



The Abdorrahman Boroumand Foundation

Terror in Buenos Aires

**The Islamic Republic's Forgotten
Crime Against Humanity**



A Report of the Abdorrahman Boroumand Foundation

by

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Promoting human rights and democracy in Iran

در دفاع از حقوق بشر و دموکراسی در ایران

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Executive Summary

On July 18, 1994, a van carrying 275 kilograms of explosives rammed into and detonated at the headquarters of the *Asociación Mutual Israelita Argentina* (“AMIA”) in Buenos Aires, Argentina. The blast demolished the building and surrounding areas, killing 85 people who were inside the building or walking nearby. 151 others were injured. AMIA, a Jewish mutual aid society, was at the heart of Jewish life in Buenos Aires, and the bombing marked the single largest attack on Jewish civilians since 1945. The bombing was not just a terrible act of murder or terrorism; it was a crime against humanity under international law. First utilized against German and Japanese military and political officials at the Nuremberg and Tokyo trials that followed World War II, crimes against humanity has become an essential element of the global fight against human rights atrocities. The concept is particularly valuable in a case which does not rise to the level of genocide or is not conducted in wartime, but whose systematic nature distinguishes it from a random or isolated act of brutality. The AMIA bombing was exactly such a case, with the resources and security apparatus of a powerful state engaged in the methodical killing of dozens of innocent civilians.

The bombing was orchestrated at the highest levels of the Islamic Republic of Iran. The events that led up to the bombing were set in motion at a secret meeting held in August of 1993 in the Iranian city of Mashhad. Present at the gathering were some of the highest officials of the Iranian government, including Supreme Leader Ali Khamenei, President Ali Akbar Rafsanjani, Foreign Minister Ali Velayati, and Intelligence Minister Ali Fallahian. Motivation for the bombing likely stemmed primarily out of a desire to punish Argentina for curtailing its nuclear cooperation with Iran. Additional factors were Argentina’s foreign policy turn towards the United States and the sense of impunity that resulted from the Argentine government’s muted response to the 1992 Israeli embassy bombing.

Operational responsibility for the attack was divided between the Intelligence Ministry and a special unit of the Revolutionary Guards. Mohsen Rabbani was the

Islamic Republic's point man in Argentina. Rabbani first came to Argentina in the early 1980s, using cover as a businessman, and then headed the Iranian-controlled al-Tawhid Mosque. The actual operation was carried out by members of Hezbollah, a Lebanese militia that was partly created and is funded by Iran. On July 1, 1994, three members of Hezbollah arrived at Buenos Aires's Ezeiza International Airport using forged European passports. The team was led by Imad Mugnieh, who before his death in 2006 was considered one of the world's most capable and wanted terrorists. A trail of phone calls traced the team to Foz de Iguazu, a Brazilian city in the Tri-Border Area that has a large population of Middle Eastern immigrants. Situated between Argentina, Brazil, and Paraguay, it is a generally lawless region with rampant smuggling and significant ties to terrorist groups. Rabbani acquired a Renault *Trafic*, with the assistance of two local Argentineans, a captain in the Federal Police who was in charge of the vehicle theft section and a car thief. The *Trafic* was then loaded with explosives and driven by Ibrahim Berro, a member of Hezbollah who perished in the attack.

The Argentine government's response to the bombing was tepid from the start. A range of political pressures, infighting within the investigative agencies, and a shortage of resources hampered the investigation. Further, the judge assigned to the case had no expertise on terrorism. Rather, he was simply on duty that day. Additionally, evidence was removed from the rubble without forensic analysis, key evidence was mishandled and lost, and key witnesses were ignored for years. The investigation picked up momentum in 1999 after *Memoria Activa*, a group representing relatives of the victims, pursued a case with the Inter-American Commission of Human Rights accusing the Argentine government of denying justice to the victims' families. The initial investigation finally collapsed in the fall of 2004, with the release of all suspects and the removal of Galleano himself, who was charged with corruption and misconduct. At the heart of the charges were allegations that Galleano had paid off witnesses, including Telledin. Though Iranian officials used this to discredit the entire investigation and proclaim the Islamic Republic innocent, a closer look clearly shows that the payoffs were designed to protect Argentina's intelligence services from scrutiny over its mishandling of the case and other unrelated misdeeds. A new investigation then commenced under

the direction of prosecutor Alberto Nisman. Benefiting from greater official support, Nisman's investigation was persuasive enough to convince INTERPOL in 2007 to issue international arrest warrants for six individuals, including Ali Fallahian and Mohsen Rezai, former commander of the Revolutionary Guards. (Nisman also indicted former Iranian president Rafsanjani but was unable to get INTERPOL to issue an arrest warrant for him.)

Often identified as an act of terrorism, the AMIA bombing should also be viewed as a crime against humanity. Though crimes against humanity are usually associated with armed conflicts, they are an essential component of evolving standards of behavior, as recognized by international law. Having originated in the aftermath of World War II, crimes against humanity played an important role in recent ad hoc tribunals for the conflicts in Rwanda and the former Yugoslavia. Additionally, the treaty governing the International Criminal Court has added substance and form to the doctrine. Under current law, a crime against humanity occurs when there are acts (1) such as murders, rapes, forcible transfers of population, or torture; (2) committed as part of a widespread or systematic attack; (3) directed against a civilian population; and (4) committed with knowledge of the attack. Given the Islamic Republic's record of politically-directed violence against anyone who either challenges or stands in the way of the clerical regime, the AMIA bombing was clearly a crime against humanity. In targeting innocent civilians abroad with mass violence, the leadership of the Islamic Republic has shown that its consistent and utter disregard for international human rights law is not limited to Iran and knows no borders.¹

¹ The author would like to acknowledge and thank several individuals and institutions: Dr. Roya Boroumand, without whose tireless encouragement, editing and support this report would never have been realized; Anne Manuel, for her translations of the investigative material; Isabel Ricupero, for her helpful comments; and *Memoria Activa* and *CEJIL*, for furnishing materials and sources. As always, any remaining errors or omissions are solely the author's responsibility.

I. Introduction

On 18 July 1994, a van packed with 275 kilograms of explosives rammed into the Buenos Aires headquarters of the [*Asociación Mutual Israelita Argentina*](#) (“AMIA”), a mutual aid society at the heart of the Argentine Jewish community. The explosion razed the building and damaged several surrounding structures, killing 85 and injuring 151, many of them passersby. The Argentine government immediately launched an investigation focusing on possible foreign links and collaborative domestic elements. Though the initial investigation became bogged down in allegations of incompetency and corruption, the evidence it, and a subsequent investigation, uncovered is indisputable: the AMIA bombing was planned at the highest level of the Islamic Republic of Iran and carried out by its diplomatic agents, in conjunction with operatives from Hezbollah. The bombing was in retaliation for Argentina’s decision to stop nuclear cooperation with Iran while also edging closer to the United States internationally. Though INTERPOL has issued red arrest warrants for six of the Iranians involved, none have yet been brought to trial.

II. The Bombing

A. Planning and Iran’s Role

Iran’s role in the AMIA bombing came into light during the investigation conducted by the Argentine government. This investigation, which took the better part of a decade, included physical evidence, interviews with dozens of witnesses, and transcripts from recorded conversations. Officially titled *Unidad Fiscal de Investigacion: AMIA* (Fiscal Investigation Unit: AMIA), it was the basis for INTERPOL’s decision to issue arrest warrants for the Iranian officials involved.² The plot to bomb the AMIA

² Headquartered in Lyons, France, INTERPOL (International Criminal Police Organization) helps facilitate cooperation among the law enforcement agencies of its member states. Though it has no formal powers of

building was hatched at a meeting that occurred in the afternoon of 14 August 1993 in Mashhad, Iran under the supervision of President Ali Akbar Rafsanjani.³ Also present were Supreme Leader Ali Khamenei, Foreign Minister Ali Akbar Velayati, and Intelligence Minister Ali Fallahian. These four men were members of the Special Affairs Committee (*Komitey-e Omour-e Vizheh*). Established in 1989, the Special Affairs Committee was charged with making decisions on “important matters of state”, including the neutralization of Iranian opposition groups abroad.⁴

The facts and circumstances surrounding the meeting were first brought to light by Abolghassem Mesbahi, a former Iranian intelligence official.⁵ The existence of the meeting was also corroborated by others. According to Reza Zakeri Kouchaksaraee, president of the Security and Intelligence Commission of the National Council of Resistance of Iran, “the decision [to carry out the bombing] was taken in the National Security Council in a meeting on 14 August 1993. That meeting took only two hours, beginning at 4:30 and ending at 6:30 pm.”⁶ Once the decision to carry out the bombing was made, Supreme Leader Khamenei issued a *fatwa* (religious order), with responsibility for carrying it out divided between Fallahian’s Intelligence Ministry and the *Quds* Force unit of the Iranian Revolutionary Guards Corps (*Sepah Pasdaran Eghaleb Islam-e*).⁷ The *Quds* Force unit was led by Ahmad Vahidi.⁸ According to one informant, Fallahian was put in charge because he was a “specialist” in that type of operation.⁹ Born in 1945 and educated in the religious city of Qom, Fallahian was an

arrest or enforcement, its Red 'Wanted Persons' Notices may be used by member states as legal grounds for the arrest and extradition of the named suspects.

³ “*Unidad Fiscal de Investigación: Causa Amia*”, 25 October 2006, *Ministerio Publico de la Nacion*. (Hereafter referred to as “*Causa Amia*”)

⁴ Iran Human Rights Documentation Center, *Murder at Mykonos: Anatomy of a Political Assassination* (New Haven, Connecticut, March 2007), 6.

⁵ Mesbahi, identified in court documents as Witness C, immigrated to Germany in 1996. Currently living under the protection of German authorities, Mesbahi is one of the most important high-level officials with intimate knowledge of the IRI’s foreign activities to have defected.

⁶ The National Council of Resistance of Iran (NCRI) is the political arm of the Iranian *Mojaheddin* (MKO), an armed dissident group. Though frequently accused of fabricating evidence against the Islamic Republic, it has also periodically provided first-rate information and intelligence regarding events in Iran. (e.g., it was the NCRI that first broke news of the Islamic Republic’s clandestine nuclear activities in 2002)

⁷ *Causa Amia*

⁸ The *Quds* (Jerusalem) Force is a secretive branch of the IRGC that is responsible for extra-territorial activities of the Revolutionary Guards. They are suspected of having trained and aided Hezbollah in Lebanon, Hamas and Islamic Jihad in the Palestinian Territories, and anti-US insurgents in Iraq.

