Two Steps Forward, One Step Back: Diplomatic Progress in Combating Antisemitism

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Introduction

During the late 1990s and forty years after the end of World War II, international organizations became aware of the recrudescence of antisemitism on a major scale. This was combined with a growing awareness that anti-Jewish sentiments were now emerging from new and different directions, although the traditional sources had not disappeared.[1]

For Jewish organizations, this phenomenon was vividly highlighted by the events at the UN World Conference against Racism in Durban in 2000, where a noxious combination of states, mostly Middle Eastern and led by Iran, and many so-called human rights organizations, conspired[2] to demonize Israel and Zionism, and to intimidate Jewish and Israeli delegates.

Whether this is "new" antisemitism or whether it is just the old anti-Jewish myths and tropes dressed in new garb is immaterial. Their increasing acceptance by new audiences, who have no memory of the Holocaust or the events that led to the creation of the State of Israel, as well as an increasing opposition to the USA and to globalization, pose significant dangers to Jews.

Against this background, governments themselves, spurred by some Jewish oganizations, came to realize that there was a need for action at the international level. Their interest was quickened in the aftermath of the intifada, and al-Qa'ida's attacks on the USA, when antisemitic incidents around the world rose alarmingly.

These developments led certain Jewish organizations to seek redress at the international level, and the resultant diplomatic offensive against antisemitism has therefore been carried out through the medium of inter

governmental organizations. Some organizations have played a greater and more effective role than others, but the initiatives have been more than declaratory. They involve programs at the grassroots level and within locales that have historically provided fertile territory for antisemitism.

The Organization for Security and Cooperation in Europe

The OSCE was the first international organization to recognize and react to the changing circumstances. In June 1990, the foreign ministers of the then-participating states of the Conference on Security and Cooperation in Europe (CSCE—now called OSCE) met in Copenhagen to adopt the Copenhagen Declaration, which gave force to their concern that the so-called "human dimension" could play a role in undermining security within and between states. They recognized that "the protection and promotion of human rights is one of the basic purposes of government." The Declaration accordingly called on participating states to "clearly and unequivocally condemn totalitarianism, racial and ethnic hatred, antisemitism, xenophobia and discrimination to take effective measures, including the adoption, in conformity with their constitutional systems and their international obligations, of such laws as may be necessary to provide protection against any acts that constitute incitement to violence against persons or groups based on national, ethnic, or religious discrimination, hostility, or hatred, including antisemitism."[3]

As antisemitic incidents and violence rose worldwide, but especially in Europe, during the latter part of the 1990s, the OSCE Foreign Ministerial Conference in Porto in December 2002 noted governments' concern over the "manifestation of aggressive nationalism, racism, chauvinism, xenophobia, antisemitism, and violent extremism, wherever they may occur."[4]

The statement did more than express concern, however. It went on to authorize the OSCE to take action and to ensure effective follow-up via the annual Human Dimension meetings and seminars organized by the agency's human rights affiliate, the Office for Democratic Institutions and Human Rights (ODIHR).

An outcome of that was the 2003 Vienna Meeting on antisemitism, the first high-level conference devoted specifically to antisemitism. More than 400 participants from governments and NGOs considered ways to prevent antisemitism, such as awareness raising, education, anti-discrimination legislation and legal and law-enforcement initiatives. The meeting was preceded by a two-day seminar on human rights and antisemitism organized by the New York-based Jacob Blaustein Institute for the Advancement of Human Rights, at which Jewish representatives sought to engage with, and enlist the support of, the major

international human rights groups, Human Rights Watch and Amnesty International. That meeting was less than successful, and in the end the Jewish groups were unable to garner any real support from the international bodies, a situation that still prevails.[5]

The Vienna meeting, however, required a proper follow-up—an event that would engage governments at the highest level and ensure continuing support for programs. This led to the 2004 Berlin Conference. Initially there was resistance to such a meeting, but US diplomatic pressure, a change in the attitude of the French government (which had begun to react to the rise in anti-Jewish violence), and a resolution by the OSCE Parliamentary Assembly (a parallel body of parliamentarians elected by member states) in July 2004 overcame the opposition of other states.[6]

A quid pro quo had been demanded for holding the antisemitism meeting in Vienna, and this was for a separate meeting on racism, Islamophobia, and other forms of intolerance. While some disappointment was expressed at the time by representatives of Jewish NGOs, it is now understood that it strengthens Jewish activists' arguments to be able to point to the singularity of antisemitism while at the same time positioning their struggle within the wider anti-racism effort for which there is growing international support.

