



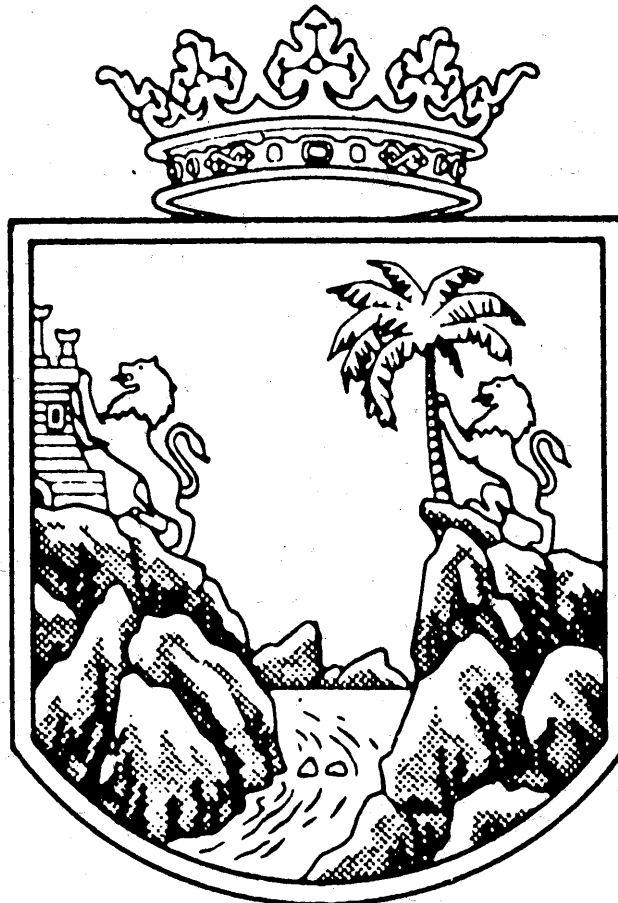
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CONQUEST CONTINUED

DISREGARD FOR HUMAN AND INDIGENOUS RIGHTS
IN THE MEXICAN STATE OF

CHIAPAS

October 1992



Minnesota Advocates
for Human Rights

6-16-92

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DISREGARD FOR HUMAN AND INDIGENOUS RIGHTS IN THE MEXICAN STATE OF CHIAPAS

October 1992

A Report By
Minnesota Advocates
for Human Rights*

* Formerly the Minnesota Lawyers International Human Rights Committee

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CONTENTS

PREFACE	v
SUMMARY	vii
FINDINGS	viii
Landless Peasants and Agrarian Conflict	viii
Arbitrary Arrest and Detention	viii
Aggressive Enforcement of an Oppressive Criminal Code	ix
Political Tyranny and Electoral Conflict	ix
Religious Intolerance and Discrimination	ix
I. INTRODUCTION	1
A. <u>Geographic Isolation and Political Feudalism</u>	3
B. <u>The Failure of the Mexican Agrarian Revolution in Chiapas</u>	4
C. <u>Chiapas as a National Security Interest</u>	7
II. COLLECTIVE VIOLATIONS AGAINST INDIGENOUS PEOPLES	8
A. <u>Mass Arrest in Palenque</u>	9
B. <u>Response of the National Human Rights Commission</u>	11
C. <u>Xi'Nich' March</u>	13
III. GOVERNMENT HARASSMENT OF TARGETED INDIVIDUALS AND INSTITUTIONS	17
A. <u>State Directors of the National Indigenous Institute</u>	18
B. <u>Father Joel Padrón González and the Catholic Church</u>	24
IV. ELECTORAL CONFLICT	28
A. <u>Fraud and Popular Protest</u>	28
B. <u>The Tenejapa Case</u>	30

