STATE VIOLENCE AND THE RHETORIC OF OTHER PEOPLE’S BODIES:
VISIBILITY, EMPATHY, AGENCY

A dissertation presented

By

Erin Leigh Frymire

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ABSTRACT OF DISSERTATION

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ABSTRACT

This dissertation examines the process by which states transform human bodies into unwilling rhetorical resources. In theorizing this “rhetoric of other people’s bodies,” I argue that the rhetor’s use of another’s body as a rhetorical tool requires an undoing or disruption of that person’s agency, which is achieved via violence. I focus on state violence in particular, because it is uniquely complex in its need to balance the display of power with the preservation of legitimacy. This duality causes the state to rely on a rhetorical strategy I call the strategic invisibility of the body, in which the state makes the bodies it converts into rhetorical tools invisible to the broader public. This invisibility attempts to ensure that the public will not have the opportunity to identify with the body suffering state violence, as that identification could lead the public to challenge the state’s legitimacy and authority. To understand these rhetorical strategies, I examine a series of cases of state violence: mass incarceration in the contemporary United States, torture committed by the United States after 9/11, and, to gain an international perspective, the disappearances committed by the military dictatorship of Argentina during the Dirty War. This third case also provides the opportunity to consider a popular movement against state violence in the form of the Madres de la Plaza de Mayo and question whether this rhetoric of other people’s bodies is always, inherently violent. I find that states depend upon bodily invisibility to disable empathetic identification, but that those resisting this violence can make bodies visible in ways that foster identification and therefore challenge the narratives and power of the state.
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CHAPTER ONE
THE RHETORIC OF OTHER PEOPLE’S BODIES

On Tuesday the 12th Instant, about 3 p.m. were executed for Piracy, Murder, etc., three of the Condemned Persons mentioned in our Last viz. William Fly, Capt., Samuel Cole, Quarter-Master, and Henry Greenville.... Fly behaved himself very unbecoming even to the last; ... Their Bodies were carried in a Boat to a small Island call’d Nicks’s-Mate, about 2 Leagues from the Town, where the above said Fly was hung up in Irons, as a spectacle for the warning of others, especially sea-faring men; the other Two were buried there.

Boston News-Letter, July 7-14, 1726 (qtd. in Dow)

This article from an early Boston newspaper recounts an event not unusual for its time. The execution of pirates was common practice in the early 18th century, as was gibbeting, described here as Fly being “hung up in Irons.” Public executions would continue to be standard punishment for two more centuries – the image of the dead, criminal body a clear threat to those who would transgress the law. Gibbeting takes the morbid display of public killing even further. Bodies, living and dead, were put in a variety of cages or restraints and left there, as the Boston News-Letter states, “as a spectacle for the warning of others.” The body of Captain Fly, described as the worst of the three for his “unbecoming” behavior (and likely for his leadership position), was transformed by the colonial government into a “spectacle,” a “warning.” A human being became a sign informing criminals of Boston’s legal power to kill. Rotting away on an island in the Boston Harbor, this body was converted into a rhetorical tool.

From the display of enemy heads on pikes outside castle walls to a sign designating a water fountain for “whites only,” people and institutions of power have long used other people’s bodies in rhetorical arguments. In each case, the state has transformed the human body into its own rhetorical tool – an unwilling resource. This project seeks to understand how this rhetoric of other people’s bodies works. How does the state transform the body into a rhetorical tool? To what ends does the state use the body rhetorically? Furthermore, how, in the modern era, does
the state engage in this practice without retribution? In addressing these questions, I examine a series of cases of state violence: mass incarceration in the contemporary United States, torture committed by the United States after 9/11, and, to gain an international perspective, the disappearances committed by the military dictatorship of Argentina during the Dirty War. This third case also affords the opportunity to consider a popular movement against state violence in the form of the Madres de la Plaza de Mayo and question whether the rhetoric of other people’s bodies is always, inherently violent. After a brief orientation in rhetorics of the body, I will discuss key terms and concepts (state violence, agency, strategic invisibility, and identification) before outlining these chapters and their multiple methodologies.

THE RHETORICAL BODY

The body has always been present in the practice of rhetoric. Delivery, one of Cicero’s five canons of rhetoric, necessitates attention to the body’s role in rhetorical production. Though this view of the body as a rhetorical tool for speechmaking is an ancient one, the body has only recently been seen by scholars as a site of rhetoric and not just a means of production. Beginning with Sharon Crowley and Jack Selzer’s landmark anthology Rhetorical Bodies in 1999, the field of rhetoric has embarked on a multidisciplinary inquiry, leading to an understanding of the body as not a mere object or container for the self but a lived experience informing everything we do, think, and are (Marshall 64). This rhetorical work responds to the intellectual and social movements of the twentieth century, which inspired a reexamination of the

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1 I use the body because it is the form most often used in feminist and rhetorical work on the subject. I recognize how the body (singular) may draw focus from the individual, lived experiences body studies value and explore and instead reinforce a unitary understanding of a common, perfect, or paradigmatic body. Despite these problems, I use the more conventional singular and understand it to signify the particular body in question or the body as a general concept and not some sort of standard, “normal” body.
body as a site of “debates about the interrelation of power and discourse” (Patterson and Corning 5). Feminist and antiracist movements challenged the cultural conceptions and categories that tell us what our bodies are and mean. As Frances E. Mascia-Lees explains, it became clear that “the questions of power and oppression that were on the agendas of many scholars could not be addressed without first challenging ideologies that naturalized sex, gender, and racial difference through discourses and representations of the body” (1). Second wave feminists in particular began to critique these discourses and theorize the body as a constructed concept. Responding to this feminist work, rhetorical studies now encompass various ways of thinking about the body as a rhetorical tool, as entering into and participating in rhetorical space, and as a rhetorical construct.

My project falls into this first category of the body as a rhetorical tool; it diverges from previous work by theorizing rhetors’ use of someone else’s body, instead of their own. The current literature examines how rhetors use their bodies to create nonverbal arguments, either alongside or independent of verbal arguments. Kevin Michael DeLuca examines several examples of rhetors who recognize that the body is indeed “expressive of meaning.” In his case studies of activist groups ACT UP, Earth First!, and Queer Nation, DeLuca reveals how these groups make use of their own bodies as rhetorical resources (9). Television and other visual media expand the possibilities for this type of bodily rhetoric, creating opportunities for these bodies to occupy physical as well as virtual space as they present their “deviant” bodies to a public audience in acts of rhetorical agency and defiance (10). This awareness of the rhetorical potential of the body may be a recent critical observation in rhetorical studies, but rhetors have long been aware of – and consciously manipulated – their own bodies to further their verbal arguments or make arguments words cannot. In her study of American female rhetors in the
nineteenth century, Carol Mattingly examines their use of clothing in the construction of ethos. Suffragists and other female public figures navigated a tricky rhetorical situation; savvy rhetors were well aware of the bodily surveillance each speech act prompted and used it to their advantage. Clothing, as an acceptable and “gender appropriate” area for women, became a powerful tool (8). As women, long associated with the body and scrutinized accordingly, these rhetors viewed their bodies as useful rhetorical tools for communication and argument. Such acts of bodily rhetoric can also take far more drastic forms. Young Cheon Cho, for example, examines several instances of self-immolation as protest. The rhetors in both Mattingly and Cho’s analyses, despite their vastly different tactics, recognize the power in visual rhetoric and use their bodies to communicate in ways words could not.

These works focus on the ways in which rhetors deploy their own bodies in making arguments. My investigation of the rhetoric of other people’s bodies extends this critical discussion by asking what happens when the body used as a rhetorical tool is not the rhetor’s own, when the body is forcibly made into such a tool. While the field has not considered this rhetorical use of another person’s physical body, there have been discussions of the use of bodily representations. Wendy S. Hesford’s work on the rhetorics of human rights analyzes the use of photographic representations of others’ bodies to consider the ways in which rights and subjects are framed in human rights discourse in the West. She finds that these discourses reify social hierarchies; human rights rhetoric appeals to wealthy, empowered Westerners to rescue those less fortunate (4). Her work provides insight into the ethical and rhetorical considerations of such images. My project includes some discussion of bodily representation in text and image, as used by the state (Chapter Three) and by those opposing the state (Chapter Four), but focuses primarily on the rhetorical use of actual, physical bodies and how the state converts them into
rhetorical resources. This rhetoric of other people’s bodies is a pervasive phenomenon found throughout human history, crossing cultures and systems of government. My project seeks to understand the process of converting human bodies into unwilling rhetorical tools and how the arguments made with these human tools persuade the public and preserve state power – as well as how such tactics may be used to challenge state power and protest its violence. This discussion, I hope, will contribute to fuller understanding of rhetorics of the body.

STATE VIOLENCE

While this pattern of a rhetorical use of bodies may be common to many forms of violence, I have chosen to focus this project on state violence. As the only form of violence that is legally and (often) culturally sanctioned, state violence is especially powerful and difficult to resist or overcome. However, the state, especially the modern, democratic state, has a complex, uneasy relationship to these violent acts it commits. When the state uses violence, it is producing a clear and convincing argument about its own power. Yet, in the modern liberal state, strength is not the only requirement. The state must also abide by the law and enact the will of its citizens, who are the basis of its legitimacy. Violence in a 21st century democracy like the US therefore requires a balance of brutality and legality. The state uses brutality to inflict pain on those it deems threatening and manipulates legality and visibility to maintain the legitimacy of those acts, ensuring that its violence does not upset its power. The liberal democracy has a difficult rhetorical task: it must display its power and convince the world of its strength without transgressing the laws and values that grant it legitimacy.

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2 I refer to “the state” as a singular entity, rather than the collective effort of individuals, in part to simplify the discussion but also to highlight the ways in which the state seeks to function as a non-individuated collective and how the victim of state violence may view and experience the state as a monolithic power.
In earlier centuries – and today in some totalitarian states – the exercise of state violence was simpler. The public display of the executed Captain Fly in Boston Harbor was a clear exercise of power uncomplicated by modern notions of human rights. Modern states are typically viewed as less violent than their forebears – public executions and the like are no longer the norm. Some view this trend as progress, as civilization becoming less violent. However, this shift can also be understood as what sociologist and legal scholar David Garland calls “a strategic shift in the exercise of state power—an arrangement that gains more by concealing bodies and violence than by showing them” (779). The violence has not necessarily diminished; it is the visibility of violence that has. In his discussion of the transformation of the criminal justice system in the West, Foucault argues that violence physical (and public) punishment diminished during the Enlightenment and was replaced by a model of incarceration with more attention to “a refinement of machinery that assumes responsibility for and places under surveillance their everyday behavior” (77). While seeming more benevolent and respectful to the rights of its citizens, the state gains power over them by the coercive creation of what Foucault calls “docile bodies,” bodies that do not challenge the state’s authority – indeed, bodies that are used to bolster that authority.

The social norms of our modern context complicate state violence by making conspicuous brutality dangerous to legitimacy. Yet, rather than restricting state violence, this cultural shift has driven it into hiding: prisons move to rural outskirts, torture is renamed interrogation, and disappearance is denied. The need for secrecy drives the increasing mechanization of state violence, such as the current practice of execution by lethal injection in the US. Perpetrated in a prison basement instead of the town square, the process looks more like a medical procedure than an execution. What was formerly a public spectacle has now become
dull, everyday bureaucracy (Sarat 50). Indeed, even death itself is distanced from bodily pain or suffering in the law’s rhetoric. In 1890, the Supreme Court stated that capital punishment could not be violent, could be nothing “more than the mere extinguishment of life” (qtd. in Sarat, 53). Why would the state seek to obscure its violent (and thus powerful) acts? Austin D. Sarat argues that state power relies on the law both using and hiding its power (69). This hiding is law’s means of protecting its power by limiting the possibility of critique or resistance. As Garland argues, the modern state wishes to ignore the body but cannot fully do so, so it seeks to hide any signs of bodily suffering; if we cannot see these bodies, they cannot prompt us to question the state’s legitimacy. Catherine L. Langford describes this phenomenon as the “body-as-gauge,” in which “executions are cruel and unusual when we can read the signs of death… when the body-as-gauge does not convey significant distress, the punishment is considered acceptable” (156). Langford argues that it is not the experience of pain or suffering that determines constitutionality, but the visual signs of pain and suffering. That is why, as Garland argues, the state works to hide signs of suffering – not cease to inflict it. Indeed, the use of violence may be central to the process using another’s body rhetorically.

AGENCY

To transform an unwilling human being into a rhetorical tool for its own ends, the state uses violence to break down agency, which I understand as the ability to make one’s own choices and the corresponding sense of self determination. My understanding of agency as a lived experience of autonomy relies on Marilyn M. Cooper’s definition of agency as “the process through which organisms create meanings through acting into the world and changing their structure in response to the perceived consequences of their actions” (420). Cooper’s definition
understands agency as an embodied reality closely linked with responsibility. Agency is the capacity to act in the world; we experience this capacity and the consequences those actions have on the world. This view of agency as “an emergent property of embodied individuals” (421) is contested by other views of agency as “diffuse and shifting” (Herndl and Licona 133) or a kind of kinetic energy (Miller, “What”). Both of these interpretations posit agency as a property of the situation rather than the individual. Cooper argues that this “diffusion” of agency is dangerous, because “replacing the doer of the action, the agent, with an amorphous force like kinetic energy leaves us with no basis for assigning responsibility” (438). To view agency as an “amorphous force” does not allow for responsibility or account for our lived, experienced knowledge that “deeds are done by someone” (438). The “deeds” this project examines have indeed been done by someone, and Cooper’s view of agentic responsibility is necessary for understanding how violence and agency intersect in the state’s rhetorical methods. The concept of agency as embodied is also vital to my analysis of resistance to state violence, which may be able to reclaim, rather than supplant agency.

The danger of viewing agency as diffuse becomes clear when we see how the state escapes culpability for violence via its representations of agency. The representation of agency, as distinct from the lived experience, I understand in Burkean terms. In the dramatistic pentad, the agent is the “person or kind of person [who] performed the act” and the agency is the “means or instruments he used” (Burke 139). In this case, the agency refers to the means of an action as represented by a narrative. I use Burke’s definition, particularly in Chapter Three, to discuss the ways in which the state represents the agency of its actions in ways that disperse responsibility across individuals and government bodies or deny it entirely, relying on necessity as a kind of ur-agent. The cases in this project use legal maneuvers, claims of necessity, and outright denial to
manipulate perceptions of agency. This manipulation enables the state to avoid retribution and maintain a semblance of legal legitimacy.

**STRATEGIC INVISIBILITY**

The strategic invisibility of the state’s agency, as well as the victims of its violence, is central to its ability to use people’s bodies rhetorically while maintaining legitimacy. Political theorist Timothy V. Kaufman-Osborn argues that a sympathetic body, such as a body suffering violence, “is the sort of body that is dangerous to the law precisely because it invites intersubjective identification” (86). The state recognizes this danger and attempts to contain it with strategic invisibility. In the cases analyzed in this project, we see how, by moving bodies out of view – and even expunging them from documents – the crimes of the state can be made invisible to the public eye. While state violence has evolved toward this greater invisibility, states’ use of visual rhetorics did not emerge with mass circulation or photography. As Hesford explains, “[f]or centuries, visual technologies have been used to control populations. Pain and torture have long been properties of the visual economy of truth and justice” (17). Foucault surveys the role of this “visual economy” in the transition of Western states from public, highly visible acts of (often gory) violence to less visible methods. This transition reflects the changing foundation of the legitimacy of the state from the will of the monarch to the rule of law. The totalitarian government need only communicate its strength – establishing power over its enemies and inciting fear in those who would defy sovereign rule. This was the function of public execution which, as Foucault explains “did not re-establish justice; it reactivated power” (49). The purpose of this publicity was not moral education, but a demonstration of power.

The modern state must find subtler ways of enacting such demonstrations in order to maintain its legitimacy. Foucault argues that the state accomplishes this via the “double system
of protection that justice has set up between itself and the punishment it imposes. Those who carry out the penalty tend to become an autonomous sector; justice is relieved of responsibility for it by a bureaucratic concealment of the penalty itself” (10). The network of state institutions and departments contributes to this “bureaucratic concealment” that both obscures violence – often via legal tactics – and demonstrates power that seems to emanate from the abstract state itself rather than any actions of individuals. The state thereby renders its violence doubly invisible: the bodies of its victims are hidden away and its own actions (and agency) is carefully obscured.

This invisibility is crucial to the simultaneous exercise of power and preservation of legitimacy, because a visual encounter with the body provides an opportunity for identification that can belie the state’s own narratives and challenge its power. The strategic invisibilities in these cases create a barrier between the public and the incarcerated, tortured, or disappeared bodies. To confront these bodies, even in a cursory visual encounter, is to be faced with the reality of state violence, which may lead some to challenge the state’s narratives. We can see the empathetic potential of visual encounters in Victoria J. Gallagher and Kenneth S. Zagacki’s analysis of the photographs of the Selma, Alabama demonstrations published in Life magazine in 1965. They argue that the photographs “confronted viewers with shared humanity and, by extension, a shared right to humane treatment” (123). To see another human body is to recognize it as human and, therefore, identify with it on some level. Gallagher and Zagacki explain that the photographs “functioned rhetorically to evoke the common humanity of blacks and whites in compelling and profound ways by enabling viewers to recognize—and confront the implications of—themselves, their values, and their habits in the actions and experiences of others” (115). In her work on the visual rhetorics of human rights campaigns, Hesford explains
the same affective strategy: “the aesthetic ideology underpinning the rhetorical work that images of suffering are expected to perform in human rights campaigns assumes that connections can be drawn irrespective of social hierarchies and structures of mediation” (51). Suffering, and especially physical pain, are bodily experiences with which all are (to varying degrees) familiar. These shared bodily experiences cut across borders of difference. To witness the abuse and pain of another – even one deemed an Other – is (potentially) to identify and even empathize with that person. The readers of *Life* were confronted with images of white policemen standing against and even beating black citizens and other supporters of the movement, images that prompted them to reconsider their opinions and assumptions. In theorizing the empathetic potential of such images, Gallagher and Zagacki argue that “photographs may function to force us to look at subjects we have otherwise chosen to ignore, making us think about them and, even, imagine ourselves in their situation” (116). When confronted with an image, deniability becomes difficult while identification becomes possible.

Those who oppose state violence, like the activists I discuss in Chapter Four, recognize the potential empathy of a visual encounter. In another example from the Civil Rights Movement, we see this potential unleashed when the hidden body is made visible. Christine Harold and DeLuca analyze the case of Emmett Till, the fourteen-year-old Chicagoan who was brutally murdered by white supremacists while visiting family in Mississippi. When the state of Mississippi sent the boy’s body back to his mother in Chicago, “it came securely padlocked in a nondescript casket. A State of Mississippi seal had been placed across the lid” (Harold and DeLuca 278). The state would not send the boy’s body back until his family – as well as the undertaker and funeral director – signed a document agreeing not to break the seal (Harold and DeLuca 278). His mother, Mamie Till Bradley refused to comply and demanded to see her son’s
mutilated body. In a brilliant move that dramatically affected the Civil Rights Movement, she decided to put his body on public display. Her purpose was to “‘let the people see what I’ve seen’” (qtd. in Harold and DeLuca 275). Thousands viewed Till’s body in Chicago, and countless more have seen his image in photographs. Bradley rejected Mississippi’s attempt to hide the mutilated body of her murdered child. She made visible what the state attempted to hide and, in doing so, provided activists a rallying point and forced many to confront the cruel injustices of racism. Till’s mother’s strategic use of visibility created opportunities for identification that the state’s use of invisibility attempted to disallow.

IDENTIFICATION AND DISIDENTIFICATION

If visibility creates an opportunity for identification, then invisibility works to create and preserve disidentifications. In Burke’s discussion of identification, he explains: “[t]o identify A with B is to make A ‘consubstantial’ with B” (180). It is the recognition of a common substance between self and other. This simple act of recognition, however, is complicated by the role of identification in shaping our identity. As Diana Fuss puts it, “identification is the detour through the other that defines a self” (2). Identification goes beyond a subject’s recognition of its commonality with another; it also influences the subject’s own identity. Furthermore, Krista Ratcliffe argues that “[e]ach identification offers new opportunities for consubstantiality, which, in turn, influences a person’s substance and, hence, a person’s identity” (57). Therefore, identifications are both ongoing and self-defining. The stakes of self-definition engender the phenomenon of disidentification. Butler defines disidentification as “an identification that is made and disavowed” (Bodies 113). So, disidentification is the (conscious or unconscious) suppression or rejection of an identification that the subject finds threatening to the sense of self.
We can better understand how such identification could be threatening when we consider how “socializing discourses continuously provide grounds for identifications and disidentifications that construct the evolving lenses through which people and nations see the world” (Ratcliffe 70). If the public cannot see the incarcerated, tortured, or disappeared bodies, they may have no reason to question the state’s narratives – narratives telling them that Black Americans are criminals, Muslims are terrorists, or that those whose ideology differs from the state’s are dangerous subversives. These “socializing discourses” create what Butler calls the “politically saturated” frames through which we view one another. These frames regulate the recognition or “apprehension” of what she terms precarious life. She explains that, “[t]o say that a life is precarious requires not only that a life be apprehended as a life, but also that precariousness be an aspect of what is apprehended in what is living” (Frames 13). A life’s precariousness is an acknowledgement of its value, a recognition of its humanity. Butler argues that we recognize some bodies as human, as precarious life, and others as something else, as Other. Therefore, we can understand how the political, social, and historical frames prevent the subject from identifying with someone from whom it is advantageous to be divided. Fuss notes, for example, that “[r]acial identity and racist practice alike are forged through the bonds of identification” (14). Furthermore, this interaction is not only taking place on the scale of individual interaction. There are also “collective disidentifications [that] can facilitate a reconceptualization of which bodies matter” (Butler, Bodies 4). So, disidentification on a large scale determines which human beings are valued and which are not within a culture or group. Invisibility has a recursive relationship with these cultural disidentifications that maintains the status quo.
Though Butler’s theory of precarious life does not depend upon visibility – one may be confronted with a human body and not recognize it as precarious – I argue that visibility can cast doubt on the political frames that negate the humanity of a body, especially because we may be consciously unaware of those frames. Ratcliffe suggests that, if unconscious “disidentifications can be brought to consciousness (and obviously not all of them can), then places for negotiating coexisting commonalities and differences may emerge” (63). This is precisely the potential power of visibility, which Mamie Till Bradley so astutely deployed. To encounter the other – even visually – is to have the opportunity to see these frames and challenge disidentification by recognizing the dissonances between social constructions and real human beings. This is possible because, as Butler explains, “a buried identification… [is not] left behind in a forgotten past, but an identification that must be leveled and buried again and again, the compulsive repudiation by which the subject incessantly sustains his/her boundary” (Bodies 114). A disidentification, therefore, must be constantly reinforced in order to maintain the boundary of identity. This boundary is the particular function of bodily invisibility in state violence. Without the risk of encountering the Other in reality, the (often fictive) constructs can perpetuate the narratives that support the state’s power and legitimacy. To encounter the Other, even via visual contact, is to have an opportunity to disrupt these discourses and cease the disavowal of consubstantiality.

CHAPTER SUMMARIES

The goal of this project is to contribute to a fuller understanding of rhetorics of the body by theorizing this rhetoric of other people’s bodies. State violence is an inherently bodily rhetorical tactic that usurps the agency of its victims. It relies on strategic invisibility to
manipulate perceptions of its violent acts (and its agentic responsibility for those acts) and close down the opportunities for identification that a visual encounter opens up. If visibility does prompt identification, then empathetic connection can dismantle the state’s narratives and challenge the legitimacy of its violence.

Chapter Two tracks this pattern in the case of mass incarceration in the US. In this analysis, I focus on how the state deploys legal and spatial invisibilities to bolster the disidentifications that maintain the status quo. The first part is a legal-rhetorical analysis of the centerpiece of the so-called War on Drugs, the 1986 Anti-Drug Abuse Act, a law that caused an upsurge in the already increasing incarceration rates. This law is paradoxically hyper-focused on the body and yet ignores the body; it inflicts racist mandatory minimums in which people’s sentences are determined by the color of their body, while the specific circumstances of their embodied experience are erased. The second part of the chapter considers the political invisibility that results from and perpetuates these practices.

Chapter Three is about the practice of torture by the US in the 21st century. It focuses on a primary document, a declassified internal CIA report on the torture program. I first use genre analysis to consider how the features of technical writing work to obscure the reality of the violence the document describes and lull the reader into complacency. Then, I employ a Burkean dramatistic analysis to understand the narrative the state constructs within that document and its relationship to the real, material acts of violence it mandates, with particular attention to representations (and deflections) of agentic responsibility. This chapter combines attention to bodily representation and the rhetorical use of actual, physical bodies to understand how the state is able to manage perceptions of that abuse via these representations.
Chapter Four expands to an international perspective with the example of the Dirty War in Argentina. The first part briefly explains the historical context and the military dictatorship’s method of disappearing people, which usually consisted of abduction, torture, execution, and the destruction of bodily remains. Though the scale and severity of this violence is more extreme than in the other cases, I explain how the state uses strategies of bodily invisibility similar to the other cases as it attempts to preserve its power. Additionally, I discuss denial as another form of strategic invisibility. The majority of the chapter is then devoted to analyzing the rhetorical strategies of the Madres de la Plaza de Mayo, a grassroots organization of women whose (mostly) adult children were disappeared by the government. Analyzing their strategies, I consider how critics of the state can counter its strategic invisibility to expose the reality of violence. This case suggests an alternative rhetoric of other people’s bodies, in which the central aim is reclamation rather than domination and dehumanization.

The Conclusion considers the similarities and differences among these cases and attempts to synthesize a theory of how this rhetoric of other people’s bodies functions. I also discuss the new questions this project raises – questions of how other forms of violence compare or relate to state violence. Finally, I consider the possibilities for resisting violence and the role of rhetorical study in that effort.
CHAPTER TWO
LEGAL AND POLITICAL INVISIBILITY:
AMERICAN MASS INCARCERATION

In this chapter, I examine how the state inflicts the violence of mass incarceration and its lifelong consequences on the bodies of its people. In the policies of mass incarceration, the state strategically deflects its responsibility for social problems (poverty, addiction, mental illness) onto the bodies it criminalizes. Many have criticized the US prison system for its increasing function as the state’s answer to every social problem. In her work on the school-to-prison pipeline, education scholar Erica R. Meiners explains how American “prison and jail cells fill up with high school dropouts, the homeless, those self-medicating with alcohol and street drugs, and people with mental illness” (7). With the breakdown of many social services, prisons have become the one-size-fits-all solution to a host of social problems. Beginning in the late twentieth century, the War on Drugs, a collective term for the state’s laws and practices that target drug trafficking and drug users, was just such a deflection that has resulted in the destruction of countless lives and communities. Focusing on federal legislation, as well as census and voting regulations, I demonstrate how the state transforms bodies into rhetorical tools\(^3\). Imprisonment is certainly a disruption of agency; it silences and severely restricts choice. Once the state has usurped the agency of the imprisoned, it is able to use them to create a narrative of criminality, placing the blame for social problems and its own failures on bodies it deems dangerous. I argue that the legislation and incarceration practices in the War on Drugs both create and depend upon

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\(^3\) All drug crimes are both state and federal crimes and can be tried in either system. A drug offense is tried in the federal system if the arresting officer is a federal agent, if the arrest occurred because of an informant, or when local law enforcement is working with federal agencies. Though the penalties in the federal system are much harsher, states have also enacted stricter punishments in the War on Drugs. In fact, “all states and the federal government had enacted mandatory minimum sentencing laws for repeat offenders or select crimes—most often weapons possessions (76.5 percent of all jurisdictions) and drug violations (72.6 percent). Finally, nearly half of the states had adopted two- or three-strikes laws that multiplied mandated prison sentences for repeat offenders” (Weiman and Weiss 77).
the invisibility of bodies. The state’s power is protected by this bodily invisibility, which also
serves to make invisible the state’s own agency and therefore its culpability. The mechanization
of law and the absence of the imprisoned from the political process have made it easier for
responsible government officials to deny their role in instituting the problem as well as their
power to address it, while the invisibility of imprisoned bodies prevents challenges to the state’s
actions by closing down opportunities for identification.

