I. INTRODUCTION

The changes made to Mexico’s legal system in recent years have had such profound and varied social impacts, that they can only be characterized as constituting a legal revolution. In only seven years (1988-1995), the most basic foundations of Mexico’s legal institutions were not only changed, but deeply transformed in their economic and philosophical tenets. Thus, virtually overnight, Mexico abandoned its decades-long economic model that favored import substitution and strong State intervention on economic matters, and instead decided to embrace a set of public policies associated with neo-economic liberalism. In consonance with the internationalization of its economy and the installation of a democratic system, Mexico is now moving vigorously towards privatization, deregulation, minimization of governmental structure, and the promotion and fostering of foreign investment.

From the dawn of President Carlos Salinas’ administration until today, eighteen months into the six-year presidential regime of Dr. Ernesto Zedillo Ponce de León, the legislative output of Mexico’s Federal Congress has

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1 President Carlos Salinas’ administration remained effective from Dec. 1, 1988 to Nov. 30, 1994. Until now, his electoral victory has been tainted by the protests advanced by Cuauhtémoc Cárdenas, the Revolutionary Democratic Party’s (PRD) candidate, alleging electoral fraud. Pursuant to Art. 83 of the Mexican Constitution, a presidential term lasts six years and re-election is not permitted. CONSTITUCIÓN POLITICA DE LOS ESTADOS UNIDOS MEXICANOS [Constitution] art. 83 (Mexico).

2 After Luis Donaldo Colosio, the initial presidential candidate of the Revolutionary Institutional Party (PRI) was assassinated in Tijuana, Dr. Zedillo was chosen as the PRI’s successor candidate. A Yale-trained economist who served as Secretary of Public Education under President Salinas, Dr. Zedillo was elected President on August 1, and took office on the following December 1, 1994; his term expires on Nov. 30, 2000.

For more information on President’s Zedillo political program during his six-year administration, see Ernesto Zedillo Ponce de León, Discurso de Toma de Posesión (Inaugural
been most impressive, even from a purely numerical viewpoint.

The following figures may offer a better picture: in the constitutional law field, the Federal Constitution has been amended close to fifty times in areas ranging from electoral and political reform; agrarian law and "Ejido" questions; State-church relations; and Indigenous peoples; to human rights; economic activities of the State; the annual State of the Nation Report; criminal due process; and, a new form of government for the Federal District (Mexico City).

Only a month after taking office, President Zedillo sent to the Mexican Senate a legislative initiative that resulted in the very first amendment to the Constitution during his administration. Pursuant to this amendment, he transformed the composition, functions and the original jurisdiction of the Supreme Court of Justice, in what may be the most unprecedented change in the 171 year history of this venerable institution.3

All of these changes were made through thirteen amendments that modified 78 out of a total of 136 articles of Mexico’s Constitution—altering some of them several times within the last 7 years. In contrast with the U.S. Constitution, and its 26 amendments, the fundamental law of Mexico has been modified 350 times since its promulgation in early 1917.4

In the area of federal legislation, Mexico’s Federal Congress approved 337 legislative bills during the period in question. Of this total, fifty-two new statutes were formally created to govern economic and political questions, natural resources, infrastructure, and science and technology, inter alia: 1) The Federal Act of Economic Competition; 2) The Act to Prevent and Sanction Torture; 3) The Act on Metrology and Normalization; 4) The Treaty Making Act; 5) The Act of Religious Associations and Public Cults; 6) The Foreign Trade Act; 7) The Act of the National Commission of Human Rights; 8) The Investment Corporations Act; 9) The Customs Act; and, 10) The 1993 Foreign Investment Act, to mention but a few.

In addition, Congress amended about one hundred of the existing statutes


4 In a study published in 1983, “the over 150 amendments” made to the constitutional text to that point, were divided into a number of categories, including grammatical changes, changes designed to go back to the 1917 original intent, to “federalize” certain areas, etc.. The author recognized that most amendments were designed to increase the President’s power. See Jorge Carpizo, ESTUDIOS CONSTITUCIONALES 304 (1993).
including regulations on agrarian questions, corporations, communications and transportation, consumer protection, fishing, forestry, human settlements, national assets, national waters, nationality, technology transfer, and tourism, etc. The importance of this intense legislative output deserves to be emphasized not solely on quantitative terms but especially on the substantive quality and importance of these statutes, most of which play a pivotal role in Mexico's socio-economic, political, industrial and cultural development.

Furthermore, the Federal Executive, acting within the scope of its constitutional powers, created or amended 160 regulations during these seven years. Evidently, each of the newly created 52 statutes mentioned earlier required enactment of the corresponding regulations (Reglamento de la ley) for their proper implementation. Among these regulations, those implementing the provisions of the 1973 Act to Promote Mexican Investment and Regulate Foreign Investment constitute an exceptional case since they were substantively as important, or even more so, than the original statute. The Federal Executive enacted some 5,500 of the administrative decrees, all of which appeared in Mexico's Official Daily (Diario Oficial de la Federación) in order to produce legal effects as mandated by that country's Civil Code.\(^5\)

As a nation within the civil legal tradition, codes play an invaluable role in Mexico. Accordingly, it is not unusual that all of its major codificatory works, i.e. the Civil Code of the Federal District, the Federal Code of Civil Procedure, the Penal Code, the Code of Penal Procedure, and the Code of Commerce, have been amended, some of them substantially. Mexico's recognition and application of foreign law, new arrangements in the area of international cooperation on procedural matters, constitutional rights in favor of the accused, and international commercial arbitration are examples of the modern developments that resulted from these amendments.

In closing this legislative exemplification, it may be of interest to point out that the Federal Executive was responsible for submitting to Congress about 95% of all the bills that resulted in these enactments, including the constitutional amendments.

In a clear departure from preceding years, the government of Mexico decided to become a party to a long list of international conventions in the area of private international law, especially those regulating conflict of laws, enforcement of foreign judgments, application of foreign law, the taking of

evidence abroad, etc.. In addition, Mexico is legally bound today by numerous other bilateral, regional and multilateral agreements, some of them as significant as the North American Free Trade Agreement, the Basel Convention on the Control of Transboundary Movements of Hazardous Waste, the International Convention on International Trade in Endangered Species of Wild Fauna and Flora, the United Nations Convention on the Law of the Sea, the General Agreement of Tariffs and Trade, and the Rio Declaration on Environment and Development.

In its relationship with the United States, Mexico has entered into 77 bilateral agreements of the most varied kind. Out of the 12 most recently subscribed bilateral agreements with the U.S. over the last seven years, those on judicial assistance, tourism, improvement of environmental conditions in Mexico City, drug control, consular questions, and exchange of tax information, deserve special mention.

These legislative changes have taken place so rapidly, and the legal areas they embrace are so new and varied, that most of them have gone unnoticed in the legal literature of the U.S. as of this writing. Also evident is the absence of in depth studies which will eventually be necessary to evaluate and compare, or simply place this cascade of changes and their implications within the context of our legal system.

The principal objectives of this article are twofold. First is to provide a general description and evaluation of the changes made to Mexico's 1917 Constitution from December 1, 1988 through September of 1995. The article is intended to assist the legal and academic communities of the United States and elsewhere to have a current but basic notion of these constitutional changes and their importance, from both a domestic and an international perspective.

Second, this article attempts to advance a theory that explains the motivations behind these profound legal changes for the benefit of international legal observers. Reference will be made, therefore, to the political traditions of Mexico; the practical need to update and modernize its legal structure; and, in particular, a perceived sense of urgency to respond to growing domestic and external influences, including that peculiar and asymmetrical relationship Mexico has maintained with the United States over the last 174 years.

II. LEGAL PRECISIONS ABOUT MEXICO'S CONSTITUTION OF 1917

Mexico's Constitution was promulgated on February 5, 1917 and entered into force on May 5 of that same year. Formulated by a Constitutional Congress convoked by President Carranza in the city of Querétaro, the new Constitution legally amended Mexico's Federal Constitution of 1857, and was based on a constitutional draft (Proyecto de Constitución) prepared by President Carranza in 1916. Its format followed the European model in its structure, length, and other characteristics, and is composed of 136 articles.

Before engaging in an enumeration and analysis of the constitutional amendments made during the last two Mexican Presidential administrations, it is helpful to advance a brief commentary on the legal peculiarities of the Constitution of Mexico.

Mexicans are very proud of their Constitution. In general, this vital document tends to be characterized as the fundamental law that resulted from the twentieth century's first social revolution, the Mexican revolution of 1910, which was initiated by its poorest masses: campesinos (farmers and peasants), laborers and indigenous peoples. These groups launched a national armed rebellion against the exploitation and abandonment they withstood for decades, and which inalterably led them in a search for land, justice, food and education. Because of this powerful sociological genesis, Mexico's Constitution was drafted to include a favorable response to the social demands advanced by these politically important groups. By a legislative act of the Constitutional Congress of 1916-17, these political masses were transformed into "Collective legal actors." Articles 27 and 123

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9 The Constitution is divided into nine titles, and two basic parts: a dogmatic part consisting of an enumeration of constitutional rights (known in Mexico as "individual guarantees" (Garantías individuales), arts. 1-28; and an organic part setting up the form of government and the division of powers, arts. 39-136.
are typical examples of this approach. The content of these articles marks the birth of "Social law" in that country.

This socially-oriented legal philosophy which is embedded in Mexico's Constitution provides a contrasting difference with the U.S. Constitution. U.S. fundamental law strongly centers in the legal notion of the rights of the individual. This notion is reaffirmed when that individual asserts his/her rights in relation to other persons, but especially vis a vis the State. This is a highly individualistic philosophy.

In contrast, Mexico was sociologically forced to extend an explicit recognition not only to the rights of the individual—which were taken directly from our Bill of Rights—but also to the existence of the so-called "constitutional social rights." This original legal notion may be defined as those constitutional rights which are inherently associated with a specific social class, or group, notably campesinos and laborers (and more recently, consumers). This collective philosophy has led Mexican specialists to believe in the existence of a new branch of Mexican Law: "Social Law." This third category is to be added to the dual categorization composed of public law and private law, which have long been recognized by civil legal tradition. Typically, labor law, agrarian law, consumer protection law and, more recently, environmental law, all are branches within the scope of this new category. The social content of this contemporary Mexican legal philosophy is an original contribution to the development and evolution of constitutional law doctrine.

Another legal peculiarity of the Constitution of Mexico is what may be called its "programmatic content." Although its original text first appeared in early 1917, certain portions of the Constitution have been subject to periodic and almost incessant changes. Unquestionably, the Constitution occupies the apex of Mexico's legal pyramid. There is no other public

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10 Art. 27 provided the legal foundation for agrarian reform in Mexico. It originally granted campesinos and rural communities with lands, and created the "Ejido" as the centerpiece for agricultural development. Art. 123 established a protective legal régime for the working class. Legally, both articles served as the source from which federal legislation was derived, expanding and developing in greater detail the constitutional provisions.

11 Mexico's individual guarantees, enshrined in the first twenty-nine articles of its Constitution, maintain a remarkable parallelism with the U.S. Bill of Rights, e.g. freedom to work (art. 5); freedom of expression (art. 6); the right to freely associate (art. 9); the right to possess weapons for their personal defense (art. 10); due process (arts. 14 and 16), etc..

document which carries more legal or political importance, enshrines more of the history of the nation and is vested with more solemnity than the Fundamental Law of the Nation, especially true in relation to the government and the inhabitants of the country. Accordingly, the text of the Constitution has been used as a political platform by the President in turn to reflect and publicize his personal presidential program: those preferred public policies that he is determined to implement during his six-year term.

This programmatic effort originated in a formal manner with President Lázaro Cárdenas in the late 30s. Emulating the Quinquennial Plans of the Soviet Union, he initiated the political practice of formulating a six-year plan (Plan Sexenal) containing his presidential program. Today, Article 26 of the Constitution provides that "The State shall organize a system of democratic planning for the national development . . . ." Every President of Mexico, at the beginning of his administration, publishes a "National Development Plan" which may be said to constitute the "presidential platform" or better yet, "the personal political program" which the Federal Executive is publicly committed to implement during his tenure for the benefit of the Mexican people. The insertion in the Constitution of certain public policies advanced by the Executive in his Plan is a clear indication of the priority these policies are going to have in his political agenda. Furthermore, inserting a change in the Constitution as a result of an initiative advanced by the Executive has been a well-recognized practice utilized in Mexico to send "messages" to the other federal powers, and to the States, without the Executive being perceived as being overly intrusive, somewhat invading the spheres of jurisdiction that correspond to the Legislature and the Judiciary, or to any of Mexico's thirty-one States.

Following this practice, six months after assuming the Presidency of Mexico, Dr. Zedillo presented the people of his country with his "Plan Nacional de Desarrollo, 1994-2000." In the legal area, this Plan strongly advocates for the transformation of Mexico into a country of "Law and order" (Por un Estado de Derecho y un País de Leyes). He specifically articulated the objectives and strategies his administration plans to implement in order to establish, inter alia, 1) a public security system; 2) a fight against organized crime; 3) a better system of imparting justice; 4) a campaign in favor of human rights, and 5) a program to provide justice for the indigenous

\[13\] CONST., art. 26 (Mexico).
\[14\] Id. art. 43.
\[15\] Dr. Zedillo's "National Development Plan" was published in the D.O. of May 31, 1995.
peoples. As part of his objective to modernize the system of justice and strengthen the Federal Judicial Power, Dr. Zedillo sent an initiative to the Senate which resulted in the most profound transformation experienced by the Supreme Court of Justice of Mexico.

In a sense, the Constitution has become the ultimate public document whose text is destined to receive what each President considers to be his most distinct or outstanding program or political legacy. Thus, constitutional changes take place every "Sexenio" to put in, modify, or simply remove, portions of the text in consonance with the direction of these changing political winds.

Typically, less than all of the proposed presidential programs tend to be implemented during the six-year term. This explains another peculiarity: the "aspirational nature" of the Mexican Constitution. A number of provisions are included in its text not because they have become a legal reality today but because they will become a reality in the future. These aspirations may form a part of a long-range political program. The constitutional declarations that elementary and high school are obligatory (Art. 3); that the practices and legal customs of indigenous peoples shall be taken into account in suits and agrarian proceedings, in the terms established by the law (Art. 4); and, that each family has the right to enjoy an adequate house (Art. 4), for example, belong to this "aspirational" category.

The relative ease with which the Mexican Constitution is formally amended may be the most prominent legal peculiarity related to this section. For some international legal observers, it is quite intriguing to learn that since its promulgation in 1917 the fundamental law of Mexico has been amended 350 times, and out of this total, 37 of these formal changes have taken place only within the last seven years.

It is well documented that the U.S. Constitution exercised a most powerful influence on the origin, content and evolution of the federal constitutional documents enacted in Mexico, including the very first Federal Constitution of 1824, the Constitution of 1857, and the current Constitution of

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18 This constitution was enacted on October 4, 1824. It established a federal, republican form of government, divided into three branches: the Executive, Legislative and Judicial. For its text, see TENA RAMÍREZ, supra note 7, at 167-195.
19 It was enacted by President Ignacio Comonfort on February 5, 1857. It remained in force until the Constitution of 1917 entered into force on May 5, 1917. For the text of the 1857 Constitution, see TENA RAMÍREZ, supra note 7, at 608-29.
1917. This influence also embraced the procedure to amend the Constitution, as Art. 135 of the Mexican Constitution provides:

This Constitution may be amended or reformed. For these amendments or reforms to become part of it, it is required that the Congress of the Union, by the vote of two third parts of the individuals present, agrees to the amendments or reforms, and that these be approved by the majority of the legislatures of the States. The Congress of the Union or the Permanent Commission in its case, shall make the computation of the votes of the legislatures and the declaration that the amendments or reforms have been approved.