⁹ Fallahian has also been implicated in the Mykonos murders. See text accompanying note 134.

ardent and early supporter of Khomeini who, as a religious magistrate, earned a reputation as a hanging judge for his enthusiasm in handing out death sentences in the early years of the revolution.¹⁰ Aside from his role in killings abroad, he has also been connected to a series of domestic political murders in 1998 that targeted intellectuals close to President Mohamed Khatami.¹¹

The work on the ground in Argentina was handled by two separate groups, Iranian diplomats and agents and Hezbollah operatives. Iran's point man in Buenos Aires was Mohsen Rabbani. He was the only one in Argentina with complete knowledge of the plan and was in charge of local logistics (e.g., procurement of the vehicle, cell phones, explosives, and routes of escape). Various descriptions of him being born either 23 January 1952 or 23 January 1957, Rabbani studied under Ayatollah Mohammad Milani in Mashhad before going on to further training in Qom¹². He arrived in Argentina on August 27, 1983 under a tourist visa. It was his first assignment outside of Iran and his task was to exploit any opportunities to spread the Islamic Revolution. His visa was eventually turned into permanent residency as Rabbani took cover as a businessman. His front company was called South Beef and purported to export Argentine beef to Iran.¹³ In reality, it served as a cover for the illicit trafficking of arms and other supplies and the issuance of false identity papers to person entering Argentina.¹⁴ After a few years, Rabbani became a religious leader, and eventually "sheikh", at the al-Tahwid Mosque. He was finally appointed as cultural attaché in the spring of 1994. One of the more intriguing details to emerge from the AMIA investigation was the account of Rabbani's official position. Though he was Iran's agent in Argentina for eleven years and ranked second only to the ambassador in importance, he was granted diplomatic status (and the immunity that attaches to it) only three months before the bombing, becoming cultural attaché in March 1994.

¹⁰ Thomas Sancton, "The Tehran Connection," *Time Magazine*, 21 March 1994.

¹¹ Christopher De Bellaigue, "Cleric's Campaign Has Been Dogged by Murder Claims," *The Independent* (London), 1 June 2001.

¹² *Causa Amia*

¹³ *Ibid.*

¹⁴ *Ibid.*

Rabbani was assisted by Ahmad Asghari, who was charged with activating Iran's local network. Born on 11 July 1961, Asghari (alias Mohsen Randjbaran) was the 3rd Secretary at the Iranian Embassy in Buenos Aires from 11 July 1989 until 23 July 1994. He was considered the right-hand man to Ambassador Hadi Soleimanpour. Prior to becoming a diplomat, Asghari was a member of the Revolution Guards.¹⁵ He attended the Imam Ali Military Academy in Iran and was employed as the sub-director of a front company operated by the IRGC.¹⁶ Asghari had been stationed in Frankfurt, Germany before coming to Argentina.

The group that Iran used in carrying out its plan, Hezbollah, has become almost synonymous with the violence and terrorism that has gripped the Middle East. During the past quarter-century, it has gradually transformed itself from an obscure participant in Lebanon's civil war to perhaps the most powerful force in the country, a virtual state-within-a-state. Though it has been shrouded in a great deal of mythology and secrecy, much is known. Hezbollah was created in the aftermath of the political upheavals that roiled Lebanon, especially its Shi'a community, in the late 1970s and early 1980s. The main catalyst was the 1982 Israeli invasion. Although that year has often been marked as the official birth of Hezbollah, this is not strictly true, for in its first few years, "it was less an organization than a cabal."¹⁷ Though Syria and Iran have both claimed credit for its creation, the latter played a more important role in the growth of Hezbollah into a full-fledged militia.

For Iran, Hezbollah was an ideal vessel through which to spread its Islamic Revolution. Iran sent Revolution Guards to help train Hezbollah in its stronghold in Lebanon's Bekaa Valley. In turn, Hezbollah acted as a proxy for Iranian interests in Lebanon. Hezbollah was behind the high-profile kidnappings of Western hostages that plagued Beirut in the late 1980s.¹⁸ Moreover, Hezbollah took part in the suicide bomb

¹⁵ Ibid.

¹⁶ Imam Ali Military Academy is known as a training ground for the IRGC, *Quds* Force, and the Ministry of Intelligence.

¹⁷ Augustus Richard Norton, *Hezbollah: A Short History*, Princeton 2007, p. 34.

¹⁸ Magnus Ranstorp, *Hizb'allah in Lebanon: The Politics of the Western Hostage Crisis*, Palgrave McMillan (1997), pp. 91-105.

attacks that destroyed the French and American barracks on October 23, 1983.¹⁹ Those bombings, which heralded Hezbollah's entrance onto the world stage was, were facilitated by "massive material and technical support from the Iranian government."²⁰ The suicide truck was driven, in fact, by Ismalal Ascari, an Iranian national.²¹ The Islamic Republic was not bashful about its role in the bombing. A few years later, Mohsen Rafiqdoost, a top official in the IRGC, boasted that "the United States knows that both the ideology and the TNT that, in one blow, sent four hundred marines and officers to hell had come from Iran. This is very clear to the United States."²² Besides training, Iran has supported the group with financial and military aid. Iran is estimated to have funded Hezbollah to the tune of \$100 million a year.²³ It has also supplied it with a wide assortment of weapons.²⁴

Hezbollah has also been useful for Syria in its conflict with Israel. Because of Syrian weakness vis-à-vis Israel in the conventional military realm, Hezbollah activities against Israel in southern Lebanon were essential to Damascus when it desired to ratchet up the pressure on Israel without resorting to war. Additionally, because of its physical proximity and its role as a conduit for arms and other supplies from Iran (which does not share a border with Lebanon), Syria has always had an operational veto on Hezbollah's activities.²⁵ Therefore, any significant Hezbollah operation (especially one outside of Lebanon) must have at least the tacit approval of the regime in Damascus.

B. The Preparations

On 1 July 1994, three members of Hezbollah, Imad Mugnieh, Ibrahim Hussein Berro and Abu Mohamed Yassin, entered Argentina through Ezeiza International Airport

¹⁹ Ibid., 90.

²⁰ *Peterson v. Iran*, 264 F. Supp. 2d 46, 33 (2003 U.S. District Court).

²¹ Ibid., 27.

²² *Resalat*, 20 July 1987, 8.

²³ Nathan Vardi, "Hezbollah's Hoard," *Forbes*, 14 August 2006.

²⁴ Anthony Cordesman, "Iran's Support of the Hezbollah in Lebanon", CSIS Publication, 15 July 2006. Hezbollah has received short-range Katyusha rockets, longer-range artillery rockets, man-portable anti-tank missiles, mortars, and even sophisticated anti-ship cruise missiles.

²⁵ Daniel Byman, "Should Hezbollah Be Next", *Foreign Affairs*, November/December 2003.

outside of Buenos Aires.²⁶ Argentine investigators believe that the three men entered Argentina with false European (possibly Greek) passports.²⁷ One of the most important clues picked up by investigators was a trail of phone calls. Shortly after landing, someone from the operational team used a public telephone at the airport at 10:53 am.²⁸ Another call, from a different phone in the airport, was made at 12:18 pm. Both calls were made to the same cell phone in Foz de Iguazu. The third call was made at 5:21 pm from an apartment at 707 Avenue Corrientes in Buenos Aires. The fourth call was made at 5:27 pm from a different phone line at the same address. At 5:36 pm, a call was made from the same address to a number in Beirut, Lebanon identified as the headquarters of Hezbollah. At 9:28 am on July 8, another call was made from 707 Avenue Corrientes to the cell phone in Foz de Iguazu. Following the end of that call, over 20 calls were made to Hezbollah-connected phone numbers in Lebanon in a period of 19 minutes. The cell phone in Foz de Iguazu was registered to an André Marques and was never used after 18 July 1994.

The calls to Foz de Iguazu are particularly significant. Located in the southern Brazilian state of Paraná, Foz de Iguazu is the largest city in the Tri-Border Area. Situated at the point where Argentina, Brazil, and Paraguay meet, the Tri-Border Area has become notorious for its rampant smuggling, criminal activity and lax border controls.²⁹ The heterogeneous city boasts large numbers of Chinese, Lebanese, Syrians, Paraguayans, Argentines, Palestinians, Portuguese, and Ukrainians.³⁰ Persons of Lebanese descent make up 90% of the Arab population.³¹ Hezbollah, in particular, has used illicit activities in the region as an important source of funding. This presence, combined with feeble governmental control, has made the Tri-Border Area a subject of concern for law enforcement officials.

²⁶ *Causa Amia*.

²⁷ *Ibid.*

²⁸ *Ibid.*

²⁹ James Dao, "US Expanding Efforts to Block Terrorist Funds in Latin Region", *New York Times*, 21 December 2002.

³⁰ Rex Hudson, *Terrorist and Organized Crime Groups in the Tri-Border Area (TBA) of South America*, Federal Research Division, Library of Congress, July 2003.

³¹ *Ibid.*

Of the three men who entered Argentina that day, Mugnieh was certainly the most important. Until his recent death in Damascus, he was considered one of the most dangerous and enigmatic terrorist in the world. Though his biographical details are murky, Mugniyeh is believed to have been born in the Lebanese village of Tayr Dibbain in 1962. By the early 1980s, Mugniyeh was a member of the newly created Hezbollah and eventually became its most important commander. Among the terrorist acts he has been associated with are the suicide bombings of the French and American barracks in Beirut on 23 October 1983, the June 1985 Hijacking of TWA flight 847, the kidnapping of Western targets (including Beirut CIA station chief William Buckley) in the mid to late 1980s, the 1992 Israeli Embassy bombing in Buenos Aires, and the 1996 Khobar Towers bombing in Saudi Arabia. Described as “probably the most intelligent, most capable operative we’ve ever run across, including the KGB or anybody else,” Mugniyeh was wanted in 42 countries and had a \$5 million dollar bounty on his head courtesy of the United States.³² His presence in Argentina would go far in explaining Iran and Hezbollah’s role in the AMIA bombing.

Berro has been identified by the investigation as the driver of the van. Prior to arriving in Argentina, Berro was working as a mechanic in his hometown of Baalbek, Lebanon.³³ Though interviews with Berro’s siblings indicated that his family had no idea he was a member of Hezbollah, a number of factors point to Berro’s role.³⁴ The coffin at his funeral, which was attended by a number of high-ranking Hezbollah officials, was empty. Though Hezbollah claimed that Berro had been killed in an engagement with Israeli forces in southern Lebanon, that incident only involved two Israelis and no Lebanese. Berro’s brother Abbas confirmed that the dates of Berro’s absence from his home coincided with the date of the AMIA bombing.³⁵ Additionally Hezbollah General Secretary Hassan Nasrallah publicly commended Berro’s father, at the latter’s funeral, for having sacrificed two of his sons in “martyrdom” operations. Finally, a number of

³² Robert Baer, interview in “Shadow Warriors,” *60 Minutes II*, 1 May 2002.

