

ACTING AS PRIVATE PROSECUTOR IN THE AMIA CASE

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INTRODUCTION

On July 18, 1994, a van loaded with TNT and ammonal destroyed the AMIA¹ building 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, having succeeded Raul Alfonsín in 1989 and immediately defied all political projections, approaching the United States and employing a liberal economic policy that did not correspond to Peronist tradition.³

Buenos Aires suffered what is regarded as its first major foreign terrorist attack in 1992, when an explosion demolished the Israeli embassy.⁴ To the present day, questions remain as to the source of the explosion, whether external or internal. The Argentine National Academy of Engineers, in a highly debated report in the Fall of 1996 at the request of the Argentine Supreme Court, concluded that the source was internal, from explosives introduced or stocked at the Embassy.⁵ Nevertheless, newspapers reported a rumor that the bombings were intended to punish Menem for his failure to fulfill promises

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¹ *Asociación Mutual Israelita Argentina*, an association of Argentine Jewish philanthropic institutions.

² See FAULK, Karen Ann, *THE WALLS OF THE LABYRINTH: IMPUNITY, CORRUPTION, AND THE LIMITS OF POLITICS IN CONTEMPORARY ARGENTINA*, submitted in partial fulfillment of the requirements for the degree of Doctor of Philosophy (Anthropology) in The University of Michigan, 2008, available at https://deepblue.lib.umich.edu/bitstream/handle/2027.42/60658/kfaulk_1.pdf?sequence=1, a very interesting work that explains several aspects of the AMIA case.

³ See among others, FRACCHIA, Alberto, "América Latina: La primera presidencia de Menem: ¿Nace un peronismo neoliberal?," *Revista de Ciencia Política*, undated, available at <http://www.revcienciapolitica.com.ar/num1art2.php>.

⁴ See ROBINSON, Eugene, "ISRAELI EMBASSY BLASTED IN ARGENTINA," *The Washington Post*, March 18, 1992, available at 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," prepared by the B'nai B'rith Center for Public Policy (March 1999), available at <https://www.bnaibrith.org/seven-years-and-counting.html>.

made to Syrian president Hafez El Assad, in exchange for the financial support of Menem's presidential campaign.⁶

Opening the economy to foreign exports and beginning the privatization of state-owned enterprises were radical deviations from previous Peronist administrations. His pursuit of a "special relationship" with the United States greatly modified Argentina's foreign policy, opting out of Argentina's affiliation with the coalition of non-aligned countries and even participating in 1992 in the war against Iraq, Desert Storm. He also began a constitutional reform that would allow his reelection for a second term and increase the number of placements for judges of the Supreme Court, securing his policies.

Menem's appointments to the Argentine Federal Courts were considered one of the reasons for the reigning impunity and degradation of justice in Argentina.⁷ Many of these judges were known then as *napkin judges*: during a meeting with the Minister of Economy, Secretary of State Corach wrote the names of those judges "under his control" on a napkin.⁸ The judge in charge of the AMIA investigation was Juan Galeano, a former court clerk who, owing less to merit than to an acquaintance with Corach, had been appointed as Federal judge. Prior to the bombing, Galeano had only merited notice in May 1994, when he prosecuted a detainee on the charge of theft after the man ate the lunch of one of Galeano's employees. Known among colleagues in the courts as the *sandwichide*, or the "federal roll," the lengthy proceeding entailed the

⁶ See, MORENO, Pablo, "El Atentado", *Página 12* (2007) available at <https://www.pagina12.com.ar/especiales/15aniversario/12.htm>; and " Irán, Siria e Israel y sus huellas en la Argentina: los atentados de la década de 1990," VI Congreso de Relaciones Internacionales, La Plata (2008) available at http://sedici.unlp.edu.ar/bitstream/handle/10915/39981/Documento_completo.pdf.out.pdf?sequence=1; see FANTINI, Claudio, " Atentado a la embajada de Israel: 23 años de oscuridad," March 17, 2015, available at <http://turrello.com.ar/atentado-la-embajada-de-israel-23-anos-de-oscuridad/>; see *La Nación*, " Irán, Siria y la AMIA: dos pistas que convergen," August 31, 2003, available at <https://www.lanacion.com.ar/523210-iran-siria-y-la-amia-dos-pistas-que-convergen>

⁷ See LARKINS, Christopher, "The Judiciary and Delegative Democracy in Argentina," 30 *Comparative Politics* (1998), 423, here 427 ff.

⁸ See *La Nación*, October 29, 1996, available at <https://www.lanacion.com.ar/169680-cavallo-me-convencieron-de-que-no-siga-hablando>; see VENTURA, Adrián, "El Militante que se hizo Juez Gracias a Corach," *La Nación*, August 15, 2003 available at <https://www.lanacion.com.ar/519536-el-militante-que-se-hizo-juez-gracias-a-corach>; see *La Nación*, "Corach Volvió a la Carga," October 17, 1998, available at <https://www.lanacion.com.ar/173391-corach-volvio-a-la-carga>.

accounts of eight eyewitnesses, and concluded when the Federal Criminal Chamber of Appeals acquitted the defendant with a serious warning to Galeano.⁹ Given the size of the AMIA case, as well as his mediocrity as judge and investigator, Galeano found himself in a labyrinth totally beyond his control. There was no systematic collection of evidence of any kind, and rather than investigate, Galeano preferred to rely on work produced by the secret service. The Argentine government publicly announced that it had provided Galeano the most advanced equipment and software, assigned more than three hundred people to work for him, and relieved his Tribunal of any other case, in order that it might concentrate its efforts solely on the bombing, burdening all the other Tribunals with Galeano's prior cases. Yet these provisions produced no results.

After a while, a kind of official story was offered to the public, explaining the AMIA bombing as a terrorist attack carried out by Iranian members of Hezbollah, using a van which corrupt members of the police of the Buenos Aires Province had provided them. Such a story could not be supported by the evidence extracted from the case. However, the real problem was that AMIA and DAIA¹⁰—the Jewish institutions which acted in the proceeding as representatives of a group of victims and their families—fully supported Galeano and this "official story."

My first meeting with the victims and their families, in October 1995, was arranged by Sergio Wider, representative of the Simon Wiesenthal Center in Argentina. They were frustrated with the lack of results in the investigation and sought a counselor who could represent their interests better than AMIA and DAIA. I explained to them that, as a Catholic, my appointment as counselor might be seen as an insult to the Jewish institutions. While many people had perished in the bombing who did not belong to the Jewish community, it was

⁹ See "Un caso jamón jamón," *Página 12*, May 31, 2004, available at <https://www.pagina12.com.ar/diario/elpais/subnotas/36070-12663-2004-05-31.html>; and BOSCHI, Silvana, "Causas absurdas que cuestan tiempo y dinero," *Clarín*, August 15, 2004 available at <http://edant.clarin.com/suplementos/zona/2004/08/15/z-03215.htm>.

¹⁰ *Delegación de Asociaciones Israelitas Argentinas*, an organization which united the major Argentine Jewish institutions.

nonetheless clear that the Jewish institutions were the main intended victims.¹¹ Days after that meeting, they informed me that they had appointed a prestigious Jewish counselor, and I expressed my satisfaction with their decision. Things changed in 1997, when three members of that original group, Diana Malamud, Laura Ginsberg, and Norma Lew, president of a non-profit organization called *Memoria Activa*¹², requested a meeting in my law firm. They explained to me that their counselor had resigned, leaving them with no representation in the proceeding.¹³

The Argentine criminal proceeding at that time was divided in two parts. In the first part, a judge was charged with collecting all evidence and determining whether a person should be indicted or not. Anybody who demonstrated a legitimate interest in moving the proceeding forward could request to be appointed as "Private Prosecutor"¹⁴ and act at the proceeding as an additional party. Any request produced by the parties would be written and submitted to the Tribunal that reigned over them, which then approved or denied the request. The second part was an oral proceeding performed before a different collegiate Tribunal, where Defense counselors and Prosecutors ratified or offered new evidence, and finally presented their pleadings, requesting a sanction or a non-guilty verdict.

This article will explain how I performed my role as Private Prosecutor during the AMIA criminal proceeding. The first part deals with the collection of evidence and my disputes with Galeano, my conflicts with AMIA and DAIA, and the as yet unexplained international connection. I will show that the Jewish institutions followed directives supporting the official story, building up the

¹¹ A delegation of DAIA occupied the upper floor of the destroyed AMIA building.

¹² "Persistent Memory"; a non-profit organization that reunited victims, relatives and friends of the victims of the AMIA attack, and will 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.

¹³ The alternatives that produced this meeting and their results were explained largely in my book AMIA: AN ONGOING CRIME, cit. ps. 33 ff.

¹⁴ The Spanish word for this procedural institution is *querellante*, meaning "complaining party", but the power of the *querellante* to impulse the process is equivalent to the one of the official Prosecutor. For example, even if the Prosecutor does not appeal a judicial decision, the Private Prosecutor or *querellante* may appeal, and that appeal will have the same consequences as the public one. See current Argentine Code of Criminal Procedure Arts. 82 ff, available at <http://servicios.infoleg.gob.ar/infolegInternet/anexos/0-4999/383/texact.htm#5>.

Iranian connection and leaving aside other paths perhaps more consistent with available evidence. The second part deals with our claim before the Interamerican Commission of Human Rights (ICHR) and its importance in discovering the cover-up carried out by Galeano and the Argentine government. The last part will consider the evolution of the case and its consequences to the present day.

I. ACTING AS PRIVATE PROSECUTOR

By 1997, the main proceeding covered more than two hundred seventy volumes.¹⁵ I refer to the "main proceeding" because Galeano had begun to follow some apparent leads in separate proceedings. So, for instance, he opened one parallel investigation—under no party's control and without any clear purpose—known as *causa Armas*, or the "weapons case," where he presumably investigated the activities of a group of rebels in the Army.¹⁶ Hundreds of volumes were filled with no clear purpose. Then he opened another investigation of hundreds of volumes known as *causa Brigadas*, or the "Brigades case"—again, under the control of no party—wherein Galeano investigated a group of policemen suspected of delivering the van used in the bombing to its perpetrators, in spite of doubts expressed by the press over this matter.¹⁷ At the time of my appointment, 17 policemen were detained, though there was not a single piece of undisputable evidence to legally justify their indictment. Most of these policemen would remain in prison for more than 8 years, being later acquitted by the Federal Oral Tribunal that finally concluded the AMIA trial.¹⁸ The case of these policemen is particularly grievous because

¹⁵ A volume (called *cuerpo* in Spanish, or "body" in judicial jargon) contains no less than 200 pages. In order to give an idea of the number of volumes in this case, Leo Vaca's prized photo can be seen in *Infojus Noticias*, October 21, 2015, available at <http://www.infojusnoticias.gov.ar/nacionales/premiar-una-foto-de-infojus-noticias-un-poco-de-luz-a-una-causa-oscura-10256.html>.

¹⁶ See *Clarín*, May 27, 2001 available at https://www.clarin.com/politica/armas-investigan-contactos-atentado-amia_0_BJSU-ugAYg.html; and *La Nación*, June 1, 2001, available at <https://www.lanacion.com.ar/309358-nexo-entre-los-casos-amia-y-armas>.

¹⁷ See VENTURA, Adrian, "Once policías detenidos por la causa de la AMIA," *La Nación*, July 14, 1996, available at <https://www.lanacion.com.ar/175741-once-policias-detenidos-por-la-causa-de-la-amia>.

¹⁸ The Federal oral Tribunal Nr. 3 (abbreviated "TOF 3" from the Spanish name "*Tribunal Oral Federal Nr. 3*") was in charge of the oral proceeding that took place between 2001 and 2004. A transcription of the final

Galeano knew perfectly well, from the very beginning, that they had nothing to do with the bombing.

