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Cover image

Photograph by Franz Krieger, dated April 30, 1938. Image of the Burning of Books by the Nazi Youth in Salzburg (Austria). Image available in Google Images.

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PRESENTATION

We have reached the fifth issue of *Cadernos do NUPPOME*. Similarly to previous issues, in addition to tips on research sources, editorial and artistic novelties on memory policies, the magazine publishes a new interview, as well as a short text for reflection on the ruptures and continuities of authoritarianism in democracy.

The interviewee for this issue is Professor Eneá de Stutz e Almeida, who was a Counselor of the Amnesty Commission from 2009 until 2018. The text, on the role of the military, thinking about their actions from democracy to pandemic, was written by Anaís Medeiros Passos, political scientist and professor at UFSC. My thanks to both, for their availability and contribution to the magazine, and especially to Pedro Henrique Correia de Andrade, NUPPOME's volunteer scholarship holder, who participated in the realization and revision of the interview.

With this brief presentation, the Center for Research on Memory Policies (NUPPOME) registers its condemnation of the way the Amnesty Commission has been treated since 2019. Years of serious and essential work have been arbitrarily undone by a management committed to denialism.

Regarding the pandemic that affects us and, unfortunately, is spreading, we reiterate the obvious and necessary: Stay at home. Take care of yourselves. Save lives.

For the rest, we wish you all a good read!

Greetings,
Carlos Artur Gallo
Coordinator of NUPPOME

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NUPPOME

INTERVIEW

Eneá de Stutz e Almeida

***Professora da Faculdade de
Direito da Universidade de
Brasília - UnB.***

***Doutora em Direito pela UFSC,
foi Conselheira da Comissão
da Anistia entre 2009 e 2018.***



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Cadernos do NUPPOME - Professor, you have an academic trajectory in the area of Law, having conducted research on other themes before focusing your analyses on transitional justice studies. How and when did your interest in themes linked to transitional justice and the period of the civil-military dictatorship in Brazil (1964-1985) arise? ¹

Eneá de Stutz e Almeida - Strictly speaking, it started before I had a notion of what transitional justice was. I used to teach Civil Law, and one of the topics I needed to address with the students, back in 2004, 2005, was civil responsibility, including of the State. And while preparing classes and examples, I came across the issue of political amnesty and reparation. Soon after, in 2009, when I arrived in Brasília, I was simultaneously invited to join the Amnesty Commission, and there I deepened my studies and research.

In relation to the theme of the civil-military dictatorship, however, my interest is much older. In fact, I was not even aware that there was a dictatorship in Brazil. I was born in 1965, a little more than a year after the coup d'état. And neither in my family, nor in the circle of people with whom I lived, until practically adulthood, was this theme addressed. I really had no idea what was happening in Brazil at that time. Not even when I started my law degree at the State University of Rio de Janeiro (UERJ) in 1983 did I have this notion properly. I was a very uninformed and alienated adolescent. However, at that same time, my experience in a Protestant church (the Presbyterian Church of Brazil) that had once been progressive, but since the coup had become

¹ Interview conducted by Carlos Artur Gallo and Pedro Henrique Correia de Andrade, in May 2020.

deeply conservative and aligned to repression, paradoxically ended up guiding me to ecumenical youth groups, and through some staff training meetings, I had access to information about what had happened in Brazil and met some former political prisoners. From then on I was introduced to the literature available at the time, like the book *Brasil Nunca Mais (Brazil Never Again)*, and I began to see things that were before my eyes, but I could not see them because I did not have the tools to do so. Once they were given to me, I not only used them, but never left them aside and this became a central theme for me.

Cadernos do NUPPOME - Between 2009 and 2018, you were one of the members of the Amnesty Commission, being its Counselor. How were you integrated into the Commission's work team? How do you evaluate your participation in the entity? We assume that being rapporteur of reparation processes for victims of the dictatorship is not a simple task.

Eneá de Stutz e Almeida - The appointment of advisors has always been, by legal provision, the prerogative of the holder of the ministerial portfolio where the Amnesty Commission is located. Until the beginning of 2019, it was in the Ministry of Justice. Since then, it has been in the Ministry of Women, Family and Human Rights. While at the Ministry of Justice, the practice was that the President of the Commission, after consulting the Council of the Commission, would request the Minister of State to appoint this or that person and, until 2014, these requests were met. The participation of all the Board Members has always been an important unpaid public service. Thus, in principle, there is no great obstacle to having a greater or lesser number of Councilors, since there is no budgetary change.

My participation in this Commission has changed my life. In every way. And every time I talk or think about it, I get very emotional. It was precisely because of what I learned from all the other Councilors and especially from the Applicants that I began to dedicate myself to researching this topic. It was during this period that I really got to know Brazil and its more recent history. It changed my academic and also my personal life, because it is impossible to remain indifferent to so many stories of both the struggle for a more just and egalitarian world and, at the same time, so much cruelty, persecution, and pure evil.

