

**El Mozote in El Salvador:
the largest massacre in Latin America must be tried without delay**

Open letter from independent academics and experts

The El Mozote case has become known as **the most violent episode in the modern history of Latin America**. Approximately **1,000 people were executed by the Salvadoran armed forces in December 1981** during the country's civil war. More than half of the victims were children and adolescents. **The terror and the physical and emotional injury suffered by the victims and their families**, as well as the lingering effects of these crimes, have inspired **international outrage and demands for an end to three decades of institutional neglect**.

In 1990, before the signing of the Peace Accords, a lawsuit was filed before the criminal court in the region in which these executions occurred. Despite the forensic evidence and testimony presented by the surviving victims and their legal representatives, **the case was closed in 1993 after the approval of a comprehensive and absolute amnesty law**. Further attempts to continue the investigations were unfruitful.

In **September 2016**, after **amnesty was declared unconstitutional** by the Constitutional Chamber of the Supreme Court of Justice, and at the insistence of the victims, **a judge reopened the criminal proceeding**. This historic action rejuvenated hope in the justice system. More than one year later, **we recognize that there has been some progress with the case. However, there has been a lack of government cooperation in providing relevant military information, and we hope for greater initiative from the Attorney General**.

Twenty survivors have given their testimony; their stories are consistent in describing the facts of the massacre and in declaring the armed forces responsible. Eighteen former military officers, including the Minister of Defense at the time, José Guillermo García, have been formally charged with carrying out, or having command responsibility for felonies, including murder and sexual assault. Despite the serious charges, none of them have yet been detained. **The Executive has yet to hand over the military plans and communications from the time period that the Judge ordered, arguing that they do not exist in their historical records**.

The lack of institutional initiative, as well as delays in the investigative process that added to many years of waiting, has again delayed the possibility of overcoming impunity in a case that would be the first national trial of crimes committed by Salvadoran armed forces during the

armed conflict. It is time that the Salvadoran courts and the Attorney General act expeditiously, taking into account the rights of victims.

According to the Truth Commission's 1993 report and the Inter-American Court of Human Rights' 2012 decision in the case, **evidence exists which proves that crimes against humanity and war crimes were committed in El Mozote; however, these legal categories still have not been recognized as applicable by the national courts.**

In this context, **36 years after the massacre**, we call on the Salvadoran institutions to act decisively and efficiently in order to resolve the El Mozote case. In particular, we call upon:

- The **President of the Republic**, in his capacity as the Commander in Chief of the Armed Forces, to order the opening and release of military records relevant to the case;
- The **Attorney General of the Republic**, to play a more active role in the investigation and prosecution of the case, presenting evidence, and advancing Salvadoran jurisprudence by pursuing legal arguments based on theories of "perpetrator-by-means", which implies the existence of a chain of command, a concept which has been accepted by the Constitutional Chamber of the Supreme Court of Justice of El Salvador and international law regarding these types of crimes;
- The **Supreme Court of Justice**, to continue the political and logistical support to the trial court for the investigation of this complex case.

It is imperative that the political powers show their commitment to work towards an end to this painful legacy of impunity. The wait must end. **Thousands of Salvadoran victims, supported by the international community, demand truth and justice today.**

SPANISH/ESPAÑOL

**El Mozote en El Salvador:
la más grande masacre en América Latina debe ser juzgada sin más demoras**

Carta abierta de académicos y expertos independientes

El caso de la masacre de El Mozote ha sido reconocido como **el episodio más violento de la historia moderna de América Latina**, en el cual aproximadamente **1,000 personas fueron ejecutadas por la Fuerzas Armada de El Salvador en diciembre de 1981**, durante la guerra que

vivía ese país; más de la mitad eran niños, niñas y adolescentes. **El grado de terror y los daños generados en las víctimas y sus familiares**, así como los efectos continuados y vigentes de tales crímenes, son elementos que **mueven a la indignación internacional y claman por el fin de tres décadas de olvido institucional.**

En 1990, antes de la firma de los Acuerdos de Paz, se presentó una demanda en el caso ante un juez penal de la zona donde ocurrieron los hechos. Pese a la evidencia forense y testimonial presentada por las víctimas y sus representantes legales, **el caso fue cerrado en 1993, luego que se aprobara una ley de amnistía amplia y absoluta.** Intentos posteriores por continuar las investigaciones fueron infructuosos.

En **septiembre de 2016**, después que **la amnistía se declarara inconstitucional** por la Sala de lo Constitucional de la Corte Suprema de Justicia, y ante la insistencia de las víctimas, **el juez del caso reabrió el proceso penal.** Este hecho histórico devolvió la esperanza de justicia para El Mozote. **Más de un año después, el proceso muestra algunos avances, pero se ha visto afectado por la falta de colaboración gubernamental para proporcionar información militar relevante, así como una insuficiente iniciativa de parte de la Fiscalía General.**

Veinte sobrevivientes han dado sus testimonios, sus relatos coinciden en los hechos de la masacre y en responsabilizar a la Fuerza Armada. Dieciocho exmilitares, incluyendo al Ministro de Defensa de la época, José Guillermo García, han sido acusados en el caso, ya sea por su participación como autores directos o por su responsabilidad como mandos superiores, por delitos que incluyen el asesinato y la violación sexual. A pesar de la gravedad de los cargos, ninguno de ellos guarda prisión. Hasta hoy el Poder Ejecutivo se ha negado a entregar los planes y comunicaciones militares de la época que fueron requeridos por el Juez, argumentando que no existen en sus archivos históricos.

La falta de iniciativas de investigación y el retardo de las mismas, sumados a los largos años de espera, han retrasado nuevamente la posibilidad de vencer la impunidad, en el que sería el primer juicio nacional por los crímenes del conflicto armado salvadoreño. Es tiempo que los tribunales salvadoreños y la Fiscalía General actúen con prontitud y tomando en cuenta los derechos de las víctimas, largamente postergados.

De acuerdo con la Comisión de la Verdad en su informe de 1993, y con la Corte Interamericana de Derechos Humanos en su sentencia sobre el caso en 2012, **existen evidencias de que en El Mozote se cometieron crímenes de lesa humanidad y crímenes de guerra, pero estas calificaciones jurídicas aún no han sido reconocidas en el proceso penal interno.**

En ese contexto, **a 36 años de los hechos**, hacemos un llamado a las instituciones del Estado salvadoreño sobre lo decisiva que resulta la celeridad y la eficacia en la resolución del caso El Mozote, en particular:

- Al **Presidente de la República**, en su calidad de Comandante Jefe de la Fuerza Armada, **que ordene la apertura y entrega de los archivos militares relevantes para el caso;**
- Al **Fiscal General de la República**, que juegue un rol más activo en la investigación y persecución penal del caso, presentando evidencia relevante y proponiendo argumentos legales basados en las teorías de “autoría mediata”, la cuales implican la existencia de cadenas de mando que funcionaron desde un aparato organizado de poder. Estas teorías han sido aceptadas por la Sala de lo Constitucional de la Corte Suprema de Justicia y por el derecho internacional para crímenes como el de El Mozote;
- A la **Corte Suprema de Justicia**, que continúe proporcionando apoyo político y logístico al tribunal a cargo para la investigación y juzgamiento de ese complejo caso.

Es imperativo que los poderes políticos desplieguen el mayor esfuerzo y compromiso para acabar con tan dolorosa impunidad. La espera debe terminar. **Miles de víctimas salvadoreñas, respaldadas por la comunidad internacional, exigen hoy verdad y justicia.**

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