

# The role of the Judicial Morgue in Argentina's state terrorism: bureaucratic circuits of repression (1976–83)

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## Abstract

The military coup of March 1976 in Argentina ruptured the prevailing institutional order, with the greater part of its repressive strategy built on clandestine practices and tactics (death, torture and disappearance) that sowed fear across large swathes of Argentine society. Simultaneously, the terrorist state established a parallel, de facto legal order through which it endeavoured to legitimise its actions. Among other social forces, the judicial branch played a pivotal role in this project of legitimisation. While conscious of the fact that many of those inside the justice system were also targets of oppression, I would like to argue that the dictatorship's approach was not to establish a new judicial authority but, rather, to build upon the existing institutional structure, remodelling it to suit its own interests and objectives. Based on an analysis of the criminal and administrative proceedings that together were known as the 'Case of the judicial morgue', this article aims to examine the ways in which the bodies of the detained-disappeared that entered the morgue during the dictatorship were handled, as well as the rationales and practices of the doctors and other employees who played a part in this process. Finally, it aims to reflect upon the traces left by judicial and administrative bureaucratic structures in relation to the crimes committed by the dictatorship, and on the legal strategies adopted by lawyers and the families of the victims.

**Key words:** Argentina, repression, Judicial Morgue, dictatorship, judicial branch

## State terrorism and the Judicial Morgue

The military coup of March 1976 brought about a shift in the relative prominence of the various groups forming the social bases of domination in Argentina. A profound social restructuring was set in motion, affecting traditional ties of representation, the behaviour of civil society actors and the construction of political identities.<sup>1</sup>

The dictatorial government held itself up as the 'embodiment of order' in a society it deemed 'ungovernable'. In the performance of this role, and impelled by the logic of war, the dictatorship prescribed the eradication of 'subversion' in a field

of battle that was poorly defined and with an enemy that remained nebulous. Its methods were both unconventional and extreme.<sup>2</sup>

Its chosen target was, primarily, a diverse group of young people active in a number of different grass-roots organisations, ranging from armed groups, trade unions, social movements, professional associations and student groups to political parties. A policy of repression was orchestrated, marked by imprisonment, murder and, above all, disappearance. Indeed, these clandestine tactics became the hallmark of the dictatorship. As Pilar Calveiro argues, 'Disappearances and the concentration/extermination camp ceased to be just one of the manifestations of repression and became the dominant model of repressive power, issuing directly from the military. From that point on, repressive activity was no longer centred around prisons, but shifted towards the constitution of a system for effecting disappearances, assembled from and within the armed forces.'<sup>3</sup>

However, the existence of these secret and clandestine operations does not imply the absence of bureaucratic records, nor does it mean that they were completely undetected or disguised. State terrorism operated through two parallel circuits: the clandestine and illegal world of the Secret Detention Centres (SDCs),<sup>4</sup> and the official, openly perceptible world of the prisoners under the jurisdiction of the National Executive Branch – the prosecutions and everyday acts of oppression and authoritarianism that created a pervasive culture of fear in Argentine society.

We can therefore postulate that 'the 1976 coup ruptured the prevailing institutional order, with the greater part of its repressive strategy built on clandestine practices and tactics (death, torture, and disappearance) that sowed fear across large swathes of Argentine society'.<sup>5</sup> Simultaneously, the terrorist state established a parallel, *de facto* legal order through which it endeavoured to legitimise its actions. Among other social forces, the judicial branch played a pivotal role in this project of legitimisation. While conscious of the fact that many of those inside the justice system were also targets of oppression, I would like to argue that the dictatorship's approach was not to establish a new judicial authority but, rather, to build upon the existing institutional structure, remodelling it to suit its own interests and objectives.<sup>6</sup>

The means used to dispose of the bodies of those secretly murdered by the armed and security forces can be distilled into two basic strategies: either they were cast into the sea from military planes, or else 'the bodies were abandoned on public roads, as if they had been involved in a skirmish. In the latter case, the workings of the clandestine circuit of repression came full circle with the abandonment of the bodies, and another circuit, with a very different dynamic, was set in motion – one we might call *autonomic* or *bureaucratic*'.<sup>7</sup> It is this second system – and the trail it left behind – that I would like to explore, looking at the role of the Judicial Morgue in the chain of bureaucratic agencies that were involved in this process.

Furthermore, by virtue of its hierarchical dependence on the judicial branch, inquiring into the actions of the Judicial Morgue during this period of Argentina's history allows us to reconstruct some aspects of the ways in which the justice system as a whole functioned and operated during the dictatorship.<sup>8</sup>

Based on an analysis of the criminal and administrative proceedings that together were known as the 'Case of the Judicial Morgue,' this article aims to

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examine the ways in which the bodies of the detained-disappeared that entered the morgue during the dictatorship were handled, as well as the rationales and practices of the doctors and other employees who played a part in this process. Finally, it aims to reflect upon the traces left by judicial and administrative bureaucratic structures in relation to the crimes committed by the dictatorship, and on the legal strategies adopted by lawyers and the families of the victims.

### The case of the Judicial Morgue

The Judicial Morgue is run by the Forensic Medical Board (CMF in Spanish), which at the time of the coup d'état in 1976 was under the supervision of the Court of Criminal Appeal.<sup>9</sup> Its main function is to carry out autopsies on the bodies of those whom the justice system believes to have died under violent or suspicious circumstances, in order to scientifically establish the cause of death. These examinations are conducted at the request of the national and federal criminal courts.

