Antisemitism: An Assault on Human Rights

The Jacob Blaustein Institute for the Advancement of Human Rights of American Jewish Committee

Submitted to The United Nations World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance

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Preface

In preparation for the UN World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance, the Jacob Blaustein Institute for the Advancement of Human Rights of the American Jewish Committee prepared this report, Antisemitism: An Assault on Human Rights. The report surveys the history and forms of antisemitism and argues that, as a long-recognized form of racial discrimination, it should be addressed in the conclusions of the World Conference, which took place in August - September 2001. A supplement contains texts of antisemitic laws and official pronouncements that have been promulgated and embedded in official practice throughout the world over the past 2,000 years. The report was submitted in Durban to Nkosazana Dlamini Zuma, foreign minister of South Africa and president of the Conference, and circulated widely to governmental delegates, representatives of NGOs, and members of the media.

In Durban and at regional meetings leading up to the conference, the Jacob Blaustein Institute for the Advancement of Human Rights successfully pressed to have actions to combat antisemitism recommended in the WCAR's documents. First, substantive references to antisemitism were a notable part of the documents adopted in Strasbourg and Santiago preparatory conferences, covering Europe (East and West) and the Americas (North and South), respectively. Later, as a result, the concluding documents of the official intergovernmental meeting of the World Conference reference antisemitism and the need to act against it. Yet, ironically, speeches at the intergovernmental

conference in Durban, as well as actions and the conclusions of the forum of nongovernmental organizations, illustrated the very antisemitism that this conference developed strategies to eradicate. The Conference itself underscores the need to pay even greater attention to the findings and proposals of Antisemitism: An Assault on Human Rights.

Introduction

In April 2000, UN Secretary-General Kofi Annan said, "Next year in South Africa, we will hold a World Conference on Racism at which, I should stress, antisemitism will be one of the forms of intolerance targeted for action."1 Far from meeting Secretary-General Annan's expectation, the documents created for the United Nations World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance have yet to give antisemitism the attention it requires. Indeed, the proceedings held in preparation for the World Conference evidence remarkable gaps in knowledge regarding the phenomenon of antisemitism and a concomitant lack of determination to target it for action. This monograph seeks to fill those gaps and stimulate renewed determination to eradicate this ancient and persistent form of racism.
In 1945, in the aftermath of the Holocaust, the systematic murder by the Nazis of murdered six million Jews, the international community created the United Nations "to save succeeding generations from the scourge of war" and "to reaffirm faith in fundamental human rights, in the dignity and worth of the human person."2 The Charter of the United Nations further calls for "encouraging respect for human rights... for all, without distinction as to race, sex, language or religion."3

Since that time, national laws have been enacted and international human rights instruments, including a treaty to ban racial discrimination, have been adopted. Yet racism, racial discrimination, xenophobia, and related intolerance persist. The World Conference Against Racism in Durban, South Africa took as its mission the development of new strategies for dealing with this tenacious and dangerous scourge.

Antisemitism is perhaps the most ancient and persistent manifestation of the critical issues the Durban World Conference is charged with addressing. Precisely because antisemitism has been such a long-standing phenomenon and has adapted itself to such diverse conditions, addressing the subject is key to meeting the challenges facing the conference and its participants. Careful consideration of the experience of antisemitism can benefit societies in determining how best to respond to other forms of racism and intolerance. The fight against antisemitism, in fact, has given wings to the international human rights movement in the twentieth century.

This paper reviews the history of antisemitism and explores its various manifestations over the last 2,000 years. It offers evidence of the relationship between antisemitism and other forms of racism, racial discrimination, xenophobia and related intolerance. It also outlines the body of international legal doctrines and agreements by which the international community has committed itself to the elimination of antisemitism, thereby placing antisemitism squarely on the agenda of the World Conference. Submitted with

this brief is a documentary supplement containing examples of antisemitic laws and other expressions of antisemitic official state policies that have been enacted worldwide throughout the ages.

Who Are The Jews?

Throughout their long history, Jews have constituted a tiny percentage of the world's population. It is estimated that today there are approximately 13 million Jews in the world. Most of this population reside in the United States (5.7 million) and Israel (4.9 million). In addition, 1.1 million Jews live in the European Union; 440,000 in the Former Soviet Union; 420,000 Jews live in Central and South America; 90,000 in Africa; and 100,000 in Oceania.4 With the exception of the State of Israel, in each of the countries in which they live, they constitute a small minority.
What these widely dispersed people have in common is the belief that they are descendants (actual or adoptive) of nomadic tribes who settled between the Mediterranean and the Jordan River more than 30 centuries ago, and whose early history, culture, and religious experiences are reflected in the Hebrew Bible.5 The study and exegesis of the Hebrew Bible, perceived to be divinely revealed or inspired, have constituted the cornerstone of Jewish religious, cultural, and communal life down to modern times. And, indeed, the power of the biblical insistence on monotheism, the majesty of the Hebrew Bible's poetry, the authority of its ethical precepts, and the drama of its narrative of the exodus from slavery to freedom have engendered not only the devoted attention of Jews, but also the reverence of both Christians and Muslims. Notwithstanding the destruction by the Romans of the Jewish religious center in Jerusalem in 70 C.E., down through the centuries, generation after generation of Jews found meaning for their lives as the bearers of their scriptural tradition and sought to organize their lives and communities around their understanding of its commandments.

Under the impact first of Greek and then of Roman military occupation of ancient Israel, the Jewish population, once centered there, became widely dispersed. Nonetheless, the community's adherence to its distinctive folkways, the preservation of Hebrew as the language of religious liturgy, the memory of their national existence in ancient Israel, and their aspiration to return to Zion remained powerful centripetal forces in the life of the Jewish people, sustaining a sense of communal identity both among the devoutly religious and, in modern times, among relatively secularized Jews as well.

What is Antisemitism?

So long as Jews remain committed to their own distinctive cultural and religious traditions, they present themselves as, in some sense, different from their non-Jewish neighbors. In the ancient world they did not willingly worship the diverse gods of the Greco-Roman pantheon. Nor did they consent to the deified emperors of the Roman and Persian empires. The adoption of Christianity as the official religion of the Roman Empire by Constantine in the fourth century, and the later establish of the various strands of Catholicism and Protestantism as state religions throughout Europe, inevitably left the Jews in the position of dissenters. Likewise, the Islamic conquest of the Middle East,

North Africa, and the Iberian Peninsula placed the Jews of those lands in a distinctively minority posture.
None of these developments made it inevitable that Jews would be persecuted. In each case, it was an open question whether the majority population and the governing authorities would treat a small and obviously vulnerable minority with tolerance for its differences and respect for its humanity. In some times and places such a liberal approach prevailed. Muslim Spain during the eleventh and twelfth centuries, for example, left its Jews in peace and witnessed a flowering of Jewish life, making significant contributions both to Jewish culture and to the well-being of the larger communities among whom the Jews resided. That experience was, unfortunately, more the exception than the rule. The great enemies of tolerance--fear of what appears different or strange, the temptation to scapegoat, the opportunity to foster social solidarity by exclusion--all proved more than most societies could resist. In one form or another, hostility toward Jews became the policy of states and churches and the practice of peoples.

In all its varied forms and manifestations, this phenomenon has become known as antisemitism, a term coined in 1879 by William Marr, a German polemicist who founded the League of Antisemites and denounced Jews on what he claimed to be scientific racial, rather than religious, grounds. The adoption of this term marked an awareness that it was no longer fashionable in late nineteenth-century Europe to be anti-Jewish, to oppose Jews on religious grounds. Historian Robert S. Wistrich noted: "Religious hostility in late nineteenth-century Europe was regarded by many intellectuals as something medieval, obscurantist and backward. There was clearly a need to establish a new paradigm for anti-Jewishness which sounded more neutral, objective, 'scientific' and in keeping with the enlightened Zeitgeist."6 Thus, the term 'antisemitism' has never referred to a hatred of so-called "Semites," which actually designates speakers of a group of languages, including Hebrew, Arabic, Aramaic, Babylonian, Assyrian, and Ethiopic. Rather, the term "antisemitism" is directed at the Jews; it is a modern linguistic formulation for Jew-hatred.

Antisemitic policies have sought to push Jews to the margins of society. Such marginalization has been accomplished in myriad ways: through discriminatory restrictions on religious observance, on political participation, vocation, education, residence, attire, and other denials of human rights. More extreme antisemitic laws have pushed Jews beyond the margins and excluded them from society even more irrevocably, through expulsion and murder.

