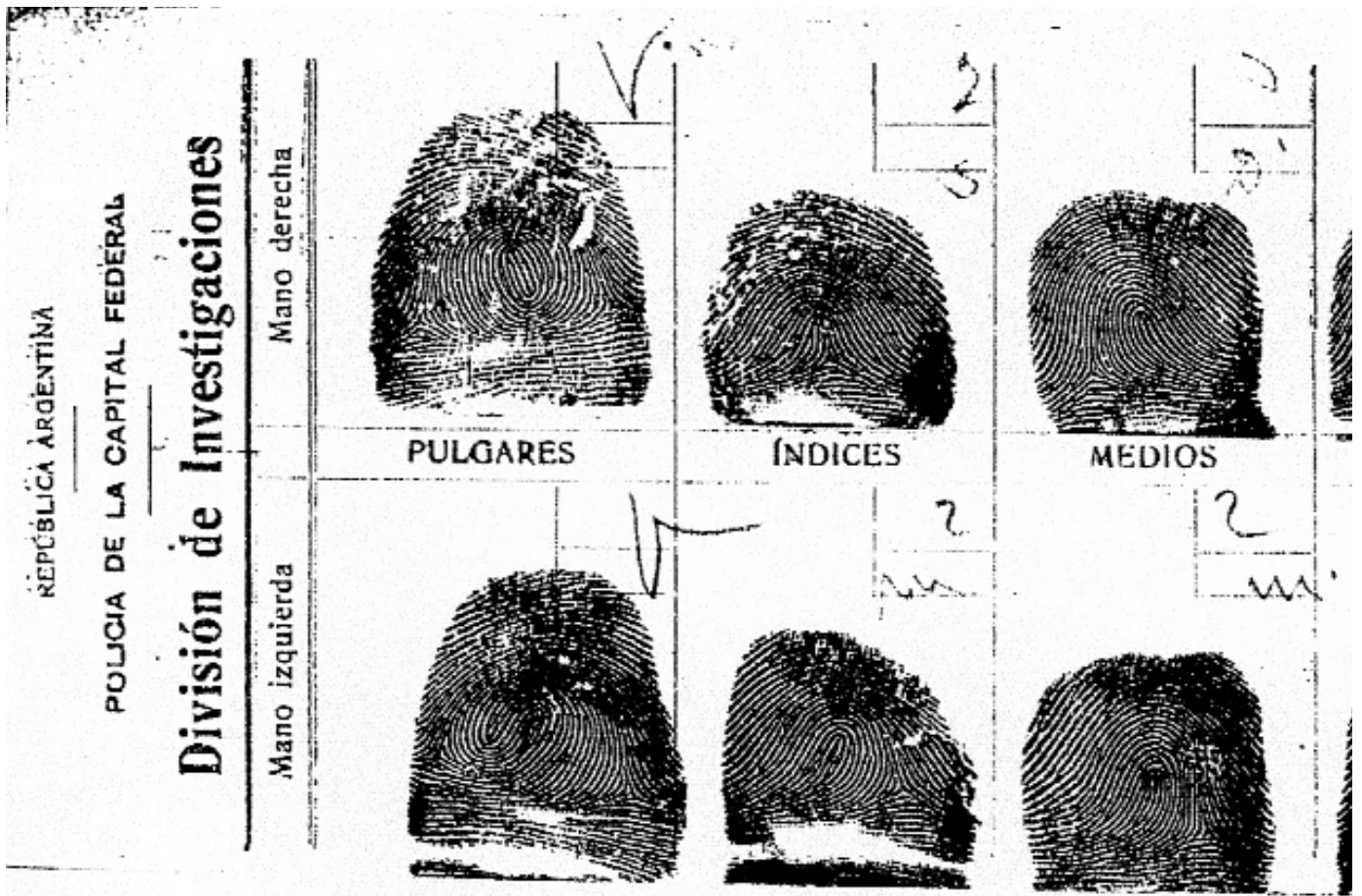


ARGENTINA

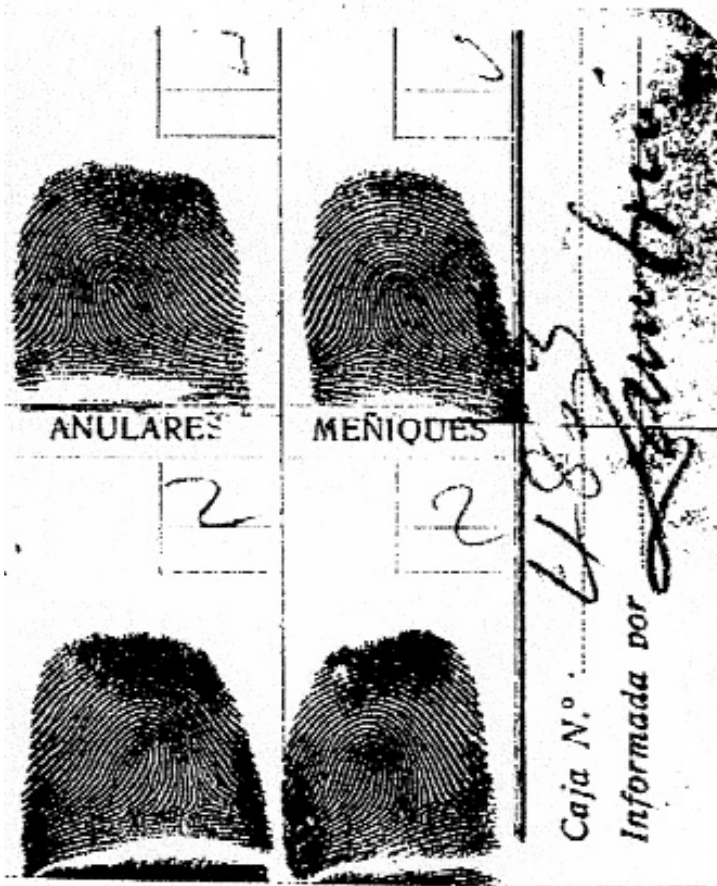
In 2001 EAAF identified the remains of two disappeared Argentinians: Alberto Cayetano Alfaro, and Horacio Oscar García Gastelu, as well as those of ten Uruguayans disappeared in Argentina. In addition to our work on these cases, we continued our research into government documents, including fingerprints, that provided valuable information to resolve identifications. EAAF also worked on improving existing methodologies in forensic anthropology, and offered courses at the University of Buenos Aires in the same field. Finally, in this chapter we include an update on judicial developments concerning amnesty laws and presidential pardons related to past human rights abuses in Argentina.



