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Truth no more? The Struggle over the National Truth Commission in Brazil

On 13 January 2010, the magazine, *Veja*, published an article entitled 'Coisa de maluco' (perhaps best translated as 'Matter of a madman'). The article included a picture of the Brazilian Special Minister of Human Rights at the time, Paulo Vannuchi, with the caption: 'Not Human: The Federal Minister Paulo Vannuchi, ex-militant of a terrorist group and drafter of that decree: if it did not work with a revolver, he does it with a pen'. It satirises the so-called Third National Programme of Human Rights, or PNDH-3 – a programme created by Vannuchi – which contains 521 suggestions to improve the human rights situation in Brazil. The plan's key proposal is to create a National Truth Commission (NCT) to investigate human rights violations during the military regime in Brazil (1964-1985). On 21 December 2009, the Brazilian President, Luiz Inácio Lula da Silva, signed the

PNDH-3 proposal. Two days later, the Brazilian Defence Minister, Nelson Jobim, and Brazil's three leading military generals threatened to resign over the creation of the NCT. This contribution explains the history of this recent governmental crisis and elucidates how Vannuchi's proposal to create a NCT reignited the struggle over the memory of the military regime. My aim is to identify the key agents involved in this struggle, explain their positions, and examine the way they defend a particular version of the military past to increase their power in present day Brazil.

Collective Memory as a Constant Struggle

I am interested in agents who try to influence how the military regime is remembered by the wider Brazilian public, or what is often loosely termed 'collective memory'. Several scholars have criticised the concept of 'collective memory' on the grounds that it is imprecise from a methodological point of view. Peter Burke, for example, has cautioned that it remains a challenge to determine when it is reasonable to generalise from individual memory to a collective or national memory. Rather than determining the existence or nature of a collective memory, this piece focuses on the battle over collective memory defined here as the remembering of large sectors of the Brazilian population. Collective memory is understood as a constant struggle in which specific narratives of the past do not simply continue, but require constant reproduction. I adopt Antonio Gramsci's sophisticated and historically specific understanding of society as being in a state of constant struggle over 'social, political and cultural leadership' and apply it to the realm of memory.

The Key Agents: Vannuchi and Jobim

Since Paulo Vannuchi became Brazilian Special Minister of Human Rights in 2005, he has been a key driving force in the Lula government for bringing the military regime into the realm of public debate. Vannuchi's experiences during the military regime have left a deep impression on his personal life. Born in 1950 in São Paulo, he joined the clandestine opposition group, National Liberation Action (ALN), under Carlos Marighella, at the age of eighteen. Vannuchi was imprisoned in 1971 and remained a political prisoner for five years, during which time he suffered brutal torture. His cousin, Alexandre Leme Vannuchi, tragically gained prominence when he was tortured to death in 1973. Yet, Minister Vannuchi has been reluctant to discuss the torture that he suffered and in this way has avoided being labelled as 'vindictive' or '*revanchista*'. 'Revanchism' (*revanchismo*) – a key term in the memory discourse – is a biased expression which dismisses critical demands, including the clarification of torture, as a quest for personal vengeance rather than a public duty. After his discharge in 1976, Vannuchi resumed his studies, gained a Bachelor's degree in journalism, followed by a Master's degree in political science. Affiliated to the Worker's Party (PT) since its inception, he worked as a political consultant to the PT, and a political advisor in Lula's election campaigns. Vannuchi also worked on the first major report on human rights violations during the regime – Brazil Never Again – organised by the archdiocese of São Paulo.

Vannuchi's life story is strongly influenced by his experiences of imprisonment and torture. Vannuchi has been responsible for a major human rights project: 'The Right of Memory and Truth'. Initiated in

2006, it included the publication of the final report of the Special Commission of Dead [or Killed] and Disappeared for Political Reasons. The 2007 Commission's Report can be interpreted as an updated edition of the 'Brazil Never Again' report of 1985, to which Vannuchi himself had contributed, the crucial difference being, however, that the former was published by the state. Furthermore, the project integrated the inauguration of several monuments in honour of students and workers assassinated under military rule, and a touring exhibition.