Not only reporting the cases but also participating in the trial sessions were Herculean tasks. At the end of the day the emotional stress was enormous! Crying and emotion were constant feelings. For a period, until 2015, these feelings were accompanied by much hope and confidence that we were collaborating decisively to build a more just Brazil. It was with great pride, another permanent feeling, that we affirmed that Brazil would never again be a State of Exception. We did so as a State Commission, which is the Amnesty Commission. This was always the most exciting moment, because it was full of all that hope and new meaning to all the suffering that the now amnestied politicians had gone through. It is indescribable. Magical moments of transformation of reality and of the lives of many people, including, always, all of us Councilors. It was worth every tear, every extra white hair, every weight felt in the body, every muscle pain when reading and listening to the accounts of the victims or the victims' relatives, because finally, after years and years of waiting, there was the recognition that those people had not suffered in vain. They had been considered and treated as criminals, eventually tortured physically and psychologically, despised many times even by their own families, but they were now recognized as true heroes and heroines of Brazil, because they had sacrificed themselves so that today we could have a democratic country. And they received this recognition from the State

Brazilian. The same country that had previously persecuted, now acknowledged its mistake, asked for forgiveness and guaranteed that it would no longer persecute anyone. Not that person, nor any other person in Brazil. That is why it was a crucial moment in the Brazilian transition: because it was the guarantee of non-repetition. The construction of our social memory, of a new identity of the Brazilian people, as a people that wants to be built within the parameters of justice and equity, and with democratic values. Unfortunately, after 2015, hope began to give way to perplexity, at first, and fear, soon after, that all the previous trust and construction could suffer setbacks. And these setbacks began to happen at the very beginning of 2016, and since then it has only gotten worse.

Cadernos do NUPPOME - In general, from the time of submission to judgment, how were the amnesty requests submitted to the Commission processed?

Eneá de Stutz e Almeida - Any person who believed to have been persecuted by the Brazilian State between 18 September 1946 and 5 October 1988, or a family member in case the person had already passed away, could request a declaration of political amnesty. As a consequence of this declaration, there could be other forms of reparation, including economic ones. In order to present this request, it was only necessary to protocol the request at the Ministry of Justice. The request should be made in writing, but no lawyer was required. The petitioner could write in his own handwriting or could be represented by any other person, both in writing the petition and in all the acts of the administrative process, and likewise this representative did not need to have a bachelor's degree in law. The application could be filed in person or by mail. If the person had proof of the allegations, such as, for example, certificates issued by public security agencies or the Judiciary Branch proving imprisonment or completion of sentence, or even documents from the employer or newspaper reports proving dismissal for strike action, he or she should attach these documents. If they did not have any documents, which was quite common, since in a State of Exception the documents that prove persecution are not usually available to anyone, the Commission itself would search different institutions, public and private, to try to understand the history of that person.

Many people mistakenly saw the Commission's actions as an improper defense of the Claimants' rights. But this view is mistaken because this was not an ordinary, common administrative proceeding. It is part of the task of the Amnesty Commission, which, as stated before, is a State Commission, not a governmental one, to find and reveal the truth of the facts, and to help build the memory of our country. In addition to providing reparation in legal terms. Thus, two of the dimensions of Transitional Justice were carried out by the Amnesty Commission: memory/truth and reparation.

After the necessary steps had been taken, the trial was scheduled, in the chronological order of the protocol's entry, but also taking into account the receipt of the necessary information from the eventual steps. On the scheduled date, the case was submitted to a session of appreciation in the first instance of the Commission, which were the Trial Panels. If there was new evidence to be produced or any dissatisfaction on the part of the Applicant, there could be an appeal to the Plenary Session of the Commission, which was the second and final instance. A new trial was held and the vote was sent to the Minister of Justice, who published an ordinance with the result (dismissal, approval or partial approval), followed by the reparation. In the case of economic reparations, the person had to apply to the Ministry of Justice.

Planning and awaiting the receipt of the amounts. And any other remedies (such as enrollment to complete university studies or some rectification in birth certificates) should be provided by the Applicant himself at the relevant places with the published ministerial ordinance.

A very important feature to note is that all sessions were public, at all stages. This was unique in the world, as other Amnesty or Reparations Commissions could have public parts, but the deliberation of the Councilors was reserved, as in a Jury Council, which withdraws for the debate and decision. In the Brazilian Amnesty Commission, no. All the discussion and decision parts were audio-recorded and public, and sometimes became heated. The international community always stressed this unique quality of the Brazilian Amnesty Commission.

Cadernos do NUPPOME - The Amnesty Commission, especially with the Caravans that traveled throughout all regions of the country between 2008 and 2016, carried out important work related to reparations for victims of the dictatorship. In August 2016, even before the definitive removal of President Dilma Rousseff, changes began to be made in the composition of the Commission, at a time when Vice President Michel Temer was still occupying the interim Presidency of the Republic. For what reason did the interim president intervene in the Commission?

Eneá de Stutz e Almeida - In fact, the changes in the composition only occurred after the conclusion of President Dilma's removal from office. With the Senate trial concluded, some Councilors felt uncomfortable staying on the Commission and asked to resign. Others were dismissed. Everything was published in the Official Gazette on the same day, if I am not mistaken, at the end of August 2016. This occurred a couple of days after the inauguration of Michel Temer as President of the Republic. The Minister of Justice was Alexandre de Moraes, currently Minister of the Supreme Court. The then Minister of Justice reformulated the entire structure of the Commission's staff and appointed several new Councilors to compose the Commission. A curious fact is that the Amnesty Commission had a very good relationship with Minister Alexandre. He showed great respect for the Commission and its task. Other servants of the Ministry, not so much. The people who had just arrived at the Ministry (new employees and new Counselors) didn't have the slightest notion of what the Amnesty Commission was. It took almost a semester for the Commission to meet again and consider the applications. And unfortunately, most of the civil servants and new Councilors did not understand, or did not want to understand, the nature and task of the Amnesty Commission, and little by little it began to be mischaracterized.

Cadernos do NUPPOME - What is the impact of the changes in government after the 2016 coup in the activities of the Amnesty Commission? Can it be said that the changes implemented by the current government are the continuity of a rupture that began in the Temer government (2016-2018)? How do you evaluate, today, the possibilities for the Commission to carry out its mission autonomously?

