

Canadian MP: Incitement is far worse than checkpoints
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Irwin Cotler, one of the world's leading international law experts, slams EU boycott of settlements, dismisses claims that Israel violates human rights • "I was told that Israel must cease to be a Jewish state," he says of meeting with Arab leaders.

By Dror Eydar

The last decade has witnessed the expanding delegitimization campaign against Israel in the field of international law. The interview with Professor Irwin Cotler, a Canadian member of parliament for the Liberal party, was conducted against the backdrop of the renewed Israeli-Palestinian peace talks and the planned release of Palestinian prisoners -- subjects on which he has much to say.

Cotler is one of the world's leading experts on international law and a renowned human rights activist. Over the years he has represented many prisoners of conscience, among them Natan Sharansky. He also served as counsel for Nelson Mandela during the apartheid regime in South Africa and for prisoners in Asia and Latin America. Cotler is a good friend and staunch advocate for Israel in the international arena. He is married to an Israeli and speaks Hebrew. Recently, he received an honorary doctorate from the Shaarei Mishpat College in Hod Hasharon.

In 2000, Israel and Syria held talks concerning a potential Israeli withdrawal from the Golan Heights. The stumbling block was the water-line issue. Cotler accompanied former Canadian Prime Minister Jean Chretien to the Golan Heights, on the latter's visit to the region.

"He could not understand the fuss Israel was making over a 300-meter [980-foot] area near the Kinneret," Cotler recounted. "Since Israel had already acknowledged that it was the aggressor, it had already agreed to give back the Golan."

In Chretien's view, "were Canada attacked, we would not give up that territory. And in your case, if you do so, Israel would be labeled the aggressor, since, according to international law, if A attacks B -- not once but multiple times -- and if the attacked party has to give up the territory from where the attack was launched, not only is this licensing the aggressor, but it rewards the act of aggression.

"The aggressor can wage war with impunity with the full knowledge that he will get everything back. It is the same with the Palestinians: If you release murderers prior to entering negotiations, this indicates that they are merely political prisoners, not prisoners with blood on their hands, as otherwise their release would be considered unlikely," he said.

But the United States exerted great pressure on Israel to this effect, did it not?

"The U.S. sees a problem and is bent on solving it. And if negotiations are required, then once they begin, you need to give something up. I understand that the issue of prisoners is of great importance from the Palestinians' view; the problem is that these are not political prisoners. The issue of education, too, is problematic: the incitement, and I am not even referring to the incitement by Hamas but that originating from the Palestinian Authority. I told [Palestinian Authority President] Mahmoud Abbas: Incitement is not only detrimental to the peace process, it harms your own people. If they want a state, it is not enough to have an independent state, it should also be democratic, rights-protecting, law-abiding and peace-loving. When these things exist, it will be time to speak of exchanging land for peace.'

"The same week the release of murderers was raised, Abbas once again glorified the terrorists, yet Israel announced the release of prisoners with blood on their hands. Why, then, should we be taken seriously if this is how we act toward the Palestinians? This is no way to negotiate. This is the reason why hitherto negotiations have failed."

Could Israel have resisted the pressure?

"Israel could have opposed the release of terrorists on legal grounds, citing that there is a justice system in place and it sentenced these people. The damage wreaked upon the justice system with the release of killers is as if we are mocking the rule of law. Victims' rights are also a legal concept, and I speak as one who aspires for peace. For the sake of genuine peace and to end of conflict, I would be willing to make many compromises, but at the conclusion of negotiations, not beforehand."

Meanwhile, U.S. Secretary of State John Kerry has been pursuing a mission of shuttle diplomacy, some would say out of a messianic desire to solve a 100-year-old conflict in nine months. Cotler accepts Kerry's good intentions, but demands the cease of incitement.

"If they do not stop the incitement, it is proof that they are not ready for peace. The issue of incitement is of significance to President Obama and to the American culture, and this is a reasoning which Israelis do not heed to seriously enough."

On the claim prevalent among some left-wing circles that Israel also incites against the Palestinians, Cotler replies, "We do not need to fall into what is termed 'false moral equivalency.' There is a difference between the racism existing among Israelis and between racism which is promoted as government policy. Any inciters found in Israel should be prosecuted. However, in the Palestinian Authority it is another matter: Incitement is prevalent in education, in the culture and in every walk of life. The fact that no one comments on it is terrible. [Defense Minister] Moshe Ya'alon made reference to this issue in his previous role as minister for strategic affairs, yet this was not adopted as official policy by Israel."

