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*For the Cordoba Conference on Anti-  
Semitism and on Other Forms of Intolerance*

# AFTER THE PROMISE

FROM COPENHAGEN TO  
CORDOBA

AN UPDATE ON KEEPING  
OSCE COMMITMENTS TO  
COMBAT ANTI-SEMITISM

JUNE 2005

## AFTER THE PROMISE

### Cordoba Conference Update

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THE JACOB BLAUSTEIN INSTITUTE FOR THE ADVANCEMENT OF HUMAN RIGHTS (JBI) OF THE AMERICAN JEWISH COMMITTEE STRIVES TO NARROW THE GAP BETWEEN THE PROMISE OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND OTHER INTERNATIONAL HUMAN RIGHTS AGREEMENTS AND THE REALIZATION OF THOSE RIGHTS IN PRACTICE.

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# ***AFTER THE PROMISE: AN UPDATE ON KEEPING OSCE COMMITMENTS TO COMBAT ANTI-SEMITISM- FROM COPENHAGEN TO CORDOBA***

## **SUMMARY OF FINDINGS**

In this Update, the Jacob Blaustein Institute for the Advancement of Human Rights (JBI) presents:

### ***I. Recommendations to the OSCE:***

- Extend the mandate of the newly appointed OSCE personal representatives** and those in ODIHR who are tasked to collect information on intolerance, especially those addressing anti-Semitism, which is a distinct phenomenon;
- Provide support for the personal representatives** so they can work independently and direct their energies to where they are most needed, in accord with their mandates; and
- Use a human rights response and methodology** to address anti-Semitic acts, in accord with OSCE's leading role in responding to human rights problems.

### ***II. Recommendations to States:***

The Anti-Semitism Representative measures for States to combat the scourge of anti-Semitism in Europe, including:

- Comply with their OSCE Commitments** to combat anti-Semitism and discrimination at Copenhagen and since then, by adopting domestic legislation and enforcing it vigorously;
- Establish systems of monitoring incidents** of anti-Semitism in each country
- Link educational programs**, including both Holocaust education and general tolerance education, to focus on fighting contemporary anti-Semitism

### ***III. A review of measures taken by Spain:***

As host of the Cordoba Conference, JBI encourages Spain to implement the 1990 OSCE Copenhagen commitments to combat discrimination and anti-Semitism.

The profile of Spain reveals that there is hate crimes legislation, including provision for anti-Semitic motives as an aggravating factor, and the country has ratified international human rights instruments permitting individual communications. It also agreed to host the OSCE Conference on Anti-Semitism and on Other Forms of Intolerance in Cordoba. Yet, anti-Semitic incidents are reported – such as vandalism of synagogues and Jewish community institutions – and there is no system to monitor such anti-Semitic incidents. The profile cites a public opinion poll of 10 European countries in which Spain reportedly had the highest proportion of its population (34%) displaying anti-Semitic views. There are very few educational initiatives to combat discrimination and promote tolerance. The Spanish government should include in its educational programs teaching of the Holocaust that has a focus on combating contemporary anti-Semitism.

## ***JBI HUMAN RIGHTS DISCUSSION PAPER***

### **EXTEND THE MANDATE OF THE OSCE REPRESENTATIVES**

#### **I. RECOMMENDATIONS FOR THE OSCE:**

The OSCE meeting on anti-Semitism and related intolerance convened in Cordoba, Spain on June 8 and 9, 2005 provides an opportunity to review the parallel agendas that compose ODIHR's newly formed program. In an effort to look ahead at how to review and act on the commitments made by participating states, the Jacob Blaustein Institute (JBI) presents the attached recommendations.

#### **Extend the Mandate of the Representatives of the Chair-in-Office**

In 2004, the OSCE Office for Democratic Institutions and Human Rights established a new program on tolerance and non-discrimination. In December 2004, the OSCE Chairman-in-Office made three key appointments to further promote action in the area of non-discrimination and tolerance. Gert Weisskirchen became the Personal Representative on Combating anti-Semitism; Ambassador Ömür Orhun was appointed as Personal Representative on Combating Intolerance and Discrimination against Muslims; and, Anastasia Crickley was appointed as Personal Representative on Combating Racism, Xenophobia and Discrimination, also focusing on Intolerance and Discrimination against Christians and Members of Other Religions.

While momentum to intensify participating states' efforts to combat anti-Semitism, xenophobia, and discrimination is at long last visible, ODIHR's Tolerance department and the Chair-in-Office's three Personal Representatives are just beginning their work. Much needs to be done in all areas.

#### **The Jacob Blaustein Institute recommends:**

- **That the mandate of the three personal representatives be extended to allow them to plan, establish achievable goals, and schedule their activities.** The representatives need to be able to work independently and direct their energies to where they are most needed.
- **That OSCE efforts to combat intolerance and discrimination continue to reflect the reality that anti-Semitism is a distinct phenomenon that requires a separate focus on anti-Semitism in OSCE programs.** Much is needed to identify and examine acts of anti-Semitism; to prevent future acts of anti-Semitism by developing new mechanisms, legal measures, and human rights strategies; and to report publicly and act on those findings.
- That coordination should advance, not hinder, action. While it is important for OSCE representatives and other human rights mechanisms to coordinate with one

another as appropriate to avoid duplication and learn from the activities and strategies of one another, it is essential to ensure that requests for coordination do not hinder the capacity of the representatives to respond to the specific needs of his/her own mandate.

**Support the personal representatives so they can work independently and direct their energies to where they are most needed, in accord with their mandates**

OSCE has experienced sharp differences regarding its budget which have only recently been resolved for the 2005 operating year. One of the issues facing the organization was whether resources can be –or should be – devoted to the work of the three personal representatives. Modest funding, mainly voluntary, has been provided to support all three personal representatives. The sum agreed, reportedly about \$250,000, will be utilized to cover travel and expenses of the representatives, but will not provide for staff, commissioned reports, or other expenses.

