



**Counsel Closing Statement: 06 February 2022**

**[recording publicly available]<sup>1</sup>**

*Counsel Hamid Sabi [HS] — Counsel has named 160 individuals plus the state of the Republic of Iran accused of committing crimes against humanity. The report on this issue has been submitted to the Tribunal. Moreover, because of the number of the accused, it has a sizable content. Let me first introduce the team that has worked on this. Mr Omid Shams, Mrs Holly Armstrong, Mr Kaveh Shahrooz, and Mrs Marilena Stegbauer have been assisting the Counsel in preparing this document. I will invite Mr Shams to give you a brief factual finding of this brief.*

Omid Shams [OS] — Thank you, Mr Sabi. Distinguished members of the Panel, thank you for the opportunity and for your time. I would like to briefly explain the methodology used to compile the evidence presented in the brief and highlight its main findings. The investigative team has presented the information in the brief submitted by the Counsel in the same manner for each alleged perpetrator, including the position of the alleged perpetrators in November 2019, their authority and their role in the suppression of November 2019 protests, official statements made by them (if applicable), and any other evidence on the perpetrators and their role.

The evidence provided in this brief was collected through a public call. Victims and witnesses of the Aban protests were asked to provide evidence and send documents and testimonies of what took place during and after the crackdown by the Islamic Republic of Iran. The audio-visual materials were collected from various sources. They were geo-located, chrono-located and verified through standard methods of multimedia material investigation. The official statements were collected from multiple sources online, including media outlets. They were

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<sup>1</sup> The recording is available on YouTube: [Counsel's Closing Statement - YouTube](#).

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cross-referenced with other statements, research findings and other types of evidence to show the impact of the highest rank officials such as Ali Khamenei and Hassan Rouhani on other officials' statements, decisions and actions. The testimonies were collected through in-depth interviews with witnesses, fact-checked and then compared to each other for verification. I want to express my gratitude on behalf of the investigative team to the brave witnesses and the victims' families for their testimonies and the evidence they provided. Also, thank the members of the investigative team and everyone who helped us prepare this brief.

The investigative team would like to draw the attention of the distinguished members of the Panel to the highlights of our findings, including reflected in the brief establishing that A. peaceful and unarmed demonstrations were attacked by the security forces using military-grade weapons such as guns and shotguns. B. security forces resorted to the indiscriminate shooting of firearms, shooting at protesters all over the bodies (as reflected in the evidence WS0175, WS0127) using heavy machine guns that could kill masses indiscriminately (reflected in the evidence AV 00124 AV 00143 AV 0006, AV 0007). As well as killing children and bystanders (reflected in the evidence to AV 0035, AV00100). C., the security forces were given the discretion to shoot at will and shoot to kill. Forces that did not follow orders were punished accordingly. D. The security forces used child soldiers in the form of Basij forces armed with lethal weapons as corroborated by witness number 600 today and reflected in the evidence WS 0003, photos of OTE039\_9 and OTE039\_10. E. The detainees who were injured were denied medical help and treatment. F. the authorities resorted to the systematic use of torture, coercion, and other ill-treatment to obtain false confessions from detainees (as corroborated by witnesses and reflected in the evidence such as OTE002\_05, OTE002\_06, OTE002\_07). G. The bodies of those killed were not returned to family members unless they agreed to the proposed conditions, including payments for the bullets, no funeral or memorial services or burial in cemeteries away from the victim's hometown. H., the authorities disregarded complaints by the victims (as reflected in the evidence WS0028, WS00175). I. The authorities resorted to threatening, arresting, torturing and intimidating the victims' families to prevent them from filing lawsuits or talking to the press (as reflected in the evidence such as WS 0018, WS 0022, WS0027; WS0043). Thank you again for your time, and we will be happy to answer questions that the Panel may have for us.

