AN AMERICAS WATCH REPORT

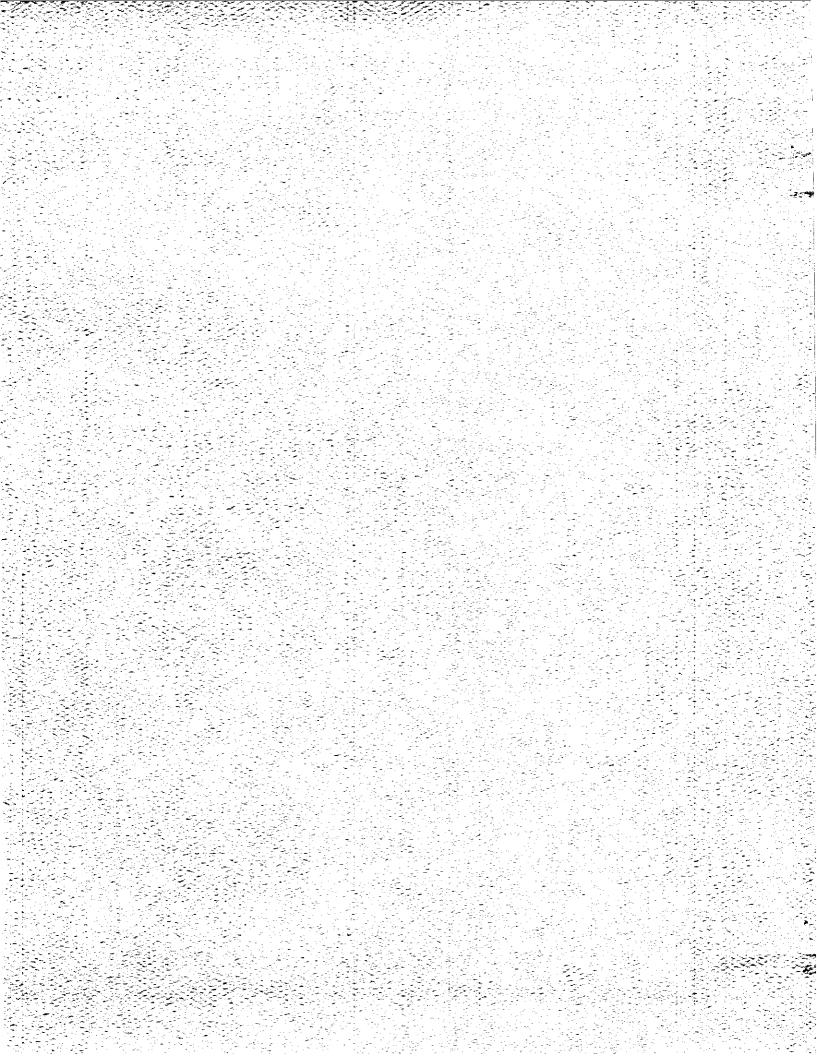


Creating a Desolation and Calling it Peace: May 1983 Supplement to the Report on Human Rights in Guatemala

"To robbery, butchery and rapine, they give the lying name of 'government'; they create a desolation and call it peace."

Tacitus, The Acricola

36 WEST 44TH STREET NEW YORK, NY 10036 (212) 840-9460



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PREFACE

On November 23, 1982, the Americas Watch published a report on Human Rights in Guatemala: No Neutrals Allowed.* That report was largely the result of a mission of inquiry to Guatemala and southern Mexico conducted by four representatives of the Americas Watch from October 17 to 24, 1982. We concluded in that report that the government of President Efrain Rios Montt had abandoned the rule of law and had imposed a rule that was both despotic and totalitarian. particular, we reported that the Rios Montt government recognizes no neutrals in its brutal counter-insurgency campaign against rural querrillas. Instead, the government offers traditionally apolitical Indian peasants "fusiles y frijoles" - guns and beans - meaning that those who are with the government are fed; those who are not with it, as evidenced by failure to form civil patrols or to provide information on the whereabouts of guerrillas, may not be allowed to live.

Subsequent to the publication of our November 1982 report, newspaper accounts appeared claiming that the Rios Montt government had succeeded in "pacifying" the Guatemalan countryside and in halting the killing. The U.S. Department

^{*}Available from the Americas Watch, \$5.00

of State cited those newspaper accounts in support of its claim that human rights abuses in Guatemala had been curtailed and that a resumption of U.S. military assistance was therefore warranted. To investigate the accuracy of those claims, two members of the Executive Committee of the Americas Watch went to Mexico from March 4 to 10, 1983 to determine whether refugees from Guatemala were continuing to cross the border and, if so, to find out why they had fled their homes. This report sets forth the results of that investigation and, in addition, updates our previous report with respect to executions, the continued exclusion of the International Committee of the Red Cross from Guatemala, and other developments.

The two members of the Americas Watch Executive Committee who conducted our March 1983 investigation in southern Mexico are:

Robert Kogod Goldman, Professor of International Law and Director of the International Studies Program at the Washington College of Law of the American University in Washington, D.C. A former consultant to the Inter-American Commission on Human Rights, he has published numerous articles on human rights in Latin America and has participated in several missions to investigate human rights violations. Professor Goldman was a member of the Americas Watch's October 1982 mission to Guatemala and southern Mexico.

Stephen L. Kass, a partner in the New York City law firm of Berle, Butzel, Kass & Case, is a past chairman of the Committee on Inter-American Affairs of the Association of the Bar of the City of New York and a former member of that Association's Executive Committee. On behalf of the Association of the Bar, he has served on missions that investigated human rights conditions in Argentina and El Salvador, and he has also served on two Americas Watch missions that conducted investigations of human rights conditions in Nicaragua in March and October, 1982.

During the course of their visit to Mexico Messrs. Goldman and Kass were greatly assisted by representatives of the Coordinating Committee for Refugee Services of the Archdiocese of Mexico City, and by Senor Luis Ortiz Monasterio, Director of Mexico's Commission on Refugee Assistance and by his able and dedicated associates in the state of Chiapas, Mexico. In addition, Messrs. Goldman and Kass met with representatives of the privately-sponsored Guatemalan Human Rights Commission in Mexico City and, in Chiapas, interviewed refugees and church workers in Tapachula, Motozintla and Paso Hondo (all bordering on the Guatemalan provinces of San Marcos and Huehuetenango) and in the cities of Comitan and San Cristobal de las Casas. They then flew from Comitan to the Chajul refugee camp operated by the Commission on Refugee Assistance in the Lacandon jungle immediately to the north of the Guatemalan province of El Quiche

and proceeded by river launch to the nearby Puerto Rico refugee camp. These facilities are accessible only by single-engine planes or by helicopters and are located within several kilometers of the Guatemalan border. At the time of the visit, there was no telephone, radio, or other form of communication either between these camps and the outside world or other refugee camps except for messages carried by airplane and river launch pilots.

