

Finding facts and constructing memory: the creation and custody of human rights records in South America

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Human rights records have been characterised as those created during the reign of repressive governments or in a transitional context, produced by the state or non-governmental organisations and whose content is related to, or is evidence of, the occurrence of human rights violations. This paper examines three major types of human rights records produced in South America during the second half of the twentieth century, with the aim of identifying their characteristics, the functions that they have served and the challenges that have emerged in relation to their preservation and custody.

Keywords: human rights; South America; custody; memory

Introduction

It is assumed that the repressive governments that sadly characterised the history of Latin America during the second half of the twentieth century produced enormous quantities of records as part of the mechanisms that allowed them to control the population and maintain their authority. Nonetheless, before the return to democratic governments, these records were destroyed or hidden by their creators and, at present, only a small portion of them have been recovered.

In response, democratic governments and civil society have generated diverse initiatives in pursuit of justice and truth, in order to identify and compensate victims and their families and to construct common memories about the recent past. Establishing the facts was naturally related to finding evidence, and evidence was to be found in documents. As expected, the years that followed the return to democratic government have been characterised by the rediscovery, creation and population of archives.

Nonetheless, in most cases, these archives have not been shaped by the act of selection or disposition as has usually occurred, following the recognition that it is impossible to preserve all the records that institutions produce. These archives have laboured

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over searching for lost records, documenting the past, filling gaps and adding pieces – sometimes isolated pieces or intentionally created ones, such as the thousands of testimonies that have been recorded.

The result has been an important mass of records, produced by different creators, created for different purposes and under the custody of different agencies, with the main characteristic in common being that they are all related to human rights violations. However, these archives pose several challenges for archivists. Even when these records have been produced in relation to carrying out specific functions, they have been considered as records of a similar nature, because of the significance of their content. For the same reason, their custody has been a controversial issue posing a number of dilemmas: centralisation or respect of their creators; specially created repositories or national archives; archives, documentary centres, museums or non-governmental organisations? These are some of the questions and answers that have been posed in consideration of research interest, current legal value and the capacity for constructing memory that these records offer.

Following a classification of human rights records according to their creators, this article will describe their characteristics, as well as the choices that have been made regarding their custody.¹ This is not intended to provide an exhaustive response to these matters; its aim is to identify the agents and conflicts that have been present, in regards to these archives.

As a first step, it is necessary to recognise the characteristics of the fonds and collections related to human rights violations in South American countries.

Archives of repression

One portion of what can be called human rights records are those created by the institutions of repressive governments themselves as part of their activities, and these often include documents generated to support the surveillance and control of the regime's opponents. After the return to democratic governments, a so-called 'boomerang effect' has been produced, in which 'these archives which were originally of fundamental importance in the exercise of repression, now became instrumental in the formation of new social relationships'.² This happened because in the new democratic context, the accurate descriptions of all types of abuses were transformed into legal evidence that could be used, in order to assign responsibilities, judge criminals and determine compensation measures for victims. However, this effect has not occurred in every country, since hidden, destroyed or 'purged' archives have been the norm, rather than the exception. The cases of Argentina, Brazil, Paraguay and Chile serve to illustrate the destiny that this type of archives has had.

In Chile, it is known that during the years of the dictatorship of General Augusto Pinochet (1973–90), the regime's intelligence services, the National Intelligence Directorate (DINA, by its Spanish name) and its successor, the National Intelligence Center (CNI), created their own records, documenting their decisions and actions. However, these archives have not been found. Regarding the records produced by the military, victims, their families and human rights defenders have claimed that they are in the custody of the armed forces, but have had no success in accessing them, since the military adduced that the records were destroyed on the last days of the dictatorship.³ As a consequence, the investigation of human rights violations has had to rely on documentary sources, such as the testimonies of victims and their families and the documentation produced by human rights associations.

In the case of Argentina, there have been partial recoveries: the records produced by the police were found, but the army has repeatedly stated that the records produced by them were incinerated in 1983.⁴ At present, the records of the police intelligence service (DIPBA) are accessible and contain a large number of reports about the regime's opponents. As of 2009, the use of these records as evidence in trials had allowed 212 cases to be opened and resulted in 1036 people implicated and 17 condemned.⁵ Nonetheless, it is believed that a significant number of documents were produced in clandestine operations, though no records of this type have been found.⁶ It is also known that a series of microfilmed documents about people who 'disappeared' during the dictatorship was deposited in a bank in Switzerland, but judicial attempts to locate these records have not succeeded.⁷

Paraguay is an emblematic case, owing to the large amount of records that were found in the country. In 1992, two tons of documents produced during the 35 years of the dictatorship of Alfredo Stroessner – now known as the Archives of Terror – were located in a police department. Later that year, the records of four other offices were also found.⁸ Although it is believed that part of these records (especially those of the Dirección Nacional de Asuntos Técnicos) were purged before their discovery, the large quantity of documentation found could be used to open cases of human rights violations. Moreover, the recovered records have provided proof of, and documentation for, Operation Condor – a conspiracy that involved the secret services of Chile, Argentina, Uruguay, Paraguay, Brazil and Bolivia.⁹ However, they were not enough to obtain the extradition of Stroessner, who died in Brasília in 2006, without having been judged.

