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The San Andrés Accords

Regarding the documents:

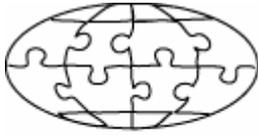
"Joint Declaration That the Federal Government and the Euzln Shall Submit to National Debating and Decision-Making Bodies"

"Joint Proposals That the Federal Government and the Euzln Agree to Submit to National Debating and Decision-Making Bodies, in Respect of Point 1.4 of the Rules of Procedure"

"Commitments for Chiapas Made by the State and Federal Governments and the Euzln, in Respect of Point 1.3 of the Rules of Procedure,"

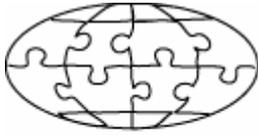
stemming from the first part of the Resolutive Plenary Meeting on the topic of Indigenous Rights and Culture:

- A. The Federal Government, through its delegation, expresses its acceptance of said documents.
- B. The EZLN, through its delegation, expresses its acceptance of said documents. In regard to the issues on which it formulated, at the session on February 14, 1996 of this second part of the Resolutive Plenary Meeting, proposals for additions and substitutions or eliminations in the text of same, in accordance with the results of the consultations carried out by the EZLN, it expresses the following:
 1. The delegation of the EZLN insists in pointing out the lack of solution to the grave national agrarian problem, and the need to amend Article 27 of the Constitution, which should reflect the spirit of Emiliano Zapata, summarized in two basic demands: the land belongs to those who work it, and Land and Freedom. (Document 2 "Joint proposals that the Federal Government and the EZLN agree to submit to national debating and decision-making bodies, in respect of point 1.4 of the Rules of Procedure," page 11, paragraph 5, "Constitutional and Legal Amendments," subparagraph B.)
 2. With regard to sustainable development, the delegation of the EZLN considers it insufficient for the government to compensate indigenous peoples for damage caused on their lands and territories, once the damage has been caused. There is a need to develop a policy of true sustainability that preserves the lands, territories and natural resources of indigenous peoples, in short, that takes into account the social costs of development projects. (Document 1 "Joint declaration that the Federal Government and the EZLN shall submit to national debating and decision-making bodies," page 3, in the subtitle "Principles of the new relationship" subparagraph 2.)



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3. In regard to the topic Situation, Rights and Culture of Indigenous Women, the delegation of the EZLN considers the present points of agreement insufficient. Owing to the triple oppression suffered by indigenous women, as women, as indigenous persons and as poor persons, they demand the building of a new national society, with another economic, political, social and cultural model that includes all Mexicans, both women and men. (Document 3.2 "Actions and measures for Chiapas. Commitments and joint proposals of the State and Federal Governments and the EZLN," page 9.)
4. In general terms the delegation of the EZLN considers it necessary that, in each case, the times and terms in which the agreements should be put into practice be specified and that, to that end, the indigenous peoples and the pertinent authorities should program and schedule their implementation by mutual accord.
5. With regard to guarantees of full access to justice, the delegation of the EZLN considers that the need to appoint interpreters in all trials and lawsuits involving indigenous persons should not be ignored, ensuring that said interpreters are expressly accepted by the accused and that they know the language and are familiar with the indigenous culture and legal system. (Document 2 "Joint proposals that the Federal Government and the EZLN agree to submit to national debating and decision-making bodies, in respect of point 1.4 of the Rules of Procedure," page 6, subtitle "Guarantees of full access to justice.")
6. The delegation of the EZLN considers it essential that legislation be passed to protect the rights of migrants, both indigenous and non-indigenous, within and outside national borders. (Document 1 "Joint declaration that the Federal Government and the EZLN shall submit to national debating and decision-making bodies," page 5, point 8, subtitle "Protecting indigenous migrants".)
7. In order to strengthen the municipalities, the delegation of the EZLN considers that explicit commitments by the government are required to guarantee their access to adequate infrastructure, training and economic resources. (Document 2 "Joint proposals that the Federal Government and the EZLN agree to submit to national debating and decision-making bodies, in respect of point 1.4 of the Rules of Procedure," page 3.)
8. With regard to the communications media, the delegation of the EZLN considers it necessary that access be guaranteed to reliable, timely and sufficient information on the government's activities, as well as access by indigenous peoples to existing communications media, and that the right of indigenous peoples to have their own communications media (radio broadcasting, television, telephone, press, fax, communication radios, computers and satellite access) be guaranteed. (Document 2 "Joint proposals that the Federal Government and the EZLN agree to submit to national debating and decision-making bodies, in respect of point 1.4 of the Rules of Procedure," page 9, point 8 "Communications media".)



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- C. In regard to the parts of the documents to which subparagraph B refers, both delegations agree that, at the time that they identify by common accord during the dialogue, they shall exhaust negotiation efforts on same.
- D. The parties shall submit to national debating and decision-making bodies and to other pertinent bodies the three accompanying documents, which contain the agreements and commitments reached by the parties.
- E. Both parties assume the commitment to submit the present resolution to national debating and decision-making bodies and to the pertinent bodies of the state of Chiapas, in the understanding that the points indicated in subparagraph B should also be considered by said bodies as material resulting from the dialogue.

The present document and three documents that accompany it have been duly legalized as agreements under the terms of the Rules of Procedure and of the Law for Dialogue, Conciliation and Dignified Peace in Chiapas, and are incorporated as such into the Agreement for Concord and Pacification with Justice and Dignity.

February 16, 1996.



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Document 1

Joint Declaration That the Federal Government and the Ezn Shall Submit to National Debating and Decision-Making Bodies

February 16, 1996

Within the framework of the dialogue between the EZLN and the Federal Government to reach an Agreement for Concord and Pacification with Justice and Dignity, held at San Andrés, Chiapas, the Parties have discussed the topic of Indigenous Rights and Culture and have agreed, under the terms of subparagraph 1.5 of the Rules of Procedure, to issue the present declaration.

The Resolutive Plenary Meeting of the EZLN and the Federal Government on Indigenous Rights and Culture is the most appropriate occasion and forum for the Federal Government and the EZLN to present the proposal for a "New relationship between indigenous peoples and the State."

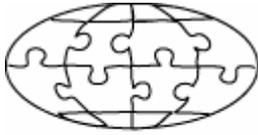
This declaration contains the necessary principles and foundations for building a social pact to establish a new relationship between indigenous peoples, society and the State. This social pact for a new relationship is based on the conviction that a new national and local situation for indigenous peoples will only take root and culminate with the participation of the indigenous peoples themselves and society as a whole, within the framework of a thorough-going reform of the State.

Context of the New Relationship

1. History confirms that indigenous peoples have been the object of forms of subordination, inequality and discrimination which have determined a structural situation of poverty, exploitation and political exclusion. It also confirms that they have persisted in the presence of a legal order whose ideal has been cultural standardization and assimilation. It confirms, finally, that overcoming that reality requires new, profound, participatory and converging actions on the part of government and society, including, above all, indigenous peoples themselves.

It requires a new State policy, not circumstantial, which the current Federal Government commits itself to developing within the framework of a thorough-going reform of the State which promotes actions to raise the levels of well-being, development and justice of indigenous peoples and strengthens their participation in the various decision-making bodies and processes, with an inclusive policy.

It requires the cooperation of all citizens and civil organizations, which the current Federal Government commits itself to favoring, in order to do away with discriminatory mentalities, attitudes and behavior toward indigenous peoples, and to develop a culture of plurality and tolerance that accepts their views of the world, their ways of life and their ideas of development.



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2. It requires the participation of indigenous peoples, which the current Federal Government commits itself to recognizing and encouraging, so that they become the key players in decisions affecting their lives, and reaffirm their condition as Mexicans with full exercise of the rights they have rightfully earned for their role in the building of Mexico.

In short, it requires a new effort of national unity, which the current Federal Government, with the participation of indigenous peoples and society as a whole, commits itself to promoting, so that there are no Mexicans with restricted capabilities, which should serve to aggrandize Mexico by proudly assuming the centuries-old history and spiritual wealth of indigenous peoples and to fully develop all of its economic, political, social and cultural capabilities.

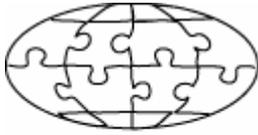
3. The conditions of poverty and marginalization affecting indigenous peoples reflect the unequal nature of the development of Mexican society and define the scope of the demands for social justice that the State should address in order to contribute to the progress of this important nucleus of Mexicans.

