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TRANSFORMATIONS OF THE BRAZILIAN POLITICAL SYSTEM

BRUNO MELLO SOUZA, CARLOS ARTUR GALLO

INTRODUCTION

From an institutional point of view, since the second half of the 1980s, Brazil has rebuilt its political system, gradually coming closer to practices typically associated with the liberal-democratic regime (existence of a competitive party system, freedom of opposition, promotion of regular elections, some civil and political rights guarantee, etc.). The reconstruction of political institutions in the country and their reconnection with the democratic system were carried out during a long political process of transition, which began in 1974, during the civil-military dictatorship in Brazil. The end of the authoritarian regime in the country, which lasted from 1964 to 1985, did not mean, however, an immediate restoration of democracy, nor the end of practices and norms established and/or impacted by the dictatorship.

Considering that, this chapter has as its main objective to draw an overview of the transformations that took place in the Brazilian political system after the end of the civil-military dictatorship and carry out a diagnosis, identifying the advances, setbacks and challenges present in the country's political sphere. Therefore, the analysis is divided in five sections. The first two sections focus on the historical background of the 1964 coup and the main characteristics and impacts of the dictatorship on the Brazilian political system. The third section presents an overview of the process of transition to democracy in the country, identifying how it occurred and paying attention to its particularities. The fourth section identifies how and when the new Brazilian political institutionality was established, and identifying its main characteristics. In the last part of the chapter, an assessment is made of the advances that the end of the dictatorship made possible in regard to the Brazilian political system and its limits.

HISTORICAL BACKGROUND OF THE 1964 COUP

The construction of a democratic regime in recent Brazilian political history refers directly to the context of the political transition initiated in 1974. This does not mean, however, that democratic mechanisms have only been incorporated into the Brazilian political system from the last decades of the 20th century onwards. On the contrary, although quite limited, a previous (liberal) democratic experiment was carried out in the country between 1946 and 1964, in an international context marked by the defeat of European Nazi-fascism and, internally, by the end of the authoritarian experience of the “Estado Novo”¹ (1937-1945), commanded by Getulio Vargas.²

Before approaching how the new democratic institutional-ity and its main characteristics emerged, it is interesting then, for a better understanding of the antecedents of the Coup that deposed President João Goulart (1961-1964) and started a dictatorship that lasted more than two decades,³ to contextualize the

period of the “liberal” experience undertaken between the 1940s and 1960s in the country.

In general terms, the Republic of 46, as the phase of republican history that began with the end of the “Estado Novo” dictatorship is commonly called, and is characterized by: a) establishing Executive-Legislative relations in which the National Congress had superior agenda powers than those of the president, demanding broad negotiations for the government to approve his measures; b) structuring a plural party system with a tendency towards nationalization, considering national parties; c) experiencing a new national-developmental phase marked, on the one hand, by the deepening of the country's industrialization and, on the other, by a greater opening to foreign capital; d) for the maintenance of labor rights granted during the 1930s and 1940s; e) holding regular elections.⁴

In practice, relations between powers during the post-1946 period were quite tense, with elected officials having great difficulty in implementing their political agenda. Elections were held regularly, and the electoral calendar was obeyed until the 1960 presidential election. The promotion of elections, however, does not mean that everything went undisturbedly. On the contrary, most presidents elected during the period were subjected to high resistance before their inauguration. The succession of President Jânio Quadros, who resigned from office in August 1961, even generated an unprecedented crisis in order to guarantee the inauguration of his Vice President, João Goulart.

1 The dictatorship of the “Estado Novo” was an authoritarian regime commanded by Getulio Vargas between 1937 and 1945. Close to the European corporatist models of the 1920s and 1930s, this dictatorship was marked by the concentration of powers in the hands of President Vargas, by the closing of Parliament, by the prohibition of the existence of political parties, for the repression of opponents of the regime, especially sectors associated with communism, and, at the same time, for the expansion of social rights of the working class and for the economic modernization of the country. On the period after 1930 and on the “Estado Novo”, see: Capelato, Maria Helena, “O Estado Novo: o que trouxe de novo?”, in Jorge Ferreira, Lucília de Almeida Neves Delgado, eds., *O Brasil Republicano: o tempo do nacional-estatismo: do início da década de 1930 ao apogeu do Estado Novo*, V.2, Rio de Janeiro: Civilização Brasileira, 2003, 107-143; and: Gomes, Angela de Castro, “Oitenta anos de Estado Novo ou quando o Brasil era grande e ia dar certo”, in Luciana Murari, Tatyana de Amaral Maia, Antonio de Ruggiero, eds., *Do Estado à Nação: política e cultura nos regimes ditatoriais dos anos 1930*, Porto Alegre: EDIPUCRS, 2018, 19-47.

2 Tavares de Almeida, Maria Hermínia, “O Estado no Brasil contemporâneo: um passeio pela história”, in Carlos Ranulfo Melo, Manuel Alcántara Sáez, eds., *A democracia brasileira: balanço e perspectivas para o século 21*, Belo Horizonte: Editora UFMG, 2007, 17-37.

3 It would be impossible, in addition to evading the objectives of this chapter, to address rigorously the context of crisis in which the 1964 coup took place. An appropriate overview on the subject can be found in: Napolitano, Marcos, *1964: história do regime militar brasileiro*, São Paulo: Contexto, 2014.

4 Santos, Fabiano, “A República de 46: separação dos poderes e política alocativa”, in Carlos Ranulfo Melo, Manuel Alcántara Sáez, eds., *A democracia brasileira: balanço e perspectivas para o século 21*, Belo Horizonte: Editora UFMG, 2007, 39-72.

When President Jânio Quadros resigned, there was an intense mobilization of sectors of the Armed Forces who, supported by conservative sectors inside and outside the National Congress, were against the inauguration of João Goulart and tried to prevent it. The movement called “Campanha da Legalidade” (Legality Campaign), initiated in the state of Rio Grande do Sul and articulated by the Governor Leonel Brizola, added a strong popular mobilization demanding obedience to the Constitution that led to the Vice President inauguration. However, the Brazilian political system was modified, starting to adopt the form of parliamentary government until 1963.

Even though the 1950s saw an increase in the national-developmental project, major buildings, such as the construction of the new capital, it increased the country’s indebtedness. Regarding to the party system established in 1945, with the resignation of Vargas and the formation of the Constituent Assembly that drafted the 1946 Constitution, it is a fact that it was not nationalized in a balanced way in all regions of the country,⁵ and, furthermore, its openness to pluralism proved to be restricted in the short term, once the Communist Party was declared illegal in 1948. It is true, however, that the new party system represented a great advance in terms of the characterization of the experience as being democratic and liberal because, after all, since the beginning of the Republic, in 1889, it had not been put into practice in the country as a structure like the one created at the end of the “Estado Novo”.

In the early 1960s, and especially during the period of the João Goulart government, a political crisis developed. It is in the understanding of this crisis in the liberal-democratic experience, increased by the resignation of President Jânio Quadros in 1961 and combined with factors of an external order that will be addressed in sequence, so part of the antecedents of the 1964 Coup can be found.

THE CIVIL-MILITARY DICTATORSHIP (1964–1985)

The civil-military coup, carried out between March 31 and April 1st of 1964, interrupted the liberal-democratic experiment implemented in Brazil in the post-World War II context. In general terms, the Brazilian civil-military dictatorship initiated after the deposition of President João Goulart is marked by the following characteristics: a) ideological alignment with the United States foreign policy for Latin America, that is, the assimilation of the National Security Doctrine (DSN), which aimed to combat the (supposed) advance of communism in the region and to establish a new pattern of economic modernization;⁶ b) full control and/or temporary closure of existing institutions to impose the new order; c) creation of new political institutions with the purpose of establishing an apparent normality.

One of the arguments used by the sectors involved in the coup to legitimize the intervention in the political sphere was the instability experienced in the period, which was marked, among other factors, by large social demonstrations in favor of the reforms promised by the Government (the Base Reforms) and by polarization between progressive sectors and sectors opposed to those measures.⁷

From an institutional point of view, the dictatorship in the country subverted democratic rules, trying to simulate, during its long duration, some degree of “democratic normality”. It is no coincidence, in this sense, that the National Congress operated

with some regularity (although it was closed in times of crisis of the authoritarian regime), there were regular elections for the composition of the Legislative Power, there was a party system established, and even there was alternation in the Executive Power, as the presidents of the Republic were elected by the Electoral College. However, the party system at that time was created (by the Institutional Act No. 2, of 1965) after the extinction of the system established by the Republic of 46. In other words, the dictatorship imposed a new institutionality. Inspired by the North American system, as it aimed to set a bipartisanship in the country, the new arrangement forced such a situation, since there were only two political parties: National Renewal Alliance – ARENA (government base in Congress) and the Democratic Brazilian Movement – MDB (consented opposition).

Regarding the application of the DSN, it made possible the persecution of any and all opposition to the authoritarian regime. On the one hand, it is a fact that anti-communism was not a novelty instituted by the dictatorship, since the hunt for communists had already been part of Brazilian politics since the 1930s.⁸ On the other, the internalization of the DSN was responsible for establishing a new standard in the fight against “subversion”, since it considered as a potential internal enemy any element that was minimally deviant from the regime’s ideology.⁹ Thus, in order to contain the advance of communism in the region, which had been strengthened from 1959 onwards, considering the Cuban Revolution, the dictatorship persecuted anyone (regardless of being a communist or not).

As a result of the political repression practiced in the name of National Security, there were a set of massive violations of human rights, including persecutions, imprisonments, tortures, killings, kidnappings and exile of thousands of citizens.¹⁰ Along with the repression, the dictatorship carried out the intended economic modernization. Usually remembered as the “economic miracle”, this modernization was responsible, in fact, for the unprecedented growth of the Brazilian economy and for the accomplishment of great works. The miracle, however, intensified inequalities in the country, as it deepened the concentration of income and generated an external debt that would take decades to be overcome.¹¹

From a regional perspective, for the countries of the Southern Cone, it is important to note that the dictatorship in Brazil is

5 Nicolau, Jairo, “Partidos na República de 1946: velhas teses, novos dados”, in *Dados*, 2004, (47), 1.

6 See: Martins, Luciano, “A ‘liberalização’ do regime autoritário no Brasil”, in Guillermo O’Donnell, Philip Schmitter, Laurence Whitehead, eds., *Transições do regime autoritário: América Latina*, São Paulo: Vértice / Revista dos Tribunais, 1988, 108-139; and: Padrós, Enrique Serra, “Repressão e violência: segurança nacional e terror de Estado nas ditaduras latino-americanas”, in Carlos Fico et al., eds., *Ditadura e democracia na América Latina: balanço histórico e perspectivas*, Rio de Janeiro: Editora FGV, 2008, 143-178.

