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**Subcommittee on International Human Rights of  
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**Tuesday, March 31, 2009**

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**Chair**

**Mr. Scott Reid**

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• (1250)

[English]

**The Chair (Mr. Scott Reid (Lanark—Frontenac—Lennox and Addington, CPC)):**

Order, please.

We've just been dealing in camera with some administrative matters, which have eaten into the time Professor Gordon was going to use for his presentation. So I'm going to dispense with the very long introduction. Professor Gordon is a very distinguished scholar and has a very long list of accomplishments, which I will skip in the interest of time. I'll simply mention that he is the director of the University of North Dakota Center for Human Rights and Genocide Studies.

I'll simply then turn the floor over to you, Professor Gordon. Thank you.

**Prof. Gregory Gordon (Director, Center for Human Rights and Genocide Studies, University of North Dakota):** Thank you, Mr. Chair.

Distinguished members of the House of Commons, ladies and gentlemen, I'm honoured to be before you today to discuss a particular aspect of human rights in Iran that affects the entire Middle East, if not the world.

I am here to speak about Iran's state-sponsored incitement to genocide; in particular, the apocalyptic urgings of Iranian President Mahmoud Ahmadinejad directed at the State of Israel. As you know, Ahmadinejad has called for Israel to be wiped off the map. He has referred to Israeli Jews as animals and other terrible things, and he has asked that they be removed from the Middle East.

I come here today with a certain sense of moral outrage. Since when is it acceptable for a world leader to advocate the destruction of another country? And in that context, is it not problematic for that same leader to dehumanize the people of that country? How is it that we can abide this leader calling for deportation of an entire people from its own country? Mahmoud Ahmadinejad has been doing this in relation to the state and people of Israel since 2005.

I am here today to tell you that I believe something must be done about it. Many solutions could be proposed—UN resolutions, economic sanctions, even military responses. But today I would ask that you consider dealing with Ahmadinejad in a manner some might consider novel or even impossible: taking legal action. I think this is possible because Ahmadinejad has committed two kinds of

actionable international crimes; incitement to genocide and crimes against humanity.

Let me begin with genocide, and let me emphasize that genocide does not happen overnight. It is a long, meticulous process that requires persistent thought conditioning, and again, Mahmoud Ahmadinejad has been engaged in that process since he became President of Iran in 2005. His infamous October 2005 exhortation that Israel should be wiped off the face of the map may have garnered the most press coverage, but his inflammatory statements since then have been equally effective at persuading Iranians and the rest of the world to visualize a Middle East cleared of Israeli Jews. Not only has Ahmadinejad regularly continued to urge and prophesy their elimination, but he has variously referred to Israeli Jews as animals, barbarians, and mass murderers.

Many think that incitement consists only of direct and explicit requests for mass murder. I submit that when it is anchored to direct calls, there are other types of incitement. In the case of Ahmadinejad, we can see seven different categories: first, calling for Israel's destruction; second, predicting Israel's destruction; third, dehumanizing Israeli Jews; fourth, accusing Israel of perpetrating mass murder and seeking world domination; fifth, condoning past violence against Israelis and issuing threats against those who would protect Israel; sixth, advocating expulsion of Israeli Jews from the Middle East; and seventh, denying the Holocaust.

Let me give you some examples of each of these.

As far as calls for destruction are concerned, Ahmadinejad has publicly called for the annihilation of the State of Israel on several occasions. In addition to his October 2005 wipe-off-the-map speech, he has stated that "the Zionist regime...cannot survive" and "...can...not continue its existence".

During the Israel-Hezbollah military conflict, he stated that the “real cure for the [Lebanon] conflict is elimination of the Zionist regime”. Last year he focused his eliminationist invectives specifically on Israeli Jews when he told the French newspaper *Le Monde* that “these false people, these fabricated people”—the Israeli people—“cannot continue to exist”.

He has also predicted Israel's destruction, and I submit that this is a form of incitement as well. He has done this on numerous occasions. He has stated that Israel is heading toward annihilation and elimination and that it soon will be wiped out. He publicly warned Israeli Jews that their country will one day vanish, will be gone definitely, and that they are nearing the last days of their lives. Furthermore, as Israel defended itself against Hezbollah attacks in the summer of 2006, Ahmadinejad said the Jewish state had “pushed the button of its own destruction”. Last May, as Israel celebrated the sixth decade of its existence, Ahmadinejad told an audience that Israel was “dying” and its 60th anniversary festivities were an attempt to prevent its “annihilation”.

●(1255)

In an address to the UN General Assembly on September 23, 2008, Ahmadinejad stated that “Israel was on the path to collapse”, and more recently he told the *Los Angeles Times* that Israel “resembles an airplane that has lost its engine and is kind of going down”. He added, “This will benefit everyone.” He has also on repeated occasions dehumanized Israeli Jews. He has called their country a blot and a stain. He has described Israel as a “rotten, dried tree” that will be eliminated by one “storm”. He asked an audience if Israeli Jews were human beings and answered his own question in the negative. I quote: “They are like cattle, nay, more misguided. A bunch of bloodthirsty barbarians. Next to them, all the criminals of the world seem righteous”.

In October 2007 he told a large gathering of Iranians that Israel's continued existence was “an insult to human dignity”, and in January 2008 he referred to the Jewish state as filthy. In the following month he variously described Israel to supporters at a rally as “filthy bacteria”, “a wild beast”, and a “scarecrow”. He told the UN General Assembly last September that Israelis are “criminals and murderers”, and that they are “acquisitive” and “deceitful” and dominate global finance despite their “minuscule” number.

He's also accused Israelis of mass murder and world domination. He has told audiences, for instance, that Israeli Jews have allowed themselves “to kill the Palestinian people...who are burning in the crimes of Zionists”. He referred to residents of the Jewish state as having “no boundaries, limits or taboos when it comes to killing human beings”. He said at another public gathering that Israeli Jews are “fighting a war against humanity”. In October 2007 he accused Israel of committing genocide against the Palestinians, and in September 2008 he told the UN General Assembly that the “underhanded actions” of Israel were among the causes of violence in the former Soviet Republic of Georgia.

