

4

Identity, DNA and the State in Post-Dictatorship Argentina

Noa Vaisman

What role can and should the state play in shaping an individual's identity? How has the discovery of DNA as a tool for identity verification fashioned the relationship between individuals and the state? And what is the social power and political limits of the statement 'you are your DNA'? These questions guide my analysis in the present chapter, where I examine the case of the 'living disappeared' – individuals who were forcibly kidnapped as infants by the military dictatorship that ruled Argentina between 1976 and 1983. These individuals, now adults in their early thirties, were raised, in many cases, by the perpetrators of the crime or their accomplices. After their biological identities and familial relations were erased by their appropriators, they were given new names and brought into new kinship relations. The majority of them are still living today with no knowledge about their past or their biological families. My aim in examining the case of the 'living disappeared' and the various approaches that the Argentine state has taken to resolving this very complex situation is double: first, to better understand the relations between individual identity and DNA in this particular historical and political context; and, second, to examine the impact of new technologies, particularly advancements in DNA identity testing, on citizen–state relations in Argentina.

As others in this volume show, and as I discuss further below, the use of DNA to verify genealogical relations is not new, nor is the use of DNA to identify individuals and tie them to specific places and events (see, for example, Aronson 2007). This said, the case of the 'living disappeared' raises different questions and conundrums that I believe can be illuminating for a broader discussion of identity after DNA. Specifically, the case brings into view the complex ways in which DNA is being used today to shape notions of selfhood and identity, and to refashion state–subject relations. In the context of a volume that explores identity politics after DNA, my use of the term

‘identity’ should be clarified. By ‘identity’ I mean not only the external and internal manifestations of an individual’s biological makeup (see Skinner 2006) but also the socially constructed and historically formed ways in which a person understands him- or herself to be. In this formulation both the social and the biological and their intertwining are politically charged and individually and collectively negotiated. The rift that was created between the genetic (biological) and the social (the lived experience of the person as him- or herself) in the case of the ‘living disappeared’ is the focus of this chapter.

During the last military rule in Argentina the forced disappearance of infants implied in many cases the active production of new selves for the very young. This was done, as I elaborate below, within the confines of the state when it was ruled by the Armed Forces – specifically, through the falsification of state documents and the creation of social worlds that supported the lies and sustained the fabricated kin ties. Under the re-established democratic government, the work of recuperating the identity of these individuals has taken place through investigations into their personal histories and through the use of genetic tests to uncover and verify their genealogical relations. In this chapter I present the process of identification and restitution,¹ and point to the complexities of the situation and the role of DNA in shaping what is considered – the ‘truth’ of identity.²

The chapter is divided into three parts: I begin with a description of the historical circumstances that created the conditions for the forced disappearance of infants and their subsequent raising by the perpetrators of the crime. In the second part I offer a history of the identification methods and their development in the case of the ‘living disappeared’. In this section I examine the ongoing controversy over obligatory DNA identity tests and the solutions the Argentine state has come up with when dealing with cases where individuals have refused to undergo such a test. I end with an emblematic story of a ‘living disappeared’ and her process of restitution. The story allows me to explore the power of DNA for current understandings of individual identity and to demonstrate some of the complexities raised by the case of the ‘living disappeared’.

The Military Dictatorship and the Forced Disappearance of Infants

The 1960s and early 1970s were a time of turmoil and change in Argentina. As happened in other parts of Latin America, the period was characterized by great social and political tensions and grand ideological struggles. At the time, partly in response to the recurring cycles of dictatorial and semi-dictatorial rules, a massive social and political movement developed. Although not restricted to armed struggle, some of the movements resorted to violence in their attempts to foment a revolution. However, their aspirations were cut short by a massive repressive apparatus that was first led by a paramilitary organization – the Triple A (the Argentine Anti-Communist Alliance) – and later by the Armed Forces (Rock 1993: 223).

The Armed Forces condemned the rise of what they considered ‘subversive’ behaviour. They viewed the tremulous political situation as a symptom of a much

larger process of social and political world-takeover by Marxist forces. It was their mission, they believed, to preserve the national culture and Western moral values of Argentines, and to help the country by leading it back towards the road to modernization and civilization (Robben 2005). Unlike earlier dictatorial rules, this last one, which began with a coup d'état on 24 March 1976, attempted to completely change and redirect Argentine society and its future. The regime no longer saw its mission – as earlier dictatorial regimes in the country did – as solely marking a short passage towards a more stable democracy; rather, the Armed Forces envisioned itself responsible for the reorganization of the country as a whole (Novaro and Palermo 2003: 19).

The ideological pillars of the dictatorial rule can be traced back to the early 1960s, when the Argentine Armed Forces adopted the Doctrine of National Security (Rock 1993: 194–237). According to Rock (1993: 195), the Doctrine had three theses: first, that a world communist conspiracy against the West existed and that all 'subversive' forces which struggled to disseminate communism by infiltrating Argentine society and its political institutions were the hidden enemy that had to be discovered and eliminated; second, that national security and economic developments were linked in a way that one could not be achieved without the other; and, third, that the Armed Forces had the right to test the ability and standards of every democratic government and, if found faulty, to overthrow it.

After taking power, the leaders of the Armed Forces declared their objectives: to reinstate Christian values and national traditions and to salvage and reclaim the dignity of all Argentines. To do so they had to ensure national security and to eradicate all subversion and all elements that aided in its existence (Novaro and Palermo 2003: 20). This struggle against subversion had to be done, according to their doctrine, in secrecy, and it included the forced disappearance of individuals, their torturing in clandestine camps, and finally their assassination. It also involved a large repression apparatus that engulfed the whole of Argentine society through street and media campaigns that invited the population to participate in identifying and reporting on any 'subversive' behaviour.

