



Courts-as-bureaucracies: Taxonomies and tautologies in the Chilean criminal justice system

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Abstract

Scholarly work in the social sciences has described the “bureaucratization” of criminal justice systems, denouncing the introduction of managerial logics into legal fields. This paper contributes to that work by focusing on the characteristics of criminal justice organizations that make them “bureaucracies”. Drawing on observations in lower criminal courts in Santiago, Chile, I show that these organizations face the same challenges as other bureaucracies: They manage many cases simultaneously, they rely on both formal and informal classifications to address them, and they move each case forward by transferring it either to another organization or into another legal procedure. In doing so, they render cases legible in ways that depend less on the specificities of one case and more on the coordinated labor that leads to the judicial and administrative “death” of the case. This, far from being solely the result of a trend toward the managerialization of the justice system, is tied to the very nature of law.

Key words

Criminal justice system, anthropology of the state, bureaucracies, Chile.

Resumen

Los estudios académicos en ciencias sociales han descrito la «burocratización» de los sistemas de justicia penal, denunciando la introducción de lógicas de gestión en los ámbitos jurídicos. Este artículo contribuye a esa línea de investigación centrándose en las características de las organizaciones de justicia penal que las convierten en «burocracias». A partir de observaciones realizadas en tribunales de primera instancia

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de Santiago de Chile, muestro que estas organizaciones se enfrentan a los mismos retos que otras burocracias: gestionan muchos casos simultáneamente, se basan en clasificaciones tanto formales como informales para abordarlos y hacen avanzar cada caso transfiriéndolo a otra organización o a otro procedimiento jurídico. Al hacerlo, hacen que los casos resulten legibles de formas que dependen menos de las particularidades de cada caso concreto y más del trabajo coordinado que conduce a la «muerte» judicial y administrativa del mismo. Esto, lejos de ser únicamente el resultado de una tendencia hacia la «gerencialización» del sistema judicial, se explica por la propia naturaleza del derecho.

Palabras clave

Sistema de justicia penal, antropología del Estado, burocracias, Chile.

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1. Introduction: Is the criminal justice system a bureaucracy?

“This is a grinding machine of poor people,”² a prosecutor told me when describing what happens every day in the lower criminal courts in Santiago, Chile. What caught my attention in his words was not only the accurate reference to the characteristics of most detainees—mostly men from marginalized neighborhoods—but also the analogy between the daily functioning of the criminal justice system and “a machine.” What did he mean by highlighting the “mechanical” dimension of the criminal justice system? What characteristics of a machine—a device with different parts that combine to perform a particular function or task—was he evoking with this statement? Through which practices is this mechanical dimension manifested in the Chilean criminal justice system, and what role does law, with its fundamental principles, play in this process?

In this article, I explore these questions by drawing on the anthropological literature on bureaucracies as cultural worlds (Hoag 2011). Using the anthropology of the state, I distance myself from the sociology of organizations and its compelling critique of the managerialization of criminal justice systems (Johnston and Pivaty 2023), proposing instead an analysis that does not presuppose a distinction between the legal and the administrative. The article describes how a type of judicial hearing—detention review hearings—routinely unfolds in Santiago, Chile, to shed light on the bureaucratic dimension of criminal justice systems, focusing on how different actors—prosecutors, judges and defense attorneys—render cases legible, that is, understandable through a taxonomical scheme, in ways that depend less on the specifics of a single case and more on the coordinated labor that leads to the judicial and administrative “death” of the case. In this process, law helps create the tautological aspect that characterizes bureaucracies. I describe detention review hearings held in criminal courts in Santiago, Chile, by focusing on features that make them “bureaucratic”—that is, part of a project of classification in which law, alongside managerial practices, plays a constitutive role in producing tautology: a type of fidelity to form that does not necessarily add information about what happened and that was qualified as a criminal offence.

2. Theoretical framework: An anthropology of criminal justice bureaucracies

The discernible anthropological subfield known as the “anthropology of the state” (Bierschenk and Olivier de Sardan 2019) has shown that it is possible to identify distinctive ways of stabilizing practices in organizations that participate in the enactment of something culturally recognized as “the State” (Sharma and Gupta 2006). Rather than presupposing a distinction between what these organizations should do and what they actually do, or between those who embody the authority of the state and those who suffer from it, these studies document the daily practices that occur in contexts not so easily distinguished as representing “the State”—for example, at the state’s “margins” (Das and Poole 2004)—and in contexts where those who enact state-ness cannot be readily separated from those who do not, as in the case of peasants keeping records of tenure titles in Paraguay (Hetherington 2011).

