

Presidential Incitements to War Crimes

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On the fifth anniversary of 9/11, President George Walker Bush delivered an illegal speech and may have committed an international crime, that is, the crime of direct and public incitement to commit genocide of a religious group. Determined to rally disbelieving Americans behind a failed Iraqi war, the President drifted into calling for open-ended violence against Muslims. Says the President: "The war against this enemy is more than a military conflict. It is the decisive ideological struggle of the 21st century, and the calling of our generation." The President identifies "this enemy" as Muslim extremists. The 9/11 speech is one among many through which the President has engaged, and continues to do so, in direct and public incitements to commit violence and other crimes against Muslims as a religious group.

The [1948 Convention on the Prevention and Punishment of the Crime of Genocide](#) defines genocide, among other things, as the act of killing members of a national, ethnical, racial, or religious group with intent to destroy, in whole or in part, the target group. But the Convention goes further and lists other criminal acts related to genocide. It prohibits and punishes conspiracy to commit genocide as well as "direct and public incitement to commit genocide." Article 4 of the Convention provides that the persons committing any of the listed genocide crimes shall be punished "whether they are constitutionally responsible rulers, public officials or private individuals."

The US has ratified the Genocide Convention. In 1987, the US Congress furnished the implementing legislation to enforce the Convention (the Proxmire Act). The crime of inciting genocide is not only an international crime but a federal crime as well.

Elements of the Crime

The incitement crime under the Genocide Convention consists of three distinct elements. First, the target of incitement is a group listed in the Convention. Second, the incitement to commit genocide is direct and public. Third, the perpetrator has the requisite intent. When a perpetrator satisfies these three elements, the crime of genocide-incitement is complete and committed.

Note that the incitement to commit genocide is a verbal crime, although non-verbal methods of incitement are equally criminal. Genocide-incitement is primarily a crime of the tongue. It is criminal speech. The Convention does not require that verbal incitement produce actual genocide, just as conspiracy to commit a crime is actionable even though it may yield no crime. Furthermore, the incitement committed with words is not protected under the First Amendment of the US Constitution, treaties, or customary international law of freedom of speech.

Let us critically examine whether the President's 9/11 speech satisfies the three elements of the crime of incitement as defined in the Genocide Convention.

The Group

The Genocide Convention applies when the perpetrator defines the target in terms of a national, ethnical, racial, or religious group. The Convention does not require that incitement be against the group as a whole. Even if the incitement to commit genocide is aimed at part of the group, the Convention crime has been committed.

In his 9/11 speech, the President defines the enemy as Muslims who believe in a "perverted vision of Islam." This perverted religious group is one that, according to the President, aspires "to build a radical Islamic empire where women are prisoners in their homes, men are beaten for missing prayer meetings, and terrorists have a safe haven to plan and launch attacks on America and other civilized nations." The President 's target is not confined to al Qaeda or actual terrorists who attacked or might be planning attacks on the US. Nor does the President define the target in terms of criminals who happen to be Muslims. Fearlessly as if the law would never reach him, which might sadly be true, the President paints the religious group with a broad stroke, describing the group as religiously perverted and evil, a religious group that must be confronted, defeated, and killed.

The President targets the religious group for its ideology and not for its criminality against the US. That some members of this amorphous religious group may have committed crimes against the US furnishes no legal excuse to liquidate the entire group. When the innocent and the guilty are lumped together as a single entity, the offense of designing a target group is complete. Perpetrators of genocide (Hitler) frequently detest the group, in whole or in part, and not merely individuals. They make no distinction between the innocent and the guilty. The net they throw to encircle the group is vast, fluid, and indiscriminating.

Direct and Public Incitement

No one would dispute that the President's 9/11 speech was a public event, a speech directly delivered to national and international audiences, carried live by major networks with global reach. The speech was also directly and publicly delivered to the US troops fighting in Iraq and Afghanistan, and stationed elsewhere in the world. The speech also addresses the US allies that are fighting terrorism. Thus, the NATO troops in Afghanistan, the Coalition troops in Iraq, the Israeli Defense Forces in occupied territories, all these troops were the actual or potential audiences of the well-advertised 9/11 speech that the President delivered with high emotional voltage. I discuss below that the speech carried genocide incitement. Here it must be noted that the speech that delivered the message was not hidden and private. It was direct and public. The speech was delivered to millions of people across the world, including criminals, gangs, and soldiers, who harbor hatred against Muslims. In his speeches, the President has repeatedly and spitefully labeled Muslim extremists as an evil religious group that must be physically eliminated.