It is obvious from other international institutions and the operation of similar expert problem-solvers and fact-finders that the only way the OSCE Personal Representatives can be effective is if they (and relevant expert staff, whether from ODIHR or assigned to the representatives) can direct their energies to the incidents, countries, policies, and situations where they are most needed, in accord with their mandates. Some officials have reportedly encouraged the Representatives to travel and act as a “team” – visiting countries together, issuing reports together, etc. While coordination of activities and cooperation with other officials with related mandates is both useful and appropriate in international institutions, there is a danger in such bodies that coordination and cooperation will themselves constitute constraints on action, rather than means of improving the capacity of each representative to carry out the activities most needed, most relevant, and most effective in the context of his/her mandate.

As useful as non-duplication and coordination may be as institutional goals for any international organization, it is also essential that the OSCE Personal Representatives are able to work independently and direct their energies to where they are most needed, in accord with their mandates. Demanding that they operate “as a team” –as some have suggested – would guarantee that they would achieve even less, not more, in their work for OSCE. This is because their travel, inquiries, mediation, advice, and reporting would all require additional steps, extra time, political negotiations to edit and “balance” conclusions and the like. The Personal Representatives were not created to address the same problems, and should not be constrained to act as if they were a committee, a working group, or a team. As indicated in a series of OSCE conferences since 2003, anti-Semitism is a distinct phenomenon that needs to be addressed as such if the efforts to combat it are to be successful. It should not be treated as an issue to be balanced against others, in order to create a moral equivalence. The history and present nature of anti-Semitism is such that it requires separate attention, and prompt action to combat it.

**Address anti-Semitic acts by using a human rights response and methodology, in accord with OSCE's leading role as a human rights-focused organization.**

As we have stated at previous OSCE conferences, anti-Semitic acts are not “hooliganism” or common crime – they are human rights abuses and should be treated as such. OSCE has been the leading international institution to address human rights problems including inadequate state response to human rights abuses. A human rights approach may include information-gathering, monitoring, fact-finding and advocacy to improve the protection of human rights and fundamental freedoms. The principal objective of this approach is to reinforce the responsibility of States and others to protect human rights. Such methodology can also help perform a preventive function: when a government official or other actor is aware of being monitored, she or he may become more careful about his/her conduct.

The term monitoring broadly describes the active collection, verification and immediate use of information to address human rights problems and implement remedies. Human rights monitoring includes gathering information about incidents, observing events, visiting sites such as places where hate crimes have occurred, holding discussions with government authorities and those present near the scene of the abuse and others to obtain information and pursue human rights remedies such as law enforcement and other types of necessary redress. A human rights approach is aimed at both studying and seeking to improve a situation (through prevention and protection), rather than a social science approach which is often limited simply to studying a situation.

## **II. ROLE OF THE REPRESENTATIVE ON ANTI-SEMITISM**

JBI has supported the creation of the posts of the three Representatives. It has specifically proposed in the past that the Chair-in-Office of the OSCE appoint a Representative on Anti-Semitism. The proposal, whose components remains a valid indicator for the Representative, called on the Representative to:

- put a spotlight on anti-Semitism,
- emphasize the importance of the issue,
- engage political leaders directly when problems arise,
- investigate incidents when needed,
- advise member states on ways to monitor and enforce the laws,
- make the promises of the past have a real visible implementation,
- promote and oversee coordination,
- report regularly and publicly, and
- follow up on OSCE high-level conferences in Vienna and Berlin.
- provide leadership and profile by having the status and rank to engage political leaders of OSCE states in fulfilling their responsibilities and commitments.

Extending the appointment of the Representative on anti-Semitism would:

- Recognize the direct threat that anti-Semitism poses to all values of OSCE.
- Assert the reality of anti-Semitism in the face of attempts to deny it.
- Recognize that anti-Semitic acts should be treated with a human rights response and methodology.
- Respond to the victim perspective of survivors.
- Respond to the uniqueness of anti-Semitism, both in its historical dimensions and its conceptual bounds.
- Show that anti-Semitism has been and still is a global hatred.
- Reinforce the OSCE conclusion that neither the conflict in the Middle East nor any other political event justifies anti-Semitism.
- Provide an effective follow up to the Vienna and Berlin Conferences on Anti-Semitism.

## ***RESEARCH UPDATE***

### **AFTER THE PROMISE: KEEPING OSCE COMMITMENTS TO COMBAT ANTI-SEMITISM**

The Jacob Blaustein Institute for the Advancement of Human Rights (JBI) of the American Jewish Committee conducted a research study which examined the implementation of the commitments regarding discrimination made at the 1990 Copenhagen Human Dimension Meeting and endorsed by heads of state in the Charter of Paris for a New Europe. The Copenhagen Commitments represented the first time that an international organization condemned anti-Semitism specifically along with its condemnation of other types of related discrimination and intolerance and its articulation of measures to combat it. In the Copenhagen Commitments, OSCE states promised to combat anti-Semitism and other related forms of discrimination by

- speaking out;
- implementing laws;
- establishing remedies; and
- using education and related tools.

JBI published “After the Promise: Keeping OSCE Commitments to Combat Anti-Semitism” on the eve of the Organization for Security and Cooperation in Europe (OSCE) Conference on Anti-Semitism in Berlin in April of 2004 based on this research study. All fifty-five OSCE member states were contacted and asked to inform the Institute of measures taken to implement the Copenhagen Commitments through the adoption of laws, the use of courts, monitoring of anti-Semitic acts and responses to them, educational initiatives, efforts to make known the rights of individuals, and ratification and compliance with international or regional human rights instruments which address discrimination. 32 of the 55 states responded to the inquiry. JBI also sought the perspective of local experts in the Jewish community. “After the Promise” analyzed the various categories mentioned above for all 32 states that responded and to give some sense of the overall response to the Copenhagen commitments within a country, JBI presented profiles of six country case examples: France, Germany, Hungary, Russia, Sweden, and the United Kingdom.

