

Chapter 8

El Salvador

The difficult fight against impunity

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This chapter analyses the trajectory from impunity towards accountability in El Salvador from the end of the civil war in 1992 through 2014. The violence dates back much further, however, and it is useful to begin with a brief account of the country's long history of conflict and ideological polarisation. Hume (2014, 385) describes El Salvador as 'a country in which politics, violence and economics have been entwined since independence from Spain in 1821'. In the century following independence, this tiny Central American state used repression and terror to ensure the continued political and economic hegemony of a small but powerful elite (Dunkerley 1982).¹ This group consisted mainly of landowners who controlled plantation-style production of coffee, then the country's principal export.² Following a military coup in 1931, an attempted communist-led popular uprising in 1932 was brutally put down by government troops, who massacred up to 30,000 peasants.³ The military then consolidated its hold on power, retaining control of the machinery of state in exchange for serving the interests of the economic elite (Stanley 1996, 7).

El Salvador was thus a highly militarised state long before the counter-insurgency war against left-wing insurgents began. Violent military intervention in politics was common, with the army often deployed in favour of private elite interests. By the end of the 1970s, the armed forces were launching attacks against sections of the civilian population and against several groups of armed guerrillas.⁴ These groups merged in 1980 into the Farabundo Martí National Liberation Front (Frente Farabundo Martí para la Liberación Nacional, FMLN).⁵ The FMLN sought to overturn a semi-feudal political and economic structure dominated by a few wealthy families. Its social change agenda was shared by a range of popular and pro-poor organisations that emerged in the 1960s across many parts of the region, inspired by the Cuban revolution but also by Catholic liberation theology. The military met this alleged subversive threat with extreme and widespread repression, using forced disappearances, killings, rapes, massacres, and internal displacement to combat the guerrillas and undermine peasant support for them.

Large numbers of Salvadorans died during the conflict, which affected the country's few urban centres as well as the countryside. According to Seligson and McElhinny (1996, 224), over 75,000 people were killed in a country then

numbering approximately 5 million inhabitants.⁶ Government forces, and paramilitary death squads affiliated with them, were heavily supported and financed by US training, weapons, and aid in the context of Cold War anti-communism. They appeared ready to kill anyone they suspected of sympathy for the guerrillas, with *campesinos* (peasant farmers) among the most frequent victims. According to El Salvador's official United Nations-sponsored truth commission, more than 85 per cent of the serious acts of violence were carried out by state agents or those acting under their direction (Wood 2003, 8). In contrast to the semi-clandestine tactics employed by Southern Cone police states, extreme violence in Central America often occurred in public, or its results were deliberately displayed in public.

Over the course of the 1980s, critical voices within the United States increasingly questioned continued US military aid to the Salvadoran government. A series of events fuelled rising grassroots opposition among US citizens to their government's involvement in the conflict. These included the assassination in 1980 of Archbishop Oscar Romero, an outspoken defender of the poor, and the murder by Salvadoran state agents of four US churchwomen and two US agrarian reform experts in 1980–81. A continuous influx of Salvadoran refugees into the United States, some of whom were sheltered by US churches, highlighted the appalling human rights record of the Salvadoran regime.

Centre-right civilian president José Napoleón Duarte (1984–89) came under pressure to improve human rights performance and effect judicial reform. Duarte was, however, replaced in June 1989 by President Alfredo Cristiani of the hard-line, right-wing Nationalist Republican Alliance (*Alianza Republicana Nacionalista*, ARENA). A negotiated solution to the armed conflict was made possible not by ideological softening on the far right, but by the abrupt end of the Cold War – which led to declining US interest in sustaining the conflict – and by the inability of the army to militarily defeat the FMLN. Thus, formal peace in El Salvador, signed under the Cristiani presidency, emerged from a strategic stalemate (Karl 1992, 149).⁷

El Salvador's early peace arrangements favoured impunity, meaning that the prospect of accountability was deferred to a remote horizon. The truth commission set up as part of the peace agreement initially provided important but incomplete truth, followed immediately by a broad amnesty law. This law, adopted by the Salvadoran Congress in the wake of the accords, effectively guaranteed impunity both to state-aligned forces and to the guerrillas, which is essential to understanding the FMLN's continued reluctance to act against amnesty. The subsequent two decades of ARENA-dominated government saw official policy inclined towards denial of atrocity crimes, other than those committed by the left.⁸ Non-governmental organisations (NGOs) representing relatives and victims began, in 2000, to press for exhumations in the search for the missing. They also lobbied the Supreme Court (SC) to rule on the amnesty law. In the face of implacable opposition from the Public Prosecutor's Office (*Fiscalía*), however, no change was seen until after the executive handover of

2009. The narrow victory that year of the FMLN's Mauricio Funes led to advances in symbolic recognition of victims, although impunity largely continued to prevail in the justice sphere.⁹

The peace process and initial steps towards accountability

When analysing the transitional justice process in El Salvador, it is important to consider it as part of a larger picture of reconstruction after armed conflict. As in other Central American cases, the high-intensity conflict made a peace agreement an urgent priority from a humanitarian and human rights perspective. As we will see below, however, the deference to human rights and international humanitarian law did not outlive the signing of the final peace accord, since shortly afterward the former combatants, by then transformed into political parties, agreed on an amnesty law whose breadth clearly contravened those same standards.

Peace negotiations mediated by the United Nations (UN), with support from a group of Central American states, began in early 1990. The first two sessions, in Geneva and Caracas in April and May, established a framework agenda for the negotiations. A July 1990 agreement in San José emphasised combatants' obligations to respect human rights law and international humanitarian law. The establishment of a UN-supported truth commission was stipulated in Mexico City in April 1991; both sides agreed that the recommendations of the commission would be treated as binding. In September of that year, agreements were reached in New York for an oversight commission, the National Commission for the Consolidation of Peace (COPAZ); for military reform and an ad hoc commission to review the human rights records of some commanders in the armed forces; for a new civilian police force to include ex-FMLN members; and for agrarian reform. Finally, on 16 January 1992, the Chapultepec Accords were signed by the Salvadoran government and the FMLN in Mexico City. The accords laid out how the FMLN was to be admitted into civilian political life and mandated military and paramilitary demobilisation, judicial and electoral reform, and some economic changes.¹⁰

The United Nations Observer Mission in El Salvador (ONUSAL) was established to monitor human rights and the implementation of the agreements. ONUSAL operated from July 1991 to April 1995. The scaled-down United Nations Mission in El Salvador (MINUSAL) then remained in the country to verify implementation of outstanding points of the agreements. ONUSAL and MINUSAL reflected the international community's commitment to remain involved in the peace process, as well as post-Cold War optimism about the role of the UN in a multilateral world. UN involvement in El Salvador became emblematic of this new activism and has been generally regarded as a success. However, like many other peace processes, the process in El Salvador has been criticised for its failure to address truth, justice, and reparations for victims and survivors (Popkin 2000; Lazo Fuentes and Rey Tristán 2011).

Truth-finding

The Commission on the Truth for El Salvador (Comisión de la Verdad para El Salvador, CVES) was mandated to investigate 'serious acts of violence' committed between 1980 and 1991 (UN 1993, 11).¹¹ Appointed by the UN secretary-general, the truth commission was composed exclusively of foreign nationals as commissioners and staff (Buergethal 1996, 13). The Mexico City peace accords of April 1991 clearly stated that 'the commission shall not function in the manner of a judicial body'. However, the text made no mention of the option of a substantive amnesty.

The CVES operated for eight months, from July 1992 to March 1993. Receiving 22,000 complaints about all kinds of violations, the commission was overwhelmed and chose to focus its report on only 33 'paradigmatic' cases, supposedly representative of the overall patterns of violence. The report, published in March 1993 under the title *From Madness to Hope: The 12-Year War in El Salvador*, concluded that the armed forces and state-linked paramilitaries were responsible for 85 per cent of fatal violations (UN 1993). The unprecedented naming of over 40 individual military perpetrators – and of others, including the Supreme Court president, FMLN commanders, and some politicians found directly or indirectly at fault – made an essential contribution to later reform. The CVES justified its naming of names, in the face of strong behind-the-scenes government pressure to desist, by arguing that the justice system would prove itself incapable of accountability and that naming was therefore the only effective sanction that many perpetrators would undergo. It made clear that, based on previous performance, the judiciary, especially the Supreme Court, was a major contributor to impunity.