The sections of this report dealing with the secret courts, the executions, the exclusion of the International Committee of the Red Cross from Guatemala, and the murders of a U.S. AID contract worker and several associates reflect the efforts of Holly Burkhalter and Juan Mendez of the Americas Watch Washington office.

We acknowledge, with gratitude, the assistance we received from Reggie Norton and Dana Martin of the Washington Office on Latin America, Marcie Mersky of the National Network in Solidarity With the People of Guatemala, and the work of Cynthia Brown, Russell Karp and Orville Schell who, along with Robert Goldman, served as the Americas Watch delegation to Guatemala and Mexico that compiled our November Report.

Aryeh Neier Vice Chairman Americas Watch

Note: Variations in spellings of place names are possible.

Many of these names are of Indian origin. In some instances, we have provided phonetic spellings derived from our notes and tapes of interviews with refugees.

SUMMARY AND FINDINGS

It is the view of the Americas Watch, based on direct testimony and other relevant information that we have gathered, that the human rights situation in Guatemala has not improved, but, if anything, has deteriorated since November, 1982. We arrive at this conclusion for the following reasons:

- The Guatemalan government's counterinsurgency program, begun in early 1982, has been continued and expanded by the Rios Montt government and remains in effect at this time.
- 2. A principal feature of this campaign is the systematic murder of Indian noncombatants (men, women and children) of any village, farm or cooperative, that the army regards as possibly supportive of the guerrilla insurgents or that otherwise resists army directives.
- 3. Although civilian men of all ages have been shot in large numbers by the Guate-malan army, women and children are particular victims; women are routinely raped before being killed; children are smashed against walls, choked, burned alive or murdered by machete or bayonet.
- 4. There is growing evidence that civilian males, including teenagers are being conscripted, under threat of death into "civil patrols," which are controlled by local army commanders. A principal function of the civil patrols is to kill other civilians suspected of being "subversive" or otherwise objectionable to local army commanders.
- 5. Incidental to its murder of civilians, the army frequently destroys churches, schools, livestock, crops, food supplies and seeds belonging to suspect villages, cooperatives or private farms. An apparent

- purpose, and clear effect is to deprive entire villages and farm communities of the food necessary for survival.
- 6. Unable to live in their villages or on their farms, or to survive in the mountains to which they flee, an increasing number of Guatemalan Indians (estimated at between 70,000 and 100,000) have sought refuge in southern Mexico. The Guatemalan army has created a free-fire zone along its border with Mexico and routinely pursues and tries to kill many refugees to prevent them from reaching Mexico.
- 7. Through the period of our visit to southern Mexico in March, 1983, Guatemalan ground and air forces have repeatedly crossed into Mexican territory to intimidate refugees and to carry out surveillance of refugee camps. During our delegation's visit, one armed Guatemalan force crossed several kilometers over the border near the Chajul refugee camp and another force opened fire at refugees at the Puerto Rico refugee camp.
- 8. The Guatemalan armed forces make extensive and conspicuous use of helicopters, mortars and incendiary bombs in attacking rural villages, in destroying and burning crops, and in harassing refugees seeking to escape, and routinely use helicopters for surveillance of refugee camps in Mexico.
- 9. The Guatemalan government continues to execute prisoners (11 men since January 1, 1983) tried in secret by special courts whose procedures and composition prima facie violate its international treaty obligations.
- 10. It is widely known within the refugee community, and among displaced Indians in Guatemala, that the principal supplier of such helicopters and the principal supporter of the Rios Montt government is the United States.

RECOMMENDATION

These findings indicate that the Rios Montt government continues to engage in a consistent pattern of gross violations of internationally recognized human rights.

Accordingly, as U.S. law prohibits military assistance to such governments, Americas Watch calls for the immediate suspension of all existing military sales and the withholding of requested military assistance to the Guatemalan government. Continued U.S. military and diplomatic support for the Rios Montt government will lead, and in fact, is already leading the Guatemalan people to view the United States as an accomplice to the massive and unspeakable human rights violations that are being committed by the Rios Montt government.

The Rios Montt Government's Counterinsurgency Campaign

In the November Report, the Americas Watch noted that, despite early hopes that Rios Montt would end the terror tactics employed by the previous government in its counterinsurgency campaign, Rios Montt actually intensified and extended the use of such tactics throughout the country's rural areas.

The twin goals of Rios Montt's counterinsurgency strategy have been to eradicate the guerrillas quickly and to reassert the government's control over - i.e., "pacify,"* - the Indian population. The principal tactics of this strategy are bombing, shelling, selective killings, and massacres in suspected "subversive" villages, combined with a scorched earth policy** of crop-burning, confiscation of harvests and slaughter of livestock, calculated not only to deny the guerrillas food but also to force peasants to near starvation. Unless they reach the relative safety of Mexico, civilian survivors of these army operations face a choice between surrendering and seeking the protection of the army or

^{*}Writing about this word in 1946, George Orwell said: "Defence-less villages are bombarded from the air, the inhabitants driven out into the countryside, the cattle machine-gunned, the huts set on fire with incendiary bullets: this is called "pacification." In "Politics and the English Language," The Collected Essays, Vol. IV.

^{**}Following his meeting with President Reagan in Honduras on December 5, 1982, President Rios Montt told reporters: "We have no scorched-earth policy. We have a policy of scorched Communists." "Guatemalan Vows To Aid Democracy," Reuters, The New York Times, December 6, 1982.

of living in hiding, on the edge of starvation. The army provides food to those who surrender in "strategic hamlets,"* and in areas that the army "pacifies" through these tactics, all males over 17 (in some cases, over 15) are required to join "civil defense" patrols. Those who refuse to join are regarded as "subversives" and may be killed. Although Americas Watch found that reports of violent abuses of human rights generally decline in "pacified" areas, we also found that when the army moves its counterinsurgency campaign to a new area, or resumes it in a previously targeted area, reports of massacres, disappearances, torture, and crop burnings increase dramatically.

