

ACTING AS PRIVATE PROSECUTOR IN THE AMIA CASE

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I. INTRODUCTION	83
II. ACTING AS PRIVATE PROSECUTOR	87
A. <i>Separating the Wheat from the Chaff</i>	88
B. <i>AMIA as Collateral Damage</i>	95
C. <i>Derailment of Justice</i>	102
III. A LONG WAY TO WASHINGTON	112
IV. AMIA AFTERMATH.....	117

I. INTRODUCTION

On July 18, 1994, a van loaded with TNT and ammonal destroyed the AMIA¹ building located in the center of Buenos Aires, killing 85 people and injuring hundreds more.² Carlos Menem was then in the fifth year of his presidency, after succeeding Raul Alfonsin in 1989. Menem immediately defied all political projections

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1. AMIA is an acronym for *Asociación Mutual Israelita Argentina*, an association of Argentine Jewish philanthropic institutions. See Karen Ann Faulk, *The Walls of the Labyrinth: Impunity, Corruption, and the Limits of Politics in Contemporary Argentina* 44 (2008) (unpublished Ph.D. dissertation, The University of Michigan) (on file with the University of Michigan).

2. *Id.*

and employed a liberal economic policy that conflicted with Peronist tradition.³

In 1992, Buenos Aires suffered what is regarded as its first major foreign terrorist attack when an explosion demolished the Israeli Embassy.⁴ To this day, questions remain as to whether the explosion started outside or within the Embassy walls. The Argentine National Academy of Engineers concluded that the explosion occurred from inside the Embassy, caused by the detonation of explosives, though the report was highly debated.⁵ Nonetheless, news outlets circulated a rumor that the bombings were intended to punish Menem for his failure to fulfill promises made to Syrian president, Hafez El Assad, in exchange for Assad's financial support of Menem's presidential campaign.⁶

Menem's policies were radical deviations from those of previous Peronist administrations. He opened the economy to foreign exports and began privatizing state-owned enterprises. In addition, his pursuit of a special relationship with the U.S. was the direct result of some of the modifications made to Argentina's foreign policies. For example, he opted out of Argentina's affiliation with the coalition of non-aligned countries and even participated with the U.S. in Operation Desert Storm during the war in Iraq in 1992. Menem also initiated constitutional reform that helped his campaign for re-election during his second term. He also increased the number of placements for judges allowed on the Supreme Court to further secure his agenda.

3. See, e.g., Alberto Fracchia, *América Latina: "La primera presidencia de Menem*, REVISTA DE CIENCIA POLÍTICA, <http://www.revinciapolitica.com.ar/num1art2.php> (last visited Apr. 3, 2019).

4. See Eugene Robinson, *Israeli Embassy Blasted in Argentina*, WASH. POST (Mar. 18, 1992), https://www.washingtonpost.com/archive/politics/1992/03/18/israeli-embassy-blasted-in-argentina/055cd031-77b5-459a-a70d-72a197e13570/?noredirect=on&utm_term=.5eb103440263.

5. See *Seven Years and Counting – The 1992 Israeli Embassy Bombing in Buenos Aires*, B'NAI B'RITH INT'L (Mar. 1999), <https://www.bnaibrith.org/seven-years-and-counting.html>.

6. See Sergio Moreno, *El atentado*, PÁGINA 12, <https://www.pagina12.com.ar/especiales/15aniversario/12.htm> (last visited Apr. 3, 2019); DANIEL BLINDER, *Irán, Siria e Israel y sus huellas en la Argentina: Los atentados de la Década de 1990*, Nov. 28, 2008, at 2; see also Claudio Fantini, *Atentado a la embajada de Israel: 23 años de oscuridad*, TURELLO (Mar. 17, 2015), <http://turello.com.ar/atentado-la-embajada-de-israel-23-anos-de-oscuridad/>; see also *Irán, Siria y la AMLA; Dos pistas que convergen*, LA NACIÓN (Aug. 31, 2003), <https://www.lanacion.com.ar/523210-iran-siria-y-la-amia-dos-pistas-que-convergen>.

Menem's judicial appointments to the Argentine Federal Court are examples of the reigning impunity and degradation of Justice in Argentina.⁷ Many of these appointed judges were known as napkin judges because, on one occasion, during a meeting with the Minister of the Interior, Carlos Corach, Corach wrote on a napkin the names of all the judges under his control.⁸ Juan Galeano, a former court clerk, and then the Federal Judge in charge of the AMIA investigation, was appointed as a Federal Judge likely due to his relationship with Corach.

The AMIA case required an experienced judge, and Galeano certainly did not fit the bill. Prior to the bombing, Galeano's only moment of recognition occurred in May 1994, when he prosecuted a detainee on a charge of theft because the man ate one of Galeano's employees' lunch. After the lengthy and derisory proceeding, which involved eight eyewitnesses, Galeano acquired a reputation amongst colleagues as the *sandwichide*, or *the federal roll*. Ultimately, the Federal Criminal Chamber of Appeals acquitted the Defendant and issued a serious warning to Galeano.⁹

Given his inexperience as a judge and as an investigator, Galeano, even with the help of the Argentine government, found himself to be no match for the difficulties involved with the AMIA case. The Argentine government publicly announced that it had provided Galeano the most advanced equipment and software, and assigned more than 300 people to work for him. In addition, the government relieved his Tribunal of work related to other cases in the hopes that Galeano would concentrate his efforts solely on the bombing. However, these government provisions produced no results. Galeano completely failed in establishing a systematic

7. See Christopher Larkins, *The Judiciary and Delegative Democracy in Argentina*, 30 COMP. POL. 423, 427-28 (1998).

8. See Cavallo: *Me convencieron de que no siga hablando*, LA NACIÓN (Oct. 29, 1996), <https://www.lanacion.com.ar/169680-cavallo-me-convencieron-de-que-no-siga-hablando>; see Adrián Ventura, *El militante que se hizo juez gracias a corach*, LA NACIÓN (Aug. 15, 2003), <https://www.lanacion.com.ar/politica/el-militante-que-se-hizo-juez-gracias-a-corach-nid519536>; see Corach volvió a la carga, LA NACIÓN (Oct. 17, 1998), <https://www.lanacion.com.ar/173391-corach-volvio-a-la-carga>.

9. See *Un caso jamón jamón*, PÁGINA 12 (May 31, 2004), <https://www.pagina12.com.ar/diario/elpais/subnotas/36070-12663-2004-05-31.html>; Larry Rohter, 5 Acquitted in '94 Bombing of a Jewish Center in Argentina, N.Y. TIMES (Sept. 3, 2004), <https://www.nytimes.com/2004/09/03/world/americas/5-acquitted-in-94-bombing-of-a-jewish-center-in-argentina.html>.

collection of evidence of any kind. Moreover, rather than investigate, Galeano preferred to rely on work produced by the secret service.

Sometime after the bombing, the media offered to the public what was supposed to be an “official story.”¹⁰ The story claimed that the AMIA bombing was a terrorist attack carried out by Iranian members of Hezbollah, and that Hezbollah used a van provided by the corrupt police officers of Buenos Aires. The truth, however, was that the story could not be supported by any evidence related to the case. Unfortunately, the AMIA and DAIA,¹¹ the Jewish institutions that acted in the proceedings as representatives of a group of victims and their families, fully supported Galeano and this “official story.”

I first met with the victims and their families in October 1995. Sergio Wider, a representative of the Simon Wiesenthal Center in Argentina, arranged the meetings. The family members were frustrated with the lack of results in the investigation and sought a counselor who could represent their interests better than the AMIA and the DAIA. I explained to them that, as a Catholic, my appointment as counselor could be interpreted as an insult by the Jewish institutions. While many victims of the bombing did not belong to the Jewish community, it was clear that the perpetrators purposely targeted Jewish institutions.¹² Days after that meeting, the families informed me that they appointed a prestigious Jewish counselor, and I expressed my genuine satisfaction with their decision. However, things changed in 1997, when three members of that original group, including Diana Malamud, Laura Ginsberg, and Norma Lew, president of a non-profit organization called Memoria Activa,¹³ requested to meet with my law firm. They explained that

10. The “official story” is described in the following sentence and will be referenced in quotes in various sections throughout this article.

11. DAIA is an acronym for *Delegación de Asociaciones Israelitas Argentinas*, an organization which united the major Argentine Jewish institutions. DELGACIÓN DE ASOCIACIONES ISRAELITAS ARGENTINAS, <http://www.daia.org.ar/la-daia/> (last visited Mar. 25, 2019).

12. A delegation of DAIA occupied the upper floor of the destroyed AMIA building. See *The AMIA/DAIA Bombing: Terror in Argentina*, ADL, <https://www.adl.org/education/resources/backgrounders/the-amia-daia-bombing-terror-in-argentina> (last visited Mar. 25, 2019).

13. Memoria Activa translates to “Persistent Memory.” It is a non-profit organization that reunited victims, relatives and friends of the victims of the AMIA attack, and continues to represent the dissident group of the “official story.” From the original group that I met in October 1995, the majority are now members of this organization. See *Quienes Somos*, MEMORIA ACTIVA, http://memoriaactiva.com/?page_id=172 (last visited Mar. 25, 2019).

their counselor resigned, leaving them with no one to represent them in the proceeding.¹⁴

The Argentine criminal proceeding was divided into two parts at that time. In the first part, a judge was responsible for collecting all of the evidence and determining whether a person should be indicted. Moreover, any person that demonstrated a legitimate interest in participating in the proceeding could be appointed as a Private Prosecutor¹⁵ and act in the proceeding as an additional party. Any party could write and submit a request to the Tribunal, and the Tribunal would respond with approval or denial of the request. The second part of the Argentine criminal proceeding involved an oral proceeding before a different collegiate Tribunal, where defense counselors and prosecutors ratified or offered new evidence and presented their pleadings. They could also request sanctions or a non-guilty verdict.

This article will explain how I performed my role as Private Prosecutor during the AMIA criminal proceeding. The first section deals with the collection of evidence and my disputes with Galeano, my conflicts with AMIA and DAIA, and the unexplained international connection. I will show that the Jewish institutions followed directives to support the “official story,” which only bolstered the Iranian connection to the case, and led law enforcement to ignore the use of evidence that would have been more helpful to the case. The second section details our case before the Inter-American Commission on Human Rights (“ICHR”) and its importance in unveiling the cover-up carried out by Galeano and the Argentine government. The last section discusses the evolution of the case and its consequences to present day.

II. ACTING AS PRIVATE PROSECUTOR

By 1997, the main proceeding covered more than 270 volumes.¹⁶ I refer to this proceeding as the *main proceeding* because at that

14. The situations that produced this meeting and their results are detailed to great lengths in my book. See ALBERTO L. ZUPPI, AMIA: AN ONGOING CRIME 33 (2018).

15. CÓDIGO PENAL [CÓD. PEN.] [CRIMINAL CODE] art. 82 (Arg.), <http://servicios.infoleg.gob.ar/infolegInternet/anexos/0-4999/383/texact.htm#5>.

16. To see the extreme number of volumes in this case, Leo Vaca’s prized photo can be viewed in *Premiaron una foto de infojus noticias*: “Un poco de luz a una causa oscura”, INFOJUS NOTICIAS (Oct. 21, 2015),

point, Galeano already started his pathless investigation into some apparent leads in separate proceedings. For instance, he opened a parallel investigation known as the *causa Armas*, or the *Weapons case*, where he presumably investigated the activities of a rebel group in the Army.¹⁷ Without any clear purpose, he filed hundreds of volumes. Then, and again without any clear purpose, he opened another investigation known as the *causa Brigadas*, or the *Brigades case*, where Galeano investigated a group of policemen suspected of delivering the van used in the bombing to its perpetrators, despite doubts expressed by the press over the matter.¹⁸ By the time of my appointment, seventeen policemen were detained without legal basis or evidence against them to justify indictment. Most of these policemen remained in prison for more than eight years, though they were later acquitted by the Federal Oral Tribunal.¹⁹ The case involving these policemen is particularly grievous because Galeano knew from the very beginning that the policemen had nothing to do with the bombing. Galeano initiated many more similar parallel investigations, even though they failed to produce any meaningful evidence for the case. He only further derailed the investigation by introducing some procedural institutions, then unknown to Argentine legislation, such as the *witness of concealed identity*, under which the parties were restricted from examining evidence collected in the parallel cases. This was clearly illegal.²⁰

A. *Separating the Wheat from the Chaff*

The proceedings were a mess, and attempting to read through the files was like riding an unpredictable and never-ending roller-coaster.

<http://www.infojusnoticias.gov.ar/nacionales/premiaron-una-foto-de-infojusnoticias-un-pco-de-luz-a-una-causa-oscura-10256.html>.

17. See *Venta ilegal de armas*, CLARÍN, (May 27, 2001), https://www.clarin.com/politica/armas-investigacion-contactos-atentado-amia_0_BJSU-ugAYg.html; see also *Nexo entre los casos AMIA y armas*, LA NACIÓN, (June 1, 2001), <https://www.lanacion.com.ar/sociedad/nexo-entre-los-casos-amia-y-armas-nid309358>.