V.	THE CHIAPAS CRIMINAL CODE: LEGALIZING INJUSTICE	37
A.	<u>Legal Overview</u>	38
B.	<u>Political Crimes</u>	40
	1. Attacks against Patriotic Symbols or National or State Historic Values	41
	2. Rebellion	42
	3. Political Conspiracy and Sedition	44
	4. Rioting or Insurrection	45
	5. Terrorism	47
C.	<u>Overpopulation, Injustice, and Deplorable Conditions in Cerro Hueco Prison</u>	48
VI.	RELIGIOUS INTOLERANCE AND DISCRIMINATION IN SAN JUAN CHAMULA	51
A.	<u>Expulsions and Book-burnings</u>	52
B.	<u>Religious Violence</u>	55
C.	<u>Religious Intolerance and Cultural Rights</u>	56
VII.	AGRARIAN CONFLICT AND CONSTITUTIONAL CHANGES	59
A.	<u>Conflicts Over Land Ownership</u>	59
	1. Stagnant Land Reform	60
	2. The Abasolo Case	62
B.	<u>Constitutional Changes</u>	66
	CONCLUSION AND RECOMMENDATIONS	70
	APPENDICES	74

PREFACE**

The Minnesota Lawyers International Human Rights Committee ("Minnesota Lawyers Committee" or "Committee") has received numerous reports from Mexican human rights activists over the past several years indicating a worsening situation for the respect of human rights in the southeastern state of Chiapas. The state has long had a generally bad reputation for its human rights practices, and frequently has been described as backwards, isolated, and undeveloped. Specific documentation, however, on human rights conditions in Chiapas is relatively scarce in the international human rights community.¹

Responding to this generalized concern in Mexico for the situation in the state, and the corresponding dearth of information, the Minnesota Lawyers Committee sent investigators Daniel L. Gerdts, Carla J. Hagen, and Polly A. Maier to Mexico from 6 to 22 March 1992 to investigate current human rights practices in the state of Chiapas.

During their fact-finding mission the investigators interviewed journalists, lawyers, human rights activists, peasant organizers, clergy, municipal mayors and judges, state government officials in Chiapas, detainees in four Mexican prisons, and many indigenous peasants alleging human rights abuses. Lawyers Committee investigators conducted visits and interviews in the cities of Comitán, Ocosingo, San Cristóbal de las Casas, San Juan Chamula, Tenejapa, and Tuxtla Gutiérrez, all in the state of Chiapas. Other interviews were conducted in Mexico City, and a Committee delegate also briefly joined a group of 300 indigenous peasants marching to Mexico City from Palenque, Chiapas, in protest of the government treatment of the indigenous population of the state.

This report is based on information gathered during those visits and interviews, on academic research, and on additional information supplied by the *Centro de Derechos*

** Minnesota Advocates for Human Rights (MAHR) was formerly the Minnesota Lawyers International Human Rights Committee. This report refers to the organization by its former name which was in use at the time the report was written.

¹ Amnesty International has documented conditions in some rural regions of the state. Its study was based largely on investigations conducted in March 1984. See AMNESTY INTERNATIONAL, MEXICO: HUMAN RIGHTS IN RURAL ZONES (1986).

*Humanos "Fray Bartolomé de las Casas."*² This report was written by Daniel Gerdts, Carla Hagen, and Polly Maier.

The Minnesota Lawyers International Human Rights Human Rights Committee gratefully acknowledges the receipt of a grant from the General Service Foundation which greatly facilitated this project.

² The *Centro de Derechos Humanos "Fray Bartolomé de las Casas"* is a non-governmental human rights group based in San Cristóbal de las Casas, Chiapas. The *Centro* provides human rights defense and advocacy, preferentially on behalf of the poor, through investigation, analysis, and documentation of specific cases of abuse, and through community education, legal consulting, and networking with other organizations.

SUMMARY

The Mexican state of Chiapas has long been noted for its physical beauty, natural wealth, and oppressed indigenous population. After the arrival of the Spanish, and their "conquest" over the indigenous inhabitants of the region, the native Indians suffered centuries of exploitation as a cheap labor force for their conquerors. A Central American province under Spanish colonial rule, Chiapas became a Mexican state in 1824, but the tradition of subjugating its indigenous population did not change.