7 Napolitano, Marcos, *Op. cit.*

8 Motta, Rodrigo Patto Sá, *Em guarda contra o perigo vermelho: o anticomunismo no Brasil (1917-1964)*, São Paulo: Perspectiva / Fapesp, 2002.

9 Padrós, Enrique Serra, *Op. cit.*

10 See Gallo, Carlos Artur, “O Cone Sul entre a memória e o esquecimento: elementos para uma comparação”, in *Revista Debates*, 2017, (11), 3, 57-78. More details about the different sectors affected by repression can be found on Comissão Nacional da Verdade, *Relatório Final*, Brasília: CNV, 2014.

11 Prado, Luiz Carlos Delorme, Earp, Fábio Sá, “O ‘milagre’ brasileiro: crescimento acelerado, integração internacional e concentração de renda”, in Jorge Ferreira, Lucília de Almeida Neves Delgado, eds., *O Brasil Republicano: o tempo da ditadura: regime militar e movimentos sociais em fins do século XX*, V.4, Rio de Janeiro: Civilização Brasileira, 2003, 207-241.

the first in a series of authoritarian regimes that, in line with the DSN, were established through civil-military coups. In this sense, one can mention the dictatorships in Uruguay (1973–1985), Chile (1973–1990) and Argentina (1976–1983).

THE PROCESS OF TRANSITION TO DEMOCRACY (1974–1985)

In 1974, anticipating the exhaustion of the regime's economic project (which would be interrupted, among other factors, by the international oil crisis) and also the strengthening of the consenting opposition, the new Dictator-President, Ernesto Geisel, started the process of "slow, gradual and safe" transition.¹² The highly controlled process of transition to democracy in the country was carried out until March 1985, when the last of the dictator-presidents, João Figueiredo (1979–1985), ended his term.

It is important to highlight that the transition in Brazil did not occur in a linear way. On the contrary, the long process, lasting more than a decade, is marked by moments of dispute between the regime and the opposition, and even between different sectors of the support base of the authoritarian regime, which were not favorable to the end of the dictatorship.¹³ Disputes aside, the control of the process remained, hegemonically, in the hands of the government, which gradually liberalized the regime, as it had been planned, before 1974, by the Geisel-Golbery alliance.

In a very objective way, the gradual opening of the dictatorship can be observed based on the following events: 1) the repeal of AI-5, in December 1978, reestablishing civil and political rights that had been suspended in December 1968; 2) the edition of the Amnesty Law (Law No. 6.683/1979) which, apart from the discussions on the impunity of repression agents, allowed the gradual release of political prisoners and the return of exiled ones to the country; 3) Law No. 6.767/1979, which ended bipartisanship, allowing the creation of new parties and generating a "moderate multiparty" system, since parties on the far left of the political spectrum, such as a communist party, were not registered at this time.

Regarding the Amnesty Law, specifically, it is interesting to highlight the role it plays during and after the transition to democracy and was completed in the country. During that period, because it was used by the authoritarian regime as an instrument of control over the course of political opening. After that, because its effects reverberate to the present day. After all, its edition guaranteed, on the one hand, a partial concession to the demands of civil society that was organized in the struggle for amnesty, and, on the other, a victory for the sectors responsible for the repression, which obtained, through an ambiguous law, their impunity guaranteed in the short, medium and long term.¹⁴

Another aspect that deserves to be noted when analyzing the transitional process in Brazil is that it occurs in an international context marked by various transition processes, such as the ones that happened in Europe or in the region itself. For example, regime change in the country took place along with the collapse of dictatorships in Portugal, Spain, Argentina, Chile and Uruguay. Deeply analyzed by the research agenda known as "transitology", the process that took place in Brazil was classified as a "negotiated transition", being associated with the cases of Spain, Chile and Uruguay (despite the differences), countries in which the groups formerly in power had a great capacity to control the change of political regime.¹⁵

THE NEW CONSTITUTIONAL ORDER AND THE TRANSFORMATIONS IN THE BRAZILIAN POLITICAL SYSTEM

An important chapter in the process of transition to democracy was the election of the first civilian to the Presidency of the Republic since the occupation of power by the civil-military coalition responsible for the 1964 coup. This election took place indirectly, in January 1985, at the Electoral College. In the election, Tancredo Neves (representing the opposition to the dictatorship) ended up victorious, obtaining 480 votes to 180, in the dispute against Paulo Maluf (also a civilian, but candidate of the authoritarian regime). According to Cruz Júnior¹⁶, the elected candidate brought with him a "triple hope": (1) to make Brazil a full democracy; (2) to attenuate the impacts of the economic crisis; and (3) to promote social justice in a context marked by extreme inequalities. However, health problems that culminated in the death of the elected candidate (in April 1985) prevented him from taking office. In this scenario, the Vice-President elected, José Sarney (1985–1990), took office on March 15 of 1985, putting an end to more than two decades of military in power. After Sarney's inauguration, the reconstruction of the democratic institutionalism in the country advanced, despite of the persistent economic difficulties faced. However, it is noteworthy that his government was marked by strong ambiguities in relation to the continuities-ruptures regarding the authoritarian period.¹⁷

In May 1985, through a Constitutional Amendment, direct elections for mayors of cities that until then were considered Areas of National Security were reestablished. In addition, the Amendment made requirements more flexible for the formalization and registration of political parties in the country. Its most important prediction, however, was the convening of the National Constituent Assembly (ANC). It is interesting to note that these domestic events took place in an international scenario marked, among other facts, by the collapse of the Soviet Union, the consolidation of democracy as a value of leftist movements around the world, and the strengthening of the struggle for human rights on a global scale.¹⁸

The ANC was formed by 559 congressmen that took office in on February 1, 1987, and its work lasted about a year and a half, until the promulgation of the new Constitution in October 1988.¹⁹

12 Arturi, Carlos S., "O debate teórico sobre mudança de regime político: o caso brasileiro", in *Revista de Sociologia e Política*, 2001, (17), 11–31.

13 Arturi, Carlos S., *Op. cit.*, and: Gugliano, Alfredo Alejandro, Gallo, Carlos Artur, "On the ruins of the democratic transition: Human Rights as an agenda item in abeyance for the Brazilian democracy", in *Bulletin of Latin American Research*, 2013, (32), 3, 325–338.

14 Gallo, Carlos Artur, Gugliano, Alfredo Alejandro, "Political memory, authoritarian legacies, and the quality of democracy: considerations for a comparison between Brazil and Argentina", in *Revista del CESLA*, 2020 (25), 251–276.

15 Arturi, Carlos S., *Op. cit.*; and: O'Donnell, Guillermo, Schmitter, Philippe C., *Transições do regime autoritário: primeiras conclusões*, São Paulo: Vértice / Revista dos Tribunais, 1988.

16 Cruz Júnior, Ademar Seabra, "Constituinte e democratização no Brasil: o impacto das mudanças do sistema internacional", in *Lua Nova*, 2013, (88), 217–256.

17 Moisés, José Álvaro, *Os brasileiros e a democracia*, São Paulo: Editora Ática, 1995.

18 Cruz Júnior, Ademar Seabra, *Op. cit.*

19 A detailed approach to the subject can be found in: Rocha, Antônio Sérgio, "Genealogia da Constituinte: do autoritarismo à democratização", in *Lua Nova*, 2013, (88), 29–87.

GRAPH 1 – SATISFACTION WITH THE REDUCTION OF SOCIAL INEQUALITIES (%)

Response	%
Satisfied	6.0
Dissatisfied	70.0
Neither satisfied, nor dissatisfied	21.6
Don't know / Didn't answer	2.4
Total	100

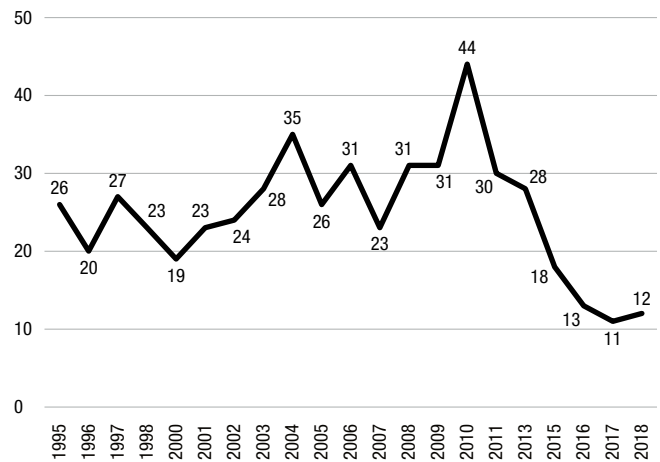
Source: Produced by the authors based on ESEB data (2018).

It should be noted, however, that the drafting process of the Constitution was marked by disputes, especially between President Sarney and Ulysses Guimarães, President of the ANC. While Guimarães defended the construction of a democratic institutional framework, Sarney aimed to establish a liberalization process, more restricted in a democratic point of view. There was, however, a consensus on some fundamental rights, of a social, political and individual nature. Based on the Universal Declaration of Human Rights, an attempt was made to guarantee individual freedoms and minimum social conditions so that Brazilians could enjoy a dignified life.

Objectively, the new constitutional text ratified a series of institutional changes that were being made in the transition context, certainly increasing its democratization. Widely regarded as the most advanced republican constitutional charter in the history of Brazil, its text includes the guarantee of individual and collective rights.²⁰ Considering that, many people refer to the 1988 Constitution as a “citizen Constitution”, adding the term “citizen” to the foundation of the legal-institutional system is symptomatic. After all, citizenship, in modern terms, is only possible within the framework of a legitimately established constitutional system. It occurs that, in the transition from a 21-year dictatorship to a new stage in the national political history, it made sense to point out, discursive and objectively, the obvious. From a discursive point of view, the new constitutional order called for the defense of basic civil and political rights as a starting point for a new moment. From an objective point of view, the new Constitution is repeatedly recognized as one of the most detailed in the world, having exhaustively provisions on basic rights and guarantees.

Among others, the Constitution guaranteed the right to health and education, established the bases for the creation of the Unified Health System (SUS), reinforced the Republican and presidential model as the form of government to be maintained (in 1993, a plebiscite was held that ratified presidentialism), guaranteed multipartyism de facto and de jure (excepting separatist and nazi-fascist-inspired parties, all ideologies can constitute political parties in the country) and served as the basis for the expansion of social rights and participatory spaces in public administration. Also, some important achievements for Brazilian workers were guaranteed within the framework of the new Constitution, as the limitation of working hours, unemployment insurance, maternity and paternity leave; in addition, civil servants were given the opportunity to defend their rights through union organization and their right to strike was recognized, except in those cases of services considered essential.

GRAPH 2 – CONFIDENCE IN THE NATIONAL CONGRESS (MUCH/SOME) (%)



Source: Produced by the authors based on the Latinobarômetro.