Eneá de Stutz e Almeida - The main impact of the changes after the 2016 coup was the reformulation of the Commission's structure. The then-executive secretary of the Ministry of Justice was the same person who is now the Attorney General of the Union. A coincidence, isn't it? I had the impression that he understood the Amnesty Commission as a common administrative, governmental commission. So he began to treat it as such, and it no longer had the necessary operating requirements to act as a State Commission. Even because of the continuity of several of the former Council members in the current administration, as well as the coincidence of this same character today

as Attorney General of the Union, I believe it is possible to understand that the dismantling and decharacterization began in 2016 and continues to this day. By the end of 2016, the Commission had already lost any kind of autonomy. And it has gotten much worse, because the ministerial management and the composition of the Commission since the beginning of 2019 do not even admit that there was a State of Exception in Brazil. The Applicants, with some frequency, are called terrorists during the sessions of consideration of their requests before the Commission. It is very sad.

Cadernos do NUPPOME - After five years since the publication of the Final Report of the National Truth Commission and the end of its activities, which occurred in December 2014, do you think that the Brazilian National Truth Commission has accomplished its task?

Eneá de Stutz e Almeida - This is a rather difficult question to answer. Because we need to examine it with care and perspective. It is very important that we have the Final Report of a State Commission with the conclusions and recommendations that were made. It is incredible that it has only been five years, because it seems like it was in another era!

Five years ago there was a great deal of frustration, because we understood that some powers that the legislation granted to the NTC should have been used, such as, for example, the mandatory conduct of people who were lucid and had participated in important events for the clarification of many episodes, but who refused even to recognize the existence and legitimacy of the NTC. I remember a situation revealed by the press at the time, of a member of the military who, invited to appear before the Commission, wrote in his own handwriting on the summons that he did not collaborate with terrorists, and that was that. Of course, anyone could refuse to speak, but to be disrespected in this way and have nothing happen gave a feeling that the NTC itself was not being respected. Finally, there was the conclusion with the Final Report and the recommendation that the work of memory and truth should not cease. In part, both the Special Commission on the Dead and Disappeared and the Amnesty Commission continued this task at an early stage (throughout 2015 and early 2016).

But reflecting on this today, in 2020, with so many setbacks in the field of human rights, I must affirm that it was fundamental to have this Final Report and this National Truth Commission, because we can say with all the letters that the Brazilian State recognizes that there was a State of Exception starting in 1964, that is, there was a coup d'état, there was torture, there was persecution, there was kidnapping, there was murder, there was massacre, and more than eight thousand Brazilians died for actions of the State. It was not just a little more than four hundred, as is repeated. Of course that would already be absurd, but there were more than eight thousand! Because those little more than four hundred only include victims that were not indigenous or peasant. And the indigenous people alone numbered more than 8,000! But since we still don't consider indigenous people and peasants to be people, we refer to "only" the urban ones, which are those little more than four hundred.

Isn't it incredible, not to say appalling, that we need an official State document to affirm that we had a dictatorship in Brazil, and that it was very bad? In times when public authorities affirm that the Earth is flat, that Nazism was a leftist regime, and barbarities of this kind, I understand that the work of the National Truth Commission was fundamental and that it did indeed accomplish its task!

Cadernos do NUPPOME - Studies on transitional justice mechanisms have identified that they vary significantly from one context to another, both in terms of their format and in terms of the results produced. Compared to its neighbouring countries in the Southern Cone, which also underwent civil-military dictatorships aligned with the precepts of the National Security Doctrine (NSD) during the Cold War, Brazil seems to have been the country with the greatest difficulties (in the region) in carrying out justice related to crimes committed by political repression. What helps explain this situation? Does the dictatorship's intervention in the Judiciary have anything to do with the difficulties in dispensing justice today?

Eneá de Stutz e Almeida - I have some hypotheses to explain this phenomenon. Our history, in Brazil, is told as if we were a happy, welcoming and cordial people. We even have some founding myths to give identity to our people that go in this direction. I believe that in part, our Lusitanian heritage has contributed to these miscegenation characteristics, unlike our Hispanic neighbors. And, consequently, to the characteristics of mixing and welcoming. However, unlike our neighbors, we have always been so oppressed here, that none of the popular uprisings resulted in anything other than death and massacre. Let's see: all Latin American countries had independence struggles and became republics, even as a form of rupture with the Spanish monarchy. And we, did we not have struggles for independence? Of course we did, duly massacred and silenced. Our independence happened without so much as a curse being uttered on that September 7th, 1822! It was just a declaration by a... Portuguese! Son of the King of Portugal and who proclaimed himself the Emperor of Brazil! We didn't become a republic, but we remained a monarchy. And from then on we continue on the same trajectory, that is, we forge a social memory in the flesh of the Brazilian people that all popular demands will be duly suffocated and massacred, and only when it is interesting for those who hold power to "meet" popular demands will this occur. This is a very important difference between Brazil and its neighbors.

I mean that while in other countries the population demanded action as soon as the dictatorships ceased, in Brazil we do not even have a consensus on when the dictatorship began and when it ended. After all, did the dictatorship begin on March 31 (when the first troops effectively left the barracks), April 1 (when the civilian population was surprised by the coup), or April 2 (when the National Congress decreed the vacancy of the Presidency of the Republic, which legally allowed the President of the Chamber to be sworn in and then pass power to the Military Junta)? And when did it end? In 1985, with the convening of the Constituent Assembly? Or in 1988, when the Constitution was promulgated? And today we have a government that does not even admit that there was a dictatorship, as something bad, nefarious.