If the Mexican procedure to amend the Constitution so closely parallels the U.S. system, what explains the fact that the fundamental law of Mexico has been amended hundreds of times in a relatively short period? Two answers may be advanced to explain this apparent constitutional paradox. First, this phenomenon may be due to the “programmatic nature” of this document, already explained. The Constitution of Mexico may be depicted as a very intriguing and dynamic polifacetic document because it has many faces or angles which are constantly changing. Within the legal system of


21 CONST., art. 135. This article seems to have been inspired by Art. V of the U.S. Constitution:

ARTICLE V

The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislature of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress; Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article; and that no State, without its Consent, shall be deprived of its equal Suffrage in the Senate.
Mexico, it is not only the most important legal document, but also a historic, economic, cultural and sociological one. And within this multifaceted approach, there is no doubt that that Constitution is, indeed, a programmatic document, a public document which periodically encompasses a very specific political program. Accordingly, it is modified every six years to incorporate in it the personal political program of the President, as it is principally reflected in his National Development Plan.

And, second, until very recently, the overwhelming electoral and political activity in Mexico was monopolized and effectively controlled by one single political party: the Revolutionary Institutional Party (Partido Revolucionario Institucional, better known by its acronym, PRI). Being the government's official party and ideologically associated with the revolutionary movement of 1910, the PRI contains a most varied and all-embracing membership: peasants, laborers, bureaucrats, intellectuals, professionals, entrepreneurs, students, housewives, businesspersons and politicians. Utilizing as its emblem the colors of the Mexican flag, the PRI was for some sixty years an unstoppable political machine in Mexico.

The overwhelming power of this political control becomes more evident when it is considered that the President of the Republic, all the members in his cabinet, all the Senators, and an undisputed majority of the members of the House of Deputies (Cámara de Diputados), all the ambassadors and consuls in the foreign service, and its administrative personnel, all the governors in the 31 States, and all mayors in each and every municipality in Mexico, were official members of the PRI. According to Mexico's political tradition, all of these public servants were not only members of the PRI but, in addition, they invariably displayed the greatest deference for the opinions of the Federal Executive, who used to be (until the assumption of Dr. Zedillo to the Presidency) the highest political leader, and the most authoritative voice, of the official party.

This should provide an idea of the high degree of deference, and the expeditiousness with which the Federal Congress, and each of the 31 State

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22 It should be noted that the almost absolute political control exercised by the PRI for decades has started to show signs of waning down. Over the last six years, other political parties, in particular the National Action Party (Partido de Acción Nacional or PAN) and the Revolutionary Democratic Party (Partido Revolucionario Democrático), are becoming more active and have even obtained some political victories. See Tim Golden, Governing Party in Mexico Suffers Big State Defeat, N.Y. TIMES, Feb. 14, 1996, at 1. Currently, the governors of these four States, Baja California, Chihuahua, Guanajuato, and Jalisco, belong to the PAN. Christine MacDonald, Opposition Wins Key Mexico Race, N.Y. TIMES, Feb. 14, 1995, at 1A.
legislatures, have traditionally responded to a presidential initiative to amend the Constitution of Mexico. A most recent example may illustrate the promptness that tends to take place in these cases: the initiative formulated by Dr. Zedillo to amend the Constitution in the area relative to the Federal Judicial Power is dated December 5, 1994; and the official decree whereby 27 articles of the Constitution were amended as a result of it appeared in the *Diario Oficial* of December 31, 1994; the decree entered into force the following day, *i.e.* January 1, 1995. The entire constitutional process took less than one month!

The end result of these numerous additions, modifications and deletions is that they have added considerable length to an already long Constitution. This is especially valid when it is taken into account that this practice has continued in Mexico for at least six decades. The personal contributions each President has given to the Constitution during his tenure have left provisions that, still today, serve to clearly identify their authors.\(^2\) As a result, the content of the Constitution is in part composed of a series of periodic but constant aggregates. Scholars are also beginning to question the appropriateness of using the Constitution to insert rather transitional programmatic policies, or to contain provisions which have been drafted with such detail that they seem to belong more properly in a secondary statute.\(^2\)

Only the future will tell whether these unique practices and uses of this public document will continue, or whether the Constitution of Mexico will be streamlined in its content. For any eventual change to take place in these constitutional areas there must be a profound transformation of Mexico and its political, economic, and judicial institutions. A few indicators undoubtedly suggest the direction and likelihood of the eventual changes: the practical results of recent efforts in favor of democratization and electoral reform; a new legal and political role of the President in relation with the Legislative

\(^2\) For example, the nationalist character of public education (art. 3) may be attributable to President Cárdenas, while the establishment of a 200 n.m. exclusive economic zone is associated with President Echeverría (art. 27), and the enumeration of the fundamental principles of Mexico’s foreign policy (art. 89, para. X) corresponded to President de la Madrid, etc..

\(^2\) Some of these provisions may be more appropriately placed in a secondary statute: the enumeration of the economic areas reserved exclusively to the State, which do not constitute monopolies (art. 28); some parts of Article 27 relative to rural communities, small property (*Pequeña propiedad*); the detailed provisions of *Amparo* (arts. 103 and 107); the jurisdiction of the Supreme Court (art. 104); the form of government of the Federal District (art. 122), and other provisions regarding the federal judicial power.
and the Judiciary; the implantation of a modern notion of federalism, which abandons the intense centralism that has historically prevailed and strengthens the autonomy of the States; the organization, growth and electoral successes of minority parties; education; distribution of wealth; and, in a most important way, the role of the new Supreme Court of Mexico.

III. CONSTITUTIONAL CHANGES MADE BY PRESIDENT SALINAS

From a political, economic and legal perspective, the administration of President Carlos Salinas de Gortari (1988-1994), may be validly characterized as somewhat atypical.

Politically, his administration laid down the foundation and witnessed the first practical results of the most serious political reform ever undertaken in Mexico. Minority parties accomplished a larger numerical representation at the Chamber of Deputies; Federal Electoral Courts were created; and the Federal District—that is to say, Mexico City, the largest urban concentration in the world, with 23 million inhabitants—proceeded to establish for the first time in its history an Assembly of Citizens empowered to manage and regulate some of its most important activities. Without a question, history books have already recorded this unprecedented fact that took place in Mexico’s political arena: during the term of President Salinas, a candidate of the opposition party, the PAN, became the governor of a State for the first time (i.e. Baja California).

Economically, during his régime the Mexican economy suffered a 180 degree change: from the obsolescent macro economic policies of import substitution and dominant government intervention, to the elimination of trade barriers and the opening of the Mexican markets. Two years after taking office, the Salinas administration reduced an astronomical three digit inflation to only 7%. The negotiation, signing and entering into force of the North American Free Trade Agreement (NAFTA) on January 1, 1994, fueled the dreams of most Mexicans to abandon the status of a Third World country and join those few and privileged nations in the Industrialized World. It was during the Salinas administration when Mexico became a member of the Organization of Economic Cooperation and Development (OECD).

Legally, the changes were colossal. Even though the legislative output during the Salinas administration appears to be quantitatively similar to some of the preceding régimes, the unanimous opinion among legal practitioners and public notaries is that this output is qualitatively superior, if not
This profound legislative transformation, in particular the amendments made to the Constitution of Mexico at the initiative of President Salinas, have been depicted as a series of changes destined to accomplish Mexico’s “national legal modernization within the framework of social liberalism.”

The changes to the Constitution of Mexico made during the administration of President Salinas may be divided into the following eight categories: 1) Electoral questions; 2) Agrarian reform; 3) State-Church relations; 4) Indigenous peoples; 5) Human rights; 6) Economic activities of the State; 7) the initiation of ordinary sessions by the Federal Congress; 8) Criminal due process; and, 9) a new form of government for the Federal District.

A. The Political Reform and Electoral Questions

Electoral legislation has been a most controversial issue in Mexico over the last twenty years. Since 1975, each presidential régime has been virtually obligated to revise the laws in order to respond to the mounting demands of political parties and other sectors of Mexican society. The reader should keep in mind that from 1929, when the PRI was created, until a few years ago, the PRI has managed to emerge officially victorious in each and every election at the federal, state and municipal levels. The virtual impossibility of the PRI to “officially” lose any election during the five or six past decades has led to a mounting clamor on the part of other political

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25 See Carlos Prieto, *Evolución Legislativa del Sexenio* [Legislative Evolution of (President Salinas’) Administration], Third Annual Conference, Asociación Nacional del Notariado Mexicano [National Association of the Mexican Notariate].


27 Towards the end of President Salinas’ mandate, twenty-eight PRI politicians were chosen to write, within their individual area of expertise, a personal evaluation of this presidential régime. Id. at 9. The resulting library, published by the government’s *Fondo de Cultura Económica*, consists of 26 very laudatory books of President Salinas’ accomplishments.

28 These categories were taken from the recent works of two of President Salinas’ closest followers: Rubén Valdez Abascal, who served as his Legal Director at the Presidency of the Republic, and Javier López Moreno, who worked for the PRI’s Executive Committee and later on became a high official at Mexico’s Social Security Institute (IMSS). Id. at 235-237; JAVIER LÓPEZ MORENO, *REFORMAS CONSTITUCIONALES PARA LA MODERNIZACION* [Constitutional Reforms for the Modernization] at 279-281 (1994).

29 See VALDEZ ABASCAL, MODERNIZACIÓN, supra note 26, at 68.
parties, particularly the PAN, that most—if not all—elections have been fraudulently controlled by the PRI. It should be of interest to point out that in his first state of the nation report, rendered before the Federal Congress on November 1, 1989 in conformity with the Constitution, 30 President Salinas expressed:

For the first time in Mexico’s modern history, this very day a citizen nominated by a national opposition party [PAN] will take office as a State governor [of Baja California]. The will of the people was respected. Recognition of all victories actually obtained is an expression of a society’s political maturity. 31

Another delicate issue in the electoral area has been the virtual “political assimilation,” or “dual identity” that has existed between the government of Mexico and the PRI. Traditionally, it has been almost impossible to establish a clear distinction between the governmental apparatus (i.e. whether federal, state or municipal) and the official party, since both entities have appeared to be one and the same. This has led to allegations by other political parties that the PRI has had regular but clandestine access to funding, equipment, personnel, etc. of the government in the place where an electoral campaign was occurring.

Finally, the intricacies of electoral issues became a rather personal and delicate, if not a serious, question regarding the election of President Salinas. Cuauhtémoc Cárdenas, the presidential candidate of the Revolutionary Democratic Party (Partido Revolucionario Democrático, or PRD) claimed that the election was stolen from him by the PRI. According to the partial election results reported via computer to the nation, Cárdenas had been ahead of Salinas until a technical problem developed and the computer reporting failed. When the reporting was resumed, the PRI candidate was ahead of the PRD. The government of Mexico reported later on that the presidential election had been won by the PRI candidate, by the “insignificant margin” of 51% - 49%, over the PRD candidate. It should only be evident, as recognized by López Moreno, that Mexico’s electoral democracy continues

30 See CONST. art 69 (Mexico). (Emphasis by the author).
31 Carlos Salinas de Gortari, First State of the Nation Report (November 1, 1989), transcript available in the Office of the Press Secretary to the President, México.
to require more credibility.\textsuperscript{32}

During the administration of President Salinas, the political and electoral reforms proceeded in the following three stages: 1. First stage (1989-1990); 2. Second stage (1992-1993); and 3. Third stage (1994).\textsuperscript{33}

1. First stage (1989-1990)

These electoral reforms were introduced to the Permanent Commission\textsuperscript{34} by the PRI in two areas: first, a series of amendments to seven articles of Mexico’s Constitution;\textsuperscript{35} and, second, the novel formulation and enactment of the Federal Code of Electoral Institutions and Procedures (\textit{Código Federal de Instituciones y Procedimientos Electorales}, also known as COFIPE). It has been pointed out that these reforms succeeded because of the political agreement that was reached among the six political parties represented in the Mexican Congress at that time, in particular the PRI and the PAN. The combined votes of these two parties guaranteed the passing of the reforms.\textsuperscript{36}

\textbf{a. The Federal Electoral Institute (IFE)}

From 1917 to 1946, Mexico had a decentralized electoral system, as is the case in the U.S. today. In 1946, the Federal Electoral Commission was created to regulate electoral processes. This Commission included representatives from the three federal branches.\textsuperscript{37}

\textsuperscript{32} See López Moreno, supra note 28, at 37. Dr. López was an active participant in negotiating the 1989-90 electoral reform, on behalf of the PRI, at the \textit{Cámara de Diputados} [Chamber of Deputies].

\textsuperscript{33} These three stages were taken from \textit{Instituto Federal Electoral (IFE), Mexico’s Political and Electoral Reform} [hereinafter IFE] at 3 (1994).

\textsuperscript{34} By presidential decree of June 27, 1989, the \textit{Comisión Permanente} [Permanent Commission] convoked an extraordinary period of sessions from August 28, 1989 to October 20, 1989. The \textit{Comisión de Gobernación} [Commission of the Interior] of the \textit{Cámara de Diputados} [Chamber of Deputies] examined 29 legislative initiatives submitted by six political parties, \textit{i.e.}, the Mexican Socialist Party (PMS); the PAN; the PRI; the Authentic Party of the Mexican Revolution (PARM); the FCRN; and the PRD. See López Moreno, supra note 28, at 31-32.

\textsuperscript{35} Const. arts. 5, 35(III), 36(I), 41, 54, 60, and, 73(VI) (Mexico). These amendments entered into force on April 6, 1990.

\textsuperscript{36} López Moreno, supra note 28, at 35.

\textsuperscript{37} IFE, supra note 33, at 3.
Recognizing that the organization of federal elections is a function of the State, in 1990 the IFE was created through the COFIPE as a permanent and independent body, and staffed with a professional electoral corps. Endowed with the legal features of a “public organ,” and its own patrimony and budget, the IFE is governed by the principles of legality, impartiality, objectivity, and professionalism. The IFE’s Director is elected by a two-thirds vote of the members of the General Council. The current Director was approved by 19 of the 21 possible votes in the IFE’s General Council and by all but one (the PRD) of the political parties.\(^\text{38}\)

The General Council is composed of Counselors and Magistrate Counselors representing the Legislative and Executive branches, and of representatives named by the political parties. The IFE’s collegiate sessions are public, in the terms provided by the law.

