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COMMENTS

CONSTITUTIONAL SHIFT TOWARD DEMOCRACY: MEXICO CITY'S AMENDMENT TO GRANT ELECTIONS GIVES RISE TO A NEW CONSTITUTIONAL ORDER

I. INTRODUCTION

Mexico City's mayoral election in July of 1997 marked a historical event for the world's largest capital city and the Mexican state.¹ This election ended the long-established tradition of the Mexican President appointing the mayor of Mexico City, dating back to 1928.² For the first time in Mexico's modern history, the country's ruling party, the Institutional Revolutionary Party (PRI), relinquished its control over Mexico City's mayor.³ The residents of Mexico City elected opposition party candidate Cuauhtemoc Cárdenas of the Democratic Revolution Party (PRD) as their mayor.⁴ After years of demanding change in the political structure of Mexico City, Mexicans finally had the opportunity to go to the polls and cast their vote for mayor.

Traditionally, the constitutional amendment process in Mexico was viewed as a political forum for the President to protect his powers. The recent reform in Mexico City, however, reflects a new constitutional order, which suggests that the opposition can legitimize democratic reform. Mexicans can seek democracy by exerting pressures on the ruling party and by amending the Constitution.

1. See Carlos Fuentes, *Can democracy finally take root? Dawn in Mexico*, WORLD PRESS REVIEW, Sept. 1997, at 6.

2. See Mark Fineman, *Mexicans Ready to Test New Voice at the Polls Election: They will pick capital's mayor, fill state and federal seats in today's vote. Opposition is expected to gain.*, L.A. TIMES, July 6, 1997, at A1.

3. See Dudley Althaus, *Mexico enters new way of life: Democracy taking shape in wake of PRI defeats*, HOUS. CHRON., July 8, 1997, at 1, available in 1997 WL 6565806.

4. See Mary Beth Sheridan, *Mexico City's Mayor Sworn in Amid Cheers.*, L.A. TIMES, Dec. 6, 1997, at A1.

This Comment analyzes constitutional change through the experiences of both the United States and Mexico. This Comment also discusses how a major constitutional reform will impact Mexico's attempt to democratize. Part II explores the significance of constitutions, as well as the process of constitutional amendment in the United States and Mexico. Reference is made to constitutional change theories that should enlighten one's understanding of the reform in Mexico City. Part III discusses the process of reform under several constitutional change theories. Part IV explores the future of democracy in Mexico and envisions a new constitutional order. Finally, this Comment concludes that Mexico's recent constitutional amendment in response to pressures from the Mexican people legitimizes democratic reform in Mexico.

II. THEORIES ON CONSTITUTIONAL AMENDMENT PROCESS

A constitution provides protection for individual rights and a guideline of the government's structure and powers.⁵ It also establishes the rights and powers existing between the sovereign and its people.⁶ The Barón de Montesquieu observed that society must change with the times to avoid ill-conceived actions by the government.⁷ Constitutions may be challenged despite their legal validity and formal provisions. To deal with challenges, a constitution may add mechanisms for amendments as endorsed by the people.⁸ Constitutional amendments may be minimal or radical. For example, changing a single article or changing the meaning of an existing provision may constitute an amendment. The consequences of radical constitutional change, however, may undermine governmental stability.

A. *Constitutional Amendment Process in the United States*

During the United States Constitutional Convention of 1776, the framers debated the necessity of an amending process.⁹ Legislators such as George Mason of Virginia argued that because

5. See JOHN R. VILE, *A COMPANION TO THE UNITED STATES CONSTITUTION AND ITS AMENDMENTS* 24 (1997).

6. See *id.*

7. See JOHN R. VILE, *THE CONSTITUTIONAL AMENDING PROCESS IN AMERICAN POLITICAL THOUGHT* 13 (1992) [hereinafter *CONSTITUTIONAL AMENDING PROCESS*].

8. See *id.* at 12.

9. See *id.* at 26.

the Articles of Confederation failed to adapt to changes, any new constitution would surely require an amending process.¹⁰ An amending process is built to eliminate potential defects and to “provide a mechanism for constitutional change as opposed to revolutionary change.”¹¹ Therefore, an amendment provision would be an inherently peaceful resolution to changing or modifying written law.

Thomas Jefferson argued that citizens had the right to alter written constitutions when such documents failed to secure a working government or when they denied them their individual rights.¹² Delegates to the Constitutional Convention rejected a number of proposed amendment provisions.¹³ By the end of the Convention, however, the delegates created the provision now found in Article V of the U.S. Constitution that allows for constitutional amendments.¹⁴

Since its adoption in 1789, the U.S. Constitution has been amended only 27 times.¹⁵ Over 9000 constitutional amendments between 1789 and 1989, however, have been introduced in Congress.¹⁶ Many reasons exist as to the implementation of only a few amendments to the Constitution. For example, the requirements of “extraordinary majorities in both legislative houses” and “ratification requirements”¹⁷ are difficult to satisfy.

10. *See id.* at 27.

11. *See id.* at 31.

12. *See id.* at 62.

13. *See id.* at 31.

14. U.S. CONST. art. V. provides:

The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which, in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as the one or the other Mode of Ratification may be proposed by the Congress; Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article; and no State, without its Consent, shall be deprived of its equal Suffrage in the Senate.

Id.

15. *See* U.S. CONST.

16. *See* Gerald Benjamin & Tom Gais, *Constitutional Conventionphobia*, 1 HOFSTRA L. & POL'Y SYMP. 53, 56 (1996).

17. *See id.*

1. Bruce Ackerman's Theory: Higher Lawmaking

Bruce Ackerman, a constitutional scholar, provides a deeper understanding of the U.S. Constitutional amendment process. Ackerman's theory of the amendment process begins with what he refers to as a "higher lawmaking" or "constitutional politics."¹⁸ New regimes or changing political stages initiate proposals for constitutional amendments.¹⁹ Ackerman identifies the drafting of the U.S. Constitution, the Civil War, and the New Deal as three primary regimes that used the formal Article V amending process to bring about political change.²⁰ In addition to following the formal constitutional amending clause, the majority of proposed amendments must follow a "discrete series of stages"²¹ to determine whether an amendment should be enacted.

"During periods of constitutional politics, the higher lawmaking system encourages the engaged citizenry to focus on the fundamental issues and determine whether any of the proposed solutions can gain the considered support, and therefore the accompanying political legitimacy, of a mobilized majority."²² A constitutional amendment is, therefore, not necessary if a constitutional period follows the stages of (1) a signaling phase, (2) a proposal stage, (3) a period of mobilized popular deliberation, and (4) legal codification.²³ Thus, when a proposed law affects the meaning of the Constitution, there is no need to enact a valid amendment as required by Article V.²⁴ Rather, changes are initiated by the will of the people through legislative and judicial means.²⁵ Any change to the constitution's foundational principles by the political elite (e.g., the government) must be revised through constitutional means.²⁶

18. See JOHN R. VILE, *CONSTITUTIONAL CHANGE IN THE UNITED STATES: A COMPARATIVE STUDY OF THE ROLE OF CONSTITUTIONAL AMENDMENTS, JUDICIAL INTERPRETATIONS, AND LEGISLATIVE AND EXECUTIVE ACTIONS* 76 (1994) [hereinafter *CONSTITUTIONAL CHANGE IN THE UNITED STATES*].

