

Ambassador Alan Baker

Draft International Convention on the Prevention and Punishment of the Crime of Antisemitism



Jerusalem Center for Foreign Affairs

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Introduction and Initial Action Plan

Tragically, from time immemorial, genocidal antisemitism has emerged as a significant recurring phenomenon in the international arena. It has caused the brutal mass murder of millions of Jews and has generated untold death and suffering through massacres, pogroms, inquisitions, lynching, torture, enslavement, and property confiscation, to mention but a few of the evils of antisemitism.

The most recent, widespread, perfidious, and dangerous demonstration of pure antisemitism occurred on October 7, 2023, with the brutal and reprehensible massacre by the Hamas terror organization of 1,200 Israeli and foreign civilians and the taking of over 200 hostages. This resulted in Israel's armed incursion into the Gaza Strip to eliminate the terror capabilities of Hamas and to return the hostages.

This latest outburst of genocidal antisemitism is accompanied by an extensive, well-financed, and highly organized international campaign of antisemitism, both on North American campuses and on the streets of Washington DC and New York, as well as on the streets of European capital cities.

Genocidal calls for "*from the river to the sea Palestine will be free*," accompanied by massively produced and marketed Palestinian paraphernalia, scarves, flags, and posters, and extensive vandalization of property and occupation of campus areas by demonstrators, are all indicative of the extent to which those financing, organizing, and inciting this wave of antisemitism are prepared to go.

This outbreak of antisemitism encompasses both large groups of incited Muslims and other citizens residing in North America and Europe, as well as regular citizens influenced and incited by an extensive social media campaign. It is partly based on the broad and manipulative publication of clearly biased and unreliable UN and international media reporting reproducing deliberately false, misleading, and malicious Hamas statistics and propaganda.

It is willingly echoed by international media channels reporting and broadcasting graphic pictures and videos on the events in the Gaza Strip and along the Israel-Lebanese border in a slanted and distinctively anti-Israel manner.

Such groups participating in mass demonstrations are more often than not ignorant of the factual or legal situation. But partly out of a false and manipulated sense of social concern for what they see as the Palestinian underdog, together with this massive, well-planned propaganda campaign demonizing Israel and the Jewish People, it has become commonplace and socially accepted.

This new and widespread outbreak of antisemitism throughout Europe and North America is no

longer the covert, under-the-surface, and passive antisemitism that has always existed and that Jewish communities in Western society have experienced since the Second World War. It has now been given a new hallmark of overt legitimacy. It has “come out of the cupboard” and has become a fashionable and accepted phenomenon in Europe and North America.

What, perhaps, is the most severe and worrying aspect of this phenomenon is that it has now become acceptable and even fashionable to express antisemitic sentiments openly and to call for the boycotting and annihilation of the Jews.

* * *

Antisemitism has, over the years, been researched and addressed by various international, regional, and non-governmental organizations. It has also been addressed marginally and in a limited manner in some UN resolutions and declarations. Certain states, in their domestic legislation, have even legislated and criminalized antisemitism.

However, the international community as a whole has never considered criminalizing antisemitism as an international crime in a manner similar to the criminalization of such acts as genocide, racial discrimination, piracy, hostage-taking, crimes against humanity, war crimes, and terror.

With the plethora of material dealing with antisemitism, and in light of the horrific tragedies that it has wrought on humanity for hundreds of years, and in light of the recent re-awakening of antisemitism on a large and dangerous scale, one might have expected that the international community would have made some effort to criminalize antisemitism and declare it to be an international crime – this to ensure that perpetrators, inciters, and all those involved in inciting and advocating it would be dealt with as international criminals, and not enjoy impunity.

This would have been appropriate and propitious in an international community that is increasingly open to extending criminal jurisdiction to counter impunity, including establishing *ad hoc* international criminal tribunals to deal with atrocities committed in various regional conflicts.

