

MINNESOTA



ADVOCATES  
FOR HUMAN RIGHTS

**Massacre in Mexico**

**Killings and Cover-up  
in the State of Guerrero**

**December 1995**

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**Minnesota Advocates for Human Rights**

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## GLOSSARY OF ACRONYMS

CG500ARI	Guerrero Council 500 Years of Indigenous Resistance ( <i>Consejo Guerrerense 500 Años de Resistencia Indígena</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> )
CNDH	National Human Rights Commission ( <i>Comisión Nacional de Derechos Humanos</i> )
IACHR	Inter-American Court of Human Rights
MP	Public Ministry ( <i>Ministerio Público</i> )
NAFTA	North American Free Trade Agreement
PAN	National Action Party ( <i>Partido de Acción Nacional</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	Human Rights Center "Miguel Agustín Pro" ( <i>Centro de Derechos Humanos "Miguel Agustín Pro"</i> )

## ACKNOWLEDGMENTS

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Minnesota Advocates is particularly indebted to the surviving victims of the Aguas Blancas massacre, who overcame substantial fear to share their time and observations with Minnesota Advocates.

Notwithstanding the valuable input of others, Minnesota Advocates is fully responsible for the content of this report.

## SUMMARY AND RECOMMENDATIONS

*We want justice. That those responsible be punished.*<sup>1</sup>

On the morning of June 28, 1995, a contingent of Guerrero state police sat in wait for members of the Southern Sierra Peasant Organization (*Organización Campesina de la Sierra Sur*, or OCSS) to descend from their towns and head to Atoyac de Alvarez, where the OCSS intended to stage a political demonstration they had previously planned and announced.

OCSS members were traveling in two vehicles. At approximately 10:30 a.m., the second vehicle, a blue pickup, approached a bend in the road near Aguas Blancas, Guerrero, reaching the site of the police roadblock minutes after the first vehicle had arrived. OCSS members were not the only persons on board the blue pickup, however. As is customary in rural areas lacking public transport, other passengers —*campesinos* from the region— were also making their way to town to conduct daily chores. The blue pickup, absolutely filled to capacity, was transporting more than fifty people. As the blue pickup stopped, shots rang out. Police then opened sustained fire on the blue pickup. Seventeen civilians were killed in the assault; more than twenty others suffered injuries resulting from weapons fire. Two police officers were slightly injured during the events, neither by weapons fire.

Mexico's official National Human Rights Commission (*Comisión Nacional de Derechos Humanos* or CNDH) investigated the massacre and in August issued a hard-hitting report. The CNDH called for the removal and prosecution of a number of high-level Guerrero state law enforcement officers. It also called for an exhaustive investigation —by an independent special prosecutor— into the police assault and subsequent attempts to cover it up, as well as a restructuring of Guerrero's security forces. Though Guerrero Governor Rubén Figueroa Alcocer initially promised to comply with the CNDH recommendation, actions taken to date have been woefully inadequate. In addition, the judicial and executive branches of Mexico's federal government have refused to investigate the case, despite authority to do so.

A Minnesota Advocates representative visited the site of the massacre and nearby communities in August 1995. While in Guerrero, he spoke with more than two dozen witnesses, relatives of the deceased, representatives of local human rights groups and others interested or involved in the case. He also interviewed in Acapulco Judge Alfonso Van Meeter Roque of the third criminal court, who is overseeing the criminal case proceeding against ten police agents accused of participation in the massacre.<sup>2</sup> In addition, while in Mexico City, the representative interviewed numerous members of Mexico's non-governmental and governmental human rights organizations about the case. This report details information collected by Minnesota Advocates and describes our conclusions and continuing concerns in this case.

Minnesota Advocates for Human Rights remains deeply concerned that the Mexican government lacks the will to resolve this case, despite recent statements of President Ernesto Zedillo

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<sup>1</sup> *Verbatim* demands of victims and victims' relatives interviewed by Minnesota Advocates near the site of the Aguas Blancas massacre, Aug. 13, 1995.

<sup>2</sup> We acknowledge and appreciate that Judge Van Meeter Roque was forthcoming in his brief meeting with Minnesota Advocates' representative.

calling for a renewed fight against corruption and impunity among the ranks of Mexico's public officials. President Zedillo indicated that it "is time to construct a new culture in which the law is observed" and that "those who do not comply will suffer the consequences."<sup>3</sup> Such forceful words must be backed up with equally powerful action. Failure to act, as has happened in the Aguas Blancas case, will prevent the administration of President Zedillo from breaking the cycle of abuse and impunity that shields human rights violators from punishment and allows additional violations to occur.

As this report is released, criminal investigations into these killings have not advanced. Despite Mexico's international obligations to guarantee human rights, there has been official reluctance to investigate the massacre thoroughly and impartially at state and national levels. In handling the case, both the national government and the state government of Guerrero have demonstrated serious disregard for their human rights obligations. Considering the gravity of the case, the number of lives affected by this episode of state-perpetrated violence, and the amount of pressure brought to bear on Mexico to deal squarely with the Aguas Blancas massacre, the Mexican government's inadequate response to the violations involved in this case merit strong condemnation by the international community.

To see that Mexico begins to meet its international human rights obligations in this case, and that the calls for justice of the massacre's victims are heeded, Minnesota Advocates recommends that the following steps be taken:

- Because the state government of Guerrero is incapable of impartially and adequately investigating this case, the Mexican federal government should appoint as early as possible a special prosecutor. A prominent, national figure is needed to shield the special prosecutor from undue influence by Guerrero's political and law enforcement leaders. The national special prosecutor should have complete freedom to appoint his or her own investigative team, and must receive sufficient resources from the federal government to conduct a thorough and independent investigation.
- Impartial, independent and thorough investigations should reach the highest levels of state government, including to Guerrero Governor Rubén Figueroa Alcocer, to determine exactly who was responsible for ordering and carrying out the killings at Aguas Blancas as well as the subsequent attempted cover-up. Investigations should focus on the extent to which police had received orders, and from whom, to use force to prevent the OCSS from arriving at its destination.
- Investigations should include the immediate exhumation of the victims' corpses for thorough autopsies, to be conducted by qualified and impartial personnel. Such personnel should include independent experts chosen in consultation with the victims' family members. Such medico-legal examinations should follow the guidelines established in the U.N. *Model Protocol for a Legal Investigation of Extra-legal, Arbitrary and Summary Executions* ("*Minnesota Protocol*")
- One function of the special prosecutor, or of another federal officer specially created to deal with the issue of reparation, should be to determine the appropriate individual indemnization

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<sup>3</sup> See Associated Press, "Zedillo vows harsh punishment for crooked public servants," in Nando.net World Wide Web site ([http://www.nando.net/newsroom/ap/ntn/world/world629\\_8\\_side0.html](http://www.nando.net/newsroom/ap/ntn/world/world629_8_side0.html)), Nov. 26, 1995.



due each survivor and family member of those killed. Individual assessments of adequate compensatory damages should be carried out as soon as possible and disbursements made readily available by the national government to the injured parties. Under no circumstances should such a determination result in individuals being due less than what they already have received.

- The federal Supreme Court should reconsider its decision to decline to appoint its own special investigators in the case.
- The government of Guerrero should quickly implement the recommendation of Mexico's National Human Rights Commission (CNDH) regarding the urgent need to restructure Guerrero's police forces. To that end, the Guerrero government should re-examine every replacement of law enforcement personnel made immediately after the CNDH recommendation. Newly-appointed officials with prior links to Guerrero's police forces or criminal investigation units should be removed from their posts. A serious and exhaustive process of recruitment, evaluation, and selection of law enforcement personnel must take place if Guerrero's security forces are to break from their repressive tradition.
- Threats against witnesses and survivors should be investigated thoroughly by the national special prosecutor. Those found responsible for such intimidating conduct should be administratively and criminally investigated and punished to the full extent of the law. Appropriate steps should be taken to protect witnesses and survivors of the Aguas Blancas massacre.

## EVENTS PRECEDING THE MASSACRE

The June 28<sup>4</sup> massacre did not occur in a vacuum. Though the typical tourist to Acapulco's sunny beaches may be unaware, Guerrero is one of Mexico's bloodiest states.<sup>5</sup> A dangerous mixture of poverty, lack of education, weapons, political violence, illegal drug cultivation and trafficking, *caciquismo*,<sup>6</sup> and abusive police forces saturates this mountainous state on Mexico's south Pacific coast.<sup>7</sup> Guerrero also experienced a failed attempt at armed rebellion in the late 1960s and early 1970s,<sup>8</sup> and is allegedly home to armed insurgent groups currently.<sup>9</sup>

The Aguas Blancas massacre does not appear related in any way to armed insurrectional activity. Rather, months of tensions between the government of Governor Rubén Figueroa Alcocer and the OCSS erupted into the assault on OCSS members that morning. The OCSS was founded by a group of *campesinos*<sup>10</sup> in south-central Guerrero in early 1994, to advocate on behalf of poor *campesinos* in the region.<sup>11</sup> Though without official links to any particular political party,<sup>12</sup> the

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<sup>4</sup> Unless otherwise noted, all dates in this report refer to 1995.

<sup>5</sup> Over the last few months, Guerrero's death toll resulting from murder, for political and other reasons, has been staggering. Such reported murders include: the June murders of CG500ARI (*see* below) members Perfecto González Rufino, Alejandro Tenorio Perfecto, and Rey Flores Hernández; the July killings of OCSS members Eugenio Aguirre Solana and Ismael Mena Alvarez; the October assassinations of PRI activists Adelaido Vázquez García, Rosendo Vázquez García, and Miguel Vázquez García; the October killings of brothers and OCSS members Bernardo and Evaristo Nava Hernández; and the November death of local PRD leader Martha Morales Vázquez, who had been shot on October 14. The PRD provided a list to Minnesota Advocates indicating that fifty-two PRD members (excluding any at Aguas Blancas on June 28) were killed between the time Governor Figueroa took office and July 15, 1995. Sadly, these cases do not reflect the total number of murders, many of which are described by officials as resulting from personal vendettas. Political and other murders share, however, the characteristic of infrequently being investigated thoroughly by Guerrero's law enforcement officials. Though this report focuses on the Aguas Blancas massacre, Minnesota Advocates remains deeply concerned about apparently political murders carried out recently in the state, and the lack of serious investigation into them.

<sup>6</sup> As throughout Mexico, Guerrero's *caciques*, or local power bosses linked to the power hierarchy, whether in a position of official power or not, enjoy tremendous sway in the regions they control.

<sup>7</sup> *See, e.g., Centro de Derechos Humanos "Miguel Agustín Pro" [hereafter PRODH], Violaciones de los derechos humanos en el estado de Guerrero [undated].*

<sup>8</sup> Lucio Cabañas led a revolt in Guerrero of the *Partido de los Pobres* (Party of the Poor) before being killed by the military in 1974.

<sup>9</sup> Whether armed groups intent on attacking the government exist in Guerrero is hotly contested. Minnesota Advocates heard conflicting testimony of their existence during an August fact-finding mission to the state. It is indisputable, however, that the state's current social, economic, and political mix, combined with years of state-sanctioned repression, are conducive to the formation of such groups.

<sup>10</sup> *Campesino* is the Spanish word for person from the countryside (*campo*).

<sup>11</sup> OCSS, "Este es el diálogo que ofrece el gobierno: la muerte," undated flyer on file with Minnesota Advocates.

<sup>12</sup> Some OCSS members reportedly are sympathizers of the Party of the Democratic Revolution (*Partido de la Revolución Democrática*, or PRD), yet events leading up to the Aguas Blancas killings dispel any notion that the OCSS considers itself part of the PRD. *See* below.

