

MEXICO

Army Officer Held “Responsible” for Chiapas Massacre; Accused Found Dead at Defense Ministry

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I. SUMMARY AND RECOMMENDATIONS

On April 8, 1995, a group of senior Mexican army officers invited the executive director of Human Rights Watch/Americas, José Miguel Vivanco, to discuss the human rights situation in Chiapas. In the course of that meeting—which took place at the headquarters of the Ministry of National Defense—Gen. Felipe Bonilla Espinobarros; Gen. Carlos Calvacasco Santamaría, the attorney general for military justice; Col. Juan Manuel Angulo Jacobo, attorney of the Military Justice System; and Lt. Col. José Antonio Romero Zamora, attorney of the Military Justice System, offered information on the internal investigations conducted by the army into several violent incidents of the 1994 Chiapas uprising of the Zapatista National Liberation Army (EZLN) and its suppression. This was the first time that the army has shared such information with a nongovernmental human rights organization.

From conversations with these officials, and from documents that we were permitted to copy and take with us, Human Rights Watch/Americas learned important facts that have not been made public nor, to our knowledge, communicated to the Mexican government's National Human Rights Commission (CNDH), which has conducted its own investigation of these serious violations. Those facts center on the killings of eleven persons during an army occupation of a public hospital in Ocosingo, in the state of Chiapas, in the early days of the January 1994 uprising of the EZLN. This case has become known as the Ocosingo clinic massacre.

The documents provided by the Mexican military established that:

- The army conducted an internal investigation into the Ocosingo clinic case. That investigation, carried out by a special military prosecutor, found no abuse with regard to three of the deaths, which it attributed to crossfire. Nevertheless, the prosecutor found one infantry officer exclusively responsible for the extrajudicial executions of eight civilians.
- The officer in question, Second Lt. Arturo Jiménez Morales, was purportedly questioned inside the headquarters of the Ministry of Defense (SEDENA) in Mexico City and confessed to having committed the eight murders. According to army documents, he took his own life hours later, also inside the Defense Ministry. The case was then closed and archived.

We note that the Mexican military has never prosecuted any member of its forces for crimes involving violations of human rights committed during and after the January 1994 Chiapas uprising. Given the fate of Second Lieutenant Jiménez Morales, that appalling record remains intact following the army's flawed internal investigation into the Ocosingo clinic case.

Apart from our concern at the suspicious circumstances of this officer's death—which are described in detail below—we question the exclusive responsibility of Second Lieutenant Jiménez Morales for all eight executions, since this finding conflicts with the testimony of eyewitnesses.

The Ocosingo clinic case is the only one of those reviewed by Human Rights Watch/Americas in which the Mexican army took responsibility for the killing of civilians.¹ With regard to other cases documented by Human Rights Watch/Americas, the internal investigations reviewed and discussed with the army representatives at the April 8 meeting seem intended to establish that its agents have not committed any human rights violations in Chiapas. Those cases are discussed in section IV of this report. The weaknesses in the methodology of the military investigations, including that of the Ocosingo clinic killings, are so severe that they call into question the seriousness of the army's efforts to investigate its own ranks. Indeed, the military documents reviewed by Human Rights Watch/Americas reveal a greater interest in accusing nongovernmental human rights organizations and the press of dishonesty than in conducting full, transparent investigations and prosecuting those responsible for human rights violations.

¹ The military investigation into the extrajudicial executions in the Ocosingo marketplace, for example, found no military responsibility; a copy of that report is in the possession of Human Rights Watch/Americas.

At the same time, Human Rights Watch/Americas appreciates the Mexican armed forces' openness in granting us access to this information. We trust that the Mexican government will adopt further measures to ensure that all public officials, including members of the armed forces, are accountable for their actions before the law.

Recommendations

Human Rights Watch/Americas calls on the government of Mexico:

- To reinvigorate ongoing investigations by the CNDH and the Federal Attorney General's Office (Procuraduría General de la República, PGR) based on the newly-disclosed information regarding the army's internal inquiry and to make all documents and evidence available to the CNDH and the PGR concerning human rights violations in Chiapas, including the Ocosingo clinic case.
- To pursue, through the PGR and the CNDH, full clarification of the circumstances under which Second Lieutenant Jiménez Morales allegedly took his own life, and to release the results of those investigations to the public.
- To promote the adoption of legislation to ensure that investigations and prosecutions of crimes involving military personnel which may constitute human rights violations are conducted under strict civilian jurisdiction.
- To ensure prosecution and punishment of those who engaged in human rights violations, including extrajudicial executions, at the Ocosingo clinic and in other Chiapas cases, and those who failed to conduct a thorough, fair, and exhaustive investigation of these abuses or presented false or deliberately misleading information.