The boom in imprisonment that began in the 1970s has overwhelmingly affected young
black men from disadvantaged urban areas who were targeted by the legal actions that created
mass incarceration. Other racial groups and the urban poor more generally have also been
impacted. Mass incarceration in recent decades has been used to recast social and economic
problems in criminal terms in order to safeguard the state from its own culpability. As moves
toward mass incarceration began soon after the Civil Rights Movement of the 1960s, it is easy to
interpret it as yet another means of oppressing black Americans. In the words of sociologist Loïc
Wacquant, “[b]y the end of the 1970s, then, as the racial and class backlash against the
democratic advances won by the social movements of the preceding decade got into full swing,
the prison abruptly returned to the forefront of American society and offered itself as the
universal and simplex solution to all manners of social problems” (384). Mass incarceration that
has resulted from the War on Drugs, in that it targets primarily nonviolent offenders, functions
not to preserve public safety, but rather to remove huge percentages of certain populations from
free society. This removal creates multiple invisibilities that prevent the sort of empathetic
identification that could lead to widespread resistance and instead perpetuates disidentification.

Invisibility is therefore an important and, perhaps, necessary rhetorical strategy for the
perpetration of state violence in systems of imprisonment. In Foucault’s analysis of the shift in
state violence from the spectacular to the invisible, he traces how squalid dungeons and gruesome public executions transformed into the modern system of invisibility and seeming nonviolence. Foucault argues that there was a “slackening of the hold on the body” and that just “a few decades saw the disappearance of the tortured, dismembered, amputated body, symbolically branded on face or shoulder, exposed alive or dead to public view. The body as the major target of penal repression disappeared” (10:8). The body indeed disappeared, but I argue that this disappearance does not mean the body is no longer “the major target of penal repression.” In legal scholar Alan Hyde’s analysis, he argues that it is “much more accurate (and perhaps more Foucauldian) to see modern criminal punishment as profoundly holding the body, profoundly corporal” (187). Therefore, while public executions no longer exist in the US, criminal punishment has not loosened its hold on the body; instead it holds the body behind closed doors.

What I find significant in the shift Foucault describes is that the body has “disappeared.” It has not ceased to exist but been rendered invisible to the masses who formerly gathered to witness executions and even purchase tickets to tour active prisons. Foucault terms this earlier model “the punitive theatre in which the representation of punishment was permanently available to the social body” (115-116). The key difference between the former and current systems is their visibility. One invites the public to view spectacles of punishment; the other secrets such punishment away from public view, even public consciousness. While some would see the end of public torture or executions as a move toward greater humanity, Hyde argues that the change in means of punishment and execution “has less to do with pain and more to do with effacing contact between the executioner and the condemned, and graphically representing society’s mastery of death” (194). The apparent humanity, therefore, may only be a façade – a move
toward making violence less visible rather than less brutal to preserve the appearance of a humane state. This emerging invisibility exists in both the physical, material space of the prison as well as the abstract system of justice and incarceration – both the prison and the “hierarchized structure” of the state are now “enclosed.” Because of this enclosure, modern punishment “leaves the domain of more or less everyday perception and enters that of abstract consciousness. This removal of prisons from “everyday perception” is a strategic maneuver to protect the state’s power. The “out of sight, out of mind” logic has contributed to a successful prison expansion that, despite racist policies and incredible cost, has been met with little opposition.

This project of racist mass incarceration in the US is therefore accomplished, or at least enabled, by the invisibility of prisons and prisoners. This legal invisibility is paradoxically supported by a hypervisibility of inner city neighborhoods. Many citizens, especially young black men, endure constant surveillance by police in their neighborhoods and then the constant surveillance of corrections officers in prison. Despite the conspicuous visibility of the criminal justice system in urban communities of color, it is often outside the physical and mental view of the rest of the citizenry. Many Americans, especially those with greater privilege, are not confronted by – or even aware of – the prison system, beyond its role in prime-time television. After a brief overview of the history of mass incarceration in the US, this chapter consists of three sections: the first considers the laws driving mass incarceration and argues that bodily invisibility is used to obscure the state’s culpability in racist policies; the second analyzes the physical location of prisons and how they maintain that bodily invisibility; and the third considers the political invisibility that results from the legal and spatial strategies and perpetuates the status quo.
Mass incarceration in the US began in the 1970s and continues to the present. Largely brought about by harsher drug laws with starkly racist biases, incarceration has developed into a significant and powerful industry, characterized by the emergence of for-profit, private prisons (which I will discuss later in this chapter). Whereas before communities would lobby against the construction of prisons within their borders, the prison expansion – coinciding with the decline in US industry – redefined prisons as an economic life raft for struggling rural communities.

Prisons moved from city centers to rural outskirts, promising jobs and bringing bodies. This era is now referred to as the “prison boom” of the late 20th century. The “boom” was a period of rapid construction of new prisons on an enormous scale. In 1979, 13% of counties across the country had a prison; in 2000, that number was up to 31%. From 1975 to 2000, the number of state prisons grew from 592 to 1023 (E. Williams 3). Despite this expansion, the increase in prisons has not kept up with the increase in prisoners. About two thirds of the 119 federal facilities were built less than fifty years ago, but they are now severely overcrowded (James 29).

The Congressional Research Service reports that, in 2014, federal prisons altogether were 36% over capacity; medium security facilities were 45% over capacity and high security facilities were 52% over capacity (James ii). The prison boom was not enough to meet the prisoner boom.

For most of the twentieth century, prison rates were largely stable, at about 110 prisoners per every 100,000 people. However, from 1975-2005, incarceration rates in the US more than quadrupled (Raphael and Stoll, “Introduction” 3). These numbers become all the more startling when compared with the rest of the world. The US represents only 5% of the world’s population, yet it accounts for 25% of the world’s incarcerated population (Meiners 2; NAACP). The Land of the Free imprisons more of its population than any other nation on earth.
Such a drastic increase in imprisonment would seem to indicate a significant increase in crime, yet the opposite is true. Crime rates were actually much higher in the early twentieth century than in later decades. Increased rates of incarceration were tied not to crime but to policy. Indeed, “[i]n all but one crime category, the policy variables accounted for nearly 90 percent of the increase in incarceration rates” (Weiman and Weiss 74). However, public opinion seems to have been inversely related to actual crime rates. As political scientist Marie Gottschalk notes, in the mid-1990s, poles saw the public listing crime as a high concern, despite the fact that actual crime rates had dropped significantly (27). Some scholars argue that such perceptions were intentionally constructed. Certain aspects of the War on Drugs support the notion that it was intended to provoke fear rather than address a problem. The timeline demonstrates that “President Ronald Reagan officially announced the current drug war in 1982, before crack became an issue in the media or a crisis in poor black neighborhoods… The Reagan administration hired staff to publicize the emergence of crack cocaine in 1985 as part of a strategic effort to build public and legislative support for the war” (Alexander 5). The crack epidemic began in poor, urban neighborhoods after the announcement of the War on Drugs.

Therefore, the War on Drugs – presented as a response to a crisis – actually predates (and, some argue, created) that crisis. As legal scholar and civil rights lawyer Michelle Alexander argues, the War on Drugs is a racist concept; “[a]lthough explicitly racial political appeals remained rare,” in the public discourse, “the calls for ‘war’ at a time when the media was saturated with images of black drug crime left little doubt about who the enemy was in the War on Drugs and exactly what he looked like” (105). The fear of drugs became an easy proxy for embedded cultural fears of racial minorities. Furthermore, recent evidence suggests that the Nixon administration, whose second campaign heralded the “tough on crime” refrain that
continues today (Clear 50), intentionally used drug legislation to target minority communities⁴. The federal government has not acknowledged these claims, but the politically popular “tough on crime” policies led politicians from both parties to support these measures, regardless of actual crime rates. This disconnect between crime rates and incarceration rates results in public misperception of the reality of crime that can dramatically impact policy: more prisoners implies more crime and justifies harsher laws – leading to more prisoners.

The policy changes that resulted in this drastic increase in incarceration include harsher drug laws and severe restrictions on judicial discretion. However, these tougher policies coincided with other social shifts, such as “[c]hanges in illicit drug markets, the deinstitutionalization of the mentally ill, [and] the declining labor-market opportunities for low-skilled men” (Raphael and Stoll, “Why” 28). Though these factors are significant, “the collective influence of these factors is minor relative to the impact of changes in sentencing and corrections policy choices” (Raphael and Stoll, “Why” 28). The shift in drug laws began in New York in the 1970s, with the imposition of the Rockefeller drug laws that ushered in similar measures across the country. The Rockefeller laws carried harsher sentences for drug possession, but criminal justice scholar Todd R. Clear argues that these “did not hold a candle to the wave of changes in sentencing for drug-related crimes that characterized the politics of the 1980s” (51). Though the War on Drugs has been supported by both sides of the aisle, the Reagan and Bush administrations both worked to create stricter federal drug laws, resulting in “mandatory prison sentences of five years for drug possession of shockingly small amounts (for

⁴ In a March, 2016 article for CNN, Tom LoBianco wrote about a 22-year-old interview with previously unreleased quotations from John Erlichman. Erlichman, who worked on domestic policy for the Nixon administration, stated: “We knew we couldn’t make it illegal to be either against the war or black, but by getting the public to associate the hippies with marijuana and blacks with heroin. And then criminalizing both heavily, we could disrupt those communities.” Though some contest this account, it is the first time an insider has so bluntly described the War on Drugs as a means of social control.
example, 5 grams of crack cocaine)” (Clear 51). Drug possession and small-scale distribution had previously been relatively minor crimes. For example, the sale of one ounce of cocaine or heroin used to be a class C felony offense. During this period, these crimes were upgraded to a class A-1 drug felony, which is on the same level as “homicide, first-degree kidnapping, and arson—which carried a mandatory minimum sentence of fifteen to twenty-five years in prison” (Weiman and Weiss 86). Therefore, individuals convicted of previously minor drug offenses are now sentenced to lengthy prison terms, and drug crimes are implicitly likened to violent offenses like murder and arson.

As a result of these policy changes, the incarceration rate skyrocketed as prisons became populated by nonviolent drug offenders. The number of people imprisoned for drug crimes in 2001 was ten times greater than it was in 1980 (Clear 54). Put another way, in 1980, drug offenders made up 9% of all inmates; by 1988, they comprised 25.4% of the total prison population and 37% of new prisoners (Weiman and Weiss 89). As of January 2017, 46.4% of federal inmates were incarcerated for drug offenses (“Offenses”). Furthermore, these changes in incarceration have disproportionately affected black citizens. The Bureau of Justice Statistics reports that in 2013, there were approximately 1,574,700 people in state or federal prisons in the United States. 37% of incarcerated men and 22% of the incarcerated women were black (Carson). These percentages become more startling when we consider that, in 2015, the Census Bureau estimated that black Americans accounted for only 13% of the total population (United). Black Americans are therefore highly overrepresented within the prison population, leading many to interpret mass incarceration as a calculated means of racist oppression. Wacquant argues that mass incarceration and other oppressive institutions are “instruments for the conjoint extraction of labor and social ostracization of an outcast group deemed unassimilable” (379). I
interpret this “ostracization” as the creation of a boundary between incarcerated Americans and free Americans. This division, which falls increasingly along racial lines, supports ongoing disidentification. I argue that this invisibility is at least partly responsible for the lack of widespread public outcry or even attention, especially at the beginning of the War on Drugs. As Gottschalk explains, “[t]he carceral state has been a largely invisible feature of American political development, not a contested site of American politics” (19). I argue that it has not be a “contested site” because, without visibility, imprisoned people are cut off from the rest of the population, which preserves the notion that they are different, separate, and Other. This disidentification, therefore, perpetuates the injustices in the system by inhibiting the acknowledgment of identification that could lead to criticism of the state’s actions.

LEGAL INVISIBILITY: MANDATORY MINIMUMS

In this section, I consider how the law makes bodies invisible in order to render invisible its own agentic responsibility. The 1986 Anti-Drug Abuse Act (ADAA) is the legal centerpiece of the War on Drugs. Its infamously harsh and uneven mandatory minimums continue to reverberate today. It relies on a perception of law as mechanized to obscure defendants’ embodied experiences and the racist biases inherent in the law. Paradoxically, the law denies the body while simultaneously being very much about the body. Drug crimes are inherently bodily, often symptomatic of drug addiction, and the resulting incarceration is entirely about the body, forcibly relocating, limiting, and monitoring it; yet, the practice of mandatory minimums disregards the individual, embodied experience of the defendant. The ADAA erases the defendant’s body from view while tying criminal culpability to race – establishing a system in which the state’s own culpability hides behind mechanized laws. This section analyzes this
strategic erasure in three parts: how the ADAA supports a view of law as mechanical, how the mechanized law obscures the defendant, and how the mechanized law obscures the state’s agency.

Prior to the late 1980s, the maximum sentence for any drug possession charge was one year\(^5\) (Alexander 54). In fact, the Comprehensive Drug Abuse Prevention and Control Act of 1970 repealed mandatory minimums for most drug crimes (“Mandatory” 22), but this was reversed by a series of state and federal legislative changes following the Rockefeller laws. The ADAA reached new extremes that greatly expanded the carceral state by increasing the number of prisoners as well as the length of their sentences via mandatory minimums. Just prior to the ADAA, in 1984, Congress passed the Sentencing Reform Act (SRA). One of its most significant changes was the elimination of parole in the federal system, which previously “had a dramatic effect on shortening sentences… [and] gave the system a chance to actively consider rehabilitation” (Osler and Bennett 146). The SRA also established the United States Sentencing Commission (USSC), which is tasked with developing sentencing guidelines to counter the problem of bias in judicial discretion (Osler and Bennett 121; Wald 81). The ADAA, then, was partially the result of the USSC’s work. Part of the intent of implementing mandatory minimums was to solve a problem of judicial bias and sentencing discrepancies (Osler and Bennett 121). However, rather than avoid bias, the ADAA mandated it. The salient feature of this law is the extreme disparity between crack and powder cocaine; there is a 100:1 ratio of powder to crack cocaine in the amounts that trigger the same prison sentence. That means it took one hundred times the amount of powder cocaine as crack cocaine to trigger the same mandatory sentence.

\(^5\) This is much closer to how other developed nations sentence drug offenders. In most of the developed world, a first-time drug offender would receive no more than six months – and sometimes less (Alexander 87)
This disparity falls conspicuously along racial lines, as most power users were (and are) white and most crack users were (and are) black.

The harsh punishments in the ADAA increased in the subsequent Anti-Drug Abuse Act of 1988, which created a five year mandatory minimum for simple possession of crack (Osler and Bennett 134). In addition to further expanding the quantity and length of prison sentences, the 1988 Act is also significant for its establishment of crack as the only substance for which simple possession triggers a mandatory sentence. The minimum sentences in the ADAA were legally mandatory until 2005. In landmark case United States v. Booker, the Supreme Court altered the guidelines from mandatory to advisory. Judges gained back additional discretionary power in 2007 when, in Kimbrough vs. United States, the Supreme Court recognized that judges can express policy disagreements. Legislative action did not come until the Fair Sentencing Act of 2010, which changed the crack to powder ratio to 18:1 and got rid of minimum sentence for simple possession of crack. Despite these developments, the ADAA continues to drive mass incarceration, even beyond the nearly twenty years in which its regulations were mandatory.

The ADAA exemplifies the ways in which mass incarceration focuses on and yet tries to obscure the body. In the text of the ADAA itself, bodies are absent. The penalties mandated are based solely on quantities of substances; the embodied, human experience of the defendant is entirely disregarded. The ADAA’s most infamous provisions, the wildly disparate mandatory minimums for crack and powder cocaine are stated thusly:

(1)(A) In the case of a violation of subsection (a) of this section involving—...

(ii) 5 kilograms or more of a mixture or substance containing a detectable amount of—

(I) coca leaves, except coca leaves and extracts of coca leaves from which cocaine, eegonine, and derivatives of eegonine or their salts have been removed…
(iii) 50 grams or more of a mixture or substance described in clause (ii) which contains cocaine base…

such person shall be sentenced to a term of imprisonment which may not be less than 10 years or more than life”  

(2)  
The subsequent section is identical, except for the amounts: 500 grams of cocaine or 5 grams of cocaine base results in a prison sentence not less than five years (3). Because these minimum sentences were “mandatory,” a federal judge was required by law to adhere to these sentences, regardless of the circumstances of the crime, personal history of the defendant, or any other factors that a judge would usually consider. The person accused of the crime is, effectively, invisible according to the law. The punishment is determined only by the crime, not by the criminal.

Mechanized Law

While mandatory minimums have existed in the United States since its beginnings as a nation, they were formerly reserved for the most extreme crimes. The 1790 Crimes Act, for example, listed 23 federal crimes but called for the death penalty on only seven of them (“Mandatory” 7). Throughout their history, mandatory minimums were most often applied to crimes related to the conflicts of that period. During the Civil War, for example, mandatory minimums against Confederate allies were enacted – and it is worth noting that the minimum penalty for colluding with Confederates was only six months in prison, far shorter than minimum penalties for possessing five grams of crack under the ADAA (“Mandatory” 13). Perhaps more important to observe is the implication of adding drug crimes to a list that formerly consisted of treasonous offenses; even low level drug offenders are put on par with traitors and spies. The

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6 These crimes included “treason, murder, three offenses relating to piracy, forgery of a public security of the United States, and the rescue of a person convicted of a capital crime” (“Mandatory” 7).
mandatory minimums being applied in this case solidifies the War on Drugs as a true war – in line with major historical conflicts. The expansion of mandatory minimums beyond their traditional application to crimes of treason or extreme violence reflects a shift toward a mechanical approach to law or, perhaps more accurately, a desire for law to be mechanical.

The perception of law as mechanical is both popular and powerful. In this view, law is understood as rational, fair, and objective (Naffine 24). This perspective endows the law with a great deal of power, as it can seem separate from human intervention, fallibility, or motivations. As James Boyd White explains, “[t]he overriding metaphor [of law] is that of the machine; the overriding value is that of efficiency, conceived of as the attainment of certain ends with the smallest possible costs” (686). Legal scholar Robert P. Burns describes this idea of mechanized law as the “received view,” of the legal trial in particular; he defines the “received view” as the (inaccurate) way the public is made to think about “the institutional device for the actualization of the Rule of Law” (23). In this popular understanding, the trial is the “actualization” of the rational and unbiased legal process, and is becomes easy to forget that “what we traditionally think of as ‘rules of law’ are in fact negotiated constructs” (Hasian, Legal 1). This machine-like view is also perpetuated in the professional realm, most notably in legal education. In his critique of legal education in 1989, legal scholar Gerald P. Lopez argues that “[g]eneric legal education teaches law students to approach practice as if all people and all social life were homogeneous” (307). In 2010, Katherine R. Kruse voices a similar criticism in her discussion of how law schools and lawyers construct “cardboard clients,” which she defines as “one dimensional figures interested only in maximizing their legal and financial interests” (103). As critics of this view have argued, the danger of this entrenched understanding of law as mechanical is also its appeal, because “[e]mpowered elites profit from the denial that law is
rhetorical” (Hasian, *Rhetorical Vectors* 4). Therefore, a mechanical view of law is in the best interest of those who seek to maintain the status quo and their position of power. In a rhetorical view, law becomes more flexible, since as Marouf Hasian puts it, “[i]f laws are selective, then there have necessarily been many other possible views of justice” (*Rhetorical Vectors* 4). If a rhetorical view of law opens up possibilities for change, a mechanical view of law closes them down, and it is this mechanical view that continues to dominate.

The mandatory minimums, such as those in the ADAA, are the fulfillment of this mechanical ideal. Mandatory minimums mean that certain crimes trigger certain punishments, regardless of the specific circumstances of that instance or individual. The only factor considered mandatory sentencing law is one’s criminal history. Prior convictions result in longer sentences. There are also a number of enhancements, such as weapons or assault charges, that can increase one’s sentence. As federal judge Mark W. Bennett and former federal prosecutor Mark Osler explain it, the ADAA

created a mandatory complex system of federal sentencing rules focusing on defendants’ prior criminal history, the current offense and a plethora of aggravating and precious few mitigating factors about the offense, concluding in a judge computing a narrow range based on a 258 cell grid. (122)

Since 1994, there has also been a Safety Valve that can result in a lesser sentence if a first-time offender meets a list of criteria⁷, but for the most part, the chart decides the defendant’s fate, not the judge. This is especially true for crack defendants (the majority of whom are black), who

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⁷ According to 18 U.S. Code § 3553 (f), the Safety Valve can be applied if the defendant can prove the following criteria:

1. the defendant does not have more than 1 criminal history point, as determined under the sentencing guidelines;
2. the defendant did not use violence or credible threats of violence or possess a firearm or other dangerous weapon (or induce another participant to do so) in connection with the offense;
“are less likely to receive the benefit of the safety valve than any other drug type” (Bennett 882).

The ADAA truly does seem to be a mechanical law. Sentencing is based on quantities of a drug and a chart of sentences; it seems entirely unbiased, blind justice. However, that appearance is a façade covering the complexity of the crime and accused individual, as well as the bias in the ADAA machine itself. A mechanical law, precisely because it seems unbiased and infallible, has an immense power to enact unjust, racist policies without disrupting the state’s legitimacy.

Invisible Defendants

Rather than ensuring justice, the bodily invisibility of mandatory minimums reduces the accused person into a convenient mold. In order for law to function as a machine, a standardized legal subject is necessary, a presumed person that fits neatly into the machine. However, this “average legal subject” is a construction often markedly different from the real, embodied human being to whom the law is then applied. Like the mandatory minimums, the idea of an average legal subject is an attempt at mechanization, at creating a common standard to avoid the uncomfortable reality of human subjectivity and fallibility. As lawyer and legal scholar Patricia J. Williams puts it, “[l]aw and legal writing aspire to formalized, color-blind, liberal ideals. Neutrality is the standard for assuring these ideals; yet the adherence to it is often determined by reference to an aesthetic of uniformity, in which difference is simply omitted” (48). This mechanical, “one-size-fits-all” approach characterizes the result and, it would seem, the intent of

3. the offense did not result in death or serious bodily injury to any person;
4. the defendant was not an organizer, leader, manager, or supervisor of others in the offense, as determined under the sentencing guidelines and was not engaged in a continuing criminal enterprise, as defined in section 408 of the Controlled Substances Act; and
5. not later than the time of the sentencing hearing, the defendant has truthfully provided to the Government all information and evidence the defendant has concerning the offense or offenses that were part of the same course of conduct or of a common scheme or plan, but the fact that the defendant has no relevant or useful other information to provide or that the Government is already aware of the information shall not preclude a determination by the court that the defendant has complied with this requirement.
the ADAA: purported “color-blindness” and “neutrality” obscure bias as one’s individual, embodied experience is “omitted” and erased. Even if one interprets the ADAA as an attempt to create a neutral legal system, the result is not equality but an “omission” of difference, a replacement of the complex human beings with this average legal subject. Feminist legal scholar Ngaire Naffine calls this subject “the man of law” in her feminist critique; she argues that the “neutral” person constructed and assumed by the law is “white, educated, affluent and male” (100). In other words, the “man of law” is precisely the same sort of person who – overwhelmingly throughout American history – writes, enforces, and interprets the law. Furthermore, she argues that law’s “self-proclaimed objectivity was a political device for obscuring the partial perspective of law” (114). All of the diverse identities and experiences of defendants are therefore collapsed into the “man of law” – an identity to which few of them could relate and which supports the status quo of the power structure rather more just and equal laws. The average legal subject is therefore a rhetorical tool by which the ADAA and laws like it erase the embodied experience of its diverse and varied subjects in order to preserve the mechanized ideal of objectivity.

The ADAA (over)simplifies the complex human experiences it attempts to describe and govern by making the human reality invisible in favor of a quantity of drugs. If law is to be mechanical, it cannot discern human difference, but only churn out verdicts and sentences based on its own blind assumptions. As P. Williams describes it, “legal language flattens and confines in absolutes the complexity of meaning inherent in any given problem” (6). The ADAA takes this “flattened” person idea to an extreme by reducing the complexity of a human person and his or her alleged crime to a simple quantity, measured in grams. In defining the criminal offender, the ADAA states only that “such person shall be sentenced to a term of imprisonment which may
not be less than 10 years or more than life and if death or serious bodily injury results from the use of such substance shall be not less than 20 years or more than life” (2). Aside from the rather shocking implication that causing death or serious bodily injury is equivalent to a drug violation (since both carry a ten year minimum), it is important to note how “such person” has been defined. The preceding page of clauses defining “such person” consist solely of a list of substances and quantities, such as “1 kilogram or more of a mixture or substance containing a detectable amount of heroin” or “10 grams or more of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD)” (2). The defendant, therefore, is transformed from an embodied human being with an individual set of circumstances to a quantity of drugs on a scale.

The ADAA does not allow consideration for one’s role in the drug trade, and instead uses weight as what Bennett argues is “an extremely poor proxy for criminal culpability” (899). This is particularly apparent in that the ADAA, though said to be designed to punish high level drug dealers, instead incarcerated masses of low level offenders. In fact, street level crack dealers receive sentences 300 times more severe than higher level powder importers (Bennett 894). Together, Osler and Bennett level an even harsher critique, stating that mandatory minimums “were a foolishness based on a lie, that lie being that the weight of narcotics at issue serves as a valid proxy for the relative culpability of a defendant” (164). Foolishness or not, the weight of narcotics continues to be the deciding factor in sentencing. It is in this way that the ADAA and mandatory minimums work to render the body invisible, replacing the embodied defendant with a quantity of illegal substance and using cocaine varieties as a metonym for race.

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8 In its 1997 report, the USSC notes that, while Congress intended the five year minimum for “mid-level” or “serious” traffickers, the crack cocaine quantity “is over inclusive because it reaches below the level of mid-level or serious traffickers who deserve the five-year statutory penalty” (5). In its 1995 report, the USSC also recognized the problem of low-level crack offenders receiving longer sentences than high-level cocaine offenders (iii).
Denial of Agency

The defendant is not the only one made invisible by the ADAA; lawmakers and other officials hide behind mandatory minimums, manipulating perceptions of agency to deny their experienced agency. Gottschalk argues that policy makers “portray the rising prison population as an act of fate over which they have little control” (26). The ideal of mechanization goes hand-in-hand with the denial of human responsibility and makes change difficult – as evidenced by the nearly twenty years during which the mandatory minimums were in effect and the continuance of the 100:1 ratio through 2010. Bennett argues that the ongoing story of the ADAA shows all responsible parties denying responsibility. After the passage of the 1986 ADAA and the follow-up in 1988, Congress stepped back from reforming drug laws. They did not address the problems until the FSA was finally passed in 2010, despite mounting evidence of bias and enormous increases in incarceration. The USSC recommended that Congress reconsider the ratio in its 1995 report and explicitly called for a revised 1:1 crack to powder ratio in reports to Congress in 1997, 2002, and 2007. In my experience reading those reports, however, it is never made clear that the USSC itself played a significant role in establishing the 100:1 ratio in the first place.

Perhaps the most obvious strategy in this denial of agentic culpability is the way in which mandatory minimums disallow judges from making decisions. Rather than “consider[ing] every convicted person as an individual and every case as a unique study” which the Supreme Court calls “the federal judicial tradition” in Koon v. United States (1996), judges operating under the ADAA simply perform their role in the legal machine (qtd. in Bennett 879). As Judge Patricia M. Wald explains, the federal guidelines “profoundly distance[] the judge from the violent consequences of the sentence” (82). This distance – hearkening back to Foucault’s analysis of
the invisibility of modern state violence – removes the judge’s responsibility. While judges legally had to comply with mandatory minimums and were therefore without agency – at least within the court room – Osler and Bennett note that, even after the guidelines were transformed from mandatory to advisory in the landmark *United States v. Booker* decision of 2005, most federal judges continue to sentence defendants within the guidelines (155). Some judges even cite fear of legislative backlash if they were to sentence below the guidelines\(^9\). Though perhaps a result of their experience and education rather than a refusal of responsibility, the diffusion of agency is a common refrain from all branches of government. The denial of human agency in law makes the status quo immensely powerful. Osler and Bennett argue that “[t]hose complicit when a social function becomes unjust often explain their involvement by describing their limited role – they were simply ‘following the orders’ of others. So it is with the drug war” (119). While the apparent lack of human subjectivity empowers and legitimizes the law, “[b]y this way of thinking, no one is really culpable” (Osler and Bennett 120). The ideal of a mechanized system removes responsibility, leaving lawmakers, judges, and other state officials pointing fingers while thousands languish in prison.

