

THE RULE OF LAWLESSNESS IN MEXICO

HUMAN RIGHTS VIOLATIONS IN THE STATE OF OAXACA



MINNESOTA ADVOCATES FOR HUMAN RIGHTS

HEARTLAND ALLIANCE FOR HUMAN NEEDS & HUMAN RIGHTS

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The cover graphic is a scanned photograph taken by Clifford C. Rohde in the central square of Juchitán de Zaragoza, Oaxaca in July 1996. The banner was hung in memory of the 1978 disappearance of Víctor Pineda Henestrosa, whose case is described in this report. The banner's message reads: The struggle continues. We know that he is alive. We will find him. Víctor Pineda Henestrosa 18 years of his disappearance. Behind the drawing of the man is the symbol of the COCEI political party. Use of the cover graphic should not be construed as an endorsement of the COCEI or its policies.

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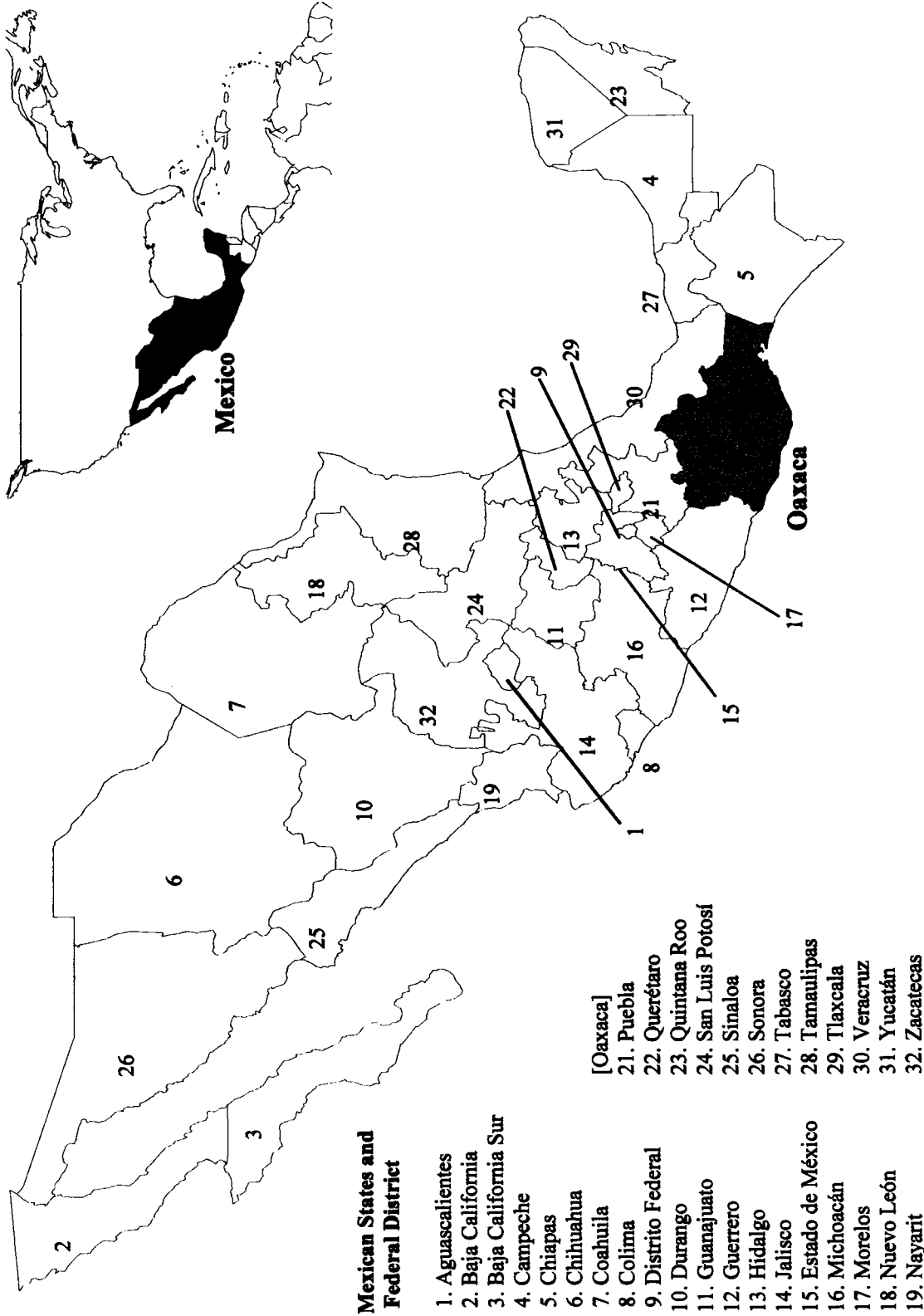


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GLOSSARY OF ACRONYMS

AI	Amnesty International
AMDH	Mexican Academy of Human Rights (<i>Academia Mexicana de Derechos Humanos</i>)
CAMPO	Oaxacan Popular Movement Assistance Center (<i>Centro de Apoyo al Movimiento Popular Oaxaqueño</i>)
CANICA	Support Center for Street Children (<i>Centro de Apoyo al Niño de la Calle</i>)
CEDH	State Human Rights Commission (<i>Comisión Estatal de Derechos Humanos</i>)
CEDIPIO	Diocesan Center for Indigenous Promotion of Oaxaca (<i>Centro Diocesano de Promoción Indígena de Oaxaca</i>)
CEJIL	Center for Justice and International Law
CERESO	Prison (<i>Centro de Readaptación Social</i>)
CMDPDH	Commission for the Defense and Promotion of Human Rights (<i>Comisión Mexicana por la Defensa y la Promoción de los Derechos Humanos</i>)
COCEI	Workers, Peasant, and Student Coalition of the Isthmus (<i>Coordinadora Obrera Campesina Estudiantil del Istmo</i>)
COMADH	Teachers Human Rights Commission (<i>Comisión Magisterial de Derechos Humanos</i>)
CNDH	National Human Rights Commission (<i>Comisión Nacional de Derechos Humanos</i>)
CNTE	National Education Workers Coordinating Committee (<i>Coordinadora Nacional de Trabajadores de la Educación</i>) (see also SNTE)
EPR	Popular Revolutionary Army (<i>Ejército Popular Revolucionario</i>)
EZLN	Zapatista Army of National Liberation (<i>Ejército Zapatista de Liberación Nacional</i>)
FEPAM	Office of the Special Investigator for Cases Involving Educators (<i>Fiscalía Especial para Asuntos Magisteriales</i>)
HRW/Am	Human Rights Watch/Americas
IACHR	Inter-American Commission on Human Rights
IACtHR	Inter-American Court of Human Rights
ICNL	International Center for Not-for-Profit Law
IEE	State Electoral Institute (<i>Instituto Electoral Estatal</i>)
INEGI	National Institute of Geography and Statistics (<i>Instituto Nacional de Estadística, Geografía e Informática</i>)
LCHR	Lawyers Committee for Human Rights
MA-HA	Minnesota Advocates for Human Rights and Heartland Alliance for Human Needs & Human Rights
MP	Public Ministry (<i>Ministerio Público</i>)
NAFTA	North American Free Trade Agreement
NGO	non-governmental organization
OIDHO	Indigenous Organization for Human Rights in Oaxaca (<i>Organización Indígena de Derechos Humanos en Oaxaca</i>)

PAN	National Action Party (<i>Partido Acción Nacional</i>)
PDI	Special Attorney's Office for the Indigenous (<i>Procuraduría para la Defensa del Indígena</i>)
PGJE	State Attorney General's office (<i>Procuraduría General de Justicia del Estado</i>)
PGR	Federal Attorney General's office (<i>Procuraduría General de la República</i>)
PHR	Physicians for Human Rights
PJE	State Judicial Police (<i>Policía Judicial Estatal</i>)
PJF	Federal Judicial Police (<i>Policía Judicial Federal</i>)
PRD	Party of the Democratic Revolution (<i>Partido de la Revolución Democrática</i>)
PRI	Institutional Revolutionary Party (<i>Partido Revolucionario Institucional</i>)
PRODH	Miguel Agustín Pro Juárez Human Rights Center (<i>Centro de Derechos Humanos "Miguel Agustín Pro Juárez"</i>)
SNTE	National Education Workers Union (<i>Sindicato Nacional de Trabajadores de la Educación</i>)
UCIZONI	Union of Indigenous Communities of the Isthmus' Northern Zone (<i>Unión de Comunidades Indígenas de la Zona Norte del Istmo</i>)

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We also acknowledge the generous support of the General Service Foundation, The John Merck Fund, and the European Human Rights Fund.

