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### INTRODUCTION TO RECENT DEVELOPMENTS IN MEXICAN LAW: POLITICS OF MODERN NATIONALISM

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Mexico's recently enacted legislation on investment and technology<sup>1</sup> represents another step in that country's continued development of modern nationalism. Though these laws announce some new practices in the regulation of foreign property and investment, they build directly on earlier government policy and action. The result desired from this evolving policy is an increase in the ability of the government to control the future appearance of Mexico as a nation.

This paper will examine the two new laws in terms of their implications as to the state of present day Mexican nationalism. The term "nationalism," here, means the common emotional commitment of a large number of individuals to the symbols of an historical-cultural-geographical abstraction called "the nation."<sup>2</sup> In Mexico, of particular relevance are the nationalistic feelings of the dominant political elite. Their attitudes have been strongly influenced by foreign contact, whether through invasion, foreign investment, or tourism. Mexican nationalism clearly reflects the nation's geographical proximity to the United States. Many nationalists have long wanted to reduce their dependence on capital and technology imported from across the border to the north.

The present analysis falls into three parts. The first looks at the historical evolution of government policy toward foreign investors from the 1910 Revolution to the present. The second part is an over-

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1. The complete titles of these two new laws are: Ley para promover la inversion mexicana y regular la inversion extranjera (The Law to Promote Mexican Investment and to Regulate Foreign Investment) [hereinafter referred to as Investment Law]; Ley sobre el registro de la transferencia de tecnologia y el uso y explotacion de patentes y marcas (Law on the Registry of Technological Transfer and the Use and Exploitation of Patents and Trademarks) [hereinafter referred to as Technology Law].

2. See generally K. DEUTSCH, NATIONALISM AND SOCIAL COMMUNICATION (1953).

view of the contents of the two new laws, stressing those aspects which could potentially be the cause of friction between foreigners and the Mexican government. The final part focuses on President Luis Echeverria's efforts to cope with the pressures for drastic change which have been building up in Mexico in recent years. Through his utilization of the issue of nationalism, Echeverria hopes to shift the predominance of power in the government from the Right to the Center of the political spectrum.

#### NATIONALISM: THE RECENT PAST

Today's nationalism reflects the past conflict between foreign investors and the Mexican government. Sharp clashes between the two have influenced both parties; each side was forced to re-evaluate its past actions in terms of the outcome of those conflicts and in light of a changing relationship of bargaining power.

Before the Constitution of 1917, investors clearly had the upper hand. Their governments frequently intervened in Mexican politics on their behalf to obtain and preserve the conditions most propitious for the maximization of profits with minimal restriction on operations. Many investors were not particularly hesitant to exploit the political and economic weaknesses of the Mexican government of the day. Guided by classical liberal arguments about free trade and notions of racial prejudice, they believed they had the right to invest anywhere abroad. At first, Mexican officials grudgingly accepted the domination and political intervention on the part of the foreign investors. They did so because of a sense of political helplessness coupled with naive positivist assumptions that automatic progress would result from foreign investment.

A growing level of frustration tended to coincide with the expanding Mexican economy. At the same time, an increasing attitude of confidence was produced by the new economic growth which provided the Mexican government with the resolve to challenge the formerly unquestioned dominance of the foreigners. Government actions to restrict the activities of the investors caught the latter by surprise, resulting in sharp conflicts between the two.

Further interaction between investors and the government was dependent on the outcome of the initial conflict. Where the government was able to impose restrictions on the investors, the latter gradually reconciled themselves to accepting the legitimacy of the government's right to set rules for future investment. As a result, the investors attempted merely to keep the changes to a minimum by applying the only pressure available to them—threats to withdraw or withhold funds from Mexican investment. An atmosphere of mutual bargaining developed as the growing strength and confidence of the Mexican government asserted itself against the power of the foreign investors.