² In Spanish, the expression is “una máquina de moler carne pobre” (literally, “a meat grinder for poor people”). The then national public prosecutor used the same expression in a 2016 interview: La Tercera 2016.

The anthropology of the state problematizes the Weberian ideal type of bureaucrats (Weber 1922/1978) who, *sine ira et studio*—without anger or passion—apply the law. It shows that when we examine bureaucracies in practice rather than in theory, “applying a policy dispassionately is not about universalist equanimity, but rather the internalization and performance of a politically, culturally, or institutionally specific bureaucratic worldview” (Hoag 2014, 415). Observing, describing, and analyzing this worldview is the project of the anthropology of the state, which is always an ethnography of the state—that is, a way of producing knowledge by approaching reality primarily through continuous engagement with daily practices and their often-chaotic entanglements with political projects, moral and ethical considerations, and, ultimately, the complexities of real life. For example, in her ethnography of the unrecognized state of Northern Cyprus, Navaro (2012) explores administrative practices such as the issuance of passports that, in most countries, are not considered legal. State-ness, in this case, goes beyond legality.

Since this type of research adopts an emic perspective on the state and its institutions, it departs from approaches that focus on the interplay between fields of action. When examining what has been called “the bureaucratization of criminal justice” (cf. Johnston and Pivaty 2023), studies that distinguish between fields have criticized the introduction of private-sector logics into public institutions, showing that reforms aimed at improving the ratio between resources and outcomes can jeopardize the protection of citizens’ fundamental rights. In this context, “bureaucratic” becomes an (often negative) adjective applied to something else, while “bureaucratization” describes the (often regrettable) evolution. Studies drawing on neo-institutionalist theories have also shown how, “as law becomes managerialized, symbolic structures move closer to becoming merely symbolic” (Edelman 2016, 262), reinforcing the idea that the “managerialization” or “bureaucratization” of public organizations can obstruct, rather than promote, the achievement of their substantial purposes; in this context, law becomes tokenized and loses its power as a tool for justice.

Inspired by the sociology of organizations, this type of study documents how criminal justice institutions are influenced by political, economic, and cultural environments. These institutions respond to external pressures to handle more cases in less time—for instance, by introducing plea-bargaining logics into an inquisitorial criminal justice system, such as the French one (Soubise 2018), or by creating mechanisms for imposing sentences without trial, which, in the case of adversarial Latin American criminal justice systems, have weakened judicial control (Langer and Sozzo 2023). Such studies show that sentencing outcomes, for example, can be explained as much by organizational practices as by the discretion of prosecutors and judges (Ulmer 2019). Sociologists and criminologists have criticized how organizational practices can shape criminal justice systems in ways that undermine legal ideals of due process and fairness. The global tendency of these systems to prioritize managerial goals over adjudicative ones (Feeley 1979/1992) has been widely documented (see also Kohler-Hausmann 2018). In Chile, empirical studies have similarly identified a managerial shift in the criminal justice system, noting tendencies such as the standardization and routinization of judicial practices in imposing pre-trial detention (Velásquez and Riquelme 2024). According to these studies, managerialism has shaped the Chilean criminal justice system, as it has across Latin America (González Guarda 2018).

However, ethnographies of the state are not interested in establishing whether an institution has become more (or less) bureaucratic or more (or less) managerial. Nor are they primarily focused on the degree to which an institution achieves its normative goals or the degree to which the law is correctly applied. In the case of criminal justice institutions, rather than assessing whether criminal law is applied in a way that respects legal principles—resisting managerial or punitive influences, for example—ethnographies describe the daily functioning of these institutions without presupposing the boundaries between what is legal and what is administrative. For example, the ethnography of the International Criminal Court by Clements (2023) highlights how managerial practices in this organization are constitutive—not opposed—to its global justice project. Paradoxically, managerial procedures such as planning, programming, and budgeting helped give the Court legitimacy in complex geopolitical contexts, making it “institutionally palatable” (Clements 2023, 177). It is as if the Court could promote international public law because of, and not despite, its managerialization. This study offers a nuanced account of how bureaucracies operate in practice, with porous boundaries between what is just, legal, and managerial.

