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## DEATH IN FORENSIC PHOTOGRAPHY

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### ABSTRACT

This article aims to reflect on the forensic necroscopic photographs taken in cases of police lethality that occurred in the city of São Paulo and, through the bibliography related to anthropology of image and photography, approach and exclude analysis by authors who also work with the relationship between image and death. Through the analysis of five images taken from necroscopic reports from digitalized legal proceedings and inquiries at the São Paulo State Court of Justice, this article seeks to analyze how the uses and contexts of production of these photographs allow us to understand the way we express and face certain deaths.

### KEYWORDS

Anthropology  
of images;  
Photography;  
Death; Forensics;  
Police lethality.

### INTRODUCTION

In 2016 I was selected to participate in a Thematic Project coordinated by Professor Vera Telles, from the Department of Sociology at the University of São Paulo, entitled “Conflict management in the production of the contemporary city: the experience of São Paulo” (2014-2018, and funded by FAPESP). In this project, I was part of a team of researchers responsible for mapping and analyzing police reports, inquests and criminal proceedings arising from people killed in confrontation with the police force, also police lethality (then called “resistance followed by death”).

As a result of this work, the researchers recently published an article entitled “Police Lethality and

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<sup>1</sup> The terminology was abolished in 2015 and now the official expressions are “personal injury resulting from opposition to police intervention” or “homicide resulting from opposition to police action”.

Institutional Support: Profiling and Prosecution of Cases of ‘Resistance Followed by Death’ in the City of São Paulo”, jointly written by Rafael Godoi, Carolina Christoph Grillo, Juliana Tonche, Fábio Mallart, Bruna Ramachioti and Paula Pagliari de Braud.<sup>2</sup>

In general terms, the work of the research group began with the analysis of 316 police reports classified as “resistance followed by death”, all registered in the city of São Paulo in the year 2012. All of which were obtained in partnership with the *Núcleo de Direitos Humanos da Defensoria Pública do Estado de São Paulo*<sup>3</sup>. After analyzing the police reports, we conducted a representative sample of inquiries and lawsuits arising from these police records. To do so, we randomly selected 38 police reports<sup>4</sup> and, after searching through the institutional meanderings of the São Paulo State Court of Justice and dealing with its setbacks, 22 cases were digitized.

These reports are registered by the police when a policeman kills a civilian in an alleged pursuit or confrontation. After registered, an investigation begins, which is called police inquiry, and, if the public prosecutors believe that the event represents a crime (and not an act justified by resistance), they promote a criminal lawsuit that analyzes the existence of guilt and, if it is confirmed by a jury, leads to punishment.

These police reports registered 388 people killed by the police in the year 2012 in the city of São Paulo. Of those, 62% were black, 386 males, and most of them young (an average of 24 years old). Of the 22 digitized lawsuits, although some had not yet been completed when the article was written in late 2019, we have not had access to any convictions.

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<sup>2</sup>The mentioned article was published by Revista de Estudios Sociales, n73, Universidad de Los Andes, and can be accessed at: <https://revistas.uniandes.edu.co/doi/full/10.7440/res73.2020.05>.

<sup>3</sup>Specialized human rights department of the public defenders of the State of São Paulo.

<sup>4</sup>“After analyzing the police reports, the next step of the research was to select a random sample to proceed with the unfiling and qualitative analysis of the cases. A total of 38 police reports (n=38) were drawn. This corresponds, within a confidence level of 95%, to a sample with a confidence interval of 15 percentage points. This value is high, of course, but we would need to increase n a lot to decrease it. Since the purpose of the research is to follow the processing of cases in the justice system, the confidence interval is consistent with the objectives of the proposal”. (Godoi, Grillo, Tonche, Mallart, Ramachioti, Pagliari de Braud 2020, my translation). In this stage of the research, as opposed to the quantitative analysis of the police reports, the goal was to conduct case studies from a random sample of police reports that became inquiries and criminal lawsuits and subject these procedures to a qualitative analysis.

Despite being recurrent themes on the news and on television programs, the technicalities of a criminal lawsuit can be complex. Such technical aspects, which I believe are powerful to elucidate the phenomenon of police lethality and its institutional support by State agencies, will be here deliberately left aside. I believe that the reflexive exercise on the forensic images, through the authors chosen to rethink the funeral photographs, can be better explored if we move away from the details of its surrounding punitive apparatus, at least partially, and focus on the images as an expressive form of representation of the death of certain groups.

