



Aiding and Abetting Terror in El Salvador:

Holding the United States Responsible for War Crimes Committed During the Salvadoran Civil War

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*“The army wanted to exterminate the thinking and the idea of our rights in El Salvador. You exterminate the idea by exterminating the people; the women, the children, everyone. Especially the children because you kill the idea by preventing the growth of the idea. **You kill the root to prevent the change.**”*

– José, Salvadoran Civil War survivor and guerilla fighter

Executive Summary

We present this report to identify the U.S.' facilitation of war crimes during the Salvadoran Civil War through the El Mozote Massacre case study. International Partners in Mission is a 501(c)(3) nonprofit that gave two law students from Case Western Reserve University School of Law the opportunity to travel and gain insight into Salvadoran human rights realities and community attempts at reconstruction following the Civil War. Initially, we gathered local testimonies and researched international law. Our research focused on academic analysis regarding the Peace Accords and laws created in response to the victims who survived the Civil War. We further gathered testimonies from civilians who escaped massacres orchestrated by Salvadoran military fighters, from guerilla fighters who took up arms in opposition to the military, and from community members living in areas that are now controlled by gangs. We discovered that the Salvadoran government further divides the nation by failing to provide accountability of Salvadoran political leaders accused of committing war crimes during the Civil War. To conduct our interviews, we used local translators as we gathered these testimonies and broke bread with Salvadorans who wished to share their experiences.

Introduction

While conducting academic research and gathering local testimonies, we discovered evidence that the U.S. aided and abetted the Salvadoran government in committing war crimes for political and economic gain. As we compounded our research, we realized the necessity to disclose our findings about the U.S. role in the Civil War as our societal and political climate fails to address the reasons why Central American citizens flee to our border. Information about Central America and Latin American citizens overall is constructed to diminish U.S. accountability for Latin American conflicts, and we believe is achieved by biased and xenophobic national news reporting, inaccurate statements made by the Trump administration, and the policy of detaining immigrants which violates national and international laws.

We express awareness through this white paper in honor of more than 75,000 Salvadoran civilians who perished at the hands of self-serving U.S. policies. We seek to honor all Latin

American citizens who flee their countries in hopes of asylum. Using the Massacre of El Mozote as a case study, we have compiled factual reasons outlining how the U.S. contributed and perpetuated in the violence against civilians during the Salvadoran Civil War. By demonstrating the U.S.'s responsibility for the deeply rooted conflicts in El Salvador today, we advocate that the U.S. is indebted to the Salvadoran people and should accept and aid Salvadorans facing challenges posed by economic instability, gang violence, and migration. Finally, we hope to capture the resilience that Salvadoran people embody through the words of local testimonies and inspire accountability from local and international legal bodies. We can all learn from the courage of a highly misunderstood population that has nonetheless remained strong while protecting and promoting human rights after enduring heinous war crimes and witnessing the worst of humanity.

Historical Context

The Salvadoran Civil War

On the morning of March 24, 1980, Archbishop Oscar Romero was celebrating mass at the chapel of the Hospital of Divine Providence in San Salvador. A red car stopped in front of the doorway. A man stepped out of the car and aimed a rifle down the long aisle where Romero stood preaching to the crowd of churchgoers. The church grew silent as a single bullet propelled down the aisle and hit Romero's chest. The crowd watched as Romero fell to the ground. Fellow clergy members and parishioners flocked to save him. The bullet entered his heart, and Romero died instantly.¹

Beloved by the people in the rural regions of the country, Romero was a human rights advocate and a voice for the poor; speaking out against poverty, social injustice, and violence amid a growing war between left and right-wing forces. El Salvador's left-wing supporters swelled as priests preached that the poor should seek justice in this world, not wait for the next. Romero was among them, earning a spot as a target. Romero's assassination by an extreme right-wing politician² was the final straw of numerous attacks

¹ Miglierini, Julian. "El Salvador Marks Archbishop Oscar Romero's Murder." *BBC News*, March 24, 2010. <http://news.bbc.co.uk/2/hi/8580840.stm>.

² Brockett, Charles D. *Political Movements and Violence in Central America*. Cambridge University Press. ISBN 9780521600552.

against human rights activists in 1980. It marked the beginning of a civil war that would plague El Salvador for 12 long years and kill 75,000 civilians.

Although Romero's assassination marked the war's beginning, El Salvador's deep-rooted history of political divisions and structural injustices created the tense climate that eventually led to the Civil War. In the late 1880s, the coffee market boomed in El Salvador. Although it comprised 95% of the country's income, only 2% of the population consisting of 14 families controlled this wealth.³ As economic opportunities diminished for the poor and living conditions dwindled, tensions grew between the classes. In 1932, the Central American Social Party was created by banding together poor, rural communities and indigenous peoples in an uprising against the government that killed around 150 soldiers and noncombatants in Western El Salvador. The government-supported army responded with overwhelming force to the Communist-supported rebellion, conducting a massively disproportionate slaughter of 10,000 rural villagers and indigenous people, in an event known as *la matanza* or the massacre.⁴

Following *la matanza* until the late 1970s, El Salvador experienced a series of military dictatorships that attempted reform, some of which were successfully implemented, but none of which had the staying power to quell the rising tide of opposition.⁵ Military death squads continued to fight various left-wing guerilla groups in an endless string of assassinations and coups. At the time, the military controlled the national guard, treasury police, national police, national intelligence agencies, and paramilitary civil-defense forces.⁶ In 1979, a new military junta gained power and promised reforms to improve living conditions for the poor. But the promised reforms never came, and the state repression continued. Instead, the military violently targeted labor and peasant organizations, church officials, religious workers, political opponents, the media, and human rights activists.⁷

³ Dunkerley, James. 1982. *The Long War: Dictatorship and Revolution in El Salvador*. London: Junction Books.

⁴ Green, Amelia Hoover. "CIVIL WAR IN EL SALVADOR." In *The Commander's Dilemma: Violence and Restraint in Wartime*, 59-78. ITHACA; LONDON: Cornell University Press, 2018. <http://www.jstor.org/stable/10.7591/j.ctt21h4xfr>.8.

⁵ Ching, Erik. "Setting the Stage: El Salvador's Long Twentieth Century." In *Stories of Civil War in El Salvador: A Battle over Memory*, 24-54, 35. Chapel Hill: University of North Carolina Press, 2016. Available at: www.jstor.org/stable/10.5149/9781469628677_ching.6.

⁶ *International Institute for Strategic Studies*. "The Military Balance" (1991). 1991-1992, London: Brassey's, p. 198.

⁷ *Americas Watch Committee*. "El Salvador's Decade of Terror: Human Rights Since the Assassination of Archbishop Romero" (1991). New Haven, Conn.: Yale University Press, pp. 17-63.