Internal and External Refugees as of November 1982

We also concluded in the November Report that the principal casualties of the government's counterinsurgency campaign have been the lives, cultures, and traditions of Guatemala's rural based Indians, who comprise approximately 60% of the country's population. Indeed, one of the twenty-three linguistic groups, the Ixil in the department of El Quiche, has been all but eradicated as a cultural entity. Moreover, the Guatemalan Conference of Bishops estimated in April 1982 that one million people, mostly Indian campesinos

^{*}How the army obtains this food is of some interest. Many refugees told us that when the army did not destroy their crops, it harvested them and carted them off in trucks. No compensation was paid for these crops.

- one in every seven Guatemalans - had been displaced by the ongoing conflict. That number has unquestionably increased since Rios Montt intensified the counterinsurgency campaign last July. In addition, as a result of the ongoing conflict, and most of all, as a result of the army's counterinsurgency tactics, tens of thousands of Indian peasants have fled to Mexico.

Our November Report indicated that the U.N. High Commissioner for Refugees estimated in June 1982 that 9,000 Guatemalan refugees were living in the State of Chiapas in southwestern Mexico. Between July and September, 1982, when the Guatemalan army extended its operations throughout the country's rural areas, that estimate rose to over 13,000. By mid-October, 1982, Pierre Jambor, the UNHCR representative in Mexico, considered 25,000 a reasonable estimate of the number of refugees in Chiapas.

Findings of Americas Watch March 1983 Mission to Chiapas, Mexico

Since the publication of the November Report, which covered the human rights situation in Guatemala from March to November, 1982, Americas Watch, and other human rights groups such as Amnesty International, the Washington Office on Latin America, OXFAM-America, and Survival International, have continued to receive a steady stream of reports of new and widespread massacres of Indian peasants by the Guatemalan army.

At the same time that we were receiving these reports, the U.S. State Department was asserting publicly that there was a notable overall improvement in the Guatemalan armed forces' conduct toward rural civilians. Accordingly, we traveled to Chiapas principally to interview recently arrived refugees who, in the judgment of the Americas Watch, are the most credible source of evidence to whom unbiased observers have access for resolving the clear discrepancy between the reports of continuing rural massacres and the State Department's assertions that these have been curtailed.

During our visits to Tapachula, Motozintla, Paso Hondo, Comitan, and to two refugee camps in the jungle near the Guatemalan border, Chajul and Puerto Rico, we recorded direct testimony from many refugees who had fled Guatemala between late November, 1982 up to March 6, 1983. These refugees were all Indian peasant farmers from rural villages, settlements, or cooperatives located in various municipalities of the Departments of El Quiche, Huehuetenango, Alta Verapaz and Baja Verapaz. Although these interviews were conducted at different places with persons who had lived in different departments of Guatemala and thus could not have known each other, there was a common theme: they had fled to Mexico because the Guatemalan army had tried to kill them with bullets and by starvation. Further, many stated that they believed that

the Rios Montt government was trying "to exterminate" them (the Indians).

Though similar in content to the testimony heard by the Americas Watch delegation in October 1982 at Ejido Cordoba and Union Juarez in Chiapas,* the testimony taken in March indicates that the army's operations intensified in late 1982 and that its attacks against the Indian population, their property, and their food supply, had become virtually indiscriminate, particularly in the previously hard hit areas of Huehuetenango and El Quiche. Time and again, we listened to detailed eyewitness accounts of the use of planes and helicopters to bomb villages, settlements, and cooperatives, followed by ground assaults by soldiers who opened fire on men, women, and children. Other refugees told us that when the soldiers entered their village, rather than shooting randomly, they separated the men from the women and children; the men were taken into the local Catholic church and shot; the women and children were placed in separate buildings where they were burned alive or shot after first being raped by soldiers. Most of the testimony reveals that the army does

^{*}These refugees had fled the villages of Ballaj and Monte-cristo, both of which are located in the municipality of Tajumalco in the Department of San Marcos, Guatemala. See the November 1982 Report at p. 15. From November 20, 1982 until February 22, 1983, villages and settlements throughout the municipality of Tajumalco have been periodically bombed and attacked by the Guatemalan army.

not waste its bullets on women and children. We were repeatedly told of children being picked up by the feet and having their head smashed against the walls, choked to death by hand or with ropes or killed with machetes or bayonets.*

Another characteristic of the army's operations that emerged from these horrifying accounts is that, incidental to its slaughter of civilian non-combatants, the army systematically destroys livestock, crops, food supplies and seeds. The apparent purpose, and clear effect, is to deprive the remaining civilian population of the food needed for its survival. Many refugees told us that they had survived these army massacres by fleeing to the hills or nearby parcelas (land plots) and that they returned to their village only after the army's departure. Fearful of remaining in their villages, they would return to their parcelas or the mountains where they tried to raise crops from seeds that had not been destroyed by the army. Others, not so fortunate, fled to the mountains with no possessions other than the clothes on their backs. There, from periods ranging from several weeks to 10 or 11 months, they remained in hiding, living off wild fruits, plant roots and herbs. Despite the

^{*}Subsequently, we have learned that civil patrol members are severely punished if they are unable to account for all the weapons and bullets provided to them by the army, apparently for fear that these have been turned over to guerrillas. This may have something to do with the preference for methods of slaughter that do not use bullets.

fact that the army had destroyed their villages, soldiers periodically would return to the area, destroy newly planted or harvested crops, and kill on sight any person or domestic animals that they encountered.

In addition, we heard testimony about the use of helicopters, and occasionally planes, either alone or in conjunction with these mop up operations. According to the testimony, incendiary bombs were used to destroy the makeshift settlements of displaced persons. Most of the refugees indicated that it was at this point - facing starvation and fearful of renewed army attacks - that they decided to flee to Mexico. Many, particularly the aged and young, never make it to the border. Direct testimony that we heard confirms previously published reports that the Guatemalan army has created a free-fire zone along the border with Chiapas, Mexico in which it routinely pursues and tries to kill any person attempting to cross the border.

Direct Testimony of Guatemalan Refugees

The following statements are illustrative of the Guatemalan army's operations against Indian non-combatants living in different departments of that country. These statements are summaries of or excerpts from direct testimony of refugees whom we interviewed on March 8 and 9, 1983 in refugee camps at Chajul and Puerto Rico, respectively. The

two camps are located in the dense and sparsely inhabited Lacandon jungle of Chiapas and are accessible only by single-engine planes. Some 2,000 refugees, about half of whom had arrived since February 1, 1983, were living at the Chajul camp, located only three kilometers from the Guatemalan border. The camp at Puerto Rico, only one kilometer from the Guatemalan border, had some 3,600 refugees, many of whom had arrived from late 1982 up to February 9, 1983. Because the refugees whom we interviewed still fear for their safety, those who gave us their names also requested anonymity in our report.