When I analyzed the images for this article, two difficulties immediately imposed themselves, both related to the posture of alterity, so dear to anthropological reflection. The first was due to the fact that I, operating in the world of criminal justice for some years now and therefore witnessing its violence<sup>5</sup>, knew that it would be difficult for me to take the distance necessary to exercise a reflection that didn't limit itself in denouncing the brutal death of these young men by the police, or, in a worse manner, limited itself in simply explaining what these forensic photographs are and why are they used in a criminal procedure. The second comes from the fact that, when applying the anthropological look to the expressive forms and images, it seemed to me, from the bibliography and articles found and selected in the area, that we were always dealing with something that, if not art per se, at least touches or resembles art (or rituals with a strong artistic component, loaded with imagination and creation). This approach is well explored by several authors like Belting (2014), Gonçalves (2009), Junqueira dos Santos (2017), Satiko (2017), Villela (2015), and several others. In all these works, I noticed a deep respect in the treatment of the forms of expression of the interlocutors, who develop and discuss, furthermore, the possibilities of the anthropological reflection through art.

The difficulty, then, presented itself to me in the following question: how to treat photographs of young people killed by the police with due alterity and strangeness, in order to try to capture what this way of expressing such deaths tells of ourselves as a society, without relegating to them the place given to art, nor the respect and admiration that art evokes, but still exploring the concepts brought by this bibliography?

To carry out this reflexive exercise when analyzing these photographs, I tried to: (i) include the context of production and legitimation of these

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<sup>5</sup> I have been a lawyer since 2015 and have acted in several cases as a criminal lawyer. In addition, I've worked in the Defensoria Pública do Estado de São Paulo for three years, first as an intern in the Jury Court and after as an administrative officer in the Departamento de Inquérito Policial of São Paulo (DIPO) – part of the criminal justice system responsible for processing inquiries and investigations in progress.

violent deaths, since it also composes the image by what the image does not reproduce (Belting 2014); (ii) but exclude the minutiae and procedural techniques that could reposition the instrumental and utilitarian function that these images occupy in the inquiries and lawsuits themselves and in the narratives that legitimizes these deaths as legal. Although the denouncement of the State's actions that support this practice - central political position even in obtaining these procedures and images - is on the horizon, the proposal here is to shift the analysis (and why not also the denunciation?) to the forms of expression of these deaths in criminal lawsuits and inquiries.

The images analyzed for the present article were taken from two of the lawsuits digitalized for the abovementioned research. All the 22 files had images of the young men killed by police action, called "necroscopic reports". My contact with them was, however, mediated by several physical means. The original photographs were never accessed by me or the researchers, we only had contact with the copies of these photos reproduced in the reports that are attached, in their turn, to the judicial process or inquiry, which was photographed and digitalized. The contact was, therefore, with the *image of the image*.

On the exhibition of these photographs there is, besides the representation of extreme violence, an ethical debate about the privacy of photographed people and their families - even if they are not identified - about the naturalization of these deaths and the recrimination of these young people that is often propagated when these images are divulged by the media and public agents<sup>6</sup>. Therefore, I chose not to include the images in the article, but only to describe them so that the reader can follow the analysis carried out without having to see them.

Still on the choices of analysis of these photographs, it is not ignored that they are part of a procedure that seeks to legitimize the death of these people, and that, along with them, the reports, depositions and testimonies that build the criminal procedures are responsible for building this truth, which will also be explored in the article. Here, however, and above all, there is the goal of provoking another reflection on these photographs to the extent that they are inserted in the debate around the ways we represent and express death.

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<sup>6</sup> In the words of Borges (2003): "Far from being a neutral document, photography creates new ways to document life in society. More than the written word, drawing and painting, the pretended objectivity of the photographic image, conveyed in newspapers, not only informs the reader (...) but also creates truths from the fantasy of the imaginary almost always produced by fractions of the ruling class" (my translation).

## WHO PHOTOGRAPHS AND WHY

Crime investigations begin with an ordinance from the police chief that, besides formally beginning the investigation, determines what steps are to be taken by the investigators within it. Cases involving dead people are, in general, instructed by many images that appear in several of the investigative procedures. The visuographic crime scene recognition report, as one of the first procedures, carries photos of the place as it was found after the occurrence, with images of streets, cars, bullet marks and blood on the ground and serves to maintain a visual archive that can be used for the reconstruction of the event within the judicial process.