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*Counsel [HS] — Thank you, Mr Shams. Mr Chairman, distinguished members of the Tribunal. It is the Counsel's case that the actions taken by the Islamic Republic of Iran, its Leader, members of the Cabinet, the President, military officers, governors and governor generals were illegal acts. Under any standard, it was widespread and systematic. It is our case that no matter what standard you adopt, you will find that the government of Iran and its officials have fallen short of that standard. If you adopt the higher standard of international criminal law as incorporated in the Rome Statute that Iran has not joined or the Convention on Civil and Political Rights that Iran joined in 1975. You will find that the conduct of the Iranian government, leaders, ministers, governors and commanders of security forces falls substantially short of what is expected from any government.*

*If you adopt a lower standard, say rules provided by the national law set out in the Constitution of the Islamic Republic, you still find that the regime ignores almost the entirety of the rules. These are set out in Articles 19 to 42 of the Constitution, called "rights of the nation." If you even adopt a lower standard, that is a 1300-year-old Islamic penal code that provides for death and brutal punishment and retribution based on Mosaic laws of over 3000 years ago - Even then, you will find that the regime has breached the rules of the religion that they are preaching while they execute whoever that fails to observe these rules.*

*I think the only system that can aid the regime and its rulers can be the law of the jungle where might is right, and there is no standard or rule of law. There is nothing the Iranian regime can rely on to justify these horrid acts that you heard over the last few days and five days in November. To shoot, aim, and kill peaceful demonstrators is a crime under international law, the constitutional law of Iran and the criminal law of Iran, the Penal Code of Iran. The demonstrators were peaceful, not armed, and there was no threat to life and property.*

*Iran was not a lawless country until 1979. Iran adopted an advanced constitution in 1906, the first Asian country to adopt a written constitution. For over 70 years Iranian government and Iranian courts, by and large, adopted the rule of law and even the autocratic Shah, in his worse days, was better than... I mean, more law-abiding than*

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*the regime of the Islamic Republic. I will not go into the details of international criminal law that applies to this case as the distinguished panel members are all better equipped and familiar with this law.*

*Our case is that all the 160 accused and the Islamic Republic of Iran are co-perpetrators in committing these crimes against humanity. In 2012, almost ten years ago, the Truth Commission of the Iran Tribunal investigating the massacre of the political prisoners in the 1980s found that the Iranian state was responsible for the atrocities committed. Moreover, if I quote from the conclusion of the Truth Commission, you will find that it is familiar to today's situation. It says, "the arrests, disappearances, methods of torture, trials and executions, as attested by the witnesses, have the same characteristics in all prisons and detention centres in Iran. Whether in Mashhad, Shiraz, Tehran or Mahabad. The witness's testimony disclosed similar and widespread patterns of brutality and disregard for basic human rights and extrajudicial executions throughout the country. The Commission concludes that these violations of human rights were devised, instigated and executed or caused to be executed by a single central authority. As such, the government of the Islamic Republic of Iran is the only authority responsible for its acts. The facts reported by the Commission have been committed by state officials, judges, prosecutors, prison officials, torturers and interrogators. Because they are State organs, it follows that Iran bears international responsibility under the state responsibility for wrongful acts; however, Iran's responsibility does not exclude individual responsibility of the perpetrators themselves. This was 30th July 2012, and it is not the first time the Iranian state has been charged with crimes against humanity. The judges of the Iran Tribunal in October of that year, also a court in Berlin and other places, considered the Iranian state a criminal state.*

*The leaders of the Islamic Republic, The Leader of the Islamic Republic, and its present President Ebrahim Raisi are sanctioned by many states for an unwanted list of crimes of murder and torture. Understanding this dark background of the Iranian state and some of its top officials, the Counsel submits that for the purpose of this hearing that the criminal background of the Islamic Republic, its Leader, President and other officials should be disregarded for the purposes of finding the judgment against them and they all be considered or assumed that they are law-abiding people with*

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*impeccable credentials. Furthermore, while the Counsel has notified the Iranian government and all the accused to submit their defence and evidence to this Tribunal, no such evidence has been proffered. Therefore, the Counsel submits that their failure to do so shall not be considered as adverse to them, and the Tribunal should not draw adverse inference for their failure to defend themselves in this Tribunal.*

