

## **Frozen Negotiations: The Peace Process in Chiapas**

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Raúl Benítez Manaut

*Universidad Nacional Autónoma de México*

Andrew Selee

*Woodrow Wilson Center Latin American Program*

Cynthia J. Arnson

*Woodrow Wilson Center Latin American Program*

Mexico's democratic transition has helped reduce, if not eliminate, the threat of renewed armed conflict in Chiapas. However, absent more active measures from the government and the Ejército Zapatista de Liberación Nacional (EZLN) to seek a permanent peace agreement and come to terms with the legacies of the past, the conflict will linger on in an unstable détente, which we term "armed peace." While this situation is far better than the open hostilities of the past, it also belies the promise of a fully democratic society in which all citizens are equally included in the political process.

La transición democrática en México ha contribuido a reducir, si no eliminar, la posibilidad de que el conflicto armado en Chiapas se reanude. Sin embargo, sin esfuerzos mas activos por parte del gobierno y del Ejército Zapatista de Liberación Nacional (EZLN) para buscar un acuerdo de paz permanente y saldar cuentas con el pasado, el conflicto permanecerá en un estado inestable que llamamos "paz armada". Aunque esta situación es mucho mejor que las tensiones y agresiones del pasado, no cumple los requisitos de una sociedad plenamente democrática en que todos los ciudadanos participan en condiciones de igualdad en el proceso político.

The Chiapas peace process remains one of the pending challenges of Mexico's democratic transition. Centuries of unequal treatment have left many rural and indigenous communities without effective access to rule

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of law and with a sense of political and economic exclusion despite the advent of free and fair elections. The conflict thus highlights the challenges inherent in transitioning from a system based on semi-authoritarian corporatist rule to a competitive liberal democracy. When a nation's past practices have created vast economic inequalities, developed an ethnically stratified social structure, and undermined the rule of law, citizens may not trust elections alone to redress their grievances. As of this writing in mid-2005, many indigenous citizens in Chiapas, therefore, continue to support the Zapatista rebellion as their best hope for addressing their concerns. At the same time, the 2000 Mexican elections have gone a long way toward generating a greater degree of legitimacy for the federal and state governments in the eyes of many citizens in Chiapas, and this has allowed for the partial distension of the conflict. However, absent more active measures from the government and the rebels to come to terms with the legacies of the past, the conflict will linger on in an unstable *détente*. While this situation is far better than the open hostilities of the past, it also belies the promise of a fully democratic society in which all citizens feel equally included in the political process.

More than a decade has passed since the armed uprising in Chiapas took place. Declaring war on the federal government, the mostly indigenous Ejército Zapatista de Liberación Nacional (EZLN) burst into San Cristóbal de las Casas and several smaller towns on January 1, 1994. Throughout Mexico, the uprising spurred a period of considerable political and intellectual debate around the slow transition to democracy, deepening poverty in the countryside, and the place of Mexico's indigenous peoples within the nation-state. The federal government offered a cease-fire on January 12, 1994, and the EZLN accepted. Two rounds of peace negotiations followed; however, neither has produced durable agreements that could lead to a lasting peace in the state of Chiapas, and the parties no longer maintain official contact.

Renewed civil war now has become unthinkable, but the major causes of the conflict remain unresolved and the conditions in many of the indigenous communities in Chiapas continue to deteriorate in the context of the stalemate. This is not to say there have been no changes on the ground: both Mexico's democratic transition and the conflict itself have helped reshape social and political relations in Chiapas, reduced the influence of local landowners and ranchers, and created a partial redistribution of land in the state. However, poverty remains endemic, land rights are unresolved, discrimination persists, and political processes lack consensus among key groups.

The federal government argues that it has done what it could to resolve the conflict and has opted for a strategy of political containment of the Zapatistas. Meanwhile, the Zapatistas argue that the federal govern-

ment has not lived up to its negotiated agreements, and the insurgents have set upon on a path of consolidating autonomous municipalities within their zone of influence. This impasse has created an unstable situation in the eastern half of Chiapas that we call “armed peace.”<sup>1</sup> Under armed peace, open hostilities between the EZLN and the federal government are no longer likely, but the root causes that gave origin to the conflict remain unresolved and tensions simmer among various groups in the region. The conflict is no longer a standoff between government and guerrillas, but among several armed groups—Zapatistas, sympathizers of various political parties, and independent organizations—that each have zones of influence under their control. The instability of this situation—which prior to 2000 was manipulated by federal and state authorities—produces occasional outbursts of violence among the groups as they vie for influence and control on the ground, and it undermines the hope for development in the region. Formal patterns of landholding and democratic governance structures function alongside informal arrangements that grant different groups quotas of territory, power, and influence. Within this context, the state government has become a broker that seeks to negotiate among the various groups on the ground, without the possibility of reaching a long-term, formal settlement of the conflict.

This situation is not sustainable in the long term, and it undermines the promise of Mexico’s democratic transition. While the country as a whole has moved toward free elections and efforts to consolidate the rule of law, the zone of conflict in Chiapas remains mired in a series of informal arrangements that govern political authority and property rights within specific territorial extensions. We argue that both sides need to address the prospects for peace proactively or risk a continued deterioration of living conditions in Chiapas. Peace processes seek to end armed confrontation by addressing at least some of the root causes—political, social, economic, and institutional—that underlie insurgencies.<sup>2</sup> They are often the only way that the government and groups supporting (and opposing) armed insurgencies can address grievances that otherwise elude resolution. Peace processes seek to relegate conflict to the political rather than the military arena, through the creation of new institutional channels for conflict resolution and the pursuit of meaningful change. Therefore, peace processes implicitly recognize that transitions to free and fair elections alone may not always be sufficient to

1. See also Cynthia Arnson, Raúl Benítez Manaut, and Andrew Selee, “Chiapas: Negociación, paz y cuestión indígena: Debates a inicios del siglo XXI,” in *Chiapas: Perspectivas sobre la negociación y la paz*, ed. Cynthia Arnson, Raúl Benítez Manaut, and Andrew Selee (Mexico: Universidad Nacional Autónoma de México, 2003), 19-55.

2. Cynthia J. Arnson, ed., *Comparative Peace Processes in Latin America* (Stanford: Stanford University Press, 1999).

resolve the problem of inclusion in a democratic polity when past authoritarian systems have generated vast inequalities of wealth and access to political participation.

