

## **The Recontextualization of the Archives of Repression and Reparations to Victims of the Brazilian Dictatorship**

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**ABSTRACT:** This article aims to reflect on the use of the archives produced by the repressive organs of the Brazilian Civil-Military Dictatorship as instruments to ensure rights won with the promulgation of the 1988 Federal Constitution, in particular the right to reparation granted by Law n.

10.559 of 2002. Documents that previously served to incriminate, today serve to prove the political persecution suffered by militants opposed to the regime. For this purpose, we will analyze the application for amnesty with the Amnesty Commission of the Ministry of Justice filed by Theodomiro Romeiro dos Santos, a former political prisoner, which was granted by the body on September 20, 2011.

**RESUMEN:** This article aims to reflect on the use of the archives produced by the repressive bodies of the civil-military dictatorship, which became instruments to guarantee the rights achieved with the enactment of the 1988 Federal Constitution, in particular, the right to compensation granted by Law No. 10.559 in 2002. Los documentos que fueron utilizados una vez para incriminar hoy sirven para demostrar la persecución política sufrida por los activistas opuestos al régimen. El artículo examinará la aplicación de la amnistía por la Comisión de Amnistía del Ministerio de Justicia formulada por Theodomiro Romeiro dos Santos, ex perseguido político, otorgada por el órgano en 20 de septiembre de 2011.

**PALAVRAS-CHAVES:** Transitional Justice - Dictatorship - Archives - Reparation

**PALABRAS CLAVES:** Justicia de Transición - Dictadura - Archivos - Reparación

## **1 Introduction**

On October 27, 1970, at the age of 18, Theodomiro Romeiro dos Santos, a member of the Revolutionary Brazilian Communist Party (PCBR) was arrested by agents of the Destacamento de Operações de Informações - Centro de Operações de Defesa Interna (DOI-CODI), accused of infringing the National Security Law and the Military Penal Code, and sentenced to death by the Military Justice. It was the first case of a politically persecuted person that the Repression condemned to death. Later, the Superior Military Court commuted the death penalty to life imprisonment, when Theodomiro was 21 years old. The Brazilian Civil-Military Dictatorship considered him a terrorist who intended to subvert the political and social order and applied to him the utmost rigor of the National Security Doctrine<sup>1</sup>. In 2011, forty-one years after his arrest, Theodomiro Romeiro dos Santos was declared a Brazilian political amnesty and received an apology from the Amnesty Commission of the Ministry of Justice on behalf of the State for all the persecutions suffered during the period of the Civil-Military Dictatorship.

The documents that were used to incriminate Theodomiro, frame him as a subversive and subject him to the death penalty and later to life imprisonment were used, when the new democratic period was instituted by the Federal Constitution of 1988, to guarantee his rights and repair the damage suffered. The present article aims precisely to reflect on the use of the archives produced by the repressive organs of the Brazilian Civil-Military Dictatorship as instruments to ensure rights won with the promulgation of the Federal Constitution, in particular the right to reparation granted by Law No. 10.559 of 2002. Documents that previously served to incriminate, today serve to prove the political persecution suffered by militants opposed to the regime, thus ensuring a new use to the archives of repression.

## **2 The Brazilian Transition: the emphasis on Reparation**

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<sup>1</sup> For an in-depth analysis of the National Security Doctrine, see COMBLIN, Joseph. *A ideologia da Segurança Nacional: o poder militar na América Latina*. Rio de Janeiro: Civilização Brasileira, 1977.

Transitional Justice is defined by the United Nations Security Council as the set of processes and mechanisms associated with society's attempts to come to terms with the great legacy of past abuses in order to ensure that those responsible are held accountable, justice is done and reconciliation is achieved. The concept emerges as a response to practical dilemmas (and as an attempt to systematize a plurality of knowledge areas considered useful to solve them) arising from the experience in dealing with political transition, from authoritarian to democratic regimes, in the practice of human rights (ZALAQUET, 2000). Having as a central element the victims of the acts of exception committed by States, Transitional Justice is supported by four dimensions: i) reparation to the victims of acts of exception; ii) construction of the truth and realization of memory policies; iii) regularization of the functions of justice; iv) and the reform of institutions perpetrating violations, for the strengthening of Democracy.