The Berlin Conference Declaration noted "unambiguously that international developments or political issues, including those in Israel or elsewhere in the Middle East, never justify antisemitism," and broke a logjam in pointing to the source of much "new" antisemitism. The Declaration also committed OSCE participating states to collect and maintain reliable information and statistics on antisemitic and other hate crimes, and to work with the Parliamentary Assembly to determine appropriate periodic reviews of antisemitism. It tasked ODIHR to work systematically on collecting and disseminating information, identifying best practices for preventing and responding to antisemitism, and, if requested, to offer advice to participating states.[7]

The first step in pursuing these aims was a Paris meeting on cyber-hate two months later, which examined the increasing use of the internet to promote antisemitism and other forms of hatred.[8] On that occasion, the OSCE failed to follow up the recommendations and it took until March 2010 for the organization to hold its second expert meeting on the same subject. There, some delegates noted that no progress had been made in the intervening six years, and that the issues had become even more complicated with the development of social networking sites.[9]

The Berlin Conference was followed by three more high-level conferences, in Cordoba, Bucharest, and Astana. Their purpose was to provide a forum for states' representatives to demonstrate their governments' progress in combating antisemitism, and equally to exert pressure on recalcitrant states to increase their efforts. Intermittent experts meetings are also held to draw attention to emerging concerns, and to assist the personal representative on antisemitism to the OSCE chairman in office.[10]

The concept of the personal representative follows the practice of intergovernmental agencies of appointing high-level experts tasked with aproaching governments in a more discreet and effective manner than may be possible via conferences, where time and space may be at a premium. In this regard, the two Personal Representatives on Antisemitism so far, Prof. Gert Weisskirchen and Rabbi Andrew Baker, have sought to help some member states to recognize and counter antisemitism within their borders. Their findings are published on the OSCE ODIHR website.[11]

ODIHR now publishes a series of important reports, including the annual Hate Crimes in the OSCE Region report, which collects and analyzes data from member states and NGOs, and which includes a substantial section on antisemitism. The report also measures progress against agreed targets, such as adherence to national and international instruments.[12] In addition, ODIHR publishes other reports, including Education on the Holocaust and Antisemitism, Hate Crime Laws—A Practical Guide, and a series of schoolbooks for high school students in various OSCE languages.[13] The ODIHR Tolerance and Non-Discrimination Information System (TANDIS) data base contains national legislation against hate crimes, model legislation for states that have yet to draft such legislation, and over two million other pieces of relevant information for governments to use.[14]

The European Union

Parallel initiatives by the EU and its associated bodies were fraught with problems in the early stages, but positive efforts have since been made to addres those issues.

A report on antisemitism, Manifestations of Antisemitism in the European Union 2002–2003, published by the European Monitoring Centre on Racism and Xenophobia (EUMC, but renamed the European Union Fundamental Rights Agency [FRA] in 2007), was in fact two reports: a country analysis prepared by the Berlin University Centre for Research on Antisemitism (ZfA) and a report on Perceptions of Antisemitism in the European Union.[15] These reports were reasonable, given the short time allowed for their preparation, but

controversy erupted when the EUMC sought to bury the first report, delay publication of the second, and then publish both with a press release at variance with the assessments made by the reports' authors.[16] The EUMC had failed to understand that antisemitism is now frequently a consequence of the overspill of Middle East tension and is increasingly promoted by Islamists. To be sure, Muslim communities also suffer from prejudice, and the EUMC, a body established to monitor this phenomenon as well, found it difficult to reconcile the fact that victims of one sort of prejudice could be responsible for promoting another.