*Finally, and briefly, I would like to address the state's responsibility and, in particular, the responsibility of the Islamic Republic of Iran for crimes against humanity. Iranian state, like any other state, is responsible for the conduct of its functionaries at all levels; to the extent that the government officials in carrying out their obligations breach the national laws or breach international law; the state may be exonerated if with diligence the state itself or its judiciary prevented or punished the perpetrators.*

*The Counsel submits that the Iranian state has no such defence. At no time any of the perpetrators had been punished for the crimes they had committed, and in fact, those who failed to observe the illegal orders are the ones who were punished, like the officers that you heard from this afternoon or earlier in November. The state, through its organs, in particular, Supreme National Security Council, planned the atrocities and ordered their implementation throughout the country. The Supreme Leader, the President, the Head of Judiciary, all the ministers, and those participants of the Security Council had full knowledge of the plan adopted by the Security Council and knowingly implemented or authorized its implementation, with full knowledge of the consequences and the criminality of the actions adopted.*

*While the Counsel believes it has met the burden of proof at the highest standards, that is, proof beyond reasonable doubt, it submits that for attribution of the crimes to the state, a lower standard, that is, the balance of probabilities, may be adopted. On this, we rely on the [New Lines Institute submission on Uyghur genocide](#) by Prof John Packer and others.*

*I am not proposing that we take the Panel through the list of 160 perpetrators, but we would be happy to answer questions, and the authors of the report are also available to answer any questions that the Panel may have. Thank you.*

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*Chair — Thank you very much, Counsel. I have one question, if I may, just from the outset. How do you specifically put your case against the Supreme Leader? We have heard evidence which might suggest he turned a blind eye. We have heard evidence that might suggest that he gave very express instructions on how to end the protests. So how do you put it?*

*Counsel [HS]— It is the Counsel's case that the Leader is the prime accused. He knowingly ordered the massacre of the demonstrators peacefully demonstrating against the regime. He is the person who is responsible for committing this criminal act together, of course, with the other 159 accused, but he is the prime culprit, and he is personally liable. He did not just ignore or not react to the massacre. He directly ordered it, as you heard from witness No. 600 this morning.*

*Chair — And just a follow up from that. You mentioned in your closing that the Security Council formed the plan. Do you say there is a moment when the Security Council determined that... how the violence should emanate from the Security Council down to the ground, or do you say that there was something more extemporaneous than that?*

*Counsel [HS] — Our submission is that the Security Council's meeting was established after the demonstrations' spread and depth and the seriousness of the threat to the Islamic Republic hierarchy became apparent. Bearing in mind that the demonstrators were chanting all over the country "death to Khamenei." The instructions from the Supreme Leader and the Security Council clearly stated, "wrap it up" or, in Persian, "jam konnid." That is the code word for using lethal or other force to stop the demonstrations. We had many people testifying to this, particularly the military and security forces that testified before the Tribunal that the decisions from the Security Council were conveyed throughout the country, and those on the ground clearly understood that it meant to use any force, including lethal force.*

*Counsel Regina Paulose [RP] — To add to what Counsel is saying. Witness 600 this morning testified to the fact that the preparations for what they would do to take care of the event were taking place a week before, so they were on standby to get ready to*

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*go because they were going to announce the fuel price hikes and then the decision by the Security Council comes later within that timeline.*

*Chair — Thank you, Counsel. Justice Yacoob.*

*Panel — Thank you very much. I think you have no direct evidence of a Security Council meeting, nor have I seen, unless I missed it in some way in all the documentation, any direct evidence of the involvement of the Supreme Leader. So, it seems you rely on inference at one level or another. But moreover, I just wanted to be clear: Are you saying this is the only probable inference to be drawn from all the facts? Are you saying it is the only reasonable inference to be drawn from all the facts, or is it the only inference that can be drawn from the facts? Where are you pitching your case?*

Omid Shams [OS] — I think we can say that this is the only conclusion we can draw because of the facts. Moreover, in terms of the Security Council, we can say that in terms of the hierarchy of command, they are responsible, according to the Constitution, for high-profile security issues, and they were also responsible, as reflected in the evidence and the official statements of the heads of the Security Council, both the Supreme National Security Council and the [provincial?] For example, the country's Security Councils ordered shutting down the internet and using lethal weapons at certain points in their interviews or speeches; public speeches they made [indicates].