- Statement of a male member of a group of 207 Indian peasants from the village of Kaibil Balam, municipality of Chajul, Department of El Quiche, who fled their village on February 16, 1983 and arrived at the Chajul refugee camp on March 2, 1983:

In late 1982 Guatemalan army soldiers entered their village and began shooting men, women, children and livestock. Soldiers murdered children by cleaving their heads with machetes, strangling them with rope, and throwing them in the air and then impaling them on bayonets. Women who did not escape were raped. Those who survived fled to the hills and tried to live off the crops and food supplies the army had not destroyed. In January and February 1983, the army again returned to the village and burned crops that the survivors had recently cultivated in nearby parcelas. No longer able to subsist in the mountains, 221 survivors from Kaibil Balam fled to Mexico. They were pursued intermittently by army patrols and 14 of them,

including women and children, were killed by those patrols.

- Statement of a 26-year-old male from the San Juan Ixcan Cooperative, Municipality of Chajul, Department of El Quiche, who arrived at the Chajul Camp on January 28, 1983 with 104 other members of that cooperative:

Guatemalan security forces entered San Juan Ixcan on May 15, 1982 and killed whomever they found, burning alive two families in their homes. Those who escaped fled to the mountains and lived off the crops on 88 nearby parcelas for about four months. early September 1982, army patrols pursued them in the hills and strangled to death four children who were unable to escape. The names of the victims are Margarita Lopez (age 6), Sebastian Lopez (age 4), Ana Gomez Tomas (age 11) and Tomas Gomez Tomas (age 4). In late September, two helicopters and two planes bombed the parcelas, destroying crops and livestock. In early January 1983, the army and helicopters spent three days in the area, burning the unharvested crops and food supply and killing livestock. Soldiers also shot to death the following people who had gone to the parcelas to cut corn: Apolonio Ajanel (80), Fabian Perez (19), Vicente Raimundo (46) and his father, Raimundo Raimundo (80). It took nine days for these 105 persons to reach the refugee camp at Chajul, during which time they had to elude army patrols and constant helicopter surveillance of the area. He also said that many villages and settlements in the municipality of Chajul that they passed on their flight to Mexico, including Kaibil Balam, Santo Tomas, Ilom, Chill, Xaxmoxan and Cagnixla, had been burned and devastated in a manner similar to their own cooperative.

- Statement of a young male from San Antonio Tzaga, municipality of San Miguel, Department of El Quiche, who arrived at the Chajul camp on January 28, 1983 with 80 families, about 384 persons, from that village:

In May 1982, army soldiers entered the village and took away four men whose names appeared on a list. None has reappeared. In June, soldiers returned and, without warning, began shooting at everyone; many villagers fled to nearby parcelas. soldiers burned the village down and destroyed harvested crops and seeds. vors, thereafter, lived in hiding near the parcelas where they tried to grow corn and beans. In August, a helicopter opened fire and killed the members of five families, 25 persons, while they were working in the parcelas. An army patrol returned to the area on December 28, 1982 and opened fire on people they found working in the parcelas, killing an 80 year old man and \overline{a} The soldiers destroyed cut and unharvested crops. The villagers tried to live off the remaining food supply, but soon facing starvation, fled to Mexico. took them eight days, with little or no food, to arrive at the Chajul camp.

- Statement of a male from the Yabal cooperative, municipality of Chajul, Department of El Quiche, who arrived in the Puerto Rico camp on February 9, 1983 with 26 families from that cooperative:

In late March, 1982 "soldiers came to the cooperative and said that they were not killers and would not harm people who ran from them; we believed them, but they deceived us, they came back [fifteen days later] intending to kill everyone." The soldiers burned houses and the cooperative, but not before looting the store. "They killed 200 people, men, women, and children. What they do to children at times is they grab them by the feet and throw them or they club them to death. Sometimes they cut them up into pieces, this is what they have done with people." Those who escaped fled to hide in the

In July, soldiers returned to mountains. the area and "they found some families and killed 37 persons, among them women and children and, after January 1 [1983] they returned again; they had to climb the mountain; there were campesinos working the parcelas, really abandoned fields, they [soldiers] found about five or six families; they killed 40 people, children and women." The survivors fled to Mexico because they were starving, living on herbs they found in abandoned fields. Everywhere along their escape route they saw burned homes, barns, and granaries, and destroyed crops.

- Statement of a male from the village of Mayalan,
Department of Huehuetenango, who reached the Puerto Rico camp
in late October 1982:

"It was June, 1982 when soldiers entered Mayalan. Since we already knew how the army treated people, people ran from the village when they came and hid in the The soldiers burned every house, store, cooperative store ... they killed all the animals After that, the army continued patrolling, and when we would go to the fields to plant seeds, they would open fire at and pursue us This went on for the months of June, July, August, and September; we no longer could live or work where we were, with the army patrols, we could only hide." The army used helicopters to bomb the fields where they The soldiers were trying to grow food. killed children and women: "When the soldiers find women, they rape and then kill them, and we know this because, after the soldiers have gone, we go back to see what has happened to them, that's the way we find them, tortured, raped, dead." gave us the names of the following persons from Mayalan whom he saw army soldiers murder between August and October, 1982:

Santiago Mendoza, 35;
Maria Heronimo, 39 and
her l year old daughter;
Magdalena Baltazar, 3;
Nicolasa Mendoza, 46; and
her daughter Francesca, 16;
Armando Vecinos, 4;
Rigoberto Ramirez, 4;
Anita Alvarado Ramirez, 3;
Macario Carrillo, 3;
Rigoberto Pascual, 7;
the 4 year old daughter of
Juan Rigoberto Mendoza.

In addition to the direct testimony that we gathered, we received from Mexican church groups involved with refugee relief tapes of interviews that their representatives had conducted with Guatemalan refugees throughout Chiapas. The following is a verbatim excerpt of an interview with a 10-year-old girl from Centro la Esperanza, Ixcan Grande, Department of Huehuetenango, conducted in January 1983 at the Puerto Rico camp.

- Q. "What are you drawing?"
- A. "I am drawing what the army has done to us."
- O. "What have they done to you?"
- "They have killed; the helicopter has Α. shot at us and bombed our homes and dropped fire on our farms. They shoot who they capture, they cut off our hands, our heads, our feet, sometimes all that's left is a little piece of the body and when they capture families, they massacre them. shoot bullets in their stomach and hang them from trees and that's why we no longer can live peacefully there, because the soldiers are massacring people there and when they [soldiers] find them before killing them, they do not kill us first because they want to massacre us, they cut off hands or stick a knife in our throats. . ."