Beyond these two cases, Galeano produced several dozen more hidden investigations, which neither party legally controlled—but none of these produced any results for the investigation. He even introduced some procedural institutions then unknown to Argentine legislation, such as the "witness of concealed identity."¹⁹ The parties were not allowed to look into the evidence collected in these parallel cases, which was clearly illegal and null.²⁰

a. Separating the wheat from the chaff

So, the proceeding was a mess, and attempting to read it was like riding an unpredictable and never-ending roller-coaster. In the first volume, from the description of the site where the blast occurred, the subject suddenly shifted to the investigation of the "suspicious activities" of two Germans tourists, then immediately to the investigation by the Federal Police of a group of Arabic-speaking people in the neighborhood of the AMIA building. A taxi driver reported a group of people taking photos outside the building, then some phone calls were added to the record, one from a man named Wilson dos Santos: "*I told you that this was going to happen,*" he said.²¹

decision of the TOF 3 is available at

[https://es.wikisource.org/wiki/Sentencia_del_TOF_3_dictada_en_el_caso_del_atentado_contra_la_AMIA_el_29_de_octubre_de_2004_\(ndice\)](https://es.wikisource.org/wiki/Sentencia_del_TOF_3_dictada_en_el_caso_del_atentado_contra_la_AMIA_el_29_de_octubre_de_2004_(ndice)). See the list of policemen acquitted in *Infobae*, "Historia de los detenidos en la causa AMIA," September 2, 2004 available at <https://www.infobae.com/2004/09/02/137160-historia-los-detenidos-la-causa-amia/>.

¹⁹ *Testigo de identidad reservada*

²⁰ Only in 2003 when Law 25.764 was promulgated, it was included in Argentine legislation a program of protected witnesses. See Law 25.764 at

<http://servicios.infoleg.gob.ar/infolegInternet/verNorma.do?id=87581>.

²¹ Wilson dos Santos was a Brazilian who warned that a terrorist bomb attack would occur in Buenos Aires days before the AMIA bombing. He presented himself first at the Consulate of Israel in Milan, and later in the Brazilian and Argentine Consulates. His statement was disregarded by the Argentine consul. See *Clarín*, "EL ATENTADO CONTRA LA SEDE DE LA MUTUAL JUDIA: LA EXTRADICION DEL BRASILEÑO WILSON DOS SANTOS. AMIA: la larga historia del hombre que sabía demasiado," December 24, 2000, available at https://www.clarin.com/politica/amia-larga-historia-hombre-sabia-demasiado_0_Sk-e1VFICtx.html; see "Ubican a un testigo clave del caso AMIA," *La Nación*, November 19, 1998, available at <https://www.lanacion.com.ar/118410-ubican-a-un-testigo-clave-del-caso-amia>; see LEVITT, Mathew, *Hezbollah: The Global Footprint of Lebanon's Party of God*, Georgetown University Press, 2015, p. 95.

The pages continued in that way: a mess. Nobody was really in charge of anything, and the main efforts were directed to rescuing survivors from beneath the rubble. Understandable, but there was no forensic team present—only the policemen, firemen, and volunteers—to search properly for evidence among the rubble. Then, according to Galeano's instruction, all debris was loaded onto bulldozers and deposited with no order or control in an open field several miles from the site, near the river.²²

After separating the wheat from the chaff, it could be determined that a van, presumably a white Renault Trafic, had been loaded with ammonal and detonated at the AMIA building's door. Nonetheless, some journalists doubted such a van even existed because nobody among the witnesses had seen it; they believed rather that the bomb had been stocked inside the AMIA building or in a dumpster placed minutes before the blast at the building's door.²³ All doubts were later left aside, however, when pieces of the van were found at the blast site, as well as one of its shock absorbers, in the spinal cord of the porter of the building across the street.²⁴ The type of vehicle was confirmed when a statement, dated July 25, 1994, announced that the engine had been found. Finding the engine was of superlative importance because it bore an engraved registration number, which led investigators to its owner. And by 1997, news reports had already announced that the van's last owner was Carlos Telleldin, who was then in custody.

But a few things seemed strange to me: for instance, the statement that announced the motor's discovery was dated July 25. Yet on page 114 in the first volume of the case, an undated and unsigned police communication is reproduced, requesting from Galeano the intervention of several dozen phone lines—among them, those belonging to Telleldin, his mother, and his brother.²⁵ Though undated, the preceding page 113 was dated July 19, and page 115,

²² See AMIA: An Ongoing Crime cit. p. 36.

²³ See, as one of the most serious, LANATA, Jorge & GOLDMAN, Joe, *CORTINAS DE HUMO*, Planeta, Buenos Aires, 1994.

²⁴ See KOLLMAN, Raúl, "Las claves del caso AMIA," *Página 12*, January 24, 2005, available at <https://www.pagina12.com.ar/diario/elpais/1-30765-2004-01-25.html>.

²⁵ See *Diario Judicial*, July 16, 2010, available at <http://www.diariojudicial.com/nota/11342>.

July 21, so it is fair to presume that this request should have been dated between July 19 and July 21. But how was that possible? Supposedly, nobody knew anything of Telleldin's involvement prior to July 25, when the engine was discovered and traced to the van, which had been accidentally burned some time prior to the bombing and sold to a car dealer, who transferred the remains to Telleldin. How could the police have requested to tape his phone line four days before? And this was not the only odd thing.

When Telleldin was finally identified, he had flown to the northern province of Misiones, bordering Paraguay and Brazil. A lengthy telephone conversation between Telleldin and the secret services was then recorded. Sixty-six tapes documented not only their first contact, but later interviews as well, maintained with the secret services when he was arrested at the airport returning from Misiones, and during the first days of his arrest. Those sixty-six tapes disappeared from the Federal Department of Police and from SIDE,²⁶ simultaneously. But not only the record of those conversations disappeared: the electronic agenda seized from Telleldín was returned to him, erased, without anyone having copied its contents.²⁷ A number of telephones directories from Telleldin were also seized. When I inspected them, most of the names and phone numbers had been cut out with scissors, leaving the pages bristled like a comb.

Reading the written proceeding, we might conclude with a degree of accuracy the presence of the secret services; clearly something was being hidden from curious eyes. For example, we discover that in the dawn of July 18, 1994, the day of the blast, a helicopter flew over the AMIA building for several minutes, illuminating its roof and surroundings with a searchlight.²⁸ But what were they

²⁶ Acronym of "*Secretaría de Inteligencia del Estado*," equivalent of the American CIA. See "Telleldin dice que tuvo vínculos con Menem y su familia," *La Nación*, September 2, 2002, available at <https://www.lanacion.com.ar/427729-telleldin-dice-que-tuvo-vinculos-con-menem-y-con-su-familia>.; and "Por el caso AMIA, condenan a un ex comisario de la Federal," *La Gaceta*, June 23, 2005, available at <http://www.lagaceta.com.ar/nota/118310/argentina/por-caso-amia-condenan-ex-comisario-federal.html>.

²⁷ See "ATAQUES TERRORISTAS: CASO AMIA. Beraja busca más datos," *Clarín*, August 7, 1997, available at https://www.clarin.com/ediciones-antiores/beraja-busca-datos_0_rkl7yWWZAKe.html.

²⁸ See "Relataron extraños vuelos de aeronaves," *La Nación*, November 8, 2001, available at <https://www.lanacion.com.ar/349677-relataron-extranos-vuelos-de-aeronaves>; see the site of the Argentine Justice "La presencia de un helicóptero," available at

looking for? Somebody knew already that AMIA was a target of a terrorist attack and nothing was done to prevent it? One cannot presume that these events were mere coincidence. Page 114, the tapes, the telephone records, the helicopter: all of it evinced the clear presence of the secret services. But if the Argentine SIDE²⁹ had been in any way engaged in these events, it is likely that the Mossad would have been informed too given the close links that existed between Argentina, the United States and Israel at this time.³⁰ We can't forget, after all, that the main target of the attack was a Jewish institution.

President Menem's parents were native Syrians and he grew up Muslim, later converting to Catholicism, the official religion of Argentina and, in those days, a mandatory requirement to be President.³¹ As well as the secret services, the AMIA case has consistent hints pointing to a Syrian-Lebanese connection. A member of Menem's family interceded in favor of an Argentine citizen of Syrian ancestry named Alberto Kanoore Edul, who had called Telleldin the week before the blast.³² In addition, a dumpster located by the AMIA building's door, as well as the truck which collected it minutes before the explosion, belonged to an enterprise owned by Nassib Haddad, a Lebanese man who also purchased great quantities of ammonal for work on a quarry on his property.³³ If all these remarkable coincidences were not enough, the truck that collected the filled dumpster and left an empty one at the AMIA building before the blast, left, in the same trip, another empty dumpster on an open property belonging to Mr.

<https://www2.jus.gov.ar/amia/grossman/La%20presencia%20de%20un%20helicoptero.pdf>; and KOLLMAN, Raul, "Otro cuento para el caso AMIA," *Página 12*, October 8, 2006, available at <https://www.pagina12.com.ar/diario/sociedad/3-74155-2006-10-08.html>.

²⁹ SIDE was the acronym of "Secretaría de Inteligencia del Estado," the Argentine secret services.

³⁰ See BERNAL-MEZA, Raúl. "Política exterior Argentina: de Menem a de la Rúa ¿Hay una nueva política?" *16 São Paulo em Perspectiva*, (2002), 74-93, available at http://www.scielo.br/scielo.php?script=sci_arttext&pid=S0102-88392002000100009&lng=es&nrm=iso; and MELAMED, Diego, "Judíos, la seducción menemista," *La Nación*, April 30, 2000, available at <https://www.lanacion.com.ar/209481-judios-la-seducion-menemista>.

³¹ A requisite of Art. 73 of the National Constitution of 1853, in force until 1994 when the constitutional reform suppressed within current Art. 89 the candidate's religion as a requisite. See <http://servicios.infoleg.gob.ar/infolegInternet/anexos/0-4999/804/norma.htm>.

³² See "Los secretos de Kanoore Edul," *La Nación*, February 20, 2000, available at <https://www.lanacion.com.ar/6032-los-secretos-de-kanoore-edul>.

³³ See KOLLMAN, Raul, "Huellas que llevan al atentado," *Página 12*, September 25, 2004, available at <https://www.pagina12.com.ar/diario/elpais/subnotas/41503-14246-2004-09-25.html>.

Kanoore Edul.³⁴ And within Kanoore Edul's telephone book investigators discovered contact information for the weapons dealer Mozzer Al Kassar, also a friend of the Menem family.³⁵

Reading volume 25 of the AMIA proceeding, I learned that in October 1994, another judge from the Province of Buenos Aires was present during a judicial raid grounded on the discovery of a secret, illegal electrical connection.³⁶ When police arrived at the premises they discovered a man hidden among the carpets stocked there: Ali Chehade Al Kassan, a Lebanese citizen who did not speak Spanish and could not explain his presence. The police then discovered leaflets from Hezbollah, tapes of the same origin, a fake credential for Al Kassan as military attaché to the Syrian Embassy in Buenos Aires, and most importantly, two pressed blocks of trotyl (TNT) in its unbroken, original US Army packaging.³⁷ The tenement also belonged to a Syrian family, and in 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, among several other actions, that Ali Chehade Al Kassan, who was in jail, should be interrogated. It is difficult to believe, but he had not been interrogated since his arrest. Galeano's response to my request was a phrase I would hear again and again throughout the case: "*Téngase presente*" or "Keep it in mind." And nothing happened. Months later, Al Kassan was freed, and his whereabouts were lost forever. The explanations of the tenement's owner as to Al Kassan's presence were confusing and unclear—but he was released, too. All of this is clearly transcribed: no mystery, no mastermind detective work. It was all in the first volumes of the written proceeding. To learn of it, one needed simply to read.