The evolution of this nationalism was not a uniform progression.<sup>3</sup> Early governments were unable to make more than symbolic protests against the domination of Mexican resources by foreigners. Although Article 27 of the 1917 Constitution reasserted the State's traditional monopoly of subsoil ownership rights,<sup>4</sup> in the face of U.S. threats of military invasion and the withholding of diplomatic recognition, nothing was done to repossess mining and petroleum properties illegally deeded to foreign companies during the Diaz period.<sup>5</sup> Similarly, other provisions of the same Article existed only on paper, such as the right to expropriate private property with compensation and the right to forbid foreign land holdings in border and littoral areas.<sup>6</sup> The acts of intervention of U.S. Ambassador Henry Lane Wilson in 1913 and the sending of American naval and land forces into Mexico as in the 1914 Vera Cruz landing or the 1916-17 Pershing expedition remained a vivid memory of the power of the United States.<sup>7</sup> Thus, not until the government of Lazaro Cardenas in 1938 was there any serious interference with the economic activities of foreign businessmen.

The assertion of a strong nationalist position by the Cardenas government toward foreign-owned petroleum forced outside investors to re-examine their assumptions about the Mexican government's ability to limit foreign property rights. Faced with a direct challenge to his government by the oil companies which refused to recognize Mexican labor law, Cardenas reacted by expropriating their properties. The Mexican position in the open conflict which resulted was strengthened by the likely prospect of World War II. In its desire to avoid a repeat of the World War I situation of bad relations, the United States hesitated to exert the type of pressure which would have normally been expected.<sup>8</sup> An arrangement for compensation was agreed upon during the government of Manuel Avila Camacho, Cardenas' successor. The successful expropriation of petroleum finally established that foreign investors, indeed, *were* to be subject to Mexican law.

By the mid-1950's, Mexico had created a *modus vivendi* with foreign investors. Disputes over financial compensation due foreign-

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3. Particular presidents were specially responsible for winning Mexico more control over its resources, while others like Miguel Aleman and Gustavo Diaz Ordaz were either uninterested or temporarily reversed the process.

4. See THE CONSTITUTIONS OF THE AMERICAS 505-13 (R. Fitzgibbon ed. 1948).

5. G. MAUR, NATIONALISM IN LATIN AMERICA 78 (1966). For a more detailed picture of this period see R.F. SMITH, THE UNITED STATES AND REVOLUTIONARY NATIONALISM IN MEXICO, 1916-1932 (1972).

6. CONSTITUTIONS, *supra* note 4, at 505-13.

7. J. FAGG, LATIN AMERICA: A GENERAL HISTORY 536, 538 (1969); SMITH, *supra* note 5, at 43-70.

8. SMITH, *supra* note 5, at 96.

ers from the 1910-1917 revolutionary period had long since been settled. Foreign capital was now flowing back into Mexico at a rate unprecedented in Mexican history. These new investors were not frightened by the government regulations reserving certain aspects of the Mexican economy to Mexicans only.<sup>9</sup> When problems arose during this time concerning the operation of the foreign-dominated power industry, negotiations finalized in 1960 provided for the Mexican purchase of the industry, a settlement quite acceptable to the foreign owners.<sup>10</sup> The purchase of U.S. owned copper and sulfur properties and of majority ownership of the telephone system in 1972<sup>11</sup> only marked a continuation of the now well established Mexican government policy that basic industries such as petroleum, minerals, communications and steel ought to be owned by Mexican nationals and not foreigners.

The 1973 foreign investment law really says very little which was new in terms of Mexican government policy. For example, in 1963, an official Mexican publication aimed at foreign investors stated:

Foreign private investment is well received when it does not displace Mexican capital, when it associates on a minority basis with local investors, devotes itself to increasing the country's productivity, and does not attempt to obtain privileges or preference.<sup>12</sup>

Though not radically new, the 1973 law serves a purpose; it is written to be specific and enforceable. The Echeverria government in 1972 clearly felt that the somewhat vague, voluntaristic approach of its predecessors needed some tightening-up in order that abuses such as the increasing number of purchases of established Mexican enterprises by foreigners be stemmed.