OCSS may be viewed as opposing the governing Institutional Revolutionary Party (*Partido Revolucionario Institucional*, or PRI).<sup>13</sup>

In months prior to the massacre, the OCSS had engaged in a dispute with local leaders in Tepetitla,<sup>14</sup> involving the expropriation of timber on communal land.<sup>15</sup> The OCSS employed aggressive, and at times illegal methods to achieve its goals, such as by disabling a crane and commandeering a timber-hauling truck.<sup>16</sup> Not all of its methods involved physical confrontation, however. OCSS representatives met with Governor Figueroa in Tepetitla on May 3 to press demands for agricultural supplies,<sup>17</sup> which were difficult to purchase as a result of increased cost arising from the December 1994 peso devaluation and subsequent economic crisis.<sup>18</sup> The two sides are reported to have reached an accord.<sup>19</sup>

On May 18, OCSS members staged a demonstration in Atoyac de Alvarez<sup>20</sup> to protest the governor's apparent failure to comply with the May 3 agreement, to denounce recent human rights violations, and to celebrate the anniversary of the guerrilla insurgency commenced by Lucio Cabañas in 1967.<sup>21</sup> Hundreds of OCSS members, bearing machetes, heavy sticks and clubs, reportedly blockaded the city's town hall overnight.<sup>22</sup> The protestors effectively held captive Atoyac de Alvarez's municipal president, PRD member María de la Luz Núñez Ramos, town *síndico* (essentially a town attorney general) Wilebaldo Rojas Arellano (also of the PRD), and numerous other town employees who belonged to the PRD, PRI, or who were affiliated with no political

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<sup>13</sup> The PRI, which under different names has held virtual hegemony over Mexican politics for more than sixty-five years, is the dominant political party in Guerrero. Governor Figueroa Alcocer is a member of the PRI.

<sup>14</sup> Some 45 kilometers from Acapulco, and about 20 kilometers beyond Aguas Blancas.

<sup>15</sup> See "'Quiéren que nos matem os entre campesinos', dice un líder de la OCSS sobre el problema de la madera," *El Sur* (Acapulco weekly), No. 578, May 15-21, 1995.

<sup>16</sup> *Ibid.*

<sup>17</sup> The *campesinos* sought access to a defoliant (Gramxone, also known as paraquat), long ago banned in the United States for the harm it causes humans. See Tod Robberson, "Mexican Rural Violence Rears Anew — Within Reach of Acapulco," *Washington Post*, Jul. 16, 1995. They also desired increased access to fertilizer, the distribution of which they found improperly controlled by *caciques* loyal to the PRI power structure. Interview in Acapulco with Maribel Gutiérrez, Aug. 14, 1995 (Ms. Gutiérrez reports for the Mexico City daily *La Jornada* and *El Sur*, an Acapulco weekly. She has reported on Guerrero's conflictive area around Aguas Blancas extensively, and since well before the June 28 massacre.)

<sup>18</sup> Gutiérrez interview, Aug. 14, 1995.

<sup>19</sup> See Maribel Gutiérrez, "Bajaron de Tepetitla a reunirse con los enviados del gobernador y regresaron con las manos vacías," *El Sur*, No. 578, May 15-21, 1995.

<sup>20</sup> Atoyac de Alvarez is a municipal seat some 75 kilometers from Acapulco.

<sup>21</sup> See Maribel Gutiérrez, "Recriminaciones, deslindes y acusaciones por la ocupación de la alcaldía de Atoyac," and "Un año después, volvieron a Atoyac con su mismo pliego, pero más pobres y radicalizados," *El Sur*, No. 579, May 22-28, 1995.

<sup>22</sup> *Ibid.*

party.<sup>23</sup> After negotiations with the state government, protestors returned to their communities on May 19.<sup>24</sup>

Then, on May 24, OCSS member Gilberto Romero Vásquez "disappeared" from Atoyac de Alvarez.<sup>25</sup> According to Mexico's National Human Rights Commission (*Comisión Nacional de Derechos Humanos* or CNDH),<sup>26</sup> Romero Vásquez previously had received a credit from the Atoyac de Alvarez municipal government for agricultural needs, but instead spent it on personal items.<sup>27</sup> He had been publicly queried by Municipal President Núñez Ramos on May 18 about the credit and its expenditure.<sup>28</sup> The CNDH reported that on the day he "disappeared," Romero Vásquez left his house at about 10:30 a.m., heading towards a bank in Atoyac de Alvarez, and was not seen again by his family.<sup>29</sup>

Subsequent to Romero Vasqu ez's disappearance, and after the OCSS complained of police surveillance of their office in Tepetitla,<sup>30</sup> the OCSS planned another demonstration in Atoyac de Alvarez for June 28. The motivation behind this protest paralleled that of the May 18 demonstration. This time, however, in addition to calling for compliance with the May 3 agreement reached with Governor Figueroa, the OCSS also intended to demand the safe return of their missing companion.<sup>31</sup> The OCSS reportedly blamed both the governor and Atoyac de Alvarez's municipal president for Romero V azquez's disappearance.<sup>32</sup>

On June 26, two days before the massacre, Governor Figueroa reportedly met in the Governmental Palace (*Palacio de Gobierno*) with law enforcement personnel, judges, business leaders, and others in the state capital of Chilpancingo to decide how to respond to the planned

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<sup>23</sup> *Ibid.*

<sup>24</sup> Guti errez, "Un a o despu es..."

<sup>25</sup> State-ordered, -sanctioned, or -tolerated disappearance is a grave breach of international human rights law. *See, e.g.,* Inter-American Court of Human Rights, *Vel squez Rodr guez* decision, Jul. 29, 1988; Inter-American Convention on Forced Disappearance of Persons, OEA/Ser.P, AG/doc.3114/94 rev.1, Jun. 8, 1994; Declaration on the Protection of All Persons from Enforced Disappearances, G.A. res. 47/133, 47 U.N. GAOR Supp. (No. 49) at 207, U.N. Doc. A/47/49 (1992).

<sup>26</sup> *See* discussion of the CNDH below.

<sup>27</sup> CNDH, *Sobre los hechos ocurridos el 28 de junio de 1995 en las cercan as de Aguas Blancas, municipio de Coyuca de Ben tez, Estado de Guerrero, y su investigaci n por las autoridades locales*, Recomendaci n No. 104/95, Aug. 14, 1995, p. 13. [hereafter "Recommendation No. 104/95"].

<sup>28</sup> *Ibid.*, pp. 13-14.

<sup>29</sup> *Ibid.*, p. 14, citing a letter from Romero V squez's wife published in *Diario 17* (Acapulco) on July 1, 1995. The CNDH has incorporated Romero V squez's case into their Special Program Regarding Those Presumed Disappeared. Recommendation No. 104/95, p. 334.

<sup>30</sup> *See* Hilario Mesino Acosta, Benigno Guzm n Mart nez (both of the OCSS), letter to the editor, *El Sur*, No. 582, Jun. 12-18, 1995.

<sup>31</sup> Interview in Oaxaca City with Marino S nchez, OCSS leader, Aug. 10, 1995; Recommendation No. 104/95, p. 15.

<sup>32</sup> *See* Maribel Guti errez, "Emboscada decidida, premeditada, programada, dirigida, y ejecutada por el gobierno," *El Sur*, No. 585, Jul. 3-9, 1995.

protest.<sup>33</sup> Present too, apparently, was military intelligence officer Brigadier General Mario Arturo Acosta Chaparro.<sup>34</sup> Mexican press reported that it was there and then that authorities decided to stop the OCSS protest.

Though Minnesota Advocates has not confirmed with state officials that the meeting occurred, it seems likely that it did, in fact, take place. Subsequent communications between state officials and Atoyac de Alvarez authorities suggest that the state government was not only aware of the demonstration, but planned to prevent its occurrence. For example, government officials had received notice of the planned demonstration. According to Atoyac de Alvarez Municipal President Núñez Ramos, her office received a fax of a document at about 3:00 p.m. on June 27 announcing the OCSS demonstration.<sup>35</sup> The fax had been sent by Gustavo Martínez of Guerrero's Office of Government (Gobernación).<sup>36</sup> Núñez Ramos also reports that at around 5:00 p.m. Governor Figueroa Alcocer called her office and spoke with the town's *síndico*, Wilebaldo Rojas Arellano. At that time, Governor Figueroa reportedly asked Rojas Arellano, "Where is the president? [referring to Núñez Ramos]" When informed she was en route from Mexico City, Governor Figueroa reportedly said:

Do you already know that those of the OCSS are going to take over town hall tomorrow? . . . I've been told that you invited them again. . . . What measures are you taking? I am going to do everything possible to detain those from Coyuca. You be in charge of those from Atoyac . . .<sup>37</sup>

Núñez Ramos reports that upon returning to Atoyac de Alvarez she called the governor at approximately 8:00 p.m. According to her, this conversation followed:

*Núñez Ramos:* Good evening, Mr. Governor, you were looking for me?

*Governor Figueroa:* Where were you?

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<sup>33</sup> Juan Angulo and Maribel Gutiérrez, "Acosta Chaparro, tras la violencia policiaca en Guerrero," *El Sur*, No. 588, Jul. 24-30, 1995; Gutiérrez interview, Aug. 14, 1995.

<sup>34</sup> Angulo and Gutiérrez, "Acosta Chaparro..." General Acosta Chaparro is reported to have helped lead the virtual "dirty war" against subversion in Guerrero during the governorship of Rubén Figueroa Figueroa, father of the current governor. More recently General Acosta Chaparro is credited with the creation and circulation of a "black list" of individuals allegedly linked to the armed insurgency in Chiapas. See Rodrigo Vera, "Este año comenzaron en México la guerra sucia, la violencia de Estado y la represión, denuncia el jesuita David Fernández (Prodh)," and Guillermo Correa, "En tres documentos oficiales, aparecen los nombres de posibles futuras víctimas de la represión, denuncia el Diputado Narro Céspedes," *Proceso* (Mexico City newsweekly), No. 980, Aug. 14, 1995.

<sup>35</sup> María de la Luz Núñez Ramos, "Datos para adoptar un criterio objetivo y veraz sobre los sucesos del 28 de junio en Coyuca de Benítez," *printed in* "Reconstruye la alcaldesa de Atoyac su conversación telefónica con Figueroa," *El Sur*, No. 585, Jul. 3-9, 1995.

<sup>36</sup> Telephone conversation with María de la Luz Núñez Ramos, Aug. 14, 1995.

<sup>37</sup> Núñez Ramos, "Datos para adoptar..." This conversation, and those cited below, have been reproduced extensively in the Mexican press.

A Minnesota Advocates representative spoke by telephone with Núñez Ramos on August 14. She indicated that the document as reprinted was an accurate account of the telephone conversations she describes. She explained that she took notes as she spoke with Governor Figueroa Alcocer, that Rojas Arellano had done the same, and that she later transcribed these notes.

*Núñez Ramos:* In Mexico City, we had a family problem. . .

*Governor Figueroa:* Do you know that Wilebaldo has made a date with his friends from the OCSS? I want to ask you to speak with those of the OCSS in Atoyac so that they refrain from going to this demonstration. They must be prevented from arriving, because they are very violent people. I have already taken precautions so that the majority do not go. We're going to try to detain those from Tepetixtla however possible. I ask that we keep in contact.

*Núñez Ramos:* Have you read the flyer, the letter to the newspapers, in which they blame you and me?

*Governor Figueroa:* Yes, I've gotten the flyers in which they blame you and me for the disappearance. . .

*Núñez Ramos:* I'm thinking I'll stay here and carry on as normal at town hall.