Antisemitism ultimately is harmful to societies that tolerate it. It denies Jews the opportunity to contribute to their societies and denies the societies the benefit of those contributions. It also represents an irrational avoidance of real problems. For example, the outlandish belief that Jews caused the Black Plague by poisoning wells in Europe in the fourteenth century led to widespread persecution of Jews but did nothing to alleviate the Plague. Antisemitism also pollutes political discourse, driving out reasoned discourse with wholly irrational, but nonetheless potent, myths. The Strasbourg Consultation on Antisemitism in Europe Today, convened by the Secretary-General of the Council of Europe, noted in its Declaration of Concern and Intent that antisemitism has a particularly

destructive effect on democracy. The participants declared that combating antisemitism is integral to opposing all forms of racism.7

The way a society treats its Jewish members often provides a barometer for how it will treat other minorities. Intolerance of Jews has commonly paved the way to intolerance of other groups, thereby thwarting the openness and pluralism that sustain progress. The Nazi experience is but one extreme example. In Germany from 1933 to 1945 the government's antisemitic program led not only to the genocide of a large portion of the Jews of Europe, but was also the leading edge of a campaign pursuant to which a full five million other "non-Aryan" or otherwise "undesirable" people were exterminated.

A. Forms of Antisemitism

Antisemitism has appeared in many forms, including religious intolerance, political discrimination, economic exploitation, and racial discrimination. These categories bleed into one another, and it is difficult to determine the actual motive underlying any particular manifestation of antisemitism. This point was made in the American Jewish Committee's 1960 publication, As the UN Probes Prejudice: Observations on the United Nations Inquiry into Antisemitism and other Forms of Religious and Racial Prejudice. The Committee wrote, "It should be borne in mind that antisemitism is cumulative rather than evolutionary, in the sense that it feeds on earlier sources of nourishment, even those which have lost their initial rationale."8 Still, parsing out these categories casts light on the variety of harms inflicted on Jews throughout the ages.

1. Religious Antisemitism or Anti-Judaism

Some forms of antisemitism bespeak contempt for the Jewish religion. William Nicholls, Professor Emeritus of Religious Studies at the University of British Columbia, concludes in his authoritative work, Christian Antisemitism, "No uncritical reader of the New Testament could easily come away with any but the most negative opinion of Jews. While the New Testament does not encourage racist views, for these were the invention of later periods, it sees little hope for Jews except in conversion to Christ."9

Whatever the attitude of the Christian Bible, Church theologians of the fourth and fifth centuries articulated an utterly degraded view of the Jews. John Chrysostom, Patriarch of Constantinople, likened them to dogs and wild animals. "I note," he wrote, "that many have high regard for the Jews and think that their present way of life is holy. That is why I am so anxious to uproot this deadly opinion." He described the synagogue as "a dwelling place of demons." Saint Augustine, one of history's most prominent Christian thinkers, declared, "The continued preservation of the Jews will be a proof to believing Christians of the subjection marked by those who, in the pride of their kingdom, put the Lord to death."10

In the centuries following the establishment of Christianity in Europe, Church doctrine characterized Jews as the murderers of Jesus and benighted deniers of Christ's revelation. The theology of contempt found its way into the Christian liturgy. The Good Friday liturgy of the Roman Missal contained a prayer for "the perfidious Jews" and asked God to "withdraw the veil from their hearts that they may acknowledge our Lord Jesus

Christ." Pope John XXIII abolished this prayer in 1965 during the Second Vatican Council. But the centuries had taken their toll. Doctrine and liturgy shaped popular imagination. The Jew was seen as perfidious, benighted and morally deficient even by people who were no longer aware of how these perceptions had been received.

The Church affirmed, over the course of the centuries, that there would be no respite for the Jew. The theology of collective guilt held that "the blood of Jesus falls not only on the Jews of that time, but on all generations of Jews up to the end of the world."11 "The true image of the Hebrew is Judas Iscariot, who sells the Lord for silver. The Jew can never understand the Scriptures and forever will bear the guilt for the death of Jesus."12 A 1304 law in Spain and Portugal obligated Jews to pay a tax "in memorial of the death of our Lord Jesus Christ, when the Jews crucified him."13 In addition, countless medieval pictures of Christ's passion depict his tormentors in the dress of medieval Jews. Thus the collective guilt of Jews for the death of Jesus was embedded in Christian theology, taught to the populace in prayer and preachment, and depicted in Christian art. This latter point was made in the American Jewish Committee's As the UN Probes Prejudice, which notes that "a Jewish stereotype was created in Christian art and literature. Distorted figures of the Jew were emblazoned on medieval frescoes, stained-glass windows, monuments, and memorials; on illustrated Bibles, psalters and prayer books."14

Destruction of Jewish sacred books exemplified the willingness to act on the theology of contempt. The Talmud, a vast collection of Jewish law and lore, has been a persistent object of antisemitic attention. In 1239, for example, Pope Gregory IX ordered all copies of the Talmud confiscated in France, England, Castile, Aragon, and Portugal. (There is disagreement on the extent to which the decree was executed.)15 In 1242, 24 cartloads of the Talmud were burned in Paris. A papal bull of Pope Benedict XIII in 1415 decreed that "all Jews were forbidden to listen to, read, or teach the Talmud" and "all Hebrew books that contradicted the dogmas of Christianity were banned."16 In 1559, at the urging of the Dominicans, the Governor of Milan burned thousands of copies of the Talmud.17

Religious antisemitism was also expressed by forced conversion. Byzantine rulers imposed four mass conversions on Jews over the course of five centuries. In 418, the whole Jewish community of Minorca was forced to convert by Severs, the Bishop of Majorca. In 582, the Merovingian King Chilperic ordered all Jews in his kingdom to convert to Christianity or be blinded. In 613 in Visigothic Spain, Jews were given a choice of baptism or expulsion. Moreover, the property of a Jew who refused or delayed baptism was to be forfeited to the king, "as the life of said Jew has shown him to be obstinate and incorrigible."18 In 1492, between 40,000 and 100,000 Jews were forced by the Spanish government to convert or suffer expulsion.19 European Jews over the course of centuries before the Enlightenment were required to attend conversion sermons, often on Saturdays, the Jewish Sabbath. The practice emerged in the Middle Ages of abducting Jewish children and relocating them to Christian homes or monasteries so that they could receive Christian training.

In Russia, there were many instances of coercion to convert the Jews. In 1827, Tsar Nicholas I sought to sever Jewish boys from their religious and cultural roots by impressing them into 25 years of military service, a more onerous term than Christian males endured. The Tsar hoped to make the young Jewish soldiers both Russian and Christian.20

Another tenacious manifestation of religious antisemitism has been the "blood libel," the allegation that Jews engage in ritual murders of non-Jews to use their blood for the baking of matzah, the unleavened bread eaten during the week of the Jewish holiday of Passover. This centuries-old story about Jewish religious practice appeared again and again in Europe and occasionally in the Muslim world between the twelfth and early twentieth centuries, and was used by demagogues to stir up credulous populations to horrific frenzies of violence against Jews. The utter falsity of the charge --not only the complete lack of evidence to support it, but the fact that Jewish dietary laws strictly forbid the consumption of any blood whatever--in no way diminished the power of the charge.

Anti-Judaism is also found in the Muslim world and in some Muslim religious sources, although not to the degree it existed in Christian Europe. Jews in Muslim texts are at times described as a people who rejected religious truth and persecuted Muhammad. According to one Muslim scholar, "Muslim prejudice toward Jews stemmed from the historical enmity of the Jews in Medina toward the Prophet."21 This prejudice, he writes, led to statements such as, "Thou wilt find the most vehement of mankind in hostility to those who believe (to be) the Jews and the idolators."22 There were also occasional instances of religious coercion in the Muslim world. In seventeenth century Yemen, for example, it was reported that Jewish elders were forced to the village square to listen to exhortations to convert. In addition, under Caliph Al-Hakim in the eleventh century, synagogues were burned, due to an oral Islamic tradition that all Jews must be converted within 500 years of Muhammad's death.23 In the sixteenth century, Shah Abbas I, toward the end of what had been a tolerant reign, expelled Jews from his capital, Isfahan, and then compelled them to convert to Islam.24 Yet, historically, religious antisemitism has not been as prominent in the Muslim world as it was in Christian Europe. As historian Bernard Lewis has written, "In Islamic society hostility to the Jew is non-theological. It is not related to any specific Islamic doctrine, nor to any specific circumstance in Islamic sacred history."25 Moreover, the Koran at times promotes a liberal attitude toward Jews and others: "And I shall not worship that which ye worship/Nor will you worship that which I worship/Unto you your religion, and unto me mine."26

2. Political Antisemitism

Religious antisemitism found expression in political action against Jews ranging from civil disabilities and disqualification, special taxes and ghettoization to deportation and extermination. It is important to note, however, that antisemitism survived the decline of religious fervor. The anticlerical leaders of the so-called Enlightenment in France, for example, had little tolerance for Jews.27 No less a figure than Voltaire denounced the Jews as "ignorant," "barbarous," and "sordid" practitioners of "detestable superstition," and could say nothing more generous than, "Still, we ought not to burn them."28

Likewise, the Soviet Union under Stalin was not only bitterly hostile to religion per se but persecuted Jews --even the most secular Jews -- with zeal.29 Further, in the modern, post-Emancipation era, when many legal restrictions were lifted, political antisemitism took on new forms as populist candidates used antisemitism to generate political gains.