The report's long list of concrete and detailed recommendations included dismissal of 'officers of the Salvadorian armed forces who are personally implicated in the perpetration or cover-up of serious acts of violence, or who did not fulfil their professional obligation to initiate or cooperate in the investigation and punishment of such acts' (UN 1993, 176). It also called for the removal of public servants and judicial personnel who covered up serious acts of violence; banning from future public office of known perpetrators for at least ten years; institutional reforms; armed forces and security service reform, including reduction of military strength, the civilianisation of domestic policing, and the creation of a new police force; justice system changes, including the replacement of the entire Supreme Court and the introduction of statutory human rights bodies; and material and moral compensation to the victims of violence (UN 1993, 176–86). The report also emphasised the need to set up an entity to monitor compliance.

Achievements and limitations of the truth commission

The government, the judiciary, and the armed forces immediately and strenuously rejected the CVES report, and President Cristiani criticised it for not contributing to 'national reconciliation'. The armed forces issued a statement on 23

March 1993 denouncing the report as 'illegal, unethical, partial and disrespectful' and defended the military's record in 'preserving our democratic and republican system' (quoted in IACHR 1994, chap. II, part 2). The FMLN was not satisfied either, as some of its own commanders were denounced for serious infractions of international humanitarian law. Opponents predictably seized on the commission's international composition, something to which they had consented in advance, in an effort to discredit the results. However, the UN and, eventually, the United States pressed the government to formally accept the report (Sieder 2001).

The fact that the final report focused on a selection of paradigmatic cases could be interpreted as silencing or rendering invisible a large number of victims, a danger the report itself acknowledged (UN 1993, 13). The implications included reduction of the scope of accountability: despite the importance of the truth commission's work and its report, many crimes went unpunished and indeed have not even been officially recognised.

Although the mandate stated that the commission's recommendations were legally binding, implementation depended on the balance of power between the armed forces and the two other signatories to the peace accords, ARENA and the FMLN. Since none of the signatories had any real interest in carrying out the entire reform package, no governmental implementation unit was ever established. ONUSAL did, however, push for progress, leading to, among other things, the 1995 ratification of the Optional Protocol to the International Covenant on Civil and Political Rights and acceptance of the jurisdiction of the Inter-American Court of Human Rights in the same year. A new Criminal Procedure Code was adopted in 1996,¹² and judicial appointments and judicial review processes were also overhauled (Popkin 2002). Implementation otherwise has been patchy. The Human Rights Ombudsman's Office (Procuraduría para la Defensa de los Derechos Humanos) was established and has spoken out in national debates on war-era atrocities and other issues, but it has struggled in the face of political manipulation and attempts to sideline it. Exhumations carried out since 2001 have led to the identification and recovery of some of the tens of thousands of victims who remained missing at the time of the peace agreements.

The Ad Hoc Commission

The New York session of the peace negotiations provided for the creation of an Ad Hoc Commission, responsible for vetting the armed forces. The Commission's five members included three Salvadoran lawyers with 'recognized independence of judgment and unimpeachable democratic credentials', selected, after consultation, by the UN secretary-general (as provided in the Chapultepec Peace Accords, chap. I). The two remaining members were to be appointed by the country's president, a provision that significantly lowered initial expectations about the seriousness of the endeavour. Given only three months to evaluate officers' past conduct and human rights record, the Commission handed over its final, confidential, report to national authorities and the UN in September 1992. The report

recommended the disbanding of notorious units such as the Atlacatl Battalion as well as a series of individual transfers and dismissals.

These recommendations were ignored until the CVES report, published six months later, underlined the issue of notorious perpetrators still holding senior military rank. Concerted UN and US economic pressure was then applied to achieve the eventual removal of some of those on the list. By July 1993, ONUSAL reported general compliance with the Ad Hoc Commission, although all the removed officers kept full military honours and pension rights, and many retained an influential role in national and political life. Orders banning these individuals from holding future elected office were also successfully challenged later in the courts, on the grounds that non-judicial processes such as the Ad Hoc Commission or CVES did not have the power to suspend the political rights of individuals.

The Ad Hoc Commission was designed as a vetting mechanism rather than a truth-telling exercise, as evidenced by its confidentiality. However, the list of names it provided was reinforced by the later public findings of the CVES. Taken together, the two commissions served a significant truth-telling and institutional reform function.

Amnesty

Although the peace agreements contained some measures intended to end the endemic impunity that had characterised El Salvador for decades, other provisions hindered accountability, particularly in formal criminal justice. Just after the signing of the Chapultepec agreement, the legislature approved an initial amnesty law (Decree 147 of 1992) known as the National Reconciliation Law. Article 6 stated that this amnesty would not extend to anyone later identified by the truth commission as a perpetrator of 'serious acts of violence' (*graves hechos de violencia*). However, a year later, and only five days after receipt of the CVES report, Congress passed the new General amnesty law for the Consolidation of Peace (Decree 486 of 1993). This much broader law derogated the exception in Art 6 of the previous law and provided for the extinction of both criminal and civil liability, effectively offering a guarantee of total impunity.

The 1993 law was approved thanks to 47 votes from the three right-wing parties that together held a majority in the legislature – ARENA and two others. There were 13 abstentions by Christian Democrats and nine opposing votes from the Democratic Convergence (Convergencia Democrática), a moderate left-wing grouping then serving as the political arm of the FMLN. The FMLN itself had not yet competed in elections as a recognised party, but it was notable, nonetheless, that its leaders did not come out clearly against the amnesty law. Some leaders of the FMLN now claim that they only supported the narrower, CVES-compliant 1992 law that was designed to allow them to return to the country and take part in pre-accord negotiations (Valencia Caravantes and Peña 2014). Rubén Zamora, who stood as presidential candidate for the FMLN in 1994, suggested recently that the 1993 General amnesty law went much further than peace negotiators

had anticipated in allowing for impunity (Zamora 2012). It was the only Latin American amnesty of the period that explicitly attempted to rule out civil action as well as criminal investigation (Collins 2010, 47).

Challenging and defending the amnesty law

The 1993 amnesty law imposes a clear obstacle to trials, as was its intent. It has also been used by the courts and the Public Prosecutor's Office to pre-empt investigations. It was condemned by the Inter-American Commission on Human Rights as early as 1994 and domestic challenges to the law's constitutionality reached the courts in 1993, 1997, and 1998. In response to the direct challenges on constitutional grounds, the Constitutional Chamber of the Supreme Court in September 2000 upheld the constitutionality of the law, although in a slightly qualified decision that opened the door to some judicial action for accountability.¹³ The ruling left individual judges theoretically empowered to order investigation of a limited range of serious crimes or crimes by state employees committed during the presidential term in which the amnesty was issued. That term began on 1 June 1989, long after many of the country's most notorious massacre episodes. This limited discretion was not sufficient to allow for accountability, however: judges continued to find ways to abandon investigation even of self-evidently grave crimes that had clearly occurred within the relevant temporal range. An example is the first judicial resolution to be emitted after the 'loophole' ruling in a case to which the exception should clearly have applied. It conceded that the Supreme Court ruling suggested the inapplicability of amnesty, but it promptly closed the case by invoking statutes of limitations.¹⁴

The amnesty law remains broad and comprehensive, and no additional court decision since 2000 has limited its scope. In other words, there has not been the kind of gradual recognition of pre-existing exceptions under international law, providing that crimes against humanity cannot be amnestied, that has taken place in other countries discussed in this volume. Legislative modification or annulment has not even been considered. In September 2013, the Supreme Court admitted a new lawsuit seeking the judicial annulment of amnesty, filed on 20 March 2013 by private actors including Benjamin Cuéllar of the Human Rights Institute of the Jesuit University in San Salvador (Instituto de Derechos Humanos de la Universidad Centroamericana, IDHUCA). The case had not been decided as of July 2015.