Human Rights Watch/Americas calls on the government of the United States:

- To state publicly—and at the highest level—its dissatisfaction with the Mexican army's efforts to investigate serious human rights violations that occurred during the 1994 Chiapas uprising, and to call for a new, independent, and thorough investigation into the alleged army abuses in Ocosingo, Morelia, and Altamirano (as described below), as well as urging appropriate punishment or prosecution for those members of the armed forces found responsible for human rights violations.
- To withhold Foreign Military Sales (FMS) for Mexico until adequate investigations into the alleged human rights violations committed by the Mexican army during the January 1994 Chiapas uprising are completed and prosecutions of those found responsible are underway.²

II. ARMY INVESTIGATION OF THE OCOSINGO MASSACRE

Background³

Eleven persons were shot to death following the seizure by soldiers of the Mexican Social Security Institute (IMSS) clinic in Ocosingo on January 3, 1994. The remains of the eleven dead were later buried in a common grave by local residents, as directed by soldiers of the Mexican army.

² The Clinton administration has proposed \$3.6 million in FMS (government-to-government sales of defense articles or services).

³ See Human Rights Watch/Americas and Physicians for Human Rights, *Waiting for Justice in Chiapas* (New York & Boston, 1994), pp. 78-84.

As the CNDH noted in its June 1994 update report on Chiapas, "Some accounts maintain that the soldiers entered without any justification, as the clinic was neither under the control of the [EZLN guerrillas] nor were any members of this group ostensibly hospitalized. Nevertheless, there are declarations that members of the EZLN had temporarily occupied the hospital."⁴ In its initial investigation, the CNDH declared that of the eleven dead, ten were Zapatista rebels who had been killed in combat, and only one a civilian.⁵

Subsequent investigation, including accounts of eyewitnesses such as clinic staff who had fled Ocosingo, convinced the CNDH otherwise. In its June 1994 update, the CNDH stated that eight of the eleven dead had been recovered from inside the hospital on January 4. This finding was based on statements made by the men who originally buried the bodies, apparently under direction from the Mexican military. The CNDH also stated in June 1994 that among the eleven dead were nine who could be described as follows: two civilians who died outside the Ocosingo clinic because they came within the line of fire; five relatives who were visiting patients in the clinic; and two patients hospitalized well before the fighting began, that is, not wounded combatants. At a maximum, therefore, two of the dead may have been EZLN fighters.

Among those whose remains were identified on exhumation of the eleven bodies in the common grave were Manuel Gómez López and Mariano Gómez López, the husband and brother-in-law of Rosa López Gómez, a patient whom they had come to visit. According to Rosa López Gómez, soldiers took these two away and she did not see them again. Manuel and Mariano Gómez appear to be two victims who were killed in cold blood, outside the hospital. CNDH forensic scientists confirmed the identities of these two men's cadavers, but the CNDH did not publish Rosa López Gómez's statement as to their having been taken away in military custody.

The CNDH did not establish responsibility for the nine deaths it defined as killings of civilians. Rather, the CNDH concluded its inquiry by noting that the PGR and the attorney general for military justice had initiated criminal investigations.⁶

In addition to the killings, other violations of human rights that occurred at the Ocosingo clinic included the nature of the military's attack on the clinic and soldiers' treatment of civilians, whom they detained and interrogated for several hours. Hospitals are protected locations under international humanitarian treaties ratified by Mexico; a clinic may become a legitimate military target only if enemy combatants use it as a base, but the military is not entitled to occupy a clinic if that occupation prevents its usual functioning, and soldiers are obliged to treat staff and patients humanely.⁷ At least one patient stated that soldiers entered a room of the clinic and opened fire, killing several people.⁸ According to CNDH, "...patients and their families, nurses, hospital workers, and doctors were taken to the patio in the back of the hospital by members of the Mexican army, and were subjected to constant interrogation for several hours. That night, around 150 persons slept as a group in a section of the hospital."⁹ The following day, the army closed down the clinic entirely, depriving Ocosingo of a medical facility.

The Army Prosecutor's Findings

⁴ CNDH, *Informe*, May 1993-May 1994, p. 637; cited in *Ibid*, p. 81.

⁵ CNDH, *Boletín de Prensa*, San Cristóbal de las Casas, January 16, 1994

⁶ *Ibid*.

⁷ See Alma Baccino-Astrada, *Manual on the Rights and Duties of Medical Personnel in Armed Conflict* (Geneva: International Committee of the Red Cross and the League of Red Cross Societies, 1982). See also Common Article 3 of the four Geneva Conventions to which Mexico is a State Party.

