

The background features a collage of black and white photographs of people, some holding protest signs with words like 'JUSTICE' and 'ACT'. Overlaid on this are several thick, diagonal stripes in shades of blue, teal, green, and yellow. The text is centered over these elements.

**THE PEACE ACCORDS  
IN EL SALVADOR:**

**AFTER PEACE,  
TRANSITIONAL  
JUSTICE?**

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## THE PEACE ACCORDS IN EL SALVADOR:

# AFTER PEACE, TRANSITIONAL JUSTICE?

**T**HIRTY YEARS AGO, EL SALVADOR BEGAN A NEW ERA. On January 16, 1992, the government signed a peace agreement with left-wing guerrillas at Chapultepec castle in Mexico City, ending the 12-year-long civil war, during which at least 75,000 people perished.<sup>1</sup> The Chapultepec Peace Accords (hereinafter “Agreement,” “Peace Accords,” or “Accords”),<sup>2</sup> their implementation and limitations, and the transitional process that followed, can provide valuable lessons for peace processes following conflict.

To this day, the Peace Accords and what they represent remain a source of contention in El Salvador, and the anniversary of their signing an opportunity for dangerous rhetoric to surface – highlighting the political polarization that still surrounds the conflict and post-conflict processes.

In January 2021, for the second year in a row, President Nayib Bukele suspended the commemoration of the signing of the Peace Accords, on the grounds that the Accords are but a pretext used by the Nationalist Republican Alliance (ARENA)<sup>3</sup> and Farabundo Martí National Libera-

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1 There is no exact, universally agreed upon figure for the number of victims killed during El Salvador’s internal armed conflict. However, experts generally agree that the war was one of the most intense and violent internal conflicts in Latin America’s history. In 1982, the Inter-American Commission on Human Rights estimated that there were nearly 35,000 victims between 1978 and 1983 alone. See Inter-American Commission on Human Rights (IACHR), Informe Anual, 1981-1982. OEA/Ser.L/V/II.57, doc. 6 rev.1, 20 September 1982, Chapter V, El Salvador, available at: <https://www.cidh.oas.org/annualrep/81.82sp/cap.5a.htm>. Academics cite different numbers for how many people lost their lives in El Salvador’s internal conflict, with figures ranging from 50,000 to 90,000 victims. For example, Sieder believed that during the same five-year period (1978-1983) nearly 42,000 people were killed by State agents (out of a total of 50,000 people killed by both sides during the same period). Seligson and McElhinny, on the other hand, estimated that between 80,000 and 94,000 people were killed during the conflict, with 50,000-60,0000 civilians among the victims. See Rachel Sieder, “Políticas de Guerra, Paz y Memoria en América Central,” in *Las políticas hacia el pasado. Juicios, depuraciones, perdón y olvido en las nuevas democracias*, eds. Alexandra Barahona de Brito, Paloma Aguilar Fernández, and Carmen González Enríquez. Madrid: Ediciones Istmo, 2002, 247-284; Mitchell Seligson and Vincent McElhinny, “Low-intensity warfare, High-intensity death: The Demographic Impact of the Wars in El Salvador and Nicaragua,” in *Canadian Journal of Latin American and Caribbean Studies*, 21, 42 (1996): 211-41, available at: <https://www.tandfonline.com/doi/abs/10.1080/08263663.1996.10816742>.

Both Buergethal and Wood estimated that the total number of dead was likely more than 75,000 people. See Thomas Buergethal, “La Comisión de la Verdad para El Salvador,” in *Estudios especializados de Derechos Humanos*, coords. Thomas Buergethal and Antonio Cancado Trindade, I. San José: IIDH, 11-62, available at: <https://archivos.juridicas.unam.mx/www/bjv/libros/5/20616.pdf>; Elisabeth Wood, “Insurgent Collective Action and Civil War in El Salvador,” Cambridge: University Press, available at: [https://books.google.es/books?hl=es&lr=&id=QBAA3ABKmic&oi=fnd&pg=PR8&dq=Insurgent+Collective+Action+and+Civil+War+in+El+Salvador&ots=7\\_KGRnVtFY&sig=-SzPWnYBAr1twp9wB2b2ON\\_-kno#v=onepage&q=Insurgent%20Collective%20Action%20and%20Civil%20War%20in%20El%20Salvador&f=false](https://books.google.es/books?hl=es&lr=&id=QBAA3ABKmic&oi=fnd&pg=PR8&dq=Insurgent+Collective+Action+and+Civil+War+in+El+Salvador&ots=7_KGRnVtFY&sig=-SzPWnYBAr1twp9wB2b2ON_-kno#v=onepage&q=Insurgent%20Collective%20Action%20and%20Civil%20War%20in%20El%20Salvador&f=false).

2 Chapultepec Agreement (El Salvador and FLMN, 1992),” available at: [https://peacemaker.un.org/sites/peacemaker.un.org/files/SV\\_920116\\_ChapultepecAgreement.pdf](https://peacemaker.un.org/sites/peacemaker.un.org/files/SV_920116_ChapultepecAgreement.pdf).

3 The Nationalist Republican Alliance (ARENA) is a right-wing Salvadoran political party that was in power when the Peace Accords were signed and stayed in power until 2009.

tion Front (FMLN)<sup>4</sup> parties to achieve their own political and economic objectives. In January 2022, President Bukele yet again suspended the commemoration of the Peace Accords, but this time did so via a decree passed by the legislative assembly. Decree 267 eliminated the official recognition of the Peace Accords, declaring in its stead a National Day for Victims of the Armed Conflict, a move which was widely criticized by victims and human rights groups, as well as international actors such as the Inter-American Commission on Human Rights (IACHR), for undermining historical memory efforts.<sup>5</sup>

In addition to these attacks on a day with immense significance for victims of the conflict, President Bukele has repeatedly sought to detract from, or hinder, transitional justice efforts. On more than one occasion Bukele has stated that both the war and the Accords “were a farce,” including during a public ceremony in the town of El Mozote – the site of one of the bloodiest massacres of the civil war – held in December 2020, a month prior to the 2021 anniversary of the Accords. At the time, Bukele further stated that the judge presiding over the criminal proceedings for the El Mozote massacre had no jurisdiction over the armed forces and, therefore, no authority to enter military facilities or review military files.<sup>6</sup> Bukele’s statements prompted swift criticism from human rights organizations and international actors, who reminded the President that the judge did in fact have the legal authority to access to military files; they also recalled the historical and personal significance of both the Peace Accords and the site of El Mozote for the conflict’s victims, as well as the outstanding debts owed to victims in terms of truth, memory, justice and reparations.<sup>7</sup>

In December 2021, just before the 40<sup>th</sup> anniversary of the El Mozote massacre itself, President Bukele again visited the town of El Mozote, accompanied by a military escort who surrounded and shut down the town. During his visit – carried out without previously consulting members of the community or victims of the massacre – Bukele made a statement attacking human rights organizations. In addition to Bukele’s recent visit, which human rights groups and victims’ representatives characterized as an act of intimidation and complete disrespect for

4 El Pais, “Bukele provoca indignación en El Salvador tras calificar de “farsa” los acuerdos de paz” (in Spanish), January 25, 2021, available at: <https://elpais.com/internacional/2021-01-25/bukele-provoca-indignacion-en-el-salvador-tras-calificar-de-farsa-los-acuerdos-de-paz.html>.

5 Decreto 267, *Declarase el 16 de enero de cada año como el “Día nacional de las víctimas del conflicto armado”, como justo reconocimiento a todas las personas que ofrendaron sus vidas durante el mismo*, January 11, 2022, available at: <http://www.asamblea.gob.sv/leyes-y-decretos/decretos-por-anos/2022/1>. See also YSUCA, “CIDH reafirma importancia de los Acuerdos de Paz en El Salvador,” January 16, 2022, available at: <https://ysuca.org.sv/cidh-reafirma-importancia-de-los-acuerdos-de-paz-en-el-salvador/>.

6 Diario, “Bukele: guerra y Acuerdos de Paz fueron una farsa” (in Spanish), December 17, 2020, available at: <http://diario1.com/politica/2020/12/bukele-guerra-y-acuerdos-de-paz-fueron-una-farsa/>.

7 Diario Co Latino, “Organizaciones de derechos humanos conmemoran Acuerdos de Paz” (in Spanish), January 16, 2021, available at: <https://www.diariocolatino.com/organizaciones-de-derechos-humanos-conmemoran-acuerdos-de-paz/>; see also Violeta Rivas, “Congresista EE.UU. critica discurso de Bukele en El Mozote”, *elsalvador.com*, December 18, 2020, available at: <https://historico.elsalvador.com/historico/787722/nayib-bukele-acuerdos-de-paz-congresista-eeuu-critica-discurso-el-mozote.html>.

the massacre's victims and their wishes, with the Judicial Reform bill proposed at the end of 2021, the Bukele-controlled Congress and Supreme Court were able to secure the removal of the judge presiding over the El Mozote trial by forcing him into early retirement.

In light of this recent context, and as we reflect on the impact and shortcomings of the Peace Accords in El Salvador on the 30th anniversary of their signing, can we define the measures included in the Accords as *transitional justice*? How should we characterize the nature of challenges related to the internal conflict of the past that are (re)emerging in the current climate of political polarization and authoritarian tendencies?



# I. EL SALVADOR'S INTERNAL ARMED CONFLICT AND ITS BACKGROUND

**S**ALVADORAN HISTORY IS CHARACTERIZED BY DEEPLY ROOTED SOCIAL INEQUALITIES AND GOVERNMENT-SPONSORED VIOLENCE AGAINST GROUPS SEEKING SOCIAL AND POLITICAL TRANSFORMATIONS. From the 18<sup>th</sup> through the early 20<sup>th</sup> centuries, a small group of powerful landowners, known as the “Fourteen Families,” ruled the country through a series of military dictatorships. A major peasant uprising in 1932 led by Agustín Farabundo Martí was repressed in a military assault known as *la matanza*: the slaughter, during which an estimated 30,000 civilians, most of whom were indigenous, were massacred.

During the 1950s and 60s reforms were attempted to redistribute farmland to the peasant population, but these efforts failed because of opposition from the elites and frustration with the government was reinforced more deeply among the population. Within this context, death squads emerged under the control of Major Roberto D'Aubuisson and the military at the service of the government and other powerful sectors. Death squads became a central element of the State's repressive apparatus, murdering thousands suspected of sympathizing with the left. The repression led to growing criticism by the Catholic Church, whose members also became victims of repression. In 1979, a Revolutionary, civil-military Junta overthrew the ruling military dictatorship. Upon gaining power, the Junta promised to implement only limited reforms to ease mounting tensions. Additionally, the United States, wary of political unrest in the region after the overthrow of the Somoza regime in Nicaragua, began providing massive economic and military assistance to the Junta government.<sup>8</sup>

Archbishop Oscar Romero was one of the most outspoken people in condemning the killings, torture, and other crimes committed by the country's regime; on March 24, 1980, he was gunned down while celebrating Mass. Many see this as the opening act in a civil war that would leave tens of thousands of innocent civilians dead.

During the internal conflict, members of the Salvadoran military's high command were direct-

<sup>8</sup> See William M LeoGrande and Carla Anne Robbins, “Oligarchs and Officers: The Crisis in El Salvador,” *Foreign Affairs* 58, no. 5 (1980): 1084-1103; Raymond Bonner, “The Agony of El Salvador,” *The New York Times*, February 22, 1981. <https://www.nytimes.com/1981/02/22/magazine/the-agony-of-el-salvador.html>

ly involved in the planning of brutal massacres, including several targeting specific populations deemed to be a threat, such as members of organized labor and peasant groups. The largest of these civilian killings was the aforementioned **massacre at El Mozote**, where the atrocities committed left nearly 1,000 people dead, more than half of them children. Other human rights violations committed during the war by both sides include kidnapping, torture, enforced disappearances, and forcibly recruiting children to become child soldiers.

When **the Chapultepec Peace Accords were signed by the Salvadoran government and the FMLN on January 16, 1992**, putting an end to El Salvador's 12-year civil war, the final document contained nine chapters covering five broad and fundamental issues: the restructuring of the Armed Forces; reforms to the justice system; protections for human rights and the electoral system; the creation of the National Civil Police force; and the adoption of certain economic and social measures. More specifically, the provisions included in the UN-backed agreement were: a cease-fire; the demobilization of military and guerrilla forces; the establishment of the FMLN as a political party and the reintegration of its combatants into society; changes in the nature and responsibilities of the country's armed forces, as well as a reduction in their size; the creation of a new national civilian police force and an intelligence service separate from the military; human rights measures such as the creation of the Human Rights Ombudsman's Office; electoral and judicial reforms; legal reforms, including constitutional reforms to ensure and advance human rights protections; and limited social and economic programs.<sup>9</sup> It is important to note that while these measures were implemented, albeit imperfectly, there were other additional setbacks over time that delayed effective implementation.