Finally, one of the most studied cases is Brazil, where the two main fonds are Brasil: Nunca Mais (1964–79) and the documents generated by the Department of Political and Social Order (DOPS) (1964–83) – the political police of Rio de Janeiro – located at present in the public archives of the same city.¹⁰

The Brasil: Nunca Mais (Brazil: never again) fonds are famous for the circumstances in which the records were generated; in order to include several political prisoners and exiled Brazilian citizens as beneficiaries of the amnesty law of 1979, a group of lawyers had access to the records produced by the military court. Once they realised that the records contained evidence of human rights violations, they started to secretly photocopy the case files, led by Jaime Wright and the archbishop Evaristo Arns and with the economic support of the World Council of Churches. Although it was not the original goal to do so, after three years of clandestine work, they had copies of 99 per cent of the archives.¹¹

The fonds that this activity produced are, at present, in the custody of the Edgard Leuenroth Archives of the University of Campinas. However, even if these fonds were duplicated from that of the military court, both archives are, from an archival point of view, completely different. As Ludmila Da Silva Catela has explained, once the copies arrived to the office in which they were supposed to be kept, they were processed and classified, and the data contained in them was systematised, in order to serve a new function: reconstructing the ways, places and times in which the detainees were tortured by the military.¹²

The second fonds, created by the DOPS (also known as political police), began to be transferred to the public archives in 1992, in response to the constitutional recognition of *habeas data*.¹³ However, it is believed that these archives were 'purged' between 1983 and 1992. In total, 700 linear metres of records are now accessible, but, contrary to the Brasil: Nunca Mais case, they are kept in the original order.¹⁴

Non-governmental organisations

Scholars who have studied the production of records during and after dictatorships in Latin America agree that an important part of what has been preserved was generated by persons and organisations outside of the governmental spectrum. However, as Gloria Alberti has pointed out, the historical context in which the archives of repressive regimes were generated explains the lack of a formal concern about the preservation of the records and, consequently, had an impact in the way in which they were accumulated. In her own words: 'It is in these characteristics of human rights records where their strength, its essential originality and truthfulness resides, as well as their excusable fragility, since they are not supported by the systematic realization of professional archival work'.¹⁵ In order to illustrate the work of this type of archives, we will review the cases of Chile and Argentina.

In Argentina, Graciela Karababikián identifies two organisations that had an important role in generating human rights records, as a result of the function that they served in defending victims of abuses and gathering information about the clandestine detention of people: the Paz and Justice Service (Servicio Paz y Justicia or SERPAJ) and the Human Rights Permanent Assembly (Asamblea Permanente por los Derechos Humanos).¹⁶

The SERPAJ fonds are a good example of the type of records produced and preserved by non-governmental organisations. It contains documentation of the period from 1974 to 1983, related to the organisation's creation and the resistance to the dictatorial government, such as forms reporting the disappearance of people, petitions for writ of *habeas corpus*, news clippings and letters. It also contains records regarding the transition to democracy and the fight for justice, including documents related to trials, amnesty and pardon laws, compensatory laws, the identities of the victims of, accessories to, and perpetrators of human rights violations, and education about these matters. As open fonds, it continues to receive and acquire documentation related to its mission.¹⁷

There is also a different type of records: those produced by the families of people who were made to 'disappear' by the military.¹⁸ In this group are included the set of pancartas or banners of the Mothers of Plaza de Mayo-Founding Line Association, some personal fonds¹⁹ and the Grandmothers of Plaza de Mayo Association. The latter was created by mothers of desaparecidos, whose grandchildren were kidnapped or born in prison and were later registered as sons of military personnel, consequently abandoned, sold or left in orphanages, without the registration of their true identities. The Association dedicated to finding the missing grandchildren created a biographical archives – the Biographical Family Archives (Archivo Biográfico Familiar). These archives were created for the sons and daughters of those who had 'disappeared', with the objective of enabling them to reconstruct the lives of their parents and the hope of giving those memories back to the children once they are found. It contains interviews from 1830 people, and, at present, it has returned parental records to 28 grandchildren.²⁰

In Chile, there is also an association for families of those who disappeared, namely the Association of Families of the Disappeared (Agrupación de Familiares de Detenidos Desaparecidos). This organisation, operated by the families themselves, has its own archives, in which are preserved a series of news clippings (1974–90), files containing information about legal actions regarding 1197 people who disappeared in relation to the secret services during Pinochet's dictatorship and publications produced by the Association or related to its work (1975–2005).²¹

The same country serves as an example of the participation of another agent that produced records as part of its defence of human rights: the Catholic Church.