Since 2004, the FRA has published an annual review of antisemitism within the EU based on reports submitted by its RAXEN (Racism and Xenophobia) network of national focal points. But, as with the annual OSCE report, it fails to provide a complete picture, as too many states are still incapable of, or unwilling to, submit data. Nevertheless, the annual Summary Overview of Antisemitism in the EU is a useful guide.[17]

A second initiative, undertaken by the European Jewish Congress and the Council of European Rabbis, involved a series of meetings with Members of European Parliament (MEPs) and European Commission officials, designed to demonstrate that antisemitism was now coming from different directions, and that anti-Jewish violence rose when tension in the Middle East increased.[18] These meetings continue intermittently, and the most recent, held at the Commission in Brussels in 2009, featured speakers from FRA, Jewish communities, and a British Muslim leader whose working focus is on Muslim antisemitism.[19]

Of real lasting benefit, however, could be the EUMC working definition of antisemitism. When the EUMC considered its first report in 2003, it found that many respondents could not define antisemitism in today's political climate. It also lamented the fact that no two experts could define antisemitism in the same way.[20] They therefore asked selected Jewish NGOs and academics to provide a simple working definition that would encompass antisemitic demonization of Israel, and which could also be used by their own RAXEN network of national focal points and by law enforcement agencies. The international consultation involved many of the major Jewish agencies and prominent Jewish and non-Jewish academics. The result led to final draft negotiations between representatives of the American Jewish Committee and European Jewish Congress, the EUMC director and head of research, and the ODIHR Tolerance and Non-Discrimination program director and antisemitism expert.[21] Following acceptance by the EUMC, the definition was circulated to interested parties with the expectation that it would assist their work. Although it was never

intended that it be legislated, it has nevertheless also been adopted by the OSCE and by the US State Department as a working guide.[22]

Another major step forward within the EU is expected when the Common Framework Decision comes into effect in November 2010. Although much watered down from the original stronger draft, it nevertheless places on all EU member states a requirement to legislate against the promotion of hatred (including antisemitism), Holocaust denial and denial of genocide.[23]

The Council of Europe, with a larger membership than the EU, also acted by passing policy resolutions condemning antisemitism[24] and its racism-monitoring body, the European Commission against Racism and Intolerance (ECRI), has taken on the issue in an effective and businesslike manner. The ECRI mission is to monitor member states' adherence to European legislation and the European Convention on Human Rights, in particular. It does so by four yearly reviews of states' compliance with European and their own national legal instruments, as well as occasional thematic recommendations. Member states are expected to act on ECRI recommendations, and the current third cycle of country reports is paying particular attention to the improvements made by members over the twelve-year cycle. In 2004, ECRI also published a General Policy Recommendation on Combating Antisemitism, which gave advice to member states on legislation, and the action required by national criminal justice agencies.[25]

The ECRI 2010 review of progress notes that its three-pronged program of activities (country reports, thematic reports, and engagement with civil society) has allowed it to promote real legislative progress and effective use of legislation and has enabled the spread of best practice between member states.[26]

The United Nations

Despite the well-founded belief that the UN has recently been ineffective in defending human rights, it has nevertheless made a contribution to combating antisemitism. Several denunciations of antisemitism, within the context of denouncing racism, in 2002 and 2005, were followed by the more practical decision to establish the International Day of Commemoration for Holocaust victims on January 27, and an unequivocal condemnation of Holocaust denial, signed by all member states except Iran, in 2005.[27]

Even the ridiculous 2009 Durban Review Conference in Geneva attempted to move on from the ill-fated 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance by calling on member states to counter antisemitism (and anti-Arabism and Islamophobia); to take measures

to prevent the emergence of movements promoting hatred; and to implement General Assembly resolutions on Holocaust commemoration and Holocaust denial.[28]

The Stockholm Declaration

Among the most practical and long-lasting outcomes of international diplomacy, and one that stemmed from the concerns of statesmen rather than as a result of Jewish urging, was the declaration from the Stockholm International Forum on the Holocaust in 2000.[29]

Initiated by the then-Swedish prime minister, the conference agreed to establish an international taskforce to ensure that states recognize the magnitude of the Holocaust and its lasting scarring effect on the Jews and humanity as a whole. So far, twenty-seven states have signed the Stockholm Declaration and put in place annual Holocaust commemorations and educational programs.