At a Holocaust conference at Sharif University of Technology in Tehran on January 27, 2009, Ahmadinejad stated:

Today the Zionists dominate many of the world's centers of power, wealth, and media. Unfortunately, they have ensnared many politicians and parties, and they are plundering the wealth and assets of nations in this way, depriving peoples of

their freedoms and destroying their cultures and human values by spreading their nexus of corruption.

He has also condoned violence against Israelis and threatened anyone who would support Israel. For example, in his October 25, 2005, speech, he commented approvingly regarding Palestinian terrorist attacks against Israel: “There is no doubt that the new wave of attacks in Palestine will erase this stain [Israel] from the face of Islam”. And in the same speech he issued threats against those who would come to Israel's aid, declaring that “Anybody who recognizes Israel will burn in the fire of the Islamic nation's fury”.

Ahmadinejad has also publicly advocated for the expulsion of Israeli Jews from the Middle East. He once exclaimed that Jews had “no roots in Palestine”, and he urged their removal to Germany or Austria. On another occasion, he asked that Israeli Jews be removed to Europe, the continental United States, Canada, or Alaska.

I think, perhaps most importantly, Ahmadinejad has consistently denied the existence of the Holocaust in public. In December 2005 he said, “They have created a myth that Jews were massacred and place this above God, religions and the prophets.” At Ahmadinejad's urging, the Institute for Political and International Studies, an arm of the Iranian foreign ministry, held a two-day conference in December 2006, entitled “Review of the Holocaust: Global Vision”. Ahmadinejad addressed the conference, as did other holocaust deniers, including former Ku Klux Klan leader David Duke and Nazi sympathizers such as French professor Robert Faurisson.

●(1300)

At a Holocaust conference at Sharif University of Technology in Tehran, on January 27, 2009, Ahmadinejad stated:

For 60 years they allowed no one to question and cast doubt on the logic of the Holocaust and its very essence - because if the truth were to be exposed, nothing would remain of their logic of liberal democracy. It is the very advocates of liberal democracy who defend the Holocaust, who have sanctified it to the point where none may enter. Breaking the padlock of the Holocaust and re-examining it will be tantamount to cutting the vital arteries of the Zionist regime. It will destroy the philosophical foundation and *raison d'être* of this regime.

I invite the dear researchers, intellectuals, young people and students, who are the trailblazers, to re-examine not only the Holocaust, but also its consequences and aftermath and inform others of their studies and research. Let us not forget that more than ever before, the Zionist network, which came up with the issue of the Holocaust, must be exposed, and be presented to the peoples as it really is.

So by this last category, Ahmadinejad has been trying to chip away methodically at perhaps the most imposing moral and ethical bulwark against the launch of another Jewish genocide, the existence of the Holocaust.

Were Ahmadinejad's words the sole problem? Perhaps we could simply try to plug our ears and tune out his genocidal rhetoric, but those words have been uttered within the context of Iran's long-standing eliminationist policy toward Israel. Ahmadinejad's murderous exhortations have been accompanied by his financing, training, and working with radical Islamist terrorist groups bent on destroying Israel—Hezbollah, Hamas, and Islamic Jihad.

In fact, Ahmadinejad's rhetoric can be tied to his support of the terrorists. As Hezbollah was firing thousands of rockets on innocent Israeli civilians at the height of the Israeli-Hezbollah war, Ahmadinejad stated that the real cure to the Lebanon conflict is the elimination of the Zionist regime.

Then there are Iran's nuclear ambitions. The Islamic republic has passed one of the most significant hurdles to developing a nuclear weapons capacity by converting yellowcake into uranium hexa-fluoride gas. It is now making strides at the next advanced stage of development, spinning the gas through thousands of centrifuges it has installed in an underground enrichment plant it built secretly in Natanz, south of Tehran. As a result, certain experts now believe that Iran may be capable of building an atomic bomb within the next couple of years.

As a result of that, on July 31, 2006, as you know, the UN Security Council, including Russia and China, ordered Iran to stop its enrichment program. Iran thumbed its nose at the Security Council, which followed up with three resolutions in December 2006, March 2007, and March 2008, repeating its demands and applying sanctions. The European Union has imposed its own sanctions, targeting loans to companies trading with Iran and allowing for tougher cargo inspections of Iranian imports and exports.

Although a November 2007 U.S. national intelligence estimate stated that Iran technically halted its nuclear weapons program in 2003, the country has apparently only suspended attempts to construct a warhead. This is seemingly the easiest and quickest step in creating nuclear weapons. According to various experts, though, this may be less important than Tehran's accelerated production of fissile material and success at increasing the range of its missiles, much more difficult hurdles to overcome in the nuclear weapon production process.

Iran's vast oil reserves, its defiant, long-standing, clandestine nuclear activity, and its parading of Shahab-3 missiles capable of hitting Tel Aviv and festooned with words such as "death to Israel" suggest less than peaceful motives. Consistent with this, last year the UN's nuclear watchdog, the International Atomic Energy Agency, released a report calling weaponization the one major unsolved issue relevant to the nature of Iran's nuclear program.

Given the totality of circumstances, legal precedents from the Rwandan genocide prosecutions teach that Ahmadinejad's urging to liquidate Israel could be charged as a direct and public incitement to genocide and crimes against humanity. From those cases, we can cull the essential elements of incitement. To determine if an utterance constitutes incitement, the finder of fact must consider where the utterance was issued. In other words, is it sufficiently public? Second, what is the interpretation by the audience? In other words, is it sufficiently direct? Third is its content. Is it permissible free speech or criminal incitement? Fourth is the state of mind or, as we say in the law, the *mens rea* of the person uttering the words. In other words, is there sufficient intent?

• (1305)

The other key question is whether in transmitting the content of the message at issue, as I just mentioned a moment ago, the defendant has engaged in the permissible exercise of free speech or

non-protected hate advocacy. These cases I just mentioned identify four criteria through which speech content regarding race or ethnicity should be analyzed as either legitimate expression or criminal advocacy: first, the purpose of the speech; second, the text itself; third, the context; and finally, the relationship between the speaker and the subject. Time does not permit me to parse each of these elements today. In a recent article I published in the Northwestern University *Journal of Criminal Law and Criminology*, however, I demonstrate how the entire body of Ahmadinejad's vicious words satisfy these criteria.

