

**Helga Baitenmann.** *Matters of Justice: Pueblos, the Judiciary, and Agrarian Reform in Revolutionary Mexico.* Lincoln: University of Nebraska Press, 2020. 342 pp. \$35.00, paper, ISBN 978-1-4962-1948-0.

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When I teach the Mexican Revolution to my undergraduate history students, I sometimes have them watch Ray Telles's 2011 film, *The Storm that Swept Mexico*. One part of that film, which never fails to engage my students, is an interview recorded with revolutionary veteran Pacheco Valle, just prior to his passing in 2002. In the interview, Valle describes the economic inequality and poor treatment visited on a resident Indian that he observed firsthand in the streets of his hometown of Cocoyóc, Morelos, concluding, "the oppression was tremendous. That's why we joined the revolution." Valle fought under the command of Zapatista general Genovevo de la O, the son of Morelos sharecroppers, and one of the original signatories to Emiliano Zapata's "Plan de Ayala," described by the historian John Womack Jr. in his classic work on Zapata as "the premier banner of Modern Mexico's most remarkable and controversial experiment, agrarian reform."<sup>[1]</sup>

Helga Baitenmann's book, *Matters of Justice: Pueblos, the Judiciary, and Agrarian Reform in Revolutionary Mexico* provides a new perspective on the history of agrarian reform during the Mexican Revolution that will change how we think and teach about this subject. Baitenmann begins her book in the nineteenth century and shows that

rural communities frequently took claims of restitution to the courts and continued to do so even after the Supreme Court sought to limit the juridical standing of these communities in the early 1880s (chapter 1). She also has important things to say about agrarian matters under President Madero (chapter 2). But the book's main focus is not on the early years of the revolution (or the prerevolutionary period) but rather an illuminating discussion of agrarian reform projects that followed the Plan de Ayala, with special attention to their implementation in practice (chapters 3-6 of her book).

To be sure, just about every revolutionary faction proposed some sort of land reform—Pancho Villa, it is now generally agreed, had a plan to implement land reform in the north once victory on the battlefield was secured and even Porfirio Díaz, against whom the revolution was being fought, proposed a limited land reform before his forced exile from the country in May of 1911. However, Baitenmann devotes her book to the projects carried out by the Zapatistas and the Constitutionalists, two factions within the revolution who joined forces for a time in their fight against General Victoriano Huerta (after Huerta deposed President Madero in a barracks coup), but then fought each

other for half a decade over the question of how the new revolutionary government should be reconstituted. (For those unfamiliar with this history, the Constitutionalist eventually gain the upper hand, reconstituting a national government and Zapata was killed in 1919.) Her final chapter is a useful comparative analysis of these two projects, their differences, and the many interesting connections between them.

The lessons for students of the Mexican Revolution are multiple, but two, in particular, deserve special mention and are nicely summarized by Baitenmann in her introduction. Firstly, the land reform projects analyzed by Baitenmann “were first and foremost responses to *pueblo* representatives’ petitions for the restitution of their ancestral communal lands and water resources” (p. 1). However, when land reform was actually implemented most communities that did receive land, received that land in the form of a grant (known as a *dotación*) and not as a restitution (*restitución*). Baitenmann has much to say about this transition from restitution to *dotación*, a transition she primarily attributes to pragmatism on the part of both villagers and those enacting the reforms. Indeed, what she has to say on this topic is perhaps the most engaging part of the entire book.

In her introduction, she criticizes those scholars (beginning with Arturo Warman) who have interpreted the absence of government-recognized restitutions (in Morelos and elsewhere) as a phenomenon imposed from above by a cynical revolutionary elite, a tool of postrevolutionary statecraft that denied these communities revolutionary justice. However, as Baitenmann argues, these scholars have made these generalizations about the Zapatista and Constitutionalist reforms without studying the restitutions themselves. This is what Baitenmann does and in doing so makes a valuable contribution to the scholarship on the Mexican Revolution.