The Plan for National Reorganization (*Plan de Reorganización Nacional*) was implemented across the country immediately after the coup and resulted in thousands of disappearances, thousands of political prisoners, and innumerable individuals and families who went into exile. Together with this planned repression, another plan had gone into effect: the forced disappearance of close to 500 infants. According to numerous human rights organizations (HROs) in Argentina, the Armed Forces had a clear plan to kidnap the infants (the children of the adult disappeared) and raise them in an environment that was more conducive to their ideological position. Grandmothers of the Plaza de Mayo (*Abuelas de Plaza de Mayo*), an HRO, has argued repeatedly that the abduction of infants during the dictatorship and the altering of their identity was part of a systematic plan to annihilate the enemy (Arditti 1999; Abuelas website). The children were forcibly disappeared in one of three ways. They were either taken with their parents by members of the 'task forces' and later separated from them and given up for adoption, or illegally appropriated by military

and police personnel and their relatives. Alternatively, they were born in clandestine camps to women who had been held captive after being abducted; children of captive parents were usually taken from their biological mothers hours or, at most, days after their birth. The third form of disappearance took place in the event that the biological parents were abducted from the streets or from another public space, leaving their children without a guardian. In those cases, someone would find the child and hand him or her over to the authorities that, in many cases, did not look for the biological family but instead gave the child up for adoption (for an analysis of some of these cases and the question of illegal appropriation and adoption, see Villalta 2010; Regueiro 2010).

Abuelas and the Search for the Disappeared Children

First under the dictatorship and subsequently during democracy, the fight against human rights violations has been led by the families of the victims. *Abuelas de Plaza de Mayo* is one of a number of HROs that emerged under dictatorial rule. Founded in 1978 by women whose adult children and their children had been disappeared, this HRO focuses on finding the ‘living disappeared’, that is, their grandchildren, and ‘restoring’ their identity. The work of *Abuelas* is anchored in the idea – established within human rights legal instruments – that each individual has a right to his or her own identity.³ This identity was altered (or ‘stolen’) when the infants were forcibly abducted by the military regime and provided with new names, new identity documents and placed in new families. By searching for these individuals, identifying them, and providing them with information about their biological families, the organization claims that it is giving them an opportunity to reconstruct their identity based on both knowledge and truth. The grandmothers argue that instead of the lies and half-truths they had grown up with, the individuals who have been found can now construct, with the knowledge they have, a ‘true’ and solid identity.

However, the road to the identification and restitution of the ‘living disappeared’ was never smooth. With the return to democratic rule in 1983, *Abuelas* approached the state for support; the response the organization received varied between the different administrations. Below I point to three achievements in *Abuelas*’s attempts to rectify their political plight: the creation of the National Bank of Genetic Data, the creation of the National Commission for the Right of Identity (CONADI) and the International Convention on the Rights of the Child. Although these institutional achievements are great, the act of restitution is much more complex and involves a legal process as well as a DNA test. Because cases of restitution must pass through the courts, *Abuelas*’s approach to the process has been shaped by key legal decisions. Therefore, following a discussion of the methods used for identification, I address a few key legal decisions and elaborate on their political and social ramifications.

The National Bank of Genetic Data

Following their plight to identify the children who were located through anonymous tips and rigorous searches, *Abuelas* approached Raúl Alfonsín, the first democratically elected president after the dictatorship, with a project: to create a National Bank of

Genetic Data. Abuelas, a number of governmental organizations and the immunology service in the Duran Hospital proposed the project that was ultimately passed as a law in May 1987. Today the Bank holds the genetic information of members of families of the ‘living disappeared’ who are looking for one or more of the disappeared children (Abuelas de Plaza de Mayo 2008; Avery 2004). Although there is genetic information from many families in the Bank, information is still being collected today from families that did not provide their testimony on previous occasions, or in more recent cases where pregnancies, which were not known about, are discovered through the crossing of information from various survivors’ testimonies. The information in the Bank, according to the law, will be safeguarded until at least 2050. Moreover, the law stipulates that all genetic testing for identity will be free for the families of the disappeared; separately it was also stated that in cases of individuals whose identity is in question, the presiding judge can send for genetic testing in the Bank (Abuelas de Plaza de Mayo 2008: 72). According to María Belén Rodríguez Cordozo, who heads the Bank, when a person arrives for a blood test, his or her identity paper is revised, and fingerprints, a photo and a blood sample is taken (Abuelas de Plaza de Mayo 2008: 114).

CONADI and the Spontaneous Search for Identity

Following the request of Abuelas, the government created the National Commission for the Right to Identity (CONADI). This institution is a hybrid between a nongovernmental organization and a state structure that is responsible for the advancement of the search for the ‘living disappeared’ and other individuals whose identity or biological origins are unknown. The Commission works closely with Abuelas and is unique in its mandate to issue DNA tests without having to initiate a legal process before the results are known. Since its founding in 1992, the Commission has become a place where many individuals who have doubts about their identity have come to get help and investigate their biogenetic ties. In some cases, the Commission is viewed by potential seekers as a safer place to approach than Abuelas or even H.I.J.O.S.⁴ because it does not have the same political profile that both HROs have. Thus, as I was told by the head of CONADI, individuals who had been taught by their appropriators to hate and fear the HROs – particularly Abuelas of the Plaza de Mayo and Madres of the Plaza de Mayo – find approaching CONADI with their doubts a little simpler.

In recent years, the spontaneous presentation (*presentación espontánea*) of individuals in both CONADI and Abuelas is becoming more widespread. In fact, the majority of individuals located in recent years have sought out one of the organizations rather than having been located through detailed searches. This is particularly true since the ‘living disappeared’ have become adults and are exposed to the numerous media campaigns that Abuelas organize. These campaigns include many festivals and art exhibits, as well as an annual cycle of short plays that are performed for free in many of the central theatres in Buenos Aires and in other major cities in Argentina. In 2005 I was told by members of Theatre for Identity’s (*Teatro por la Identidad*) organizing committee that at least three individuals had approached Abuelas and

CONADI after watching a play in that year's cycle. All three were looking for more information about their biogenetic ties.