A number of factors, including the nature of the conflict itself, the political power remaining in the hands of the outgoing regime, the role of the international community, the weaknesses of democratic institutions and civil society's bargaining capacity, help to explain the relative successes and failures of the transitional justice mechanisms adopted in El Salvador since the signing of the Accords.

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<sup>9</sup> *Chapultepec Agreement* Ch. 5 (El Salvador and FMLN, 1992), "Economic and Social Questions," available at: [https://peacemaker.un.org/sites/peacemaker.un.org/files/SV\\_920116\\_ChapultepecAgreement.pdf](https://peacemaker.un.org/sites/peacemaker.un.org/files/SV_920116_ChapultepecAgreement.pdf).

## II. NEGOTIATING PEACE – AND TRANSITIONAL JUSTICE

**D**URING EL SALVADOR'S CONFLICT, THE FMLN HAD MANAGED TO CREATE A TRUE ARMY WITH EXPERTISE IN GUERRILLA WARFARE, while the government, firmly supported by the United States, waged a brutal counterinsurgency war.<sup>10</sup> Throughout almost the entire length of the war, attempts to negotiate were initiated by both sides, but with little result, because rather than sincere negotiation endeavors, they were efforts to gain political and strategic advantages over the enemy.

Starting in 1989, however – with the arrival of a new president, landowner Alfredo Cristiani – dialogue was pursued with the intention of reaching an agreement. Some reasons for this shift came from within El Salvador: fatigue from the war was accumulating on both sides as well as within Salvadoran civil society, and military stagnation had taken hold, with both sides realizing the impossibility of winning the war. External factors also played a part: the end of the Cold War had left the guerrillas without foreign support, and at the same time the United States began to see the futility of maintaining support for an unpopular war that was no longer strategic. They, in turn, pressured the Salvadoran government to move towards an agreement.<sup>11</sup>

The UN-backed peace negotiation process began in 1990 and culminated with the 1992 signing of the Accords.<sup>12</sup> The first substantive agreement was achieved on July 26, 1990, when the Government of El Salvador and the FMLN signed the Agreement on Human Rights in San Jose, Costa Rica.<sup>13</sup> This Agreement provided for the establishment of a United Nations verification mission (ONUSAL) to monitor nationwide respect for and the guarantee of human rights and

10 See Angel Rabasa, John Gordon, Peter Chalk, Audra K. Grant, K. Scott McMahon, Stephanie Pezard, Caroline Reilly, David Ucko, and S. Rebecca Zimmerman, "Counterinsurgency Transition Case Study: El Salvador," in *From Insurgency to Stability: Volume II: Insights from Selected Case Studies*, 75-116. RAND Corporation, 2011.

11 See also: Teresa Whitefield, "The UN's Role in Peace-building in El Salvador," in *El Salvador: Implementation of the Peace Accords*, ed. Margarita S. Studemeister, 34 (Washington, DC: United States Institute of Peace, 2001), available at: <http://www.usip.org/sites/default/files/pwks38.pdf>; Kevin Murray, *El Salvador: Peace on Trial* (OxFam UK and Ireland, 1997).

12 For more in-depth information on the negotiation and implementation of the Accords, see Roberto Oswaldo López, Carolina Quinteros and Carlos Guillermo Ramos, *State Reform after the Peace Accords Negotiating and Implementing an Inclusive Political Settlement in El Salvador*, Berghof Foundation (2015), available at: [https://www.berghof-foundation.org/fileadmin/redaktion/Publications/Other\\_Resources/IPS/Paper-1-El-Salvador-english-layout-final.pdf](https://www.berghof-foundation.org/fileadmin/redaktion/Publications/Other_Resources/IPS/Paper-1-El-Salvador-english-layout-final.pdf). See also Alvaro de Soto and Graciana del Castillo, "Obstacles to Peacebuilding Revisited," *Global Governance* Vol. 22, No. 2 (Apr.-June 2016), pp. 209-227, available at: <https://www.jstor.org/stable/44861074>, and United States Institute of Peace (USIP), *El Salvador: Implementation of the Peace Accords*, (Jan. 2001), available at: <https://www.usip.org/sites/default/files/pwks38.pdf>.

13 See *Agreement on Human Rights (San Jose Agreement)* (El Salvador and FLMN, 1990).



fundamental freedoms in El Salvador.<sup>14</sup> According to the Agreement, ONUSAL was to take up its duties as of the cessation of the armed conflict.

On May 20, 1991, following the Secretary General's recommendation, the Security Council, by its resolution 693 (1991), decided to establish ONUSAL as an integrated peacekeeping operation to monitor all agreements concluded between the Government of El Salvador and FMLN.<sup>15</sup> The Mission's tasks included actively monitoring the human rights situation in El Salvador; investigating specific cases of alleged human rights violations; promoting human rights in the country; making recommendations for the elimination of violations; and reporting on these matters to the Secretary-General and, through him, to the United Nations General Assembly and Security Council.<sup>16</sup>

At the time of the negotiations, as well as the signing and implementation of the Peace Accords, the concept of transitional justice was not specifically being applied by the Salvadoran conflict's central actors. At that time, earlier transitional justice efforts (such as those in Argentina, Chile, and Eastern Europe) focused on truth commissions and legal amnesties, and viewed them as alternatives. Since those earlier conceptualizations, the international human rights system has undergone considerable shifts, with academics and practitioners advocating for a more integral concept of transitional justice that includes *both* truth and justice and considers them complementary, rather than opposing, elements.<sup>17</sup> **Although El Salvador's negotiators did not explicitly identify the peace process or the Accords in transitional justice terms, the Accords focused on political reforms aimed at demilitarizing society and strengthening democratic institutions. These legal and institutional changes constitute commitments that fall within the set of measures encompassed by what we know today as transitional justice.**

While there was no outright advocacy for transitional justice measures in El Salvador *per se*, among the transitional justice issues that arose during the peace process were the right to the truth, legal and institutional reforms, and non-repetition of human rights violations. While it is believed that there were conversations about implementing transitional justice measures in El Salvador within human rights bodies (such as the United Nations) at the time, any such conversations were off the record and not part of public discourse.

Negotiations of the Salvadoran Peace Accords took place between the government and the insurgent leadership, with the United Nations serving as mediator. The exclusion of civil society

<sup>14</sup> *Agreement on Human Rights (San Jose Agreement)* Art. II (El Salvador and FMLN, 1990).

<sup>15</sup> Security Council Resolution 693, U.N. Doc. S/RES/693 (May 20, 1991).

<sup>16</sup> *Agreement on Human Rights (San Jose Agreement)* Art. II (14) (El Salvador and FMLN, 1990).

<sup>17</sup> See Jo-Marie Burt, *Transitional Justice in the Aftermath of Civil Conflict: Lessons from Peru, Guatemala and El Salvador*, Due Process of Law Foundation (DPLF) (2018) available at: [http://www.dplf.org/sites/default/files/pictures/transitional\\_justice\\_final.pdf](http://www.dplf.org/sites/default/files/pictures/transitional_justice_final.pdf).

from participation in the negotiations was criticized in the post-Accord environment as detracting from the legitimacy of the peace process and depriving it of an active and representative constituency, factors that ultimately contributed to the difficulty of implementing the final Accords. International involvement, including United Nations participation, was a vital element of the peace process, a process that was successful in that it culminated with an agreement to put an end to the fighting and was quite broad in scope; however, the participation of international actors did little to build El Salvador's "ownership" of the process.<sup>18</sup>

In the years immediately after the conflict, while human rights organizations and victims' groups in El Salvador sought to highlight the need for transitional justice measures, they were not as effective in emphasizing the need for truth and justice or advocating for those measures as their counterparts in Argentina, Chile, and Guatemala. The limited ability of Salvadoran civil society organizations to influence post-war policy in El Salvador was due in large part to the fact that they did not have strong connections to the international human rights movement and institutions, and, with the exception of a small group of human rights lawyers, those engaged in victim advocacy and representation were limited in their ability to access technical training or resources to professionalize themselves the way human rights advocates in the Southern Cone countries or neighboring Guatemala had been able to. In addition, many Salvadoran civil society leaders had been killed or forced into exile during the conflict, and those that remained largely operated at the local level, in rural areas without significant resources; many of them were recent returnees to their communities, whose energy was focused on rebuilding their homes and communities. Finally, while other countries emerging from internal conflicts around the same time, such as Guatemala, made significant efforts to construct a strong civil society, in El Salvador a significant amount of energy was dedicated to building a political party, the newly legalized FMLN, instead.

At the time, civil society organizations in El Salvador were not always certain how to approach the political shifts taking place. From the politics of social mobilization and activism that had predominated during the seventies and eighties, it was becoming necessary for civil society organizations to transition to the politics of influence through a process of professional development. This was key since, on the one hand, civil society organizations faced a more complex situation in El Salvador, and on the other, there was now a broader range of significant actors nationally and internationally – among them, for example, the National Judicial Council (CNJ), the legislative assembly, the Human Rights Ombudsperson's Office (*Procuraduría para la defensa de los derechos humanos*, PDDH), and the Inter-American Commission on Human Rights (IACHR). This meant that civil society organizations suddenly had to operate in a multi-

<sup>18</sup> See Margaret Popkin, "Building the Rule of Law in Post-War El Salvador," in *El Salvador: Implementation of the Peace Accords*, ed. Margarita S. Studemeister, 10–19 (Washington, DC: United States Institute of Peace, 2001), available at: <http://www.usip.org/sites/default/files/pwks38.pdf>.

lateral democratic environment, and adopt a pragmatic approach to produce specific changes that would improve the existing mechanisms – even when these were less than ideal – rather than attempt to change an entire system through public denunciation and popular mobilization, which were the tactics used in the previous decades.

As mentioned above, transitional justice was not officially part of the conceptual framework used to draft the Accords, however, the creation of a Truth Commission, as discussed in detail below, tasked with investigating the grave human rights violations that occurred during El Salvador's civil war and issuing recommendations for reforms to ensure their non-repetition and contribute to national reconciliation, was a key transitional justice measure during the initial post-conflict period.

## III. TRANSITIONAL JUSTICE OUTPUTS

**T**HE PRIMARY FOCUS OF TRANSITIONAL JUSTICE MEASURES UNDERTAKEN AS PART OF EL SALVADOR'S IMMEDIATE POST-CONFLICT PEACE PROCESS WAS INSTITUTIONAL REFORM. Truth-telling mechanisms and weakly defined accountability processes were given less significance, and little emphasis was placed on reparations. More recently, some strides have been made to seek accountability for violations committed during the conflict and reparations for victims. Still, nearly three decades after the signing of the Peace Accords, El Salvador's peace process remains incomplete, and there is much work to be done to achieve adequate and comprehensive truth, justice, and reparations for the conflict's victims, and to ensure non-repetition of the violations committed.

### A. TRUTH TELLING

During peace negotiations in El Salvador, the negotiating parties proposed various approaches to deal with cases of human rights violations and impunity, and ultimately accepted a proposal from the UN to establish the abovementioned Truth Commission to determine the official truth about the most "important acts of violence" that occurred during the war.<sup>19</sup>

The Commission's mandate was to investigate "serious acts of violence that occurred since 1980 and whose impact on society urgently demands that the public should know the truth."<sup>20</sup> It was to take into consideration the "exceptional importance that may be attached to the acts to be investigated, their characteristics and impact, and the social unrest to which they gave rise" as well as the need to build confidence in the positive changes being promoted by the peace process.<sup>21</sup> In addition, the Commission was charged with "recommending the legal, political or administrative measures which can be inferred from the results of the investigation," including "measures to prevent the repetition of such acts, and initiatives to promote national recon-

<sup>19</sup> *Chapultepec Agreement* Ch. 5 (El Salvador and FLMN, 1992), "Economic and Social Questions," available at: [https://peacemaker.un.org/sites/peacemaker.un.org/files/SV\\_920116\\_ChapultepecAgreement.pdf](https://peacemaker.un.org/sites/peacemaker.un.org/files/SV_920116_ChapultepecAgreement.pdf).

<sup>20</sup> UN Security Council, *Report of the UN Truth Commission on El Salvador*, S/25500, 1 April 1993. Ch. II "The Mandate," at 18, available at: <http://www.derechos.org/nizkor/salvador/informes/truth.html>.

<sup>21</sup> UN Security Council, *Report of the UN Truth Commission on El Salvador*, S/25500, 1 April 1993. Ch. II "The Mandate," at 18, available at: <http://www.derechos.org/nizkor/salvador/informes/truth.html>.

ciliation.”<sup>22</sup> The government and the FMLN agreed to cooperate fully with the Commission as they carried out their investigations, and to comply with the Commission’s recommendations.