...and the country's national security council that they personally ordered for shutting down the internet and using lethal weapons at certain points in their interviews or speeches; public speeches they made [indicates].

*Panel — If you established that it is the only inference that can be drawn from all the facts, is a reasonable inference enough? Is it all you have established? Or is a probable **inference** enough in relation to what you establish? That is one option. The other option is that it is not an either-or because the strength of the inference drawn might not determine whether we say anything about it at the end. However, it may be, and I want to know where you are. It may be a strength of the inference you draw that would*

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*determine the strength of the recommendations or conclusions to which the Panel can come. I hope I am being clear; that sounds a little complicated.*

*The other option is that it is not an either-or because the strength of the inference drawn might **well** determine not whether we say anything at all about it at the end but, it may be, and I want to know where you are, It may be a strength of the inference you draw would determine to an extent the strength of the recommendations or conclusions to which the Panel can come. I hope I am being clear; that sounds a little complicated.*

*Counsel [RP] — Justice Yacoob, just to be clear, the strength of the inferences drawn from what? From the official acts? From the interior ministers' orders or generally?*

*Panel — From the evidence as a whole. I imagine that if you are relying on inference, you have to look at all the evidence and see in which direction the evidence points as I see it if it is the only inference that can be drawn from all the facts together. Then, we **can't choose** the facts. We will need to consider all the facts, so I am now suggesting if the inferential route is what you want us to follow. I am suggesting we consider all the facts and determine what kind of inference we can draw. Assume we can only draw a probable inference. What are the consequences? Of course, if you can draw no inference at all, if everything is very confused, then that is the end. However, suppose that we can only draw a probable inference. Suppose, secondly, that we can draw a reasonable inference. However, suppose thirdly that your case is so good that we conclude that it is only inference of all the possible issues; **there are these three possibilities at the theoretical level**. I cannot say at the moment how far we will be able to go. I am not making any commitment at that level. However, what I am asking is if we concluded that a probable inference could be drawn and influenced as to probabilities, this is probably what happened. What should be the consequence? If we have concluded beyond a reasonable doubt that this is what happened, which is that withdrawn reasonable influence, what should be the consequence? Alternatively, if we should conclude that your case is so good, the only inference that can be drawn is that the Security Council made the decision that the Supreme Leader directed, which is the end of that. What consequences should follow?*

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*Counsel [HS] — Thank you, Justice Yacoob. Of course, it would be presumptuous of Counsel to say that our case is so strong that this is the only inference, but I guess the totality of the evidence leaves very little doubt that the Iranian State in its totality is responsible for these crimes, crimes against humanity. Even the brief study of Iranian constitutional law and the evidence presented suggests that, as in the 15th century, l'etat c'est moi. The state is Ayatollah Khamenei. He is no different in his approach than considering himself as the only person in the State that should be considered responsible. Everything in the Islamic State goes directly to him. Nothing can be done without his say. They could not even import the vaccines to stop COVID because he banned it. Therefore, Ali Khamenei is directly responsible for all the considered crimes. The evidence for that is the statements he had made publicly calling the peaceful demonstrators "ashoubgar" or "eghteshashgar" agents of foreign bodies and accusing them of thugs and hooligans. He has never regarded them as having a right to demonstrate, as mandated under the Constitution. All the suppression instruments of the regime, including Revolutionary Guards, Basij, plainclothes police officers, and the judiciary, are under his direct command. As such, he is responsible personally and with all Security Council members to pass these decisions and order their execution. So, although we would like you to consider all the levels of the evidence whether it's a necessary implication or probable implication or reasonable implication, in all three cases, we hope the Tribunal comes to the same conclusion that the Iranian State and its alter ego Ali Khamenei are responsible for these crimes.*

