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Fighting Against Impunity: the Federal Prosecution Service and the Gomes Lund Case

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Abstract

Recently, the Federal Prosecution Service has embraced the agenda of individual criminal accountability for human rights violations committed by the military dictatorship. This article aims to reconstruct such process of institutional change, analyzing the effects of the Inter-American Court of Human Rights' ruling on the Gomes Lund case, and how it has favored a more progressive group of pro-compliance prosecutors.

Keywords: Brazilian Federal Prosecution Service, Gomes Lund, Inter-American Human Rights System, transitional justice.

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Introduction

The Brazilian military dictatorship (1964-1985) was marked by the systematic practice of state terrorist policies against its political opponents, recurring to torture, rapes, summary executions, arbitrary detentions and forced disappearances. One of the most significant cases in terms of human rights violations regards the three military campaigns against the Araguaia Guerrilla movement, on the borders among the states of Pará, Tocantins and Maranhão. During these episodes, between 1972 and 1975, at least seventy persons lost their lives, including members of the Communist Party of Brazil (PC do B) and local peasants.

In 1995, family members of the political militants that were killed and forcefully disappeared in the Guerrilla movement, structured around two organizations – the Commission of the Relatives of the Dead and Disappeared for Political Reasons (CFMDP) and the Torture Never Again Group of Rio de Janeiro (GTNM-RJ)¹ –, sent the case to the Inter-American Commission

¹ *Comissão de Familiares de Mortos e Desaparecidos Políticos* (CFMDP) and *Grupo Tortura Nunca Mais do Rio de Janeiro* (GTNM-RJ).

on Human Rights (IACHR) with the legal counsel of CEJIL (Center for Justice and International Law) and Human Rights Watch/Americas' common office in Rio de Janeiro. Frustrated with the delays and lack of results of an internal lawsuit concerning the guerrilla in the Brazilian judicial system, which took twenty-five years to be processed, between 1982 and 2007², family members had to wait for another fifteen years until the Inter-American Court of Human Rights (IACtHR) condemned Brazil in the Gomes Lund case (IACtHR 2010). In November 2010, the IACtHR determined that the amnesty law 6.683/79 lacked legal effects insofar as it preserved impunity and disobeyed the obligation – derived from the American Convention on Human Rights – to investigate, prosecute and punish serious human rights violations (IACtHR 2010).

In April 2010, anticipating the IACtHR's ruling, and not considering whatsoever the international human rights mandates to which Brazil is bound, the Supreme Federal Court (STF) preventively affirmed the constitutionality of the amnesty law in the trial of the Claim of Breach of Fundamental Precept (ADPF)³ 153, therefore attempting to end the discussion on the issue. During the trial, as the highest representative of the Federal Prosecution Service (MPF), the Prosecutor General of the period, Roberto Gurgel, expressed a position that was contrary to the criminal accountability of the military dictatorship's agents involved in serious human rights violations. At the occasion, Gurgel endorsed the MPF's traditional institutional stance of supporting the Judiciary's hegemonic interpretation in place since 1979, according to which the amnesty was a broad and foundational bilateral historical pact that had been responsible for triggering the redemocratization process (Brazil 2010).

Nevertheless, in spite of the aforementioned defeat suffered by family members in the domestic jurisdiction, Brazil's condemnation in the Gomes Lund case would finally stimulate an important change in the MPF's behavior. The new approach favors the position defended by a relatively more progressive group of federal prosecutors, which are prone to use arguments and legal instruments extracted from international human rights law in order to promote the prosecution of cases. Therefore, efforts towards the agenda of individual criminal accountability remain active mainly as a result of the IACtHR's ruling, the most important legal tool available to confront the STF's decision in the ADPF 153.

Adopting a process-tracing approach (Bennett and Checkel 2015) in order to systematize the data collected in qualitative semi-structured interviews with key actors⁴, the aim of this article

2 Judicial process I-44/82-B, renumbered as judicial process I-108/83, First Federal Court of the Federal District. Even though this judicial action was finally judged in 2007, definitely condemning the Brazilian state, its determinations have not yet been fully complied with.

3 Through this mechanism, it is possible to analyze whether the legislation that precedes the 1988 Constitution, such as the amnesty law, is adequate in terms of the fundamental precepts of the new democratic Constitution.

4 During the intensive and semi-structured in-depth qualitative interviews with open-ended questions, the covered topics were clearly interconnected with the research question, thus allowing the reconstruction of the political-legal process within the MPF as well as the identification of the motivations, ideas, perceptions and preferences of key actors. Content analysis was finally used with all the interviews, which were also compared and crossed, in order to construct the argument and the theoretical categories from our analytical framework. In addition, the data from the interviews was also crucial for enriching our analysis as well as for setting a cohesive and theoretically oriented narrative that articulates the temporal sequence of events and its logic.

is to reconstruct the process of institutional change within the MPF as well as to explain the effects of the IACtHR's ruling on the behavior of this judicial actor, unraveling how the ruling empowered certain groups rather than others in the MPF. Using theoretical inputs from the literature on domestic mechanisms of impact of the international human rights regime, I argue that the ruling on the Gomes Lund case has changed the power balance within the MPF in favor of a more progressive group of pro-compliance prosecutors, favorable to the agenda of individual criminal accountability.

Considering that, until the condemnation on the Gomes Lund case, this group had been blocked – either by internal resistance of other prosecutors or by the ADPF 153's impact, which seemed to interdict any progress of this agenda –, firstly, I argue that, by fixing a clear and international legal obligation for the organ to comply with, the IACtHR's ruling has hindered both the possibilities of vetoing the agenda of individual criminal responsibility within the MPF and the strength of pro-status quo prosecutors. Moreover, besides yielding this new juridical-legal power resource, the ruling has also reduced the margin of discretion in the interpretation and enforcement of the amnesty law. Thus, it has stipulated arguments, legal typologies and juridical formulations such as the non-applicability of statutes of limitations for serious human rights violations and the illegality of amnesty laws, which veto the instrumentalization of the **6.683/79 law** as a pro-impunity shield for state agents responsible for grave violations. This has offered a clearer path for the prosecution process that involves the obligation to overcome not only the amnesty law's representation as a bilateral pact but also legal and procedural internal obstacles, such as rules of limitations and the principles of legality, *res judicata* and non-retroactivity of the criminal law⁵.