Political discrimination against the Jew has commonly been predicated on the notion of the Jew as a "wandering" community, a people without a land or nation. But this perception was a reflection of the fact that Jews were seldom allowed to feel at home even in countries in which they had lived for many centuries.

Political and civil restrictions also took the form of laws that forbade Jews from holding public office. For instance, the Law of Theodosius II, part of the monumental code of the fifth century, decreed that no Jew "shall obtain offices and dignities; to none shall the administration of the city service be permitted. Indeed, we believe it sinful that the enemies of the heavenly majesty and of the Roman laws should become the executors of our laws."30

Jews were typically forced to wear special badges as well. In 1217, King Henry III of England issued an order that "all Jews wear upon the fore part of their upper garment...two white labels made of white linen...so that, by a sign of this kind, Jews can be patently distinguished from Christians."31 In the latter part of the thirteenth century Jews in various German regions were required to wear special hats.32 In 1551, Emperor Ferdinand I of Austria decreed that Jews in his empire wear on their coats a "yellow ring" of prescribed dimensions.33 So-called "yellow badge" laws were abolished in the late eighteenth century, but returned with the Nazis 150 years later.

Jews were also subject to geographical limitations and to many forms of segregation. The unhealthy and socially isolating ghetto was a constant for the Jew in Christian Europe for hundreds of years.34 Likewise in Muslim countries, Jews were relegated to special Jewish quarters called mellahs. In the late eighteenth century, Jews under Russia's rule were relegated to a swath of land called the Pale of Settlement.35 Moreover, the threat and reality of expulsion have been ever-present through the centuries.

Expulsion constituted a still more serious form of marginalization. The practice of expulsion began in earnest in Europe at the end of the thirteenth century when, in 1290, Jews were expelled from England and, in 1306, from France. In 1492, Ferdinand and Isabella expelled Jews from Spain. In 1593 the Jews of Berlin and the province of Brandenburg were given the choice of baptism or expulsion, and the Jews of the Duchy of Brunswick and the Archduchy of Austria were expelled. There were many other expulsions of Jews over the last two millennia. Orders of expulsion were entered in Carthage in 250; Alexandria in 415; the diocese of Clement, France in 554; the diocese of Uzzes, France in 561; Visigoth Spain in 612 and the Visigoth Empire in 642; from Italy in 855; Sens in 876; Mayence in 1012; from France in 1306; Switzerland in 1348; Hielbronn in 1349; Strasbourg in 1388; France in 1394; Austria in 1422; Fribourg and Zurich in 1424; Cologne in 1426; Savory in 1432; Mainz in 1438; Augsburg in 1439; Franconia in 1453; Breslau in 1453; Wurzberg in 1454; Bavaria in 1456; Vincenza in

1485; Lithuania in 1495; Portugal in 1497; Germany in 1499; Naples in 1510; Strasbourg in 1514; Regensburg in 1519; Naples in 1540; Bohemia in 1542; Genoa in 1550; Bavaria in 1551; Pesaro in 1555; Austria in 1559; Prague in 1561; Papal States in 1569; Brandenburg in 1571; Netherlands in 1582; Cermona, Pavia, and Lodi in 1597; Frankfort in 1614; Worms in 1615; Kiev in 1619 and Ukraine in 1649; Lithuania in 1656; Oran in North Africa in 1659; Vienna in 1670; Sandomir in 1712; Russia in 1727; Wuremburg in 1738; Bohemia in 1744; Moravia in 1745; Kovad, Lithuania, in 1753; Bordeaux in 1761; Russia in 1772; Warsaw in 1775; Alsace in 1789; various villages in Russia in 1804 and 1808; Lubeck and Brennen in 1815; cities in Franconia, Swabia, and Bavaria in 1815; Bremes in 1820; Galatz, Romania, in 1866; Bavaria (only foreign-born Jews) in 1919; Nazi-controlled areas in 1938-1945. Moreover, after the State of Israel declared independence in 1948, close to 570,000 Jews fled in the wake of violent persecutions in several countries: Algeria, Egypt, Iraq, Lebanon, Libya, Morocco, Syria, Tunisia, and Yemen.36

With emancipation in the mid-nineteenth century, the ghetto walls came down and many legal impediments were lifted, allowing individual Jews to participate more fully in civil society. Millions of Jews enjoyed these new freedoms, but still retained their individual identification as Jews. Antisemites, both in Europe and in the United States, perceived these communities as incapable of being assimilated, alien, and a threat to the majority culture. The infamous trial of Captain Alfred Dreyfus reflected this new antisemitism. It was a defining event in the course of modern antisemitism. Captain Dreyfus, a Jewish military officer in France, was convicted of espionage. The anti-Jewish violence and boycotts that accompanied the case demonstrated that, even after emancipation, popular antisemitism persisted and tainted the political system of a modern, democratic society that prided itself on its commitments to reason and human rights. The Dreyfus Affair was particularly telling, as it occurred in France, the home of liberty, equality, and fraternity and the embodiment of European emancipation. As one historian put it, "The bargain of emancipation had failed, and the Jews continued to remain a nation set apart."37 Moreover, the case demonstrated the delusional nature of antisemitism. Even in the face of overwhelming evidence that Dreyfus was innocent, French society continued to harbor illusions of the Jewish officer's guilt, while Major Ferdinand Esterhazy, who actually had sold state military secrets to Germany, remained free. The antisemitic fixation of the French harmed France.

Political antisemitism has existed in the Muslim world as well. For centuries Jews were discriminated against, though often only as part of a larger non-Muslim minority, known as dhimmi. The term dhimmi denoted a protected, second-class citizen status for Jews and Christians. The rise of Muslim power at first brought relief to Jews and other oppressed minorities. While hostility and occasionally violence toward Jews certainly flared up in Muslim history, persecution was rarely a permanent state of existence, according to most historians. According to historian Steven Bayme, "On a day-to-day basis, Jews living under Islam reasonably could expect protection of their personal lives and property."38 Common political disabilities against dhimmis included special taxes, restrictions on religious practice, and the inability to provide testimony against Muslims. Dhimmis were forced to wear distinctive garb as well. External pressure mitigated

discriminatory treatment by Muslims of Christians. Jews, by contrast, were regarded as a nation without a country and thus were without consular representation. For example, in the reign of Shah Abbas II (1642-1666) in Persia, the law that gave converts to Islam exclusive rights of family inheritance was mitigated for Christians as a concession to Pope Alexander VII, but remained in force for Jews until the end of the nineteenth century.