The Federal Government is conscious of that responsibility and expresses its firm will to promote the policies and undertake the actions to deal with that national task. It fully assumes the commitment to strengthen the participation of indigenous peoples in national development, within a framework of respect for their traditions, institutions and social organizations, and of greater opportunities to improve their living standards, of broader political and cultural spaces for future progress, and of greater access to the joint building of a more modern and efficient society, more vigorous and united, more pluralistic and tolerant, that equitably distributes the benefits of development. Indigenous peoples will contribute with the best of their own cultures to that building of a pluralistic and tolerant society.

Mexico's development prospects are closely contingent upon the historical task of eliminating poverty and marginalization and insufficient political participation by millions of Mexican indigenous people. The objective of building a more just and less unequal society is the cornerstone for attaining more modern development and building a more democratic society. These goals are an essential part of the national project that the Mexican people want, not only as a moral commitment of society and of indigenous peoples and as an unavoidable responsibility of the Government of the Republic, but also as an indispensable condition for ensuring progress towards better levels of national development.

For the Federal Government, the historical task and the current social and structural demand of combatting the poverty and marginalization of indigenous peoples requires their participation and that of society as a whole as key factors for promoting the necessary establishment of a new relationship between the country's indigenous peoples and the State, its institutions and levels of government.

This new relationship should overcome the proposition of cultural integration to recognize indigenous peoples as new subjects of law, in view of their historical origin, their demands, the pluricultural nature of the Mexican nation and the international



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commitments signed by the Mexican State, particularly Convention 169 of the ILO.

The Federal Government assumes that the establishment of this new relationship with indigenous peoples assigns it the commitment of contributing to solving their essential problems, and that this action should be expressed by systematic and specific policies, in keeping with the patterns imposed by regional diversities and the characteristics of each indigenous people.

Commitments of the Federal Government to Indigenous Peoples

3. The responsibilities that the Federal Government takes on as commitments that the Mexican State should fulfill with indigenous peoples in their new relationship are:
 1. Recognizing indigenous peoples in the general Constitution. The State should promote recognition, as a constitutional guarantee, of the right to free determination of indigenous peoples, who are those who "descend from populations that inhabited the country during the era of the conquest or colonization and of the establishment of the current state borders and that, irrespective of their legal status, conserve their own social, economic, cultural and political institutions, or part of them. Awareness of their indigenous identity should be considered a fundamental criterion for determining the groups to which the provisions on indigenous peoples apply." The right to free determination shall be exercised within a constitutional framework of autonomy, ensuring national unity. They may, consequently, decide upon their form of internal government and their ways of organizing themselves politically, socially, economically and culturally. The constitutional framework of autonomy will make it possible to attain the effectiveness of social, economic, cultural and political rights with respect to their identity.
 2. Broadening political participation and representation. The State should promote legal and legislative changes to broaden local and national political participation and representation of indigenous peoples, respecting their different situations and traditions, and strengthening a new federalism in the Mexican Republic. The claim that the voices and demands of indigenous peoples be heard and addressed should lead to recognition of the political, economic, social and cultural rights of indigenous peoples, within the framework of the Mexican nation, and to a decisive reform of the State with regard to institutional practices. The Federal Government shall promote the constitutional and legal amendments that correspond to the agreements and consensuses reached.
 3. Guaranteeing full access to justice. The State should ensure full access by indigenous peoples to the jurisdiction of the Mexican State, with recognition of and respect for cultural specificities and for their internal regulatory systems, guaranteeing full respect for human rights. It shall promote that Mexican substantive law recognize the authorities, norms and internal dispute settlement procedures of indigenous peoples and communities, in order to administer justice on the basis of their internal regulatory systems, and that their proceedings and



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decisions be accredited by the State's jurisdictional authorities by means of simple procedures.

4. Promoting the cultural manifestations of indigenous peoples. The State should promote national and local cultural policies of recognition and broadening of the spaces of indigenous peoples for the production, recreation and dissemination of their cultures; of promotion and coordination of the activities of institutions dedicated to the development of indigenous cultures, with the active participation of indigenous peoples, and of incorporation of the knowledge of different cultural practices into the study plans and programs of public and private educational institutions. Knowledge of indigenous cultures is national enrichment and a necessary step in eliminating misunderstandings and discrimination towards indigenous peoples.
5. Ensuring education and training. The State should ensure for indigenous peoples an education that respects and takes advantage of their knowledge, traditions and forms of organization. With processes of comprehensive education in the communities that broaden their access to culture, science and technology; professional education to improve their development prospects; training and technical assistance that improves the production processes and quality of their goods; and training for organization that raises communities' management capacities. The State should respect the educational activities of indigenous peoples within their own cultural space. The education provided by the State should be intercultural. Impetus shall be given to the integration of regional educational networks that offer the communities the possibility of access to the different levels of education.
6. Guaranteeing satisfaction of basic needs. The State should guarantee conditions for indigenous peoples that allow them to take care of their nutrition, health care and housing services in a satisfactory manner and at least an acceptable level of well-being. Social policy shall promote priority programs so that the infant population of indigenous peoples improves its levels of health and nutrition, and support is provided for the activities and training of indigenous women.
7. Promoting production and employment. The State should promote the economic base of indigenous peoples with specific development strategies agreed upon with them, that take advantage of their human capabilities by means of industrial and agroindustrial activities that cover their needs and produce surpluses for sale in markets, that contribute to generating employment through production processes that increase the added value of their resources and that improve the provision of basic services in the communities and their regional environment. Indigenous communities' rural development programs shall be supported by planning processes in which their representatives shall play a central role from the design stage until execution.
8. Protecting indigenous migrants. The State should promote specific social policies to protect indigenous migrants both within the national territory and beyond its

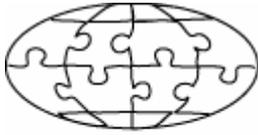


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borders, with interinstitutional actions of support for the work and education of women, of health care and education for children and young people, which in rural regions should be coordinated in the areas of contribution and of attraction of agricultural day laborers.

Principles of the New Relationship

4. The Federal Government undertakes the commitment that the Principles that should govern the actions of the State in its new relationship with indigenous peoples are:
 1. Pluralism. The dealings between the peoples and cultures that make up Mexican society should be based on respect for their differences, under the assumption of their fundamental equality. Consequently, it should be the policy of the State to regulate its own actions and foster a pluralistic approach in society which actively combats all forms of discrimination and corrects economic and social inequalities. It will be equally necessary to advance toward the design of a legal order nourished by a pluricultural approach that lessens intercultural dialogue, with common standards for all Mexicans and respect for the internal regulatory systems of indigenous peoples. Recognition and promotion of the pluricultural nature of the nation means that, in order to strengthen the culture of diversity and tolerance within a framework of national unity, the actions of the State and its institutions should be carried out without making distinctions between indigenous and non-indigenous persons or in the face of any collective sociocultural option. The nation's development should be supported by plurality, understood as the peaceful, productive, respectful and equitable coexistence of diversity.
 2. Sustainability. It is essential and urgent to ensure the continuance of nature and culture in the terms used in some way by indigenous peoples, as defined in Article 13.2 of Convention 169 of the ILO. By respecting the cultural diversity of indigenous peoples, the actions of the Mexican State's levels of government and institutions should consider criteria of sustainability. The traditional means of tapping natural resources put into practice by indigenous peoples and communities form part of their legislative strategies, of the right of indigenous peoples and communities to receive the corresponding settlement when the tapping of natural resources carried out by the State causes damage in their habitat which harms their cultural reproduction. In cases in which damage has already been caused and the peoples show that the settlement granted does not permit their cultural reproduction, the establishment of review mechanisms to allow the State and those affected to jointly analyze the specific case shall be promoted. In both cases the settlement mechanisms shall seek to ensure the sustainable development of indigenous peoples and communities. By common accord with the indigenous peoples, the State shall promote actions to rehabilitate those territories as defined in Article 13.2 of Convention 169 of the ILO, and shall support its initiatives to create conditions that ensure the sustainability of their production and living practices.



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3. **Comprehensiveness.** The State should promote comprehensive and concurrent actions by the institutions and levels of government that influence the life of indigenous peoples, avoiding partial approaches that make public policies react. It should also favor honest and transparent management of the public resources allocated to the development of indigenous peoples, by means of greater indigenous participation in decision-making and in the social comptrollership of public spending.
4. The state should encourage institutional actions promoting the participation of indigenous peoples and communities and respecting their forms of internal organization, in order to attain the goal of strengthening their capacity to be decisive players in their own development. It should promote, in collaboration with the organizational expressions of indigenous peoples, that they strengthen their own capabilities for decision-making and management. And it should ensure appropriate joint responsibility by the government and indigenous peoples in the design, planning, execution and evaluation of actions that have a bearing on indigenous persons. Since policies in indigenous areas should not only be conceived with the peoples themselves but also implemented with them, the current indigenist and social development institutions operating there should be transformed into others conceived and operated jointly with the State by indigenous peoples themselves.
5. **Free determination.** The State shall respect the exercise of free determination of indigenous peoples in each of the spheres and levels in which they will enforce and practice their separate autonomy, without detriment to national sovereignty and within the new regulatory framework for indigenous peoples. This involves respecting their identities, cultures and forms of social organization. It shall also respect the capabilities of indigenous peoples and communities to determine their own development. And as long as the national and public interest is respected, the Mexican State's different levels of government and institutions shall not intervene unilaterally in the affairs and decisions of indigenous peoples and communities, in their organizations and forms of representation, and in their current strategies for the tapping of natural resources.

