Will Fox Change Chiapas? Not Unless Trade Partners Understand the Real Issues

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On January 1, 1994, Mexico officially adopted the North American Free Trade Agreement (NAFTA).[1] While the President of Mexico celebrated with fellow leaders of the country, a group called the Ejercito Zapatista de Liberacion Nacional (EZLN), or Zapatistas, followed through with a plan years in the making.[2] Led by a man who calls himself Subcomandante Marcos, the Zapatistas took control of four Mexican cities to let the world know that they were serious about the neglect they felt as citizens of a poor, rural Mexican state.[3] The state was Chiapas, and this conflict still exists.[4] The Zapatistas and their supporters have not had their concerns addressed and, until recently, the uprising seemed to have hit a point of stagnation.

With the recent changes in Mexico's government, the Zapatistas and Chiapas are in the news again. For seventy years, Mexico had a Partido Revolucionario Institucional (PRI) party President,[5] but on December 1, 2000, Vincente Fox, of the

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1. North American Free Trade Agreement, Dec. 17, 1992, U.S.-Mex.-Can., *reprinted in* 32 I.L.M. 289 *and* 32 I.L.M. 605 (1993) [hereinafter NAFTA]; *see also* Jorge A. Vargas, NAFTA, *The Chiapas Rebellion, and the Emergence of Mexican Ethnic Law*, 25 CAL. W. INT'L L.J. 1, 1 (1994).

2. *See* Andy Gutierrez, *Codifying the Past, Erasing the Future: NAFTA and the Zapatista Uprising of 1994*, 4 HASTINGS W.-NW. J. ENVTL. L. & POL'Y 143, 153 (1998).

3. *See id.* at 144.

4. *See generally Clash in Chiapas Injures Four*, THE INDEPENDENT (London), Aug. 24, 2000, at 14 (describing a recent confrontation between Zapatistas and PRI party supporters).

5. *See Revolution Ends, Change Begins: A Survey of Mexico After the Revolution*, ECONOMIST, Oct. 28, 2000, at 1, 3. Historically, the PRI has purported to represent the interests of workers and peasants, but it lost a lot of support amidst reports of corruption, bribery, and involvement in the drug trade. *See* Gerardo Nebbia & Patrick Martin, *Mexico After the Elections*, *at http://www.wsws.org/*

Partido Accion Nacional (PAN) party, became the leader of Mexico.[6] President Fox stated that he could end the conflict surrounding Chiapas,[7] and he took steps toward fulfilling that promise when he scheduled negotiations with the Zapatistas shortly after taking office.[8] Although an end to the tension in that state would be welcome, there are skeptics of his agenda.[9] Leaders have made similar promises in the past, and the discord remains.[10]

Part I of this article examines the issues leading to the uprising in Chiapas. It then describes the actual uprising, and the attempts at resolution that have followed, including President Fox's election. Part II looks at how Fox may, or may not, change the strife in that state. Although Mexico has seen a dramatic change at the helm, this section argues that meaningful change will not reach Chiapas without a push from those who seem to matter most to Fox - his trade partners. For real change to take place, Mexico's trade partners need to understand what is really ailing this troubled state.

I. ORIGINS AND HISTORY OF THE CONFLICT IN CHIAPAS

Mexico's political situation has always been anything but stagnant. This volatility has been particularly prevalent in the state of Chiapas where conflicts over land rights, access to resources, and economic growth have persisted over the last century. This section examines the history of the conflict over land and their impact on life in the region, recent attempts by

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articles/2000/jul2000 (last visited July 22, 2000).

6. *See* Nebbia & Martin, *supra* note 5. President Fox is considered to have more open views than other members of the PAN party, historically known for being homophobic, against women's rights, and in favor of censorship. *See id.*; Carlos Fuentes, *We All Won*, EL PAIS, July 4, 2000, *reprinted in* WORLD PRESS REV., Sept. 2000, at 7. In addition to the PRI and PAN parties, there is also a Partido Revolucionario Democratico (PRD) party in Mexico, which is considered the "left" party of the country. *See* Nebbia & Martin, *supra* note 5.

7. *See* Peter Fritsch, *Chiapas Election Could Spur Talks With Guerrillas*, WALL ST. J., Aug. 18, 2000, at A11.

8. *See* Tim Weiner, *Mexico's New Leader Swiftly Seeks Peace in Chiapas*, N.Y. TIMES ON THE WEB, *at http://www.nytimes.com/2000/12/04/world/04MEXI.html* (Dec. 4, 2000). Subcommandante Marcos remains skeptical of Fox's promises of resolution. *See Mexico's President Orders Troops Out of Zapatista Rebel Areas*, MPLS. STAR TRIB, Dec. 3, 2000, at A6.

9. *See* Fritsch, *supra* note 7.

10. *See infra* Part I.B.2 (discussing the unsuccessful attempts at resolution).

the Mexican government to resolve these conflicts, and international involvement in the search for a solution.

A. LAND RIGHTS IN CHIAPAS

Chiapas is the southernmost state in Mexico. It is rich in natural resources,[11] including oil, currently an extremely valuable resource across the world.[12] Its farms also produce cocoa, beef, sugar, coffee, corn, and beans.[13] In addition, Chiapas has hydroelectric dams that are a major source of power for the country.[14] While Chiapas appears to have the means for its citizens to be economically self-supporting, corruption and disinterested government officials[15] have made this state the poorest in the country.[16]

As of 1990, the population of Chiapas was just over 3,200,000.[17] About twenty-four percent of these people were indigenous, and nearly seventy-four percent of them were living in rural areas.[18] Only about seventy percent of the homes in Chiapas had electricity and fewer than fifty-nine percent had running water just ten years ago.[19] The majority of the Chiapan

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11. *See* Lewis Dolinsky, *Chiapas Awaits the Fox Era*, S.F. CHRON., July 12, 2000, at A8.

12. *See Clinton and Greenspan Express Concern Over High Crude Oil Prices; Mexico and Venezuela Call For Production Increases*, MIDDLE E. ECON. SUR., at *http://www.mees.com/back_issues/volume43/v43n08a02.htm* (Feb. 21, 2000) (explaining that crude oil prices reached an all time high of $30 a barrel in the beginning of February, 2000).

13. *See* Vargas, *supra* note 1, at 9, 13.

14. *See id.* at 9.

15. *See generally Revolution Ends*, *supra* note 5, at 4 (explaining that PRI leaders obtained support through money). The tradition of government officials building "white elephants" provides a telling example of the corruption and disinterest that takes place in Mexico. *See* Sam Quinones, *Chiapas Entering A New Era*, S.F. EXAMINER, Oct. 8, 2000, at A21. *Elefantes blancos*, or white elephants, are public works projects built by leaders at enormous cost, while the citizens of the area continue to live in poverty. *See id.* Citizens typically stood by and watched as these grand projects were built, but recently some Chiapans protested and halted the construction of a cathedral plaza that was being built in San Cristobal de Las Casas. *See id.*

16. *See* Vargas, *supra* note 1, at 10.

17. *See* MICHAEL E. CONROY & SARAH ELIZABETH WEST, *The Impact of NAFTA and the WTO on Chiapas and Southern Mexico*, POVERTY OR DEVELOPMENT 43 (Richard Tardanico & Mark B. Rosenberg eds., 2000). In 1998, the population of Chiapas was approximately 3,900,000. *See North is North and South is South: A Survey of Mexico After the Revolution*, ECONOMIST, Oct. 28, 2000, at 10.

18. *See* CONROY & WEST, *supra* note 17, at 43.

19. *See id.* at 45.

citizens earn less than seven dollars a day[20] and eighty percent of the population lives in extreme poverty.[21] There are few schools for Chiapan children to attend, and when they do have access to a school and a teacher they have trouble learning because they are weak from hunger.[22]

The root of the problems ailing Chiapas centers on land rights. For centuries, a trend has occurred throughout Chiapas that contributes to their struggles. The wealthiest people of the state (who happen to almost unanimously support the long-ruling PRI party) take land from the indigenous people and force them to move further and further into hilly lands not suited for agriculture.[23] The state of Chiapas revolted in 1910 as a result of this land dispossession.[24]

The government first enacted Article 27 of the Mexican Constitution[25] after the revolution in 1910[26] to address indigenous peoples' concerns about land and water rights.[27] Prior to the revolution, eighty-seven percent of the rural land in Mexico belonged to just two thousand families.[28] Under Article 27, rural communities received *ejidos*[29] to more evenly distribute land.[30] An *ejido* is a small piece of land that is farmed by

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20. *See* Vargas, *supra* note 1, at 8.

21. *See* Quinones, *supra* note 15.

22. *See* FIRST WORLD, HA HA HA!: THE ZAPATISTA CHALLENGE 61 (Elaine Katazenberger ed., 1995).

23. *See id.* at 64.

24. *See* Vargas, *supra* note 1, at 2 n.12.

25. Article 27, as it was originally adopted, addressed land and water rights thoughout. For example, section X declares that,

> Centers of population which lack communal lands (*ejidos*) or which are unable to have them restored to them due to lack of titles, impossibility of identification, or because they had been legally transferred, shall be granted sufficient lands and waters . . . not less than ten hectares of moist or irrigated land . . . ."