Omid Shams [OS] — If I may add something. I believe that based on the evidence studied for this brief, Ali Khamenei is the main perpetrator mainly because of his position in the Constitution, and its relation in the hierarchy of the Islamic Republic of Iran regarding the judiciary, the Supreme National Council. He is also responsible because of his statements on the second day of the protests when he expressly confirmed the operation of the military and security forces, approved what they did, and praised their operation. That had a tremendous effect on further atrocities committed by the security forces, the IRGC and other military forces. We have also shown in the brief how his statements had a tremendous impact on the level of violence and atrocities committed by the security forces and the intelligence forces in terms of interrogation, torture or going way further beyond the legal scope of what the security forces could do during the protest.

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*Panel — I'm sorry to be difficult; I have one more question. Is the history of Iran, in particular the record of the protests 12 years ago? I think they were referred to in the evidence as the "78 protests" or something like that. Those reports that are relevant in the public domain as a matter of context?*

*Counsel [HS] — They are all publicly available. However, everyday atrocities had never stopped from the beginning of the Islamic revolution. Initially, it was the supporters of the ancien regime that ended up on the gallows. Then they started killing those not abiding by social norms or Islamic rules. And then it was the political opponents ending in the massacre of 1367 (Iranian Calendar) or 1988. It has never stopped. It is ongoing and continues with the regime of terror and murder, whether it is chain murders or continued suppression of opposition to the regime after the fabricated election of 12 years ago or other suppressions. The Iranian State had continued to suppress all the opposition. However, it is the Counsel's case that reaching your judgment; you should assume that Ali Khomeini and his government are law-abiding people. The Islamic State of Iran has no criminal background, as has been found in many courts worldwide. So, we would like you to focus your attention and judgment based on the evidence submitted for the atrocities in Aban 1398.*

*Chair — Miss Rohan.*

*Panel — Yes, thank you for your presentation and the extremely detailed brief. I read it: I cannot claim to be an expert on it. I am sure I will be rereading it. However, one central question jumps to mind. Assume there is a finding. I am speaking only in terms of this hypothetical question because obviously, the Panel has not had any chance to deliberate but assume there would be in finding that the crime base existed that the crimes occurred. I understand the discussion just held about Khamenei and his role as Supreme Leader, but there are close to 160 other people named here, and my understanding is that they are named as individuals, meaning people are potentially liable under the theories of individual criminality. What theories are you relying on? You mentioned co-perpetration. I wonder if there are any other theories of liability you*

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*have in mind that you are relying on regarding these remaining people, all of whom exist within this hierarchy.*

*Counsel [HS] — We have relied on co-perpetration because that is what has been developed very well under international law. Of course, there have been arguments about joint criminal enterprise and even going to the Iranian law of conspiracy. Clearly, this group, at least 160, is not the entirety of those involved in these atrocities, but only the leaders have committed these crimes based on a common plan. It could not have been possible that in 29 out of 30 provinces, we have evidence that the same type of atrocity has been committed more or less at the same time, without a common plan. Although it takes us back to inferences, the only conclusion is that the provincial Security Councils responsible for each province's security did receive their guidelines and instructions from the Supreme National Security Council. And from the head of that is Ali Khamenei, the Leader of the Islamic Republic of Iran. The common plan was executed throughout the country exactly the same way. The individuals that had been mentioned are the key individuals, not only at the national levels but also at provincial levels. The Counsel has presented the responsibility in each city and province for the Governor and Governor General of that province, the commanders of the Revolutionary Guards, the commanders of Basij and other responsible people, including the head of the judiciary. If any of these individuals objected, they could have stopped these events. If the judiciary of one province, like Kerman province, wanted to stop these proceedings, he could have stopped easily and released all the prisoners and, in fact, incarcerated all the members of the Revolutionary Guards and whoever was involved in the atrocities. Similarly, if the military commander or Revolutionary Guards commander of the province of Kerman wanted to stop it, he could have. The same applies to every individual accused who could have defied the rules and stopped this process. They are in a commanding position. They all have such strong influences that if each of them had decided, at least in their geographical area, to stop the crimes from being committed, they could have and not have done it. So, it is the necessary and the only implication and conclusion that these people were all involved in these atrocities. It could not have happened without them saying so and positively participating in it.*

