

**INTER-AMERICAN COURT OF HUMAN RIGHTS\***  
**CASE OF THE MASSACRES OF EL MOZOTE AND NEARBY PLACES**  
**v. EL SALVADOR**

**OFFICIAL SUMMARY ISSUED BY THE INTER-AMERICAN COURT**

**JUDGMENT OF OCTOBER 25, 2012**  
*(Merits, reparations and costs)*

On October 25, 2012 the Inter-American Court of Human Rights (hereinafter “the Inter-American Court” or “the Court”) issued a Judgment, whereby it declared that the Republic of El Salvador was internationally responsible for the human rights violations perpetrated by the Salvadorian Armed Forces in the massacres committed from December 11 to 13, 1981, in the village of El Mozote, the canton of La Joya, the villages of Ranchería, Los Toriles and Jocote Amarillo, as well as the canton of Cerro Pando in a cave in Cerro Ortiz, in the municipality of Morazán. The Inter-American Court also determined that the enactment by the Salvadorian Legislative Assembly of the General Amnesty Law for the Consolidation of Peace and its subsequent application in this case by the Second First Instance Court of San Francisco Gotera is contrary to the letter and spirit of the Peace Accords, which understood in light of the American Convention, reveals a grave violation of the State’s international obligation to investigate and punish the grave human rights violations of the massacres of El Mozote and nearby places.

While processing the case before the Inter-American Court, the Salvadorian State conducted an acknowledgement, which constituted a full acceptance of the facts contained in the report on merits of the Inter-American Commission and specific facts included in the pleadings and motions brief submitted by the victims’ representatives, which was well received by the Court. Additionally, the Court underscored the speech given by the President of the Republic of El Salvador on January 16, 2012, on the 20<sup>th</sup> Anniversary of the signing of the Peace Accords, as well as the apology to the surviving victims and the next of kin of those massacred, which has great symbolic value in pursuing the non-repetition of similar events. It also emphasized the commitment expressed by the State in relation to the promotion of the necessary reparation measures as part of a permanent dialogue with the representatives, and under the conditions established by the Court.

The Case of the Massacres of El Mozote was one of the incidents addressed by the Truth Commission in its 1993 report, as a case that illustrated the peasant massacres committed by the Salvadorian Armed Forces during the counterinsurgency operations. However, to this date and for several years, the occurrence of the massacres of El Mozote and nearby places was systematically denied and concealed by the State.

In the instant case it was established and El Salvador recognized that, from December 11 to 13, 1981, the Salvadorian Armed Forces – the Rapid Deployment Infantry Battalion of Atlacatl, along with units of the Third Infantry Brigade of San Miguel, and the Center for Instruction of Commands of San Francisco Gotera, with the support of the Salvadorian Armed Forces, conducted a consecutive series of massive, collective and indiscriminate executions of defenseless individuals, geared toward the civilian or non-combatant population in the village of

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\* Composed of the following judges: Diego García-Sayán, Presidente; Manuel E. Ventura Robles, Vicepresidente; Leonardo A. Franco, Juez; Margarete May Macaulay, Jueza; Rhadys Abreu Blondet, Jueza; Alberto Pérez Pérez, Juez, y Eduardo Vio Grossi, Juez. Also present, the Secretary of the Court Pablo Saavedra Alessandri and the Deputy Secretary Emilia Segares Rodríguez. The judges Diego García-Sayán and Eduardo Vio Grossi informed the Court of their concurring opinions.

El Mozote, the canton of La Joya, the villages of Rancheria, Los Toriles and Jocote Amarillo, as well as in the canton of Cerro Pando and in a cave in Cerro Ortiz, as part of an alleged counterinsurgency operation that was part of a "scorched earth" policy planned and executed by the State. In fact, the events demonstrated that the Armed Forces executed all of those persons it came across: elderly adults, men, women, boys and girls, they killed animals, destroyed and burned plantations, homes, and devastated "especially [...] everything community-related."

