

The AMIA Special Investigation Unit: an overview of its history and proposal for the future

Agustín Cavana*

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I. Introduction

By June 2000, the investigation of the attack against the Israeli-Argentine Mutual Association (AMIA) had been going for almost 6 years and was being led by the federal judge Juan José Galeano and the federal prosecutors Jose Barbaccia and Eamon Mullen. Some months prior, Galeano had concluded his investigation into the so-called “local connection” of the attack and sent Carlos Telleldín -the last known owner of the truck used as the car bomb- and a group of policemen who allegedly delivered the vehicle to the perpetrators with knowledge of their plan, to trial. The investigation of what was

referred as the “international connection” was stalled because all the suspects had left the country, but there were ongoing efforts to gather additional leads and information about what had happened.

The investigators, however, faced allegations of serious misconduct and the investigation’s integrity had already been questioned. In mid-1995, Telleldín reported that he had been visited in prison by a former military officer who claimed to be a friend of his father and offered him money in exchange for testifying that a Lebanese national, who at the time was being held in Paraguay, was involved in the attack¹. In March 1997, another defendant in the case, Juan José Ribelli, requested to see judge Galeano and gave him a copy of a video which contained the recording of an interview between himself and Carlos Telleldín where they discussed the payment of a sum of money. Shortly after, this material was aired by a television program and prompted an investigation against Galeano, but it was closed in a matter of months².

In this context, President Fernando de la Rúa decided to create the Special Investigation Unit for the AMIA attack (hereinafter, AMIA Unit or the unit) to assist in the investigation. According to the then Minister of Justice, Ricardo Gil Lavedra, this initiative was a sign of the Government’s commitment with the investigation and was intended to give "a strong push" to the trial that was about to begin³. Initially, the AMIA Unit was conceived as a coordination body in which both intelligence and law enforcement agencies took part, aimed at assisting the judge and prosecutors, and tasked with carrying out investigations of its own. However, it was later decided that it would also incorporate the Anti-Corruption Office⁴ and that the body would be in charge of a governmental official, who would represent the Executive and have unrestricted access to all documentation related to the case⁵.

From this moment on, the AMIA Unit began to operate as an investigative body and became one of the few constants in a case that went through many changes and delicate moments. The AMIA Unit was not the only way in which the executive branch participated in the AMIA case, but it was probably the main measure that was adopted and by far the one that received the most resources and spanned the longest in time. In total, under the management of seven different people -six men and one woman, all lawyers with experience in public office-, the body represented the government for 18 years until its dissolution in March 2018, having carried out a broad spectrum of tasks. Therefore, a review of its history can be useful in furthering our understanding of the executive branch’s participation in the case and its attitude towards it.

This paper examines the institutional trajectory of the AMIA Unit and its relationship with the judges, prosecutor, victims and other government agencies involved in the case.

Firstly, I will argue that while the AMIA Unit initially helped legitimize and make the victims’ complaints and demands visible, its growing identification and overlap with other agencies made its

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¹ Report Observation by Dean Claudio Grossman International Observer of the IACHR during the Trial about the Israeli-Argentine Mutual Association (AMIA), Captain Héctor Pedro Vergez visits, p. 2993/3020, <https://www2.jus.gov.ar/amia/grossman/Las%20visitas%20del%20Capitan%20Hector%20Pedro%20Vergez.pdf>.

² No hay cosa juzgada, AMIA. Diario del Juicio, <http://juicioamia.infojusnoticias.gov.ar/audiencias/no-hay-cosa-juzgada/> (last accessed in February 14, 2019).

³ Becerra coordinará la Unidad Especial de Investigaciones AMIA, DiarioJudicial.com, Sep. 14, 2000, <https://www.diariojudicial.com/nota/38649>.

⁴ Decree No. 107/2001, Art. 1., B.O. Jan. 30, 2001 (Arg.), <https://www.boletinoficial.gob.ar/#!DetalleNorma/7211797/20010130>.

⁵ Decree No. 846/200, Arts. 1 and 3, B.O. Oct. 6, 2000 (Arg.), <http://servicios.infoleg.gob.ar/infolegInternet/anexos/60000-64999/64485/norma.htm>.

contribution to the case diffuse and difficult to assess. In addition, its legacy and ability to influence the proceedings was also compromised by a flawed diagnosis of the investigations weaknesses and needs, the difficulties it faced to create a work agenda that would allow it to distinguish itself from other agencies and by the emphasis placed in the criminal justice aspect of the process, which prevented it from filling the voids left by the judicial authorities.

Secondly, I will argue that although the AMIA case was alternately characterized as a grave violation of human rights and a crime against humanity, the government's approach to the case and the AMIA Unit's strategy in particular failed to capitalize the experience obtained by the reopening of cases against those responsible for the crimes against humanity committed during the military dictatorship that governed Argentina between 1976 and 1983, which led to more sophisticated approaches that recognized the multiple dimensions involved in this type of cases. In particular, the declassification process in the AMIA case was subject to more modest efforts and the objectives pursued were much more limited.

Finally, I will argue that despite the fact that the circumstances surrounding the dissolution of the AMIA Unit should limit our expectations about the future, the decision to transfer the remainder of its responsibilities to the Truth and Justice Program opens the opportunity of taking advantage of the experience gathered in the Memory, Truth and Justice process. Specifically, I argue that a new work agenda should be based on the idea that it is necessary to complement, and not replicate, the efforts of the prosecutors in reconstructing what happened, focus on the ongoing study of the Intelligence Agency's files, and aim not only at obtaining of new evidence, but towards the furthering of the right to truth.

This line of action, I claim, could help the executive branch settle some of its many debts in relation to the attack and could i) help to create awareness of the role that the intelligence and law enforcement agencies played in the AMIA case in identifying the problems faced by the investigation with more precision and pushing reforms that could serve as non-recurrence guarantees; (ii) contribute to the emergence of a common account of the events by allowing an open debate about the case and enabling other non-institutional social mechanisms, and (iii) to undo some of the damage the investigation's credibility has suffered along the years by exposing the evidence and underlying reasons behind the decisions of the judicial authorities.

This article is divided into 5 sections. In section II, I will briefly recount the main events of the AMIA case and the distinctive traits of the Argentine legal system that are necessary to fully understand the role played by the AMIA Unit. The third section will be devoted to the history of the Unit and its main lines of work throughout its 18 years of existence. In the fourth part, I will examine the Unit's legacy and identify some of the problems that affected their ability to significantly impact the process and that prevented it from establishing itself as an important actor. Lastly, in the fifth section, I will propose a work agenda that the Executive could adopt and examine the contributions that it could make to the case. I will conclude with some very brief thoughts on the future of the case.

II. Some basic facts about the Argentine legal system and the AMIA case

The Republic of Argentina has a predominantly European-inspired civil law system and a criminal procedure code that contains a detailed set of rules that distribute the authority between the judges and prosecutors and dictate how criminal investigations and trials should be conducted. Almost all relevant activity and information has to be documented in a file which is the main, and almost only, source of information for the parties. The case file remains under the custody of the judge or the prosecutor, depending on who controls the investigation. Almost all criminal investigations are in charge of investigative judges who are responsible for gathering evidence and ultimately defining the outcome of the case –basically, whether it goes to trial or not-

Prosecutors play a secondary role that, broadly speaking, consists in reviewing the judges' work, giving their professional opinion before the judges make relevant decisions and eventually challenging those with which they disagree⁶. The federal legislation in Argentina, however, allows the judges to delegate investigations to prosecutors⁷ and directly assigns them the responsibility of investigating certain crimes, such as kidnappings⁸. The investigation of the bombing of the AMIA headquarters in Buenos Aires, for example, was led by the federal judge Juan Jose Galeano until February 2005 when his replacement, the federal judge Rodolfo Canicoba Corral, decided to hand over the investigation to prosecutors Alberto Nisman and Marcelo Martínez Burgos, who were in charge of the recently created AMIA Prosecution Unit.

Prosecutors are part of the Public Prosecutor's Office⁹, which is responsible for promoting justice, defending society's general interests and defining its own criminal prosecution policy. Since the 1994 constitutional reform, the Public Prosecutor's Office is independent from the other branches of government¹⁰. That is to say that it is not subject to the authority of the President, nor represents it before the courts. Its head, the Nation's Attorney General, is chosen by the President but his appointment is subject to approval by two-thirds of the Senate¹¹. Once appointed, he or she has autonomy to exercise his or her duties and can only be removed for grave ethical or criminal misconduct, and exclusively through the same procedure established for removing Supreme Court justices¹². Federal prosecutors are appointed through a similar procedure¹³.

Prosecutors are almost completely autonomous and don't receive specific instructions on how to handle their cases from their immediate superiors or the Attorney General¹⁴. However, they are required by law to investigate every crime that comes to their knowledge and have limited discretion to cut deals and negotiate pleas with the defendants. Plea agreements were introduced a few years after the AMIA bombing and, until recently, they were heavily regulated and rarely used. Plea bargaining is also a relatively recent practice and only allowed in minor cases. In short, the Executive can cooperate with an investigation through law enforcement agencies and can provide additional support from the outside, but has no control over prosecutors or judges. If it wished to participate directly in a case, it must resort to a figure called "victim complainant"¹⁵ which was originally limited to victims, but with time expanded to allow its use by the executive and several other actors.

In the following section, I will explain the scenarios in which the Argentine legislation allows for this type of intervention, to what extent and with what powers. Next, I will summarize some of the AMIA

⁶ Mirna Goransky, *Hacia un Ministerio Público eficaz, eficiente y democrático. Un estudio comparado*, Ed. Del Puerto, 2010, p. 32/3.

⁷ Código Procesal Penal [Cod. Proc. Pen.] [Criminal Procedure Code], art. 196 (Arg.), <http://servicios.infoleg.gob.ar/infolegInternet/anexos/0-4999/383/texact.htm#4>.

⁸ Código Procesal Penal [Cod. Proc. Pen.] [Criminal Procedure Code], art. 196 bis (Arg.), <http://servicios.infoleg.gob.ar/infolegInternet/anexos/0-4999/383/texact.htm#4>.

⁹ Law No. 24946, art. 3, B.O. Mar. 23, 1998 (Arg.), <http://servicios.infoleg.gob.ar/infolegInternet/anexos/45000-49999/49874/texact.htm>.

¹⁰ Constitución Nacional [CONST. NAC.] Art. 120 (Arg.), <http://servicios.infoleg.gob.ar/infolegInternet/anexos/0-4999/804/norma.htm>.

¹¹ Law No. 24946, art. 5, B.O. Mar. 23, 1998 (Arg.), <http://servicios.infoleg.gob.ar/infolegInternet/anexos/45000-49999/49874/texact.htm>.

¹² Law No. 24946, art. 18, B.O. Mar. 23, 1998 (Arg.), <http://servicios.infoleg.gob.ar/infolegInternet/anexos/45000-49999/49874/texact.htm>.