19. See *id.*

20. See *id.*

21. *Id.* at 77.

22. Bruce Ackerman, *Higher Lawmaking*, in *RESPONDING TO IMPERFECTION: THE THEORY AND PRACTICE OF CONSTITUTIONAL AMENDMENT* 66 (Sanford Levinson ed., 1995).

23. See *CONSTITUTIONAL CHANGE IN THE UNITED STATES*, *supra* note 18 at 77.

24. See Ackerman, *supra* note 22, at 72.

25. See *id.*

26. See *id.* at 66.

2. John Vile's Theory on Court Interpretation

While much of the structure of the Constitution has remained untouched, its meaning has gradually changed over time. Vile focuses on how changes to the U.S. Constitution occur through court interpretation.²⁷ In *Marbury v. Madison*²⁸, the Supreme Court concluded that it had the power to interpret the Constitution.²⁹ Often times, the Supreme Court will issue a decision that interprets the meaning of specific Constitutional terms. "The beauty of judicial review is not simply that it can provide a means of giving authoritative interpretation of the Constitution but also that it can overcome the rigidity seemingly inherent in the unchanging words of the Constitutional text."³⁰ While the Supreme Court's primary function is to interpret the Constitution, the Court's role is more expansive.

By following various modes of interpretation,³¹ Vile notes that the Supreme Court implicitly amends the Constitution with every significant decision designed to preserve the status quo, reverse prior decisions, sanction change, and initiate drastic change.³² For example, when the Court overturned the doctrine of "separate but equal" in *Brown v. Board of Education*,³³ the Court indirectly expanded the scope of the Fourteenth Amendment to protect all individuals regardless of race.³⁴ Hence, by altering the meaning of the Fourteenth Amendment equal protection clause, the Supreme Court effectively changed the Constitution.³⁵ Indeed, this important decision demonstrates the significant role the Supreme Court plays in the amending process of the U.S. Constitution.

Perhaps because Article V establishes the difficulty of formal amending, judicial decisions perform the role of both initiating and codifying legal change with increasingly less difficulty.³⁶ In the

27. See CONSTITUTIONAL CHANGE IN THE UNITED STATES, *supra* note 18, at 35.

28. 5 U.S. (1 Cranch) 137.

29. See *id.*

30. See CONSTITUTIONAL CHANGE IN THE UNITED STATES, *supra* note 18, at 35.

31. These modes of interpretations include a historical strict construction, a strict textual construction followed by Justice Scalia, and a legalistic construction.

32. See CONSTITUTIONAL CHANGE IN THE UNITED STATES, *supra* note 18, at 36.

33. 347 U.S. 483 (1954).

34. See CONSTITUTIONAL CHANGE IN THE UNITED STATES, *supra* note 18, at 42.

35. See *id.* at 41.

36. See *id.* at 86.

Supreme Court, a majority decision requires at least five votes.³⁷ In contrast, a formal amendment proposed by Congress requires not only a two-thirds majority in both the House and the Senate, but the concurrence of three-fourths of the states.³⁸ Although the Constitution has been amended only twenty-seven times, “[o]ver the last two centuries, the Supreme Court has rendered tens of thousands of decisions.”³⁹ In examining the Supreme Court’s history, the Court has had as much if not more influence on changing the Constitution as has the legislature.

B. Constitutional Amendment Process in Mexico

The amendment process in Mexico is quite different from that of the United States. Mexico’s current constitution was drafted following the Revolution of 1910.⁴⁰ The delegates of the Mexican Constitutional Congress of 1916–1917 relied upon two prior Mexican Constitutions and the U.S. Constitution as models. In order to avoid another revolution, the delegates decided to involve the people who revolted in 1910, including the *campesinos* (farmers and peasants), laborers and indigenous people.⁴¹ Moreover, the delegates granted the power to the people to change the Constitution through an amendment process.⁴² Article 135 of the Mexican Constitution reads:

This Constitution may be amended or reformed. For these amendments or reforms to become part of it, it is required that the Congress of the Union, by the vote of two third parts of the individuals present, agrees to the amendments or reforms, and that these be approved by the majority of the legislatures of the States. The Congress of the Union or the Permanent Commission in its case, shall make the computation of the votes of the legislatures and the declaration that the amendments or reforms have been approved.⁴³

Since its adoption in 1917, Mexico’s Constitution has been amended 350 times and 37 times in the past seven years alone.⁴⁴

37. *See id.*

38. *See* U.S. CONST. art. V.

39. *See* CONSTITUTIONAL CHANGE IN THE UNITED STATES, *supra* note 18, at 36.

40. *See* JORGE CARPIZO, LA CONSTITUCIÓN MEXICANA DE 1917 5 (1997).

41. *See id.* at 49.

42. *See id.* at 268.

43. MEX. CONST., art. 135 (1917).

44. *See* Jorge A. Vargas, *Mexico’s Legal Revolution: An Appraisal of its Recent*

Unlike the U.S. Constitution, which allows for implicit changes to be made by judicial interpretation, Mexico's constitutional changes are explicitly made by the President.⁴⁵ The legislature, like the judiciary system, is heavily influenced by a very powerful President.⁴⁶ Two theories explain how the President of Mexico is able to modify the Constitution so frequently within a six-year term in office.

1. Jorge A. Vargas: Programmatic Content, The Document Itself

To explain the nature of constitutional amendment in Mexico, Jorge Vargas offers an approach to illustrate the programmatic content of the Constitution. The Mexican Constitution "carries more legal and political importance, enshrines more of the history of the nation and is vested with more solemnity than the Fundamental Law of the Nation" than any other public document in Mexico.⁴⁷ In addition to describing the federal powers and individual guarantees, the Constitution embodies a principal factor that led to the Mexican Revolution—"agrarian reform."⁴⁸ While the working class may assert their protective rights using the Constitution, the President asserts his power by using his "political platform" to publicize a six-year program.⁴⁹

Ever since President Lazaro Cárdenas initiated his six-year plan in the late 1930s, every President of Mexico has followed this tradition⁵⁰ and constitutional practice.⁵¹ By announcing and publishing his "National Development Plan," the President carefully begins to assert his plan to implement changes to the Constitution.⁵² Thus,

[I]nserting a change in the Constitution as a result of an initiative advanced by the Executive has been well-recognized practice utilized in Mexico to send 'messages' to the other

Constitutional Changes, 1988–1995, 25 GA. J. INT'L & COMP. L. 497, 504 (1996).

45. *See id.*

46. *See id.* at 506.

47. *See id.* at 503.