Debt peonage became an economic institution in the state in the late nineteenth century. Mexico City newspapers even referred to Chiapas during this period as the "slave-state" of Mexico. Although Chiapas has made significant social and economic progress since that time, the state government has not succeeded in shedding its image as oppressor of its indigenous inhabitants and servant to the local interests of landholders and the local political bosses called "caciques." This report by the Minnesota Lawyers International Human Rights Committee largely confirms that image.

Based on its investigation, the Minnesota Lawyers Committee found repression of the indigenous population of Chiapas to be state policy — a policy which has changed very little since the arrival of the first conquering Spanish explorers. One indigenous peasant interviewed by the Minnesota Lawyers Committee cynically opined that the government of Chiapas views the state's indigenous inhabitants merely as decorative, folkloric objects, useful primarily for attracting tourists.

During the past twenty years, significant and sometimes violent social strife has erupted in Chiapas because of discontent with the political and social status quo. Much of the conflict arises from attempts by the indigenous population to recuperate its ownership of agrarian land, and to obtain improved social services and basic infrastructure such as schools, roads, and electricity. The tense social situation was exacerbated in the early 1980s by a heavy influx of peasant refugees from neighboring Guatemala, and by a serious volcanic

eruption in 1982.

The conflict in Chiapas has not ceased. The Indian population continues to demand land reform, self-determination, essential public services, and respect for its basic rights as humans and indigenous people. The government and the powerful elite of Chiapas, despite their protestations to the contrary — despite even their occasional sincere efforts at reform — continue to keep the indigenous population in a condition of poverty, hunger, illiteracy, and subservient dependency.

FINDINGS

- **Landless Peasants and Agrarian Conflict**

The desperate need for agrarian reform, which in large part fueled the bloody Mexican Revolution of 1910, still exists today in Chiapas. Much of the social conflict in the state arises from disputes between indigenous peasants who attempt to extend their rights to suitable agrarian land and others — usually armed, large landowners — who claim that land as their own, and block efforts at reform. The procedures for resolving these disputes are abysmally slow and ineffective. Indigenous peasants have in recent years resorted to squatting on and tilling private land to feed themselves and their families. The response of the landowners and government has been the forcible eviction of hundreds of peasants, destruction of their dwellings, and incarceration of their presumed leaders.

- **Arbitrary Arrest and Detention**

The state government's principal means of maintaining control over its indigenous population — and over others who would advocate its interests — is arbitrary arrest and detention. Despite the illegality of the practice under both international and Mexican law, state security agents in Chiapas do not hesitate to arrest and detain priests, peasants, federal workers, and hundreds of peaceful protesters as a warning to refrain from any social or political activism. Although agents habitually carry out these arrests without the required authority of arrest warrants, state judges routinely ratify the arrests, even when essential evidence is lacking or exculpatory evidence is available. When the illegally detained regain their

freedom, they must bear the costs of the injustice without hope of compensation.

