



Centro de Derechos Humanos
Fray Bartolomé de Las Casas, AC

**EXECUTIVE SUMMARY *THE LEGALITY OF THE
INJUSTICE***

La Legalidad de la Injusticia



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PRESENTATION OF THE REPORT

The following summary is intended to give a short overview of the report: *La Legalidad de la Injusticia* (The Legality of the Injustice) and show in few words the human rights situation in the state of Chiapas in Mexico.

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THE STATE OF THE GOVERNMENT'S STRATEGY IN CHIAPAS: FROM THE ACTEAL MASSACRE TO THE PRESENT

During the first seven months since the appointment of the new governor, Roberto ALBORES GUILLEN, the human rights situation in Chiapas deteriorated as a result of government-sponsored violence. This report analyzes the period between January and July 1998 in terms of four different moments or stages in the evolution of the government's strategy of Low Intensity Warfare.

The first phase, The Re-Structuring, began with the new federal and state cabinet selections, most of which were made within the first twenty days of Mr. ALBORES' appointment as the new governor of Chiapas, following the political fallout surrounding the massacre in Acteal, Chenalhó, on December 22, 1997. The military quickly expanded its presence in the area of Chenalhó, bringing in several thousand troops in the name of re-establishing order and to carry out a campaign to "disarm" the civilian population. This period involved many high level strategy sessions within the restructured state and federal cabinets, the results revealing themselves in the following months.

The second phase, The Search for Legitimacy, involved the growing subordination of police tasks to the command of federal forces, under the leadership of the Mexican Army; an increasingly integrated government effort to coordinate its political, security, economic, and social policies in the region and a major public relations offensive seeking to discredit opposition movements and leaders while legitimizing the expanded authority and presence of the military. The "search for legitimacy" in the context of democratic politics involved the incorporation of demands from political opposition and popular movements (e.g. an opening of political space), however, the flipside of that coin was that, as a consequence of its commitment to low-intensity warfare, the government also closed political spaces, as it sought to further polarize political and social forces into two hostile camps. Along these lines, the government began a systematic effort to remove foreign observers from the conflict zone to reduce the capacity of the international human rights movement to monitor and criticize its actions.

The third phase, Institutionalizing the New Law and Order, involved the implementation of actions of repression and new forms of control against oppositional municipalities, especially the "autonomous" municipalities established by Zapatista civilians. In this phase, we observed the growing integration of selective and mass acts of repression, representing a new development in the low-intensity war, a consequence of the government's more tightly integrated policies.

The fourth phase, The Resumption of Hostilities and the New Impasse, began with the political fallout generated by the massacre at El Bosque (June 10th), on the heels of the June 7th dissolution of the CONAI. The level of violence deployed in this joint military-police operation represented a clear violation of the ceasefire agreed to on January 12, 1994 and generated strong domestic and international criticism. Following these events, the



government made a tactical retreat in terms of its efforts to dismantle the autonomous municipalities, coinciding with the onset of the rainy season and statewide elections scheduled for October 4th.

The re-structuring (January 1998)

On January 7th, as a consequence of the massacre at Acteal, Chenalhó (December 22, 1997), Mr. ALBORES GUILLEN became the new governor of Chiapas at a very delicate political moment. The Mexican government's strategy of Low Intensity Warfare (LIW), implemented with the close coordination of the previous governor of Chiapas, Mr. Julio Cesar RUIZ FERRO, changed its focus after the Acteal Massacre. The changes included the following developments: a massive increase in the number of federal army troops in the conflict region; a new wave of military operations in Zapatista communities; government petitions for "direct dialogue," ignoring national mediation structures previously established; a media-intensive xenophobia campaign; and a new dynamic of paramilitary activity.

The hope expressed by certain sectors, that with the massacre of Acteal the violence implemented by the authorities had reached bottom, proved wrong. Instead, the abominable crime of the tzotziles belonging to paramilitary groups served to implement a higher level to the war, changing its intensity.

Thus, Mr ALBORES, the new substitute governor, began his cabinet changes, given that many of the bureaucrats of the previous regime had been identified by the National Human Rights Commission (CNDH) for their responsibility in the Acteal massacre. It is worth recalling that at the moment Mr. ROBLEDO RINCON was substituted by Mr. Julio Cesar RUIZ FERRO, there were no immediate cabinet changes.