Nevertheless, the Constitution faced political resistance, even after its promulgation, by sectors of the left wing, who considered its text timid about social advances, and by the right, as conservative sectors offered resistance to its social achievements and proposed reforms in order to make them more “flexibles”.²¹

From an institutional point of view, a moment that can be considered as the conclusion of the transitional process towards democracy was the first direct election for President, in 1989. That election was marked by a strong ideological polarization, led by Fernando Collor de Mello, from the National Renewal Party (PRN), a conservative and neoliberal oriented politician, and by Luiz Inácio Lula da Silva, from the Workers’ Party (PT), on the left, defending a greater role for the State in economic and social issues. Collor won the election, taking charge of the presidency in 1990, but had his term shortened by his resignation in December 1992, when he was about to be impeached. Considering important advances achieved throughout the 1990s and during the first decade of the 2000s, such as the stabilization of the currency, significant increases in income redistribution and the expansion (although limited) of rights for women, Afro-descendants and for LGBT+ population, the Brazilian democracy, from an institutional point of view, was consolidated and improved. Between what the laws provide and what is practiced, however, there have always been large gaps that have now intensified. It stands out, for example, the deep social inequalities and the persistent high rates of violence in the country, which repercuss in deep social dissatisfaction.

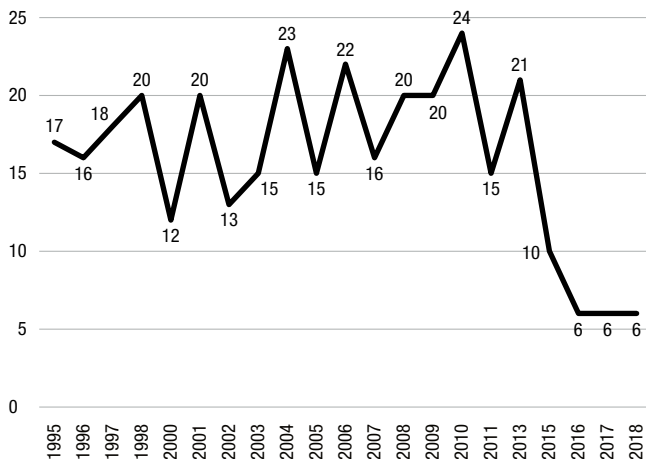
Baquero and González²² claim that the economic crisis and the crisis in the popularity of political leaders are factors capable of a regime destabilization. For them, moments of prosperity have less repercussions for the entrenchment of democratic values than moments of crisis contribute to eroding them, which makes the scenario even more challenging. As an illustration of the difficulties that Brazilian democracy has faced in combating

20 Goulart, Jefferson, “Processo constituinte e arranjo federativo”, in *Lua Nova*, 2013, (88), 185-215.

21 Goulart, Jefferson, *Op. cit.*

22 Baquero, Marcelo, González, Rodrigo, “Cultura política, mudanças econômicas e democracia inercial: uma análise pós-eleições de 2014”, in *Opinião Pública*, 2016, (22), 3, 492-523.

GRAPH 3 – CONFIDENCE IN POLITICAL PARTIES (MUCH/SOME) (%)



Source: Produced by the authors based on the Latinobarômetro.

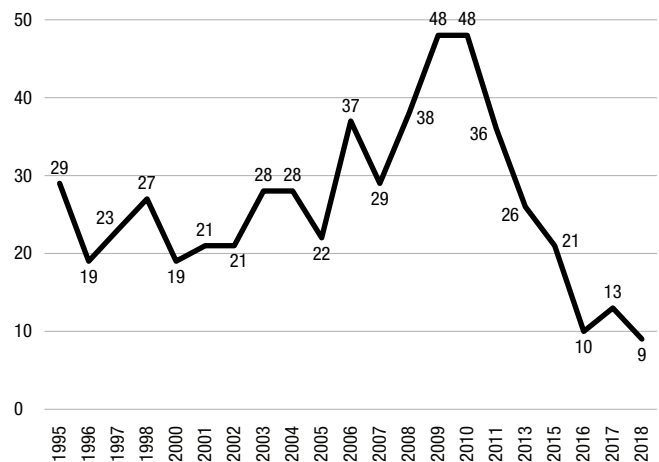
economic dilemmas, data from the Brazilian Electoral Study – ESEB²³ (2018) indicate that 70 % of Brazilians express dissatisfaction with the fight against social inequalities in the country.²⁴ See Graph 1.

This type of dissatisfaction can contribute to a generalized disbelief, which reverberates in a process of deepening the credibility crisis of institutions such as the National Congress and political parties, which have shown significant confidence declines in recent years. This situation is also marked by strong instabilities materialized in street demonstrations, in the overthrow of President Dilma Rousseff, in 2016, and in the politic denial caused by the media repercussions on the Lava-Jato operation. Data from the Latinobarômetro²⁵ indicate that institutions have thus fragilized in the Brazilian context. Confidence in Congress dropped from 44 % in 2010 to just 12 % in 2018. Regarding political parties, a confidence that, historically, is not high, fell from a range between 15 and 20 % to only 6 % in the latter three rounds of research. See Graph 2 and Graph 3.

It is important to highlight that such patterns of distrust can directly affect Brazilians' evaluation of the regime itself. That is, the perception of institutional inefficiency can create, over time, disaffection and apathy about democracy. The Graph 4, containing data on Brazilians' satisfaction with democracy, shows the fall from 48 % between 2009 and 2010 to less than 10 % in 2018.

Despite the institutional arrangements and the procedural dimension of the regime, there is an ongoing process of erosion that becomes potentially worrying in Brazil, considering the country's young democracy and its legitimacy not yet fully affirmed before the population. For example, data from the World Values Survey (2017–2020)²⁶ indicate that more than 70 % of Brazilians do not trust or have little trust in the electoral process. This is a worrying fact, as such distrust in face of the main symbol of liberal democracy can lead questioning and authoritarian postures of delegitimization of the regime. This is dangerously combined with the conception that there are authoritarian legacies inherited from an undemocratic tradition. Persistent police violence is to some extent accepted in terms of public opinion, being considered as a kind of “unavoidable side effect” of the fight against crime.²⁷ There is also a scenario in which minorities, despite formal legal advances, continue to suffer from exclusion and prejudice, in a context in which, according to ESEB data from 2018, 56 % of

GRAPH 4 – SATISFACTION WITH DEMOCRACY (%)



Source: Produced by the authors based on the Latinobarômetro.

Brazilians agree (strongly or a little bit) with the assertion that minorities should adapt to the customs and traditions of Brazil. Moreover, the same research points out that almost 40 % believe that the will of the majority must always prevail, even if it undermines minority rights. This type of position contradicts the idea that a democracy should respect plurality and minorities, highlighting the perception that there are still important steps to be taken in the country towards a more democratic society.

LESSONS LEARNED AND RECOMMENDATIONS

Considering this chapter contribution, it is possible to identify aspects in which the Brazilian political system has advanced since the end of the transition process, as well as to make recommendations within contemporary limits. In terms of lessons learned, it can be said that, since 1985, the Brazilian political system has significantly advanced, from both institutional and procedural points of view, because:

- 1/ The Armed Forces transferred control over the Executive Power to civilians;
- 2/ A new Constitution was promulgated in 1988, guaranteeing basic civil and political rights and significantly expanding the list of social rights;
- 3/ The party system was reconfigured, enabling a high degree of competition, with the existence of plural political parties, representing different ideologies and programs;

23 n=2506. For more information about the research, visit: <https://www.cesop.unicamp.br/por/eseb/ondas>

24 In the research, a scale from 0 to 10 is employed, where 0 means totally dissatisfied with the fight against social inequalities in the country, and 10 means totally satisfied. For analysis purposes, values from 0 to 3 were considered as corresponding to dissatisfied, from 4 to 6 as neither satisfied nor dissatisfied, and from 7 to 10 as satisfied.

25 The samples of the Latinobarômetro surveys presented here for the case of Brazil were the following: n 1995, 2003 and 2017=1200, 1996=1080, 1997=1001, 1998 a 2002=1000, 2004 to 2013, 2016 and 2018=1204, 2015=1250. For more information, visit <https://www.latinobarometro.org/latOnline.jsp>

26 More information about the research can be found at the WVS website: <https://www.worldvaluessurvey.org/WVSOnline.jsp>

27 Almeida, Alberto Carlos, *A cabeça do brasileiro*, Rio de Janeiro: Record, 2012.

- 4/ Regular elections started to happen in order to fill all elective positions in the country, taking place, between 1989 and 2018, 7 direct elections for the office of President of the Republic;
- 5/ After a long period of economic crisis (between the 1980s and 1990s), there was an increase in income redistribution policies in the early 2000s, aiming to reduce inequality in the country.

Despite the highlighted advances, the data presented allows the conclusion that the country faces great and continuous difficulties in terms of maintaining the democratic regime and consolidate it, being highly recommended to:

- a/ Strengthen representative political institutions and, consequently, reinforce the legitimacy for the democratic regime as the best and needed form of government;
- b/ Invest effectively in social and income redistribution policies, with the objective of reducing the high rates of exclusion and inequality in the country;
- c/ Combat everyday structural violence, especially the type committed by Public Security agents;
- d/ Create effective mechanisms to fight corruption and impunity.

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INVESTIGATION AND PROSECUTION OF DICTATORSHIP CRIMES

CARLOS ARTUR GALLO

INTRODUCTION

The fight for justice toward the crimes committed by the Brazilian dictatorship is marked by significant contrasts when compared to the experience of its neighboring countries in the Southern Cone, especially Argentina. Although in some cases there are advances and partial achievements made by the victims and their relatives against the authoritarian regime, in practice, most cases show how the investigation and punishment of agents of repression has been made impossible due to the amnesty law.¹

Considering this situation, this chapter aims to identify how the demand for justice regarding the violations that occurred between 1964 and 1985 has been carried out (or not) in the Brazilian case. I offer an overview that identifies the advances obtained through the Judiciary Power to date, as well as the obstacles that, even today, prevent and/or make difficult the investigation and punishment of those responsible.

The chapter is organized into four parts. The first part looks at the fight for amnesty in the country, identifying how laws impacts the past and present. The second part of the chapter presents data on the attempts to investigate and punish the crimes of the dictatorship over the last decades. The third part focuses on the advances made to identify those responsible for the violations, considering the contribution of the National Truth Commission (CNV). Finally, the chapter concludes by making recommendations overcoming the existing obstacles.