The struggle between the right and left continued to grow more and more divided through the 1970s.⁸ As the right-wing elites and military leaders continued to forestall the democratic process by holding fraudulent elections and using violence to suppress subsequent protests, leftist reformers began to radicalize and soon more people embraced the left's revolutionary message to oppose the government.⁹ Five leftist groups existed within El Salvador; the two largest were the *Fuerzas Populares de Liberación* (FPL) and the *El Ejército Revolucionario del Pueblo* (ERP). While leaders who broke away from El Salvador's Communist Party formed the FPL to push for the overthrow of the Salvadoran state, university students and supporters of liberation theology formed the ERP to establish a social-democratic system.¹⁰ In the 1980s, various reformist and left-wing parties, popular groups, and unions formed the *Farabundo Marti National Liberation Front* (FMLN),¹¹ preparing the guerrillas to wage war against the Salvadoran state.¹²

Following the unification of the guerrillas, the formal beginning of the war was on January 19, 1980, when guerilla soldiers launched an offensive on the military in various El Salvadoran cities.¹³ Desperation from the January offensive fueled counterattacks as the FMLN responded to the military's acts by conducting a campaign of terror and guerrilla warfare against the Salvadoran government and civilian supporters.¹⁴ Generally, the guerillas targeted the army in rural areas close to guerilla-controlled territories.¹⁵ To defeat the spread of "communism," the right-wing, government-supported military targeted anyone suspected of supporting the FMLN. While aiming at guerillas, everyday citizens in rural towns became the main targets of the security forces and right-wing paramilitary groups."¹⁶ Aided by U.S.' training, the military used a strategy known as "draining the sea to get the fish," or "scorched earth," where the army killed men, women, and children and

⁸ *Id.* at 36-8

⁹ *Id.*

¹⁰ *Id.*

¹¹ Yurtoğlu, 163-4.

¹² *Id.* at 40.

¹³ *Id.*

¹⁴ McClintock, Cynthia. "Revolutionary Movements in Latin America: El Salvador's FMLN and Peru's Shining Path" (1998). Washington, D.C.: U.S. Institute of Peace Press.

¹⁵ Ching, at 42.

¹⁶ Yurtoğlu, 163-4.

destroyed anything the guerillas used to survive, like animals, food, and infrastructure.¹⁷ Often, the military used this strategy in small towns. Among the worst of the scorched earth attacks was the massacre of 600 civilians at the Sumpul River at the Salvadoran-Honduran border, the slaughter of over 750 peasants and their families in and around El Mozote, the murder of Jesuit priests at their home at Central American University,¹⁸ and the killings of four North American churchwomen providing aid to war victims.¹⁹

Throughout the war, 75,000 civilians perished, and over 1 million Salvadorans — roughly one-fifth of the population at the time — were displaced. Incidents of grave violence included murders, forced disappearances, torture and rape. The UN Truth Commission report concluded that 85% of the violations — the El Mozote massacre among them — were committed by government forces, 10% by military death squads, and the remaining 5% by the FMLN.²⁰ Meaning that 95% of the civilian casualties were attributed to the *U.S.-supported* Salvadoran right-wing government.



“I was close to one of the biggest massacres. My partner was one block away. He survived that massacre, but the corpses were everywhere. People were starving, so the armed forces told the people to get in a line in order to receive some food. When the people were all lined up, the military killed them all.”

– Victoria, Salvadoran Civil War survivor

After 1984, the war turned into a stalemate.²¹ Four key events led to the conclusion of the conflict. First, the guerrillas launched a massive, nationwide offensive in 1989 to target major urban areas, including San Salvador. A few days after the offensive began, the government responded by bombing poor neighborhoods and assassinating six Jesuit priests

¹⁷ Ching, 42.

¹⁸ Informe de la Comisión de la Verdad 1992-1993, De la locura a la esperanza , 57f

¹⁹ Bonner, Raymond. “The Diplomat and the Killer” (2016). *The Atlantic*. Available at: <https://www.theatlantic.com/international/archive/2016/02/el-salvador-churchwomen-murders/460320/>.

²⁰ Informe de la Comisión de la Verdad 1992-1993, De la locura a la esperanza , 57f; See also Binford, 75.

²¹ Ching 44-7.

along with their housekeeper and her daughter at the *Universidad Centroamericana José Simeón Cañas* (UCA). That resulted in widespread international condemnation.²² Second, the guerillas acquired air missiles and began launching air attacks. Third, the Cold War, which was the U.S.' primary justification for funding the war, ended, and President Bush began pushing his Salvadoran allies to reach a peace agreement.²³ The fourth and final event was the electoral loss by the Sandinistas in Nicaragua in 1990, which eliminated a key ally for the Salvadoran guerrillas.²⁴

In 1990, the UN began peace negotiations. On January 16, 1992, a final agreement, the Chapultepec Peace Accords, was signed by the combatants in Mexico City, formally ending the conflict. The leadership of the FMLN agreed to accept the liberal democratic model and capitalist modernization in exchange for political participation and limited economic reforms. The civil wars did not change the socioeconomic power structure in El Salvador.²⁵

Following the peace agreement, the United Nations formed a Truth Commission comprising Central and Latin American experts, along with a variety of professionals worldwide.²⁶ The Truth Commission conducted an impartial investigation into the illegal acts committed during the Salvadoran Civil War to provide accountability for post-war reconstruction. Examination of alleged systematic atrocities provided evidence that human rights violations were carried out by members of the armed forces and also by members of the guerilla forces.²⁷ Ultimately, collected testimony concluded that State agents (right-wing military members) carried out 85% of the violent acts, which took place predominantly in rural areas, and the FMLN carried out approximately 5% of the violent acts.²⁸

The Truth Commission exposed dark State truths and consequently the Salvadoran Supreme Court rejected the Truth Commission's report, asserting, "[the report] passes over the legitimate

²² Burgerman, Susan D. "Mobilizing Principles: The Role of Transnational Activists in Promoting Human Rights Principles." *Human Rights Quarterly* 20, no. 4 (1998): 919. <http://www.jstor.org/stable/762793>.

²³ Jones, Seth G., Olga Oliker, Peter Chalk, C. Christine Fair, Rollie Lal, and James Dobbins. "Front Matter." In *Securing Tyrants or Fostering Reform? U.S. Internal Security Assistance to Repressive and Transitioning Regimes*, 22-3. Santa Monica, CA; Arlington, VA; Pittsburgh, PA: RAND Corporation, 2006. <http://www.jstor.org/stable/10.7249/mg550osi.1>.

²⁴ Ching 47-8.

²⁵ Jenny Pearce, "From Civil War to Civil Society: Has the End of the Cold War brought Peace to Central America?" *International Affairs* 74: 3 (July 1998): 587-616.

²⁶ Scott, Douglas D. "Firearms Identification in Support of Identifying a Mass Execution at El Mozote, El Salvador." *Historical Archaeology* 35, no. 1 (2001): 79-86.

²⁷ *Id.*

²⁸ Truth Commission 1993.

and the permanent interests of the country.”²⁹ In other words, the Supreme Court in El Salvador rejected the report by justifying the violent acts committed against citizens as merely a way to protect Salvadoran national security interests. National security in this context took precedence over all other legal and constitutional requirements.³⁰ Remnants of this lack of accountability linger in today’s El Salvador.