This report is dedicated to Oaxaca's victims of human rights abuse, many of whose accounts are described in this report, but most of whose, sadly, are not.

FOREWORD

Through this report our two organizations are providing an important glimpse into the quality of life in a previously unscrutinized state in Mexico's southern poverty belt. The Mexicans who reside in Oaxaca live in a state characterized by poverty, hunger, and lawlessness. Oaxaca is a state where teachers are killed, dissent is silenced, criminal cases go unsolved, and vigilantism reigns.

If Mexico is to become a regional and international leader, it must abide by the international commitments it has made to prevent and punish serious human rights violations, including torture and extrajudicial killings. The citizens of Oaxaca are crying out for such real leadership.

We have met the real leaders in Oaxaca and throughout Mexico, and we applaud them. They are working to bring about essential reforms that will create and sustain civil society and comprehensive democratization. We particularly recognize the sacrifices made by colleagues in the indigenous states of Mexico, sacrifices of life long commitment, and regrettably, at times sacrifices of life itself. It is these leaders who are doing the intrinsic work of human rights; we are merely reporting on their context and on their struggle.

We hope that our voice will provide an accompaniment to the words and actions of our Mexican colleagues and that the song of human rights will be heard throughout both our nations. It is to the eternal voices of the silenced and the still-struggling—and to the song of human rights—that we dedicate this publication.

Barbara A. Frey
Executive Director
Minnesota Advocates

Sid L. Mohn
President
Heartland Alliance

SUMMARY AND RECOMMENDATIONS

That the people and the government respect the rights of all, because among people as among nations, respect for the rights of others is peace.

—Benito Juárez, 15 July 1867¹

Summary and Background

This report documents an array of human rights violations resulting from governmental act and omission in the state of Oaxaca, Mexico. It describes the converse of Juárez's maxim: where human rights are routinely violated, there is no peace.

Oaxaca (pronounced "wa-ha-ka" in English), in Mexico's deep south, is steeped in history and culture, populated with generous and hard-working people. Its varied geography is breathtakingly beautiful. Jagged and forested mountains give way to valleys and the Pacific Ocean. Oaxaca's crashing Pacific waves are to the world's surfers much as Oaxaca's cultures are to anthropologists and historians: rich sources of study. Indeed, when "surfing" the Internet, one might expect, after perusing the considerable tourist and cultural information available, that all is well and rich in Oaxaca.

Nothing could be less true. Caught between Guerrero to the west, and Chiapas to the east, Oaxaca is centrally located in Mexico's southern poverty belt. With those two states, Oaxaca leads the nation in negative statistics. It has alarmingly high rates of death by curable disease, unemployment, poverty, lack of access to potable water, electricity and roads, lack of formal education and health care, massive emigration, and the attendant social problems created by such despair.² As bad as things are for the Oaxacan population in general, the statistics are grimmer for the state's sizable indigenous populations. At least sixteen distinct indigenous groups reside in

¹"*Qué el pueblo y el gobierno respeten los derechos de todos, pues entre los individuos como entre las naciones, el respeto al derecho ajeno es la paz.*" From his *Manifiesto a la Nación*, quoted in Comisión Estatal de Derechos Humanos, *III Informe: Junio 1995-Junio 1996* (Oaxaca City: 1996) [CEDH Third Annual Report], p. 3. Benito Juárez, former president of Mexico, is Oaxaca's—if not Mexico's—favorite son. Born a poor Zapotec Indian, he became a noted lawyer, legal reformer, and leader of Mexico's nineteenth century reform movement.

²See, generally, INEGI, *Anuario Estadístico del Estado de Oaxaca*, Edición 1994 (Aguascalientes, Mexico: 1994). In response to Oaxaca's poor social and economic conditions, President Ernesto Zedillo announced in January 1996 that federal expenditure in the state would exceed an extraordinary eight billion *nuevos pesos* (more than US\$ 1 billion) in 1996. Néstor Martínez, "Se atenderá a los más pobres, especialmente indígenas: Zedillo," *La Jornada*, 18 Jan. 1996. President Zedillo reportedly stated in May 1995 that Oaxaca will determine "the success or failure of [his] social policy." Centro de Derechos Humanos "Miguel Agustín Pro Juárez," *La Violencia en Oaxaca* (Mexico City: Aug. 1996), p. 28.

Oaxaca, each with its own language.³ Together, the indigenous approximate half the state's 3.2 million residents.⁴

Adding to the state's social problems is the state's consistent disregard for Benito Juárez's words. Rampant human rights violations, and the state government's ineffectiveness at enforcing the law, define Oaxaca's rights situation. Despite a considerable and increasing police and military presence,⁵ Oaxaca is virtually lawless. Human rights violations and violence, and a failed state response to each, are systemic phenomena statewide.

Because of the state's violation of, and inability to guarantee, human rights in Oaxaca, both the state of Oaxaca and Mexico are breaching international obligations to ensure and respect human rights. That failure to guarantee basic rights and enforce the law, in turn, encourages Oaxaca's population to take the law into their own hands and mete out private justice. When the state does not enforce the law and individuals assume the role of private law enforcers, lawlessness and insecurity prevail. And further abuse of human rights results.

This state of affairs has even produced organized armed insurrection. Considerable public and private speculation in Oaxaca (expressed to MA-HA representatives in 1995 and 1996) that armed guerrilla groups operated in remote areas of the state proved to be true. The newly-active Popular Revolutionary Army (*Ejército Popular Revolucionario* or EPR) has attacked targets in more than one area within Oaxaca.⁶ The EPR's emergence has in turn provoked increased security force operations in the state.⁷

Human rights violations pervade Oaxaca, in numerous forms. Oaxacans' right to life, for example, is violated with disturbing frequency. In the context of land disputes, hundreds of killings, most often occurring when communities dispute territorial limits, have afflicted Oaxaca's country-

³Oaxaca's major indigenous groups include Zapotecos, Mixtecos, Mazatecos, Chinantecos, and Mixes.

⁴Estimates range from thirty-nine percent (from Mexico's official National Institute of Geography and Statistics (Instituto Nacional de Estadística, Geografía e Informática or INEGI) to perhaps eighty percent (popular perception). Numbers depend in large part on the definition of the term "indigenous" and who is doing the defining and counting. Regardless of the exact percentage, the indigenous population is considerable, and indigenous issues influence or dominate perhaps every important social theme in Oaxaca.

⁵For example, Minnesota Advocates representatives traveled approximately seventy miles in a bus between the Oaxaca-Chiapas border and Juchitán, Oaxaca during the early evening of July 12, 1996. Different security forces stopped and searched the bus five separate times. Soldiers also stopped the bus at a military checkpoint. Since the emergence of the EPR in Oaxaca, military and police activity in the state has increased.

⁶As was the case in Chiapas before the 1 January 1994 Zapatista uprising, and in Guerrero before the 28 June 1996 emergence of the EPR, government officials had denied the existence of organized, armed rebels in the state. State and federal officials continue to minimize the EPR's impact or importance, despite its demonstrated capacity to act in a number of Mexican states.

⁷See, for example, "Anti-rebel campaign provokes anger in Mexico," *Austin American-Statesman*, 21 Sept. 1996, reprinted in Documentation Exchange, *Mexico Newspak*, Issue 95, Vol. 4, No. 17, 9-22 Sept. 1996.

side. Both the state and national governments have responded principally with ignorance and neglect. Law enforcement rarely brings the killers to trial, and widows infrequently receive compensation. In some cases described in this report, decades of violence have slowly but effectively eliminated entire communities, as residents not murdered simply abandon their land, and become part of Oaxaca's population of internally displaced, or emigrate from the state.

Not all of Oaxaca's violence results from contact between private individuals. The hands of state and federal security force agents, including state police and the military, are also sullied with grave human rights violations. Agents of the state are responsible for numerous arbitrary executions, acts of torture, and other mistreatment. Law enforcement officials also possess the notorious tendency to arrest individuals arbitrarily within Oaxaca. For those reasons, many Oaxacans live in fear of the state's security forces.⁸

In addition to perpetrating acts that transgress human rights norms, Oaxacan state officials also violate basic human rights through their significant omissions. The chronic failure of Oaxaca's law enforcement apparatus to perform its duty to carry out the law is perhaps the principal method by which human rights guarantees are offended in the state. Criminal investigations, particularly if politically sensitive, are shelved, not pursued, and judicially-ordered arrest warrants exist for years without being executed. Such inactivity prevents prosecutions against presumed murderers and human rights violators. Even when the authorities do investigate, victims of human rights abuse as a rule do not receive adequate compensation through legally appropriate determinations of damages.