However, the Chiapas conflict is, in many ways, unlike other civil conflicts in Latin America, and it requires a peacemaking effort that is also substantially different. The Zapatistas are a local force and have never had an ability to threaten the survival of the Mexican government militarily; rather, their strength has largely been their demands' political resonance with a broader national and international audience. This resonance has diminished with the advent of free elections, however, as more and more Mexicans have found that they can channel their demands through the existing political system. The Zapatistas continue to find support in pockets of rural and indigenous Mexico, but polls show that most Mexicans are cautiously optimistic about their political system<sup>3</sup> and, therefore, less receptive to demands made outside it. Indeed, the conflict may have aided the democratic transition itself by forcing President Carlos Salinas to pursue more rapid political reforms in 1994 as a means of reducing support for the Zapatistas. The result, however, has been that the perceived legitimacy of the federal and state governments has, in fact, risen, while that of the Zapatistas has declined.

Because of this, it has become difficult to conceive of the same kind of national peace process that took place in El Salvador, Guatemala, or even Colombia at different points over the last fifteen years, or even a restarting of the previous Chiapas peace processes that involved high-profile discussions between the insurgents and the federal government. Instead, Chiapas needs a proactive peace dialogue through which the government and the indigenous communities can address the root causes that gave origin to the conflict and negotiate the terms of a new bargain for the communities that provides a stable, long-term agreement on the nature of political authority and boundaries of property rights. This will require addressing several of the demands that have been raised by the Zapatista uprising and by other social organizations in the state: access to land, credit, and use of natural resources; protection from arbitrary violence; and the possibilities of some form of political self-determination for indigenous communities. Moreover, it will require a serious national debate about the rights of Mexico's indigenous peoples in the nation-state, a debate that originally came to the forefront of public concern during the Chiapas peace process but has been left largely unresolved.<sup>4</sup> The Chi-

3. See Marta Lagos, "A Road with No Return?," *Journal of Democracy* 14, no. 2 (April 2003): 163-73, especially the chart of the Latinobarómetro survey on p.165.

4. Oficina del Desarrollo de los Pueblos Indígenas, "Cuantificación de la Población Indígena de México," <http://indigenas.presidencia.gob.mx> (accessed May 24, 2003). Mex-

apas conflict is complex and multidimensional. This dialogue will need to include all of the major actors in the state and cannot be done without them. Imagination, perseverance, and political courage will be necessary to move from the current stalemate of armed peace towards the consolidation of a democracy that holds the promise of equal inclusion for all citizens.

### The Origins of the Conflict

Indigenous people make up over 25 percent of Chiapas' 3.9 million inhabitants and a majority of those who live in the conflict zone in the eastern part of the state, a region that roughly corresponds to the Catholic Diocese of San Cristóbal de las Casas.<sup>5</sup> This area comprises three distinct sub-regions—the Selva Lacandona, the Highlands, and the North—each with different ethnic compositions, patterns of land tenure, and social histories. Together these three sub-regions comprise one of the poorest areas in Mexico. At the outset of the conflict, over seventy percent of the inhabitants earned less than minimum wage; 40 percent of those fifteen or older had never been to school; and perhaps as many as two-thirds had no electricity, drinking water, or sanitation services in their homes.<sup>6</sup> Moreover, the indigenous communities of eastern Chiapas lived for decades under a semi-feudal pattern of landholding where most of the communities were reduced to subsistence agricultural and seasonal migration to large plantations, while those small producers with enough land to generate profits generally had uncertain land titles and were forced to fight constant battles with large landowners over the limits of their property. This led to constant bouts of violence between small producers and landowners over land and between agricultural workers and landowners over wages and rights on the plantations.<sup>7</sup> To complicate the situation even more, the pattern of economic production and political power in Chiapas was ethnically differentiated to a degree even greater than elsewhere in Mexico, where

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ico's indigenous people make up 8 to 15 percent of the Mexican population, depending on which calculations are followed. The Mexican presidency uses the figure of ten million. The Instituto Nacional de Estadística, Geografía e Informática (INEGI) counts 8.6 million, the Consejo Nacional de Población (CONAPO), 9.1 million, and the Instituto Nacional Indigenista (INI) 10 million. The variation depends in large part on which criteria are used in the calculation.

5. Instituto Nacional de Estadística Geografía e Informática, "XII Censo General de Población y Vivienda, 2000," <http://www.inegi.gob.mx/est/default.asp?c=701>.

6. John Womack, Jr., *Rebellion in Chiapas: An Historical Reader* (New York: The New Press, 1999), 11.

7. Neil Harvey, *The Chiapas Rebellion: The Struggle for Land and Democracy* (Durham, NC: Duke University Press, 1998).

indigenous communities had little access to economic resources or political representation.<sup>8</sup>

However, poverty, discrimination, and violence alone do not explain why thousands of indigenous peasants chose to declare armed rebellion on the government of Mexico in 1994.<sup>9</sup> As dramatic as these indicators are, the indigenous communities had suffered poverty, discrimination, and violence for nearly five centuries before the rebellion. These conditions are, of course, the root causes of the Zapatista uprising, but profound changes had to occur before thousands of indigenous people and often entire communities moved from everyday forms of resistance and local struggles over land and resources to support for an armed insurgency.

The changes that nurtured the rebellion can be found in the complex interplay of state policies and economic transformations that took place beginning in the 1970s in Chiapas and the particular ways in which the indigenous communities responded to these.<sup>10</sup> This included the development of new communities in the Selva Lacandona, largely outside the corporatist control of the Partido Revolucionario Institucional (PRI) but in constant conflict with non-indigenous ranchers;<sup>11</sup> the government's increasing withdrawal from support for small-scale agricultural production and land redistribution; a series of sudden economic shocks that damaged the prospects of small agricultural producers;<sup>12</sup> and the increasing use of violence by the government to repress protests that arose amid these crises.<sup>13</sup> Together, these factors helped aggravate the already precarious conditions of the indigenous communities and created a new set of demands around rights, land, and economic development.

These demands also led to new forms of social organization, including a series of producers' associations that emerged in the 1970s, 1980s, and 1990s, with the active support of the Catholic Diocese and

8. Florencia Mallon traces the different patterns of ethnic relations in Mexico's periphery and center in Mallon, "Indian Communities, Political Cultures, and the State in Latin America, 1780-1990," *Journal of Latin American Studies* 24 (Supplement) (1992): 35-53.