48. Prior to the 1917 Revolution, most of the land in Mexico was owned by large landowners and foreign companies. The Revolution was instigated not only for political changes but also for land reform. Article 27 establishes the foundation of agrarian reform creating the "ejido" system. MEX. CONST., art. 27.

49. *See Vargas, supra* note 44, at 503.

50. *See id.* at 503.

51. *See id.*

52. *See id.*

federal powers, and to the States, without the Executive being perceived as being overly intrusive, somewhat invading the spheres of jurisdiction that correspond to the Legislature and the Judiciary, or to any of Mexico's thirty-one States.⁵³

This "well-recognized practice" explains the reasons why the Mexican Constitution is frequently amended. In contrast to the relatively stable U.S. Constitution, the Mexican Constitution is generally changed every six years to reflect the President's national plan.⁵⁴

2. Jaime F. Cárdenas Gracia: Presidentialism In Mexico

Another approach to understanding the constitutional amendment process in Mexico is to refer to the concept and rules of Mexico's *presidencialismo* (presidentialism).⁵⁵ Jaime F. Cárdenas Gracia, a Mexican political scientist, documented how the President of Mexico can easily alter the Constitution using his powers and legacy.⁵⁶

The President's powers are broad and have few limitations.⁵⁷ The President derives his powers not only from the Constitution, but also from the practices and characteristics of the Mexican political system.⁵⁸ The President builds a powerful political base through the power of his party, enabling him to amend the Constitution.⁵⁹ Jorge Carpizo, a Mexican constitutional scholar, attributes this vast power to the President's control over the military,⁶⁰ the Supreme Court,⁶¹ the economy,⁶² and the federal states.⁶³

This Presidential power helps to explain the ease and frequency with which Mexico's Constitution changes.⁶⁴ Because of his great influence over the political actors involved with the

53. *See id.*

54. *See id.*

55. *See* JAIME F. CÁRDENAS GRACIA, *TRANSICION POLITICA Y REFORMA CONSTITUCIONAL EN MEXICO* 70 (1994).

56. *See id.* at 90.

57. *See* CARPIZO, *supra* note 40, at 282.

58. *See id.* at 282-83.

59. *See id.* at 291.

60. *See* MEX. CONST. art. 89, IV-VII.

61. *Id.* art. 94.

62. *Id.* art. 80.

63. *Id.* art. 90.

64. *See* Vargas, *supra* note 44, at 504.

amendment process, the President may change the Constitution at any time with the stroke of his pen.⁶⁵ Unlike the President of the United States, the Mexican President is not checked or controlled by Mexico's legislature because the majority of Mexico's Congress typically belongs to the Mexican President's party.⁶⁶ By controlling Congress, the President dominates the amendment process and assures the continued power of the President's party.⁶⁷ Thus, the President of Mexico is both the author and protector of the Mexican Constitution.

III. CASE STUDY: MEXICO CITY ELECTORAL CONSTITUTIONAL AMENDMENT

Mexico City is the largest, most populous city on earth.⁶⁸ It is home to more than one-fourth of the nation's population, and serves as the seat of power in Mexico.⁶⁹ For some, Mexico City is the guardian of culture and tradition. Yet for others, it is a laboratory for the future of the Mexican state. What the future holds for Mexico depends in large measure on the manageability and governability of this megalopolis.

One of Mexico's distinguished writers, Octavio Paz, summarized a common sentiment when he said, "the demographic, political, economic, and cultural centralization has converted Mexico City into a monstrous inflated head, crushing the frail body that holds it up."⁷⁰ Paz is correct. The economic and political forces in Mexico City overwhelm the rest of the nation. In an attempt to strengthen their power and continue their control, Mexico's political leaders concentrated the government's power in the capital which has enlarged the city's size and population to mammoth proportions. Moreover, the centralization of power has inhibited the emergence of a democratic local government.

65. See *id.* at 507.

66. See *id.* at 506.

67. See Javier Livas, *Symposium: Mexican Elections, Human Rights, and International Law: Opposition Views-Perspective From the Right: National Action Party (PAN)*, 16 LOY. L.A. INT'L & COMP. L.J. 373, 375 (1994).

68. See MICHAEL P. TODARO, *ECONOMIC DEVELOPMENT* 250 (1994).

69. See JONATHAN KANDELL, *LA CAPITAL: THE BIOGRAPHY OF MEXICO CITY* 528 (1988).

70. See OCTAVIO PAZ, *THE LABYRINTH OF SOLITUDE* 343 (1985).

A. *The Elimination of Democracy in Mexico City*

Democracy in Mexico City has been gradually eliminated. Mexico's Constitution of 1824 established Mexico City as a federal district with a decision making body and a governor.⁷¹ The federal district became the nation's administrative center, serving as the site of cultural and political hegemony.⁷² Leaders in Mexico would soon become aware of the significance and importance of Mexico City in terms of power and control. Although Mexico City's governor was elected in 1824, the electoral process suffered because of corruption and competition between the Liberals and the Conservatives.⁷³ Many of Mexico's presidents during this era were in office for brief periods of time because of assassinations and coups.⁷⁴ Political factions fought to prevent each other from governing the nation.⁷⁵

In 1857, under Benito Juárez's presidency, voters once again elected the governor of Mexico City.⁷⁶ His office, however, was short-lived.⁷⁷ In 1884, Porfirio Díaz became the President of Mexico for the second time and political centralization rapidly emerged.⁷⁸ President Díaz's political maneuvering eliminated local democratic practices in the capital and replaced them with a system that put Díaz at the pinnacle of Mexico City's political structure.⁷⁹

Following the overthrow of Díaz, Francisco I. Madero assumed the Mexican presidency in 1910.⁸⁰ He demonstrated a commitment to democratic politics for Mexico City.⁸¹ For the first time since Díaz eliminated all democratic practices in Mexico City, the federal government promised the capital's citizens free

71. See MEX. CONST. art. 157 (1824).

72. See JOSÉ R. CASTELAZO, *CIUDAD DE MÉXICO: REFORMA POSIBLE* [Mexico City: Reform Possible] 20 (1992).

73. See DONALD FITHIAN STEVENS, *ORIGINS OF INSTABILITY IN EARLY REPUBLICAN MEXICO* 20 (1991).

74. See *id.* at 59.

75. See *id.* at 1.

76. See Lorenzo Meyer, *Historical Roots of the Authoritarian State in Mexico*, in *AUTHORITARIANISM IN MEXICO* 5 (Jose Luis Reyna & Richard S. Weinert eds., 1977).