18. See Adrián Ventura, *Once policías detenidos por la causa de la AMIA*, LA NACIÓN (July 14, 1996), <https://www.lanacion.com.ar/sociedad/once-policias-detenidos-por-la-causa-de-la-amia-nid175741>.

19. See *historia de los detendios en la causa AMIA*, INFOBAE (Sept. 2, 2004), <https://www.infobae.com/2004/09/02/137160-historia-los-detenidos-la-causa-amia> (listing of acquitted policemen).

20. See generally Law No. 25764, B.O. Aug. 13, 2003 (Arg.), <http://servicios.infoleg.gob.ar/infolegInternet/anexos/85000-89999/87581/norma.htm>.

In the first volume of work, which involved the description of the site where the blast occurred, the subject oddly, and too quickly, shifted from the suspicious activities of two Germans tourists to a Federal Police investigation of a group of Arabic-speaking people in the neighborhood of the AMIA building. It also included a report of a taxi driver who saw a group of people taking photos outside of the building. There were also several phone calls randomly added to the record. One recorded phone call involved a man named Wilson dos Santos, who stated, "I told you that this was going to happen."²¹ Despite the alarming nature of Santos' statement, investigators failed to develop the evidence. The following pages in the first volume read in the same illegible manner.

Investigators also lacked clear procedures to preserve evidence, as indicated by the lack of meaningful evidence collected after the attack. Perhaps this failure had something to do with the chaos caused by the terrorist attack. Surely, forensics teams did not participate with the policemen, firemen, and volunteers that searched for survivors trapped beneath the wreckage. However, there is no explanation for when Galeano instructed his contractors to load the debris onto bulldozers to move the evidence into an open field near a river several miles from the blast.²² At the time, it could only be assumed that law enforcement simply did not communicate as there was no clear hierarchy of order under Galeano's directive.

After separating the wheat from the chaff, it was evident that a vehicle, presumably a white Renault Trafic van, had been loaded with ammonal and detonated near the doors of the AMIA building. Nonetheless, some journalists doubted the van's existence because there were no witnesses that claimed to have seen the van. Instead, these journalists believed that a bomb had been stocked either inside the AMIA building, or in a dumpster placed near the doors of the AMIA building just minutes before the blast.²³ All doubts were later resolved, however, when people found pieces of the van at the blast

21. *El atentado contra la sede de la mutual judia: La extradición del Brasileño Wilson Dos Santos*, CLARÍN (Dec. 24, 2000), https://www.clarin.com/politica/amia-larga-historia-hombre-sabia-demasiado_0_Sk-e1VF1Ctx.html; *Ubican a un Testigo Clave del Caso AMIA*, LA NACIÓN (Nov. 19, 1998), <https://www.lanacion.com.ar/sociedad/ubican-a-un-testigo-clave-del-caso-amia-nid118410>; MATTHEW LEVITT, HEZBOLLAH: THE GLOBAL FOOTPRINT OF LEBANON'S PARTY OF GOD 95 (2013).

22. ZUPPI, *supra* note 14, at 35-36.

23. *See generally* JORGE LANATA AND JOE GOLDMAN, *CORTINAS DE HUMO* (1994).

site, including one of the van's shock absorbers recovered near a building across the street.²⁴ Then, on July 25, 1994, the government announced the discovery of the van's engine, which helped law enforcement determine the type of vehicle involved. The discovery of the engine was important because it bore an engraved registration number that would lead investigators to its original owner. By 1997, news reports announced that the van belonged to Carlos Telleldin, a man who was already in custody.

However, I noticed several peculiarities with regards to the new evidence and events subsequent to its discovery. For example, the statement that announced the engine's discovery was dated July 15. Yet, on page 114 in the first volume of the case, law enforcement reproduced an undated and unsigned police communication which included a request to Galeano to intercept several dozen phone lines, including those belonging to Telleldin, his mother, and his brother.²⁵ Though the police communication was undated, the preceding page 113 was dated July 19, and page 115, dated July 21; so it is plausible that if the request to Galeano was dated, it would have been dated as sometime between July 19 and July 21. However, this makes no sense since Telleldin was not under investigation prior to July 25, when law enforcement discovered the engine and traced it back to the original owner. Why would the police request to tap Telleldin's phone line four days prior to the bombing? This is one of many lingering questions that remain unanswered to this day.

By the time law enforcement finally identified Telleldin, he had flown to the northern province of Misiones, which borders Paraguay and Brazil. Shortly afterwards, the secret service recorded a lengthy telephone conversation with Telleldin. In total, law enforcement produced sixty-six tapes documenting their first contact and various interviews with Telleldin. These tapes were stored and secured with the Secret Service at the time Telleldin was arrested at the airport after returning from Misiones. However, those sixty-six tapes somehow mysteriously disappeared, simultaneously from both the Federal Department of Police and from SIDE.²⁶ To make matters

24. Raúl Kollman, *Las claves del caso AMIA*, PÁGINA 12 (Jan. 25, 2004), <https://www.pagina12.com.ar/diario/elpais/1-30765-2004-01-25.html>.

25. *Caso AMIA: Las nulidades de Telleldin*, DIARIO JUDICIAL (July 16, 2010), <http://www.diariojudicial.com/nota/11342>.

26. SIDE is the acronym for "*Secretaría de Inteligencia del Estado*," which is the equivalent of the American CIA. See *El atentado que la SIDE Sospechó*, INFOJUS NOTICIAS, <http://juicioamia.infojusnoticias.gov.ar/las-pruebas/las-sospechas-de-la-side/> (last visited Apr. 4, 2019); see *Telleldin dice que tuvo*

worse, law enforcement erased and returned the electronic agenda seized from Telleldin without making copies of its contents.²⁷ Luckily, law enforcement also seized from Telleldin a number of telephones directories. However, and to my dismay, I found most of the names and phone numbers cut out with what appeared to be scissors, which left the pages bristled like a comb.

After reading the written proceedings, one may conclude with a degree of certainty that the secret service was very much involved in the case. Clearly, something was being hidden from curious eyes, and it became more evident the deeper we investigated the case. We discover that in the morning of July 18, 1994, the day of the blast, a helicopter with a searchlight flew over the AMIA building for several minutes, illuminating its roof and surroundings.²⁸ What were they looking for? Could it be that someone already knew that the AMIA building was a target of a terrorist attack, and if so, why was nothing done to prevent it? We cannot chalk these events up to mere coincidence. Page 114, the tapes, the telephone records, the helicopter: all of the evidence pointed to the presence of the Secret Service. If the Argentine SIDE²⁹ was linked to these events, it is likely that the Mossad³⁰ would have been informed, given the close relationships that existed at the time between Argentina, the U.S., and

vínculos con Menem y con su familia, LA NACIÓN (Sept. 2, 2002), <https://www.lanacion.com.ar/politica/telledin-dice-que-tuvo-vinculos-con-menem-y-con-su-familia-nid427729>; *Por el Caso AMIA, Condenan a un ex comisario de la federal*, LA GACETA (June 23, 2005), <http://www.lagaceta.com.ar/nota/118310/argentina/por-caso-amia-condenan-ex-comisario-federal.html>.

27. *Ataques Terroristas: Caso AMIA*, CLARIN (Aug. 7, 1997), https://www.clarin.com/ediciones-antiores/beraja-busca-datos_0_rkI7yWWZAKe.html.

28. See *Relataron extraños vuelos de aeronaves*, LA NACIÓN (Nov. 8, 2001), <https://www.lanacion.com.ar/349677-relataron-extranos-vuelos-de-aeronaves>; Claudio Grossman, *La presencia de un helicóptero* (Feb. 22, 2005), <https://www2.jus.gov.ar/amia/grossman/La%20presencia%20de%20un%20helicoptero.pdf>; and Raul Kollman, *Otro Cuento Para El Caso AMIA*, PÁGINA 12, October 8, 2006, <https://www.pagina12.com.ar/diario/sociedad/3-74155-2006-10-08.html>; Raúl Kollman, *Otro cuento para el caso AMIA*, PÁGINA 12 (Oct. 8, 2006), <https://www.pagina12.com.ar/diario/sociedad/3-74155-2006-10-08.html>.

29. See *El atentado que la SIDE Sospechó*, INFOJUS NOTICIAS, <http://juicioamia.infojusnoticias.gov.ar/las-pruebas/las-sospechas-de-la-side/> (last visited Apr. 4, 2019).

30. The Mossad is Israel's national intelligence agency.

Israel.³¹ After all, we cannot forget that a Jewish institution was the main target of the attack.

President Menem was raised a Muslim; his parents were native Syrians. Menem later converted to Catholicism, the official religion of Argentina. In those days, presidents were required to be Catholic.³² Similar to the conduct of the secret service, the AMIA case presents evidence that points to a Syrian-Lebanese connection to the case. For example, a member of Menem's family argued in favor of Alberto Kanoore Edul, an Argentine citizen of Syrian ancestry who called Telleldin a week before the blast.³³ In addition, the dumpster located by the doors of the AMIA building and the truck that collected the dumpster minutes before the explosion occurred belonged to an enterprise owned by Nassib Haddad, a Lebanese man. At the time of the AMIA bombing, Haddad owned great quantities of ammonal for work on a quarry on his property.³⁴ Moreover, the truck that collected the filled dumpster and left the empty one at the AMIA building before the blast also left, in the same trip, another empty dumpster on an open property belonging to a man named Kanoore Edul.³⁵ Within Kanoore Edul's telephone book, investigators discovered contact information linked to a weapons dealer named Mozzar Al Kassar, a friend of the Menem family.³⁶

After reading the twenty-fifth volume of the AMIA proceeding, I learned that in October 1994, another Judge from the Province of Buenos Aires was present during a judicial raid purposed to discover

31. See Raúl Bernal-Meza, *Política Exterior Argentina: De Menem a de la Rúa*, 16 *SÃO PAULO EM PERSPECTIVA* 74, 81 (2002), available at <http://www.scielo.br/pdf/spp/v16n1/12126.pdf>; see also *Judíos, la seducción menemista*, *LA NACIÓN* (Apr. 30, 2000), <https://www.lanacion.com.ar/209481-judios-la-seducion-menemista>.

32. This was a requisite of Article 73 of the National Constitution of 1853, which was in force until 1994 when the constitutional reform suppressed within current Article 89 the candidate's religion as a requisite. CONSTITUCIÓN NACIONAL [CONST. NAC.] ART. 89 (Arg.), <http://servicios.infoleg.gob.ar/infolegInternet/anexos/0-4999/804/norma.htm>.

33. See *Los secretos de Kanoore Edul*, *LA NACIÓN* (Feb. 20, 2000), <https://www.lanacion.com.ar/6032-los-secretos-de-kanoore-edul>.

34. See Raúl Kollman, *Huellas que llevan al atentado*, *PÁGINA 12* (Sept. 25, 2004), <https://www.pagina12.com.ar/diario/elpais/subnotas/41503-14246-2004-09-25.html>.

35. *Id.* See *Irán, Siria y la AMIA: Dos pistas que convergen*, *LA NACIÓN* (Aug. 31, 2003), <https://www.lanacion.com.ar/opinion/iran-siria-y-la-amia-dos-pistas-que-convergen-nid523210>.

36. See Horacio Verbitsky, *Hilando fino*, *PÁGINA 12* (July 26, 2009), <https://www.pagina12.com.ar/diario/elpais/1-128889-2009-07-26.html>.

a secret, illegal electrical connection.³⁷ When police officials arrived at the premises, they discovered a man named Ali Chehade Al Kassan, hiding among the carpets stocked there. Al Kassan, a Lebanese citizen, did not speak Spanish and could not explain the reasons for his presence. Upon a search of his premises, the police discovered leaflets from Hezbollah, tapes of the same origin, a fake credential for Al Kassan as a military attaché to the Syrian Embassy in Buenos Aires, and most importantly, two pressed blocks of TNT in their unbroken, original U.S. Army packaging.³⁸ The tenement belonged to a Syrian family, and upon a search of their home, the police found brochures, tapes, and even a sculpture of a scimitar from Hezbollah. In my first written request to Galeano, I demanded that Al Kassan be interrogated immediately. As surprising as it sounds, Al Kassan had not been interrogated since the day of his arrest. Galeano's response was as underwhelming as it had always been throughout the duration of the case. He often, and repeatedly said he would, "téngase presente," meaning *keep it in mind*, but he never took serious action. Several months later, law enforcement freed Al Kassan. In addition, law enforcement released the owner of the tenement, even though law enforcement failed to verify his confusing explanations regarding Al Kassan's presence. All of these details are clearly transcribed in the first volumes of the written proceeding. There is no mystery, or mastermind detective work on my part. To learn of these events, all one must do is simply read the files.

