

Uncovering Truth: Promoting Human Rights in Brazil

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An Interview with Cameron Parsons

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Paulo Sérgio Pinheiro was appointed by Brazilian President Dilma Rousseff as one of the seven commissioners of the Brazilian National Truth Commission and is now its coordinator. He served as Minister of the Secretary for Human Rights under Brazilian President Fernando Cardoso. He is chairperson of the UN Independent International Commission of Inquiry on Syria, adjunct professor of international relations at Brown University, and research associate at the Center for the Study of Violence, which he founded in 1997 at the University of São Paulo.

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ON 1 APRIL 1964, THE Brazilian armed forces, with civilian support, overthrew the legally constituted government of President João Goulart and began 21 years of authoritarian rule. Congressional representatives were purged from offices, and thousands of people lost their rights. According to *Time* magazine, over 10,000 people were arrested. Reports that the military was torturing detainees soon leaked out.

Between 1965 and 1968, diverse forces organized to challenge military rule, ranging from politicians and intellectuals to students and rank-and-file members of the military that had been expelled from the armed forces. Some decided that radical actions were the only recourse, organizing guerrilla movements to overthrow the regime. The generals' response to these efforts was a clampdown on all oppositionists and the systematic violation of human rights. Brazil became internationally known as a place where an arrested person could be tortured and killed.

In the mid-1970s, as the international oil crisis crippled the Brazilian economy, the military decided to initiate a gradual return to civilian rule. One

measure designed to appease the opposition and ensure a safe exit from power without any latter prosecutions for state-initiated human rights violations was the 1979 Amnesty Law. It allowed exiles to return and political prisoners to leave prison. It also offered a blanket amnesty for those within the state apparatus who had tortured oppositionists. Since the return to democratic rule in the late 1980s, there have been ongoing demands for a full reckoning of the Brazilian government's role in the violation of its citizens' human rights during the dictatorship. To this end, in May 2012, President Dilma Rousseff appointed the National Truth Commission to examine the country's recent history.

Brown Journal of World Affairs: Brazil is on the international stage as it prepares to host the 2014 World Cup and the 2016 Summer Olympics. Is the timing of the launch of the Truth Commission with these international events just a coincidence? Why launch an investigation into the military dictatorship that ruled Brazil from 1964 to 1985 at this moment in time?

Paulo Sérgio Pinheiro: It is a simple coincidence, because the timing was determined by discussion of the matter in the Brazilian National Congress. It took two years to approve the law project proposing the formation of a truth commission in that body after the executive proposed it in May 2009. After it became law at the end of 2011, President Dilma Rousseff appointed the seven members of the National Truth Commission in May 2012. But why now? This was something that civil society demanded. Between 2008 and 2009, Paulo Vannuchi, the Minister of Human Rights in the Lula government, after consulting with all of the states of federation, prepared Brazil's National Program for Human Rights through states' conferences. It was the third program of its type—the first two were under the Cardoso administration. At the end, one of the main proposals mentioned in the assemblies of the several Brazilian states was to form a truth commission. President Lula then decided to appoint a working group of six members, and I was one of the members selected to represent civil society in proposing drafts of the law. In the end, as I have said, the law project was submitted to the congress and approved in 2011.

Journal: It does seem as if it is quite late to start this process now, considering that Chile, Argentina, Uruguay, and Paraguay have all already successfully completed their truth commissions to investigate the crimes committed under the dictatorships in their countries. Why is Brazil entering the game so late?

Pinheiro: First, I must say that this “game” is not a World Cup. Brazil is not competing with any of those countries. And, in fact, Brazil was the first one to make reparations to the families of those who “disappeared” during the military dictatorship. The key piece of legislation, Law 9140—passed under Cardoso in 1995, his first year of office—officially recognizes missing persons—the “disappeared”—as being dead as a result of participation or charges of involvement in political activities from 2 September 1961 to 15 August 1979. This law also recognized that the crimes of state agents perpetrated under the military dictatorship were the responsibility of the Brazilian state. As a result, a commission was established to investigate the deaths and the disappearances with reparations. That period was extended by other piece of legislation under President Cardoso and President Lula. If you compare Brazil to France, for instance, only under President Jacques Chirac in that same year of 1995—but 50 years after the end of the fascist regime of Vichy—was there publicly recognized responsibility of the French state for the crimes of deporting thousands of Jews to Nazi death camps during the German occupation in World War II.