Vannuchi's main antagonist on many occasions has been Defence Minister, Nelson Jobim, who was born in 1946 and has held office since 2005. As Defence Minister, Jobim holds the position of formal leadership over the three branches of the armed forces. After graduating in Social and Legal Sciences from the Federal University of Rio Grande do Sul in 1968, Jobim has carved out an impressive legal career, rising to some of Brazil's highest judicial positions. In 1987, he was elected federal deputy for the Party of the Brazilian Democratic Movement (PMDB). The PMDB evolved out of the Brazilian Democratic Movement (MDB), the only opposition party allowed by the military regime since the installation of a two-party system in 1965. His party affiliation suggests that, unlike a significant number of military officials, he is not a fervent defender of the military regime. Between 1995 and 1997 Jobim had already served as Minister of Justice under former President, Fernando Henrique Cardoso, who appointed him to the Brazilian Supreme Court in 1997. In 2002, Jobim became President of the Superior Election Tribunal (TSE), the Brazilian institution responsible for transparent elections. In 2004, the experienced judicial expert became President of the Brazilian Supreme Court and, in 2005, he

was appointed President of the National Justice Council.

The Blackmailing Process

On 21 December 2009, President Lula signed the PNDH-3, thereby approving its key proposal – a Brazilian NCT to investigate human rights violations during the military regime. Confronted with the resignations of Minister Jobim and the three military officials, Lula promised to amend the proposal. It remains unclear whether Jobim initiated the protest or whether he simply supported the officials' decision. According to military statements, the generals took action and the Defence Minister subsequently joined them in a show of solidarity; however, this has not been confirmed by Jobim. General Enzo Martins Peri and Brigadier Juniti Saito condemned the PNDH-3 as 'excessively insulting, aggressive and vindictive [*revanchista*]'. In particular, military officials contested the suggestion to uncover sites of repression, and to prohibit the naming of streets, squares and monuments after officials involved in human rights violations. Vannuchi publicly refuted the allegation that the NCT was 'against the armed forces': 'To create a Truth Commission is an act in favour of the armed forces (...). These officials cannot be compared with half a dozen (...) or two dozen who captured political opponents, undressed them and sexually tortured them (...). This is a fatal mistake and I am certain the Defence Minister [Jobim] knows this'. Vannuchi reacted to Jobim's political manoeuvre with a similar tactic: he threatened to resign from Lula's government if the modified PNDH-3 incorporated the punishment of the militant opposition. Under pressure from both sides, Lula summoned Vannuchi and Jobim to a crisis meeting.

Online press coverage by the daily newspaper, *Estadão*, suggests that Lula himself was unprepared for the sudden crisis. He ordered his cabinet to stop blackmailing him and to make a positive contribution to his last year in office.

The original PNDH-3, its amendments and new protest

The crisis meeting in January 2010 resulted in a decree that modified the most fiercely opposed passages in the PNDH-3: The expression, 'in a context of political repression' (referring to human rights violations) was replaced by the phrase 'in a context of political conflicts'. The specification of who committed the human rights violations – military officials or the militant opposition to the regime – was erased. Vannuchi accepted the amendments and told the press that 'at the moment' he would not leave his post, alluding to potential frictions in the future. Despite the decree which installed a working group to prepare the changes in detail, the main text of the program remained valid. Even after the decree, members of the government have tried to pacify the situation and emphasize the spirit of reconciliation. On 15 January 2010, Lula declared in a TV interview that the NCT was not a 'witch hunt'. During a public hearing Jobim denied that he had opposed a NCT in principle, but merely objected to its use for a specific purpose: '[N]either the Defence Ministry nor the armed forces ever opposed the creation of the Truth Commission; what the Defence Minister rejected was the creation of a Truth Commission to clarify a unilateral truth'. In a public Senate meeting, Vannuchi tried a more conciliatory approach by declaring that the revised text was not 'vindictive'. It was unfair, Vannuchi repeated, that the

armed forces should be expected to shoulder the guilt of a dozen torturers, murderers, rapists or persons who committed 'revolting crimes'. In addition, Vannuchi clarified that the members of the NCT should neither be military personnel nor relatives of victims of the regime.