The incitement to genocide is a verbal attempt to exhort, persuade, encourage, and provoke the audience and troops to killing members of the target group. Part of the incitement is to dehumanize the target group, showing through words that the target group is subhuman, a threat, dangerous, and worthless. The President paints the target religious group as "dangerous enemies," one that is "driven by a perverted vision of Islam," that espouses "hateful ideology," that "will not leave us alone," that "will follow us," and one that will use "the weapons of mass destruction." These descriptions of the target group cause fear, anger, and arousal, urging the audience and troops to do something, including killings. Since the group is defined in a broad

manner, the incitement to kill provides no specifics. It cultivates combat and preemption through any means necessary, including physical elimination of the group.

Furthermore, the President constantly uses the language of war to crush the target religious group. To defeat the group's Islamic ideology, the President is proposing no cultural dialogue, seminars, or other peaceful means. The President is speaking of military action and a permanent war. Examine the following statements delivered in the 9/11 speech, making it crystal clear that the purpose of incitement is none else but killings, embodied in the metaphor and reality of war: "America will stay in the fight." "We are in a war that will set the course for this new century." It "will not be over until we or the extremists emerge victorious." As if the incitement to physical elimination of the religious group were still unclear, the President specifically addresses the audience and troops and calls them to action. The "decisive" battle of the 21st century, says the President, is the "calling of our generation."

Requisite Intent

Genocide crimes, including the crime of direct and public incitement to commit genocide, are intentional crimes. These are not crimes of omission or negligence. The Genocide Convention demands that intent of the perpetrator be shown in commission of the listed crimes. The incitement crime does not occur if a person's speech comes across as genocidal against a defined group, but the speaker has no intent to produce mass murder. Without intent, the provocation may still be regarded as odious and morally reprehensible. But it does not constitute the crime of genocide-incitement.

However, intent is not a purely subjective state of mind that only the perpetrator knows. Intent is derived from the context in which the incitement is relayed to the audience and troops.

No one would dispute that the President intends war when he says war. War means killing. He is not using the word war only in the ideological sense. The President fuses military and ideological wars to constitute an organic unit. One war supports the other. Throughout his 9/11 speech, the President refers to intentional killings of the religious group. "We put al Qaeda on the run, and killed or captured most of those who planned the 9/11 attacks." The President continues to defend the illegal and intentional invasion of Iraq, which has killed hundreds of innocent Muslims. Speaking of exterminating the perverted religious group, the President adds: "America has confronted evil before, and we have defeated it -- sometimes at the cost of thousands of good men in a single battle."

In his 9/11 speech, the President uses the word "war" eleven (11) times, the word "fight or fighting" six (6) times, the word "battle" two (2) times. Speaking of American soldiers, the President adds: "Our nation is blessed to have young Americans like these -- and we will need them." Need them for what? Obviously, for war and battle and fighting. The talk of killing is not accidental or even negligent. It is deliberate, cold-blooded, and even malicious. There exists evidence beyond reasonable doubt that the President intends to wipe out what he describes as the perverted religious group.

Conclusion

Examined in the light of the President's direct and public incitements through his speeches, particularly the 9/11 speech, the atrocities committed by US troops, the Coalition forces, and the IDF acquire a new context. Episodes of repeated torture, Abu Gharib excesses, shootings at wedding parties in US occupied Muslim lands, frequent murders of innocent civilians in Afghanistan and Iraq---murders for which American soldiers are facing court martial and death penalty--- the IDF's cruel and criminal destruction of Lebanon, all are related to the President's direct and public incitements in which he repeatedly dehumanizes and criminalizes Muslims, not as individuals but as a religious group, inviting lawless action against the group. The responsibility of the President as the commander-in-chief of the US forces might well be abstract and technical. In light of his incitements, this responsibility has become direct and tangible. The President has intentionally engaged in repeated direct and public provocations, persuasions, and exhortations to commit murderous violence against a religious group.