- **Aggressive Enforcement of an Oppressive Criminal Code**

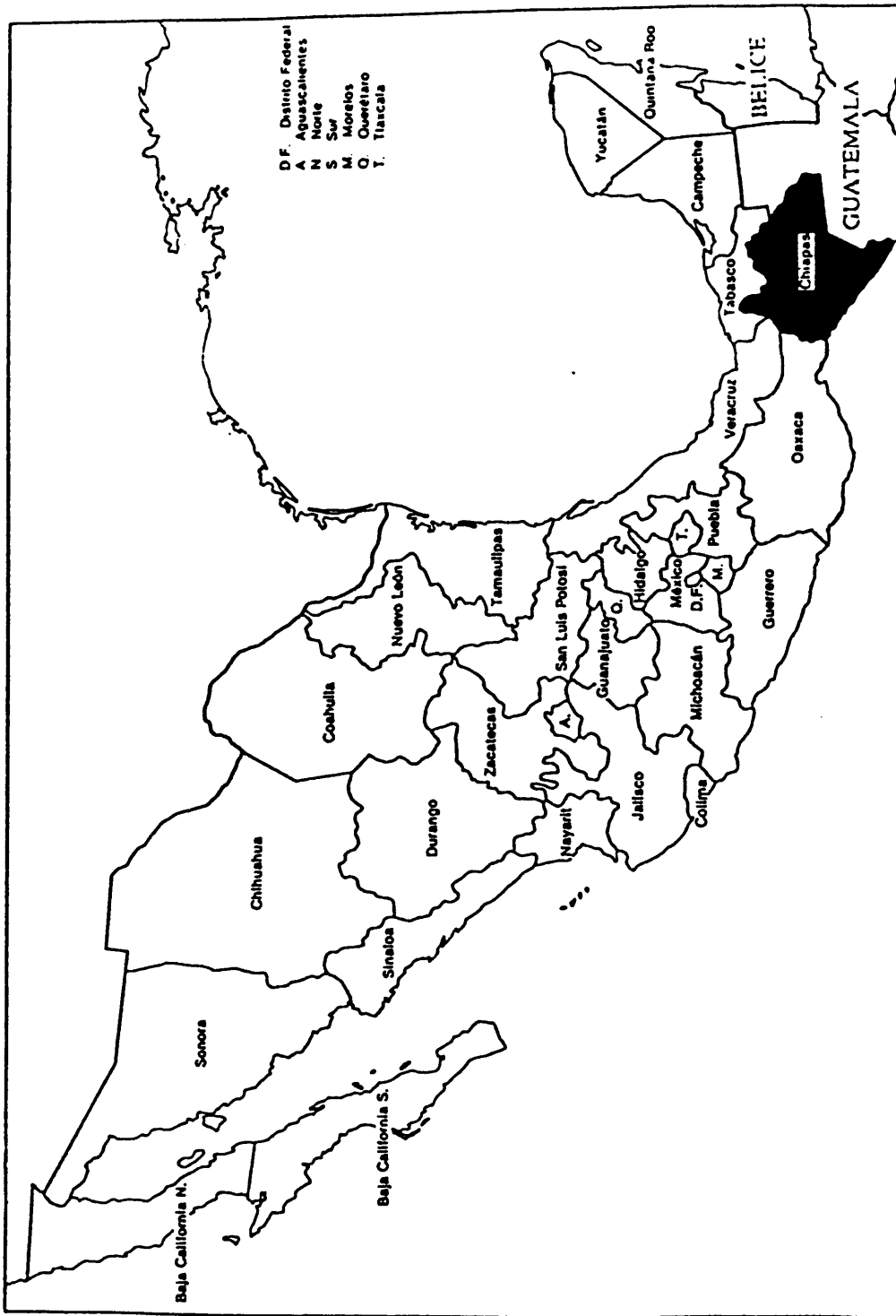
The new criminal code of the state of Chiapas has been used notoriously by the government to oppress its citizenry. The code provides for a variety of vaguely defined political offenses that state government officials have selectively enforced against dissident peasants or political opponents to maintain its tight control over the state population. The code's provisions may be interpreted to criminalize nearly every gathering of people who assemble publicly to protest governmental conduct or inaction. The State's enforcement of those provisions — against even peaceful protesters — has filled its overcrowded prisons with political prisoners.

- **Political Tyranny and Electoral Conflict**

The government's ruling political party, the *Partido Revolucionario Institucional* (the PRI), continues to dominate the political landscape of Chiapas. Charges of electoral fraud and imposition of PRI candidates into mayoral office are common. Regional and local political bosses still wield substantial power, and are reported to control elections and the local economies. Even the current state government admits that the social and economic systems of the state traditionally have been "semi-feudal" in nature. This situation has gravely frustrated the right of the people freely to choose their own leaders.