The Role of the United States

Between 1980 and 1992, the U.S. sent more than \$8 billion in military and economic aid – an average of over \$1 million per day – to aid the Salvadoran army during the Civil War. Aid is a term that is often assumed to be donative. However, \$8 billion in aid was and is still a debt owed to the U.S. following the conflict.³¹ During the 1980s, El Salvador was the largest Central American recipient of U.S. aid and the third-largest recipient of U.S. foreign aid overall.³²



“My family was divided during the Civil War. Our government was aligned with the government of the U.S. – a government that provided 100% of help to the Salvadoran government. They started to send weapons to the country and then military advisors. The weapons were not free. The military advisors were not free. The U.S. helped repress the human rights movement. A lot of the people in the military went to the School of the Americas to learn how to torture. They came back and killed women and children. No one was safe.”

– Esmeralda, Salvadoran Civil War survivor

During the Cold War, President Ronald Reagan described Latin American involvement as the prevention of “Latin American Communism,” a deceptive front to mask a human rights

²⁹ Loveman, Brian. “Protected Democracies and Military Guardianship: Political Transitions in Latin America, 1978-1993.” *Journal of Interamerican Studies and World Affairs* 36, no. 2 (1994): 105-89.

³⁰ *Id.*

³¹ Quan, Adán. “Through the Looking Glass: U.S. Aid to El Salvador and the Politics of National Identity.” *American Ethnologist* 32, no. 2 (2005): 280.

³² Yurtoğlu, 170-1.

movement for the peasants.³³ This fact was evidence by a White Paper by the State Department focused on developments in El Salvador and drafted during Reagan's first year in office: "The situation...presents a strikingly familiar case of Soviet, Cuban, and other Communist military involvement in a politically troubled Third World country. By providing arms, training, and direction to a local insurgency and by supporting it with a global propaganda campaign, the Communists have intensified and widened the conflict..."³⁴ This dedication to quashing "Latin American Communism" did start with Reagan. In March 1961, President Kennedy informed the U.S. Congress that the West was being "nibbled away at the periphery" by a Soviet strategy of "subversion, infiltration, intimidation, indirect or non-overt aggression, internal revolution, diplomatic blackmail, guerilla warfare or a series of limited wars."³⁵ Policy and international affairs analysts assert that U.S. involvement in Latin America suppressed change and stifled the voice of the leftist guerillas in El Salvador by keeping Salvadoran peasants impoverished and illiterate. ³⁶

U.S. aid to El Salvador during the Civil War was not limited to military funding; the Salvadoran Army received copious amounts of aid in weapons and strategic training. According to the Small Arms Survey, between 1980-1993, the U.S. supplied the Salvadoran military with almost 37,500 guns (including 32,500 M-16s) and nearly 270,000 grenades, making the country the number one recipient of U.S. military hardware in the Western Hemisphere during the 1980s.³⁷ The U.S. also delivered sophisticated weaponry for the Salvadoran air force, like fixed-wing fighters and attack helicopters.³⁸ After the increased commitment by the U.S. in late 1983 and early 1984, the Salvadoran air force came to have more than fifty operational helicopters, some A-37 attack jets, and some AC-47 gunships that could hover over a battlefield for hours.³⁹

³³ Jones, Seth G., Olga Oliker, Peter Chalk, C. Christine Fair, Rollie Lal, and James Dobbins. *Securing Tyrants or Fostering Reform? U.S. Internal Security Assistance to Repressive and Transitioning Regimes*, 22-3. Santa Monica, CA; Arlington, VA; Pittsburgh, PA: RAND Corporation, 2006. <http://www.jstor.org/stable/10.7249/mg5500si>.

³⁴ Yurtoğlu, 167; See also United States. Department of State. Bureau of Public Affairs. *Communist Interference in El Salvador. Special Report N. 80*. Washington D.C. February 23, 1981.

³⁵ Jones, Seth G., Olga Oliker, Peter Chalk, C. Christine Fair, Rollie Lal, and James Dobbins. *Securing Tyrants or Fostering Reform? U.S. Internal Security Assistance to Repressive and Transitioning Regimes*, 10. Santa Monica, CA; Arlington, VA; Pittsburgh, PA: RAND Corporation, 2006. <http://www.jstor.org/stable/10.7249/mg5500si>.

³⁶ *Id.*

³⁷ Godnick, William, Robert Muggah, and Camilla Waszink. "Stray Bullets: The Impact of Small Arms Misuse in Central America." *Stray Bullets: The Impact of Small Arms Misuse in Central America*. Vol. No. 5, n.d.

³⁸ Ching II, Erik. "Setting the Stage: El Salvador's Long Twentieth Century." In *Stories of Civil War in El Salvador: A Battle over Memory*, 44. Chapel Hill: University of North Carolina Press, 2016. http://www.jstor.org/stable/10.5149/9781469628677_ching.6.

³⁹ *Id.*

Because of U.S. funding, the Salvadoran army grew from just 10,000 troops to more than 50,000 toward the end of the conflict. Primarily under U.S. training in El Salvador, Panama, and the U.S. at the School of the Americas, the army created five new *Batallones de Infantería de Reacción Inmediata* (BIRIs). These were elite fighting units comprised of roughly 1,000 men, the mission was to go into the field and eliminate guerrillas.⁴⁰

The most notorious of these new battalions was the Atlacatl Battalion, which committed the most egregious human rights violations throughout the war. In the early years of the war, the Battalion carried out extensive sweeps that resulted in the mass extermination of civilians, including women, children, and the elderly.⁴¹ The scorched earth strategy involved “the indiscriminate annihilation of one or several villages during a single operation.”⁴² The military's objective was to destroy the villages by setting fire to crops, homes, and victims' possessions. The main objectives were to massacre civilians, cause mass enforced displacements and destroy the people's means of subsistence to dismantle essential social relations in those communities that could provide logistic support to the guerrilla.⁴³

The U.S.'s main policy objectives in El Salvador ended as the Cold War came to a close. After providing aid to the military for over ten years, the U.S. put significant pressure on El Salvador to negotiate a peace settlement and threatened to withdraw aid if an agreement was not reached. The United Nations (UN) verified the negotiated ceasefire, and reconstruction efforts began to rebuild the country.⁴⁴

⁴⁰ Ching, Erik. *Stories of Civil War in El Salvador: A Battle over Memory*, 43. Chapel Hill: University of North Carolina Press, 2016. http://www.jstor.org/stable/10.5149/9781469628677_ching.

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Id.*

⁴⁴ Jones, Seth G., Olga Oliker, Peter Chalk, C. Christine Fair, Rollie Lal, and James Dobbins. *Securing Tyrants or Fostering Reform? U.S. Internal Security Assistance to Repressive and Transitioning Regimes*, 22-3. Santa Monica, CA; Arlington, VA; Pittsburgh, PA: RAND Corporation, 2006. <http://www.jstor.org/stable/10.7249/mg5500si>.

Case Study: The El Mozote Massacre



Human Rights Archives of the Human Rights Commission of Segundo Montes

The Massacre

Seventy-five thousand Salvadoran civilians perished over the period of a little more than a decade during the Civil War in dozens of massacres across the country.⁴⁵ The largest massacre in the Salvadoran Civil War and all of Latin American history took place on December 11, 1981, when over 1,000 civilians were killed in the village of El Mozote, El Salvador.⁴⁶ Over 100 children were executed; their average age, six.⁴⁷ The U.S.-trained and funded Atlacatl Battalion of the Salvadoran Army surrounded the village of El Mozote and

⁴⁵ Brigada, Anna-Catherine. *Salvadorans await justice in civil war killings as one of its first victims sainted*: The Guardian, Oct. 2018, <https://www.theguardian.com/world/2018/oct/14/el-salvador-oscar-romero-civil-war-saint-justice>

⁴⁶ UN Truth Commission Report, *The Commission on the Truth for El Salvador*, 31, 1991. Available at: <http://www.derechos.org/nizkor/salvador/informes/truth.html>.