**The Truth Commission for El Salvador was formally established in July 1992**, in accordance with an agreement brokered by the United Nations and signed by both the Salvadoran government and the FMLN during peace negotiations in 1991, **and as mandated in the Peace Accords themselves on January 16, 1992.**<sup>23</sup> Because of the extreme polarization of Salvadoran society at the end of the war, the parties ultimately agreed to entrust the Commission’s work to members of the international community. The Truth Commission was made up of three individuals appointed by the UN Secretary General, chaired by former Colombian president Belisario Betancur. Additionally, the Truth Commission advisors and technical team was primarily made up of foreigners, not Salvadorans. They carried out their mandate over eight months and presented their final report on March 15, 1993.<sup>24</sup>

**The Commission documented over 22,000 complaints of human rights violations committed during the armed conflict, including extrajudicial killings, enforced disappearances, and torture.**<sup>25</sup> **The Commission’s final report included the results of the investigation of 32 specific cases, which illustrated patterns of extrajudicial executions, disappearances, massacres, and death squad killings;** the scale and systematic nature of these violations plunged El Salvador into what the report described as a period of “madness.”<sup>26</sup> Based on the testimony they collected, the Commission attributed 85 percent of the acts of violence committed during the conflict to State agents, and approximately 5 percent to the FMLN, and the remaining 10 percent to paramilitary groups (death squads).<sup>27</sup> In discussing violations committed by State actors, the report stated that “it is impossible to blame this pattern of conduct on local commanders and claim that senior commanders did not know anything about it . . . Massacres of the peasant population were reported repeatedly.”<sup>28</sup>

22 UN Security Council, *Report of the UN Truth Commission on El Salvador*, S/25500, 1 April 1993. Ch. II “The Mandate”, at 18, available at: <http://www.derechos.org/nizkor/salvador/informes/truth.html>.

23 United States Institute of Peace, *Truth Commission: El Salvador* (July 1, 1992) available at: <https://www.usip.org/publications/1992/07/truth-commission-el-salvador>.

24 Belisario Betancur, Reinaldo Figueredo Planchart, and Thomas Buergenthal, *From Madness to Hope: The 12-Year War in El Salvador: Report of the Commission on the Truth for El Salvador*, UNITED STATES INSTITUTE OF PEACE (MARCH 15, 1993) AVAILABLE AT <https://www.usip.org/files/file/ElSalvador-Report.pdf>.

25 See UN Security Council, *Report of the UN Truth Commission on El Salvador*, S/25500, 1 April 1993. Ch. II “The Mandate”, at 43, available at: <http://www.derechos.org/nizkor/salvador/informes/truth.html>. United States Institute of Peace, *Truth Commission: El Salvador* (July 1, 1992) available at: <https://www.usip.org/publications/1992/07/truth-commission-el-salvador>.

26 Belisario Betancur, Reinaldo Figueredo Planchart, and Thomas Buergenthal, *From Madness to Hope: The 12-Year War in El Salvador: Report of the Commission on the Truth for El Salvador*, UNITED STATES INSTITUTE OF PEACE (MARCH 15, 1993) AVAILABLE AT: <https://www.usip.org/files/file/ElSalvador-Report.pdf>.

27 Belisario Betancur, Reinaldo Figueredo Planchart, and Thomas Buergenthal, *From Madness to Hope: The 12-Year War in El Salvador: Report of the Commission on the Truth for El Salvador*, UNITED STATES INSTITUTE OF PEACE, 36 (MARCH 15, 1993) AVAILABLE AT: <https://www.usip.org/files/file/ElSalvador-Report.pdf>.

28 Belisario Betancur, Reinaldo Figueredo Planchart, and Thomas Buergenthal, *From Madness to Hope: The 12-Year War in*

In roughly half of the cases they investigated, the Commission uncovered sufficient evidence to identify specific individuals responsible for committing, ordering or covering up human rights violations. The report names approximately 40 military officers responsible for different violations, as well as leaders of the FMLN as responsible for implementing a policy of assassinating local mayors.<sup>29</sup> The report also named paramilitaries, judges, an army lawyer, and several civilians.<sup>30</sup> The report did not, however, identify the vast majority of civilians who financed and planned death squad actions, nor did it explore the role played by the United States in the Salvadoran conflict.<sup>31</sup> It should be noted, as well, that while many victims were able to give their testimony to the Salvadoran Truth Commission, the short timeframe the Commission was given to conduct its work and the fear that continued to permeate the country at the time meant that victim participation in the Truth Commission process was inherently limited.

In addition to publishing the results of their investigation of what took place during El Salvador's internal conflict and identifying some of those responsible for human rights violations committed – an essential step in the truth telling process – the Truth Commission issued recommendations, in accordance with their mandate. The Commission's principal recommendations are described throughout the following sections, along with any efforts made by the Salvadoran government to comply with or implement them. Until recent years, the Salvadoran government had not begun to implement most of the recommendations made in the Commission's report. While there has finally been some effort made by the government to follow through on the recommendations outlined in the report (after many years and extensive advocacy from victims and civil society), El Salvador remains far from fully complying with the Commission's recommendations or meeting all of its obligations to victims and their families.

## B. REPARATIONS

Among the recommendations made by the Truth Commission in its final report were for both monetary and symbolic reparations to be made by the Salvadoran State to victims. Since the conflict's end, victims' groups have continuously highlighted the need for reparations, and repeatedly issued demands for monetary compensation and public memorials.

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*El Salvador: Report of the Commission on the Truth for El Salvador*, United States Institute of Peace, 118 (March 15, 1993) available at: <https://www.usip.org/files/file/ElSalvador-Report.pdf>.

<sup>29</sup> Belisario Betancur, Reinaldo Figueredo Planchart, and Thomas Buerghenthal, *From Madness to Hope: The 12-Year War in El Salvador: Report of the Commission on the Truth for El Salvador*, United States Institute of Peace (March 15, 1993) available at: <https://www.usip.org/files/file/ElSalvador-Report.pdf>.

<sup>30</sup> Belisario Betancur, Reinaldo Figueredo Planchart, and Thomas Buerghenthal, *From Madness to Hope: The 12-Year War in El Salvador: Report of the Commission on the Truth for El Salvador*, United States Institute of Peace (March 15, 1993) available at: <https://www.usip.org/files/file/ElSalvador-Report.pdf>.

<sup>31</sup> See Margaret Popkin and Naomi Roht-Arriaza, *Truth as Justice: Investigatory Commissions in Latin America*, Law & Soc. Inquiry, Vol. 20, No. 1 (Winter, 1995), at 88, available at [https://repository.uchastings.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=2174&context=faculty\\_scholarship](https://repository.uchastings.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=2174&context=faculty_scholarship).

## FINANCIAL REPARATIONS

In its report, the Truth Commission called for the creation of a specific fund for financial compensation of victims, stipulating that one percent of foreign aid to El Salvador should be earmarked for this purpose.<sup>32</sup> For years after the conflict, victims' groups advocated unsuccessfully for El Salvador's Congress to pass a reparations law and establish an official reparations program. It was not until 2013, almost 21 years after the Peace Accords were signed, that a national reparations program was established,<sup>33</sup> and it took even longer for the State to begin administering reparations via the program. Even as some progress in paying reparations has been made in individual cases and via the national program, to this day the **Reparations Program for Victims of Grave Human Rights Violations** remains far from comprehensive, as discussed in Section IV below.

## MORAL/SYMBOLIC REPARATIONS

The Truth Commission also made specific recommendations on symbolic reparations, emphasizing the importance of memorials and other forms of public acknowledgement as means of redress for harm done to victims during the war, as well as an important part of the national reconciliation process. The Truth Commission report recommended a series of "Moral Reparation" actions the State should take to symbolically repair victims and contribute to the construction of El Salvador's historical memory of the conflict.<sup>34</sup> Recommended measures included building a national monument bearing the names of all victims; publicly recognizing victims and the serious crimes they suffered; and creating a national holiday to permanently memorialize victims of the conflict and serve as a symbol of national reconciliation.<sup>35</sup> However, the majority of these recommendations were not implemented, or were only partially implemented many years later. Given the absence of official memorialization initiatives, victims and civil society assumed the creation of monuments, museums, and other memory spaces to preserve the past and defy the official narratives that denied what had occurred during the conflict.

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32 Belisario Betancur, Reinaldo Figueredo Planchart, and Thomas Buergenthal, *From Madness to Hope: The 12-Year War in El Salvador: Report of the Commission on the Truth for El Salvador*, United States Institute of Peace, 176 (March 15, 1993) available at: <https://www.usip.org/files/file/ElSalvador-Report.pdf>.

33 *Programa de Reparación de Víctimas de Graves Violaciones a los Derechos Humanos*, established via Executive Decree 204 on October 23, 2013.

34 Belisario Betancur, Reinaldo Figueredo Planchart, and Thomas Buergenthal, *From Madness to Hope: The 12-Year War in El Salvador: Report of the Commission on the Truth for El Salvador*, United States Institute of Peace, 176-177 (March 15, 1993) available at: <https://www.usip.org/files/file/ElSalvador-Report.pdf>.

35 Belisario Betancur, Reinaldo Figueredo Planchart, and Thomas Buergenthal, *From Madness to Hope: The 12-Year War in El Salvador: Report of the Commission on the Truth for El Salvador*, United States Institute of Peace, 176-177 (March 15, 1993) available at: <https://www.usip.org/files/file/ElSalvador-Report.pdf>.

For example, a public park, “Parque Cuscatlán,” in the heart of San Salvador, is home to the Monument to Memory and Truth. Following the recommendation of the Truth Commission, as well as 20 years of advocacy by citizen groups, the city government of San Salvador finally built a memorial wall in December 2003. The memorial wall in San Salvador lists only civilians who were killed or disappeared during the civil war. The list, organized by year and last name, includes 32,000 names. A final panel honors 30,000 anonymous civilian victims of the war.

At the community level, in the years since the conflict’s end victims have worked together and in close coordination with some local municipalities to develop memory sites. These sites aim to document past abuses, commemorate victims, and create public spaces that contribute to a broader understanding of what happened during the conflict.<sup>36</sup>

## C. ACCOUNTABILITY

As described above, the Truth Commission was one of the first official bodies to identify and name some of the individuals responsible for crimes committed in El Salvador during the conflict, among them high-ranking members of the Salvadoran military, judiciary, and government. This was a significant first step in the accountability process.

### ACCOUNTABILITY FOR MILITARY OFFICERS

In addition to the Truth Commission for El Salvador, a separate three-member committee, the **Ad Hoc Commission**, was established to investigate the military specifically. As established by the 1992 Peace Accords, the Ad Hoc Commission was responsible for reviewing military officers’ records and making binding recommendations for the transfer or dismissal of those found responsible for human rights violations as part of a process of “purging of the armed forces.”<sup>37</sup> It was composed of three individuals nominated by the UN Secretary General and appointed by the president. At the government’s insistence, and unlike the Truth Commission, the Ad Hoc Commission members were Salvadoran nationals. The Ad Hoc Commission’s review of the officers would be based on three criteria: officers’ demonstrated respect for human rights, professionalism, and democratic commitment.<sup>38</sup>

<sup>36</sup> Jo-Marie Burt, *Transitional Justice in the Aftermath of Civil Conflict: Lessons from Peru, Guatemala and El Salvador*, Due Process of Law Foundation (DPLF) (2018) at 47, available at: [http://www.dplf.org/sites/default/files/pictures/transitional\\_justice\\_final.pdf](http://www.dplf.org/sites/default/files/pictures/transitional_justice_final.pdf).

<sup>37</sup> The Ad Hoc Committee was first envisioned in the New York agreements, a set of intermediate accords put in place by the negotiating parties months before the comprehensive 1992 Peace Accords, and whose existence and mandate were then enshrined in the Peace Accords themselves; *Chapultepec Agreement* Ch. I, Art. 3 (El Salvador and FLMN, 1992).

<sup>38</sup> See David Holiday and William Stanley, “Building the Peace: Preliminary Lessons from El Salvador,” *Journal of International Affairs*, Vol. 46, No. 2, Keeping the Peace: Conflict Resolution in the Twenty-First Century (Winter 1993), pp. 415-438; see also Canada: Immigration and Refugee Board of Canada, *El Salvador: Impact of the 1992 Peace Accords*, April 1, 1994, available at: <https://www.refworld.org/docid/3ae6a82f4.html>.