For all this and many other elements that it would not be possible to develop here, strictly speaking, we never had a rupture until last year. In a manner taken over by the State, I mean. Because the Supreme Command of the Revolution, back in April 1964, said that it was guaranteeing democracy and that it was leaving the barracks to respond to the clamor of the population that did not want a dictatorship (according to them, that of the proletariat, that is, of the communists). In other words, they affirmed (they affirm until today, in fact) that they were not breaking with the legal order. Legality, incredible as it may seem, was one of the most important claims of the Exception regime in Brazil. A similar phenomenon happened in 2016. No rupture. No coup. Just compliance with the law. Everything within the legal order. So it has been, until this federal government. Because the current President of the Republic has already manifested himself, more than once,

stating that until his government it was one way, but now it has changed. In other words, before he was one way and now it is another way, because he means rupture. He has even claimed that he is the very embodiment of the Constitution! No military government has ever done that. It is the first time that the rupture has been affirmed!

The Judiciary is one of the Powers of the State. It is within this context that I have developed. Most of the magistrates in Brazil until today belong to the wealthiest classes of the population. They are dynasties, in many cities. Almost all of them are white, male, urban, heterosexual, Christian and so on. Most believe that we are this cordial, welcoming and peaceful people. Of course, as long as those who are under some kind of oppression and prejudice recognize their place, are grateful and do not want to establish disorder.

In addition, we have the problem of the formation of law courses. It is a long story that I will not be able to develop adequately here. But to try and simplify matters, legal professionals understand that they should not mix professional activity with political activity. There should be a technical activity and that is all. As if this were possible! But this is the mentality. Before this stage, which has gone so far backwards that we need to prove that there was a State of Exception, the greatest difficulty was to make the Judiciary understand that it has a role to play in transitional justice. But even the magistrates do not know what transitional justice is. And they do not want to know. And when they do hear about it, they say that it has nothing to do with them.

Today I do not see the slightest condition for anyone to be held accountable, because, on the contrary, we see public authorities treating torturers as heroes, and nothing happens.

Cadernos do NUPPOME - In April 2020, it was ten years since the trial of the Appeal for breach of fundamental precept (ADPF) No. 153 by the Federal Supreme Court (STF). The decision, which upheld the understanding that the Amnesty Law (Law No. 6.683/1979) had reciprocally granted amnesty to victims of the dictatorship and agents of repression, has direct repercussions on the possibilities of achieving justice related to crimes committed by the authoritarian regime and, as is well known, goes against the understanding of the Inter-American Court of Human Rights on the subject. In the judgment of ADPF no. 153, the majority of the ministers of the STF issued a position to the effect that the realization of the right to memory and truth was feasible without the guarantee of the right to justice. What do you think about this? What is the role of the judiciary in transitional justice?

Eneá de Stutz e Almeida - My understanding is that the STF's decision in ADPF 153 was that Law 6683/79 was received by the Federal Constitution. And that is all. The decision in the case proposed before the Supreme Court refers exclusively to what we call in Law control of constitutionality. Trying to simplify, the Federal Supreme Court, which is the only body in Brazil that can decide on the constitutionality or not of any rule or act, was asked whether or not the Amnesty Law, which was promulgated in 1979 and was never formally revoked, was in force. When a new Constitution comes into force, as happened most recently in 1988, there is no need to repeal all legislation containing any provision contrary to it. This revocation is automatic because the Constitution is the most important and most valuable legal norm in Brazil. Most of the legislation continues in force normally, because it does not contradict the new Constitution in any way, and no pronouncement is necessary either from the Legislative or from the Judiciary in this respect. And in this case, of continuation of the validity of the laws, we say that the law has been

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received by the Constitution. Sometimes a doubt arises in relation to a certain legal norm, whether or not it was approved by the Constitution. This was the case with the Amnesty Law. The Federal Council of the Brazilian Bar Association (OAB) filed a lawsuit to have the STF exercise constitutionality control, "asking", through ADPF, whether or not the Amnesty Law had been received by the Constitution of 1988. And the answer was positive, that is, the Constitution did indeed approve Law 6683/79, that is, it is in force. And only. This was the decision, and it could not be otherwise, because that is what the control of constitutionality is for.

It so happens that the votes, which are the decisions of each judge, need to be substantiated, and in the reasoning of various Justices, there is this type of reflection, for example: that there was a broad, general, and unrestricted amnesty; that there was a national agreement to put an end to the dictatorship; that the political amnesty of 1979, of Constitutional Amendment 26/85, which called for the Constituent Assembly and even the Constitution of 88 mean amnesia, forgetfulness, and not anamnesis, memory. But this understanding is in the grounds, and not in the decision. This is technically important, because what compels compliance is the decision, and not the reasons (fundamentos) of the decision. Despite the fact that this judgment is not yet over, because there are still some appeals to be heard, which means that it has not become final and unappealable, the decision is still valid, that is, nobody can say that Law 6683 is not in force. And that is all that can be said. From there to saying that affirming this validity *means that* everyone has been granted amnesty, that no torturer can be prosecuted, and so on, is something else. What this validity means was not *decided* by the STF. It was only decided that there was reception. This is the control of constitutionality.