Since the emblematic 1988 Velásquez Rodríguez case against Honduras, which involved the crime of forced disappearance, the IACtHR has developed a vast jurisprudence on the subject of transitional justice⁶. In a series of cumulative rulings, it has declared amnesty laws invalid, establishing an obligation to investigate and punish perpetrators of human rights violations. By accepting the IACtHR's jurisdiction in 1998, the Brazilian state recognized the legally binding nature of the IACtHR's decisions related to transitional justice and other matters. Taking into account the effects of such international obligation, the article does not present normative reflections or discussions on whether the IACtHR's ruling and the MPF's recent behavior are adequate or not in the Brazilian domestic context⁷. Rather, the analysis focuses on the legal and political implications that the IACtHR's transitional justice model has had on the MPF's internal dynamics and in its relations with other domestic actors, especially from the judicial system.

5 The categories about veto possibilities and levels of discretion in the interpretation and enforcement have been extracted from Mahoney and Thelen (2010) theoretical model on institutional change.

6 Mezarobba (2009, 121) states that transitional justice “involves, on the one hand, serious human rights violations and, on the other hand, the need for justice that emerges in periods of transition to democracy or at the end of conflicts”. Thus, it highlights four rights of victims and society: the right to justice; the right to truth; the right to compensation (reparations); and the right to reorganized institutions that may be held accountable (measures of non-repetition) (Mezarobba 2009, 117).

7 For a study criticizing the transitional justice model emanating from the IACtHR and the risk of the so-called “criminal law of the enemy” in detriment of the rights of defendants, see Basch 2007, Lima 2012 and Malarino 2010.

Theoretical considerations

In contrast to what occurs with international regimes in other issue areas, the international human rights regime cannot be understood as a cooperation mechanism aimed at overcoming the prisoner's dilemma in favor of the mutual benefit of all parties (Neumayer 2005, 927). Whereas the basic function of most regimes is to reduce transaction costs and to provide high-quality information for states – thus enabling the overcoming of collective action problems, the expansion of actors' short-term time horizons and the coordination of states' actions towards a common goal – the human rights regimes do not recognize the rights of one state before other states, but the rights of individuals before their own state. Rather than acting as cooperation facilitators, which help states to overcome tensions and conflicts of the anarchic international system, the human rights regimes seek to protect individuals from their own governments' acts and omissions, making the states responsible for domestic activities (Beitz 2009, 197).

In the human rights field, the action of a specific state produces either little or no cost whatsoever for other states, since actions committed by a state against its own citizens usually neither threaten other states' interests nor interfere in the human rights fruition by foreign citizens from other countries. Therefore, the rational functionalist explanation according to which agreements are designed to regulate the externalities arising from the interdependency between states, as well as its implication that states' self-interest leads them to comply with rules that increase the regularity and predictability of interstate relations, are not applicable. As a result, there is no coordination imperative among states that can be channeled through the regime, and the domestic level becomes a necessary mediation to explain the potential impact of the international norm (Martin and Bocheva 2001). In other words, the institutional effect will not depend on the functioning of the regime's mechanisms of information, monitoring and enforcement, but on the actions, organizational capacity and power of domestic pro-compliance political actors (Martin and Bocheva 2001; Dai 2005) to press the state to comply with the international norms that control governments' practices towards its citizens.

Hence, the specialized literature has explored the domestic causal mechanisms by which internal political actors instrumentalize international human rights norms and rulings, seeking to empower themselves in order to press their governments towards compliance. In this sense, Simmons (2009) has offered the most elaborate work on the domestic impact and consequences that international human rights commitments ratified by states may have at the domestic level. The author argues there are three causal mechanisms by which the international human rights regime may exert its effects in the domestic arena: 1) change in the national policy agenda; 2) influence on legal decisions and on the potential for litigation; and 3) increase in the propensity of domestic groups to mobilize (Simmons 2009, 112-55). Therefore, a state's formal commitment in the domain of international human rights law helps domestic pro-compliance actors to establish priorities, formulate demands for rights, define the meaning of their claims and press the state from a more powerful and legitimate position (Simmons 2009, 126).

Regarding the effects of the Gomes Lund case on the MPF, this study analyzes the instrumental dimension of the IACtHR's ruling and the legal tools and tactics derived from it. Thus, the article investigates how the regime and the international human rights norms may offer space and resources for domestic actors and groups to litigate against their own state at the local level, based on the rights recognized in the treaties and rulings of international tribunals (Simmons 2009, 129-135, 150). The international legal obligations to which states are bound may thus transform into important components of domestic law, *i.e.*, enforceable legal obligations at the domestic level, based on which social actors' demands and judicial decisions can be formulated. This dynamic offers new litigation tools for individuals and groups in local courts as well as new juridical-legal resources for progressive judicial actors interested in applying international human rights law. As I shall try to demonstrate in the case of the MPF, these judicial actors may strengthen their institutional position and overcome the resistance built against the advancement of their pro-human rights agenda.

The Federal Prosecution Service and its first frustrated attempts to deal with the human rights violations committed by the military dictatorship

The current federal judicial system in Brazil comprises three jurisdiction levels. Federal lower courts represent the first instance in which trials take place. They are organized in Judiciary sections which are located in each of the states' capitals and also in the Federal District⁸. In addition, there are five regional federal courts (TRFs) found in the Federal District, São Paulo, Rio de Janeiro, Recife and Porto Alegre acting as courts of second instance in charge of judging appeals. Finally, the third jurisdiction level known as the superior instance is composed by Superior Courts responsible for judging appeals regarding TRFs' decisions (Superior Court of Justice, Superior Labor Court, Superior Electoral Court and the STF). The Superior Court of Justice ensures the completeness of the federal law and the uniformity of its interpretation, whereas the STF occupies the apex position as the constitutional instance that also has other attributions (Brazil 1988, arts. 92-126).

In this structure, the MPF is an independent institution responsible for "the defense of the legal order, the democratic regime and the social and individual unavailable interests" (Brazil 2017, art. 127). It acts as public prosecutor and guardian of societal rights.

However, before the promulgation of the 1988 Constitution (Brazil 1988), which granted autonomy to the Federal Prosecution Service in relation to the state's three branches of government, the MPF was an institution linked to the Executive. Besides being exclusively responsible for proposing public criminal action as accuser, it also performed the role of Union defense, which would be subsequently allocated to the Office of the Attorney General of the Union (AGU) (Kerche 2008).

8 Each judiciary section establishes federal courts (Varas) in its states' capitals and also in other states' municipalities.