At least in part because of Mexico's inability to guarantee basic rights in Oaxaca, Oaxacans have with disturbing frequency decided to take the law into their own hands. Oaxacan-style private justice includes particularly gruesome methods of punishment, in which the basic rights of the individual are summarily denied. This report documents a number of cases where mobs have tracked down and murdered individuals they suspected of criminal activity. The state response to these communal

⁸As this report goes to print, an episode involving the military and police agents is unfolding in the Loxichas region of Oaxaca. On 25 September 1996 a contingent of reportedly hundreds of soldiers and police agents invaded San Agustín Loxicha in search of alleged EPR members. Authorities cracked down on the communities after identifying Fidel Martínez, San Agustín's treasurer (on leave). Martínez reportedly was killed while he and other EPR members attacked a naval base in Huatulco on 28 August 1996. The military and police arrested virtually all of San Agustín's community leaders—nearly a dozen individuals—in the 25 September sweep, and subsequently moved the prisoners to jail facilities outside the state. Those arrested complained of being arbitrarily detained, beaten, threatened with death, and forced to confess to membership in the EPR. Another three individuals were detained by the military and state and federal police in San Francisco Loxicha on 15 October. See Pedro Matías, "Desde la cárcel, miembros del cabildo de San Agustín Loxicha denuncian: Nos torturaron para que aceptáramos ser del EPR," and Francisco Ortiz Pinchetti, "El 25 de septiembre, el pueblo de San Agustín Loxicha supo lo que significa una invasión militar," *Proceso*, No. 1040, 6 Oct. 1996; Julia Preston, "Mexico's Wary Crackdown on Rebels," *New York Times*, 16 Oct. 1996; Molly Moore, "Mexico's War on Rebels Gives Rural Towns the Jitters," *Washington Post*, 16 Oct. 1996; Víctor Ruiz Arrazola, "Fueron detenidos ayer en Oaxaca tres presuntos miembros del EPR," *La Jornada* website, URL: <http://www.nuclecu.unam.mx/~jornada/961017.dir/epr.html> (viewed 17 Oct. 1996).

crimes is again inadequate. Individuals responsible for the lynchings are not duly investigated and prosecuted.

This report also describes attacks against members of Oaxacan society who have been particularly singled out for attack. Oaxaca's teachers, for example, have over the last decade suffered dozens of killings, disappearances, assaults, and other intimidations, most likely because they have brought into communities ideas that challenge the traditionally hierarchical and rigid structure of Oaxacan social, political, and economic life. Like Oaxaca's teachers, other individuals and organizations who have actively challenged the system—human rights activists, leaders of civil society, investigative journalists, for example—have suffered attacks resulting in injury and even death. They also have suffered legal attack in the form of a law regulating non-governmental organizations (NGOs) that sets strict state control over the activity of private organizational activity. Though not always possible to link the physical attacks to state institutions or officials, the lack of an effective governmental response to them is telling. As the social situation in Oaxaca deteriorates, the danger of increased repression targeted at human rights activists and their colleagues is of particular concern.

The fear of increased repression is warranted in considerable part because of the consistent failure of the Mexican and Oaxacan governments to correct human rights violations in the state. It should be noted that small successes do exist. The Office of the Special Investigator for Cases Involving Educators (*Fiscalía Especial para Asuntos Magisteriales* or FEPAM) has had limited success resolving the attacks against the teachers movement. The Special Attorney's Office for the Indigenous (*Procuraduría para la Defensa del Indígena* or PDI) has provided some support to members of Oaxaca's indigenous communities. State officials have implemented some recommendations of the governmental National Human Rights Commission regarding Oaxaca. The state government also at least pays lip service to the concept of human rights.

But lip service is not enough, and the government's publicly positive attitude towards human rights appears to be mere window-dressing, aimed more at improving image and than at stemming rights abuse. The state's official human rights commission (CEDH), has barely affected human rights observance in the state. The human rights department of the state Attorney General's office is equally ineffective. The federal government, despite its international obligation to ensure and respect human rights throughout national territory, does not appear interested in the state's human rights situation. Indeed, strong words promoting the rule of law and condemning rights violations throughout Mexico regularly flow from the administration of President Ernesto Zedillo Ponce de León. Equally forceful actions against rights violators do not.

The severity and frequency of human rights violations committed in Oaxaca merit special attention by both the Oaxacan state government and the Mexican federal government. State and federal efforts need to be undertaken to redress past human rights violations and prevent additional abuse from occurring. To achieve those ends, and to see that Mexico conforms its human rights practices to the requirements of international human rights law, Minnesota Advocates for Human Rights and Heartland Alliance for Human Needs and Human Rights recommend the following:

Recommendations

To the Oaxacan state government

- The Oaxacan government should consider creating a special prosecutorial office or department to confront the violence associated with Oaxaca's numerous land conflicts. The principal goals of the agency should be to identify violent crimes committed as a result of land disputes; identify the victims; and identify, locate, and prosecute those individuals responsible for ordering and carrying out such crimes. Such an agency should complement and inform, not supplant, the work of the state attorney general's office. Special care needs to be taken to avoid creating simply another level of bureaucracy.
- The same office should work to identify, administratively sanction, and prosecute when appropriate those state officials who have failed to carry out their legal responsibilities to investigate and/or prosecute crimes related to land disputes.
- The office should also strive to identify and locate the thousands of widows, widowers and children missing a parent or parents that the violence over land has produced. Funds should be appropriated to assist these individuals obtain education, job-training, employment, and reasonable financial security.
- The government should enlist representatives of Oaxaca's non-governmental community to assist in carrying out the tasks needed to resolve issues related to land that have produced, or are likely to produce, violence.
- State law enforcement personnel, including trained Public Ministry agents, should be dispatched and maintain a presence in conflictive municipalities.
- With the appropriate federal government agencies, the state government should work diligently to resolve land disputes throughout Oaxaca. The state and federal governments should redouble efforts to bring different communities to the bargaining table and produce lasting agreements.
- If current resources allocated to the PGJE do not allow such emphasis on land-related crimes, additional state funds should be appropriated for such purpose.
- State authorities should expediently carry out all pending and future recommendations of the State Human Rights Commission (Comisión Estatal de Derechos Humanos or CEDH) and the National Human Rights Commission (Comisión Nacional de Derechos Humanos or CNDH).
- The CEDH should be an autonomous body. Resources allocated to the CEDH should be increased both to strengthen it and allow it greater investigative capacity. The CEDH should be headed by an independent and capable president.
- State agents allegedly responsible for committing, tolerating or encouraging human rights violations such as extralegal execution, torture, or arbitrary detention, should be suspended from their posts without pay, pending criminal investigation. Upon conviction, they should be immediately removed from their posts. Allegations of rights abuse committed by state agents should be investigated thoroughly and the responsible parties be prosecuted according to the law.

- State judicial and police agents should be given thorough human rights training by adequately trained professionals.
- Victims of human rights abuse should receive due compensation for the violations they have suffered. Individual assessments of due compensation need be made by relevant state and/or federal authorities.
- Provided adequate investigative advances continue, the state should extend the mandate of, and provided sufficient resources to, the Office of the Special Investigator for Cases Involving Educators (*Fiscalía Especial para Asuntos Magisteriales* or FEPAM) until the cases of violence targeted against teachers currently under investigation, as well as other cases that become part of the FEPAM docket, are successfully investigated and prosecuted.
- Because the FEPAM has enjoyed successes where the state Attorney General's main office (*Procuraduría General de Justicia del Estado* or PGJE) has not, the state should consider employing the FEPAM model to investigate other areas of violence and rights abuse. These could include, for example, the issues of violence related to land conflicts, the failure to execute arrest warrants and otherwise to investigate crimes, arbitrary detention, and attacks against leaders of civil society.
- In order to combat the continued use of torture by security forces, the Oaxacan government should strengthen its own 1993 anti-torture law to make it conform with the international Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. The Oaxaca anti-torture law should guarantee torture victims the right to fair and adequate compensation. It also should explicitly make mandatory criminal investigations into torture, and provide protection to torture victims in the event the victim complains of his or her torture.
- The law controlling Oaxaca's non-governmental organizations (NGOs) should be repealed, or substantially modified to loosen the control of the state government over non-governmental organizations. As it currently exists, Oaxaca's NGO law violates international freedom-of-association standards.