This article examines the practices that take place in criminal law bureaucracies, regardless, in principle, of their legal or administrative nature. Earlier anthropological theorization of bureaucracies has suggested that, contrary to their normative and explicit goals of solving problems or improving citizens’ lives, bureaucracies’ main objective is to classify people, situations, and things: “The most elementary premise of bureaucratic epistemology is that of taxonomy” (Handelman 1995, 280). Because of this classification project, an apparent paradox is intrinsic to bureaucracies: They are both teleological and tautological. On the one hand, they are associated with specific purposes; on the other hand, precisely because they must remain loyal to a taxonomical project—classifying for classification’s sake—they become tautological (Herzfeld 1992). This occurs not only because it is impossible to produce classifications that accurately represent the world and its complexities—producing instead the type of “rhetorical exactitude” that irritates bureaucracies’ clients (Herzfeld 1992, 124)—but also because different taxonomies, and the procedures that apply them, can overlap, contradict, or ignore each other in absurd ways. Bureaucracies’ “stupidity” (Graeber 2012) is, therefore, not only the result of efforts to capture an unruly world and organize it according to the “right” categories, but also of inconsistencies between different efforts implemented by various institutions and actors, which in turn generate new inconsistencies and the need for new categories. Hetherington (2020), for example, shows how efforts to regulate the use of pesticides in Paraguay failed because of difficulties in establishing ways of taking, transporting, and interpreting samples; and Araya-Moreno (2021) shows how efforts to control mobility during the COVID-19 pandemic in Chile created absurd situations, such as the requirement to obtain a permit in order to obtain another permit.

That bureaucracies are indeed capable of imposing contradictory and confusing norms is clearly related to the “work of rule” (Feldman 2008) they carry out, that is, the exercise of authority through which they impose sovereignty and ultimately enact the state. But as empirical studies on government techniques have shown, these techniques cannot be conceived as top-down directives obediently implemented by bureaucrats on the ground; rather, they should be located in the mundane procedures that “instantiate government” (Rose and Miller 1992). Informal as well as formal classifications are part

of government techniques, and none of them are completely arbitrary or entirely by the book.

The law is one of these formal classifications, but indeed an important one. In organizations of the criminal justice system, formal law unquestionably structures their mission and objectives, such as applying the criminal code. But it also—as anthropological scholarship attests—shapes the daily life of criminal justice bureaucracies by infusing them with its particular form (Canfield 2023): a form of distinct aesthetics (Göpfert 2013), specific documentary practices (Hull 2012), and recognizable, though sometimes counterintuitive, articulations of time and space (Valverde 2015). The growing body of scholarship that engages with legal technique (Michaels and Riles 2022) has shown to what extent the mundane work of legal institutions draws on very concrete practices such as sending emails, filling out forms, and reasoning in a formalist way. These practices, although related to a managerial project, cannot be reduced to their ideological tenets. Criminal justice bureaucracies can therefore be explored and described for what they are in themselves, not only considered as “means” (Riles 2011) to another end, like fairness, impartiality, or justice. Studying bureaucracies as cultural worlds does not mean that they cannot protect people’s rights, or that they should not be criticized for not achieving that objective—or any other, for that matter. It means that within those mundane bureaucratic tools—such as the formulas, indexes, lists, and pacts used to calculate and advocate for the right to water studied by Ballesterio (2019)—are folded possibilities for collective political futures.

3. Methodological framework: The daily workings of lower criminal courts in Santiago

Between 2018 and 2020, I conducted an ethnographic research project³ in Santiago, Chile, which included periods of observation in the halls and courtrooms of criminal courts, particularly during what are called detention review hearings [*audiencias de control de detención*]. In Santiago, every day, hundreds of people are arrested by police and brought to the same building complex, the *Centro de Justicia*. When someone is detained in a neighborhood under the jurisdiction of one of the 15 lower criminal courts [*tribunales de garantía*] located in this building, and other legal conditions are met, the person is taken to one of the courtrooms assigned that day to this specific type of judicial hearing.⁴ Although my analysis draws mainly on non-participant observation of judicial hearings, my methodology also included interviews and secondary literature analyses. Consistent with the ethnographic analytical style, all my data were analysed following “a process that entails careful and deliberate crafting” (Ballesterio and Winthereik 2021), in which I explored my empirical data through the lenses of the literature on what is bureaucracy from a cultural perspective.