\textit{b. The Federal Electoral Court}

Today, Art. 41 of the Mexican Constitution provides:

The Federal Electoral Court shall be an autonomous organ and the highest jurisdictional electoral authority. The Legislative, Executive and Judicial Powers shall guarantee its proper composition. The Federal Electoral Court shall have jurisdiction to resolve in a definite and final manner, as provided by this Constitution and the law, the challenges (impugnaciones) that may arise in federal electoral matters; those established in the second and third paragraphs of Article 60 of this Constitution; and, the labor disputes that may arise with the electoral authorities established by this article. [This Court] shall issue its Internal Regulations (Reglamento Interior) and shall undertake any other powers vested upon it by the law. The Federal Electoral Court shall function as a full Court (Pleno) or in Chambers (Salas), and its adjudicative sessions shall be public in the terms established by the law.\(^\text{39}\)

\(^{38}\) \textit{Id.}

\(^{39}\) CONST. art. 41 (Mexico).
The Court was created by two amendments to Art. 41 of the Constitution: the first one in 1990, and the second in 1993.\textsuperscript{40} The court’s jurisdiction is determined by the law; it functions as a full court (Pleno), as a Central Chamber, and as four Regional Chambers. The Plenary addresses mainly administrative questions, reaching its decisions by simple majority.\textsuperscript{41}

The Central Chamber (Sala Central) exercises jurisdiction to resolve appeals during the ordinary electoral processes. This chamber is permanent, located in Mexico City, and is composed of five magistrates.\textsuperscript{42} These magistrates are “elected” by the Chamber of Deputies (Cámara de Diputados) or, when this legislative body is not in session, by the Permanent Commission (Comisión Permanente), from nominees proposed by the Federal Executive or by the President (Chief Justice) of Mexico’s Supreme Court.\textsuperscript{43}

The Regional Chambers (Salas Regionales) are composed by three magistrates each and they are located in four cities other than Mexico City. They have jurisdiction to resolve on appeals filed within their geographical jurisdiction, in conformity with the COFIPE.\textsuperscript{44}

In accordance with Art. 41 of the Constitution, by constitutional amendment in 1993, the Federal Electoral Court added an appellate level, empowering a Special Chamber (Sala de Segunda Instancia) in Art. 60 of the Constitution to take cognizance of these cases.\textsuperscript{45} The specific jurisdiction of this Special Chamber is enunciated in detail in the Seventh Book of the COFIPE.\textsuperscript{46}

In general, the Federal Electoral Court is empowered to hear appeals filed during the electoral process, in the preparatory stage of the election, or against acts or resolutions of the electoral organs; appeals submitted during federal electoral processes of an extraordinary character; and appeals filed in between two ordinary electoral processes, etc.\textsuperscript{47} It also has jurisdiction to

\textsuperscript{40} See D.O. of April 4, 1990; D.O. September 3, 1993.
\textsuperscript{41} Código Federal de Instituciones y Procedimientos Electorales [Federal Code of Institutions and Electoral Procedures] [hereinafter COFIPE], arts. 264-265 (1990). Plenary elects the Court’s President, designates and removes the Court’s Secretary General, and approves the Internal Regulations, etc.. See also, LÓPEZ MORENO, supra note 28, at 46-48.
\textsuperscript{42} COFIPE art. 266.
\textsuperscript{43} Id. art. 269, para. I.
\textsuperscript{44} COFIPE art. 267, paras. I, II.
\textsuperscript{45} See D.O. of September 3, 1994; COFIPE art. 268.
\textsuperscript{46} Id. arts. 286-343.
\textsuperscript{47} Id. art. 264, paras. I, III, IV.
hear labor conflicts between the Federal Electoral Institute and the Court itself and their respective employees.\textsuperscript{48}

The creation of this court constitutes one of the most important developments in the political history of Mexico. It introduced "a different normative system to qualify the elections, based upon the full recognition of a jurisdictional avenue in the analysis and decision of electoral matters."\textsuperscript{49} Prior to the amendment, the Chamber of Deputies and the Senate were constitutionally empowered to legally qualify the validity of their own elections through their respective Electoral Colleges.\textsuperscript{50} The Electoral College of the Chamber of Deputies subsists but only to qualify the validity of presidential elections.\textsuperscript{51}

c. The COFIPE

The constitutional amendments on electoral reform of April 4, 1990,\textsuperscript{52} which were agreed on by 85\% of the federal Deputies and approved by all of the political parties (with the exception of the PRD), required special implementing legislation. This led to the formulation of Mexico’s Federal Code of Electoral Institutions and Procedures (C.F.I.P.E.),\textsuperscript{53} which repealed the Federal Electoral Code of 1986.\textsuperscript{54}

In preparation for the presidential elections of August of 1994, the COFIPE was reformulated in late September of 1993, and modified again in June 1994. Currently, this Code represents the most advanced and comprehensive form of electoral legislation in Mexico. Composed of 372 articles, COFIPE addresses virtually all aspects related to the electoral process. Its most important innovations include election days, voting,

\textsuperscript{48} Id. art. 264, paras. V and VI.
\textsuperscript{49} VALDEZ ABASCAL, supra note 26, at 77.
\textsuperscript{50} Art. 60 of the Mexican Constitution provided that "[E]ach Chamber shall qualify the election of their members, and shall resolve the doubts that may arise in this regard . . . ." The same article provided the manner in which each Chamber (Cámara de Diputados and Cámara de Senadores) had to structure the respective Electoral Colleges. See CONSTITUCION POLITICA [Political Constitution] 49 (Porrúa ed. 1987) [hereinafter CONSTITUCION POLITICA].
\textsuperscript{51} See CONST. art. 74, para I (Mexico), as amended by D.O. of September 3, 1993; see also COFIPE art. 3, para. I.
\textsuperscript{52} See D.O. of April 4, 1990.
registration of political parties, political coalitions, use of mass media (radio and TV, in particular), public financing, the Federal Electoral Institute, the professional electoral service, the Federal Registry of Electors, electoral credentials with photography, electoral campaigns, ballots, ballot-collecting boxes, electoral publicity, the Federal Electoral Court, and electoral offenses, crimes and procedure.\(^5\)


In preparation for the presidential elections of 1994, a series of amendments to the Constitution, the COFIPE, and the Federal Electoral Act were approved in 1993 by Mexico’s Federal Congress regarding political rights and representation, as well as political parties and conditions for electoral competition.\(^6\) These reforms may be divided into three large areas: a) constitutional amendments affecting the Senate and the Chamber of Deputies; b) legal reforms affecting political parties and conditions for electoral competition; and, c) changes to the COFIPE.

a. Constitutional amendments affecting the Senate:

The number of Senators for each State and the Federal District (Mexico City) doubled from two to four. Three Senators will be elected by majority vote and a fourth seat will be allotted to the party obtaining the leading minority vote in each State (i.e. the second place party in each State of the Republic of Mexico). This guarantees that at least 25% of the seats in the Senate will be held by parties with the leading minority in each State.\(^7\)

It has been suggested that these reforms allow a better balance between the number of seats in the Chamber of Deputies (500 federal deputies) and those forming the Senate (128 Senators).\(^8\) In part, the amended text of Art. 56 of the Constitution reads:

\(^{55}\) See COFIPE: for radio and TV access, arts. 42-48; funding for political parties, art. 49; coalitions, arts. 58-65; IFE, arts. 68-134; Federal Electoral Registry, arts. 135-164; Professional Electoral Service, arts. 167-172; Federal Electoral Court, arts. 264-343, etc..

\(^{56}\) See D.O. of September 3, 1993 (modifying, inter alia, COFIPE art. 56).

\(^{57}\) CONST. art 56 (Mexico).

\(^{58}\) LÓPEZ MORENO, supra note 28, at 82.
To compose the Chamber of Senators (Cámara de Senadores) in each State and in the Federal District four senators shall be elected out of which three shall be elected according to the principle of relative majority voting and one shall be assigned to the first majority. For each State, political parties shall register a listing with three sets (fórmulas) of candidates.

The Chamber of Senators shall be renewed in its entirety, in direct election every six years.\textsuperscript{59}

\textit{b. Constitutional amendments affecting the Chamber of Deputies}

The Cámara de Diputados was reformed with the purpose of preventing a single political party from having more than two-thirds of the 500 seats; thus, a constitutional amendment would require the consensus of several political parties. As suggested earlier, given the clear predominance of the PRI in the Chamber of Deputies and in the Senate, prior to this change, any constitutional amendment proposed by the PRI was a guaranteed success, especially considering that over 90\% of the State legislatures were politically controlled by the PRI. Regarding the total of 500 representatives, Art. 54 of the Constitution provides that "[I]n no case, [may] a political party . . . have more than 315 diputados . . . ."\textsuperscript{60}

3. Legal Reforms Affecting Political Parties and Conditions for Electoral Competition

The reforms in this area predominantly affected four areas, namely: 1) Funding; 2) Equal access to the media; 3) Electoral sanctions; and, 4) National observers.\textsuperscript{61}

\textit{a. Funding}

The COFIPE regulates government funding to all political parties, the sources of party financing, and establishes expenditure ceilings.\textsuperscript{62} Government

\textsuperscript{59} Id. at 49-50.
\textsuperscript{60} CONST. art. 54, para. IV (Mexico).
\textsuperscript{61} IFE, supra note 33, at 4-6.
\textsuperscript{62} See COFIPE arts. 49(A),(B), and (C).
ment agencies and officials; foreign organizations, individuals and corporations, including international, religious groups or associations; persons who live or work abroad; and Mexican corporate entities are prohibited from making contributions to Mexican political parties.63

Mechanisms now exist to limit and trace expenses within political parties and among candidates. All political parties, for instance, must establish an office responsible for overseeing resources and finances,64 which must disclose annual and campaign spending records to a Commission of Citizen Counselors (Comisión de Consejeros Ciudadanos),65 designated by the IFE's General Council. Reports on campaign expenses must be disclosed and submitted within 90 days following an election.66

The use of government monies and resources is prohibited under all circumstances, as is the channeling of funds from Mexican commercial corporations,67 foreign agencies, political parties, and even from individuals who live or work abroad, as discussed earlier.

Monetary donations and other financial contributions originating from the United States to benefit political parties in Mexico may pose a challenge to the Commission of Citizen Counselors. For example, it has been reported that Mexican nationals working in the United States illegally send back to Mexico $4 to $6 billion dollars every year.68

Besides the public funds all political parties receive, they are allowed to obtain financing from five different sources: 1) public financing; 2) rank and file financing, consisting mainly of dues paid by party members; 3) financing by sympathizers (individuals or entities other than commercial corporations) that are not members of the party;69 4) self-financing, which is generated from promotional events; and, 5) financing from financial returns, established

63 Id. art. 49, para. 2.
64 Id., art. 27, para. I(c). Cf. id. art. 49-A.
65 Id. art. 49-B.
66 Id. art. 49-A, para. 1(a).
67 The President of Aeromexico, one of the largest Mexican corporations, recently privatized, reportedly contributed $8 million dollars to the electoral campaign of 1994. See Golden, supra note 22, at 1.
68 FERNANDO L. ASCENCIO, BRINGING IT BACK HOME: REMITTANCES TO MEXICO FROM MIGRANT WORKERS IN THE UNITED STATES 30-31 (Anfal Yafèz trans., 1994).
69 Provisions limit individual contributions to 1% of the total amount of public financing available to all parties and entity contributions to 5% of that figure. All these contributions must be accompanied by a numbered receipt. Anonymous contributions are allowed but may not exceed 10% of that party's public funds.
through funds.\textsuperscript{70}

A ceiling of $42 million dollars has been established for each party's presidential campaign expenses. Precise rules and procedures of expenditure disclosure have been approved for all political parties. Campaign expenses for Senators and Deputies have also been established and their expenditure ceilings will depend on issues such as the number of constituents represented and the socioeconomic profile of the represented State.\textsuperscript{71}

The General Council of the Federal Electoral Institute, pursuant to Art. 49 of the COFIPE, enacted specific "Regulations for the Public Financing of National Political Parties."\textsuperscript{72}

\textbf{b. Equal Access to the Media}

In addition to the time allotted by the government to all parties, the COFIPPA provisions establish new bidding standards so all parties may be able to purchase commercial advertising slots on an equal basis. Accordingly, all parties are guaranteed equal conditions of access to the media during commercial slots, special programs, and publicly financed air-time.\textsuperscript{73}

The IFE has suggested guidelines to the Radio Broadcasting Commission and the National Radio and Television Board to implement general policies for balanced news coverage of each party's campaign.\textsuperscript{74} In addition, the IFE will request that radio and television stations provide a catalogue of available timetables and rates for political parties, that no party may purchase air-time outside these slots, and that rates cannot be higher than those charged for ordinary commercial advertising.\textsuperscript{75} General policies and guidelines for media coverage of each party's campaign have also been established.\textsuperscript{76}

\textsuperscript{70} Id.; COFIPE art. 49(1)(a)-(e).

\textsuperscript{71} COFIPE art. 49(6)(IV), (II); see also IFE, supra note 33, at 4-5.

\textsuperscript{72} "Reglamento para el Financiamiento Público de las Actividades Específicas que realicen Partidos Políticos Nacionales como Entidades de Interés Público." COFIPE, supra note 51, at 406.

\textsuperscript{73} Id. arts. 41-42.

\textsuperscript{74} Id., art. 43.

\textsuperscript{75} Id. art. 46.

\textsuperscript{76} Id. art. 48.
c. Electoral Sanctions

A special office for the prosecution of electoral crimes has been established and the Penal Code includes specific sanctions for a number of activities subject to criminal prosecution. This legislation was implemented to prevent vote tampering or the channeling of State funds and resources to support political campaigns, among other things.\footnote{For a detailed enumeration of the recently created “Electoral crimes” (Delitos electorales), see Código Penal para el Distrito Federal [Federal Penal Code] [C.P.D.F.] arts. 401-413. Most of these crimes were added by the decree published in the D.O. of March 25, 1994, in a specially titled chapter, Delitos Electorales en Materia de Registro Nacional de Ciudadanos [Electoral Crimes regarding the National Electoral Registry].}

The amendments made to the Federal Penal Code comprise a total of 38 electoral crimes (Delitos electorales). The most drastic sanctions apply to: 1) stealing ballots from or adding ballots to ballot boxes; 2) changing the location of polling stations; 3) casting illegal votes; 4) tampering with the vote-count; 5) obtaining votes through payment or other incentives; 6) modifying official documents or elections results; 7) stealing or destroying ballots or electoral documents; 8) illegally using government resources in support of a candidate or a party; 9) violating the principle of secret ballot; 10) altering the electoral registry; 11) illegal issuance of voter registration cards; 12) the use of violence to prevent the installation, opening, or closing of a polling-booth; 13) government officials who coerce their subordinates to vote in favor of a political party or candidate; and, 14) religious ministers who use their influence to encourage a certain vote or to discourage people from voting.\footnote{C.P.D.F. [Federal Penal Code] arts. 401-413.}

d. National Observers

The COFIPE recognizes the fundamental role Mexican NGOs play in the electoral process, especially when considering the presidential elections of 1994. Mexican observers participated throughout the whole process, and played a non-partisan role in polling-booth observation on election day. They observed a) the installation of polling-booths; b) the voting; c) vote-counting; d) posting of results outside each booth; and, e) the dispatch of the reports of each polling district. A number of these groups conducted exit
polls and an independent tally when all the polling-booths closed.\textsuperscript{79}

National observers worked alongside political party representatives and approximately 800,000 Mexicans were enabled as polling-booth officials. These citizens, drawn by lottery throughout the country, were in charge of vote counting procedures on the election day, August 21, 1994.\textsuperscript{80}

On May 11, 1994, prior to the 1994 presidential election, Mexico invited the cooperation of the Organization of the United Nations (ONU) to assist the IFE by sending a group of experts that provided technical assistance to those national observers that requested their support. The U.N. mission sought to bolster and enhance the independence, non-partisanship, and objectivity of the national groups, and offered a technical assessment of the Mexican electoral system.\textsuperscript{81} Over three hundred Mexican NGOs worked with the U.N. technical mission. In addition, on May 13, 1994, the Mexican Congress approved legislation allowing “foreign visitors” to travel to Mexico for the electoral process.\textsuperscript{82}

According to the IFE, the “modalities of electoral observation” for the presidential elections of 1994 are: a) the observation of the electoral process will reside solely with the Mexican political parties and national observers; and, b) the United Nations technical mission will only support Mexican NGOs in their observation role and in enhancing their technical capabilities.\textsuperscript{83}

\textit{e. Radical Transformation of the COFIPE}

In September of 1993, the Federal Congress had a second extraordinary period of sessions. At the initiative of President Salinas, changes were made to the Council General of IFE, the Federal Electoral Court, and a complete reformulation of the COFIPE took place. As discussed earlier, although the Code maintained its original name, it was transformed into an entirely new statute.\textsuperscript{84}

For decades, political parties have been complaining about the incompleteness and inaccuracies found in the Federal Electoral Registry. The numerous

\textsuperscript{79} See IFE, supra note 33. \\
\textsuperscript{80} Id. at 5-6. \\
\textsuperscript{81} Id. \\
\textsuperscript{82} Id. \\
\textsuperscript{83} Id. \\
\textsuperscript{84} See LÓPEZ MORENO, supra note 28, at 112.
errors contained in this document, as well as the pervasive problems associated with voter credentials, were among the most important questions covered through the changes made to the COFIPE.