¹³ Law No. 24946, art. 5, B.O. Mar. 23, 1998 (Arg.), <http://servicios.infoleg.gob.ar/infolegInternet/anexos/45000-49999/49874/texact.htm>.

¹⁴ Law No. 24946, art. 31, B.O. Mar. 23, 1998 (Arg.), <http://servicios.infoleg.gob.ar/infolegInternet/anexos/45000-49999/49874/texact.htm>.

¹⁵ Código Procesal Penal [Cod. Proc. Pen.] [Criminal Procedure Code], art. 82 (Arg.), <http://servicios.infoleg.gob.ar/infolegInternet/anexos/0-4999/383/texact.htm#4>.

case's main events and how the criminal proceedings related to it formed. Finally, I will briefly refer to the victim's organizations, the circumstances surrounding their creation and their participation in the AMIA case and those related.

a. Victims and government agencies participation in criminal proceedings

The Argentine federal criminal procedure code allows for a relatively wide range of actors to take part in criminal proceedings as victim complainants and grants them similar powers than those of the prosecutors. Basically, federal law allows (i) the victims of a crime or his parents, children or surviving spouse¹⁶ and (ii) legally registered associations or foundations in cases where crimes against humanity or serious violations of human rights are being tried or investigated, provided their statutory purpose is linked directly with the promotion of the rights considered to have been violated¹⁷. Since 1967, Argentine law also provides that the Executive Branch can participate in cases involving crimes that are a threat to national security, public authorities and constitutional order, the public administration, and/or governmental assets¹⁸. Several other laws allow specific government agencies to intervene as victim complainants in cases related to their area of responsibility¹⁹.

This is usually the case of agencies that are responsible of monitoring heavily regulated activities or preventing complex forms of criminality, such as money laundering or white collar crimes. In other cases, the Executive Branch participation seeks to show its commitment towards certain values or causes -such as transparency in the public administration or the fight against impunity-. In December 1999, for example, President de la Rúa created an Anti-corruption Office to act as a victim complainant in criminal cases against corrupt government officials²⁰. More recently, Presidents Kirchner and Fernández de Kirchner ordered the Ministry of Justice to intervene in cases against former members of the Armed Forces accused of crimes against humanity. In 2006, the AMIA Unit also became a part of this trend, participating as a victim complainant in the AMIA case.

I will return to this subject later, but here I will provide a very brief explanation of how one can become a victim complainant and what does this mean in terms of the criminal process, and highlight some of the differences between the attorneys that represent the Executive power in these cases and federal prosecutors. First, the people or organizations that wish to take part in a criminal proceeding as a victim complainant must submit an application to the judge of the case. After reviewing if they meet the legal requirements, the judge will admit or deny their request²¹. If the request is rejected, it can be appealed. Once admitted, the victim complainant works alongside the prosecutors and enjoys almost the same powers: it may propose measures to gather evidence, file its own charges against the defendant, appeal adverse rulings and participate in the trial. However, there are three relevant

¹⁶ Código Procesal Penal [Cod. Proc. Pen.] [Criminal Procedure Code], art. 82 (Arg.), <http://servicios.infoleg.gob.ar/infolegInternet/anexos/0-4999/383/texact.htm#4>.

¹⁷ Código Procesal Penal [Cod. Proc. Pen.] [Criminal Procedure Code], art. 82 bis (Arg.), <http://servicios.infoleg.gob.ar/infolegInternet/anexos/0-4999/383/texact.htm#4>.

¹⁸ Law No. 17.516, Art. 4, B.O. Nov. 9, 1967 (Arg.), <http://servicios.infoleg.gob.ar/infolegInternet/anexos/25000-29999/28644/norma.htm>.

¹⁹ Law No. 22.626, Art. 37, B.O. Aug. 25, 1982 (Arg.), <http://servicios.infoleg.gob.ar/infolegInternet/verNorma.do?id=304295>, Law No. 20.091, Art. 67, B.O. Feb. 7, 1973 (Arg.), <http://servicios.infoleg.gob.ar/infolegInternet/anexos/20000-24999/20965/texact.htm>, Law No. 17.811, Art. 7, B.O. Jul. 22, 1968, <http://servicios.infoleg.gob.ar/infolegInternet/anexos/15000-19999/16539/texact.htm>.

²⁰ Decree No. 102/99, Art. 2, B.O. Dec. 29, 1999, <http://servicios.infoleg.gob.ar/infolegInternet/anexos/60000-64999/61724/texact.htm>.

²¹ Código Procesal Penal [Cod. Proc. Pen.] [Criminal Procedure Code], art. 84 (Arg.), <http://servicios.infoleg.gob.ar/infolegInternet/anexos/0-4999/383/texact.htm#4>.

differences: judges cannot delegate investigations onto a victim complainant, they cannot challenge decisions regarding bail, nor cut deals with the defendant.

The attorneys that represent the Executive Branch are directly appointed by the Executive Branch through mechanisms and processes that are not subject to significant oversight. These lawyers often answer to a prominent figure of the government agency that they represent in the proceedings and there is no central authority to overview their performance. Predictably, this wide margin of discretion has sparked disputes but, all in all, the team of lawyers of the Executive Branch is more flexible and dynamic than the Public Prosecutors Office and, therefore, has the potential to make meaningful contributions. Unlike prosecutors, the Executive branch lawyers can and are told what to do by their superiors. It's important to mention that while this arrangement might seem obvious, the fact that a lawyer representing a government agency in a criminal case can be subjected to anyone's authority other than the law and the evidence of the case is somewhat controversial for Argentine legal culture.

Notwithstanding the foregoing, the Executive branch is not a victim, nor represents them. Although there are no formal barriers for this to happen, it is not common for the victims and the government to coexist as victim complainants in the same proceeding - except, perhaps, in cases of crimes against humanity - and regularly victims don't have significant differences among themselves or entirely different views about what happened or the responsibility of the defendants. The AMIA case is an exception to these principles and presents a series of distinctive features. I will now summarize some of the main events of the case and recount some details about the formation of the various victims' organizations that participate as victim complainants.

b. An outline of the AMIA case and its offspring

First, the AMIA case pursues two connected, but relatively independent, leads: the local and the international connections of the attack. The former investigates the assistance of Argentine citizens towards the perpetration of the attack and was particularly active between 1994 and 2004. The hypothesis pursued by Judge Galeano and prosecutors Mullen and Barbaccia was that, with help from his circle, Telleldin assembled a Renault Trafic van using parts from stolen vehicles, modified it to allow the placement of a bomb and handed it over to a group of police officers from the province of Buenos Aires, that included Juan José Ribelli, Anastacio Leal, Raul Ibarra and Mario Barreiro, who in turn gave it to the perpetrators of the attack, with knowledge of their plan.

These defendants and several others stood trial before the Third Federal Trial Court of the City of Buenos Aires between September 2001 and September 2004, but all of them were acquitted, the entire investigation was nullified and Galeano, Mullen and Barbaccia, who had already been removed from the case, and several other top figures of the investigation ended up being accused of committing crimes, such as bribing witnesses, destroying evidence and unlawfully depriving defendants of their freedom²². This ruling underwent several appeals until in May 2009, the Supreme Court ruled that the initial 15 months of the investigation were not tainted and that there was enough evidence against Telleldín to conclude that he should face a retrial²³.

Following this decision, Galeano's was removed from the bench by the Council of Magistrates in 2005 and Mullen and Barbaccia later resigned their positions. In September 2004, the Attorney General created the AMIA Prosecution Unit to take over all the proceedings related to the AMIA bombing and appointed Alberto Nisman and Marcelo Martínez Burgos as lead prosecutors. Shortly after, the federal judge Rodolfo Canicoba Corral, who replaced Galeano, decided to hand over the attack's investigation

²² "Telleldín, Carlos Alberto y otros s/ homicidio calificado (atentado a la AMIA)", Tribunal Oral Federal 3, [Oral Federal Tribunal No. 3], Sep. 2, 2004, <https://www2.jus.gov.ar/amia/sentencia/fallo.pdf>

²³ La Corte reabre la investigación por el atentado a la AMIA, Centro de Información Judicial, Cij.gov.ar, May 27, 2009, <https://www.cij.gov.ar/nota-1391-La-Corte-reabre-investigaci-n-por-el-atentado-a-la-AMIA.html>.

to them. Martinez Burgos resigned in April 2007, in midst of a scandal²⁴, but Nisman remained as the head of the AMIA Prosecution Unit until his death in February 2015. From that moment on, the Attorney General decided that the AMIA Prosecution Unit would be in charge of at least 3 prosecutors.

The international connection investigation was carried out in two stages. The first was also in charge of Galeano, Mullen and Barbaccia and the second by AMIA Prosecution Unit that showcased their progress in its 2006 and 2009 indictments. The accusations made in both stages have some differences but, in general terms, their case theory is that in August 14, 1993, a group of senior officials of the Islamic Republic of Iran met in the city of Mashad with Mohsen Rabbani and Ahmad Reza Asghari, both of them members of Iran's diplomatic delegation in Argentina, for a meeting of the Special Affairs Committee and, at the request of the Iranian Intelligence and Security Office, ordered an attack against the AMIA headquarters in Buenos Aires, which was planned and executed by members of the terrorist organization Hezbollah, with the participation of Argentine citizens.

Judge Galeano ordered their international arrest and managed to persuade Interpol to issue red notices for 12 Iranian citizens, several of whom were members of its diplomatic corps. But after the Third Federal Trial Court's ruling, and following a request from the Islamic Republic of Iran, Interpol suspended and ultimately canceled the red notices on the grounds that Argentina had failed to prove that they were not the result of a faulty investigation²⁵. Later on, the AMIA Prosecution Unit accused a total of 10 people²⁶ and convinced Interpol to reinstate 6 red notices²⁷. Since then, the Argentine authorities have confirmed the death of two suspects²⁸ and detected numerous international movements of several others, whose arrest has been requested to more than a dozen countries without success. One of the accused even visited Bolivia in 2011.

Finally, the first criminal investigation against Judge Galeano, the prosecutors and several other actors began in 1997, as a result of the leaking of the recording of the interview between Galeano and Telleldín, but was quickly dismissed by a federal judge of known links with Galeano²⁹. However, in August 2000, Claudio Lifschitz, a former judicial clerk of Galeano's, gave a television interview where talked about the payment received by Telleldín and many other irregularities allegedly committed during the investigation, and the then Minister of Justice, Ricardo Gil Lavedra, asked the Attorney General to open a new investigation. This second case stayed inactive for several years but after the Third Federal Trial Court's ruling, it gained momentum and became what is known today as the AMIA II case.

The AMIA II case is currently on trial. The defendants are former President Menem, former judge Galeano, and the former prosecutors Mullen and Barbaccia, Telleldín along with his ex-wife and his former lawyer, the former leaders of the Intelligence Agency, Hugo Anzorreguy, Patricio Finnen and Juan Carlos Anchezar, the former leaders of two police divisions involved in the investigation, Carlos Castaneda and Jorge Alberto Palacios and the former president of Delegation of Israeli Argentine Associations (DAIA), Ruben Ezra Beraja. All of them face different charges but the trial is concerned with two main events: the payment made to Telleldin and the tampering of the investigation against Alberto Kanoore Edul, who, according to the indictment, used his family's friendship with President

²⁴ Raúl Kollman, El extraño giro de la causa AMIA, Pagina12.com.ar, Apr. 23, 2007, <https://www.pagina12.com.ar/diario/elpais/1-83936-2007-04-23.html>.