³ The research project took place over 18 months between 2018 and 2020, totaling 300 hours of observation. This includes waiting time before the start of the first hearing and informal conversations with audience members, prosecutors, defense attorneys, and defendants’ families and friends. Ethics approval was obtained before starting fieldwork (approval CERAS-2017-18-219-P from Université de Montréal).

⁴ According to Chilean law, what I call a “detention review hearing” [*audiencia de control de detención*] aims to evaluate whether the detention of the defendant was carried out according to law and to decide on the continuation of the process, as well as other legal possibilities beyond the scope of this article. These routine hearings are not the only type held in these courtrooms, but they are among the most common.

By law, detention review hearings must be held within 24 hours of a person's detention, to determine whether the arrest was legal and, in practice, to initiate the legal process and separate more serious cases—which will go to trial—from those that can be resolved through other procedures (Araya-Moreno 2022). It is important to note that not all individuals accused of crimes or facing criminal proceedings attend the type of hearings I observed—only those detained by police in the preceding hours, nearly always without a warrant and “in flagrancy,” that is, allegedly discovered red-handed while committing the crime. Because only certain types of crimes can be discovered *in flagrante delicto*, most cases involve petty offenses committed by men from marginalized neighborhoods, whereas suspects of white-collar or complex crimes are brought before other types of hearings, scheduled in advance specifically for such cases or governed by different procedures. It is also important to note that although the main objective of these hearings is to assess the legality of the detention, in practice, they can become something else: a decision-making point about the future of the case, i.e. whether it can be tried immediately, whether further police investigation is necessary, whether a suspension is possible.

These hearings are repetitive and follow a steady rhythm; every day, including weekends, two series of them—what judges, prosecutors, and defense attorneys call “blocks” [*bloques*—take place, one in the morning and one in the afternoon. Each block of hearings includes up to 20 cases. To move through them quickly, prosecutors, judges, and defense attorneys agree on the order of cases before the hearings officially begin, organizing them into groups within the same block. They usually start with the simplest cases—for example, detentions where an arrest warrant had already been issued by a court—and then take up progressively more complex ones, leaving for last the cases in which the prosecution will request pre-trial detention. This means they might begin with cases of larceny or threats and end with serious assaults involving firearms.

Before examining each group of cases within the same block of hearings, officers seat the detainees—still handcuffed—on the bench near the defense lawyer's desk and begin a sequence repeated many times during the hearings: “Appears for the prosecution...”, the judge begins, inviting the prosecutor to speak. It is highly likely that the judge, prosecutor, defense lawyer, and court staff already know each other's names; nevertheless, in this context, it becomes an inescapable and repetitive rite. The prosecutor and defense attorney state their full names into the microphone and sometimes add, “method of notification already registered with the court.” Then the detainees give their names and addresses, which marks the peak of their participation in the hearings, since the defense attorney does the talking and the defendants' active role is limited. After this, the judge asks the defense attorney if they are contesting the detentions, and if not—which is the usual outcome—the judge explains the procedure applied to the whole group of detainees, since all go through the same process. With few exceptions, this sequence takes place before every group of cases and in each courtroom where detention review hearings are held.

At different moments in the evolution of a case, situations, persons, and things are classified into formal legal categories. When police detain someone, they assign a preliminary legal classification to the case. Often this initial classification corresponds to the legal qualification a prosecutor later assigns, but it can change—for example,

“suicides” may become “homicides” when more information is gathered, or traffic accidents with an injured person may first be categorized as “negligent bodily injury” [*cuasidelito de lesiones*] but later reclassified as “negligent homicide” [*cuasidelito de homicidio*] if the victim dies in the hospital. Most of the time, in these routine court hearings, actors in the criminal justice system make more mundane legal distinctions. For example, in a shoplifting case, the gravity of the offense depends on the value of the stolen goods. In a drug trafficking case, the same applies to the quantity of drugs found in the accused’s possession. In an assault case that causes only minor injuries, the accused is brought to court only if the victim files a report. These distinctions are established either in the law or in instructions issued by the National Prosecutor’s Office.