In this first phase, the principle agent of repression and human rights violations was the National Mexican Army (ENM). Soldiers penetrated into indigenous communities, broke into dozens of homes, and in some cases homes and worktools were deliberately destroyed. Illegal checkpoints were installed and declarations were made that led to a lynching atmosphere against the National Mediation Commission (CONAI) and its president Bishop Samuel RUIZ. In this phase, many of the operations carried out in the indigenous communities were characterized by intimidation and the overwhelming show of force.

In this moment, the government's publicity campaign focused on shifting the attention of public opinion away from the circumstances surrounding the Acteal massacre and the thousands of newly displaced people within the municipality of Chenalhó. The phenomena of massive displacements as a result of paramilitary violence was not exclusive to Chenalhó. According to figures from the CONAI, between 1995 and today, more than 5000 people had left their home communities in the Northern Zone of the state, to seek refuge in the mountains or in other communities. For its part, Chenalhó had more than 11,000 displaced people in this first stage. The socio-psychological and socio-economic consequences were and are in fact extreme and generated violations of economic, social and cultural rights. This was another factor in the growing social and political instability and a source of the long term deterioration



of the social fabric. Massive displacements are not a mere consequence, but a fundamental goal of the counterinsurgency strategy.

The federal government assumed the role of "retraining" of the Public Security Police, following the murder of Mrs. Guadalupe MENDEZ LOPEZ, the injuring of Lazaro LOPEZ VAZQUEZ (18 years old), and of an infant, perpetrated by elements of the Public Security Police in Ocosingo on January 12, 1998. But there were contradictory expressions of strategic readjustment. While the Mexican Army declared, via the Commander of the VII Military Region, that it would be carrying out a campaign of disarmament, including the disarmament of the EZLN (in violation of the law for the Dialogue), it also stated that it had no knowledge of the existence of paramilitary organizations operating in Chiapas. But, on at least two occasions, the office of the Attorney General publicly acknowledged the existence of at least twelve paramilitary groups operating in Chiapas (December 26th , 1997 and January 23, 1998). With time the various branches of the government involved in the issue of Chiapas would coordinate themselves more effectively, under the leadership of the Mexican Army.

The search for legitimacy (January-march 1998)

In the last six years, Chiapas has had six governors, four of the six designated by the state's PRI majority in congress. For many years now, the legitimacy of political power in Chiapas has been questionable. The lack of legitimacy has translated into a loss of social and political control. In the case of Mr. ALBORES, the situation was particularly delicate given that his appointment followed the resignation of the interim governor preceding him, Julio Cesar RUIZ FERRO, shortly after the Acteal Massacre.

In an effort to achieve legitimacy, Mr ALBORES GUILLEN presented a peace proposal which, being a unilateral proposal, served only publicity reasons. It was published and disseminated in an effort to attract public support, knowing full well that there would be no EZLN reaction. This would serve to justify a publicity campaign against the EZLN by pointing out that it was they who did not seek peace. A plebiscite was organized in support of the proposal with vague questions and a ballot count of dubious credibility.

The State Government consolidated its work with the Federal Government and began to combine selective violence with the goal of creating a climate of generalized fear in all opposition sectors. The government worked to polarize the organized sectors of society into two hostile camps, through various forms of political pressure, media campaigns and the continued use of selective violence. One sign of this was the assassination of Mr. Rubicel RUIZ GAMBOA, leader of the Democratic State Assembly of the Chiapan People (AEDPCH) in the state capital of Tuxtla Gutierrez (January 28, 1998), and the death of campesino leader Marco Antonio GOMEZ FLORES in a suspicious accident in Ocosingo the following day (January 29, 1998). Another sign of this strategy was the March 6th arrest and detentions of 89 members of the Union Nacional Lombardista (UNAL). This arrest occurred after 46 prisoners escaped from the Ocosingo jail, presumably with the support of UNAL members.



Utilizing more conventional forms of political pressure, the government broke off ties with numerous non-PRI-based social and campesino organizations that had a discourse sympathetic to the EZLN, but had maintained working relations with the previous government of RUIZ FERRO.

