 hectares granted by presidential resolution in 1967⁴³. Because the original 50 petitioners of the 1930s were not present, lands were materially delivered to 68 inhabitants of Choréachi⁴⁴ present at the time of the visit of the government officer. Individual agrarian rights certification, however, was not carried out. In 1969 President Díaz-Ordáz issued a certificate of recognition and title for 25,530 hectares to *comunidad* Las Coloradas de los Chávez without an assessment of the traced boundaries on the ground, which later resulted in contradictions between the extent of the area granted and the actual (occupied) area of 10,000 Has. This was critical in the later development of the conflict as controversy eventually arose about boundary demarcation between Coloradas and *Pino Gordo*.

Despite *Pino Gordo's* legal defense, Las Coloradas' logging attempts in *Pino Gordo* territory were regularly backed by the agrarian and forestry authorities as

⁴² *Consejo Supremo de la Tarahumara* or Tarahumara Supreme Council

⁴³ By President Gustavo Díaz Ordaz

⁴⁴ Choréachi: Place of resin, was then translated to Spanish as *Pino Gordo* (Fat or wide pine), due to the image it has had, as one of the last reducts of virgin forest in the Sierra Tarahumara.

these diligently issued logging permits and, overall, were more responsive to mestizos claims. This stage was characterised by crucial mistakes by the Rarámuri communities and deliberate mismanagement by the agrarian authorities due to their commitment to their fellow mestizos, and a lack of enforced cultural rights-based policies.

In 1970-1980 a boundary conflict erupted between the Las Coloradas and *Pino Gordo*, as the former claimed a great part of *Pino Gordo*'s land. Over this decade the agrarian authorities repeatedly delimited external boundaries with contradictory results and no agreement between the parties. The officer's errors in assigning property exacerbated tensions and resentment among the disputing communities. Relying on their mediators (INI, CST, and now LCA⁴⁵), the *Pino Gordo* residents kept requesting regularisation, proper demarcation and the certification of individual agrarian rights, motivated by the urgent need to stop the Coloradas' illegal logging. Over the years the parties officially denounced each other for land invasion⁴⁶. The conflict between the Choréachi and Turachi/El Durazno⁴⁷ communities in the *Pino Gordo* ejido became more intense when the former accused the latter of armed aggression.

In the following decade (1980-1990) both parties kept contesting the existing boundaries demarcated by the agrarian institutions, while logging by Coloradas continued unabated. The *Pino Gordo* ejido attempted to update its membership in order to have recognition as agrarian individuals, but the agrarian authorities did not follow up this procedure and, hence, the *Pino Gordo* claim did not succeed. Later on, the *Pino Gordo* groups started their own census update process, with the agrarian authorities backing both groups. At a certain stage during the decade Choréachi achieved legal recognition for 126 of its people from the agrarian authorities of SRA (Agrarian Reform Federal Office⁴⁸); however, eventually Choréachi reconsidered and the procedure was not conclusive. Allegedly the Choréachi wanted

⁴⁵ *Liga de Comunidades Agrarias* (Agrarian Communities League). Corporatist organisation linked to the then ruling party PRI (*Partido Revolucionario Institucional*)

⁴⁶ *Pino Gordo* was accused by Las Coloradas for reasons related to cattle breeding

⁴⁷ Here onwards, I am going to name it Turachi/El Durazno, or Turachi/Cumbres del Durazno, since the use of the terms in Rarámuri or Spanish has become a question of political strategy between the different actors. The same applies for Choréachi/*Pino Gordo* and Siteachi/Las Coloradas or Las Coloradas de los Chávez, unless specified by referring to the early indigenous township (indigenous name), or the current agrarian property system (which has given official names in Spanish).

⁴⁸ *Secretaría de la Reforma Agraria*

to settle the boundary dispute with the Coloradas first. The El Durazno on the other hand, negotiated for legal recognition for 78 of its people with agrarian officers through the emerging leader Rubén Montoya⁴⁹, and achieved this while also electing Montoya as their president commissioner. This action excluded the Choréachi people from Pino Gordo ejido and, thus, El Durazno captured all the property rights. By controlling the ejido, Montoya and the people of El Durazno immediately turned to negotiation of commercial logging contracts.

Furthermore, the agrarian authorities ruled in favour of Coloradas giving them land rights over the claimed Pino Gordo territory. Montoya sought to log Choréachi's forest but he was stopped by members of the Coloradas Comunidad, who now claimed Choréachi's territory as their own. This period illustrates the state institutions' inability to settle boundary disputes, in spite of privileging particular groups. Moreover, during this stage, the Choréachi people lost their opportunity to be recognized as *Pino Gordo ejidatarios* through a membership update by deciding to wait for the dispute with Coloradas to be settled. In addition, the agrarian authorities favoured El Durazno's recognition of individual agrarian rights thanks to Montoya's negotiations, ignoring and excluding Choréachi.

From social to juridical dispute and the new rules of the game

In the 1990-2000 period the agrarian court⁵⁰, despite numerous irregularities, confirmed recognition of agrarian rights for 50 people of Montoya's group. The problem with this was that, firstly, that evidence was based on the falsification of birth and death certificates; secondly, around half of those recognized were not residents of Pino Gordo territory; and thirdly, 17 of the 68 original Choréachi petitioners to whom land was handed in the 1960s were excluded, despite the fact they still lived there at the time. Choréachi/Pino Gordo then enlisted a new advisor, CASMAC⁵¹ Advisory Council Sierra Madre Alliance Civil Association and demanded that the boundaries be redrawn and the membership list be updated from the agrarian authorities. CASMAC also followed up the land and logging dispute with Las Coloradas and challenged the recognition of property rights of 78 people from El Durazno.

⁴⁹ Pseudonym to protect his identity

⁵⁰ *Tribunal Unitario Agrario (TUA)*

⁵¹ *Consejo Asesor Sierra Madre, Asociación Civil*

When another authorisation for logging was issued by the environmental authorities⁵² to El Durazno/PG and Las Coloradas, Choréachi/Pino Gordo residents rallied in Chihuahua's capital with the support of ASMAC⁵³ and other NGO's demanding a halt to operations. Tension between leaders and advisors arose and a governmental inter-institutional mediating commission⁵⁴ was set up. The commission concluded that the logging was legal because the Choréachi ranchos now belonged to the agrarian community of Coloradas. A logging suspension was, however, achieved and the agrarian attorney (*Procuraduría Agraria*) agreed to re-negotiate the recognition of the Choréachi's agrarian rights. Despite this, however, Coloradas' logging continued in practice.

After an environmental audit made in 1999 that revealed uncontrolled logging, PROFEPA cancelled Coloradas' logging permit. It was only at this stage that the Choréachi residents realized that they were excluded from the ejido and, consequently, they filed a lawsuit at the tribunal demanding recognition of their agrarian rights. After neoliberal reforms deregulated the sale of ejido land, INEGI took charge of guaranteeing the security of land property by officialising land demarcation at the national level through the Program for Certification of Agrarian Rights (PROCEDE). Eventually El Durazno/Pino Gordo and Las Coloradas reached a conciliatory agreement accepting INEGI as the authority to define ejido limits.

This decade reflects the appearance of four new factors that add complexity to the story. The first factor was that the Choréachi stopped relying on government brokerage and turned instead to an NGO that would assist juridically on their behalf. Secondly, through fraudulent methods involving the falsification of birth and death certificates, the El Durazno legalised the Choréachi's dispossession. The agrarian authorities legitimized this move, while the Choréachi and its advisors remained unaware of it for several years. Thirdly, the environmental institutions continued issuing logging permits to the El Durazno and the Coloradas in the Choréachi territory despite an on going land dispute. However, the Choréachi opted for political mobilisation and pressurized the environmental attorney to review the issued permits. Fourthly and finally, state institutions continued to privilege the El Durazno

⁵² Federal Secretariat of the Environment, Natural Resources and Fisheries (SEMARNAP, later on SEMARNAT)

⁵³ CASMAC later disappeared, but another NGO was created by the name of Alianza Sierra Madre Asociación Civil (ASMAC) with new administration and staff

⁵⁴ Involving SEMARNAT, INI, the environmental attorney (PROFEPA), the National Statistics Institute (INEGI), the State Coordinator of the Tarahumara (CET) and 140 people from Choréachi/*Pino Gordo*

over the Choréachi and defined conditions for settling the dispute between the Ejido Pino Gordo and the Coloradas, excluding the Choréachi and disregarding the property rights dispute in Pino Gordo. The residents of Choréachi once again had to choose to take the legal route for recognition of their property rights.

Juridical dispute reaching to a breaking point

In the most recent decade (2000-2010), 162 Choréachi *avecindados* or landholders without agrarian rights, with ASMAC's assistance initiated a 'voluntary jurisdiction' petition to the federal agrarian court for the recognition of property rights within the ejido *Pino Gordo*. In August 2001 the judge of the agrarian court ruled that the Choréachi lands belonged to the Las Coloradas commons, acknowledging, however, the capacity of petitioners to be granted recognition of property rights in the ejido *Pino Gordo*⁵⁵. Montoya appealed for legal protection of the ejido *Pino Gordo* from the Agrarian Tribunal and it was consequently granted by the Collegiate Court. The ruling mandated Choréachi *avecindados* to request property rights recognition to the ejido assembly, rather than to the court itself. Consequently, the Choréachi requested the recognition of property rights for 162 residents to *Pino Gordo's* assembly, but this was denied.

The ejido assembly INEGI/PROCEDE demarcated and recognized property rights of Las Coloradas commons with certification for 22,043 hectares; including 12,500 claimed by Choréachi. The Choréachi's dispossession of rights and territory was now official. Through INEGI's action Choréachi territory was left within the boundaries of the mestizo Las Coloradas commons. As a result of the ruling, environmental officers authorized Coloradas and Pino Gordo's logging operations within the indigenous territory of Choréachi. Later, the *Rarámuri* of Choréachi held demonstrations in the central plaza of Chihuahua capital city, bringing the issue to the attention of the local, national and even international media (See Dillon, 1999).

By finding themselves in such a position, the Choréachi opted for radical legal action. They presented themselves before the court as a 'De Facto Community Choréachi' in order to be recognized by the national jurisprudence as a legal person. From this standing they presented a lawsuit via their indigenous governor to the Agrarian Tribunal for the nullification of all acts, documents and resolutions dictated

⁵⁵ Based on international cultural rights legislation

by agrarian authorities as well as the forestry permit issued by SEMARNAT. They also demanded the recognition and titling of Choréachi's indigenous *comunidad*. Following this lawsuit the legal controversy resumed and the Tribunal Unitario Agrario suspended the forestry permit originally granted to Las Coloradas until the agrarian dispute was definitively settled.

In this decade the exclusion mechanisms –to be analysed below- were consolidated, but at the same time some counter-actions emerged and established a different balance. INEGI's land property regularisation program settled the boundary controversy between Pino Gordo and Las Coloradas for once, favouring the Las Coloradas commons. Logging operations by Choréachi's rivals however, resumed in its indigenous territory.

After Choréachi's legal action, the relevant agrarian judge acknowledged the right of the people of Choréachi's to be recognized as *ejidatarios* upon request to the Pino Gordo assembly, which had originally denied the petition. The Choréachi people, then, redefined their strategy and established legal action against all actors involved in the granting of land titles, invoking both international agreements for the recognition of indigenous cultural rights as well as national jurisprudence that recognized property rights of '*de-facto* communities'. Furthermore, they adopted the name Choréachi '*de-facto* community', which is the name of the township where the indigenous political meetings used to take place, underlining, in this way, their struggle for recognition as an indigenous people living on ancestral territory. This legal action guaranteed for the Choréachi that no further logging or invasion of their territory would be allowed.

In the following sections I will look at some different events in which the Choréachi lost the opportunity of securing their land property rights and, therefore, were subjected to a dispossession process. This disadvantage is explained by the indigenous condition of the Choreachi community, which, according to the historical valuing of particular cultural attributes, have put the indigenous peoples in an inferior position within the social structure, which affects their chances to achieve their aspirations.

4.3. Continuous Lost Opportunities to Secure Land Ownership by an Indigenous Community *vis-à-vis* non-Indigenous Actors: Positional Structural Difference of the Pino Gordo Dispute Actors

This section examines how the outcomes of land controversies relate to the indigenous condition and the structural position in which the indigenous peoples of northern Mexico are placed. This problem is clearly explained by Young's notion of structural (in)justice (2000). The consideration of indigenous peoples as culturally and positionally differentiated groups helps to explain the unequal structural position between the actors in the Pino Gordo's dispute, and the shaping of land property control and decision-making power as part of the endemic political inequality prevailing in Mexico.

A better understanding of these processes will shed light on the mechanisms and social structures that set into motion indigenous exclusion *vis-a-vis* land property claims in the context of interethnic relations and structural injustice. As the outcomes of the dispute are determined by interethnic inequality, Young's concept of structural injustice (2000) explains how different elements constitute structures that condition people's aspirations and life chances. The author opts for a focus on positional, rather than cultural, difference, arguing that '...problems of lack of recognition of national, cultural, religious, or linguistic groups, [...] are usually tied to questions of control over resources, exclusion from benefits of political influence or economic participation, strategic power, or segregation from opportunities'. In other words, Young focuses on aspects conditioned by structural inequality (2000: 105). The multiple actors and factors involved in the Pino Gordo dispute are examples of this. Individuals, institutions, norms and the struggles for representations involved in a modern state's context tend to reduce the subaltern's autonomous decision-making power and, hence, the opportunities to succeed in the dispute process.

Exclusion of the indigenous community of the Choréachi was not caused by the action of a sole powerful actor such as a cacique, an engineer, a judge, an ejido assembly or its president commissioner, but instead by the set of relationships, norms and institutions that have been configured through historical processes to serve the interests of particular social elites. For example, for a topographer or a judge granting property rights to rule that a mestizo's flawed evidence is more valid than indigenous ancestral occupation of the land requires the configuration of a variety of conditions. Firstly, a legal framework which gives him/her authority and

direction to make a ruling; secondly, a Doxa or assumptions that are taken for granted (Bourdieu 1998) constituted by socio-historical conditions that normalizes domination, gets general consent and therefore, is not in danger of its arbitrariness being contested or punished; thirdly, the existence of a set of institutions that privilege those better-positioned within the social structure and reproduce the cycle. All of these conditions unite in various ways to enforce and legitimize the process of exclusion. If a subaltern challenges the exclusion process, he/she has to be prepared to face injustice under external, dominant and unequal rules. Notwithstanding its apparent thoroughness, the juridical field is also permeated by subjectivity (e.g. social and power relations, vested interests, discretion, interpretations and a privileged epistemology [coloniality] of justice). If the subaltern would still succeed under the complexity of these conditions, the dominant actor would then use the final option of violence with the high probability of further impunity from prosecution.

Actors involved in the Pino Gordo land dispute can be roughly divided into two categories: the parties and the mediators. The Choréachi people, the El Durazno people, and the mestizo community constituted as *comunidad* Las Coloradas belong in the first category. In the second category there is a great range of mediators and brokers, largely *mestizos*. These include officers from state institutions (eg. INI/CDI, the Agrarian Reform Ministry, the National Institute for Statistics and Geography (INEGI) or the Agrarian Attorney (*Procuraduria Agraria*), officers from the State government and the representatives of the judicial power), practitioners and activists from civil society, including lawyers ascribed to NGO's, and a wide variety of local or regional brokers belonging to social or corporate organisations (such as the Supreme Tarahumara Council, independent Peasant Organisations –UNORCA, *El Barzón*- or those affiliated to PRI⁵⁶ –*Liga de Comunidades Agrarias* (LCA) or the *Confederacion Nacional Campesina*- (CNC) or under individual representation such as Rubén Montoya and private lawyers.

Following the structural positionality approach, the Choréachi *Rarámuri's* cultural and positional difference can be seen as 'structured by a set of relationships and interactions that act together to produce specific possibilities and preclude others, and which operate in a reinforcing circle' (Young 2000, 93). This approach

⁵⁶ *Partido Revolucionario Institucional*

goes beyond the view of indigenous peoples as a disadvantaged cultural group, or a group that lost their land because they were not able to meet the required evidence and legal documentation regarding their claims to land property rights within the modern state framework. Seen from Young's structural inequality perspective, the indigenous people of Choréachi '...encounter relative constraints in their freedom and material well-being as the cumulative effect of the possibilities of their social positions as compared with others who in their social positions have more options or easier access to benefits' (2001: 98). In this sense, social injustice over the Choréachi is provoked by the political inequality pervading social relations between differentiated actors in the Sierra Tarahumara, as part of a wider spatial and historical context.

Being political representatives of government officers' authority gives certain actors the authority and legitimacy to take decisions beyond those of their constituents, representees and citizens at large. This is usually coupled with their mestizo condition and its associated physical and cultural features, exerting an inherent superiority over the indigenous peoples. State officers carry an aura of protection by virtue of being knowledgeable and modern and therefore have the confidence of taking discretionary decisions, thereby becoming unaccountable to those they represent. They even ignore the existence of subjects that are perceived as not fitting the standards of 'normality'. This could be illustrated through examples of environmental authorities regularly issuing forestry permits to the mestizo commoners, the agrarian officers accepting forged documents from the mestizo leader and commissariat president Montoya, legitimizing membership update of Pino Gordo ejido and excluding Choréachi peoples, or INEGI officers demarcating boundaries along with the Las Coloradas and the El Durazno while marginalizing the Choréachi.

Sometimes corporate organisations, even though they lack legal authority, largely assume the role of government officers due to their close links with power which causes others to perceive them as having high status and enough moral authority to set up the rules of the game *vis-à-vis* the indigenous people. In addition, these and other actors such as lawyers and judges, educated under the hegemonic state's system, consider local systems of knowledge as subordinate to that of theirs or even to ignore it. Education, under the western-modern canon, assigns authority

not only to officers and professionals involved in the management of conflict, but also to those indigenous community members who spend periods outside the community for the purpose of education. It allows the development of skills and particular forms of prestige that provides them the authority to eventually perform as representatives and mediators. For this reason, indigenous peoples themselves can also exert domination over their fellow community members, as the case of Montoya will show.

If, as Young argues, domination does depend both on ‘unquestioned norms, habits and symbols, in the assumptions underlying institutional rules and the collective consequences of following these rules’ and in the power that actors hold according to their position in the social structure (1990: 41), then relationships established between *Pino Gordo* actors influences and, thus, explains, the outcomes of the dispute. The actors positionality is shaped by axes of status, power and opportunity, such as ‘the social division of labour, hierarchies of decision making power, practices of [...] body aesthetic, and the arrangement of persons in physical and social spaces’ (Young, 2008: 80). As the author states: ‘Institutional rules and practices, the operation of hegemonic norms, the shape of economic or political incentives, the physical effects of past actions and policies, and people acting on stereotypical assumptions, all conspire to produce systematic and reinforcing inequalities between groups’ (Idem).

Factors that determine the relative position of actors present in the land dispute include the normalisation of a particular type of body aesthetic associated with European characteristics, while native American features are rendered deviant or inferior. Others include the hierarchy of class levels – ‘income level, social division of labour, decision-making structures and group segmented practices of fashion and taste’ (2008: 81)-, gender condition, and the particular attributes associated with and assigned to some of those characteristics, such as weakness, vicious nature, ignorance, inhuman condition, and so on, which create and reinforce unequal opportunities and conditions for well-being of social groups. Here, those groups falling into at least one of the subordinated categories are called the ‘subaltern’ (See definition in the general introduction of the thesis).

In the current context of a juridical dispute an additional attribute is critical in the consummation of land dispossession: legal personhood. The Choréachi people

have pursued legal personhood for land property rights since the 1920s, however, they have lost the opportunities to get it through various means, and consequently, property rights have been secured by their adversaries. The first time the Choréachi lost the chance of attaining official property rights or acquiring legal personhood was when the community lost their titles then issued by the Mexican president Benito Juárez in the 19th century. According to a Choréachi elder, the mestizos of Coloradas stole the land deeds after killing the men who safeguarded them (verbal communication Sebastián and Ramos, 2010).

The second time the Choréachi lost an opportunity to legitimize their claim was when, after making a petition to set up ejido Pino Gordo in 1934, a land grant was denied in 1951 by the then Mexican president on the grounds that the petitioners had refused to take part in the census proceedings. This unwillingness was based on a misunderstanding regarding the kind of agrarian *nuclei* (agrarian community) that was going to be granted (ejido or commons) to Pino Gordo. Through the advice of the *Instituto Nacional Indigenista* (INI) and the *Consejo Supremo Tarahumara* (CST) they made the petition for land granting once again (RAN Exp. 551/23: 10, 210).

In a third lost opportunity, a presidential resolution of land grants to the ejido Pino Gordo was issued 27 years after the original petition made in 1934 (RAN File. No. 551/23: 183-185). Although land was granted to the original 50 applicants, they never got individual recognition, as all the respondents had by then passed away (Orpinel, 1999: 77). Hence, physical delivery of lands was exercised in 1967 to another 68 Choréachi members who were present in the community at the moment of the visit of the agrarian office (RAN File. No. 551/23: 179-182, 288, 289 quoted in file 84/2007). Individual certification of agrarian rights, however, was not carried out. In other words, there was an ejido legally constituted but there were no property rights holders.

Regardless of the fact that the Las Coloradas was notified in 1967 through its president commissioner about the lack of objection to Pino Gordo land granting, logging and boundaries dispute between Las Coloradas and Pino Gordo date back to early 1960s. Las Coloradas first documented logging attempts within Pino Gordo are from 1962 onwards, becoming commonplace even until the present time (File 551/23: 153; File 114.1/276.1: 472, 506). Despite the fact that Las Coloradas was

granted land three years after Pino Gordo -in 1970- (RAN File No. 114.2/276.1: 309-330, quoted in RAN File 84/2007), they went to dispute a large tract of Pino Gordo territory. Agrarian authorities had sent various topographers to both ejidos at different stages from 1960s to the 2000s and no agreement has been reached. Conditions changed, however, when INEGI intervened in the early 2000s in the context of the PROCEDE certification program.

Procedures for the recognition of individual property rights can be normally carried out via 'membership update' or via 'lawsuit for voluntary jurisdiction'. Pino Gordo made at least two attempts for the individual recognition of agrarian rights in the period of 1975-1976 but both of them failed (RAN File 551/23: 112-113, 118). A final attempt was made by updating ejido membership in 1985, however, at the very end they decided to postpone it until the boundary conflict with Las Coloradas was settled (Ramírez, 2007: 328). In mid 1996, 50 residents and allies of the broker Rubén Montoya -most of them from the *ranchería* El Durazno in Pino Gordo- led by Montoya himself presented a voluntary jurisdiction lawsuit in the Agrarian Unitary Tribunal (TUA) and they obtained individual recognition of agrarian rights for the El Durazno *ranchería*, excluding the rest of the Choréachi *rancherías*. Montoya's move consisted of forging the El Durazno's people birth certificates by replacing their names with the surnames of the original petitioners in 1934.

Falsification was facilitated through the help of the El Durazno indigenous authorities who certified the new documents facilitated by a state government program for the digitalisation of all birth certificates in Chihuahua state⁵⁷. This was the fourth time the Choréachi people lost an opportunity to get agrarian property rights. Just after obtaining property rights, Montoya was elected as commissioner president of ejido *Pino Gordo* for another period after 12 years (Ramírez, 2007: 33; File 72/00). Because the Choréachi people were unaware of the move for some

⁵⁷ This change of surnames was made official by a certificate issued by an agrarian officer on June the 12th 1996. The group obtained outdated birth certificates with the surnames of the 50 original 1934 petitioners, pretending they were sons and grandsons of these first petitioners. However, all birth certificates are signed as if they were born in Cumbres del Durazno, Rubén Montoya appears as a witness in all certificates and none includes the names of the correspondent parents or grandparents, which should made them invalid to certify any kind of kinship. They also acquired their parents and grandparent's outdated birth and death certificates, some of them issued by El Durazno's indigenous governor in order to argue that all of them had passed away (Ramírez, 2007:338). However, 17 of the 68 *ejidatarios* who received land in 1967 still lived, and around half of those 50 were not residents of *Pino Gordo*. All Choréachi residents were excluded from the recognition (Orpinel, 1999: 77).

years, they did not challenge the actions in time. Such specific developments are absent from the RAN's archive as if relevant documents were taken off the file due to the sensitive information contained.

A fifth occasion in which the Choréachi was deprived of the possibility of getting property rights recognition was in 1998, when the Programme for Certification of Ejido Rights and Urban Plots Titling (PROCEDE)⁵⁸ appeared on the scene. PROCEDE was the relevant programme to guarantee juridical certainty to land tenure in the context of the neoliberal reform to article 27th of the constitution. INEGI, the federal office in charge of the PROCEDE programme, proposed a solution to the boundary conflict between Pino Gordo and Las Coloradas: to displace Cerro Pino Gordo and Cerro Coyachi vertex towards the gorge while giving 90% of Pino Gordo's forest to Las Coloradas. Despite the fact that not all parties involved were consulted as the law mandates, the agrarian authorities issued a certificate of absence of any agrarian dispute in august 1998 (Ramírez, 2007: 340)⁵⁹. In 1999, in conciliatory agreement, the ejido Pino Gordo accepted INEGI's resolution ceding Pino Gordo's portion to Las Coloradas, while acknowledging at the same time INEGI as the relevant authority to define ejido limits (minute provided by ASMAC).

During the period between 1999-2000, 162 *avecindados*⁶⁰ of Choréachi promoted a 'trial for the recognition of agrarian rights' through voluntary jurisdiction in the agrarian tribunal District 5 (TUA, 2001 File 72/00). The judge held that the lands where the plaintiffs were settled belonged to the Las Coloradas, however, invoking the rights of indigenous peoples recognized by international law, he ruled to recognize the 126 people from Choréachi in the capacity of *ejidatarios* of ejido *Pino Gordo* (23/08/01, RAN). Montoya contested this judgement, requesting protection under law, through an appeal to the federal court of appeals, who in 2002 granted a suspension order to *Pino Gordo* against the agrarian tribunal and

⁵⁸ *Programa de Certificación de Derechos Ejidales y Titulación de Solares Urbanos*. The underlying aim, was to establish clear boundaries of the individual rights over particular plots of land within an ejido. By doing this, ejido members would have certainty over the property rights they could sell and convert to private property.

⁵⁹ The document allowed Las Coloradas to obtain a permit from environmental authorities to log within *Pino Gordo's* land, however, the Choréachi presented an international 'popular denunciation' to the Commission for Environmental Cooperation of North America (CEC) and rallied to the capital city of Chihuahua with the support of solidarity networks. As a result, PROFEPA carried out an environmental auditing and ordered logging suspension (CEC, 2005; Ramírez, 2007: 341, 349; Dillon, 1999).

⁶⁰ *Avecindados* are members of the agrarian *nuclei* with no agricultural plots.

mandated the recognition of agrarian rights for Choréachi plaintiffs (13/11/01; Ramírez, 2007: 358; Gingrich, Sierra Madre update 15/12/02; 04/11/02 File 72/00 *acumulados en cumplimiento de la ejecutoria 95/2002, derivada del amparo directo 1019/2001*, quoted in Exp 868 29/11/06).

On March the 23rd of 2003, the 162 Choréachi petitioners submitted a request for agrarian recognition to the *Pino Gordo* Assembly, which was denied (Assembly minute 23/03/03; TUA resolution File 72/2000 Quoted in File 84/2007). On August the 20th, 2003 INEGI/PROCEDE demarcated and recognized the rights of the Comunidad Las Coloradas in ejido assembly, certifying 22,043-56-14 hectares, from which 12,500 hectares are claimed by the Choréachi. With this action Choréachi's dispossession of rights and territory was made official. From then on, they were to live within the *mestizo* territory with no agrarian rights (Assembly minute, 20/06/03 Provided by ASMAC).

In this case, the Choréachi's difficulty in competing against mestizos and mediators lay in the way their attributes as a social group had been historically valued by imaginary 'heterohierarchies'. Their position in the social structure therefore undermined their possibility to acquire legal personhood as holders of agrarian rights and, therefore, unsuccessfully challenged dispossession attempts by actors in higher hierarchies. As it is shown, the subaltern's indigenous condition *vis-à-vis* other dominant actors is subject to a range of constructed social and political attributes that goes beyond ethnicity. In this case, their indigenous condition is a particular factor that contributes to their subordinate position in the social structure, but it is by no means the only one.

The way the rules of allocation in the social structure have been constructed is more clearly understood as a strategy for, to use the words of Grosfoguel (2007), privileging 'heterohierarchies' where the socially constructed non-written rules of a dispute privilege those social groups that meet the most of the the following attributes: rich, male, mestizo, heterosexual, educated, politically connected, and juridical-subject. The example presented reveals the unequal conditions in which the indigenous people face other actors in disputes for resources and property. Actually, the evidence suggests that disadvantages reproduce themselves, when class and cultural attributes, for instance, constrain the possibility of achieving legal personhood and property rights recognition or exercising their own decision-

making institutions. For example, what is currently at the center of the national cultural rights debate is not only the elimination of all forms of discrimination, but also the recognition by national law of indigenous peoples as collective subjects and legal persons. The achievement of this goal would contribute significantly to an equal political balance between indigenous peoples *vis-à-vis* other actors (such as mestizos, local elites, businessmen, officers, mediators etc) when rights recognition are at play.

4.4. Land Rights Recognition and the Dispossession Process. Three Mechanisms of Domination over Land Resources.

The following section identifies some significant mechanisms of domination that better explain the reasons indigenous people become the usual losers in land disputes in a context where all are technically equal in the eyes of the law. The analysis is based on questions about who has the power to decide what and why. The primary aim is to account for forms of indigenous collective decision-making and self-determination as a customary rule, enquiring about reasons behind the large status gap that stands between the indigenous social groups and state institutions. Firstly, the section examines three modern state institutions (agrarian, juridical and democratic) and discusses how they function, primarily on the basis of internal colonialism, by excluding societies not based on the national norm, and more recently under a liberal, market-led economic system. Secondly, I introduce the subject of the Mexican agrarian reform and the prevailing land tenure system based on social property and its role in setting the conditions for the dispossession of lands of indigenous peoples. From here on, some subjective strategies to be mentioned are: the normalisation of domination and the devaluation of indigenous identity and self-esteem *vis-à-vis* the parameters of modernity and the historically privileged identity model in Mexico, local power backed by state institutions and lack of proper mediation by state institutions, organisations and individuals.

Thirdly, I look at how liberal democracy increasingly fails to take into account the needs and rights of diverse cultural groups and uses the idea of political representation to undermine people's decision making power, while really representing political elites. Fourth and lastly, the section address the hegemonic discursive representations of indigenous people and their cultural matrix as

'backward', 'primitive', 'alcoholic', 'ignorant', 'helpless' as well as other stereotypical elitist and local prejudices that are reinforced by local institutions and government offices (Servín and González, 2003).

These three dimensions of the Pino Gordo land dispute are critical for the understanding of the structural factors underlying chronic dispossession as well as the strategies undertaken by mestizo local elites and brokers in order to appropriate the lands of the indigenous community of Choreachi.

4.4.1. The State and the Institutionalisation of Domination

Nation-state building, normally in contradiction and conflict with the existing cultural diversity of peoples, has historically aimed at the construction of a national hegemonic identity while marginalizing, negating, invisibilising and undermining its plurality in different ways (Rouland et al, 1999). In Mexico, specific policies were designed to assimilate, acculturate and dissolve cultural diversity turning it into the single identity of *mestizaje* (miscegenation) (Villoro, 1996; Bonfil, 1970). Early historical processes of configuration of national, social and political structures and hierarchies based on class, gender, race, ethnicity and so on, permeated a culture of discrimination and prejudice against what became considered as different from the norm throughout society. This dynamic fostered the institutional and social marginalisation of some social groups and the wider and poorer sectors of the population.

The state and its institutions operate a range of strategic mechanisms to silence the views of cultural minorities by controlling perceptions and practices of the state building process, for instance, by minimizing any provocation that could raise any awareness and reaction to interventions. Here I discuss three main concerns about three significant characteristics of the modern state: first, the universalisation of views about national identity, in order to avoid any ideological competition from the pre-existing peoples. Secondly, cultural diversity viewed as a threat to the invention of an homogeneous and thus, perceived cohesive, nation state, resulting in assimilatory, segregational and racist policies (e.g. indigenismo) have been put in place in different ways over history. Thirdly, a pattern of constructed and imposed views and norms, and later on laws and institutions, viewed as normal, and therefore, uncontested.

Firstly, based on data analysis I found universalisation as a way of magnifying the approach of dominant actors into a universal one. Universalizing the dominant actors' views entails both the eventual and unavoidable institutionalisation and the invisibilisation of different state-making perspectives. For example, the modern state and the juridical systems and agrarian institutions' notions of *mestizaje* and developmentalism, that have been discursively assumed as uncontested, aims for the modernisation of society and the building of the Mexican 'Nation'. Such ideas have had critical consequences for communities such as Mogotavo (see next chapter) and Choréachi, whose dispossession has been justified on grounds of business-based developments.

Secondly, racism is defined by Wieviorka as the characterisation of a human group through natural attributes, associated in turn with intellectual and moral characteristics applicable to each individual related to this group and, starting from there, adoption of some practices of inferiorisation and exclusion (2009: 13). Racism in Mexico has been chronically understudied despite being a prevalent reality in Mexican society (CONAPRED, 2010)⁶¹. The phenomenon fits into Van Dijk's conceptualisation of racism as 'routinely created and reinforced through everyday practices' and discourses (2000). It is easy to distance Mexican racism from forms of U.S. racism against african-american populations of past decades. However, in Mexico it is subtly present but denied in everyday discourses due to a historical prejudice against the indigenous phenotype and constructed forms of what is to be an '*indio*', or a low status person which again is associated with adjectives such as ignorance, laziness, ugliness, servitude, criminality, low morals, and other notions of assumed inferiority and backwardness (Servín and González, 2003). These everyday attitudes are deeply rooted and operate both at the social and the institutional level.

Analysis of empirical and archive data showed that everyday forms of discrimination and, particularly, racism, underlie overt land occupation by dominant actors⁶², brokerage processes, bureaucratic procedures and the institutional procedures of disputes. Racism is hidden in the attitudes of institutional actors and mediators all over the disputes' trajectory, and they are the people who decide on

⁶¹ Some of the few studied can be found in Castellanos, 2003; Hernández and Vázquez, 2007; Urías, 2000, 2007; Bustillos et al, 2009.

⁶² Those with normalised attributes and hence hierarchically positioned in the social structure

grounds of assumed inferiority of one of the parties without being necessarily accountable for their decisions. As a consequence, the vulnerability of indigenous communities is directly linked to their cultural condition. It is difficult, however, to pinpoint which decisions are taken on the basis of racism unless it is explicit in the discourse. In fact, research has shown that racism is perpetuated by the discourses of officers and societies at large (Bustillos et al, 2009; Servín and González, 2003). Quijano constantly highlights the fact that the particular euro-centred colonial structure of power has always been based on discrimination, cultural repression and in the colonisation of the imaginary. In other words, 'coloniality of power is based upon 'racial' social classification of the world population under Eurocentered world power' (Quijano, 2007: 169).

Thirdly, the detailed examination of the case study may suggest that state institutions often assume marginalisation practices as being uncontested. Injustice, exclusion, marginalisation and, specially, domination –for its structural condition– are seen as normal. It is assumed that this is the way it is, as it would be fruitless and irrelevant to question injustice. Assumptions do not allow further enquires to be made about the underlying reasons and the grounds on which decisions were taken. The authority to take decisions that marginalize the other is not meant to be questioned. Longstanding colonial and authoritarian political culture in indigenous Mexico have established elites -mestizo-capitalist-christian-patriarchal-white-heterosexual-male- authority as an unquestioned fact. Characteristics like impunity, corruption, discretion and their subsequent practice by those with the dominant attributes become normal for both those who exercise them and those who suffer from them. The interplay between local mestizo elites and the local and national state bureaucracies in the context of land disputes are pervaded by this symbolic production.

In the examples provided by the case studies, officers in charge of agrarian and geographical issues decided who the legitimate interlocutors were, to whom they granted land, to whom they validate membership updates and/or certified boundaries, and who they recognized as rights bearers, most commonly the mestizo and Spanish speakers *Rarámuri* (INEGI approached Durazno and Coloradas, SRA approached Durazno for update). Community members were then meant to get used to corruption, unaccountability and bureaucratic inefficiency and it was a widely held view that no

alternatives were available, and therefore any demand for accountability would be rendered useless.

These were the three general characteristics of the domination practices identified and carried out generally by the state institutions involved in the context of the *Pino Gordo* and Copper Canyon (see next chapter) case studies. Land distribution and property rights recognition were permeated by these state promoted prejudices, determining thus, in different ways, the outcomes of land petitions, agrarian procedures and disputes by rural and indigenous people. Specific strategies related to state institutions, individual actors or sectors are described below. The next section exemplifies how the Agrarian Reform ministry contributed to destabilizing land property security of the Choréachi, and therefore, to establishing the conditions for their eventual dispossession.

4.4.1.1. The Agrarian Institutions Against Indigenous Territoriality: Segmentation and Property Rights Hoarding

The ejido was created after the Mexican revolution as a form of land redistribution, by expropriating much of the land from the great landowners, whose holdings were considered excessive and distributed them to landless peasants via collective property (Palencia, personal communication 15/01/10; Agrarian Law, 1970-1992). In contrast, the *comunidad* regime (*Reconocimiento a Titulación de Bienes Comunes*) was a way of recognizing ancestral possession of indigenous communities or other collectivities and, in consequence, restituting land back to them. This differentiation of land tenure had two consequences that are now central to the understanding of the Choréachi's dispossession: On one hand, the original indigenous territory of Choréachi was segmented by agrarian law and small groups of people requested land grants, thereby leading to the creation of new ejidos and *comunidades*. On the other hand, the recognition of property rights of the landholders depended on whether land was granted as an ejido or a *comunidad*.