During the detention review hearings, judges, prosecutors, and defense attorneys explicitly refer to these laws and official instructions. They frequently cite legal articles—for example, the “requirements of article 140” [*los requisitos del artículo 140*] and “the letters c and d of article 155” [*las letras c y d del artículo 155*—to support their classifications in legal texts. In the sequences of detention review hearings, formal legal taxonomies structure the type of legal procedure applied to each case. However, they are not the only taxonomies in play, as they are entangled with informal ones. As can be gathered from the reactions of friends and family members in the audience—relief at any judge’s decision that does not involve jail, the opposite when it does—the only decision that seems to matter significantly in these hearings is whether the defendant remains in custody. Members of the public who have patiently waited for the hearings to start, sometimes for hours, do not appear concerned with the specific conditions imposed on their loved one—monthly or weekly check-ins at the police station, for example—as long as they ultimately leave the courtroom together through the same door. This is hardly surprising.

What is less expected is that pre-trial detention—which is only one of the potential conditions or precautionary measures [*medidas cautelares*] criminal courts can impose on defendants under investigation—raises a series of concerns for prosecutors, judges, and defendants that differ significantly from those associated with other conditions. Although regulated in the Criminal Procedure Code as one possibility among many of increasing “intensity,” they know full well that, in practice, pre-trial detention is the only condition that gives the case a qualitatively different status and to which actors within the criminal justice system assign a certain specificity: defense attorneys will probably appeal; prosecutors will be careful with their legal arguments, as their recording could ultimately be listened to by a superior court judge – and by their own supervisor at the prosecution office – and defendants and their families will have to deal with the significant consequence of being in prison or having a loved one in prison, as opposed to, say, having to sign a document once a month or once a week at the police station. This is not to say that pre-trial detention constitutes an informal taxonomy; it is very much a legal category. My point is that it also creates an informal taxonomy of labor, affects and concerns linked to the outcome of the hearing.

After the hearings, most defendants are released and leave the building, sometimes accompanied by family members. Some will need to return for a further hearing, probably a few weeks later; others must comply with conditions such as reporting to a police station weekly. Those who remain in custody are returned to the cells by officers.

Regardless of the outcome, instead of the tension and contentiousness one might expect in adversarial legal proceedings, collaboration defines interactions in these settings. They follow a routinized, standardized script that makes the swift handling of each case possible, given the limited time available (Velásquez and Riquelme 2024).

What might be observed in these hearings if we temporarily suspend the fact that they are judicial instances where questions of justice and fundamental rights are addressed—something done in Chile, for example, by Hersant and Miranda-Pérez (2023)? In the next two sections, I examine how these hearings take on a bureaucratic character in which service delivery and tautology reinforce each other. The “machine” to which the prosecutor referred—mentioned at the beginning of this text—derives its descriptive power from its dual capacity: on the one hand, to perform service delivery, and on the other, to redundantly transform each case into the work of another organization or the object of another legal procedure.

4. Results

4.1. *Performing service delivery*

Decisions with serious consequences are made at these hearings. A judge may decide that someone remain detained for months, that someone leave their home, or that someone cannot approach a particular house, among many other substantial measures imposed to protect, for example, a battered woman or an assaulted neighbor. In these hearings, children may witness their fathers being taken away by officers, mothers see their families torn apart by violence and addiction, and grandmothers watch their grandchildren being scolded by a judge for stealing from brand-name clothing stores. Occasionally, there is crying, shouting, and quarreling in the hallways outside the courtrooms, as well as effusive displays of affection between couples who just minutes earlier were told to stay apart after one was detained for threatening the other. Sometimes, media-worthy events draw cameras, microphones, and journalists, causing a brief brouhaha.

Despite these sporadic situations, and even during them, attending these judicial hearings and spending time in the *Centro de Justicia*’s hallways, elevators, and large communal courtyard feels like observing a well-oiled machine at work—just as the prosecutor described. People in formal attire, families, private security guards, law enforcement officers, and defendants participate in an environment not unlike that of welfare offices, such as the one described by Gupta (2012).

