

Rabbi Andrew Baker
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Testimony before the House Judiciary Committee
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I am Rabbi Andrew Baker. I have served as AJC's Director of International Jewish Affairs since 2002 and as the Personal Representative of the OSCE Chairperson-in-Office on Combating Anti-Semitism since 2009. Thank you for the opportunity to address this House Judiciary committee hearing on *Examining Anti-Semitism on College Campuses*.

I view this hearing as very much in line with your committee's concern about and commitment to address threats and acts of violence against individuals and religious institutions and to ensure that freedom of religion continues to flourish in America. I am grateful to note that just last week the House Judiciary Committee reported out on a voice vote bipartisan legislation—the *Protecting Religiously Affiliated Institutions Act*—that will strengthen federal criminal statutes protecting religious institutions.

In my work for AJC and the OSCE much of my responsibility and experience have focused on Europe and addressing the problem of anti-Semitism there. While the number of incidents and their severity are much greater in Europe than in America, I believe there are important parallels that have bearing on addressing anti-Semitism in this country and in particular with the situation on a number of our college campuses. This has much to do with the essential first step of understanding the present-day nature of anti-Semitism and thus the practical importance of defining it.

While traditional forms and expressions of anti-Semitism—prejudice and negative feelings about Jews and discrimination in housing and employment—seemed in steady decline since World War II, fifteen years ago we began to see a surge in anti-Semitic incidents particularly in a number of Western European countries. We also saw a new form of rhetorical anti-Semitism, whereby the State of Israel was demonized and where its basic existence was being challenged. This had a real impact on the lives of European Jews themselves. They were frequently conflated with Israel and subject to verbal and physical attacks as a result. Merely giving voice to their own pro-Israel views could subject them to social intimidation and personal harassment.

In 2004, the European Monitoring Centre on Racism and Xenophobia (EUMC) conducted its own survey on anti-Semitism in the European Union. This consisted of collecting and evaluating existing data and opinion surveys in the (then) 15 EU Member States and conducting personal interviews with Jewish leaders and representatives from the largest European communities.¹

¹ "Manifestations of Antisemitism in the EU 2002-2003." Based on information by the National Focal Points of the RAXEN Information Network. EUMC. Vienna, 2004. Link to download: http://fra.europa.eu/sites/default/files/fra_uploads/2215-FRA-2012-Antisemitism-update-2011_EN.pdf.

The EUMC relied on its network of monitors in each of the countries, and the EUMC director and her colleagues conducted the personal interviews.

What emerged was a mixed and incomplete picture of the problem. This was largely due to the limited data available. Few countries even bothered to identify hate crimes, let alone specify those that were anti-Semitic in nature. It later emerged that a majority of the EUMC's own monitors did not even have a definition of anti-Semitism to guide them, and of those who did no two were the same.

Meanwhile, the personal interviews in the study presented a rather dark picture, displaying a level of anxiety and uncertainty that had not been seen in decades. Several of those queried even questioned the very future of their own communities.

To its credit the EUMC acknowledged the need for a clear, comprehensive and uniform definition of anti-Semitism. Such a definition would strengthen the work of its monitors, help governments in understanding and responding to the problem and make sense of the pessimistic predictions of the individual Jewish leaders surveyed. As we know from hindsight, they had antennae that allowed them to see what others came to recognize only some years later.

In the fall of 2004, at the invitation of the EUMC Director, we undertook efforts to draft a definition of anti-Semitism. We began with the contributions of academic experts in the field, such as Professor Yehuda Bauer at Yad Vashem and Professor Dina Porat at Tel Aviv University's Center for the Study of Anti-Semitism. These were shared with other scholars and practitioners in the US and Europe. It fell to my AJC colleague at the time, Ken Stern, to draft and circulate the various versions until a final, consensus document was achieved. It was then my responsibility with the assistance of a number of European colleagues to take this draft and negotiate agreement on a final version with the EUMC's Director and professional staff. That added still more months to the process, but finally in March, 2005 the EUMC issued what has come to be known as the Working Definition of Anti-Semitism. (A copy is appended to this testimony.)