*Governor Figueroa:* Yes. You stay there calmly. Do that. We'll be in touch, President.<sup>38</sup>

That the conversations took place appears uncontroverted. The CNDH reported that Governor Figueroa indicated to a July 10 joint session of the human rights committees of both houses of the Mexican Congress that he had spoken with Núñez Ramos, directing her "to be in charge of those from [Atoyac]," and saying that he "would be in charge of the others [from Tepetixtla]."<sup>39</sup>

These conversations suggest that Governor Figueroa clearly was aware of the planned OCSS protest and intended to try to stop it from occurring. In light of other evidence,<sup>40</sup> the conversations also indicate that the killing of seventeen civilians did not occur during a routine police operation gone awry, as the Guerrero government has asserted. Ultimately the state's actions exceeded the means necessary to prevent the protest which, in fact, would not occur.<sup>41</sup>

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<sup>38</sup> *Ibid.* Translation by Minnesota Advocates.

<sup>39</sup> Recommendation No. 104/95, p. 85, citing a stenographic record. Governor Figueroa also reported at the joint meeting that he had been aware of the planned demonstration since June 26. *Ibid.*

<sup>40</sup> The National Network "All Rights for All" reported, for example, that personnel at the municipal hospital in Atoyac de Alvarez had been alerted on June 27 to be prepared for a potentially busy day on June 28. National Network, *Informe Preliminar sobre los hechos ocurridos el 28 de junio en las cercanías de Aguas Blancas, municipio de Coyuca de Benítez, estado de Guerrero*, Jul. 10, 1995, sent electronically to Minnesota Advocates, Jul. 11, 1995. The CNDH interviewed a nurse who stated that her coworker had received calls during the evening on June 27 and again the morning of June 28 alerting staff to be prepared for any emergency. The CNDH recommended that whether such a warning was communicated should be investigated by the special prosecutor, Recommendation No. 104/95, pp. 240-41.

<sup>41</sup> The right to peaceful assembly is enshrined in various documents protective of human rights, including the American Convention on Human Rights (Art. 15), the International Covenant on Civil and Political Rights (Art. 22), and the *Constitución Política de los Estados Unidos Mexicanos*, Art. 9 reprinted in *Constitución Política de los Estados Unidos Mexicanos*[:] *Constitución Política del Estado Libre y Soberano de Oaxaca* (Anaya Editores: Mexico City, 1995) [hereafter Mexican Constitution]. Minnesota Advocates recognizes, however, that governments may legitimately

## THE MASSACRE

Between 5:00 and 6:00 a.m., dozens of OCSS members from Tepetixtla and a number of other remote Guerrero towns began the long trip to Atoyac de Alvarez, traveling down the region's mountainous, unpaved roads.<sup>42</sup> At Paso Real, some four miles from the massacre site, two passenger vehicles paused. The first, a red truck, would transport dozens of individuals, principally members of the OCSS. The second, a blue pickup, carried at the time of the massacre some fifty to sixty passengers,<sup>43</sup> including individuals not affiliated with the OCSS, who were traveling to the bigger town of Coyuca de Benítez to perform errands.<sup>44</sup> While the vehicles were stopping in Paso Real, OCSS members allege that a stranger, who had boarded the red truck in Tepetixtla, moved from the red truck to the blue pickup.

After stopping for minutes, the vehicles continued down the road, only minutes apart. The red truck was the first to reach the Aguas Blancas *vado*, or ford.<sup>45</sup> The red truck was greeted by dozens of state police, dressed mostly in black, blocking passage and dispersed in the thicket of the surrounding hills. Police had arrived at the scene about two and half hours earlier.<sup>46</sup>

Minutes after police halted the red truck and ordered its passengers off to be searched, the blue pickup approached the site, making its way slowly.<sup>47</sup> More than fifty passengers were crammed into the blue pickup—inside its bed, cab, and riding on a tarp placed over the bed. Police ordered the blue pickup to halt, employing abusive language.<sup>48</sup> As the blue pickup slowed, two individuals jumped from the tarp, landing to the left of the vehicle. The second individual to jump carried a

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restrict citizens' assembly when those assembled bear arms, or when public or national security is at stake. In this case, some *campesinos* undeniably bore items—such as machetes—that could have been used as weapons. Such items are commonly used in the Guerrero countryside, however, and there is no indication that police at the site of the massacre attempted seriously to determine which individuals—bearing putative arms or not—were headed towards the demonstration and which were not. Rather, it appears that police complied with orders to stop the *campesinos* at all costs. Such heavy-handed tactics violate the right to peaceful assembly.

<sup>42</sup> Sánchez interview; PRODH interview in Coyuca de Benítez with Marino Sánchez, Jun. 30, 1995, forwarded electronically to Minnesota Advocates, Jun. 30, 1995.

<sup>43</sup> The CNDH counted at least fifty-four passengers. Recommendation No. 104/95, pp. 114-15.

<sup>44</sup> See, e.g., interviews with TUV, UVW, VWX, AAA, BBB, CCC, and DDD, Aug. 13, 1995. A Minnesota Advocates representative visited the site of the massacre and nearby communities in August 1995. He interviewed more than two dozen witnesses and family members of victims of the Aguas Blancas massacre. One of the characteristics these individuals shared is fright. They reported to Minnesota Advocates having received direct and veiled threats from government officials not to discuss or denounce the Aguas Blancas massacre. For that reason, names of persons interviewed by Minnesota Advocates are not used unless the person insisted that his or her name appear, or unless the individual has continued to publicly denounce the case. Initials used to identify witnesses bear no intentional resemblance to their names.

<sup>45</sup> The Aguas Blancas *vado* is a concrete structure in the road, spanning running water that otherwise would wash the earthen road away. Water runs over the *vado*, making traversal treacherous at times.

<sup>46</sup> See, e.g., Mexican Commission for the Defense and Promotion of Human Rights (*Comisión Mexicana por la Defensa y la Promoción de los Derechos Humanos*), urgent action appeal, Jul. 13, 1995.

<sup>47</sup> Sánchez interview, Aug. 10, 1995.

<sup>48</sup> See, e.g., statements of Mauro Hernández Lozano (owner of the blue pickup), quoted in Heriberto Ochoa and Maribel Gutiérrez, "Testimonios," *El Sur*, No. 585, Jul. 3-9, 1995; interview with MNO, Aug. 13, 1995.

machete in his right hand. As he landed, his arms came down, with machete still in hand. He then pointed his machete forward, apparently striking and injuring a policeman in the left shoulder.<sup>49</sup>

A video distributed by the government of Guerrero indicates that moments later approximately a dozen shots were fired from one or more weapons.<sup>50</sup> At this point passengers of the red truck, which had arrived first, were made to lie face down on the ground.<sup>51</sup> Within seconds a barrage of weapons fire erupted and continued for a number of seconds. The sustained gunfire was police aiming rounds into the crowded blue pickup. Guerrero officials, including the governor, have insisted that the first shot came from within the blue pickup. No credible evidence has been found to support that claim, however.<sup>52</sup> Not a single individual on the blue pickup interviewed by Minnesota Advocates or the CNDH indicated that any passenger carried a firearm.

The OCSS asserts that the initial gunshot could have come from an unknown *agent provocateur*, who left from the blue pickup, discharged his weapon, and ran from the scene under police cover.<sup>53</sup> What is certain is that seventeen individuals on or near the blue pickup were killed during the police massacre, and at least twenty-two others received gunshot wounds of varying degrees of severity.<sup>54</sup> Two policemen were injured during the episode, neither by gunfire.

The actual number of agents present is in dispute. Witnesses indicated to Minnesota Advocates that it appeared that hundreds of police were present, that the hills on either side of the road were “black” with state agents.<sup>55</sup> The state government reported that only thirty officers were on hand.<sup>56</sup> The CNDH noted in a report on the massacre released in August<sup>57</sup> that clearly more than thirty police agents took part in the operation.<sup>58</sup> Such information is relevant in determining the motivation and scope of the police operation. Investigations into the massacre should determine the total number of agents, identify each, and define the role each police agent played.

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<sup>49</sup> Minnesota Advocates obtained a copy of the video the Guerrero state government distributed to justify the massacre. After viewing the video, it is unclear to Minnesota Advocates whether the movements of the individual were intentional. The video does not clearly show any policeman in front of the man with the machete.

<sup>50</sup> The government widely distributed a video that police had recorded at the scene of the massacre. Viewing it gives one a decent appreciation of Guerrero government attempts to deceive the public. In addition to being crudely edited, the video’s voice over indicates that police were on the scene conducting a routine checkpoint and responded to attack. The voice over does not adequately explain certain scenes in which the CNDH pointed out that one individual was being shot by police at point-blank range. *See* Recommendation No. 104/95, pp. 298-300.

<sup>51</sup> Government video; Sánchez interview, Aug. 10, 1995. The video also provides an audio recording of the assault. Footage taken during the massacre was edited mid-barrage, however, making it difficult to know how many seconds the full assault continued.

<sup>52</sup> Police claim that a number of victims killed in the attack bore firearms and that forensic tests of their skin indicated they had fired a weapon. For reasons described below, however, such evidence is highly suspect.

<sup>53</sup> The CNDH indicated it was “probable” that one or more such persons instigated the assault. Recommendation No. 104/95, p. 353.

<sup>54</sup> *See* Recommendation No. 104/95, pp. 132-75.

<sup>55</sup> Agents were dressed in black uniforms.

<sup>56</sup> *See* Recommendation No. 104/95, p. 247.

<sup>57</sup> The CNDH report is discussed at length below.

<sup>58</sup> Recommendation No. 104/95, p. 249.



Likewise, criminal investigations have yet to determine which police forces were involved. The government asserted that it was a routine operation of the state's Motorized Police force (*Policía Motorizada*; also known as Public Security).<sup>59</sup> Governor Figueroa himself, however, reportedly indicated that the state's then Attorney General, Antonio Alcocer Salazar, and then Director of State Judicial Police (*Policía Judicial del Estado*, or PJE)<sup>60</sup>, Gustavo Olea Godoy, were present during the massacre. Furthermore, in the video of the massacre made publicly available by Guerrero's state government, one sees individuals dressed in civilian clothing carrying firearms (a typical attire of the PJE) and mingling with the uniformed Motorized Police. Citing that and other evidence, the CNDH found that PJE agents participated in the police operation.<sup>61</sup> Witnesses have indicated that anti-riot police (*Policía Anti-motines*) were also present.<sup>62</sup>

One police commander deserves special mention. Major Manuel Moreno González, General Director of Operations of Protection and Transit of the State, directed police activities at the site of the massacre. Major Moreno had been previously cited by the CNDH for his role in violently suppressing a September 1994 peaceful demonstration in Chilpancingo, Guerrero of the Guerrero Council 500 Years of Indigenous Resistance (*Consejo Guerrerense 500 Años de Resistencia Indígena*, or CG500ARI).<sup>63</sup> Persons injured in the police assault included women and elderly individuals.<sup>64</sup> Four months before the Aguas Blancas massacre, in February 1995, the CNDH had recommended to Governor Figueroa that Major Moreno be suspended from his post pending criminal and administrative investigation into his September 1994 conduct.<sup>65</sup> Acapulco's weekly *El Sur* reported that CNDH President Jorge Madrazo stated in May 1995 that Governor Figueroa had "accepted" that recommendation and agreed to comply.<sup>66</sup>

Had Governor Figueroa complied with that CNDH recommendation regarding Major Moreno, the Major likely would not have been available to direct the Aguas Blancas massacre. It cannot be known of course whether his absence would have prevented the massacre. Had Governor Figueroa complied with the CNDH's recommendation, however, and suspended Major Moreno, and had the major been criminally and administratively investigated, a strong message would have been sent to would-be human rights violators: that abuse will not be tolerated. Governor Figueroa failed to comply, however, leaving Major Moreno untouched. As a result, the machinery was left in place for continued human rights violations by Guerrero's police, including at the Aguas Blancas *vado*.