Fingerprints from the Cadaver Registration book in the Antecedentes Section of the Buenos Aires Police. photo by Ana Aslan

RECOVERY AND ANALYSIS OF OFFICIAL DOCUMENTS

Since 1984, EAAF has been investigating disappearance in Argentina. In the last few years, information both on the role of the security forces and on bureaucratic processes related to the repression has become increasingly accessible. In 1997, EAAF negotiated access to crucial documents stored by the Federal government and by the government of the Province of Buenos Aires. Since that time, EAAF has made steady advances in the retrieval of these documents - most importantly fingerprints - which have allowed us to resolve difficult cases of disappearance.



Background

During the last military government, most of the bodies of disappeared persons were disposed of in one of two ways: they were thrown from military aircraft into rivers and the Argentine Sea; or they were buried as “NN” (no name, or “John Doe”) in public cemeteries across the country. Bodies that met the latter fate often first “appeared” again on the street before their eventual burial. EAAF is dedicated to investigating these cases and has access to documentation on the dead bodies produced by state agencies before they were buried.

Contrary to what was long believed, state officials documented cases of state-sponsored disappearance just as they did in almost every other case of “John Does” that they processed. After a person was kidnapped, taken to a clandestine detention center, tortured, and in most cases, killed, bodies were often deposited in public spaces. At this point a series of bureaucratic-administrative procedures were followed, and an account of certain of these steps therefore appeared in official records. When a cadaver or group of cadavers was discovered, the police carried out almost all the procedures made in normal cases. These included writing a description of the find, taking photographs, fingerprinting the corpse, conducting an autopsy or external examination of the body, writing death certificates, making an entry in the local civil register, and issuing a certificate of burial, among other steps.

Such indirect sources of information were first studied by Dr. Clyde Snow, a US forensic anthropologist who trained and helped found EAAF. Snow published an investigation of cemetery records in the province of Buenos Aires;¹ EAAF has expanded on Dr. Snow’s work in this field. Though in the past EAAF has collected death certificates and cemetery records of particular locations during investigations of specific cases, we now conduct a systematic regional survey of bureaucratically generated information. The very existence of the files suggested a strategy for approaching offices of the Judiciary and the Ministry of the Interior to ask for information about the discovery of cadavers in public places between 1976 and 1980.²

Three EAAF members worked primarily in Argentina during 2001: Carlos Somigliana, Daniel Bustamante, and Dario Olmo.

The Provincial Register of Persons

In 1997, with the object of gaining access to the aforementioned data, EAAF negotiated permission to enter the Provincial Register of Persons, located in the city of La Plata, where death certificates for those who died in Buenos Aires Province are concentrated.³ The choice of this registry was not random: Buenos Aires was one of the provinces most affected by the repression, particularly between 1976 and 1978.

Two EAAF members began work there in April 1997, using a laptop computer to enter the data from death certificates referring to the discovery of bodies in the 38 jurisdictions comprising “Greater Buenos Aires,” where there was a high rate of kidnappings. The investigators prioritized as “highly probably corresponding to ‘disappeared’ persons” those certificates marked “NN” and which indicated violent or suspicious cause of death and/or death at a young age. The recovered data was incorporated into the EAAF database to further the project of matching disappearances with discoveries of bodies. This project has continued through 2001.

Buenos Aires Provincial Police

At the same time, a similar task was undertaken with the Buenos Aires Provincial Police, under the Provincial Ministry of Security and Justice. This usually hermetic police office was approached in two ways: a) judicially, and b) institutionally, through an accord with the “Intervention” in the Buenos Aires Provincial Police.⁴ EAAF also established protocols of cooperation with the Ministry of Security and Justice of the province of Buenos Aires, at that time under the charge of Dr. Leon Arslanian, one of the Federal Chamber judges who sentenced ex-commanders of the last military government in 1985.

A crucial archive within the Buenos Aires Police Province lies in the Microfilm Section ‘Cadavers File’ and the Cadaver regis-

tration book in the Antecedents Section of the Buenos Aires Provincial Police Archive. Police opened files on the deaths of people who were found unattended or who died in violent or suspicious ways. As a result, the bodies of disappeared people were usually fingerprinted, and their prints are often to be found in the “NN” files of police archives. We provide here a description of the way in which EAAF uses these archives to find the remains of disappeared people.