Based on the Rwandan cases, we also know that for Ahmadinejad's rants against Israel to constitute crimes against humanity, his advocacy would have to be part of a widespread or systematic attack directed against any civilian population with knowledge of the attack. Given the absence of direct Iranian attacks on Israeli civilians, this could be proved by tying Ahmadinejad's calls for Israel's destruction to attacks on Israeli civilians by Iran's clients: Hezbollah, Hamas, and Islamic Jihad.

Moreover, to convict an accused of crimes against humanity, it must be proved that the crimes were related to the attack on a civilian population. I believe the available evidence suggests that Ahmadinejad's "eliminate Israel" advocacy would be related to the attacks on Israeli civilians, seemingly sponsored by Ahmadinejad and perpetrated by Hezbollah and Islamic Jihad. As I mentioned a few minutes ago, Ahmadinejad advocated Israel's destruction as Hezbollah with Iran's sponsorship and support attacked Israeli civilians.

With respect to jurisdiction, although Iran is not a member of the International Criminal Court, the case could be heard by the ICC upon referral from the Security Council. This would be akin to the ICC's current Darfur case, and that case provides precedent for the ICC indicting a sitting head of state, in this case Omar al-Bashir. Unfortunately, incitement charges have never been filed in the absence of subsequent mass atrocity, and so it is unlikely they would be filed here. Certainly one of the lessons we should draw from this is that incitement law should turn its current focus from post-atrocity prosecution and punishment to pre-atrocity deterrence. That is the true purpose of the incitement crime. It is not enough to punish it after the mass graves have been filled.

Assuming Security Council referral to the ICC is not politically realistic—and I think that's a good assumption—Canada or other nations with proper laws on their books could alternatively prosecute Ahmadinejad in their own courts under the principle of universal jurisdiction. Pursuant to its Crimes Against Humanity and War Crimes Act, Canada can prosecute both genocide and crimes against humanity perpetrated outside of Canada by persons who are not Canadian citizens. These are *jus cogens* crimes, and when they are committed, all nations have a duty to prosecute them. By doing so, Canada would be vindicating the interests of the global citizenry.

Even if such a criminal prosecution is not possible in the current climate, it would be possible to bring a civil action against Iran in the International Court of Justice, pursuant to article 9 of the genocide convention. The Australian government has spoken seriously about doing this but has not yet taken action. I would urge the Canadian government to do so. Both Iran and Canada are signatories to the genocide convention. At the very least, a resolution directed against Iran from the UN Security Council or General Assembly or even another organ such as the Human Rights Council would send the message that such calls for violence will not be tolerated. I urge all governments, including Canada's, to push for such a resolution.

Perhaps such a course of action does not seem terribly urgent at this time. After all, our 24-hour news cycle culture feeds itself on sensational sound bites that saturate the air waves and are quickly replaced by new tabloid outbursts. Right now we are in a lull between Ahmadinejad's extreme genocidal utterances, and this is precisely when we should be considering the bigger picture regarding Ahmadinejad. His verbal assaults are meant to work by accretion. Little by little, they persuade his fellow countrymen that Israel must be eliminated.

Should we tune out the Iranian President between sound bites and simply wait until his country has operable weapons of mass destruction? Let us remember our history books and not fall prey to such complacency.

• (1310)

Professor Gregory Stanton of Genocide Watch, who unfortunately wasn't able to be with us today, has written about the eight stages of genocide. The first is classification. The second is symbolization. The third is dehumanization. The fourth is organization. The fifth is polarization. The sixth is preparation. The seventh is extermination. The eighth is denial.

In the case of Iran and Israel, perhaps we have already gotten to the sixth stage, preparation. Perhaps that's what Iran's development of nuclear capacity is all about.

How costly would it be to wait and find out if that's what's really going on? We have heard the warning signs. We have seen the red flags. What is the world waiting for? The Armenians of Turkey, the Jews of Nazi Germany, the Tutsis of Rwanda, the Muslims of Bosnia, and most recently, the victims in Darfur were slaughtered after being dehumanized and targeted through a steady stream of verbal attacks, and the world stood by.

Why don't we try a different approach this time? We could consider economic sanctions, but they have often proved porous and ineffectual. Given that Iran has sequestered much of its nuclear

program and compartmentalized underground installations, it seems highly unlikely that surgical strikes alone could derail its nuclear ambitions. A full-blown military attack, on the other hand, would spark a regional conflagration and possibly a new world war.

There is another way. Prosecuting Ahmadinejad for incitement to commit genocide and crimes against humanity would avoid bloodshed, enforce the rule of law, help erode the culture of impunity, and allow the inchoate crime of incitement to fulfill its most important objective: deterrence.

In the alternative, suing Iran at the International Court of Justice could go a long way toward convincing the Iranians and the rest of the world that Iran's present course of action is illegal and must be stopped. At the very least, a UN resolution from either the Security Council or the General Assembly, or one of the other organs, would serve notice that Ahmadinejad's incitement is actionable and unacceptable.

It is not too late. We are being given yet another chance to prevent genocide. Let us not fail this time.

Thank you.

**The Chair:** Thank you, Professor.

We have 45 minutes before we have to wrap up this meeting. That gives us enough time to have one round of seven-minute questions for each party and then a second round of two five-minute questions for the Liberal and the Conservative members.

Who will begin?

Mr. Cotler, please.

**Hon. Irwin Cotler (Mount Royal, Lib.):** Thank you, Mr. Chairman.

I'd like to begin by thanking the witness for his very comprehensive testimony and then put two questions to him.

First, based on your experience in Rwanda, how would you feel the state-sanctioned incitement in Ahmadinejad's Iran compares to that, both in terms of the content of the message and the identity of the state officials promulgating the message? How do these two compare? In that regard, again based on your experience in Rwanda, does international law recognize the role of euphemisms in genocidal incitement? Does it make a difference under international law, for example, if Iranian officials refer to "the Zionist entity" as opposed to Israel? That's the first question, with a related one.