Cotler claims that he was not surprised by the European Union's boycott against Israel, which he says has to face the entire world, not just the Palestinians.

"It is essential to repudiate the narrative that the occupation is the root of the Israel-Palestinian conflict, and that apartheid is at the root of occupation," he said. "First, the Middle Eastern conflict -- the events in Syria, Egypt and Lebanon -- are unrelated to Israel. Second, when it comes to the Israeli-Palestinian conflict, the root of conflict was, and still is, the unwillingness of those in the Arab and Palestinian leadership to accept the legitimacy -- as distinct from the existence -- of a Jewish state, which is different from the State of Israel, in the Middle East."

"There is apartheid in the Middle East -- but not as an Israeli policy, with all its faults. This apartheid is the unwillingness, which borders on psychological inability, to accept the existence of a Jewish state. When I journeyed to meetings in the Arab countries -- I first met Abbas in Damascus in 1977 -- I always posed the same question: 'Would you be willing to accept the legitimacy of a Jewish state?' and they would respond: 'Israel exists, it is a fact.' I would persist and say, 'That is not what I asked.' Eventually I would be answered: 'It depends on whether Israel would be prepared to be part of the family of nations in the Middle East.' I pressed on: 'And what does this mean?' and was answered that 'Israel must cease to be a racist state,' meaning that Israel must cease to be a Jewish state."

It appears that the *raison d'être* for the existence of the Palestinian people is not positive-national but negative, against us.

"If a collective believes it is a people, with a right for self-determination, it has the right for an independent state. However, there other issues entailed, not only independence but a state with the values I mentioned earlier. Without this they have no authentic self-determination."

Do you mean that if the future Palestinian state is not democratic, they have no right to make demands for this state?

"This is what the Palestinians tell me, and I am not referring to their leadership. This is what we see in Syria and in Egypt. People who aspire in some way for freedom, aspire for human dignity, for true independence. This does not stem from occupation. So I say, let us establish an authentic framework which consists of these parameters. Yet no one makes reference to these parameters."

How does Hamas fit in all this?

"That is yet another issue. When it comes to a state, to self-determination, this means effective government in control of territory. This is not the case here; there is no single government. There is Hamas and the Palestinian Authority, neither of which held elections."

So you are describing a process of, say, 50 years. First sort yourselves out and then we will speak about territory.

"If one aspires for authentic self-determination, it must be achieved democratically. The international community feels no obligation to introduce yet another dictatorship into the Middle East. This will not benefit the Middle East nor that particular people."

When the discussion touches upon Europe's approach to Israel and the delegitimization process Israel has undergone this long while, Cotler expands on an even more sophisticated ongoing process -- the laundering of the delegitimization process under the protective cover of the U.N.

"One must remember that both in Europe and Canada, the U.N. is considered a respectable institute. So there is a difference whether delegitimization comes from the U.N. or from the Arab side. Resolutions for the condemnation of Israel are passed every year at the U.N. General Assembly. There are 22 resolutions censuring Israel, compared to not one single condemnation against any other country in the world. Many countries violate human rights with no censure against them. This occurs not only in the General Assembly but also in the other U.N. institutions. You sit there as part of the delegation, together with journalists, academics and students, and they all internalize it. Therefore, it is not enough to condemn the European Union but to say to them, 'What are you doing about the regular condemnations coming from the U.N.? Why are the settlements singled out?'"

"This brings me to the second issue: the delegitimization of Israel via the legal aspect. The Europeans have legal culture. Declaring something illegal is much more severe than, say, if you said it was foolish or unwise. They claim that the settlements are illegal and violate international law. From the perspective of the legal culture, Israel is an outlaw."

Some say that since the world is against us, we have no choice and must meet the Palestinians' demands, so as not to be ostracized.

"The method of delegitimization is being employed for a reason. Since there are condemnations the focus solely on violations of human rights by Israel, separate from violation condemnations by the rest of the world, this amounts to the denial of equality before the law, denial of due process, which is prohibited by the U.N. charter itself."

But to whom can we talk about this?

"You should know that President Obama speaks in legal terms. He understands them. I was happy to hear Samantha Power, who was recently appointed U.S. ambassador to the U.N., speak of this issue exactly, about the disproportion in the condemnations issued against Israel. That not only must Israel be protected, but that the international law should also be protected."

The employment of international law to target Israel harms international law itself, the very interest of justice.

