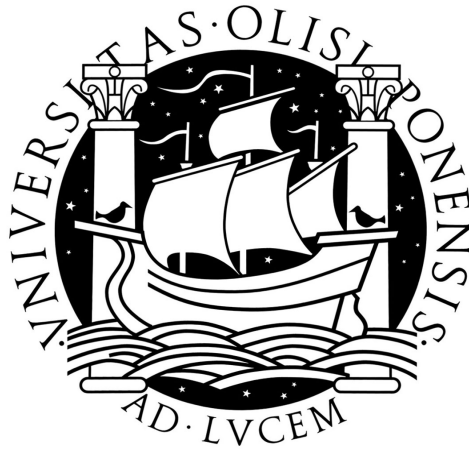


UNIVERSITY OF LISBON  
INSTITUTE OF SOCIAL SCIENCES



## THE DOUBLE FACE OF HEROES

Transitional justice and the political police (PIDE/DGS)  
in Portugal's democratization, 1974-1976

Filipa Alves Raimundo  
Masters dissertation in comparative politics

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## TABLE OF CONTENTS

Index of Figures	3
Index of Tables	4
Abbreviations	6
Key-words/ Palavras-chave	7
Sumário em Português	7
<u>PART I Introduction</u>	<u>12</u>
Chapter 1. The state of the art	13
Theories of transitional justice	13
Chapter 2. Object, methodology, and hypotheses	21
Object and research questions	21
Sources and methods	25
Theoretical and exploratory hypotheses	29
<u>PART II Criminalizing and prosecuting PIDE/DGS during the democratic transition in Portugal</u>	<u>30</u>
Chapter 1. Background factors and the Political setting: constraints and interactions	31
Nature and duration of the New State	31
The level of political oppression, the role of state security and the colonial war	32
Type of transition and the several features of the political setting	35
<i>Dealing with the past and the political agenda</i>	42

Chapter 2. Set of motivations: was it all about accountability?	46
Military's motivations	46
<i>The indefinite phase (April 1974 – March 1975)</i>	48
<i>The reinforcement of the revolutionary legitimacy (March – November 1975)</i>	49
<i>The reinforcement of democratic legitimacy (November 1975 – 1982)</i>	51
The public sphere: motivations between discourse and action	54
 Chapter 3. Dealing with the political police (PIDE/DGS): from revolutionary to democratic legitimacy	61
Uncertain outcome: Setbacks at the CE	62
<i>The coup and its immediate consequences</i>	63
<i>The creation of the Commission for the Extinction of PIDE/DGS</i>	64
<i>After 28 September 1974</i>	68
The Hot Summer of 1975: a step towards criminalization	69
The end of the “revolutionary” process: a step towards forgiveness	73
<i>Reinforcing democratic legitimacy: parole and the right to appeal</i>	74
<i>The Constituent Assembly: the “useless” role of the (civilian) political elite in punishing the “pides”</i>	74
<i>Decree-Law 349/76: Forgiveness and reconciliation and the first sentences</i>	78
<i>The anti-fascist segment of the Parliament trying to reverse the course</i>	80
Transitional justice and the consolidation of democracy: some data for future consideration	83
 <b><u>PART III. Conclusion</u></b>	<b><u>88</u></b>
 Conclusion	89
What transitional justice in Portugal was not about	89
Checks and balances of punishing the Portuguese political police during regime change	93
 Bibliography	97
Interviews (see Appendix)	

## Index of Figures

Figure 1. Mark Amstutz's conception of <i>transitional justice strategies</i>	19
Figure 2. John Torpey's conception of <i>reparation politics</i>	19
Figure 3. Welsh's modified model	22
Figure 4. Graphical representation of Elster's upstream causes and downstream consequences of actor's motivations in action	28
Figure 5. The Portuguese democratic transition and the way of dealing with the past (based on Pinto, 2006)	41
Figure 6. News on PIDE/DGS and the "pides" on the front pages of <i>Expresso</i> (April 1974-76)	56
Figure 7. Extract of the MFA Program as it was written by Melo Antunes and later changed by General Spínola, March 1974	63
Figure 8. CE's internal structure, since January 1976	73

## Index of Tables

Table 1. Number of officials of PIDE/DGS (1943-72)	33
Table 2. Phases of transition and democratic consolidation and the purge process	41
Table 3. Quantitative overview of the three main news in <i>Expresso's</i> front pages, organized by subject, between May 1974 and March 1976	44
Table 4. Legislation affecting prosecutions and purges, 1974-78	61
Table 5. Result of the elections for the Constituent Assembly and seats won by parties	75
Table 6. The “Commission for Final and Transitional Provisions” and the proposal of Constitutional article	76
Table 7. Content Analysis of the discussion at the Constituent Assembly over future article 309, during the plenary session on March 30, 1976	77
Table 8. Comparison between the Extenuating Circumstances issued by the Council of the Revolution (CR) and the changes in the document issued by the Parliament	81
Table 9. Laws and Decree-Laws issued: Court Sentences	81
Table 10. Individuals being tried at the 4 <sup>th</sup> Lisbon Military Court (1976-79)	84
Table 11. Collaboration with the Armed Forces at the Colonies, before and after the coup	84
Table 12. Preventive detention VERSUS Military Court Sentences	84

Table 13. Extenuating circumstances requested and applied in court, included in art 39 (23) of the penal code	85
Table 14. Official statistics of Military Court Sentences (October 1976-June 1982)	87
Table 15. Predictions and conclusions concerning the three types of actors involved in punishing the political police	94

## Abbreviations

AMC	<i>António Maria Cardoso</i> , the name of the street where the headquarters of the political police was located, in Lisbon
CE	“Comissão de Extinção” (“Commission for the Abolishment of PIDE/DGS”), which was a short version of its true name, <i>Serviço de Coordenação da Extinção da PIDE/DGS e LP</i> )
CR	<i>Conselho da Revolução</i> (Council of the Revolution), designation given to the military that comprised the MFA, after their institutionalization in March 1975
JSN	<i>Junta de Salvação Nacional</i> , designation given to the military junta that ruled the country between April 1974 and March 1975
MFA	<i>Movimento das Forças Armadas</i> (Armed Forces Movement)
PIDE/DGS	<i>Polícia de Informação e Defesa do Estado/ Direcção Geral de Segurança</i> , designation given to the political police. It was called PIDE from 1945 to 1968 and DGS from 1968 until 1974.
“Pides”	Usual designation given to the functionaries of the political police



Keywords: Transitional justice; democratic transition; political police; Portugal; punishment

Palavras-chave: Justiça transicional; transição democrática; polícia política; Portugal; punição

## Sumário em Português

A presente dissertação constitui um estudo de caso sobre o processo de criminalização e julgamento da polícia política do Estado Novo português (PIDE/DGS), durante o período da transição democrática (1974-76). O objectivo é interpretar *como* se processou a justiça transicional em Portugal em articulação com as restantes dimensões da transição democrática, enquanto produto de uma interacção.

O processo de criminalização e julgamento da PIDE enquadra-se na literatura sobre o que é habitualmente descrito como justiça transicional, traduzida pela forma de lidar com o passado (*dealing with the past*) no contexto específico da mudança de regime. Perante a dificuldade de delimitação do fenómeno e definição do conceito, foi tida em conta a literatura crítica à concepção dicotómica do problema – esquecimento e perdão versus punição e criminalização (Huntinton, 1991) – que remete para a compatibilidade de medidas existentes e que passam por amnistias, comissões de verdade, saneamentos/ lustração, julgamentos, compensação de vítimas, etc. (Welsh, 1996; Amstutz, 2005; Sikkink and Walling, 2006).

Neste sentido, a justiça transicional é aqui definida como *o conjunto de decisões e procedimentos de deslegitimação de um passado caracterizado pelo uso abusivo da força e da violência – independentemente da sua intensidade e alcance – levado a cabo por elites e instituições ditatoriais. A justiça transicional surge no contexto de princípios e valores democráticos emergentes, sendo desencadeada pela mudança de regime. Os seus recursos podem existir previamente ou ser excepcionalmente criados com maior ou menor peso legal, financeiro ou simbólico e com o objectivo de promover ou evitar quer a responsabilização (accountability) quer a reconciliação. Sendo um acto de justiça, o conjunto das decisões e procedimentos tende a ser punitivo, mas pode igualmente restringir-se a formas de assegurar a compensação das vítimas (restoration) ou evitar a retribuição face aos responsáveis (retribution).*

*Neste sentido, é o produto de constrangimentos e interesses colectivos distintos – domésticos e/ou internacionais – que podem ser legados do passado ou surgir em face das estruturas de oportunidade e clivagens associadas a novas instituições, elites e grupos de interesse.*

A hipótese teórica de partida foi adoptada com base no trabalho de Huntington (1991), segundo a qual transições por ruptura produzem processos de punição enquanto que transições por negociação tendem a não resultar na criminalização da sua elite. A investigação foi complementada com a elaboração de uma hipótese exploratória, segundo a qual seria de esperar que à medida que a transição deu lugar à consolidação democrática, a justiça transicional em Portugal terá evoluído de punitiva para reconciliatória.

O modelo analítico utilizado foi adaptado de Helga Welsh (1996) e Jon Elster (2006), e englobou três dimensões: factores históricos (*background factors*) – natureza e duração do Estado Novo (Schmitter and O'Donnell, 1986; McAdam, 1997; Elster, 2004), grau de repressão da PIDE/DGS e o seu papel enquanto instituição repressiva (Feine, 2006; Sikking and Walling, 2007), a existência de uma guerra colonial e o tipo de transição democrática (Huntington, 1991) – contexto político (*political setting*) – crise de Estado (presença de forças políticas conservadoras, simultânea democratização e descolonização, e papel político dominante dos militares) (Cerezales, 2003; Pinto, 2006), natureza das forças da oposição (Brito, 2001), mudanças no sistema partidário e dinâmica da acção colectiva – e motivações ligadas ao comportamento dos actores – subdivididas em emoções, interesses político-partidários e concepções de justiça (Elster, 2004).

A investigação teve por objectivo interpretar a interacção entre aquelas dimensões, considerando que os factores históricos devem ser tidos em conta quando analisando o contexto político e as motivações dos actores, considerando que estas por sua vez actuam e são influenciadas por aquele, de onde resulta o processo geral de incriminação e julgamento da polícia política.

Neste sentido, dada a existência de uma crise de Estado em Portugal no contexto da transição democrática, considerou-se relevante avaliar as motivações do comportamento dos actores, recolhendo directamente elementos sobre a interacção entre a elite militar e a elite civil, conflitos internos entre forças conservadoras, moderadas e radicais face ao tema, e percepções

individuais sobre a colaboração entre as forças armadas e a polícia política na Guerra Colonial (7 entrevistas não-directivas).

Dada a dinâmica de acção colectiva e a natureza das forças da oposição, procurou-se captar o tipo, intensidade e variação das reivindicações da sociedade civil e sua articulação com os partidos políticos (imprensa da época). Considerou-se ainda relevante medir o peso relativo da dimensão legal (análise qualitativa da legislação), assim como a posição dos partidos políticos, com base na argumentação sobre legitimidade democrática versus revolucionária (análise de conteúdo de debates parlamentares)

Finalmente, tendo em conta os dados sobre a natureza e duração do Estado Novo, nível de repressão e funções da polícia política e tipo de transição democrática, pretendeu-se definir o equilíbrio final entre medidas punitivas e de perdão, através de indicadores e tendências gerais sobre os julgamentos finais (análise qualitativa da documentação oficial e individual do Serviço de Coordenação da Extinção da PIDE/DGS e LP e análise estatística (com base numa amostra não representativa) dos processos individuais dos Tribunais Militares de Lisboa e colecções de acordões do Supremo Tribunal Militar).

Em concordância com a literatura já produzida sobre a transição democrática portuguesa e outras formas de lidar com o passado (Cerezales, 2003; Pinto, 2006; Rezola, 2006) concluiu-se que o processo de criminalização e julgamento dos agentes e colaboradores da PIDE se caracterizou por três momentos fundamentais,: 1) a fase de indefinição; 2) a fase de reforço da legitimidade revolucionária; 3) a fase de reforço da legitimidade democrática.

A primeira fase (Abril de 1974 – Março de 1975) caracterizou-se pela indefinição do processo, para a qual contribuem as relações institucionais existentes entre as forças políticas conservadoras (ala spinolista), a elite militar (MFA) e a elite do antigo regime (ausência de motivações, guerra colonial); a predominância de temas mais decisivos para a institucionalização do novo regime político e características do mesmo (Parlamentar versus Presidencial; Sistema federal versus independência das colónias; calendarização das eleições para a Assembleia Constituinte), ao mesmo tempo que se assistiu à espontânea emergência de reivindicações por parte da sociedade civil (anti-fascista e comunista), à rápida instrumentalização e posicionamento estratégico dos partidos políticos em função dos seus interesses (PS, PCP, partidos de extrema-esquerda). Formalmente, esta fase correspondeu à detenção de vários membros da polícia política na metrópole e nas colónias (cerca de 1000 em Junho) e à fuga de vários inspectores com responsabilidades acrescidas, nomeadamente em casos de assassinato

(Rosa Casaco); à criação da “Comissão de Extinção” e à sua estrutura formal de funcionamento (despacho do CEMGFA, 5 de Junho de 1974), apesar das constantes mudanças na direcção (JSN – Rosa Coutinho, Galvão de Melo) e desenvolvimento de investigações sobre casos de assassinato (Humberto Delgado, Dias Coelho e Ribeiro dos Santos), que não careciam de legislação extraordinária.

A segunda fase (Março – Novembro de 1975) foi marcada pelo reforço da legitimidade revolucionária, quer do ponto de vista das reivindicações, quer do ponto da legislação extraordinária. Para isso contribuem as constantes acusações à ineficácia e inoperância da “Comissão de Extinção”, paralelamente ao aparente reforço do domínio comunista (Miguel Judas); a intensificação da reivindicações da sociedade civil mediante e acusações de cumplicidades (fuga de alcoentre); as repercussões dos resultados eleitorais sobre o posicionamento público dos partidos políticos (moderação do discurso PS). Formalmente, esta fase correspondeu à publicação da lei de incriminação (Lei 8/75 de 25 de Julho), à criação de um tribunal especial (Lei 13/75 de Novembro).

Na terceira fase (Novembro de 1975 – Janeiro de 1977) salienta-se o reforço da legitimidade democrática e a irreversibilidade do processo, na sequência do fim do “período revolucionário” e vitória das forças moderadas. Formalmente, esta fase foi marcada pela estruturação e reforço legal dos procedimentos (Lei 16/75 de Dezembro, Decreto-Lei 13/76 de Janeiro); pela publicação de legislação adicional de regulação os processos jurídicos: liberdade provisória, recurso, legislação ordinária (Lei 16/75 e Lei 18/75 de Dezembro), pela aprovação da nova Constituição (inclusão da Lei 8/75 nas disposições finais e transitórias), de definição de circunstâncias atenuantes extraordinárias (Decreto-Lei 349/76 de Março), à qual o novo poder legislativo (civil) reage com a publicação de uma lei de reforço da punição (Lei 1/77, de 12 de Janeiro). A terceira fase estende-se ainda a todo o processo de consolidação democrática, (julgamentos em tribunal militar). Os dados utilizados ilustram tendências no sentido de: 75% de julgamentos, categorias coincidentes com a estrutura da instituição (maioria de agentes menores), 18 meses de prisão preventiva sobrepondo-se às penas aplicadas, 68% de sentenças até 6 meses.

Conclui-se que a transição democrática portuguesa fez um ajuste de contas com o seu passado, mas a punição deu lugar à reconciliação com a consolidação do regime. Neste processo, a não criminalização da repressão mais intensa – Guerra Colonial com

responsabilidade partilhada entre as forças armadas e polícia política – leva a concluir que a criminalização e julgamento da polícia política portuguesa foi um processo de justiça transicional punitivo que envolveu perdão e reconciliação, dada a natureza dos decisores e a marginalização da elite civil e dos partidos políticos da esfera legislativa e processual.

## PART I.

### Introduction

## Chapter 1. State of the art

### Transitional justice theories

The aim of this analytical review of transitional justice theories is to revisit some of the most compelling frameworks in order to analyse part of the phenomenon of dealing with the past in Portugal. They provide the basis to explore the possible existence of causal relations, and the motivations behind strategies, discourses, arguments, choices and decisions of transitional justice for the period of democratic transition in Portugal. The idea of putting together the logic of causal mechanisms and sociological/social-psychology interpretations of actors' motivations and interests was based on a methodological principle of reconciliation between what are considered to be distinctive but compatible approaches.

Notwithstanding the reasonable amount of literature, this research area is still in an embryonic stage, which also produces an urgent need for a clear definition of the concept. Defining transitional justice as "the proceeding ways to try crimes committed by outgoing regimes" (Gonzalez-Enriques, 2001: 218) would probably be one of the narrowest ways, since that would encompass very few cases. Another way would be to consider it as "the trials, purges and reparations" (Elster, 2004:1), or "forms of symbolic or economic compensation", (Gonzalez-Enriquez, 2001: 219), as this would enlarge the array of measures and include the strategies in which the concern may either be about the wrongdoers or the victims of repression, however, it would exclude cases without retribution or reparation. Even if leaving aside this last dimension, a fairly complete definition could be to consider transitional justice as the "formal and informal procedures implemented by a group or institution of accepted legitimacy around the time of a transition out of an oppressive or violent social order, for rendering justice to perpetrators and their collaborators, as well as to their victims". However, the same authors who define transitional justice this way also consider that "cases where retribution is administered externally without regard to the wishes of the citizens of the state in transition (e.g. some war crime trials) are "victor's justice", falling outside the definition because they lack accepted legitimacy. Summary executions or individual acts of revenge without institutional legitimacy also fall outside transitional justice for want of legitimacy" (Kaminsky et al, 2006: 295-96). Since not all cases of democratic transition are peaceful and straightforward, as the one being studied here, this definition still is not satisfying.

Before offering a contribution to define transitional justice, it is helpful to go over some of the most important assumptions, variables and correlations that the literature has already suggested.

One of the reasons for being difficult to find the best definition to clarify the phenomenon being studied is the fact this area has suffered from the classical “Kuhn syndrome”, since new cases repeatedly infirm previous hypotheses, leaving little room for certainties. Nevertheless, the analysis of the literature reveals that theoretical contributions suggesting general patterns of transitional justice are more frequent than attempts to interpret the phenomenon through actors’ behaviour. Part of the reason for this is that research questions often emphasise new political elite’ choices as part of the broader process of democratic institutionalization, the role played by the judiciary, international actors and organizations’ involvement or civil society involvement as framed by specific movements.

In a summarized overview, it seems this type of interpretation tends to correlate transitional justice (though usually not in the statistical sense) with three main dimensions and variables: (a) the non-democratic previous regime, in terms of its nature, duration and degree of repression; (b) democratization itself, in terms of the type of transition, nature of elites; and (c) democracy, in terms of its consolidation and quality.

Hypotheses relating *a* and transitional justice (in terms of the nature of previous regime and degree of repression) were the first to be suggested (O’Donnell and Schmitter (1986: 29). It was in fact a considerably intuitive assumption, but cases such as that of South Africa and its reconciliation process became a classical example for infirming this conclusion; however, as it will be suggested later, this may not represent the end of the “degree of repression” variable. The predicament is once more to consider how that phenomenon can be explained through single causal mechanisms, in other words, “degree of repression” may work as an explanation when put together in a more complex model of interpretation that simultaneously accounts for several intervening and interacting factors.

For instance, Aguilar and Hite (2004) try to compare the cases of Spain and Chile by analysing the impact of six different variables. One of them is the magnitude of violence (the others being: the time between heavy repression and democratization; the features of organized demands for accountability; the residual strengths of the dictatorships; the dynamic of opposition; and the presence of authoritarian values) (Aguilar and Hite, 2004: 193). In the end, they agree that “defining the impact of the repression solely on the basis of the scope of the violence is virtually impossible” (2004: 204).

What the authors try to uphold is the idea that – besides magnitude – the “quality” of repression is also important because of the social and psychological effects on people. For instance, they claim “disappearances” produce a very strong negative effect on populations, which generates stronger demands for punishment and truth. Subsequently, one possibility could



be to distinguish types of repression in terms of the kind of trauma they cause into survivors and populations, rather than the degree of repression. Thus, this variable should be added to the list of explanatory variables, even without it being the variable that explains the most.

James McAdams (1997) and Jon Elster (2004) propose to explain transitional justice based the duration of the previous regime, although they highlight different aspects. McAdams believes the duration of the previous regime must be relevant because it might say something about the pervasiveness of democratic values among citizens. In that case, the shorter the regime's duration, the more people would be guided by such familiar principles as the rule of law and accountability. Barahona de Brito, adds an interesting point to this hypothesis, stating that respect for the rule of law is dependent on the nature of the opposition forces, whether they are "revolutionary" or "pro-reform" (Brito, 2001: 13). Obviously, there is a great difficulty in operationalizing values, but both could be value.

On the other hand, for Elster the duration of the previous regime is relevant only in the sense that it determines the strength of emotions for punishment. By doing so, Elster also seeks to correlate transitional justice with a variable that allows him to further explore the subject of emotions and memories through a mix of sociological and social-psychological framework analyses (Elster, 2004).

"Other things being equal, the shorter the duration of the autocratic regime, the more vivid the memories of wrongdoings, the more urgent therefore the emotional demand for retribution, and the more immediate therefore the start-up to transitional justice." (Elster, 2004: 76).

This is similar to Schmitter and O'Donnell who state that "the passage of time attenuates the bitterest of memories", and in those circumstances, "those directly involved will have retired or been forgotten" (1986: 29). This does not necessarily refer to the duration of the regime, however, but predominantly to the proximity of the acts being committed, in face of a democratic transition. If this assumption is thought to partially explain the Spanish case (for the period of the transition), it only in part fits the Portuguese case, since 48 years of authoritarian rule ended, as shown bellow, in a punitive transitional justice process that was largely resolved during the transitional period, although the law excluded from punishment collaboration with the political police before 1945, leaving untouched the first thirteen years.

The most classic of the correlations is that established between transitional justice and (b) (the type of democratic transition). This was first proposed by Samuel Huntington (1991) and

later reinforced and criticised by several authors. Third-wave democratizations enabled Huntington to state:

“Officials of strong authoritarian regimes that voluntarily ended themselves were not prosecuted; officials of weak authoritarian regimes that collapsed were punished, if they were promptly prosecuted” (Huntington, 1991: 228)

This hypothesis as it was formulated by Huntington only points to the existence or not of transitional justice, but recently other researchers have suggested different interpretations that go further. Barahona de Brito (2001) states that the type of transition, translated into the greater or lesser defeat of previous elites, determines the “scope of truth and justice” (2001:11).

Elke Fein (2005) attempted to prove the positive relationship between c and transitional justice using the Eastern Europe example, while Sikkink and Walling (2007) have a similar goal for the case of Latin America. Although Fein argues her research does not aim to produce a single explanation model or claim any causal relationship between lustration and democratization, her main conclusion is that transitional justice “can help to prevent a return to totalitarian structures and practices by institutionally and symbolically counteracting potential enemies of democratization and limiting their political influence” (Fein, 2005: 216).

While Feine does not appear to contradict any previous studies, Sikkink and Walling challenge Huntington’s (1991) and O’Donnell and Schmitter’s (1986) contributions in terms of the relationship between democratization and punitive transitional justice, namely trials<sup>1</sup>. Quantitative data on Latin America helps them prove the former was wrong as “indignation does not necessarily fade” and “nor do discredited groups... always re-establish their legitimacy and influence” (Sikkink and Walling, 2007: 434). They also confront the assumption of the latter by concluding that “all fourteen countries that held trials for two or more years went through processes of democratic transition”, and “the countries that held more trials had a higher average improvement in human rights” (2007: 437).