In the first case, the original Choréachi indigenous territory became segmented into ejidos and *comunidades*, such as Chinatú, Tuaripa, Las Coloradas and later on, *Pino Gordo*. This process led, therefore, to the shrinking of both the original territory and the relevant normative system that gave place to the official

ejido decision-making system. Don Francisco, an elder *sipaame*⁶³ and former authority, asserted that Choréachi/*Pino Gordo* territory used to include what nowadays is the adjacent mestizo comunidad of Las Coloradas (Formerly known as *Siteachi*), the current ejido of *Tuáripa*, and part of *ejido Chinatú* (*ranchería Casochi*) (Ramos personal communication, 2009). In addition, the origins of the conflict with the adjacent comunidad *Siteachi/Coloradas* is remembered by Don Francisco, as follows: “The totality of what is today *Siteachi/Las Coloradas* belonged to the pueblo of Choréachi/*Pino Gordo*’. This means that the indigenous residents of *Siteachi/Las Coloradas* considered their territory as ascribed to the Choréachi and, thus, used to attend the political meetings in this township/main *pueblo cabecera* or *capitanía*. In short, *Siteachi* used to be a *ranchería* of Choréachi. Eventually, however, a mestizo married a woman of *Siteachi*, and mestizo population started to grow in the area. Since being granted land, the comunidad *Las Coloradas* updated its census more than twice, giving the mestizos greater control over property rights of the comunidad and subsequently, decision-making power too (RAN archive). In this way the *Las Coloradas* dispossessed the Choréachi from its territory and a trial was instigated to resolve this dispute.

In the second case, the mestizo community ‘*Las Coloradas*’ were granted land as *Comunidad* (commoners) in 1969, despite the fact that the land tenure system was designed for the restitution of ancestral communities and landholders such as the indigenous peoples. In contrast, when the Choréachi indigenous peoples were granted land, it was given as an *ejido*, a land tenure system designed for landless peasants. This confusion between the *ejido* and the *Comunidad* was critical in provoking the land dispute between *Las Coloradas* and *Pino Gordo/Choréachi*. If the *Pino Gordo* land had been granted as a *Comunidad*, it would have meant that all *rancherías* would have had shared property rights, as they would all have belonged to the same territory and therefore, there would have been no reasons for a dispute. Rather, the land tenure form of *ejido* divided the people as it was granted just to a small group, 50 out of hundreds of Choréachi landholders who had requested land and, later, to 50 *El Durazno* land holders through the forging of documents. In this way, the Choréachi first lost their property rights to the *El Durazno* by being excluded from the census update, and a few months later, lost their land to *Las Coloradas* through the negotiation between *Montoya*, *Coloradas* and *INEGI* officers.

⁶³ Indigenous medical specialist in healing with *híkuri* or peyote (*lopophora williamsii*)

This example shows how the universalism of state institutions' resulted in the neglect of understanding other forms of land tenure and political systems such as the indigenous ones. The design of the agrarian reform itself did not consider either the indigenous territoriality or indigenous normative systems where decisions regarding land issues were taken. This omission was critical for *Pino Gordo*, and later on for Choréachi, as first the indigenous territory was divided into different ejidos and comunidades, and later on Choréachi rancherías lost their own portion to both the El Durazno and the Las Coloradas.

4.4.2. Political Representation/Mediation. Formal and Informal Forms of Undermining Subjects' Sovereignty

The type of semi-authoritarian post-revolutionary regime that pervaded Mexico for most of the 20th century widened the large gap between subaltern sectors such as the peasants and the hierarchical political institutions and elites. One of the only options in which the peasantry accessed the existing state benefits was through the exercise of a set of formal and informal political mechanisms of intermediarism, corporatism, clientelism and corruption practices. Land disputes, for example, were hardly settled between the parties as these tended to receive the assistance of corporate peasant organisations linked to the hegemonic party, individual brokers and state officers offering clientel support and the more formal attention of various state institutions such the agrarian ministry, the judicial power plus other offices at the federal, state and municipal levels. Government support was seen as a form of political representation and as the fulfillment of the duties of the government towards the citizens. This support, however, was not provided without expecting some form of loyalty through means of eventual political support or even direct economic 'gratitude', in other words, through bribery. In this way, political representation was translated into a form of political incorporation or assimilation (Mora-Velazquez, 2009; Garsten, 2009; Pitkin, 1967; Hirst, 1990).

Assimilation has been one of the critical strategies of the Mexican state to neutralize what it considers either an obstacle to its hegemonic economic project or a political threat to its stability and domination. In the first place, the development of a capitalist economy and a full-integration in the global political economy has

been a modern-state priority as the peasantry has been seen as a sector to be proletarianized and incorporated to the labour market (Hewitt de Alcántara, 1984). State universalist, modern, neo-liberal and/or developmentalist perspectives have not normally been in harmony with self-sufficient livelihood systems or self-labour schemes. Consequently, to incorporate these sectors within the established capitalist economy has been the main policy of the government and several strategies have been carried out such as the transformation of land rights, cuts in social spending like subsidies for subsistence agriculture, implementation of cash transfer programs and promotion of private investment in the countryside, to name a few markets (Quintana, 2003; Calva, 1995; Calva, et al, 1998; Nadal, 2000).

The same applies to the state's need for political cooption and assimilation. On the one hand it is widely known that throughout Mexico's political history, a privileged state strategy to de-activate social movements has been that of cooption of leaders by offering them political posts or bribing them with large sums of money. On the other hand, the state incorporates social groups into its hegemonic spaces in case they become a challenge to its political stability. At the cultural dimension, peasant-indigenous societies have been seen as historically representing an obstacle to the state's realisation of modernity, progress and development. The achievement of European-like mestizo national identity (Quijano, 2000 and 2007) has been pursued for most of the last century by enacting culturalist policies such as indigenismo and its different approaches: Proteccionist, Incorporationist-assimilationist, Autonomist, Integrationist, and Participationist (Sariego, 2002: 233), and recently neo-liberal multiculturalism.

A cooption and assimilationist state practice cast in the guise of political representation, is Mexican corporatism. One of the characteristics of the post-revolutionary Mexican political regime was to have evolved from an order dominated by military leaders and regional strongmen, to a 'presidentialist' system, where power was heavily centralized in the hands of the executive power. During the Lázaro Cárdenas presidency the political class was re-organized, and the government party was reformed and transformed into a number of political groups within a single corporate party (Durand, 2004: 44). Those political groups were divided into four sectors: workers, peasants, popular/urban and the military. In a later presidential period the military sector disappeared, and the businessmen gave

up political participation in exchange for the state's commitment in supporting them against external competition and the pressure of labor unions (Ibid: 45-47). In short, the state's mechanisms for political representation were embodied in this corporatist scheme. While these sectors subjugated to the presidential figure, they also had the capacity and legitimacy for mediation, negotiation and for participating in the broader politico-electoral competition. However, political competition outside of the corporatist model was in many ways suppressed. Indeed, Mexican presidentialism was sustained by relations of loyalty, discipline and subordination to presidential power, as well by a set of non-written –but widely known and internalised- rules.

This corporatist structure was constituted of labour unions (CTM⁶⁴, CROC⁶⁵, CROM⁶⁶), peasant (CNC, LCA) and popular organisations (CNOP⁶⁷) that formed large constituencies. On the one hand, the organisation represented some of the constituents' general concerns before the party-government while giving advice and social support at the local level. On the other, members had to compromise their interests to participate in the political networks supporting the governing party. Over the years leaders of corporate organisations acquired the nickname of 'charros', whose features were their subjugation to presidential power, their endless and corrupt ruling periods, and their efforts to suffocate democratic reforms (Durand, op. cit: 47).

Before independent NGO's appeared on scene, corporatist organisations took charge of offering advice and support to the Choréachi/Pino Gordo. The *Consejo Supremo de la Tarahumara* (CST) was one of those that assumed representation of indigenous communities such as Pino Gordo/Choréachi. This organisation was founded by the Rarámuri and mestizo teachers allegedly to represent the indigenous peoples of the region *vis-à-vis* the government despite the fact that they were closely linked to the political structures of the party-government (Sariego, 1998; Merino, 2007). The root causes of the problems of the indigenous peoples were hardly going to be addressed by these organisations, which was demonstrated by the poor advice the Choréachi received during the dispute process before the 1990's and in the way

⁶⁴ *Confederación de Trabajadores de Mexico*

⁶⁵ *Confederación Revolucionaria de Obreros y Campesinos*

⁶⁶ *Confederación Regional Obrera Mexicana*

⁶⁷ *Confederación Nacional de Organizaciones Populares*

they displaced and substituted the indigenous normative systems in some Sierra communities through their clientelist and corporate model.

At a more general level, during the last two decades the Mexican state had established a few institutions concerned about indigenous issues. Headed by the National Indigenista Institute (INI)⁶⁸, the National Institute for Indigenous Languages (INALI) and the National Council for the Prevention of Discrimination (CONAPRED), local offices addressed specific needs of local indigenous groups such as the State Coordinator of the Tarahumara (CST) (A Chihuahua State governmental office) and the indigenous affairs municipal offices were put in place. All these institutions aimed at addressing the concrete problems of the indigenous reality and, on these grounds, governments claimed to be concerned about cultural diversity, minorities and indigenous groups. From my perspective, these institutional practices constitute not a form of exclusion, but on the contrary, a form of 'adverse incorporation' (Hickey, 2007) that fixes individuals to a political and production apparatus in the name of inclusion (Foucault, 1996: 118).

These forms of mediation operated by corporatism, state institutions and contemporary NGOs have salient features that are illustrated by the empirical data from research in Pino Gordo. First of all, the socially constructed subversion of the sovereign actor displaces authority to the state which delegates it to corporate interests and other brokerage-based actors. As a result, indigenous communities assume those linked to the government to be authoritative figures, ceding decision-making to them, thus giving up their own decision-making power granted by law and their right to be legally represented, either through their own autonomous practices or their own and ancestral normative-systems. In the second place, forms of clientelist-corporatist brokerage offer mediation, advice, and thus hope, for the resolution of disputes, however, misrepresenting their interests and delaying the processes as much as possible so as not to affect their political allies.

Third, as mentioned in chapter 7, these forms of political representation in the form of mediation/brokerage undermine in practice the self-determining power of indigenous communities and citizens at large as it substitutes local institutions of decision-making and political organisations (such as the indigenous authority

⁶⁸ Which later in the 2000s became the National Commission for the Development of indigenous Peoples (CDI)

system). In the fourth and last place, an emergence and confluence of factors start playing an increasingly relevant role in the recovery of self-determination through novel and unpredictable forms, namely, the configuration of civil society organisations, alliances to committed lawyers and the appearance of new –national and mainly international- juridical mechanisms protecting indigenous rights. As a result of these emerging processes, normative systems and self-determination – mixed to the use of international law instruments- are positioned as the axis of the land defence strategy.

4.4.2.1. Civil Society Organisation's Legal Strategies: Between Brokers, Lawyers and Self-Determination

Before the 1980s, the Choréachi/Pino Gordo petitioners turned to well known corporatist organisations (such as *Liga de Comunidades Agrarias*, *Consejo Supremo Tarahumara*) and/or to agrarian/indigenous affairs offices (INI, SRA) searching for a solution to their stalled claims for individual recognition of common property rights. As detailed above, corporate institutions normally conditioned support by demanding allegiance to the established political structure (local, regional or national) and, therefore, reduced their assistance to clearing any obstacles that would block the course of the formal administrative procedures. The roots of the problem, however, were not tackled if they meant a challenge in any way to the existing local power structure.

All three parties of the Pino Gordo controversy have relied on different mediators as technical and/or legal advisers. A salient example is Ruben Montoya, the leader of the indigenous-gentile *Rancheria El Durazno*. Son of a mestizo and a Rarámuri, Montoya was born in the rancho Buenavista within the indigenous territory of Choréachi/Pino Gordo. He migrated out of his community since his childhood, first to the municipality of Guachochi, then, as a young adult, migrating to the border city of Cd. Juárez. There he got involved in territorial urban struggles and particularly in the popular organisation *Comité de Defensa Popular*⁶⁹ (CDP) -that advocated for land occupations and distribution to landless people, further to which he migrated to the cash crop fields in the adjacent state of Sinaloa (Castellanos, 27-

⁶⁹ Popular Defense Committee

01-10). He then returned to El Durazno in 1983, where he started advocating for the recognition of property rights of the Turachi/El Durazno people. He was later a key actor and leader in the land struggle of Pino Gordo against Las Coloradas, and eventually became commissioner president of Ejido Pino Gordo, leading the process of dispossession of agrarian rights of the people of Choréachi and eventually giving up most of the Choréachi/Pino Gordo's territory to the Las Coloradas.

The *Comité de Defensa Popular* (CDP) advocated and advised the El Durazno against the Las Coloradas and the Choréachi. This organisation began as a grassroots movement whose influence was limited to northern Mexico. It expanded to become a pressure group advocating issues of land and housing for landless people in the 1970's (Martinez, 2006), and, was later controlled by a small elite group of leaders that got into the business of illegal trafficking of a great variety of commodities, mainly groceries and clothes imported from the US which were then sold in their own flea markets in the main urban areas. In the name of popular causes and wielding a populist left-wing ideology, the CDP established not very transparent negotiations with the state, obtaining concessions in exchange for political favours.

El Barzón, a political network of groups emerged in the context of Mexico's financial crisis in the 1990's, where thousands of creditors, especially rural producers, found themselves unable to pay their increased debts to the banks due to abrupt rises in interest rates. El Barzón drew together a mass movement of small and medium creditors, who organised themselves politically at the national level through protests and mobilisations for what they considered to be unfair debts. Both CDP and El Barzón were highly heterogeneous on the inside, made up of different political factions.

In the context of the Tarahumara, the mestizos proved to be brokers *par excellence*, however, the indigenous peoples can also perform such a task. A common source of indigenous brokers was the network of indigenous (and mestizo) teachers that constituted the Supreme Indigenous Council of the Tarahumara (CST⁷⁰) in 1938 (Lartigue, 1983; Sariago; 1998; Merino, 2007). It participated in negotiating forestry

⁷⁰ *Consejo Supremo de la Tarahumara*

relations and in building the corporatist political structure that tended to replace/displace the Rarámuri⁷¹ normative systems (Lartigue, 1988).

The CST established political structures where the local normative systems were weak or lacking altogether. In these cases, it controlled internal elections, appointed governors (indigenous authorities) taking advantage of forms of political representation/brokerage to mediate with the party-state and, therefore, obtaining political gains. At present, the CST's political power is diminished, but it still operates in the Sierra and is a privileged interlocutor for the current PRI based state government of Chihuahua and municipalities (Lartigue, 1983; Sariego; 1998 and Urteaga, personal communication).

Rubén Montoya and *ranchería* Turachi/El Durazno obtained support, and legal advice from all three organisations, the CDP, the CST and El Barzón. In fact, the role of Rubén Montoya in leading Turachi/El Durazno's strategies of agrarian recognition was influenced by CDP and El Barzón, and to some extent, by CST in the early stages. The Choréachi/*Pino Gordo*, in turn, was first supported by CST, LCA, and INI's legal advice. The CST and INI were advisers and mediators with the agrarian authorities throughout most of the dispute process before the 2000's. However, advice for negotiation and administrative procedures was not only fruitless for the Choréachi but also fostered conflict by privileging the actors to whom they maintained close ties, rather than being impartial to both parties. The cases of the El Durazno and Las Coloradas progressed because they possessed better knowledge of bureaucratic mechanisms and corruption and learnt from the mistakes of the Choréachi.

Things started to change with the emergence of civil society organisations that, although heterogeneous in their organisation and purposes, were distinguished by their high levels of independence from the state apparatus. Choréachi's work with Civil Society Organisations started in the early 1990s through their engagement with the *Consejo Asesor Sierra Madre, Asociación Civil* (CASM⁷²), a Mexican branch of the north-American NGO Sierra Madre Alliance that advocated

⁷¹ As well as *Guarijío, O'oba*, and *Ódami*

⁷² Advisory Council of the Sierra Madre later in the 2000's CASMAC became ASMAC (*Alianza Sierra Madre Asociación Civil* or Sierra Madre Alliance Civil Association) (<http://www.alianzasierramadre.org/>).

for particular social, agrarian and environmental issues of different indigenous communities or pueblos in the Sierra Tarahumara⁷³. In the early stages of giving legal advice to *Pino Gordo*, CASMAC collaborated with other local and national advocacy and human rights organisations, such as the *Unión Nacional de Organizaciones Campesinas* (UNORCA), *Fuerza Ambiental* and the *Comision de Solidaridad y Defensa de los Derechos Humanos Asociacion Civil* (COSYDDHAC).

(C)ASMAC aimed at providing technical support for environmental-conservation and productive projects, as well as offering legal advice for land disputes. Their interest was to provide agrarian legal advice and support for the strengthening of cultural and environmental rights. Over time, (C)ASMAC had a number of administrative changes, and hence, have relied on three consequent teams of legal advisers. (C)ASMAC's started advising Pino Gordo (including El Durazno) in 1993, but after Montoya's group hoarded Pino Gordo Ejido's property rights in 1996 (C)ASMAC quit supporting El Durazno and prepared the first legal defensive actions in favor of the Choréachi.

ASMAC used the juridical route as its strategy. With its advice, in early 2000, 162 landholders of the Choréachi went to trial demanding recognition of agrarian rights through voluntary jurisdiction in the Agrarian Tribunal (TUA) District 5, focusing on legally challenging and seeking to halt logging permits and the operations of Comunidad Las Coloradas within its ancestral territory. The Judge acknowledged its claim against the El Durazno/Pino Gordo to be right, however, after the rival leader Montoya challenged the decision, a new ruling stated that a request to the Pino Gordo assembly for the recognition of property rights should be made. It was, however, denied by the assembly, as expected. In 2007, a new lawyer was appointed, who won a landmark lawsuit for the recognition of collective rights of 126 people from Choréachi based on the character of ancestral possession and the indigenous territory of Choréachi. This demand was followed by a number of lawsuits requesting the anulment of all legal actions that had led to the dispossession of the indigenous *de facto community of Choréachi*, including presidential resolutions of land granting to *Pino Gordo* and Las Coloradas. Finally, the plaintiffs requested recognition under the Comunidad Agraria regime of the *de*

⁷³ Mainly *Pino Gordo* and Coloradas la Virgen, both in the municipality of Guadalupe y Calvo.

facto community of Choréachi. A ruling was expected in the following months, but the consideration of proof by the judge still continues when finishing this thesis.

The juridical strategy was more effective than decades of relying on corporate brokers. From the time ASMAC became Choréachi's juridical advisors, the Choréachi began gaining its first, although still partial, victory against the El Durazno and Las Coloradas. Firstly, ASMAC did not compromise its stance against other political actors such as the government, unlike other corporate organisations; secondly, their juridical advisors took advantage of the most recent international juridical instruments (International Labor Organization's agreement 169) and national constitutional reforms with regard to indigenous rights; and thirdly, ASMAC's juridical strategy did not undermine Choréachi's normative systems, but on the contrary, intensively discussed all strategies and decisions following the customary procedures of the Choréachi. With this decision, Choréachi both vindicated its self-determination as it took the decisions regarding legal matters, as well as challenging the idea of political representation and the alleged authority of corporate organisations and mediation by state institutions.

State mediation in contrast, tended to seek the political neutralisation of social movements and those of indigenous peoples through clientelism or what is known as the 'Faustian Bargain': that of the substitution of 'strategic preparation for the future' for 'survival and security in the present' (Wood, 2003: 455), instead of carrying out reforms that structurally address the root causes of indigenous marginalisation, such as constitutional reforms and regulatory laws that could have recognized Mexico's pluricultural composition and the right of indigenous peoples to exercise self-determination.

4.4.3. Domination through Hegemony or Cultural (Mis)Representations. Competing Hegemonic Representations and Interpretations of Competitors for Forests and Land Property

The Norwegian explorer Karl Lumholtz, travelled across Mexico's Sierra Madre during 1894 and published a detailed ethnography of the villages he visited. *Pino Gordo* was among those places he passed through. He recalls its 'magnificent trees' and provided one of the earliest accounts of its peoples (Lumholtz, 1902: 327). In his classic 'Unknown Mexico' he referred to a 'shaman' he knew as the 'the finest

specimen of a tarahumara'. As described, the person "showed a courtesy and tact that would have graced a gentleman. He took splendid care, not only of myself, but of my men and animals as well, giving us plenty to eat, sending his man to chop wood for us, etc. He was possessed of the nicest temper, and was truthful, a rare quality among Tarahumares, as well as square in his dealings. His uprightness and urbanity commanded respect even from the *lenguarazes*, and they did not rob him as much as the other Indians of the district; consequently he was quite well-to-do"⁷⁴(Ibid: 420).

These images of *Pino Gordo* and its people still persist to the present. However, the Rarámuri self-described as gentile or *cimaroni*, were called pagans or heathen by Lumholtz and were just a few of the groups located mainly across the edges of the gorges in the municipalities of Guachochi, Batopilas and, in this case, in Guadalupe y Calvo. Historically, the bible refers to the gentiles as those Jews that did not embrace Christianity, becoming also a synonym for pagans. The gentile indigenous groups of Chihuahua currently distinguish themselves as those that did not accept clerical authority over their collective spirituality. Even though the gentiles of *Pino Gordo* incorporated Christian elements to their religious system, one of the most important ways through which they distinguish themselves is their reluctance to accept catholic baptism (Urteaga, 1998; Villanueva, 2012).

This fact is closely related to their lack of links with Christian priests and any other kind of church-led religious services. Urteaga associates gentility differently, as those not having a relationship with national institutions, such as through salaries and economic aid (as well as educational and health institutions) (1998). Grocery stores, for example, have been established just until recently in the township center of Choréachi, which illustrates the extent to which they were separated from the capitalist economy. For Urteaga, relationships with institutions are clearly of open opposition to them. For example, according to the gentile rarámuri, land was granted by baby Jesus -who as an adult is called *sukristo* or 'El Dios'-, later on by former president Benito Juárez and, to a less extent, by the engineers of the agrarian ministry (Urteaga, 1991: 47-48).

In addition, perceptions of land are also differentiated by the languages used to name them. Previous to the arrival of the Spanish colonists, settlements were

⁷⁴ My translation

named in the local languages according to the way the territory was organized. However, the Spanish, criollo and the mestizo population re-named settlements in Spanish and according to their own particular land tenure systems. For example, the Rancheria of Siteachi (red land) belonging to the indigenous territory of Choréachi became the Agrarian Community Las Coloradas (red land). The indigenous Ranchería of *Turachi* (the peach, translation from rarámuri) also belonging to the indigenous territory of Choréachi, became El Durazno (the peach, translation from Spanish). The indigenous territory of Choréachi (place of resin) firstly became, and was assumed by all, to be the indigenous territory of Pino Gordo (wide or fat pine) that covered the same area of what became the Ejido Pino Gordo.

However, with the loss of land to the Las Coloradas and El Durazno, the use of the indigenous acronyms eventually became a symbol of resistance for the indigenous people of Choréachi. The recently passed international laws provided the instruments indigenous peoples needed to defend themselves on grounds of cultural difference and national jurisprudence with their land rights being classified as protected *de-facto* Community property rights. For this reason, after the lawsuit asking for the annulment of all previous legal actions related to land jurisprudence, they cast themselves as the indigenous community of Choréachi, and the argument was mainly based on the character and condition of ancestral landholders and *de-facto* indigenous Communities. The indigenous communities of Mogotavo, Wetosachi and Bakajípare (see next chapter) followed the same strategy, while expert witness certificates provided critical proof and evidence of their argument. In addition, their condition as gentiles associated with the idea of them being protectors of the forest was employed in a previous legal action and that very fact was used by the judge to rule in favor of the Choréachi during a certain stage of the process.

These representations, self-representations and interpretations of the different arguments at play performed an important role in the conflict resolution and decision-making processes involved in the juridical disputes. Four specific types of hegemonic (mis)representations and symbolic struggles are illustrated and analyzed below.

Firstly, invisibilisation consists of ignoring subaltern actors as if they did not exist as people nor as political or legal subjects. Recognition of the adversaries'

presence would compromise the dominant actors' agenda, by having to include and consider other right holders into the dispute and compete with them for distribution of resources under certain rules. The idea of invisibilisation is equivalent to what Maldonado-Torres calls the 'coloniality of being' (2008), or the negation of the existence and the status and consideration as people of certain social groups, such as the african-descendants and the indigenous populations.

As dominant actors feel confident that discretion and impunity are guaranteed they are more likely to take the risk of illegally neglecting the consideration of other competitors in order to clear the way for resources hoarding. The subaltern condition of competing actors provides enough guarantees so that the other dominant actors involved in the dispute trajectory would also overlook the right of indigenous communities to be included for participation as peers in a dispute process. When, despite this move, competitors achieve visibilisation and inclusion into the agenda, other strategies such as depoliticisation, corruption, and discretion are put in motion.

The case studies reveal the way indigenous communities are ignored, not just as individuals and as collectivities, but as juridical subjects. There are three main examples of this. First, definition of ejido under agrarian law allows a group of people to hoard land property rights (as mentioned above), excluding the rest of the landholders and members of the same indigenous community/pueblo. This was done first by the petitioners of Tuaripa, Chinatú and Las Coloradas which resulted in their separation from the indigenous territory of Choréachi; later, by the 50 petitioners of *Pino Gordo* in 1937, then by the 69 people that physically received land (however not recognized), and finally, by Montoya's group that kept land property rights through a membership update.

Second, recognition of boundaries by agrarian authorities required the consent of neighboring communities, however, Choréachi were not called to *Pino Gordo's* nor to Las Coloradas' for the recognition of boundaries as mandated by law. And thirdly, state institutions dealt with Montoya and Las Coloradas for membership updates and for the recognition of individual agrarian rights, again excluding the Choréachi. This form of marginalisation resulted in the dispossession of Choréachi's agrarian rights and territory.

In this way, the invisibilisation of indigenous communities neglects the very dignity and existence of human collectives, a phenomenon in the context of the constitutional reform of 2001 mirrored by the executive, legislative and judicial power's refusal to establish the indigenous peoples in Mexico as collective legal persons under the law.

When the attempts to suppress the subaltern are not enough, dominant actors opt to produce a hegemonic representation of the issue in question that hides the subtle mechanisms employed in the exercise of domination. It is thus necessary to present a decontextualized narrative of the dispute, by invisibilizing social and political relationships and rather, pushing for a monolithic perspective that obscures complexity and relies on technical and individualist interpretations of the problem.

The first decontextualizing strategy is depoliticisation (See Ferguson, 1994), defined here as the practice of offering technical and/or narrow disciplinary interpretations of an issue by delinking it from all the social and political relationships involved. Inasmuch as power relations are part of the causality of social injustice, narratives focus on the effects of the problem, rather than on the causes of it. By highlighting the causes on the agenda, attention deviates from the deliberate actions that gave place to an act of domination, hence, guaranteeing unaccountability to the perpetrators. Dominant actors tend to depoliticise issues thanks to the power they have to control the way information is disseminated. The purpose is to try to minimize the effect of information in decision-making processes or eventual demands for accountability by contenders, social groups or political constituencies. The politicisation of an issue, rather, has the potential of bringing to the fore the underlying power relationships that in practice shape the workings and outcomes of established bureaucratic, or institutional and informal political procedures.

For instance, the Mexican agrarian, environmental and juridical institutions first depict their own practices as merely institutional behavior guided by law, policies and professional assessments. However, subjectivities, interests and discretion underlying decision-making are highly contested by those indigenous communities being subject to injustice. Institutions' discourse, however, justifies their actions, basing them on the legitimacy of the rule of law and through the

employment of specialized, technical and academic knowledge, avoiding any association of its practices with political connotations.

A second form of decontextualisation is the interpretation of social facts from a unique and narrow perspective that ignores the complexity and politics of society and social issues. Unidimensional interpretations range from individual accounts assigning moral, technical or ideological meanings to particular social phenomena, media's representation of problems from conservative and moralistic perspectives, or academic explanations privileging economic, technocratic, positivist, individualistic, or depoliticised approaches for the sake of promoting private agendas. Such reductionist analysis usually fails to offer explanations, taking into consideration the historical context and the mechanisms of power and society that lie at the centre of dispossession and domination (Fraser, 1989; Farmer, 2004).

An example of this is the way comunidad Las Coloradas was favoured, first by the agrarian authorities, then by the court, where what matters is the legal evidence, not the way it was obtained. If the court would have considered the historical context of colonisation, land displacement and discrimination of indigenous peoples in Mexico, the inequalities of inter-ethnic relations in the Sierra Tarahumara, and the particular process of domination Choréachi had to go through in order to secure their lands, Las Coloradas would have had more difficulties achieving the required evidence to show their right to own Choréachi lands. Choréachi's title theft, Las Coloradas mismatch between the titled surface and the real one on the ground, the obscure negotiation between Pino Gordo and Las Coloradas, and the fact that the lands of indigenous peoples are protected by international law are just part of the context that was neglected by state institutions in the dispute resolution process.

State institutions commonly carry out this strategy when explaining their actions through a specialized language and field of knowledge. Scholars' publications and public policy analysis dominated by econometric approaches and informed by positivist notions of scientific research, tend to disregard, for example, the political causes of social groups' marginalisation, portraying the causes of poverty and inequality as a result of different and specific actions. This was the case when environmental authorities -PROFEPA and SEMARNAT- regularly granted forestry permits to ejido Pino Gordo and Las Coloradas in Choréachi's territory

despite the fact that there was an ongoing legal dispute. In contrast, recent principles of international law, such as the right to Free, Previous and Informed Consent, take into account the social, historical and cultural context underlying the marginalisation of indigenous peoples.

This situation reveals the validity of approaches highlighting the domination of one epistemology over others. In this case positive law is a clear example of the coloniality of knowledge that establishes itself as the only source of lawfulness, which, coupled with the coloniality of being, denies the subaltern-indigenous actors the condition of legal and sovereign subjects. This contrasts with the forms of restorative justice practised in indigenous communities, that have been harmonised with the state's public attorney at the local levels (Saucedo, et al, 2007; Gonzalez, et al, 1994).

A third form of decontextualisation is de-socialisation/individualisation. It denies the influence of social relationships and depicts problems as a matter of individual agency and behavior by attributing all explanations to the individual dimension and often associating them with moral standings. The result is the disassociation of disputes from broader social complexity and from constant features of society and power relationships (Tilly, 2007). This practice distracts attention from power relations, consequently enforcing the design of moral agendas for the benefit of political elites stances. Even media advocating on behalf of indigenous communities accuses the ambition of private actors', without looking at the wider structural aspects of the problem. Illustrations of this are when Pino Gordo's leader and president commissioner blamed *Alianza Sierra Madre* for representing foreign and economic interests over ecotourism in the area, or of state institutions -such as the SRA and CDI- suing the director of *Alianza Sierra Madre* for allegedly getting involved in Mexican politics. At the end she had to give up her post and eventually leave the country.

Fourth, de-historicisation is a way of portraying social facts in a specific moment in time, decontextualized from their historical background and hence, of the complex social processes and configurations involved in the specific social problems. One example of this is the prioritisation of written evidence by INEGI and SRA without considering its authenticity or the history of domination and marginalisation underlying the conflict in question. Furthermore, the working of

judges, who hold the power to decide whether or not to consider a cultural expert report as evidence and again, the environmental authorities granting logging permits to dominant actors neglecting the existing dispute and the longstanding history of oppression and displacement underlying the conflict.

The judicial and legislative powers, for example, have largely neglected the historical and cultural issues underlying discrimination and marginalisation, as well as the evidence of ancestral occupation and land possession by indigenous peoples. In the recent couple of decades the juridical institutions have been considering cultural (anthropological, archaeological and linguistic) expert reports as valid proof for trials as well as international law regarding human rights issues (Monsalve, 2012). Historical contexts also reveal the social relationships involved and the impact that a wide range of actors have on the particular outcomes of social processes. These facts can compromise elites at different levels as well as being obstacles for subaltern individuals that have no influence in shaping public opinion or do have not enough power to defend themselves.

Fifth and finally, criminalisation is the last resort of the domination process, when other strategies of misrepresenting the dispute do not work. Under the mechanisms of domination, the indigenous actors are misrepresented, discrediting them in order to provoke an adverse public opinion towards the subaltern's cause on the one hand, or towards the mobilisation of repressive forces such as state security, military and even para-military forces. Social movements using direct action and civil disobedience are common targets as immoral and criminal attributes are attached to them in order to influence social and institutional perceptions about the claimants. When a judge ruled in favour of the Choréachi's right to be considered as *ejidatarios*, Pino Gordo's leader Ruben Montoya raised a series of accusations against Choréachis legal advisors, especially about the organisation's director of North American ascendancy. Montoya accused him in the media of dispossessing ejido Pino Gordo in order to construct tourism huts and keep the profits of the business for himself. A few years later ASMAC's director changed to a woman of Brazilian ascendancy, who was later accused by federal institutions (CDI and SRA) and the Foreign Affairs Office of getting involved in Mexican politics because of her advocacy work. For that reason her VISA was withdrawn and she was forced to leave the country. These issues acquire a greater relevance when viewed

alongside the context of Mexico's contemporary drug-related violence and prosecution of social activists, journalists and human rights defenders (Beittel, 2011; *Comité Cerezo*, 2010; *Comité Cerezo*, 2011; *Equipo Bourbaki*, 2011; Human Rights Watch, 2011; *Informe sobre la Desaparicion Forzada en Mexico*, 2011; NRC/IDMC, 2010; Tlachinollan, 2012; ONU, 2011; UNAM/IIDC, 2011).

4.5. Final considerations.

This chapter brought to the fore the particular configurations of a variety of factors, largely shaped by elitist practices and representations, influence the establishment of particular adverse conditions for indigenous communities to achieve their aspirations. The analysis is illustrated through a historical and complex land dispute where the modern state, the contemporary practices of institutions and mediators constrain the projects and aspirations of the indigenous community of Choréachi in different ways, according to the position they occupy in the social structure, in other words, of the attributes they were assigned and represented by hegemonic views. European-like attributes of body aesthetic, political influence, and acquired forms of knowledge and labor are compared between those belonging to a modern background against those belonging to poor, rural, traditional or indigenous backgrounds. The operation of institutions, officers and mediators first assume the character of political representatives and later base their exercise in hegemonic representations, undermining, in this way, the subaltern's decision-making power and therefore the outcomes of the disputes in which they are involved. This domination process is seen, then, as structural, based on the historical and colonial design of institutions, relying on different forms of brokerage and cultural representations of the land dispute and the indigenous communities involved and through the normalisation of unaccountability and corruption. In this regard, the recovery of self-determination and sovereignty by the social subject, is a critical task for the flourishing of peoples' aspirations. Recognition of indigenous peoples as juridical subjects and respect for their normative systems are central issues for the successful outcomes of land defence.

CHAPTER 5. THE TOURISM INDUSTRY AND THE COPPER CANYON LAND DISPUTE: TAKING OVER 'EMPTY LANDS'

5.1. Introduction

In its search for economic growth, state and federal governments targeted the Sierra Tarahumara as a region for touristic development given its singular natural and historical heritage. Although low scale tourism has been widespread in the area since the 1960s, a major investment program was launched in the 1990s, known as The Copper Canyon Master Plan (*Plan Maestro Barrancas del Cobre*). It was presented in the mid 1990s and aimed at the development of energy, transport and basic services infrastructure. Later, in the implementation phase, the Copper Canyon Touristic Project focused on services such as airport, hotels and restaurants, as well as such attractions as aerial tram, bungee jump and zip line. The plan is to develop the whole program in three phases over a period of 10 years.

The announcement of economic investment for the region increased the price and, in consequence, the interest in private appropriation of land by local economic elites. As some land deals were carried out over territory held by indigenous communities, a set of social and legal controversies emerged. This chapter looks at three of these land disputes, which are all emblematic of the way local and regional economic elites appropriate land ancestrally possessed by indigenous communities. However, as Mogotavo, Wetosachi and Bakajipare indigenous communities engaged with civil society organisations for legal advocacy, the disputes took unusual turns in terms both of land ownership and the visibility of the indigenous communities. The particular trajectories of dispossession, social and juridical defence, as well as the specific tactics carried out by dominant actors, constitute the crucial phenomena to examine and answer the main research questions about the perpetuation of injustice in democratic states.

By having analyzed forestry-induced land dispossession in the previous chapter, the thesis will compare the Pino Gordo dispute to tourism-induced land dispossession. Far from revealing different features, the comparison between both types of disputes showed a permanent process of invisibilisation of indigenous communities, and the dominant role of institutions, norms and assumptions that act together for the constitution of a social structure favourable to land dispossession. In both disputes I found the prevalence of three broad and hidden tactics for land dispossession of indigenous communities. I have labeled these: the

institutionalisation of domination, political representation and hegemonic representations. Although these are expressed in various ways and according to the specific context, dominant actors were found to rely on the same three political tactics in order to achieve and legitimate land appropriation.

5.1.1. Chapter Outline

This chapter will start with a general overview of the discussion on land grabbing for touristic purposes. This phenomena is then linked to the specific context of the Copper Canyon Touristic Project, to finally ground it in the three particular land disputes occurring as a result of the project and the specific situations that reveal the conditions that allow land dispossession and the securing of land ownership by indigenous communities.