The legacy of the Civil-Military Dictatorship has been the subject of studies, public debates, and, above all, actions by the State have been carried out, especially in the fields of reparations for victims of political persecution and the reconstruction of memory and the search for truth about the events of the period. Reflections have developed and increased on the application of the principles and mechanisms of Transitional Justice to the Brazilian reality, which began to guide the construction of policies aimed at addressing the consequences of the Civil-Military Dictatorship in Brazil. <sup>2</sup>From the promulgation of the Amnesty Law of 1979 to the Federal Constitution of 1988, the Brazilian transitional process has developed a more solid pillar of reparation for victims. According to Glenda Mezarobba, the amnesty process in Brazil, far from being finalized, unfolds in a "long duration", whose milestones can be identified in at least three laws: the Amnesty Law of 1979, the law that recognizes the dead and disappeared during the military regime, dated 1995, and the

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<sup>2</sup> Dentre as ações realizadas, exemplificam-se: i) criação da Comissão Especial sobre Mortos e Desaparecidos Políticos, pela Lei n.9.140/95; ii) a criação da Comissão de Anistia, no âmbito do Ministério da Justiça, pela Lei n.10559/2002; iii) the creation of the Reference Center on Political Struggles in Brazil, called Memories Revealed, institutionalized by the Civil House of the Presidency of the Republic and implemented in the National Archives; iv) the creation of the National Truth Commission, by Law n. 12.528/2011; v) the new rules for access to public information, established by Law n. 12.527/2013 (the so-called Access to Information Law).

Law of 2002, which establishes economic reparation for political persecution between the years 1946 and 1988 (MEZZAROBÀ, 2007).

The genesis of the Brazilian reparation process occurs with the sanction of Law 6.683, of 1979, still during the Civil-Military Dictatorship, as it established, in addition to the pardon for political and related crimes, reparation measures such as the reintegration to work for civilian and military public servants arbitrarily removed and restitution of political rights to those persecuted (registration in political parties and the right to vote in party conventions):

Art. 1 Amnesty is granted to all those who, in the period between 02 September 1961 and 15 August 1979, committed political crimes or crimes related thereto, electoral crimes, to those who had their political rights suspended and to servants of the Direct and Indirect Administration, of foundations linked to the public power, to Servants of the Legislative and Judiciary Powers, to Military personnel and to leaders and union representatives, punished on the basis of Institutional and Complementary Acts.

After 1979, the Constitutional Amendment n. 26 of 1985 guaranteed the restitution of political rights under the 1979 law to student leaders:

Amnesty shall be granted to all civil servants of the direct and indirect public administration and military personnel punished by exceptional, institutional or complementary acts.<sup>1</sup> Amnesty shall also be granted to the perpetrators of political or related crimes, and to leaders and representatives of trade unions and student organisations, as well as to civil servants or employees who have been dismissed or discharged for exclusively political reasons, based on other legal provisions.

In the democratic order established by the Federal Constitution of 1988, the right to reparation for political persecuted persons is based on article 8 of the Transitory Constitutional Dispositions Act, which grants amnesty to those who, in the period between September 18, 1946 and the date of promulgation of the Constitution, were affected by acts of exception for exclusively political reasons, to those affected by Legislative Decree No. 18 of 15 December 1961 and to those affected by Decree-Law No. 864 of 12 September 1969, who are guaranteed promotion, during inactive service, to the position, job, rank or grade to which they would be entitled if they were in active service, in compliance with the terms for remaining on active service as provided for in the laws and regulations in force, with due regard for the

characteristics and peculiarities of the careers of civilian and military public servants  
and  
with due regard for their respective legal regimes:

Article 8. Amnesty shall be granted to those who, during the period from 18 September 1946 to the date of promulgation of the Constitution, were affected, as a result of an exclusively political motivation, by exceptional, institutional or complementary acts, to those affected by Legislative Decree no. 18 of 15 December 1961, and to those affected by Decree-law no. 864 of 12 September 1969, promotions are assured, in the inactive period, to the position, job, rank or grade to which they would be entitled if they were in active service, with due regard for the periods of permanence in active service provided for in the laws and regulations in force, respecting the characteristics and peculiarities of the careers of civilian and military public servants and observing the respective legal regimes.

1 - The provisions of this article shall only generate financial effects as from the enactment of the Constitution, and remuneration of any kind is prohibited retroactively.

2 - The benefits set forth in this article shall be ensured to private sector workers, trade union leaders and representatives who, for exclusively political reasons, have been punished, dismissed or compelled to leave the remunerated activities they exercised, as well as to those who have been prevented from exercising professional activities due to ostensive pressure or official secretive expedients.