The Ad Hoc Commission worked for three months, after which it released a report that exceeded expectations. In it, the Commission identified 103 officers who did not meet the criteria mentioned above, including the then-minister and vice ministers of defense, and called for their dismissal by the end of 1992.<sup>39</sup> The Salvadoran government did not meet this deadline, and it was not until June 30, 1993 that they finally complied with the Ad Hoc Commission's recommendation and removed the named officers from duty.<sup>40</sup>

## THE AMNESTY LAW OF 1993, ITS REPEAL, AND SUBSEQUENT CRIMINAL PROSECUTIONS

Although it was not written into the Peace Accords, there was an expectation that broad amnesty for the signing parties would follow the Accords. The National Reconciliation Law, also passed in January 1992,<sup>41</sup> pardoned and enabled the political participation of FMLN leaders in El Salvador; however, Article 6 of the law significantly and explicitly excluded war crimes and crimes against humanity from being eligible for the application of amnesty. In this way, the 1992 National Reconciliation Law complied with international standards.

On March 20, 1993, just over a year after the passage of the National Reconciliation Law and five days after the Truth Commission published its final report, the Legislative Assembly adopted the General Amnesty Law for the Consolidation of Peace, a stunning reversal and a devastating blow for the fight against impunity in postwar El Salvador. The General Amnesty Law repealed Article 6 of the National Reconciliation Law, thereby making perpetrators of war crimes and crimes against humanity eligible for amnesty,<sup>42</sup> in violation of international norms. Various United Nations human rights protection bodies urged the Salvadoran State to amend or even repeal the Amnesty Law, as it clearly prevented victims of serious human rights violations from obtaining justice and redress for the violations carried out against them

<sup>39</sup> See David Holiday and William Stanley, "Building the Peace: Preliminary Lessons from El Salvador", *Journal of International Affairs*, Vol. 46, No. 2, *Keeping the Peace: Conflict Resolution in the Twenty-First Century* (Winter 1993), pp. 415-438; see also Canada: Immigration and Refugee Board of Canada, *El Salvador: Impact of the 1992 Peace Accords*, April 1, 1994, available at: <https://www.refworld.org/docid/3ae6a82f4.html>.

<sup>40</sup> See Human Right Watch, *Human Rights Watch World Report 1994 - El Salvador (January 1, 1994)* available at <https://www.refworld.org/docid/467fca7f7.html>; see also Canada: Immigration and Refugee Board of Canada, *El Salvador: Impact of the 1992 Peace Accords* (April 1, 1994), available at: <https://www.refworld.org/docid/3ae6a82f4.html>.

<sup>41</sup> *Ley de Reconciliación Nacional*, Decreto Legislativo N° 147 del 23 de enero de 1992, publicado en el D.O. del 23 de enero de 1992, available at <https://www.acnur.org/fileadmin/Documentos/BDL/2002/1840.pdf>.

<sup>42</sup> *General Amnesty Law for the Consolidation of Peace*, Decree N° 486, (El Salvador, 1993) decreed an amnesty that was "broad, absolute, and unconditional, for all persons who, in any way, may have taken part in the commission of political crimes, common crimes related thereto, and common crimes committed prior to January 1, 1992, by a number of persons no less than twenty." The same law establishes that convicted persons must be granted immediate release, and that the cases of defendants on trial must be dismissed with prejudice; in the case of persons who have not yet been prosecuted, the decree provides that "at any time at which charges are brought against them for crimes included in this amnesty, they may assert the defense of the termination of the right to bring a criminal action and request dismissal with prejudice." Following the enactment of this law in 1993, various United Nations human rights protection bodies urged the Salvadoran state to amend or even repeal it. Available in Spanish at: <https://www.acnur.org/fileadmin/Documentos/BDL/2002/1841.pdf>.

and ensured impunity for those responsible.<sup>43</sup> In spite of the outcry from victims and human rights advocates at the national, regional and international levels, the Amnesty Law remained in place from 1993-2016.

In 2016, following years of tireless advocacy by victims' organizations,<sup>44</sup> the Constitutional Chamber of the Supreme Court finally struck down the Amnesty Law.<sup>45</sup> That decision opened the door for new criminal prosecutions for cases of human rights violations committed during the conflict and gave cases that had stagnated for years in the justice system the chance to finally move forward, offering new hope of holding perpetrators accountable. The decision also made possible the creation of programs to search for the disappeared as well as for more comprehensive reparations for victims, both of which are discussed in Section IV.

Of the few criminal cases that are currently underway for wartime crimes and human rights violations, including the prosecution of 17 ex-military officers for the 1981 El Mozote massacre, where, as noted above, nearly 1,000 civilians – mainly women and children – were murdered by military forces, judicial proceedings have thus far been slow. This is an indication of the Salvadoran judiciary's lack of preparedness to address the complexities of past international crimes and human rights violations in domestic courts.

In addition, certain recent judicial reforms, discussed in greater detail below, threaten to paralyze these judicial proceedings even further, leaving victims and families in limbo. To date, only two government actors have been convicted and sentenced, in a problematic and highly criticized trial, for human rights violations committed during the conflict, with that case being the one, very limited exception to the overwhelming impunity that has defined El Salvador's legal response to wartime human rights abuses.<sup>46</sup> In fact, leaders across the political spectrum have

<sup>43</sup> These bodies include the Human Rights Committee, the Working Group on Enforced or Involuntary Disappearances and the Committee against Torture. See: UN Human Rights Committee, *Concluding Observations, El Salvador*, Doc. CCPR/C/79/Add.34, April 18, 1994, Human Rights Committee; *Concluding Observations, El Salvador*, Doc. CCPR/CO/78/SLV, August 22, 2003 & Human Rights Committee, *Concluding Observations, El Salvador*, Doc. CCPR/C/SLV/CO/6, November 18, 2010. See also UN Human Rights Council, *Report of the Working Group on Enforced or Involuntary Disappearances, Mission to El Salvador*, U.N. Doc. A/HRC/7/2/Add.2, October 26, 2007, available at: [https://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A.HRC.22.45.Add.3\\_EFS.pdf](https://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A.HRC.22.45.Add.3_EFS.pdf); and C; and UN General Assembly, *Concluding Observations of the Committee against Torture with respect to El Salvador*, U.N. Doc. CAT/C/SLV/CO/2, December 9, 2009, available at <https://www2.ohchr.org/english/bodies/cat/docs/A-65-44.pdf>.

<sup>44</sup> See Daniel Cerqueira and Leonor Arteaga, *Challenging the Amnesty Law in El Salvador: Domestic and International Alternatives to Bring an End to Impunity*, Due Process of Law Foundation (DPLF) (2016) available at [http://www.dplf.org/sites/default/files/amnesty\\_law-final-24june.pdf](http://www.dplf.org/sites/default/files/amnesty_law-final-24june.pdf).

<sup>45</sup> Sala de lo Constitucional de la Corte Suprema de Justicia, *Sentencia 44-2013/145-2013 Inconstitucionalidad*, 13 de julio 2016, available at <https://www.jurisprudencia.gob.sv/VisorMLX/PDF/44-2013AC.PDF>. See also Due Process of Law Foundation (DPLF), *Análisis de la Sentencia de Sala de lo Constitucional de la Corte Suprema de Justicia de El Salvador que declaró la inconstitucionalidad de la Ley de Amnistía de 1993*, July 2019, available at [https://www.dplf.org/sites/default/files/2019\\_07\\_analisis\\_sentencia\\_de\\_inconstitucionalidad\\_de\\_la\\_ley\\_de\\_amnistia\\_2016.pdf](https://www.dplf.org/sites/default/files/2019_07_analisis_sentencia_de_inconstitucionalidad_de_la_ley_de_amnistia_2016.pdf) and Naomi Roht-Arriaza, "El Salvador's Constitutional Court Invalidates Amnesty Law," *Justicia en las Américas*, July 22, 2016, <https://dplfblog.com/2016/07/22/el-salvadors-constitutional-court-invalidates-amnesty-law/>.

<sup>46</sup> In the *Case of the Jesuits*, a group of eight civilians, among them two women and six Jesuit priests (including one priest who was a vocal activist in promoting peace and supporting El Salvador's impoverished and marginalized populations), were arbitrarily executed by members of El Salvador's Armed Forces on the grounds of the Universidad Centroamericana "José Simeón Cañas" on November 16, 1989. While some of the involved army officers were brought to trial in 1991, the

repeatedly affirmed that the Amnesty Law was the bedrock of El Salvador's successful peace process and that it was necessary for national reconciliation. This attitude has remained constant since the end of the war, even after the Amnesty Law's repeal, and has given rise to a culture of silence and intimidation that has weakened victims' capacity to organize and advocate for mechanisms of legal and symbolic reparation.

While the Amnesty Law was repealed by the Constitutional Chamber, in February 2020 El Salvador's Congress approved a different law, the Special Law on Transitional Justice, Reparation and National Reconciliation, which they characterized as a transitional justice measure. That law, while framed within transitional justice terms, contained provisions that, according to Salvadoran civil society, essentially amounted to a de facto amnesty for perpetrators of human rights violations during the conflict. It was unequivocally rejected by conflict victims and ultimately vetoed by President Bukele; however, the Salvadoran Congress has reopened debate on a new transitional justice law, and there is fear among civil society and victims that they will again try to push through amnesty provisions under the guise of advancing transitional justice aims.<sup>47</sup>

In addition to these looming legislative threats to victims' rights, initiatives chipping away at the independence of El Salvador's judicial branch are also negatively impacting the transitional justice process and the ability of victims to achieve truth, justice, reparations and guarantees of non-repetition. On August 31, legislators from Bukele's *Nuevas Ideas* party approved a controversial judicial reform, forcing judges over 60 years of age or with over 30 years of judicial service into retirement. The reform also permits the Supreme Court to transfer judges without cause. The legislators who approved the law justified its passage by claiming that the measure seeks to rid the justice system of corruption; however, human rights groups insist that, while

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accused members of the army's executive command and intellectual officers of the murders were acquitted, and only two of the perpetrators were convicted – only to be released two years later upon the passage of El Salvador's 1993 Amnesty Law. See Procuraduría para la Defensa de los Derechos Humanos (PDDH), *Caso Jesuitas*, October 30, 2002, available at <https://www.pddh.gob.sv/portal/wp-content/uploads/2019/03/caso-jesuitas.pdf>. The Inter-American Commission on Human Rights characterized the trial as a "simulated process," and considered the case to effectively remain in impunity (See Comisión Interamericana de Derechos Humanos (CIDH), *Informe N° 136/99, Caso 10.488*, December 22, 1999, available at: <http://www.cidh.oas.org/annualrep/99span/de%20fondo/el%20salvador10.488.htm> as did the PDDH. Accountability was not achieved until years later when Spanish public prosecutors, along with two human rights organizations, filed a private criminal complaint in Spain over the murders, ultimately leading to the extradition from the US and conviction of an army commander who had been one of the intellectual authors of the eight civilians' execution. While five other army officers were also accused in the complaint, El Salvador refused to extradite them. In 2020, over three decades after the 1989 killings, the single extradited intellectual author of the case in Spain was sentenced to over 133 years in prison for his role in the murder. See J.J. Gálvez, "Spanish court sends ex-colonel to prison for 1989 Jesuit killings in El Salvador," *El País*, September 11, 2020, available at: [https://english.elpais.com/spanish\\_news/2020-09-11/spanish-court-sends-ex-colonel-to-prison-for-1989-jesuit-killings-in-el-salvador.html](https://english.elpais.com/spanish_news/2020-09-11/spanish-court-sends-ex-colonel-to-prison-for-1989-jesuit-killings-in-el-salvador.html); see also BBC News, "Spain sentences El Salvador ex-colonel to 133 years in jail for priests' murder," September 11, 2020, available at: <https://www.bbc.com/news/world-europe-54126548>.

47 For a more information regarding transitional justice legislation as well as the alternative legislative proposal put forth by civil society and victims in El Salvador, see *Salvadoran NGO's Present New Transitional Justice Law Proposal*, Telesur, October 7, 2021, available at: <https://www.telesurenglish.net/news/Salvadoran-NGOs-Present-New-Transitional-Justice-Law-Proposal-20211007-0025.html>; see also Due Process of Law Foundation, *ONGs y víctimas del conflicto armado presentan propuesta Ley de Justicia Transicional*, (October 8, 2021), available at: <https://www.dplf.org/es/news/ongs-y-victimas-conflicto-armado-presentan-propuesta-ley-de-justicia-transicional>.

there may be a need to overhaul judicial institutions, judges who are suspected of corruption should be removed legally and in accordance with due process standards. The same *Nuevas Ideas* legislators who approved this recent reform, it should be noted, are also those who illegally appointed five new judges to the Supreme Court's Constitutional Chamber on May 1, 2021.

