

HATE SPEECH AND GROUP-TARGETED VIOLENCE

The Role of Speech in Violent Conflicts

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ABOUT THE REPORT

This report summarizes the findings from the Speech, Power, Violence Seminar convened by the United States Holocaust Memorial Museum in February 2009 and the publications produced as a result. The two-day seminar brought together academics, journalists, political analysts, policy professionals, and conflict analysts to examine the role speech acts play in genocide and related crimes against humanity.

ABOUT THE MUSEUM

A living memorial to the Holocaust, the United States Holocaust Memorial Museum inspires leaders and citizens worldwide to promote human dignity, confront hatred, and prevent genocide.

The Museum's efforts to prevent and respond to genocide and related crimes against humanity are guided by the Committee on Conscience, a standing committee of the United States Holocaust Memorial Council, the Museum's governing board. The Committee on Conscience works to alert the national conscience, influence policy makers, and stimulate worldwide action to confront and work to halt acts of genocide or related crimes against humanity.

DISCLAIMER

The views expressed in this report do not necessarily reflect those of the United States Holocaust Memorial Museum, which does not advocate specific policy positions.

ONLINE RESOURCES

An online edition of this report and related publications from the seminar, along with additional information on the subject, can be found on the Museum's Web site at ushmm.org/genocide/spv.

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INTRODUCTION

Hate speech and propaganda occur in all societies, to radically varying degrees. And while the 1948 UN Genocide Convention criminalized “incitement to genocide,” discerning precisely when speech rises to that level and the potential danger even of speech that does not rise to that level—as well as how to respond in either case—is fraught with contention. To help address the lack of sufficient research and documentation to discern how and when precisely speech—understood broadly to include print media, radio, television, and new technologies, as well as public speaking—relates to the occurrence of genocidal violence, the United States Holocaust Memorial Museum convened a seminar at which experts explored four contemporary case studies as well as international law governing this area.

The Holocaust and the genocide that occurred in Rwanda in 1994 are among the most studied examples of international criminal prosecutions for propaganda and incitement of mass violence against civilians, but both cases raise as many questions as they answer.

Following the end of World War II, 24 German leaders were brought before the International Military Tribunal at Nuremberg. Among them were two men linked to the creation or dissemination of Nazi propaganda: Julius Streicher, the editor of *Der Stürmer*, and Hans Fritzsche, the director of the Propaganda Ministry’s Broadcasting Division. The cases against both rested entirely upon their actions as propagandists.

The tribunal found Streicher guilty on the charge of crimes against humanity based on articles published in *Der Stürmer* that had called for the extermination of Jews, at a time, the judges argued, “when Jews in the East were being killed under the most horrible conditions,” a fact that “clearly constitutes persecution on political and racial grounds in connection with War Crimes, as defined by the London Charter, and constitutes a Crime against Humanity.”¹ The tribunal sentenced Streicher to death by hanging.

In the second case, the tribunal decided that although Fritzsche had made antisemitic broadcasts and statements during his tenure in office, he had not specifically called for the mass murder of Europe’s Jews. For the judges, this fact distinguished his actions from Streicher’s, and they ruled that he was not guilty on all counts.

1. *Trial of the Major War Criminals before the International Military Tribunal, Nuremberg, 14 November 1945–1 October 1946*, Vol. 1 (Nuremberg: 1947, reprint 1995), 302–304.

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Some 50 years later, several media-related cases were brought forward in relation to the genocide in Rwanda. Among them was one against Simon Bikindi, a popular Rwandan singer and songwriter whose songs—like “Twasezereye” (“We Said Goodbye to the Feudal Regime”), “Nanga Abahutu” (“I Hate the Hutu”), and “Bene Sebahinzi” (“The Sons and Fathers of the Cultivators”)²—were filled with inflammatory anti-Tutsi hate speech and pro-Hutu solidarity messages.

Prosecutors at the International Criminal Tribunal for Rwanda believed Bikindi’s songs constituted incitement to genocide. But on December 2, 2008, the judges handed down a decision that made an important distinction between the role Bikindi’s music played in heightening tensions between groups and acts for which he was legally culpable. Although the judges argued that “Bikindi’s three songs were indisputably used to fan the flames of ethnic hatred, resentment and fear of the Tutsi,” and that broadcasts of the songs “had an amplifying effect on the genocide,”³ they concluded that he had little to no control over any radio broadcasting at the time and could therefore not be held directly accountable for the effects these songs may have had on the violence.