- **Religious Intolerance and Discrimination**

Although Chiapas shows substantially more religious pluralism today than in past decades, in some regions of the state persons still must keep their religious beliefs and practices secret for fear of ruthless reprisals that include incarceration, fines, and banishment. In municipalities such as San Juan Chamula thousands of indigenous peasants have suffered forcible eviction from their homes and communities ostensibly for not practicing the "correct" religious faith. Community leaders defend the practice of "expulsion" as necessary to preserve their traditional indigenous religion and culture.



I. INTRODUCTION

"The Mexican Nation has a multi-cultural composition originally based in its indigenous peoples. The Law will protect and promote the development of their languages, cultures, rituals, customs, resources and specific forms of social organization, and will guarantee their constituents effective access to the jurisdiction of the State."

Mexican Constitution, Art. 4.³

"Chiapas is a state in which there is a large Indian population, the conditions under which they live are unimaginable, and these conditions are perpetuated by the caciques, who in turn serve the authorities and help control the people."

The PRD's Human Rights Commission, *The Political Violence in Mexico: A Human Rights Affair*.⁴

Chiapas, Mexico's southernmost state, lies on the Pacific Ocean and shares borders with Guatemala and the Mexican states of Oaxaca, Tabasco, and Veracruz. The state's largest city, and seat of state government, is Tuxtla Gutiérrez. Other important cities include Comitán, San Cristóbal de las Casas, and Tapachula. Most of the state is undeveloped and rural.

The state boasts high pine-covered mountains, chains of lakes, dramatic waterfalls, dense jungle, and a Pacific Ocean coastline. It has bustling historic

³ CONSTITUCIÓN POLÍTICA DE LOS ESTADOS UNIDOS MEXICANOS [CONST.] art. 4 (Mex.).

⁴ HUMAN RIGHTS COMMISSION OF THE *PARTIDO DE LA REVOLUCIÓN DEMOCRÁTICO*, *THE POLITICAL VIOLENCE IN MEXICO: A HUMAN RIGHTS AFFAIR* 79 (1992).

cities with cobbled streets and sixteenth-century churches, as well as breathtaking Mayan ruins. The indigenous people who live in Chiapas are descendants of the Maya and speak Mayan languages, such as Tzotzil and Tzeltal. Since the early colonial period, when only Fray Bartolomé de las Casas argued they were human beings with souls, the native people of Chiapas have been subjected to economic, cultural, and political oppression.

Forced to labor as slaves for the Spanish conquistadors, the Indians of Chiapas also lost much of their land and their cultural and religious autonomy to the invaders. Missionaries viewed them as prime raw material for creating a Catholic empire in the New World. Despite the many pressures on them, Chiapas indigenous groups retained their languages, their dress, and many of their customs. They adopted a folk Catholicism, pairing traditional Christian saints with their ancestral gods of wind, rain, and fire.

As Chiapas became more populated by Europeans, its indigenous people eventually were viewed less as a fertile ground for religious conversion and more as an underclass work force. Viewed as stupid, backward, and unclean, they were scorned by the Europeans and *ladinos*⁵ who used them as servants. The word *indio* became an insult.

When indigenous people attempted to claim their rights — usually to land — they were brutally repressed. Large landowners controlled most of the arable soil in the state, and they usually had the help of the army, police, or their own private security personnel to enforce and extend their hegemony.

The notorious injustice in Chiapas stirred a generation of journalists and writers. They created a school of prose called *indigenista* because it dealt with indigenous themes. Rosario Castellanos, for example, raised by an indigenous nurse in Comitán, Chiapas, wrote movingly of the class and race struggles in her native state.

According to census data, Chiapas's population in 1990 was 3,210,496.⁶

⁵ Mexicans of mixed European-Indigenous ancestry.

⁶ See data of the *Instituto Nacional de Estadística, Geografía e Informática*.