⁴⁷ *Id.* at 31; See also *The El Mozote Massacre: Human Rights and Global Implications Revised and Expanded Edition*. University of Arizona Press, 2016. 75. <http://www.jstor.org/stable/j.ctt19jcgm9>.

held every civilian at gunpoint. Men and young boys were separated and brought into rooms to be brutally tortured.⁴⁸ Women and girls as young as six years old were brought into other rooms to be raped. In the end, every single civilian was executed.⁴⁹ A Salvadoran Civil War survivor reported, “the soldiers killed children; they killed the elderly. If they found a pregnant woman, they cut her stomach in half. They took the fetus outside of the woman and killed them both.”⁵⁰

During this time, El Salvador was receiving more military and economic aid from the U.S. than any country except for Egypt and Israel.⁵¹ President Ronald Reagan used a deceptive front, “Latin American Communism,” to fuel the Civil War for the leftist movement in El Salvador, in which those from rural communities and low-income areas demanded access to basic necessities, economic opportunities, and human rights.⁵² The Salvadoran army did not set out to exterminate the human rights movement in El Salvador by its own volition; the U.S. political machine orchestrated the desire to suppress change and stifle the voice of the Salvadoran people by keeping Salvadoran peasants impoverished and illiterate.⁵³

U.S. Involvement

The Atlacatl Battalion, the Salvadoran military group responsible for the El Mozote massacre, committed the most egregious war crimes during the Salvadoran Civil War. The Battalion’s use of murder, torture, and rape against civilians living in the Morazón region are classified as war crimes under the Geneva Convention – a treaty ratified by El Salvador.⁵⁴

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ Victoria. Interview conducted on June 2019 in El Salvador. Translated by Adela Zayas, IPM Regional Director for Latin America and the Caribbean.

⁵¹ Bonner, Raymond. “America's Role in El Salvador's Deterioration. Many Salvadorans stayed in the U.S. after a devastating earthquake. But other disasters in the country were man-made.” *The Atlantic* (January 2018). Available at: <https://www.theatlantic.com/international/archive/2018/01/trump-and-el-salvador/550955/>.

⁵² Jones, Seth G., Olga Oliker, Peter Chalk, C. Christine Fair, Rollie Lal, and James Dobbins. *Securing Tyrants or Fostering Reform? U.S. Internal Security Assistance to Repressive and Transitioning Regimes*, 22-3. Santa Monica, CA; Arlington, VA; Pittsburgh, PA: RAND Corporation, 2006. Available at: <http://www.jstor.org/stable/10.7249/mg5500si>.

⁵³ *Id.*

⁵⁴ International Committee of the Red Cross (ICRC), *Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention)*, 12 August 1949, 75 UNTS 287, Available at: <https://www.refworld.org/docid/3ae6b36d2.html>.

Beginning in 1981, the Atlacatl troops completed their training under the supervision of the U.S. military advisors.⁵⁵ For over 30 years, the U.S. had disseminated anti-communist ideology to Salvadorians to reinforce preexisting fears and to justify the use of any methods to defeat the enemy.⁵⁶

Nine of the eleven Salvadoran officers cited by the United Nations as participants in the El Mozote massacre were trained at the U.S. Army School of the Americas at Fort Gulick in the Panama Canal Zone.⁵⁷ During training, the U.S. advisors taught the Salvadoran military scorched earth strategy. This strategy led to the Mozote massacre. The Atlacatl Battalion of the Salvadoran Army had just completed a 3-month counterinsurgency training course at the School of Americas in Fort Benning, Georgia. The El Mozote operation – or *massacre*, as it is now known – was the battalion's very first operation on completing the military course.⁵⁸ As a result of the systematic attack on the villages near El Mozote, the region of Northern Morazán's population has declined by roughly 50%, and the entire area around Lake Suchitlán was more or less depopulated by 1983.⁵⁹

In addition to training the unit to destroy villages, the U.S. armed the battalion with the most effective weapons available. The majority of weapons collected during the El Mozote exhumations ordered by the United Nations Truth Tribunals were made in the U.S. All bullet cases found at the site appeared to have been fired from U.S. M-16 military rifles.⁶⁰ Headstamps on the cartridge cases, which are a mark that identifies the government or commercial manufacturer, were headstamped "LC" – indicating cartridge case manufacturing for the U.S. government at Lake City Ordnance Plant located near Independence, Missouri.⁶¹

⁵⁵ Scott, Douglas D. "Firearms Identification in Support of Identifying a Mass Execution at El Mozote, El Salvador." *Historical Archaeology* 35, no. 1 (2001): 80. <http://www.jstor.org/stable/25616895>.

⁵⁶ Binford, at 55.

⁵⁷ Binford, Leigh. "The eye of the Oligarchy." In *The El Mozote Massacre: Human Rights and Global Implications Revised and Expanded Edition*, 34-57. 55. University of Arizona Press, 2016. Available at: <http://www.jstor.org/stable/j.ctt19jcgm9.10>.

⁵⁸ Ching, Erik. *Stories of Civil War in El Salvador: A Battle over Memory*, 43. Chapel Hill: University of North Carolina Press, 2016. http://www.jstor.org/stable/10.5149/9781469628677_ching.

⁵⁹ CHING, ERIK. *Stories of Civil War in El Salvador: A Battle over Memory*. Chapel Hill: University of North Carolina Press, 2016. Available at: http://www.jstor.org/stable/10.5149/9781469628677_ching.

⁶⁰ Scott, Douglas D. "Firearms Identification in Support of Identifying a Mass Execution at El Mozote, El Salvador." *Historical Archaeology* 35, no. 1 (2001): 83-4. <http://www.jstor.org/stable/25616895>.

⁶¹ *Id.*

Although the events of El Mozote are well-known as the largest massacre in Latin America, in the aftermath of the killings, the Salvadoran government and the army denied that such a massacre happened.⁶² Relying on data from the Salvadoran military, the U.S. State Department denied the massacre and declared it guerilla propaganda.⁶³ Following the publication of two newspaper articles in the New York Times and the Washington Post in 1982, news of the Mozote massacre broke in the U.S. and the international community.⁶⁴

The U.S. Embassy only completed one investigation of El Mozote. The purpose was damage control, to prevent leakage of negative information that might jeopardize military aid or the election to replace the discredited civilian-military junta.⁶⁵ The U.S. government said that “there was no proof to confirm that government forces had massacred civilians in the areas of operation,” adding that “there were probably no more than 300 people living in El Mozote at the time of the massacre.”⁶⁶ Available resources indicate that the U.S. Embassy in San Salvador prepared these findings without having visited the scene of the events.⁶⁷ At the national level, “an army spokesperson [...] assured that the accounts of a massacre committed by members of the army were ‘completely false’ and that they had been invented by the subversives.”⁶⁸ The attempts to erase the story of the massacre were so complete and successful that “a decade later, in mid-1991, human rights and other political officers at the U.S. Embassy in San Salvador questioned by America's Watch had *never even heard* of the massacre at El Mozote, much less of the involvement of the Atlacatl Battalion.”⁶⁹ The U.S. government repeatedly dismissed accounts of the massacre for lack of “concrete” or credible evidence.⁷⁰

⁶² Blanke, S. “El Salvador's Civil War and Civic Foreign Policy .” *El Salvador's Civil War and Civic Foreign Policy* . Berlin, 2003. <http://webdoc.sub.gwdg.de/ebook/diss/2003/fu-berlin/2003/122/Kapitel4.pdf>. See also Danner, Mark. *The Massacre at El Mozote: a Parable of the Cold War*. London: Granta, 2005.