The Inter-American Court of Human Rights is the court created by the Organization of American States (OAS) to judge compliance with the American Convention, which is also called the Pact of San José de Costa Rica. It is the system of protection of Human Rights in our continent. This Court *is not* a foreign court. The STF itself, twice recently, has declared that the Court is part of the Brazilian jurisdiction. And just as the STF performs constitutionality control, the Court performs conventionality control, that is, it evaluates whether Brazil (or any other signatory country of the American Convention) is complying or not with the Convention. The cases submitted to the Court are always against a signatory country. Thus, in November 2010, Brazil was condemned in the Gomes Lund et al. v. Brazil case, determining that the Brazilian state should prosecute and try human rights violators from the period of the dictatorship beginning in 1964.

In an attempt to summarize, I have already stated in various texts that the decision in ADPF 153 does not prevent the realization of the right to memory, the truth, and administrative, civil, and criminal accountability of the perpetrators of human rights violations during the dictatorship. On the contrary, the Judiciary (through the Inter-American Court of Human Rights, which is part of our national jurisdiction, as the STF affirms) says exactly the opposite!

As for the role of the Judiciary in Transitional Justice, there would be much to say. I have just drafted, together with my Research Group, an opinion on a suspension of injunction within a Popular Action that was filed by a federal deputy against the commemorative note of the 31st March, published on the Ministry of Defence website in 2020. In the opinion, we consider the actions of the Powers in Transitional Justice: the Legislative, has already been a protagonist when it drafted the Constitution and also the infra-constitutional laws. The Executive, although hesitant, has also acted by creating the State Commissions (Special Commissions on Deaths and Disappearances, Amnesty and National Truth Commissions). However, until today the Judiciary has pretended that it is not to decide anything about this period, that it is better not to talk about the subject, that it was

the period of dictatorship, but that's water under the bridge. In other words, it decided not to decide. And this Popular Action case is an excellent opportunity for the Judiciary to manifest itself in the sense that there was a coup d'état in 1964 and from there followed a state of exception that cannot be repeated. So that it will not be repeated, we need to follow the paths of Transitional Justice, which has never been so important and current! It is now up to the Judiciary to be the protagonist of this task.

This opinion, if anyone is interested in reading it, as well as reflections on the possibility of holding human rights violators accountable and related issues, are available on our research group's website: www.justicadetransicao.org

Cadernos do NUPPOME - How do you currently evaluate the balance of transitional justice in Brazil? Is it possible to evaluate, at this moment, the impact of the Bolsonaro government on the measures that have been implemented? What are the perspectives for the implementation of memory policies in the current conjuncture?

Eneá de Stutz e Almeida - The balance is quite precarious. As I said before, we have experienced what I call a *reverse transitional justice* since 2016. That is, we had made advances, but they were lost. We had made a lot of progress on reparations, on memory and truth, and we were trying to start working on accountability and reform of the institutions. But, unfortunately, these advances have already been lost to a large extent, and may be even more so. And these losses are mainly due to the current government. Reparation, which is conducted by the Amnesty Commission, has been totally distorted by the new composition, full of those who state all the time that there was no dictatorship, but a revolution, and that the applicants are terrorists and therefore deserve nothing from the State. Almost all the published decisions of the Amnesty Commission, since last year, are rejections. The Special Commission on Deaths and Disappearances was also disfigured by the current government, with the exchange of most of its members, in order to make the Commission's work and, consequently, the task of memory and truth, unviable.

The outlook is the worst possible. This government is a government that has neither past nor future, in the sense that it denies the past and has no project for Brazil. It has no memory and no promise, as an author I like a lot says (François Ost). It does not follow up on what was built before, it affirms a rupture by the simple will of the ruler, it affirms that it does not know if it will build anything because first it will destroy everything that was done. He is going to erase any memory and is not even concerned about building another one. It's just destructive. There is no project. That is very sad. It is the emptiness of meaning. Not that creative emptiness, which allows plurality of constructions, of experiences and meanings. But the sterile void, which forbids life and memory, abhors tradition and despises hope. It is only death and destruction. Then see what it intends. For now, only to destroy the state. In every field and in every way. If reparation, which is regulated by law and had been implemented, is suffering so many setbacks, imagine only memory, which is ignored not only by the government, but also by much of the Brazilian population? Memory policies in Brazil will only happen again under another type of administration. Not in the current one.

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CONSIDERATION S ON MEMORY, TRUTH AND JUSTICE

PERSPECTIVES ON THE ROLE OF THE BRAZILIAN MILITARY: DEMOCRACY IN THE FACE OF PANDEMIC



Anaís Medeiros Passos

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The pandemic of COVID-19 is a global phenomenon of enormous gravity, which has so far claimed the lives of more than 589,688 people around the world.² It is an emergency, above all, a health emergency, that is, one that affects the scope of health policies. However, national responses have reinforced the security dimension of the state apparatus. Population control devices have been disseminated in countries like Poland, South Korea and Australia in order to ensure control of the virus (TREGUER, 2020). In Latin America, the security responses have widely used the military, pointing to a health crisis management not only

² World Data. Available at: https://ourworldindata.org/covid-deaths?country=~OWID_WRL

Accessed: 16 June 2020.

security, but also militarized. During the COVID-19 pandemic, the Armed Forces in countries such as Argentina, Bolivia, Peru, Nicaragua, El Salvador, Mexico and Brazil have acted in non-military roles such as assembling field hospitals, distributing food and medicine, transporting patients, managing civilian hospitals, producing medicines and medical supplies and, in some cases, participating in administrative positions for crisis management and acting as police officers to ensure compliance with social isolation measures (RESDAL, 2020).

