



**INDICTMENT OF  
IRANIAN PRESIDENT MAHMOUD AHMADINEJAD  
FOR INCITEMENT TO GENOCIDE  
AGAINST THE JEWISH PEOPLE**

National Press Conference  
*March 6, 2007, Ottawa*





## **B'nai Brith Canada**

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*This document was prepared by*

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March 6, 2007

B'nai Brith Canada asks the Government of Canada to invoke a number of remedies for the crime of incitement to genocide against the Jewish people committed by Mahmoud Ahmadinejad, President of Iran. We attach to this letter a draft indictment of Mahmoud Ahmadinejad which sets out the legal basis for our opinion that the crime has been committed.

The remedies we request are:

1. The Government ban and announce it is banning the entry of Mahmoud Ahmadinejad into Canada under any circumstances;
2. The Government decide to prosecute Mahmoud Ahmadinejad for incitement to genocide against the Jewish people should he show up in Canada despite the ban on entry;
3. The Government request the Security Council to refer to the International Criminal Court under Court Statute article 13(b) the situation of incitement to genocide of the Jewish people by persons in authority in Iran;
4. The Government of Canada, under Article IX of the Genocide Convention, ask the International Court of Justice to find Iran in violation of Article I of the Genocide Convention for failure to prosecute Mahmoud Ahmadinejad for incitement to genocide against the Jewish people.

Genocide is the most grave crime known to humanity. Waiting for genocide to happen is not acceptable. Canada must act now against the threat of genocide Mahmoud Ahmadinejad poses.



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# **INDICTMENT OF IRANIAN PRESIDENT MAHMOUD AHMADINEJAD FOR INCITEMENT TO GENOCIDE AGAINST THE JEWISH PEOPLE**

*Prepared by David Matas, Senior Legal Counsel, B'nai Brith Canada*

The prosecution has reasonable and probable grounds to believe that Mahmoud Ahmadinejad, President of Iran, has committed the crime of incitement to genocide against the Jewish people.

## **I. GENERAL PRINCIPLES**

1. Incitement to genocide does not require the existence of genocide in order for the crime of incitement to be committed.

2. Incitement to genocide does not require any particular verbal formulation. The legal definition of genocide does not have to be repeated in the impugned speech for incitement to genocide to occur. For the crime of inciting genocide to be committed, the words used need not be the same as the words used to incite past genocides.

3. It is sufficient to establish that the crime of incitement to genocide was committed to show that the speaker intended to incite genocide, without the need of show that a desire or willingness in any potential audience to participate in genocide is the likely result. Similarly, it is sufficient to establish that the crime of incitement to genocide was committed to show that a desire or willingness in any potential audience to participate in genocide is the likely result without the need to show that the speaker intended to incite genocide.

4. Provided that the likely result, the reasonably foreseeable consequence of the speech, is that any potential audience is moved to participate in genocide, the requisite mental element is only that the person intended the speech. Furthermore, there is a legal presumption that a person's mind goes with his or her speech.

5. Where the test is reasonably foreseeable consequence, the focus is on any potential audience for the speech. Reasonably foreseeable consequence does not mean that the reasonable person would want, as a result of the speech, to commit genocide. Rather, it means that any potential audience, no matter how ill informed or unreasonable, would likely be moved to take part in genocide.

6. For the crime of incitement to genocide to be committed, there is no need to establish that genocide is the likely result. It is sufficient to establish either that the speaker intended genocide or that a desire or willingness in the target audience to participate in genocide is the likely result.

7. For the crime of inciting genocide to be committed, it is not necessary to show that the impugned expression actually caused others to want to inflict genocide. It is sufficient to show only a likelihood of impact, that the impugned speech was likely to lead any potential audience to want to inflict genocide or to accept complicity in the infliction of genocide.

## **II. SPECIFICS**

The prosecution asserts that, in the case of Mahmoud Ahmadinejad, the crime of incitement to genocide has been committed in two forms. The accused has intended to incite genocide against the Jewish people. The accused has also expressed himself in a manner likely to promote in a part of his audience a desire or willingness to participate in genocide, whether or not he intended to incite genocide.