⁶³ *Id.*

⁶⁴ *Id.*

⁶⁵ Binford, Leigh. *The El Mozote Massacre: Human Rights and Global Implications Revised and Expanded Edition*, 72. University of Arizona Press, 2016. <http://www.jstor.org/stable/j.ctt19jcgm9>.

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ *Id.* See also Human Rights Watch. “The Massacre at El Mozote: The Need to Remember.” *News from Americas Watch IV*, no. No. 2 (March 4, 1992). <https://www.hrw.org/legacy/reports/pdfs/e/elsalvdr/elsalv923.pdf>

⁷⁰ Binford at 72.

International Humanitarian Law

Armed Conflict

Warring parties in El Salvador, as a ratifying state, must adhere to international humanitarian law, including Common Article 3 to the Geneva Conventions of 1949, Additional Protocol (II) to the Geneva Conventions of 1977, and customary international humanitarian law. The main principles of international humanitarian law include the following: (1) Obligation to take all feasible precautions in attack; (2) Effective advance warning of attacks which may affect the civilian population; (3) Protection of objects indispensable to the civilian population; (4) Prohibition on indiscriminate attacks; (5) Prohibition on disproportionate attacks; (6) Prohibition on attacks directed against civilian objects and/or civilian targets; (7) Obligation to investigate and prosecute; and (8) Obligation to make reparations.⁷¹ According to international humanitarian law, warring parties must distinguish between war combatants and civilians, never deliberately targeting civilians. In the interest of substantiating war crimes under aiding and abetting, it is crucial to understand that no party to a conflict may use disproportionate harm to the civilian population and *must minimize any potential harm to civilians* during an armed conflict. Military objectives from all parties must take into account densely populated areas and remove civilians from the vicinity if they are within range of these military objectives. Even if one party fails to take precautions to protect civilians, the other party still has obligations to protect civilians under the laws of war.⁷² A conflict's unequal environment does not create mutual lawlessness.

Aiding and Abetting

Aiding and abetting, which occurs when one country assists another in committing war crimes and crimes against humanity, is a crime recognized under international law.⁷³ Under the Rome Statute of the International Criminal Court, aiding and abetting a war crime

⁷¹ UK Royal Courts of Justice, *Campaign Against the Arms Trade v. Secretary of State for International Trade* (July 2017). Available at: <https://www.caat.org.uk/resources/countries/saudi-arabia/legal-2016/2017-07-10.judgment.pdf>.

⁷² *Human Rights Watch*, "Q & A on The Conflict in Yemen and International Law." 16 April 2015. Available at: <https://www.hrw.org/news/2015/04/06/q-conflict-yemen-and-international-law>.

⁷³ International Residual Mechanism for Criminal Tribunals, "Aiding and Abetting." Available at: <https://cld.irmct.org/notions/show/1033/aiding-and-abetting#>

requires three elements: 1) a person or entity committed a war crime; 2) another actor committed an act that had a substantial effect on the commission of the war crime; and 3) the other actor knew that the act would assist, or have a substantial likelihood of assisting, the commission of a war crime.⁷⁴

Evolution of Aiding and Abetting War Crime

International criminal law elements required to prove aiding and abetting during the armed conflict have evolved in recent cases. First, the International Criminal Tribunal for the former Yugoslavia (ICTY) considered the *actus reus* of aiding and abetting during an armed conflict. The Appeals Chamber found that it must be proven beyond a reasonable doubt that the aiding and abetting had been “specifically directed” at the crime to reach a conviction.⁷⁵ Meanwhile, in September 2013, the Special Court for Sierra Leone (SCSL) Appeals Chamber came to a different conclusion regarding the beyond a reasonable doubt requirement. The SCSL Appeals Chamber concluded that it must be proven that the assistance provided by the aider and abettor has had a “substantial effect” on the crime committed. Lastly, the ICTY Appeals Chamber in the January 2014 *Perisic* case agreed with the conclusion in the *Taylor* Appeal judgment stating that “specific direction” was not an element of the *actus reus*, and it was enough to prove “substantial effect” to reach a conviction.⁷⁶

Legal Standard

States may be held liable for aiding and assisting the commission of war crimes by Article 16 of the Draft Articles on the Responsibility of States for Internationally Wrongful Acts (ARSIWA). Article 16 states:

A state which aids or assists another State in the commission of an internationally wrongful act by the latter is internationally responsible for doing so if:

⁷⁴ U.N., Report of the International Law Commission on the work of its fifty-third session. United Nations General Assembly Official Records Supplement No. 10, at 27, U.N. Doc A/56/10 (2001). *Reprinted in* [2007] 2 Year Books International Law Commission 65, U.N. Doc. A/CN.4/SER.A/2001/Add.1[hereinafter ARSIWA Report].

⁷⁵ ICJ, *Bosnia and Herzegovina v. Serbia and Montenegro*, pg. 23, 26 (February 2007). Available at: <https://www.icj-cij.org/files/case-related/91/091-20070226-JUD-01-00-EN.pdf>.

⁷⁶ Vij, Vanshika. *Die Friedens-Warte*. “Individual Criminal Responsibility Under Aiding and Abetting after the Specific Direction Requirement in the Taylor and Perišić Cases” (2013). Available at: *JSTOR*, www.jstor.org/stable/23774954.

(a) that state does so with knowledge of the circumstances of the internationally wrongful act; *and*

(b) the act would be internationally wrongful if committed by that State.”⁷⁷

The international law commission’s commentary explains, in three parts, that

1. the relevant State organ or agency providing aid or assistance must be aware of the circumstances making the conduct of the assisted State internationally wrongful;
2. secondly, the aid or assistance must be given with a view to facilitate the commission of the act, and must actually do so; *and*
3. thirdly, the completed act must be such that it would have been wrongful had it been committed by the assisting State itself.⁷⁸

The knowledge element of subpart (a) is not straightforward. The commentary expands the element to include awareness of the wrongfulness and awareness that the assistance is facilitating the wrongful act. Subsequent case law, however, has again narrowed the reading of the statute. Therefore, knowledge is closest to awareness of the wrongfulness as initially set out by the Draft Articles – the state facilitates with knowledge of the circumstances of the internationally wrongful act, and the act would be internationally wrongful if committed by the State itself.⁷⁹ We conclude that the U.S. facilitation of war crimes by the Atlacatl Battalion can be proven to meet the legal standard set out by ARSIWA.