Participants have limited control over any single decision; for example, judges decide on pre-trial detention, but their decision depends on choices previously made by a prosecutor—and, before that, by a police officer—as well as the quality of the legal defense. Questions by defense attorneys regarding the handling of detainees—“Could he be freed of the handcuffs?” or “Could I give him a sandwich?”—were always met by a reminder from the judge of their lack of jurisdiction: “Ask *Gendarmería*;⁵ they are the ones in charge of detainees according to law.”

⁵ Gendarmería de Chile is the national service in charge of prisons and jails in the country.

Impersonal governance is therefore the result of both legal and managerial distinctions. Because the system must respond to a large and growing number of cases—putting it under stress due to scarce resources—the daily sequences of cases swiftly processed by the courts (on average, about 10 minutes per case) result from the coordination of different organizations trying to ensure that every detained person attends a detention review hearing within the 24 hours following the arrest, as required by Article 131 of the Chilean Criminal Procedure Code. Cases are grouped and treated in a particular order, not because the law commands it, but as a result of the combined efforts of the various institutions involved, all concerned with the availability of resources—human labor, courtrooms, and documents—so that hearings can be held in a timely manner in accordance with the Criminal Procedure Code.

What is it that actors are so concerned with providing to everyone? Something limited, to which everybody has a claim, and that must be distributed (Ferguson 2015). The main objective of this colossal, coordinated work is to ensure traceability and legibility for all cases that must be processed, and this is done under conditions of resource scarcity and temporal urgency, given the 24-hour rule. Consequently, the service that this system seems to provide—as many authors studying bureaucracies have pointed out (Hull 2012, Mathur 2015)—is legibility and traceability: of defendants' identities, of all criminal offenses committed by one person—as exemplified by the centrality of the criminal record—and of the participation of judges, prosecutors, tribunals, and others involved in detention review hearings. Whether this involves actually achieving legibility (Scott 1998), believing one has achieved it (Mathur 2015), or occupying a marginal position defined by illegibility (Das 2004), it is an objective internal to the functioning of the criminal justice system and distinct from concerns of reparation or punishment. As long as hearings are held in compliance with legal deadlines and follow the formal documentary requirements for each case, the service is considered “delivered.” The taxonomical work carried out collectively by the various actors allows them to provide this legibility project.

Moreover, this taxonomical work of rendering situations and people legible relies on a series of documentary practices. For hearings to proceed as they do, with actors able to move quickly from one case to another, documents also participate in this well-oiled “machine.” Before a detention review hearing, the prosecutorial authority assembles a file [*carpeta fiscal*] containing all the information it has on the case up to that point, including the defendant's birth certificate and information on other cases in which they may have been involved, as well as any materials that could constitute evidence—victims' and eyewitnesses' affidavits, receipts of stolen goods, and so on. This file must be produced within a few hours, which is why the prosecutorial authority in Chile has set up offices working 24/7 to meet this legal requirement. The courts produce documents specifying who attended each hearing—who “appeared” in court [*comparecer*]¹—who made which decision, what the final decision was, and exactly when it occurred, creating another file [*carpeta judicial*] that contains information about the judicial evolution of the case. Aiming to standardize practices before these hearings, the Chilean judiciary centralized not only the scheduling of courtrooms, the distribution of cases, and judges' shifts, but also the management system for delivering notices [*notificaciones*]. In daily life at the Centro de Justicia, the suitcases full of documents,

folders, and papers that people carry seem as important as the weapons, security cameras, and baggage scanners in the building.

4.2. *Moving cases forward*

Somewhat amusingly, considering that they are dealing with criminal cases, actors in the Chilean criminal justice system often talk about “killing the case”⁶ [*matar la causa*]. The “death” of a case is connected to the requirement of additional work by prosecutors, judges, defense attorneys, or law enforcement officers. The cause “dies” when no further work is needed—because there is not enough information to locate a suspect or arraign one, because there is an agreement between the prosecution and the defendant, or because the case has been adjudicated. This metaphor captures the teleological trajectory of a judicial case: A case is expected to move through various stages leading to some outcome that frees an employee from the burden of still having to act on it. This outcome is not necessarily related to the situation or incident that caused the “birth of the case”; a court ruling or what a victim might consider “justice being served” is something very different in the context of the bureaucratic treatment of a criminal case. Moving a case forward is about successfully “killing it” or postponing it, often by relocating it to the responsibility of another office.