However, they did find Bikindi guilty of direct and public incitement to genocide for hate speech he broadcasted while driving through the countryside during the genocide. Over a loudspeaker, Bikindi had asked people standing on the roadside if they had killed the Tutsi there and if they had killed the “snakes,” a term understood by everyone to mean the Tutsi.⁴ The judges wrote that “it is inconceivable that, in the context of widespread killings of the Tutsi population that prevailed in June 1994 in Rwanda, the audience to whom the message was directed, namely those standing on the road, could not have immediately understood its meaning and implication.”⁵ They sentenced Bikindi to 15 years in prison.

In both the Nuremberg and Rwanda cases, the judgments focused on instances where violence was already occurring; they did not address the legality of hate speech or propaganda before or after the violence occurred. They also left unanswered core questions about the sociological, political, and historical relationship between speech and violence, such as:

- What exactly is the role of hate speech and propaganda in relation to extreme violence? Do words create a permissive environment? Do they direct violence? Do they move erstwhile non-violent people to commit acts of violence?

2. *The Prosecutor v. Simon Bikindi*, Case No. ICTR-01-72-T, Judgement and Sentence, 2 December 2008, para 15.

3. *Id.*, para 16.

4. *Id.*, para 35.

5. *Ibid.*

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- Can violence be averted by punishing speech? When is this permissible and who is authorized to make such a decision? When does limiting speech constitute an infringement on free speech?
- What is the difference between hate speech and propaganda and actual incitement to genocide? How does the legal distinction help clarify situations? What does it leave unaddressed?

Experts at the Museum's seminar presented the findings that emerged from their studies of the following cases and subject areas:

- **Bosnia.** The war in Bosnia-Herzegovina from 1992 to 1995 caused the deaths of some 100,000 civilians, 83% of whom were Bosnian Muslim. Following the fall of Srebrenica, Bosnian Serb forces committed the single largest massacre in Europe since the Holocaust, killing 8,000 Muslim men and boys—an act the International Criminal Tribunal for the former Yugoslavia deemed genocide. The Bosnian war took place in the context of the dissolution of the former Yugoslavia, when nationalist leaders, particularly within Serbia, shifted the focus of the state media message from unity and brotherhood to ancient ethnic hatreds. Bosnian journalist Kemal Kurspahic authored this case study.
- **Rwanda.** In 1994, Rwanda's population of 7 million comprised three ethnic groups: Hutu (approximately 85%), Tutsi (14%), and Twa (1%). Between April and July of that year, at least 500,000 Tutsi were killed when a Hutu extremist-led government launched a plan to murder the country's entire Tutsi minority and any others who opposed the government's policies. The perpetrators unleashed propaganda campaigns, filled with hate speech, through the radio and print media and made direct exhortations to communities urging them to take part in the violence before and during the genocide. Political scientist Scott Strauss presented this case study.
- **Guatemala.** The Guatemalan Civil War took place from 1960 to 1996, escalating to genocidal violence from 1981 to 1983. More than 200,000 Mayan people were killed and the Guatemalan military displaced 1.5 million more as part of a counterinsurgency. Soldiers were extensively indoctrinated to participate in scorched-earth campaigns against indigenous groups, but there was not widespread public propaganda. Journalist Frank Smyth of the Committee to Protect Journalists presented this case study.
- **Kenya.** The December 2007 presidential election in Kenya was surrounded by controversy and widely considered to have been manipulated by the government. Political parties in Kenya divide largely along ethnic lines, and anger over the election results erupted into political violence with ethnic overtones. Media, particularly local-language radio stations, spread hate speech

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before and while the violence occurred. Text-messaging and blogs also played a large role in the dissemination of information in both positive and negative ways. Human rights advocate Maina Kiai authored this case study.

- **Incitement and International Criminal Law.** The International Military Tribunal at Nuremberg and the International Criminal Tribunal for Rwanda have dealt extensively with issues of hate speech, propaganda, and incitement with respect to genocide, war crimes, and crimes against humanity. (The International Criminal Tribunal for the former Yugoslavia has not dealt directly with this issue.) Landmark cases from these tribunals have contributed to an understanding of these concepts and how they should be prosecuted, but many questions remain unanswered. Legal scholars Susan Benesch and Gregory Gordon both presented papers on international law and incitement.
- Additionally, Sheldon Himelfarb, an expert on media and peace-building, and cultural anthropologist Susan Hirsch provided commentary on issues that cut across the case studies.

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SUMMARY OF KEY FINDINGS

Four key findings emerged from the seminar presentations and discussions.

1. The lines separating hate speech, propaganda, and incitement are not clear.

While patterns exist across the different case studies with regard to the tactics and strategies leaders employed to increase intergroup tensions, there is no consensus on what constitutes each of the three categories—hate speech, propaganda, and incitement—and international criminal law governing this area is still in flux.