To the Mexican federal government

- To comply with its international obligations, the federal government should oversee all actions taken by the state government of Oaxaca to improve the human rights situation in the state, to ensure that such actions comply with international human rights standards.
- In the case of violence related to land conflicts, the Mexican government should, through the relevant authorities, place special emphasis on resolving territorial disputes in the state.
- Mexico's Supreme Court, which currently is reviewing a constitutional challenge to Oaxaca's NGO law, should find the law incompatible with international guarantees of freedom of association.
- Because of the continued and systematic failure of Oaxaca's State Human Rights Commission (CEDH) to protect human rights in Oaxaca, Mexico's National Human Rights Commission (CNDH) should utilize its power of *atracción* to take as its own cases under review by the

CEDH. The CNDH should oversee measures taken to enable the CEDH to function adequately, and consider assuming future CEDH investigations until appropriate steps are taken to permit the CEDH to adequately carry out its functions.

- Because of the magnitude of the problem of the failure to execute arrest warrants, and failures in correcting the problem, the federal Attorney General's office (*Procuraduría General de la República* or PGR) should investigate the matter and assist the state to make appropriate corrections.
- Federal agents allegedly responsible for committing, tolerating or encouraging human rights violations such as extralegal execution, torture, or arbitrary detention, should be suspended from their posts pending criminal investigation. Upon conviction, they should be immediately removed from their posts. Allegations of rights abuse committed by federal agents in the state should be investigated thoroughly and the responsible parties be prosecuted according to the law.
- Cases of human rights abuse allegedly committed by military personnel should be prosecuted in civilian courts. Military jurisdiction should be reserved for those cases involving purely military discipline. Whenever a civilian is involved in a case of human rights abuse, either as victim or alleged perpetrator, the civilian judicial system should hear the case.
- The federal government should ensure that all police and military personnel who search for and engage the Popular Revolutionary Army (*Ejército Popular Revolucionario* or EPR) respect international human rights.
- Mexico should accept the jurisdiction of the Inter-American Court of Human Rights, the lone regional international institution with the power to compel states to comply with their international human rights obligations. standards.

LAND AND VIOLENCE

Introduction

Disputes over land, which in considerable part gave rise to Mexico's Revolution of 1910, are still known throughout Mexico.⁹ They plague Oaxaca. Disputes over land underlie or produce tensions between and within indigenous communities,¹⁰ large landholders and small proprietors of land, different religious sects,¹¹ competing political parties and *campesino* organizations, and within individual communities. Minnesota Advocates for Human Rights and Heartland Alliance take no stand regarding any party's claims to land in Oaxaca. We recognize that disputes are longstanding, sometimes seemingly intractable, and are often made more difficult by conflicting *ad hoc* arrangements, as well as contradictory governmental decrees and resolutions.

It is the product of the conflicts that concerns our organizations. Disputes over land, believed to number approximately 300 in the state,¹² have resulted in considerable violence. At times governmental forces participate in violent acts. Often, however, the violence remains between and among communities. The state and federal governments have failed to address it adequately. Indeed, a number of persons interviewed by MA-HA expressed their belief that the state government utilizes land conflicts as a means of social control, to keep dissidents in line or from power. They believe that the government favors the claims of some over others, and on occasion purposely allows violence to continue unchecked.

Below we describe a number of disputes that continue to produce violent episodes in Oaxaca. Consistent throughout the cases is the lack of law enforcement intervention. Those individuals responsible for the violence regularly remain free, escaping justice more often than not.

⁹Consider, for example, the Chiapas rebellion, many of the roots of which are described in Minnesota Advocates for Human Rights, *Conquest Continued: Disregard for Human and Indigenous Rights in the Mexican State of Chiapas* (Minneapolis: Oct. 1992) [Minnesota Advocates, *Conquest Continued*].

¹⁰For example, a struggle for power within Oaxaca's Triqui indigenous community reportedly produced thirty murders from January to August 1996. Centro de Derechos Humanos "Miguel Agustín Pro Juárez," Servicio Diario de Información de Derechos Humanos en México (daily updates) (Mexico City) [PRODH, SIDIDH], Aug. 26, 1996. According to a *La Jornada* article, criminal investigations into fifty-nine known homicides having occurred since April 1989 led to only thirteen persons arrested, all of whom were released soon after their detentions. PRODH, SIDIDH, Aug. 26, 1996. A reported 500 community members have been murdered in the internecine rivalry during the last seven years. Diego Cevallos, "The Triquis, A Thousand-Year-Old Indigenous Group, Torn by Hatred," InterPress Service, Aug. 30, 1996, reprinted in Documentation Exchange, *Mexico NewsPak*, Vol. 4, No. 16, p. 9, 26 Aug.-8 Sept. 1996.

¹¹For an interesting study of religious conflict in Oaxaca, see Olga Montes García, "Violación de Derechos Humanos en Oaxaca por Motivos Religiosos," in *Eslabones* magazine (of the Sociedad Nacional de Estudios Regionales), No. 8, Jul.-Dec. 1994, pp. 120-31.

¹²Interview in Oaxaca City with Gerardo Garfias Ruiz, Director of the Special Attorney's Office for the Indigenous, 17 Jul. 1996.

Illustrative cases

Santiago Amoltepec vs. Santa Cruz Zenzontepec, Santa María Zaniza, Santiago Textitlán, and San Mateo Yucutindoo

Among Oaxaca's, if not Mexico's, bloodiest land disputes is that placing Santiago Amoltepec in conflict with four neighboring communities: Santa Cruz Zenzontepec (Zenzontepec), Santa María Zaniza (Zaniza), Santiago Textitlán (Textitlán) and San Mateo Yucutindoo (Yucutindoo).¹³ Tensions over land in the zone date back decades, with outbursts of violence having ebbed and subsided over the years.¹⁴ Renewed tensions surfaced in 1992.

Minnesota Advocates representatives interviewed Santiago Amoltepec authorities in August 1995 and July 1996.¹⁵ These local officials believe that their community receives unfavorable treatment from government officials concerning the land conflict, and that the four neighboring communities have banded together against Amoltepec. The four neighboring communities, which together have obtained a lawyer to advance their claims, feel similarly,¹⁶ and accuse Amoltepec of fomenting problems.¹⁷ Confrontations between Amoltepec and the bordering communities have resulted in crop burnings, theft of produce, and destruction of homes. They also have produced much murder. Amoltepec representatives complained that the government has not responded adequately to the murders of Amoltepec residents. The same may be said of the killings of others by Amoltepec

¹³The communities are some 100 kilometers southwest of Oaxaca City. Because of tensions between Amoltepec and the other communities, however, residents have largely been cut off from the rest of Oaxaca. Villagers must trek twelve hours to access to the road closest to Amoltepec (no road actually reaches the community) which leads to Oaxaca.

¹⁴Amoltepec residents murdered twenty-eight residents of Zaniza, and wounded another thirty-five, in a single 1985 assault. Interview in Oaxaca City with Father Wilfrido Mayrén, 16 Jul. 1996.

¹⁵Interview in Oaxaca City with Cliserio García Torres, communal goods representative and Esteban López, school teacher, 9 Aug. 1995; Interview in Oaxaca City with Aureliano Maldonado Torres and Vertoldo Torres García, 16 Jul. 1996.

¹⁶See Letter of the "Zayuczentex" Organization of United Pueblos to President Ernesto Zedillo, Feb. 29, 1996.

¹⁷Agustín Ambriz and Pedro Matías, "Disputa por tierras, una invasión solapada por las autoridades y las condiciones de pobreza, detonantes de un conflicto armado en la sierra sur de Oaxaca," *Proceso*, No. 979, 7 Aug. 1995, pp. 8-9. Neither side may escape blame for conflict-related violence.

residents.¹⁸ Killings of Amoltepec residents arising from the disputes reportedly number between two and three hundred.¹⁹ Recent cases denounced by Amoltepec residents include the following:

- Tepetitlán residents murdered Patricio Hernández Roque, 30, in El Frijol by on 2 September 1993. His assailants also killed six of Hernández's animals. Though community residents reported the incident to government officials, criminal investigations had not been pursued through August 1995.
- Heavily-armed assailants ambushed and killed Alvaro López Cruz, 56, on 1 July 1995 as he tended his herd around 6:00 a.m. near the limits of Amoltepec and Textitlán. The assailants also made off with thirty head of cattle. Public Ministry agents arrived eight days later to investigate. No one had been arrested in the case as of August 1995.
- Celso Hernández Mata, 30, was shot and killed on 8 June 1995 in territory near the border between Amoltepec and Yucutindoo and Textitlán. His attacker(s) shot him with a high-powered firearm as he tended his herd of cattle at about 7:00 a.m. Public Ministry agents did not arrive to investigate until a week later. No one had been arrested as of August 1995.