The following section discusses Young's concept of structural domination and positionality, by exploring the context and categories of the Sierra Tarahumara and the tourism-induced land disputes in terms of a structural approach to land dispossession. An examination of indigenous land disputes under a structural perspective implies the examination of subjective and institutional relatively permanent conditions that allow domination to perpetuate. The specific disputes in the Copper Canyon area showed that the three main tactics employed by local elites are also used by local and regional economic elites in tourism-induced land dispossession in Urique and Bocoyna municipalities, which is a matter of discussion in the next section.

In section 5.4. I will discuss the categories of domination, or the main tactics that were found critical in the dispossession process. Firstly, there was found to be a constant process of reinforcement of the domination structure that I called Institutionalisation of Domination. The dismissing of indigenous rights by state institutions, combined with the underlying unaccountability of the regime extends to the agrarian (regarding land property regimes) and juridical institutions (such as the judicial power and the Federal Office for the Agrarian Reform). However, this form of political control finds its limit in the face of international law that fully recognizes the right of indigenous peoples to their territories, and acknowledges them as juridical collective subjects with the right to self-determination (See ILO Agreement 169).

Secondly, the chapter examines and compares dominant actors' perspectives on self-determination and the political representation of affected communities. Here, attention is focused on the role of decision-making power in determining the course of land disputes. This reflection seeks to reveal the range of forms in which institutions and other mediators (legislators, state and federal government, corporate institutions etc.) politically represent indigenous communities and the way the acquisition of legitimacy goes against the community's interests. A clear example of this is the way the Copper Canyon Touristic project has been imposed since the 1990s without guaranteeing free, prior and informed consent in the process. This omission was rectified by the federal court later on in 2012, who invoked international human rights' principles and law.

Thirdly, there is a range of hegemonic discourses and representations of indigenous communities that allow dominant actors to generate widespread consent over land dispossession. Misrecognition of subaltern's understandings of territory –explained above- is coupled to misrecognition of the existence of the subaltern itself. Specific examples stemming from the disputes are used to illustrate and explain the dispossession/ domination processes at play. Hegemonic and institutional interpretations of land and territory by local actors and institutions tend to prevail over those held by the indigenous and other subaltern residents. These attitudes and practices echo the critique of modernity and the 'coloniality pattern of power' perspective of the modernity/coloniality research program (Escobar, 2007; Quijano, 2000a and 2000b; Mignolo, 2007; Grosfoguel, 2007).

This section explores the different ways in which dominant actors deny the existence of the indigenous communities, villages and their juridical personhood. Attention is focused on the way indigenous communities and development interventions over their territories are represented. Different forms of depoliticized discourses about economic growth are analyzed in the case studies. Relevant findings and conclusions are discussed and presented in the last section of the chapter.

The chapter explores the interplay between agrarian institutions and rural communities, as well as the micro-politics of social and juridical land dispute processes featured by the social inequality and cultural diversity present in the Copper Canyon area of the Sierra Tarahumara. Firstly, an account is made of three

land disputes regarding the Copper Canyon Project using data obtained in the agrarian and juridical archives, as well as in ethnography and interviews in the local settings. Presenting a general description of the three histories provides the opportunity of analysing in the same area (the Copper Canyon overlook or '*Divisadero*') three dispossession attempts with different actors involved, where indigenous communities live under different forms of land property regimes.

The displacement threats faced by the three communities, are also related to the added value the lands acquired because of the Copper Canyon touristic project. The comparison of all cases provides significant empirical evidence to better explain the three mechanisms involved in land dispossession of subaltern people in the Sierra Tarahumara: Hegemonic representations, political representation and the institutionalisation of domination. Although disputes have particular differences in terms of actors and practices, a pattern of strategies and mechanisms for the consummation of dispossession is clearly discernable.

Secondly, I discuss the land disputes in relation to structural inequalities where structurally positioned global and local actors establish different forms of domination and subalternity. These forms are, however, also subjected to the actors' agency through collective forms of organisation and resistance. Then, the chapter tackles the land dispute processes by analyzing the different mechanisms revealed by the empirical data (hegemonic representations, political representation and institutionalisation). The process is examined under the model employed in the previous chapter, consisting of the operation of three different mechanisms present in this context, namely, the state's practices of internal colonialism/'coloniality' (Gonzalez-Casanova, 2006; Quijano, 2000a, 2000b) supported by its institutions, the use of political representation in order to legitimate brokerage practices and the employment of hegemonic representations in which the disputants and the dispute are portrayed as matters of individual, technical and depoliticised explanations.

5.2. The Political Economy of Tourism, Disputes for Resources and the Copper Canyon Touristic Project.

An important body of anthropological literature has stressed the importance of considering the global political economy in the analysis of social and political relations at the local levels (Farmer, 2004; Mintz, 1997; Wolf, 2001; Scheper-Huges and Bourgois, 2003). In order to better understand political decision-making power

in land dispossession and dispute processes in the Sierra Tarahumara, this section will explore the way decision-making power of subaltern social groups is constrained and appropriated by global political actors, in collaboration with local elites, aiming at accessing and appropriating local resources.

Research has shown the extent to which national and local actors and institutions accept subjection to the global economy, despite the fact that such decisions are not favourable to the country's economy and interests. For instance, financial institutions pressure national governments to invest in tourism in order to comply with global deregulation policies⁷⁵ (De Chávez, 2007: 222). In addition, it is well known that tourism related revenues represent low percentages for the destination national economies, the generation of employment for the local workforce is often precarious, foreign exchange gains are undermined by the concentration of investment on the northern tourism industry, and the sector's services are inaccessible to 80-90% of the population outside the western, developed countries. In this context, global capital highly influences national policy-making processes of the sector, thus, undermining state sovereignty and sharpening social inequality. While the contribution of governments is reduced to the guaranteeing of favorable conditions for companies, the balance between economic gains and social-environmental impact is increasingly questioned (Duterme, 2007; Suresh, 2007; UNEP, n/d; Lagunas, 2007; Hall and Tucker, 2004; De Chávez, 2007: 222; BBVA, 2011).

Even though the current global tourism industry and investment at the local level involves sharp social inequalities, there is very little social sciences literature on tourism-induced land dispossession (Recent exceptions are Gardner, 2012; Arteaga and Brachet-Marquez, 2011). Current studies on land grabbing, displacement or resettlement are principally concerned with the impact of large-scale developments such as extractive, hydroelectric or agricultural projects. Tourism developments, past and present, however, largely involve land deals and the consequent resettlement of former residents. In the case of Mexico, most of coastal tourism developments involve land deals with fishing communities and

⁷⁵ General Agreement on Trade and Services (GATS) and Trade Related Investment Measures (TRIMS) deregulates transnational investment by eliminating protection measures for national industry.

different forms of land appropriation⁷⁶ by state and private actors. Examples of these cases are Cancún, Isla Mujeres and Isla Holbox in the Mexican Caribbean (Guerrero, 2012; Franco-Cáceres, 2011; Macías-Zapata, 2004), Punta Colonet, Cabo Pulmo, and the project Escalera Nautica in Baja California (Luque, and Gómez, 2007; Gámez, 2008; González-Olimón, et al, 2011), Santa María Ostula (Gledhill, 2004; Marín-Guardado, 2004) and more recently the communities of Wetosachi, Mogotavo and Bakajípare in the Copper Canyon, which are the cases to be explored in this chapter.

In addition, so called 'eco-tourism', 'nature tourism', or 'adventure tourism' have targeted sites with special scenic beauty or those with particular ecological relevance where indigenous peoples tend to live. In consequence, tourist-induced agrarian conflicts that used to occur exclusively in coastal areas are moving to other rural territories. In these processes of land-control (Lund and Lee-Peluso, 2011), the agrarian institutions and their relationship with actors are crucial for the outcomes of land deals. None of these issues, however, have been sufficiently addressed in the relevant academic literature.

The shifting of entire rural communities to the tourism industry implies their involvement in the processes of land deals, often leading to land grabbing by large companies and dispossession of local people (Borras, et al, 2011; LRRAN, 2011; Lund and Lee Peluso, 2011; Borras and Franco, 2010). This phenomenon also involves resettling and large migration and immigration processes with the resulting generation of social groups' detachment from their local economies and their consequent marginalisation in and out of the new touristic centres. In particular, youth migration leaves towns with a critical generation gap, while offering cheap labour to the new residents as the only alternative (Castellanos, 2008: 147). Urbanisation, economic growth and the establishment of alien value structures, norms and consumption models in towns are also common causes of tangible and intangible cultural heritage transformation, deterioration and the fuelling of different forms of social change influenced by the increasing political power of tourism businesses interests (Machuca and Castellanos, 2008; Lagunas, 2007; Hall

⁷⁶ Lands are often rented, property land rights can be sold to investors, or even the whole agrarian nuclei can be dissolved and turn it into private property

and Tucker, 2004; Barretto, 2007; Croall, 1994; Pattullo, 1996; Lanfant and Graburn, 1994).

Coupled with the neglect of the global political economy by the tourism literature (As argued by Hall, 1994 and Hall and Tucker, 2004), critical political approaches are also generally ignored in tourism and development studies. Hall highlights the importance of considering the political dimensions of tourism in modern society for political science (1994: 2). The relationship between tourist developers and the state, for example, is critical to better understand the politics of tourism. State institutions become the agents executing the changes required to offer the tourism industry better conditions for investment, including issues of security, finance, labour, infrastructure issues and others. At this point, different kinds of economic interests emerge, looking to attract the most gains and the least costs possible. Local residents, however, often contest the social and environmental impacts involved, along with human rights violations by large-scale infrastructure projects. In this regard, processes of negotiation and conflict are likely to be unleashed among the different actors, involving a variety of strategies and forces that will eventually define the outcome of the relevant project (See Cernea, 1988, 2000; Machuca, 2008, Hall and Tucker, 2004, Barabas and Bartolomé, 1992; Monsalve, 2012).

Usual affected groups are residents and communities who face different forms of threats to their livelihoods. Such threats include: unfair competition to their local business; impact over their environment plus their cultural and social contexts; exclusion from the benefits and the decision-making process; the possibility of losing their lands; not to mention the long term cultural impact of new forms of consumption and needs (Machuca, 2008; Lagunas, 2007: 20). Rarely are the affected local communities empowered enough to face corporate actors in equal conditions to engage in a formal dispute. Nonetheless, factors such as local organisation and activism, adequate advocacy and legal advice by solidarity networks, media coverage and politisation of the issue sometimes contribute to political and economic redistributive processes and greater chances of social justice. An example of this is the way Choréachi, Mogotavo, Wetosachi and Bakajípare communities have established links to advocacy NGOs (described elsewhere in the thesis), thus, getting involved in both legal disputes, and, just as importantly,

activism processes consisting of demonstrations, rallies and campaigning, and the dissemination of their long history of struggle through articles and videos.

The mechanisms employed for land appropriation by private actors are highly diverse, though often inter-related. This resulting complexity lies in the configurations of power relations weaved by individuals, institutions and capitalist corporate interests. Some elements are common in Mexico's countryside, such as brokers, who mediate between developers and local landholders-owners. Others, however, are context dependent and involve factors such as circumstances and constellations of influences, resources, attitudes, relationships, power balances, strengths and weaknesses of actors at play. As the research questions ask: how can we explain systematic dispossession of indigenous peoples by non-indigenous social groups, and why did this pattern continue from colonial times to modern democracy? And how can the strategies and mechanisms involved in longstanding domination processes be better understood?

The Copper Canyon Master Plan (*Plan Maestro Barrancas del Cobre*) was presented in mid 1990s by the Federal government as a major investment program involving transport, communications, water and sewerage infrastructure, as well as touristic services by public and private investment (Herrera, et al, 1998: 37; Sariego, 2001; COSYDDHAC, op. cit: 48; Meyer, 1996). The implementation phase was presented in 2005 as the Copper Canyon Touristic Project (CCTP), which adjusted the initial investment initiatives by focusing on water provision infrastructure, an aerial tram, a zip line and private investment on hotels and touristic services in the Copper Canyon overlook (*divisadero*) area.

The CCTP, located in the mountainous area of the state of Chihuahua, Mexico, generated expectations concerning the increase of land value in the region that has resulted, so far, in four land disputes with indigenous villages. The three disputes (Mogotavo, Wetosachi/El Madroño and Bakajípare) are closely linked as they are next to each other and face land dispossession or forced eviction threats as a result of the same project. Mogotavo is an indigeous community with ancestral occupation, whose two land grant requests have repeatedly been denied by the federal government. The community has faced historical harrasment by three generations of the Camarena family, which settled and obtained private property within the indigenous territory. Later in 2010, part of the Camarena's lands were sold to a real

estate company which continued a threat against the community and developed a resettlement plan for most of the community residents.

The Wetosachi community was established long before the lands were acquired as private property by the Pagés Mendoza brothers, construction sector businessmen, in the 1980s. Since the inauguration of the CCTP, the community has faced harassment by the businessmen's employees. The indigenous community of Bakajípare, most of whom have land property rights to the San Alonso ejido, are faced with the arbitrary leasing of a portion of their lands to a hotel investor. The indigenous community are suing the ejido assembly for illegally conceding the lands. The next section presents the background of each one of the three land disputes involved in the Copper Canyon area.

An analysis of power mechanisms and mediation in tourism-induced land dispossession processes is hardly complete without the consideration of the influence of the global political economy and the working of global market processes. The purpose is not to analyse in detail the workings of tourism in global political economy, but to show the way market demands shape policies at the national and local levels. This section has shown the important role the market has in global economical and political governance, which suggests that it also has a critical influence in national and local politics.

5.3. Understanding the Actors' Structural Position in the Copper Canyon Land Dispute.

Young's Structural Injustice and the coloniality approaches (already outlined in the theoretical and the previous chapter) both provide ideas to better analyze the political relationships and actors involved in the Copper Canyon controversies. By revisiting Young's structural Injustice approach (see above), three salient features can be identified. In the first place, an 'institutionalized background which conditions much individual action and expression, but over which individuals by themselves have little control' (Young, 2000: 92); second, collective rules and expectations conditioned by the specific attributes of a social group that inhibit their capacities and life prospects; and third, structural positions are relatively permanent because attributes influencing them are mutually re-enforcing (Ibid: 98).

These three notions are critical for the interpretation and analysis of the chronic domination/dispossession over indigenous communities and, hence, they are going to be central tools for analysis in the following sections.

The way hierarchies are structured in the Copper Canyon land disputes will be illustrated, first, by analyzing the variety of actors and the way they are unequally positioned in the power structure; second, by examining the strategy of private actors (individuals or companies with no membership to a collectivity or commons) for land acquisition, in contrast to indigenous peoples, whose land tenure system has been regularly reformed according to the state's interests in place at a specific time; and third, by considering the role of the state as the ultimate decision-maker, by invoking its self-assumed authority as a political representative and its responsibility for fulfilling its duties through the relevant institutions such as land granting, certification (agrarian institutions) and dispute resolution (judicial institutions).

In the first place, a wide variety of actors are involved in the Copper Canyon land disputes, whose life history, social, political and cultural background constitute an example of the prevailing social inequalities. Private actors range from local businessmen such as hotel owners, real estate investors and a powerful construction company. Local actors are constituted by the three neighboring Rarámuri communities which have differential conditions in such aspects as land ownership, exercise of normative systems, the land dispute and other actors they are dealing with, their alliances and hence, their defensive strategy. In terms of this analysis, the community of Mogotavo will be at the center of the discussion due to its historical trajectory of land petition, occupation, dispossession, dispute and the amount of empirical information and data available.

All these actors possess a number of structural differences based on body aesthetics, political connections and power, class, wealth and economic influence, juridical status, gender, cultural and educational background and others. These attributes, according to the way they are valued by key actors, establish particular configurations that generate opportunities to those better positioned and constraints to the projects of those whose values are assumed as negative. To illustrate this, the example below shows how the qualities and interests of businessmen and state officers are put into motion by interacting and clashing with

those of indigenous communities that, in turn, have to play under alien rules and to face the economic and political power of both private and state actors with a variety of outcomes.

An important condition for tourism investment is the guaranteeing of land ownership for those who will risk capital. To achieve this, the industry first makes a investigation of suitable places for investment which sometimes, as the case shows, might involve the mediation of a real state agency to take charge of land sale, purchase or construction. The commercial operation requires approaching the original residents, landholders and/or landowners to reach a friendly agreement. However, if this is not the case, and given the industry's political and economical influence plus the interests at stake, private actors are prepared with a strategy to counter communities' opposition and resistance to sell or give up their lands. Strategic mechanisms employed by companies for this purpose range from peaceful persuasion to legal or illegal dispossession/forced resettlement.

Mogotavo, for instance, faced the Camarena family that first settled in the land, then requested title and finally achieved a land grant as private property by the Mexican government. Aware that they were occupying indigenous lands, the Camarena always considered the original residents as a threat, however, they had never made any legal effort to expel them. Recently they sold part of the land to a real estate company that started proceedings for eviction and resettlement. In turn, the indigenous community of Wetosachi was settled in the lands when a prominent businessman bought them to a local mestizo that claimed property. He left the lands unused and made no attempt to evict the indigenous landholders until the Mexican government launched the Copper Canyon Touristic project. The indigenous community of Bakajípare, in contrast, owned ejido property rights of ejido San Alonso. However, the mestizo majority granted a concession of an important tract of their lands to the neighboring hotel owner Valderrama, despite the fact it was not advantageous for the ejido. However, economic interests between the ejido president commissioner, the businessman and the state government of Chihuahua were involved.

In contrast to businessmen, the indigenous peoples, as a historical subaltern group, have been assumed by different elites as weak and backward, whose oppression is necessary and unavoidable, which, therefore, reinforces a process

where social injustice is taken for granted (Sierra, 2003). A feature of indigenous peoples is their strong roots to the land and nature at large, as their main source of livelihood, as well as the base of the reproduction of their culture, identity and social bonds - in other words, their traditional territory. However their historical possession of territory has been subject to the particular state's land tenure model in place over history. The post-revolutionary agrarian reform and its agrarian laws were a result of the principles of the Mexican revolution in the particular social and political context (see introduction and 6th chapter). According to the spirit of the post-revolutionary agrarian reform, entitlement to large tracts of common property land was guaranteed to landless petitioners through the ejido and communal land, thus, providing a particular kind of property security to the rights holders (Randall, 1996; Nuijten, 2003; Katz, 1996; Otero, 1989).

Despite the protectionist fashion of agrarian law, it was not rare to see different forms of land renting, rights cession, informal forms of access to land and resources from outside actors, and forms of control over the agrarian communities and the ejido system (Nuijten, 2003). Nonetheless, the neoliberal agrarian reforms legalising commodification of common property land tenure systems opened a new world of possibilities for private actors to formalize different types of access and legal acquisition of ejido lands for their conversion into private property. It became likely for private actors to employ their entire repertoire of strategies to persuade the rural/indigenous landholders to sell their lands or to overtly appropriate the necessary land plots for their particular investments, expelling, evicting or resettling former residents.

As part of its function, the state sanctions rights claims through the legal and established institutional decision-making processes (the legislative, the court, the electoral system and so on). However, decisions are often taken in advance through informal means. As previously explained, specific actors are better structurally positioned than others, which will eventually influence the inclusion/exclusion of issues from the agenda and, eventually, from more formal decision-making spaces.

During the late 20th century the indigenous people turned to corporate organisations for legal advisory, defense and other mediation strategies and overall, no relevant gains were obtained in terms of securing their land property rights. However, in early 2000s, the communities established links with civil society

organisations, which provided independent and progressive juridical advocacy and advice. The relationship with independent lawyers pushed the communities to engage in juridical disputes and processes and, therefore, this changed their relationship with dominant actors and the nature of the achievements.

In the case of the Copper Canyon Touristic Project, indigenous peoples have great limitations for influencing formal and institutional decision-making processes. Subjected to administrative regulations, legal mediation processes, advisory and contested forms of political representation by corporate and state institutions, all petitions for land grants and the consequent controversies during the PRI rule were decided by actors belonging to the same political network and interest groups, namely, those of the old post-revolutionary presidential regime. Up to the 1990s, the state's influence decreased, while that of private and corporate –national and international- actors increased.

This example shows how the political and economic influence of touristic investors, together with the agrarian processes undermining indigenous peoples territorial claims and the particular formal and informal state procedures for dispute resolution, not to mention other variables in place such as brokerage and forms of political representation, have contributed to the constitution of the structural inequalities to which indigenous peoples are subjected. Actors with a privileged position on the social structure (e.g. white-mestizo, male, heterosexual, politically -connected businessmen, caciques or officers) have, in turn, their own mechanisms for the exercise of domination over subaltern actors such as the Rarámuri communities of Mogotavo, Wetosachi and Bakajípare. Nonetheless, the communities' initiatives disengaged from clientelist mediation and, rather, established links with rights-based civil society organisations that eventually influenced a change of course for the dispute process as is explained below.

5.4. Domination Mechanisms for Land Resources Control in the Context of the Sierra Tarahumara.

After a detailed and chronological analysis of the critical moments that determined the course of the disputes, a pattern of elites' strategies for land control was discovered. This section provides an explanation of domination processes based

on the three repeatedly found strategies for land dispossession revealed by the empirical data of all case studies. These mechanisms served to invisibilize and, hence, to reinforce practices of land appropriation and dispossession. The first strategy is based on the production and reproduction of institutions and their legal and bureaucratic apparatuses. The second is based on the legitimisation of forms of brokerage by portraying them as equal to political representation, while the third, imposes particular knowledge and views over the local ones in order to obscure social injustice and achieve desired interpretations of the land disputes.

5.4.1. The State: Dominating Institutions? ...Or the Institutionalisation of Domination?

State making is a complex and continuous process of affirming changing alliances with different sorts of individual, social/collective, corporate and institutional actors. As dictated by the paradigm of modernity, it has been, historically, highly influenced by combinations of governments' planners and political-elites' interests and foreign geo-strategic factors (See chapter six). In order to meet these interests state institutions have been politically and administratively shaped to maximize the achievement of economic growth. While some forms of economic development operate through state planning and social and political agents, they are commonly influenced by group interests and elites for the mere sake of business and economic profit of political groups. Thus, state and private corporate interests tend to form alliances in order to agree on a business-based economic model, and economic development becomes an issue of 'national interest', with no regard, however, to the social, cultural or environmental impacts involved. Megaprojects, for example, are often politically contested by the affected civil society organisations when involving social and environmental impact and human rights violations (Scott, 1998; Cernea, 1988, 2000; Barabas and Bartolomé, 1992; Monsalve, 2011; Hickey and Mitlin, 2009). An example of this is the Copper Canyon Touristic Project settled in the middle of an indigenous territory consisting of three indigenous communities.

As a result of the announcement of such a large scale project the value of land in the area increased and so did the land market. As explained above, in two

cases –Mogotavo/Mesa de la Barranca and Wetosachi/El Madroño- private actors owned lands that were ancestrally inhabited by indigenous peoples and the touristic boom increased interest in the land market. For such purpose the investors saw the need of persuading the indigenous communities to leave and settle in the ejido San Luis de Majimachi huts, stating that, otherwise, they would have to employ more coercive means. In previous decades Mogotavo had faced a longstanding struggle with the agrarian authorities and other state offices and clientelist organisations that had offered help for the securing of legal land ownership, whose ‘support’ resulted in no positive gains for their indigenous clients.

In their search to secure peaceful landholding and ownership, the indigenous communities faced two particular sorts of constraints established by state officers and private actors. First, the land plots inhabited by the communities of Wetosachi and Mogotavo were acquired by local mestizos, certified by the agrarian authorities, and then sold to private investors ignoring indigenous peoples’ landholding. Secondly, the agrarian reform rejected the creation of the agrarian nuclei of Mogotavo and, consequently, granted land property rights to the community members, on the grounds that their settlement pattern was too disperse and thus, the community could not be considered a village. Under a different dynamic, the people of the indigenous community of Bakajipare faced the concession of part of their lands to an hotel owner, which was carried out by their fellow mestizo *ejidatarios*. As will be shown, these actions were sustained by negating local forms of territoriality and normative systems, as well as by invisibilizing/neglecting the physical and juridical existence of indigenous actors. State institutions and other mediators, in this regard, legitimated these decisions by assuming themselves as political representatives.

5.4.1.1. Stages of Dispossession: State’s Recognition of Private Property and Misrecognition of Indigenous Territory

In 1921 Federico Camarena (A civil engineer supervising roads construction in the area at that time⁷⁷) made a request to federal agrarian authorities for

⁷⁷ According to interview

recognition of ownership of 1000 Hectares of private property⁷⁸ within the indigenous territory of Mogotavo, calling the plot *Mesa de la Barranca*, or *Cinco Hermanos*⁷⁹ (Homero Saldanha private archive 13/07/87 FS). 16 years later, in 1937, Federico Camarena's sons, Federico, León and Efrén requested further land grants⁸⁰ of Mesa de la Barranca's plots No. 1, 2 and 3, of 500 Hectares each parcel⁸¹ (RAN, 7/3224 pp. 1102). Mexican president Avila Camacho granted and issued the provisional title in March 1941 for all three plots.⁸² Railway infrastructure was built in the period 1959-1961 and a station was located within Federico's Camarena Jr. land plot No. 1.

In the 1970s, Federico Camarena (son) assigned property rights of land plot No. 1 to his daughter Adela Camarena, who remains the current hotel owner. According to certain documents, Federico and León Camarena were called to attend official boundaries demarcation in order to demonstrate conformity to procedure as adjoining proprietors. However, evidence does not mention whether or not indigenous landholders were called (documents from 18 to 30/11/79, pages 29-35). In 1980 the Camarena's petition underwent more proceedings in order to guarantee that the requested plots were free of overlaps with other agrarian action and procedures, or any other agricultural, forestry or livestock breeding activities (File 6/3223, 01-18/08/80, pages 65, 69, 75,76,79). Moreover, the agrarian delegate stated that plots No. 1 and 3 had not been affected by a different agrarian action (File 6/3223, 27/08/80, pages. 81), neglecting indigenous peoples *de facto* possession of land.

5.4.1.2. Struggle for Recognition...of Existence

⁷⁸ In his argument, he alleges the need of the land for him and his 5 sons as his parents had lived there before he was born in 1882. He argued to have served in the Mexican revolution and later becoming major of the municipality; however, he pointed out, his enemies destroyed his belongings thus requiring more security over his inherited property.

⁷⁹ Because of the number of sons of Federico Camarena

⁸⁰ 'A título oneroso'. Adjudication of national lands to a particular in the form of private property, after an occupation of more than 6 years

⁸¹ By virtue of decree of august the 2nd of 1923 arguing a possession within national lands of more than 6 years that is the minimum established by law for "acquisition for good and valuable consideration". Major of Bocoyna certified a settlement of 9 years (11/04/40 RAN, page 3)

⁸² property of Federico Camarena Jr (plot No. 1), Arnoldo C. Camarena (plot No. 2), and Federico Camarena Father (plot No. 3) (op. cit: 3, 7, 23, 37; 22/08/80: 73-74; 31/10/40).

In January 1982, 39 members of Mogotavo made a petition for land grant with the name of Mesa de la Barranca (File 2294) receiving a negative judgement in September of the same year, as agrarian inspectors (CAM)⁸³ declared them as a non-existent village in July 1982. Based on an officer topographer's report⁸⁴, the CAM and state Governor ruled that Mogotavo/Mesa de la Barranca did not fulfill the requirements stated by the Federal Law Agrarian Reform for the recognition of land rights⁸⁵.

With advice from state (INI) and corporative organisations (UGOCM⁸⁶) the indigenous community of Mogotavo contested the ruling and denounced the harassment menaces and dispossession by Efrén Camarena (26/10/88). Moreover, an INI lawyer advocating for Mogotavo/Mesa de la Barranca, contested the ruling against the indigenous people by addressing the agrarian authorities and explaining why indigenous territoriality in northern Mexico could not be understood under the dominant Mesoamerican notion of community. The Rarámuri villages, he stated, lived under a disperse settlement pattern, and had to be understood as sets of disperse ranchos and rancherías, rather than as compact and concentrated villages. The advocate requested that, on such grounds, the land granting procedure for the indigenous people of Mogotavo/Mesa de la Barranca should continue (FS, Oficio 063)⁸⁷.

As the authorities failed to respond, The '*Liga de Comunidades Agrarias y Sindicatos Campesinos del Estado de Chihuahua*' (LCASC-Ch), a corporate member of the *Confederación Nacional Campesina* (CNC), also intervened on December 1984, advocating for Mogotavo (FS 03/12/84; FS 23/08/84). Controversy about village status between INI, majors of Bocoyna and Urique, residents and the SRA went on for the rest of the decade.

During the 1980s, the SRA sent different topographers to assess the potential capacity of the village 'Mesa de la Barranca' in order to consider its recognition as an agrarian community. Meanwhile, proceedings for titling of Mesa de

⁸³ *Comision Agraria Mixta* (CAM)

⁸⁴ File 6/3223, 11/01/82; Fausto Salgado File 05/07/88, agrarian office engineer report; and quoted in 20/01/88 Salgado File; Quoted in FS File 05/07/99

⁸⁵ FS: 02/07/82; Quoted in negative ruling 26/10/88, and in SRA report 20/01/88

⁸⁶ *Unión General de Obreros y Campesinos de México* or General Union of Workers and Peasants of Mexico

⁸⁷ 4 years later he insisted on the same issue (FS Registered In INI archive as Oficio 329/86)

la Barranca's particular private parcels 1, 2 and 3 were underway. INI kept advocating during the 1984-1987 period on behalf of the indigenous people, demanding to speed up the proceedings for land granting to indigenous residents (FS).

In March 1987, agrarian officer⁸⁸ S. Dozal investigated the agrarian capacity of 'Mesa de la Barranca' by calling for an assembly meeting in May of that year. With the attendance of agrarian, INI representatives, civil and traditional authorities, as well as the community assembly of Mogotavo/Mesa de la Barranca, the officer verified, certified and reported the official existence of village (FS, 26/03/87, FS, 25/05/87; Quoted in negative ruling)⁸⁹. However, the relevant agrarian authority⁹⁰ argued that due to omissions found in previous procedures it was required to meet additional verification of the existence of the village and a list of residents and petitioners in order to resume the process of land granting (FS, 09/09/87).

After having presented formal village existence certification, both INI and indigenous authorities of Mogotavo/Mesa de la Barranca addressed the state governor and, repeatedly, the agrarian delegate, insisting on the following up of the land granting process (FS, 14/09/87). Later in June, a different topographer reported back the village's inexistence based on the fact that the indigenous settlements were within boundaries of both ejido San Luis de Majimachi and a private property named 'Mesa de la Barranca'. He then issued his report and asked the civil authority of San Rafael, Urique municipality to sign it. However, the authority was not willing to sign as he did not agree with the terms of the ruling. The topographer then turned to the civil authority of the adjacent municipality of Bocoyna, who despite belonging to a different municipality did sign the report (FS, 05/07/88). As a result of this report, the agrarian counsellor issued a negative ruling concerning land grants to the indigenous community of Mogotavo or 'Mesa de la Barranca' (FS, 26/10/88)⁹¹.

⁸⁸ Subdelegate of Agrarian Issues

⁸⁹ With inspection carried out on May the 21st of 1987 and certification issued by the civil authority of San Rafael, municipality of Urique

⁹⁰ Head of Revision and Ruling of Agrarian Issues

⁹¹ The (second instance) sentence argued that petitioners had not provided testimonial evidence of their peaceful, public and uninterrupted possession of the lands and, furthermore, there were no lands subject to being affected by legal ratio for a land granting action. One of the ruling arguments for not admitting the request stated that despite

In May 1989, the indigenous governor of Mesa de la Barranca addressed the president of Mexico by letter, requesting support to solve the land granting issue (FS, 11/05/89). In turn, the Mexican presidency mandated Mogotavo to, rather, address the agrarian delegate. The delegate answered with an explanation of the agrarian proceedings from which the Mogotavo petition passed through, however, no further action was taken (FS, 16/10/89).

In August 1999, the land plot of Cinco Hermanos former Mesa de la Barranca property of Dalia Camarena –Efren’s daughter-, was titled in Mexico City by the head of the Agrarian Reform Ministry and the same year Fideicomiso Barranca del Cobre (Copper Canyon Trusteeship) was established, later buying 169 hectares from Adela Camarena within Mogotavo’s territory. Adela Camarena, donated the remaining 32-26-89 hectares of land plot No. 1 ‘Mesa de la Barranca’ to her sister Dalia Camarena in March 2001 (FS, 13/06/01; sale-purchase contract between Dalia Camarena and SENA SOFOM Investors) and a few months later this land was sold to the Touristic Investors SENA SOFOM.

The above example reveals the way agrarian institutions exercise decision-making according to the configuration of interests and the actors’ personal and social attributes. The status of officers and other brokers as political representatives gives them the legitimacy needed to decide, reproduce and reinforce the privileges of dominant actors and, therefore, constrain the interests and projects of subaltern actors such as the indigenous community of Mogotavo. What this example shows is the way institutions, as instruments of the state, privilege a particular wisdom over another, hence, influencing the outcome of disputes.

In this case, state institutions favor private actors that aim at the appropriation of land for particular and profitable interests, while undermining the indigenous projects of community property and subsistence economy. The example illustrates how an indigenous land tenure and territoriality scheme, organized around their own normative system, is displaced by an hegemonic state normative system constituted by Mexican positive law. What creates this privileging of an hegemonic normative system is not a single actor, institution or principle, but a

indigenous traditional settlement pattern, it was inferred that the deputy who legislated article No. 195 of Agrarian Reform Federal Law had in mind compact, rather than disperse, settlement patterns, therefore, Mogotavo could not legally exist as a village.

structure of assumptions, norms, social relationships and bureaucratic practices that grant opportunities to some, while constraining the aspirations of others according to the 'hetero-hierarchies' in place (Grosfoguel, 2007).

This example confirms the way the hegemonic notion of compact settlement patterns is used to displace the land property rights claims of an indigenous community settled under the characteristic –disperse- indigenous model of northern Mexico. Indigenous territoriality in northern Mexico has been characterized by a model of distant dwelling-houses or *ranchos* that has allowed people to dispose of a variety of agricultural plots, whose considerable distance from each other and low fertility of the soil pushes them to practice mobile agriculture practices and goat herding. Ranchos can be constituted of one to three houses, and in turn the *ranchería* consists of various ranchos, usually no more than 20 dwelling houses. The township –main *pueblo* or *pueblo-cabecera*- structures the social and political territoriality of the *Rarámuri* political unit with variations for the *Warijíos*, *Ódami* and *O'oba* groups (Mendiola, 2008; Spicer, 1962; Sariago, 2002; Moctezuma and Harriss, 1997; Branniff, 1997; González et al, 1994).

The validity of this model as a particular form of understanding some of the multiple culturally diverse groups and peoples that constitute the Mexican Nation was neglected by the agrarian authorities when ruling about the Mogotavo community's right to collective land property. This merely reinforced universalized notions of law, land and political representation while invisibilizing indigenous conceptualisations of them.

At that time, the community relied on the traditional type of brokers and advisors of the post-revolutionary political system. However, in the 2000's the community turned for advice to civil society organisations, that took the dispute to the juridical realm and invoked recently legislated national and international law as well as jurisdiction recognizing indigenous cultural and collective rights. The result was the disengagement from old and inefficient clientelist relationships with individuals, organisations and state institutions and engagement with other rules of the game –solidarity networks and international law- influenced by meta-state institutions such as the United Nations and its branches, (e.g. International Labour Organization) or the Inter-American Commission on Human Rights.

5.4.1.3. Juridical Institutions and Cultural Difference: Misrecognition under National law; Recognition under International Law

In July 2008 Dalia Camarena sold more than two thirds of her properties to a group of 5 PRI politicians (one of them brother of the Chihuahua State Head of Commercial Development and Tourism) and associates of the real estate company SENSA⁹². The sale purchase contract established that the land occupied by a clinic and a CDI⁹³ boarding school⁹⁴ had been given in commodatum and loan by third parties, as well as '3-4 houses inhabited by the same number of families' (FS, 14/07/08) -as they define the portion of the community of Mogotavo inside the private land. The agreement states that the seller was responsible for taking juridical or material action for the eviction of the inhabitants, 'preferably in a voluntary way'⁹⁵ (FS, 14/07/08).

The Camarena family -Hotel Divisadero owners- and some of their security guards warned the Mogotavo people to move off the land, or otherwise face forced resettlement (Verbal communication: Cortés, 2010; Bustillos-Ramírez(A), 2010; Bustillos-Ramírez(B), 2010; Bustillos-Meráz, 2010). Meanwhile, small huts of the suburban type (12x15 ft) were built for the resettlement of the indigenous residents of Mogotavo. These were 4 km away from Mogotavo within ejido SLM lands. A SENSA employee, José Cruz, offered voluntary resettlement on this housing scheme to the Mogotavo people. However, after their reluctance to accept, he opted to exert pressure by threatening to use police and military forces in order to carry out resettlement (Verbal communication: Cortés, 2010; Bustillos-Ramírez(A), 2010; Bustillos-Ramírez(B), 2010; Bustillos-Meráz, 2010). In addition, this broker occupied the community clinic and took it as his own private property. The indigenous community has accused this broker and other advisors of verbal

⁹² In February 2007 Real State company *Soluciones Emprendedoras del Norte S.A. de C.V.* (SENSA) is created with a social capital of £2,500 a quantity that a few years later turned to £200,000. The firm started promoting housing loans, land plots for the construction of rural cottages, and investment in tourism developments within the Copper Canyon (Mogotavo and San Luis de Majimachi ejido) and San Juanito areas in the Sierra Tarahumara.

⁹³ *Comisión Nacional para el Desarrollo de los Pueblos Indígenas* (National Commission for the Development of the indigenous Peoples)

⁹⁴ However CDI contested this claim alleging that the boarding school was built in their own private lands (FS, 14/07/08)

⁹⁵ My translation

harassment and threats several times (Verbal communication: Cortés, 2010; Bustillos-Ramírez(A), 2010; Bustillos-Ramírez(B), 2010; Bustillos-Meráz, 2010).