The definition consists of a core paragraph, followed by various examples. Its purpose is to increase understanding and raise awareness and to be employed by all those who play a role or have a responsibility to address the problem of anti-Semitism, including civil society and government monitors, law enforcement and justice officials and educators. The definition references traditional hatred and prejudice toward Jews, conspiracy theories about Jews, Holocaust denial, and, what is sometimes referred to as a new form of anti-Semitism, the demonization of the State of Israel.

References to anti-Semitism with regard to the State of Israel were both the most important and most controversial element of the Working Definition. Anti-Israel animus was behind many—and in some places most—of the physical attacks on Jewish targets, even as government authorities frequently dismissed them as “political” acts. The extreme verbal

attacks on Israel were having their own corrosive impact on Jewish community security. Any current discussion of anti-Semitism must deal with this, and so the examples offered in the Working Definition were designed to bring clarity to this new form of anti-Semitism. However, the EUMC was equally mindful of those who feared this could inhibit critical debate and discussion. In offering examples, it stated one should, “take into account the overall context,” and it went on to say that, “criticism of Israel similar to that leveled against any other country cannot be regarded as anti-Semitic.”

(An article of my mine, titled, *Employing a Working Definition of Antisemitism*, that appeared in the journal, *Justice*, offers more details about the development of the Working Definition and is appended to this testimony.)

Over a decade has passed since this Working Definition was issued by the EUMC. We have seen many examples that illustrate why using it is valuable and in turn more cases of governments and other bodies employing it in their work. Let me highlight some of them:

- On a number of occasions and particularly at times of heightened tension in the Middle East conflict there were public demonstrations in Paris, Berlin and other cities that started as anti-Israel demonstrations but in the process turned anti-Semitic, with anti-Jewish placards and speeches and in some cases with physical attacks on Jews. Police need to understand that this can happen, and they must be vigilant and prepared to respond. That is why the Working Definition is now part of the training materials that all police cadets in the United Kingdom receive and why it is reprinted in full in the practical guide, *Understanding anti-Semitic hate Crimes and Addressing the Security Needs of Jewish Communities*², that has been prepared by the Office of Democratic Institutions and Human Rights (ODIHR) for use in the 57 participating States of the OSCE.
- In 2012, an arson attack on a synagogue in Wuppertal, Germany was determined by prosecutors and judges not to be anti-Semitic because of the political views and religious affiliation of the attacker.³ In 2015, a local prosecutor in Austria similarly concluded that a call to kill Jews was not anti-Semitic but merely criticism of Israel, also because of the political views and religious affiliation of the perpetrator. Partly in response to these situations the Justice Minister of Austria has included the Working Definition in the training materials for prosecutors and judges and the Justice Minister of Germany has asked that it be included in the training conducted for prosecutors in each of the Federal States.

² “Understanding Anti-Semitic Hate Crimes and Addressing the Security Needs of Jewish Communities- A Practical Guide.” OSCE Office for Democratic Institutions and Human Rights (ODIHR). Warsaw, 2017. Link to download: <http://www.osce.org/odihr/317166?download=true>.

³ “German court affirms ruling synagogue arson not anti-Semitic.” Jewish Telegraphic Agency. Berlin, 15 January 2017. Web. Accessed November 2017. Link to article: <https://www.timesofisrael.com/german-court-affirms-ruling-synagogue-arson-not-anti-semitic/>

- In May 2016, the International Holocaust Remembrance Alliance (IHRA) which consists of 31 countries adopted for use the Working Definition. IHRA’s formulation resulted in some minor editing of the EUMC version along with the additional statement that it should not be considered, “legally binding.” (A copy of the IHRA Working Definition is appended to this testimony.)
- The Working Definition has since been adopted by the Governments of the United Kingdom, Romania, Austria, Germany and Bulgaria. Earlier this year it was recommended for use by the European Parliament and the OSCE Parliamentary Assembly.⁴

The United States Government itself has a long record of involvement—recognizing the problem, seeing the value of such a definition, employing it for use at the State Department and urging other governments to take it on board, as well. In April 2004, at the conclusion of the OSCE High Level Conference on Anti-Semitism in Berlin, the OSCE issued the Berlin Declaration on Anti-Semitism, a document that the US Mission to the OSCE helped to draft and to secure consensus agreement among all the OSCE participating States. It acknowledged in its opening paragraphs, that anti-Semitism has taken on “new forms and manifestations,” an implicit reference to the anti-Israel dimension of the problem.