Analyzing Fingerprints

In 2001, EAAF continued to work on two tasks related to the analysis and comparison of fingerprints. As was explained in the 1998 annual report, fingerprints from “John Does” found in the Microfilm Section ‘Cadavers File’ and the Cadaver registration book in the Antecedents Section of the Buenos Aires Provincial Police Archive served as primary sources. By comparing information such as dates of kidnapping, general physical information, dates of “transfers” – often a euphemism for when prisoners were extrajudicially executed- of disappeared people from illegal detention centers, information coming from interviews with former militants, and from judicial, police, and military files titled “appearance of bodies” and “shootout between security forces and subversive elements,” among other sources of information, we formulate a hypothetical link between an “NN” individual fingerprinted at the Police archive and one disappeared person.

Once the hypothesis is made, EAAF tests the link by comparing fingerprints from the Police Archive to fingerprints stored at the National Registry Office, which holds records of the fingerprints taken for all Argentinian citizens for National Identity Cards. When the National Registry’s copies of fingerprints are in bad condition, EAAF goes to the archive of the Federal Police, which also fingerprinted all citizens and residents for an additional identity card. Fingerprint experts from the Ministry of Justice and Security of Buenos Aires Province and from the Argentine Naval Prefecture collaborated with EAAF in this project, helping in the technical comparison. This work has suffered delays in the transmission of documents from the National Registry Office. But at the writing of this report, EAAF has 6,053 sets of fingerprints on file for the approximately 9,000 disappeared.



Buenos Aires. 1981. An NN or Ningún Nombre burial Photo courtesy of Susan Meiselas/Magnum Photos.

The process of identification proceeds from the original fingerprint match. After the first stage of identification is reached, EAAF sends the information to the Federal Appellate Chamber of Criminal and Correctional Cases of the Federal Capital, so that they can communicate with the relatives of the victim and begin the process of finding the cemetery where the remains may still be buried.

EAAF also continues to work in other archives of the Federal Police and the Buenos Aires Provincial Police. Here, EAAF has discovered documents mentioning the names of persons listed as “disappeared” in our databases. In some cases, these documents confirm information about the circumstances of death that EAAF and families of victims already possessed. We try to correlate this information with “John Doe” burials in cemeteries in the Federal Capital and in Buenos Aires province, not always with success. Regrettably, some of the remains had already been exhumed from their individual tombs by cemetery personnel and sent to the general ossuary of the cemetery. By municipal decree, this is done after five or ten years if grave duties are unpaid, as is typical in cases of indigents and “John Does.”

Improvement of Fingerprint Quality

Police fingerprints are often defective, making the comparison between them and the sets of fingerprints of identity cards at the National Registry office difficult. To redress this problem, in the late 1990s EAAF signed a Cooperative Agreement with the School of Physical Sciences of the National University of Mar del Plata. In this context, mathematician Emilce Moller has worked on improving recovered images of fingerprints found in police archives. Moller’s work has made possible the connection between barely legible fingerprints and the fingerprints of the documents that correspond to the identity of the alleged victims.

Her work was submitted and approved as a research project within the initiatives supported by the University of Mar del Plata, and won the “Solution of the Year 2000” prize in the category Forensic Sciences awarded by *Advanced Imaging Magazine*. The candidates for this prize are selected from research groups that work in the area of Digital Imaging Processing (IDP) around the world, and who make

significant contributions to the technological development of this field. Her research findings have been published in the *Journal of Forensic Sciences*, in May 1998. Mollers continued to improve fingerprints for EAAF during 2001.

Currently, EAAF members Somigliana and Bustamante are dedicated to comparing the fingerprints recovered from microfilms and the fingerprints taken from the enrollment register of citizens who later were detained and/or disappeared. This work has resulted in several dozens of identifications, some of which made possible the recovery and delivery of remains to the victims' families. In addition, one Anthropology student of the University of Buenos Aires, Celeste Perosino, is compiling a comprehensive bibliography of works on fingerprinting.

Judiciary Files Revisited

With the help of volunteers, EAAF continues researching government and judiciary documents that may help us find the remains of disappeared people.

An agreement with the Federal Court N° 2 of the Judicial Department of San Martín allows two volunteers for EAAF, Laura Panizo and Romina Ameijenda, to carry out a survey in the Court's archives. Both volunteers are Anthropology students of the University of Buenos Aires. Their work at the Judicial Department covers a variety of areas relevant to the identification of disappeared people.

In the first place, EAAF volunteers investigate judicial files connected to episodes of political violence during the period 1974-1980. Through the entries in the Court's Daybook, the students analyze the cover pages of the court proceedings. Then they choose the cases registered under labels of the following type: "Homicide," "Attempt and Resistance against the Authority", "Law N°20841", "Finding of cadavers", "Habeas Corpus", etc. Based on EAAF's experience with research into court documentation of episodes of political violence and state-sponsored terrorism, we know these are the titles

of cases that could provide useful information about the fate of disappeared people.

Once the files to be examined are selected, they are separated and analyzed sheet by sheet, and the important information is summarized. Recovered information is tabulated in Microsoft Access, and the tables are incorporated into EAAF's Register of Cases, our group's central database. Our 18 years experience in investigation has revealed how the vast majority of cases of forced disappearance involved intelligence work carried out by government agents who chose their targets with care. These targets would frequently become Argentina's disappeared. The gathering of information from the San Martín archives, and its incorporation into our database, is therefore a principal step to resolving cases of disappearance.

Photo Archives of the Disappeared

EAAF is expanding its archives with different kinds of information from different sources. One major project in this vein undertaken in 2001 is the classification and storage of photographs of disappeared people. To this end, we count on the invaluable help of Macarena Peruset, an Anthropology student at the University of Buenos Aires. Furthermore, EAAF works with the photo archive of Santiago Melivosky, the father of Graciela Melivosky, who disappeared in 1977. Melivosky created a photo archive of disappeared people as part of his work supporting human rights organizations. He donated a copy of part of this archive to EAAF, which we are now enlarging and completing using other sources. At the time of this writing, it includes 2707 scanned photographs.