3 - To those citizens who were prevented from exercising, in civilian life, a specific professional activity, as a result of the Ministry of Aeronautics Restricted Decrees No. S-50-GM5, of 19 June 1964, and No. S-285-GM5 shall be granted economic reparation, as provided for by a law initiated by the National Congress and to come into force within twelve months as of the promulgation of the Constitution.

4 - To those who, by force of institutional acts, have freely exercised the elective office of councilor, the respective periods shall be computed for the purposes of retirement from public service and social security.

5. The amnesty granted under the terms of this article shall apply to civil servants and employees at all levels of government or their foundations, public companies or mixed companies under state control, except for military ministries, who have been punished or dismissed for professional activities interrupted as a result of a decision by their employees, as well as as a result of Decree-Law 1.632, of 4 August 1978, or for exclusively political reasons, the readmission of those affected being assured as from 1979, subject to the provisions of  
§ 1º.

Law 10.559, 2002<sup>3</sup> regulates the constitutional provision by creating the Amnesty Commission aimed at repairing the acts of exception, including torture, arbitrary imprisonment, dismissals and transfers for political reasons, kidnapping,

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<sup>3</sup> Previously, Law No. 9.140 of 1995 created the Special Commission on Political Deaths and Disappearances limited to the recognition of the State's responsibility for deaths and disappearances and the location of remains. The law also provides for reparation to the families of the victims.

and exile, banishments, student purges, and other forms of illicit monitoring. It provides for two phases for compliance with the constitutional determination of reparation: first, the *declaration of the condition of political amnesty* by verifying the facts provided for in the situations of persecution indicated in the law; second, the *granting of economic reparation*, in the form of permanent and continuous monthly reparation (in an amount corresponding either to the remuneration standard that the person would occupy if they did not lose their employment relationship or to another amount arbitrated based on market research) or in the form of a single payment, in an amount corresponding to up to 30 minimum wages per year of persecution for those who have not lost their employment relationship. (ABRÃO, TORELLY, 2011a).

It is important to emphasize that reparation policy is one of the pillars of democratic transition and, in order for it to be effective, it must choose the violations it will repair correctly, staggering them to reach the greatest number of victims. According to Elster,

To compensate victims, it is necessary to decide what forms of harm determine victim status. [...] First, damages can be material (loss of property), personal (violations of human rights), or intangible (loss of opportunities). [...] Second, it must be defined which relatives and family members of the "primary" victims will be included among the "secondary" victims. [...] Third, the starting point in time must be decided. (ELSTER, 2006, our translation)<sup>4</sup>

With the creation of the Amnesty Commission, a special system of reparation was established through a simplified administrative process, with the establishment of criteria for setting values that depart from the dichotomy between objective and subjective data provided for in Brazilian civil law:

The 2002 Law thus elaborated a detailed system of reparations aimed at meeting the demands of both "traditional" political persecuted persons (political cadres and militants of resistance organizations who were imprisoned, banned, exiled, clandestine and the like) and those who were affected by various acts of exception, especially the enormous contingent of militants of labor movements, public or private employees removed from their work activities due to the application of exceptional legislation or arbitrary orders. (ABRÃO, TORELLY, 2011b)

The declaration of the condition of political amnesty, the primordial act of the reparatory process, represents the recognition of the right of resistance of the

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<sup>4</sup> In original: "Para compensar las víctimas, es necesario decidir qué formas de daño determinan la condición de víctima. [...] En primer lugar, los daños pueden ser materiales (pérdida de bienes), personales (violaciones de derechos humanos), o intangibles (perdida de oportunidades). [...] En segundo lugar, hay que definir a qué parientes y allegados de las víctimas "primarias" incluir entre las víctimas "secundarias". [...] En tercer lugar, hay que decidir el punto de partida en el tiempo."

political persecuted and of recognition by the Brazilian State of the mistakes committed against its citizens. The existing links between the idea of Transitional Justice and the notion of Recognition demonstrate that transitional measures are attempts to implement possibilities of integration in societies that have undergone periods of conflict, usurpation of power and consequent violations of human rights, and should be concerned with the institution of mechanisms of recognition of the victims of institutional abuses (BAGGIO, 2010).