THE FIGHT FOR AMNESTY AND ITS IMPACTS ON THE PAST AND PRESENT

To understand the difficulties faced in the fight for justice carried out by the victims and their relatives against the Brazilian dictatorship, it is essential to understand the role of the Amnesty Law edited by the authoritarian regime in the transition context. Referred by scholars as one of the non-negotiable items of Brazil's transition,² the amnesty granted under Law No. 6.683 of 1979 was claimed right after the first great wave of repressions and cassations of mandates practiced by the regime (at the time of the stabilization of the 1964 Coup) but it was only during the "slow, gradual and safe" transition initiated by the Geisel Government (1974–1979), that a broad mobilization of society around the issue began. The transition to democracy in Brazil was a political project articulated from within the authoritarian regime, headed by the dictator-president Ernesto Geisel, with the help of the DSN mentor, General Golbery do Couto e Silva. Long lasting and highly controlled, the Brazilian transition did not begin without reason. Anticipating a significant loss of legitimacy of the civil-military coalition in power, which could only get worse with the economic retraction resulting from the exhaustion of the "economic miracle" at the end of 1974, President Geisel began the regime's liberalization, by accepting the

result of the elections held in November (when the opposition won).³ In doing so, on the one hand, he guaranteed the continuity of the conservative political modernization project started after 1964, and, on the other hand, implemented a politically bold strategy that would ensure the regime's interference in the transition's path.⁴

Between advances and setbacks, the transition continued at a slow and very controlled pace, being carried out until the end by Geisel's successor, the dictator-President João Baptista Figueiredo (1979–1985), the last president of the civil-military dictatorship.

The law that guaranteed the 1979 amnesty, as mentioned, came along with a broad mobilization of Brazilian society. Gaining strength from 1978 onwards, the fight for a "broad, general and unlimited Amnesty" can be considered as a demonstration of the resurrection of parts of civil society, which were exceptionally disjointed, considering the edition of AI-5, due to the hardening of repression from 1968.

Made possible by the beginning and progress of the liberalization process, the movement that resulted in the fight for amnesty, however, dates back to May 1975, when the Women's Movement for Amnesty (MPPA) was founded in São Paulo, directed by lawyer Therezinha Zerbine.⁵

In June 1979, the government sent to the National Congress the Amnesty Law Project (PL No. 14/1979) that it had elaborated. Classified as "limited", "miserly", "discriminatory", "bureaucratic", "casuistic", "partial", "arbitrary", "silent" and even "hateful" by members of the opposition,⁶ the proposed amnesty clearly contradicted the Brazilian Committees for Amnesty (CBAs) demand for a provision that was "broad, general and unlimited".

1 I consider as agents of repression any person who collaborated with the repressive apparatus of the Brazilian dictatorship. The term, therefore, ranges from people linked to the Armed Forces who participated in arrests, tortured, killed or disappeared political opponents of the authoritarian regime, to other collaborators, such as public servants of the judiciary and businessmen.

2 Martins, Luciano. "A 'liberalização' do regime autoritário no Brasil", in Guillermo O'Donnell, Philippe C. Schmitter, Laurence Whitehead, eds., *Transições do regime autoritário: América Latina*, São Paulo: Vértice / Revista dos Tribunais, 1988, 129.

3 In the 1974 elections, the consenting opposition, represented by the MDB, elected 16 of 22 Senators, and 160 of 364 Federal Deputies, obtaining a significant increase in their representation in the National Congress. See, about: Velasco e Cruz, Sebastião C., Martins, Carlos Estevam, "De Castello a Figueiredo: uma incursão na pré-História da 'Abertura'", in Bernardo Sorj, Maria Hermínia Tavares de Almeida, eds., *Sociedade e política no Brasil pós-64*, São Paulo: Brasiliense, 1984, 51.

4 Arturi, Carlos S., "O debate teórico sobre mudança de regime político: o caso brasileiro", in *Revista de Sociologia e Política*, 2001, (17), 17.

5 Rodeghero, Carla, Dienstmann, Gabriel, Trindade, Tatiana, *Anistia ampla, geral e irrestrita: história de uma luta inconclusa*, Santa Cruz: Edunisc, 2011.

6 Mezarobba, Glenda, *Um acerto de contas com o futuro: a anistia e suas consequências: um estudo do caso brasileiro*, Dissertação (Mestrado em Ciência Política) - Programa de Pós-Graduação em Ciência Política da Universidade de São Paulo, São Paulo, 2003, 35.

After all, in addition to not allowing those individuals convicted of “terrorism” to benefit from the law (in the cases of expropriations, kidnappings and personal attacks committed by left-wing militants), according to its art. 1, § 2, the benefit provision for “related crimes” committed, inserted in art. 1, § 1, showed that the Government intended to establish a reciprocal amnesty (extended to agents of repression).

The amnesty approved by the National Congress on August 22, 1979, and sanctioned by General Figueiredo on the 28th, did not satisfy the demand formulated throughout the 1970s by social movements. It was not broad, general, nor unlimited. It was “politically intelligent”.⁷ Using terminology of legally controversial content (the “related crimes” of Article 1 of the Law) and relying on a comprehensive interpretation that would be followed, above all, by their supporters, the military in power guaranteed the impunity of those who had violated the human rights of political prisoners and the persecuted.

Thus, the “reciprocal amnesty” thesis gained legitimacy, specially at the time of Law No. 6.683 approval, which would be evoked during the following decades whenever someone tried to talk about the possibility of punishment or, at least, clarification on the crimes committed by the repressive apparatus.

Furthermore, under the “national reconciliation logic”;⁸ the last Government of the dictatorship guaranteed, through de facto impunity, its control over the process of the transition to democracy, establishing three types of silences around the issue: a silence about torture and torturers; a silence on society’s support for the dictatorship; and a silence on the left revolutionary proposals defeated by the repression.⁹

Despite the critics, the reciprocal amnesty interpretation partly calmed the spirits of the hardliners, who feared the possibility of “revanchism” by the victims of the repression. On the one hand, the Law allowed thousands of political exiles to return to the country, and many others to come out of hiding. On the other hand, it allowed the Figueiredo Government to carry out the transition initiated in the previous administration without major disturbances.¹⁰ Along with the widespread commotion originated by the return of exiles and the release of a significant portion of political prisoners, the mobilization of the CBAs was, little by little, losing its strength, causing the limits of the amnesty to be given a low priority on the transition’s political agenda.

INVESTIGATION AND PROSECUTION OF CRIMES COMMITTED BY THE BRAZILIAN DICTATORSHIP

Legal requests from relatives of the dead and politically disappeared in Brazil to the Judiciary Power had already occurred during the dictatorship period. Until the mid-1990s, however, the efforts made in the legal sphere (both civil and criminal) were not very successful. In addition to difficulties in accessing the repression archives (which limited and still limits the production of evidence) and the delay in the judgment of cases involving crimes committed by repression agents, the interpretative barrier of the Amnesty Law prevailed.¹¹

The Amnesty Law, as mentioned in the first section of this chapter, consolidated itself as the main barrier in the fight for memory, truth and justice in the Brazilian case, being considered a key element in the transitional process initiated in 1974.

In April 2010, more than three decades after the law’s approval, a discussion about its reach took place in the highest level of the national judiciary. On this occasion, during the judgment of the Claim of Non-Compliance with Fundamental Precept (ADPF) No. 153 (presented by the Federal Council of the Brazilian Bar Association – OAB in 2008), the Supreme Federal Court (STF) decided, by a majority of votes of its members, that the interpretation of the law guaranteeing reciprocal amnesty, although controversial and questioned, should be maintained. In general terms, the argument used to reject the request presented by the Federal Council of OAB was based on the idea that the context of the democratic transition justified the need for reciprocal concessions by both the authoritarian regime and its opponents, something that suggests that repression agents impunity can be understood as the “price of the transition”, as well as an interpretation according to which the reciprocity of the amnesty would be presumably guaranteed, despite the imprecision of the text of the law.¹²

In addition to contradicting international norms for human rights protection and being in the opposite direction of the IACHR’s understanding (according to which self-amnesties are invalid), a direct consequence of the STF judgment (and its maintenance until today) can be seen in the following case: at the international level, there are decisions condemning Brazil and mentioning that self-amnesties are not valid, as mentioned by the IACHR when judging the case of the disappeared ones from the Araguaia Guerrilla War and the Herzog case;¹³ at the same time, internally, the highest level of the Judiciary adopts a divergent position.

The interpretation of the amnesty, reinforced by the STF in 2010, reflects the way the Judiciary deals with cases involving the crimes of the dictatorship since the transition. Both on the civil and the criminal sphere.

7 Arturi, Carlos S., *Op. cit.*, 18.

8 Mezarobba, Glenda, “Anistia de 1979: o que restou da lei forjada pelo arbítrio?”, in Cecília MacDowell Santos, Edson Teles, Janaína de Almeida Teles, eds., *Desarquivando a ditadura: memória e justiça no Brasil*, v.2, São Paulo: Hucitec, 2009, 372–385.

9 Reis Filho, Daniel Aarão, “O governo Lula e a construção da memória do regime civil-militar”, in António Costa Pinto, Francisco Carlos Palomanes Martinho, eds., *O passado que não passa: a sombra das ditaduras na Europa do Sul e na América Latina*, Rio de Janeiro: Civilização Brasileira, 2013, 217–218.

10 Although some members of the military hardline have adhered to the liberalization of the regime, there continued to be voices against the military leaving power. In this sense, between 1980 and 1981, there were explosions attributed to members of the radical right and the military hardline who tried to block the political opening. The most emblematic case, which still lacks clarification, was the bomb explosion in RIOCENTRO occurred on April 30, 1981, in Rio de Janeiro. During a fund-raising spectacle in benefit of left-wing sectors, a captain and a sergeant linked to DOI-CODI died in the parking lot at the site due to a bomb explosion. At the time, it was said that the explosion intended to cause widespread panic, in addition to blame on the left for the attack. See: Skidmore, Thomas, *Brasil: de Castelo a Tancredo*, Rio de Janeiro: Paz e Terra, 1988, 442–447.

11 Almeida Teles, Janaína de, “Os familiares de mortos e desaparecidos políticos e a luta por ‘verdade e justiça’ no Brasil”, in Edson Teles, Vladimir Safatle, eds., *O que resta da ditadura: a exceção brasileira*, São Paulo: Boitempo, 2010, 272–281.

12 See: Supremo Tribunal Federal, *Acórdão da ADPF no 153*, 2010, <http://www.stf.gov.br> Accessed on: 30 June 2021.

13 See: Bernardi, Bruno Boti, “O Brasil condenado: a lei de anistia no sistema interamericano de direitos humanos”, in Carlos Artur Gallo, ed., *Anistia: 40 anos, uma luta, múltiplos significados*, Rio de Janeiro: Gramma, 2019, 215–250.