CONSTITUCION POLITICA DE LOS ESTADOS UNIDOS MEXICANOS, art. 27 (amended 1966).

26. Article 27 first appeared in the 1917 Mexican Constitution. *See* Vargas, *supra* note 1, at 2 n.12.

27. *See id.* The Zapatistas adopted the name of Emiliano Zapata, a leader who fought for land rights in the 1910 revolution. *See* James J. Kelly, Jr., *Article 27 and Mexican Land Reform: The Legacy of Zapata's Dream*, 25 COLUM. HUM. RTS. L. REV. 541, 541 (1994).

28. *See If Not for NAFTA, When?: A Survey of Mexico After the Revolution*, ECONOMIST, Oct. 28, 2000, at 7.

29. *See* Vargas, *supra* note 1, at 13.

30. *See generally* June Nash, *The Challenge of Trade Liberalization to Cultural Survival on the Southern Frontier of Mexico*, 1 IND. J. GLOBAL LEGAL STUD. 367, 367 (1994) (discussing creation of communal plantations). Article 27 was also known as the Land Reform Act. *See id.*

campesinos, or peasants.[31] The *campesinos* collectively have rights to the land and decisions regarding its use are made based on what the majority desires.[32] The people of Chiapas used the land primarily for subsistence farming of vegetables, which mainly included corn and beans.[33] In 1988, there were over three million families living on the 28,000 *ejidos* created by Article 27.[34]

Unfortunately for the people of Chiapas, in 1992 the Mexican government erased ninety years of expectations and legally recognized rights to help gain U.S. and Canadian approval and secure the passage of NAFTA.[35] President Salinas, the leading proponent of NAFTA in Mexico, initiated an amendment to Article 27 to abolish *ejidos* and encourage *latifundios*, which would change the nature of land rights throughout the country.[36] The legislature passed this amendment and all thirty-one states approved the change less than two months after it was first suggested.[37] It washed away land rights of the *campesinos*,[38] allowing the land to be sold.[39] One justification for the new Article was that small, communal farms could not keep up with Mexico's increasing demands for food, thereby forcing the country to import grains and beans.[40]

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31. *See* Vargas, *supra* note 1, at 13 n.80.

32. *See If Not for NAFTA, When?*, *supra* note 28, at 8.

33. *See* Vargas, *supra* note 1, at 13. In 1994, ninety percent of the income generated in Chiapas came from agriculture, which consisted primarily of corn, beans, sugarcane and coffee. *See* CONROY & WEST, *supra* note 17, at 49.

34. *See* Kelly, Jr., *supra* note 27, at 543.

35. *See* Kelly Jr., *supra* note 27 and accompanying text.

36. *See* Vargas, *supra* note 1, at 13. *Latifundios* are a different type of land ownership "designed for export economy-mass production." *Id.* This system was adopted to "encourage U.S.-style agri-business." *Id.*

37. *See* Gutierrez, *supra* note 2, at 152. This type of extreme political change initiated by the President led some to call Mexico the "perfect dictatorship." *Id.* There process lacked community input, hearings, or other ways to involve the general public in either the Article 27 amendment or the passage of NAFTA, yet both may lead to the displacement of millions. *See id.* at 161.

38. *See supra* note 31 and accompanying text (defining the word *campesino*). Several sections of Article 27 were repealed, including section X of the Mexican Constitution, which gave *ejido* land. *Compare* CONSTITUCION POLITICA DE LOS ESTADOS UNIDOS MEXICANOS, art. 27 (amended 1966), *with* CONSTITUCION POLITICA DE LOS ESTADOS UNIDOS MEXICANOS, art. 27 (amended 1996).

39. *See* WORTH H. WELLER, CONFLICT IN CHIAPAS: UNDERSTANDING THE MODERN MAYAN WORLD 66 (2000).

40. *See* Kelly, Jr., *supra* note 27, at 543 (explaining that food production could not keep up with population growth within the country). *But see* Nash, *supra* note 30, at 373 (explaining that ethnologists believe the Chiapans could produce more if they had access to fertilizer and weed killers).

Some felt that a change was necessary to encourage agricultural growth.[41] Others argue that the government enacted amended Article 27 in preparation for NAFTA because erasing rights to *ejidos* created an opportunity for privatization, and allowed corporations to gain property rights in an area rich with natural resources.[42]

Non-*campesinos* quickly moved into the area to search for oil[43] and to establish hydroelectric dams that supply Mexico with the majority of its power.[44] The Agrarian Solicitor's Office in Mexico claimed that in the year following the amendment, no forced sales took place in Chiapas as a result of the amendment to Article 27.[45] The PRI government, however, with its reputation for being sinister, [46] has been known to misstate the truth to create an image of stability.[47]

The Article 27 amendments and changes in land policy gravely affected the people of Chiapas. The PRI and its supporters had already been the pushing Chiapans off of the best farming land for years.[48] Now Chiapans were forced from their land without compensation.[49] This forced them onto land less suited for farming, leaving those driving them from the land to reap its benefits.[50] Because the Chiapans are forced onto land less suited for agriculture, they cannot produce as much food for

41. *See* Kelly, Jr., *supra* note 27, at 543-44.

42. *See id.* at 544. These corporations may be from the United States or Canada, as NAFTA has reduced trade barriers. *See id. But see* Michael W. Goldman et al., *An Introduction to Direct Foreign Investment in Mexico*, 5 IND. INT'L & COMP. L. REV. 101, 125 (1994) (suggesting that Mexico may lose foreign trade opportunities if the Mexican people and resources are not treated properly).

43. In 1938 Mexico nationalized its oil companies by creating Pemex, but in 1995 Mexico limited exclusive government control. As a result, the door was opened for private and foreign companies to potentially move in. *See* JUAN M. QUINTANILLA & MARIANO E. BAUER, *Mexico Oil and Energy*, *in* CHANGING STRUCTURE OF MEXICO: POLITICAL, SOCIAL, AND ECONOMIC PROSPECTS 111-12 (Laura Randall ed., 1996).

44. *See* Nash, *supra* note 30, at 372.

45. *See id.* at 379.

46. *See* Philippe Boulet-Gercourt, *Mexico's Historic Overturn*, LE NOUVEL OBSERVATEUR (LEFTIST WEEKLY) (Paris), July 6, 2000, *reprinted in* WORLD PRESS REV., Sept. 2000, at 7.

47. *See generally* Sarah C. Aird, *The War of Attrition in Chiapas*, 7 HUM. RTS. BR. 24, 24 (2000) (describing claims that Mexico misstated its stability to assure the passage of NAFTA); Elizabeth Fullerton, *Mexico's Military Caught in the Tide of Change*, THE GLOBE AND MAIL (Canada), Oct. 3, 2000, at A14 (claiming that Mexican officials have misstated the number of military personnel in Chiapas).

48. *See* FIRST WORLD HA HA HA!, *supra* note 22.

49. *See* Nash, *supra* note 30, at 372.

50. *See id.*

their own use and sale.[51] The same government watched the Chiapans get pushed onto this infertile land and then justified the *campesinos'* loss of constitutional rights by pointing to farmers' decreased output.[52] The domino effect has continued, as a vast majority of the Chiapan citizens live in extreme poverty,[53] and do not have access to running water, electricity, medicine, or other basic things that many take for granted.[54]

The removal of Chiapans from their land has had a ripple effect throughout Mexico. When people in Chiapas, and elsewhere, are forcibly removed, they are driven to bigger cities in Mexico and to the United States.[55] The Chiapans are also being driven into the Lacandon rainforest because of these land takeovers, and are then blamed for its degradation.[56] If the cities in Mexico do not have enough opportunities, Chiapans will likely be forced to immigrate to the United States and either go through a process to become legal immigrants or face the risks associated with illegal immigration.[57]

B. THE UPRISING IN CHIAPAS

During the past ten years, a number of dissatisfied residents of Chiapas organized and participated in uprisings against the Mexican government. Those who organized and participated in the uprising named their movement Ejercito Zapatista de Liberacion Nacional (Zapatista National Liberation Army, or EZLN).[58] Not all Chiapans who support the Zapatista's quest for indigenous land rights are part of the EZLN, but many took the opportunity of the attention created by the Zapatistas to express their desire for changes in land rights.[59] The ELZN-

51. In addition, the people in Chiapas have no money to buy fertilizer and weed killers that would aid in increased production. *See* Nash, *supra* note 30.

52. *See* Kelly Jr., *supra* note 40 and accompanying text.

53. *See* Quinones, *supra* note 21 and accompanying text.

54. *See* CONROY & WEST, *supra* note 19 and accompanying text.

55. *See* Kelly, Jr., *supra* note 27, at 544. *But see* George Zabolski, *Mexican President-Elect Concludes Tour of North America*, OKLA. DAILY, Aug. 29, 2000 (declaring that as trade barriers are lessened, the people of Mexico export goods to more consumers, resulting in increased wealth and the disappearance of illegal immigration to the United States); Goldman et al., *supra* note 42, at 121 (claiming that NAFTA would "foster economic growth, discourage immigration into the United States, and create wealth. . .").