I do not, nor have I ever, considered myself an expert on international policy. However, it was clear to me that the evidence of the AMIA case pointed to Syrian or Lebanese involvement. Yet, because Galeano accused Iran, the "official story" also accused Iran. Syria and Lebanon are not mentioned at all therein. When I asked Galeano about his suspicions, he mentioned that some of the members of the Iranian Embassy in Buenos Aires connected to the bombing described in their declarations a repentant witness named Manucher Moatamer, who Galeano met in Venezuela in 1994.³⁹ I asked Galeano to call these members as witnesses. He answered that

37. It is unusual that a judicial raid would be ordered for an illegal electric connection but it is even more strange that a Federal judge was personally present during the seizure.

38. ZUPPI, *supra* note 14, at 84-85.

39. *AMIA: El juez busca el contacto externo*, LA NACIÓN (Nov. 23, 1997), <https://www.lanacion.com.ar/81358-amia-el-juez-busca-el-contacto-externo>; *Galeano trajo documentos que apuntan a Irán*, LA NACIÓN (Nov. 29, 1997), <https://www.lanacion.com.ar/81830-galeano-trajo-documentos-que-apuntan-a-iran>.

they were immune as diplomats. This was clearly wrong. They are not immune until they claim diplomatic immunity, and even then, Iran may waive their immunity. I gave him several scholarly articles that I wrote on the matter of foreign sovereign immunity.⁴⁰ Although I understood at the time the weaknesses in the “official story,” I did not realize the extent of the cover-up. Ultimately, Galeano ignored my request. The Iranian diplomats flew from Argentina to their new destinations, and only then did he issue the first arrest warrant against eight of the members.⁴¹

It became clear to me that Galeano was involved in a cover-up. I was most intrigued, however, as to how the AMIA and DAIA could support Galeano’s poor work, as both institutions were direct victims to the bombing. In addition, both institutions represented a group of victims and their families. How could they consent to such a scandal?

Beatriz Gurevich,⁴² who studied the behavior of the Jewish institutions during the AMIA case, wrote:

“[O]nly a few people at the core of AMIA and DAIA had real knowledge of what was going on with the investigation; few knew the role of the government in the cover-up. The victims’ families were not informed, and many participants in the CF⁴³ activities respected the DAIA’s security rules. Not asking questions and having faith (more than trust) became a symbol of communitarian spirit and reciprocal solidarity.”⁴⁴

Memoria Activa was the dissenting voice, and criticisms of Galeano’s cover-up “were perceived as an intrusion into the field of DAIA’s incumbencies.”⁴⁵ This viewpoint presented many problems

40. See Alberto Luis Zuppi, *La inmunidad soberana de los estados y la emission de deuda pública*, in REVISTA JURIDICA ARGENTINA LA LEY 2, 118 (1992).

41. See JL, Romina Manguel, and Luciana Geuna, *Tócala de nuevo*, *Nisman*, PERFIL (Nov. 19, 2006), <http://www.perfil.com/noticias/columnistas/Tocala-de-nuevo-Nisman-20061119-0005.phtml>; see Rafael Bielsa, *La Orden de Captura que desencadenó la Tempestad*, PERFIL (Dec. 15, 2017), <http://www.perfil.com/noticias/elobservador/la-orden-de-captura-que-desencadenola-tempestad.phtml>; *AMIA: Interpol Argentina lanzó a su red mundial los pedidos de captura de los ex funcionarios Iraníes*, CLARÍN (Nov. 16, 2006), https://www.clarin.com/ultimo-momento/amia-interpol-argentina-lanzo-red-mundial-pedidos-captura-ex-funcionarios-iranies_0_Ska6RM1CYe.html.

42. See generally BEATRIZ GUREVICH, *PASSION, POLITICS AND IDENTITY* (2005).

43. In Gurevich’s text, “CF” means “community fortress,” which is a select leader group that imposes knowledge, surveillance, regulation, and discipline. *Id.* at 9.

44. *Id.* at 10.

45. *Id.* at 22.

for me during the case, and clearly conflicted with my concern for how the AMIA and DAIA led the prosecution.⁴⁶ Although I respect the work of Mrs. Gurevich and some of her conclusions, I disagree with her explanations regarding the behavior of AMIA and DAIA in the judicial proceedings. Gurevich stated, “AMIA and DAIA, incapable of making a diagnosis about the pace of the preliminary judicial investigation, contributed to the veiling of intentional deviations by the Judge in charge of the case and, finally, to the failure of the trial in 2004.”⁴⁷

This understanding of AMIA and DAIA’s behavior could work as a superficial explanation for the conflict of Jewish opinion among the different groups of victims of the attack. However, the conclusion seems too simple. The truth is more complex and requires a look into the political context of the attack.

B. *AMIA as Collateral Damage*

Following the Madrid Conference,⁴⁸ peace talks began in Washington between Israeli and Syrian delegations, in accordance with the Madrid formula. In 1994, negotiations were held on the ambassadorial level in Washington.⁴⁹ On June 1, 1994, Shimon Peres, then Minister of Foreign Affairs of Israel, and Isaac Rabin, visited Argentina.⁵⁰ There are not many records of the visit and,

46. *Id.* at 24.

47. *Id.* at 38.

48. The Madrid Conference was a peace conference held in Madrid in 1991, concerning the Israeli-Palestinian conflict. It was supported by Arab countries, such as Lebanon, Syria and Jordan, and was followed by several bilateral negotiations. See *Lexicon of Terms*, KNESSET, https://www.knesset.gov.il/lexicon/eng/madrid_eng.htm (last visited Apr. 6, 2019); *Israel-Syria Negotiations*, ISRAEL MINISTRY OF FOREIGN AFFAIRS, <http://www.mfa.gov.il/mfa/foreignpolicy/peace/guide/pages/israel-syria%20negotiations.aspx> (last visited Apr. 6, 2019).

49. *Israel-Syria Peace Talks to Resume*, JEWISH VIRTUAL LIBRARY, <https://www.jewishvirtuallibrary.org/israel-syria-peace-talks-to-resume>; Walid Al-Moualem, *Fresh Light on the Syrian-Israeli Peace Negotiations*, 26 J. PALESTINE STUD. 81, 85 (1997); Marwa Daoudy, *A Missed Chance for Peace*, 61 J. INT’L AFF. 215, 215 (2008).

50. According to Israel’s Ministry of Foreign Affairs, the visit occurred January 10th through 17th, 1995. *Chronology of Events – 1995-1996*, ISRAEL MINISTRY OF FOREIGN AFFAIRS (Nov. 28, 2000), <http://www.israel.org/MFA/ForeignPolicy/MFADocuments/Yearbook10/Pages/CHRONOLOGY%20OF%20EVENTS-%201995-1996.aspx>. Another statement claims that the visit occurred January 12, 1995. *Foreign Ministry Statement on Visit of Foreign Minister Peres to Venezuela and Argentina*, ISRAEL MINISTRY OF

surprisingly, the Israeli Ministry of Foreign Affairs claims that the visit occurred in January 1995.⁵¹ It is surprising because the bombing of the AMIA building happened right in the midst of these meetings, and discussions of security arrangements led to two meetings between the Israeli chief-of-staff and Syrian chief-of-staff in December 1994 and June 1995.

It is alleged that in the early morning of July 19, 1994, the day after the attack, the Argentine Ambassador to Israel, Jose Otegui, cabled the Argentine Foreign Ministry, stating that a former Israeli Ambassador in Argentina, Dov Schmorak, was flying to Buenos Aires as a special envoy to Prime Minister Rabin, with the intention of meeting with Menem in order to coordinate the version of events for the bombing that would be announced to the world.

According to a transcript provided by Alejandro Rúa, the cable stated, “[f]or the Israeli government it is important to coordinate with our version of the attack coincidentally-mainly by impact will have a way to present the issue before Israeli public opinion-given that opposition parties and some media are using the fact to attack harshly government peace policy Rabin.”⁵² After meeting Menem, Schmorak

FOREIGN AFFAIRS (Jan. 15, 1995), <https://mfa.gov.il/MFA/ForeignPolicy/MFADocuments/Yearbook10/Pages/Foreign%20Ministry%20Statement%20on%20visit%20of%20Foreign%20Min.aspx>. However, a CIA report articulates that the visit occurred June 1, 1994. CENT. INTELLIGENCE AGENCY, ISRAELI FONMIN’S VISIT A SURPRISE PLUS FOR BILATERAL RELATIONS 1 (1994). Another source dates the visit in July 1994. *Sus dos Visitas a la Argentina, al que Consideraba “Un País en Transición”*, ÁMBITO (Sept. 28, 2016), <https://www.ambito.com/sus-dos-visit-as-la-argentina-al-que-consideraba-un-pais-transicion-n3956787>.

51. It should be noted that this is not the only inaccuracy of the site, which counts 102 victims of the AMIA bombing, while the accurate number is 85. *Foreign Ministry Statement on Visit of Foreign Minister Peres to Venezuela and Argentina*, ISRAELI MINISTRY OF FOREIGN AFFAIRS (Jan. 15, 1995), <https://mfa.gov.il/MFA/ForeignPolicy/MFADocuments/Yearbook10/Pages/Foreign%20Ministry%20Statement%20on%20visit%20of%20Foreign%20Min.aspx>.

52. A transcription of the cable EISRA 010365/1994, June 19, 1993 is available on Alejandro Rúa’s twitter. Alejandro Rúa (@AleRuaTwit), TWITTER (Apr. 21, 2018, 8:14 AM), <https://twitter.com/AleRuaTwit/status/987711269389176832>; *Exclusivo: El video que revela cómo empezó el encubrimiento*, INFOJUS NOTICIAS, <http://juicioamia.infojusnoticias.gov.ar/las-pruebas/versiones-coincidentes> (last visited Apr. 7, 2019); Horacio Verbitsky, *La InfAMIA*, PÁGINA 12 (July 18, 2004) <https://www.pagina12.com.ar/diario/elpais/1-38318-2004-07-18.html>. Surprisingly, another cable from the US Embassy in Beirut, dated July 1994, informs Washington of the sudden call back to Argentina from Ambassador Feraldo. U.S. DEP’T OF ST. REV. AUTH., A SHADOW ON ARGENTINE-LEBANESE TIES (1994), available at https://archive.org/stream/AMIA_Files/104608204-A-Shadow-on-Argentine-Lebanese-Ties.

declared to the press, “[p]ossibly, the number one on the list of suspects is Iran. There are Islamic fundamentalist organizations inspired by Iran, financed by Iran, trained by Iran, but not Iranian, like Hezbollah, in Lebanon.”⁵³ In an interview filmed on July 19, 1994, Prime Minister Rabin admitted to speaking with Menem after the bombing, and mentioned that Menem supported the Israeli peace process and was determined to coordinate the strengths of their countries in the fight against Hezbollah, Hamas, and Islamic Jihad.⁵⁴

On September 27, 1994, President Menem and Foreign Minister Peres held a private meeting at the United Nations in New York to discuss the AMIA attack.⁵⁵ Later that year, President Menem visited Syria.⁵⁶ In another interesting interview during a visit by President Menem to Buenos Aires, which was undated but ostensibly held in the summer of 1997, Peres explains the necessity of making certain compromises with Israel’s Arab partners.⁵⁷ Israel was clearly seeking to reach peace with its neighbors.⁵⁸ Later, in 2015, Menem requested

53. Raúl Kollman, *Una década de misterio y las nuevas evidencias disponibles*, PÁGINA 12 (July 18, 2004), <https://www.pagina12.com.ar/diario/elpais/1-38344-2004-07-18.html>.

54. The interview is available via YouTube through a video uploaded by Infojus Noticias. Infojus Noticias, *Especial de Tiempo Nuevo Sobre el Atentado a la AMIA - 19 de Julio de 1994*, YOUTUBE (Oct. 6, 2015), <https://www.youtube.com/watch?v=WJAGU5HKc6w>.

55. Menem allegedly carried a letter from Peres to Assad, offering the retreat of the Golan Heights in exchange for a Peace Treaty. Magdalena Carrancio, *Las repercusiones del conflicto de medio oriente en la política exterior Argentina*, in LA POLÍTICA EXTERIOR ARGENTINA 1994/1997 149, 153 (1998); *Menem Diz que Houve Erro*, FOLHA DE S.PAULO (Nov. 25, 1994), <https://www1.folha.uol.com.br/fsp/1994/11/25/mundo/8.html>; Nayla W. Razzouk, *Argentine President Visits Syria*, UPI (Nov. 21, 1994), <https://www.upi.com/Archives/1994/11/21/Argentine-President-visits-Syria/8038785394000/>.

56. Marcela Valente, *ARGENTINA: Menem se Propone Acercar a Siria e Israel*, INTER PRESS SERVICE (Nov. 19, 1994), <http://www.ipsnoticias.net/1994/11/argentina-menem-se-propone-acercar-a-siria-e-israel/>.

57. DiFilm, *Shimon Peres habla de la AMIA – Yasser Arafat – Acuerdo OLP 1994*, YOUTUBE (June 11, 2018), <https://www.youtube.com/watch?v=nhi5aov6jF4>.