To ensure enlargement and consistency, a permanent office was established in Berlin, funded by the German government, and with a revolving chairmanship shared by signatory states.[30]

Assessment

It might be argued that ten years of diplomatic effort to counter antisemitism have been of little avail, given the dramatic increase in incidents and the deterioration in discourse, particularly following Israel's 2009 Operation Cast Lead.

This would, however, miss the point. At the turn of the millennium, governments were reluctant to even recognize that antisemitism was once again growing. They could see antisemitism only through the prism of the far right, which was in retreat politically, and not through that of Islamism and the left, which were ascendant. They also underestimated the phenomenal power of information and communication technologies and the viral nature of internet social networking sites. Since then, states have recognized the dangers to societies' health by not combating the phenomenon, have agreed upon a common yardstick by which antisemitism can be defined and measured, and have recognized that it now also comes from new and different directions. Many states have also legislated against incitement of antisemitism in its various forms, including Holocaust denial. Those that have not yet done so, in Europe, at least, will have to do so by the end of 2010.[31]

It must also be recognized that none of these individual initiatives can, on their own, defeat antisemitism. Taken together over a period, and with others still to come, they are establishing a diplomatic and political climate that will more effectively counter antisemitism and make states and their criminal justice agencies respond more effectively.

But there have been setbacks. Many states are still incapable of measuring antisemitism, despite having agreed to do so. Some states still grapple with the concept of "hate crime" itself. To collect data, states are required to note hate crime specifically in their penal code, or provide their courts with the power to enhance penalties if there is evidence of bias on the part of an offender. It needs sensitization and training for police, prosecutors, and judiciary to reconize the aggravated element, and criminal justice agencies need coordinated and linked systems to record the crimes, incidents, and outcomes. Moreover, they are required, by international agreement, to disaggregate the data so that it may be analyzed by victim group. Some states do not allow such disaggregation because of data privacy protection requirements or because the secular nature of the state, for cohesion and philosophic reasons, denies recognition of faith and the particularity of faith groups in society.

Despite their declared wish to contribute, at this time some states are therefore precluded from providing the data required for analysis. Consequently, the overall picture is lacking in clarity, although the broad outlines are obviously clearly apparent. In recognition of this, the OSCE, ECRI, and FRA encourage the work of NGOs, and rely on their vital work in augmenting the data provided by state agencies. Additionally, FRA is now considering widespread polling on perceptions of antisemitism within Jewish communities, following polling projects within other minority communities. These projects recognize that official bodies may not be able to provide reliable and timely data, and that NGOs have limited capacity. Instead they are designed to provide an overview of minority communities' experiences and perceptions.[32]

These shortcomings are now recognized by FRA and the OSCE, and for that reason the session on combating antisemitism at the 2010 OSCE High-Level Conference in Astana called on participating states, inter alia, to implement the 2004 Berlin Declaration and record and prosecute antisemitic (and other) hate crimes; sign and implement the Stockholm Declaration on Holocaust Remembrance and the ICCA London Declaration on Combating Antisemitism; and promote the working definition of antisemitism.[33]

Additionally, it noted that "participating States seem to lack the political will to implement their commitments on the topic of antisemitism." This second setback

is the apparent "fatigue" among some states. Concern over growing antisemitism in Europe has been overtaken by concern for the mounting violence against Roma and Sinti, the massively under-researched violence against the disabled, and violence against Muslim communities. Progress in monitoring and combating antisemitism may therefore slow down as governments, their criminal justice agencies, and educational systems are put under pressure to adapt, innovate, and enlarge their work in a recessionary climate. However, the campaign against antisemitism should also progress as an element in the broader initiative of combating hate crime.