9. Theda Skocpol, *Social Revolutions in the Modern World* (Cambridge: Cambridge University Press, 1994).

10. For analysis of the causes of the rebellion, see Harvey, *The Chiapas Rebellion*, and Womack, *Rebellion in Chiapas*.

11. Xochitl Leyva and Gabriel Ascencio, *Lacandonia al filo del agua* (Mexico: Centro de Investigación y Estudios Superiores en Antropología, 1996).

12. Neil Harvey, "Rural Reforms, Campesino Radicalism and the Limits to Salinismo," in *The Transformation of Rural Mexico* 5 (La Jolla, CA: Center for U.S.-Mexican Studies, University of California at San Diego, 1994).

13. Guillermo Trejo, "Apuntes sobre la naturaleza mutante del conflicto en Chiapas," in *Chiapas: Interpretaciones*, Arnson, Benítez, and Selee, 171-83.

often left-wing social organizations. These associations also were engaged actively in defending land rights and pressing for the resolution of land titles, as well as seeking respect for indigenous identity. Eventually, the lack of institutional space for expressing these demands within the political system, coupled with a worsening economic climate, led many of the indigenous communities to join a small rebel group, already in the Selva Lacandona, known as the Ejército Zapatista de Liberación Nacional (EZLN). On January 1, 1994, the day that the North American Free Trade Agreement entered into effect, masked guerrillas from the EZLN took over five towns in eastern Chiapas and declared war on the Mexican government. The promise of modernity that the entrance into NAFTA signified contrasted dramatically with the reminder of the unresolved issues of Mexico's poorest and most marginalized communities.

### **From Civil War to Armed Peace**

The Zapatista uprising can be seen from at least three different perspectives, as Rodolfo Stavenhagen has observed.<sup>14</sup> It is, first, a conflict between a group of armed indigenous peasants formed as part of the EZLN who declared war on the Mexican government. Second, the conflict is also a long-standing struggle over land, resources, personal security, and citizenship rights between poor peasants and the state. Finally, it is a conflict between indigenous communities who have sought to preserve their own sense of identity and history and a largely non-indigenous society that has largely marginalized them politically and economically. The formal peace processes that emerged after the Zapatista uprising largely responded to the first perspective of conflict—a negotiation between the armed rebels and the government—but it had as its backdrop the long-term struggle of indigenous peasants for inclusion, respect, and development, on the one hand, and for self-determination and self-preservation, on the other.

Over the years after the uprising, the demands of the Zapatistas, the nature of their alliances, the goals of the government, and the context in which both operated have shifted dramatically.<sup>15</sup> The changing understanding that both sides have had of their goals and their relationship to other actors in Mexican (and international) society has shaped the nature of the peace process and the actions of each outside of the peace process. The changing nature of Mexican democracy also has trans-

14. Rodolfo Stavenhagen, "Mexico's Unfinished Symphony: The Zapatista Uprising," in *Mexico's Politics and Society in Transition*, ed. Joseph S. Tulchin and Andrew D. Selec (Boulder, CO: Lynne Rienner Publishers, 2003), 109-126.

15. Trejo, "Apuntes sobre la naturaleza mutante."

formed the issues on the table and the political spaces in which each side operates.<sup>16</sup>

*The First Peace Process: Conversations in the Cathedral*

The armed uprising lasted only twelve days, from January 1–12, 1994, and claimed approximately 145 lives.<sup>17</sup> The first declared objective of the Zapatistas was to reach Mexico City and defeat the “illegitimate government of Carlos Salinas de Gortari.” The EZLN listed a series of other demands that were a compendium of long-standing grievances of the indigenous communities of Chiapas, but also found echo in broad sectors of Mexican society outside of Chiapas: work, land, housing, food, healthcare, education, independence, liberty, democracy, justice, and peace.<sup>18</sup> Within the Salinas administration, there was a significant internal debate on how to respond to the rebellion, but the “pro-negotiations” wing of the administration, led by Foreign Minister and former Mexico City Mayor Manuel Camacho Solís, prevailed. The government declared a cease fire on January 12, and this was quickly accepted by the EZLN, starting the first phase of the peace process. Known popularly as the “Conversations in the Cathedral,” the negotiations were held in the Cathedral of San Cristóbal and mediated by Bishop Samuel Ruíz. The EZLN was represented by its public spokesperson, Subcomandante Marcos, who was accompanied by several indigenous commanders, while the government delegation was led by Camacho.

The negotiations in the cathedral lasted until June 1994, with agreement on several, but not all, of the Zapatista demands. The government tried to keep the discussion focused on the Zapatistas’ local concerns, while the EZLN insisted on reaching an agreement on national issues of democracy and development. The conversations eventually broke down when the Zapatistas’ base communities failed to ratify the first agreements reached in March 1994 because they did not include many of their key demands.<sup>19</sup> But in reality, the negotiations broke down because the Zapatistas and the government each had different ideas about the scope

16. Raúl Benítez Manaut, “Chiapas: Crisis and Disruption of Social Cohesion. Challenges for Negotiations in the Twenty-First Century,” in *Human Security, Conflict Prevention and Peace*, ed. Moufida Goucha and Francisco Rojas Aravena (Santiago de Chile: FLACSO-Chile and UNESCO), 2003. Raúl Benítez has defined this as “negotiations without solution.”

17. Neil Harvey, “The Peace Process in Chiapas: Between Hope and Frustration,” in Arnsion, *Comparative Peace Processes*, 129–52.

18. EZLN. “Declaración de la Selva Lacandona,” January 2, 1994, in *EZLN: Documentos y comunicados, Vol. 1*, (Mexico: Era, 1995), 35.

19. For the Zapatista response, on June 10, 1994, see EZLN. “Respuesta a la propuesta de paz del supremo gobierno,” in *EZLN: Documentos y comunicados*, 260–67.

and dimensions of the issues on the table. The Zapatistas wanted a national solution to their demands on economic and political reform, while the federal government was willing to grant a series of state-level reforms. The approaching national elections and the assassination of the PRI's candidate for president, which threw the national political scene into confusion, further undermined the peace process and deflected the government's attention. The Zapatistas were at a high point in public support and had high hopes of reaching better terms with a new government after the August elections. The government as a whole appeared to be losing support rapidly, and Camacho saw his own political base undermined by the swiftly changing currents of Mexican politics.