### **3 Archives and archival uses**

The strong reparatory characteristic of the Brazilian transition brings reflections on the political uses of the *archives of repression*, here understood as sets of documents produced by information and security organs of the state apparatus in repressive actions, during non-democratic periods. According to Bauer:

In their majority, the archives of repression are composed of records prepared or incorporated from daily police action (personal files, statements, medical records, dossiers, reports, information, search and arrest orders, etc.), but also of stolen documents (books, publications, personal correspondence, documents of organizations) or of statements made during interrogations that disrespected both the penal codes (duration of the interrogation, time of interrogation, presence of witnesses, etc.) and human rights (physical and psychological torture). Their information is obtained through legal and illegal actions, including physical and psychological violence.

With regard to the content of the documents, the information they contain is obtained through legal and illegal actions, including physical and psychological violence. They are the product of borderline situations, where intolerance is a vital part of the system. Moreover, this documentation is permeated by practices widespread and legitimized by authoritarianism, such as whistleblowing and false testimonies, which often generates inaccurate information. (BAUER, 2009).

As Knauss explains, archives are a record of another time, but also a construction of contemporary ways of promoting memory:

(They are) a record that we live in another time that is different from previous ones. In the archives, the encounter with our time is organized by the rupture with the past and not by continuity. In the difference of times is that we realize our own historicity. (KNAUSS, 2012).

According to the theory of the life cycle of documents, the stages of life of a document are current, intermediate and permanent. Current documents are those that served at the instant of the present, necessary for the realization of an action. The waiting period for carrying out actions arising from the decision entered

in documents characterizes the intermediate phase of their life. The permanent phase is the memory of the action produced and consummated; in this phase the documents gain "new activities" and "new uses" (KNAUSS,2012). Throughout their lives, the documents remain as the same material support for information, but it is their meaning that undergoes transformation - they cease to carry actions of the present and begin to carry actions of the past. Thus, the archives of the political police, which were born to persecute citizens, considered enemies of the state, today are instruments of guaranteeing the rights of citizens against the same state:

It is the same paper, the same material support and the same content, but its *raison d'être* in society has changed in the face of the presence of the past. Its meaning has changed, because society and its institutions have changed, substituting old structures for others. The same papers thus gain new interest, which implies new uses. In this way, political police documents are recognized as sources from another time, thus locating the past. Their diffusion and publicity reaffirm our historical differences and attest that we are in another time in which the relationship between the State and the citizen has been transformed. Its preservation attests to the transformation of society. (KNAUSS, 2012).

And it is precisely through and thanks to the transmutation of the documents contained in the archives of repression that a significant part of the reparatory dimension of the Brazilian transitional process is developed. The analysis of political amnesty requests based on Law 10.559 of 2002 is based precisely on the recontextualization of the document, which gains a meaning different from the one initially foreseen, and it is up to the Amnesty Commission to examine the requests made and verify the possibility of granting the request.

The Amnesty Commission functions as a deliberative body, since, through the opinions and votes of its counselors, it analyzes the processes of reparation for political persecution, approves or rejects the requests and determines the amount to be compensated to the applicants. The reparation process before the commission begins with a request formulated by the former victim, who must present a type of dossier containing a narrative of the persecution and, when possible, evidence of the political persecution of which he claims to have been a victim.

In order to illustrate the recontextualization of documents and the possibility of new uses for them in their permanent phase, the following example is taken



Theodomiro Romeiro dos Santos' application for political amnesty with the Amnesty Commission.

#### **4 Theodomiro Romeiro dos Santos' documents and reparation for the persecutions suffered**

Theodomiro Romeiro dos Santos was a member of the Revolutionary Brazilian Communist Party (PCBR), whose main proposal was to be a new Marxist party that would reformulate the traditional line of the Communist Party of Brazil. From April 1969, the PCBR engaged in urban armed operations, especially focused on revolutionary propaganda. The 1969 crackdown reinforced the party's clandestine nature: the first bank robbery by the party in Rio de Janeiro resulted in the arrest of hundreds of militants.<sup>5</sup>

Theodomiro, age 18, was arrested on October 27, 1970, by agents of the Destacamento de Operações de Informações - Centro de Operações de Defesa Interna (DOI-CODI) and accused of infringing the National Security Law and the Military Penal Code. He was sentenced to death by unanimous vote of the Military Justice Council, decision of 14 June 1971. The Military Superior Court commuted the death penalty to life imprisonment, as he was under 21 years of age at the time of the facts. On March 7, 1975, the Federal Supreme Court reduced the penalty to life imprisonment for 30 years.