Second, could you elaborate on the obligation to prevent genocide that is mentioned in the genocide convention, and its connection to the prohibition on incitement to genocide? In a word, how firmly established in international law is the crime of incitement to genocide?

Those are the two sets of questions.

• (1315)

**Prof. Gregory Gordon:** Certainly, and they're good questions.

The first question has to do with a comparison of what happened in the Rwandan case versus what we have here in Iran, and then the use of euphemisms. Actually, I think what we have here is a lot more egregious than what we saw in Rwanda, as far as the content of the incitement is concerned. Here you have direct calls, which I've detailed, that are attached to all kinds of other types of incitement. In some cases you see comparable situations or statements to those that have been made in the Rwandan context, but in their scope, their magnitude, and how direct they are, I think the ones in Iran are actually more egregious. There absolutely is a relation to the next question, regarding euphemisms.

Incitement to genocide is almost always committed through euphemisms. We saw a lot of this in Rwanda. For example, in Rwanda, when people spoke to the citizenry and said, "Go to work", it was a euphemism for killing Tutsis. When there was reference to finishing off the 1959 revolution—in 1959 there were massacres of Tutsis—it was a euphemism. References to Tutsis as cockroaches or snakes—those sorts of euphemisms—were used as well.

I think when you hear Ahmadinejad talk about "the Zionists", it's not even much of a euphemism at all. It's pretty much understood by everyone what he's talking about. Again, I think these are much more direct.

I think the other thing you have to realize, related to this, is that in Rwanda you had an African country that had a long history and tradition and had a language, Kinyarwanda, that was unique to that country. Terms that could be used in a very veiled way would be understood, would be immediately grasped by the listener, and that's what the direct part of the calculus is.

Here you have somebody, in Ahmadinejad, who's speaking to the whole world. He's using terminology, frankly, that I think everyone can understand and grasp immediately. One issue is that he's speaking in Farsi, and we have to rely on translations. But even if you look at the translations—translations that come from the Iranian government's own websites—they will use words like "wipe out".

There's been some controversy about whether or not Ahmadinejad has said that Israel should "vanish from the pages of time" as opposed to being "wiped off the map". I cover that in my article quite a bit. I think the point is that if you look at the translations provided by the Iranian government itself, they're referring to "wiping off the map". I think we have a very strong case here. I think it's actually stronger than the Rwandan cases, in many respects.

Then, concerning what the obligation is in the genocide convention to prevent genocide, I think it's clear, if you just look at the title of the genocide convention: it's the Convention on the Prevention and Punishment of the Crime of Genocide. In the very first words of the title of this document, prevention is there before punishment. That, to me, is really the central focus of the convention.

When you look at incitement—you have your definition of genocide in article 2 and then you have incitement listed as a form of genocide in article 3—it's clear that incitement to genocide is an inchoate crime, as I mentioned in my remarks. That means that the crime is complete once the words are uttered, if the other elements that I talked about are present. You don't have to have causation. The

law has been very clearly defined in the Rwandan cases that causation is not an element of incitement to genocide.

• (1320)

So in the case of Ahmadinejad, we see that the crime has already been committed, and given the emphasis on deterrence in the genocide convention, we absolutely have an obligation to act. We need to act now rather than wait until something terrible happens.

**The Chair:** Thank you.

*Madam Thi Lac, s'il vous plaît.*

[Translation]

**Mrs. Ève-Mary Thaï Thi Lac (Saint-Hyacinthe—Bagot, BQ):** Thank you very much for being with us today, Mr. Gordon. I carefully listened to your presentation, which gave me a better understanding of a number of situations that I did not know about or the scope of which I did not know about.

You said that administrative remedies could be introduced. What do you think of the charge of incitement to genocide that could be laid against the Iranian president before the International Court?

[English]

**Prof. Gregory Gordon:** I think charges before the ICC would be the way to go. We could treat it as a civil matter or a criminal matter. To let the world know how important this is, to satisfy our obligation to prevent rather than punish after the fact, I think criminal charges are in order. The problem is, to get to the ICC, we would have to go through the Security Council. We'd have to get a Security Council referral. To be honest, I am not terribly optimistic about the prospects for that. It's disappointing, but in the current climate we just can't count on it. That's why I mentioned the other possibilities. While we should always strive for the best course of action, we should also be prepared to take other courses of action if we can't follow through on the best one. Unfortunately, that's probably our situation here.

The administrative sanctions would be less effective. Any kind of resolution would be a lesser solution, even a lawsuit before the International Court of Justice. Still, it would at least communicate to the world that this is not acceptable. I come here today with a certain sense of moral outrage. How is it that we can just sit by and allow a world leader to attack a country like this and essentially anesthetize the rest of the world to the idea that eliminating this country is okay? It's almost like subliminal advertising. The more you hear it, the more it seems to be okay. That is scary and dangerous, and I think we need to do something.

I appreciate the question. It's important to do something, even if it's not as effective as criminal sanctions.

[Translation]

**Mrs. Ève-Mary Thaï Thi Lac:** My second question is in the area you've just referred to. We know that the Iranian president makes extensive use of prominent forums to convey his message of hatred, incitement to genocide and crimes against humanity. I would like you to give us some more details on the negative influence that the Iranian president can have.

•(1325)

[English]

**Prof. Gregory Gordon:** That's another excellent question, because Iran, unfortunately, has become a major player in the Middle East. And in many respects, I think you could say Iran has become the leader of this brand of Islamic extremism that promotes hatred, violence, and the destruction of Israel. And so I think many other countries in the region look to Iran as a leader to provide guidance and to take the lead. This is the message that is being sent out. I think it's extremely effective. That's partly what's so scary about it.

If you look at the influence Iran has right now in the Middle East, especially, to be quite frank, in light of what's happened with American policy in the Middle East, Iran has taken advantage of that and has used that to leverage its position of power in that region to great heights. So I think the effect is that it is succeeding in getting people to think, getting people to visualize a Middle East that is cleared out of Israeli Jews. The more people hear it, the louder that drum beat sounds, the more consistent it is and the more regular and methodical, the more it sinks in. And eventually, people will be conditioned.