The International Convention on the Rights of the Child

The fight for the restitution of the disappeared infants within the Argentine setting also generated an international appeal. In the mid-1980s Argentina became involved in the drafting of the International Convention on the Rights of the Child, which was adopted in November 1989 by the United Nations General Assembly. Abuelas played a significant role in the formulation and development of three articles in the Convention. Article 7 states that the child will be registered right after the birth, will be given a name and will be cared for by his or her parents. Article 8 states that the child has the right to preserve his or her identity, including nationality, name and family relations. States will also provide assistance and ensure the re-establishment of these rights if the child has been illegally deprived of some or all elements of his or her identity.⁵ Article 11 indicates that the state will take measures to combat the illicit trade of children and their transfer abroad. Ratifying the Convention was significant both as a statement by the democratic government about violations of human rights and as a position that could be adopted in legal deliberations. In 1991 and again in an appeal in 1992 using the right to identity as the judicial argument, the first case of full adoption was annulled. This case, the Ximena Vicario case, is complicated⁶ and important because full adoption in Argentina is irrevocable; however, with the recognition of the right to identity and the exposure of the falsified documents, the adoption was nullified and the law was changed (Jaroslavsky 2004: 105; Oren 2001: 165–169).

The three achievements described above have been stepping stones on the road to locating and identifying the 'living disappeared', but they have left much to be desired. Specifically, finding the 'living disappeared' is still contingent upon either a search conducted by the HROs based on anonymous tip or the spontaneous appearance of individuals who have doubts about their identity in one of the institutions that work towards their localization and identification. In other words, the state has not done much to help locate these individuals by, for example, requiring the military to provide information about possible births in clandestine camps during the dictatorship. Moreover, as I describe below, the process of identification is long and complicated and takes place in a system which still employs judges and lawyers which supported the military rule. The extensive history of the struggle to locate and identify these individuals and its various turning points is a testimony to Abuelas's fight to find and recover their kin.

Finding and Identifying the 'Living Disappeared'

A number of paths can lead to the localization and identification of an individual as one of the 'living disappeared'. One path, which was particularly important until a few years ago, is the investigations that the HRO Abuelas conducted following anonymous tips. The investigations include, for example, research into the history

of the family, the possible location of the birth, and any ties that the family had or continues to have with police or Armed Forces personnel who were on active duty during the dictatorial rule. A second successful path was developed when Abuelas realized that once the children had grown older, they were themselves capable of conducting a search for their biological families. The aim then became to persuade individuals, who were born between 1975 and 1980 and who have doubts about their possible biological identity, to initiate a search. To accomplish this goal, Abuelas created numerous artistic campaigns, organized festivals and produced public advertisements where the forced disappearance of infants was depicted. These campaigns used phrases such as: 'if you were born between 1975 and 1980 and you have doubts about your origin contact Abuelas' or 'to be able to choose one must know the truth'. These phrases reflect the position of the organization regarding the disappearance of infants and the implications of the crime for Argentine society more generally. More specifically, for the organization the fact that there are hundreds of individuals who are living with altered identities amongst the Argentine population means that anyone can be a 'living disappeared' and no one's identity is certain. This is particularly true for a whole generation – those born just before or during the dictatorship – which was targeted for disappearance and alteration of identity.⁷

The methods used to identify individuals also changed over the years. While still under dictatorial rule, the 'living disappeared' who were found by Abuelas were relatively easily identified by sight, that is, by finding visually palpable familial resemblances. However, this form of identification was not legally sufficient to determine familial ties, and Abuelas had to find other means to establish the children's identity. Moreover, in some cases the children were never seen by a living biological relative, making identification by sight impossible. As the 'living disappeared' grew older, identification became even more complex, requiring a long process of verification. To solve the problem Abuelas turned to scientists for help. In fact, since the early years of the organization's work, scientists and scientific methods have been used to establish the identity of the 'living disappeared' and to compensate for the lack of information about genetic ties which was caused by the disappearance and subsequent assassination of the biological parents (Abuelas de Plaza de Mayo 2008: 29–101).

In the early years during and directly after the dictatorship, the central method of identification was blood tests. However, until Abuelas presented their case to scientist in the U.S.A. and Europe, most blood tests and statistical measures for paternity were based on the possible ties between biological parents and their children. The case of the 'living disappeared' was different because there was no genetic information from the biological parents, only genetic information that could be collected from the grandparents and family members who survived. Thus, there was a need to develop a new method to measure the probability of genetic connections between individuals and family members. In the early 1980s a statistical solution was created and named 'grandpaternity testing' (Penchaszadeh 1992: 296). It was based on the common paternity blood tests (the comparison of different red blood cell antigens such as ABO, Rh, Kelley and white cell HLA antigens) with the modification of the statistical

formula to account for the missing information from the progenitors. By comparing a large number of genetic markers between the 'living disappeared', grandparents and other family members, it is possible to exclude paternity in a high percentage and subsequently assign a probability of inclusion in a specific biological family (Arditti 1999; Penchaszadeh 1992).

With the creation of the National Bank of Genetic Data, the process of identification evolved and improved. Thus, when a potential 'living disappeared' is 'located', genetic markers on his or her DNA are compared with the DNA material of all the families in the Bank. In cases where the individual has been found to be included with a very high probability (over 98 percent) in a particular family, his or her identity is officially recognized. However, in some cases there is no statistical evidence for inclusion. One reason for this is the lack of genetic information available for comparison because some biological families did not deposit their genetic material in the Bank. Another reason is that as a response to the repression, some families withdrew from the public sphere and closed off to outside and even state-initiated retribution. Other reasons are lack of knowledge; in particular, there are some cases where the families of abducted adults did not know about the pregnancy and thus never initiated a search. With the slow collection of information from survivors and the crossing of data from other sources, some clandestine pregnancies have been uncovered and the families have been contacted.⁸

Today the methods of identification are based on a number of different elements: microsatellite markers on chromosomes as well as on the X sex chromosome and, if applicable, the Y sex chromosome, and mitochondrial DNA. By using a large number of markers it is possible to 'obtain kinship probabilities that are high enough to confirm biological links' (Abuelas website).⁹ This means that it is possible to exclude a person with a very high degree of probability. If no exclusion can be determined it is considered a high inclusion case. The probability of inclusion is based on the frequency of the markers in the population; therefore, if a person was not excluded from a genetic group, there is a high probability (over 98 per cent) that he or she is part of that familial group (Lynch 2003; Penchaszadeh 1992).