The Provision of Aid or Assistance

The provision of aid or assistance was purposefully written to include a broad measure of activities. The commentary lists examples such as providing an essential facility or financing the activity in question, providing means for the closing of an international waterway, facilitating the abduction of persons on foreign soil, or assisting in the destruction of

⁷⁷ U.N., Report of the International Law Commission on the work of its fifty-third session, United Nations General Assembly Official Records Supplement No. 10, at 27, U.N. Doc A/56/10 (2001). *Reprinted* in [2007] 2 Year Books International Law Commission 65, U.N. Doc. A/CN.4/SER.A/2001/Add.1[hereinafter ARSIWA Report].

⁷⁸ U.N., Report of the International Law Commission on the work of its fifty-third session. U.N. GAOR Supp. No. 10, at 66, U.N. Doc A/56/10 (2001). *Reprinted* in [2007] 2 Y.B. Int’l Law Comm’n 65, U.N. Doc. A/CN.4/SER.A/2001/Add.1.

⁷⁹ U.N., Report of the International Law Commission on the work of its fifty-third session, United Nations General Assembly Official Records Supplement No. 10, at 27, U.N. Doc A/56/10 (2001), *reprinted* in [2007] 2 Year Books International Law Commission 65, U.N. Doc. A/CN.4/SER.A/2001/Add.1[hereinafter ARSIWA Report].

property belonging to nationals of a third country.⁸⁰ The assisting state explicitly needs only to perform a support role. The commentary does not limit what support fulfills the element. In its consideration of Article 16 in the Bosnian Genocide, an ethnic conflict that dominated the Balkans in the 1990s following the breakup of Yugoslavia and where thousands of civilians were killed or displaced, the ICJ refers specifically to the “provision of means to enable or facilitate the commission of the crime...”⁸¹ International law only excludes classic forms of complicity based on influencing the principal, such as inducing, instigation, and abetting — from state responsibility for complicity in the wrongs of other states.⁸² Anything that enables or facilitates the commission of a war crime counts toward “aid or assistance.”

Bosnia and Herzegovina contended that Serbia and Montenegro (Federal Republic of Yugoslavia) committed several violations of international law, such as breaches of articles I through V of the UN Genocide Convention, among others, through its complicity in alleged acts of genocide against the Muslims of Bosnia and Herzegovina.⁸³ The most pertinent contention raised related to the states’ support of “its agents and surrogates” in paramilitary actions directed against Bosnia and Herzegovina. Support from the Federal Republic of Yugoslavia allegedly consisted, in part, of training, arming, equipping, financing, supplying, and aiding, all of which, according to Bosnia and Herzegovina, violated treaty obligations under Article 2(4) of the UN Charter.⁸⁴ The opposition countered, by contending that it could not be liable for any alleged violations because they were not committed by any organs of its government, were not committed on its territory, and were not committed by any party under its control.⁸⁵

The aid furnished to the paramilitary groups was significant. The court noted “...that the Respondent [Federal Republic of Yugoslavia] was thus making its considerable military and financial support available to the Republika Srpska and had it withdrawn that support, this

⁸⁰ U.N., Report of the International Law Commission on the work of its fifty-third session, U.N. GAOR Supp. No. 10, at 66, U.N. Doc A/56/10 (2001), *reprinted* in [2007] 2 Y.B. Int’l Law Comm’n 65, U.N. Doc. A/CN.4/SER.A/2001/Add.1.

⁸¹ ICJ, Case Concerning Application Of The Convention On The Prevention And Punishment Of The Crime Of Genocide (Bosnia & Herzegovina v. Serbia). Judgment, 2007 International Court of Justice Report at 43, 26 February 2007. Available at: <https://www.icj-cij.org/en/case/91/judgments>.

⁸² Miles Jackson, *Complicity in International Law* 150 (2015).

⁸³ ICJ. *Bosnia and Herzegovina v. Serbia and Montenegro*, pg. 23, 26. February 2007. Available at: <https://www.icj-cij.org/files/case-related/91/091-20070226-JUD-01-00-EN.pdf>.

⁸⁴ ICJ. *Bosnia and Herzegovina v. Serbia and Montenegro*, pg. 24. 26 February 2007.

⁸⁵ ICJ. *Bosnia and Herzegovina v. Serbia and Montenegro*, pg. 27. 26 February 2007.

would have greatly constrained the options that were available to the Republika Srpska authorities.”⁸⁶ However, this was not enough to attribute the acts of genocide to the Federal Republic of Yugoslavia because the perpetrators were neither a part of the organs of the state or under its direct control.⁸⁷ Additionally, the court noted that a state could be complicit in the crimes of another actor through the “...Provision of means to enable or facilitate the commission of the crime...”⁸⁸ as long as the state had knowledge that the perpetrators intended to commit the crime; without knowing that the perpetrators intended to commit a crime, liability cannot attach to the state that only furnished aid or assistance. In this case, the court concluded that the Federal Republic of Yugoslavia did not have knowledge of the paramilitary units’ intentions to commit war crimes when it furnished aid and assistance, and thus it was not complicit.⁸⁹

Application & Analysis

States may bear responsibility for aiding and assisting the commission of war crimes. The Salvadoran army committed the war crimes of murder, forced disappearance, torture, and rape against civilians living in rural villages. The U.S. provided military logistical support on the ground in El Salvador, trained Salvadoran military members at the School for The Americas, and sold weapons to the Salvadoran government. Without this logistical support, training, and more than \$8 billion worth of arms sales, the Salvadoran government never could have inflicted the deaths of over 70,000 Salvadorans, many were innocent civilians, massacred indiscriminately.

A state which aids or assists another State in the commission of an internationally wrongful act by the latter is internationally responsible for doing so if:

- (a) that state does so with knowledge of the circumstances of the internationally wrongful act; *and*
- (b) the act would be internationally wrongful if committed by that State.”⁹⁰

⁸⁶ ICJ. *Bosnia and Herzegovina v. Serbia and Montenegro*, pg. 103. 26 February 2007.

⁸⁷ ICJ. *Bosnia and Herzegovina v. Serbia and Montenegro*, pg. 176. 26 February 2007.

⁸⁸ ICJ. *Bosnia and Herzegovina v. Serbia and Montenegro*, pg. 178. 26 February 2007.

⁸⁹ ICJ. *Bosnia and Herzegovina v. Serbia and Montenegro*, pg. 179. 26 February 2007.

⁹⁰ U.N., Report of the International Law Commission on the work of its fifty-third session, United Nations General Assembly Official Records Supplement No. 10, at 27, U.N. Doc A/56/10 (2001). *Reprinted in* [2007] 2 Year Books International Law Commission 65, U.N. Doc. A/CN.4/SER.A/2001/Add.1[hereinafter ARSIWA Report].

The international law commission's commentary explains, in three parts, that

4. the relevant State organ or agency providing aid or assistance must be aware of the circumstances making the conduct of the assisted State internationally wrongful;
5. secondly, the aid or assistance must be given to facilitate the commission of the act, and must do so; *and*
6. thirdly, the completed act must be such that it would have been wrongful had it been committed by the assisting State itself.⁹¹

Substantial Effect

The U.S. military advisors trained and supplied weapons to the Atlacatl Battalion. Without the “scorched earth” strategy and the high caliber weapons that the U.S. provided, the El Mozote massacre likely would not have happened, and over 1,000 civilians would not have perished in the region of Morazón. The Salvadoran military leaders in the Atlacatl Battalion received direct instructions from the U.S. military and followed the military strategy that the U.S. proscribed. Under U.S. guidance, the Salvadoran battalion entered the village of El Mozote and systematically executed civilians. If it weren't for the U.S. explicitly teaching the Salvadoran military this strategy, the Salvadoran government likely would not have targeted civilians in an attempt to weaken the guerilla movement.