As any visitor will note, indigenous people constitute the majority of the population in most parts of the state, though the census data indicate only approximately one fourth of the total population to be indigenous.⁷ These indigenous peoples include Tzotziles, Tzeltales, Choles, Zoques, Tojolobales, and Mames. Other indigenous groups include the Mochós, Cakchiqueles, and Lacandonés, inhabitants of the jungle, whose dwindling numbers now put them in danger of extinction.⁸ Most indigenous people continue to speak their own languages and nearly one quarter to one third of them do not speak Spanish.

A. Geographic Isolation and Political Feudalism

For analytical purposes, Mexico may be divided into three regions: the industrialized and economically advanced North; the agriculturally productive central region, which is also the political and governmental center of the country; and the undeveloped and largely indigenous South. Chiapas, part of Mexico's deep south, is also one of Mexico's most isolated states. This isolation contributes to its poor human rights record and makes reform more difficult.

The oppression of the indigenous inhabitants of the state has been organized for centuries by local caciques, or political power brokers, who wield control of much of the land and politics of the state. Landowners also are reported to hire their own private gunmen to maintain control when necessary. Even the current government of Chiapas admits the "permanence of an economic and social system of a semi-feudal nature" in Chiapas with "grave implications of marginalization and injustice," though, naturally, the government takes credit for what it suggests is a remarkable recent reformation of the system.⁹ The investigation by the Minnesota Lawyers Committee, however, suggests that the momentum of that long historical tradition has not yet been arrested.

⁷ *Id.* The large concentration of Mexicans of European or mixed ancestry in the principal cities probably accounts for their predominance in state population as a whole.

⁸ IV ENCICLOPEDIA DE MÉXICO 2052, 2065-2066 (1987).

⁹ La Jornada, 30 June 1992, at 18, col. 1 (a two-full-page advertisement paid for by the government of the state of Chiapas).

B. The Failure of the Mexican Agrarian Revolution in Chiapas

Many of the social and human rights problems in Chiapas arise in the context of the loss of or attempt to recuperate land by the peasants. A fundamental issue in Mexico since the time of the conquest has been the division and ownership of land. Mexico's violent revolutionary struggle, set off in 1910 after nearly a century of independence, was fought in large part over the issue of equitable land distribution. Throughout the country's history, most of the productive land has remained in the hands of the few — first the Spanish *hidalgos*, then the independent Mexican elite, and today the *de facto* owners of illegally large landholdings.

Since pre-Hispanic times, many indigenous peoples in Mexico have worked and lived on communal village lands. The traditional village common, now called an "*ejido*," is held collectively by the community but distributed in parcels to individual *ejidatarios* and their families for cultivation.¹⁰ A chief characteristic of the *ejido* traditionally has been that the *ejidatario* cannot sell or encumber it, but may only farm it.¹¹

After Spain's conquest of Mexico, the Spanish rulers legally recognized the communal system, but melded traditional communal ownership of land with large, landed estates — *latifundia* — which usually took the form of rural ranches, or *haciendas*. It was typically the Spanish ruling class that owned the *latifundia*, either as individuals or families. Under the feudal structures created after the conquest, the *latifundistas* required the indigenous peoples to provide them with labor, but the peoples retained the right to cultivate their *ejido* land and consume or trade the proceeds of that land.¹² The Spanish also granted corporate status to existing indigenous peasant communities, and gave them inalienable rights to their common lands.¹³

¹⁰ Chevalier, *The Ejido and Political Stability in Mexico*, THE POLITICS OF CONFORMITY IN LATIN AMERICA 161, 162 (1967).

¹¹ But see Chapter VII *infra* and the recent amendments to constitutional article 27.

¹² Interview with Prof. Jeane H. DeLaney, in Minneapolis (26 May 1992).