I was not and am not an expert in international policy. However, it was clear that evidence pointed to Syria or Lebanon. But Galeano accused Iran. And so,

³⁴ *Idem*. See also *La Nación*, "Irán, Siria y la AMIA: dos pistas que convergen," August 31, 2003, available at <https://www.lanacion.com.ar/523210-iran-siria-y-la-amia-dos-pistas-que-convergen>.

³⁵ See VERBITSKY, Horacio, "Hilando fino," *Página 12*, July 26, 2009, available at <https://www.pagina12.com.ar/diario/elpais/1-128889-2009-07-26.html>.

³⁶ It is unusual that a judicial raid would be ordered for an illegal electric connection, but is even more strange that a Federal judge was personally present during the seizure.

³⁷ See "AMIA: An Ongoing Crime," cit. ps. 84-85.

the "official story" accuses Iran, and Syria and Lebanon are not mentioned at all. When I asked Galeano about his suspicions, he mentioned some members of the Iranian Embassy in Buenos Aires who were connected to the bombing by the declaration of a repentant witness, Manucher Moatamer, who Galeano met in Venezuela in 1994.³⁸ I asked Galeano why he had not called them until that moment, at the very least as witnesses, and he answered that they were immune as diplomats. That was 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.³⁹ Although at the time I was already convinced of the feeble support of the "official story," I had not realized the extent of the cover-up. Of course, Galeano ignored my suggestions. The Iranian diplomats flew from Argentina to their new destinations, and only then did he issue the first arrest warrant against eight of them.⁴⁰

I was not naïve; it was clear to me that Galeano was covering up something. I was intrigued, however, as to how the joined private prosecution of AMIA and DAIA could support Galeano's poor work. They were victims of the explosion, and more than that, both institutions represented a group of victims and their families. How could they consent to such a scandal?

³⁸ See "AMIA: el juez busca el contacto externo," *La Nación*, November 23, 1997, available at <https://www.lanacion.com.ar/81358-amia-el-juez-busca-el-contacto-externo>; and see "Galeano trajo documentos que apuntan a Irán," *La Nación*, November 29, 1997, available at <https://www.lanacion.com.ar/81830-galeano-trajo-documentos-que-apuntan-a-iran>

³⁹ See "La inmunidad soberana de los Estados y la emisión de deuda pública," and Spanish translation of *Argentine Republic v. Weltover, Inc.*, *Revista Jurídica La Ley*, 1992-D, p. 1118; "La impenetrable inmunidad de los estados extranjeros en Argentina, o ¿quien mató al art. 24 Del decreto ley 1285/58?," *El Derecho*, (1993) 156, p.820; "La inmunidad jurisdiccional de los estados extranjeros ante los tribunales argentinos conforme a la ley 24.488," *El Derecho*, (1993) 166, p. 866; and "El caso Siderman: volviendo sobre la inmunidad soberana de los Estados y el derecho imperativo en la jurisprudencia norteamericana," with Spanish translation of *Susana Siderman de Blake et al. v. The Republic of Argentina et al.*, *El Derecho*, (1993) 154, p. 99.

⁴⁰ See LANATA, Jorge, MANGUEL, Romina and GEUNA, Luciana, "Tócala de nuevo, Nisman," *Perfil*, November 19, 2006, available at <http://www.perfil.com/noticias/columnistas/Tocala-de-nuevo-Nisman-20061119-0005.phtml>; see BIELSA, Rafael, "La orden de captura que desencadenó la tempestad," *Perfil*, December 15, 2017, available at <http://www.perfil.com/noticias/elobservador/la-orden-de-captura-que-desencadeno-la-tempestad.phtml>; and see "AMIA: Interpol Argentina lanzó a su red mundial los pedidos de captura de los ex funcionarios iraníes," *Clarín*, November 16, 2006 available at https://www.clarin.com/ultimo-momento/amia-interpol-argentina-lanzo-red-mundial-pedidos-captura-ex-funcionarios-iranies_0_Ska6RM1CYe.html;

Beatriz Gurevich,⁴¹ 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 CF⁴² 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."⁴³

Memoria Activa was the dissenting voice, and denunciations of the cover-up and the inefficiency of Galeano "were perceived as an intrusion into the field of DAIA's incumbencies."⁴⁴ Another part of the problem, in accordance with Gurevich, was my appointment and my criticism of the way in which AMIA and DAIA led the prosecution.⁴⁵

Although I respect the work of Mrs. Gurevich and some of her conclusions, I disagree with her explanations of the behavior of AMIA and DAIA in the judicial proceeding. Gurevich affirmed:

"AMIA and of DAIA who were incapable of making a diagnosis about the pace of the preliminary judicial investigation which 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."⁴⁶

This understanding of AMIA and DAIA's behavior could work as a superficial explanation for the conflict of Jewish opinions among 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"

⁴¹ See GUREVICH, Beatriz, "PASSION, POLITICS AND IDENTITY: JEWISH WOMEN IN THE WAKE OF THE AMIA BOMBING IN ARGENTINA," Research paper, The Hadassah-Brandeis Institute (2005), available at <https://www.brandeis.edu/hbi/publications/workingpapers/docs/gurevich.pdf>.

⁴² "CF" means in Gurevich's text "community fortress" pointing out a select leader group that imposes knowledge, surveillance, regulation, and discipline.

⁴³ Idem p. 10.

⁴⁴ Idem p. 22.

⁴⁵ Idem p. 24.

⁴⁶ Idem p. 38.

Following the Madrid Conference,⁴⁷ peace talks between Israeli and Syrian delegations began in Washington according to the Madrid formula. In 1994, negotiations were held on the ambassadorial level in Washington.⁴⁸ On June 1, 1994, Shimon Peres, then Minister of Foreign Affairs of the government of Isaac Rabin, visited Argentina.⁴⁹ There are not many records of this and, surprisingly, the Israeli Ministry of Foreign Affairs dates the visit in January 1995.⁵⁰ In July 1994, the bombing of the AMIA building occurred exactly in the midst of these meetings, and discussions of security arrangements led to two meetings between the Israeli and Syrian chiefs-of-staff in December 1994 and June 1995.

In the early morning of July 19, 1994, the day after the attack, Argentine Ambassador to Israel 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 from Prime Minister Rabin, with the intention of meeting with Menem in order to "coordinate the version" of events that would be announced to the world.

"For 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

⁴⁷ 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 the Knesset site at https://www.knesset.gov.il/lexicon/eng/madrid_eng.htm and "Israel-Syria Negotiations," Israel Ministry of Foreign Affairs, May 21, 2008, available at <http://www.mfa.gov.il/mfa/foreignpolicy/peace/guide/pages/israel-syria%20negotiations.aspx>.

⁴⁸ See "Israel-Syria Peace Talks to Resume," *Jewish Virtual Library* quoting Israeli Foreign Ministry, available at <https://www.jewishvirtuallibrary.org/israel-syria-peace-talks-to-resume>; AL MOUALEM, Walid, "Fresh Light on the Syrian-Israeli Peace Negotiations. An Interview with Ambassador Walid Al-Moualem," *26 Journal of Palestine Studies*, (1997) 81, and DAOUDY, Marwa, "A Missed Chance for Peace: israel and Syria's Negotiations over the Golan Heights," *61 Journal of International Affairs* (2008), 215.

⁴⁹ The 1st of January according to <http://www.israel.org/MFA/ForeignPolicy/MFADocuments/Yearbook10/Pages/CHRONOLOGY%20OF%20EVENTS-%201995-1996.aspx>, or in January 13, 1995, according to <http://mfa.gov.il/MFA/ForeignPolicy/MFADocuments/Yearbook10/Pages/Foreign%20Ministry%20Statement%20on%20visit%20of%20Foreign%20Min.aspx>. But see Central Intelligence Agency (CIA) declassified cable dated at June 1994, available at https://www.cia.gov/library/readingroom/docs/NAZIS%20IN%20SOUTH%20AMERICA%20%20%28DI%29%20%20VOL.%20_0011.pdf dating the visit on June 1; see also "Sus dos visitas a la Argentina, al que consideraba 'un país en transición,'" *Ámbito Financiero*, September 28, 2016, available at <http://www.ambito.com/856787-sus-dos-visitas-a-la-argentina-al-que-consideraba-un-pais-en-transicion>.

⁵⁰ See <http://mfa.gov.il/MFA/ForeignPolicy/MFADocuments/Yearbook10/Pages/CHRONOLOGY%20OF%20EVENTS-%201995-1996.aspx>. But 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.

*issue before Israeli public opinion-given that opposition parties and some media are using the fact to attack harshly government peace policy Rabin."*⁵¹

After meeting Menem, Schmorak declared to the press:

*"Possibly, 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."*⁵²

In an interview filmed July 19, 1994, Prime Minister Rabin admitted to having spoken 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.⁵³

On September 27, 1994, a private meeting took place at the United Nations in New York between President Menem and Foreign Minister Peres, where the AMIA attack was considered.⁵⁴ Later that year, President Menem visited Syria, presumably in an attempt to approach both the Israeli and the Syrian positions.⁵⁵ There is an interesting interview from another visit to Buenos Aires, undated but ostensibly held in the summer of 1997, where Peres explains the need to prepare to make certain compromises with Israel's Arab partners.⁵⁶

⁵¹ Idem. A transcription of the cable EISRA 010365/1994, June 19, 1993, is available at <https://twitter.com/AleRuaTwit/status/987711269389176832>. See "Exclusivo: el video que revela cómo empezó el encubrimiento," *Infojus*, undated, available at <http://juicioamia.infojusnoticias.gov.ar/las-pruebas/versiones-coincidentes/>; VERBITSKY, Horacio, "La InfAMIA," *Página 12*, July 18, 2004, available at <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. See https://archive.org/stream/AMIA_Files/104608204-A-Shadow-on-Argentine-Lebanese-Ties.

⁵² Idem. See also KOLLMAN, Raúl, "Una década de misterio y las nuevas evidencias disponibles," *Página 12*, July 18, 2004, available at <https://www.pagina12.com.ar/diario/elpais/1-38344-2004-07-18.html>.

⁵³ See interview on the TV program "*Tiempo Nuevo*," July 19, 1994, available at <https://www.youtube.com/watch?v=WJAGU5HKc6w>.

⁵⁴ See CARRANCIO, Magdalena, "*Las repercusiones del conflicto de Medio Oriente En la política exterior argentina*," in Centro de Estudios en Relaciones Internacionales de Rosario / C.E.R.I.R., (Ed.) "*La Política Exterior Argentina 1994/ 1997*," Ediciones C.E.R.I.R., Rosario, 1998, 149, here at p. 153. Menem was carrying a letter from Peres to Assad, according to one source, offering the retreat of the Golan heights in exchange for a Peace Treaty. See "Menem diz que houve erro," *Folha de Sao Paulo*, November 25, 1994, available at <https://www1.folha.uol.com.br/fsp/1994/11/25/mundo/8.html>. See also RAZZOUK, Nayla W, "Argentine President visits Syria," UPI Archives, November 21, 1994, available at <https://www.upi.com/Archives/1994/11/21/Argentine-President-visits-Syria/8038785394000/>.

⁵⁵ See VALENTE, Marcela, "ARGENTINA: Menem se propone acercarse a Siria e Israel," *Inter Press Service*, November 19, 1994, available at <http://www.ipsnoticias.net/1994/11/argentina-menem-se-propone-acercar-a-siria-e-israel/>.