This purge of roughly one third of the country's judiciary has already had a negative impact on cases stemming from El Salvador's internal conflict. Among the judges pushed into early retirement, as previously mentioned, is Jorge Guzmán, who for five years has presided over the case of the El Mozote massacre.<sup>48</sup> By pushing out judges overseeing the few existing emblematic cases of human rights violations from the conflict, this new reform has caused the cases to stall and created yet another obstacle for victims, who have already waited decades to achieve justice.

## D. INSTITUTIONAL REFORMS

In their report, the Truth Commission recommended institutional reform measures intended to both prevent the repetition of abuses and foster national reconciliation, exhorting the Salvadoran government to carry out fully the reforms specified in sections of the Peace Accords dealing with the armed forces, the police, and the judiciary.<sup>49</sup> The Commission recommended that any officials named in their report as perpetrators of violations committed during the conflict be removed from their posts in the armed forces, the judiciary or public administration, and that a law be drafted to prevent those named from holding public office for at least 10 years.<sup>50</sup> The report also called for a full investigation of private armed groups (death squads) and their role in the conflict.<sup>51</sup>

Indeed, certain important legal and institutional changes did occur following, and in response to, El Salvador's Peace Accords, including significant changes to El Salvador's military as mandated in the agreement.<sup>52</sup> Three existing security forces under military oversight were dis-

<sup>48</sup> For a more detailed summary of threats to judicial independence in El Salvador under the Bukele administration, see Leonor Arteaga Rubio, *Hyper-Presidentialism Undermining the Judicial System in El Salvador*, Human Rights in Context, (September 14, 2021) available at: <https://www.humanrightsincontext.be/post/hyper-presidentialism-undermining-justice-in-el-salvador>.

<sup>49</sup> Margaret Popkin and Naomi Roht-Arriaza, *Truth as Justice: Investigatory Commissions in Latin America*, Law & Soc. Inquiry, Vol. 20, No. 1 (Winter, 1995), at 88-89, available at [https://repository.uchastings.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=2174&context=faculty\\_scholarship](https://repository.uchastings.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=2174&context=faculty_scholarship).

<sup>50</sup> Belisario Betancur, Reinaldo Figueredo Planchart, and Thomas Buergenthal, *From Madness to Hope: The 12-Year War in El Salvador: Report of the Commission on the Truth for El Salvador*, United States Institute of Peace, 166 (March 15, 1993) available at <https://www.usip.org/files/file/ElSalvador-Report.pdf>.

<sup>51</sup> Belisario Betancur, Reinaldo Figueredo Planchart, and Thomas Buergenthal, *From Madness to Hope: The 12-Year War in El Salvador: Report of the Commission on the Truth for El Salvador*, United States Institute of Peace, 172 (March 15, 1993) available at <https://www.usip.org/files/file/ElSalvador-Report.pdf>.

<sup>52</sup> *Chapultepec Agreement* Ch. I (El Salvador and FLMN, 1992) covers changes to the military.

solved,<sup>53</sup> and a new civilian police force under the Ministry of Public Security was organized and deployed. The Salvadoran army underwent broad changes, including the subordination of the armed forces to civil authorities;<sup>54</sup> the downsizing of troops and reduction of their privileges;<sup>55</sup> the redefinition of military justice to guarantee that only cases involving an exclusively military interest be subjected to it; the reconfiguration of military doctrine based on the Accords; a constitutional reform provision; and the reform of the armed forces' educational system.

Although these institutional reforms technically ended military dominance in El Salvador and brought the military under civilian control, it is important to note that military forces were not sufficiently purged of those officers who were responsible for human rights violations committed during the conflict; in fact, many of them went on to acquire powerful positions in El Salvador's new civilian police force following the end of the war. In addition, since the initial postwar reform period, the military has gradually regained its position of control over internal security, with progressive military budget increases and increasing collaboration between El Salvador's national police force (PNC) and the military. As the militarization of police in El Salvador has increased, so have incarceration levels and the number of human rights abuses committed by the police against civilians.<sup>56</sup> The current Bukele administration has supported the growing militarization of police in El Salvador and, as was the case with preceding governments, been a vocal proponent of "iron fist" policies as a public security strategy and means to quell gang

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53 *Chapultepec Agreement* (El Salvador and FLMN, 1992); Military-controlled bodies mandated to be abolished in the Peace Accords included the National Intelligence Department (Chapter 1 Section 7.A); the National Guard and the Treasury Police (Chapter 1 Section 6.C).

54 See *Chapultepec Agreement* Ch. I Sec. 9 (El Salvador and FLMN, 1992), "Subordination to civilian authority," which states "The President of the Republic, in exercise of the power of discretion conferred on him by the Constitution, may appoint civilians to head the Ministry of Defense. In any case, appointees must be persons fully committed to observing the peace agreements."

55 See *Chapultepec Agreement* Ch. I Sec. 4 (El Salvador and FLMN, 1992), "Reduction," which states: The new situation of peace shall include the reduction of the armed forces to a size appropriate to their doctrine and to the functions assigned to them by the Constitution within the framework of the constitutional reform resulting from the Mexico Agreements. Accordingly, pursuant to the New York Agreement, the Government has submitted to the Secretary-General of the United Nations a plan for the reduction of the armed forces, which the Secretary-General has made known to FMLN. The implementation of the plan must have the practical consequence of making reductions in the various branches of the armed forces.

56 There are several pieces that analyze this phenomenon. For more information, see "Death Squads in El Salvador's Police," WOLA, September 20, 2017, available at <https://www.wola.org/analysis/death-squads-el-salvadors-police/>; José Miguel Cruz, Jeannette Aguilar, Yulia Vorobyeva, "Legitimidad y confianza pública de la policía en El Salvador," Central American University José Simeón Cañas and FIU, July 2017, available at <http://www.uca.edu.sv/iudop/wp-content/uploads/Legitimidad-y-confianza.pdf>; Gabriela Cáceres and Nelson Rauda Zablah, "Informe Especial de la Señora Procuradora para la Defensa de los Derechos Humanos sobre las Ejecuciones Extrajudiciales atribuidas a la policía Nacional Civil, periodo 2014-2018," *El Faro*, August 28 2019, available at [https://elfaro.net/es/201908/el\\_salvador/23592/PDDH-La-Polic%C3%ADa-ejecut%C3%B3-a-116-personas-entre-2014-y-2018.htm](https://elfaro.net/es/201908/el_salvador/23592/PDDH-La-Polic%C3%ADa-ejecut%C3%B3-a-116-personas-entre-2014-y-2018.htm); Jeannette Aguilar, "Las políticas de seguridad pública en El Salvador 2003-2018," *Heinrich Böll Stiftung*, January 2019, available at [https://sv.boell.org/sites/default/files/uploads/2019/03/las\\_politicas\\_de\\_seguridad\\_publica\\_en\\_el\\_salvador\\_2003-2018.pdf](https://sv.boell.org/sites/default/files/uploads/2019/03/las_politicas_de_seguridad_publica_en_el_salvador_2003-2018.pdf); "Propuestas de las organizaciones de la sociedad civil para la elaboración de una Política Pública en Seguridad Ciudadana en El Salvador," available at <https://www.ligaiberoamericana.org/wp-content/uploads/sites/28/2019/12/Propuestas-de-la-sociedad-civil-para-la-elaboracio%CC%81n-de-una-PP-en-seguridad-ciudadana.pdf>; "Informe de Derechos Humanos UCA 2019" available at <http://www.uca.edu.sv/idhuca/wp-content/uploads/INFORME-DE-DERECHOS-HUMANOS-2019-VF-Completo.pdf>.

violence.<sup>57</sup> Within this context, it is difficult to hold the military or police accountable for abuses they commit, and it is clear that the institutional reforms enacted following the war have had limited impact, as the military and police's power continues to grow beyond legal bounds.

Beyond the postwar institutional military reforms, another major series of reforms was carried out within El Salvador's legal system, strengthening entities responsible for guaranteeing the rule of law and the enforcement of human rights norms. As previously mentioned, a new Human Rights Ombudsperson's Office (PDDH) was created, with a broad mandate to oversee the country's human rights situation and the conduct of State institutions with regard to human rights, in accordance with constitutional reforms negotiated during the peace process. One of the most notable and courageous recommendations made by the Truth Commission concerned the judiciary, which the Commission had found responsible for helping to perpetuate impunity in El Salvador: the Commissioners recommended that all members of the Supreme Court immediately resign to hasten the appointment of new justices under a new constitutional formula.<sup>58</sup>

Following the signing of the Accords, changes to the justice system included a reorganization of the Supreme Court of Justice; a new system for the election of Justices; an annual allocation of funds to the judicial branch, totaling at least six percent of the national budget<sup>59</sup>; new election modalities for second-level officials; the redefinition of the structure of the High Council of the Judiciary in order to ensure its independence; and the separation of administrative from judicial functions.

El Salvador's political party system also underwent major transformations in the wake of the peace process. In addition to provisions included in the Peace Accords themselves, the more concrete aspects of political reforms were later implemented (as envisaged in the Accords) in the new electoral code, and the conversion of the FMLN into a political party led to greater levels of political pluralism and more competitive political processes.<sup>60</sup>

In its report, the Truth Commission also addressed the need for criminal justice reforms and the drafting of modern criminal procedure and sentencing codes in El Salvador in order to en-

57 See Gabriela Cáceres, "Bukele defiende que policías usen "fuerza letal" para contrarrestar el aumento de homicidios," *El Faro*, April 27, 2020, available at: [https://elfaro.net/es/202004/el\\_salvador/24340/Bukele-defiende-que-polic%C3%ADas-usen-%E2%80%9Cfuerza-letal%E2%80%9D-para-contrarrestar-el-aumento-de-homicidios.htm](https://elfaro.net/es/202004/el_salvador/24340/Bukele-defiende-que-polic%C3%ADas-usen-%E2%80%9Cfuerza-letal%E2%80%9D-para-contrarrestar-el-aumento-de-homicidios.htm).

58 Belisario Betancur, Reinaldo Figueredo Planchart, and Thomas Buergenthal, *From Madness to Hope: The 12-Year War in El Salvador: Report of the Commission on the Truth for El Salvador*, United States Institute of Peace, 167 (March 15, 1993) available at: <https://www.usip.org/files/file/ElSalvador-Report.pdf>.

59 National Constitution of El Salvador (1983), Art. 172. Available at [https://www.oas.org/dil/esp/constitucion\\_de\\_la\\_republica\\_del\\_salvador\\_1983.pdf](https://www.oas.org/dil/esp/constitucion_de_la_republica_del_salvador_1983.pdf).

60 El Salvador: Implementation of the Peace Accords, ed. Margarita S. Studemeister (Washington, DC: United States Institute of Peace, 2001), available at: <http://www.usip.org/sites/default/files/pwks38.pdf>. See Ralph Sprenkels, *Ambivalent Moderation: The FMLN's Ideological Accommodation to Post-War Politics in El Salvador*, Gov't and Opposition, Vol. 54. 3 (June 2019), pp. 536-558.

sure accountability for and non-repetition of violations committed during the conflict. The Commission supported the first reform efforts funded by the US Agency for International Development (USAID), which had begun while the peace negotiations were still underway; nonetheless, the 1992 Chapultepec Accords themselves did not include any specific provisions regarding criminal justice reform. It was not until late 1996, following political pressure on Salvadoran authorities from the United Nations, that new criminal codes were finally approved; these took effect in April 1998. These reforms sought to transform the Salvadoran criminal justice system from an inquisitorial system into an efficient adversarial system with greater transparency and guarantees for the protection of individual rights.<sup>61</sup>

At the time, the Attorney General was given the authority to direct criminal investigations – a radical shift; however, while the transition from an inquisitorial model to an adversarial one was significant, it did not lead to any real modification in the way serious human rights violations were investigated.<sup>62</sup> Neither a specialized system nor specific prosecutorial policies for the investigation of grave human rights violations were put in place.

The Truth Commission for El Salvador spawned one internal successor: the **Joint Group for the Investigation of Illegal Armed Groups**, established in late 1993 to investigate the continued existence of death-squad-like apparatuses. Few of its recommendations were heeded, and organized criminal structures, some of which evolved from civil war-era death squads, remain a key public security problem.

While all of these legal and institutional changes were significant, El Salvador's experience with institutional reforms following the end of the war highlights a major challenge for transitional justice mechanisms. An important responsibility for a temporary body like a Truth Commission is to find ways to help State institutions assume their responsibilities, rather than to inadvertently encourage these institutions in the assumption that they have been adequately addressed by the special commission. This task was complicated in El Salvador because State institutions and political actors in general lacked the political will to carry out more extensive, long-term reforms, and as a result, impunity for the crimes of the past has been a permanent feature of post-war El Salvador.