In November 1982, towards the end of the dictatorship, the Centre for Legal and Social Studies (CELS)<sup>10</sup> filed a criminal complaint alleging that between 1976 and 1980 the Judicial Morgue had 'performed functions that exceeded and therefore contravened its statutory authority, by conducting autopsies, requesting death certificates from the Civil Registry Office and carrying out interments of unnamed bodies without the sanction of the judge with jurisdiction, following instructions issued by the Armed Forces'.<sup>11</sup>

It is thanks to the efforts of the CELS lawyers during these proceedings that it is possible to reconstruct the ways in which the bodies of the disappeared were managed inside the Judicial Morgue, and their ultimate fate.

Over the course of the judicial inquiry, a number of cases came to light revealing the irregular procedures that took hold in the Judicial Morgue during the period of state terrorism. However, there is one case in particular that epitomises what went on in the morgue, providing a window onto its conduct in relation to the bodies of the disappeared. It also serves as an exceptional or opposing case, allowing us, in the words of anthropologist Lygia Sigaud, to shed light on 'that which remains hidden in those studies that focus on standard behaviour and are built on models that fail to question what they cannot accommodate, and which therefore end up producing simplistic and diminished pictures of the social world'.<sup>12</sup> It is this case that we will explore in the next section.

### The Battle of Floresta

Towards the end of September 1976, in the middle of the night, a group of military officers travelling in an ambulance and an unmarked car appeared at the Judicial Morgue. Their intention was to deposit six corpses 'for storage', without a single official document to attest to the legitimacy of their purpose. The member of staff covering the reception desk immediately contacted the duty doctor to explain the situation. The doctor headed for the reception area and introduced himself to the officers. Again they refused to identify themselves, giving only their military

ranks. Faced with this discomfiting situation, the doctor explained to the officers that without the proper paperwork the bodies could not be admitted. This met with the animated response that 'If [the bodies] were not admitted, they would dump them in the alleyway [belonging to the morgue].' Despite this threatening behaviour, the pathologist stood his ground and insisted on the proper paperwork. Eventually, the officers agreed that this would be provided within a few days.

In his witness statement, taken for the purposes of the court case, the head of the Autopsy Department confirmed that on this occasion the bodies were not recorded in the morgue register because their delivery had been

a real act of force. Although the declarant was not present when the incident occurred, the member of staff who dealt with the officers told him that they were armed, and behaving in an intimidating manner that made any discussion impossible.<sup>13</sup>

In the meantime, the six bloodied corpses were left in the van parked at the entrance to the morgue. Some time later, the officers handed in a notice signed by the director of the Central Military Hospital, confirming that 'the bodies of five unidentified "males" and one "female" are being passed to the morgue'.<sup>14</sup> On the basis of this notice, the bodies were duly admitted.

Due to the extreme and irregular nature of these circumstances, a long exchange of notes and official letters began to circulate through the ranks of the judiciary. This correspondence began with the pathologist's written account of the incident, which he referred to the director of the Judicial Morgue. The director, in turn, passed the information to the dean of the Forensic Medical Board, who sent it on to the Board's supervisory authority, the Court of Criminal Appeal, so that 'the situation might be deliberated and resolved'. A month later, having had no response from the judicial authorities, the morgue director sent a second communication to the dean of the Forensic Medical Board, expanding on the information that he had given in his earlier account. This note confirmed the identities of the six bodies and stated that they had now been released to the families, 'by order of the military authorities'. In summary, what this back-and-forth of bureaucratic correspondence reveals is the fact that the very institution whose role it was to make a scientific determination of cause of death had, conversely, buried the bodies with no autopsy and on the orders of the armed forces.

Consequently, and after more than a month had passed since the director of the Judicial Morgue's first communication, the president of the Court of Criminal Appeal sent an official notice to the director of the Central Military Hospital requesting that he disclose the identity of the judge who had been involved in the case of these six bodies. This request was never answered, but on 20 December 1976 the head of the First Army Corps – in command of the Federal Capital Subzone – presented the president of the Court of Criminal Appeal with a note apprising him of further details in relation to the events of 29 September 1976:

I am writing to Your Honour [V.S.]<sup>15</sup> further to those matters discussed in person on December 20, 1976, when I brought to your attention the details that prompted the

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director of the Central Military Hospital to dispatch six bodies to the Judicial Morgue for storage and subsequent release to the families.

On September 29, 1976, between 08:00 and 10.00, the following individuals were killed as a result of a meeting engagement in Calle Corro and Calle Yerbal, between Joint Forces under the command of the First Army Corps and a subversive cell, the political arm in the Federal Capital of the banned organisation calling itself Montoneros: [names]

As the deceased were high-ranking members of this paramilitary organisation, there was a strong risk that the bodies would be stolen in an attempt to disrupt public order. For this reason, a command was issued at 291100SEP76 for the transfer of the bodies to the Central Military Hospital, where they were taken to the hospital morgue.

Once the bodies had been identified and the appropriate investigation was complete, it was decided that the bodies should be released to the respective families for proper burial. The management of the Central Military Hospital was therefore ordered to deliver the bodies to the Judicial Morgue.<sup>16</sup>

On receiving this communication from the military authorities, clearly indicating the irregularities that had occurred at the Judicial Morgue, the president of the Court of Criminal Appeal ordered that no further action should be taken in relation to the case of these six bodies, because in his opinion the explanation he had been given was sufficient.

What we learn from this letter is that there had been a previous meeting between the head of the First Army Corps and the president of the Court of Criminal Appeal, which appears to have taken place on 20 December 1976. What, then, was the outcome of this discussion?