⁵⁶ See interview at <https://www.youtube.com/watch?v=nhi5aov6jF4>.

Israel was clearly seeking to reach peace with its neighbors.⁵⁷ Later, in 2015, Menem would request from the TOF 2, which oversaw the AMIA II trial, that he be relieved of his obligation to confidentiality, claiming that his declaration could affect “state interests” and breach the “peaceful coexistence” of Argentina with other countries.⁵⁸

The terrorist attack was not sponsored by Syria or Lebanon, but most probably was performed by Hezbollah or Hamas alone.⁵⁹ To accuse any of these nations of supporting the attack would be an irreversible setback in peace negotiations. The necessary conclusion was that Israel was not interested in blaming any of its new partners for the AMIA bombing, and this was also the instruction sent from Israel to the main Jewish institutions in Argentina. What was done was done. The AMIA bombing was collateral damage.

AMIA and DAIA’s leadership knew of the cover-up, and was instructed to support Galeano’s inefficient and directionless work, as well as the incredible waste of an investigation with no greater strength than an eggshell. They followed those principles of knowledge, surveillance, and discipline mentioned by Gurevich. The problem was that the investigation was so poor, so inefficient, so incredibly clumsy, that it was impossible to defend that conglomerate of feeble evidence Galeano had collected.⁶⁰ I can imagine the struggle of AMIA

⁵⁷ In October 1994, a peace treaty was drafted between Israel and Jordan, preparing the way for regular diplomatic relations after 46 years. See COWELL, Allan, "ISRAEL AND JORDAN SIGN DRAFT OF WIDE-RANGING PEACE TREATY," *New York Times*, October 18, 1994, available at

<https://www.nytimes.com/1994/10/18/world/israel-and-jordan-sign-draft-of-wide-ranging-peace-treaty.html>

⁵⁸ See "AMIA: Menem pidió que se lo releve del "secreto de Estado," *Perfil*, August 20, 2015 available at <https://www.perfil.com/content/22759>; "AMIA: Menem prometió datos clave," *La Nación*, August 21, 2015, available at <https://www.lanacion.com.ar/1820987-amia-menem-prometio-datos-clave>; and "A 21 años de la AMIA, Menem ahora ofrece pruebas para esclarecer el atentado," *Ámbito Financiero*, August 20, 2015, available at <http://www.ambito.com/804084-a-21-anos-de-la-amia-menem-ahora-ofrece-pruebas-para-esclarecer-el-atentado>.

⁵⁹ See for example "CAMISAR, Adriana, Ibrahim Yassin: Another Voice Confirming Hezbollah’s Participation in the AMIA Bombing," *B'nai B'rith International*, April 16, 2018 available at <https://www.bnaibrith.org/expert-analysis/ibrahim-yassin-another-voice-confirming-hezbollahs-participation-in-the-amia-bombing>;

⁶⁰ See SANZ, Christian, "La verdad sobre el atentado a la AMIA fue revelada por Wikileaks," *Mendoza Post Opinion*, February 18, 2018, available at <https://www.mendozapost.com/nota/83064-la-verdad-sobre-el-atentado-a-la-amia-fue-revelada-por-wikileaks/>, where the reporters transcribed a conversation with a high functionary from DAIA that said: "We 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 enemies must be fought with everything at hand." See also KOLLMAN, Raúl, "Una ayudita a los amigos para acusar a Irán," *Página 12*, February 27, 2011, available at <https://www.pagina12.com.ar/diario/elpais/1->

and DAIA's leaders in trying to make palatable the "official story" what was impossible to digest. In spite of its gaps, shadows and absurdities, they were convinced that it would be publicly and popularly accepted. The situation might be amusing, if we could only ignore the true horror of the tragedy they obscured.

In accordance with the version coordinated between Argentina and Israel, the Iranian path began to take form in the proceedings.⁶¹ A cable from July 11, 2007, discovered by Wikileaks, included a comment by the Legal Attaché to US Ambassador Wayne, stating:

*"... Legatt discounted a possible Syrian connection to the AMIA bombing, noting that Hezbollah agents who carried out the attack, are financed by Iran, not Syria. The Ambassador acknowledged that individual Syrians may have facilitated the operations, but that it was less likely that Syria or the Syrian-Argentine community was involved in the attack."*⁶²

In August 1994, Galeano flew on the Presidential plane Tango 04 to Venezuela to interview a supposedly repentant Iranian, Manoucher Moatamer. When he returned, several reporters immediately approached Galeano as he stepped off the plane, and he declared: *"you are going to fall on your back."*⁶³ Then Galeano went on to the Presidential house in Olivos to speak with President Menem.⁶⁴ There, presumably, he presented the videotape of his interview with Moatamer.⁶⁵ Of course the fact that a Federal Judge, who should function

163172-2011-02-27.html and see PORTER, Gareth, "Bush's Iran/Argentina Terror Frame-Up," *The Nation*, January 19, 2009, available at <https://www.thenation.com/article/bushs-iranargentina-terror-frame/>.

⁶¹ See BOTTA, Paulo, "Argentina e Irán entre 1989 y 1999: Entre las sombras de los atentados terroristas y el cambio de política exterior argentina," *14 Araucaria. Revista Iberoamericana de Filosofía, Política y Humanidades*, no 28. (2012).155, available at <https://dialnet.unirioja.es/descarga/articulo/4058524.pdf>; see the very interesting and well-informed work of LASUSA, Mike, "U.S. INVOLVEMENT IN THE AMIA BOMBING INVESTIGATION: KEEPING IRAN "IN THE DOCK," Master research paper American University (2016), available at <https://auislandora.wrlc.org/islandora/object/researchpapers%3A3/datastream/PDF/view>.

⁶² Available at https://wikileaks.org/plusd/cables/07BUENOSAIRE1327_a.html, quotation in point 5.

⁶³ See VENTURA, Adrián, "A dos años del atentado a la AMIA," *La Nación*, July 12, 1996, available at <https://www.lanacion.com.ar/175720-a-dos-anos-del-atentado-a-la-amia>; see "El juez que debió resolver el peor atentado en la Argentina," August 3, 2005, available at <https://www.lanacion.com.ar/726953-el-juez-que-debio-resolver-el-peor-atentado-en-la-argentina>;

⁶⁴ See VIAU, Susana, "Donde no hay justicia es peligroso tener razón," *Clarín*, February 17, 2013 available at <https://www.pressreader.com/argentina/clarin/20130217/283596692693051>

⁶⁵ See "Citan a declarar a 14 agentes de la Secretaría de Inteligencia," *La Nación*, September 12, 2003, available at <https://www.lanacion.com.ar/526827-citan-a-declarar-a-14-agentes-de-la-secretaria-de-inteligencia>, with details of that meeting; see "El juez Lijo pidió detalles de una reunión entre Menem y Galeano en Olivos," *La Capital*, January 26, 2015, available at <https://www.lacapital.com.ar/politica/el-juez-lij-pidio-detalles-una>

independent of every other governmental power, wanted to meet with the President to present new evidence deserves some critical commentary. But Galeano's promise that the reporters would fall on their back, too, remained unfulfilled. Something changed during his meeting with Menem, concerning, at the very least, Galeano's public exposure.⁶⁶ Anyways, developing the Iranian connection according to the testimony of a dubious repentant was always weak. A cable from James Cheek, US Ambassador to Argentina at the time of the AMIA bombing, to US Ambassador Wilcox, dated September 1994, already stated:

*"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."* Bold added.⁶⁷

Another declassified US diplomatic cable recognized that even Argentine Foreign Minister Di Tella shared this skepticism.⁶⁸ He stated in one interview:

*"To my knowledge, there was never any real evidence [of Iranian responsibility]. They never came up with anything."*⁶⁹

An unclassified cable from Cheek dated August 1994 stated:

"... 9. (c) 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."

reunion-menem-y-galeano-olivos-n481366.html; and see "Juez AMIA revisa reunión con Menem," *Ámbito Financiero*, January 26, 2015, available at <http://www.ambito.com/776258-juez-amia-revisa-reunion-con-menem>.

⁶⁷ See US cable "The Terrorist Treat as Seen From Argentina," September 1994, available at https://archive.org/stream/AMIA_Files/104608273-Scenesetter-for-Counter-Terrorism-Team-Visit-to-Buenos-Aires-September-5-6#page/n0. Quotation in page 4.

See US cable "The Terrorist Treat as Seen From Argentina," September 1994, available at https://archive.org/stream/AMIA_Files/104608273-Scenesetter-for-Counter-Terrorism-Team-Visit-to-Buenos-Aires-September-5-6#page/n0. Quotation in page 4.

eptember-5-6#page/n0. Quotation in page 4.

a Terror Frame-Up," cit. See also SIMS, Calvin, "Argentine Chief, Noting Bombing Report, May Expel Iran Envoy," *New York Times*, August 11, 1994, available at

<https://timesmachine.nytimes.com/timesmachine/1994/08/11/917966.html?action=click&contentCollection=Archives&module=LedeAsset®ion=ArchiveBody&pgtype=article&pageNumber=9>.

10.(c) Yet hard evidence of the "Iranian connection" is slim. At this time, Galeano probably lacks evidence that will "stand up in court."

...

His August 9 announcement appears based on the statements of former Iranian government official Monzar Moatamer, a witness whose knowledge and reliability regarding the events in this case are questionable.

11. (c) Foreign Minister Di Tella's reluctance to break relations with Iran is a step back from earlier statements about taking a hard line with Teheran. His stance may reflect not only doubts regarding the conclusiveness of Galeano's evidence at this stage of the proceedings but also concerns about Argentina's economic interests in Iran."⁷⁰

Evidence of Iranian participation in the AMIA attack has always been regarded as tenuous, based mostly on a discredited testimony unsupported by proven fact or evidence. It was supposed that Iran supported Hezbollah, but evidence was not sufficient to issue Interpol red notices or any other request for extradition from Iranian diplomats. This does not mean that the Iranian connection should be forgotten. It should be accurately and independently investigated, like any other international connection. AMIA Special Prosecutor Alberto Nisman, who followed directives and instructions from the U.S. government⁷¹ and was even believed to be working for the FBI,⁷² would be one of its most conspicuous advocates.⁷³

c. Derailment of justice

⁷⁰ See <https://foia.state.gov/searchapp/DOCUMENTS/Waterfall/190113.pdf>, points 9, 10 and 11.

⁷¹ See how the red notices submitted by Nisman to Interpol were corrected by the US government in accordance with a cable from Wikileaks, available at https://wikileaks.org/plusd/cables/07BUENOSAIRE93_a.html; see how Nisman apologized for not informing in advance of a request to the US, in accordance with a Wikileaks cable available at https://wikileaks.org/plusd/cables/08BUENOSAIRE717_a.html; or how he explained his actions to the US Embassy, see https://wikileaks.org/plusd/cables/08BUENOSAIRE739_a.html; or how he informed in advance of an indictment, see https://wikileaks.org/plusd/cables/09BUENOSAIRE592_a.html; see also DELICADO, Ana, "Nisman, el fiscal desenmascarado por Wikileaks," *Público*, January 22, 2015 available at <https://www.publico.es/internacional/nisman-fiscal-desenmascarado-wikileaks.html>.

⁷² See ALEXANDER, Harriet, "America 'refused to hand over emails sent by Argentine prosecutor Alberto Nisman' before his death," *The Telegraph*, October 23, 2015 available at <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>;

⁷³ See FILKINS, Dexter, "Death of a Prosecutor - Alberto Nisman accused Iran and Argentina of colluding to bury a terrorist attack. Did it get him killed?" *The New Yorker*, July 20, 2015 available at <https://www.newyorker.com/magazine/2015/07/20/death-of-a-prosecutor>.