The nationalist fears in Mexico in the early 1970's of a foreign take-over of the most profitable sectors of Mexican industry received widespread publicity. One article claimed that in 1970 foreign investment in manufacturing controlled 84 percent of the tobacco industry, 78 percent of chemicals, 68 percent of metal products, 54 percent of non-metallic mineral products, 60.5 percent of diverse manufacturing products, and 33 percent of paper and paper products.<sup>13</sup> Article 8 of the investment law which gives preference to Mexican investors in

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9. See BANCO NACIONAL DE COMERCIO EXTERIOR, MEXICO 181-182, (1966); M. WIONCZEK, *INVERSION Y TECNOLOGIA EXTRANJERA EN AMERICA LATINA* 145-146 (1971); M. BETETA, *Mexican Government Policy Towards Foreign Investors*, in *FOREIGN INVESTMENTS IN LATIN AMERICA* 265-272 (M. Bernstein ed. 1966).

10. See generally M. WIONCZEK, *Electric Power: The Uneasy Partnership*, in *PUBLIC POLICY AND PRIVATE INVESTMENT IN MEXICO* 19 (R. Vernon ed. 1964).

11. *Siempre*, Dec. 6, 1972, at 13.

12. BANCO NACIONAL DE COMERCIO EXTERIOR, MEXICO 288 (1963).

13. E. Mujica, *Por fin: la ley esperada*. *Siempre*, Jan. 10, 1973, at 30, quoting figures from a study by economist C. Bazdresch.

company purchases is clearly aimed at limiting, if not preventing, the continued de-nationalization of Mexican industry.

The new laws deal with another problem area facing the Echeverría government—the continued deficit in Mexico's balance of payments. Some writers suggested that the process of import-substitution industrialization upon which so many hopes were resting was actually increasing pressure on the balance of payments by requiring a steady stream of imported parts and technology from abroad, all of which had to be paid for with "hard" currency. The anticipated exports to the world market have been very slow in coming.<sup>14</sup> Between 1956 and 1966, as foreign investment continued to increase in Mexico, the extent of sales abroad of United States industrial subsidies operating in Mexico rose from one and one-half percent of total sales to only thirteen percent, most of which were in auto exports.<sup>15</sup> Nor has the export of manufactured products from new plants installed just inside the Mexican border in the late 1960's had much effect on the balance of payments, since most exports are merely assembled in Mexico using parts directly imported from the United States.

The 1972 technology law was aimed at reducing the balance of payments pressure by controlling the imports of costly technology, much of which may not really make a major contribution to Mexican know-how. According to one 1969 study of U.S. subsidiaries operating in Mexico, almost half the respondents admitted that export prohibitions had been imposed upon them by their home offices.<sup>16</sup> Article 7, Fraction 7 of the new law bans this practice of forbidding industries operating in Mexico from exporting abroad. The heavy spending of Mexican industry on imported technology has contributed to Mexico's growing foreign debt and in many cases has done nothing to facilitate the exports needed to pay the costs.<sup>17</sup>

Taken together, the technology and the investment laws fit well into the pattern just described of an emerging Mexican nationalism. The laws are the logical continuation of a series of government policies intended to give Mexican officials more control over their economy. To determine their potential impact, it is necessary to study

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14. WIONCZEK, *supra* note 9, at 31-33.

15. *Id.* at 153. Non-auto exports in 1966 were only three percent of total sales of U.S. subsidiaries in Mexico.

16. The study referred to by the National Chamber Foundation of Washington, D.C. is cited in WIONCZEK, *supra* note 9, at 163.

17. For a study of Mexico and other Latin American countries' serious foreign debt problem see M. WIONCZEK, *El endeudamiento público externo y los cambios sectoriales en la inversión privada extranjera de América Latina*, in *LA DEPENDENCIA POLÍTICO-ECONÓMICA DE AMÉRICA LATINA* 111-145 (H. Jaguaribe ed. 1971).

them in greater detail.

