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Presentation to
Committee on Foreign Affairs
Subcommittee on International Organizations, Human Rights and Oversight
U.S. House of Representatives
April 14, 2010

I want to commend the House Foreign Affairs Committee for holding this hearing and for giving me the opportunity to testify today.

Introduction

Looking back at the beginning of this decade, it is evident that we were far too optimistic in believing that many problems—both international and domestic—were about to resolved, only to see them resurface with a new intensity. Thus it should come as no surprise that anti-Semitism was among them.

The UN Conference on Racism in Durban, South Africa in 2001 served to foment anti-Semitism rather than combat it, and it renewed the Zionism is racism canard.

The breakdown of the Middle East peace process triggered unprecedented attacks on Jewish targets in France, Belgium, the Netherlands and other Western European countries.

Eastern European countries which had been pressed to deal with Holocaust-era issues during their bid for NATO membership now found those same issues—Jewish property restitution and Holocaust education and commemoration—sparking a populist, anti-Semitic backlash.

Ultranationalist parties in Europe, both old (France and Austria) and new (Hungary and Bulgaria), which fold anti-Semitism into a larger racist and xenophobic agenda are enjoying significant support, while pulling mainstream parties further to the right.

A virulent anti-Israel animus, which frequently crosses over into a “new” form of anti-Semitism, is increasingly manifest in settings as diverse as the UN Human Rights Council in Geneva and student forums at the University of California.

In the time allotted me, I shall try to review some of these concerns and the initiatives intended to address them, drawing on my work at the American Jewish Committee and in my current role as the Personal Representative of the OSCE Chair-in-Office on Combating Anti-Semitism.

Anti-Semitism in Public Discourse

An essential element of the problem in many countries is the increasingly normative presence of anti-Semitism in public discourse. It is offensive and pernicious in its own right, but it can also contribute to a climate which poses a security threat to Jews and Jewish institutions. The capacity to counter this anti-Semitism is frequently lacking.

Many European countries have laws which restrict or punish hate speech. They are intended to address incitement to racial or religious hatred which may appear in public speeches, in books, newspapers and other media, and on the Internet. This includes fomenting anti-Semitism and, in some cases, Holocaust denial. Rarely is the problem the legislation itself, but rather it is the infrequent and often unsuccessful record of employing it.

By way of example and drawing from some of my OSCE country visits and other personal experience,

- In Spain there have been only two successful cases of prosecuting Holocaust denial in the last twenty years, and both of them took over seven years to adjudicate. In a country where the Jewish population is less than one one-hundredth of one percent the society is likely to know Jews only from their depictions in the press and media. As it is generally accepted that the Spanish media frequently depicts Israel in a negative light, some officials have suggested that this contributes to the population's low opinion of Jews.
- In Lithuania in 2004, the General Prosecutor opened a case against the publisher, Vitas Tomkus, after his newspaper ran a series of articles entitled "Who Rules the World?" loosely based on the *Protocols of the Elders of Zion* and illustrated with Nazi-like cartoons. Political leaders, although privately disgusted with the articles, remained publicly silent as the months-long investigation proceeded. A year later, when the case came to trial Mr. Tomkus was found guilty. But he was not required to appear in court and the \$1,000 fine had little deterrent value to this multi-millionaire publisher. Such articles still appear regularly in his newspapers.
- Last year the Jewish Community of Greece appealed to a 1979 hate speech law in its case against the author Kostas Plevris, who wrote that the Holocaust is a "profit making myth" invented by the Jews. He was initially found guilty, in the first successful use of this law, but the decision was reversed on appeal. The court may have been concerned about the free speech implications of the initial verdict, but its actions also emboldened this anti-Semite.
- In September I sat in the Jewish Community offices in Bucharest while the President of the Jewish Federation described the personal attacks on him in the newspaper of the right-wing Greater Romania Party. Nearly two years passed since he had filed suit, but so far the public prosecutor had not responded. (Ironically, on my first visit to Romania in 1993, I sat in the same room and heard the late Rabbi Moses Rosen describe similar personal attacks on him from the very same newspaper.) I met later with the Justice Minister/Foreign Minister Catalin Predoiu during this visit, who readily acknowledged the lack of clarity in the law and its limited effectiveness. To his credit the Minister used the occasion of my visit to issue a statement stressing the moral obligation of public officials to speak out against acts of anti-Semitism.
- We also witnessed a similar example of this problem in Sweden last year, when the newspaper *Aftonbladet* published a report from Gaza claiming that Israeli soldiers were harvesting organs from Palestinians they had killed. This updated version of the medieval blood libel charge was openly denounced by political leaders in the United States and in some European capitals. However, the Swedish Foreign Ministry maintained that its press freedom laws did not permit its own public officials to criticize the article, and it rebuked its Ambassador to Israel for doing so. It did indicate that an official ombudsman had the authority to investigate and bring charges if it was determined that racial incitement laws were violated. He quickly decided that they were not.
- The Internet is often cited as an unchecked source for all manner of hate speech including anti-Semitism. Even those countries with some experience at reining in extremist material in