With funds provided by the SIDE, Galeano offered Telleldin US\$400,000.00 to answer a list of questions. This was plainly illegal, but perhaps in order to leave a record that he was not keeping the money for himself, Galeano videotaped his offering. We don't know exactly how it happened, but after the SIDE recorded the meeting, they duplicated the tape.⁷⁴ A copy then reached the most prominent of the policemen Galeano had arrested: Ribelli, who then requested an interview with Galeano. When this interview took place, Ribelli presented Galeano a package containing this copy of the tape, wrapped like a gift, and recommended that Galeano watch it in private.⁷⁵

One can imagine Galeano's struggle upon receiving the videotape, recorded in secret and presumably secure within the Tribunal's safe. After several meetings, Galeano denounced the extortion before another Federal judge, who ordered the arrest of Ribelli's counselor,⁷⁶ among others—yet even so, the videotape reached the press.⁷⁷ Pablo Jacoby, a dear colleague who would later, in 1999, act as my partner in the AMIA trial, was a counselor well-known by many Argentine journalists. He represented, among others, Jorge Lanata, a stubborn and courageous reporter who refused to accept the self-censure that the Argentine press imposed on the investigation—with the naive belief that they were "saving" the proceeding and the judge—and showed this tape on his TV program, *Día D*.⁷⁸ Pablo described to me how he and Lanata ran from one

⁷⁴ See BOIMVASER, Jorge D., "Historia secreta de un video que nunca se robó," *Tribuna de Periodistas*, September 4, 2004, available at <https://periodicotribuna.com.ar/924-historia-secreta-de-un-video-que-nunca-se-robo.html>; see also, "La SIDE le pagó a Telleldín y lo filmó," *La Nación*, September 24, 2003, available at <https://www.lanacion.com.ar/530023-la-side-le-pago-a-telleldin-y-lo-filmo>; see "Historia de un video polémico," *Clarín*, April 8, 1997, available at https://www.clarin.com/politica/historia-video-polemico_0_SJhgpEGbAYI.html; see BULEINTINI, Ailin, "Los videos, el pago y la pista falsa," *Página 12*, September 25, 2015, available at <https://www.pagina12.com.ar/diario/elpais/1-282453-2015-09-25.html>;

⁷⁵ See VALENTE, Marcela, "ARGENTINA: A 1.000 días de atentado a la AMIA, un nuevo escándalo," *Inter Press Service*, April 9, 1997, available at <http://www.ipsnoticias.net/1997/04/argentina-a-1-000-dias-de-atentado-a-la-amia-un-nuevo-escandalo/>.

⁷⁶ See "Sigue preso en un escuadrón de Gendarmería. Preventiva a Cúneo Libarona," *Clarín*, April 22, 1997, available at https://www.clarin.com/politica/preventiva-cuneo-libarona_0_r1wl3MGb0Fg.html.

⁷⁷ See REY, Alejandra, "AMIA: debate la bicameral el caso del video," *La Nación*, April 8, 1997, available at <https://www.lanacion.com.ar/66635-amia-debate-la-bicameral-el-caso-del-video>; and "Fue amenazado el juez Oyharbide," *La Nación*, April 18, 1997, available at <https://www.lanacion.com.ar/67279-fue-amenazado-el-juez-oyharbide>.

⁷⁸ See "ATENTADO A LA AMIA. Un video polémico, por tevé," *Clarín*, April 7, 1997, available at 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*, April 7, 1997, available

TV set to another, evading the police and their seizure order, which had been issued by another Federal judge.⁷⁹ When the scandal broke, AMIA, 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 Commission, told me years later, that they were helping the investigation. With this new support, Galeano, far from adopting a more prudent position, now believed he was invincible.

Later, during the Oral Trial, another videotape would be shown, wherein Galeano and his clerks showed Telleldin, in a collection of photographs, the group of jailed policemen he would later recognize as the recipients of the Traffic van.⁸⁰ This video was much more compromising for Galeano: not only was such evidence vitiated, but it proved beyond all doubt that the judge directed Telleldin in his accusations. Several more videos were later burned by one of Galeano's clerks, without having informed either the counselors or the defendants of their existence.⁸¹

Memoria Activa, which consisted of the voices most critical of the AMIA investigation, began to hold meetings at Plaza Lavalle, before the seat of the Supreme Court. That tribune, followed eagerly by the press and the media, was the perfect setting to push accusations against Galeano and the Prosecutors.

[arhttps://www.lanacion.com.ar/66572-telleldin-dijo-que-tenia-la-palabra-de-menem-para-mejorar-su-situacion](https://www.lanacion.com.ar/66572-telleldin-dijo-que-tenia-la-palabra-de-menem-para-mejorar-su-situacion).

⁷⁹ See GOLDMAN, Claudio, "AMIA/Encubrimiento. Efímero abogado de Ribelli recuerda detención por extorsión a Galeano con video," *New Iton Gadol*, March 3, 2017, available at <http://www.itongadol.com.ar/noticias/val/102922/amia-encubrimiento-efimero-abogado-de-ribelli-recuerda-detencion-por-extorsion-a-galeano-con-video.html>; see *Clarín*, "Atentado a la AMIA. Un video polémico, por tevé," April 7, 1997, available at https://www.clarin.com/politica/video-polemico-teve_0_r1yBGW0Fg.html; and see "Un video muy sospechoso," *Página 12*, March 4, 2003, available at <https://www.pagina12.com.ar/diario/elpais/subnotas/17222-6834-2003-03-04.html>

⁸⁰ See KOLLMAN, Raul, "El oscuro secretario que llegó de la mano del Fino," *Página 12*, July 27, 2009, available at <https://www.pagina12.com.ar/diario/elpais/1-128903-2009-07-27.html>; see "Declaró Lifschitz y volvió a denunciar encubrimiento en la causa AMIA," *Gaceta Mercantil* (undated) available at <http://www.gacetamercantil.com/notas/118292/>; see *Clarín*, "Juicio por la AMIA: conversaciones entre el juez y un acusado. Seis horas para la polémica: los videos de Galeano con Telleldin," October 25, 2001, available at https://www.clarin.com/politica/horas-polemica-videos-galeano-telleldin_0_rJIN7hUe0Fe.html;

⁸¹ See KOLLMAN, Raúl, "Un Fiscal Federal investiga irregularidades de la causa AMIA. Causa contra el juez y los espías," *Página 12*, undated, available at <https://www.pagina12.com.ar/2000/00-10/00-10-16/pag03.htm>; and by the same author "Galeano admitió que destruyó los videos que había mandado filmar," *Página 12*, September 20, 2001, available at <https://www.pagina12.com.ar/2001/01-09/01-09-20/PAG22.HTM>.

Every time I presented a request to the Tribunal, I gave them material that would be later presented by the press.

We continued to point out those missteps of the Tribunal that suggested its willful disregard of the investigation. For example, there were a number of victims and witnesses of the bombing who Galeano had never called to testify. Some of these were simply overlooked, while for others, whose whereabouts were unknown, Galeano had issued inquiries through the Federal Police, meaning that if ever these people were found they would be detained and brought before the judge. We found most of them ourselves, simply by searching the Buenos Aires telephone directory.

Following our own investigation, we discovered car and motorbike owners who had parked their vehicles in the same block of the AMIA building; yet they, too, had never been called to testify. Their testimonies would only be taken five years after the event.

As to the story of the van, it turned out that its original owner was a firm which declared the vehicle accidentally burned in a parking lot. In the second volume of the proceedings, a representative of the company that had originally insured the van stated that he went to examine the condition of the vehicle, and took photographs. Yet nobody requested those photos, though they offered a view of the van whose motor had been used for the explosion. After my request to view those photos, I could see that the van had been only partially burned. Accordingly, the insurance company had not recognized the burned vehicle as a total loss. When the owner realized he was going to receive a premium insufficient to purchase another car, the representative of the insurance company played his card: if the owner agreed to sell the remains of the vehicle to a car dealer named Monjo, the representative would pay him the rest of the premium. Everybody, then, was happy: the insurance company paid a low premium, the owner collected the full price, and Monjo would resell the totaled

vehicle to someone like Telleldin, who would pay a fair price for its remains, though he was interested only in the motor and the papers.⁸²

Continuing the investigation, gathering further testimony from witnesses, we discovered a *modus operandi* for the duplication of vehicles: first, Telleldin would buy a motor with legitimate papers, and then would steal a similar vehicle with the help of an accomplice. Afterward, the motor would be installed into the chassis of the stolen 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 original vehicle would be used for spare parts or scrap and sold by weight. The final result was so perfect, the duplicated vehicle would pass the inspections of the official authorities.

According to Telleldin, his wife Ana Boragni had brought the motor of the van that destroyed the AMIA building to a workshop, where it was installed in another chassis, and his accomplice Jaimes re-engraved the numbers belonging to the motor. We requested several times that Galeano indict Boragni, and always received the same answer: "*Keep it in mind.*"

To whom did the stolen vehicle first belong? Today, it is still a mystery. Galeano ordered that the rubble collected from the site of the building, containing human remains, debris from the building, and scraps from the van,⁸³ be placed in an open field near the river, beside the University City. In 1997, before my appointment as private Prosecutor, Galeano then ordered that all this debris be thrown into the river, to become the foundation of a place

⁸² See "AMIA: pocas evidencias," *La Nación*, July 18, 1996, available at <https://www.lanacion.com.ar/167940-amia-pocas-evidencias>; see video of Monjo's arrest at <https://www.youtube.com/watch?v=JWMss1RL5as>; and see <https://www2.jus.gov.ar/amia/grossman/La%20camioneta%20utilizada.pdf>. The so called "Grossman Report" was prepared by Dean Claudio Grossman, then President of the Interamerican Commission of Human Rights (ICHR), following the claim that I submitted to the ICHR in 1999, between the Argentine Government and Memoria Activa . See full "Grossman Report" at <https://www2.jus.gov.ar/amia/grossman.htm>.

⁸³ See, for example "Los libros rescatados después del atentado a la AMIA," *Diario Z*, July 17, 2017 referring the recovering of circa 60.000 different elements, among them letters from Freud and Einstein, between the rubbles of AMIA. Available at <http://www.diarioz.com.ar/#!/nota/los-libros-rescatados-despues-del-atentado-a-la-amia-57536/>; and "CULTURA : UN TESORO CULTURAL SALVADO DE LOS ESCOMBROS DEL ATENTADO La increíble historia de los 60 mil libros rescatados de la AMIA," *Clarín*, April 2, 2006, available at https://www.clarin.com/sociedad/increible-historia-60-mil-libros-rescatados-amia_0_SkpbetrJAYl.html.

ironically named *Plaza de la Memoria*, or “Remembrance Park”.⁸⁴ Now, these remains of the van could never be recovered, and the identification of the original owner of the chassis became an impossible task.⁸⁵

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 there.⁸⁶ He was unscrupulous: among his several businesses, he had owned a brothel where his own wife, the mother of his children, worked as a prostitute; owned several video clubs, resold stolen goods, and engaged in vehicular duplication. As he once wrote, he always worked with the criminal code in hand.⁸⁷ Moreover, he was a conspicuous liar,⁸⁸ and in his statements offered differing answers as to the purchaser of the van. First, he claimed the buyer was a man named Martinez, who paid US\$10,000.00 for the vehicle. Then he stated that he was forced to deliver the vehicle to the police of the Province of Buenos Aires; then, that a Chinese man bought the vehicle, and finally, a certain Mr. Barg. In all his declarations, Telleldin mixed small pieces of truth with lies, which made it especially difficult to follow his information.