Due to its highly unusual and dramatic nature, the meeting was widely discussed in the corridors of the court-houses. Accounts of this event in the initial witness statements of members of staff and court officials varied, but all remarked on the large and intimidating military presence on the premises of the court. In spite of the inconsistencies between the various accounts – with both military and judiciary authorities flatly denying, in their respective testimonies, that the meeting had even taken place – it evidently marked a turning point. From this moment on, such exceptional cases would be assimilated into the bureaucratic routine. In other words, there was an interest in ensuring that the administrative process followed could be accommodated within the system's own limits of tolerance. This meant that there had to be paperwork (issued at the very least by a military judge, or otherwise the Court of Criminal Appeal in assuming responsibility for the admission of the body), an autopsy and an order to release the body – either to the family or, in cases where the deceased remained nameless, for a municipal burial. In this way, it was possible for these bodies to be handled in accordance with a standard procedure, precisely because the path of this procedure – although not entirely orthodox – had been laid out. What could not be tolerated was bodies tossed into the courtyard of the morgue with no directive, no signature and no written document to orient them within the bureaucratic machine.

The case of the Judicial Morgue allowed investigators to tentatively reconstruct the procedures followed when the bodies of the disappeared passed through these kinds of facilities. Contrary to what one might immediately assume, the autopsies were not fabricated but were in fact carried out correctly and thoroughly. It could therefore be ascertained from the records of these examinations that individuals who had supposedly died in an exchange of fire had actually been tortured and then executed. A number of the forensic reports reveal similar findings, suggesting the nature of the crimes committed by the military: the presence of bruises, burns and lacerations on various parts of the body; the fact that the stomachs of the deceased were empty and that the men were unshaven; multiple gunshot wounds inflicted from varying angles; and powder burns indicating that victims were shot at close range.

Each time that an autopsy was carried out on bodies delivered by the security forces, the same administrative procedure was followed: doctors from the morgue would submit the autopsy inventory and protocols to the Forensic Medical Board, who would refer these documents to the Court of Criminal Appeal, requesting to be informed of the name of the person to whom they should be sent. The Court would then issue a brief instruction to 'submit the documents to the requesting authority' (in other words, the First Army Corps). The doctors, in turn, would do as they had been ordered, retaining copies of the autopsy records. Some time later, the Court granted the Forensic Medical Board the powers to send the autopsy reports directly to the military without the need for prior authorisation. Nevertheless, for a long time doctors continued to request this authorisation, always preserving a copy of the autopsy record. Years later, these records would be rediscovered in the course of the criminal case brought by CELS. It was by reconstructing these steps in the bureaucratic process that CELS was able to demonstrate that, at both the Judicial Morgue and the Court of Criminal Appeal, officials and judges were aware that the bodies of people who had been disappeared were being irregularly managed, and they should therefore bear some responsibility in relation to the crimes of the state.

### **Forensic doctors and the employees of the Judicial Morgue: hierarchy, procedure, and conformity**

The explanations about the ways in which these bodies were dealt with, given by doctors and other morgue employees in their witness statements, do more than shed light on the irregularities incurred in cases where bodies were delivered by the military. They also allow us to reconstruct the practices (and rationales) that guided their behaviour in these exceptional situations. It was the fact that these actors were able to apply the same institutional logic used in ordinary circumstances that created the necessary conditions for the dictatorship to be able to commit these crimes.

Some of the questions coming out of their statements relate to the ways in which morgue employees in different roles understood their occupational duties, the hierarchical structure of which they were a part and the limits of their own responsibilities in the 'exceptional circumstances'<sup>17</sup> they were experiencing.

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This is how one employee of the Autopsy Department described the hierarchy in which the Judicial Morgue was embedded, as well as the various tasks carried out (in ordinary circumstances) by its staff in accordance with their titles and job descriptions:

During the period for which he has been employed by the institution in question, on what could be called the technical side, the declarant has always worked with the Autopsy Department. This department comes under the responsibility of the director of the Judicial Morgue, to which it is attached, and of the designated member of the Forensic Medical Board. The position of director is filled by a medical examiner who is a member of the Forensic Medical Board, and is appointed on a permanent basis – that is, unlike the deanship, the post does not rotate after a certain period of time. (. . .) The declarant's role within the Autopsy Department is an administrative one, and so he proceeded to specify the details of its operation: The department's primary role is to handle the bodies received from police stations, the naval police, and other bodies subject to the authority of the courts. There is therefore judicial involvement in all cases. The pathologists employed by the morgue carry out the autopsies under the supervision of the medical examiners on duty. The medical examiners complete the autopsy protocols according to certain written headings, based on the pathologist's findings during the course of the examination, for which they are present. These protocols are then submitted as documentary evidence to the Forensic Medical Board at the courthouse, where the final report is written up. (. . .) Once the cause of death has been established, the corresponding death certificate is issued and signed by one of the attending pathologists. Later, in response to a court order received either directly or via a preventative authority [police, naval police], the body is released to the authorised person after proper identification.<sup>18</sup>

In the above account, the employee gave evidence relating to the procedure that was statutorily and habitually followed in cases where no family members of the deceased came forward. He placed particular emphasis on the involvement of the courts. If there were no relatives, or if nobody came forward to claim the body, the morgue would request authorisation from the judge to carry out a municipal burial:

and once this had been granted, appropriate steps would be taken to ensure that the body was interred. This task is currently the morgue's responsibility, and it falls to the manager to request the death certificate from the local Civil Registry Office, which effectively grants the authorisation for burial. Once the proper procedure was completed, the morgue itself would supply the wood and chipboard coffin, and a police car would be used to transport the body to the National Cemetery at Chacarita in western Buenos Aires. Here the burial would finally take place in a documented location. The witness clarified that unidentified bodies are given a municipal burial and are not cremated.<sup>19</sup>