77. See *id.*

78. See *id.*

79. See *id.*

80. See DIANE E. DAVIS, *URBAN LEVIATHAN: MEXICO CITY IN THE TWENTIETH CENTURY* 28 (1994).

81. See *id.* at 29.

elections.⁸² Madero's hopes to reintroduce democratic elections in Mexico City, however, were soon dashed by the Revolution of 1910.⁸³ As Mexico fell into the hands of the revolutionary elite, competing political parties and factions undermined any hopes for a new democracy.⁸⁴ Following the Revolution, a new constitution was drafted and ratified.⁸⁵ The Constitution of 1917 required the President to appoint Mexico City's mayor.⁸⁶ By giving Mexico's president this power, the federal government once again denied the citizens of Mexico City the right to elect their own mayor.⁸⁷

B. Rebirth of Democracy: The Political Reform for Mexico City

In the decades following the elimination of open elections in Mexico City, the ruling PRI ignored public demands for elected representation in the capital.⁸⁸ Although the PRI made constant changes in government organizations, they had no incentive to reinstate a democratic structure in the capital.⁸⁹ Over the years, government officials and party members created a large and centralized bureaucratic system tailored to the needs of the elite.⁹⁰

By controlling Mexico City's economic development, services, and bureaucracy, the PRI was able to maintain control over the entire nation. While the PRI centralized its power within the political structure of the city, the citizens of Mexico City grew increasingly frustrated with their inability to directly impact the city's policies.⁹¹ This frustration forced citizens to understand that in order to seek change from the government, they had to challenge the government's power.⁹² Although the Constitution allows direct changes to the Constitution by the people under

82. *See id.*

83. *See id.*

84. *See id.*

85. *See* KANDELL, *supra* note 69, at 436.

86. MEX. CONST., art. 122. This article provides the President with the power to appoint the mayor of the federal district (Mexico City) and the power to remove him. *See id.*

87. *See* DAVIS, *supra* note 80, at 55.

88. *See* JOE FOWERAKER, *POPULAR MOBILIZATION IN MEXICO: THE TEACHERS' MOVEMENT 1977-87* 168 (1993).

89. *See id.*

90. *See* ALAN RIDING, *DISTANT NEIGHBORS: A PORTRAIT OF THE MEXICANS* 55 (1989).

91. *See id.*

92. *See* THOMAS E. SKIDMORE & PETER H. SMITH, *MODERN LATIN AMERICA* 242-44 (3rd ed. 1992).

article 39, the people's lack of representation did not pose a real threat to the ruling party.⁹³

By the late 1960s, the PRI's traditional ways of political activity came under fire from the increasingly frustrated society.⁹⁴ Many Mexicans became aware of the barriers that prevented them from expressing their needs and participating in Mexico City's decision-making process.⁹⁵ They realized how the PRI served and benefited a small segment of Mexican society, while excluding millions from political representation.⁹⁶

The student movement of 1968 marked the beginning of a national inquiry over the future of democracy within Mexico.⁹⁷ Although the PRI prevented the escalation of the political challenge, the PRI's legitimacy and credibility was seriously threatened for the first time since its founding.⁹⁸ Students joined other sectors of Mexican society, such as the teacher's unions, to demand the democratization of Mexico City.⁹⁹ Protests and marches followed. At that moment, however, the movement did not generate enough popular support to undermine the PRI's control or to institute political change.¹⁰⁰ Not until 1982, during the presidency of Miguel de la Madrid Hurtado, did the citizens of Mexico City and the federal government formally begin to discuss constitutional reform for Mexico City.

1. Closer to Democracy: Attempts to Amend the Constitution

a. The Presidency of Miguel de la Madrid Hurtado

In 1982, when Miguel de la Madrid Hurtado, a Harvard-trained economist, assumed the presidency to face an ailing economy, a looming debt crisis, and a dissatisfied urban population.¹⁰¹ De la Madrid sought both economic and political reform for Mexico and its capital.¹⁰² During his campaign, he

93. *See id.*

94. *See* Jose Woldenberg, *Challenges of the democratization process*, VOICES OF MEXICO, Oct.-Dec. 1995, at 7.

95. *See id.*

96. *See id.*

97. *See* SKIDMORE & SMITH, *supra* note 92.

98. *See* FOWERAKER, *supra* note 88, at 2.

99. *See id.*

100. *See id.*

101. *See* TODARO, *supra* note 68, at 276.

102. *See* DAVIS, *supra* note 80, at 262.

promised to restore democracy to Mexico City, as did his predecessors.¹⁰³ Officials within his administration committed themselves to implementing his proposed reforms and to finding ways of gaining support from the public.¹⁰⁴ With hopes of reviving the economy and also preventing the public from revolting against the PRI, de la Madrid proposed a constitutional amendment aimed at allowing the citizenry to elect the mayor of Mexico City.¹⁰⁵ By late 1982, de la Madrid and his cabinet started to develop a plan for democratic reform in Mexico City.¹⁰⁶

De la Madrid's actions signified that Mexico City might once again have direct elections for mayor and local representatives.¹⁰⁷ Conflicts within his own party, however, prevented him from completely implementing the reform.¹⁰⁸ State and party leaders became increasingly aware of the political ramifications of such change. For example, Ramon Aguirre, de la Madrid's mayoral appointee, rejected any constitutional amendment designed to make his office an elected one.¹⁰⁹ Aguirre wanted to maintain his power over Mexico City and the support of the powerful private and public sector lobbies.¹¹⁰ Instead of moving forward with the amendment, de la Madrid submitted to the pressures from his party and his mayor, and withdrew his election plan.¹¹¹

b. The Presidency of Carlos Salinas de Gortari

President Carlos Salinas de Gortari, de la Madrid's successor, assumed the presidency in 1988 to face a rocky political scene.¹¹² In the Presidential elections of 1988, the PRI received a mere forty-nine percent of the national electoral vote and only one out of four votes in Mexico City.¹¹³ Cuauhtemoc Cárdenas Solorzano, a presidential candidate for the Frente Democrático Nacional

103. *See id.* at 260.

104. *See id.* at 261.

105. *See id.*

106. *See id.* at 262.

107. *See* Diane E. Davis, *Failed Democratic Reform in Contemporary Mexico: From Social Movements to the State and Back Again*, 26 J. LATIN AM. STUD. 403, (1994).

108. *See id.*

109. *See* DAVIS, *supra* note 80, at 267.

110. *See id.*

111. *See id.* at 275.

112. *See* FOWERAKER, *supra* note 88, at 168.

113. *See* Peter M. Ward, *Government Without Democracy in Mexico City: Defending the High Ground*, in MEXICO'S ALTERNATIVE POLITICAL FUTURES 311 (Wayne A. Cornelius et al. eds., 1989).