During the military dictatorship, as a result of such institutional framework, the MPF was in a condition of complete submission to the interests of the authoritarian governments, which explains the fact that no investigation concerning human rights violations perpetrated in the period was ever initiated. Nonetheless, even after the changes in its institutional design derived from the implementation of the 1988 Constitution (Brazil 1988), which ensured new and extensive powers to the organ as well as important guarantees of independence, the MPF continued to avoid any discussion or action related to the military regime's crimes. Such behavior stemmed from the fact that a significant part of its members – and, particularly, the ones in highest positions – had either been socialized in the preceding period, or possessed connections with the previous regime, or feared the political implications of this sort of action.

As a result, even though there were institutional provisions allowing prosecutors to confront the issue, the institutional reconfiguration that marked a turning point in the MPF's trajectory was not followed by activism on transitional justice matters. Such behavior was caused in part by the non-depuration of its members, nominated by the military regime, as well as by their perceptions and calculations according to which it was impossible or illegitimate to act in this arena. Consequently, despite the new democratic order and its new powers, the MPF kept the same silence that had characterized it during the authoritarian regime, thereby preserving the amnesty law as a mechanism of impunity.

Reflecting on these processes, Aurélio Rios, Federal Ombudsman, considers that:

We had people that collaborated intensively with the military dictatorship. (...) during a long time there was no political climate (...) especially because a significant part of the highest ranks had a relation - if not directly, indirectly - with the military regime, since the majority of them was selected still in that period. (...) Even after [19]88 (...) No one could mess with the amnesty (Aurélio Rios, personal interview)⁹.

In addition, many other members of the MPF with a liberal tendency that had fought against authoritarianism feared being subject to retaliations or accusations of vindictiveness. Moreover, there was also the risk perception that their actions might provoke the military and unleash processes of crisis and political instability. Considering this scenario, in the 1990s, after a phase of institutional consolidation achieved through the complementary law 75 of 1993 during the permanence of Aristides Junqueira (1989-1995) as the head of the MPF, the appointment, by Marco Maciel, of Geraldo Brindeiro (1996-2003) for the Office of the Prosecutor General (PGR) did not contribute either to any progress on the issue¹⁰. It would still take a long time until a new generation of younger prosecutors, unrelated to the preoccupations of these most experienced

9 All the interviews cited in this study were conducted in Portuguese and translated to English by the author.

10 Marco Maciel, Fernando Henrique Cardoso's (1995-2002) vice-president, member of the extinct Liberal Front Party (PFL), possessed historical associations with the military regime, having been member of the National Renewal Alliance (ARENA). He was appointed by the military as governor of Pernambuco (1979-1982) and is also cousin of Geraldo Brindeiro. Considering these affiliations, it is not strange that the crimes of the military dictatorship did not advance in the MPF during this period.

MPF members, could dedicate themselves to confront the theme, using the condemnatory ruling of the Gomes Lund case as a decisive tool for their work.

However, long before this took place, the MPF's initial involvement with issues concerning human rights violations committed by the dictatorship occurred belatedly, fifteen years after the redemocratization, as a result of actions developed by family members of the dead and disappeared for political reasons during the military regime. Between 1998 and 1999, militants of the GTNM-RJ prepared a dossier on three emblematic cases of the authoritarian period, whose aim was to urge the MPF to act. The expectation was that the Federal Circuit Ombudsman in Rio de Janeiro, Daniel Sarmiento, could work on the cases of the Araguaia Guerrilla movement, the clandestine mass grave of Perus and the Ricardo Albuquerque cemetery¹¹ (Victoria Grabois, personal interview).

In possession of the dossier, Daniel Sarmiento sent a formal letter to the Federal Circuit Ombudsman in São Paulo, Marlon Weichert, concerning the unjustified delay in the identification of the mortal remains of the leftist militant Flávio Molina, found in the clandestine mass grave of Perus. As a result, Weichert became involved with the activities related to the Dom Bosco cemetery and contacted the CFMDP family members of São Paulo, who started to follow up the adopted measures, showing him the situation of the Araguaia Guerrilla movement's case¹².

Facing this additional demand from family members, Weichert organized a task force with three other federal prosecutors: Guilherme Schelb, Ubiratan Cazetta and Felício Pontes. The group carried out investigations in the region of the guerrilla in 2000, seeking the identification of possible burial sites and the realization of the rights to information and truth. During the diligences that increased his sensitivity to family members' demands, Weichert was able to observe state practices of concealment and also how the Brazilian Armed Forces continued to intimidate local residents of the region.¹³

In this phase, the approach of the MPF's work was exclusively humanitarian, directed to the right to truth and to the recovery and delivery of mortal remains. Even though the actions regarding the clandestine mass grave of Perus and the Araguaia diligences were "the embryo of the Federal Prosecution Service's work" (Eugênia Gonzaga, personal interview) related to the human

11 In 1990, the opening of the clandestine mass grave of Perus, located in the Dom Bosco cemetery, in São Paulo, revealed the existence of 1,049 bones attributed to indigents, victims of the death squad, children afflicted by meningitis and political prisoners of the military regime's period. Around the same time, mortal remains of 14 political prisoners were found in the Ricardo Albuquerque cemetery, in Rio de Janeiro.

12 The federal prosecutor Marlon Weichert states that "in 2000, that is, after we managed to articulate the work of Perus (...) the family members' movement came to us in São Paulo (...) to expose the situation of the Araguaia and ask if we would accept to involve ourselves (...) It was then that we set up a task force [for the region of the guerrilla]. (...) When we worked with the mass grave of Perus we tried to be as inclusive as possible. And then we had, since the beginning, the presence of the Commission of the Relatives [of the Dead and Disappeared for Political Reasons], normally represented by Amélia Teles, Janaína Teles and Crimeia. and Ivan Seixas. And Gilberto Molina was also always present because it was related to Flávio Molina (...). And they were the ones to bring to our attention the demand about the Araguaia case" (Marlon Weichert, interview via Skype).

13 According to Marlon Weichert, "When we went to Araguaia for this purpose, we realized that the Brazilian government, and especially the Armed Forces, still denied responsibility for the Araguaia Guerrilla (...) We did our first [diligences], we took testimonies, we had verifications, and all the conflict that was set in that process demonstrated that there was also a demand for a right to the truth" (Marlon Weichert, interview via Skype).

rights violations committed by the military dictatorship, “we were still far away, in that period, from talking about [criminal] accountability” (Marlon Weichert, interview via Skype).