He was serving time in Lemos de Brito Penitentiary in Bahia, but before the 1979 Amnesty Law was enacted, on August 28 of the same year, Theodomiro escaped, taking refuge abroad. The escape was reported by his cellmate Haroldo Lima in correspondence addressed to then Senator Teotônio Villela, members of Congress, amnesty movements, the press, and the people in general,

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<sup>5</sup> For more details, see MIRANDA, Nilmário; TIBRCIO, Carlos. *Dos filhos deste solo: mortos e desaparecidos políticos durante a ditadura militar, a responsabilidade do Estado*. São Paulo: Editora Fundação Perseu Abramo, 2008.

in Salvador, he undertook the search for his freedom." <sup>6</sup>. He returned to Brazil only in 1985.

Theodomiro's case generated enormous repercussion at the time of the facts:

Theodomiro Romeiro dos Santos became famous for being the first Brazilian sentenced to death in the republican era, by a military court supported by the draconian National Security Law established by the dictatorship. [...] His condemnation by the Military Justice ended up being, in fact, a strong reason for human rights groups all over Europe to start a campaign against the situation of political prisoners in Brazil. He was politically protected (JOSÉ, 2004).

In 2011, Theodomiro Romeiro dos Santos submitted an application to the Amnesty Commission (BRASIL, 2011), requesting the declaration of the condition of political amnesty and the counting of service time for retirement purposes, as provided in Article 1, item III of Law No. 10.559/2002.<sup>7</sup> To support the request, the commission was presented with documents from the three criminal cases in which Theodomiro was the defendant:

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<sup>6</sup> Full text of the letter available at <http://novo.fpabramo.org.br/content/carta-de-haroldo-lima>. Last accessed on 15 August 2013.

<sup>7</sup> A Lei n. 10.559/2002 estabelece o seguinte regime de direitos aos anistiados políticos: Art. 1º O Regime do Anistiado Político compreende os seguintes direitos: I - declaração da condição de anistiado político; II - reparação econômica, de caráter indenizatório, em prestação única ou em prestação mensal, permanente e continuada, asseguradas a readmissão ou a promoção na inatividade, nas condições estabelecidas no caput e nos §§ 1º e 5º do art. III - counting, for all purposes, of the time during which the political amnesty holder was compelled to leave his/her professional activities due to punishment or a justified threat of punishment, for exclusively political reasons, with no requirement for the payment of any social security contributions; IV - completion of the course, in a public school, or, failing that, with priority for scholarships, as of the interrupted school term, for those punished as students, in a public school, or registration of the respective diploma for those who have completed courses at teaching institutions abroad, even if there is no corresponding course in Brazil, requiring for this purpose the diploma or certificate of completion of the course at an institution of recognized international prestige; and V - reinstatement of civil servants and public employees punished, for interruption of professional activities as a result of a decision by the workers, for joining a strike in public service and in essential activities of interest to national security for political reasons.

1. Case no. 61/70 dealt with the sentencing of Theodomiro, by unanimous vote, to the death penalty, on March 25, 1971, as a violator of article 33, paragraphs 1 and 2 of Decree-Law 898, of September 29, 1969, combined with article 79 of the Military Penal Code, by the Justice Council of the Audit of the 6th Military Judicial Circuit in Salvador, composed of the military officers Vicente de Magalhães Moraes, Adail Coaraci de Aquino, Armando Regueiro Taboada, Eros Afonso Reimann Franco, Amilcar Cardoso de Menezes Filho. Later, with appeals to the Military Superior Court and the Federal Supreme Court, the death penalty was commuted to life imprisonment and 30 years of reclusion, respectively;
2. The Audit of the 6th Military Judiciary Circuit in Salvador, in the Process n. 6/71, sentenced Theodomiro to two years in prison for "communist activities, linked as they were to the Brazilian Revolutionary Communist Party, a dissidence of the Communist Party of Brazil, always aiming to subvert the order or the political and social structure in force in our country" (Brazil, 2011). The sentence was increased to three years and six months of imprisonment, with an accessory penalty of suspension of political rights for a period of five years, by the Military Superior Court on May 14, 1976, confirmed by the Federal Supreme Court on March 6, 1979;
3. Case no. 3/71 established the conviction of Theodomiro by the Audit of the 6th Military Judiciary Circuit, along with other companions, on April 20, 1972, to 17 years in prison and the additional penalty of suspension of political rights for 10 years. The Military Superior Court reduced the prison sentence on 9 October 1972 to 15 years' imprisonment and maintained the suspension of political rights.