The description given by this morgue employee clearly demonstrates the chain of command governing the Forensic Medical Board and associated institutions,

and the ways in which employees are strictly supervised, according to their responsibilities, by their superiors. The account of one of the medical examiners is also highly illuminating as to the internal hierarchy among the doctors – and their relationships with the judges:

Asked by S.S. [Su Señoría] if there was any hierarchical relationship between the Judicial Morgue and the Forensic Medical Board, the declarant stated that there was, with the sole exception of those doctors acting as expert chemists, who being of equal rank to the medical examiners could not be ordered to do anything – although recently an agreement had been reached regarding requests for the examination of viscera and other samples, to the effect that it was no longer necessary to request that a judge issue the order to the chemists.<sup>20</sup>

Among the documentary evidence requested by CELS were the autopsy 'protocols' and copy-books.<sup>21</sup> A medical examiner explained the purpose of these documents as follows:

The protocols are the written reports completed by the doctor conducting the autopsy, generally in pencil, which are later scanned by a machine. The original is sent to the presiding judge and the copy is added to the copy-book (. . .) after two years the original protocols are destroyed, leaving only the record in the copy-book.<sup>22</sup>

The descriptions given by doctors and other employees of the documentation they worked with, how it was produced and the uses that were made of it, together with their explanation of the workings of the institution, allow us to appreciate the clear hierarchical relationships between different kinds of employees: administrative staff on the one hand, medical staff on the other, and, nested within this second group and further differentiated by rank, the pathologists (the doctors who 'work' directly on bodies) and the medical examiners (who supervise and document procedures and issue certificates).

These statements reveal the extent to which hierarchy permeates routine work and the relationships between actors in the course of day-to-day working life. The following testimonies, on the other hand, indicate the adjustments to the usual routines that were made when the corpses of the disappeared began to arrive, allowing them hereafter to be recalibrated to fit the morgue's bureaucratic logical framework.

This was the explanation offered by an employee when asked by the judge whether there had been any changes as of 1976:

This system, which [the declarant] tried to describe as accurately as possible, was modified in 1976 when the normal functioning of the morgue was disrupted by the military coup and the transfer of executive powers to the Military Junta appointed by the Armed Forces. He could not be sure of the date, but at a certain point the director of the Autopsy Department (...) informed doctors and staff that by order of higher authority, the morgue would from then on receive bodies directly from the



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various preventative authorities, with the involvement of the military courts. At that time, security was increased and corpses began to arrive, on the authority, as stated, of the military courts, through intermediaries with names like Zone I Command, Joint Forces, etc. In all cases the routine procedure was followed without exception, up to the point where the body was released for appropriate disposal, depending on the case. This amended procedure remained in place for some time. [The declarant] could not say exactly when it stopped, but it may have been in 1979. He confirmed that it was happening less and less by 1978, by which point, to the best of his recollection, the morgue was no longer receiving bodies on military authority. During this time, the workload became heavier due to the number of corpses being received by order of the military courts. This is confirmed by the records contained in the aforementioned copy-books, which were seized by the court.<sup>23</sup>

To summarise, then, the first stage in the process of concealing the bodies of the disappeared was made possible by the fact that they were sent directly to the morgue by the armed forces, without the involvement of the judge with jurisdiction. This meant that there was no judicial authority for the release of the bodies to the authorised persons, and indeed no family members could come forward to claim them – for the simple reason that they did not know what had happened to their relatives. The rate at which bodies were accumulating in the Judicial Morgue forced its officials to request authorisation for them to be given a municipal burial. These requests were directed to the armed forces, joint forces or the military courts, whichever had been responsible for sending the bodies to the morgue. In most cases they were addressed to the head of the First Army Corps, and the morgue was even ordered to send the personal effects of the deceased to the pertinent Task Group.<sup>24</sup>

A great many of the bodies of the disappeared arrived as ‘NN’ (nomen nescio, or nameless) and were identified during their time at the Judicial Morgue. When the time came to carry out the municipal burial – in the absence of any relatives to claim the bodies – their fingerprint cards were sent to the Civil Registry Office so that the death certificate could be drawn up. Subsequently, the bodies were interred in specific plots reserved for municipal burials. Some time later, the remains were transferred to the general ossuary.

The various actions carried out over the course of this administrative circuit reveal, step by step, the interconnections between clandestine and official practices – abductions and torture in the SDCs, and autopsy and burial, respectively.

The testimonies of other doctors and employees are evidence not only of the irregular ways in which the Judicial Morgue operated, but also of the degree of discretion with which the armed forces acted, and the intertwining relationships that military and judicial officials developed over time as a result of the need to deal with the bodies of the disappeared.

At some point after March 24, 1976, [the declarant] received an order from his immediate superior to admit the bodies delivered by the military authorities. He explained that there was some initial confusion and that the military personnel who brought in

the bodies had to be informed that each one was required to be accompanied by an official notice, which was then presented (. . .) in some cases only military personnel were involved; in others they were accompanied by a patrol car; and, later, once this situation had become more routine, some cases were referred only by the police, who would present an official notice invoking military authority. The declarant added that it was understood that the orders came from the Court of Criminal Appeal.<sup>25</sup>

Entrenched in the logic of rank, as the judicial inquiry progressed the doctors and other morgue employees began to argue that none of their actions could be understood in isolation from the decisions taken by the Court of Criminal Appeal, which held authority over the Forensic Medical Board. In assimilating these practices into a hierarchically structured framework, they attempted to explain the role of each member of staff at every stage of the bureaucratic process. Accordingly, in their statements the morgue officials and employees repeatedly emphasised the responsibility of the Court of Criminal Appeal, in the figure of its president. They justified their actions on the basis that it was the Court that had authorised these procedures, which they had regarded as irregular, in light of the new circumstances facing the country (in other words, in the interests of the military government).