3. Economic Antisemitism

A distinctive but common form of political antisemitism was the economic exploitation of the Jews. As one writer has stated, many countries have used "economic strangulation as a weapon of antisemitism."39 Jews have suffered state expropriation, by fine or arbitrary levy, and unlawful but unpunished theft by rioting crowds. In the first century the Roman Emperor Vespasian exploited Jews as a special source of revenue. The "Fiscus Judaicus," originally a tax for the upkeep of the Temple, continued after the Temple's destruction. It essentially became a fee for the license to practice Judaism. In 193 CE, when the prefect of Syria Pescennius Niger (and future Roman Emperor) was asked to lighten the tax burden, he is said to have replied: "Would that I were able to tax the very air that you breathe."40

Special taxes on Jews were imposed by other sovereigns since Roman times. Jews have faced economic discrimination in the form of professional restrictions as well. In 814, Charlemagne's "Capitulary for the Jews" forbade Jews from selling wine, grain, "or other commodities," and from having "a money-changer's table" in his house.41 In 1412, King John I of Spain forbade Jews from being "spice dealers, apothecaries, surgeons, or physicians, or sell bread, wine, flour, oil, butter, or the eatables [sic] to Jews or Christians..."42 In the Austria-Hungarian Empire, there were several restrictions on owning and renting property. For instance, the Austrian Rothschild, though a baron, was forced to live in a hotel. Also, an 1803 law in Romania forbade Jews from renting farms and an 1817 Romanian law forbade Jews from acquiring real estate.43 Many similar laws existed throughout Russia, including one law, which stated that "all contracts for the mortgaging or renting of real estate situation outside of cities and towns to a Jew, shall be of no effect.44 Other Russian laws of the nineteenth century limited or forbade Jewish professionals (e.g., lawyers, doctors, veterinarians) from practicing their professions,45 usually in order to remove competition from non-Jews.46

State expropriation of Jewish property was a common feature of economic antisemitism. King Philip IV of France in 1306 commanded that "all land, houses, vineyards and other possessions" owned by "arrested" Jews in Orleans be sold "for a just price on our behalf."47 Sometimes government theft of Jewish property was intended to inhibit Jewish activity. Converts to Judaism under Roman Emperor Domitian (81-96 CE) were punished by property confiscation (among other sanctions). In addition, "The Seven Part Code" from thirteenth century Castile stated that "a Christian [who] is so unfortunate as to become a Jew" would be executed and his property would be "disposed of."48 In other cases, theft of Jewish property was unrelated to any motive other than cupidity. In 897, Charles the Simple gave to the Church all lands and vineyards owned by Jews in the Duchy of Narbonne. Sometimes it was both. Alfonso X the Wise, king of Castile, under

pressure from the Church, arrested Jews on a Sabbath in January 1281 and only released them against the promise to pay a ransom of 4.3 million gold maravedis.49 At times property expropriation was linked with expulsions. When Ferdinand and Isabella expelled the Jews from Spain in 1492, they forbade them from taking much of their property with them.50

In modern times, European nations profited from stolen property of Jews persecuted during the Holocaust. Laws enacted in Nazi Germany in 1935 and in subsequent years recapitulated the whole litany of prohibitions forbidding Jews from engaging in any number of professional activities, businesses, civil service, and the army. One 1938 law stated, "The profession of lawyer is closed to Jews. In so far as Jews are still lawyers they are eliminated from the Corps of Lawyers."51 Another law stated, "The owner of a Jewish business enterprise... can be ordered to sell or dispose of his business within a fixed period of time."52 Many other laws forced Jews to forfeit or sell at reduced costs farmlands.

4. Racial Discrimination Against Jews

The hostility of religious antisemitism can, at least in principle, be averted by the religious conversion of the Jew. The hostility of antisemitism based on race theory, though, is implacable. No matter what the Jew believes or does, he and his descendants are deemed tainted. The pursuit of purity of "blood" (i.e., race), as well as soil, was often a motivating factor to extreme forms of antisemitic persecution both in medieval Spain and Nazi Germany.53

Racial antisemitism, in extreme forms, views the Jew as "a breed apart" and in some cases, not human at all. The ultimate goal is to exclude the Jew not merely from the community, but from normal human civilization. A popular motif associating the Jew with pigs in Christian Europe exemplifies this racist notion. In antisemitic art, Jews were depicted riding on and sometimes consorting with pigs. Nazi propaganda depicted Jews as vermin and rodents.

Racial antisemitism has been utilized to justify the withdrawing of the basic human rights of Jews. Germany's Nuremburg Laws, for example, proclaim that the Jew was not "fit to serve faithfully the German people" before stripping the Jew of a multitude of rights.54

B. Persistence of Antisemitism

Antisemitism has maintained vitality over time, repeatedly reappearing in one form or another. While official antisemitism enshrined in law is rare today, unofficial, de facto antisemitism has survived. In some societies and moments of history, antisemitism has been conspicuous, characterized by exploitation, brutality, and murder. At other times, it seems to subside. But it has resurfaced again and again.

Antisemitism's contemporary existence was affirmed in the General Conclusions of the European Conference Against Racism in October 2000. Those conclusions recognize the "persistence" of several problems, including "violent acts against members of Jewish communities and dissemination of antisemitic material."55 This conclusion was also

reached by the United Nations Special Rapporteur on Contemporary Forms of Racism and Racial Discrimination, Maurice Glele-Ahanhanzo of Benin. In his 2001 report to the Commission on Human Rights, Glele-Ahanhanzo noted that the state of the Israeli-Arab conflict in the Middle East in late 2000 and 2001 "unleashed a series of attacks and antisemitic acts throughout the world, especially in Europe."56 The Special Rapporteur's report also quotes from the Declaration of Concern and Intent that emerged from the Council of Europe's "Consultation on Antisemitism in Europe Today," held in March 2000, prior to the outbreak of the second Intifada in Israel later that year:

Noting with distress that Jews still suffer from prejudices and are victims of a deeply rooted antisemitism in most Council of Europe member and other States; Distressed by the recent desecration of many Jewish cemeteries, synagogues, and Jewish communal buildings and other property in several Council of Europe member and other States; Condemning the continuance of threats against the Jewish population and institutions in several Council of Europe members and other States; Gravely alarmed by the development throughout Europe of extremist groups and the dangerous indifference of the majority towards these developments; Deeply troubled by the electoral success of far right parties and, in some cases, their presence and participation in coalition governments; Noting with concern the resurgence of antisemitic feelings in countries where a debate on overlooked Holocaust assets is taking place; Deeply alarmed by the continued activities of Holocaust denial and Holocaust relativism...57

The persistence of antisemitism was also acknowledged in the declaration that emerged from the Santiago Regional Conference on the Americas in preparation for the Durban World Conference Against Racism, which refers to the "increase in antisemitism and hostile acts against Jews . . . as well as the emergence of radical and violent movements based on racism and discriminatory ideas concerning the Jewish community."58 As these documents acknowledge, antisemitic episodes continue to plague many societies. There are many examples over the last decade.

In 1994, a bomb attack against the AMIA building, the Argentine Jewish community's central body, killed 85 people. A previous terrorist attack in 1992 killed 29 at the Israeli embassy in Buenos Aires. Investigations into the bombing of the AMIA building have revealed likely complicity and involvement of local police officers. Among the arrested was the head of the provincial police force's grand auto theft division and a close adviser to the provincial police chief. Buenos Aires police also have been accused of Jewish cemetery desecration and an attempted bombing.59 Conclusions of the UN's Committee on the Elimination of Racial Discrimination in 1997 urged Argentina "to take all measures within its power to expedite the ongoing proceedings in connection with the 1992 and 1994 antisemitic attacks."60 The trial of the police officers is scheduled to begin in September 2001. Jewish institutions, cemeteries and homes are attacked with alarming frequency in Argentina. A recent report shows nearly 20 physical attacks against Jewish institutions in 1998 alone, in addition to scores of incidents involving antisemitic verbal harassment, threatening letters, leafleting and demonstrations, workplace discrimination, etc.61

Attacks against Jewish institutions are one of the most common forms of contemporary antisemitism. Some of these attacks are vandalism against Jewish property, while others are deadly, like the bombing of the Goldenberg Kosher Restaurant in Paris in 1982. Sometimes, these targets are lucky to have survived, like the children attacked at a Jewish daycare center in Los Angeles in 1999.

On July 27, 1997, Belarussian official state television rebroadcast a documentary that included a seventeenth century "blood libel" story. The airing of the film coincided with the celebration of the saint's day of the Belarussian Orthodox Church, to which the majority of the population belongs.62 In addition, the Orthodox Church published an article in 1992 that advised readers to beware of the "cruel cults, where human sacrifices are being practiced," and identified the Orthodox Jewish sect, Hasidism, as one such "cult."63

In April 1997 the Slovak Ministry of Education distributed to teachers 90,000 copies of The History of Slovakia and Slovaks, which alleges that Jews did not suffer during the Holocaust and which glorifies Slovakia's wartime fascist government. The book also claims that Jews were well-treated in the concentration camps, that they fared better than the average Slovak during the war, and that the decision to deport whole families to concentration camps was a humanitarian one.64

The Council of Europe's "Consultation on Antisemitism in Europe Today" in March 2000 expressed "concern [over] the resurgence of antisemitic feelings in countries where a debate on looted Holocaust assets is taking place."65 This issue has also led to attacks on Jewish property in Europe, a trend also noted by the participants of the Council of Europe consultation. In Switzerland, for example, the claims for restitution pursued against the Swiss banks has prompted political antisemitism by rightist members of the Swiss parliament, as well as a rise in popular antisemitism. Switzerland's Eidgenossische Kommission Gegen Rassismus (EKR, Federal Commission Against Racism) in Antisemitism in Switzerland, reported an increase in antisemitic letters to Swiss newspapers and Jewish organizations.66 Moreover, opinion polls indicate an increase in negative attitudes toward Jews.