As part of her revision of the standard account, Baitenmann convincingly argues that the reform implemented by the Zapatistas did not exclusively favor the restitution of ancestral lands (pp. 95-100). That is, she shows that the Zapatistas themselves implemented a system of land reform that in some important ways resembled the later Constitutionalist project of *dotación*. Although the Zapatistas did not use the term *dotación*, they redistributed land even when petitioners did not have colonial titles proving ownership of usurped village lands, foreclosing the possibility of a restitution. Zapatistas carried out restitutions to be sure, but they also implemented a system of land grants. (Both restitutions and land grants were covered in the term *reparto*.) A land reform based exclusively on the restitution ideal was simply not practical even in the Zapatista heartland.

Secondly, Baitenmann makes a strong case for including the federal judiciary in any history of revolutionary agrarian reform. At first blush, this second lesson appears less compelling than the first. After all, decisions regarding both restitution and *dotación* were carried out by the executive branch and as Baitenmann acknowledges, the victorious revolutionaries completely did away with a federal judicial power from 1914 until 1916 (the very period when the first chief of the Constitutionalist movement, Venustiano Carranza, recognized land reform as official revolutionary policy). Indeed, the judiciary is perhaps most significant for what it did not do. The reconstituted federal judiciary refrained from blocking the executive branch as it continued to redistribute private property, even after the return to constitutional rule in 1917. For Baitenmann, the very fact that agrarian disputes came to be an executive function (and not, as previously, an exclusively judicial one) is something that cries out for an explanation.

Baitenmann attributes the silence of the literature on this point to politics. To defend or even discuss a judicial sphere of action in these matters,

at least at certain times during the postrevolutionary period, was tantamount to defending the Old Regime oligarchy whose members and agents sought to use federal courts to protect vested interests and block or repeal the agrarian reform. Most scholars of the agrarian reform did not want to be perceived in this light. The examples given by Baitenmann include the first English-language treatments of this subject by scholars such as Frank Tannenbaum and Eyster N. Simpson who made no secret of where their sympathies were. “In fact,” Baitenmann writes, “*not* questioning why or how Mexico’s land reform had become a matter of executive jurisdiction, and instead condemning the Supreme Court’s judicial review powers (a related but separate matter), became the common trend in the literature” (p. 10).

There can be little doubt that the individuals who made up the new revolutionary Supreme Court after 1917 were sympathetic to the agrarian reform and actively legitimized the new faculties of the executive branch first set out in the Constitutionalist agrarian law of January 6, 1915 (pp. 136-37). I personally would not have characterized these new faculties of the executive as “metaconstitutional” or a “state of exception” as Baitenmann does. (Perhaps my objection here is attributable to the very politics that Baitenmann criticizes in her introduction.) Nonetheless, my disagreements with Baitenmann on how to interpret the expansion of executive powers may be characterized as normative and constitutional, not (in a narrow sense) historical.

In any case, Baitenmann is absolutely correct to draw our attention to the impressive new faculties wielded by the executive, which, in turn, were legitimated by the judiciary. In chapter 5, she shows, among other things, how the Supreme Court transformed nineteenth-century judicial precedent in amparo cases against the agrarian reform, transforming *dotación* “into a distinct form of land expropriation” (p. 140). She also concludes that the new justices who decided these im-

portant cases from 1917 to 1919 probably conceived of executive action in this sphere as largely temporary: “the goal of the 6 January 1915 law,” in their view, “was to resolve quickly an urgent problem, not to create population centers with their own patrimony, juridical standing, and administrative and representative organs under the tutelage of the federal executive, operating parallel to the autonomous municipal governments” (p. 136). Baitenmann reminds us how the agrarian reform provisions must have looked in the late teens and early 1920s, in contrast to how we have come to view them later with the benefit of hindsight.