The most recent lists of victims drafted by the Office of Legal Guardianship of the Archbishopric of San Salvador, based on the testimonies of survivors and next of kin, include the names of 1061 alleged victims executed, of which approximately 54% were children, approximately 18% were adult women and approximately 10% were older men and women ages 60 and above. In the exhumations conducted in 28 sites, indicated mostly by the survivors and other witnesses, the remains of at least 281 individuals were recovered, of which approximately 74% correspond to children under 12. Particularly at Site 1, known as "El Convento" in the village of El Mozote, of 143 individuals identified, 136 were either children or adolescents, with an average age of 6 years.

The Inter-American Court determined that it was the State's responsibility to protect the civilian population during the armed conflict, especially children, who are in a situation of greater risk and vulnerability of having their rights violated. However, in the instant case the State agents acted deliberately, planning and executing through State structures and facilities the perpetration of seven successive massacres of older adults, men, women, and defenseless children, as part of a systematic plan of repression to which certain sectors of the population were subjected as they were considered to be supporting, collaborating or belonging to the guerrilla, or were in any way in opposition or contrary to the government.

The Court concluded that the Salvadorian State is responsible for the executions perpetrated by the Salvadorian Armed Forces in the massacres committed from December 11 to 13, 1981 in the village of El Mozote, the canton of La Joya, the villages of Rancheria, Los Toriles and Jocote Amarillo, as well as in the canton of Cerro Pando and in a cave in Cerro Ortiz, in violation of article 4 (Right to Life) of the American Convention on Human Rights, in relation to article 1(1) of said instrument.

Also, given that the events that preceded the execution of the persons represented for them physical, mental and moral suffering, the Court determined that the State is responsible for the violation to their right of personal integrity recognized in article 5(1) (Right to Personal Integrity) of the American Convention, which in turn constituted cruel, inhuman and degrading treatment, contrary to article 5(2) of the American Convention, in relation to article 1(1) of the same instrument, in detriment of the executed victims. Likewise, since the soldiers stripped the victims of their belongings, burned their homes, destroyed and burned their plantations, and killed their animals, in such a way that the operation of the Armed Forces consisted of a succession of events that simultaneously affected a series of rights, including the right to private property, the Court concluded that the State violated article 21(1) and 21(2) (Right to Property) of the American Convention, in relation to article 1(1) of the same instrument, to the detriment of the executed victims. Lastly, given that it was confirmed that children were found among the victims executed, the Court concluded that the violations also occurred in relation to article 19 (Rights of the Child) of the Convention.

In the case of the massacre in the village of El Mozote, additional impacts were evident, since it can be inferred from the facts that the people were illegally and arbitrarily detained under the control of the Armed Forces, impeding any possibility of the safeguards of personal liberty established in article 7 (Right to Personal Liberty) of the American Convention could be brought to bear in their favor. The Court emphasized that the collective executions did not occur immediately after the detention of the inhabitants and other individuals that were gathered in the village, but approximately between 12 and 24 hours during which they were intentionally subjected to intense suffering, by being threatened and intimidated; they were kept locked up and guarded for hours, and under those circumstances they were interrogated about the presence of guerrilla members in the area, not knowing what their final fate would be.

Based on the State's acceptance of the facts, the Court deemed it reasonable to grant value in this case to the series of indications derived from the case, which allow it to infer the truth of the rapes of the women perpetrated by the soldiers in the village of El Mozote. For this reason, the Court deemed that the rapes to which the women in El Mozote were subjected while they were under military control, constituted a violation of article 5(2) (Prohibition of Torture and of other cruel, inhuman and degrading treatments) of the American Convention, as well as article 11(2) (Right to Private Life) of the same instrument, and article 11(2) (Right to Private life) of the same instrument, in relation of article 1(1), although there wasn't sufficient proof to allow identifying the persons against whom this violation had taken place, whose obligation to investigate falls on the domestic courts.

