

IRAN: GUILTY AS CHARGED BY IRWIN COTLER, NATIONAL POST,  
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Argentinean Special Prosecutors have found that senior Iranian government officials, including former Iranian president Akbar Hashemi Rafsanjani, are responsible for the July, 2004 bombing of the Jewish Cultural Centre in Argentina (AMIA), in which 87 people were murdered and more than 200 wounded. This is a momentous judgment that has international ramifications for the struggle against terrorism. In 2004, as Minister of Justice and Attorney General of Canada, I told a meeting of the Organization of American States' ministers of justice to make this case a priority. The newly released findings in the Argentinean Special Prosecutors' exhaustive 800-page report only strengthen the case for international action.

First, Special Prosecutor Alberto Nisman concluded that the mass terrorist bombing was conceived, planned and ordered by the "highest echelons in the government of the Islamic Republic of Iran." In other words, this was not the act of "a radical faction" within Iran. It was a state-orchestrated act of mass terror. Accordingly, the Argentinean State Prosecutors called for national and international arrest warrants to be issued for former Iranian president Hashemi Rafsanjani and former members of his government...

Second, the report concluded that the attack was carried out by Hezbollah, which it characterized as the "terrorist proxy of the Iranian regime." It called for the arrest of Imad Fayez Mugniyeh, head of the Foreign Security Service of Hezbollah at the time of the attack. The report identified the driver of the vehicle used in the suicide bombing attack as a Hezbollah operative. Third, the report stressed that this attack must be seen as an act of anti-Jewish terrorism...

Fourth, the report refers to the vast Iranian intelligence and operational structure which had "infiltrated" Buenos Aires. Included in this structure were the Iranian Embassy and extremist elements in Shiite mosques identified in the report. The report notes that Iranian ambassadors in Argentina, Chile and Uruguay departed from their respective embassies a few days prior to the attack. In addition, Special Prosecutor Nisman wrote: "We can also prove that a pivotal motivation for the attack was Argentina's decision to cancel the contracts for providing nuclear technology and arms to the Islamic Republic of Iran."

What can Canada, in concert with the international community, do? First, we should support the issuance of arrest warrants for the named Iranian authorities and Hezbollah operatives. Second, as a State Party to the Genocide Convention, Canada has not only a right, but a responsibility, to enforce the convention, particularly as regards the prevention of genocide.

In a chilling and fortuitous reminder, Argentina's report happened to be issued on the same day that Iranian President Mahmoud Ahmadinejad called yet again for Israel's disappearance. Moreover, it was former Iranian president Rafsanjani himself who in 2001

called for the acquisition of nuclear weapons so that "Israel may be destroyed." It was also the anniversary of Ahmadinejad's first genocidal call for Israel "to be wiped off the map," in violation of the prohibitions against the "direct and public incitement to genocide" found in both the International Convention on the Prevention and Punishment of Genocide, and the Treaty for an International Criminal Court. Accordingly, Canada should refer the horrific criminal incitement to genocide by President Ahmadinejad and former president Rafsanjani and other Iranian leaders to the appropriate UN Agencies.

Third, Canada should initiate in the International Court of Justice an Inter-State complaint against Iran, also a state party to the genocide convention, for its "direct and public incitement to genocide" in violation of the Genocide Treaty. Fourth, Canada should refer the situation of the international criminality of President Ahmadinejad, and of former president Rafsanjani, to the UN Security Council, which has the authority to then refer the matter to the Special Prosecutor of the International Criminal Court. Fifth, Canada should open a criminal investigation against senior Iranian authority Saeed Mortazavi for his criminal liability in the death of Canadian-Iranian photojournalist Zahra Kazemi...

Finally, Canada should consider preparing criminal indictments for President Ahmadinejad and former president Rafsanjani on the basis of the "Universal Jurisdiction" principle embodied in both the Genocide Convention and Canada's War Crimes and Crimes Against Humanity Act. Admittedly, a domestic prosecution would require the presence in Canada of the named accused. However, it would put these people on notice that there will be no sanctuary for those who incite to genocide or commit crimes against humanity. [Preparing] a criminal indictment would make the case ripe for prosecution or...extradition.

There has been a good deal of discussion about holding Iran accountable for its international criminal conduct, particularly its defiance of UN Security Council Resolutions calling for the suspension of its uranium enrichment process as a prelude to acquiring nuclear weapons. The recommended options have included everything from UN sanctions to military strikes, which would have serious adverse consequences.

It is time that the juridical options be initiated, which might also embolden progressive forces within Iran while holding accountable and indicting the individuals responsible. Indeed, recent history has taught us that sustained international juridical remedies can bring about the indictment of seemingly immune dictators, such as Slobodan Milosevic and Augusto Pinochet. This is an opportunity for Canada to exercise juridical leadership in regard to one of the most important threats confronting the international community.

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