The documents in question were produced by the political police, the Public Ministry and the Judiciary. These organs qualified Theodomiro as a *subversive* and *terrorist* who "intended to subvert the regime and the political and social order, within the strategy and guidance of the international communist movement, using the techniques of the new type of war, the revolutionary war, which threatens everyone and reaches everyone" (BRASIL, 2011). These same documents were used, almost forty years later, to support the request for reparation for the persecutions

suffered by Theodomiro to the Amnesty Commission: if initially they were produced to condemn him, to frame him in criminal types to subject him to the death penalty and later to life imprisonment; in its permanent phase, these documents suffered a transmutation and gained "new uses", now consistent with the Democratic State of Law, reinstated by the Federal Constitution of 1988.

The case under analysis shows that the archives of repression are endowed with a specificity, called "boomerang effect": the documents produced by the political police and other organs of repression serve for different and opposite activities to the purpose it was initially produced. Elaborated to coordinate repressive actions, they can be used to compensate victims for arbitrariness and violations to their rights (BAUER, GERTZ, 2009).

In this sense, the Amnesty Commission's decision on the request in question states that "Theodomiro was the target of intense persecution by the Military Justice bodies" (BRASIL, 2011) and cites the decision of the Superior Military Court and the position of its president, Valdemar Figueiredo Costa, on the conviction: "the death penalty is not to be discussed. It is part of our laws and can perfectly well be applied. (BRAZIL, 2011). At the end of the decision, the Amnesty Commission states that "the political persecution suffered by the Applicant as grounds for granting the declaration of political amnesty provided for in Law 10559/2002 is amply proven" (BRASIL, 2011). It thus decides that Theodomiro is entitled to the declaration of the condition of political amnesty and makes official on behalf of the Brazilian State a request for official apology and counting of service time, for retirement purposes.

Every testimony or every document requires a recontextualization to be meaningful (ROUSSO, 1996). The documents reveal nothing by themselves; they reveal according to the logic of the agents who use them. The construction of truths leads to focus on the analysis of agents who mobilize around the documents, who confront discourses, who build versions about this past, who legitimize their testimonies and who conquer spaces (CATELA, 2009). For the Judiciary, Theodomiro carried out criminal activities:

...with the deliberate and conscious purpose of subverting and changing, by force, by violent processes and with substantial material aid, support and subsidy from foreign organization, identified in the Party

Brazilian Communist Revolutionary (P.C.B.R.) the political and social order of our country (BRASIL, 2011).

For the Amnesty Commission, Theodomiro was affected by acts of exception, exclusively politically motivated and, therefore, he received an official apology for the persecution he suffered - public recognition of the mistakes made by the State. As Fico (2012) states, amnesty requests are composed of corroborative documents gathered by the victims and constitute a peculiar documentary collection, since each process is a kind of "antidossiê," the reverse side of the political police dossiers. The reparation proceedings before the Amnesty Commission allow for another form of justice, since they constitute the version of those who were spied on, arrested, and tortured, and not only the version of those who spied on, arrested, and tortured.

The amnesty request in question was analyzed in a session of the Amnesty Commission held during the 51st Amnesty Caravan, on September 30, 2011, in the city of Recife, Pernambuco, where Theodomiro lived and worked as a Labor Judge at the time. The Amnesty Caravans consist of itinerant public sessions for the consideration of political amnesty requests accompanied by educational and cultural activities, promoted by the Amnesty Commission of the Ministry of Justice. Among its objectives, they aim at decentralizing the regular sessions of the Amnesty Commission held ordinarily in the federal capital. They are held in an itinerant manner, traveling to places in Brazil where political persecution occurred and ensuring broad participation of civil society in official reparatory acts (ABRÃO, *et ali*, 2009).

The act was widely reported in the local press.<sup>8</sup> On the occasion, the commission heard a public statement from the petitioner, who stated that this moment was the "recognition by the Brazilian State that the struggle that the opposition waged against the military dictatorship was a just and necessary struggle for the establishment of democracy in the country."<sup>9</sup>

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<sup>8</sup>C. Eliomar. "Amnesty Caravan Judges Lawsuits in Recife." *O Povo Newspaper*. Available at: <http://blog.opovo.com.br/blogdoeliomar/caravana-da-anistia-julga-processos-no-recife-na-lista-geral-do-azevedo>. Accessed on 12 August 2013.