traditional media admit to difficulties when it comes to this source. But it is not only impressionable young people—the most frequently cited target—who are affected by it. Three years ago the Government of Latvia and its Jewish Community reached an agreement on legislation that would resolve all outstanding property restitution claims. But by the time the bill reached Parliament, opposition to the legislation—much of it spread via the Internet and anti-Semitic in nature—so unnerved its Members that it failed to pass. During my visit to Riga Latvian authorities conceded that whenever the subject of Jewish property restitution is raised in public they anticipate a spike in anti-Semitism.

We can certainly reach some general conclusions from these examples.

Put simply, many hate speech laws have the unintended consequence of letting political leaders off the hook. In the United States and other countries with strong free speech protections manifestations of racism, anti-Semitism, and other extremist views in public discourse are generally addressed (or can only be addressed) by strong and swift rebukes from political and civic leaders. In this way such hateful speech is marginalized and isolated. But in countries with legislative remedies some political leaders will refer to the legal process as a reason or excuse not to speak out. As we see in practice those legal decisions are generally months or years away. In the meantime, there is no clear message being delivered that such hateful speech is unacceptable. Consider too that even some decent, mainstream political leaders, fearing the success of extremist movements, see calculated benefits in maintaining an ambiguous stance.

In nearly all places anti-Semitic speech is understood to be included within the larger categories of inciting racial, ethnic or religious hatred. But virtually no penal code includes a specific or detailed description of anti-Semitism, which means it is not always recognized by prosecutors or judges or (as witnessed in Sweden) by official ombudsmen.

Where they do exist, Holocaust denial laws are not uniform. In some places denial alone is illegal; while other countries require proof that the denial of the Holocaust is part of an intentional effort to inflict pain on survivors or members of the Jewish community. As a result prosecution under such a law can also vary widely.

Monitoring Anti-Semitism

Accurate and recognized monitoring of anti-Semitic incidents is frequently lacking or incomplete. The most recent Hate Crime Report of the Office of Democratic Institutions and Human Rights (ODIHR) reveals that many governments are still lax in monitoring and recording hate crime data or in disaggregating the data they do have so as to better understand who are the perpetrators and the victims. But the problem is especially acute when the goal is to combat anti-Semitism.

Physical attacks on persons or the vandalizing of synagogues and cemeteries may be monitored (although with all the same gaps and limitations of hate crimes more generally), but many countries frequently ignore the anti-Semitism that appears in the press, on television, at public demonstrations, on the Internet and in anonymous hate mail. When these anti-Semitic incidents are not recorded or are underreported it conveys the misimpression to political leaders and policy makers that the problem itself is not so important.

Governments must be encouraged to do a better job of monitoring and recording anti-Semitism, and we should continue to do everything to urge them to live up to their commitments. But in the interim we can do more to assist local Jewish leadership in various countries or regions to develop their own monitoring

centers and to do so in a standardized and internationally recognized way so that public authorities can accept their results.