The denial of agency enables the state to avoid culpability for mass incarceration and the racist policies that drive it. Whatever lawmakers’ intentions, impact of the ADAA is undeniably and continuously unbalanced, targeting racial minorities, especially black citizens. Clear explains that the “main vehicle for the different rate of incarceration for black males is the drug laws” (8). These laws, despite their purported intent to target high level drug traffickers and to implement equivalent punishments for offenders, resulted in the mass incarceration of black

\(^9\) Bennett critiques this position, which has been voiced by Third Circuit Judge D. Michael Fisher, among others. Bennet argues that such a position perpetuates the myth that the sentencing guidelines are based on empirical evidence. More importantly, allowing concerns of what Congress may or may not do in the future to influence judgements is a “serious separation of powers problem” (909).
American men. In the early 1990s, soon after the implementation of the ADAA, the rate of incarceration skyrocketed, and so did the disparity between black and white prison populations. In 2006, Gottschalk reported: “Blacks, who make up less than 13 percent of the U.S. population, now comprise more than half of all people in prison, up from a third twenty years ago and from a quarter in the late 1930s” (2). This stark imbalance is due to policies at both ends of the criminal justice system: the sentencing laws, as we have seen, and the War on Drugs policing practices concentrated on minority neighborhoods. Policies like “stop and frisk”\(^\text{10}\) especially target young black men, based on the same erroneous assumptions as the ADAA. Meiners explains that “[s]urveillance persists despite routine evidence that illustrates that African Americans and Latinos are no more likely than whites to possess drugs, or to speed, or to break the law or norm” and yet, according to the ACLU, “are roughly three times as likely as whites to be searched, arrested, or threatened or subdued with force when stopped by the police” (40). While uneven arrest rates have long been common, they increased significantly after War on Drugs policing practices were implemented. In 1970, black Americans were arrested at a rate two times that of white Americans; in 1989, that rate doubled to four times (Clear 8). Therefore, in addition to imbalanced mandatory sentencing laws, people of color are far more likely to be arrested in the first place. While the ADAA removes the body from judicial consideration, its bodily-focused racial bias permeates other parts of the criminal justice system\(^\text{11}\), which is intensely focused on bodies and racial categories.

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\(^{10}\) In 1968, the Supreme Court ruled in *Terry v. Ohio* that “so long as a police officer has ‘reasonable articulable suspicion’ that someone is engaged in criminal activity and dangerous, it is constitutionally permissible to stop, question, and frisk him or her—even in the absence of probably cause” (Alexander 63). The overwhelming majority of these “stop and frisk” searches target young men of color. In New York City, for example, the police stopped about 545,000 people; 80% of those people were African American or Latino (Alexander 135).

\(^{11}\) While mandatory minimums are supposed to erase judicial bias, there’s now significant prosecutor bias. Prosecutors decide whether to go for enhancements and do so at wildly different rates around the country. A defendant in the Northern District of Iowa is 2531.95% more likely to get enhancement than defendant in Nebraska.
While the USSC declared “there is no evidence of racial bias” in its 1997 review of sentencing policy and “this assertion [of racist motives] cannot be scientifically evaluated” in 2002, the racial bias in the mechanized law is all too apparent if one considers the demographics associated with the two forms of cocaine. The reasoning for the distinction between crack and powder cocaine was the perception (or misperception) about the drugs and the contexts in which they circulated. Congress claimed that crack cocaine was more dangerous and more addictive, though no scientific evidence was used to demonstrate that at the time, and later studies show that both forms of the drug have similar effects (“Federal” v-vi). In their discussion of the ADAA, Osler and Bennett explain that at the center of these sentencing policies is “the myth that most of the Guidelines, including the drug guidelines, are based on empirical historical data, alleged special expertise of the Sentencing Commission, and the Sentencing Commission’s exercise of its characteristic institutional role—when in fact they are not” (156). Perceptions of the drug as more dangerous and more often associated with violence than its more expensive counterpart do not come from empirical data. Instead, they are directly indicative of racist attitudes toward the users of crack cocaine, who were (and still are) mostly black citizens. Due to cost differences and relative availability, crack cocaine was used most often by poor minorities, whereas powder cocaine was more often used by wealthier whites (Alexander 53; P. Johnson qtd. in Meiners 102).

As this was the case prior to the ADAA, Congress members were likely aware of the demographic implications of their regulations. Therefore, the logical conclusion is that “the rules regarding drug-law enforcement were gerrymandered to show an even greater bias against

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(Bennett 903). The drug laws “shifted enormous and unprecedented power and discretion that had… been in the hands of federal district court judges to federal prosecutors” (Osler and Bennett 145).
poor minorities” (Clear 55). This blatant bias – effectively allowing white drug offenders to have one hundred times more of the same substance as black offenders to earn the same punishment – hid successfully in the mechanical language of the ADAA. Furthermore, racist attitudes continued to prevail in the implementation of the mandatory minimums as black defendants “were indicted and convicted at much higher rates than whites... and they were more likely to receive longer sentences” (Weiman and Weiss 84). The ADAA seems to have operated within and enhanced an already biased system. This racist imbalance remained in effect until the Fair Sentencing Act of 2010 altered the 100:1 ratio to the still uneven 18:1 and eliminated the mandatory minimum for simple possession of crack, though it also created twelve new enhancements (Osler and Bennett 158). The intervening years saw an immense spike in the incarceration of black men that continues today – all enabled by a simple, seemingly innocuous list of weights.

That list of weights made bodies and biases invisible in a law that seemed to function mechanically and successfully denied the state’s agentic culpability. Ongoing imbalances are precisely what the drug laws seem designed to do: incarcerate minority citizens from poor, urban areas and use incarceration as a cure-all for social problems. In 2012, 18,239 out of 25,298 (over 72% of) defendants sentenced for drug trafficking in the federal system were black or Hispanic (Bennett 880). Even more startling, in 2014, Bennett observed that, in over twenty years on the federal bench, “I do not recall sentencing a single white defendant on a crack cocaine case” (883). If trends continue, it is estimated that one third of black men and one sixth of Hispanic men born in the US today will be incarcerated in their lifetimes (Gottschalk 19). The disparity may therefore continue to widen as the state uses mandatory minimums (or sentencing guidelines) to make bias and agency invisible via the mechanization of the law.
The invisibility of prisoners thus prevents identification and enables continued violence, such as the exploitation of imprisoned bodies for political and economic gain. The aforementioned view of prisons as an economic salvation for small towns can lead to a callous, even dehumanized view of inmates. In Meiners’s examination of this phenomenon, she argues that prisons are “perceived to function as an economic engine for depressed rural communities, where those incarcerated, from one vantage point, are commodities” (74). This commodification of the imprisoned body is, perhaps, an inevitable result of the status of the prison system as a money-making industry – an industry that now includes a private sector. Meiners recounts a particular example of this disturbing equivalence of bodies and money. In 2001, the maximum security Thomson Correctional Center was built in the rural town of Lanark, IL (Meiners 75). Apparently due to a lack of funding, the facility was still partially closed in 2006, which infuriated the residents of Lanark. They seemed to view this as the state’s failure to help the town economically. At a demonstration, the citizens of Lanark held signs with the phrases: “Jobs Not Empty Jails” and “We Want Your Felons” (Meiners 75). While the first slogan clearly depicts the association of prisons with employment in the public consciousness, the second provides a disturbing view into the commodification of prisoners’ bodies that results from the industrialization of the prison system and the disavowal of identification. One of the town’s residents, in a letter to the editor in the Chicago Sun-Times, complained that there were only 600 inmates “instead of the 3000 promised by the state” (qtd. in Meiners 75). In this discourse, human beings are reduced to numbers – just as they are in the list of quantities in the ADAA – and used in political bargaining. People in the town called for the number the state promised – the number they were owed, the promised monetary value. Prisoners are not, in
these demonstrations, viewed as human beings or even as criminals and deviants. They are commodities, resources to boost the economy.

This attitude works to reinforce (and is then reinforced by) the disidentification upon which mass incarceration depends. It is significant that the prison in Lanark is a maximum security facility – the type considered more desirable because prisoners do not interact at all with the town’s residents (E. Williams 76). The citizens in these examples reinforce the state’s own rhetorical tactics. These towns are desperate for prisons, but they do not want to have to see any prisoners and certainly not interact with them. In this we see the success of the state’s rhetorical project. The citizens accept and reinforce the boundary between them and the prisoners; the state’s creation of legal (and spatial) invisibility is compounded by the citizens’ efforts. This division enables the dehumanizing commodification of the bodies of prisoners; incarcerated people become economic prizes for communities and political bargaining chips for politicians.

While prisons have rarely fulfilled their promised role of economic salvation in rural towns, the drastic increase in incarceration has been quite lucrative – not for struggling communities, but for businesses that use prison labor and private corporations that run prisons. UNICOR, also called Federal Prison Industries, manages the business side of the federal prison system. With no minimum wage laws for incarcerated persons, the potential earnings for UNICOR are substantial. In 2001, the sales of office furniture and textiles reached $583.5 million (Meiners 73). The American Federation of Labor Congress of Industrial Organizations “reported that tens of thousands of inmates working at below-market wages were generating more than $1 billion in sales by the mid-1990s” (Gottschalk 30). Prisons are therefore generating enormous profits, largely due to the lack of minimum wage. The advent of privately owned, privately run prisons in many states has also created a lucrative industry. The state pays
these corporations a certain amount per prisoner, and the companies seek to operate cheaply in order to make a profit (Meiners 74). These companies, therefore, directly benefit from mass incarceration – and become powerful advocates for harsh crime policies. Meiners cites one call for investors from that proclaims: “while arrests and convictions are steadily on the rise, profits are to be made, profits from crime. Get in on the ground floor of this booming industry now” (75). Like the citizens of Lanark, IL, demanding the bodies they were promised, the state and private prison companies commodify prisoners. At some prisons, this practice can recall other commodifications of human beings in American history. Gottschalk describes “penal farms in the South, [where] prisoners, many of them African Americans, do backbreaking work as field hands in the blazing sun. Trailed by packs of hounds, they are watched over by armed guards who are authorized to shoot to kill and are addressed as ‘Boss’ in a convention dating back to the days of slavery” (21). Considering the racial demography of the prison population, the comparison is inescapable. This new commodification thus feeds back into the group disidentification, as the social discourse dehumanizes prisoners.

POLITICAL INVISIBILITY

The result of these invisibilities is the sustainment disidentification on a large scale. Both public prejudice and governmental policy perpetuate the boundary between incarcerated people and the rest of the population, even after release from prison. People convicted of a drug crime are ineligible for public housing, student loans, and other federal benefits (Alexander 53). Through measures like these, “U.S. penal practices starkly underscore that offenders are not just like everyone else. The practice of ‘civil death’ is widespread in the United States. Prisoners and former prisoners are denied a wide range of civil and political rights, like the right to vote
and be licensed in certain professions” (Gottschalk 22). In addition to being barred from some professions and many government aid programs, former convicts face enormous social and economic difficulties. Employment can be difficult to obtain due to the requirement for those convicted of a felony to “check the box” on job applications. Furthermore, in the last twenty years, new regulations require recently released persons to pay numerous fines. In some places, Alexander notes, former prisoners are required to pay for drug testing, even when drug testing is a condition of their parole (154). These fees, combined with the enormous difficulty of obtaining employment can make economic survival a Sisyphean task. Regardless of the nonviolent nature of their crimes or any education they completed in prison, ex-convicts face severe economic consequences of being permanently divided from the rest of the American public. The lack of social standing and economic or political power disrupts the agency of Americans continually affected by the system of mass incarceration. This section will consider the long-term political invisibilities that perpetuate mass incarceration – in particular, the census and voting regulations.

This ongoing political invisibility preserves the inequalities in the prison system by depriving this sector of the population of their voices. Especially evident in policies that govern the census and voting rights, political invisibility can sustain the invisibilities established by the criminal justice system for the rest of a person’s life. Alexander argues that these policies together work to create a caste system; the War on Drugs is, in her words, the “new Jim Crow.” The use of cocaine varieties as a proxy for race in the ADAA makes Alexander’s characterization especially convincing. She concludes that

[w]hat has changed since the collapse of Jim Crow has less to do with the basic structure of our society than with the language we use to justify it… Rather than rely on race, we
use our criminal justice systems to label people of color ‘criminals’ and then engage in all the practices we supposedly left behind.

As noted earlier, the advent of mandatory minimums, the removal of parole from the federal system, and the 100:1 ratio came on the heels of the Civil Rights Movement of the 1960s; this timeline places the War on Drugs as simply the next in a line with systems of race-based social control. Wacquant argues that the mass-incarceration prison is but the latest in a series of “peculiar institutions,” following slavery, Jim Crow laws, and the ghetto, used by the state to “define, confine, and control African-Americans.” (378). Alexander’s analysis of the current system as a reincarnation of the old system under new names is inescapably accurate when we consider the political impact of incarceration – on the disenfranchised bodies that make up silenced communities and the nation as a whole. Census and voting policies limit the agency of current and even former convicts, ensuring that they remain invisible and separate, even while the state uses their bodies to its economic and political advantage.

The census, of course, has a long history of rendering certain groups – and black Americans in particular – invisible. Article 1 of the Constitution instructs that all free persons should be counted, along with “three fifths of all other Persons,” referring to enslaved people. This antiquated rule is, of course, no longer in effect, though people of color are routinely underrepresented in even modern censuses. Mass incarceration plays an important role in distorting the census data and resulting in the invisibility of an increasingly large group of Americans. Because the census determines the population in order to appropriately allocate resources and designate voting districts, in addition to the promise (though rarely the fulfillment) of economic security, towns with prisons gain another significant advantage. In the census, inmates are counted as living in the town where they are incarcerated. As we have seen, the
prison boom has resulted in a plethora of prisons in rural communities. The majority of the
citizens in those towns are white; the previously mentioned town of Lanark, Illinois, for
example, is 99.76% white (Meiners 75). Because of the inclusion of prisoners, the census shows
these towns as far more populous than they are, even though the prisoners that make up a
significant portion of the population to not receive voting rights or resources allocated to these
towns. As Meiners explains, these “once small, once rural, and once predominantly white
communities benefit from the reallocation of resources from urban centers due to larger census
counts although those in prisons cannot vote” (76). While these rural, white communities are
now overrepresented in the census, the urban, black communities from which so many inmates
come are correspondingly underrepresented. In Illinois, for example, from 2002-2004,
approximately 30,000 people released from state prisons returned to their homes in six
impoverished neighborhoods in Chicago (Meiners 76). These 30,000 certainly account for a
significant portion of the population in their home communities, and yet the census incorporated
them into the population of the small (white) towns in which prisons are located.

The result of this census practice is a misallocation of resources – in favor of rural, white
communities and to the detriment of urban, black communities. Because inmates are counted as
residents in the prison town, their home communities “lose the resources and representation
attached to the Census” (Meiners 76). Though a 2006 inquiry looked into these problems, the
census regulations have not changed (Meiners 76). In addition to misrepresenting populations,
another outcome of these census practices is inaccurate estimates regarding unemployment rates.
People in prison, even for a short time, are not counted among the unemployed when the census
is taken. Given the number of citizens who are cycled in and out of prison, our unemployment
rates are far from accurate. Sociologist Bert Useem and economist Anne Morrison Piehl argue
that mass imprisonment therefore “conceals the true rate of unemployment in American society… [and] generates unemployment, by damaging the employment prospects of those released from prison” (13). Therefore, in addition to being misrepresented numerically, urban neighborhoods are also misrepresented in terms of job status, which results in further misallocation of resources. Just as the “We Want Your Felons” sign demanded the transport of bodies for economic gain, the same towns benefit politically and materially, in representation and resources, from the forced relocation of urban, black bodies.

The census issue becomes all the more exploitative when we recall that inmates (in all states except for Vermont and Maine) are barred from voting. Therefore, while inmates’ bodies count politically, their voices do not. In this practice, they are reduced to useful bodies – useful in upholding the status quo and appeasing white populations suffering from economic difficulty\textsuperscript{12}. This abuse, however, does not end at the prison gates. Unlike most developed nations, the US restricts voting rights even after one’s prison term is over. In the majority of states, those on parole are not eligible to vote, and voting restrictions after being released from prison or parole range from a number of years to life, with policies varying significantly across states. Furthermore, even those who could legally regain their right to vote are often deterred by “a bureaucratic maze that requires the payment of fines or court costs” (Alexander 158-9). The complex paperwork and fines that many cannot afford to pay result in even those who legally could regain their voting rights being unable to do so.

\textsuperscript{12} According to many scholars, there is a long history of government policies against black Americans appeasing poor white Americans. Alexander explains how “time and time again, poor and working-class whites were persuaded to choose their racial status interests over their common economic interests with blacks, resulting in the emergence of new caste systems that only marginally benefited whites but were devastating for African Americans” (256).
In defense of the census and voting practices, some have argued that this problem affects such a small percentage of the population that it has no real political impact. However, the population of incarcerated and formerly incarcerated Americans has come to represent a larger proportion of the electorate since the War on Drugs began. As of 2005, 1 in 50 American citizens was unable to vote and, in southern states, the number of black men who cannot vote is nearly one third (Meiners 2). These numbers have likely increased in the last ten years, as the numerical trends over the period of mass incarceration demonstrate. In 1976, the disenfranchised made up 1% of the electorate; that number rose to 2.3% in 2000 and an estimated 3% in 2012 (Uggen and Manza 781). While these numbers seem small, sociologists Christopher Uggen and Jeff Manza demonstrate that they can be decisive in elections. In every presidential and senatorial election from 1972, the disenfranchisement of felons has “provided a small but clear advantage to Republican candidates” (787). Uggen and Manza perform a thorough analysis of demographics and voting habits to prove that, even with conservative estimates, felon disenfranchisement “may have altered the outcome of as many as seven recent U.S. Senate elections and at least one presidential election” (794). According to their statistical analysis, if felons in Florida alone had been able to vote in 2000, Al Gore would “certainly” have won the presidential election (792). As numbers of the disenfranchised increase, so does the political impact.

Without a political voice in the form of votes, the significant problems these populations are experiencing can go unheard. As Clear notes, “most of the legislative action toward increasing punishments for crime offers free political capital. Indeed, these laws are often wildly popular” (11). Politicians, of course, depend upon votes. “Tough on crime” policies have long been popular in both parties and, as Osler and Bennett argue, they “serve the base instinct of
punishment,” in contrast with more nuanced, complex laws that “make terrible sound bites” (136). The so-called epidemic of crack in inner city communities fit rather perfectly into this political trajectory, leading the 100:1 cocaine to crack ratio to go largely unchallenged in Congress or the public sphere. Because so many of the people affected by these laws are underrepresented due to the census or disenfranchisement (and because these racist policies hide behind a mechanized law), these injustices are able to continue with political support.

The invisibility of prisons and prisoners supports the current situation the War on Drugs has produced, because those who do have political power are often either unaware of the rampant mass incarceration, or – because they have disavowed the dehumanized – unsympathetic to the problems of those they view as Other. Again, we can see how this system is self-reinforcing: the huge numbers of black Americans in prison may lead some of their fellow citizens to deduce that black people are simply more likely to commit crimes than white people, confirming the biases that produced the racist policies in the first place. Therefore, while those affected by mass incarceration have been stripped of agency, those unaffected may be unaware of the problem or unwilling to exercise their political agency to support change. Furthermore, the pervasiveness of the system, which has become entrenched in our national economy, along with the mechanization of the legal process and the support of a misinformed public, leads many government officials do deny or deflect their own agency. Despite overwhelming evidence, many continue to deny racist motivations in the War on Drugs. The intent of those in Congress thirty years ago, however, seems to me less important than considering the results of those decisions and the ongoing injustices that pervade our nation’s criminal justice system. The idea of a situated agency may highlight the way in which agency shifts based on context, but to not recognize agency as an individual attribute too easily enables those with significant agency to
deny their responsibility. Those with political agency have a responsibility to listen to the silenced voices and face the ways in which mass incarceration continues to decimate the lives of so many Americans.

THE RHETORIC OF INCARCERATED BODIES

The scale of mass incarceration in the US is difficult to fathom. The power of the prison industry and the promise of jobs make it difficult to move past the extreme policies of the War on Drugs, while the lifelong effects of incarceration continue to decimate already marginalized populations. The layers of strategic invisibility, in the legal structure and the political system, ensure that the more privileged sectors of American society are significantly less likely to be affect by – or even exposed to – mass incarceration. The “out of sight, out of mind” strategy ensures that the state’s narrative of the War on Drugs is able to go largely unquestioned by more politically and economically powerful groups. Even when it was first enacted, the ADAA was not the subject of any significant public debate or outcry, as the majority’s disidentification from those it targeted was already well established. Gottschalk argues that this lack of reaction “provided permissive conditions for political elites to construct a massive penal system” (2). The racist bias, therefore, successfully hid within the mechanized language that spoke to a misinformed nation.

The reframing of social, economic, and even medical problems as a War on Drugs enables the state to transform black and brown bodies into rhetorical tools that shift agentic culpability and preserve the legitimacy of the state. The consequences for those bodies, often life-long, demonstrate how violent this practice is. We can begin to comprehend the effect of
bodily invisibility in cases like that of Clinton Drake, a middle-aged American war veteran and drug felon. He explains:

They treat marijuana in Alabama like you committed treason or something. I was on the 1965 voting rights march from Selma. I was fifteen years old. At eighteen, I was in Vietnam fighting for my country. And now? Unemployed and they won’t allow me to vote.  

(qtd. in Alexander 160)

Drake’s account highlights the consequences of laws that erase human beings and disallow judges from considering the embodied reality of defendants in favor of arbitrary weights. Though he is referencing state law and not the ADAA, the federal legislation established a trend taken up by many states that imposed similar mandatory sentencing for drug crimes. This legal system transformed Drake into a rhetorical tool wielded by the state for political and economic gain. These gains came at the cost of Drake’s own political and economic agency, as he finds himself unable to attain employment and barred from the right to vote. Though now a free citizen, Drake’s agency is permanently disrupted. He is one of many thousands of Americans whose political invisibility compounds the legal invisibilities that support disidentification and enable mass incarceration to continue to inflict a strategic violence on marginalized peoples.
CHAPTER THREE
TEXTUAL INVISIBILITY:
TORTURE DOCUMENTS IN THE POST-9/11 UNITED STATES

In this chapter, I explore bodily invisibility as a rhetorical method used by the state to obscure the violent process of using human beings as rhetorical tools. Focusing on a declassified report by the CIA, I will continue my analysis of the rhetorics of other people’s bodies and the ways in which invisibility shuts down potential identification. Where the previous chapter considers the movements and location of bodies – visibility in the landscapes and neighborhoods of the lived-in world – this chapter turns to bodies in textual representation. As it is an act that occurs in secret, our only awareness of torture comes from representations: texts, images, and testimonies of the victims and witnesses. Though sources of information, these representations are also the sites in which the state manipulates bodily visibility and perceptions of its agency. The centrality of secrecy in modern US torture makes it a particularly rich example for examining how the state’s textual representations manage visibility. Despite this focus on a textual representation, it is crucial to keep in mind that these representations, however colored, refer to real, material instances of bodily violence. The text can help us to understand the state’s attitude toward these bodies and gain insight into some of the torture they endure. The documents, however, are not passive representations; these texts act in significant ways to strategically reveal and obscure information and, most especially, bodies. The bodies tortured by the US in the post-9/11 War on Terror are made invisible in textual representations, just as the state’s own criminal actions are invisible due to the lack of evidence. The state’s written record and documentation work to hide these bodies from public view in order to preserve its own narrative.
Torture is ultimately a rhetorical act. Jennifer R. Ballengee writes “the presentation of torture has a rhetorical purpose: it is intended to invoke a particular response in its audience or reader by means of the depiction of torment inflicted upon the human body” (127). Christina Cedillo suggests that, in addition representations and surrounding discourses, we must view “torture itself as an embodied rhetoric” (269). The act of torture is itself is rhetorical. At its core, the torture is a display of power; the torturer takes over the body and mind of the victims, subsuming them into the torturer’s narrative. According to the CIA’s description of this process, “[a]n interrogator transitions the detainee from a non-cooperative to a cooperative phase in order that a debriefer can elicit actionable intelligence through non-aggressive techniques during debriefing sessions” (6). This “transition” from “non-cooperative” to “cooperative” is precisely the transformation of a human being into a rhetorical tool, as the state replaces the victim’s agency with its own.

In a democratic state like the US, this use of torture creates an intricate rhetorical situation. It requires the state (rhetor) to balance the exercise of power with the preservation of legitimacy. To accomplish this, the US deploys a strategic invisibility of those bodies it uses rhetorically – in both the material practices of torture and in its textual representations. This invisibility allows the state to engage in the rhetoric of other people’s bodies without risk to its legal foundation. By engaging in torture while denying that its practices constitute torture, the US is simultaneously asserting its concern for legality and its limitless power that is ultimately unconstrained by the law. The invisibility of bodies serves to hide the violence and to obscure the state’s agency – exculpating the state from responsibility and maintaining the heroic narrative that depict its actions as necessary.
We can see the avoidance of visibility and responsibility in reports from Camp Nama, a former US military prison in Baghdad, where there was a sign that read “NO BLOOD, NO FOUL” (qtd. in Hill 228). Blood is highly visible evidence of injury, and wounds that bleed often leave scars – a visual record of violence. The sign hung in the camp as a reminder of the “rule” that “if you don’t make them bleed, they can’t prosecute you for it” (Schmitt and Marshall qtd. in Hill 228). The sign’s macabre humor reflects the state’s fear of visibility – a fear of the visual evidence of its illegal acts of torture on the bodies themselves. The camp’s motto, therefore, reflects the state’s reliance on invisibility to protect it from liability. The policies and techniques of detainment and torture have thus been designed to be invisible. Ian E. J. Hill examines the use of sonic torture, which involves using loud music or other sounds to deprive prisoners of sleep, communication, and the psychological respite of quiet. It is one of the techniques that have gained the dubious title of “torture lite.” Hill focuses on the audible, but I argue that sonic torture is primarily a visual strategy. As Hill notes in his discussion of victims’ difficulty in verbally articulating their experience, “[s]onic torture leaves no marks” (266). It is, therefore, an invisible torture that leaves no evidence on the body of its victims. While the notion of loud noises as torture assuages the public as a palatable method, it simultaneously obscures the state’s violence by avoiding a visual record. These methods are calculated to avoid the appearance of crossing a particular definitional line, in law and in public perception, of what constitutes torture – and leave no evidence when the line has been crossed.

In this chapter, I analyze an internal CIA report in order to examine how the state represents its acts of violence in ways support the state’s rhetorical goals of proving both its power and its legitimacy. Focusing on bodily invisibility, I consider how it is used to obscure agency. The assigning and deflecting of agency is, I argue, central to the state’s paradoxical
rhetorical claims of legitimacy and limitless power, which they use others’ bodies (as well as representations of those bodies) to establish. My analysis of this CIA report takes a dual methodological approach. First, I use genre analysis to consider how the stylistic and grammatical features contribute to these goals. Then, I perform a Burkean dramatistic analysis to consider how the document constructs the acts, agents, and agencies involved in torture – as well as the scene in which this phenomenon operates. This combination of genre and dramatistic analysis enables me to consider both the form and content of the document and provide a fuller analysis of the various ways in which the state deploys invisibility as a rhetorical strategy. After a brief consideration of rhetorical scholarship on torture and visibility, I consider how the genre contributes to this project of invisibility. Using a dramatistic frame, I then argue that the conspicuous bodily invisibility in the text enables the dehumanization of prisoners that is legally, ethically, and materially central to the US’s torture policies. In close readings of the primary text, I examine how the state obscures the presence and material reality of bodies and bodily experiences and manipulates the appearance of agency in order to display its power and preserve its legitimacy.

The US’s international policies and practices since 9-11 have been an important and ongoing concern in the field of rhetoric. The state’s manipulation and reinterpretation of law has made torture policies and discourses rich, if troubling, rhetorical phenomena, while the material reality of pain makes this work especially urgent. Rhetoric scholars have examined state documents (the infamous “torture memos” in particular) (Ballengee; Davis), specific torture techniques (Hill; Vicaro), and representations of torture – most notably the photographs depicting abuses at Abu Ghraib (Davis, Goehring, Gronvoll, Hesford; Hill; Richey). This chapter not only provides another perspective – that of internal CIA manuals for and memos on
torture – to contribute to our understanding of how these policies developed and functioned within the state; it also brings several new concepts into the discussion: visibility and its consequences for agency and identification. This chapter uses dramatistic analysis to examine how the manipulation of visibility and agency work together as the means by which the state is able to enact policies that use bodies as rhetorical tools, while maintaining its legal foundation.