56. *See* Nash, *supra* note 30, at 368-69.

57. *See generally* Anthony DePalma, *Legal or Not, U.S. Farmers Must Rely on Migrant Workers*, MPLS-STAR TRIB., Oct. 8, 2000, at A32.

58. *See* Vargas, *supra* note 1, at 2.

59. *See* Kelly, Jr., *supra* note 27, at 569.

organized uprisings have contributed to continued unrest in Chiapas. An understanding of the region's historic unrest is essential to understanding the problems facing President Fox.

1. The Initial Revolt

On January 1, 1994, the EZLN responded to the Mexican government's continued apathy toward the issues important to the EZLN.[60] The uprising began with the Zapatistas entering the cities of San Cristobal de Las Casas, Ocosingo, A Itamirano, and Las Margaritas.[61] They easily took control of the towns, but hours later the Mexican military arrived to put an abrupt end to the Zapatistas' success.[62] The Zapatistas attempted to escape to the Lacandon rainforest, but some did not make it and suffered at the hands of the Mexican Army.[63] The EZLN did not have the modern equipment necessary to fight against a military trained and supplied by the United States.[64]

This uprising occurred on the same day Mexico formally adopted NAFTA, and some feel this timing was not accidental.[65] The Chiapans suffered as trade barriers were lowered because they faced increased competition from larger, better-equipped farms.[66] They felt that their own country ignored their concerns

60. *See* Gutierrez, *supra* note 2, at 143-44.

61. *See id.*

62. *See id.* at 144.

63. *See id.* When reporters were let into one area of attack, they found bodies on the streets and signs of execution style killings. *See id.*

64. *See id.* There are reports that the EZLN had wood carved in the shape of guns with metal or knives attached to the "barrel" to create bayonets. *See id.* In contrast, the Mexican military had U.S.-made Humvees, U.S. helicopter gunships, and German G-3 automatic rifles. *See* Vargas, *supra* note 1, at 3. The United States claims it trained the military to remedy drug traffic problems, but it has been acknowledged that the skills taught could be used in other contexts. See *Conflict Resolution: Chiapas, Mexico and the Search for Peace, Hearings Before the Subcomm. on The Western Hemisphere of the House of Representatives Comm. on International Relations*, 105th Cong. 13 (1998) (statements of Joel Soloman, Research Director For the Americas Human Rights Watch and Congressman Roy Blunt).

65. *See* WELLER, *supra* note 39, at 63. Subcomandante Marcos claims the date was postponed three times because the Zapatistas were not prepared and various holidays interfered. According to Marcos, the first date that worked was January 1, 1994. *See* FIRST WORLD, HA HA HA!, *supra* note 22, at 66-67.

66. *See* Gutierrez, *supra* note 2, at 145. It was estimated that seventy-eight percent of *ejidos* produced corn and that they felt the negative impact of NAFTA. *See id.* With fewer trade restrictions, the *campesinos* face competition from "the world's most advanced, and highly subsidized, corn-producing nation in the world, the United States." *Id.*

and instead expended energy assuring foreign investors there was no problem.[67] To ensure the passage of NAFTA, the Mexican government's main priority was preserving an image of political and economic stability.[68]

The Zapatistas, like others, predicted that NAFTA would only magnify the problems of Chiapans. These problems centered on land rights, including forced migration due to oil, hydroelectric dams, tourism, and logging industries.[69] Marcos, the Zapatista leader, had a more dire prediction of what NAFTA would do to the Chiapans saying: "Did the American people know that, in signing NAFTA, their government had become an accomplice in genocide . . . that the indigenous people of Mexico were now condemned to death?"[70]

NAFTA did contain Supplemental Side Accords (SSAs), which were praised in international trade law as being the first such trade agreement to substantively address human rights issues.[71] Under these Side Accords, parties to NAFTA must meet obligations set out in the North American Agreement on Environmental Cooperation[72] and the North American Agreement on Labor Organization.[73] These SSAs impose monetary sanctions for the violation of environmental, labor, and health law,[74] but they do not address the land issues that trouble the Chiapans.[75]

2. Attempts to Resolve the Conflict: Negotiations and Agreements

The Zapatistas and the Mexican government agreed to a cease-fire on January 12, 1994 and negotiations began.[76] The

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67. *See generally* Aird, *supra* note 47.

68. *See* Vargas, *supra* note 1, at 15. Some have suggested that the Mexican government continues to downplay the situation of Chiapas to provide assurance to foreign investors that Mexico is a politically stable nation. *See* Aird, *supra* note 47 at 24; *Adios to Mexico's President Zedillo*, CHI. TRIB., Sept. 10, 2000, at 22.

69. *See* Nash, *supra* note 30, at 393-94.

70. Gutierrez, *supra* note 2, at 143 (citing Subcomandante Marcos, *What Do the American People Fear? Our Bare Feet and Broken Bodies?*, L.A. TIMES, Oct. 20, 1995, at editorial at M2).

71. *See id.*, at 145.

72. *See* North American Agreement on Environmental Cooperation, U.S.-Mex.-Can., Part II, *reprinted in* 32 I.L.M. 1483 (1993).

73. *See* North American Agreement on Labor Organization, U.S.-Mex.-Can., Part II, *reprinted in* 32 I.L.M. 1503 (1993).

74. *See id.* at Part V, Article 41, *reprinted in* 32 I.L.M. 1512 (1993).

75. *See* Gutierrez, *supra* note 2, at 145.

76. *See* Alejandro Nadal, *Terror in Chiapas*, BULL. ATOM. SCIENTISTS, Mar./Apr. 1998, at 19-20.

Zapatistas submitted thirty-four specific "Demands and Engagements to Achieve a Dignified Peace in Chiapas" to the federal government in their initial attempt to reach an agreement.[77] These demands included: a revision of NAFTA to incorporate their interests, an amendment to Article 27, food for Chiapan children, hospitals, electricity, and drinking water.[78] The Mexican government responded to each demand, and on March 2, 1994, reached a temporary resolution.[79] Some Zapatista supporters criticized the compromise as loosely defined and nothing more than a move by the government to buy time.[80] These skeptics turned out to be correct, as the government never met the demands of the Chiapans.

In December of 1994, President Zedillo succeeded President Salinas as the new leader of Mexico.[81] Soon after he took over, a large-scale military attack was launched against the Zapatistas, a move that drew criticism from other countries.[82] In March of 1995, the Congress of the Union responded to these attacks by unanimously approving the Law for Dialogue, Conciliation and Peace with Dignity in Chiapas.[83] The Mexican government agreed to take steps to achieve peace and resolve the problems in Chiapas,[84] but despite these efforts, the conflict continued.

On February 16, 1996, the two sides signed the San Andres Accords.[85] Intended to achieve peace and address the concerns of the Chiapans, they did not become law due to differing opinions regarding the extent of autonomy that should be provided to indigenous Mexican communities.[86] The agreements provided

77. *See* Vargas, *supra* note 1, at 4.

78. *See id.* at 5.

79. *See id.* at 4. The short-lived agreement was reached with help from Catholic Bishop Samuel Ruiz who acted as mediator. *See id.* A series of political changes led to a switch in the government official negotiating with the Zapatistas, and the EZLN did not accept new government proposals. *See id.* at 6.

80. *See id.* at 4.

81. *See* Nadal, *supra* note 76.

82. *See id.*

83. *See* Diodoro Carrasco Altamirano, Secretary of the Interior, *Open Letter to the EZLN*, Chiapas Special Coverage, *at http://world.presidencia.gob.mx/chiapas/document/htm* (last visited Sept. 7, 1999).

84. *See id.*

85. *See* Jo Tuckman, *Zapatistas Wait For Proof of New Mexican Order: Chiapas Rebels Remain Wary of the Politicians Replacing the Old Guard*, THE GUARDIAN (London), Aug. 24, 2000, at 16.

86. *See Conflict Resolution*, *supra* note 64, at 5 (statement of Carlos Tello Diaz, Independent Mexican Scholar). The points of disagreement involved the removal of some military troops in the area and the right of the indigenous to establish their own form of voting. *See* Dolinsky, *supra* note 11.

for changes in national legislation, the Mexican Constitution, and the power of local governments.[87] Specifically, if adopted, the San Andres Accords would gradually allow indigenous areas to have more control over government funds allocated to them, and increased indigenous involvement in government decisions directly affecting these people.[88] In addition, the San Andres Accords called for constitutional amendments giving indigenous people their land and natural resources back.[89]

Due to the failed negotiations, hostility has continued in this southern Mexican state with no resolution. In December 1997, Zapatista supporters were praying in a Chiapas village when forty-five of them were killed.[90] It is suspected that the gunmen were PRI supporters.[91] In response, the Mexican government again expressed its willingness to take steps to resolve this ongoing conflict.[92] Finally, in 1999, Mexican leaders asked the Senate of the Republic to consider changes to the Mexican Constitution that would provide for indigenous rights and culture.[93] It was suggested that this reform not only provide for future rights, but also provide a remedy for those hurt in past Chiapas conflicts.[94] Again, no real change occurred.