New Legal Framework

5. The establishment of the new relationship between indigenous peoples and the State is necessarily based on the building of a new legal framework at national level and in the states. The Federal Government assumes the commitment to promote the following actions:
 1. Recognition in the national Political Constitution of indigenous demands that should be embodied as legitimate rights.
 - a. Political rights. To strengthen their political representation and participation in the legislatures and in the government, with respect for



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their traditions and in order to guarantee the validity of their own forms of internal government.

- b. Jurisdictional rights. To accept their own procedures to designate their authorities and their regulatory systems for the settlement of internal disputes, with respect for human rights.
 - c. Social rights. To guarantee their forms of social organization, satisfaction of their essential human needs and their internal institutions.
 - d. Economic rights. To develop their organization schemes and alternatives for work and improve efficiency in production.
 - e. Cultural rights. To develop their creativity and cultural diversity and the continuance of their identities.
2. Recognition in national legislation of the communities as public law entities, the right of free association in municipalities with predominantly indigenous populations, as well as the right of various municipalities to associate, in order to coordinate their actions as indigenous peoples. The competent authorities shall carry out the gradual and orderly transfer of resources, so that they themselves administer the public funds allocated to them, and to strengthen indigenous participation in government, management and administration in their different spheres and levels. It will be the task of the state legislatures to determine, if applicable, the functions and powers that could be transferred to them.
 3. Recognition that the characteristics of free determination and autonomy that best express the diverse and legitimate situations and aspirations of indigenous peoples should be established in the legislation of the states of the Republic.

In determining the legal framework and defining particular aspects of the new relationship between the State and indigenous peoples, the Legislative Branch shall be decisive. The Government of the Republic shall propose to the Congress of the Union that it establish a new national legal framework for indigenous peoples, and to state congresses that they legally embody the specificities that best reflect the diverse situations and aspirations of the country's indigenous peoples.

4. Various articles in the Constitution of the Republic should be amended. The Federal Government commits itself to promoting the following amendments:
 - a. Article 4. So that the demands indicated above (points 1 and 2) are embodied as legitimate rights.
 - b. Article 115. So that the federal pact is strengthened and the participation of indigenous communities in public affairs is guaranteed in the composition of town councils and of predominantly indigenous municipalities.



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- c. Other articles concerning the above-mentioned amendments and to express the content of the new relationship between the State and indigenous peoples in the Constitution.
5. The corresponding regulatory laws and legal instruments of a formal nature should establish the provisions to make them compatible with the constitutional amendments on new indigenous rights.

In this regard, the Federal Government commits itself to promoting, on the basis of the constitutional amendments, the issuance of the general legislation making it possible immediately to count on legal mechanisms and procedures so that

- a. the review and amendment of different federal laws is initiated;
 - b. legislation is passed in the states of the Republic.
6. In the legislation of the states of the Republic relative to the characteristics of indigenous free determination and autonomy, the Federal Government recognizes that the following elements should be taken into account:
 - a. Where different indigenous peoples with different cultures and geographical situations coexist, it would not be appropriate to adopt a uniform criterion on the characteristics of indigenous autonomy to be legislated.
 - b. The different specific forms of autonomy should be defined with the indigenous peoples themselves.
 - c. In order to determine in a flexible manner the specific forms of free determination and autonomy which best reflect each indigenous people's situation and aspirations, several criteria should be considered, such as: the validity of its internal regulatory systems and community institutions; the degrees of intercommunity, intermunicipal and state relationship; the presence and relationship between indigenous and non-indigenous peoples; the pattern of population settlements and the geographical situation; the degrees of participation in political representation bodies and levels of government, among others.

The Federal Government commits itself, within a framework of full republican respect, to promoting that the Governments and legislatures of the states of the Republic consider, among others, these elements as criteria in legislation to build the characteristics of indigenous free determination and autonomy.



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Conclusion

1. The conflict that began on January 1, 1994 in Chiapas produced the feeling in Mexican society that a new relationship between the State and society and the country's indigenous peoples was necessary.
2. The Federal Government undertakes the commitment to construct, with the different sectors of society and in a new federalism, a new social pact that modifies at the root social, political, economic and cultural relations with indigenous peoples. The pact should eradicate the daily forms of public life that generate and reproduce subordination, inequality and discrimination and should make effective the rights and guarantees that pertain to them: the right to their cultural difference; the right to their habitat; the use and enjoyment of the territory in accordance with Article 13.2 of Convention 169 of the ILO; the right to community political self-management; the right to the development of their culture; the right to their traditional systems of production; the right to the management and execution of their own development projects.
3. The new relationship between the Mexican State and indigenous peoples is based on respect for difference, on recognition of indigenous identities as intrinsic components of our nationality, and on acceptance of their particular characteristics as basic elements consubstantial with our legal order, based on pluricultural relations.

The new relationship between indigenous peoples and the Mexican State should guarantee inclusion, ongoing dialogue, and consensus on development in all its aspects. Neither a unilateral approach nor underestimation of indigenous capabilities in building their future shall define State policies.

Quite the contrary: it will be the indigenous people who, within the framework of the Constitution and in full enjoyment of their rights, will decide on means and methods for directing their own transformational processes.



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Document 2

Joint Proposals That the Federal Government and the Ezln Agree to Remit to the National Debating and Decision-Making Bodies in Accordance with Paragraph 1.4 Of the Rules of Procedure

16 February 1996

The parties agree to remit the following proposals, jointly agreed upon, to the national debating and decision-making bodies:

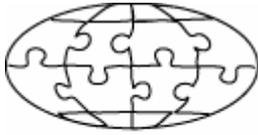
In the framework of the new relationship between the State and the indigenous peoples, their rights need to be recognized, assured, and guaranteed under a renewed federalist arrangement. This goal implies working for reforms and amendments to the Federal Constitution, to the laws that derive from it, and to the state constitutions and local legislation, in order to agree upon, first, the establishment of general bases that will ensure the nation's objectives and unity and, second, to provide states with a real possibility of legislating and acting in accordance with the particular features of the indigenous component of each.

I

1. Promoting a far-reaching transformation of the State and of its political, social, cultural, and economic relations with the indigenous peoples that will satisfy their demands for justice.
2. Promoting the introduction of a new, inclusive social pact based on awareness of the fundamental plurality of Mexican society and on the contribution that the indigenous peoples can make to national unity through the constitutional recognition of the rights and, in particular, of their right to self-determination and autonomy.
3. The legal amendments introduced must be based on the fundamental legal precept of the equality of all Mexicans before the law and the judiciary and on the rejection of special jurisdictions that would privilege certain individuals, respecting the principle that the Mexican nation has a multicultural composition that originally stems from its indigenous peoples.
4. The constitutional amendments represent a central point for the indigenous peoples' new relationship with the State within the framework of the reform of the State, in order to ensure that their demands enjoy the support of the rule of law.

II

1. The creation of a new legal framework that will establish a new relationship between the indigenous peoples and the State, based on recognition of their right to self-determination and of the legal, political, social, economic, and cultural rights derived therefrom. The new constitutional provisions must include a framework of autonomy.



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2. This legal framework has to be built on the basis of recognition for the self-determination of the indigenous peoples which, by reason of their historical continuity with the societies that predated the imposition of the colonial regime, maintain their own identities, awareness thereof, and the will to preserve them based on their particular different cultural, social, political, and economic characteristics. These features make them peoples and, as such, they are entitled to the right of self-determination.

Autonomy is the concrete expression of the exercise of the right of self-determination, expressed as a framework erected as a part of the National State. The indigenous peoples may therefore decide on their forms of internal governance and the ways in which they organize themselves politically, socially, economically, and culturally. Within the new constitutional framework of autonomy, the exercise of the indigenous peoples' right to self-determination in each of the spheres in which they choose to make use of it shall be respected, and this right may cover one or more indigenous peoples in accordance with the particular and specific circumstances of each state. The indigenous peoples' exercise of autonomy will contribute to the unity and democratization of the nation's life and will strengthen the country's sovereignty.