Contemporary Egyptian press borrows the racial imagery of the Nazis. A cartoon in the opposition weekly Al-Arabi in October 2000 depicts an Israeli soldier as a pig battling with stone-throwing Palestinians. Ironically, the soldier's legs form a swastika.67 Other cartoons in Egyptian papers portray Israelis as Nazis, as having fangs, and in other derogatory ways. One columnist for the Egyptian government-sponsored daily Al-Akhbar, wrote in April 2000: "Thanks to Hitler, of blessed memory, who on behalf of the Palestinians, revenged in advance, against the most vile criminals on the face of the earth. Although we do have a complaint against him [Hitler] for his revenge on them was not enough."68 In 1995, the government-sponsored daily Al-Ahram, published "Snake Pits," an article alleging that Jews were "monkeys and jungle agents."69

In Western Europe today, political antisemitism often takes the form of the incendiary platforms of certain political groupings and the rhetoric of their spokespersons. These

parties - usually rightwing nationalists - have had some electoral success. Some examples are the Freedom Party in Austria, the Front National in France, and the Vlaams Blok in Belgium. In Eastern Europe, antisemitism has been exploited by the political left and right in response to the political and economic convulsions of the last decade. This antisemitism is unpredictable and often violent in language. On occasion, it finds expression at the highest levels of government and in legislatures.

Verbal attacks cannot be dismissed as inconsequential. Verbal violence commonly precedes outbreaks of physical violence. In the classic study, The Nature of Prejudice, Harvard University psychologist Gordon Allport found that "intense verbal hostility" preceded every episode of physical violence against blacks in America. Similarly, he pointed out that 70 years of antisemitic speech laid the grounds for the Nuremberg racial laws of the Nazi regime in Germany.70

Antisemitic verbal attacks are common on the nationalist Russian political scene as well. Following his November 2000 election, the new governor of Kursk announced that his victory marked the triumph of ethnic Russians over Jews, and demonstrated that Russia was beginning to liberate itself from the "filth that has piled up over the last ten years." He added that President Vladimir Putin (who did not criticize or disassociate himself from the governor's remarks) was his ally in his crusade against "the world Jewish conspiracy."71 In spring 2001 gubernatorial elections in Tula, Russia, antisemitic rhetoric figured prominently, with the incumbent accusing the challenger of "sucking up to the Jews, Kazakha and Kalmyks," of being secretly Jewish, and being a member of a Satanic cult.72 Vladimir Zhirinovsky's perversely named Liberal Democratic Party, which advanced antisemitism on its far-right platform, won nearly 25 percent of the vote in a December 1993 election and became for a time the largest faction in the Duma, the lower house of the Russian parliament.

The political movement Russian National Unity (RNU) borrows rhetoric and ritual from the Nazi party of 60 years ago and fuses Christian and nationalist antisemitism. A RNU official publication has asserted: "Anyone who realizes the danger to the existence of Russia's people and purity of the Russian Orthodox Church and is not fighting against Judaism or Freemasonry can't even be called a Christian. He is not even a pagan. He is a slave of Satan, and not a worker for Jesus Christ.'"73 While it has come under some attack for its activities by Russian courts and politicians, RNU has made inroads into the political mainstream. In July 2000, for instance, one RNU leader was appointed to a panel that advises the Saratov regional parliament.74 There has also been a proliferation of antisemitic graffiti in the Krasnodar region of Russia, according to an article in the March 27, 2001 issue of the newspaper Kubanskie Novosti, the official newspaper of the Krasnodar regional administration.75

The Middle East conflict spawns outbursts of antisemitic verbal abuse in the Muslim world as well. In October 2000, a member of the Palestinian Authority's Fatwa Council targeted Jews in general in a lengthy diatribe. The address, broadcast on the official Palestinian Authority television station, included the statements: "None of the Jews refrain from committing any possible evil.... They are all liars." The speaker also

exhorted his listeners: "Have no mercy on the Jews, no matter where they are in any country.... Wherever you meet them, kill them. Wherever you are, kill those Jews."76

Some current manifestations of antisemitism in the Muslim world derive from the West. The so-called "blood libel" story about Jews using non-Jewish blood for ritual purposes, which first surfaced in Europe in the twelfth century, receives considerable attention in the Muslim world. The government-supported Egyptian newspaper Al Ahram published a lengthy article in October 2000 entitled, "A Jewish Matzah Made from Arab Blood."77 In 1984, Syria's defense minister, Mustafa Tlass, published a book The Matzah of Zion, devoted to blood libel. In the 1991 session of the Commission on Human Rights, the Syrian representative repeated this ancient allegation by referring to the book. Western antisemitic texts, including Mein Kampf and The Protocols of the Elders of Zion, are available in Iran.78 (The Protocols of the Elders of Zion was written by a Russian priest in the early twentieth century. It is written from the point of view of an alleged Jewish "cabal" intent on world domination. Although it was long ago determined to be a forgery, The Protocols has resurfaced time and again in the United States, the Middle East, Asia, and elsewhere.)

In America, Louis Farrakhan, head of the Nation of Islam, regularly has spread antisemitic slurs, often dehumanizing, or diabolizing, Jews. In his 1996 Savior's Day speech, he addressed Jews: "Allah will punish you. You are wicked deceivers of the American people. You have sucked their blood, you are not real Jews ... you are the synagogue of Satan, and you have wrapped your tentacles around the U.S. government, and you are deceiving and sending this nation to hell."79

There were continuing and even increasing numbers of antisemitic acts over the last year. Among the antisemitic acts committed worldwide in 2000 have been antisemitic-motivated murder in Pittsburgh; a near fatal antisemitic stabbing in London; synagogue fire bombings in New York, California, France, Holland, Russia and elsewhere; a bomb attack on a crowd of Jewish immigrants in Germany; and a multitude of swastika daubings and verbal attacks. In addition, there were many antisemitic-tinged political rallies in 2000 in Europe, Russia, the United States, and the Middle East.

In the United Kingdom in 2000, there were 270 reported antisemitic incidents, a 14 percent rise over 1999.80 In Germany in 2000, there was a spike in "right-wing extremist, xenophobic and antisemitic crimes," despite actions undertaken to prevent such crimes, according to the Concluding Observations adopted by the Committee on the Elimination of Racial Discrimination in March 2001.81 German Interior Minister Otto Schily has stated that "right-wing extremism, antisemitism and anti-foreigner sentiment have become a serious problem in Germany."82 The continuation of violent antisemitic incidents was demonstrated by statistics released to the Bundestag by the German federal government.83 For the first nine months of 2000, there were 707 antisemitic acts registered. The total for the entire previous year was 817.84 In the United States, antisemitic acts against individuals and institutions numbered 1,606, a four percent rise over 1999.85

One ongoing manifestation of political antisemitism has emerged within the context of the United Nations itself. In 1991, the General Assembly revoked Resolution 3379, the so-called "Zionism is racism" resolution.86 Zionism is the national self-determination movement of the Jewish people. It is the only form of national self-determination to have been denounced by resolution of the United Nations, which has honored the aspirations of scores of other peoples. Further, the discredited resolution equating Zionism with racism in effect declared the vast majority of Jews throughout the world to be engaged in racism, which is itself a racist allegation. Finally, until its revocation, Resolution 3379 demeaned and discredited the battle against real racism. UN Secretary-General Kofi Annan, reminding his listeners of the need to "denounce antisemitism in all of its manifestations," reflected on the discriminatory impact of this resolution: "This brings me to the lamentable resolution adopted by the General Assembly in 1975, equating Zionism with racism and racial discrimination. That was, perhaps, the low-point in our relations; its negative resonance even today is difficult to overestimate. Fortunately, the General Assembly rescinded the resolution."87

