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## ESSAYS

# LIES ENGRAVED ON MARBLE AND TRUTHS LOST FOREVER<sup>1</sup>

**Glenda Mezarobba**

- *A reflection on the dialogue between the National Truth Commission, the Ministry of Defence and the Armed Forces in Brazil.* •

## ABSTRACT

*The National Truth Commission (NTC) was established in Brazil in 2012, with one of its goals being to clarify, in collaboration with other public entities, the facts and circumstances surrounding cases of severe human rights violations committed during the period 1946 - 1988. In this article the author reconstructs some of the dialogue developed by the NTC with the Ministry of Defence and the Armed Forces and, more specifically, the NTC's efforts to shed light on cases of deaths and forced disappearances. Having led part of this dialogue, Mezarobba explains in detail the exchange of official correspondence, the meetings and the documentary analysis conducted by these bodies. The author argues that although not a single case of forced disappearance or death was resolved, the dialogue that took place cannot be ignored.*

## KEYWORDS

Truth Commission | Armed Forces | Memory | Brazil | Military dictatorship

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In 2010, seeking to fulfil the duty of the Brazilian state to reveal the truth, the Presidency of the Republic created a working group to prepare a draft bill<sup>2</sup> to establish a body to investigate the severe human rights violations that took place during the military dictatorship (1964-1985). Formed by representatives of the Office of the Presidential Chief of Staff, the Ministry of Justice, the Ministry of Defence and the Special Secretariat for Human Rights, the president of the Special Commission on Political Deaths and Disappearances and one civil society representative, the group worked for three months drafting what would become, at the end of 2011, Law 12,528.<sup>3</sup> Supported by this legislation, the National Truth Commission (NTC) was established on 16 May 2012 to examine and shed light on the severe human rights violations perpetrated between 1946 and 1988, "in order to assure the right to memory and to historical truth, and to promote national reconciliation."<sup>4</sup>

One of the Commission's legally established goals was to clarify, in collaboration with other public entities, the facts and circumstances surrounding cases of severe human rights violations, namely cases of torture, death, forced disappearances, concealment of bodies, and their perpetrators, even when they happened abroad.<sup>5</sup> The purpose of this article is to reconstruct the dialogue developed by the NTC with the Ministry of Defence and the Armed Forces and, more specifically, the efforts that were made to shed light on cases of deaths and forced disappearances.

## Exchange of official correspondence

To achieve its goals, the Commission was permitted to “solicit information, data and documents from governmental bodies and agencies, even when classified at any degree of secrecy” and to “solicit the assistance of public bodies and agencies.”<sup>6</sup> The legislation also established the “duty of public sector employees and the military” to cooperate with the National Truth Commission.<sup>7</sup>

According to its final report,<sup>8</sup> published on 10 December 2014, “concerning the relationship of the NTC with bodies of the public administration, the most relevant dialogue enabling the Commission to conduct its legally established activities was held with the Ministry of Defence and the Armed Forces.”<sup>9</sup> According to the document,

*throughout the duration of its mandate, the NTC took steps to obtain information and documents concerning – directly or indirectly – the severe human rights violations that were under the responsibility or in the safeguard of the Armed Forces, and also to identify the structures, locations, institutions administratively controlled by or that were administratively controlled by the Armed Forces that were used to perpetrate severe human rights violations.*<sup>10</sup>

Also according to the final report, the first formal solicitation of the NTC was made on 27 June 2012. In an official correspondence addressed to the Ministry of Defence, it requested from the Armed Forces access to “relevant documentary information from the Army, the Navy and the Air Force related to severe human rights violations.”<sup>11</sup> In 2013 the NTC began to make two different types of requests. The first contained questions on specific cases of severe human rights violations. The second set of requests, addressed to the Ministry of Defence and its military branches, referred to access to the service and personnel records of retired military personnel to clarify severe human rights violations and identify the structures, institutions, bodies and locations associated with these crimes.