IDENTIFICATIONS

As noted above, EAAF identified the remains of two disappeared Argentine citizens in 2001. Here we print brief accounts of these two cases. For description of the cases of Uruguayans disappeared in Argentina, please see the chapter on Uruguay in this report.



Buenos Aires, 2001. EAAF member Patricia Bernardi at the "NN" section of the San Martín cemetery with relatives of disappeared people. Photo by EAAF.

ALBERTO CAYETANO ALFARO

Disappeared on July 9, 1977 in Ciudadela, Province of Buenos Aires.

Alberto Cayetano Alfaro began his political activism in the shantytown known as Villa de Emergencia 31, in the Retiro neighborhood of the Federal Capital. His neighborhood was subject to a number of government actions, including a mass expulsion of residents in 1973. Like many of his neighbors, Alfaro was relocated to another neighborhood, known as Fort Apache, by the government. There he joined the "Peronist Resident Movement" (MVP), an organization tied to the Montoneros armed movement. While living in Retiro Alfaro suffered a railroad accident that led to the amputation of both his legs.

The killing of Alberto Cayetano Alfaro took place in the context of clandestine repression in the northeast section of Buenos Aires. On July 9, 1977, Alfaro arrived at his apartment in Fort Apache together with another militant of the MVP; members of Argentina's military were there, having discovered the militants' location during the interrogation and torture of other victims. Alfaro's friend managed to flee, but Alfaro's disability prevented his escape and he was shot on the spot. After killing Alfaro, the soldiers went to his friend's

family home and not finding him, arrested his younger brother José Ariel Kreplak, 16 years old, who remains disappeared.

The identification of Alfaro was not made earlier because no deposition was made about this case until the year 2000. Recently, a companion and militant of Alfaro spoke to EAAF about his case, reporting both his name and the details of his death. EAAF checked this information against the registers of the Federal Police and the Police of the Province of Buenos Aires: the former documented the fingerprints of an unidentified man later determined to be Alberto Cayetano Alfaro (fingerprint No.140.614, microfilm roll 228), while the Province of Buenos Aires police reported an unidentified cadaver (Cadaver file No. 49.133, roll 36). Both listed this unidentified man's date and place of death as July 9, 1977, on the 5th floor of Building 6, Department D of the Ciudadela Housing Unit, as Fort Apache was officially known. This date was compared to records at the nearby Municipal Cemetery of San Martín, where the registry reported the burial on July 19, 1977 of a male "NN" (no name) in grave number 117 bis, section 15.

EAAF presented these documents to the Federal Court of the Federal Capital, and received authorization to exhume the three skeletons at this gravesite on April 20, 2001. Laboratory analysis of the skeletal remains found that those of the skele-

ton labeled No. 3 belonged to a male, age 22-28, with both legs surgically amputated. In terms of cause of death, analysis established at least one gunshot wound to the right parietal, a bone in the skull. The gunshot wound matched the cause of death described on his death certificate, while the specific pre mortem characteristic of amputation offered strong evidence to identify the remains. Finally, Alberto Cayetano Alfaro's sister, who had asked to be present during the exhumation, positively identified the metal prostheses her brother had used.

The remains of Alberto Cayetano Alfaro were returned to his family, who held a mass in his honor in the same neighborhood church where he used to meet with the MVP, a few blocks from the place where he was killed.

The Fátima Case

HORACIO OSCAR GARCIA GASTELÚ

21 years old, Conscript in the Argentinian Navy. Disappeared on August 7, 1976 in Banfield, Province of Buenos Aires.

García Gastelú and his girlfriend were both kidnapped from her house by armed attackers dressed as civilians (a style often chosen by death squads whose members nevertheless belonged to the police or one of Argentina's three armed forces). At the time, he was performing his mandatory military service at the Battery Base of the Navy in the city of Bahía Blanca, located in the south of the Province of Buenos Aires. While in service, García Gastelú also studied Biology at the National University of Buenos Aires.

The disappearance of García Gastelú was part of one of the largest extrajudicial mass killings during the military dictatorship.

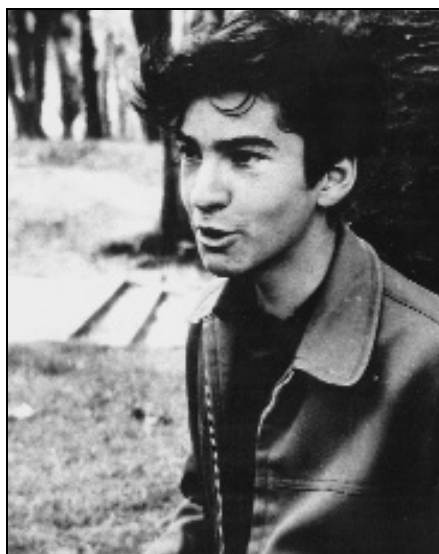
On August 19, 1976 a commando unit from the armed

opposition group known as the Montoneros assassinated General Omar Actis, then president of the group charged with organizing the World Cup in Argentina scheduled for 1978. On the morning of the following day, thirty unidentified people (20 men and 10 women) were extrajudicially executed in Fátima, some seventy kilometers north of Buenos Aires. Every victim suffered at least one gunshot wound to the back of the head; the killers then detonated a bomb that destroyed the corpses of three victims. EAAF's investigation revealed that the victims had been taken from a clandestine detention center located in a Federal Police building called the Superintendency of Federal Security (SSF). EAAF suspects that the majority of the victims had ties to the Montoneros organization.