Another expression of the new government offensive was the open attack against foreign human rights observers or those engaged in humanitarian projects in Chiapas with the new indigenous movements. The government and its supporters in the press referred to them as "revolutionary tourists", "guerrilla collaborators", "interventionists" and "violators of national sovereignty", among the most prominent terms. Beginning in February, through the notable assistance of the corporation Televisión Azteca, the federal government began a major xenophobia campaign that preceded and then continued as the National Migration Institute (INM) began a series of illegal expulsions of foreigners from the national territory (p.18, pp.73-77). Under the pretext of having carried out "unauthorized activities" or "politics" in Chiapas, at least 185 foreigners were expelled during the first seven months of 1998, including 141 Italians and 8 United States citizens. Threats and attacks against the Catholic Diocese of San Cristobal also increased, a new element being the growing role of high federal officials, including President ZEDILLO, Secretary of the Interior Francisco LABASTIDA, and the General of the VII Military Region in Chiapas who openly attacked the Diocese, especially Bishop Ruiz,

One of the most illuminating cases of expulsions was that of the French missionary priest, Rev. Miguel CHANTEAU. After having worked for thirty-two years as a priest in Chenalho, including with the Catholic pacifist organization of Las Abejas (victims of the massacre at Acteal), he was detained on the 26th and expelled on the 27th of February, without the right to defend himself. An "spontaneous" government press conference was held in which an impostor posed as the French priest moments before Rev. CHANTEAU was sent off on a flight to Paris. The farce, prepared by the Secretary of the Interior, consisted of an individual (with an Italian accent) making perverse statements to the official press. The photo of the imposter was released the next day on the front page of some newspapers with the official version of the story. (pp.55-57, 66-72, 115-118).

Also Tomas HANSON, a United States citizen, was practically kidnapped and deported immediately in a procedure full of irregularities.

During this period, the Mexican Army continued to extend and intensify its presence throughout the state of Chiapas, installing new military base camps and garrisons. There were now over 60 municipalities with a significant military presence. The massive military presence and constant patrols and exercises in and around the indigenous communities in resistance has been one of the fundamental elements of the Low Intensity War. The goal of the permanent military presence is to produce a political-psychological change in the opinions, emotions, attitudes, and behavior of the targeted population, to reduce their physical and psychological capacity and will to resist and to shift their loyalties towards the



government and its allies. But a permanent military presence in civilian areas also represents a basic violation of a people's right to live in peace (pp.85-86, 96).

In Chenalho, the military's expanding presence increased tensions in the area, exacerbated by the illegal takeover of campesinos' properties to accommodate its growing spatial needs. In the municipality of Chilón, the military's invasion of the community of San Jeronimo Tulilija, on February 28th also generated serious tensions. After a brief lull following Acteal, the paramilitaries also reemerged, with a new group "Los Puñales" (The Daggers) appearing in the region of Amatenango del Valley and around Comitán. Meanwhile, the paramilitary organization Paz y Justicia went on a public relations offensive, defending its right to bear arms, while publishing a book entitled "Neither Rights nor Humans", justifying its violent activities in the name of "self-defense." It was in this context that on February 21st, Mr. José Tila LOPEZ GARCIA, a Catholic catequist, was assassinated by members of Paz y Justicia (p.39, pp.119-121), just hours after having presented his testimony to the European-based International Civil Commission for Human Rights Observation, touring the conflict zones as part of a two-week investigation between February 15 and 28. At the same time military operations by the National Mexican Army increased in the tojolabal area of La Realidad, with low level flights of planes without any insignia or license number. This violation of international accords converts the unmarked planes into "pirate ships".

Finally, President ZEDILLO presented a proposal before the Senate for a new indigenous law, which differed significantly from that put forth by the COCOPA, the legislative commission for the dialogue between the government and the EZLN. Because it reduced the exercise of indigenous people's rights to the communities, ZEDILLO's initiative violated the spirit of that agreed to by the government and the EZLN at San Andrés, broke with the fundamentals of the COCOPA proposal and it was contrary to the international commitments Mexico assumed in signing the Accord 169 of the International Labor Organization. Moreover, the initiative talked of the Constitution "granting" rights to the indigenous peoples instead of "recognizing" them, as was agreed in San Andrés. ZEDILLO's proposal also did not recognize the jurisdiction of indigenous people, nor their right to territory. It omits the mechanisms established by the San Andrés Accords and by the Agreement 169 of the International Labor Organization to define as indigenous a municipality, a community, an auxiliary organ of the village council or similar body. It does not recognize indigenous communities as "entities of public law;" as does the text of the COCOPA and the San Andres Accords, nor does it recognize the right of indigenous people to define the procedures for the election of their authorities (CONAI, March 17, 1998, "In Defense of the Indigenous Peoples, Peace Negotiations, and the San Andres Accords").