It is appropriate to recognize, as one of the indigenous peoples' basic demands, their right to autonomy as collectives with different cultures and with the ability to decide on issues central to them within the framework of the National State. This recognition is based on Convention 169 of the ILO as ratified by the Federal Senate. Thus, the recognition of autonomy is based on the concept of indigenous people as defined by notions of history and of national identity.

3. The nation's laws must recognize the indigenous peoples' entitlement to the rights of self-determination and autonomy,
4. It is suggested that the Congress of the Union should, in the nation's laws, acknowledge that communities, as entities under public law, enjoy the right to freely associate in municipalities with a majority indigenous population and the right of several municipalities to associate with each other in order to coordinate their actions as indigenous peoples.

The competent authorities shall undertake the gradual and orderly transfer of resources, so that the indigenous peoples can themselves administer the public funds they are assigned and in order to strengthen indigenous participation in the different levels and spheres of government, control, and administration. It shall fall to the state legislatures to determine what, if any, functions and powers can be transferred to them.

The state legislatures may undertake the redefinition of municipal boundaries in those territories inhabited by indigenous peoples based on consultation with the inhabitants thereof.

In order to strengthen the federal pact, a thorough revision is needed not only of the relations between the Federation and the state governments, but also between those governments and the municipalities.

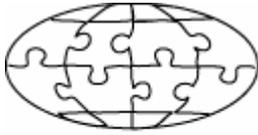


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The creation of municipalities with majority indigenous populations is proposed not merely as a different type of municipality, but rather as that type in which said political institution's general conceptual framework will allow indigenous participation in its creation and conformation and, at the same time, encourage and incorporate the indigenous communities in the creation of municipal authorities.

With regard to municipalities with majority indigenous populations and to reaffirm the full sense of the free municipality upon which federalism is based, it is deemed necessary to strengthen them constitutionally so that:

- a. they are provided with powers to guarantee enjoyment of autonomy by the indigenous peoples;
 - b. the organization set forth in the Organic Municipality Law is revised in order to adapt and orient them to the new challenges of development and, most particularly, to indigenous peoples' needs and new forms of organization.
5. It is proposed that the Federal Congress and state legislatures should recognize and establish the characteristics of self-determination and the levels and forms of autonomy, bearing in mind that this entails:
- a. *Territory.* All indigenous peoples inhabit a territory covering the entire habitat that they occupy or in some way use. This territory is the material basis for their reproduction as a people and the expression of the indissoluble unity between man, land, and nature.
 - b. *Sphere of application.* The jurisdiction is the spatial, material, and personal sphere of currency and validity in which the indigenous peoples exercise their rights. The Mexican State shall recognize the existence thereof.
 - c. *Authorities.* It is necessary to configure powers concurrent with the agencies of the federal, state, and municipal governments, together with a distribution of authorities covering political, administrative, economic, social, cultural, educational, and judicial matters, the management of resources, and environmental protection among these political bodies of the government of the Mexican State, in order to offer a timely response to the indigenous peoples' requirements and demands. Similarly, it is necessary to specify the powers, functions, and resources that may be transferred to indigenous peoples and communities pursuant to the guidelines set forth in Paragraph 5.2 of the "Joint Declarations" document, together with the different mechanisms for participation by these communities and peoples vis-à-vis government agencies, enabling their interaction and the coordination of their actions with those agencies, particularly at the municipal level.
 - d. *Independent development.* It is the indigenous peoples and communities themselves who must decide on their development programs and projects. It is therefore deemed appropriate for the local and federal legislatures to incorporate



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appropriate mechanisms to encourage the indigenous peoples' participation in all levels of development planning, in order for such planning to be designed in accordance with their aspirations, needs, and priorities.

- e. *Participation on national and state representative bodies.* The national and local political representation and participation of the indigenous peoples needs to be ensured in the legislative arena and within the different levels of government, with respect for their different socio-cultural characteristics, in order to construct a new federalism.

It is proposed that the Congress of the Union should recognize, in the constitutional and political amendments they reach, the right of indigenous women to participate, on an equal footing with men, at all levels of government as well as in the development of the indigenous peoples.

6. It is proposed that the Congress of the Union and the legislatures of the nation's states, in recognition of indigenous autonomy and for the determination of its levels, should take into consideration the main rights enshrined therein, with the establishment of the mechanisms needed to ensure their free exercise. Said rights include, primarily, the following:
 - a. the right to develop their particular forms of social, cultural, political, and economic organization;
 - b. obtaining recognition for their internal systems of governance as they apply to regulation and punishment, provided they do not infringe constitutional guarantees or human rights, particularly those applicable to women;
 - c. improved access to the legal protection of the State;
 - d. collective access to the use and enjoyment of natural resources, except for those over which direct control falls to the Nation;
 - e. promoting the development of the different components of their identity and cultural heritage;
 - f. interacting at the different levels of political representation, of government, and of the administration of justice;
 - g. agreeing, with other communities of their people or of other peoples, to combine efforts and coordinate actions for the optimization of their resources, the furtherance of regional development projects and, in general, the promotion and defense of their interests;
 - h. freely appointing their representatives, both within their communities and on municipal government bodies, and their authorities as indigenous peoples, in accordance with the particular institutions and traditions of each people;



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- i. promoting and developing their languages and cultures, together with their political, social, economic, religious, and cultural customs and traditions.

III

1. *Expanded political participation and representation. Strengthened municipalities.* At the constitutional level, mechanisms should be provided to:
 - a. ensure adequate political representation of indigenous peoples and communities in the Congress of the Union and local legislatures, including new guidelines for the demarcation of electoral districts inhabited by indigenous peoples and communities;
 - b. allow their participation in electoral processes without the need for the participation of political parties;
 - c. guarantee the effective participation of indigenous peoples in the dissemination and oversight of those processes;
 - d. guarantee the organization of the indigenous peoples' and communities' own electoral or appointment processes at the internal level;
 - e. recognize systems of community office and other organizational forms, methods for appointing representatives and decision-making by assemblies, and popular consultation;
 - f. establish that municipal agents or officials are to be elected or, if applicable, appointed by the corresponding peoples or communities;
 - g. provide, within state legislation, for mechanisms to allow the review and, when applicable, the modification of municipality names at the request of the inhabitants of the affected areas.
2. *Guarantee of full access to justice.* The State must guarantee the peoples' full access to the jurisdiction of the Mexican state, with recognition of and respect for their own internal systems of governance and guaranteeing full observance of human rights. It shall work for the recognition by Mexican positive law of authorities, rules, and procedures for resolving internal conflicts, to be understood as referring to conflicts in the internal coexistence of the peoples and communities, for the administration of justice in accordance with their internal systems of governance, and, by means of simple procedures, for their rulings and decisions to enjoy the validation of the judicial authorities of the State.

The jurisdiction of appointed authorities within the communities, indigenous peoples, and municipalities must be recognized by means of a redistribution of powers from the state sphere, enabling those authorities to settle internal disputes of coexistence, the recognition and resolution of which will lead to an improved administration of justice and enforcement of the law.



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The marginalization in which the indigenous peoples live and their underprivileged conditions of access to the justice system make it necessary to thoroughly review the federal and state judicial framework, in order to guarantee effective access by indigenous peoples and, when appropriate, the members thereof to the jurisdiction of the State, thereby avoiding a one-sided administration of justice harmful to this sector of the population.

The legislative amendments that elaborate on the internal systems of governance should stipulate that when sanctions are imposed on members of indigenous peoples, the economic, social, and cultural characteristics of the individuals being sanctioned must be taken into account, preference must be given to punishments other than imprisonment and, preferably, they must be allowed to serve their sentences in the establishments closest to their homes; when applicable, encouragement must be given for their reintegration into the community, which is an essential mechanism of social readaptation.

Emphasis shall be placed on the judicial practices and customs of indigenous communities as a source of law applicable to the procedures and resolution of disputes under their authority; in addition, as a constitutional guarantee, they should be taken into consideration at federal and local trials in which indigenous people are involved.

3. *Understanding of and respect for indigenous culture.* It is necessary to enshrine, at the constitutional level, the right of all Mexicans to a multicultural education that recognizes, disseminates, and promotes the history, customs, traditions, and general culture of the indigenous peoples, who are the root of our national identity.

The Federal Government shall promote the laws and policies necessary for the indigenous languages of each state to enjoy the same social value as Spanish, and it shall promote the development of practices to prevent discrimination against them in legal and administrative proceedings.

The Federal Government undertakes to promote, develop, preserve, and practice education in indigenous languages; acquisition of reading and writing skills in their own languages shall be encouraged, and measures shall be adopted to guarantee these peoples the opportunity to learn and master Spanish.

Understanding indigenous cultures enriches the nation and is a necessary step for eliminating incomprehension of and discrimination against indigenous people.