³³ *Causa Amia*.

³⁴ Hezbollah is well-known for the veil of secrecy that shrouds its membership and operations. One of Berro’s brothers, Assad, was also in Hezbollah and his family did not find out until he killed himself as a suicide bomber targeting an Israeli convoy.

³⁵ *Causa Amia*

eyewitnesses in Argentina identified Berro as the driver of the van when showed photos of possible suspects during the investigation.³⁶

Once in Argentina, Berro traveled to a house in the Tri-border area with a man named Ahmad Saad.³⁷ They stayed in the house of Fuad and Abdlallah Ismael Tormos. Saad, a Lebanese Shiite in La'araka, was the chief of Amal in the Tri-Border Area.³⁸ With the help of a corrupt member of the Federal Police, Saad assisted in the smuggling of people into Argentina. Fuad and Abdallah Tormos were Hezbollah members from Borj-El Barajne, in the outskirts of Beirut.³⁹ Fuad immigrated to Paraguay in 1992, followed by his brother two years later.⁴⁰

The planning of the attack was also facilitated by two mosques.⁴¹ One, the Al-Iman (The Martyr) Mosque was used as a meeting place for the Islamic Argentine Organization. The other, the al-Tahwid Mosque, had drawn the attention of Argentine officials. Built in 1983 on land bought by the Islamic Republic, its expressed purpose was to “create unity amongst the half-million Muslims” of Argentina.⁴² This mosque, where Rabbani had been active, served as meeting point for those who were interested in Islam and provided language and religious courses, as well as lodging and the possibility of travel to Iran.

One of the most important logistical tasks was the procurement of a suitable vehicle for the bomb. According to the investigation, Rabbani turned to Juan Jose Ribelli.⁴³ Ribelli was a captain with the Argentine Federal Police and right-hand man to the chief of the Buenos Aires Province police department. Additionally, he was in charge of the car-theft section of the department. Ribelli, in turn, made use of the services of Carlos Alberto Telledin, an Argentine national who specialized in the theft and “re-

³⁶ Ibid.

³⁷ Ibid.

³⁸ Amal is a Lebanese Shiite militia founded in 1975. It was a close ally to Syria during the Lebanese Civil War and its leader, Nabih Berri, is Speaker of Parliament.

³⁹ *Causa Amia*

⁴⁰ Ibid.

⁴¹ Ibid.

⁴² *Jomhuri Eslami*, 14 December 1983.

⁴³ *Causa Amia*.

assembly” of automobiles.⁴⁴ On 10 July 1994, Telledin published an advertisement in an Argentine newspaper seeking to sell a Traffic vehicle that met the description of the vehicle used in the bombing and had the same engine (#2831467).⁴⁵ Ribélli, along with fellow officers Anastasio Leal, Mario Bareiro, and Raul Ibarra (all of whom were later arrested) were also implicated by Telledin.⁴⁶ Besides the testimony of Telledin, the investigation uncovered wiretaps of the four officers expressing concern about the progress of the investigation. According to Telledin's testimony, he stole and delivered to Ribélli the van used in the bombing.

C. The Attack

On 15 July 1994, at about 6 pm, a Renault light van, known popularly as the “Traffic” was driven into the lot at Jet Parking, 959 Azcuenaga.⁴⁷ As the van was maneuvering in the lot, it stalled. Almost immediately, another man on foot replaced the driver and was able to re-start the van and finish parking. The new driver then made a silent hand gesture to the original driver and left. The original driver approached the parking lot attendant on duty, Jose Antonio Diaz, and inquired about the parking lot's rules. He informed Diaz that he was going to leave his van for a few days and received a ticket from Diaz. The ticket included the last four numbers of the van's license plate number, 8506. The driver was then told to go to the parking lot office and speak with the manager, Jorge Carlos Giser. Once there, the driver said that he wanted to keep the vehicle in the lot for four or five days and would need to take it out once or twice. He gave his name as Carlos Martinez and his address as the Hotel Las America. Both Diaz and Giser emerged from the encounter with suspicions about the driver and thought he might be a thief.

⁴⁴ Ibid.

⁴⁵ Ibid.

⁴⁶ Ibid.

⁴⁷ Ibid.

Starting that day, several phone calls were made from payphones in the vicinity of the AMIA building to the cell phone in Foz de Iguazu.⁴⁸ The last was made early in the morning on July 18, from a payphone at Aeroparque, the local airport in Buenos Aires.⁴⁹ Later that morning, at approximately 9:53 am, a Renault Trafic approached the entrance of the building housing the headquarters of AMIA and DAIA at 633 Pasteur Street. After crossing the sidewalk, the van detonated. The explosion was massive. The front of the building collapsed and several buildings in the immediate area were damaged as well. Investigator estimated that the bomb contained the equivalent of 275 kilograms of TNT and was composed of ammonium nitrate with aluminum, fuel oil, TNT, and nitroglycerine (dynamite).⁵⁰ Eighty-five persons were killed, 67 in AMIA and 18 in the surrounding streets and buildings.⁵¹ One-hundred-fifty one others were injured in the deadliest attack directed at Jews since World War II. The explosive was arranged to focus the blast on the building, 3 to 5 meters away.⁵² The air blast from the bomb totally destroyed the exposed load-bearing walls of the structure, leading to progressive failure of the floor slabs and virtual total collapse of the building. Nearby buildings and offices were also damaged.

III. Iran's Motive

The Islamic Republic's decision to strike at a Jewish target in Argentina was motivated by a number of factors, political and otherwise. Among these were Iranian anger at Argentina's decision to cut off nuclear cooperation and Argentina's reorientation of its relations with the West (the United States in particular), and a sense of impunity that resulted from the Argentine government's ineffectual response to the 1992 Israeli embassy bombing. Additionally, Argentina's decision to end cooperation with Syria on a

⁴⁸ Ibid.

⁴⁹ Ibid.

⁵⁰ Ibid.

⁵¹ *Their Names and Their Faces: Album to the Honor the Victims of the Bombing of July 18, 1994*. Buenos Aires, 2004.

⁵² *Protecting Buildings From Bomb Damage: Transfer of Blast-Effects Mitigation Technologies from Military to Civilian Application* (National Academy Press: Washington, D.C., 1999).

missile program encouraged Hafez al-Assad to remove Argentina from the list of countries that were off-limits to Hezbollah, allowing the latter's participation.

A. Nuclear Betrayal

The Islamic Republic of Iran inherited a large and growing nuclear civilian nuclear program from the Shah's regime in 1979. At the time, a subsidiary of the German industrial giant Siemens AG was completing work on two nuclear reactors at Bushehr.⁵³ Additionally, Iran had bought a 10% share in Eurodif, a joint French-Spanish-Belgian-Italian venture to produce enriched uranium for commercial nuclear power plants.⁵⁴ Iran's new Islamic government denounced the programs as wasteful and terminated them.⁵⁵

In 1984, however, Iran showed a renewed interest in nuclear power. Iran first approached Siemens about finishing the reactors at Bushehr.⁵⁶ Citing, first, the security situation due to the on-going Iran-Iraq War, and, then, the threat of proliferation, the government in Bonn demurred, forbidding Siemens to complete any additional work.⁵⁷ Iran began to look to other countries for assistance and collaboration. In some ways, Argentina was a logical choice. Its nuclear program began in the 1950s and over the years Argentina was able to advance the program without becoming overly dependent on foreign technology.⁵⁸ This relative self-sufficiency, along with its refusal to join the NPT and other non-proliferation initiatives, allowed Argentina to become a large

⁵³ *Nucleonics Week*, 8 July 1976, 4-5.

⁵⁴ "Eurodif: Iran in Europe," *The Economist*, 11 January 1975.

⁵⁵ "Iran Set to Scrap \$34 Billion Worth of Civilian Projects," *Washington Post*, 30 1975.

⁵⁶ *Nuclear Engineering International*, November 1985, 4.

⁵⁷ Ann Maclachlan, "Iran Seeking Way To Finish Bushehr Plant But Bonn Denies Exports," *Nucleonics Week*, 30 October 1986, 4-5.

⁵⁸ Another factor was that the Argentine Navy was in control of the nation's nuclear program. Though the Argentine military junta stepped down in 1983, it was not until early in President Menem's first term that he was able to place the nuclear complex firmly under civilian control.

alternative supplier of nuclear technology and equipment to developing nations and a popular destination for nuclear officials from “states of concern.”⁵⁹

Iran first began having discussions with Argentina in December 1985. The two countries signed an agreement for Argentina to supply Iran with 20% enriched uranium (HEU).⁶⁰ In January 1986, *Investigaciones Aplicadas* (INVAP) of Argentina began negotiations with Iran to supply a new core for Iran’s US-built research reactor in Tehran.⁶¹ Eleven months later, a delegation from the West German-Argentine joint venture *Empresa Nuclear Argentina de Centrales Electricas* (ENACE) met with senior Iranian officials in Tehran to discuss expanding ties, including the training of Iranian nuclear scientists and engineers. An agreement was signed in May 1987.⁶² There were also reports that ENACE had offered to share nuclear fuel cycle information with Iran. On May 5, 1987 INVAP and the Atomic Energy Organization of Iran (AEOI) signed a \$5.5 million contract to refurbish the research reactor at Tehran University. Argentina was also going to train Iranian nuclear experts at the Jose Balseiro Nuclear Institute. Some reports also indicated that Argentina had agreed to assist Iran in completing its Bushehr reactor, though Argentine officials denied that part of the deal. The International Atomic Energy Agency (IAEA) approved Argentina’s sale of the HEU and Argentina began shipping and transferring the HEU. In late 1991, Argentina considered supplying Iran with turnkey facilities for converting uranium concentrate to uranium dioxide and for fuel fabrication. The proposed deal was valued at \$18 million. There are also reports that Argentina was willing to sell Iran hot cells.⁶³

The United States, having been concerned for some time with Argentina’s nuclear activities, began applying pressure. On January 22, 1992, US Assistant Secretary for Inter-American Affairs, Bernard Aronson met with Argentine Foreign Minister Guido di Tella to relay American concern over INVAP’s relationship with Iran. Though di Tella

⁵⁹ *Tracking Nuclear Proliferation 1998* (Washington DC: Carnegie Endowment). Argentina supplied Algeria its 1-megawatt *Nur* reactor and Egypt a 22-megawatt ETRR-2 research reactor.