Resolution 3379 vilified Zionism, a movement that responded to the endemic antisemitism throughout the modern world and sought to preserve the remnant of the Jewish people, six million of whom were destroyed in the Holocaust. The resolution did not simply oppose the policies of the State of Israel. It challenged the legitimacy of the State of Israel. In doing so, the resolution challenged the very existence of a Jewish people and its inherent right to exercise political self-determination. The United States's UN ambassador at the time, Daniel Patrick Moynihan, explained the irony of equating the State of Israel with racism. "There is little trace either in Jewish doctrine or in Zionism of the idea that Jews are a race . . . One cannot choose the race to which one belongs. But in both the Jewish and the Zionist conceptions, any person of any racial stock can be or become a Jew by converting to the Jewish religion. Conversely, as the Israeli courts have said, any person born of a Jewish mother who converts to another religion is no longer a Jew. If one can join or resign from the Chosen People, it is scarcely a racially determined category."88

Anti-Zionism became a euphemism, a disguise for antisemitism. This was recognized by some of the world's leading human rights advocates. Dr. Martin Luther King, Jr., the famed American civil rights leader and Nobel laureate, recognizing the right to self-determination, cautioned a friend who would parse the meanings of antisemitism and anti-Zionism:

You declare...that you do not hate the Jews, you are merely anti-Zionist. And I say, let the truth ring forth from the high mountain tops, let it echo through the valleys of God's green earth: When people criticize Zionism, they mean Jews-this is God's own truth. Antisemitism, the hatred of the Jewish people, has been and remains a blot on the soul of mankind. ...Anti-Zionist is inherently antisemitic, and ever will be so ...Zionism is nothing less than the dream and ideal of the Jewish people returning to live on their own land....And what is anti-Zionist? It is the denial to the Jewish people of a fundamental right that we justly claim for the people of Africa and freely accord all other nations of

the Globe. It is discrimination against the Jews, my friend, because they are Jews. In short, it is antisemitism.89
From Moscow, Soviet dissident leader Andrei Sakharov remarked, upon learning of the "Zionism is Racism" resolution, "It can only contribute to antisemitic tendencies in many countries by giving them the appearance of international legality."90 Commenting on anti-Zionism at the UN, Cardinal Terence Cooke of New York remarked, "We must reject antisemitism just as much when clothed with seeming legality at the United Nations as when crudely exhibited on a neighborhood street corner."91

In 1991, United States President George Bush commented on Resolution 3379: "The so-called 'Zionism is racism' resolution mocks . . . the principles upon which the United Nations was founded. And I call now for its repeal. Zionism is not a policy; it is the idea that led to the creation of a home for the Jewish people, to the State of Israel. And to equate Zionism with the intolerable sin of racism is to twist history and forget the terrible plight of Jews in World War II and, indeed, throughout history. To equate Zionism with racism is to reject Israel itself, a member of good standing of the United Nations."92

Despite the repeal of Resolution 3379 in 1991, the "Zionism equals racism" resolution continues to be invoked. In 2001, at a UN-sponsored conference of non-governmental organizations (NGOs) in Amman, Jordan, participants invoked this resolution as proof of the discriminatory treatment of the Palestinian diaspora.93

C. The Constants
Common threads can be found throughout the varieties of antisemitism. First, antisemitism entails exclusion, a progressive expulsion of the Jew from the community, the city, the state and the world. Second, the antisemite is delusional; antisemitism reflects more on the antisemite than on the Jew.

1. Exclusionary Antisemitism
The exclusionary nature of antisemitism derives from the perception that the Jew stands outside the nation, and represents an alternative nation or an anti-national, internationalist collective. This idea thrived in the early twentieth century when Jews were said to be internationalist, and thus to stand against the interests of national communities. Because there are distinct Jewish communities in many countries, antisemites alleged that: 1) Jewish communities conspire to advance their collective interests to the detriment of their "host" countries and 2) the dominant forms taken by this conspiracy in the nineteenth and twentieth centuries are international finance and communism. In making such claims, antisemites sought to push out the Jew altogether.

The discriminatory laws of antisemitic regimes throughout history demonstrate this desire. These laws range in intensity. Some seek to separate the Jew by marking him with "yellow badges," excluding him from the practice of certain professions, and relegating him to walled ghettoes. Others seek to exclude the Jew by blotting him out of existence. This is demonstrated by forcible conversions, expulsions, and genocide. The exclusionary nature of antisemitism has been demonstrated in social milieus as well. Until recently, social clubs, professional bodies, and trade associations94 in the United States restricted

Jewish membership. American universities also implemented quotas restricting the numbers of Jewish students they would admit.

2. Delusional Antisemitism

The delusional nature of antisemitism suggests that it is not only the Jew who suffers from antisemitism. The antisemites themselves and the society in which antisemitism is tolerated suffer as well. Individual antisemites suffer from the irrational inconsistencies of their own antisemitic beliefs. Societies suffer from the irrational avoidance of real problems, which leads to counterproductive scapegoating of Jews.

The common antisemitic perceptions of Jews are paradoxical. The Jew is considered both capitalist banker and Bolshevik. The Jew is clannish yet seeks to insinuate himself into gentile culture. The Jew possesses disproportionate power yet is impotent and effete. The greatest paradox of the Jewish power myth is revealed by the murders of six million Jews by Germany during World War II. This point was made in the American Jewish Committee's 1960 publication, As the UN Probes Prejudice:

As history has indicated time and again, antisemitism is utilized as a means of channeling public resentment away from an oppressive political regime. The pretext may be that Jews are radicals, hostile to the social order. After a revolution the new government may claim that Jews are reactionaries. Thus, the alleged grounds of antisemitism are often contradictory and irrational.95

Thus, the Jew that the antisemite perceives is of his own invention. It is a projection of his own fears. It is a delusion.

Such antisemitic fantasy even persists in the absence of Jews. For example, an antisemitic tradition flourished in England for centuries following the expulsion in 1290. A study of this period has appropriately be called "antisemitism without Jews." Popular antisemitism has in recent years persisted in Japan, Poland and elsewhere despite the paucity of Jews in those places. Similarly, the prime minister of Malaysia has made antisemitic comments part of his political rhetoric for almost thirty years, despite the almost complete absence of Jews in his country.96

The more worrisome antisemitic delusion is that suffered by whole societies. Scapegoating does not solve a society's problems. The history of antisemitism provides examples. Allegations that Jews poisoned wells, causing the Black Plague, did not help determine the cause of, nor cure people, of the disease. Accusations that Jews murdered Christian children to use their blood for ritual purposes did not help find actual murderers. A French military court's conviction of career military officer Captain Alfred Dreyfus for espionage did not secure France's security, while the guilty party remained at large. The Soviet Union's denial of basic freedoms for Jews led to international opprobrium and ultimately a mass emigration of talented Soviet Jews. German's blaming of its economic woes on the Jews after World War I led not to 1,000 years of prosperity, but to disaster.

The antisemitic delusion creates still other problems for societies that tolerate it. The General Conclusions of the October 2000 European Conference, "All Different, All Equal: From Principle to Practice," acknowledge an important truth - that antisemitism, left unchecked, is interrelated with and often leads to other forms of racism, xenophobia, and related intolerance. The conclusions state:

The European Conference, convinced that combating antisemitism is integral and intrinsic to opposing all forms of racism, stresses the necessity of effective measures to address the issue of antisemitism in Europe today in order to counter all manifestations of this phenomenon.97

Other sources echo this historical dynamic. The Organization for Security and Cooperation in Europe, in its declaration adopted at a summit in Lisbon in 1992, pointed out that antisemitism and aggressive nationalism "continue to endanger stability in OSCE" and committed itself to addressing the problem of antisemitism.98

In the history of the Western World, antisemitism has been continuously available to states, political movements, non-Jewish religious denominations, writers and artists, demagogues and the disaffected. Racists continue to rely upon it, and it is there for anyone who finds the complexity of the world too much to bear. Antisemitism is the great simplifier. At the price of truth, it offers coherence and comfort. As the French antisemitic agitator, Charles Maurras, acknowledged: "Everything seems impossible, or frightfully difficult, without the providential arrival of antisemitism, through which all things fall into place and are simplified."99

Relevant International Instruments and Institutions

Prohibitions against antisemitism merit specific recognition in the declarations that emerge from the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance in Durban, South Africa. The framers of the documents that form the backbone of the United Nations and its quest for international peace and justice recognized that antisemitism is an endemic problem that impacts Jews, the antisemite, and whole societies. Those diplomats created - and continue to create - international instruments and norms that condemn and prohibit antisemitism, among other forms of racism, racial discrimination, xenophobia and related intolerance. These norms are the pillars upon which the World Conference rests.