Consistently, the statements received by the Court allowed it to verify that the personal integrity of the surviving victims of the village of El Mozote, the canton of La Joya, the villages of Rancheria, Los Toriles and Jocote Amarillo, as well as in the canton of Cerro Pando, were affected by one or several of the following situations: a) fearful of being killed; they were forced to flee their homes into the hills, mountains, rivers and wooded areas of the mountains to take refuge, alone or with their families in caves, homes of friends and other safe places in the area, where they remained for days without sufficient food or water; b) from the places where they had hidden, they heard, and in some cases witnessed the soldiers entering the homes of their relatives, neighbors and acquaintances, forcing these persons from their homes, killing them and setting fire to them, and heard their cries for help while they were brutally massacred. They also heard gunfire, gunshots, a hail of bullets, bombardments and the explosion of grenades; c) once they noticed that the soldiers left, they returned to those places, and found the corpses of the executed victims, including their family members and loved ones, burned and/or in an advance state of decomposition, and, in some cases, incomplete, since they had been devoured by animals; d) in some cases they were unable to bury the bodies they found because the soldiers were still in the area; e) days later they proceeded to bury the remains of their family members, including wife, sons and daughters, mother, brothers and sisters, nieces and nephews, as well as acquaintances and neighbors, although they also found corpses that they were unable to identify, and f) some of the survivors searched for the remains of their relatives for days, without finding them.

Given that in some cases the survivors took various measures, such as the search for justice, taking part in the proceedings before domestic and/or international jurisdiction, and given that it is evident that the lack of effective investigations to shed light on the facts and the impunity in which the facts of this case remain have caused the surviving victims to feel fear, vulnerability and insecurity, the Court found that said acts implied cruel, inhuman and degrading treatments, contrary to article 5(1) and 5(2) of the American Convention in relation to article 1(1) of the same instrument, to the detriment of the surviving victims.

The Court also concluded that the State violated the right to private property recognized in article 21(1) and 21(2) (Right to Private Property) of the American Convention, in relation to article 1(1) of the same instrument, to the detriment of the surviving victims. In this regard, it considered that the violation of this right in the instant case is of special gravity and magnitude, not only because of the loss of tangible assets, but also because of the loss of the most basic living conditions, and of every social reference point of the people who lived in those towns.

From the facts in this case it can be inferred that those who survived the massacres were forced to leave their usual place of residence, because of both the State's acts and its omissions. In other words, owing to the acts of State agents when perpetrating the massacres that terrorized the population and left the people, most of them peasants and housewives (*supra* para. 81), without their homes and without the essential means for their subsistence, as well as because of the lack of State protection suffered by the civilian population in the areas associated with the guerrilla that placed them in a situation of vulnerability in the presence of military operations.

In the instant case, and as can be inferred from the testimony received, it has been proven that situations of mass displacement occurred caused precisely by the armed conflict and the lack of protection suffered by the civilian population because it was equated with the guerrillas. In the instant case, as a direct consequence of the massacres that occurred between December 11 and

13, 1981, and the accompanying circumstances, which have also been verified, of this being part of a State scorched earth policy; all of which meant that the survivors were obliged to flee their country, seeing their life, safety or freedom threatened by the generalized and indiscriminate violence. The Court concluded that the State is responsible for the conduct of its agents that caused the enforced displacement internally and to the Republic of Honduras. In addition, the State did not provide the conditions or means that would allow the survivors to return in a dignified and safe manner. As this Court has established previously, the lack of an effective investigation of acts of violence can encourage or perpetuate enforced displacement. Consequently, the Court found that, in this case, the freedom of movement and residence of the survivors of the massacres were limited by severe *de facto* restrictions, originating from the State's acts and omissions, in violation of Article 22(1) (Freedom of Movement and Residence) of the American Convention.

The evidence presented reveals that there is a group of next of kin of the executed victims who, at the time, were not present in the places where the massacres that this case refers to occurred and, when they returned, they tried to find their relatives, but only found their remains. The Court considers it especially serious that some of them had to gather up the bodies of their loved ones that were charred and/or in an advanced state of decomposition and, in some cases, incomplete, in order to bury them, without being able to give them a burial in accordance with their traditions, values or beliefs. It is also evident from the case file that, in some cases, the next of kin of the executed victims have been involved in different actions such as the search for justice, taking part in the proceedings before the international jurisdiction. It has been proven that soldiers proceeded to set fire to the houses, destroy and burn the inhabitants' crops, and kill the animals. Therefore, the State is responsible for the violation of articles 5(1), 5(2), 21(1) and 21(2) of the American Convention, in relation to Article 1(1) of this instrument, to the detriment of the next of kin of the victims executed in the massacres.