61 See Sabine Kurtenbach, "Judicial Reform – A Neglected Dimension of SSR in El Salvador," *Journal of Intervention and Statebuilding*, Volume 13, 2019 – Issue 1: Co-operation, Contestation and Complexity in Post-Conflict Security Sector Reform, pp. 57-74, available at <https://www.tandfonline.com/doi/full/10.1080/17502977.2018.1517112>; See also: Margaret Popkin, "Building the Rule of Law in Post-War El Salvador," in *El Salvador: Implementation of the Peace Accords*, ed. Margarita S. Studemeister, 10–19 (Washington, DC: United States Institute of Peace, 2001), available at <http://www.usip.org/sites/default/files/pwks38.pdf>.

62 See Sabine Kurtenbach, "Judicial Reform – A Neglected Dimension of SSR in El Salvador," *Journal of Intervention and Statebuilding*, Volume 13, 2019 – Issue 1: Co-operation, Contestation and Complexity in Post-Conflict Security Sector Reform, pp. 57-74, available at <https://www.tandfonline.com/doi/full/10.1080/17502977.2018.1517112>; see also Margaret Popkin, "Building the Rule of Law in Post-War El Salvador," in *El Salvador: Implementation of the Peace Accords*, ed. Margarita S. Studemeister, 10–19 (Washington, DC: United States Institute of Peace, 2001), available at <http://www.usip.org/sites/default/files/pwks38.pdf>.

## IV. IMPLEMENTATION AND ASSESSMENT OF TRANSITIONAL JUSTICE MECHANISMS

**A**FTER DECADES OF DENIAL OF PAST ATROCITIES, THE FMLN PARTY ROSE TO POWER FOR THE FIRST TIME IN 2009, WITH THE PROMISE TO HEAL THE WOUNDS FROM THE CIVIL WAR. The government opened formal and informal dialogues with victims, experts, and civil society to address the massive human rights violations committed during the armed conflict. In 2010 – 18 years after the Peace Accords were signed and after much advocacy by and pressure from Salvadoran civil society – then-President Mauricio Funes, acting as representative of the state, officially acknowledged El Salvador’s responsibility for the human rights violations committed during the internal armed conflict in a public act.<sup>63</sup>

Subsequently, **El Salvador’s government established two national mechanisms (commissions) for the search for children and adults who were forcibly disappeared during the conflict**; these mechanisms were not specifically contemplated in the Peace Accords, but their formation represents a significant advance for transitional justice and the peace process in El Salvador. Both commissions continue to operate today and have achieved notable successes, even as they confront significant obstacles and work with limited resources.

In El Salvador, an estimated 8,000 people were disappeared between 1980 and 1992 in the context of the civil war.<sup>64</sup> In response to the disappearance of children during the conflict, and as a direct result of the order of the Inter-American Court of Human Rights in its sentence for the *Serrano Cruz* case, the first of two search commissions, the **National Commission on Disappeared Children (CNB)**, was created. This body has operated by Presidential Decree since 2011, with important successes in finding children alive and reuniting them with their families. It wasn’t until several years later, on August 21, 2017 – after years of State refusal to offi-

<sup>63</sup> In addition to this general public acknowledgment, the state has acknowledged its responsibility and issued public apologies for specific cases of human rights violations committed during the conflict, including the massacres of El Calabozo, Las Canoas, and San Francisco Angulo, as well as the assassination of Archbishop Oscar Romero.

<sup>64</sup> While there is no exact figure for the number of people disappeared in the context of the conflict, the estimate of approximately 8,000 disappearance victims is derived from the numbers reported by civil society organizations, the Truth Commission, and the UN Working Group on Enforced or Involuntary Disappearances. For a more detailed discussion on the number of people disappeared during El Salvador’s armed conflict, see CONABÚSQUEDA, *La Desaparición Forzada en el Contexto del Conflicto Armado de El Salvador: Una primera aproximación al fenómeno*, August 2020, Chapter 4, available at <https://en.calameo.com/read/003512072c3f70ba6a19d>.



cially recognize the ongoing problem of disappearances and the government's obligation to provide answers – that Presidential Decree No. 33 created a new office to search for and identify adult disappearance victims.<sup>65</sup> This office is the **National Commission on the Search for Disappeared Persons in the context of the armed conflict in El Salvador (CONABÚSQUEDA)**, which functions autonomously, but within the Ministry of Foreign Relations. Its mandate is to investigate, locate, exhume, identify, and return the skeletal remains of people who were disappeared within the context of the conflict. Three commissioners were appointed to direct the Commission *ad honorem* and in September 2018, CONABÚSQUEDA opened its doors to the public and commenced its search operations. Its budget is limited, and the local capacity for genetic forensics appears to be insufficient for the work that is required for a comprehensive search process.<sup>66</sup>

The experience of the CNB, which, as stated above, was operational for several years prior to CONABÚSQUEDA's formation, has been and continues to be useful for CONABÚSQUEDA, but has certain significant distinctions: there has been much more political will behind the search for disappeared children in El Salvador than there has been for the search for adult disappearance victims.<sup>67</sup> There is also a much greater chance of finding disappeared children alive. It is also worth noting that these mechanisms, created in recent years, have had greater support from civil society than other previous initiatives contemplated immediately following the end of the conflict. This public support is a hopeful sign for the search process and the transitional justice process generally.

Besides the search commissions, the other most significant peace process initiative implemented by the Salvadoran State in recent years is the issuance of reparations for wartime victims. El Salvador has implemented reparations measures in compliance with five different judgments from the Inter-American Court of Human Rights regarding enforced disappearances of children and the El Mozote massacre.<sup>68</sup> The State has complied with the majority of the symbolic reparations and indemnification payments in these cases but has not yet fulfilled the obligation to investigate and punish those responsible for the violations in each case.

<sup>65</sup> See official publication of Presidential Decree 33, Monday August 21, 2017, available at <https://www.diariooficial.gob.sv/diarios/do-2017/08-agosto/21-08-2017.pdf>.

<sup>66</sup> See CONABÚSQUEDA, *La Desaparición Forzada en el Contexto del Conflicto Armado de El Salvador: Una primera aproximación al fenómeno*, August 2020, available at <https://en.calameo.com/read/003512072c3f70ba6a19d>.

<sup>67</sup> See Héctor Rosemberg and Leonor Arteaga Rubio, "La otra historia: el robo de niños y niñas en la Guerra de El Salvador," *Justicia en las Américas* blog, March 30, 2021, available at <https://dplfblog.com/2021/03/30/la-otra-historia-el-robo-de-ninos-y-ninas-en-la-guerra-de-el-salvador/>

<sup>68</sup> See e.g. I/A Court H.R., *Case of the Massacres of El Mozote and surrounding areas v. El Salvador*. Request for Provisional Measures and Monitoring Compliance with Judgment. Order of the Inter-American Court of Human Rights of September 3, 2019, available at [https://www.corteidh.or.cr/docs/supervisiones/masacres\\_mozote\\_03\\_09\\_19.pdf](https://www.corteidh.or.cr/docs/supervisiones/masacres_mozote_03_09_19.pdf); I/A Court H.R., *Case of Rochac Hernández et al. v. El Salvador*. Monitoring Compliance with Judgment. Order of the Inter-American Court of Human Rights of February 9, 2017, available at [https://www.corteidh.or.cr/docs/supervisiones/rochac\\_09\\_02\\_17.pdf](https://www.corteidh.or.cr/docs/supervisiones/rochac_09_02_17.pdf); I/A Court H.R., *Case of the Serrano Cruz Sisters v. El Salvador*. Monitoring Compliance with Judgments. Order of the Inter-American Court of Human Rights of September 1, 2016, available at [https://www.corteidh.or.cr/docs/supervisiones/serrano\\_01\\_09\\_06.pdf](https://www.corteidh.or.cr/docs/supervisiones/serrano_01_09_06.pdf).

Additionally, the **State reparations program** was authorized in 2012, established by presidential decree in 2013, and began to be partially implemented in 2015 (this was due to victims' advocacy and also in part to the overall pressure generated by the Inter-American Court decisions related to the armed conflict in El Salvador, although the Court sentences themselves did not require the creation of this program). While touting comprehensive reparations as imperative, the program's implementation has focused primarily on issuing monetary reparations. Since the program's creation, human rights groups have regularly criticized it, in particular how it carries out payments; the program makes scant monthly payments to victims (usually between \$15 and \$50), and on several occasions payments have been suspended as a result of excessive bureaucracy within the program and/or insufficient funds.<sup>69</sup> The program does not address or distinguish the needs of women victims of the conflict, even though women suffered violations including torture, illegal detentions, and were disproportionately victims of crimes of sexual violence; today, women comprise the majority of the family members of those who were disappeared during the conflict.

Following an official visit to El Salvador in 2019 to evaluate the country's transitional justice process, the UN Special Rapporteur on Truth, Justice, Reparation and Guarantees of Non-Recurrence, Fabián Salvioli, criticized the existing reparations program and expressed his concern about the insufficiency of reparations and historical memory processes.<sup>70</sup> He urged the government to adopt "a comprehensive reparations policy for victims...designed and implemented in coherence with current international standards."<sup>71</sup> The Inter-American Commission on Human Rights (IACHR) has also consistently urged El Salvador to adopt a comprehensive reparations policy, including in its preliminary observations following their 2019 working visit to the country<sup>72</sup> and in the Commission's 2021 report on the human rights situation in El Salvador.<sup>73</sup>

69 Martha Gutiérrez, "Negar el pasado: reparaciones en Guatemala y El Salvador," *Colombia Internacional*, January 2019, pp. 190-91, available at: [https://www.researchgate.net/profile/Martha-Gutierrez-3/publication/330492410\\_Negar\\_el\\_pasado\\_reparaciones\\_en\\_Guatemala\\_y\\_El\\_Salvador/links/5c4b3bfba6fdccd6b5c85935/Negar-el-pasado-reparaciones-en-Guatemala-y-El-Salvador.pdf](https://www.researchgate.net/profile/Martha-Gutierrez-3/publication/330492410_Negar_el_pasado_reparaciones_en_Guatemala_y_El_Salvador/links/5c4b3bfba6fdccd6b5c85935/Negar-el-pasado-reparaciones-en-Guatemala-y-El-Salvador.pdf); see also Jo-Marie Burt, *Transitional Justice in the Aftermath of Civil Conflict: Lessons from Peru, Guatemala and El Salvador*, Due Process of Law Foundation (DPLF) (2018) at 47, available at: [http://www.dplf.org/sites/default/files/pictures/transitional\\_justice\\_final.pdf](http://www.dplf.org/sites/default/files/pictures/transitional_justice_final.pdf). These impressions regarding the limitations of financial reparations in El Salvador have been confirmed in DPLF's work and interviews with victims over the years.

70 Human Rights Council, *Visit to El Salvador, Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence*, A/HRC/45/45/Add.2, July 9, 2020, available at <https://undocs.org/A/HRC/45/45/Add.2>. See also Noticias ONU, *El dolor continúa para las víctimas del conflicto en El Salvador*, May 3, 2019, available at <https://news.un.org/es/story/2019/05/1455421>.

71 See Leonor Arteaga Rubio and Amanda Eisenhour, *The Uncertain Future of Reparations in Post-Conflict El Salvador*, Justicia en Las Américas (2019), <https://dplfblog.com/2019/07/23/the-uncertain-future-of-reparations-in-post-conflict-el-salvador/>.

72 See Inter-American Commission on Human Rights (IACHR), "CIDH presenta observaciones preliminares de su visita in loco a El Salvador," December 27, 2019, available at: <https://www.oas.org/es/cidh/prensa/comunicados/2019/335.asp> (stating [original in Spanish] "[t]he Commission observes that the construction of a comprehensive reparation policy that addresses the different dimensions of the damage suffered by all the victims is essential").

73 See, generally, Inter-American Commission on Human Rights (IACHR), *Situación de derechos humanos en El Salvador*, 2021 ("Capítulo 3 Memoria, Verdad, y justicia respecto al conflicto armado interno, C. Política de Reparación Integral") available at [https://www.oas.org/es/cidh/informes/pdfs/2021\\_ElSalvador-ES.pdf](https://www.oas.org/es/cidh/informes/pdfs/2021_ElSalvador-ES.pdf), and specifically para. 126 (stating [original in Spanish] "The IACHR stresses that a reparation policy must take into account a comprehensive notion of integral reparation, that is, it must include the different modalities of reparation measures aimed at appropriately addressing the different dimensions of

Despite its shortcomings, the reparations program is historically significant as it is the first ever of its kind in El Salvador. However, and especially given the current administration's antagonism towards conflict victims and the transitional justice process in general, the future trajectory of the program is unclear – and not particularly optimistic. Since taking office, President Bukele closed the institution that previously implemented the reparations program and created another institution, with personnel with little expertise or apparent interest in the area of reparations and with few resources, which has so far caused the program to regress.<sup>74</sup> Within this national context, and following the visit and recommendations of Special Rapporteur Salvioli and the IACHR,<sup>75</sup> it remains to be seen if the issue of reparations will gain traction nationally or be put into the international spotlight.