In 1991, the Electoral Registry accounted for almost 87% of Mexico's citizens, and the Federal Electoral Registry had been able to deliver 81% of the voter credentials, according to information provided by the IFE. 85 As of May of 1994 (prior to the presidential election of August of 1994), the "new" Electoral Registry included over 90% of all the citizens of that country. The IFE indicates that "this compares favorably with voter coverage in the United States (55%), Colombia (79%), Spain or Italy (80%) and Canada, France or Australia (90%)." 86 Moreover, the 1991 Electoral Registry has undergone six independent audits and the constant supervision of all nine officially-registered political parties. 87

The challenge of producing a complete and up to date Electoral Registry in Mexico should become evident when the following IFE's figures are considered: there are almost 2 million new eligible voters each year, 300,000 deaths, more than 2.5 million changes of address, and a significant migratory population. In addition, there are some 154,000 communities with less than 2,500 inhabitants, dispersed throughout that country, sometimes in highly isolated areas. The IFE reports that the government of Mexico spent $730 million in preparing and improving this official registry. 88

As part of this comprehensive federal electoral reform, Mexico introduced a brand new, tamper-proof "Voter Credential with Photograph." The IFE's General Council, and the Federal Registry of Electors issued two detailed

85 IFE, supra note 33.
86 Id.
87 The following nine political parties participated in the presidential election of 1994: 1) Partido Acción Nacional (National Action Party, or PAN); 2) Partido Revolucionario Institucional (Institutional Revolutionary Party, or PRI); 3) Partido Popular Socialista (Socialist Popular Party, of PPS); 4) Partido de la Revolución Democrática (Party of the Democratic Revolution, or PRD); 5) Partido del Frente Cardenista de Reconstrucción Nacional (Party of the 'Cardenista' Front of National Reconstruction); 6) Partido Auténtico de la Revolución Mexicana (Authentic Party of the Mexican Revolution); 7) Partido Demócrata Mexicano (Mexican Democrat Party); 8) Partido Verde Ecologista de México (Ecologist Green Party of Mexico); and, 9) Partido del Trabajo (Labor Party). Id.
88 IFE, supra note 33.
documents formally approving this credential.\textsuperscript{89} Mexico’s new voter credential looks very much like the so-called “Green Card” which the Immigration and Naturalization Service (INS) issues to aliens who become lawful permanent residents in the United States.

4. Third stage (1994)

In anticipation of the 1994 presidential election, political parties promoted a set of additional reforms introduced “to further guarantee the credibility and transparency” of the electoral process.\textsuperscript{90} These reforms were based upon the previous constitutional changes, and accordingly were implemented through modifications made to the COFIPE.

The most important changes affected: a) Accountability of the Electoral Registry, b) Citizen Counselors, and, c) International-Visitors.

a. Accountability of the Electoral Registry

Political agreements were reached in order to allow external audits to the electoral registry under the direct supervision of a council composed of citizens. Political parties would then review the results.\textsuperscript{91} The creation of the Office of a Special Prosecutor for Electoral Crimes and the numbering of ballot stubs contributed to accomplishing that “credibility and transparency.”

b. Citizen Counselors

Congress approved changes in the composition and structure of electoral authorities. The IFE’s General Council now includes six non-partisan citizens who will have the majority of the votes within that organ.\textsuperscript{92} The

\textsuperscript{89} The IFE’s “Acuerdo [Agreement]” was published in the D.O. of July 20, 1992; the second “Acuerdo” was issued by the National Commission on Surveillance of the Federal Registry of Electors. D.O. of September 30, 1992 (introducing “minimal changes” to the credential). \textit{See also} COFIPE, arts. 270, 276.

\textsuperscript{90} IFE, \textit{supra} note 33, at 7.

\textsuperscript{91} Id. at 6.

\textsuperscript{92} The six Citizen Counselors who took office on June 3, 1994 in conformity with Art. 41 of the Constitution are: Santiago Creel, Miguel Angel Granados Chapa, Ricardo Pozas, José Agustín Ortiz Pinchetti, José Woldenberg, and Fernando Zertuche. \textit{See}, Address of Dr. Jorge Carpizo (President of the General Council of the IFE), June 3, 1994, Mexico City.
Council is supported by executive and technical experts from the IFE for professional electoral service and supervision. According to the COFIPE,

The General Council is [IFE’s] highest organ of direction, responsible [for] supervising the enforcement of the constitutional and legal provisions on electoral matters, and of endeavoring that the principles of certainty, legality, independence, impartiality and objectivity guide all the activities of the Institute.  

The COFIPE details the manner in which the Electoral Professional Service should be structured to perform its functions in compliance with Art. 41 of the Constitution.

A fundamental change of the addition of these six Counselors is that “the political parties’ representatives to the IFE’s General Council will no longer be able to exercise a vote in the decisions adopted by the IFE, thus eliminating potential gridlock in the federal electoral bodies. All decision-making within the General Council now resides with the representatives from the Executive branch (i.e. the Secretario de Gobernación, or Secretary of the Interior), the Legislative branch (i.e. two Senators and two Deputies, one from the majority party, the other from the leading minority in each Chamber), and the six Citizen Counselors.”

c. International Visitors

The government of Mexico, through the Secretariat of the Interior extended an invitation to the United Nations to participate with the IFE, as indicated earlier. According to Dr. Carpizo, this was done “in order to provide additional guarantees to the Mexican society concerning the impartiality and fairness of the [1994 presidential] electoral process.”

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93 COFIPE, art. 73. The formal “attributions” of this Council are enumerated in Article 82 of the COFIPE.
94 Id. arts. 167-172.
95 See IFE, supra note 33, at 6-7. The IFE’s General Council is composed by twenty Counselors: one from the Executive; four from the Legislative; six Citizen Counselors; and, nine from the current officially recognized political parties. See COFIPE, art. 74.
96 Dr. Carpizo’s address, supra note 92.
Dr. Jorge Carpizo, *Secretario de Gobernación*, in his capacity of President of the General Council of the IFE, advanced these comments regarding the importance of this electoral reform:

> The reforms approved by Congress represent the most important change Mexico has undergone since the political reform of 1978 . . . . The changes approved constitute a set of guarantees deemed necessary and encouraged by the political parties in order to bolster the impartial nature of the electoral authorities and foster equal conditions in the electoral contest . . . . The effort undertaken has been enormous.\(^{97}\)

**B. THE POLITICAL REFORM OF THE FEDERAL DISTRICT (MEXICO CITY)**

Article 44 of the Mexican Constitution reads:

> Mexico City is the Federal District, site of the Powers of the Union and the capital of the United Mexican States. It will be formed of the territory that it currently has and in the event that the Federal Powers move to another place, it will become the State of the Valley of Mexico with the boundaries and extension that the General Congress assigns to it.\(^{98}\)

The objective of this electoral reform consisted of refining the form of government of the Federal District (Mexico City), and changing it from an organ directly controlled by the federal government into a new institutional political structure. The new form of government is to guarantee the safety and sovereignty of the three branches of the Federal Government and, at the same time, the existence of democratic and representative organs for the Federal District.\(^{99}\)

In 1987, pursuant to a legislative initiative by President Miguel de la Madrid, the inhabitants of the Federal District—which is the venue of the Federal Powers of the Union, in a geographical area coextensive with

\(^{97}\) Id.

\(^{98}\) CONST. art. 44 (Mexico).

\(^{99}\) VALDEZ ABASCAL, *supra* note 26, at 79.
Mexico City—were granted the political right to elect their own political and administrative authorities, an accomplishment with no precedent in the political and administrative history of Mexico. The political situation faced by the inhabitants of the Federal District (Mexico City) prior to this change was similar to the peculiar status of the inhabitants of the District of Columbia, almost since this area was created in 1791.\textsuperscript{100}

The political reform of the Federal District took place in two phases: first, through the changes introduced to Art. 73, para. VI of the Constitution by President Miguel de la Madrid in 1987,\textsuperscript{101} and, second, by the amendments made by President Salinas to the same article, on April 4, 1990,\textsuperscript{102} and then on October 25, 1993.\textsuperscript{103}

The Distrito Federal (Federal District) is a special geographic area reserved as the official venue for the Federal Powers, is coextensive with Mexico City, the capital of Mexico, and was created by decree on November 18, 1824.\textsuperscript{104} Subsequent federal Constitutions, those of 1857 and 1917, have followed this legal and political tradition.

Based on the Constitution of 1917, the Federal District was administered

\textsuperscript{100} The U.S. Constitution said nothing about the District of Columbia. On July 16, 1790, Congress authorized the creation of a permanent federal capital not under the jurisdiction of any State, covering a 10-mile square area. The 100 sq. mile area (259 sq. km) originally included was ceded in 1791 by Virginia and Maryland. See Report to the Attorney General, the Question of Statehood for the District of Columbia. U.S. Government Printing Office, Washington, D.C. (1988).

\textsuperscript{101} See Decree of July 29, 1987, published in the D.O. of August 10, 1987. For the text of President De la Madrid's legislative initiative, and his rationale for introducing this change in the government of the Federal District, see RENOVACION CONSTITUCIONAL Y SISTEMA POLITICO [RENOVATION OF CONSTITUTIONAL AND POLITICAL SYSTEM], 1982-1988, 249-283 (Porrua ed. 1987) [hereinafter RENOVACION].

\textsuperscript{102} D.O. of April 4, 1990 (decree amending Arts. 5; 35, para. III; 36, para. I; 41; 54; 60 and 73, para. VI of the Constitution.) These amendments entered into force the following day.


\textsuperscript{104} See RENOVACION, supra note 101, at 252. The geographical area of the Distrito Federal was demarcated as a circle, having a two-league radius. The total area consisted of some 300 square kilometers, at a time when Mexico City had 138,000 inhabitants. This area was increased to 1,500 sq. km. and the inhabitants to 300,000 in 1890. By 1960, the population had increased 60-fold but the territorial area has remained the same. Id. at 253.
as an Ayuntamiento (i.e. municipality) by a governor appointed by the Federal Executive. Starting in the early 20s the federal government took a more active role in governing this urban area when the population of Mexico City—and its resulting problems—grew steadily and the local authority did not have the funds nor the administrative structure to provide the necessary public services. In 1928, the federal government created the Department of the Federal District (Departmento del Distrito Federal, or DDF) to handle these problems.

Mexico City soon became the object of unprecedented predicaments: strong migration from rural and other urban areas; inefficient public services; tax collection problems; urban decay; growing criminality and public insecurity; severe pollution; and recent political polarization. Today, 22% of Mexico's population resides in Mexico City; the area produces 42% of Mexico's GNP (excluding agriculture); it assimilates 48.5% of the manufacturing industry's gross income, 52% in services, 45.5% in commerce, 60% in transport; it embraces 68.3 of all the banks' capital; it grants 73.3% of all real estate mortgages; and, 72% of all of bond and security investments take place in Mexico City. It has been suggested that while it took centuries for other cities to be besieged by serious problems, it took Mexico City only five decades. All these predicaments, aggravated by the emergence of an intense political plurality and resulting polarization, led to the perceived necessity of having a more representative form of government in the world's largest metropolitan area.

Prior to the political reform, the President of the Republic was in charge of the government of the Federal District. He had the power "to appoint and freely remove . . . the head of the organ or organs through which the government of the Federal District is to be exercised."

The Federal Congress was constitutionally empowered "to legislate on any matters pertaining to the Federal District," subject to certain bases. The judicial function was to be imparted by the Superior Court of Justice of the Federal District (Tribunal Superior de Justicia del Distrito Federal), whose
jurisdiction, structure and composition was determined by a statute enacted by the Federal Congress. The prosecutorial functions were conducted by a General Attorney of Justice (Procurador General de Justicia), to be freely appointed and removed by the President of the Republic.

Under President de la Madrid's amendment, an Assembly of representatives of the Federal District was created, formed by a total of 66 representatives. The powers of this Assembly included, *inter alia*, to enact administration and police regulations and other provisions regarding public activities at the D.F.; to call the President's attention to priority issues for the D.F. inhabitants; to receive periodic administrative reports from local authorities; to conduct hearings on public questions; to approve the nominations to the Superior Court of Justice made by the President; and, to generate legislative initiatives for the Federal Congress on matters pertaining to the D.F.

The changes introduced by President Salinas in 1990 were principally directed at establishing rules to modify the composition of the Assembly and to respond to a more democratic and plurinominal political representation. For example, no party was allowed to have more than 43 Assembly representatives. Most of these rules were changed again three years later.

The constitutional changes of 1993 substantially modified the form of government of the Federal District (Mexico City). They have been characterized as a "reform of enormous, historic proportions." These changes were so numerous, technical and detailed, that it was decided to include them in Art. 122 of the Constitution, rather than in paragraph VI of Art. 73, which deals with the powers vested upon Congress.

It should be noted that, prior to President Salinas' amendment, Art. 122 of the Constitution was a very brief article, referring to the duty imposed upon the Powers of the Union "to protect the States against any foreign

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110 *CONST.* art. 73(VI)(5a) (Mexico) (granting the President of the Republic the power to freely appoint and removes the President of the Superior Court.)
111 *Id.* art. 73(VI)(6a).
112 *Id.* art. 73(VI)(§3).
113 *Id.*
114 *LÓPEZ MORENO*, supra note 28, at 44-45.
115 *Id.* at 61. These constitutional changes were negotiated and finally drafted by a working group formed by representatives of all the political parties (e.g. *Mesa de Concertación Política*). Its final draft was made public in July of 1993.
invasion or violence."\textsuperscript{116} After the amendment, it is among the longest of Mexico’s fundamental laws. This article may exemplify a provision that may be a viable candidate to be taken out of the Constitution and be enacted as a federal statute on the government of the Federal District.

C. AGRARIAN REFORM AND THE TRANSFORMATION OF THE "EJIDO"

In his Third State of the Union Report pronounced before Congress in late 1991,\textsuperscript{117} President Salinas made a very strong case in favor of changing his government’s strategy toward the Mexican countryside. He said:

In line with the Revolution’s original goal of achieving freedom and justice through our best institutions, we are going to join forces with the peasants in their struggles. I shall promote a comprehensive program to support the countryside with additional resources to build up its capital assets to open up options for production and association projects and to protect community life . . . . All this aimed at making their own towns, "Ejidos", communities, villages and other types of rural settlements more democratic and soundly based, and at increasing the benefits they obtain from their labor . . . . The "Ejido" will remain, but we shall promote its transformation.\textsuperscript{118}

One week later, President Salinas sent to Congress an initiative proposing to amend several portions of Article 27 of the Constitution.\textsuperscript{119} Approved by Congress and by the State legislatures in conformity with Art. 135 of the Constitution,\textsuperscript{120} the decree that made this amendment official appeared in early 1992.\textsuperscript{121}

\textsuperscript{116} See CONSTITUCION POLITICA, supra note 50, at 111 (art. 122 of the Constitution, prior to the amendment).

\textsuperscript{117} See Carlos Salinas de Gortari, Third State of the Nation Report (November 1, 1991) (transcript available in Office of the Press Secretary to the President, Mexico City) [hereinafter Third Nation Report].