DNA and Identity: A Complex Picture

Many of the chapters in this volume centre on the search for identity and ancestry through DNA tests (see Chapters 5, 6 and 7). They examine the complex relations between the scientific methods used to demonstrate links and connections between people across space and time, and describe people's use of this information for the purpose of constructing or re-evaluating their personal lives and collective affinities. These chapters depict the search as an outcome of, in most cases, individual curiosity, a desire to belong or a personal need to reconstruct a lost history (e.g., a group or familial history lost as a result of slavery; for other examples see Nelson 2008; Pálsson 2007; and TallBear 2007). And, although this search requires the participation of many people and sometimes whole groups (not only through Internet-based networks but also in the production of DNA databases large enough to allow viable comparisons), it is at its core a personal project.

While the cases mentioned above raise questions about individuals' desire to belong and the role of scientific methods in the production of identity politics today, the case of the 'living disappeared' presents us with both similar and additional conundrums. Although in some instances individuals suspected of being 'living disappeared' have come to Abuelas or to CONADI asking to learn about their genetic ties, in numerous other cases they have demonstrated a clear disinterest in learning of their biogenetic origins. Instead they have been either approached by the organization or required by the courts to undergo a DNA test. This second scenario, where an individual is reluctant or even refuses to learn her or his identity but is obligated to do so, produces a complex set of tensions and conflicts. Whose rights should prevail, those of the individual over her or his biogenetic information, or those of the state over that same genetic material? Is the individual's right to privacy more important than the right of the family to find out about a possible family member? It is important to note that one of the particularities of the cases of the 'living disappeared' is that the state is involved in producing the personal history of each individual. In other words, it helps in rearticulating ties which, when governed by the military, it intentionally destroyed. The state's involvement in the production of an individual's identity is not straightforward and, as I show below, over the years there have been various turning points and dramatic shifts in this relationship.

The Reaction of the 'Living Disappeared' to the Identity Tests

In most cases the identification of a 'living disappeared' is a long and difficult process which begins either with a search conducted by one of the organizations (Abuelas or H.I.J.O.S.) based on anonymous tips or with an individual approaching Abuelas because he has doubts about his real origin and questions about his biogenetic ties. Aside from scrutinizing the historical data registered in official state documents, revisiting familial history and using testimonies of witnesses to verify information about the individual's early life, part of the identification process includes the ordering of blood tests. The blood is used to extract DNA which is then compared with the DNA of families which have deposited their genetic material in the National Bank of Genetic Data. The legal demand for a blood test in the case of those suspected of being one of the 'living disappeared' has produced mixed results: some of the individuals resisted by simply not appearing for the blood test or appearing for the appointed test but refusing to give blood. Others have resisted by appealing the courts' orders, reaching in some cases the highest instances of the legal system – the Supreme Court of Argentina.

Key Cases in the Supreme Court

In 2003 the Supreme Court of Argentina ruled in a case of a 'living disappeared' who refused to undergo a blood test which was to be used for a DNA identity test. The Court stated clearly that the state could not force an adult to give blood or to search for her own identity if that individual was not interested in learning about her past and biogenetic ties (see Vaisman n.d.[a]). Since that verdict was passed, a new method of identification and verification of identity has been put in place – identity tests

based on DNA found in biological material that is naturally detached from the body and left in the environment (on clothes and other surfaces). In 2005 a judge sitting in one of the cases of a possible 'living disappeared' found out that DNA identity tests can be carried out not only on blood but also on other bodily substances. The judge ordered house searches in the homes of a few individuals whose identity was in question. In those raids, personal objects such as used clothes, toothbrushes, a comb and used linen were collected. All these objects can contain old skin and hence may be a good source of DNA material. This method eliminated the need to extract blood and has allowed the courts to bypass the difficult problem of using the body of the individual against his or her will (see Abuelas de Plaza de Mayo 2008; Lyon 2001).

Since this tactic was first implemented, material evidence from the homes of at least nine individuals who had refused to undergo a blood test was used to ascertain their genetic identity as 'living disappeared' (Abuelas website). The juridical reasoning behind these house raids has been that the crimes of disappearance and alteration of identity are ongoing and it is the obligation of the state, through its judicial system, to stop them.

In August 2009 another key case reached the Supreme Court. This time an individual who was suspected of being a 'living disappeared' and whose house was raided in a search for DNA material contested the search and the state's right to uncover his biogenetic ties. In that case, the Court ruled that although the state cannot force the individual to provide blood for a DNA test (based on the 2003 ruling), it has the right to uncover an individual's identity using alternative means, i.e. to conduct a test based on other biological material which is collected from the homes of individuals suspected of being 'living disappeared'. Two of the presiding judges also suggested in their ruling that although the state has a right to find out whether an individual is a 'living disappeared', it does not have to impose that information on the individual in question. That is, if the individual is not interested in learning of his biogenetic ties, the state can keep that information from him and only notify the biological family, which has been searching for him since his disappearance (Vaisman n.d.[b]).