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Omid Shams [OS] — If I may add to what Counsel Sabi said. These individuals also actively prevented any investigation into the security forces' operation. While they were in a position to launch investigations into the conduct of the law enforcement, security forces or military forces, they refused to do. At some point, they actively tried to prevent any investigation by hiding the information and data regarding the death toll and other important information for independent investigations. And on the position and the connection to the highest rank. The position is established based on the role in the Security Council and the command position on the field force of most of the law enforcement and security commanders who were actually field commanders at some points during the protest. One more thing that I would like to draw your attention to is that when we started the official statements of the high-ranking officials, we see that all of these officials more commonly used the term "war". They treated the situation of protests as war and ordered a war against them, and they used assault weapons and **lethal** weapons and treated these protesters as enemies of war.

*Panel — What troubled me slightly in the absence of specific evidence as to what specific individuals did, and I know we have some evidence, of course. Are we being asked to draw an inference of liability based essentially on a finding that there could be no other explanation if they wanted to stop it? They could not. They did not stop it. So therefore, they agreed with the plan. Part of the reason why that troubles me is we got evidence of the kinds of retaliation that people could expect if they dared to go against the edicts, the orders, whatever we call them of the Supreme Leader and others. So, one inference potentially is that some of these individuals were just flat out too frightened to do anything other than to go along with this as opposed to having the desire as a co-perpetrator to seek a particular end, any particular common goal. Do you understand what I am saying?*

*Counsel [HS] — First of all, there is direct evidence, not for all but most of the perpetrators. The Counsel's position is that in respect of each of them, not only did they tolerate that these events would happen and passively or silently go along with it but without their participation, the atrocities would not have been committed in this area or within their command. So, if the head of Basij in Isfahan just would have agreed that let the other groups do it, but he had withdrawn his forces, then none of those atrocities in Isfahan would have happened. So, each of them is a necessary and key figure in*

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*implementing these criminal orders. So, they cannot just hide behind the fact that they had no choice but allowed it to happen. They had to participate actively to make it happen.*

*Panel — Ok, and the primary theory you rely on here is co-perpetration?*

*Counsel [HS] — That is correct.*

*Panel — Thank you very much.*

*Chair — Justice Yacoob.*

*Panel — Thank you. Some constitutions have a provision which says that no one, even in an emergency, is obliged to obey an unlawful order. I have no idea what international law says about this. I have not investigated it; I doubt whether the Iranian Constitution gives anybody the right not to obey an unlawful order. And if it doesn't, how many of your 160-odd people would be able to say that they were obeying the orders of the Supreme Leader? Does that [a defence](#) (not depend) in international law or not?*

*Counsel [HS] — I think since 1946, when the International Military Tribunal condemned the Nazi perpetrators irrespective of (concerning) written and clear instructions that they had received; it has been part of the international law that obeying the illegal order of the superior is not an excuse. However, Justice Yacoob, you may also note that under the Iranian Constitution, not only is Ali Khamenei the Leader, but he is also the religious Leader. Therefore, some may consider him rightly or wrongly as their religious Leader, that they have to obey on the precepts of Shiism as is adopted in Iran, as the order of the velit-e faqih, the guardian of the nation.*

*Panel — Sorry to interrupt, but what role (does Shia have in light) fear of serious reprisals has in this? Has that been being discussed in any international law case, where a military person says, "I would have been killed if I would not have done this, I plead of duress?"*