⁸ Human Rights Watch/Americas and Physicians for Human Rights, *Waiting for Justice in Chiapas*, p. 79.

⁹ CNDH, *Informe*, May 1993-May 1994, p. 637

The results of the Mexican military investigation differ in critical ways from conclusions reached by the CNDH, independent human rights monitors, and the press. The military prosecutor's investigation into the Ocosingo clinic massacre assigns exclusive responsibility to Second Lieutenant Arturo Jiménez Morales for killing eight unarmed civilians in the clinic on January 3, 1994.¹⁰ The prosecutor's report does not address the abuse of medical neutrality by the Mexican military in entering a civilian hospital, the prolonged detention and interrogation of approximately 150 individuals on the hospital grounds, or the abduction, reportedly by soldiers, of two civilians who were later found dead.

With regard, specifically, to the involvement of Second Lieutenant Jiménez Morales, we note the following serious irregularities in the military prosecutor's investigation.

- The prosecutor reported gathering the testimony of forty-five civilians and nineteen military personnel. Although Second Lieutenant Jiménez Morales was reportedly accused of eight killings by fellow infantrymen, his name is not listed among those interviewed by the military prosecutor during the investigation.
- Although Second Lieutenant Jiménez Morales purportedly confessed to the eight killings, during questioning at the Ministry of National Defense in April 1994, the prosecutor does not report the contents of his confession.
- Although the prosecutor gathered testimony from forty-five civilians, his account of events relies exclusively on the testimony of soldiers, who cannot be considered neutral sources for purposes of this inquiry. The prosecutor's report does not list as an interviewed civilian Rosa López Gómez, the patient whose husband and brother-in-law—visiting her in the hospital—were allegedly abducted by military soldiers and later found dead.
- The wording of the second lieutenant's suicide note raises more questions than it answers. The note reportedly states that his confession is true and that he regrets abandoning his family, "all in order to comply, in some way, with an order."¹¹ This suggests either higher-level military involvement in the events at the Ocosingo clinic (the prosecutor's report noted that the phrase may be "possibly referring to the conduct undertaken at the clinic in Ocosingo)"¹² or that he was pressured to commit suicide. The investigation, however, did not pursue the serious implications of either line of reasoning.

The military investigation into the Ocosingo clinic case was opened on February 18, 1994, by a special military prosecutor, at the request of the attorney general for military justice, and finalized with the prosecutor's September 4, 1994 report recommending that the case be closed without prosecutions. The prosecutor's investigation included the testimony of numerous civilians and military personnel (but as noted above, not Second Lieutenant Jiménez Morales), as well as evidence collected by the CNDH, hospital records, ballistic evidence and forensic analysis of the bodies buried in Ocosingo, and the remains of Second Lieutenant Jiménez Morales.¹³

The military prosecutor summarized the events at Ocosingo:

¹⁰ Decision [*Determinación*], September 4, 1994, of Military Justice Major and Attorney Aníbal Trujillo Sánchez, Agent of the Military Public Ministry at the Thirty-First Military Zone, with regard to Preliminary Inquiry 31 Z.M./04/94-E. Hereinafter, "Decision on Ocosingo Clinic."

¹¹ Decision [*Determinación*], April 18, 1994, of Second Assistant Captain of Military Justice and Attorney Moisés Reyna Montalvan, Military Public Ministry Agent at the First Military Zone, with regard to Preliminary Inquiry 1aZ.M./052/94. Hereinafter, "Decision on Suicide," p. 8.

¹² Decision on Ocosingo Clinic, p. 7.

¹³ *Ibid*, pp. 1-2.

...[A]t approximately 3:00 P. M. on January 3, 1994, the personnel of the Fifth Company of the Seventy-Third Infantry Battalion entered the clinic of the Mexican Social Security Institute in the plaza of Ocosingo, state of Chiapas, as a result of an act of aggression against the company which originated from the hospital. When the military personnel took control eight unarmed civilians died inside the clinic and, by virtue of the fact that at the time of the event the personnel of the Fifth Company of the Seventy-Third Infantry Battalion were on active duty with the objective of reestablishing the order broken by the group of transgressors of the law, the authorities of the military court system have jurisdiction over the matter.¹⁴

The prosecutor's report described the command structure in place leading up to these events, and those directing the operation at the clinic. On January 1, Infantry Col. Hermelindo Lara Cruz, the commander of the Seventy-Third Infantry Battalion, was ordered to prepare his troops to travel the following day to Ocosingo, where they arrived at approximately 3:00 P.M. In the next hour, Brigade General Juan López Ortiz, the Commander of the Battle Group (*Agrupamiento*), ordered the Seventy-Third Battalion to the southeast side of the city to prevent the Zapatistas from fleeing in that direction. Colonel Lara Cruz then ordered First Infantry Capt. Gerardo Saucedo Rodríguez, the commander of the Seventy-Third Battalion's fifth company, to move with his troops toward the southeast.¹⁵