In Chile, most cases that begin with a routine detention review hearing “die” at the first hearing, as a result of applying a procedure in which the defendant undertakes to comply with certain conditions over a period of time—typically a year—after which, if they are not arrested for any other reason, the case will be dismissed. These conditions mostly involve keeping the defendant’s address updated in the court’s database and, in cases of shoplifting, threats, or minor assaults, avoiding the store where the shoplifting occurred or not approaching the person who was threatened or assaulted. In a less common procedure, there could be an agreement between the victim and the defendant, in which the latter, in exchange for dismissal of the criminal case, pays for damages, gives money to the victim or a charity, apologizes, or fulfills any other condition agreed upon by both parties. These types of judicial procedures can only be used for relatively minor offenses, and since most cases routinely treated in these courtrooms are not very serious, they can be easily “killed” at this stage.

Another way of “killing” a case at the detention review hearing is to consider that the night spent by the defendant in jail was sufficient punishment. This is allowed under procedures in the Criminal Procedure Code that enable the quick adjudication of a case when the offense is minor, and when the defendant agrees to a ruling on the spot during the detention review hearing rather than waiting for a trial. Since the only operational distinction is whether the person will remain in jail or not—as the defendants’ families and the National Prosecution Office know well—detainees often choose this option when the sentence can be commuted for the time already served before the hearing, allowing for immediate release. Otherwise, the case will not “die,” and another unit of the Prosecution Office will oversee the criminal investigation or propose another type of procedure to address the case. In both scenarios, the date for the next hearing or the

⁶ Even the *Glosario de términos legales* published by the Poder Judicial (PJUD 2015, 4) explains that the number assigned to a case “is born and dies with the case [*nace y muere con la causa*].” This is not exclusive to criminal cases.

timeframe for completing the investigation is defined at the detention review hearing, effectively making the case about events that will occur in the future.

Beyond the technical details of these judicial procedures—which are numerous and complex—the point of this analysis is that, when we observe the criminal justice system in practice, prosecutors, judges, and defense attorneys are trying to move cases forward in ways that cannot be reduced to legal arguments or the specificities of a single case. While very few criminal cases, namely the serious ones, involve additional procedures in which police officers and prosecutors gather further evidence to clarify the case—such as “Who fired the gun and injured the victim?”—most cases, particularly those that go through routine detention review hearings at the *Centro de Justicia*, do not involve procedures that produce such evidence. At these hearings, the actors move the case forward not by deepening their understanding of what happened but by transferring the responsibility for examining it to another office, institution, or judicial instance. This reinforces the bureaucratic dimension of the criminal justice system: The logic of self-exoneration, buck-passing, and indifference (Herzfeld 1992), achieved through the multiplication of instances, procedures, and actors involved.

Even during the legal arguments at detention review hearings, actors constantly refer to other instances, documents, and institutions. When a detainee reports having been mistreated by the police or by the victim—which happens frequently—they are told to go to another office to file a complaint. When the prosecutor appeals a judge’s decision denying their request for pre-trial detention, the judge “sends” the case to the Appellate Court, which in practice means that the court clerk forwards the audio recording of the hearing to another office. Often, the hearing consists of distinguishing what can and cannot be addressed at that moment—for example, that matters in a domestic violence case should be handled in family court, not criminal court, and that only the police, not the judge, can decide to remove a detainee’s handcuffs. A common argument by both prosecution and defense is that whatever the other side is proposing is not relevant at the current stage of the proceedings [*“en esta etapa procesal”*], implying that there will be another time or another court for the case to be addressed.

The daily functioning of the criminal justice system thus involves a constant operation of pointing to another instance, another office, or another moment in the future. The fact that, in one way or another, the actors’ main objective is to “kill the judicial cause” underscores the eminently bureaucratic nature of their work, based on the belief that the best way to handle these incidents is to place them into classification schemes, including those established by the Penal Code and the Code of Criminal Procedure. When presented with the opportunity to “kill the case,” prosecutors, judges, and defense attorneys alike will probably take it, regardless of their role in an adversarial system. Victims and defendants, as well as their families, will likely find little comfort in a “dead judicial case,” as research with victims of crimes in Santiago has shown (Bolívar *et al.* 2024); nevertheless, this outcome is not entirely the result of either managerial practices or the application of criminal law. A successful criminal case—at least in these routine detention hearings—is one that can be resolved through the coordination of actors among themselves and with legal and administrative tools, with success measured by fidelity to a certain form (Riles 2011).