Unfortunately, although international prohibitions against antisemitism are firmly established, the subject of ill treatment of Jews has rarely been a priority in the human rights programs of the world body. The UN has not accorded antisemitism proper attention. The discussion below identifies relevant international human rights instruments.

A. The United Nations Charter

The United Nations Charter, adopted in 1945, sets forth as one of the purposes of the United Nations the promotion and encouragement of "respect for human rights and fundamental freedoms for all without distinction as to race, sex, language or religion."100

The Charter repeats these prohibitions against discrimination in article 13, which states, "The General Assembly shall initiate studies and make recommendations for the purpose of…assisting in the realization of human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion."101 In Article 55, the Charter, seeking to encourage peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination, avows again to promote fundamental freedoms and respect for human rights for all without distinction as to race, sex, language, or religion.102 This language is reiterated in Article 76(c), concerning the world body's trusteeship system. Thus, the basic legal instrument establishing the United Nations stands firm against all forms of discrimination.

B. The International Bill of Human Rights

The International Bill of Human Rights, composed of the Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights (1966), and the International Covenant on Economic, Social and Cultural Rights (1966), specifies the protections and rights that states must ensure for all of their citizens, including Jews. The involvement of Jewish organizations in promoting the creation of UN instruments that combat all forms of discrimination is well documented. Indeed, Nobel Laureate René Cassin of France, one of the drafters of the Universal Declaration of Human Rights, stated that the inclusion of freedom of religion in that document came about in large measure because of the ideas, talents, and persistence of nongovernmental organizations, particularly religious ones, which included Jews and non-Jews alike.103

1. Universal Declaration of Human Rights

The Universal Declaration of Human Rights of 1948, the cornerstone document of international human rights, proclaims human rights as a common standard of achievement for all peoples and all nations, and that every individual and organ of society shall constantly strive to promote respect for the rights and freedoms set forth in the instrument. After affirming in Article 1 that "all human beings are born free and equal in dignity and rights," the Universal Declaration states in Article 2 that "everyone is entitled to all the rights and freedoms" set forth-and that they apply on a non-discriminatory basis.104 The term "everyone" may not be limited by states or individuals, nor diminished by the "political, jurisdictional, or international status" of one's country or territory. The Universal Declaration thus proclaims that the principle of non-discrimination governs relations between individuals as well as between governments and the governed. It was, in fact, the revelation not merely of unbridled discrimination, but of the way that such persecution led to deliberate mass murder --genocide -- of Jews that in significant part motivated the drafting of the Declaration. The Holocaust itself, ending just one year before the drafting process began, is alluded to in the Declaration's preamble: "Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind…".105

Article 2 of the Universal Declaration sets out the types of discrimination that are specifically prohibited: "Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin."106 UDHR also contains an

equal protection clause in Article 7, which states that all people are entitled - "without any discrimination" - to equal protection before the law.107 Furthermore, in Article 18 the Universal Declaration states, "Everyone has the right to freedom of thought, conscience and religion."108 These references reinforce the world community's commitment to combat all prejudice and intolerance, including intolerance and discrimination based on religious belief, which would include beliefs of the Jewish religion.

Additionally, Article 30 of the UDHR states, "Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein."109 The legislative history of Article 30 indicates that the drafters specifically intended this to prohibit the actions of Nazi and other hate-based groups from engaging in actions aimed at destroying the rights of Jews, blacks, or others. René Cassin, one of the drafters of the Declaration, emphasized this interrelationship: "It was the fundamental aim of Hitlerism to stamp out the Jews, but their destruction was also part of an attack on all that the French revolution stood for: Liberty, Equality, Fraternity and Human Rights. Hitler's racialism was essentially an attempt to destroy the principles of the French Revolution."110

2. International Covenant on Civil and Political Rights

The International Covenant on Civil and Political Rights specifies further measures states must take to ensure rights, including the measures needed to prohibit antisemitism. Article 2 of the Covenant obligates state parties to ensure civil and political rights to all, regardless of "race, colour, sex, language, religion, political or other opinion."111 It requires states to adopt laws to give effect to these rights, to ensure an effective remedy if the rights are abrogated, and for state authorities to enforce these remedies when granted. No one may be denied any of these rights on the basis of discriminatory criteria, such as religion, ethnicity, or race. Equality of all before the law is ensured in Articles 14 and 16.112

Later, the Covenant turns specifically to religion. Article 18, modeled closely on a similar provision in the Universal Declaration, begins: "Everyone shall have the right to freedom of thought, conscience and religion." The Covenant, like the Universal Declaration, affirms both the right to believe and the right to manifest those beliefs in four areas - worship, observance, practice, and teaching - thus ensuring the individual's rights are not limited to inner beliefs, but have external aspects that may be visible within the normal life of the society in which he or she is situated.

The free exercise of religion clause has been broadly construed by the Human Rights Committee, an 18-member body that reviews compliance with the Covenant. The Committee's authoritative General Comment 22, paragraph two, states: "The Committee…views with concern any tendency to discriminate against any religion or belief for any reason, including the fact that they…represent religious minorities."113 (emphases added). Discrimination against the world's Jewish communities, normally small minorities in the countries in which they are present, is thus clearly prohibited by

the Covenant. Likewise, the Human Rights Committee provides a broad understanding of freedom of religious practice in paragraph four of General Comment 22. While it mentions no religion specifically, the Comment points to customs commonly associated with Judaism, such as "dietary regulations, the wearing of distinctive clothing or headcoverings…and the use of a particular language customarily spoken by a group."114 While those religious practices are not exclusive to Judaism, they are well-known and integral aspects of Jewish tradition. Thus, the protection of religious freedom extends to Jews.

Article 26 of the Covenant calls for equal protection before the law and states that the law must prohibit discrimination based on many grounds, including religion and national origin, both of which are aspects of Jewish identity.115 Moreover, in paragraph nine of General Comment 22, the Human Rights Committee emphasizes that any impairment of the rights of a religious minority in a society would violate the guarantee of equal protection inherent in Article 26 of the Covenant.

Article 27 specifically concerns the protection of minorities. It states, "In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language."116 General Comment 23 of the Human Rights Committee, interpreting Article 27, simply states in paragraph 5.l, "The terms used in Article 27 indicate that the persons designed to be protected are those who belong to a group and who share in a common culture, a religion and/or a language."117 The Jewish people possess an identifiable culture, practice a religion, and use a particular language. Moreover, the Jewish people qualify as a minority in any common interpretation of the term: numerical inferiority, nondominant position and a common will to preserve its distinctive characteristics.

In another of its interpretative analyses, General Comment 18, the Human Rights Committee maintains that "the term 'discrimination' as used in the Civil and Political Rights Covenant should be understood to imply any distinction, exclusion, restriction or preference based on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."118 Here, then, the Committee members recognized religious discrimination - one form of antisemitism - as a prohibited aspect of discrimination. They further recognized discrimination on "any ground" as being of concern to the ICCPR. This inclusive understanding of discrimination also brings discrimination against Jews securely within the concerns of the Covenant.

C. Racism Convention

While antisemitism is not specifically mentioned in the International Convention on the Elimination of All Forms of Discrimination (ICERD), records of the debates concerning the convention demonstrate that antisemitism was very much of concern to the drafters and it was intended to come within its purview. During one debate on the subject, the

Soviet representative argued that antisemitism was a "repugnant form of racial discrimination and…a dangerous social and political phenomenon."119

Although ICERD was adopted with no mentions of specific discrimination (except apartheid), language throughout this convention would apply to antisemitism. The definition of 'racial discrimination' itself encompasses antisemitism and discrimination against Jews. In Article 1(1), "racial discrimination" is defined as "any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life."120 Antisemitism would fall under the Convention's own definition of racial discrimination, whether Jews are seen as a 'race' or 'national' or 'ethnic' group. In fact, the treaty's monitoring committee, the Committee on the Elimination of Racial Discrimination (CERD), which reviews state reports on compliance with the treaty, has on numerous occasions examined treatment of Jewish minorities as well as antisemitic laws, statements and actions in many countries.