Despite the state’s attempts to hide and deny torture, the tortured body has gained visibility in US media. Shocking images of soldiers and inmates at the Abu Ghraib prison in Iraq surfaced in 2004, forcing the state and the public to confront and interpret the tortured body. While the state did create the circumstances that enabled the abuse to occur, unlike the practices examined in this chapter, the acts depicted in these images are not among those legally sanctioned by the state. Photographs of horrific abuse – much of it sexual abuse – clearly depict the helpless bodies of detainees next to the disturbingly jovial bodies of the soldiers responsible. The bodies of detainees are exposed and are engaging in forced simulations of sexual acts. Other images, less widely circulated, depict non-simulated rape. The photographs’ juxtaposition of bodies enduring physical violence, sexual humiliation, rape, and other abuses with the smiling faces of uniformed American soldiers, have prompted numerous rhetorical projects. Wendy S. Hesford analyzes them and their use in critical and resistance artwork. She develops and theorizes “spectacular rhetoric” in order to examine the uses of bodily representations in human rights campaigns and materials. She considers the ways in which rights and subjects are framed in human rights discourse in the West. Frequently, these discourses reify social hierarchies; human rights rhetoric appeals to wealthy, empowered Westerners to rescue those less fortunate (4). This heroic frame is common in rights discourse. Hesford examines “how spectacular texts and contexts project identifications onto audiences and how human rights subjects are
represented as possessing certain identities” (9). In other words, the rhetoric of human rights discourse relies on (and constructs) particular audiences and particular subjects. Strangely, the state’s narrative of torture is rhetorically similar. The state’s representations of tortured bodies construct identities that fit into a heroic narrative (in this case, the American hero vanquishing the evil terrorist monster). The state’s rhetoric of torture also parallels human rights rhetoric in its use of (unwilling) bodies and bodily representations in its rhetorical project. Though they may work at cross purposes, they employ similar strategies. My work diverges from Hesford’s in its focus on the visible rather than the visual. She analyzes visual artifacts (artwork and human rights campaign materials), whereas I examine what is visible, what can be seen.

The Abu Ghraib photographs, along with reproductions of them like those Hesford discusses, have made American torture visible across the world. As Christine Harold and Kevin Michael DeLuca discuss in reference to the lynched body of Emmett Till, the tortured body made visible can challenge the state’s narrative. We see the effect of visibility’s empathetic potential in the public disgust and horror at these images of US soldiers abusing detainees. As Marita Gronnvoll discusses, the Abu Ghraib scandal prompted questions about the humanity of the soldiers rather than that of the victims. This disgust, though problematically targeted toward the female perpetrators, led to legal action and public outrage. In these affecting images, the detainees are naked except for a bag over their heads, rendering them extremely visible, yet still – with their identities obscured – invisible. Initially circulated among the perpetrators and fellow soldiers on the base, the meaning of these images transformed when they entered a new context. Like the lynching photographs that circulated among white supremacists, the Abu Ghraib photos were trophies circulated among the perpetrators. Just as the image of Till’s body, made public and widely available via photographs, confronted viewers with the true horror of the racist order,
when the Abu Ghraib photographs entered the public domain, they provoked outcry. Although, for reasons I will discuss below, the response did not become widespread or lead to significant public action.

Viewers of these images are confronted with representations of human bodies. Though the hoods obscure identities in the Abu Ghraib images, these bodies are not hidden; they are on perverse display – forced to show their bodies and engage in sexual activity or pseudo-activity for the viewing pleasure of their captors. The helpless bodies on display prompted both outrage and sympathy, emotions that otherwise seemed impossible, given the designation of these individuals as terrorists. When confronted with these bodies in pain, regardless of the crimes they may have committed, it is difficult to ignore or obscure their humanity. The perpetrators and like-minded viewers may not be disturbed by the images – much like senders and recipients of lynching postcards in early twentieth century America (Harold and DeLuca 268). In both cases, however, many viewers of these representations experienced empathy for the victims. Victoria J. Gallagher and Kenneth S. Zagacki, in their discussion of photographs of Civil Rights protests in Selma, argue that the photos were so persuasive because they “made visible the common humanity of Americans by interrogating established caricatures” (121). The Abu Ghraib photos “interrogated caricatures” by displaying the pain and horror of the abused body against the sneering violence of the soldiers – a reversal of the victim-villain or us-them narrative of the terrorist. The presence of the body, especially the tortured body, enables the recognition of and the identification with the Other – an identification that can threaten, and even overturn, the state’s own narratives.
THE MANUAL GENRE:
EVERYDAY LANGUAGE FOR ILLEGAL VIOLENCE

The primary text for this chapter is the declassified top secret CIA document entitled “Special Review: Counterterrorism Detention and Interrogation Activities (September 2001-October 2003),” which provides a glimpse of the internal rhetoric surrounding interrogation practice. The Review was composed by the CIA Office of the Inspector General in 2004 – no individual authors are named. The document summarizes the interrogation practices used in counterterrorism, explains their development, cites legal support, articulates concerns, and provides recommendations “that are designed to strengthen the management and conduct of Agency detention and interrogation activities” (CIA 8). Though these recommendations seem to be the essential purpose of the document, as the rest of the material provides background and context, the sections entitled “Endgame” and “Recommendations” are entirely redacted. Therefore, beyond considering their existence, I will not be able to discuss them. In addition to the recommendations, the Review has sections describing the origins and effectiveness of the counterterrorism program – including a report of some unapproved techniques committed prior to the implementation of official policies, which the Agency deems unlawful – and one section regarding ongoing legal and public relations concerns. The Review also includes a series of appendices: a lengthy report from the Attorney General’s office ensuring that the policies are within the bounds of the law and the guidelines for interrogation – for both interrogators and medical personnel. Each of these parts centers on the detention policies, specifically the controversial Enhanced Interrogation Techniques (EITs).\footnote{According to the Senate Report, the EITs were all developed directly in response to the CIA’s difficulty in obtaining further information during interrogations. After the capture of Abu Zubaydah, whom the Review identifies as a senior Al-Qa’ida operative, he spent several weeks in recovery. He was originally in FBI custody and agreed to cooperate from the beginning. Although FBI agents had developed a good rapport with Zubaydah and}
the Review was made public in 2009. It is now freely accessible (I came across it on CNN.com), but much of the text is heavily redacted and so remains top-secret.

The Review presents a somewhat ambivalent view of the EITs – their effectiveness as well as their legality. It openly states that “[a] number of Agency officers of various grade levels who are involved with detention and interrogation activities are concerned that they may at some future date be vulnerable to legal action in the United States or abroad and that the U.S. Government will not stand behind them” (101). The acknowledgement that the EITs “diverge sharply” from previous practices and policies in the CIA, military, and law enforcement, as well as national commitments to human rights (101) is followed by the statement: “[t]he Agency has generally provided good guidance and support to its officers… In particular, the CTC [Counterterrorism Center] did a commendable job in directing the interrogations of high value detainees” (102)14. This commendation comes immediately after what seem to be genuine concerns about the legality of the CIA and the CTC’s actions. The Review also expresses more practical concerns, noting that “there is limited data on which to assess their [the EITs’] individual effectiveness” (89). While it states that important information has been gathered by the detainment program, it is not clear whether the EITs were necessary or whether the same information would have been gathered using standard (legal) interrogation methods. The Review “identified concerns about the use of the waterboard, specifically whether the risks of its use were justified by the results, and whether the fact that it is being applied in a manner different from its use in SERE training brings into question the continued applicability of the

gained information, the CIA still took over (despite FBI objections) and began implementing harsh interrogation techniques. Finding that Zubaydah was resistant to the Standard Techniques, the CIA redoubled its efforts to develop an effective interrogation program, a program that would increase the level of intensity without trespassing the legal boundaries.
Department of Justice (DoJ) opinion to its use” (89). These concerns are juxtaposed with continued and detailed insistence on the legality of the EITs, noting the DoJ’s legal analysis, domestic and international anti-torture statutes, and the CTC and other expert opinions. This insistence on the legality of the EITs and the frequent citing of the DoJ and other government bodies work to put the CIA and its actions in a broader context. As I will address later, this construction of a web of responsibility is crucial to the state’s self-preservation.

Despite its content, the Review is an unremarkable document. In many ways, it is a typical bureaucratic report or memo, and the manuals for torture in the appendices largely follow the manual genre. I argue that the decided normalcy of these everyday genres functions as one of the rhetorical tactics used to obscure the bodies and violence described within and enacted by these documents. The genre itself makes the bodies invisible. As Carolyn R. Miller argues, “[f]orm shapes the response of the reader or listener to substance by providing instruction, so to speak, about how to perceive and interpret; this guidance disposes the audience to anticipate, to be gratified, to respond in a certain way” (“Genre” 159). Genre “instructs” the reader on how to approach and understand the text and is therefore a rhetorical tool in itself. As a mundane genre, the manual serves to normalize the document and conceal the extreme, abnormal (and illegal) nature of its content. When readers see the trappings of the manual genre, they read the document accordingly – usually considering it to be a factual, uninterested, and utilitarian text. They may therefore be less likely to question or critique a text that presents itself as non-rhetorical. The violence of torture is thus hidden in the routine manual. While the text does contain details of horrific treatment, that violence is couched in familiar procedural language.

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15 SERE stands for “Survival, Evasion, Resistance, and Escape.” It is an intense military training program designed to prepare its students for what they might experience under enemy capture; its goal is to equip them with the skills to resist torture and escape capture.
This strange coexistence of form and content reflects the multiple audiences of the document and the dual rhetorical project of the state. The most obvious audience for these documents is the CIA interrogators and medical personnel, who ostensibly use and follow these instructions. The appendices even include blank versions of forms that agents must sign to indicate that they have received and read the various manuals. The genre makes sense in this context – it is a standard bureaucratic communication. Yet, these documents were most certainly written with the knowledge that they may be eventually declassified or otherwise enter public view. Given the evidence revealed in The Senate Intelligence Committee Report on Torture (Senate Report) in 2014, we now know that the CIA engaged in acts of torture beyond those documented or approved.\(^{16}\) The Senate Report states: “The interrogations of CIA detainees were brutal and far worse than the CIA represented to policymakers and others… The conditions of confinement for CIA detainees were harsher than the CIA had represented to policymakers and others” (5-6). Therefore, the guidelines and regulations presented in the Review seem to be an inaccurate reflection of what really occurred.

Furthermore, we know of official instructions against putting negative comments into writing and that many documents produced during this interrogation program actually functioned to misrepresent and minimalize the CIA’s actions to other government agencies and even other branches of the CIA, including the CIA’s own Office of Inspector General. According to the Senate Report, the “CIA repeatedly provided inaccurate information to the Department of Justice, impeding a proper legal analysis of the CIA’s Detention and Interrogation Program” (7). In response to interrogators concerns that they were “approach[ing] the legal limit,”

\(^{16}\) In addition to these legal and ethical concerns, the report also found that the “CIA’s use of its enhanced interrogation techniques was not an effective means of acquiring intelligence or gaining cooperation from detainees” (3). The ineffectiveness and brutality of the EITs call into question the underlying purpose of the state’s torture project.
Counterterrorism Center chief, Jose Rodriguez, “[s]trongly urge[d] that any speculative language as to the legality of given activities or, more precisely, judgment calls as to their legality vis-à-vis operational guidelines for this activity agreed upon and vetted at the most senior levels of the agency, be refrained from in written traffic (email or cable traffic). Such language is not helpful” (qtd. in 53). An unnamed senior interrogator reported that discrepancies were “not part of the official record… all of the fighting and criticism is done over the phone and is not put into cables… [CIA c]ables reflect things that are ‘all rosy’” (qtd. in 113). Therefore, one may conclude that these manuals were always intended for an external audience rather than the interrogators themselves, who received other instructions. That external audience may include other government officials, the American public, and even international readers. If we view these as the real intended audience, as indicated by the evidence from the Senate Report, then the genre takes on new significance. The banal representation of torture minimalizes the violence inflicted on human bodies. If, as Miller argues, genre instructs readers in how to interpret a text, then the Review obscures the severity of the violence it contains while also instructing readers on the sort of attitude they ought to take toward such violence. As part of a procedural document, that violence is simply a necessary part of the process – a process the Review claims is crucial for our safety. The familiar manual genre mollifies the reader, keeping the torture invisible even in the descriptions of the EITs.

The Review is in many ways a typical bureaucratic report, despite the decidedly un-typical nature of its content, calling to mind Arendt’s “banality of evil.” Cezar M. Ornatowski describes the inherent contradiction in technical genres like memos and manuals, which by their very nature seem plain, direct, and non-rhetorical. Traditional understandings “locate the essence of technical writing in objectivity, clarity, and neutrality” (Ornatowski 91). Technical
writing, which encompasses a number of genres like those found in the Review, characterized by impersonal, unadorned prose is commonly viewed (and often believed to be) “objective, plain, neutral, clear, and so on” (Ornatowski 94). We see these features in the guidelines for interrogators and medical personnel in the appendices, which follow many of the conventions of a manual. Here, we find impersonal, “plain” text organized in numbered lists. The “Guidelines on Confinement Conditions for CIA Detainees” and the “Guidelines on Interrogations Conducted Pursuant to the [ ]” both seem to be manuals for CIA interrogators. Though they do not go into great detail on the EITs or their implementation (such documentation is elsewhere in the Review), they do contain a series of steps and instructions. After defining the key terms, listing the EITs, and identifying personnel involved, the “Guidelines on Interrogations” manual explains the requirements for approvals from Headquarters and for recordkeeping. Each of these sections is numbered and, while they do not use the imperative as manuals typically do, the use of the indicative “shall be” as in “a contemporaneous record shall be created” has largely the same instructive effect (3). The “Draft OMS [Office of Medical Services] Guidelines on Medical and Psychological Support to Detainee Interrogations” begins similarly but goes on in much greater detail, particularly regarding the implementation of specific techniques. Once again, the imperative is not used; rather, there are descriptions of what “should” happen. For example, in the section on “Uncomfortably cool environments”, the manual states: “At ambient temperatures below 18°C/64°F, detainees should be monitored for the development of hypothermia” (5). The document seems direct, clear, and its frequent use of specific numbers or other objective definitions make it a good example of a manual.
Herein is the contradiction Ornatowski finds in the traditional understanding of technical writing: it is (inevitably) rhetorical. While the genre values objectivity, a manual or other technical text is always serving a particular interest (94). He argues that “[a]n alternate view is to see technical writing as always rhetorical and involved with potentially conflicting agendas and interests, with objectivity, clarity, and neutrality serving merely as stylistic devices” (91). If we consider, as Ornatowski does, the apparent objectivity of the text as a “stylistic device” of the genre, we see how neutrality is deployed – how the authors of this document use the trappings of technical genres like dull, clinical language to make even violent torture seem “neutral.”

“Guidelines on Interrogations,” for example, defines standard and enhanced interrogation as follows: “Standard Techniques are techniques that do not incorporate physical or substantial psychological pressure,” whereas “Enhanced Techniques are techniques that do incorporate physical or psychological pressure beyond Standard Techniques” (1-2, emphasis original). The blank utility of the language enables the document to avoid its material reality: the infliction of pain on another human. The word “pain,” however, does not appear; rather, the CIA describes varying levels of “pressure.” This word choice is significant; not only is pressure more scientific, in that pressure is measureable where pain is not, it is also less intense or invasive. It evades the idea of harm – this is only pressure, not actual pain or injury. Most importantly, unlike pain, “pressure” does not necessarily refer to a body. The use of pressure thus implies a less severe act dissociated from the body. Interrogators are “pressuring” the detainees, not “torturing” them – an act that is far more palatable. Careful word choice as therefore among the generic strategies that lull the reader with the familiar drone of a manual – making it all too easy to lose sight of the violent interaction it describes.
The manual genre is, therefore, ideal for the state. As Ornatowski argues of technical writing: “Because of its implicit and traditional association with science and technology and its ‘rational’ pretensions, embodied in the stylistic attributes of clarity, directness, factuality, objectivity, and neutrality, technical communication is well suited to serve as the rhetorical instrument of organizational-bureaucratic rationality” (101). The Review’s direct, dull language is perhaps especially adept at obscuring and keeping invisible that which the state does not want seen or questioned. Furthermore, the genre is also useful for how it presents the state as a unified, monolithic force. In his description of technical writing, Steven B. Katz notes that “the heavy use of polysyllabic words, modified nouns… of a passive voice that obscures the role of the agent, and of subordinate clauses that separate subject from verb… in this style responsibility is shifted from the writer (and reader) to the organization they represent” (258). The lack of individual responsibility is, as I shall discuss later on, crucial to the state’s exercise of extralegal power. As Ornatowski argues, therefore, technical writing is an efficient and effective choice for the state, but Katz finds potential danger in this efficiency. He critiques technical writing as too focused on an “ethic of expediency.” The values of efficiency and utility of the technical genres, he argues, carry over into material life to the detriment of human beings (257). Indeed, the technical genres are dangerous for the same reason that they are powerful; technical writing does not allow space for ethical consideration or critique. If one views technical writing as objective and non-rhetorical, one may not question the ethical, moral, or even legal validity of its instructions.

These manuals, and the Review as whole, describe practices of detainment and torture while attempting to divert attention from the material, bodily encounter of these acts or the ethical doubts they raise. This careful diversion enables the US to distance its actions from those
of totalitarian enemies. In a speech on the status of War on Terror, President Bush described a “document [that] was found in 2000 by British police during an anti-terrorist raid in London, a grisly Al Qaida manual that includes chapters with titles such as ‘Guidelines for Beating and Killing Hostages’” (“Remarks”). The “Guidelines” in the title mirrors the titles of the CIA’s own manuals, which seems to align the documents. The obvious distinction in the Al Qaida document is the direct language of bodily harm; there seems to be no attempt at euphemism here, as the authors need not cover their violence or maintain legal legitimacy. In his speech, President Bush presents this document as evidence of the evil inherent in the state’s enemies. He does not specify the techniques the manual describes, which could well have been more brutal than those sanctioned by the CIA and the DoJ, but the similar function of the Al Qaida and CIA documents is clear. The president, however, points to Al Qaida’s manual as evil and the CIA’s as lawful. The manual genre is, in part, what enables this distinction. The use of mundane language, precise procedure, and the eschewal of the body in the CIA’s manuals enables the state to reject any similarity between its own actions and those of terrorists. Therefore, the state deploys the genres of technical writing in order to obscure its crimes and preserve its ethical and legal superiority over its enemies. The genre of the manual aids in the invisibility of the body as well as the minimalization of the violence of torture, rendering the state’s illegal practices invisible behind a veneer of utilitarian objectivity.

This strategic invisibility is readily apparent in the use of redaction in the Review. While redaction is not typical of the manual or technical genres more broadly, it is typical of state documents; indeed, as one of the trappings of military or intelligence information made available to the public, it is a familiar generic component. Redaction is often read as a necessary protective measure to safeguard national security and protect individuals. While these may
indeed be important functions of redaction, because these texts are hidden, the reader cannot know how it is really being used. Joseph Pugliese “read[s] these black sites of redaction as the textual and symbolic equivalent to the material black site prisons run by the state” (29). Pugliese argues that these black bars that obscure certain words or phrases – even entire pages – mimic the function of black sites. I share this view but also see redaction and black sites within the broader rhetorical strategy of conspicuous invisibility that encompasses much of the state’s material and textual strategies. While the redaction entirely hides the words it covers, the thick, black boxes stand out starkly on the white page. Particularly interesting is the inclusion of pages that are entirely redacted. The reader cannot see what has been redacted but can see precisely how much has been redacted. In one section, there are twenty four redacted pages in a row. Aside from the number assigned to each paragraph, the only visible words are the sentence: “Interrogators are required to sign a statement certifying they have read and understand the contents of the folder” (53). These blacked-out pages follow a partially redacted section entitled “Specific Unauthorized or Undocumented Techniques” (41). It discusses unauthorized (illegal) techniques that interrogators were using before these guidelines on the EITs were released. These unapproved methods include the use of handguns and power drills in making threats against detainees, the use of smoke to disrupt the detainee’s breathing, threats on detainees’ family members, and other illegal tactics. Though we cannot know what follows in the redacted pages, it is interesting to note that it follows (and perhaps continues?) a list of illegal torture methods.

A closer look at what is redacted (and what is not) reveals how redaction is used to create meaning. A common use of redaction in the Review is to block out names, places, and other identifying details. While the names of American officials are, with the exception of those at the
highest levels, redacted, the names of detainees are used regularly. This is obviously intended to protect the identities of CIA agents, but its effect is to highlight individual suspected terrorists – what each person has done as well as who and what s/he knows. At the same time, the officers interacting with these detainees are unnamed, rendering them non-individuated parts of the bureaucratic machine of the state. As I will discuss later, this has important implications for the state’s constructions of agency and avoidance of accountability. These black bars and entirely blacked-out pages are constitutive of a type of national forgetting through systematic occlusion and, through the ruse of declinations, exoneration. These acts of redaction effectively exempt those responsible for the torture perpetrated in the CIA’s secret prisons from open and transparent processes of accountability. Redaction in these official texts, is crucial to the production of state-regulated meaning. (Pugliese 178)

The state uses redaction not only to protect individuals or sensitive information, but to “regulate” meaning. However, the redactions can also raise questions about the severity of the treatment inflicted by the CIA, creating a threatening uncertainty. The beginning of the Medical Guidelines, for example, states that “[t]here are three different contexts in which these guidelines may be applied: (1) during the period of initial interrogation, (2) during the more sustained period of debriefing at an interrogation site, and (3)  ❲_placeholder❪” (1). Given the increasing intensity between “contexts” 1 and 2, the presence of a third would seem to indicate another, more severe level. If the second context is a “more sustained period,” to what sort of “period” might the third refer? While I can only speculate as to an answer, this redaction raises questions about the legal regulations at work in interrogation practices. It is possible that the familiarity of the manual genre – which does not
typically invite questions – would prevent or diminish these threats for the reader. Genre is therefore a crucial strategy with which the state makes bodies and the violence they suffer invisible to express power without compromising legitimacy or risking accountability for illegal and unethical acts.

THE MONSTER: OBSCURING THE DETAINEE’S HUMANITY

AND CONSTRUCTING THE SCENE OF TORTURE

The Review hides the tortured body, because that body alone could testify to its humanity and inspire identification. When the body is invisible, it is easier to consider the EITs abstractly, as concepts divorced from bodily suffering. This idea of humanity is further suppressed by the discursive context surrounding the Review – a context constructed by the state’s public rhetoric. Robert L. Ivie describes the Bush administration’s use of “a rhetoric of evil, which envelops all considerations of safety and well-being in a swirl of fear and hatred,” to characterize terrorists (222). The success of these policies in avoiding public outcry is supported by tropes of evil in public discourse. The state frames terrorists and suspected terrorists (which, given the lack of habeas corpus rights, are effectively the same thing) as monstrous embodiments of violence and evil. This idea of the monster is the ultimate disidentification; recognition of any connection or commonality is so wholly rejected that the very humanity of the Other is denied. Agents of the state can then become the heroes who battle these inhuman monsters. These monsters are an example of what Judith Butler describes as “populations [that] are ‘lose-able,’ or can be forfeited, precisely because they are framed as being already lost or forfeited; they are cast as threats to human life as we know it rather than as living populations in need of protection from illegitimate state violence, famine, or pandemics” (Frames 31). The detainee’s body is not a
human life; it is a threat to human life. The detainee is a monster and so “already lost or forfeited.” Human rights only apply to bodies understood as human persons. By creating the frame of the monster, the state inhibits its citizenry from recognizing the humanity of its so-called enemies and then questioning the legitimacy of the state’s violent acts.

Using a Burkean frame, we can understand this definitional argument of the monstrous detainee as working to construct the scene of torture. A narrow focus on incidents of torture – the physical interaction between one body and another – would surely lead to condemnation of these acts. Indeed, the US proclaims itself staunchly anti-torture. In response to the release of the Abu Ghraib photographs, President Bush stated: “Let me make very clear the position of my government and our country. We do not condone torture. I have never ordered torture. I will never order torture. The values of this country are such that torture is not a part of our soul and our being” (qtd. in Ballengee 139-140). In addition to this staunch denial, the Bush administration used anti-torture statements to garner support for the War in Iraq. Saddam Hussein’s torture of his citizens was among the reasons the US used to justify invasion; the liberal, democratic state cannot countenance torture in totalitarian states, much less use it. However, Burke argues that “[a]ny change of the circumference in terms of which an act is viewed implies a corresponding change in one’s view of the quality of the act’s motivation” (136). Therefore, in order to make acts of torture palatable to the public – and ostensibly legal – the US must shift the scene in order to change the narrative and, ultimately, to transform the act itself. This scene creates a frame in which disidentification from these Others becomes even more firmly entrenched.

While the Review, with its dry, mechanical tone, does not directly participate in this dramatic language of the monster, its ability to render invisible the tortured bodies is supported
by this broader strategy. If the readers view the detainees as monstrous, they will be more willing to accept the Review at face value. This context is therefore an important consideration in examining the rhetorical construction of the Review itself. James Hedges and Marouf Hasian have demonstrated how the Bush administration’s illustrations of the terrorist have led to “U.S. officials recently modif[y]ing their interpretation of torture in the current war on terror, suggesting that some prisoners do not deserve the basic protections of international and domestic law” (695-696). The reinterpretation of laws, which I will discuss in detail later, is permissible only within the narrative of the monster vs. hero. The state’s public discourse does more than “suggest” that certain prisoners do not deserve legal protections. In his discussion of the Bush administration’s rhetoric, Herbert W. Simons describes the “use of exaggeration and polarization for dramatic effect [that] find their way into political crisis rhetoric by way of a valorized ‘us’ and a dehumanized or demonized ‘them’” (185). This cultural logic in which the Review operates is characterized by division between “us” and “them.” Just as mass incarceration in the US creates division among Americans in material ways, the discourse surrounding detainment and torture relies on a similar construct. The walls of the prison create a physical division, while the monster construct creates a definitional division; furthermore, the monster definition strengthens this division by reinforcing the invisibility of those in the monster category. The monster is not a creature one can view or study, but a horror of the imagination. The monster, though feared, is therefore unseeable. It is the monster’s lack of visibility, as well as its further separation from the category of human being, that makes it so useful a rhetorical strategy. The presence of monster prompts us to run, hide, look away – and thus the monster is ultimately hidden from view. Furthermore, the monster cannot be redeemed; it cannot change its violent nature. One cannot reason with, teach, or convince a monster – the only recourse is to kill it.
The monster is therefore both divided from and invisible to the rest of humanity – which makes the bodily invisibilities in the Review all the more successful. When the review became available to the American public, readers were already steeped in this divisive rhetoric. It is therefore possible that one reading the Review may not question the violence it prescribes – in part because of the mundane form, but also because they may view the detainees as monstrous Others. The state’s public rhetoric, therefore, creates circumstances in which its internal rhetoric is perceived.

We see this discursive construction of the monster in much of the Bush administration’s post-9/11 rhetoric. In President Bush’s explanation of why prisoners would “‘not be treated as prisoners of war[,] he said[,] They’re illegal combatants. These are killers. These are terrorists’” (qtd. in Gronnvoll 79). Those captured are not suspects or prisoners but “killers.” This label presents itself as a summative explanation of these individuals; they are killers and nothing more. In a 2006 speech, he stated: “Their vision of the world is dark and dim… They've got a – they have no heart, no conscience” (“Kansas”). Without heart or conscience, perhaps the hallmarks of humanity, the detainees are constructed as something other than human. This division is made even more explicit in another speech later that year that stated terrorists “have set themselves against all humanity. Those who incite murder and celebrate suicide reveal their contempt for life, itself’ (“Address”). Terrorists, therefore, (as well as those under suspicion of terrorism) are without heart or conscience, are against life and humanity, and are inhuman and violent – in short, monsters. In a 2004 speech, President Bush stated: “The terrorists[sic] only influence is violence and their only agenda is death” (“Steps”). In considering the nature of terrorist acts, the monster can seem an accurate description of terrorists. Though I argue it oversimplifies a complex, human phenomenon, the danger lies not only in the way this characterizes terrorists,
but in how that label is too easily applied without proof or legal process. In another speech, Bush explained that “America makes no distinction between those who commit acts of terror and those that harbor and support them. Because they’re equally guilty of murder” (“Remarks”). This broadening of the category of terrorist may thus dangerously be applied to those not guilty of, or even associated with, terrorism. Without a legal process to determine who is guilty, the state’s suspicion that someone is a terrorist is sufficient to doom that person to detainment, torture, and possibly death. This characterization of people as inhuman, evil monsters is therefore necessary for the state’s lawless actions – the state cannot allow for the possibility of a human being captured among the monsters, or for its population to identify with those it has taken.