Faced with undeniable evidence of the irregularities that were committed, the doctors and staff began to formulate a second argument, which in their statements goes hand in hand with justifications based on the chain of command. This argument was founded on the division of labour typical of bureaucratic systems:

[The declarant] did not know how the morgue became involved in conducting autopsies on bodies connected to events being investigated by the military courts, but there might well have been a *de facto* intervention on the part of a higher authority, given the prevailing situation. [The declarant] also wished to clarify that his specific role is an administrative one, and that he is not authorised to make decisions about the admission of bodies. These admissions are duly processed by the reception desk at the Forensic Pathology Headquarters, which in turn answers directly to the morgue's medical director. The declarant further stated that the director acted upon the basis of his own knowledge and competence, without consulting the declarant on these matters.<sup>26</sup>

This ethnographic work involved conducting interviews and analysing witness statements. Both of these sources were used throughout the course of the research. In this regard, it should be pointed out that there are significant differences in the ways in which actors account for their working practices in both ordinary and exceptional circumstances in a court-room, in comparison to how the same practices would be portrayed in the context of an interview or anthropological observation. In analysing a witness statement, we are not observing people as they go about their day-to-day tasks; rather, we are engaged in reading – and interpreting – a very specific kind of text. The circumstances under which this text is produced are particularly coercive, given that the witnesses or defendants are being interrogated by an organ of the state – the courts – about certain events for which somebody is

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to be held legally responsible. Those being questioned will endeavour to demonstrate, by offering an alternative explanation, that this responsibility does not rest with them.<sup>27</sup>

Nevertheless, if we look beyond these factors (or, better still, take them into account as the contextual setting in which these statements were made), it is possible to track the ways in which the various actors, understanding the world they were operating in and the logic of the courts, clung to regulations and the institutional hierarchy in attempting to justify their actions. This response, combined with a belief in the exceptional nature of the situation and in the circumscription of their own duties, reveals how, in extreme situations, the impersonal – and sometimes inhumane – features of bureaucratic systems, discussed by Weber, come to the fore.<sup>28</sup>

The autonomous behaviour of bureaucratic agents working in a particular part of the process serves to transform individual actions into ends in themselves, dislocated from the final outcome. In another statement, one of the medical examiners not only describes himself as ‘one more link in the chain’, but admits that he assumes those preceding him in this chain to have carried out their work effectively, and that therefore he can – and should – perform his designated role in the bureaucratic process without further question:

These procedures [autopsies] were carried out in the customary way, that is, in the usual environment, with the appropriate protocol and with the usual personnel – pathologists, assistants and cleaning staff, photographers, radiographers, etc. From the fact that the corpses were placed, as usual, on the autopsy table, with the requisite protocols, it was inferred that all prior administrative provisions, both before the body had been received by the morgue and afterwards, had been met.<sup>29</sup>

The importance placed on carrying out tasks efficiently – without asking too many questions about the whys and wherefores of certain practices – is evident in one witness’s response when asked by the judge if, at any point, he had had doubts about the propriety of conducting autopsies on the orders of the military. The judge’s question was prompted by the fact that various notes, signed by the pathologist under examination, had continued to be sent to the Court of Criminal Appeal in order to enquire about where the autopsy results should be sent:

[The declarant] stated that these queries were motivated only by his own ignorance of the physical location of the military court, because at that time the court was a somewhat abstract entity and he did not know where it was based (. . .) his only question, he again repeated, related to the location of the military court, which he needed to know in order to send the autopsy results to a specific place. [He confirmed] that he did not question on these occasions whether or not it was right to send the autopsy results to the presiding military court.<sup>30</sup>

As I argued earlier, it was imperative to the officials and employees of the Forensic Medical Board that their actions could be understood as part of a bureau-

cratic system ordered by rank and degree of responsibility. They needed to be able to slot them into the bureaucratic machine. The ways in which tasks are absorbed into routine procedure mean that actors within the judicial system are able to naturalise their actions. This is what I mean when I argue that it is not so much a matter of 'pretending' that things are a certain way when, in reality, the situation is altogether different, but of 'trying not to think', let alone ask questions, about why things are being done in this way. We see this model of behaviour, broadly typical of actors in bureaucratic institutions and particularly in judicial bodies, adopted every day in ordinary institutional situations. Without a doubt, in the shadow of a terrorist state, with fear and mistrust permeating every aspect of everyday working life, this operational logic became more deeply entrenched. Without disregarding the fact that many of the officials involved shared the dictatorship's ideological position, it cannot be denied that a significant proportion simply behaved like lowly public servants: timid paper shufflers reluctant to lock horns with the government of the day, who tolerate, and with their silence acquiesce, in certain orders and practices, even though they might be regarded as morally reprehensible.