EAAF was then able to narrow the list of potential victims to people who had been seen at that CDC at that time, many of whom belonged to Montonero groups active in the Northern Zone of Buenos Aires.

In 1987 EAAF participated in the archaeological exhumation of 25 victims, only one of whom was identified. (For more information, please see EAAF's 2000 Annual Report). Years later, when DNA analysis became available, we recovered DNA samples from each of these remains.

Thanks to our collaboration with the University of Durham (UK), our investigation then turned to the identification of the group of people disappeared before August 20, 1976 most likely to have been among the victims at Fátima. EAAF narrowed the criteria for this group as we started to identify some of the remains. We knew that during the beginning of August 1976, the clandestine repression based at the SSF focused on a great number of people in the north of the Greater Buenos Aires area tied to the Montoneros group. Thus, we directed our efforts towards collecting DNA samples



Horacia Oscar Garcia Gastelu

from victims' families whose disappeared loved ones could

have been associated with Montoneros in this area of Buenos Aires. Special attention was given to those reportedly seen at the SSF before August 20, 1976. Our goal was to match DNA samples from the families with those of the remains to identify them.

As a result of this work, it was possible to identify eight victims, the last of whom was Horacio Oscar García Gastelu, who in addition to his life as conscript and student also was a political activist in the neighborhood of San Martín, in the northwest section of Greater Buenos Aires. After identifying his remains, EAAF succeeded in contacting the family of García Gastelu's girlfriend, who now await the results of DNA tests that may identify the remains of their daughter.

EXTENSION ACTIVITIES

Besides the research work proper, EAAF's activities in Argentina have been focused on an important number of extension/continuing education activities and on the formation of human resources. To this end, regular courses are given in different academic units and academic research tasks are coordinated with expert work carried out within the judicial sphere.

Improving existing methodologies

Several of the existing methods to determine basic general information from skeletal remains such as age at death, height, and ancestry are based on studies conducted on specific samples. These then are applied to large groups and populations that often differ in various ways from the original sample. As a result, even though they are extremely useful tools, they may be less accurate than studies based on the specific population to which they will be applied. Although recent studies have contributed methodologies for more specific populations, more work needs to be done in this area. EAAF is moving in this direction by preparing methodologies for height and age at death for a population more in accordance with the population we study in Argentina.

With the agreement of the authorities at the Cemetery of Chacarita—Argentina's largest cemetery—EAAF is conducting both a study and a training for university anthropology students. Since 1998, EAAF has concentrated its efforts on the recovery of skeletons that belonged to people who died in the metropolitan area and whose bodies were unidentified, identified and unclaimed, or whose unpaid grave fees led to their disinterment. The cemetery indicates those graves where, following municipal norms, remains will be exhumed and cremated by cemetery personnel after fees have been left unpaid for 5-10 years. From these cases, EAAF investigates those for which an autopsy had been performed at the Judicial Morgue of the Federal Capital and within that group, those cases showing a biological and traumatic profile similar to the profiles of the disappeared population (even though their deaths did not occur during the period of repression).

At the morgue, autopsy records provide weights and measurements of the cadavers in question. With a group of volunteers from the University of Buenos Aires, we then exhume some of these bodies, after sufficient lapse of time for their remains to have skeletonized. Measurements taken of the skeletal remains can then be compared to autopsy findings. One of our long-term objectives is the elaboration of more reliable tables that relate the length of long bones with the total height of individuals, with specific regard to the population of metropolitan Buenos Aires. During 2001, EAAF conducted eleven such exhumations. Though tables of this sort already exist, this would be the first performed for a population in the Southern Hemisphere, and would therefore improve our methodology for identifying disappeared people in Argentina. Simultaneously, this project helps train anthropology students on the techniques of recovery and analysis of skeletal remains.

In addition to work by EAAF team members, research is coordinated by María Victoria Lois, and assisted by Soledad Arbetche, Claudia Aranda and Leandro Luna, all students of Anthropology at the University of Buenos Aires.

Additionally, EAAF has collaborated with Dr. Luis Bosio, forensic pathologist from the Judicial Morgue of

the city of Buenos Aires, in tutoring the senior thesis of Gabriela Slepoy, an Anthropology major at the University of Buenos Aires. Slepoy is analyzing the sternal ends of fourth right ribs of 200 corpses of known age. The purpose of her research is to test a methodology for establishing the age of a person at the time of his or her death. She is assisted in her research by Celeste Perosino.

Annual Courses

EAAF offers the following courses in forensic anthropology at the University of Buenos Aires.

*Postgraduate Course – School of Medicine –
University of Buenos Aires.*

Chair in Legal Medicine and Forensic Deontology.

From August to December of every year. It consists of 44 contact hours and a similar amount of field work. Courses are given by five members of the EAAF (two of them associate professors) in collaboration with Dr. Luis Bosio and Dr. Norberto López Ramos. Field work includes exhumations and lab work on human remains that have been recovered. The remains recovered in the exhumations are incorporated into EAAF's repository in anticipation of future studies.

*Undergraduate Course – School of Anthropology –
University of Buenos Aires.*

Introduction to Forensic Anthropology.

A 2-week course given within the framework of regular courses on Fundamentals of Biological Anthropology at the School of Anthropology, at the University of Buenos Aires.

Annual Orientation Course.

University of Buenos Aires.

Introduction to Anthropology.

EAAF gives classes on forensic anthropology prior to admission to the first year of the University of Buenos Aires. These are part of introductory anthropology courses for students entering into anthropology and related disciplines at the University.