In Brazil, it took only 10 years for the state to assume the responsibility of the crimes perpetrated by the military regime, and this was the benchmark that made it possible to reach the establishment of a national truth commission. I think that the timing of the launch of the Truth Commission is very much a product of the kind of political process that has existed during the dictatorship and our transition to democracy. I refuse to accept, however, that it is “late.” Brazil paid reparations 10 years—only 10 years—after the end of the dictatorship. We must also remember that before the establishment of the Truth Commission, Brazil established the Amnesty Commission to give reparations to the state employees who were expelled and journalists who lost their jobs. And Brazil had several campaigns for the collection of archives. *Nunca Más*, Argentina's commission, was based solely on testimony; not a single page of paper was considered. This is not the case in Brazil: We have several archives from the military dictatorship, the intelligence services, the police, the detention centers, and even the armed forces that are already in the public domain. In the National Archives alone there are 16 million documents from that period that are fully accessible. I think that the analysis of this process cannot be done only by comparative analysis with other countries. You have to take into account the specificity of the Brazilian politician transition and consolidation process from military dictatorship to civilian democracy.

Journal: The commission's official aim is not to apportion blame, but to “rescue

memories” and give Brazilians the first comprehensive history of abuses committed during the period. As such, the commission has no prosecutorial power. Many observers have labeled this as a case of truth without justice. How do you respond to the families of the victims who want to bury their dead and restore memory but also hold the perpetrators accountable?

Pinheiro: As far as I know, of the 40 truth commissions in the world established after the 1980s, not a single one has had prosecutorial and judicial power. So, we are in very good company. Truth commissions are not tribunals; they are

We have the power to oblige individuals to deliver testimony, and we have access to any document at any level. not prosecutorial offices. You have justice after the truth commission, not during. Our National Truth Commission has two basic powers that not a single previous South American Truth Commission has had: one, we have the power to oblige

individuals to deliver testimony—if they do not appear, they will be prosecuted—and two, the levels of confidentiality of the documents do not hold for the commission—that is to say, we have access to any document at any level, secret or ultra-secret. In addition, we have the competence to identify authors of the violations and assess their responsibility based on the context in which the violations happened. All the other truth commissions did the same thing; it’s not in the tradition of truth commissions to indict perpetrators. Even the mother of the all commissions—the Argentine CONADEP [National Commission on the Disappearance of Persons], known as the Sabato Commission—didn’t sentence anybody. Of course, the report of the Brazilian Truth Commission will have developments and consequences, but I don’t have anything to say about what those repercussions will be.

Journal: You have said that depending on the outcome of the investigation, the Brazilian Truth Commission could determine individual responsibility for violations. Could you specify what this means? Do members of the conservative segments of the military have reason to fear that the close of the Truth Commission could lead to overturning the 1979 amnesty law that the military dictatorship passed that allows exiled activists to return and shields human rights violators from prosecution?

Pinheiro: In April 2010 the Brazilian Supreme Federal Court ruled to uphold the interpretation of that law that crimes committed by members of the military

regime were political acts and therefore covered by the amnesty. This ruling does not interfere with the work of the Truth Commission because we don’t prosecute or judge anybody; we can just state facts and indicate probable responsibilities of those having perpetrated human rights violations. Notwithstanding, yes, I think that it is a realistic expectation that the situation of those perpetrators will be different after the report than today. After the report, the precise responsibilities will have been clearly indicated.

Journal: Would you be personally in favor of seeing the 1979 Amnesty Law dissolved?