Furthermore, the majority of the weapons found in the El Mozote exhumations originated in the U.S. These high-tech weapons enabled the Salvadoran military to target civilians in a grossly unequal capacity. The military used these weapons to murder and torture innocent civilians. The U.S. providing such weapons enabled and empowered the Salvadoran army to commit such war crimes.

Knowledge of War Crimes

An essential element for a prosecution to prove the U.S. involvement in aiding and abetting this war crime is establishing a requisite mental state. In the case of El Mozote, the U.S.

⁹¹ U.N., Report of the International Law Commission on the work of its fifty-third session. U.N. GAOR Supp. No. 10, at 66, U.N. Doc A/56/10 (2001). Reprinted in [2007] 2 Y.B. Int'l Law Comm'n 65, U.N. Doc. A/CN.4/SER.A/2001/Add.1.

possessed the requisite mental state by instructing the Salvadoran army in scorched earth tactics. The American military strategy directly taught the armed forces to commit war crimes; scorched earth strategy commanded the Salvadoran military to target and execute civilians if suspected of being guerillas. There is no better example of this strategy in action than the murders that took place at El Mozote. This direct instruction satisfies the requisite mental state.

Furthermore, *Operation Resucate*, which included the attack at El Mozote, was completed under the instruction of the U.S. advisors. Following the battle, the U.S. embassy had the opportunity to investigate the massacre further but elected to turn a blind eye. After news articles describing the events of El Mozote, U.S. Department of State called the articles communist propaganda and denied that the massacre ever happened. In the years following Mozote, the U.S. chose not to confirm the details of El Mozote for lack of evidence. It was not until the U.N. Truth Commission report came out that the events of the massacre came to light.

Even though the legal standard for requisite mental state is unclear, it can be proven the U.S. had knowledge and purpose for aiding and abetting in the El Mozote massacre and the Salvadoran Civil War as a whole. The U.S. justified its involvement in the Civil War to end “Latin American Communism,” and thus, the knowledge element of the war crimes can be substantiated. Any prosecution seeking to prove purpose faces a more difficult challenge, but even the purpose element may be met. State liability for war crimes in El Salvador must result in prosecution, provided that international powers and institutions can find the political will and moral strength to hold the U.S. accountable.

What Does Justice Look Like Today?

As of October 2016, Inter-American Court Judge Guzmán Urquilla reopened the El Mozote case. However, only 18 men are facing charges associated with orchestrating and executing scorched earth assault tactics during the Mozote Massacre.⁹² The high-ranking officials include three retired Generals: (1) Rafael Flores Lima, (2) Juan Rafael Bustillo Toledo

⁹² Malkin, Elisabeth. “Survivors of Massacre Ask: ‘Why Did They Have to Kill Those Children?’.” *New York Times* (May 2018): <https://www.nytimes.com/2018/05/26/world/americas/el-salvador-el-mazote-massacre.html>.

(former Minister of Defense), and (3) José Guillermo García. García, 84, was initially granted asylum by the U.S. in 1990 and argued that the scorched earth tactics occurred without his knowledge. However, in 2015, Judge Michael Horn rejected García’s claim and wrote they were part of García’s “deliberate military policy,” and deported García back to El Salvador.⁹³

Information is a crucial issue in the trial as records about the El Mozote massacre could exist but have not been found. In 2018 testimony, the head of the Armed Forces General Archives and another officer indicated that actions such as those taken in El Mozote could not have been carried out without the knowledge and authorization of the highest levels of the military. Consequently, military-affiliated sectors originally pushed for the amnesty law, arguing that the El Mozote case would best be left in the past.⁹⁴

The trial is ongoing and expected to go well into 2020 as the international community criticizes the lengthy amount of time without a verdict for those charged.⁹⁵



Photos were taken by Larry Towell / Magnum Photos 1991 — Morazan, El Salvador

⁹³ *Id.*

⁹⁴ Mejía, José. “Personal archivo FAES: podría existir más información en otras unidades castrenses sobre El Mozote.” *Transparencia Activa* (February 2018): <https://www.transparenciaactiva.gob.sv/personal-archivo-faes-podria-existir-mas-informacion-en-otras-unidades-castrenses-sobre-el-mozote>.

⁹⁵ Malkin, Elisabeth. “Survivors of Massacre Ask: ‘Why Did They Have to Kill Those Children?’”.

“I saw when they killed Sinforsoso Reyes with their machetes, and his wife Eugenia Díaz, who was pregnant, and their four children, who were minors. The children were talking to their father and mother. They said, ‘Mommy, get up!’ But how could they get up? They were already dead.”

– Testimony from Lidia Chicas, witness to the El Mozote massacre.

*55 of Lidia’s relatives were killed during the massacre,
making up 5% of the total amount of civilians massacred during El Mozote.

Conclusion

History Repeats Itself

The U.S. has spurred much controversy for its involvement in the Yemen war by providing military training and weapons that appear similar to ways in which the U.S. fueled the Salvadoran Civil War. The United Nations reports that over 7,500 children have been killed or maimed since 2013, among 11,779 grave violations against children during the period between April 2013 and January 2019.⁹⁶



(January 2019) <https://impakter.com/yemens-ongoing-conflict/>

According to a recent report, the U.S. military trained over 5,000 United Arab Emirates forces between 2009 and 2016, and Saudi Arabia receives about \$10,000 a year in

⁹⁶ Lederer, Edith. “U.N. Report Says 7,500 Kids Have Been Killed or Wounded in Yemen Since 2013.” *Time* (June 2019). Available at: <https://time.com/5617791/un-report-7500-kids-killed-wounded-yemen/>.

International Military Education and Training assistance from the U.S. under the Foreign Assistance Act.⁹⁷

In 2018 alone, the U.S. sold \$18 billion in arms to Saudi Arabia.⁹⁸ The Trump Administration has become brazenly closer to the Saudis compared to any of its predecessors. Additionally, President Trump's National Security Council has reduced the wait time for foreign governments to purchase American weapons. This is a part of President Trump's "Arms Transfer Initiative," which is meant to boost American jobs by increasing weapon sales abroad.⁹⁹ There have been twenty-five unlawful airstrikes in which the Saudi-led coalition appeared to use munitions made in the U.S., killing civilians. The airstrikes left behind 375 live, unexploded submunitions that killed and injured even more civilians following the deadly airstrikes.¹⁰⁰ Lack of accountability for past arms sales and military intelligence that knowingly caused mass civilian casualties allows for only more war crimes to occur at the hands — in the *pockets* — of the wealthiest and most military-advantageous nations.