The enormity of the horrors being perpetrated by the Guatemalan Army may make it difficult to grasp the cruelty and impact of the Army's actions. We recall, however, two vignettes that may make comprehensible what is taking place. Late in the heat-choked smoky evening that we spent in the Chajul refugee camp, we sat on a wooden bench with three refugee farmers, all middle-aged, who had heard about our visit earlier in the day. One man turned to us in the darkness and said, "You know, I had heard stories from others in my village that the army was murdering women and children in other towns, but frankly I did not believe those accounts since the murders seemed so brutal and without reason. But then the army killed my son and his children and my daughter and her children, and now I believe all of these stories."

Later that night, the young Mexican doctor working in the Chajul camp told us that the previous afternoon, with a temperature over 100° in the jungle, she had watched nearly a hundred newly-arrived Guatemalan children wait in line patiently for vaccinations outside of her clinic. Suddenly, one child near the rear of the line shouted, in jest, "The soldiers are coming!" The entire line of children immediately bolted, with children running in all directions to the furthest reaches of the refugee camp and, in some cases, into the jungle itself, in utter terror. The doctor told us it took their parents nearly three hours to induce the children to return to the camp.

The Activities of Civil Patrols

We were particularly eager to obtain from the refugees whom we interviewed fresh information about the activities of civil patrols. Americas Watch had noted in the November Report that the Guatemalan army tended to view the willingness of a particular village to form a civil patrol as a test of "political sympathies." Villages that form such patrols are considered by the Army "white" villages, under its "protection;" those not doing so are considered "red" villages and are targets for military attack. The November Report also found that the army employs these civil patrols not only as a front line of attack in its operations against the querrillas, but also to control the civilian population.*

Based on the direct testimony and other information that we gathered before and during our mission, we believe that civilian men are now being conscripted, under threat of death, into these civil patrols and that a principal function of these patrols is to kill civilians who are considered "subversive," or are otherwise objectionable to local army commanders. For example, a male member of a family from San Idelfonso Ixtahuacan, Department of Huehuetenango, who

^{*}On December 4, 1982, at the time of his meeting with President Reagan, President Rios Montt declared that, "300,000 Indians have now been organized into civilian self-defense units." Press Release #01, Embassy of Guatemala, Washington, D.C. December 3, 1982

had arrived in Motozintla, Chiapas on March 6, 1983, the day before we interviewed him, gave us the following information about the civil patrol in his village.

In early 1983, soldiers entered San Idelfonso, gathered its male inhabitants, and told them that they had to form and join a civil patrol because the guerrillas were in the area. The soldiers told them that their refusal to do so would prove that they were guerrillas and they would be executed. Consequently, the male villagers formed and joined the patrol.

This refugee also told us that males in all neighboring villages were similarly coerced into forming such patrols. He said that the army commander would order patrol members to kill civilians in the village, and occasionally, soldiers would kill members of the patrol. In January 1983, he said, soldiers publicly executed four persons in San Idelfonso. One, Marcos Felipe Salus Gomez, 30, was the leader of the village's civil patrol.

Further, this refugee stated that the army had executed about 150 civilians in San Idelfonso since August 1982, 60 of whom were murdered in January and February, 1983.

A former member of the Guatemalan army, whom we interviewed in Tapachula, Chiapas, told us a similar story. He stated that local army commanders considered those males who hesitated or refused to join civil patrols as "enemies" and would have them killed. He also indicated that the local

army commander would prepare and give to the civil patrols, lists of persons to be killed. Patrol members were told that unless they killed those persons they would be killed. They were instructed to say that their victims had been murdered by the guerrillas.*

^{*}Additional information on the use of duress in the formation of the civil patrols, and of the devastating consequences of their formation is to be found in, "The Forced Migration of Mayan Peoples: A Report on the Situation of Kanjobal Refugees in Southern Florida," by the Indigenous Peoples Network Documentation Group. This group is associated with Akwesasne Notes, the official publication of the Mohawk Nation and the report is reproduced in the Spring 1983 issue of that publication.

The Parraxtut Incident

Of all the horrors that we heard about on our mission, perhaps none equalled an incident that allegedly occurred in the village of Parraxtut, in the municipality of Sacapulas, El Quiche. We stress that this is an allegation because our information on this incident is second-hand. We obtained this information from church sources whom we had previously found reliable and who said they obtained their information from a direct witness.

According to the account we heard, the Guatemalan army entered the village of Chiul, in the Municipality of Cunen, El Quiche, on Wednesday, December 22, 1982 and ordered all male members of the civil patrol to appear in the town as quickly as possible. Because of the village's size, it required two hours for the nearly 350 men (ranging in age from 15-65 years) to assemble. The army captain allegedly ordered the men to march to the nearby village of Parraxtut, where, he told them, they must be prepared to demonstrate their masculinity to him.

while the 350 civil patrol members were marching the hour and one-half to Parraxtut, a similar number of soldiers drove by truck to that village and rounded up all available men, women and children (with the patrol members helping in the final stages of the round-up from outlying homes). Once collected, the Parraxtut residents were (as appears often in

accounts of events in other Guatemalan villages) divided into separate groups of men, women and children. According to the accounts we heard, the captain then ordered the members of the Chiul civil patrol to prove their masculinity by killing all the men from Parraxtut (a community with close cultural ties to Chiul), using guns given them by the soldiers who surrounded the patrol members.

After the men had been murdered the women were allegedly separated into two sub-groups: the young and the old. The civil patrol was then directed, under threat of death, to kill the older women, while the younger women were divided among the soldiers to be raped that night. The following morning, the Chiul civil patrol, we were told, was directed to murder the surviving younger women, except for two particularly attractive women. One was carted off on the captain's instructions; the other was shot by the captain after she begged to end her life.

We were told that many of the children managed to escape during the night, which they spent in hiding in the nearby mountain. Some had been wounded in the escape, and others suffered from exposure. Many died.

The Chiul patrol returned to its village (where the men were greeted with astonishment that they were still alive).

The following day, many patrol members joined in a search for surviving children from Parraxtut and at least some were

persuaded to return to Chiul for protection from the mountains. In the meantime, the army apparently disposed of the bodies of their parents in the village of Parraxtut.