THE DETERMINATION OF LIABILITIES IN THE CIVIL SPHERE

Regarding the legal actions processed in the civil sphere, an analysis carried out by Criméia Schmidt de Almeida¹⁴ and Janaína de Almeida Teles¹⁵ shows that many proposals by repression victims' relatives, aiming to hold the Brazilian State responsible for the death and disappearance of civil-military regime opponents were successful. These processes resulted, basically, either in the acknowledgment of State's liability for the repression agents' crimes or, in some cases, in the establishment of a pecuniary indemnity to the victims' relatives. These are partially positive results concerning the victim's memory, but they were not able to generate advances for the right to truth and justice. This incapacity exists because: 1) the real circumstances of the violations committed by the repressive apparatus were not clarified; 2) despite some exceptions, such as the case filed in Federal Court by the widow of sergeant Manoel Raymundo Soares (who died in 1966), the agents who committed the criminal acts were not identified; 3) based on the interpretation of the reciprocal amnesty, it was not possible to assign individual liability to any agent involved in the violations.

Still in the civil sphere, an action that generated paradigmatic results was proposed in February 1982 by relatives of 22 guerrillas who disappeared in the Araguaia region, which requested the Brazilian State to locate and move the militants' bodies, among other things. This action is being processed, and is currently in its sentence execution phase. So far, it has brought important gains to the case in 2003, when Judge Solange Salgado, from the 1st section of the Federal Court from Federal District, recognized the demands' legitimacy and ordered the Brazilian State to locate the bodies of 70 militants from PCdoB who disappeared in the first half of the 1970s and to present the required documents.¹⁶

However, other examples highlight the ambiguity present in Brazil's judicial institutions' approach toward cases involving political repression. While an action filed by the Teles family in 2005 obtained a declaratory sentence acknowledging the involvement of Carlos Alberto Brilhante Ustra, an agent of repression, in acts carried out against this family of political activists linked to the Communist Party of Brazil (PCdoB), in the decade of 1970, a judge from the Federal Court of Rio de Janeiro accepted the requests made by the Military Club in 2015 to declare null the amnesty granted by the Amnesty Commission to Carlos Lamarca (a victim of the dictatorship).

Although both actions referred to above involve the realization of the right to memory and the truth through alternative means, the impact that maintaining the interpretation of the reciprocal amnesty generates is clear in both cases, significantly limiting the content of the processes and the results obtained.

THE CRIMINAL PROSECUTION OF CRIMES OF THE REPRESSIVE APPARATUS

As mentioned, there were also no advances between the 1970s and the 2000s in the criminal legal sphere. Generally, the courts considered the crimes committed by repression agents as amnesiated and/or prescribed, blocking their investigation. Therefore, no single Brazilian repression agent was investigated, convicted and punished. In the last decade, a group of prosecutors from the Federal Prosecution Service (MPF) filed a series of actions aiming to hold repression agents criminally responsible for violations

TABLE 1 – CRIMINAL ACTIONS ABOUT BRAZILIAN DICTATORSHIP CRIMES: LEGAL DECISIONS ACCORDING TO INSTANCES OF THE JUDICIARY POWER

Instance	Decision	Quantity
1st Degree	Contrary	17
	Favorable	4
2nd Degree	Contrary	7
	Favorable	2
STJ	Contrary	3
	Favorable	0
TOTAL		33

Source: table produced by the author according to: Ministério Público Federal, *Op. cit.*, 28.

that occurred during the dictatorship. This initiative can be understood as capable of generating new outcomes for the victims, their families, and human rights organizations.

According to data from the MPF,¹⁷ between the years of 2012 and 2016, 27 criminal actions were filed, accusing 47 agents of repression involved in 43 types of crimes. Up till 2016, 11 types of crime were listed in the actions. More than 75 % of these criminal practices involve acts directly and indirectly related to fatal victims of political repression: qualified homicide (11 cases), ideological falsehood (9 cases), qualified kidnapping (7 cases) and concealment of human corpse (6 cases). Regarding the occupation of the defendants, 21 were part of the Brazilian Army, which represented almost 50 % of those accused for the dictatorship crimes. In addition to the Armed Forces, members of other security forces such as the Military Police (7 people) and the Civil Police (9 people) were also identified as responsible for human rights violations during the dictatorship. Although people directly linked to the military and other security forces head the list of defendants, as approximately 75 % of those accused, there is also the presence of civilians on the list, such as the case of a person identified as "dog" (an infiltrated in groups of political opponents of the dictatorship) and 8 cases of people linked to the IML (Institute of Legal Medicine), most of them accused of committing ideological falsehood in the reports that attested the death of repression victims.¹⁸

14 Almeida, Criméia Schmidt de et al., eds., *Dossiê ditadura: mortos e desaparecidos políticos no Brasil (1964-1985)*, São Paulo: Imprensa Oficial do Estado de São Paulo, 2009, 45-46.

15 Almeida Teles, Janaína de, *Op. cit.*, 272-281.

16 It is not possible to deepen the analysis and debate about this specific topic in this section. Since this action was filed, a series of domestic and international events are overlapping, resulting in the absence of a solution for it. Between advances and setbacks, Brazil was convicted in the Inter-American Court of Human Rights (IACHR) in 2010 and, despite appeals for delaying the sentence's execution, partial advances were obtained concerning the location of dictatorship victims' bodies in the region where Araguaia Guerrilla took place. For more information about this: Almeida, Criméia Schmidt de et al., *Op. cit.*; Almeida Teles, Janaína de, *Op. cit.*; Bernardi, Bruno Boti, *Op. cit.*; Brasil, Secretaria de Direitos Humanos, *Habeas Corpus: que se apresente o corpo: a busca dos desaparecidos políticos no Brasil*, Brasília: SDH, 2010.

17 Ministério Público Federal - MPF, *Crimes da ditadura militar*, Brasília: MPF, 2017, 25.

18 Ministério Público Federal - MPF, *Op. cit.*, 27.

Regarding the progress of these criminal actions filed since 2012, Table 1 identifies the judicial decisions that have already been taken in these processes, including at the appeal instance:

A preliminary view of Table 1 shows that the legal interpretation contrary to the processing of criminal actions related to the punishment of dictatorship crimes prevail, considering the decisions from the Brazilian Judiciary. By the time of the publication organized by the MPF, 27 out of 33 decisions (about 82 %) were against the continuation of the criminal proceedings. None of the decisions judged the merit of any of the cases. All of them are based on the argument that the Amnesty Law interpretation justifies the closure of the actions and the impossibility of prosecuting those responsible for the violations.

In June 2021, for the first time an agent of repression was convicted of crimes committed during the dictatorship.¹⁹ Despite being an advance, it is a non-definitive decision (which can be reversed by the higher courts), and the defendant may appeal in freedom.

In practice, Brazil remains without anyone responsible for human rights violations during the dictatorship either tried, convicted or serving time. Advances, when they exist, are limited and depend on what the judge who will decide about the case thinks, evidencing the current legal volatility in the country.

IDENTIFICATION OF THOSE RESPONSIBLE FOR THE VIOLATIONS

Although there has been practically no progress in terms of civil and criminal liability of political repression agents, there are advances in terms of identifying those responsible for part of the violations committed during the dictatorship period. This occurs in three circumstances: 1) the identification of repressors by the victims, who publicly recognize their perpetrators since the final stage of the transitional process; 2) the identification of agents of repression by victims, family members and human rights organizations, through the archives that have been opened up to the present; 3) the assignment of responsibilities, considering the elaboration by CNV of a list of people involved in the crimes committed by the dictatorship.

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Ministério Público Federal – MPF, *Crimes da ditadura militar*, Brasília: MPF, 2017

The first two circumstances mentioned are evidence of the great and continuous effort undertaken for decades by victims and human rights organizations in the country. In the absence of greater state support, the denunciation and identification of perpetrators became another duty of the victims themselves in the fight against forgetfulness. In other words, it is one more way to particularize something that should be treated as something collective, public and as a State duty.

It is precisely in the sense of treating the issue as something public, and that should be undertaken by the State itself, which violated the rights of its citizens in the past, that the work carried out by the CNV between 2012 and 2014 is remarkable. After a great documentary research and the hearing of witnesses, the CNV presented the society with a list containing the names of 377 people responsible for the dictatorship crimes. Although incomplete and mostly composed with the names of deceased people (due to their advanced age), it is a relevant publication. Contradictorily, and considering the legal issues exposed in the previous sections, the identification of those involved did not result in the filing of criminal proceedings.

RECOMMENDATIONS

In view of the panorama presented in this chapter, and considering the obstacles imposed to the demands for justice in the country, it is recommended:

- 1/ The opening of all archives on the repression, because their inaccessibility constitutes a barrier that turns the fight for truth and justice more difficult or even unfeasible;
- 2/ The Amnesty Law interpretation revision, in order to allow repression agents to be tried for crimes committed during the dictatorship.

19 Pela primeira vez, Justiça condena penalmente repressor da ditadura brasileira e abre precedente histórico, in *El País*, 22/06/2021, <https://brasil.elpais.com/brasil/2021-06-21/pela-primeira-vez-justica-federal-condena-penalmente-repressor-da-ditadura-brasileira-e-abre-precedente-historico.html> Accessed on: 30 June 2021.

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REHABILITATION OF VICTIMS

CARLOS ARTUR GALLO

INTRODUCTION

Politics of memory aiming at the rehabilitation or, in other words, the reparation of victims, vary greatly according to each context, and, above all, according to the public for which they are intended. They can be accomplished through measures that provide symbolic reparation, pecuniary indemnities, pensions, provision of services, guarantee of educational or healthcare rights such as scholarships or medical assistance, reintegration into public service, among others.¹

Specifically, the reparation of victims of the Brazilian civil-military dictatorship (1964–1985), unlike what happened in other countries that went through dictatorships, was carried out gradually, slowly, and, above all, late. Effectively initiated in 1995, after the edition of Law No. 9.140, the reparation for political repression victims has started to progress more than a decade after the last dictator-President left office, putting an end to the process of transition to democracy.

The main objective of this chapter is to draw an overview of the measures that were created and implemented in Brazil to address the demands of dictatorship victims for reparation. In order to do so, the text is divided into five parts. The first one identifies how, when and which policies were made to repair the victims of the Brazilian authoritarian regime. In the second and third parts, respectively, the results and the current status of the measures are discussed. The fourth part identifies the main victims' organizations existing in the Brazilian context.² In the fifth and last part, a balance is made on the advances and limits related to the measures analyzed, and then recommendations for overcoming them are presented.

REPARATION OF DICTATORSHIP VICTIMS IN BRAZIL: LEGAL BASES AND IMPLEMENTED MEASURES

Law No. 6.683/1979 (Amnesty Law) provided in its text the possibility of reintegration into work for people who were dismissed from their professional positions for political reasons.³ Although this was applied in some cases in the 1980s, during the final phase of the transition process, the fact is that effective reparative measures for the dictatorship victims were only elaborated and implemented since 1995, ten years after the exit of the military from the Executive Power.

Next, details related to the elaboration and implementation of those considered as the main politics of memory for dictatorship victims' reparation in Brazil will be addressed: a) Law No. 9.140/1995, b) Law No. 10.559/2002, c) Law No. 12.528/2011.