²⁵ Interpol, Argentinean red notices for Iranian officials cancelled, Sep. 27, 2005, Media release, <https://www.interpol.int/en/News-and-media/News/2005/PR041/>.

²⁶ In no particular order, Alí Fallahijan, Mohsen Rabbani, Ahmad Reza Asghari, Mohsen Rezai, Samuel Salman El Reda, Alí Akbar Hashemi Bahramaie Rafsanjani, Alí Akbar Velayati, Ahmad Vahidi, Imad Fayez Moughnieh y Hadi Soleimanpour.

²⁷ In no particular order, Alí Fallahijan, Mohsen Rabbani, Ahmad Reza Asghari, Mohsen Rezai, Samuel Salman El Reda.

²⁸ Imad Fayez Moughnieh y Alí Akbar Hashemi Bahramaie Rafsanjani.

²⁹ No hay cosa juzgada, AMIA. Diario del Juicio, <http://juicioamia.infojusnoticias.gov.ar/audiencias/no-hay-cosa-juzgada/> (last accessed in February 14, 2019).

Menem to stop the search ordered on several of its properties and ordered the destruction of the evidence gathered against him.

c. Victim participation in the AMIA and AMIA II cases

Shortly after the attack some of the victims and their relatives formed two separate organizations. One of them is known as “Family members and Friends of Victims of the AMIA Attack” and originated in the meetings that AMIA and DAIA organized³⁰. A second one was called “Memoria Activa” and it was formed by a group of family members that began meeting where the AMIA headquarters used to be and in a public square located right in front the Supreme Court of Justice building³¹. Initially, the organizations and the community institutions were represented by the same team of lawyers and took part in the investigation as a single victim complainant. But, in 1997, the differences between Memoria Activa, by then strongly critical of Galeano’s work, and the community institutions, that backed the judge, created a first division.

As a result, Memoria Activa decided to commemorate the anniversary of the attack separately and hired their own representation to act as a victim complainant. The differences that this association had with Judge Galeano and prosecutors Mullen and Barbaccia led to its marginalization from some of the most relevant events of the case, to which the AMIA/DAIA complaint had privileged access. For example, DAIA’s attorney, Marta Nercellas, was present during all three of Abolghasem Mesbahi statements, while the rest of the parties were denied access and judge Galeano ignored the AMIA Unit repeated offers to provide the technological means to allow them follow the interrogation remotely. Memoria Activa was also the organization that filed a complaint against the Argentine State before the Inter-American Commission on Human Rights.

In 2002, Laura Ginsberg, one of the original members of Memoria Activa, formed a new organization called "Group for the Clarification of the Unpunished AMIA Massacre" (APEMIA). According to Alberto Zuppi, who served as Memoria Activa’s leading attorney, the problem originated when he decided to accept President Alberto Rodríguez Saá’s offer to become his Secretary of Justice³². Zuppi along with some members of Memoria Activa, argued that his appointment could help to move the investigation forward, but Ginsberg disagreed and her public criticism of Zuppi’s decision made her fell apart with other members of the organization and, ultimately, led to this new division³³. Since then, APEMIA hired their own representation and became victim complainants.

In 2004, the Third Federal Trial Court’s ruling in the AMIA case found that Ruben Ezra Beraja, the President of the DAIA at the time of the attack, might have been aware or played a role in the payment to Telleldín and instructed the judicial authorities to investigate him, which deepened and aggravated the differences between the complainants even more. Memoria Activa and APEMIA historically held a very critical position regarding Beraja’s participation in the first investigation and have recently requested for him to be convicted. In contrast, the AMIA and the DAIA have repeatedly defended his work in the case and denounced the charges against him. In fact, AMIA’s President harshly criticized the AMIA Unit for requesting his conviction³⁴.

³⁰ Rullansky, Ignacio (coord.), *“Estrategias Políticas de la Memoria: las Agrupaciones de Familiares an Torno Al Caso AMIA y su Demanda de Justicia”*, in Pontoriero, Esteban (et. al) *“Historia, Estado, Política y Memoria: Miradas sobre la Segunda Mitad del Siglo XX en el Cono Sur”*, (2005), <https://xdoc.mx/preview/actas-correspondientes-a-este-grupo-de-trabajo-5c140e1d963bd>

³¹ *Ibíd.*

³² Zuppi, Alberto, AMIA, Kindle Edition, Loc. 1977-91.

³³ Zuppi, Alberto, AMIA, Kindle Edition, Loc. 1977-91.

³⁴ La Política Online, Fuertes críticas de AMIA contra Cimadevilla por la acusación a Beraja, Feb. 2, 2018, <https://www.lapoliticaonline.com/nota/111042-fuertes-criticas-de-amia-contra-cimadevilla-por-la-acusacion-a-beraja/>

During the 17th commemoration ceremony of the attack held in July 2011, Sergio Burstein, a member of the organization Family and Friends gave a controversial speech where he heavily criticized the then mayor of Buenos Aires, Mauricio Macri, for appointing Jorge Alberto Palacios, one of the defendants in the AMIA II trial, as his chief of police, and also journalist José Eliashev, who a few months earlier had exposed that the Argentine government was negotiating a deal with Iran³⁵. Burstein was accused of using the space for his political purposes and banned from future commemorations. As a result, Burstein formed a new organization named Association 18-J-Family members and Friends of the victims of the AMIA attack.

Between 2005 and March 2006, the Executive participated as a complainant in the AMIA II trial through the Anti-Corruption Office, which would then be replaced by the AMIA Unit. Lastly, the police officers of the Buenos Aires province, which were charged and imprisoned by Galeano, but were acquitted in the first trial, also participated as complainants.

III. A brief history of the AMIA Unit's work (2000-2018)

In this section, I suggest that the AMIA Unit's history can be divided in three separate eras based on its focus and the relationship it held with its superiors and the other parties to the proceedings. The first one began in the year 2000 when, after a few minor tweaks in its structure and powers, the AMIA Unit began to operate under Nilda Garré's direction. This first cycle lasted for about 6 years and its distinctive feature was the tension between the two directors, Garré and her successor Alejandro Rúa, and Judge Galeano and prosecutors Mullen and Barbaccia, who were already facing serious accusations for their work on the case. During this period, the AMIA Unit contributed with the investigation, but publicly questioned many of the decisions made by the judicial authorities, made several demands to the executive and tried to push the AMIA II case forward.

A second era began in March 2006 when the Unit shifted its focus towards the AMIA II case and began acting as a victim complainant, giving up its task of providing support to the attack's investigation, which by then was already in charge of the AMIA Prosecution Unit, led by prosecutors Nisman and Martínez Burgos, and federal judge Canicoba Corral. During this phase that lasted until December 2015, the interests of the main parties remained relatively in sync and the AMIA Unit did not have any major conflicts with any of them. The end of this cycle came after the presidential elections of 2015, which provoked a renewal in the Minister of Justice authorities and signaled the beginning of a third and final stage dominated by the confrontation between the AMIA Unit's leadership and its superiors, in its attempt to regain importance in the attack's investigation.

The AMIA Unit was dissolved in March 2018 in the midst of a national restructuring process and new accusations of tampering. Shortly after, the last AMIA Unit's director, Mario Cimadevilla, filed a criminal complaint against the Minister of Justice, Germán Garavano, and a few members of his cabinet for their alleged interference with the AMIA Unit's participation in the AMIA case II and giving the order not to require the conviction of the former prosecutors Mullen and Barbaccia during the closing arguments. The remaining AMIA Unit responsibilities were absorbed by the Truth and Justice Program, which functions under the Ministry of Justice since 2007. In what follows, I will show some of the most important events from these three eras and describe their main activities.

It should be noted, however, that the AMIA Unit only published reports about its work between 2002 and 2004, and therefore much of their lines of work were reconstructed through news articles and public statements from their directors.

³⁵ El Cronista, AMIA: el acto de homenaje a las víctimas terminó con polémica, Jul. 19, 2011, [cronista.com, https://www.cronista.com/economiapolitica/AMIA-el-acto-de-homenaje-a-las-victimas-termino-con-polemica-20110719-0069.html](https://www.cronista.com/economiapolitica/AMIA-el-acto-de-homenaje-a-las-victimas-termino-con-polemica-20110719-0069.html).

a. A tough start and ambiguous relationships (2000-2006)

After 3 months functioning as a committee formed by representatives of the intelligence and law enforcement agencies, the government decided that AMIA Unit should be in charge of a high ranking government official to serve as a link between the government, the judicial authorities, the victims and their families. The President's first pick was the Secretary of Political Affairs, Carlos Becerra, who lasted a month in the position. In the course of a few weeks, Becerra was first appointed Secretary General of the Presidency and then Secretary of Intelligence. His replacement was Congresswoman Nilda Garré, who until April 2001 served as the Unit's coordinator³⁶ and following a minor reform in its structure, became the Executive Secretary under the coordination of the Secretary of Justice, Melchor Cruchaga³⁷.

Nilda Garré's cycle was also short lived and conditioned by the proximity of the start of the first trial, which required solving a series of organizational and infrastructure problems. Nevertheless, Garré set the tone of the relationship with those in charge of the attack's investigation. During her term, the AMIA Unit carried out several tasks entrusted by Galeano and the prosecutors. But Garré was very critical of their work, addressed some of her concerns publicly and helped to expose the cover-up plot. Her administration ended in October 2001, when prosecutors Barbaccia and Mullen accused her of revealing the identity and leaking parts of Abolghasem Mesbahi's testimony to the media and the president of DAIA, José Hercman, publicly asked for her resignation³⁸. Garré received some support from Memoria Activa, whose lawyers claimed that the same information had already been made public, but it was not enough.

Shortly after, the Minister of Justice, Jorge De la Rúa, stated that Garré's declarations had been "very unfortunate" and that "her eagerness to let society know what was going on, caused her to cross the line³⁹", and thus announced she had agreed to resign⁴⁰. The criminal investigation against her, however, was quickly dismissed. Garré was later elected as a member of Congress and, from her new position, she pushed for Galeano, Mullen and Barbaccia's impeachment and continued working to expose their crimes and the deliberate flaws of the investigation. In a television interview she gave months later, Garré described Galeano's work as "abominable" and "shameful" and suggested that AMIA, DAIA and Galeano were working together⁴¹. Garré's replacement was Alejandro Rúa, who continued with her line of work.