As I said, genocide is a long process, and I think that's what Ahmadinejad is engaging in right now. He's getting people to think about it. And once you think about it, you're most of the way there.

[Translation]

**Mrs. Ève-Mary Thaï Thi Lac:** Thank you.

Do I have any time left, Mr. Chairman?

**The Chair:** You have one minute left.

**Mrs. Ève-Mary Thaï Thi Lac:** You said earlier that Canada could impose sanctions internationally, but I'd like you to state your thinking on that subject. What sanctions imposed here by Canada could have an impact at the international level?

[English]

**Prof. Gregory Gordon:** Yes, there are three or four things I think Canada could do.

The most direct thing Canada could do is actually to initiate a prosecution of Ahmadinejad. And it could do that under its universal jurisdiction statute. As part of Canada's joining the International Criminal Court, it had to pass domestic legislation that would be compatible with its obligations under the Rome Statute. The Crimes Against Humanity and War Crimes Act is what did that. And that gives Canada jurisdiction, again under a universal jurisdiction theory, to bring a prosecution for genocide or crimes against humanity right here in Canadian courts.

Now, how successful would Canada be in actually getting custody of Ahmadinejad? We know that would be a stretch. It'd be tough. What kind of statement would that make, however? It would be huge.

Secondly, as I mentioned, Australia—Kevin Rudd in particular—has talked about initiating an action before the International Court of Justice, pursuant to article 9 of the genocide convention, the so-called “compromissory clause”, which provides that the International Court of Justice would have jurisdiction over a dispute related to the

genocide convention. If Canada were to do that, Canada could at least help, if you will, the world's highest court issue a judgment that Iran has violated its obligations under the genocide convention, and at least issue an order enjoining Ahmadinejad and Iran from continuing to incite to genocide. It's a long process. It's civil; it's not criminal. But again, it would be better than nothing.

In many ways, I'm very honoured to be here, because I think Canada has been something of the world's conscience on many issues. I think Canada is in a very good position to try to persuade the UN or its various bodies to issue a resolution or sanctions, or something, that would condemn what Ahmadinejad is doing. It's a series of potential actions that could be taken. And I hope Canada can fulfill that role, as it has on so many occasions in the past.

•(1330)

**The Chair:** Thank you.

Mr. Marston, please.

**Mr. Wayne Marston (Hamilton East—Stoney Creek, NDP):** When I'm in a situation like this I often try to go back to my own roots. I noted the passion you brought forward and the offence you feel. When I was 10 years old and lived in a little rural community, a car passed my home and there was scuffle going on in the back seat. All of a sudden a cloud of pictures came out the window. Like a typical boy, I went over and picked up the pictures. They were pictures that somebody had taken of a death camp, and the pictures, by their nature and what they showed, were probably pictures taken by the guards. One of them was of a person putting another woman on a sled and into the oven. I won't talk about the others, because they were pretty horrendous.

Dehumanization is something you talked about, that a person can get to the place where they can do that. And I'll remind people that we did it ourselves as nations. We were Japs, Krauts, geeks, gooks. Whatever war you're in, it happens. And I agree with you that the dehumanization is happening over there. We see it with Bahá'ís and with others.

I spent six months in Saudi Arabia in 1979, and even at that point I heard the U.S. called the great Satan over there. I saw some of that. But I also noted that it was a certain texture of bravado that happens sometimes in nations to keep their own people in line.

I won't go too far into the nuclear stuff—I may in a moment—but do you think the Iranian people, if they had nuclear weapons, would take the chance with the delivery of them? We know that Israel has nuclear weapons. We know there certainly would be a response. Do you think the Iranian people would take that risk?

**Prof. Gregory Gordon:** That's an excellent question, because one of the questions I pose in my article and that I have been asked when I've presented this in other fora is why Ahmadinejad needs to persuade the Iranian people that Israel should be eliminated when he and perhaps the mullahs control the nuclear weapons that would be used to effectuate this genocide.



My answer is that obviously there have been protests against Ahmadinejad. He does not have the iron-fisted control over the country that I think he would like to have. And if he were going to commit Iran to launching nuclear weapons against Israel, which would first of all lead to the mass murder of people and would certainly engage Iran in a war, if not regionally then globally, he'd better make sure he has the Iranian people on board. I think part of what he's doing is getting the Iranian people to accept that this is a good outcome, that this is worthwhile. I talk about the fact that I think his words are having that effect around the world. I think they're certainly having that effect at home.

There is an ecosystem of hate against Israel that has been forming and that has already come into existence. And he is the leader, if you will. He is the one who is setting the tone, making the statements from the highest position of office. It's sad, but I think it's extremely effective.

**Mr. Wayne Marston:** The other thing that struck me during your presentation, seeing that you're from the United States and you're talking to a Canadian parliamentary committee about Canada taking internal action, was to ask what your view is on the United States. Is there any evidence down there that they may consider the same action?

**Prof. Gregory Gordon:** Well, we don't have the kind of universal jurisdiction statute that you have, because we're not a member of the ICC. The fact that we have disengaged from the ICC up until now is, I think, problematic. But we do have a new administration, and we're going to have to see what happens.

Our universal jurisdiction statutes have improved. The Genocide Accountability Act of 2008 is a good start. We do not have a crimes against humanity statute. And unfortunately, because the United States is so enmeshed in so many parts of the world and has so many things it's dealing with, it hasn't up until now, and I don't know if it will. As you know, the Obama administration has tried to reach out to Iran and tried a new strategy of rapprochement.

So I don't know, given the current policy and the fact that we have a new administration, that we would be taking that kind of action. I don't think any criminal action or universal jurisdiction that we would take would work. We've disengaged from the ICC, so we don't have that kind of influence there. I just think that unfortunately we're not in the same position as Canada is in to do something effective. I wish we were.

• (1335)

**Mr. Wayne Marston:** I have one other question.

I referred a moment ago to my own nuclear question. I have, from the National Intelligence Council, a report of November 2007, where they estimated that Iran had halted its move toward building nuclear weapons, and as of mid-2007, they were suggesting as well that they didn't expect that they would restart.