The case of Telleldin is a clear example of the misinterpretation which to the present day prevails among Argentine constitutionalists concerning the rights of an accused person and the crime of perjury. Argentina’s 1853 National Constitution was inspired by the Constitution of the United States. In the Fifth Amendment, the US Constitution declares, “*No person... shall be compelled in any criminal case to be a witness against himself,*”⁸⁹ and the Argentine Constitution reproduces a similar principle in Art. 18: “*No one can be forced to*

⁸⁴ See “En la causa AMIA, Macri, Nisman y el establishment encubren a Menem y a su entorno,” *Sin censura digital*, November 20, 2017, interviewing Joe Goldman, ABC correspondent. Among other things, Goldman mentioned that he revisited 52 buildings surrounding AMIA and Galeano only two.

⁸⁵ See photo in *AMIA: An Ongoing Crime*, cit. p.67.

⁸⁶ See “Cuatro policías y un ladrón son los principales acusados,” *La Nación*, September 22, 2001, available at <https://www.lanacion.com.ar/337201-cuatro-policias-y-un-ladron-son-los-principales-acusados>

⁸⁷ See “LA INVESTIGACION POR EL ATAQUE A LA MUTUAL JUDIA EN 1994. AMIA: revelaciones, sorpresas e ironías en el libro de Telleldín.” *Clarín*, October 26, 2003, available at https://www.clarin.com/ediciones-antiores/amia-revelaciones-sorpresas-ironias-libro-telleldin_0_B1cglc1xCKe.html.

⁸⁸ See “Telleldín, procesado como partícipe,” *La Nación*, November 4, 1998, available at <https://www.lanacion.com.ar/116634-telleldin-procesado-como-participe>.

⁸⁹ See U.S. Constitution at <http://constitutionus.com>.

testify against himself."⁹⁰ However, the Argentine understanding of this text differs from the American. While in the United States, 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.⁹¹ This interpretation of one's rights is incorrect, and the case of Telleldin was a perfect example of the consequences of such a misinterpretation. I am rather in favor of those legislative projects that include perjury as a crime.⁹² A step in this direction has been the new "*repentant law*" n° 27304⁹³, which included Art. 276 *bis* of the Argentine Criminal Code.⁹⁴ In order to be repentant, the person must be the presumed author, accomplice, or abettor of one of the crimes listed in the new Art. 41 reformed by Art. 1 of Law 27304. In order to benefit the sanctioned reduction established by this law, the information the implicated person provides to the Public Prosecutor must be truthful and accurate, and if it is not, the benefit will be lost and the accusation will be aggravated, including now another crime. But these norms were not enforced during my work on the AMIA investigation.

It was clear then that Telleldin was covering for somebody. It must have been somebody important, because he was prepared to spend eight years in prison before admitting who it was. At the beginning, I thought he was covering for a family member. However, with the passage of time, I began to consider that he was covering for somebody much more powerful, somebody who might retaliate against his family. It was clear he knew the final recipient of the van, but it was also evident that he would never talk. Considering all the evidence, I

⁹⁰ In original Spanish: "*Nadie puede ser obligado a declarar contra sí mismo.*" See <http://servicios.infoleg.gob.ar/infolegInternet/anexos/0-4999/804/norma.htm>.

⁹¹ See decisions of the Argentine Supreme Court (CSJN), in *Fallos* 1:350. and *Fallos* 281:177. See CARNEVALE, Carlos, "La garantía a no declarar contra sí mismo," *Proceso Penal* 2 (2012) available at <http://procesalpenaluns.blogspot.com/2013/06/la-garantia-de-no-declarar-contra-si.html>; and VILLALBA, Gisella, "Orígenes del derecho a no a declarar contra sí mismo y su garantía," *12 Revista deDerecho Procesal Penal* (2017), available at http://ar.ijeditores.com/articulos.php?Hash=a0e4326340e31168a28db849ba0e7bf5&hash_t=6e589322dfa976ef824c209af4637279.

⁹² See Project of Senator Adolfo Rodríguez Saa S-3633/13, available at www.senado.gov.ar/parlamentario/parlamentaria/342595/downloadPdf.

⁹³ Available at <http://servicios.infoleg.gob.ar/infolegInternet/anexos/265000-269999/267115/norma.htm>.

⁹⁴ See Art. 2 Law 27304. Art. 276 bis establishes: "*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, will maliciously provide false information or inaccurate data.*"

concluded that Telleldin had delivered the van to the secret services. SIDE or Mossad may have infiltrated the terrorist group, and for unknown reasons before the blast, lost control of it. Support for this conclusion includes the disappearance of the recorded conversations between Telleldin and the secret services, as well as the disappearance of Telleldin's electronic agenda, the cutting out of names and phone numbers from his personal telephone directory, and the testimony of witnesses who stated that Telleldin, when he saw the bombing on TV, became crazed by the news, shouting profanities and exclaiming, "Those bastards ruined my life."⁹⁵ Then, his hasty escape to Misiones and his surrender to the SIDE, and the helicopter that flew over the AMIA building hours before the bombing. When Telleldín testified before the TOF 2 during AMIA II, his son was even threatened and injured, and warned by his assaulters that his father should remain silent.⁹⁶

But two additional pieces of evidence should be added to this list. The evidence collected in the proceeding proves that the van used in the bombing had been parked two days beforehand in Jet Parking, a parking lot in the neighborhood of the AMIA building. When the van entered Jet Parking, it suffered a malfunction and its engine died. A person from a vehicle behind then emerged and looked into the motor, and after making some adjustments, the motor restarted and the van was parked.⁹⁷ Who was that person? According to the testimonies, he was an Argentine with a provincial accent.

Later, during the Oral Trial, we also learned from a retired member of the Air Force who managed a covered parking garage one block from Jet Parking, that on July 15, 1994, a person with a heavy Middle Eastern accent requested to park a Traffic van on the upper floor until the early hours of the following Monday, July 18. The manager explained that this was not possible because

⁹⁵ This circumstance was corroborated by several witnesses who were with Telleldin when he saw the first images of the AMIA explosion, and I was used this evidence when I appealed Galeano's decision to dismiss Telleldin. See "Un sorpresivo testimonio complicó a Carlos Telleldín," *La Nación*, October 19, 2002, available at <https://www.lanacion.com.ar/441996-un-sorpresivo-testimonio-complico-a-carlos-telleldin>; and see abstracts of the TOF 3 decision at <https://www2.jus.gov.ar/amia/sentencia/TI%20CX%20B3hii.pdf>.

⁹⁶ See "Ataque a Telleldín," *Página 12*, June 23, 2002, available at <https://www.pagina12.com.ar/diario/elpais/1-6664-2002-06-23.html>.

⁹⁷ See "AMIA, el encubrimiento: la SIDE y Galeano, en la mira," *La Nación*, July 13, 2003, available at <https://www.lanacion.com.ar/510951-amia-el-encubrimiento-la-side-y-galeano-en-la-mira>

the van would not be able to pass the lower height of the roof at the end of the ramp. The whole conversation was recorded by the security cameras. When the explosion occurred, the manager contacted the police about this tape. Investigators told him that the tape would be collected, but this never occurred. Nearly ten years after the blast, we learned of the tape, and learned too that the tape had been reused.⁹⁸ During the oral trial, several members of the SIDE described to the TOF 3 how they "cleared" the zone, searching for parking lots where the van might have been parked before the attack. Yet none of them mentioned this garage, despite its being just one block from Jet Parking.⁹⁹

Between 1997 and 2000, I requested of the Tribunal more than four hundred measures for collecting evidence, and some of these necessarily included further testimonies and searches. For instance, due to our perseverance, it was discovered that the police car surveilling the AMIA building had lacked a battery for several weeks before the blast: it could not have moved an inch. The AMIA building itself had provided the policemen with walkie-talkies, because they had no radio. Only because the morning of July 18 was very cold doing the officers decide to request a new battery from the Precinct. The old battery was taken by a mechanic, who left the hood slightly open, a circumstance that would save the life of one of the policemen: when the explosion occurred, the hood rose up, shielding the interior of the vehicle.¹⁰⁰ That the Federal Police did not hesitate to retain an entirely useless car to protect the AMIA building was evidence of their negligent attitude toward protecting the threatened Jewish centers.

One of the requests submitted to the Tribunal included the interrogation of all police officers who were members of 5th and 7th Precincts, who shared custody of the AMIA building, and that request alone required more than fifty testimonies. I also requested the log book of the Precincts, thereby discovering

⁹⁸ See the TOF 3 analysis on this matter, available at <https://www2.jus.gov.ar/amia/sentencia/ti%20cvii%20c.pdf>.

⁹⁹ See the decision of the TOF 3 on this matter, available at <https://www2.jus.gov.ar/amia/sentencia/TI%20CVII%20B4.pdf>.

¹⁰⁰ See "JUICIO POR LA AMIA: AYER DECLARARON LOS DOS POLICIAS. AMIA: los agentes de guardia, tan sorprendidos como todos," *Clarín*, November 1, 2001, available at https://www.clarin.com/politica/amia-agentes-guardia-sorprendidos_0_r1Zx858gAKx.html;

that the registers for the day of the blast had been clearly altered. When the policemen testified before Galeano's Tribunal, I read with dismay that all their declarations were all identical. 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. That was the only objective of the Tribunal: to fill up mountains of paper without any value for the investigation. Just to show that they were doing *something*.

Their waste of time and effort became clearer when reading the proceeding: one man far to the south in Ushuaia, three thousand miles from Buenos Aires, declared that he had bombed the AMIA building. Immediately, a forensic doctor confirmed that the man was insane, and suffered a severe case of psychopathy. What did Galeano do? He ordered that three vehicles full of investigators go to Ushuaia and interview all possible neighbors and relatives, make new medical exams, take photos and draw sketches, and after filling more than four hundred pages, the investigators, too, concluded that the suspect was insane.

During a seizure on the premises of Monjo, the car dealer, thousands of US Dollars were discovered. Galeano photocopied each dollar bill, gathering another couple hundred pages. But these photocopies hid something more. One woman, Miriam Salinas, was presumed to have relations with the Telleldin family. Galeano took her statement, and with no justifiable reason, staged a performance wherein she refused to answer any further question, moving the judge to immediately acquit her. Simultaneously, she was declared a "protected witness". Galeano placed the acquittal of Salinas among Monjo's dollar bill photocopies in order to avoid an appeal. However, the copies handed to us did not include the acquittal, and we discovered this only during the Oral Trial.¹⁰¹ Galeano did not hesitate to do what he needed to do to maintain the cover-up.

And nothing happened. Only when the date of the anniversary of the bombing drew close was some announcement prepared: a new repentant, a trip by the

¹⁰¹ See *Report by Dean Grossman* (Grossman Report) available at <https://www2.jus.gov.ar/amia/grossman/Miriam%20Salinas%20y%20Pablo%20Ibaniez.pdf>.

public Prosecutors to Switzerland or France, presumably in order to investigate bank accounts, or to Munich, to hear a witness, or a trip to Langley to interview CIA leaders. But there were no results for the investigation, and nothing more occurred.