⁶⁰ *Jornal do Brasil*, Rio de Janeiro, 14 June 1987.

⁶¹ INVAP is an Argentine company, indirectly owned by the federal government, that specializes in high-technology areas like nuclear energy and aerospace.

⁶² *Nuclear Engineering International*, July 1987, 4-5.

⁶³ *Nuclear Fuel*, 9 December 1991, 11-12. (Hot cells are specialized laboratories that chemically separate byproducts of spent uranium, e.g. weapons-grade plutonium. They pose serious proliferation risks.)

publicly denied any American pressure to forgo nuclear sales to Iran, within days President Carlos Menem blocked, and then canceled INVAP's \$18 million contract, citing a lack of adequate safeguards.⁶⁴ One possible reason for Argentina's change of mind was an offer by Richard T. Kennedy, US Ambassador to the IAEA, to help INVAP find alternative business in the United States.⁶⁵ Argentina's decision, along with continued German refusal to provide assistance, forced Iran to consider other options in order to complete Bushehr.

B. Argentina Moves Closer to the West

Argentina's u-turn with respect to nuclear cooperation with Iran was consistent with a broader shift in Argentina's foreign policy. Though Argentina never formally joined the Non-Aligned Movement, it was a member of the G-77 and historically attempted to steer its own independent path in international relations.⁶⁶ This continued during the military dictatorship of 1965-1983, which included the disastrous, short-lived campaign to wrest back the Falkland Islands from Great Britain. This Peronist legacy of pseudo-isolationism ended with the election of Carlos Menem in 1989. Menem restored diplomatic relations with Great Britain (which had been cut-off during the Falklands War) in August of that year and moved Argentina closer to NATO. Argentina's most significant transformation however, was its relationship with the United States. This policy of "pragmatic acquiescence" led to Argentina sending a warship to the Persian Gulf in 1991 and contributing to the peacekeeping force in Haiti. By 1993, Menem was proudly boasting of the "carnal relationship" that was developing between the two nations.⁶⁷ This reorientation had an important economic component, as Argentina supported American free-trade efforts and was the recipient of increasing US foreign

⁶⁴ *Nucleonics Week*, 2 April 1991, 15.

⁶⁵ "U.S. Halted Nuclear Bid by Iran," *Washington Post*, 17 November 1992.

⁶⁶ David R. Mares, "Foreign Policy in Argentina, Brazil and Chile: The Burden of the Past, the Hope for the Future," *Latin America Research Review* 21, no. 9 (1994), 227-37. (Though often confused for each other, the two organizations are different. The Non-Aligned Movement was formed in the 1950's by, among others, Jawaharlal Nehru of India and Josip Tito of Yugoslavia to oppose the bifurcation of world politics during the early stages of the Cold War. The G-77 was formed in the 1970s by lesser-developed nations in the United Nations to pressure Western states to contribute more economic aid.)

⁶⁷ Editorial, *New York Times*, 4 September 1993.

direct investment.⁶⁸ Argentina's distancing itself from the Non-Aligned Movement resulted from a belief that it no longer served national interests and had created "exotic links" that had distanced Argentina from its natural allies.⁶⁹

C. The Syrian Connection

Hezbollah's participation in an operation outside of Lebanon needed Syria's approval. The regime in Damascus was inclined to sign off because of its own grievances against Argentina. These stemmed from Argentina's decision to halt cooperation with Syria on the Condor II missile system. Launched in the aftermath of the Falklands War, Condor II began as a clandestine joint Argentinean-Iraqi-Egyptian project to develop a 1000-kilometer range missile.⁷⁰ With Iraq's defeat in the first Gulf War, Syria was eager to take its place in the program.⁷¹ Additionally, in 1990, Syria signed an agreement with INVAP for the purchase of a 10MW research reactor for isotope production along with enriched uranium fuel.⁷² The United States, which had been warily observing these events, began to pressure Argentina. Menem's government acquiesced and scrapped Condor II, despite intense opposition from the Argentine military.⁷³ The nuclear deal with Syria suffered a similar fate as Argentina withdrew from the agreement signed with INVAP and later conditioned any new nuclear deal with Syria on a final peace treaty with Israel.⁷⁴ This turn of events angered Assad and led him to

⁶⁸ By the late 1990s, investment levels averaged \$3 billion per year.

⁶⁹ Alberto Miguez, "Argentina's Budding Relationship with NATO," *NATO Review*, June 1993.

⁷⁰ Carlos Escudé and Beatriz Gurevich, "Limits to Governability, Corruption and Transnational Terrorism: The Case of the 1992 and 1994 Attacks in Buenos Aires," *Estudios Interdisciplinarios de América Latina* 14, no. 2 (2004). (Hereafter referred to as "Limits to Governability")

⁷¹ *Ibid.* Prior to his 1989 election campaign, Menem (whose parents were Muslim Syrian immigrants) returned to his ancestral homeland on an ostensibly personal visit, which became an official one when the Syrian government showed interest in someone who could be the future president of a South American country. Menem met with Syrian Vice-President Abdul Halim Khaddam and agreed to cooperate with Syria on Condor II and nuclear activities in return for money to finance his upcoming campaign.

⁷² Mark Hibbs, "INVAP Seeks Thai Reactor Sale; Syria Expected to Sue for Supply," *Nucleonics Week*, 27 October 1994.

⁷³ Nathaniel Nash, "Argentina's President Battles his Own Air Force on Missile," *New York Times*, 13 May 1991.

⁷⁴ Hibbs, "INVAP Seeks Thai Reactor Sale; Syria Expected to Sue for Supply."

remove Argentina from the list of nations off-limits to Hezbollah.⁷⁵ Shortly after this, Argentina experienced its first large-scale terror attack.

IV. An All Too Familiar Pattern

A. Deadly Déjà Vu

Iran and Hezbollah carried out their first attack in Argentina against a Jewish institution in 1992. On March 27 of that year, a suicide truck bomb leveled the Israeli embassy in Buenos Aires.⁷⁶ Twenty-nine persons were killed and 242 injured in the blast. Until the AMIA bombing, it was the worst attack ever perpetrated on Argentine soil. It remains the deadliest assault on an Israeli foreign mission. Afterwards, Israel sent agents to Argentina to help search for clues but the investigation floundered.⁷⁷ The official reaction to the bombing was inadequate and the investigation lacked transparency. Hezbollah was viewed as the probable culprit, with the bombing as retaliation for Israel's assassination of Hezbollah leader Sayed [Abbas al-Musawi](#) on February 16, 1992.⁷⁸ Though Argentine authorities issued an arrest warrant for Imad Mughnieh in September 1999, as of today, no one has been prosecuted for the crime.⁷⁹

B. Ghosts of Paris '86

Skeptics of Iran's role in the AMIA bombing often point out that, though Argentina may have curtailed its nuclear cooperation with Iran and had moved closer to the United States, Iran and Argentina were still in negotiations in 1994.⁸⁰ Under this scenario, it would have been senseless and counter-productive for Iran to unleash a violent attack when the possibility of a favorable outcome still existed. This reading,

⁷⁵ Escudé and Gurevich, "Limits to Governability".

⁷⁶ Eugene Robinson, "Argentina Pondering Why Bombers Chose Their Capital," *Washington Post*, 20 March 1992.

⁷⁷ Carol Rosenberg, "Israel Vows Revenge in Embassy Bombing," *Miami Herald*, 19 March 1992.

⁷⁸ "Iran Behind Embassy Blast, U.S. Says," *Toronto Star*, 8 May 1992.

⁷⁹ World Briefing, *New York Times*, 4 September 1999.

⁸⁰ Gareth Porter, "Argentina's Iranian Nuke Connection," *Asia Times*, 15 November 2006.

however logical, misinterprets Iran's foreign affairs doctrine. The use of violence by the Islamic Republic does not always portend imminent hostilities or even an impasse in dialogue; it may simply be a means to ratchet the pressure and secure more concessions. This is illustrated by Iran's role in a series of bombings that took place in France in the fall of 1986.

The Iran-Iraq War was in its sixth year and the Islamic Republic was becoming increasingly isolated in its international position. After Jacques Chirac was elected Prime Minister in March of that year, France attempted to improve relations with Iran and gain the release of hostages taken in Lebanon. Among the conditions Iran set was an end to France's overt and extensive support of Iraq. At the time, France was Iraq's second-leading supplier of arms, providing the latter, *inter alia*, advanced combat jets, helicopters, missiles, and self-propelled artillery.⁸¹ Particularly provocative for Iran was France's "loan" to Iraq of five *Super Etendard* long-range strike aircraft capable of targeting Iranian shipping in the Persian Gulf.⁸² Though France did not abandon Iraq, it did send covert shipments of arms to Iran. As one French official later admitted, "we made a lot of concessions."⁸³ Additionally, France was one of Iran's largest trade partners in Europe and Iran was France's biggest supplier of crude oil.⁸⁴ The Islamic Republic, however, was unimpressed and rewarded Paris by plunging France into its most violent episode since the Algerian War of the 1960s.⁸⁵

The attacks began on February 3rd when a bomb detonated in a shopping arcade on the Champs-Elysees, injuring eight.⁸⁶ This was followed the next night by an explosion in a bookstore located in the city's Latin Quarter.⁸⁷ By the time the campaign of bombings subsided in the fall of 1986, ten people laid dead and 250 were injured,

⁸¹ Helen Chapin Metz, ed., *Iraq: A Country Study* (Washington, DC: GPO, 1988).

⁸² *Ibid.*

⁸³ "Lull in Gulf attacks raises hopes- and skepticism; French toughen stance toward Tehran and terrorism," *Christian Science Monitor*, 24 July 1987.

⁸⁴ "France Ends Oil Embargo as Iran-Europe Ties Grow", *New York Times*, 3 December 1988.

⁸⁵ Richard Bernstein, "The Terror: Why France? Why Now?" *New York Times Magazine*, 19 October 1986.

⁸⁶ "Blast Wounds 4 in Paris; Bomb at Tower Defused," *The New York Times*, 5 February 1986.