4. *Comprehensive indigenous education.* The governments agree to respect the educational undertakings of the indigenous peoples within their own cultural spheres. The allocation of financial, material, and human resources shall be carried out equitably in order to design and implement educational and cultural activities as decided upon by the indigenous peoples and communities.

The State shall make good on the indigenous peoples' right to a free, quality education; it shall promote the involvement of indigenous peoples and communities in selecting,



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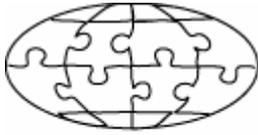
accepting, and removing their teachers in accordance with academic and professional performance criteria previously agreed upon by the indigenous peoples and the appropriate authorities; and it shall create committees to monitor educational quality within its institutions.

The right of indigenous peoples to a bilingual and intercultural education is reaffirmed. The states, in consultation with the indigenous peoples, shall be empowered to define and develop academic programs with regional contents, in which their cultural heritage must be recognized. Through education it will be possible to ensure the use and development of indigenous languages, together with the participation of the peoples and communities in accordance with the spirit of Convention 169 of the ILO.

5. *The satisfaction of basic needs.* The State must promote mechanisms to guarantee indigenous peoples conditions that will allow them to take satisfactory charge of their food, health, housing, and, at the very least, an adequate level of well-being. Social policy must promote priority programs to improve health and nutritional standards among the children of indigenous peoples; it must also support, on an egalitarian basis, the training of women, expanding their participation in the organization and development of the family and the community. Priority must be given to the involvement of indigenous women in decisions regarding projects for economic, political, social, and cultural development.
6. *Production and employment.* In the past, development models have not taken the productive systems of the indigenous peoples into account. Consequently, making full use of their potential must be encouraged.

It is necessary to work for the recognition, within the federal and state levels of Mexico's legal system, of the indigenous peoples' right to the sustainable use and to all the benefits that derive from the use or exploitation of natural resources in the territories that they in some way occupy or use, so that, in a framework of global development, economic backwardness and isolation can be overcome; this also requires an increase in and reorientation of social spending. The State must promote the development of the economic base of the indigenous peoples and guarantee their participation in designing strategies aimed at improving their living conditions and access to basic services.

7. *Protection for indigenous migrants.* The State must promote specific social policies to protect indigenous migrants, both within the nation's borders and beyond them, with inter-institutional actions to support women's education and work and children's and young people's health and education; in rural areas, these policies must coordinate between the zones that provide agricultural laborers and those that make use of them.
8. *Communications.* In order to encourage an intercultural dialogue from the community to the national level, allowing a new and positive relationship among the indigenous peoples and between them and the rest of society, these peoples must be provided with communications media, which at the same time are also key instruments in the development of their cultures. Consequently, it will be proposed that the corresponding national agencies should prepare a new communications law to allow indigenous peoples



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to acquire, operate, and administer their own communications media.

The federal and state governments shall work for the indigenist communications media to become indigenous communications media, when so requested by the indigenous peoples and communities.

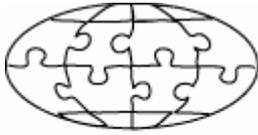
The Federal Government shall recommend to the appropriate agencies that the 17 broadcasting stations belonging to the National Indigenist Institute be handed over to the indigenous communities in the respective regions, with the transfer of permits, infrastructure, and resources, when the indigenous communities so request.

In addition, there is a need for a new legal framework for communications to address the following issues: the nation's cultural diversity; the right to use indigenous languages in the media; the right to reply; guarantees for the rights of expression, information, and communication; the democratic participation of indigenous peoples and communities before the bodies responsible for decisions affecting the field of communications; and the participation of interested parties in civil society's empowerment on the decision-making bodies in the communications arena through the creation of a Communications Ombudsman or a Citizens' Communications Council.

IV

Acceptance of the Following Principles Must Govern the New Relationship Between the Indigenous Peoples, the State, and the Rest of Society

1. *Pluralism.* Dealings between the peoples and cultures that form Mexican society must be based on respect for their differences and the assumption of their essential equality. Consequently, it must be a policy of the State to regulate their interactions, encouraging within society a pluralistic orientation that actively combats discrimination of all forms and corrects economic and social inequalities. Similarly, it will be necessary to make progress toward the constitution of a legal order that feeds on cultural diversity and reflects intercultural dialogue, with common rules for all Mexicans and respect for indigenous peoples' internal systems of governance.
2. *Self-determination.* The State shall respect the indigenous peoples' enjoyment of self-determination in each of the spheres and levels in which it is applicable, and the indigenous peoples shall practice their differentiated autonomy without undermining national sovereignty and within their new framework of governance. This implies respect toward their cultural identities and forms of social organization. The State shall also respect the capacity of indigenous peoples and communities to decide on their own development, provided that respect is shown toward the national and public interest. The different levels of government and institutions of the Mexican State shall not intervene unilaterally in the affairs and decisions of indigenous peoples and communities, in their organizations and forms of representation, or in the strategies they adopt to make use of resources.



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3. *Sustainability.* It is indispensable and urgent to ensure the preservation of nature and culture in indigenous peoples' territories. Encouragement shall be given, through legislation, to the right of indigenous peoples and communities to receive the corresponding indemnification when the State's exploitation of natural resources causes damage to their habitat and threatens their cultural reproduction. In cases where the damage has already been caused and the peoples show that the compensation awarded does not allow their cultural reproduction, the establishment of review mechanisms shall be sought in order to enable the State and the affected parties to jointly analyze the case in question. In both instances, the compensatory mechanisms shall strive to ensure the sustainable development of the indigenous peoples and communities.

In addition, with the agreement of the indigenous peoples, encouragement shall be given to rehabilitation efforts in those territories, and their initiatives to create conditions to ensure the sustainability of their productive practices and lifestyles shall be supported.

4. *Consultation and consensus.* Policies, laws, programs, and public actions affecting indigenous peoples shall be subject to consultation with them. The State shall promote the involvement and participation of all the levels of government and institutions that affect the life of indigenous peoples, eschewing one-sided practices that cause the fragmentation of public policy. To ensure that its actions observe the differentiated characteristics of the various indigenous peoples and to prevent the imposition of homogenizing policies and programs, their participation in all phases of public action, including inception, planning, and assessment, shall be guaranteed.

In addition, there shall be a gradual and orderly transfer of powers, functions, and resources to the municipalities so that the allocated public funds can be distributed with the participation of the municipalities. Resources may be transferred to the forms of organization and association described in Paragraph 5.2 of the "Joint Declarations" document when such forms exist.

Since policies in indigenous areas must be not only conceived in coordination with the peoples themselves but also implemented with their participation, the existing indigenist and social development institutions operating in such areas must be transformed into others designed and operated by the indigenous peoples themselves in conjunction and coordination with the State.

5. *Strengthening the federal system and democratic decentralization.* The new relationship with the indigenous peoples involves a process of decentralizing the powers, functions, and resources of federal and state agencies to the municipal governments in accordance with the spirit of Paragraph 5.2 of the "Joint Declarations" document, so that with the active participation of the indigenous communities and the population in general, they can assume the initiatives thereof.



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V

Legal and Constitutional Amendments

1. The essential starting point for the establishment of a new relationship between the indigenous peoples and the State is the construction of a new legal framework in the nation and in its states. The constitutional amendments recognizing the indigenous peoples' rights must be reached by means of a creative legislative spirit, forging new policies and offering real solutions to their social problems. We therefore propose that these amendments should contain, among others, the following general elements:
 - a. Legislating on the autonomy of indigenous peoples and communities to include recognition of those communities as bodies under public law, the right to freely combine into municipalities with a majority indigenous population, and the right of several municipalities to join together in order to coordinate their actions as indigenous peoples.
 - b. Legislating to "guarantee protection for the integrity of lands belonging to indigenous groups," taking into consideration the particular characteristics of the indigenous peoples and communities in accordance with the concept of territorial integrity as contained in Convention 169 of the ILO, together with the establishment of procedures and mechanisms to regulate indigenous property regimes and to promote cultural cohesion.
 - c. With regard to natural resources, establishing a system of preferences that privileges indigenous communities in the granting of concessions for obtaining the benefits derived from the exploitation and use of natural resources.
 - d. Legislating on the rights of indigenous men and women to have representatives within legislative bodies, particularly the Congress of the Union and the state legislatures, incorporating new guidelines for the demarcation of the electoral districts covering indigenous peoples and communities, and allowing elections to be held in accordance with the applicable legislation.
 - e. Legislating on the rights of indigenous peoples to elect their authorities and exercise power in accordance with their own rules within their spheres of autonomy, and guaranteeing participation by women under conditions of equality.
 - f. In legislative texts, taking into account Mexico's multicultural nature in order to reflect an intercultural dialogue with common rules for all peoples and respect for indigenous peoples' internal systems of governance.
 - g. Enshrining in the Constitution the obligation of refraining from discrimination on the grounds of racial or ethnic origin, sex, creed, or social status, thereby enabling discrimination to be classified as a crime.