The Vicariate of Solidarity (*Vicaría de la Solidaridad*) was an organisation created by the Chilean Catholic Church, with the mission of promoting and defending human rights victims. In practical terms, its role was to offer legal services to victims and to their families, as well as conducting other activities and services in support of the victims of repression.²² The role that the Vicariate played explains the tension between the Catholic Church and Pinochet's regime. The relevance of the documents that this institution generated was reflected in a conflict in 1986, when the military authorities tried, without success, to access the archives of the Vicariate, in order to obtain information about the militants of an armed opposition organisation.²³ Another example was the tragic murder in 1985 of one of the workers of the Vicariate and a member of the Communist Party, José Manuel Parada, who, it is believed, was killed because he was analysing the testimony of a deserter of the regime, which would have led him to decode the activities of the military unit known as Joint Command (*Comando Conjunto*), which was responsible for the murder and disappearance of several members of the Communist Party.²⁴

At present, the documents produced by the Vicariate are in the custody of a foundation created for that same purpose – the Documentation and Archives of the Vicariate of Solidarity Foundation (*Fundación de Documentación y Archivo de la Vicaría de la Solidaridad*). The 85,000 records preserved contain information relating to 45,000 people who were assisted by the Vicariate, including copies and originals of legal documents and records of testimonies of abuses, such as torture, assassination and kidnapping. The Foundation also has a documentary centre, in which news clippings, publications and other bibliographic resources are kept.²⁵

Truth commissions

The discovery of records produced during Brazil's and Paraguay's dictatorships has confirmed a well-known fact, which is that the oppressive regimes installed in South America during the twentieth century produced massive amounts of records. However, since these cases are exceptional, most countries have had to find alternative mechanisms in searching for truth and justice. In this context, truth commissions have been created in Bolivia (1982), Argentina (1983), Uruguay (1985, 2000), Chile (1990, 2003), Ecuador (1996, 2008) Peru (2001) and Paraguay (2004).²⁶

Truth commissions have varied in aspects such as their objectives, functions, powers and procedures, with the local political context in which they have been created being one of the significant determining factors. Recognising that these differences exist, Priscilla Hayner has proposed the following definition, which encompasses their most common characteristics:

A truth commission (1) is focused on past, rather than ongoing, events; (2) investigates a pattern of events that took place over a period of time; (3) engages directly and broadly with the affected population, gathering information on their experiences; (4) is a temporary body, with the aim of concluding with a final report; and (5) is officially authorised or empowered by the state under review.²⁷

One characteristic that is frequently discussed is the reduced legal powers of truth commissions, which imply that even if they can identify perpetrators of abuses, they

cannot judge or hold them accountable directly, as a court would be able to do. One way of understanding this characteristic is by situating truth commissions in the context of the transition from authoritarian to democratic systems, where the former repressive machinery might not have been completely dismantled. Creating a truth commission might be a compromise solution, by 'balancing victims' desire for some form of accountability with the practical recognition that perpetrators who retain power can wreak havoc with the transition if they feel threatened'.²⁸

When truth commissions are understood as part of transitional justice, the limitation of legal powers is not necessarily a weakness: truth commissions have a different purpose and their actions are intended to have an impact in a broader – and, it might be said, an even deeper – sphere of action. They are also faced with the challenge of covering diverse objectives besides fact finding, such as formally acknowledging abuses, identifying their causes and consequences, addressing the needs of victims or promoting reconciliation.²⁹

It is true to say that the degree in which truth commissions succeed in each one of these objectives is variable. However, from an archival point of view, it is important to consider all of these aims, since they will have an impact on the community's expectations regarding the commission's work and on the range of users and uses that the records created by the commissions will have in the future. Their utility as evidence in trials, as sources for historical research or for the acknowledgement of victims' experiences and the construction of individual or collective memories are all possible.

South American truth commissions have considered all of these possible uses, although as the cases of Argentina, Chile and Peru reveal, they have been balanced or prioritised differently; custody, use and access restrictions being some of the elements that inform each government's particular choice.