Rúa's administration spanned throughout Galeano and the prosecutors last years in front of the investigation, the first trial and the beginning of the era led by Nisman. Like his predecessor, Rúa worked with both Galeano and the prosecutors, while at the same time tried to further the proceedings against them and to expose the flaws in the investigation as well as the unequal treatment received by various victim's organizations. The AMIA Unit also participated in the drafting of several decrees that allowed the intelligence officers involved in the investigation to appear as witnesses during the trial and gave judge Galeano and the prosecutor's access to the classified files from the intelligence and law enforcement agencies archives. In the following paragraphs I will summarize some of the most salient events of these years.

³⁶ Decree No. 430/2001, Art. 3, B. O. Apr. 17, 2001 (Arg.), <http://servicios.infoleg.gob.ar/infolegInternet/anexos/65000-69999/66741/norma.htm>

³⁷ *Ibid.*, Art. 2.

³⁸ Juicio por la AMIA: La DAIA pide que la echen de la comisión AMIA, Clarín, Oct. 4, 2011, [clarin.com.ar, https://www.clarin.com/politica/crece-presion-desplazar-nilda-garre_0_BJUGlJPg0Ke.html](https://www.clarin.com/politica/crece-presion-desplazar-nilda-garre_0_BJUGlJPg0Ke.html).

³⁹ AMIA: Interrogarán a Mestre y Garré se fue del gobierno, Eldia.com, Oct. 6, 2001, <https://www.eldia.com/nota/2001-10-6-amia-interrogaran-a-mestre-y-garre-se-fue-del-gobierno>

⁴⁰ A Jorge De la Rúa no le gusta "el afán de informar" de Nilda Garré, Pagina12.com.ar, Oct. 1, 2001, <https://www.pagina12.com.ar/2001/01-10/01-10-04/PAG12.HTM>

⁴¹ Daniel Schnitman, "La Voz y la Opinión", Jul. 20, 2002, www.youtube.com/watch?v=o1Kg3KeHxAM

Between 2001 and 2003, the AMIA Unit submitted work plans that included carrying out some proper investigative measures required by the judge, the prosecutors and the victim organizations, but also embarked in more ambitious tasks like leading the survey of a few obsolete and disorganized archives which contained relevant information⁴². First, the AMIA Unit undertook the task of digitizing and systematizing Argentina's immigration records between 1992 and 1994 and also the diplomatic cables the Ministry of Foreign Affairs received prior to the attack. And later on, by request order of Galeano, the Unit was also put in charge of the survey of the intelligence and law enforcement agencies archives which the President had put at the disposal of the judicial authorities⁴³. The AMIA Unit even announced its intention to create a repository where these materials would be categorized and stored.

Rúa also held a strained relationship with the federal judge Claudio Bonadio who at the time was in charge of the AMIA II case. In one of the Unit's public reports, Rúa denounced that Bonadio had consistently denied their request to access the case files and to be present during some of the testimony that were relevant to its work, even to the point of ignoring an express order by the Federal Court of Appeals, and thus suggested the need to relay this situation to the Council of Magistrates. In the Unit's last report, Rúa explained that the conflict lasted for another 2 years, during which the Federal Court of Appeals issued 2 new orders which again were ignored by Bonadio and formally requested the judge to be separated from the case.

In December 2003, Galeano was removed from the case. Prosecutors Mullen and Barbaccia were removed in April 2004 and a few months later they both resigned. In September 2004, the Attorney General created the AMIA Prosecution Unit to take part in all the proceedings related to the AMIA bombing. In October 2004, the Third Federal Trial Court of Buenos Aires acquitted all of the alleged members of the "local connection" and ordered the investigation of Galeano, Mullen, Barbaccia, President Menem, the former Minister of Political Affairs, Carlos Corach, and various members of the Federal Police and the Intelligence Agency. In August 2005, Galeano was removed from the bench by the Council of Magistrates⁴⁴. Both Rúa and Garré appeared as witnesses in the proceedings⁴⁵. Shortly after, Interpol's Executive Committee cancelled the 12 red notices related to the case.

In this context, Rúa took part in the Inter-American Commission on Human Rights (herein IACHR) sessions that concluded with the recognition of the Argentine State's international responsibility for the breach of several obligations, the commitment to initiate a friendly settlement process, and the proposal of a working agenda that included the strengthening of the AMIA Unit⁴⁶. Rúa also contributed to the drafting of a new Presidential decree which ordered all government agencies to refrain from destroying documentation that might be related or relevant to the AMIA case⁴⁷. However, almost simultaneously, the Secretary of Intelligence ordered to transfer all of the documents that the Unit had gathered from its archive to the AMIA Prosecution Unit, putting an end to the Unit's survey.

⁴² Judge Galeano's Orders, available at https://www2.jus.gov.ar/amia/Informe00/Informe_02.htm

⁴³ Decree No. 398/2003, B.O. Jul 22, 2003 (Arg.), <http://servicios.infoleg.gob.ar/infolegInternet/anexos/85000-89999/86928/norma.htm>, Decree No. 786/2003, B.O. Sep. 18, 2003 (Arg.), <http://servicios.infoleg.gob.ar/infolegInternet/anexos/85000-89999/88546/norma.htm> and Decree No. 787/2003, B.O. Sep. 18, 2003 (Arg.), <http://servicios.infoleg.gob.ar/infolegInternet/anexos/85000-89999/88547/norma.htm>.

⁴⁴ "Doctor Juan José Galeano s/ pedido de enjuiciamiento", Council of Magistrates, Aug. 3, 2005, <https://www.pjn.gov.ar/Publicaciones/00006/00006904.Pdf>

⁴⁵ Raul Kollman, *Un oscuro porvenir para usía*, Página 12, May. 14, 2004, <https://www.pagina12.com.ar/diario/elpais/1-35320-2004-05-14.html>

⁴⁶ Decree No. 812/2005, B.O. Jul 13, 2005, <http://servicios.infoleg.gob.ar/infolegInternet/anexos/105000-109999/107751/norma.htm>.

⁴⁷ Decree No. 384/2005, Art. 1, B.O. Apr. 29, 2005 (Arg.), <http://servicios.infoleg.gob.ar/infolegInternet/anexos/105000-109999/105875/norma.htm>.

These significant changes affected the whole universe of criminal proceedings related to the attack and gave way to a new era, in which the AMIA Unit rethought its role.

b. New partners and a change in direction (2006-2015)

A second era began in March 2006 when, in compliance with the commitment made before the IACHR, President Kirchner ordered the AMIA Unit to help moving the AMIA II case forward and instructed it to actively participate as a victim complainant. By then the Executive branch was already acting as a victim complainant through the Anti-Corruption Office, but the AMIA Unit ended up taking over this responsibility. In an interview with the newspaper "La Nación", Rúa claimed responsibility for this initiative and for convincing the then Minister of Justice, Horacio Rosatti, to pursue this strategy⁴⁸. A few weeks after, however, Rosatti resigned and was replaced by Alberto Iribarne, who, according to Rúa, did not support this decision and ultimately removed him from his position⁴⁹.

Shortly after resigning, Alejandro Rúa stated that Rosatti's departure had diminished the case's momentum and complained about the handling of the jury against Bonadio that was dismissed by the Council of Magistrates⁵⁰. Iribarne felt insulted and sued Rúa, but the case was quickly dismissed⁵¹. Rúa was replaced by the Secretary of Criminal Policy and Prison Affairs, Alejandro Slokar⁵². Since then, and although it was not formally relieved of its collaboration duties, the AMIA II case became the AMIA Unit's main focus and the investigation of the attack was left in the hands of prosecutors Nisman and Martínez Burgos, who undertook the task of restoring the Interpol Red Notices.

This shift in the AMIA Unit's focus can clearly be appreciated in Slokar's speech who, on the occasion of the confirmation of the indictment against Galeano and prosecutors by the Chamber, said that the federal government had had taken "a significant step forward in the case, against impunity and in favor of determining the role played by each one of the public officials that were responsible for covering up the attack⁵³", further stressing that his office was "technically analyzing with strict legal rigor" the performance of the rest of the alleged participants⁵⁴. As stated, the AMIA II case encompassed the complaint filed by the Minister Gil Lavedra after the Lifschitz interview where he mentioned the payment to Telleldin, and the investigation into the tampering of the Kanoore Edul's lead, both of which were already under the direction of the federal judge Ariel Lijo.

Between May 2011 and April 2012, judge Lijo concluded both investigations and sent Menem, Galeano, Mullen, Barbaccia, Telleldin and a group of police and intelligence officers to trial. Lijo, however, acquitted an important group of defendants, among which were four senior officials of Galeano's court. This decision was questioned and revoked by the Federal Court of Appeals, but judge Lijo insisted until in May 2016, when he was finally removed from the case. In a particularly harsh ruling, the Federal Court of Appeals questioned his notorious inactivity during a 2 year period and accused

⁴⁸ Alejandro Rúa: "Cayó el impulso en la causa AMIA", [lanacion.com.ar](https://www.lanacion.com.ar/783730-alejandro-rua-cayo-el-impulso-en-la-causa-amia), Feb. 26, 2006, <https://www.lanacion.com.ar/783730-alejandro-rua-cayo-el-impulso-en-la-causa-amia>.

⁴⁹ Alejandro Rúa: "Cayó el impulso en la causa AMIA", [lanacion.com.ar](https://www.lanacion.com.ar/783730-alejandro-rua-cayo-el-impulso-en-la-causa-amia), Feb. 26, 2006, <https://www.lanacion.com.ar/783730-alejandro-rua-cayo-el-impulso-en-la-causa-amia>.

⁵⁰ Alejandro Rúa: "Cayó el impulso en la causa AMIA", [lanacion.com.ar](https://www.lanacion.com.ar/783730-alejandro-rua-cayo-el-impulso-en-la-causa-amia), Feb. 26, 2006, <https://www.lanacion.com.ar/783730-alejandro-rua-cayo-el-impulso-en-la-causa-amia>.

⁵¹ Raúl Kollman, Un delito que nunca existió, [pagina12.com.ar](https://www.pagina12.com.ar/diario/elpais/1-72637-2006-09-07.html), Sep. 7, 2006, <https://www.pagina12.com.ar/diario/elpais/1-72637-2006-09-07.html>.

⁵² Decree No. 229/2006, Art. 3, B.O. Mar. 6, 2006 (Arg.), <http://servicios.infoleg.gob.ar/infolegInternet/anexos/110000-114999/114392/texact.htm>.

⁵³ ¿Ya de campaña? Ordenan investigar a Menem por AMIA, [Ámbito.com.ar](https://www.ambito.com/ya-campana-ordenan-investigar-menem-amia-n3438806), July 3, 2007, <https://www.ambito.com/ya-campana-ordenan-investigar-menem-amia-n3438806>.

⁵⁴ *Ibíd.*

him of disobedience and losing his impartiality⁵⁵. His replacement was federal judge Sebastian Ramos, who also took on the investigation against Corach. At the end of the year 2017, none of these proceedings had made any significant progress.