#### THE LEGISLATION OF 1972-73

In late 1972, the two laws were sent to the Mexican Congress by President Echeverria. Both bills were passed and signed into law without major modification of the presidential drafts.<sup>18</sup> The contents of each will be described separately.

The law on technology establishes a National Registry for the Transference of Technology within the Ministry of Industry and Commerce.<sup>19</sup> All contracts or agreements concerning the transference and use of technology, patents and trademarks must be filed with the Registry within 60 days in order to be legally binding.<sup>20</sup> Typically such contracts involve either foreigners or foreign owned businesses, since most of Mexico's technology is imported from abroad and a large part of its trademarks and patents are foreign owned.

While the registration requirements are not particularly controversial, the extensive contract limitations presented by Article 7 of the law might appear more subject to debate. Article 7 lists fourteen instances under which contract approval will normally be denied.<sup>21</sup>

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18. *Hispanoamericano*, Feb. 26, 1973, at 8; *Siempre*, Dec. 6, 1972, at 13; *Siempre*, Jan. 10, 1973, at 6.

19. Technology Law, *supra* note 1, art. 1.

20. *Id.*, arts. 2,4,6.

21. *Id.*, art. 7. These fourteen instances include:

1. When the object is the transference of technology freely available in the country. . . ;
2. When the price has no relation to [the value of] the technology acquired or constitutes an unjustifiable and excessive burden on the national economy;
3. When clauses are included which permit the purveyor to regulate or intervene in, directly or indirectly, the business of the technology's acquirer;
4. When the obligation is established to cede for little or nothing to the purveyor of the technology the patents, trademarks, innovations, or improvements that are obtained by the acquirer;
5. When limits are imposed on research or technical development (of the technology) by the acquirer;
6. When the obligation is established to acquire equipment, tools, parts, or raw material exclusively from one specified source;
7. When the export of the goods or services produced by the acquirer are prohibited in a manner contrary to the interest of the country;
8. When the use of complementary technology is prohibited;
9. When the obligation is established to sell exclusively to the purveyor of the technology the goods produced by the acquirer;
10. When the acquirer is obliged permanently to use personnel indicated by the purveyor of the technology;
11. When the volume of production is limited or prices for sale or resale are imposed on national production or on the exports of the acquirer;

Since many of the practices mentioned in the fourteen points have commonly been incorporated in contracts for the acquisition of foreign technology, the new law serves as formal notice that the Mexican government finds such practices harmful to its goal of rapid industrial development. The harshness of the new law is considerably diluted, however, by an important escape clause. Under a number of the fourteen points, exceptions can be made where the technology to be acquired is "of particular interest to the country."<sup>22</sup> In other words, the distasteful aspects of some contracts will be ignored when the technology to be gained outweighs the disadvantages of retaining such contracts. The law, therefore, is nationalistic, but flexible.

The second piece of legislation, the investment law, seeks to restrict foreign ownership and control over the Mexican economy by formalizing certain established government policies which have reserved parts of the economy for state control while leaving other parts to wholly Mexican-owned private enterprises.<sup>23</sup> Moreover, in those areas where foreign investment is allowed, the percentage of foreign capital invested is to be limited. For mining concessions, foreign capital investment may not exceed forty-nine percent of any single business. Henceforth, no mining concessions may be transferred directly to foreigners.<sup>24</sup> For firms dealing with the secondary products of the petrochemical industry and those engaged in the manufacture of automobile parts, capital investment by foreigners is limited to forty percent. Where no specific limit is indicated in the law or by executive regulatory dispositions, an upper limit of forty-nine percent is to be understood. Although the law is not clear, these restrictions seemingly apply only to *new* investments and to businesses presently in Mexican possession.

Similar to the law on technology, the investment law has appropriate escape clauses in order to provide for regulatory flexibility. Where foreign investment is "advantageous for the Mexican economy," the normal limit of forty-nine percent may be altered.<sup>25</sup>

One of the special problem areas the investment law is designed

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12. When the acquirer is obliged to sign exclusive sales or representation contracts with the purveyor of the technology within national territory;

13. When the contracts are for an excessive period. In no case can the time period exceed ten years for the acquirer; or

14. When knowledge of the resolution of legal judgments originating out of the interpretation or fulfillment of the said acts, agreements, or contracts (must be) submitted to foreign courts.