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the damage suffered by all the victims”).

**74** For a more detailed analysis of reparations in El Salvador since the war, see Leonor Arteaga Rubio, *Resarcido daños en El Salvador: la experiencia de reparaciones a víctimas de la guerra*, Justicia en Las Américas (2021), <https://dplfblog.com/2021/04/15/resarcido-danos-en-el-salvador-la-experiencia-de-reparaciones-a-victimas-de-la-guerra/>.

**75** See Inter-American Commission on Human Rights (IACHR), “CIDH presenta observaciones preliminares de su visita in loco a El Salvador,” December 27, 2019, <https://www.oas.org/es/cidh/prensa/comunicados/2019/335.asp>.



## V. THE LIMITATIONS OF TRANSITIONAL JUSTICE FOLLOWING THE PEACE ACCORDS

**T**HE IMPLEMENTATION OF THE PEACE ACCORDS REQUIRED MORE THAN THE COMMITMENT OF THE TWO NEGOTIATING PARTIES; it required the participation and investment of State institutions and other political forces, and the engagement and consent of social and civilian forces in the country, which in large part did not occur. The peace process in El Salvador included some transitional justice measures, such as the establishment of the Truth Commission. However, without extensive involvement of and advocacy from civil society actors during the initial transitional process, implementation, monitoring and evaluation of truth and justice measures were elusive and inherently limited. The lack of victim participation in the transitional justice process is highly pronounced in the case of El Salvador, particularly in terms of victims' input into policy choices and their implementation. El Salvador's transition from war to peace demonstrates that no single entity or force can effectively implement a major institutional overhaul or shift governance on its own, nor is it possible to carry out victim-centered reconciliation measures without significant political will and citizen involvement.

The blanket Amnesty Law promulgated just days after the publication of the Truth Commission's report in 1993, along with a long-standing official policy of denial about the nature and extent of the human rights violations committed by the State during the internal armed conflict, fundamentally denied victims a role in post-war El Salvador. The State maintained this posture for nearly two decades following the end of the conflict; victims were not recognized by the State and no meaningful policies were developed to address the war's consequences. Victims' associations remained on the defensive, and passive in the face of government indifference. This began to shift under the FMLN regimes that took office in 2009, with the government making some important efforts to acknowledge State responsibility for human rights violations and establishing the program for reparations and the search commissions for disappeared children and adults discussed in the previous section. Nonetheless, there is still strong resistance within El Salvador to acknowledge victims and their rights to truth, justice, reparation and memory. Victims' fundamental right to access justice, in particular, continues to be denied, even though the 2016 overturning of the 1993 Amnesty Law has provided an opportunity for victims to pursue their cases in court and for the country to pursue a new path towards justice after almost half a century of impunity.

In accordance with the abovementioned Constitutional Chamber's 2016 ruling declaring the Amnesty Law unconstitutional and establishing the obligation to investigate cases that took place during the armed conflict, El Salvador's Prosecutor's Office publicly committed to complying with the ruling, and formed a special team of prosecutors dedicated to investigating cases of the armed conflict, among other measures meant to demonstrate its new commitment to the fight against impunity. In spite of these institutional measures, however, to date the Prosecutor's Office has shown an overwhelming lack of political will to advance the promise of achieving accountability for conflict-era cases, dedicating few resources to investigating war-time human rights cases, and since the 2016 Constitutional Court ruling there have been no meaningful advances on the part of the Prosecutor's Office in any cases related to the armed conflict, such as other massacres, enforced disappearances, torture or sexual crimes, as crimes against humanity or war crimes.<sup>76</sup>

The belief that there is little to be done about the past has long been held by many in El Salvador, and until recently, policies have largely reflected that view. Proponents of this "forgive and forget" attitude maintain that, in a war, both sides inevitably commit terrible abuses, and the most productive thing to do is to bury the past and move on. This perspective is based on the premise that new challenges must be prioritized and that "opening old wounds" would undermine fragile democracies.

One of the key lessons gleaned from El Salvador's peace process is that pursuing the end to armed conflict is distinct from the strengthening of democracy, accountability, and the rule of law. In El Salvador, ending the violence of the civil war was the central priority of those who facilitated the peace process; therefore, the Peace Accords and their implementation focused on political participation of FMLN, demobilizing opposing forces, and creating alternative reintegration for combatants, while measures honoring victims, ensuring the preservation of historical memory, and working towards true reconciliation took a backseat. In instituting the Peace Accords in El Salvador, there was a sense of urgency to establish concrete measures before the negotiating parties had time to rethink and change course, but the focus remained squarely on achieving a political triumph rather than considering the needs of victims or the need to ensure non-recurrence of human rights violations.

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<sup>76</sup> For a more in-depth discussion of the Salvadoran Prosecutor's Office's response, and overall inaction, in the face of the conflict-era human rights cases, see Fundación para el Debido Proceso (DPLF) *¿Fiscalía cómo vamos? Auditoría ciudadana al funcionamiento de la Fiscalía General de la República de El Salvador*, May 2020, [https://www.dplf.org/sites/default/files/informe\\_fiscalia\\_como\\_vamos\\_-\\_auditoria\\_ciudadana\\_al\\_funcionamiento\\_de\\_la\\_fgr.pdf](https://www.dplf.org/sites/default/files/informe_fiscalia_como_vamos_-_auditoria_ciudadana_al_funcionamiento_de_la_fgr.pdf); see also Leonor Arteaga, "The case of El Calabozo: burned bodies that demand justice, two years after the reopening of the criminal process," *Justicia en las Américas*, January 16, 2029, <https://dplfblog.com/2019/01/16/the-case-of-el-calabozo-burned-bodies-that-demand-justice-two-years-after-the-reopening-of-the-criminal-process/>.

Another fundamental lesson of El Salvador's peace process is that, despite the signing of the Peace Accords and the effective end of the war, the political, social, and economic power structures in the country changed very little in the post conflict years. While El Salvador's legal structure changed formally in the wake of the Accords, the networks of power and the repressive, exclusionary culture that dominated throughout the conflict have remained largely intact.<sup>77</sup> Though El Salvador technically transitioned from authoritarian rule to representative democracy in the post-war period, the elites who ruled El Salvador throughout the conflict have retained power ever since.<sup>78</sup> For years during and following the end of the war, conservative elites associated with the ARENA political party and the Salvadoran military maintained control of El Salvador's government, favoring policies of impunity to protect those responsible for the majority of violations committed during the conflict. In 2009, the FMLN, having transformed into a political party following the conflict's end, came to power, implementing some important transitional justice initiatives, such as the reparations program and search commissions described in the previous section. Nonetheless, as the FMLN became more mainstream and moderate in its ideological positioning, the FMLN leadership also became part of El Salvador's economic elite.<sup>79</sup>

In addition to a lack of political will, there are other factors that may have contributed to continued inaction in addressing crimes of the past in El Salvador. Criminal prosecutions require substantial human and financial resources. Should new cases come to trial, security for prosecutors, judges and witnesses may be an issue, as has been the case in neighboring Guatemala. Serious investigations of complex crimes also require the creation of special investigative units with adequate resources, an indispensable requirement for cases to advance, and one which has thus far proven elusive in El Salvador.<sup>80</sup>

77 See David Holiday and William Stanley, "Building the Peace: Preliminary Lessons from El Salvador", *Journal of International Affairs*, Vol. 46, No. 2, Keeping the Peace: Conflict Resolution in the Twenty-First Century (Winter 1993), pp. 415-438. See also Jo-Marie Burt, *Transitional Justice in the Aftermath of Civil Conflict: Lessons from Peru, Guatemala and El Salvador*, Due Process of Law Foundation (DPLF) (2018), available at [http://www.dplf.org/sites/default/files/pictures/transitional\\_justice\\_final.pdf](http://www.dplf.org/sites/default/files/pictures/transitional_justice_final.pdf).

78 See Leonor Arteaga Rubio, *From Amnesia to Memory, from Memory to Justice: the Case of El Salvador*, Due Process of Law Foundation (DPLF) (2018) available at: [http://www.dplf.org/sites/default/files/from\\_amnesia\\_to\\_memory\\_-\\_leonor\\_arteaga\\_article.pdf](http://www.dplf.org/sites/default/files/from_amnesia_to_memory_-_leonor_arteaga_article.pdf).

79 See Ralph Sprenkels, *Ambivalent Moderation: The FMLN's Ideological Accommodation to Post-War Politics in El Salvador, Gov't and Opposition* 54(3): 536-558, 2019, available at <https://scholarlypublications.universiteitleiden.nl/access/item%3A2911045/view>; see also Francisco Robles Rivera, "Élites en El Salvador: cambios y continuidades (2000-2016)," *Anuario de Estudios Centroamericanos*, vol. 43, pp. 99-124, 2017, available at <https://www.redalyc.org/journal/152/15253710004/html/>.

80 While in December 2016 the Office of the Prosecutor created a special Prosecutor's group to examine cases from El Salvador's armed conflict, as mentioned earlier, they have made little to no progress in advancing cases from the armed conflict, demonstrating the lack of political will to seriously investigate and prosecute wartime cases. See La Prensa Gráfica "Fiscalía crea grupo que investiga los crímenes de la Guerra," ["Prosecutor's Office Creates Group to Investigate War Crimes"] January 16, 2017, available at <http://www.laprensagrafica.com/2017/01/16/fgr-crea-grupo-que-investiga-los-crimenes-de-guerra>. See also press release of the Inter-American Commission on Human Rights, "IACHR Urges El Salvador to Continue Fighting Impunity for Serious Crimes of the Past," February 9, 2017, [http://www.oas.org/en/iachr/media\\_center/PReleases/2017/012.asp](http://www.oas.org/en/iachr/media_center/PReleases/2017/012.asp).

Moreover, civil society, which has played a crucial role in advocating for justice and accountability in other countries confronting similar histories and challenges, remains weak and divided in El Salvador, and has little experience in litigation. Meanwhile, those who stand to lose from investigations and prosecutions of wartime crimes remain powerful forces in El Salvador; their staunch opposition is a deterrent to pursuing said cases. Recent, alarming developments also seem to indicate that El Salvador is undergoing a rapid regression towards authoritarianism under the Bukele administration,<sup>81</sup> which, as mentioned previously, is openly hostile towards the movement to seek truth and justice for wartime crimes.

In addition to these broad and profound challenges to the transitional justice process in El Salvador, a few more specific factors played a role in the limited effectiveness of the peace process. These include an overall lack of citizen participation in the Peace Accords negotiation and implementation; the lack of gender perspective; and failure to address socioeconomic inequalities.

## A. CITIZEN PARTICIPATION

Greater inclusion of civil society in the negotiation of the Peace Accords and the implementation of transitional justice measures likely would have made a significant difference in the effectiveness and impact of El Salvador's peace process. In societies that have experienced mass atrocities, victims are the driving agents of demands for truth, justice, reparation, and memory. Survivors of human rights violations and the families of victims, alongside human rights organizations and associations that advocate on their behalf, are key protagonists in transitional justice processes.

The capacity of victims' associations to organize and mobilize public opinion in favor of transitional justice plays a key role in the success of different transitional justice mechanisms. To ensure the widest possible citizen participation in El Salvador's Peace Accord negotiations and peace process, a formal mechanism should have been established to accept civil society proposals regarding key points on the negotiation agenda. In the case of El Salvador, however, there was no formal, inclusive process for consulting with local communities about their needs in the postwar era, and ultimately victims' groups were not meaningfully included in policy-defining discussions – even though numerous local-level, civil society initiatives existed at the time – nor were there any clear mechanisms for following up or monitoring and evaluating the transitional justice measures put in place.

<sup>81</sup> See Katya Salazar, "¿Camino a una dictadura milenial?", *Justicia en Las Américas*, May 3, 2021, available at <https://dplfblog.com/2021/05/03/camino-a-una-dictadura-milenial/> (originally published on the blog *Dialogo Derechos Humanos* in June 2020); Ursula Indacochea and Sonia Rubio, "A dark night for judicial independence in El Salvador," *Justicia en Las Américas*, May 20, 2021, <https://dplfblog.com/2021/05/20/a-dark-night-for-judicial-independence-in-el-salvador/>; Juan Carlos Sánchez, "El Salvador: acceder democráticamente al poder para anular al Estado de derecho," *Justicia en Las Américas*, September 28, 2021, <https://dplfblog.com/2021/09/28/el-salvador-acceder-democraticamente-al-poder-para-anular-al-estado-de-derecho/>; and Leonor Arteaga Rubio, "Hacia la cooptación del poder judicial: ¿qué hay detrás de las últimas decisiones de la sala constitucional en El Salvador," *Justicia en Las Américas*, October 7, 2021, <https://dplfblog.com/2021/10/07/hacia-la-cooptacion-del-poder-judicial-que-hay-detras-de-las-ultimas-decisiones-de-la-sala-constitucional-en-el-salvador/>.