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<sup>59</sup> According to officials, the operation was implemented as part of a larger plan to remove weapons from individuals and make the state's roads safe. *See, e.g.*, voice over of video produced by the Guerrero government; statements of Governor Figueroa on television, cited below. These remarks contradict Governor Figueroa's assertions that his administration's goal was to stop the OCSS however possible (*see above*).

<sup>60</sup> The primary role of the PJE is to investigate crime that has already been committed. Crime prevention is left principally to state or local preventive police forces, such as Motorized Police or municipal police.

<sup>61</sup> Recommendation No. 104/95, p. 246.

<sup>62</sup> Sánchez interview, Aug. 10, 1995.

<sup>63</sup> Recommendation No. 32/95, Feb. 16, 1995, *reprinted in CNDH, Gaceta*, No. 55, Feb. 1995, p. 230.

<sup>64</sup> Electronic letter of Margarita Warnholtz of the CG500ARI, forwarded to Minnesota Advocates for Human Rights, Jul. 3, 1995.

<sup>65</sup> Recommendation No. 32/95, Feb. 16, 1995, *reprinted in CNDH, Gaceta*, No. 55, Feb. 1995, p. 262.

<sup>66</sup> Heriberto Ochoa Tirado, "Madrazo dijo que Figueroa va bien en el respeto a las garantías," *El Sur*, No. 576, May 1-7, 1995.

Police motivation for opening fire on the blue pickup remains to be investigated. It is not clear, for example, that the leaders of Guerrero's security forces had planned beforehand the mass murder of civilians. Minnesota Advocates agrees with the CNDH, however, that the goal of police that morning was to prevent the OCSS from demonstrating. Investigations should focus on the extent to which police had received orders, and from whom, to use force to prevent the OCSS from arriving at its destination.

That the bloody events entailed more than police error is supported by substantial other evidence. For example, witnesses interviewed by Minnesota Advocates described the apparent extrajudicial execution by state agents of at least three of the Aguas Blancas victims. One witness indicated that he had been on the red truck, the first to arrive at the Aguas Blancas *vado*. When the shooting began, he threw himself down to the ground. He saw two *compañeros*, Daniel López Castañeda and Florente Rafael Ventura, struggle with police. Both individuals were unarmed, according to the witness. Police shot them both.<sup>67</sup> Both perished during the assault (see appendix A, list of victims killed).

Another witness, who had been riding on the blue pickup and was injured by weapons fire during the assault, told Minnesota Advocates that after the police barrage of gunfire he saw police agents kicking people to see if they were alive.<sup>68</sup> He then saw police "finish off" two individuals, though he did not know the victims' identity.<sup>69</sup>

Another witness, also shot during the assault, saw police kick the bodies of individuals to determine whether they were alive or dead. He saw a female agent of the *Ministerio Público*,<sup>70</sup> who he recognized by sight, "finish off" Gregorio Analco and Fabián Gallardo García.<sup>71</sup> This same individual reported being informed on or about July 26 by a ranking state government official, finance secretary Héctor Vicario Castrejón, that providing his testimony was a crime and that if he continued denouncing the massacre he would be detained.<sup>72</sup>

One other witness, who had been on the blue pickup but was uninjured in the attack (the witness hid in a rut in the road), heard two individual shots fired after the barrage, as police were determining which among the victims were alive and dead.<sup>73</sup> At the time of this interview, this individual still had not been questioned by Mexican authorities about what this individual witnessed.

Another witness (GHI) riding in the blue pickup (and who also was shot) related to Minnesota Advocates that after the assault those passengers who could get down off the blue pickup. Police

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<sup>67</sup> Sánchez interview, Aug. 10, 1995.

<sup>68</sup> Passengers on the red truck, which arrived first, were made to walk from the scene. One witness interviewed by Minnesota Advocates indicated that while walking from the scene, he heard individual shots fired. *Ibid.*

<sup>69</sup> Interview with XYZ, Aug. 13, 1995.

<sup>70</sup> The Public Ministry (*Ministerio Público* or MP) is the executive branch institution charged both with investigating and prosecuting criminal cases in Mexico. MP agents are to assist judges prosecute criminal cases. The State Judicial Police force aids MP agents investigate crime. Throughout Mexico (and Guerrero is no exception), Public Ministry agents are known for their partiality and arrogant use of power. *See, e.g.,* Minnesota Advocates for Human Rights, *Derechos humanos y poder judicial en México*, pp. 13-16.

<sup>71</sup> Interview with DEF, Aug. 13, 1995.

<sup>72</sup> *Ibid.*

<sup>73</sup> Interview with ABC, Aug. 13, 1995.

meanwhile were kicking others lying on the ground. GHI indicated as well that except for some individuals carrying machetes, no one on the blue pickup was armed.<sup>74</sup>

Another individual interviewed by Minnesota Advocates (KLM) indicated that after having been shot, KLM was lying on the ground, injured. Police kicked KLM three times but he played dead.<sup>75</sup> KLM saw Florente Rafael Ventura shot by a female agent of the Public Ministry, whom he identified as Francisca Flores Rizo.<sup>76</sup> This individual informed Minnesota Advocates that he recognized in addition state agents Gustavo Olea Godoy, Major Manuel Moreno, Rosendo Hormijo de los Santos and José Rubén Robles Catalán.<sup>77</sup> Each of these officials would later be cited in the CNDH's report (see below).<sup>78</sup>

Such testimonial evidence belies the state's theory that police simply were responding to attack from afar. Rather, these witnesses' accounts indicate that agents of the state intentionally executed passengers of the blue pickup.

The CNDH itself concluded that at least one individual, Daniel López Castañeda, was extrajudicially executed by agents at the scene.<sup>79</sup> López Castañeda was defenseless during the moments before his death, the CNDH reported.<sup>80</sup> The CNDH found in addition that Tomás Porfirio Rondín had been shot in the stomach at a distance of no more than 30 centimeters (less than one foot), and that Gregorio Analco Tabares was shot in the lower back at a distance of no more than 75 centimeters (less than 2.5 feet).<sup>81</sup> Efraín Vargas, the CNDH determined, was shot at a distance of less than 75 centimeters.<sup>82</sup>

Determining the manner in which victims were shot is of primary importance. That information can aid investigators uncover individual responsibility as well as determine motive. Such data should have resulted from official criminal investigations. Because initial forensic investigations were shoddy, biased, or both (see below), however, criminal investigators failed to gather such essential information.

Such evidence still may be recoverable, however. Despite the amount of time that has elapsed since the killings, pathological studies of the corpses may be carried out upon exhumation.<sup>83</sup>

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<sup>74</sup> Interview with GHI, Aug. 13, 1995.

<sup>75</sup> Similar treatment was reported by MNO, interview of Aug. 13, 1995, who also heard individual shots fired after the initial sustained barrage.

<sup>76</sup> Interview with KLM, Aug. 13, 1995.

<sup>77</sup> *Ibid.*

<sup>78</sup> That a number of relatively high-level state officials were present at the scene also suggests that this was no ordinary police operation. In addition to those on the ground, at least one state official traveled by state-owned helicopter to and/or from the scene. See CNDH, Recommendation No. 104/95; and interview with PQR, Aug. 13, 1995, who witnessed the unmarked helicopter's arrival and departure.

<sup>79</sup> Recommendation No. 104/95, p. 341.

<sup>80</sup> *Ibid.*, p. 297.

<sup>81</sup> *Ibid.*, p. 342.

<sup>82</sup> *Ibid.*

<sup>83</sup> The bodies were buried in the communities of Paso Real and Atoyaquillo.

Minnesota Advocates shares the assessment of the victims' family members that exhumations should not be carried out without the participation of independent experts chosen in consultation with family members (who themselves are conferring with Mexican human rights non-governmental organizations). Relatives of the deceased fear that exhumations left to Mexico's forensic technicians will result in a second round of inadequate or invalid conclusions. The presence of one or more international experts would decrease the likelihood of further attempts to obscure the facts.

To secure independent expertise, Minnesota Advocates has worked with Mexico's nongovernmental National Network "All Rights for All" (*Red Nacional de Organismos Civiles "Todos los Derechos para Todos"*) and the Boston-based Physicians for Human Rights (PHR). PHR has indicated its willingness to dispatch an expert to the scene with very short notice. As this report is written, the possibility of exhumations remains uncertain. The judge in the criminal case against the ten detained police agents, Alfonso Van Meeter Roque of the third criminal court of Acapulco, has only reluctantly accepted the possibility of independent expert participation, Minnesota Advocates calls on Judge Van Meeter Roque to order exhumations as soon as possible. Minnesota Advocates also strongly urges Judge Van Meeter Roque to provide adequate notice to the families of the victims so that they may appoint the independent experts of their choice.

## GOVERNMENTAL RESPONSE

### **State government attempts to cover up responsibility for the massacre**

The government of Guerrero immediately attempted to mask the massacre as a confrontation between police and armed assailants. Attempts at concealing the truth began no later than as soon as the shooting terminated. Minnesota Advocates was not able to interview government officials reportedly responsible for ordering or taking part in the massacre or its cover-up. Mexico's CNDH, however, did document improper governmental behavior, both immediately preceding the massacre and during the CNDH's attempts to investigate the case. Examples of attempts at obfuscation follow.

- **Deficient, insufficient, or false forensic evidence.** Police asserted that passengers in the blue pickup bore arms. They reported having found firearms in a number of the killed victims' hands. The CNDH determined that firearms had been planted on at least four of the victims.<sup>84</sup> A witness who arrived at the scene shortly after the massacre informed Minnesota Advocates of a detail that piqued his curiosity: a dead victim, lying face up, had a weapon in his hand, yet the victim also had dirt covering his face, as if he had been dragged face-down. The victim also had a bullet wound in the same hand holding the gun.<sup>85</sup> It is questionable how an individual shot in the hand could still retain a grip on a firearm. Though tests allegedly conducted by police apparently indicated that the dead had fired weapons, that evidence should be regarded with suspicion, as it appears that any evidence collected during initial investigations was gathered or produced with the intent of exculpating those responsible for the victims' deaths and injuries. Over 270 pages, the CNDH described the misconduct it ascribed to the Guerrero officials responsible for carrying out and investigating this massacre. It concluded that "the majority of forensic evidence collected during

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<sup>84</sup> Recommendation No. 104/95, pp. 346-47.

<sup>85</sup> Interview with PQR, Aug. 13, 1995.

investigations was deficient, insufficient or false, elaborated with the clear intention of preventing the clarification of the facts."<sup>86</sup>

- **Incomplete and inadequate forensic examination of the corpses.** Proper procedures were not used in gathering forensic evidence, including during medico-legal examinations of the victims themselves. Photographs of their corpses, for example, were not taken.<sup>87</sup> Medical technicians failed to record notes regarding entrance and exit wounds, and the number of wounds. Bullets were not removed from the bodies. Many other mistakes were documented by the CNDH.<sup>88</sup> Because initial post-mortem examinations were so lacking, it is particularly important that exhumations and autopsies be performed, and that they be carried out by professional and impartial experts.<sup>89</sup>

- **Public obfuscation.** While criminal investigations were stalled or fabricated, state officials at the highest levels maintained the position that police had defended themselves from attack. According to Atoyac de Alvarez Municipal President Núñez Ramos, she and Governor Figueroa conversed soon after the killings. According to Núñez Ramos, she telephoned the governor around 6:00 p.m. on the day of the massacre and had the following exchange:

*Núñez Ramos:* Good evening, Mr. Governor. I'm very concerned about what happened in Coyuca. I wanted to know your version. What happened?