Of course that the option of comparing only Latin American cases, as the option to introduce counterfactual reflections limits some conclusions, nevertheless it remains interesting to

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<sup>1</sup> Other references could be added to this list, particularly from authors who, while sharing similar principles, use a reversed argument. In these cases, the authors tend to believe that “forgiveness helps to overcome inter-human alienation and repair fractured human relations”, or that forgiveness can “benefit victims, perpetrators and divided societies”, or even “help societies to overcome, though not forget, the past” (Choi, 2006: 340). Although the non-forgetting police appears to be the most consensual, there are also authors could consider it to be the best option. For Ignatieff the healing of nations “must involve some forgetting by ‘forging myths of unity and identity that allow a society to forget its founding crimes, its hidden injuries and divisions, its unhealed wounds’” (*in* Amstutz, 2005: 19).

note how they also reach the conclusion that the degree of repression can contribute towards explaining these cases, thus returning some importance to this variable.

Finally, there is a slightly different approach to the question of the quality of democracy that may provide interesting elements. The concept is, however, different because it refers to “authoritarian legacies”, a term intended to account both for the continuities and ruptures, the positive and negative aspects, and the institutional and non-institutional manifestations (Cesarini and Hite, 2004). The authors believe “rules, procedures, norms, patterns, practices, dispositions, relationships, and memories” characterize authoritarian legacies in democracy. Of course their work focuses on institutionalized democracies, but this has assisted in the analysis beyond the formal and official ways of dealing with the past, apart from actual legal measures and discourses, and it ultimately contributed to the adoption of Elster’s suggestion (chapter 2).

With John Herz’s article (1978) and particularly since Huntington’s chapter on the “torturer problem” (1991), the transitional justice phenomenon began to be interpreted as a choice (even if dependent upon negotiations, the previous elite’s settlements or external constraints) to either “prosecute and punish” or “forgive and forget” those responsible for wrong-doings committed under non-democratic regimes<sup>2</sup>.

The former is usually considered to be a chance to reinforce basic democratic values such as the rule of law and of accountability, as an obligation towards the victims of repression and human rights violations, or as a measure designated to discourage future misdeeds. This last is seen as a strategy for reconciliation and a policy of no retribution in favour of the democratization process, or even as the recognition of shared guilt (Huntington, 1991: 209)<sup>3</sup>.

Whilst this sort of typological model of actors’ arguments in transitional justice has been useful for interpreting actors’ discourses, especially those of the political elites, several questions have come up in terms of its realistic adequacy. This case study suggests the two may interweave and coexist (see chapter 2). Moreover, punishment may not result in the strengthening of democratic principles and forgiveness may not correspond to a consensual and widespread reconciliation. In his work on the purges in the Portuguese case, Pinto has suggested something similar:

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<sup>2</sup> In Herz’s article a dichotomy is set between “prosecute and *purge*” and “forgive and forget”. Years later, Huntington removed the word “purge” and replaced it by “*punish*”, for considering there are other punitive measures besides from purging.

<sup>3</sup> Huntington presents these arguments as being typical of the cases in which the previous regime exercised a high level of repression. This research reasons that, even in cases of lower levels of repression – as the Portuguese case – the same type of arguments may be used by political or social actors. They proved adequate when they were used to analyse political parties’ discourses during the Constituent Assembly. A categorization of the arguments in three types was suggested – political, moral and historical (see part II, chapter 3).

“When transitional justice becomes part of the dynamic of a political battle between competing elites, in this case between two different social and political projects, and when the capacity of response of the old dictatorial elite is almost absent, the likelihood that new injustices are perpetrated increases. In such cases, the punishing of past crimes (...) may not be conducive to democratization or to the affirmation of basic democratic values of legality” (Pinto, 2001: 90)

During the last decade, the literature has provided some evidence to support the need to overcome the dichotomised model. For instance, on the eastern European cases, Welsh concluded that “in those countries where lustration has been moderate or conspicuously absent, this has not happened from a desire for reconciliation but because prevailing power arrangements have prevented lustration” (Welsh, 1996: 424).

The idea behind these statements is that, according to the impact of other variables, reality may not correspond to such strict notions of transitional justice as either punitive or forgetting, or in terms of being good or bad (for democracy). This brings the issue back to what was discussed at the beginning, which is the need for a clearer definition of the concept.

Mark Amstutz (2005) suggests what he calls transitional justice *strategies* that may contribute towards overcoming the dichotomized model. In it he illustrates the multiple options that are available to a society in a horizontal disposition, as a continuum of choices (see Figure 1). These options range from “amnesia” to “trial”, with the former representing the extreme of denial/restorative justice, and the latter representing the other extreme, accountability/retributive justice. According to this model, distinctive categories do not become mutually exclusive. This is a position shared by Sikkink and Walling who come to the conclusion, for the Latin American case that “those countries that choose one option are more likely to choose others as well” (Sikkink and Walling, 2007: 442).

However, this approach implies a slightly narrower definition of the concept, in the sense that it reduces things to concrete decisions and actions. This research is based on the assumption that ideas and discourses are also relevant, for they make it possible to trace decisions and their evolution over time, to understand behaviours, and to try and make sense of actors’ interactions, be they individuals, states or any kind of social and political organizations and institutions.

Therefore, while an interpretation based on a more normative and ideational view of transitional justice – as punishment versus forgiveness – allows for the analysis of civil society’s demands as well as elite’s discourses, establishing a continuum of transitional justice options is bound to refer only to final decisions. Moreover, to read it in terms of denial versus accountability does not solve Welsh’s problem.

Figure 1. Mark Amstutz's conception of transitional justice strategies

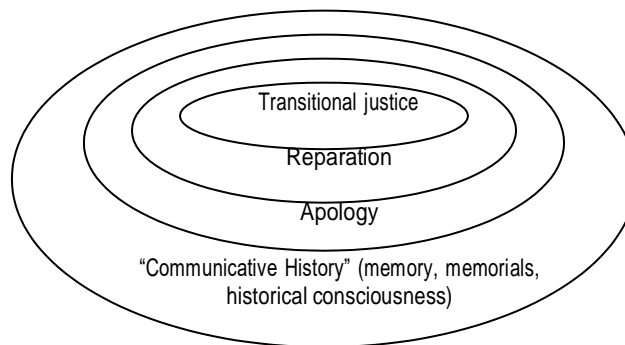
DENIAL				ACCOUNTABILITY		
Amnesia	Amnesty	Forgiveness	Truth Telling	Reparations	Purges	Trials
----- <i>Restorative Justice</i> -----				=====	----- <i>Retributive Justice</i> -----	

Source: (Amstutz, 2005: 18)

Moreover, why should trials be the most extreme measure and more “retributive” than purges? As will be shown below, purges are sometimes harsher measures than trials, depending whether they are conducted by “revolutionary” or “reforming” actors, and the extent of punishment involved in either.

In a more sociological approach, John Torpey (2003) believes transitional justice to be a narrower concept than that of reparations or collective memory (see Figure 2). In his view, “reparation politics” – which he considers to be the broader phenomenon – moves from punishment (transitional justice) to financial compensation (reparation), from there to symbolic actions (apology), and finally from there to narrative constructions (“communicative history”).

Figure 2. John Torpey's conception of *reparation strategies*



Source: (Torpey, 2003: 6)

One of the most obvious problems with this model is that financial compensation may also be considered an act of justice, as it is usually defined through a specific law, which therefore fits with the concept of transitional justice. By returning to the origins of the concept, that is, justice during regime change, the fundamental aspect should be whether or not these are demanded and/or administered during transitional periods, whether by rupture, pact or foreign intervention.

Thus, one of the problems that affects both Amstutz's and Torpey's conceptualization is that they do not account for the timing of these measures, which appears to be one of the most obvious "crises" the concept is currently experiencing due to the inclusion of such cases as the highly quoted Pinochet's trial; or more recently the trial to judge of Pol Pot's government, and the imprisonment of "brother number two"; or the imprisonment of Alberto Fujimori; and since 2004 discussions over the law of historical memory in Spain. Are all these examples referring to the same phenomenon? And can it be compared to what has been mentioned above? Until when is it possible to refer to transitional justice?

In 1991, Huntington thought "democratic justice [could not] be slow justice" otherwise it would not happen at all (Huntington, 1991: 228) and in 2004, Elster found the need to divide transitional justice processes in terms of the moment in which they are initiated. Thus, if the immediate processes tend to be appropriated by political parties in order to serve their interests and work as an electoral tool, it is possible that once it moves away from the context of democratic transitions it becomes dominated by other interests that are even further removed from accountability or reinforcing the rule of law.

Whether the choices are set between punishment and forgiveness or between restoration and retribution, it is apparently consensual to consider that there is a strong correlation between justice and politics during times of regime change. Thus, the balance of power in societies that are in the process of transition from one political regime to another should explain a considerable number of choices taken during the transitional justice processes.

Brito (2001) enhanced the existing hypotheses by highlighting the importance of variables such as the defeat of the old elites; leadership and values; the nature of the opposition forces; the international context; the legacies of dictatorial rule; and the persistence of authoritarian enclaves, etc. With respect to the relationship between justice and politics (among other things), Brito suggests that:

"...the key variable seems to be the relative strength of pro-reform groups emerging from the old regime, moderate opposition, and intransigent groups on both sides, namely the authoritarian elite and radicals within the opposition" (Brito, 2001: 13).

Elster's contribution on what he first defined as "the attitudes and beliefs of the leaders" (Elster, 1998), transformed into a three-variable model of motivation mechanisms, bringing new light into the study of transitional justice, at least for those who consider causal mechanisms can be best understood by looking at the low level of individual interactions and the motives behind their behaviour (see Part II, chapter 2).

## Chapter 2. Object, methodology, and hypotheses

### Object and research questions

This dissertation is a case study of the criminalization and prosecution of the Portuguese political police (PIDE/DGS) as one of the two aspects of transitional justice in Portugal between 1974 and 1976. By criminalization is meant the public debate that preceded the process itself and which framed the legal options (thus the list of actors include civil society, political parties and elites) and the legislation produced and that transformed the act of working and collaborating with the political police into a crime. By prosecution is meant everything surrounding the trials, including successive legislation, the public debate over time, and the differences in attitudes from the official commission.

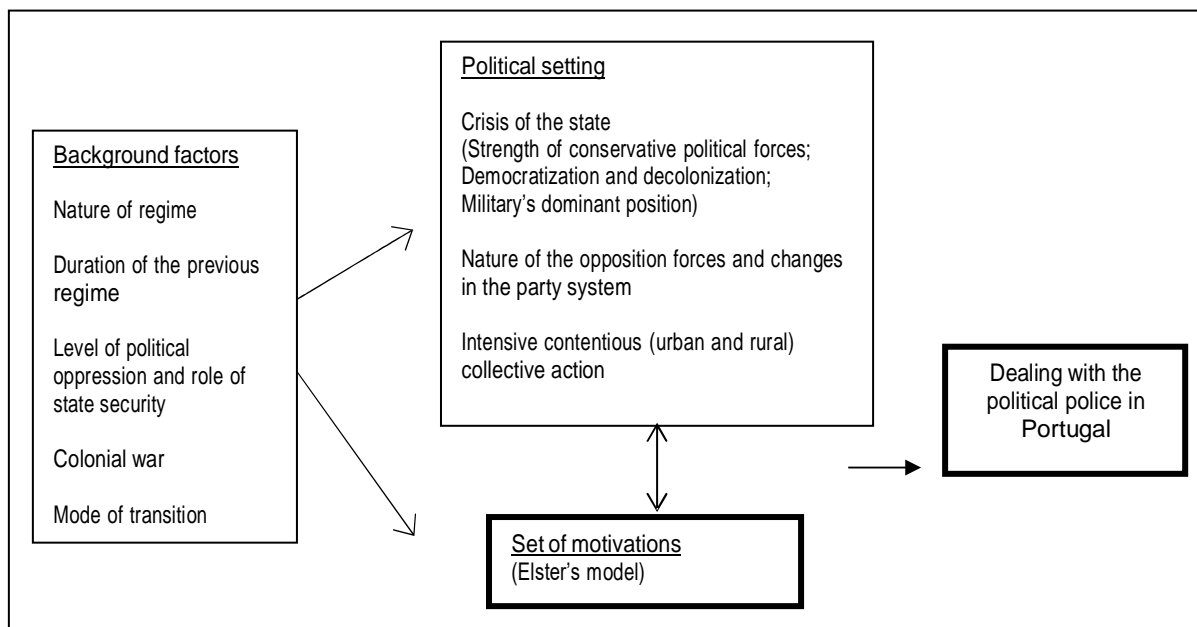
The period of time was set from 1974 until 1976 since the main purpose is to analyse the process as part of the broader phenomenon of regime change, which usually (although not consensually) is considered to have finished with the election of the first constitutional government. Nonetheless, analysis occasionally will extend beyond this period.

This research sets out with the view that the set of motivations conceived by Jon Elster (2004) can be added to the variables presented by the authors referred in chapter 1, plus the more structural factors determined by the political setting. In that sense, Welsh's (1996) analytical proposal was adapted in order to account for these intervening factors. The interaction between the several factors should contribute to a considerable part of the interpretation for transitional justice decisions and choices in the Portuguese case, not so much in terms of why it happened – since that leads to a highly complex number of variables – but mainly in terms of how it happened. In this sense, the empirical contribution provided by this research concerns the motivations and the final decisions (see Figure 3).

*In face of what has been discussed above, transitional justice could be defined as part of the array of decisions and procedures to delegitimize a past that is characterized by the abusive use of violence and force by previous dictatorial elites and institutions, regardless of its extent and scope. They are taken in the context of emerging democratic principles and values and unchained by regime change. These decisions may have different legal, financial and symbolic weight, and may be available and promoted in order to either engender or avoid accountability or reconciliation. As an act of justice, they frequently represent punishment, but they can also be limited to measures that aim at assuring restoration or avoid retribution. In this sense, they are*

*the product of distinctive collective – domestic and/or international – interests and existing constraints, that can either be inherited from the past or arise in face of specific opportunity structures and cleavages connected to new institutions, interest groups and elites.*

Figure 3. Welsh's modified model



Source: (Welsh, 1996: 419)

Research questions were conceived according to these three broad dimensions. Questions regarding background factors and political setting relied up on the existing theoretical hypotheses that often focus on this side of the equation. With respect to the set of motivations, questions were conceived after an exploratory observation of the object.

### Background factors

Does the level of political oppression and the role of state security contribute to explain demands and the type of measures adopted? Hypotheses state that the higher the level of repression, the greater the need for punishment and accountability. Does the duration of the regime explain transitional justice in Portugal? Two different interpretations are suggested: one that would indicate that over forty-years of dictatorship would reduce the probability of a discourse based on democratic values, since such type of values will be largely unfamiliar; another which indicates that given the regime's long duration, memories and emotions should be less vivid, thus demands for punishment measures will be lesser. Hypotheses correlating transitional justice to a hypothetical (colonial) war are unknown, but it should be expected that complex situations could



emerge from collaboration in conflict, taken the existing examples of civil wars (e.g. Spain) or collaboration with the “enemy” (e.g. France and Italy). It could be expected to reduce the motivations for engaging in punitive measures. Hypotheses referring to the type of democratic transition are obviously those of Huntington (1991) and Elster (2004).

#### Political setting

As in the case of background factors, the use of political setting features to explain transitional justice is essentially a matter of observation rather than an interpretation of possible interaction effects. Measurement is almost always impossible, so conclusions are largely subjective considerations about the possible impact of events and features such as: the strength of conservative forces, preventing punishment; democratization and decolonization, pushing attention away; military’s dominant position, determining the nature of the decision-makers; the nature of the opposition forces and changes in the party system, responsible for demands and feeding the public debate; and intensive contentious (urban and rural) collective action, providing stimulus and simultaneously disturbing the course of action.

#### Set of motivations.

##### *A) Military-political elites.*

An exploratory observation of the object revealed that the determining decision-maker in this case was the military. Based on the principle that ‘*who* the elites are and *what* they do matters during democratization’ (Welsh, 2006), this was the foundation for determining the first set of empirical questions.

- (Q1) Was there a consensual position within the military on the best way to “deal with the past”? It was to be expected that the same type of divisions characterizing the macro-political debate would be reproduced here, thus military’s positions would be far from consensual.
- (Q2) Were the military influenced or pressured by the civilian elites? It was to be expected that civilian elites, according to their political party affiliation or identification, would put pressure on the military, namely through the individuals holding ministerial places, in order for punishment to serve their interests.
- (Q3) Did past collaboration between the political police and the armed forces influence the type of decisions? It was to be expected that the intricate issue of the Colonial War would contribute to a more forgiving than punishing strategy.

*B) Civilian-political elites.*

Bearing in mind the beginning of the transition was also the period during which the party system suffered considerable changes, and that the “revolutionary period” produced a political spectrum that was more weighted towards the left than civil society itself, two questions arose.

- (Q4) Did left-wing parties demand retributive measures while the right called for restorative measures? It was to be expected that the more the elite was on the left of the ideological spectrum, the more they would present arguments and build discourses in favour of strongly punitive measures.
- (Q5) Did civilian elites make use of the issue in public discourse as a means of winning over the electorate? It was to be expected that civilian elites would address the issue as a means to position themselves in opposition to the military and among themselves, something that would be emphasised during elections and according to the distribution of power in parliament and government.

*C) Civil-society.*

Bearing in mind the crucial role of civil society’s mobilizations in other aspects of Portugal’s transition to democracy and in other forms of dealing with the past, questions arose based on the assumption these actors could have had an influence over this process.

- (Q6) Was accountability the fundamental motivation for public demonstrations and demands? It was to be expected that civil society’s actions were based on a desire to use the instruments of the newly created democratic system to make the wrongdoers bear responsibility for the injustices that had been committed.
- (Q7) Were civil society’s demonstrations spontaneous and autonomous of the political parties? It was to be expected that a substantial part of the small groups and organizations would not be independent of the political parties.

Throughout the research, answers to questions concerning both the civilian-political elites and civil society influenced each other. This will be developed in the conclusions, but it is important to understand why, their motivations and discourses are analysed simultaneously.

Similarly, this research will also seek to provide some considerations concerning some of the conclusions taken about other forms of dealing with the past in Portugal regarding the “likelihood of new injustices”, and the “punishing of past crimes” as occasionally being not “conducive to democratization” (Pinto, 2006: 90). In other words, there will be an attempt to add to the conclusion some interpretation on whether in this case:

(Qa) were there new injustices taking place?

(Qb) what kind of repercussion could transitional justice have over democratization?

These last two questions are, however, difficult questions to answer. In the case of the purges, sustaining the view that new injustices had taken place in Portugal appears to be rather consensual, and is based on aspects as the number of individuals that were reintegrated following the transitional period, as well as the wild purges that affected people who had not been on the regime's side. The same may not be true in the case of the prosecution of the political police. In order to draw safe conclusions on this respect, it will be necessary, to engage in a theoretical exercise over the principles of *nullum crimen, nulla poena sine praevia lege penali* and retroactivity, and it also would involve a deeper understanding of the crimes having actually been committed by the individuals going to trial and being purged (which is not possible to develop in this dissertation due to the lack of data, since the trials did not involve specific crimes besides from those where deaths took place).

With respect to the second question, it can be said that the proposal to consider transitional justice as *favourable* (or not) to democratization rather than as its cause or consequence is initially more interesting than attempting to capture causal mechanisms, without being less “scientific”. Again, it seems easier to answer this question in the case of the purges. It is true that Portugal experienced a difficult path to democracy because of the period of state crisis and the simultaneous democratization and decolonization process. In fact, it would mean democratization could have been slightly different (either better or worse) had it been characterized by a strategy reconciliation or forgiveness, which in the case of the political police may not be true. The answers to these questions will necessarily be both limited and in a certain sense subjective, although they may represent a possible view through which to compare different aspects of the same empirical case.

### Sources and methods

Given the type of questions to be answered, the most interesting methods appeared to be mainly qualitative, although some simple quantitative methods have also been adopted.

The analysis of the military elite's positions (consensual or otherwise, Q1) and the possible influences exercised over practical decisions, political party pressures and repercussions caused by former bindings (Q2 and Q3, respectively) required two different types of sources.

Non-directed interviews were conducted with one civilian and six of the former members of the armed forces who were also members of the CE (Comissão de Extinção da PIDE/DGS e

LP, which means *Commission for the Abolishment of PIDE/DGS and LP*), the official commission that conducted the investigation. The interviews were based on three informal conversations with individuals who had different (in two cases less relevant) roles inside the CE. The interviewees were chosen according to their different involvement in the process and with respect to the number of times their names were mentioned in the media and in the public debate. In order to understand the initial phase of the definition of the broader lines of action while the coup was still being discussed, two interviews were conducted with key individuals who were simultaneously members of the Armed Forces Movements (MFA) and the Council of the Revolution (CR). In order to understand the first days and months that followed the coup, another three interviews were conducted: two involving military men – one who was directly involved in the assault on the headquarters of DGS on the 25 and 26 of April 1974, and one who had close contact with those of the Military Junta (JSN) who were responsible for the CE during that period – the other involving one of the few civilians to have had some prominence in the CE, and who was mentioned several times in the contemporary press. Finally, in order to understand key moments in the process, in which it is possible to identify parallels with macro-political trends in the transition, two other interviews were conducted with members of the military who were responsible for supervising the activity within the CE (one in each period), and who were seminal with respect to some of the main conclusions concerning the behaviour and motivations of the military-political elite. One of the informal conversations was also important but was “off the record”.

Also with respect to the military elite's positions and decisions, CE archival resources with official and non-official documents from the CE were used. Although the CE archive is held in the National Archive – Torre do Tombo – the fact that a large part of it remains sealed until 2041 was an obstacle to this research. Most of the sources are part of Colonel Rodrigo Sousa e Castro's personal archive. A few documents were also found in Coimbra University's *25 d April* Documentation Centre.

In order to analyse civilian elite discourses, two different sources were used. For the identification of arguments in favour of retributive or restorative measures (Q4), plenary sessions of the constituent assembly (1975-76) and the parliament (1976-77) were analysed. In the case of the constituent assembly, content analysis provided interesting conclusions. This was applied to the session in which the subject was mainly discussed and in which the final article entitled “Incrimination and prosecution of PIDE/DGS' agents” was approved (*Diário da Assembleia Constituinte*, 30 March 1976). The categories for the content analysis benefited from Huntington's discussion of the “torturer problem” (Huntington, 1991).

For the identification of transitional justice as a possible “electoral tool” (Q5), it was useful to cross-refer the electoral periods with the evolution of the political discourse of the parties that were running for election, which was ascertained through an analysis of the contemporary press, something that was provided by the reading of daily and weekly newspapers. In this case, the *Arquivo da Comissão de Extinção da PIDE/DGS, Recortes de imprensa e Resenhas de Notícias*, 1974-82, which is held at the Torre do Tombo, was of considerable assistance.

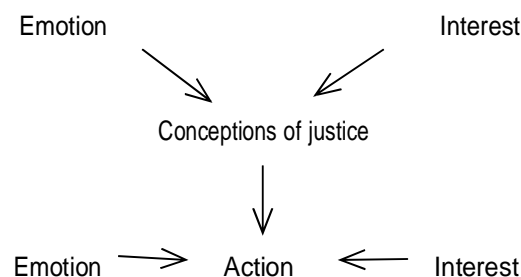
Finally, in order to review the public sphere, both quantitative and qualitative analysis was applied to national press. The quantitative exercise was based on David Art (2006) whose research developed from the assumption that “public debates create new frameworks for interpreting political issues, change the ideas and interests of political actors, restructure the relationships between them, and redefine the limits of legitimate political space” (2006: 14). His most innovative theory is that “the process of debate also changes the ideas of political elites” inasmuch as it “injects new ideas and new combinations of ideas into public debates” (2006: 28). Here the interest is on the active role that civil society plays in these debates, where diverse groups are brought together and are considered to act based on a “political opportunity structure” (POS). Although Art believes a public debate only occurs in those cases in which the *breadth* of the debate extends across the entire political spectrum, the model was applied here as it is argued it should account for exceptional conditions as well as for stable and institutionalized systems. He also believes that the debate’s polarization limits the concept’s applicability, but in circumstances in which the political spectrum becomes skewed, as in the case of Portugal, this is not equal to saying public debates as such did not take place. A one year *duration* requirement was assured, therefore a public debate was assumed to exist.