Institutionalizing the new Law and Order (April-June 1998)

With each repressive act by Patrocinio GONZALEZ GARRIDO, exgovernor of Chiapas, it was argued that these actions were carried out in order to establish the "Rule of Law". RUIZ FERRO, in his time, would publish shows of support in local newspapers for his government and the police actions it implemented which gravely violated human rights. Under the governorship of Mr. ALBORES, similar justifications have been used as the pace of repression increased.

This period involved a rapid acceleration in the number and scale of police-military operations, deepening the process initiated in the first months of the year. The federal government continued its xenophobic campaign in the mass media and, through the actions of the National Migration Institute, the intimidation of foreigners. The Mexican Army increased military operations and established even more bases. Most importantly, the government executed a series of large, highly coordinated police-military operations, closely accompanied by media campaigns justifying these actions, repeating the same messages as in the past, though such operations involve clear violations of the most fundamental human rights.

In brief, military operations and incursions were carried out in the tzeltal community San Jerónimo Tulijá, municipality of Chilón; in the tzotzil neighborhood La Hormiga, in San Cristobal de las Casas (April 8th); the communities of Taniperla, in Ocosingo (April 10th and April 13th); Diez de Abril, in Altamirano (April 14th); Amparo Aguatinta, in Las Margaritas (May 1st); Navil, in Tenejapa; Nicolas Ruiz, in the municipal capital (June 3rd); and finally in El Bosque (June 10th). A common denominator was that all these actions were carried out with overwhelming force, using a mix of Public Security Police, elements of the Army, Immigration Agents and federal and state police, revealing the tight coordination of federal, state and local security forces. Some of these actions also involved agents from the District Attorney's office and at times a Public Notary.

Official justifications for the raids varied from case to case, though in all cases it was under the global pretext of restoring the "Rule of Law". In the case of Nicolas Ruiz, on May 21st, two weeks prior to the raid, a high government official accused "catequists of the Diocese of San Cristobal" of being "the instigators" of an action that had kept the community in "a state of siege"(p.36). In the case of Amparo Aguatinta the government claimed to carry out the raid to "liberate" a Guatemalen who was allegedly "kidnapped," two days before, though they illegally detained 53 people, 45 of whom were freed after two days in detention, the other eight were Guatemalen and were deported!. In the case of Taniperla, the first raid involved the detention, among others, of Luis MENENDEZ MEDINA, a member of the Human Rights Center "Fray Pedro Lorenzo de la Nada" (CDHFPLN). He was detained not because of an arrest warrant, but because the security forces had his name on a list. He had previously documented numerous cases of human rights violations by the Mexican Army in the area of Ocosingo. (p.53)



Despite the massive size of these police-military operations, in the majority very few people were actually arrested. But in all cases, there was significant destruction of people's homes and private property. This practice has no legal basis in a raid carried out in the name of restoring law and order, it is rather a classic element in military attacks. In one instance, a witness testified that one of the public Notaries that accompanied the raid at El Bosque actually enjoyed food and beverages from a small store destroyed and robbed during the operation (p.17). The amount of damages during these raids is difficult to calculate, there was tremendous variation from community to community (Nicolas Ruiz, 150,000 pesos; Navil, 51,000 pesos; Amparo Aguatinta, 20,000 pesos). But in none of the cases did the public notary witnessing these raids attempt to assess the damages to civilian property.

At this moment, it became clear that the massacre at Acteal was not the culmination of three years of government's counterinsurgency strategy, but rather served as a bridge towards a more comprehensive, openly official, if more sophisticated violence: where the state utilizes all its resources to immobilize all forms of opposition; where the essence of the violence is directed not only against the EZLN, but towards campesino organizations, civil society, leaders of the political opposition and established mediation institutions. A certain level of repression has always been a fundamental part of the government's political interaction and communication in Chiapas. But the strategy of low-intensity warfare, with its roots based in the massive military presence in the conflict zone, has created the governmental infrastructure for the deployment of a more complex variety of repressive forms of harassment, intimidation, threats and actual physical violence. In brief, during this phase the strategy of low-intensity warfare, under the leadership of the Mexican Army, began to operate on all fronts, with all its negative consequences for democracy, human rights, and the search for a negotiated settlement to the conflict in Chiapas.

