

Iran's Nuclueur Anti- Zionism is Genocidal, not Political

InFocus, Winter 2009
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Charles Asher Small, director of Yale's Interdisciplinary Initiative for the Study of Anti-Semitism, tells the story of the reception he received from Rwandan activists at this year's Durban II Conference. As Iranian President Mahmoud Ahmadinejad rose to the Geneva stage, the Rwandans asked Small why the Jewish community is not doing more to prevent the obvious consummation of Ahmadinejad's fiery rhetoric. The Rwandans had heard similar propaganda before.

They used this language against your people in the 1940's, they said, and they used it against our people in the 1990's. Why do you not see that Iran's treatment of Israel today is no different?

From bitter experience, the Rwandans recognized genocidal intent in the Iranian leader's invective. They could not understand how a people that had its own state, organizations and resources is not able to understand and combat the growing threat that Iran presents.

The Threats

Broadly speaking, there are three ways Iran's fast-developing nuclear arsenal could be put to use in its confrontation with Israel, the United States, and the West: strategic, political, and geopolitical. Experts often argue that the real danger of an Iranian nuclear weapon has less to do with whether the weapons would be fired, and more to do with how their mere possession would alter the balance of power. This could be true. Yet, if Iran's leadership should use these weapons to annihilate the people of Israel, the surprise will not be that they have done so, but that the world had failed to recognize the unmistakable signs that they would.

Ahmadinejad notoriously declared in 2006 that, "Israel should be wiped off the map." Repeatedly, and in many public venues, the Iranian leader has heaped extraordinary scorn on Israel and its Zionist supporters. Ahmadinejad's aspersions often fall into the two categories that genocide scholars characterize as hallmarks of mass-murderous incitement: dehumanization and demonization.

Denying the personhood of the Israeli people, he lectured in 2006 that Israelis are not human beings: "They are like cattle, nay, more misguided." At the same time, he attributes to Jews a diabolical evil: "Next to them," he stated, "all the criminals of the world seem righteous."

Following a pattern of other world historical figures responsible for genocide, Ahmadinejad predicted in 2008 the consequences for the target people: "Thanks to God, your wish will soon be realized, and this germ of corruption will be wiped off the face of the world."

As if to dispel any ambiguities about his intentions, he paraded a Shahab-3 missile through the streets of Tehran in 2008 with the message, "Israel must be wiped off the map."

The Case for Prosecution

There is a legal significance to Ahmadinejad's murderous charges. Several prominent international human rights lawyers and jurists have urged that Ahmadinejad be prosecuted for incitement to genocide.

Notably, the Jerusalem Center for Public Affairs published in 2006 a 69-page document, endorsed by Holocaust activist Elie Weisel and Ambassador Dore Gold, among others, titled, "Referral of Iranian President Ahmadinejad on the Charge of Incitement to Commit Genocide."

Nevertheless, some legal commentators, including genocide scholar Susan Benesch, have observed that it is "highly unlikely" that Ahmadinejad will be held accountable before either the International Criminal Court (ICC) or the International Court of Justice. If this is the case, it is only because Ahmadinejad's conduct has not been sufficiently scrutinized, and because the United Nations' politics is so strongly biased against the Jewish State.

Other prominent commentators, including former Canadian Justice Minister Irwin Cotler and Harvard Law Professor Alan Dershowitz, argue that Ahmadinejad should be prosecuted under the 1948 Convention on the Prevention and Punishment of the Crime of Genocide (the Genocide Convention), the Rome Statute of the ICC, and universal jurisdiction statutes. Australian Prime Minister Paul Rudd has made similar arguments.

Most importantly, perhaps, the U.S. House of Representatives passed a non-binding resolution in 2007 by a vote of 411 to 2, urging the U.N. Security Council to prosecute Ahmadinejad for incitement.

University of North Dakota Law School Professor Gregory Gordon has addressed these proposals in a full-length academic legal treatment in *The Journal of Criminal Law & Criminology* (Spring 2008). He concludes that it would be appropriate to try Ahmadinejad before the ICC. Moreover, he states that the charges should extend beyond incitement to genocide, and include the charge of crimes against humanity.

The Genocide Convention criminalizes, "direct and public incitement to commit genocide." The Convention defines "genocide" to include, for example, killing, causing serious bodily or mental harm, or inflicting conditions calculated to affect the physical

destruction of a group, with "intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such." Similarly, the Rome Statute of the ICC also prohibits direct and public incitement to commit genocide.

Rwanda as Precedent

Interpreting these statutes is difficult, particularly because there have been few cases applying their terms. However, since pertinent portions of the International Criminal Tribunal for Rwanda (ICTR) statute mirror the Convention and the Rome Statute, the ICTR's cases have been viewed as persuasive authority for interpreting these statutes.

From the handful of major cases applying the ICTR statute, Gordon has demonstrated that an actionable incitement must meet certain criteria. First, the statements in question must be publicly uttered. Second, they must be uttered in a sufficiently direct manner. Third, it must be determined that what was stated can be viewed as actual incitement rather than protected speech. Finally, the statement must have an underlying intent to provoke mass-murder.

