

KEYNOTE ADDRESS: INTER-AMERICAN COMMISSION ON HUMAN RIGHTS' OBSERVER AT THE AMIA BOMBING TRIAL¹

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1. The facts in this Keynote Address are derived from the personal memories and experiences gained by Dean Claudio Grossman before, during, and after the AMIA attack. All of the details regarding the AMIA investigation may be found in the following source, which provides the relevant citations to the trial record.

Claudio Grossman, *Informe de decano Claudio Grossman Observador Internacional de la Comision Interamericana de Derechos Humanos en el Juicio de la AMIA* (Feb. 22, 2005), <https://www2.jus.gov.ar/amia/grossman.htm>.

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Remarks

I. INTRODUCTION

2018 marked the 25th anniversary of the AMIA bombing. It is a sad anniversary. Memoria Activa presented the case to the Inter-American Commission on Human Rights in 1999, and now, 25 years later, its perpetrators remain at large. What mattered then, and now, is bringing those responsible to justice.

II. THE DECISION TO OBSERVE THE TRIAL AND THE SCOPE OF THE OBSERVATION

Initially, when Memoria Activa brought the case to the Commission, there was a discussion in the Commission regarding the appointment of an observer. The Commission had observed situations in the past, investigating and issuing reports establishing the responsibility of States. Because of the mass and gross violations of human rights committed by dictatorial regimes in the Americas, the Commission had resorted to country reports as a preferred mechanism to expose the magnitude and character of those violations. On occasion, the Commission's reports were preceded by an observation in loco. In other occasions, such as in the absence of an authorization to enter a country, reports were preceded by extensive interviews and research done with victims, international civil servants, NGO's, and the public in general.

The AMIA observation was different because it would not lead to a report on the overall human rights situation in Argentina; instead, the Commission would be restricted to observing a case. I had acted before as an observer for the Commission in other situations with the aim of investigating a single event and drawing conclusions based on the facts available. For instance, I was appointed to be an observer following the "Massacre of Navidad" in Bolivia, where the Bolivian police killed 11 miners after they resisted the sale of a goldmine. Additionally, all of us in the Commission had visited dozens of jails. But, observing a case is

different. For instance, no conclusions are drawn or made public during the observation and the observers do not control the procedure. In spite of these differences, and the lack of specific institutional precedents, we decided to observe this case because of an important principle in human rights law – the principle that the requests of victims should be honored as far as possible. In classic international law, an ambiguous provision in a treaty is interpreted in favor of state sovereignty. This is not the case in human rights law. Here, when you have a doubt, treaties are interpreted in favor of human beings, and in light of their object and purpose. So, in August 2000, while I was President of the Commission, I was appointed to serve as the observer for the case. Both the petitioners and the Government agreed to my appointment.

Once the decision was made to appoint an observer, the next issue became determining the scope of the observation. According to the initial position of the government of Argentina, the observation should have been restricted solely to the trial. Instead, I suggested that we look at the trial and everything relevant to the terrorist attack against the AMIA. We did not want to narrow the scope of our observation solely to the determination of whether the trial was fair. If the analysis would have stopped there, the Commission would not have been in the position to elaborate further, including commenting on topics related to the broader context of the case and on what transpired from it. It would not have been able to make recommendations concerning follow-up and so forth. To the credit of the Argentine government, it did not object to our “counteroffer”, and we leapt at the opportunity.

III. PRESENCE IN ARGENTINA

The Commission wanted to ensure that the observation covered every matter that could be relevant to the success of its mission. To achieve that goal, it was essential to have a permanent presence in the country, so our observation would not be restricted by the schedule of the trial. That required having a fulltime person in the country during those three years, in addition to having me attend as many sessions of the trial as possible. It also required interviewing relevant actors, including victims, journalists, government officials, NGO members, and academics. We also had to examine records contained in 600 books, which were 200 pages each, plus other editions that were more or less the same length.

(While the Commission was not able to read all of them, we were able to assess the professionalism and quality of the work). Since I was the Dean of a law school at the time, and could not attend some of the sessions, we hired an excellent individual, Maria Lusto, to be there on the ground fulltime. I visited Argentina more than twelve times during this period, sometimes for a week or more, and used the phone, internet, and all means available to aid the endeavor.

IV. REALITY AND APPEARANCE OF INDEPENDENCE

The Commission not only needed to act independently, but also to appear independent and above any influence that would interfere with it performing its mission to produce an “objective” report. In accordance with the famous proverb, the wife of Caesar not only needs to be, but also needs to appear to be, above any suspicion. This meant, for example, that the Commission needed to abstain from making any statement during the trial. This was not easy because the case attracted both domestic and international attention, and there were numerous requests for interviews and comments. It was very important to understand, however, that the success of the mission depended on its objectivity. This required overseeing the whole trial without prejudging any outcome until the end of the mission, while supporting those internal actors involved in the case with our presence and conduct. The judges needed the additional political space created by the observation of the Commission to make their decisions and to satisfy their duty to uphold the high standards for judicial independence established by the American Convention.