Art’s model involves “totalling the number of inches of stories over a defined time period” for it “provides the most fine-tuned estimate” (2006: 33). This model was applied to the analysis of the front-pages of the weekly *Expresso* in an attempt to understand how often the subject appeared during the two years, and to compare it to the most common political topics from 1974 to 1976. In order to obtain a more accurate result, measures are presented in cm<sup>2</sup>. The analysis was not extended beyond 1976, since the main goal is to view transitional justice during the phase of democratic transition.

For both military elite decision and civil society demonstrations, the aim was to include the analysis of motivations in order to understand their behaviour. For this reason, a more sociological or socio-psychological model seemed an interesting methodological option to be adopted. Elster suggests a three-factor model (see Figure 4) according to which behaviour should be explained through conceptions of justice that are influenced and framed by the actor’s

emotions and interests, which may or may not result in action. Elster's model was useful in the sense that he recognizes that conceptions of justice are, in some cases, believed to be influenced by factors other than emotions and interests. The author also considers the existence of "context-specific" conceptions of justice, which were interpreted in the sense of the "political settings" outlined above, thus not directly included in the set of motivations.

Figure 4. Graphical representation of Elster's "upstream *causes*" and "downstream *consequences*" of conceptions of justice on actor's behaviour.



Source: (Elster, 2004: 81)

According to this model, emotions are divided into two types: *beliefs* about other people's behaviour and character and the *relation* in which individuals stand with respect to wrongdoers and victims. These two types of emotions may be translated into anger or indignation, hatred, contempt, shame, guilt, envy, fear, and love. Interests are of three types: wrongdoers avoiding prosecution; victims in obtaining compensation, and political parties in increasing their share of the electorate. The author also claims that conceptions of justice can be seen as *reason*, and that the new elite's normative conceptions of justice influence the decision on whether or not to engage in transitional justice; that is, perceptions of fairness play a role in explaining behaviour. In this sense, a basic method of approaching this aspect could be to distinguish between two formal criteria: *impartiality* and universality. These formal criteria should apply to more "substantive conceptions of justice, be they egalitarian, utilitarian, rights-based, or others" (Elster, 2004: 80).

However, in Elster's model, conceptions of justice may or may not play a role, providing that emotions and interests are present and thus have a direct impact over actions. When no clear conceptions of justice exist, action is the product of "Sunday beliefs", that is, the "desire to see justice done", or general emotions and self-interest. In either case, actions can be intended: to cause suffering or death; to ostracise or avoid; to run away or commit suicide, to confess, make repair or hurt oneself; to destroy it or its possessor; to fight, aid or please; or to console or alleviate distress.

### Theoretical and exploratory hypotheses

This research is developed based on Huntington's hypothesis, according to which the type of transitional justice is dependent upon the type of transition to democracy:

"Officials of strong authoritarian regimes that voluntarily ended themselves were not prosecuted; officials of weak authoritarian regimes that collapsed were punished, if they were promptly prosecuted" (Huntington, 1991: 228)

The fact that Portugal's transition was one of rupture was expected to determine the existence of an immediate and punitive transitional justice process. Having confirmed that this indeed was the case, the challenge then was to understand whether the "type of transition" variable could have been the most determining for the outcome. Conclusions are drawn for the interaction between the several factors outlined above.

However, as was explained in chapter 1 above, it seemed that transitional justice should also be analysed in terms of democratic consolidation and quality. Contrary to the assumption that considers measures of transitional justice determine the quality of the democratic regime and the path to consolidation, the idea is that the quality of democracy is independent from transitional justice and that, at best, the consolidation of democracy shapes developments in transitional justice. For this reason, an exploratory hypothesis was added.

The exploratory hypothesis, elaborated from a first approach to the object, states that given the type of transition, and the "revolutionary" nature of the process, the stage of democratic transition would favour punishment while consolidation would favour forgiveness. In other words, as transition gives way to consolidation, the process would be expected to show a tendency to move from more punitive to less punitive.

However, the conclusions will be tentative due to the lack of research extending beyond the consolidation process, to include the analysis of all trials and Supreme Military Court appeals from 1980 on, as well as the Constitutional Commission's opinions on the cases in which either the defendant or the accused were dissatisfied with court rulings. The public debate has also extended at least during the period of trials, during which interest progressively diminished.

The following chapters were organized according to the analytical model adopted from Welsh and shown in Figure 3.

## PART II.

### Criminalizing the political police in the Portuguese transition to democracy



## Chapter 1. Background factors and Political setting: constraints and interactions

### Nature and duration of the New State

The New State arose from a military dictatorship (1926-28), which “purged the political-administrative apparatus and replaced civilian officials by officers”. Although it initially succeeded to find social and political support and replace sixteen years of profound instability caused by seven Parliaments, eight Presidents and almost fifty governments, in the end “the military government only worsened the precarious state of public finances inherited from the liberal Republic” (Martins, 1968: 313). It was under these conditions that the dictator, António de Oliveira Salazar, climbed his way from minister of Finance to President of the Council of Ministers (1932) – following the semi-presidential nature of the political system – and subsequently founding the authoritarian regime. The New State, as it was called, presented a “fascist-style structure of mass organization but these structures were actually less important than in Spain and the official party was not strongly organized” (Linz and Stepan, 1996: 116).

The most important regime structures and institutions (that allow it to be defined as an authoritarian regime (as opposed to a totalitarian one) were created between 1930 and 1933. In 1930 Salazar created the single party called *União Nacional* – which did not receive the denomination and the recognition of a true party, as a reaction to the instability caused by the several political parties during the first republic – and approved the Colonial Act, thus assimilating the administration of the overseas territories to his system. In 1933 the Constitution was approved – “a partial compromise with demo-liberal” forms – as well as the National Labour Statute – based on the Italian fascist Labour Charter, forbidding strikes, making labour associations compulsory, and establishing corporative organizations defined as *Grémios* – and the political police by then called PVDE, (which characteristics will be referred below). This was also the year in which the Rolão Preto’s National Syndicalists (MNS – Movimento Nacional Sindicalista), were created; a political movement inspired from international fascism and grounded on the *Integralismo Lusitano*, although they would grow critical of the regime and eventually forced Salazar to dissolve it in 1934.

Although both the Constitution and the Labour Statute aimed at creating the basis for a corporatist system, in the end this was never in practice fully institutionalized (Schmitter, 2001). In fact, “in the 1960’s only one-fifth of the agricultural population belonged to the quasi-corporate *Casas do Povo*” (Martins, *idem*: 318).

In 1936, the fear of the possible consequences of the Civil War in Spain led the dictator to support the francoists and to engage in a certain ‘fascistization’ of the regime. Organizations as

the *Legião Portuguesa* – a fascist inspired militia – the *Mocidade Portuguesa* – a para-military official youth movement – provided nationalistic education and a ‘corporatist’ formation, and were both frequently led by military officers or important political leaders.

Suffrage was limited by criteria as literacy, sex and property restrictions; the result of presidential elections was always above ninety per cent in favour of the regime’s candidate after 1945; the opposition candidates frequently withdrew before polling day; and in 1959, direct suffrage for the President of the Republic was abolished. Nonetheless, the regime has been considered one of “limited pluralism” (Linz and Stepan, 1996) as “the ratio of electorate to total population is reminiscent more of classical representative oligarchies or limited democracies than of plebiscitary, authoritarian, totalitarian and democratic regimes” (Martins, *idem*: 316).

#### The level of political oppression, the role of state security and the colonial war

The political police was created together with the main institutions of the regime but until 1945, it was apparently “more a defensive than an offensive weapon” and “neutralization or destruction of political opposition was only one of many intelligence and police functions it was assigned” (Wheeler, 1983: 2). In this period, the type of penalties applied was frequently deportation to the colonies. In 1932, Salazar stated that fascist violence was not adjusted to the “faintness of the Portuguese tradition” and that the New State could not escape from moral constraints that made the Portuguese laws “less severe” and the state less totalitarian (Pimentel, 2007: 25).

It was after the end of World War II that the regime saw the need to reinforce its strategies – against what the opposition forces would expect – in face of a stronger democratic threat caused by a democratizing Europe. In 1946, a protest action against the integration of Portugal in the UN by the MUD led to the detention of several of its elements; in 1947 several student movements resulted in the detention of leading figures of the opposition as Mário Soares and Salgado Zenha. In that same year, members of the Communist Party were arrested and in some cases tortured for their activity in the party and as a strategy to obtain information on other key elements. In 1949, when Portugal was accepted as a OTAN member – when the PCP members and sympathisers ascended to more than 5000, according to the party – it suffered several devastating arrests including that of Álvaro Cunhal and Militão Ribeiro: the former would only restore his freedom 11 years after, by escaping from Peniche prison, the latter would die in prison one year after.

The reformulation of the political police after 1945 meant that it had full powers to investigate, detain and arrest anyone who was thought to be plotting against the state. As any secret and political police, it operated outside the normal boundaries of the law, thus punishment was implemented independently from the public judiciary. That same year of 1945, the *Tribunais Plenários Criminais* were created in Lisbon and Oporto.

The elections of 1958 express both the “limited pluralism” of the regime, and one of the symbolic events in which political repression rarely achieved its higher form, culminating in the assassination of the opposition candidate, General Humberto Delgado, by the political police, in 1945. However, it is true that those who would become the most important leaders of the Communist and the Socialist parties during the democratic transition (Álvaro Cunhal and Mário Soares), lived to tell the story.

According to Pimentel (2007) the number of functionaries working for the political police increased constantly until the end of the regime, particularly at the colonies, where the colonial war started in 1961. Table 1 shows how the number of officials at the colonies became increasingly higher, while decreasing in Continental Portugal, after the beginning of the war.

Table 1. Number of functionaries of PIDE/DGS (1949-72)

	1949	1954	1956	1961	1963	1966	1969	1972
Continental Portugal and islands	521	755	1142	1097	1096	1183	1194	1213
Colonies		86	260	903	1240	2019	2015	2260
Continental Portugal, islands and Colonies	521	841	1402	2000	2336	3202	3208	3472

Source: (Pimentel, 2007: 53)

It is also true that in order to control Communist and extreme-left opposition, the PIDE would not hesitate to employ such methods as beatings with fists, batons and whips, electric shocks and noise torture. Some of the techniques were perfected during the 1950s and 1960s. The political police were directly responsible for a total of 11 deaths in custody between 1945 and 1974, a number that included several leading members of the Communist Party: Alfredo Dinis (1945), Militão Ribeiro (1950), José Dias Coelho (1961).

It can be said that the most violent mechanisms of repression used in non-democratic regimes did not characterize the action of PIDE/DGS in Portugal. Most probably, these occurred at the colonies, away from the sight and the knowledge of the Communist, the anti-fascist and

pro-democratic segments of civil society that would later fight for the punishment of those accountable.

“...a ampla rede de informadores, cuja qualidade era aliás exagerada, de forma indirecta, pela própria polícia e até pela oposição ao regime, contribuiu para espalhar o medo nos portugueses, convencendo-os de que os olhos da PIDE os vigiavam por todo o lado e que meio país denunciava outro meio (...) Se foi um facto que essa polícia teve muitos informadores, a principal razão da sua eficácia foi o 'clima de desconfiança criado pelo pressentimento da sua existência (Pimentel, 2007: 100)”.

The colonial wars began in 1961. Some published data indicates that in 1974 there were 800 men (31%) in Angola – the most important battlefield of the three – 583 men (22%) in Mozambique, and 81 men (3%) in Guinea. Percentages indicate that more than a half (56%) of the total composition of the Portuguese political police was working at the Colonial War by the time of the regime breakdown (Mateus, 2006: 40)<sup>4</sup>. This means that most of the individuals (since they would come and go and replace each other) that were tried for having committed the crime of either working or collaborating with the political police, had also been at the Colonial War, where they could (or could not) have committed other much more violent acts.

As it has been told several times, on the regime side, the colonial war benefited from the collaboration of native people. This happened either because they were informers, and thus would provide PIDE/DGS with information on the strategic positioning and movement of the enemy or because they were actually trained to engage in missions in the field.

“O nó central da teia das informações estratégicas, a sua componente essencial, era, de facto, a PIDE/DGS, que assegurava a centralização das informações ao nível do Governo, embora tal missão não lhe tivesse sido legalmente atribuída. Por isso, num estudo recente elaborado por militares se afirma, aludindo a Angola, que a missão da PIDE/DGS ‘foi excelentemente desempenhada não só pela implantação dos seus efectivos no terreno, mas também pela qualidade dos quadros presentes’” (*idem*: 227)

Para-military groups as the *Tropas Especiais* (originally trained to fight the MPLA, beginning to operate in Northern Angola and moving afterwards to Cabinda), the *Fidelidade* (with similar functions) or the *Flechas* (operating predominantly in Angola, but later on extended to Mozambique, in 1974 this group was composed of 1000 individuals of several ethnic groups) were crucial in certain moments (Borges Coelho, 2001: 141-142). While these groups were

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<sup>4</sup> Much has been written about the Portuguese Colonial War. Even so, a considerable part of the story remains to be told. The history of the collaboration between the political police and the Armed Forces at the battlefield is one of them. Since this is not the object of this dissertation, there will be only a brief reference to some of the data and stories told in Dalila Mateus' doctoral thesis and a few information provided in an article by Paulo Borges Coelho.

created and paid by the political police, on the battlefield they were dependent upon the Commander-in-Chief of the Armed Forces. This exemplifies the complex web of collaboration, either voluntary or not, independently of the fact that these individuals were for or against the existence of the war.

While the situation at the colonial war only worsened through the years – having been one of the two strong motivations for the conception and execution of the military coup of 25 April 1974 – repression in Portugal had decreased with the liberalization of the regime, to a point that Marcelo Caetano actually instructed the Minister of the Interior to avoid extreme repressive actions against the students in 1971. As an example, in February that year, the political police (DGS) sent to three student associations a note stating “they could not continue to exaggerate their goals and should cease all activities of political propaganda as well as all illegal activity, for the risk of being sanctioned in terms predicted by the law” (Pimentel, 2007: 265).

#### Type of transition and the several features of the political setting

The 25 April 1974 marked the breakdown of the New State, transforming the Portuguese democratic transition into the first case of the third wave of democratizations as Huntington called it (1991). It was led by a group of non-hierarchical military motivated by a strong corporatist position against a legal document that had recently established easier ways of ascending inside the military, and also by the strong conviction of the irreversible stage of the colonial war and the need for a political solution. The nature of the coup, as some of the features that would emerge from the first moment, created a “window of opportunity” that would lead to a strong crisis of the state and a transition in which the constitution-making process was heavily conditioned by non-democratic pressures and created “reserve domains” of power (Linz and Stepan, 1996: 120).

The “reserve domains” caused by the persistence of the military in power, and the reinforcement of its position as a sovereign organ through MFA-political parties pact, together with the urban and rural civil society dynamics, fed the reinforcement of the revolutionary legitimacy. Democratic legitimacy is said to emerge after the “leftist putch” brought the end of communist domination, on 25 November 1975.

The complex nature of the Portuguese transition originated different interpretations in relation to the moment in which the transition gives way to democratic consolidation. One of the interpretations considers that transition and consolidation ended simultaneously with the first

Constitutional revision, removing all political powers from the military, and creating the Constitutional Court, as an institution independent from political power (Linz and Stepan, 1996).

On the other hand, if the democratic transition is seen as the period in which democracy is an uncertain outcome, it is perfectly acceptable to consider the approval of the new democratic constitution and the election of the first constitutional government as the symbolic beginning of democratic consolidation, in as much as it cannot be said that democracy was at risk until the first constitutional revision.

Research has indicated that some of the most important aspects of the political setting (as formulated in the analytical model) were: the state crisis associated with the *strength of conservative political forces*, the *military's dominant position* (Rezola, 2006), the *simultaneous process of democratization and decolonization* (Pinto, 2006); the *nature of the opposition forces and changes in the party system* (Bruneau, 1997); the *radicalization of the political landscape* and the *intensive urban and rural social mobilizations* (Cerezales, 2003; Almeida, 2006).

Conservative political forces had considerable strength and acted as intervening and disturbing factors until March 1975. Their opportunity structure was created by transition itself, and the fact that its most prominent representative – General Spínola, who became head of the JSN and President immediately following the coup – supported the MFA on promoting the coup that would lead to the breakdown of the regime. Moreover, the “internal democracy” that replaced the normal hierarchical structure after the coup (the military actually had internal elections) revealed the predominance of the “spinolist” officials and the obvious minority of the MFA. The possibility of putting democracy at risk and the disagreements over completely different political projects for the country led to the forced retirement of the General after the events of 11 March 1975 (right-wing coup attempt) and of those who supported his project (Cerezales, 2003: 60).

This may have influenced the transitional justice process inasmuch as the issue of extinguishing the political police and the future of its officials was of military nature, thus dependent upon the decisions coming from the JSN. The conservatives, given their involvement with the previous regime (which Elster includes in the list of emotions) had no apparent reasons to push for punishment and represented a sector that was, therefore, less likely to be available to get involved in “secondary” issues.

The strength of the military in power was perhaps one of the most determining features, for it meant that they were responsible for the punishment measures and the “strategy” adopted. It became obvious that the way the military were conducting the “pide issue” did not meet civil society’s expectations, that were however notable to reverse the course of action, due to this

distribution of political power<sup>5</sup>. Moreover, changes in the distribution of power inside the main military-political institutions (the JSN and CR) tended to produce paradigm changes within the CE, while the same type of changes in the distribution within the provisional mainly civilian governments (although many offices were throughout the six governments occupied by military officials) had no significant repercussion for the “pide issue”.

The nature of the opposition forces and redrawing of the party system are two related issues. Before the coup, regime opposition was made up of few semi-legal and clandestine parties. In 19 October 1974 the law stating the conditions under which the emergent political parties could stand for the 25 April 1975 election to the constituent assembly elections was published.

The Communist Party (PCP-Partido Comunista Português) was the only political party to have a relatively stable structure and a defined social base, which contributed greatly to the role it would play during the transition, within the provisional governments, in the media, amongst the working class and in the trade unions. Having been created prior to the emergence of the dictatorship, the PCP remained clandestinely throughout the whole regime duration. It had a strong support in the south of the country, relying largely on salaried farm workers in the Alentejo. This social basis for communist ideas also benefited from the church’s weakness in those areas, which gave space for “class conscience” to strengthen (Maxwell, 1995: 114). Although the PCP stated its support for democracy, its rhetorical discourse altered in favour of a more revolutionary process after the events of 28 September 1974. Its increasingly vocal demands for a single trade union (*unidade sindical*), nationalizations and the agrarian reform led it further from the socialists.

The Socialist Party (PS – Partido Socialista) emerged as the largest party at the 1975 elections. In contrast to the PCP, the PS had been created in 1973, which “meant their first priority had to be positioning the party to compete effectively for power” (Bruneau, 1997: 61). The PS support came mainly from the central regions and the major urban centres and its financial support came from European socialist leaders such as Willy Brandt, Olof Palm, Bruno Kriesy and François Mitterant. Even if at the beginning of the process their official position was to support socialism, with the radicalization of the political struggle, they emerged as the only alternative to extreme-left and PCP, and to the right-wing PPD and CDS. As a result of the PS’s progressively centrist position, a few smaller and short-lived socialist parties emerged from within it: the Popular

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<sup>5</sup> The provisional structure was based on six distinct political institutions: the Constituent Assembly (which functioned from April 1975 and 1976), the President, the JSN, the Council of the State, the provisional governments and the courts. As Cerezales explains, it was because of the fact that the MFA did not dissolve after having given the power to the JSN and chosen the military that would be part of the Council of the State that the state crisis emerged (Cerezales, 2001: 59; Rezola, 2006).

Socialist Front (FSP – Frente Socialista Popular), the Worker's Party for Trade Union Unity (POUS – Partido do Operariado para a Unidade Sindical), and the Left Union for Social Democracy (UEDS – União da Esquerda para a Democracia Social).

The right-wing was considerably less strong and forced to be cautious in their ideological component. On the one side, there was the Popular Democratic Party (PPD – Partido Popular Democrático), social-democrat (that would see his political space occupied by the PS, namely at the International Socialista) formed in May 1974 by individuals that included members of the old regime called the “liberal-wing” (Ala Liberal); on the other side there was the Democratic and Social Centre (CDS – Centro Democrático e Social) created in July 1974, the most conservative and right-wing of these parties. From the first moment, both these parties were committed to proving their anti-fascist and pro-democratic credentials, which meant sacrificing part of their potential (right-wing) social basis, in favour of larger electoral support. While the PPD's support came from the liberals, catholic associations and student movements, the CDS was “, a party of ‘personalities’, and a small group at that” (Bruneau, 1997:79). Several factors account for the reduced success of these parties: the transition from a right-wing dictatorship, the lack of international support in comparison to the Socialist Party or the PCP, the fact that they were not able to form a single right-wing party. Nevertheless, these two parties managed to overcome the difficulties apparently associated with the nature of the previous regime and the radicalization of the political struggle, and were actually both elected for the Constituent Assembly in April 1975.

Of those parties who won seats at the constituent assembly, there was also the Portuguese Democratic Movement/Democratic Electoral Committee, (MDP/CDE – Movimento Democrático Português). It inherited the structure of a very significant party created in 1969 that represented part of the democratic opposition during the dictatorship. As a party competing in the new political framework, it was only created in October 1974, having run for elections in coalition with the PCP (since it was a Communist front); it actually participated in all but the sixth provisional governments.

Of all the parties that obtained representation at the constituent assembly, the Popular Democratic Union (UDP – União Democrática Popular) was the last to be created, and the only representative of the extreme-left. It was born in December 1974, communist by nature, defining itself as a Marxist political organization. It never had more than one MP but it had a relevant role in standing for the anti-fascist struggle.

Besides the enduring parties, the “revolutionary period” saw the outburst of multiple communist, Maoist, Marxist, parties which together fed the unstable course of democratic transition: PCP (m-l) (Marxist-Leninist Communist Party) was prevented from standing for election



to the constituent assembly for having denied the Supreme Court access to its membership list. The Maoist Popular Unity Party (PUP – Partido de Unidade Popular) only stood in the constituent assembly. The Marxist Worker's Revolutionary Party (PRT – Partido Revolucionário dos Trabalhadores), fought for the abolition of the social classes and for a socialist revolution. The Socialist Rural and Urban Workers' Alliance (AOC – Aliança Operário-Camponesa) stood in the 1976 legislative elections. The Left Socialist Movement (MES – Movimento de Esquerda Revolucionária) ran in both for the constituent assembly and the first legislative elections; it had a relevant role in as much as there were several intellectual individuals connected to it that would actually be called to be cooperating with military of the MFA. The Maoist Communist Electoral Front (FEC Frente Eleitoral Comunista) called for popular democracy. The Maoist Communist Party of the Portuguese Workers/ Reorganizational Movement of the Party of the Proletariat (PCTP/MRPP – Partido Comunista dos Trabalhadores Portugueses/ Movimento Reorganizativo do Partido do Proletariado) is the most active of these parties with support within the students movement; it would later be considered illegal, because it focused its strengths in positioning itself against the Communist Party and what they would call the "social-fascism"<sup>6</sup>.