58. In October 1994, Israel and Jordan drafted a peace treaty, which paved the way for regular diplomatic relations after forty-six years. Allan Cowell, *Israel and Jordan Sign Draft of Wide-Ranging Peace Treat*, N.Y. TIMES (Oct. 18, 1994), <https://www.nytimes.com/1994/10/18/world/israel-and-jordan-sign-draft-of-wide-ranging-peace-treaty.html>.

from the TOF 2⁵⁹ for relief of his duty of confidentiality, claiming that his declaration could affect “state interests” and breach the “peaceful coexistence” established between Argentina and other countries.⁶⁰ These events support a conclusion that Israel and Argentina coordinated a false narrative in the hopes of furthering their political agenda. From a political perspective, it was important to shift the blame for the terrorist attack away from Syria or Lebanon, and to Hezbollah or Hamas alone.⁶¹ Accusing Syria or Lebanon of supporting the attack would only cause irreversible setbacks for Israel in the midst of peace negotiations. Israeli leaders expressed these political concerns to the main Jewish institutions in Argentina, and thereafter, the false narrative ran its course to the people. Through these moments, the AMIA bombing effectively became a case of collateral damage.

In accordance with the version of the story coordinated between Argentina and Israel, the Iranian narrative began taking form in the proceeding and beyond.⁶² Israel agreed with the Argentine government that there would not be an investigation into Syria’s involvement in the AMIA bombing. There were also rumors that the Legal Attaché, in an unverified cable sent to the U.S. Ambassador, discounted any Syrian connection to the AMIA case, and asserted that Iran, and not Syria, financed the Hezbollah agents responsible for the attack.⁶³ Israel was clearly interested in preventing a Syrian connection to the AMIA case.

59. TOF is an acronym which stands for Argentina’s “Tribunal Oral en lo Criminal Federal,” and is used several times throughout this article. The TOF 2 was the Tribunal overseeing the AMIA II trial.

60. *AMIA: Menem pidió que se lo releve del “secreto de estado”*, PERFIL (Aug. 20, 2015), <https://www.perfil.com/content/22759>; *AMIA: Menem prometió datos clave*, LA NACIÓN (Aug. 21, 2015), <https://www.lanacion.com.ar/1820987-amia-menem-prometio-datos-clave>; *A 21 años de la AMIA, Menem ahora afrece pruebas para esclarecer el atentado*, ÁMBITO (Aug. 20, 2015), <http://www.ambito.com/804084-a-21-anos-de-la-amia-menem-ahora-ofrece-pruebas-para-esclarecer-el-atentado>.

61. Adriana Camisar, *Ibrahim Yassin: Another Voice Confirming Hezbollah’s Participation in the AMIA Bombing*, B’NAI B’RITH INT’L (Apr. 16, 2018), <https://www.bnabrith.org/expert-analysis/ibrahim-yassin-another-voice-confirming-hezbollahs-participation-in-the-amia-bombing>.

62. Paulo Botta, *Argentina e Irán entre 1989 y 1999*, 14 AURACARIA 155, 156 (2012); see generally Mike Lasusa, U.S. Involvement in the AMIA Bombing Investigation (Apr. 2006) (unpublished Masters thesis, American University) (on file with American University).

63. This citation refers to leaked government cables uploaded onto, and only available through, Wikileaks. The unclassified nature of documents found on Wikileaks is well noted, and are only included to point out possibilities and to

The leaders of AMIA and DAIA were aware of the conspiracy. They blindly followed Israeli instructions to support Galeano's inefficient and directionless investigation, and ignored the insurmountable evidence pointing to the cover-up. Their political agenda became more important than the truth.⁶⁴ I can only imagine how long it took, or how difficult it must have been for them to keep a straight face and process the indigestible "official story." In spite of the gaps, errors, and absurdities in the narrative, they were still convinced that the public would accept the story without question. The situation would be amusing if we could only ignore the horrors of the tragedy they obscured.

In August 1994, Galeano flew to Venezuela on Tango 04, the Presidential Plane, to interview a potential Iranian suspect named Manoucher Moatamer. As Galeano stepped off the plane in his return, several reporters immediately approached him to ask him questions. His only response was "you are going to fall on your back."⁶⁵ Thereafter, Galeano visited the Presidential House in Olivos to speak with President Menem.⁶⁶ There, it is presumed that he presented Present Menem with the videotape of his interview with

further facilitate discussions regarding the uncertainties of the AMIA case. *Ambassador Meeting with AMIA Friends and Family Group*, WIKILEAKS, https://wikileaks.org/plusd/cables/07BUENOSAIRES1327_a.html (last visited Apr. 7, 2019).

64. See Christian Sanz, *La verdad sobre el atentado a la AMIA fue revelada por Wikileaks*, MENDOZA POST (Feb. 18, 2018), <https://www.mendozapost.com/nota/83064-la-verdad-sobre-el-atentado-a-la-amia-fue-revelada-por-wikileaks/>. Reporters transcribed a conversation with a high level official from DAIA, who said, "[w]e know that Iran is not behind the attack on the AMIA, but we need to say yes because Iran is a country that has promised to eliminate Israel from the face of the Earth and that kind of enemy must be fought with everything at hand." See Raúl Kollman, *Una Ayudita a los Amigos Para Acusar a Irán*, PÁGINA 12 (Feb. 27, 2011), <https://www.pagina12.com.ar/diario/elpais/1-163172-2011-02-27.html>; Gareth Porter, *Bush's Iran/Argentina Terror Frame-Up*, NATION (Jan. 19, 2008), <https://www.thenation.com/article/bushs-iranargentina-terror-frame/>.

65. "Fall on your back" is a phrase used to describe a person fainting (and falling on their back) from hearing overwhelming news. Adrian Ventura, *A dos años del atentado a la AMIA*, LA NACIÓN (July 12, 1996), <https://www.lanacion.com.ar/175720-a-dos-anos-del-atentado-a-la-amia>; *El juez que debió Resolver el peor Atentado en la Argentina*, LA NACIÓN (Aug. 3, 2005), <https://www.lanacion.com.ar/726953-el-juez-que-debio-resolver-el-peor-atentado-en-la-argentina>.

66. Susana Viau, *"Donde no hay justicia es peligroso tener razón"*, CLARÍN (Feb. 16, 2012), https://www.clarin.com/politica/justicia-peligroso-tener-razon_0_SktZeessD7x.html.

Moatamer.⁶⁷ Since a Federal Judge should function independently of every other governmental power, it is not surprising that his decision to meet with President Menem to present new evidence was met by a flock of curious news outlets waiting to report on a new development in the AMIA case. It is reasonable to assume that one would expect a break in the case. However, Galeano's promise to reporters that they would "fall on their back" would remain unfulfilled.

Something clearly changed during Galeano's meeting with President Menem. Perhaps Galeano realized the likelihood of failure in attempting to develop an Iranian connection to the AMIA case based solely on the testimony of a random repentant who lacked any credibility. Galeano knew that he did not have evidence to corroborate Moatamer's statements.⁶⁸ The Argentine Foreign Minister, Guido di Tella, shared the same skepticism.⁶⁹ In one interview, Tella stated, "[t]o my knowledge, there was never any real evidence [of Iranian responsibility]. They never came up with anything."⁷⁰ Tella also displayed hesitance in severing Argentina's relationship with Iran, which conflicted with his previous statements about taking a firm position with Tehran. His reluctance not only

67. *Citan a declarar a 14 agentes de la secretaría de inteligencia*, LA NACIÓN (Sept. 12, 2003), <https://www.lanacion.com.ar/526827-citan-a-declarar-a-14-agentes-de-la-secretaria-de-inteligencia> (detailing that meeting); *El juez lijo pidió detalles de una reunión entre Menem y Galeano en Olivos*, LA CAPITAL (Jan. 26, 2015), <https://www.lacapital.com.ar/politica/el-juez-lij-pidio-detalles-una-reunion-menem-y-galeano-olivos-n481366.html>; *Juez AMIA revisa reunión con Menem*, ÁMBITO (Jan. 26, 2015), <http://www.ambito.com/776258-juez-amia-revisa-reunion-con-menem>.

68. Unclassified diplomatic cable from James Cheek, U.S. Ambassador, Argentina, to Philip Wilcox, U.S. Ambassador, Counterterrorism (Sept. 1994) at 4, https://archive.org/stream/AMIA_Files/104608273-Scenesetter-for-Counter-Terrorism-Team-Visit-to-Buenos-Aires-September-5-6#mode/2up; Calvin Sims, *Argentine Chief, Noting Bombing Report, May Expel Iran Envoy*, N.Y. TIMES (Aug. 11, 1994), <https://timesmachine.nytimes.com/timesmachine/1994/08/11/917966.html?action=click&contentCollection=Archives&module=LedeAsset®ion=ArchiveBody&pgtype=article&pageNumber=9>. ("While an Iranian role is widely assumed, hard evidence is lacking and the GOA case is based largely on the testimony of the Iranian defector Manucher Moatamer, *who lacks credibility both locally and internationally*. Argentine investigators have come up with little or no information to corroborate Moatamer's allegations." (emphasis added)).

69. Unclassified diplomatic cable from James Cheek, U.S. Ambassador, Argentina, to Philip Wilcox, U.S. Ambassador, Counterterrorism (Sept. 1994) at 3, https://archive.org/stream/AMIA_Files/104608273-Scenesetter-for-Counter-Terrorism-Team-Visit-to-Buenos-Aires-September-5-6#mode/2up.

70. Gareth Porter, *Bush's Iran/Argentina Terror Frame-Up*, NATION (Jan. 19, 2008), <https://www.thenation.com/article/bushs-iranargentina-terror-frame/>.

revealed doubts about Galeano's investigation, but also uncertainties with regards to the economic relationship between Argentina and Iran.⁷¹

The sudden shift in Galeano's position is best explained by examining the political pressure that the Argentine government faced at the time from the general public. To that regard, the U.S. Ambassador of Argentina, James Cheek, made the following statement in an unclassified cable dated August 1994:

"There is tremendous political pressure on the Argentine government to arrest those responsible for the bombing. Many Argentines believe that the failure to solve the 1992 bombing of Israel's Buenos Aires Embassy demonstrated to international terrorists that Argentina was a soft target. The public believes that Iran was behind the AMIA bombing or supported the perpetrators in some way."⁷²

Though the public still believed that Iran was very much involved in the AMIA attack, Galeano was slowly losing his audience as he failed to strengthen the Iranian connection to the case with concrete evidence from the investigation. Given the questionable nature of Moatamer's reliability as a witness to the case, Galeano knew that Moatamer's testimony would not hold up in Court.⁷³

Evidence of Iranian participation in the AMIA attack has always been regarded as tenuous, based mostly on discredited testimony. It was supposed that Iran supported Hezbollah, but to that effect, Galeano failed to provide enough evidence to effectuate the issuance of Interpol red notices or any other request for extradition of Iranian diplomats.⁷⁴ This does not mean we should forget the Iranian

71. Unclassified diplomatic cable from James Cheek, U.S. Ambassador, Argentina, to Philip Wilcox, U.S. Ambassador, Counterterrorism (Aug. 1994) at 3-4, <https://foia.state.gov/searchapp/DOCUMENTS/Waterfall/190113.pdf>.

72. *Id.*

73. *Id.*

74. The citations here refer to several leaked government cables uploaded onto, and only available through, Wikileaks. The unclassified nature of documents found on Wikileaks is well noted, and are only included here to point out possibilities and to further facilitate discussions regarding the uncertainties of the AMIA case. *See* Classified diplomatic cable from Anthony Wayne, U.S. Ambassador, Argentina, to U.S. Secretary of State (Jan. 19, 2007) at 1, https://wikileaks.org/plusd/cables/07BUENOSAIRES93_a.html (The red notices submitted by Nisman to Interpol were corrected by the U.S. government); Cable from Wayne to U.S. Secretary of State (May 27, 2008) at 2, https://wikileaks.org/plusd/cables/08BUENOSAIRES717_a.html (Nisman apologized for not informing in advance of a request to the U.S.); Cable from

connection to the case. Instead, the connection should be accurately and independently investigated, like any other potential lead in the case. AMIA Special Prosecutor, Alberto Nisman, who followed directives and instructions from the U.S. government,⁷⁵ and was even believed to be working for the Federal Bureau of Investigation,⁷⁶ would be one of the most conspicuous advocates calling for further investigation.⁷⁷

C. *Derailment of Justice*

Though likely illegal in all respects, Galeano offered Telleldin, with funds provided by the SIDE, \$400,000 to answer a list of questions. Though Galeano videotaped the offer, he likely did so only to leave a record that he did not keep the money for himself. After the meeting, the SIDE duplicated the tape.⁷⁸ A copy of the tape then reached Commissioner Juan Ribelli, the most prominent policeman that Galeano previously arrested. Ribelli requested an interview with Galeano, and during that meeting, Ribelli presented Galeano a package containing the copy of the tape, wrapped like a gift, and

Wayne to U.S. Secretary of State (May 29, 2008) at 1, 3, https://wikileaks.org/plusd/cables/08BUENOSAIRES739_a.html (Nisman explained his actions to the US Embassy); Cable from Wayne to U.S. Secretary of State (May 19, 2009) at 1-2, https://wikileaks.org/plusd/cables/09BUENOSAIRES592_a.html (Nisman informed in advance of an indictment); Ana Delicado, *Nisman, el fiscal desenmascarado por Wikileaks*, PÚBLICO (Jan. 22, 2015), <https://www.publico.es/internacional/nisman-fiscal-desenmascarado-wikileaks.html>.