\textsuperscript{118} Id.

\textsuperscript{119} The presidential initiative to amend Art. 27 of the Constitution was dated November 7, 1991. See LÓPEZ MORENO, MODERNIZACION, supra note 28, at 153.

\textsuperscript{120} See supra note 21, and the corresponding text.

\textsuperscript{121} See D.O. of January 6, 1992.
Historically, Art. 27 of the Constitution represents the triumph of the philosophical doctrines that nurtured the 1910 Revolution. From a legal angle, this provision established the principles that regulate the existence and modalities to which public and private property are subject in Mexico. Included is the régime governing the utilization of natural resources, ranging from surface and underground waters, to forests, fish, and minerals, including nuclear materials, hydrocarbons and natural gas.\(^{122}\)

Moreover, this article symbolizes the constitutional right that Mexico, as a nation, conferred upon its campesinos (peasants), indigenous peoples and rural communities for their decisive participation in the first revolutionary movement of this century. These collective property rights have been referred to as the "Social Law" component of Mexico's fundamental law.\(^{123}\) Accordingly, Art. 27 created three basic types of rural land tenure to benefit these social groups: the "Ejido," private property and communal lands.\(^{124}\)

Therefore, it was only logical that this constitutional provision served as the legal basis for two major developments: first, the enactment of a more comprehensive agrarian legislation;\(^{125}\) and, second, the launching of the "Agrarian Reform," a politico-legal crusade directed at the granting and distribution of rural lands to campesinos and communities. These two developments became integral components of the PRI's political platform.\(^{126}\)

It has been asserted that Mexico has a history quite distant from agricultural productivity. Whereas the administration of Porfirio Díaz transformed the countryside into an instrument of servitude, the Mexicans of today—in the words of Valdez Abascal—have been more concerned with the

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\(^{122}\) Drafted in highly nationalistic terms, Article 27 is based upon the principle that "[T]he property of lands and waters comprised within the limits of the national territory, corresponds originally to the Nation," which has an absolute power over them, including "the right to impose to private property the modalities that the public interest dictates." See Const. art. 27 (Mexico).

\(^{123}\) See supra note 10 and corresponding text.

\(^{124}\) See Third Nation Report, supra note 117, at 64.

\(^{125}\) From the viewpoint of its legal content, Article 27 has served as the legal basis for the enactment of several independent, highly topical, federal statutes, known in Mexico as "Leyes Reglamentarias," regulating hydrocarbons, nuclear energy, federal waters, fishing, etc. The agrarian legislation, i.e. the Agrarian Act of 1992, belongs to this category.

development of an industrial society and the creation of an urban middle class rather than propitiating the formation of a culture that promotes agricultural productivity. This has led this author to conclude that the inefficiency and lack of productivity of Mexico's rural areas was the result, \textit{inter alia}, of the absence of proper education.

For decades, the PRI vigorously advanced the idea of Mexico as an agricultural nation. However, in comparison with countries which have become agricultural powers—such as the United States, Canada, France or Argentina, geographically endowed with rich valleys and meadows, water resources, technical and financial support, and a well versed and agriculturally proficient farmer population, Mexico lacked most, if not all, of these factors. Criss-crossed by chains of very high mountains, lacking in water resources, with no technical or financial support, possessing a territorial extension covered by arid and semi-arid lands with severe erosion and pollution problems, and with an illiterate and socio-economically abandoned peasant population, it was extremely difficult for Mexico to develop a modern, efficient and productive agricultural sector.

The bleakness of this physical overview becomes even more aggravated when the socioeconomic, political and legal conditions that have prevailed in Mexico for more than half a century are taken into consideration. For example, the agrarian reform did not bring progress to rural areas. Rather, it became a myth and a mechanism of political control. Lacking in technical training and financial support, peasants routinely abandoned their unproductive lands and were forced to migrate to urban areas looking for food and jobs. The land title system was not only inefficient but highly politicized. The absence of legal certainty generated conflicts, rural insecurity and authoritarianism (i.e. Caciquismo). Indigenous populations were regularly expelled from their lands in the most arbitrary and violent ways by politicians, Caciques or wealthy landowners, to the indifference of public authorities. All this generated fraudulent practices, impoverishment and corruption in the countryside.

\begin{enumerate}
\item \textsuperscript{127} VALDEZ ABASCAL, \textit{supra} note 26, at 147.
\item \textsuperscript{128} "\textit{El problema del campo mexicano [es] un problema de culturización}," \textit{Id.} at 150.
\item \textsuperscript{129} \textit{Id.} at 161.
\item \textsuperscript{130} See Jorge A. Vargas, \textit{NAFTA, the Chiapas Rebellion, and the Emergence of Mexican Ethnic Law}, 25 CAL. WEST. INT'L L.J., 1 (1994) [hereinafter \textit{NAFTA}].
\item \textsuperscript{131} LÓPEZ MORENO, \textit{supra} note 28, at 153-155.
\end{enumerate}
The following figures clearly indicate the very low productivity of the agricultural sector in Mexico. For example, according to the data compiled by the National Institute of Statistics, Geography and Information (INEGI), from 1948 to 1965 the GNP in the agricultural sector grew at an average of 6.7%; however, from 1966 to 1989 it went down to 2.9%. In 1988 and 1989, it was negative 3.9% and 4.3%, respectively. In 1990, 26.3% of the total population of Mexico was located in rural areas; in contrast, the representation of this sector in the GNP was only 7.7%.132

This was the situation that prevailed in most rural areas throughout Mexico during the early years of President Salinas' administration. One final consideration convinced him to initiate a rural reform: deeply engaged in the negotiations of the North American Free Trade Agreement at the time, he realized that the agricultural sector could not be placed within a purely domestic viewpoint, as it had been done traditionally in the past. This time, the modernization of the countryside had to be initiated while taking into account the challenges posed by international markets, leading scientific and technological developments, and the impact of economies of scale. Under this perspective the rural reform of Mexico became a vital and most urgent matter, when considering the ability of Mexican farmers to compete internationally.

In the legislative bill that President Salinas sent to Congress, he enumerated these central objectives of Mexico's rural reform:

1) To promote productive opportunities for the rural population;
2) To create a legal framework giving campesinos the freedom to choose the most convenient legal form to produce and to become organized;
3) To elevate to a constitutional rank the "Ejido" and the communal lands as the two forms of real estate property designed to serve a dual purpose: productive activities and human settlements;
4) To protect the territorial integrity of indigenous communities;
5) To strengthen social life in "Ejidos" and rural communities;
6) To strengthen the legal rights of "Ejidatarios;"
7) To establish proper conditions so "Ejido authorities" may be able to grant property rights to each "Ejidatario" over his individual parcel;
8) To put an end to the distribution of agrarian lands (Reparto agrario);

132 Valdez Abascal, supra note 26, at 171.
9) To establish an ordinary régime of imparting justice through the creation of Agrarian Courts (*Tribunales Agrarios*);

10) To maintain the limits of the so-called small property (*Pequeña propiedad*);

11) To allow the participation of civil and commercial corporations (*Sociedades civiles y mercantiles*) in rural areas; and,

12) To promote new forms of association and productivity in rural areas.\textsuperscript{133}

From the perspective of the United States, the changes made to Art. 27 of the Mexican Constitution may be divided, for purposes of discussion, into three areas, namely: 1) Commercial corporations in the Mexican agricultural areas; 2) Agrarian Courts; and, 3) The New Agrarian Act of 1992.

1. \textit{Commercial Corporations in Mexico’s Agricultural Areas}

Traditionally, paragraph I of Art. 27 of the Constitution has been a stumbling block to foreign investors. This paragraph provides:

Only Mexicans by birth or by naturalization, and Mexican corporations, have the right to acquire the direct ownership of lands, waters and their accessions, or to obtain concessions to exploit mines or waters. The State may grant the same right to foreigners, provided they agree before the Secretariat of Foreign Affairs (*Secretaría de Relaciones Exteriores*) to be considered as [Mexican] nationals with regard to these properties and not to invoke the protection of their governments with respect to such properties, under penalty, in case of violation, of forfeiting to the benefit of the [Mexican] Nation the properties thus acquired. In a strip of 100 kilometers along the borders, and of 50 kilometers along the coasts, foreigners under no circumstance may acquire the ownership over said lands and waters.\textsuperscript{134}

U.S. investors and other foreigners have been of the opinion that this specific proviso is discriminatory and illegal. The paragraph contains the

\textsuperscript{133} Id. at 157-159.

\textsuperscript{134} \textsc{Const. Art. 27(I)} (Mexico).
Mexican version\textsuperscript{135} of what has been known as the \textit{Calvo Clause} throughout Latin America. This clause is considered to be in violation of current international law from the viewpoint of the United States.

In Mexico today, foreigners interested in acquiring real estate should distinguish between two geographically different areas, subject to two different legal régimes, depending upon the location of the property in question: 1) in the Restricted Zone, and 2) in the Permissible Zone (i.e. outside the Restricted Zone).

\textbf{a. In the Restricted Zone}\textsuperscript{136}

As stipulated in the constitutional text, since 1917 when the Constitution was promulgated, foreigners have been expressly prohibited from acquiring the ownership of lands and waters in the so-called "Restricted Zone."\textsuperscript{137} The variety of questionable schemes foreigners have utilized in order to circumvent the constitutional prohibition are well documented. It was not until the early '70s, with the enactment of the 1973 Foreign Investment Act, when President Echeverría introduced the "Fideicomiso" as the only legal mechanism through which foreigners were allowed to not only have ownership, but also the beneficiary use of real estate located within the "Forbidden Zone."\textsuperscript{138} Fideicomiso transactions, however, were subject to restrictions. For instance, the contract could be executed only by a Mexican bank that had to be officially-authorized to enter into these transactions; costly services of a Public Notary were necessary; and, in particular, the


\textsuperscript{136} For the legal definition of this zone, see para. XII of Art. 1 of the 1989 Regulations to the 1973 Foreign Investment Act. In essence, this definition corresponds to the description given in the final part of Paragraph I of Art. 27 of the Mexican Constitution.

\textsuperscript{137} The original name of this strip was the "Zona Prohibida" ["Prohibited Zone"]. Since this name was considered to be a bit harsh, it was legally changed in 1989 to its current denomination of "Restricted Zone," pursuant to the \textit{Reglamento} [Regulations] to the 1973 Foreign Investment Act, enacted by President Salinas that year.

\textsuperscript{138} See \textit{Ley para Promover la Inversión Mexicana y Regular la Inversión Extranjera} [Act to Promote Mexican Investment and Regulate Foreign Investment] arts. 18-22 (1973) [hereinafter Foreign Investment Act of 1974]. See also \textsc{Rafael de Pina, Estatuto Legal de los Extranjeros} [Legal Regime for Foreigners in Mexico] 191 (Porrúa ed. 1991).
contract’s duration “under no circumstances” was to exceed thirty years.\textsuperscript{139} 

However, this prohibition was attenuated by the enactment of the Regulations to the 1972 Foreign Investment Act, made by President Salinas in 1989.\textsuperscript{140} This Reglamento [regulations] permitted the granting of beneficiary rights to foreign investors for thirty years for industrial, tourism, or residential purposes, thereby providing an avenue for extending the original 30-year term by means of consecutive trusts. Renewal of the new 30-year period was automatic and obtainable within forty-five working days of the date of application for an additional 30-years. Among other advantages, this change allowed foreign investors to avoid transfer costs and income tax liabilities.\textsuperscript{141}

\textit{b. In the Permissible Zone (i.e. Outside the Restricted Zone)}

The Restricted Zone covers an area of about 48% of the entire territory of Mexico, given the peculiar geographical configuration of the country. \textit{De facto}, it includes the totality of the Baja California peninsula. The Permissible Zone may be described as the inland area in the center of Mexico that remains outside the perimeter of the Restricted Zone, which is that strip of land located along the coasts 50 km. in width, and of 100 km. in length along the borders with the U.S. and Guatemala.

Foreigners may acquire real estate ownership in the Permissible Zone, or have a legal interest in a Mexican corporation that owns property in it, by complying with the legal requirements established by Mexican law. The only special requirement imposed upon foreigners that they must comply with is the Calvo Clause requirement. Accordingly, any foreigner involved in this type of transaction must obtain the authorization from the Secretariat of Foreign Relations (SRE), known in Mexico as an “Permiso Artículo 27” [“Article 27 Permit”].\textsuperscript{142} In essence, the foreigner must agree to be

\textsuperscript{139} Arts. 18-22, \textit{(Del Fideicomiso en Fronteras y Litorales} [The Fideicomiso in Border Areas and Littorals]); DE PINA supra note 138, at 198-200. An added inconvenience was the statute’s vagueness as to what may happen to the beneficiary after the 30 year-term expired. 

\textsuperscript{140} \textit{D.O.} of May 16, 1989. \textit{DE PINA, supra} 138, at 205-247. These Regulations entered into force the following day of their publication in the Official Daily.


\textsuperscript{142} This permit is issued by the \textit{Dirección General de Asuntos Jurídicos, Departamento Artículo 27} [Department of Legal Affairs], at the Secretariat of Foreign Affairs in Mexico City, or at the branches this Secretariat has throughout Mexico.
considered as a Mexican national in relation with any matters regarding that piece of property or corporate legal interest, subject to the harsh legal consequences explained above.

It should be evident that the flexibility shown in the 1989 Regulations in favor of foreign investors was already a part of President Salinas' policies to attract foreign investors to rural Mexico. The enactment of the Regulations sixteen years after the promulgation of the 1973 Foreign Investment Act, was both a legal and political strategy utilized by President Salinas to invite investors to the country. From a legal framework highly regulatory of foreign investment, his administration adopted a promotional policy designed to foster foreign investment. The change could have not been more radical.

The new Foreign Investment Act of 1993 was even more liberal. Three new developments are of the most significance: First, the duration of the Fideicomisos was extended from thirty to fifty years; second, Mexican corporations with an Exclusion of Foreigners Clause, or those corporations that entered into the "Calvo Clause" agreement, are now allowed to acquire direct ownership over immovable assets in Mexico's national territory when those properties are used for non-residential activities such as industrial, commercial or tourism purposes; and third, a Fideicomiso must continue to be utilized when foreign natural persons or foreign legal entities acquire beneficiary rights over immovable assets located in the Restricted Zone for residential use.

Turning now to the constitutional amendment of Article 27, the new paragraph IV provides:

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143 The late enactment of the 1989 Regulations was, in fact, a tactical exploration to modify the severity of the legal framework created by the 1973 Foreign Investment Act, turning it more flexible and receptive towards foreign investors. Amending the substantive provisions of the 1973 statute through "Regulations" led critics to allege the unconstitutionality of the 1989 Regulations. Once the regulations were well received, President Salinas had the opportunity to promulgate a new and more liberal foreign investment act. For a discussion of this strategy. See Vargas, supra note 141, at 922-931.


145 Art. 10, para. I of the new Foreign Investment Act provides that the acquisition has to be "registered" with the Secretariat of Foreign Affairs (SRE) when the assets are located within the "Restricted Zone." See Vargas, supra note 141, at 944.

146 Id. at 945.
Commercial corporations may own in property rural lands but only in the extension necessary for the fulfillment of their purpose. Under no circumstances may corporations of this nature hold in property lands used for agricultural, cattle or forestry activities in a larger extension than the respective equivalent of twenty five times the limits established by paragraph XV of this article . . . . A special law (Ley Reglamentaria) may regulate the capital structure and the minimum number of shareholders in these corporations . . . . Accordingly, the law should establish the conditions for foreign participation in said corporations.147

Prior to the amendment, these corporations were not allowed “to acquire, possess or administer rural estates” (Fincas rústicas).148 The measure has been regarded as an important and unprecedented development especially designed to bring the much needed financial resources to rural areas and to open up productivity options.149 It appears to have been formulated to increase efficiency and abolish the chronic, low productivity of rural areas.