In Argentina – a pioneer country in creating this type of commission – the National Commission on the Disappearance of Persons (Comisión Nacional sobre la Desaparición Forzada de Personas or CONADEP) was created by a decree of President Raul Alfonsín at the end of 1983. The objective of the Commission was to establish the facts relating to the disappearance of persons by the military since 1976, with one aim specified as the gathering of testimonies and proofs of these cases, in order to transfer them to the courts.³⁰ To carry out its functions, the Commission received testimonies from victims and their families and, without major success, attempted to gather testimonies from members of the army.³¹ The result of the Commission's work was the documentation of 8960 cases of people who had disappeared (of a total estimate of 30,000) in the final report *Nunca Más* (Never Again), which also identified 340 clandestine detention camps, described torture and disappearance methods practiced during the regime and identified the names of perpetrators.³²

The records created by the Commission are kept in an institution created especially for the purpose, the National Archives of Memory (Archivo Nacional de la Memoria) – a department of the Ministry of Justice, Security and Human Rights. According to the decree of the creation of this body, its main activities are 'to obtain, analyze, classify, duplicate, digitize and archive information, testimonies and documents about violations of human rights, violations of fundamental freedoms which are the responsibility of the Argentinean State, and the social and institutional response to these violations'.³³ In accordance with this objective, the institution houses more than the records of CONADEP, its holdings being divided into documentary, digital and audiovisual collections. The latter is a clear example of the variety of materials collected by the institution, as it includes records created by individuals, public organisations, television stations and

human rights organisations, as well as materials produced by the audiovisual area of the archives itself, namely a series of interviews of people who survived their detention in clandestine centres and human rights defenders.³⁴

Regarding textual records, documents related to human rights violations produced by public administration bodies are being tracked down and gathered by the archives, as is documentation produced by other organisations (private, NGOs, political associations, and so on).³⁵ Testimonies related to torture, illegal detention, kidnappings and disappearances are still being received and integrated to the documentary fonds.³⁶ It is estimated that between 1984 and 2003, the fonds have grown from almost 8300 files to about 12,500 cases.³⁷

Chile's truth commission, the National Truth and Reconciliation Commission (Comisión Nacional de Verdad y Reconciliación or CNVR), also known as the Rettig Commission, was created by decree number 355 of 1990, in the first months of the government of the first democratically elected president, Patricio Aylwin, after 17 years of Pinochet's dictatorship. Its main objective was to help clarify the truth about human rights violations, with the ultimate purpose of contributing to national reconciliation.³⁸ In order to accomplish its mission, the CNVR gathered information from three types of sources: the victims and their families (or their representatives); human rights organisations (whether Chilean or international, intergovernmental or non-governmental); and state authorities and services (upon the Commission's request).³⁹

Within human rights organisations, the records generated during the dictatorship by the Vicariate of Solidarity were particularly relevant, although other local human rights organisations, including the Red Cross, Amnesty International, United Nations and the National Inquiry Commission of the Crimes of the Military Junta in Chile (Comisión Internacional Investigadora de los Crímenes de la Junta Militar en Chile), also contributed with their own records. The public call to victims and their families resulted in a total of 4000 complaints received by the Commission. As a final result, 2279 cases of human rights violations were identified and documented, a series of recommendations on institutional reform were elaborated on and a reparations program for the victims and their families was designed.⁴⁰

The work of the CNVR was continued by the National Corporation for Reparation and Reconciliation (Corporación Nacional de Reparación y Reconciliación or CNRR), which was created in 1992 – a body that was also responsible for the custody of the Commission's records.⁴¹ In 2003, a new truth commission was created: the National Commission on Political Imprisonment and Torture (Comisión Asesora para la Calificación de Detenidos Desaparecidos, Ejecutados Políticos y Víctimas de Prisión Política y Tortura), also known as the Valech Commission. Its purpose was to investigate those cases of human rights violations which did not result in the death of their victims, for which reason they were not included in the CNVR's report. The work of the Valech Commission ended in 2011, and the final report was published in August of the same year.⁴²

At present, the records of the CNRR, the Rettig and the Valech Commission are preserved by the Ministry of Interior, through the National Institute of Human Rights.⁴³ Copies of the cases investigated by the CNVR were deposited at the National Archives of Chile, and a copy of part of the Commission's records is at the Justice and Democracy Corporation (Corporación Justicia y Democracia), founded by former president Aylwin at the National Archives. All of these have restrictions on their access and are reserved for their use in the courts.⁴⁴

In Peru, a truth commission was established in 2001, with the purpose of elucidating the process, facts and responsibilities related to terrorist violence and human rights violations between 1980 and 2000. The Peruvian Truth and Reconciliation Commission (Comisión de la Verdad y la Reconciliación or CVR) has been recently recognised as one the five strongest truth commissions worldwide.⁴⁵

The cases investigated by the CVR were committed more recently than those covered by the Chilean and Argentinean commissions, and they involved a higher participation of other groups besides the state in human rights violations. In fact, the period has been characterised as one of internal war, in which were involved the armed subversive movements of Shining Path, Tupac Amaru (MRTA) and the Peruvian state. According to the Commission's findings, the number of people who were killed or who disappeared during the 20 years of conflict was 69,280, 75 per cent of them being indigenous; regarding responsibilities, 54 per cent of the deaths were determined to be caused by Shining Path and 37 per cent were caused by the state.⁴⁶

Like those of the Argentina and Chile truth commissions, CVR's records came from the government, victims and their families and non-governmental organisations. Among the non-governmental organisations (NGOs), the documentation created by the National Coordinator of Human Rights (Coordinadora Nacional de Derechos Humanos) was especially significant.