Data from November 2014 indicate that, in total, the NTC sent 84 official correspondences to the Ministry of Defence and its respective military branches, distributed as follows: 76 to the Ministry itself; two to the Army; one to the Presidential Guard Battalion; one to the Navy; two to the Military Hospital; one to the Armed Services Hospital; and one to the health board of the Air Force. Most of the correspondences requested information or authorisation to make “technical visits.” Three dealt with logistical support and only one was for a summons.

In 2014, responding to a request from the NTC, the Armed Forces conducted inquiries to investigate the practice of severe human rights violations in its own facilities. The inquiries began in February after the members of the Commission, in a meeting with the Minister of Defence, requested the establishment of these administrative procedures to investigate how seven military facilities located in the states of Rio de Janeiro, São Paulo, Minas Gerais and Pernambuco “were used continuously and systematically for the practice of torture and executions during the military regime.”<sup>12</sup> The request was accompanied by a preliminary research report indicating that units of the Army, Navy and Air Force were used “as the locus of severe human rights violations.”<sup>13</sup> In the document, prepared based on a brief by two administrative law professors from the University of São Paulo, the NTC considered it:

*imperative to clarify all the administrative circumstances that led to the deviation from the public purpose established for these facilities, constituting the administrative offence of misapplication of purpose, since it is not permissible for public properties [...] to be officially used for illegal activities.*<sup>14</sup>

## The meetings

The relationship between the Commission, the Ministry of Defence and the Armed Forces also included regular meetings with representatives of these institutions. In addition to the dialogue by the members of the NTC with the Minister of Defence and the chiefs of the three branches of the military, meetings were held with senior staff at the Ministry, high-ranking officers from the Armed Forces and consultants or advisers of the Commission. Two main topics were addressed at these meetings: shedding light on the cases of deaths and forced disappearances, established at the start of 2013, and accessing the service records of military personnel, as agreed in August 2014. The dialogue involving the first topic started to be definitively outlined at a meeting held on 8 January 2013 at the offices of the NTC in Brasília. Chaired by Claudio Fonteles, the coordinator of the Commission at the time, the meeting had been requested on 21 December 2012 by Antônio Thomaz Lessa Garcia Júnior, chief of staff to the Minister of Defence who, in a telephone conversation, had also offered the dates of 10 and 15 January 2013 for the first meetings with representatives of the Navy and the Air Force, respectively.

At this meeting the chief of staff to the Minister of Defence reiterated the offer, made a few months earlier, to establish dialogue with the military personnel responsible for developing the current policy for accessing information from the Armed Forces. He also announced the discovery of 60,000 catalogue cards in premises belonging to the Ministry.

Two meetings were held shortly afterwards: one in the Office of the Chief of Staff of the Navy (*Estado-Maior da Armada*) and the other in the Office of the Chief of Staff of the Air Force (*Estado-Maior da Aeronáutica*). In both meetings, on 10 January, it was decided that the collaboration between the National Truth Commission and the Armed Forces would begin with a type of exercise: the analysis of one or two cases of political deaths and disappearances involving each of these two Forces. The representative of the Navy and the two representatives of the Air Force deemed it possible, with the resources available in each of the branches of the military, to locate the missing pieces to solve the puzzle involving the fatal victims of the dictatorship. Therefore, proceeding with what was agreed previously in the meeting with the Ministry of Defence and the chiefs of the three Armed Forces, the NTC established a channel of dialogue with representatives of the Navy, the Air Force and the Army - whose first meeting occurred nearly a month later.

With the support of the Ministry of Defence, all the dialogue between the National Truth Commission and the Armed Forces was structured on a case-by-case basis, i.e. on the attempt to clarify the details surrounding the arrest and death of political opponents. In the cases of forced disappearances, the NTC also requested information referring to the location of the remains of the victims. Within this line of research, by the time the Commission had completed its work, eight meetings had been held with the Brazilian Navy; seven meetings with the Brazilian Air Force and six meetings with the Brazilian Army. The last round occurred in early July 2014.