Another document filled with images is the forensic crime scene report, which articulates the photographs from the visuographic recognition with images of shell casings, projectiles, vehicle and wall perforations, and is accompanied by a descriptive written technical report.

Finally, without excluding other less frequent types of image-reported forensics, there is the necroscopic report, which serves to certify the cause of death (in legal terms, to give its concreteness) and point out the injuries that caused it. It is loaded with images of the dead people and representations in drawing that indicates the injuries (the drawings are called sketches) (Godoi, Grillo, Tonche, Mallart, Ramachiotti, Pagliari de Braud 2020).

In deaths resulting from police intervention, all these photographs serve, ideally, to ensure the truth of the event and to instruct the investigation around the crime that triggered the police action (the crime supposedly committed by the dead person) and the existence or not of a homicide by the police, which is, most of the time, seen and attested in official documents only as a result of resistance to police action and, thus, legalized.

As elements and evidence, on one hand, of an event with criminal interest, and, on the other, of the phenomenon of genocide of the young and black population by the police, the forensic photographs of these cases initially referred me to Ilana Feldman's discussion of the representation of the Holocaust from Didi-Huberman's essays. In it, he discusses four photographs captured in 1944 of the Auschwitz-Birkenau extermination camps by Jewish prisoners who were members of the Sonderkommando (Feldman 2016).

Auschwitz is, then, described as a "witnessless event", because those who should testify – the authentic witnesses, Primo Levi (2016) would tell us – were killed in the gas chambers; and the four photographs captured in August 1944 are described, in turn, as lacunar, because of their necessary partiality. Such images only allow us to inquire what actually happened,

leading us to reflect on the unimaginable character of the Nazi concentration and extermination camps.

In relation to the provocation brought by the discussion around these images, the forensic photos brought here led me to think about the following contradictions: unlike the photos captured clandestinely in crematorium V, the forensic photos are “official”, that is, they carry in themselves, as described by Miranda and Pita (2011), an expansion of value resulting from “statehood”<sup>7</sup> (my translation). They are records mediated by different specialists and civil servants, ranging from the police officers responsible for the violent death and who describe the event translated in the police report, to the photographers and coroners of the *Instituto Médico Legal*, responsible for the images and the elaboration of the report. In this manner, they are the opposite of clandestinity: they compose public documents that back up and reconstruct the legality of the event in order to give it legitimacy. However, in another analytical point of view, these photographs are also testimonies of a practice of demential violence perpetrated by the State<sup>8</sup> and constantly denounced<sup>9</sup>. Unlike the Nazi regime, which sought to erase the traces of mass extermination – an erasure that the four photographs refute –, the photos of these dead men actually attest to the State’s policy of extermination, while the erasure of the traces is left to the eyes of the prosecutors and judges who observe them.

The photos are contradictory in another sense. They serve so that the Judiciary can take over the event, control its existence and certify its truth: that those young men were killed for resisting police action. In this way, they absolutize the documents, as if the set of images (of the bodies, the places, the bullets, etc.) were total images, concealing reality and manipulating the truth. They are, as Sontag describes, an attempt to “record of the real – incontrovertible, as no verbal account, however impartial, could be”, they not an argument, but simply the raw statement of a fact (2003). Its claim is to possess the weight of objectivity, as do all judicial proceedings, and thus, possibly, as does law itself.

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<sup>7</sup> According to the authors, state records must be understood and observed in their multiple dimensions. The “language of the State” they describe is “at the same time result and/or effect of the actions, decisions, and ‘ways of thinking the world’ of a bureaucracy, which has in itself a meaning, a significance, and carries an extension of value: the ‘statehood’” (Miranda and Pita 2011, my translation).

<sup>8</sup> State here taken as one, as hole, holding the monopoly of violence in the Weberian sense.

<sup>9</sup> There are several movements denouncing the police violence and lethality such as Black Lives Matter, *Mães de Maio*, among others.



However, and considering the forensic images not as objects to be analyzed, but taking the notion of things developed by Tim Ingold (2010), it is possible to perceive how they present themselves in relation to the Judiciary itself and its agents, elucidating aspects and opening gaps for the understanding of the controller agent. What I mean is that, by analyzing such images, which serve the purpose of taking control of the existence of these deaths, we can understand so much more about the image producer – the State, the Judiciary, the agents of law, the police – and, why not say, about our own way of facing the production of some deaths.

