THE CHANGING FORMS OF INCITEMENT TO TERROR AND VIOLENCE:
The Need for a New International Response

INTRODUCTION

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Perhaps the most neglected, yet the most central component of international terror is the element of incitement.

Incitement is the medium through which the ideology of terror actually materializes into the act of terror itself. Without circulation of the ideology and the recruitment of support as a result of incitement, there would be no act of terror.

But if indeed incitement is so obviously and clearly a central component of terrorism, the question remains: why does the international community in general, and international law in particular, not posit a crime of *incitement to terror* or entertain an appropriate international convention among the various existing counterterror conventions?

Is it sufficient to rely on a vague provision in other conventions prohibiting "supporting" or "encouraging" the particular act of terror that is criminalized by the convention, and viewing incitement as constituting part of such support or encouragement?

Is it a justifiable response to claim that criminalizing incitement in an international convention would be endangering or violating the First Amendment right to free speech and therefore *ultra vire*s?

Is there no clear dividing line between incitement to terror and the fundamental right to freedom of speech?

Is it logical and tenable that the person who incites others to commit acts of terror, whether such person is a preacher in a mosque, a radio or television personality, a trade-union activist, or a teacher in school or college, can go scot-free after having played such a major role in generating the act of terror and bringing about the murder of thousands of people?

With these questions in mind, an international conference was held in Jerusalem in November 2011 aimed at examining the extent to which incitement is indeed a major component of terrorism requiring criminalization as an international crime.

The conference dealt with the following areas:

» Global incitement through the web and other communication technologies

» Incitement in Western countries by Muslim and radical-left organizations

» Incitement in schools

» Incitement in the Middle Eastern context

» The contribution of incitement to the genocide in Rwanda

» Psychological aspects of incitement

The conference ended with the introduction of a Draft International Convention for the Prevention of Incitement to Terror, intended for presentation to the Secretary-General of the United Nations as a first stage in criminalizing incitement to terror in the international community.

This book is a compendium of the papers presented at the Jerusalem conference. Following is a brief summary of the presentations:

Michael Mertes, Resident Representative in Israel of the Konrad-Adenauer-Stiftung and former legislator and political adviser, in his presentation on "Beyond Radical Libertarianism: Internet Freedom and the Rule of Law" analyzes the dichotomy between free speech in modern society and the danger in abusing such free speech to harm others, and the consequent need to balance such freedom and to contain incitement to terror.

Dr. Boaz Ganor, counterterrorism expert and founder and executive director of the International Institute for Counter-Terrorism, in his presentation on "The Hybrid Terrorist Organization and Incitement" examines the dynamics inherent in the modus operandi of modern-day terror organizations, and the utilization of legitimate, social situations and the naiveté of Western, liberal societies as a means of furthering their aims.

Rabbi Abraham Cooper, associate dean of the Simon Wiesenthal Center, in "From Big Lies to the Lone Wolf: How Social Networking Incubates and Multiplies Online Hate and Terrorism" offers a detailed and thought-provoking exposé of the way in which hate and terrorism are disseminated over the Internet, with graphic examples.

Prof. Robert Wistrich, expert in modern European and Jewish history and director of the Vidal Sassoon International Center for the Study of Anti-Semitism, in "Anti-Zionism, the Left, and the Islamists in Britain" examines the contemporary and brazen incitement against Jews and Israel in British society, especially the more recent incarnation of hatred in Britain through academic and economic boycotts of Israel.

Prof. Elhanan Yakira of the Department of Philosophy at the Hebrew University of Jerusalem, in a presentation "On Anti-Zionism and Anti-Israelism" analyzes the sources of, and evident linkage between anti-Zionism and anti-Semitism, the European leniency toward Palestinian terror, and the curious phenomenon of participation by Jews and Israelis in anti-Israeli incitement.

Dr. Manfred Gerstenfeld, an expert on post-Holocaust and anti-Semitism issues and member of the Board of Fellows of the Jerusalem Center for Public Affairs, in "The Delegitimization of Israel in Schools in the Western World" maps the growing trend of incitement against Israel in Western schools through traditional anti-Jewish prejudices, as well as the growing Muslim presence and influence in Western countries.