¹³ *Id.*

After Mexican independence from Spain in the early nineteenth century, however, legal protections on the *ejidos* slowly eroded. The latifundium gained prominence during this same period, and many *ejidos*, viewed as an obstacle to the assimilation of the peasants into a liberal market economy, were absorbed by the large latifundia.¹⁴

The historic 1917 Constitutional Convention, which took place in the midst of revolutionary violence, resurrected the *ejido* system of communal landholding. Article 27 of the 1917 constitution gave the government broad powers to expropriate and redistribute land and resources.¹⁵ It provided the legal basis for breaking up the large latifundia and dividing them among the peasants. Article 27 institutionalized the *ejido* as a form of collective land ownership, declaring *ejidos* inalienable to prevent their reabsorption into the latifundia.¹⁶ *Ejido* land could not be transferred except through inheritance or through reallocation in cases where the *ejidatario* failed to cultivate it.¹⁷ The constitution also recognized the legal ownership of small private properties (*la pequeña propiedad*), but set limits on how much land legally could be owned by the same person or entity.

Because of Chiapas's geographic isolation, however, it took little part in the violent revolutionary struggle that began in 1910. The reforms that followed the revolution, and the agrarian revolution in particular, also left Chiapas relatively untouched. Chiapas today is reported to have the highest level of pending petitions for land reform in the country.¹⁸ Ownership of the most productive land in Chiapas is still in the hands of a small minority of the

¹⁴ Chevalier, *supra* note 10, at 161-162.

¹⁵ CONST. preamble to art. 27 (Mex.).

¹⁶ Chevalier, *supra* note 10, at 163.

¹⁷ *Id.*

¹⁸ Interview with Bishop Samuel Ruiz García, in San Cristóbal de las Casas (13 Mar. 1992). See also T. BENJAMIN, *A RICH LAND, A POOR PEOPLE: POLITICS AND SOCIETY IN MODERN CHIAPAS* 230 (1989) ("By the 1970s there were nearly 4,000 agrarian petitions pending, many decades old and apparently forgotten.").

population. Some of that minority own illegally large tracts of land which they disguise on the official registers by declaring relatives or in-laws as the *de jure* owners of numerous contiguous plots of legal-sized parcels.¹⁹ Other landowners — of legal-sized small landholdings — regularly use plots of land contiguous to their own as if they were an extension of their legal property. The corresponding situation of many poor indigenous inhabitants of the state is that of resident laborer (*peón acasillado*) on the estate of a large land owner.

The glacially slow pace of land reform in Chiapas has generated considerable discontent among the peasants of the state, who also regularly protest the lack of basic infrastructure and social services in the indigenous communities. The indigenous peoples in Chiapas, with the help of opposition political parties and numerous peasant organizations, have begun over the past twenty years to assert their legal rights to land through a successful formula of filing petitions for legal land reform *and* applying political pressure by occupying the land in issue. Such occupations have not all been met kindly, however, and violence frequently has erupted, usually resulting in the forcible removal of the squatters. The indigenous inhabitants of the state also have started to use their political organizing skills to press for improvements or reform in other areas such as public services. Thus the increased political understanding and organization of the indigenous people and the vested interests of the landed elite increasingly have conflicted in recent years.

The current Governor of Chiapas, José Patrocinio González Garrido, came to office with the difficult task of maintaining social and political order in a state where these conflicts have generated considerable political tension. The negotiations for a North American Free Trade Agreement contribute to the problem by creating more political pressure for the governor to maintain social order.

¹⁹ These landholdings are called "disguised latifundia" ("*latifundios disfrazados*") by Mexicans.

C. Chiapas as a National Security Interest

Chiapas is considered a national security interest in Mexico. The state borders Guatemala, and is culturally, historically, and economically more Central American than Mexican. During the Spanish colonial period Chiapas was a Central American province. It was not until 1824 that Chiapas joined the Mexican federation, and then only after several years during which it alternately claimed allegiance to Mexico, declared itself a sovereign nation, and later again part of Guatemalan territory. Guatemala and Mexico nearly waged war over Chiapas.