While it has not been the purpose of this short paper to examine the progress made in combating antisemitism by parliamentarians, it should be noted that the pressure they exert on governments and international agencies has been significant. The London Declaration, signed by 125 parliamentarians from forty countries following the first London Conference on Antisemitism in London (organized by the Inter-parliamentary Coalition for Combating Antisemitism in February 2009), has now led to the establishment of a European parliamentary intergroup to fight antisemitism. The recognition that racism starts by targeting Jews but could ultimately destroy civilization was spelled out by two of its co-founders, German MEP Martin Schulz and former Bundestag member Gert Weisskirchen. Both stressed the need for urgent action, which depends, in part, on the pressure parliamentarians exert on their governments.[34] Other parliamentary inquiries, following that of the United Kingdom, are now taking place in Canada, Germany, and Italy, with the possibility of more to come.

The progress made in confronting and combating antisemitism since the 1990s has been neither continuous nor consistent, but without the determination of some governments, international agencies, and a handful of Jewish NGOs, the progress made thus far would not have been possible.

Given the manner in which the diplomatic initiatives have evolved, the onus remains on the Jewish (and other leading human rights) NGOs to ensure that progress continues to be made. In this task, they must work ever closer with governments, parliamentarians and international agencies.

Notes

[1] See "Antisemitism Worldwide," Annual Reports of The Stephen Roth Institute for the Study of Contemporary Antisemitism and Racism, www.tau.ac.il/Anti-Semitism/.

[2] For the best account, see Joelle Fiss, *The Durban Diaries* (American Jewish Committee,

2005), also available at www.eujs.org/news/article/25.

[3] Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, June 1990, www.osce.org/documents/odihr/2006/06/19392_en.pdf.

[4] Tolerance and Non-Discrimination, Decision No.6, OSCE Ministerial Council, December 7, 2002, Porto.

[5] "OSCE Participating States Ready and Willing to 'Take Up the Gauntlet' and Fight Anti-Semitism," Press Release, Chairman in Office, Vienna, June 19, 2003; Recommendations of the Seminar on Human Rights and Anti-Semitism, Convened by the Jacob Blaustein Institute for the Advancement of Human Rights, Vienna, June 19–20, 2003.

[6] Michael Whine, "Progress in the Struggle against Anti-Semitism in Europe: The Berlin Declaration," and the "European Union Monitoring Centre on Racism and Xenophobia's Working Definition of Anti-Semitism," *Post-Holocaust and Anti-Semitism*, No. 41, February 1, 2006.

[7] Berlin Declaration, Bulgarian Chairmanship, the Chairman-in-Office, www.osce.org/documents/cio/204/042828_euipdf.

[8] OSCE Meeting on the Relationship between Racist, Xenophobic and Anti-Semitic Propaganda on the Internet and Hate Crimes, OSCE, Paris, June 16–17, 2004, www.osce.org/documents/cio/2004/09/3642end.pdf; conclusions by the chair of the same meeting, OSCE, Paris, June 2004 (PC.DEL/514/04).

[9] Expert meeting, "Incitement to hatred vs. freedom of expression: Challenges of combating hate crimes motivated by hate on the Internet," ODIHR, Warsaw, March 22, 2010. Meeting report not published at the time of writing but modalities, etc. available at www.tandis.odihr.pl?p=qu-ev,events,1003expcyb&id=0.

[10] Cordoba Declaration by the Chairman-in-Office, Slovenian Chairmanship, OSCE, June 9, 2005, CIO.GAL/76/05/Rev.2. Bucharest Declaration by the Chairman in Office, OSCE, CIO/89/07, June 7, 2007, www.mae.ro/poze_enitare/2007.06.08_bucharest_declaration.pdf. Astana Declaration by the Chairperson-in-office, OSCE, CIO/GAL/111/10, June 30, 2010, www.osce.org/documents/cio/2010/06/45108_en.pdf.

[11] Recent reports by Rabbi A. Baker available at www.tandis.odihr.pl/?p=qu-pr. Others available on TANDIS website.

[12] "Hate Crimes in the OSCE Region—Incidents and Responses," www.osce.org/odihr/item11_41314.html.

[13] "Education on the Holocaust and on Anti-Semitism in the OSCE Region: An Overview and Hate Crime Laws: A Practical Guide," OSCE ODIHR, Warsaw, 2009; "International Action Against Racism, Xenophobia, Antisemitism and Intolerance in the OSCE Region: A Comparative Study," OSCE ODIHR, Warsaw, 2004. ODIHR also publishes books for high school students on antisemitism, the Holocaust, and Jewish history, in conjunction with the Anne Frank House, Amsterdam and Yad Vashem, Jerusalem, in an increasing number of OSCE languages.