The prosecutor reported:

...[A]t approximately 9:00 A.M. on January 3, Captain Saucedo Rodríguez led his company on a sweep of about two kilometers, at which point they received an attack on their left flank by rifles and, apparently, hand grenades coming from the clinic of the Mexican Social Security Institute. The military personnel received the order to advance against the enemy, and at approximately 3:00 P.M. they managed to enter the clinic...¹⁶

Drawing upon the testimony of six civilians and unidentified "others," the prosecutor's report describes the military takeover of the hospital:

...[A]t approximately 10:00 A.M. they managed to occupy the hospital until about 3:00 P.M. The advance was slow because of extreme security measures. Once the military personnel had access to the clinic, they invited the civilians, including employees and patients of the clinic, as well as relatives, to go out to the patio...¹⁷

The military account does not explain which officer or officers ordered the civilians to congregate in the hospital patio nor for what reason. Nor does the account clarify what happened on the patio where, according to the CNDH and witness testimony, soldiers conducted lengthy interrogations of the civilians they had detained. On the other hand, the prosecutor's report does not seek to imply that any of the dead were rebel fighters, and in this respect is more temperate than the army's public statements had been. For example, in a March 10, 1995 letter to the U.S. Congress, the attorney general for military justice described eight patently civilian victims at the Ocosingo clinic as "civilian transgressors detained in the Ocosingo clinic," an oxymoronic description apparently meaning civilian guerrillas, since "transgressors" is the military's short-hand term for Zapatistas.¹⁸

¹⁴ *Ibid*, p. 3.

¹⁵ *Ibid*, p.3.

¹⁶ *Ibid*, pp. 3-4.

¹⁷ *Ibid*, p.4.

¹⁸ On March 10, 1995, the Mexican attorney general for military justice submitted a rebuttal of the Mexico chapter of the U.S. State Department's annual human rights report to the President [sic] of the U.S. Congress. The letter included some new information regarding alleged human rights violations in Chiapas -- information that has not been shared with the PGR, CNDH, or the Mexican public. The Mexican military leaders who met with a Human Rights Watch/Americas representative provided him with a copy of the previously undisclosed letter.

According to the prosecutor's report, the third section of the Seventy-Third Battalion, under the command of Second Lieutenant Jiménez Morales, entered the hospital, where the Lieutenant personally killed two civilians:

Once they were in the patio, according to Second Infantry Sgts. Pedro García Ramírez and Jorge Armando Rodas Cancino, they went to report to Second Infantry Lt. Arturo Jiménez Morales, commander of the third section, which they belonged to...[T]hey heard two or three shots from a firearm in one of the rooms, apparently the second room after the dining room, [and] entering by the hallway by the kitchen, at that moment Second Lieutenant Jiménez Morales was leaving that room, saying to Sergeant García Ramírez that he close the door, while he saw the bodies of two civilians thrown in the room....¹⁹

Shortly after the deaths of these two civilians, who are not identified in the prosecutor's report, Second Lieutenant Jiménez Morales reportedly shot and killed another unnamed civilian, who was lying injured in an hospital hallway:

Once they had reported to him, the sergeants noticed that Second Lieutenant Jiménez Morales headed towards the back of the clinic, towards where Corporal César Guzmán Díaz had told him a wounded civilian was found; this is supported by Corporal Guzmán Díaz, who stated: "...I searched for a superior to report to and upon coming to the place where the hall leads to the exit by the kitchen, I saw Second Lieutenant Jiménez Morales coming, at barely five meters from where I was arriving in the hallway. I reported to him about the wounded person I had seen, he told me to tell him the exact location, and so I took the officer to where I had seen the wounded man, and when he saw him [the wounded man], he [Jiménez Morales] ordered me to withdraw, and when I did that, I heard Second Lieutenant Jiménez Morales shooting the wounded man; then I went to the patio where the civilians were...."²⁰

The prosecutor's report then alleges that Jiménez Morales executed five other civilians:

Later, Corporal Guzmán Díaz, along with Private Julio César Montilla Hernández, took five civilians, on orders from Second Lieutenant Jiménez Morales, to the amphitheater of the clinic, and once they had put the civilians there and left, Second Lieutenant Jiménez Morales went in and fired at the civilians with his service revolver and also, apparently, with his .45 caliber pistol, and upon leaving he shut the door, telling them to return to their positions. Both soldiers agree on these circumstances and their testimonies are supported by the studies issued by the experts of the office of the attorney general of military justice...²¹

The military investigator's report offers no explanation of any possible motive, nor does it analyze how the victims were selected from the dozens of people that soldiers found at the hospital. Nor is the possibility of the involvement of any other troops investigated, despite witness testimony gathered by reporters and human rights monitors regarding the abduction of civilians from the hospital by soldiers and the participation of a number of soldiers in the slayings.²² The prosecutor concludes:

¹⁹ Decision on Ocosingo Clinic, p. 4.