I noted that in your comments you were talking about yellowcake and about where particular parts of that program were stored. Is that information fresher than 2007? And can you share your source?

**Prof. Gregory Gordon:** I used to be with the United States government. I had the highest security clearance at one point. I'm now just an academic, so I don't have the same kind of access to

information as perhaps I might have had. Like everybody else, I can do my research and find sources that are available to the public.

So I can't tell you that I have intelligence that would go beyond what's out there in the public realm. But if you look at what's out in the public realm, it's pretty compelling, especially when the UN's nuclear watchdog agency says that the one unresolved question is weapons capacity. That was last year, and that was after the intelligence estimate that the United States issued.

You have to have concerns. Beyond that, if you just look from a common sense perspective, the way it has all been so clandestine, the way it has been compartmentalized, there's something.... I believe there had been offers made to the Iranians to help them with enrichment, which would be used strictly for civilian purposes, if they would dismantle their nuclear technology drive. They refused to do it. So I believe there's pretty compelling evidence out there that, as I said, their motives are less than peaceful.

I appreciate that you have pointed out the human rights violations that have been committed against the Bahá'ís, against the Azeris, against the Baluchis. I mean, there is a human rights problem in Iran. I think that context as well has to be taken into account. It's not just the context of Ahmadinejad's statements toward Israel, and their policy towards Israel, but it's the policy of the government vis-à-vis their own people in Iran that has to make us concerned about what really lies behind these statements.

**The Chair:** We're out of time for that round.

Mr. Hiebert, you're next.

**Mr. Russ Hiebert (South Surrey—White Rock—Cloverdale, CPC):** Thank you, Mr. Chair.

Thank you, Mr. Gordon, for being here.

As a bit of a follow-up to my colleague's question, I have a three-part question dealing with the U.S. administration's recent approach. Can you reflect for us on the new administration's approach to Iran? That's part one. Part two, Iranian officials recently commented in response to the U.S. administration's video and approach. I'd like to get your thoughts on their response. Third, what benefits or drawbacks do you see associated with America's current approach to Iran?

**Prof. Gregory Gordon:** I'll take each of those.

The first one is my view on the approach that the U.S. is taking. I think the approach is probably, in reality, more nuanced than public perception might have it. There has been a sense of wanting to reach out to the Iranians. As President Obama has said, it is so that they could join the family of nations and take on the responsibilities that go with that. There's a message: join us, engage with us, work with us, but if you do so, abide by your responsibilities as a nation, and that means no more genocidal rhetoric, no more human rights violations, no more supporting terrorist organizations, no more development of a nuclear weapons capacity. While the rhetoric may not be as harsh as the Bush administration's axis of evil policy, I think in reality it's equally strong in wanting Iran to comply with its obligations under international law.

I think the response to the video you talked about has been quite telling. Iran's supreme leader, Ali Khamenei, has in response gone back to some of the rhetoric you've heard for years: that Israel is a cancerous tumour that needs to be removed from the Middle East, and nuclear weapons could be the solution. That's of a piece with Ahmadinejad's rhetoric—let's call it Ahmadinejad's incitement—and it shows that there is a deep vein of hatred toward Israel and the west that runs through this regime. It starts at the top and goes down.

I don't know if the video or the words that President Obama has used to try to soften the U.S. stance will ultimately lead to changes, because I'm seeing the same kinds of patterns, even though they may be draped in different language. I think the potential benefits of the approach may have more to do with U.S. legitimacy than with anything else. At bottom, things aren't changing all that much. What is changing is the perception of the United States. They have made a good-faith effort to reach out to Iran, rather than rattling a sabre. This is good if the United States is going to assume a position of leadership in the world, which I absolutely think it has to.

I come before you today as an American to tell you that I believe that over the last eight years my country abdicated its responsibility as a leader on the international plane. I am optimistic that we are going to take up that responsibility again and lead. I think the Obama administration's policy toward Iran tells the world that this is what we're going to do, and I think that's a good thing.

● (1340)

**Mr. Russ Hiebert:** You talked about the incitement of genocide. Do you know if there's any actual evidence of genocide within Iran? We've talked about the Bahá'ís. We've heard from people representing the Azerbaijani community. Is there actual genocide occurring within the country?

**Prof. Gregory Gordon:** I don't know that we could necessarily use the word "genocide". I think there have been crimes against humanity. Genocide is the crime of crimes, and it requires the destruction of a people. Certainly, part of a people could be destroyed. I don't know if it has gone to that level, but I think there have been gross human rights violations. As for whether it has gone to the level of genocide vis-à-vis other ethnic minorities in Iran, I don't have enough evidence to say. If you see the kinds of gross human rights violations that are going on in Iran, you have to wonder whether it's heading toward that, or you have to wonder whether, if you were able to dig deeper, you might find evidence of it. I don't think we know the full picture. The beauty of these hearings is to help illuminate what is going on.

I do know this: incitement to genocide does not require a genocide to take place. I know that incitement to genocide is being committed. Of that there's no doubt. Professor Cotler asked me about the role of incitement to genocide or how deeply embedded it is in international law. The genocide convention is one of the most deeply embedded instruments of international law that we have. Incitement to genocide in article 3 has been there from the start, and we're seeing that happen, so we have to be extremely concerned.

● (1345)

**Mr. Russ Hiebert:** My last question deals with one of the elements of the crime. You were suggesting that Iran's relationship with Hezbollah and Hamas as clients was sufficient to fulfill the requirement of action, if I recall. Maybe you can elaborate on that. Is that not a potential weak spot in the argument, because it's more indirect than direct? Can you give me an example of a precedent in which that was a sufficient connection?

**Prof. Gregory Gordon:** That's an excellent question.

For purposes of crimes against humanity, there has to be a widespread or systematic attack against a civilian population. I submit that Iran's sponsorship of the funding and training of these terrorist organizations, and its directing of them, in many respects, constitute that kind of attack.

It is a good point. If you bring this charge, I think that's one of the issues that are certainly going to be litigated, and I talked about that quite openly in my article.