The general recommendations of the “After the Promise” report were that OSCE states should:

- Comply with their Copenhagen Commitments by adopting domestic legislation and enforcing it vigorously;
- Establish systems of monitoring incidents of anti-Semitism in each country;
- Link educational programs, including both Holocaust education and general tolerance education, to focus on fighting contemporary anti-Semitism; and
- Establish a special representative on combating anti-Semitism within the OSCE.

A summary and set of conclusions and recommendations from that earlier report is available below.



## SPAIN

*Editor's note: Spain was not among the states profiled in the "After the Promise" study because JBI did not receive a response from the Spanish Foreign Ministry to our inquiry. Given that Spain is hosting the OSCE Conference on Anti-Semitism and on Other Forms of Intolerance in Cordoba this year, we felt it would be relevant to update the "After the Promise" report with a profile on how well Spain has done to meet its commitments to combat anti-Semitism.*

Of Spain's population of 42.7 million, some local sources report that there are 40-50,000 Jews<sup>1</sup> while others say the number is between 20,000 and 40,000.<sup>2</sup>

### ***Incidents***

Over the past few years, two Jewish synagogues in Barcelona were vandalized, including anti-Semitic graffiti on the walls. The regional government increased security at the synagogue.<sup>3</sup> There was also a graffiti attack on the synagogue of Madrid, and the perpetrator was caught and held by police.<sup>4</sup> There have also been incidents of vandalism of Jewish community institutions in Toledo, Melilla, and Barcelona.<sup>5</sup>

A month after the March 2004 terrorist attacks in Madrid which killed almost 200 people and injured over 1000, El Mundo reported that a Jewish cemetery and cultural center on the periphery of Madrid were also targets of the March 11<sup>th</sup> bombers.<sup>6</sup> In the immediate months after the March 11 attacks, there has been an increase in anti-Semitic activities,

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<sup>1</sup> US Department of State, International Religious Freedom Report 2004, section on Spain, <http://www.state.gov/g/drl/rls/irf/2004/35485.htm>

<sup>2</sup> The Stephen Roth Institute, Anti-Semitism Worldwide 2003/4, <http://www.tau.ac.il/Anti-Semitism/annual-report.html>, section on Spain, accessed June 1, 2005.

<sup>3</sup> US Department of State, International Religious Freedom Report 2004, section on Spain, <http://www.state.gov/g/drl/rls/irf/2004/35485.htm>

<sup>4</sup> EUMC, Manifestations of Anti-Semitism in the EU 2002-2003, p. 269.

<sup>5</sup> Report on Global Anti-Semitism: July 1, 2003-December 15, 2004, Submitted by the Department of State to the Committee on Foreign Relations and the Committee on International Affairs in Accordance with Section 4 of PL 108-332, December 30, 2004, section on Spain.

<sup>6</sup> Goodman, Al. CNN.com, "Report: Spain's Jews terror target", April 13, 2004, [www.cnn.com/2004/WORLD/europe/04/13/spain.jewish.targets](http://www.cnn.com/2004/WORLD/europe/04/13/spain.jewish.targets)

including the desecration of a Holocaust memorial monument in Barcelona in May 2004 and again in June 2004.<sup>7</sup>

The principle vehicle for anti-Semitism in Spain is reported to be anti-Israel sentiment, particularly as conveyed through the press, which often resorts to stereotyping. In addition to an anti-Semitic tone in newspaper commentary, there has reportedly been an increase in anti-Semitic public displays at sporting events, including soccer matches.<sup>8</sup> The European Union Monitoring Centre on Racism and Xenophobia also found this trend, noting that some of the anti-Semitic tone in the media includes partial information about the Middle East conflict, and confusion about the concepts of Israel and Jew.<sup>9</sup> The Stephen Roth Center reported that the Spanish media uses anti-Semitic stereotypes such as “banalization of the Holocaust, portrayal of Israel and Judaism as cruel and vindictive, ... distorted notions of Jewish power, double standards vis-à-vis terrorism...” and that it reports disproportionately on Israel and that much of this coverage is “superficial and sensationalist, with Israel, and by extension, the Jews, being discredited (and sometimes demonized)...”. One survey conducted in 2002 found that 34 percent of Spaniards demonstrated anti-Semitic attitudes, the highest score of the ten European countries covered.<sup>10</sup>

There was an incident in Catalonia in which local officials placed the Star of David side by side with a swastika on a City Hall web page. The symbols were removed after Jewish representatives called on them to do so.<sup>11</sup>

Human Rights First reports there is no national specialized body in Spain to record anti-Semitic incidents.<sup>12</sup>

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<sup>7</sup> The Stephen Roth Institute, Anti-Semitism Worldwide 2003/4, <http://www.tau.ac.il/Anti-Semitism/annual-report.html>, section on Spain, accessed June 1, 2005.

<sup>8</sup> The Stephen Roth Institute, Anti-Semitism Worldwide 2003/4, <http://www.tau.ac.il/Anti-Semitism/annual-report.html>, section on Spain, accessed June 1, 2005.

<sup>9</sup> EUMC, Manifestations of Anti-Semitism in the EU 2002-2003, p. 269.

<sup>10</sup> The Stephen Roth Institute, Anti-Semitism Worldwide 2003/4, <http://www.tau.ac.il/Anti-Semitism/annual-report.html>, section on Spain, accessed June 1, 2005.