It was only in 2005, as a result of the identification of the mortal remains of the militant Flávio Molina, that the possibility of criminal accountability was considered for the first time. In 2004, Marlon Weichert transferred the work concerning the clandestine mass grave of Perus to the federal prosecutor Eugênia Gonzaga. Analyzing the militant’s case, she realized that, beyond the civil implications, there were criminal consequences related to it, due to the existence of the crime of concealment of human corpse, which is permanent. The episode thus became a key moment from which she and Marlon Weichert started to deal with the topic until they became fully convinced of the legal thesis sustaining the punishment for the perpetrators of human rights violations during the authoritarian regime.

Such as the majority of jurists and legal practitioners, Gonzaga initially believed that, due to the passage of time, statutory limitations blocked the investigation and prosecution of the cases related to the military dictatorship’s crimes. However, by working with the intricacies and implications of the Molina case, she detected a possible venue for criminal sanction¹⁴. In addition, her very contact with the demands of family members of the victims had already confronted her with a historical narrative that was utterly distinct from the one ventilated in the juridical area.

Reflecting on the impact of the contact with the families of the victims, Gonzaga reports that:

In one of these meetings [with family members], (...) a widow says (...) ‘I want the mortal remains, I want openness, and I want criminal accountability’. (...) [I wondered] why this woman is pleading this? If it were possible, someone would have already tried, right? That is what I imagined. (...) So in contact with them, I saw a totally different scenario from the one I was taught in college about a finished and closed amnesty, different from what we see in the media, that the crimes are amnestied (...) If it had not been for their insistence, if it had not been for their presence (...) I would not have been sensitized in that way. (...) I would do my job for sure, but I do not know if in that period I would wake up to analyze the question with a completely different focus (Eugênia Gonzaga, personal interview).

Therefore, instigated by this new scenario, she asked for Marlon Weichert’s help in order to deepen the legal analysis of the matter. Coincidentally, in the same period, in September 2006, the IACtHR condemned Chile in the Almonacid Arellano case, which concerned the application of the Chilean amnesty law of 1978 to block investigations and criminal accountability in an episode of extrajudicial execution. Reinforcing the ruling of the Barrios Altos case against Peru, from 2001, the IACtHR asserted that “States cannot neglect their duty to investigate, identify, and punish those persons responsible for crimes against humanity by enforcing amnesty laws or any other similar domestic provisions” (IACtHR 2006, 52), such as statutes of limitations, non-

¹⁴ Gonzaga states that “I said, wait. Corpse concealment is a permanent crime. Here, the prescription does not initiate until the concealment conduct stops. (...) So that was the first punishment possibility (Eugênia Gonzaga, personal interview).

retroactivity of the criminal law, *res judicata* exceptions (*ne bis in idem*) and other mechanisms aimed at extinguishing criminal responsibility. Furthermore, the IACtHR also affirmed that:

Even though the Chilean State has not ratified said Convention [Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity], the Court believes that the non-applicability of statutes of limitations to crimes against humanity is a norm of General International Law (*ius cogens*), which is not created by said Convention, but it is acknowledged by it. Hence, the Chilean State must comply with this imperative rule (IACtHR 2006, 62).

There were many parallels that could be drawn between the Brazilian and Chilean cases: on the one hand, the non-ratification of the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity, and, on the other hand, the fact that both dictatorships had implemented amnesty laws in order to hinder trials against state agents. In light of such similarities, Gonzaga and Weichert saw in the IACtHR's ruling an important source of legal and juridical arguments to support their efforts towards criminal accountability. In this sense, the demand for the removal of domestic juridical obstacles in cases of crimes against humanity (not subject to statutes of limitations and amnesties) and the possibility of prosecuting these crimes according to customary international law, even in the absence of express ratification of the aforementioned Convention, were elements from the Almonacid Arellano case that turned into decisive tools for Gonzaga and Weichert, thereby strengthening and sustaining their plans to start the litigation process at the national level.

In other words, with this case, the IACtHR offered the precise juridical-legal instruments and resources that the two prosecutors had been searching for in this transition phase, when they sought to embrace the justice agenda and move beyond the exclusively humanitarian approach that had marked the MPF's work. Since they were still becoming acquainted with international human rights law, it was necessary to bypass and deconstruct the hegemonic legal interpretation on the effects of both the amnesty law and statutes of limitation. Thus, the Almonacid Arellano case became a focal point that organized and systematized the main argumentative points which were necessary to push the justice agenda forward. Invoking the IACtHR's jurisprudence and the legal international mandates stemming from the Inter-American Human Rights System, the two prosecutors acquired additional resources to be used in courts and other spaces of legal interaction, such as the MPF itself.

As predicted by Simmons' model on the domestic impact of international human rights norms and decisions, the transitional justice model from the Almonacid Arrellano ruling was a central reference for Weichert and Gonzaga's domestic efforts towards the agenda of individual criminal accountability (Simmons 2009). The sentence provided new legal tools, juridical interpretations and doctrinal arguments that could be instrumentalized by anti-impunity prosecutors in order to litigate against former state agents in national courts. In this sense, it offered resources to tackle the fierce resistance blocking the prosecution of cases in Brazilian tribunals and within the MPF.

Shortly after the publication of the Almonacid Arellano ruling, in May 2007, Gonzaga and Weichert organized in São Paulo the “South American Debate on Truth and Accountability for Crimes Against Human Rights”, in a partnership with ICTJ (International Center for Transitional Justice), CEJIL, National Association of Federal Prosecutors, Pedro Jorge de Melo e Silva Foundation, and the Special Secretariat on Human Rights from the Presidency of Brazil (SEDH). The event was a forum about South American experiences of transitional justice and it reunited jurists and specialists from Brazil, Argentina, Chile, Peru and United States. The focus was the discussion on the causes and repercussions of the impunity surrounding crimes committed by the Brazilian military dictatorship in the light of international cases.

By the end of its activities, the debate culminated in the approval of the São Paulo Chart, whose conclusions pointed out that the MPF should provoke “the Brazilian Justice system in order to reverse the situation of impunity and oblivion” (Carta de São Paulo 2007, 3). According to Weichert, the contact with the ruling of the Almonacid Arellano case and the discussions in the South American Debate constituted two turning points that transformed 2007 into a “year that formed my and Dr. Eugênia’s opinions” (Marlon Weichert, interview via Skype).