Mogotavo residents then contacted the local rights-based NGO 'Tierra Nativa' and began a formal process of legal advice and advocacy in February 2009. A first strategy coming out of the relationship resulted in the indigenous authorities of Mogotavo presenting a penal lawsuit against José Cruz, for the offence of dispossession of the community clinic (FS, 31/05/09)⁹⁶. Because the conflict was becoming a public issue, the State's Legislature presented an accord exhorting the state governor to consult and request the consent of local communities about the touristic project as well as to abstain displacing the *Rarámuri* community of Mogotavo by force, privileging dialogue and agreement before any intervention was made over the occupied places (Quintana, 2009).

In July 2009, and after electing new agrarian authorities, the Mogotavo indigenous community presented a lawsuit to the court⁹⁷ requesting agrarian recognition of Mogotavo as Comunidad Agraria with a polygon of 286-05-28 Hectares that, they argued, should be considered as national property⁹⁸. They invoked international legislation recognizing the cultural rights of indigenous peoples and portrayed themselves as '*Comunidad Indígena De Facto Mogotavo*' (RG, FS, File 0766/2009; Tierra Nativa File).

The strategy behind this was for the court to consider Mogotavo as a community with legal personhood and a subject of jurisprudence that granted juridical recognition to the agrarian *de facto* and *de jure* communities⁹⁹. The judge concluded the lawsuit on the grounds that the agrarian ministry (SRA) opposed the action¹⁰⁰ alleging that the land was part of a Natural Protected Area, yet this was

⁹⁶ The same accusation, with complaints against hotel owners and tourism governmental officers, was addressed to State Commission of Human Rights (CEDH) and the UN High Commissioner of Human Rights in Mexico and later in September to the Head of State Social Development office Oscar Villalobos (31/05/09; 02-03/06/09; 13/09/09; 15/09/09). Mogotavo governor and local police commissioner, supported by signatures by the whole community, also addressed Urique Municipality Major by letter, asking him to intervene and to guarantee the right of use of the community's clinic (FS, 24/10/09).

⁹⁷ *Tribunal Unitario Agrario District 5*

⁹⁸ TUA admits lawsuit in Feb. 2010 through via of voluntary jurisdiction for recognition of communal property promoted by 74 petitioners of Mogotavo (Quoted in appeal of sept 2010).

⁹⁹ <http://www2.scjn.gob.mx/ius2006/UnaTesislnkTmp.asp?nIus=911514> (checked on 21/02/2011)

¹⁰⁰ For a voluntary jurisdiction to proceed nobody is meant to oppose the action

untrue. The judge recommended addressing the issue through the procedure of adjudication of national lands (FS, 12/04/10).

In June 2010, the communal authorities of *De Facto Comisariado de Bienes Comunales de Mogotavo* requested an appeal against the court's ruling¹⁰¹ (agrarian trial 766/2009) arguing that the district judge is the relevant authority to conclude a voluntary jurisdiction trial rather than a collegiate tribunal¹⁰². In addition, they held that the SRA did not prove that the lands to be recognised as communal property were national lands. The plaintiffs –the indigenous community- kept demanding recognition of their legal personhood as a *de facto* community. Such legal capacity would allow landholders to claim the agrarian federal office for their right to be granted territory out of national lands. In addition, the Mogotavo community contested the Public Prosecutor's representation of the agrarian ministry, alleging a lack of legitimacy *ad proesum*. In regard to the presumption of the Copper Canyon as a Natural Protected Area, the indigenous community alleged that such issues are just incumbent to SEMARNAT¹⁰³ via CONANP¹⁰⁴ and not that of the Agrarian Reform office (FS, 10/06/10). Finally, in March 2011 the judge ruled to provisionally stop the works of the tirolesa in the Copper Canyon Cliff, next to the tram (El Herald, 2011).

In turn, the indigenous community of Wetosachi sued the authorities for creating the Copper Canyon Trusteeship and for failing to create a regional advisory council. The court first ruled against the community arguing that they were not settled in the area where the project was going to take place. The community, through its lawyer, replied back by arguing that the impact of the project was beyond the boundaries of operation and that the creation of the advisory council was a condition for the validity of the Trusteeship. The court finally ruled in favour of the indigenous community and mandated the protection of the community from the state government and the creation of a regional advisory council for the guaranteeing of the rights to previous, free and informed consent of the indigenous communities of the area and ensuring proper representation of the indigenous community of Wetosachi (*Amparo en revisión* 781/2011).

¹⁰¹ Unitary Agrarian Judge (TUA) District 5 dictated on April the 12th

¹⁰² Since resolution does not come out of a trial or controversy between two or more parties

¹⁰³ *Secretaría de Medio Ambiente y Recursos Naturales* or the environmental ministry

¹⁰⁴ *Comisión Nacional de Áreas Naturales Protegidas* or National Commission for Natural Protected Areas

The above example illustrates how juridical institutions operate in a similar fashion to the agrarian ones, by neglecting Mogotavo's claims for the acquisition of property rights and denying them agrarian recognition on a variety of weak arguments that later on were juridically challenged. In the first place, agrarian institutions argued for the non-existence of a village whose presence in the area has been historically registered and proved by sources such as INEGI and the Jesuit archives of the Sisoguichi mission, as the anthropological and archaeological expert report states (Meza, 2007). In the second place, the court sustains its conclusion of trial on the argument that the federal government, through the agrarian authorities, opposed the granting action due to the alleged –falsely as it turned out - character of the Mogotavo lands as a Natural Protected Area. These rulings are representative of the state's discrimination of indigenous peoples' demands in a regime that privileged its political alliances with private and capitalist actors, thus denying the pluricultural nature of the Mexican nation, and hence, minorities' rights over their ancestral territories and land possession. However, this decision-making discretion finds its limits when the social group whose attributes has been negatively valued over modern history turns to face its contenders by getting juridical advice and using the legal system and instruments introduced by international law.

Mogotavo engaged with the NGO 'Tierra Nativa' while Bakajípare and Wetosachi established links with 'CONTEC' and their lawyers. The first legal actions encountered some difficulties in advancing the communities' causes. However, by following the juridical process, they made their first achievements in decades. Mogotavo was granted a holding order that stopped any eviction attempt by the private company, while Wetosachi was granted appeal for legal protection against the state government. In the latter case, the court mandated the state government to establish an advisory council as an instrument to guarantee the exercise of the right to previous, free and informed consent of indigenous peoples (*Amparo en revisión* 781/2011).

In contrast to the advice given by brokers such as Vicente Montaña, INI, LCA, CAN, and other corporatist PRI peasant organizations, the new type of alliance gave the indigenous communities positive results in respect to the exercise of their own decision-making processes while providing them with professional advice in order to contend as peers under the dominant and official Mexican juridical system. As

mentioned above, a central state's tactic of domination consists of the universalisation of its own narrative, while devaluing those of subaltern social groups and, at the end, finally normalizing this logic.

When the subaltern actor plays under rules in which self-determination is guaranteed, juridical institutions face difficulties to dismiss their arguments and are pushed to accept a contention between peers. In other words, there are better conditions for a dispute where no actors have privileges and decisions should be taken under juridical rigour and impartiality, rather than under brokerage, discretion, privileged attributes or political alliances.

This section has shown how state institutions constitute a microcosmos of the state itself: they are politically centralized, capitalist oriented, and based on a pattern of racial and, other, 'hetero-hierarchies' classification (Quijano, 2000a and 2000b; Mignolo, 2007; Grosfoguel, 2007). At the same time, state institutions, in this case represented by the relevant sectorial offices belonging to the executive, legislative or judicial powers (agrarian office and officers, the courts and judges, plus environmental, indigenous affairs or those related to democratic political representation) reproduce what some authors (Quijano, 2000; 2000a; 2000b; Mignolo, 2007; Grosfoguel, 2007) call the coloniality pattern of power. In other words, the formation of a new system of control of collective authority based on the establishment of a unique, dominant and legitimate rationality form for knowledge production, or a 'way in which labour, knowledge, authority and inter-subjective relations are articulated among themselves, through the market and the idea of race'¹⁰⁵ (Quijano, 2000b: 202; and 2000: 1-2; Maldonado-Torres, 2007).

The next section will continue discussing other ways in which institutions are involved in domination and coloniality over subaltern actors in the context of the Copper Canyon land disputes. For example, the salient role of brokers and other mediators in undermining the meaning itself of democratic representation and institutions as well as self-determination of the indigenous group will be examined.

¹⁰⁵ Maldonado-Torres (2007). My translation

5.4.2. Mediation Casted as Political Representation. The Undermining of Social Group's Sovereignty and the Displacement of Self-Determination

Practices and relationships found in the dispute processes of the Copper Canyon suggest that dispossession is made possible due to the constraining of indigenous communities' political decision-making at both the global and local levels. Land appropriation by private actors is, in short, a question of displacement of sovereignty by subaltern actors to political representatives and mediators; and from state actors to market actors at the level of the global political economy. Evidence also shows that, in consequence, resistance to dispossession and safeguarding of land ownership by indigenous communities is a result of the exercise of self-determination practices.

First, the Copper Canyon Master Plan was a result of a process of negotiation between the local state and federal governments with both the Inter-American Development Bank and the World Bank to finance a large-scale touristic development in the indigenous region of the Sierra Tarahumara. Although the so-called Copper Canyon Advisory Council for Touristic Development was envisaged in a first stage in the 1990s, this was shortly omitted from the structure and the council was later dissolved (Ruiz, personal communication, 2010). The unilateral nature of the project and the resulting human rights abuses against indigenous residents led the community's legal advisors to sue those involved for violating the principle of free, prior and informed consent guaranteed by international law to indigenous peoples. As a result, in early 2012, the relevant judges ruled, on one hand a holding order against forced resettlement of the indigenous community of Mogotavo by the real estate company SENSEA and, on the other hand, the obligation of installing an advisory council in order to guarantee the community's participation and informed consent regarding the touristic project. In this sense, private actors' attempts to carry out the project by displacing indigenous communities was first a result of decisions taken as a function of the needs of the global market, and later on was resisted by the communities' self-organisation and by establishing alliances with solidarity networks and civil society organisations.

The first stage of project planning can be interpreted as a process of sovereignty concession by the state to market agents, such as financial institutions. As a matter of fact, the initiative was not discussed with the indigenous communities

directly involved and those who are part of the sovereign subject in the country's constitution: the sovereign people. However, it is assumed by a democratic system based on the idea of political-representation, that people's sovereignty is ceded to the state for the sake of good government (see Przeworski and Wallerstein, 1986; Blom-Hansen and Stepputat, 2006).

A similar process occurs at the local level, when local residents cede their decision-making power to local elites, mediators and state officers, expecting them to represent them in institutional structures by making petitions on their behalf. Here, subaltern actors' interests are poorly represented as is evidenced in the case of Vicente Montaña and the federal indigenous affairs office's advise to the Mogotavo community. Legislators' political (mis)representation of indigenous peoples contributes to the perpetuation of these adverse conditions. Alleging political representation of the national interest, a majority of legislators from the three largest parties approved reforms in a matter of indigenous rights that recognized the right to self-determination, whereas denying legal personhood to indigenous peoples and, thus, making this principle inapplicable. If the Congress had reformed the constitution according to international law in the matter of indigenous rights, indigenous peoples would be facing dominant actors as subjects with rights and counting on enforced juridical instruments to face disputes and dominant actors under more favorable conditions.

In the seventh chapter I discuss further the way the notion of political representation is particularly employed to legitimate practices of domination, such as clientelism, and for displacing the self-determination of subaltern actors. In such an explanation, political representation is a constitutive concept of the so-called modern and representative democracies. The democratic and representative nature of these regimes are increasingly questioned in the social and academic spheres for failing to meet the needs of the wider population, whereas they have been more responsive to dominant actors such as local, national or corporate global elites. Nonetheless, the concept of political representation is instrumental for the exercise of domination as it invisibilizes injustice and legitimates mechanisms of power exercise, such as unaccountability, discretion, assimilation, clientelism and the misrecognition of the juridical subject. All these practices are aimed at the constraining of indigenous communities' self-determination power.

Observations in ethnographic work and historical agrarian documents give evidence of critical turning points in the land dispute processes, and particularly of the mechanisms of dispute in practice. For example, data show how the Mogotavo first trusted and relied on a range of officers and mediators that failed to achieve anything for the indigenous community, while diligently and effectively assisting local elites and businessmen. At the end, juridical advice and lawsuits against dominant actors proved to be a better instrument to tackle attempts of dispossession. However, this option would not have been available without the vindication of self-determining practices such as customary normative systems, where decisions by consensus are taken.

Examples of the former are agrarian officers' and topographers' systematic dismissing of Mogotavo's claims for recognition as a village and for land grants. These officers, instead, worked effectively in recognizing private property and the entitlement of the Camarena family. The Federal Indigenous Affairs office (INI) gave advice and representation before the agrarian authorities on behalf of the Mogotavo. However, they never challenged the position of dominant actors, among whom several political allies and fellow officers appeared. Under this logic, different kinds of mediation granted by other corporatist peasant organisations and individuals such as Vicente Montaña were later proved to be biased towards the dominant actors.

The state government could not be counted as a neutral representative, as this was one of the most interested parties in the realisation of the Copper Canyon Touristic Project. Moreover, some of the actors involved in the dispossession attempts were members of the governing PRI party (Owners of SENSA, the Camarena family and the Fresno family – at present president commissioner and 'cacique' of ejido San Alonso-). Actually, the state government was directly involved in the investments and the appropriation of land through acquisitions (land leaseings) made through the 'Barrancas del Cobre' Trusteeship in association with ejido San Luis de Majimachi and the Camarena family.

The only occasion in which the General Secretary was meant to perform as a mediator -between Mogotavo and SENSA/the Camarena's-, the head of the office did not attend the workshop to which he was invited. Instead, he informed the

mestizo *ejidatarios* of San Luis de Majimachi¹⁰⁶, about the event and, consequently, they broke into the meeting and threatened the members of the NGO (Tierra Nativa, 2010). In that sense, the state government has not been considered a proper political representative for the indigenous communities involved in the Copper Canyon land dispute.

Finally, to evaluate the role of the judges in the land dispute would go beyond the possibilities of this research; however, the 6th chapter approaches the juridical system as part of the modern state's institutional framework and as a modern institution *par excellence* that reproduces and reinforces the unequal social and power structure underlying social relationships in Mexico. The juridical apparatus, normativity and self-assumed lawfulness guarantee the hegemony of the state whereas disadvantaging those that challenge its universalizing principles. That might be the reason behind the first court's ruling against indigenous communities claims, but after they invoked international law –a jurisdiction beyond Mexican state's hegemony- the court had to rule in their favor.

In this sense the Mogotavo, Wetosachi and Bakajípare decided to play the game under alien rules – the state's juridical system-, however they did so after previous discussion and informed decision through their normative indigenous systems and having received formal juridical advice from solidarity organisations. They did not limit their self-determining practices to their internal norms, but used other instruments, such as official modern law, to meet their ends. These communities decided not to cede their sovereignty to dominant actors, but rather, to practice self-determination in interdependence with external actors and norms and having, thus, successful –although preliminary and still partial- results in securing land ownership.

5.4.4. 'Coloniality' and Hegemonic Representations in the Tourist Sector and Megaprojects in the Sierra Madre.

Hegemonic representations and the different forms in which these are employed have been found to be critical in the historical development of the land disputes under examination. This is particularly relevant in a social environment whose labour market and economy at large has been penetrated, influenced and

¹⁰⁶ Associated to SENSA and the Camarena family

determined by the tourist industry. The important contribution of this sector in the economy of a locality also produces a set of social and cultural impacts over prevailing social and political relations. Tourism, in particular, is dependent on commoditizing the image of the area and particular locations, by adapting the way culture, landscape and services/comfort are going to be portrayed by marketing. In addition, the ephemeral but continuous presence of visitors creates a cultural contact whose influence on social change is of considerable relevance for sociological analysis, not to say the emerging local power relations influenced by the arrival of external powerful actors.

Institutional, local elites and private actors largely control and set appropriate conditions for the successful development of these kind of large-scale touristic enterprises due to the expected economic opportunities. In addition to political representation mechanisms, these actors operate specialized forms of persuasion in order to achieve consent for their initiatives, especially when the investment involves a negative impact over a particular indigenous community. These strategies or hegemonic representations refer to the ways in which subaltern and dominant actors involved in land disputes portray the social injustice processes and generate widespread consent towards their interests.

These mechanisms are further defined above as invisibilisation, normalisation and individualisation, when explaining categories of hegemonic representations. Invisibilisation refers to practices where the indigenous communities, as contenders in the dispute, are ignored or assumed to be non-existent at a particular stage of the land dispossession process. In addition to individual actors, the existence of entire villages is sometimes denied, or even the political and juridical personhood of the subaltern parties. This process is evidenced by investors' land acquisition and the neglect of indigenous communities with ancestral residence over those lands. Mogotavo and Wetosachi are two examples in the Copper Canyon land dispute of this 'coloniality of being' –as labelled by Grosfoguel (2007). First, private actors such as Federico Camarena and the Pagés Mendoza family buy lands in Mogotavo and neighboring *Wetosachi* respectively, as private property, ignoring the indigenous communities living within the boundaries of the plots. At that time it was not a big issue since they constituted a small population and lands were worthless, yet once the touristic development increased

land value, the private owners opted to clear their lands of 'settlers'. At this point, however, the community's population had increased and indigenous peoples were empowered by internal processes and independent legal advice received from civil society organisations.

A second attempt was made in the 1980s, but it was denied by the Mexican presidency on grounds of the non-existence of the village. This ruling was based on the reports presented by agrarian officers that refused to recognise the Raramuri's disperse settlement pattern as constituting a legitimate community. The argument of the village's non-existence is still used by touristic investors when claiming their right to relocate residents of Mogotavo (Orviz-Blake, interview in the newspaper *masnoticias*, 2011). In contrast, the settlement of the Pagés Mendoza and the Camarena's right to land ownership was accepted by agrarian authorities, despite the opposition of Mogotavo or Wetosachi, as there is no record that they were called to witness the boundary demarcation as the law mandates. At a certain point in time, the community lacked any juridical personhood to present a lawsuit against touristic investors and the Camarena family. They had no agrarian rights of any kind, nor were they officially a village, nor could invoke their condition as indigenous peoples as this right was denied by the congress in 2000 when legislating about their right to self-determination. Eventually, lawyers found Mexican jurisprudence recognizing the juridical personhood of de-facto communities. Since then, they portrayed themselves before the court as the de-facto community of Mogotavo, in contrast to the initial name of 'community of Mesa de la Barranca', stated in the first demands.

Misrepresentations of indigenous peoples by mestizos are one example of the widespread historical discrimination and depiction of indigenous peoples in Mexico and, particularly, Chihuahua. For example, it has been a widely held view by *mestizos* and local government officials that '*tarahumaritos*' (little tarahumaras or the way non-indigenous people have historically called the Rarámuri) are prone to 'laziness', 'drunkenness', and 'sexual promiscuity'. Allegedly, they live in that poor state because they have been reluctant to leave their traditions and customs, and have refused to study or integrate into the wage labour market that the modern world has offered them (Servín and González, 2003; Bustillos, et al, 2009; Urías, 2000 and 2007; Hernández and Vázquez, 2007).

The enforcing of these stereotypes is coupled with concerns for hegemonizing their view about development in the Sierra, by persuading about the need to generate jobs through tourism investment and assuming as 'normal' the need of resettling indigenous communities, thus justifying land dispossession and social injustice. These practices reveal what this research means by 'normalisation of domination/social injustice'. According to testimonies of NGO members attending to the state's head of tourism office presentation of the Copper Canyon Project, he stated his desire to convert the Copper Canyon into a place like Orlando in Miami as all that poverty should not be visible to tourism (PIAI, minute; Gutierrez, 2010; Salgado, 2009 and González, 2009; personal communications). Actually, the project originally considered the recreation of a model of an 'ideal' rarámuri village -with real Rarámuri people inhabiting it- at the end of the cable railway trajectory, however, it was later on discarded (PIAI minute).

The Copper Canyon Project was widely received with joy and satisfaction by the urban mestizo sector of Chihuahua society. It was not uncommon to hear expressions of admiration and pride about the creation of a decent modern place for leisure and fun as in the developed countries. Actually, one of the billboards created by the state government to promote the new cable tram in the Copper Canyon included the sentence 'First world level' (*'De primer mundo'*, see picture 1). Also suggestive was the billboard of a financial/construction company that depicted an engineer looking at the horizon of the canyon as an empty land (Geisler, 2012), offering plenty of development opportunities (See picture 2). These contradictions are also exemplified by the design of the project in terms of high-class tourism in one of the poorest regions of the whole of Mexico (CDI/PNUD).



Picture 1. "Chihuahua. De Primer Mundo. Pronto": Chihuahua. First World Level. Coming Soon



Picture 2. "Value. Asesoría Financiera inteligente": Value. Intelligent Financial Advisory (the landscape belongs to a view to the Copper Canyon).

In this sense, investment, job generation and a good agreement with the indigenous residents were all part of the official discourse of state institutions and touristic investors (Valles, 2009; Players of Life, 2008). In parallel, the community's exclusion from the decision making process was invisibilized and normalized. Under this view, an agreement between individuals was going to be achieved and everyone would win thanks to the initiative. In short, this was a depoliticized and decontextualized perspective that ignored the unequal structure where social actors

establish and reproduce unbalanced social and political relationships. As these processes were depicted as normal by state officers, people who resisted processes of land appropriation involved in the project were accused of opposing development, and even criminalized. This is what here I call individualisation, as a constitutive element of hegemonic representation. The end of individualizing the interpretation of a controversy is to deprive it of any social, and hence political, character.

By depoliticizing the perspective, powerful actors can use technical, moral and/or juridical arguments to blame individuals, and thus avoid addressing the historical and structural causes of inequality and injustice underlying dispossession attempts. Pagés Mendoza, alleged owner of Wetosachi/El Madroño lands, blamed Wetosachi advisors, particularly the director of the NGO, for 'having obscure interests behind her attack on him' (Pagés Mendoza, personal communication, 2010). SENSE's broker, in turn, threatened Mogotavo's advisors when they met each other on their way to the community. In sum, these views reduce the dispute to a problem between individuals, and in this sense, community members or advisors/advocates are easy targets to be blamed, criminalized, threatened and hence, neutralized. The underlying structural causes, plus the historical and unequal power relations, are not perspectives to be considered. On the contrary, historical, social and political interpretations of the problem are invisibilised and thus obscure the role played by political elites in domination processes.

5.5. Conclusions

The chapter examined the land disputes going on around the Copper Canyon Project and applied the conceptual model of structural domination to interpret, analyze and explain the distinctive structural conditions, actors and mechanisms underlying historical domination of specific social groups over others in the Sierra Tarahumara. Because of sharing the same area while contrasted by a diversity of conditions regarding land tenure and dominant actors, the Copper Canyon land disputes in Chihuahua, Mexico are seen as suitable situations to examine the question about the systematic dispossession of indigenous peoples lands and its continuation under an alleged rule of law and democratic regime. Indigenous peoples' attributes have been valued as inferior by the non-indigenous majority throughout the modern history of Mexico and without exception in the different

historical periods ever since colonisation by the Spanish in the 16th century. The analysis has shown that reproduction of these forms of subordination and domination became structural and embedded in prevailing relationships, assumptions, norms, values and institutions (Young, 1990, 2000a), despite the existence of a republican, representative democratic regime characteristic of the modern state.

The Sierra Tarahumara is a suitable context in which to observe this dynamic, as it is an indigenous territory historically targeted by the economic elites of northern Mexico as an area to develop their highly modernist project. However, the analysis reveals that what makes this domination process possible are factors such as the modern nature of state institutions, the global economy and the relationships and subjectivities weaved and perpetuated over history (Quijano, 2000a, 2000b; Mignolo, 2007; Grosfoguel, 2007; Maldonado-Torres, 2008). Distinctive mechanisms of domination have flourished and been enforced in the Latin American context. Domination, however, has been shown to be not solely based around the idea of race (Quijano, 2000a), but also on the more complex idea of structural positionality (Young, 2000a), in other words, on the position in which different actors are situated in the social structure and the way their attributes are valued in society.

Using the notions of structural domination and coloniality (of knowledge, power and being) the chapter has shown the structural nature of domination in the Sierra Tarahumara context and the CCTP. It is perpetuated and reinforced over time, with the effect of constraining the self-determination of the indigenous Rarámuri people. These outcomes were shown to be encouraged by the effect of three main domination tactics. Firstly, the institutionalisation of domination, where informal political mechanisms become officialised and legitimized over time. Secondly, Political representation is used as an argument for the legitimisation of mediation and clientelist practices that undermine the communities' agenda. Thirdly, hegemonic representations, where indigenous communities and high modernist-development in their lands are misrepresented and interpreted against the communities interests. For example, tourism-based development is portrayed as an instrument for the creation of wealth as well as a solution to unemployment.

The reasons that the Rarámuri are still landholders today and continue to struggle for the rights to their land is based in their own self-determining spaces and institutions, such as normative systems, coupled with their alliances to solidarity networks and progressive civil society organisations and legal advisors. Alongside the Pino Gordo dispute, the abandonment by brokers and the decision of turning to solitary legal advisors led issues to be discussed with lawyers within their normative systems and engaging in legal disputes with more concrete results. However, it is still too soon to be definitive, all dispossession processes are frozen, the issues are on the public agenda and indigenous communities are now positioning themselves as political and juridical actors.

CHAPTER 6. A CRITICAL LOOK AT THE JURIDICAL SYSTEM AND ITS ROLE IN STRUCTURAL DOMINATION AND RARÁMURI LAND DISPOSSESSION

6.1. Introduction

Article 39. The national sovereignty resides essentially and originally in the people. All public power originates in the people and is instituted for their benefit. The people at all times have the inalienable right to alter or modify their form of government: **Political Constitution of the United Mexican States**

The chapter examines the modern state's juridical system and some of the features that shape the particular paths land disputes tend to take in an interethnic and unequal social context such as that of the Sierra Tarahumara. Whereas the indigenous peoples hold immemorial residence over their territory, dominant actors aim at accessing resources and business opportunities even if that means the dispossession of local communities. By grounding land disputes occurring in the Sierra Tarahumara, the analysis focuses on the structural influence of the Mexican juridical system in the reproduction of injustice over subaltern and collective actors such as indigenous communities, linking the relevant disputes at the local level with a sociological analysis of power relationships in social and juridical contexts.

In order to identify and explain processes of land dispossession of indigenous communities, the present chapter aims at discussing and understanding how

domination is largely structured around state law, and whether systematic marginalisation of indigenous people stems from the epistemological tenets of the modern state and its institutional framework. In such cases, how does this process work? What are the crucial institutional factors and mechanisms underlying domination? And how does power and subjectivity work in modern law that fosters the reproduction of indigenous peoples' land dispossession?

Due to the significant influence of law, institutions and bureaucracy in the structural constraints that indigenous communities have to face and, particularly, the influence of the juridical system in Mexico, the chapter chose a critical approach based on the perspective of structural domination, the idea of coloniality of power (see chapter three) and other critical works such as those of De Sousa Santos, Correas, Foucault and the Modernity/Coloniality Latin American Research Program represented by authors such as Walter D. Mignolo, Anibal Quijano, Ramón Grosfoguel and Nelson Maldonado. These were found to be useful conceptual tools to understand the particularities of the Tarahumara juridical processes around land disputes and dispossession. This approach was found to stand in opposition to ahistorical and individualist perspectives that fail to account for processes, complexity and power relations.

The examination of indigenous land rights and struggles is first grounded in the concrete development of the agrarian reform, its current institutions and the way these addressed the Rarámuri communities' demands in the context of land disputes. Although the post-revolutionary agrarian reform organized all issues related to land, the indigenous peoples continued practising their own understandings of territoriality through their own normative systems, negotiating differences with state actors and institutions through resistance practices, informal negotiation and clientelist relationships. However, the fact that state law and institutions did not recognize indigenous peoples and communities as political and legal actors, meant that land disputes tend to occur on unequal grounds against local and external economic elites and actors.

By drawing from fieldwork data, I explore in this chapter the imposition of modern epistemologies and ideologies over previous indigenous local knowledges and institutions that tend to result in a chronic and still prevailing disadvantageous position for indigenous peoples as social groups in Mexico's social structure. I

exemplify this through an analysis and comparison of the prevailing state agrarian justice system against the everyday forms of citizens' political participation and self-determination, such as indigenous normative systems. This contrasts, I believe, gives clues for a reconsidering of political and normative systems under a logic beyond modernity and within a framework of non-domination, social justice and self-determination.

The chapter aims at highlighting the way juridical systems, bureaucratic institutions and the state itself turn into agents of social control and normalise dominant practices through the employment of forms of power/knowledge, such as the management and hegemonisation of political and scientific discourses. These structural dynamics constrain, through large scale processes, indigenous communities' capacity to first, secure land property rights and, second, to resist land dispossession from dominant actors.

Together with social processes of domination, state legal processes invisibilise indigenous peoples' communities, hence, tipping the balance towards the interests of dominant actors such as local or external economic elites. In sum, modern law is seen here as a central constitutive element of structural domination over indigenous peoples, particularly in the legal controversies triggered by the expansion of large development projects and land appropriation occurring in the Sierra Tarahumara.

6.1.1. Modern State, Pluricultural Reality and the Perpetuation of Indigenous Communities Dispossession

Previously in the theoretical chapter, I addressed a conceptualisation of the state as a sovereign institution that centralizes political, coercive and legal institutions of a given territory. The legitimation of this apparatus thus, lies in the assumption that it represents the full realisation of the common good of the people and, in order to fulfill such responsibilities, the state does not recognize another power over its own. Allegedly in order to guarantee the realisation of the people's will, modern liberal and democratic states' constitutions recognize the people of the country as the subjects of sovereignty, however, the state assumes itself the responsibility of representing the people, and therefore, of sovereignty.

The state's representation of the peoples' interests and monopolisation of sovereignty, however, has been increasingly questioned by civil society and academic literature (see chapter three), as it has been demonstrated the way sovereignty is ceded to corporate actors, such as economic and private political elites, while the citizen, as subject of sovereignty is invisibilized and disempowered, which results in sharp levels of inequality and social injustice at the global level.

Different accounts (see chapter three) have highlighted the modern nature of the state. The condition of the Nation-State, for example, implies an imagined nation in geographical harmony with a culturally, socially and politically homogenous Nation. Furthermore, the concentration of institutions functions and homogenisation of cultural attributes, sets favourable and structural conditions for capital accumulation and control over collective authority -as Quijano (2007: 301) calls it- led by a system of expert and universalized knowledge. In Mexico this process stands in opposition to the cultural diversity, subsistence economies, collective property systems, and political decentralisation existing prior to the establishment of capitalism and the modern state.

Lack of recognition of cultural diversity by nation-states has had sharp consequences for social groups different from the hegemonic cultural norm. This non-recognition of the existence of cultural diversity has been coupled to non-recognition of cultural minorities' human rights, which are critical for the realisation of these social groups life projects. This is the case of indigenous peoples and communities, whose constraining of self-determination subjects them to the state's and private elites' decisions about rules and decisions on economic and political issues, such as land/territory, natural resources control/management and, particularly, their own political decision-making (normative) systems. These issues have been central for the indigenous peoples' and communities' agenda in Mexico. Culture, land and self-determination are considered critical for the indigenous peoples self-realisation as differentiated cultural groups. Pressure by economic and development investment over them, however, is entering into stages of further intensification.

In particular, land disputes have been commonplace across Mexican history. They acquired a more legal character in modern history through the agrarian and legal institutions of the post-revolutionary period. Disputes have taken different

forms, from open rebellion to mobilisation or negotiation and legal disputes. Rural and, particularly, indigenous people have been common subjects of dispute, as historically they have been attached to land and self-subsistence agriculture, occupying wide areas under common property systems, and living in regions highly rich in natural resources. Increasingly, these people and spaces are targeted by different private and state actors aiming at control over resources.

The way land issues have been managed by indigenous communities have normally clashed with the modern-states' agenda on the matter. Here, I aim at explaining that by denying indigenous peoples and communities' political and juridical existence through macro and micro social and institutional processes, the design of the modern nation-state highly contributes to the perpetuation of land dispossession of indigenous peoples. The Pino Gordo and Copper Canyon land disputes illustrate how the invisibilisation of indigenous communities, the neglect of existing indigenous normative systems and territoriality, as well as lack of respect for broader cultural rights play a critical role in the consummation of land dispossession of communities such as Choreachi, Mogotavo, Wetosachi and Bakajípare in the Sierra Tarahumara.

6.2. Agrarian Juridical System or Land Justice for Indigenous Peoples and Communities?: Post Revolutionary Law and Neo-Liberal Reforms against Rarámuri Indigenous Territoriality

6.2.1 Agrarian Reform and Institutions in Mexico. Indigenous Peoples Lands and the Formation of an Hegemonic Notion of (Social) Land Property

As mentioned above, post-revolutionary agrarian reform provided wider access to land to peasants and indigenous peoples. However, the new scheme established a land governance system whose design was foreign to indigenous territoriality and as a result, this was displaced by the emergent figures of *ejido* and *comunidad*. Current land disputes and dispossession are highly influenced by the modern logic behind the new agrarian institutions that subjected their decisions to political bargaining, relations of clientelism, administrative and juridical procedures beyond the systems of knowledge and normative systems of indigenous peoples and communities.

The Mexican Revolution (1910-1917) is known for having had an eminent and relevant agrarian character (Katz, 1996: 21). Previous to this war, land was concentrated in a few hands through a historical process of privatisation and concessions that was accelerated during the independent (1920 onwards) and the Porfiriato periods (1876-1910) through the deprivation of 90 percent of indigenous people's land (Otero, 1989: 278).

The creation of surveying companies contributed significantly to the extension of land grabbing and dispossession of the Mexican peasantry (Wasserman, 1987; Lartigue, 1983). These companies had the right to keep one third of the land surveyed, and in addition they purchased state land already surveyed by them. It became a normal and widespread practice that lands in possession of indigenous people were arbitrarily deemed to be vacant. As a result, surveying companies eventually owned one fourth of Mexico's territory (Wasserman, 1987; Lartigue, 1983).

In 1910 when revolutionary violence erupted, a small group of hacendados representing less than 1% of population owned 97% of land, and hacienda lands covered 113 millions of hectares, about half of national territory (Esteva, 1981: 34-36). In the national context, Chihuahua was identified and labeled the state of the great landownerships (Latifundios). Land was concentrated by capitalist actors like the Terrazas, Porras and Zuloaga families, as well as by foreign companies (mainly North-American) such as Corralitos, Las Palomas and Babícora (Romero-Blake, 2003, from Wasserman, 1987, 1988; Lartigue, 1983; Batista, personal communication, october 2012).

The war cry of *zapatismo*, one of the two most important armies of the Mexican revolution, was 'Land and Liberty' and 'Land Belongs to Tiller', principles lying at the centre of the 'Plan de Ayala' declaration that called for the return of land to the communities that previously owned them. Under this plan, one third of all *latifundios* –large landholdings- had to be divided among landless peasants (Katz, op. cit: 23). These agrarian principles are embodied in Articles 27 and 123 of the Mexican constitution of 1917. At the end, however, the way these articles were written represented the view of the two predominant military and reformist political factions, which prevailed over that of the most radical peasant factions such as the *zapatistas*.

For the first governments of the post-revolutionary period, land redistribution became a way to develop capitalism in Mexico. However, redistribution did not result in the promised economic development, nor in capitalist accumulation in the countryside (Otero, 1989: 276). This failure actually served neoliberal governments -from the 1980s onwards- as an argument to implement an ambitious agrarian reform programme based on the opening of the social land property sector to private ownership, which was finally achieved in 1991.

The original statement of Article 27 declared all land as owned by the nation, which in turn, had the right to distribute it both as a common or private property, as well as to expropriate it for the sake of 'public use' (Otero, op.cit: 281). Social property consisted of two forms: the ejido and agrarian community/commons (*bienes comunales or comunidad*). Holders of property rights (*ejidatarios* or commoners) can work the land individually and reap the benefits of it, however, before the 1990s, they were not legally allowed to transfer, rent or sell property rights to anyone except for heirs (Randall, 1996; Nuijten, 2003). The main difference between the ejido and agrarian community had to do with the original condition of the land. While ejidos were created after the expropriation and distribution of large acreage properties to landless peasants, the federal government granted agrarian communities as a formal recognition or restitution of collectively owned indigenous lands (Randall, 1996; Nuijten, 2003; Katz, 1996; Otero, 1989).

Land redistribution took place at different intensities all over the rest of the century, until land reform was assumed to be concluded in the early 21st century. The 1980s brought both the passing of international law regarding indigenous cultural rights and the inauguration of aggressive neoliberal reforms in a wide variety of sectors of public administration. These latter reforms, however, were not updated at the national level and the indigenous communities had to face market liberalisation through conventional means, from political bargaining to social movements, and even, guerrilla warfare.

Their relationship to institutions has begun to change due to the emergence of civil society organisations and greater awareness of historical marginalisation of indigenous peoples due to the indigenous mobilisations remembering the 500 anniversary of Cristobal Colon's arrival in the Americas, but principally to the Zapatista uprising in Chiapas on January the 1st of 1994, the same day the North

American Free Trade Agreement came into force. The neo-zapatista guerrillas triggered a longstanding social movement supported by wider sectors of civil society that raised awareness of the indigenous subordinate condition in Mexico, while pushing for constitutional reforms regarding human rights.