In October 2004, Congress passed the Global Anti-Semitism Review Act of 2004, which called on the State Department to appoint a Special Envoy for Monitoring and Combating Anti-Semitism, and also explicitly noted that, “Anti-Semitism has at times taken the form of vilification of Zionism, the Jewish national movement, and incitement against Israel.” It called on the State Department to conduct a “one-time report on acts of anti-Semitism around the world,” and the officials who compiled it employed the EUMC Working Definition in their work.⁵ In 2008, the first Special Envoy issued a second report, titled, “Contemporary Global Anti-Semitism.”⁶ In it the EUMC Working Definition was reprinted in full. Subsequently, the State Department prepared its own official definition, which cites the operative paragraph of the EUMC Working Definition and presents similar examples. (A copy of the State Department definition is appended to this testimony.)

Let me also note it is deeply troubling that the position of the Special Envoy remains vacant nearly one year into this new Administration.

⁴ “European Parliament calls on countries to adopt working definition of antisemitism.” International Holocaust Remembrance Alliance. 14 June 2017. Web. Accessed November 2017. Link to article: <https://www.holocaustremembrance.com/media-room/news-archive/european-parliament-calls-countries-adopt-working-definition-antisemitism>

⁵ “S. 2292 (108th): Global Anti-Semitism Review Act of 2004.” Law: Pub.L. 108-332. <https://www.govtrack.us/congress/bills/108/s2292>

⁶ “Release of Report on Contemporary Global Anti-Semitism.” Office of the Spokesman, Washington, D.C., 13 March 2008. Link to press release: <https://2001-2009.state.gov/r/pa/prs/ps/2008/mar/102251.htm>

In my work at AJC and particularly in my capacity as the Personal Representative of the OSCE Chairperson-in-Office on Combating Anti-Semitism I am an advocate for using the Working Definition. Simply put, if we are to be successful in combating anti-Semitism we must first understand it. We must define it. It is a complex phenomenon; it has changed over time; it presents itself in both new and traditional forms. When we first employed the definition there were those who feared it would be used to stifle criticism of Israel, despite the clear and explicit caveats. There is ample evidence in Europe that this has not materialized. If anything public criticism of Israel is even more vocal and robust than it was a decade ago. But simultaneously there is a better recognition of the very real problem of anti-Semitism as it relates to Israel and the dangers it poses to the Jewish community's own sense of security and well-being. Surely this ought to be instructive when addressing the problem of anti-Semitism as it appears on various college campuses in America today, whether through legislation such as the Anti-Semitism Awareness Act or other measures.

Inside the OSCE I am often joined in my work by colleagues whose mandates cover intolerance and discrimination against Muslims, racism, intolerance against Roma and against Christians and those of other religions. On occasion—as was the case last year when the OSCE came close to adopting the Working Definition at its annual Ministerial Conference—I have been asked whether adopting a definition of anti-Semitism would then lead to demands for adopting definitions of other forms of intolerance. From my experience and personal observations, I would say the answer is no. Those problems are no less serious than anti-Semitism and the need for governments to address them is every bit as critical. But the representatives of these other vulnerable groups and minority communities are not saying that if only there were a proper definition government inaction and public inattention would cease. Unlike anti-Semitism, these other forms of prejudice and group hatreds are easy to recognize, if sadder still that they are so prevalent.

A comprehensive Working Definition of Anti-Semitism is not an end in itself. It is a necessary educational tool, which increases public awareness and helps government authorities to more effectively address the security concerns of Jewish communities.