75. *Id.*

76. Harriet Alexander, *America 'Refused to Hand Over Emails Sent by Argentine Prosecutor Alberto Nisman' Before His Death*, TELEGRAPH (Oct. 23, 2015), <https://www.telegraph.co.uk/news/worldnews/southamerica/argentina/11952064/America-refused-to-hand-over-emails-sent-by-Argentine-prosecutor-Alberto-Nisman-before-his-death.html>.

77. Dexter Filkins, *Death of a Prosecutor, Alberto Nisman Accused Iran and Argentina of Colluding to Bury a Terrorist Attack*, NEW YORKER (July 20, 2015), <https://www.newyorker.com/magazine/2015/07/20/death-of-a-prosecutor>.

78. Jorge D. Boimvaser, *Historia secreta de un video que nunca se robó*, TRIBUNA DE PERIODISTAS (Sept. 4, 2004), <https://periodicotribuna.com.ar/924-historia-secreta-de-un-video-que-nunca-se-robo.html>; *La SIDE le Pagó a Telleldin y lo Filmó*, LA NACIÓN (Sept. 24, 2003), <https://www.lanacion.com.ar/530023-la-side-le-pago-a-telleldin-y-lo-filmo>; *Historia de un Video Polémico*, CLARÍN (Apr. 8, 1997), https://www.clarin.com/politica/historia-video-polemico_0_SJhgpEGbAYl.html; Ailín Bullentini, *Los videos, el pago y la pista falsa*, PÁGINA 12 (Sept. 25, 2015), <https://www.pagina12.com.ar/diario/elpais/1-282453-2015-09-25.html>.

recommended that Galeano watch it in private.⁷⁹ One can only imagine Galeano's discomfort upon receiving the videotape, which was recorded in secret and, presumably, secured within the Tribunal's safe. After several meetings with Ribelli, Galeano claimed before another Federal Judge that he was a victim of extortion. The Judge ordered the arrest of Ribelli's counselor and others involved.⁸⁰ Even through Galeano's apparent attempts to hide the recording, the videotape still reached the press.⁸¹

Pablo Jacoby, a dear colleague of mine, who would later in 1999 act as my partner in the AMIA trial, is a counselor recognized by many Argentine journalists. He represented, among others, Jorge Lanata, a stubborn and courageous reporter who refused to accept the censure that the Argentine press imposed on the investigation. In an attempt to expose the truth that so many news outlets failed to do, Lanata broadcasted this tape on his TV program, "Dia D."⁸² I recall Pablo describing how he and Lanata frantically ran from one television prompter to another to evade police searching for them in order to enforce a seizure order issued by another Federal Judge.⁸³ When Galeano's scandal reached the public, the AMIA, the DAIA, and even the Bi-Cameral Commission, established in Congress to investigate the AMIA bombing, decided to support Galeano, mistakenly believing, as Salvador Cruchaga, a member of the

79. Marcela Valente, *ARGENTINA: A 1.000 días de atentado a la AMIA, un nuevo escándalo*, INTER PRESS SERVICE (Apr. 9, 1997), <http://www.ipsnoticias.net/1997/04/argentina-a-1-000-dias-de-atentado-a-la-amia-un-nuevo-escandalo/>.

80. *Sigue preso en un escuadrón de gendarmería*, CLARÍN (Apr. 22, 1997), https://www.clarin.com/politica/preventiva-cuneo-libarona_0_r1wl3MGb0Fg.html.

81. See generally Alejandra Rey, *AMIA: Debate la bicameral el caso del video*, LA NACIÓN (Apr. 8, 1997), <https://www.lanacion.com.ar/66635-amia-debate-la-bicameral-el-caso-del-video>; see also *Fue amenazado el juez oyharbide*, LA NACIÓN (Apr. 18, 1997), <https://www.lanacion.com.ar/sociedad/fue-amenazado-el-juez-oyharbide-nid67279>.

82. *Atentado a la AMIA*, CLARÍN (Apr. 7, 1997), https://www.clarin.com/politica/video-polemico-teve_0_r1yBGW0Fg.html; *Telleldín dijo que tenía la palabra de Menem para mejorar su situación*, LA NACIÓN (Apr. 7, 1997), <https://www.lanacion.com.ar/sociedad/telleldin-dijo-que-tenia-la-palabra-de-menem-para-mejorar-su-situacion-nid66572>.

83. Claudio Gustavo Goldman, *AMIA/Encubrimiento*, ITON GADOL (Mar. 3, 2017), <http://www.itongadol.com.ar/noticias/val/102922/amia-encubrimiento-efimero-abogado-de-ribelli-recuerda-detencion-por-extorsion-a-galeano-con-video.html>; *Atentado a la AMIA*, CLARÍN (Apr. 7, 1997), https://www.clarin.com/politica/video-polemico-teve_0_r1yBGW0Fg.html; see *Un video muy sospechoso*, PÁGINA 12 (Mar. 4, 2003), <https://www.pagina12.com.ar/diario/elpais/subnotas/17222-6834-2003-03-04.html>.

Commission, told me years later, that they were helping the investigation. With this new support, Galeano, far from adopting a more prudent position, believed he was invincible.

Later, during the Oral Trial, a new videotape depicted Galeano and his clerks showing Telleldin a collection of photographs of the group of jailed policemen that Galeano would later recognize as the recipients of the Traffic van.⁸⁴ This video compromised Galeano to a far greater extent than the last one. The evidence was not only corroborated, but also proved beyond all doubt that the Judge directed Telleldin to make his accusations. Unfortunately, Galeano's clerks later destroyed these videotapes, along with several others, without informing either the counselors or the defendants that the videotapes existed.⁸⁵

Memoria Activa, which consisted of the voices most critical of the AMIA investigation, began to hold meetings at Plaza Lavalle before the Supreme Court. That tribunal, followed eagerly by the press and the media, was the perfect setting to thrust accusations against Galeano and the other prosecutors. Every time I presented a request to the Tribunal, I gave them material that would later be exposed to the public by the press.

We continued to highlight the Tribunal's missteps, which revealed its willful disregard of the investigation. For example, we pointed out how Galeano failed to call several important victims and witnesses to testify about the bombing. In fact, Galeano simply overlooked some of these witnesses. For the others mentioned, Galeano merely issued inquiries through the Federal Police, which meant that if these witnesses were ever found, they would be detained and brought before the Judge. Not surprisingly, we found most of these witnesses simply by searching the Buenos Aires telephone directory, which suggests a general lack of effort on the

84. Raúl Kollman, *El oscuro secretario que llegó de la mano del fino*, PÁGINA 12 (July 27, 2009), <https://www.pagina12.com.ar/diario/elpais/1-128903-2009-07-27.html>; *Declaró Lifschitz y volvió a denunciar encubrimiento en la causa AMIA*, GACETA MERCANTIL, <http://www.gacetamercantil.com/notas/118292/> (last visited Mar. 30, 2019); *Juicio por la AMIA*, CLARÍN (Oct. 25, 2001), https://www.clarin.com/politica/horas-polemica-videos-galeano-telleldin_0_rJIN7hUe0Fe.html.

85. Raúl Kollmann, *Un fiscal federal investiga irregularidades de la Causa AMIA*, PÁGINA 12, <https://www.pagina12.com.ar/2000/00-10/00-10-16/pag03.htm> (last visited Apr. 8, 2019); Raúl Kollmann, *Galeano admitió que destruyó los videos que había mandado filmar*, PÁGINA 12, <https://www.pagina12.com.ar/2001/01-09/01-09-20/PAG22.HTM> (last visited Apr. 8, 2019).

part of the Tribunal. Through our own investigation, we discovered several people who had parked their cars or motorbikes on the same block of the AMIA building at the time of the bombing. Galeano never called these witnesses to testify, and we would only come to take their testimony five long years after the tragic event.

In addition, we learned through our own investigation that the original owner of the Traffic van once reported that the vehicle accidentally burned in a parking lot, long before the day of the AMIA bombing. Further, in the second volume of the proceedings, we found that a representative of the company that had originally insured the van reported that he examined the condition of the vehicle and took photographs at the time of the accident. Yet, nobody during the course of the proceedings requested these photos, even though it was contemplated that the van's engine had been used in the attack. After requesting and viewing the photos from the first accident, I noticed that the van was only partially burned. I also realized that the insurance company did not recognize the burned vehicle as a total loss. When the owner realized that he would not receive a premium sufficient to purchase another car, the representative proposed a plan for him to sell the totaled vehicle to Alejandro Monjo, a car dealer. It was a win-win situation. The insurance company would pay a low premium, the owner would collect enough to purchase another car, and Monjo would re-sell the totaled vehicle to someone for a profit. Unfortunately, Telleldin purchased the totaled vehicle, interested only in the motor and the papers.⁸⁶

During our investigation, we gathered further testimony from witnesses and discovered a modus operandi for the duplication of vehicles. First, Telleldin would buy an engine with legitimate papers. Then, he would steal a similar vehicle with the help of an accomplice. Thereafter, the stolen motor would be installed into the

86. See *AMIA: Pocas Evidencias*, LA NACION (July 18, 1996), <https://www.lanacion.com.ar/167940-amia-pocas-evidencias>; Archivodichiaras, *DiFilm - atentado a la Amia - detención de Alejandro Monjo (1995)*, YOUTUBE (July 25, 2015), <https://www.youtube.com/watch?v=JWMss1RL5as> (documenting Monjo's arrest); CLAUDIO GROSSMAN, *LA CAMIONETA UTILIZADA (2704/2876)* (2005), available at <https://www2.jus.gov.ar/amia/grossman/La%20camioneta%20utilizada.pdf>. The "Grossman Report" was prepared by Claudio Grossman, then the President of the Interamerican Commission of Human Rights, following the claim that I submitted to the ICHR in 1999, between the Argentine Government and Memoria Activa. Claudio Grossman, *Informe de decano Claudio Grossman Observador Internacional de la Comision Interamericana de Derechos Humanos en el Juicio de la AMIA* (Feb. 22, 2005), <https://www2.jus.gov.ar/amia/grossman.htm>.

chassis of the original vehicle, the chassis numbers would be obliterated by one of his accomplices and replaced with the chassis numbers of the motor's original vehicle, and the remains of that stolen vehicle would be used for spare parts, or sold for a hefty profit. The plan would bear perfect results, as the duplicated vehicle would pass the inspection of the official authorities.

According to testimony by Telleldin, his wife, Ana Boragni, took to the motor of the van that destroyed the AMIA building to a workshop. Once there, his accomplice installed the engine in another chassis and re-engraved the numbers belonging to the original engine. We requested several times that Galeano indict Boragni, but we always received from him the same answer that he would "Keep it in mind."

To whom did the stolen vehicle first belong to? It is still a mystery today. Even though the rubble from the blast contained human remains, debris from the building, and scraps from the van, Galeano ordered his contractors to collect the rubble from the site of the explosion and remove it to an open field by a river near University City.⁸⁷ Thereafter, in 1997, before my appointment as Private Prosecutor, Galeano ordered all the rubble be thrown into the river to become the foundation of a place ironically named *Plaza de la Memoria*, or *Remembrance Park*.⁸⁸ After these events, the remains of the van could never be recovered, and our attempts to identify the owner of the original chassis became an impossible task.⁸⁹

Telleldin himself remained an unsolved puzzle. With a lengthy criminal record prior to the AMIA bombing, it was clear that he knew very well what it meant to be in jail and how to function therein.⁹⁰ He was unscrupulous. Among his several businesses, he owned a brothel, where his own wife, the mother of his children, worked as a prostitute. He also owned several video clubs, pawned stolen goods, and engaged in vehicular duplication. As he once

87. See Joe Goldman, *Probe Looks at AMIA Cover-Up*, JEWISH TELEGRAPHIC AGENCY (July 5, 2006), <https://www.jta.org/2006/07/05/lifestyle/probe-looks-at-amia-cover-up> ("Among other charges [against Galeano] are ... not protecting evidence such as rubble from the demolished building, which was dumped into the river after the bombing ...").

88. *Id.*

89. ZUPPI, *supra* note 14, at 67 (referencing a photograph contained in the book).

90. See *Cuatro policías y un ladrón son los principales acusados*, LA NACIÓN (Sept. 22, 2001), <https://www.lanacion.com.ar/sociedad/cuatro-policias-y-un-ladron-son-los-principales-acusados-nid337201>.

wrote, he always worked with the criminal code in hand.⁹¹ Moreover, he was a conspicuous liar.⁹² His statements regarding the purchaser of the van consisted of conflicting answers. First, he claimed that a man named Martinez purchased the vehicle for \$10,000. Then, he stated that he was forced under duress to deliver the vehicle to the police in the Province of Buenos Aires. Thereafter, he claimed that a Chinese man bought the vehicle. He also mentioned a man named Mr. Barg, who was never mentioned in previous testimonies. In all of his declarations, Telleldin mixed small pieces of truth with lies, which made it especially difficult for anyone to trust and follow his information.