LAW NO. 9.140 OF 1995: THE “LAW OF THE DEAD AND DISAPPEARED”

The Commission of the Families of the Dead and Disappeared Political Activists (CFMDP) launched the basis of Law No. 9.140

in 1993, as it organized a meeting along the Torture Never Again groups, Amnesty International and Human Rights Watch, among others, in which a Law Project (PL) was elaborated. This PL was given to the Minister of Justice and then to President Itamar Franco, who would submit it to vote in the National Congress. In 1994, given the frustration generated by the president, who, even after the vigils held in Rio de Janeiro, Brasília, Porto Alegre and Recife, left the issue unsolved, family members managed to collect signatures for a Public Commitment Document (containing the issues presented to the Justice Minister) by representatives of the main candidates for the Presidency of the Republic.⁴

In June 1995, after being constantly pressured by relatives of the dead and disappeared and by members of international human rights organizations, President Fernando Henrique Cardoso, ordered Nelson Jobim, Minister of Justice at that time, to move the matter forward, resulting in the PL. No. 869/95. Supported by the participation of the CFMDP and members of other organizations for human rights protection, the PL was submitted for consideration at the National Congress, where, after little debate, it was processed immediately, and, without any amendments, the text was sanctioned in 4 of December 1995, originating the Law No. 9.140.⁵

For the text approval, however, it was necessary for President Fernando Henrique Cardoso to assure representatives of the Armed Forces that the effects of the law that would be created would be limited by the interpretation of the reciprocal amnesty. In other words, even though the law recognized the responsibility of the Brazilian State for crimes committed by the repressive apparatus, this would not allow prosecutions to be instituted against the agents involved in such practices.

The approval of the Law of the Dead and Disappeared resulted in: a) recognizing the Brazilian State responsibility for the deaths and disappearances of 136 people listed as political disappeared in Addendum I of the Law; b) the guarantee that the families of the persons listed in the Addendum could register their deaths; c) the creation of the Special Commission on Political Deaths and Disappearances (CEMDP), to grant pecuniary compensation to family members of people listed in the Law; d) the possibility of new cases which occurred between 1961 and 1979 being

1 Solís Delgado, Juan Mario, *Los tiempos de la memoria en las agendas políticas de Argentina y Chile*, Buenos Aires: Eudeba, 2015.

2 For more information on the context of political repression practiced during the dictatorship in Brazil, see the chapter “Transformations in the Brazilian political system”.

3 Almeida, Eneá de Stutz e, “Memória, verdade, reparação e justiça: uma tese de resistência constitucional”, *Justiça de Transição*, 04/10/2020, <http://justicadetransicao.org/wp-content/uploads/2020/10/memoria-verdade-reparacao-e-justica-1.pdf>

4 See: Almeida, Criméia S. de et al, eds., *Dossiê ditadura: mortos e desaparecidos políticos no Brasil (1964–1985)*, São Paulo: Imprensa Oficial do Estado de São Paulo, 2009, 32–33; and: Brasil, Secretaria Especial de Direitos Humanos, Comissão Especial sobre Mortos e Desaparecidos Políticos, *Direito à memória e direito à verdade*, Brasília: SEDH, 2007, 30–33.

5 See: Almeida, Criméia Schmidt de et al, *Op. cit.*, 33; and: Brasil, *Op. cit.*, 2007, 33–37.

tried (according to the period that the Amnesty Law provided), granting them the respective indemnities; e) the establishment of a minimum amount (R\$ 100,000.00⁶) for indemnities; f) CEMDP's prerogative to request from official entities the presentation of appropriate documents for the requests' analysis.

Although the Law has made possible undeniable advances, the CFMDP points out the following problems from its approval: 1) it prevented the State from identifying and holding responsible the agents involved in the crimes that occurred during the dictatorship; 2) left the burden of proof to family members; 3) did not compel the Brazilian State to locate the bodies of the disappeared; 4) excluded the possibility of other interested parties to file a the request for recognition of deaths and/or disappearances, thereby reinforcing the idea that those interested are solely and exclusively relatives of the victims, something that denies the public nature of the matter.⁷

In the years that followed the beginning of the Special Commission work, the family members fought against the limitations of Law No. 9.140, asking for its revision. Requests for revision of the law would be partially accepted in 2002 and 2004. In 2002, Law No. 10.536 allowed the time lapse provided by Law No. 9.140 (from September 2 of 1961 to August 15 of 1979) to be extended until October 5, 1988 (promulgation of the current Federal Constitution). Subsequently, aiming to overcome difficulties in the interpretation of Law No. 9.140 and its uses, which arose in the CEMDP judgments, family members managed to get Law No. 10.875 of 2004 approved. According to this law, the CEMDP would recognize cases of people: a) who were killed in the streets, participating in marches or actions against the regime; b) who committed suicide when they received a prison sentence, when they were arrested and tortured, or even due to psychological disorders resulting from the repression.⁸

LAW 10.559/2002: THE AMNESTY COMMISSION

Linked to the Ministry of Justice until 2018, the Amnesty Commission was created in 2001 by President Fernando Henrique Cardoso, who regulated (though the Provisional Measure converted into Law No. 10.559 of 2002) Art. 8 of the Constitutional Transitional Provisions Act (ADCT) of the Federal Constitution of 1988. According to art. 8 of the ADCT, it provided the creation of a governmental entity that would be in charge of: a) promoting the recognition of the condition of political amnesty for those who, persecuted for political reasons between 1946 and 1988, a period that covers the authoritarian period, were fired as a result of Government acts' editions; b) granting them, according to each case, their respective financial compensation.⁹

For years, the Commission helped to disseminate and promote the memory of the repression in the country through: 1) the *Caravanas da Anistia*, public judgment sessions that were held in all regions of the country between 2007 and 2015; 2) the inauguration of 27 monuments in memory of the dead and disappeared (in partnership with the Secretariat for Human Rights of the Presidency of the Republic); 3) the organization of national and international events to debate the issue.

It should be noted that the judgment sessions held during the *Caravanas* constitute an activity of mainly symbolic nature. At the end of the analysis of the requests presented by people who consider themselves victims of political persecution, being accepted, the members of the Commission apologized to

the victim publicly on behalf of the Brazilian State. After, they declared its amnesty, and, if applicable, granted a pecuniary indemnity.

LAW NO. 12.528/2011: THE NATIONAL TRUTH COMMISSION

Regarding specifically, the Brazilian case, the development of human rights policies has advanced significantly since the 1993 Vienna Conference. In addition to having reinserted the theme on the agenda, the Conference suggested that the countries concerned with the protection of human rights could reorganize them internally¹⁰ through the elaboration of a "National Human Rights Program" (PNDH): a document intended for countries participating in the meeting to establish an agenda in order to develop human rights policies and, in addition, align them with the international parameters established by the Conference.

In Brazil, the first two editions of the document, PNDH-1 and PNDH-2, were launched respectively in 1996 and 2002, during the governments of President Fernando Henrique Cardoso (1995–2002). However, only considering the publication of PNDH-3, in December 2009, that there is a significant expansion of the treatment of the memory of repression in the country reserved a specific Guideline Axis to the issue: Axis VI, called Right to Memory and Truth.¹¹ In addition to establishing the need to preserve and promote the memory of the period (Guideline No. 24), and the revision of the legislation that, produced by the military and based on the DSN, continued to be applied in the country (Guideline No. 25), it also provided for the creation of a National Truth Commission (Guideline No. 23).

Before the launch of the Program's new edition, in December 2009, there was an attempt to make necessary its endorsement by all ministries, in order to give greater legitimacy to the guidelines established by the conferences that prepared the document.¹² The launch of the Program was delayed by almost a year due to the opposition presented by the Ministry of Defense to the investigation of violations that occurred during the authoritarian period.¹³

Between the end of 2009, when PNDH-3 was published, and the beginning of 2010, there were a series of public demonstrations and controversial discussions on the publication of the Programs' new edition, and, above all, on the content of the VI Guideline Axis. Involving human rights defenders, on the one hand, and the Armed Forces, represented by Defense Minister Nelson Jobim, on the other hand, the controversies highlighted the strength with which some ideas have echoed in public opinion since the transition to democracy. The reciprocal amnesty thesis was raised by the Armed Forces and the public

6 At the time, something around US\$ 100,000.00.

7 Almeida, Criméia Schmidt de et al, *Op. cit.*, 33–34.

8 Brasil, *Op. cit.*, 2007, 44–46.

9 Brasil, Ministério da Justiça, Comissão de Anistia, *Cartilha Informativa da Comissão de Anistia*, Brasília: CA/MJ, 2011.

10 Koerner, Andrei, "O papel dos direitos humanos na política democrática: uma análise preliminar", in *Revista Brasileira de Ciências Sociais*, 2003, (18), 53, 143–157.

11 Brasil, Secretaria de Direitos Humanos, *3º Programa Nacional de Direitos Humanos (PNDH-3)*, Brasília: SDH, 2010b.

12 Brasil, *Op. cit.*, 2010b, 11.

13 IPEA, *Políticas sociais: acompanhamento e análise*, Brasília: IPEA, 2010, 285.

opinion, who defended the idea that everything that happened should be forgotten since many crimes were also committed by leftist militants. The discussions generated an important tension, leading to the retreat of the Federal Government, which in May 2010 edited Decree No. 7.177, changing the provisions of the Program.

According to the Decree, the time lapse to be investigated by the National Truth Commission, which in the original version of the PNDH-3 was referred to as the dictatorship period, would include all crimes committed by the Brazilian State between 1946 and 1988, having also been reinforced, as an objective limit to their work, the Amnesty Law (Law No. 6.683 of 1979). Thus, the entity would be responsible for clarifying the crimes committed by the repression but could not punish those responsible.

In another sense, the controversies and upheavals resulted from the release of the new PNDH text delayed the proceedings of the Law Project that created the Truth Commission (PL No. 7.736 of 2010). The project was only approved by the two Houses of the National Congress in October 2011, while its originating Law (Law No. 12.528/2011) was sanctioned by President Dilma Rousseff in November of the same year. After that, the National Truth Commission (CNV) began its activities on May 16 of 2012 (almost two and a half years after the launch of the PNDH-3).

In addition to the period to be investigated by the Commission covering crimes committed in a democratic political setting (from 1946 to the Coup of 1964), human rights groups had their expectations diminished by two other limitations. The first one concerns the reduced number of members: only 7 people to analyze crimes committed in almost 50 years of history, in a country as huge as Brazil. The other limitation was related to the validity term of the Commission's work: initially, it would be only 2 years, however, in December 2013, the Presidency of the Republic extended its term, so the deadline for the activities closure was extended to December 2014.