### The bureaucratic trail

So far, we have seen how the bodies received from the armed forces were subject to a differential bureaucratic approach. We have also read some of the explanations given by doctors and employees from both the Judicial Morgue and the Forensic Medical Board in relation both to these exceptional procedures and to their day-to-day practices. In this section I intend to look at some of the traces left by the judicial bureaucracy in the form of official correspondence, resolutions and written records. It was these materials that allowed a large portion of this story to be reconstructed and provided the evidence used by the CELS lawyers in support of their allegations.

Further to this last point, it is worth highlighting just how important the knowledge of the nooks and crannies of the judicial bureaucracy that some of the lawyers possessed turned out to be. These kinds of bureaucratic structures leave traces, but one must understand how they think and operate in order to track down and interpret this evidence. As I suggested in my earlier work, "While Michael Foucault exposed the oppression that the "surveillance society" inflicts upon citizens, spying on them and recording their most trivial acts, Stanley Cohen points out that these very records, in the form of documentary evidence, can provide the narrative and the crucial proof of the crimes of totalitarian rule."<sup>31</sup>

There was intense discussion among the CELS lawyers about the likelihood of obtaining the evidence needed to substantiate the facts of these events before the courts. This is significant, because it allows us to appreciate the behind-the-scenes professional debates that arise when legal proceedings are launched. In the present case, there were differences of opinion surrounding the feasibility of bringing a case to court and, specifically, the chances of retrieving the autopsy reports. Some of the lawyers working with CELS had previously held positions in the judicial branch, and as a result they were in possession of certain knowledge, both of

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individual civil servants and judges and of the ins and outs of court bureaucracy, that gave them a significant advantage.

Some of the lawyers were saying that no autopsy reports would be found, because we had learned that it was the First Army Corps that was ordered to carry them out and not a court, as ought to have been the case. Consequently, some said that we wouldn't be able to do anything at all. 'You think there's nothing we can do ...?' I said. 'I know what bureaucracy is like: the doctors ... they cover their backs ... they have the copy machine. They make copies of everything they do.' So we asked that the morgue's copy-books be confiscated, and that's how we turned up all the autopsy reports, you see?<sup>32</sup>

In addition, the prosecution's case drew on information derived from the figures that the Judicial Morgue sent periodically to the Court of Appeal. These showed that the cross-section of bodies that the forensic medical team were used to dealing with had changed with the advent of the dictatorial regime. Prior to the upsurge in military repression, the bodies received by the morgue belonged mainly to elderly people and the victims of accidents or, very occasionally, homicide. Over the course of just a few months, this pattern had been altered

by the arrival of large numbers of corpses belonging to individuals aged between 20 and 35, who had died after being shot at a range of just a few centimetres, and who displayed signs of having been tortured. Despite the military's claims that they had been killed in clashes, many of these bodies bore evidence of detention prior to death: They were tied up, with belts and shoelaces removed and handcuff or wire marks on their hands and feet. Others were completely naked ...<sup>33</sup>

As another element of their legal strategy, the CELS lawyers sought to demonstrate that officials at the Court of Criminal Appeal could be held responsible for these events by virtue of their supervisory authority over the Forensic Medical Board. The evidence that would allow them to establish this fact was once again built upon the testimony of a declarant who alluded to a certain bureaucratic process. In his statement, one of the doctors who had served as dean<sup>34</sup> of the Forensic Medical Board in 1977 related that in that year he had met on numerous occasions with the president of the Court of Criminal Appeal and with the president of the Supreme Court of Justice. His purpose in these meetings was to ask his superiors for the number of medical examiners to be increased. He argued that more doctors were needed to deal with the substantial increase in workload caused by the number of autopsies being ordered by the military:

[The declarant] recalled that, even during his time as dean, he visited the president of the Supreme Court of Argentina [name] and the president of the Honourable Criminal and Correctional Court of Appeals [name] on a number of occasions. Among other requests aimed at improving the performance of the CMF, he asked both of them for an increase in the number of medical examiners, which had been cut

in 1955. His central argument was the greater number of autopsies that the morgue was having to carry out of late on the orders of the military, relative to normal working conditions.<sup>35</sup>

This version of events was supported by statements made by other medical examiners, which not only confirmed his account but explained why the autopsy inventory was periodically sent to the Court of Criminal Appeal: '[We wanted them to] be aware of the work that we had done, and to appreciate the workload that we were dealing with.'<sup>36</sup>

Other officials and employees confirmed in their witness statements that the first corpses delivered by order of the military arrived in 1976, and that the Court of Appeal had issued a verbal authorisation, through the Forensic Medical Board, for the bodies to be admitted. Nevertheless, this 'verbal' sanction did not satisfy the staff, and there remained a degree of uneasiness over the atypical nature of the situation – and the state of some of the bodies on arrival. One medical examiner was asked why he did not ask the Court of Appeal to send a written directive. In response, he stated:

The level of hierarchical pressure on the medical examiners with regard to the Court of Appeal is such that it would be very difficult to take this kind of attitude.<sup>37</sup>

Furthermore, as mentioned earlier, investigators discovered numerous memoranda sent by the CMF to the Court of Criminal Appeal, detailing the number of autopsies carried out in a given period:

The dean of the Forensic Medical Board regularly submitted lists of the autopsies ordered by the military to the Court of Appeal, so that the higher authorities could not later say that they had no knowledge of the procedures being conducted at the Morgue.<sup>38</sup>

Witness statements, together with official correspondence and other written documentation substantiating the verbal agreements (tacit, in many cases) between the various authorities, constituted the legal evidence that years later would allow the president of the Court of Criminal Appeal and other officials to be prosecuted.<sup>39</sup>

### Conclusion

As stated at the beginning of this paper, the Judicial Morgue of the City of Buenos Aires was one of the official facilities that permitted the establishment of a bureaucratic circuit for dealing with the bodies of those disappeared by the armed forces, thus allowing the repressive, clandestine circuit that caused these deaths in the first place to come full circle. By studying the morgue from this perspective, we can see how these clandestine and official worlds were able to coexist, and identify the relationships that developed between them during the period of state terrorism.