Pinheiro: My personal feeling does not matter. What happened is that Brazil, thanks to a proposal of President Cardoso, issued on the 50th anniversary of the Universal Declaration of Human Rights, the National Congress in 1998 recognized the jurisdiction of the Inter-American Human Rights Court. On 14 December 2010, the Court ruled that Brazil had broken the American Convention on Human Rights by using its amnesty law as a pretext for not punishing human rights violators of the military regime and followed the jurisprudence of the Court affirming that self-amnesties by military regimes are not valid. This is a challenge for the Brazilian state: we are a commission of the Brazilian state, but we are not its representatives. Of course, as a former member for eight years of the Inter-American Commission of Human Rights and also a former member of Cardoso’s cabinet of ministers, I think sentences of that Court ought to be implemented. But when or if this will happen is not my business or the business of the Truth Commission.

Journal: I’d like to move on to discussing the crimes of private citizens during the dictatorship. There are some military members who are demanding the government also investigate the acts of the opposition movement, claiming both sides committed crimes worthy of investigation and disclosure. The government has thus far responded by saying that it does not have the authority. Where do you stand on the issue?

Pinheiro: One of our first resolutions said that the scope of the Truth Commission would be limited to the human rights violations state agents perpetrated. This is very clear in the text of the law. Thus, we will only investigate violations committed by the Brazilian state under the military dictatorship, following the 1995 law.

I think it is a falsification of history, however, to speak of “two sides.” What they call the “other side” is around 10,000 people detained by the state, 5,000 people who were illegally prosecuted by the military tribunals, and around 2,500 people who were sentenced to four- to ten-year prison terms. In the end, those on the “other side”—those who committed political crimes—have already been heavily sanctioned, and it is not the role of the commission to investigate those political crimes. I think this is very well established. We cannot convince many retired military members of this; they can continue to criticize us. But I have refused, from the very moment that I was appointed, to speak of “two sides.” There is only one type of crime: those committed by the military dictatorship, very much in the framework of law 9140 of 1995. Of course we will speak of the context. These crimes were committed in specific contexts, and of course in the Report of the Brazilian Truth Commission, we will deal with the armed resistance and organizations. There were, for instance, around 60 people who were exterminated by the army, in the Araguaia guerrilla—an armed movement, active between 1966 and 1974, in the Araguaia River banks in Pará state. It was founded by militants of the PC do B, [Partido Comunista do Brasil, the Communist Party of Brazil], an armed dissidence of the PCB or the Brazilian Communist Party, aiming at a communist revolution in the rural areas of the country in order to overthrow the military dictatorship. The clarification of the circumstances surrounding those and other disappearances is an imperative that we are very much involved in.

However, the military dictatorship was not a “Far West” [Western] movie between the urban guerrilla and the military. There were many other violations committed against citizens who were not involved in the military warfare. There were violations against indigenous peoples, peasants, gays, people of African descent, and members of the military who opposed the regime that the commission is also considering. We are not just focusing on the fight between the armed organizations and the crimes of the military regime. The scope of the commission is much broader than people are making it seem.

Journal: How do you see the end of the Truth Commission having an impact on Brazil as both a regional and international leader?

Pinheiro: I think what happens in Brazil has a lot of visibility. The country is very globally visible at this moment. This is a unique opportunity for our country to set an example for the promotion of human rights not only in Brazil but also in the rest of the Americas and the world. It is my sincere hope that the commission

will have an impact nationally, regionally, and globally. Aside from preparing the history of the dictatorship, we will put forth a lot of recommendations for dealing with the present and ongoing abuses of human rights and for helping those who shape human rights policy now. We are working on behalf of not only the victims of the dictatorship but also of the citizens impacted politically by the functioning of the judiciary, the police, and other institutions during the consolidation of democracy. The law that created the National Truth Commission invites us to make recommendations on how to improve these forces, and we look forward to doing that. 

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The opinions expressed here by Professor Pinheiro do not reflect the position of the Brazilian National Truth Commission and are expressed in his personal capacity.

James N. Green, professor of history and Brazilian studies at Brown University, contributed with the introduction to this interview.

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