The Bartolomé Carrasco Regional Human Rights Center (*Centro Regional de Derechos Humanos "Bartolomé Carrasco"*) reported another attack. Individuals from Yucutindoo ambushed four men on 23 April 1996 in the community of Piedra de Tambor. Three men, Bernardo Caballero Torres, Julio Paz Velasco and Genaro Velasco Paz, died in the attack. Caballero Torres left behind a widow and seven children between the ages of sixteen and one.²⁰ The other two men are survived by their widows and a total of ten children.²¹

Eusebio Roque Paz received a bullet in the left leg during the assault. He had been tending his goats, some ten meters behind the three other men. When shots erupted, Roque Paz concealed himself behind some rocks to protect himself. He informed Minnesota Advocates that his injuries prevent him from working.²²

¹⁸Some are in jail, however. Cosme Velasco Hernández has been incarcerated since April 1986 for his alleged participation in a violent outburst between Zaniza and Amoltepec the same year. Velasco Hernández explained that he was in Oaxaca City as an Amoltepec leader to demand justice for the killing by Zaniza residents of four Amoltepec residents on 11 April 1986 and two similar 14 August 1984 murders. He complained that law enforcement arrested and charged him while he was in Oaxaca City. He ultimately was sentenced to thirty-four years for crimes he denies having committed. Letter of Cosme Velasco Hernández to Minnesota Advocates, 5 Jul. 1996.

¹⁹Members of the other four communities also have been killed as a result of the conflict. Investigations into all acts of violence related to these conflicts, regardless of the identity of the perpetrator or victim, should be carried out, and the responsible parties brought to justice.

²⁰Interview in Santiago Amoltepec with Edmunda Torres Paz, widow of the deceased, 16 Jul. 1996.

²¹Interview in Santiago Amoltepec with Lourdes Riano Morales and Guadalupe Ramírez Roque, widows of the deceased, 16 Jul. 1996.

²²Interview in Santiago Amoltepec with Eusebio Roque Paz, 16 Jul. 1996.

Amoltepec residents searching for the victims found clothing and hair, along with brain matter, of the killed men. The victims had been burned and buried in a common grave.²³ PJE agents did arrive in Amoltepec, and on April 28 the police arrested two men. Three others presumed responsible—Roque Paz indicated that many men had participated in the killings—remained free as of July 1996.

On 26 May 1996, Zenzontepec residents murdered another Amoltepec resident, in Independencia, Amoltepec. Alquileo Pérez López was shot to death while out searching for mangos. He had left his home at about 3:00 p.m. Later in the afternoon community members heard shots fired. Community members found his corpse the next day. As of July 1996, authorities had detained no one for Pérez López's murder.²⁴

Unión y Progreso vs. San Sebastián Yotanino

Residents of Unión y Progreso (in Cahuacua, Sola de Vega Department) assert that since the early 1990s²⁵ they have been under siege from the town of San Sebastián Yotanino, whose residents are interested in fertile land that they and Unión y Progreso residents historically have both utilized.²⁶ The non-governmental Indigenous Organization for Human Rights in Oaxaca (*Organización Indígena de Derechos Humanos en Oaxaca* or OIDHO), which assists Unión y Progreso press its claims, denounced in August 1995 a number of assaults on Unión y Progreso residents, during which houses were burned and individuals killed. The attacks include:²⁷

- On 3 April 1993 fourteen Unión y Progreso residents were captured and jailed in San Sebastian Yotanino for nine days and nights. Law enforcement authorities have not investigated or prosecuted this assault and arbitrary detention.
- In an assault on 21 April 1994 Juan Hernández, 18, was murdered, and Rafael Rodríguez Gómez, 64, was injured by weapons fire.
- Some eighty to one hundred residents of San Sebastián Yotanino entered and pillaged Unión y Progreso on 13 May 1994, and burned down two houses.
- On 16 June 1994 Felipe Jacobo Gómez, resident of Unión y Progreso, was murdered.
- The following day, 17 June 1994, Assailants murdered Teresa Martínez Gómez, twenty-eight years old and eight months pregnant. Eighteen houses were burned on the same day.

²³Interview in Santiago Amoltepec with various villagers, 16 Jul. 1996.

²⁴Interview in Oaxaca City with Aureliano Maldonado Torres and Vertoldo Torres García, 16 Jul. 1996.

²⁵In 1990 Unión y Progreso received a state seal as a municipal agency (*agencia municipal*), formally making the community independent from San Sebastián Yotanino. Interview in Oaxaca City with Alejandro Cruz López of OIDHO, 10 Aug. 1995.

²⁶Interview in Oaxaca City with Alejandro Cruz López of OIDHO, 10 Aug. 1995.

²⁷Memorial of the Second Forum on "Impunity, Repression and Human Rights," carried out on 10 Aug. 1995 in Oaxaca City, pp. 7-9.

- Armed men from San Sebastián Yotanino entered Unión y Progreso on 21 June 1994, and burned down eleven homes.
- Members of the State Judicial Police, accompanied by San Sebastián Yotanino residents, entered Unión y Progreso on 22 June 1994, and burned down twenty other houses.²⁸ At the same time, the invaders killed residents' animals and stole food and belongings from Unión y Progreso residents. As a result of these assaults, OIDHO reports that seventeen arrest warrants were issued, but none has ever been carried out. Rather, OIDHO asserts, criminal charges were fabricated against Unión y Progreso townspeople.²⁹
- Nazario Ríos Mandarín and Juan Jacobo Aparicio, president and secretary respectively of the Unión y Progreso Human Rights Committee, were executed by gunmen on 12 July 1995 in El Vado, Ejutla de Crespo district. Claudio Hernández Jacobo suffered injury in the assault.

Though Unión y Progreso leaders have filed complaints regarding these cases before the PGJE and the State Human Rights Commission (CEDH), none of these cases had been resolved by authorities at the time of Minnesota Advocates' visit to Oaxaca in July 1996.³⁰ In June 1994, after the series of house burnings, some forty families fled Unión y Progreso and sought refuge in neighboring San Mateo Yucutindoo.³¹ In July 1996, OIDHO representative Alejandro Cruz López informed Minnesota Advocates that the community of San Mateo Yucutindoo (involved in its own dispute with Santiago Amoltepec, described above) is somewhat discontent over the prolonged stay of Unión y Progreso residents. San Sebastián Yotanino residents have prevented Unión y Progreso townspeople from cultivating their land.

San Juan Mixtepec vs. Santo Domingo Ozolotepec

Since 1924, the neighboring communities of San Juan Mixtepec and Santo Domingo Ozolotepec, some sixty kilometers north of the coastal town of Puerto Angel and 110 kilometers east of Santo Domingo Tehuantepec, have disputed ownership of territory rich in timber. Demarcation lines were drawn in 1953, though they apparently never were officially recognized. Residents of both communities have suffered assaults. The San Juan Mixtepec representative interviewed by MA-HA representatives in August 1995 indicated his belief that the majority of attacks have been suffered by San Juan Mixtepec residents.³² He stated that the dispute has produced some forty murders over the last forty years.

²⁸Letter of Honorio Jacobo López and Nazario Ríos Mandarín to Oaxaca Gov. Diódoro Carrasco Altamirano, 24 Jun. 1994.

²⁹Memorial, 10 Aug. 1995, p. 8.

³⁰Testimony (mimeograph on file with Minnesota Advocates) of Nazario Ríos Mandarín before OIDHO, 24 Jun. 1995; Interview in Oaxaca City with Alejandro Cruz López of OIDHO, 17 Jul. 1996.

³¹Testimony of Nazario Ríos Mandarín before OIDHO, 24 Jun. 1995.

³²Interview in Oaxaca City with Gustavo Adolfo López Ortega, San Juan Mixtepec municipal agent, 8 Aug. 1995.

According to the representative, in 1993 a confrontation erupted between the two communities because Santo Domingo Ozolotepec residents had felled trees on ostensibly San Juan Mixtepec land.³³ Five male residents of San Juan Mixtepec disappeared during the episode. Their whereabouts remained unknown until residents of San Juan Mixtepec later learned that the men had been spotted wandering and destitute in the neighboring states of Veracruz and Chiapas. Reunited with community members, the men indicated that they had been abducted by residents of Santo Domingo Ozolotepec, beaten, and threatened with death should they ever return to San Juan Mixtepec. Though these and other cases of violence have been denounced to authorities and to the National Human Rights Commission, those responsible for murder, physical harm, and intimidation had not been brought to justice as of August 1995.