In Chihuahua these transformations were reflected in the emergence of different Civil Society Organisations (CONTEC, COSYDDHAC, ASMAC, BOWERASA, Fuerza Ambiental, Tierra Nativa, Frente Democrático Campesino) that engaged with the land and natural resources struggles of indigenous peoples, particularly the Rarámuri and Ódami peoples. Although land disputes indigenous communities came up against local elites in the 1990s, during the 21st Century, the arrival of mining and tourism investment brought to the fore state actors and national and global investors to the dispute arena, however, indigenous communities and advocates became more familiar with international human rights legislation and juridical procedures and, therefore, more prepared to challenge dispossession attempts.

6.2.2. Recognition of So-Called Indigenous Lands and Property in Mexico?

'Article 141. 1. The rights of ownership and possession of the peoples concerned over the lands which they traditionally occupy shall be recognised. In addition, measures shall be taken in appropriate cases to safeguard the right of the peoples concerned to use lands not exclusively occupied by them, but to which they have traditionally had access for their subsistence and traditional activities. Particular attention shall be paid to the situation of nomadic peoples and shifting cultivators in this respect. 2. Governments shall 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. 3. Adequate procedures shall be established within the national legal system to resolve land claims by the peoples concerned'.

ILO indigenous and Tribal Peoples Convention, No. 169

'The law shall protect the lands of indigenous peoples' Fraction VII of Article 27 of the Mexican Political Constitution

There are no such things as indigenous lands in Mexican law. Yet it envisages three types of land property: National, Social and Private (Ley Agraria, 1992), Mexican law does not recognise a specific figure as having exclusive responsibility for dealing with indigenous peoples, as there used to be in the colonial period under

the definition of *República de Indios* (Sánchez-Bella, De la Hera and Díaz-Rementería, 1992; and Díaz Polanco, 1997). As mentioned above, the closest figure to this idea is the *comunidad agraria*, which was created to formally recognize and reconstitute collectively-owned indigenous lands.

At present, 37.3 percent of Mexico's territory is private, while 51.2 percent of the national territory is social property, 846, 865 km² to ejido lands and 168,388 km² to agrarian communities (Smith, et al; op. cit: 177; Robles, 2003: 133). Of the 2,162 agrarian communities, 58 percent have an indigenous population. From 49.3 to 58% of the 2,162 agrarian communities in Mexico have indigenous populations; 20.6% of the ejidos are inhabited by indigenous people and of almost 30,000 agrarian nuclei (ejidos and comunidades), 23% have some level of indigenous population (López, 2005: 94; Hernandez, 2006: 235). Despite this panorama, Mexican law's references for the protection of indigenous lands and indigenous self-determination such as article 2nd and 27th cannot be exercised because of the limited types of property regimes and the lack of regulatory laws (Díaz-Polanco, 1996, 1997; Barros, 2000; Bouquet, 2009; Smith, et al, 2009; Assies, 2008; López-Bárceñas, 2005; Gómez, 2011).

Although many *agrarian nuclei* in Mexico sustain their claims to their right to communal agrarian rights on what is known as *Títulos Virreinales* or *primordiales* -Royal Titles- these were not issued at that time in northern Mexico, and thus indigenous communities in this area lack this type of evidence. However, some of them used to keep other kind of titles, such as those issued by Mexican president Benito Juárez in 1860s. For example, evidence found in the agrarian archive of Chihuahua talks about a land plot granted by president Juárez to a group of indigenous peoples within the 'lands' of Las Coloradas. At the same time the people of *Pino Gordo* claims to have possessed Benito Juárez land grants, but they argue that its keeper was killed and the deeds were stolen by people of Las Coloradas. Mogotavo lack this type of proof, although both the anthropological and archaeological expert reports give evidence of ancestral occupation from pre-columbian times, the former through the missional archives found in the Jesuit headquarters in Sisoguichi, municipality of Bocoyna; and the latter through archaeological excavations and material analysis (Meza, 2007; Chacón, 2007).

Mexican law does not recognize an exclusive type of land property for indigenous peoples, nonetheless international and federal law establishes protection to indigenous territories which, in turn, have been defined by academic literature in at least three forms (Boege, 2008; CDI, 2006). Firstly, Boege defines an indigenous territory as the 'geographical space occupied by the indigenous peoples with a longstanding activity of inter-relationships, co-existence, landscape use and transformation, mainly shaped by the original culture and later transformed by colonial and modern agrarian policies (2008).

Secondly the CDI defines indigenous regions according to types of municipality, those with more than 70% of indigenous population and those with between 40 and 70% of indigenous population. 655 municipalities fall within this category and conform to 26 regions that encompass 13.3 % of the national territory (Ibid: 54). As stated by Boege, the conception of indigenous regions as municipalities is useful in terms of policy-making, however, political boundaries rarely fit those of indigenous territoriality. Boege proposes a methodology to define indigenous territories according to ethno-linguistic criteria together with households. The definition of these territories are the minimum 'hard core' of contemporary indigenous peoples, and it assists in the development of autonomic, social, cultural, and economic policies that irradiate to the peripheries (op. cit: 49-77).

Thirdly, less policy-oriented and consistent with the ILO's and UN's international indigenous rights legislation, anthropological literature defines indigenous territoriality, as 'the historical, cultural and territory that each group recognizes as their own, since they find there not only a habitat, livelihood or reproduction as a group, but also the opportunity of reproducing culture and social practices over time. The ethno-territory refers to the origin, and affiliation of the group to the place with four levels of self-recognition: ethnic, regional, sub-regional or communal (Barabas, 2003: 25). These are the territories that are already recognized by international law (ILO agreement 169), although not yet by the Mexican political constitution (López-Bárceñas, 2005, n/d; Fernández, 2007; CIDH, 2010; Gómez, 2003, 2011; Stavenhagen, 2008; Díaz-Polanco, 1995, 1997).

Understanding the difference between the concepts of land and territory then, has been critical for the longstanding conflicts between the state and the indigenous

peoples. The rationality of an idea of territory as a space strongly rooted in historical, cultural and political meanings and connotations opposes the notion of land as a resource over which the state has the authority to allocate as a public good or commodification. Deep epistemological differences underlie this conflict, which has historically determined the relationship between the state and indigenous peoples, normally resulting, in the end, in the imposition of the state's land policy over that of the ancestral model of indigenous territorialities.

The neoliberal paradigm was officially adopted by the Mexican government in the context of the debt crisis of 1982, when the first generation of structural reform measures were implemented. However, with the arrival of Carlos Salinas to the government in the late 1990s, an aggressive set of liberalisation policies was put in place. Two of the principal reforms of the period were, first, the signing of the North American Free Trade Agreement with the participation of Canada, Mexico and the United States and, secondly, the reform of the agrarian sector in 1991 that allowed the sale of ejido lands, reversing the revolutionary principle of land redistribution and common land tenure. The decision of whether individual members can sell their rights, or whether the whole *agrarian nuclei* will turn into private property (*dominio pleno*) at the end was a prerogative of the ejido assembly.

Other measures related to the possibility of renting, and associating with private and international capital, reducing subsidies, credit and other social programs were also implemented. These provisions were designed to be consistent with the market liberalisation euphoria of the last two decades. The discourse underlying these measures stated that the Mexican peasantry was not productive enough and the countryside had to be in a better condition for a new wave of investment, production and economic growth according to the new global paradigm (Díaz-Polanco, 1995; Barros, 2000; Quintana, 2003; Bouquet, 2009; Assies, 2008). In the own words of a high level official: 'There are a lot of peasants left over in the Mexican countryside, their contribution to the Gross Domestic Product is not consistent with their participation in the total population. Therefore, the population of 25 million should be reduced to 5 million' (Quote by Quintana, 2003: 9).

In order to foster the introduction of land plots into the market, clear boundaries and individual property rights all over the whole social property sector were needed. The government established PROCEDE (standing for *Programa de*

Certificación de Derechos Ejidales y Titulación de Solares Urbanos) which was a national program designed to survey and map external and internal boundaries of *agrarian nuclei* and to certify and title individual and collective land rights all over Mexico. Once certified, members hold rights to agricultural plots, urban plots and common land. As the *Pino Gordo* dispute shows, it was jointly administered and implemented by the Agrarian Attorney (PA¹⁰⁷), National Institute for Statistics, Geography and Informatics (INEGI¹⁰⁸), and the National Agrarian Registry (RAN¹⁰⁹). The PA dealt with legal issues related to land tenure changes such as land disputes; INEGI did the technical surveying and mapping; and RAN registered cadastral information and issued land property certificated to individuals and communities (Smith, et al, 2009: 177). The underlying motivation of PROCEDURE was the need for clear security over the land property within social property in the country, in order to facilitate the rental and selling of parcels, although an *agrarian nucleus* could only be turned into private property if the ejido assembly approved its sale.

The idea of giving security and certainty over land rights through PROCEDURE was hardly contested, as this implied an end to land disputes out of the relevant juridical instances. The initiative has been considered by some as an ambitious and landmark program for securing land property, and for achieving important benefits related to the updating of property maps, verification of boundaries and physical markers. With the participation of local people, many longstanding land disputes were resolved, along with the expedition of parcel certificates that would allow holders to borrow money from banks, to rent or even sell their parcels.

PROCEDURE, however, has also been considered a key instrument for privatisation (certification was carried out when privatisation was needed, not before) and for provoking serious consequences for rural, and particularly indigenous, people - the 'erosion of community institutions, for example, increasing economic differentiation, accelerated deforestation, and threatening their cultural survival' (Smith, et al, op. cit: 175). Certification has also been seen as a way of formalising practices and transactions that were previously illegal such as informal rental and selling of communal lands (Smith, et al; op. cit: 197). In particular, errors and simplifications gave way to new conflicts. Coloradas dispossession of *Pino Gordo* and Choréachi was

¹⁰⁷ Procuraduría Agraria

¹⁰⁸ Instituto Nacional de Estadística, Geografía e Informática

¹⁰⁹ Registro Agrario Nacional

consummated through PROCEDE's intervention, when officers negotiated boundaries demarcation with the *Las Coloradas* and *El Durazno*, while excluding the people of Choréachi.

When the juridical dispute of *Pino Gordo/Coloradas* came a few years later, INEGI and PROCEDE's legal personhood had already changed and they could not be sued for the mistaken actions previously carried out, as INEGI's representative argued in the hearing (INEGI, Oficio No. AGS.1.0.1/788/2008, INEGI.PRE.01.01. Expediente No. 263/2007)¹¹⁰. Even though participation rates in the program were high (covering 85.7 % of social property in Mexico) communities were aware of risks involved and, therefore, many of those participating in the program refused the mapping of internal divisions, 'thereby securing improved documentation of community boundaries without risking land privatisation' (Smith, et al; op. cit: 196).

All four indigenous communities addressed by this thesis, were affected by the post-revolutionary and neoliberal agrarian reforms. Yet the former was designed to dismantle large land holdings and redistribute land to landless peasants (including indigenous peoples and communities), the existing indigenous territories, recognized and held by communities regardless the property systems in place at the time, were segmented according to the state's policy of land distribution. Indigenous territories covered extensive areas and contained numerous communities, however, land reform established new administrative boundaries and limits to the use of land and resources within it.

As explained in chapter four, Choreachi territory used to include a few of the agrarian nuclei that surround ejido Pino Gordo, such as *Las Coloradas*, *Tuaripa* and part of *Chinatú*. Some other communities, like *Mogotavo* and *Wetosachi*, fell within what the state established as national lands (property of the nation). National lands, however, were subject to land grants through 'acquisitive prescription' for residents that claimed 'peaceful, continuous and public possession'. This was the case of *Mogotavo* and *Wetosachi*, where mestizo locals acquired land under such procedures and later sold this on to touristic investors.

Moreover, previous to the reform to article 27th, common property lands could not be turned into private property, while the neoliberal change to agrarian

¹¹⁰ Such ruling has not been delivered yet.

law left ejidos and comunidades exposed to market transactions. The new conditions affected communities such as the Choréachi and Bakajípare. The former was finally dispossessed from land property rights by PROCEDE's decision on the boundary dispute. As the office created to certify and title ejido boundaries in the context of reform to article 27th, PROCEDE was seen by mestizos as the authority to settle the boundaries dispute. The latter, Bakajípare indigenous community lost an important plot within their indigenous territory, as mestizo ejidatarios rented it to a private tourist investor.

6.3. Pluricultural Reality, Modern State and the Perpetuation of Indigenous Communities Dispossession

Through the last couple of centuries the advancements of science and technology have simplified processes of production and distribution, communication and information, shaping social and economic systems in such a way that these systems' efficiency for production of goods and information is currently hardly contested. In addition, the idea of democracy has been consolidated as the ideal political system and more countries are adopting electoral processes as methods for electing their political authorities (Tilly, 2007). Along with democracy, science, technology and economic growth are providing increasing satisfaction of needs and more certainties to the wider population. On the other hand, social processes of marginalisation, inequality and environmental degradation have reached such peaks that the social and environmental stability of entire regions is at risk while also leading to spirals of poverty, displacement and violence. Furthermore, the same process of economic growth in indigenous regions also impacts negatively on public health, livelihoods, resources, and quality of life.

The paradox comes when, in the context of a global community of nations endorsing respect and protection of human rights and democracy, countries assumed as developed, free and democratic are also in large part responsible for the generation of rampant inequality, violation of human rights, violence and different kinds of social injustice (OECD, 2011; HRW, 2011; Amnesty International, 2011). These countries assume themselves to be democratic, based on the trajectory and solidity of their electoral institutions and their representative systems often sustained by the separation of powers (executive, legislative and judicial). They also

base their democratic credentials on their Republican constitutions and/or in their official commitments to international agreements in regard to human and particularly civil, political, economic, social, and cultural rights, and finally, in an alleged guarantee of the rule of law. These assumptions, however, are now put in question by an unprecedented emergence of critical civil society, mobilisation at the global levels, and consequently, by academia itself.

Latin America is clearly typical of those regions whose democratic states, governments and political representatives, regardless of the governments' ideologies in place¹¹¹, are being continually and increasingly contested by social movements, human rights and other civil society organisations for failing to guarantee an equal and minimum level of justice for all. Such controversies are normally solved by various means, either, by negotiation processes, by the community's consent, or by social and community resistance.

Mexico, like most of Latin American countries, is a federal republic with a president/head of state selected through electoral processes and widely recognized as a democratic country by the international community of nations. For instance, it accepts compulsory ICJ (International Court of Justice) jurisdiction -with reservations- and accepts ICC (International Criminal Court) jurisdiction, it is a member of the United Nations, the OECD (Organization for Economic Cooperation and Development), OAS (Organization of American States), and G20 (The Group of Twenty) and has signed several treaties, conventions and agreements on human rights and democracy issues.

The country has relatively recently -in 2000- changed governments through an unusual uncontested electoral process, in which the PRI (Revolutionary Institutional Party) lost power to the conservative PAN (National Action Party) representing the apparent end of 71 years of authoritative presidentialism¹¹². The transition to a new

¹¹¹ Left, centre or right

¹¹² After the Mexican revolution a group of military strongmen united different sectors in one party for the sake of peace, unity and the stability of the regime. This was the beginning of a corporative political system that, assuming itself as the incarnation of the ideals of the Mexican Revolution, dominated a political spectrum constituted by a plurality of parties in the context of an electoral system. However, this presidentialist regime was based on loyalty to the president decision and the power balance was based on the discussion within the different corporatists sectors in the party-government. In short, although elections took place in a context of political pluralism, it was an authoritative regime that, for example,

government however, did nothing to reverse or even slow down the neoliberal reforms begun in the 1980s by the PRI, and no important democratic changes have been made to the nation's political institutions. During this period of market based reforms, private, national and foreign investment has been fostered in sectors such as railways, energy, communications, mining, tourism, social security, the banking system and so on.

In particular, reforms were made to the agrarian sector in 1991, in order to turn communal land tenure into private property, impacting the core of the Mexican Revolution principles represented by the slogans of 'land belongs to the Tiller' and 'Land and Liberty'. These changes were meant to foster public and private investment in the countryside. In harmony with growth/accumulation processes taking place in South America, different types of infrastructure projects and extractive industries have increasingly been constructed in rural areas. However, with private companies' need of accessing and acquiring property and/or control over large tracts of land, investors turned to practices and strategies of renting, acquisition, competition, bargaining, negotiation, and often subtle forms of displacement and dispossession of local and collective landholders and landowners.

Over the last century dam construction was a state priority for the modernisation of the country on the grounds that it was the only way to provide enough water services to the agricultural sector and population centers. Voluntary, negotiated or forced displacement of entire villages was not uncommon and this phenomenon has been widely documented by the academic literature (Bartolomé and Barabas, 1992; Bartolomé, 1992; Quijada, 1992; Gellert and Lynch, 2003). Neoliberal reforms, however, established new conditions for the private appropriation of land. In fact, the present panorama of the Mexican indigenous territories is one of large-scale mining investment, more dams, cash-crop plantations, urban growth, tourism, conservation schemes and, hence, competition over resources (forests, pasture, landscapes, water, biodiversity etc), including illegal the drug-cropping economy flourishing in remote rural areas (Fairhead, Leach, and Scoones, 2012). Furthermore, by following the trajectory of land disputes,

repressed political and social movements at different levels and did not consent to the triumph of opposition parties at the state level until early 1990s.

it is not difficult to foresee the historical disadvantageous condition of indigenous peoples *vis-à-vis* mestizos and private actors.

This panorama is an everyday reality in the Sierra Tarahumara, whose indigenous inhabitants continue facing different sorts of pressures against their land and resources. Due to longstanding institutional and social discrimination, resistance against such interventions has encountered plenty of difficulties. Literature, archive data and ethnography have accounted for various forms of resistance practiced by the Rarámuri, ranging from 'passive' tactics, to institutional/bureaucratic and, to a lesser extent, direct political action (Levi, 1999; Deeds, 2003; Sariago, 2002a, 2002b). Just recently, in the late 1980s-early 1990s, indigenous communities in the Sierra have turned to legal strategies and procedures for land defence. Although there is solid evidence of illegal dispossession, legal processes have not been useful for indigenous social groups as a fair justice system should be.

Considering the disadvantageous position of indigenous people against other actors throughout Mexico's postcolonial history, positional difference (Young, 2000) can be a useful concept to better understand their subaltern condition and the domination processes surrounding it. I depart from this premise based on the fact that during Mexico's modern historical periods the indigenous condition has been seen as an obstacle to the construction of a modern state (Bonfil, 2006; Villoro, 1996; Florescano, 2001). For instance colonial and modern state-building and reform have been almost *per definition* against a notion of a pluricultural nation/state. The cultural plurality found in the early 18th century in Mexico, represented an outstanding obstacle to the very notion of a new age of reason and progress for the political elites of the emerging state of the independent period.

In the same way, for the post-revolutionary Mexico, the existence of indigenous communities complicated the enormous task of challenging a whole epistemology and paradigm that opposed the aim of creating the conditions for a new and homogenous national identity based on the state's agenda of modernity. In Quijano's words, the category of 'indigenous' only has meaning in relation to the pattern of power resulting from the colonial experience, a pattern that has continually been reproduced up to the present without departing from its colonial foundations (2007: 301). For this author, the colonial experience has generated

three basic products still present and vigorous in modern Mexico: First, racialisation of relationships between colonisers and colonised; second, the configuration of a new system of exploitation under the hegemony of global capital; third, euro-centrism as a new form of control of subjectivity; and fourth, the establishment of a new private system of collective authority around state hegemony (Ibid: 303).

These explanations make sense when it comes to indigenous communities in Latin America and, particularly, to the struggles the Rarámuri are facing in the Sierra Tarahumara, who encounter the effects of decisions and policies taken at the global level in order to meet the needs of the financial system, and possess no resources to influence the course of these processes, as other better positioned Mexican citizens could do it. What disempowers the Rarámuri communities to such an extent? What are the conditions that make the justice system fail to meet the demands of indigenous communities?

6.3.1. Mexico: Between Legal Plurality and Legal Pluralism

Against liberal political theory, contemporary societies have been -and still are - juridically and judicially plural. The Nation-state does not pretend to be just one among many systems, on the contrary, for the last two hundred years it has sought to hegemonize normative and legal pluralism. Legal positivism became the politico-ideological concept that converted the state into the exclusive source of law, as De Sousa Santos puts it (2009). This 'legal centralism' is, as De Sousa Santos describes, a 'heritage of the bourgeoisie revolutions and of liberal hegemony that reinforced the link and equality between law and state law, understood as a uniform order to all, and administered by state institutions. Other normative orders were considered to be inferior and hence, were hierarchically framed as subordinated to law and to the institutional apparatus of the state'¹¹³ (op. cit: 52), or as Correa points out, the state, as sovereign's heir, can't resist competition from other normative systems (Correa, op. cit: 92).

In Mexico, as one of the countries with the largest number of indigenous groups, (about 56) indigenous normative systems are an everyday reality in different regions of its territory. Legal plurality has been present in Mexico since the

¹¹³ My translation

creation of the independent state, 'in part as a redoubt of indigenous tradition, in part heir of colonial law that created a parallel legal system for the native population through the *República de Indios* (Hernández and Ortíz, 2003: 3). However, the state has displaced other legal orders that have operated and developed in different ways, according to the historical social cultural and political context (Chenaut and Sierra, 1995; Correias, 2010; De Sousa Santos, 2009). As a result, indigenous normative systems have been left to the field of customary law, and frequently been considered as 'customs and usages'.

In the early 1990s Mexico recognised itself as a multicultural country, and later on, in early 2000s, there was a juncture where a constitutional reform in regard to cultural rights according to the ILO's agreement 169 became a reality. In the end, the congress passed a reform that recognised indigenous self-determination, however, making it in such a way that it became inapplicable. They did not recognise the character of indigenous peoples as legal persons, which would have also given legal character to decisions taken within indigenous normative systems. Instead autonomy would be defined by each one of the local state congresses, leaving the discussion to the local sphere, thus depoliticising and subjecting it to the unaccountability of local elites. At the same time the constitutional reform had enough locks that made autonomy impossible to go beyond the established limits of the constitution. For these reasons the Zapatistas declared themselves betrayed by the three powers of the state and opted to promote *de facto* autonomic communities (Díaz-Polanco, 1996; Gabriel and López y Rivas, 2005, 2007).

The modern nation-state historically evolved through a long process that made it hegemonic. However the state itself is subjected to transformations of different sorts. While some countries adopted the paradigm of market deregulation according to the rulings of the Washington Consensus, others undertook important social-democratic constitutional reforms, such as those carried out in some contexts of Latin America (Venezuela, Bolivia and Ecuador, are some of the most salient examples) (Walsh, 2005; Escobar, 2007). Nonetheless, there is a range of alternative instruments that can make legal plurality and, in consequence, different forms of inter-legalities (De Sousa, op. cit.) recognised realities within a state system such as the Mexican. Three of these possible instruments are described as follows:

First, the full recognition of other legal orders within the Mexican state, which at the moment is limited to the consideration of 'consuetudinary' law, as defined by the official written legal order, which recognises other customary forms of law, but only when there is no provision in state law about specific issues. Secondly, an applicable definition of autonomy, where the autonomous subject, in this case collective subjects such as indigenous groups are recognised as peers with other legal persons. The third is by making applicable national jurisprudence and international law such as the ILO 169 agreement and the UN declaration of indigenous rights.

These possibilities, however, can only be effective through a constitutional framework that fully recognizes the existence of cultural pluralism, consisting on different peoples and communities with full legal personhood as collective subjects to exercise self-determination. This framework, however, would have to be coupled to other transformations of the political system, for instance, an accountable democracy beyond the influence of capital, mass-media, and principles of representation as political intermediation.

The following section will illustrate the contradictions between the two existing normative systems on the ground, within the same national territory.

6.4. Two Contrasting Normative Systems of Land Law and Justice Making: The Agrarian Tribunals and Indigenous Justice.

Agrarian conflicts in culturally diverse contexts are perfect cases in which to study the clashing legal plurality that exists, although often unrecognized, within States (Villanueva, 2012). As mentioned elsewhere in the thesis, there is a diversity of normative systems resulting from the different forms of organisation existing in society that contrast with the ideal definition of the State as a form of political centralisation and monopolisation of the different sectors of government. Indigenous normative systems are emblematic examples of solid juridical systems that work and are effective for the social groups within the State, as it settle issues and solves conflicts that otherwise would had to be handled by the state's apparatus of justice.

These normative systems, as previously mentioned, have been displaced and denied by the state in order to establish the monopoly and dominance of its own juridical apparatus sustained by a particular epistemology. This implies that the state has denied the principle and application of legal pluralism, which recognises the presence and validity of a diversity of normative systems within the state (See Villanueva, 2012). According to this definition, indigenous normative systems deal with all different sorts of relevant issues for the community, Currently, and with the consolidation of the Mexican state, however, some issues are limited to the jurisdiction of state law. Examples of this are agrarian controversies and property rights, whose discussion within indigenous juridical system is limited to what the state's law establishes.

Land property and dispossession issues have been critical for both the state-making process and the struggles for rights and resources by indigenous peoples. In this sense, law and, in particular, agrarian law has historically been a central instrument of the consolidation of the state's colonisation and domination over indigenous peoples. The conquest and colonisation of America was carried out, as well as political and cultural hegemony has been established through law and legal institutions.

As Huneus et al, (2010, quoting Malagon Marcelo) points out, "America was born beneath the juridical sign". First, the Spanish crown and then the Mexican state and their juridical systems and epistemologies were imposed over the various indigenous nations, governments and forms of knowledge; second, state institutions substituted and monopolized local decision-making processes over a variety of sectors and issues, for example, by imposing a different agrarian structure and displacing previous indigenous forms of territoriality; thirdly, as a result of the previous two points, the negation and misrecognition of indigenous peoples as juridical subjects contributed to juridical and political inequality that disempowered these groups and constrained their decision making power *vis-à-vis* the emerging Mexican society; fourth, a further cycle of dispossession began when neoliberal policies opened common property lands to acquisition by private actors and subaltern social groups ended up with no juridical personhood standing, in contrast to ejidos, corporations and individuals who do enjoy full legal personhood for land acquisition and disputes.

These forms of imposition were critical for the historical land loss suffered by indigenous peoples over the past 510 years. An analysis of, and comparison between the Mexican state's agrarian justice system and indigenous justice-making systems will be made in order to illustrate the differences and implications of this imposition and displacements. I will provide elements for a better comprehension of the structural conditions underlying the present and ongoing land dispossession processes, as a continuation of earlier colonisation processes. The analysis also reflects on the different strategies the communities have opted for, in order to secure property and possession over their lands taking into account the prevailing normative and political context.

Rarámuri normative systems and implications for land disputes in the Tarahumara will be discussed in section 6.4.2 below.

6.4.1. The Agrarian Tribunals as a Positive and Modern Perspective of Justice

The agrarian reforms of the 1990's created new offices within the agrarian bureaucracy. Firstly, the National Agrarian Registry (Registro Agrario Nacional) would be in charge of registering and making actions public regarding social property and national lands, as well as those related to the rights of agrarian subjects (*ejidatarios* and commoners).

Secondly, the Agrarian Attorney (Procuraduría Agraria) established a basis for the prosecution and administration of agrarian justice. This includes an ombudsman, defending agrarian subjects rights, and issuing recommendations to relevant authorities that are accused of abusing agrarian rights. It also represents agrarian subjects before agrarian authorities in controversies as well as denouncing the lack of compliance with duties by agrarian officers or employees of the agrarian justice administration.

Scholars, however, have pointed out that its role as ombudsman has not been exerted effectively for two main reasons: first, the nature of agrarian rights violations makes it practically impossible to pinpoint those responsible for the violation; second, the attorney is unable to issue any recommendation to the organs of representation because of their character as authority. Another problem is the political role adopted by some attorneys as well as their subordination to the

Agrarian Reform Secretary (Ibarra, 2006: 240-241). For instance, in the *Pino Gordo* dispute process, the state representative of the agrarian attorney in Chihuahua was criticised by Choréachi advocates -the NGO Alianza Sierra Madre- for having orchestrated, together with the local indigenous Affairs Federal Office lawyer the expelling from the country of the organisation's director, by accusing her in 2007 of being "involved in internal politics" -as a Choréachi legal advisor-, as she is a Brazilian national.

Thirdly: the Agrarian Tribunals were established. The creation of these courts represented the emergence of a new specialised jurisdiction. The courts -'superior' and 'unitary'- were granted autonomy and were created for the resolution of disputes related to plot boundaries, land ownership and delayed proceedings (Smith, et al; 2009; Hernández, 2005). The reform, however, did not give any kind of recognition to indigenous territoriality nor to local normative systems. Judges in Mexico are divided into three kinds: First of all are the Federal Judges such as those of the Supreme Court. Secondly, there are State Judges - such as the superior tribunal, first instance, and Minor Judges- and thirdly, the Unitary Agrarian Tribunal (UAT) which is an autonomous organ of administration. Here, a lawsuit is settled in the first instance, and the ruling is later accepted or rejected by the judge. If the issue is not settled in UAT, then it goes to the Collegiate Tribunal, which is a justice organ that belongs to Federal Judicial Power (Palencia, personal communication, 2010).

In a hearing, a demand is either ratified, or contested by the opposite party. If ratified, then it starts a process of proof settling consisting of different kinds of evidence: Confessional, Testimony, Topographic Expert Witness, Anthropological (social anthropology, linguistic or archaeological) Expert Witness, and ocular inspection. The judge decides whether or not to admit the evidence and -if pertinent- to proceed to its settlement. Later comes the time for making verbal dispositions and finally the appointment for the final ruling. After the ruling is made, it is likely that the losing party later calls for a trial to appeal for law protection which will go in the second instance to the collegiate court (Tribunal Colegiado de Circuito), which is a tribunal authority -Superior Tribunal of Justice- that deals

specifically with appeals for law protection¹¹⁴. It can decide in three ways: either the procedure is replaced on the grounds of insufficient evidence, the appeal for law protection is denied or it proceeds to an appeal for law protection.

The indigenous communities have a vigorous justice system which is in everyday practice. The states' monopolisation of land issues persuade them of the need to turn to the hegemonic juridical system and its formal set of rules and administrative procedures which they were not familiar with. As the above description illustrates, this juridical system, based on positive law, is complex in terms of the relationships and hierarchies within the state's institutional structure and in terms of the procedures to follow. The analysis of the disputes demonstrated the complex process through which the indigenous communities have to go through.

Yet the juridical system makes few considerations of cultural or positional difference of citizens, Rarámuri communities had to accept the rules and meet difficult requirements, such as testifying in front of a judge, and sometimes aggressive counterparts' lawyer, to gather all documents that can serve both as evidence and identification of the claimants, or to travel for three days from the communities to the court in the state capital city – which implies two days of hiking through the mountains for men, elder people and women with children- in order to attend to the hearings to present testimony or evidence. In addition, indigenous people may have to pay all the expenses involved in the trip and the trial, considering that there are communities not lucky enough to have the support and advocacy of a solidary lawyer provided by a civil society organisation.

It is not the juridical system, which adapts and considers the cultural difference and positionality of the claimants, but the claimants themselves who have to accept the conditions established by the hegemonic normative system that is perceived as an external entity in which they can have trust or not in the way procedures are carried out.

¹¹⁴ In contrast to the ruling of fiscal, criminal, civil, or familiar matters, agrarian procedures are carried out in the first instance, which is a judge, and a second instance that is a Superior Justice Tribunal, which specialises in appeals for law protection. This type of judge doesn't admit further evidence. It just considers whether a trial was in strict compliance with the laws or if it was an act in violation of the law. Against the sentence of an agrarian judge, there is no standard appeals process, but it goes straightforward to a trial for appeal for law protection (Palencia, Ernesto, personal communication Chihuahua, Chihuahua, 11/02/10)

6.4.2. Indigenous Justice as an Horizontal and Communitary Perspective of Justice

Indigenous penal policies or indigenous criminal law are part of their general and internal normative systems. Normally, throughout Mexico, the application of norms, procedures, sanctions as well as the knowledge underlying indigenous normative systems are different from the national ones. Indigenous trials are usually confused with what legal anthropology sometimes calls an 'indigenous juridical system' or 'customary law' or 'uses and customs'. However, these terms are normally interchangeable with the concept of normative systems, which best defines the true character of law or the juridical system at the same level of the national one (as argued above by Correas). In indigenous communities the normative system largely encompasses all aspects of indigenous culture and social relations, as they do not tend to establish borders among the different areas of society such as religious issues, moral issues, politics, law, health, festivities, the economy and so on (Villanueva, personal communication, 2012).

These systems, have been generally characterized as consisting of nine elements: General laws of public behaviour, preservation of internal order; definition of rights and duties; regulation of access and distribution of scarce resources; definition and typification of crime (against the individual and against the community); sanction to criminal conduct; conflict and dispute resolution; characterisation of charges and functions of public authority; an institutionalized body of authorities recognized by the group; and a set of prescriptions and procedures to exercise law through the relevant authority. In contrast to indigenous collective trials, for example, in positive law the fact is constructed and delegated only to experts (lawyers, judges, attorneys, courts). The fact is then interpreted, displaced, subjected and reduced to the written code (Valencia, 2011). Indigenous criminal law systems are determined by a range of competence or jurisdiction, as well as by physical borders, as it operates only in indigenous territories or in relation to indigenous persons (Valdivia, 2001).

Most of these elements are shared with the state's juridical system, although there are key particularities that highlight the critical variations and make them different normative systems in their own right. Authors have, for example, defined indigenous normative systems as flexible, adaptative to the context and new social

needs, as constituted by the total participation of the community and as based on consensus. Two critical particularities are, however, on the one hand, a focus on restorative justice, and on the other, an oral character. The former regards the promotion of reconciliation between the parties by indigenous authorities. In the Rarámuri context, the *Siriame* exhorts the accused through a public speech of advice and reprehension for those that reoffend. This public condemnation results in embarrassment for the offender as it is interpreted as social disreputation (Sariego, 2008).

The underlying principle of Rarámuri trials, as some authors have stated (Robles, 1998), is the transgressor's reconciliation with the community, the cosmos and the reordering of everything. Rather than punishment, charge or vindication of a received injustice, reconciliation is sought, even by the offenders themselves. He/she is grateful to the aggrieved and the community itself for allowing him/her to be reintegrated into it. The sense of belonging to a community, the sense of common, is at the centre of the need to fix errors and recover harmony with the community. Repair to the damage done is called *Nategara* which refers to the idea of satisfaction. Issues are normally settled with an agreement –in the community- between the aggrieved and the offender, the family and the authority (Idem).

The oral character of indigenous 'criminal' law is a second key particularity, and in some accounts, a common characteristic of it (Valencia, 2011). Social speech is the means through which facts are related, explained, argued and presented for the purpose of maintaining the sense of society and belonging. For Valencia, for example, oral narratives are closely linked to the immemorial imperative to subordinate individual agents to the collective and cultural orders, and therefore, of reinstating the transgressor to those orders. Orality, in this sense, goes beyond the application of the sanction, it is as well practiced in the sets of wisdoms and therapeutics such as stories told at home, rituals, assemblies, councils or trials (2011).

This is consistent with Escalante's stance:

"The essence of this procesual economy has to do with the objectivity of the procedure and charge of the evidence, rather than with the good intentions of the judge. In short, modern justice bases its legitimacy in technique, rather than on the magnanimity or mercy of the executor. In this sense, modern justice is definitively

the daughter of illustration, of faith in knowledge and in the certainty that truth can be achieved through the scientific method”¹¹⁵ (2012: 4).

Borders with the state’s juridical system in Chihuahua are negotiated and agreements have been largely reached and understood by the Mexican and indigenous authorities all over the Sierra. For example the range of competences is well established and offences or crimes considered as minor such as theft, physical and verbal aggression, land inheritance, domestic violence, adultery and sorcery are discussed and settled through the indigenous judicial system – that is through community meetings and trials by the Rarámuri authorities together with the community and relatives of the accused. It is thus significant that there is a low incidence of these offences in the local state’s prison (Sariego, 2008).

For Escalante, positive justice embraces science as the path for the elimination of uncertainty and human error. For him “The scientist’s wisdom is constituted then in the founding of justice, as a truth free from human imperfections. Knowledge is legitimized also, in a reciprocal manner, by the validity that is granted by state’s institutions and is appropriated by true knowledge. Common sense cannot be anymore the founding of justice. Only science’s objective knowledge can lead us to the juridical truth” (2012: 4).

Reliance of juridical truth on science, the juridical process and written evidence, however, is not free from subjectivities or fraud that are often translated into scientific and positive language. The Las Coloradas community, for example, took advantage of the fact that the agrarian officers traced the community’s polygon and boundaries in their desks, rather than through empirical and fieldwork methods or assessments on the ground. As the land grant had a greater territorial extent on paper than the real one on the ground, they claimed land that was previously granted to the Pino Gordo ejido and whose surface was measured through field methods.

At the end, the Las Coloradas claim prevailed over that of Choréachi as good political relations between the Las Coloradas and agrarian and INEGI-PROCEDE officers were critical for mediation with Pino Gordo and Las Coloradas, and negotiation that did tip the balance in favour of the Las Coloradas. This mirrored El

¹¹⁵ My translation

Durazno's tactic of forging documents in order to update membership and exclude the Choréachi from land property rights. Rather than taking on the path of argumentation, Pino Gordo ejido opted to translate their cheating to the language of procedures, written evidence and rules, as well to expert actor's language and wisdom, and, in this way, to play under a clearly advantaged position *vis-à-vis* those indigenous peoples not subjected to brokerage relations first, in the administrative-bureaucratic arenas, and later, in the juridical arenas.