One case that was kept alive despite the amnesty barrier was that of the Jesuit massacre. On 16 November 1989, six Jesuit priests, including university rector Ignacio Ellacuría, together with their housekeeper and her teenage daughter, were slaughtered by soldiers on the campus of the Universidad Centroamericana, the Jesuit University in San Salvador. The assassinations were carried out under cover of an FMLN assault on the capital, and attempts were made to frame the guerrillas for the crime. The case was pursued by lawyers at IDHUCA, where most of the victims had worked. An early show trial in 1991, designed to placate

international opinion, prosecuted some footsoldiers, but they were hastily granted amnesty. IDHUCA continued to press the issues of command responsibility and the involvement of high-level political figures, allegations supported by the truth commission's account of the incident. In 1999, IDHUCA applied to have the Jesuit case reopened in order to investigate the intellectual authors of the crime. This petition was formally postponed until after the Supreme Court ruling of September 2000 in the amnesty constitutionality case mentioned above. At that point, the judge in the Jesuit case ruled that, although she might have been willing to disallow amnesty under the terms of the new ruling, the Jesuit case was closed due to the expiry of the statute of limitations.

Although the verdict in the Jesuit case might have been a technical victory against the broad scope of the amnesty law, the case itself did not advance further in El Salvador, and the precedent was not accepted by judges or prosecutors. Instead, the case was later pursued in Spain, based on European citizenship linkages of the victims – a route not available to relatives of the many Salvadoran victims of rural massacres, who died, as they had lived, in anonymity. It is no accident that the cases that have moved forward in regard to El Salvador are those with some special claim to international notoriety. Salvadoran authorities, made nervous by third-country cases, by Inter-American Commission and Inter-American Court rulings, and by the weakening or overturning of similar amnesty laws elsewhere around the region, attempted to shore up the amnesty before the Inter-American Commission in 2007. They requested a special hearing at which FMLN peace negotiator Salvador Samayoa stood alongside his ARENA colleagues, then in government, to defend continuing broad amnesty as the cornerstone of the country's peace, 15 years after the signing of the final peace accords.

In 2012, the inter-American system, ruling in the El Mozote massacre case, delivered its clearest condemnation yet of the Salvadoran amnesty law and one of its strongest statements in general about states' duties to prosecute and punish.¹⁵ However, as of mid-2015, this effort to remedy the exceptionally broad scope of the Salvadoran amnesty had not produced any formal change. According to press reports, in March 2015 the Salvadoran government agreed, during the Universal Periodic Review by the United Nations Human Rights Council, to amend the amnesty law. However, as the 1993 General amnesty law was enacted by the Congress, such a change would require action by the legislative or the judicial branch, upon request from the government. By mid-2015, no such action had yet been taken.

Justice seeking

In addition to questions about the desirability of formal legal accountability for past violations in El Salvador, on which there is still no political consensus, there is also the practical issue of feasibility. In thinking about this, it is worth bearing in mind that the search for justice has taken place against the backdrop of a society still characterised, as throughout its post-independence history, by elite privilege

and extreme, almost feudal, inequality – the very conditions that inspired guerrilla action. Moreover, the country's courts are still weak, despite the extensive judicial reforms detailed below.

Judicial reform

Attempts to reform the judicial and criminal justice system during and after the war were extensive, yet in many ways so ineffectual, that they represent a distinctive dimension of the Salvadoran accountability trajectory. Much of the non-military US aid given to El Salvador during the war was ploughed into the judicial system. CVES recommendations further emphasised the need to revise the criminal justice process. The system in place at the time, designed on the inquisitorial model, regularly failed to meet basic standards of expediency and transparency, tending to be confession-based rather than evidence-based. Investigative proceedings were mostly written, but also often secret, giving no real possibility of external oversight or defence challenges. The fact that the same judge who investigated also brought charges and delivered an initial verdict, while common in such systems, was seen as particularly problematic in a setting where individual judges were regularly subjected to pressure or outright threats. Indeed, a significant number of judicial personnel were assassinated during the war.

However, as we will see, the prosecutor-driven model that replaced this system in 1996 also allows for considerable individual discretion. High levels of individual control over outcomes can work for or against accountability, depending on the predisposition of the judge or prosecutor. The 1996 reform introduced an adversarial, public prosecutor-driven system in which the Public Prosecutor's Office took over the conduct of criminal investigations, prosecution, and the bringing of charges, leaving judges to conduct trial proceedings. The impact on accountability prospects remains unclear, as everything now depends on the criteria that the public prosecutor, rather than specific judges, chooses to apply. Criminal code reform also reduced the already short statute of limitations periods, which proved a significant obstacle for later attempts at accountability.¹⁶

The Public Prosecutor's Office is not, in itself, any more or less predisposed to autonomy and independence than the judicial branch although, in practice, the appointment of its chief prosecutor – like the appointments of Supreme Court judges – is subject to executive and legislative ratification. In post-war El Salvador this has generally meant a chief prosecutor (*fiscal general*) acceptable to the ARENA party and/or to the FMLN, the latter not necessarily more reliably anti-amnesty than the former. The Public Prosecutor's Office, like the judicial branch before it, depends on auxiliary justice system actors to carry out investigations; while these have undergone structural change, this can mask behavioural continuity. A new civilian police force, the Policía Nacional Civil, is, like its militarised predecessors, limited in technical and forensic capacity. It also continues to include individuals implicated in the war-era crimes it might be asked to investigate. The official Human Rights Ombudsman's Office, which is also part of the post-peace

accords and post-reform landscape, has made strong and well-founded critiques of lack of accountability in the Jesuit, Archbishop Romero, and El Mozote cases. However, it does not have formal powers to compel other state organisms to act on its findings.

Judicial reform since the peace accords, then, has not yet led to significant changes in accountability outcomes. A shift in institutional responsiveness to legally framed claims, key in other country settings studied in this book, has not been observable in either the courts or the Public Prosecutor's Office. There has been no move to set up specialised units to expedite prosecution of human rights-related cases, as in other countries. Isolated cases have moved forward in domestic or international venues, but they have done so in response to private, rather than state, initiatives.

Trials and civil claims in domestic courts

During the war, virtually the only atrocity cases that reached the domestic courts were those for crimes committed by the guerrillas. Various FMLN members were tried and convicted, insofar as the generally ramshackle justice system allowed, but state and paramilitary violence was only punished where exceptional circumstances – usually meaning pressure from the United States – demanded (Collins 2010).

The post-war period has seen domestic case activity, which is summarised in this section (a review of international case activity follows in the next sections). As part of the research project *Against Impunity: Transitional Justice in Central America*, funded by the Spanish Agency for International Development Cooperation, the present authors built a database of all war-related cases that could be traced in the national criminal justice system as of early 2012. This information was supplemented and updated in July 2015 from media sources and reports from local NGOs. Although the results are necessarily incomplete, given a lack of reliable official information, we are confident that this represents the best available overview of current case activity.¹⁷ Sources include one governmental agency – the Human Rights Ombudsman's Office – plus six key NGOs.¹⁸ As of mid-2015, this database included 68 cases initiated between 1980 and 2013.

These data, while limited, show a predictably restricted court caseload during the war, followed by a steady rise in complaints after publication of the CVES report. Half the cases (34 of 68) were still at the preliminary investigation (evidence collection) stage in July 2015. The courts had issued two acquittals and six convictions. A further 26 criminal investigations had been archived, that is, shelved by military courts, the Public Prosecutor's Office, or civilian trial courts. Archived cases included the Jesuit case, for which the statute of limitations was invoked in 2000. Of the 68 cases, 32 were for extrajudicial executions, 24 for forced disappearance, seven for torture, two for terrorism, one for sexual assault, one for kidnapping, and one for attempted murder. All related to crimes committed by state agents or by paramilitaries linked to the state.