During the 1970s and 1980s officials in the Mexican government worried that Central America's political turmoil would spill over into Chiapas. Guatemalan troops several times made incursions into Mexican territory in Chiapas in search of refugees thought to provide aid to Guatemala's rebels. These security concerns continue to contribute to the problems in the state by providing the justification for a greater military presence and a higher concentration of other federal and state security personnel. By 1987 approximately 4000 soldiers were stationed in Chiapas.²⁰ These were in addition to the Federal Judicial Police and the two state police forces, the Public Security Police and the State Judicial Police.

Among the tools used by the governor to maintain social order in this tense state is the new criminal code. The code, signed into law the day after the governor took office, allows the police to quell even peaceful protests and demonstrations without breaking the law — state law, at least. It provides the basis for government authorities to declare such gatherings illegal, and for arresting and prosecuting the organizers of these protests.²¹

²⁰ BENJAMIN, *supra* note 18, at 237.

²¹ For a legal critique of the criminal code *see infra* Chapter V.

II. COLLECTIVE VIOLATIONS AGAINST INDIGENOUS PEOPLES

Many political problems and human rights abuses affecting indigenous people in Chiapas arise in the context of agrarian land tenancy disputes. Because these problems often involve *ejidos*, or indigenous communal landholdings, the resulting human rights violations sometimes affect entire communities.²² Massive collective violations may also occur in non-agrarian cases where lack of basic social services or some other socio-political cause brings together large groups of indigenous people to petition for change. The official reaction to such demonstrations frequently is the arrest and detention of dozens, sometimes hundreds, of people.

Events in the lower northern region of the state of Chiapas figured large in the news during early 1992 because of conflicts between the indigenous population and the government. For many years the indigenous people of the region have petitioned the government for basic public services such as water, roads, and electricity. They also have protested the high tax on the farm land in the area around Palenque. The tax is high because the area is considered a "Touristic Zone." The indigenous peasants, however, have little to do with the tourists and consider the tax unjust.²³

The government had issued arrest warrants against many of the Indians participating in the various protests in the region and three Indians reportedly were assassinated by government agents in the late 1980s.²⁴ A social justice

²² See *infra* Chapter VII.

²³ Interview with Oscar Rodríguez Rivera, representative of the *Centro de Apoyo para la Defensa de los Derechos Indígenas*, in Coatzacoalcos, Veracruz (20 Mar. 1992).

²⁴ Press conference statement by Efraín Gutiérrez Gómez, in Coatzacoalcos, Veracruz (20 Mar. 1992) (Gutiérrez Gómez reported the following deaths: Eugenio Aguilar, by agents of the State Public Security Police in 1989; José Daniel López Gómez, by municipal police in Palenque on 13 Mar. 1986; and José Morelo, by the Army in 1984).

movement of indigenous people in the north of Chiapas began after one of the assassinations in 1986.²⁵

A. Mass Arrest in Palenque

"Everyone has the right to freedom of peaceful assembly and association."

Universal Declaration of Human Rights,
Art. 20.²⁶

"An assembly or meeting shall not be considered illegal, and cannot be dissolved, that has as its objective making a petition, or submitting a protest for some act, to an authority, if it does not slander the authority or make use of violence or threats to intimidate or obligate the authority to make a favorable resolution."

Mexican Constitution, Art. 9.

After years of unsuccessful petitions to the government for improvements in basic services, the indigenous peasants in and around Palenque began a peaceful sit-in, or "*plantón*," in the central square of Palenque calling upon the new municipal government to negotiate the old problems, such as the high tax on farms, the civil registration procedures, and the lack of interpreters in the prosecutor's office. The *plantón* began on 26 December 1991. Two days later, on 28 December at 11:00 p.m., 200 agents of the Chiapas Public Security Police and the State Judicial Police forcibly removed the 300 peaceful demonstrators from the square. Eight people suffered grave injuries and 103 were arrested as a result of the operation. The 103 arrested Indians were transferred to Cerro Hueco prison in Tuxtla Gutiérrez.

²⁵ *Id.*

²⁶ Universal Declaration of Human Rights, *adopted* 10 Dec. 1948, G.A. Res. 217A(III), U.N. Doc. A/810, art. 20 (1948).