"I come from the Left. I will not forget how in 1985 I sat with a group of Israeli left-wing activists, and they spoke of Israel as an apartheid state. I was already greatly involved then in the struggle against apartheid in South Africa, and was even arrested there. I told them, what bothers me is not that you say that there is apartheid in Israel, but that if Israel is an apartheid state, then you are saying that South Africa is like Israel. And this discredits the true struggle against apartheid. Apartheid really means no free elections, no free press, no independent judiciary, separate rule for whites and blacks. Whoever claims that Israel is an apartheid state misunderstands the very meaning of the struggle. When you say that Israel is a Nazi state, it undermines the whole heritage of what Nazism is and what happened in the Holocaust. We must fight these comparisons because they do not only harm Israel but are detrimental to all humanistic values."

Cotler supplied another example, dealing with the Nakba, which he described as "a catastrophe experienced by the Palestinians 65 years ago."

"What transpired during those days? The U.N. recommended the partition of Mandatory Palestine into two states, Jewish and Arab. The Jewish leadership accepted the offer while the Arab-Palestinian leadership refused it, which they had the right to do. What they did not have the right to do was launch an attack against the nascent Jewish state, which they themselves termed a 'war of extermination.' Neither did they have the right to persecute Jews in Arab countries, deny them their rights, expropriate their property and freedoms, torture them and expel them from their countries of residence.

"As result of both these acts of aggression, two groups of refugees emerged: Palestinian refugees and Jewish refugees from Arab countries. The tragedy is that if the U.N. recommendations would have been accepted by the Arab states, we would be celebrating today 65 years to the two-people two-state solution without all the suffering that ensued since."

According to Cotler, not only are there no states that do not violate human rights, Israel is in fact no different from other states in the world when it comes to the human rights issue.

"I examined the situation in Israel. Is there a free press? Yes. An independent justice system? Absolutely. I do not know a court anywhere in the world that would grant standing such as in the Supreme Court in Israel."

But there are checkpoints and "occupation."

"The issue is not whether violations of human rights exist. They exist in every country. Rather, what led to the occupation? Is it a result of the [1967] Six-Day War, or the result of an act of self-defense? U.N. Resolution 242 declares that all states, including Israel, have the right to live within secure and recognized boundaries, free from any threats or acts of force. Israel's presence in the territories is the outcome of acts of aggression by the other side.

"After Resolution 242, Resolution 338 was passed, on the need to solve the issue via direct negotiations. This did not take place. In August 1967, at the Khartoum Summit, negotiations with Israel were turned down. Later on, the [1973] Yom Kippur war broke out. Later still, Israel withdrew from Lebanon and from Gaza Strip. There is reason, therefore, why Israel is still in the territories. But change must be accomplished in the framework of direct negotiations, as instructed by the U.N., with the preservation of freedom from any threats or acts of force, to which all states are entitled."

If there are human rights violations by Israel, Cotler continued, "the Palestinians have access to court. On the other hand, there are constant violations of human rights on the Palestinian side. Why is it that organizations such as B'Tselem and others do not show the suppression of human rights by the Palestinians? If you believe in human rights you cannot be selective. Incitement is far worse than checkpoints.

"People accept the fact that the Palestinians are indigenous to the ancient land of Palestine. They do not understand that the Jews are an aboriginal people, too, and that this is the ancient homeland of the Jews. This also holds true in terms of the international law as found in the mandate of the League of Nations. When I speak of the Jewish aboriginal rights they are also anchored in international human rights laws, but when you don't know the human rights argument, and you talk of the Bible and religious rights, it comes across as a sectarian argument rather than a human rights argument."

Why is Israel's presence in the "occupied territories" considered illegal? From whom did we seize them?

"As I mentioned earlier, this is the result of a long and sophisticated process of the laundering of delegitimization under the cover of international humanistic values. In a world where human rights have emerged as a new secular religion of our times, the portrayal of Israel as the major human rights violator is like a neo-geopolitical antichrist of our times."

Before we concluded, Cotler recounted a typical story illustrating the meeting points of the different worlds in his life. Soon after his election as the Canadian justice minister, he chanced to meet a group of indigenous Canadian law students, whose ancestors have lived in Canada for centuries. They turned to Cotler to assist them in strengthening their identity and securing their rights.

And he told them: "At the risk of sounding presumptuous and pretentious, I also come from an aboriginal people. A people that still inhabits the same land, embraces the same religion, studies the same aboriginal Torah, harkens to the same aboriginal prophets, speaks the same aboriginal language, bears the same name -- Israel -- as we bore 3,500 years ago. Whereupon -- welcome, one aboriginal people to another."

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