As a result, in the second half of 1994, the nature of the peace process changed. As the Zapatistas waited for a new government to take over, they strengthened their ties to Mexican and international civil society groups. At the beginning of August, they hosted the Convención Nacional Democrática, which brought thousands of supporters to the Selva Lacandona for a major convention organized around the EZLN's demands. Shortly thereafter, the leading opposition candidate for governor of Chiapas formed a parallel "government of resistance," with Zapatista support, after he narrowly lost what was considered by many to be a less than transparent election. In November 1994, Bishop Ruíz created the Comisión Nacional de Intermediación (CONAI) to serve as an intermediary organization for a second round of peace negotiations once the new national government took over.<sup>20</sup>

### ***Breakdown of the First Peace Process***

The first stage of the peace process collapsed completely on February 8, 1995, two months after Ernesto Zedillo assumed the presidency of Mexico, when the government attempted a short police and military campaign to capture Subcomandante Marcos. The campaign failed and generated a substantial backlash in Mexican public opinion, which remained overwhelmingly favorable to the demands of the EZLN.<sup>21</sup> The government ultimately suspended the arrest orders against Marcos and

20. See Miguel Álvarez Gándara, "La Comisión Nacional de Intermediación y la solución negociada al conflicto en Chiapas," in *Chiapas: Los desafíos de la paz*, ed. Cynthia Arnson and Raúl Benítez Manaut (Mexico: Miguel Angel Porrúa, ITAM, and Woodrow Wilson Center, 2000), 183. For detailed information on the Comisión Nacional de Intermediación (CONAI) and the negotiating positions of the parties in the conflict, see also Comisión Nacional de Intermediación. *Archivo Histórico Enero de 1994-Julio de 1998*, CD-ROM, (Mexico: Editorial SERAPAZ, 2002).

21. The military campaign is described in Andrés Oppenheimer, "Chiapas: Opera and Revolution," in *Bordering on Chaos: Guerrillas, Stockbrokers, and Mexico's Road to Prosperity* (Boston and New York: Little, Brown, 1996), 37-60.

other EZLN leaders, and the Mexican Congress approved the *Ley para el Diálogo, la Conciliación y la Paz Digna en Chiapas*. This law set the blueprint for a new peace process, created a Congressional Comisión de Concordia y Pacificación (COCOPA) to participate in the process, and granted immunity from prosecution to Zapatista leaders as long as the peace process was not officially suspended.

*The San Andrés Peace Process*

A second round of peace negotiations started in October 1995 in the Chiapas municipality of San Andrés Larráinzar. This was the period of most intense negotiation between the Zapatistas and the government. The negotiations consisted of four actors: the government, the EZLN, the CONAI, and the COCOPA. In May 1995 the EZLN and the government agreed to negotiate six accords around different issues. The first would address "Indigenous Culture and Rights," with negotiations starting in November. The EZLN frequently had been accused in private by other indigenous organizations of neglecting issues of indigenous rights in favor of broad political demands and alliances with non-indigenous sectors of society.<sup>22</sup> The intervening months, however, had seen the strengthening of the indigenous movement in Mexico and the simultaneous weakening of the non-Indian coalition that had provided outside political support to the EZLN. This seems to have been a significant contributing factor to the EZLN's assumption of indigenous rights as the starting point for negotiations.<sup>23</sup>

The negotiations of San Andrés took place between November, 1995 and January, 1996. The EZLN was represented this time by Comandante David, an indigenous leader from the Highlands, and a delegation made up entirely of indigenous leaders from the Zapatistas' base communities. The government delegation was headed by Marco Antonio Bernal, representing the Secretaría de Gobernación. The EZLN also invited over a hundred outside advisors, many of whom were representatives of indigenous communities and organizations throughout Mexico.<sup>24</sup> The talks became an important forum where indigenous rights could be discussed,

22. For example, Zapotecan leader Aldo González stated "We wondered why, if the EZLN is made up mostly of indigenous persons, they did not take into account this question [indigenous rights]." Cited in Eugenio Bermejillo, "Los actores del diálogo: Señales para un largo camino," in *Acuerdos de San Andrés*, ed. Luis Hernández Navarro and Ramón Vera Herrera (Mexico: Era, 1998), 110.

23. Yvonne LeBot, *Subcomandante Marcos: El sueño zapatista* (Mexico: Plaza y Janés, 1997), 93.

24. A full list of the advisors invited can be found in EZLN. "Comunicado del EZLN, Octubre 2," and "Comunicado del EZLN, Octubre 3," in *Mujeres y hombres sin rostro III* (Mexico: Servicios Informativos Procesados, 1995).

systematized, and negotiated. In January 1996, before the last round of negotiations, the EZLN hosted the Foro Nacional Indígena, which brought hundreds more indigenous representatives to Chiapas to debate the framework for an eventual agreement.<sup>25</sup> The main debate among Zapatistas and their allies involved two alternative proposals for a framework of autonomy. The Oaxacan delegates largely supported a proposal that prioritized communal autonomy, while another set of organizations grouped in La Asamblea Nacional Indígena Plural por la Autonomía (ANIPA) preferred their model of “pluriethnic autonomous regions.” The Foro finally decided for the communal approach as a negotiating strategy, but left open the door for those indigenous communities that wanted to create autonomous regions by associating.

In February 1996 the EZLN and the federal and state governments signed the Acuerdos de San Andrés. They set a framework for constitutional changes that would recognize differential collective rights for indigenous groups within clearly specified territorial boundaries, in accordance with the standards set out by the International Labor Organization Treaty 169 (ILO 169) on indigenous rights.<sup>26</sup> This was a long-standing demand from a number of indigenous organizations in Mexico, which had fought for official recognition of indigenous rights in hopes of winning respect for their own political and social practices and ensuring better access to services and natural resources for communities that had long been marginalized;<sup>27</sup> however, ironically, the Zapatistas were relative newcomers to the debate on indigenous rights.<sup>28</sup> The government

25. Womack, *Rebellion in Chiapas*, 304–8. The most famous exchange between supporters of these two different positions was on the pages of the magazine *Masiosare* between ANIPA advisor Héctor Díaz Polanco (October 6, 1997) and EZLN advisor Luis Hernández Navarro (September 5, 1997). The debate is also summarized in “Foro Nacional Indígena,” in *Acuerdos de San Andrés*, ed. Luis Hernández Navarro and Ramón Vera Herrera (Mexico: Era, 1998) and Héctor Díaz Polanco, *Indigenous Peoples in Latin America: The Quest for Self-Determination*, trans. Lucia Reyes (Boulder, CO: Westview Press, 1997).