More than being part of the decision-making in the transitional justice process, these parties influenced the debate on how to deal with the "pides" and contributed for the establishment of a public debate for the whole transition process. The PCP (to which the MDP/CDE was connected for the majority of the time) and the PS were constantly struggling to distinguish themselves from one another, the former reinforcing the revolutionary legitimacy, the latter supporting the democratic legitimacy, especially rejecting wild and savage actions. The PPD and the CDS were mainly absent from the debate, not revealing their right-wing ideology, and not showing support for any particular type of measure and procedure which emerged as an interesting feature. The UDP as well as the other Communist and extreme-left parties were particularly active and contributed to a lively debate, bringing arguments in favour of even extra-legal procedures into the debate having however no influence in the final process.

The simultaneous process of democratization and decolonization "was the main reason for the conflict that broke out in the immediate wake of the regime's collapse between, some conservative generals and the MFA" (Pinto, 2006: 175). General Spínola (supported by economic groups), tried to create a Presidential system where he would concentrate considerable powers

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<sup>6</sup> This is not an exhaustive record of the new and highly ephemeral parties that emerged after the coup. There were also some right-wing parties being created as the Christian Democrat Party (PDC – Partido da Democracia Cristã), the Portuguese Federalist Party (PFP – Partido Federalista Português), the Independent Democratic Social Party (PSDI – Partido Social-Democrata Independente) or the Liberal Party (PL – Partido Liberal), but they all disappeared either after the 28 September 1974 or the 11 March 1975, and they did not influence the process being studied here.

through which he would be able to follow his federalist policy for the colonies. The MFA and the political parties (that fought for the institutionalization of a Parliamentary system) saw the recognition of independence as the only possible solution for the colonies, not only because that had been one of the major reasons for the breakdown of the old regime, but also because the international community would probably intervene if that was not the only and immediate measure to be taken (Cerezales, 2003: 59).

The way through which Portugal dealt with the past was particularly strong. There were legal and wild purges, several preventive detentions with no limited period of time, there were nationalizations and appropriations of land and buildings. Nevertheless, after the period of uncertainty, several of these excesses were corrected – people were reintegrated and sent back to freedom, property was restored – even if reparation could not compensate all the excesses of the period, having created a new legacy for democracy. To a certain extent, the way of dealing with the past in Portugal can be seen through the ideas of a contentious collective action, an extraordinary one, with no background in the Portuguese political culture.

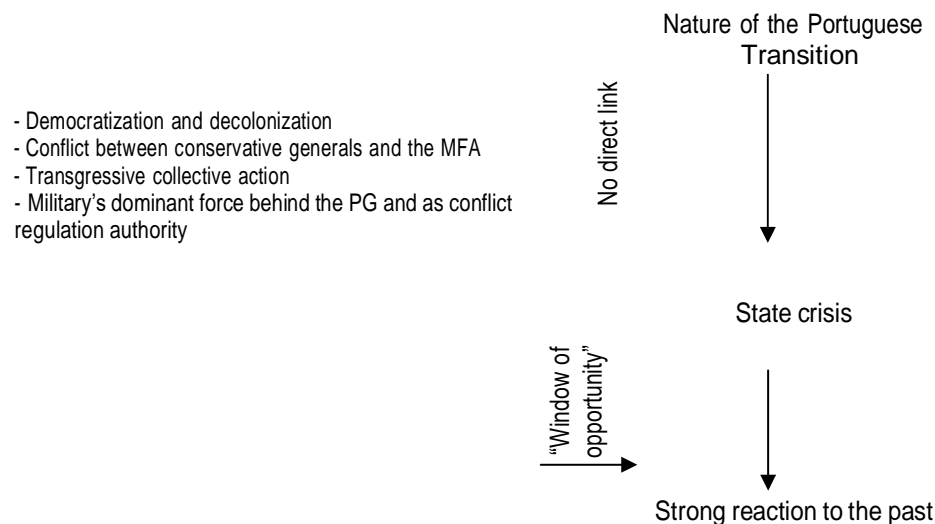
“The liberation opened a period of febrile activity, social protest, more or less spontaneous takeovers of factories and large agricultural units, purges of all kinds of institutions if they were seen as closely related to the previous regime, and constant *assembleas* to decide everything. Parties seen as representing continuity with the old regime were outlawed. The Portuguese Communist Party emerged out of many of the assemblies with key positions of power. Nationalizations of the banks put the country on the road to socialism, given the bank’s traditional control of much of industry. It was a revolutionary process that attracted worldwide attention, enthusiasm and fears” (Linz and Stepan, 1996: 118).

According to Cerezales, it was due to the fact that the image and the structure of an “organized sanction” for control of the masses – the police of intervention (“*polícia de choque*”), abolished on 15 May 1974 – was absent from the streets, that the transgressive collective action assumed considerable proportions. Moreover, “having been obliged to draw on the army for missions of public order, the relationship with the population was facilitated and the conditions for military indiscipline were set, thus influencing the indefinite character of the period” (2003: 62-64).

Through an attempt at legitimizing their action, the new political elite support the popular mobilizations – the workers’ movement – making an alliance with the revolutionary left. The COPCON was the most revolutionary structure among the military to support this type of actions (*idem*: 87) (see Figure 5).

António Costa Pinto (2006) provides a complex interpretation of the process of dealing with the past in Portugal, as the product of a “window of opportunity” in which several factors intervened.

Figure 5. The Portuguese democratic transition and the way of dealing with the past (based on Pinto, 2006)



Source: (Pinto, 2006)

He defines the process as a “revolutionary transitional justice, guided by powerful if incoherent notions of social justice” (Pinto *in* Brito et al, 2001:65)<sup>7</sup>. It can be divided in three phases: the phase of the downfall, from April 1974 to March 1975, characterized by legal purges; the phase of the state crisis, from March 1975 to April 1976, characterized by ‘savage’ purges; and the phase of the consolidation of democracy, from April 1976 to October 1982, characterized by the reintegration of the purged (*idem*: 66) (see Table 2).

Table 2. Phases of Transition and Democratic Consolidation and the purge processes

Fall of dictatorship	Crises	Democratic consolidation
+ Legal purges	+ Legal purges	Reduction of penalties
- ‘wild’ purges	+ ‘wild purges’	Reintegration

Source: (Pinto, 2006: 190).

<sup>7</sup> It is only fair to refer a short attempt to address the issue of transitional justice in Portugal, even if in a very early stage of democracy’s history in the 20<sup>th</sup> century Portugal. Kenneth Maxwell rehearsed a first attempt in 1982 – the year of the first revision of the Portuguese Constitution. His perception was that “as the provisional governments moved rapidly leftward between April 1974 and August 1975, not only did it exile, imprison, or purge individuals associated with the old regime, but it removed large numbers of management personnel from private enterprises, many of them who chose to move to Brazil” (*in* Herz, 1982: 241-242).

At the beginning, both the PS and the PCP were cautious on public statements about the purges, and the provisional governments started by creating a legal framework to regulate the process. By the end of 1974, 4300 public servants had already been affected by the purges and “in February 1975, official reports on the purge process stated that approximately 12.000 people had been either removed from their posts or suspended, either legally or illegally” (2006: 73). Since the purges also affected the armed forces, special military commissions were responsible for regulating the purges that the MFA itself demanded, resulting in the dismissal of 300 officers of all ranks.

During the stage of state crisis, the idea of “collaboration” with the previous regime was deeply enlarged; purges affected the military, civil servants, cabinet ministers, leaders of the single party and other regime institutions.

The *saneamentos* or purges were the most visible side of the way Portugal dealt with its past during the period of regime change. It not only affected a considerable number of people, as it constantly overlapped the process of prosecuting the institutionally responsible for political repression in the New State. It is important to bear in mind the fact that the wild purges and the state crisis had an affect over the abolishment of the political police and the need to reinforce the democratic legitimacy in the end of 1975 was a consequence of the overall process, and not so much a product of major revolutionary measures having been applied to the “pides”.

#### *Dealing with the past and the political agenda*

The analysis of the contemporary press helps to place all intervening factors in perspective, and interpret the relative weight of transitional justice in the broader process of regime change. For practical reasons, and considering the secondary dimension of this analysis, the only source were front-pages of the weekly *Expresso*, at the time considered to be a moderate left-wing publication (although the same does not hold true nowadays), from May 1974 to March 1976.

The most important news stories were allocated in Table 3, into one of nine categories, which are:

- 1) *Dealing with the past*. All news relating to the political police (e.g. stigmatization, abolition process, institutional measures adopted, etc.), including all types of purge that went

extensively beyond the political police, as discussed above. References to former elites and institutions were also placed in this category, even if they do not necessarily represent measures of forgiveness or punishment (e.g. rupture, continuity, memory, reactions, etc.).

- 2) *Decolonization and other colonial-related issues.* News on the colonies and decolonization. This covers meetings between the foreign minister and the leaders of the liberation movements, the reactions to those meetings and the decisions reached, and reports of events taking place in the colonies.
- 3) *Military political institutions, personalities and issues.* Stories referring to military institutions and individuals from the MFA, JSN and CR to the Council of the Twenty, etc. It includes reports of conflicts between the MFA and the JSN, the institutionalisation of the MFA with the establishment of the CR, and to developments relating to internal conflicts. A significant part of these reports relate to the MFA-political parties' pact, and thus implies some double coding with items in (4) below.
- 4) *Government, parties and other political civilian institutions.* This includes the numerous ministerial reshuffles that took place during the two years of democratic transition and beyond. It also includes internal matters within the political parties and the MFA-political parties' pact (see 3 above), as well as the process of elaborating the new electoral law and the elections themselves
- 5) *Important socio-political events, crises and debates.* This is a broad category encompassing diverse issues. The common ground is impact and prevalence, and involves such issues such as agrarian reform, trade union unification and nationalization. It also refers to the events of 28 September 1974 and 11 March and 25 November 1975. The reason it does not produce greater numbers is probably related to the newspaper's ideological position.
- 6) *Public policies and/or civil society mobilization,* which includes news on all types of laws and policies of societal nature and which concern various rights and freedoms (e.g. the right to strike and lock-out, salaries and working hours, marriage and divorce, etc.) as well as civil society's mobilizations. The significance of this category seems dependent upon the newspaper's political ideology.
- 7) *National financial and socio-economic policies and issues,* of which there are three: legislation, issues concerning both private and public enterprises, and the social and economic programme and the government's annual budget.
- 8) *Foreign policies and international events.* These include issues of external politics, foreign policy and some international events, such as the simultaneous transitions to democracy in Greece and reports concerning the Pinochet regime in Chile.

- 9) *Other*. This includes all the military issues that do not fit in any of the categories outlined above. While there issues are clearly less significant, they did occasionally make the front page.

Table 3. Quantitative overview of the three main news in Expresso's front pages, organized by subject, from May 1974 to March 1976

Categories	Headline	Second news	Third news
Dealing with the past	4 (2,9%)	8 (6,5%)	3 (2,5%)
Decolonization and other colonial-related issues	17 (12,5%)	12 (9,8%)	18 (14,7%)
Military political institutions, personalities and affairs	41 (30,1%)	14 (11,4%)	15 (12,3%)
Government, parties and other political civilian institutions	40 (29,4%)	25 (20,3%)	38 (31,1%)
Important Social-political events, crises and debates	12 (8,8%)	11 (8,9%)	12 (10%)
Public policies and/or civil society mobilizations	7 (5,1%)	20 (16,3%)	11 (9,0%)
Financial and socio-economic national policies	8 (5,9%)	12 (9,8%)	5 (4,1%)
Foreign policies and international events	6 (4,4%)	18 (14,6%)	19 (15,6%)
Other	1 (0,7%)	3 (2,4%)	1 (0,85)
<b>Total</b>	<b>136</b>	<b>123</b>	<b>122</b>

Notes: The analysis involved 108 front-pages for the period mentioned. The criterion adopted was the counting of the three major news stories in the front pages, according to the criteria of dimension of the news and placement in the layout. The sum does not add one hundred due to double-coding, for some news had to be put in more than one category. It is the case of the institutional debate about the MFA/Parties Pact, which involved both the Military and the Civilian institutions and because in cases where no clear third news was identified only two were counted.

Considering the fact that the newspaper being analysed here is a moderate left-wing – for “transition” standards – specially committed to support alternatives to the communist party, these numbers mean above all two things: that the segment of society to the right of the extreme left was not the most concerned about the way in which the new elites or civil society was dealing with the past, and that there were other more pervasive issues for the moment. Table 3 shows that these issues were above all, the successive changes and uncertainties in the institutional set-up (represented through the categories “military political institutions, personalities and affairs” and “government, parties and other political civilian institutions”, which together represent almost 60% of the highlights), the discussion over public policies (generally given a secondary relevance, but still representing 16% of that), issued of foreign policies (frequently the second and third most relevant news, with a frequency of more or less 15% along the period), and the process of decolonization (between 10% and 14% in all rankings of news).

Although the table does not present the evolution of the topics, their relevance varies over time. For instance, decolonization is a much more relevant issue during the first months of the transition, until the end of 1974 (representing 8% of the whole 12%), due to several important events as the Lusaka Agreements, that gave independence to Mozambique (September 7, 1974); the Argel Agreement, scheduling independence for S. Tomé e Príncipe and Guinea-Bissau (November 26, 1974); and the preparation for the Alvor Agreement, giving independence to Angola (January 15, 1975).

The results are not surprising, for they correspond to what the literature says about the process. Nevertheless, this particular newspaper does not show the impact and extent of popular mobilizations and purges that were already considered to have deeply affected the country, from North to South, from urban to rural areas.

“At the beginning of the summer of 1974, three issues characterized the political agenda: decolonization, institutionalization of the new political regime, and the unrest on the labour side. Political parties called for demonstrations concerning all of these issues, whether anticipating claims (in the case of the extreme-left) or feeling proud about the outcome (PS and PPD demonstrations to signal the MFA’s prominence on the II Provisional Government or the undesired acceptance of Spínola on the right to people self-determination at the colonies)” (Cerezales, 2003: 121).

## Chapter 2. Motivations: was it all about accountability?

### Military's decisions and motivations

The military, and not the political parties or civilian elite, were the main decision-maker. However, military's actions were sometimes constrained, other times supported by the political setting that has been described above, and which was, in turn, a product of definite motivations that kept changing according to emotion, interest and conceptions of justice. It is important that the motivations of the military to be analysed here are not seen as normal functioning military relationships, but the product of the very peculiar process that occurred in Portugal from 1974 to 1976.

"Political and party loyalties, comradeship, or mere tactic replaced the formal loyalties in the army as in the administration. In each military unit, the formal chains of command were being replaced by new ones, led by the representative and delegates of the MFA in each unit, usually inferior to the hierarchical position of the formal structure" (Cerezales, 2003: 60).

The analysis that follows shows it is not possible to talk of any clear transitional justice strategy until the "revolutionary process" had reached its conclusion. The reasons can be several. Could it have been due to the absence of a consensus politics? Could it have been due to the pressure exerted by the political parties? Or was it due to the impact of former elite binding? These were the initial questions for the research, but reality seems to involve some other aspects that were not initially considered. Regarding the first two questions, it is possible to start from some general conclusions.

There was no consensus within the armed forces concerning the best way to deal with the political police. While nowadays they may more or less agree that major political divisions were reflected and reproduced within the armed forces, the reconstruction of history also indicates that other important aspects were not considered in the initial predictions, as emotions resulting from personal implications in the process.

There were radicals who believed it was necessary to arrest and try immediately; however, the armed forces were much divided on this matter. My opinion, which was shared by Melo Antunes, Marques Júnior, Sousa e Castro and Vítor Crespo, was that from the moment at which the leaders of the PIDE fled, assisted by Spínola, with only the rabble remaining, there was no reason for any trials. This would only serve to keep the country agitated for many years, the trials would be, as they were, folklore with people



shouting, “Death to the PIDE!” and as such a political mistake... Later it was Vasco Lourenço and Pezarat whose discourse was “kill, excoriate”. And there was the Contreiras group, with Martins Guerreiro, Costa Martins and Vasco Gonçalves who demanded the trials. Basically, it was those who represented the PCP and the extreme-left (Interview 4).

Contrary to what might have been expected, none of the interviewees admitted to the existence of party political pressures being exerted through provisional government ministers onto CE superintendents. This does not mean that there was never any interaction between civilian and military structures; it only indicates that decisions may have been more independent from parties than was expected (notwithstanding the presence of left and extreme-left parties within the CE throughout the transitional period). In order to understand there early months, a correlation between party behaviour and elections has been suggested:

I think it is difficult to speak of pressure during a period of political instability. The fact that there had not yet been any elections meant that no-one knew the relative strength of the various parties... If there was any pressure, I believe that they were in the opposite direction. The CE believed that the provisional governments, and in particular the minister of justice, who, for most of the time was Salgado Zenha, even although he had no military competence, had to contribute in order for them to legislate in respect of the “pides”. There were several diverse judicial matters to be resolved that justified holding meetings with the prime minister and various ministers without portfolio, including Mário Soares and Álvaro Cunhal; however, the question was dealt with several times from the political point of view (Interview 1).

This being true, it would represent a process closer to what Elster defines as “pure legal justice”, since the judiciary would not have been influenced by the government, and opposite to what the majority of the left and extreme-left newspapers would lead to believe. Conversely, other features also push the Portuguese transitional justice away from “pure legal justice”, since it was not a process that was led by professional judges (Elster, 2004:87).

Even if the truthfulness of political parties’ no-pressure-strategy through the governments may not be sustained by such arguments as those above, other factors nevertheless point towards a similar conclusion. In fact, in some cases it was suggested that the CE was a means through which to achieve power.

The last variation of political power in Portugal will be, or already is, a determining factor in the alteration of the CE, as have been all the previous variations of power. It is too important and too ambitious, while the repressive apparatus of the fascist regime remains to be dismantled, it will continue to be a powerful weapon in the hands of this were not interested in its abolition and seeks to make use of the archives in order to conquer power (*Expresso*, 20/5/1975).

### *The indefinite phase (April 1974 – March 1975)*

There is also a consensus in the belief that former links and interactions must have been crucial, particularly during the initial phase. In the most recent work on the Portuguese political police, Pimentel seeks to advance an explanation as to why the political police was not a priority for the military on the 25 April 1974 (Pimentel, 2007). She believes it should have been the nature of the actors to determine the choices being made, since they reflected a military strategy. In this case, the call for former links should have been useful, considering that by the time the MFA's programme had been elaborated, the most influential actors involved in the first institutional measures of transitional justice were (besides from the anti-fascist Captain Melo Antunes, author of the first draft of the Programme) General Spínola and General Costa Gomes. These last two had personal connections with several elements of the political police, as Irene Pimentel has mentioned:

The former PIDE/DGS inspector Abílio Pires confirmed that there were Spínolists within the police, referring in particular to Inspector Fragoso Allas, "a convinced anti-marcellist", whose career was made in the field of intelligence in Africa. He "had been called to Bissau from his post in Kinshasa by Spínola" in order to participate, with the General, "in the attempts at dialogue with the PAIGC". Another was Inspector Coelho Dias, a "supporter of the ideas promoted by the author of *Portugal and the Future*, a contemporary and a friend of Spínola and of Costa Gomes from their time at military college", who, as we have seen, came to be nominated by the monocled general to command the DGS after 25 April 1975 (Pimentel 2006: 1615).

The latter, although closely associated to the MFA, had co-operated more closely with DGS during the colonial war. This mix of emotions and interests may explain why Spínola decided, in March 1974, while the MFA programme was being debated and amended, to exclude the imprisonment and trial of DGS officials who had participated in criminal acts from the MFA's goals (contrary to Melo Antunes' position), and why Costa Gomes – possibly because of the importance of an intelligence and information system while Portuguese troops were being extricated from the conflict and withdraw from the colonies – required the abolition of the political police in Portugal, whilst retaining its services in the colonies as a Military Police of Information (PIM), which he managed to assure.

Besides from the aspects of the elaboration of the MFA Program, there were other moments in which the links with the former regime appear to have been present. To begin with, the reason why highly prominent individuals of the high hierarchy of the political police – Barbieri Cardoso, Rosa Casaco, and Cunha Passo – were able to leave the country and be later found in

Spain, France and Brazil is yet to be explained, but possible explanations are often connected to Spínola. In Lisbon on the day following the coup, Coelho Dias, was appointed chief director of the political police by the General, having been prevented to assume functions by the military that were at the AMC. In Oporto, Colonel Passos Esmoriz decided to release several of the individuals who had been arrested.

However, interviewees agree that the period immediately after the coup was one of great uncertainty. It was probably the most difficult period to define clear emotions and conceptions of justice, at least in respect to the decision makers, because political parties took advantage of this from the outset.

#### *The reinforcement of revolutionary legitimacy (March 1975 – November 1975)<sup>8</sup>*

At the height of the “revolutionary period”, those who carried out the work at the CE and who punished the political police revealed to have connections with the PCP, either as members, or as fellow travellers. This could mean that their motivations would be clearly connected to the motivations of the party, and that a certain conception of justice would be more pervasive in this case than in the others, leaving little space for emotions. However, interviews and conversations revealed otherwise.

Its superintendent for that period declared to have been faced with a situation in which the process of purges had clearly overlapped the process of prosecuting the political police, and that the CE was feeding the wild and unjust *saneamentos* at all levels, by providing lists of names of those who had cooperated with the political police in any way.

My political goal was to put an end to one of the sources of chaos that only served to discredit the revolution... The work that was done there [in Caxias] was very pernicious... It

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<sup>8</sup> It is necessary to highlight the fact that this distinction (between revolutionary and democratic legitimacy) is used based on parties' and elite's own discourses, and mainly on what official documents and legislation stated. The fact that some authors consider 1982 as the simultaneous end of democratic transition and consolidation (Linz and Stepan, 1996), or that the quality of democracy was affected by this reality (Cesarini and Hite, 2004) is deeply connected to the “reserve domains” that the military possessed until the first constitutional revision and the creation of the Constitutional Commission. In this sense, to use the expression “democratic legitimacy” to refer to a period in which the military created and approved legislation, namely legislation to deal with the issue of the officials of the political police, and that would even overlap the legislation being later approved at the democratic elected Parliament, could be questionable. As it was stated above, the democratic transition is considered to be the period during which democracy is an uncertain outcome and real threats to its success exist; therefore, 1976 can be considered the beginning of democratic consolidation. Moreover, the idea of a reinforcement of a democratic legitimacy must be understood in terms of a reinforcement of legality, even if the legislative organ is not the same as in a mature democracy.

only served to promote summary purges within businesses, without any judicial or political justification at all... (Interview 5)

The idea that the measures of “dealing with the past” had above all to serve the revolution was repeatedly stated by the superintendent at the CE during the “hot summer”. His discourse is nevertheless confusing, for he revealed to be against these purges, which were to a great extent driven by various groups connected to the PCP. It was to be expected that the motivations and actions carried out in this case would correspond to the state of affairs in the country, in which the PCP was particularly active and part of an intensive conflict “that was fed by the development of strong grass-roots political organizations such as the worker’s commissions, the growing challenge posed by the extreme-left during the crisis, and its influence within the military” (Pinto, 2006: 178). However, it is also true that the Workers’ Commissions, the same that asked for the lists to the CE, were responsible for most of the “wild purges”, that the PCP itself could no longer control (Cerezales, 2003).

Concerning the legislation, declarations also do not exactly correspond to what it was expected in terms of punishment demands. The aim of the PCP – as the party that suffered the most from the repression of the political police – was to convict and punish all that had worked for PIDE/DGS, but the superintendent during this period considered otherwise.