From Supreme Court Decisions to an Amendment of the Law

Soon after the Supreme Court's decision in August 2009, an amendment of the federal code of criminal procedure – law number 26549 – was enacted. According to the new amendment,¹⁰ which was passed in late November 2009, the state has the right to carry out a DNA test for the purpose of verifying an individual's identity, even against his or her wishes. In each case where the identity of an individual is in question, the state must first use all available alternative means before attempting to carry out a blood test. In other words, although the amendment allows for 'minimal extraction of blood, saliva, skin, hair or other biological samples', it also states that these tests should be carried out with minimum interference and injurious effects to the person and 'without affecting his modesty, considering especially his gender and other particular circumstances'.¹¹ Moreover, 'if the judge considers it advisable, and always when it is possible to reach the same level of certainty with the results of

the method used, [the judge] can order the collection of DNA using means other than corporeal inspection, such as the confiscation of objects that contain cells which are already separated from the body'. The decision on the methods used must be based on the particular circumstances of the individual; that is, the judge must take into account the conditions of the individual and 'avoid his re-victimization and protect the specific rights that he has'. In effect, the amendment supports the use of all methods – including blood tests – to verify the identity of an individual. However, it also recognizes that alternative means of DNA identity test can and should be used prior to any corporeal inspection.

The amendment is interesting for a number of reasons: first, unlike the 2003 Supreme Court decision, the amendment states that blood tests *can* be carried out in cases where other means of identity verification using DNA material have been exhausted. Second, the law does not distinguish between the individual's wishes and the need to clarify 'circumstances of importance to the investigation'. In other words, the aim of the DNA identity test is not only to identify the individual but also to elucidation the crime (in the case of the 'living disappeared', this implies the forced disappearance and appropriation of the individual in question). This is a subtle but important point: in the 2003 Supreme Court decision, the Court ruled that the individual's intimacy and privacy were more important than the final and absolute clarification of the crime in question (in that case the final resolution meant providing the presumed biological family information about their possible biogenetic ties to the individual in question); in the new amendment the crime is positioned on a par with the identification of the individual. Thus, the elucidation of the crime is as important as the identification of the individual in question. Third, the law does not indicate exactly what rights the individual has over the information that is gathered from his DNA. In the 2009 Supreme Court's ruling, two of the judges stated that the courts can provide information about the biogenetic identity of the individual to the families who are searching while keeping it from the person himself. While in the words of the new amendment it is unclear how that information should be treated – must an individual learn of his biogenetic identity even if acquiring that information goes against his own wishes? Or, can the information be used to help in the investigation of the case without imposing that knowledge on the individual?

For the present discussion, the important point of this legal formulation is the vision it presents for state–citizen relations. According to the new amendment the state has a right over the individual's DNA – whether that DNA is extracted from the body or from artefacts containing biological material that was detached from the body by natural means (e.g., old skin left on used clothes and linen). It also has a right over the information that this DNA contains; that is, it has a right over an individual's identity. It is important to note here that the term 'identity' in fact implies a sense of self and belonging, a person's experience of his being and his connections to the world. Thus, the amendment articulates a very intimate relationship between the subject and the state. The use of DNA in this way raises various questions about the limits of the state's reach and the role of the collective (in this case both the family

that is searching and Argentine society more generally) in shaping an individual's sense of self and social world.

While the relationship between the state and the individual is defined through and by means of DNA, the use of DNA for identification is not unique to this case. In fact, for many years now, states have been collecting and using individuals' DNA for criminal identification (see Lynch et al. 2008). However, the case of the 'living disappeared' is different for a number of reasons. First, DNA is used here not only for the incrimination of the perpetrators of the crime but also, and most importantly, for the identification of the victim. Second, identification in the case of the 'living disappeared' does not imply a match between an individual's DNA and his own DNA taken at a different moment in time; rather, identification here means the repositioning of the individual within the social world. The individual is only fully identified when he or she is found to 'belong' to a particular familial group and when he or she is located within a partially unknown (hidden) history (the history of the forced disappearance). Third, identification also involves the reordering and the relocation of the individual within a collective narrative of repression and mass human rights violations. The recovered individual becomes one of the now 104 individuals who have been identified and informed that they were forcibly abducted as infants by the military regime.

Apart from the individual difficulties and complex psychological processes, becoming one of the 'living disappeared' can carry with it enormous social weight as well as dramatic political consequences. Although many of the individuals found by Abuelas do not appear in public and do not tell their story, others have – particularly in the past few years – made it a point of making their story known through interviews in major newspapers, books, documentary films, radio shows and public events. Concurrently, Argentine society has been an avid consumer of these stories and has followed closely the life histories of these individuals and their transformation following the discovery of their biogenetic kinship ties. To illustrate some of the processes I have discussed so far, I now turn to the story of Victoria Donda. Victoria's discovery of her biogenetic identity reflects the difficult process of identification and restitution in Argentina today and illustrates the complexities of the relations between DNA and identity.

A Complicated Family History

Victoria Donda is the youngest woman to become a Member of Parliament in Argentina; her political rise coincided with her discovery of her real biogenetic identity. She was born in the Navy Mechanics School, the ESMA (*Escuela Mecánica de la Armada*), sometime between August and October 1977. According to the testimony of a survivor from that camp, Cori, her biological mother, had named her Victoria and had passed a blue thread through her earlobe so she could be identified. Fifteen days after her birth, Victoria was separated from Cori and was given to a couple, Juan Antonio Azic and his wife Esther Abrego.¹² Once separated from her biological mother, Victoria was renamed Analía, she was given a new birth date, two

years younger than her real date of birth; and was registered as the biological daughter of Juan Antonio Azic – at the time, the Main Assistant Officer of the Argentine Coast Guard and a member of the task force 3.3.2¹³ – and his wife.

In her book *My Name is Victoria*, published in 2009, Victoria narrates her life story, growing up in a normal middle-class Argentine family in the years following the period of dictatorial rule. In telling her story she recounts her loves and friendships, the people who had most influenced her thinking and her political inclinations, and her awakening to political activism, which began very early in her teenage years. Throughout the narrative she weaves together her personal story of growth with the historical events that were simultaneously taking place in Argentina. One of the interesting things about the book apart from the story she tells is Victoria's decision to protect some of those closest to her. For example, the appropriating couple that raised her are called by fictitious names – Raúl and Graciela – and her sister, who is also a 'living disappeared', is only mentioned sporadically. Regarding her sister, Victoria explains that each one has to find her own path to the truth. Thus, out of respect for her sister and the path she had chosen, Victoria keeps out of the book any information that would identify her sister or expose her struggles with her biogenetic identity.