⁸⁷ *Ibid.*

many maimed for life.⁸⁸ Targets included a department store and, in a brazen attempt to humiliate Chirac, Paris City Hall.⁸⁹ Early reports linked the bombing to a previously unknown group, the Committee for Solidarity with Middle Eastern and Arab Political Prisoners, that was demanding the release from prison of the leader of an obscure Lebanese militia and the Syrian-born head of a pro-Armenian group that had attacked Paris-Orly airport several years earlier.⁹⁰

French authorities, however, concluded that Iran was behind the operation. Among the prisoners singled out for release was Anis Naccache, a Lebanese member of the Palestinian Liberation Organization (PLO). Naccache was in prison for his role in the attempted assassination of Shapour Bakhtiar, the Shah's last prime minister, in a Paris suburb in July 1980.⁹¹ Though Bakhtiar escaped with his life, a policeman assigned to protect him and an elderly neighbor were killed.⁹² Additionally, investigators singled out Wahid Gordji, a translator who worked for the Iranian Embassy in France, as the organizer of the attacks.⁹³ Before Gordji could be questioned he sought asylum in the Iranian embassy, forcing French police to quarantine the embassy.⁹⁴ (Iran retaliated by blockading the French embassy in Tehran.) After demanding Gordji's surrender, French officials inexplicably allowed him to fly back to Iran amid reports that a deal was made with Tehran that included the release of French hostages held in Beirut.⁹⁵ In February 1989, during French Minister Roland Dumas's high-profile visit to the Islamic Republic, Iranian Foreign Minister Velayati complained that the French had not kept their promise to release Naccache.⁹⁶ A year later, the Islamic Republic's wish was granted, as

⁸⁸ "Terrorism's other target: The roots of the Paris terror bombing campaign," *The Times* (London), 19 September 1986.

⁸⁹ "French see City Hall bombing as blackmail for prisoner release," *Christian Science Monitor*, 10 September 1986.

⁹⁰ "Terrorism's other target: The roots of the Paris terror bombing campaign."

⁹¹ Ronald Koven, "2 More Suspects Held in Paris for Attempt to Kill Bakhtiar," *Washington Post*, 20 July 1980.

⁹² The Islamic Republic finally achieved its goal in August 1991, when Bakhtiar and his secretary were killed by three assailants.

⁹³ "French Shift View on Bomb Suspects," *New York Times*, 29 July 1987.

⁹⁴ "Iran Ends its Blockade of France's Embassy," *New York Times*, 5 July 1987.

⁹⁵ "France Lets Bombing Suspect Go In Step to Restore Ties with Iran," *New York Times*, 30 November 1987.

⁹⁶ Pierre Beylau, "Low Blow," *Le Point*, 13 February 1989.

Naccache was released for “reasons of state.”⁹⁷ The manner in which dialogue and violence were almost seamlessly intertwined in this affair is a salient example of the Islamic Republic’s lack of trepidation in using terror against a state with which it was in the process of negotiations.

V. The Investigation

A. The Initial Probe

After the bombing, the Argentine government launched a two-tiered investigation. The first track focused on the likely foreign perpetrators of the bombing. The second was to identify any “local connection” that might have aided the bombers. The most telling mark of the investigation was its feebleness given the seriousness of the attack. This was first manifested in the choice of the judge who was to oversee the investigation. The case was assigned to Judge Jose Galleano, who was not an experienced terrorist investigator but, rather, was the judge on duty that day.⁹⁸ Additionally, the resources one would expect to be available for the worst bombing in the history of the country did not materialize. At various times, there were only 15 to 20 people assigned to the case, an amount clearly insufficient for such a complex investigation. It took nearly three years for a 100-person team to be put together, though even that effort was hampered by a lack of proper coordination.⁹⁹ By contrast, after the 1994 bombing of the Murrah Federal Building in Oklahoma City, the United States assigned 5,000 law enforcement officials almost instantly. After the American embassies in Kenya and Tanzania were bombed in 1998, 1,500 American personnel arrived on the scene.¹⁰⁰ These agents interrogated 10,000 witnesses within four days. Even by 2003, nearly nine years after AMIA was attacked, there were witnesses who had yet to be questioned by Argentine authorities. The Argentine state, obviously, does not have the resources, in manpower or funds, to

⁹⁷ Alan Riding, “Prisoners in France Protest Freeing of Pro-Iran Terrorist,” *New York Times*, 1 August 1990.

⁹⁸ Sergio Kiernan, *Seeking the Truth: The AMIA Bombing Goes to Trial*, publication of the American Jewish Committee.

⁹⁹ Escudé and Gurevich, “Limits to Governability.”

¹⁰⁰ *Ibid.*

match an American effort. Yet its actions in the aftermath of the bombing lead to serious questions about how eager it was to solve the case.

Another important obstacle was the reluctance of the Argentine security establishment to assist the investigation. Argentina's chief intelligence agency, SIDE (*Secretaria de Inteligencia del Estado*), was plagued internal conflicts. It received advice from the CIA, FBI, Mossad, and French, German, and Spanish intelligence services, but never implemented the suggested measures.¹⁰¹ In the words of journalist Raul Kollmann, "the real problem is that the Argentine government was never interested in solving the case."¹⁰² In fact, the investigation did not pick up steam until *Memoria Activa* filed a complaint with the Inter-American Commission of Human Rights. *Memoria Activa*, the largest and most prominent AMIA victim's organization, accused the Argentine government of failing to protect the victims of the attack and of denying justice to the relatives of the victims by not properly investigating and prosecuting the case. In particular, they accused the Argentine government of (1) removing the rubble from the explosion without doing any forensic testing, (2) losing or misplacing crucial evidence gathered from the homes of suspects, and (3) failing to interrogate key witnesses.¹⁰³

The lack of enthusiasm for a vigorous investigation was not limited to government officials. Rubén E. Beraja, president of DAIA (*Delegación de Asociaciones Israelitas Argentinas*), initially demanded that the Argentine government conduct a thorough investigation.¹⁰⁴ Over the next few years, however, Beraja took a much softer line and supported the government's efforts. This change coincided with the deteriorating condition of *Banco Mayo*, which Beraja controlled, as a result of the financial crisis in South America. By 1997, many in the Jewish community began having qualms over Beraja increasingly close relationship with President Menem and Interior Minister Carlos

¹⁰¹ Ibid. Relations deteriorated to the point that the SIDE leaked a photograph of Ross Newland, the CIA station chief in Buenos Aires, to the press. An infuriated CIA ceased cooperation with SIDE, leading to a breakdown in communications with the Argentines. Though the incident occurred during the administration of Menem's successor, it reflected a "deterioration of the state apparatus and chain of command" that hampered the AMIA investigation from the start.

¹⁰² Ibid.

¹⁰³ <http://www.memoriaactiva.com/oea.htm> (Spanish text)

¹⁰⁴ Unlike AMIA, which is a mutual aid organization, DAIA has traditionally handled relations between the Jewish community and the Argentine government.

Corach. These allegations came to light in 2001, when it was discovered that *Banco Mayo* had received \$350 million in soft credits from the Central Bank of Argentina.¹⁰⁵ This was considerably more than was received by banks of similar size. Beraja and the governor of the central bank, Pedro Pou, were later arrested and charged with financial irregularities.

Nonetheless, the initial investigation managed to produce 568 folders containing 113,600 pages of information.¹⁰⁶ Additionally, the Intelligence Office to the Presidency of Argentina accumulated 1,500 folders of information, included numerous transcripts of intercepted national and international phone conversations.¹⁰⁷ From the beginning, Galleano focused his inquiry on Iran. His investigation also examined the role of the “local connection,” members of the *Bonaerense* (Buenos Aires Provincial Police).¹⁰⁸ He eventually indicted Teledin, Ribelli, Raúl Ibarra, Anastasio Leal, and Mario Barreiro, together with 12e other Argentines and 12 Iranians, including Iranian ambassador Hade Soleimanpour, for their involvement in the bombing.¹⁰⁹ Galleano, however, blamed “rogue elements” of the Iranian government for the attack. His report did not single out the leadership of the Islamic Republic. A warrant was also issued in 1999 for Imad Mugnieh.

B. Collapse of the Initial Probe

The investigation was given another boost in July 2003, when President Néstor Kirchner ordered SIDE to open up its files and make available agents to testify. But the case began to unravel over the next few months. At the center were allegations of serious misconduct by Galeano. Reports of witness bribery, coercive interrogations, and evidence tampering were leveled at Galleano. This culminated on 2 September 2004 with release of all suspects in the “local connection” charged by Galleano, the dismissal

¹⁰⁵ *Causa Amia*.

¹⁰⁶ *Ibid.*

¹⁰⁷ *Ibid.*

¹⁰⁸ Escudé and Gurevich, “Limits to Governability.”

¹⁰⁹ Kiernan, *Seeking the Truth*.

of most of the evidence collected by Galleano and the removal (and later prosecution) of Galleano himself.¹¹⁰ Galleano was accused of grave judicial misconduct and “serving obscure political interests.”¹¹¹ Galleano’s transgression included, among other things, the interception of calls between defendant attorneys, payment to obtain specific information, making inadequate promises, pressuring detainees to release information, facilitating secret meetings, and destroying recorded witness testimony.¹¹² The most damaging allegation is that Judge Galeano provided \$400,000 to Carlos Telledin in exchange for testimony against members of the Argentine police.¹¹³ Though Iran quickly pounced on the Galleano affair as proof of a cover-up regarding its role, Galleano’s motive was not to frame Iran, but to prevent a thorough investigation that would bring to light unflattering facts concerning corruption within the highest reaches of Argentina’s government. These unpleasant particulars included continued corruption in the security forces and Menem’s Syrian connection.

1. Tensions with the Security Services

Despite Argentina’s transition from a military dictatorship to a democracy, its security forces, which had been exploited by the ruling junta to repress leftist guerrillas and sympathizers outside the purviews of the state and the legal system, retained a considerable amount of autonomy.¹¹⁴ Additionally, the security services have been accused of harboring right-wing and anti-Semitic sentiments.¹¹⁵ Menem, whose relationship with the security forces was already tense, shied away from confronting them even when presented with evidence of their complicity in the bombing.¹¹⁶ Argentina’s intelligence services were also leery of meaningful inquests into the bombing. In singling out Ribbeli and the others, Galleano was attempting to protect SIDE from charges of

¹¹⁰ Brian Byrnes, “Acquittals in ’94 Attack Spurs Protests by Argentina’s Jews”, *Washington Post*, 9 September 2004.

¹¹¹ <http://www.clarin.com/diario/2005/08/03/um/m-1026385.htm>

¹¹² Kiernan, *Seeking the Truth*.

¹¹³ *Causa Amia*.

¹¹⁴ Escudé and Gurevich, “Limits to Governability.”