<sup>11</sup> Report on Global Anti-Semitism: July 1, 2003-December 15, 2004, Submitted by the Department of State to the Committee on Foreign Relations and the Committee on International Affairs in Accordance with Section 4 of PL 108-332, December 30, 2004, section on Spain.

<sup>12</sup> McClintock, Michael. Human Rights First, “Everyday Fears: A Survey of Violent Hate Crimes in Europe and North America”, June 2005, p.74 and European Commission against Racism and Intolerance (ECRI), “Second Report on Spain, Adopted 13 December 2002”, Strasbourg, July 8, 2003, p.4.

## ***Protective Measures***

### **Legislation**

There are a number of provisions in Spain's criminal code against discrimination and anti-Semitism, including hate crimes legislation. Hate Speech is a criminal offense and covers incitement, bigotry, and expressions of religious and cultural intolerance. Spain's constitution protects freedom of religion and belief, freedom of worship for individuals and groups and provides for equality before the law.<sup>13</sup>

Article 314 of the Criminal Code states that "grave discrimination in employment – public or private – against any person because of his ideology, religion or beliefs, his ethnic, race or national origin.....(etc)".<sup>14</sup>

Chapter IV, Section 1 of the Criminal Code says: "Those who incite discrimination, hate or violence against groups or associations, of a racist or anti-Semitic cause, or other causes related to ideology, religion or belief, family situation, belonging to an ethnic group or race, nationality of origin, sex, sexual tendency, illness or disability, shall be sentenced to imprisonment for one to three years or a fine for six to twelve months."<sup>15</sup> The Criminal Code prohibits associations promoting discrimination, hate or violence by reason of their ideology, religion or beliefs, belonging to a race, ethnic, or national group.

Racist or anti-Semitic motives of an offender in committing a crime are considered aggravating circumstances in Article 22 of the Criminal Code.<sup>16</sup> Racial and ethnic discrimination committed by a public official is criminalized in Article 511 of the Criminal Code.<sup>17</sup>

Official bodies that have analyzed the implementation of these legal provisions, including the Council of Europe's European Commission against Racism and Intolerance (ECRI), have expressed concern that the laws in this protective legislative framework are rarely applied.<sup>18</sup>

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<sup>13</sup> Freedom House, Freedom in the World 2004: The Annual Survey of Political Rights and Civil Liberties, section on Spain, p.527.

<sup>14</sup> Osin, Nina and Basson, Sally, "Anti-discrimination Norms: A Survey of Legal Responses to Racism, Xenophobia, Anti-Semitism, and Other Forms of Related Intolerance", Tel Aviv University, p.521.

<sup>15</sup> EUMC, Manifestations of Anti-Semitism in the EU 2002-2003, p. 268.

<sup>16</sup> European Commission against Racism and Intolerance (ECRI), "Second Report on Spain, Adopted 13 December 2002", Strasbourg, July 8, 2003, p.4.

<sup>17</sup> Id.

<sup>18</sup> Id.

## ***Education***

Representatives of B'nai B'rith met with the Ministry of Justice and Ministry of Education to discuss concerns that they had about inaccuracies in historical references on Jewish history and religion in textbooks. They agreed that textbook editors will consult with religious groups.<sup>19</sup>

Spanish Law 10/2002, entitled "On the Quality of Education", has introduced a new compulsory subject in secondary schools on religious and cultural diversity entitled "Society, Culture, and Religion".

## ***International Commitments***

Spain ratified the International Covenant on Civil and Political (ICCPR) in April 1977, and its First Optional Protocol in January 1988. Spain ratified the International Convention on the Elimination of All Forms of Racial Discrimination (CERD) in April 1968, and made the declaration under article 14 of the CERD in 1998, which permits individuals to bring complaints to the UN treaty body.

The CERD concluding observations on Spain in February / March 2004 noted that "While the Committee notes the continuous efforts undertaken by the State party to combat racial discrimination, including the recent creation of the Spanish Observatory for Racism and Xenophobia, it is concerned about the occurrence of racist and xenophobic incidents and the re-emergence of discriminatory attitudes, especially towards Gypsies, North Africans, Muslims and Latin Americans.... The Committee encourages the State party to continue monitoring all tendencies which may give rise to racist and xenophobic behavior and to combat the negative consequences of such tendencies...." The CERD conclusions also expressed concern about the lack of statistical data on the ethnic composition of Spanish society and allegations of instances of police misbehavior towards ethnic minorities.<sup>20</sup>

## ***Other***

January 27<sup>th</sup> was established as Holocaust Remembrance day in Spain, and was celebrated for the first time this year, with considerable media attention and useful commentary. In June, Spain is hosting the OSCE Conference on Anti-Semitism and on Other Forms of Intolerance in Cordoba.

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<sup>19</sup> Report on Global Anti-Semitism: July 1, 2003-December 15, 2004, Submitted by the Department of State to the Committee on Foreign Relations and the Committee on International Affairs in Accordance with Section 4 of PL 108-332, December 30, 2004, section on Spain.

<sup>20</sup> UN Committee on the Elimination of Racial Discrimination, Sixty-fourth session, Concluding Observations on Spain, April 28, 2004.

## ***Conclusion***

Spain has taken some important steps toward combating anti-Semitism and other forms of intolerance, notably the adoption of strong legislation, including hate crimes legislation. However, as ECRI and others have noted, this legislation needs to be implemented better to fight against intolerance and discrimination. Spain's hosting of the OSCE Conference on Anti-Semitism and on Other Forms of Intolerance in Cordoba demonstrates commitment to combat discrimination and intolerance. There are areas in which the Spanish government could improve. It appears that there are very few educational initiatives to combat discrimination and promote tolerance. The Spanish government should re-visit its educational programs, to both include teaching of the Holocaust and a focus on combating contemporary anti-Semitism.