The case of Telleldin is a clear example of the misinterpretations concerning the rights of an accused person and the crime of perjury, which to the present day prevail among Argentine constitutionalists. Argentina's 1853 National Constitution was inspired by the U.S. Constitution. In the Fifth Amendment, the U.S. Constitution declares that "[n]o person... shall be compelled in any criminal case to be a witness against himself."⁹³ The Argentine Constitution reproduced a similar principle in Article 18, which states that "[n]o one can be forced to testify against himself."⁹⁴ However, the Argentine understanding of this text differs from that of the American. In the U.S., a person has the right to invoke the Fifth Amendment. In Argentina, the majority of the Tribunals recognize that any accused person has the implicit *right* to lie.⁹⁵ This interpretation is incorrect, and the case of Telleldin is a perfect example of the consequences of such a misinterpretation. I am rather in favor of legislative projects

91. *La investigación por el ataque a la mutual judía en 1994*, CLARÍN (Oct. 26, 2003), https://www.clarin.com/ediciones-antiores/amia-revelaciones-sorpresas-ironias-libro-telleldin_0_B1cglc1xCKe.html.

92. See *Telleldin, Procesado como partícipe*, LA NACIÓN (Nov. 4, 1998), <https://www.lanacion.com.ar/sociedad/telleldin-procesado-como-participe-nid116634>.

93. U.S. CONST. amend. V.

94. The original Spanish text reads, "[n]adie puede ser obligado a declarar contra sí mismo." CONSTITUCIÓN NACIONAL [CONST. NAC.] ART. 18 (Arg.), <http://servicios.infoleg.gob.ar/infolegInternet/anexos/0-4999/804/norma.htm>.

95. Diario El Atlántico, Corte Suprema de Justicia de la Nación [CSJN] [National Supreme Court of Justice], Nov. 22, 1971, Fallos 281:177 (1971) (Arg.); Carlos A. Carnevale, *La garantía a no declarar contra sí mismo*, in PROCESO PENAL 2 (2013); Gisella Villalba, *Orígenes del derecho a no a declarar contra sí mismo y su garantía*, 12 REVISTA DE DERECHO PROCESAL PENAL (2017), available at http://ar.ijeditores.com/articulos.php?Hash=a0e4326340e31168a28db849ba0e7bf5&hash_t=6e589322dfa976ef824c209af4637279.

that include perjury as a serious crime.⁹⁶ The new *repentant law*, n° 27304,⁹⁷ is a step in the right direction, and includes Article 276 *bis* of the Argentine Criminal Code.⁹⁸ To be found guilty, the subject must be the presumed author, accomplice, or abettor of one of the crimes listed in the new Article 41, reformed by Article 1 of Law 27304. In order for a guilty party to receive the benefit of reduced sanctions established by this law, the information that the implicated person provides to the Public Prosecutor must be truthful and accurate. If not, the benefit is lost and the crime is aggravated, becoming yet another crime. However, these norms were not enforced during my work on the AMIA investigation.

It is clear that Telleldin was covering for someone, likely an important person, because he was prepared to spend eight years in prison. In the beginning, I believed he was covering for a family member. However, with the passage of time, I began to wonder if he was covering for somebody much more powerful, perhaps, someone who had the means to retaliate against his family. It was clear that he knew who the final recipient of the van was, but we knew that he would never confess. Considering all the evidence, I concluded that Telleldin delivered the van to the secret service. Support for this conclusion includes the disappearance of the recorded conversations between Telleldin and the Secret Service, the loss of Telleldin's electronic agenda, the cutting of his telephone wires, and the testimony of witnesses who stated that when Telleldin saw the news reporting the bombing on television, he became crazed and shouted profanities, exclaiming, "[t]hose bastards ruined my life."⁹⁹ In addition, we considered his hasty escape to Misiones and his

96. See, e.g., ADOLFO RODRÍGUEZ, S-3633/13 (2013), available at www.senado.gov.ar/parlamentario/parlamentaria/342595/downloadPdf (Arg.) (Senator Adolfo Rodríguez proposing to make perjury a crime).

97. See generally CÓDIGO PENAL [COD. PEN.] [CRIMINAL CODE] ley 27304 (Arg.), <http://servicios.infoleg.gob.ar/infolegInternet/anexos/265000-269999/267115/norma.htm>.

98. *Id.* at Art. 2 (Article 276 is incorporated as follows: "It will be punished with imprisonment of four (4) to ten (10) years and with the loss of the benefit granted, the person who benefiting from the benefit of article 41 ter [sic], will maliciously provide false information or inaccurate data.>").

99. This conversation was corroborated by several witnesses who were with Telleldin when he saw the first images of the AMIA explosion. I used this evidence when I appealed Galeano's decision to dismiss Telleldin. *Un sorpresivo testimonio complicó a Carlos Telleldin*, LA NACIÓN (Oct. 19, 2002), <https://www.lanacion.com.ar/sociedad/un-sorpresivo-testimonio-complico-a-carlos-telleldin-nid441996>; *Noticias del atentado*, (Oct. 29, 2004), <https://www2.jus.gov.ar/amia/sentencia/TI%20CX%20B3hii.pdf>.

subsequent surrender to the SIDE, and the unknown helicopter that suspiciously flew over the AMIA building hours before the bombing. We also considered the reported threats and injuries to Telleldin's son when Telleldin testified before the TOF 2 during AMIA II. Evidence shows that perpetrators warned Telleldin's son that his father should remain silent during the proceeding.¹⁰⁰

Two additional key pieces of evidence should be considered and added to the list. The evidence collected in the proceedings proves that two days prior to the explosion, someone parked the van used in the bombing in Jet Parking, a parking lot in the neighborhood of the AMIA building. Based on videotapes recovered from Jet Parking, the van entered the parking lot and the engine suffered a malfunction and died. Then, a person emerged from a vehicle parked behind the van, inspected the van's engine, and made some adjustments. The engine then restarted, allowing the driver to complete his route and park the van.¹⁰¹ Who was this mysterious driver? According to several witness testimonies, he was an Argentine man with a provincial accent.

During the Oral Trial, we also learned from a retired member of the Air Force, who managed a covered parking garage just one block away from Jet Parking, that on July 15, 1994, a person with a heavy Middle Eastern accent requested to park a Traffic van there on the upper floor until the early hours of the following Monday, July 18. The manager explained to him that it was not possible because the van could not pass the lower point of the roof at the end of the ramp. Security cameras recorded the entire conversation. After the explosion, the manager contacted the police about the tape. Investigators told him that they would come to collect the tape, but never did. Nearly ten years after the blast, we learned of this recording, and learned too, that the tape had been re-used and written over.¹⁰² During the Oral Trial, several members of the SIDE described to the TOF 3 how they cleared the zone by searching for parking lots where the van may have been parked before the attack.

100. *Ataque a Telleldín*, PÁGINA 12 (June 23, 2002), <https://www.pagina12.com.ar/diario/elpais/1-6664-2002-06-23.html>.

101. *AMIA, el encubrimiento: la SIDE y Galeano, en la mira*, LA NACIÓN (July 13, 2003), <https://www.lanacion.com.ar/opinion/amia-el-encubrimiento-la-side-y-galeano-en-la-mira-nid510951>.

102. *Otamendi*, (Oct. 29, 2004), <https://www2.jus.gov.ar/amia/sentencia/TI%20CVII%20C.pdf>.

Yet, no one mentioned this covered garage, despite its' location, just one block away from Jet Parking.¹⁰³

Between 1997 and 2000, I requested from the Tribunal more than 400 measures for collecting evidence, and some of these necessarily included requests for searches and further testimony from witnesses. Due to our perseverance, we discovered that the police car patrolling the AMIA building did not have a battery for several weeks before the blast; the car could not move an inch. In fact, the administrators of the AMIA building provided the policemen with walkie-talkies because the officers could not utilize the radio in their vehicle without a battery. The officers only requested for a new battery on the morning of July 18 because it was cold outside. A mechanic removed the old battery and left the hood slightly open, which ultimately saved a man's life because when the explosion occurred, the hood rose up and shielded the vehicle's interior and a policeman within.¹⁰⁴ We celebrate the saving of his life, but equally mourn for the victims to the tragedy that took place the same morning. Some of the blame can be placed on the negligent behavior of the Federal Police, as the unit did not hesitate to retain an entirely useless vehicle to protect the AMIA building, a threatened Jewish center.

One of the requests submitted to the Tribunal included the request for authorization to interrogate all of the police officers membered to the 5th and 7th Precincts who shared duties to patrol the AMIA building. This request alone required more than fifty interrogations. I also requested the Precinct's logbooks, which revealed that the registers on the day of the blast had clearly been altered. After the policemen testified before Galeano's Tribunal, I read with dismay their useless and identical declarations. I contacted one of the clerks, Javier de Gamas, who, after hearing my complaints, looked at me and said, "do not worry, we will call all of them again." Of course, the Tribunal would only pile on more mountains of useless paperwork unhelpful to the investigation, just to show that it was doing *something*.

There were many other events that highlighted the Tribunal's clear lack of effort in the investigation. For example, the proceedings revealed that one man, located far to the south in Ushuaia, three

103. *La presencia de los investigadores*, (Oct. 29, 2004), <https://www2.jus.gov.ar/amia/sentencia/TI%20CVII%20B4.pdf>.

104. *Juicio por la AMIA: Ayer declararon los dos policia*s, CLARÍN (Nov. 1, 2001), https://www.clarin.com/politica/amia-agentes-guardia-sorprendidos_0_r1Zx858gAKx.html.

thousand miles from Buenos Aires, declared that he bombed the AMIA building. A forensic doctor immediately declared that the man was insane, and was suffering from a severe case of psychopathy. Regardless, Galeano ordered three vehicles full of investigators to visit Ushuaia to interview the man's neighbors and relatives, conduct new medical exams, take photos, and draw sketches. After filling out more than 400 pages in a report, the investigators, too, concluded that the suspect was insane. These events highlight Galeano's suspicious intentions, and equally emphasize the waste of precious resources and time in the investigation under his guide.

During a seizure of the premises belonging to Monjo, the car dealer, law enforcement discovered thousands of U.S. dollars. For some reason, Galeano photocopied each dollar bill, adding several hundreds of pages to the report. It became evident that the photocopies served a hidden purpose. After Galeano took a statement from a woman named Miram Salinas, who was presumed to have relations with the Telleldin family, Galeano staged a performance and directed Salinas to refuse to answer any further questions. This performance ultimately led to her acquittal. Simultaneously, the Judge declared Salinas a protected witness. Galeano buried Salinas' acquittal papers with the photocopies of Monjo's dollar bills, likely in an attempt to avoid an appeal. The copies handed to us did not include the acquittal papers, and we only discovered them during the Oral Trial.¹⁰⁵ It was clear to us that Galeano would not hesitate to do what he needed to do to maintain the cover-up.

The same nothingness occurred over the course of the proceedings and thereafter. As the first anniversary of bombing approached, we received hopeful, albeit meaningless announcements. We received word of a new informant. We heard of a trip by the Public Prosecutors to Switzerland or France, presumably to investigate bank accounts, or to Munich, to hear a witness, or to Langley, to interview CIA leaders. Ultimately, however, we did not receive any positive results pertaining to the investigation.

105. CLAUDIO GROSSMAN, MIRIAM SALINAS Y PABLO IBÁÑEZ (3168/3212) 3 (2005), <https://www2.jus.gov.ar/amia/grossman/Miriam%20Salinas%20y%20Pablo%20Ibanez.pdf>.

III. A LONG WAY TO WASHINGTON

In a sudden moment of action, Galeano decided to dismiss Telleldin from the charge of concealment by invoking the statute of limitations. I could not accept that Telleldin, the only real link to the bombing, could go free without admitting that he delivered the van. We presumed Galeano's silence to mean that his involvement with the crime went beyond simple concealment. I had a final exchange with Galeano that ended rather badly. After the exchange in his office, I went to the site of the Bar, located in the same building, and typed my appeal to his decision. After submitting the appeal, I received a call from AMIA's counselor, Luis Dobniewsky, inviting me to meet with him in his office located near the Tribunal. When I arrived, I was surprised to find the rest of the counselors of the AMIA and the DAIA. Assuming that I did not comply with the new code when filing my appeal,¹⁰⁶ Dobniewsky stated, "your appeal did not fulfill the new requirements." In response, I told them that my submission was specifically grounded and in compliance with all of the requirements under the new code of procedure. Then, another attorney from Dobniewsky's office left the room and returned with a faxed copy of my appeal, which was strange given that I had filed it just moments ago. I found it incredible that Galeano had personally, and so quickly, sent them a copy of my submission. This revealed to me yet another inconceivable relationship held by Galeano with another Private Prosecutor. Ultimately, I would proceed to win the appeal before the Chamber, which required Telleldin to remain in jail until the end of the Oral Trial.