In legal symmetry with the amendment of Article 27, President Salinas promulgated a new Agrarian Act (Ley Agraria).150 This is the “Ley Reglamentaria” of Art. 27 and it addresses practically all major rural questions. With respect to commercial or civil corporations, this Act regulates the number of their shareholders, purpose, and capital. The corporations’ purpose (Objeto social) is to be “limited to the production, transformation or commercialization of agricultural, cattle or forestry produce, including any complementary acts necessary for the fulfillment of

147 CONST. art. 27 (Mexico), as amended by the decree published in the D.O. of January 3, 1992. See CONSTITUCION POLITICA, supra note 50, at 24-25, 159-166 (reproduction of the text of the decree).
148 CONST. Art. 27(IV) (1987 version) (Mexico).
149 VALDEZ ABASCAL, supra note 26, at 169.
150 D.O. of February 26, 1992 (“Ley Agraria”) (Act became effective the following day). This federal statute repealed 1) the Federal Act of Agrarian Reform (Ley Federal de la Reforma Agraria); 2) the General Act of Rural Credit (Ley General de Crédito Rural); 3) the Act of Idle Lands (Ley de Terrenos Baldios); and, 4) the Rural and Peasants’ Insurance Act (Ley del Seguro Agropecuario y de Vida Campesina).
the corporate object."¹⁵¹ The capital of these corporations must consist of special kind of shares equivalent to the capital contributed in lands, identified with the letter "T." These lands may be of an agricultural, cattle, or forestry type, or the capital destined to their acquisition, according to their commercial value at the time of submittal or acquisition.¹⁵²

Series "T" shares do not grant any special rights over the land, nor do they confer corporate rights different from any of the other shares. However, when the corporation is liquidated, only those holders of "T" shares have the right to receive land in payment for the corresponding capital.¹⁵³ It should further be noted that foreigners cannot participate in these corporations in excess of 49% ownership of either regular shares or "T" shares.¹⁵⁴ Finally, the new statute provides that these corporations must be recorded at the National Agrarian Registry (Registro Agrario Nacional).¹⁵⁵

Because "Ejidos" and communal lands were the only forms of land tenure constitutionally recognized, the modernization of agricultural lands in Mexico was impeded for decades. Under Agrarian Law, the "Ejido" is a relatively small tract of land granted collectively to a group of campesinos (known as Ejidatarios) who live in a given rural community. The ejidatarios work the land according to the decisions of the majority of ejidatarios taken by an elected and representative body known as Comité Ejidal,¹⁵⁶ (or Asamblea, according to the new Agrarian Act). No individual property is allowed within the ejido, which remains inalienable and protected by federal laws.

Since their inception, numerous problems plagued the ejido and their populations, especially indigenous communities. These problems included the fact that, until very recently, not all the campesinos who had the legal right to a piece of ejido land, nor had all who applied for such, had received it. Although ejidos are communal lands for the collective use of a rural community, numerous ejidos have been appropriated by individual ejidatarios. This frequent irregularity created severe problems within rural communi-

¹⁵² Agrarian Act art. 126(III).
¹⁵³ Id. art. 127.
¹⁵⁴ Id. art. 130.
¹⁵⁵ Id. art. 131.
ties, deeply straining the relations between the affected *ejidatarios*. Another common problem derives from an arbitrary and illegal practice: a substantial number of ejidos have been allocated to individual owners by the former *Comité Ejidal*. This allocation usually applies to the best lands, thus creating violent disputes among ejidatarios. Finally, the administrative process established for the granting of these lands (*i.e.* restitution of lands) was extremely long and bureaucratic. 157

The amendment, in conjunction with the Agrarian Act, introduced two dramatic changes regarding the *ejido*: individual property is now permitted and ejidatarios are legally allowed to enter into commercial or industrial ventures. *Ejido* lands (*Tierras ejidales*), for example, may be subject to any kind of contract of association or production for a duration of up to thirty years, which is renewable. 158

The existence of *Tierras Parceladas* has also been recognized. 159 These lands are individual parcels within the *ejido* that confer individual rights to a specific *ejidatario*. 160 *Ejidatarios* have the right to alienate these parcels within the rural community, to allow their beneficiary use within the community or in favor of third parties, to contribute this right (*Usufructum*) to a commercial or civil corporation, or even to use the right as collateral to obtain financing. 161

2. *Agrarian Tribunals* (*Tribunales Agrarios*)

Paragraph XIX of the amendment to Art. 27 created the Agrarian Tribunals, in these terms:

Any questions involving boundaries of *ejidos* and communal lands are of federal jurisdiction, regardless of their origin, whether they are pending or if they arise between two or more population centers; as well as those pertaining to the

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157 For a detailed analysis of these problems, especially as they affect indigenous communities, see Vargas, *supra* note 130, at 46-50.
159 Agrarian Act arts. 76-80; *LEY AGRARIA* *supra* note 151, at 32-33.
160 These kind of lands (*"Tierras parceladas"*) are allocated by the Asamblea, in accordance with Art. 56 of the Agrarian Act. They must be recorded with the National Agrarian Registry, which issues the corresponding certificate *"Certificado Parcelario."*
161 Agrarian Act art. 80.
tenure of the land in ejidos and communities. For these cases and, in general, for the imparting of agrarian justice, the law shall establish tribunals vested with autonomy and full jurisdiction, composed by magistrates proposed by the Federal Executive and designated by the Senate or, during its recess, by the Permanent Commission.\(^\text{162}\)

These are the major legal features of these Tribunals:

1. Their creation and functions are governed by the Organic Act of Agrarian Tribunals (Ley Orgánica de los Tribunales Agrarios), promulgated by President Salinas a few weeks after the constitutional change.\(^\text{163}\)

2. These tribunals consist of one Superior Tribunal (Tribunal Superior Agrario) and lower Unitary Tribunals (Tribunales Unitarios Agrarios). The Superior Tribunal is formed by five magistrates, and is located in Mexico City. This tribunal has jurisdiction in appeals (Recurso de revisión) filed against decisions rendered by the lower tribunals, and in very special cases that merit its intervention.\(^\text{164}\)

3. The Unitary Tribunals shall hear, by reason of their territorial jurisdiction, controversies arising in relation with lands located within their respective jurisdictions. The Superior Tribunal is empowered to divide the country into a number of districts, as necessary, each having a lower tribunal. Most of the controversies the Unitary Tribunals are to decide deal with territorial boundaries between ejidos and rural communities; restitution of lands, forests and water to ejidos and rural communities; nullity proceedings against resolutions of agrarian authorities; inheritance questions, etc.\(^\text{165}\)

4. It may be of interest to point out that in controversies involving indigenous peoples, the Agrarian tribunals should take into consideration the customs and usages of each group, provided they do not contravene the

\(^{162}\) CONST. ART. 27(XIX) (Mexico).


\(^{164}\) See LEY AGRARIA, supra note 151, at 87-104. The final part of the Agrarian Act, arts. 163-200, refers to some fundamental aspects of the Agrarian Justice.

\(^{165}\) Organic Act arts. 2, 3 and 9.

\(\text{Id.}\)
Agrarian Act, or affect the rights of third parties. When necessary, the tribunal is to secure for said indigenous persons the services of a competent interpreter.166

5. Most procedural questions affecting cases before these agrarian tribunals have been simplified. For example, initial complaints may be submitted orally; hearings should be public; a special mechanism has been legislated to guarantee the efficacy of the serving of summons; a party without legal counsel has the right to obtain legal counseling provided by the Procuraduría Agraria, a special entity created by the Agrarian Act to protect ejidatarios and monitor compliance with the laws; and these tribunals are empowered to persuade the contending parties to reach an "amicable agreement," (Acuerdo amigable) and to agree on the manner in which the judgment is to be implemented, etc..167

6. A final comment about a most Mexican legal institution: la Suplencia de la queja. The new Agrarian Act provides that the agrarian tribunals are legally obligated to supplement, correct or complete any motions filed before said tribunals by ejidatarios or any other rural parties.168

The Office of the Agrarian Attorney General (Procuraduría Agraria) was another new institution created by this reform.169 Its principal function consists of providing legal counseling to protect the rights of any legal actors in rural areas, whether individuals or those acting as a group.170

Although Art. 27 of the Constitution has been amended 16 times since 1917,171 most observers agree that the changes introduced by President Salinas appear to be far reaching from an economic, social and legal viewpoint. Because of this, it is considered the most important of all the constitutional reforms enacted during his administration.172

166 Id. art. 164.
167 Id. Arts. 170-178; 171-173; 175-177; 179; 185-186; 185(VI); and 191.
168 Id. art. 164, in fine.
169 Id. arts. 134-147. Mexico has a number of these so-called "Procuradores," providing legal protection to individuals (including foreign nationals) or groups in certain areas, including consumers and tourists and, more recently, agrarian and environmental questions.
170 Id. art. 135.
171 VALDEZ ABASCAL, supra note 26, at 164.
172 LÓPEZ MORENO, supra note 28, at 153.
D. Mexico as a Pluriethnic Nation

It is virtually impossible to deduce the "pluriethnicity" of Mexico as a nation by simply reading the text of its Constitution. Unlike the fundamental laws of other countries in Latin America that contain explicit references to the existence, culture and value system of indigenous peoples, Mexico's Constitution—prior to the 1992 amendment—had been devoid of any indigenous content. This may seem to be not only paradoxical but a painful omission considering that Mexico is the country having the largest indigenous population in this hemisphere and a nation that constantly prides itself on the importance, richness and truly marvelous accomplishments of its ancient indigenous civilizations.

This omission may be explained by looking at Mexico's legal system. Contrary to the manner in which the United States legally treated "Native Americans", by placing them in separate reservations and designing a peculiar set of legal norms to govern their existence, Mexican law did not establish any legal distinction based upon ethnic origin. In this sense, it may be said that Mexican law has been "ethnically blind," firmly based on the notion of legal equality, so it applies equally to all Mexican nationals, whether they are criollos, mestizos, African Mexicans (known as Negros or Mulatos) or Indians.

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173 See, for example, the Constitutions of Argentina (1819); Guatemala (1985); Nicaragua (1979); Panama (1972), and Paraguay 1967, which explicitly recognize the existence and special rights of indigenous peoples. For an excellent discussion of these constitutions, see Luis Díaz Muller & Tania Carrasco, El Derecho Indígena, in DERECHO INDÍGENA Y DERECHOS HUMANOS EN AMERICA LATINA 48 (Rodolfo Stavenhagen ed. 1988) [hereinafter DERECHO INDÍGENA].


175 Historically, the term "criollos" refers to individuals of European ethnicity who were born in Mexico. The most common case applies to European couples, i.e., Spaniards, whose offspring were born in the New Spain. Because of this geographical distinction, "criollos" occupied a lower social class, and lower positions, in the New Spain in comparison to Spaniards.

176 "mestizo" is a person having an ethnic mix of Spaniard and Indian. Probably 95% of Mexico's population today are mestizos.

177 During colonial times (1521-1821), Africans were introduced to the New Spain to work as slaves in mines and plantations. Most of them perished because of the harsh working conditions. Today, Mexican nationals of African ethnicity are very rare (less than 0.1% of the total population), and are usually located in coastal areas.
As a result of this indiscriminate treatment, Indians in Mexico are legally treated—at least in theory—exactly as any other Mexican. However, there is a tremendous gulf regarding the individual guarantees and human rights of Indians, when compared with the manner in which these theoretical guarantees and rights are truly enforced by judges, authorities, or government officials at the municipal, state or federal levels. In a recent official publication, for example, the National Commission of Human Rights (CNDH) still recognizes that “not only because of strictly legal problems, but also [because of] cultural, social, economic and political factors, indians are the group most vulnerable to human rights violations.”

It has been asserted that indigenous peoples in Mexico have been subjected to a system of subjugation and oppression since 1521, when the Spanish destroyed Tenochtitlan, the capital of the Aztec empire. During the colonial period (1521-1821), the exploitation of indigenous peoples was placed at the very center of the economic and political system of the epoch. According to Silvio Zavala, when Alexander Von Humboldt visited New Spain at the end of the colonial period, he discovered that the Indians constituted “a separate nation, privileged by law but humiliated by everyone, with no communication with Spaniards or mestizos because of the laws.”

178 "Garantías individuales" ["Individual guarantees"] is a term of art used in Mexico to refer to constitutional rights. These rights are enumerated in the first twenty-eight articles of Mexico’s Constitution, and they are protected through special federal proceedings known as "Amparo" Juicio de Amparo when violated by any public authorities. Amparo and Juicio de Amparo have no proper English translations since they are unique legal institutions in Mexican law. Juicio de Amparo is similar to our Habeas corpus. In Mexico, Juicio de Amparo is a federal suit filed by a person, whether a Mexican national or a foreigner, who alleges that his/her constitutional rights (known in Mexico as Garantías individuales, or Individual guarantees) have been violated by a Mexican authority, whether this authority is federal, state or municipal. The Amparo, when granted by a federal court, protects and “shelters” the individual against the illegal infringement committed by the authority in question. In Spanish, “Amparar” means to protect or to shelter, thus the name given to this unique type of federal suit.

179 See TRADICIONES Y COSTUMBRES JURIDICAS EN COMUNIDADES INDIGENAS DE MEXICO [Legal Traditions and Customs in the Indigenous Communities of Mexico] (Estrada Martinez & González Guerra eds. 1995).

180 For a detailed analysis of the historic and legal evolution of human rights in Mexico with respect to indigenous groups, see Vargas, NAFTA, supra note 130, at 37-52.


182 Vargas, NAFTA, supra note 130, at 39.
MEXICO'S LEGAL REVOLUTION

As a new Republic inspired by the political and legal systems of the United States on constitutional and political matters, and by the ideas of the French encyclopedists, Mexico enacted legislation introducing the unprecedented notion, at that time, of "legal equality" designed to embrace "all the new citizens of Mexico." However, Professor Margadant is of the opinion that "[F]rom 1821 to 1910 . . . the indian was officially considered a citizen equal to all other in the eyes of the law . . . . This egalitarian philosophy . . . did not guarantee the indian a comfortable role in Mexican society, for the indian remains politically and economically vulnerable." It is known that the "legal equality" granted to indigenous peoples at the time of Mexico's independence did not improve the well-being of those indigenous groups economically, politically, culturally or legally.

In theory, the Revolution of 1910 embraced the goals and aspirations advanced by the indigenous peoples. In the Plan de San Luis Potosí, which formally marked the initiation of the Revolution, Francisco I. Madero recognized that due to abuse of the law, "numerous small owners, most of them indians, have been dispossessed of their lands, either by means of resolutions issued by the Ministry of Development or by judgments rendered by the courts of the Republic."