The custody of the records created by the CVR was established by the same decree which created the Commission. According to this decree, upon completion of the Commission's work, the records would be transferred to the Ombudsman's Office (Defensoría del Pueblo) with restricted access.⁴⁷ At present, the records are being kept by the aforesaid office in a centre created specifically for that purpose – the Collective Memory and Human Rights Information Centre (Centro de Información para la Memoria Colectiva y los Derechos Humanos). However, the access restrictions were modified with the enactment of the transparency law of 2003. In a different approach to that of the Chilean government, this law also grants access to the Commission's records, except in extremely sensitive cases, with the precaution of codifying the names of victims who did not want their names to be made public in the records. The information centre, which contains 16,917 testimonies, 13,696 audiotapes and 1109 videotapes, among other materials, is visited regularly, mainly by researchers and students.⁴⁸

Human rights record: role and custody

The distinction between records created by repressive governments, NGOs and truth commissions is not casual, but a consequence of the fact that each one of them has been created by different entities, as part of different procedures and in order to serve different purposes. Then, why should we group them in one category? Is there a special characteristic that makes human rights records a different type of record?

First, we have to recognise that part of them, in fact, possess one characteristic that differentiates them from what we could call a prototypical record, namely their fragility – the fact that even if they were accumulated over the course of each entity's activities, they have come to us dismembered, purged and, consequently, decontextualised.

Although it could be alleged that this attribute is not completely rare in archives – especially those that have been inherited from remote times – it is possible to affirm that this factor does have some impact on the characterisation of human rights records as such. Additionally, we can consider that one of the characteristics in virtue of which they have been identified as different comes from their use at present, which is often

shaped by necessity and scarcity; the recovery of records of oppressive regimes is directly related to the necessity for justice and the scarcity of proofs to obtain it. The creation of truth commissions is also related to that need, as well as to the need, at the institutional level, to regenerate the trust of citizens in the institutions and to pursue what transitional governments have called national reconciliation.

On the other hand, there is the necessity of remembering and the scarcity of memories, which, at an individual level, is exceptionally visible in the Biographical Family Archives, created by the mothers of those who disappeared for their grandchildren in Argentina. Nonetheless, this need is also visible on a more general level, where society as a whole is concerned, but in which victims, their families and non-governmental organisations have played a preponderant role. At this level, it is not necessarily the lack of physical or concrete memories, but the need for consensus or acknowledgement regarding the past, for recognising the disappearance, torture and death of those who disappeared, who were tortured and who are dead, for creating narratives about the past and for constructing knowledge, in order to avoid the repetition of past wrongs in the future.

The definition of human rights archives, it might be said, is not necessarily related to the 'objective' characteristics that make a document an archival document, but to their content and potential uses, which, according to this review, relate to the fight for justice and the construction of memory – two functions that, although related, operate at different levels and do not involve only the courts and historians, but also the victims, the families, governmental and non-governmental bodies. What has been recognised as human rights records, then, has value for different sectors of society, and it might be in that value that the definition resides.

When the Archives of Terror were discovered in 1992, the transfer of records from the place in which they were hidden to the courthouse (Palacio de Justicia) was accompanied by a convoy of cars, all driven by Paraguayan citizens who were willing to ensure the safeguarding of the precious records.⁴⁹ This anecdote serves to illustrate the value that society at large has assigned to human rights records. At the same time, it shows the concerns that have emerged, regarding the custody and management of records created by the government.

The cases reviewed show a tendency towards the creation of public institutions especially dedicated to preserving these records, instead of keeping them as part of the existing archives. The wide mandates place them within the limits of traditional archives. One example is the Archives and Documentation Centre for the Defense of Human Rights (Centro de Documentación y Archivo para la Defensa de los Derechos Humanos), responsible for the custody of Paraguay's Archives of Terror, which has a mission to: construct a database to respond to writs of *habeas data*; provide information in legal processes related to human rights violations; promote the records respecting privacy requirements; preserve the records already possessed and others that could be aggregated to the archives in the future; and convert the Centre into a Centre-Museum to remind Paraguayan society of the history that should have never happened.⁵⁰ Another case is the National Archive of Memory in Argentina – an institution which is independent of the National Archives of Argentina and which, as has been mentioned before, is responsible not only for the custody and preservation of the truth Commission's record, but for a more comprehensive documentation of human rights issues related to the dictatorship in that country.