22. *Id.*, art. 8. Such exception will be made for points 2,3,6 and 8-12.

23. Investment Law, *supra* note 1, art. 4.

24. *Id.*, art. 5, fraction a.

25. *Id.*, art. 5.

to control concerns the situation in which Mexican companies are induced to sell out to foreign investors. In recent years, an ever increasing share of foreign money in Mexico has gone toward the purchase of existing local firms, rather than the establishment of new ones. In a survey of the subsidiaries of the largest U.S. companies established in Mexico from 1958 to 1967, it was discovered that 61 percent were acquired from prior Mexican owners, whereas only 39 percent were newly organized.<sup>26</sup> The Mexican government now hopes to control this practice in the future by requiring special authorization whenever foreigners acquire more than 25 percent of the capital or more than 49 percent of the fixed assets of the particular Mexican company.<sup>27</sup>

The above provisions of the investment law are to be supervised by a National Commission for Foreign Investments, comprised of the heads of seven key government ministries.<sup>28</sup> This commission is to be aided in its decisions on granting exemptions under the law by seventeen guidelines. These include consideration of the effects of foreign investment on the Mexican balance of payments and Mexico's ability to export, the effect on employment and salaries, the use of Mexican-made parts and Mexican technology.<sup>29</sup>

To ensure that the provisions of the investment law are enforced, all shares in Mexican enterprises held by foreigners must be converted into registered shares (*titulos nominativos*) whereas previously, no such registration was necessary.<sup>30</sup> Furthermore, all foreign investments must be registered with the National Registry for Foreign Investments, a dependency of the Ministry of Industry and Commerce, under the authority of the Executive Secretary of the National Commission for Foreign Investments.<sup>31</sup> Failure to register denies the non-complying company the right to pay dividends.<sup>32</sup> Fines up to 100,000 pesos may be levied against violating company officers and directors who may be held personally liable.<sup>33</sup> Further, any individual who permits foreigners to enjoy the rights of investment reserved to Mexican citizens will be subject to fines of up to 50,000 pesos and a

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26. J. VAUPEL & J. CURHAN, *THE MAKING OF MULTINATIONAL ENTERPRISE* 300-301 (1969). The percentages are a radical increase from the 1948-1957 period when the percentages for acquired and new subsidiaries were thirty-nine and sixty-one respectively, exactly the reverse of the decade to come.

27. Investment Law, *supra* note 1, art. 8.

28. *Id.*, art. 11.

29. For the complete set of guidelines see *id.*, art. 13.

30. *Id.*, art. 25.

31. *Id.*, arts. 23,24.

32. *Id.*, art. 27.

33. *Id.*, arts. 28, 29.



prison sentence of up to nine years.<sup>34</sup> This last provision is designed to eliminate the so-called *prestanoombres* (strawmen), Mexican citizens who have lent their names to foreigners so that the latter could invest in and control areas of the Mexican economy otherwise forbidden to foreign citizens.

In short, the laws represent a formal legal response to the steadily increasing call for the control of imported funds and technology by Mexican nationalists. While they may be seen as a response by the government to economic pressures, political pressures may really be much more important as the next section will show.

#### ECHVERRIA AND THE MEXICAN POLITICAL CRISIS

In recent years, Mexican politics has been characterized by its apparent stability. A series of presidents have each peacefully served out their term. This surface calm was shattered, however, in October 1968, by the Tlatelolco massacre, and again in June 1971 by the Falcons incident (Las Halcones).<sup>35</sup> Each of these events caused a major crisis in the Mexican government.

Tlatelolco and the Falcons incident were symptomatic of how the administrations of Gustavo Diaz Ordaz (1964-70) and Luis Echeverria responded to increasing social tensions. An analysis of these two incidents will aid in understanding the reasons for the passage of the new legislation of 1972-73.