Salvadoran Consequences

As the South American Continent moves, the rocks that make up El Salvador shift and violent fractures occur, resulting in earthquakes. Our first night in El Salvador, we awoke to one of these earthquakes at a 6.6 magnitude. We stared at one another in disbelief while the aftershocks rumbled beneath our beds. The following morning, a local Salvadoran explained how earthquakes operate as two Midwesterners expressed *shock* about El Salvador's unanticipated welcome. He further indicated that aftershocks follow an earthquake when some of the energy released from the sudden fracturing of rock is transferred to the rocks nearby. This energy adds stress to the rocks that are already fractured. These stresses are too much for the rocks to bear and they too fracture, releasing a new round of energy that

⁹⁷ Chughai, William Hartung. *Center for International Policy*. "US Arms Transfers to the UAE and the War in Yemen." (Sept. 2017). Available at: <http://www.ciponline.org/research/entry/us-arms-transfers-to-the-uae-and-the-war-in-yemen>.

⁹⁸ CBS News. "Saudi Arabia is America's No. 1 weapons customer." *CBS News* (October 2018). Available at: <https://www.cbsnews.com/news/saudi-arabia-is-the-top-buyer-of-u-s-weapons/>.

⁹⁹ *Id.*

¹⁰⁰ Mwatana. "Day of Judgment." pg. 108 (2016). Available at: <http://mwatana.org/en/day-of-judgment/>.

creates new fractures in the rock. We discovered that aftershocks can be even more severe than the earthquake themselves, lasting for days, months, years, or even decades.

Similarly, El Salvador's societal, economical, and political climate shifts over decades, resulting in class and institutional fractures. Societal earthquakes have proven lethal but the aftershocks may be even deadlier. The energy released from initial societal fractures transfer to fractured institutions. This energy adds stress to already fractured classes as promised reforms never come, state repression continues, military violence overrules, and no accountability is given. Distrust spreads throughout the regions and desperation causes more catastrophic shifts societally, economically, and politically. As a Salvadoran Civil War survivor asserts, "even as I carried injured children from the massacre site and watched my other friends shot down, I think this is worse. Gang violence is a hidden civil war and none of us know who the enemy is." Even so, fractures are not a death sentence as proven by Salvadoran community members, leaders, and activists who mend societal cracks through empowerment and resilience initiatives. The U.S. has the duty and capacity to not only prevent further aftershocks from a societal earthquake perpetrated through our deadly involvement, but to join a movement to help mend cracks from the initial earthquake.

The impact of U.S. involvement during the Civil War on Salvadoran society lingers in the violence and corruption that the country is facing today. Today, Salvadoran society is facing the same corruption as before the onset of the Civil War. Right-wing officials, the same individuals who advised the military to execute civilians during the massacres of the Civil War, remain in power. Families who lost loved ones during the Civil War are still awaiting justice. Rural villages, still perceived as guerilla sympathizers, have been overlooked by the government, and often must look to international organizations to build their communities.

What's more, the gang violence plaguing the country originated from U.S. criminal networks when men migrated to California during the civil war. During the Civil War, many Salvadoran refugees fled to the U.S. They found themselves in the underserved areas of Los Angeles, and were swept up by the gang culture there. MS-13 and Barrio 18 originated in the streets of California. After the close of the Civil War, gang members, who had been living in the U.S. for ten years, were deported back to a war-torn and politically unstable El Salvador.



A mother mourns her 25-year-old son at his wake in San Martín, San Salvador, on Nov. 7, 2018. Stanley's face is covered by a bandana after he was strangled by members of La 18 for not fulfilling the missions the gang asked of him. He is also survived by his wife and 6-year-old son. Tariq Zaidi for *Foreign Policy*

Upon returning home, economic opportunities were sparse, living conditions were poor, and government corruption was rampant. Such conditions became the perfect environment for the returned refugees to bring the gang lifestyle to El Salvador. In efforts to build communities in which the government failed to provide restoration after a bloody civil war, gang affiliation developed into a community restoration project in which members tried to allocate resources and protect their neighborhoods. El Salvador's Defense Ministry estimates 8% of the population (500,000 individuals) affiliate with gangs through direct participation, coercion, or extortion.¹⁰¹ According to *2019 World Population Review*, there are 85,000 members of MS-13 and M-18 affiliated gangs located in El Salvador in a total population of 6.4 million.¹⁰² Police brutality and governmental corruption fueled the violence we now associate with El Salvador gangs, home to some of the highest homicide rates and gang violence in the world. Outside of fleeing violence, Salvadorans attempt

¹⁰¹ Zaidi, Tariq. "El Salvador: A Nation Held Hostage by Gang Violence." *Foreign Policy* (November 2019). Available at: <https://foreignpolicy.com/2019/11/30/el-salvador-gang-violence-ms13-nation-held-hostage-photography/>.

¹⁰² Motlaugh, Jason. "Inside El Salvador's battle with violence, poverty, and U.S. policy." *National Geographic* (March 2019). Available at: <https://www.nationalgeographic.com/magazine/2019/03/el-salvador-violence-poverty-united-states-policy-migrants/>.

migration because gangs now control a vast majority of economic revenue in the country. According to the Central Reserve Bank, gangs' control 15% of the country's GDP and 70% of all businesses nationwide.¹⁰³ If individuals want a chance for financial stability, then they must succumb to gang extortion for survival.



The more troubling ones, the ones more recently, are small infants,” said Bryan Kemmett, the Border Patrol agent in charge of Eagle Pass. Ilana Panich-Linsman for the *New York Times*

Moral Obligation

In 2012, El Salvador's former president, Mauricio Funes, went to El Mozote to apologize on the 20th anniversary of the civil war's end for what he called "the worst massacre of civilians in contemporary Latin American history."¹⁰⁴ He apologized for the human rights violations, for all the abuses perpetrated by the Atlacatl Battalion of the Salvadoran Army, and for the indiscriminate massacre of innocent civilians in the mountainous region of northeastern El Salvador.¹⁰⁵ President Funes pled for forgiveness of the families and victims as he laid flowers on the monument, wiping away tears.¹⁰⁶

¹⁰³ *Id.*

¹⁰⁴ *BBC News*. "El Salvador head apologises for 1981 El Mozote massacre." January 2012. Available at: <https://www.bbc.com/news/world-latin-america-16589757>.

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*

Today, more than 300,000 people from El Salvador are internally displaced each year, many of whom seek asylum in the U.S. fleeing gang violence and lack of economic opportunities.¹⁰⁷ The choice to leave El Salvador is one made out of desperation and, acknowledging the country's recent bloody history, may not be a choice at all. The U.S. contributed to the 75,000 Salvadoran deaths — a considerable amount of which came from civilian massacres — capitalized on arms sales, and silenced human rights in the region.

The U.S. will likely never be expected to apologize, nor will the state likely ever be held responsible for aiding and abetting war crimes in El Salvador during the Civil War that likens to a Latin American genocide. However, the U.S. has an opportunity to assist Salvadorans, who flee to our border due to instability and violence that we helped create. We must not turn yet another blind eye to the Salvadoran immigrants who die crossing our border or perish while in our detention centers. We not only have the opportunity but a moral obligation to prevent more deaths, to build more bridges and to destroy walls. We can't change our past, but we can improve the outcomes for those needing us in the present.

¹⁰⁷ *International Rescue Committee*. "El Salvador," Available at: <https://www.rescue.org/country/el-salvador>.