## Documentary analysis

It was assumed that none of the three branches of the Armed Forces had any of the documentary archives produced or accumulated in the period between 1964 and 1985, which was based on the Notice No. 261 of the Ministry of Defence, submitted to the Justice Minister in November 2012. Therefore, it was determined that for every case of death or forced disappearance, all the documents found in the National Archives<sup>15</sup> (now digitised) would be sent by the NTC on digital media. These documents were produced during the military dictatorship by the intelligence and security agencies and were intended to serve as the starting point for shedding light on these crimes. The idea initially was for the three Armed Forces to receive all of the 456 cases that were the subject of this dialogue with the Commission, but difficulties resulting from the large volume of documents available in the National Archives meant that this triple analysis was not possible. Therefore although 151 cases were submitted for a multiple assessment, most of them were sent to a single branch of the Armed Forces. The Navy was sent 254 cases; the Army, 248; and the Air Force, 246. Each of the three Armed Services received the same 61 "blank" cases, about which nothing was found in the National Archives.

As an official document resulting from more than a decade's work by the Special Commission on Political Deaths and Disappearances, the book "Right to Memory and to Truth" (*"Direito à Memória e à Verdade"*), published in 2007 by the Special Secretariat for Human Rights, was suggested to the military as a reference for the development of case studies. A copy of the book, which is also available online,<sup>16</sup> was sent to each of the Armed Forces. In July 2014 the book "Dossier Dictatorship: Political Deaths and Disappearances in Brazil – 1964-1985" (*"Dossiê Ditadura: Mortos e Desaparecidos Políticos no Brasil – 1964-1985"*) was also recommended as a reference book and delivered to the Armed Forces on DVD.

The analysis of the documents from the National Archives sent by the Commission was developed independently by the three Armed Forces according to their own methodology and based on the summary of each of the cases available in the book "Right to Memory and to Truth." The Navy, for example, conducted a "comparative analysis" to present the results of its assessment of the documents, with a focus on any contradictory information and/or conflicting versions. The Army, meanwhile, prepared tables showing the origin of the documents, the year they were produced, their classification in terms of secrecy, and the total number of pages analysed in each one of the cases. And the Air Force provided detailed information on official internal correspondences and orders relating to the analysis of each one of the cases. The Air Force also informed the Commission that in early 2004 it had conducted its own campaign "through its intranet and internet" to search for more information "that could lead to the location of the mortal remains of the people who disappeared in the conflict in Araguaia."<sup>17</sup>

## Results of the dialogue between the Truth Commission, the Ministry of Defence and the Armed Forces

Although it was proposed by the representative of the NTC at the start of the dialogue with the Ministry of Defence and the Armed Forces in 2013, apparently none of the three branches of the Armed Services sought information or data from retired military personnel or searched in the administrative records of military organisations where crimes occurred, such as the Canoas Air Base in southern Brazil. The files resulting from the work of the three Armed Services were shared by the Ministry of Defence in official correspondence that was regularly sent to the NTC. This correspondence formed part of the body of documents that, according to the law that established the Commission, would be included in the files of the "Memories Revealed" (*"Memórias Reveladas"*) project by the National Archives<sup>18</sup> upon the completion of the Commission's work.

Among the specific discoveries and/or relevant information provided by the military based on its assessment of the material sent by NTC are, for example, three secret documents relating to the case of Eduardo Collier Filho.<sup>19</sup> Identified by the Army, one of them, dated 1975 by the Ministry of Justice, considers the information that Collier had been arrested on the date given for his disappearance to be false, and another document denies that he had been held in the premises of the Federal Police. Finally, a secret statement from the Military Public Prosecutor's Office to the Ministry of Justice cites the lack of proof of his arrest.<sup>20</sup> When analysing the case of the forced disappearance of David Capistrano da Costa,<sup>21</sup> the Navy, meanwhile, located a confidential document produced by the National Intelligence Service agency in the Mato Grosso do Sul state capital of Campo Grande, dated 5 July 1974, informing that Costa and another five people had been arrested in Aquidauana, in the neighboring state of Mato Grosso. Two days earlier, the agency itself had been informed, via telex, of the arrest of the group. Not long afterwards the information was denied, with new information from the Brazilian interstate police (*Polinter*) stating that "the initial communication had been mistaken." Concerning the case of Ângelo Cardoso da Silva,<sup>22</sup> documentation analysed by the Air Force brought forward the probable date of his death by one day. According to documents from the Porto Alegre agency, the central agency of the National Intelligence Service and the Ministry of Mining and Energy, the militant from the M3G group (Marx, Mao, Marighella and Guevara) died on 22 April 1970.<sup>23</sup>