During the presidency of Diaz Ordaz, political power in Mexico had shifted to the Right. Echeverria, on the other hand, has sought to shift more toward the Center. It appears that Echeverria has sought to accomplish this shift partially through the new legislation previously discussed. By re-emphasizing nationalism, he hopes to attract the political support of those of the left of the regime whose aid will be needed to oust the well-entrenched conservative forces left over from his predecessor's government.

Most authors agree that Mexican politics has been dominated in recent years by strong presidents who have presided over coalitions of usually subordinate personality and interest groups.<sup>36</sup> Significant crises are likely to occur only when important groups, either within or outside the governing elite, directly challenge government policies.

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34. *Id.*, art. 31.

35. For descriptions of these events see C. FUENTES, *TIEMPO MEXICANO* 147-172 (1971); K. JOHNSON, *MEXICAN DEMOCRACY: A CRITICAL VIEW* 148-164 (1971); M. TIRADO, *EL 10 DE JUNIO Y LA IZQUIERDA RADICAL* 16-39, 118-128, 178-181 (1971).

36. See F. BRANDENBURG, *THE MAKING OF MODERN MEXICO* 2-7 (1964); P. GONZALES CASANOVA, *LA DEMOCRACIA EN MEXICO* 26-31 (1967); R. HANSEN, *LA POLITICA DEL DESARROLLO MEXICANO* 170-171 (1971); JOHNSON, *supra* note 35, at 59-76; R. SCOTT, *MEXICAN GOVERNMENT IN TRANSITION* 259 (1959).

The incidents of 1968 and 1971 were confrontations of this sort. To explain these events and the attempts to deal with them, it is necessary to first look at the division of power within Mexico in the late 1960's and early 1970's.

Brandenburg suggests that this division of power consists of seven groups on a left to right continuum:<sup>37</sup>

- 1) Radical Left
- 2) Independent Left
- 3) Revolutionary [or governmental] Left
- 4) Revolutionary [or governmental] Center
- 5) Revolutionary [or governmental] Right
- 6) Traditional Conservatives
- 7) Reactionary Conservatives

Of these seven, only the members of the so-called "Revolutionary Publics" (groups 3-5) have exercised power in Mexico since the end of the violent stage of the Revolution in 1917. These three are the key groups which may or may not have support from the actors on one of the extremes. Brandenburg believes that the Center has usually been best represented in the presidency, but that on specific occasions, power has swung to one of the other "Revolutionary" groups. President Cardenas (1934-40) has been the only representative of the Revolutionary Left, while Presidents Aleman (1946-52) and Diaz Ordaz have represented the Revolutionary Right.<sup>38</sup>

The governments of the Revolutionary Center and Right have generally agreed on government policies favoring big agriculture over the peasant (ejido) sector, urban over rural interests and, in general, the more affluent over the less affluent.<sup>39</sup> As a result, the distribution of income in Mexico has become steadily more inequitable. While these inequities have been protested by radical students and dissident trade union leaders, for the most part, the protests have either been ignored or repressed by government officials. One such repression was the Tlatelolco massacre.

This particular incident arose from a situation of increasing student militancy confronted by brutal government armed repression. The government of President Diaz Ordaz was closely identified with the Revolutionary Right and its allies among many major business-

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37. BRANDENBURG, *supra* note 36, at 119.

38. *Id.* at 131-140.