JB I has considered the research on Spain in the context of the 2004 findings on other OSCE states in "After the Promise: Keeping OSCE Commitments to Combat Anti-Semitism." Like the majority of other OSCE states, Spain does not make available specific statistics on anti-Semitic incidents, and there have been a dearth of court cases reported utilizing the hate crimes legislation that is in place. A system to monitor anti-Semitic incidents should be established and more should be done to implement the legal protective framework that exists. Such efforts would be more congruent with the Copenhagen Commitments to which the Spanish Government pledged itself.

## **SUMMARY OF REPORT: AFTER THE PROMISE**

In a report released on the eve of the 2004 Organization for Security and Cooperation in Europe (OSCE) Conference on Anti-Semitism in Berlin (April 28-29), the Jacob Blaustein Institute for the Advancement of Human Rights (JBI) of the American Jewish Committee found that a majority of OSCE member states admitted that the problem of anti-Semitism exists in their countries but that they did not have clear-cut ideas of how to combat it. The report is entitled, "After the Promise: Keeping OSCE Commitments to Combat Anti-Semitism."

The goal of the Copenhagen project of the Jacob Blaustein Institute for the Advancement of Human Rights (JBI) is to improve protection against anti-Semitism in the Organization for Security and Cooperation in Europe (OSCE) region; another goal is to assess the ways in which OSCE has done and could do more to assist states to meet their commitments to provide such protection. In seeking to accomplish these goals, JBI studied the ways in which the states participating in OSCE – and the OSCE institutions themselves – have been able to implement the landmark commitments made in Copenhagen and affirmed thereafter, and to track what they themselves say about their own progress.

Governments were willing to endorse international anti-discrimination norms and openly provide materials to non-governmental organizations and the public, the JBI report found. Yet they appeared to overlook how court cases and public pronouncements at crucial times are vital to the kind of public education effort required to deter anti-Semitism. JBI urged countries meeting in Berlin to develop a more clear-cut framework for legislating against hate crimes, monitoring attacks on the Jewish community, creating precedents and deterrents in court cases, and combating anti-Semitism through education.

JBI's findings are based on a research study it conducted to examine the Helsinki process, particularly the commitments regarding discrimination made at the 1990 Copenhagen Human Dimension Meeting and endorsed by heads of state in the Charter of Paris for a New Europe. The commitments made in Copenhagen were unprecedented in condemning anti-Semitism and articulating measures for its eradication. Specifying attention to anti-Semitism in an international organization for the first time, OSCE members committed to speak out, implement laws, establish remedies, and use education and related tools to combat anti-Semitism and other forms of discrimination.

JBI contacted the foreign ministers of all fifty-five OSCE member states and asked them to inform the JBI of any measures the government had taken to implement the Copenhagen Commitments in the following categories: (1) legal enactments or decisions to protect vulnerable groups against acts that constitute incitement to violence; (2) initiatives undertaken by the government to introduce into the curriculum education to combat discrimination or anti-Semitism; (3) efforts to promote and make known the rights of individuals to initiate and support complaints against acts of discrimination, and (4) whether the state had ratified and complied with international or regional human rights instruments or optional individual complaint procedures which address discrimination.

32 of the 55 OSCE states responded to the JBI inquiry. The dearth of court cases (only two states provided information) and lack of statistics on hate crimes in the responses point to an urgent need to overhaul and harmonize monitoring and prosecution systems within OSCE states. “The unevenness in reporting, and scarcity of hard data even from states responding to our concerns in good faith, are themselves indication of the need for appointment of a Special Representative within the OSCE family of institutions, well-regarded, and well-resourced, who can engage states specifically on monitoring incidents and creating protective measures, in the schools, the courts and elsewhere, to combat anti-Semitism”, said Felice Gaer, Director of JBI.

19 of the 32 states that responded to JBI provided information on the legal remedies that they have in place to combat discrimination. Of these, 15 described hate crimes statutes that are in place. 9 of the 32 states wrote about Holocaust education programs that the government has initiated in schools; and 12 states wrote about general education initiatives to combat discrimination and promote tolerance.

Strikingly, only 6 states provided specific statistics on anti-Semitic incidents. This lack of collected reliable information highlights the lack of monitoring of anti-Semitism and the differing forms of statistical information reveal the non-comparability in reporting of incidents of anti-Semitism in the states of Europe and North America that comprise the membership of OSCE.

As JBI’s review of state responses reveals, a majority of OSCE states admit that the problem of anti-Semitism exists in their countries. Some, but relatively few, also allude to or have spoken out against its manifestation elsewhere. However, these states do not demonstrate that they have clear-cut ideas of how to combat anti-Semitism.

The absence of anti-discrimination legislation in some states impedes the availability of effective remedies to victims and the capacity to monitor progress on combating anti-Semitism. **The Jacob Blaustein Institute calls on states to bring their domestic legislation into conformity with international norms on non-discrimination, both within the framework of recommendations from European institutions and including also the International Covenant on Civil and Political Rights (ICCPR) and the International Convention on the Elimination of All Forms of Racial Discrimination (CERD).**

The low number of states submitting specific statistics on antisemitic incidents supports the concerns already raised by reports of the European Union Monitoring Centre (EUMC) and Human Rights First about the absence of data on anti-Semitism, its non-comparability, and the problems of under- and over-reporting. Monitoring systems must be developed and harmonized among OSCE states.