Although not a single case of forced disappearance or death was resolved, the effort involving the NTC, the Ministry of Defence and the Armed Forces cannot be ignored. These small discoveries indicate that all kinds of documents

produced during the dictatorship were carefully read, despite the deluge of data they contained. In November 2014, for example, the Navy confirmed that it had analyzed 69,034 pages of documents in 1,203 hours of work involving five military personnel.<sup>24</sup> An official correspondence from the Air Force, sent to the Ministry of Defence in early December, revealed that over a period of 16 months, three military personnel had spent 3,972 hours working on examining more than 100,000 pages of documents<sup>25</sup> as part of the dialogue established with the NTC. At the same time, the Army confirmed that it had analysed 110 cases “whose records totalled 195,600 pages” involving a team of eight military personnel and 6,520 hours of work.<sup>26</sup>

Given its proportions, the innovative nature of the project also has to be recognised, since it is based exclusively on a practice that contrasts with the period under analysis, namely on dialogue and the joint clarification of the facts. As Michel Feher points out, instituting a democratic regime means substituting the reign of force for the rule of law and that implementing the principle of individual accountability means ensuring that no group of citizens will be held collectively responsible based on their group identity.<sup>27</sup> This is not an easy task, if we consider how often so-called “group recriminations” took place – including during the development of the Commission’s work – in the form of reprisals of opposing factions against each other attributing to whole groups the actions of individual members. Such recurrent group recrimination has, in this process of revealing the truth, been challenged since the preparation of the draft bill by involving representatives of the Ministry of Defence in this process. Moreover, the different expectations of those who experienced or witnessed the facts themselves, and those who instead only know about the severe violations that occurred during the military dictatorship from current information, do not help calm the spirits of those involved in the mnemonic battle (an expression that gained notoriety with Eviatar Zerubavel, in the mid-1990s), often placing them in opposing camps. While the members of the Commission were sceptical about the confirmation of the non-existence of any military files, the Ministry of Defence was surprised by the NTC’s lack of interest in accepting an invitation made by the Navy to visit its intelligence centre, CENIMAR.

Therefore, if the dialogue with the Armed Forces was not capable of “resolving the matter” as intended by the NTC, it clearly shows how, in the words of Onur Bakiner, “commissions are firmly embedded in the social struggles over memory and history, which makes the reception of their findings and narratives dependent on larger political and societal processes. They produce one truth among others.”<sup>28</sup>

## NOTES

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1. “The written word, the printed word, and so the possibility of a document withstanding time and ending up one day on the historian’s desk does not bestow upon this particular relic a supplementary truth over all the other marks of the past: there are lies engraved on marble and truths lost forever.” Henry Rousso, “O arquivo ou o indício de uma falta” (The archive or the sign of an absence) *Estudos Históricos* 9, no. 17 (1996): 85–92.

2. Brasil, Congresso Nacional, “Projeto de Lei, Cria a Comissão Nacional da Verdade, no âmbito da Casa Civil da Presidência da República”, EM n. 14 / 2010 – SDH-PR/MD/MJ/MP, last accessed in May 2015, [http://www.camara.gov.br/proposicoesWeb/prop\\_mostrarintegra;jsessionid=1C6ADF7AC42DEBBAED5C101E8E532978.proposicoesWeb1?codteor=771442&filename=PL+7376/2010](http://www.camara.gov.br/proposicoesWeb/prop_mostrarintegra;jsessionid=1C6ADF7AC42DEBBAED5C101E8E532978.proposicoesWeb1?codteor=771442&filename=PL+7376/2010).

3. Brasil, “Cria a Comissão Nacional da Verdade, no âmbito da Casa Civil da Presidência da República”, Lei n. 12.528, *Diário Oficial da República Federativa do Brasil* (2011), accessed May, 2015, [http://www.planalto.gov.br/ccivil\\_03/\\_Ato2011-2014/2011/Lei/L12528.htm](http://www.planalto.gov.br/ccivil_03/_Ato2011-2014/2011/Lei/L12528.htm).