In the end of 2007, with a well-developed juridical foundation and convinced of the legal formulations sustaining the accountability thesis, prosecutor Marlon Weichert referred to the Prosecutor General of the Republic, Antônio Fernando Barros de Souza, a legal opinion on the role of the MPF, which proposed launching efforts of criminal prosecution. Nevertheless, in contrast to what would happen after the publication of the Gomes Lund ruling in 2011, the position of the MPF’s highest ranks was still contrary to any formal and institutional support for this type of initiative, which could, however, be developed due to the principle of autonomy and functional independence reserved to federal prosecutors¹⁵.

Therefore, in 2008, Gonzaga and Weichert presented the first public civil action regarding the functioning of the Department of Information Operations – Center for Internal Defense Operations (DOI-Codi) of São Paulo, naming Carlos Alberto Brilhante Ustra and Audir Santos Maciel as defendants. With the support of a legal opinion elaborated by the ICTJ, they affirmed the non-applicability of statutes of limitations and amnesty laws to crimes against humanity. Soon after, they sent representations to the respective prosecutors with criminal attribution in the cases concerning the deaths of Vladimir Herzog, Luiz José da Cunha, Flávio Molina and Manoel Fiel Filho, since they did not have legal competence in the criminal field¹⁶ (Marlon Weichert, interview via Skype).

Nonetheless, the prosecutors who received the criminal representations did not agree with Weichert and Gonzaga’s juridical thesis and decided to file them. As a result, in this first moment,

15 According to Weichert, “the Prosecutor General calls me up for a meeting and says he does not agree with the thesis, but that I should be free to continue working on the theme, that he would only pronounce himself when the issue reached the Supreme [Federal Court]” (Marlon Weichert, interview via Skype).

16 Subsequently, they would protocol other public civil actions and legal representations. According to prosecutor Eugênia Gonzaga, “none of the civil actions bore fruits” (personal interview).

the efforts towards criminal sanctions were not successful even within the MPF, mainly due to the obstacles posed by statutes of limitations¹⁷. References to the IACtHR's jurisprudence on transitional justice and to other legal instruments from the international human rights law did not convince prosecutors defending the status quo and the prominence of the domestic criminal law and its traditional principles. Consequently, the agenda of criminal accountability fomented by the IACtHR failed in conjunction with the enhanced potential for litigation in local courts theorized as a possibility by Simmons (2009). Weichert and Gonzaga were unable to gain the support of a sufficiently strong group of prosecutors favorable to the application of international human rights norms and customary law.

In Vladimir Herzog's case, for instance, the Federal Prosecutor Fábio Elizeu Gaspar considered the statutes of limitations as insurmountable impediments, since Brazil had not incorporated into its domestic law the 1968 United Nations Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity. Even though amnesty was not considered as a legal provision capable of extinguishing criminal accountability, federal prosecutors blocked Weichert and Gonzaga's strategy of using international customary law as a foundation for criminal prosecution that would not require the ratification of the United Nations Convention. Only positive and written law was considered as a source for criminal law. According to these prosecutors, the very unwritten nature of customary international law prevented it from being formally incorporated into domestic law, lacking therefore any normative power¹⁸.

This sort of reactions reflected the great isolation and lack of support faced by Weichert and Gonzaga within the MPF. In this scenario, they insisted on the argument that the use of the 'crimes against humanity' category did not violate the principle of legality and, in particular, the principle of non-retroactivity of the criminal law, since the crimes and their corresponding sanctions were those that already existed in the penal code of the time in which the facts had occurred. Therefore, the intention was not to retroact new and subsequent crimes and penalties that were not included in the period's criminal code. In this regard, the respect for the defendants' individual guarantees, derived from the criminal law, was assured, since the discussion was restricted only to whether the crimes were punishable or not, taking into account that not even during the dictatorship the prescription of crimes was a constitutional guarantee.

Thus, according to Weichert and Gonzaga, Brazilian judicial authorities had only to acknowledge that, since the mid-twentieth century at least, Brazil's obligations posed by the *ius cogens* – *i.e.* imperative international norms and principles stemming from international human rights law – were already binding for the country, forbidding practices of grave human rights violations and demanding criminal sanctions for the abusers, therefore encompassing the crimes committed by the military regime. Nevertheless, this type of legal reasoning was rejected and

17 The exception was the Federal Prosecutor of Uruguaiana, in Rio Grande do Sul, Ivan Marx, who received Weichert and Gonzaga's criminal representation and started the investigations on Operation Condor.

18 See informative judicial proceedings from the MPF n. 1.34.001.001574/2008-17, signed by Fábio E. Gaspar, Federal Prosecutor. September 12, 2008.

did not advance within the MPF. Amidst the filings of cases and the lack of acceptance of the *ius cogens* in the criminal field, Gonzaga and Weichert participated, still in 2008, in a debate within the 2nd Chamber of Criminal Coordination and Review, a sectorial collegiate organ responsible for integrating and monitoring the Federal Prosecution Service's activities related to criminal matters (henceforth referred to as Second Chamber). According to Weichert, at that moment they had the support of the period's Chamber head, Wagner Gonçalves. However, in his own words, "we noticed that, among the acting prosecutors, there was a lot of resistance. So Dr. Wagner convened a debate" (Marlon Weichert, interview via Skype). During the event, in which the prosecutors responsible for filing the Herzog and Cunha's cases participated, it became clear once again that the position expressed by Weichert and Gonzaga was shared by a minority, which was finally defeated.

Effects of the IACtHR's ruling: the MPF's new efforts towards justice

In 2008, Marlon Weichert and Eugênia Gonzaga's efforts towards the agenda of individual criminal accountability were rejected within the MPF. The institutional position against the prosecution of cases related to human rights violations committed by the military regime would be endorsed in 2010 by the Prosecutor General of the period, Roberto Gurgel, who defended the constitutionality of the amnesty law in the trial of the ADPF 153. However, from 2011 onwards, as a direct result of Brazil's condemnation in the Gomes Lund case, there has been a pro-transitional justice change in the behavior of the MPF, affecting some of its members at the organ's highest ranks. Federal prosecutors have established a transitional justice working group in order to foster investigations and trials, which has been responsible for opening twenty-six criminal lawsuits in Brazilian courts until September 2016.¹⁹

The discussion about the amnesty law seemed to be inevitably interdicted not only due to the STF's decision on the ADPF 153, but also as a result of the PGR's position and the failure to promote the theme in the Second Chamber. Nevertheless, the IACtHR's ruling on the Gomes Lund case has been an important turning point, affecting the correlation of forces and the internal balance within the MPF. The sentence has strengthened and empowered a group of progressive federal prosecutors already inclined to defend the rights to truth and justice.