[14] Tolerance and Non-Discrimination Information System, www.tandis.odihr.pl.

[15] "Manifestations of Antisemitism in the EU 2002–2003," European Monitoring

Centre on Racism and Xenophobia, Vienna, 2004.

[16] See Michael Whine, "International Organizations: Combating Anti-Semitism in Europe," *Jewish Political Studies Review*, XVI:3–4 (Fall 2004).

[17] Antisemitism—Summary overview of the situation in the European Union, FRA, Vienna, www.fra.europe.eu/fraWebsite/attachments/antisemitism_Update_2009.pdf.

[18] "Europe against Anti-Semitism for a Union of Diversity," joint seminar of the EJC, European Commission, Conference of European Rabbis, Brussels, February 19, 2004.

[19] "MEPs to EJC Symposium: We Have to Combat All Forms of Anti-Semitism, Even from the EU Parliament Itself," European Jewish Congress website, March 31, 2009: www.eurojewcong.org/ejc/print.php?id_article=3828.

[20] Ibid., and Manifestations of Antisemitism in the EU, op. cit., pp 320–322.

[21] Working Definition of Antisemitism, EUMC, Vienna, www.fra.europa.eu/fraWebsite/material/pub/AS/AS-WorkingDefinition-draft.pdf.

[22] "Hate Crimes in the OSCE Region: Incidents and Responses," OSCE ODIHR, www.osce.org/item/26296.html.

[23] Council Framework Decision on Combating Racism and Xenophobia, 180/2/07REV2DROIPEN2a, Justice and Home Affairs Council of the European Union, Strasbourg, April 17, 2007.

[24] Combating Anti-Semitism in Europe, Parliamentary Assembly, Council of Europe, Strasbourg, 2007, www.assembly.coe.int/Documents/WorkingDocs/Doc07/EDOC11292.htm; also ECRI "Declaration on the use of racist, anti-Semitic and xenophobic elements in political discourse," March 17, 2005; www.coe.int/t/E/human_rights/ecri/1-ECRI/4-Relations_with_civi_society/1-Programme_of_act.

[25] "General Policy Recommendation No.9 on the Fight against Anti-Semitism," European Commission against Racism and Intolerance, Strasbourg, 2004.

[26] Lanna Hollo, *The European Commission against Racism and Intolerance (ECRI) — Its First 15 Years* (Strasbourg, 2009).

[27] "Resolution adopted by the General Assembly on the Holocaust Remembrance, A/RES/60/7, New York, November 1, 2005," www.un.org/holocaustremembrance/docs/res607.shtml; "Holocaust denial," resolution adopted by the General Assembly, 61/255, January 26, 2007, A/RES/61/255, March 22, 2007.

[28] See Michael Whine,"Durban II: Rescuing Human Rights from the United Nations," *The Israel Journal of Foreign Affairs,* III:2 (2009).

[29] Declaration of the Stockholm International Forum on the Holocaust, Stockholm, January 26–28, 2000, www.holocaustforum.gov.se/conference/official_documents/declaration.

[30] Task Force for International Cooperation on Holocaust Education, Remembrance and Research; www.holocausttaskforce.org/.

[31] For the list of states criminalizing Holocaust denial and recent criminal cases, see Michael Whine, "Expanding Holocaust Denial and Legislation Against It," *Jewish Political Studies Review,* XX:1–2 (May 2008).

[32] "European Union Agency for Fundamental Rights, Annual Work Programme 2010,"

Vienna, October 2009.

33 Session 2, Combating Anti-Semitism, OSCE High Level Conference on Tolerance and Non-Discrimination, June 29–30, 2010, Astana, www.osce.org/documents/cio/2010/06/45035_en.pdf.

34 "European Parliamentarians Form Intergroup to Fight Antisemitism," Press Release, Inter-parliamentary Coalition for Combating Antisemitism, April 29, 2010, www.anti-sem.org/home/news/european-union-press- release/.