The very incompleteness of these images, what they do not say or what they are not allowed to say within the judicial process, seems to fit, in the words of Didi-Huberman, that is that the images are not bearers of truth, they are “a rag of it” (Didi-Huberman 2013, my translation), and in this assertion perhaps is where the contradictions abovementioned truly lie. These images are effectively parts of a verification regime, taken as evidence, placed in a court of law, and presented as a whole, though ontologically fragmentary. And this whole represents points, over many other things, to the most absolute attempt at control. This control, according to Medeiros (2018), presents itself in the very “categories assigned to the dead by classification systems”, routinely mobilized by agents of the state, whose function is to “exercise state power over the treatment that is given to the dead” (my translation).

#### **WHO (OR WHAT) GETS PHOTOGRAPHED**

As already stated, there is in these photographs something to be attested as truth. This characteristic has already been raised and described as central in the production of legal documents in general (Eilbaum and Medeiros 2015; Nadai 2018). Forensic documents have the peculiarity that they, in addition to serving the construction of the “police truth about death”, are endowed with a scientific legitimacy arising from the methods employed and form of presentation (Medeiros 2018, my translation).

Reflecting on this production of truth, I recall the notion of presentification worked by Hans Belting. According to the author, the image finds its true meaning in representing something that is absent. It is the attempt to bring to the present something from the past. However, his analysis falls on funeral rituals, the embodiment of the dead, of someone who has lost his body, of death as an unbearable absence made good by the presence of images (Belting 2014).

It initially seemed to me that studies such as this one had very little to do with forensic necroscopic photographs, mainly because of what I pointed out in the opening paragraphs. These photos have very little to do with

the sensitivity or the relationship that we, as a culture, establish with mourning or funeral rituals, since these photos do not refer specifically to the person being represented, nor do they matter as a remembrance to their loved ones. But one passage caught my attention and I would like to retain it to develop it further: “an image finds its true meaning in the fact that what it represents is absent and therefore can be present only as image. It manifests something that is not *in* the image but can only *appear* in the image” (Belting 2014).

Carolina Junqueira dos Santos, in the article *Amor, Morte, Fotografia* (2016), analyzes the photographs in the context of mourning as the desire to keep someone, the other. If “death returns nothing,” “the image brings something of the order of love. In the absence of a tactile body, comfort falls on the image, “matter of a residual body” (my translation). In photographs, an instant is fixed, and behind it life and death continue.

In another of her texts, *Um lugar para o corpo: fotografias familiares em contexto de luto*, she explores the possibility that photography provided of saving things from oblivion. Bringing also the notion of presentification, photography appears as a means of making something endure (Junqueira 2017).

Reading these studies, the same impression remained. Since I was not dealing with images that evoke affection or are related to funeral and family rituals, I could not observe in the forensic photos the notion of presentification of the person. This, otherwise, seemed completely absent to me.

The five pictures selected and analyzed here show men, all black and apparently young, lying naked on metal tables, with paper plates containing identification numbers - which link the body to the report and the report to the criminal procedure - and the word “unknown” written just below. In two of them the focus lies on the traces of the event - gunshot wounds to the chest and side of the body -, and in three others the bodies are cleaned and the attention is given to some distinctive marks on the body or to something that the body carries - a sneaker, a tattoo, scars. The photographs display and focus only on parts of the body and its distinctive marks.

The whole scenario set up by the set of images provokes a reflection on what is being displayed and, consequently, what is not. The “not missing anything” (Junqueira 2017, my translation) seems to become here the capturing and controlling everything, but the everything not in relation



to the person, and, yes, in relation to the event of death, giving this death the due materiality<sup>10</sup>.

In the forensic photographs, what presented itself as the object of the presentification treated by the authors, of this making endure that is typical of photography, is the evidence of death itself and not the dead man as a person. It is the death, through the images, that must remain present, be controlled, attested and remembered as legitimate, which stands out as a double cruelty, since death was produced by the State and is also eternalized by it in images.

If “the corpse is the first reinvented body of the one who dies - because what we want to see in it is not its organic substance, but the person” (Junqueira 2017, my translation), as a measure of affection and love in grief processes, in forensic photos what one wants to see is almost purely the organic matter, since it allows one to observe an event that one wants to attest as truth. For Flávia Medeiros (2018), the body of the deceased is once again objectified as criminal evidence, “from fragments of his body that would become “material” so that the police could investigate and build elements that would constitute the police truth about his death” (my translation).