Negotiations have occurred on and off for over seven years, but something more needs to be done to end this struggle as there are no signs that the conflict will go away quietly with time.[95] The Zapatistas and PRI party supporters were recently involved in a confrontation that resulted in four injuries, and this is not an isolated or uncommon occurrence.[96]

3. The Uprising's Impact: Environmental Harms and Human Rights Concerns

Since the Zapatista uprising, the government has spent a

87. *See* Jeffrey N. Gesell, *Customary Indigenous Law In the Mexican Juridical System*, 26 GA J. INT'L & COMP. L. 643, 644 (1998).

88. *See* San Andres Accords, January 18, 1996, II.4 (Rosalva Bermudez-Ballin, trans.).

89. *See* San Andres Accords, January 18, 1996, V.1 (Rosalva Bermudez-Ballin, trans.).

90. *See* Gesell, *supra* note 87, at 645.

91. *See id.*

92. *See id.*

93. *See* Altamirano, *supra* note 83.

94. *See id.*

95. *See* CONROY & WEST, *supra* note 17, at 52.

96. *See Clash in Chiapas Injures Four*, THE INDEP. (London), Aug. 24, 2000, at 14.

significant amount of money keeping the military in Chiapas.[97] This excess military involvement injures Chiapas in several ways. Military personnel have brought many unwanted problems to this area. They have introduced disease, trash, and farming methods that are detrimental to Chiapans in both the long and short term.[98] Disease is especially life threatening as this area has limited access to medical supplies.[99] The trash, deforestation, and genetically altered seeds also mean that in the long term the Chiapan land will be less productive.[100]

Both human rights and environmental abuses have continued past the initial days of the Zapatista uprising. Many environmental problems can be linked to the military's continued presence in the region.[101] Although President Fox did order some troops out of areas in Chiapas shortly after taking office,[102] the military continues to occupy this state.[103] Since their arrival, they have introduced poisonous insecticides, cut down trees in the Montes Azules Biosphere Reserve[104] to create roads and military camps, produced a significant amount of trash, and threatened the citizens of the state.[105]

Moreover, the continued military presence in Chiapas creates a substantial economic strain on the region. It costs money to keep 40,000 troops in an area that is arguably not a threat.[106] This money would be better spent on getting essentials into the area, which would be a step in the right direction toward solving the conflict altogether. The

97. *See* Fullerton, *infra* note 103 and accompanying text.

98. *See* Mercedes Osun, *Zapatista Report*, Z Magazine, (Irlandesa trans.), *http://www.zmag.org/ZMag/articles/dec1999osun.html* (Sept. 1, 2000).

99. *See generally* Quinones, *supra* note 21 and accompanying text (describing the extreme poverty in Chiapas).

100. *See* Osun, *supra* note 105 and accompanying text.

101. *See* Jo Tuckman, *Peasants to Fight 'Political' Eviction*, THE GUARDIAN (London), Sept. 2, 2000, at 17.

102. *See Mexico's President Orders Troops Out of Zapatista Rebel Areas*, *supra* note 8, at A6.

103. Prior to President Fox ordering some troops out of the area, the Mexican government reported that just under 20,000 soldiers occupied Chiapas, but human rights organizations estimated the number to be closer to 40,000. *See* Fullerton, *supra* note 47 at A14.

104. The Montes Azules Biospheric Reserve is considered Mexico's most important tropical rainforest, covering 827,000 acres in Chiapas. The area has both fertile soil and oil, and environmentalists fear that it is on the brink of ecological disaster if people continue to settle on the land. *See* Tuckman, *supra* note 101, at 17.

105. *See* Osun, *supra* note 98 and accompanying text; FIRST WORLD, HA HA HA!, *supra* note 22, at 58.

106. *See* Fullerton, *supra* note 103 and accompanying text.

unnecessary military involvement may also pose a legal problem, as some allege that Mexican leaders are violating Article 129 of their Constitution.[107] This provision limits military involvement to areas directly related to some military action, and it prohibits permanent bases from being established in populated areas.[108]

Similarly, human rights violations have continued since the first days of the uprising. Amnesty International reports a significant increase in torture,[109] disappearances, illegal arrests, and massacres since the revolt in Chiapas.[110] Amnesty International accused authorities in Mexico of ignoring human rights standards in its own laws and international treaties.[111] Moreover, Mexico may be violating both U.S. and international law in their handling of this conflict.[112] The United Nations High Commissioner for Human Rights visited the area in late 1999 because of reports of frequent abuse.[113]

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107. *See Chiapas, Mexico and the Zapatista Rebellion*, http://www.geocities.com/capitalhill/1364/cpagel.html (last modified Dec. 2000). This Article of the Constitution says that "in time of peace, no military authority may exercise more functions than those that have an exact connection with military discipline." CONSTITUCION POLITICA DE LOS ESTADOS UNIDOS MEXICANOS, art. 129 (amended 1996), *supra* note 111.

108. *See* CONSTITUCION POLITICA DE LOS ESTADOS UNIDOS MEXICANOS, art. 129 (amended 1996).

109. According to Amnesty International, the most frequent modes of torture include electric shocks, semi-asphyxiation by suffocation or drowning, beatings, and rape. *See* Linda Diebel, *Amnesty Report Slams Mexico Over Rights Abuse*, TORONTO STAR, Mar. 8, 1999, *available at* 1999 WL 14314841.

110. *See id.*

111. *See id.* President Zedillo, who was the leader in Mexico until Fox took over on December 1, 2000, has been accused of violating several Mexican laws, including Articles 29 and 129 of the Mexican Constitution. *See Chiapas, Mexico and the Zapatista Rebellion*, *supra* note 107 *at* http://www.geocities.com/capitalhill/1364/cpagel.html. Article 29 addresses the authority of Mexican officials to act if society is in danger or the public peace is disturbed. *See* CONSTITUCION POLITICA DE LOS ESTADOS UNIDOS MEXICANOS, art. 29 (amended 1996). Article 129 provides that the military will not exercise authority beyond military functions and will not establish permanent military commands in populated areas. *See* CONSTITUCION POLITICA DE LOS ESTADOS UNIDOS MEXICANOS, art. 129 (amended 1996).

112. *See* Foreign Assistance Act, 22 U.S.C. § 2304(a) (2000) (explaining that the United States will promote human rights by discontinuing security assistance for countries showing a pattern of international human rights violations); Alien Tort Claims Act, 28 U.S.C. § 1350 (1988) (creating jurisdiction for torts committed around the world against aliens in violation of the law of nations). *See, e.g.*, Bigio v. Coca Cola Co., No. 98-9058, 2000 U.S. App. LEXIS 31306, at 17 (2d Cir. Dec. 7, 2000) (*citing* Kadic v. Karadzic, 70 F.3d 232, 243 (2d Cir. 1995)). The Alien Tort Claims Act has been held to apply to war crimes including murder, rape, and torture. *See id.*

113. *See U.N. Human Rights Commissioner Visits Mexico*, DEUTSCH PRESSE-AGENTUR, Nov. 24, 1999.

4. International Attempts to Resolve the Conflict

Although human rights organizations criticize Mexico's handling of Chiapas, the Mexican government has been reluctant to let outsiders get involved in the issues surrounding this area.[114] United States Secretary of State Madeline Albright claims that the United States has encouraged Mexico to solve the conflict, but Mexican leaders have maintained that they will not be pressured.[115] In fact, after talks with the United States on unrelated matters, the Mexican Foreign Secretariat quickly reported to his country that there was no discussion of Chiapas between the two countries.[116] When questioned, the response was that President Zedillo felt the situation only concerned Mexicans and thus was not open to outside suggestions.[117]

The United States held several congressional hearings to specifically address this issue.[118] While Senators and Representatives invited both people living in Chiapas and Mexican scholars to speak on the human rights abuses and land rights issues, the primary concern of the U.S. leaders has inevitably reverted back to how the unrest affects U.S. investment and financial interests.[119] For example, in a hearing devoted specifically to achieving peace in this state, one Congressman's prepared statement approached the crisis from its impact on the United States and did not address the human rights violations.[120] Congressman Ackerman explained, "The U.S. reaction to the peso crisis demonstrates just how concerned we are about instability, be it social, political, or economic, on

114. *See Foreign Secretary, Congress Reject U.S. Pressures Over Chiapas Situation*, NOTIMEX NEWS AGENCY, June 19, 1998 (British Broadcasting Corporation, trans.), LEXIS, BBC Summary of World Broadcasts.

115. *See id.*

116. *See Official Denial That "Cooperation Programmes" Were Discussed With USA*, NOTIMEX NEWS AGENCY, Jan. 21, 1999 (British Broadcasting Corporation trans.) LEXIS, BBC Summary of World Broadcasts.