26. See Adelfo Regino, “Los indígenas ante el conflicto chiapaneco,” and Magdalena Gómez, “Chiapas: El estado de derecho y la legitimidad,” in Arnson and Benítez, *Chiapas: Los desafíos*. Mexico was the fourth country to ratify ILO 169 in 1990.

27. For further discussion of the genesis of the indigenous movement in Mexico, see Jorge Hernández Díaz, “Etnicidad y nacionalismo en México: Una interpretación,” in *Etnicidad, nacionalismo y poder: Tres ensayos* (Oaxaca: Universidad Autónoma “Benito Juárez,” 1993).

28. The Zapatistas had mentioned “independence” among their initial demands; however, it received little systematic treatment from the EZLN until the extensive contact between the Zapatistas and other indigenous organizations during the San Andrés negotiations. For an extensive discussion on this, see Andrés Aubry, “La autonomía en los acuerdos de San Andrés: Expresión y ejercicio de un nuevo pacto federal,” in *Tierra, libertad y autonomía: Impactos regionales del zapatismo en Chiapas*, ed. Shannan L. Mattiace, Rosalva Aída Hernández, and Jan Rus (Mexico: CIESAS, 2002).

and the Zapatista delegation sparred over a number of concepts. The Zapatistas insisted on the use of the word “peoples” to designate indigenous groups (as in ILO 169) and to a broad definition of self-determination over territorial extensions; the government preferred an approach which granted limited self-government rights and recognized communities. Despite these differences, the government and Zapatistas reached an agreement that largely endorsed the EZLN’s position, but left open some issues for interpretation and misinterpretation.

The differences between the government and the Zapatista delegations reflected a fundamental philosophical difference between the two sides: the government saw the concept of indigenous rights as a means to incorporate indigenous individuals more fully into the political and economic process, within the existing legal framework. The Zapatistas and their allies, on the other hand, sought an agreement that would recognize customary authority within indigenous communities, as long as this was consistent with national human rights practices, and allow indigenous peoples to have collective rights over resources and public policy decisions within territorially defined areas. Since the 1970s, many of Mexico’s indigenous organizations, like others in the hemisphere, had moved away from attempts to improve conditions for their communities by accessing more resources and promoting indigenous political participation. Many felt that years of following this route had failed to yield results. Instead they advocated for a regime of differential rights where they could preserve their identity and have greater leverage over decisions that affected their communities. Many indigenous leaders and scholars argued that differential rights might be the only way to protect individual rights of minority groups effectively and to protect cultural differences of the country’s first peoples.<sup>29</sup> The government and other scholars argued that the route to inclusion should be through protecting individual rights exclusively and ensuring equality among indigenous

29. For further discussion of the theoretical grounding for indigenous rights, see the following works: Rodolfo Stavenhagen, “Indigenous Rights: Some Conceptual Problems,” in *Constructing Democracy: Human Rights, Citizenship, and Society in Latin America*, ed. Elizabeth Jelin and Eric Hershberg (Boulder, CO: Westview Press, 1996), 141–59; Will Kymlicka, *Multicultural Citizenship* (Oxford: Oxford University Press, 1995); Deborah Yashar, *Contesting Citizenship: Indigenous Movements and the State in Latin America* (Cambridge: Cambridge University Press, 2005); Willem Asies, Gemma van der Haar, and André Hoekema, eds., *El reto de la diversidad* (Zamora, Mexico: El Colegio de Michoacán, 1999); and, for Mexico specifically, Francisco López Barcenas, *Entre lo propio y lo ajeno: El sistema electoral consuetudinario en el estado de Oaxaca* (México: Editorial Ce-Acatl, 1998); Luis Hernández Navarro, “Ciudadanos iguales, ciudadanos diferentes,” in Hernández Navarro and Vera Herrera, *Acuerdos de San Andrés*, 15–32; and Guillermo May Correa, “El conflicto indígena y su solución está en Chiapas y en todo México,” in Arnson, Benítez, and Selee, *Chiapas: Interpretaciones*, 131–42.

and non-indigenous Mexicans. Cultural differences would thus be a question of private preference, not public policy. The question of philosophical approach remains central to the ongoing debate in Chiapas, as well as to the larger debate on indigenous rights in Mexico.<sup>30</sup>

### *The Collapse of the San Andrés Peace Process*

Between March 1996 and December 1997, after the signing of the Acuerdos de San Andrés, the peace process collapsed. The COCOPA turned the signed agreement into a proposed law, but the government refused to submit it to Congress in an effort to avoid the political and legal debate over the concept of "peoples." At the same time, local political authorities and landowners began an intense counterinsurgency campaign against the Zapatistas and their supporters. More than a dozen paramilitary groups came into existence determined to combat the Zapatistas and their sympathizers in local struggles over power. In many cases, these groups were formed around nuclei of non-Zapatista communities that felt threatened by the Zapatista uprising; however, increasingly, these groups showed signs of connections with local landowners and local political leaders, and a few well-organized groups developed complex regional networks with close ties to prominent state politicians. While there was no concrete evidence of federal involvement in forming the paramilitary groups, the army, which was deployed throughout the conflict zone, clearly tolerated their presence and rarely acted against the paramilitaries.<sup>31</sup> The paramilitary attacks culminated with the Acteal Massacre on December 22, 1997, when forty-five women, children, and older people from an organization close to the Catholic Church were assassinated inside a church by the paramilitary group with close ties to state police and local PRI political leaders. The Acteal Massacre brought renewed attention to human rights violations in Chiapas from national and international organizations and led to the removal of Mexico's Secretario de Gobernación, Emilio Chuayffet.<sup>32</sup>

30. The state of Oaxaca already has implemented two separate constitutional changes at the state level that recognize certain specific rights for indigenous communities. See Moisés J. Bailón Correa, *Sistemas de dominio regional y autonomía indígena: Estructura histórica y coyuntura política en el reconocimiento de los derechos indígenas en el estado de Oaxaca* (Mexico: Comisión Nacional de los Derechos Humanos, May 2003) and Lourdes de León Pasquel, coord., *Costumbres, leyes y movimiento indio en Oaxaca y Chiapas* (Mexico: CIESAS-Miguel Ángel Porrúa, 2001).