By the end of 1998, I started hearing strange noises from my telephone, and I suspected that my lines were tapped. As the legal representative of Memoria Activa, and the main critical voice of the investigation, I could not expect to go unnoticed by the SIDE for much longer. After that day, and whenever I met with any of my clients, I required them to deactivate their portable phones and remove the batteries therein. On one occasion, I recall taking the precaution of meeting with a prominent political leader, Elisa Carrió, in a public park near my office. Upon my return, I found my office vandalized, and my laptop stolen. Losing the data in my laptop meant a loss of months of hard work in preparing an index with cross

106. Before the new changes in the code of procedure, an appeal did not have to be specifically grounded, and it was enough to inform the Tribunal of one's will to appeal.

references of all the volumes in the case. Luckily, I saved a copy of the archives in a safe in Washington.

I was involved in the protection of human rights following the long and bloody dictatorship in Argentina that ended in 1983, so I had contacts with several international human rights organizations. One organization especially dear to me, the CEJIL, is an organization based in Washington, which my friend, José Miguel Vivanco, helped found. I flew to Washington to meet with José Miguel, and Viviana Krsticevic, another friend involved with the CEJIL. After retrieving the copy of the archives of my AMIA documents from their safe, I discussed with them the idea of filing a complaint with the Inter-American Commission on Human Rights (“ICHR”).¹⁰⁷ We understood the difficult task of convincing the ICHR that Argentina, the victimized country, was concealing its own investigation. Miguel and Viviana put me in contact with Andrea Pochak, a young Argentine lawyer who worked in CELS, a brother organization of CEJIL in Argentina, and had excellent knowledge of caselaw of the ICHR in relation to the requirements of putting forth an acceptable claim.

At first glance, the task appeared insurmountable. We had to demonstrate that we had no other option but to submit our claim to the ICHR, and that we exhausted all local remedies. This would be an especially difficult feat given that the case was still open and, in theory, still under investigation. We also had to demonstrate that all of Galeano’s actions amounted to a cover-up, and that the Argentine government was deeply involved.

We started by meeting with Andrea in a coffee shop. Andrea improved my draft and resolved any conflicts therein. We based the accusations against Argentina on the violation of the integrity and right to life of the victims of the bombing.¹⁰⁸ By quoting the

107. The Interamerican Pact of Human Rights, or San Jose de Costa Rica Pact, created the Interamerican Commission of Human Rights, as their first control organism which allows member countries to submit claims for serious violations of human rights. Following the Interamerican Commission of Human Rights’ investigation, a submitted claim may pass for a verdict with the Interamerican Court of Human Rights, whose decisions were highly respected. According to Law 23054, Argentina was a member of the Interamerican Commission of Human Rights. Law No. 23054, art. 1, 2, 3, B.O. Mar. 27, 1984 (Arg.), <http://servicios.infoleg.gob.ar/infolegInternet/anexos/25000-29999/28152/norma.htm>.

108. American Convention on Human Rights arts. 1(1), 4(1), Nov. 22, 1969, 9 I.L.M. 763, 1144 U.N.T.S. 123.

Velásquez Rodríguez case,¹⁰⁹ we heightened the recognized duty of the State to prevent, investigate, and sanction any violation of the rights protected by the ICHR:

“The second obligation of the States Parties is to ‘ensure’ the free and full exercise of the rights recognized by the Convention to every person subject to its jurisdiction. This obligation implies the duty of States Parties to organize the governmental apparatus and, in general, all the structures through which public power is exercised, so that they are capable of juridically ensuring the free and full enjoyment of human rights. As a consequence of this obligation, the States must prevent, investigate and punish any violation of the rights recognized by the Convention and, moreover, if possible, attempt to restore the right violated and provide compensation as warranted for damages resulting from the violation.”

We alleged that Argentina did not fulfill its duties because the State did not take any preemptive measures to prevent the AMIA bombing after the attack on the Israeli Embassy. The Federal Police disregarded its duty to protect the AMIA building by failing to initiate effective police patrols. Argentina also disregarded all warnings of the attack, including those provided by Wilson dos Santos. In addition, we argued that in obstructing the investigation, Galeano violated the rights of the victims and their families. He also violated their right to a fair judicial process against those responsible for the attack. Argentina failed to carry out an honest and effective investigation of the events relevant to the bombing. In *Ergi v. Turkey*, the European Court of Human Rights (“ECHR”) recognized the potential violation of the right to investigation.¹¹⁰ Consistent with *Ergi v. Turkey*, we also alleged that the Argentine government violated the victims’ right to a fair trial, further underlined by the Advisory Opinion OC-9/87 of the Inter-American Court of Human

109. We agreed that it is a recognized duty of the state to prevent, investigate, and sanction any violation of the rights protected by the Inter-American Court of Human Rights. *Velásquez-Rodríguez v. Honduras*, Merits, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 4, ¶ 166 (July 26, 1988) (quoting ACHR art. 1.1), http://www.corteidh.or.cr/docs/casos/articulos/seriec_04_ing.pdf.

110. See *Ergi v. Turkey*, 1998-IV Eur. Ct. H.R. 1751, ¶ 86 (holding that “the Turkish authorities failed to protect Havva Ergi’s right to life on account of the defects in the planning and conduct of the security forces’ operation and the lack of an adequate and effective investigation. Accordingly, there has been a violation of Article 2 of the Convention”).

Rights (“ICoHR”),¹¹¹ as well as by the *Suárez Rosero* case.¹¹² In the case of *Blake*,¹¹³ the ICoHR stated:

“... Article 8(1) of the American Convention recognizes the right of Mr. Nicholas Blake’s relatives to have his disappearance and death to effectively investigated by the Guatemalan authorities to have those responsible prosecuted for committing said unlawful acts; to have the relevant punishment, where appropriate, meted out; and to be compensated for the damages and injuries they sustained.
...”¹¹⁴

In addition, the serious irregularities in the investigation resulted in a violation of the rights of the victims and their families to due process of law under Article 8 and Article 25 of the American Convention of Human Rights (“ACHR”). We showed that we fulfilled all the formal requirements of Article 46.1 of the ACHR. In addition, we argued that we exhausted all available remedies, based on the proposition that Argentina failed to offer realistic options for relief, which not only resulted in unjustified delays of justice, but also rendered any remedy ineffective. We then put forth the long list of due process violations committed by Argentina, several of which were discussed in previous sections of this article.

On July 16, 1999, I submitted our claim to the Commission’s offices on H Street, and received a stamped copy with the time and date. It did not take long for the Argentine media to reproduce our submission.¹¹⁵ The Secretary of the Commission, Jorge Taiana, an Argentinean forced into exile during the dictatorship, was bewildered by my claim. Though many around the world regarded the AMIA

111. Judicial Guarantees in States of Emergency (Arts. 27(2), 25, and 8 American Convention of Human Rights), Advisory Opinion OC-9/87, Inter-Am. Ct. H.R. (ser. A) No. 9, ¶ 41 (Oct. 6, 1987).

112. See *Suárez-Rosero v. Ecuador*, Merits, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 35, ¶ 110(2) (Nov. 12, 1997) (holding “that the State of Ecuador violated, to the detriment of Rafael Iván Suárez-Rosero, Article 8 of the American Convention on Human Rights, in relation to Article 1(1) ...” (citation omitted)).

113. *Blake v. Guatemala*, Merits, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 36 (Jan. 24, 1998).

114. *Id.* at ¶ 97.

115. See *FAMILIARES CONTRA EL ESTADO ARGENTINO Fuerte demanda en la OEA por la AMIA*, CLARÍN (Jul. 7, 1999), https://www.clarin.com/politica/fuerte-demanda-oea-amia_0_ry-mxT2xAKe.html; Raúl Kollmann, *LA CIDH DIO CURSO A UNA DEMANDA DE LOS FAMILIARES DE LAS VICTIMAS DEL ATENTADO A LA AMIA “Violación del derecho a obtener justicia”*, PÁGINA 12, <https://www.pagina12.com.ar/1999/99-09/99-09-07/pag03.htm> (last visited Mar. 21, 2019).

bombing as one of the most severe terrorist attacks against a Jewish community outside Israel, only a few at that time questioned whether the Argentine authorities were interfering with the investigation. Based on my knowledge that two of the members of the ICHR were Jewish, including Professor Robert Goldman and Dean Claudio Grossman of American University, I hoped that they would receive my claim with interest. I wondered whether they would be as difficult to convince as the representatives of the World Jewish Council that I met in New York just a year prior.

On December 10, 1999, merely days before President De la Rúa took office, Argentina answered our claim. The submission prepared by Argentina, signed by Ambassador Susana Cerruti, was so incredibly disorganized, that for the first time, we realized we were going to win the case. To my surprise, the Argentine government sent to the CIDH hundreds of boxes containing copies of the proceedings, which were unexpected gifts given Galeano's past reluctance in handing over these documents to anyone.

I flew to Washington again to read more than forty volumes. It was a fairly surreal moment considering that I, the claiming party, had to travel 9,000 miles across the world just to read the case. Our rebuttal, designed to destroy the Argentine government's case, highlighted all of the lies, misinterpretations, and admissions contained in its response. Towards the end of 1999, the new administration reviewed the filings and promptly requested to hold a conciliation meeting with us. During the meeting, the new administration proposed to suspend the CIDH proceeding until the Oral Trial, where an observer appointed by the CIDH would assist and prepare a report. Dean Claudio Grossman, then president of the CIDH, was appointed as an observer.

The conclusion of the case is widely known. The TOF 3 decision confirmed all our allegations and suspicions, and declared a large part of the proceeding void.¹¹⁶ All of the allegations in our submission to the ICHR were detailed in the Dean Grossman Report.¹¹⁷ On March 4, 2005, during a meeting held at the OAS building in Washington between Memoria Activa members and

116. See generally *SENTENCIA DICTADA POR EL TRIBUNAL ORAL EN LO CRIMINAL FEDERAL N° 3*, DE LA CIUDAD DE BUENOS AIRES (Oct. 29, 2004), <https://www2.jus.gov.ar/amia/sentencia.htm>.

117. See generally Claudio Grossman, *Informe del decano Claudio Grossman observador internacional de la comision interamericana de derechos humanos en el juicio de la AMIA*, JUS GOV (Feb. 22, 2005), <https://www2.jus.gov.ar/amia/grossman.htm>

Argentine representatives, Ambassador Méndez Carreras, Argentina's representative of the OAS, read the following statement:

“The Argentine government recognizes its responsibility for the violation of human rights reported by Memoria Activa, including the right to life, physical integrity and judicial protection. The State recognizes its responsibility, since there was no prevention to avoid the attack, the State recognizes its responsibility for the concealment and denial of justice.”¹¹⁸

We brought our claim to the ICHR to bring international attention to the AMIA case and to compel the Argentine government to properly investigate the attack. In return, we obtained unconditional surrender from the Argentine government. The ICHR welcomed Argentina's admission and reiterated its willingness to accompany the parties in negotiations to reach a friendly settlement on the AMIA petition.¹¹⁹

IV. AMIA AFTERMATH

The following people have been prosecuted for concealment in what is called the “AMIA II,”¹²⁰ with verdicts still pending: Galeano, Public Prosecutors Muellen and Barbaccia,¹²¹ President Menem, the President of DAIA, the Director and Subdirector of the SIDE, the SIDE's Director of Counterintelligence, the Director of the Federal Police Antiterrorist Unit, the Director of the Federal Police Unit for the Protection of Constitutional Order, Telleldin, Telleldin's former counselor, and Boragni.

On January 18, 2015, law enforcement found AMIA Special Prosecutor, Alberto Nisman, shot to death with a bullet hole in his head in his luxury apartment in Puerto Madero, Buenos Aires. His death occurred merely hours before he was to present evidence to the

118. Raúl Kollmann, *Mea culpa oficial por la causa AMIA*, PÁGINA 12 (Mar. 4, 2005), <https://www.pagina12.com.ar/diario/elpais/1-48040-2005-03-04.html>.

119. See *SATISFACCIÓN DE LA CIDH POR EL RECONOCIMIENTO DE RESPONSABILIDAD DEL ESTADO ARGENTINO EN EL CASO DE LA AMIA*, OEA (Mar. 4, 2005), http://www.oas.org/es/centro_noticias/comunicado_prensa.asp?scodigo=cidh-5-s.

120. For reasons beyond our understanding, Nisman was not included in the list of indicted Prosecutors.

121. See Ailín Bullentini, *El último paso antes de la sentencia*, PÁGINA 12 (Oct. 26, 2017), <https://www.pagina12.com.ar/71728-el-ultimo-paso-antes-de-la-sentencia>; see *Veinte años para Galeano y seis para Menem*, PÁGINA 12 (Apr. 12, 2018), <https://www.pagina12.com.ar/107700-veinte-anos-para-galeano-y-seis-para-menem>.