My accomplishment was promoting Law 8/75: the goal was to create an efficient and revolutionary mechanism... If the individual was not involved in the specific processes of death, we would check with a table and identify the appropriate sentence. If the sentence had already been completed [while on preventive detention] then the prisoner would be released. Thus, on one morning you might judge and release 300 to 400 and put an end to the nonsense... The idea was basically this: they came in through one door, and went out the other (Interview 5).

These declarations are as surprising as they differ from others having been stated for the same period. In a different conversation, it was explained that Law 8/75 was to serve as a law to legitimize the work of the military that were working at the CE, in order to prevent any possible reverse situation in the transition, as the outcome was still very uncertain, particularly during this “revolutionary period”. The real incrimination law, that would distinguish the officials according to their individual responsibility, would have been created later, had the MFA and the CR showed any support and approved for it.

In any of these cases, it remains the impression that the presence of the PCP inside the CE, at the level of coordination, may not have been as encompassing and objective as the press reports and as other military still nowadays consider. In fact, any reference to a possible policy coming from the party was strongly denied. “No, I did not receive any directives. My action was determined by the goals that had been established by the President and the CEMGFA as well as my colleagues from the CR” (interview 5).

*The reinforcement of democratic legitimacy (November 1975 – 1982)*

There may be several explanations for the conceptions of justice that emerged following the “revolutionary” period, however, they were revealed largely to favour a strategy of reconciliation and towards democratization. In a letter written to the Council of the Revolution, in May 1976, the conceptions of justice of the new superintendent of the CE were clearly expressed when he stated that what moved him was the desire “to make Justice, to consolidate democracy and to create a better and more dignifying society”<sup>9</sup>. Above all, it is a conception of justice clearly in favour of a democratic legitimacy in terms of the necessary balance after a large period of destabilizing “revolutionary” activities. Thus, this position is consistent to what is considered to be the winning side of the events of 25 November 1975, when communist forces were defeated and the “revolutionary period” ended. That opened the way to a less punitive process, in the sense that the superintendent during that period saw the need to repair some excessive actions committed during the two previous years.

At the time I was detained I actually feared for my own physical well being; fortunately the events of 25 November put an end to all that tumult. I can only rely on the new CE, of which you are a mostly dignifying superintendent, to make justice for those who deserve it.” (Letter written in December 15, 1975 and sent from Caxias to the CE)<sup>10</sup>.

The analysis of the impact of the interaction between agents in custody, their families and relatives and the CE requires a detailed examination of the correspondence between each of the elements, as well as the consequences, actions and reactions. However, it is possible to assume that more than 500 letters similar to that above which were sent to the CE, they must have had

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<sup>9</sup> “exercer a Justiça, consolidar a Democracia e construir uma sociedade melhor e mais digna”

<sup>10</sup> “Na altura em que fui detido cheguei a pôr em dúvida a minha própria segurança física, felizmente que o 25 de Novembro veio pôr termo a tão grande sobressalto. Resta-me agora a esperança de que a nova CE, de que V. Exa. é mui digno superintendente, faça justiça a quem merece” (Letter written in December 15, 1975 and sent from Caxias to the CE)

some impact. The official who received them confirmed as much during the interview, and several documents have revealed several decisions were actually made as a result of such letters.

In fact, many of these letters were underlined in read in parts where it is possible to read such things as “I am the father of seven children who have been thrown into misery, and not only materially” (letter sent from Caxias Prison, dated 5 January 1976)<sup>11</sup>, or in the case of letters sent by family members “I have a 23-month old son, and many times I have had to give up my food so that he does not go hungry... Just now my husband has a job offer, which will bring an end to this situation of hunger” (letter from the wife of an agent held at Alcoentre, dated 18 January 1976)<sup>12</sup>.

I will not hesitate in stating that I believe that at the end of more than two years of a sinuous political process, the provisional release of former agents and collaborators was, generally, a just act.

It seems as if complete responsibility for the defeated anti-democratic system is being placed on the shoulders of the 10 per cent of former political police agents and collaborators who were in custody at the end of 1975. For more than one-and-a-half years everything has been done—including theft, the disappearance of documents, blackmail and extortion of the prisoners families, the blackmail of those suspected of collaboration and of their families (letter sent to the CR, Rodrigo Sousa e Castro, 17/5/76)<sup>13</sup>.

It is frequently said that some of the emotions put in these words are the product of personal experiences. Some individuals put forward the idea that personal motivations may have justified to a large extent a less punitive process. In terms of the official discourse, as in other cases, during the two years of institutionalization of the new democratic system, this conception of justice was also publicly sustained in support of the initial programme that had been defined by the military:

The captains of the movement had not prepared for the mass arrest of former PIDE agents, only the leaders; the former would be handled with administrative measures. The task of abolishing the former PIDE/DGS, that seemed to be the most simple one at first sight, had,

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<sup>11</sup> “sou pai de 7 filhos que estão lançados na miséria, não só materialmente”

<sup>12</sup> “tenho um filho com 23 meses e por ele deixo muitas vezes de comer para que ele não sinta fome (...). O meu marido neste momento tem possibilidade de emprego, o que acabaria com esta situação de fome”

<sup>13</sup> “Não hesito em afirmar que considero que ao fim de mais de 2 anos de um sinuoso processo político, a libertação provisória dos ex-agentes e ex-colaboradores tem sido geralmente um acto de justiça” (letter sent to the CR, Sousa e Castro, 17/5/76)

Parece que se atribuiu a responsabilidade total do sistema anti-democrático derrubado, aos dez por cento dos ex-agentes e ex-colaboradores da polícia política presos em fins de 1975. Durante mais de um ano e meio tudo foi feito, desde o roubo, desvio de documentos, chantagem e extorsão de dinheiro de familiares presos, chantagem sobre suspeitos de colaboração e seus familiares.” (*idem*)

in a very short period of time become one of the most complex, difficult and polemical (*idem*)<sup>14</sup>.

However, what appears to have had greater impact, and what is currently recognizable by the military responsible by decisions and choices made from December 1975 until 1982, is the recognition of the political police's function as an intelligence system during the colonial wars, in which the same officers that were guiding the democratization process were fighting on the side of the authoritarian regime. This fact was behind certain legislation that was published and must be added to the interpretation of his conception of justice as a strong emotion leading the choices. "If crimes were committed, they were committed in Africa. If we were to judge the PIDE, it was necessary to know, for example, what took place in the concentration camp in S. Nicolau, or about the summary firing squads" (Interview 7).

Nevertheless, the same military simultaneously recognized the idea that this strategy of semi-reconciliation implied a partial act of justice, suitable to a forgetting and forward looking principle of no retribution. The recognition that certain crimes – the most terrible ones – were not tried, must also be taken into account.

If we think in ethical terms and of justice, no, they were not judged. A particular part of the bourgeois elite and the PCP were given partial satisfaction. Of the rest, that was left behind, far behind in Africa (Interview 7).

This led to the conclusion that, rather than as it is perceived in the literature, punishment in the Portuguese final stage of transitional justice, was an expression of "reduced accountability" or of the "deliberate omission of responsibility". According to what the officials themselves state, true punishment process would necessarily require an investigation of the crimes committed in Guinea, Mozambique, and above all Angola.

In this sense, the analysis of this "torturer problem" demonstrated that the type of transition to democracy (transition by rupture) and the nature of its actors (middle-rank and high-rank military) created a window of opportunity allowing certain interests and conceptions of justice to prevail. In this case, collaboration in the colonial war plus the crisis of the state (including what caused it) apparently explains more than democratic and prophylactic principles.

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<sup>14</sup> "Não estava no espírito dos capitães do Movimento a prisão maciça dos ex-pides mas apenas a dos seus chefes. Àqueles seriam aplicadas medidas administrativas. A tarefa de extinção da ex-PIDE/DGS que a princípio parecia ser a mais simples, tornou-se a curto prazo numa das mais complexas, difíceis e polémicas" (*idem*).

For the reasons outlined above, putting the Portuguese case on the punitive side of the “forgive and forget” or “prosecute and punish” dichotomy may not be 100 per cent accurate. It means that, despite the trials and purges that characterized Portuguese transitional justice, forgiving may have played a crucial role in the final decision-making. Of course forgiveness was based on a specific period and political police activities that do not correspond to the demands of civil society and political parties.

In a comparative point of view, it is important to state this was not a feature that was unique to the Portuguese case: the same can also be said about France after the war in Algeria.

“Despite a movement in favour of judging the role of the Army in 1957-58, in Algeria, this decision [to apply the statute of limitations] put an end to any juridical reopening of these kinds of cases while it could have been quite difficult to pretend that these officers were “helping the Third Reich”, which collapsed ten years before” (Rousso, 2003: 8)

#### The public sphere: motivations between discourse and action

The type of interests Elster refers to in his model – namely political parties’ – can be traced in the public debate and in public demonstrations. In this case, it is not possible to define the actions of political parties and civil society according to the periods outlined above, given that their motivations are of a different nature. Their discourse varies according to both the specific moment and the relative position they occupied. The mobilization of civil society was a constant variable during the process, although it is possible to state that, with the passage of time – in other words, as transition gives way to consolidation of democracy – it changes from demanding to forgiving.

Parties’ and civil society’s interests, emotions and conceptions of justice are considerably more interwoven, thus frequently reflecting political ideologies. Moreover, civil society engaged in a “pide-hunt”, the political parties co-operated “voluntarily” with the military at the CE: indeed, the former was an instrument of the latter. To analyse them separately gives the erroneous impression that the mobilization of civil society was something apart from party politics, which is not entirely true.



In addition to the occupation forces, there were groups of civilian volunteers, who were mainly former political prisoners who offered to explore the archives and the whole repressive PIDE system, without there being any objectives, directives or established organization (*Memorando* 1976: 4)<sup>15</sup>.

Given the intensive political party struggle and the biased position of the press, newspapers expressed the idea that the major problem of this period was not so much the absence of goals and internal structure inside the CE, but the fact that those volunteers were not uninterested people. Left-wing parties – especially the communist and the socialist parties – had sent party members to help with the investigations (extreme-left parties were forbidden to be there), but they probably had the opportunity to take advantage of the access this afforded to the political police's archives.

In a interview published in March 1975, PS member Fernando Oneto, who died shortly after in somewhat suspicious circumstances, said when he arrived at the AMC, on 29 April 1974 he realized he was the only civilian there who had no PCP connection (the others who were there and who had that connection were Rogério de Carvalho, Veiga de Oliveira, Gaspar Ferreira, Graça e João Honrado) (*Tilt*, 10/5/1975).

Immediately after 25 April, with the formation of the first provisional government, the PCP nominated him [Canais Rocha] as minister of labour. However, on the day that he was to take office, the militants who had been investigating the PIDE/DGS archives discovered that he had 'talked' while in prison. The PCP replaced him that very day with Avelino Gonçalves, a leader of the Northern Bank Union (Seabra 2007: 118).

This episode serves as an example to demonstrate how political parties take advantage of the military's naivety in the immediate aftermath of the coup. Information is power and they new it: especially the PCP and the PS activists who gained access to the political police files.

Furthermore, a public debate erupted, assisted by a dominating left-wing press. The "pide-hunt" began on the very first day and continued for at least about a year while civil society engaged on a quest against the release of political police operatives.

It is possible to say, given its duration and intensity, that the subject became a national public debate. In fact, news on popular demonstrations in favour of the trials and purges, military declarations regarding developments in the process, the CE's activity and the polemics

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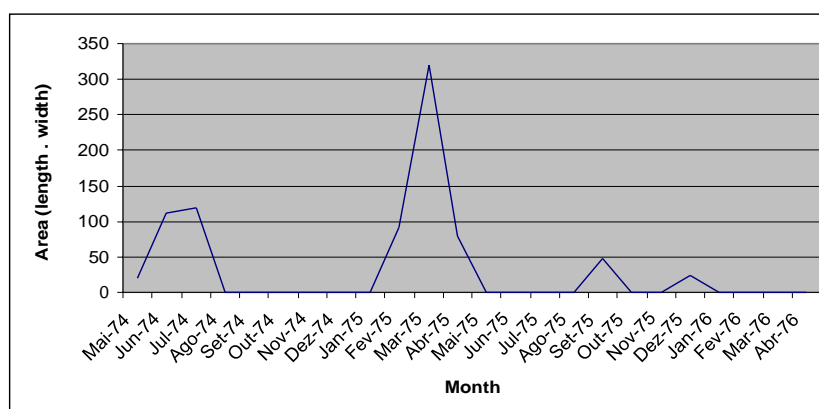
<sup>15</sup> "Além das forças de ocupação, são quadros civis voluntários, na sua grande maioria ex-presos políticos quem se propõe desbravar os arquivos e todo o sistema repressivo da PIDE, sem que houvesse objectivos, directrizes e orgânica estabelecidos" (*Memorando*, 1976: 4).

surrounding its structure, the detentions and escapes from several “pides”, letters to newspaper editors and opinion columns reflecting an intensive stigmatization were regular features in the press during this period of somewhat more than one year.

Once again *Expresso*’s front pages during the transitional period (1974-76) were analysed in order to ascertain to what extent the issue of punishing the former political police officials was a real national public debate, as well as to put it into perspective with respect to the *agenda*.

Figure 6 shows the results after measuring the space in centimetres of the news columns on the front pages between April 1974 and April 76. The criteria was to count each news item referring to such issues as: new detentions, individuals being held in preventive detention who managed to escape, the activity of the CE, the history of the political police itself, and special legislation being created.

Figure 6. News on PIDE/DGS and the “pides” on the front pages of *Expresso*, from April 1974 to April 1976



The highest peak in the graph relates to an interview with a former CE member who had been dismissed by a president who was apparently a communist sympathiser. Part of the explanation why *Expresso* decided to give this story such emphasis is probably related to the fact that the interviewee, Alfredo Caldeira, made several denunciations of the PCP’s influence within the CE. When the graph reaches the top it refers to the only case in which the issue made headline news: when the military announced its decision to establish a revolutionary military court that would be responsible for judging both those responsible for the attempted counter-coup and officers of the former political police.

Briefly stated, both of the occasions in which the process of transitional justice concerning the political police was given any stress in this moderate newspaper was when the subject was related to the national political events.

The rest of the graph represents the brief references to issues such as the gathering of several political police operatives in Spain and other countries to which they managed to escape (May and June 1974); developments in the cases of extra-judicial executions as the cases of Humberto Delgado, Dias Coelho e Ribeiro dos Santos (June and July 1974); and the polemical activity of the CE after the members of the constituent assembly had asked for a report on their activity – partly because, despite expectations, no trial had yet begun (September and December 1975).

An interpretative analysis of *O Século*, *Diário Popular* and *Diário de Lisboa* shows that press releases were the preferred means by which the various left-wing political parties, civic organizations and trade unions chose to make public notice of their official position in the newspapers. Cross-reference of their official discourses with the elections for the constitution assembly provides a few interesting conclusions about the interests and the instrumentalization of the issue as an electoral tool. In order to explain this point of view, more attention was paid to two events that caused great commotion amongst sectors of civil society: (1) the Lisbon prison riot of August 1974, involving several individuals held in preventive detention, (2) the mass escape from “Alcoentre” prison in July 1975. Between the first and the second event there was the elections for the constituent assembly where the Socialist Party emerged as the favourite winner, against what popular mobilization would lead to think, and the “hot Summer” was in a crucial stage.

According to the contemporary press, on 12 August 1974, approximately 600 ex-PIDE officials who were being held in preventive detention staged a riot at the Lisbon prison. They had access to a loudspeaker and used it to make their announcements heard in the streets outside the prison. In accordance to the dynamics of popular demonstrations, frequently framed by political parties, people began to gather outside the prison gates. When asked by journalists why they were there, many replied that they wanted to make sure none of the inmates was released. The majority of newspapers reported the event, and gave special prominence to the inmate’s slogans, such as “Long live the MFA!”, “We have always been on the people’s side” or “We want General Galvão de Melo!” (*O Século*). These were thought to be highly provocative statements, and all left-wing sectors of the civil society promptly made the newspapers aware of their reactions, making their demands and suggestions on how politicians ought to handle the situation.

The PCP issued a press release with several demands. They stated that “none of the individuals’ demands should be granted; it is important to proceed with the swift purge of prisons, and of the entire state apparatus; (...) and the prosecution and punishment of the former elements of the political police must be accelerated” (*Diário Popular*, 13/8/1974).

The PS also sent a press release, in which they already took a more moderate position. While recognizing the political police as an unacceptable organization and its officers as torturers, the PS concentrated on the need to recognize the principle of the rule of law, even if the expression was never objectively used. The party release stated that “All human beings have the right to an independent and unbiased jurisdiction”, a principle that was consistent with the party’s position at the constituent assembly a year later (*O Século*, 14/8/1974).

The smaller left-wing parties and groupings reacted by asking the workers to maintain their vigil on this and other suspicious events that could compromise the workers class (MES); others demanded the immediate suspension of all sorts of negotiations between the government and the “pides” (AEPPA); while others still demanded that the necessary steps were made in order to make clear how could the prisoners have organized the riot (LUAR); and finally, some even advocated popular trials and called for the execution of the former PIDE agents (MRPP).

On 29 June 1975, the newspapers reported the escape of 89 “pides” who were being held in preventive detention in Alcoentre. According to press reports at the time, the prison held 843 former agents who had been transferred there from other prisons for security reasons. This was not the first time that “pides” had escaped; however, this time the anti-fascists groups and left-wing parties were of the opinion that too many had got away. Curiously, not only did civil society get engaged in this event through the politicians’ calls for the support of the people. In order for this to happen, the newspapers published each and every one of the escapees’ names and pictures. In addition to the delay on the beginning of the trials, this event also triggered several reactions.

Once more, the PS’s position was clearly distinct from those adopted by the other left-wing parties and groups. The support for democratic legitimacy over revolutionary legitimacy was even stronger. In its press release, the PS claimed “the problem of the surveillance and the defence of the Revolution cannot be solve through the use of pseudo-revolutionary radicalism, nor with attempts to ignore the democratic legitimacy: it must be achieved through the reinforcement of the revolutionary authority and the use of effective and legal measures to regulate it” (*Diário Popular*, 3/7/1975).

The UDP was a new extreme-left political party that did not existed in the previous event. In minor reports, it constantly pronounced itself in favour of a harsher process of political justice

against the repressive institution. Their press release denounces the extreme lenience of the measures that had yet been taken and the inexistence of a true anti-fascist politics among the coalition parties (*O Século*, 2/7/1975).

The UDP was strongly associated with the AEPPA (Association of Ex-Political Prisoners and Anti-Fascists), which was created in October 1974 to become one of the most demanding civil society associations in existence. The UDP had two main goals: firstly, to destroy the PIDE files in order to hinder reactionary forces and prevent the creation of a new political police; and second, to ensure that all “pides”, legionaries, and other criminal fascists would be arrested and punished through the use of specific legislation (*Expresso*, 5/10/74). AEPPA was one of the most active and demanding associations; its discourse was an example of accountability. It was one of the few associations that were exclusively dedicated to assure that the “pides” would be accountable for violent acts and crimes committed.

The PCP maintained part of their previous discourse, but now it pointed an accusatory finger directly at the government and its minister of justice, Salgado Zenha, accusing him of conspiring with the prisoners. Other communist forces expressed the need for those who helped the prisoners to escape to be held accountable and to be punished for their actions (MDP/DCE). At that moment, these two parties were sharing seats at the constituent assembly.

It is worthwhile outlining the PS's position between the first and the second event described above. The party went from a minor political role – in a situation in which General Spínola was still President and right-wing elements were part of the JSN – to having a confidence of government, having a majority in the constituent assembly, although the PCP's powerful presence demanded it to adopt a clear position in favour of less radicalization.

It is also interesting to note the absence of the two major right-wing parties (PPD and CDS) from the debate. Their silence can be easily explained by the fact that both parties were following a strategy designed to obtain an electorate in a country that was in the process of transitioning from 48 years of right-wing authoritarian rule, and in which the parties and groups of the extreme-left played a central role and deeply influenced the “revolutionary period”.

Besides from demonstrations and press reports, there were other ways through which political parties and civil society expressed their emotions about the process, and which help to illustrate the intensive relationship between the two spheres. Pure accountability claims and political parties' strategies and interests became deeply intertwined in such occasions. Subsequent to the event of Alcoentre, two musicians connected to the PCP composed the following lyrics:

FADO DE ALCOENTRE  
Ary dos Santos e Fernando Tordo

(Refrain)

Mas enquanto homens lutavam  
Com uma entrega total  
Outros homens *conspiravam*  
Contra o novo Portugal

As grades, foram todas cerradas a preceito  
A fuga, aproveitou-se do que era imperfeito  
E a esquerda, por causa da vergonha deste  
feito  
*Pode apanhar uma bala no peito...*

Essas hienas, que apertavam os  
garrotes da tortura  
Enquanto a democracia se distraía  
em ternura

Que merda!

(Refrain)

Esses homens que hoje saem  
Da prisão em liberdade  
Cães que rosnam, cães que traem  
E passeiam na cidade.

*Quem foram, os que fora das grades  
ajudaram?  
Quem foram, os que dentro das grades os  
armaram?  
A esquerda, não esquece os tubarões que a  
torturaram  
Não pode perdoar se a enganaram...*

Que se passa?  
Então isto não é uma *ameaça*?  
Ali andou mãozinha da *reaça*!  
*Deixaram fugir* mais oitenta e nove!

Que merda!

(Refrain)

Os pides, desceram pela corda  
alegremente  
Os guardas, andavam passeando em  
Alcoentre  
*E a esquerda, levou com mais um  
corno pela frente*  
Esta maldade não se faz à gente...

Agora, a *vigilância* é tudo o que nos resta  
Pr'ós pides, a vida na prisão era uma festa  
E a esquerda, tem mais do que razão quando  
protesta  
Pois pode apanhar um tiro na testa...

Que merda!

(Refrain)

Que merda!

Regarding the fact that punitive measures of transitional justice are usually interpreted as, above all, an expression of *accountability* and commitment to the rule of law, it was the purpose of this chapter to suggest a different interpretation of the phenomenon, using a case where accountability should be seen together with political parties interests and specific emotions to explain punitive or restorative measures. In this sense, this should also be seen as a contribution to the discussion over the usefulness of using a dichotomised interpretation of the phenomenon (Sikkink and Walling, 2007).

### Chapter 3. Dealing with the political police (PIDE/DGS): from revolutionary to democratic legitimacy

In order to try to advance some suggestions on the complex relationship between the various background factors, the political setting and the set of motivations, which interacted in different weights during the different periods of the transition, certain more tangible factors were also considered: legislation, the contribution of civilian elites at the constituent assembly and the parliament, and decisions by the CE.

Legislation gives a more accurate impression about the weight of the revolutionary versus the democratic legitimacy (see Table 4). One of the important conclusions taken during this research is that the political parties and the civilian elites played a much diminished role, whether in terms of political influence, or in terms of effective involvement in the decision-making process. The analysis of two major discussions at the constituent assembly and the parliament showed this intuition was correct.

Table 4. Legislation affecting prosecutions and purges, 1974-78

Legislation	Origin	Legal measure	Meaning
Decree-law 277/74 (June 25)	CM	Dismissal from public administration and scrutiny of behaviour that contradict the new established order.	Purge
Decree-law 398/74 (August 28)	MJ	Impossibility of application of <i>Habeas corpus</i> to those under military law	Limitation of legal rights
September 28, 1974	"Maioria silenciosa" (Conservative forces) Changes in the JSN, with the expulsion of General Spínola		
Decree-law 621-B/74 (November 15)		"Civic disqualification". Prohibition of running for elections and vote.	Limitation of political rights
Decree-Law 36/75 (January 31)	CEMFA council	(Provisional framework) Art.2 Integration of the CE in the DGRS	Interaction between purges and prosecutions
March 11, 1975	Right-wing counter-coup attempt, followed by the institutionalization of the MFA through the creation of the Council of the Revolution (CR)		
Decree-Law 123/75 (March 11)	CM	Article 7. Reinforcing the purges adopted through DL 277/74, for acts committed during the dictatorship	Purge
Law 8/75 (July 25)	CR	Criminalization of all former PIDE/DGS officials and informers (see details below)	Criminalization
Law 13/75 (November 12)	CR	Creation of a single military tribunal (Tribunal Militar Conjunto)	Extraordinary legislation
November 25, 1975	Symbolic end of the revolutionary period.		