31. Between 1996 and 1998, at least seventeen paramilitary groups operated in the conflict zone. The best known were Paz y Justicia, Los Chinchulines, Movimiento Indígena Revolucionario Antizapatista (MIRA), and Máscara Roja. See Womack, *Rebellion in Chiapas*, 56 and *Chiapas: La guerra en curso* (Mexico: Centro de Derechos Humanos Miguel Agustín Pro Juárez, 1998).

32. Chauyffet is considered by many human rights organizations to be responsible for authorizing the counterinsurgency campaign against the Zapatistas and their sympa-

With the beginning of paramilitary attacks, the Zapatistas chose to break off the negotiations with the government, which had now moved on to the second issue, "Democracy and Justice." In this new context, the EZLN chose to maintain a strategy of silence. They pursued increasing alliances both with other indigenous organizations and international groups that opposed globalization and "neoliberalism." In the discourse of the Zapatistas, they increasingly identify the government with an international trend toward neoliberal policies. Meanwhile, the Zedillo administration abandoned any attempt to pursue peace in Chiapas, opting for a strategy of military and political containment.<sup>33</sup> By December 1997, President Zedillo officially declared that he would not submit the COCOPA law for a vote; the Acteal Massacre had taken place; and the peace process had clearly reached an impasse. The next three years saw only a stalemate in the peace negotiations, punctuated by occasional violence.

*Fox's Fifteen Minutes, the Zapatour, and the Indigenous Law*

As a candidate for president, Vicente Fox noted several times that he could resolve the Chiapas crisis in fifteen minutes. It was an affirmation without real content that referred to the time it takes to sign a peace agreement. However, this statement was used by the public and the political parties to pressure Fox, once elected president, to change the government's strategy towards the EZLN and find new approaches to dialogue. Fox responded. In his inauguration speech he made it clear that the Chiapas conflict was a matter of great concern, and he pledged that he would send to Congress the proposed law on indigenous rights that had been put together by the COCOPA to fulfill the government's obligations under the Acuerdos de San Andrés. Fox also pulled back the Mexican military from the communities in the zone of conflict and ordered the release of remaining Zapatista prisoners. Shortly after Fox took over as the first non-priísta president in Mexico in seventy-one years, Pablo Salazar Mendiguchía became the first non-priísta governor of Chiapas in as many years, backed by a loose coalition of opposition political parties and social organizations. These were optimistic times for those who hoped for the renewal of the peace process in Chiapas.

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thizers as a strategy of containment. There is, however, no concrete proof that the federal government was responsible for the rise of the paramilitaries or the Acteal Massacre, still, the federal government showed great tolerance for paramilitary activity, especially in areas where the army had a strong presence, and made few efforts to investigate the actions of paramilitary groups. Many of the paramilitary groups did have clear ties to local political leaders of the PRI and to major landowners in the eastern half of the state.

33. For the perspectives of the various actors in the conflict during this period, see Arnson and Benítez, *Chiapas: Los desafíos*.

The Zapatistas centered their strategy on pressuring the Fox administration and the Congress to approve the law. Together with other indigenous organizations, they initiated the “La marcha del color de la tierra,” known popularly as the “Zapatour,” that was carried out between February 25 and April 1, 2001. The Fox administration agreed to guarantee the safe passage of the Zapatistas to Mexico City, and the Mexican Congress, under considerable pressure, agreed to receive representatives of the EZLN and other indigenous organizations in the Cámara de Diputados. The Zapatour traveled 6,000 kilometers, passing through thirteen states and carrying out seventy-seven public meetings. On March 28 the Zapatista march reached its climax with the messages of four EZLN commanders and three representatives of the Congreso Nacional Indígena before a plenary session of the Cámara de Diputados.<sup>34</sup> Comandante Esther, on behalf of the EZLN, demanded that Congress approve the COCOPA’s proposed law in its entirety. She said: “When the rights and culture of indigenous people are recognized constitutionally in accordance with the initiative of the Law of COCOPA, the law will begin to unite its hour to the hour of the Indian people.”<sup>35</sup> She then ordered a Zapatista retreat into territorial resistance if the law were not approved, a preview of what would become the future Zapatista strategy of silence and retrenchment.

In the end, the Mexican Congress approved a version of the COCOPA proposal, but only after making several changes to the text that substantially revised the definition of territoriality and largely left the implementation of the law to the state governments.<sup>36</sup> The law, in and of itself, was an advance in the recognition of Mexico’s indigenous peoples, but the Zapatistas and their allies in the indigenous movement saw it as a betrayal of both the spirit and letter of the Acuerdos de San Andrés.<sup>37</sup> The Zapatistas broke off all communication with the government. Meanwhile, the necessary two-thirds of state legislatures approved the law (which actually involved changes to four articles of the constitution), but it was rejected in almost all states that had large indigenous populations.<sup>38</sup>

34. EZLN. *La marcha del color de la tierra. Comunicados, cartas y mensajes del Ejército Zapatista de Liberación Nacional del 2 de diciembre de 2000 al 2 de abril de 2001*, (Mexico: Rizoma, 2001).

35. *Ibid.*, 396.

36. The ley sobre derechos y cultura indígena was formally approved on July 18, 2001 after ratification by the states. See the *Diario Oficial de la Federación*, August 14, 2001. The vote in the Cámara de Diputados was on April 28, 2001, with 386 votes in favor and 60 against. It went into effect after it was voted on in the state legislatures.

37. Rodolfo Stavenhagen, “Perspectivas para la paz en Chiapas,” in Arnson, Benítez, and Selee, *Chiapas: Interpretaciones*, 207–212.

38. The following state legislatures rejected the law: Guerrero, Hidalgo, San Luis Potosí, Baja California Sur, Chiapas, Estado de México, Morelos, Oaxaca, Sinaloa and Zacate-

The Zapatour thus won momentary support from the broader Mexican society for indigenous rights reform, but the outcome of the congressional debate left many indigenous communities feeling betrayed by the federal authorities. The Zapatistas proved, once again, to be talented at raising issues but to have little capacity to negotiate public policy with the authorities even when the stage seemed set for a successful negotiation.

### **Towards A New Peace Dialogue?**

As Jan Egeland said in reference to the conflict in Colombia, “an imperfect peace is better than a perfect war.”<sup>39</sup> This premise is especially important for those affected by war: the civilian population. In the case of Chiapas, the ongoing cease-fire has certainly proved better than a protracted war, but a definitive resolution of the issues that ignited the conflict continues to be unlikely. In the meantime, the eastern half of Chiapas has fallen into an unstable but durable state of “armed peace,” where open confrontation between the Mexican army and the EZLN is extremely unlikely, but a variety of armed groups maintain influence over different enclaves of the state and live in constant tension with one another. The armed groups include the Zapatistas, independent peasant groups once close to the Zapatistas, private security forces created by local ranchers, and paramilitary groups once armed by local authorities to threaten the Zapatistas but increasingly acting to defend the interests of their own peasant and landed constituencies.