In September 2011, Slokar was appointed as judge of the Federal Court of Cassation⁵⁶ and replaced by Juan Martin Mena⁵⁷, who acted as the head of the AMIA Unit for about 4 years, taking on the leadership of the team during the trial preparation. Shortly after the death of Nisman, and on the eve of the start of the trial, Mena was appointed Assistant Secretary of Intelligence⁵⁸ and put in charge of the Argentine intelligence system reform process that resulted in the enactment of the Law No. 27.126⁵⁹. In this context, President Fernández de Kirchner accepted a request made by the prosecutors and declassified all the Intelligence Agency documents on the case, but only for the parties of the criminal proceedings and forbidding any public disclosure of their contents⁶⁰.

In March 2015, Mena was replaced by Luciano Hazan⁶¹, who had served as an advocate for Active Memory between 2007 and 2009 and participated in the initial stage of the trial. His term, however, ended in December 2015 when President Mauricio Macri won the elections and the Ministry of Justice authorities were replaced.

c. A failed relaunch followed by an abrupt ending (2016-2018)

The third and final phase began with the decision of the President Macri to relaunch the AMIA Unit on the anniversary of the death of the Prosecutor Nisman by turning it into a Secretary of State. This cycle began with ambitious announcements, but was marked by a series of failed attempts to regain influence over the main AMIA proceedings. This was due to the at times still tense relationship with the victims organizations and prosecutors, in addition to the dispute between the head of the AMIA Unit, a former senator and member of the Council of Magistrates, Mario Cimadevilla, and the Minister of Justice, Germán Garavano, which ended with the dissolution of the agency, new accusations of cover-up and of political manipulation of the proceedings, and a call to impeach the Minister.

In announcing the decision to strengthen the AMIA Unit, the Minister Garavano said that the Unit should "analyze all potential cover-ups and suspicious or striking situations surrounding the attack, including the death of the Prosecutor Nisman". This course of action was ratified by Cimadevilla, who stated that the AMIA Unit would have greater autonomy and its own budget, that its intention was to contribute to the clarification of all of the AMIA related cases and he even stated that they were considering the possibility of pushing for a trial in absentia in order to advance the main proceeding, which was paralyzed. This initiative, however, generated differences between the various victim organizations and community institutions and did not receive unequivocal support from the government, causing the first frustration.

⁵⁵Unidad Fiscal AMIA, Informe de gestión, Dec. 2016, p. 21, <https://www.fiscales.gob.ar/wp-content/uploads/2017/01/Informe-de-Gesti%C3%B3n-Anual.pdf>.

⁵⁶ Decree No. 1376/2011, B.O. Sep. 12, 2011 (Arg.), <http://servicios.infoleg.gob.ar/infolegInternet/verNorma.do?id=186518>

⁵⁷ Decree No. 82/2011, Art. 3, B.O. Dec. 12, 2011 (Arg.), <http://servicios.infoleg.gob.ar/infolegInternet/anexos/190000-194999/191178/norma.htm>

⁵⁸ Decree No. 1312/2015, Art. 2, B.O. Jul. 7, 2015 (Arg.), <http://servicios.infoleg.gob.ar/infolegInternet/anexos/245000-249999/248915/norma.htm>.

⁵⁹ Law No. 27126, B.O. Mar. 5, 2015 (Arg.), <http://servicios.infoleg.gob.ar/infolegInternet/anexos/240000-244999/243821/norma.htm>.

⁶⁰ Decree No. 395/2015, B.O. Mar. 13, 2015 (Arg.), <http://servicios.infoleg.gob.ar/infolegInternet/anexos/240000-244999/244799/norma.htm>.

⁶¹ Decree No. 378/2015, Art. 1, B.O. Mar. 11, 2015 (Arg.), <http://servicios.infoleg.gob.ar/infolegInternet/anexos/240000-244999/244556/norma.htm>.

The DAIA expressed its support and described the proposal as a step forward. The President of AMIA stated that proposal should be carefully examined and the opinion of experts and victims should be heard. Active Memory rejected the idea of a special proceeding and spoke in favor of a solution similar to the one of the Lockerbie case. The 18-J Association and APEMIA described the initiative as a simulation aimed at closing the case definitively and consolidating the impunity of the perpetrators and accessories after the fact. The draft was ultimately not sent to Congress by the Executive, but introduced by a coalition of senators from different political parties, and although it was debated in different areas, it was never treated by Congress. Some months later it became known that the Ministry of Foreign Affairs had prepared a draft with a contrary opinion⁶².

On the second anniversary of Nisman's death, President Macri issued a new decree that ordered the AMIA Unit to participate in the work being done on the documents declassified by President Fernández de Kirchner that had begun in 2015, under the direction of the APU and with the collaboration of the Intelligence Agency. Cimadevilla announced to the press that they were going to take over the responsibility, without side-lining the prosecutors, and were planning on hiring experts to analyze the documents. But the decision and his remarks were criticized by the victims organizations. APEMIA and Active Memory took on legal actions to prevent this from happening, arguing that the government was trying to meddle with the prosecutors work and while their request was rejected, the final ruling on the matter ordered the AMIA Unit to follow the prosecutors lead.

The AMIA Unit finally compromised, taken over some of the collaboration tasks that the Intelligence Agency was carrying out. Shortly after, Cimadevilla decided to make public a dispute it had been waging with the Ministry of Justice. Specifically, the head of the AMIA Unit accused Garavano of placing "bureaucratic" barriers to a request for funds aimed at acquiring specialized software that would allow the AMIA Unit to deepen the analysis of the case insofar as he alleged that they did not have enough funds and a staff composed by only 15 lawyers. These accusations were answered in strong terms by the Ministry's officials who questioned his management and commitment to the investigation. Shortly after, the executive argued that the AMIA Unit had fulfilled its useful cycle and that it was assessing the possibility of eliminating it.

At the same time, a second issue was raised in the AMIA II trial, where complainants had been questioning the closeness between the appointed lawyers by Garavano and former prosecutors Mullen and Barbaccia. In March 2017, the lawyer of the AMIA Unit, Mariana Stilman, resigned citing irreconcilable moral and ethical differences with the lawyer José Console, who had been appointed by Garavano, suggesting that he was trying to favor a group of defendants. In February 2018, a new scandal broke out when the Secretary of Justice ordered Cimadevilla to fire Enrique Ventos, the attorney who was supposed to deliver the unit's closing argument in the AMIA II case, and pass on the task to Console, who argued that Mullen and Barbaccia should not be convicted. Shortly after, Console was removed from the case after it was noted that he occupied a seat in the Council of Magistrates, which prevented him from acting as a lawyer.

This decision was vindicated by the head of AMIA that regarded it as a "valuable act", but expressed their surprise and indignation at the request to sentence the former head of the DAIA, Rubén Beraja. This was criticized by the rest of the victims' organizations and Cimadevilla, who accused Garavano of interfering in order to protect Barbaccia due to a relationship of friendship between them, and consequently filed a complaint against him and several officials of the Ministry of Justice, which was dismissed by the federal courts. Days later, the AMIA Unit was dissolved and its responsibilities were absorbed by the Truth and Justice of the Ministry of Justice and Human Rights. A few months later, Active Memory and Congresswoman Elisa Carrió, leader of one of the political parties that form the

⁶² Hernán Capiello, Reflotan en el gobierno la idea del juicio en ausencia por el atentado a la AMIA, LaNacion.com.ar, Jan 6, 2019, <https://www.lanacion.com.ar/2208332-reflotan-en-el-gobierno-la-idea-del-juicio-en-ausencia-por-el-atentado-a-la-amia> .

governing coalition, called for the impeachment of Garavano, but this initiative failed.

IV. The question about the AMIA Unit's legacy

The AMIA Special Unit's legacy and its contribution to the investigation it's hard to assess. Especially considering the different episodes that marked the history of the case, the big obstacles the investigation faced from the start and the many changes in its leadership and direction. The initial objectives set by the government -to contribute to uncover the truth about the attack and to provide support to the first trial- don't seem like a good parameter to judge the experience, basically because it is undisputable that the AMIA Unit lacked the authority and the resources needed to achieve those goals and, in any case, it shared its responsibility with many other agencies that had already been working on the case for years and were called to play a bigger part. After all, the AMIA Unit was originally conceived and almost always functioned as the judge and prosecutors aid.

For these reasons, in the following section I try to examine the different strategies pursued by the AMIA Unit, leaving aside any balance of the attack's investigation and its related cases. In short, I argue that its initial design and the attempts to relaunch it were not preceded by an independent and accurate assessment of the case needs and problems or of the potential benefits and contributions that might derive from the chosen format of intervention. The government relied heavily on the judge and the prosecutors criteria to define its priorities and failed to articulate a work agenda that allowed the AMIA Unit to distance itself from other agencies, to pursue goals of its own and to fill the many voids in the investigation. This responsibility rested exclusively on its own leadership, but frequently the government did not support their initiatives. As result, the AMIA Unit tended to overlap with other actors and its contribution to the investigation became increasingly diffuse.

a. A rough start: political and institutional obstacles

During the early stages of the case, the AMIA Unit ability to contribute to the investigation was seriously hindered by the government's refusal to seriously address the accusations against judge Galeano and the prosecutors Mullen and Barbaccia, by its lack of authority and power to overcome the resistance of the intelligence and law enforcement agencies and by the precariousness of the records of several government agencies. All these flaws suggest that the creation of the Unit had not been preceded by a serious and independent assessment of the investigation needs and challenges and that the government failed to provide additional support that was necessary to move the investigation forward.

By June 2000, the judge, the prosecutors and the intelligence and law enforcement agencies had no incentives to build a working relationship by the AMIA Unit and most of them had a clear interest in blocking any line of inquiry that seemed likely to expose their wrongdoing. But even in these circumstances, the government insisted with its idea that the AMIA Unit should function as an extension of the judge and the prosecutors and as a nexus between them and the intelligence and law enforcement agencies. Predictably, this arrangement didn't work out and the AMIA Unit never became a focal point nor it helped to improve coordination. If anything, the AMIA Unit contributed to expose differences and make the flaws in the investigation more noticeable.

Garré and Rúa's efforts to influence the course of the attack's investigation and to further the criminal charges against judge Galeano and the prosecutors were either ignored or obstructed. The AMIA Unit was not able to assert its own authority and, depending on the source of resistance, its only option was to ask the President or the higher courts to step in. But the government did not always provide support and occasionally sided with the unit rivals. The internal investigations against intelligence officials ordered by the former AMIA Unit director and then Secretary of Intelligence, Carlos Becerra, were stalled and did not result in any meaningful action. The higher courts, on the other hand, laid

down favorable rulings but their orders were often resisted by judges Galeano and Bonadio and the Council of Magistrates did not respond adequately.

Despite all of this, some of the requests made to the AMIA Unit by the judicial authorities were undoubtedly useful. However, they often revealed some of the deeper causes behind the delays and shortcomings and showed that any serious attempt to further drive the investigation forward should have included an ambitious institutional reform plan. To some extent, the creation of the AMIA Unit had the unwanted effect of dispensing other government agencies from any duty to contribute with the investigation, even if this meant as little as keeping potentially useful documents and records available and organized. In this regard, the Presidential order to preserve all information that could be considered potentially useful for the case was not backed by a concerted implementation effort.