In 43 cases, NGOs participated in bringing the case to the courts. The cases for forced disappearance resulted from a litigation strategy by Asociación Pro-Búsqueda, a Jesuit-founded NGO that searches for children separated from their parents during the war.¹⁹ The cases for torture were mainly brought after 2010, when survivors, backed by IDHUCA, began to organise in dialogue with international actors and demand justice.²⁰ IDHUCA and Pro-Búsqueda are the organisations most active in accompanying relatives or survivors in making justice demands. The human rights promotion group Centro Madeleine Lagadec is also doing significant legal work, as did the Catholic human rights office Tutela Legal before it closed.

A separate dimension of judicial activity deals with the administrative task of exhuming and identifying bodies from mass graves for the purpose of certifying death. This process, particularly supported by the Centro Madeleine Lagadec, allows relatives to move forward with resolving inheritance issues or forming new relationships. Local magistrates can and have ordered exhumations for this purpose. The results could be considered an advance in truth-telling, but official exhumations do not follow the protocols that would be necessary for later criminal proceedings. By contrast, exhumations carried out under private initiative are more likely to have an evidence-collection goal appropriate for criminal justice. These include excavations at the mass grave site of El Mozote, carried out at regular intervals since 1992 at Tutela Legal's behest, by an Argentine-based forensic team.²¹

Some small steps have been taken to create more space for domestic criminal accountability. In 2009 and 2010, the Constitutional Chamber of the Supreme Court handed down *habeas corpus* rulings ordering the Public Prosecutor's Office to expedite investigation into the wartime disappearance of three children.²² In 2010, the same chamber diluted the monopoly of the Public Prosecutor's Office on prosecutorial discretion, which has allowed it, as we have seen, to act as a very efficient gatekeeper against war-era cases. The Court urged criminal procedure reform to restore to victims of any crime the option of exercising criminal action should the Public Prosecutor's Office fail to do so through negligence or disinclination.²³ The legislature subsequently passed Decree 1010 of 2012, modifying Art 17 of the Criminal Procedure Code in the general direction recommended by the Court. However, no substantial progress on such cases has yet resulted.

Role of the inter-American human rights system

The failures of the political and justice system to prosecute, combined with the very broad scope of amnesty, have led some pro-accountability actors to seek justice in regional and third-country courts. The inter-American system, in particular, has attempted to press the Salvadoran state to provide greater domestic accountability.

El Salvador ratified the American Convention on Human Rights in 1978 and recognised the contentious jurisdiction of the Inter-American Court of Human

Rights on 6 June 1995. The day after the 1989 Jesuit murders, the case was denounced by the region-wide human rights monitoring organisation Americas Watch (now part of Human Rights Watch) to the Inter-American Commission on Human Rights (IACHR). Reporting in December 1999, the IACHR declared the Salvadoran government responsible and called for investigation, punishment, reparations to victims' families, and repeal of the amnesty law (IACHR 1999a). This was not the first time the IACHR had been called on to take a position on events in El Salvador. In a 1994 country report, the Commission declared that regardless of how necessary peace negotiations had been, 'the very sweeping General amnesty law passed by El Salvador's Legislative Assembly constitutes a violation of [its] international obligations'. It went on to list concerns that included the granting of 'reciprocal amnesty' without prior acknowledgement of responsibility, the non-exclusion of crimes against humanity, and the elimination of the possibility of victim compensation through the extinguishing of civil liability (IACHR 1994, chap. II, part 4).

Reporting in 1999 on two specific cases, those of Lucio Parada Cea and Víctor Hernández Vásquez, the IACHR recommended investigation, punishment, and reparations (IACHR 1999b, 1999c). In the Parada Cea case, the Commission called on the Salvadoran state to 'guarantee the petitioners the exercise of the rights guaranteed by the [American] Convention [on Human Rights] to all citizens, despite what is provided for in the General amnesty law for the Consolidation of Peace (decree No. 486). To that end, if need be, it should annul that law *ex-tunc*' (IACHR 1999b, XII, para. 1). A third 1999 report, on the Jesuit case, plus a 2000 report on the Archbishop Romero assassination case, reiterated and echoed those previous recommendations (IACHR 1999a, 2000). In reply, as noted above, the Salvadoran government requested a special 2007 audience at which it defended the amnesty law before the Inter-American Commission.

The Inter-American Court, for its part, issued a 2005 verdict in the case *Serrano-Cruz Sisters v El Salvador*, which resulted in the establishment of the National Commission for the Location of Missing Children (Comisión Nacional de Búsqueda de Niñas y Niños Desaparecidos). The ruling also called for creation of a genetic database and for a national day to commemorate child victims.²⁴ In 2011, the Court again ruled against El Salvador in the case *Contreras et al. v El Salvador*.²⁵ On 25 October 2012, the Court pronounced directly for the first time on the status of the amnesty, in the El Mozote case, speaking in forceful terms.²⁶ The ruling clearly declared the amnesty law to be a violation not only of international norms but also of the peace agreements. The judgment noted that the 2000 constitutionality decision, which supposedly modulated the amnesty, had had no discernible practical effect whatsoever. Compensation payments were ordered in all three judgments (Serrano-Cruz, Contreras, and El Mozote), but to date have only been made in the Serrano-Cruz case. Public admissions of state responsibility, also ordered in all three, were carried out (before the Inter-American Court verdict, in the case of El Mozote). In none of the three cases has the order to investigate and punish those responsible been fulfilled.

Official attitudes to Inter-American Court verdicts nonetheless show a degree of evolution. In 2005, in *Serrano-Cruz*, the state strenuously opposed the Court's temporal jurisdiction (the crime had been committed in 1982 whereas the Court's contentious jurisdiction was not recognised until 1995). This objection was partly validated by the Court. However, by the time of the *Contreras* and *El Mozote* verdicts of 2012, the state did not contest on these grounds. This tacit acknowledgement is a significant change in state attitude to the Court, although there is still some way to go in compliance.

Cases in Spanish domestic courts

Violations stemming from the Salvadoran civil war were also brought before the Spanish courts, using universal jurisdiction and related arguments. As we have seen in other chapters of this book, resort to Spanish courts to adjudicate Latin American atrocity crimes dates back at least to the mid-1990s, when Operation Condor cases for Spanish nationals and other victims in Southern Cone countries were admitted. These led to the detention of former Chilean dictator Augusto Pinochet in London, to other extradition attempts, and to the jailing in Spain of former Argentine navy officer Adolfo Scilingo. Between 2003 and 2005, Spanish court jurisdiction over crimes committed in Chile, Argentina, and Guatemala was challenged, though it was eventually reaffirmed. In 2009, Spanish law was amended to severely limit Spain's interpretation of universal jurisdiction.²⁷ It is now a legal requirement in Spanish domestic law (rather than, as before, a strategic preference on the part of case-bringers) that alleged crimes demonstrate a traditional jurisdictional connection, such as the involvement of Spanish citizens as victims or perpetrators.

In November 2008, the Spanish Association for Human Rights and the US-based Center for Justice and Accountability (CJA) put forward a case in Spain in association with relatives of some of the victims of the Jesuit massacre. The case is being worked for CJA by Almudena Bernabeu, a Spanish-born lawyer now based at CJA. The Spanish citizenship of five of the six priests helped to keep the case active when other pure universal jurisdiction cases were all but ruled out. On 9 January 2012, Spanish magistrate Eloy Velasco requested that El Salvador extradite 13 retired Salvadoran army officers to Madrid. The Salvadoran Supreme Court rejected this request in May of that year, relying on a now-superseded outright constitutional ban on extradition of nationals. The case is ongoing, however, and those bringing the case hope to reactivate domestic proceedings in El Salvador using the 'extradite or prosecute' principle. In January 2016, Velasco reiterated his extradition request.

CJA also had close contact with Salvadoran exiles in the United States after it became involved, in the first decade of the 2000s, in a series of civil claims brought there against high-level Salvadoran army officers who had retired to Florida. First initiated by the families of the four US churchwomen killed by National Guardsmen in El Salvador in 1980, the series of cases, later brought by

survivors in exile, used US domestic legislation (the Torture Victim Protection Act and the Alien Tort Claims Act) in an effort to have the men declared, at least, civilly liable. The results led to successful immigration and deportation proceedings against perpetrators, with former Salvadoran defence minister Carlos Eugenio Vides Casanova, implicated in the churchwomen case, finally being deported from the United States in April 2015.