These practices, which are spreading at a global level, point to a public policy management that takes as necessary the use of military force to solve social and economic issues (ENLOE, 2000). In other words, they are militarized public policies. The exceptional dimension of the health crisis gives the current moment the qualification of "critical juncture". Collier and Munck (2017) define the term as a crucial episode of institutional innovation that generates a lasting legacy. It is a moment in which previously existing structures relax, allowing innovation. Generally, the

critical juncture emerges from major social and political changes in the **15** scope (MAHONEY; THELEN, 2010). The definition of critical juncture does not necessarily is incompatible with the strengthening of previously existing trends, which, given the exceptionality of an exogenous crisis, can overcome groups that are normally opposed to its intensification.

In the article "Crisis politics", the authors Aguiton, Cabane and Cornilleau (2019) warn that the contemporary period is characterized by a state of endless crisis that tends to echo alarmist proposals. The attacks of September 11, 2001 are an example of the capacity of a crisis to generate political consequences on the normalization of emergency and exception practices. Crises are seen as laboratories for political reforms. In this perspective, the reference to a state of exception can facilitate the implementation of authoritarian political measures, with the aim of ensuring the achievement of short-term political goals. Given its exceptional characteristics, the pandemic may intensify trends towards the militarization of public security and the constabularization of existing armed forces.

A second theoretical issue that deserves our attention concerns the balance between civilians and the military in a democracy, which is ensured through the

political subordination of the military to democratically elected authorities. This situation is different from an ideological control of the incumbent president over the military. In countries such as Venezuela and Bolivia, the subordination of the Armed Forces was consolidated from the adherence of the military to the ideological project of the government, generating the politicization of this institution (JÁCOME, 2014). The definition of civilian control that interests us implies the consolidation of a series of checks and balances on military power, ensuring that the latter's influence is limited to external defense. It is not a matter of merely subordinating the military to presidential wills, but of making it a "state institution" that is dedicated to its professional issues (HUNTINGTON, 1957).

It is certain that, historically, the military in Latin America played a crucial role in the construction of Latin American states in the post-independence period (ROUQUIÉ, 1984). Unlike European countries in which the Armed Forces ceased to participate in domestic affairs with the consolidation of national borders, the Latin American military remained active domestically. Subsequently, the

Armed Forces have modernized with foreign missions and, in countries such as the **16** Brazil, were the most organized institutions in the national territory. Throughout the centuries In the 19th and 20th centuries, the Brazilian Army carried out a series of activities, such as the control of police and fire departments, the construction of roads and bridges, the distribution of medicine and food to poor populations, etc. (MCCANN, 2004), which are different from Huntington's conception that the professional military is the one that does not get involved in domestic affairs.

Despite the historical roots of military involvement within national borders, such involvement can be problematic on two levels. The first is from a human rights perspective and the second is in terms of mission accomplishment effectiveness. The cognitive skills developed by military training and police training are radically different (CAMPBELL; CAMPBELL, 2010). While military training aims at annihilating an external threat quickly and using any level of force, police action is against individual legal deviations and is guided by principles of legality, necessity and proportionality in the use of force. Adaptations of the military role to the police role imply losses in efficiency and increase the possibility of abuses and deviations.

Research shows that when the military conducts police activities that involve very close contact with the citizenry, abuses and violations occur (PASSOS, 2020; PIONBERLIN, 2017). Furthermore, military missions tend to be more effective according to their attachment to the military's prior training for its primary function of external defense (ACÁCIO, 2020).

In Brazil, military activities to combat the COVID-19 pandemic have intensified since the publication of Ordinance No. 1,232 of the Ministry of Defense (03/18/2020), which guided the formation of joint commands in each military force to promote actions against the pandemic in support or in replacement of health and public safety agencies (GRIGOLI; SILVA; MIGON, 2020). According to official information, we have 34,000 military personnel, 29000 of which belong to the Army, involved in these actions. This number is higher than the Brazilian Expeditionary Force during World War II (LIMA, 2020).

The actions of the Brazilian military against the pandemic of COVID-19 concern following areas: border control, medical care, logistics functions, industry

defense, public safety and social awareness activities.³The military, which **17** already possess police power at the borders, intensified security in the areas border and waterway traffic surveillance. It is estimated that over 800 border actions have been conducted by the Armed Forces since March 2020. Regarding medical care, the Brazilian military has assisted in the triage of COVID-19 suspects in hospitals, in the assembly of campaign hospitals and in influenza vaccination campaigns. Regarding logistical functions, we identified the distribution of food, alcohol gel and masks, the decontamination of hospitals, public roads, airports and the repatriation of Brazilians. According to official sources, 1.5 tons of food have been distributed since the beginning of the actions. For its part, the defense industry has directed efforts to the production of masks, hydroxychloroquine and alcohol gel. Social awareness activities on isolation measures have been recorded in inland cities of Rio Grande do Sul, while support to law enforcement agencies to set up health barriers to isolate municipalities is also limited. While activities such as border defense, medical care and functions

³ The evidence was collected from the Brazilian Army website dedicated to actions against COVID-19: <http://www.eb.mil.br/web/noticias/noticiario-do-exercito/>-. Accessed: 21/07/2020.

However, as the logistical and logistical systems rely on organizational skills previously developed by the military, policing, when carried out on a large scale, can generate abuses and violations and should therefore remain a restricted activity to ensure civilian control over the military.