San Lucas Atoyaquillo, Santiago Ixtayutla, Jamiltepec

Since 1992 San Lucas Atoyaquillo, Oaxaca's twelfth poorest municipality,³⁴ has experienced political tensions. Some residents blame members of Antorcha Campesina, a peasant organization with ties to the PRI, for attempting to divide community members and take control of the town since it entered the region that year. To confront Antorcha Campesina, local residents sought out relations with the Party of the Democratic Revolution (Partido de la Revolución Democrática or PRD) in 1994. Tensions between members of the two groups turned violent in 1995.³⁵

Residents complained in February 1996 that their community is lawless. At a forum on human rights violations sponsored by the Mixteca Regional Human Rights Center (*Centro Regional de Derechos Humanos de la Mixteca*), community residents denounced the following unresolved attacks: Salvador Ramírez Villa, local PRD president, murdered on his land on 27 July 1995; Sebastián Martínez Ruiz, murdered while heading to work on 15 December 1995; and Santo Heraz Velasco and Pedro García López, injured by gunfire while hunting iguanas on 13 February 1996.

The Mixteca Center reports an additional six killings, suffered by four PRD members and two individuals affiliated with Antorcha Campesina.³⁶ Three men were murdered on 20 April 1996:

³³According to the representative, the pressure to cut trees in the area is great. He indicated that residents of Santo Domingo Ozolotepec, unlike those of San Juan Mixtepec, had allowed the Oaxacan Forestry Company to exploit their timberland at minimal cost. As a result, Santo Domingo Ozolotepec has been left with neither much timber nor significant economic benefit from its exploitation. Interview in Oaxaca City with Gustavo Adolfo López Ortega, San Juan Mixtepec municipal agent, 8 Aug. 1995.

³⁴Centro Regional de Derechos Humanos de la Mixteca, press release, 12 Sept. 1996 [Centro Mixteca, 12 Sept. 1996], citing statistics of the State Population Council (*Consejo Estatal de Población*). Oaxaca has 570 municipalities.

³⁵*Ibid.*

³⁶Yet another victim, though not in San Lucas, is Rigoberto Merino Ruiz, killed on 19 January 1996 at approximately 5:00 a.m. Unidentified gunmen ambushed Merino Ruiz and shot him to death. Merino Ruiz had been elected municipal president of Santiago Ixtayutla, through customary vote, in December 1995. Local *caciques* reportedly prevented his taking office, however, and named another individual to the post. After Merino Ruiz later received and presented to the community documentation from the State Electoral Institute (*Instituto Electoral Estatal*) indicating his presidency, he received death threats. Víctor Ruiz

Feliciano Riaño López, San Lucas Atoyaquillo president of communal goods, had turned into the organizers of the February forum a letter describing the unresolved killings afflicting his community.³⁷ Also killed were Agustín Cruz Bautista; communal treasurer; and Lucas López Torres, school committee treasurer. All three were PRD members. Antorcha Campesina leader Delfino Vásquez Pérez was slain on 27 May 1996. In yet another violent outburst, on 28 May 1996, while burying their dead leader, members of Antorcha Campesina were reportedly fired upon from the surrounding hillside.³⁸ Francisco Heraz Velasco, a fourteen-year-old son of an Antorcha Campesina member, perished that day. Silvestre Ramírez Villa, a PRD member, was killed on 3 August 1996.³⁹

The government did not act on any of these cases until 30 May 1996. On that date, police entered the area and, according to the Center, carried out an operation consisting of arbitrary detentions, illegal confiscation of arms, incommunicado detention and extortion.⁴⁰ Along with the violence, the state response also appears to disfavor the PRD. To date, five individuals affiliated with Antorcha Campesina have been arrested and subsequently released. Three of four PRD members detained remain in jail, and arrest warrants against another PRD members have issued.⁴¹

No longer able to tolerate the violence and fear it produced, remaining residents of San Lucas Atoyaquillo, in their majority senior citizens, women and children, decided to abandon their community. More than one hundred individuals marched for twenty-seven hours to Oaxaca City in mid-September 1996, determined to remain until state officials could guarantee security in the region. The residents met with Gov. Diódoro Carrasco Altamirano and other state officials on 25 September. According to San Lucas residents, the governor agreed to provide social welfare programs for community children and to review criminal proceedings initiated against community members. The Special Attorney's Office for the Indigenous (*Procuraduría para la Defensa del Indígena* or PDI, see below) will oversee implementation of the accords. Along with community residents, state and national human rights NGOs will participate on a verification commission.⁴²

Campo Bosco/La Estrella vs. Santa María Puxmetacán

Since 1988 serious tensions have existed between the town of Puxmetacán and residents of Campo Bosco/La Estrella. In the 1960s residents of the Puxmetacán left to form their own

Arrazola, "Asesinan a tres campesinos en Santiago Ixtayutla, Oaxaca," *La Jornada*, 27 Apr. 1996; Centro Regional de Derechos Humanos de la Mixteca, *Realidad Social y Elementos para un Proyecto de Pacificación en San Lucas Atoyaquillo, Municipio de Santiago Ixtayutla, Jamiltepec, Oax., Mexico* (Tlaxiaco, Oaxaca: Jul. 1996), p. 3.

³⁷See Víctor Ruiz Arrazola, "Asesinan a tres campesinos en Santiago Ixtayutla, Oaxaca," *La Jornada*, 27 Apr. 1996.

³⁸Víctor Ruiz Arrazola, "Se agudizó la violencia que priva desde hace un año en Atoyaquillo," *La Jornada*, 31 May 1996.

³⁹Centro Mixteca, 12 Sept. 1996.

⁴⁰*Ibid.*

⁴¹*Ibid.*

⁴²PRODH, SIDIDH, 17, 24, & 26 Sept. 1996.

community on land (some 260 hectares) that Puxmetacán claimed as its own.⁴³ Violence erupted in November 1988, when residents of each locale met to discuss the conflict. According to residents, Puxmetacán residents beat and tortured a number of Campo Bosco/La Estrella community members, including women. Municipal police on hand did nothing to prevent the violence from occurring or detain it upon its occurrence.⁴⁴ Also during 1988, two Campo Bosco/La Estrella men were convicted of raping a Puxmetacán woman, despite evidence placing them in Tehuantepec on the day of the alleged rape. One of the men, Lázaro Máximo Morales, complained that he still had only limited use of his hands because of the torture he suffered at the hands of Puxmetacán residents at the time of his arrest.⁴⁵

Puxmetacán men raped three Campo Bosco/La Estrella women in October 1994. The rapes came soon after a 26 September 1994 invasion of Campo Bosco/La Estrella land by Puxmetacán residents, during the season's second harvest. After the takeover, Campo Bosco/La Estrella residents met on October 2 to determine an appropriate response. Two women,⁴⁶ J. and O., aged 26 and 28 respectively, determined that they would go back to their land at least to gather sufficient corn for their families. The two women returned, each of whom was accompanied by one of her children. O. at the time was five months pregnant with her fifth child. At the site of their plantings, they found Puxmetacán men guarding the crops. The men apprehended the two women and led them to the group's leader. The women explained why they had returned, and were allowed to gather some corn.

As the women and their children left the field, transporting the corn on their backs, three of the men followed. The men took the corn from J. and O., pulled their hair, beat them, and pushed them to the ground. One of the men held the children while another raped each woman. Another man then raped both J. and O. The women were allowed to leave, and warned not to return.

After a medical examination confirming the rapes, an official complaint was filed with local authorities. J. and O. identified each of the men accused of the abduction and rape. To date, however, police have arrested none of the men, and no one has been tried. J. and O. informed a Minnesota Advocates representative in August 1995 that they often see the men in the town of María Lombardo, and live in fear because they believe that what happened to them will never be judicially redressed.

A subsequent attack resulted in the deaths of three Campo Bosco/La Estrella men. In the early morning of 5 February 1995 a number of Campo Bosco/La Estrella men were ambushed and

⁴³The new community was known as La Estrella. In November 1988 a number of families returned to Puxmetacán. Those remaining renamed the community Campo Bosco. They would ultimately be uprooted, and move to the town of María Lombardo de Caso (see below). Because residents call the land on which they settled as either Campo Bosco or La Estrella, we have chosen to refer to it as Campo Bosco/La Estrella.

⁴⁴Interview in María Lombardo de Caso, Oaxaca with residents of Campo Bosco/La Estrella, Aug. 1994.

⁴⁵*Ibid.*; Interview in Juchitán with Father Martín Martínez, director of the Tepeyac Human Rights Center, 13 Jul. 1996.