²⁰ *Ibid.*

²¹ *Ibid.*, pp. 4-5.

²² Human Rights Watch/Americas and Physicians for Human Rights, *Waiting for Justice in Chiapas*, p. 79.

The distance, trajectory and caliber matches the place and calibers of the weapons that Second Lieutenant Jiménez Morales was carrying that day, according to the testimonies and the weapons log carried by the troops of the Fifth Company, dispatched by the command of the Seventy-Third Infantry Battalion, from which it is inferred that the officers were carrying their respective machine pistols MP-5, in addition to their regulation weapons on the day of the events. It thus remains clearly demonstrated that Second Lieutenant Jiménez Morales is probably responsible for the commission of the crime of violence against persons resulting in homicide, in accordance with the criminal specification contemplated in article 330 of the Military Code of Justice, and related to article 302 of the Penal Code for the Federal District, because he needlessly used arms against eight unarmed civilians, not involved in any act of provocation at the moment in which they were deprived of life, and even taking into account that [the soldiers] were being attacked with firearms from the hospital, it is also true that, as of moments before they had gained control of the clinic and in fact they did not find any armed person inside, nor any weapons; nonetheless, the officer deprived eight civilians of their lives...²³

The military prosecutor's report also notes the presence of three additional bodies—victims, it asserted, of crossfire between the soldiers and the Zapatistas.²⁴ As noted above, the prosecutor thus concludes that due to the death of Jiménez Morales, the military investigations to determine responsibility for the deaths should be terminated and the case archived.²⁵

While the acknowledgment of military responsibility in this case represents an important first step towards establishing the truth about human rights violations committed by the Mexican military, the prosecutor's report and the suspicious circumstances of the death of the only individual accused raise many doubts which can only be addressed by an independent civilian judicial investigation.

III. THE ALLEGED SUICIDE OF SECOND LIEUTENANT JIMENEZ MORALES

In a report issued on April 18, 1994, a military prosecutor describes the death of Second Lt. Arturo Jiménez Morales.²⁶ Called by his superiors to testify about the events at the clinic in Ocosingo, Second Lieutenant Jiménez Morales reportedly arrived at the Ministry of Defense at approximately 9:00 A.M. on April 14, 1994. After waiting until 11:00 A.M., he met for approximately one hour with Infantry Lt. Col. Ramón Isidro Ortega Cardoso Salinas, chief of the technical section of the Ministry of National Defense. At noon, Jiménez was called to meet with Brig. Gen. Armando Arturo Núñez Cabrera, the general assistant to the subsecretary of defense.

That evening, Jiménez Morales met again with General Núñez Cabrera. The report contains no mention of what occurred between the noon meeting with General Núñez Cabrera and their discussion that night:

[A]t approximately 8:00 P.M. the same day, they returned to call said Officer Jiménez Morales, and Lieutenant Colonel of the Air Forces "Abastecedor de Material Aéreo Diplomado de Estado Mayor Aéreo" Alberto Amado Ochoa, who was performing the duties of service assistant for the day in the Undersecretary's headquarters, observed that the now deceased Jiménez Morales was speaking with General Núñez Cabrera, at

²³ *Ibid*, p. 5.

²⁴ *Ibid*.

²⁵ *Ibid*, pp. 5,7.

²⁶ Decision on Suicide, following inquiry by Second Assistant Captain of Military Justice and Attorney Moisés Reyna Montalvan, Military Public Ministry Agent at the First Military Zone.

approximately 11:00 P.M. on the 14th of this month, during which conversation the general said to the officer that there was no problem, that he could stay the night, and then General Núñez Cabrera withdrew...²⁷

The report does not explain what was discussed at this or previous meetings. If the purpose was to take a formal declaration from Second Lieutenant Jiménez Morales, regarding the murders at the Ocosingo clinic, then it remains unclear why these particular officers would take his statement, rather than the military prosecutor named to the Ocosingo clinic case or any officer from the office of the attorney general for military justice. Nor is it clear why General Núñez Cabrera told Second Lieutenant Jiménez Morales that he could spend the night on the grounds of the Ministry of Defense. Given the fact that Jiménez Morales's body was later found with over 2,000 new pesos (at that time worth more than US\$700), he clearly could have afforded to spend the night elsewhere.