The detainee-as-monster construct closes down this opportunity for identification by construing these bodies as non-precarious – even nonhuman – life. As Pugliese writes, because suspected terrorists are constructed “[a]s embodiments of violence[.] [T]hey are out-laws situated beyond due processes of law… they are mere biological matter than can be exterminated without compunction” (18). The terrorist, then, is not a worthy opponent in an honorable fight, but a monster to be vanquished. Pugliese interprets the terrorist category as depending on a human-animal binary. While I agree that a strict binary exists, I argue that a more accurate binary would replace the animal with the monster. While the human-animal binary has a long history in racist rhetorics, I argue that the animal, because it is often a sympathetic figure, deserving of protection if not rights, does not capture the state’s construction of the terrorist. The animal is a natural being; the terrorist is an unnatural monster. This elemental quality of terrorists as violence made flesh renders them monstrous and therefore beyond the boundaries of legal or moral consideration. The creation of this monster, furthermore, is necessary for the significant legal
latitude the state has exercised in the War on Terror. The hierarchy of precariousness requires certain bodies to be less valuable, less precarious, than others. As political scientist Lauren B. Wilcox puts it, “[t]he production of certain bodies as lives worth saving is bound up in the production of other bodies as not worth saving, or other bodies who deserve to die” (Bodies 171). Terrorists are not human or animal, but the “embodiment of violence.” This definition necessarily divides the human/citizen from the monster/terrorist and creates a powerful narrative of the hero vs. monster to shift the meaning of the “hero’s” violent acts.

As the idea of the monster hides the detainee and justifies violence, it also enables other invisibilities: most notably, the US’s refusal to see the detainees as prisoners of war. The Geneva Convention III defines POWs as “persons belonging to one of the following categories, who have fallen into the power of the enemy: (1) Members of the armed forces of a Party to the conflict, as well as members of militias or volunteer corps forming part of such armed forces” (“Convention”). While this definition seems to explicitly include the detainees, as they are suspected of being members of “a Party to the conflict,” the US has does not recognize detainees as POWs or grant them the associated rights. It is the idea of the monster that enables this violation of the Geneva Conventions. As Hesford argues, the “Bush administration’s implicit characterization of Arab detainees under U.S. jurisdiction as uncivilized, barbarian, and unlike us makes it easy to accept that this designation is appropriate; these individuals, as sub-humans, are not worthy of human rights” (61). Butler reaches a similar conclusion, stating that “[t]he legal move by which the US claimed that prisoners at Camp Delta [Guantanamo] were not entitled to

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17 The status of terrorist organizations as stateless opponents is what enables this alternative designation. Some argue, however, that even if the detainees are not POWs, their rights should still be protected by the fourth Geneva Convention. Joseph Marguiles argues that, even if not designated POWs, detainees are not without rights; “Geneva IV (the Civilian Convention) applies broadly to all people ‘who, at a given moment in any manner whatsoever, find themselves’ in enemy hands” (qtd. in Wisnewski 202).
protection under the Geneva Conventions is one that institutes the expectation that those prisoners are less than human… their status as less than human is not only presupposed by the torture, but reinstalled by it” (Frames 93). The frame of the monster enables this categorization, which officially concretizes the implications that these are not human beings. As Agamben puts it, these maneuvers “radically erase[] any legal status of the individual, thus producing a legally unnamable and unclassifiable being” (3)\textsuperscript{18}. This erasure of the individual from the legal sphere works along with the monster frame to construct an “unclassifiable being” with no legal rights.

Because of the legal importance of this dehumanizing categorization, the term “prisoner of war” or even “prisoner” is absent from the Review and its appendices. Instead, the persons involved are named “detainees.” One of the manuals attached to the Review defines “detainees” as “persons detained in detention facilities that are under the control of the CIA” (“Guidelines on Confinement”). In Agamben’s analysis, the term “detainees” defines these individuals as “the object of a pure de facto rule, of a detention that is indefinite not only in the temporal sense but in its very nature as well, since it is entirely removed from the law and from judicial oversight” (4). The “indefinite” in both judicial and temporal senses is an apt characterization. It is impossible to “define” because it is a circular definition, a closed loop that functions in (at least) three important ways. First, the definition is utterly vague; “detainees” are “persons detained in detention facilities.” This, of course, provides no information as to who these people are or why they may have been detained in the first place. By defining these individuals only by their condition of being arrested and taken into this space, the CIA has created an unassailable category. “Criminal” or “terrorist,” for example, carry particular meanings that the individuals in detention may or may not embody, but one cannot say that they

\textsuperscript{18} On November 13\textsuperscript{th}, 2001, former President Bush issued a military order the expanded the powers in the previous month’s Patriot Act and established the practices of “indefinite detention” and military commissions (Agamben 3).
are not, in fact, “detainees.” Furthermore, the term “detainee” describes what has been done to them – not what they have done. As I will discuss later, torture seeks to dismantle one’s sense of agency; therefore, by defining detainees not by their actions but by how they have been acted upon, this term begins the process of torture. The second function of this term is to elide permanence. To be “detained” is a temporary state, a nuisance that makes one late to an appointment. One does not think of being “detained” for a period of years. Therefore, the term euphemistically obscures the severity of the condition and alters one’s perception of the act of detainment itself. Third, and perhaps most significant, is how the term functions legally, by avoiding “prisoner” or “prisoner of war” that would align with the language of the Geneva Conventions as well as US law. 18 USC § 2340 prohibits any “act committed by a person acting under the color of law specifically intended to inflict severe physical or mental pain or suffering… upon another person within his custody or physical control.” One cannot deny that detainees are indeed within “custody or physical control.” Yet, because the monster construct has rendered these people inhuman, this erasure of their human status is successful; this violence has no legal consequences and little effect on the general public’s perceptions of the state’s legitimacy. The effect of the detainees’ invisibility as legal subjects or human beings, when combined with their hidden and secret locations, opens the door for torture with minimal risk to the state.

**OCCLUDING THE BODY: INHIBITING IDENTIFICATION, HIDING ACTS OF TORTURE**

The monstrous categorization and the bodily invisibility of the state’s victims alter the scene of interrogation and determine the parameters for acceptable treatment. What could have
been seen as an immoral and illegal act becomes prudent – even necessary. Divorced from the legal process, the mere labelling of someone as terrorist is sufficient to undo their humanity and replace it with monstrosity. Already convicted in the very label used to define them, detainees are then easily denied the rights granted POWs, as they become the embodiment of violence and evil. Deprived of legal status, the humanity of the terror suspect is more easily dismissed and replaced with the monster. The label undercuts both legal rules and moral qualms of interrogation and detention without due process. Having rendered these persons invisible in the Black Sites and their humanity invisible to the law and the public, the state greatly limits the potential for identification and may exercise its power without consequence. Acts that would otherwise be illegal torture are refigured as appropriate measures as the idea of inhumanity is made more believable by the invisibility of bodies.

In the Review and its accompanying appendices, the body is hidden or only revealed in disparate parts. The mundane, bureaucratic nature of the text aids in this obscuring by hiding the horror of torture in the familiar, everyday language. Euphemism and passive voice are used to depersonalize (and dematerialize) acts of torture. The brief descriptions of the EITs within the Review consistantly use the passive voice. For example the EIT known as “cramped confinement” explains: “[c]onfinement in the smaller space lasts no more than two hours and in the larger space it can last up to 18 hours” (CIA 15). The body is entirely absent from this description. It is a description of confinement only and obscures the fact that what is being “confined” is a human being – and that this is happening under the force and threat of other human beings. Without bodies present, the interrogation technique seems to happen as if from nowhere – or, perhaps, stems from necessity itself.
Other techniques, however, cannot be explained without specific attention to the bodily interaction. In these moments, the invisibility of the body slips a bit, and we catch a glimpse of a body in the Review. Even then, these glimpses are not of whole bodies, but only specified parts; our view of the body is so reduced that it becomes unrecognizable and unidentifiable as human. In the process of walling, for example, “the detainee is pulled forward and then quickly and firmly pushed into a flexible false wall so that his shoulder blades hit the wall. His head and neck are supported with a rolled towel to prevent whiplash” (CIA 15). The use of passive voice here describes actions upon the detainee’s body as if they come from nowhere – the myth of an agentless act. The detainee “is pulled” and “firmly pushed,” but the presence of the interrogator is merely implied. Here we have a glimpse of a body – shoulders, neck, and head. We see only pieces, however, and the act we imagine is hardly a scene of torture. The “flexible wall” and the body being “supported… to prevent whiplash” express concern for the detainee’s wellbeing – a concern made all the more noble by the idea of the detainee-as-monster. Thus, when we do glimpse parts of the detainee’s body, we are not seeing a body in pain or torture, but a body being carefully protected.

When the act is more explicitly violent, such as slapping or hitting, we see less and less of the body. For example, the description of facial or insult slap states: “the fingers are slightly spread apart. The interrogator’s hand makes contact with the area between the tip of the detainee’s chin and the bottom of the corresponding earlobe” (CIA 15). Specific references to the detainee’s body in these descriptions, though limited, are decidedly technical. The description of the “area” to be slapped, between the chin and “corresponding earlobe,” is so specific that it becomes disembodied, making it easy to forget that this “area” is actually part of a human face. Furthermore, the presence of the body in parts is itself monstrous. The disparate
parts strewn about the Review are so utterly specific as to be disconnected from the idea of a human person; they remain individual body parts, monstrous is their severed-ness. In their analysis of the Civil Rights images from Selma, Gallagher and Zagacki explain that the police in the photographs “were disembodied… and, as the photograph of the armed policemen looming over the unarmed, praying clergy suggested, threatening” (122). While the presence of the human body may facilitate identification, it seems that isolated, disembodied parts render the partial figure fearsome instead of relatable. By rendering the body invisible (or unrecognizable in this case), the state reforms its acts of violence into mundane, bureaucratic processes; the bodily suffering is erased.

NECESSITY AND THE BUREAUCRATIC MACHINE: BURRYING STATE AGENCY

The calculated efforts to obscure the body in the CIA’s Review as well as its appendices (particularly the Department of Justice memos) serve several important functions. Hiding away the body prevents the potential identification and empathy citizens or other readers might have for the tortured body. Such empathy would undermine the state’s categorization of detainees as monstrous Others undeserving of human rights and thus call into question the legitimacy of their extralegal policies. The occlusion of bodies protects the state’s legitimacy in another way: by rendering invisible the bodies of interrogators, as well as detainees, the state is able to render responsibility invisible as well. In the above description of the facial slap, the Review details the position of “the fingers,” not his fingers, or your fingers. Therefore, even when the interrogator is referenced, the sentence construction continues to maintain distance: “[t]he interrogator’s hand” is what performs the task, as if of its own accord. The wielder of the hand is unnamed; is it the interrogator? The CIA? The US government? The uncertain agency complicates notions
of culpability. In this section, I will consider three strategies for confusing or denying agency: hiding the bodily experience of the EITs, calling upon necessity as agent, and presenting agency as diffuse. By these means, the state avoids culpability while engaging in acts that breach ethical and legal commitments. Here, the two senses of agency collide; the state manipulates representations of agency in order to obscure the lived experience of agency.

By hiding the body, the state can avoid responsibility, especially legal responsibility, and any ensuing damage to the state’s legitimacy. The brief descriptions of the EITs in the Review consistently obscure the bodies of both interrogator and detainee to deflect the reality of violence as well as the agentic responsibility for that violence. For example, the Review states that “Sleep deprivation will not exceed 11 days at a time” (CIA 15, emphasis original). In this sentence, there is neither interrogator nor detainee – no human bodies are mentioned. Rather, the technique itself is the subject of the sentence, which describes something about that technique rather than anything about the body suffering a week and a half without sleep; it also fails to explain how the interrogators will create conditions to ensure sleeplessness.\(^{19}\) Instead, the act is its own agent. This sentence is wholly disembodied; the sleep deprivation simply happens – for no longer than “11 days at a time.” The agentless act seems to come from nowhere – or from the text itself – to act upon the bodies of detainees.

In the Review, the state’s underlying justification for its extralegal interrogation and detainment practices is the idea of necessity – a move common to much of the state’s public discourse. The presence of the terrifying and morally repugnant monster provides the state with seemingly extraordinary circumstances that would call for extraordinary (and extralegal)

\(^{19}\) Elsewhere, the Review mentions the use of loud noises or music “at a decibel level calculated to avoid damage to the detainee’s hearing,” which are probable means of denying the detainee sleep (“Guidelines on Interrogations” 1)
response. In the end of the Review, we find a short section regarding concerns about the EITs and the detention policies. Without including identifying information, the report states that some officers have “expressed unsolicited concern about the possibility of recrimination or legal action resulting from their participation in the CTC Program” (CIA 94). This concern is quickly followed by a direct quotation from another unnamed officer who states: “Ten years from now we’re going to be sorry we’re doing this… [but] it has to be done” (CIA 94, edits original). Though the ellipsis and bracketed “but” call into question the content of the deleted portion of this quotation, the emphasis of the sentence falls in its final clause “it has to be done.” This idea of necessity excuses any responsibility – indeed, the writers of the document place this quotation immediately after mentioning officers’ concerns about the legality of their actions. Here, the Review echoes statements by several members of the Bush administration about the necessity of “enhanced interrogation” for the security of the citizenry. President Bush stated: “Because the danger remains, we need to ensure our intelligence officials have all they need to stop the terrorists” (qtd. in Wisnewski 216). Bush uses the word “need” twice in this sentence; intelligence officials must have what they “need” because of the danger. As Pugliese explains, “Bush’s declaration that the US was now in a state of ‘extraordinary emergency’ effectively gave license for the suspension of whatever laws were seen to impede the prosecution of the war on terror” (70). The invocation of necessity grants this license for legal suspension without implicating the state’s agency. The legal suspension, then, comes not from the president or other officials, but from the “danger” itself. The state presents itself as without agency – as acting out of necessity, without the ability to choose or, therefore, to bear responsibility.

The broader rhetorical strategy behind this declaration of ‘extraordinary emergency’ is best understood by Agamben’s formulation of the state of exception. The state of exception is a
political construct by which the government or sovereign declares an emergency or defines the current situation as so dangerous or abnormal that the usual laws must not apply. Agamben explains that the state of exception “appears as the legal form of what cannot have legal form” (1). It “is this no-man’s-land between public law and political fact, between the juridical order and life” (1). This “between” space is invoked when legal restrictions become inconvenient to the state. The idea of necessity is therefore a powerful political tool; it creates space for the state to operate outside of its usual bounds without undoing its legitimacy. Jinee Lokaneeta, political scientists, has argued that the state of exception is an inadequate frame that does not account for the US’s actions and policies. She argues that “a more useful framework for understanding the torture debate is to analyze the tension between law and violence in liberal democracies.” The state of exception describes a suspension of law, whereas “Guantanamo exhibited not a suspension of laws per se but a more selective albeit aggressive engagement with the laws.” She suggests instead that “the state memos did not represent complete lawlessness but rather exhibited an aggressive use of pre-existing gaps within the laws.” Indeed, the state did not suspend its laws as it entered the War on Terror; it reinterpreted the laws and narrowed definitions (of torture and of POWs) to fit its own actions within the law. While Lokaneeta sees these acts as therefore not falling under the state of exception framework, I disagree. I argue that the reinterpretation instead of suspension of law is ultimately a more subtle means to the same end – particularly given the absurdly narrow definitions of torture produced by the Bush administration. The infamous Bybee memo, written by Assistant Attorney General Judge Jay S. Bybee to Acting General Counsel of the CIA John Rizzo (an appendix to the Review), provides a legal analysis of US anti-torture law 18 USC § 2340, explaining how each of the EITs can be considered legal. As philosophy scholar J. Jeremy Wisnewski puts it, the memo “virtually
defines torture out of existence. And if that is not sufficient, it makes litigation based on torture incredible difficult to justify” (206). This bending of law to fit the state’s actions is, effectively, the state of lawlessness Lokaneeta says is missing from this instance. When laws can be stretched and manipulated to cover actions, the line between that and lawlessness is difficult to determine. The state of exception enables the state to both transgress and preserve the norm without conspicuously suspending the law. The state can disobey its laws and purported values and – by framing these actions as necessary – preserve the strength of those laws for when they once again become convenient to the power of the state.

If the post-9/11 US did not undergo a suspension of legality, it certainly did experience a radical reinterpretation of the laws. The commitment to human rights and condemnation of torture that continued to be present in the Bush administration’s rhetoric denouncing Hussein was able to coexist with the use of torture via the state of exception. During the development of the detention programs, the CIA’s policies underwent numerous legal reviews. One such document, entitled “Legal Principles Applicable to CIA Detention and Interrogation of Captured Al-Qa’ida Personnel,” was produced by the CIA’s Office of General Counsel and the DoJ’s Office of Legal Counsel and quoted in the Review. This particular “analysis adds that ‘the [Torture] Convention permits the use of [cruel, inhuman, or degrading treatment] in exigent circumstances, such as a national emergency or war’” (qtd. in CIA 22, edits original). This interpretation of the UN Convention Against Torture is utterly false. Because the Torture Convention is designed to provide minimum human rights protections in times of war, to argue that such protections can be dismissed under “exigent circumstances” like war renders the Convention meaningless. Furthermore, the second article of the Convention explicitly states: “No exceptional circumstances whatsoever, whether a state of war or a threat or war, internal
political instability or any other public emergency, may be invoked as a justification of torture.”

Therefore, this misuse of the Convention represents a reinterpretation of the law that is
ultimately a suspension of the law. The monster-terrorist is, therefore, the exceptional exigence
that negates legal commitments.

This use of necessity to undermine the Geneva Conventions is also apparent in the
exceptional reinterpretation of US anti-torture law. US anti-torture law18 USC § 2340 defines
torture as “an act committed by a person acting under the color of the law specifically intended
to inflict severe physical or mental pain or suffering.” In the Review, the CIA’s Office Legal
Counsel defines the “requisite intensity” of torture to be “equivalent in intensity to the pain
accompanying serious physical injury, such as organ failure, impairment of bodily function, or
even death” (CIA 19). The inherent ambiguity of “severe” pain grants leeway for the state to
restrict the definition of torture to grave injury, leaving all other acts of violence outside of the
definition. While restricting this definition of torture, the state has also made it all but
impossible to prosecute. In his narrow interpretation of US anti-torture law, Bybee ends his
memo with a discussion of intent. “To violate the statute,” he argues, “an individual must have
the specific intent to inflict severe pain or suffering. Because specific intent is an element of the
offense, the absence of specific intent negates the charge of torture” (16). If lack of intent
negates the charge of torture, then such a charge is nearly impossible; according to this
interpretation, as long as pain was not the goal, torture has not occurred. In his conclusion,
Bybee explains that, “[b]ased on the information you have provided us, we believe that those
carrying out these procedures would not have the specific intent to inflict severe physical pain or
suffering” (16). His interpretation virtually erases torture from the law. By focusing on the
intent rather than the act itself, Bybee’s (and the state’s) argument privileges ends over means –
which is central to any argument for torture. I posit that intent is largely irrelevant; whether or not severe pain was the interrogator’s primary goal, that pain has been purposefully inflicted. To focus on intent, as Bybee does, is to negate the lived experience of the torture victim. Since agency refers to the means of an act in the pentad, the state’s focus on the ends rather than the means is another way of disavowing its own agency.

The convenient exception enabling these interpretations is, however, not caused by the external imperative of necessity; it is purposefully constructed. The beginning of the Review describes the circumstances under which the Counterterrorism Detention program began. It explains that, at this juncture, “[t]he Agency [CIA] was under pressure to do everything possible to prevent additional terrorist attacks” (CIA 3). It was necessary, then, for the CIA to act – even outside the law – because of this “pressure.” The use of passive voice once again divorces acts from agents. There is nothing to specify the source of the pressure. It simply exists – the (convenient) force of necessity. As Agamben argues, “the extreme aporia against which the entire theory of the state of necessity ultimately runs aground concerns the very nature of necessity, which writers continue more or less unconsciously to think of as an objective situation” (29). The agentless pressure driving this necessity is invoked as the “objective situation” that supports the state’s ability to escape blame for its transgressions. Agamben explains that “exceptional measures…find themselves in the paradoxical position of being juridical measures that cannot be understood in legal terms, and the state of exception appears as the legal form of what cannot have legal form” (1). The state uses the paradoxical state of exception – a legalization of the illegal that manages to maintain the stability of the legal foundation – as a protection for its power and a loophole for its actions. The constructed necessity then become a potent excuse. In her discussion of torture and the way the
“inexpressibility of pain” makes it an isolating experience, Elaine Scarry describes how, “[f]or the torturers, the sheer and simple fact of human agony is made invisible, and the moral fact of inflicting that agony is made neutral by the feigned urgency and significance of the question” (29). The “feigned urgency” is provided by the idea of necessity; by serving as the excuse for violence, necessity also becomes the implicit agent enacting it.

A third strategy used by the state to obscure agency is the depiction of agency as diffuse. As Cooper warns, the result of agency coming from no individual or specific organization, is that responsibility for acts becomes impossible to assign. This diffusion complements the deployment of necessity as a kind of ultimate agent. By dissolving individual agency into the complex web of the state, any personal or institutional responsibility is subsumed into the construction of necessity. We see this dispersal of agentic responsibility throughout the Review, even in its discussion of the unauthorized techniques used prior to the implementation of official guidelines. Each illegal incident it describes is then whitewashed with a series of “I didn’t mean to” excuses. For example, one of the unapproved techniques involved “the use of a stiff brush that was intended to induce pain on [detainee] Al-Nashiri and standing on Al-Nashiri’s shackles, which resulted in cuts and bruises” (CIA 44). Though this tactic violates the law as well as the “NO BLOOD NO FOUL” mantra, the incident is entirely written off when an interrogator who was at [redacted] acknowledged that they used a stiff brush to bathe Al-Nashiri. He described the brush as the kind of brush one uses in a bath to remove stubborn dirt. A CTC manager who had heard of the incident attributed the abrasions on Al-Nashiri’s ankles to an Agency officer accidentally stepping on Al-Nashiri’s shackles while repositioning him into a stress position. (CIA 44)
While we cannot know whether this interrogator’s intention was pain or cleanliness, or whether stepping on shackles was accidental, after a series of similar excuses regarding each of the interrogations discussed, one begins to doubt the Review’s transparency. Noteworthy here is that the second excuse is not even made by the interrogators themselves, but by a “CTC manager who had heard of the incident.” Even at this remove, we find state officials making excuses for one another, which further presents the state as a unified machine rather than a set of individuals.

In addition to these claims of accidental harm to deny agency, we also see a diffusion of agency in excuses for illegal tactics that claim their actions were based on prior experience. The Review states that “[t]he debriefer who employed the handgun and power drill on Al-Nashiri advised that those actions were predicated on a technique he had participated in” (CIA 70). This unnamed debriefer claims that these techniques were based on previous interrogation experience, not of his own choice or design. Responsibility is thus spread thin among the individual operatives of the state. Though not explicitly invoked, the idea of necessity lurks in all of these explanations, since these were techniques used prior to the CIA’s development and dissemination of specific interrogation guidelines. These interrogations had no choice but to implement these techniques, because the “Agency failed to issue in a timely manner comprehensive written guidelines for detention and interrogation activities” (CIA 103). Here, we see the CIA, as a disembodied actor, taking some responsibility for error. However, the failure to do something in “a timely manner” seems to diminish the suffering and even death of some of the detainees.20 These war crimes sound, instead, like bureaucratic inefficiency.

20 According to the Review, the “Guidelines on Confinement” and “Guidelines on Interrogation” were officially signed by the Director of Central Intelligence on 28 Jan 2003 (7). Prior to their implementation, in November 2002, Gul Rahman died of hypothermia while in CIA custody – a death that CIA officers attempted to cover up. The officers’ “initial cable to CIA Headquarters on Rahman’s death included a number of misstatements and omissions that were not discovered until internal investigations into Rahman’s death” (Senate 62). Even after the guidelines were supposedly in use, however, more detainees were killed. In June 2003, a detainee at Asadabad Base was beaten to death by a CIA independent contractor. Despite his crimes and their deviation from the EIT regulations,
Even this moment of apparent acceptance of responsibility, therefore, denies the material, bodily impact of these events. In this moment, the CIA takes responsibility for administrative delay—not for the acts of torture and murder committed by its personnel.

The bureaucratic structure covers itself by diluting agency among the many agencies, levels, and individuals involved in each act of violence. Hesford points out that “[s]everal of the military personnel interviewed [about interrogation practices] diffused their authority—casting themselves as actors without agency—by both invoking these narrow definitions of torture and alluding to orders from higher authorities to soften up the detainees” (76). By deflecting attention from the physical, bodily encounter between interrogator and detainee and invoking the chain of command, the Review obscures agency. The Interrogation Guidelines outline the approved techniques—both Standard and Enhanced—and describe the processes for implementing them. Based on this document, it seems that the use of EITs is greatly limited and requires specific conditions and official approval. It states that the use of EITs “must be approved by Headquarters in advance, and may be employed only by approved interrogators… with appropriate medical and psychological participation in the process” (2). These regulations make it clear that EITs are only used in particular circumstances and must involve a number of individuals, including medical personnel, interrogators, and those in charge at Headquarters. This list of conditions would ensure that such interrogations are legal and only used when necessity demands, but it also spreads out agency over numerous individuals and institutions within the state.

the only recourse was a decision not to renew his contract (CIA 78-9). In its discussion of this event, the Review clearly states that neither this contractor nor his CIA supervisor were authorized to perform interrogations (CIA 79). Though this certainly raises questions about the way in which these detention sites are organized and supervised, it seems an attempt to distance this independent contractor’s actions from the CIA-authorized policies.
This command structure creates a purposeful disconnect among act, agent, and agency. If an interrogator slaps a detainee, a clear and physical act has occurred: the interrogator slapped the detainee. However, the Review complicates agent and agency. To be sure, the interrogator physically slapped the detainee, but only after being trained and told to do so by his superiors. Furthermore, if agency is the “means or instruments he used” (Burke 139), does that refer to his hand, the orders from Headquarters, the legal sanctions from Washington, or all of these? The structures in place have intentionally obscured the agent and agency of torture by dividing responsibility for the act among a complex entanglement of individuals and organizations and then presenting necessity as the driving force. The individuals who enact this violence rely on this web of agencies, making retribution for the state’s crimes difficult to pursue. This obscuring of agency, according to Scarry, is an inherent component of torture’s function. She explains that “the particular perceptual confusion sponsored by the language of agency is the conflation of pain with power” (19). The interrogator who slaps the detainee does not do so of his own accord, but with the full weight of the CIA and the US government. For the detainee, this multitude of agents serves to heighten the interaction and meaning of the slap – “conflating” the immediate pain of the slap with the full power it implies – while disallowing any assignation of agency.

MONSTROUS AGENCY, HELPLESS HUMAN: BLAMING THE AGENCY-LESS AGENT

This diffuse, disembodied agency and invocation of necessity preserve the legitimacy of the state’s acts. In moments of the text, however, the state does identify a specific agent who can be held responsible for the acts of violence committed: the detainee. Though this shift of blame and refiguring of the detainee as agent seems illogical, this transfer is, Scarry argues, typical and
even integral to the torture interaction. She explains that “[t]orture systematically prevents the prisoner from being the agent of anything and simultaneously pretends that he is the agent of some things” (47). The myth is that the victim maintains control – he or she has the power to submit to the torturer, speak the information or confession, and so end the violence.21 In the classic model of torture, interrogators force the victim to “confess or, as often happens, to sign an unread confession, [and in doing so,] the torturers are producing a mime in which the one annihilated shifts to being the agent of his own annihilation” (Scarry 47). As torture rob victims of any capacity for action, they become “mimes” enacting the will of the torturer, who is then able to transfer any blame for the ensuing destruction to the victims themselves. The result is the paradoxical notion that that the agency of the act of torture lies with the tortured body, who has the power to end it.

This particular assignation of blame is facilitated by the frame of the detainee as monster. The monster, as the very embodiment of violence, is to blame for the violence inflicted on others as well as the violence inflicted on itself. In the infamous memo, Bybee discusses sleep deprivation, writing: “[a]lthough some individuals may experience hallucinations, according to the literature you surveyed, those who experience such psychotic symptoms have almost always had such episodes prior to the sleep deprivation” (6). Any psychotic symptoms resulting from sleep deprivation are therefore presumed to be associated with some preexisting condition rather than indicative of the trauma of detainment and torture. The blame for any such psychological

21 The myth of detainee control is exposed in the experiences of Abu Zubaydah. Zubaydah was the first “high value” person in American custody. Upon his capture and subsequent recovery, he expressed his intentions to cooperate fully with the FBI. He provided detailed and important information about al-Qa’ida’s activities and plans (Senate 38). Despite his cooperation – and the rapport the FBI agents had worked to develop with him, in accordance with current best practices in interrogation – the CIA still took him into their custody and tortured him (40). After extensive and prolonged torture, Zubaydah still had no additional information to give. The CIA declared the torture of Zubaydah a success, “not because it resulted in critical threat information, but because it provided further evidence that Abu Zubaydah had not been withholding the aforementioned information from the interrogators” (49). In sum, his cooperation did nothing to prevent or end his torture.
damage is placed firmly on the detainee. Any psychotic symptoms are assumed to indicate some prior defect or innate problem – easily explained by the monster construct.