¹¹⁵ David Pion-Berlin and George A. Lopez, “Of Victims and Executioners: Argentine State Terror, 1975-1979,” *International Studies Quarterly* 35, no. 1 (March 1991).

¹¹⁶ Escudé and Gurevich, “Limits to Governability.”

incompetence. According to testimony from his aide, SIDE had Iranian diplomats under surveillance since the Israeli embassy bombing and had even photographed Rabbani shopping for a van.¹¹⁷ Galleano later confessed that the money he bribed Telledin with had come from SIDE.¹¹⁸

2. Menem's Unsavory Friends

Aside from his reluctance to antagonize elements in the security services, Menem was also leery of the attention a full-scale inquiry would bring to his relationship with several Syrians of questionable background. Chief among them was Monzer Al-Kassar, the son of an ally of Syria's Assad who was involved in weapons smuggling.¹¹⁹ After Menem (a distant relative by marriage) came to power, Al-Kassar was able to obtain an Argentine passport in record time.¹²⁰ While in Argentina, he was involved with BCCI and helped procure materiel for the Condor II program.¹²¹ Even more incriminating was the case of Ibrahim Al-Ibrahim. A former colonel in the Syrian intelligence service, Al-Ibrahim was not only given Argentine citizenship, he was appointed as special advisor to the Argentine Customs service, even though he did not speak Spanish.¹²² His time there coincided with the "parallel customs house" affair, a judicial investigation into allegations that between 1990 and 1996, 22,000 containers entered the country with false documentation and forged seals through entry points in Buenos Aires.¹²³ Many of those containers were temporarily stored in warehouses controlled by a shadowy figure named Alfredo Yabran. A first-generation Argentine businessman of Syrian stock, Yabran won a contract from Menem's government to run the large bonded warehouses of the

¹¹⁷ Kiernan, *Seeking the Truth*.

¹¹⁸ *Causa Amia*.

¹¹⁹ Escudé and Gurevich, "Limits to Governability." See also, Benjamin Weiser, "Two Arms Dealers Convicted of Plot to Aid Terrorists," *New York Times*, 20 November 2008.

¹²⁰ Blanca Madani, "New Report Links Syria to 1992 Bombing of Israeli Embassy in Argentina", *Middle East Intelligence Bulletin*, March 2000.

¹²¹ Ibid. (BCCI was a Pakistani-founded bank that collapsed spectacularly in the early 1990s under allegations of money laundering, terrorism financing, tax evasion, and fraud.)

¹²² Escudé and Gurevich, "Limits to Governability."

¹²³ Madani, "New Report Links Syria to 1992 Bombing."

country's main airports in a joint civilian-military project.¹²⁴ Yabran was pathologically camera-shy and claimed to be a simple postman. However, an investigation led by economy minister, Domingo Cavallo, confirmed that Yabran controlled numerous companies bringing in hundreds of millions of dollars a year. Shortly after, Yabran was the victim of a "self-inflicted" shotgun blast to the face.¹²⁵

C. New Probe is Launched

After Galleano's dismissal, two new investigations were initiated. One was going to pick up the pieces of Galleano's probe and discover who was behind the bombing while the other was going to go after the corruption enveloping the case. The former investigation was headed by prosecutor Alberto Nisman. His work achieved success in November 2007, when INTERPOL issued red arrest warrants for six people, including former minister of Intelligence Ali Fallahian, former commander of the Revolutionary Guards Mohsen Rezai, Imad Fayez Mughniyah, Mohsen Rabbani, Ahmad Reza Asghari, and Ahmad Vahidi. Though Iran vigorously denied the accusations and accused INTERPOL of acting politically, the arrest warrants stood.¹²⁶

VI. Legal Analysis

A. AMIA Bombing as an Act of Terrorism

Though the events of September 11 thrust Osama Bin Laden and al-Qaeda into the limelight, the international community has been struggling to create a legal framework to combat terrorism since the spate of airplane hijackings that occurred in the late 1960s and early 1970s. Though much pen has been put to paper and numerous treaties

¹²⁴ "The Rise and Fall of Yabran", *Latin Trade*, August 1998.

¹²⁵ "A Grim Argentine Melodrama", *New York Times*, 21 May 1998.

¹²⁶ "Interpol Issues Warrant Against Five Iranians Over Attack in Argentina," *BBC Worldwide Monitoring*, 8 November 2007.

passed, the rhetoric has not usually been coupled with effective action.¹²⁷ The main reason for this is has been the lack of a universally accepted definition of terrorism, especially when dealing with guerrilla movements. As the famous aphorism, “one man’s terrorist is another man’s freedom fighter” hints at, the classification of exactly who and what groups are terrorists has been the subject of intense political differences. This was especially true during the heyday of the national liberation movements of Asia and Africa in the 1960s and 1970s. This disagreement over classification naturally spilled over into disputes over what sorts of activities constituted terrorism.

Though there is no single, universally recognized definition of terrorism, a fairly cogent description has emerged. According to the UN’s definition, “terrorism is an anxiety-inspiring method of repeated violent action, employed by (semi-) clandestine individual, group or state actors, for idiosyncratic, criminal or political reasons, whereby — in contrast to assassination — the direct targets of violence are not the main targets.” Specifically, the General Assembly has defined it as:

“Criminal acts intended or calculated to provoke a state of terror in the general public, a group of persons or particular persons for political purposes are in any circumstance unjustifiable, whatever the considerations of a political, philosophical, ideological, racial, ethnic, religious or any other nature that may be invoked to justify them.”

Numerous nations have also formulated their own meanings of terrorism. For example, the United States Department of State has defined it as “premeditated, politically motivated violence perpetrated against noncombatant targets by sub-national groups or clandestine agents, usually intended to influence an audience.” France’s definition is somewhat broader, with terrorist acts being those that “are intentionally

¹²⁷ *Convention on Offenses and Certain Other Acts Committed on Board Aircraft*, 14 September 1963, 3 U.S.T. 2941 (Tokyo Convention); *Convention for the Suppression of Unlawful Seizure of Aircraft*, 16 December 1970, 22 U.S.T. 1641 (Hague Convention of 1970); *Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation*, 23 September 1971 (Montreal Convention); *Convention on the Prevention of Crimes Against Internationally Protected Persons, Including Diplomatic Agents*, G.A. Res. 3166 (1973); *International Convention Against the Taking of Hostages*, G.A. Res. 34/146; *Convention for the Suppression of Unlawful Acts Against the Safety of Marine Transportation*, 27 I.L.M. (1998); *International Convention for the Suppression of the Financing of Terrorism*, G.A. Res. 109 (1999); *International Convention for the Suppression of Terrorist Bombings*, 37 I.L.M. 249 (1998)

committed by an individual entity or by a collective entity in order to seriously disturb law and order by intimidation or terror.” Distilling the various definitions, one can reasonably characterize terrorism as political violence directed at civilians.

However difficult the debate over a formal definition may be, the AMIA bombing was undisputedly a terrorist act. Neither of the complications that arise in defining terrorism, occupation or armed conflict, existed at the time. Argentina was not an occupying regime and did not face any groups claiming to fight for self-autonomy. Additionally, Argentina was not in a state of belligerency with Iran. Furthermore, the target was purely civilian. It was not a military base or in any other way connected to the armed forces of Argentina. The victims were also civilian and the use of explosives was undoubtedly used to spread fear and panic.

B. AMIA Bombing as a Crime Against Humanity

Though crimes against humanity are typically associated with the atrocities that frequently accompany large-scale conflicts, they are an important and evolving component of international law. Indeed, after the September 11th attacks, a number of legal commentators have recommended that certain acts of terrorism be categorized as such.¹²⁸ By charting the historical developments of crimes against humanity and applying the current and accepted definition of the term, there can be no doubt that the AMIA bombing was a crime against humanity.

1. Historical Developments

While the fundamental notion of universal crimes is arguably as old as humanity itself, its first concrete expression can be traced back to the preamble of the 1907 Hague

¹²⁸ Vincent-Joel Proulx, “Rethinking the Jurisdiction of the International Criminal Court in the Post-September 11th Era: Should Acts of Terrorism Qualify as Crimes Against Humanity,” *American University International Law Journal* 19, no. 5 (2004), 1009-1089. See also, James D. Fry, “Terrorism as a Crime Against Humanity and Genocide: The Backdoor to Universal Jurisdiction,” *UCLA Journal of International Law & Foreign Affairs* 169, (Spring/Summer 2002).

Convention (IV) Respecting the Laws and Customs of War on Land.¹²⁹ The concept then lay dormant for close to half a century until the Nuremberg and Tokyo Trials that followed World War II. Article 6(c) of the Nuremberg Charter explicitly defined crimes against humanity as:

“Murder, extermination, enslavement, deportation, and other inhumane acts committed against any civilian population, before or during the war, or prosecutions on political, racial, or religious grounds in execution of or in connection with any crime within the jurisdiction of the Tribunal, whether or not in violation of the domestic law of the country where perpetrated.”

The Allies’ central motivation for including crimes against humanity in the indictments of German officials was the fear that prosecutions for violations of the more established Laws of War could exclude certain acts committed by the Nazi regime. These included actions against German citizens or against citizens of states that were formally allied with the Third Reich.¹³⁰ Furthermore, unlike genocide, a crime against humanity does not require special intent.¹³¹ Without the necessity for *dolus specialis*, there is no need to show that the accused intended to destroy members of a particular group.¹³² These aspects of crimes against humanity are crucial in explaining why it has developed into an important tool in helping to bring to account violators of human rights.

¹²⁹ Beth Van Schaack & Ronald Slye, *International Criminal Law and Its Enforcement*, (Foundation Press 2007), 354. Identified as the Martens Clause it stated that, “until a more complete code of the laws of war has been issued, the High Contracting Parties deem it expedient to declare that, in cases not included in the Regulations adopted by them, the inhabitants and the belligerents remain under the protection and the rule of the principles of the law of nations, as they result from the usages established among civilized peoples, from the laws of humanity, and the dictates of the public conscience.”

¹³⁰ *Ibid.*, 355.

¹³¹ Vincent –Joel Proux, “Rethinking the Jurisdiction of the International Criminal Court in the Post-September 11th Era,” 1043.

¹³² *Ibid.* *Dolus specialis*, or special intent, is the required state of mind that distinguishes genocide from other result-oriented crimes.