In sum, a social group whose social, political and cultural attributes were seen as a threat to the state's aim of modernity, has been historically subalternized by structural relations being subject to cycles of dispossession and impositions. As land has been at the centre of colonial, imperial and modern forms of appropriation by dominant elites, indigenous peoples and their territories have seen first the imposition of the modern state and its relevant knowledges and institutions such as the juridical ones, and then the imposition of land property regimes -such as the post-independence regimes- over indigenous territoriality, and more recently the neoliberal reforms for privatisation and deregulated markets that are undermining collective land property regimes.

Consequently these impositions are normalized and general consent is sought. This panorama might have inspired a Raramuri's opinion when he stated: "You the chabochi (mestizo) have to write your rules because otherwise you wouldn't respect your own words"¹¹⁶. However, indigenous peoples' response to intervention and destitution was not limited to the exercise and reinforcement of their internal normative systems as autonomic decision-making and conflict resolution institutions, but went beyond that and, as the disputes show, the Rarámuri have opted to enter to the realm of the state's juridical system and to play according to mestizo rules in order to face them in their own arena. The analysis has shown these as two strategies for resisting intervention, dispossession and securing land property and/or possession.

In these cases, when ruling in favour of the indigenous communities, tribunals have based their sentences mostly on international law and agreements signed by Mexico, instead of invoking national law. Neither has Mexican law recognized indigenous normative systems, full legal pluralism or indigenous peoples

¹¹⁶ Felipe Ruíz, comment on a Rarámuri friend's words

legal personhood as self-determining collective actors. Rather, indigenous communities, through their normative systems, have decided to seek legal advocacy and advice, discussing the terms of legal strategy with lawyers, and deciding the course of further actions such as demonstrations or participation in public events and forums.

It is significant that, together with their juridical advisors, indigenous communities have chosen to invoke international law, as well as actors such as the United Nations Human Rights Special Rapporteur in Mexico, or, more recently, other well known national activists and intellectuals and other communities engaged in similar struggles elsewhere in the country¹¹⁷. In sum, communities' decision-making power has been mainly exercised through both their internal normative systems and their engagement with juridical processes at the state level, where they are starting to have their first juridical triumphs.

6.4.3. Invented Nation, Negated Normative Systems

Indigenous communities' struggles for land are nothing new, but on the contrary, have been a prominent feature throughout Mexico's history. Dispossession attempts have not ceased since the beginning of the colonial period in the 16th century. In the post-revolutionary period, the emerging regime established the basis of a political system based on the concentration of power on the president (*presidencialismo*), corporatism, and clientelism and any relationship between rural actors was carried out under these relationships. In the 1990s, however, indigenous peoples' mobilisation and achievements in human rights issues encouraged them to challenge dominant actors at the juridical level. A new generation of solidary organisations, advocates and lawyers emerged and indigenous communities turned to them for support on their struggles, forging new alliances and entering in unprecedented fields.

This fact, had two contrasting implications: On the one hand indigenous peoples challenged powerful actors through their own means, language and rules; but on the other hand, this strategy implied some sort of recognition of the legitimacy of hegemonic institutions and practices. By opting to settle their controversies with

¹¹⁷ Foros de Territorios y Pueblos Indígenas de Chihuahua ASMAC (Chihuahua, Chihuahua, years 2010, 2011 and 2012)

longstanding dominant actors, the Rarámuri indigenous communities were accepting to play under rules that they did not consider their own (they often talk about '*mestizo* law'). To attend to the demands of historically marginalized social groups was also a challenge for the state, as they were not even recognized as juridical subjects, although indigenous communities managed to find ways to be considered and recognized as such (e.g. as ejidatarios, commoners, ejido granting claimants, de-facto communities, or land-holders)¹¹⁸.

The new relationship between indigenous peoples and the state juridical system makes an analysis of the implications of an hegemonic normative system and the relationships of domination that result worthwhile. The Tarahumara disputes reveal the complex ways in which institutional action tends historically to put obstacles to indigenous communities in the legal process, while neglecting their claims, favouring dominant actors instead. In this sense, subaltern actors not only have to face power relationships within the wider society, but also, as the analysis below demonstrates, biased and hegemonic rules and institutions at the state and global level.

The juridical system is a central constitutive element of the modern Nation-State. The notion that 'the state is the juridical order, the norms...' (Correas from Kelsen, op. cit: 49) shows the close relationship between both concepts. Under this logic, the juridical system would be a critical mechanism of state power.

Foucault (1996) approaches knowledge as a relationship of struggle and power. Accordingly, he analyses the historical processes of penalisation, starting from the fact that knowledge, as an idea, is an invention and, thus, by defining crime, juridical practices constitute relationships of truth and knowledge (op. cit: 83-85). In this way, truth about crime is authenticated, transmitted and turned into what the author calls a power-knowledge relationship. An example of this is the way penal practices evolved into a disciplinary society, which he explains through the idea of panoptism or a form of knowledge that relies, not on inquiry, but on surveillance. The disciplinary society is defined as the 'Total surveillance of individuals without

118 Despite the fact that the federal constitution did not recognise indigenous people and communities as juridical subjects, state constitutions are in a process of recognizing such a character, including Chihuahua which earlier year 2012 reformed the constitutions to establish this type of recognition

interruption, by someone who exerts power over them. Its function is not to punish infractions of individuals, but to correct their virtualities' (1996: 89-90)¹¹⁹.

What I intend to highlight here, is not only the specific shape that forms of power/knowledge take, but particularly the way juridical systems, bureaucratic institutions and the state itself turn into agents of social control and normalisation of practices through the employment of forms of power/knowledge. For example, Foucault explains how penal legislation became an instrument of political power: 'It was very easy for the aristocracy to exert different kinds of pressures to the popular layers. In the XVIII century there were more than 300 reasons to be hanged' ¹²⁰(op. cit: 96).

These institutional practices, that Foucault also extends to other examples (factories, schools, psychiatric hospitals and so on) do not fulfil the function of excluding, but rather, of fixing individuals to production and knowledge transmission apparatuses, with the objectives of correction and normalisation (op. cit: 118). In today's Mexican juridical system, juridical orders (normative systems) not subjected to state law have been denied or subordinated to the dominant one.

By establishing a unique juridical framework for the whole population, even social groups subjected to their own normative systems had to consent to their subjection to the modern state's rules of the game. As the Sierra Tarahumara disputes illustrate, state monopolisation of land, law, development, and decision-making issues leaves small room for indigenous communities to defend their claims to their land. Despite this, the Rarámuri communities' exercise of normative systems - through their own political system - represents a crucial space of organisation for the securing of land and resistance against land dispossession. However, by invoking political representation (together with ideas of progress, public interest or empty lands) state institutions aim at negating indigenous normative systems and at constraining indigenous self-determination.

As the Tarahumara disputes illustrate, the settling of disputes are largely dependent of institutional action, which, at the same time, is not accountable to the citizen, not to say to indigenous communities. The hegemonic state normative system contrasts with that of the Rarámuri, which has a focus on restorative justice,

¹¹⁹ My translation

¹²⁰ My translation

horizontal decision-making and community participation (see above). This approach is based on providing a solution to the aggrieved through consensus between the parties and community participation. Rather, the state system mainly relies on written evidence, expert knowledge and centralized authority by particular actors, who, however, still have plenty of room for (subjective) interpretation of law and discretion.

In the examined land disputes, the Rarámuri communities did not have opportunity of participation and decision-making. In other words, there is little chance that land issues are settled in their justice-making system, which is part of their normative systems. Rather, their defence is in the hands of a lawyer who enters the game under positive law rules and a rationale and language that are not familiar to the indigenous communities. In other words, there is no room for indigenous communities to participate in the juridical process as peers with other actors.

For De Sousa Santos (2009) and Correas (2010), the critique of the modern state and its juridical system is important in terms of how they marginalise, invisibilise and eliminate other juridical practices. For De Sousa, a pillar of modernity is law as state monopoly and as scientific construction. As Correas states, law theory and official jurists, with their 'persistent conservatism' and their 'walled conceptions of the state' have historically neglected the issue of legal pluralism (2010: 15-17), hence, denying and marginalising other existing written and non-written normative systems.

State hegemony claims obedience after having imposed a monopoly of both the juridical practice and determining what is recognised as juridical. However, General Law Theory argues that valid norms are those belonging to an effective system, and if such an assertion holds true, indigenous normative systems constitute a suitable example of it. If a normative system is the 'set of norms with coercitive power and produced by authorised functionaries', as the jurists say, indigenous normative systems fit into this definition as well (Correas, op. cit: 17, 46-47). Normative pluralism, in turn, 'means the idea of the coexistence of two or more normative systems, whose norms pretend to have the same personal and temporal territorial sphere validity at the same time, and frequently, in the same territory' (Correas, op. cit: 21, 48). This is generally a reality in all nation-states, including Mexico, however,

as the modern state's juridical systems claim the monopoly over law, juridical plurality is hardly recognized.

However, authors like Correas argue that the state's self-definition as the unique source of lawfulness, is a fiction, since '[n]o lawfulness grants lawfulness' (op. cit: 29), or in Benda-Beckmann's questioning of circular reasoning: 'Rules are legal if issued/sanctioned by a legal institution; a legal institution is one which issues or sanctions legal rules (F. Von Benda-Beckmann, 1986: 206¹²¹). In this regard, 'decisions concerning the juridical quality of prescriptions stay subject to the game of hegemonies, prestiges, and even to the support of force' (Correas, op. cit: 28). The author expounds the idea that indigenous normative systems should not be denied lawfulness. The only argument that prevents indigenous normative systems from being recognised as juridical is the idea of state sovereignty that justifies the modern state (ibid: 31). These claims, however, have also been shown to be based on weak grounds, as constitutions such as the Mexican one, state that sovereignty lies in the people, actually the one from which the diversity of normative systems come from.

6.5. Conclusions

The chapter has critically analysed the state's juridical design and practices, both as an apparatus of domination over wide and subaltern sectors of the population and as a critical constitutive element of the injustice-production social structure by operating social control, normalisation and legitimisation of practices of resources- appropriation for strategic interests and for the aim of private and state capital accumulation.

The analysis has provided an argument about the role of law in systematic land dispossession and revealed how the state and its juridical apparatus were imposed over the wide diversity of normative orders pre-existing the Mexican state. This also monopolized the attributes of the exercise of justice by excluding, subordinating, and denying the existence of political collective subjects and, therefore, of other juridical orders, particularly those of indigenous peoples. The structure of the chapter was based on a critique of the idea of the modern state and its relation to the Mexican juridical system concerning agrarian law. In the particular case of Mexico, I focused on the longstanding colonisation and land struggles over

¹²¹ Quoted in Von Benda-Beckmann, Franz, 2002: 57.

history that finally took a momentum in the Mexican Revolution, defined the Constitution for the following century and which is now the base of Mexican state institutions, such as those that foresee the fulfillment of cultural rights, land property and agrarian law.

The chapter shows how indigenous peoples, as an historical social group and political subject, have been subalternized through the longstanding state-making process. For example, they were first colonized and removed from their original territories, then saw their institutions and epistemologies displaced by those of the modern state in subsequent historical periods (including the viceroyalty, the independent state and the contemporary one), in addition to being denied rights as legal subjects, and overall, as collective/political actors and indigenous peoples/communities. This long process has put the indigenous peoples in a highly disadvantaged position *vis-à-vis* other social actors, particularly those aiming at appropriating land for commodification purposes in the context of the neoliberal era.

For example, the indigenous peoples have historically suffered different setbacks regarding their property and possession over land and territories. The Viceroyalty period saw extensive colonisation of the Mexican territory in the name of the Spanish crown, as the new sovereign, which directly affected the aboriginal people. After independence, neither the conservatives, nor the liberals implemented policies favourable to indigenous property rights. And finally, the Mexican revolution resulted in an extensive land reform that benefited rural people through the consolidation of a common land property regime (*ejido* and *comunidad*), although it did not consider, and, thus, displace indigenous normative systems and territoriality. At present, in the neoliberal period, the country's resources and heritage is under an accelerated process of commodification, privatisation and concession to private and economically powerful actors.

These historical processes got grounded in the state's system of agrarian justice, which had to be applied in a context of legal plurality. The chapter highlights critical differences and the underlying clash of epistemologies, with unfortunate results for legal plurality, as the official normative system was found to lack the horizontality of the indigenous one and, rather, centralizes law and benefits those actors closely related to the state's epistemology and modern ideology. In this sense and in the context of land dispossession and juridical disputes, constructed

'heterohierarchies' (Grosfogel, 2007) influence the juridical system to favour particular actors who possess the attributes socially and historically constructed as dominant.

Under this panorama, the indigenous communities of the Copper Canyon and *Pino Gordo* answered with two related strategies: first, by enforcing and exercising their normative systems as decision-making spaces, and second, by employing this instrument to more effectively engage with civil society organisations and lawyers in order to negotiate the terms of juridical advice and in a way that recognized them as legal subjects and persons with rights as decreed by international law. In sum, one of the indigenous community's tactics and forms of resistance was to appropriate state's juridical system in order to vindicate their own legal (and political) personhood and, therefore, challenge dispossession attempts in the dominant actors' own arena.

By analyzing these contradictions, the chapter introduced the discussion about the clash and power struggle between legal epistemologies. This discussion is linked to a set of questions that are still left unanswered: what does being a democratic country mean in terms of juridical and political equality and the guarantee of social justice? Why, after experiencing the Mexican revolution, with one of the most radical models of agrarian reform in Latin America, and a democratic transition, subaltern actors, such as the indigenous peoples are still easily dispossessed from their lands and territories by dominant actors? How can an assumed democratic state deal with controversies about resource dispossession and social justice? Is the state's juridical system really accountable to all citizens regardless of their class, ethnicity, and gender? In the opposite case, is colonialism still operating in a different form? What kind of domination practices and mechanisms are involved in processes of land dispute and dispossession of indigenous peoples? What are the social and institutional conditions that allow the perpetuated dynamic of land dispossession of indigenous people in a democracy? To answer these questions under the light of the Tarahumara case studies is the matter of the following chapter.

CHAPTER 7. STATE MAKING AND THE CONSTRAINT TO SELF-DETERMINATION. POLITICAL REPRESENTATION AND DOMINATION: TWO SIDES OF THE SAME COIN?

7.1. Introduction.

The aim of this chapter is to discuss and explain how relations of representation, both at the personal and institutional levels, undermine in different ways the autonomous political decision-making processes of indigenous people of the Sierra Tarahumara, in consequence, contributing to the reproduction of processes of destitution and marginalisation. I will discuss the way forms of political representation/mediation constitute part of the domination process and how it contributes to indigenous communities' loss of land. Two notions of representation are addressed: first, forms of authority derived from the democratic political system known as representative government; and second, forms of mediation and brokerage adopted by specific actors that cast themselves as translators between social and state 'languages' and establish specific forms of sociopolitical relationships, norms and practices for the mediation process.

Following this introduction, the chapter contains three further sections. I first tackle the two broad categories of mediation found in the Pino Gordo and Copper Canyon disputes: brokerage, addressed in the second section; and institutional political representation, discussed in the third. The former refers to those relationships in which a dominant actor offers to negotiate an issue with higher authorities on behalf of subaltern indigenous communities, having the effect, however, of restricting the communities' capacity to do it for themselves. The latter, refers to more institutional forms of mediation where public servants claim authority and legitimacy as public servants of a democratically elected government and assume themselves to be representatives of the interests of rural communities. Authority, then, turns into unaccountability, and representation into the disempowerment of communities. The section closes by offering a discussion of the criticism and defence of political representation by various authors, while looking at this issue under the light of the relationships found in the Sierra Tarahumara.

In order to contrast relations of representation and mediation to indigenous practices of political decision-making, in the third section I analyse the different

forms in which participatory, direct democracy and self-government are embedded in the everyday life of indigenous people as a collective, engaged both in internal affairs as well as in demanding attention, representation, support and recognition from different actors and institutions with whom they interact. In opposition to the view of self-determination as isolation and non-intervention, the data shows that the practice of Rarámuri political decision-making takes place within different arenas and relationships with indigenous and non-indigenous actors.

Pino Gordo and Copper Canyon communities have shown their willingness to talk and discuss their concerns with all the actors involved. However, as communities are invisibilized, dominant actors are not interested in establishing relationships as peers. I follow Shapiro's point that "...achieving political democracy does not guarantee broad advances towards greater social justice [...] Far from promoting justice, then, democracy can actually undermine it" (1999:18). Political representation, despite its democratic disguise, grants decision-making power to dominating actors while constraining that of subaltern social groups such as the indigenous people.

In past chapters I looked at the social and juridical dispute processes in the Rarámuri territories of Choréachi and Divisadero Barrancas in the Sierra Tarahumara. By reflecting on those situations I have criticised approaches to destitution of indigenous communities that neglect social and political relationships. Furthermore, I found in the concept of social injustice and domination (Young, 2000 and Bourdieu, 1990, 1998) a useful way of examining and understanding highly unequal power relations in constraining decision-making power of indigenous communities and, therefore, in getting political and economic profit from such relationships. By analysing historical agrarian and juridical archives, I highlighted the importance of looking at domination as being based on a structure defined by the historical trajectory, the social relationships and institutions established according to the context in which the problem evolves.

This perspective and case study allows a better analysis regarding the complexity involved in the exercise of domination of certain social groups by others. Additionally, the analysis also sheds light on the mechanisms operating in processes of disputes over resources, particularly over indigenous land and destitution. Overall, the analysis has highlighted how both historical processes of colonialism

and state-making have focused on the needs of an hegemonic apparatus over those of constituencies. State practices also include power mechanisms such as the exercise of the notion of political representation, hegemonic representations and institutionalisation aiming at improving conditions for economic growth and capital accumulation.

To complement these insights, in this chapter I analyse practices of representation and mediation observed during fieldwork in the Sierra Tarahumara and archival research, and examine the extent to which these dynamics contribute to the establishment of suitable conditions for communities' land dispossession. This is carried out by looking at the way in which the institutional structure and the different areas related to the land conflict contributes to disadvantage the Rarámuri position *vis-à-vis* the mestizos, private actors and the state itself. This discussion is enriched by considering the diversity of categories of mediation and brokerage that are rooted in society, particularly in a context of unequal inter-ethnic power relations.

7.2. Political Representation for Domination? Representation and Brokerage as Two Mediation Tactics Contributing to Land Dispossession in the Sierra Tarahumara

The effort of thinking critically about social injustice should consider the complexity of factors and conditions that both constrain the aspirations of communities and people and omit to act against injustice. Practices of depoliticisation and normalisation of social injustice usually discourage actors from considering the complex and longstanding social relations involved in the specific domination context, and hence, the demand for accountability of actions and omissions is so often neglected.

Land dispossession of indigenous communities, for example, tends to be portrayed by dominant actors as a dispute between participants with equal rights, in a neutral arena that is settled by an impartial state's justice. This view, however, ignores that injustice largely results from power and structural inequalities that are configured throughout history. The depoliticisation and normalisation of this phenomenon contributes to its invisibilisation and, therefore, agents of injustice are held unaccountable.

Indigenous normative systems operate as a restorative approach to justice, where the community and the people involved in the dispute work together to reach an agreement. A representative political system, however, puts conflict resolution issues in the hands of experts and specialists. The Sierra Tarahumara land disputes reveal the diversity of mediators involved, which are meant to contribute to dispute settling and conflict resolution. Mexico's agrarian history has demonstrated that despite the number of mediators and representatives, indigenous peoples keep losing their lands *vis-à-vis* dominant actors, such as local and external economic and political elites.

Mediation and brokerage have been persistent in the Tarahumara land disputes. The intricate norms and bureaucratic procedures of the Mexican institutions are hardly understood by rural people, and thus, they usually turn to professionals in the sphere of local politics, bureaucratic and administrative issues, and who are literate and fluent in the Spanish language (Perez-Cirera, 2004).

In this way, modern political representation has served the purpose of capturing people's political decision-making power. On the one hand, the corporatist state established an administrative and bureaucratic system of negotiation and control with the different social sectors such as peasants, and formal and informal workers among others. State officers became the agents in charge of carrying out clientelist relationships with the different social sectors such as peasants, workers and economic elites. On the other hand mediation practices permeate the social spheres through various forms of informal leaderships. Over the process of consolidation of state institutions, there has been a constant need for better communication, and hence, translation of languages, knowledges and interests between the state and the wider local population, particularly indigenous communities. Local leaderships emerged, some of them rooted in longstanding ruling groups, and adapted to the changing institutional framework by taking advantage of their influence at the local level and giving shape to different forms of mediation and brokerage.

This section discusses how forms of representation in the Sierra Tarahumara are embedded both in the institutional framework and in the dimension of relationships and social norms. They have become vehicles for the exercise of domination processes over indigenous communities; however, these also

rely on longstanding political decision-making mechanisms, recently enforced by the legal advisory job of solidarity networks and international legislation.

7.2.1. Brokerage and Informal Political Representation in Sierra Tarahumara

A great variety of inter-personal categories of mediation can be found at the local level. National representative government consists of a complex structure of power and authority that is divided between the executive, legislative and judicial powers, which in turn operate at the federal, state and municipal levels of government. Under the idea of a representative government, this authority structure is meant to equally represent the interests of all citizens. It derives from a complex structure of public servants and officers whose jobs are to fulfil different functions.

A good way to start the analysis is by considering, particularly in the neoliberal era, political representatives as promoters of economic investment in a natural resources-rich region. In the context of the analysis of land disputes motivated by development projects, where such projects depend on natural resource extraction, the consideration of these issues should be of the utmost importance. The examination of political representation in land disputes and dispossession thus starts from the fact that the investment of the development industry that eventually leads to competition for resources and struggles for land is actually fostered by the so-called political representatives. These facts raise questions that are important for exploring and understanding the mechanisms underlying real political representation and misrepresentation: What is the basis upon which decisions about economic growth/capital accumulation and private investment-based development are taken? Whom, then, are they representing and why? How decisions about public interest are taken? Although these questions are normally taken for granted, in this thesis I want to explore their implications and consider political misrepresentation in the picture.

At another level, people in rural areas turn to government institutions, who consequently assign specific officers to attend their concerns and requests. For the cases studied, indigenista and agrarian officers played a critical role in mediating between mestizo and indigenous people, third parties and the state apparatus. When trying to understand the structure of brokerage operating in rural issues, the first element to consider is the state dimension. In addition to these individual

mediators, corporate and activist organisations were commonplace during the PRI regime, and their boundaries with state offices were not always easy to distinguish.

Corporate organisations were critical for sustaining the logic of the post-revolutionary 71 year-long regime of the PRI, serving both as an instrument of representation and control of socially relevant sectors –so called popular (CNOP), peasant (CNC), workers (CTM and CROC), indigenous (Supreme Councils), students and, to some extent, businessmen. These organisations worked closely with the state, since politics of negotiation were based in clientelism, including those with some so-called left wing parties and activism such as *Partido Popular Socialista* (PPS), *Comité de Defensa Popular* (CDP), among others. A different situation emerged in the 1980s and '90s, with the emergence of civil society on the scene, together with a wide range of the so-called Non-Governmental Organisations (NGOs) or Civil Society Organisations (CSOs).

CSOs and their engagement with rural development professionals and lawyers have emerged as a new kind of broker for rural and other marginalized peoples and groups. Their links with the state are much weaker than that of corporate organisations, however, their practices are sometimes more related to the funding agencies' agendas. Due to the complexity of the national and international environment of funding agencies, it is difficult at this point to know the social and political networks in which Civil Society Organisations are involved (Merry, 2006). This remains a task to be seen in a case-by-case basis, which is not the subject of this research.

Especially from 1980s onwards, NGOs have become major advocates of human rights and of environmental rights of indigenous and other rural and urban sectors of the population affected by poverty. Land rights issues, in particular, are followed up by civil society organisations linked to environmental, land and indigenous issues such as *CONTEC*, *Alianza Sierra Madre*, *Tierra Nativa*, *Fuerza Ambiental*, and *Bowerasa*. All of these appoint a lawyer to give legal advice and representation to the indigenous peoples involved in disputes. Those communities can also appoint private lawyers or, to a lesser extent, receive legal advice from agrarian and indigenista federal offices. Actually, the INI used to be the main provider of legal advice to indigenous people during the second half of the 20th

century; however, reforms to the institution and the arrival of CSOs led to a sharp decrease in their involvement in mediation and advocacy for disputes.

CSOs engaged in the Pino Gordo and Mogotavo's disputes got linked in the past two decades to non-corporate environmental and human rights organisations and solidarity networks concerned with indigenous peoples issues. As these types of organisations are funded by global civil society and, consequently, hold a relative independence from the government, they have much more room for autonomy than that of corporatist organisations. Limits are sometimes established by article 33 of the constitution that forbids foreigners to engage in internal politics, although this article is not always applied under the spirit with which it was written. This is illustrated by the expelling of ASMAC's director. Federal indigenista and agrarian authorities in 2008 felt uncomfortable with the advocacy work of the Sierra Madre Alliance for Choréachi, and they proceeded to denounce the director of the organisation for being involved in Mexican politics while being of Brazilian nationality. The result was that her Visa was retired and she had to be replaced in her post as director of the organisation (see chapter four).

At present, there are peasant organisations that, because of their independence from state interests and engagement to social processes at the grassroots level, stand in a middle path between CSOs and peasant corporatist organisations. Examples of these are *Frente Democrático Campesino* and *El Barzón*. The former is at present advocating for the indigenous community affected by the airport project in the Sierra Tarahumara, while the latter advocated for the Rarámuri of El Durazno, against Las Coloradas and the Rarámuri of Choréachi, in the *Pino Gordo* land dispute.

In addition to lawyers, other actors involved in the mediation process are judges, anthropologists and other professionals practising research for the issuing of expert reports (*peritaje antropológico*). Federal and state offices or academic institutions provide some of these experts' certifications. These procedures reveal the existence of another area for mediation in the land dispute process. Actually, is at the juridical level, that, as argued in a previous chapter, the juridical institutions serve as the monopolizers of normative activity. The juridical system, as the juridical wing of the state representing a sovereign people, became a substitute for what customary/normative systems used to do before the state hegemony came to place.

At present, the possibilities of peoples' normative capacities have been limited to the minimum via the state and representative government.

At another level is the mediating/representative role of the ejido president commissioners, who, as members of the *comisariado* of ejido/comunidad, are elected to represent ejido members in administrative, authority, negotiation issues and as facilitators of ejido's decision-making processes. Although the commissioner is meant to be accountable to the assembly, in reality it has significant manoeuvre for discretion, and he negotiates issues beyond the interests of the agrarian community, obtaining a profit from the concentration/centralisation of information, agreements and speculation with ejido assets and budgets. In consequence, the commissioner is highly prone to be a subject of corruption (Nuijten, 2003a).

In ejido San Alonso and Pino Gordo, the figure of the ejido president commissioner has been critical for the development of the dispute. In the first case, the *mestizo cacique* of San Alonso promoted an agreement with the touristic investor, leasing a plot of the indigenous territory of Bakajípare without the consent of the rarámuri. Employing the orthodox instruments of assembly control, the ejido commissioner and his group received the approval of the majority of the assembly to legalize the leasing of land to a hotel owner for an insignificant amount of money.

In the second case, Montoya took control of the ejido as president commissioner, and with the exclusion of Choréachi from the membership, he was able, first, to formalise such exclusion; second, to establish contracts with the logging companies; and third, to cede disputed lands to the neighbouring mestizo agrarian community of Las Coloradas. Political power, networks and relationships with the state apparatus give the commissioner a great deal of discretion to tip the scale in favour of his groups' interests. Actually, Montoya's leadership began as an individual broker. His experience in the activist organisation CDP (Committee for Popular Defence) in Cd. Juárez and other municipalities gave him the skills to advocate for Pino Gordo's cause at his return to El Durazno. It was he who orchestrated the exclusion of Choréachi from ejido Pino Gordo and the take-over of the ejido for the El Durazno community.

In this regard, individual brokers are not uncommon in rural contexts. This is also the case of Vicente Montaña in Mogotavo, who represented the role of broker

perfectly. He was a self-appointed 'human rights defender', with no ties to any organisation, nor had he any certification or previous experience on the field. He has also been described as a military fugitive, after allegedly having killed a man in his native town of El Churo. Regardless of this, he gave legal advice to the Mogotavo, charging every member of the community a fee for every single advisory meeting without making any visible achievements in the process. At the end he was replaced and accused by the community and individuals of being involved with the touristic developers' interests while advocating for Mogotavo's cause. As an advisor, he obtained economic profit by charging the community for attending assembly meetings. And finally, he was accused for sexually abusing a group of Mogotavo women, some of whom sued him for rape (3 lawsuits provided by local resident - 12/05/08 *Cuauhtémoc* city, *subprocuraduría de Justicia Zona 1, Occidente*, document No. 169/2008- and criminal investigation document number 29/2008).

Testimonies taken from interviews stated that he promoted the election of a newly appointed indigenous governor for the area of 'Divisadero' (the next tourist stop to Mogotavo), in order to displace the role of Mogotavo's indigenous *siriame*. This was despite the fact that the new governor was resident of a different community and was elected by no more than 15 non-resident people, basically the artisans settled temporarily in the Divisadero overlook.

Brokerage is also a phenomenon that is encouraged by the gaps left by the state. Parastate Territorial Fascism (PTF) belongs to the wider category of Social Fascism, as conceptualized by De Sousa Santos (2009). PTF describes emerging forms of power that fills the spaces left by the state regarding the control, authority and allocation of territorial resources, and in consequence, gives place to new forms of sovereignty. In this case, state allies turn into an extension of state authority over land. Individuals and private actors with sufficient political and economic power (such as ejido authorities, construction and real estate companies, emerging political leaders such as Vicente Montaña, corporative organisations, and even NGO's), take the responsibilities that the state no longer wants to assume. These actors take charge of controlling and managing the complexity of political relationships, saving the government the trouble involved, although, the latter legally sanctions the result of parastate decisions and exercise power.

The recent emergence of drug-related violence and mining investment in the region is the result of the increasing trend of a state giving up its regulatory responsibilities, and consequently, corporate groups such as transnational companies and drug mafias are taking over those spaces of power previously held by the state (See Blom-Hansen and Stepputat, 2006).

Other types of brokers are those that openly represent private companies' interests. In the land disputes in question they first opted for a negotiation strategy, and when this failed, turned to a harassment strategy. Forestry companies' 'technicians' or 'técnicos' have played a central role in the mediation strategy of negotiation with ejidos and addressing and fulfilling the technical requirements of resource exploitation. In Mogotavo and Wetosachi, the tourism investors sent their own mediators to negotiate with the communities. In the former case, the strategy of the broker José Cruz consisted of attempting to bribe the indigenous authorities for them, in order to convince the people to leave the place and settle in the tiny huts they constructed for them in the adjacent ejido of San Luis de Majimachi (Cruz-Moreno, 2010 and Cruz-Batista, 2010). Afterwards he broke into the community's health clinic to turn it into his own office, while adopting a hostile attitude towards indigenous authorities, particularly against their legal advocates such as the lawyer and the CSO's director.

In the latter case of Wetosachi, the Pagés Mendoza brothers, real estate investors and businessmen, hired 'Chencho' Rodríguez, a tourist guide from the adjacent *mestizo* village of Areponapuchi to look after their lands, where the indigenous community lies. The man has been repeatedly accused by the indigenous people of harassment and of blocking their access with a wired fence, although he alleges that his job is to ask them to keep the place clean and to protect and demarcate the plots (Rodríguez, Personal communication, 2010).

These different types of brokers and mediators translate on one hand the interests of state and private actors, and on the other those of the indigenous communities, according to the economic revenues involved. In this way the interests and ideas of the actors are culturally translated, sorting out communication issues and meeting the needs of labour division. However, a couple of problems arise from the mediation process as the examples have illustrated.

A major outcome of the mediation practice and involvement in land disputes is that a great deal of the negotiation processes take place between brokers themselves, excluding the involvement of the indigenous communities on the decision-making processes. At the same time, translation can also be a way of constraining direct communication between the real actors, in other words, of keeping the indigenous peoples from speaking for themselves to the actors at the top of the socio-political structure and hence, of keeping powerful actors from being accountable and talking directly to the local communities. An illustration of this trend is the way the communities' normative systems are invisibilised and excluded from consultation and recognition as legal subjects by mainstream institutional actors.

Finally, the varieties of brokers are increasing in number due to institutions' creation of new mediation figures allegedly for the creation of new participatory mechanisms. NGOs are hiring and relying on local young people in order to have a closer approach with the communities they are working in. The relationships of these community members to the NGOs give enough projection to acquire different sorts of leadership. However, their job in the city and the distance to the community increases, thus detaching them from the traditional bonds of local networks based on trust and reciprocity.

It is not uncommon that at the end of the day they become brokers in the orthodox sense of the word. Additionally, the federal government is implementing in some of its a new form of organisation - participatory advisory councils. Some of them such as the environmental (SEMARNAT), forestry (CONAFOR) or indigenista (CDI) offices expect the integration of indigenous representatives to their own councils. By integrating to them, again, community members compete within their villages with the traditional authority figure of the indigenous 'governors' or *serígame*, since they get inserted into a political structure that makes them travel to, and get involved with, the political bureaucratic structure at different levels.

Another post recently created is the municipal indigenous issues office. According to the law passed early in the 2000s, a member of one of the indigenous groups present in the municipality (Rarámuri, Warijó, Ódami or O'oba) should be appointed as head of the office. The office supports indigenous people to address the proper instances of the municipality, especially those with no Spanish language

skills. According to Lucero Valenzuela, the indigenous representative of Bocoyna municipality, a group of indigenous governors of the municipality, constituted the NGO 'Eagle Looking after the *Rarámuri*' and now they appoint the head of the office. Accordingly, they inform the major of the municipality about their decision, and this has been respected for more than a decade.

Valenzuela has also been operating as a mediator of land disputes, by encouraging the *Rarámuri* to solve the problem by themselves, and without any outside (government, church, NGOs, and others) interference. She argues that the normative system has been effective enough to sort out these kind of issues, however 'the problem starts when people with different ideas enter into the arena and make trouble out of it', Lucero points out (Valenzuela, 2010 Personal Communication).

In turn, the representative of the office in the municipality of Urique, where Mogotavo belongs, has been a member of the left-wing party PRD, despite the fact that the PRI has always governed the municipality with no interruption. In this case, the major appoints the head of office; instead, the decision is taken in an independent assembly of *Rarámuri* and *siriame*-authorities promoted by the catholic Jesuits. These types of meetings are part of the PROFECTAR program carried out over most of the Tarahumara area known as PROFECTAR '*Programa de Fe Compartida en Tarahumara*'¹²². However, according to the representative, he had very limited support and budget allocated by the council for the performance of his job. In his view, Mogotavo's governor does not regularly attend PROFECTAR meetings, which makes difficult to follow up the dispute. Thus, the role of the representative in the resolution of the dispute in the case of Urique was not quite relevant.

Both the Mogotavo and *Pino Gordo*/Choréachi received legal advice from individuals, corporate (*corporativistas*) organisations and federal offices for the solution of their land and forest issues in different ways. However, these actors and institutions were not just deciding by themselves. In one way or another they were involved and subordinated to the authoritarian politics of the time and could not act

¹²² *Programa de Fé Compartida en Tarahumara* is a Jesuit-based initiative that gathers *Rarámuri* authorities and other community members for reflection processes about their immediate social, political and spiritual issues.

with full independence from the structures and hierarchies in which they were embedded. To defy the conventional mechanisms would have meant to challenge the prevailing political structures, and mediators are not meant to do that. On the contrary, they are the result of the political system, which gives them a function, meaning, usefulness, and reward, and hence, they have to be loyal to it. This is because the fulfilment of the interests of indigenous actors does not result in political capital, thus, mediators used to play the roles of goodwill advisors while enjoying the political profit of not affecting the Montoya and Coloradas interests.

7.2.2. Institution's Political Representation as a form of Substitution and Unaccountability.

As discussed in both the theoretical chapter and this chapter's introduction, the principles of representative democracy have often been found to be problematic when put into practice. As representative democracy has been settled as one of the pillars of modern and liberal political regimes, it has consolidated not only theoretically, but also as a longstanding worldwide practice within diverse nations, particularly within the western world. Environmental, economic and political, national and global crises has increasingly highlighted the limits of representative democracies and political representatives, as these have been repeatedly accused of representing the interests of political and economic elites and partners, rather than those of their political constituents. This is true also for local level politics.

Throughout the thesis, I have been discussing the tactics and procedures through which local and external, political and economic elites manage to dispossess indigenous peoples of their land property rights, despite the fact that these have held possession of their territories since time immemorial. Apart from local elites and other individuals, institutions, norms, and officers have been shown to play a central role in contributing to processes of dispossession. Some of these state officers were democratically elected, or appointed by democratic elected governments. As mentioned above, the post-revolutionary regime guaranteed its continuous ruling for seven decades by establishing vertical, clientelist and corporatist relationships with the main sectors of the wider population. State officers played a central role in making this authoritarian system work and

portrayed themselves as mediators between the people and the government. This role endured, with minor changes, all over the political transition towards conservative and neoliberal governments over the most recent decades.

The course of the Tarahumara land disputes were highly influenced by state officers, who in the name of their legitimacy as political authorities and democratic representatives, took on the role of resolving the demands of indigenous communities. This dynamic allowed officers to negotiate according to their own rationale and interests, while discouraging autonomous and direct action of indigenous communities, thus resulting in delays and inefficiency of dispute resolution negotiations (as the inefficiency of state officers in stopping dispossession shows).

As the case study shows, personal interests of officers combined with normativity, non-written rules of politics, and interests of the higher hierarchies' officers and politicians, --among other factors at play-- tend to prevail in agrarian procedures. This diversity reflects the complexity involved in structural domination processes where personal interests and assumptions combine with institutional practices and normativity. Under this panorama, state officers take decisions not only according to their interests, but also to those interests of authorities, political allies, customary political practices and legal frameworks involved in mediation procedures. By analyzing empirical evidence of the Tarahumara disputes, I found corruption and misrecognition as two entrenched practices of political representatives (or state officers) that contribute significantly to undermine the role of democratic political representation and turn it into a domination tactic that benefits those appropriating indigenous communities' lands.