Victoria was first approached by members of the committee Herman@s (brothers/sisters) from the HRO H.I.J.O.S. in 2002. They were conducting a secret investigation into her possible origins and needed to see her up-close for possible preliminary visual identification. At the time they did not tell her the reason for their visit. A short while after the encounter, of which Victoria did not think much, another event took place that completely changed things. During July 2003 the Judge Baltasar Garzón, a world renowned Spanish investigating judge at the time, initiated the legal prosecution of Argentine police and army officers who had committed crimes against Spanish citizens during the military rule.¹⁴ Judge Garzón sent a list of names for extradition and among those mentioned was Victoria's father. Raúl found out about the extradition request and attempted to commit suicide before the list of names became public. He tried to shoot himself in the mouth but succeeded only in destroying his face. Victoria, who had first learned of the attempt an hour or so after it happened, rushed to the hospital and spent the night at his bedside. As she was walking out of the room where Raúl was laying unconscious, she turned her head to the TV screen and saw the list of perpetrators called for extradition and immediately recognized her father's name among them. Devastated by this new information, she did not know how to react – her father was one of the criminals she had been fighting, through her political activism, to put behind bars.

During that period and as part of her political work, she had been collaborating with the HRO Abuelas. When she learned of her father's past she was unable to contain her suffering and contacted the organization. As she explains, 'I needed to ask for forgiveness because I had discovered that my father was a torturer, I needed from the very bottom of my heart, that someone would tell me that I had the right to continue my political activism, that my genetic inheritance would not stop me from continuing to fight for what I had always fought for' (Donda 2009: 186).¹⁵ On the

other end of the line, the president of the organization told her what she needed to hear. What Victoria did not know at the time was that the organization had called for an emergency meeting with members of H.I.J.O.S. They had spent a great deal of time investigating the case and carefully building it, and were not ready to see it all go to waste or to hurt Victoria in any way.

In that meeting, the representatives of the different organizations and a few of her friends and acquaintances decided it would be best to tell Victoria the whole truth, instead of letting her believe that her father was a torturer. Thus, three days after her father's attempted suicide, Victoria met with a friend and a well-known political figure in a small café-bar in the city. He explained the suspicions the HROs had regarding her possible appropriation and suggested that they move to another café-bar where members of H.I.J.O.S. were waiting. They, he stated, would be able to tell her everything in more detail (Donda 2009: 14–17, 187). In presenting their suspicions and investigations regarding her identity and biogenetic origins, the members of H.I.J.O.S. and Abuelas were careful not to reveal who they suspected was her real biological family. In fact, both HROs have made it a strict rule to wait until the DNA test is conducted to verify and confirm biogenetic relations (Donda 2009). The reason for this is quite simple: although the investigation based on anonymous tips can point to a particular family, until the DNA test is carried out there is no certainty that this is the correct match. In effect, there had been a few cases in the past where a mistaken match was corrected using DNA identity tests, sometimes at the cost of great suffering for both the families and individuals in question. Victoria did not immediately go through with the DNA test. In her book she explains that she was afraid of the consequences, specifically the possible use of the test against Raúl and Graciela. She did not want to cause them more suffering and pain.¹⁶ When describing the home she was raised in she states numerous times that because her father had retired early, she did not know of his participation in the repression, nor was she aware of his activities during the dictatorial rule. She describes Raúl as a strict but loving father and herself as the rebel in the household. While she turned increasingly towards political activism in areas and with groups that stood in complete contrast to her father's strong convictions, she depicts him as a supporting paternal figure who was willing to help her in all of her activities. The picture that emerges from her story is a complicated one, which shows all the contradictions and incommensurability of the situation she is in. Although, as she writes, she recognizes Raúl's involvement in her appropriation, she explains in very plain terms that the strong feelings she had towards her parents and the history of shared relations, particularly in a family as tight as her own, are not easily changed.

However, choosing not to go through with the DNA test also meant remaining in a state of uncertainty regarding her identity and sense of belonging. About a year later, in March 2004, she finally decided to undergo the test. In her narrative of her decision she explains that it happened on 24 March 2004 during a public event in commemoration of the last military dictatorship. That 24 March was especially important because the ESMA, where a large clandestine and torture camp functioned during the dictatorship, was transformed into a museum of memory (*Museo de la*

Memoria) or 'Space for Memory and for the Promotion and Defence of Human Rights' (*Espacio para la Memoria y para la promoción y defensa de los Derechos Humanos*). This was the same place where Victoria was born. On stage during the ceremony, another individual, Juan Cambandié, who was himself born in the camp, told the very large crowds that gathered outside the gates of the notorious place his story of restitution. He had discovered his biogenetic identity only two months prior to the event. Victoria, seeing Juan directly following his speech standing by the stage shaking, said to him: 'at least you know who your parents are'. A short while later, as the doors of the main building opened, Victoria, together with members of H.I.J.O.S. walked into the dreaded space. Inside, she writes, walking in the hall where torturers had walked and where her own mother had suffered and had given birth, she realized that if her mother had the courage to have her there in that terrible camp, then she must have the courage to undergo the blood test.¹⁷

Victoria went through with the blood test and found out who her biological parents were. She also learned more about the complicated history of her biological family, specifically that her uncle was a known torturer in the ESMA while her father, his younger brother, was abducted and tortured in that camp. She further learned that she has an older biological sister who had been raised since childhood by her uncle. The sister, as Victoria describes it in her book, had been raised to hate her biological parents, and to this day she maintains a very right-wing radical political position. So far, the sisters have not been able to create a steady relationship.