We came to the conclusion that the three judges of the tribunal in charge of the trial, Guillermo Andrejo Gordo, Gerardo Felipe Larrambère, and Miguel Nigel Pons, performed their functions with professionalism and integrity and exemplified what it meant to be competent judges. They were not influenced politically, and they took the role of the judiciary in determining the truth very seriously. As the world was watching Buenos Aires through our eyes, the presence in situ of the Commission gave them additional support.

These judges deserved recognition because they dismantled a conspiracy that came from the highest echelons of the political establishment in Argentina. Had it not been for them, the

policemen who were accused would likely have been indicted, and the cover-up would have been successful.

V. THE TRIAL

Concerning the trial itself, let me start with the compelling testimony of some witnesses. I will never forget the testimony of two female witnesses, one of whom also survived the Second World War. The first woman was walking her little dog in front of the AMIA right before the explosion. She knelt down to pick up her dog as the AMIA exploded, and this act saved her life. The second woman was taking her young son to the doctor, but she stopped to look in a store along the way. As a result, she and her son were in front of the AMIA when the terrorist attack took place. Her son died as a result of the explosion, and she blamed herself for deciding to stop at the store. The experiences of these women illustrate the fleeting nature of existence and how lives can be arbitrarily lost. As these testimonies took place in the beginning of the trial, they were grim reminders of the multiple impacts and dimensions of the tragedy caused by the attack.

A. Failure to Prevent

Very early on, we recognized issues with the investigation, including the failure of the Argentinian State to prevent the bombing. Among other indications, we learned in the trial that there were warnings in cables from the Argentinian embassies in Lebanon and Israel mentioning that an attack would take place, but the State did not adequately respond to these warnings. Additionally, there were two policemen in a parked car in front of the AMIA, but the car's engine was not working. One of the policemen was not even in position – he was drinking coffee somewhere else. There were multiple indications of an absolute failure to take appropriate measures of prevention, compounded by the fact that two years earlier, a terrorist attack against the embassy of Israel in Argentina had killed 30 people and wounded over 80.

B. Irregularities in the Investigation

Irregularities in the investigation were also apparent early on and continued to develop throughout our observation. First, there

were reports of a mysterious helicopter that appeared the night before the attack. Numerous witnesses saw the helicopter over the AMIA, but the prosecution did not look into these reports early on. It was also known that a construction container in front of the AMIA, which belonged to a businessman who imported the same explosive that destroyed the AMIA, was removed shortly before the attack. The owner's records showed that he could not account for those explosives.

There were also serious issues with gathering evidence in a timely manner. In my experience being on the Commission to Control INTERPOL's Files for eight years, investigations need to begin immediately, otherwise, evidence is lost. You need to do everything possible to preserve evidence. In the trial, it was shown that telephonic records were not requested until years later, which only hindered proper investigation and gave time for the perpetrators to hide additional evidence. For instance, there was a record of a call by Kanoore Edul to Telleldín, the car thief who sold the Renault Traffic van used in the attack. But, when he was asked a couple years later what had happened and why he had called the car thief, he said that it had been his driver. The driver, however, responded that it was not him because he was hospitalized at the time. Crimes of this nature are not committed in the presence of a notary public. Rather, they are conspiracies where those involved try to erase all evidence of their participation. An effective prosecution acts promptly, investigating all possible routes and moving with determination and speed. To the contrary, the delays, inefficiencies, and lack of commitment in the AMIA prosecution make it a poster child for how a prosecution should not take place.

C. Questioning Witnesses and Suspects

There were also serious and unacceptable issues when it came to questioning witnesses and suspects. For instance, the authorities allowed Mose Ravani, the cultural attaché of the Iranian embassy, to leave Argentina, even though the Intelligence service in Argentina possessed a photo showing Ravani attempting to buy a vehicle similar to the one used in the terrorist attack. While absolute immunity exists for some diplomats, Ravani was not entitled to such immunity. The authorities needed to question him, but did not. There were many other examples of inexcusable omissions, but we simply do not have time to cover them all. Let

me mention just one that caught my attention. On the 4th of April 1994, an Iranian national attempted to leave the country through the Argentinean international airport in Ezeiza using a North American passport that was not his, which is extremely suspicious. He was caught and placed at the disposition of the Argentinean authorities. Then, on July 11th, one week before the attack, he requested authorization to leave the country and return to Iran; his request was granted on July 25th, one week after the terrorist attack – how is that possible?