Here, I raise three forms of unaccountability of representatives that I constantly found in the land disputes under study: Discretion, corruption and the misrecognition of the represented.

Discretion.

Archive and ethnographic data discussed above reveals how officers enjoy a great degree of independence and opacity in the way they decide public issues,

consequently disregarding citizens interests and rights. Even though official decisions are regulated and delimited by normativity and law, there is a great extent of unaccountability that allows them to take decisions according to shared interests with other political actors. The situation described shows the way officers make use of the wide leeway they hold to interpret policies according to their own, or their groups, benefit. For example, when topographers' assessments about Mogotavo's capacity as a village resulted in a variety of interpretations and contradictory results, at the end, all previous certificates were dismissed and Mogotavo's official misrecognition as a village prevailed, despite the lack of a solid argument and evidence.

Something similar occurred with SRA's and INEGI's decision of working together with *ejido* Pino Gordo and *comunidad* las Coloradas, with the exclusion of Choréachi. The law mandated that residents and neighbours should be informed about boundaries delimitation, however Choréachi representatives were never called to give proof of property rights, or witness boundaries delimitation. The result was that Montoya's Pino Gordo got their membership update (with forged documents) and Coloradas' expanded boundaries were certified by INEGI, fully dismissing, in this way, the longstanding land dispute involved.

Discretion also operates from the side of private groups, state actors and individuals that aim at land dispossession of indigenous communities. Both *Pino Gordo*, las Coloradas and the tourist developers SENSEA got involved in illegal moves such as invading and logging indigenous territories, the seizure of Mogotavo's clinic, the harassment of its residents, and the forging of documents for El Durazno's recognition as *ejidatarios*. These daring actions were encouraged by their confidence about their impunity due to their close ties to political networks of influence. Mestizos and private companies' political capital is large enough to establish win-win negotiations and political bargaining with states bureaucracies as peers.

Discretion is maybe the most common domination mechanism found in the two conflicts. It takes advantage of the gaps that the law has not filled, and is controlled by dominant actors with wide privileges and freedom, either because they have been assigned to take decisions within certain limits, or because of their knowledge of the working of the institutional framework. In sum, encouraged by

guaranteed impunity, discretion benefits people with more status and disadvantages the indigenous communities.

Corruption.

Most of the domination mechanisms have strong links in one sense or another with corruption. From our perspective, a structure of domination is maintained by a network of interests based on actions both in and out of law. Both of them, because of the ethical implications, involve a mobilisation of resources to reward and compensate favours done and risks taken. Despite the wide range of freedom to decide and operate, impunity and power abuses have their limits and regularly involve a certain amount of risk, which have to be charged accordingly to those who benefited from it.

Officers and mediators' influence largely rely on their image (legitimacy, authority, power, relationships and so on) as political representatives. Powerful actors are willing to bribe brokers and officers in order for them to modify the legal course of action and to pay the price involved, hence, subverting the representation by misrepresentating the indigenous actor (See Nuijten, 2003 and Gledhill, 1999). Both cases of *Proyecto Barrancas* and Pino Gordo/Choréachi involve a wide variety of accusations of corruption and arrangements between the El Durazno residents, mestizo brokers, corporatist organisations and private companies with state (mainly agrarian) officers. One example is Mogotavo's traditional authorities stating how tourism developers tried to bribe them in order to convince people to move out of their territory and how their land was sold in exchange for a bottle of cheap liquor (Verbal communication Parra, 2010; Cruz-Moreno, 2010; Cruz-Batista, 2010).

Despite the lack of archival evidence in the context of this research, it is public knowledge that corruption in Mexico is a chronic problem and highly rooted in the political system (Gledhill, 1999). Transparency International Bribes Payers Index puts Mexico, together with China and Russia among the three emerging economies with the highest levels of corporate bribery overseas (Bribes Payers Index, 2008)¹²³. The global corruption barometer shows that 75% of the people interviewed thought that the Mexican government's corruption had increased, while

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http://www.transparency.org/news_room/latest_news/press_releases/2008/bpi_2008_en (25/08/11)

generally for Latin America 51% of the people gave the same answer (Global Corruption Barometer, 2010)¹²⁴. At the same time, Mexico obtained a score of 3.1 on a scale of 1-10 in the last Corruption Perception Index Score (Corruption Index, 2010)¹²⁵. The endemic level of corruption in Mexico could not be explained without considering the PRI authoritarian regime that monopolized power and ruled Mexico for 71 years and whose roots have been left untouched by the conservative governments that took power in year 2000. At present the country is in the middle of an unprecedented social and political crisis due to perceptions of the illegitimacy of the political class, high inequality levels and, in particular, to the violent profile drug cartels' operations had acquired in the last few years, all of which is fuelled by competition for territory. This security crisis and social conflict could not be explained without considering prevailing corruption, unaccountability and impunity in state institutions.

Misrecognition of the represented.

From the 1930s to the 1990s neither collective nor indigenous rights were enforced in the international framework, and hence, it was not on the agenda of legal advocacy in the same way it is today. It was a time when the recognition of indigenous identities was discouraged as a state policy, furthermore, invisibilised and sometimes even denied by the indigenous peoples themselves (Servín and González, 2003, CONAPRED, 2011, Bustillos, et al, 2009; Urías, 2000 and 2007; Hernández and Vázquez, 2007). In government negotiations indigenous communities were seen as peasants or *ejidatarios/comuneros*, and seen as subjects of indigenistas social policies, which at the same time aimed at assimilating indigenous identities to the privileged mestizo national cultural model.

However, the OIT's ground-breaking recognition of indigenous peoples as legal persons in the 1990s and other international jurisprudence, the Inter-American Human Rights Commission and UN convention on indigenous rights, brought to the fore the right of indigenous peoples to be granted collective rights. Undoubtedly, the *zapatista* uprising in Mexico, and the widespread support the EZLN received from national and global civil society enforced the agenda of

¹²⁴ http://www.transparency.org/policy_research/surveys_indices/gcb/2010/results (25/08/11)

¹²⁵ www.guardian.co.uk/global-development/interactive/2010/oct/26/corruption-index-2010-countries-world (25/08/11)

indigenous rights to self-determination (*San Andrés Accords*, 1996). The discussion that took place allowed the consideration of the importance of recognizing the legal character of indigenous peoples, which would open the door for the recognition of issues such as the right of self determination over natural resources, land and territory.

The implication of this was that indigenous peoples would be recognised by Mexican law, and self-determination would be legally guaranteed as they would be considered political entities embodied and represented through their own normative systems, rather than by so-called representatives such as political leaders, officers and politically controlled *ejidos* and *comunidades*. In the end, however, legislators failed to recognize the legal character of indigenous peoples as subjects of collective rights and, rather, the congress granted recognition to indigenous 'communities' as entities of 'public interest' instead of entities of 'public law' as the San Andres accords stated it. With this move, the right to self-determination of indigenous peoples was neutralized, by depriving them of any practical possibility of its exercise.

On one hand, representation is meant to be a mechanism to assure that all interests are included in the agenda and equally considered for the decision making-process; on the other hand, representative institutions often serve the purpose of depriving the subject's constitutional sovereignty. Representatives, then, acquire significant discretion and unaccountability to take decisions that eventually lead them to represent only those who offer the better pay offs, thus, fostering corruption, clientelism and enforcing domination structures. Empirical data from the Sierra Tarahumara shows that this is true for both institutional-formal categories of representation and personal- informal relationships of mediation and brokerage.

Analysis of domination processes in the Tarahumara land disputes found that representation as the 'absence of the represented' (Garsten, 2009), thus, substitutes the sovereign collective subject (Pitkin, 1967) –the Rarámuri-, coopting their decision making power and obscuring injustice under the argument of legitimacy. At a broader level, what we all know as the democratic system becomes an advanced state of the coloniality pattern of power (Quijano, 2000a and 2000b), that by being institutionalized turns structural and hegemonic, working for the benefit of those in better positions within the social and political structure. In this

regard, John Stuart Mills was right when he warned that '[o]ne of the greatest dangers, therefore, of democracy, as of all other forms of government, lies in the sinister interest of the holders of power: it is the danger of class legislation; of government intended for (whether really effecting it or not) the immediate benefit of the dominant class, to the lasting detriment of the whole' (Stuart-Mill, 1993).

7.2.3. Discussion: Representation vs Participatory Politics?

With the emergence of civil society organisations, some indigenous communities experiencing land struggles stopped relying on institutional mediators and turned to NGO's and their juridical teams, searching for more effective advocacy and advice. They noticed that clientelist mediation through state officers was not offering positive results; however, facing struggles through their own means, self-organisation and direct action was yet not an option. Rather, indigenous communities of Chihuahua approached some of these civil society organisations headed by activists and professionals from environmental and social sciences backgrounds with human rights-based approaches. Although advocacy by these solidarity organisations still represented a type of mediation, the relationship was characterized by two significant differences. Firstly, the NGO's offered juridical advice and suggested tackling the disputes through juridical action such as lawsuits, something that was not in the state officer's repertoire. Secondly, as the *Pino Gordo* and Copper Canyon disputes show, the NGO provided and suggested a juridical strategy, however, communities played a central role in the decision-making process.

Against critiques to representation, Young (2000: 123) argues that this is not opposed to participation. Representation, for her, cannot be excluded from decentralised direct democracy. In other words, 'representative institutions do not stand opposed to citizen participation, but require such participation to function well' (2000: 123-125). The representative is neither a delegate nor a trustee, but someone that stands in between by participating 'in discussion and debate with other representatives, listen to their questions, appeals, stories, and arguments, and with them to try to arrive at wise and just decisions' (2000: 131). This is not the kind of combination found in processes of political representation/mediation by individual brokers and states officers, but it is the one practiced by solidary lawyers based in the civil society organisations that advised the Tarahumara communities.

I do not differ from Young in the argument that in a complex society and polity some sort of mediation is needed and that representative government does not exclude the possibility of participatory democracy. However, what Young does neglect, is the great distance between the ideal concept she is advocating for and representation in practice. There is no mention in her account, for example, of the discretion and subjectivity that condition the actions of representatives. Empirical and historical evidence demonstrated consistently that state/institutional mediation processes in which indigenous communities relied and trusted contributed significantly in a variety of ways to land dispossession. In other words, the notion of political representation became critical to the displacement, in different ways, of decision-making power from subaltern indigenous communities to dominant actors and state officers.

The clientelist mediation/representation practices turned indigenous communities into passive actors, whose role was limited to addressing officers and trust in the assumed efficiency of negotiation processes. Claiming legitimacy and authority, political representatives became unaccountable and there was no evidence found to suggest that indigenous communities demanded and obtained more transparency from state officers. Additionally, in exchange for support offered by officers, communities committed themselves to keeping allegiance and political loyalty to the hegemonic party and political regime in place. Also, political representation implies that the advocacy process has to be subjected to the existing hierarchical nature of state/institutional politics, therefore displacing the decision-making process to higher spheres in the political hierarchical structure.

In contrast, I could observe and participate in meetings between solidary lawyers with communities, where advocates discussed the juridical strategy and planned the strategies and actions to take, for example, in future hearings. In a different and private space, the community of Choreachi gathered and carried out a traditional meeting, according to their own normativity and language, and further discussed the issues involved in their defence strategy. After the assembly, the indigenous authority might let the advocates know about the community's decisions or they might not. The juridical approach of organisations also means that the indigenous communities are actually challenging dominant actors through the

hegemonic juridical system with deep and, in many ways, unprecedented implications.

This type of relationship illustrates a way of combining representative and participatory types of practices. However it is limited to those cases in which indigenous communities engage with some of the few civil society organisations working in the area, and its results are constrained to the developments occurring in the juridical sphere and do not guarantee, for diverse reasons, the full exercise of indigenous self-determination. In other words, the concept of political representation, and its strategic combination with participatory politics still falls short of addressing the problem of structural domination. Rather, practices of participatory and direct democracy are still found in today's existing small communities or groups of communities, or in those that have taken advantage of the state's recognition of their autonomy¹²⁶.

Direct action and participatory democracy has also been enforced by communities that, because of state authorities' alliance with dominant actors, fail to recognize state institutions' legitimacy and opt to rely on their own processes of organisation and self-determination. The following section discusses another way of approaching the ongoing indigenous decision-making process and its relationship with possible and emerging development at different spheres of society that together represent more real possibilities of tackling the structural nature of domination and land dispossession.

7.3. Countermediation or Participatory and Direct Forms of Political Decision-Making by the Rarámuri

¹²⁶ Despite the fact that reforms have not met indigenous civil society interests, the partial recognition of cultural and indigenous rights have already influenced some direct democracy and self-determining practices and autonomic schemes. Examples of this are the cases of indigenous peoples in Oaxaca (*'usos y costumbres'*) and recently in Cherán, Michoacán (2011-2012), where an autonomous municipality recently had its right to self-government recognised, by electing their own municipal authorities without any intervention of political parties for the first time in the state's history. The achievement of Cherán was first a strategy of direct action, when they *de facto* established their own security system against illegal logging and drug dealers. Afterwards, they opted to fight for state recognition to self-government that took them about a year to obtain, in consequence, getting rid of political parties (Ventura, 2012; Aragón, 2012a, 2012b).

Within this framework, the Rarámuri people have still relied on different autonomous decision-making mechanisms. Many, if not most, indigenous groups in Mexico in particular, keep their own normative systems. The Rarámuri is one of those having a vigorous political system with their own juridical, civil and religious institutions. Assemblies, as a decision-making mechanism, are widely practised, both within the ejido/comunidad meetings and their own indigenous normative system. The way these instances work has been described elsewhere in the methodology, chapter six and empirical chapters. Despite the fact that these are internal decision-making mechanisms, they allow community members to give legitimacy to decisions while facing external institutions without the risk of fracture. Especially in the case of the normative systems, the *siriame*, governor or indigenous representative is not allowed to take decisions by him(her)self, since it is collectively known that the only authority is the assembly.

Customary government and indigenous legal systems might be the most important redoubt for self-determination apart from aforementioned constituted autonomous communities throughout the country such as the Zapatista Juntas de Buen Gobierno, Cherán, San Juan Copala, Ostula, Atenco, and others. The Choréachi's autonomy is related to their gentile condition (See fourth chapter). In order to maintain their autonomy the 'gentiles' establish a special distance with outside religious and state political institutions. In these decision-making spaces, the Rarámuri discuss internal issues and those related to their relationship with outside institutions. They resolve, and even prevent, conflicts by discussing them as peers in non-hierarchical ways and consensus (Morales, 2005; Villanueva, 2008; and Gonzalez et al, 1994). Women and men have the same opportunities to participate, to talk and to vote, and the chairing authority facilitates the meeting, however, his/her duty is to follow up the decision of the assembly.

The same applies to the implementation of justice, as they solve most of the transgressions informally, as far as they are not considered major breaches of state law. As important issues are discussed and decided by consensus, they face outside institutions through their indigenous authority with a clear stance and strong legitimacy. The authority –governor or *siriame*- adopts the role of a messenger, and in this sense he cannot be co-opted or take decisions by his/her own on behalf of the people. In practice, these systems are critical for indigenous exercise of self-

determination, however, as indigenous peoples are not legally recognized as collective legal persons in national law, decisions taken in normative systems and free, prior and informed consent are still dismissed by local judges. Nonetheless, the existence and strength of these procedures are fundamental for indigenous people's organisation, cohesion, and generation of political capital in order to face state and external civil institutions and relationships.

Other direct mechanisms sometimes put pressure on state institutions and push them to take action over particular issues. Archival research has shown that indigenous peoples and authorities have continually sent letters to state officers demanding to address specific problems (ENAH historical archive). The file of Pino Gordo and Mogotavo itself contains several letters sent to minor officers and even to the state governor and the Mexican president (RAN historical archive). The efficacy of these letters is proved, since they are usually sent to a superior authority that is compelled to put the issue on the agenda and give an answer to the petitioners (See CCIT archive).

Civil society activism, with the support of solidarity networks, can sometimes take a less institutional form through collective action and forms of public protest and mobilisation on behalf of indigenous people's communities. Political activism and the open dissemination of the groups' stance to the public opinion puts the issue in the public agenda, generating political pressure that often persuades institutions to be accountable for their actions. Other, different forms of direct action, may make the intervention of political brokers unnecessary, and often increasing the opportunities available to advance indigenous land defence strategies (Ramírez Romero, 2007).

In addition, discontent is also expressed through direct action protests. Sit-ins and rallies were mechanisms employed infrequently, when advisors thought that it was necessary to put the issue on the political agenda. Otherwise urgent demands would be easily dismissed. Mobilisation was difficult and expensive for indigenous communities travelling long distances without enough resources (Fieldwork, 2010). However, media and public opinion attention over the issue pushed state authorities to establish negotiation and inter-institutional meetings to find a solution based on consensus. Results of mobilisation were not always favourable, but sometimes helpful - to stop illegal logging by Las Coloradas, for example. When the issue

reaches the media, this also pushes other political representatives, such as legislators, to put pressure on the executive. At certain points in the dispute process, the local, federal legislature and the senate established points of agreement that later on turned to the state governor, exhorting him to contribute to solve the land disputes in question (Mogotavo, Pino Gordo and others) (Orozco and Puente, 2009; Quintana, 2009).

There are still a few and exceptional alternative forms of political representation and engagement such as advocacy networks built on trust relationships, such as those that supported the Choréachi in their struggle against El Durazno and Las Coloradas (Ramírez-Romero, 2007). Beyond orthodox political representatives belonging to the dominant political system (parties, public servants, caciques, and so on), indigenous communities' actors have found other forms of representation that are more or less useful to achieve their means. They can establish strategic political relationships and bargaining with municipal authorities and officers to negotiate material or political support to meet their objectives. This includes, when possible, approaching officers specialising in indigenous communities in order to bargain about such issues as social assistance, language rights, juridical advice, solidarity networks (quasi NGOs), such as PIAI (Inter-Institutional Program for the Advancement of the Indigenous Communities), municipal, state and federal office for indigenous issues, legislators (local and federal) commission for indigenous issues, federal office to prevent discrimination, indigenous education office, and so on (This is detailed and theorized by De la Peña, 2002).

However, with the growth and spread of civil society organisations (CSOs), these have increasingly become cultural translators, brokers, advocates and legal advisors in different ways to the conventional intermediaries. The established relationships are built on trust, based on closer and longstanding relationships between CSOs and indigenous communities and peoples (Ramírez Romero, 2007; Merry, 2006; Monsalve, 2011). These solidarity networks represent an important base of support for indigenous peoples' struggles and legal disputes, in a similar fashion, but on a different scale to the role civil society played during the first stage of the Zapatista armed uprising, where due to the intelligent use of the internet and the creation of an international solidarity network, the EZLN obtained the sympathy

of a worldwide community of social activists, which at the end influenced the government not to opt for repression and later on motivated the Zapatistas to go through political, rather than violent means (Holloway and Pelaez, 1998; Cleaver, 1998). The global CSOs have performed the task of observation, material and moral support, and legal/professional advice for indigenous organisations and movements after the Chiapas uprising.

Furthermore, broader forms of political inclusion and participatory democracy (for example citizen advisory councils, or sectorial participatory policy making processes) are also in the indigenous repertoire (examples are the environmental ministry, the indigenous affairs office or even independent forums for the discussion of the indigenous region issues such as PIAI). Indigenous peoples have historically employed their agency to address state institutions, asking them to deal with justice claims. State institutions (particularly those specialising in indigenous issues) still support indigenous groups, usually by request, in specific aspects of the conflict process (transport, food and accommodation during sittings, in conflict resolution, legal advice such as human rights defence, provision of expert reports, translators in trials, and so on). These support relationships are not always necessarily linked to relations of clientelism. In this case, the communities employed their know-how to persuade officers and institutions to be more accountable. Recently, some state institutions at different levels have started to include legal provisions and instruments for citizen participation. Some of these are relevant for indigenous issues, such as the above mentioned citizen advisory councils in the environment ministry (SEMARNAT) and the federal indigenous affairs office (CDI).

Finally, a major strategy already mentioned above, is to turn to state juridical institutions and demand rights as recognized juridical subjects. The practice of self-determination is consolidated when recognised in law, although legal recognition does not guarantee the practice of self-determination. For instance, while self-determination is recognized by clause 169 of the OIT agreement, the national constitution does not recognize the legal status of collective subjects such as indigenous peoples. The same is true in the case of Mogotavo and Choréachi. In the first case, Mogotavo was not recognized as a village, so they could not aspire to be granted land. In the second case, the Choréachi people saw their legal status as landholders denied by the neighboring mestizo comunidad of Las Coloradas;

secondly their status as members of the indigenous pueblo of *Pino Gordo/Choréachi* by the rancho of El Durazno and hence their status as *ejidatarios*, for which they at one time lacked any legal personhood to demand the annulment of the procedures due to the amount of irregularities. Now they appeal to international law and national jurisprudence to sue different actors (El Durazno, INEGI, SRA and so on) under the legal figure of a *de-facto* indigenous Community¹²⁷.

In this sense, the state's recognition of subaltern collectives as legal persons would be an important step to take, in order to better exercise autonomous decision-making processes and self-determination. At the constitutional level, this would radically change the relations between the state and the indigenous communities. Despite the superficial reforms practiced in 2001 by the federal legislature these gave place to the emergence of new institutions for the recognition of language, legal, educational and other rights based on cultural difference. As a consequence of some level of recognition of subaltern collectives and peoples at different levels of the legal system, some provisions strengthen their rights and allow them, to a certain extent, to exercise self-determination. One of these is the right, established in international law, to free, prior and informed consent of indigenous peoples in relation to any external intervention affecting the communities' territories and way of life.

In short, despite the on-going wider processes of domination over indigenous territories, there are still different forms of indigenous participatory politics coexisting and operating in these areas, ranging from institutional practices of political representation to local forms of self-determination.

7.4. Conclusions: The Influence of Political Representation on Land Dispossession.

This chapter examined the notion of representative government and other social relationships of representation in the context of the land disputes and dispossession taking place in *Pino Gordo* and Mogotavo, Wetosachi and Bakajípare. It discussed the way the idea of political representative government has been

¹²⁷ *Competencia Agraria, Comunidades de Hecho, Afectación de Derechos de las. Corresponde Conocer de esta a los Tribunales Agrarios al estar Reconocidas y Tuteladas Directamente por la Constitución Federal. Tesis XV/96. 9a. Época; Pleno; S.J.F. y su Gaceta; III, Febrero de 1996; Pág. 165*

conceptualized and the extent to which such ideas relate to the relationships found in historical archives and fieldwork.

Throughout the analysis it was found, first, that democracy and representative governments are increasingly contested institutions in the national context. The chapter analyses categories of representation and the way the notion, in practice, becomes a form of substitution of the represented (Pitkin, 1967), hence, giving place to different forms of unaccountability, such as discretion, corruption and the negation of the sovereign subject. Secondly, reflection on the concept of representative government under the light of critical analysis illustrated the contradictions between theory and practice. Such analysis raised questions about the structural character of marginalisation and social injustice and the role representation played in contributing to structural injustice by first invisibilizing injustice and then legitimizing unaccountable institutional practices. It was suggested that the problem should be reframed in different ways: first, by seeing it as structural and approached in an hegemonic legal dimension; secondly, by making a critique of the fallacy of representation and the lack of participation mechanisms in the public space; and thirdly, by putting into question state centralisation that undermines the flourishing of small scale government and local autonomy.

The final section of the chapter explains the longstanding participatory and direct democracy practices of the Rarámuri, such as the sending of letters addressing state officers, political mobilisation through sit ins and rallies, as well as the whole normative system that is a clear model of egalitarian democratic practices in itself (Morales, 2005; Villanueva, 2008; and González et al, 1994; Nolasco, 1997). Recently, they are opting to struggle within the state juridical institutions, with the support of lawyers and invoking their rights to self-determination, given by international law and based on the vision of indigenous peoples as juridical subjects.

The chapter approached representation as the negation of self-determination. Even though representation has been an effective way of adapting democracy to the framework of the state in order to manage complexity of social and political issues and turning it into government, representation was an adequate embodiment of domination: it has taken peoples sovereignty and self-determination away, while giving it to the state and to other institutions and actors alleged to be at

the beck and call of the former-sovereign subject (See Wallerstein and Przeworski, 1986).

The political representation process itself served to legitimate the relationship and the power of the representatives, who tend to take advantage of such legitimacy and act with plenty of room for discretion in the name of interests beyond those of the represented. In the context of the Tarahumara, representative relationships have largely served as providers of legitimacy and unaccountability to officers, agrarian rights holders and touristic investors to displace indigenous communities in the name of development.

On the one hand, state actors –legislative, executive and judicial- have not been accountable to social groups in disadvantaged positions in the social hierarchy; on the other, these groups have also been disadvantaged by local relationships of mediation with the state institutions. Despite having legitimate and legal possession of their lands and living in a alleged democratic country, under a rule of law and solid state institutions inherited from the Mexican revolution, things did not work well in the dispute processes for the Rarámuri communities. Apparently, officers and judges did their jobs, however, in every new stage, the other party obtained new gains while the Rarámuri accumulated losses.

According to the analysis, social justice, understood as the realisation of autonomous political decision-making, was not being achieved by the social and political structure. Rather, this had been constrained and invisibilised at different times, while representative relations have been universalized and normalized by the state bureaucratic apparatus and cultural hegemony. As Bourdieu put it, '[r]ecognition of legitimacy through misrecognition of arbitrariness' (1990: 168). In turn, domination, the author explains '...no longer needs to be exerted in a direct, personal way when it is entailed in possession of the means (economic or cultural capital) of appropriating the mechanisms of the field of production and the field of cultural production, which tend to assure their own reproduction by their very functioning, independently of any deliberate intervention by the agents' (Bourdieu, 1990: 183-184).

Nevertheless, autonomous political decision-making is present, in practice, at different levels of the structure. At the same time, when engaging in legal land

disputes the assembly nature of the indigenous normative system is also strategically combined with other state institutions, such as the municipal, state and federal police offices, as well as the judicial branch of the state.

The point here is not necessarily about replacing representation, but about thinking of effective ways of allowing the flourishing of social groups' and communities autonomous decision-making and alternative forms of participatory politics. The Rarámuri themselves, do not reject state institutions, but interact with them, even when they are aware that they are participating under disadvantageous rules and conditions. However, they have begun to win trials by invoking their right to self-determination under the state's juridical system or '*mestizo* rules' –as the Rarámuri used to say'.

Representation can coexist with deliberative, participatory and direct democracy mechanisms, but particularly, there is room for it to be accountable to its constituencies regardless of class, ethnicity, culture, gender, body aesthetics, age, or geographical location, among others. However, for this to be possible it is necessary to understand that, as a structural problem, the task is complex but starts to get clearer if analysed critically. While domination relies on invisibilising its injustices and in remaining unquestioned, a first step to take is to visibilise, re-politicise and de-normalise these issues, and to increase their transparency, thus questioning and putting them on the agenda. Only then may it be possible for relationships, institutions and imaginaries to be de-colonised to such an extent that people's autonomous decision-making becomes an everyday reality in the public sphere.

8. CONCLUSIONS

8.1. Introduction

This chapter draws together the main findings arising from this thesis, which result from a better understanding of the contradictions between democracy and social justice. What I have sought to demonstrate is that the study of social inequalities should be tackled from a structural perspective, that is, the relatively permanent conditions based on norms and subjectivities that influence the course of social phenomena such as social injustice in particular ways, for example, the set of institutional constraints to the self-determining capacity of indigenous communities. The interest in this approach results from the lack of studies approaching

development-led displacement from critical perspectives of social injustice. Within this view, the historical nature of land-dispossession is the result of context-based processes of domination, defined as a long-term and systemic constraint on indigenous communities' decision-making power. The described structures do not operate the same in every single space and do not determine the outcome of disputes. Rather, the normative and subjective nature of structural domination has been historically constructed in this particular context of northern Mexico and does influence, but does not determine, dispossession. What research results show, is that the self-determining action of indigenous communities, in alliance with solidary non-government actors and organisations, represents a threat to the effectiveness of these juridically and socially constructed structures.

The research emerges from the examination of an overarching question: How is land dispossession of indigenous peoples perpetuated and still occurring in a political system defined as a representative and democratic republic such as Mexico?

This question is divided into four sub-questions: 1. How is land dispossession of indigenous peoples in northern Mexico reproduced over time?, 2. What social, cultural and political mechanisms contribute to the perpetuation of land dispossession of indigenous peoples in Mexico?, 3. How does the modern democratic state address resource distribution and social justice in a culturally and socially diverse society such as that of the Sierra Tarahumara?, 4. How can the notion of decision-making power better explain and reveal domination mechanisms and ways to challenge them?

The chapter is also guided by the initial hypothesis of the thesis, which suggests that issues of political inequality and decision-making are critical to understand the processes of economic marginalisation, domination, and land dispossession of subaltern social groups. In this sense, political inequality influences the course of decision-making regarding development projects and the resulting demand and competition for resources are controlled by political elites, while structural conditions exclude indigenous communities from these processes.

The main findings of the thesis are related, first, to three main strategies, tactics or mechanisms of those actors whose attributes position them in advantageous positions in the local social structure and, second, to the role of self-

determining community practices and alliances to emerging actors. In the first instance, I found such tactics as: Political Representation, Cultural Representations and Institutionalisation of domination processes. These mechanisms-strategies were found all over the studied disputes and relate to well-known practices constitutive of the political culture of the Mexican political system. The first one concerns those mediation tactics that are commonplace in the Mexican countryside and political system, which displace decision-making power from the local residents to external political elites. Cultural representations refers to all those elite's discourses, narratives and power over communication resources that, because of their hegemonic nature, influence and shape public opinion about development processes and capital investment for modern infrastructure in local communities. Institutionalisation, in turn, has to do with the process through which informal domination practices are formalized, legalized and legitimized through normativity and bureaucratisation, normalizing it and consolidating its uncontested character. These tactics have been found critical for undermining of the Rarámuri's communities' decision-making power and autonomy, which at the same time are central conditions for an effective land defence strategy.

In the latter instance, self-determining practices turned out to be critical for the reconsideration of relationships with the state, and the establishment of new ones with such actors as civil society organisations and their teams of professionals (filmmakers, biologists, anthropologists, lawyers and others). By leaving behind their subordinated relationship with state mediators, the indigenous communities renounced at the same time participating by the rules that guide some of the tactics of domination. Through these decisions, they deny their consent to practices of political representation, to some of the institutionalised forms of domination and, indirectly, to counteract the effects of cultural representations. Moreover, the new relationship with solidary organisations established conditions for the emergence of different forms of empowerment between the communities and the traditional authorities.

These processes give evidence to suggest that the communities are overcoming their invisibilisation, by challenging dominant actors in their own arena: the juridical system. The indigenous communities not only vindicate the right of practising their own normative systems, but also their right of access to state justice. The fact that indigenous actors have entered into the juridical arena has great meaning for public opinion and dominant actors, as not only their struggles are

taken to public scrutiny, but they position themselves as political and juridical subjects. To turn from subaltern actors to political and juridical subjects makes a significant difference regarding the position the indigenous communities occupy in the social structure as visibilisation sooner or later translates into respect.

Although it might be too early to say that they have consolidated their position as juridical and political subjects, evidence reveals that these processes have already been unleashed and indigenous peoples have started dismantling some of the domination structures described here. Finally, the relationships between communities and NGOs could have been translated into orthodox brokerage/mediation relationships; however, at this stage there is no evidence that this is the case. Instead, NGOs and their lawyers have been respectful of indigenous peoples' internal decision-making processes and, although the juridical strategy is operated by the lawyer, the indigenous communities are consulted, their voice is heard and at the end, they can give consent to the final legal strategy or deny it. This resembles what Young (2004) terms "self-determination as non-domination", where self-determination comes together with facilitating relationships and connections among people, recognising principles of interdependence and interrelatedness.

This case study did not show evidence of either NGOs or indigenous communities contributing to structural domination, however, this does not mean that this could be the case in other case studies elsewhere in the Sierra Tarahumara or beyond. Indigenous people do contribute to domination processes in different ways; however, in case some of these situations were present in the case studies, they were not of significant importance for the analysis. The fact that the communities relied on corporate institutions and, hence, participated in clientelist relations can hardly be interpreted as an indigenous domination practice, as they were not aware of the adverse role mediators were playing against the communities' interests. Instead, it could be explained as a process of assimilation or, in Hickey and Du Toit's (2007) terms, adverse incorporation. El Durazno's offensive against the Choréachi gets closer to the idea of indigenous domination, however, in this case the community was led by the mestizo Rubén Montoya and the institutional apparatus of SRA and INEGI, as well as the oppressive presence of the Las Coloradas agrarian community.

8.2. Dimensions for a Structural Analysis of Land Dispossession of a Subaltern Social Group.

This section describes the issues emerging from questions regarding how individuals, relationships and institutions intervene throughout history in the reproduction and perpetuation of land dispossession of indigenous peoples. The pertinence of this inquiry stems from the gap left by the existing literature regarding the different dimensions that surround the concrete practices of land dispossession, and thus capture the relevant context that sets the conditions for a fully accomplished domination process. As domination is a process constituted by global and historical developments and a multiplicity of actors and norms, it is of the utmost importance to understand the conditions that make this possible.

As an anthropologist, I tend to centre my analysis at the micro-level and this is still my point of departure regardless the fact that I also look at long-term and large-scale approach for the design of a structural approach. For that reason I am not including the micro-level as just another additional dimension for a structural approach. Actually it is the axis that articulates the historical, global and epistemological spheres that, from my perspective, are often very much needed for anthropological research that often tend to fall in cultural reductionism.

In the following section I discuss the specific dimensions that were found to be critical for a better understanding of the factors setting the conditions for domination processes.

8.2.1. The Global Political Economy Dimension in Domination Processes

According to critical theory literature on the modernity/coloniality approach, a power pattern emerged as a result of capitalism, articulating inter-subjective relationships through the world capitalist market and the idea of race, thus linking modern forms of exploitation and domination (Maldonado-Torres, 2007).

In harmony with these global economic processes, the so-called Washington Consensus triggered what later became an emerging trend in global governance of supra-governmental and multilateral organisations governing global issues of trade,

banking, finance and even humanitarian and social relevance (e.g. WB, IMF, IADB, UN, and UE). These global institutions acquired legitimacy out of the participation and authority given by the (commonly rich) countries involved in their governance structures. However significant their decisions over national policies, these entities constituted non-elected bodies that have significant influence over national economies, policies and, especially, local contexts. Increasingly, lending and investment conditions, global trade and financial rules, market demands or prices fluctuation, are decided beyond the national and local spheres, thus, depriving local democratic mechanisms and citizenship participation of its constitutional right to influence public affairs. This is true to economic sectors such as the tourism industry, forestry, mining and other activities that play a significant role in the Sierra Tarahumara.

The question arising from this panorama concerns the extent to which the phenomena at the global level influences power inequalities and social injustice at the community level. The influence of the global market, the specific niches such as forestry and tourism and market-oriented interests create a demand for products and services that create, in the local contexts, an opportunity for the supplying of commodities out of the existing resources available. This logic of business and capital accumulation tends to lead to the materialisation of different kinds of investment in industry, services and infrastructure that eventually enters into conflict with local interests and are finally contested in the political arena. This was evident in the case of the Copper Canyon Touristic project that was a direct result of the increasing demand for touristic services from the global market and of the urgent desire of national governments to boost economic growth.

The same applies in the case of *Pino Gordo*, where the ambition for controlling timber exploitation and selling led two different social groups to dispute the territory of the indigenous community of Choréachi, one of the best conserved forests in the whole Sierra Tarahumara. The development of new industries in marginal regions like the Sierra Tarahumara is also of economic and political interest to local elites and the structure of officers, bureaucrats, professionals, and different sorts of brokers involved in the local capitalist economy.

The fourth and fifth chapters demonstrated that land dispossession attempts were closely linked to interests in business and income generation opportunities regarding forestry and tourism activities. For instance, despite sharing land with the Wetosachi and Mogotavo indigenous communities, land dispossession and eviction

attempts only began when the touristic project was launched. Meanwhile, Las Coloradas illegal logging on Choréachi lands was constant and the El Durazno community began logging Choréachi's forest immediately after they gained official land property rights. In this sense, these actors take advantage of emerging investments and constitute a structure of political and economic interests that operate in a relatively coordinated manner to generate appropriate conditions to promote development projects. This eventually results in deciding about issues that concerned the affected communities where projects are going to be developed.

The analysis of national and, particularly, emerging agrarian policies also revealed that the dominant economic paradigm influencing national economic policy led to agrarian reforms that opened the social property sector to land commodification. These conditions, combined with natural resources-rich lands and the increase on the added value of land as a result of infrastructure investment, resulted in intense pressure over community lands, especially those that have not been secured as legal property according to the canon of positive law. Historical and anthropological analysis also showed that, because of the modern state's exclusion of cultural difference, subaltern groups such as indigenous peoples are likely to face several structural obstacles to the recognition of their land property rights. This panorama creates an adverse context for indigenous peoples to protect and defend their right to property and land holding. Empirical research demonstrated that at the micro level, indigenous communities are still going to find several other constraints that increase their chances of becoming dispossessed of their property rights. The findings about such conditions, organized and explained as a structural domination process, are explored in the following sections.