Towards the end of book, when Victoria narrates the work she has done since discovering her biogenetic identity, she says: 'Victoria and Analía were in the end the same person. And that person was me' (2009: 236). She clarifies that the process that brought her to this realization was long and did not lead to a single solution: 'I had to learn bit by bit to incorporate a new history, a new family, a new origin ... I am a product of the dictatorship in the same way that I am a product of the love that Raúl and Graciela knew how to give me, and I recognize myself in them as I do in Cori and el Cabo [her biological parents], to whom I feel love as much as one can love those whom she never knew ... I am not less Analía than Victoria' (2009: 240). With this statement and the numerous stories of her encounter with her biological family and her biological parents' various friends and companions, Victoria brings the complexity of the situation to light.

Conclusion

Victoria's story, although unique, shares a number of elements with many other stories of restituted individuals. Specifically for the current discussion of DNA and identity, her statement that she is both Analía and Victoria at the same time is perhaps most significant. For her, as for many other restituted individuals, her identity is a product of both her DNA and the history and world she created while she was raised by her appropriators. Her DNA not only draws out a new familial structure that she is, at least genetically, a part of, but also shows her to be the particular person she is. For example, throughout the book Victoria describes herself as a rebel who fights for

her beliefs and political convictions. She then states in numerous places that from what she could construct based on testimonies, she is just like her biological mother. At the same time, the person she is, she makes it clear, is also a product of the life she has led so far, the family she was raised in and the love and relationships that she constructed until she discovered her biogenetic identity. In this way it is not only the DNA nor only her personal history and social relations that make her who she is; rather, as she notes, she is Analía and Victoria at the same time.

Victoria's story of recovering her identity allows the reader to see the complexity of the situation and the dilemmas she was facing when she had to decide whether or not to undergo the DNA identity test. Her political position has also allowed her to relay her experience to others. On one such occasion she gave a statement in Parliament when the amendment to the Federal Code of Criminal Procedure was debated. She explained that the crimes of forced disappearance and appropriation were committed by the terrorist State (i.e., the state when it was ruled by the Armed Forces), and these crimes are still being committed today.¹⁸ The amendment to the law would allow the state to combat the crime, she stressed. She then quoted from the letter written by numerous 'living disappeared' who were found and their siblings, which repositions the state at the centre of the search for identity. They write that 'the right to identity is a human right and as such it is inalienable. It is as important as the right to life, to liberty and physical integrity. No one has to decide [or has to face the decision of] whether or not to exercise that right because it is the State that is responsible to guarantee and preserve it'.¹⁹ In effect, the passing of the amendment repositioned the Argentine state so it can now shape, decide and influence its citizens' identities through their own DNA.

Notes

1. Appropriation, identification, localization and restitution are all terms used in the mass media and by human rights organizations in Argentina to describe the process of locating an individual who is suspected of being one of the 'living disappeared', identifying and genetically verifying his biogenetic origins and providing him, along with information about his biogenetic history, with the opportunity to reconstitute his or her identity and build new kinship relations based on the information revealed through DNA tests.
2. My use of the term 'truth' is deliberate: in the search for the 'living disappeared', while the identity of the individual as she knows herself to be is considered to be fabricated, her genetic identity is repeatedly defined by both human rights organizations and the popular media as her genuine and authentic identity.
3. See the right to identity in the Convention on the Rights of the Child, specifically, Articles 7, 8 and 11.
4. H.I.J.O.S., *Hijos por la Identidad y La Justicia contra el Olvido y el Silencio* (Sons and Daughters for Identity and Justice against Forgetfulness and Silence) is a HRO originally made up of the children of the disappeared. This HRO has a number of commissions, each focusing on a different aspect of the struggle for human rights in Argentina today. Herman@s (brother/sisters), created in 1998, is the commission that focuses on the search for the 'living disappeared'. Members of the commission collaborate with both Abuelas and CONADI in actively looking for the 'living disappeared', sometimes their

own siblings. They believe it might be easier for individuals doubting their identity and biological origin to approach people their own age rather than the elderly grandmothers. This commission was actively involved in the restitution of Victoria Donda, whose story I will discuss in the third part of this chapter. For more information about the organization and the commission, see: http://www.hijos-capital.org.ar/index.php?option=com_content&view=article&id=144&Itemid=412.

5. This article is used in legal cases in Argentina to argue for the right to identity. Like other human rights documents, the Convention as a whole received full legal standing with the reform of the constitution in 1994. Its articles are now as binding as any other article of the constitution.
6. Ximena Vicario arrived at an orphanage at the age of nine months after she was forcibly abducted with her biological mother who, to this day, remains disappeared. Although her adoptive mother was not associated with the military or police, it was established that she was aware of the child's origins and chose to conceal the information from her. Once the child was located, the adoptive mother did not cooperate with members of Abuelas and pursued a long legal battle to gain custody of the child after that custody was revoked by the courts.
7. The commission Herman@s web page states that the search for identity is not only a search for one person; it 'implies a search for [the] identity of a whole generation ... because as long as there is even one altered identity a whole generation can have doubts about his origins' (http://www.hijos-capital.org.ar/index.php?option=com_content&view=article&id=144&Itemid=412).
8. With the constitution of CONADI many cases of individuals whose origins are unknown were discovered. These cases include, for example, individuals whose date of birth or circumstances of adoption do not fit the profile of the 'living disappeared' (e.g., they were either born before 1975 or after 1980) but who are driven by a need to discover their biogenetic origins. In all likelihood, many of these cases are the result of trafficking in children and the lenient mechanisms of adoption at the time. Because of the way adoption was carried out in Argentina, these individuals have no way of ascertaining their biological origin. The only conclusion that can be drawn is that they are not included in one of the numerous families who have deposited their DNA in the Bank.
9. All translations from Spanish are my own.
10. For the full text, see <http://www.infoleg.gov.ar/infolegInternet/anexos/0-4999/383/texact.htm#8>. The amendment modifies Article 218B in the Federal Code of Criminal Procedure (*Código Procesal Penal*).
11. Translations from the Spanish legal text are my own.
12. For information on Juan Antonio Azic, see <http://www.pagina12.com.ar/diario/sociedad/3-128106-2009-07-12.html> and <http://www.desaparecidos.org/arg/tort/marina/azic/>.
13. For more on the ESMA and the task force 3.3.2, see <http://juicioalaesma.org.ar/spip.php?article3> and <http://www.cels.org.ar/esma/responsables.html>. The task force functioned in the ESMA and was responsible for forced disappearances, torture and murder of prisoners.
14. A large percentage of Argentine citizens have their roots in Spain, and some have managed to maintain their Spanish citizenship. This created a loophole in the justice system that allowed Justice Garzón to initiate the prosecutions of members of the Argentine Armed Forces who committed human rights crimes.