*Governor Figueroa:* What I talked about yesterday happened — we detained those people. We tried to speak with them, with a group of *campesinos* that was coming in a pickup and we were dialoguing with them when a second vehicle arrived. Some of them got down from the truck and tried to take rifles away from the police. One of them attacked with a machete, and almost took the arm off one of the policemen. Before this, someone fired a round and the barrage of gunfire ensued. From what we could determine, the goal was to take the town hall; they were coming predisposed. We have a video that's going to have repercussions. We went seven times to the mountains to meet with these people; we brought them everything they asked for. But these are rebellious people that form part of radical groups.

They came for war and war is what they got! Are we the authorities or aren't we?

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<sup>86</sup> Recommendation No. 104/95, p. 279.

<sup>87</sup> Elías Reachy Sandoval and Javier Reyes Grande of the Public Ministry blamed this shortcoming on the lack of qualified personnel. Recommendation No. 104/95, p. 231. State Asst. Attorney General Rodolfo Sotomayor Espino, however, informed the CNDH that such personnel did exist. Even were the former claim true, it is particularly offensive that the government of Guerrero would dedicate significant effort to the production and distribution of a video containing an exculpatory version of the massacre (*see above*) without assuring that photographic equipment and technicians were available to record essential facts about the state of the victims' corpses.

<sup>88</sup> *See* Recommendation No. 104/95, pp. 197-203.

<sup>89</sup> Minnesota Advocates calls on these experts to follow the suggested protocol set forth in the U.N. *Manual on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions*, U.N. Doc. ST/CSDHA/12 (1991), developed for the United Nations with the assistance of Minnesota Advocates for Human Rights and the American Association for the Advancement of Science.

We carried out a very careful operation. All the police chiefs were there: Lic. Robles Catalán, Antonio Alcocer, Rosendo Armijo de los Santos, Gustavo Olea Godoy. As you can see it was a very careful operation . . .<sup>90</sup>

Corroborating evidence supporting the veracity of this conversation include statements reportedly made by the governor a day after the killings and in response to a television reporter's questions (reprinted in *El Sur* of Acapulco):

*Reporter:* What can you tell us of the events of Coyuca de Benítez?

*Governor Figueroa:* Investigations are heading towards [what occurred being] lamentable events, fruit of an imprudent aggression against police who were attempting a stop at a police checkpoint. This is plainly accredited by a [video] cassette that we have distributed to all the media, in which one can see how the events unfolded. We are also investigating, through a special prosecutor, the president of the state's Human Rights Commission [Comisión Estatal de Derechos Humanos], all the disturbing parts of these events to determine who is responsible and to apply the full weight of the law.

...

*Reporter:* Why was [the first vehicle] detained there, Mr. Governor?

*Governor Figueroa:* They were detained there because we know that this group was going to take over Atoyac's town hall and we also had knowledge and information that armed persons were coming. This same group had already acted similarly on May 18 in Atoyac. Two weeks earlier in Ixtapa we had had many acts of vandalism. The idea was solely to detain them, to not allow them to carry arms, so that there would be no conflict in the actions they were going to carry out and if it were feasible, through dialogue, have them return—as has happened in many occasions—and tend to their demands through dialogue.<sup>91</sup>

In the days following the massacre, the governor was queried in Mexico City about the situation in Guerrero. Governor Figueroa's response received widespread ridicule: "*No pasa nada*"<sup>92</sup> in Guerrero, he said, and claimed again that the police had responded to attack.<sup>93</sup>

• **Threats against witnesses and victims.** One disturbing activity occurring in Guerrero around this time was the use of implied and veiled threats to victims and their family members to cease complaining about the events. A number of witnesses interviewed by Minnesota Advocates

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<sup>90</sup> Núñez Ramos, "Datos para adoptar..." Translation by Minnesota Advocates.

<sup>91</sup> "Yo creo que no' hubo lujo de violencia, dijo Figueroa a Televisa," *El Sur*, No. 585, Jul. 3-9, 1995. Translation by Minnesota Advocates.

<sup>92</sup> "Nothing's going on."

<sup>93</sup> Eleana Gallegos and Emilio Lomas, "No hubo matanzas, sino choques entre policías y campesinos, sostuvo exasperado el gobernador," *La Jornada* (World Wide Web site (<http://serpiente.dgsca.unam.mx/jornada/index.html>)), Jul. 12, 1995; Tim Golden, "Mexican Report Accuses State Aides in Killing of 17 Peasants," *New York Times*, Aug. 15, 1995.

indicated that state representatives threatened survivors and the relatives of the dead not to get involved with any political parties.<sup>94</sup> These threats issued at a time when the government disbursed funds to those either injured or widowed during the Aguas Blancas massacre.<sup>95</sup> The message was clear: additional payments could be conditioned upon abstaining from political or civic activity. The threats have alarmed the residents of the tiny communities of Paso Real and Atoyacuilco who, isolated from other communities and now completely identified by name and address by government officials, feel particularly vulnerable. Such threats are repugnant for a number of reasons. They completely upend the notion of indemnification due victims of human rights abuse. The threats also intend to deny individuals the right to participate in peaceful political activity, and to prevent compliance with their civic duty to report criminal behavior.

- **Hindering the work of the CNDH.** State officials repeatedly lied to the CNDH about the events near Aguas Blancas.<sup>96</sup> It is telling that such an effort was made to conceal facts from this national body. Had the CNDH not exercised its power to investigate this arguably "local" case of human rights abuse, it appears quite likely that Guerrero officials would have completely compromised the much weaker state human rights commission.<sup>97</sup>

### **Other state government action**

Before the CNDH released its recommendation, the state had undertaken other activity ostensibly designed to investigate the massacre and punish those responsible. The state's Attorney General, Antonio Alcocer Salazar, announced the arrest of eight police officers and two police commanders on July 1.<sup>98</sup> They have been charged with homicide, injuries and abuse of authority.<sup>99</sup> Only one of the accused claims he did not fire a shot.<sup>100</sup> The other nine do not deny firing their weapons, but indicate they heard weapons fire before opening fire themselves.<sup>101</sup> The CNDH reported that the testimony of these nine is so consistent that it must have been rehearsed.<sup>102</sup>

The judge overseeing the criminal proceedings, Alfonso Van Meeter Roque of the Third Criminal Court of Acapulco, informed Minnesota Advocates' representative that those ten were arrested because they were the ten police agents (of thirty tested) who tested positive for having

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<sup>94</sup> Interviews with UVW and GGG, Aug. 13, 1995.

<sup>95</sup> The injured received some 10,000 new pesos (about US\$ 1667 at the time), and widows received 50,000 new pesos (then worth some US\$ 8333).

<sup>96</sup> See Recommendation No. 104/95, pp. 228-36.

<sup>97</sup> See discussion below of Mexico's CNDH and state human rights commissions.

<sup>98</sup> The ten are: Dustano Vargas Hernández, group commander of Motorized Police; Ignacio Benítez Carbajal, commander of Motorized Police; and Motorized Police agents Benito Cruz Hernández; Alfonso Díaz Jiménez; Jesús Medina Mora; Alberto Navarrete Nava; Hilario Piedra Orozco; José Manuel Rodríguez Pino; Hermilo Tacuba Alonso; and Marco Antonio Villamar Arguello. See, Recommendation No. 104/95, pp. 110-14.

<sup>99</sup> Interview in Acapulco with Judge Alfonso Van Meeter Roque, of the Third Criminal Court of Acapulco, Aug. 14, 1995. The charges are, in Spanish, *homicidio*, *lesiones* and *abuso de autoridad*, Recommendation No. 104/95, p. 21.

<sup>100</sup> He is José Manuel Rodríguez Pino.

<sup>101</sup> Interview with Judge Van Meeter Roque, Aug. 14, 1995.

<sup>102</sup> See Recommendation No. 104/95, p. 257.

discharged firearms. The judge indicated that he expects the criminal case's period of *instrucción*, or collection of evidence, to last about ten months (the maximum the law permits), after which a decision and sentence must be handed down within fifteen days.<sup>103</sup> The Public Ministry agent overseeing the collection of evidence for the court is Juan José Galeana Salgado.<sup>104</sup>

It is doubtful that serious and thorough judicial investigations will emanate from the Third Criminal Court in this case. State judicial actors are prone to undue influence by the executive branch, especially where, as is the case in Guerrero, the chief executive is particularly strong.<sup>105</sup> In addition, judges depend on the Public Ministry to produce evidence. Such dependence is particularly dangerous in this case, as agents of the Public Ministry have acted more to protect themselves and other state agents than to see that the facts are uncovered. State Public Ministry agents also were clearly involved in the police operation.

There is significant danger that the ten police agents accused of crimes related to the Aguas Blancas massacre may be found guilty, that the government will then seek to offer that as proof that it has investigated the massacre in good faith, and that investigations will then cease. Should such a sequence of events transpire, Mexico will not have satisfied its obligations under the law of international human rights to fully investigate these killings and prosecute all parties responsible for the planning and execution of the police operation, and its subsequent cover-up.

In addition to routine judicial investigations, a special prosecutor was also appointed. Adrián Vega Cornejo assumed the post immediately after the massacre.<sup>106</sup> His appointment appeared designed more to protect the guilty than to resolve the crime, however. Vega Cornejo carried with him considerable baggage: he reportedly was named special prosecutor in eight other cases in Guerrero dating back to February 1993.<sup>107</sup> None of those cases had been resolved successfully at the time of his appointment.<sup>108</sup> Unsurprisingly, his investigations into Aguas Blancas simply did not advance.<sup>109</sup> Responding to public pressure, Governor Figueroa removed Vega Cornejo from the Aguas Blancas case on August 8—some three weeks after the Guerrero legislature recommended a change.<sup>110</sup>

In his place, Governor Figueroa apparently intended to appoint Virginia López Valencia, president of Acapulco's bar association.<sup>111</sup> López Valencia indicated to the press, however, that she never had been formally asked to serve in the post.<sup>112</sup> Whether she officially assumed the role is

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<sup>103</sup> Interview with Judge Van Meeter Roque, Aug. 14, 1995.

<sup>104</sup> *Ibid.*

<sup>105</sup> See, e.g., Minnesota Advocates for Human Rights, *Derechos humanos y poder judicial en México*, pp. 4-12.

<sup>106</sup> *El Sur*, "El fiscal especial debe ser un jurista de prestigio," No. 585, Jul. 3-9, 1995.

<sup>107</sup> Ochoa and Gutiérrez, "Testimonios."

<sup>108</sup> *Ibid.*

<sup>109</sup> Minnesota Advocates' representative made repeated and ultimately unsuccessful attempts to meet with Vega Cornejo prior to and during the former's stay in Guerrero.

<sup>110</sup> Raúl García, "Destituyó Figueroa al fiscal que investigaba el caso Coyuca," *La Jornada*, Aug. 9, 1995.

<sup>111</sup> *Ibid.*

<sup>112</sup> *Ibid.*



moot, of course, as the CNDH would release its recommendation less than a week later, and in it recommend the appointment of a special prosecutor completely independent of the Guerrero government.<sup>113</sup>

### **Federal Attorney General's office refuses to investigate**

On July 6, Mexican Attorney General Antonio Lozano Gracia<sup>114</sup> announced that the federal Attorney General's office (the *Procuraduría General de la República* or PGR) would not investigate the case because it was a local matter. He cited the need of the local authorities to carry out the law and properly investigate the case.<sup>115</sup> Mexico is a federation. Each of its thirty-one states has its own set of criminal laws and law enforcement bodies and officials. Common crime is left, by and large, to the states to prosecute.

The PGR must at least consider whether to prosecute the case, however, when circumstances trigger federal jurisdiction.<sup>116</sup> It is clear that such circumstances exist in this case. Federal law prohibits possession of certain firearms reserved for the use of the military.<sup>117</sup> The CNDH found that such firearms were utilized by police in relation to the assault on civilians on June 28, and that police fired such weapons and also used them to conceal the massacre, by planting them on the victims.