Finally, the global context also provides opportunities for indigenous peoples to successfully face land dispossession attempts by external actors. Agreement 169 of the International Labour Organization (ILO) has become a critical juridical instrument favoring human and collective rights of social groups such as indigenous peoples. Recognition of indigenous territory, collective and cultural rights, self-determination and the right to free, prior and informed consent is now establishing important precedents for land defense in the context of juridical disputes. The preliminary, although still partial, triumphs of the Choréachi and Wetosachi in the courts, are examples of the possibilities opened by international human rights institutions challenging the reluctance of national law to recognize

cultural pluralism within the state. This is an example of how domination structures are not permanent and are also subject to transformation by different actors working together.

8.2.2. The Historical, Relational and Political Dimensions of Domination

History was found to be a central perspective to more fully capture the nature of domination as a complex process, constituted over time and resulting from the accumulation of suitable conditions and knowledge about tactics to be used against subaltern groups. Historical and juridical archive research in state institutions and juridical advisors and advocates, for example, provided consistent data about the sequence of negotiations, demands, rulings and contestations involved in the social and legal disputes of the case studies under examination. Land grant requests, dates, rulings and the administrative and legal procedures involved, revealed the struggles indigenous communities had to face against the constraints established by state institutions and the political tactics of adversaries and local elites. These sources provided detailed information about the discursive, political and administrative institutional mechanisms involved in the effort to privilege local elites and to delay the procedures established by the indigenous communities.

For instance, archive documents provided evidence about the context of the first land requests by both indigenous communities and private actors and, consequently, about the following demands made to the state institutions by the parties for the rest of the century. Documents described in chapters 4 and 5 give evidence of the way local mestizos first appropriated indigenous lands through administrative procedures such as 'prescriptive acquisition' (which allows settlers to legalize property by showing evidence of 'peaceful, continuous and public possession') and then selling the lands to external investors such as the Camarena or the Pagés Mendoza, who then claimed to possess legal and legitimate rights to lands inhabited by the indigenous communities.

The *Pino Gordo* dispute, in turn, revealed the way the Benito Juárez regime in the 19th century granted land deeds to small groups of people in the lands of *Siteachi* (later known as Las Coloradas), thus fragmenting the *Pino Gordo* indigenous territory and generating a dynamic of land exchange involving mestizo settlers, and later on the creation of the Las Coloradas commons. These would later grow in

population, outnumbering indigenous residents, taking control of the agrarian nuclei and finally, claiming property rights over the neighboring indigenous ejido of *Pino Gordo*. A better understanding of these long term processes of dispossession are complemented by the biased practices of state institutions involved in recognising property rights and addressing conflict resolution that will dismiss the claims of indigenous people, while favouring those of actors more knowledgeable about the Mexican political system and bureaucracy, very much based in clientelism and corruption –as chapter 7 describes.

The visibility of these processes demonstrated the staging performance of particular actors such as state officers in directing the course of dispossession processes. This fact is particularly clear when examined in perspective, in other words, by finding the way institutional advice, procedures and practices led indigenous communities to have their claims delayed or simply rejected. In contrast, the political influence and know-how of bureaucratic procedures by mestizos or other Rarámuri leaders give them a distinct advantage in administrative disputes. Other examples of this are the useless negotiations the indigenous affairs office established within the agrarian office on behalf of *Pino Gordo*; on the contrary, the unilateral negotiations between agrarian officers on one hand with El Durazno, on the other hand with Las Coloradas, undermined the Choréachi's efforts to be included in the ejido membership list, thus causing them to lose their property rights and even their ejido status.

An historical approach also accounts for global processes such as the establishment of modernity and the coloniality pattern of power and state making processes that imposed a Eurocentric epistemology on the emerging American states with significant consequences for the future nature of the political and economic systems. The analysis of these processes provide the perspective to identify the impact of colonialism, which far from disappearing, took a different shape by transforming into a system of epistemological domination (normalized at the ideological level), based on the criteria of race and the assumption that certain attributes had to be subordinated and subjected to a system of hetero-hierarchies established by elites as a model.

To disregard the historical perspective of state formation, society and culture in structurally unequal contexts would mean to overlook the connections

between socio-political relationships and dimensions that shape the course of dispossession processes, but most important that unveils the process of domination. The case studies analysed in chapters 4 and 5 showed that land dispossession of the Choréachi, Wetosachi, Mogotavo and Bakajípare is primarily the result of global and local capitalist relationships (e.g. timber and tourism commodification), socially and unequally structured actors (e.g. indigenous communities, indigenous and mestizo brokers, local political and economic mestizo elites, regional business(wo)men and state officers), historically and culturally rooted social and political relationships (e.g. brokerage and representation, clientelism, state's authoritarianism and unaccountability) and modernity and state formation processes (e.g. modern epistemologies turning dominant and displacing the indigenous ones with consequences for the performance of the state's democratic, juridical and agrarian institutions as shown by chapters 6 and 7).

In this sense, to attribute land dispossession to particular arguments (such as 'rule of law', lack of fulfillment of legal requirements, national interest, NGOs 'obscure interests', urgency of economic growth, progress and development, and so forth) leads observers to interpret the problem as a matter of technical, individualist and procedural issues, rather than political ones. In this way, responsibility is taken away from dominant political actors and directed to those dispossessed, in other words -and again- to 'blame the poor' (Tilly, 2007). Considering this, it is my contention that dominant and hegemonic discourses in the social-political, state or academic spheres, tend to neglect historical and relational perspectives in order to invisibilise the structural inequalities and the role of political elites in reinforcing and perpetuating structural domination such as land dispossession. For instance, official discourses, sometimes translated into the modern-academic language, and thus claiming scientific objectivity, tend to decontextualize development processes and portray them as matters regarding the actions of individuals that can be addressed and solved through technical solutions.

8.2.4. The Epistemological Dimension of Domination

One of the thesis' main contributions to knowledge about development-led displacements is to highlight the importance of the epistemological dimension in the perpetuation of domination processes.

The discussion of elites' discourses about development and land appropriation, particularly in chapters 5 and 6, highlighted patterns of arguments and narratives that, on the one hand, invisibilise the claims of indigenous communities, while on the other, justify development intervention by assuming it as progress that benefits the region and its inhabitants. The thesis provides a wide variety of examples of discourse practices, interpretation of development-led displacement processes and representation of the indigenous actors underlying domination practices. This discussion demonstrates the importance of the epistemological dimension of domination, as it represents the means through which the elite's hegemonic views and knowledge seek and achieve favorable public opinion and, thus, widespread levels of consent.

For instance, the analysis of the arguments made by agrarian officers for not recognizing property rights reveals the extent to which they deny the condition of villages to indigenous communities based on the argument of their different (disperse) settlement patterns. Furthermore, they (together with INEGI) negotiated unilaterally with mestizos and Rarámuri brokers the approval in agrarian nuclei assemblies of the updating of membership lists as well as the official recognition of mestizo lands boundaries –such as that of Mesa de la Barranca and Las Coloradas– with no invitation to neighboring indigenous communities – the Choréachi and Mogotavo–, although this contravenes existing laws. There was no argument justifying this omission, rather, it was taken for granted and normalized by the relevant actors involved. The most emblematic of these examples, is the easiness with which private actors buy lands that have been ancestrally held by indigenous communities, such as the cases of Mogotavo/Mesa de la Barranca and Wetosachi/El Madroño. In short, lands are acquired by invoking an argument of 'peaceful, continuous and public possession', in other words, 'empty lands', as the indigenous peoples were considered not to officially exist. The data shows a pattern of denying the political subject, the community and the act of social injustice itself, by dominant actors such as mestizos, local elites, officers, businessmen, and, even, the development literature at large, by neglecting to talk about injustice with regards to development-led dispossession and, instead seeing it as a 'price' or 'externality' of development and progress.

Analysis of contemporary history also helped to uncover the way the epistemology of modernity, consistent with colonial practices, aims at the displacement of the diversity of local epistemologies. This epistemological displacement builds on the idea of race; however, it has also evolved and diversified by undermining other forms of differences based on notions of gender, age, body aesthetics, sexual preferences or ideology, to name but a few examples. In addition, archive research regarding communities' agrarian and juridical issues for most of the 20th century provides evidence of dominant actors' strategies and mechanisms for ideological control through discursive misrepresentations, control over the symbolic, the beliefs and the attitudes of society, in order to consolidate elites' hegemony, reproduce cultural imperialism, and, thus, impose their own vision about what development and justice is about. These strategies and mechanisms are particularly useful for dominant actors when domination gets structural, as the created assumptions and values tend to constrain the aspirations and lifestyle choices of subalternized social groups.

8.3. Mechanisms of Dispossession in Perpetuated Domination Processes under Democratic Systems.

The research question regarding this section enquires about the main social, political and cultural mechanisms that contribute to the perpetuation of land dispossession of indigenous peoples in a democratic national regime and how we can better explain and define these processes.

I found a wide variety of specific power tactics or mechanisms constituting domination processes, and in addition, the analysis allowed the identification of three different categories of domination mechanisms corresponding to three different dimensions of politics: First, the institutionalisation of domination – regarding the dimensions of norms and legitimation; second, political representation –regarding the dimension of authority and decision-making power, and third, hegemonic representations –regarding the struggles for meaning and control over beliefs, practices and symbols.

These mechanisms are understood, not as operating in isolation from wider nets of relationships, but as being embedded in the context of the modern state, a global capitalist political economy and an inherited political pattern of coloniality, which reproduces in society a constructed status system consisting of hierarchic differences. This contributes to shaping the values and assumptions of wider social sectors in order to obtain their consent, and reinforce the structural power underlying domination processes.

8.3.1. Journey from Fraser's three R's to Young's Structural Approach

A framework for cultural and ethnic citizenship: recognition, redistribution or representation?

The emergence of critical theory and other approaches such as the new social movements that revisit the importance of culture and identity in the struggle for social justice, contributed to the development and consolidation of what came to be coined as the perspective of recognition. This generated in some circles the dilemma between leaving the prospect of material redistribution of wealth or, otherwise, finding a dialectic between the two. Nancy Fraser (1999) is the key author behind the discussion that generated a heated debate, particularly among feminists.

The paradigm of recognition focuses on what Fraser (1999) defines as the discursive construction of hierarchy. This replaces the old economic social imaginary for a culturalist perspective of society. Fraser posture is to emphasize that struggles for justice might not be successful if not combine the recognition¹²⁸ with the redistribution¹²⁹ policy. Fraser's concern is that struggles for recognition are recently displacing struggles for redistribution. In struggles for recognition within the kind of conflicts coined as "post-socialists", the emphasis on group identity overrides the class interest as the axis of social mobilization. Given this

¹²⁸ By policy or struggle for recognition Fraser refers to "cultural or symbolic injustice. This entrenched social patterns of representation, interpretation and communication". Examples are cultural domination and the loss of respect (Fraser, 2008: 14).

¹²⁹ By policy or fight for redistribution Fraser means the full range of perspectives, ideologies and movements aimed to eliminate the socio-economic injustice rooted in the social structure, be it of exploitative kind, marginalization or dispossession (Fraser, 2008: 14).

situation Fraser proposes the development of a critical theory of recognition, which identifies and supports only those versions of cultural policy for the difference which is combined with a social policy for equality (Fraser, 2008).

A problematic aspect in the struggles for recognition of difference is the dilemma between valorizing cultural specificities, and that of abolishing economic discrimination based on such differences. At first glance would seem a serious difficulty to achieve redistribution and recognition at the same time. The solution chosen by the author is socialism in economy and deconstruction in culture. Fraser assumes that we must give due weight both to redistribution and to recognition, so that it is possible to analyze the relationships between the two and encourage a mutual support rather than competence.

As a result, the author comes up with two wide perspectives tackling injustice of the recognition and redistribution, namely, "affirmation" and "transformation". Affirmative remedies are those directed to correct the unequal consequences of the social arrangements without touching the structure that produces them (Fraser, 2008: 28). The transformative remedies are those that address the grievances of transforming the underlying structure and destabilizing the differentiations and existing group identity, self-esteem and changing the sense of affiliation, membership and of being of everyone, not just of the excluded (Ibid.: 29). However, Fraser concludes that the affirmative perspective, applied both to redistribution and recognition, fosters greater group differentiation further stigmatizing the subordinate. The transformative perspective on the other hand, deconstructs dichotomies, destabilizing and blurring group difference. In this way it promotes the formation of relations of reciprocity and solidarity (Fraser, 2008).

In a more recent article "Reframing justice in a globalizing world", Fraser gives her analysis a political dimension of justice and after reviewing the critical analysis to his work by a set of authors, Fraser added political representation to redistribution and recognition. The above in response to the need of correcting the denial to participate as peers in a social interaction (*misrepresentation*); be excluded from membership in a political community (*misframing*) or the failure to institutionalize a greater parity of participation at the meta-political level (meta-political representation).

This time, the representation refers not only to that which is limited to within a political community but it reaches the level of meta-political injustice or the transnational dimension of injustice in a globalizing world, for example, that which affects non-citizens (Olsen, 2008). One of Fraser's examples is how environmentalists and/or indigenous peoples 'demand position themselves as subjects of justice in relation to the extra and non-territorial powers that affect their lives" (Fraser, 2008: 287).

I came up Young's debate with Fraser While reviewing Fraser's framework in her "Adding insult to injury" (2008), where she discusses with her critics. There, Young agrees in Fraser's concern about the displacement of claims for economic justice by politics for recognition. Young state's, however, that Fraser's solution of reasserting a category of political economy and opposing it to culture is worst than the disease. Rather than solidifying dichotomies, Young advocates for a reconnection between issues of symbols and those related to the material organisation of labor. In addition to this, Young propose to 'pluralize categories and understand them as differently related to particular social groups and issues' (2008: 91). This discussion took me to make a search for Young's literature and finally came across her theory of politics of difference, her five faces of oppression and most important, her theory of structural domination (1990 and 2008).

As Young's approach was a general model of theoretical nature, I took it as such and adapted it to the conditions I found in the Sierra Tarahumara land dispute. Fraser's categorization was not found to be useful for accounting for the complexity of factors behind land dispossession. Rather, Young's structural approach looked allowed the consideration of historical social processes and global influences that combined to local phenomena constituted domination. Young's categories (5 faces of oppression), however, did not work in the same way she described them. This made me establish, within a structural framework, my own categories, those that I though worked well in the particular context of the Sierra Tarahumara. I describe them in the following subsections.

8.3.2. The Institutionalisation of Elites' Political Practices

Generally speaking, structural processes have to do with a more or less permanent state, sustained by good intentions expressed in the fulfilment of the

duty of people, the everyday assumptions, values and practices of wider sectors of the population and institutionalized norms, values and practices. Informal types of power tend to become institutionalized through the formalisation of norms, by the legitimation of claims over authority and, finally, by the creation of a relevant bureaucracy and political structure that guarantees a more systematic fulfillment of the institution's objectives. The state itself has followed this path over its long history. Decentralised and loosely structured forms of power became centralized and turned into administrative and coercive apparatuses.

The data presented in chapter 7 indicates, on the one hand, that structural domination is strongly based in state institutions which, in turn, are rooted in the modern juridical system; on the other hand, chapters 4, 5 and 7 showed that informal mechanisms, groups and even individuals tend to combine their influence with institutional power or even to institutionalize their own political strategies. Political representation illustrates the way in which informal forms of brokerage (e.g. that of Rubén Montoya, Vicente Montaña, or corporate advocacy organisations) are closely tied to formal or institutional types of mediation and representation, such as that practiced by agrarian and indigenista state officers. Another example is the way representations of communities' resistance are constructed by local dominant actors and later adopted by institutional narratives. These practices of institutionalisation have proved to constrain indigenous communities' lifestyle aspirations and to adversely impact their interests, particularly when mediating disputes or acting as political representatives.

In case number one, the analysis of the modern state formation focused on the Mexican government suggests that modernity has been structured around the displacement of different political philosophies, while imposing a paradigm based on the 'universalisation' of notions of improvement, growth, a unique national identity and a centralized political apparatus. Throughout this process, people and social groups, not based on the established norm, have suffered the continuous pressure from state power through the continuous structuring of norms, bureaucracy and claims for the legitimate monopoly over authority and coercion. This universalized notion, as a scientific construction of state power, is strongly sustained by additional monopolized ideas of law and institutions that is therefore, projected and perceived as normal and uncontested. The analysis of chapter 7 regarding the critique of the state's juridical system enabled me to look at it as an

institution for social control and normalisation of domination practices through the employment of forms of power/knowledge, whose claim for lawfulness and the monopoly of power is self-granted (Foucault, 1996; De Sousa Santos, 2009; Correias, 2010).

In practice, the modern state excludes the possibility of recognizing the legal and legitimate personhood of peoples and social groups, particularly those that differ from the so-called norm. These people are therefore, subjected, on the one hand, to institutional policies of exclusion and discrimination and, on the other, to inclusion and assimilation. This form of state institutional power becomes a model to follow for emerging forms of power and authority such as local leaderships and brokers. Domination mechanisms and the resulting political influence are eventually sought to be institutionalized through the generation of enough social consent to validate and legitimate their norms, claims to authority, and ultimately, to increase the chances of institutionalizing their power. This is clearly showed by the way corporate organisations and emerging community leaders operate, by negotiating with the state on behalf the communities, taking advantage of the needs of rural people to find efficient forms of mediation with institutions, whose technical language, normativity, procedures and logic are hardly accessible to the wider population.

The state also needs and promotes the expansion of different forms of mediators who utilize an associated normative language which enables them to control the negotiating process and deal with its constituencies' interests, demands and decision-making power. The importance of these findings lies in their potential to explain domination as a long term process, and the specific procedures through which it keeps reproducing and perpetuating in particular social contexts, in this case, one characterized by colonial relations and unequal inter-ethnic, social, political and economic relations.

8.3.3. The Subversion of the Idea of Political Representation

The notion of political representation, detailed in chapter 7, is another dimension of the domination process that illustrates the concrete ways in which the efforts of indigenous communities for securing property rights are undermined by structural conditions. The modern state claims legitimacy based on a particular form of democracy - representative democracy-, which is alleged to be obtained through

the “citizens’ will” and expressed by the electoral vote. The assumption is that by electing representatives, the common interests will be –‘represented’ by expert politicians or officers within the state’s public sphere. The empirical evidence and literature presented in this thesis reveals the flawed nature of this basic tenet of political representation. The analysis showed that representation, however, actually transfers sovereignty from one subject –the represented- to another –the representative-. It has been held, rather, that elites justify the perpetuation of their power on democratic grounds, and the idea of political representation is useful in legitimizing their continuous rule while obscuring the institution’s pervading opacity. Here, based in empirical and archival data, I raise three forms of unaccountability of representatives that, I state, are present in the land disputes under study: discretion, corruption and misrecognition of the represented.

Institutional practices operate within a wide range of discretion, or decisions beyond normativity supported by the aura of authority and power that institutions tend to invoke. This discretion leads to corrupt practices, and hence, to the subversion of the idea of representation, as the lack of transparency threatens the interests of the represented. As a result, the character of the represented is denied. For instance, actions produced in the legislative framework – the constitutional federal legislative reform of 2001, the judicial power, indigenous communities’ legal disputes, and the executive power negating in different ways land granting to indigenous communities-, as well as lower levels of bureaucracy - tend to deny the existence of the represented –especially the subaltern- subject. This is done by denying legal personhood to indigenous peoples, or communities, or even by ignoring the existence of the indigenous actor when carrying out administrative procedures, as the examples in this research illustrate. The negation of the subject affected by development is a condition for the negation of development-led social injustice. In short, when nobody’s affected, injustice has never taken place.

This employment of the notion of political representation by the state is reproduced at other levels of society for the same purposes. Indigenous communities involved in land disputes with dominant actors have to go through a network of mediators that, in the name of political representation, assume the role of legal advisors. Ejido representatives, caciques, corporate peasant organisations, state officers, lawyers, and new representation figures created for the emerging participatory or advisory councils in the state bureaucracy are just a few examples of the wide range of political representatives in Mexico’s rural areas. These

processes reveal the variety of forms in which direct decision-making by indigenous communities are being constrained by the modern political system.

The analysis of representative democracy in the context of the Tarahumara land disputes and the dispossession of indigenous peoples demonstrated how representative institutions not only misrepresent the indigenous people, but also serves the purposes of dominant actors, those who are positioned in a privileged place within the social structure and whose aims are appropriating resources that according to law belong to the peoples who have historically owned them. According to this, representation has not served to make the practice of democracy and equality a reality, but, rather, to constrain it and to contribute to domination, first by simulating and legitimating representation, and then by invisibilising injustice. This applies for both the practice of institutions and social relationships, where other forms of representation have emerged, taking advantage of the need for a translation between the institutional language and the local people.

In sum, chapter 7 demonstrated that as representation implies the negation of the represented, decision-making power of the represented –such as indigenous communities- is systematically undermined by modern state institutions and by forms of brokerage and informal networks of power.

8.3.4. Hegemonizing Knowledges for Consent Production

Hegemonic knowledge corresponds to the epistemological dimension referred in a previous section. The displacement of one philosophy by another has been proved to be a privileged practice by dominant groups, as it has been seen as effective in obtaining consent from wider sectors of society and therefore generating a favourable public opinion to the modernizing projects carried out in indigenous territories. This epistemological displacement has been clearly explained by the critical academics of the ‘modernity/coloniality research project’, mainly from the vantage point of history, philosophy and political economy. This production of ‘truth’, as Foucault indicates, is practised at local levels and has been documented by regional historical archives and ethnographic methods.

The case studies detailed in chapters 4 and 5 provided rich evidence regarding the way dominant discourses portrayed and interpreted actors and resistance processes in ways that favoured their personal position, while silencing

and/or discrediting the position of the indigenous-subaltern actor and thus, invisibilizing the act of dispossession itself. This exercise of ideological control is not carried out under equal conditions *vis-à-vis* the dispossessed, but by taking advantage of the bureaucratic apparatus, their influence over public opinion, as well as their image as authoritative, legitimate political representatives and/or economic entrepreneurs. In contrast, the voice of the subaltern is silenced by mainstream forums and even by academic scholarship, when neglecting the relationship between large infrastructure projects and social injustice. In sum, development-led social injustice is invisibilized by all three factors: the state, development practitioners and sometimes even by scholarship.

One of the elites' critical strategies that enable the misrepresentation of social injustice is the above-mentioned negation of the sovereign/subaltern subject: sovereign as citizen and member of the Mexican people; subaltern as a social group outside of the established norm and subordinated to a hierarchized status system. This measure is illustrated by private acquisition of land held by indigenous communities. In these cases landholding, possession and ancestral occupation of native territory is neglected by the buyer and those institutions that grant property rights. The process of land dispossession involved is (mis)represented as a legal acquisition of Terra Nullis or 'nobody's land'.

Furthermore, these (mis)representations, epistemological displacements, and invisibilisations of particular actors tend to portray social injustice as 'normal', especially when defined by a mestizo-capitalist-christian-patriarchal-white-heterosexual-male authority. Strategies of symbolic interpretation of modernity and land rights that were first based on the idea of race, later diversified to the creation a system of 'heterohierarchies' that ended up excluding wider subalternized sectors of the population. In the end, the selective privileging or inferiorisation of certain attributes, values, wisdoms and others, generated a process of strengthening of the domination structure as it reinforced the system of constraints that indigenous communities have to face when pursuing the achievement of their own collective aspirations.

8.4. The Modern and Democratic State: Responsibility of Social Justice for All?

The relationship between democracy and justice responds to the enquiry regarding, how modern democratic states addresses controversies about resource dispossession and social justice in culturally diverse societies. This enquiry is directly related to the overarching question of the thesis of why injustice still exists in a democracy. In this respect, are state institutions –such as the juridical system– really accountable to all citizens regardless their class, race, and gender-based difference?

The data, its analysis and the preliminary conclusions have given a negative answer to this question, at least regarding the relevant case studies. The objective behind this question however, is to better understand why and how social justice faces so many constraints in a modern democratic framework. First of all, and as chapters 5 and 7 detailed, a critical point to take into account is that the idea of democracy in the modern state plays the role of an ideological control apparatus, which privileges official discourses and interpretations of the political system and official political practices. This is designed to achieve a general level of social consent to state practices such as modernisation projects and the vertical exercise of power. This idea is similar to Gramsci's original concept of 'hegemony' in terms of 'class alliance and intellectual and moral leadership' (Gledhill, 2004b).

Further, the misrepresentation of the nature of brokerage as political representation constitutes a critical strategy for the full achievement of dispossession. Archival research provided an historical perspective of the way in which the efforts of communities were delayed and undermined by a wide variety of processes of intermediation portrayed as political representation, which is a concept at the core of the idea of modern democracy. In short, it is my contention that the indigenous communities' interests have been systematically constrained in the name of democracy, and actually through 'modern'/'democratic' mechanisms. Mediation by corporate actors and organisations, state officers and caciques led to no advancement in the indigenous communities' goals, but on the contrary, during the ruling period of the PRI, dominant actors disputing land with the *Rarámuri*

obtained most of their aims and secured property rights over most of the contested land.

The period of the 1990s, however, marked a shift in conditions, with the emergence of civil society organisations (CSO's) combined with a tendency of national and international legislation from late the 1980's to the early 21st Century which recognised cultural, collective, and particularly, indigenous rights. These processes provided juridical instruments to the indigenous struggles and the new generation of advisors/CSOs'. As a result, CSO's started engaging with indigenous communities by providing legal advice and embarking on juridical disputes that have visibilized indigenous communities, not only as persons, but as legal, political and sovereign subjects that are able and entitled to demand recognition of their rights, as well as to organize and decide about issues that concern their own lives.

A factor that was found to be critical for uncontrolled development-led dispossession was the very logic of modernity of encoding and integrating social actors and relationships into the juridical language, conceptualisation and, therefore, incorporation to the state's legal system itself. In chapter eight I showed how the establishment and imposition of a unique juridical system paralleled the state-making process, as the state is constituted, legalized and legitimated by its own juridical framework. In that sense modernity and legal categories go together, for instance modernising projects are sustained by ideals of both development and rule of law. Under this logic, those who decide to play the rules of modernity are, by necessity, legally recognized, therefore, becoming legal persons under the official juridical system.

The case of indigenous peoples is particularly significant and illustrative of the implications of this logic as they have historically resisted adapting to the colonial patterns established by the modern state and have struggled, firstly, to maintain their own institutions and juridical, political, cultural, religious, medical systems and others; and secondly to make them recognizable to the modern state and society. The result of this epistemological displacement has been the invisibilisation and exclusion of indigenous communities, but most importantly, the lack of recognition of indigenous groups as legal persons, and of their normative systems as 'other' recognized juridical systems. A critical implication of this panorama is that resistance to development led-displacement and land dispossession is not portrayed

as a legitimate response to social injustice but, rather, as a direct transgression to the modern ideals of the rule of law, development and representatives' legitimacy.

In sum, development's intervention over the indigenous way of life is based on the invisibilisation and undermining of their own decision-making power, which is mainly embodied in their normative systems. This has persisted for over 500 years through continuous practice and effectiveness within their local spaces and regardless of the lack of recognition by the state. In this thesis I have made a strong argument that shows the dominant actor's invisibilisation of local communities' self-determination in discussing and offering solutions to their own affairs and those related to the intervention of external actors.

Given the power that grassroots forms of organisation and self-determination of communities represent to the ambitions of modernizing enterprises in local settings, the state's modern political and economic project aims to constrain place-based autonomy and decision-making power. New developments in international law and the expansion of organized civil society, however, have put the importance of recognizing local forms of decision-making power and rights to autonomy on the public agenda. They have also provided the necessary training, reflection processes, discussion, advice and juridical instruments to reinforce their own character as political and legal subjects and the defense, vindication and experience of self-determination without domination.

8.5. Decision Making Power, Land Dispossession and Land Defense.

According to the arguments presented previously, modern democracy undermines communities' decision-making power, which in turn is needed to defend and secure control of resources and property. In this regard, the question of how decision-making power can help to better explain domination processes and resistance to it from indigenous communities is very pertinent. This section explains the findings related to the central performance of communities' self-determination in land struggles: on one hand the substitution of decision-making power by brokerage, on the other, the potential of decision-making power for resisting land dispossession attempts.

A concrete form in which self-determination is exercised in Rarámuri indigenous communities is through their normative systems, which includes forms of judicial, social, and religious forms of organisation, governed by a group of authorities, and whose decision-making system is based on community consensus. These institutions are effective within the community, and particularly in relation to relevant outside actors and institutions. An emblematic illustration of this is Choréachi, which assumes itself as a gentile community or one that is free from the influence of the Catholic Church, and to some extent, from the influence and control of other outside institutions. This is largely due to the fact that in their cosmology they consider themselves the 'pillars of the world' by virtue of the authenticity of their indigenous religious practices and beliefs.

Interlegalities between customary and state justice (De Sousa-Santos, 2009) do occur in Chihuahua and Mexico, but only to a very limited extent so far. Normative systems are highly effective for indigenous communities, and even for the state, as they cover functions which official institutions are not able to address. However, indigenous government is largely ignored and misrecognized by Mexican state institutions. A critical step towards the full exercise of indigenous self-determination would be the state's recognition of indigenous normative systems and indigenous authorities by recognizing their juridical personhood as juridical subjects. Only in this way can their cultural and collective rights, such as free, prior and informed consent be put in practice according to the principles in which they were written.

Notwithstanding the solidity of indigenous normative systems in Mexico, as there is no full recognition to the existence of other forms of legal frameworks and epistemologies, legal plurality is not yet a reality. Furthermore, indigenous peoples are not fully recognized as collective and juridical subjects by the Mexican constitution. Regardless of the historical, colonial and modern constraints to self-determination, this is still an everyday reality expressed in a wide range of ways that has provided enough cohesion to face oppressive relationships established by Mexican state and society.

The indigenous communities involved in these cases studies (of *Pino Gordo*, Mogotavo, Wetosachi and Bakajípare) have been seen to hold a repertoire of resistance and negotiation tactics, which they carry out in order to persuade or

pressure state institutions to address their demands. Archive research regarding agrarian, juridical and other institutional documents revealed the custom of correspondence, addressing state institutions and corporate organisations and, more recently, communities have decided to turn to activism as a resistance strategy.

The recent trend of direct community action (demonstrations, rallies, sit-ins, and participation in public forums described in chapters 4, 5 and 6) is explained by the emergence of civil society organisations and national and international solidarity networks, which in turn, are the result of a relatively recent trend in human rights activism and international law. Engagement with these sectors has provided indigenous communities the opportunity to be familiar with a rich body of human rights literature, with discussions, concepts and ideas regarding the matter, as well as advice and material and political support to their struggles. Although the appearance of these organisations represents another form of mediation, the relationship established with indigenous communities can be an example of what Young (2000) points to as 'non-domination', that is, no interference with peoples institutions of governance, decisions or interpretation regarding their own way of life.

8.6. How Land Dispossession of Indigenous Peoples' is Perpetuated?

Together, these different sections offer a strong explanation for why land dispossession of indigenous communities is perpetuated and still occurs in Mexican 'liberal democracy'. A liberal democracy ideally implies a political system inserted within the modern state, with democratic and juridical institutions that is meant to guarantee a rule of law and representation of citizens' interests in the public sphere. The relevance of this question stems from the contradiction between claims for democratic credentials on the one hand, and a historical and repeated pattern of social conflict, privatisation and land dispossession of rural actors on the other. This contradiction tends to be invisibilised at different scales and dimensions, consequently, generating a general perception of the coexistence of democracy and injustice as normal. The question rejects the normalisation of injustice within democracies and aims to fully understand the mechanisms that underlie such contradictions.

Firstly, the critical influence of the historical pattern of power constituted through capitalism and the state/making processes over local social inequalities has been adequately demonstrated. Secondly, it was clear that different modern political regimes and policies throughout history disadvantage almost by definition indigenous forms of land property. Having established this, I explained how the process through which the instruments of democracy failed to serve the purposes of specific types of social groups –such as those belonging to the indigenous peoples.

What I have demonstrated is that, regardless of colonial or republican political regimes, land appropriation by ruling elites is operated by undermining the symbolic, political and juridical personhood of the subjects from whom land will be taken away. By depriving them of relevant personhood, they are assumed as being unable to decide for themselves, and consequently, become subjected to specifically designed political mechanisms and procedures that constitute central elements of the historical process of domination. By first creating a regime of truth, development-led dispossession is then invisibilised, legitimized and operated in different ways both by political elites and officers/development practitioners.

In this way key mechanisms of land dispossession by dominant actors have historically been oriented to the undermining of indigenous communities' decision-making power. This is deliberately executed under the understanding that self-determining practices of indigenous communities strengthen their control over resources and defense strategies. Indigenous groups are particularly subjected to practices of dispossession in the context of the modern state, as their position within the established social structure conditions their opportunities and life style options. Misrepresentations of the sovereign, collective and political subject –the social group-, then, are coupled with the attempt of depriving it from decision-making power over its own affairs and resources. In conclusion, the securing and defence of land property and possession goes through the vindication, reinforcing and recognition of social group's self-determination, which the indigenous peoples exercise through mechanisms such as normative systems, direct action *vis-à-vis* the mestizo society and, more recently by the legal defence of civil, political and cultural rights in national and international law.

8.7. Areas for Future Research

The structural domination approach, together with the structural positionality perspective, make a significant contribution in terms of considering the complexity of social relationships, actors, temporality, and the spatial dimension in which the concrete social and local phenomena is embedded. In this sense, and given that mainstream orthodox development studies have neglected relational, qualitative, critical and historical perspectives, the approach have many contributions to make in studies other than land dispossession and subaltern actors. The approach has been found useful to be applied in wider research around social injustice and marginalization in contexts ranging from micro political processes within organizations and macro level processes at the global level. In this sense, responses to domination can also be approached in different dimensions. One example is to look at the role of transnational social movements in addressing global structural processes of domination and their potential to dismantle domination structures at the macro-level.

Finally, globalization and the current conditions of political economy have encouraged the expansion of a phenomenon known as land grabbing. The drivers of this large scale processes of land appropriation are still under research, however, it is of high importance to understand the mechanism through which large populations are losing control over land for the sake of capital accumulation. The structural domination approach can help to better understand the role of historical processes, power structures, global politics and local political mechanisms that allow land to be taken by powerful actors through legal or illegal means.

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ANNEX

Table 5. Archives researched

Institution/Owner	File(s)	Type of Archive
Registro Agrario Nacional (RAN)	Diverse agrarian documentation related to the legal situation of the land disputes under study 551/23 114.1/276.1 114.2/276.1 84/2007 7/3224 6/3223 2294 263/2007 0766/2009	Public
Centro Coordinador Indigenista de la Tarahumara (CCIT-EAHN) (Under administration by Escuela de Antropología del Norte de México)	Wide variety of files Particularly 79/7/110 60/14/91	Public
Instituto Chihuahuense de la Cultura (ICHICULT) Historical Archive	Diverse old books and articles	Public
Secretaría de Turismo Documentation Centre (CEDOC)	Diverse reports, books and articles	Public
Alianza Sierra Madre A.C.	Diverse juridical and internal reports related to the Choreachi land dispute Tribunal Unitario Agrario, 2001: 72/2000 RAN 23/08/01 Tribunal Unitario Agrario V 84/2007 Tribuna Unitario Agrario V 868 29/11/06 Pino Gordo Assembly Minute 20/06/03	Private
Tierra Nativa A.C	Diverse juridical documents and internal reports related to the Mogotavo land dispute	Private
Consultoría Técnica Comunitaria A.C.	Diverse juridical documents related to the Wetosachi and Bakajípare land dispute	Private
Mogotavo File under custody of Homero	Diverse juridical documents related to the	Private

Saldanha	Mogotavo land dispute	
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Table 6. Interviews made

Interviews	Place	Date	Type of actor
Ernesto Palencia	Virtual Interview by Skype	29/01/11	Community's lawyer
Ernesto Palencia y Ramiro Castellanos		06/05/10	Community's lawyer and advocate
Ernesto Palencia y Ramiro Castellanos		01/10	Community's lawyer and advocate
Ernesto Palencia		12/02/10	Ídem
		26/10/10	Ídem
		11/02/10	Ídem
		18/03/10	Ídem
		24/02/10	Ídem
Felipe Ruiz	Chihuahua	25/01/10	Human Rights Defender
Gloria Gutierrez	Chihuahua	10/10	State Officer
Javier Avila	Creel	10/06/10	Human Rights Defender
Miguel Manuel Parra	Chihuahua	12/02/10	Community leader
Carlos Gámez Márquez	San Rafael	24/06/10	State Officer
Juan Cruz Moreno	Mogotavo	25/06/10	Community leader
Martín Moreno Torres	Bakajípare	15/06/10	Community leader
Ramón Eduardo Cruz Morgan	San Rafael	26/06/10	Local authority
Fausto Salgado	Chihuahua	11/09	Community lawyer
Fausto Salgado	Chihuahua	12/09	Ídem
Federico Elías Madero	Chihuahua	17/06/10	Businessman
Felipe Carrillo	San Rafael	24/06/10	Community leader
Octavio Híjar	Creel	06/10	Community advocate and NGO director
Helena	Creel	14/06/10	Local activist and teacher
Luz Helena Villalobos	Creel	06/10	Indigenous activist
Maria Teresa Guerrero	Chihuahua	31/01/10	NGO director
San Miguel	Mogotavo	12/06/10	Indigenous

			leader
Maria Guadalupe Nava	Bocoyna	25/06/10	Indigenous local officer
Narciso Camacho	Areponápuchi	26/06/10	Local mestizo broker
Note taking			
Field Diary	Choréachi	4-12/04/10	
Field Diary	Mogotavo, Wetosachi, Bakajípare, San Rafael, Areponápuchi and Creel		
Tribunal Unitario Agrario	Chihuahua	12/04/10	
Alberto Brunori from UN	Creel	30/10/10	UN High Commissioner on Human Rights