However, this type of approach to human rights records preservation has received some criticism from an archival point of view. Antonio Gonzalez Quintana has firmly stated that professionals (as opposed to militants) should be in charge of government

archives, and they should be treated as archives (as opposed to documentary centres), respecting their context, provenance and original order – characteristics in which resides their capacity to serve as evidence.⁵¹ In a similar vein, Graciela Karababikián has also condemned the treatment that governments have given to these records as isolated groups, since this type of approach does not recognise their relationships with other fonds, even, in some cases, with fonds that are not strictly related to human rights issues. In the case of Argentina, she has pointed out that the root of the problem is related to the lack of national archival policies, which leads to the application of temporary criteria for every new situation that arises. Then, controversies about custody emerge, and they find their solution in a political ground, privileging some values of the records in relation to others.⁵²

On the other side, there are the records preserved by non-governmental organisations, which are not even homogeneous as a group: associations of families, organisations dependent on the church, organisations that were exclusively dedicated to the defense of human rights or those that while carrying out other functions, witnessed and attested through their records to the occurrence of abuse. One of the challenges that these archives pose is related to their regulation: they are private institutions, and, consequently, all the procedures regarding their safeguarding, organisation and access are established with autonomy by every organisation.

In response to this fact, international organisations have acknowledged the value of the records that these institutions preserve and the difficulties that they present from a professional and material point of view, to the extent that their preservation is in danger. This explains the recognition of the archives produced by several NGOs in Argentina and Chile as part of the United Nations Educational, Scientific and Cultural Organization's (UNESCO) 'Memory of the World' and the comments and recommendations included in the 'Archival Policies in the Protection of Human Rights' report prepared by UNESCO and the International Council on Archives in 2009. In Chile, this concern has also been shown in the incorporation of private records recognised as the 'Memory of the World' to the Museum of Memory and Human Rights (Museo de la Memoria y los Derechos Humanos) – an institution created and financed by the government.⁵³

However, the question of the records' custody is not only a concern for archivists. For example, María Angélica Cruz has questioned the right of the Catholic Church to the records produced by the Vicariate of Solidarity, suggesting that this could be a case of 'privatization of the collective memory' and that there is no guarantee that the Church can respond to the social needs of a 'plurality of collective memories, of the democratization of cultural patrimony that includes only documentation about the authoritarian past'.⁵⁴ This criticism, which could be responded to with archival theory's principle of provenance, is worthwhile to mention, since it reflects valid concerns from outside the archival realm concerning the rights and responsibilities of citizens, private institutions and the state, in relation to records of public interest.

Conclusion

Considering this brief review, it can be observed that because of the characteristics that they possess and the uses that have been attributed to them, records related to human rights violations attract the attention of several groups of society. Archives of non-governmental organisations have played a key role in the investigation of human rights violations, but their characteristics and fragility poses several challenges to the archival

profession. However, the role that archivists, and especially that government, play in that context should still be discussed, as should the question of whether they should play a role at all.

Finally, the position to be adopted by governments regarding their own records, whether in repressive regimes or democracies, should also be discussed in depth. It is necessary to question whether these records possess attributes that differentiate them from the rest and justify the adoption of special measures or if the application of strong and uniform archival policies would be enough. Decisions regarding the custody of human rights records, if such a differentiation is made, should be aimed at the protection of records in the long term. Following Gonzalez Quintana and Karababikián's arguments, it is possible to state that by protecting and preserving records' attributes and context, their capacity to be used for the purposes of justice, memory and the advancement of knowledge is enhanced. However, in order to accomplish this goal, it is still necessary to debate, from both archival theory and from the understanding of the role that these records play for our generation, in order to establish if, in what degree or in which cases human rights records should be treated as different from other records, where their limits sit and how they should be established and, finally, who has the right and the responsibility of preserving these records.