In addition to conducting technical tasks, Brazil's health crisis management is characterised by intense military participation. From the point of view of civil-military relations, this task is the most problematic. Since his election in October 2018, the incumbent president has appointed a number of military personnel to head ministries that is unprecedented since the end of the military regime in 1985. For example, President Sarney had six military ministers (1985- 1990), while the current government is composed of nine military ministers, who occupy the following ministries: Civil House, Government Secretariat, Ministry of Science and Technology, Institutional Security Cabinet, Ministry of Defense, Mines and Energy, Comptroller General of the Union and Ministry of Infrastructure. From

four ministries located in the Planalto Palace, which have an eminently political profile, three are occupied by military personnel from the Armed Forces and¹⁸ one by a military police officer. Furthermore, it is important to note that Brazil is, in

Latin America, the country with the highest level of militarization in the administration of the crisis (PASSOS; ACÁCIO, 2020). In mid-May, an Army General Eduardo Pazuello took over the Ministry of Health on an interim basis, and has so far appointed approximately 25 military personnel to occupy positions in the portfolio (LIMA; CARDIM, 2020).

In relation to the COVID-19 pandemic, it is certain that the Army Commander, General Edson Leal Pujol, sought to distance himself from the position of President Jair Bolsonaro, who minimized the severity of the disease on repeated occasions, by stating that this is perhaps "the most important mission of our generation" (GIELOW, 2020). At the same time, this "brake" movement on some presidential actions encounters certain obstacles, as was the case of the elimination of a document from the website of the Army Center for Strategic Studies (CEEEx), which advocated the adoption of severe measures of social distancing, in opposition to the presidential stance.

Even if the need to separate the military's individual participation in government from its institutional participation is a point of concern for some officials

military⁴ , this differentiation is increasingly fragile with the incorporation of active duty officers to occupy the highest level of government. The Armed Forces are an institution with a higher level of cohesion than civilian agencies, due to the very nature of the functions they perform. Military institutions resemble total institutions (GOFFMAN, 1974), since the socialization of their members, as in convents and prisons, occurs in isolation from the outside world. Celso Castro observes that the differentiation between military and civilian identities is crucial in the training of students at the Academia Militar das Agulhas Negras (AMAN) - the institution responsible for the basic training of active-duty officers in the Brazilian Army (CASTRO, 2004). Therefore, even if support for the current government among members of the Armed Forces is not unanimous, the image that is projected to society is that the military are in the government. As several analysts have already pointed out, this may compromise the prestige of the military in society.

The massive participation of military personnel in the government signals a politicization "from below

above" the institution, which may compromise the hierarchy in the Armed Forces. In addition to the

ministerial functions previously noted, the Court's latest survey of **19** Accounts of the Union indicated that 6,157 active and reserve military personnel hold positions in the

government (REZENDE, 2020). Instead of a civilian control of the Armed Forces, we seem to be moving towards a political control through ideological convergence between the military and the government, which is close to the modality that was consolidated in Venezuela during the government of Hugo Chávez.

The COVID-19 pandemic requires coordinated actions by all state agencies. The Armed Forces are no exception. First, I would like to emphasize that police activities that involve close contact with citizens, of wide geographic and temporal duration, are bound to be abused and must be avoided. On the other hand, participation in crisis management may bring less visible results in the short term, but has the potential to weaken civilian control of the military in the long term. Brazil is a counterintuitive case because it has unprecedented military participation in government, but there has not been the installation of a state of exception, as was the case in

⁴ Interview with General Fernando Goulart, 13/02/2020, Brasília. Interview with General Eduardo Barbosa, 2/28/2020, Rio de Janeiro. Interview with Army Major, 31/01/2020, via Skype. Interview with General Santos Cruz, 02/13/2020, Brasília. The interviews are part of the project article by Rafael Villa and Anaís Passos, "South American Peacekeepers: is the Demand for Politics Arising?"

other countries in Latin America, nor the massive employment of the military on the streets in the country to date.

The Brazilian Armed Forces have assumed a variety of tasks in addition to or as a substitute for health and security authorities. The activities of logistics, support to health agencies and border monitoring are highly efficient, as they are anchored in the previously existing organizational capacities of the Armed Forces. On the other hand, the military's political intervention in the crisis tends to intensify the politicization of the institution and weaken civilian control over the military. Thinking about the legacy of the pandemic for the Latin American region, the hypothesis is of the reinforcement of previously existing historical trends of militarization of the police and constabularization of the Armed Forces. The post-pandemic future, therefore, will likely be more guarded and monitored by experts in the management of violence.

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NEWS ON MEMORY, TRUTH AND JUSTICE



Heroines of this history: women seeking justice for family members killed in the dictatorship

Carla Borges & Tatiana Merlino (Org.)
São Paulo: Autêntica, 2019.

This book presents the life story and struggles of 15 women whose relatives were killed by the Brazilian dictatorship. The preface was written by psychoanalyst Maria Rita Kehl and the entire editorial project was carried out by women.

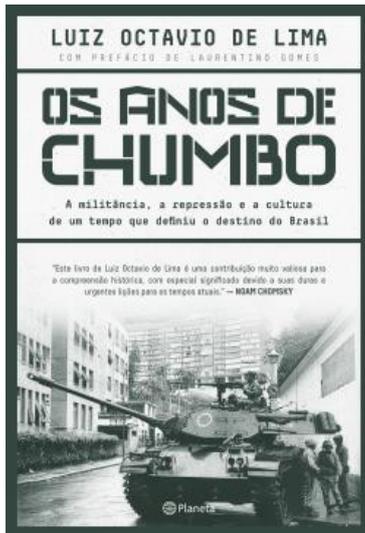
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"Death to the PIDE!" The fall of the political police of the Estado Novo

António Araújo
Lisbon: Tinta da China, 2019.

Written by Portuguese historian António Araújo, the work provides an overview of how the political police responsible for repression during the Estado Novo regime was dismantled and persecuted after April 25th 1974.