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- h. Assurance must also be given to the indigenous peoples' right to enjoy protection of their sacred sites and ceremonial areas and to use plants and animals considered sacred for strictly ritual purposes.
- i. Legislating so that no coercion may be exercised against the individual guarantees and specific rights and freedoms of indigenous peoples.
- j. Legislating on indigenous peoples' rights to freely practice and develop their cultures and to enjoy access to the communications media.



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Document 3.1

Commitments for Chiapas by the State and Federal Governments and the Euzln Under Paragraph 1.3 of the Rules of Procedure

16 February 1996

I

Proposed Constitutional Amendments in the State of Chiapas

The indigenous rights to be enshrined in the General Constitution of the Republic must also be stated explicitly in the Constitution of the State of Chiapas to the full extent of their political, economic, social, and cultural scope.

The new relationship between the indigenous peoples and communities and the State requires the assurance and guarantee of new indigenous rights. In addition to the constitutional amendments already indicated within the framework of the current phase of the dialogue, this goal requires the enactment by the state legislature of amendments to the Chiapas state constitution and to the laws and regulations that derive therefrom.

Amendments to several articles of the state constitution are therefore needed to recognize and guarantee the fundamental rights of indigenous peoples. Presented below are the central themes of the legislative proposals that, in accordance with the amendments to the Federal Constitution, must be introduced into the legislation of the state of Chiapas.

Constitutional Framework for Autonomy

Recognition is given to the indigenous peoples' right to self-determination and autonomy as collectives with different cultures and with the ability to decide on issues central to them within the framework of the National State.

Recognition of indigenous peoples' autonomy will be promoted in accordance with the additions and amendments to the General Constitution of the Republic.

Recognition of the multicultural composition of the state of Chiapas, which originally stems from the presence of its indigenous peoples, will be promoted; an indigenous people is to be understood as one which enjoys historical continuity with the societies that predated the arrival of the Europeans and maintains its own identity and the will to preserve it, based on its own territory and different cultural, social, political, and economic characteristics.

The design of the constitutional framework for autonomy must establish the characteristics of self-determination and autonomy that best represent the different and legitimate aspirations and situations of the indigenous peoples.



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Recognition is to be given to the indigenous peoples':

- a. Right to use, promote, and develop their languages and cultures and their political, social, economic, religious, and cultural customs and traditions.
- b. Right to practice, exercise, and develop their particular forms of political, economic, and social organization.
- c. Right to enjoy respect for their own autonomous methods of governance in the communities and municipalities they inhabit. Elections for indigenous authorities shall be carried out in accordance with the particular traditions of each people.
- d. Right to use and enjoy the natural resources of their territories, as defined by Articles 13.2 and 14 of ILO Convention 169, through the agency of government or administration established, with the exception of resources in strategic areas and those over which exclusive control falls to the Nation.
- e. Right of recognition for the traditional authorities of indigenous peoples and communities, and the acceptance of their jurisdictional forums which are compatible with current legal precepts.
- f. Right, in trials and proceedings involving indigenous people, for their habits, customs, and internal systems of governance for resolving conflicts to be taken into consideration.
- g. Right to participate in the design of the development plans, projects, and programs of the communities and municipalities they inhabit. The competent authorities shall undertake the gradual and orderly transfer of resources, so that they can themselves administer the public funds they are assigned and in order to strengthen indigenous participation in the different levels and spheres of government, control, and administration.
- h. Right to develop their own methods of and alternatives for labor organization.

The establishment of the right of, and applicable mechanisms for, indigenous women to participate, on an equal footing with men, in all matters dealing with the governance and development of indigenous peoples and to enjoy priority intervention in the economic, educational, and health-care projects specific to them.

Similarly, the Chiapas state government shall promote and protect the organization and development of indigenous families, providing for and recognizing the traditional ways in which they are constituted.

In addition, it shall promote indigenous peoples' access to the legal protection of the State, by incorporating their practices and methods for resolving conflicts, in agrarian, civil, criminal, and administrative proceedings; the state of Chiapas shall commit to adapting its local constitution to the amendments to the General Constitution of the Republic as they are approved.



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To guarantee enjoyment of the above rights, the autonomy of the indigenous peoples based on their right to self-determination must be recognized. We propose recognizing the right of communities to freely combine into municipalities with a majority indigenous population and the right of several municipalities to join together in order to coordinate their actions as indigenous peoples.

These modifications require amendments to Article 4 of the Chiapas state constitution.

Redistribution of Municipalities

An updating of the municipal division of the State of Chiapas will be promoted by way of a Municipal Reform Commission, comprised pursuant to Chapter 11 of this document entitled Actions and Measures. The President promises to support all resolutions adopted by said Commission, which he shall put before Legislative Power, repealing current conditions calling for the approval of half of the town councils.

These proposals imply amendments to Article 3 of the Constitution of the State of Chiapas.

Expansion in political participation and representation

The basis of territorial organization and political and administrative organization in the State is the free municipality.

In order to administer the municipalities, there will be councils elected by direct popular vote, as well as indigenous councils elected according to practices and customs, subject to their prior regulations and their incorporation into the electoral law currently in force in the State of Chiapas, which shall be defined when it is considered as an indigenous council.

Organization figures such as the State Indigenous Council must be abolished or reformed in accordance with the organization forms of indigenous communities and peoples which arise as a result of the process of constitutional changes which take place.

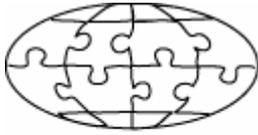
These modifications imply amendments to Articles 29 and 58 of the Constitution of Chiapas.

Municipalities, the majority of whose people are indigenous

In municipalities where the majority of the people are indigenous, the right of the indigenous people and communities will be recognized to elect their traditional municipal authorities in accordance with their practices and customs and to have juridical validity granted to their institutions and practices.

In particular, recognition will be given to the system of offices, assembly, public opinion, and open discussion.

Municipal agents will be elected to and removed from office by the corresponding peoples and communities, and not through appointment by the municipal president.



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It is best to plan ahead for mechanisms enabling the indigenous peoples and communities to participate in electoral processes, without the necessary participation of political parties. These mechanisms must guarantee the effective proportioning of natives on civic election councils and in the diffusion and supervision of these processes.

Communities and municipalities the majority of whose population is indigenous, by the powers expressly granted to them under the law, may meet and form associations among themselves so as to undertake actions in the region which optimize efforts and resources, thus raising the capacity for administration, development and coordination of their actions as indigenous peoples. The competent authorities shall effect the orderly and gradual transfer of resources so that they administer the public funds set aside for them and strengthen indigenous participation in government, management and administration in its different spheres and levels.

The practices and customs which in mainly indigenous towns and municipalities define the specific duration terms of offices must be respected.

Municipalities with a mainly indigenous population may submit to local Congress the name they wish their municipality to have.

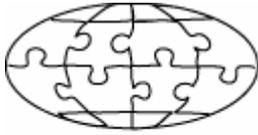
Municipalities with a mainly indigenous population may refuse to recognize the municipal authorities in power if the latter commits irresponsible acts which contravene the rights or practices and customs of the former, and local Congress shall endeavor to respect and support its decision.

These modifications imply amendment and addition to Articles 59 and 60 of the Constitution of Chiapas.

Guarantees of full access to justice

That the legislative, administrative and judicial authorities, within their spheres of competency, in the matters in which they have to intervene and at the time of decreeing their resolutions regarding affected indigenous peoples, take into consideration the latter's condition of culture, their system of internal regulations and other special related circumstances so that they may receive the guarantees to which they are entitled under the Political Constitution of the United Mexican States :

- a. The use of their own tongue in statements and affidavits, which must be recorded with a translation into Spanish. Statements and affidavits given in indigenous tongues shall be recorded on audio tape and these recordings shall be annexed to the particular file, should consultation be necessary.
- b. The appointment of interpreters, with their express approval, who command both the native tongue as well as Spanish, and who share and respect the culture and have a knowledge of the indigenous juridical system.
- c. That the court-appointed defense counsel to which they are entitled know the indigenous tongue, culture, and juridical system.



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- d. The execution, in cases where deemed necessary, of anthropological experts' reports so as to examine the practices and customs, or any other cultural factor which might come to bear on the judicial opinion. Priority shall be given to the intervention of the indigenous authorities in appointing the experts or testifying to the veracity of the latter's credentials.

These modifications imply amendments to Article 10 of the Constitution of Chiapas.