The prosecutor's report describes how the Ministry of National Defense was locked up for the night, and Jiménez Morales was reportedly provided with a place to sleep:

²⁷ *Ibid*, p. 2.

[A]t approximately 11:40 P.M., Citizen Lieutenant Colonel Amado Ochoa ordered Lieutenant Barraza Barrera to proceed in closing the main gate of the Headquarters of the Undersecretary of Defense [located on the same campus as the Ministry of Defense] as is usually done every night at the time that the last chief retires, and the duty officer carried out this order, locking the gate with a key; while the rest of the personnel who were on duty in the branch office went to their offices to get ready to rest, and Lieutenant Barraza Barrera offered some cake and a drink to the now deceased Jiménez Morales; also, he furnished an olive green blanket to him so that his stay in the office would be more comfortable; also, the duty officer told him that he could take the cushions from a reception room chair so that he wouldn't lie directly on the floor; which is what the now deceased Jiménez Morales did, and then he rested in the technical section office located within the Undersecretary's headquarters, arranging the four green cushions, also using the bedcover of the same color, and he shifted his Korean cartridge belt to his left side and leaned back...²⁸

But in a disturbing passage, the military investigation reveals circumstances that call into question whether Jiménez Morales remained in the Ministry of Defense by his own choice:

At 3:30 A.M. on April 15, 1994, Corporal Assistant Porter Marcelo Ornedas Zepeda, who was performing the orderly service, at the moment when he got up to go to the bathroom and after leaving it, saw that Officer Jiménez Morales wanted to leave by the main gate of the Undersecretary's headquarters, but as he couldn't do it, he asked Corporal Ornelas Zepeda to open the gate because he needed to go out to see some relatives. Once Corporal Ornelas Zepeda told him that he would request authorization from the duty officer who was in charge of the key, Jiménez Morales stopped asking for the key ...²⁹

In an odd turn of events, according to the report, Jiménez Morales then decided to take a bath in a fourth-floor bathroom.³⁰ Fifteen minutes later, Corporal Ornelas Cepeda reportedly "took the keys to the main gate...and proceeded to report to the duty officer that the now deceased Jiménez Morales had tried to leave the dependency and was unable to do so..."³¹ This chain of events raises several questions: Under what circumstances did Jiménez Morales spend the night at the Ministry of National Defense, since his behavior would seem to indicate that he did not wish to be there, and that he wished to communicate with some family members? Why was he not immediately permitted to leave the premises when he expressed a desire to do so? If he had confessed to having extra-judicially executed eight civilians, why was he not immediately taken into custody and turned over to the military prison authorities? If he was in custody in relation to these criminal acts, why was he allowed to keep his weapon?

Shortly after Jiménez Morales reportedly retired to the bathroom, Lieutenant Barraza Barrera allegedly knocked on the bathroom door and discovered that it was locked. He reportedly spoke to Jiménez Morales, who told him that he was going to take a bath, and then, according to the military investigators report, Barraza Barrera retired to the office of the duty officer. At approximately 4:00 A.M. on April 15, Barraza Barrera reportedly heard a "dry blow" (*golpe seco*), "as if something had fallen," and therefore checked the nearby area for any irregularity, without finding any. The military account continues:

²⁸ *Ibid*, pp. 2-3.

²⁹ *Ibid*, p.3.

³⁰ *Ibid*, pp. 3-4.

³¹ *Ibid*.

[A]t approximately 5:00 A.M. on the 15th of this month, the duty officer realized that Jiménez Morales was not to be found in the place where he had been resting, so he then looked for him in the bathroom, knocking on the door several times without receiving any response. Immediately after, Lieutenant Barraza Berrera went to get the keys that were under the guard of the duty officer of the branch office, taking several keys, and tried to open the door of the bathroom with them until he succeeded in opening it, accompanied by Corporal Ornelas Zepeda. Upon opening the door of the mentioned bathroom he realized that the deceased Second Lt. of the Infantry Arturo Jiménez Morales was seated on the toilet with the right part of his body leaning against the bathroom wall and on the part of the floor brain fluids could be seen³²

Lt. Col. Alberto Amado Ochoa was advised of what had happened, and proceeded to notify the Defense Ministry's medical service.³³ Major Pablo Enrique García Sánchez (M.D.) arrived on the scene at 5:10 A.M. and determined that Jiménez Morales was dead.³⁴