117. *See id.* There is also a general consensus in the United States that the federal government cannot involve itself in every conflict around the world. *See* Eric Black, *What Bush, Gore Think of Foreign Policy, Military*, MPLS. STAR TRIB., Oct. 8, 2000, at A19. During the Presidential election, candidates Al Gore and George W. Bush both agreed that the United States could not be interested in all foreign hostility. President Bush has said that he will only engage troops if a conflict centers on U.S. territory or valuable resources. *See id.*

118. *See Conflict Resolution*, *supra* note 64; *Mexico: The Uprising in Chiapas and Democratization in Mexico: Comm. On Foreign Affairs, H.R.*, 103rd Cong. (1994) [hereinafter *The Uprising in Chiapas*].

119. *See The Uprising in Chiapas*, *supra* note 118.

120. *See Conflict Resolution*, *supra* note 64, at 21.

our southern border."[121]

Skeptical observers of U.S. policy have noted that since the adoption of NAFTA, some feel that the United States will do almost anything to promote economic stability within Mexico.[122] For example, President Clinton helped arrange a fifty billion dollar bailout of Mexico's economy in 1995 despite Congress' disapproval.[123] This course of action drew sharp criticism.[124] While the loan money helped Mexico's faltering economy and was eventually paid back,[125] some have linked this enormous sum of money to military attacks throughout Chiapas.[126]

In some circumstances, however, the world outside of Mexico did respond to help the Zapatista supporters.[127] International demonstrations condemning the Mexican military's actions prompted the January 12, 1994 cease-fire.[128] These protests took place around the world and included Mexico's major trading partners, such as the United States, Canada, Spain, and Germany.[129]

One reason the Zapatistas receive support from outside Mexico is because of the wide access to the details of their struggle. The internet in particular plays a powerful role in informing the world about Zapatista concerns. Information comes directly from Chiapas, and unlike conflicts of the past, the mainstream media is not the only source of information.[130] Marcos has made it a point to have his and his supporters' press releases available on a web site titled Chiapas-L.[131] His use of the Internet to inform people around the world has been labeled

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121. *Id.*

122. *See* S. Brian Willson, *The Slippery Slope: U.S. Military Moves Into Mexico*, at *http://www.nonviolence.org/archivedsites/slipperyslope/* (June 12, 1998).

123. *See id.* Once it was clear that Congress opposed this arrangement, Clinton helped Mexico obtain loans from international funds, including the International Monetary Fund (IMF). *See id.*

124. An estimated eighty percent of American citizens opposed the bailout. *See* James M. Sheehan, *Mexico Bailout Betrayal*, HUMAN EVENTS, *at* http://rkba.org/libretarian/cei/mexico-bailout.17feb95 (Feb. 17, 1995).

125. *See* Marina Jimenez, *Zedillo Departs With His Reputation Assured*, NAT'L POST, Sept. 9, 2000, at A13.

126. *See* Willson, *supra* note 122 (suggesting that the bailout arrangement is linked to agreements for the United States to provide training and supplies to the Mexican military in Chiapas).

127. *See* WELLER, *supra* note 39, at 67.

128. *See id.*

129. *See id.*

130. *See id.* at 61-62.

131. *See* Paul Rich, *NAFTA and Chiapas*, 550 ANNALS AM. ACAD. POL. & SOC. SCI. 72, 73 n.2 (1997).

clever,[132] but it is not the only thing he does to hold the world's attention.

Another reason the outside world notices the Zapatistas is their leader's attention-catching style. Marcos is typically seen in a black ski mask smoking a pipe.[133] He says that he will not take off his ski mask until "Mexican society takes off its own mask,"[134] analogizing to contrast between the image Mexico wants the world to see and the reality Marcos sees.[135] He supposedly lives in the jungle with limited resources, yet the former university professor keeps up to date on current events, television, and movies.[136] Marcos also has a sense of humor, and he has been known to tell political jokes when communicating with the rest of the world.[137] His critics consider him a career guerilla whose attempts to overthrow the Mexican government are similar to Fidel Castro's actions in Cuba.[138] His supporters, however, have stood behind him since they began preparing for their revolt in 1994.[139]

C. PRESIDENTIAL POLITICS DURING THE CHIAPAS UPRISING

Although Subcomandante Marcos has led the Zapatistas throughout the struggle in Chiapas, leadership in Mexico has undergone multiple changes. Throughout this period, Mexican Presidents and their opponents have adopted varying strategies to the problems in Chiapas and the related controversy surrounding the adoption of NAFTA.

President Carlos Salinas de Gortari of the PRI party, elected President in 1988, was the leader in 1994 during the initial uprising in Chiapas.[140] While some criticize Salinas' leadership, he has been credited with radically changing Mexico's stance on international trade and turning Mexico into

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132. *See id.* at 73.

133. *See* Michelle Ray Ortiz, *Mexico and Marcos*, LA REALIDAD, *at* http://www.nettime.org/nettime.w3archive/199905/msg00250.html (May 24, 1999); *see generally* FIRST WORLD, HA HA HA!, *supra* note 22, at 56.

134. FIRST WORLD, HA HA HA!, *supra* note 22, at 70.

135. *See id.*

136. *See* Ortiz, *supra* note 133.

137. *See id.*

138. *See Conflict Resolution*, *supra* note 64, at 10-11.

139. *See* FIRST WORLD, HA HA HA!, *supra* note 22, at 65-67 (describing the Zapatista preparations for the January 1, 1994 uprising).

140. *See* Goldman et al., *supra* note 42, at 101. In Mexico, Presidents are elected for a six-year term, and they cannot run for re-election. *See id.*

an active participant in the world market.[141] While NAFTA is the most prominent evidence of his willingness to reduce trade barriers,[142] he also designed policies to encourage exports even before this agreement.[143]

Salina's efforts to expand Mexico's involvement in trade received mixed reviews. While some felt that a reduction in trade barriers would benefit some Mexicans, others feared the negative effects of increased foreign investment.[144] In particular, critics expressed concern over who would reap the benefits from the emergence of new industries.[145] President Salinas' political opponent, Cuahtemoc Cardenas, predicted negative consequences. Before the Agreement's enactment, Cardenas forecasted that the Agreement would eliminate subsistence farming in rural areas, increase the disparity in wages among Mexican workers, and be disastrous for the environment in Mexico.[146]

Salinas' successor, President Zedillo, was also a member of the PRI party. Like President Salinas, President Zedillo believed that globalization and involvement in international trade would remedy poverty and inequality in Mexico.[147] The Yale-educated economist left office with the country experiencing a fifteen percent economic growth rate and a fifteen-year low in unemployment.[148] He is also credited with electoral reform that lessened corruption involved in past Mexican elections.[149] Yet, not all of President Zedillo's endeavors resulted in success. Zedillo began his term by launching a military attack on the Zapatistas, and he continued with various

141. *See id.* at 101-02.

142. *See id.* at 121. NAFTA created an area where barriers to trade were reduced between the United States, Canada, and Mexico. It did not create a common market similar to the European Union. *See id.* President Fox has suggested an alliance similar to the European Union for the United States, Canada, and Mexico, however. *See* Richard Florida, *Mexican Prosperity Would Help U.S.*, NEWSDAY, Sept. 11, 2000, at A29.

143. *See* Nash, *supra* note 30, at 367.

144. *See If Not for NAFTA, When?*, *supra* note 28, at 7. Since NAFTA, some people have benefited from the doubling of exports and tripling of foreign investment in Mexico, but other areas were not ready for the impact of NAFTA. *See id.*

145. *See* Nash, *supra* note 30, at 367-68. The export oriented economy led to new industries. *See id.*

146. *See id.* at 368.

147. *See* Marina Jimenez, *Zedillo Departs With His Reputation Assured*, NAT'L POST, Sept. 9, 2000, at A13.

148. *See id.*

149. *See id.*

unsuccessful attempts at resolving the conflict in Chiapas.[150]

II. A SIGNAL FOR CHANGE? THE ELECTION OF PRESIDENT VINCENTE FOX

In December 2000, Mexico entered a new political era when Vicente Fox took office as President.[151] President Fox differs significantly from a number of his predecessors. Most significantly, his election marked the first time that a non-PRI party President would lead Mexico in over seventy years.[152] Fox's reputation and experience, developed from a career in business and industry,[153] also signaled a shift from the fraud and corruption that had plagued the PRI party.[154] Fox's past experiences have guided him in his political career, and he is quoted as saying, "politics is like retailing . . . like selling Coke."[155] After years in business, Fox first entered Mexican politics with his candidacy for governor of Guanajuato in 1991, but he did not win this seat until the 1995 election.[156] As governor, Fox adopted the business analogy as political strategy, treating citizens as "clients" who live in "market segments."[157] In 2000, Fox brought this attitude to the campaign trial, and then, to the presidency.

During his campaign, Fox declared that he would solve the situation in Chiapas in fifteen minutes.[158] Most were initially cynical of this bold claim, including Marcos, who was reluctant to believe Fox's promises to implement the San Andres accords

150. *See supra* Part I.B.2.

151. *See id.*; *see also* Nebbia & Martin, *supra* note 5.

152. *See id.* The PRI has a reputation of fraud and corruption, so on July 2, 2000, Mexican citizens took their dissatisfaction to voting booths and elected Fox of the PAN party. *See* Boulet-Gercourt, *supra* note 46, at 7.