NEW DEVELOPMENTS IN THE PROSECUTION OF HUMAN RIGHTS VIOLATIONS

In 2001, CELS, a non-governmental organization in Buenos Aires, effectively challenged several partial amnesties that had been granted to military accused of human rights violations committed during the Argentine dictatorship (1976-1983.)

Background on the Amnesty Laws and Presidential Pardons

Shortly after assuming the presidency in 1983, President Raul Alfonsín announced that nine members of the first three military juntas (1976-1983) and other high-ranking officials would be tried by military courts. Public outcry followed the decision, as prevailing public opinion held that the military could not fairly judge their peers for the human rights violations for which they were being tried. After this military trial failed, Alfonsín admitted to an "historical error" and civil trials began officially in April 1985. The "trial of the century" as the trial of junta members was known in Argentina, took place over the course of five months. During this period, threats and hostile statements by the military created an atmosphere of tension and political uncertainty. Altogether, the head prosecutor, Dr. Julio Strassera brought 711 charges against the generals for murder, illegal detention, torture, rape and robbery. After hearing the testimony of more than 800 witnesses, in his closing argument, Strassera turned to the judges and announced "Never Again."

At the conclusion of the hearings, president and army commander Lieutenant General Jorge Videla and navy commander Admiral Emilio Massera were sentenced to life imprisonment, and air force commander Brigadier Orlando Agosti received a prison sentence of four-and-a-half years. These three comprised the first Junta. Members of the second junta included president and army commander Lt. General Roberto Viola who received a

sentence of seventeen years imprisonment, and navy commander Admiral Armando Lambruschini, who received eight years. Their crimes included aggravated homicide, torture, unlawful arrest, robbery, and threats. The judge's ruling on this case determined that Human Rights violations were not "military excesses" but were systematically organized and therefore constituted state terrorism. Air force commander Brig. Omar Graffigna, of the second junta, was acquitted, as were all three members of the third military junta, President and army commander Lt. General Leopoldo Galtieri, navy commander Jorge Anaya and air force commander Brig. Basilio Lami Dozo.

After the generals were tried, the prosecutions continued down chains of command and several hundreds of lower-ranking members of the armed forces were about to be brought to trial for Human Rights crimes. As threats to the government continued, Alfonsín, in an effort to pacify the military, sent Congress a law setting a sixty-day deadline for initiating new prosecutions. *Punto Final* or the Full Stop law, passed on Dec 24, 1986. The only cases not specifically covered by this law were theft and the abduction and concealment of minors. The sixty days in which to initiate new cases, however, included thirty days during which the courts were in recess. A few judges and federal courts nonetheless



Buenos Aires, March, 2000. Members of HIJOS, an organization of sons and daughters of the disappeared, protesting during a Tribunal hearing for Naval Captain Alfredo Astiz. Photo courtesy of Daniel Jayo/Página12

made themselves available for the processing and filing of cases; at the end of this period, it seemed as though 100 officers would be brought to trial. But during Holy Week 1987, Major Ernesto Barreiro, an officer in Cordoba accused of crimes, refused to appear in court and his regiment backed him. At a parallel protest in Buenos Aires, led by Lieutenant Colonel Aldo Rico, the *Carapintadas*, as they were called because of their black-painted faces, rose in arms against the government on April 15, 1987, and demanded an amnesty law. The government called for popular support and received it – hundreds of thousands of Argentines filled the streets during the four days before Easter, demonstrating in support of the democratically elected government and for the continuation of the trials. The government also requested the Commander-in-Chief of the armed forces Héctor Ríos Ereñu, to suppress the rebellion but due to a break in the chain of command, a tacit policy of non-action was settled on instead. After meeting with leaders of the rebellion on Easter Sunday, April 19, 1987, Alfonsín emerged from the presidential palace and announced, “Happy Easter, the house is in order.”

Some days afterwards, however, another partial amnesty law – the Due Obedience Law (*Obediencia Debida*)—was sent to Congress, granting immunity to a large number of potential defendants. Under this law, lower-ranking members of the armed forces were not held responsible for the crimes they committed under the orders of their superiors. The law covered almost all crimes committed during the dirty war. Theft, the abduction and concealment of children, and falsification of civil status were the only crimes exempted from amnesty. However, this amnesty failed to meet all the demands of the *Carapintadas*, including increased pay and recognition that the acts of the juntas in “the fight against subversion” were legitimate, and they rebelled again in January 1988, December 1988, and December 1990. Led by Colonel Mohamed Ali Seineldin, from his prison cell following his arrest during the rebellion of 1988, this last rebellion failed, resulting in over 600 arrests and many convictions. More significantly, several deaths occurred among opposing pro-democratic army forces, further diminishing the *Carapintadas* appeal and popularity among less extreme army circles. In 1994, sixteen *Carapintadas* were freed after spending four years in

prison. They had never been sentenced. Seineldin, who was sentenced toward the end of 1990, remains in prison serving a life sentence.

Alfonsín left office five months before the end of his term, due to a combination of hyperinflation, food riots, and a sense of hopelessness about the economy. Upon assuming the presidency in 1989, Carlos Menem pardoned high-ranking military officers who had not been covered by the previous laws, pre-empting any further investigations or convictions, and pardoned *Carapintadas* officers who had initiated rebellions against Alfonsín. On December 29, 1990, he issued a pardon for members of the junta tried in 1985 in democratic courts and still serving their sentences, including Videla, Massera, Viola, Camps, Suárez Mason, and Richiéri. On December 30, 1990, 80,000 people attended a rally in Buenos Aires to protest this pardon. He also pardoned former guerrilla members who were imprisoned or whose cases were pending. The pardons of military officials were highly unpopular with the Argentine public, with opinion surveys indicating that 80% of the population was against them. The military, on the other hand, saw them as a step toward full vindication. In this spirit, barely 24 hours after leaving prison, General Videla demanded an apology and recognition from society for his work on behalf of democracy.