### **A. Intent to Incite Genocide**

The facts on which the accusation that Mahmoud Ahmadinejad has an intent to incite genocide is based have a number of elements. It is the combination of these elements which lead to the conclusion that the accused has an intent to incite genocide against the Jewish people.

## **Holocaust denial**

1. Holocaust denial is a form of incitement to hatred against the Jewish people. The accused has incited hatred against the Jewish people. He has done this most visibly by actively promoting Holocaust denial. Holocaust denial either asserts or implies Jewish fraud, Jewish control of the all the libraries, museums, means of communication, courts and other institutions where the Holocaust is portrayed. Holocaust denial either asserts or implies as well Jewish greed, that the Jewish people have fabricated this event for their own evil purposes.

### ***Example***

"As I have said before, as far as several aggressive European governments are concerned, and as far as the Great Satan [the U.S.] is concerned, it is permissible to harm the honor of the divine prophets, but it is a crime to ask questions about the myth of the Holocaust, and about how the false regime occupying Palestine came into being."

*February 14, 2006, Jaam-e Jam 2 TV, Middle East Media and Research Institute (MEMRI)*

## **General antisemitism**

2. The incitement to hatred of the accused against the Jewish people is not limited to Holocaust denial. It repeats and extends standard antisemitic propaganda of Jewish greed, Jewish world control. The accused refers to Jews in his antisemitic statements as Zionists. By Zionists, he means all Jews who have not renounced Zionism.

### ***Examples***

"Today, it has been proven that the Zionists are not opposed only to Islam and the Muslims. They are opposed to humanity as a whole. They want to dominate the entire world. They would even sacrifice the Western regimes for their own sake. I have said in Tehran, and I say it again

here -- I say to the leaders of some Western countries: Stop supporting these corrupt people. Behold, the rage of the Muslim peoples is accumulating. The rage of the Muslim peoples may soon reach the point of explosion. If that day comes, they must know that the waves of this explosion will not be restricted to the boundaries of our region. They will definitely reach the corrupt forces that support this fake regime."

*July 13, 2006, Iranian News Channel (IRINN), MEMRI*

"They have no boundaries, limits, or taboos when it comes to killing human beings. Who are they? Where did they come from? Are they human beings? 'They are like cattle, nay, more misguided.' A bunch of blood thirsty barbarians. Next to them, all the criminals of the world seem righteous."

*August 3, 2006, IRINN, MEMRI*

### **Calling for the killing of Jews**

3. Incitement to kill members of a national, ethnic, racial or religious group with an intent to destroy the group in whole or in part amounts to genocide when the part of the group which the inciter intends to destroy is defined by their actual or presumed political beliefs. The accused has called for the killing of Jews as Jews. The only caveat he puts on these incitements to murder is that Jews who denounce the existence of the Jewish state will be spared. His call for the death of Zionists is a call for the death of Jews.

### **Example**

"They should know that they are nearing the last days of their lives."

*August 2, 2006, IRINN, MEMRI*

### **Endorsing suicide bombing**

4. Suicide bombing is a crime against humanity. The accused has called for and endorsed suicide bombers killing innocents in Israel. The accused glorifies these incitements to suicide bombing by calling the bombers "martyrs".

#### ***Example***

"Art reaches perfection when it portrays the best life and best death. After all, art tells you how to live. That is the essence of art. Is there art that is more beautiful, more divine, and more eternal than the art of martyrdom? A nation with martyrdom knows no captivity. Those who wish to undermine this principle undermine the foundations of our independence and national security. They undermine the foundation of our eternity."

*July 29, 2005, Iranian Channel 1 (television), MEMRI*

### **Participating in grave human rights violations**

5. US hostages from the 1979 takeover of the US Embassy in Tehran have identified the accused as a ringleader of the takeover. Austrian officials have accused Mahmoud Ahmadinejad of the murder of Kurdish leader Abdul Ghassemloo in Vienna. When he was mayor of Tehran, the accused was one of the principal forces in the campaign to recruit and train suicide bombers, specifically targeting the US, Britain, and Israel. The past personal history of the accused reflects on his current intent. It shows that he would be willing to inflict grave violations of human rights on Jewish victims who do not share his beliefs.