Reparations

Although the Salvadoran state has seemed to be extremely reluctant to deal with most aspects of past violations, there has been some progress in the field of reparations to victims, at least in the symbolic sphere. Most of the progress has been in response to pressure from NGOs or the inter-American system, though the election of an FMLN government in 2009 also marked an apparent turn towards more spontaneous acknowledgement. In the early post-war years, a compensation plan was established, according to truth commission recommendations, for those left orphaned or disabled.²⁸ Victims of human rights violations (HRV), however, received less attention than ex-combatants. The National Reconstruction Plan, 1992–96, was supposed to integrate former combatants into the productive system by providing loans and training. A land transfer programme established in rural areas is considered to have been a failure, with low production performance and high rates of abandonment. It is important to keep in mind that reintegration programmes or compensation to former combatants are not the same as reparations to victims.

Neither economic nor symbolic reparations received much attention during the first decade and a half of post-peace accord governments. There was little noticeable change in the symbolic arena until FMLN presidencies began in 2009. The few symbolic gestures that did take place prior to 2009, such as the 2003 installation of a Monument to Memory and Truth in a San Salvador park, were promoted by civil society rather than the state (Lazo Fuentes and Rey Tristán 2011). They do not, in this sense, count as reparations at all. Much of this changed in the Funes administration, which undertook both apologies and practical measures. However, while the state under Funes recognised its responsibility for past official crimes, it was reluctant to address crimes committed by the guerrilla forces. Accordingly, the government did not promote the reinterpretation or annulment of the amnesty law.

Some of the most significant changes under Funes were symbolic. In December 2011, during the 30th commemoration of the El Mozote massacre, President Funes publicly apologised to victims on behalf of the state. Other symbolic gestures include: a posthumous award in 2009 to the murdered Jesuits; a public apology by the president in 2010 for violations carried out by state agents during the war; a government apology in 2010 to the family of Archbishop Romero; and the Salvadoran state's initiatives around the UN's International Day for the Right to the Truth, which takes place annually on 24 March – a date chosen to

coincide with the anniversary of Romero's assassination (Lazo Fuentes and Rey Tristán 2011).

With respect to other measures, Funes set in motion the creation of a reparations programme for victims of serious violations during the conflict. An advisory commission, the National Commission for Reparations to Victims of Human Rights Violations during the Internal Armed Conflict, was created by Executive Decree 57 in May 2010 and drew up recommendations for an executive-administered reparations scheme. After a long hiatus, the Programme for Reparations to Victims of Serious Human Rights Violations Occurring in the Context of Internal Armed Conflict was authorised by Decree 204 in October 2013 and established in 2014 under the presidency of Salvador Sánchez Cerén. Its declared aim was to establish a registry of victims under the direction of a five-person board, two of whose members would be victims' representatives. Detailed implementation proposals called for the presentation of quarterly reports. Press reports in July 2014 suggested the programme had begun to function although, as of July 2015, no official reports were yet available.

Table 8.1 shows that actions taken before 2009 were few and were driven mainly by NGOs or decisions of the inter-American system. After 2009, initiatives were more likely to be taken by the government without obvious external prompting, which could be considered progress. However, practical implementation of reparations seems to be lacking to date, although it is too early to evaluate the results of the Reparations Programme in mid-2014.

Table 8.1 An overview of reparations in El Salvador, 1989–2014

<i>Administration</i>	<i>Date</i>	<i>Policy or measure</i>	<i>Actor</i>
20 years of continuous right-wing ARENA party presidencies	1989–2009	Denial of state and armed forces responsibility for human rights violations ^a	State
President Francisco Flores (1999–2004)	2003	Monument to Memory and Truth	NGOs
President Antonio Saca (2004–9)	2007	Day to commemorate children who disappeared during the armed conflict	State, in compliance with Inter-American Court verdict
Left-wing FMLN party (formerly armed opposition) presidencies under President Mauricio Funes (2010–14) and President Sánchez Cerén (2014–)	2009	Posthumous recognition of the Jesuit priests murdered in 1989	State
	2010	Public apology for violations carried out by state agents	State

Table 8.1 (cont.)

<i>Administration</i>	<i>Date</i>	<i>Policy or measure</i>	<i>Actor</i>
Left-wing FMLN party (formerly armed opposition) (continued)	2010	Public apology to the family of assassinated archbishop Oscar Romero	State
		Creation of National Commission for the Location of Missing Children	State, in compliance with Inter-American Court verdict
		Creation of National Commission for Reparations to Victims of Human Rights Violations	State
	2011	Salvadoran state participates in UN proposal for International Day for the Right to Truth, to be celebrated on the anniversary of Romero's death	State, prompted by Inter-American Court verdict
		Public apology to relatives of victims of the El Mozote massacre	State
	2012	Public apology in Contreras case	State, in compliance with Inter-American Court verdict
	2013	Creation of full Reparations Programme (operational as of July 2014)	State

a. Classed as a negative measure or counter-measure.

Conclusions

The Salvadoran peace process, initially underwritten by the international community, struggled from the beginning to reconcile the urgent need for peace with the need for some path towards accountability for human rights violations and infractions of international humanitarian law committed during the civil war. A number of obstacles, including but not limited to a lack of real alternation in national government for almost 20 years, made accountability a remote prospect in many

of its dimensions. The peace accord signatories, namely ARENA and the FMLN, did agree to establish the truth commission. However, this positive accountability step was undermined by the passage of an exceptionally broad amnesty law at the very moment when the CVES launched its report; this made criminal prosecution for the violations documented by the commission virtually impossible. This 'reciprocal amnesty', as described by the Inter-American Commission on Human Rights in its 1994 report, was explicitly crafted to ensure impunity for both parties to the peace agreement, to their mutual benefit. As these parties have remained dominant in Salvadoran politics, there has been no initiative to modify the amnesty law. The government's reluctance to deal with the past was further demonstrated by its unwillingness to accept the truth commission's findings or implement its recommended reforms and reparations.

Various institutions established to ensure more accountability for past or present violations have been weak in practice and have rarely managed to produce the desired results. The Supreme Court, and the state apparatus in general, seem still to be influenced by partisan dynamics. Pacts between political forces have distorted the institutional reforms implemented after the peace agreements, leaving checks and balances ineffectual when it comes to implementing equality before the law. Early transitional justice in El Salvador was a party-dominated process in which human rights considerations 'all but disappeared from the political agenda' (Sieder 2001, 188; see also Collins 2010, 160).

The situation is complicated by a perceived security emergency in the country, with high levels of 'ordinary' crime. Responses have included public calls for hard-line policing (*la mano dura*) and partial reversal of the demilitarisation that was one of the hard-won achievements of the peace process. Human rights organisations are criticised as being soft on crime. The reality of present-day criminality is undeniable, with El Salvador ranked as one of the most violent societies in the world. According to estimates, the death rate today is at least as high as it was during the civil war.²⁹ This is used by some to downplay the importance of past crimes and argue the impossibility of investigating them (Cuéllar Martínez 2010, 145). High crime levels coupled with low conviction rates also suggest an overwhelmed judicial system, unlikely to be able to deal adequately with human rights violations, whether past or present.

Political partisanship and lack of judicial independence have been compounded by the absence of strong and unified human rights organisations, a situation confirmed by the authors' field research in El Salvador in 2011 and 2012. Internal difficulties and coordination problems have beset NGOs supporting current litigation over past crimes. This bears out previous studies asserting the relative weakness of these organisations as well as the lack of a tradition of legal activism in the country.³⁰ Another factor that may have had a negative impact both on accountability and on the quality and diversity of public debate about related matters is the absence of an independent media sector. The mass media in El Salvador are monopolised by influential business groups, mostly aligned with ARENA; in general, they are hostile to human rights issues.