D. The Finding of the Motor

Even considering the unacceptable actions by the authorities mentioned above, perhaps the most suspicious behavior is related to the handling of the vehicle motor after the attack. The signed affidavits of two witnesses show that the motor was discovered almost immediately after the bombing. However, in the oral trial, the witnesses testified that they did not discover the motor and that they were ordered to sign the affidavits. Only later in the trial did it become apparent that the people who discovered the motor were part of an Israeli group sent to assist in the investigation. Experienced in investigations, they photographed the motor and provided credible evidence of the date and location of their discovery. The mystery is that it seems that the Israelis discovered the motor *after* the police had gone to pick up Telleldín, the car thief who was responsible for selling the vehicle used in the terrorist attack. If the motor was not discovered until after Telleldín was detained, then why did the police seek him out? That would have been enough to raise tremendous doubts about the integrity of the investigation, but there is another very important piece of evidence regarding Telleldín that erases any remaining doubt.

E. Destruction of Evidence

When the Buenos Aires police went to Telleldín's house to try to convince him to surrender, he was not there because he had escaped to a town near Paraguay. The officers then phoned Telleldín to convince him to come back and surrender. Sixty-six tapes of those conversations were made, and those tapes, which were crucial, *inter alia*, to analyze his motives and the reasons for his surrender, mysteriously disappeared. We have no idea what

Telleldín said. The destruction of evidence is always a serious matter.

However, there were still other issues, especially concerning the behavior of judge Galeano. A missing video showed Galeano and an assistant offering \$400,000 to Telleldín to implicate the police of a precinct in Buenos Aires as the authors of the terrorist attack. When the policemen were indicted, their lawyer went to Galeano and asked to meet with him alone to show him a copy of the video – in spite of early confessions by Telleldín implicating three middle eastern individuals and then a central American. Following the meeting, the video went missing and the Judge ordered the detention of the lawyer, who was jailed for 40 days. A commission of Congress supported the Judge’s decision, and the executive did as well. They claimed this was all a conspiracy to blackmail the Judge and that the video was not available because it had been stolen.

F. Parallel Investigations and the Absence of a Credible Narrative

Judge Galeano also opened “parallel investigations” to undermine the original purpose of his appointment to identify and prosecute those guilty of committing the terrorist attack. These detours appeared to be solely designed to avoid disclosing information and to consume resources that would have been better used going after credible evidence. The indictment of the police officers, as shown by the video where judge Galeano bribed Telleldín to change its testimony, would be enough to show the questionable behavior of Judge Galeano. Additionally, during the first two years that followed the attack, there was no evidence concerning the involvement of the indicted policemen. Later, based on Telleldín’s testimony and the testimony of a witness with strong connections to the security services in Argentina who was given access to Telleldín under the false pretext of been his relative, it was alleged that the police had blackmailed Telleldín in the past regarding his “business” of stealing cars. These circumstances gave support to the opinion that the indictment of the policemen was a way to uphold an appearance of investigating the attack without going after the States that appeared directly involved in the attack, namely Hezbollah, Syria, and Iran.

It was never probed or argued why Hezbollah would risk asking corrupt policemen in Buenos Aires to be directly involved in the terrorist attack. Little or no research was done on a

persuasive motive behind this “internal connection”. The police were obviously corrupt, but at the same time, it appeared that the authorities decided not to confront Iran, Syria, or Lebanon. Was it a political calculation based on an analysis of the position of Argentina and its interests in the world, and specifically in those countries? Were the authorities concerned about further terrorist attacks following the two that had already taken place? Why did it take Argentina more than two years to request that INTERPOL issue red notices for the detention of the Iranian nationals allegedly involved in the attack? Why did the investigation fail to look seriously into the involvement of Syria?

VI. CONCLUSION

To the credit of Argentina and the judges in the trial, a “punto final” was not placed in the case, and a cover up was exposed. The President of Argentina at the time also fully accepted our report. However, our recommendations concerning a thorough investigation and legal changes concerning, *inter alia*, changes in the laws that regulate security matters, have not been implemented. The world received with horror the news of the killing of Alberto Nisman, the prosecutor appointed after Galeano, and criticized an attempted “agreement” with Iran, which would not have ensured justice in the case.

Allow me to finish my remarks by resorting to literature, which, as Milan Kundera says, shows with imagination the hidden aspects of reality. In the book, *La Fiesta del Chivo* by Mario Vargas Llosa, an individual, who lost the the favor of dictator Trujillo, attempted to regain that favor by giving his daughter to Trujillo to be raped. Notwithstanding the repulsiveness of the act, what was interesting to me was that the act appeared to be completely normal, or otherwise an entirely rational course of action. Surrendering his daughter is what he needed to do, so he did it. One cannot but notice that one of the worst consequences of dictatorship, and perhaps other forms of authoritarianism, is that a distortion of common sense occurs, and abhorrent and insane behavior becomes normal. Conspiracies, cover ups, and even assassinations have pervaded our observation of this case. From this perspective, the AMIA case is not just about the AMIA. It is about the possibility to strengthen and rebuild institutions so that such abhorrent behavior is not seen as a normal event. This will not be possible, however, until justice is served, the suspects of

this terrorist attack are tried, and full reparation is made to include truth, satisfaction, and measures of non-repetition.