(FDN), (later called the PRD) accused the PRI of committing electoral fraud.¹¹⁴ "While the final results will always be disputed, it is possible that Cárdenas won the election by a narrow margin."¹¹⁵ With these challenges, Salinas took office on December 1, 1988.¹¹⁶

In order to gain legitimacy and support from the public, Salinas promised to improve democracy in Mexico City and to reform the electoral process nationwide. The opposition parties responded by promoting the idea of establishing Mexico City as a new state, called Estado de Anáhuac.¹¹⁷ As the thirty-second state, Mexico City would directly elect its own governor and its own Chamber of Deputies.¹¹⁸ The governor would replace the appointed mayor, and the Chamber would replace the Assembly.¹¹⁹ This proposed political project would essentially pry the PRI from its control over Mexico City. Accordingly, President Salinas and his administration would oppose this reform.¹²⁰

On March 21, 1993, the opposition parties and independent groups took several questions to the people of Mexico City to seek support for a constitutional amendment.¹²¹ With the government's permission, organizers asked three questions: (1) should Mexico City become a state?; (2) should the Governor be elected by direct vote?; and (3) should Mexico City have a local Congress?¹²² Although only 331,180 of an expected one million voters participated, 84.8 percent favored the election for a Governor, 84.3 percent supported the creation of a local Congress, and 66 percent favored the idea of making Mexico City a state.¹²³ The plebiscite represented a clear threat to the government.¹²⁴

Instead of accepting the results as the basis for a proposal, Salinas proposed a more moderate amendment that would not

114. *See id.*

115. MIGUEL ÁNGEL CENTENO, *DEMOCRACY WITHIN REASON: TECHNOCRATIC REVOLUTION IN MEXICO* 15 (2d ed. 1994).

116. *See id.*

117. *See* CASTELAZO, *supra* note 72, at 8.

118. *See id.*

119. *See id.*

120. *See id.*

121. *See* Alonso Urrutia, *AN, dispuesto a calendarizar la reforma política para el DF*, *LA JORNADA*, Mar. 26, 1993, at 39.

122. *See* Victor Ballinas & Alonso Urrutia, *Computo total de la Fundación Rosenblueth: 331 mil 180 votantes*, *LA JORNADA*, Mar. 23 1993, at 3.

123. *See id.*

124. *See id.*

threaten his power nor that of his party. In April 1993, Salinas and Mayor Manuel Camacho Solis, proposed the establishment of a new form of government for Mexico City in 1997.¹²⁵ The mayor would be selected from the local legislatures of the majority party in the Federal District's Assembly of Representatives.¹²⁶ Thus, the Mexican president would still have the right to choose the mayor from a list prepared by the majority party. Camacho believed that the proposed amendment "consolidate[d] representative democracy, recognize[d] the rights of local citizens, and maintain[ed] the equilibrium with national political systems."¹²⁷

The amendment,¹²⁸ although reasonable in theory, would still give the PRI control in Mexico City.¹²⁹ Nevertheless, "the Mexican government—bowing to a democratic reform movement—will allow a gradual shift from a federal to a local government."¹³⁰ This reform represented a symbolic gesture from the PRI to its opposition. This gesture fell short of a Constitutional amendment because it went no further in granting the residents of Mexico City the power to elect their mayor than did de la Madrid's failed attempts.

2. A Democratic Reality: Zedillo's Constitutional Amendment

Given the many trials and failures of the reform movement during the de la Madrid and Salinas administrations, it seemed unlikely that any foundation for a political reform existed in Mexico City in 1994. There were high hopes for Mexico's new trade agreement with the United States and Canada. Yet, the events that occurred in 1994 induced drastic changes in Mexican political thought and action. "Economic disarray, official corruption, an unresolved Indian uprising, and several unsolved killings pushed Mexico to what some [in Mexico City] say is the brink of the most serious crisis of state since the 1910

125. See David Clark Scott, *Mexico City Mayor Steers Slow Course to Self-Rule But Critics say reforms are political paternalism*, CHRISTIAN SCI. MONITOR, Apr. 22 1993, at 22, available in 1993 WL 7152644.

126. See Jorge V. Alcocer, *Recent Electoral Reforms in Mexico: Prospects for a Real Multiparty Democracy*, in THE CHALLENGE OF INSTITUTIONAL REFORM IN MEXICO 62 (Riordan Roett ed., 1995).

127. Scott, *supra* note 125, at 23.

128. MEX. CONST. art. 122(VI)(a).

129. See Scott, *supra* note 125, at 23.

130. *Id.*

Revolution."¹³¹ For the first time since the end of the Mexican Revolution of 1910, Mexico's political, social, and economic stability were seriously threatened.¹³²

a. Events leading to a Constitutional Reform

From the winter of 1994 to the summer of 1995, the political reform movement to elect the mayor of Mexico City moved closer to reality. The first major event of 1994 was the Chiapas uprising.¹³³ On January 1, 1994, between 1000 and 10,000 members of the Zapatista National Liberation Army took arms and marched into San Cristobal de las Casas, Chiapas, demanding social development and democracy.¹³⁴

On March 23, 1994, after announcing his plan for political reform to the people of Tijuana, Mexico, PRI's presidential candidate, Luis Donaldo Colosio was assassinated.¹³⁵ Colosio's death ended sixty-five years of political stability, including the PRI's smooth presidential transition and the beginning of political transformation.¹³⁶ Those who feared the worst for Mexico's fragile stability found those fears heightened by the events that followed Colosio's death.

In September 1994, Francisco Ruiz Massieu, the PRI's Party Leader was assassinated on the streets of Mexico City.¹³⁷ His brother, Mario Ruiz Massieu, a close ally of former President Salinas, was linked to Massieu's assassination and fled to the United States where he was extradited for money laundering.¹³⁸ Months later, Raul Salinas de Gortari, brother of former President Salinas, was arrested and charged with corruption and conspiracy to kill Massieu.¹³⁹ These events symbolized the worst crisis the

131. Anthony DePalma, *Mexico's Accidental Chief Spurns Role of Strongmen*, N.Y. TIMES, Dec. 28, 1995, at A1.

132. *See id.*

133. *See* Juanita Darling, *Mexican Revolt in 2nd Day; 65 Dead Latin America: Indians continue to battle government forces*, L.A. TIMES, Jan. 3, 1994.

134. *See id.*

135. *See id.*

136. *See* LAURA QUINTERO & IGNACIO RODRIGUEZ, *COLOSIO Y ZEDILLO POR LA REFORMA DEL PODER?* 13 (1994).

137. *See* Juanita Darling, *Top Official of Mexico's Ruling Party Is Slain Assassination: Francisco Ruiz Massieu's death is the latest incident in a mounting wave of violence*, L.A. TIMES, Sept. 29 1994 at A1.

138. *See id.*

139. *See* Mark Fineman, *Mexico Corpse Fails to Yield Clues Tests continue on body found at Salinas ranch. Victim's identity crucial to assassination probe*, L.A. TIMES, Dec.

PRI faced since the student movements of the late 1960s.

In response to the economic crisis, tragedies, and social unrest facing the nation, Mexicans went to the ballot boxes on August 21, 1994. That day, the people elected PRI candidate Ernesto Zedillo Ponce de Leon President of Mexico with less than half of the votes.¹⁴⁰ In an election that witnessed an astonishingly high 77.73 percent voter turnout, Zedillo mustered 48.77 percent, while Diego Fernandez de Cevallos of the Partido Acción Nacional (PAN) and Cuauhtemoc Cárdenas Solorzano of the PRD received 25.94 and 16.65 percent, respectively.¹⁴¹

The PAN earned even greater support outside of Mexico City. After the Presidential elections, the party won the governorship of Jalisco and the mayorship of Guadalajara, the state capital in 1995.¹⁴² In that same year, the PAN won the office of governor for the state of Guanajuato, but lost the governorship of Yucatan to the PRI in a close and arguably fraudulent race.¹⁴³ After 65 years of complete rule, the PRI conceded important states to the opposition. These elections severely threatened the PRI's authority.