Faced with the Inter-American System's explicit obligation to investigate, prosecute and punish grave human rights violations, this group found new juridical-legal tools which legitimately permitted to reopen the debate around the crimes committed by the military regime. Consequently, the instrumentalization of the ruling allowed it to continue the efforts of Eugênia Gonzaga and Marlon Weichert, which had been prematurely aborted, thereby transforming the Federal Prosecution Service into the only actor of the state interested in complying with the justice agenda stemming from the IACtHR's ruling.

19 A full list with detailed information regarding the twenty-six cases can be found in Freitas (2017, p. 193-200).

In May 2010, the Associate Federal Prosecutor General of the Republic, Raquel Dodge, assumed the Second Chamber, proposing a new and clear guideline according to which criminal law should be applied by the MPF as an instrument to guarantee and protect human rights. In October 2010, the transitional justice theme was chosen and listed as one of the Second Chamber's priorities, along with other topics such as slavery and crimes against indigenous peoples (Raquel Dodge, personal interview)²⁰.

According to Raquel Dodge, the choice of the transitional justice issue was an anticipated movement in order to allow the reception of the already expected Gomes Lund decision. In May 2010, the IACtHR had conducted a final public hearing concerning the case with the Inter-American Commission on Human Rights, family members, CEJIL's lawyers and Brazilian authorities. By October, as a result of the hearing and in line with the vast IACtHR's jurisprudence invalidating amnesty laws, there were enough elements pointing to the almost certain condemnatory ruling against Brazil (Raquel Dodge, personal interview)²¹.

Given the regime of functional independence to which federal prosecutors are subjected, it was not possible to force them to follow and agree with certain courses of action established by the Second Chamber. However, the solution found by the Associate Federal Prosecutor General's office from 2011 onwards, after the publication of the sentence, was to stipulate a coordinated institutional action around the priority focal points of the Second Chamber, in order to subsequently guide and demand attention and results from the prosecutors in these priority areas (Raquel Dodge, personal interview). Simultaneously, in addition to the national meetings of federal prosecutors involved in criminal matters, traditionally promoted by the Second Chamber, regional and thematic preparatory meetings were created. Their purpose was to disseminate and mature this new institutional pro-transitional justice guideline, thus creating minimal consensus among prosecutors (Raquel Dodge, personal interview).

In February 28, 2011, in accordance with this position, and responding to the IACtHR's ruling of November 2010, the Associate Federal Prosecutor General organized a thematic meeting on transitional justice via the Second Chamber, in order to discuss Brazil's condemnation. Although the theme appeared to be definitively blocked after the STF's trial on the ADPF 153, the new leadership of the Second Chamber – which was already putting forward a guideline on the use of criminal law in other issue areas that was confluent with the Inter-American System's doctrine – found in the IACtHR's ruling not only a possibility of reopening the transitional justice discussion, but also a tool to strengthen and legitimize the Second Chamber's new line of

20 The Heads of the MPF's Chambers of Coordination and Review are appointed exclusively by the Prosecutor General. Raquel Dodge was chosen to be the Head of the Second Chamber due to her previous trajectory within the MPF that did not involve transitional justice issues. Marlon Weichert and Eugênia Gonzaga knew Raquel Dodge since their entry into the MPF, during the 1990s, and both of them had worked with her in human rights matters. However, in the field of transitional justice, Raquel Dodge never acted together with them. From 2005 until 2008, when Marlon Weichert and Eugênia Gonzaga started to deal with such issues, Raquel Dodge was a fellow at the Human Rights' program of the University of Harvard (Raquel Dodge, personal interview; written communication with Eugênia Gonzaga, 19 March 2017; written communication with Marlon Weichert, 20 March 2017).

21 Raquel Dodge comments that "by October 2010 it is when we begin (...) an embryo of that discussion already emerges there. Because we knew that the [Inter-American] Court would rule in that year, we had this information (...) And the ruling, I think it is from December 2010 (...) I think it is from the end of November" (Raquel Dodge, personal interview).

action. Such convergence between Brazil's condemnation and the new institutional dynamic of the Second Chamber, favorable to the justice agenda, set the conditions to challenge once again the hegemonic interpretation on the amnesty law and to promote the struggle against impunity. In the words of the Associate Federal Prosecutor General,

What I thought was this: the position of the [Inter-American] Court strengthens us. Therefore, it is an absolutely new ingredient (...) if there is an obligation for the Brazilian state to investigate and punish dictatorship's crimes and if we assume that this crime is federal, it is our obligation. (...) In other words, I can reopen this discussion in 2011 (Raquel Dodge, personal interview).

Therefore, in confluence with Simmons's theoretical model, the Gomes Lund decision was an explicit and binding legal document offering legal routes and doctrinal arguments for pro-compliance federal prosecutors interested in pursuing domestic criminal prosecutions (Simmons 2009). The ruling expanded the opportunity structures for litigation in domestic courts based on international human rights norms. The transitional justice model of the IACtHR on how Brazil and other American states under its jurisdiction must deal with past abuses clearly stipulates the obligation to investigate and punish perpetrators of human rights violations in detriment of amnesty law and other legal provisions.

Consequently, due to the formally mandatory nature of IACtHR's ruling, pro-status quo prosecutors were left with less space of maneuver to veto once again the agenda of individual criminal accountability, despite the STF's decision on the ADPF 153. In addition, pro-compliance prosecutors headed by Raquel Dodge had now a clear, persuasive and coherent set of international standards to challenge the hegemonic and pro-impunity interpretation regarding the effects of both the amnesty law and procedural obstacles stemming from domestic criminal law such as the principle of legality and statutes of limitation. Even though Dodge's presence at the Second Chamber in a leadership role as an institutional pro-compliance innovator was decisive, it would have been insufficient without the Gomes Lund ruling. Reopening the transitional justice agenda and bypassing MPF's internal resistance required more than political and legal will; it depended on the legal tools and arguments provided by the sentence.