*Joseph Farah, "The Terrorist with Diplomatic Immunity "*

*<<http://jewishindy.com/modules.php?name=News&file=article&sid=6046>>*

## **Denial of the right to self determination of the Jewish people**

6. The existence of the State of Israel is the expression of the right to self determination of the Jewish people. Denial of the right of the Israel to exist is a denial of the right to self determination of the Jewish people. The accused has called for denial of the right to self determination of the Jewish people through destruction of the Jewish state, the State of Israel. These are not just calls to change, by peaceful means, the boundaries of Israel nor the Government of Israel nor the name of Israel. Nor are they just calls to engage in war with Israel while respecting the laws of war, nor a call to kill people because of their political beliefs alone. They are calls to exterminate physically all Jews other than those who share the anti-Zionist views of the accused.

### ***Examples***

"As the Imam said, Israel must be wiped off the map."

*October 26, 2005, Al-Jazeera*

*(<http://english.aljazeera.net/NR/exeres/15E6BF77-6F91-46EE-A4B5-A3CE0E9957EA.htm>)*

"Iran's president, Mahmoud Ahmadinejad, declared Sunday that Israel had 'pushed the button of its own destruction.' "

*July 13, 2006, Iranian News Channel (IRINN), MEMRI*

"Very soon, this stain of disgrace [i.e. Israel] will be purged from the center of the Islamic world - and this is attainable."

"I hope that the Palestinians will maintain their wariness and intelligence, much as they have pursued their battles in the past 10 years. This will be a short period, and if we pass through it successfully, the process of the elimination of the Zionist regime will be smooth and simple."

"We say that this fake regime [Israel] cannot logically continue to live."

*April 25, 2006, Al-Jazeera*

*(<http://english.aljazeera.net/NR/exeres/06244378-DDED-4CF6-A9C9-AFA0038B2774.htm>)*

### **Demonizing Israel**

7. The accused has demonized Israel in an attempt to delegitimize it. He has charged the Jewish state and by implication the Jewish people other than those who renounce Zionism with the worst crimes imaginable. These charges are made constantly, without foundation, mischaracterizing every Israeli act of legitimate self defense as a violation of international law and moral standards. The accused either knows or is wilfully blind to the fact that the charges he makes against Israel have no foundation in fact or law. In any case, neither truth nor reasonable belief in truth is a defence to the offence of incitement to genocide.

### ***Examples***

"Oh dear people, look at this global arena. By whom are we confronted? We have to understand the depth of the disgrace of the enemy, until our holy hatred expands continuously and strikes like a wave."

*October 28, 2005, Iranian Students News Agency (ISNA), MEMRI*

"He also warned the 'great powers' against supporting the 'crimes of the Zionist regime...' [since] the continuation of these crimes and of the support [for them] will fan the flames of Muslim rage, which will annihilate them all."

*July 14, 2006, Islamic Republic News Agency (IRNA), MEMRI*

### **Inciting crimes against humanity against Israelis**

8. The accused has promoted war propaganda against the Jewish state and incited crimes against humanity inflicted on the Jewish people. He has asserted the right of surrogates of Iran, Hamas and Hezbollah, to attack and kill innocent civilians in Israel. Hezbollah and Hamas are terrorist organizations. The Hezbollah and Hamas attacks against Israel have amounted to crimes against humanity. The accused has promoted these attacks and then defended them while they were occurring. He has endorsed the supplying of arms by Iran to these surrogates so that they could launch their murderous attacks against innocents.

#### ***Example***

"There is no doubt that the new wave of attacks in Palestine will erase this stain from the face of Islam."

*November 29, 2005, Haaretz*(<http://www.haaretz.com/hasen/objects/pages/PrintArticleEn.jhtml?itemNo=638926>)

(Note of the prosecutor: Mahmoud Ahmadinejad, as part of his propaganda, refuses to mention Israel by name. Here he refers to Israel as Palestine.)

### **Threatening to attack Israel**

9. The accused threatens Israel with unprovoked attacks. The accused at one and the same time asserts that Iran would not attack Israel except in self defense and claims that Iran faces a constant danger from the mere existence of the State of Israel. The continued threats of the accused of unbridled attacks against its enemies in self defense amounts to a threat to use any and all weapons in its possession against Israel without any real basis in self defense, since he fabricates a constant danger from Israel to Iran because of the mere existence of the Jewish state. The right of self defense and belief in self defense are not legally permissible answers to a charge of incitement to genocide.