Yet, the modifications prompted new protests among various supporters of Vannuchi. The President of the Brazilian Lawyers' Association (OAB), Cezar Britto, for example, denounced Jobim and the military officials for exerting pressure on Lula, and even called for Jobim's removal. Vannuchi received further backing from the Justice Minister at the time, Tarso Genro, and numerous human rights organizations who protested by launching online petitions in favour of the original NCT. The families of victims who were prosecuting the Brazilian state in front of the OAS blamed the Lula government for continuing to hamper efforts to open the archives and search for the dead bodies. The international human rights organization, Global Justice, threatened to denounce Brazil before the Organization of American States (OAS) and the United Nations (UN) if the original PNDH-3 is not enforced. Global Justice's executive director attacked that the program was altered after military forces blackmailed the President, a procedure she accurately described as a 'risk for (...) democracy'. Moreover, numerous intellectuals have criticised the alterations to the PNDH-3, including the former Brazilian Human Rights Minister, Paulo Sérgio Pinheiro, who is a member of the working group set up to modify the proposal. Pinheiro likewise condemned the blackmailing of the president, denied that the expression, 'political repression', has been changed, and defended the NCT as necessary within the Latin American context, alluding to the fact that other countries in the Southern Cone established Truth Com-

missions much earlier. The armed forces, Pinheiro insisted, had nothing to fear, as the NCT was concerned with truth and information rather than punishment. Overall, while the additional decree was designed to resolve the most controversial aspects of the PNDH-3, it prompted protests from human rights activists and agents of civil society who had supported or even contributed to the original plan. On the day the working group presented the modified text, *Folha Online* asked Vannuchi if he was satisfied: 'No, not satisfied. That would suggest that I am happy (...) and that is not the case'. His reaction is not surprising given the personal attacks Vannuchi has suffered from the media; he commented: 'I will wake up early tomorrow to read the newspapers and the reactions against my changes hoping they will not be as derogatory as "ideological psychopath" or "devilish product"'.

The duel extended – the role of the media

Parts of the Brazilian media, I argue, have exploited this governmental crisis to attack not only the original proposal for a NCT but also to discredit the Lula government in the run-up to the 2010 presidential elections. The Brazilian media are largely privately owned and often portrayed as conservative, or in the words of Maria Helena R. Capelato: 'afraid of democracy'. To briefly illustrate these media attacks, the article from *Veja* magazine entitled 'Coisa de maluco' – already alluded to – repeats the term 'ex-terrorist' instead of Vannuchi's official designation, Federal Minister. It blames him for 'revanchism', and brings into disrepute the entire Lula government by labelling it 'crazy' ('samba do petista doido') and 'bolchevique'. Human rights, the article alleges, are only

a 'pretext' enabling Vannuchi to disguise his true mission: fulfilling his political agenda. My main point here is to show that *Veja* magazine is not interested in an honest discussion about the NCT, but intends to construct Vannuchi and the entire Lula government as insane, and portray Vannuchi as a disguised communist infiltrator – the ex-terrorist who is now 'attacking with the pen'. It appears that this type of accusation has become familiar in Latin America as a way of refuting politically inconvenient news. Former Argentinean President, Carlos Menem, once levelled the same accusation – 'a terrorist with a pen' – at Horacio Verbitsky, who received several awards. Although this specific piece illustrates this bias very clearly, large sections of the press used a similarly disparaging tone to discredit the proposal and reduce what should be a historic step to the status of mudslinging in the run up to the 2010 presidential elections. The term 'ex-terrorist' has also been used by other journals without explaining the context of the military regime, and yet they do not apply the term to officials involved in the repressive system. In a similar vein to *Veja* magazine, the *Estado de São Paulo* wrote that the government 'uses the United Nations as a shield for its National Programme of Human Rights', suggesting that human rights merely serve as a pretext for power. The use of the term 'terrorist' has also been criticized by Vladimir Safatle, Professor of Philosophy at the University of São Paulo. Safatle rejects this term when used to describe former members of the militant opposition, as it undermines the fact that the state who introduced this word was an illegal state. Hence, whoever uses the term 'terrorist' is reproducing the vocabulary of a repressive state and concealing the illegitimacy of the regime.

The media's biased tone has also been noticed by an independent group of intel-

lectuals who are systematically examining the Brazilian Press, the so-called Press Observatory (OI), initiated by the distinguished journalist, Alberto Dines. In an article published by the OI, Marcos Rolim perceptively criticises the media for broadcasting imprecise news and trying to manipulate their readers. Rolim, who was personally involved in redrafting the final text of the PNDH-3, calls the portrayal of the plan as a disposition for a 'communist dictatorship', a 'farce', and points out that the milder version of a 'Truth Commission' was eventually chosen instead of a 'Justice and Truth Commission' which would have included legal prosecutions. Rolim makes another noteworthy point; he recalls that several aspects now causing objection, had been incorporated in previous national human rights programs created during the presidency of Fernando Henrique Cardoso (1995-2002). The fact that they were not criticised previously confirms the political agenda of the press, as well as public disinterest in the matter. Luciano Martins Costa likewise criticises the media for polarising opinion rather than providing information, and points out that the Brazilian Lawyers' Association (OAB) is not an association of 'terrorists', but a respected legal institution.