We see the question of whether and how the Department of Education should look to the Working Definition in determining if there has been a violation of Title VI of the Civil Rights of 1964 very much in this light. The definition will provide clarity and uniformity for the Department and for the Administration as a whole in recognizing manifestations of anti-Semitism. At the same time—and I defer to my colleagues with legal expertise for further explication—consulting this definition does nothing to alter the standards for determining when harassing conduct amounts to actionable discrimination, leaving our educational institutions free to operate as forums for vibrant and open discourse.

Thank you again for this opportunity to be heard. I look forward to your questions.

Appendix



WORKING DEFINITION OF ANTISEMITISM

The purpose of this document is to provide a practical guide for identifying incidents, collecting data, and supporting the implementation and enforcement of legislation dealing with antisemitism.

Working definition: *“Antisemitism is a certain perception of Jews, which may be expressed as hatred toward Jews. Rhetorical and physical manifestations of antisemitism are directed toward Jewish or non-Jewish individuals and/or their property, toward Jewish community institutions and religious facilities.”*

In addition, such manifestations could also target the state of Israel, conceived as a Jewish collectivity. Antisemitism frequently charges Jews with conspiring to harm humanity, and it is often used to blame Jews for “why things go wrong.” It is expressed in speech, writing, visual forms and action, and employs sinister stereotypes and negative character traits.

Contemporary examples of antisemitism in public life, the media, schools, the workplace, and in the religious sphere could, taking into account the overall context, include, but are not limited to:

- Calling for, aiding, or justifying the killing or harming of Jews in the name of a radical ideology or an extremist view of religion.
- Making mendacious, dehumanizing, demonizing, or stereotypical allegations about Jews as such or the power of Jews as collective — such as, especially but not exclusively, the myth about a world Jewish conspiracy or of Jews controlling the media, economy, government or other societal institutions.
- Accusing Jews as a people of being responsible for real or imagined wrongdoing committed by a single Jewish person or group, or even for acts committed by non-Jews.
- Denying the fact, scope, mechanisms (e.g. gas chambers) or intentionality of the genocide of the Jewish people at the hands of National Socialist Germany and its supporters and accomplices during World War II (the Holocaust).
- Accusing the Jews as a people, or Israel as a state, of inventing or exaggerating the Holocaust.
- Accusing Jewish citizens of being more loyal to Israel, or to the alleged priorities of Jews worldwide, than to the interests of their own nations.

Examples of the ways in which antisemitism manifests itself with regard to the state of Israel taking into account the overall context could include:

- Denying the Jewish people their right to self-determination, e.g., by claiming that the existence of a State of Israel is a racist endeavor.
- Applying double standards by requiring of it a behavior not expected or demanded of any other democratic nation.
- Using the symbols and images associated with classic antisemitism (e.g., claims of Jews killing Jesus or blood libel) to characterize Israel or Israelis.
- Drawing comparisons of contemporary Israeli policy to that of the Nazis.
- Holding Jews collectively responsible for actions of the state of Israel.

However, criticism of Israel similar to that leveled against any other country cannot be regarded as antisemitic.

Antisemitic acts are criminal when they are so defined by law (for example, denial of the Holocaust or distribution of antisemitic materials in some countries).

Criminal acts are antisemitic when the targets of attacks, whether they are people or property—such as buildings, schools, places of worship and cemeteries—are selected because they are, or are perceived to be, Jewish or linked to Jews.

Antisemitic discrimination is the denial to Jews of opportunities or services available to others and is illegal in many countries.



Romanian
Chairmanship
2016

Bucharest, 26 May 2016

In the spirit of the Stockholm Declaration that states: “With humanity still scarred by ... antisemitism and xenophobia the international community shares a solemn responsibility to fight those evils” the committee on Antisemitism and Holocaust Denial called the IHRA Plenary in Budapest 2015 to adopt the following working definition of antisemitism.