Gen. Yosef Kuperwasser and **Dr. Asher Fredman** of Israel's Ministry of Strategic Affairs, in "The Incitement and Culture of Peace index: Methodology and Trends" present an ongoing index monitoring the various dimensions of incitement by Palestinian officials and bodies, constituting the basic and obstructive factor to any Israeli-Palestinian peace.

Itamar Marcus, founder and director of Palestinian Media Watch, in a presentation on "Deception: The Palestinian Authority's Public Commitments and Its Actual Activities and Messages" takes the trend of Palestinian incitement one step further and analyzes statements and actions of Palestinian leaders and the manner in which Palestinian incitement against Israel and Jews is packaged, whether on the Internet or through media sources, whether

through negation of Israel, religious hatred, or glorification of suicide bombers.

Dr. Joel Fishman, fellow of the Jerusalem Center for Public Affairs and editor of the *Jewish Political Studies Review*, in his chapter "Palestinian Incitement and Peace: An Insurmountable Incompatibility" points to the centrality of incitement as a stumbling-block to peace and a major cause of violence and genocide. He reviews the tendency of Western countries to downplay and even ignore the damages of incitement. He analyzes the strategic and tactical components of incitement as a means of extending conflicts and struggle, buttressing nondemocratic regimes, and as a fundamental flaw in Palestinian governance, thereby preventing progress toward peace.

Dr. Yohanan Manor, founder of IMPACT-SE which analyzes schoolbooks and curricula in the Middle East, in his chapter "Anti-Jewish Sentiments and Stereotypes in Arab and Muslim Schoolbooks" analyzes challenges in the Arab and Muslim countries including Egypt, Saudi Arabia, Iran, Jordan, and the Palestinian Authority, and the alarming extent of hatred, prejudice, and incitement against Jews, leading to calls for dehumanization and elimination.

Dr. Anat Berko, expert in terrorism and specifically suicide bombers and their handlers, in "The Smarter Bomb: Women and Children as Suicide Bombers" presents the results of her extensive research on the ideological, practical, and social motivations and incentives driving people to become suicide bombers, and the exploitation of youngsters and children by the planners of Palestinian terror attacks.

Prof. Gregory S. Gordon, formerly of the Office of the Prosecutor for the International Criminal Tribunal for Rwanda, in his chapter "Incitement in Rwanda: The Path to Genocide" traces the manner in which incitement through public pronouncements and the media directly brought about the tragic genocide in Rwanda. He analyzes the content of the messages disseminated through the media in light of the requirements of international conventions to contain incitement.

Prof. Elihu D. Richter, former head of the Unit of Occupational and Environmental Medicine at Hebrew University-Hadassah Braun School of Public Health and Community Medicine, and **Dr. Yael Stein** of the Hadassah Medical Center and the Braun School of Public Health and Community Medicine, in their chapter "Incitement, Hate Language, and Terror: An Epidemiologic Perspective" deal with the medical and psychological components of the disease of incitement, hate, and terror as transmitted through generations of Palestinians, constituting the most hazardous populationwide exposure in the Middle East and requiring drastic educational, legal, and administrative means to eradicate official hate language and incitement.

Dr. Yaël Ronen, senior lecturer in international law at Sha'arei Mishpat College in Hod Hasharon, in her chapter "Incitement to Terrorism in International Law" analyzes attempts in the international community to criminalize incitement, through UN Security Council Resolution 1624 of 2005 and subsequent implementation guidelines. She questions whether any criminalization of direct calls to incitement could be sufficient in light of the extensive indirect incitement, and asks where to determine the threshold for such criminalization especially in light of the danger that it could be utilized for abusing governmental powers.

Amb. Alan Baker, international lawyer and former legal adviser to Israel's Foreign Ministry, in this compendium's closing chapter "Palestinian Incitement as a Violation of International Legal Norms" maps the historical and legal background connecting incitement to violence

and terror, and analyzes the references to preventing incitement in international instruments and in Israeli-Palestinian agreements.

The Appendix to this book offers a Draft International Convention for the Prevention of Incitement to Terror, drafted by **Amb. Alan Baker**. This document attempts to combine the various international resolutions and regional treaties into one comprehensive convention criminalizing incitement in international law, with the aim of presenting this draft convention to the United Nations as a basis for adoption by the international community.