The Court considers that, in this case, the international responsibility of the State is aggravated owing to the context in which the facts of the massacres of El Mozote and nearby places were perpetrated, which relates to a period of extreme violence during the Salvadoran internal armed conflict that responded to a State policy characterized by military counterinsurgency operations, such as "scorched-earth" operations, intended to achieve the massive and indiscriminate destruction of the villages that were suspected of being linked to the guerrillas. This is exemplified through the expression "taking the water away from the fish". Thus, once the extrajudicial execution had been concluded, the soldiers proceeded to set fire to the people's homes, belongings and crops and to kill their animals, which signified the permanent loss of the victims' possessions and the destruction of their homes and means of subsistence, causing the enforced displacement from those places of the survivors. As has been established, entire family units were destroyed, and due to the very nature of the massacres, this altered the dynamics of the surviving next of kin and profoundly affected the community's social tissue. In addition, since that time and to date, there have been no effective judicial mechanisms to investigate the grave human rights violations perpetrated, or to prosecute and, as appropriate, punish those responsible.

Indeed, almost 31 years have passed since the massacres of El Mozote and nearby places occurred, and no serious or exhaustive criminal proceeding have been held to identify the masterminds and perpetrators, and all the truth about the events are still not known. Thus, a situation of total impunity prevails, shielded by the Law of General Amnesty for the Consolidation of Peace. It has been verified that, from the time the investigations began, they have been characterized by a lack of diligence, thoroughness and seriousness. In particular, the failure to comply with the obligation to open an investigation *ex officio* and to expedite the necessary measures, the absence of clear and logical lines of investigation that would have taken into account the context and complexity of the events, the periods of procedural inactivity, the refusal to provide information on the military operations, the lack of diligence and thoroughness in the implementation of the investigations by the authorities responsible for them, the delay in carrying out the judicial inspections and the exhumations, as well as the decision to dismiss the proceedings issued in application of the Law of General Amnesty for the Consolidation of Peace, allowed the Court to conclude that the domestic criminal proceedings have not constituted an effective remedy to guarantee the rights of access to justice and to

know the truth by the investigation and eventual punishment of those responsible, and comprehensive reparation for the consequences of the violations.

For the Court, the logic of the political process between the parties in conflict, which resulted in the end of the hostilities in El Salvador, imposed on the State the obligation to investigate and punish by the "exemplary action" of the ordinary law courts, at least grave human rights violations established by the Truth Commission, so that they did not remain unpunished and to avoid their repetition.

Subsequently, the Legislative Assembly of the Republic of El Salvador enacted the 1992 National Reconciliation Law, which established the benefit of unrestricted amnesty, while excluding from its application "anyone who, according to the report of the Truth Commission, had taken part in grave acts of violence that had occurred since January 1, 1980, whose impact on society demands, with the utmost urgency, that the public know the truth, regardless of the sector to which he or she belongs."

Similarly, the Truth Commission, created by the Mexico Accords of April 27, 1991, and which initiated its activities on July 13, 1992, investigated "grave acts of violence that had occurred since 1980, whose impact on society demands, with the utmost urgency, that the public know the truth," which included the Massacres of El Mozote, as an exemplary case of the peasant massacres perpetrated by the Armed Forces.

However, on March 20, 1993, five days after the presentation of the Report of the Truth Commission, the Legislative Assembly of the Republic of El Salvador enacted the "Law of General Amnesty for the Consolidation of Peace," which extended the benefit of amnesty to the persons referred to in Article 6 of the National Reconciliation Law; namely, "those persons who, according to the Truth Commission, participated in grave human rights violations that have occurred since January 1, 1980." In other words, a general and absolute amnesty was granted which extended the possibility of impeding the criminal investigation and the determination of responsibilities to those individuals who had taken part as perpetrators, masterminds and accomplices in the perpetration of serious human rights violations and grave breaches of international humanitarian law during the internal armed conflict, including those exemplary cases established by the Truth Commission. In short, it set aside the non-applicability of the amnesty in these situations that had been agreed by the parties to the Peace Accords and established in the National Reconciliation Law. In addition, beneficiaries of the amnesty included not only individuals, whose cases were pending, but also those who had not yet been prosecuted or regarding whom a guilty verdict had already been delivered, and in all cases, civil responsibility was extinguished.