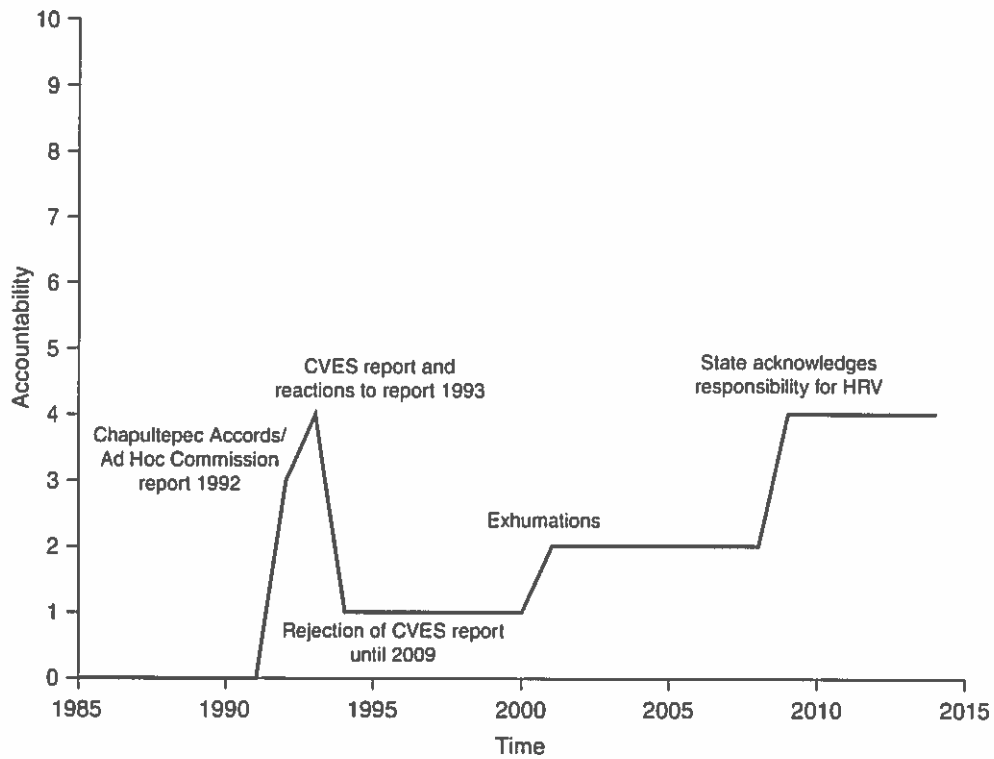


Figure 8.1 El Salvador: the truth dimension of accountability, 1992–2014
Source: Authors' construction, 2015.

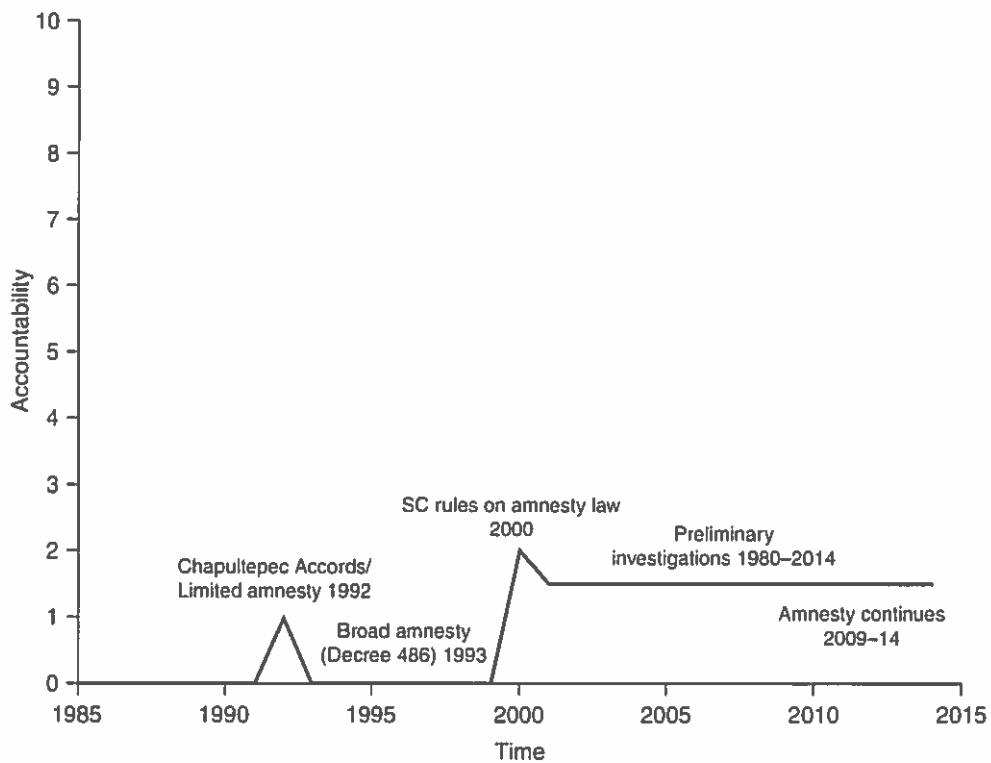


Figure 8.2 El Salvador: the overcoming amnesty dimension of accountability, 1992–2014
Source: Authors' construction, 2015.

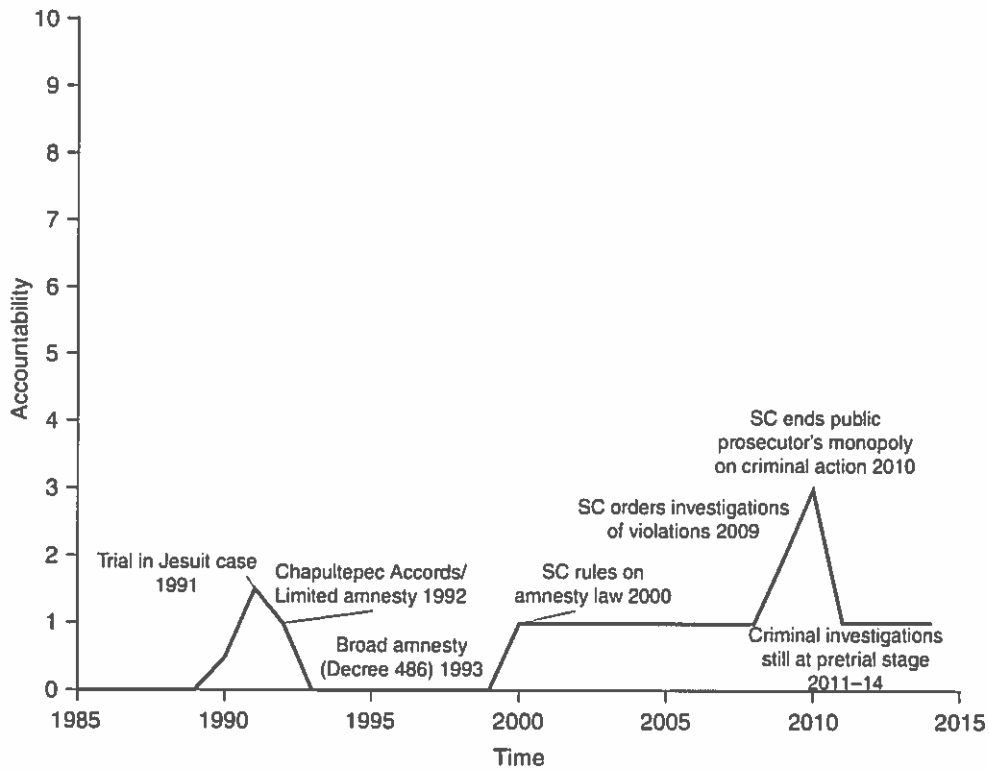


Figure 8.3 El Salvador: the trials dimension of accountability, 1992–2014
 Source: Authors' construction, 2015.