There is, however, precedent for the proposition that a sponsor country can have a relationship with a client organization or country that could be direct enough, even though it's indirect, for there to be liability for the sponsor. In my article I talk about the U.S.-Nicaragua case, for example. There is the case of the former Yugoslavia, or Serbia, and the Bosnian Serbs. There has been shown to be enough of a nexus between the sponsorship of the bigger country and the smaller organization for there to be liability for the bigger country.

Now, the ICJ decision in the genocide case that was brought by Bosnia against Serbia is not helpful in that regard. I think that's an area of the law that has probably taken a wrong turn based on that recent decision, but I still think there's enough out there. I don't think it's definitive. I still think that if you use the old test, the U.S.-Nicaragua test, a fair degree of control has to be exerted, which obviously makes it more difficult, but that's the test that the ICJ referred to recently.

The ICTY test in the Tadic case was a lot looser. The ICJ didn't use that test.

Where will the ICC go? I don't know. That's still open, and we'll see. Certainly they could take the lead of the ICJ, but I could equally see them going with the ICTY, and this is the kind of thing that would have to be litigated.

**The Chair:** Mr. Silva, you have the floor now.

**Mr. Mario Silva (Davenport, Lib.):** Thank you, Mr. Chair.

I was just musing with my colleague. Professor Cotler was saying that unless we've taken international law, which I studied, members of the committee won't know exactly what you're talking about, whether it's the Nicaragua case or the Tadic case.

**Prof. Gregory Gordon:** I'm sorry about that.

**Mr. Mario Silva:** Thank you very much for your presentation. It was extremely well informed, and we very much appreciate your being here.

Canada, as has been noted, has an obligation, under domestic and international law, as a signatory to the Rome Statute and the genocide convention, and of course, as the authors of the responsibility to protect concept, to single out these leaders who in fact dehumanize, incite genocide, and commit crimes against humanity. We need to bring this issue as soon as possible to the ICC. Under our universal jurisdiction, we need to act.

The reason he is able to get away with such hateful words is quite simple: the Supreme Leader of Iran allows it and shares those sentiments. In fact, it's not just Ahmadinejad who is a great concern, with his hate mongering that goes on, but also there is that institution of the Revolutionary Guards.

So we have to single out an individual who has been more vocal and hopefully show, as a warning to the rest of the leadership within that country, that they can't get away with it. But he is not alone, and we know that. This is a regime that is very brutal, that massacres its own people, that is, as you mentioned, persecuting the Bahá'ís, the Baluchis, and other religious minority groups, that has executed over 100,000 people since the revolution, that has in fact, contrary to conventions it has signed on the rights of the child, executed minors. People known to be gay have also been executed. So this is a brutal regime that, unfortunately, still gets some recognition from some world leaders and even from some western leaders through their financial dealings with certain countries. We, as a country, have a moral obligation, especially given the fact that we have both the responsibility to protect doctrine we've been standing behind and supporting and a commitment to the ICC, to do whatever we can.

So I agree with you, and I praise you for your leadership and also for the way you've set up the parameters for how we can go about doing that. That was more of a comment, but I'd certainly be quite grateful to hear anything else you could add.

● (1350)

**Prof. Gregory Gordon:** Thank you.

I appreciate that you brought up responsibility to protect. I didn't bring it up, and I think it's something that bears mentioning in this context. This is a perfect example of where R2P, responsibility to protect, comes into play. As I said, all the red flags are there, all the warning signs are there, and we're not living up to the R2P principles.

The other point you made that I think is very good is the fact that Ahmadinejad is not alone. I've been asked why we should prosecute him. Why focus on Ahmadinejad when you have all these other people, including the supreme leader, who make these statements? My response is that Ahmadinejad has been the most vocal. He has been the most visible.

One of the aspects of criminal law, whether it's domestic criminal law or international criminal law, is deterrence. You make the most effective statement if you prosecute Ahmadinejad as opposed to one of the others, because he is the one who is most associated with this. He is the one who has embraced it the most fervently. I think, if the

world sees that the international community is not going to put up with this anymore, it will send the most powerful message out there possible.

I agree with you that he's the one we should be focusing on, despite the fact that we could find others, or maybe we could even charge it as a conspiracy. I think it's more effective to single him out. I really do. I think we'd get more bang for the buck.

**Mr. Mario Silva:** Good. Thank you.

**The Chair:** Mr. Sweet, you'll complete our questioning.

**Mr. David Sweet (Ancaster—Dundas—Flamborough—Westdale, CPC):** Thank you, Mr. Chairman.

Thank you, Mr. Gordon.

I wanted to ask you whether specific—I don't know if I'd say forensic—evidence or substantive evidence of funds moving from Iran to Hamas, Hezbollah, and Islamic Jihad exists.

**Prof. Gregory Gordon:** I believe it does. I mean, statements have been made. If I had to prosecute this, I would go to admissions that have been made by the parties. I've seen evidence—admissions by Hamas leaders, for example—that they go to Iran for training. It makes it really easy when you have that kind of evidence out there. You don't have to follow a Byzantine money trail. These people have come out and admitted to their links and their sponsorship and all these things. So it's pretty compelling.

● (1355)

**Mr. David Sweet:** Thank you for that answer.

My next question is about the prosecution. I understand it's criminal, but is there the possibility of a tort aspect? You're saying that the key thing about this conviction.... Obviously, getting Ahmadinejad and actually being able to arrest him is highly unlikely. However, the case, with this kind of catastrophic behaviour, is compelling enough just in terms of public shame.

Is there some precedent here—i.e., that the money trail could be followed, that there could be some punitive aspect after a conviction?

**Prof. Gregory Gordon:** You know, it's interesting; you made me think of something that I didn't bring up. To be honest with you, I'm not quite sure how this works out in Canada. I know that in the United States we have the Alien Tort Claims Act. It would be interesting to think about whether or not a civil suit in tort, as you mention, could be filed under that. Lots of human rights cases have been brought in the form of Alien Tort Claims Act litigation.

Of course, because you're dealing with a state leader, you deal with issues of immunity, issues of immunity that you don't have to deal with at the ICC. If you look at the Rome Statute, there's not going to be an immunity. That's why Bashir has been indicted.