The CNDH agreed that the PGR should not get involved, however. It opined that the PGR lacked jurisdiction because no federal crime had been committed.<sup>118</sup> Such a conclusion is surprising considering that the CNDH itself noted that law enforcement officials had improperly used proscribed weapons.<sup>119</sup> Furthermore, the CNDH reported that arms more than likely planted on victims were reserved for military use.<sup>120</sup> Notwithstanding these findings, the CNDH concluded that because those arms were likely planted, initial investigations should remain a local enterprise.<sup>121</sup>

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<sup>113</sup> See below.

<sup>114</sup> Lozano Gracia is a member of the rightist National Action Party (*Partido de Acción Nacional* or PAN). He is the first non-PRI member in memory to have been appointed attorney general. Many initially viewed his appointment as a positive sign that the PRI sought reform within the ranks of federal law enforcement. Real reform, despite being urgently needed and talked about for years however, has not been implemented. Lozano Gracia has to date failed to order, for example, the removal and prosecution of agents and commanders of the Federal Judicial Police and federal Public Ministry allegedly responsible for human rights violations.

<sup>115</sup> *Ciro Pérez Silva y Néstor Martínez, "Lozano: imposible, que la fiscalía federal atienda todos los casos," La Jornada*, Jul. 7, 1995 (World Wide Web site (<http://serpiente.dgsca.unam.mx/jornada/index.html>)).

<sup>116</sup> *Ley Orgánica de la Procuraduría General de la República*, Art. 2.V., in *Código Federal de Procedimientos Penales* (Editorial Porrúa: Mexico City, 1994).

<sup>117</sup> See *Ley Federal de Armas de Fuego y Explosivos*, Art. 8., reprinted in *Ley Federal de Armas de Fuego y Explosivos y Su Reglamento* (Editorial Porrúa: Mexico City, 1992).

<sup>118</sup> Recommendation No. 104/95, p. 324.

<sup>119</sup> See Recommendation No. 104/95, p. 345.

<sup>120</sup> Recommendation No. 104/95, p. 324.

<sup>121</sup> *Ibid.*

Minnesota Advocates for Human Rights disagrees with the PGR's and CNDH's assessment. Although state police may be granted special permission to use firearms reserved for the military,<sup>122</sup> such authority should not be interpreted to allow police to commit murder, or to plant restricted weapons on an individual.<sup>123</sup> Investigations into such allegations, particularly where local officials have engaged in massive attempts at cover-up, should be undertaken by federal authorities.

In addition, human rights guarantees constitute international obligations. National —not local or municipal— governments accept and must comply with the duties created by international human rights instruments. The fact that the obligations are international in character does not imply that local or municipal authorities need not observe human rights standards. Rather, violations committed by any public agent, regardless of the institution for which he or she works, entail noncompliance with these international responsibilities, and thereby implicate the national government.<sup>124</sup> It is therefore incumbent upon national authorities to ensure that human rights protections exist and function, including by investigating and prosecuting human rights abuse, even where it occurs at a local level.<sup>125</sup>

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<sup>122</sup> *Ley Federal de Armas de Fuego y Explosivos*, Art. 11.1.

<sup>123</sup> Even if it could be argued that no federal law was violated, the PGR established its own precedent to take over cases where the likelihood of adequate resolution at the state level is doubtful. The PGR named a federal special prosecutor to investigate the still-unsolved March 1994 assassination of PRI presidential candidate Luis Donaldo Colosio, which occurred in Tijuana, Baja California. The PGR reportedly argued that state authorities were not competent to investigate such a serious crime. *See* letter of Samuel I del Villar (PRD) to Attorney General Lozano Gracia, Jul. 31, 1995 (on file with Minnesota Advocates). While the Colosio and Aguas Blancas killings are not comparable, the federal government cannot deny the gravity of the Aguas Blancas massacre, nor ignore the inability of Guerrero's authorities to resolve it.

<sup>124</sup> The American Convention of Human Rights contains a "federal clause" (Art. 28) to cover situations in which state parties to the Convention are federations. Article 28 cannot be read to justify human rights abuse committed in one of its federal units, however, as a party may not invoke internal law as a justification for avoiding treaty obligations. *See* Vienna Convention on the Law of Treaties, Art. 27. *See also*, Mexican Constitution, Art. 133 (declaring that treaties to which Mexico is party are supreme law in Mexico).

<sup>125</sup> *See, e.g.*, Inter-American Court of Human Rights, *Velásquez Rodríguez* decision, para. 166, Jul. 29, 1988.

## The Recommendation of the National Human Rights Commission

Soon after the killings, Mexico's CNDH decided to involve itself in the case. The CNDH is an official institution, whose principal mission is to promote and protect human rights in Mexico. It has had mixed success. The CNDH was created in June 1990 during the administration of President Carlos Salinas. It came to exist at a time when Mexico's rights record was under significant international scrutiny, in the context of U.S.-Mexican negotiations for what would become the North American Free Trade Agreement (NAFTA). At that time Minnesota Advocates for Human Rights and other international human rights monitoring organizations were closely investigating rights abuse in Mexico.<sup>126</sup> At the same time a growing network of Mexican human rights activists and groups were ever more vocally denouncing violations and demanding rights improvements.

The CNDH today employs a staff of 700.<sup>127</sup> It issues an array of regular reports and carries out programs of human rights education, among other efforts to improve human rights observance in Mexico. The institution also produces public reports on specific cases of rights violations. In these reports the CNDH describes the case in detail and recommends actions to be taken by particular public authorities. Officials need not, however, accept the CNDH's recommendations and carry them out. The CNDH then, which lacks the ability to prosecute, holds power that is purely persuasive. It relies on public opinion and pressure to see that its recommendations are heeded.

In addition to that handicap, the CNDH also has a limited jurisdiction, and as a result CNDH involvement in the Aguas Blancas case was not certain. Reforms promulgated in 1992 effectively curtailed the CNDH's jurisdiction,<sup>128</sup> limiting its domain for the most part to human rights violations involving certain federal authorities, and leaving investigations of human rights violations allegedly committed by state agents to official state human rights commissions.<sup>129</sup> The CNDH does, however, retain discretionary power to investigate local cases of national importance in which there is danger that the state's official human rights commission "may take a long time to produce a recommendation."<sup>130</sup> The CNDH rightly determined that the Aguas Blancas massacre was such a case and exercised this power of *atracción*.<sup>131</sup>

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<sup>126</sup> In the weeks immediately following the creation of the CNDH, both Minnesota Advocates and Americas Watch published reports condemning Mexico's observation of international human rights standards. See Minnesota Advocates for Human Rights (then known as Minnesota Lawyers International Human Rights Committee), *Paper Protection: Human Rights Violations and the Mexican Criminal Justice System*, (Minneapolis: 1990); and Americas Watch, *Human Rights in Mexico: A Policy of Impunity* (New York: 1990).

<sup>127</sup> Interview in Mexico City with Jorge Madrazo Cuéllar, CNDH President, Aug. 16, 1995.

<sup>128</sup> See Mexican Constitution, decree and transitory article, published in the *Diario Oficial*, Jan. 28, 1992, reprinted in *Constitución Política de los Estados Unidos Mexicanos[;] Constitución Política del Estado Libre y Soberano de Oaxaca* (Anaya Editores: Mexico City, 1995), pp. 234-35.

<sup>129</sup> See *ibid.* Notably, the CNDH by law may not look into cases related to acts and resolutions of electoral authorities and agencies, or to labor conflicts. See *Ley de la Comisión Nacional de Derechos Humanos*, Art. 7, reprinted in *Legislación sobre derechos humanos*, (Editorial Porrúa: Mexico City, 1995), p. 11. Because of continued serious allegations of labor and electoral rights violations in Mexico, such restrictions constitute a strong impediment to human rights advocacy in Mexico.

<sup>130</sup> See *Ley de la Comisión Nacional*, Art. 60, reprinted in *Legislación sobre derechos humanos*, (Editorial Porrúa: Mexico City, 1995), p. 27; *Reglamento Interno de la Comisión Nacional de Derechos Humanos*, Art. 156; reprinted in *ibid.*, pp. 80-81.

<sup>131</sup> Recommendation No. 104/95, p. 4.

The CNDH issued its report on August 14, only some six weeks after the massacre.<sup>132</sup> Released amidst great public expectation and interest, the report was directed to Guerrero's governor, Rubén Figueroa Alcocer. The CNDH's 360-page document describes events leading to the massacre and offers the state government's and the *campesinos'* and complainants' versions of the events themselves. Over three hundred pages of the document recapitulate the substantial evidence the CNDH examined and provide the CNDH's observations and conclusions as to the evidence. The state's investigation clearly exasperated the CNDH. It indicated that "the majority of forensic evidence collected during [state] investigations was deficient, insufficient or false, and elaborated with the clear intention of not allowing the clarification of the facts."<sup>133</sup>

Finally, the CNDH recommends in the report specific actions to be carried out by Guerrero state authorities.<sup>134</sup> The CNDH recommended:

- that the governor quickly appoint a new and truly independent special prosecutor (the CNDH recommended that it be someone from outside the state with a national reputation) to clean up and pursue criminal investigations<sup>135</sup> against those responsible for the massacre and its cover-up;<sup>136</sup>
- that **José Rubén Roblés Catalán**, overseer of public security in Guerrero state (as Secretary General of Government) (and Governor Figueroa's right-hand man), be suspended from his duties until legitimate criminal investigations had commenced;<sup>137</sup>
- that **Antonio Alcocer Salazar**, Guerrero's Attorney General, be fired for his role in impeding investigations, and be criminally investigated for obstructing justice;<sup>138</sup>
- that the following Guerrero state officials be fired for impeding investigations, including by lying to the CNDH, and for their participation, if any, in the massacre: Assistant Attorney General **Rodolfo Sotomayor Espino**; **Gustavo Olea Godoy**; State Judicial Police General Director; **Rosendo Armijo de los Santos**, Subsecretary of Protection and Transit; **Esteban Mendoza Ramos**, General Director of the Office of State Government; **Adrián Vega Cornejo**, former special prosecutor; and **Gustavo Martínez Galeana**, Delegate of the Office of State Government. The CNDH recommended also that these officials be criminally investigated;<sup>139</sup>
- that **Major Manuel Moreno González**, General Director of Operations of Protection and Transit, be immediately removed from his post and criminally investigated for his

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<sup>132</sup> The quick production time and depth of investigation and analysis indicate that the CNDH dedicated to the case the serious attention, effort and resources it warrants.

<sup>133</sup> Recommendation No. 104/95, p. 279.

<sup>134</sup> Recommendation No. 104/95, pp. 354-359.

<sup>135</sup> The CNDH recommended specifically that the special prosecutor be given a copy of Recommendation No. 104/95. Recommendation No. 104/95, p. 355.

<sup>136</sup> Recommendation No. 104/95, pp. 354-55.

<sup>137</sup> *Ibid.*, p. 355.

<sup>138</sup> *Ibid.*, p. 356.