⁴⁶The third woman raped has opted not to denounce the case. Interview in Juchitán with Father Martín Martínez, director of the Tepeyac Human Rights Center, 13 Jul. 1996.

murdered by Puxmetacán residents as the former hunted on federal land. Floriberto Cruz López, 29, Valeriano Máximo Morales, 15, and Renato López, 23, perished in the attack. Floriberto Cruz López left behind four children; Two of López's children survived him. Another Campo Bosco/La Estrella resident, Ismael José Pablo, received injuries in the assault.⁴⁷ Campo Bosco/La Estrella members indicated to a Minnesota Advocates' representative that despite having plainly identified to authorities three men allegedly responsible for the assault, arrest warrants, which did not issue until after our August 1995 visit, still have not been carried out.⁴⁸

After the February 1995 attack, remaining residents of Campo Bosco/La Estrella determined that remaining in the town was no longer safe. An estimated 135 persons (from some twenty-one families) departed to María Lombardo on 10 March 1995, with promises from the government that the land dispute would be resolved, either by federal lands grant, or by extending credit to the residents to purchase their own land.

Minnesota Advocates learned in July 1996 that the government never purchased land for the residents of Campo Bosco/La Estrella, even though they had identified a parcel for sale and so informed the state government.⁴⁹ The families finally dispersed, largely having given up on the prospects of acquiring their own land. Now, like other landless Oaxacans, they languish in unfamiliar towns, searching for sufficient employment to support themselves and their families. Meanwhile, officials charged with enforcing the law have done little or nothing to seek those individuals presumably responsible for committing the violent acts described above.

The Chimalapas

The Chimalapas region, roughly 600 thousand hectares of ecologically diverse land in Oaxaca's far east and Chiapas' far west, comprises two *ejidos*⁵⁰: Santa María Chimalapa (consisting of some 460 thousand hectares) and San Miguel Chimalapa (about 134 thousand hectares), each of which is among Mexico's largest *ejidos*. *Ejido* members belong mostly to the Zoque indigenous group. Land disputes in the Chimalapas region vary: illegal narcotics production, cattle herding, timber exploitation, environmental preservation, and a Oaxaca-Chiapas border dispute all enter into the

⁴⁷Interview in María Lombardo de Caso, Oaxaca with residents of Campo Bosco/La Estrella, 12 Aug. 1995.

⁴⁸*Ibid.*; Interview in Juchitán with Father Martín Martínez, director of the Tepeyac Human Rights Center, 13 Jul. 1996.

⁴⁹Interview in Juchitán with Father Martín Martínez, director of the Tepeyac Human Rights Center, 13 Jul. 1996.

⁵⁰Mexico's contemporary *ejido* communal system of land distribution, utilization and ownership was a principal outcome of the Mexican revolution. See Minnesota Advocates, *Conquest Continued*, pp. 4-5. In 1992 the administration of President Carlos Salinas de Gortari significantly modified the system to allow, among other things, individual ownership and non-agrarian uses of *ejidal* land.

mix.⁵¹ Over the last forty years, innumerable land invasions have occurred, mostly by Chiapans entering Chimalapas territory seeking to exploit timber.⁵²

The Chiapan government reportedly has encouraged members of indigenous communities (who are not Zoque Indians) from Chiapas' highland region to settle land in the Chimalapas. The Chiapan government reportedly has sent settlers to disputed territories with the purported mission of defending Chiapas from Oaxacans.⁵³ Indeed, as of July 1996, thirty-four Chiapan communities had formed in disputed territory. Chiapans have invaded Chimalapas *ejidal* land —both within and without Oaxaca— with the encouragement of the Chiapan government. Chimalapas advocates complain that the Oaxacan government has done nothing to prevent Chiapans from entering Chimalapas land in Oaxaca, or to evict invaders.⁵⁴ They fear that the absence of governmental involvement in resolving land problems in the Chimalapas may provoke more violent acts.

The National Committee for the Defense of the Chimalapas wrote to President Zedillo in March 1996 to complain of a number of violent and intimidatory acts taken against Chimalapas communities and residents, as well as insufficient governmental action to contain such acts.⁵⁵ These include:

- the non execution of arrest warrants in January 1990 against nineteen *pistoleros* (gunmen) from Ganadera community, which had invaded the community of San Isidro La Gringa; nineteen others had been detained and jailed in Cintalapa, Chiapas, but were released without charge five days after their detention;
- on 5 July 1992 the lifeless bodies of Catalina Navat Patistán, Domingo Gómez Navat and a two-month-old girl with no name, life partner and two children respectively of Andrés Gómez Castellanos, president of the executive committee of San Pedro Buenavista, were found by law enforcement authorities. Catalina's corpse displayed injuries suggesting she been raped. The

⁵¹Interview in Matías Romero with representatives of the National Committee for the Defense of the Chimalapas, and of Santa María Chimalapa, 14 Jul. 1996.

⁵²*Ibid.*; Letter of the National Committee for the Defense of the Chimalapas to President Ernesto Zedillo, 13 Mar. 1996.

⁵³Interview in Matías Romero with representatives of the National Committee for the Defense of the Chimalapas, and of Santa María Chimalapa, 14 Jul. 1996. For the purposes of defining *ejido* territory, state borders are irrelevant. Because the *ejidal* system is federal, one *ejido* may consist of land in any number of states.

⁵⁴*Ibid.* Border disputes between the two states have been resolved at least on paper. In practice, however, the Chiapan government reportedly continues to pursue a land-grab policy, probably as a means to alleviate frictions over land in more populated regions of Chiapas.

⁵⁵Chimalapas letter, 13 Mar. 1996.

three had been missing for two days when found.⁵⁶ Their still unresolved deaths apparently came soon after the signing of a conciliation agreement between San Pedro and the Chimalapas;

- Chiapan PJE agents and *pistoleros* reportedly abducted Pablo Escobedo Méndez, a resident of San Francisco La Paz, in September 1992. He has not been heard from since; and
- on 12 February 1996 Nabor Escobedo Méndez, a resident of San Francisco La Paz, Santa María Chimalapa, was arrested and jailed in Cintalapa. Authorities charged him with murder, cattle theft in 1991, after cattle ranchers of La Gringa, Chiapas reportedly falsely accused him.⁵⁷

Tired of no state response, Chimalapas residents took matters into their own hands in February 1996. On February 9, they detained more than a dozen individuals believed to be illegally extracting timber from their land. Seven of the detainees were released immediately; others were turned over three days later to Oaxacan PJE agents and taken to Matías Romero. They were released without charge three days later.⁵⁸

As this report is finished, Chimalapas residents held from October 12-13 an international forum to discuss land-related issues. In addition to addressing cases of failed justice, organizers debated the creation of a *campesina* ecological reserve (*reserva ecológica campesina*), which would permit local control over land use decisions, with any eye towards preserving the Chimalapas' rich environment. As a follow-up to the forum, Chimalapas residents scheduled for 29 October a peaceful march to pressure the federal and state governments to meet their demands.⁵⁹

San Lorenzo Texmelucan v. Santo Domingo Tejomulco

These two towns have disputed territory for the past fifty years. The death toll reportedly numbers over two hundred. Though no killings have been registered in the last five years, and only two in the last fourteen, no one has ever been held legally accountable for the past murders.⁶⁰ According to Oaxacan human rights monitors, authorities have not successfully investigated or prosecuted a single case produced by this conflict. They also informed Minnesota Advocates that recent administrative maneuvers carried out by one of the towns may indicate that fourteen years of relatively peaceful negotiations are approaching an end. Considering the conflict's bloody history, they fear an eruption of renewed violence.

⁵⁶Incomplete copy of ministerial act (undated), reprinted in National Committee for the Defense of the Chimalapas, *Chimalapas: Expedientes instauradas ante Comisión Nacional de Derechos Humanos*, prepared for Minnesota Advocates, 23 Jul. 1996. The CNDH took up the case (case no. CNDH/122/92/CHIS/6520). The most recent CNDH document reviewed by Minnesota Advocates, dated 6 May 1996, shows no advances in the criminal investigation.

⁵⁷Chimalapas letter, 13 Mar. 1996.

⁵⁸Ibid; Letter of San Miguel Chimalapa's president of communal goods to President Ernesto Zedillo, 9 Feb. 1996.

⁵⁹Letter of San Miguel Chimalapa leaders to Minnesota Advocates, 18 Oct. 1996.

⁶⁰Interview in Oaxaca City with representatives of Oaxaca's Human Rights Network, 19 Jul. 1996.