2. Current Law

Since the definition of crimes against humanity, unlike that of genocide, apartheid, and torture, was not codified by international treaties in the decades following World War II, its “meaning must be found in customary international law, with reliance as necessary on other processes of prescription.”¹³³ In practice, this indicates that a contemporary and accurate definition of crimes against humanity must be gleaned from related international treaties, court opinions, and scholarly writings. The construction of a widely accepted definition was aided in the late 1990s by two separate, but related developments: the large scale violations of human rights in the former Yugoslavia and Rwanda, and the creation of the International Criminal Court.

a. Yugoslavia and Rwanda

The ethnic cleansing and targeting of civilian populations in the former Yugoslavia prompted the U.N. Security Council to establish the International Criminal Tribunal for the former Yugoslavia (ICTY) in resolution 827. Located in The Hague, the ICTY was conferred jurisdiction to try individuals accused of genocide, crimes against humanity, and breaches of the 1949 Geneva Conventions or other Laws of War. Crimes against humanity are addressed in Article 5 of the ICTY’s charter, which granted the tribunal “power to prosecute persons responsible for the following crimes when committed in armed conflict, whether international or internal in character, and directed against any civilian population: murder, extermination, enslavement, deportation, imprisonment, torture, rape, persecutions on political, racial and religious grounds, and other inhuman acts.”¹³⁴ The International Criminal Tribunal for Rwanda (ICTR) was established by U.N. Security Council Resolution 955 in November 1994 in response to the massacre of 500,000 Hutus in the spring of that year. Using the same acts as contained in the ICTY’s definition, Article 3 of the Rwanda Tribunal’s charter defines crimes against humanity as those acts “committed as part of a widespread or systematic

¹³³ Steven Ratner and Jason Abrams, *Accountability for Human Rights Atrocities in International Law*, 2nd ed. (Oxford University Press, 2001).

¹³⁴ Statute of the International Criminal Tribunal for the Former Yugoslavia, as amended by UN Security Council Resolution 1411 (2002) (U.N. Doc. S/RES/1411).

attack against any civilian population on national, political, ethnic, racial or religious grounds.”¹³⁵

Although the acts covered by both tribunals were identical, there are important differences between the two. First, ICTY’s Article 5 requires that the crimes be “committed in armed conflict, whether international or internal in character,” while ICTR’s Article 3 contains no armed conflict nexus. ICTR’ Article 3 merely requires that the acts were “committed as part of a widespread or systematic attack against any civilian population on national, political, ethnic, racial, or religious grounds.” The necessity of a widespread or systematic attack is absent from the ICTY definition. Furthermore, the ICTY definition requires that the attacks be based on national, political, ethnic, racial or religious grounds.

b. International Criminal Court

The formation of ad-hoc courts dealing solely with Rwanda and the former Yugoslavia was followed by the creation of the International Criminal Court. Governed by the Rome Statute, which was signed on 17 July 1998 and went into force on 1 July 2002, the ICC only has jurisdiction over crimes committed after 1 July 2002. However, because of the ICC’s prominence as the first permanent tribunal for international crimes, its statutory wording and definitions are bound to play a crucial role in the continuing evolution of international criminal law. This is especially true because its definition of crimes against humanity is considered to be a codification of existing law, rather than a progressive development of the law.¹³⁶ Consequently, Article 7 of the Rome Statute is considered “an authoritative interpretation of crimes against humanity under international law.”¹³⁷ Four elements are required to establish a crime against humanity: (1) a violation of one of the enumerated acts; (2) committed as part of a widespread or systematic attack;

¹³⁵ Statute of the International Criminal Tribunal for Rwanda (1994) (U.N. Doc. S/RES/966).

¹³⁶ Ratner & Abrams, *Accountability for Human Rights Atrocities Under International Law*, 50.

¹³⁷ *Doe v. Alvaro Rafael Sravia*, 348 F. Supp. 2d 1112 (E.D. Cal. 2004).

(3) directed against a civilian population; and (4) committed with knowledge of the attack.¹³⁸

c. Legal Requirements

In some respects, the ICC's formulation of crimes against humanity is broader than both the ICTY and ICTR definitions. In similarity to the ICTR, the ICC omits the reference to armed conflict that is contained in the ICTY statute. However, unlike the ICTR, it contains no requirement that the victims be chosen on national, political, ethnic, racial, or religious grounds. The exclusion of an armed conflict requirement from the ICC's definition is a significant milestone. By requiring a nexus between crimes against humanity and armed conflict, the Nuremberg Tribunal excluded acts undertaken by the German government prior to the initiation of hostilities in 1939. Though the Tribunal conceded that the "persecution, repression, and murder of civilians" by the German government was "organized and systematic," it reluctantly concluded that "[t]o constitute Crimes against Humanity, the acts relied on before the outbreak of war must have been in execution of, or in connection with, any crime within the jurisdiction of the Tribunal."¹³⁹ Even before the Rome Statute, however, opinion was divided over whether a nexus must exist to prosecute crimes against humanity. A number of states that adopted domestic legislation pertaining to crimes against humanity have abandoned the armed conflict connection: Israel, France, Belgium, and Britain.¹⁴⁰ Additionally, debates surrounding the 1968 Convention on Statutory Limitations showed an agreement among states that

¹³⁸ ICC Article 7. The specified acts are: (a) Murder; (b) Extermination; (c) Enslavement; (d) Deportation or forcible transfer of population; (e) Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law; (f) Torture; (g) Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity; (h) Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court; (i) Enforced disappearance of persons; (j) The crime of apartheid; (k) Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.

¹³⁹ International Military Tribunal (Nuremberg), Judgment and Sentences, 1 October 1946.

¹⁴⁰ Ratner & Abrams, *Accountability for Human Rights Atrocities Under International Law*, 50.

crimes against humanity may occur in peacetime.¹⁴¹ This evolution in the definition of crimes against humanity was addressed by the ICTY's *Kupreskic* opinion, which found that, notwithstanding the Nuremberg Trial's peculiar circumstances, "there is no logical or legal basis for [the war nexus] and it has been abandoned in subsequent State practice with respect to crimes against humanity."¹⁴²

With the demise of the armed conflict nexus, the term "widespread and systematic" will probably become a battleground for judicial wrangling. As of now, the term has not acquired a precise legal definition, though judges and scholars generally agree that its purpose is to exclude random acts. In regular usage, systematic is defined as "methodical in procedure or plan," and "marked by thoroughness and regularity."¹⁴³ Therefore, an important criterion is whether the acts "may be regarded as part of an overall policy or a consistent pattern of inhumanity, or whether they, instead, constitute isolated or sporadic acts of cruelty or wickedness."¹⁴⁴ Due to the Rome Statute's inclusion of the preposition "or" instead of "and," the question turns "on the existence of a preconceived policy, including the establishment of institutions and devotion of resources to implement it."¹⁴⁵ This issue is further clouded by the Rome Statute's accompanying definitions. Attacks against civilians are defined as "a course of conduct involving the multiple commission of acts referred to in paragraph 1 against any civilian population, pursuant to or in furtherance of a State or organizational policy to commit such attack"¹⁴⁶ Though one could argue that the requirement for multiple acts restores a conjunctive meaning to the definition, it has not yet had any conclusive effect. In fact, one could make the case that this clause expands the potential liability for state actors

¹⁴¹ *Ibid.* at 54.

¹⁴² U.N. Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity, 660 U.N.T.S. 195. Eliminating the statute of limitations for crimes against humanity "whether committed in time of war or in time of peace as they are defined in the Charter of the International Military Tribunal." (Treaty entered into force in 1970 but has been ratified by only 50 countries.)

¹⁴³ *The Merriam-Webster English Dictionary.*

¹⁴⁴ Antonio Cassese and others, eds., *The Rome Statute of the International Criminal Court: A Commentary* (Oxford University Press, 2002).

¹⁴⁵ Ratner & Abrams, *Accountability for Human Rights Atrocities Under International Law*, 59-60. See also, *Prosecutor v. Mrksic* (ICTY, Case No. IT-95-13-R61), "as long as there is a link with the widespread or systematic attack against a civilian population, a single attack could qualify as a crime against humanity."

¹⁴⁶ ICC Article 7, ¶ 2(a).

engaging in the covered acts. By focusing on the repeated conduct of the state, rather than on the targeting of a particular group or population, a valid argument can be made that a prosecution does not have to establish that a systematic attack was directed against any particular population of civilians, but, rather, that the accused engaged in the proscribed conduct multiple times.

3. Application to AMIA

The AMIA bombing qualifies as a crime against humanity under any reasonable reading of international law. It comports with most of the ICTR and ICTY conceptions of the crime and satisfies the ICC's four-part test. The AMIA bombing plainly fulfills the first and third conditions of the Rome Statute. It was an act of murder that resulted in the deaths of 85 individuals. Furthermore, there can be no doubt that the killings were intentional, as the use of explosives on a large, inhabited building can have no other intent. The building's status as a civilian target is also not in question. Buenos Aires was not in a zone of armed conflict at the time and the AMIA offices were not affiliated with any military, intelligence, or law enforcement services. In fact, though DAIA does lobby on behalf of Argentina's Jewish community, AMIA is not a governmental or political organization.

The Rome Statute's fourth condition, the knowledge requirement, will serve to separate those actors who may have had material, yet minor, roles in the bombing from those who participated directly in the creation and execution of the plan. Argentine accomplices will probably not be liable for war crimes unless they knew of the plan to destroy the AMIA building. Even indisputable evidence linking the accomplices to the stolen van or explosives will not be sufficient to show the *mens rea* necessary for crimes against humanity.¹⁴⁷ Under the holding of an influential ICTY trial, the defendant must

¹⁴⁷ *Mens rea* (Latin: guilty mind) is a legal term that refers to the state of mind necessary for an offense. The same act can create culpability for different crimes. For example, the legal liability for striking and killing a person with a car would rest on the state of mind of the driver. If the driver took his eyes off the road because he was looking for a cell phone, he could be liable for manslaughter or negligent homicide. If, for example, the driver purposefully aimed the car because of anger, he could be liable for murder.

have knowledge of the underlying act.¹⁴⁸ This knowledge must extend to the “broader context in which the offense occurs.”¹⁴⁹ This reasoning will probably also apply to low-level Hezbollah and Iranian agents who participated without knowing the particulars of the operations.¹⁵⁰ The situation differs significantly for Iranian and Hezbollah officials and agents who were either active in formulating, or were aware of, the plan. This culpability extends fully to those who participated in the planning without engaging in any other acts. Current doctrine, reinforcing a strong deterrence policy, only requires a “substantial nexus between the defendant’s conduct and the alleged crime.”¹⁵¹ Consequently, those present at the meeting in Mashhad and elsewhere who did no more than give assent to policy are subject to culpability for crimes against humanity.¹⁵²

Another possible pitfall related to the knowledge requirement is whether Iran may be held responsible for acts committed by members of Hezbollah or others who were not Iranian officials. As discussed previously, Iran has developed a deep and multi-faceted relationship with Hezbollah.¹⁵³ However politically significant that association may be, because Hezbollah is not a formal subdivision, instrumentality, or branch of the Islamic Republic of Iran, the relationship between the two must satisfy a certain legal threshold for Iran to be held responsible.¹⁵⁴ Under international law, the conduct of private individuals is usually not attributable to states unless “there exists a specific factual relationship between the person or entity engaging in the conduct and the State.”¹⁵⁵ For individuals or not organized in a military structure, the state in question must have furnished “specific instructions or directives aimed at the commission of specific acts.”¹⁵⁶

¹⁴⁸ *Tadic Judgment*, 692.

