

El Salvador's El Mozote Massacre:

43 years later, why we mustn't give up the fight for accountability



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Today, December 10th, marks the 43rd anniversary of the [Massacre of El Mozote and surrounding areas](#), which was not only the most brutal massacre in El Salvador's 12 year-long civil war but also in modern Latin American history. During the massacre, which lasted three days, nearly 1,000 civilians –over half of whom were women and children—were executed by the Salvadoran army; civilians were also tortured, and victims of rape and other forms of sexual violence.

Victims first filed a lawsuit in the El Mozote massacre case in a Salvadoran criminal court in 1990, but an Amnesty Law designed to protect State perpetrators of human rights violations was passed shortly after the conflict's end and the release of the Truth Commission Report in 1993; that law applied to the accused perpetrators in the El Mozote case, and prevented it from moving forward.

El Mozote is far from the only conflict-era case where accountability has been unattainable. For years, judicial inertia and complicity, and a lack of political will from subsequent governments, meant that truth and justice were elusive for victims and civil society, and the transitional justice process in El Salvador made few advances.

In 2016, El Salvador's Amnesty Law was finally repealed, opening the door for the criminal prosecution of war crimes and crimes against humanity committed during the conflict. That year the judge Jorge Guzmán, judge of the court in the district where the facts occurred and where the case was originally filed in 1990, ordered that the [El Mozote massacre case be reopened](#), and in March 2017 brought charges against 17 former high-ranking military officers, including three generals. This was a landmark, hard-won moment for victims, families, and their civil society representatives following years of struggle. Given the gravity of the crimes in question and the context in which they occurred, Judge Guzmán charged the accused under national criminal law (using the Penal Code in effect at the time, for the crimes of murder and aggravated rape), and international law (for war crimes and/or crimes against humanity); the latter was the first time that this had been done in El Salvador. Also, by focusing on the responsibility of high and mid-ranking officers Judge Guzmán opened the door for the use of theories of superior/command responsibility, indirect perpetration through an organized apparatus of power, and [perpetrator-by-means](#).

Despite the [amnesty law being struck down in 2016](#) and the El Mozote case being reopened, and in spite of [experts and human rights groups advocating for the case to move forward since 2017](#), increasing threats to the rule of law and protection of human rights in El Salvador since then, particularly under the Bukele government (in power since 2020), have created serious setbacks for transitional justice, including in cases like El Mozote. [Victims and civil society continue to face obstacles to achieving accountability](#). For example, in September 2020, the Salvadoran Ministry of Defense blocked Judge Guzman from entering the army's headquarters to review military archives for evidence related to the El Mozote

case, in violation of a court order. In addition, the current Attorney General Rodolfo Delgado, a Bukele ally, has not contributed at all to the case advancing.

More recently, judicial reforms implemented in 2021 have also negatively impacted cases like El Mozote and further delayed justice being done. On May 1, 2021, the newly inaugurated Legislative Assembly ousted several members of the Constitutional Chamber of the Supreme Court of Justice and the Attorney General. Attacks against the judiciary continued when the legislature approved a series of reforms to the Judicial Career Law and the Organic Law of the Public Prosecutor's Office. These reforms ordered the forced retirement of all judges and prosecutors over the age of 60 or with over 30 years of judicial service, and empowered the Supreme Court to transfer or dismiss judges without granting them due process rights. These legal reforms have specifically [affected judicial proceedings in the El Mozote massacre trial](#). Guzmán, who presided over the El Mozote case for years with integrity and diligence – and who Because of the reforms Judge had recently announced the trial would enter its final stage, a long-awaited moment for victims and families – was disqualified from continuing to work as a judge. In response, in a resolution monitoring compliance with the Inter-American Court of Human Rights (IACtHR)'s sentence in the El Mozote case, where the victims were represented by the civil society organizations CEJIL and Tutela Legal, [the IACHR urged for an investigation of the obstructions faced by the Salvadoran court and expressed its concern for the removal of Judge Guzmán](#) – a resolution that remains unfulfilled.

Given the complexity of the El Mozote case, the change of judges has caused delays in the case, and [the new judge's criteria have extended the judicial investigation stage](#). One example of this is how the newly appointed judge in the case ordered that thousands of pages of unsealed documents from the US government be translated from English to Spanish, even though this is not the correct way to work with declassified documents; not only is it unnecessary for each individual document to be translated, they also need to be [interpreted by experts such as Terry Karl](#) (who has served as an expert witness in this and other conflict-era cases and already provided analysis of hundreds of pages of unsealed documents).

Even with these setbacks, the El Mozote case remains open and active, giving victims hope that it will move forward. Victims and their representatives have also intensified their advocacy regarding the Inter-American Court's monitoring of El Salvador's compliance with the measures dictated in the Court's abovementioned 2012 sentence. Most recently, Cristosal, the organization representing the victims of the El Mozote massacre at the national level, submitted a request to the Salvadoran court to expand the indictment to include an additional 13 victims in the legal proceedings, in addition to requesting (so far to no avail) that the trial move to the final sentencing phase. Without a doubt, at this point the case has enough evidence – witness testimony, expert testimony, and forensic analysis, carried out by the Argentine Forensic Anthropology Team (EAAF) – to make a determination and go to sentencing.

The 43rd anniversary of the Massacre is an opportunity not only to commemorate the victims who perished at the hands of the Salvadoran military, but also to highlight the undue delays in the criminal prosecution, and the right of victims and families to see justice done in this case. Now more than ever it is imperative for the international community to push for accountability for grave crimes and human rights violations of the past in El Salvador – including violations that were previously left out of transitional justice discourse, such as sexual violence. Failing to do so would be setting the stage, and a terrible precedent of complacency, for further human rights violations and impunity in El Salvador, and the region, going forward.



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