15. 'Necesitaba disculparme porque había descubierto que mi padre era un torturador, necesitaba en el fondo que alguien me dijese que tenía el derecho de seguir militando, que mi herencia genética no me prohibía continuar luchando por lo que siempre había luchado.'
16. This is a common argument made by individuals suspected of being one of the 'living disappeared' against the blood tests. The close ties they have with the family that raised them create a great conflict between their need to find out their true biogenetic identity and their desire to protect their appropriators.
17. She adds: 'I had to understand that all of this was not about Raúl or Graciela, nor was it about doing justice, or putting on trial those responsible for the dictatorship. It was about me, my identity, my past and my possibilities for a future' (2009: 192). At the time, following the 2003 Supreme Court ruling, it was difficult to demand a blood test; moreover, both Abuelas and H.I.J.O.S. believe that individuals should be given time so that they can decide themselves whether to undergo the test, instead of it being imposed on them.
18. This is an argument commonly heard when the case of the 'living disappeared' is discussed. The crime is continually committed because the identity was altered and the individual does not know about his or her genetic origins. Once the truth is uncovered and made known, the crime ceases.
19. Victoria Donda posted her statement to the Parliament on her Facebook profile – for further details, see http://www.facebook.com/note.php?note_id=174382355705.

Bibliography

- Abuelas de Plaza de Mayo. 2008. *Abuelas y La Genética: El Aporte de la Ciencia en la Búsqueda de los Chicos Desaparecidos*. Abuelas de Plaza de Mayo: Buenos Aires.
- Abuelas de Plaza de Mayo <http://www.abuelas.org.ar>
- Arditti, R. 1999. *Searching for Life: The Grandmothers of the Plaza de Mayo and the Disappeared Children of Argentina*. Berkeley, CA: University of California Press.
- Aronson, J. 2007. *Genetic Witness: Science, Law and Controversy in the Making of DNA Profiling*. New Brunswick, NJ: Rutgers University Press.
- Avery, L. 2004. 'The Return to Life: The Right to Identity and the Right to Identify Argentina's "Living Disappeared"', *Harvard Women's Law Journal* 27: 235–72.
- Donda, V. 2009. *Mi Nombre es Victoria: Una Lucha por la Identidad*. Buenos Aires: Editorial Sudamericana.
- Jaroslavsky, A. 2004. *The Future of Memory: Children of the Dictatorship in Argentina Speak*. London: Latin American Bureau.
- Lynch, M. 2003. 'God's Signature: DNA Profiling, the New Gold Standard of Forensic Science', *Endeavour* 27(2): 93–97.
- Lynch, M. et al. 2008. *Truth Machine: The Contentious History of DNA Fingerprinting*. Chicago: University of Chicago Press.
- Lyon, D. 2001. 'Under My Skin: From Identification Papers to Body Surveillance', in Jane Caplan and John Torpey (eds), *Documenting Individual Identity: The Development of State Practices in the Modern World*. Princeton, NJ: Princeton University Press, pp. 291–310.
- Nelson, A. 2008. 'Bioscience: Genetic Genealogy Testing and the Pursuit of African Ancestry', *Social Studies of Science* 38(5): 759–83.

- Novaro, M. and V. Palermo. 2003. *La Dictadura Militar 1976/1983 Del Golpe de Estado a la Restauración Democrática*. Buenos Aires: Paidós.
- Oren, L. 2001. 'Righting Child Custody Wrongs: The Children of the "Disappeared" in Argentina', *Harvard Human Rights Journal* 14: 123–96.
- Pálsson, G. 2007. 'How Deep is the Skin? The Geneticization of Race and Medicine', *BioSocieties* 2: 257–72.
- Penchaszadeh, V.B. 1992. 'Abduction of Children of the "Disappeared" in Argentina', *Harvard Human Rights Journal* 14: 124–96.
- Regueiro, Sabina. 2010. 'Inscripciones como Hijos Propios en la Administración Pública: la Consumación Burocrática de la Desaparición de Niños', in Carla Villata (ed.), *Infancia, Justicia y Derechos Humanos*. Bernal: Universidad Nacional de Quilmes.
- Robben, A.C.G.M. 2005. *Political Violence and Trauma in Argentina*. Philadelphia: University of Pennsylvania Press.
- Rock, D. 1993. *Authoritarian Argentina: The Nationalist Movement, its History and Impact*. Berkeley, CA: University of California Press.
- Skinner, D. 2006. 'Racialized Futures: Biologism and the Changing Politics of Identity', *Social Studies of Sciences* 36(3): 459–88.
- TallBear, K. 2007. 'Narratives of Race and Indigeneity in the Genographic Project', *Journal of Law Medicine & Ethics* 35(3): 412–24.
- Vaisman, N. n.d.[a] 'Legal Truths, Kinship Ties or a Problem in Self-Knowledge'. Unpublished Manuscript.
- n.d.[b] 'Legal Subjectivities, Ontologies and DNA: Human Rights in Post Dictatorship Argentina'. Unpublished Manuscript
- Villalta, Carla. 2010. 'De los Derechos de los Adoptantes al Derecho a la Identidad: Los Procedimientos de Adopción y la Apropiación Criminal de Niños en la Argentina', *The Journal of Latin American and Caribbean Anthropology* 15(2): 338–62.