On 26 May 2016, the Plenary in Bucharest decided to:

Adopt the following non-legally binding working definition of antisemitism:

“Antisemitism is a certain perception of Jews, which may be expressed as hatred toward Jews. Rhetorical and physical manifestations of antisemitism are directed toward Jewish or non-Jewish individuals and/or their property, toward Jewish community institutions and religious facilities.”

To guide IHRA in its work, the following examples may serve as illustrations:

Manifestations might include the targeting of the state of Israel, conceived as a Jewish collectivity. However, criticism of Israel similar to that leveled against any other country cannot be regarded as antisemitic. Antisemitism frequently charges Jews with conspiring to harm humanity, and it is often used to blame Jews for “why things go wrong.” It is expressed in speech, writing, visual forms and action, and employs sinister stereotypes and negative character traits.

Contemporary examples of antisemitism in public life, the media, schools, the workplace, and in the religious sphere could, taking into account the overall context, include, but are not limited to:

- Calling for, aiding, or justifying the killing or harming of Jews in the name of a radical ideology or an extremist view of religion.
- Making mendacious, dehumanizing, demonizing, or stereotypical allegations about Jews as such or the power of Jews as collective — such as, especially but not exclusively, the myth about a world Jewish conspiracy or of Jews controlling the media, economy, government or other societal institutions.
- Accusing Jews as a people of being responsible for real or imagined wrongdoing committed by a single Jewish person or group, or even for acts committed by non-Jews.
- Denying the fact, scope, mechanisms (e.g. gas chambers) or intentionality of the genocide of the Jewish people at the hands of National Socialist Germany and its supporters and accomplices during World War II (the Holocaust).

- Accusing the Jews as a people, or Israel as a state, of inventing or exaggerating the Holocaust.
- Accusing Jewish citizens of being more loyal to Israel, or to the alleged priorities of Jews worldwide, than to the interests of their own nations.
- Denying the Jewish people their right to self-determination, e.g., by claiming that the existence of a State of Israel is a racist endeavor.
- Applying double standards by requiring of it a behavior not expected or demanded of any other democratic nation.
- Using the symbols and images associated with classic antisemitism (e.g., claims of Jews killing Jesus or blood libel) to characterize Israel or Israelis.
- Drawing comparisons of contemporary Israeli policy to that of the Nazis.
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Antisemitic discrimination is the denial to Jews of opportunities or services available to others and is illegal in many countries.

U.S. Department of State Diplomacy in Action

Defining Anti-Semitism

January 20, 2017

"Anti-Semitism is a certain perception of Jews, which may be expressed as hatred toward Jews. Rhetorical and physical manifestations of anti-Semitism are directed toward Jewish or non-Jewish individuals and/or their property, toward Jewish community institutions and religious facilities." --Working Definition of Anti-Semitism by the European Monitoring Center on Racism and Xenophobia

Contemporary Examples of Anti-Semitism

Calling for, aiding, or justifying the killing or harming of Jews (often in the name of a radical ideology or an extremist view of religion).

Making mendacious, dehumanizing, demonizing, or stereotypical allegations about Jews as such or the power of Jews as a collective—especially but not exclusively, the myth about a world Jewish conspiracy or of Jews controlling the media, economy, government or other societal institutions.

Accusing Jews as a people of being responsible for real or imagined wrongdoing committed by a single Jewish person or group, the state of Israel, or even for acts committed by non-Jews.

Accusing the Jews as a people, or Israel as a state, of inventing or exaggerating the Holocaust.

Accusing Jewish citizens of being more loyal to Israel, or to the alleged priorities of Jews worldwide, than to the interest of their own nations.

What is Anti-Semitism Relative to Israel?

EXAMPLES of the ways in which anti-Semitism manifests itself with regard to the state of Israel, taking into account the overall context could include:

DEMONIZE ISRAEL:

Using the symbols and images associated with classic anti-Semitism to characterize Israel or Israelis

Drawing comparisons of contemporary Israeli policy to that of the Nazis

Blaming Israel for all inter-religious or political tensions

DOUBLE STANDARD FOR ISRAEL:

Applying double standards by requiring of it a behavior not expected or demanded of any other democratic nation

Multilateral organizations focusing on Israel only for peace or human rights investigations

DELEGITIMIZE ISRAEL:

Denying the Jewish people their right to self-determination, and denying Israel the right to exist

However, criticism of Israel similar to that leveled against any other country cannot be regarded as anti-Semitic.