4. Brasil, Lei n. 12.528/2011, art. 1.

5. Besides these, the other goals of the Commission established by the law were: to identify and make public the structures, locations, institutions and circumstances in connection with the practice of human rights violations and any ramifications on the various different state institutions and on society; to forward all information that could help locate and identify victims of political disappearances to the proper authorities; to cooperate with all governmental agencies to investigate human rights violations; to recommend the adoption of public policies and measures to prevent new violations; to promote, based on the evidence obtained, the reconstruction of case histories of severe human rights violations; and to cooperate so assistance can be provided to the victims.

6. Brasil, Lei n. 12.528/2011, art. 4, II e VIII.

7. *Ibid.*, article 4, paragraph 3.
8. Brasil, Comissão Nacional da Verdade, *Relatório Final da Comissão Nacional da Verdade*, vol. 1 (Brasília: CNV, 2014), accessed May, 2015, [http://www.cnv.gov.br/index.php?option=com\\_content&view=article&id=571](http://www.cnv.gov.br/index.php?option=com_content&view=article&id=571).
9. Brasil, *Relatório Final*, 63.
10. *Ibid.*, 63.
11. *Ibid.*, 63.
12. *Ibid.*, 64.
13. *Ibid.*, 64.
14. *Ibid.*, 65.
15. Body under the Ministry of Justice that stores, preserves, provides access to and discloses public documents, most of them produced by the Federal Executive Branch, but also by the Legislative and Judicial Branches, in addition to the private documents of individuals and companies. See more at: <http://www.arquivonacional.gov.br/>.
16. Brasil, Secretaria Especial dos Direitos Humanos, *Comissão Especial sobre Mortos e Desaparecidos Políticos*, Direito à memória e à verdade: Comissão Especial sobre Mortos e Desaparecidos Políticos (Brasília: SEDH, 2007), accessed May, 2015, <http://pt.scribd.com/doc/55814712/livrodireitomemoriaeverdadeid>.
17. Brasil, Força Aérea Brasileira, Ofício 15/CMT/473, 14 de março de 2006.
18. The Reference Centre for Political Struggles in Brazil (1964-1985), institutionalised by the Chief of Staff of the Presidency of the Republic and implemented in the National Archives in order to compile information on the facts of the country's recent political history: <http://www.memoriasreveladas.gov.br/>.
19. Militant from the APML (Marxist-Leninist Popular Action) group arrested in Rio de Janeiro by security agents on 23 February 1974, according to data from the book "Direito à memória e à verdade" (Brasil, *Direito*, 373).
20. Brasil, Ministério de Defesa, Ofício 3945/MD, 14 de abril de 2014.
21. Member of the PCB (Brazilian Communist Party) who disappeared on 16 March 1974 between the city of Uruguaiana, in the state of Rio Grande do Sul, and São Paulo, according to data from the book "Direito à memória e à verdade" (Brasil, *Direito*, 371).
22. Taxi driver associated with the organisation M3G who died on 23 April 1970 in the Central Prison of Porto Alegre, in the state of Rio Grande do Sul, according to data from the book "Direito à memória e à verdade" (Brasil, *Direito*, 124).
23. Brasil, Ministério de Defesa, Ofício 5034/Gabinete – MD, 12 de maio de 2012.
24. Brasil, Marinha do Brasil, Ofício 60-382/GCM-MB, 19 de novembro de 2014.
25. Brasil, Ministério de Defesa, Ofício 14119/Gabinete -MD, 4 de dezembro de 2014.
26. Brasil, Ministério de Defesa, Ofício 14524/Gabinete – MD, 11 de dezembro de 2014.
27. Michel Feher, "Terms of reconciliation," in *Human rights in political transitions: Gettysburg to Bosnia*, Carla Hesse and Robert Post (New York: Zone Books, 1999), 325.
28. Onur Bakiner, "One truth among others?: Truth commissions' struggle for truth and memory," *Memory Studies*, February 2015, 2.



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