We find another stark example of this reversed assignation of responsibility in the Medical Guidelines. The document explains the potential risks of waterboarding and lists what the medical official ought to look out for to ensure the safety of the detainee. After an entirely redacted paragraph, the document states that, of the potential ill effects, “[m]ost seriously, for reasons of physical fatigue or psychological resignation, the subject may simply give up, allowing excessive filling of the airways and loss of consciousness” (9). Any harm that comes to the detainee during waterboarding, then, is the detainee’s own fault. Because the detainees supposedly have the power to end the waterboarding by choosing to cooperate, they are figured as the agents of this violence and are responsible for the harm they suffer. According to Bybee, if “loss of consciousness” occurs, it is not because of the acts of interrogators who are pouring the water onto the person’s nose but a result of “physical fatigue or psychological resignation” – the physical or psychological weakness of the detainee. This clever transfer of blame completely ignores the acts of interrogators; even physical harm (which certainly “loss of consciousness” indicates) is excused as the detainees become the agents of their own torture.

While the state manipulates perceptions of agency – both for the detainee experiencing torture and for the audience reading the Review – in order to place the blame firmly and entirely with the suspected terrorist, it simultaneously works to undo the detainee’s capacity for exercising agency. Torture both insists upon and destroys the agency of the victim. Indeed, modern torture is “directed first and foremost at the agency of its victim” (Wisnewski 10, emphasis original). In contrast with public torture and executions associated with brutal dictatorships, “modern torture aims to eviscerate the agency of the tortured while leaving him his
The myth of the tortured person’s agency thus coexists with the torturers’ relentless attempts at disrupting that very thing – rendering the victim of torture unable to act and yet responsible for the acts committed against them.

The detainees supposedly have the power to end the violence with cooperation and information, while the techniques of torture, carefully developed throughout the twentieth century, are specifically designed to undo the detainee’s sense of agency. As the Senate Report states in its findings, the EITs were “based on ‘learned helplessness’” (15). “Learned helplessness” is a concept developed by psychological researchers in the 1960s, by observing dogs who were repeatedly given electric shocks. Later, even though a simple escape was possible, the dogs would endure the shocks without attempting to jump the small wall keeping them in. The dogs could have easily avoided the shocks, but had “learned” that they were “helpless” and incapable of escaping them. Researchers at the time used this study as a way of understanding depression and of improving treatment for depressed patients (Carey). The two psychologists who contracted with the CIA to aid in the development of the EITs, James Mitchell and Bruce Jessen, built the interrogation procedures around this idea of “learned helplessness,” which some argue they misunderstood.22 The EITs were specifically intended to convince detainees that they are helpless, unable to do anything, and without agency even over their own minds. The interrogation practices, then, work in tandem with the medical attention and other services to render detainees utterly dependent on their abusers.

22 Benedict Carey reports in The New York Times that Martin E. P. Seligman, one of the scientists behind the learned helplessness experiments, is “grieved and horrified’ that his work was cited to justify the abusive interrogations.” In further explaining this misapplication of psychiatric research, Carey cites University of New Haven psychiatrist Dr. Charles A Morgan III, who actually met Mitchell and Jessen. Morgan states: “My impression is that they misread the theory… They’re not really scientists.” Seligman and Morgan’s assessments cast doubt on the so-called scientific basis for the EITs, which fail tests of effectiveness as well as ethics. The participation of these psychologists, as well as the field more broadly, in torture and interrogations has proved controversial within the American Psychological Association, who is investigating its own ties with the CIA.
When examining the EITs themselves, the goal of learned helplessness is clearly evident. The EITs, though they act upon the body, are doing so in order to affect the mind. Though psychological tactics may seem more humane than destroying the body outright, Michael P. Vicaro notes victims’ reports that, “[d]espite suffering grave physical violence and many other abuses” the psychological “techniques are the most damaging” (417). A recurring theme throughout the Review is that the EITs are primarily targeted toward a psychological rather than a physical effect on the interrogated person, as though the former is more morally or legally acceptable. The Medical Guidelines explain that in “all instances the general goal of these techniques is a psychological impact, and not some physical effect, with a specific goal of ‘dislocat[ing] his expectations regarding the treatment he believes he will receive’” (2). The implication in the construction of this sentence is that “a psychological impact” is somehow not as harsh as “some physical effect.” These techniques are not meant to cause physical pain, but only psychological duress – implicitly presented as more acceptable. In addition to enabling the state to sidestep accusations of torture, the emphasis on the psychological rather than the physical as the primary target of interrogation demonstrates that the state’s goal is this psychological “dislocation.”

This “dislocated” state is ultimately a loss of agency; it is the loss of one’s sense of self, of reality. The common practices of sleep and sensory deprivation disrupt the detainee’s awareness of time and space, while other reported abuses more directly target the detainee’s sense of identity. Several of the EITs and even the standard measures – such as stripping and shaving – are particularly targeted toward impinging on the “personal dignity” of people of the Muslim faith. Religion is certainly an important element of the scene of these interrogations, as the War on Terror is fighting against religious extremism. Considering this scene, these purpose
of some of the techniques becomes apparent. Vicaro reports a number of techniques designed to degrade the religious beliefs of detainees, such as “forced shaving of the beard and head, public nudity, coerced recitation of blasphemous phrases, desecration of the Koran, sexually explicit conversation by female interrogators, simulated same-sex eroticism, and smearing detainees’ bodies with what they were led to believe was menstrual blood” (417). Torture methods such as these function by “dislocating” the person from an innate sense of personhood and reality. Though Scarry’s focus is physical pain, it seems to also be true that psychological torture, affected via bodily methods, “is itself language-destroying… the purpose of [torture] is not to elicit needed information but visibly to deconstruct the prisoner’s voice” (20). The CIA’s techniques aim to “deconstruct the prisoner’s voice,” by destroying the “voice,” beliefs, and personhood of the detainee. This accomplishes what Cedillo calls “the break of the individual’s body from the private self, shattering the holistic terministic screen through which reality is constructed and interpreted” (270). This “shattering” of reality and disruption of the detainee’s core sense of self and fundamental beliefs convinces them that they are utterly alone and helpless, without agency even within the space of their own minds.

The torturer’s weaponization of the detainee’s entire world is a common means of convincing the tortured that they are utterly alone and powerless – that they are without agency. For certain techniques, most notably waterboarding, a doctor’s presence is required. The doctor, whose presence usually connotes care and assistance, is transformed into a weapon of torture, further shutting down the detainee’s hopes for the possibility of finding help or escape. Scarry argues that this “appropriation of the world into the torturer’s arsenal” is typical of torture, which uses the entire setting as weapons against the tortured person (45). As they are “[m]ade to participate in the annihilation of the prisoners, made to demonstrate that everything is a weapon,
the objects themselves, and with them the fact of civilization, are annihilated: there is no wall, no window, no door, no bathtub, no refrigerator, no chair, no bed” (41). Cedillo describes this total weaponization as a means of “reorganiz[ing] the logics of reality via threats to the tortured person’s body” (272). The “logics of reality” collapse as the world around the detainee turns against him or her; escape, resistance, or any agentic response seem impossible.

This sense of helplessness in the face of the total power of interrogators is confirmed by reports of detainees who have attempted to exercise some small form of agency – and then had those last remnants of human agency dismantled. There have been reports of detainees in Guantanamo and other facilities attempting to harm themselves or to commit suicide. In his report of his experience at a CIA black site, Mohamed Farag Ahmad Bashmilah23 said: “I used a piece of metal to slash my wrists. After cutting myself, I used my blood to write ‘I am innocent’ and ‘this is unjust’ on the walls of my cell” (qtd. in Pugliese 3). Bashmilah’s suicide attempt (one of several) was thwarted by his captors. His testimony reveals how he attempted to regain agency by using what Pugliese notes is “the only vital resource still available to the detainees: the blood coursing through their veins” (3). Bashmilah’s words declare his innocence and protest against the US government, but they also depend upon harm to his body. Such acts of desperation perversely mimic the state’s rhetorical use of the detainees’ bodies in their own argument of power; the detainees have no other resources and so must also use their own bodies, reclaiming them from the state. Therefore, detainees’ only means of enacting agency is to mark, harm, or destroy their bodies on their own terms.

23 In 2003, Bashmilah, a Yemeni native living in Indonesia, was arrested in Jordan while visiting his ailing mother for irregularities with his passport. After being held by Jordanian intelligence, he was extradited to the American air base in Bagram, Afghanistan and later flown to one of the CIA’s infamous black sites for further so-called interrogation. After undergoing sleep and sensory deprivation, painful shackling, solitary confinement, and other forms of physical and psychological torture, Bashmilah attempted suicide three times before finally being released in 2006. He was released to Yemen, where he was found guilty of using a false identity document and released due to time served. He was never charged with terrorism or any other related or violent crime (“Biography”).
Bashmilah’s attempt at reclaiming agency by enacting his own violence to his body is not unique. Another common means of bodily resistance is the hunger strike, which has also been documented. By refusing food, detainees exercise a small amount of power – the decision not to eat. However, such attempts are met with additional measures to deprive detainees of this last agentic response. Wilcox writes about cases of forced feeding at Guantanamo Bay – one of the few non-secret locations in which the US imprisons suspected terrorists. She argues that

[under conditions in which their worlds and subjectivities are being so destroyed, hunger strikes are the only way of enacting self-government. By harming their own bodies, they attempt to exercise power over meaning. In trying to martyr themselves, they deny the presence of the sovereign and assert their own sovereignty over their bodies. The hunger strikers’ attempts to enact subjectivity comes at the cost of the very materiality of their bodies. (“Dying” 115)

Like Bashmilah’s failed suicide attempts, hunger strikes have usually been unsuccessful. When prisoners have exercised “the only means of agency left to them, the refusal of food, they are force-fed” (Wilcox, Bodies 192). As in the case of Bashmilah slashing his wrists, hunger strikers deploy the only resource left to them, committing their own acts of violence in an attempt to reclaim their bodies as their own and undermine the state’s violent rhetorical use of their bodies. The state’s violent transformation of the detainee’s damaged body into a rhetorical resource, it seems, cannot be undone but only mimicked by the detainees.

The forced feeding is not only a further dismantling of the detainees’ sense of agency, it is also an opportunity for the state to display its benevolence and strengthen the apparent legitimacy of its actions. This feeding, which is performed either via an esophageal tube or rectal “infusion” inserted while the detainee is restrained (Wilcox, “Dying” 101; Senate 5), is its
own act of violence. In performing such acts, however, the state claims it is saving the lives of its detainees, thereby reasserting its legitimacy as a morally and ethically righteous institution, while simultaneously erasing any remaining trace of the detainee’s agency, even in the choice to eat. Drawing on Foucault’s theory of biopower, Wilcox argues that this particular case is a “perverse form of biopower’s power to ‘make live,’ as it is exercised directly on the bodies of the negative subject of biopower, that dangerous bodies of ‘terrorists’” (“Dying” 114-155). The policies at Guantanamo preserve detainees’ lives so as to further remove their agency. When the practice of forced (especially rectal) feeding became public with the release of the Senate Report, the state took up the opportunity to represent its benevolence. John Edmonson, a military doctor, stated, “I will not allow them to do harm to themselves” (qtd. in Wilcox, “Dying” 101). While the prevention of suicide and the preservation of health are standard practices in prisons, this particular instance supports the state’s agenda. As Wilcox explains, “[t]he force-feeding of hunger strikers not only robs the prisoners of one possibility of enacting sovereignty over their own bodies but also has the effect of forcing normative status on them, not as moral subjects but as dependents of the state” (“Dying” 116). Thus, while the state insists on the agency of its victims in the choice to cooperate or submit to further torture, it simultaneously dismantles the detainees’ sense of agency and convince them of their helplessness – a helplessness which they then use to present themselves as caretakers of these dependent bodies. This preserves the state’s legitimacy and apparent benignity, while “[t]he reduction of a treacherous subject to a brute and broken body [i]s a display aimed at asserting the potent wholeness of the sovereign’s body” (Hutchings 50). The state therefore exercises its own power and “potent wholeness” by first subjecting the detainee’s body to pain and then obscuring it and denying that the body is human at all. While concern for detainees’ health and well-being is emphasized throughout the Review,
even (and especially), in descriptions of violent techniques, the project of violently stripping these detainees of their agency and humanity is rendered invisible.

THE RHETORIC OF TORTURED BODIES

The idea that torture could be used (and legalized) by the US in the 21st century is both difficult to understand and disturbing to confront. The radical reinterpretation of anti-torture laws is certainly one answer, but viewing this violence as a rhetorical use of another person’s body can provide some insight into the persistence of these methods. Torture is itself a potent rhetorical argument about the state’s power and lack of limitations. The case of torture suggests that this dehumanizing practice is not an end in itself but a means. The disruption of selfhood, this supplanting of the individual’s agency for that of the torturer, demonstrates that torture serves a rhetorical function. The state transforms detainees into rhetorical resources to support its own narratives – us vs. them, hero vs. monster. This exercise of power is supported by prejudice and enabled by the strategic use of bodily invisibility, which obscures agentic responsibility and disallows the potential empathy prompted by a visual encounter.

While the rhetorical use of others’ bodies is not unique to the US or even to governing states, when that practice is enacted by an immensely powerful government under the guise of justice and legality, it seems all but impossible to overcome. Experiences like those Bashmilah describes present us with a disturbing question: once the body is violently transformed into a rhetorical tool by the state, can individuals retake their agency and – if they can – does that retaking depend upon further violence to the body? Bashmilah’s case provides us with a hopeful answer to that question: he is now a plaintiff represented by the American Civil Liberties Union. This legal action is significant in how it reemphasizes Bashmilah as a legal – human – subject.
Bashmilah’s response to his illegal detention and torture represents a reclamation of agency that, unlike writing messages in his blood, does not recreate the bodily abuse perpetrated by the state. His former attempt to take back power by inflicting further abuse and coopting the state’s violent means has transformed into an agentic response that challenges those violent means. Invisibility was the state’s means of denying Bashmilah’s humanity. Without the potential empathy a visual encounter can inspire, the monster narrative enables illegal detention and torture – practices which feed back into the idea of the monster and so perpetuate this violence.
CHAPTER FOUR  
THE INVISIBLE BODY REAPPEARS:  
REVERSAL AND RECLAMATION

“We were supposed to keep our mouths shut: we made accusations. We were supposed to be submissive: we unmasked them. We supposed to be quiet: we screamed with all our might. They needed to bury things quietly: we dug them up”

– Matilde Mellibovsky, member of the Madres de la Plaza de Mayo

In the previous chapters, we have considered how the US has used the bodies of its citizens and enemies rhetorically. The state has employed both physical and textual invisibilities to protect its legitimacy while exercising a power that seems limitless – criminal justice policies that unjustly target black Americans, acts of legalized torture that clearly violate domestic and international law. The victims of these systemic injustices have been erased from the public’s view – physically erased from the landscape and textually erased in documentation. These invisibilities prevent opportunities for an empathetic encounter between victims and the larger public. The complication of agency – also accomplished via these strategic invisibilities – has further protected the state from legal action or other consequences, while the victims – those whose agency has been usurped – may be unable to retaliate.

Despite the seemingly impenetrable power of the state, especially for those suffering a violent disruption of agency, people do find ways to resist. They counter the state’s narratives with their own testimonies and expose the violence they have suffered at the hands of the state to regain their agency. In this chapter, therefore, I turn toward rhetors who work to critique, protest, and overcome state violence. The strategies employed by these rhetors are notable for the ways in which they reverse the state’s strategy. That which the state seeks to hide, they put on display – the invisible body becomes visible again. Like Bashmilah, writing in his blood on the walls of his cell at a CIA black site, or Mamie Till Bradley, opening the casket of her murdered child, reclaiming the body as one’s own and making visible its suffering is a means of
exercising agency. These resistant rhetors use their own bodies and the bodies of their loved ones in ways that disrupt the state’s narrative and, therefore, its power.

This chapter also broadens my focus to an international scale. The US is by no means unique in its acts of violence or its strategic use of invisibility to disperse or deny agency and encourage disidentification. Certainly, many nations across the globe and throughout history have used similar methods, while others have (and still) exercise more blatant acts of violence – with or without invisibility. This chapter first analyzes the strategic invisibilities deployed by the military government in Argentina and then examines the activism of the Madres de la Plaza de Mayo in Argentina, a group that began during military rule in the 1970s and continues even today. In a coup that overthrew the democratic government, the military took power and enacted violent and repressive policies that included the disappearance and murder of thousands of citizens in secret. This period in Argentine history is known as la Guerra Sucia (the Dirty War). Though public protest or organizing was illegal (and usually lead to abduction and death), this group of women whose adult children had been disappeared by the state did exactly that. Searching desperately for information on their children, these women instead found one another and formed the group that would become the Madres.

Their activism, which now spans four decades, has taken many forms: newspapers, meetings, marches, letters to the government, and more, but they are most famous for their weekly demonstrations in the Plaza de Mayo each Thursday afternoon, where they walk in circles – often holding or wearing photographs of their children and chanting or carrying signs demanding information from the state. My analysis of their rhetorical strategies and activism will rely mostly on written accounts from the Madres themselves, including some of their publications, as well as interviews in a 1985 documentary by Susana Blaustein Muñoz and
Lourdes Portillo. This source material allows me to understand both what the Madres did and how they made those decisions at the time. Focusing on their public demonstrations, I demonstrate how the Madres use their own bodies and representations of their children’s bodies as resources to reverse the state’s strategic invisibility and reclaim its victims as their own, upsetting the narratives of the state and enabling its victims to regain a kind of agency.

The role of the body in rhetorics of protest has been a part of the scholarship at least since Leland M. Griffin’s 1964 article in *The Quarterly Journal of Speech* on the movements of the “New Left.” In a discussion of the Civil Rights and other movements, Griffin coins the term “body rhetoric” to describe strategies like sit-ins or marches. Viewing the use of one’s body – rather than strictly verbal communication – as a kind of rhetorical transgression, Griffin writes

> It may be that certain ‘lessons’ of the civil rights movement... [such as] the ‘use of the “black body” against injustice’... will lead to alterations in the manner or mode of appeals for ‘peace’... If so, an ethical confusion... would seem to arise—at least for those who make a ‘god term’... of sanctity (the rational) but whose rhetorical action is by choice absurd (i.e., essentially non-rational; coercive rather than persuasive; dependent on ‘seat of the pants’ rather than ‘seat of the intellect.’ (127)

Though Griffin’s analysis betrays his contempt for nonverbal arguments, by no means a newly invented concept in the 1960s, he does seem to gesture toward the effectiveness of these “coercive” and “absurd” methods. Several years later in the same journal, Franklyn S. Haiman responds to these ideas with a greater consideration of the contexts in which these movements operate. Rather than categorizing the Civil Rights Movement’s tactics as “absurd,” he states: “[p]erhaps the best one can do is avoid the blithe presumption that the channels of rational communication are open to any and all who wish to make use of them and... he may be less
harsh in his judgment of those who seek to redress the balance through non-rational strategies of persuasion” (114). Haiman understands these “non-rational strategies” as often the only means available in the face of an “unwillingness on the part of the holders of power to engage in genuine dialogue” (114). Haiman therefore establishes the contextual significance of so-called “body rhetoric” and suggests the body as an important rhetorical resource for social movements, especially by marginalized peoples, for whom traditional modes of communication are unavailable.

As the scope of rhetoric broadened in the twentieth and twenty-first centuries to include more forms of symbolic communication beyond the strictly verbal, this “body rhetoric” is now firmly a part of what scholars consider valid (and effective) rhetorical strategy. Kevin Michael DeLuca, in his work on later 20th century social movements, views this “body rhetoric” not as “absurd,” but rather “as a pivotal resource for the crucial practice of public argumentation” (10). The field of rhetoric now recognizes the body as a powerful resource for argumentation – particularly for those who, as Haiman notes early on, “are in hostile territory with little control” (DeLuca 10). As in the case of Bashmilah, the body can be one’s only resource – one’s only site of control (a control that, as we have seen, can also be taken away). Therefore, bodies “become not merely flags to attract attention for the argument but the site and substance of the argument itself” (DeLuca 10). In the example of the Madres, we can see rhetoric that creates arguments “not through rational arguments but through bodies at risk” (DeLuca 11). Such bodies, in their visual, material presence, are can be rhetorically powerful.

However, as in rhetorics of the body scholarship more broadly (discussed in Chapter One), these discussions of the body in protest focus on the rhetor’s use of his or her own body. This project, once again, turns to cases in which the rhetors use another’s body rhetorically – in
this case, in conjunction with their own. There have been some considerations of social movements in which rhetors have worked on behalf of others – what Charles J. Stewart terms “other-directed” social movements in his analysis of how their patterns of thought compare to the more common self-directed movements. As previously discussed, Wendy S. Hesford considers the use of bodily representations in Human Rights rhetorics. The case in this chapter differs significantly from the kinds of movements or strategies Stewart and Hesford discuss. Here, the rhetors use a combination of their own bodies and representations of the bodies of their children. While Hesford’s work is certainly related to the way in which such images functions rhetorically in human rights rhetorics, I think it is clear that the use of a person’s photograph by a nonprofit or other organization is fundamentally different from the use of such an image by that person’s mother or grandmother. Therefore, this case provides a unique situation in which rhetors deploy the bodies of others (via representations of those bodies) in protest. In analyzing how these resistant rhetors strategically reverse the tactics of the state, I will also consider how this particular rhetoric of other people’s bodies compares to the violent examples from previous chapters and the state violence discussed here. The relationship of the rhetors to the bodies they use and their position against state violence significantly alters this rhetoric and makes it possible to use the rhetoric of other people’s bodies to reclaim rather than destroy agency.

**LA GUERRA SUCIA: A CONTEXT FOR STATE VIOLENCE**

The Dirty War in Argentina was a behind-the-scenes effort by the right-wing military government that sought to maintain traditional social and cultural structures by weeding out any opposing ideologies or other threats (real or imagined). This effort took the form of disappearances – usually clandestine operations in which individuals were taken from their
homes and never seen again. The state used the bodies of its perceived enemies rhetorically; it sought to erase these people entirely and denied anything was going on, deploying that erasure as an implicit threat against any who would transgress the rigid order of the military. The Madres were the first group to resist this power, in spite of the constant threat (and often, the realization of) extreme violence.

The twentieth century was, to say the least, tumultuous in Argentina. Valeria Fabj, writing in 1993, notes that the military had overthrown six democratically elected presidents since 1930 and ruled the country for more years than all the elected governments put together (2). This pattern of elections and coups repeated itself in the years leading up to the Dirty War. In 1973, the military government was losing control over the nation; political violence and labor strikes were widespread (Fisher 4). The faltering military decided to permit elections, and former president Juan Perón returned to Argentina to win the presidency with 62% of the vote (Fisher 4). His presidency, which began in October of 1973, was cut short by his death in July of 1974 (Bouvard 21). He was succeeded by his third wife, Isabel, whose short period of leadership is unanimously considered disastrous for Argentina. Economic crisis and ongoing political violence in the form of guerilla fighters led Isabel Perón to declare a state of siege (Bouvard 22). On February 5, 1975, Isabel Perón and her cabinet signed a decree allowing the military to use any means to quell subversives. Some of these means came from the US, which was training militaries throughout South America to root out communism. Philosopher and political scientist Donald C. Hodges explains that the “military intervention [in Argentina] was the first to be undertaken in accordance with U.S. counterinsurgency measures, including torture and assassination” (175). This state of siege is a paradigmatic example of Agamben’s state of
exception (discussed in Chapter Three), in which the government uses the excuse of emergency to transgress its own laws without ramifications.

The military’s power increased even further after the military coup of 1976 that overthrew Isabel Perón and established a military junta as the new government of Argentina (Fisher 5). This junta included General Jorge Rafael Videla of the army, Admiral Emilio Eduardo Massera of the navy, and Brigadier Ramón Agosti of the air force. Despite this collective, Videla and General Roberto Viola (who replaced Videla in 1981) are often cited as the primary leaders of the period. Upon taking power, the junta enacted the “Statute for the Process of National Reorganization,” more often called simply *el proceso* (the process) (Bouvard 19). As part of *el proceso*, the military “dissolved all political parties, and labour unions and universities were put under government control” (Agosin 15). These efforts were the more public side of the political repression that the junta used to “restore order and peace to the country” (Agosin 15). Peace, however, was not the aim of the military government. Although ostensibly in power to deal with the threat of guerilla groups, the military had already defeated the guerillas before coming to power (Bouvard 23). Rather than ending the Dirty War, the defeat of the guerillas meant that the conflict “shifted to the political plane” (Hodges x). No longer fighting armed subversives, the military began to disappear anyone it perceived as a threat—anyone inconvenient to the state.

Though the junta later deemed them all terrorists, very few of the disappeared were involved in any sort of violent action. Many of them, such as Peronists and Socialists, were politically opposed to the ideologies of the junta, while others were simply working on behalf of the poor and trying to improve conditions (Bouvard 176). Since the disappearances were not officially happening, the junta did not have to explain itself or provide reasons for taking
During this time, “disappear” was a transitive verb, referring to a practice in which the “victim is abducted, and prohibited from communicating with anyone (relatives, friends, lawyers), tortured sometimes for years, and most often killed” (Fabj 3). Men, usually not in uniforms, would arrive late at night in their now-infamous Ford Falcons – though political scientist Marguerite Guzman Bouvard cites some abductions that occurred in daylight and in public (27). They would knock or forcibly enter the home and threaten the family with weapons. Sometimes, they took only one person; other times, they took entire families – including children and even infants (Fisher 102). The kidnappers would usually ransack the home and loot whatever they wanted (Bouvard 32). Very rarely, certain individuals would be let go, but most often those taken were never seen or heard from by their families and friends ever again – their very existence denied by the military.

The state of siege, begun under Isabel Perón’s presidency, enabled the systematic repression of _el proceso_ that characterized the Dirty War. In addition to the more open operations of the military, Hodges explains that a “clandestine state was erected parallel to the official one, with its own intelligence services, invisible ‘task forces,’ and some 340 secret detention centers” (177). These detention centers were located in various government buildings – often police stations and military bases or barracks (Bouvard 30). Though the Dirty War saw unprecedented acts of repression, the basic methods of disappearance had already been implemented under Isabel Perón. The Argentina Anti-Communist Alliance (usually called AAA or Triple A) was a secret police unit responsible for disappearances and assassinations. In the first seven months of 1975, it committed 450 assassinations and 2,000 disappearances (Hodges

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24 This lack of regulation led easily to further corruption. Former Navy pilot Juan José Cosi reports that military personnel used this practice for personal gain. He says, “[i]f one of my colleagues had problems with his neighbor, this neighbor became a guerilla.” Many military personnel gained substantial wealth from the disappearances as well (Muñoz and Portillo).
Though AAA’s death toll seems extreme, it does not compare to the numbers disappeared by the military junta that followed. In 1985 (two years after the fall of the junta), the Federation of the Families of the Detained/Disappeared estimated that 30,000 people had been disappeared by the junta (Agosin 13). Although 30,000 is the estimate most often cited, other sources posit that the real number of victims could be as high as 45,000 or more. It is especially difficult to determine as whole families were sometimes disappeared, leaving no one to make a report (Foss and Domenici 237). Ramón Camps, notorious chief of police of the province of Buenos Aires during the junta’s rule, claimed afterward that the number of disappeared was more than 45,000 (Bouvard 31). Hodges cites further evidence of higher numbers by examining records of cremations at Chacarita Cemetery in Buenos Aires. By comparing the junta years with those before and after, Hodges estimates that “the number of illegal cremations may well have reached the 30,000 mark—in a single cemetery” (177). If that is accurate, the total figure may indeed be much larger, particularly considering that cremation was not the only means of hiding the remains of disappeared persons.

Despite its pervasive power, the junta began to falter in the early 1980s. In the spring of 1982, the junta engaged in a brief, unsuccessful war with Britain over the Falkland Islands, or Las Malvinas. Many viewed this war as an attempt to distract the nation from its internal problems, especially the economic collapse, and drum up patriotism (Muñoz and Portillo). Jo Fisher, who has worked closely with the Madres, notes a similar “strategy of deflecting attention away from internal difficulties had already achieved a measure of success three years earlier

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25 Disappearances were a common practice throughout repressive governments in 20th century Latin America. The Federation of the Families of the Detained/Disappeared estimates that 90,000 people were disappeared in Latin America from 1964-1985 (Agosin 13).