Employing a Working Definition of Antisemitism

Rabbi Andrew Baker

In the spring of 2002, Javier Solana, the foreign policy chief of the EU, was visiting Washington. He met with the U.S. Secretary of State, as was his regular pattern, but this time he also met with Members of Congress. His advisors had recommended these conversations as a way to build broader American support for his transatlantic activities. I had the occasion to see him that same evening. While he expected to take some heat on his analysis of the Israeli-Palestinian conflict, he told me he was surprised at the number of Members who voiced concern about the increased antisemitism in Europe. "I don't see it," he said.

Some of us recall the difficulties in those years—notably in France but in other Western European countries as well—in getting governments even to acknowledge there was a problem. Jewish communities themselves began to record and enumerate antisemitic incidents. As very few governments were yet identifying hate crimes as a special category, they had no similar record of their own.¹ But even when specific events were acknowledged by state authorities, there was still resistance to consider them antisemitic. In Paris, the perpetrators were generally understood to be young males from the *banlieues*. Authorities had two very different explanations to offer, both rejecting the antisemitic label. At times, they were grouped together with numerous other attacks on non-Jewish property and labeled as general acts of vandalism carried out by disadvantaged and unemployed youth. But when the Jewish nature of the target could not be denied, those same authorities would highlight the Middle Eastern background of the attackers and explain that they were political acts carried out by people who were angry at Israel over its treatment of Palestinians. Either way, it shouldn't be characterized as antisemitism, they said.²

We know that reasoning could not be sustained, and eventually political leaders were forced to concede that attacks on synagogues and Jewish schools were antisemitic, even if the motivations did not necessarily follow the more traditional pattern of the past.

The steady increase in antisemitic incidents throughout that year and the next led the European Monitoring Center on Racism and Xenophobia (EUMC) to prepare its own analysis and report on antisemitism in the fifteen-Member European Union. This too was not without controversy.

The EUMC initially commissioned the Berlin Center for the Study of Antisemitism to compile the report, but then decided not to release it. It maintained that this first report was uneven and incomplete and would instead carry out the work itself. Some critics claimed that the EUMC leadership was embarrassed that it highlighted the new sources of antisemitism stemming from Arab and Muslim communities in Europe. Although the EUMC's own study drew similar conclusions, its press summary of the report instead emphasized the more traditional sources of attacks generated by neo-Nazi, white power and other groups on the extreme right.³

The EUMC relied on its own network of monitors in each EU country to provide input for its report, drawing on what could be gleaned from a number of opinion surveys and limited data primarily compiled by civil society organizations. At the same time, the EUMC conducted interviews with 35 leaders and representatives of Jewish communities in eight EU countries. The "empirical data" presented a mixed picture, not so bad in some places and a bit worse in others, while the picture that emerged from the personal interviews was significantly darker. Jewish leaders were uniformly pessimistic about the climate, and a number of those interviewed had serious doubts about what the future would hold. The EUMC did not try to reconcile these differences; in fact, it presented them in two separate volumes. Some observers suggested that these European Jews exaggerated the problem, implying that the traumatic Holocaust experience that a number of them had endured clouded their present day assessment abilities. But it was

1. Manifestations of Antisemitism in the EU 2002-2003. European Union Monitoring Centre on Racism and Xenophobia (2004), p. 26, available at http://fra.europa.eu/sites/default/files/fra_uploads/184-AS-Main-report.pdf (last visited Oct. 23, 2016).
2. American Jewish Committee meeting with French Foreign Minister Hubert Védrine. Opening of the United Nations General Assembly, Nov. 2001.
3. Kenneth S. Stern. ANTISEMITISM TODAY: HOW IT IS THE SAME, HOW IT IS DIFFERENT, AND HOW TO FIGHT IT (2006), p. 97.

also possible that this same experience might have heightened their awareness and ability to sense things coming that others would not yet see.