II. A LONG WAY TO WASHINGTON

Suddenly, Galeano decided to dismiss Telleldin from the charge of concealment, invoking the statute of limitations. I could not accept that the only real link to the local connection and the bombing itself could go free without having said to whom, in truth, he had delivered the van. His silence enabled us to presume that his involvement with the crime went beyond simple concealment. I had a final exchange with Galeano that ended rather badly; I went from his office to the site of the Bar 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 a meeting in his offices, not far from the Tribunal. When I arrived, I was surprised to find the rest of the counselors from AMIA and DAIA there. "Your appeal didn't fulfill the new requirements of the code of procedure," Dobniewsky told me. Before the new changes in the code of procedure, an appeal did not have to be specifically grounded, it being enough to inform the Tribunal of one's will to appeal; but my submission had been grounded, and fulfilled the new requirements. Setting aside my surprise that they already knew what had occurred only minutes ago, I insisted that my appeal was legally correct. Then another attorney from Dobniewsky's office left the room, and returned with a faxed copy of my appeal. That was incredible: Galeano had sent them a copy of my submission, which showed an unconceivable relation with another private Prosecutor. Later, I

would finally win that appeal before the Chamber, and Telleldin was obliged to remain in jail until the end of the oral Trial.

At the end of 1998, I began to hear strange noises in my telephone, and I suspected that my lines had been tapped. As the legal representative of Memoria Activa, the main critical voice of the investigation, I could not have expected to go unnoticed from the SIDE for very much longer. After that day, whenever I met with any of my clients, I ensured that all portable phones had been deactivated, and their batteries removed. I recall, too, taking the precaution of meeting with a prominent political leader, Elisa Carrió, in a public park near my office. Then, my offices were vandalized and one laptop was stolen. Having worked so hard to prepare an index with cross references of all the volumes of the case, I realized that if that data was stolen, we would lose months of hard work. Because I had been previously involved in the protection of human rights following the long and bloody dictatorship that ended in 1983, I had contacts with several international human rights organizations. One especially dear to me was CEJIL, based in Washington, which my friend José Miguel Vivanco had helped to found. I went to Washington to meet with José Miguel and Viviana Krsticevic, another friend involved with CEJIL. I left a copy of the archives of my AMIA documents in their safe, and discussed with them the idea of preparing a presentation before the Interamerican Commission of Human Rights (ICHR).¹⁰² We understood clearly that it would be difficult to convince the ICHR that Argentina, the victimized country, was concealing its own investigation. José 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, who had good knowledge of the caselaw of the ICHR in relation to the requirements for accepting a claim.

Indeed, the task appeared insurmountable. We needed first to demonstrate that we had no other option but to submit our claim to the ICHR, and that all local

¹⁰² The ICHR is the first control organism created by the Interamerican Pact of Human Rights, or San Jose de Costa Rica Pact, allowing the submission of serious violations of human rights in member countries. Following an investigation by the ICHR, the claim may pass for a verdict with the Interamerican Court of Human Rights (ICoHR), whose decisions were highly respected. Argentina was a member according to law 23054. See <http://servicios.infoleg.gob.ar/infolegInternet/verNorma.do?id=28152>

remedies had been exhausted. Doing so when the case was open and, in theory, still under investigation, was not going to be easy. Second, we needed to demonstrate that all of Galeano's apparent reckless disregard was in fact a cover-up, and that the Argentine government was involved.

We began meeting with Andrea in a coffee shop. Continuing with my draft, she modified and retouched the conflictive parts.

The accusation against Argentina was grounded on the violation of the integrity and right to life of the victims of the bombing.¹⁰³ Quoting the *Velásquez Rodríguez Case*,¹⁰⁴ we affirmed that it was a recognized duty of the state to prevent, investigate, and sanction any violation of the rights protected by the ACHR:

"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 affirmed that these duties had been not fulfilled by Argentina. The State did not take any preemptive measures to prevent the AMIA bombing despite the antecedent of the Israeli Embassy attack; the AMIA building's lack of protection was demonstrated by the unusable police patrol, and all warnings of the attack, such as that of Wilson dos Santos, had been disregarded.

We stated that in obstructing our investigation, Galeano had violated the right of the victims and their families to seek justice. He violated, too, their right to a fair judicial process against those responsible for the attack. We stated that the Argentine state had not carried out the investigation properly, and had not done

¹⁰³ Art. 1.1. American Convention on Human Rights (ACHR), available at <https://www.cidh.oas.org/basicos/english/basic3.american%20convention.htm>.

¹⁰⁴ See *Velásquez-Rodríguez v. Honduras*, ICoHR, Merits, July 29, 1988, Serie C Nr. 4, par. 166, available at http://www.corteidh.or.cr/docs/casos/articulos/seriec_04_ing.pdf

everything in its power to clarify events relevant to the bombing. The potential of a violation of the right to investigation had been recognized by the European Court of Human Rights (ECHR) in the case of *Ergi v. Turkey*.¹⁰⁵ Consistent with this, we affirmed that the Argentine government had violated the right to a fair trial, which had been underlined by the Advisory Opinion (AO) OC-9/87 of the Interamerican Court of Human Rights (ICoHR),¹⁰⁶ and by the case of *Suárez Rosero*.¹⁰⁷ In the case of *Blake*,¹⁰⁸ 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. ..."*¹⁰⁹

The serious irregularities in the investigation resulted in a violation of the rights of the victims and their families to the due process of law and mandatory judicial rights (arts. 8 and 25 American Convention of Human Rights—ACHR). We claimed to fulfill all the formal requirements of art. 46.1 ACHR, and that we had exhausted all internal remedies, because the options the Argentine legislation offered were inadequate, and the great and unjustified delay of justice made any remedy ineffective. Then, we considered the long list of irregularities and violations to the due process of law, several of which had already been mentioned in this article.

On July 16, 1999, I submitted our claim to the Commission's offices on H Street, where I received a stamped copy with the time and date of the

¹⁰⁵ See ECHR, Case of *Ergi v. Turkey* (66/1997/850/1057), available at hudoc.echr.coe.int/webservices/content/pdf/001-58200. In par. 86 the ECHR concluded: " *the Court finds 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.*"

¹⁰⁶ See AO ICoHR OC 9/87, available at www.corteidh.or.cr/docs/opiniones/seriea_09_esp.pdf.

¹⁰⁷ See ICoHR Case of *Suárez-Rosero v. Ecuador*, Judgment of November 12, 1997, (Merits), available at www.corteidh.or.cr/docs/casos/articulos/seriec_35_ing.pdf. Par. 63 states: "*This Court shares the Commission's view that the right enshrined in Article 7(6) of the American Convention is not exercised with the mere formal existence of the remedies it governs. Those remedies must be effective...*".

¹⁰⁸ See ICoHR, Case of *Blake v. Guatemala*, Judgment of January 24, 1998, (Merits), available at http://www.corteidh.or.cr/docs/casos/articulos/seriec_36_ing.pdf.

¹⁰⁹ Cit. supra, par. 97.

presentation. This submission was reproduced by the Argentine media.¹¹⁰ The Secretary of the Commission was Jorge Taiana, an Argentinean forced into exile during the dictatorship, who was bewildered by my claim. The AMIA bombing was well-known around the world, being one of the most severe terrorist attacks against a Jewish community outside Israel; but, in general, nobody had yet supposed that Argentina's authorities might be attempting to impede the investigation. Two members of the Inter-American Commission were Jewish: Professor Robert Goldman and Dean Claudio Grossman, both from American University, and 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 I had met in New York one year before.

On December 10, 1999, just 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 bumbling and clumsy, that for the first time we realized we were going to win the case. The government even sent hundreds of boxes to the CIDH containing copies of the proceeding, another unexpected gift to us: Galeano had until then been stingy with those copies. Then, again, I flew to Washington, this time in order to read more than forty volumes we had not yet managed to read: fairly surreal, considering that the claiming party was obliged to travel nine thousand miles just to read the case. Our rebuttal was devastating for the Argentine government, pointing out all the lies, misinterpretations, and admissions that its response contained. When the new administration assumed power at the end of 1999 and saw the sort of statement Menem's administration had submitted, together with our response, it promptly requested a conciliation meeting with us, where it proposed to suspend the CIDH proceeding until the oral Trial, when an observer appointed by the CIDH would assist and prepare a report. Appointed as observer was Dean Claudio Grossman, then President of the CIDH.

¹¹⁰ See "FAMILIARES CONTRA EL ESTADO ARGENTINO. Fuerte demanda en la OEA por la AMIA," *Clarín*, September 7, 1999, available at https://www.clarin.com/politica/fuerte-demanda-oea-amia_0_ry-mxT2xAKe.html; KOLLMAN, Raúl, "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*, undated, available at <https://www.pagina12.com.ar/1999/99-09/99-09-07/pag03.htm>

The conclusion of the case is well known. The decision of the TOF 3¹¹¹ confirmed all our allegations and declared a large part of the proceeding void. All the allegations of our submission to the ICHR were ratified by the Dean Grossman Report.¹¹² On March 4, 2005, a meeting took place between Memoria Activa and the Argentine government at the OAS building in Washington. Ambassador Méndez Carreras, Argentine representative of the OAS, read a statement from the Argentine government:

*"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."*¹¹³

We began our claim to the ICHR looking to bring international attention to the AMIA case, in order to compel the Argentine government to investigate properly. We obtained, in turn, an unconditional surrender. The ICHR welcomed Argentina's admission, and reiterated its willingness to accompany the parties to the negotiations in moving toward a friendly settlement of the AMIA petition.¹¹⁴

III. AMIA AFTERMATH

Galeano, Public Prosecutors Muellen and Barbaccia,¹¹⁵ 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, and the Director of the Federal Police Unit for the Protection of Constitutional Order; Telleldin, Telleldin's former counselor, and Boragni—all of

¹¹¹ Available at <https://www2.jus.gov.ar/amia/sentencia.htm>.

¹¹² Available at <https://www2.jus.gov.ar/amia/grossman.htm>.

¹¹³ See the copy of the act at <https://www2.jus.gov.ar/amia/reconocimiento.pdf>; see KOLLMAN, Raúl, "Mea culpa oficial por la causa AMIA," *Página 12*, March 4, 2005, available at <https://www.pagina12.com.ar/diario/elpais/1-48040-2005-03-04.html>.

¹¹⁴ See "SATISFACCIÓN DE LA CIDH POR EL RECONOCIMIENTO DE RESPONSABILIDAD DEL ESTADO ARGENTINO EN EL CASO DE LA AMIA," March 4, 2005, available at http://www.oas.org/es/centro_noticias/comunicado_prensa.asp?scodigo=cidh-5-s

¹¹⁵ For reasons beyond our understanding, Nisman was not included in the list of indicted Prosecutors.

them were later prosecuted for concealment in what is called "AMIA II," and its verdict is pending at the time that I write these lines.¹¹⁶

On January 18, 2015, AMIA Special Prosecutor Alberto Nisman was found dead in his luxury apartment in Puerto Madero, Buenos Aires, with a bullet hole in his skull. His death occurred hours before he was to present evidence to the Argentine Congress that then-president Cristina Fernández de Kirchner had covered up Iran's role in the bombing of the Buenos Aires AMIA center.¹¹⁷ Nisman had announced his indictment for treason of Cristina Kirschner and Foreign Minister Timerman on January 14, on the TV program *A Dos Voces*.¹¹⁸ It had been submitted the day before to a substitute Federal judge covering another Tribunal, due to the judicial holiday in January.¹¹⁹ The submission was leaked to the press,¹²⁰ and I read online the more than three-hundred-page indictment that weekend. I knew Alberto Nisman very well: he had worked with Muellen and Barbaccia, had been 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 had not been indicted like the other two Prosecutors, though he had played a similar role in Galeano's investigation. I had been teaching law in the United States when my partner Pablo Jacoby, despite my clear intention to include Nisman in the indictment, decided to give him another chance. Later my dear friend, who passed away a couple of years ago, admitted that he had been wrong to do so.