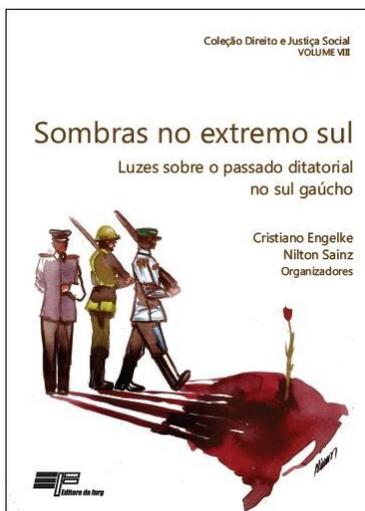


The years of lead: the militancy and culture of a time that defined the destiny of Brazil

Luiz Octavio de Lima

São Paulo: Planeta do Brasil, 2020.

Written by journalist Luiz Octavio de Lima based on interviews with personalities of the time and extensive literature review on the subject, the work presents an overview of the 21 years of dictatorship in Brazil.



Shadows in the Far South: Lights on the dictatorial past in southern Rio Grande do Sul

Cristiano Engelke & Nilton Sainz (Org.)

Rio Grande: Editora da FURG, 2019.

Collection that brings together studies that rescue the different ways in which the Brazilian dictatorship impacted the southern region of the country, with a focus on the inland cities (Zona Sul) of Rio Grande do Sul.



Red Sun

Film directed by Benjamín Naishtat
Argentina, 2019.

Set in a country town in pre-coup Argentina in 1976, it portrays how authoritarianism and fear advance everyday life even before a violent dictatorship begins.

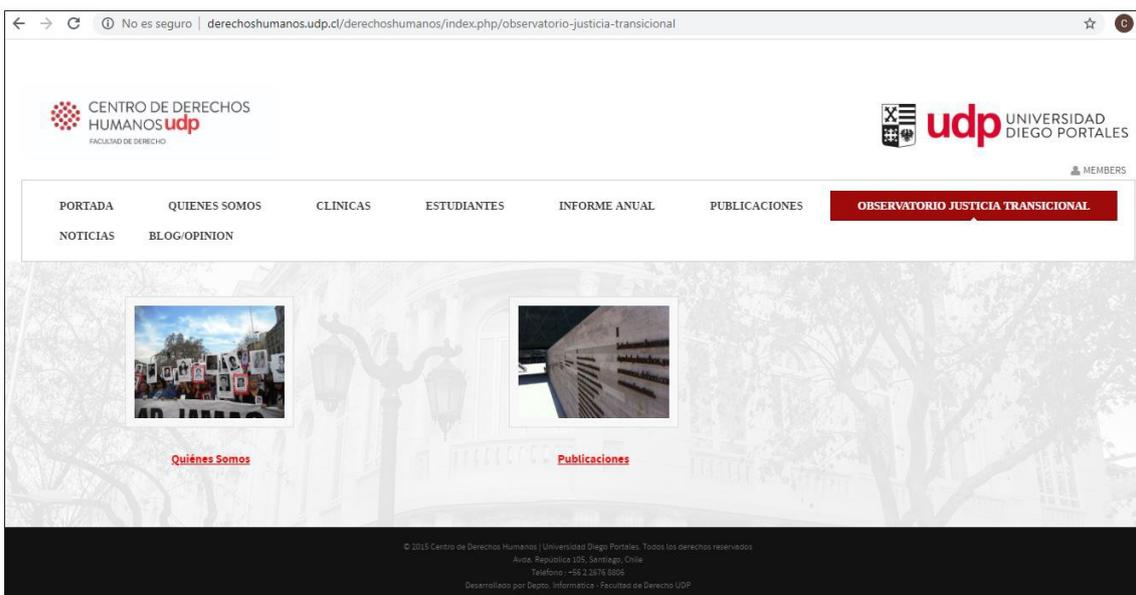
OBSERVATORY FOR TRANSITIONAL JUSTICE

Created in 2011 and linked to the Law School of the Diego Portales University (UDP) in Santiago, Chile, the Observatorio de Justicia Transicional (OJT) is composed of a team of Chilean and foreign researchers. Formerly called the Observatorio de Derechos Humanos (Human Rights Observatory), OJT's main objective is to monitor the realization of the right to memory, truth, and justice regarding the crimes committed by the Chilean civil-military dictatorship (1973-1990). On its *online* platform, it is possible to access documents and reports, as well as updated data on the progress of the trials for crimes against humanity that have been held in the country. Each year, the OJT team writes a thematic chapter for the annual report on human rights in Chile produced by the UDP's Centro de Derechos Humanos.

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Available at:

<http://www.derechoshumanos.udp.cl/derechoshumanos/index.php/observatorio-justicia-transicional>



Source: Image from the site's home page.

MEMORY, TRUTH AND JUSTICE IN PICTURES

STUDENT PROTEST IN PORTO ALEGRE

On August 23, 1980, dictator Jorge Rafael Videla, member of one of the Military Juntas that governed Argentina during the civil-military dictatorship (1976-1983), was in the city of Porto Alegre, in Rio Grande do Sul, for the reinauguration of a square (called "Argentina") that had undergone renovations. The solemnity, which was also to be attended by the Brazilian dictator-president, João Baptista Figueiredo, was cancelled at the last minute due to the large student mobilization that took place in the middle of the dictatorship. Organized by university and high school students, the protests against the visit of the Argentine dictator to the State Capital were harshly repressed, but nevertheless maintained and victorious.



MEMORY, TRUTH

Source: Damião Ribas/RBS photograph, published in a report by Zero Hora newspaper.



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