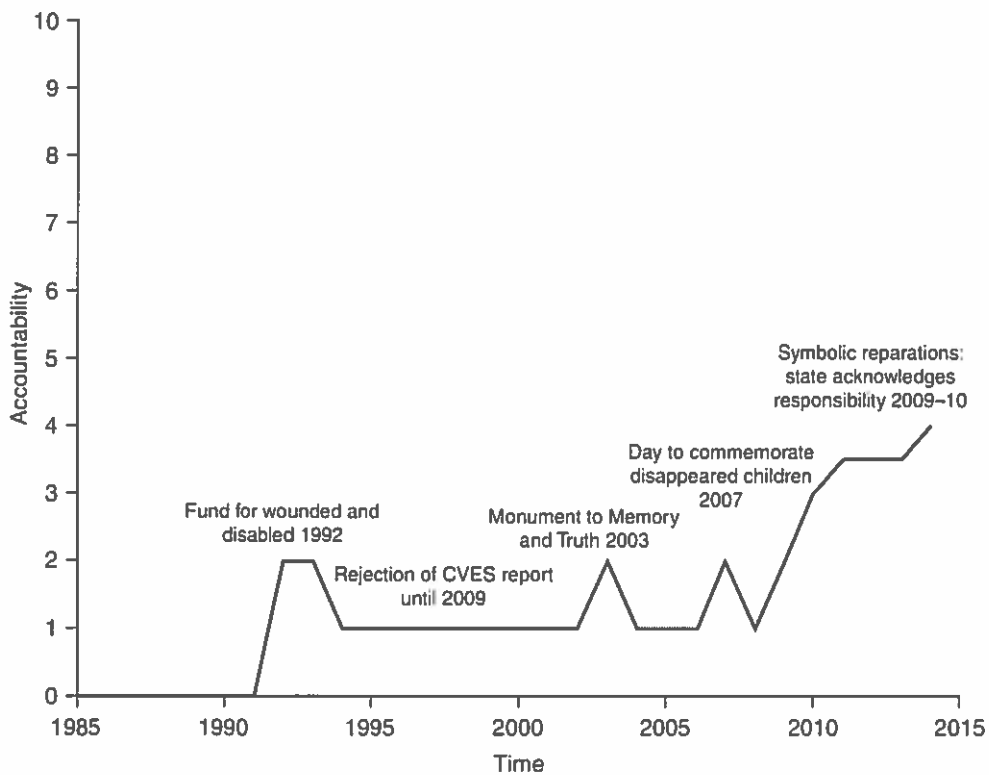


Figure 8.4 El Salvador: the reparations dimension of accountability, 1992–2014
 Source: Authors' construction, 2015.

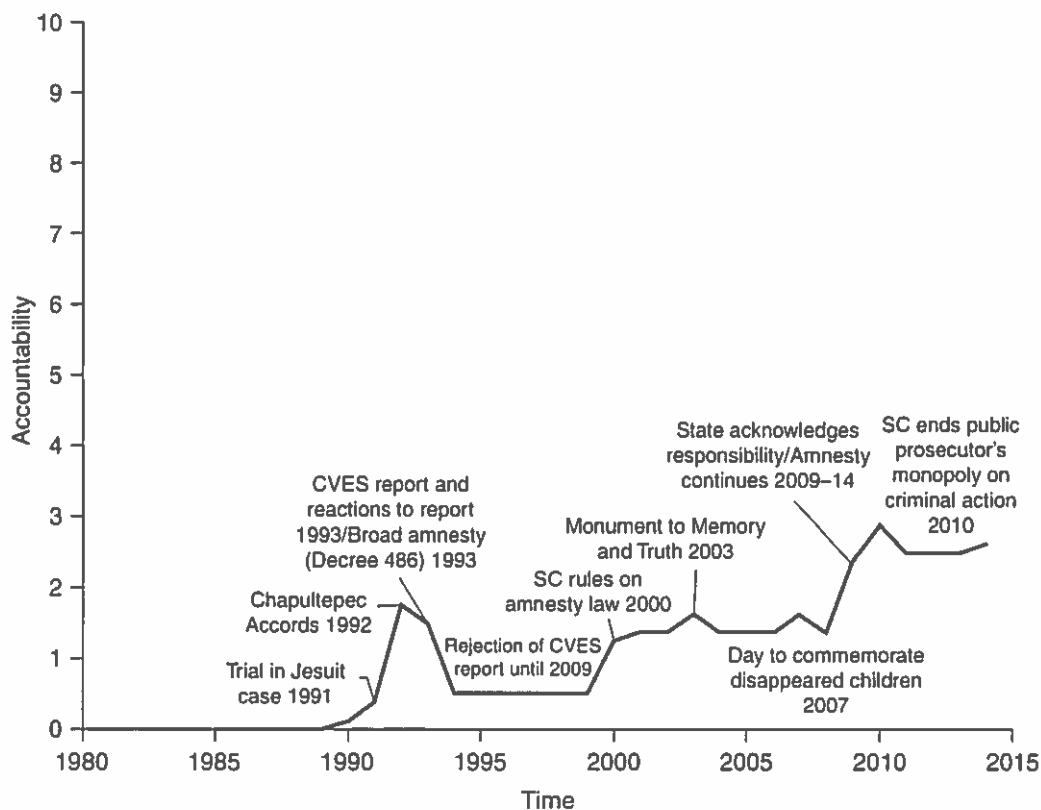


Figure 8.5 El Salvador: overall trend towards accountability, 1992–2014
 Source: Authors' construction, 2015.

Overall, we can conclude, as does the United Nations in its human development report, that public participation in El Salvador is largely limited to voting (UNDP 2010). Significantly, there seems to be at least as much, and possibly more, movement on human rights cases in El Salvador outside the country – in third-country courts and the regional human rights system – as in domestic courts. The obstacles to domestic criminal prosecutions include the practical and logistical difficulties common to many post-war settings, notably the absence, loss, or destruction of contemporaneous records and the lack of sufficient evidence of individual, rather than institutional, culpability. Outside settings seem more receptive and, in some cases, are simply more accessible to exiles, overseas NGOs, and well-connected victims' relatives. Some, though not all, of these overseas initiatives are focused on making the domestic system more responsive.

Despite this rather grim picture, there have been persistent, if limited, claims for truth, justice, and reparations, made both domestically and internationally. These have led recently to recognition of state responsibility and at least the promise of new measures, suggesting that President Mauricio Funes's government understood that El Salvador's transitional justice agenda is still relevant. Forward

movement domestically on the El Mozote case, as on the recently inaugurated reparations programme may, in time, contribute to a growing focus on transitional justice questions by stimulating greater awareness and wider dissemination of truths about the past.