By December 1994, with Mexico's peso severely devalued, the rate of inflation rose, unemployment grew, and Mexico's economy was on the brink of fiscal collapse.¹⁴⁴ To halt this downward spiral, President Zedillo turned to the U.S. Treasury and the International Monetary Fund (IMF) for a loan.¹⁴⁵ Many Mexicans blamed the ruling party for their economic hardships.¹⁴⁶ The tumultuous social, political, and economic climate of 1994 pushed the reform movement to new levels.¹⁴⁷

20, 1996, at A5.

140. See Mark Fineman, *Final Tallies Show Mexico's Long-Ruling PRI Maintaining Its Hold On Near-Absolute Power*, L.A. TIMES, Aug. 30, 1994, at A14.

141. See *id.*

142. See Mark Fineman, *Ruling PRI Suffers Crushing Defeat in Key Mexico State Election: Opposition PAN heads for a major sweep in Jalisco, dealing president's party one of its worst losses in 66 years. Wide margin eases fears of violent protests.*, L.A. TIMES, Feb. 14, 1995, at 1.

143. See *Mixed News From Mexico New blood in one state, a dinosaur in another*, L.A. TIMES, May. 31, 1995, at 6.

144. See Allan H. Meltzer, *Clinton's Bailout Was No Favor to Mexicans*, WALL ST. J., Feb. 2, 1996, at A11.

145. See *id.*

146. See *id.*

147. See Howard La Franchi, *Peso Plunge Challenge Mexico's Democracy*, CHRISTIAN SCI. MONITOR, Jan. 11, 1995, at 4.

b. President Zedillo's Promise for an Electoral Amendment

The events of 1994 and 1995 indicated that political reform and a subsequent constitutional amendment to elect the mayor of Mexico City might be imminent. At the beginning of his term, Zedillo emphasized political reform as a priority in his administration because it was crucial to Mexico's recovery and stability.¹⁴⁸ Many political analysts, however, remain skeptical of Zedillo's commitment to political change.¹⁴⁹ Zedillo came to the presidency as a Yale-trained economist, who had never held an elected position.¹⁵⁰ Zedillo's inexperience suggested that he might be incapable of implementing his policies. Furthermore, it indicates that he might not be strong enough to handle such a large bureaucracy, let alone his own party's entrenched members.¹⁵¹

Despite much criticism, his chief political rival, former PAN presidential candidate Diego Fernandez de Cevallos expressed optimism for Mexico's future democracy.¹⁵² De Cevallos stated, "Zedillo's arrival in the presidency without question gave rise to hopes that we could begin to fix the various problems in the political and economic life of this country."¹⁵³ De Cevallos' opinion about President Zedillo's desire to reform the political system was soon backed by the President's promise to institute direct elections for the Mayor of Mexico City.¹⁵⁴

President Zedillo instructed the Mayor of Mexico City, Oscar Espinosa Villarreal, to gather all interested political parties to begin discussions on the possibility of making the mayoral office an elected one.¹⁵⁵ On December 19, 1994, five major political parties, the PRI, PAN, PRD, the Workers Party (PT) and the Green Party convened at the historic Castillo de Chapultepec.¹⁵⁶

148. See DePalma, *supra* note 131, at A16.

149. See *id.*

150. See *id.*

151. See *id.*

152. See Tod Robberson, *Mexico's Year Of Living Chaotically*, THE WASH. POST, Dec. 1, 1995, at A36.

153. See *id.*

154. See Diario Oficial de la Federación [Official Daily of the Federation] of May 31, 1995, at 29 [hereinafter *D.O.* May 31].

155. See *Comisión Plural Ejecutiva de la Reforma Política para el Distrito Federal, Síntesis de la primera etapa*, (Jan.-June 1995), at 2 [hereinafter *Commission Report*].

156. Interview with Lic. Jorge Schiaffino Isunza, Technical Secretary of the Commission for Mayoral Elections in Mexico City, Mexico (Feb. 6, 1996) [hereinafter *Isunza Interview*].

There, they formed a committee to submit a proposal to the President and to Congress.¹⁵⁷ The unprecedented proposal was to elect the mayor of Mexico City. Never in Mexico's history had political parties convened to propose a constitutional amendment to elect an official.¹⁵⁸ Traditionally, the President would propose an amendment and change the constitution without opposition support.¹⁵⁹ This meeting proved historic for democracy in Mexico City.¹⁶⁰

c. Negotiating Reform

Those involved with the reform proposed an amendment that would require the election of Mexico City's mayor for the first time in decades. This final guarantee came through the work of the Commission established in December 1994.¹⁶¹ On their agenda, President Zedillo instructed the parties to detail a list of important elements for the Commission to discuss.¹⁶² These elements would then be used to draft the final reform that would be presented to the President, the mayor of Mexico City, the Federal District's Assembly of Representatives, and Congress.¹⁶³

Initial discussions over reform began with former President Salinas' proposal to select the mayor from a list prepared by the Assembly of Representatives.¹⁶⁴ This reform proposed that the mayor should be selected indirectly by the President, maintaining the status quo. Members of the opposition parties, however, preferred a reform to elect the mayor directly by popular vote.¹⁶⁵ On November 8, 1995, the Commission decided that there would be direct elections for mayor, with the title of Jefe de Gobierno.¹⁶⁶ The PRI proposed that the election date be set for the second Sunday of August 1997 to coincide with federal elections.¹⁶⁷

157. *See id.*

158. *See id.*

159. *See Vargas, supra* note 44, at 506.

160. *See Isunza Interview, supra* note 156.

161. *See id.*

162. *See id.*

163. *See id.*

164. *See Alcocer, supra* note 126.

165. *See Comisión Plural Ejecutiva, Presentación Comparativa de los Documentos Que Fijan Las Posiciones de Los Partidos, En Relación a Los Puntos 1 Y 2 De La Agenda*, (Nov. 8, 1995) [hereinafter *Party Agenda*].