Do Ahmadinejad's attacks upon Israel qualify? There is no question that Ahmadinejad's statements have been sufficiently public. He has repeatedly, bluntly, and before large audiences urged Israel's annihilation. The question is whether Ahmadinejad's invective has been sufficiently directed at the Jewish people. The other question is whether the statements in question are intended to spur murderous action rather than merely to rattle his proverbial sabers.

The Directness Question

In an influential article published in the Spring 2008 volume of the *Virginia Journal of International Law*, Benesch argued that Ahmadinejad has not committed incitement to genocide. Condemning Ahmadinejad's speeches as "despicable," Benesch nevertheless argues that, "[i]f his statements refer to the state of Israel or the Israeli population rather than to another group of Jews... it seems that he did not commit incitement to genocide, since one cannot commit genocide against a state."

Benesch is a thoughtful scholar-activist, but her argument misses the point that Ahmadinejad's incitement is directed not only at Israel as a state, but also at the Jewish people in a particular corporate form. Under international law, it does not matter if genocidal inducement is concealed by euphemism or indirection.

As William Schabas, director of the Irish Centre for Human Rights, has observed, "The history of genocide shows that those who incite the crime speak in euphemisms." For example, after Rwanda's Taba Commune mayor Jean-Paul Akayesu told his audience to kill the "Inkotanyi," the International Criminal Tribunal for Rwanda relied upon both fact witnesses and linguistics experts to confirm that, in fact, he meant Tutsis. Indeed, given the frequency with which Rwandan murderers relied upon euphemisms; the ICTR insisted on piercing linguistic evasions to infer the targeted group from socio-political

context. As Gordon painstakingly demonstrated, this was the ICTR's method in sentencing Belgian national Georges Ruggiu, whose radio broadcasts used the term "Inyenzi" [cockroach] to designate Tutsis for extermination.

Ahmadinejad's audience understands that when he speaks about annihilating Israel, he means the annihilation of the Jewish state. With this in mind, the Jerusalem Center for Public Affairs published an analysis by scholar Joshua Teitelbaum on the reception of Ahmadinejad's anti-Israeli remarks among Iranians. The report concluded that Iranians understand Ahmadinejad is calling for the destruction of both Jews and Israel. As Hassan Nasrallah, Secretary General of the Iranian-sponsored Hezbollah, explains, "if they [the Jews] all gather in Israel, it will save us the trouble of going after them worldwide," he proclaimed in 2006. He calls for, "an open war until the elimination of Israel and until the death of the last Jew on earth."

Empty Rhetoric or Spur to Action?

Benesch's faulty argument also posits that if Ahmadinejad's speeches "were directed at the Iranian public, it seems that he did not commit incitement to genocide... since his civilian audience does not have the capacity to commit genocide against the population of Israel." This argument assumes that to be considered incitement, inflammatory rhetoric requires an audience primed to carry out its directives. Benesch posits that someone who stands up today in Times Square and shouts out the most inflammatory lines from Rwanda's infamous 1992 or 1994 anti-Tutsi broadcasts would not provoke genocide and would not be guilty of incitement.

Her argument, however, misstates the function of Ahmadinejad's anti-Israel proclamations. Indeed, they are aimed at developing a public consensus to provide "legitimacy" for genocidal state actions, including the use of weapons of mass destruction, against the Jewish people.

First, Ahmadinejad, as president of a repressive regime, has significant influence over his audience. Second, his audience has previously been subjected to hate speech. Indeed, Ahmadinejad is not ranting in the middle of Times Square. Rather, he is instigating an audience that has been fed a steady diet of anti-Israel and anti-Semitic rhetoric that extends at least to the founding of the Islamic Republic in 1979. For example, former president Akbar Hashemi Rafsanjani happily observed in 2001 that, "even one atomic bomb inside Israel will wipe it off the face of the earth."

Finally, Ahmadinejad uses what genocide scholars call "accusation in a mirror," a technique previously refined by Nazi, Serbian, and Hutu propagandists. A Rwandan propaganda theorist, for example, counseled his co-conspirators to, "impute to enemies exactly what they and their own party are planning to do." The International Criminal Tribunal for the Former Yugoslavia observed this phenomenon in Serbia as well: "In articles, announcements, television programs and public proclamations, Serbs were told that they needed to protect themselves from a fundamentalist Muslim threat... that the Croats and Muslims were preparing a plan of genocide against them."

In a strikingly similar vein, Ahmadinejad has repeatedly accused Israel of the crimes that he appears eager to commit: "They have no boundaries, limits, or taboos when it comes to killing human beings."

Never Again?

In an overt reference to the Nazi Holocaust, the Genocide Convention is widely known as the "Never Again" Convention. The Convention must now pay closer attention to the rhetoric of Mahmoud Ahmadinejad. Indeed, given Iran's progress in its efforts to build a nuclear weapon, Ahmadinejad could soon be in a position to eradicate the Jewish population of Israel, which is now approaching six million. If the killing of six million Jews is precisely what the "Never Again" Convention was intended to combat, the world must not turn its back on Ahmadinejad's blunt incitements to do so.

The full name of the "Never Again" Convention is the "Convention on the Prevention and Punishment of the Crime of Genocide." It is time for international institutions to take action to prevent unspeakable tragedy before it occurs rather than responding to it after the fact.

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