SOCIAL SATISFACTION

Measures aiming for the rehabilitation and/or repair of an authoritarian regime's victims can be analyzed, regarding its effectiveness, by observing the capacity they present to contemplate both their specific audience, but also what concerns the reach they have for the general population. After all, reparation cannot be understood as something exclusive to those who suffered political violence, as crimes committed by a dictatorship must be understood and recognized as something that affects society altogether.¹⁴

Considering this, social satisfaction resulting from the implementation of reparation policies in the Brazilian context could be observed based on two aspects: on the one hand, the identification of the amount of people benefited from the measures, and, on the other hand, through data on their reach considering society in general. The first analysis category mentioned can be verified more easily. The second one becomes difficult to be precise because of the absence of opinion polls on the subject, as well as other means used to verify the measures reached, considering broad sectors of the population. In part, one can residually think about the social satisfaction resulting from the reparation measures by observing whether data on their performance are available for the general population.

ABOUT LAW NO. 9.140/1995:

Up to 2006, considering ten years of appreciation of the 475 requests filed to CEMDP, another 221 people were recognized as dead and/or missing, in addition to the victims referred to in the Addendum Law, granting compensation to their families.¹⁵ In 2007, in order to systematize and disseminate the results of its activities, the Special Commission launched the book-report *Direito à Memória e à Verdade* (Right to Memory and Truth). Since then, CEMDP has continued to operate, dedicating itself to: 1) the assessment of new cases; 2) the organization of a genetic database to help identify the remains that have already been rescued and/or that may be rescued in clandestine graves; 3) the participation and advice of working groups created to locate and identify the remains of repression victims.¹⁶

ABOUT LAW NO. 10.559/2002:

Up to 2015, the Amnesty Commission carried out more than 90 editions of the *Caravanas*. In another sense, aiming to disseminate studies and intending to promote debate on the issue among researchers, political activists and others interested, the Commission published, from 2009 to 2016, editions of the journal *Anistia Política e Justiça de Transição* (Political Amnesty and Transitional Justice). The journal, published both in physical and electronic formats, was distributed for free and could be accessed on the official website of the Commission. Mainly presenting academic works and specialist analysis on policies that deal with the memory of repression and enable the granting of pecuniary and symbolic compensation to victims of violence in Brazil or other countries that have gone through authoritarian regimes, the journal also published interviews with key-actors from the fight for memory, truth and justice, as well as documents about the Brazilian dictatorship.

Between 2002 and 2021, more than 79.000 amnesty requests were filed to the Commission. From these amount, 71.703 were assessed and finalized, many of them granting compensation to the victims and/or their families. Around 6.400 cases wait for analysis and judgment.

ABOUT LAW NO. 12.528/2011:

Between May 2012 and 2014, the CNV held or supported 80 public hearings (in various regions of the country) with victims of the dictatorship, witnesses, and even with repression agents who were subpoenaed to give statements. More than 1.000 testimonies were collected in public activities or privately. During the same period, the work teams created within the Commission carried out investigations and documentary research in different entities and public archives. On

14 According to: Gallo, Carlos Artur, "Pensar o passado, construir o futuro, fortalecer a democracia: políticas de memória e memória da ditadura no Brasil", in Cristiano Engelke, Nilton Sainz, eds., *Sombras no Extremo Sul: luzes sobre o passado ditatorial no Sul gaúcho*, Rio Grande: Editora da FURG, 2019, 169-192; and: Solís Delgado, Juan Mario, *Op. cit.*

15 Brasil, *Op. cit.*, 2007, 46-47.

16 Brasil, Secretaria de Direitos Humanos, *Habeas Corpus: que se apresente o corpo: a busca dos desaparecidos políticos no Brasil*, Brasília: SDH, 2010a, 136-138.

December 10 of 2014, CNV delivered the final report of its activities to President Dilma Rousseff.

Containing two thousand pages, the final report was divided into 3 volumes. The first, sets out the objectives of the Commission, presents an overview of political history in Brazil from 1946 onwards, details how the repressive structure worked in the country and the techniques used by state agents during the dictatorship. It even highlights the connections between the repressive structure in Brazil and neighboring countries, which acted in a coordinated way in the international repressive “Operation Condor”. Also, beyond exposing the command chain in the period, it estimates the balance of repression and, names 377 persons directly or indirectly responsible for the crimes committed in the period (many of them already deceased), and establishes a set of 29 recommendations.

The second volume analyzes the role played by part of civil society and businessmen in the coup and during the dictatorship, as well as the various forms of opposition and resistance to the military takeover and occupation in the country. In addition, data is presented regarding the repressions practiced against specific segments of Brazilian society: from members of the Armed Forces who were against the takeover in 1964, to the urban workers, peasants, indigenous, religious, LGBTs, professors and university students.

In the third and final volume of the report, there is a list and profile of 434 people who were recognized as dead or missing as a result of political violence committed between 1946 and 1988. Referenced in the “Introduction to Volume 3”, as a list subject to revision, it is still recognized as limited by members of the CNV, those being attributed to the lack of collaboration of members of the Armed Forces.

In order to prevent the reproduction of anti-democratic behaviors from the Armed Forces, to relativize their maintenance as veto players of the new democracy and to enable an end to impunity for crimes committed in the name of the authoritarian regime, the CNV, in the set of 29 recommendations presented in its final report, suggested, among other measures: a) that the Brazilian Armed Forces should publicly acknowledge the repressions practiced by their agents during the period investigated by the Truth Commission; b) that the civil, criminal and administrative liability of those involved in human rights violations during the dictatorship should be investigated and attributed to them, in contrariety to the Amnesty Law; c) that the curriculum of military academies should be reformulated based on democratic values and respect for human rights; d) that official activities celebrating the 1964 coup should be prohibited; e) that a national system for the prevention and combat of torture should be improved and strengthened; f) that the National Security Law should be revoked; f) that the state Military Justice should be extinguished; g) that the right of access to the files of the repression should be made effective.

Although limited, the document represented an advance in the treatment of the subject at the national level. In addition to pointing out those responsible for a number of human rights violations, and recommending a series of measures against the impunity that remains, it brings to the debate on the civil-military dictatorship the recognition of at least three important aspects, concerning: 1) the existence of an organized repressive apparatus, which, operating in all regions of the country, systematically committed violations during the dictatorship period; 2) the repression’s reach: according to the data presented in the report,

political repression was not restricted to armed movements, it also affected urban and rural workers, university professors and students, dissident military, indigenous people and LGBTs; 3) the participation of civil segments in the coup and in the dictatorship, emphasizing the role of entrepreneurs who benefited from the economic modernization carried out by the dictatorship as being essential to the maintenance of the regime.

All measures mentioned here can be consulted in official websites, maintained by the Federal Government, on which it was possible to obtain partial data on the implemented policies:

- CEMDP: <https://www.gov.br/participamaibrasil/cemdp>
- Amnesty Commission: <https://www.gov.br/mdh/pt-br/navegue-por-temas/comissao-de-anistia-1>
- CNV: <http://cnv.memoriasreveladas.gov.br/>

However, the websites of the first two entities suffered changes in recent years, and because of that, a considerable amount of data, materials and reports that were previously available online have been removed. In recent years, there have also been problems with accessing the CNV website, where it is possible to download the final report and other partial reports produced by the Commission. On more than one occasion, the site was unavailable, leaving groups of dictatorship victims, human rights organizations and researchers apprehensive.

CURRENT STATUS

The recent political context, marked by the approval of President Dilma Rousseff’s impeachment, in 2016, and the presidential election of 2018, in which a far-right politician was elected, directly impacted the continuity of activities related to the main reparations policies in the country since the 1990s.

Regarding the Amnesty Commission specifically, when the parliamentary coup that removed Dilma Rousseff from the Presidency and its vice-president, Michel Temer, took office, in August 2016, it suffered a profound restructuring that had repercussions on its actions range.¹⁷ In addition to the new government significantly and arbitrarily having altered the composition of the commission, it became evident a change in the peace and format of its work. Judgment Caravans no longer occur, nor public apologies, and also, an attempt to turn weak their functions is denounced. This denunciation is corroborated by the absence of publicity for the commission’s work, and the fact that its autonomy had been reduced. Their decisions started being subject to the assessment of the Attorney General (AGU), who denied the granting of some indemnities.¹⁸

Since January 2019, in view of Jair Bolsonaro inauguration as President of the Republic, the Commission suffered new modifications, deepening the measures that had been taken since the Temer Government (2016–2018). The first one refers to the relocation of the entity, which was linked to the Ministry of Justice since its origins, to the Ministry of Women, Family and Human Rights (MMFDH). Although the relocation to a Ministry dedicated to human rights seems appropriate, as it has a self-evident

17 About this subject, see: Alberto Goldman e o retrocesso da Comissão da Anistia, in *Carta Capital*, 06/02/2017, <https://www.cartacapital.com.br/sociedade/alberto-goldman-e-o-retrocesso-da-comissao-da-anistia>

18 About this subject, see: A lei da Anistia 39 anos depois: ainda restrita e parcial, in *Câmara dos Deputados*, 28/08/2018, <http://www2.camara.leg.br/atividade-legislativa/comissoes/comissoes-permanentes/cdhm/noticias/a-lei-da-anistia-39-anos-depois-ainda-restrita-e-parcial>

thematic affinity, the change is more complex than it appears. The MMFDH was created by the government after a ministerial reform marked by controversy, and is headed by Damares Alves, a figure associated with the so-called “ideological wing” of the government, who represents evangelical and conservative sectors linked to the new president.

This is a change that represents a significant symbolic and political break, on the part of the Federal Government, regarding the way issues related to the dictatorship victims’ reparations had been treated for over fifteen years in the country. Intimately associated with justice, the issue is now being addressed by a Ministry that, even though it carries term “human rights” in its name, was clearly created to subordinate the guarantee of such rights to a stereotyped, conservative and religious vision.

The relocation to a new Ministry impacted other problems, precisely, regarding the work of the Amnesty Commission. Changes in the composition of the entity, loss of transparency in the release of information, website alterations, suppression of materials (books, magazines, reports) produced by the Commission over the years, all of which have contributed, during the first year of the Bolsonaro Government, to the deceleration and dismantling of a public policy that, for years, had been successfully implemented. As for the way the analysis of requests started to be carried out, the format implemented since 2016 became consolidated under the new Ministry. This means that the judgements, that used to be frequently public and apologetic to the victims, began to happen behind closed doors, in an impersonal way.

A significant change was the alteration of the Commission’s statute, to reduce the possibilities of administrative appeals presented in light of the decisions taken by the entity. Only one appeal may be filed by those who had their request rejected or partially denied.