HUMAN RIGHTS VIOLATIONS COMMITTED BY STATE AND FEDERAL AUTHORITIES

Introduction

Many Oaxacans interviewed by MA-HA representatives expressed their fear of security forces—whether federal, state, municipal, or communal—operating within Oaxaca. Many Oaxacans we interviewed believe that when police-civilian contact occurs, nearly anything detrimental to the civilian could result, for almost any reason, or for no reason. Their fear, and this belief, stem from the arbitrary, arrogant, corrupt and violent tradition of law enforcement in the state. Over the years, law enforcement personnel in Oaxaca have been responsible for a notorious number of cases of killings, torture, arbitrary detention, and other criminal activity, such as theft.⁶¹

This is not to say that honest and hard-working police officers or soldiers do not operate in the state. Nor does this report suggest that policing Oaxaca is a simple task. Security force personnel confront difficult obstacles. For example, the pay is low, training is deficient, material and human resources are meager, a poor infrastructure hinders movement over long distances, and criminal activity is surging.⁶²

Police work is, however, naturally difficult. Regardless of the difficulty in maintaining security, those charged with enforcing the law must observe basic human rights standards. These standards do not allow, under any circumstances, such acts as murder or torture. Arbitrary arrest may be permitted only when rights guarantees have been formally suspended during times of national emergency,⁶³ a situation which has not occurred in Oaxaca during the period under study in this report.

This report describes below a number of such human rights violations committed by state security force agents. Though placed into individual sections on killings, torture, and arbitrary detention, some cases below could be described in more than one section.

Killings

Killings committed by state agents do not constitute a high percentage of all human rights violations in the state of Oaxaca. They occur with troubling frequency however. Between 1 January 1995 and 26 June 1996, for example, the Mexico City-based and non-governmental Miguel Agustín Pro Juárez Human Rights Center (PRODH) reported five murders committed by security force or presumed security force agents.⁶⁴ In March 1996 the Tepeyac Human Rights Center of Tehuantepec, Oaxaca, reported in its annual regional study on human rights violations that the Center had received

⁶¹State-practiced violence, and the fear it produces, exist throughout Mexico.

⁶²Both the current and immediate past Attorneys General expressed these sentiments to MA-HA representatives.

⁶³See American Convention on Human Rights, signed Nov. 22, 1969, entered into force 18 Jul. 1978 [American Convention], Art. 27.

⁶⁴PRODH, *La Violencia*, appendix.

complaints of twenty-eight killings committed by agents of the state.⁶⁵ Neither number is indicative of a statewide count, as the PRODH's numbers consist mostly of press-reported murders, and cases reported by the Tepeyac Human Rights Center were allegedly committed only in the eastern region of Oaxaca, where the group focuses its attention.

The impunity typically afforded the perpetrators is as troubling as the frequency of killings. Governmental efforts to prosecute the murderers and compensate the victims either fail, or simply are not initiated by the appropriate authorities. Illustrative cases follow.

On 1 November 1994 **Sinar and Hildar Jiménez Sánchez, Efraín Cortés Coronel and Cristóbal Sánchez García**, four young men from Ranchería Las Cruces, San Miguel Chimalapa, were last seen alive. The four had gone to La Blanca, Santo Domingo, and were drinking refreshments at a small house-front convenience shop at about 7:00 p.m. when a police pickup truck arrived. Uniformed preventive police⁶⁶ of the Niltepec, Juchitán, patrol unit⁶⁷ emerged from the truck and detained the four young men.⁶⁸ The officers placed the men on the truck and drove off.⁶⁹

After hearing of the detention in the afternoon of November 2, members of the victims' families immediately sought to locate the men and determine who had detained them. No police or local authorities in Santo Domingo or Niltepec acknowledged their detention.⁷⁰

The men remained disappeared for nearly two weeks. Their corpses were found finally on November 13 and 14, in a ditch on the side of Federal Highway No. 190.⁷¹ Each of the victims had been shot, one in the head and one in the heart.⁷² Police investigations showed that weapons assigned to preventive police agents Rafael Lucas Reyes, Venancio Cortez, and Pompilio Pacheco Hernández had been fired at the scene of the murders.⁷³ The Tepeyac Human Rights Center took up the case, as did Oaxaca's CEDH.

⁶⁵Tepeyac Human Rights Center, *IV Informe ("aún con todo... la vida seguirá surgiendo")* (Tehuantepec: 24 Mar. 1996) [Tepeyac Center fourth annual report], p. 40.

⁶⁶Police work in Mexico is divided at the state level into crime prevention and investigation. Preventive and municipal police are on patrol principally to deter criminal behavior and to respond immediately to crimes in progress. Judicial Police (PJE) investigate crimes already committed. PJE agents are rough equivalents to police detectives, preventive or municipal police to cops on the beat.

⁶⁷Statements of Genaro Antonio Couder and Maximino Antonio Morales to PJE agents, 14 Nov. 1996, in Report of PJE agents Carlos Roberto Peralta Martínez and Jorge Martínez Arroyo to First Public Ministry agent, 16 Nov. 1994 [PJE report, 19 Nov. 1994].

⁶⁸Letter of Martha Sánchez, et al., to the Public Ministry office in Juchitán de Zaragoza, 7 Nov. 1994; Statement of Juan García Jiménez to the Public Ministry, 11 Nov. 1994.

⁶⁹Statement of Juan García Jiménez to the Public Ministry, 11 Nov. 1994.

⁷⁰Sánchez letter, 7 Nov. 1994; Tepeyac Center fourth annual report, p. 45.

⁷¹PJE report, 19 Nov. 1994.

⁷²Tepeyac Center fourth annual report, p. 46.

⁷³PJE report, 19 Nov. 1994; Report of PGJE forensics experts Felipe Ibáñez and Alberto M. Hernández Pacheco to Juchitán de Zaragoza Public Ministry agent, 3 Dec. 1994.

The Tepeyac Human Rights Center reported that it had no response from the CEDH through July 1996. Also cause for concern are reports that the accused have offered money to the claimants to desist in their efforts to see justice done.⁷⁴ More compelling and grave than CEDH shortcomings and bribery, however, is the failed criminal justice response to the crime. Despite the compelling evidence linking the officers to the murders, obtained a month after the victims' abduction, police had not one executed a single arrest warrant as of July 1996.⁷⁵

Seven preventive police agents killed three indigenous (Mixteco) men —**Seraffín Cruz Pedro, Florentino Santiago Cruz, and Octavio Santiago Montesinos**— on 21 February 1993, in the community of Guadalupe Hidalgo Tilantongo, Nochixtlán. Arrest warrants for the accused remained unexecuted through July 1996.⁷⁶ The widows did reportedly receive from the government a payment of 9000 *nuevos pesos* each.⁷⁷

Torture

Torture, defined as acts committed or instigated by public authority and intended to cause severe physical or mental pain or suffering to obtain a confession, punish, or intimidate a person,⁷⁸ is strictly prohibited by international as well as Mexican federal and Oaxacan state law.⁷⁹ Though torture reportedly does not occur at the levels once experienced in Oaxaca, the frequency and severity of torture cases still cause concern. Father Martín Martínez of the Tepeyac Human Rights Center informed Minnesota Advocates in July 1996 that because of increased scrutiny of police practices, particularly by human rights groups, agents now employ more sophisticated methods of torture, principally as a method of criminal "investigation." Agents now utilize psychological abuse and physical acts that are less likely to leave obvious outward signs of injury.⁸⁰

One recent case illustrates the use of torture in the criminal justice context. **Luis Arturo Tiburcio Lázaro**, a nineteen-year-old from the town of Zaachila, recently completed his first year of law school. On 27 June 1996, he intended to take collective transport from Colonia Volcanes towards the Central de Abasto in Oaxaca City to meet a female friend of his, on collective transport.

⁷⁴Letter of Tepeyac Human Rights Center to Minnesota Advocates, 11 Jul. 1996.

⁷⁵Tepeyac Center fourth annual report, p. 46; *ibid.*

⁷⁶Memorandum of the Mixteca Regional Human Rights Center, 12 Jun. 1996; Interview in Oaxaca City with representatives of Oaxaca's Human Rights Network, 19 Jul. 1996.

⁷⁷Interview in Oaxaca City with representatives of Oaxaca's Human Rights Network, 19 Jul. 1996.

⁷⁸See Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, G.A. res. 39/46, annex, 39 U.N. GAOR Supp. (No. 51) at 197, U.N. Doc. A/39/51 (1984), entered into force 26 June 1987 [Torture Convention].

⁷⁹See Torture Convention; *Ley Federal para Prevenir y Sancionar la Tortura*, published in *Diario Oficial* (national official gazette), 27 Dec. 1991, reprinted in *Legislación sobre Derechos Humanos* (Editorial Porrúa, Mexico City: 1995); *Ley Estatal para Prevenir y Sancionar la Tortura*, published in *Periódico Oficial* (Oaxaca state official gazette) (Oaxaca City: 20 Nov. 1993).

⁸⁰Interview in Juchitán with Father Martín Martínez, director of the Tepeyac Human Rights Center, 13 Jul. 1996.