Decree-law 729/75 (December 22)	CR	90 days' pardon	Reduction of punishment
Law 16/75 (December)	CR	Abolishment of "Tribunal Militar Conjunto". Regular military courts	Legal procedure aiming at accelerating the process
Law 18/75 (December 26)	CR	Possibility of appeal and parole	Restitution of legal rights
Decree-law 13/76 (January 14)	CR	Administrative measures and restructuring of the CE	Legal reinforcement of democratic principles
Decree-Law 139/76 (February 19)	CR	Article 1. Those subject to DL 123/75 can seek reintegration	Beginning of reconciliation
April 25, 1976	Elections for the first Constitutional Government. Symbolic beginning of the democratic consolidation.		
Decree-law 349/76 (May 13)	CR	Additional extenuating circumstances and lighter sentences	Reduction of punishment
Decree-law 825/76 (November 16)	CR	90 days' (cumulative) pardon	Reduction of punishment
Law 1/77 (January 12)	Parliament	Reformulation of decree-law 349/76	Reinforcement of punishment
Resolution 64/78	CR	Unconstitutionality of article 3 of Law 1/77.	Constitutional regulation

Source: Diário da República, série I.

Legend: CM stands for Council of Ministers; MJ stands for Ministry of Justice; CR stands for Council of Revolution.

### Uncertain outcome: setbacks at the CE

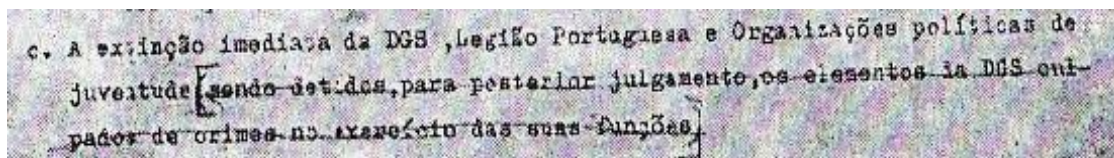
Conclusions taken when analysing the political setting and the motivations for this period were that: past links may help explain some of the first attitudes; the lack of consensus and other more compelling issues as decolonization or the eruption of the worker's commissions might explain the little attention given to the issue of the political police and lack of coordination at the CE, which subsequently opened a window of opportunity for extreme-left and left-wing parties to have access and make use of the files although political parties' interests may not explain the immediate popular mobilizations, that would thus represent true accountability claims.

In practical terms, both the influence of the socio-political environment and actor's motivations were reflected in the presence – but above all in the absence – of concrete measures and decisions of legal justice, the most important having been the arrest of all individuals connected to the political police – contrary to the military's initial intensions – and the subsequent creation of the CE itself, that framed the activity of dismantling the political police and preparing the cases for trial, although as it is possible to see through table 4 this has happened without the existence of an adequate law of criminalization, which was only issued in July 1975.



## *The coup and its immediate consequences*

Figure 7. Extract of the MFA Program as it was written by Melo Antunes and later removed by General Spínola, March 1974



Source: (Carvalho, 1982: 288)

After the Army force that was supposed to have gone to the AMC on the day of the coup failed at the last minute to accomplish what had been previously determined, it was replaced by a Navy Force, that only in the morning of 26 April 1974, succeeded in its mission. The few elements who were at the headquarters were forced to surrender and the officials proceeded to occupy the building hours after some incidents took place in the streets and which eventually resulted in the death of four people (including one element of the political police that tried to escape from the irate population)<sup>16</sup>. Subsequently, the Air Force took control over the Forte de Caxias, where some of the political prisoners of the regime were held. Without bloodsheds, Oporto and Coimbra's headquarters were also occupied by military forces.

These events happened in accordance to what had been determined by Decree-Law 171/74, issued on 25 April. It expressed the following: 1) The DGS, created by Decree Law 49901, dated 24 November, is hereby abolished, 2) In the overseas territories, after it has been purged, it will be reorganized into a military intelligence police in whatever provinces military operations demand. Article 5: The armed forces will be responsible for this force and will take custody of its mechanical equipment, vehicles, weapons and munitions, furniture, books, writing materials, documents and any other element belonging to the abolished DGS<sup>17</sup>.

<sup>16</sup> António Araújo (1996) and Irene Pimentel (2007) have both published a considerably detailed description of what happened at the AMC between the 25<sup>th</sup> and the 26<sup>th</sup> of April. They are interesting and fairly complete depictions. For that reason, this dissertation does not describe but a few aspects that may be of some interest for the purpose of this research.; 2) several members of the political police stayed in long enough to burn several files, namely those that enabled the identification of informers. The exact proportion of the files that were burned is not known, as it is not perceptible to what extent has it made it impossible to identify collaborators and informers.

<sup>17</sup> The Portuguese political police was not a mere organ of political repression. It was a mix of state and regime institution, which gathered several different functions. Which means that its functionaries had necessarily, at least at the beginning, to pass the know-how to the staff. For that reason, DL 171/74 also determined that: Art. 6.º Passam a ser atribuições da Polícia Judiciária as seguintes: a) Efectuar a investigação dos crimes contra a segurança interior e exterior do Estado, procedendo à instrução preparatória dos respectivos processos; b) Realizar a instrução preparatória relativamente às informações do regime legal de passagem de fronteiras e de entrada e permanência de estrangeiros em território nacional

While the new official commission was starting its work, left-wing newspapers reported several details of the activities at AMC, starting by raising the issue of the process of General Humberto Delgado, as a symbol of accountability claims by civil society, for being one of the few cases of death associated with the political police. Due to the absence of coordination and the presence of a single voice, the newspapers actually predicted that everything connected to the political police would be burnt during the process of abolishing the political police.

Everything connected to PIDE/DGS soon started to be surrounded by an aura of stigmatization and in some cases this led the JSN to feel the need to publicly clarify some misunderstandings and to attenuate the pressure caused by the “pide-hunt”, causing people and organizations to be constantly accused of having collaborated with the institution. For instance, only five days after the coup, the military felt that it was “an act of justice” to clarify the public opinion that the Portuguese Post Office (CTT) had nothing to do with the possible violation of private mail that might have been carried out by the political police (*O Século*, 1/5/74). Any rumour of collaboration achieved considerable proportions and people felt the need to make sure not to be mistaken by one of “them”. This was so that throughout the process, the CE actually spent a considerable amount of time providing “certificates” stating the non-existence of proof or record of collaboration between people and the political police, a procedure that actually reached the members of Parliament, as in the case of a UDP’s MP.

“People that showed to help at the CE did not identify themselves as communists but as anti-fascists. After almost fifty years of dictatorship everything was allowed due to the feeling of “collective drunkenness”. It was not acceptable that someone would be denied to see their own file. That way the PCP came forward and the military end up close related with the anti-fascist struggle” (Interview 3).

### *The creation of the Commission for the Extinction of PIDE/DGS*

In June, the JSN approved what would formally be the internal structure of the CE, based on the initial decree presented to the CEMGFA. The structure was then divided in three sections: legislative – which was meant to put forward laws for the successful dismantling of the organization – inventory – which was meant to proceed with the necessary investigation in order to send the files to trial – and justice – which was the final stage before the processes were ready

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Art. 7.º Enquanto não for criado serviço próprio, passa a ser atribuição da Guarda Fiscal vigiar e fiscalizar as fronteiras terrestres, marítimas e aéreas.

to be sent to trial. Nevertheless, the existence of a formal and hierarchical structural was far from corresponding to the actual way the CE worked.

Interviewees constantly reinforce the idea that the revolutionary period explains the lack of coordination and commitment to the “pide issue”, but regardless of the inefficient character of the formal structural, it is acceptable to state that the creation of the CE (which formal denomination was *Serviço de Coordenação para a Extinção da PIDE/DGS e LP*) was unquestionably an effort to create a formal structure. The proposal sent to General Costa Gomes stated that:

In order to continue with the abolition of the PIDE/DGS and the Portuguese Legion, of which the necessary consequence is judgment of the crimes committed by these organizations and their members, and to complete an inventory of all their weapons and other materials, it is necessary to define criteria for action and to commence with proceedings that will allow viable solutions to be encountered and implemented in the shortest possible time (Decree law project)<sup>18</sup>.

It continued by stating the commission would be responsible to the JSN, and that it should maintain a direct link with the ministry of justice. Admiral Rosa Coutinho, the commission's first leader, held some meetings with the then minister of justice, Salgado Zenha. There was a negative reaction when Rosa Coutinho told the press that many of the individuals arrested when the DGS offices were taken, were office workers guilty of no crime and that there was, therefore, no reason to keep them in custody (*Expresso* 22/6/74). Public opinion would not want to produce the distinction between degrees of guilt and responsibility. The political police was the institution responsible for repression, and all those that could be connected with it should be accountable for whatever actions committed. However, they had determined since the 26 of April that all individuals above certain status would only be under surveillance, without the need to being submitted to preventive detention (*Expresso*, 22/6/74).

In a report dated October 1975, it was stated that during this period “an order from the JSN established that ten “pides” being held in custody were to be released from prison each day” (*Memorando* 1975: 5). This instruction was not carried out, apparently because of personal disagreements within the officers who were reporting directly to the CE. This is consistent with the idea of a lack of consensus on how to conduct the process, and also connects to the fact that the hierarchies inside the military had been defied since the coup.

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<sup>18</sup> “A fim de se prosseguir na extinção da PIDE/DGS e da LP, da qual são consequência necessária o julgamento dos crimes cometidos por essas organizações e pelos seus membros, e o arrolamento das armas e outro material a elas pertencentes, torna-se urgente definir os critérios de actuação e dar início a uma actividade organizada que permia, com a maior brevidade, encontrar soluções viáveis e passar à sua concretização” (Projecto de Decreto, 5/6/74).

Only a month after the creation of the CE, Admiral Rosa Coutinho, one of the few senior ranking left-wing officers who was a member of the JSN, was appointed High Commissioner to Angola, with General Galvão de Melo replacing him as the CE's superintendent.

Given General Galvão de Melo's political positioning – he would later be MP for the CDS (the most right-wing party in parliament) – there should have been no particular motivation in the course of his activity and decisions there. According to General Costa Neves today, the MFA was above all committed to conquer political influences and power, and never paid too much attention to what immediately began happening at the AMC. The lack of interest and coordination during this period might have opened the window of opportunities for the left-wing civilians to dig their way into the archives. In a report presented to the Council of the Revolution in October 1975, it was said that the first weeks' activity was conditioned and constrained by "the ambiguity and hesitation of the political power and the inexistence of a qualified frameworks (...) where the attempt of taking advantage of PIDE/DGS material for a supposed National Information System, to be activated by General Galvão de Melo, becomes obvious" (*Memorando*, 1975: 4)<sup>19</sup>. Even if biased in the sense that it was produced by military men that had their own interpretation of how the process should be handled, it reveals something about the first months, namely the beginning of conflicts between different political factions. In terms of the extinction and beginning of the prosecution of the political, the period of Spínola's rule is difficult to categorize. General Costa Neves, who worked directly with General Galvão de Melo said:

There were people interfering with the archives, and General Galvão de Melo, with General Costa Gomes and the co-coordinating commission knew what was going on. We knew that they were removing documents and processes from the archives in the South Redoubt, but we had no way of controlling it. Moreover, Galvão de Melo was a conservative and was known as such (Interview 6).

Past bindings and the cooperation between the political police and the military at the colonial war were well visible through the fact that the members of DGS working in Guinea-Bissau, Mozambique and Angola, after the regime breakdown, collaborated with the military during decolonization, as General Costa Gomes managed to assure – having later benefited from a reduction of the court sentences – and in some cases managed to escape to countries as Rhodesia and South Africa, despite of having been prevented from escaping the country, by the

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<sup>19</sup> "a ambiguidade e indecisão dos órgãos de poder e a inexistência de estruturas qualificadas (...) em que ressalta a tentativa de aproveitamento do material da PIDE/DGS para um projectado Serviço Nacional de Informação, ao mesmo tempo a ser accionado pelo General Galvão de Melo"

Portuguese authorities (*O Século*, 4/6/74). The issue of the colonial war was brought up by the press.

“In what concerns former officers at the colonies, they must have been absorbed by the PIM, as it was established by the MFA from the beginning; this appears to be a discrimination behavior, regarding the fact that they committed many more atrocities in the colonies than in the metropolis.” (*Expresso*, 22/6/74)

In Mozambique, for instance, those who did not escape were arrested and later on sent back to freedom. By June 15, they reported that more than five hundred had been arrested, the majority being agents and not inspectors (*O Século*, 15/6/74). One of the aspects that could already anticipate the lack of will to try the colonial war crimes is the fact that they established a deadline until June 17, for people to present charges against the elements of the political police (*O Século*, 13/6/74). Moreover, those who came back to Portugal, having been arrested again, in September 1974, were never tried for their action at the colonies; on the contrary, they saw their activity being used as an extraordinary extenuating, resulting in substantial reduction of the sentences<sup>20</sup>.

Meanwhile, in the metropolis, an internal report released in June stated that military officials and jurists had already been able to prepare more than 1000 individual trial processes for trial. The pressure from civil society through the intensive public debate and public demonstrations made it necessary to show that the work of dismantling the institution and preparing the files to trial was being done. Commandant Conceição e Silva, a military official and a lawyer that was responsible for conducting the initial formal framework of the CE, was constantly asked to report on the CE's activity. In July, he stated that the files that involved the deaths of Humberto Delgado, Dias Coelho e Ribeiro dos Santos were in an advanced stage of elaboration – since these did not need a special incrimination law – whilst the others had to be carefully handled, in order to guarantee “the meticulous respect for the procedural law” (*Expresso*, 6/7/74).

When Admiral Rosa Coutinho leaves to Angola, General Galvão de Melo became superintendent of the CE, while Conceição e Silva kept trying to bring some formal structure and legal framing to the commission. He asked recent graduates in Law, officials of the Military Judicial Police and police clerks to help with the work<sup>21</sup>.

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<sup>20</sup> For transitional justice in Mozambique see (Hayner, 2001: 186-195).

<sup>21</sup> Further research is required into the matter of the military asking the Portuguese bar association (*Ordem dos Advogados*) to co-operate with about 40 of its members. For reasons that have yet to be explained, a meeting was held to finalise the details of this co-operation, which, in the end, never came to anything.

*After 28 September 1974*

When General Spínola was removed from power, General Galvão de Melo also left the JSN. This left the CE with no supervision for several weeks, after which Colonel Silvano Ribeiro became superintendent. During this period there were apparently no particular developments in what concerns the legal proceedings to handle the political police. The purges, that were increasingly “wild” ones, became a major priority in Caxias and no substantial work was done in order to prepare the trial processes of the “pides”. Actually this was mentioned in January: the CE itself passed the message that the setbacks were due to the lack of legislation that would enable the criminalization of the individuals, which once again revealed the lack of coordination and the beginning of distinct political factions inside the armed forces (*Expresso*, 11/1/75). From 1974 until the events of March 1975, the three distinctive political groups inside the MFA began progressively to align: the moderate, the “gonçalvistas” and the populist (Cerveilló (1993), Reis (1993), Rezola (2006), Pinto (2001))<sup>22</sup>.

Taking into account the new possibilities of action and of the democratic organization that was victorious on 28 September and the experience it obtained as a result of its intervention in these events, officers of the Military Police in the service of the Co-ordinating Service for the Abolition of the PIDE/DGS and LP, situated in Rua António Maria Cardoso, believe to be verified:

1. The lack of a clear statement that the former PIDE/DGS and LP has been dismantled, consequently that its organization is deficient;
2. The almost complete lack of co-ordination between the services at Caxias and António Maria Cardoso, which has limited its actions both quantitatively and qualitatively;
3. The absence of correct democratic practice.

Understanding the absolute and urgent need for a complete restructuring of these services along democratic lines and with perfect and complementary co-ordination that must be assured by the creation of a national co-ordinating commission.

Lisbon, 17 October 1974<sup>23</sup>

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<sup>22</sup> This will be relevant later, in as much as it becomes evident that the determining decisions taken by the military for dealing with the “pides”, were taken after the beginning of the state crisis – with the rising of the Communists – and then with the beginning of the consolidation process – with the victory of the “Grupo dos Nove” and the rising of General Eanes.

<sup>23</sup> Declaração “Tendo em conta as novas possibilidades de actuação e de organização democrática conquistadas em 28 de Setembro e a experiência que a sua intervenção activa nos acontecimentos lhes proporcionou, os oficiais da Polícia Judiciária Militar do Serviço de Coordenação da Extinção da PIDE/DGS e LP, em serviço na Rua António Maria Cardoso, consideram que se tem verificado:

1º) A ausência de uma clara definição de desmantelamento da ex-PIDE/DGS e LP, originando, consequentemente, uma deficiente organização;

2º) A quase total ausência de coordenação entre os serviços de Caxias e António Maria Cardoso, o que condiciona a sua actuação em termos quantitativos e qualitativos;

3º) A ausência de uma correcta prática democrática;

In two documents published later by different CE leaderships – consistent to what it was said in one of the interviews – the period between 28 September 1974 and 11 March 1975 was defined as a major “gap”, during which the majority of the work was being conducted in direct interaction with the workers’ commissions and in support of the wildcat purges that were spreading throughout the country. In terms of legal framing, the only Decree-Law to be published during this period was DL 621-B/74 of 15 November, which was signed by the Council of the State, declaring that former officials of the political police, among others, could not vote for elections to the constituent assembly, taking place on April 1975.

In January, the armed forces created (with transitional character) the Directorate General of Reclassification and Purges (DGRS – Direcção Geral de Reclassificação e Saneamento), where the CE was integrated, therefore institutionalizing the interaction between two significant aspects of dealing with the past during regime change in Portugal. After analysing issues of *Expresso* and other national newspapers, it became easy to see that the purge process was far more relevant than the process of punishing former political police officials. In fact, when Decree 36/75 of 31 January 1975 integrated the CE into the DGRS, it meant that from the end of 1974 those working in Caxias had to spend the majority of their time working for the purges, instead of contributing for the criminalization and acceleration of the prosecution of the political police. Even so, as it was shown above, some of that work was done outside the formal responsibility of the commission, serving workers commissions and random or wild purge processes.

#### The Hot Summer of 1975: a step towards criminalization

During the “revolutionary period” of the transition, the MFA and the armed forces that had led the coup used article 6 of Law 5/75, dated 14 March, to retain the right to interpret the meaning of the rule of law. These bodies had legislative power, and they were not dependent upon the civilian elite. For that reason, the civilian political elite were not involved in the creation of legislation to deal with the political police, reinforcing the idea that the military were the main decision making.

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Pelo que entendem absolutamente necessário e urgente uma reestruturação global dos serviços em moldes democráticos e com uma perfeita coordenação e complementaridade que deverá ser assegurada pela acutação duma Comissão Coordenadora Nacional.  
Lisboa, 17 de outubro de 1974

The CR member supervising the CE during the 1975's "Hot Summer", Lieutenant Miguel Judas, was a military who had been a member of the PCP since 1970, and as it was shown in the previous chapter, his conception of justice expressed the support above all for the revolutionary legitimacy<sup>24</sup>.

Before the definite law of incrimination (Law 8/75) there were at least two projects, one of which was conceived by Vasco Gonçalves vice-prime minister during the fifth provisional government, Teixeira Ribeiro: a professor of law and rector of the University of Coimbra from 1974-76. The other project was elaborated by Luís Azevedo, who conceived in his project that the punishment of the political police and the Portuguese Legion should be dealt with separately. There are also some differences between his project and Law 8/75: in what concerns the people to be implied by the law, this project did not criminalize the members of government; it did criminalize all those who had worked for the political police since 1928 and did not refer to Decree 368/72 to distinguish between their place in the hierarchy.

While little more can be said about these two projects, it is still relevant to refer that many of the military today admit that they were not aware of the ideology of those being called to elaborate the future Constitutional law for the punishment of the political police. Above all, this fact shows how the subject was not being truly controlled by the CR.

In the end, Law 8/75 was successfully accomplished with the involvement of a MP from the MDP/CDE party, Levy Baptista, who would later on explain at the constituent assembly that "the problem did not have to be considered on a juridical point of view. That is why I am not appalled, as other purists are, by the fact that the law admits the principle of retroactivity" (Diário, 30/3/76).

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<sup>24</sup> The history of the PCP and its relationship with the military has not been examined, but it does not appear plausible that those who had established connections to the party were not bound to accept or even to receive instructions on the type of decisions to take. Statements gathered so far are not sufficient for us to reach definite conclusions. Nevertheless, Judas stated that, "Neither Contreiras nor Martins Guerreiro were members of the PCP. In 1974 there must have been five members in the entire navy. However, our loyalty was to the group. The PCP never gave us orders." Zita Seabra, whose memoirs were recently published, claims: "On 11 March, the PCP counted on its direct and organised influence on the prime minister, Vasco Gonçalves, and many members of the armed forces. It had more than 350 offices throughout the country, and more than 1000 employees, professional revolutionaries, controlling almost every trade union. It had powerful and mobilisational ideas, with the most appealing of all its ideas being that of ensuring justice for those who had been exploited for all of their lives, the permanent proletariat." (Seabra 2007: 278). Another detail that does not coincide concerns the military within the CR. Judas says: "Even after 25 April, the PCP never commanded anything. I was the only PCP member in the CR. Vasco Gonçalves was never a member of the PCP", while Seabra claims: "The military was divided. Blanqui Teixeira, the son of a colonel, controlled the most important high ranking officers within the MFA, particularly the naval officers. He also controlled the principal military officials within the CR when, following the 11 March coup, the PCP and the Gonçalves controlled the majority of officials in this organ" (2007: 275). It is not possible, therefore, to provide definite answers on the influence the PCP may have exercised at that time; what can be said is that one CR member was a communist affiliated, that the CE's president was thought to have connections to the party and that the incrimination law was written with the assistance of a Gonçalvesist.



The Law stated that all members of the political police, with the exception of those collaborating before 1945, were considered guilty and sentenced according to their position in the organization<sup>25</sup>. Apparently, there should have been a link between the decision and the pressures exerted to have the law published and the events of 11 March 1975. In fact, one month later, *Expresso* reported the MFA was discussing the creation of a Revolutionary Military Court that would judge those responsible for the events of March and all counter-revolutionary acts, as well as the possibility to include in these courts the trials of the former elements of the political police<sup>26</sup> (*Expresso*, 12/04/75). Simultaneously, Admiral Rosa Coutinho, who had been CE superintendent, gave an interview stating that a special legislation for the prosecution of the former elements of the political police was being considered (*Diário Popular*, 11/04/75).

Articles 1 to 4 of Law 8/75 determined who was responsible and what type of sentences were to be applied. According to their position within the political police's hierarchy, former officials could receive between two and 12 years imprisonment. However, the gradations of sentences, according to extent of accountability, were not entirely based on the organization's internal structure. According to Law 8/75, all brigade chiefs, inspectors, and deputy inspectors would receive the same sentence as other senior officers, while the organization's hierarchy as defined by Decree-law no. 368/72 dated November 30, stated that these ranks were technical and not senior ranks.