2. Speech is tied to context.

The context in which speech occurs helps determine its impact, as does the position of the person or persons speaking. Additionally, hate speech alone does not indicate impending violence. It is only by analyzing contextual clues that the potential threat of any given speech can be evaluated.

3. Media are productive forces in a conflict.

Both national and international media are productive forces in the stories they tell; how events are described, when stories appear, and whose voices are included can all change the unfolding course of a conflict. Additionally, new technologies enable different voices to emerge and accelerate the dissemination of messages, which presents both challenges and opportunities.

4. Societies have numerous options for curtailing the effects of hate speech.

Currently there exist mechanisms—and the potential for augmenting and expanding such mechanisms—that could creatively and effectively address the problem of hate speech. Among these are programs that reach out to media professionals directly and that focus on the community-wide implications of hate speech. But further study of the relationship between hate speech and group-targeted violence is seriously limited by the absence of an archive for this subject.

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KEY FINDINGS

I. The lines separating hate speech, propaganda, and incitement are not clear.

There is no direct, incontrovertible evidence linking hate speech or propaganda to violence. However, in the case studies presented at this seminar, several common tactics and strategies with regard to the dissemination of hate speech and propaganda in relation to actual acts of violence were identified. Leaders often manipulated core social, economic, and political issues by blaming a single enemy for them all and recasting problems in an ethnic light. Commonly, the perpetrators presented themselves as victims, while blaming and stigmatizing the target group, and then justified their actions as self-defense or preemptive self-protection.

The discourse at all levels served to justify violence against civilians. No matter the forum, the doctrine as well as speech shifted the onus of blame for atrocities from the military perpetrators to the civilian victims.

—Frank Smyth, case study on Guatemala

In cases where there had been extensive violence against civilian groups or genocide had occurred, the perpetrators often presented the terms of the conflict as existential—that is, they justified their actions as necessary to protect the very existence of their group. Further, the perpetrators often blurred the line between the civilian and non-civilian populations of the targeted group; the enemy became the *entire* group. Other common tactics included dehumanizing and stereotyping the targeted group; manipulating the concept of patriotism; presenting a conflict as a zero-sum game; invoking past conflicts whose outcomes needed to be rectified in the present; and inflating or deflating the number of casualties to serve the perpetrators' agenda.

When identifying these tactics and strategies it is difficult to determine to which of the three categories—hate speech, propaganda, or incitement—they belong. They are often used interchangeably, and their parameters contract and expand. The absence of clear definitions and applications of these categories, including within the legal realm, poses a serious challenge for study and leads to interpretations that are highly contested.

More than it is punished, speech is protected by law—for good reasons and nowhere more assiduously than in the United States. Yet it can be hard to distinguish expressions of ethnic pride or ardent political speech, on the one hand, from hate speech and incitement to violence on the other—especially where violence and group hatred are already commonplace. In other words, a crime and a cherished right are so closely related that it can be difficult to draw a line between them.

—Susan Benesch, case study on international law

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For the purposes of this report, hate speech is hereby understood to be inflammatory language, often insulting and derisive, that targets an individual or group, and that may or may not include a call to violence. Propaganda, a broader category, is understood to be biased information designed to shape public opinion and behavior.

Hate speech is often difficult to identify and prosecute for a number of reasons. For one, free speech is a highly valued right in many countries and is often protected by law. The line separating an inalienable right from a crime can therefore be unclear. Different countries also have different criteria for what constitutes hate speech and for what is legal. In Germany, for example, it is illegal to deny that the Holocaust took place, but it is not illegal in the United States. When relegated to domestic criminal law, identifying and prosecuting hate speech becomes a somewhat subjective process. Additionally, certain governments, acting in their own political interests, have issued bans on speech or the media under the guise of preventing hate speech.

International criminal law has been called upon in various circumstances to determine whether hate speech resulted in incitement to genocide or other crimes against humanity and was therefore prosecutable. However, as our two introductory cases from the Holocaust and Rwanda exemplify, international criminal law is not sufficiently consistent in differentiating between hate speech and incitement. Further complicating these matters is the nature of the crime of incitement to genocide. It is an “inchoate crime,” meaning that genocide does not have to have actually taken place for an individual to be prosecuted for inciting it. What matters is the intent of the speaker and the potential for the actions to spur genocidal violence. While the cases concerning speech and genocide that have thus far come before international tribunals have all been *post facto*, the letter of the law does not require a causal relationship for the finding and prosecution of incitement. Prosecution of incitement to genocide can therefore be used as a preventative tool rather than only as a reactive one.