The recommencement of hostilities and the new impasse (June-August 1998)

The events of El Bosque on June 10th represent an ambiguous climax to the logic of the previous phases, where a military-police raid left ten dead (including two government agents), and at least 53 indigenous arrested, some of whom were tortured during their incarceration by the police. The bodies of the indigenous were returned to the community several days later in horrible states of decomposition, showing signs of mutilation, generating outrage within the community as well as among national and international observers of the event. For the first time since 1994 the Mexican Army had openly engaged in a direct military-style attack upon an indigenous community. It is true that on February 9th, 1995, there were certain military confrontations between the army and the EZLN, however, never, since the cease fire of 1994, had a situation similar to this presented itself. (pp.41-45).

The El Bosque attack generated a new political crisis, in part because it followed within a few days of the June 7th dissolution of the CONAI. The logic behind the CONAI resignation seemed confirmed by the El Bosque events: the government's abandonment of its previous commitment to the peace process, and its aggressions against CONAI and the Catholic Diocese of San Cristobal. Bishop Samuel RUIZ, President of CONAI and the President of the



Fray Bartolomé Human Rights Center summarized the government's aggressions against the Catholic Church in the following manner: "the expulsion of seven priests on false accusations; denial of residency for religious workers; imprisonment of four priests falsely accused and with clear violations of their human rights; the closing of 40 churches (some of them occupied by the Mexican Army); the arrest warrants for numerous priests, religious workers, and missionaries; the pressuring of campesinos to testify that the Catholic Diocese of San Cristobal delivers arms to the communities indicate that this religious persecution is directed not only at our Diocese, as a pretext for discrediting the Mediation process for the dialogue, but against the Catholic Church of the whole country" (p.10).

Following the massacre of El Bosque there was a pause in the raids against the autonomous municipalities. Instead, a new public relations offensive against nongovernmental organizations (NGOs) and the efforts of the COCOPA was undertaken. Contradictory signals came from the Secretary of the Interior and the office of the President in relation to proposals for a new mediation. Although the CONAI was now dissolved, the President continued to attack it, military patrols intensified in certain regions and paramilitary activity once again reasserted itself, above all in the region of Las Cañadas (see Reforma, July 9th, 1998). Again, there were contradictory messages concerning the existence of the paramilitaries. On June 27th, the Governor of Chiapas said they did not exist. On July 1st, the President of the Republic said they did exist (p.79).

The lull in the actions of repression were partly the consequence of international and domestic pressure, but also due to the onset of the rainy season and government efforts to create a more "legitimate climate" for statewide elections on October 4th. Nevertheless, during this new impasse selective acts of repression continued, and the overwhelming military presence was maintained.



CONCLUSIONS

Overall, the new government offensive against the EZLN support bases and other indigenous organizations, nongovernmental organizations and international observers has made the political situation in Chiapas more complex and dangerous. The police-military operations realized in Chiapas - with overwhelming displays of force - make us reflect upon the just and the legal, the unjust and the illegal. It is ethically and legally unacceptable that in the name of legality one acts against it, against human rights, and against justice. Thus, the behavior of government authorities in Chiapas during this period has been characterized by a fundamental contradiction: the "legality of injustice" (Enrique Dussel, *Para Una Etica de la Liberación Latinoamerica*, 1973, p.66).

The role of the authorities entrusted with the prosecution of justice and the guarantee of social order, public and national security is one of defending the law. To defend the law they must respect and act within it. The legitimacy of the law depends upon its impartial application: it cannot be used as a resource a government applies to some groups (the opposition), while others (those loyal to the system), enjoy total impunity.