On the surface, it is hard to see that the two major parties in the conflict have much incentive to negotiate. The government has largely been able to reduce the stature of the conflict to a local phenomenon far from the eye of the general public, and it has centered its new strategy on undermining Zapatista support by trying to invest resources in the conflict zone.<sup>40</sup> Meanwhile, the Zapatistas argue that the government has shown bad faith by not living up to its agreements at San Andrés and that there is nothing left to discuss until these agreements are implemented. The Zapatistas have won a de facto right to consolidate their authority in their zones of influence and have set about doing this until

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cas. Tamaulipas and Yucatán did not vote; the remaining states approved the constitutional changes. See a complete analysis of the vote in *Los derechos indígenas y la reforma constitucional en México* (Mexico: Centro de Orientación y Asesoría a Pueblos Indígenas, A.C., 2002), 128-130.

39. Fernando Corral and Marisol Gómez, “Mejor una paz imperfecta que una guerra perfecta,” *El Tiempo*, (December 10, 2000): 18.

40. For a statement of this strategy, see Luis H. Álvarez, “Chiapas: Dilemas actuales del conflicto y la negociación,” in Arnson, Benítez, and Selee, *Chiapas: Interpretaciones*, 19-55.

another administration is elected. Equally worrisome, the Zapatistas' position has radicalized as they have lost prominence nationally, while both the Fox administration and Salazar state administration have become politically paralyzed. Both actors are in a weaker position than ever before to pursue a lasting peace agreement and have little interest in doing so.

However, the instability of the situation, the violence it generates, and the lack of economic progress for the communities ultimately harm both sides. The experience of the Central American peace processes has taught that the incentive to negotiate is not always derived only from the military force of the insurgents or the level of destruction and polarization that the conflict inflicts on society. Rather, the incentive to negotiate, to the extent it exists, may emerge from the degree to which the larger society—as well as society's key actors and elites—perceive that their interest may be best served by putting an end to the conflict. In Mexico, this means that key actors in the government would need to realize that the crisis continues to undermine the full transition to democracy and leaves key issues unresolved that should matter to a democratic society. At the same time, actors within the EZLN would need to realize that the future improvement of their communities—and the opportunity for recognition of indigenous rights within the Mexican nation-state—depends on reaching an agreement to end the conflict.<sup>41</sup> This perspective requires that the parties to the conflict cede positions and accept that a negotiated peace is a greater victory for them than defending the current impasse.

In Chiapas, the most likely path to peace probably no longer lies in trying to reconstruct national peace talks but in adopting a strategic, low-key approach to peace that begins by proactively addressing root causes of the conflict. This kind of approach would require conscious and systematic efforts to address a series of interrelated concerns: self-determination and representation of the communities in the conflict zone; regularization of land titles, access to credit, and other supports for small producers; reform of the judicial system and the police, including prosecution of those who have abused human rights; and disarmament of paramilitary organizations with a record of violence.<sup>42</sup> Although the gov-

41. For a look at the fragmentation that has resulted in the Selva Lacandona since the Zapatista uprising and its implications for the consolidation of de facto autonomies, see Xochitl Leyva, "Transformaciones regionales, comunales y organizativas en Las Cañadas de la Selva Lacandona (Chiapas, México)," in *Tierra, libertad y autonomía: Impactos regionales del zapatismo en Chiapas*, ed. Shannan L. Mattiace, Rosalva Aída Hernández, and Jan Rus (Mexico: CIESAS, 2002), 57–82.

42. The state government has been quite energetic in containing outbreaks of violence by paramilitary groups, but admits that it has little ability to disarm these groups without specific provocations. On this point, see the article by former Chiapas' Secretario

ernment believes it can win over the pro-Zapatista communities while ignoring the EZLN itself,<sup>43</sup> this appears unlikely given the degree of politicization of the pro-Zapatista communities and their commitment to a long-term struggle around their demands. Rather, a meaningful peace dialogue will have to build confidence with the communities in order to reach agreement eventually with the Zapatistas, as well as other significant organizations that represent key sectors of Chiapas society.

Moreover, any attempt to restart the peace dialogue—or to build confidence towards this end—will ultimately require that the federal government reopen the national debate on indigenous rights. Reasonable people can disagree on the best way to address the issue of indigenous rights. Mexico is a federal system where state laws govern many of the questions raised by the indigenous rights movement, and Mexico's indigenous peoples have different understandings of what autonomy and territoriality mean. However, given the symbolic importance of the Acuerdos de San Andrés both to the Zapatistas and to the wider indigenous movement (and not only those sympathetic to the EZLN but to many groups close to the PRI), it is highly unlikely that any steps towards peace will be seen as meaningful unless the government takes meaningful steps toward addressing the questions of indigenous rights raised in the Acuerdos.

The state government of Chiapas is not in a position to pursue this kind of proactive peace initiative alone, and not only because of the need to have federal action on the Acuerdos de San Andrés. The administration of Governor Pablo Salazar Mendiguchía expressed interest in pursuing many of the local measures that could build confidence with the Zapatistas and other groups on the ground, but Salazar was supported by a fragmented coalition of former opposition parties and social organizations and faced an overwhelming PRI majority in the state legislature and municipal governments.<sup>44</sup> Salazar's administration has made inroads in containing attacks by paramilitary organizations, which used to operate with impunity, but it is unable to disarm them because of its reliance on support from local PRI leaders for legislation in the Congress. The administration also has sought to change the state's Supreme Court, pursue redistricting, and pass a local indigenous rights law granting a measure of self-determination to indigenous communities, but it has not

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de Gobierno Emilio Zebadúa, "La crisis de Chiapas: Gobernabilidad y paz. Retos para el gobierno del estado," in Arnson, Benítez, and Selee, *Chiapas: Interpretaciones*, 89–100.

43. Álvarez, "Chiapas: Dilemas actuales," and off-the-record interviews with key government officials.