Although the amnesty laws and pardons made it impossible to prosecute the military for certain human rights abuses, other categories of crimes not included under them continued to be prosecuted. Under these circumstances, the annulment of these laws came about.

Amnesty Laws Annulled

A major new development in the prosecution of human rights cases in Argentina are the cases, sponsored by CELS (Center for Legal and Social Studies), an Argentine human rights organization, challenging the “due obedience” and “full stop” amnesty laws. On November 9, 2001, the Federal Court of Buenos Aires nullified these laws. An appeals panel consisting of three judges ruled unanimously to uphold the March 6th decision of Judge Gabriel Cavallo

that found the 1986 and 1987 amnesty laws to be unconstitutional and contrary to Argentina's human rights obligations. This ruling by the federal Court opened the door for the prosecution of officers of the Argentine military for torture and disappearances committed during the dirty war

Judge Cavallo made his decision after accepting a plea entered by CELS director Horacio Verbitsky and human rights attorneys Drs. Santiago María Felgueras, Carolina Varsky and María José Guembe related to two crimes: the disappearance of a Chilean-Argentine couple, José Poblete and Gertrudis Hlaczik on November 28, 1978 and the theft of the pair's daughter, Claudia Poblete, eight months old at the time. While the couple was detained



Buenos Aires. July 2000. Naval Captain Alfredo Astiz escorted to the Tribunal. Photo courtesy of Gustavo Ercole/Página12.

Although the amnesty laws and pardons made it impossible to prosecute the military for certain human rights abuses, other categories of crimes not included under them continued to be prosecuted.

and tortured in *El Olimpo* Clandestine Detention Center in the Floresta neighborhood of Buenos Aires, and eventually disappeared, Claudia was taken from them on the pretense that she would be handed over to her grandmother. After a long investigation with significant aid from the Grandmothers of Plaza de Mayo, a local human rights organization that searches for their disappeared children and grandchildren, many born in captivity, her grandmother eventually found Claudia Poblete living with a retired police lieutenant colonel and his wife. They had hidden the child's identity for twenty-two years.

In this case, CELS argued that the Due Obedience and Full Stop amnesty laws should be annulled so that Julio Simón (known as "Julian the Turk") and Juan Antonio del Cerro (alias "Colors"), and five other military and police officers⁵ who were being tried for the theft of the child could also be charged with the disappearance of the couple. In his ruling, based on international law and precedents in Argentine jurisprudence,

Cavallo maintained that the Full Stop and Due Obedience laws violated Articles 29⁶ and 118⁷ of the Constitution and conflicted with Argentina's obligation to bring to justice those responsible for crimes against humanity⁸. In doing so, he provided a comprehensive legal analysis of the amnesty laws. Noting their internal inconsistencies, as well as the circumstances in which they were enacted, he demonstrated that human rights crimes committed during the military dictatorship were of sufficient gravity and scale to be classified as "crimes against humanity," or international crimes subject to universal jurisdiction with no statute of limitations. Respect for such norms of international human rights law was expressly prescribed in the Argentine Constitution, and by contravening these provisions, the amnesty laws consequently violated the Constitution. Cavallo, according to Human Rights Watch, was also motivated by the ironies inherent in these laws: the law excused those who kidnap, torture and kill, while prosecuting and convicting those who steal property.

el cementerio Parque La Floresta a las 12,30 hs. C.M.: Ignacio Toloza 731, B° M. Fraguero. Cobertura: 'Caruso Compañía Argentina de Seguros SA'. Servicio: JUAN CARUSO CASA FUNERARIA.

† **PAPPATERRA DE MENDÉ, MARIA LEONOR (MARILOR)** (q.e.p.d.) Falleció el 01-03-1977 conf. a.s.r. y b.p. - Sus tios María Piedad Ruiz y Mario Formento, María de las Nieves Ruiz de Garzón, Blanca Ruiz y Julio Palero, Raúl Ruiz y Rita Gerlero, Eduardo Ruiz Y Nilda Campos. Sus primos: Formento Ruiz Palero Ruiz, Ruiz Gerlero y Ruiz Campos participan el traslado e inhumación de sus restos en el Cementerio Parque del Recuerdo el día 17 de Junio a las 17 hs y ruegan una oración por el eterno descanso de su alma.

† **PAPPATERRA DE MENDÉ, MARIA LEONOR (MARILOR)**(q.e.p.d.) Falleció el 01-03-1977 conf. a.s.r. y b.p. - Su hijo Juan Martín, sus padres José Pappaterra y Leonor Ruiz sus hermanos María Piedad y Eduardo Maldonado, José Luis, Fernando y Mercedes Messina, María de las Nieves y Javier López, María Fe y Mario Capelli, sus sobrinos Maldonado Pappaterra, Pappaterra Wenthe, Pappaterra Messina, López Pappaterra, Capelli Pappaterra y demás deudos participan el traslado e inhumación de sus restos en el Cementerio Parque del Recuerdo el día 17 de Junio a las 17 hs. Se agradece una oración por su alma.

† **PAPPATERRA DE MENDÉ, MARIA LEONOR (MARILOR)** (q.e.p.d.) Falleció el 01-03-1977 conf. a.s.r. y b.p. - La familia Pappaterra Ruiz agradece y destaca la excelente labor profesional del Instituto Antropológico Forense que ha permitido la localización e identificación de los restos de su hija tras 24 años de búsqueda.