The death of Jiménez Morales was declared a suicide. The text of the alleged suicide note is as follows:

*Second Infantry Lt. Arturo Jiménez Morales. Everything I stated is the truth, what I regret is leaving my family abandoned, all in order to comply, in some way, with an order. Inform Mrs. Irene Tapia Pérez in the military housing unit in Tenosique and Mrs. Alberta Morales Orea, she is my mother, at the telephone number [telephone number withheld by Human Rights Watch/Americas]. - Irene forgive me for leaving you alone and I ask forgiveness from my children but I am not going to withstand this punishment that God is inflicting on me. Take care of my children, I adore them, and don't suffer on my account; it isn't worth it. Seek my mother's company, she loves the children and will know how to help you. Find a partner so that you can be happy. I leave you 2,390.00 new pesos - I hope they give them to you. Goodbye my love, I'll wait for you in the beyond, [ended by an illegible signature.—]*³⁵

Like the investigation into the Ocosingo killings, this inquiry was marred by serious flaws in methodology, mainly a failure to pursue physical evidence or to logically interpret that evidence. For example:

- According to the military report, a medical examination of the body showed a contact wound to the right temple.³⁶ Because chemical tests showed metallic residue on both of Jiménez Morales's hands, but not on the hands of others present in the Ministry of National Defense, the report concluded the probable cause of death was suicide. The report did not provide a list of all those present, nor did it contemplate the possibility that an individual might have committed the crime wearing gloves. The presence of residue on the hands of the deceased is not definitive evidence of his having killed himself, since merely handling a weapon can also leave metallic traces.

³² *Ibid*, p.4.

³³ *Ibid*, pp. 4-5.

³⁴ *Ibid*, p. 5.

³⁵ *Ibid*, p. 8.

³⁶ *Ibid*, pp. 6-7.

- The military investigator's conclusions also failed to take into account potentially significant expert testimony contradicting Lieutenant Barraza Barrera's contention that the door to the bathroom was locked at the time of death. That is, the report cites—but does not pursue the implications of—the opinion of military criminology experts who concluded that "based on the blood traces [*gotículas hemáticas*] caused by spattering observed in the area immediately outside the bathroom, ...the door to the aforementioned place was open at the time of the incident."³⁷
- The opinion of suicide was also based on the reported lack of evidence of any struggle, and a suicide note attributed to Second Lieutenant Jiménez Morales. The military investigator consulted with handwriting experts who concluded that the note had in fact been written by Jiménez Morales, based on a comparison with his inscription papers written in 1985. No effort was made to consult with the lieutenant's relatives to determine whether they recognized his writing, or if they knew of depression or suicidal tendencies on the part of the deceased.³⁸
- According to the military report, Lieutenant Jiménez Morales confessed to the killings; it therefore reflects a grave failure on the part of the military authorities that he was not immediately detained and relieved of his weapon after admitting to such a heinous crime.
- Finally, there was no elaboration of the possibility that Lieutenant Jiménez Morales was pressured to admit his responsibility for the massacre in Ocosingo, or to write a note to his family and commit suicide.

IV. ARMY INVESTIGATIONS INTO OTHER CASES DOCUMENTED BY HUMAN RIGHTS WATCH/AMERICAS

The internal investigations conducted by army prosecutors into other cases of human rights violations documented by Human Rights Watch/Americas exonerate the army of responsibility, but the military investigations are notably flawed.

The Ocosingo Market Case

Reporters visiting Ocosingo on the morning of January 4, 1994, discovered five bodies lying face down in the marketplace, where a fierce gun battle had taken place between the retreating EZLN and the Mexican army. According to the *New York Times*, the victims had been "shot at close range in the back of the head, their hands behind them and short lengths of nylon rope beside them. One still had his hands tied."³⁹ On April 7, 1994, the Federal Attorney General's Office (PGR) issued a press bulletin on the case. On the basis of its own investigations and those conducted by the military prosecutor, the PGR confirmed that the victims had been summarily executed but exonerated the army of responsibility. This finding was based largely upon on the Mexican Army's insistence that it's troops had not reached Ocosingo by the time the killings took place. However, the evidence cited by the PGR to support this conclusion was both incomplete and contradictory.

³⁷ *Ibid*, p. 9.

³⁸ Decision on Ocosingo Clinic and Decision on Suicide.

³⁹ Tim Golden, "As Mexican Army Pursues Rebels, Fears Arise Over Rights Abuses," *New York Times*, January 6, 1994. See also Human Rights Watch/Americas and Physicians for Human Rights, *Waiting for Justice in Chiapas*, p. 69.