The reasons for the suspension of political rights referenced under the current Article 11 of the Political Constitution of the State apply only to the rights to vote or be voted for in the different election levels. In the case of section II of said article, when the suspension is owing to having been deprived of liberty without the right to provisional freedom and that the full enjoyment of these rights is recovered as of the moment the cause ceases which gave rise to said suspension.

These modifications imply amendments to Article 11 of the Constitution of Chiapas.

That agents of the State's Attorney's Office for the communities and municipalities inhabited by indigenous peoples be appointed based on proposals from the citizens of those communities, and may be removed from their posts when proven guilty of unlawful acts following accusations made against them before the respective legal bodies established for the purpose in these areas.

These modifications imply amendments to Article 48 of the Constitution of Chiapas.

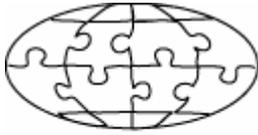
In the framework of the amendments to the General Constitution of the Republic, in affairs of autonomy for the indigenous communities, it is proposed that specific competency and jurisdictional dimensions be granted to the indigenous authorities.

These modifications imply amendments to Article 56 of the Constitution of Chiapas.

Indigenous intercultural bilingual education

Recognition of the multi-cultural composition existing in the State of Chiapas, as well as the respect of the right of its indigenous peoples to promote and spread the significant elements which make up their culture creates the need, on the one hand, to incorporate into the local Constitution the right of the citizens of Chiapas to receive an education pursuant to the letter and spirit of the federal constitution's Article 3 and regulations of the General Education Act and, on the other, in the framework of the amendments set forth in the Federal Constitution, it is necessary that local reform take into consideration the following :

- a. That the education received by all citizens of Chiapas spread and promote the history, customs, traditions and all those values which form part of our cultural roots and national identity.
- b. Indigenous education must be bilingual and intercultural.
- c. The State must guarantee the indigenous peoples an education which respects and avails of their knowledge, traditions, and forms of organization.



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- d. Respect the educational tasks of the indigenous peoples within their cultural dimension.
- e. That in the organization and formulation of school study plans and programs, the indigenous peoples have priority participation for decision making as regards regional content and cultural diversity.

These modifications imply amendments to Article 4 of the Constitution of Chiapas.

II

Amendment Proposal to the Secondary Statutes of the State of Chiapas

As regards amendments to the secondary statutes, State Congress will be asked to bring the normative juridical framework into line with the constitutional amendments that come about. The government of the State of Chiapas promises to promptly carry out the amendments within its power in the opportune legislative appointment. In particular, amendments are required to the Civil Code for the State of Chiapas, the Penal Code for the Free and Sovereign State of Chiapas.

Likewise, in the corresponding legislative proceedings the Federal Government will promote follow-up to the amendments which arise so they may be incorporated into Mexican positive law.

The State government will promote before local Congress a bill on the Justice and Agrarian Development Act, which includes instrumental mandates for dissolving and penalizing latifundium owners and establishes the necessary conditions so that agrarian nuclei, communities, and indigenous peoples may generate their own development by availing of the resources of their own land, pursuant to Articles 13.2 and 14 of Convention 169 of the ILO. It is proposed that the agrarian aspect be reviewed based on the consensus and agreement reached at the Welfare and Development Table established under the Procedure Regulations of the dialog process.



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Document 3.2

Actions and Measures for Chiapas Joint Commitments and Proposals From the State and Federal Governments, and the Ezln

February 16, 1996

Political Participation and Representation

The creation of the Commission for Municipal Reform and Redistribution in Chiapas. This Commission is made up of delegates from all the political parties represented in local Congress, as well as representatives from the EZLN, State government, and from the indigenous communities and municipalities throughout the State.

The Commission is charged with defining the most ideal, far-reaching and most effective methods for more authentically and faithfully incorporating the contents of the multi-ethnic, multi-cultural and social diversity of the State.

The objective of the Commission is to work out an amendment bill that will be put before the State Congress to modify Articles 3 and 16 of the local Constitution and the sections pertaining to the State electoral act and the free municipality organic law with regard to the municipalities and electoral districts into which the State is divided. For this purpose, the Commission will undertake the necessary technical studies and works.

This reform must guarantee conditions of greater fairness and transparency in electoral processes, recognize the right of the communities to appoint their traditional and municipal authorities in keeping with their practices and customs. It must also grant juridical validity to the institutions and practices of the indigenous communities for appointing their authorities and to effect consultations under inclusive schemes and without the necessary participation of political parties.

It must likewise guarantee the political representation of indigenous minorities living in the State's non-indigenous municipalities in such a way that they may have proportional participation in the municipal council as well as in the conformation of local Congress.

Guarantees of Access to Justice

Creation of the Fourth General Inspection Board, in charge of indigenous affairs within the National Human Rights Commission, pursuant to Article 5 of the NHRC Act. To this effect, the pertinent amendments will have to be made to its internal regulations.

This Inspection Board must immediately proceed to review the situation of indigenous peoples deprived of their liberty as a result of trials or sentences imposed. Acting within its powers, the Board shall recommend and promote the immediate release of those affected, accepting the aid of indigenous and farm-worker organizations, governmental institutions and organizations, as well as non-government organizations involved in the defense of human rights.



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It must also review the composition and powers of the State Human Rights Commission for the State of Chiapas so as to grant it greater autonomy from the executive and judicial powers of the State and expand the composition of representation from the indigenous communities and civic society.

Both the Chiapas State and Federal Governments promise to set up an Agrarian Table in order to provide a fair solution to agrarian conflicts. Participating at this table will be representatives from the EZLN and social organizations, as well from the competent authorities in the field. Both State and Federal agrarian authorities promise to carry out an agrarian census, to be led by the civil authorities and in coordination with indigenous communities and peoples, as well as social organizations, so as to determine the situation of land ownership in the State.

Translation into the indigenous tongues of the laws, codes and regulations, as well as current international agreements and treaties, and the diffusion of these texts through proper procedures. The implementation is proposed of a program for the immediate distribution and diffusion of the translated texts, preferably through those institutions representing the community, in addition to the most effective distribution means available.

Creation of the Indigenous Public Defenders Office, with lawyers and translators providing legal counselling and representation services to indigenous peoples who need them. In contrast to the provisions established under the current Organic Law of the Judicial Power in the State of Chiapas (Articles 64 to 69), the wages or fees of the public defenders must be paid for from the State budget and channelled in such a way as to guarantee honest and independent work.

The translators and public defenders must not only command the indigenous tongues but must also know and understand the indigenous cultures so that forearmed with knowledge and respect, they may better fulfil their functions.

In order to guarantee the citizens of Chiapas full access to justice, the following is considered necessary :

- a. Recognition of the traditional or incumbent authorities in the indigenous communities, as well as their right to conserve both their institutions and customs in the solution of internal disputes.
- b. Reorganization and restructuring of the forces of law and order, particularly the State Attorney's Office and lower court judges in the juridical districts with large indigenous populations, providing them with training in knowledge of the indigenous cultures, systems, and the practices used in the communities for solving disputes.
- c. Implementation of programs aimed at the indigenous population so as to increase their knowledge not only of current laws but also the judicial system, how it works, and the institutions of which it is comprised.
- d. The establishment in local Congress of a legislative commission which, with the participation of the indigenous communities, may analyze current legislation and propose the necessary amendments so as to guarantee the indigenous peoples full access to the



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justice provided by the Mexican government while at the same time perhaps managing to eliminate any decree which might imply discrimination against or unfair treatment of indigenous peoples.

There must be legislation to expressly guarantee the obligation of non-discrimination for reasons of racial or ethnic origin, language, sex, beliefs, or social status, thus making it possible to typify discrimination as a crime punishable by law. Likewise, legislation must also typify and penalize discriminatory labor practices or those contravening constitutional rights in the workplace such as payment in kind, pigeonholing, forced labor recruitment for work elsewhere or other violations of workers' rights.

Promotion will be made at the corresponding national judicial levels of the recognition and defense of the rights of migrant indigenous peoples both inside and outside the country.

Situation, Rights and Culture of Indigenous Women

Analyzed from the viewpoint of indigenous women from Chiapas, the problem of rights demands an end to silent voices and secular oblivion. To do away with the latter it is necessary to act on both national as well as State legislation in order to guarantee their fundamental rights as human beings and as indigenous people.

Incorporate political rights into legislation, as well as respect for indigenous practices and customs, respecting the dignity and human rights of indigenous women.

Within the constitutional framework of autonomy, recognize the specific rights of the indigenous woman.

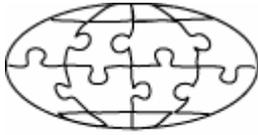
Guarantee the labor rights of indigenous workers, particularly those in vulnerable conditions such as domestic work or temporary jobs.