Neither did the law take into account, for instance, the length of time the individual had either collaborated with or worked for the political police. This, and other aspects, had to be considered in court through the use of the 23<sup>rd</sup> extenuating circumstance of article 39 of Portugal's penal code, which affords judges a large degree of leeway in considering what justifies a reduction of sentences. However, there was an exception to the sentences outlined above. Article 5 provided for the examination of all individuals that might have acted against the revolutionary process, and who were subject to receive the higher sentence. Once more, this was probably the consequence of the events of 11 March.

Press reports on the "pides" reveal that between 1974 and 1976, a significant number of political police agents escaped from Portugal and from the colonies (Guinea-Bissau, Angola, and Mozambique). South Africa and Rhodesia were some of the countries of destination for those

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<sup>25</sup> 1945 was the year when the political police changed its name to International State and Defence Police. Its predecessor had been created in 1933.

<sup>26</sup> The choice of the better place to hold these trials was not easily determined. The Revolutionary Military Court was created by decree-law 425/75 dated August 12. However, another decree-law 13/75 dated November 12 determined that the former elements of the political police should be tried in a special court defined as Combined Military Court. Finally, Decree-law 15/75 and 16/75 both dated December 15, extinguished both these courts and determined that these trials were to be held in regular Territorial Military Courts (see Table 4).

working at the colonies; Spain was the best option for those working in Portugal. However, the law anticipated this and allowed for the possibility of default judgements *in absentia* in those cases in which the individual failed to appear for trial (Art. 9). Some individuals tried under these conditions, namely in 1978. Of particular significance, and in accordance with the spirit of the law, no statute of limitations was applicable in such cases (Art. 11).

These two articles explain why António Rosa Casaco, a former PIDE inspector who recently died in Portugal, and who in 1982 had been sentenced to eight years in prison, never served a day of his sentence. The fact that no statute of limitations was admitted assured that, during twenty-four years, was unable to return from exile in Spain. In 1996, Portugal demanded Casaco's extradition, which was refused by the Spanish authorities, thereby reopening the debate over this issue. The Supreme Court ruled the process had expired, as the democratic principles determines that legal trial processes may not stay open for a period longer than 15 years. The Constitutional Court later determined that the decision could only be met in 2001, which delayed Casaco's return to Portugal for a few more years, and led him to write in one of his books:

"We must admit the harassment I suffered for all these years, in which all kinds of stratagem were used, even the crudest ones, was of an extreme injustice and cruelty. We may conclude from this that this obnoxious harassment is of political nature." (Casaco, 2003:166).

While some never returned to serve their prison terms, several benefited from sentences that were much lighter than the first four initial articles of Law 8/75 would suggest possible. This was due to an article within this law that, as well as stating sentences cannot be suspended or substituted with a fine, allowed for extraordinary extenuating circumstances could be admitted (Art. 7)<sup>27</sup>. In addition to the fact that the entire period during which an individual was held in preventive detention had to be taken into consideration and deduced from the final sentence (Art. 8), this resulted in some individuals receiving moderate sentences. In fact, a large proportion of those who were convicted served a year and a half in preventive detention, which was, in some cases, more than sentence allowed to charge them in the end, after all extenuating circumstances and pardons had been taken into consideration.

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<sup>27</sup> The extraordinary extenuating circumstances which were modelled on the French legal code, were introduced into Portugal's penal code in 1852. Article 94 defines an extraordinary extenuating circumstance for a serious crime as the possibility that judges have, considering the special value of the extenuating circumstances, to reduce sentences.

### The end of the revolutionary process: a step towards forgiveness

After the events of 25 November 1975, a new CE and a new paradigm gave way to a distinctive path in the process of punishing the political police. The revolutionary process was over and democracy was beginning on the path towards consolidation. The abolishment of the political police and the prosecution of its officials were in need of a reinforcement of legal framing and of a formal structure (see Figure 8).

Figure 8. CE's internal structure, since January 1976<sup>28</sup>



The view that revolutionary legitimacy had gone too far is presented as one of the major factors in determining the need to release former agents on parole and for reducing their sentences. The official that superintended the CE came to the opinion that Law 8/75 was profoundly unjust, therefore it needed changing (relatório Ribeiro de Faria).

After all civilians that were connected to political parties were sent away from the CE, the commission started functioning as a military structure, even with the help of civilians, civil servants, and judges from the ministry of justice. That hierarchy that had been broken inside the armed forces would then be restored.

<sup>28</sup> Manuscript copied at the Centro de Documentação 25 de Abril, Arquivo da Associação 25 de Abril, Secção Documentos SACR, Sub-secção Serviço de Coordenação, Documentação Diversa 1 (1975-82)

### *Reinforcing democratic legitimacy: Parole and the right to appeal*

One of the first measures was to guarantee that the “pides”, already held in preventive detention for approximately 18 months, could be released to await trial. Since Law 8/75 did not allow this to happen, Law 18/75, which also published by the CR on 26 December 1975 provided for the amendment of paragraphs 12 and 13 of Law 8/75. This allowed for appeals to the Supreme Military Court, as determined by article 12 of the military code of justice, and which allowed appellants - even those who were accused of blood crimes under article 13 of the penal code – to qualify for consideration for provisional release. This should be proposed by the CE to the president of the CR.

According to the law’s preamble, it was based on the belief that “a truly democratic judicial order necessarily rests on the consciously determined free will of the majority of citizens” (Decree Law 18/5). The introduction of the law was, therefore, in consensus to the discourse of the military in charge of the process in this period, and the attempt to avoid any new injustices that were believed inevitable in the application of revolutionary measures.

Subsequently, according to a CE’s official report dated 12 February 1976, in the space of two months a total of 640 prisoners were paroled<sup>29</sup>. This all took place a whole month prior to Law 8/75 being debated at the constituent assembly.

Later, on April 1977, the new Military Code of Justice was approved (DL 141/77 dated April 9). In face of the reinforcement of the rule of law, multiple formal and legal issues had to be taken into account. There was for instance the need to define which one was the legal institution responsible for decision on parole, the Council of the Revolution or the judges.

### *The Constituent Assembly: the “useless” role of the (civilian) political elite in punishing the “pides”*

Law 8/75 was discussed in the constituent assembly on 30 March 1976, when it became article 309 of the constitution, alongside the changes introduced by Law 16/75 and Law 18/75. It is obvious that the results could have been different, had the majority in Parliament been given to another party, but the fact that Law 8/75 was not changed, considering several individuals were being consented parole, and by the fact that the CR possessed legislative powers, conclusions point to the idea that the new political elite had no significant role in this legislative process.

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<sup>29</sup> , “Relação do pessoal no âmbito da ex-PIDE/DGS em situação de liberdade provisória”,

In this sense, the parties' formal and direct intervention in the process was little more than an opportunity to position themselves at the electoral arena. The urge to punish past misdeeds was stressed by the PCP as well as by the only extreme-left party at the constituent assembly, the UDP. It is interesting to note how the PS slightly altered its discourse and political position once it obtained its parliamentary majority, as it was already illustrated in previous pages.

Table 5. Result of the elections for the Constituent Assembly and seats won by parties

Parties	Percentage of votes	Seats won
Socialist Party (PS)	38%	116
Popular Democratic Party (PPD/ PSD)	27%	81
Communist Party PCP (MDP/CDE)	17%	35
Centre of Social Democrats (CDS)	8%	16
Popular Democratic Union (UDP)	0,8%	1

Source: [www.cne.pt](http://www.cne.pt)

Of all the parties emerging during the first year of the revolutionary period, 12 stood for elections to the Constituent Assembly in 1975, which were also the elections with the highest turn-out in Portuguese history, with a participation rate of 92 per cent (Table 5).

With respect to matters concerning punishment of former officials of the political police, the result was to a certain extent predictable and followed ideological lines. Both the PPD and CDS avoided any reference to a special law for punishing the PIDE in their proposals. The PS only included two articles that were not related to incrimination: one in which it determined how the PIDE/DGS archives ought to be safeguarded and administered (Art. 129), and the other which determined that former PIDE agents should not benefit from *habeas corpus* (Art. 130). The PCP included their article in the section dealing with fundamental rights and freedoms, exempting former PIDE agents from the protection afforded by the law of retroactivity (Art. 32). The UDP proposed the largest article, which included: the limitation of the political rights, popular revolutionary trials, retroactive laws and the right to punish any future fascist activities.

After the creation of a commission responsible for the Final and Transitional Provisions, the MP's should vote for a proposal that established that Law 8/7 should remain the same and be introduced in the Constitution, together with DL 16/75 - that established that the trials should be held in regular military courts and not in extraordinary ones - and 18/75 – that allowed for the regular legislator to issue new legislation on the subject, besides from admitting parole and the right to appeal. Since there was a majority PS, the result reflected the parties will, but voting was not consensual (Table 6).

Table 6. The “Commission for Final and Transitional Provisions” and the proposal of Constitutional article

Party	Seats in parliament	Members	Voting
Socialists (PS)	116 (38%)	4	In favour of the three articles.
Social-Democrats (PPD)	81 (27%)	3	Against #1 believing it ought to be amended
Communists (PCP/MDP)	35 (17%)	2	Against #2 and #3 refused the right of future legislative amendments
Christian-Democrats (CDS)	16 (8%)	1	Did not participate
Extreme-Left (UDP)	1 (0,8%)	1	In favour of the majority of the articles, leaving further discussions for the plenary session

Source: [deabtes.parlamento.pt](http://deabtes.parlamento.pt)

After the internal voting among the MP’s of this particular commission, the issue was discussed at the plenary session between all members in parliament. Table 7 shows the result of the content analysis of the assembly debate during which the matters of transitional justice and criminalization were addressed. In these sessions, the Final and Transitional Provisions Commission presented its proposal on the article that would form part of the constitution. The results are presented by party and according to the arguments in favour of a reinforcement of democratic legitimacy *vis-à-vis* revolutionary legitimacy.

On the upper left-hand side of the table, are the words representing the conception of revolutionary legitimacy as instrumental and transitional, aiming for the institutionalization of a democratic system: *democracy*, *democratization*, *rule of law* or *rights*. On the lower hand-left side, revolutionary legitimacy appears as a means to justify the end, which was to prolong the revolution.

As was explained in the empirical question, it is only to be expected that the closer the ideology is to the extreme-left party, the more that party will favour of punitive measures, and *vice-versa*. The conclusions show that the subject is easily divisible in terms of left-right cleavages, although the first aspect that emerges is that parties either do not participate in the discussion (CDS and PPD), or they are in favour of a project of punishment and retribution, the only difference being the type of measures to be adopted.

As the numbers indicate, the PS supported discussions on the basis of defending democracy and concerns with the democratization process (PS, +7) and the principle of the rule of law (PS, +8). There was in accordance with the party’s external image and with its electoral strategy to clearly distinguish itself from the PCP and the parties of the extreme-left.

It is easily to observe that the extreme-left party held a position that was opposed to the use of limited punitive measures, and that it was consistent in its support for and emphasis on the need for greater punishment (UDP, -3) through its rejection of a process that was based on the democratic principle of the rule of law. The parties that tended to support a limited process and the need to reinforce the rule of law were the MDP and the PS (PS and MDP, +8), and not those that were closest to the right. It ought to be possible to explain this by examining the ideological origins of these two parties, despite the fact that one might expect the MDP to be closer to the PCP. For its part, the PCP argued against what they called humanistic principles, and rejected the idea that former PIDE officials should be subject to normal legal proceedings rather than to extraordinary rules.

Apart from the difference between a process that was based on either democratic or revolutionary legitimacy, the three left-wing parties all argued for a punitive process, and clearly identified former political police officials as those who were largely responsible for the crimes and repression of the authoritarian regime (UDP +7, PCP +15, MDP +10). In clear agreement with that which has been observed through our analysis of the press, the decision of the right-wing parties (PPD and CDS) to avoid taking a position on this matter is striking. We should be able to explain this by reference to the nature of Portugal's transition and by the polarization of the political landscape: no-one was in favour of ideals or positions that could be mistaken for support of the ousted regime.

Table 7. Content Analysis of the discussion at the Constituent Assembly over future article 309, during the plenary session on March 30, 1976

Plenary debate a)	UDP	PCP b)	MDP/CDE b)	PS b)	PPD	CDS
	Extreme left	Communists	Communist Front	Moderate left	Centre-right	right
Number of words spoken	891	865/ 1722/ 626	1775 + 688	610/ 727	139	0
Democracy / Democratization	-1 c)	0/ 0/ 2	1	7/0	-	-
Basic rights/ "humanistic principles"	-	0/ -4/ -1	2	2/1	-	-
Revolutionary but limited laws/ legitimacy/ norms	-3	0/ -1/ 0	-1	5/0	-	-
Rule of Law/ Justice/ jurisdiction	-3	0/ 3/ 0	8	0/8	4	-
Accountable/ Accountability	2	3/ 4/ 1	4	-	1	-

Prosecution/ criminalization/ conviction	1	13/ 2/ 1	13	1/1	1	-
Revolutionary and retroactive, severely punitive laws/ legitimacy/ norms	-	2/ 3/ 0	,3	-1/0		-
Criminals/ torturers/ assassins/ victims	11	0/ 14/ 4	-	-		-
Crime/ torture/ repression/ assassination	7	0/ 15/ 9	10	0/1	-	-

Source: debates.parlamento.pt, Diário da Assembleia Constituinte.

Notes: a) The analysis refers to a concrete part of the plenary debate of March 30 1975, when the issue was discussed. b) In the case of PS there were two relatively distinct interventions from two different members of parliament, thus the two were presented separately; the same occurred with the PCP; in the case of MDP/CDE, given the similarities of the interventions and the reduced substance of the second one, it did not appear relevant to separate the two. c) negative numbers correspondent to what was interpreted as a negative conception of the words.

### *Decree-Law 349/76: Forgiveness and reconciliation and the first sentences*

Soon after the new democratic Constitution was approved, the extenuating circumstances that were to regulate the conditions by which the individuals could benefit from a reduction of their sentence were defined by the CR through Decree Law 349/76 of 13 May. A total of seven circumstances were considered worthy of a reduction in sentence in addition to the 23 circumstances that were already anticipated in article 39 of Portugal's penal code (see Tables 6 and 7).<sup>30</sup>

This is the moment at which the repercussions of the relationship that had existed between the military and the political police had its greatest and clearest effect. During an interview, the officer responsible for this law admitted the reason “valuable acts” were considered extenuating circumstances was the complexity of the co-operation that had existed between the military and the political police during the colonial war.

Apart from recognising the need to establish democratic rather than revolutionary legitimacy in order to prevent new injustices and promote democratic consolidation, there was also the belief that the issue of dealing with the past was a tool of political struggle.

<sup>30</sup> Law 1/77 was frequently considered unconstitutional in court by the defence, in as much as it corrected the previous Decree-Law by reinforcing the sentences to be applied. As trials occurred in several military courts—five in Lisbon, two in Oporto and one in Coimbra—court decisions on this and other matters differed from one place to another. In many cases, sentences were applied according to Decree-Law 349/76, which was based on the principle that when more than one law regulates a crime, the court has the right to choose which law provides for the lighter sentence.



In September 1976, the beginning of the trials was imminent and the superintendent of the CE became aware of the need to take the necessary precautions. In very few time trials connected to the “pides”, the particular cases of Humberto Delgado and Dias Coelho, people involved in the events of March 11 and November 25, individuals involved in bombing activities were all going to start, which attracted the attention of civil society and the media. After having already created two additional military courts in Lisbon, Colonel Sousa e Castro was also concerned about the need for additional justice, to improve the facilities where the trials would take place, to gather the necessary financial conditions.

Apart from recognising the need to establish democratic rather than revolutionary legitimacy in order to prevent new injustices and promote democratic consolidation, there was also the belief that the issue of dealing with the past was a tool of political struggle. The SACR had a department that was responsible for analysing of the press, in which all news that concerned matters that were under the CR's jurisdiction would be collated and analysed each week.

The public debate re-asserted itself powerfully when some of the more renowned former agents obtained provisional release. This was true in the case of Abílio Pires in July 1976, and again, when the trials began that September. AEPPA was once more one of the most vocal groups in the public debate—particularly during the trial of António Domingues, who was being prosecuted not only for his position within the political police, but also for the death of Dias Coelho, who had become a symbol for the opposition. Leaflets, which stated “this man is a murderer”, were distributed, journalists took part in an anti-fascist protest campaign, left-wing newspapers were full of chronicles of well-known public figures such as Abranches Ferrão, Marcelo Rebelo de Sousa and Francisco Sousa Tavares. Former political prisoners appeared on national television to discuss their experiences at the hand of the regime and its political police. In the meantime, many PIDE informers were being released.

The military's interpretation of these demonstrations and protests, based on news items published during the first week of December of 1976, were analysed as follows:

The political and military climate is, frankly, marked by the closeness of the elections; intentionally or occasionally, all of the important facts that have come to light have immediately been transformed into “fragments” of party political polemics, and used as ammunition to gain votes this coming Sunday... While the press closest to the forces to the left of the PS are concentrating on denouncing that which they consider to be legal weaknesses in the dismantling of the previous regime's political police, those of the right are giving the maximum publicity possible to the *Sevícias* report, making explicit comparisons to attenuate the crimes of the former (SAI, SACR, 7 December 1976).

### *The anti-fascist segment of the Parliament attempts to reverse course*

The intensification of the public debate occurred at the same time as a section of parliamentary PS engaged in a political strategy that represented a step back from the tendency towards reconciliation and moderation. While the UDP maintained its previous strategy, the PS succeeded in passing new legislation that amended the CR approved Decree Law 349/76.

Following the mobilization of civil society, some PS deputies reacted against the slow pace at which the trials were proceeding and were unhappy that many former high ranking PIDE officials were being let out of prison. After the release of Abílio Pires in July, these deputies requested that a report investigating the activity of the CE be prepared (*Diário* 30/7/76). At that same time, the UDP asked the prime minister if his new government intended to adopt an anti-fascist and anti-pide policy.

During October the two PS deputies Raul Rego and Carlos Candal began their attempt to alter the measures, which in their opinion were excessively lenient, being taken by the CR (*Diário* 19/10/76, 30/11/76). <sup>31</sup> Law 1/77 introduced alterations to Decree Law 349/76 by restoring much of the punitive measures that were contained in Law 8/75. Two of the extenuating circumstances contained in Decree Law 349/76 were abolished from the first document: that which allowed “valuable acts” undertaken whilst serving with the PIDE/DGS as mitigation; and that which stated that assessment of material and moral damages was only relevant in trials involving informers and collaborators, and not officials. Another two extenuating circumstances were altered slightly so that they demanded clear evidence the accused did not participate in certain activities, but also called for their moral rejection of them.

Tables 8 and 9 show the main changes in respect of extenuating circumstances and court penalties that resulted from this legislation. It is interesting to note how the changes brought forward by the deputies were, in some cases, very difficult to obtain since they were, in all probability, the result of intense emotions rather than of reason and ideas of justice. Since it was the anti-fascist section parliament that exerted pressure for the publication of Law 1/77, it is probable that it was motivated by personal experiences and a desire for punishment and revenge. The deputies were unsatisfied with the fact there had been no denunciations of torture, and demanded proof that torture had not been exercised; they did not accept that an individual could request exoneration, claiming the request was made as a consequence of disagreements over

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<sup>31</sup> These two deputies asked Colonel Sousa e Castro, who headed the CE at the time, to take part with them in a live television debate in which he could be challenged on the measures his organisation were adopting.

policy and actions; they did not believe it possible that the absence of material and moral damages was sufficient to warrant the mitigation of extenuating circumstances.

Table 8. Comparison between the Extenuating Circumstances issued by the Council of the Revolution (CR) and the changes in the document issued by the Parliament

Decree-Law 349/76 (CR), May 1976	Law 1/77 (Parliament), January 1977
1. Absence of complaints over the use of torture or illegitimate force. No order or permission given by the individual for the use of torture or illegitimate force.	1. Proof of the individual's denial or actions that prevented acts of torture or illegitimate force.
2. Exoneration at the individual's own request in the absence of evidence they gave instructions authorising the use of torture or illegitimate force or if they committed or permitted the commitment of such abuse.	2. Exoneration at the individual's own request in the absence of evidence they gave instructions authorising the use of torture or illegitimate force or if they committed or permitted the commitment of such abuse.
3. No material or moral damages having resulted from the individual's activity as informer or collaborator.	-
4. At least ten years have passed since the accused last worked or collaborated with the political police (since 25 April 1974).).	3. At least ten years have passed since the accused last worked or collaborated with the political police (since 25 April 1974).
5. The individual is over 70 years old at the time of trial	4. The individual is over 70 years old at the time of trial
6. Significant and valuable acts undertaken during collaboration or work with PIDE/DGS, providing they are recognized by the court.	-
7. Collaboration with the Armed Forces at the colonies after April 25, 1974.	5. Collaboration with the Armed Forces at the colonies after April 25, 1974.

Table 9. Laws and Decree-law issued: Court Sentences

	Law 8/75 (CR)	Decree-Law 349/76 (CR)			Law 1/77 (Parliament)
		Extraordinary Extenuating circumstances	Specific extenuating circumstances (EC) (article 6)		
Senior officers and technical staff: head of brigade and above	8-12 years imprisonment.	2-8 years imprisonment.	Two days to two years imprisonment in cases in which	-	4-8 years imprisonment.
Agents below the rank of head of brigade	4-8 years imprisonment.	Minimum one year imprisonment or suspension of all political rights for 1-12 years.	EC 1, 2, 3 or 4 are proved.	Suspension of all political rights where EC 5, 6 or 7 are proved	2-8 years imprisonment.
Informants	2-12 years imprisonment.				Minimum one year imprisonment.

The problem was that in several cases the court ruled there could not be two documents regulating the same matters, and that since Decree Law 349/76 had been approved by the CR, parliament was not competent to over-rule it. What is most striking, however, is that not all military courts came to the same decision, and judges, who were often accused of having been too close to the authoritarian regime, passed down different sentences.

Table 9 shows how during the revolutionary period the CR introduced a law to punish the political police quite harshly and that the penalties were reduced quite substantially context shifted to democratic consolidation. Following this, some PS deputies, the continued presence of the military in power, sought to reintroduce an element of punishment to the sentences once the democratic system had begun to function.

If the transition was to respond to civil society's demands for a process that was based on political justice, Portugal's transitional justice process would probably have been harsher, insofar as many extreme-left groups and parties demanded popular trials and, in some cases, summary justice. If, however, the response had been characterized by the civilian judicial system, Law 8/75 would possibly have shown consideration for the accused individual's guilt and acceptance of responsibility for their involvement with the political police.

The right-wing parties became more active following the transition period, during which time their strategy was one of silence. One example that demonstrates just how much the subject is dependent upon electoral manoeuvres is the fact that in June 1977 the first coalition between PPD and CDS attempted to restore civic rights to elements of the former regime: particularly members of the regime's political police. An extreme-left newspaper labeled this as "an attempt to rehabilitate those who were responsible for fascism" (*Diário de Lisboa*, 29/6/77). Socialists, Communists and UDP voted against this measure.

To invoke the prestige of democratic institutions to justify that the doors be opened to so many confirmed murderers and criminals is to pilfer what had been the actual judicial authority inherited from the fascist regime from the hands of the so-called CE, that has slowed the judgment and the condemnation of "pides", according to the prescription of Law 8/75. For an anti-fascist this "democracy" has strange resonances that allow those who have committed such monstrous crimes their freedom, however conditional (AEPPA, *Diário de Lisboa*, 29/6/77)

The legislation referred above as the product of two years of civil society and political parties' demands, elite's decisions and procedures, and particularly the work of a few officials at the CE, did result in the trial of a considerable proportion of the "pides". However, this extended beyond the period of democratic transition, especially in terms of the appeals to the Supreme Military Court, which only began in 1980, what overlaps the period of analysis of this research.