While many powerful factors are at play in what is ultimately a contentious and long-term process, carrying out regional consultations and identifying local needs – through active participation of victims and civil society – would have helped to ensure that transitional justice measures in El Salvador were implemented and effective. If peace negotiations imply a new definition of power relationships and democratic rules of engagement, it follows that, to be effective, resulting political structures cannot spring solely from an agreement between the government and guerrillas without involving civil society and the remaining political forces in the consensus-building process.

## B. INCLUSION OF WOMEN AND GENDER ISSUES

Gender and women-specific issues were not included in the Peace Accords themselves, nor were they factored into the programs that emerged following the Accords. Although women representing both the FMLN and the military participated in the Peace Accord negotiations, they did so as party representatives, and not with a particular view to including issues specific to women. Even though many women had been members of the guerilla and women and girls were deeply affected by the human rights violations committed during the war, both as direct and indirect victims (and those violations had a differentiated impact for them than they did for men), those who worked to negotiate peace were unable to successfully advocate for the incorporation of women and gender concerns into the Accords themselves or the initiatives that followed. By the same token, those nonprofit and other community-based groups that *did* specifically address women's rights and gender-based issues were excluded from participating in the negotiations or contributing meaningfully to the Accords.

During the postwar period it became clear that while Salvadoran women were considered necessary and able to fight (as members of the guerilla) during the war, their active role during the conflict ultimately did not lead to any meaningful advances in gender equality in El Salvador. The same women who fought alongside their male counterparts during the war were expected to return to their pre-war roles after its end, supporting the men in their lives and remaining within the private sphere.<sup>82</sup> In addition, and quite notably, gendered acts of violence were omitted from the report of the Truth Commission, despite indications of gender and sexual violence committed during the war.<sup>83</sup>

<sup>82</sup> See Patrick C. Seed, "Building an inclusive peace: Lessons from El Salvador," *International Development, Community and Environment (IDCE)* at 147 (2017), available at [http://commons.clarku.edu/idce\\_masters\\_papers/147](http://commons.clarku.edu/idce_masters_papers/147); see also Emma Näslund, "Looking at Peace Through Women's Eyes: Gender-Based Discrimination in the Salvadoran Peace Process," available at <https://jpia.princeton.edu/sites/jpia/files/1999-2.pdf>

<sup>83</sup> See Due Process of Law Foundation (DPLF), "Wartime Sexual Violence in El Salvador: the El Mozote Case," March 18, 2019, available at <https://www.dplf.org/en/event/wartime-sexual-violence-el-salvador-el-mozote-case>.



Although some strides have been made to improve women's rights in El Salvador in the years since the end of the conflict, particularly in the country's legislative framework (for example, changes to laws on domestic violence were established following the tireless advocacy of civil society and grassroots organizations), enforcement and implementation of legal changes have been slow. This is in large part due to the lack of consistent input from women and the normalization of male dominance in the public sphere, as well as pervasive gender inequality in El Salvador that sadly remains the norm.

### C. SOCIOECONOMIC CONSIDERATIONS

Although the Peace Accords contained several measures related to socioeconomic matters, addressing socioeconomic inequality was not a central priority for El Salvador's government following the end of the war. Among the socioeconomic issues addressed in the Accords were problems related to agriculture; the transfer of State lands within conflict zones and occupied territories; economic credits for small businesses and the agricultural sector; the implementation of a National Reconstruction Plan (PRN) and the promotion of external cooperation to aid with community development; and economic measures such as the establishment of an Economic and Social Coordination Fund (FES) as well as measures intended to ease the costs of postwar structural changes.<sup>84</sup> However, none of these measures were fully implemented, and many yielded poor results. The FES, for example, was a short-lived initiative, with government actors, private companies, and labor unions unable to agree on basic issues such as minimum wage.<sup>85</sup>

In letting socioeconomic issues fall to the bottom of the transitional justice agenda, El Salvador allowed those issues to remain unresolved and fester, missing a key opportunity to contribute to strengthening democratic stability and ensure non-recurrence of political violence in the future. Had some of the issues underlying the conflict, specifically those related to socioeconomic class and wealth disparities been addressed, transitional justice measures could have been better implemented and more successful. Undoubtedly, ongoing socioeconomic polarization and inequality are also among the conditions that increase El Salvador's vulnerability to gang violence and other security concerns, as well as to growing authoritarian measures by the government.<sup>86</sup>

<sup>84</sup> Centro de Información, Documentación y Apoyo a la Investigación (CIDAI), Universidad Centroamericana (UCA), "Diez años de los Acuerdos de Paz," *Proceso*, Año 22, Número 983, ISSN 0259-9864, January 16, 2002, available at: <https://www.uca.edu.sv/publica/proceso/proc983.html>.

<sup>85</sup> Centro de Información, Documentación y Apoyo a la Investigación (CIDAI), Universidad Centroamericana (UCA), "Diez años de los Acuerdos de Paz," *Proceso*, Año 22, Número 983, ISSN 0259-9864, January 16, 2002, available at: <https://www.uca.edu.sv/publica/proceso/proc983.html>.

<sup>86</sup> For a detailed analysis of socioeconomic inequalities and their relationship to sustainable peace in El Salvador, see Christine J. Wade, *El Salvador: Contradictions of neoliberalism and building sustainable peace*, *Int'l J. Peace Studies*, VOL. 13 NO. 2, Autumn/Winter 2008, available at [https://www3.gmu.edu/programs/icar/ijps/vol13\\_2/IJPS13n2%20WADE.pdf?Gmuw-rd=sm&gmuw-rdm=ht](https://www3.gmu.edu/programs/icar/ijps/vol13_2/IJPS13n2%20WADE.pdf?Gmuw-rd=sm&gmuw-rdm=ht).

## VI. CONCLUSION

**T**HE PEACE ACCORDS IN EL SALVADOR CREATED A POLITICAL PEACE AND ONE OF THE MOST STABLE DEMOCRACIES IN CENTRAL AMERICA, UNTIL THE CURRENT PRESIDENTIAL ADMINISTRATION.

However, even though certain socioeconomic considerations were included in the Peace Accords, the failure to meaningfully address economic and social issues following the end of the war allowed El Salvador's problems of inequality, marginalization, and alienation to continue. In addition, the omission of a gender perspective when negotiating, drafting, and implementing the Peace Accords – for example, by failing to include gender considerations in the design of the demobilization and reinsertion programs – meant that issues specific to women were largely left out of the peace process, even though the violations committed during the war impacted women and girls differently than their male counterparts, and there were numerous gender-specific concerns that should have been taken into account for the implementation of postwar programs.

El Salvador is an example in transitional justice that helped lay the foundation for future processes, in that it sought to both settle the armed conflict and resolve large-scale human rights abuses in order to hold those responsible accountable, but also facilitate a democratic transition and peaceful society. In order to achieve this, the Peace Accords and, specifically, the Truth Commission laid out measures that went beyond criminal justice to include larger societal and political changes such as, new vetting measures, administrative sanctions, and institutional reforms. These steps established in the Salvadoran peace process have been taken up by subsequent peace processes across the world and are now essential elements of what is known as transitional justice.

The Salvadoran experience has also shown that implementing legal reforms to the judiciary with the aim of making it more independent from the other branches of government is an essential – but on its own insufficient – step to transform it into a credible and effective institution. In this sense, building local ownership in the process of proposing, implementing, and overseeing reforms is particularly important.<sup>87</sup> Reforming and strengthening legal education are also key: legal education in El Salvador should incorporate a human rights focus, a gender perspective, work with and support for victims, and international law, in particular interna-

<sup>87</sup> See Margaret Popkin, "Building the Rule of Law in Post-War El Salvador," in *El Salvador: Implementation of the Peace Accords*, ed. Margarita S. Studemeister, 10–19 (Washington, DC: United States Institute of Peace, 2001), available at: <http://www.usip.org/sites/default/files/pwks38.pdf>.

tional human rights law, so that future generations of lawyers will have a different conception of the justice system and their role in society.

Finally, there is a strong argument to be made that the current epidemic of violent crime and gang violence in El Salvador, which has placed the country at the top of the list of countries with the highest murder rates in the world, is rooted in the culture of impunity for crimes committed against civilians during the internal armed conflict. The overwhelming lack of accountability for past violence has created conditions in which violent crime and insecurity can thrive in the present.

By the same token, working towards transitional justice and breaking the cycle of impunity for past crimes and human rights violations in El Salvador would go a long way towards developing institutional capacity and credibility, both of which are essential elements for a stable and secure democracy. For these reasons, it is vital that key actors at the national and international level recognize the connection between impunity for El Salvador's past and its current context of violence. Recognizing and taking steps to address this connection will be pivotal, both in working towards achieving the goals of the Peace Accords and transitional justice as well as creating peace and security for El Salvador today.

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### *Authors*

Leonor Arteaga, Program Director, and Hannah Ahern, Program Officer, DPLF

### *Contributors*

Katharine Valencia, Senior Legal Advisor, and Amanda Eisenhour, Arthur Liman Fellow in Public Interest Law, DPLF; Naomi Roht-Arriaza, Distinguished Professor of Law at UC Hastings and President of the Board, DPLF

### *Editor*

Sarah L. Smith

### *Graphic Design*

Camila Bustamante

## ABOUT THIS PUBLICATION

Thirty years ago, El Salvador began a new era. On January 16, 1992, the government signed a peace agreement with left-wing guerrillas, ending the 12-year-long civil war, during which at least 75,000 people perished. The Peace Accords, their implementation and limitations, and the transitional process that followed, which included a truth commission that laid bare the atrocities committed during the internal conflict, can provide valuable lessons for peace processes following conflict. To this day, the Peace Accords, and what they represent, remain a source of contention in El Salvador, and the anniversary of their signing highlights the political polarization that still surrounds the conflict and post-conflict processes.

On the 30<sup>th</sup> anniversary of the signing of Peace Accords in El Salvador, and as we reflect on their impact and shortcomings, can we define the measures included in the Accords as *transitional justice*? How should we characterize the nature of challenges related to the internal conflict of that past that are (re)emerging in the current political climate? What lessons can be learned from El Salvador's experience that are relevant for other transitional societies? This document addresses these questions and provides a succinct overview of the post-conflict challenges and opportunities for the advancement of the right to truth, justice, and memory in El Salvador.

## THE DUE PROCESS OF LAW FOUNDATION (DPLF)

The Due Process of Law Foundation (DPLF) is a nonprofit organization dedicated to human rights and the rule of law in Latin America. DPLF is headquartered in Washington, DC, with an office in El Salvador and a multinational team of professionals based throughout the region.

Working with civil society organizations throughout Latin America, DPLF provides technical legal assistance, promotes dialogue with government representatives, and creates opportunities for the exchange of information and experience. DPLF also conducts research and produces publications that analyze and discuss the main human rights challenges in the region, in light of international law and comparative perspectives. Founded in 1996 by Professor Thomas Buergenthal and his colleagues at the United Nations Truth Commission for El Salvador, DPLF has worked on transitional justice issues since its inception, promoting compliance with international standards and the use of inter-American and international law to improve legislation, policy, and practice through comparative research and the exchange of lessons learned in the Americas and other regions of the world.

## **IMPUNITY AND SERIOUS HUMAN RIGHTS VIOLATIONS PROGRAM**

DPLF's Impunity and Serious Human Rights Violations Program, which was responsible for the production of ***The Peace Accords in El Salvador: After peace, transitional justice?*** works to strengthen the institutions in charge of criminal prosecution, those with the mandate to grant reparations, and those that search for disappeared persons, establish processes to learn the truth and preserve memory. Our initiatives include research, advocacy and the exchange of experiences and knowledge between countries and partner organizations throughout Latin America.

According to international law and practice, impunity consists of the failure to investigate, prosecute and punish those responsible for human rights violations. States have the obligation to combat impunity by all possible means, especially in the case of serious human rights violations and crimes against humanity or war crimes. Impunity can be seen as a multiple violation of rights, since it deprives victims and their families of the right to have the truth established, the right to have justice done, and the right to interpose an effective remedy to obtain reparation. Chronic impunity encourages the recurrence of violations and weakens the institutions of justice.

DPLF promotes and advises on how the institutional framework of state, especially justice systems at the domestic level, can be adapted to investigate and prosecute serious human rights violations and international crimes, such as crimes against humanity and war crimes. Likewise, it seeks to complement and strengthen the work of local organizations to improve legislation, policies, and institutional practices in accordance with applicable international standards.

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