Mexico's Constitution of 1917 is widely recognized as the most important consequence of the 1910 Revolution. However, most demands advanced by indigenous peoples were not specifically addressed in the new fundamental law but only in a general and oblique manner. For instance, the Constitution did not even mention the words "Indian" or "indigenous peoples," to convey the idea that Mexico is composed of indigenous ethnic groups. It has been mentioned earlier in this article that the Mexican Constitution included, for the first time, the notion of "social rights." Considering that campesino Indians formed the bulk of the revolutionary forces that led the movement of 1910 to its success, it is even more disconcerting that the notion of indigenous peoples, as an ethnic minority group, was not embraced within

183 Margadant, supra note 181, at 964-965.
184 Vargas, NAFTA, supra note 130, at 40.
185 The Plan of San Luis Potosí was issued on October 5, 1910. It contained eleven sections proposing, inter alia, 1) that the principle of "Effective suffrage, No re-election," (Sufragio Efectivo; No Reelección) be declared the "Supreme law of the Republic;" 2) No recognition of President Díaz government; 3) that Madero assumes the Executive Power. See TENA RAMÍREZ, supra note 7, at 732-39.
186 Id. at 736.
187 See supra notes 10-12 and corresponding text.
this “Social Law” concept. Sadly, it appears that Mexico’s Constitution of 1917 virtually ignored the existence, rights, and needs of indigenous peoples, both as individuals and as a social group.\footnote{Vargas, \textit{NAFTA}, supra note 130, at 42-43.}

The situation of abandonment and neglect consistently imposed on the indigenous peoples of Mexico led to an armed rebellion in Chiapas on January 1, 1994, carefully planned to coincide with the entering into force of the North American Free Trade Agreement (NAFTA). Thousands of impoverished and illiterate Mayan Indians, formed by contingents of Tzotzil, Tzeltal and Tojobal indigenous peoples, rose in arms to demand an immediate response from the government of Mexico to their chronic and unanswered problems.\footnote{\textit{Id.} at 1.} On March 2, 1994, the \textit{Ejército Zapatista de Liberación Nacional} (Zapatista Army of National Liberation, or EZLN), which was the name adopted by the rebels, submitted to the government of President Salinas a document containing thirty-four specific “Demands and Engagements to Achieve a Dignified Peace in Chiapas.”\footnote{For an English translation of this document, see \textit{id.} Appendix 2, at 74. These demands have been categorized into five areas: political, legal, socio-economic, military and women’s. \textit{Id.}}

The demands advanced in this document are exemplary of the problems which prevail in most, if not all, rural indian communities. These demands included the following:

We demand that hospitals be built in the county towns; these hospitals should include specialized medical practitioners and be provided with sufficient medicine to take care of patients . . . . We want houses to be built in all the rural communities of Mexico which should include basic services such as: electricity, drinking water, roads, sewers, telephone, transportation, etc. . . . . We want the eradication of illiteracy among indigenous peoples . . . . That all ethnic languages should be made official, and that their study and teaching be mandatory at primary, secondary, high school, and university levels . . . . That our rights and dignity as indigenous peoples be respected, taking into consideration our culture and traditions . . . . We . . . do not want to be subjected to discrimination and contempt . . . . That justice be adminis-
tered by our own indigenous peoples according to our customs and traditions . . . . We want hunger and malnutrition to be halted . . . . We want a fair price for our agricultural produce . . . . We request and demand the ceasing of the expulsion of the indigenous peoples from their communities by caciques who are supported by the State . . . .

Formulating demands to the government in the hope of seeing their predicaments being resolved by the competent authorities is an old practice with which indigenous peoples in Mexico are most familiar. Since 1940, when Mexico served as the host country to the First Interamerican Indigenous Congress (Primer Congreso Indigenista Interamericano), held in Pátzcuaro, Michoacán, these types of demands and declarations have been made year after year by indigenous Mexican peoples, as well as by indigenous peoples of other countries in Latin America, with little or no results. For example, the "Solemn Declaration of Pátzcuaro," included the following recommendations:

To respect the personality and culture of indigenous peoples . . . . To reject legislative or practical proceedings based on racial differences that depict indigenous groups in an unfavorable light . . . . Equality of rights and of opportunities for all the indigenous peoples throughout the Americas . . . . To respect the positive values of the indigenous culture . . . . To facilitate the economic improvement of indigenous peoples, their assimilation and the utilization of the resources of modern technology and universal culture.

The "Declaración de Temoaya" ("Declaration of Temoaya,")) signed in the State of Mexico in 1979, appears to be among the most lucid and vigorous statements ever advanced by indigenous Mexican peoples. In an

191 Id. at 74-78.
193 Id.
194 It is commonly known as "Pacto del Valle Matlazinca" [Valle Matlazine Agreement]. Tania Carrasco, supra note 192, at 184-190.
effort to articulate their most fundamental aspirations at that time, the Declaration embraced these ideas:

1. The government of Mexico has to legally recognize the ethnic complexity of this nation. The myth of the monolithic Mexican must be substituted by this well-recognized reality: cultural pluralism in a multiethnic State, in which indigenous peoples must be represented.

2. The consecration of a multiethnic State requires an amendment to our Constitution. After 450 years of domination, we have the right to be recognized by our fundamental law.

3. We acknowledge with enthusiasm the change of policy by official Indian institutions, whose working documents reflect [that] they are gradually adopting our viewpoints. They no longer talk of assimilating us, fusing us into the notion of only one Mexican. They acknowledge [that] they have to help us save our cultures, our languages.

4. Modern technologies indigenous peoples require to initiate their economic and social development must be transferred to us in the short term.

5. We not only ask that the lands that were always ours be given back to us. But we also demand electricity, roads, drinking water. As part of the Mexican nation we have a right to all that.

6. We demand the “legalization” of our [indigenous] languages by the State, at the national and regional levels. Until this is done, a colonial situation cannot be denied.

7. Today, we want to recover our history, our culture, our civilization. We are not the result of a colonial process but of an oppressed historic identity.

8. We feel we are members of one civilization, despite the diversity of languages and cultures. The indigenous civilization in America is composed of multiple ethnic groups, and each of these groups has multiple communities and regions.\(^\text{195}\)

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\(^{195}\) This is not a literal translation. The author translated selected sentences only, in an attempt to convey to the reader the essence of the Declaration. For the complete text of this Declaration, which is contained in six printed pages, see, \textit{id.} 184-190.
Indigenous peoples in Mexico have been engaged in a long and permanent struggle to be legally recognized as a distinct ethnic and cultural component of the nation. This determination appears to run contrary to the traditional principle of legal equality, which has been the official policy until now.

From a policy-oriented approach, it seems that indigenous peoples aspire to have their own culture, language, religion, and legal system, including their own manner of imparting justice, as a special but inherent component of Mexico’s legal system. This poses an intriguing question: how is this “special indigenous component” going to be formed and defined, and how to incorporate it within the traditional mestizo legal system (i.e. Derecho positivo actual), without creating frictions, irritants or conflicts between them?

Evidently, there is no definition of what constitutes an “Indian person” under Mexican law today. The absence of this definition has complicated matters for indigenous peoples since there is no agreement as to the number and types of these peoples. This lack of agreement has fueled a prolonged controversy among anthropologists, sociologists, politicians, attorneys, indigenous leaders, government officials and NGO representatives, regarding the methodology that should be used to define each of Mexico’s current ethnic groups.

Since there are no agreed-upon scientific criteria to determine the number of ethnic groups in Mexico, the number varies depending upon the methodologies used. However, it seems that out of the total population (90 million, approximately), a percentage of between 10% and 15% tends to be considered acceptable. The Instituto Nacional Indigenista (National Indian Institute), the official structure empowered to study and assist indigenous peoples, and more recently the Comisión Nacional de Justicia para los Pueblos Indígenas de México (National Commission of Justice for the

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Indigenous Peoples of Mexico, have recognized 56 different ethnic groups.

In the States of Oaxaca, Quintana Roo and Yucatán, in the southeastern portion of Mexico, indigenous peoples comprise 50% of the total population; in Campeche, Chiapas e Hidalgo, it is higher than 25%; in Guerrero, Puebla, San Luis Potosí and Veracruz, it is over 10% and, in the remaining States, indigenous peoples are less than 10%. In the metropolitan area of Mexico City, there are at least one million Indians.

The initiative that President Salinas sent to Congress to amend Article 4 of the Constitution contained this information:

A) Of the total population of Mexico, at least 9% speak one of the fifty-six Indian languages. There are large differences among these languages; for instance, Náhuatl (the language of the Aztec empire) is now spoken by 1.5 million whereas only 236 speak Pápago.

B) These five languages, in order of importance: Náhuatl, Mayan, Zapotec, Mixtec and Otomí, embrace 60% of all indigenous peoples.

C) 70% of the indigenous peoples live in rural areas. Out of this total, 96% live in extreme poverty areas. 30% of those living in urban areas are located in very poor areas.

D) The National Commission of Justice for the Indigenous Peoples of Mexico, a branch of the National Indian Institute, studied the initiative and made suggestions to improve it.

The amending decree added the following first paragraph to Article 4:

The Mexican nation has a pluricultural composition originally based on its indigenous peoples. The law shall protect and promote the development of their languages, cultures, uses, customs, resources and specific forms of social organization, and shall guarantee their members effective access to the jurisdiction of the State. In the agrarian suits

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197 LÓPEZ MORENO, supra note 28, at 191.
198 Id.
199 Id. at 193-194.
and proceedings in which those members are a party, their legal practices and customs shall be taken into account in the terms established by the law.\textsuperscript{200}

Notwithstanding that this constitutional change took effect almost four years ago, the corresponding implementing legislation (\textit{Ley Reglamentaria}) has not yet been enacted. From a practical viewpoint, this means that indigenous peoples are still eagerly awaiting the promulgation of this domestic legislation. Without it, the content of that initial paragraph added to Article 4 is merely aspirational. Neither public authorities nor courts of law, let alone indigenous peoples, would know how to construe, and indeed how to implement and enforce in specific cases, the broad statements enshrined in the Constitution. It is hoped that President Zedillo will soon draft and introduce to Congress the \textit{Ley Reglamentaria} in question.

Given the profound consequences that may potentially derive from this constitutional precept and considering that there is no precedent in Mexico’s legislative history, a couple of closing remarks regarding this section may be appropriate.

First, there is extremely limited information which accurately describes, explains and analyzes the legal traditions, uses, and customs of current indigenous peoples of Mexico. Traditionally, Mexican legal scholars have been more attracted to performing research on the ancient indigenous civilizations, apparently uninterested in or even neglecting the study of legal practices of contemporary indigenous peoples.\textsuperscript{201} Fortunately, a new school of thought appears finally to be emerging in Mexico, developed by young legal scholars who are beginning to write about the legal practices of certain indigenous peoples. Their valuable work must be fostered and expanded.\textsuperscript{202}

Second, the incipient number of empirical studies of legal traditions of indigenous communities in Mexico may explain the tardiness in enacting the \textit{Ley Reglamentaria}. Furthermore, the relative ignorance about these legal traditions creates a most serious problem when an attempt is made to harmonize said traditions with Mexican positive law, a delicate exercise in


\textsuperscript{201} These scholars include Jacinto Pallares, Toribio Esquivel Obregón and Lucio Mendieta y Núñez whose works on “Mexican Pre-Colonial Law,” are well-known. \textit{See also} Vargas, \textit{NAFTA}, \textit{supra} note 130, at 50-52.

\textsuperscript{202} \textit{See}, for example, \textit{DERECHOS CONTEMPORANEOS}, \textit{supra} note 196.
which Mexico has no legislative experience. The drafting of regulations unsupported by sound empirical research may lead to very serious and socially explosive consequences. Therefore, it is of the essence to foster, and especially to fund, research projects designed to gather basic information on these varied but intriguing contemporary legal traditions among indigenous communities. Indeed, "Mexican Ethnic Law" is one of the most challenging but at the same time most intriguing areas of the Mexican law of the 21st century.\(^{203}\)

**E. Other Constitutional Changes**

In the latter part of his administration, President Salinas introduced eight more initiatives that eventually resulted in changes to 33 articles of the Constitution (*See Appendix One*). In chronological order, these amendments were: 1) Public education should be laic, and separate from any religious indoctrination; religious associations have the legal capacity to acquire, possess and administer real estate and other assets indispensable to fulfill their object; separation of State-church relations;\(^{204}\) 2) Establishment of Human Rights Commissions at the State level;\(^{205}\) 3) In the area of public education, junior high education (*Educación secundaria*) becomes obligatory;\(^{206}\) 4) the modification of one requirement to become President of the Republic;\(^{207}\) 5) Intervention of the State in the economy; Congress to legislate on key economic areas;\(^{208}\) 6) Ordinary sessions of Congress;\(^{209}\) 7) Electoral reform;\(^{210}\) 8) Criminal due process;\(^{211}\) 9) New Federalism and Mexico City/Federal District;\(^{212}\) and, 10) Change of another requirement to become President of the Republic.\(^{213}\)

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\(^{203}\) On this new and creative notion of "Mexican Ethnic Law," *see* Vargas, *NAFTA*, *supra* note 130, at 50-52.

\(^{204}\) CONST. arts. 3 & 130 (Mexico), *published in*, D.O. of January 22, 1992.


\(^{206}\) *Id.* art. 3 *in*, D.O. of January 28, 1992.

\(^{207}\) *Id.* art. 82(III), *in* D.O. of September 3, 1993.

\(^{208}\) *Id.* arts. 28, 73(X) & 123, *in* D.O. of September 3, 1993.


\(^{210}\) *Id.* arts. 41, 54, 56, 60, 63, 74 & 100, *published in* D.O. of September 3, 1993.

\(^{211}\) *Id.* arts. 16, 19, & 20 *D.O.* of September 3, 1993 (also repealing Art. 107(XVIII)).

\(^{212}\) *Id.* arts. 31, 44, 73, 74, 76(IX), 79, 89, 104, 105, 107, 119(I), 122, D.O. of October 25, 1993 (also repealing art. 89(XVII)).

\(^{213}\) *Id.* art. 82(I), *published in* D.O. of July 1, 1994.
IV. PRESIDENT'S ZEDILLO FIRST CHANGE TO THE CONSTITUTION

As soon as he became the President of Mexico, Dr. Zedillo initiated the constitutional process directed at amending the fundamental law of the nation. The target was to modernize and greatly enhance Mexico’s system of imparting justice. As a result, 27 constitutional articles were changed, most of them affecting Mexico’s Supreme Court of Justice.\(^{214}\)

The constitutional change made by President Zedillo was profound and unprecedented in the constitutional history of Mexico. It signified Dr. Zedillo’s determination to have a more efficient, more modern, and especially more honest system of imparting justice. This objective has been among his highest political priorities. In the initiative that the President of Mexico submitted to the Senate, he asserted:

> The purpose of this initiative is to strengthen the Constitution and the legality as the basic foundation for a safe, ordained and tranquil social life . . . . These changes entail an important step in the development of our democratic régime, strengthening the Judicial Power to accomplish a better balance among the Federal Powers, thus creating the bases for a system of administration of justice and public security that responds in a better way to the determination of all Mexicans to live in a nation of law and order.\(^{215}\)

Since the Supreme Court of Mexico was created pursuant to the Federal Constitution of 1824, no changes in its structure, functions and original jurisdiction have been more drastic than the current one.\(^ {216}\) For example, the number of Supreme Court justices was reduced from twenty-six to eleven; the amendment established stricter requirements to become a justice; the tenure of justices was limited to only fifteen years; the manner of appointment was modified, giving a larger role to the Mexican Senate; the Supreme Court original jurisdiction was also altered, attempting to transform

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\(^{214}\) For the amending decree of 27 articles of the Constitution, see D.O. of December 31, 1994.

\(^{215}\) *Iniciativa Presidencial de Reformas al Poder Judicial y a la Administración de Justicia Constitucional* (December 5, 1994), *published* by Presidencia de la República, at 2-3.

it into a true constitutional court; and a new administrative organ, the Council of the Federal Judiciary (Consejo de la Judicatura Federal), was created.\textsuperscript{217}

Mexico’s federal judicial system is patterned after Article III of the U.S. Constitution. In the enactment of its very first federal Constitution in 1824, Mexico adopted a dual system of federal and state courts, presided over by one Supreme Court of Justice. This system has been replicated in subsequent constitutions, in particular the Federal Constitution of 1857\textsuperscript{218} and, more recently, the Constitution of 1917,\textsuperscript{219} which was the object of these presidential changes.