Incorporate the rights of temporary workers into the Federal Labor Act.

Review and update the penalties imposed by current legislation for sexual crimes, harassment against women, and intra-family violence.

For the indigenous women and children of Chiapas, guarantee the right to health care, education and culture, nutrition, a dignified dwelling, basic services, and the right to participate in educational projects leading to a deserving integral development by allowing the contribution of indigenous women and designed for their particular needs.

Compliance with the international pacts and conventions which have been entered into by the Mexican government. Of particular importance here is Convention 169 of the ILO, the Vienna Declaration on Human Rights referring to the elimination of any form of discrimination against women, and the Agreement of the World Conference on Population and Development referring to the health and reproductive rights of women — as long as these do not contravene the basic principles of the General Constitution of the Republic.



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Access to the Communication Media

The multi-cultural nature of the Mexican Nation is recognized in the Constitution and is borne out by the existence of its indigenous peoples. Laws governing the communication media must guarantee expression of this aspect and the communication media must take this multi-cultural nature into consideration so as to strengthen the national identity and meet its cultural and social objectives.

In order to propitiate intercultural dialog from the community level up to the national level that achieves a new and positive relationship among the different indigenous peoples, as well as between them and the rest of society, it is essential to provide these peoples with their own communication media, which are also key instruments for the development of indigenous cultures. Therefore, in the respective national juridical forums the enactment will be proposed of a new communication media act which will enable the indigenous peoples to acquire, operate and manage their own communication media.

On the nation's decision and debate forums, the federal and State governments will promote the issue whereby the native-oriented communication media may become indigenous communication media, with they themselves catering to the needs of Mexico's indigenous communities and peoples.

The federal government will table a proposal that the 17 radio stations belonging to the NII be handed over to the indigenous communities in their respective regions, complete with transfer permits, infrastructure and resources, once the express request is forthcoming from the indigenous communities.

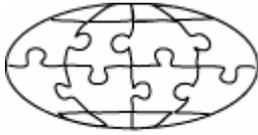
The federal and State governments will put forward a proposal that the indigenous video centers of the NII be handed over to the indigenous communities, with the transfer of infrastructure and resources. This process must be validated by the communities.

The peoples, communities and social groups have the right to accede to the existing communication media, whether owned by the State or by private concessions. It will be recommended at juridical forums that a fixed time slot be allotted in the existing communication media for use by civic society and the indigenous peoples.

The creation has been proposed of a Citizens' Communication Council and the appointment of a Communication Ombudsman with the objective of including civic society as a fundamental part in the management and decision taking process in social communication, guaranteeing indigenous participation in its composition.

Enact legislation making it mandatory to establish codes of ethics in the communication media which given the specificity of the indigenous peoples, gives preference to the interests of their cultures and bears witness to denigration, racism or intolerance, without detriment to their freedom of expression.

Because of its characteristics, technical requirements, penetration and reception, radio is the ideal instrument for cultural communication and expression in the rural and indigenous environment.



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It is essential to guarantee for the indigenous peoples the acquisition of the State-owned radio stations that are operating in regions and municipalities whose principal population is indigenous. The speed and the time span of the acquisition will depend on the indigenous peoples for which purpose they may opt for one of the existing juridical figures or those which the indigenous peoples and communities propose themselves.

At a State level and so as to contribute to the viability of this proposal, it is suggested that immediate implementation begin of the acquisition process of the radio station XEVFS Radio — *The Voice of the Southern Border*, located in the municipality of Las Margaritas. This is fundamentally operated by indigenous locals and the acquisition is defined as a joint endeavor between the governmental institutions and the legitimate representation of the indigenous communities.

It is necessary to create radio and audiovisual production centers in those indigenous regions, municipalities and communities who request them.

Education and Culture

Creation of indigenous institutions who study, spread and develop indigenous tongues and who will translate scientific, technical and cultural works. The government of the State of Chiapas in the short term will create a State Center for Languages, the Arts, and Indigenous Literature.

A proposal will be tabled at national forums to review the programs, text books and educational materials given out to Mexican schoolchildren to make them reflect upon and respect the multi-cultural nature of our country, including some indigenous tongue from the region in the education of the population that only speaks Spanish. The State monographs will incorporate basic elements of the indigenous tongues characteristic of their particular regions.

Likewise, it will be proposed that history books provide equitable, accurate and instructive information on the society and cultures of the indigenous peoples.

The federal and State governments will promote an extensive review of the education sector pertaining to indigenous education, as well as its budget apportionments.

Establishment in the State of Chiapas of a support and scholarship system for terminating basic studies, and specifically for the indigenous youth who wish to go on to medium-level or higher education. It will also be recommended that this program be extended to the rest of the Republic.

Creation of centers of higher education in indigenous regions which promote the study and diffusion of the indigenous cultural wealth, as well as the actual questions and needs of their cultures. Promotion of the study and teaching of indigenous tongues in universities, particularly in the State of Chiapas.

A recommendation will be put to INAH (National Institute of Anthropology and History) that it review its regulations so as to :



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- a. Allow free admission to archaeological sites for indigenous peoples.
- b. Provide indigenous peoples with the proper training to enable them to manage the sites themselves.
- c. pass on to the indigenous peoples some of the tourism earnings from these sites.
- d. Give the indigenous peoples the opportunity to use the sites as ceremonial centers.
- e. Protect the sites when endangered by tourism development megaprojects or ant infestation.

The federal and State governments will recommend expanding the concept of heritage so as to include such intangible expressions of culture as music, theater, dance, etc., etc.

Creation of places for the practice of traditional indigenous medicine and the granting of sufficient funds for the purpose — without reducing the State obligation to provide proper attention in the three levels of the national health care system.

The State and federal governments will promote nationwide awareness campaigns so as to eliminate prejudice and racism and provide social legitimacy to the autonomy of the indigenous peoples and their right of self determination.

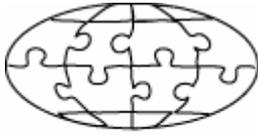
The State and federal governments will promote the existence of indigenous representation in all institutions involved in indigenous affairs.

Recognition and respect must be given to the right to wear traditional indigenous dress in all spheres of public life, particularly in the case of children and young people of both sexes in a school environment. Likewise, cultural and communication programs will provide information on the spiritual and cultural value of traditional indigenous dress and on the respect it deserves.

A fundamental condition of cultural development is the relationship between indigenous peoples and land. Bearing in mind the special spiritual meaning of this element and its enormously high symbolic value, full guarantee must be given to the indigenous peoples and communities regarding the integrity of their lands and territories, as well as on the preservation and rational use of their habitat.

The traditional knowledge of the indigenous peoples constitutes an important heritage of their culture and is essential to human development in a great many spheres, such as medicine. The State and federal governments promise to recognize, value and promote this knowledge, with the respect it deserves.

The indigenous peoples and communities, together with the State and Federal governments promise to strengthen a culture in health care and social well-being that will lead to the genuine acceptance of a humanistic and plural world view in the process of health-sickness-ecosystem. For this purpose, areas will be created for the practice of traditional indigenous medicine, with



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useful funds being granted for its development and without any reduction in the State's obligation to provide institutional health care services.

Institutions for the Promotion, Development and Diffusion of Indigenous Cultures

Cultural and educational projects for the indigenous peoples must receive the very highest priority in the programming and allocation of public spending, both State and federal, requiring that they give an advance guarantee of continuity, congruence, and rationality.

Respect for the environment and hence, for the habitat of the indigenous peoples must constitute a fundamental and inescapable criteria in the formulation of State and federal policies and programs for economic and social development in indigenous regions. In their planning and implementation they require the participation of the indigenous communities so as to guarantee rational use of the natural resources and avoid any adverse effects on their natural and cultural heritage, in the broadest sense, or on geographic areas or places of symbolic significance such as civil, cultural or ceremonial centers.

Legislative promotion will be given to recognition of the right of indigenous peoples and communities to receive the corresponding compensation when the exploitation of their natural resources by the State causes damage to their habitat which endangers their cultural reproduction. In cases where the damage has already been done and the peoples can prove that the compensation paid does not allow their cultural reproduction, revision mechanisms shall be established whereby the peoples and the State may jointly analyze the particular case. In both cases, the compensatory mechanisms will seek to ensure the sustainable development of the indigenous peoples and communities. In common agreement with the indigenous peoples, the State will promote actions of rehabilitation in the former's territories, pursuant to Article 13.2 of the ILO.

In coordination with the State and federal governments, the indigenous peoples will carry out a revision and extensive restructuring of the development, educational and cultural institutions and bodies involved in their areas, based on their interests and traditions, and for the purpose of strengthening their participation and direction in the design, planning, programming, execution, handling and supervision of the actions and policies which affect the indigenous peoples and regions.