We emphasize again that we have only a second-hand account of this alleged massacre. The underlying account, we were told, comes from a senior member of the Chiul civil patrol who had been known to and trusted by our sources for some years. The events described conform to army practices described to us by eye-witnesses from other villages. The alleged conscription of a civil patrol from one village to carry out a massacre in another village differs only in scale, rather than in kind, from practices elsewhere in Guatemala.

The Americas Watch calls upon the Government of Guatemala to investigate these allegations immediately. At the same time, we call for an independent investigation of the allegations concerning Parraxtut by a body such as the Organization of American States. If the allegations should prove to be well-founded, we call on the Government of Guatemala to take all necessary steps to prosecute the army officers responsible.

The Growing Refugee Population

Since Americas Watch published its November Report, the number of Guatemalan refugees in Mexico has increased dramatically. This is largely attributable to the army's intensification and extension of its counterinsurgency campaign throughout Guatemala's rural areas in late 1982. According to the General Secretariat for Coordinating Aid to Guatemalan Refugees ("La Secretaria General de la Coordinadora de Ayuda a los Refugiados Guatemaltecos"), which includes the relief committees of the Catholic Dioceses of Tapachula, San Cristobal de las Casas, Huantepec, Cuernavaca, and Mexico City, there are presently approximately 100,000 such refugees living primarily in two regions of the State of Chiapas.

The first region comprises the jungles of Marques de Comillas, Lacandon and Las Margaritas, as well as the area of Comalpa-Paso Hondo which borders the Guatemalan departments of El Peten, Alta Verapaz, El Quiche and Huehuetenango from which most refugees in this region have fled. The General Secretariat estimates that more than 50,000 refugees are located either in jungle camps, such as Chajul and Puerto Rico, or widely dispersed in more remote jungle and mountain settlements in this region.

The second region is further south in Chiapas and encompasses the zone of Motozintla, Union Juarez, Tapachula, Ciudad Hidalgo, Frontera Hidalgo and Cordoba, which border the

southern part of the Guatemalan departments of Huehuetenango and San Marcos. The General Secretariat believes that an additional 45,000 to 50,000 refugees are in this area, most of whom have fled San Marcos, since late 1982 when the Guatemalan army intensified its ground and aerial attacks on villages located near the Mexican border.

Other refugees in this region are from El Quiche,
Quetzaltenango, Chimaltenango, Esquintla, and Retaluleu.
Unlike those in the northern region, these refugees generally
are not concentrated in camps or settlements, but, live with
Mexican families, or on farms where they have temporary jobs.
Those who have migrated to the cities, such as Tapachula and
Motozintla, are housed and fed by the local Catholic relief
committee.

We found the physical condition of the refugees whom we saw in this region considerably better than that of those living in the jungle camps to the north. A young Mexican doctor who was assigned to the Chajul camp told us that the refugees arrive at the camp in extremely poor health, largely because, prior to their arrival, they had been living for weeks or months on the edge of starvation. Many adults and children, especially infants, were suffering from extreme anemia, malnutrition or dehydration. In addition, many suffered from malaria, tuberculosis, intestinal disorders, and contagious eye and skin infections.

Although the relief effort of the Mexican government was beyond the scope of our fact-finding mission, we were impressed with that effort in the Chajul camp. A Mexican doctor, assisted by nurses, and a team of paramedics, were working around the clock, diagnosing and treating the severely ill and innoculating the refugees against contagious diseases. The Mexican government had chartered, in Comitan, single engine planes which, several times a day, brought food and medical supplies to Chajul and Puerto Rico and then would return to the city with refugees requiring hospitalization. Moreover, we found the Mexican officials involved with this relief effort genuinely concerned about the plight of these refugees and apparently aware of and respectful toward their customs.

Guatemalan Army Harassment and Surveillance of Refugees in Mexico

We also found, as did the previous Americas Watch delegation during its October 1982 visit to Chiapas, that Guatemalan refugees in Mexico continue to live in fear of being killed by the Guatemalan army. Through March, 1983, Guatemalan ground and air forces have crossed repeatedly into Mexican territory to kill and to intimidate refugees and to conduct surveillance.

Indeed, during our visit to the refugee camps, we were told by eyewitnesses that on the evening of March 7, 1983,

armed Guatemalan soldiers had crossed several kilometers over the border near Chajul. That same evening, another group of Guatemalan soldiers had opened fire at refugees at Puerto Refugees and Mexican officials also told us that Guatemalan helicopters maintain daily surveillance of the Puerto Rico camp. Moreover, church officials told us that individual Guatemalan soldiers, and police routinely show up in Tapachula seeking information on the whereabouts of refugees. These same sources reported that on January 17, 20, 21, 22, 23, 1983, armed Guatemalan soldiers were spotted near refugee camps located from La Trinitana to the Marques de Comillas jungle. On January 26, 1983, approximately 100 Guatemalan soldiers raided the Santiago el Vertice refugee camp, located barely 800 meters from the frontier. They destroyed and looted the camp and killed Pascual Tadeo Perez, 23, and Jose Jorge, 31. The following day, the La Sambra and La Hamaca camps were similarly attacked, resulting in the deaths of Tomas Pascual, 50, Juan Lopez, 60, and Felipe Lopez, 30.

The Secret Courts and the Executions

On July 1, 1982, President Rios Montt promulgated

Decree Law No. 46-82 establishing special secret courts to

try persons suspected of violating the state of siege and

criminal laws. These special courts have the power to impose
the death penalty.

We discussed these special courts in our November Report and pointed out the ways in which they violate Guatemala's international legal obligations. Here, we provide additional information about the operations of these courts that we have obtained since publishing our November Report.

As of April 1982, the Government of Guatemala says that 70 persons have been tried by the special courts since their establishment nine months earlier and that 20 persons have been convicted. No names or other details have been provided about the 50 persons who have been acquitted - if these figures are accurate. It is widely believed, although the Government of Guatemala has remained silent on the matter, that another 250 individuals face prosecution before these courts.

On March 21, five men who had been tried and sentenced by the special courts were executed. Previously, on March 3, six men were executed after they were tried and sentenced by the special courts. Before that, four men were executed on September 17, 1982 (see our November Report) after they were

tried and sentenced by the special courts. In all, therefore, as of this writing, 15 of the 20 persons said by the Government of Guatemala to have been convicted by these courts have been put to death.

The March 3 executions attracted world-wide attention because they took place on the day that Pope John Paul II arrived in Central America to begin his tour of the region and just three days before his visit to Guatemala. Vatican had appealed to the Government of Guatemala not to execute the men as had governments and individuals in many Subsequently, the Government of Guatemala reacted countries. to the international furor by removing from his post its ambassador to the Vatican, Luis Valladares Aycinela, who had served in that post for 16 years. The Foreign Ministry claimed that he had failed to inform it of the Pope's request for clemency, but Ambassador Valladares insisted that he had informed the Foreign Ministry by telephone, telex and letter. Despite this furor, the Government of Guatemala executed another five men two weeks later.