**JBI urges countries meeting in Berlin to develop a more clear-cut framework for legislating against hate crimes and creating precedents and deterrents in court cases. Additionally, states need to establish a system of monitoring incidents of anti-**

**Semitism in their own countries**, as encouraged by the OSCE Ministers meeting in Porto and then in Maastricht.

Twenty-three countries failed to respond to JBI. Of the 32 states responding to JBI, only 9 described Holocaust education projects or curricula, and 12 outlined general educational initiatives to combat discrimination and promote tolerance. However, they do not demonstrate that their programs are linked to active efforts to counter contemporary discrimination or anti-Semitism. **The JBI calls on states to re-visit their educational programs, both those teaching remembrance of the past, including the Holocaust, and those addressing general intolerance, with a renewed focus on combating contemporary anti-Semitism.**

**JBI calls upon states to revisit the commitments they affirmed in Copenhagen and to take new and vigorous steps to implement them in practice.**

We welcome Decision 607 on anti-Semitism passed at the OSCE 504th plenary meeting in that it provides a useful task list for monitoring and combating anti-Semitism. We applaud the call to “[f]ollow closely...anti-Semitic incidents in the OSCE area making use of all reliable information available” and to make these findings public, and to “[s]ystematically collect and disseminate information throughout the OSCE area on best practices for preventing and responding to anti-Semitism and, if requested, offer advice to participating States in their efforts to fight anti-Semitism.” Surely such a monumental task will require appointment of a well-regarded and well-resourced public figure with the confidence of the participating states to coordinate this work effectively

JBI will continue to monitor efforts to combat anti-Semitism in the context of the Copenhagen commitments. We welcome further contributions and updates from all participating states on their work in this field. **JBI urges OSCE participating states to continue to send us materials demonstrating their achievements.**

Anti-Semitism is both an old and a contemporary problem, profoundly harmful to the societies that tolerate it. Through continuing scrutiny, we aim to help protect against its pernicious influence and destructive impact.



## **JB I ON ANTI-SEMITISM AND OSCE: A HISTORY**

In 1990 at the Copenhagen Meeting of the Conference on the Human Dimension participating states of the Organization for Security and Cooperation in Europe (OSCE) made a commitment to intensify their efforts to combat anti-Semitism, xenophobia, and discrimination, as well as persecution on religious and ideological grounds as adopted. Yet, for years, nothing tangible occurred to implement those commitments.

As early as the Vienna Human Dimension Meeting on Freedom of Religion, organized by ODIHR in 1999, the New York-based Jacob Blaustein Institute for the Advancement of Human Rights (JB I) started to call for the OSCE to reaffirm the importance of anti-Semitism and express a determination to do something specific about it. We called for recommending a follow-up seminar or human dimension meeting on anti-Semitism. In 2000, the Parliamentary Assembly of the Council of Europe built upon some of these ideas in a consultation on anti-Semitism, where the importance of the work of the European Commission against Racism and Intolerance was emphasized. The Strasbourg Plan of Action was adopted and participants, including JB I, committed to bring their recommendations into the process of preparing for the United Nations World Conference Against Racism (WCAR).

In preparation for that conference, JB I published a monograph exploring the history of anti-Semitism and its various manifestations over time and outlining relevant international human rights standards about eliminating discrimination, including anti-Semitic acts. Unfortunately, the WCAR itself became a forum for promoting anti-Semitism rather than using human rights methods to combat it. Moreover, the conference foreshadowed the historic tragedy of September 11, which in turn set the tone for human rights concerns today. Along with increased terrorism and security needs, acts of anti-Semitism and other forms of discrimination have skyrocketed. The need to strengthen the human rights approach as a method with which to combat anti-Semitism and other forms of discrimination became clearer as did the need to improve relations among human rights and Jewish NGOs in order to more effectively pursue this goal.

Therefore, in May 2002, when the US Commission on Security and Cooperation in Europe (Helsinki Commission) held a hearing on anti-Semitism that preceded an OSCE Parliamentary Assembly, an opportunity presented itself for Jewish and non-Jewish NGOs alike to begin forging an improved partnership in the goal of combating anti-Semitism. At the 2002 Parliamentary Assembly, the first adopted Berlin Declaration urged OSCE participating states to hold a follow-up seminar or human dimension meeting to explore effective measures to prevent anti-Semitism.

In 2003, JB I established an ad hoc working group of human rights and Jewish NGOs that has consulted throughout the series of OSCE meetings on anti-Semitism and other forms of discrimination. In 2004, the OSCE Office for Democratic Institutions and Human Rights formed a new program on tolerance and non-discrimination. Further, in December 2004, the Chairman-in-Office made three key appointments to further promote action in the area of non-discrimination and tolerance. Gert Weisskirchen became the Personal

Representative on Combating anti-Semitism; Ambassador Ömür Orhun was appointed as Personal Representative on Combating Intolerance and Discrimination against Muslims; and, Anastasia Crickley was appointed as Personal Representative on Combating Racism, Xenophobia and Discrimination, also focusing on Intolerance and Discrimination against Christians and Members of Other Religions.

While momentum to intensify participating states' efforts to combat anti-Semitism, xenophobia, and discrimination is now in place, ODIHR's Tolerance Department and three Special Representatives are just beginning to develop mechanisms and measures for addressing the problem. The meeting on anti-Semitism and related intolerance that is convening in Cordoba, Spain on June 8 and 9, 2005 provides an opportunity to review the parallel agendas that compose ODIHR's newly formed program.