26 Chacarita Cemetery was not the only location of illegal cremation. Cosi recounts that he knew of a man in Ezeiza who would cut up these bodies and burn them in an oven (Muñoz and Portillo).
when the junta initiated hostilities against Chile” (114). In the Madres’ “Notes for the Week” from several years later, they write that, with the Falklands War, “the dictatorship exploited popular sentiment with the transparent objective of covering up its crimes and illicit errors in public administration” (qtd. in Agosin 98). If the war was merely an attempt to distract the public from internal crises to protect the junta’s power, the plan backfired. Its surrender to the British was a significant blow to the junta, which was also dealing with ongoing economic challenges (Bouvard 117; Foss and Domenici 238). With the power of the junta diminished, the people held huge demonstrations in the streets, demanding elections (Muñoz and Portillo). The junta relinquished power, allowing Presidential elections in the fall of 1983.

Despite the election of Raúl Alfonsín and the reentry of democracy in Argentina, the military remained a powerful force, and those who perpetrated the violence of the disappearances met with lenient punishments – and often none at all. Prior to abdication, the junta granted themselves amnesty. Though the elected government rescinded that order, it did allow them to be tried in a military court. The leaders of the junta were therefore initially tried by The Supreme Council of the Armed Forces. After nine months, the military court could not estimate how much longer they would take, and the Federal Court took over, citing “unwarranted delay” (Fisher 140). In this proceeding, “the nine military commanders were charged with 711 offences ranging from theft, murder, illegal detention and rape” (Fisher 140). Videla and Massera, two of the original three military commanders of the junta, received life sentences; the third, Agosti, received just four and a half years (Fisher 141). However, in 1989, President Carlos Saúl Menem was elected and, three months into his presidency, granted “a blanket pardon to all those who were tried and sentenced under President Alfonsín for their participation in the Dirty War, for misconduct during the Falklands War, and for their participation in the three military
uprisings against the government—280 people in all” (Bouvard 209). These pardons included Videla and Viola, Videla’s successor.

There were other legal maneuvers that similarly protected those guilty of the disappearances and other human rights violations that are important in contextualizing the ongoing activism of the Madres. In December of 1986, President Alfonsín signed the infamous punto final (full stop) law. This law limited the window of time in which any new prosecutions of the military could be initiated, essentially establishing a truncated statute of limitations (Fisher 146). This protective measure was strengthened soon after, when Congress passed the Ley de obediencia debida (Law of Due Obedience), which states that those “who served as chief officers, sub-officers, petty officers and troop personnel in the Armed Forces, Security, and Police or jails at the time of the commission of the deeds, are presumed not punishable, without need to submit proof, because they behaved under the requirement of due obedience” (qtd. in Mellibovsky 169). This law removing individual responsibility for military personnel – even for acts of murder – is an extreme version of the kind of agentic dispersal discussed in Chapter Three. With the commanders pardoned and those under them legally determined to be without agency, no one took responsibility for the tens of thousands of murdered Argentine people. This leniency, though certainly controversial and a source of ongoing outrage for many, was viewed by others as necessary to maintain the elected government. Bouvard states that Minister of Defense Raúl Borrás “felt that the longer the trials lasted the more restive the armed forces would be, thus threatening the democratic government” (163). The military, though no longer leading the government, still held significant power and was a potential threat to the stability of its own state. The democratic government did perform an official investigation into the disappearances by forming CONADEP (National Commission on Disappeared Persons). The
lengthy report they generated, however, focused on the victims – not the perpetrators. As *Madres* member Matilde Mellibovsky argues, “[t]hey tried to satisfy us by forming CONADEP and with the trials of the members of the junta. They gave us a sample of all the horror that took place. But it did not take long for them to back off” (200). The lack of retribution, even for some of those at the highest levels, is why the *Madres* are still active in their resistance so many years later.

**THE MILITARY GOVERNMENT: INVISIBILITY, REPRESSION, DENIAL**

The practice of disappearance takes the strategic erasure of the body to an extreme. Operating in total secrecy, the junta’s forces removed thousands of people from their lives and families, then denied any knowledge of them thereafter – all while the state was operating normally on the surface. The terrifying threat of sudden disappearance, coupled with the state’s denial of any such activity, created a powerful system of repressive control. These disappearances were politically advantageous to the junta. Operating in secret and leaving the friends and family of disappeared persons with no information, the junta was able to continue its violent repression – securing its power without endangering its legitimacy, particularly before the international community. This global public perception was important because the junta depended on international support. The coup had followed closely on the heels of another military coup in Chile, which ushered in the bloody reign of General Pinochet. The openly violent regime “provoked some nations, including Britain and the Soviet Union, to cut off aid and arms supplies” (Fisher 71). The US supported Argentina’s military government, as it did in many Latin American nations; many of the armed forces were trained at the School of the Americas in Panama, and the US supplied arms for the junta. To avoid the publicity that could
jeopardize this support, the junta “intended to carry out its aims without compromising its image abroad, and thus it invented its deadly policy of disappearances” (Bouvard 24)\(^\text{27}\). As Mellibovsky puts it, the “men of the ‘process’ cared about their image” (237). This need for secrecy shaped the junta’s practices and necessitated the denial that eventually prompted the Madres’ activism. The disappearances operated “beneath a veneer of normalcy so that there would be no outcry, so that the terrible reality would remain submerged and elusive even to the families of the abducted” (Bouvard 30). People simply disappeared, and the continued otherwise normal operations as if nothing were happening.

Here, we see a familiar rhetorical situation – the state must demonstrate its limitless strength without upsetting its legitimacy. The junta’s practice of disappearing those it deemed terrorists, rather than pursuing legal action, functions similarly to the US’s practice of detainment. Though the scale of these efforts and the practices involved in them are quite different, there is a common rhetorical strategy of bodily invisibility. The US kept tortured bodies hidden to prevent the public’s full knowledge of the violence that was being perpetrated, and while the state denied that the EITs constituted torture, these policies were forced into the legal framework to avoid that categorization. In contrast, the Argentine military did not legalize its acts; it simply denied that they were happening. Furthermore, whereas the placement of US prisons or the construction of its torture manuals hide the body from public view to promote disidentification, in the case of the Dirty War, that removal from public view is also a threat to the public. The possibility of being disappeared prevented many fearful people from speaking

\(^{27}\)The US, however, was aware of the human rights violations. As in many cases during the Cold War, especially in Latin America, the US supported the repressive military dictatorship. Fr. Robert Drinan, US Representative from Massachusetts, spoke out against supporting the junta, saying: “We are, in effect… ensuring that General Videla and people like Pinochet in Chile are… getting the resources to protect the internal security, which means to repress the people, keep the dissidents in jail, and cause other people to disappear” (qtd. in Muñoz and Portillo). In 1977, President Carter stopped the supply of arms to Argentina and began to investigate exactly what the junta was doing (Muñoz and Portillo).
up or even associating with the family members of the disappeared. In an unpublished document from 1986, the Madres write: “many were unaware of or chose to remain unaware of what was taking place, since the military dictatorship hid it, and fear reigned as a consequence of the system of terror that was implanted” (qtd. in Alfonsin 105). Here, the state is not simply using the “out of sight, out of mind” approach to shift public focus. It is removing people from public view and record – erasing them as if they never existed, and yet using that erasure to reign, as the Madres write, by fear. Even those who were aware of what was happening were forced to turn a blind eye, as any connection to the disappeared could lead to one’s own disappearance – and often did. In both cases, bodily invisibility is a central strategy for maintaining power and legitimacy – but the US used it to convince the public that its actions were legal and not violent; the junta used it to deny that it had done anything at all.

In an effort to understand denial as a yet another strategy of invisibility, I turn to Stanley Cohen’s sociological discussion of denial and Jaime Wright’s theorization of denial casuistry. Cohen considers the phenomenon of denial at the individual level, but also explains how “[w]hole organizations and political cultures take on collective false selves” (66). Using the Argentine junta as an example, Cohen explains the duality of the calculated denial of atrocity. The junta, he argues “created the most intricate version ever of the double discourse. This was an intensely verbal regime, obsessed with thoughts of its opponents. It invented a special language, a clandestine discourse of terror, to describe a private world whose official presence was publicly both denied and justified” (82). These denials and justifications, which Cohen terms “literal denial” and “reinterpretation” (both of which I will examine further), also align with Wright’s description of denial casuistry in her analysis of the strategies used by Holocaust deniers. She distinguishes between historical and denial casuistry; while both may use similar
forms of argument, “historical casuistry [is] done ethically and denier casuistry [is] done deceptively” (56). Cohen explains these deceptive strategies of denial can be as simple as the “it wasn’t me” claim children often make – indeed, governments may take the same approach. Wright cautions, however, that “denial arguments have grown increasingly sophisticated, supple, and dangerous” (57). The case of the junta clearly shows how dangerous calculated denial can be – and how effective in maintaining invisibility.

The junta’s denials were an explicit and integral part of its political strategy. Upon taking power in 1976, the military issued a strict rule in an effort to control the press. The new policy forbade any media

to comment or make references to suspects connected with subversive incidents, the appearance of bodies and the deaths of subversive elements and/or members of the armed or security forces in these incidents, unless they are reported by a responsible official source. This includes the victims of kidnappings and missing persons. (qtd. in Fisher 25)

This gag order effectively made it impossible to counter the state’s claims or report that disappearances were happening. This kind of forced myopia is a feature of denial casuistry, which Wright argues “enables dismissal of documents, erasure of contrary evidence, and silencing of opposing viewpoints” (59). As applied to the military dictatorship, which is denying the present (and its own actions) instead of the past, this control over evidence is strictly enforced. This state does not ignore evidence; it works to prevent the very existence of evidence. Thus, the junta took complete control of the information circulating in the country – and made any opposition to that control illegal. This made it possible for General Videla to state publicly in 1977: “I categorically deny that there exist in Argentina any concentration camps or prisoners being held in military establishments beyond the time absolutely necessary for the investigation
of a person captured in an operation before they are transferred to a penal establishment” (qtd. in Bouvard 34). Of course, the denials and lack of information did not prevent people from noticing the absence of more and more people, especially young adults. In response to these reports, Videla stated that “[m]any of these young people were mixed up in subversion and have left the country. The young women who leave are prostituting themselves in Mexico and your sons must have gone with some girl” (qtd. in Bouvard 70). Despite the absurdity of this explanation, it effectively stigmatized the missing and cast their family members – particularly the Madres, as they became more active – as either failed mothers or subversives themselves. In one stroke, Videla denies that the junta is involved and places blame for the missing people on their inadequate mothers.

In order to maintain these denials, the junta had to dispose of the evidence – to erase the bodies of the thousands it murdered. Despite the laws preventing the press from reporting on any bodies that were found, in order to “preserve the clandestine apparatus of the armed forces, it was especially necessary to prevent the disappeared from ever reappearing” (Hodges 181). The junta took several measures to ensure the disappearances were complete. In addition to the previously mentioned illegal cremations, there were “the famous open-door flights,” which Juan José Cosi, former Navy pilot, describes as the process of drugging people and pushing them out of airplanes over the ocean (qtd. in Muñoz and Portillo). There were also mass graves found after the fall of the junta, full of bodies that were missing hands – presumably to eliminate any chance of fingerprint identification (Bouvard 42). Bouvard argues that this “destruction of bodies was an important part of the policy of disappearance. Wiping out the identity of the corpses increased the ambiguity” of what was really going on and left loved ones with no information (Bouvard 42).
When the families of the missing looked for answers, they were met with consistent denials at all levels of government. In their writings, many of the Madres describe going to military bases, police stations, government offices, and prisons, searching for information about their children, only to be met with a wall of silence as “[m]ilitary personnel throughout the country closed ranks, denying any involvement and subjecting relatives of disappeared people to obstructions, intimidation and threats designed to halt their search for information” (Fisher 19). Carmen Isabel Rodino de Cobo, a member of the Madres, recalls arriving at a police station where she knew her daughter was being held: “[w]e knew she was there from information we had gathered, but officially they denied that she was being detained” (qtd. in Mellibovsky 154). Aída Suarez had a similar experience. When trying to report her son’s disappearance to the police, they told her she should go to the military headquarters. “There,” she says, “they told me there was no Hector Suarez” (qtd. in Muñoz and Portillo). This denial is emblematic of the junta’s approach. As Cohen explains in his discussion of the Dirty War, “[t]he phenomenon of ‘disappearances’ takes its very definition from the government’s ability to deny that it has happened. The victim has no legal corpus or physical body; there is no evidence to prosecute, not even a sign of a crime” (105). This lack of evidence – the absence of the body – enables the denial to function and successfully maintain invisibility. On the surface, the military denies that Hector Suarez is at the headquarters, but this statement is also denying that Hector Suarez exists. There is no such person, according to the state, and without a body, that statement can stand. By disallowing any information, or even confirming that disappearances were happening, the state “intended to instill in the population as a whole a feeling of utter defenselessness before its absolute power and impunity” (Bouvard 42). While some likely took the government at its
word, believing that the accusations were untrue, others understood the threat implied in each disappearance.

When the Madres began to speak out about what was really going on under the military government, the junta maintained these denials in another familiar maneuver – reinforcing and even demanding disidentification. Cohen explains that “[l]iteral denial is usually implied by attacking the reliability, objectivity, and credibility of the observer” (105). Attacking the observer, in this case, the Madres, was important for the state to maintain its denials. As Bouvard explains, the junta’s “carefully designed campaign labeled the Mothers as Las Locas (crazy women), effectively discouraging people from associating with them” (79). We see one example of this “campaign” in the public statement of police chief Camps: “[d]on’t forget that these ladies are continuing the subversive actions started by their children. To believe the Mothers and Grandmothers of the Plaza de Mayo, who are obviously responding to the interests of international Marxism, is to be on their side” (qtd. in Muñoz and Portillo). Therefore, even to acknowledge the reality of what the Madres were reporting was considered an act of subversion against the state. Whether or not people believed this claim was true – indeed, the thought that this group of mothers, many of whom were uneducated, were working for international Marxism is rather absurd – to acknowledge any doubt was dangerous. Mellibovsky recalls: “we felt watched, spied on, and also made fun of. They called us the mad women” (86). Under the watchful eye of the junta, the Madres and any who associated with them were constantly risking disappearance and death. To identify with these women was not only socially damaging, since

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28 In recollecting the potency of the state’s ideological indoctrination, Cosi describes an incident in which the men in the officer’s club were watching a news report about a doctor who said there were starving children in Tucumán province. “Everyone in the club,” he says, “said that doctor was a subversive” (qtd. in Muñoz and Portillo). So, any acknowledgement of a problem in Argentina – even one with clear and obvious evidence – was an act of treason.
they were seen as madwomen; it was potentially deadly. Under such threatening circumstances, identification must be rejected; disidentifying from the *Madres* and the stories they told was a means of self-preservation.

Even when the junta did finally admit to the reality of missing people in 1983, it continued to deny the reality of its actions. Cohen describes this strategic shift: when “literal denial is countered by irrefutable evidence that something indeed happened… the strategy may switch to legalistic reinterpretations or political justifications” (103). As the evidence the junta suppressed became all too obvious to the Argentine populace and the rest of the world, the strategy of denial shifted to reinterpretation. Cohen explains that “[r]einterpretation is a compromise. The elephant on the dining-room table is there, but the state and its allies collude in defining it as something else, something not very significant” (106). To accomplish this second form of denial, the junta broadcast a film it made that reinterpreted disappearance as civil war – and the disappeared victims as terrorists. The film told the story of a civil war and claimed that, from 1969-1979 there were 21,642 terrorist attacks in Argentina. Noting that the number of so-called missing approximated the number of attacks, the film alleged that those people were dangerous, and had engaged in acts of terrorism (Muñoz and Portillo). Elsa de Becerra, a member of the *Madres*, recalls this television program and explains how the junta “justified their actions in terms of a war against subversion, saying that the desaparecidos were all dead and that they were all terrorists” (qtd. in Fisher 122). The reinterpretation of disappearance as a civil war is another way of arguing for necessity as agent. As in the CIA’s discussion of its torture policies, the junta argues that presence of terrorists made violence necessary. Though it no longer denied that many thousands were killed, it continued to deny its own agentic culpability in the disappearances by claiming it was a war.
After denying the disappearances entirely, and then denying the reality of the repression, the military continued to deny that it had any records of these people – the information the Madres are demanding. Dr. Emilio Miñone, who became a human rights activist after the disappearance of his daughter, explains that hundreds of those who survived disappearance have reported that the military kept a file on each person, including a photograph, personal information, and their ultimate fate. He says that “information about the fate of the disappeared is in the hands of the Armed Forces. They deny it, but they have it,” even going on to name the specific sites at which the information is kept (qtd. in Muñoz and Portillo). Even after the reinstatement of a democratic government, the military’s denials persisted.

After the junta, the democratic government, thought it acknowledged the disappearances, was also complicit in this denial, as evidenced by the legal moves to safeguard the military. As the military continued to hold power even after the elections, the government worked to minimize – or simply move on from – the crimes of the former state. It began digging up mass graves and granting reparations to families. While these may sound like measures to uncover the truth of the junta’s actions, many of the Madres saw it differently. They rejected these reparations, seeing them as a kind of hush money and “a way of abusing their poverty” (Bouvard 142). Mellibovsky recalls seeing the excavations on television: “It was simply horrible. In an excavated plot among lumps of earth, a huge machine like some sort of a crane was digging with its teeth—was enlarging a hole and then heaving out to one side… bones, human bones” (161). The disrespectful way in which mass graves were unearthed was deeply upsetting to many, especially those with missing children. Given the government’s other efforts to close down ongoing discussions of disappearances, like punto final, these exhumations could be interpreted as another way of, paradoxically, burying the past. Beatriz de Rubinstein, to whom the military
actually mailed her daughter’s bones\textsuperscript{29}, interprets these exhumations as “another part of the government’s strategy” and says that “to receive the bodies before knowing who is responsible is a form of \textit{punto final}… Exhumations have nothing to do with justice” (qtd. in Fisher 129). By removing the graves – erasing them – the democratic state sought to put the entire period to rest and expunge the former regime’s crimes.

The project of denial goes beyond the disappearance of bodies and even records of these people – it denies who these people really were. The junta reframed social justice activists and those working to improve the conditions of the poor as terrorists, replacing reality with a more convenient narrative. This representation of the disappeared as terrorists was a key element in the junta’s secondary strategy of denial by reinterpretation. Cohen calls this “denial of the victim,” in which the rhetor acknowledges that the event occurred, but argues that it was justified by the victims’ own actions (61). He writes: “[i]n political atrocities, denial of the victim is more ideological rooted in historically interminable narratives of blaming the other. Recent spirals of virulent political violence all draw on the refrain of ‘Look what they did / are doing to us’” (96). This “look what they did” strategy is precisely the junta’s argument, which depends upon these accusations of terrorism. According to Wright, this attempt to place blame on the victims is central to denial casuistry, the goal of which “is to bolster or challenge others’ humanity in an attempt to configure the present” (62). We have already seen such challenges to others’ humanity in mass incarceration and torture in the US; here, we find a similar discursive framing, as human rights advocates and social justice workers are recast as dangerous threats to the people so that the state’s crimes against them can be denied.

\textsuperscript{29} Accompanying the parcel of bones was a letter stating, “[a]s a culmination to your endless search for your daughter Patricia, we have decided to send you what’s left of her.” The letter goes on to list her crimes and state that she was condemned to death. Given Rubinstein’s membership in the \textit{Madres}, it is possible that this package was intended as a cruel taunt.
REVERSING STATE RHETORIC

The *Madres de la Plaza de Mayo* is a grassroots effort that began in 1977 (becoming an officially registered organization in 1979) when women searching for information on their disappeared children began to recognize one another; recognition led to mutual support and ultimately an activist group that defied the military junta and operated on a global stage at a time when speaking out usually meant torture and death. Many of the women searching for information on their children were sent to the Ministry of the Interior. As Bouvard notes, “[i]ronically, the Ministry of the Interior helped bring the Mothers together. At the ministry a small office had been set aside for the Mothers so that their cases could be investigated” (68). This office where the state sought to shove these women to the side is where the founding members of the *Madres* first met. The state’s unintended provision of a place to organize was the first in a series of underestimations. In her recollection of going to the Navy Department and hearing the lies and denials, Marta Vázquez recalls: “[t]hey thought that we were naïve, that we didn’t realize what was going on” (qtd. in Mellibovsky 97). Most of the *Madres* were middle-aged homemakers, often without education and almost always without any political experience; they were traditional housewives in a staunchly patriarchal society. Yet, it was out of their traditional role as mothers that their activism grew and they carried out “the only public protest made for a long time against the traffickers of death in Argentina” (Agosin 18). The *Madres* became an unlikely but formidable opponent to the military junta, exposing the crimes of the state to the nation and the world.

The *Madres*’ rhetorical strategy developed organically, a collection of choices made in the moment. This pattern of incidental invention demonstrates their rhetorical savvy, as their decisions coalesced into a potent rhetorical strategy that caught the world’s attention and left the
military leaders unable to quell a group of middle-aged mothers. In analyses of their rhetorical approach, scholars have considered their deployment of motherhood (Fabj) and their own bodies (Bergman and Szurmuk; Foss and Domenici; Sutton) to make visible that which the state tried to erase. Their motherhood and their bodies are, along with representations of the disappeared, their most important rhetorical resources. Ultimately, they use their own and their children’s bodies in strategic maneuvers to both reverse the state’s narratives and reclaim their children.

Karen A. Foss and Kathy L. Domenici similarly argue that the Madres “reversed the government’s messages” (251). As I see it, this tactic of reversal is characterized by antistrephon, the rhetorical figure Moira K. Amado-Miller calls “the combative ‘boomerang figure’ wherein an interlocutor’s own words are used against him” (70). Amado-Miller argues that the antistrephon is a subversive tactic common to women’s movements. I see the Madres using antistrephon not only as a specific tactic, but a guiding principle of their rhetorical resistance to the state. In their marches and demonstrations, even in their role as mothers, the Madres used the state’s ideologies and words against them – in some cases following the state’s words to the letter in acts of protest. This tactic confounded the military and enabled the Madres to survive and continue their work.

The second part of their strategy is the reclamation of their lost children. Legal scholar Marcelo Bergman and literary scholar Mónica Szurmuk, in line with Foss and Domenici, argue, many of their symbols visibly assert the material, embodied reality of their children. I concur with and draw from these analyses, though I depart somewhat in my understanding of the Madres’ rhetorical relationship to their missing children, as I will discuss later. Ultimately, I see their efforts as working to reclaim the missing – reclaim them as real and as beloved children, in the face of the state’s claims that they either do not exist or are terrorists. Perhaps the most
significant difference between the state’s and the Madres’ use of other people’s bodies is that the Madres use those bodies in conjunction with their own. The state has taken these people and used violence to transform them into rhetorical tools for its own power; the Madres reclaim these bodies as theirs, not pawns of the state, and work to restore their stolen agency.

Especially in the early years, the Madres exercised their strategic opposition to the junta at great risk to their lives and safety. In DeLuca’s discussion of activists’ use of their bodies, he argues that “image events revolve around images of bodies –vulnerable bodies, dangerous bodies, taboo bodies, ludicrous bodies, transfigured bodies. These political bodies constitute a nascent body rhetoric” (10). The Madres’ marches and demonstrations have created a powerful “image event” that has captured international attention. Under the junta, their bodies were quite literally “vulnerable” to violence and were “taboo” in that they were women fighting against the military in a firmly patriarchal culture. During their weekly demonstrations, the police used tear gas, dogs, and even beat the women with their clubs (Bouvard 71-74). Dora de Bazze recalls that she was “detained many times, like a lot of the Mothers. Once they came and took eighty or a hundred women, herding us into a bus like sheep, pushing us and hitting us with their truncheons” (qtd. in Fisher 61). Even the most extreme acts of violent repression did not quell the Madres. In 1978, twelve of the Madres were abducted, including Azucena Villaflor de De Vicenti, the group’s first unofficial leader. She was tortured and killed; the location of her remains is still unknown. Two French nuns who had joined the Madres’ efforts were also abducted and killed. The other captives were eventually released after UN intervention (Agosin 20). This early event was a foreshadowing of how the Madres would seek out the international

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30 Prior to her participation in the Madres, Maria Elisa Haschman de Landin was abducted, along with her husband, and tortured for information about her son, who was later disappeared. One of the few who were released, Landin describes the use of the picana (an electric cattle prod) and other infamous methods of the Dirty War (Fisher 64-65). This experience did not deter Landin from organizing against the junta.
publicity that the state most wanted to avoid. Throughout the junta’s reign, the Madres continued to suffer violence and threats and were routinely arrested, harassed by police, followed, and spied on by state officials (Fisher; Mellibovsky). This strategic bodily risk is what sociologist Barbara Sutton calls “poner el cuerpo” – literally, “to put the body.” She defines poner el cuerpo as “‘to put the body on the line’ and to ‘give the body’” (130). These women use their bodies as a resource; by putting themselves in the public eye and putting themselves at risk of violence and even death, they were able to call attention to the crimes committed by the state when no one else would speak up. Undeterred even by the murder of their leader, the Madres soon traveled abroad to the US and Western Europe, raising international awareness of the human rights violations, gaining popular and governmental support, and exposing the reality of the Dirty War.

MOTHERHOOD: IDEOLOGICAL ANTISTREPHON

Their ability to openly oppose the state at a time when doing so meant certain death lies in their reason for doing so in the first place – motherhood. This culturally revered role became a kind of ideological antistrephon they used against the junta. The Madres are, of course, defined by their motherhood. Motherhood continues to motivate their activism, but it also thwarted the military’s ability to suppress them. The military government stood for Argentina’s traditional, strongly patriarchal values. Within this structure, women are called to be devoted, self-sacrificing mothers (Fabj). Yet, as Sutton notes, “speaking on behalf of their children is generally viewed as an appropriate feminine behavior, a perspective that helped the Mothers of the Plaza de Mayo to maneuver politically at a dangerous time” (136). Therefore, the Madres are fulfilling their traditional role by searching for and defending their children. They are
following the junta’s own traditional ideology of devoted motherhood, which allowed them to simultaneously transgress the junta’s rule. In building their activism on the foundation of their maternity, the “Mothers not only transformed political action, but they also revolutionized the very concept of maternity as passive and in the service of the state into a public and socialized claim against the state” (Bouvard 62). They took the ideologies the military government championed and turned them back on the state, “revolutionizing” motherhood in a way that transformed the subservient position into one of power and defiance.

The ideological antistrephon effectively spoke the junta’s words back to them, leaving them in a paradox. Despite the junta’s routine violence, “the cultural glorification and respect accorded motherhood made the Mothers somewhat ‘untouchable’” (Feijoo and Gogna, qtd. in Foss and Domenici 240). Fabj explains how this “myth of the good mother… opened avenues of discourse unavailable to men by allowing them to use their role as mothers strategically” (7). The traditional values surrounding motherhood made attacking mothers – especially those fulfilling their motherly duty – especially difficult. This cultural respect for motherhood offered some protection to the Madres, though many still suffered violence. The cultural taboo against harming mothers, especially the thought of doing so in public, compounded with the military’s bewilderment that middle-aged women should be the ones the oppose them, led to consistent underestimation of the women’s capacity to challenge the state. Once the Madres began to achieve international visibility, it was too late for the junta to inflict the sort of violence on the Madres as it did other dissidents without earning global scorn – and the foreign intervention it was trying to avoid. The Madres, because of their status as mothers, and later their connections with other women and even governments around the world, were able to defy a violent, repressive state in ways perhaps no one else could have done.
Furthermore, in addition to serving as a form of protection, motherhood was also a strategically visible proof of their children’s existence. By putting their bodies in full view of the public – indeed, putting those bodies in grave danger – the Madres asserted the material reality of their children. As Bergman and Szurmuk argue, the “Mothers fought with their own bodies, which they offered as evidence of the existence of the children the regime had ‘disappeared’” (390). By putting their maternal bodies on display in public places, the Madres visually proved the existence of their children. The symbols that came to define them (discussed in detail later) are distinctly maternal – photos of children and artifacts from their babyhood. These visual cues, combined with the Madres’ chants and desperate cries about their missing children, presented these bodies as distinctly maternal. If they were really mothers, the children must be real, too. The junta tried to dismiss these women as mad or too weak to be a serious threat, but the visibility of the maternal body – a body suffering the loss of her child – belied the state’s protestations and chipped away at the seemingly monolithic power it wielded.

