Dancing Around Genocide?

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Kenneth Roth, the director of Human Rights Watch, has been the victim of a very nasty attack by anti-Muslim extremists who charge that he is ‘dancing around genocide’ by refusing to condemn Iran and its president for incitement to genocide. David Feith savages Ken Roth in the Wall Street Journal in an article that speaks of ‘a bitter behind-the-scenes battle [within Human Rights Watch] over Iran's calls to annihilate Israel'.

(David Feith shouldn’t be confused with Douglas Feith, who was the under-secretary of state in the first George W. Bush administration, a sabre-rattler for war with Iran, an as yet unpunished director of the Abu Ghraib torture prison, and a neo-conservative ideologist who thinks ‘terrorists’ aren’t entitled to protection of the Geneva Conventions. David is the son of Douglas.)

Ken Roth is correct, and he is very wisely rejecting such demagogic appeals. Iran and its president have said many outrageous things. With respect to Israel, the common denominator of Ahmedinijad’s comments on the subject, when read in their context and bearing in mind the vagaries of translation, certainly amount to a call for the elimination or destruction of the state of Israel. But this is not at all the same thing as calling for the extermination of the people of Israel, or the Jewish population of Israel. A reasonable reading of Ahmedinijad's statements cannot support such a conclusion.

There is nothing unprecedented about calling for the destruction or elimination of a State. Decades ago, Cold Warriors wanted to destroy the Soviet Union and Yugoslavia (they succeeded). In Ireland, many republicans want to destroy the ‘state’ of Northern Ireland. Presumably advocates of the ‘one state solution’ for the Israel-Palestine conflict are also calling for the annihilation of Israel, in the sense that the result will be a secular state with a potentially Arab majority. These are political views, and whether we disagree with them or not, they have a right to be expressed.

Those who charge Ahmedinijad with inciting genocide, including Feith, generally muddle their claim with provocative references to Iran’s possible nuclear capacity. They equate the alleged efforts of Iran to obtain nuclear weapons with an intent to perpetrate genocide against Jews in Israel.

This is a problematic charge for a couple of reasons. First, were Iran to get nuclear weapons, it would not be the first in the region to do so. It very arguably has a claim to require them for defensive purposes, given that its enemies already have nuclear weapons. Why won't Feith call for nuclear disarmament in the Middle East region as a means to prevent genocide?

Second, it doesn’t require very much intelligence to understand that Iran is unlikely to be able to build a nuclear weapon that can distinguish between Jews and Arabs on the territories of Israel and Palestine. Use of nuclear weapons there would be likely to kill as many Palestinians as it would Jewish Israelis. Does any sane, rational person really think that mass destruction of the inhabitants of Israel and Palestine using an indiscriminate weapon can be Iran’s objective?

The attacks on Ken Roth and Human Rights Watch feed off those who are genuinely concerned about the possibility of genocide taking place somewhere in the world. Iran gets presented as yet another example of a mass atrocity waiting to happen, another Rwanda. That is a huge distortion that is pumped up by right-wing ideologues with an anti-Muslim agenda who think that the two greatest genocidal threats in the world just happen to be Muslim states in the Middle East that don’t happen to like Israel, namely Sudan and Iran. These people don’t get nearly as excited about threats of mass atrocity in places like Burma and Sri Lanka.

Some amateurish international lawyers are also engaged in the anti-Ahmedinijad campaign. They invoke article 3(c) of the 1948 Convention for the Prevention and Punishment of the Crime of Genocide and link it to article 9 of the same treaty in a proposal to bring the case before the International Court of Justice. Politicians have been sucked into endorsing this notion. In the last American election, Mitt Romney wasn’t smart enough to see the flaws in such a position, and lent his voice to the campaign. Kenneth Rudd in Australia did the same thing a few years earlier. Perhaps this got them a few votes (though not enough) which was no doubt the purpose of the preposterous exercise.

Article 3(c) makes punishable ‘direct and public incitement to commit genocide’. It is one of the so-called inchoate acts of genocide, in that it does not require that anyone is actually incited or that genocide itself actually take place for the incitement crime to be perpetrated. The reason for the words ‘direct and public’ is to distinguish this from incitement in general, which would be a form of complicity in genocide if there was evidence that people were actually incited and that they actually carried out genocide.

There have been some convictions for ‘direct and public incitement to commit genocide’ at the International Criminal Tribunal for Rwanda, but they present a confused legal message because there is no doubt that in Rwanda individuals were actually incited and genocide took place. I know of no example anywhere where someone has been charged and convicted of ‘direct and public incitement to commit genocide’ in the absence of evidence that people were incited and that those people carried out genocide.

When they implement the provisions of the Genocide Convention (and the Rome Statute, which is to the same effect), most states indicate an understanding that ‘direct and public incitement’ is not a crime on nearly the same level or of the same gravity as genocide itself. For example, in the United States, the so-called Proxmire Act provides a fine of $500,000 and a maximum sentence of five years for the crime of direct and public incitement. And that is assuming it would survive constitutional scrutiny under the First Amendment were a prosecution ever to take place.

It should be pretty obvious that cavalier charges of ‘direct and public incitement to commit genocide’ have the potential to encroach upon freedom of expression. Indeed, isn’t that the real purpose behind the attacks on Ahmedinijad and, for that matter, Ken Roth and Human Rights Watch by Feith and the anti-Muslim chorus?

They want Ahmedinijad to acknowledge Israel as a State, and to back off its alleged efforts to obtain nuclear weapons. Incidentally, just as Ahmedinijad wants to see the end of Israel as a state, they too want to see the destruction and annihilation of the ‘Islamic Republic of Iran’. And they also want to muzzle Ken Roth and Human Rights Watch because of the courageous positions they have taken on human rights violations perpetrated by Israel and its armed forces against the people of Palestine.