The passiveness of the judiciary on the question of agrarian reform should not be overstated. The executive could not always count on the federal judiciary to simply confirm every presidential resolution in agrarian matters, and this was increasingly the case for the period after 1923, as the number of procedural legal requirements for land grants increased with new legislation.[2] However, Baitenmann is correct to stress that the judiciary enabled far more than it obstructed the early land reform efforts of the Constitutionlists. In Morelos, where 114 population centers received land grants between 1920 and 1925, “district court judges granted protection to landowners in only a very few cases—and the Supreme Court reversed all of them” (p. 170). If historians have been slow in recognizing this judicial behavior favoring the agrarian reform in Morelos and elsewhere—and Baitenmann reminds us that they have been—it is because too many have taken the highly polemical published attacks on the judiciary of the 1920s at their word and have failed to examine the judicial sources themselves.

In her conclusion, Baitenmann summarizes the differences and similarities between the Zapatista and Constitutionalist agrarian reforms. One interesting difference was the way the burden of proof was handled in restitution cases. The agrarian law of January 6, 1915, put the onus of proof on the petitioners. The Zapatistas by con-

trast immediately transferred the land to petitioning pueblos, directing affected landowners to prove ownership before special tribunals which, according to the Plan de Ayala, “will be established after the triumph of the revolution.” This, of course, never happened because the Constitution- alists won the civil war. Indeed, the most important difference between the two projects “lay in their outcomes.” The Zapatista land reform, intended as a national program, was only realized in one region of the country. Subsequently, the alliance between Zapatistas and dissident Constitution- alists, which brought President Alvaro Obregón to power in 1920, meant that the Zap- atista reparto was to be replaced by the Constitu- tionalist’s framework (i.e., the agrarian law of January 6, 1915). Thus, it was the reform of the Constitutionalists that had an enduring impact, one that “profoundly transformed the history of twentieth-century Mexico” (p. 200).

The similarities are also significant. To men- tion but four of these: first, both projects created a “multitiered quasi-judiciary” outside of the judi- cial branch of government ; second, both projects were principally plans for “the restitution of pueblo communal lands” (p. 193); third, there were strong similarities between the institutions created to administer the granted or restituted lands after a successful village petition, namely the “village representatives” of the Zapatistas and the CPAs, or “local administrative committees,” of the Constitutionalists; and fourth, both projects made use of land grants, transforming earlier ex- propriation legislation and the juridical concept of the public good (p. 195).

How does Baitenmann want us to understand these and other similarities? Not as a straightfor- ward story of intellectual influence where Consti- tutionalists took the earlier ideas of Zapatistas, which, thanks to the military victories of the former, had an enduring impact on the political, social, and economic landscape of rural Mexico. Instead, we should understand these similarities

as responses to similar circumstances. Although these “reforms unfolded in parallel, with little or no cross-pollination,” both programs “were products of their times” (p. 192).

Baitenmann successfully argues that far too many scholarly accounts of the agrarian reform are guilty of the cardinal sin of anachronism. That is, they take later understandings of purpose and design (say, those that emerged during the 1930s and after) and project them backward. Scholars incorrectly suggest that the architects and leaders of the early agrarian reform had the same intents and plans as later iterations of reform. Baiten- mann shows how and why early visions for what the agrarian reform was to be had to change and adapt to circumstances on the ground during their implementation. Among other things, both re- forms inherited the same legal tradition and “both were shaped by unforeseen local abuses of power and intervillage conflicts” (p. 192). Baitenmann also shows there was an early agrarian reform that was implemented both by Zapata and Venus- tiano Carranza and that villages were important agents in this reform in both cases. Thus, the oft- repeated idea that the agrarian reform of the Con- stitutionalist movement under Carranza was a re- form on paper only (found as early as Eyler Simpson’s classic and repeated in Telles’s film with which this review began) is also shown to be without a solid grounding in the sources. Because of the care with which she reconstructs the imple- mentation of the early agrarian reform, Baiten- mann’s book will be required reading for those teaching or writing about the history of the Mexic- an Revolution for many years to come.

#### Notes

[1]. John Womack Jr., *Zapata and the Mexican Revolution* (NY: Vintage Books, 1970), 393.

[2]. Pablo Mijangos y González, *Historia mínima de la Suprema Corte de Justicia* (Mexico City: Colegio de México, 2019), 130.

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