<sup>139</sup> *Ibid.*

participation not only in the Aguas Blancas massacre, but also for those events covered in CNDH recommendation 32/95 (see above);<sup>140</sup>

- that administrative and criminal investigations commence against the following Guerrero state agents, for their "illegal, irregular, deficient and negligent" participation in investigations, and for having hidden, destroyed or impeded the conservation of fundamental evidence: **Elías Reachy Sandoval**, Public Ministry agent in Acapulco; **Javier Reyes Grande**, Public Ministry agent in Acapulco; **Francisca Flores Rizo**, Public Ministry agent in Coyuca de Benítez; **Gonzalo Barrera Abarca** and **Rafaela Cruz Suástegui**, forensic specialists; **Juan Olea Ventura** and **Carlos Gruintal Santos**, forensic chemical specialists of the Guerrero state Attorney General's office;<sup>141</sup>
- that the following medical specialists of the state medical examiner's office be administratively investigated (and sanctioned when appropriate): **Santos Galeana Hernández**, **Alma Rosa Peñaloza Gutiérrez**, **Ricardo Berlanga Soria**, **Carlos Estrada Guerrero** and **Pedro Rodríguez Lozano**;<sup>142</sup>
- that an order of *arraigo* (to prohibit departure from the state) issue against the named functionaries to prevent them from escaping justice;<sup>143</sup>
- that once the family members of those individuals killed during the massacre have been indemnified, the governor order the state's head of health services to provide specialized medical attention to Andrés Bernal Refugio, Bernardo Carbajal Sotelo, Aníbal Pastrana Gallardo, Andrés Sánchez Rodríguez, Serafín Farfán Martínez, Apolinar Ogenis Contreras, and whomever else of those injured in the massacre need such care;<sup>144</sup>
- that the governor do what is necessary to carry out an adequate restructuring of the states' police and public security forces.<sup>145</sup>
- that as soon as possible the state government implement programs of agricultural production assistance, social development, public assistance, public security and administration of justice in Coyuca de Benítez, Atoyac de Alvarez, and Guerrero's other neediest municipalities.<sup>146</sup>

It is striking that the CNDH recommended specific action against twelve of the state's top law enforcement officials for their responsibility for the massacre and its cover-up, yet at the same time left compliance with the recommendation in the hands of state's highest law enforcer, Governor Figueroa. It seems unlikely that Governor Figueroa could have been unaware of efforts to cover up the massacre, unless the state's security apparatus conspired to shield the governor from such knowledge. Such an effort to protect the governor also seems doubtful, however. State governors in

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<sup>140</sup> *Ibid.*, pp. 356-57.

<sup>141</sup> *Ibid.*, p. 357.

<sup>142</sup> *Ibid.*, p. 358.

<sup>143</sup> *Ibid.*

<sup>144</sup> *Ibid.*

<sup>145</sup> *Ibid.*

<sup>146</sup> *Ibid.*, p. 359.

Mexico, like their federal executive branch counterpart, wield considerable power. While a weak governor perhaps could be manipulated by his underlings, Governor Figueroa is widely held to be very strong. He and his family have held considerable authority in Guerrero for much of the twentieth century.<sup>147</sup>

It is entirely likely, however, that the CNDH uncovered insufficient evidence to cite Governor Figueroa in its recommendation, either for a role in the massacre or for having participated in the cover-up. Should it exist, damning evidence against the governor would have been difficult for the CNDH to obtain. The CNDH describes at length, for example, efforts by Guerrero state officials to conceal the truth. In addition the CNDH appears to have been operating in this case with relatively little political space.<sup>148</sup> As important as the political context in this case is, it in no way alters Mexico's international human rights obligations to see that the Aguas Blancas massacre is investigated, the responsible parties prosecuted, and the victims compensated. In that vein, the CNDH recommendation represented a forceful and important step forward.

### **Federal Supreme Court declines to investigate<sup>149</sup>**

A few weeks before the CNDH released its report, a group of Mexican nongovernmental human rights and other organizations, led by the Mexican Commission for the Defense and Promotion of Human Rights (*Comisión Mexicana por la Defensa y la Promoción de los Derechos Humanos* or CMDPDH), petitioned the Mexican Supreme Court to exercise power granted it by article 97 of the Mexican Constitution. That article provides that the Court is able "to name one or more of its members [or another judge or magistrate], or designate a special commissioner or commissioners" to "investigate an act or acts which constitute a grave violation of an individual guarantee [right]."<sup>150</sup> The Court may decide on its own (*de oficio*) to so investigate, whenever it deems such an investigation *conveniente*.<sup>151</sup>

The Court assigned one of its members to study how the Court might respond to the massacre. He reportedly then went on a scheduled two-week vacation, drawing protest from members of

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<sup>147</sup> His father, for example, served as Guerrero's governor in the 1970s. Governor Figueroa is reported to be the fifth governor in his family. Ignacio Ramírez, "Los Figueroa, compadres de presidentes y estirpe de gobernadores marcados por la represión y el folclorismo," *Proceso*, No. 975, Jul. 10, 1995.

<sup>148</sup> The governor is an ally of President Zedillo, from the hard-line component of Mexico's ruling Institutional Revolutionary Party (*Partido Revolucionario Institucional*). See, e.g., Tim Golden, "Mexican Report Accuses State Aides in Killing of 17 Peasants," *New York Times*, Aug. 15, 1995. While the president himself is not considered a hard-liner within the party, he is apparently in need of conservative party faithful to maintain political control. A CNDH recommendation delivered to a national figure would have forced the federal, PRI-controlled government to act, which as described in this report, it is reluctant to do. The CNDH therefore may have had little to gain, and perhaps much to lose, by recommending—to a national institution or official—the ouster or investigation of Governor Figueroa.

<sup>149</sup> Unlike the federal judiciary and executive, the Mexican legislature has not ignored the Aguas Blancas massacre. Human rights commissions in both houses of Mexico's congress have investigated the June 28 killings.

<sup>150</sup> Mexican Constitution, Art. 97.

<sup>151</sup> *Ibid.* The Court may also investigate when requested by the Federal Executive, by a branch of the Congress, or by a state governor. *Ibid.* *Conveniente* may be translated as "convenient" or "appropriate." However translated, the Court has discretion to determine when a case is *conveniente* to investigate.

Mexico's human rights community.<sup>152</sup> The Court finally reached a decision in mid-September. A nine-to-two majority voted not to investigate the massacre.<sup>153</sup> The Court reportedly determined that it was not "convenient, at least at the moment" to appoint its own investigators.<sup>154</sup> Considering that, among other things, seventeen individuals were killed, another twenty-two were injured by police weapons fire, the governor of Guerrero admitted to attempting to prevent the OCSS from carrying out their protest, and government officials engaged in serious and profound attempts at covering up the crime, it is difficult to know what other events necessarily must occur for the Mexican Supreme Court to consider human rights violations grave enough that it would be "convenient" to investigate them.<sup>155</sup>

It is lamentable that the Supreme Court declined to investigate the case. Its involvement, especially considering the high profile it would bring to investigations, would tend to prevent similar or worse events from recurring. Minnesota Advocates urges the Court to reconsider its decision not to investigate, and to exercise its Article 97 power.

### **Compliance with CNDH recommendations**

Before the Supreme Court would decline to investigate, however, Governor Figueroa announced immediately that he would accept and comply with CNDH recommendations.<sup>156</sup> The recommendation provided him political room to make such a claim of course, because he received the report rather than being named in it. Furthermore, because the CNDH directed its report to the governor rather than a national official, the power to comply or not rests with the governor, who retains firm control in Guerrero. The possibility of a real house cleaning consequently remains slim.

A month after the release of the CNDH report, the governor oversaw<sup>157</sup> the appointment of a new special prosecutor to take over the criminal investigation begun, really, by the CNDH. Jurist

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<sup>152</sup> David Aponte and Jesús Aranda, "Turnan a Góngora Pimentel el caso de Aguas Blancas," *La Jornada*, Aug. 12, 1995.

<sup>153</sup> Two justices voted to investigate. To Minnesota Advocates' knowledge, their written opinions have not been made readily available to the public. Minnesota Advocates has requested but not received from the Supreme Court copies of these opinions.

The Court also determined, in an eleven to zero vote, that the nongovernmental groups had no standing to present a petition under Art. 97. It is worth noting that the groups initially had asked the Court to exercise its own Art. 97 power to decide to investigate. See, CMDPDH, letter to the editor, *Proceso*, No. 988, Oct. 9, 1995.

<sup>154</sup> Jesús Aranda, "No intervendrá por el momento la SCJN en el caso Aguas Blancas," *La Jornada*, Sept. 19, 1995.

<sup>155</sup> The Supreme Court was reported to have indicated that one reason it was inconvenient to investigate the case was the prior involvement of the CNDH. CNDH involvement should be viewed as complementary to the Supreme Court's power under Article 97, however, not preemptory. Otherwise, Article 97 would largely be a dead letter, as it is nearly impossible to imagine a case of this magnitude not being investigated by the CNDH or another official human rights commission.

<sup>156</sup> See, e.g., Golden, "Mexican Report Accuses State Aides...;" 1995; Raúl García, "Figueroa: acataré todas las recomendaciones de la CNDH," *La Jornada*, Aug. 15, 1995.

<sup>157</sup> Mexican media reported that during this period the state legislature passed a law providing that special prosecutors investigating certain cases (such as Aguas Blancas) would be accountable to the legislature, not to the governor. See Raúl García, "Dependeré de diputados no de Figueroa: el fiscal García Domínguez," *La Jornada*, Sept. 14, 1995 (World Wide Web site (<http://serpiente.dgsca.unam.mx/jornada/index.html>)). Such a law is promising, as it may

Miguel Angel García Domínguez did not commence work as special prosecutor until September 21.<sup>158</sup> His tenure was exceptionally short-lived. He resigned the post ten days later to become a state Supreme Court magistrate in his native Guanajuato.<sup>159</sup>

More than a month transpired until the newest special prosecutor was chosen. On November 9, Alejandro Oscar Varela Vidales assumed the post. He reportedly announced that he expected to terminate investigations within sixty days.<sup>160</sup> Expeditious investigations are indeed needed to jumpstart the case. The new special prosecutor should be careful, however, not to sacrifice thoroughness for speed. Minnesota Advocates is concerned at this point that the Aguas Blancas case may be viewed by local officials as a headache to be eliminated rather than an opportunity to rectify the commission of grave wrongs.<sup>161</sup>

Such an attitude was seemingly displayed by Governor Figueroa in his quick move to oust offending state agents from their posts. Governor Figueroa removed the law enforcement personnel mentioned in the CNDH recommendation a day after the CNDH released its report. That the officials were replaced is a positive development. Governor Figueroa's alacrity in replacing them, however, is cause for some alarm. The rapidity with which transfers were made permitted no careful recruitment, evaluation, or selection of qualified personnel. Rather, Governor Figueroa replaced the CNDH-cited individuals largely with their own subordinates. (See below and appendices for functionaries removed from their posts and their replacements). He thus ignored an important aspect of the CNDH recommendation calling for a restructuring of Guerrero's security forces.

Though the removed officials were subject to a CNDH-requested order of *arraigo* for thirty days (see above), some of the officials cited by the CNDH reportedly were involved in subsequent law enforcement activities, and as well were believed to be effectively commanding their replacements.<sup>162</sup> Such activity by those cited in the CNDH report suggests that compliance with the CNDH recommendation has not yet occurred. Indeed, the limited steps taken to date indicate that Governor Figueroa does not really intend to reform Guerrero's repressive police structure.

The government also has failed to provide adequate compensation to victims of the Aguas Blancas massacre. Victims and survivors of the deceased reported to Minnesota Advocates that they had received money, in the form of lump-sum payments, from the state government. As described above, however, the money was accompanied with threats to cease denouncing the case. Victims were worried that other promises of the government, such as to provide scholarships to the children

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offer a check against the considerable power wielded by the head of the state executive branch. However, the local congress also is controlled by the PRI, and is unlikely in important aspects to serve as much more than a rubber stamp for the governor.

<sup>158</sup> Jesús Guerrero, "Con dinero del gobierno del estado, inició labores el fiscal especial," *El Financiero*, Sept. 22, 1995.

<sup>159</sup> García Domínguez reportedly proffered his letter of resignation on a Saturday night. Raúl García, "Severas críticas de diputados a la renuncia de García Domínguez," *La Jornada*, Oct. 3, 1995.