While struggle and negotiation are part of the fabric of politics and the criticism of detailed points of the proposal may well be justified, the key point here is that this debate is not constructive, but an obvious struggle over political power. It is noteworthy that the PNDH-3 was elaborated in a lengthy and democratic procedure that involved both state officials and representatives of civil society. In all, 137 so-called 'free conferences' were organized on a federal, regional and municipal level, actively involving a total of 14,000 people from various groups of civil society. The National Human Rights Confer-

ence in 2008 produced the skeleton document for the program, and approved suggestions from more than 50 conferences have been incorporated into the plan, 'reflecting', as President Lula states in the preface of the PNDH-3, 'an ample democratic debate' about human rights. That the debates and negotiations held during two years should result in an attempt by the armed forces to blackmail the President, and ferocious media attacks against stated 'terrorists', is very revealing about the nature of democracy in Brazil.

Truth no more?

It is fair to say that the historical importance of the NCT fell prey to the 2010 presidential election campaign and resulted in a dirty political struggle, although the two main candidates share a history of opposition to the regime and to political persecution. While the winning candidate Dilma Rousseff (PT), who belonged to militant opposition groups, experienced prison and torture, José Serra of the Brazilian Social Democracy Party (PSDB) was the leader of the National Student Union (UNE) and went into exile in 1964. During the election campaign in late 2010, both candidates clearly stated that they wished to avoid politicizing the NCT, in contrast to the media. Nonetheless – as I have shown – large parts of the mainstream media used this incident to discredit members of the Lula government, in particular, Vannuchi. They discredited democratic institutions and procedures, withheld information and sabotaged constructive criticism – they fail to promote a reasonable, open and honest culture of debate.

While the power struggles could not prevent Rousseff from winning the elections, it is noteworthy that Vannuchi has

not been reappointed to office, while Defence Minister, Jobim, remains in charge. As a consequence of the crisis, the preparations for the NCT have slowed down significantly. In May 2010, the law proposal for the NCT (No. 7.376/2010) already reached the Chamber of Deputies who still has not appointed the members of a special commission responsible for analysing the proposal. The new Human Rights Minister, Maria do Rosário, has publicly refused to speed up the process (*tramitação de urgência*). In her opening speech she praised the armed forces and promised to cooperate with Defence Minister Jobim. In December 2010, she told the press that President Dilma wanted to handle the NCT with 'patience' and 'in dialogue'. This indicates that Dilma has learned a lesson from the crisis and aims to avoid a major conflict at the beginning of her presidency. Yet, problems are lurking; eventually the NCT has to be ratified by the Brazilian Congress. To this point, it remains undecided when the NCT will be instated and under what terms. It is planned that the NCT will work for two years, and the members of the Commission will be appointed by the Brazilian President. Although the NCT had always been intended as a truth rather than a justice commission, the Supreme Court's decision in April 2010 to maintain the 1979 Amnesty Law has closed the avenue of punishment further. The NCT will take testimonies, pressure for further access to archives, and stimulate public debate. The clarification of cases of murder and torture, along with the reclamation of dead bodies will not only meet the legitimate demands of the families of victims, but also gather historic information from which to comprehend the mechanisms of state repression during the military regime.

The recent struggle over the NCT and its repercussions exemplify Brazil's diffi-

culties in coming to terms with its military past. On the one hand, the reservoir of memory elements surrounding the regime was exploited during the 2010 elections, in particular, to discredit the Lula government and weaken the PT. On the other hand, the recent struggle represents a continuation of authoritarian legacies which have long characterized the transition process peculiar to Brazil: the denial of the military legacy; the lack of condemnation of the authoritarian state – even in seemingly harmless words like 'terrorists', 'ditabranda' or 'revanchismo' – and the seemingly infinite desire for compromise, for which the watered-down NCT is a case in point.

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