† **RAMIREZ, ROQUE FLORENCIO**-(q.e.p.d.) Falleció el 18-8-01 conf. a.s.r. y

Córdoba. June 17, 2001. Obituary page of La Voz del Interior newspaper for María Leonor Pappaterra de Mendé identified by EAAF in 2000, after twenty four years of searching, courtesy of "La Voz del Interior".

Cavallo charged Simon with the illegal arrest and torture of the couple, making him the first officer charged since 1987, even though del Cerro was too sick to be indicted. While their lawyers are appealing the decision of the Federal court, and the Argentine Supreme Court will eventually rule on the validity of the amnesty laws, both can be put on trial. Since the annulment of the amnesty laws would be retroactive under the Argentine law, those exonerated under them could, in principle, be indicted again and eventually convicted.

Following Cavallo's precedent, on October 2, 2001, another federal judge, Claudio Bonadio, issued a second decision that declared the amnesty laws unconstitutional and null. Bonadio, a judge under the jurisdiction of the Second Chamber of the Federal Court of Buenos Aires, was investigating the theft of property belonging to Conrado Gómez, who disappeared after being abducted on January 10, 1977 on the suspicion that he was bankrolling the Montoneros. His captors, who belonged to an ESMA (Navy Mechanical School) death squad, stole the contents of his apartment, deeds to properties totaling over \$20 million, his car and several racehorses. They then allegedly transferred ownership of these possessions to themselves through a third-party company that was owned by Navy Admiral and Junta member Massera and his son. Bonadio began his investigation into crimes excluded by the amnesty laws, but was eventually confronted by the fact that the criminals were immune from the much more serious crime of Gómez's abduction and murder. Using arguments similar to Cavallo's, Bonadio declared the full stop and due obedience laws to be without legal effect and indicted Admiral Emilio Massera as leader of a criminal association and four members of the Navy death squad, Juan Carlos Rolón, Jorge Carlos Radice, Jorge Eduardo Acosta and Francis Whamond not only for criminal association but also for illegal arrest aggravated by violence and threats.

Also in the first week of October, according to Human Rights Watch, Graciela López de Filonuk, the prosecutor in the case being heard in the so-called "truth trial"⁹ in Cordoba, requested Judge Cristina Garzón to declare Menem's presidential pardons of 1989 as well as the two

amnesty laws of the Alfonsín government to be unconstitutional. This is the first time that an Argentine judge has been called to pronounce on the constitutionality of presidential pardons.

At the moment, the Argentine Congress is carrying out impeachment proceedings against the entire bench of the Supreme Court, widely held to be extremely corrupt. It is, therefore, impossible to predict which way the court will rule on human rights prosecutions as these cases arrive before them.

Judge Cavallo maintained that the full stop and due obedience laws violated Articles 29 and 118 of the Constitution and conflicted with Argentina's obligation to bring to justice those responsible for crimes against humanity

FOOTNOTES

1. C.C. Snow and M.J. Bihurriet, 1992. "An Epidemiography of Homicide: Ningun Nombre Burials in the Province of Buenos Aires from 1970 to 1984," in *Human Rights and Statistics: Getting the Record Straight*. Eds. T.B. Jabine and R.P. Claude. Philadelphia: University of Philadelphia
2. Although the military government extended to 1983, the 1976-1980 period is considered to have had the highest concentration of "disappearances."
3. Capital of Buenos Aires Province, La Plata is situated about 60km south of the city of Buenos Aires
4. Regarding this issue, it is worth making the following clarification. During an investigation of two violent events in which the Buenos Aires provincial police appeared to be involved—the death of photographer Jose Luis Cabezas in January 1997, and the attack on the headquarters of the Jewish organization AMIA in July 1994 – Governor Eduardo Duhalde intervened in the force's affairs for a period of four months. This intervention resulted in a departmental restructuring, as well as the retirement of hundreds of police officers suspected of corruption and human rights violations, though many were later reincorporated later.
5. Juan Carlos Avena (Capitan Centeno), Martín Emilio Blottner, Gustavo Adolfo Eklund, Raúl Antonio Guglielminetti and Guillermo Antonio Minicucci
6. Article 29 of the Argentine Constitution prohibits the legislature from giving the executive branch special powers that put "life, honor and fortunes of Argentines at the mercy of whatever government or person." By stripping the Courts of their powers to provide remedy and justice to the victims of the dictatorship, Cavallo argued that the amnesty laws were examples of legislative acts prohibited under this article.
7. Article 118, *Derecho de Gentes*, provides that crimes against international law, if committed by an Argentine outside the national borders of Argentina, must be judged by an Argentine court in the place designated by Congress in a special law. This consigns crimes against humanity and universal jurisdiction to a special conceptual place in the Argentine legal system. In analyzing the precedent, Cavallo argued for the extension, norms, and universal jurisdiction of this article, also affirming that such crimes are not subject to statutes of limitation. (See Human Rights Watch, December 2001)
8. See Argentina, Reluctant Partner: The Argentine Government's Failure to Back Trials of Human Rights Violators, Human Rights Watch, December 2001
9. In these trials, judicial action is limited to investigation and documentation, with no formal prosecution or punishment. Based on the right of truth — of the relatives and of society as a whole— to know the truth, and the right of relatives to bury and mourn their dead, these trials are an innovation in Argentine justice. For further information, see 'The 'Truth Trials' in Argentina, Reluctant Partner, Human Rights Watch, December 2001.