153. Fox, the former CEO of Coca-Cola of Mexico, rose through the corporation's ranks from his initial job as a company salesman. *See id.* He left his job at Coca-Cola to join a family business that exported vegetables and cowboy boots. *See id.*

154. *See* Boulet-Gercourt, *supra*, note 46, at 7.

155. *Id.*

156. *See id.*

157. *See* Rodrigo Vera, *Fox's Corporate Style*, PROCESO (Mexico City), July 9, 2000, *reprinted in* WORLD PRESS REV., Sept. 2000, at 10.

158. *See* Peter Fritsch, *Chiapas Election Could Spur Talks With Guerrillas*, WALL ST. J., Aug. 18, 2000, at A11. One of the ways President Fox hopes to solve the problem is by making the 1996 San Andres Accords law. *See* Mercedes Olivera, *Chiapas Aims to Bolster Business Ties*, DALLAS MORNING NEWS, Sept. 30, 2000, at 34A. *See also* Gesell, *supra* note 87 and accompanying text (describing the benefits of the San Andreas Accords for Chiapans).

and to reduce military involvement in Chiapas.[159] Some, however, felt that he would have a better chance of fulfilling his promise should fellow PAN party candidate Pablo Salazar win his bid to be governor of Chiapas.[160] Salazar also promised to address the land rights issue and other concerns important to the Zapatistas.[161] When Salazar was elected to this position in late August 2000,[162] and took office on December 8, 2000,[163] an opportunity for peace seemed at hand.

Fox's election brought optimism to the people who have struggled at the hands of a corrupt government in the past. This new leader promised change in Chiapas. Importantly, this may be more than a politician making empty promises to gain re-election. Fox was already elected when he made these statements, and Mexican laws only permit one, six-year presidential term.[164] In other words, Fox does not have to make promises to please everyone in order to win reelection because he is prohibited from running for this office again.[165] Moreover, Fox immediately took steps to fulfill his promise when he scheduled negotiations with the Zapatistas and pulled some troops out of the area shortly after taking office.[166]

On the other hand, Presidents Salinas and Zedillo were in office when they held numerous meaningless negations with the Zapatistas and their supporters.[167] Chiapans remember this, and although a PAN party President brings the possibility of change, the people struggling are not getting their hopes up.[168] In fact, some report that genuine actions are needed to resolve the problem, and that Fox's claim that he would end the conflict

159. *See* Jo Tuckman, *Zapatistas Wait for Proof of New Mexican Order*, THE GUARDIAN (London), Aug. 24, 2000, at 16; *but see Leader says Mexican rebels setting armed struggle aside*, Mpls Star Trib., March 25, 2001, at A13 (noting that Marcos is adopting a new strategy and approach to negotiations in Mexico).

160. *See* Fritsch, *supra* note 158, at 34A.

161. *See id.*

162. *See Opposition Win Boosts Hopes for Peace in Mexican State*, WALL ST. J., Aug. 22, 2000, at A22.

163. *See* Rebeca Rodriguez, *Governor-elect of Chiapas Visits Area: Education Stressed During Texas Trip*, FORT WORTH STAR TELEGRAM, Sept. 30, 2000.

164. *See* Goldman et al., *supra* note 140.

165. *See id.*

166. *See* Weiner, *supra* note 102.

167. *See generally supra* Part I.B.2.

168. *See* Luis Herna'ndez Navarro, *Will Fox Make a Difference For Chiapas?*, LA JORNADA, (Irlandesa trans.) at http://flag.blackened.net/revolt/mexico/reports/fox_chiapas_jul00html (July 25, 2000) (reporting that the communities in Chiapas do not feel the optimism felt elsewhere).

in fifteen minutes was "unfortunate and counterproductive."[169]

A number of obstacles face Fox and in order to actually bring about stability in this region, key changes will need to occur. Unfortunately, for the citizens of Chiapas, Fox's background and initial agenda indicate he is mostly concerned with issues inconsistent with long-term resolution in Chiapas. This section looks at Fox's focus on economic development in Mexico and how it may undermine his claim to resolve the situation in Chiapas. It then looks at how trade partners may or may not influence a resolution of this conflict. Finally, it suggests some steps that can be taken to end this ongoing struggle.

A. CONCERNS IN CHIAPAS AND ECONOMIC DEVELOPMENT

Although President Fox said that he would quickly resolve the Chiapas conflict, it has not been a key portion of his agenda. Instead, Fox has prioritized his claim that he will "modernize" his nation by expanding trade with the United States and Canada beyond NAFTA.[170] He also wants to "integrate" Mexican children by teaching them to use computers, in English.[171] This desire to "modernize" and "integrate" sounds similar to President Salinas' desire to "pull Mexico out of the stagnation of the third world and place it firmly in the realm of the first world"[172] when he was working on the passage of NAFTA.[173] A number of these proposals ignore the situation in Chiapas and will cause only increased tension.

The Zapatista leader, Subcomandante Marcos, remains skeptical of Fox's promise that he to solve Chiapas' problems immediately upon taking office,[174] and for good reason. Many of Marcos' worries involve Fox's career in business and corporations. Fox was the leader of a multinational corporation before he entered Mexican politics.[175] He also was tied to a family endeavor that exported goods.[176] He understands how a

169. *Id.*

170. *See* Harry Sterling, *Fox Must Remember His Two Nations*, TORONTO STAR, July 24, 2000, LEXIS.

171. *See id.*

172. Gutierrez, *supra* note 2, at 153.

173. *See id.*

174. *See* Tuckman, *supra* note 159; *Mexico's President Orders Troops Out of Rebel Areas*, *supra* note 8.

175. *See* Nebbia & Martin, *supra* note 5.

176. *See* Boulet-Gercourt, *supra* note 46.

company can grow and profit from investment and relationships around the world. President Fox brings this mindset with him to his new position,[177] and he is not shy about pushing his plan to increase investment. Unfortunately, if Fox views Mexican citizens as "clients" who belong to "market segments,"[178] he will likely focus his agenda on areas that can give him the most economic return, and resolving the conflict in Chiapas will yield less bottom-line profits than foreign investment.

Fox's focus on economic development and trade has led some to suggest that the new President is concerned only with the northern, industrial, and prosperous area of Mexico. They note that optimistic predictions about trade assume that all Mexican areas will feel the benefits from reduced barriers, and this has not been the case for the people of Chiapas. While some suggested that the adoption of NAFTA would benefit the Chiapas region, with its fostering of investment and local jobs, these benefits ultimately have not reached the people of Chiapas.[179] Along with increased investment and new jobs has come increased competition,[180] and instead of gaining new, better paying jobs, Chiapans have lost their established culture and way of life.[181] As a result, some accuse Fox of ignoring the issues of the poverty-stricken people in the southern part of Mexico.[182] It has been recommended that he focus on uniting the two very different regions of his own country before trying to create agreements with other nations.[183]

Similar difficulties result from Fox's desire to increase in foreign investment in Mexico,[184] which is at odds with his promise to solve the problem in Chiapas. On President Fox's visits to the United States and Canada in late August 2000, he announced that he was eager to begin peace talks with the Zapatistas, but qualified his statement by declaring the solution to Mexico's problems could be solved by investment and a

177. *Id.*

178. *See* Vera, *supra* note 157.

179. . *See* Zabolski, *supra* note 55; Golman et. al, *supra* note 42.

180. *See* Gutierrez, *supra* note 66 and accompanying text.

181. *See generally* Kelly, Jr., *supra* note 34 and accompanying text (stating that prior to the 1992 amendment to Article 27, there were three million families living on *ejidos*).

182. *See* Sterling, *supra* note 170.

183. *See id.*

184. *See* Olivera, *supra* note 158 (explaining that Fox encouraged foreign investment when he was governor of Guanajuato); *see generally* Zabolski, *supra* note 55 (describing Fox's recent trips to the United Staes and Canada to explain his desire to reduce trade barriers).

strengthened economy.[185]

The situation of the Chiapan citizens will only get more complicated if powerful foreign companies come into the area and join the powerful Mexican citizens who are already reaping profits at the expense of those who had legally recognized rights to the land just eight years ago.[186] Similarly, if Fox continues to prioritize investment and economy over peace talks, problems will only continue. Fox needs to take the advice of Mexican scholars who have suggested there are two very different factions within the country.[187] He must realize that, while foreign investment may be a good decision for some regions within the country, problems must be resolved in Chiapas before outside interests complicate matters in this state.[188]

Fox has also expressed a desire to open the U.S./Mexican border further and to teach Mexican children to use a computer in the English language. Again, these major items on Fox's agenda ignore the situation in Chiapas. This state borders Guatemala and is farthest from any benefit Mexican citizens may receive from an open U.S./Mexican border.[189] In addition, one of the last things on a child's mind who does not have enough to eat, no running water to drink, and no access to medicine or schooling, [190] is how to use a computer in English. This child probably would consider it a luxury to be educated even in her own language and has never seen a computer.[191] While President Fox's goals may be beneficial for some, when considered as a whole, they cast more doubt on his proclamation

185. *See Mexico's Fox Looks to Improve Relations With Northern Neighbors*, CNN, at *http://www.cnn.com/2000/WORLD/americas/08/24/fox.us/* (Aug. 24, 2000).