Argentine Congress to reveal President Cristina Fernández de Kirchner's role in covering up Iran's role in the bombing of the Buenos Aires AMIA center.¹²² On January 14, 2015, Nisman announced on the television program, *A Dos Voces*,¹²³ his plan to indict President Kirchner and Foreign Minister Timerman for treason. One day before the announcement, Nisman submitted the charge to a substitute-Federal judge¹²⁴ who was covering another tribunal. The press leaked the submission,¹²⁵ and I read the approximately 300-page indictment online that weekend. I knew Alberto Nisman very well. He worked with Muellen and Barbaccia, was the Public Prosecutor at the Oral Trial before the TOF 3, and was a clear supporter of the official story. I never understood why he was not indicted like the other two Prosecutors, though it makes sense when considering the fact that he assumed a similar role to Galeano's when Galeano led the investigation. I was teaching law in the U.S. when my partner, Pablo Jacoby, against my clear wishes to include Nisman in the indictment, decided to give Nisman another chance. Later, my dear friend, Jacoby, who passed away several years ago, admitted that he should have included Nisman in the indictment.

I had a personal issue with Nisman's indictment of President Fernández de Kirchner. On one hand, I hoped the indictment would help expose the most corrupt government that devastated Argentina, but on the other, I was profoundly skeptical that any evidence coming

122. Gustavo Paredes, *What Happened Before Albert Nisman's Death: A Timeline of his Crucial Last Hours*, BUENOS AIRES TIMES (Jan. 17, 2019), <http://www.batimes.com.ar/news/argentina/what-really-happened-before-nismans-death-a-timeline.phtml>.

123. See Danilo Gonzalez, *A Dos Voces, Alberto Nisman – Encubrimiento del Gobierno Argentino al Atentado AMIA*, YOUTUBE (Jan. 15, 2015), <https://www.youtube.com/watch?v=4nFQ7AsXmf8>.

124. The charge was submitted to a substitute Federal Judge because the original Judge was on vacation for the "judicial holiday," which occurs over the entire month of January, and over fifteen days in July. It is difficult to explain how a country, which suffers from an inveterate backwardness in the resolution of judicial matters and a true overcrowding of legal cases, allows for these judicial holidays.

125. See Mario Weinfeld, *Una jugada fuera de la ley*, PÁGINA 12 (Jan. 17, 2015), <https://www.pagina12.com.ar/diario/elpais/1-263986-2015-01-15.html>; Raúl Kollmann, *Una acusación con hipótesis que no se comprobaron*, PÁGINA 12 (Jan. 15, 2015), <https://www.pagina12.com.ar/diario/elpais/1-263984-2015-01-15.html>; Raúl Kollmann, *"La posición fue consistente y firme"*, PÁGINA 12 (Jan. 17, 2015), <https://www.pagina12.com.ar/diario/elpais/1-264163-2015-01-17.html>; *Una lista de preguntas para el fiscal*, PÁGINA 12 (Jan. 17, 2015), <https://www.pagina12.com.ar/diario/elpais/1-264151-2015-01-17.html>.

from Nisman, similar to that coming from Galeano, could help the case in any way.

I was astonished by the lack of directive in Nisman's indictment. The indictment was merely a collection of presumptions, filled with empty promises. The evidence was entirely based on hearsay witnesses and confusing phone records from third-line members of the Government. Certainly, there was not enough evidence to impeach the President. I could not understand Nisman's personal convictions. Though his indictment was likely correct in its presumptions, it lacked sufficient evidence to prove his points.

On the weekend of his death, I was certain Nisman and his reputation would be destroyed by the official-party Congress members. When he was found dead, I confess that, just for a moment, I wondered if Nisman, in a sudden moment of awakening after realizing how weak his indictment was, committed suicide.¹²⁶ However, it soon became clear to me that Nisman was murdered. A black shadow has always loomed over the AMIA case. Moreover, after reading Nisman's autopsy and reviewing the dots of blood discovered with luminol at the site of his death, I was certain he did not take his own life.

With Nisman's death came the discovery of a sordid matter. Specifically, Nisman possessed a U.S. bank account with Merrill-Lynch, which involved wire transfers from nine different, suspicious sources, with deposits totaling nearly \$600,000.¹²⁷ In addition,

126. This evaluation of Nisman's indictment was shared by part of the press and respected opinions. See, e.g., Maier: "*Se trata de una operación política destinada a dura ren el tiempo*", TELAM (Mar. 27, 2015), <http://www.telam.com.ar/notas/201503/99456-julio-maier-denuncia-de-nisman.html>; Leon Arslanian, "*En las 300 paginas de la denuncia no hay pruebas contra la Presidenta*", INFOJUS NOTICIAS (Feb. 2, 2015), <http://www.infojusnoticias.gov.ar/nacionales/en-las-300-paginas-de-la-denuncia-no-hay-pruebas-contra-la-presidenta-7478.html>; Horacio Verbitsky, "*¿Hasta dónde Irán Nisman y Cía.?*", PÁGINA 12 (Jan. 18, 2015), <https://www.pagina12.com.ar/diario/elpais/1-264196-2015-01-18.html>; Mario Weinfeld, "*La historia y las fábulas*", PÁGINA 12 (Jan. 18, 2015), <https://www.pagina12.com.ar/diario/elpais/1-264194-2015-01-18.html>; "*Qué dice la denuncia presentada por Nisman*", INFOJUS NOTICIAS (Jan. 21, 2015), <http://infojusnoticias.gov.ar/nacionales/que-dice-la-denuncia-presentada-por-nisman-7179.html>.

127. Emilia Delfino, "*Nisman recibió en EE.UU. casi US\$ 600 mil de nueve depositantes sospechosos*", PERFIL (Aug. 23, 2015), <http://www.perfil.com/noticias/politica/nisman-recibio-en-eeuu-casi-us-600-mil-de-nueve-depositantes-sospechosos-20150822-0098.phtml>; Michael LaSusa, "*Exclusive: Documents Confirm Leak of Unexplained Deposits to Nisman's US*

through a separate bank account held in Uruguay, Nisman received several payments from Israel Hayom, a new media group owned by U.S. billionaire, Sheldon Adelson.¹²⁸ Nisman did not report any of these payments to the Administración Federal de Ingresos Públicos (“AFIP”), the Argentine equivalent to the Internal Revenue Service in the U.S. In fact, when he opened the bank account, he intentionally did not disclose his position as Special Prosecutor.¹²⁹ Nisman also possessed two suspicious safety deposit boxes, one in a bank, and the other with a safety deposit company, both of which were cleaned out by his mother following his death.¹³⁰

Judge Rafecas, a Federal Judge appointed by Kirschner in 2004, rejected Nisman’s indictment of President Cristina Kirschner after brief consideration.¹³¹ Though Nisman’s indictment lacked definitive evidence, the Judge was wrong in rejecting the case. The Judge should have first ordered an investigation to determine the appropriateness of rejecting the indictment.

When President Mauricio Macri assumed power, the Federal Cassation Chamber revoked Judge Rafecas’ decision, and then used

Bank Account, LOBE LOG (Feb. 1, 2016), <https://lobelog.com/argentine-leaks-of-nisman-info-violated-agreement-with-us/>.

128. Jorge Elbaum, *La otra ruta del dinero: Nisman y Adelson*, PÁGINA 12 (Sept. 29, 2015), <https://www.pagina12.com.ar/diario/elpais/1-282693-2015-09-29.html>; Horacio Verbitsky, *La planilla de Nisman*, PÁGINA 12 (Jan. 24, 2016), <https://www.pagina12.com.ar/diario/elpais/1-291002-2016-01-24.html>; see *Desde Hong Kong A Tigre Con Amor: Los Otros Depositantes De Nisman*, SEPRIN (Aug. 31, 2015), <http://seprin.info/2015/08/31/desde-hong-kong-a-tigre-con-amor-los-otros-depositantes-de-nisman> (indicating that the press was informed that Adelson made payments totaling USD \$282,000 through eleven deposits in a Uruguayan account transferred from account 9700-7548-MAJ-6325-AC874 that belonged to Israel Hayom); see also Alejandro Rebossio, *Discovery of Gun Registered to Nisman Adds to Mystery Over His Death*, EL PAÍS (Apr. 15, 2015), https://elpais.com/elpais/2015/04/15/inenglish/1429109899_162795.html (showing that Nisman bought three farms in Uruguay with that money, and that Nisman’s mother emptied three safe deposit boxes after his death).

129. *La cuenta oculta de la familia Nisman*, PÁGINA 12 (Aug. 29, 2015), <https://www.pagina12.com.ar/diario/elpais/1-280466-2015-08-29.html>.

130. See Paz Rodríguez Niell, *Se reaviva el misterio sobre las cajas de seguridad de Nisman*, LA NACIÓN (May 17, 2015), <https://www.lanacion.com.ar/1793588-se-reaviva-el-misterio-sobre-las-cajas-de-seguridad-de-nisman>; Horacio Verbitsky, *Los dos maletines*, PÁGINA 12 (Feb. 15, 2015), <https://www.pagina12.com.ar/diario/elpais/subnotas/1-71573-2015-02-15.html>.

131. See El juez Rafecas rechazó la denuncia de Nisman contra Cristina Kirchner por encubrimiento a Irán, LA NACIÓN (Feb. 26, 2015), <https://www.lanacion.com.ar/1771607-daniel-rafecas-denuncia-nisman-cristina-kirchner-encubrimiento-iran>.

Nisman's indictment to prosecute Cristina Fernández de Kirchner, Timerman, and other involved functionaries for treason. The case will likely reach the Oral Trial soon.¹³² It will be interesting to see how the case continues, and more so, to learn Kirchner's true motives in arranging the memorandum of understanding with Iran.

When considering, generally, the lack of proper investigation and oversight of the AMIA case by the Argentine system, it is not surprising that the death of Nisman has yet to be resolved. If the AMIA case can be offered as an example of disgraceful investigation, Nisman's murder clearly presses the issue to new limits. A horde of policemen, firemen, and supposed investigators arrived at the crime scene without any procedures to prevent the contamination of evidence. They walked all over the carpeted apartment, stood in a pool of blood, cleaned the gun, and handled objects without gloves. They completely destroyed the crime scene.¹³³ Similar to the failed investigation of the AMIA bombing,

132. Max Radwin & Anthony Faiola, *Argentine Ex-President Cristina Fernández De Kirchner Charged with Treason*, WASH. POST (Dec. 7, 2017), https://www.washingtonpost.com/world/the-americas/argentine-ex-president-cristina-fernandez-charged-with-treason/2017/12/07/e3e326e0-db80-11e7-a241-0848315642d0_story.html?utm_term=.103171510750; Armin Rosen, *Argentine Court Reopens Case Accusing Ex-President Fernandez of Covering Up Iran's Role in 1994 AMIA Bombing*, TABLET MAGAZINE (Jan. 4, 2017, 3:22 PM), <https://www.tabletmag.com/scroll/221421/argentine-court-reopens-case-accusing-ex-president-of-covering-up-irans-role-in-1994-amia-bombing>; Daniel Politi, *Judge Seeks Arrest of Ex-President of Argentina on Treason Charges*, N.Y. TIMES (Dec. 7, 2017), <https://www.nytimes.com/2017/12/07/world/americas/argentina-kirchner-nisman-treason-murder.html>; *Cristina Kirchner va a juicio oral por la denuncia de Alberto Nisman*, PERFIL (Mar. 5, 2018), <http://www.perfil.com/noticias/politica/denuncia-de-nisman-cristina-kirchner-a-juicio-oral.phtml>; see also Poder Judicial de la Nación, Juzgado Criminal y Correccional Federal 11, Dec. 6, 2017, CFP 14305/2015 (2017) (Arg.).

133. See El Trece, *La Muerte De Nisman: Video Impactante Que Muestra Cómo Se Contaminó Todo*, YOUTUBE (June 1, 2015), <https://www.youtube.com/watch?v=reu08ZFihcA> (showing the recording of the prosecutor and investigators' arrival at the crime scene); Andrea Noel, *Video Shows Shoddy and Shady Investigation Tainted Evidence After Argentine Prosecutor Nisman's Death*, VICE NEWS (June 1, 2015), https://news.vice.com/en_us/article/vb8gnd/video-shows-shoddy-and-shady-investigation-after-argentine-prosecutor-nismans-death; Almudena Calatrava, *Police Allegedly Tampered With Crime Scene In Death Of Argentine Prosecutor Who Accused President Of Corruption*, BUS. INSIDER (June 2, 2015), <https://www.businessinsider.com/police-caught-allegedly-tampering-with-crime-scene-in-death-of-argentine-prosecutor-who-accused-president-of-corruption-2015-6>; Carlos Cué, *Argentinean Police Contaminated Evidence at Dead Prosecutor's Home*, EL PAÍS (June 1, 2015), https://elpais.com/elpais/2015/06/01/inenglish/1433154188_525655.html.

one can assume that the failed investigation of Nisman's death was the result of pure negligence, or perhaps something more sordid than appearances suggest. Let us hope that Nisman's case will receive, at the very least, a Private Prosecutor fit to handle the task. Further, let us hope that we learned at least one thing from the AMIA case, of how the criminal system can truly benefit with active participation from the victims and their representatives in an investigation.¹³⁴

134. See Federico S. Efron, *Argentina's Solution to the Michael Brown Travesty: A Role for the Complainant Victim in Criminal Proceedings*, 24 SW. J. INT'L L. 73, 115 (2018).