The documents reviewed by Human Rights Watch/Americas during its April 8, 1995 meeting at the Ministry of Defense, show that the army investigation of the Ocosingo market case has stagnated, and there is little hope of progress on the case unless it is reopened by an independent investigator. Ironically, in its investigation of the killings at the Ocosingo clinic, the army has confirmed that army troops were present in Ocosingo at the time of the executions in the market (estimated by the PGR to have been between 2:00 P.M. and 3:00 P.M. on January 2). In its April 7 statement, the PGR denied that army troops had reached Ocosingo by that time. According to the military prosecutor's report, however, on the clinic massacre, "On January 1, Infantry Colonel Hermelindo Lara, the commander of the Seventy-Third Infantry Battalion, was ordered to prepare his troops to travel the following day to Ocosingo, where they arrived at approximately 3:00 P.M. In the next hour, Brigade Gen. Juan López Ortiz, the commander of the grouping, ordered the Seventy-Third Battalion to the southeast side of the city to prevent the Zapatistas from fleeing in that direction"⁴⁰ According to this statement, the troops could have been present at the marketplace when the killings occurred.

The Morelia Case

On January 7, 1994, Severiano Santiz Gómez, Sebastián Santiz López and Hermelindo Santiz Gómez, were detained by army troops in the *ejido* of Morelia, a Tzeltal indian village near Altamirano. According to eyewitnesses, soldiers brutally tortured the three men in the village sacristy, and they were later taken away to an unknown destination in a green armored personnel carrier bearing a red cross. Their remains were discovered on February 10, scattered over a wide area in a gully near the dirt road linking Morelia and Altamirano. On the basis of a detailed examination of the remains, which included DNA "fingerprinting" techniques, Physicians for Human Rights concluded that the remains were "generally consistent with Hermelindo Santiz Gómez, Severiano Santiz Gómez, and Sebastián Santiz López."⁴¹

On two occasions during the time that the PGR, the CNDH and Physicians for Human Rights consultant Dr. Clyde Snow⁴² were independently examining the remains, or seeking to do so, the army illegally seized the bones and conducted its own examination. On visiting the Altamirano municipal office on February 13 in search of the remains — which had been intercepted by the army en route to the State Attorney General's office — Dr. Thomas Crane, a PHR consultant who worked alongside Dr. Snow, "found fifteen armed soldiers, some wearing surgical gloves, busily jotting down notes as they weighed and photographed the confiscated bones and clothing. They turned out to be a team of military forensic specialists flown in from Mexico City."⁴³ An army forensic team again took control of the remains on February 20, when CNDH scientists, who had set out to return them to the residents of Morelia, were detained and questioned for five hours at an army checkpoint in Altamirano. The army team conducted its second examination on the following day.

On the basis of these examinations, the army has officially denied the identification made by the victims' relatives and by PHR's independent forensic investigation. According to the letter from the attorney general for military justice addressed to the "President of the U.S. Congress," (mentioned previously): "It was established that said remains belonged to people who died long before, the most recent eight months ago and the oldest thirty-six months prior to February 21, 1994, when the examination was conducted. In addition, the scientists assigned to the case concluded that some of the bones belonged to animals like the tepezcuintle and the spider-monkey."⁴⁴

⁴⁰ Decision on Ocosingo Clinic. p.3

⁴¹ Human Rights Watch/Americas and Physicians for Human Rights, *Waiting for Justice in Chiapas*, p. 92.

⁴² Dr. Snow is a distinguished American forensic anthropologist who is well known for his expertise and knowledge of human skeletal variation in medicolegal investigations.

⁴³ Human Rights Watch/Americas and Physicians for Human Rights, *Waiting for Justice in Chiapas*, p. 88.

⁴⁴ March 10, 1995, letter from the attorney general for military justice addressed to the "President of the U.S. Congress," p. 11.

In the above case and in several others—including a separate incident involving the alleged rape on June 4, 1994, of three Tzeltal sisters at an Altamirano army checkpoint—the army accused human rights groups, including the CNDH, of using "countless subterfuges and lies" to undermine the army's prestige and to prejudice national and international opinion against it.⁴⁵ Denying the rape allegations, it accused the Mexican political weekly magazine *Proceso* and the daily newspaper *La Jornada* of using the alleged victims to "stain the army's image and prestige."⁴⁶

In view of the gross inadequacy of the army investigations into these cases, Human Rights Watch/Americas repeats its appeal to the Mexican government to investigate summary executions in the Ocosingo and Morelia cases, as well as the alleged rape in Altamirano, and to ensure that those responsible for these violations are brought to justice.

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Human Rights Watch/Americas

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⁴⁵ *Ibid.* p. 13.

⁴⁶ *Ibid.* p. 12.