However, according to Raquel Dodge, given the historical blockade against the justice agenda within the MPF, expectations were still very low at the beginning of the first transitional justice thematic meeting in February 2011. The event was a day-long round table discussion involving prosecutors who were favorable and contrary to criminal accountability (Raquel Dodge, personal interview). Yet, as a result of the clarity which stemmed from the new guideline of the Second Chamber, as well as of the weight of the IACtHR's condemnation, it was possible to reevaluate the MPF's legal work. The thesis of conventionality control²² and the legal inputs from the debate on

²² In the conventionality control the IACtHR treats the American Convention of Human Rights as if it were a Constitution. The Inter-American Court then emulates the constitutional review process, requiring that the domestic law of those countries under its jurisdiction should be in conformity with the aforementioned treaty.

crimes of permanent nature fomented unprecedented dialogue and consensus among prosecutors in favor and against the filing of criminal lawsuits (Raquel Dodge, personal interview). Given the manifold juridical and legal obstacles against any discussion on the amnesty law, it was decided that the main conclusions of the meeting would be documented in order to guide the MPF's future actions and reduce the possibility of setbacks²³.

In this regard, the output of the meeting – Document n.1/2011 of the Second Chamber – stipulated that “the Court's ruling is a new fact in relation to the trial of the Supreme Federal Court on the incidence of the Amnesty law” (Brazil 2011, 1-2). In addition, the document stated that “the Federal Prosecution Service, within its constitutional attribution (article 129), cannot fail to comply with the decisions issued by the Court to Brazil” (Brazil 2011, 5), since Brazil's linkage to the Court's jurisdiction had a constitutional basis. In order to dissipate the legal tensions caused by the conflicting decisions of the STF and the IACtHR, both backed by the Constitution, a theory involving the double requirement of constitutional review and conventionality control was then presented as a conciliatory solution that would not require invalidating the ADPF 153 trial for the sake of complying with the international ruling. According to this theory, “every internal act (no matter of which nature or origin) owes obedience to both judgments. In case they do not overcome one of them (due to human rights violation), the state shall do its utmost to cease the unlawful conduct and repair the damages caused” (Ramos 2011, 128). In the specific case of the amnesty law, the juridical solution found by the Second Chamber was that

While judging the ADPF 153, the Supreme Federal Court exerted constitutional review. While judging the Gomes Lund case, the [Inter-American] Court exerted conventionality control. The amnesty granted to those agents responsible for crimes against human rights must overcome both controls and both law sources: the Constitution and the [American] Convention [on Human Rights]. However, it did not overcome the conventionality control. (...) Therefore, Brazil's obligation of domestic compliance with the Court's decision remains (Brazil 2011, 7)²⁴.

In the aftermath of this meeting, the Ministry of Justice contacted the Second Chamber in order to discuss the establishment of the National Truth Commission. As a result, an international workshop on transitional justice supported by the ICTJ was organized in September 2011, featuring prosecutors from other countries (Raquel Dodge, personal interview). According to Raquel Dodge,

²³ The importance of the IACtHR's ruling for the Second Chamber was especially significant due to the potential risks of pressures that could have stymied the transitional justice agenda. In this respect, Raquel Dodge states that “there could have been a strong pressure for us to close [the transitional justice discussion], right? Even pressure on the Chamber, ‘do not go’. It is always possible. Even if it is in a not very clear manner, but it is possible. (...) In the Chamber there are three titular members and three substitute members. That could have been a defeated position within the Chamber, such as many others. There are so many questions in the face of which we diverge. A series of positions could have happened, differences concerning this” (Raquel Dodge, personal interview).

²⁴ Regarding the judicial proceedings against former state agents accused of human rights violations, document n.1 adopted the procedure of double assumption of the facts. In order to deal with the abuses, prosecutors must, in the first place, apply the criminal offenses and sanctions from the criminal code of the time when the crimes took place, aggregating the qualification of crime against humanity in order to overcome the obstacles of amnesty, statutes of limitations and *res judicata* arguments.

it was an important moment for “maturing that internal discussion”. Based on the examples and experiences of other countries with similar challenges regarding the prosecution of cases, it was possible to establish “a connection between the dialogue on the [legal] thesis [of the Second Chamber’s first meeting] and the obstacles of reality” (Raquel Dodge, personal interview).

At the end of the workshop the MPF’s scope of action became clearer and the institution was more prepared to deal with legal arguments related to rules of limitation, amnesty laws and the traditional jurisprudence on the filing of cases. In addition, it was better equipped to handle the demands of the criminal jurisdiction and the difficulty in obtaining and reproducing evidence after so many years and in the face of concealed and complex crimes. By learning how other countries had managed similar problems, the MPF set the limits of what was possible to do, in order to control expectations. Rather than embracing all the cases of human rights violations committed by the dictatorship, it was agreed that the MPF needed to strategically prioritize investigations depending on the nature of the abuses and the availability of evidence (Raquel Dodge, personal interview).

Following the workshop, in November 2011, during the third national meeting promoted by the Second Chamber with federal prosecutors, transitional justice was reaffirmed as a priority. In December 9, 2011, the national guideline on the criminal prosecution was finally made public in a ceremony with family members of the Araguaia guerrilla movement and CEJIL, indicating MPF’s willingness to comply with the IACtHR’s ruling (Raquel Dodge, personal interview).

Meanwhile, a working group on transitional justice began to be created within the MPF. In the first phase of the group’s action, only permanent crimes were addressed, since their continuity in time could be more easily used to repel rules of limitation and the amnesty law. In addition, the MPF would try to file at least one criminal lawsuit in each of the Federal Justice’s five regions, in order to increase chances of favorable decisions and to foster a more diversified jurisprudence among courts, since the Judiciary was contrary to individual criminal accountability for violations perpetrated by the dictatorship (Raquel Dodge, personal interview). During this period, the Prosecutor General was still Roberto Gurgel, for whom the amnesty law had been a national political pact, responsible for Brazil’s redemocratization. Despite his opposition to the working group on transitional justice, he did not block nor created obstacles to criminal prosecution efforts (Raquel Dodge, personal interview).

With a defined strategy and having concluded its internal work of preparation, the MPF’s plan was launched through the opening of the largest possible number of investigations (Raquel Dodge, personal interview). The goal of filing at least one criminal lawsuit in each of the five Federal Justice’s regions was accomplished by 2014, “and when we considered that this stage was mature enough, the Chamber authorized the opening of the stage that includes the Rubens Paiva case and the Riocentro case [in 2014]” (Raquel Dodge, personal interview). This has currently been the second phase of the MPF’s plan, which no longer focuses solely on permanent crimes and makes explicit references to the juridical concept of crimes against humanity, as observed in the two aforementioned cases that do not involve forced disappearances of continuous nature.