***Example***

"Arrogant powers have set up a base for themselves to threaten and plunder nations in the region," said Ahmadinejad. "But today, the occupier regime [Israel] -- whose philosophy is based on threats, massacre and invasion -- has reached its finishing line."

*July 23, 2006, Jerusalem Post*

*(<http://www.jpost.com/servlet/Satellite?cid=1153291976348&pagename=JPost%2FJPArticle%2FShowFull>)*

**Promoting the development of nuclear weaponry**

10. Iran has violated and continues to violate the Nuclear Non-Proliferation Treaty which it has signed and ratified. The accused has promoted the development of nuclear weaponry by Iran which would be used to kill indiscriminately all those living within the boundaries of the Jewish state in order to kill as many Jews as possible. The continued assertions of the accused of the right of Iran to develop nuclear energy without regard to the standards imposed by the International Atomic Energy Agency and its non-proliferation safeguards can have no other purpose than the development of nuclear weaponry.

***Example***

In response to UN Security Council resolution 1737/2006 of December 23, 2006 which imposes sanctions on Iran to prevent the transfer of all material and technology which could contribute to Iranian uranium enrichment or reprocessing or nuclear weapons delivery systems, Mahmoud Ahmadinejad said:

"Whether the West likes it or not, Iran is a nuclear country and it is in their interests to live alongside Iran....Today they want to disturb the unity of the Iranian people with this scrap of paper [the sanctions resolution]...This move not only will not do any harm to Iranian people, but

the signatories of this resolution against Iran will soon regret this superficial and trivial move."

*Daily Telegraph December 25, 2006 "Iran vows to defy UN sanctions".*

### **Endorsing nuclear conflagration**

11. A nuclear attack by Iran on Israel would amount to genocide of the Jewish people even though Jews not resident in Israel at the time of the attack would survive and even though many non-Jews would also die. The accused has endorsed general nuclear conflagration through perverted religious discourse. He has asserted that the advent of the hidden twelfth imam would be hastened by massive catastrophe. The right to freedom of religious expression is not a legally permissible answer to a charge of incitement to genocide.

#### ***Example***

Mahmoud Ahmadinejad asserts that Twelfth Imam gave him the presidency for a single task: provoking a "clash of civilizations" in which the Muslim world, led by Iran, takes on the "infidel" West and defeats it in a slow but prolonged contest."

*Daily Telegraph April 16, 2006 Amir Taheri "The frightening truth of why Iran wants a bomb"*

## **B. Likelihood of Instilling a Willingness to Inflict Genocide**

For the crime of incitement to genocide committed by means of instilling a desire or willingness in any potential audience to inflict genocide, the prosecution relies on all the elements previously set out. In addition, the prosecution relies on the following elements. Again here, it is the combination of these elements on which the prosecution relies.

## **Repression in Iran**

1. Iran is a state which denies freedom of expression. It is difficult, if not impossible, to contradict openly and freely in Iran the anti-Zionist inflammatory discourse of the accused. This uncontradicted status makes it more likely that the inflammatory discourse of the accused will find converts.

## **The status of office of the accused**

2. The persuasive effect of the anti-Zionist inflammatory discourse of the accused is enhanced by the office he holds. Iranians are more likely to give credence to the inflammatory anti-Zionist discourse of the accused because of the position he is President of Iran.

## **Iranian anti-Zionist rhetoric**

3. Anti-Zionism, demonization of the Jewish state and its delegitimization are part of the conventional rhetoric and ideology of the current Iranian regime and its supporters. When the rhetoric of the accused adds to that demonization, he finds a receptive audience who accept the core assumptions on which that rhetoric is based.