I will provide a few examples. For many years, the Direction of Migrations refused to survey its own archives in search of patterns and records of the movement of persons of interest through the Argentine borders, arguing that the task was extremely time consuming and they lacked the appropriate resources. The Ministry of Foreign Affairs proved equally incapable of searching and identifying diplomatic cables relevant to the investigation. The intelligence and law enforcement agencies, on other hand, never seemed to overcome the initial distraught caused by the attack and, as a result, several pieces of evidence were lost or remained misplaced for years.

These shortcomings in many government archives and databases were not comprehensively addressed and only those that were labelled a priority by the judicial authorities were and, in some cases, still are in the process of being surveyed. As the government representative in the investigation, the AMIA Unit was in uncomfortable position, as it could not explicitly denounce these difficulties and had no option but to try to overcome them, despite not counting with appropriate resources or even with proper guidance from the investigators.

b. Lack of stability and support in key moments

For the most part, the government relied on the judges and prosecutors criteria to set the priorities and to define what needed to be done. The AMIA Unit's mandate was defined loosely as "directly assisting" their requests and the government made no attempt to identify alternative courses of action or to set objectives of its own. This void was filled by the initiative of its leadership but sometimes they tried to pursue goals that were not anticipated, nor supported by their superiors. In a few occasions, these differences sparked conflicts between the AMIA Unit and the Ministry of Justice and led to changes that undermined its ability to pursue steady and consistent lines of inquiry and work throughout the years.

The lack of support from the government and the distinctive traits of the Argentine criminal justice system also allowed the judicial authorities to ignore or dismiss the AMIA Unit's requests and proposals without facing consequences or giving proper explanations. The AMIA Unit also failed to take advantage of its own powers and, particularly, underused its ability to conduct independent investigations with notice to the authorities whenever appropriate and to access government archives and records related to the subject. Perhaps, the emphasis placed on the need to further the criminal investigations discouraged the Unit's leadership from looking for alternatives ways of contributing.

Once judge Galeano and the prosecutors were removed from the case and the interests of the several agencies involved in the investigation realigned and opened up the possibility of a collaborative work, the government failed to seize up the opportunity. Instead of promoting some sort of task division, it removed the AMIA Unit from the attack's investigation, ordered the Intelligence Agency to transfer the files that were being surveyed to the recently created AMIA Prosecution Unit and changed its focus to the AMIA II case and cover-up plot in a way that, I will argue, deepened its overlap with other agencies.

Slokar's statements about the AMIA Unit's work clearly show this shift in its focus, as he referred to the AMIA Prosecution Unit as the sole responsible for investigating the terrorist attack⁶³ and constantly underlined the government's commitment with bringing to justice those charged with tampering with the initial inquiry⁶⁴. Slokar's public discourse seems to reflect the consensus reached during the Unit's second stage which shows the withdrawal of the government from the original investigation. In broad terms, it was followed by his successors which faced an increasingly demanding scenario and were eventually constrained by the requirements of the second trial.

These shifts and limitations made it more difficult for the Unit to set a clear and coherent outreach strategy. The government and the AMIA Unit took some steps to disseminate information about the case, they launched a website⁶⁵, published the first trial verdict online and one of its news agencies published a special report on the AMIA II case⁶⁶. But these initiatives were few and apart and almost exclusively focused on the cover-up plot. It is also hard to recognize a consistent effort to address the concerns and expectation of the victims, even when case distinctive traits of the case made it clear that finding some common ground with the victims organization's and community institutions was key to the success of the Unit's work.

These circumstances made it so that after 18 years of work and right before the end of the trial, the AMIA Unit found itself in a vulnerable position.

c. Problems to determine the impact of the AMIA Unit as a victim complainant

To some extent, the decision to focus on the AMIA II case and to act as a victim complainant deepened the AMIA Unit's overlap problem. Again, it seems unlikely that this shift in the AMIA Unit's strategy was preceded by a thorough assessment of what could be achieved acting in this capacity and the benefits or success of this move were not monitored or re-evaluated throughout the years. By acting as a victim complainant in the case, the government may have intended to signal an inflection point in its attitude towards the case and its victims⁶⁷ by siding with some of them before the courts. But, arguably, this objective was fulfilled at the expense of diluting the AMIA Unit's influence and importance.

The AMIA Unit acted as a victim complainant for 12 years, two thirds of its history, and its impact on the AMIA II case is difficult to determine. The way in which the Argentine criminal justice system keeps track of activity, the secret that usually surrounds the investigations, the significant extent of both the investigation and the trial, the limited media coverage the case received, the invisible work that these type of cases often require, among many other factors, may prevent us from appreciating the true magnitude and importance of AMIA Unit's work. But the publicly available information suggests that it has little to show for.

The indictments against Galeano, Mullen, Barbaccia et al and the court rulings that ordered them to stand trial barely mention the work and filings of the AMIA Unit. The government's involvement also failed to speed up the proceedings. The AMIA II case had been opened for 6 years when the AMIA Unit became a victim complainant and, 13 years later, it's far from over. Even if the verdict is handed in 2019, the appeal process will surely take at least several years. The cases against Galeano's judicial

⁶³ Sebastián Abrevaya, "Nisman tiene luz verde de Interpol", Página 12, Jul. 15, 2007, <https://www.pagina12.com.ar/diario/elpais/1-88165-2007-07-15.html>

⁶⁴ ¿Ya de campaña? Ordenan pesquisar a Menem por AMIA, *Ámbito.com.ar*, July 3, 2007, <https://www.ambito.com/ya-campana-ordenan-pesquisar-menem-amia-n3438806>.

⁶⁵ Available at <https://www2.jus.gov.ar/amia/>.

⁶⁶ Available at <http://juicioamia.infojusnoticias.gov.ar/>

⁶⁷ Sebastián Abrevaya, "Nisman tiene luz verde de Interpol", Página 12, Jul. 15, 2007, <https://www.pagina12.com.ar/diario/elpais/1-88165-2007-07-15.html>.

clerks and the former Ministry of Interior, Carlos Corach, are still in their preliminary stages. The victim's organizations became victim complainants themselves.

The AMIA II case could be characterized as complex because of its political implications, the volume of information that needed to be processed and/or the resistance and obstacles it faced throughout the years. But the charges brought against the defendants by the prosecutors and the victim complainants were pretty straight forward, which makes it harder to argue that the purpose of the AMIA Unit's intervention was to provide technical assistance or to make up for potential flaws in the prosecution strategy. Finally, there didn't seem to be any significant disagreements about the facts or the defendant's responsibility between the judge, the government and the prosecutors.

d. The insularity of the AMIA Unit and its overly limited approach to the case

Initially, the government's main pursuit in the AMIA case was to bring those responsible for the attack to justice and, later on, it shifted to judging those who were accused of tampering with the initial investigation. The emphasis was always placed on criminal justice and accountability. At least for the first 12 years, the government described and treated the attack against the AMIA headquarters as a criminal act, instead of as a crime against humanity or a gross human rights violation. The AMIA Unit, for example, was originally conceived as some sort of coordination committee for the intelligence and law enforcement agencies and intended to provide "operational support"⁶⁸ to the investigators. Furthermore, in 2006, the government strategy to strengthen the AMIA Unit was to order it to act as an victim complainant⁶⁹.

This vision and deeper notions about what the government could do to respond to such events foreclosed the possibility of exploring other alternatives or responses to the gruesome events, despite the there being reasons to believe that different measures were possible and, in fact, needed. Around that same time, the human rights movement succeeded in its strategy to reopen the criminal investigations against those responsible for crimes against humanity during the last military dictatorship and a different, more complex approach to such cases emerged. The government took advantage of some of these new tools that were being used in the transitional justice process, but failed to involve the AMIA Unit in a significant way and to truly diversify its aim, which for most part keep fixated on punishment as the only legitimate answer.

The AMIA Unit was put in charge of the survey of the Intelligence Agency archives by request of the judge Galeano, and not by the government's decision. In 2005, it was also involved in the acknowledgment of responsibility before the Inter-American Commission. But once Galeano was removed from the case, the government failed to recognize the importance of this task and decided to pull out, disregarding the Grossman report recommendation to further this effort⁷⁰. 10 years later, again at the request of the judicial authorities, the President ordered the largest declassification in the history of the case, but immediately transferred the custody of these documents to the prosecutors and provided only limited assistance. Lastly, the final attempt to involve the AMIA Unit in this task did not state its purpose⁷¹ and its lack of clarity raised suspicions and created resistance by some of the victim's organizations.

⁶⁸ Decree No. 452/2000, B.O. Jun. 10, 2000 (Arg.), <http://servicios.infoleg.gob.ar/infolegInternet/anexos/60000-64999/63288/norma.htm>

⁶⁹ Decree No. 229/2006, B.O. Mar. 6, 2006 (Arg.), <http://servicios.infoleg.gob.ar/infolegInternet/anexos/110000-114999/114392/texact.htm>

⁷⁰ Report Observation by Dean Claudio Grossman International Observer of the IACHR during the Trial about the Israeli-Argentine Mutual Association (AMIA), El contenido de la solución amistosa, <https://www2.jus.gov.ar/amia/grossman/El%20contenido%20de%20la%20solucion%20amistosa.pdf>.

⁷¹ Decree No. 229/2017, B.O. Apr. 6, 2017 (Arg.), <http://servicios.infoleg.gob.ar/infolegInternet/anexos/270000-274999/273333/norma.htm>

Summarizing, the AMIA Unit's participation in tasks such as the survey were only brief detours from its original purpose and were rapidly abandoned once the judicial authorities interest ceased. The government implemented some other measures with different aims such as declaring the 13th anniversary of the attack as a national mourning day⁷² or asking Congress to enact a reparations program for the victims⁷³, but the AMIA Unit did not play a significant role in any of them. On the other hand, none of the new agencies and programs that were created to provide support for the truth, memory and justice process or pursue aims that were complementary to criminal prosecutions, were involved or called to take part in the attack or the cover-up investigation.

So, basically, the AMIA Unit was left as the sole responsible for collaborating with the investigation and isolated from what was happening around it. This is particularly puzzling because many of the programs and institutions that collaborated with the transitional justice process were either created or at some point worked under the supervision of the Ministry of Justice. But, for some reason, even when it became clear that criminal prosecutions were not nearly enough and it was beyond argument that, at least, some of them were not likely be successful, the government insisted with this strategy. Anyhow, the handling of the AMIA case is in stark contrast with the multi-layered sophisticated approach used to address the crimes against humanity committed by the Argentine dictatorship and its legacy of violence.

V. An opportunity to do better: a proposal for the future of the case

So far, we've seen how the AMIA bombing investigation and the AMIA II case were handled and presented a critique of some of the government's decisions. But, what could have been done differently? And what can be done to help the investigation and the victims today? In this section, I will argue that the involvement of the Program for Truth and Justice in the AMIA cases presents the opportunity to put an end to their insularity and could also bring some modest but relevant improvements by dealing with cases as human rights violation, applying the tool kit used in the truth, memory and justice process over the crimes committed during the 1976-1983 Argentine dictatorship and, particularly, using a truth-seeking approach to the cases, instead of just providing support for the criminal investigations.