D. Declarations on Racial Discrimination and Religious Intolerance

The drafting of the twin UN declarations on racial discrimination and religious intolerance began as a response to an outbreak of antisemitic incidents in 1959-60. Those incidents impelled the Sub-Commission on the Prevention of Discrimination and Protection of Minorities and the Commission on Human Rights to condemn antisemitism specifically in a resolution adopted March 16, 1960: "noting with deep concern the manifestations of antisemitism and other forms of racial prejudice and religious intolerance of a similar nature…which might be once again the forerunner of other heinous acts endangering the future…," the resolution "condemns these manifestations as violations of the principles embodied in the Charter of the United Nations and in the Universal Declaration of Human Rights, and in particular as a violation of the human rights of the groups against which they are directed, and as a threat to the human rights and fundamental freedoms of all peoples." (emphasis added)121

Like other global human rights instruments, the Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief, adopted in 1981, contains no specific mention of antisemitism or any other form of intolerance. But the subject was considered during the drafting process. Articles 1 and 6 in the Declaration guarantee the free exercise of religion. Article 2 prohibits discrimination on the basis of religion or belief. Article 3 demands that "discrimination on the grounds of religion or belief constitutes an affront to human dignity and a disavowal of the principles of the Charter of the United Nations, and shall be condemned as a violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights and enunciated in detail in the International Covenants on Human Rights."122 This declaration clearly includes antisemitism as a concern of the UN's major human rights instruments, including the Charter and the Universal Declaration.

E. Regional and Expert Preparatory Meetings

Prohibitions against discrimination against Jews have been recognized by regional and expert preparatory conferences to the Durban World Conference. The European and American regional preparatory conferences to the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance, convened respectively in October and December 2000, acknowledged antisemitism as a matter of concern in their own regions and as an appropriate subject of concern for the World Conference.

The ministers at the European conference, "All Different, All Equal: From Principle to Practice," included several references to antisemitism in both the political declaration and the general conclusions that emerged from the meeting. In the political declaration, Council of Europe member states express alarm at the "continued and violent occurrence of racism, racial discrimination, xenophobia, antisemitism and related intolerance."123 The declaration also proclaims, "The Holocaust must never be forgotten."124

The General Conclusions of the European Conference Against Racism contain independent references to antisemitism. They recognize the persistence of "violent acts against members of the Jewish communities and dissemination of antisemitic material" in the "Context" section of the document.125 In paragraph 22, the document affirms the influence politicians can have in "combating racism, xenophobia, antisemitism and related intolerance."126 Paragraph 28 on religious discrimination and intolerance recognizes the complex identities inherent in religion by noting, "religion…may be related to racial and ethnic origin."127 In the very next paragraph, devoted exclusively to antisemitism, the European Conference notes that "combating antisemitism is integral and intrinsic to opposing all forms of racism" and stresses the necessity of developing "effective measures to address the issue of antisemitism in Europe today."128 In paragraph 43 the European ministers call upon participating states to promote Holocaust remembrance programs.

The Regional Conference of the Americas in preparation for the World Conference also produced a declaration and plan of action with references to antisemitism. Paragraph 46 of the declaration is devoted to antisemitism. In it, the governments of the regional conference

Confirm with deep concern the increase in antisemitism and hostile acts against Jews in some countries in the region and in other parts of the world, as well as the emergence of radical and violent movements based on racism and discriminatory ideas concerning the Jewish community.129

The plan of action for the intergovernmental preparatory meeting for the Americas stresses in paragraph 151 that the Holocaust should be studied.130

Several regional expert meetings have been convened by the United Nations as part of the official preparations for the World Conference. Antisemitism has been addressed in the recommendations of several of these meetings. For example, the Central and East European regional expert meeting, convened July 5-7, 2000, in Warsaw, drew attention to

the need to combat antisemitism by concluding in paragraph 3 of its recommendations that:

The World Conference is encouraged to consider the general policy recommendations adopted by the European Commission against Racism and Intolerance (ECRI) of the Council of Europe, and especially general policy recommendation No. 1 on 'Combating racism, xenophobia, antisemitism and intolerance', which recommends to the Governments of Member States, inter alia, to adopt laws, enforce them and offer judicial remedies, and to adopt policies and take measures in order to strengthen the fight against racism, xenophobia, antisemitism and intolerance.131

In paragraph 46, the regional experts drew attention to the interlocking and multiple aspects of discrimination - racial, religious, and national - when they recommended:

The World Conference should note that racial discrimination in Central and Eastern Europe often affects national minorities. In particular, racial discrimination in the region has taken the form of antisemitism, discrimination against minorities, such as the Roma, and the discrimination against Muslims."132

Earlier in paragraph five, the experts encouraged the World Conference to:

Underline the many-faceted nature of racism and encourage Governments to commission studies on its various facets (anti-Roma, anti-Jewish, anti-Black, anti-Muslim, etc.) and every form of ethnicity-related discrimination and abuse, and to strengthen their capacity to address each particular form with appropriate legal, economic cultural, political, educational and social measures.133

In October 2000, the regional conference of experts for Latin America and the Caribbean, meeting in Santiago, concluded:

The victims of racial discrimination, xenophobia, and intolerance also include mestizos of indigenous or African descent, along with certain minorities such as the Jewish and Roma communities.134

F. Special Rapporteurs

Antisemitism has been a matter of explicit concern to the UN's Special Rapporteur on Contemporary Forms of Racism, Mr. Maurice Glele-Ahahanzo of Benin. In 1994, the Commission on Human Rights, after receiving the Special Rapporteur's first report, specifically adopted language in which it "requests the Special Rapporteur to examine… incidents of contemporary forms of racism, racial discrimination, any form of discrimination against Blacks, Arabs and Muslims, xenophobia, negrophobia, antisemitism, and related intolerance, as well as governmental measures to overcome them, and to report on these matters…"135 In every year since then it has repeated this request - and this formulation of issues of concern - including the language specifically in the definition of the mandate of the Special Rapporteur, and beginning in 1999, in the texts of resolutions at the General Assembly as well.

Over the years, the Special Rapporteur on Racial Discrimination has not only examined specific incidents, in accord with his mandate, but has also made broad recommendations concerning efforts to halt antisemitism. For example, in his 1994 report to the UN General Assembly, he recommended: "With regard to antisemitic propaganda, given the wide circulation of antisemitic publications and the danger they represent, the Special Rapporteur recommends that appropriate legislative and administrative measures should be taken by the States concerned and, where appropriate, at the international level to halt the dissemination of such publications, in particular the Protocols of the Elders of Zion."136 Mr. Glele repeated this recommendation in his 2001 report to the Commission on Human Rights in which he recommended that States set up national human rights institutions "with a particular emphasis on combating racism, racial discrimination, xenophobia and antisemitism." In that same report, the Special Rapporteur noted that a series of "attacks and antisemitic acts throughout the world" were "unleashed" as a result of the recent outbreak of violence in Israel.137

Further, in 1998, in his report to the Commission on Human Rights, discussing racism and the Internet, Special Rapporteur Glele recommended educational measures: "The Special Rapporteur wishes once again…(b) To envisage the possibility of action at the international level by immediately beginning studies, research and consultations on the use of the Internet for purposes of incitement to hatred, racist propaganda and xenophobia, and to draw up a program of human rights education and exchanges over the Internet on experience in the struggle against racism, xenophobia and antisemitism."138

The Special Rapporteur on Religious Intolerance, Abdelfattah Amor of Tunisia, has examined and reported on antisemitic acts. In 2000, he completed a paper for the World Conference Against Racism in which, at the specific request of the Commission on Human Rights, he offered an analysis of the relationship between racial discrimination, as defined in ICERD, and religious intolerance. Amor links complex religious identities to racial discrimination. He writes, "Religion as a public expression of the life of a nation or social group, may be included in [the ICERD's definition of racial discrimination]"139 and states that "religious identity is an integral part of racial identity and vice versa."140 Borrowing language from the title of the World Conference, Amor states, "Discrimination, measures of intolerance, and xenophobic practices cannot be defined or dealt with separately [from religion]…. It is difficult in some instances to dissociate ethnic aspects from religious aspects."141 Amor again links "racial discrimination" to religious intolerance by pointing out that in Article 5 of ICERD, subparagraph (d)(vii), states must prohibit and eliminate racial discrimination and guarantee equality of "freedom of thought, conscience and religion." Notably, the Special Rapporteur on Religious Intolerance cites "Jewish minorities across the world"142 as one example of this complex identity. Thus, the multifaceted discrimination inherent in antisemitism is clearly acknowledged.