The tautological dimension of the criminal justice system refers to the way in which law is self-referential. The hearings examined in this paper are held following the legal requirements, and case move forward not because they come closer to an adjudicative stage, but because they can be successfully situated within a complex entanglement of multiple offices, institutions, and judicial instances, where responsibility may be displaced from one office, institution, or judicial instance to another. This dynamic resembles the “buck-passing” logic for which bureaucratic institutions are often criticized. Yet rather than being contrary to legal logics, such displacement is sustained by the very self-referential nature of the law. The choice of a legal procedure that temporarily “suspends” a case; the referral of a case to family court or to a higher court; the repeated deferral to a hypothetical future trial that may never materialize—all of these are possibilities formally established by law.

5. Conclusion: Courts-as-bureaucracies?

Anthropological literature on bureaucracies has shown that their main objective is to create and manage categories into which people and situations are placed, which gives them their tautological dimension (Herzfeld 1992, Handelman 1995). This article has focused on the characteristics of the criminal justice system that, without challenging the scholarly work on managerial court culture (Johnston and Pivaty 2023), make criminal courts “bureaucracies”—that is, cultural worlds (Hoag 2011, Mathur 2015) in which the different actors collaborate to achieve an objective that seems tautological: moving the case forward so it becomes the responsibility of another individual, institution, or judicial instance. Observing the routine hearings in Chilean lower criminal courts in practice, we see sequences of cases shaped more by repetitiveness, tautology, and “structures of self-exoneration and buck-passing” (Herzfeld 1992) than by fairness and impartiality—or their absence. While police officers, prosecutors, defense attorneys, and judges would likely resist being called “bureaucrats,” they cannot deny that, in practice, their work is more routine—“getting through the list” (Mack and Anleu 2007), “business as usual” (Travers 2017), and “pretty boring stuff” (Cowan and Hitchings 2007)—than they would probably like it to be.

The article focuses on characteristics that, without being exhaustive, are linked to the bureaucratic dimension of criminal courts: They are part of a “service delivery” logic (Gupta 2012), and their main practical—not normative—objective is to move cases forward. By taking seriously that, through their work, prosecutors, judges, defense attorneys, and clerks are trying to enact some public good (Bear and Mathur 2015), we can see that there is something particularly bureaucratic—in the sense commonly attributed to this word—about the functioning of the criminal justice system. Instead of engaging with the rule of law, ideals of justice, or glimpses of solutions to the problems that bring citizens to criminal courts, actors spend their time worrying about the number of cases to examine in a given day, establishing procedural distinctions, and telling defendants, victims, and families that their problem will be subsequently reviewed—but not necessarily solved or adjudicated—by another instance or institution.

The criticism of the bureaucratization of the criminal justice system implies that there is an opposition between the legal and the bureaucratic logics. However, in this paper, I suggest that both logics constitute each other, that despite their normative goals the criminal justice system is a bureaucratic organization. Examining criminal courts as

bureaucracies through the lens of the anthropology of bureaucracies allows for a better understanding of how the criminal justice system works in practice, including the “mechanical” character the prosecutor I interviewed mentioned at the beginning of this text: a device in which the different parts—judges, defense attorneys, prosecutors—perform a task for the sake of the task itself. This is far from being exclusively the result of a trend toward the managerialization of the justice system; it is also related to the very nature of law and its attachment to form (Riles 2011, Canfield 2023). Following Van Oorschoot’s (2021) work on criminal courts in the Netherlands, my research acknowledges that law can be enacted in different ways: as institutions, sentencing outcomes, material procedures, moral judgements, public policy, and more. Van Oorschoot’s (2021, 63) approach is an “ambulatory and praxiographic mode of paying attention,” that is, always situated and necessarily partial. This approach allowed me to see that the “grinding machine of poor people” metaphor describes not only most defendants and the punishment they receive but also the intrinsic bureaucratic character of law when applied in practice.

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