It is important to recall that in the aftermath of this examination, the EUMC presented its own lengthy discussion about the need and the difficulty in defining antisemitism. Among the points it raised for debate and clarification:

1. Are attacks on Jews by definition antisemitic? What if the perpetrators didn't know they were Jews? Conversely, even if the victims were not Jews, if they were perceived as such and targeted for that reason, shouldn't they be considered antisemitic?
2. Additionally, one must account for what may be termed the "imaginary Jew," who frequently serves as the focus of antisemitic invective as well as motivation for an attack. This is the Jew of conspiracy theories, the manipulator of world economies and the media, simultaneously responsible for communism and capitalism and all the ills of the world. This is a form of antisemitism that can exist even in places where Jews themselves are absent.
3. Already at the time of this study, there was what some termed the "new antisemitism," or new manifestations of antisemitism. Most notably this referred to antisemitism as it relates to the State of Israel. In the area of hate crimes, this debate centered on whether attacks on Jewish targets motivated by animus toward Israel should be considered antisemitic. (As noted above, some authorities instead considered them political in nature.) But what is really so different in holding a Jewish community in Paris or Brussels responsible for the perceived misdeeds of Israel today than it was to blame it for causing the Plague in previous centuries?
4. Perhaps still more complicated—and controversial—was whether anti-Zionism itself should be considered a form of antisemitism. For some of the EUMC commentators, the focus should be on the motivation of the hostility. If it stemmed from viewing Israel through a conventional antisemitic lens, it should count, they argued. But if it was politically oriented, it should not. However, motivations whether in act or expression are hard to determine. Instead, others maintained that the focus should be on the observable nature and intensity of the attack. They sought a way to measure crossing the line from criticism to something more. Demonizing Israel and questioning its right to exist were some examples. Portraying Israel with the traditional images and stereotypes of anti-Jewish hatred was another.

Less controversial, but still significant elements of antisemitism can be traced to traditional Christian teaching

of Jews as a benighted and debased people, eternally responsible for the death of Jesus. This may have diminished as a problem in an increasingly secular Western Europe and with a Catholic Church that had revised its own view of Judaism. But this was not the case in Eastern Europe, including in countries that would eventually become Members of the European Union. In these countries, religious identity played a much stronger role and the impact of the Second Vatican Council on interreligious tolerance had not really taken root.

The same could also be said for Holocaust denial. Western Europe had over half a century to confront its Holocaust-era history. For some, this included the adoption of legislation that prohibited denying the Holocaust or classified it as a punishable form of racial incitement. Eastern Europe was only just beginning to confront its own complicated history. And if not outright denial, the distortion of Holocaust history was—and in some cases very much still is—a serious challenge.

It was both the limited, and at times conflicting, data on antisemitism in the EU and the recognition that it is a complex phenomenon (whether old or "new") that led the EUMC to develop a Working Definition of Antisemitism that was released on January 28, 2005.⁴

We have now the benefit of over a decade to observe the situation in Europe—incidents of antisemitism, the responses of governments, the efforts to monitor and record data and to educate. What do we find?

- Antisemitic incidents as recorded by governments and civil society monitors have steadily increased. Times of heightened conflict between Israel and the Palestinians appear to trigger a surge in these incidents. They may diminish in the aftermath but still level off at a plateau that is higher than at previous times. There is certainly an improvement in recording data, which may also partially account for the increase. At the same time, we are mindful that the EU's Agency for Fundamental Rights (FRA) survey of Jews in eight EU countries found that 75 percent of those responding said they did not report what they witnessed or experienced.⁵

4. Dina Porat, *The International Working Definition of Antisemitism and Its Detractors*. 5 ISRAEL JOURNAL OF FOREIGN AFFAIRS (2011), p. 93, available at http://www.kantorcenter.tau.ac.il/sites/default/files/DinaPorat5%209_0.pdf (last visited Oct. 23, 2016).