39. J.M. de Navarrete, *Income Distribution in Mexico*, in MEXICO'S RECENT ECONOMIC GROWTH: THE MEXICAN VIEW 133-172 (T. Davis ed. 1967). A major critique of the situation of the Mexican peasantry is presented in Stavenhagen, *Social Aspects of Agrarian Structure in Mexico*, in AGRARIAN PROBLEMS AND PEASANT MOVEMENTS IN LATIN AMERICA 225-270 (R. Stavenhagen ed. 1970).

men operating in Mexico. The street demonstrations organized by the students in Mexico City just prior to the 1968 Olympic Games represented to the Right (especially the Monterrey Group of industrialists)<sup>40</sup> an intolerable challenge. The government responded with an armed attack on the students.<sup>41</sup>

After Tlatelolco, the criticism of the political system, which had begun in 1965 by Carlos Madrazo and others,<sup>42</sup> reached major proportions. The so-called "Mexican miracle" of sustained economic growth was widely condemned on the Left as hollow and superficial. The gross national product had indeed increased steadily, but critics believed that the beneficiaries were those who least needed to benefit. This rising tide of criticism from various groups both within and outside of the "Revolutionary Publics"<sup>43</sup> was to have a major impact on Diaz Ordaz's successor, Luis Echeverria.

Once in office, Echeverria was faced with a choice between further repression or a new democratization.<sup>44</sup> His so-called "democratic opening" was a response in favor of the latter.<sup>45</sup> Instead of Diaz Ordaz's almost exclusive concern with new investments and G.N.P. growth *per se*, Echeverria began speaking of the need to redistribute income as a means of promoting both social justice and a larger domestic market.<sup>46</sup> He was highly critical of foreign investors who sought only profit repatriation, while ignoring the need for a constant reinvestment of profits and increase in Mexican exports.<sup>47</sup>

The critical speeches of the new President aroused a great deal of anxiety among Mexican conservatives and their foreign allies who saw their position in Mexico in danger. They were even more upset by the President's intervention at the end of May 1971 in a university dispute in Monterrey, a major center of conservative political and economic control, which resulted in the ouster of both the university rector and the governor who had appointed and supported him against the students.<sup>48</sup>

The response of the conservatives was to instigate an attack by

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40. For a discussion of the "Monterrey Group" see JOHNSON, *supra* note 35, at 76.

41. *Id.* at 159-161; *Latin America*, Oct. 11, 1968, at 325-326.

42. JOHNSON, *supra* note 35, at 45-47.

43. See E. PADILLA ARAGON, *MEXICO: DESARROLLO CON POBREZA* (1969); F. CARMONA, *EL MILAGRO MEXICANO* (1970); M. MORENO SANCHEZ, *CRISIS POLITICA DE MEXICO* (1970); R. STAVENHAGEN, *NEOLATIFUNDISMO Y EXPLOTACION* (1968).

44. FUENTES, *supra* note 35, at 162.

45. See *Latin America*, Jan. 29, 1971, at 34,36.

46. BANCO NACIONAL DE COMERCIO EXTERIOR, *MEXICO: LA POLITICA ECONOMICA DEL NUEVO GOBIERNO* 16-18 (1971).

47. *Id.* at 190-191.

48. *Latin America*, June 11, 1971, at 189-190.

bands of armed thugs called Falcons on a group of student demonstrators in Mexico City, while police officials stood by passively. The reaction of the Left to the Falcons' attack was as strong as that after Tlatelolco in 1968. Clearly, the President was faced with the need to take strong measures against those responsible if he was to preserve his new-found support on the Left. Such action, on the other hand, might threaten the political structure, because any attempt to punish the powerful economic personages of the Right could provoke widespread political struggle.

Echeverria acted cautiously. After demonstrating that he had the strong backing of the Mexican military, which stationed tanks at strategic locations in the Federal District, he forced the resignations of the Regent of Mexico City and the Chief of Police. Echeverria's next move was to defuse the immediate crisis by calling for what was sure to be a protracted investigation of the whole affair.<sup>49</sup> This interval could be used by the President to rally support for himself and to strengthen his political base.

The new laws of 1972 and 1973 ought to be seen as part of this attempt to Echeverria to strengthen his political base. The issue of nationalism is highly suited to appeal to those to the left of the President, while it puts the Right on the defensive. Mexican investors and industrialists, with their foreign allies, will find it difficult to attack the President openly without leaving themselves vulnerable to charges of putting foreign interests ahead of those of their own nation.