166. *See id.*

167. *See id.*

The Commission brought together four political parties, the PRD, the PRI, the PAN and the PT, to lay out the framework for the future of Mexico City's political structure.¹⁶⁸ Although many issues were unresolved, the promise of elections for mayor of Mexico City in the summer of 1997 remained. The commitment from both opposition and the ruling party resulted in this reform. Jorge Schiaffino Isunza, Technical Secretary of the Commission, stated that the results of the Commission provided a rich experience for the future of Mexico and the future of democracy, even though his party may be threatened in the polls.¹⁶⁹

d. President Zedillo's Constitutional Amendment and the Results

After eighteen months of negotiations among the members of the Commission, President Zedillo sent his Reform Initiative to Congress on July 1996.¹⁷⁰ Among many other changes to the Constitution, the popular election of Mexico City's mayor was the main issue.¹⁷¹ Many analysts believed this measure would never become a reality.¹⁷² To the surprise of many, PRI party President Santiago Onate "indicated that the PRI must support reform or die."¹⁷³ As required by article 135, the majority of PRI Congress and state legislatures, formally ratified the amendment.¹⁷⁴ With an overwhelming vote, President Zedillo amended the Constitution for the second time during his term.¹⁷⁵ This reform package resulted in the President formally relinquishing his power to appoint the mayor of Mexico City. On July 6, 1997, for the first time since 1928, the citizens exercised their democratic rights to

168. See generally *Commission Report*, *supra* note 155.

169. See *Isunza Interview*, *supra* note 156.

170. See Mark Fineman, *In Mexico, a Giant Leap Toward Vote Reform Elections: Initiative would dilute ruling party's power and allow expatriates to go to ballot box*, L.A. TIMES, July 27, 1996, at A1.

171. See *id.*

172. See *id.*

173. *Id.*

174. Article 122 was revised to include the elections of Mexico City's mayor. The final amendment appeared on the Constitution as of August 22, 1996. It provides that the mayor of the Federal District (Mexico City) will have as his duties the Executive and public administration within one entity and fall in one person, elected by universal vote, free, direct, and secret. See *Diario Oficial de la Federación* of Aug. 22, 1996, at 8 [hereinafter *D.O.* Aug. 22].

175. Zedillo's first amendment was the Judicial reform. See *Diario Oficial de la Federación* of Dec. 31, 1994, at 6 [hereinafter *D.O.* Dec. 31.].

vote.¹⁷⁶

C. *Applying Constitutional Theories to Mexico City's Reform*

1. The Amendment Process from the American Perspective

Bruce Ackerman explains the amendment process as a constitutional reflection of politics or a constitutional moment. The first constitutional moment is evidenced by Zedillo's changes to twenty-seven articles in his first reform initiative.¹⁷⁷ The second moment was the reform initiative to elect the mayor during the summer of 1995.¹⁷⁸

Ackerman identified higher lawmaking as an approach to explain the amendment process. A higher lawmaking system encompasses a series of stages which, if met, render an amendment unnecessary.¹⁷⁹ The four stages consist of (1) the signaling phase, (2) the proposal stage, (3) the period of mobilized popular deliberation stage and (4) the legal codification stage.¹⁸⁰ The amendment to elect the mayor followed these stages.

Mexico City's amendment does follow Bruce Ackerman's higher lawmaking theory. President Zedillo informed the public that an amendment would be proposed and implemented.¹⁸¹ This public statement signaled Zedillo's commitment to amending the constitution to the opposition parties. Ackerman's proposal stage was met when Zedillo ordered the mayor of Mexico City to gather key members of the opposition parties to draft an amendment.¹⁸² A period of mobilized popular deliberation stage was evidenced by the 1993 plebiscite vote and public discussions over the amendment.¹⁸³ Finally, legal codification was fulfilled when Congress and state legislatures approved the amendment and added it to the Constitution.¹⁸⁴ While Ackerman defines legal codification as statutes and laws, legal codification in Mexico is a

176. See Althaus, *supra* note 3.

177. See *id.*

178. See *D.O. Aug. 22, supra* note 174.

179. See CONSTITUTIONAL CHANGE IN THE UNITED STATES, *supra* note 18, at 77.

180. See *id.*

181. See *D.O. May 31, supra* note 154.

182. See *Isunza Interview, supra* note 156.

183. See *Commission Report, supra* note 155.

184. See *D.O. Aug. 22, supra* note 174.

constitutional change.¹⁸⁵ When all four stages are met, Ackerman argues that a constitutional amendment is unnecessary. In Mexico's experience, all four stages were met and an amendment was proposed and implemented.

Another approach to explain the amending process is through court interpretation. John Vile describes how the U.S. Supreme Court implicitly makes changes to the Constitution.¹⁸⁶ While Supreme Court decisions in the United States affect the Constitution, Mexico's Supreme Court does not have the same profound impact in constitutional politics. "Mexicans do not perceive the Supreme Court of Mexico as a judicial institution having the power to influence social, political and economic forces. Mexico has never had a decision like *Marbury v. Madison*."¹⁸⁷ Moreover, Mexico's Supreme Court structure prevents it from prescribing implicit constitutional changes in Mexico.

In the recent constitutional amendment to elect the Mayor of Mexico City, Mexico's Supreme Court had no role in the amending process. Rather, the President and the opposition parties initiated the process with a final vote by the legislative branch.¹⁸⁸ These segments of Mexico's political system have a substantially larger impact on Mexico's society than does the Mexican Supreme Court. "Decisions of the Supreme Court have not touched an infinite number of areas."¹⁸⁹ Because of its weak position and lack of influence, the Mexican Supreme Court is relegated to follow the President's decisions.¹⁹⁰

2. The Amending Process from the Mexican Perspective

Jorge Vargas's programmatic content approach details one theory in Mexican constitutional amendment process. Amendments in Mexico are inserted by the president's six-year plan. The amendment to elect the mayor for Mexico City, however, was not part of the six-year plan. Rather, it was granted months after Zedillo's National Development Plan was presented

185. See Vargas, *supra* note 44, at 498.

186. See CONSTITUTIONAL CHANGE IN THE UNITED STATES, *supra* note 18, at 36.

187. See Jorge A. Vargas, *The Rebirth of the Supreme Court of Mexico: An Appraisal of President Zedillo's Judicial Reform of 1995*, 11 A.M. U.J. INT'L L. & POL'Y 295, 335 (1996) [hereinafter *The Rebirth of the Supreme Court of Mexico*].

188. See Fineman, *supra* note 170.

189. See *The Rebirth of the Supreme Court of Mexico*, *supra* note 187.

190. See *id.* at 297-98.

to the people.¹⁹¹ Nonetheless, the amendment reflects the president's tradition to implement his political platform by changing the Constitution.

By conceding to the opposition's demand for a democratic government in Mexico City, Zedillo did not conform to maintaining the status quo for which his predecessors fought. President Zedillo "succeeded in reducing the powers of the presidency, of liberalizing Mexican politics further, and of creating a broader space for the development of competitive politics."¹⁹² Zedillo's actions fundamentally broke away from the tradition of implementing changes to the Constitution to benefit the presidency and the ruling party.¹⁹³ This amendment represented Zedillo's commitment to reform and the agenda of the opposition.

Another theory that may shed some light on the significance of this amendment is Jaime Gracia's theory of presidentialism. This theory explains the President's immense powers over the amendment process. By controlling the actors of the amendment process, such as the Mexican Congress and the state legislatures, the President may seemingly change the Constitution at will.¹⁹⁴ This practice is commonly used to assure that the president and the ruling party retain power.¹⁹⁵

Determined to grant direct elections, President Zedillo easily introduced the amendment to Congress and to the state legislatures.¹⁹⁶ Congress and the state legislatures ratified the amendment to elect the Mayor as requested by President Zedillo. In support of their president, PRI governors quickly approved the amendment.¹⁹⁷ The ease of amending the constitution supports the concept of presidentialism. This amendment, however, undermines the president's power. President Zedillo used his power over the amendment process to undermine his own presidential powers. If he is truly committed to further democratization, Zedillo may propose other amendments that will alter his powers. Such constitutional amendments may

191. See *D.O.* Aug. 22, *supra* note 174.

192. Luis Rubio, *Coping with Political Change*, in *MEXICO UNDER ZEDILLO*, 17 (Susan Kaufman Purcell & Luis Rubio eds., 1998).