186. The Chiapan citizens had rights to this land under Article 27 of the Mexican Constitution. *See* CONSTITUCION POLITICA DE LOS ESTADOS UNIDOS MEXICANOS, art. 27, pt. X (amended 1967).

187. *See* Sterling, *supra* note 170.

188. *See If Not For NAFTA, When?*, *supra* note 28.

189. There are disagreements on whether opening the borders helps or hurts Mexican citizens. *See* Kelly, Jr., *supra* note 55. When the benefits of NAFTA are discussed, the negative impact of this agreement in areas like Chiapas is wholly ignored. *See generally* Guterierrez, *supra* note 70 and accompanying text (quoting Subcomandante Marco's concern about NAFTA's impact on Chiapas); Guuerrex, *supra* note 75 and accompanying text (explaining that NAFTA did not address land rights). To the extent any benefit exists from an open border, Chiapas is the furthest area, geographically, from any benefit. *See supra* Part I.A. (stating that Chiapas is the southernmost state in Mexico).

190. *See supra* notes 11-22 and accompanying text (discussing the extreme poverty in Chiapas).

191. *See* FIRST WORLD, HA HA HA!, *supra* note 22.

that he will immediately resolve the crisis in Chiapas.

Despite these warning signs regarding his agenda, Fox and Chiapas governor Pablo Salazar started promoting their trade and development policies to the United States and Canada before they even took office.[192] In late August 2000, Fox went on a four-day tour to talk about his plans to loosen trade barriers further among the three countries.[193] He expressed a desire to change U.S./Mexico border policy to allow Mexican workers to send money more easily from one country to another.[194] He also wants to eliminate tariff goods purchased by migrant workers and to require a health insurance program for laborer's relatives.[195]

Although Fox expressed his desire to resolve the conflict in Chiapas, he let his primary trade partners know that he felt resolution in Chiapas would follow increased foreign investment in Mexico.[196] While Fox met with U.S. officials, Governor Salazar visited Texas to look for investors and "sustainable development that won't affect the beauty of Chiapas."[197] He emphasized the untapped, valuable resources in the area and the construction of roads that would make it easier for investors to travel to Chiapas.[198] Salazar suggested that U.S investors could explore a market in Central America through investments in Chiapas as well.[199] He also downplayed the conflict in the area by assuring potential investors that the situation would be resolved when the new leaders took office[200] and declaring that the presence of the military made the area safe.[201]

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192. Leaders in the United States have been visiting Mexico to push for increased trade as well. For Example, Minnesota's Governor Jesse Ventura visited the more prosperous areas of Mexico in October, 2000 to promote investment in Minnesota products. *See* Mike Meyers, *Great Expectations*, STAR TRIB., Oct. 22, 2000 at A1.

193. *See* Zabolski, *supra* note 55.

194. *See* Susan Ferriss, *Fox Outlines Plan to Help Migrants*, AUSTIN AMERICAN-STATESMAN, Sept. 27, 2000, at A4.

195. *See id.*

196. *See Mexico's Fox Looks to Improve Relations With Northern Neighbors*, *supra* note 185, *at http://www.cnn.com/2000/WORLD/americas/08/24/fox.us/* (Aug. 24, 2000).

197. Olivera, *supra* note 158, at 34A. President Fox also encouraged Texas investment in Mexico when he was the governor of Guanajuato. *See* David Sedeno, *New Chiapas Leader Seeks Ties to Texas*, DALLAS MORNING NEWS, Sept. 30, 2000, at 8A.

198. *See* Olivera, *supra* note 158.

199. *See* Sedeno, *supra* note 197.

200. *See* Rodriquez, *supra* note 162.

201. *See* Sedeno, *supra* note 197.

A general critique involves the current state of the nation's economy. The expanding Mexican economy may actually hinder Fox's plans. Financial analysts say that the economy is growing at an unhealthy rate, and President Fox will likely be forced to decrease public spending to keep the country stable.[202] This may prove to be a challenge for the new President, as he is known as "a big believer in development."[203]

B. TYING MEXICAN MODERNIZATION TO CHIAPAN STABILITY

While Fox's economic proposals may benefit parts of Mexico, they will not bring resources, food, or stability to Chiapas. Instead of economic development, the citizens of Chiapas want their land back.[204] They want to be able to live as they choose, without pressure from outsiders forcing them to gain short-term profits at the expense of long-term land productivity.[205] As long as their wishes are not directly addressed, the conflict in Chiapas will continue to exist.

Fox has suggested that he would like to adopt the rejected 1996 San Andres Accords,[206] which would give Chiapans more control over government funds allocated to them, involve Chiapans in government decisions, and lead to constitutional amendments securing Chiapans' land rights.[207] However, the reason this agreement was not permanently adopted in 1996 centered on disagreements regarding the increased autonomy for Chiapans.[208] President Fox is soliciting foreign investors to enter Mexico, and any uncertainty regarding land rights or the authority to govern this state will likely serve as a deterrent. Again, President Fox's supposed agenda regarding Chiapas seems less likely when considering his primary concerns of the economy and investment. They are not, however, impossible to reconcile.

President Fox did not resolve the conflict in Chiapas in

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202. *See Mexican President Elect Faces Key Decisions*, FIN. TIMES, Sept. 4, 2000, at 20.

203. Dolinsky, *supra* note 11.

204. *See* FIRST WORLD, HA HA HA!, *supra* note 22, at 64 (quoting Subcommandante Marcos saying the Chiapans want their collective farms).

205. *See id.* Some argue that the plants that non-*campesinos* introduced to this area destroyed the soil equilibrium for future planting, and that genetically engineered seeds, hormones, and insecticides make it less feasible for Chiapans to grow their crops. *See id.*

206. *See* Olivera, *supra* note 158.

207. *See* San Andres Accords, *supra* notes 88-89 and accompanying text.

208. *See Conflict Resolution*, *supra* note 64.

fifteen minutes, but there is still hope for this troubled state. Fox is very caught up in fostering relationships with Mexico's trade partners. For example, he wants to reduce barriers further and create an alliance similar to the European Union among the three countries who adopted NAFTA.[209] In the past, Mexico has been reluctant to accept outside input regarding Chiapas,[210] but with President Fox's agenda resting so heavily on increased foreign relations, Mexico's trade partners may be able to influence what happens in Chiapas. In addition, Fox has different personality traits than the outgoing President Zedillo[211] and takes office in a different context,[212] so outside involvement is more likely.

1. Trade Partners Need to Understand the Real Problem

As mentioned previously, the root of this conflict centers on land rights, and Mexico's trade partners need to understand this before they can encourage a resolution. Once outside leaders understand the underlying problem in Chiapas, they have several options to influence a resolution.

Trade partners could condition their involvement in Fox's trade plans on addressing the root of the problem in Chiapas. While this approach seems the most likely to alter Mexico's behavior, it contains many risks for the country's primary trading partners. Should these countries condition their trade relationships on Chiapas, they may lose the opportunity to invest in this lucrative area. It will look as though concerned foreign leaders are halting growth of domestic companies who want to take advantage of this area rich in resources. This type of action, however, is not unprecedented. The United States and countries around the world address such horrible human rights violations in other areas of the world.[213] Considering how important foreign trade and investment is to Fox, this course of action may be the best chance that the Chiapan citizens have at

209. *See* Florida, *supra* note 142.

210. *See Foreign Secretary*, *supra* note 114.

211. Fox has been described as much more extroverted and colorful than outgoing President Zedillo. *See* Jimenez, *supra* note 125.

212. When Zedillo took office, Mexico's economy was very unstable, and he was not expected to accomplish much in this struggling state. *See id.* In contrast, President Fox takes over a growing economy, and higher expectations may make him subject to more outside pressure. *See id.*

213. *See* Kadic v. Karadzic, 70 F.3d 232, 243 (2d Cir. 1995) (using the Alien Tort Claims Act to address human rights violations in Bosnia).

resolution.

The trade partners could also take actions to stop this conflict that have no direct impact on trade or investment. The United States, for example, appears to have mechanisms to address the human rights violations that are occurring in Chiapas.[214] One way to address human rights violations that occur in foreign countries is the Foreign Assistance Act codified in 22 U.S.C. § 2304 (2000).[215] Since it appears unlikely that the United States and other Mexican trade partners will take an active stance regarding Chiapas, they could at least stop contributing to Mexico in areas where the support can be linked to fostering discord in the state.[216] It is troubling to think that the United States would give aid to the Mexican military to help them commit horrible human rights violations if the nature of the conflict was understood.[217] One hopes that they would not allow massacres and tortures to take place using the aid they provided without voicing disapproval of the situation and taking remedial measures.

Congressional hearings indicate that the United States does not understand what it must be like to have almost a century of property rights erased,[218] and its concentration on the United States' own interests suggests that leaders will continue to avoid looking further into this conflict. Members of Congress talk around the real issues, but they are very caught up on how this situation affects U.S. investors.[219] The United States permits Senators and Representatives to serve more than one term, so it is likely that these leaders will continue to have a very narrow perspective and look at this conflict only from the point of view of their own constituents.