The information that has become available about the accusations against those persons who were executed suggests that they do not involve guerrilla activities; rather, it appears that most of the charges involve criminal activity that lacks political motives. Necessarily, we must be tentative in this assessment because of the failure of the

Government of Guatemala to disclose information. If it is true, however, that most of the defendants are charged with committing ordinary non-political crimes, the operations of the special courts must be seen as all the more bizarre.

What possible motives could the Government of Guatemala have for such extraordinary procedures that so clearly depart from accepted legal norms?

As best we can determine, some of the trials and executions grew out of personal vendettas and involved poor defendants lacking political influence. By way of contrast, some semblance of due process was provided in the cases involving Michael Ernest (a U.S. citizen) and Maria Monteverde Ascanio (a Spanish citizen). Though the charges against them were not dismissed, the secret courts permitted the two tourists to leave Guatemala, after they had been held for 28 days, "on parole (caucion juratoria) on their own recognizance."

Meeting in Antigua Guatemala in late March, the Guatemalan College of Lawyers, an organization not previously noted for speaking out on human rights abuses, adopted the following statement:

The law itself is faulty in that, a) it relies on a priori affirmations to justify its emission, b) it is glaringly discriminatory as it implicitly labels as "extremist" anyone to whom it is applied, without legally defining what that term entails, and c) its goal of guaranteeing a rapid and exemplary administration of justice flatly contradicts the basic principles of the Fundamental Governing Statute regarding the administration of justice.

- The legal basis for a special law, (fuero especial) is to provide privileges or rights to a given group as may be required by its social conditions, but never is it to be used to discriminate against a specific group.
- 3) There is no justification for the special tribunals within the general structure of Guatemala law, nor in the doctrine of the penal code, nor in the Fundamental Governing Statute because they jeopardize the very human rights the Statute is pledged to protect.
- 4) The law in question has simply made it possible to impose the death penalty for a whole series of crimes, without bothering to categorize them. The only connection between this law and the penal code is that both accept the fact that crime exists and offenders should be punished.

According to the April 8, 1983 issue of Central America Report, a business newsletter, the statement was adopted by "an overwhelming majority of the 300 lawyers present" and "the group charged the law is an affront to human dignity."

Also in March, the Guatemala Christian Democratic Party said:

We think that a step of great importance for the return of the rule of law is the abolition of the courts of special jurisdiction and the strengthening of the autonomy of the Supreme Court of Justice. This is a fundamental step in order to have legitimate political and social organizations, and to have the citizen himself regain his confidence in the law.

One of the attorneys for the defense in cases before the special secret courts has described the process as

"defending by remote control." Lawyers are not shown the court records, except for selected pieces of evidence, and must leave their briefs with receptionists at the Ministry of Defense. The courts' decisions are communicated to them by anonymous telephone calls. Even after the cases are closed, the records are not open to public inspection.

The InterAmerican Commission of Human Rights of the Organization of American States has called on the Government of Guatemala to establish procedures for the special courts that accord with the due process standards of the American Declaration and the American Convention on the Rights and Duties of Man. In response, the Government of Guatemala enacted Decree Law 111-82 on December 14, 1982. This statute amended Decree Law 46-82 which had created the Courts of Special Jurisdiction.

In essence, this second decree established special courts of appeal to review sentences by the special courts and created special prosecutors. All lower court judges, all members of the appellate court and all special prosecutors are to be appointed by the President. The only qualification mentioned is that they must be either lawyers in active practice before the bar or officers of the Guatemalan Army. The decree also established that any investigation (sumario stage) must be completed in 8 days, with no extensions. The

lower courts were granted discretion to limit the inquiries and gathering of evidence to "the essentials." The new decree established an appeal to the special appellate courts, and no other review of these sentences. The appeal must be filed immediately upon notification of the sentence or within 24 hours, and the appellants have only three days to offer new evidence.

Although the decree does not mention it, the identity of the members of both trial and appellate courts is undisclosed, even to the defendants. The Government of Guatemala has attempted to justify the secrecy by saying that it is needed to protect judges from threats against their lives. It is clear, however, that as President Rios Montt is solely responsible for selecting and removing trial and appellate judges whose identity is unknown to defendants or their lawyers, the special courts lack even the slightest semblance of impartiality and independence required to meet international standards of due process of law. The fact that faceless, nameless judges sentence prisoners to death is not only a gross violation of the human rights of the victims; it is a mockery of the rule of law.

Ricardo Sagastume Vidaurre, chief justice of the Supreme Court of Guatemala, explained the reason for the Supreme Court's rejection of last minute amparo (special constitutional review) appeals filed on behalf of the six

defendants executed on March 3. He dismissed the claim that the defendants had not been adequately represented by asserting that they had been represented by law students and that constituted adequate legal counsel.

The Supreme Court review had limited scope: the Court did not scrutinize the statutes under which the special courts operate or under which the death sentences were handed down. It only looked for "abuses of discretion" by the special secret courts. It found none. Judge Sagastume says that there were "irregularities" but they did not affect the merits of the case. It is important to note that the Defense Ministry refused the Supreme Court's request for the records, so the Court had to go to the Defense Ministry offices and was only able to look at the court records for five hours in those offices before issuing its decision upholding the sentences. None of this seems to have troubled the Supreme Court, whose members serve at the will of Rios Montt. fact, they found the defense claims so "frivolous" that they fined the lawyers who filed the amparo to try to stop the executions.

The Supreme Court's retribution against lawyers who pressed efforts on behalf of their clients to stop the executions has already had predictable consequences. As the April 8 Central America Report notes in discussing the five executions on March 21:

This time no lawyer stepped forward to seek a stay of execution, as happened prior to the March 3 executions, although many were asked to do so by distraught families. One said he had been warned not to.

It is also important to note that the persons prosecuted in the special courts appear to have been severely abused prior to the commencement of the prosecutions. In all cases, the defendants had been arrested several months before their cases were decided, and following their arrest, they had been "disappeared persons," i.e., the authorities did not acknowledge their detention. Moreover, there is strong evidence that during their secret captivity, they were severely tortured with beatings, electric shock, suffocation, and mock execution. They were forced to sign confessions without being allowed to read the contents of their statements. The March 20, 1983 issue of the Guatemalan newspaper Impacto carried an interview with Walter Vinicio Marroquin, one of those who had been executed on March 3. Previously, he had been "disappeared" for 52 days. According to the interview, Marroquin and the five others executed the same day had all been tortured, one of them so severely that he lost sight in one eye. Marroquin also told the interviewers that he never met the judge or his defense counsel for either his trial or his appeal.