¹⁴⁹ *Prosecutor v. Zoran Kupreskie, et. al.* 556.

¹⁵⁰ Not having knowledge is different than knowingly, but reluctantly, following orders. The latter is a defense to liability for war crimes, the former is not.

¹⁵¹ Ratner & Abrams, *Accountability for Human Rights Atrocities Under International Law*, 131-32.

¹⁵² *Ibid.* (Arguing that even bystanders who give moral encouragement may be liable.)

¹⁵³ See, *supra*, notes 16-24.

¹⁵⁴ This concept of *state responsibility* is similar to but distinct from the issue of *individual criminal responsibility*. The former is concerned with “establishing the criteria for the legal imputability to a State of acts performed by individuals not having the status of State officials.” (ICTY, Judgment, *Prosecutor v. Tadic*, Case No. IT-94-1-A, 104). The latter is concerned with holding individuals personally accountable for violations of international law.

¹⁵⁵ *Draft Articles on Responsibility of State for International Wrongful Acts, with Commentaries 2001*, Article 8, 1.

¹⁵⁶ *Prosecutor v. Tadic*, 132. The threshold of responsibility for organized military or paramilitary groups is lower. A state will be held accountable if it “wields overall control over the group, not only by

The AMIA bombing presents a clear case of state responsibility. The selection of AMIA was not in the hands of Hezbollah operatives or others who were not Iranian officials. Rather, the decision was made at the highest levels of the Islamic Republic. Those involved in the actual bombing were doing so under specific instructions and received assistance from official channels.

The key obstacle to the characterization of the AMIA attack as a crime against humanity is the Rome Statutes' second requirement. Though the bombing was not accompanied by other attacks, it was not a random or isolated event. The operation was not the work of an individual or rogue group of officials acting alone. It was the product of meticulous planning and logistics, approved at the highest reaches of the Iranian government. Significant sums of money and detailed coordination would have been necessary. Forged passports, travel documents, intelligence reports, and contacts with ex-military or police personnel (essential to procuring explosives) all point to the resources only available to states. As such, this was the logical culmination of state policy, not a haphazard venture orchestrated by low-level operatives.

Moreover, the AMIA bombing must be viewed within the context of the Islamic Republic's record in the past 30 years of using violence abroad for political purposes. According to one source, high-level Iranian officials in the Ministry of Intelligence and the Revolutionary Guards have been linked to the extrajudicial killing of 162 anti-regime figures around the world.¹⁵⁷ Because of the fear and secrecy surrounding the activities of those opposed to the regime, this figure is almost certainly an underestimation of the true toll. Victims have included a former prime minister, Kurdish political leaders, members of the Mujahedin Khalq, relatives of the former Shah, and other opponents of the regime. This campaign has not been sporadic or based on ad-hoc considerations. Rather, it has formed an integral part of the regime's security and political strategy. The ideological

equipping and financing the group, but also by coordinating or helping in the general planning of its military activities. Ibid., 131. Because there is still a considerable amount of debate as to Hezbollah's classification as a paramilitary group, this article will not address this possibility. Needless to say, because the bar of state responsibility for individuals not organized in a military manner is higher, the arguments presented here will have even greater force if Hezbollah is deemed a military or paramilitary organization.¹⁵⁷ Iran Human Rights Documentation Center, *No Safe Haven: Iran's Global Assassination Campaign* (New Haven, Connecticut, 2008), 7.

and theological foundations were developed shortly after the revolution by Ayatollah Khomeini and others and have been adopted by current leaders of the Islamic Republic.¹⁵⁸ In fact, the Iranian leadership has publicly flouted its intentions to use force against all of its perceived foes. Responding to France's delivery of attack aircraft to Iraq, then-President Ali Khamenei warned, "we will certainly respond to the French government's delivery of Super Etendars to Iraq... we have planned a forceful response for each of their betrayals... Those who want to hit us must know that we will hit them sooner than they think."¹⁵⁹

Aside from the sheer number of victims, this campaign of terror is notable for the regime's geographical ambition. The Islamic Republic has struck in the United States, Great Britain, France, Germany, Norway, Sweden, Austria, Turkey, Lebanon, Iraq, Pakistan, Indonesia, India, and Japan.¹⁶⁰ Methods have included bombings and targeted assassinations. Aside from the bombings in Argentina, Lebanon, and Paris already noted, Iran also had a hand in bombings against Western targets in Kuwait¹⁶¹ and American military installations in Saudi Arabia.¹⁶²

Though the Islamic Republic has consistently denied any involvement in violence overseas, the AMIA bombing is not the first instance in which a foreign government's judiciary has presented credible evidence of Iranian government complicity in acts of violence abroad.¹⁶³ In October 1993, five suspects were put on trial in a German court for their involvement in the Mykonos Affair, a brazen, gangland-style execution of four Iranian dissidents in a Berlin restaurant in September 1992. Three of the victims were high-level members of the Democratic Party of Iranian Kurdistan (PDKI), a political organization that agitated for increased Kurdish autonomy in Iran and was a longstanding

¹⁵⁸ Haggai Ram, "Crushing the Opposition: Adversaries of the Islamic Republic of Iran," *Middle East Journal* 46, no. 3 (Summer 1992), 430-438. (Arguing that the Islamic Republic attempted to justify and encourage wholesale physical liquidation of regime opponents by equating them with Mohammed's early enemies.)

¹⁵⁹ *Jomhuri Eslami*, 17 August 171983.

¹⁶⁰ *No Safe Haven*, 7.

¹⁶¹ Thomas Friedman, "New Blasts; Master Plan?" *New York Times*, 13 December 1983.

¹⁶² Jeffrey Smith, "Saudis Offer Data to U.S. Linking Extremists, Bomb; Iran Allegedly Backed Shiites in Dhahran Attack," *Washington Post*, 11 December 1996.

¹⁶³ "Iran: Intelligence Minister Denies Reports Implicating Iran in Acts of Terrorism," *BBC News Service*, 5 June 2000.

opponent of the regime in Tehran.¹⁶⁴ The assassination team included several Iranian agents of the Ministry of Intelligence, Iranians living in Germany, and Lebanese associated with Hezbollah and Amal.¹⁶⁵ The trial, which last three and a half years, was an enormous undertaking, entailing 246 court sessions, 176 witnesses, and secret intelligence files.¹⁶⁶ Security precautions included bullet-proof glass encasements for the defendants, double searches of all lawyers and spectators, and anti-grenade netting at the court's entrance.¹⁶⁷ While the trial was proceeding, a German federal Supreme Court investigator surprised the world by issuing an arrest warrant for Ali Fallahian, the Islamic Republic's chief spymaster.¹⁶⁸ The Iranian government responded with fierce denunciations but German judicial officials held firm. The final verdict was no less stunning. The court found four of the five suspects guilty and that the killings were ordered by the "highest levels of state."¹⁶⁹ According to the president of the tribunal, "the Iranian leadership ordered the crime."¹⁷⁰

In appraising the Islamic Republic's activities over the past quarter century, one can only conclude that the AMIA bombing was not a single, unique or exceptional act. It was violence directed against civilians; part and parcel of the Islamic Republic's strategy of using terror and bloodshed to subdue its enemies, be they individuals, groups, or other nations. It was a crime against humanity.

VII. Conclusion

Although international law has made great strides the last half century in constricting the category of persons who may be targeted for violence by states, the reality is that, on occasion, many states, including democratic ones, still employ force outside of inter-state conflict to protect their national security and further their interests.

¹⁶⁴ *Murder at Mykonos*, 4-10. (The fourth victim was a friend of one of the intended targets.)

¹⁶⁵ *Ibid.*

¹⁶⁶ James Walsh, "Iran's Smoking Gun," *Time*, 21 April 1997.

¹⁶⁷ Rick Atkinson, "Killing of Iranian Dissidents: 'Bloody Trail Back to Tehran,'" *Washington Post*, 21 November 1993.

¹⁶⁸ "Warrant for Arrest of Iranian Minister Issued in Germany," *Deutsche Presse-Agentur*, 15 March 1996.

¹⁶⁹ Walsh, "Iran's Smoking Gun."

¹⁷⁰ *Ibid.*

The path taken by the Islamic Republic of Iran, however, is truly *sui generis*. No other state has elevated terror and assassination to such an instrumental component of state policy. Aside from the countless thousands of people it has tortured and exterminated within its own borders, the Islamic Republic has had a direct hand in the killing over hundreds of regime dissidents and innocent bystanders around the world. Its actions have not been ad hoc, isolated responses to particular threats. Rather, they are part of a methodical and institutionalized approach that has justly earned Iran a reputation as an outlaw state. As one foreign official has observed, “the whole Iranian state apparatus is at the service of these operations. The government assumes the legitimacy of killing opponents anywhere in the world.”¹⁷¹

It was this same organized and systematic planning that led to the AMIA bombing and implicates the regime in a crime against humanity. Though referenced as a terrorist attack, the destruction and killing in AMIA unquestionably arise to the level of a trial offense against international law. The AMIA attack fulfills all four of the conditions necessary to qualify as a war crime: (1) an act of murder; (2) committed as part of a widespread or systematic attack; (3) directed against a civilian population; and (4) committed with knowledge of the attack. Planned at the highest levels of the Iranian government while using operatives from Hezbollah and taking advantage of the diplomatic privileges and immunities in Buenos Aires, the AMIA operation was unmistakably an act of state. Though the investigation has been burdened by incompetence, corruption, and the passage of too much time, it is essential not to lose sight of the central issue in the case. The Supreme Leader of the Islamic Republic and his highest officials personally ordered the bombing of a civilian building that resulted in the death and injury of 236 persons.

¹⁷¹ Sancton, “The Tehran Connection.”

Terror in Buenos Aires
The Islamic Republic Forgotten
Crime Against Humanity