Another controversial change, resulted from the new administration was the untying of the recognition of political amnesty condition from the granting of eventual pecuniary compensation to victims. Before, the amnesty person had defined, in the same decision, the granting or not of a pecuniary indemnity for the damages caused by the political persecution. Since 2019, in order to receive such compensation, it is necessary for the interested party to file a court order. According to Victor Neiva, representative of political amnesties on the Commission, who would be dismissed by Minister Damares Alves in October 2019, the measure represents a major setback for dictatorship victims, who, in addition to waiting years for the granting of amnesty, will have to wait, indefinitely, and by court proceedings, to receive pecuniary indemnity.¹⁹

As if the mentioned problems were not enough, other facts related to the Commission during the year of 2019 helps to summarize the direction of the organization under the new government. In March, Minister Damares Alves said publicly that she would open the “little boxes” of compensation granted by the Amnesty Commission, in a speech that suggests that decisions favorable to the dictatorship victims would have been fraudulent.²⁰ In September, a denouncement that the orientation given to the Commission was to “deny massively the requests” became public, which actually occurred in practice. 80 requests were decided until September 2019, 74 were denied.²¹ In 2021, this tendency remains, so that around 90% of the requests for reparation have been denied, and according to an article published by *El País*,²² members of the Federal Government want to extinguish the Commission in 2022.

The modifications and setbacks deepened since the beginning of the new Federal Government are not restricted to the Amnesty Commission. CEMDP has also been the target of measures implemented both by the Temer Government and by the current one. Responsible for investigating the cases of deaths and disappearances that occurred during the dictatorship and for granting economic reparation to the victims’ families, CEMDP has also been working, in recent years, to identify the remains of political militants persecuted by the repressive apparatus. Considering the arbitrary change of its composition (first in 2016, then in 2019), along with the continuous reduction in the budget allocated to those entities, the Bolsonaro Government, although it cannot be accused of extinguishing the politics of memory in the country, can be identified as responsible for their lessening, as well as for their infeasibility.²³

In addition to this, there is the fact that most of the CNV’s recommendations, contained in the final report delivered in 2014, have not been implemented. Out of a total of 29 recommendations made by the Commission, 22 were never realized, according to the Transitional Justice Studies Center.²⁴ Even those cases in which there has been progress, it is still quite limited in some cases. Criminal actions were initiated, but no single agent was punished. The Amnesty Law and the National Security Law issued by the authoritarian regime is still in force. Repression archives kept by the Armed Forces remain inaccessible.

VICTIMS’ ORGANIZATIONS

The main dictatorship victim’s organizations in Brazil started to organize themselves during the authoritarian regime period, gaining strength in the context of the fight for Amnesty, during the second half of the 1970 decade. Nowadays, the following organizations can be indicated as representatives of the demands:

- The Commission of the Families of the Dead and Disappeared Political Activists – CFMDP
- Torture Never Again groups – GTNM

19 About the change in the way how amnesty and indemnities started to be granted, see: Integrante da Comissão de Anistia avalia como “desastre” decisão sobre valores das indenizações, in *Blog do Matheus Leitão*, 25/06/2019, <https://g1.globo.com/politica/blog/matheus-leitao/post/2019/06/25/integrante-da-comissao-de-anistia-avalia-como-desastre-decisao-sobre-valores-das-indenizacoes.ghtml>

20 On the Ministry speech, see: Caixinhas da Anistia serão abertas, diz Damares Alves, in *Folha de São Paulo*, 27/03/2019, <https://www1.folha.uol.com.br/poder/2019/03/caixinhas-da-anistia-serao-abertas-diz-damare-alves.shtml>

21 According to: Orientação na Comissão de Anistia é negar pedidos em massa, diz conselheiro do órgão, in *Folha de São Paulo*, 12/09/2019, <https://www1.folha.uol.com.br/poder/2019/09/orientacao-na-comissao-de-anistia-e-negar-pedidos-em-massa-diz-conselheiro-do-orgao.shtml>

22 See: Governo quer fim da Comissão de Anistia em 2022 e nega 90% dos pedidos de reconhecimento de anistiados, in *El País*, 10/04/2021, <https://brasil.elpais.com/brasil/2021-04-10/governo-quer-fim-da-comissao-de-anistia-em-2022-e-nega-90-dos-pedidos-de-reconhecimento-de-anistiados.html>

23 About the impacts of Bolsonaro Government on the Amnesty Commission and the CEMDP works, see: Mudanças no governo Bolsonaro em comissões desmontam anos de políticas de reparação da ditadura, in *Huffpost Brasil*, 01/02/2020, https://www.huffpostbrasil.com/entry/comissos-ditadura-bolsonaro_br_5e2eed99c5b6779e9c37adc1

24 See: Maioria das recomendações da Comissão Nacional da Verdade segue no papel, in *Veja*, 12/02/2021, <https://veja.abril.com.br/politica/maioria-das-recomendacoes-da-comissao-nacional-da-verdade-segue-no-papel/>

- Children and Grandchildren for Memory, Truth and Justice
- Brazilian Association of People Who Received Political Amnesty – ABAP
- Justice and Human Rights Movement – MJDH
- Helena Greco Institute of Human Rights and Citizenship – IHG
- Vladimir Herzog Institute – IVH
- Brazil Network – Memory, Truth and Justice – RBMVJ

It is important to mention that the list presented above is not exhaustive, having been identified here the main organizations that support and/or represent different sectors directly or indirectly affected by the repression: relatives of victims (spouses, children, grandchildren, etc.), former political prisoners, persecuted, exiled, amnesty.

LESSONS LEARNED AND RECOMMENDATIONS

The reparation measures created and implemented for the dictatorship victims in Brazil, as seen, had their path marked by gradualism and delay. Even so, it is possible to observe that the main existing measures, altogether, enabled:

- 1/ The recognition of the crimes committed by the Brazilian State and its agents during the authoritarian regime;
- 2/ The rescue of part of the memory and the truth about the period;
- 3/ The concession of pecuniary and/or symbolic compensations to part of the dictatorship victims and their relatives, through the work of the CEMDP and the Amnesty Commission;
- 4/ The location and identification of the remains of some repression victims;

- 5/ A public space to listen to the victims, through the audiences promoted by the CNV between 2012 and 2014.

Despite the advances mentioned, two significant problems involving the creating and implementation of the measures kept present as time goes by: 1) the focus on financial indemnities in prejudice and/or as a condition to the other possibilities of compensation, 2) the task of producing evidences of the persecution and/or violence's suffered being left to the victims and their relatives.

Also, other limits related to those measures can be identified:

- a/ There are no advances concerning to the punishment of those involved in the violations;
- b/ The largest part of political disappeared people remains have not yet been located or identified;
- c/ The CNV recommendations, in large part, were not implemented;
- d/ The compensations granted by the Amnesty Commission started to be massively denied in the current Government;
- e/ The CEMDP and the Amnesty Commission suffered constant interventions since 2016, disarticulating the progress that have been accomplished during previous administrations;

In view of this, it is recommended:

- 1/ The implementation of the CNV recommendations;
- 2/ The opening of the archives of repression;
- 3/ The increase of the efforts to locate or identify the remains of political disappeared people;
- 4/ The guarantee that CEMDP and the Amnesty Commission can carry out their activities autonomously, without the intervention of the current Federal Government.

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TIMELINE OF MAJOR EVENTS

BRUNO MELLO SOUZA, CARLOS ARTUR GALLO

August, 1961	After the resignation of President Jânio Quadros, sectors of the Armed Forces tried to prevent Vice President João Goulart from assuming the Presidency. Goulart's inauguration happens only after an intense popular mobilization. He takes over, however, through changes in the form of government (as the adoption of parliamentarism, until 1963)
April, 1964	Occurrence of the coup that starts the civil-military dictatorship in Brazil
October, 1965	The Institutional Act No. 2 (AI-2) is decreed, turning the presidential election indirect, modifying the composition of the Federal Supreme Court (STF), and, among other measures, extinguishing the existing political parties from 1945. The last one resulted in a bipartisan political system around the regime party (National Renewal Alliance - ARENA) and the authorized opposition party (Democratic Brazilian Movement - MDB)
December, 1968	Institutional Act No. 5 (AI-5) is decreed, prohibiting habeas corpus for political crimes, closing the National Congress and authorizing the President to decree a type of State of Siege for an indefinite period, cancel mandates, dismiss civil servants, intervene in all states and municipalities of the federation and also confiscate private property
1974	President-Dictator Ernesto Geisel (1974-1979) elaborates and initiates, from within the regime itself, a "slow, safe and gradual" transition project, extended until 1985 and characterized for being "agreed from above".
November, 1974	The MDB has a significant performance in the elections, winning 16 of the 22 seats in the Senate and increasing its representation in the Chamber of Deputies from 28 to 44 %
December 1978	AI-5 is revoked by Constitutional Amendment No. 11, whose in force period would begin on January 1, 1979
August, 1979	The Amnesty Law (Law No. 6.683/1979) is edited by the regime
December, 1979	Law No. 6.767/1979 is edited, ending the bipartisan political system in the country
April, 1981	Military opposed to the process of transition to democracy promoted a failed bomb attack in Rio de Janeiro ("RioCentro attack")
1983	The "Diretas Já" movement begins, demanding direct elections for the Presidency and lasting until 1984. This demand ended up frustrated by the rejection of the Constitutional Amendment proposal, which would make such elections possible
January, 1985	In an indirect election for the Presidency, Tancredo Neves, the opposition candidate, wins the regime's candidate, Paulo Maluf
March, 1985	José Sarney, elected Vice President, take charge as President of the Republic in place of Tancredo Neves, who would die in April
October, 1988	The new Federal Constitution is promulgated
November, 1989	The first direct presidential election occur, won by Fernando Collor de Mello, from the National Reconstruction Party (PRN).
December, 1992	President Collor resigns after an impeachment process and corruption accusations
October, 1994	Fernando Henrique Cardoso, from the Brazilian Social Democracy Party (PSDB), wins presidential elections
December, 1995	President Cardoso sanctioned Law No. 9.140/1995, which created the Special Commission on Political Deaths and Disappearances (CEMDP) and provided a compensation to the relatives of the fatal victims of the dictatorship
November, 2001	President Cardoso edited a Provisional Measure, converted into Law No. 10.559/2002, that created the Amnesty Commission, an entity responsible for repairing other sectors of the population that were persecuted by the dictatorship
October, 2002	Luiz Inácio Lula da Silva, from the Workers' Party (PT), is elected President of the Republic

October, 2010	Dilma Rousseff (PT) is elected President of the Republic, becoming the first woman to win a presidential election in the country
November, 2011	President Dilma Rousseff sanctions Law No. 12,528/2011, which created the National Truth Commission (CNV), whose work would begin in May 2012
December, 2014	CNV delivers its Final Report
August, 2016	Dilma Rousseff is removed from the Presidency (through a parliamentary coup) and is replaced by Vice President Michel Temer, from the Brazilian Democratic Movement Party (PMDB)
October, 2018	Jair Bolsonaro, at the time a candidate for the Social Liberal Party (PSL), is elected President of the Republic.

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