Even so, it is interesting to draw some tendencies from a few numbers, in order to have an idea on what were the consequences of these measures, how was accountability met and if in the end, the degree of punishment that was attempted could be accomplished or not. Table 10 shows the overall category of the individuals that were sent to court in the 4<sup>th</sup> and 5<sup>th</sup> Lisbon Military Courts – two of the five military courts operating in Lisbon – between the years of 1976 and 1979. What it indicates is that the number and category of individuals that were tried and received jail and restriction of political rights sentences, tended to be more or less proportional to the number and category of the individuals that constituted the political police (excluding informants). One of the limitation of these numbers is that it does not indicate how many of the individuals actually served prison term, due to the clause in the law that allowed trials to take place in the absence of the accused, as was Rosa Casaco's case, in the 2<sup>nd</sup> Lisbon Military Court.

Table 10. Individuals being tried at the 4<sup>th</sup> and 5<sup>th</sup> Lisbon Military Court (1976-79)

Category	N	%
AM	24	3%
AA	32	4%
A1	185	23%
A2	412	51%
CB	49	6%
DS	2	0,30%
SI	11	1,40%
I	18	2,20%
IA	5	0,60%
D	2	0,30%
INF	72	9%
SUM	810	100%

<sup>32</sup> Data presented in this section (Tables 10-13) is not representative. These numbers are only used to illustrate what appear to be strong tendencies in terms of military decisions and features of the process, but they should not be seen as statistically significant.

Source: AHM, Processos individuais, 4º e 5º TMT de Lisboa

Note: Categories go from lower to higher in the hierarchy, the higher being (D) President.  
The last category corresponds to the (INF) informants

A second interesting information is that many of the individuals that went to trial had collaborated with the armed forces at the colonial war – which is consistent with the numbers indicated in chapter 2 (Part II), but there was also an interesting number of individuals having cooperated at the colonial territories after the coup (Table 11). What is not known is if they were sent to work at the PIM with the perspective of escaping trial or hoping to see their sentenced reduced, since it was considered an extenuating circumstance.

Table 11. Collaboration with the Armed Forces at the Colonies, before and after the coup

	YES	NO
Collaboration with the Armed Forces before the coup	20	26
Collaboration with the Armed Forces after	9	37

Source: AHM, Individual processes, 1976, 5º TMT de Lisboa, 47 cases (1 missing value)

By looking at Table 12, accountability could be said to have been reduced and justice not met due to the overlap of the time duration between the first arrest and the court sentence. In the end, they spent around eighteen months in preventive detention, and the same sentence was given (on average) by the judge in court. More than that, in some cases they could benefit from the pardons referred in the two DL presented in Table 3, which reduced the sentences to six months less.

Table 12. Preventive detention VERSUS Military Court sentences

	Preventive detention	Military Court Sentences
Average time	18,5 months	18,4 months
Minimum time	2,7 months	12 months
Maximum time	23,34 months	36 months

Source: AHM, Individual processes, 1976, 5º TMT de Lisboa, 47 cases (1 missing value)

Note: Preventive detention occurred in 45 cases, corresponding to 36 cases of single periods of time and 9 cases of double period of time, i.e., the individuals were released and put into preventive detention for a second time. Only one individual had not been submitted to preventive detention. 1 missing value.

Nevertheless, even without the use of the two pardons referred above, sentences almost always involved the use of extenuating circumstances, through art. 39 of the penal code, in which almost any kind of extenuating circumstance could be considered (#23). It is interesting to observe the type of extenuating circumstances considered in trial in order to apply that legislation (see Table 13). While the defence attorneys would ask for the consideration of facts as the absence of any kind of activity aiming at disturbing the “revolutionary period”, the absence of aggravations, or even the lack of a criminal intension, the court frequently preferred to consider circumstances such as the fact that the individual had not worked on the investigation section (or having worked for a period of time considered short enough not to be taking into account), the lower position in the hierarchy – which was the way found to overcome the absence of a means of weighting the individual responsibility – and the time period of collaboration (in some cases they were sending to trial individuals that had worked for the political police little more than one month). A fourth type of extenuating circumstance frequently used was the absence or reduced period of time of work performed in Continental Portugal, which reinforces the idea that the crimes at the colonies were not only not tried, as they were deliberately taken out of the equation.

Table 13. Extenuating circumstances requested and applied in court, included in art 39 (23) of the penal code

Alegações	Defesa*	Tribunal**
Não ter cometido actividades visando a perturbação do PREC	33 (91,6%)	0
Ausência de circunstâncias agravantes	31 (86,1%)	0
Ausência de intenção criminosa	28 (77,7%)	0
Lugar inferior na hierarquia	26 (72,2%)	11 (27,5%)
Ausência de serviço prestado em investigação política (1)	25 (69,4%)	28 (70%)
Ausência de serviço prestado na metropole (2)	5 (13,8%)	8 (20%)
Reduzido tempo na PIDE naquela categoria	3 (8,3%)	9 (22,5%)
Total de processos que incluíram estas alegações	36 (100%)	40 (100%)
Média de número de alegações usadas	3,6	2

Source: AHM, Individual processes, 1976, 5º TMT de Lisboa, 47 cases

Notes: \* 1 missing value. \*\* 2 missing values. (1) O tribunal considera de igual forma a ausência de serviço prestado e o reduzido tempo na prestação deste serviço. (2) O tribunal considera de igual forma a ausência de prestação de serviço na metropole ou o reduzido tempo nesse serviço.

For the time being, existing data, concerning military court sentences, is still dubious, therefore conclusions are necessarily moderate (see Table 14). Questions remain concerning the

inclusion in the numbers of variables as pardons, the counting of preventive detention, the Supreme Military Court sentences and the Constitutional Commission deliberations which were frequently called to give a new verdict based on arguments such as the unconstitutionality of Law 8/75 or of Law 1/77 or the misuse of extenuating circumstances.

Even so, the first aspect that deserves to be noticed is that, when the Council of the Revolution was dissolved, as democratic transition gave way to consolidation, and according to the official numbers of the CE, up to 2667 officers and informants had been sent to trial, which regarding Pimentel's (2006) numbers (3472 officers and collaborators in 1972) represent more or less 75% of the total. Even without knowing what percentage of these cases were default judgments, and being aware that several individuals with considerable degree of responsibility never served their prison terms, the numbers still point to a high percentage of efficiency and commitment to drive the process all the way to the end.

Conclusions become different when analyzing the extent of the sentences being applied. The large majority to be tried was the officials on the lower side of the hierarchy, but they mainly received sentences up to 1 month (44%) or 6 months (30%). Of the total, only 41 were high ranked officials, but 63,4% were convicted to less than six months of jail; 68,2% of the total received sentenced between lower than 1 month or up to 6. Only 2% (corresponding to 1 individual) were convicted to more than 2 years. The majority of the individuals to be absolved were what they defined as the "collaborators", probably due to the lack of evidence.

After forty-eight years of authoritarian regime, based on a repressive institution that repressed the opposition but was not comparable to that of military dictatorships or totalitarian regimes, after a transition by rupture, before a demanding civil society that confront the past through others means as purges and different means of contentious collective action, these numbers reveal a very moderate punishment process, deeply constrained by the nature of the decision-makers.



Table 14. Official statistics of Military Court Sentences (October 1976- June 1982)

		Absolvidos		Suspensão dos Direitos Políticos		Até 1 mês		1 a 6 meses		6 meses a 1 ano		1 a 2 anos		Mais de 2 anos	
Pessoal dirigente	41	-	-	3	7.3%	11	26.8%	15	36.6%	3	7.3%	8	19.5%	1	2.40%
Pessoal técnico (até Chefe de Brigada)	272	-	-	13	4.8%	64	23.5%	117	43.2%	34	12.2%	29	10.7%	15	5.50%
Pessoal técnico (Agentes)	2010	10	0.50%	64	3.2%	902	44.8%	610	30.3%	100	5%	315	15.3%	9	0.40%
Colaboradores	344	134	38.90%	23	6.7%	18	57%	83	24.1%	24	6.9%	44	12.8%	18	5.20%
	2667	144	5.40%	103	3.8%	995	37.30%	825	30.90%	161	6.00%	396	14.80%	43	1.60%

Source: Private archive of Rodrigo Sousa e Castro

Note: Data refers to official statistics elaborated by the CE in 1982. However, it was not possible to know if the court sentences include the time period of preventive detention and pardons in DL 729/75 and 825/76. Moreover, it does not indicate whether the time had already been served by preventive detention, which often happened.



PART III.  
Conclusion

## Conclusion

### What transitional justice in Portugal was not about

Transitional justice in Portugal was not about the adoption of *truth-revelation proceedings*. Truth commissions are an example of this kind of measures and that can be defined as “not quite a traditional trial, but a quasi-official investigation” (Teitel, 2000: 81) or, more precisely, as “a temporary body officially authorized by the state to investigate a pattern of past human rights violations and issue a report”, (Sikkink and Walling, 2007: 429). This latter inspired by the work of Hayner (2003), which demonstrates that from 1974 to 2000 there have been 21 cases involving truth-commissions, although some of which were not defined or interpreted as such at the time. She claims these commissions normally serve the purposes as “reconciliation”, “healing”, “ending impunity”, and “preventing repetition”; however, while she provides a list of each country’s process, she fails to correlate the processes with the respective types of transition to democracy (2003: 16).

The goal and scope of these Commissions explain their own *raison-d’être*, and the reason why some transitional justice processes “need” them while others do not.

“When freedom returned, in a striking response, in the undoing associated with transition, the disappeared victims became the symbols of the dictatorship. The disappeared were the helpless victim; disappeared, too, was the body politic that had seemingly vanished in the vise of military repression; and disappeared was the state that had ceased to be” (Teitel, 2000: 78)

In Portugal, there were neither “widespread abuses affecting thousands of persons” (Hayner, 2003: 17) nor cases of “disappearances”. Therefore – and returning to Aguilar and Hite’s (2004) argument discussed above – this symbolic dimension was absent from both the official and non-official options of “dealing with the repressive past”.

“The Portuguese regime, if one restricts oneself to non-colonial issues, has never attained the scale of political murder and mass imprisonments of its neighbour. However, the relative complexity and sophistication of its repressive apparatus, the degree to which it has been called upon over several decades to deal with multiple types of protest and rebellion (...) and its differentiated system of political justice indicate that such ‘mildness’ represents neither organizational deficiency nor low incidence of protest” (Martins, 1968: 328-29).

Nevertheless, the Portuguese regime relied heavily on informers: people who denounced others to the political police, whether for monetary gain or not (see Part I.2).

In that sense, the most similar aspect to the work of truth commissions was developed by the initiative of groups formed by ex-political prisoners. There was an organization that had been created in 1969 – during the so called “Primavera Marcelista”, the period in which liberalization of the regime was expected – and that could legally exist thanks to article 199 of the Civil Code, which allowed for the creation of any commission of social assistance and welfare. It was called “Comissão Nacional de Socorro aos Presos Políticos” (CNSPP) and its goal was to publicly expose the type of methods and violence exercised by the political police, as well as to call for attention on the political prisoners and the need to restore their freedom. At the beginning of the transition, they were appointed by the military to report on the history of the political and social repression during the dictatorial regime, but it cannot be said that this has contributed to the memory and truth about wrongdoings. Moreover, this commission was dissolved in September 1974.

There was also the “Comissão do Livro Negro sobre o Regime Fascista” which had a similar aim, having published several collections as *Presos Políticos no Regime Fascista* (1981, 82, 84, 85, 87, 88), *Legislação repressiva e antidemocrática do regime fascista* (1985), *Repressão política e social no regime fascista* (1986). Another group, associated with the extreme-left party UDP (AEPPA), gave there contribution in *Elementos para a história da PIDE* (1976). In many cases, these were highly partial and biased contributions for the history of the Portuguese dictatorship and reflected the extremely ideological and partisan political struggle that the country went through.

Transitional justice in Portugal was not about reparations either. Reparation implies some sort of, usually financial, compensation; however, the interesting feature is that now such policies tend to “give much greater weight to psychic harms and “trauma” than was the case in the period up to and immediately following World War II” (Torpey, 2003: 4). Although the Portuguese authoritarian regime lasted for almost half a century, it can be said that – excluding the case of the war at the African colonies – harsher measures such as execution, “disappearance” and genocide were not features of the regime, and nor did they play a part in the political police’s operational strategy, although some deaths did indeed take place.

However, it is relevant to refer an aspect concerning a peculiar type of “reparations” which is rarely referred in the literature, and which concerns the families of those being imprisoned and tried, rather than the victims of dictatorship. The wives, children and parents of the functionaries of the political police were compensated for the fact, although no formal document accounted for these measures, only the initiative of military as Otelo Saraiva de Carvalho – as the head of the COPCON and the Military Region of Lisbon – or Costa Neves

determined the type, extent and beneficiaries of such support that could be psychological or material. This type of support is not a particular feature of the Portuguese case, but it is worth noticing that the famous “Relatório das Sevícias”, published in 1975, stated that no social support was being given in one of the prisons in which they were being kept.

“O Comandante do Forte [Militar de Alcoentre], que assumiu funções imediatamente após a fuga de 29/6/74, e nelas se manteve até 21/11/75, nunca quis estabelecer contactos directos com os presos e só fez deslocações pontuais aos pavilhões celulares, especialmente para inspecionar a segurança” (Relatório das Sevícias, 1975: 104).

If this factor were to be further developed here, it could contribute to answer the question of whether or not there were new injustices having been committed throughout the punitive process. The way through which these issues are handled relates to the more or less implementation of the principle of the rule of law.

No amnesties were granted to those institutionally responsible for wrongdoings committed during the dictatorial regime in Portugal. However, an amnesty was granted for all political crimes having been committed after 25 April 1974, which nonetheless excluded all acts, even if only attempted or frustrated involving the events of March 11, 1975 and November 25, 1975, and those involving the use of bombs and explosives (DL 758/76 dated October 22, 1976). If further developed, this fact could raise the question of whether the way the military dealt with the events of March and November can in part explain the degree of punishment and the court sentences for the functionaries of the political police.

It is also interesting to refer that in December 1976, a project of a decree-law was elaborated and sent to Colonel Sousa e Castro, by then superintendent of the CE. The project, to be issued by the Parliament, stated that an amnesty should be applied to article 1 and 2 of law 8/75 “to all individuals to whom the law refers to, except for those who, during the exercise of their functions, have acted or omitted any act representing an abusive use of authority, torture, or illegitimate use of force against prisoners”<sup>33</sup>. This amnesty could be applied by the president of the CE in cases where the file had not yet been sent to trial, and would not include the process of purges (Projecto de decreto, 7/12/76). It was apparently based on the conviction that law 8/75 had been issued in a period of “totalitarian” excesses and that it was “contrary to the will of the people”, and contrary to the democratic values and principles expressed in the Constitution, restricting the basic rights and freedoms of those being accused.

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<sup>33</sup> “a todos os indivíduos que nelas se contemplam, excepto para aqueles que durante o exercício das suas funções tenham praticado qualquer acto ou omissão constitutivos de abuso de autoridade, tortura ou de rigor ilegítimo contra detidos ou presos” (*in* Personal archive Rodrigo Sousa e Castro).

“A campanha contra os chamados “pides”, na ânsia incontida do seu julgamento por parte de certos portugueses, que desse modo pretendem levar o anterior regime à fogueira, não passa de mero jogo político, que muito interessa às cúpulas dos partidos e à Imprensa, pelos lucros que a todos advêm e que com avidez procuram: para aquelas, o fortalecimento do Poder; para esta os que resultam da venda dos jornais.”

Curiously, according to the newspaper *Página Um* (a right-wing newspaper), the Socialist Party leader Mário Soares, later defended an amnesty as the best solution. In a 1977 interview with George Menant in Paris, Soares is alleged to have said “justice does what it wants... I do not believe in the efficacy of the courts in political matters. It is for this reason I support amnesty” (*Página Um*, 28/4/77)<sup>34</sup>. However, no such amnesty came about and the issue was never discussed at any point during the hot period of the country’s transition to democracy.

Finally, the Portuguese transitional justice process did not involve international criminal law, actors or trials, as in the cases of post-II WW or the more recent cases of Rwanda and former Yugoslavia, both under the auspices of the United Nations. In the words of Jon Elster, it was a “double endogenous” transitional justice. Portugal’s authoritarian regime was not maintained by external political power, nor was its overthrow assisted by an external power or international force. Moreover, the domestic nature of the Portuguese case also relates to the type of repression mentioned earlier, in the sense as international criminal law deals what is usually considered to be “crimes against humanity” and genocide. Although it is known that the situation in Portugal was being observed by the international community, and that in some cases foreign support was important (such as the support given to the Socialist Party), it can be said that Portugal was largely left alone confronting its past.

It is not possible to have a clear idea of what the social representation of this phenomenon in Portugal is, or how it is conceived in common sense; however, it can probably be said that the most pervasive notion is that which considers little was done to punish political police officers and collaborators, and that the few measures that were taken were little more than puppet shows.

Under the pretext of fighting the ‘excesses’ committed in the name of past repression, invoking the urgency of ‘reconciliation’ and for the re-establishment of the ‘national concordance’, the post-Novembrist Council of the Revolution firstly, and after the successive constitutional governments of the 1970s and 1980s froze, did an about face and they

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<sup>34</sup> “A justiça faz o que quer (...) Não creio na eficácia dos tribunais em matéria de política. É por isso que sou partidário da amnistia”

'reclassified' much of the anti-fascist purge processes without any criteria other than that of mass reintegration: the pardoning of all without justice for any. Moreover, they turned the judgment of political police operatives—those who were accused of continued use over dozens of years of a long list of crimes, including torture, murder and all kinds of violations under the protection of the 'criminal association' that was the PIDE/DGS—an insulting farce of political pardoning that had its complacent judge in the military tribunal (Rosas, 2006: 19).

The aim of this research was to provide a more concrete notion of what was actually demanded, discussed, constrained and accomplished to make the officials and collaborators of the political police accountable during the period of regime change.

### Checks and balances of the analysis of transitional justice in Portugal: extinguishing and punishing the political police

Before and during the trials, the "pides" were at the centre of a public debate that often targeted a MFA and CR official responsible for the laws and decree-laws that allowed the criminalization and prosecution of the political police. Members of the armed forces led the official commission that was created specifically to abolish the political police and prepare for the trial of its operatives. The prosecutions made the front pages of all widely circulated (extreme) left-wing newspapers, including *Diário Popular* and *O Século*. The armed forces' activities and the polemics of the political parties were discussed frequently within parliament both during and after the new constitution was approved. The military published Law 8/75, which, along with two other decrees, was incorporated as article 309 of the country's constitution. Both within and without parliament, the political parties continued to make accusations and counter-accusations concerning misuse of the former political police's archives. Demonstrations by civic groups followed such events as the riot of imprisoned PIDE operatives in August 1974, the escape of PIDE prisoners in June 1975, in February 1976 when a number of PIDE prisoners were granted provisional release, and during the trials from October 1976 on.



Table 15. Predictions and conclusions concerning the three types of actors involved in punishing the political police

Military-political elites	Civilian-political elites	Civil Society
1) NO Consensual position	4) NO retributive versus restorative according to left versus right, but almost a monopoly of the left	6) NO predominance of accountability, due to the combination of 5) and 7)
2) NO Political party pressures, but direct involvement in some cases	5) YES Electoral tool	7) YES and NO demonstrations and demands autonomous from political parties
3) YES Repercussion of former bindings	-	-

Bearing in mind that the initial research question is concerned with the motivations that underlay decisions to criminalize and prosecute, not all predictions have been met. A consensual position was not expected, and so it proved in face of macro-political influences and the political setting. Party political pressures were expected, particularly via individuals holding ministerial office; however this was also not the case, possibly because the parties with most interest in influencing the process were immediately able to get directly involved by working voluntarily with the CE. The existence of repercussions from past links was expected and so they were found. A consequence of participation in the colonial wars, the presence of which has been demonstrated in previous studies showing the interactions between the armed forces and the political police, these repercussions were usually present during the most determining decision-making phase.

With respect to the civilian-political elite, we expected the left-wing parties would support retributive measures, while right-wing parties would support restorative ones. This did not prove to be true, largely because no party was willing to support restorative measures. The strategy adopted by the parties of the right, at least during the period of democratic transition, was to remain silent and to take no public position. We expected the matter would be used as an electoral tool, and so it proved, being used as part of the ideologically polarized political struggle by homogeneous groupings representing public demands.

In relation to civil society, we expected accountability to be the main reason for social demands to adopt a punitive process. There are two main reasons why this was not the case: there were frequent demands for a revolutionary process that is not consistent with the rule of law (which is the basis of accountability); and, for reasons that are related to the repercussions from former links (such as during the colonial wars) and the use of the subject as an electoral tool. We also expected there to be a profound relationship between groups, organizations and political parties, which does not appear to be true during the period immediately following the coup.

During this time, society's immediate reactions and demands were inconsistent with any conscientious party strategy: the immediate response was to form small groups and associations, after which political parties began to organise.

However, it is not accurate to claim that just because political police operatives were criminalized and tried in military courts, the Portuguese case represents an example of a type of "prosecute and punish" process. Motivations and the decisions that were taken can only reveal a degree of what may be considered to be gestures of forgiveness and reconciliation. Thus, one of this study's main conclusions is that the dichotomized model for categorizing types of transitional justice does not apparently work in practice. In the case of Portugal, it is possible to conclude there was a punitive process, which included features of forgiveness and reconciliation.

Taking the example of the political police inspector Óscar Cardoso, who was responsible for the creation of the native group known as *Flechas* during the colonial wars (a group that was created by the political police, but which was responsible to the military), it is possible to understand this argument. Cardoso was actually arrested and tried following the revolution. He was sent to prison, where he remained until May 1976; but his trial and sentence were only for acts he committed away from the war. After serving his sentence, Cardoso was invited to Rhodesia to train members of RENAMO, following which he was recruited as by the South African army's intelligence service. In 1992 the Portuguese government granted him life pension for his "distinguished service to the country" (Mateus 2004: 75). However, this does not mean Portugal has achieved reconciliation with former wrongdoers.

One of the explanations for this might have something to do with the recurring argument about accessibility to information, particularly visual material, through the mass media. The classic and most common argument for this thesis is the example of the first Gulf War, and the significance of widespread access to violent images that did much to increase civil society's opposition to the conflict. Aryeh Neier uses this argument in his analysis of the principles of political justice (Olick and Coughlin 2003: 45). Perhaps the fact that the most severe acts committed by the Portuguese political police happened in the Colonial War and the fact that civil society did not have access to it helps explain why demands could never be as strong as in other cases in which there are numerous records, memories and personal experiences of the most extreme violent acts. If the hypothesis that correlates the time distance between the harshest repression and democratization is true, due to the lack of motivation to demand punishment, then the physical distance from it should also apply similarly.

Transitional justice against the political police in Portugal brought into daylight *the double face of heroes*. Huntington's hypothesis establishes a relationship between the type of democratic

transition and the type of transitional justice. In a transition by rupture elites are replaced and the old regime is abruptly delegitimized, but even in such a transition, sometimes the elites that bring the regime breakdown and those who replace the old ones are not totally strange to the old regime, and punishment and reconciliation can be met in a double-sided process.

It is considered to have been strongly proven that transitional justice went from (potentially) punitive to substantially forgiving as democratic transition gave way to consolidation, in what the criminalization and prosecution of the political police is concerned. It also became clear that punishment came along with reconciliation, thus the procedures and policies may not be as dichotomised as the initial Huntington model would suggest. The motivations that led to the decreasing process have not only to do with democratization itself, but also with actor's motivations, sometimes associated with a certain charismatic and more interest and emotionally driven behaviour, thus highly dependent upon the nature of the decision-makers who were not the civilian elite or the political parties, but the military alone.

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