Again, it is not life that is attested, but the moment of death itself, and here there is no space for mourning. What I observe through these photos presents itself, in this way, as the most complete absence of affection.

## FINAL CONSIDERATIONS

As Susan Sontag states in *On Photography* (1977), photography has different versions of utility. If in one of them “the camera record justifies”, in another “the camera record incriminates”. If forensic photographs - the necroscopic reports - are necessary to take control of these deaths and certify them as legal, these very photos can be used and analyzed to prove the existence of the phenomenon of police lethality, which victimizes countless young black men in the Brazil<sup>11</sup>.

In this way, such pictures, things that they are, point to the forms of social and state power embedded in their very production and existence, as Butler describes in *Frames of War: when is life grievable?* (2010). The necessity of these photographs and their production in this construction of judicial

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<sup>10</sup> Materiality or concreteness in criminal law and criminal procedures is the objective dimension of a crime. That which attests to its existence, and, therefore, a necessary element for the existence of a fact subject to investigation by the criminal justice system.

<sup>11</sup> Such as CAAF, 2018.

truth rarely become part of what is seen when we look at them, “but when it does, we are led to interpret the interpretation that has been imposed upon us, developing our analysis into a social critique of regulatory and censorious power” that these images are able to represent.

Butler, when discussing the photographs of war and of the tortured prisoners at Abu Ghraib, as well as the suffering produced by these images and their ethical implications in dialogue with Sontag, points to framing as something active, and to how these photographs reconstruct and are also produced according to implicit and explicit norms that determine which human lives count as lives and which do not. Which lives are thus grievable and which are not. I wonder then, if the centrality of these images is not in this differential norm of humanity, “communicated through visual and discursive frames” that allow the institutional backing of judges, prosecutors, police officers, and regulate our own capacity for outrage at the deaths portrayed by these photographs. The “effective regulation of affect, outrage, and ethical response is (it seems) at stake” (Butler 2010). The dead, here, continue as targets of violence by being subjected to a politics of classification and control that takes any space for the production of affection and memory, but that, on the contrary, is based on the reproduction of the “legitimacy of dying and killing” (Medeiros 2018, my translation).

Finally, all the reflection that I tried to produce in this article reminded me of a passage of Viveiros de Castro’s speech, dealing with death as a ritual, given at the TV program *Café Filosófico*<sup>12</sup>: according to him, for some Brazilian indigenous groups, the dead are enemies and desire the living, they try to attract them by making them think about death. In this sense, the dead exert a kind of suction on the living. He describes the indigenous “bad encounter” as an encounter with a person who has already died, and how this event produces a shock that is constantly narrated as a near-death experience, because there was contact with the dead, who wants to kidnap you and bring you to death.

In describing and analyzing these events, he draws attention to the fact that, often, they occur in moments of loneliness. This loneliness is thus seen by such groups as an illness, a danger, which brings death closer. Kinship, on the other hand, is presented as the safety net that protects that person from death. Death is portrayed as the enemy of kinship, and to confront it is to be, in Viveiros’ words, “at the mercy of a subjectivity far more powerful than his, with no one to turn to” (my translation).

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<sup>12</sup> The interview can be accessed at: <https://www.youtube.com/watch?v=LW0ojNmrF68>.

Accessed in July 25, 2020.

In our culture, this bad-encounter is approximated in experience by Viveiros de Castro with “being stopped by the police”. This encounter with the police that generates a discomfort, a “chill in the belly”, because, he concludes, “the State that is behind the police, in principle, is the antithesis of kinship”, is a sublimating subjectivity. In front of the State, maybe some of us are not human enough.

In necroscopic forensic photographs, the body serves only to give materiality to death and, thus, present the event of death and eternalize it not as a quality of the subject that will be remembered by his loved ones, but as the center of a regime of verification of the death event. They presented themselves to me, in this way, as the very antithesis of the affection and love brought by funeral photographs or in the context of grief. Absolutely distant from any discussion in the order of art. Related to cases of police lethality, they also bring the disturbing component of the death of lives that are not even grievable.

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#### AUDIOVISUAL

- Tabuluja (Acordem!), 2017. 1 vídeo (11:25 min.) Direção de Shambuyl Wetu, Rose Satiko Hikiji, Jasper Chalcraft. Produção: Laboratório de Imagem e Som em Antropologia / LISA-USP.

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