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214. Marcos has labeled the outsider's involvement in the area as genocide. *See* Gutierrez, *supra* note 70 at 143. Marcos feels that NAFTA, which the United States encouraged, led to many of the problems in Chiapas. *See id.* This "involvement" can be contrasted with the passivity the United States and other countries have shown after the 1994 uprising. *See generally supra* Part II.C.1.

215. *See supra* note 112.

216. *See* Gutierrez, *supra* note 2.

217. *See supra* note 64. Since the Mexican government did not anticipate the Zapatista uprising, the United States cannot be expected to have known its military equipment would be used to violently attack the Chiapans. However, the United States has recognized that its military training to halt narcotics could be used in other contexts. *See id.* In addition, "low intensity" warfare, which involves destroying buildings, crops, and water supplies is particularly harsh on Chiapans and is taught at the United States' Army's School of the Americas in Fort Benning, Georgia. *See* Wilson, *supra* note 122.

218. *See Conflict Resolution*, *supra* note 64.

219. *See The Uprising in Chiapas*, *supra* note 118.

On the other hand, it is hard to believe that all Congressional Representatives listening to Chiapan citizens and Mexican scholars talking about the crisis in this area are unable to understand what is really going on. Since the initial Zapatista uprising, the United States House of Representatives Subcommittee on International Relations and Subcommittee on Foreign Affairs has held hearings specifically devoted to Chiapas.[220] It is likely that U.S. leaders know the issues and they will not address them because, similar to options that directly impact trade, in the short term a resolution will hurt internal interests. For example, President George W. Bush was the governor of Texas, where Fox and Salazar lobbied to increase foreign investment.[221] Bush would lose much needed support from the powerful people in his home state if he supported action that would restrict Texas companies' investment in Chiapas. As mentioned previously, politicians need short-term approval to keep their jobs.

2. Is It Realistic To Believe Trade Partners Will Help?

In the long term, all countries would benefit by demanding resolution to this ongoing struggle. All countries could learn from Chiapas when they face similar internal conflicts. The U.S. may also see a decrease in illegal immigration, as people would have rights to live on their own land and the means to survive in Chiapas.[222] In addition, Mexico would be a more stable nation for long-term growth in reality, instead of pretending to be stable to meet outside approval.[223] The citizens of Chiapas would have rights in the land they were promised long ago, and the underlying problem would be addressed, allowing Chiapan citizens to have a voice on what to do with this unique area full of natural resources.

Unfortunately, long-term gain is at odds with how U.S. politicians operate; this mentality will halt a resolution in Chiapas. All possible courses of action lead to negative short-term impacts locally. President George W. Bush does not want to anger the people he represented as governor of Texas to benefit a group of people suffering far away from Texas. Minnesota is even further away from Chiapas, and Governor

220. *See id.* (citing two of these hearings).
221. *See* Olivera, *supra* note 158.
222. *See* Zabolski, *supra* note 55.
223. *See* Vargas, *supra* note 68 and accompanying text.

Jesse Ventura would not want to upset his supporters by severing a relationship that may prove beneficial to Minnesota companies.[224]

Chiapas has oil reserves, which will also affect the way foreign trade partners handle this crisis. Oil is in high demand around the world right now,[225] and leaders would face skepticism for shattering any opportunity to have access to this resource.

In fact, when United States Presidential candidates Al Gore and George W. Bush outlined their stance on U.S. military involvement in foreign areas, both felt that the United States could not involve itself in every conflict.[226] Bush will only use U.S. troops "to defend U.S. territory, allies or vital resources, such as oil."[227] If Bush raises U.S. access to oil resources to the level of foreign attacks on U.S. territory, it is even more unlikely that he would take a stand that would risk access to this resource. Military involvement in Chiapas is not the answer to a resolution, as fighting and the forcible taking of land would not solve the root of the problem, but this stance on military involvement helps illustrate the reluctance of U.S. leaders to get involved in the Chiapas conflict.

C. STEPS TOWARD A SOLUTION

As proven by the failed attempts of past Mexican Presidents, military involvement is not the solution to this ongoing problem. However, there are some steps that need to be taken by Fox, whether he is pushed from trade partners or he seeks to resolve the conflict on his own initiative. Fox started his term by pulling some troops out of Chiapas,[228] and he should continue this course of action by reducing the military presence in this southern state drastically. "It is tragic that so much

224. Ventura's trip to foster a trade relationship with Mexico made front page news in Minneapolis on a day when the other top stories included the arrest of a man accused of killing five family members, the ongoing battle with an out of control wildfire just north of the Twin Cities area, and the Minnesota Vikings attempt to become the National Football League's only undefeated football team in the eighth week of the regular season. *See generally* STAR TRIB., Oct. 22, 2000 at A1 and C12 (containing all of these stories).

225. *See Clinton and Greenspan Express Concern Over High Crude Oil Prices*, *supra* note 12 and accompanying text.

226. *See* Black, *supra* note 117.

227. *Id.*

228. *See Mexico's President Orders Troops Out of Zapatista Rebel Areas*, *supra* note 102 and accompanying text.

costly military is being used to preserve such deep poverty."[229] If Fox stops spending such enormous amounts of money on the military, he can take all of the money formerly spent on troops in the area and use it for drinking water, medicine, and other basic necessities.

Fox can also put an end to the PRI party "white elephants" tradition that are signs of a past corrupt government.[230] An observer has described white elephants as projects that "dot Mexico like acne – useless, unwanted or unnecessary projects that serve only as magnificent wastes of money and fountains of corruption."[231] Because it is felt that "they are planned without considering the needs or opinions of the citizens who pay for them,"[232] eliminating white elephants would serve the dual functions of stopping the unnecessary waste of money that is needed elsewhere, and showing Chiapan citizens that this leader is a change from the past.[233] Fox needs to prove to the Chiapan citizens that he is different from Salinas and Zedillo, who made the same promises Fox is making.[234] Not continuing the "white elephant" tradition would be a good start.

Once Fox has made some initial changes in Chiapas that would begin to remedy the problems and gain the Chiapans' trust, he can start to directly address their concerns over land rights. Fox and other Mexican leaders need to stop concentrating on how foreign companies can reap the profits of this state abundant in natural resources. If they start to focus on the needs of the Chiapan citizens, leaders can work to meet the needs of the people within the country rather than focusing on getting extreme profits for those outside the country.

After Fox and other leaders, including Salazar, start making progress in gaining the trust of the Chiapan citizens, they may consider legal changes to achieve a more permanent remedy the problem in Chiapas. Fox has expressed an interest in reviving the San Andres Accords,[235] and while adopting the 1996 agreement in its entirety seems improbable,[236] there are parts to the agreement that would benefit Chiapas and Mexico

229. Wilson, *supra* note 122.
230. *See supra* note 15 (describing "white elephants").
231. *Id.*
232. *Id.*
233. *See* Quinones, *supra* note 15 (explaining a recent Chiapan demonstration expressing their dissatisfaction with such projects).
234. *See supra* note 159 and accompanying text.
235. *See* Olivera, *supra* note 158.
236. *See supra* Part II.B.

as a whole. The Chiapans would benefit if they had more input into decisions directly affecting them, yet in the past the Chiapans' input has not been considered.[237] The initial Zapatista uprising was spurred by the neglect these citizens felt,[238] and increased involvement may ease some of this problem.

Fox could also initiate a re-evaluation the 1992 amendment to Article 27, which eliminated *ejidos* in preparation for NAFTA.[239] The San Andres Accords call for a constitutional amendment, but this may be a risky course of action. Frequently changing this portion of the Constitution via amendment could make the provision unstable. A new leader could be elected and change this provision back if leaders view constitutional amendment as an easy process to go through. In addition, all people who have relied on both versions of Article 27 will be reluctant to improve and work the land if it is felt their rights can be taken away at any time. Mexico may benefit more in the long run if Fox finds another way to ascertain Chiapan land rights.

Perhaps, the Mexican government could define what the change to Article 27 means in a way that is fair to the Chiapan citizens. Redefining what a law means is seen in U.S. constitutional jurisprudence, and this may be a course of action could lead to a more equitable determination of who has legally recognized land rights in Chiapas. However Mexico decides to handle the Chiapas situation, to reach a resolution, land rights issues need to be addressed.

CONCLUSION

It may not make political or economic sense for trade partners to get involved in the Chiapas conflict. Mexico probably does not want outsiders meddling in its internal affairs, and trade partners risk huge investment opportunities if they try to influence the outcome of a struggle affecting a small number of people far away from their immediate concerns. The conflict in Chiapas will not be solved unless Mexico and Fox get a push from outside, however. Fox promises to resolve this seven-year problem, but this promise is inconsistent with everything else Fox plans to do while in office. Unfortunately for the people who

237. *See* Gutierrez, *supra* note 37 and accompanying text.
238. *See id.*
239. *See If Not for NAFTA, When?*, *supra* note 28.

suffer and live under the control of the Mexican military, their problems will not go away in the near future, despite Mexico's change in leadership.