Contrary to the cases examined previously by this Court, the instant case deals with a general amnesty law that relates to acts committed in the context of an internal armed conflict. Therefore, the Court found it pertinent, when analyzing the compatibility of the Law of General Amnesty for the Consolidation of Peace with the international obligations arising from the American Convention and its application to the case of the Massacres of El Mozote and Nearby Places, to do so also in light of the provisions of Protocol II Additional to the 1949 Geneva Conventions, as well as of the specific terms in which it was agreed to end hostilities, which put an end to the conflict in El Salvador and, in particular, of Chapter I ("Armed Forces"), section 5 ("End to impunity"), of the Peace Accord of January 16, 1992.

The Court held that, according to the international humanitarian law applicable to these situations, the enactment of amnesty laws on the conclusion of hostilities in non-international armed conflicts are sometimes justified to pave the way to a return to peace. In fact, article 6(5) of Protocol II Additional to the 1949 Geneva Conventions establishes that:

At the end of hostilities, the authorities in power shall endeavor to grant the broadest possible amnesty to persons who have participated in the armed conflict, or those deprived of their liberty for reasons related to the armed conflict, whether they are interned or detained.

However, this norm is not absolute, because, under international humanitarian law, States also have an obligation to investigate and prosecute war crimes. Consequently, "persons suspected or accused of having committed war crimes, or who have been convicted of this" cannot be covered by an amnesty. Consequently, it may be understood that article 6(5) of Additional Protocol II refers to extensive amnesties in relation to those who have taken part in the non-international armed conflict or who are deprived of liberty for reasons related to the armed conflict, provided that this does not involve facts, such as those of the instant case, that can be categorized as war crimes, and even crimes against humanity.

In the instant case, it has been almost 20 years since the investigation into the massacres of El Mozote and nearby places was dismissed and the case file closed as a result of the application of the Law of General Amnesty for the Consolidation of Peace, without any response to the repeated requests to re-open the proceedings by the representatives of the victims.

Consequently, it is evident that the *ratio legis* of the Law of General Amnesty for the Consolidation of Peace was to render ineffectual Chapter I ("Armed Forces"), section 5 ("End to impunity"), of the Peace Accord of January 16, 1992, and, in this way, amnesty and leave in impunity all the grave crimes perpetrated against international law during the internal armed conflict, even though the Truth Commission had determined that they should be investigated and punished. Thus, the enactment of the Law of General Amnesty for the Consolidation of Peace explicitly contradicted what the parties to the armed conflict had established in the Peace Accord that determined the end of the hostilities.

In conclusion, the Inter-American Court determined that the approval by the Legislative Assembly of the Law of General Amnesty for the Consolidation of Peace and its subsequent application in this case by the Second First Instance Court of San Francisco Gotera, on the one hand, is contrary to the letter and spirit of the Peace Accords, which understood in light of the American Convention reveals a serious violation of the State's international obligation to investigate and punish the grave human rights violations relating to the massacres of El Mozote and nearby places, by preventing the survivors and the victims' next of kin in this case from being heard by a judge, in keeping with the provisions of Article 8(1) of the American Convention and receiving judicial protection, in keeping with the right established in Article 25 of this instrument.

On the other hand, the Law of General Amnesty for the Consolidation of Peace has resulted in the installation and perpetuation of a situation of impunity owing the absence of investigation, pursuit, capture, prosecution and punishment of those responsible for the facts, thus failing to comply with Articles 1(1) and 2 of the Convention; the latter in relation to the obligation to adapt its domestic law to the provisions of the Convention. Given their evident incompatibility with the American Convention, the provisions of the Law of General Amnesty for the Consolidation of Peace that prevent the investigation and punishment of the grave human rights violations that were perpetrated in this case lack legal effects and, consequently, cannot continue to represent an obstacle to the investigation of the facts of this case and the identification, prosecution and punishment of those responsible, and they cannot have the same or a similar impact in other cases of grave violations of the human rights recognized in the American Convention that may have occurred during the armed conflict in El Salvador.