Notes

- * The authors thank Marcos Iglesias, who helped with translation of the first draft of the chapter; Elin Skaar, who provided useful comments on the manuscript; and especially Cath Collins for her expert guidance, patience, and understanding throughout the writing and revision of this chapter.
- 1 The smallest nation in Latin America by area, El Salvador occupies 20,720 square kilometres on the Pacific coast of Central America, with a population of just over 6 million. While its per capita gross domestic product (GDP) is relatively high compared to its near neighbours, and the World Bank classifies it as a lower-middle-income country, El Salvador, like the rest of Central America, lags ever further behind the South American countries in development indices and suffers sharp internal inequalities and high levels of violence. See IDB (2014) for recent statistics.
- 2 Bulmer-Thomas (1987, 3, 33) notes that, before the 1930s, 'coffee was king' in El Salvador. As late as 1979, coffee still constituted around 40 per cent of the country's exports, with agriculture as a whole representing 65 per cent of all exports.
- 3 The 1932 massacre, known as La Matanza, also targeted indigenous people, which is one reason that the indigenous share of the population today is notably lower in El Salvador than in neighbouring countries, especially Guatemala.
- 4 The armed forces killed thousands of civilian non-combatants in 1979 and 1980, before the armed conflict even officially began. This repression may have blocked an incipient popular insurrection, but it also locked in a determined social base that enabled the armed left to build a highly effective and sustained insurgency, with support in rural poor communities. See Wood (2003) on the diverse social origins of both the guerrilla forces and the opposition to them.
- 5 The FMLN was formed on 10 October 1980 by five left-wing guerrilla organisations: the Popular Liberation Forces (FPL, in its Spanish acronym); Popular Revolutionary Army (ERP); Armed Forces of Liberation (FAL), aligned with the Communist Party; National Resistance (RN); and Workers' Revolutionary Party (PRTC). In May 1980, most major leftist and centrist popular organisations and political parties formed a broad coalition, the Revolutionary Democratic Front (FDR), which allied itself with the FMLN for the duration of the conflict (Call 2002, 546).
- 6 1980-90 estimates. By 2014, the estimated population living within the country's borders was 6.4 million, with half again as many Salvadorans living abroad (World Population Review, <http://worldpopulationreview.com/>). Many of the latter were in the United States, often due to war-related displacement. War also devastated the economy in El Salvador, and some members of the traditional rural elite were forced from the countryside by the relative strength of the guerrillas (Paige 1997).
- 7 Cristiani was in office from 1989 to 1994. Post-agreement presidents were Armando Calderón Sol (ARENA, 1994-99), Francisco Flores (ARENA, 1999-2004), Antonio Saca (ARENA, 2004-9), Mauricio Funes (FMLN, 2009-14), and Salvador Sánchez Cerén (FMLN, 2014-). Funes, previously a well-known TV journalist, formed part of a post-war Frente leadership not directly associated with armed activism. Sánchez Cerén, formerly Funes's vice president, has a much more combative profile as a former guerrilla commander. He won an extremely narrow victory over ARENA in February 2014 with a margin of less than 0.5 per cent of the vote.

- 8 ARENA was founded by, among others, Roberto D'Aubuisson, a military officer who also operated right-wing death squads in the 1980s and whom the truth commission held responsible for the 1980 assassination of Archbishop Romero (UN 1993).
- 9 The FMLN performed well in elections even before its 2009 presidential victory, making important gains in the national legislature and in municipal elections. In this sense it represents a successful case of transition from guerrilla movement to political party. However, it did not enjoy a legislative majority during Funes's mandate, a period that also reportedly saw tensions between Funes and his party (Hume 2014, 389).
- 10 The text of the Chapultepec Accords is available in English on the United States Institute of Peace website, www.usip.org.
- 11 All quotations from the Commission's final report are from the official English translation (UN 1993), available on the United Nations website.
- 12 Decree Law 904 of 4 December 1996.
- 13 The possible exception was made where the date of commission of a crime meant that amnesty of it would violate pre-existing constitutional dispositions. These prevent an incumbent government, such as the one that had overseen the peace accords, from amnestying its own acts. The very existence of such dispositions shows how prevalent self-exculpatory amnesty has been in the country's history.
- 14 The 12 December 2000 ruling concerns the Jesuit case. See 'Resolución de sobreseimiento de la Jueza Tercera de Paz en el Caso Jesuitas', cited in an extensive case chronology on the Universidad Centroamericana website (IDHUCA 2015).
- 15 Inter-American Court of Human Rights (I/A Court HR), *Case of the Massacres of El Mozote and Nearby Places v El Salvador*, Judgment of 25 October 2012, para. 2. The case is about 'alleged successive massacres committed between December 11 and 13, 1981, in the context of a military operation by the Atlacal Battalion, together with other military units, in seven places in the northern part of the department of Morazán, Republic of El Salvador, during which approximately 1,000 people were killed'.
- 16 The statute of limitations for homicide became ten years. In a situation where international law forbidding a statute of limitations for atrocity crimes is ignored, while retrospective changes in law are permitted as long as they benefit potential defendants, this ruled out at a stroke serious investigation of wartime massacres, most of which were carried out in the early 1980s.
- 17 Appearing before a legislative committee in March 2013, the Public Prosecutor's Office admitted that it had not been able to keep accurate data on any category of criminal cases since 2010 (Chávez 2013).
- 18 These organisations are the Catholic Church-sponsored human rights office Tutela Legal, created in 1977 and closed in 2013; the Foundation for the Study of Applied Law (FESPAD), a think tank; the Madeleine Lagadec Centre for the Promotion of Human Rights; Pro-Búsqueda, an association dedicated to the search for missing children; the non-governmental Human Rights Commission of El Salvador (Comisión de Derechos Humanos de El Salvador, CDHES); and IDHUCA, the Human Rights Institute of the Jesuit University. Consulted in late 2012, the Supreme Court declared that no relevant information was available, while the Public Prosecutor's Office simply declined to answer.
- 19 Such children, orphaned by the killing of their parents or simply lost or abandoned due to forced exile and internal displacement, were often treated as war bounty by the military. Some were pressed into service at military bases; others were given or sold for overseas adoption.
- 20 In a field research interview carried out in 2011 for the Spanish-funded project Against Impunity, one representative of a committee of former political prisoners explained how exchanges in 2008 and 2009 between the group and human rights professional Carlos Beristain had helped them realise that they were entitled to define themselves

- as survivors, with corresponding rights. Beristain, a psychologist of Spanish origin, has also worked extensively in Colombia, Peru, and Guatemala. He is one example of the network of individuals who have made a notable difference to the region's accountability history.
- 21 The Argentine Forensic Anthropology Team (Equipo Argentino de Antropología Forense, EAAF) was trained by, among others, renowned forensic anthropologist Clyde Snow (see Chapter 3). In January 2013, the Salvadoran Supreme Court convoked regional and international experts to discuss definitive exhumation of victims' remains from El Mozote in order to comply with the 2012 Inter-American Court judgment. The experts included personnel from the EAAF; the International Commission on Missing Persons, based in Bosnia and Herzegovina; the Human Rights Center at the University of California, Berkeley; and the Guatemala Forensic Anthropology Foundation. A first meeting of the international group took place in El Salvador in early 2014 (see Lampros 2014), and work subsequently began under the supervision of the Salvadoran court and the Public Prosecutor's Office. However, in April 2015, relatives working through NGO Tutela Legal obtained a court injunction halting the work on grounds that their rights to participation and information were not being respected (see *Diario Co Latino* 2015).
 - 22 The decisions are dated 26 June 2009, 25 November 2009, and 1 December 2010 (case files 192-2007, 198-2007, and 199-2007, respectively).
 - 23 Constitutional Chamber of the Supreme Court, Judgment of 23 December 2010, Exp. 5-2001/10 and others. The resolution came in response to an unconstitutionality claim filed by a group of citizens against various articles of the Criminal Procedure Code.
 - 24 I/A Court HR, *Case of the Serrano-Cruz Sisters v El Salvador*, Judgment of 1 March 2005. The National Commission for the Location of Missing Children was established by Decree 5 of 15 January 2010 and began operations on 14 March 2011.
 - 25 I/A Court HR, *Case of Contreras et al. v El Salvador*, Judgment of 31 August 2011.
 - 26 I/A Court HR, *Case of the Massacres of El Mozote and Nearby Places v El Salvador*, Judgment of 25 October 2012.
 - 27 Spanish Organic Law of the Judicial Branch, Art 23.4.
 - 28 Legislative Decree 416 of 1992 established the Fund for the Protection of Those Wounded and Disabled as a Result of the Armed Conflict. Article 22 defined beneficiaries as 'Salvadorans disabled as a direct result of the armed conflict in the country; parents who lost their children, and minor or otherwise dependent children who lost their parents' (our translation). Article 23 specified that the pensions were equally available to civilians, members of the armed forces, or former FMLN combatants.
 - 29 The country has the second-highest homicide rate in the world after Honduras, with an annual average of 60.2 homicides per 100,000 inhabitants in 2005-12 (UNODC 2013).
 - 30 According to Popkin (2000), the involvement of the international community in the peace process may have weakened the local human rights community. Cuéllar Martínez (2007), however, suggests that a coherent Salvadoran human rights movement did not exist either before or after the armed confrontation. Moodie (2010) argues that in El Salvador, war crimes are narrated in terms of personal experience rather than as public violence stemming from the conflict, something that involves a separation of individuals from social movements.

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