In concrete terms, I suggest that the government could and should launch a new initiative to work with the judicial authorities and victims based around the ongoing survey of the intelligence agency archives. The government should not only seek to play a larger and more significant role in this task, but also pursue aims complementary to the search for potential evidence, such as determining the facts, causes, underlying reasons and consequences of the attack and its failed first investigation and prioritize the victims and family members right to truth, which also extends to the community and society at large⁷⁴. Particularly, I argue that this effort should include a commitment to finish the survey within a reasonable time, to allow for the public dissemination of some of these documents, to publish reports about the work and the contents of this archive and to preserve these files from study, commemoration and remembrance.

This measures, I argue, could **(i)** help to create awareness of the role that the intelligence and law enforcement agencies played in the investigation, to identify the problems faced by the investigation with more precision and to push for reforms that act as a non-recurrence guarantee, **(ii)** contribute

⁷² Decree No. 886/2007, B.O. Jul. 12, 2007 (Arg.), <http://servicios.infoleg.gob.ar/infolegInternet/anexos/130000-134999/130027/norma.htm>

⁷³ Law No. 27139, B.O. May. 26, 2015 (Arg.), <http://servicios.infoleg.gob.ar/infolegInternet/anexos/245000-249999/247198/norma.htm>

⁷⁴ Eduardo González and Howard Varney, eds., Truth Seeking: Elements of Creating an Effective Truth Commission. (Brasilia: Amnesty Commission of the Ministry of Justice of Brazil; New York: International Center for Transitional Justice) 2013, p. 3, <https://www.ictj.org/sites/default/files/ICTJ-Book-Truth-Seeking-2013-English.pdf>,

to the emergence of a common account of the events by allowing an open debate about the case and enabling other non-institutional social mechanisms that build and preserve our collective memory, and (iii) to undo some of the damage the investigation's credibility has suffered along the years by exposing the evidence and underlying reasons behind the indictments and the abandonment of other potential lines of inquiry.

a. Why the involvement of the Program for Truth and Justice could mean good news for the AMIA case

In November 2006, federal judge Rodolfo Canicoba Corral declared the AMIA bombing a crime against humanity, but the case never became a part of the agenda of the numerous government agencies that were created to support the criminal proceedings against those responsible for the crimes against humanity that were committed during the military dictatorship that ruled Argentina between 1976-1983 and to address their legacy. This in spite of the fact that the AMIA investigation faces some similar challenges -such as the passage of time and the precariousness of government records, archives and databases-, and some similar measures were used to address it -acknowledgement of violations and its responsibility, declassification of secret files and archives and surveyed them, provided reparations for victims and instructed government agencies to act as victim complainants in criminal proceedings-.

The Program for Truth and Justice was created in 2007 and tasked with monitoring the process of memory, truth and justice, assessing its progress, setbacks and needs and removing obstacles that may affect its normal development. During its 12 years of existence, its main function has been to guarantee the protection and accompaniment of victims, witnesses and the judicial authorities involved in the trials and criminal investigations, but the program also has teams in charge of overseeing the progress of criminal investigations in different jurisdictions, producing reports on the participation of the armed forces, law enforcement agencies and other actors in the plot of the illegal repression and detecting and preventing potential threats.

Some of the program's objectives and responsibilities are similar to those of the AMIA Unit, but it certainly has a wider aim that recognizes the importance of some of the tasks the government neglected in these cases. For example, the program's investigation team is responsible for "strengthening the state's capacity to gather reliable information" and for "surveying state, federal or international archives and any other potentially useful source of information that may contribute to further to institutional truth and justice process"⁷⁵. So while it taking over the remaining responsibilities of the AMIA Unit does not necessarily imply a comprehensive revision of the strategy pursued so far, its involvement suggest the opportunity to diversify its objectives and to pursue complimentary aims, instead of just focusing on the criminal justice aspect.

The Program for Truth and Justice's involvement also might put an end to AMIA case insularity, which in the past kept the AMIA Unit from exchanging experiences and adhering to best practices and resulted in a sensibly inferior implementation of some important measures. On the matter of declassification, for example, there are significant differences between what happened in both justice processes. While in the context of the truth, justice and memory process, the government completed surveys, published reports about its work and some of the documents included in these archives and created an National Memory Archive, the survey of the AMIA related archives is far from over, despite been formally authorized in 2003, fixated only on gathering evidence for the investigation and none of the archives documents are available to the public, nor can be publicly disseminated.

In sum, the contrast between the way these two processes were handled suggests that bringing these agencies into the picture might help to achieve small, but relevant improvements in our

⁷⁵Administrative Decision No. 312/2018, Annex IV, B.O. Mar. 14, 2018 (Arg.), <http://servicios.infoleg.gob.ar/infolegInternet/anexos/305000-309999/307797/decadm312-4.pdf>.

understanding and public conversation about what happened and also contribute to the investigation, by way of placing the attack and the cover-up plot in a larger scheme of things⁷⁶ Again, is not clear whether the involvement of the Program for Truth and Justice will produce any significant changes and the circumstances surrounding the decision to dissolve the AMIA Unit caution us. But, in any case, there is an open opportunity to move forward with a new and more sophisticated approach and to address some of the long neglected aspects of the case.

b. What is missing and how could the government help

In 18 years, the government failed to promote any truth-seeking processes through non-judicial bodies. In September 1996, Congress created an inquiry commission which interviewed many of the case main figures and authorities, but its objective was only to keep track of what was going on with the investigation⁷⁷, its three reports about the case were never made public and some of its members were accused of failing to report Galeano's crimes⁷⁸. The only attempt at truth seeking was the 2013 Memorandum which was controversial and widely rejected, later declared unconstitutional and resulted in new allegations of tampering and criminal charges against its proponents. As a result, of this lack of initiative many pressing questions about the attack and what happened during its initial investigation remain unanswered and there is no common account of many sensitive issues.

So, the question is what can be done about it today? In recent years, there were several frustrated attempts to establish a truth commission⁷⁹. For this reason, my proposal is more modest in its reach, replicates some successful experiences and, in the best of scenarios, would only require an understanding between the government, the prosecutors and the victim's organizations. Basically, I argue that the government should take a more active role in the survey of the Intelligence Agency archive which was put at the prosecutor's disposal in 2015 and that the objective of locating useful evidence for the investigation should coexist with a truth-seeking effort that ought to include the publication of all the content that no longer needs to be secret and the incorporation of these documents to the National Memory Archive.

First, the need for the government's collaboration with this effort is indisputable. In March 2015, the President declassified nearly 2,000 lineal meters of intelligence reports that were piled up in three deposits, heavily deteriorated and completely disorganized. Allegedly, this constituted the entire collection of materials linked to the AMIA investigation, but since then the Intelligence Agency has sent an additional 306 boxes of materials and there is no reassurance this won't happen again. The AMIA Prosecution Unit has repeatedly requested the Federal Intelligence Agency to provide a detailed report about the extent of the survey devoted to locating these documents, but received no answers. The attempts to find relevant information in other agencies archives were also indicative of poor record keeping.

⁷⁶ Rodrigo Uprinsky Yepes and María Paula Saffon, Verdad judicial y verdades extrajudiciales: la búsqueda de una complementariedad dinámica, p. 23 https://www.dejusticia.org/wp-content/uploads/2017/04/fi_name_recurso_39.pdf?x54537

⁷⁷ Comisión Bicameral Especial Seguimiento de la Investigación para el Esclarecimiento de los Atentados contra la Embajada de Israel y la A.M.I.A., <http://webcache.googleusercontent.com/search?q=cache:nb0HiUYnlm0J:www.senado.gob.ar/parlamentario/comisiones/info/330&hl=en&gl=ar&strip=1&vwsr=0>

⁷⁸ Report Observation by Dean Claudio Grossman International Observer of the IACHR during the Trial about the Israeli-Argentine Mutual Association (AMIA), La Comisión Bicameral, <https://www2.jus.gov.ar/amia/grossman/La%20Comision%20Bicameral.pdf>.

⁷⁹ AMIA: presentan proyecto para crear comisión investigadora, Ambito.com, Sep. 27, 2016, <https://www.ambito.com/amia-presentan-proyecto-crear-comision-investigadora-n3956615>, and AMIA: Gobierno y diputados analizan crear una Comisión Investigadora, <https://www.ambito.com/amia-gobierno-y-diputados-analizan-crear-una-comision-investigadora-n3926431>.

In June 2015, the Attorney General created a task force to restore, organize and survey these archives and to search for potentially useful information. This task force currently employs around 15 people and has been working on these files for more than 3 years now. But there is no official time estimate as when will the work be completed and the progress reports published by the prosecutors suggest that it may take at least a few years. These reports also show that the intelligence agency has been unable or unwilling to provide basic information about these files and that the government's contribution with this effort has been very limited. Both the intelligence agency and the AMIA Special Unit were basically in charge of safeguarding the archive. In sum, without additional resources this task will undoubtedly be finished to late and contribute too little to our public understanding.

Second, there are several successful experiences of collaboration between the government and the judicial authorities. In 2011, a task force created by Ministry of Foreign Affairs located, declassified and published hundreds of documents related to the dictatorship illegal activity⁸⁰. In 2012, the President declassified the Rattenbach report and created a task force to redact all information that could compromise national security or the nation's foreign relations⁸¹. Shortly, after a slightly redacted version was published online⁸². This same task force's work allowed for the declassification of documents related to the South Atlantic conflict⁸³. Most of the information was made available to the public and even files that contained sensitive information could be accessed after under certain terms and conditions. In 2014, the Ministry of Social Development surveyed 82,000 documents and located 196 adoption files that were used to further the investigation on the illegal appropriations of children during the military dictatorship⁸⁴.

Finally, there are reasons to believe that an agreement is possible and attainable. The resistance presented by some of the victims organization's to the involvement of the AMIA Unit was, at least, partly motivated by the lack of a proper explanation about the initiatives content and objectives and the distrust it created. The AMIA Unit already had access to tons of declassified documents and its will to play a larger role, without providing any details as to how they were planning to work, what kind of team were they planning on building and what was the main objective they would pursue, raised legitimate concerns that were not properly answered by the authorities. We can only assume that a more detailed plan and an effort to address their concerns would produce a different outcome.