I don't know if Canada has something like that. If it does, and if you could get around the immunity, that could be another possibility. Symbolically, it would be another way of making a statement. You could have plaintiffs who would say that they were either victims of the terrorist violence inflicted by Hamas or Hezbollah, or people who would say—this would be an interesting Alien Tort Claims Act case in the United States—that they were the victims of incitement to genocide and that therefore they have an action from that.

So it's an excellent question. It actually has made me think about the fact that maybe that's yet another avenue that could be pursued. I'm less sanguine about the success of that one, especially given the immunity.

You know, it's a private litigation with plaintiffs. I'm less convinced that would be as effective a message as the other ones we've talked about. But it's certainly something you could add to the smorgasbord.

**Mr. David Sweet:** Yes. On the lack of effectiveness, you may be correct, but just demobilizing the machine would be one step, and just slowing down any action that may come from this regime.

I have two questions I want to make sure I get in.

First, you mentioned Hezbollah, Hamas, and Islamic Jihad. Are there other states complicit in the perpetuation of this threatening of genocide with Iran?

Second, you mentioned an interesting term—that because of this anesthetization, there's this ecosystem of hate developing. Do you see some evidence of that in the United States or in Canada?

**Prof. Gregory Gordon:** To answer the second part, I see it worldwide, absolutely. I think unfortunately anti-Semitism in the form of anti-Israeli sentiment is on the rise. As we head into these perilous economic times that we're in, hatred finds a wonderful forum, unfortunately, for spreading itself. We've seen throughout history that anti-Semitism is such a prominent vehicle for spreading hate. That could be the subject of an entire hearing we could do, separate from this.

While Ahmadinejad and Iran may be the most vocal and may be the most visible, I don't think they're the only ones. I think they're maybe the most dangerous in many respects, but certainly other countries, such as Syria, have played some role. But you don't see Assad getting out there and making these kinds of speeches at the UN and going to different fora and urging the kind of violence and destruction publicly that Ahmadinejad has. It may be done more locally, more privately.

I think there's certainly a lot of that sentiment in the Middle East. As I said, Iran has become a leader in the Middle East. There are certainly a lot of disputes. We just saw on the news that Mu'ammarr Qadhafi denounced Saudi Arabia at a recent summit. There are a lot of tensions, I think, within the Muslim world. The one thing they have that they all seem to agree on is a hatred for Israel. That seems to bind them together.

So I think it's out there. It's just that Iran has become a leader in so many ways. They've become a leader in state sponsorship of terrorism and terrorist groups. They've become a leader in incitement to genocide, as we've been talking about. They're such a prominent human rights violator that again, when we talk about deterrents, showing the international community that this will not and should not be allowed to take place, it's good to focus on them.

I'm sorry, but as I was speaking to you about this I was thinking about the 1930s and Germany. Was Germany the only country in the world that espoused an anti-Semitic policy? No. But it was certainly the most prominent, and it ultimately became the most murderous. I don't know whether we can say that Iran of 2009 is the same thing as Germany relative to the 1930s, but with that leadership role it's taking, it's certainly having a terrible impact, so that's why I think it's important that we focus on Iran right now.

• (1400)

**Mr. David Sweet:** Thank you very much, Mr. Gordon.

Thank you, Mr. Chairman.

**The Chair:** Thank you, Mr. Sweet.

With the indulgence of the committee, I have a follow-up question.

Professor Gordon, you opened up an interesting line of thought, and I had actually been making some notes on this beforehand. The thought of anti-Zionist, anti-Israel sentiment as a binding agent in an otherwise fractious community is a thought you're making vis-à-vis international relations within the Muslim world. The thought occurred to me that there might be a domestic component to this, and so I'm posing this as a question, given that patriotism is the last refuge of the scoundrel. Perhaps in the right kind of environment, anti-Israel sentiment might be the last refuge of certain scoundrels. Is this in a sense a version of the Argentinian generals invading the Malvinas as a way of turning to something else when they've lost all domestic credibility?

It appears to us from our hearings that there is a rising sentiment—and not just among Azeris and Bahá'ís and other groups that are historically not treated well or persecuted, but among Persians themselves—of intense frustration as the population becomes more sophisticated and more knowledgeable of their current regime. Is it possible that this is not merely driven by an internal ideology but also is meant to distract attention and focus national attention away from the problems of the regime itself?

**Prof. Gregory Gordon:** That's a terrific question.

Yes, to answer your question succinctly, I do believe that plays some role. If you look at Iran in the 1990s up through the time that Ahmadinejad was elected...for example, before Ahmadinejad you had Mohammad Khatami as president. There was an attempt at reform. The way the Iranian government is set up, those attempts at reform can be squelched quite easily, and I think they were. I don't believe the election of Ahmadinejad in 2005 was free and fair; I think there was a lot of hanky-panky, if you will, and repression going on behind the scenes.

Because there is growing discontent with the regime, this is the perfect way to distract the population and say, look, here's what your problems are really all about; they are about Israel; they are about the plight of Palestinians and the sense of solidarity we have with them. That is a theme that we've seen throughout history, that a regime that is dictatorial and tyrannical, which the Iranian regime is, likes to find a scapegoat. It likes to find a whipping boy. And I think Israel has served that purpose quite well.

On the plight of the Palestinians, I would like to see peace in the Middle East. I would like to see the end of this problem of countries wanting to eliminate Israel. I'd like Israel to be able to live in harmony with the rest of the people of the Middle East. I hate to say

it, but a lot of leaders in the Muslim world who are repressing their own people don't want to see that, for many reasons. One of the big ones is that they know it can help distract their own citizens and they can use it as an issue to distract the rest of the world from the terrible policies they are enacting, from the human rights violations they're committing. They don't want to see peace. They don't want to see it go away.

When I see Ahmadinejad leading the charge and being the most vocal in terms of this incitement, this hatred that he spews toward Israel, I absolutely have to believe that part of that is based on the fact that there are problems at home in Iran and this is a convenient way to try to distract the Iranian citizens from those problems.

I think it's an excellent question.

● (1405)

**The Chair:** Thank you very much for your testimony, Professor Gordon.

Thanks to all the members of the committee. We will see you on Thursday at 12:30.

The committee is adjourned.

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