<sup>160</sup> Raúl García, "Varela Vidales, nuevo fiscal especial para el caso Coyuca," *La Jornada*, Nov. 10, 1995.

<sup>161</sup> Varela Vidales reportedly indicated, for example, that interviewing Governor Figueroa as part of his investigations may be unnecessary because the CNDH failed to cite the governor in its report. *See ibid.* Interviewing the governor should be an integral part of any serious investigation of this case.

<sup>162</sup> Telephone interview with Javier Mojica, director of the Center for the Defense and Promotion of Human Rights (*Centro de Defensa y Promoción de Derechos Humanos*) in Acapulco, Oct. 10, 1995.



of the deceased, would be rescinded capriciously by the government. Minnesota Advocates is unaware of any effort by the state of Guerrero to make individualized calculations of appropriate compensation, either to the victims' survivors or to those injured in the attack,<sup>163</sup> or to make the recipients of payments understand that they are due reparations and have not simply received governmental favors. The treatment of victims by the government, as described by the victims themselves, was offensive and disregarded Mexico's international obligations to compensate victims of human rights abuse.

Minnesota Advocates requested in an October 19 letter to Governor Figueroa additional information regarding implementation of CNDH recommendations. As this report is written, we have received no response to our request.<sup>164</sup>

## ROLE OF NONGOVERNMENTAL ACTORS

Since June 28 Mexico's nongovernmental human rights community actively has pressed for justice in the Aguas Blancas case. Local and national groups have endeavored to see that the victims are not forgotten, and that the responsible parties are prosecuted. They have played a vital role informing the public, both at national and international levels, about the case and the general human rights situation in Guerrero. It is clear that without the efforts of such groups, government efforts to conceal the truth and sweep the case under the rug would have been far more successful.

A number of human rights groups and activists held a public forum on human rights and justice in September, in conjunction with the fourth anniversary of the CG500ARI. The groups called for, among other things, complete compliance with the CNDH's recommendations and thorough investigations into recent violent acts in Tlacoachistlahuaca, Guerrero, which had left five CG500ARI members dead.<sup>165</sup> Rights groups organized a subsequent assembly on November 7. Also held in Acapulco, this "public audience" provided human rights victims throughout Guerrero

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<sup>163</sup> Providing compensation for human rights abuse is increasingly accepted as a duty of states. The American Convention on Human Rights, for example, authorizes the Inter-American Court of Human Rights to rule that rights and freedoms guaranteed in the Convention, when violated, "be remedied and that fair compensation be paid to the injured party." Art. 63.1.

U.N. Special Rapporteur Theo van Boven, in his report to the U.N. Sub-Commission on Prevention of Discrimination and Protection of Minorities, concluded that the United Nations should give priority to adopting guidelines on the right of victims of human rights abuse to reparation. He proposed "Basic Guidelines" which maintain that "[e]very State has a duty to make reparation in case of a breach of the obligation under international law to respect and to ensure respect for human rights and fundamental freedoms." Reparation is to entail the essentials of restitution, compensation, rehabilitation, and satisfaction and guarantees of non-repetition. *See Study concerning the right to restitution, compensation and rehabilitation for victims of gross violations of human rights and fundamental freedoms, Final report submitted by Mr. Theo van Boven, Special Rapporteur*, UN Doc. E/CN.4/Sub.2/1993/8, pp. 56-57.

<sup>164</sup> According to Mexico City's *La Jornada*, Governor Figueroa indicated that his administration will assist only those national and international human rights groups that "demonstrate good faith in their investigations and avoid using the case for political ends." Laura Gómez Flores, "Figueroa: apoyo a las ONG en el caso de Aguas Blancas, sólo si hay 'buena fe,'" *La Jornada*, Nov. 15, 1995. Translation by Minnesota Advocates. He did not indicate, however, which groups he considered as good faith human rights monitors. Minnesota Advocates is concerned that the governor may view demands for justice in the case generally as political maneuvering against him.

<sup>165</sup> *See* electronic posting of CG500ARI in [cdp.reg.mexico](http://cdp.reg.mexico), Sept. 21, 1995.

an opportunity to denounce violations committed against them. The groups renewed their commitments to battling impunity in the state and establishing the rule of law.<sup>166</sup>

In addition to documenting and denouncing abuse, private groups have resorted to international mechanisms of redress. In July, the opposition PRD filed a complaint before the Inter-American Commission on Human Rights (IACHR), based in Washington, D.C.<sup>167</sup> The PRD alleged in its complaint that the Mexican state had violated the rights of life and of personal integrity of the Aguas Blancas victims.<sup>168</sup> The PRD also asserted violations of Mexico's obligations to offer judicial guarantees and to generally respect and ensure rights found within the American Convention.<sup>169</sup> The IACHR accepted the complaint and forwarded it to the government of Mexico. Mexico was granted ninety days to respond, and apparently has requested up to an additional ninety days, the maximum allowed.<sup>170</sup> What may ultimately result is an IACHR finding, in published report form, that details the IACHR's findings and lists its recommendations.<sup>171</sup> The IACHR cannot bring the case before the Inter-American Court of Human Rights because Mexico to date has failed to accept the jurisdiction of the Court, which unlike the Commission, is empowered not only to determine responsibility for human rights abuse, but also to compel redress.<sup>172</sup>

## CONCLUSION

As this report documents, numerous actors—including victims of the June 28 Aguas Blancas massacre; relatives of the seventeen persons killed during the police assault; and local, national and international rights-monitoring organizations—have actively pressed the state government in Chilpancingo, Guerrero, and national officials in Mexico City to confront the human rights violations committed both at the Aguas Blancas *vado* and since the police attack. Now, more than five months after the attack, demands for justice in Guerrero have gone almost entirely unheeded. As a result, Mexico remains in violation of its human rights obligations. Minnesota Advocates strongly urges Mexico to act on President Zedillo's calls to eliminate impunity, and to meet its international obligations and investigate this case thoroughly, punish those found responsible for

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<sup>166</sup> See the groups' platform, forwarded electronically to Minnesota Advocates, Nov. 8, 1995. See also CMDPDH, *Un Imperio de terror en Guerrero*, Nov. 24, 1995, which summarizes the concerns of numerous local, national and international human rights organizations.

<sup>167</sup> The IACHR exists as an autonomous, quasi-judicial body within the Organization of American States, or OAS. Its goals are to promote, protect and monitor human rights among signatories of the American Convention on Human Rights and its predecessor, the American Declaration of the Rights and Duties of Man. See, e.g., Juan E. Méndez and José Miguel Vivanco, "Disappearances and the Inter-American Court: Reflections on a Litigation Experience," *Hamline Law Review*, Vol. 13, No. 3, pp. 519-21.

<sup>168</sup> PRD, Complaint presented to the IACHR, Jul. 17, 1995, p. 1 (on file with Minnesota Advocates).

<sup>169</sup> *Ibid.*

<sup>170</sup> *Reglamento de la Comisión Interamericana de Derechos Humanos*, Art. 34.6, reprinted in Mónica Pinto, *La denuncia ante la Comisión Interamericana de Derechos Humanos* (Buenos Aires: Editores del Puerto, 1993).

<sup>171</sup> See Mónica Pinto, *La denuncia ante la Comisión Interamericana de Derechos Humanos* (Buenos Aires: Editores del Puerto, 1993) for a description of Inter-American Commission process.

<sup>172</sup> Minnesota Advocates has criticized for a number of years this serious shortcoming in Mexico's human rights policy. See, e.g., *No Double Standards in International Law: Linkage of NAFTA with Hemispheric System of Human Rights* (Minneapolis: 1992).

ordering, carrying out and covering up the massacre, and provide adequate compensation to the victims.

## APPENDICES

### A. List of Civilians Killed<sup>173</sup>

<i>Name</i>	<i>Age</i>
Anacleto Ahueteco Coyote	48
Gregorio Analco Tabares	40 <sup>174</sup>
Francisco Blanco Muñoz (Nava)	39
Victorio Flores Balanza	27
Fabián Gallardo García (Pastrana)	28
Paz (or Pasito) Hernández González	33
Daniel López Castañeda	59
Eleodoro López Vargas (or Heleodoro Refugio Vargas)	28
Climaco Martínez Reza	40
Simplicio Martínez Reza	25
Mario Pineda Infante	42
Tomás Porfirio Rondín	75
Florente Rafael Ventura	35
José Rebolledo Gallardo	20 <sup>175</sup>
Francisco Rogel Gervacio	75
Amado Sánchez Gil	30
Efraín Vargas Sabayo	

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<sup>173</sup> Lists of persons killed and injured were culled from interviews with relatives of the deceased; National Network, *Informe preliminar...*; and Recommendation No. 104/95, pp. 117, 345. All victims killed were male.

<sup>174</sup> According to necropsy, as reported in Recommendation No. 104/95, p. 197.

<sup>175</sup> *Ibid.*, p. 196.

## B. List of Civilians Injured<sup>176</sup>

<i>Name</i>	<i>Gender</i>	<i>Age</i>
Antonio Acalqueño (or Calqueño) Santanero	male	18
Carmelo Bernal Flores	male	43
Domingo Bernal Flores	male	40
Andrés Bernal Refugio	male	23
Bernardo Carbajal Sotelo	male	17
Marcos Carranza Arizmendi	male	46
Rodolfo Carranza Pastrana	male	27
Serafín Farfán Martínez	male	42
Santos Galeana Santiago	male	43
Vinicio Godínez Silva	male	27
Mauro Hernández Lozano	male	44
Próspero Hernández Lozano	male	50
Concepción Hernández Rondín	male	63
Pedro Jiménez Flores	male	49
Eustolia Mayo Blanco	female	73
Apolinar Ojendiz Contreras	male	48
Aníbal Pastrana Gallardo	male	23
Norberto Pastrana Gallardo	male	28
Juan Pastrana Ramírez	male	48
Antonia Reyes García	female	43
Supilcio Rogel Reza	male	20
Luciano Salmerón Moreno	male	40
Andrés Sánchez Rodríguez	male	47
Felipe Sánchez Rodríguez	male	56

## C. List of Police Injured

<i>Name</i>	<i>Age</i>
Lorenzo Roque Cortez	32
Dustano Vargas Hernández	38

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<sup>176</sup> Recommendation No. 104/95, pp. 132-160.

## D. List of Former and Replacement Functionaries<sup>177</sup>

<b>Position</b>	<b>Former/Replacment</b>	<b>Replacement's Previous Post</b>
Attorney General	Antonio Alcocer Salazar/ Jesús Salas Moreno	in legal department of the Office of Government (formerly headed by Rubén Robles Catalán)
Assistant Attorney General	Rodolfo Sotomayor Espino/ José Luis Veles Arcos	[not able to obtain information]
PJE Director	Gustavo Olea Godoy/ Erit Montúfar Mendoza	Private secretary to Gustavo Olea Godoy, former PJE director
Secretary General of Government	José Rubén Roblés Catalán/ Zótico García Pastrana	State Congress leader, associate of Figueroa
General Director of the Office of State Government	Esteban Mendoza Ramos/ Rey Hilario Serrano	Coordinator of office delegations, under former director Esteban Mendoza Ramos
Subsecretary of Protection and Transit	Rosendo Armijo de los Santos/ Luis León Aponte	Director of Transport, under former Subsecretary Armijo de los Santos
Director of Public Security	Major Manuel Moreno González/ César Gallegos Torres	reported lieutenant of an abusive police chief allegedly responsible for delinquency and kidnapping

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<sup>177</sup> See Ignacio Ramírez, "Los Cambios en el gabinete de Figueroa, por escalafón y con gente 'de confianza,' que asegura 'continuidad en el camino,'" *Proceso*, No. 981, Aug. 21, 1995.