However, some of the mentioned experiences suggest that the government could move forward by itself if it chose to focus on particularly relevant reports. We don't know much about what's in the archives, but we do know that in 2003 the Intelligence Agency prepared an extensive report on the international connection of the attack for the judicial authorities which allegedly played a large role in the investigation⁸⁵. In fact, in 2017, the prosecutors asked the Intelligence Agency to authorize its

⁸⁰ Silvina Segundo, "Archivos: Memoria y Acceso a la Información"; http://conti.derhuman.jus.gov.ar/2018/01/seminario/mesa_22/segundo_mesa_22.pdf, 4-5; Ministry of Foreign Affairs, Res. 239/2014, <http://desclasificacion.cancilleria.gob.ar/desclasificacion-2014>; Ministry of Foreign Affairs, Res. 408/2009 <http://desclasificacion.cancilleria.gob.ar/desclasificacion-2009>; Ministry of Foreign Affairs, Res. 103/2011, <http://desclasificacion.cancilleria.gob.ar/desclasificacion-2011>.

⁸¹ Decree No. 200/12, Arts. 1 and 2, B.O. Feb. 8, 2012 (Arg.), <http://servicios.infoleg.gob.ar/infolegInternet/anexos/190000-194999/193911/norma.htm>.

⁸² Decree No. 431/2012, B.O. Mar. 23, 2012 (Arg.), <http://servicios.infoleg.gob.ar/infolegInternet/anexos/195000-199999/195440/norma.htm>

⁸³ Decree No. 503/2015, B.O. Apr. 6, 2015 (Arg.), <http://servicios.infoleg.gob.ar/infolegInternet/anexos/245000-249999/245527/norma.htm>.

⁸⁴ Abuelas recibió 196 legajos de adopciones hechas durante la dictadura, Aug. 4, 2014, InfojusNoticias.gov.ar, <http://www.infojusnoticias.gov.ar/nacionales/abuelas-recibio-196-legajos-de-adopciones-hechas-durante-la-dictadura-5097.html>

⁸⁵ Unidad Fiscal AMIA, El Proceso de desclasificación de información reservada o secreta sobre el atentado de 1994 y su encubrimiento. Actualización, Jul. 2017, p. 16, https://www.fiscales.gob.ar/wp-content/uploads/2017/07/amia-desclasificacion-archivos_julio.pdf.

publication and public dissemination⁸⁶. A gesture like this could help boost the government's credibility and set the stage for a more ambitious course of action.

c. What could be achieved by this?

Some of the AMIA case distinctive traits suggest these measures would be particularly important. First, since 1997, the investigations credibility it's at stake and many alternative versions about what happened coexist. Even today, fundamental aspects such as how the attack was committed are publicly questioned by journalist, victim's organizations and even by the AMIA Units last director, Mario Cimadevilla, who published a report where he argued that the investigation had "eluded some of the fundamental analytical steps that should be followed in these types of events⁸⁷" and hypothesis such as the placing of an explosive charge inside the AMIA headquarters or of a construction dumpster that was located right outside its doorstep the morning of the attack or the use of various explosive devices, should be re-examined⁸⁸.

These debates don't stop there and they also include other aspects of the investigation, such as the objective pursued by the payment to Telleldín, whether or not a local connection existed or why the monitoring around some the suspect's activities failed to prevent the attack. The several judicial proceedings that were meant to provide answers have failed to put an end to this. The secrecy of both the judicial proceedings and the archives of the intelligence and law enforcement agencies only feed the proliferation of different accounts of the events that cannot be fact-checked accordingly and shaped a public debate that is characterized by the information asymmetry between those who have access to these documents and the other primary sources of information and those who don't and rely only on secondary sources.

Access to these documents is restricted to the investigators and the parties in the criminal cases. Its dissemination is expressly prohibited and they can only be used for the purpose of furthering the investigations. Argentine law does not contain automatic declassification provisions, although since 2015 it requires the passage of a minimum of 15 years. Experience suggests that the Intelligence Agency is unlikely to take the initiative. Since 2016 Argentine law establishes that access to information requests linked to crimes against humanity or gross human rights violations cannot be refused, but this regulation hasn't been fully implemented or examined by the courts yet and the volume, disorder and total lack of information about these files makes individual requests unlikely to obtain relevant information.

This lack of official information about the cases has favored the continuity of many of the institutional flaws that made the abuses and crimes possible and set a limit the victim's attempts to transform their experience and suffering into more generalized demands. Unlike many other tragic episodes in the Argentine public life, the AMIA headquarters' bombing and the failure of its first investigation were not followed by significant institutional reforms and resulted almost exclusively in criminal and disciplinary proceedings that, in many cases, also failed to produce results. To mention a few examples, the intelligence and law enforcement agencies and the judiciary remained practically the

⁸⁶ Unidad Fiscal AMIA, El Proceso de desclasificación de información reservada o secreta sobre el atentado de 1994 y su encubrimiento. Actualización, Jul. 2017, p. 17, https://www.fiscales.gob.ar/wp-content/uploads/2017/07/amia-desclasificacion-archivos_julio.pdf.

⁸⁷ Mario Cimadevilla, Informe de disolución de la Unidad Especial de Investigación AMIA, p. 27, <https://www.slideshare.net/cesanz1/amia-informe-final>

⁸⁸ Mario Cimadevilla, Informe de disolución de la Unidad Especial de Investigación AMIA, p. 28, <https://www.slideshare.net/cesanz1/amia-informe-final>.

same at least until 2015⁸⁹ and even then some the changes that were introduced were rapidly suspended or reversed⁹⁰.

Summarizing, all these circumstances suggest that the implementation of some sort of non-judicial truth-seeking mechanisms and the public dissemination and preservation of documents and information about the cases would be highly beneficial to further our understanding and to create a common account of these tragic events. Until now, the public conversation about the AMIA case has been monopolized by few agencies and characters. Only these types of initiatives can provide us with the resources that we need to engage in a deeper and more meaningful conversation about the subject and will allow the non-institutional social mechanisms to enrich our narrative of the past events with all the political, social and cultural aspects that are intertwined with them⁹¹.

Publishing and making these materials accessible to the public is also necessary to stimulate public debate about these events and, mainly, about what needs to be done to prevent history from repeating itself. As stated by the Inter American Court of Human Rights, preventive measures and guarantees of non-recurrence begin with the revelation and acknowledgement of the atrocities of the past⁹². A more intense scrutiny over the past activity of intelligence and law enforcement agencies could help us to raise awareness about some of the system's past and present problems and reinvigorate the victim's demands and the institutional reform agenda that build up around the case.

Finally, allowing the public to access at least some of the evidence that supports both the indictments against the alleged perpetrators of the attack and to abandon other potential leads could help the investigation to regain some measure of credibility and a deeper discussion about the strengths and weaknesses of each one the hypothesis that to this day are publicly presented as plausible. Initiatives such as allowing the suspects to be tried in absentia share this same premise, but are slower, more costly and have a more limited scope which is determined by the content of the indictments. In some cases this might lead to disappointing conclusions, but the current silence around the investigation only feeds mistrust and speculation.

In the end, making the archive public and playing an active role in reconstructing what happened, outside the judicial logic, is necessary to allow many other things to happen and could bring us closer to a new scenario that might not meet our expectations but is unquestionably superior.

VI. Conclusion

In an interview he gave in 2007, Alejandro Slokar stated that the government was leading an "unprecedented effort" to bring justice to the victims of the dictatorship's crimes against humanity and the victims of international terrorism⁹³, and highlighted that the same federal judge, Ariel Lijo, was in charge of both the AMIA II and 601 Battalion cases, a particularly important criminal investigation of the crimes against humanity committed during the military dictatorship⁹⁴, suggesting that there were connections and a unique approach to both proceedings. Ten years later, however,

⁸⁹ Decree No. 1311/2015, B.O. Jul. 7, 2015 (Arg.), <http://servicios.infoleg.gob.ar/infolegInternet/anexos/245000-249999/248914/norma.htm>.

⁹⁰ Decree No. 656/2016, B.O. May. 9, 2016 (Arg.), <http://servicios.infoleg.gob.ar/infolegInternet/anexos/260000-264999/261157/norma.htm>.

⁹¹ Rodrigo Uprinsky Yepes and María Paula Saffon, Verdad judicial y verdades extrajudiciales: la búsqueda de una complementariedad dinámica, p. 12 https://www.dejusticia.org/wp-content/uploads/2017/04/fi_name_recurso_39.pdf?x54537.

⁹² Inter-American Court of Human Rights, case of "Bámaca Velásquez et al. v. Guatemala," February 22, 2001, paragraph 76–7.

⁹³ Sebastián Abrevaya, "Nisman tiene luz verde de Interpol", Página 12, Jul. 15, 2007, <https://www.pagina12.com.ar/diario/elpais/1-88165-2007-07-15.html>.

⁹⁴ Sebastián Abrevaya, "Nisman tiene luz verde de Interpol", Página 12, Jul. 15, 2007, <https://www.pagina12.com.ar/diario/elpais/1-88165-2007-07-15.html>.

Laura Ginsberg from APEMIA was invited to a talk organized by the University of Buenos Aires Law School Human Rights Center and started by saying it was the first time she participated in an event where the AMIA bombing was referred to as a “human rights problem” and that they were still trying to get around the refusal of referring to the case in those terms⁹⁵.

So, is the AMIA case a “missing link” between the military dictatorship crimes against humanity and today’s impunity, as Ginsberg suggests? Or were both processes handled the same with, understandably, different results? An overview of the history of the AMIA Unit suggests that while some of the transitional justice toolkit was applied to the case, for many years the government was almost exclusively concerned with the criminal justice aspect and, in some key moments, failed to commit to tasks, such as the survey of the Intelligence Agency archive, that could have broadened its perspective or helped recognize that there was something more to be done for the victims after acknowledging the Argentine State responsibility, offering reparations and making those responsible of tampering with the first investigation stand trial.

Nearly 25 years after the attack, we can appreciate the shortcomings of this strategy and the problems of relying on the criminal justice system to guarantee the victims right to truth. In fact, today we only have a fragmentary account of the events that is mainly concerned with its legally relevant aspects and is still very much in dispute. The possibility of conducting truth-seeking efforts through non-judicial institutions was only briefly entertained during a time where the government had a strenuous relationship with the Intelligence Agency, which to this day remains without any serious external oversight and has never been held accountable for its failure to prevent the attacks, their many flaws in the investigation and the crimes it helped to commit.

In this context, it’s rather difficult to consider the dissolution of the AMIA Unit as good news, but nevertheless the involvement of new agencies was needed and could help jumpstart a new era with a wider focus. Nearly a year after this decision, we must once again stress the importance of the ongoing survey and the unique chance it gives the government to settle some of its many debts with victims, family members and society in general. The preservation of the Intelligence Agency’s archive, the public dissemination of as much of its content as possible and ensuring its accessibility are necessary steps to correct some past mistakes and might also help us look ahead more clearly.

Without renouncing to our aspirations, nor abandoning the quest for alternatives to overcome the obstacles historically faced by the investigation, it’s time to start thinking in terms of what is within our immediate reach and what can we offer victims here and now. Only the truth can help the victims find some closure.

⁹⁵ Encuentro de Derechos Humanos con Laura Ginsberg, *Derecho al día*, year XVI, ed. 290, Sep. 7, 2017, <http://www.derecho.uba.ar/derechoaldia/tapa/encuentro-de-derechos-humanos-con-laura-ginsberg/+6763>.