A Working Definition of Anti-Semitism

In 2004, when the European Monitoring Center (EUMC) conducted its first study of anti-Semitism in the then 17-member European Union, it recognized the need for an operative and common definition of the phenomenon. At the time more than half of its national monitors had no definition at all, and of those that did no two were alike. In light of this the EUMC, now the EU Fundamental Rights Agency, developed a working definition, which has been adopted by the ODIHR, by the US State Department Special Envoy for Combating Anti-Semitism, and by Parliamentary Committees in Germany and the UK, among others. This definition (a copy of which is appended to this testimony) provides an overall framework for understanding what it is and offers a series of examples designed to aid police, monitors and NGOs in their work.

This definition is especially noteworthy in that it also describes where animosity toward the State of Israel can become a form of anti-Semitism. It offers clear examples of this, such as where Israel is described as a racist state, where comparisons are made with Nazism, and where Jews are held collectively responsible for the actions of Israel.

In some countries the working definition is part of police training programs, as it is in ODIHR's Law Enforcement Officers Program (LEOP) manual, which trains police to respond to hate crimes. In nearly all meetings during my country visits I shared the definition with government officials, who welcomed it. Those of us who are focused on the problem may not fully realize that a lack of understanding on the part of these officials is not uncommon. While physical attacks on identifiable Jewish targets may be easily recognized as anti-Semitic in nature, certain public discourse or the vilification of the Jewish State may not be so readily identified. Therefore, increasing the circulation of this working definition is a useful tool that can be promoted.

Conclusions and Recommendations

In April 2004, the Member States of the OSCE meeting in Berlin adopted a declaration that stated in part, "...international developments or political issues, including those in Israel or elsewhere in the Middle East, never justify anti-Semitism." Governments expressed their commitment to combat anti-Semitism through legislation and monitoring and through a variety of educational programs. ODIHR, the programmatic arm of the OSCE, was tasked with following-up on these government commitments as well as developing its own educational and police training projects.

This declaration and the high-level Berlin Conference which issued it can be traced back here, to Capitol Hill. It was the direct result of you and your colleagues taking up the issue in meetings with foreign leaders and pressing the Administration to engage with the OSCE, despite its difficult consensus based decision-making process. It led to a decision to hold a first (and no doubt some governments thought "last") conference on anti-Semitism in 2003, which in turn spawned the series of conferences, commitments and programs we now witness.

The OSCE remains an important international venue to address the problem of anti-Semitism. At the end of June the current OSCE Chair, Kazakhstan, will host the first high level conference in three years that will focus on anti-Semitism as well as other forms of intolerance, and the US should be fully engaged and seriously represented. The annual OSCE Mediterranean Seminar in the fall, which joins its members with the six Mediterranean partner states (Israel, Egypt, Jordan, Tunisia, Algeria and Morocco), can provide an

opportunity to examine and address the spread of anti-Semitic materials in parts of the Arab world, but the US will need to be actively involved in the planning work carried out in Vienna to make it so.

I am pleased that today's hearing also included testimony from Hannah Rosenthal, the newly-appointed Special Envoy to Monitor and Combat Anti-Semitism in the State Department. I know she has already taken up her work with vigor and commitment. While this includes visits to foreign capitals to address specific problems, it is equally important that the subject be "mainstreamed" within US diplomacy. When the Secretary of State or other senior officials or respected ambassadors take up the issue in bilateral discussions it has an impact.

And of course (and in closing) when Members of Congress receive foreign leaders here or meet with them during travel abroad there is a unique opportunity to remind them of the importance to remain continually vigilant, to speak out, and to do all within their power to confront and combat anti-Semitism. I and my colleagues at AJC will always be available to you and your staff to provide information and analysis for whatever meetings you may have.

Again, thank you for this opportunity to address you today.

APPENDED:

A WORKING DEFINITION OF ANTISEMITISM

(Adopted by the EUMC January 28, 2005)

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.

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.