Furthermore, we can acknowledge the involvement of other social forces –

beyond the military and the police – and the parts they played in the events comprising the coup d'état. In this respect, this discussion feeds into a broader one that in recent years has got under way in Argentina – in academia as well as in the political and legal systems – about the extent to which various civilian actors should bear responsibility for the dictatorship's crimes.

As I have tried to demonstrate throughout this article, the fact that morgue doctors were able to incorporate and accommodate the 'exceptional cases' posed by the bodies of the disappeared into their working routines does not imply that they took exactly the same bureaucratic approach as they would have done in other cases – those that complied with the standard regulations and for which there was some degree of judicial authority. It was in fact certain lawyers' bureaucratic knowledge and painstaking scrutiny of the evidence that allowed these irregular practices to be laid bare. I believe, therefore, that it is possible to dispute the notion that the dictatorship left behind no trail, no evidence and no inventory of its activities. It is unlikely that any detailed records of the disappeared survive – or at least none have yet been found – but what we do have are the tracks left by the various bureaucratic entities (courts, prisons, police, administrative bodies) in carrying out their everyday, mundane activities. What we also need, however, are individuals prepared to piece together the history of these events.

Finally, investigating the operation of the Judicial Morgue allows us to reflect upon the ways in which state violence shapes bureaucratic practice. It also brings to light the mechanisms through which institutional logic can lend a particular form to repressive practices, thus aiding their successful implementation. In other words, by understanding the everyday norms and practices governing the work carried out in the offices of civil servants, not only are we able to reconstruct, in socio-historical terms, the role of these bureaucratic agencies during the dictatorship; we are also able to test new theories that might lead to the discovery of the identities or final resting places of the detained-disappeared.

## Notes

- 1 J. Villarreal, 'Los Hilos Sociales del Poder', in E. H. C. Jozami et al. (eds) *Crisis de la Dictadura Argentina* (Buenos Aires, Siglo XXI, 1985), 216; Guillermo A. O'Donnell, '¿Y a mí qué mierda me importa? Notas sobre Sociabilidad y Política en la Argentina y Brasil', in *Contrapuntos: Ensayos Escogidos sobre Autoritarismo y Democratización* (Buenos Aires, Paidós, 1997); E. Basualdo, *Estudios de Historia Económica Argentina* (Buenos Aires, Siglo XXI, 2006).
- 2 M. Barros, 'Lenguaje, Política y Movilización Social: la Formación Identitaria del Movimiento de Derechos Humanos en la Argentina', *Sociedad Hoy*, 14 (2008), 39–53.
- 3 P. Calveiro, *Poder y Desaparición* (Buenos Aires, Coihue, 2004), p. 15.
- 4 These were secret facilities used by the Armed and Security Forces during the military dictatorship of 1976–83, where the detained-disappeared were taken to be subjected to torture and interrogation. There are believed to have been 340 SDCs 'distributed all across the country. Their existence has been corroborated in 11 out

of Argentina's 23 provinces, where citizens abducted in all different parts of the country were taken. They were varied in size, both in terms of prisoner numbers and their physical dimensions. Between 15 and 20 thousand people are estimated to have passed through their walls; approximately 90 percent of them were murdered' (*Ibid.*, p. 16).

- 5 M. J. Sarrabayrouse Oliveira, *Poder Judicial y Dictadura: El Caso de la Morgue* (Buenos Aires, Editores Del Puerto/CELS, 2011), pp. 7–8. All subsequent citations are taken from this edition.
- 6 *Ibid.*, pp. 7–8.
- 7 D. Olmo, 'Reconstruir desde Restos y Fragmentos', in L. da Silva Catela and E. Jelin (eds), *Los Archivos de la Represión: Documentos, Memoria y Verdad*, (Buenos Aires, Siglo XXI, 2002), p. 183.
- 8 The role of the judiciary during Argentina's most recent military dictatorship has been rigorously analysed in an extensive ethnographic investigation (Sarrabayrouse Oliveira, *Poder Judicial y Dictadura*). The starting point for this study was an analysis of the records from a court case known as the 'Morgue Case'.
- 9 In 1961, the Supreme Court of Justice, Argentina's highest court of law, delegated its authority over the Forensic Medical Board (and consequently the Judicial Morgue) to the Court of Criminal Appeal. It was not until a new agreement was reached in 1991 that the Supreme Court resumed its supervisory role over the CMF.
- 10 CELS is a human rights organisation founded in 1979 in response to the need to react quickly and decisively to the grave and systematic human rights violations perpetrated by state terrorism. CELS monitored the dictatorship's actions and provided legal aid and other support to the families of victims, chiefly those of the detained-disappeared.
- 11 Criminal Case No. 40357/82. Gómez, Salvador María Elena and Gard de Antokoletz, María Adela re offences under Article 248 of the Criminal Code, National Criminal Court of First Instance No. 10, folio 1. All subsequent citations are taken from this edition. The case brought by CELS against the Judicial Morgue, and the Court of Criminal Appeal as its superior authority, was founded on documentary evidence relating to the body of a disappeared individual that was released by the Missing Persons Division of the Federal Police. This evidence confirmed that the body been sent to the Judicial Morgue. For further reading, see Sarrabayrouse Oliveria, *Poder Judicial y Dictadura*, pp. 39–70; M. J. Sarrabayrouse Oliveira, 'El Caso de la Morgue Judicial', in J. Pablo Bohoslavsky (ed.), *¿Ud. también Su Señoría? Complicidad Judicial durante la Dictadura*, (Buenos Aires, Siglo XXI, 2015), pp. 147–62.
- 12 L. Sigaud, 'Armadilhas da Honra e do Perdão: Usos Sociais do Direito na Mata Pernambucana', *Maná, Estudos de Antropologia Social* 10:1 (2004), 133.
- 13 Criminal Case No. 40357/82, folio 448.
- 14 Terms common in police and military parlance to refer to the sex of deceased or detained persons.
- 15 The abbreviation V.S. stands for *Vuestra Señoría*, which is the standard form of address for trial court judges. Appellate court judges, or judges of second instance,