During this period, the state and federal governments viewed the installation of autonomous municipalities in Chiapas as illegal acts that must be criminally prosecuted. Does the government intend to punish, in an equal manner, all of the indigenous that have participated in recent years in the creation and development of some 40 autonomous municipalities? Does it intend to punish in an equal manner all of the others who have at some time visited or participated within these communities? In Chiapas, the state and federal governments accuse the indigenous communities of having acted against the Constitution and of having engaged in acts against "national unity." At the same time, during the course of this campaign of repression against the autonomous municipalities in Chiapas, the development of autonomous municipalities in Oaxaca has become totally legal, where it is recognized that indigenous communities have the political authority to develop their own internal judicial-legal and normative systems of law and justice (Law for the Rights of the Indigenous Peoples and Communities of the State of Oaxaca, March 21, 1998).

The imprisonment of local promoters and members of human rights organizations indicates that the government views work for justice as an illegal activity. These actions also reveal the contradiction in the government's logic: in affairs of business and the economy, it seeks to unconditionally insert Mexico within the globalization process, but in political and social affairs it invokes "national sovereignty," isolating itself and moving against world trends in democracy and human rights. While the Human Rights Commission of the United Nations proposes before the General Assembly the elaboration of an international instrument that guarantees and safeguards the rights of human rights advocates, the government of Mexico signs the agreement but at the same time imprisons local human rights promoters and a member of a human rights organizations.



For several years now, human rights violations in Mexico, especially in Chiapas, has been an international concern. This preoccupation has become real not only in the public arenas of the international mass media and non-governmental organizations, but also at the level of foreign governments and their legislatures, and within international multilateral governing bodies, such as the Organization of American States and the United Nations. The situation of military aggression against oppositional indigenous communities, the grave and systematic violations of human rights in Chiapas, the complicity of the government with paramilitaries and the general problem of impunity has been investigated and witnessed by hundreds of foreign civilian observers that have visited communities in Chiapas in these past few years.

Thousands of foreign observers have returned to their countries and shared what they have seen and heard with their governments, media, and fellow citizens. Their presence in Chiapas has been, without question, an element that has limited the number and severity of repressive actions against these communities. Their testimonies, have steadily increased the level of international knowledge and concern about the reality of the conflict in Chiapas, especially as it relates to the human rights of the indigenous peoples. As a "protective shield from attacks and abuses against Mexican civil society, and a source of global dissemination about the reality of Chiapas, international observers have become an "annoying witness" for the government. What is truly behind the countless expulsions of foreigners: the alleged violations of the Constitution or the government's desire to rid itself of those who have denounced the government's racism, its abuse of authority, its complicity with the paramilitary groups and the impunity? In this context, national and international public opinion and foreign governments have not been naive: the government's tactic of expulsion has accelerated the pace by which Mexico's international image has deteriorated in the area of human rights.

During this period the government's behavior in Chiapas makes us wonder whether they have already forgotten the horrors of Acteal. The racism of the current policy prevails. It is the logic of those who want to leave Chiapas outside of the transition to democracy in Mexico, as if the creation of democracy in Chiapas was not a fundamental part of this national process.



RECOMMENDATIONS

1. That in applying the law and in establishing the Rule of Law, the federal and state governments do not ignore the subjective and ethical dimensions of the law, and thus avoid going against justice in the search for legality.
2. That the government cease its arbitrary detentions, forceful entries and incursions, psychological harassment, threats and violations of the human rights of indigenous communities.
3. That in carrying out their functions, the Mexican Army, and various local, state and federal police forces, act in clear compliance with the law, within their respective areas of jurisdiction and respecting human rights and the law.
4. That the Judicial Power of the State act with impartiality, independence and total compliance with the Law in the cases of people detained as a consequence of the recent political-military operations as well as with all political prisoners.
5. That Immigration authorities stop impeding and hindering the presence of non-mexican visitors and observers in Chiapas, that the corresponding visa be given to all foreigners who wish to come to our country to observe the human rights situation, and that their free transit be respected.
6. That the work of human rights organizations be respected and guaranteed, and that all human rights workers unjustly detained be freed.
7. That the Congress of the Union take an active and decisive role in the defense and promotion of human rights.
8. That the Congress of the Union, in creating legislation concerning the rights and culture of indigenous peoples, closely follow the San Andres Accords and the legislative proposal of the COCOPA, with the maximum participation and consideration of the opinions of the indigenous peoples in the legislative process itself.
9. That the national civil society participate with greater decisiveness and energy in working for a peaceful resolution to the war in Chiapas, while increasing its vigilance with respect to the defense and promotion of human rights.