# **THE VIENNA RECOMMENDATIONS**

Seminar On Human Rights And Anti-Semitism  
Convened By The Jacob Blaustein Institute For The  
Advancement Of Human Rights

**Addressed To The OSCE Conference On Anti-Semitism**  
June 19-20, 2003, Vienna

Concerned with the prevalence of a virulent contemporary form of anti-Semitism, often disguised as anti-Zionism, which has led to firebombing of synagogues, assaults and abusive behavior against Jews, incitement to hatred, violence and killing of Jews, we, the participants in the Jacob Blaustein Institute seminar on human rights and anti-Semitism, view these incidents as serious forms of human rights violations, and call upon OSCE Participating States to undertake the following measures:

1. Reaffirm the commitments in paragraph 40 of the Copenhagen Concluding Document which condemns, inter alia, anti-Semitism and calls upon states to take effective measures to combat it.
2. Establish a mechanism for ongoing monitoring, reporting and follow up by states in implementing the commitments contained in paragraph 40 of the Copenhagen Concluding Document with particular regard to anti-Semitism. (See Annex 1 for the full text of paragraph 40).
3. Endorse the Berlin Declaration of the OSCE Parliamentary Assembly, adopted on July 10, 2002, and in particular, its paragraph 11 which declares that "violence against Jews and other manifestations of intolerance will never be justified by international developments or political issues, and that it obstructs democracy, pluralism, and peace." (see Annex 2 for the full text of the Berlin Declaration).
4. Condemn unequivocally, at the highest levels, all manifestations of anti-Semitism, and make clear that expressions of antisemitic hatred and intolerance are unacceptable and will be severely punished.
5. Ensure that their national legal systems provide effective protection against all forms of anti-Semitism in conformity with international and regional antidiscrimination and human rights standards.
6. Ensure swift and thorough investigations into incidents of antisemitic attacks and discrimination and combat impunity, making sure that those found responsible are brought to justice.
7. Develop a system for monitoring and registering antisemitic incidents according to well-defined categories, building on international human rights standards. In so doing, (a) ensure that any official can recognize antisemitic elements in any politically motivated

crime and will incorporate them into national statistics; (b) promptly analyze and publish statistics on such crimes; (c) maintain statistics on racially and religiously motivated crimes (hate crimes), with antisemitic acts separately identified; (d) distinguish between various forms of antisemitic acts, such as violence, threatening behavior, and incitement, and develop transparent procedures for recording and acting upon this information; and (e) promote the means for effective police cooperation requiring them to collect and disseminate data on antisemitic offenses.

8. Undertake measures to ensure effective implementation of legislation prohibiting discrimination and incitement to hatred and that action is taken against institutions and individuals responsible for violating these norms.

9. Ensure in all fields of life, including in school, the workplace, and public spaces, a safe environment and protection from antisemitic discrimination, harassment, and violence, so that Jews may fully enjoy their human rights on an equal basis, in security and dignity.

10. Encourage media to address anti-Semitism and subjects relating to contemporary Jewish issues objectively and sensitively and, where necessary and appropriate, introduce systems of complaints and appeals to refute erroneous comments in this respect. Promote in this context a code which defines responsible and ethical conduct by internet providers.

11. Undertake awareness-raising campaigns and educational programs on human rights and non-discrimination for the general public, particularly young people, and other specific target groups, such as law enforcement officials, teachers, media professionals.

12. Actively pursue efforts to combat anti-Semitism through other existing regional and international mechanisms and institutions, including the Council of Europe, the European Union, and the United Nations.

## **WRITTEN STATEMENT BY ROBERT S. RIFKIND**

Chairman of the Administrative Council of the  
Jacob Blaustein Institute for the Advancement of Human Rights

### **OSCE Conference on Anti-Semitism in Berlin, April 29, 2004**

Delivered at Session 4: Information and Awareness Raising: the Role of the  
Media in Conveying and Countering Prejudice

It would take more temerity than I have for an American to tell Europeans how to solve the ancient problem of anti-Semitism. Notwithstanding the very substantial bonds of culture and community that bridge the Atlantic, American solutions don't necessarily travel any better than fine wines. Moreover, it would be tempting fate to say that we are confident we know how to deal with the eruptions of anti-Semitism that surface in the United States. Let me confine myself therefore to the more modest task of reporting what a friendly and concerned trans-Atlantic visitor observes.

First, and by way of context, we ought to recognize that there are important respects in which there has been progress. In 1879 Wilhelm Marr could organize the League of Anti-Semites and attract a large following. Down to the middle of the last century important personages were unashamed to be publicly identified as antisemites. Today in Europe anti-Semitism has become the hatred that dare not state its name. Today antisemites indignantly protest being called such. And that is progress, at least as long as we know anti-Semitism even when it calls itself by some other name.

Secondly, serious though the rise in anti-Semitism is, and it is serious indeed, I do not think we are on the eve of Kristalnacht as some have said. There is a vast difference between the present situation and that presented by a heavily armed major European nation whose unequivocal policy is the extermination of Jewry, and we lose credibility if we do not recognize that distinction.

Indeed, the Holocaust, while demonstrating where racism can lead us, also, like the flash of lightning that illuminates the black night sky and then leaves the eye blinded to shades of gray, can desensitize us to manifestations of anti-Semitism well short of the hellish fires of the crematoria. I hope that in educational programs we are at pains to make clear that the evil of racism is found not only in gas chambers, but also when Jewish doctors are expelled from their hospitals, Jewish lawyers disbarred, Jewish academics fired, and campaigns of humiliation and hate appear in the press, on the airwaves, in the streets and on public platforms.

Thirdly, we should recognize that, at least since the time of the Copenhagen Conference in June of 1990, the political leaders of Europe have formally recognized that anti-Semitism represents a problem that must be dealt with. And that, too, is progress. The extent to which the members of the OSCE have lived up to the commitments they made

at Copenhagen to take “effective measures” to combat anti-Semitism is the subject of a detailed report issued yesterday by The Jacob Blaustein Institute for the Advancement of Human Rights. I think it fair to say that the report presents a mixed picture and that, on the whole, the solemn undertakings given at Copenhagen have been met in a less than adequate fashion. But the willingness to enter into those commitments and the gradual emergence from a state of near total denial about the prevalence of anti-Semitism is in itself a measure of progress.

Having said all that, this is no time for Pollyannas. Anti-Semitism is on the rise in Europe today. The manifestations are too numerous and the reports from varied credible sources too unanimous to leave any room for doubt. A very high level of anxiety is warranted. Anti-Semitism is a weapon of mass destruction whose demonstrated lethality is without rival. And it is proliferating.