44. Instituto Electoral Estatal de Chiapas. <http://www.iee-chiapas.org.mx/inicio.html>. The PRI won 72 of 118 municipal presidencies and 21 of 24 directly elected seats in the local legislature in the 2001 elections.

had the political strength to achieve more than modest gains in each of these areas. Most of the administration's energies have been spent on political survival with little capital left for proactive initiatives for peace.<sup>45</sup> In the process it also has lost the support of many of the state's social organizations that see its tactical alliances with the PRI as a sell-out of its convictions.

The federal government, therefore, would need to have an active engagement in any effort towards peace in coordination with the state government. To date, the federal government's efforts have been coordinated by the "Coordinación para el Diálogo y la Negociación en Chiapas," headed by the well-respected politician Luis H. Álvarez, one of the historical leaders of President Fox's Partido de Acción Nacional (PAN); however, this office appears to operate in isolation without the ability to generate agreements or coordinate resources from the rest of the federal government.<sup>46</sup> The once strong commitment from President Fox to solve the Chiapas conflict "in fifteen minutes," which was reflected in the prominence he gave to the issue at the outset of his administration, faded as soon as he ran into the first obstacles with the passage of the Ley de Derechos y Cultura Indígena and the Zapatistas' decision to cut off all channels of communication. Since then, the federal government does not appear to have any clear strategy for addressing the conflict other than to wait for the Zapatistas to return to the negotiating table.<sup>47</sup> The government believes it can undermine the Zapatistas through providing social assistance to the communities sympathetic to the EZLN, but this is unlikely to be successful given the degree of politicization of the communities and their other concerns about autonomy and rights.

The federal presence in Chiapas has always been weak. In fact, the weakness of the federal presence historically is part of the reason why local elites have maintained such a stranglehold on local politics. The reduction of state presence during the Salinas administration, through cuts in programs for small producers and the ending of land reform, helped exacerbate the plight of the communities in the conflict zone and led to the uprising. Constructing an effective but inclusive federal presence in Chiapas is, therefore, part of the challenge of creating a gen-

45. For an interesting reflection on this process from within the administration, see Emilio Zebadúa, "The Crisis in Chiapas: Challenges for the State Government," in *Voices of Mexico* 62 (March, 2003): 27.

46. See Luis H. Álvarez, "Chiapas: Current Dilemmas in the Conflict and Negotiation," *Voices of Mexico*, 62 (March 2003): 19.

47. This assertion was confirmed in interviews by the authors with several high-level officials of the Secretaría de Gobernación and Secretaría de Relaciones Exteriores in spring and fall 2003.

uine peace process. This is no easy matter, because the limited federal presence that did exist previously was often dominated by the military in support of local elites and later by attempts at counterinsurgency after the Zapatista uprising. As a result, many communities in Chiapas (and not only the Zapatistas) are skeptical of the federal government's intentions when it gets involved in local affairs. However, the resolution of the problems of the state lies in creating this federal presence gradually in coordination with the state government and through agreements with local organizations to strengthen the resources and protections available to them while expanding their margin of political self-determination. These are key steps in being able to reopen the channels of dialogue between the Zapatista communities and the government.

Realistically, it seems unlikely that a significant peace dialogue could be re-started during the Fox administration. The administration lost momentum on a range of national issues, proved unable to build legislative coalitions to back its proposals, and seemed to lack the ability to achieve strides on any of the major initiatives it set out as priorities at the outset of the administration. The Zapatistas appear to be waiting for the next change in administration. Nonetheless, much can be done in the meantime to begin to rebuild confidence between the Zapatistas and the government. It may then have to fall on a new administration to launch a more global effort to advance durable peace. The conflict is not likely to go away in the next two years, and a new administration, from whichever party or coalition it emerges, will be forced to develop a new strategy to address the Chiapas conflict.

Ultimately, the Chiapas conflict poses a broader question for Mexico's democracy, having to do with the nature of inclusion and citizenship. It is an old debate, one that has been symbolized by two of Mexico's great national heroes, both of indigenous heritage and rural birth. On one side, is the vision of Benito Juárez, the great liberal leader and president (1861-72), who envisioned a modernizing national state of successful individual citizens. On the other side stands the vision of Emiliano Zapata, the leader of the struggle for agrarian reform, land tenure, and local autonomy during the Mexican Revolution (1910-1920). The Chiapas conflict pits these two visions against each other once again, as they have been played out—with different actors at different times—throughout Mexican history. The government sees a bright future in national development and envisions a democracy of individual citizens. The Zapatistas and their allies seek a democracy based on recognizing both individual and collective citizenship with an emphasis on the survival and development of local communities. Their vision—shared by many other rural and indigenous communities in Mexico—is skeptical of liberal democracy without dramatic reforms to reduce economic inequal-

ities and grant measures of local self-governance. These two visions are not irreconcilable, but finding a way of integrating them will require a commitment to dialogue and to building a more plural, inclusive, and unified Mexico that can encompass multiple visions of the country's future.

### **Postscript:**

The EZLN has undergone two major changes since this article was written. In July 2003, the Zapatistas announced they were reorganizing their territorial structure. Instead of each autonomous municipality governing itself separately, the pro-Zapatista communities would be grouped into five regional units known as *caracoles* (snails), each with its own Junta de Buen Gobierno (Council of Good Government). The stated objectives were to ensure good governance within Zapatista communities and provide greater uniformity to their political structure, including resolving conflicts among municipalities and ensuring equitable development. The federal and state governments largely indicated their willingness to accept these changes and deal with the Juntas as needed.

In June 2005 the EZLN announced a new phase in its struggle. In the "Sexta Declaración de la Selva Lacandona," the Zapatistas declared that they would now enter a phase of political, though not partisan, activity. This appeared to signal a new period of building alliances with civic organizations in Mexico and abroad around economic and social issues, particularly with those organizations focused on fighting "neoliberalism." While the EZLN did not explicitly suggest that it was giving up the armed struggle, the declaration appeared to be a first step in the direction of a greater insertion into national and international political debates; it might represent an eventual move away from the military option. However, many questions remained. Would the Zapatistas' decision to build alliances with other organizations find echo among civil society organizations? As Mexico entered the period leading to the 2006 elections, would the EZLN be effective in getting its issues on the public agenda or would it be lost as other political debates took center stage? Would the Zapatistas or the government renew interest in talks on ending the conflict in Chiapas? As of this writing, it still appeared that neither side had much interest in resolving the conflict itself. The state of armed peace appeared to be here to stay for the time being, at least until a new national and state government could take office in December 2006.



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