Despite its rhetorical power, some scholars have viewed their foundation in maternity as a limitation to their activism. Fabj argues that, while offering unique “avenues of discourse” to these women, their motherhood also “constrained the Mothers by dictating the rhetorical choices available to them” (Fabj 7). However, the idea that the centrality of motherhood limits their rhetorical choices seems to discount the ways in which the Madres have changed what motherhood means. They have transformed their traditional, domestic role into a political, activist one. The devotion to their own children translates, even beyond protesting the disappearances, to fighting “to transform the political system to reflect their definition of maternal values as concern for the well-being of all children, a concern expressed through health care, education, full employment, grass-roots participation in governance, and the international
pursuit of peace” (Bouvard 15). Grounded in what they see has their maternal values, the *Madres* have done everything from proposing a bill in congress\(^{31}\) to supplying food and clothing to the grandparents raising the children of the disappeared (Muñoz and Portillo). The idea that their maternity and the symbols of maternity they employ (discussed later in this chapter) are limiting fails to recognize that motherhood is how they define themselves. Renée Epelbaum states: “I repeat that we began and continue as a movement because we are mothers; we became involved because our children disappeared” (qtd. in Agosin 34). Their maternity is not a limitation, but a motivation.

Foss and Domenici also critique the *Madres*’ rhetorical strategy for being too rigid. They argue that the “strength of the symbols alone means they are hard to let go of” and that the *Madres* are unable to move beyond the symbols and strategies with which they began (253). Foss and Domenici go on to argue that the *Madres* “seem unable to recognize that they themselves have established a repressive system with their discourse in which virtually all other parties… are dismissed because of their inattention to or inaction in terms of the disappeared” (254). They cite the *Madres*’ disruption of a speech by Argentina’s Justice Minister at a Food and Agricultural Organization meeting. The *Madres* began shouting and displaying banners rejecting the Minister’s right to speak at the UN, because there has not yet been justice in Argentina. They were removed from the meeting and are no longer allowed at the UN (254). In another example, the *Madres* disrupted the New Year’s celebrations in the *Plaza de Mayo* in 2000, resulting in their cancellation (254). Certainly, these events could be seen to limit the *Madres*’ influence and effectiveness. However, the hard line the *Madres* take is perhaps not a

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\(^{31}\) After the election resumed democracy, the *Madres* proposed a bill to create a commission to try the military for its crimes. Congress voted against it, worried that such an action would destabilize the government (Muñoz and Portillo)
fault in their rhetorical strategy. To call their unwillingness to accept those not fighting for justice for the disappeared an act of “repression” seems to underplay the severity of the crime they are opposing, and to interpret their disruptions as evidence of their ineffectiveness is overlooking disruption as an important tactic. Demanding justice on behalf of tens of thousands of people murdered by their own government does not leave space for those uninterested in the cause, and these disruptions have kept the disappeared in the public consciousness. That is why “letting go” is directly opposed to the Madres’ core values and purpose. Even decades later, they refuse to stop marching, because they have not seen justice.

ANTISTREPHON IN PROTEST

The Thursday afternoon marches, the core element of their work, began when a group of just fourteen women with missing children decided to go to the Plaza de Mayo to protest on April 30, 1977 (Agosin 68). The Plaza is a strategically important choice; it is the site at which Argentine independence was proclaimed in 1810, and there is an obelisk there marking four hundred years since the city’s founding (Agosin 18). In addition to this symbolic importance, the Madres chose it for practical reasons as well. It is the center of power in Argentina, “flanked not only by the presidential palace but also by the cathedral and the most important banks” (Bouvard 2). This nexus of government, business, and religion makes the Plaza not only symbolically powerful, but visually accessible to the most powerful social sectors. Danielle Endres and Samantha Senda-Cook argue that social movements “rel[y] on the rhetoricity of places themselves,” but they also “create temporary fissures in the dominant meanings of places” (257). The Madres certainly created a “fissure” in the meaning of the Plaza – transforming a site
of national pride into a site of dissent and using the visibility of the Plaza to expose the government’s crimes.

The origins of their now iconic tradition lie in a moment of antistrephon that exemplifies how the Madres turned their opponents’ words against them, just as they did with the role of motherhood. When they first arrived to protest in the Plaza, they were already defying the legal ban on such meetings. A law passed in June of 1976 levied serious penalties for the crime of “illicit association” – up to twelve years for participants and twenty five for organizers (Fisher 53). Of course, in the climate of the Dirty War, the more likely consequence was disappearance and death, not a legal sentence. For that reason, when they first gathered, the women did not march. As María del Rosario recalls,

As first we didn’t march together in the square. We sat on benches with our knitting or stood in small groups, trying to disguise the letters we were signing to send to the churches, to government officials, the military. We had to speak to each other quickly, in low voices so it didn’t look as if we were having a meeting. (qtd. in Fisher 53)

Despite these efforts, the police caught on to what was really happened and intervened. They pointed their rifles as the women, “telling us to move on, that we had to disperse, that we couldn’t be more than two together” (Rosario qtd. in Fisher 53). So, the Madres “began to walk by twos, arm in arm” in circles around the Plaza (Bouvard 70). This simple act of walking in circles would become their most powerful strategy. In doing so, they are literally following the policeman’s orders to “move on” – this is the antistrephon that characterizes their strategic balance within and outside of the state’s rules. By following and yet subverting the policeman’s instructions, they created a potent symbol of their struggle. The government’s constant denials and delays had left many of them quite literally going in circles – desperately searching for their
children. The circle protests sparked similar groups in other parts of Argentina and in places around the world that marched in solidarity with the Madres – all of them following the policeman’s instructions to the letter, turning the state’s words against them.

One of their most famous protests followed a similar logic of manifesting the state’s words literally (and visibly) as a way to throw them back and expose the truth. In the late 1980s, the Madres used white paper silhouettes to symbolize the disappeared and make literal the state’s erasure of the thousands. Artists worked with them to develop the idea and cut out thousands of silhouettes, which they held while marching or pasted on walls and trees around Buenos Aires during several of their events (Foss and Domenici 249). Like marching in twos, this strategy also takes the state’s instructions literally. The state had told them to forget their children, as in Videla’s absurd claim that they had run off or become prostitutes. Maria Elisa Haschman de Landin recalls another instruction to erase their memories. When they visited a bishop to beg for help, he told them “[p]retend your son took a plane and fell into the Río de la Plata” (qtd. in Muñoz and Portillo). Though there were priests and other religious sympathetic to the cause, the upper hierarchy of the church tacitly (and sometimes more explicitly) supported the junta. The calls to forget were part el proceso’s goal of erasing people. The silhouettes the Madres created, these blank spaces in the shape of bodies, simply made that practice visible. Guillermo Kexel, one of the artists who helped develop the project with the Madres, states that “[t]he silhouettes didn’t fill the emptiness, they only gave it shape. And quantity. Thousands of people made thousands of silhouettes of thousands of people” (qtd. in Mellibovsky 132). These white silhouettes are visual blank, body-shaped spaces. Foss and Domenici describe the effect as “that of the disappeared protesting” (249). By giving shape to the emptiness, as Kexel says, the Madres visually display what the junta erased. The silhouettes make the erasure literal – white,
body-shaped spaces look as though an eraser has rubbed out their images from the world, leaving blank paper behind. Since many of the bodies of the disappeared were burned or dumped in the ocean, even their bodily remains have been erased. The silhouettes therefore work to “give material form and presence to the disappeared, haunting the streets of Buenos Aires… The silhouettes stood in for the disappeared, making them manifest in very real ways” (Foss and Domenici 250). This “making manifest” the state’s crimes is precisely the Madres’ strategy. By making the idea of erasure literally, visibly apparent, they turn the junta’s strategies against it.

**RECLAIMING THE DISAPPEARED**

In using their bodies and representations of their children’s bodies to turn the government’s own words against it, the Madres are also working to reclaim their disappeared children. The state has taken them, used them to bolster its power, deemed them terrorists and denied their existence. By using their own bodies in conjunction with representations of their children’s, the Madres reclaim the disappeared as real, as good people, and as theirs – belonging to their mothers, not the state. One of the tactics in this reclamation effort is the use of photographs. While still a representation of the body, like the silhouettes, the photographs are a much more direct use of the disappeared bodies in protest. Mellibovsky recalls the now famous March of the Posters, when they began to use the photographs that are now part of their Thursday routine: “[w]e were a whole bunch of Mothers, each one carrying a poster with a hugely enlarged photograph of her disappeared child, and the name, age, and date of disappearance” (133). The photographs serve as proof that their children are real, human beings. For Mellibovsky, these photographs are more than fond memories and portraits of their children; “[t]hey demonstrated an unquestionable existence that had to be restored” (134). Fabj similarly
discusses how the photographs “defy the government’s claim that the children who disappeared never existed” (8). This proof of existence is simultaneously proof of the reality of the disappeared – that the Madres are not the madwomen the junta claims they are. Mellibovsky says that, in displaying these photographs publicly, “I understood that we were showing our countrymen the dreadful truth the dictatorship took pains to hide in thousands of ways” (134). The photographs function as forensic evidence, as proof that the disappeared existed, upsetting the junta’s persistent denials.

Building on this evidentiary claim – that their children and the disappearances are real – the Madres use the photos to reclaim their children by disrupting the state’s narratives of the disappeared as dangerous terrorists. Elsa de Becerra reports that “[i]t was only in 1983 that the junta first admitted that there were desaparecidos. They put out this programme on television where they justified their actions in terms of a way against subversion, saying that the desaparecidos were all dead and that they were all terrorists” (qtd. in Fisher 122). The denial of thousands of missing people is replaced by a dismissal of those people as terrorists – a claim the photographs work to dispell. As we have seen in previous chapters, visual human contact – even with a representation of the body – creates an opportunity for identification. Foss and Domenici argue that these images “gave public presence to the disappeared and created a relationship with those who saw them” (251). This “relationship” is the sort of identification that can challenge the state’s allegations. The claims of terrorism are undercut by the image of desperate mothers displaying photos of their beloved children. Because they are carried by these mothers, the images redefine the disappeared as someone’s children. The normalcy of a mother treasuring photos of her child, and the faces of these everyday young people, subvert the state’s claims that the missing people and their families are violent terrorists.
The potential for this visual contact to turn the witness against the state is especially strong in the photos held by the grandmothers. *Las Abuelas de la Plaza de Mayo* (The Grandmothers of the Plaza de Mayo) are an affiliated group whose grandchildren, mostly little children and infants, were disappeared along with their parents. Marta de Baravalle explains that the photos of the grandchildren in particular “had a great impact on the public because it showed the exact dimensions of what had happened, that they hadn’t only taken adults, but also little children” (qtd. in Fisher 119). The ordinary family photos of both adults and children remind onlookers of their own, framed in their homes or laminated in their wallets. This familiarity promotes identification with the disappeared. They are not a faceless mass of numbers; they are someone’s missing child. In this way, the Madres reclaim their children as *their* children – not terrorists, and not tools for the state to exploit.

Along with the use of photographs, the most important visual strategy the Madres use is their iconic white headscarves. These scarves extend the argument made by the photographs and more directly reclaim the disappeared as belonging to the Madres. As their numbers grew, the Madres needed a way of easily identifying one another at their Thursday walks and other demonstrations. Several accounts recall that De Vicenti (the original leader who was later disappeared) was the one to suggest they use old diapers as kerchiefs, as a way of being close to their children (Fisher 54). As the Madres took up this uniform, they embroidered the diapers with their children’s names and the date of their disappearance. Later, they embroidered them with the slogan “aparición con vida.” Literally “appearance with life,” Bouvard translates this as “BRING THEM BACK ALIVE” (180)\(^\text{32}\). Today, these white headscarves are a globally

\(^{32}\) It is important to note that, contrary to those who used this slogan as evidence the Madres were madwomen, it does not indicate a belief that their children are still alive. In the early years, many of the Madres did believe their children might still be alive (and some probably were), but they now use the slogan because they refuse to accept the deaths until there is justice. As Carmen de Guede explains, “Aparición con vida means that although the majority of
recognized symbol of the *Madres*, and their association with (or former use as) diapers visually invokes the missing children. The women’s status as mothers and public display of their maternal bodies already imply the existence of their children, but the diaper serves to solidify and materialize this absent existence. As Foss and Domenici point out, “diapers contain, represent, and communicate the most material and basic emotional, physical, and psychological bonds between mother and child” (244). The diaper is a distinctly physical symbol of the mother-child bond. A diaper is a material human artifact that serves as a reminder that their children are (or were) flesh and blood, bodily human beings. By wearing them publicly, the *Madres* “actually bring their children’s corporeality back… to help the public perceive the children’s absence physically” (Bergman and Szurmuk 390). While asserting the physical, material reality of their children, the diapers implicitly remind those who see them that the people disappeared by the government were once someone’s babies. The diapers challenge the junta’s declarations of terrorism “by asserting an alternative explanation: the disappeared were children” (Foss and Domenici 245). The significance of the disappeared as children is not only the sympathy this reminder creates; it is also a reclamation of the disappeared. By using the diapers to figure the disappeared as babies, the *Madres* are affirming their connection – their physical bond with their children. This invocation of infancy therefore proclaims that the disappeared do not belong to the junta, but to their mothers.

Extending this idea of the disappeared as babies, some of the *Madres* talk about their missing children in terms of pregnancy. The close, bodily connections this metaphor invokes raise important questions of agency, and whether it, too, can be reclaimed. Hebe de Bonafini, them are dead, no one has taken responsibility for their deaths, because no one has said who killed them, who gave the order” (qtd. in Fisher 128).
the president of the Madres, describes her experience since the disappearance of her sons as a state of permanent pregnancy. Others have also expressed this sentiment, though it is Bonafini who “most forcefully articulates the concept of being permanently pregnant” (Bouvard 183). She says this feeling “is a strange thing… I feel this state of permanent pregnancy. I always feel my children inside me. Often it seems as if we are thinking about the same things. This gives me much strength and makes me feel that my life is being used for the gestation of a new person” (qtd. in 183). The maternal body the Madres have used to visibly articulate their children’s existence is also a way in which they understand their connection to their children. A state of permanent pregnancy certainly characterizes the interminable waiting these women endure. They are constantly, ceaselessly waiting for their children to arrive. Yet, the idea of pregnancy, as Bonafini characterizes it, is not merely a state of waiting – it is also a state of intimate connection to the child. As she says, “it seems as if we are thinking about the same things.” This idea that the thoughts of the disappeared are alive in their mothers is a kind of reclamation, not only of the bodies of the disappeared, but of their agency. Via the process of disappearance, the state has usurped their agency and converted them into tools of the state that are used to threaten the populace with its overwhelming power. Though the bodies of the disappeared have, in most cases, not been recovered, perhaps their agency has been.

The Madres’ sense of “permanent pregnancy” and the linking of minds Bonafini describes indicate that the mothers are now acting with the agency of the disappeared, as it is joined to their own. Some of the Madres see themselves as working not only for their children, but alongside them. In Mellibovsky’s recollection of the March of the Posters, she describes: “[w]e waited on the sidewalk, formed in columns… It was the first time that our kids had come out in the streets with us to march since their disappearance” (133). She feels that, beyond the
mere photographic representation, her child has “come out in the streets” along with her. Many of the Madres feel this very real presence of the disappeared. In a document composed by the Madres in 1984, they write: “[w]e, the Mothers, always ‘talk’ with our missing and detained children; they are constantly at our side and feed our strength. We evoke their generosity and their devotion to others: their peers, their brothers and sisters” (qtd. in Agosin 74). So, the Madres view the disappeared as active participants in the movement, marching beside their mothers.

This idea that the Madres “evoke their generosity and their devotion” and act upon the intentions of their children is also expressed in the complex idea that their children have birthed them. In the January, 1988 issue of their monthly newspaper, the Madres write: “[o]ur children begot us… You stop being a conventional mother when you give birth to children who think and work for something beyond their narrow personal goals” (qtd. in Bouvard 178). The Madres are referring here to the many community service projects in which their children were involved. Prior to the disappearances, most of these women occupied a traditional domestic role, with little education and no involvement in politics. The paradox of the children birthing the Madres describes how these women feel their children’s activism sparked their own. In her description of her son’s work in impoverished communities, Landin says, “[t]o him, they were all brothers in Christ. He saw no difference in color or class. My son really taught me. It’s as if he had given birth to me and not me to him. He taught me how to love people” (qtd. in Muñoz and Portillo). This sense of their children “birthing” their political awareness and activism implies a kind of agentic recovery of the disappeared. Foss and Domenici call this the “pregnancy synecdoche.” It is a paradox that “construct[s] a world in which children become the agents of their mothers’ activism” (246). While I do see the paradox of children birthing their mothers as a way for the
disappeared to exercise agency, I am not sure synecdoche captures the relationship the Madres describe. The part and the whole of synecdoche creates a kind of hierarchy – the mothers are the whole and the children are a part. Even if the whole and part as equated in synecdoche, it still seems an inadequate description of the Madres’ experience of working side by side with their children. Rather than a whole and a part, each Madre and her child is a whole. They are two wholes, united in their struggle. Mellibovsky recalls protesting along with her child, and Bonafini describes thinking the same thoughts as her sons. One is not a stand-in for the other; they are standing together.

Furthermore, Foss and Domenici view this synecdoche as part of the “haunting metaphor [that] may be one of the few metaphors powerful enough to encompass the Mothers’ symbolic activity” (251-252). This idea of haunting does not adequately encompass the Madres’ rhetorical strategies, nor how they experience their relationship to their children. Haunting, of course, denotes that the dead have returned. Yet, when the Madres first used the headscarves and other symbols central to their strategy, most of them believed their children were still alive. Indeed, they may well have been. The existence of 340 detention centers throughout Argentina clearly proves that the disappeared were not killed immediately, but kept in these clandestine prisons. As decades have passed and the death of the disappeared become certain, one could perceive the effect of their revived presence as haunting. Yet, this frame does not characterize the Madres’ experience of their relationship with their children or their rhetorical strategies. While “haunting” could imply that these ghosts have some agency, it also connotes an unwelcome presence, one that disturbs and even terrorizes the living. A haunting, as an antagonistic relationship between the living and the dead, does not capture the Madres’ experience of working alongside the disappeared. Their rhetorical symbols and strategies center on this sense
of collaboration, not antagonism. They are not haunted by ghosts; they are united with their children. Rather than a haunting synecdoche, the Madres both experience and deploy an agentic and bodily unity with their children.

The Madres display this strategic bodily unity visually in some of their public demonstrations. At a march in the late 1980s, the Madres were joined by thousands of young people wearing masks to represent the disappeared (Bouvard 232). The people wearing masks are stand-ins for the disappeared, functioning similarly to the silhouettes. However, the masks temporarily transfer the identities of the missing onto flesh-and-blood bodies, emphasizing the materiality of the disappeared, but also allowing them to exercise agency via these other people’s bodies. This is another case in which the idea of haunting seems an inadequate frame for what is going on with regards to agency. If this were a haunting, we would interpret this masked march as some kind of mass possession, with the dead overtaking the bodies of the living – much like the state overtakes the agency of its victims. Yet, the disappeared have not violently taken over the bodies of these protesters. Rather, the protesters are willingly sharing their bodies with the disappeared, offering them for the disappeared to temporarily regain bodily visibility. This march is a kind of visual display of how the Madres use their bodies in their activism, enabling their children’s agency to continue. These mothers are not simply the vessels for their children, shells for someone else’s agency. That is what the state attempts to turn bodies into. In the case of the Madres, the disappeared do, in a sense, use other people’s bodies (their mothers’ and the masked marchers’), but they do not destroy or replace those people’s agency. Instead, the persons and agencies seem to unify within the body. This is not the self-sacrificing mother offering up her body for her children. The Madres have willingly joined their own agency with their children’s and thus gained political and cultural power.
THE RHETORIC OF RECLAIMED BODIES

The rhetoric of other people’s bodies, then, is a flexible rhetorical tool like any other. It can be used violently, as in the case of the junta, to subjugate a population and secure repressive power. Yet, the example of the Madres provides an alternate possibility. Though not using physical bodies, because there are no bodies to use – not even the remains of bodies in most cases – the Madres use representations of their children’s bodies in conjunction with their own in their arguments. Their experience of unity with their children – even physical unity in the state of permanent pregnancy – converts their use of their own bodies into a use of both bodies jointly. Instead of one rhetors’ use of another’s body, we could therefore interpret the Madres’ combined use of representations of the disappeared and their own bodies as two rhetors mutually using one another’s bodies.

This bodily, agentic unity is entirely unlike the state’s use of other people’s bodies. In this case, the rhetor’s own body is also at stake – not safely ensconced within the power structure. Furthermore, the Madres’ case is one of familial connection. The bodies being used are not “other” – they are one with the rhetor. The intimate identification and physical connection enables the Madres and their children to reclaim the usurped agency (in the case of the children) and awaken agency (in the case of the mothers). Thus, we find that the rhetorical use of other people’s bodies is not necessarily violent. The agency of those absent bodies is reclaimed as the Madres work to carry out their children’s and their own vision for the world. The rhetoric of other people’s bodies has the potential to reclalm agency and resist oppression, as well as the power to destroy agency and perpetrate violent oppression.
CONCLUSION:
AGENTIC COLLABORATION AND RESISTING STATE VIOLENCE

Incarceration, torture, and disappearance all follow a similar pattern. In the case of mass incarceration, the US uses legal and political invisibilities to maintain the narrative of minority criminality, hiding racist policies and shifting the burden of social and economic failures onto the shoulders of the disproportionately black and brown citizens it incarcerates. In post-9/11 torture practices, the US uses textual (and spatial) invisibilities to maintain the narrative of the monster, avoiding culpability for its legal and ethical transgressions. In the Dirty War, the Argentine state uses physical invisibility and the cognitive invisibility of denial to maintain their narrative that claimed the state was not doing anything – and later, that the state was fighting a civil war against dangerous terrorists. Despite the spectrum of bodily violence and agentic control in these cases, in each we see the states using similar methods to create these narratives that support the status quo of social and political power.

The rhetoric of other people’s bodies is, in these cases, violent. In each case, the state transforms unwilling human beings into rhetorical tools to support its own narratives. In order to accomplish this transformation, the state disrupts or even destroys these individuals’ agency via acts of physical and psychological violence. The state replaces their victims’ freedom to act and choose for themselves with the state’s own agency – using these bodies to bolster the narratives upon which state power and legitimacy depends.

While this pattern is an old one, it takes on new features in the modern era. A distaste for public acts of violence and greater attention to human rights shift the context in which such violence functions, particularly within democratic states like the US, but also in cases like Argentina’s dictatorship, which operated under international scrutiny. When the power of bodily
violence must coexist with legal legitimacy, strategic invisibility of the body becomes a central part of state rhetoric. By making the bodies of its victims invisible, the state can continue to engage in violent – and even illegal – practices without forfeiting its legitimacy or tarnishing its public image. This cautious duality sustains the powerful narratives that the state creates using other people’s bodies. Strategic invisibility, though its particular deployment varies, is a common feature of state rhetoric in the twentieth and twenty-first centuries. In these cases, we find that multiple layers and forms of legal, textual, and even spatial invisibilities work collectively to hide the state’s acts of violence – both legal and illegal – and obscure the agentic responsibility for that violence.

These invisibilities protect the disidentifications that sustain the status quo. As we have seen in the photographs from Abu Ghraib or the public display of Emmett Till’s remains, a visual encounter with the suffering or mutilated body can unsettle one’s entrenched disidentifications and provoke an empathy that counters the state’s narratives. This identification is, of course, not the outcome of every encounter between two people; if it were, violence would not occur. Visibility is significant in that it provides an opportunity for empathy. It has the potential to form a crack in the wall of disidentification. As discussed in Chapter One, a disidentification is a buried identification that must be “leveled and buried again and again” (Butler, Bodies 114). A visual encounter with the body can bring these disidentifications into one’s conscious awareness and, perhaps, unbury them. By making the bodies of incarcerated, tortured, and disappeared people invisible to the broader public, the state closes down the potential for a visual encounter with the suffering body. Such an encounter is dangerous to the state, because the empathy it invites could challenge the political frames that lead to disidentifications and the failure to recognize the Other as precarious life.
Despite these efforts, the state’s attempts at bodily invisibility are not always successful. Activists have worked against mandatory minimums, recognizing their racist assumptions and the injustice of such lengthy sentences. The Abu Ghraib photographs and the Senate Intelligence Committee Report on Torture, along with the testimony of people like Bashmilah, have led to some (albeit limited) backlash against the US for committing acts of torture. The Argentine military dictatorship is now remembered for its human rights violations and the disappearances it committed, abuses that contributed – along with the economic crises and a failed war against the British – to its downfall. The walls of invisibility are not impenetrable, and neither is the state’s seemingly monolithic, indomitable power. As Garland puts it, “[t]he disappearing body always reappears” (790), and when it does, the evidence and empathy it produces can lead to resistance. Though the state’s power can seem insurmountable, as the case of the Madres de la Plaza de Mayo demonstrates, resistance is possible – and even those murdered by the state can be reclaimed. When the invisible body is visible again, resistance can diminish the power of the state.

In their activism, the Madres not only prove that resistance is possible; they also reveal other possibilities for the rhetorical use of other people’s bodies. The Madres use their bodies and representations of their children’s bodies to resist rather than enact violence, to expose rather than to cover up the reality of the state’s culpability. While their goals differ from the state’s, they are also using other people’s bodies as a central rhetorical tactic, yet the relationship between the rhetor and the body used rhetorically is entirely different. Unlike the state, they use the bodies of close, beloved relatives; as a result of this familial connection, the nature of that rhetorical use shifts dramatically from how it is enacted by the state. In understanding the possibilities for a nonviolent, and even anti-violent, rhetoric of other people’s bodies, even more
important than the social relationship between the rhetor and the body is the agentic relationship. To be sure, one could use a family member violently, in a way more similar to the state. The *Madres*’ use of bodies differs from the state’s not only in this familial connection, but in how they work with their children in a mutual use of one another’s bodies. Though the absence of the disappeared complicates their status as willing participants, the efforts toward collaboration exist both in their goals, with the *Madres* taking up the projects begun by the disappeared, and in their methods. They use their own bodies in conjunction with their children’s, even putting themselves at risk – not using their children to create false narratives or avoid responsibility for their own actions. It is this collaborative nature of their work that distinguishes their use of bodies from the state’s use of those same bodies. Rather than attempting to usurp the agency of their children’s bodies and convert them into unwilling tools, the *Madres* collaborate to strengthen (or recover) the agency of these bodies.

This project has considered the rhetoric of other people’s bodies with particular attention to state violence, and the patterns of this violence raise questions about other rhetorical uses of bodies. Certainly, there are nonviolent rhetorical uses of others’ bodies – consider the tattoo artist or choreographer. Those cases, while they use other’s bodies rhetorically, involve the use of *willing* bodies – people who have chosen to participate. Even the collaborative efforts of the *Madres* did not have willing participants in the same way; though they work to continue their children’s work, those children are absent. The use of willing bodies is worthy of scholarly attention, and undoubtedly has its own complications of agency, but the nature of such acts positions them outside of the pattern discussed here, which focuses on the use of unwilling bodies.
I believe the most immediate questions this project raises are whether the patterns and strategies of state violence characterize other cases of this violent rhetorical use of unwilling bodies. For example, does gang violence function similarly to state violence? Do murderers use similar means of disrupting the agency of their victims? Do perpetrators of domestic violence also deploy strategic invisibility to avoid culpability? If these forms of violence are also rhetorical in nature, as I believe they are, who is the audience for this rhetoric? Do the perpetrators of this violence also attempt to maintain a public face of civility or legality? How does the state interact with or complicate these other forms of violence? How do these rhetors account for both the state and the public in their deployment of strategic invisibilities? Though I suspect these forms of non-sanctioned violence follow a rhetorical pattern similar to that of state violence, a more thorough investigation of these questions is necessary for a fuller understanding of this rhetoric of other people’s bodies. Scholarly attention to the rhetorics of these other types of violence is important, as they can be as damaging, pervasive, and inescapable as state violence.

Understanding the rhetorical patterns and strategies that use people’s bodies against their will is crucial in determining how to address, resist, and overcome violence. The Madres understood how the state was using denial and bodily invisibility to hide the reality of its crimes from the public; they knew that, to resist this violence, they had to reverse the strategies of the state and make the disappeared body visible once more. This use of visibility, the creation of an encounter that holds the potential for empathetic identification, is the most effective means of resisting state violence. By revealing the crimes that the state attempts to hide, the reality of violence and injustice becomes clear. As important as this evidentiary function is, visibility is perhaps even more significant for how it can challenge the political and social frames governing
disidentification. Invisibility is not merely the screen behind which the state inflicts violence; it is also the means by which identifications are kept buried and unconscious. Encountering the Other, visually or otherwise, is the only route toward a greater recognition of the precariousness of all human life, toward identification. In uncovering the state’s narratives of power, we also uncover the humanity of those on whose suffering this power depends.

Therefore, as rhetoricians and citizens, we must look closely at what is absent in state rhetoric. It is here in the invisibilities that power grows unchecked. By making visible the bodies erased from view, we can question the state’s narratives and expose the prejudices on which extralegal power depends as it violently transforms unwilling human beings into rhetorical tools.
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