<sup>9</sup>Part of Theodomiro's speech, during the session of the Amnesty Commission on September 30, 2011, is in the documentary "I Remember", by director Luiz Fernando Lobo. The film uses archival footage and interviews to reconstruct the struggle of some of those persecuted by the Civil-Military Dictatorship, who seek

In 2013, Theodomiro received a tribute from the Association of Magistrates of the Labour Justice of the 6th Region (AMATRA VI), which highlighted the "personal, professional, and political trajectory of retired labour judge Theodomiro Romeiro dos Santos, [...] who, before becoming a magistrate, was a political activist during the military dictatorship, arrested and sentenced to death" (ANAMATRA VI, 2013): "the labour magistrates of Pernambuco are proud to have as a co-worker and friend, a person like Theodomiro, for his sense of justice, libertarian and revolutionary spirit." (ANAMATRA VI, 2013).

## 5 Conclusion

Theodomiro Romeiro dos Santos is no longer a terrorist and subversive, who threatened the stability of the Nation: he is a political amnesty, after public recognition, with apology for the mistakes the State made. The conquest of the archives of repression by the victims of political persecution, as in this case, has fundamental importance for the development of the reparatory dimension of the Brazilian justtransitional process. These spaces - the archives of repression - should be understood as territories of memory (CATELA, 2009), in which there is a dispute of visions of the past. Their diverse uses allow the consolidation of the Brazilian transitional process, strengthening the dimension of Reparation to victims, but also ensure the broad construction of a new Truth.

It is the idea of time (OST, 2005) that can help to understand how the same documents that once served to condemn, today serve to amnesty and change the *status* of criminal to hero of democracy, because resistant to authoritarianism: "time, even past, is never acquired: it always requires to be instituted and reinstituted" (OST, 2005:60). In another moment, the same author explains that memory is always social, not individual, and that far from proceeding from the past, it operates from the present. It is the anamnesis that will create the legal institution of social time. That is why it is so important to reinstitute the time of the civil-military dictatorship in order to do justice, rescue memory, and reveal the truth.

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reparation for the memory and truth of that period. Luiz Fernando accompanied the Amnesty Caravans for five years. The project was funded by the Amnesty Commission's "Marks of Memory" public notice, which aims to promote events and projects focused on this remarkable period in Brazilian history.

Two reflections are required when the future intends to alter the past, as in the present case of the documents that once served to condemn Theodomiro and today serve to amnesty him. The first refers to the theme of social memory rather than individual memory. The second reiterates the concept of time and its relationship with democracy. Thus it is that the memory referred to in the right to memory is always social, because when it comes to the public sphere, a space where social struggles are waged, and a space also where resistance to the dictatorial regime as well as political persecution took place, memory has ceased to be an aspect of the individual life of citizens to be the memory of a given community. It can also be argued that individual rights themselves have long since ceased to be mere antisocial selfishness to become rights to be exercised in the public sphere. This means that the memory to be instituted of Theodomiro's trajectory, the case studied in this text, goes far beyond the individualized life of Theodomiro, but encompasses the entire community that directly or indirectly related to him.

In the second reflection, it should be clarified that linear time, with the past followed by the present, and the present preceding the future is a mere illusion, created by the limitation of the human capacity to apprehend the many dimensions and possibilities already revealed, for example, by the studies of quantum physics. For the purposes of this work, time is, as OST states, "a social institution"; "initially, and before all, a social construction - and, therefore, a challenge of power, an ethical demand and a legal object" (2005:12). In this sense, the time built based on the references of a Democratic State of Law imposes that the constitutional principles of freedom and equality are conceived as respect for minorities, even if dissenting or discordant with the majority that is exercising the formal power; as respect for differences, including divergence of thought. All and any right arising, created or exercised in this time follows the same references. Therefore, the interpretation and anamnesis of this time have the same bases. This is the authority of the reinstitution of the time of the civil-military dictatorship and especially of the resistance to the authoritarian acts of that Brazilian state, experienced by citizens like Theodomiro.

In the current, and hopefully permanent, Democratic Rule of Law experienced by Brazil, the recontextualization of the repression archives should not cause surprise. It is one more consequence of the reinstitution of that time, a dark and tenebrous time, marked by authoritarianism and absence of law; this

new, ventilated by the democratic winds, based on respect for the other with all the its complexities, differences, freedoms and in particular the presence of law.

## 6 References

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