The political offensive by Echeverria and his supporters to pass the new legislation began in October 1972, just prior to the Seventh National Assembly of the government party, the PRI. In a speech delivered at the *Fundo de Cultura Economica* on October 18, the day before the Assembly opening, the President himself spoke of the great pressure on Mexican companies to sell out to foreigners.<sup>50</sup> At the Assembly, Lic. Jesus Reyes Heróles, the new president of the PRI Executive Committee, called for a law to permit the government to regulate foreign and private investment.<sup>51</sup> The Program for Action, produced by the Assembly as a PRI policy statement, repeated the call for such a law.<sup>52</sup> The theme switched on October 30, when Lic. Rodolfo Echeverria Ruiz, another high PRI official, condemned the importation of obsolete technology from abroad which inflated Mexican production costs.<sup>53</sup> Four days later, the President sent the tech-

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49. *Id.* at 193-194, 196, 205-207.

50. *Siempre*, Dec. 6, 1972, at 13.

51. *Hispanoamericano*, Oct. 30, 1972, at 14.

52. *Siempre*, Nov. 1, 1972, at 10.

53. *Hispanoamericano*, Oct. 30, 1972, at 14.

nology bill to Congress where it received rapid approval by the PRI majorities in both houses. About the same time, the notable sympathetic magazine *Siempre*, itself a voice of the Revolutionary Left, contained a number of articles and editorials urging the passage of the technology bill and what was to be the investment bill.<sup>54</sup>

The passage of the new laws at that time was a direct result of the governmental crisis in Mexico, first apparent at Tlatelolco and intensified by the Falcons incident. While the crisis may have been disturbing to those who had imagined Mexico as a land of political stability, it also had its positive side. It gained for the beleaguered government the support of a number of prominent figures on the Left (such as Carlos Fuentes who had been highly critical of Echeverria's predecessor, Diaz Ordaz) and, indeed, support of much of the Mexican political system.<sup>55</sup>

The laws, themselves, offer the opportunity for the Mexican government to continue to extend its control over various parts of the national economy in its professed desire to promote development with social justice. Such control seems both logical and necessary as Mexican nationalism evolves.

With their various escape clauses, the laws will require the necessary government resolve if they are to attain their desired ends. Because the forces opposed to the implementation of the laws are still strong in parts of the government bureaucracy, such implementation cannot be assumed as a matter of fact. As one writer has suggested in speaking of Latin America as a whole:

[It] is well known that in Latin America . . . many problems related to foreign investment are resolved in a casuistic and administrative way, outside of existing law, and in agreement with the "power of persuasion" of the large transnational investors.<sup>56</sup>

Those political analysts who are optimists will see the laws of 1972-73 as a sign that the Echeverria Presidency really is serious about its desire to change the priorities of Mexican development. On the other hand, the cynics will probably view the new legislation as little more than an exercise in the "symbolic uses of politics."<sup>57</sup> We, the observers, must wait to see.

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54. H. Castilla, *Aparecen Cartas Marcadas, al Cambian Las Reglas del Juego*, *Siempre*, Nov. 1, 1972, at 24; Editorial, *Una Ley que Regula la Inversion Extranjera*, *Siempre*, Oct. 18, 1972, at 16-17; Mujica, *En la Battalla Para Ajustar la Tecnologia Extranjera*, *Siempre*, Nov. 1, 1972, at 28-29; Mujica, *Por Fin: La Ley Esperada*, *Siempre*, Jan. 10, 1973, at 30-31; Martinez de la Vega, *Cambien Ciertas Reglas Pero No El Juego*, *Siempre*, Nov. 1, 1972, at 26-27.

55. See FUENTES, *supra* note 35 at 162-172; also Fuentes, *El Extremismo de Algunos Jovenes Descencantados*, in TIRADO, *supra* note 35, at 118-122.

56. WIONCZEK, *supra* note 9, at 97.

57. See M. EDELMAN, *THE SYMBOLIC USES OF POLITICS* (1964).