## **Iranian anti-Zionist repression**

4. Iran has repressed anti-Zionists within its own borders causing their disappearance or prosecuting them for treason. Since the Islamic Revolution in 1979, Iran has condemned seventeen Jews to death on various national security charges. Iran arrested thirteen Jews in January and March 1999. Charges were never made public nor even communicated to the accused. Prior to trial the accused were held in incommunicado detention for over a year. Ten of the thirteen were convicted in July 2000 and sentenced from four to thirteen years in prison. What appeared to precipitate the charges was, according to their advocates, "increasingly fervent brand of Orthodox Judaism" of the accused. This anti-Zionist repression shows that the

inflammatory anti-Zionist rhetoric of the accused falls on receptive ears.

*"Safeguarding the rule of law", Canadian Jewish News, July 13, 2000.*

*Michael Jordan, "Three Iranian Jews Released from Prison" Canadian Jewish News October 31, 2002.*

### **Killing of innocent Jews**

5. A suicide bomber drove a car bomb in the Israeli embassy in Buenos Aires Argentina in March 1992. The attack killed 29 people and injured 100. A second suicide car bomb terrorist, attacked the Jewish community centre, called the Israeli-Argentine Mutual Association, in Buenos Aires in July 1994, killing 85 and wounding over 200. There is compelling evidence that the current Iranian regime directed and organized both of these attacks. Incitement by the accused is more likely to persuade people who participated in such incidents than people who have done no wrong.

### **Mass killing of innocents**

6. The Government of Iran massacred an estimated thirty thousand people, including women and teenage children, in 1988. They were massacred because they were actual or perceived supporters of an opposition group, the People's Mojahedin Organization, because they were leftists, intellectuals or students, or because they belonged to ethnic minority groups. Ayatollah Khomeini ordered the executions of the Mojahedin because they were "fighters against God". He ordered the execution of leftists, intellectuals and students because they were "apostates from Islam". Those executed were already in prison, as political prisoners, and were no threat to anyone at the time of their deaths. People complicit in these crimes as well as those who have passed them over in silence since form a ready and receptive audience to the inflammatory discourse of the accused.

*Veronique Mistiaen "Memories of a slaughter in Iran" Toronto Star, September 5, 2004.*

### **Iranian support for Hezbollah and Hamas**

7. The Government of Iran established Hezbollah in 1982. Hezbollah has emerged as a major internationally functioning terrorist organization because of Iran. Iran has been arming both Hezbollah and Hamas, also a terrorist organization. Iran has used these terrorist organizations to inflict crimes against humanity on innocent Israelis. People complicit in the terrorism, the crimes against humanity of Hamas and Hezbollah as well as those who endorse this terrorism, those crimes are a susceptible target audience for the incitement of the accused.

*Peterson v. Iran, D.C. District Court Civil Action No. 01-2094 (RCL)*

### **Development of a nuclear weapons capability**

8. The development of nuclear weapons and rocket delivery systems by Iran would give Iran a means to inflict genocide against the Jewish people. The availability of a means to inflict genocide makes the desire to inflict genocide more plausible and therefore more likely. Once a means to inflict genocide exists, the temptation to inflict genocide by those that way inclined becomes more real.

### **Iranian nuclear threats**

9. Another Iranian president has already threatened Israel with nuclear devastation. Former president of Iran Hashemi Rafsanjani, said in 2001:

"The survival of Israel depends on the interest of global arrogance and colonialism, and as long as this base is beneficial to them, they will preserve it. Muslims must surround colonialism and force them [the colonialists] to see whether Israel is beneficial to them or not. If one day the world of Islam comes to possess the weapons currently in Israel's possession [meaning nuclear

weapons] - on that day this method of global arrogance would come to a dead end. This is because the use of a nuclear bomb in Israel will leave nothing on the ground, whereas it will only damage the world of Islam."

*Middle East Media & Research Institute, MEMRI Latest News, January 7, 2002, Special Dispatch No. 325.*

"In due time the Islamic world will have a military nuclear device and then the strategy of the West would reach a dead end, since one bomb is enough to destroy all Israel".

*Gerald M. Steinberg "When will the West confront Iran?" National Post, July 14, 2004.*

This discourse makes real the unthinkable, a nuclear attack on Israel, and justifies it. This normalization of the horror of a nuclear attack on Israel by a predecessor of the accused means that the incitement of the accused is likely to find in Iran fertile ground amongst members and supporters of the current Iranian regime.



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