Moreover, there remains a serious reluctance in many quarters to face the problem squarely, to acknowledge its gravity, and to mount the effort required to deal with it effectively. Of all the forms of denial the most serious is the attempt to dismiss the threat as not really European at all but as an immigrant Arab problem or an Arab-Jewish problem. I do not doubt for a moment -- no one who lives as I do under the shadow of the World Trade Center in Manhattan can doubt for a moment -- that some Muslims are capable of engaging in acts of homicidal rage against America, against the West, against modernity and, not the least, against Jews and Jewish institutions. Nor do I doubt that from Islamic states pours forth a steady stream of antisemitic agitprop.

However, the fact, if it is a fact, that much of the antisemitic violence in Europe is attributable to Arab immigrants doesn't make it any less of a European problem. One can hardly just shrug one's shoulders and say “boys will be boys”. Very serious thought must be given to the question whether Arabs and, more generally, Islamic states are selling anti-Semitism precisely because they have found willing and eager buyers in the West, because they have found that they could bond with Europe on this front, as the Grand Mufti of Jerusalem found in Berlin some 65 years ago. It is certainly worth noting that when Islamic spokesmen talk of a new crucifixion, when they circulate that old Czarist forgery, the Protocols of the Elders of Zion, when they invoke the images of the swastika, the SS and the Holocaust, they are not invoking images from deep within Islamic culture. They are dealing in European tropes meant to resonate with European audiences.

It would therefore be helpful if Westerners made it clear that this sort of bonding doesn't work, if they reacted with indignation and contempt, if they applauded less vigorously when Islamic dignitaries begin to sound like Josef Goebbels.

It would also be helpful if, in addition to the focus on street violence, alarming as it is, we focused as well on the violence of the word, the hooliganism of the headline and the cartoon, the bigotry of the academy and the anti-Semitism of the salon. These all create the atmosphere in which race hatred prospers.

Most dangerous of all is the attempt to explain anti-Semitism as the regrettable but natural consequence of the behavior of Jews, whether in Israel or otherwise. Let me be very clear: In every age hatred of Jews has been explained in terms that made perfect sense to the populace of the time. It has never lacked for explanations persuasive to the opinion molders of the day. We have been told that anti-Semitism was understandable by reason of Jewish responsibility for the death of God, or for the ritual murder of Christian youth, or for the poisoning of wells. Hatred of Jews has been ascribed to the perception that Jews are rich, blood-sucking, money lenders or miserably poor rag pickers, that they are arrogant separatists or pushy assimilations, that they are capitalists or communists, that they are historical fossils or the avatars of unwelcome modernity, that they are timid, unmanly weaklings or storm troopers, that they are landless cosmopolitans or -- now -- Jewish nationalists. Such supposed explanations, however fervently believed, however obvious they may have seemed, are symptoms of anti-Semitism and not its cause. They explain nothing except the credulity of the antisemite. In my view, the attempt to explain anti-Semitism in terms of the behavior of Jews in Jenin, or in Har Homa, or in Wall Street, or in Washington is likewise a manifestation of anti-Semitism and not an explanation of it. It is the very essence of racism to find the cause of hatred in the victim.

Finally, permit me to suggest that the challenge of anti-Semitism in Europe will not be met until it is clearly understood that we are no longer talking about what was once called the Jewish Question. We are talking about the European Question. All who care for Europe, for the civilization that emerged here and for its future, must care deeply about this question.

In November 1990, just five months after the Copenhagen Conference, the heads of European states met in Paris and issued a Charter proclaiming the birth of a "New Europe". The Charter of Paris avows that Europe is "liberating itself from the legacy of the past" and opening "a new era of democracy, peace, and unity." The nations reaffirmed the undertakings just given in Copenhagen, including specific reference to anti-Semitism, and avowed that they had put behind them the forms of madness that had twice in the previous century brought Europe to the abyss. They affirmed that persons belonging to national minorities -- ethnic, linguistic, cultural, and religious -- have the right freely to express, preserve, and develop that identity without discrimination, that everyone will enjoy recourse to effective remedies, national or international, against violation of such rights, and that "full respect for these precepts is the bedrock on which we will construct the New Europe."

Are all those bright hopes to founder on Europe's most ancient fault line: its inability to find the Jew fully within the social compact? If Europe has turned a decisive corner, if there is indeed a New Europe as the Paris Charter declares, then anti-Semitism must be understood to be un-European. It must be recognized as a form of treason against the aspirations for a new order.

One would hope that anti-Semitism will then be met with at least as much determination as would be brought to bear on an outbreak of SARS or bubonic plague. A reliable system of data gathering on a continent-wide basis should map the outbreaks and spread

of the disease. Responsive measures should not be left to chance but should be coordinated and institutionalized. The OSCE should appoint an outstanding and respected citizen to serve as a special representative or high commissioner to keep a vigilant eye on all the steps that are being taken and to warn of all the gaps in the defenses.

All this calls for greater seriousness of purpose and intensity of effort to meet this threat to Europe's future. I have no doubt of Europe's capacity to do what is needed. It is a question of will. And all of us, Jews and non-Jews, NGOs, the academy, the press, the church, and civil society generally have a responsibility to see to it that Europe survives, overcomes its ancient failure, meets its own historic challenge, and achieves its aspirations for human dignity, for democracy and for peace.

THE JACOB BLAUSTEIN INSTITUTE FOR THE ADVANCEMENT OF HUMAN RIGHTS (JBI) OF THE AMERICAN JEWISH COMMITTEE  
STRIVES TO NARROW THE GAP BETWEEN THE PROMISE OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND OTHER  
INTERNATIONAL HUMAN RIGHTS AGREEMENTS AND THE REALIZATION OF THOSE RIGHTS IN PRACTICE.

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