The Killing of Patricio Ortiz Maldonado

Patricio Ortiz Maldonado, a highly respected anthropologist and linguist working for a United States sponsored aid project in rural Guatemala, disappeared on February 9 along with three other people. At the time, they were travelling in the vicinity of San Idelfonso Ixtahuacan, Department of Huehuetenango. As we point out earlier in this report, refugees we interviewed in Motozintla, Chiapas, accuse the Guatemalan armed forces of executing about 150 persons in San Idelfonso since August 1982, some 60 of whom were killed at about the time that Ortiz Maldonado and those travelling with him disappeared.

Officials of Interamerica, Inc., the firm that employed Ortiz Maldonado to conduct bilingual education programs for Indian children in the region under a \$1.4 million AID grant, and representatives of the Guatemalan Ministry of Education which employed two of the persons travelling with him, immediately attempted to investigate the disappearance but were blocked from doing so by the Guatemalan armed forces. Some ten days later, the matter was raised by U.S. Representative Clarence Long of Maryland, who was visiting Guatemala, in a meeting with Defense Minister General Oscar Humberto Meija Victores. According to press reports the Congressman and the Defense Minister engaged in a "heated exchange" about the matter. Eventually, on March 4, the

Defense Ministry acknowledged that Ortiz Maldonado and his three companions had been arrested at a military checkpoint, but said that they had escaped. Four days later, the Defense Ministry said the four had been killed "while trying to escape."

Though the Reagan Administration has resolutely defended the human rights record of the Rios Montt government, this episode apparently convinced the Department of State that it should demonstrate its displeasure. It did so by temporarily withdrawing U.S. Ambassador Frederick Chapin from Guatemala for discussions in Washington.

Exclusion of the ICRC

The International Committee of the Red Cross performs vital humanitarian services worldwide. It is excluded from few countries - none except Guatemala in Central America - in part because it does not publicize the abuses of human rights that its representatives discover. A rule of strict confidentiality is maintained by the ICRC.

Americas Watch has unavailingly called on the Government of Guatemala to admit the ICRC. In addition, Americas Watch has discussed this matter in person and in writing with officials of the U.S. Department of State, urging the Department to use the good offices of the United States to gain entry to Guatemala for the ICRC. The Department of State has declined to inform Americas Watch of the content of diplomatic communications with the Government of Guatemala on this matter* but has assured the Americas Watch that it understands fully the importance of enabling the ICRC to carry out its humanitarian mission in every country.

Under the circumstances, despite the truculence of the Department of State in responding to inquiries, we take it as a virtual certainty that the Department has attempted to persuade President Rios Montt to permit the ICRC access to

^{*}Assistant Secretary of State Elliott Abrams has labelled the Americas Watch's efforts to elicit this information as "offensive."

Guatemala but, so far, has had no success. Apparently, the Reagan Administration's decision to provide military assistance to Guatemala - after a six year period in which such assistance was not provided - has not yet given the United States sufficient influence to secure access to Guatemala by the International Committee of the Red Cross.

Despite what we take to be the lack of success so far, the Americas Watch calls on the Department of State to renew efforts to secure the admission of the ICRC to Guatemala. The ICRC should be permitted access to all prisoners in Guatemala so that it may intervene with the government to secure relief from mistreatment or torture. The ICRC should be permitted to receive complaints about the "disappeared" and about other missing persons so that it may try to locate them and to reunite families. The ICRC should be permitted access to the Guatemalan countryside so that it may try to secure respect for the humanitarian principles of the Geneva Conventions that seek to safeguard persons taking no active part in hostilities. The ICRC should be permitted access to relocation and refugee camps within Guatemala so that it may attempt to organize humanitarian relief for the sick and the wounded and those lacking food, clothing or shelter.

CONCLUSION

From the evidence set forth in this report, we believe the conclusion is inescapable that the Government of Guatemala is engaged in the most profound violations of fundamental human rights - above all the right to life - and that these violations are occurring on a scale and with a degree of brutality that they amount, for all practical purposes, to a policy of extermination of a significant portion of Guatemala's Indian population. For the United States to be associated with this policy is a repudiation of every principle of law, and human decency. We call upon the Rios Montt Government to cease its practice of murdering its Indian citizens and plead with the United States to sever its ties with a government engaged in a level of barbarism that shames human society.

APPENDIX A: Notes on Evidence

Earlier in this <u>Report</u> we expressed the view that direct testimony from Guatemalan refugees is the best evidentiary source for determining whether the Guatemalan army's massacres of Indian non-combatants have continued. We believe that the testimony and other credible information we gathered during our mission not only contradict the U.S. State Department's claims about curtailment of abuses, but indicate that rural massacres have been intensified and continue to be a central element of the Rios Montt government's counterinsurgency campaign.

Further, we found that these refugees, in assigning direct responsibility to the Guatemalan army for these massacres, were able, without exception, to distinguish clearly between guerrilla and government forces by their different weapons, troop strength, style of operation, and, in particular, by the known fact that the guerrillas do not have aircraft or helicopters. Consequently, we do not believe that the State Department's assertions that the guerrillas are responsible for most rural massacres deserve to be taken seriously. In fact, other independently gathered information suggests that such claims seriously misrepresent the actual situation. A particularly noteworthy report is Allan Nairn's article, "The Guns of Guatemala," in the April 11, 1983 New Republic. Nairn, a knowledgeable observer of Guatemala, spent

four months there last year. He reports that he "conducted interviews with several dozen soldiers and officers in the field" and obtained from them information that "points to the conclusion that Rios Montt's strategy was based on organized killing, torture, and bombing of unarmed civilians."

Two other independent observers whose reports we have found helpful are William Lasswell, the District Attorney of Douglas Country, Oregon and Beatriz Manz, an anthropologist at Tufts University. Lasswell and his wife visited various sections of the border between Guatemala and Mexico in late January 1983 and interviewed refugees. Manz visited the border region for two weeks in November 1982 and travelled extensively in Guatemala in March 1983 visiting areas that refugees had fled and conducting interviews with those who stayed behind and with members of the armed forces.

In addition, we obtained important information from within Guatemalan from sources that we do not identify for fear that they may suffer reprisals.