Endnotes

1. This type of differentiation, which is manifested in the distinction of records produced by repressive governments, truth commissions and non-governmental organisations, has been recognised and utilised by several scholars, mainly in the Latin-American spectrum. A useful characterisation can be found in: Gloria Alberti, 'La Memoria del Dolor. Archivos de las Violaciones de Derechos Humanos en América del Sur', paper presented at South Korea Record Institute Symposium 2005, p. 34, available at <http://dbpia.co.kr/view/ar_view.asp?arid=810900>, accessed 3 May 2012.
2. Antonio Gonzalez Quintana, *Archival Policies in the Protection of Human Rights*, International Council on Archives, Paris, 2009, p. 20.
3. María Angélica Cruz, 'Silencios, Contingencias y Desafío: el Archivo de la Vicaría de la Solidaridad en Chile', in Ludmila Da Silva Catela and Elizabeth Jelin (eds), *Los Archivos de la Represión: Documentos, Memorias y Verdad*, Siglo Veintiuno Editores, Madrid, 2002, p. 163.
4. Graciela Karababikián, 'Archivos y Derechos Humanos en Argentina', *Boletín del Archivo General de la Nación*, vol. 32, no. 119, 2007, p. 634.
5. Gonzalez Quintana, *Archival Policies*, p. 60.
6. Karababikián, 'Archivos y Derechos', p. 637.
7. Gonzalez Quintana, *Archival Policies*, p. 90.
8. Myrian Gonzalez, 'Los Archivos del Terror del Paraguay. La Historia Oculta de la Represión', in Ludmila Da Silva Catela and Elizabeth Jelin (eds), *Los Archivos de la Represión: Documentos, Memoria y Verdad*, Siglo Veintiuno Editores, Madrid, 2002, pp. 89–95. The offices that were involved were the Dirección Nacional de Asuntos Técnicos, the Departamento Judicial de la Policía, the Comisaría Tercera de la Capital and the Delegación de Gobierno de Caaguazú.
9. Alberti, 'La Memoria', p. 34.
10. Ludmila Da Silva Catela, 'Territorios de Memoria Política. Los Archivos de la Represión en Brasil', in Ludmila Da Silva Catela and Elizabeth Jelin (eds), *Los Archivos de la Represión: Documentos, Memoria y Verdad*, Siglo Veintiuno Editores, Madrid, 2002, p. 17.
11. *ibid.*, pp. 28–33.
12. *ibid.*, p. 42.
13. *Habeas data*, as Gonzalez Quintana has explained in his report for the International Council on Archives, is 'the right to know if the police or repressive information services kept any information on any given person and of judging whether political, ideological, ethical or

- racial repression had affected his/her personal, family or professional life'. See Gonzalez Quintana, *Archival Policies*, p. 63.
14. *ibid.*, p. 52.
 15. Alberti, 'La Memoria', p. 28.
 16. Karababikián, 'Archivos y Derechos', p. 640.
 17. SERPAJ, 'Centro de Documentación SERPAJ', Servicio Paz y Justicia, available at <<http://centrodedocumentacionserpaj.blogspot.ca/>>, accessed 29 March 2012.
 18. The phenomenon of the forced disappearances or *desapariciones forzadas* was common in the Latin-American dictatorships. The victims are known *desaparecidos* or *detenidos desaparecidos*.
 19. Karababikián, 'Archivos y Derechos', p. 641.
 20. Abuelas de Plaza de Mayo, 'Archivo Biográfico Familiar', available at <http://www.abuelas.org.ar/areas.php?area=archivo.htm&der1=der1_arch.php&der2=der2_areas.php>, accessed 29 March 2012.
 21. Jennifer Herbst and Patricia Huenque, 'Archivos Para el Estudio del Pasado Reciente en Chile' in, Anne Pérotin-Dumon (ed.), *Historizar el Pasado Vivo en América Latina*, Universidad Alberto Hurtado, 2007, p. 10, available at <<http://www.historizarelpasadovivo.cl/downloads/archivochile.pdf>>, accessed 6 April 2012.
 22. Cruz, 'Silencios, Contingencias', p. 159.
 23. *ibid.*, pp. 160–1.
 24. *ibid.*, p. 159.
 25. Vicaría de la Solidaridad, 'Nuestra Fundación', available at <<http://www.vicariadelasolidaridad.cl/index1.html>>, accessed 29 March 2012.
 26. Priscilla Hayner, *Unspeakable Truths. Transitional Justice and the Challenge of Truth Commissions*, Routledge, New York, 2011, pp. xi, xii.
 27. *ibid.*, pp. 11–12.
 28. Eric Wiebelhaus-Brahm, *Truth Commissions and Transitional Societies. The Impact on Human Rights and Democracy*, Routledge, New York, 2010, p. 4.
 29. Hayner, *Unspeakable Truths*, p. 20; David Crocker, 'Truth Commissions, Transitional Justice, and Civil Society', in Robert Rotberg and Dennis Thompson (eds), *Truth v. Justice. The Morality of Truth Commissions*, Princeton University Press, New Jersey, 2000, p. 105.
 30. Argentina, decree no. 87/83, Article 1–2, available at <<http://www.derechos.org/ddhh/arg/ley/conadept.txt>>, accessed 12 December 1983. Another of the aims was to locate the kidnapped children, which were mentioned earlier.
 31. Cristina García Gutiérrez, 'Fuentes para el Estudio de la Represión en Iberoamérica: Entre Archivos y Centros Documentales', paper presented at the XIV Encuentro de Latinoamericanistas Españoles, Santiago de Compostela, 15–18 September 2010, p. 1725.
 32. Patricia Funes, 'Nunca Más. Memorias de las Dictaduras en América Latina. Acerca de las Comisiones de Verdad en el Cono Sur', in Bruno Groppo and Patricia Flier (eds), *La Imposibilidad del Olvido. Recorridos de la Memoria en Argentina, Chile y Uruguay*, Ediciones Al Margen, La Plata, 2001, pp. 51–2.
 33. Argentina, decree no. 1259/2003, Article 1, available at <http://www.derhuman.jus.gov.ar/anm/decreto_nuevo.html>, accessed 16 December 2003.
 34. Archivo Nacional de la Memoria, 'Area Audiovisual', available at <<http://www.derhuman.jus.gov.ar/anm/inicio.html>>, accessed 18 May 2012.
 35. Archivo Nacional de la Memoria, 'Qué es el Archivo Nacional de la Memoria', available at <<http://www.derhuman.jus.gov.ar/anm/inicio.html>>, accessed 18 May 2012. According to the information provided on the institutional website, in some cases, documents are duplicated from the institutions, although it is not clear if these procedures apply to governmental and non-governmental institutions or the latter only.
 36. The creation and growth of these fonds is directly related to current legal processes, since testimonies are received in compliance with law no. 24.231, concerning forced disappearances. According to this law, cases of disappearance can be reported to the judicial authorities or other competent bodies, including CONADEP. Argentina, law no. 24.321, 'Desaparición Forzada de Personas', Article 2, available at <http://www.derhuman.jus.gov.ar/anm/LEY_24321.pdf>, accessed 8 June 1994.
 37. Federico Lorenz, 'Archivos de la Represión y Memoria en la República Argentina', in Anne Pérotin-Dumon (ed.), *Historizar el Pasado Vivo en América Latina*, Universidad Alberto Hur-