The law is headed on the right path but a more formal adherence to precedent and a more rigorous application of the elements will be necessary for incitement to avoid becoming an ambiguous crime that could infringe on hallowed free speech rights.

—Gregory Gordon, case study on international law

At the seminar, experts presented two possible models for determining when speech constitutes an incitement to violence—one arguing that specific criteria were implicit in the decisions of the International Criminal Tribunal for Rwanda and another relying on a six-prong inquiry—but there is currently no legal consensus. The presenters of both models stressed the importance of context in interpreting incitement.

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2. Speech is tied to context.

The meaning of speech depends on the context in which it occurs, and there are several factors that can affect or change it. Simply analyzing the words themselves does not tell the entire story. It is important to consider who is speaking, what his or her intention is, and what his or her relationship to the audience is. It is also important to consider the agency of the audience and its understanding of the message.

Certain utterances achieve terrifying power, in the right context. In a climate of ethnic animosity, statements of ethnic pride are indistinguishable from insults against one's opponents. And the converse is also true: Even the most hateful or inciteful speech remains benign, if it has no audience or if its audience is firmly and explicitly determined to keep the peace.

—Susan Hirsch, respondent

Another important contextual element is the local environment in which the speech is taking place. Hate speech, propaganda, and incitement often rely on symbolism, vernacular, and coded language deeply rooted in a historical and cultural context specific to the region. Outside parties monitoring situations for dangerous speech may overlook these potential warning signs if they are unfamiliar with the region.

An early warning system cannot depend upon analyzing speech alone. There are certain environmental and structural factors within a society—such as a history of violence, the marginalization of certain groups, and prejudice—that create conditions in which hate speech is more likely to lead to violence. Hate speech is also more likely to lead to violence in societies where there is a stratified hierarchy, tenuous rule of law, state-sponsored violence, impunity, or widespread corruption. It is especially dangerous when the marketplace of ideas is closed and no alternative points of view are expressed.

Hate radio mattered in Rwanda, but the dynamics of genocide are considerably more complex than the popular image of “radio machete” suggests.

—Scott Straus, case study on Rwanda

Genocide does not occur spontaneously no matter what forms of speech are deployed in support of it; there must be an organizing structure, often a state, implementing a plan. Genocide can occur without widespread propaganda, but not without an organizing power structure committed to it. In Rwanda, for example, whether or not the media played a significant role in inciting violence, it was still necessary for leaders to organize militias, gain control of the military, and mobilize their friends, family, and neighbors to take part.

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3. Media are productive forces in a conflict.

Paying attention to language is important not only for understanding when the media is intentionally deploying speech to escalate tensions, but also for understanding how the media can affect events in the regular course of its work. Often the media does not merely observe but rather influences the very dynamics of a conflict, and this influence can be positive or negative. In every case study presented at the seminar, there were examples of remarkable journalists who risked, and, in some instances, even lost, their lives reporting with the utmost professionalism. But the case studies also revealed that irresponsible or inaccurate coverage from local and international media can exacerbate violence. This can become particularly dangerous when hate speech is involved.

Some television networks—practicing that art of perfect neutrality, which has value in debates in civil societies but not in the case of massive slaughter of innocent civilians—brought to their studios a “representative of the other side,” a young lady speaking for those responsible for slaughter. She shrugged off the story of the massacre with a favorite line of the ultranationalist propaganda, “This is only the [Bosnian] Muslim government trying to blame Serbs, nothing else.”

—Kemal Kurspahic, case study on Bosnia-Herzegovina

A quest for journalistic neutrality at any cost is not appropriate when genocide or crimes against humanity are occurring. There is an important difference between neutrality and objectivity. Journalists should strive for accuracy, verifying what they can and remaining transparent about what they cannot.

The Internet, Internet-based tools like e-mail and blogs, and text-messaging have also changed the way information is shared during conflicts. The new age of the citizen-journalist allows everyday people to document and report on any number of events. These developments in how we generate, send, and receive information have had both positive and negative implications with regard to violent conflicts. For instance, they can enable diaspora communities to voice their perspectives, which may help either to diffuse or to escalate a conflict.

New methods of communication like text-messaging make it more difficult to curb the spread of potentially incendiary speech for they enable speakers to operate in anonymity, to avoid accountability, and to reach greater audiences with greater speed. They may also lead to knee-jerk reactions from governments to control the media. On the other hand, these new methods can allow for the free airing of views, which may help to combat hate speech.

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4. Societies have numerous options for curtailing the effects of hate speech.