- should properly be addressed as S.E. (Su Excelencia) or V.E. (Vuestra Excelencia). The correct way to address the president of the Court of Criminal Appeal would have been S.E. It is striking that, while we would usually expect a judge to react to such errors by insisting on ‘correct form’, no objection was made in this case. For further reading on forms of address as the fetishisation of prestige, see S. Tiscornia, *Activismo de los Derechos Humanos y Burocracias Estatales: El Caso Walter Bulacio* (Buenos Aires, Editores Del Puerto, 2008; Sarabayrouse Oliveira, *Poder Judicial y Dictadura*).
- 16 Criminal Case No. 40357/82, folio 238.
  - 17 I use the term ‘exceptional circumstances’ rather than ‘repression’ because this is the native category used by the individuals in question.
  - 18 Criminal Case No. 40357/82, folio 29.
  - 19 *Ibid.*, folio 30.
  - 20 Criminal Case No. 40357/82, folio 52.
  - 21 The copy-books were a crucial part of the documentary evidence supporting the criminal complaint. They provided written evidence that the autopsies were carried out; proof that these bodies had in fact passed through the morgue.
  - 22 Administrative Case S 1306, Supreme Court of Justice as judicial authority, *Buenos Aires Bar Association requests an administrative inquiry into the actions of the Judicial morgue*, folio 16. All subsequent citations are taken from this edition.
  - 23 *Ibid.*, folio 31.
  - 24 In a normal, routine situation, where the body did not belong to a disappeared person, the personal effects of the deceased would be sent to the judge in charge of the case. The Task Groups were made up of members of the armed forces, state security agencies and paramilitary organisations. Their clandestine activities included abductions, torture and disappearances, as well as the operation of various Secret Detention Centres.
  - 25 Administrative Case S 1306, folio 428.
  - 26 Criminal Case No. 40357/82, folio 47.
  - 27 Although described as witnesses and not defendants, as a result of the particular way in which the criminal justice system operates, the actors are interrogated and placed in a setting designed to ascertain guilt. See R. K. de Lima, *A policia da cidade do Rio de Janeiro: seus dilemas y paradoxos* (Rio de Janeiro, Grupo Editorial Forense, 1995); M. J. Sarabayrouse Oliveira, ‘La Justicia Penal y los Universos Coexistentes: Reglas Universales y Relaciones Personales’, in S. Tiscornia (ed.), *Burocracias y Violencia: Ensayos sobre Antropología Jurídica*, (Buenos Aires, Antropofagia, 2004); L. Eilbaum, *Los ‘Casos de Policía’ en la Justicia Federal en Buenos Aires: El Pez por la Boca Muere* (Buenos Aires, Antropofagia, 2008); Tiscornia, *Activismo de los Derechos Humanos y Burocracias Estatales*.
  - 28 M. Weber, ‘Politics as a Vocation’, in *Max Weber: Essays in Sociology*, ed. H. Gerth and C. W. Mills (New York, Oxford University Press, 1946). [‘La Política como Vocación’, in *Ensayos de Sociología Contemporánea*, ed. H. Gerth and C. W. Mills (trans. Mireia Boffill) (Buenos Aires, Planeta, 1972)].
  - 29 Administrative Case S 1306, folio 366.
  - 30 *Ibid.*, folio 52.

- 31 S. Tiscornia and M. J. Sarabayrouse Oliveira, 'Sobre la Banalidad del Mal, la Violencia Vernácula y las Reconstrucciones de la Historia', in S. S. Tiscornia (ed.), *Burocracias y Violencia: Ensayos sobre Antropología Jurídica* (Buenos Aires, Antropofagia, 2004), p. 65.
- 32 From a 2007 interview conducted by the author with one of the CELS lawyers.
- 33 Centre for Legal and Social Studies, *La Morgue Judicial: Instalaciones y Cuerpos Técnicos del Poder Judicial al Servicio de la Represión Clandestina* (Buenos Aires, Mimeo, 1986), p. 13.
- 34 The position of dean of the Forensic Medical Board rotates on a yearly basis and post holders are appointed by the Court of Criminal Appeal. The position of director of the Judicial Morgue is a permanent one, filled by a doctor who is a member of the CMF.
- 35 Criminal Case No. 40357/82, folio 308.
- 36 *Ibid.*, folio 427.
- 37 Administrative Case S 1306, folio 362.
- 38 *Ibid.*, folio 423.
- 39 The case of the Judicial Morgue was closed in 1987, when the charges against the defendants were dismissed due to the prescription of the complaint. Then, unlike now, crimes committed by the dictatorship were not considered to be crimes against humanity, and were therefore subject to the statute of limitations.