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*Counsel [HS] — Of course, it is not an international law standard. However, it is a national law or not even a national law but national, practical, pragmatic law that whoever does not obey the Leader will face serious difficulties being incarcerated or even executed. So, regarding the local standards, national laws, it is very difficult not to obey the orders of Ali Khamenei. However, it is not an excuse under international law and, to some measures, not under national law. Most of these people will be unable to escape punishment in a properly held Tribunal or Court in Iran for breaching the existing rules of Iranian law. As the Counsel submitted, they all have breached Iranian national law; whether at the constitutional level or other criminal law, they are all criminally responsible, and as a matter of Iranian law, the superior's order or the order of the guardian of the nation to carry out these criminal acts would not be a defence.*

*Chair — Could I ask a more factual question? We have heard some evidence that, well, much evidence about the IRGC and its dominance in what you say was the criminal plan. We have heard evidence, and I am just focusing on the 160 alleged accused; we heard some evidence that the IRGC and also the Friday prayer leaders were able to and did take over some of the provincial Security Councils and effectively, well... one might be able to argue effectively overrode, the latter's authority. Would that create the possibility for the defence?*

*Counsel [HS] — It is our submission that it does not present a defence. It would provide a defence for the officer who refused to do it, to carry out the orders and provides a defence for someone who resigned from the job rather than carrying on. However, it does not provide a defence for a military commander, a judge, or a provincial governor who actively participated and carried out the instructions knowing that these are all criminal instructions.*

*Chair — I guess the question is also, whether you as Counsel, we have heard from police officers, we have heard from security force agents who testified effectively that their colleagues or other forces acted criminally, but they did not. Is it possible that in your case, some, for example, provincial security agents, provincial security council, some lower ranking, lower authority officials excused themselves, let us put it like that, from the criminal plan? Is there room in your theory for that?*

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*Counsel [HS] — Yes, of course.*

*Chair — I asked because I think what I have seen in international criminal law, of course, with prosecutors often seem to advance because if you were in a position of authority and survived, then you are responsible. You are either dead, or you left. And that is the only indication you are not responsible, and what you just said, Mr Sabi, just reminded me of that kind of theory. So, what would you say to that?*

*Counsel [HS] — At the level that we have provided the list of the accused, they are all up in their field and the branch in either the city, province or national level. We have not gone to the second-in-command. So, we are dealing with commanders, we are dealing with governor generals, we are dealing with the head of the judiciary, and we are not dealing or the interrogator that may or may not be able to use this defence.*

*Our case is on the prime movers, people that without their participation, the atrocities would not have happened. At least not in that area of jurisdiction. We are not going down to the level that you can argue that the atrocities would have happened with or without them, and their positive or negative participation did not cause the damage. They are much higher ranking.*

*Chair — Thank you, Miss Rohan.*

*Panel — Your response renders a quick question on my part, which has been: Is there a reason you are not relying on command responsibility? Or are you relying on command responsibility as another potential theory of liability here? I think you think it applies to the situation.*

*Counsel [RP] — Yeah. I think we could use that. In writing this brief and working on it, I think we relied on the statute as proposed by the Panel. So, if you do not see anything further out there, we felt limited to what was in the statute. Thus, those are the theories that we have, I think it starts with the introduction that we rely on, and joint criminal enterprise was not part of the Aban Statute, but we still included it as a possibility.*

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*Panel — I thought command responsibility was. I will go back to it. Thank you.*

*Chair — I think that might be all the questions for the moment, Counsel. Thank you very much for the address and for responding to our questions. Thank you very much.*

*Counsel [RP] — We will amend the submission because we have to make minor edits to update it to include what you heard this weekend. So, be on the lookout for that.*

*Counsel [HS] — Apart from that, I would like to give my thanks to the hard work that was carried out by the investigative team to put all this evidence before you and all those who have been working day or night to make this event possible. Furthermore, thank you all for your patience and support of this Tribunal. Thank you.*