In short, it has been verified that, in the instant case, the State's power was organized as a means and resource for perpetrating the violation of the rights that it should have respected and ensured, and this has been aided by a situation of impunity of these grave violations, encouraged and tolerated by the highest State authorities, who have obstructed the course of the investigation. Consequently, the Court considers it essential that, as soon as possible, the State rectify the conditions of impunity verified in this case by removing all the obstacles, which have promoted and maintained it, *de facto* and *de jure*.

In light of the above, the Court declared that the State is responsible for the violation of Articles 8(1) (Judicial Guarantees) and 25(1) (Judicial Protection) of the American Convention, in relation to articles 1(1) and 2 (Duty to Adopt Domestic Legal Effects) of the same instrument, and for the violation of the obligations established in Article 1, 6 and 8 of the Inter-American Convention

to Prevent and Punish Torture and 7(b) of the Inter-American Convention for the Prevention, Punishment and Eradication of Violence against Women “Convención de Belém do Pará”, to the detriment of the surviving victims and the next of kin of the victims who were executed in this case, in their respective circumstances.

The Court established that its Judgment constitutes *per se* a form of reparation, and, in view of the violations established, it also ordered the State the following measures of reparation: (i) to continue with the full implementation of the “Single List of the Victims and Next of Kin of the Victims of Grave Human Rights Violations during the Massacre of El Mozote” and adopt the necessary measures to ensure its sustainability and the budgetary allocation to guarantee its effective operation; (ii) initiate, promote, re-open, direct, continue and conclude, as appropriate, with the greatest diligence, the pertinent investigations of all of the events that resulted in the violations declared in the instant Judgment, in order to identify, prosecute and, as appropriate, punish those responsible; (iii) ensure that the Law of General Amnesty for the Consolidation of the Peace never again represents an obstacle to the investigation of the facts that are the subject matter of this case or to the identification, prosecution and eventual punishment of those responsible for them and for other similar grave human rights violations that took place during the armed conflict in El Salvador; (iv) investigate, through the competent public institutions, the conduct of the officials who obstructed the investigations and allowed the facts to remain in impunity and, following a suitable proceeding, apply, if appropriate, the corresponding administrative, disciplinary or criminal sanctions to those found responsible; (v) review the information available on possible interment or burial sites, which must be protected to preserve them, in order to initiate, systematically and rigorously and with the adequate human and financial resources, the exhumation, identification and, when appropriate, return of the remains of those executed to their next of kin; (vi) implement a development program for the communities of the village of El Mozote, the canton of La Joya, the villages of Ranchería, Los Toriles and Jocote Amarillo and the canton of Cerro Pando; (vii) guarantee suitable conditions so that the displaced victims may return to their original communities on a permanent basis, if they wish, and also implement a housing program in the areas affected by the massacres in this case; (viii) implement a permanent and comprehensive program of physical, mental and psychosocial care and attention; (ix) publish the Judgment; (x) make an audiovisual documentary about the grave acts committed in the massacres in El Mozote and nearby places; (xi) implement a permanent and compulsory program or course on human rights, with a children- and gender-based perspective, for all ranks of the Salvadoran Armed Forces; and (xii) pay the amounts established as compensation for pecuniary and non-pecuniary damage, and reimbursement of costs and expenses.

The Court will monitor full compliance with this Judgment, in exercise of its powers and in accordance with its obligations under the American Convention on Human Rights, and will conclude this case when the State has complied fully with its provisions.

The full text of the Judgment can be accessed through the following link:  
[http://corteidh.or.cr/docs/casos/articulos/seriec\\_252\\_ing1.pdf](http://corteidh.or.cr/docs/casos/articulos/seriec_252_ing1.pdf)