Conclusion

In line with the initially stated argument, I have demonstrated how the IACtHR's ruling on the Gomes Lund case has been decisive in strengthening and empowering a group of prosecutors within the MPF. Favorable to individual criminal accountability for human rights violations committed by the military regime, this group has changed the MPF's behavior²⁵. Based on Simmons' theoretical model on domestic mechanisms of impact of international human rights norms (Simmons 2009), the article has, thus, contributed to studies on domestic compliance with international institutions' decisions, pointing out the role of judicial actors. In other terms, the analysis has revealed how the strategic instrumentalization of the IACtHR's ruling has changed the power balance within the MPF, thus altering its institutional stance.

Until 2011, the MPF's institutional position was contrary to filing criminal lawsuits regarding human rights abuses perpetrated by the dictatorship. During the authoritarian regime, in a situation of political submission, this agenda was totally blocked for the MPF. However, even after its institutional reconfiguration that resulted from the 1988 Constitution, the MPF kept its silence. Some factors accounted for such behavior: fears of spurring political instability; the hegemonic legal interpretation portraying the amnesty law as a bilateral pact; the unacquaintance with international human rights law; a pervasive positivistic understanding of criminal law principles; and the fact that many prosecutors had been socialized in the dictatorship, maintaining links with the previous regime.

At the end of the 1990s, such situation began to change slowly, as family members of the dead and disappeared for political reasons contacted a few federal prosecutors. In 2007, fully convinced of the international legal reasoning banning amnesties and supporting imprescriptibility in cases of crimes against humanity, Marlon Weichert and Eugênia Gonzaga became two institutional innovators fighting against impunity. During such process, the juridical-legal arguments underpinning the IACtHR's ruling on the Almonacid Arellano case, as well as the informative support of the transitional justice transnational network and, particularly, of the ICTJ, were fundamental for the construction of their first criminal representations. Initially very isolated within the MPF,

25 Further analysis on the profiles of the federal prosecutors involved with the transitional justice theme may offer valuable contributions. In this regard, reflecting on the common background of some prosecutors, Raquel Dodge considers that "the prosecutor who acts in this matter, he has already faced very difficult cases in another subject and gets strengthened. (...) if we are to examine the profile of the colleagues who are involved in transitional justice, it is a profile of those who worked in various fields. (...) Marlon, Eugenia. Eugenia comes from the TRT [Regional Labor Court] case in São Paulo, for example, which is a case of a lot of visibility, of a lot of money, very difficult politically (...) Sérgio Suiama, for example, comes from an institutional role as Regional Ombudsman in São Paulo. I can mention his work in the case of the May Crimes of the PCC [criminal organization called First Command of the Capital] (...) he worked with me, as soon as he took office, against crimes involving slave labor. (...) [Working with transitional justice] is not an isolated event (...) I think it is imbricated with this other way of bravely acting in favor of these more difficult crimes". In another excerpt, Raquel Dodge correlates the behavior of such federal prosecutors with more general trends within the MPF: "The first decade of the 2000s, I think it marks in the Federal Prosecution Service a change of attitude, perhaps [a] more active [attitude], regarding the criminal prosecution of some criminal types that were more or less dormant, let's say so (...) In this context, I think that this movement was led by Marlon Weichert and Eugênia Fávero from São Paulo. It concerned the idea of how we can handle modern criminality if it is apparently influenced by the impunity of crimes occurred in the previous period (...) [That could happen] Perhaps because a new generation of prosecutors came in, perhaps because the time came for prosecutors of an intermediate generation, such as mine, to feel sufficiently prepared to develop and (...) confront with arguments a more conservative stance. By conservative stance I want to say more in accordance with movements such as the a Amnesty Law".

they were rapidly defeated in 2008. In 2010, as a result of the trial concerning the ADPF 153, the STF seemed to have blocked the Brazilian justice cascade.

However, in 2011, as a direct result of Brazil's condemnation in the Gomes Lund case, there was a change in the institutional behavior of the MPF, with the creation of a working group on transitional justice. The previously minority group of prosecutors, which was more progressive and open to international human rights law, was able to instrumentalize the IACtHR's ruling as a new juridical-legal empowering resource in order to ground and legitimate their struggle against the hegemonic interpretation on the effects of the amnesty law.

In this sense, the possibilities of vetoing the agenda of individual criminal accountability have been reduced within the MPF, due to the binding nature of the IACtHR's ruling. Moreover, a clear, objective and indisputable model has been stipulated, setting the legal practices to be complied with by the state, thus decreasing the margin of discretion for the interpretation and application of both the amnesty law and the procedural obstacles that stem from domestic criminal law.

Therefore, the legal dispute concerning the amnesty law is far from over. The STF will soon be forced to reexamine the theme, either during the analysis of the new ADPF 320²⁶ or in the judgment regarding the requests for clarification presented by the Brazilian Bar Association (OAB) in the ADPF 153.

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26 In August 2014, in response to the ADPF 320, Prosecutor General Rodrigo Janot defended the binding nature of the IACtHR's ruling on the Gomes Lund case. Formulated by the jurist Fábio Konder Comparato, and presented to the STF by the Socialism and Freedom Party (PSOL) in May 2014, the ADPF 320 argues that, in accordance with the IACtHR's ruling and the American Convention on Human Rights, the amnesty law must not be used as a barrier for the prosecution of cases related to human rights violations committed by the dictatorship.

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Annex – In-depth qualitative interviews

1) *Aurélío Rios*. MPF's Federal Ombudsman. Interview conducted by the author in Brasília, September 15, 2014.

2) *Eugênia Augusta Gonzaga*. MPF's Federal Prosecutor. Interview conducted by the author in Sao Paulo, August 15, 2014.

3) *Marlon Weichert*. MPF's Federal Prosecutor. Interview conducted by the author via Skype in September 4, 2014.

4) *Raquel Dodge*. Associate Federal Prosecutor General and Head of the Criminal Chamber of the Prosecutor General's Office. Interview conducted by the author in Brasília, September 17, 2014.

5) *Victoria Grabois*. President of the Torture Never Again Group of Rio de Janeiro (GTNM-RJ). Interview conducted by the author in Rio de Janeiro, October 23, 2014.