There are various opportunities for intervention and engagement before, during, and after a violent conflict. These range from prevention and early warning, to deescalating the violence once it begins, to reconciliation and peace-building efforts to prevent a new cycle of violence from occurring. While some interventions can be taken directly with media professionals, engaging a broader spectrum of the public in societies at risk for genocide and crimes against humanity is also important. Additionally, seminar participants noted the need for a site archiving media related to cases of group-targeted violence to preserve the history of what happened as well as to enable further research.

Media reform can be an important element in preventing and responding to hate speech. Post-conflict societies often require some media reform, particularly when hate speech, dangerous rhetoric, and media abuses have in part fueled the conflict. In these instances, peace-building initiatives undertaken with the media must be integrated with other peace-building initiatives and must be situated within the context of the particular conflict.

Timing is also important. Media reform is usually reactive, occurring after the violence has taken place rather than as a preventative measure. Past initiatives have largely demonstrated only a short-term capacity to alter entrenched political and power relations, indicating a need for the development of more transformational processes that achieve long-term goals and lasting reform.

Examples of reform include conflict-sensitive journalism and training for those in charge of shaping public discourse. Media monitoring is a crucial preventative tool for tracking trends in ethnic tensions and violence, although translation and understanding of the local linguistic culture invariably provide significant challenges for nonnative groups or individuals to engage in this work.

Training can enable journalists to understand the root causes, dynamics, and resolution mechanisms of a given conflict. Training can also enhance their understanding of different types of violence and how to identify and explain them. The ways in which journalists frame conflicts can help to humanize the individuals and parties involved, identify underlying issues, and, ultimately, reduce tensions, encourage productive communication, and open the door for building consensus and seeking solutions.

Conflict-resolution or mediation training can help those who oversee public spaces to increase their awareness of the influence they wield. Local media needs to be able to provide a safe space where different people can come together

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and engage in dialogue. This may provide an outlet for people's anger and the airing of grievances, but it must be done responsibly and be balanced with the promotion of solving problems through peaceable means. It should also strive to discourage all types of violence and divisive, contentious, or polarizing behavior. Local media professionals can have a powerful effect on a conflict through their direct and personal connection to those involved. Journalists from opposing sides of a conflict can help bridge the divide by not only working together and learning about each other, but also finding and reporting on common ground between the sides. Cross-ethnic team training and reporting have demonstrated past success in interethnic clashes and should be further pursued.

[W]e had some success in Bosnia specifically with a unique radio talk show that we created called "Resolutions Radio" where we incorporated multiethnic perspectives by training the talk show hosts in conflict resolution and selecting guests who represented all sides of the show's topic. They offered their audience positive options for action and a "safe" and constructive place to air their concerns and opinions.

—Sheldon Himelfarb, respondent

Hate speech is not simply a concern for media professionals; it affects entire communities and therefore response mechanisms need to engage many people. As noted previously, leaders play a crucial role when they deploy hate speech, but they can also condemn it when it occurs, even from nonofficial sources. Silence in the face of hate speech can indicate that it—and any violence it promotes—is acceptable.

In societies where there is a climate of fear, violence, and intergroup tensions, it is helpful to create a public space that is safe for discussing ethnicity and other conflict issues. A national dialogue on ethnic relations is one option. Another is for post-conflict societies to acknowledge the past and the crimes that were committed. Creating a space for recognition of past events, based on documents and facts, can dispel the claims of extremists and limit the possibility that misrepresentations will be used to incite future conflicts or renew the cycle of violence. Successfully creating such a space is an extremely difficult and often protracted undertaking. Those involved in violent conflicts are often deeply invested in their own worldviews and in their own experiences of suffering; reconciling competing perspectives is no simple task, but the conversation is essential if any genuine resolution is to take place and have a lasting effect.

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Reconciliation and peace-building must be based on the foundation of truth and justice, no matter how difficult that is. There are different narratives to the issues in Kenya, and each narrative needs to be heard and assimilated. As long we bury our heads in the sand, we can be certain that there will be more violence in 2012 in the elections.

—Maina Kiai, case study on Kenya

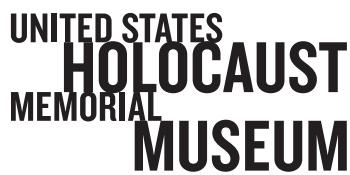
It is also important to collect primary source materials, objects, and testimonies from such conflicts to create and preserve an accurate record of the past. A comprehensive and centralized archive with materials located in one place enables accessibility and provides the foundation for future research. While some case-specific archives do exist, it is often not possible or desirable to create archives in the fragile political environments of post-conflict societies. A genocide archive to help fill this gap would be an enormous contribution to the field.

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