193. See *id.*

194. See Vargas, *supra* note 44, at 507.

195. See Livas, *supra* note 67.

196. See Fineman, *supra* note 170.

197. See *id.*

significantly undermine the notion of presidentialism in Mexico.

IV. A NEW CONSTITUTIONAL ORDER FOR MEXICO

A. Amendment of 1995: A Change from the Past

Although the Amendment of 1995 may comply with traditional norms of implementing constitutional changes in Mexico, the process in achieving this amendment establishes a new order. Prior amendments were simply policies and economic changes made by the President in accordance with his and the PRI's political agenda.¹⁹⁸ De la Madrid and Salinas attempted to guarantee democracy, but they could not deliver on their promises. Mexico's political tradition in amending the Constitution served to increase, or at least maintain the President's power. This amendment, however, broke with tradition. For the first time in Mexican history, a constitutional amendment guaranteed democracy as seen through direct elections.¹⁹⁹

After decades of demanding reform, an amendment was finally promised and guaranteed. What was so different during the last three years that compelled the government and the PRI leadership to decide to amend the constitution? Why did this not occur earlier, in 1986 or 1993? A central cause for the success of reform under President Zedillo is the negative image surrounding the ruling party.²⁰⁰ Their tarnished reputation facilitated Mexico's move towards democracy as Mexico saw corruption and a crisis befall its political system.²⁰¹

Times have changed in Mexico since the last attempts to restore elections to Mexico City by amendment. Between 1982 and 1986, former President de la Madrid promised elections in Mexico City in hopes of gaining support for his economic plans.²⁰² Similarly, President Salinas, facing an economic crisis as he assumed power, promised an amendment for elections to solve Mexico's problems.²⁰³ By contrast, under President Zedillo and

198. See Vargas, *supra* note 44.

199. See D.O. Aug. 22, *supra* note 174.

200. Interview by written correspondence with Dolores Padierna Luna, Assembly Representative for the Party of the Democratic Revolution (PRD) and PRD's Coordinator for Mexico City, in Mexico City, Mexico (Feb. 26, 1996).

201. See *id.*

202. See DAVIS, *supra* note 80, at 262.

203. See Scott, *supra* note 125, at 22.

the PRI leadership, an amendment was supported and ratified by a PRI-controlled Congress. Conditions, like population growth and civic participation in Mexico City, demonstrated the need for permanent change in the 1990s. Such was not the case in the 1980s.²⁰⁴

Clearly, a difference between the promise to amend and the guarantee to amend is the political nightmare that challenged the government in recent years. De la Madrid and Salinas did not face political assassinations, widespread corruption, and a civilian uprising that threatened the Mexican government for over sixty-five years.²⁰⁵ An open and threatened political system forced the ruling party to work with the opposition and pass an amendment granting direct elections for the Mayor of Mexico City.²⁰⁶

Confronting a weak political system, Zedillo did not respond to the demands of his party, but rather, to the citizens of Mexico City and the opposition.²⁰⁷ Zedillo made it his objective to break away “with the decades-long tradition of presidential dominance.”²⁰⁸ His commitment to legitimize the opposition’s hopes for elections through amendment constitutes a huge step towards a new constitutional order for Mexico’s future democracy. For the first time since the adoption of the Constitution of 1917, the President invited political parties to propose an amendment to grant a democratic right—the exercise of elections.

B. A New Constitutional Way of Ensuring Democracy in Mexico

Mexicans learned a valuable lesson from this unique experience. To ensure democracy in Mexico, it is necessary to change the Constitution. Over the years, Mexican presidents have promised direct elections for Mexico City’s mayor. These promises, however, have fallen short to political pressures to maintain the status quo. When President Zedillo called for a committee to propose a reform, there was some assurance that Zedillo was committed to granting elections.²⁰⁹ After months of negotiations between the ruling party and the opposition,

204. See *Isunza Interview*, *supra* note 156.

205. See *id.*

206. See *id.*

207. See Michael Elliott & Tim Padgett, ‘I have great confidence.’ (*Mexican President Ernesto Zedillo*), *NEWSWEEK*, Apr. 10, 1995, at 1, available in 1995 WL 14496834.

208. Rubio, *supra* note 192, at 14.

209. See *Isunza Interview*, *supra* note 156.

Congress modified the Mexican Constitution to provide for free elections. Democracy returned to Mexico City because the amended Constitution legitimized this right.

The threats that challenged the government forced President Zedillo to amend the Constitution. The opposition discussed and negotiated with the PRI for an amendment. For the first time since democracy was eliminated in Mexico City after the Revolution of 1910, the ruling party welcomed reform and was committed to amend the Constitution.

To implement democratic reform and to amend the constitution, the government must face a challenge that threatens its authority. The opposition must exert serious pressures to the political system and gain the President's commitment to bring about change. Full democratic reform, such as a constitutional amendment to guarantee elections, is likely only when the political scene faces a strong threat from the people and the opposition. In demanding further democracy throughout Mexico, reformers must learn from the experience of Mexico City and continue to challenge the government.

V. CONCLUSION

Many scholars perceive a constitution to be the ultimate will of a nation. For Mexico, the Constitution of 1917 embraces the nation's vigorous history and political traditions. Furthermore, Mexico has seemingly followed Thomas Jefferson's vision of the constitutional amendment process; a constitution should be changed frequently to reflect the changes within the nation.²¹⁰ Since 1917, some 300 changes to the Mexican Constitution have been made. Traditionally, the President of Mexico amends the constitution to maintain or increase his political powers. These frequent amendments, however, may not reflect the will of the nation. In order to uphold the true meaning of Mexico's constitution—a document for its people—such changes should not represent the President's will. Rather, profound changes to the political system must reflect the will of the people.

Reaching a successful and peaceful transition to democracy in Mexico City demonstrates the changing role of the Mexican government. The ruling party has given initial indications that it

210. See CONSTITUTIONAL AMENDING PROCESS, *supra* note 7, at 74.

had the will to face a challenge and to provide a solution. While Mexicans demanded change, the government made a promise to the Mexican people. Although achieving free elections represented a great challenge, a greater challenge awaits Mexico. Now that the opposition won, the PRI and the Mexican government must accept the outcome and relinquish its power without denying rights to the newly elected mayor, Cuauhtemoc Cárdenas. Given the importance of this city, Cárdenas has many challenges ahead of him. For the time being, the citizens of the largest city in the world enjoy the freedoms of democracy.

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