5. Discrimination and hate crimes against Jews in EU Member States: experiences and perceptions of antisemitism. FRA - European Union Agency for Fundamental Rights (2013), p. 13.

- There has been growing recognition by governments and international organizations of the severity of the problem. That FRA survey revealed high levels of anxiety and uncertainty on the part of Jews in the EU. A follow-up survey—unfortunately not scheduled until 2018—will tell us if those fears have increased, as many believe to be the case.
- There is little doubt today that a significant source of antisemitic incidents can be traced to parts of the Muslim and Arab communities in Western Europe. This is reflected in the FRA survey, where Jewish respondents say the largest number of the incidents come from “someone with an extremist Muslim view.”⁶ But it is not so easy to find empirical data to support this conclusion. Hate crime reporting often includes no description of the perpetrators, even where that information is known. Only a few reports will disaggregate information based on ideology, describing them as holding right-wing extremist, left-wing extremist or Islamic extremist views. Some countries are prevented by law from identifying religion in any data collection. Others avoid it for fear of “stigmatizing” one religious community. But where more detailed survey data is available—e.g., a Forum for Living History survey of Swedish students in 2010⁷ and a Fondapol survey of French Muslims in 2014—we see that European Muslims have a significantly higher level of anti-Jewish sentiments than others in their society.⁸
- European Jewish communities continue to serve as targets for anti-Israel animus. Attacks on synagogues and community buildings have become less frequent, no doubt due in some measure to the increased security at these sites. But, Jewish community leaders and activists offer abundant anecdotal evidence of rhetorical abuse. Their own activities and programs and even their own private movements may be restricted or inhibited by anti-Israel demonstrators or those who harbor strong, anti-Israel sentiments or the fear of encountering such people. Jewish organizations that choose to mount their own public demonstrations in support of Israel must brace for openly antisemitic counter-demonstrators.
- There is less doubt today than a decade ago that anti-Zionism is frequently a mask for antisemitism. There was a time early in the 20th century, and well before the Holocaust, when many Jews themselves may have questioned the Zionist goal of reestablishing a Jewish state in its historic homeland. In the early days of the state, there were those who maintained that adherence to Zionist principles obligated all Jews in the Diaspora to immigrate to Israel. But today, Zionism is widely understood to mean the right of the Jewish people to their own state in the land of their ancestors—no more

and no less. With such an understanding, it is very hard to argue that anti-Zionism is merely a form of political criticism of Israeli policies.

These various, multiple manifestations of antisemitism are identified in the Working Definition, which in May 2016 was also adopted for use by the 31-Member International Holocaust Remembrance Alliance (IHRA).⁹ Currently the German Chairmanship of the OSCE is making efforts to secure a similar consensus agreement by its 57 participating States. A growing number of governments and civil society organizations already make use of the working definition as a tool for police training, for educating prosecutors and judges, and for monitoring and data collection. It is a useful guide for identifying antisemitism, and when standardized and endorsed by international organizations, it is more useful still.

With all the work and genuine effort that has been directed at combating antisemitism, it is sadly still present. But no one today can say, “I don’t see it.” ■

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6. *Id.* at 27.

7. The many faces of intolerance: A study of Swedish upper secondary school students’ attitudes in Sweden 2009/2010 school year. Living History Forum (Jan. 2010), p. 101, available at http://www.levandehistoria.se/sites/default/files/wysiwyg_media/report_the_many_faces_of_intolerance_.pdf (last visited Oct. 23, 2016).

8. Dominique Reynié, *Anti-Semitic Attitudes in France: New Insights*. La Fondation pour l’innovation politique (2014), p. 6, available at www.fondapol.org/wp-content/uploads/2015/03/Anti-Semitic-Attitudes-in-France-New-Insights-20151.pdf (last visited Oct. 23, 2016).

9. Press Release, International Holocaust Remembrance Alliance (May 26, 2016), available at www.holocaustremembrance.com/sites/default/files/press_release_document_antisemitism.pdf (last visited Oct. 23, 2016).