- tado, 2007, p. 4, available at <<http://www.historizarelpasadovivo.cl/downloads/archivoargentina.pdf>>, accessed 6 April 2012.
38. Chile, decree no. 355 (Decreto Supremo), Article 1, available at <<http://www.derechoshumanos.net/paises/America/derechos-humanos-Chile/informes-comisiones/Creacion-Comision-Rettig.pdf>>, accessed 25 April 1990.
39. *ibid.*
40. Joel Blanco-Rivera, 'Truth Commissions and the Construction of Collective Memory: The Chile Experience', in Jeannette Bastian and Ben Alexander (eds), *Community Archives. The Shaping of Memory*, Facet Publishing, London, 2009, pp. 133, 139.
41. Ministerio del Interior y Seguridad Pública, Gobierno de Chile, 'Historia del Programa', Programa de Derechos Humanos, available at <http://www.ddhh.gov.cl/historia_programa.html>, accessed 15 May 2012.
42. Instituto Nacional de Derechos Humanos, 'Información Comisión Valech', available at <<http://www.indh.cl/informacion-comision-valech>>, accessed 15 May 2012.
43. Instituto Nacional de Derechos Humanos, 'Funciones', available at <<http://www.indh.cl/resena-institucional/historia-funciones-y-mision>>, accessed 15 May 2012.
44. Ministerio del Interior y Seguridad Pública, Gobierno de Chile, 'Historia del Programa', Programa de Derechos Humanos, available at <http://www.ddhh.gov.cl/historia_programa.html>, accessed 15 May 2012; Trudy Huskamp Peterson, *Final Acts. A Guide to Preserving the Records of Truth Commissions*, Woodrow Wilson Center Press, Washington, 2005, p. 64.
45. Hayner, *Unspeakable Truths*.
46. *ibid.*, pp. 35–7.
47. Peru, decree no. 065-2001-PCM (Decreto Supremo), Artículo 7, available at <<http://www.cverdad.org.pe/lacomision/nlabor/decsup01.php>>, accessed 4 June 2001.
48. Carlos Fuentes '¿De Quién son Estas Memorias? El Archivo de la Comisión de la Verdad y Reconciliación en el Perú', *Anuario de Historia de América Latina*, vol. 46, 2009, pp. 139, 145, 162.
49. Gonzalez, 'Los Archivos del Terror', p. 89.
50. *ibid.*, p. 104.
51. Gonzalez Quintana, *Archival Policies*, pp. 76–7.
52. Karababikíán, 'Archivos y Derechos', pp. 625–31.
53. It is a significant fact that the records are kept in a documentation centre – instead of archives – which is part of a museum related to the dictatorial period. The museum is not related to the National Archives.
54. Cruz, 'Silencios y Contingencias', pp. 169–70.