¹¹⁶ See BULLENTINI, Allin, E"l juicio por el encubrimiento del atentado a la AMIA entra en su etapa final El último paso antes de la sentencia," *Página 12*, October 26, 2017, available at <https://www.pagina12.com.ar/71728-el-ultimo-paso-antes-de-la-sentencia>; see "Las condenas que pidió Memoria Activa en el juicio sobre la AMIA: Veinte años para Galeano y seis para Menem," *Página 12*, April 12, 2018, available at <https://www.pagina12.com.ar/107700-veinte-anos-para-galeano-y-seis-para-menem>;

¹¹⁷ The full text of the indictment is available at <http://www.perfil.com/noticias/politica/la-corte-publico-la-denuncia-completa-de-nisman-contra-cfk-y-timerman-0120-0068.phtml>.

¹¹⁸ See that interview, available at <https://www.youtube.com/watch?v=4nFQ7AsXmf8>.

¹¹⁹ 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, can take a whole month of vacation in January and fifteen days in July in what is known as "judicial holiday."

¹²⁰ See WEINFELD, Mario, "Una jugada fuera de la ley," *Página 12*, January 17, 2015, available at <https://www.pagina12.com.ar/diario/elpais/1-263986-2015-01-15.html>; KOLLMAN, Raúl, "Una acusación con hipótesis que no se comprobaron," *Página 12*, January 15, 2015, available at <https://www.pagina12.com.ar/diario/elpais/1-263984-2015-01-15.html>; KOLLMAN, Raúl, "La posición fue consistente y firme," *Página 12*, January 17, 2015, available at <https://www.pagina12.com.ar/diario/elpais/1-264163-2015-01-17.html>; and "Una lista de preguntas para el fiscal," *Página 12*, January 17, 2015 available at <https://www.pagina12.com.ar/diario/elpais/1-264151-2015-01-17.html>.

I had a personal issue with Nisman's indictment of President Fernández de Kirchner: on the one hand, I hoped the indictment would help to impeach this most corrupt government that had devastated Argentina; on the other hand, I was profoundly skeptical that anything coming from Nisman—as happened with Galeano—could be decisive evidence of anything.

And after reading his indictment, I was simply astonished. It was merely a collection of presumptions, empty promises that he would present evidence; and the whole was, at most, based on hearsay witnesses and confused phone recordings from third-line members of the government. Certainly, it would not have been enough to impeach the President. I didn't understand how Nisman could be seen so convinced; though his indictment was likely correct in its presumptions, it lacked sufficient evidence to confirm his points.

During that weekend, I was certain Nisman would be destroyed by the official party Congress members, and when he was found dead on Sunday I confess that, just for a moment, I considered that perhaps Nisman, in a sudden moment of awakening, realized what he had done, how poor his indictment was, and knowing that he would be demolished by the Congress, had committed suicide.¹²¹ Thinking again, however, I realized that again a black shadow had covered everything touching AMIA, and that Nisman had been murdered. Afterward, reading his autopsy and the dots of blood discovered with luminol at the site of his death, I was convinced of it.

With Nisman's death another sordid matter was discovered. He had a U.S. bank account with Merrill-Lynch, where transfers from nine different, suspicious

¹²¹ This evaluation of Nisman's indictment was shared by part of the press and respected opinions. See, for example, jurist Julio MAIER's opinion at <http://www.telam.com.ar/notas/201503/99456-julio-maier-denuncia-de-nisman.html>; see also jurist Leon ARSLANIAN's opinion at <http://www.infojusnoticias.gov.ar/nacionales/en-las-300-paginas-de-la-denuncia-no-hay-pruebas-contr-la-presidenta-7478.html>; see VERBITSKY, Horacio, "¿Hasta dónde Irán Nisman y Cía.?", *Página 12*, January 18, 2015 available at <https://www.pagina12.com.ar/diario/elpais/1-264196-2015-01-18.html>; see WEINFELD, Mario, "La historia y las fábulas," *Página 12*, January 18, 2015 available at <https://www.pagina12.com.ar/diario/elpais/1-264194-2015-01-18.html>; and see "Qué dice la denuncia presentada por Nisman," *Infojus*, January 21, 2015 available at <http://infojusnoticias.gov.ar/nacionales/que-dice-la-denuncia-presentada-por-nisman-7179.html>.

sources had been deposited, totaling nearly US\$600,000.00.¹²² Nisman had received payments through a separate bank account in Uruguay from Israel Hayom, a journalist group owned by US billionaire Sheldon Adelson.¹²³ Nisman had not declared any of these payments to the AFIP, the Argentine equivalent of the IRS, and even when opening his bank account, had done so while hiding his position as Special Prosecutor.¹²⁴ Nisman also had two safe deposit boxes, one in a bank and the other in a safe deposit company, that were cleaned out by his mother following his death¹²⁵.

Judge Rafecas, a Federal judge appointed by Kirschner in 2004, after a brief consideration simply rejected Nisman's indictment of President Cristina Kirschner.¹²⁶ That was clearly wrong, despite the fact that Nisman's indictment lacked definitive evidence. The judge should have first ordered an investigation, and only then decide to reject the indictment.

With the arrival of Macri's government, the Federal Cassation Chamber revoked Rafecas' decision, and Nisman's indictment was used to accuse Cristina Fernández de Kirschner, Timerman, and other functionaries, and the

¹²² See DELFINA, Emilia, "Nisman recibió en EE.UU. casi US\$ 600 mil de nueve depositantes sospechosos," *Perfil*, undated, available at <http://www.perfil.com/noticias/politica/nisman-recibio-en-eeuu-casi-us-600-mil-de-nueve-depositantes-sospechosos-20150822-0098.phtml>; see LASUSA, Mike, "Exclusive: Documents Confirm Leak Of Unexplained Deposits To Nisman's US Bank Account," February 1, 2016, available at <https://lobelog.com/argentine-leaks-of-nisman-info-violated-agreement-with-us/>.

¹²³ See ELBAUM, Jorge, "La otra ruta del dinero: Nisman y Adelson," *Página 12*, September 29, 2015, available at <https://www.pagina12.com.ar/diario/elpais/1-282693-2015-09-29.html>; see VERBITSKY, Horacio, "La planilla de Nisman," *Página 12*, January 24, 2016, available at <https://www.pagina12.com.ar/diario/elpais/1-291002-2016-01-24.html>. The press informed that Adelson, had made payment for U\$S 282.000 through eleven deposits in a Uruguayan transferred from account 9700-7548-MAJ-6325-AC874 belonging to Israel Hayom. See, with copies of bank deposits, "DESDE HONG KONG A TIGRE CON AMOR: LOS OTROS DEPOSITANTES DE NISMAN," August 31, 2015 available at <http://seprin.info/2015/08/31/desde-hong-kong-a-tigre-con-amor-los-otros-depositantes-de-nisman/>. It seems that Nisman bought with that money three farms in Uruguay. Three safe deposits had been emptied by Nisman mother after his death. See. REBOSSIO, Alejandro, "" Discovery of gun registered to Nisman adds to mystery over his death," *El País*, April 15, 2015 available at https://elpais.com/elpais/2015/04/15/inenglish/1429109899_162795.html.

¹²⁴ See La cuenta oculta de la familia Nisman," *Página 12*, August 29, 2015, available at <https://www.pagina12.com.ar/diario/elpais/1-280466-2015-08-29.html>.

¹²⁵ See RODRÍGUEZ NIELL, Paz, "Se reaviva el misterio sobre las cajas de seguridad de Nisman," *La Nación*, May 17, 2015, available at <https://www.lanacion.com.ar/1793588-se-reaviva-el-misterio-sobre-las-cajas-de-seguridad-de-nisman>; and VERBITSKY, Horacio, "Los dos maletines," *Página 12*, February 15, 2015 available at <https://www.pagina12.com.ar/diario/elpais/subnotas/1-71573-2015-02-15.html>.

¹²⁶ See "El juez Rafecas rechazó la denuncia de Nisman contra Cristina Kirchner por encubrimiento a Irán," *La Nación*, February 26, 2015 available at <https://www.lanacion.com.ar/1771607-daniel-rafecas-denuncia-nisman-cristina-kirchner-encubrimiento-iran>.

case will probably reach the oral trial soon.¹²⁷ It will be interesting to see how the case continues, and especially to learn if Kirschner's motives in arranging the memorandum of understanding with Iran were spurious or not.

It was remarkably ironic that the death of Nisman, who, like Galeano, had been responsible for the cover-up of the AMIA investigation, has not been resolved to the present day due to the improper investigation of those in charge. If the AMIA case can be offered as an example of a disgraceful investigation, Nisman's murder clearly pressed it to its final limit. A horde of policemen, firemen, and supposed investigators arrived at the crime scene without any protection to prevent the contamination of evidence: walking all over the carpeted apartment, standing in the pool of blood, cleaning the used gun and handling objects without gloves, they destroyed the crime scene.¹²⁸ As happened with the AMIA bombing, one can assume that such things were the result of pure negligence. We have learned, however, that the truth is more sordid than appearances suggest. Let us hope that Nisman's death will receive, at the very least, a Private Prosecutor fit to the task. As explains a legal article recently published in this Journal, at least the AMIA case is a good example of

¹²⁷ See RADWIN, Max & FAIOLA, Anthony, "Argentine ex-president Cristina Fernández de Kirchner charged with treason," *The Washington Post*, December 7, 2017, available at 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; see ROSEN, Armin, "Argentine Court Reopens Case Accusing Ex-President Fernandez of Covering Up Iran's Role in 1994 AMIA Bombing," *Tablet Magazine*, undated, available at <https://www.tabletmag.com/scroll/221421/argentine-court-reopens-case-accusing-ex-president-of-covering-up-irans-role-in-1994-amia-bombing>; POLITI, Daniel, "Judge Seeks Arrest of Ex-President of Argentina on Treason Charges," *The New York Times*, December 7, 2017, available at <https://www.nytimes.com/2017/12/07/world/americas/argentina-kirchner-nisman-treason-murder.html>; and "Cristina Kirchner va a juicio oral por la denuncia de Alberto Nisman," *Perfil*, September 28, 2018, available at <http://www.perfil.com/noticias/politica/denuncia-de-nisman-cristina-kirchner-a-juicio-oral.phtml>. See de indictment prepared by Judge Bonadío at https://www.scribd.com/document/366574840/El-fallo-de-Bonadio-por-el-encubrimiento-en-la-causa-AMIA#from_embed.

¹²⁸ See the Federal Police video, recorded when the Prosecutor and the investigators arrived at the crime scene at <https://www.youtube.com/watch?v=reu08ZFihcA>; NOEL, Andrea, "Video Shows Shoddy and Shady Investigation Tainted Evidence After Argentine Prosecutor Nisman's Death" *Vice News* June 1, 2015, available at https://news.vice.com/en_us/article/vb8gnd/video-shows-shoddy-and-shady-investigation-after-argentine-prosecutor-nismans-death; CALATRAVA, Almudena, "Police allegedly tampered with crime scene in death of Argentine prosecutor who accused president of corruption," *Business Insider*, June 2, 2015 available at <https://www.businessinsider.com/police-caught-allegedly-tampering-with-crime-scene-in-death-of-argentine-prosecutor-who-accused-president-of-corruption-2015-6>; and CUÉ, Carlos, "Argentinean police contaminated evidence at dead prosecutor's home," *El País*, June 1, 2015 available at https://elpais.com/elpais/2015/06/01/inenglish/1433154188_525655.html

how the criminal system is benefited by the participation of the victims and their representatives in the investigation.¹²⁹

¹²⁹ See EFRON, Federico S., "Argentina's Solution to the Michael Brown Travesty: A Role for the Complainant Victim in Criminal Proceedings," 24 *SWJ Int'l L.* 73, 115 (2018).