It may be of interest to some readers to point out that according to the Organic Act of the Federal Judicial Power,\textsuperscript{220} as amended in 1995 by President Zedillo, the Federal Judicial Power is exercised by: 1) the Supreme Court of Justice of Mexico; 2) Circuit collegiate courts; 3) Circuit unitary courts; 4) District courts; 5) the newly created Council of the Federal Judiciary (Consejo de la Judicatura Federal); 6) the Federal Jury of Citizens (Jurado Federal de Ciudadanos); and, 7) the courts in the States and in the Federal District (Mexico City) in the cases provided by Art. 107, para. II, of the Constitution.\textsuperscript{221}

Basically, the Supreme Court changes may be divided into the following areas: a) Composition and appointment of Justices; b) Actions of Unconstitutionality; and, c) the Council of the Federal Judiciary.

\textbf{A. Composition and Appointment of Supreme Court Justices}

Prior to the amendment, the Mexican Supreme Court was composed of twenty-six justices, known as “Ministers” (Ministros).\textsuperscript{222} The Court is to function as a full court (Pleno) or may be divided into sections or chambers, known as “Salas,” each of these consisting of five justices. The details

\textsuperscript{217} For a detailed legal analysis of these changes, see Vargas, supra note 3, at 2.

\textsuperscript{218} TENA RAMÍREZ supra note 7, at 622 (referring to art. 90 of Mexican Constitution of 1857).

\textsuperscript{219} CONST. art. XC-CVII (referring to the federal judicial power).


\textsuperscript{221} FEDJUD art. 1.

\textsuperscript{222} Out of these justices, five are considered “Supernumerarios;” this title indicates that they do not compose the Supreme Court Plenary but only form part of the “Sala Auxiliar [Auxiliary Chamber].” Const. art. 94 (Mexico).
regarding the composition, jurisdiction and functions of the Supreme Court are regulated by the Organic Act of the Federal Judicial Power, which closely parallels the U.S. Judiciary Act of 1789.223

Article 94 of the Constitution, as amended, reestablished the number of justices originally contained in the first Federal Constitution of 1824, and in the initial text of the 1917 Constitution. No other change generated such an intense debate among judges, politicians, judges, legal practitioners and academicians as did the reduction of justices.224 The principal concern was whether a smaller number of justices was going to be able to handle in an efficient and prompt manner what has traditionally been a most heavy Supreme Court docket.

The reduction of justices prevailed. Reasons for the change included a more precise enunciation of the types of controversies to be decided by the Supreme Court;225 the creation of the Council of the Federal Judiciary whose principal function is to relieve the Court of its burdensome administrative duties; and the latest constitutional trend observed in certain countries to maintain a rather small number of members in organs of judicial review.226

The change also intends to give a more decisive intervention to the Mexican Senate in the appointment process of Supreme Court justices. In the past, the Senate had the “exclusive” power to “ratify” the nomination of the Executive.227 The process has been so formalistic and symbolic that no nominee has ever been rejected by the Senate in its entire history. As a result of the amendment, the Senate now has the exclusive power to “designate the Ministers of the Supreme Court among the three Ministers proposed (terna) by the President of the Republic.”228

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223 Ley Orgánica del Poder Judicial de la Federación (1995). As a consequence of the changes to the Constitution, Dr. Zedillo had to modify, accordingly, this Organic Act.
224 For a compilation and review of varied opinions expressed at a seminar organized by Mexico’s National University to analyze the impact of these constitutional changes, see REFORMAS AL PODER JUDICIAL (Adalid ed. 1995).
225 Art. 105(I) of the Constitution, enumerates six types of controversies: 1) those between States; 2) between on or more States and the Federal District; 3) between the powers in the same State; 4) between organs of the Federal District’s government regarding the constitutionality of their acts; 5) conflicts between the Federation and one or more States; and, 6) those in which the Federation is a party. On this matter, see the statutory regulations newly enacted by the administration of President Zedillo, D.O. of May 11, 1995.
226 For example, there are nine justices in the U.S. Supreme Court; nine in France; twelve in Spain; thirteen in Portugal; fourteen in Austria; fifteen in Italy; and sixteen in Germany.
227 CONST. art. 76(II) (Mexico).
228 Id. art. 76(VIII).
B. Actions of Unconstitutionality

These actions may be validly characterized as one of the most innovative changes ever made in the constitutional history of Mexico. The new change confers upon a legislative minority equivalent to 33% of the members of the Chamber of Deputies (Cámara de Diputados), the Senate, the Assembly of Representatives of the Federal District, and the Attorney General of the Republic (Procurador General de la República), the right to file directly with the Supreme Court a so-called “Action of Unconstitutionality” (Acción de Inconstitucionalidad). The object of this action is “to pose a possible contradiction between a norm of a general character” (i.e. a statute or any other legislative enactment) and the Constitution. These actions may be filed within 30 natural days following the date of the publication of “the norm.”

The “resolutions” of the Supreme Court of Justice may only declare the invalidity of the challenged norms when said decisions receive a majority “of at least eight votes.” This so-called “super qualified majority”, which corresponds to 73% of the justices’ vote, has been severely criticized by Mexican specialists. Another criticism advanced centers on the fact that Art. 105 of the Constitution, as well as the corresponding Ley Reglamentaria, expressly exclude “electoral matters” from the scope of this action. This exclusion is considered “incongruent”, especially when President Zedillo has expressed that he “was planning to take the principle of constitutional supremacy to its ultimate consequences.”

In a recent development, on July 10, 1995, the Supreme Court of Justice rendered its first “resolution” in an action filed by members of the Assembly of Representatives of the Federal District “against different precepts of the Citizen Participation Act of the Federal District (Ley de Participación Ciudadana del Distrito Federal).” The court found that the case involved

229 Id. art. 105(II).
230 Id.
232 Fix Fierro has asserted that “[T]his is incongruent . . . because it not only permits the existence of a body of laws exempt from constitutional control, but because it leaves unfinished the recent evolution towards the ‘judicialization’ of electoral matters.” Id. at 8.
an "electoral matter" and the action was dismissed by the Ministro Instruc-
tor.\textsuperscript{233}

C. The Council of the Federal Judiciary

As part of their functions, Supreme Court justices were required to
discharge a number of administrative duties. These responsibilities included,\textit{inter alia}, the appointment of Circuit magistrates and District judges; to look
into the behavior of lower judges for unethical acts or serious violations to
constitutional rights; to assist lower courts in expediting their heavy docket;
to visit an assigned number of Circuit Courts and Federal District Courts
every year, etc.\textsuperscript{234} These duties have been transferred now to the recently
created Council of the Federal Judiciary (\textit{Consejo de la Judicatura Federal}).

It is believed that by relieving justices of these burdensome and time-
consuming responsibilities, they will have more time and a better disposition
to engage in their truly judicial decision-making duties. Thus, pursuant to
the changes made to Art. 100 of the Constitution, "the administration,
vigilance and discipline of the Federal Judicial Power, with the exception of
the Supreme Court of Justice of the Nation, shall be done by the Council of
the Federal Judiciary, in the terms established by the laws, in conformity
with the bases provided by this Constitution."\textsuperscript{235}

The Council consists of seven members, known as Counselors (\textit{Consejer-
os}). Included is the President of the Supreme Court, who presides over the
Council, a magistrate of the Circuit Collegiate Courts, a magistrate of the
Unitary Circuit Courts, and a federal District judge, who shall be elected by
a lottery system (\textit{Insaculación}). Counselors have to meet the same
requirements to become Supreme Court justices.\textsuperscript{236} The Council functions
as a plenary or through the work of Commissions, which may be permanent
or temporary with a varying membership. The development of a judicial
career, including the preparation and training of federal judges and
magistrates, and their professional disciplining, are among the most important

\textsuperscript{233} \textit{See} Accion de Inconstitucionalidad 1/95, Suprema Corte de Justicia de la Nación.
Actores: Fauzi Hamdan Amad y Otros como integrantes de la Asamblea de Representantes
An appeal (\textit{Recurso de Revisión}) has been filed against this decision.

\textsuperscript{234} Art. 97 of the Constitution, prior to the amendment, listed these administrative duties,
as well as the previous Organic Act of the Federal Judicial Power.

\textsuperscript{235} \textit{CONST.} art. 100 (Mexico).

\textsuperscript{236} These requirements are enumerated in Art. 95 of the Constitution.

The creation of this Council was inspired by similar structures existing in Europe and which have begun to emerge in Latin America in recent years. It seems that Mexico’s Council was principally patterned after Spain’s General Council of the Judicial Power (Consejo General del Poder Judicial).

V. CONCLUSIONS

A constitution is the mirror of any given nation. It clearly reflects that nation’s history, its social and political structure, its economic profile and, in a special manner, those inherent components that define that nation’s unique personality, both domestically and internationally. Thus, a modern constitution not only looks at the past but also projects its national presence into the future. Because of the nature of these traditional concepts, the idea of a constitution is always surrounded by an aura of destiny and reverence. Nothing outside the constitution can be more significant or solemn than the ideas and institutions contained in its text. Nothing can be perceived as more transcendental than those concepts enshrined in the constitution. In sum, the constitution is the ultimate will of a nation.

The Constitution of Mexico is one of the most dynamic and fluid constitutional documents in the world today. For a constitution to be alive and vibrant, it must be in very close symmetry with the current reality, a reality that has two faces, like the ancient Greek god Janus: one looking at the past, the other at the future. Or one looking internally, the other at the international arena.

Unlike the textual permanency of our U.S. Constitution, which has remained virtually unaltered during the last two centuries—although the meaning of its provisions has evolved most significantly—the Mexican Constitution has followed an opposite route. Rather than construing the constitutional text to philosophically adjust to the changing reality through

237 Art. 81 of FEDJUD enumerates 41 specific functions for the Council.
238 Id.
239 “Superior Councils of the Magistrature,” or “Superior Councils of the Judiciary” exist, for example, in France, Italy, Portugal, Turkey, Greece and Spain; and Colombia, Venezuela, Perú, Brazil, Uruguay, Costa Rica, Paraguay, Bolivia and Argentina, in Latin America. See Vargas, supra note 3, at 37.
judicial interpretation, Mexico decided not to produce gradually evolving opinions about a constitutional provision but, instead, to textually amend the provisions of the fundamental law virtually every year so the new text would fit the changing contemporary reality. Clearly, this explains why the U.S. Constitution has been amended only twenty-six times since its enactment in 1789, whereas the Constitution of Mexico has endured over 300 changes since its promulgation in 1917: two legal philosophies for two different peoples.

Constitutional changes in Mexico have not only been an annual happening, but also a political tradition. It is considered that the Constitution of Mexico must conceptually display in its text not only the accomplishments of the government in turn (which has been the PRI, invariably, for the last sixty-six years), but also the political programs which said government plans to undertake. Accordingly, the constitution has become a sort of political newsletter that sends out periodic political messages to the masses.

Having a national captive audience, it is only natural that these messages are addressed, in the first place, to Mexicans. However, on occasion, some constitutional changes appear to have been made having international implications in mind. In most of these instances, the U.S. appears to be the preferred focus. In recent years, economic liberalization, respect for human rights, political reform, clearer constitutional rights for the criminally accused, better conditions for foreign investment in rural areas, respect for indigenous peoples and an overhaul in the federal justice system have been identified by observers as having a message going beyond Mexico's domestic boundaries.

Unquestionably, the profound changes made to the Constitution at the initiative of President Salinas have no precedent in the contemporary legal history of that nation, both because of their quantity and especially their quality. The entire legal system of Mexico was subject to a rapid but systematic effort of modernization, liberalization, and improved efficiency. It has been said that that administration was in the hands of technocrats. Examining the content of the legislative results, there is no doubt that a special and sustained effort was made to alleviate the Mexican legal system of many of its chronic problems, stemming out of bureaucracy, inefficiency, obsolescence and corruption. A U.S. observer, seeing this unprecedented transformation in key areas of Mexico's legal system, was prompted to conclude that this new trend represented "the Americanization (sic) of
Mexican law.\textsuperscript{240}

Most of these changes are perdurable. They were placed at the apex of a profound transformation of the entire country. The Salinas' administration made a sustained effort to recast Mexico in a new image: the image of a modern and efficient nation, engaged in a vigorous process of diversifying and strengthening its economy. Accordingly, his administration proceeded to accomplish this objective by launching a strong macroeconomic program based on neoliberal policies. The economy became the center of the Salinas' administration. This explains the strong economic emphasis reflected in liberalizing trade and foreign investment, which resulted in the opening the Mexican economy to international competition. The constitutional amendment of Article 27, modernizing the notion of the "Ejido", no doubt forms a part of this program. However, the signing and entering into force of the North American Free Trade Agreement surely signifies the culmination of the launching of this regime.

The image of a new, modern Mexico would not be credible without the notion of a true democracy. It became urgent to convey the image that Mexico had finally realized the necessity of moving with determination to construct a politically mature nation, a country which was clearly aware of the vital importance electoral votes have in the construction of a true democratic form of government at all political levels.

For decades, Mexico has maintained the tarnished reputation of a country with questionable electoral practices, in a political arena chronically controlled by the official party. But modernity cannot exist without democracy. At the risk of paying a political price,\textsuperscript{241} the government/PRI decided to go ahead with political reform. There was no better strategy to convey the seriousness of President Salinas' determination than to use the text of the Constitution to formalize and publicize that commitment. The changes in the composition of the Chamber of Deputies and the Senate, the creation of the Federal Electoral Institute (IFE) and the Federal Electoral Court, and especially the enactment of the Federal Code of Electoral Institutions and Procedures (COFIPE), clearly respond to this objective.

Another surprising change that took place during President Salinas'


\textsuperscript{241} For example, as a result of recent elections until August of 1995, the governorships of these four States were won by PAN candidates: 1) Baja California; 2) Guanajuato; 3) Jalisco; and, 4) Chihuahua.
administration was the close relationship that he developed with George Bush, then President of the United States. Contrary to the diplomatic history between these two nations, characterized by a degree of mistrust and by the permanent presence of an invisible but profound diplomatic moat, President Salinas was perceived as having developed a most cordial personal relationship with President Bush. The closeness of this relationship may have induced the adoption of certain policies, some of which resulted in constitutional changes and other legislative enactments. The creation of the National Commission of Human Rights, and its later establishment at the State level; the enlarged and detailed enumeration of constitutional rights (Garantías individuales) protecting those criminally accused; and, finally, the recognition of the pluricultural composition of Mexico, based on its indigenous peoples, may be included as evidence of this notion.

President Zedillo’s current administration has already shown an inclination to favor some of the major political, social and economic themes advanced by his predecessor. His determination to transform Mexico into a nation of law and order led him to formulate an initiative to amend the Constitution in the area of administration of justice. In his own words, “This reform stands as a landmark in the necessary process to strengthen and improve our country’s judicial bodies.”

While this was President Zedillo’s first constitutional change, there is no doubt that others are to follow. From a Mexican viewpoint, it seems that behind each constitutional change, Mexico gets closer to the kind of country its own nationals are in the arduous process of defining and constructing. Forging a nation, however, may be an interminable task.

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242 In President Zedillo’s Plan Nacional de Desarrollo, 1995-2000 [National Development Plan 1995-2000], in the “Rule of Law Area,” he stresses legal security in the ownership of property and goods and in the rights of private individuals; human rights; in the area of “Democratic Development,” he addresses his political commitment to democracy; government reform; a new form of federalism; clear relations between churches and the State; in the field of “Social Development,” the fight to eradicate extreme poverty, etc. See D.O. of May 31, 1995.

243 Id.