Such tribunals, originating in the 1945 International Military Tribunal in Nuremberg to adjudge Nazi war criminals,¹ include the International Criminal Tribunal for former Yugoslavia (ICTY) dealing with war crimes committed in the Balkans in the 1990s,² the International Criminal Tribunal for Rwanda (ICTR)³ to prosecute persons responsible for genocide and other serious violations of international humanitarian law committed in Rwanda and neighboring states in 1994,⁴ the Special Court for Sierra Leone 2002,⁵ the Extraordinary Chambers in the Courts of Cambodia to adjudge Khmer Rouge murderers in 2006.⁶

Finally, in 1998, the International Criminal Court was established to address “the most serious crimes of concern to the international community as a whole.”⁷

Attempts over the years, within the international community, principally at the behest of the Muslim countries, to link antisemitism with Islamophobia and other phenomena in international resolutions and declarations (including the infamous 2001 UN Durban Conference on Racism⁸) are artificial and transparent. Such attempts fail to do justice to a unique, *sui generis* phenomenon

that must be dealt with independently. Islamophobia – the fear of Islam – cannot be equated with the hatred of Jews – antisemitism.

By its very nature, with antisemitism’s long, bitter, never-ending history, and its propensity to constantly re-appear in modern forms and contexts, it cannot and should not be equated with, linked to, or relegated to any listing of forms of racial discrimination and xenophobia or Islamophobia.

It stands alone. It is not a phobia but the basest form of pure hatred.

To this end, and to correct what is a vast, long-standing international injustice, the following document is intended to universally criminalize antisemitism within the world community in the form of an “International Convention on the Prevention and Punishment of the Crime of Antisemitism.”

This draft has been devised following the accepted format of UN international conventions criminalizing such phenomena as genocide, racial discrimination, terror, hostage-taking, and other most serious international crimes.

This draft Convention comprises the following elements:

- A detailed series of preambular paragraphs documenting the history of antisemitism and references thereto in international instruments, statements by national leaders and senior international figures, and resolutions by relevant bodies.
- A new and all-embracing definition of the crime of antisemitism and its component elements, based upon the various definitions that have been adopted over the past years by various groups and institutions, including the European Monitoring Center on Racism and Xenophobia (EUMC – FRA), the OSCE 2004 Berlin Declaration, the U.S. State Department 2005 Report on Global Antisemitism, the 2016 IHRA working definition of antisemitism and the Coordination Forum for Countering Antisemitism (CFCA) in its 2014 report.
- The basic premise of this draft Convention is that any rhetorical and physical manifestation of antisemitism that involves, results in, or is intended to result in violence should be criminalized internationally.
- An obligation by states to criminalize antisemitism in their own domestic law and to prosecute perpetrators or to extradite them.
- A commitment to cooperate and exchange information on perpetrators and actions taken.
- A commitment to institute appropriate national educational programs to combat antisemitism.
- Establish an International Antisemitism Monitoring Forum for monitoring and coordinating actions by states and international organizations.

Once the draft Convention's text is completed and duly coordinated, it will be necessary to launch it at a series of conferences held in the UN and other international organizations and select capitals. States and Jewish organizations will also need to muster support and sponsorship. The aim would be to encourage states to join Israel in sponsoring the draft convention and presenting it to the appropriate UN bodies for processing as an international convention.

Alternatively, the draft could be presented to an international conference or forum dedicated solely to antisemitism, independent of and separate from the UN, with a view to its formal adoption as a draft treaty and its submission to states for signature and ratification.

In light of the complex and legal nature of the subject matter and the novel idea of criminalizing antisemitism internationally, this text is anticipated to be the subject of considerable discussion and debate both within the relevant bodies dealing with the issue of antisemitism and in the wider international arena, where political and other issues will be introduced into the discussion.

This draft should be considered as a basis for further discussion, and comments and suggestions will be welcomed.

The Jerusalem Center for Foreign Affairs first proposed it in 2015, and it has been widely circulated among leading Jewish organizations involved in countering antisemitism and various key states.⁹

Regrettably, for fear of reactions by Muslim groups and out of a misplaced sense of “political correctness” that was fashionable and prevalent at the time, it was not taken up.

In light of the present, ongoing, and most dangerous renaissance of antisemitism, it is proposed that this updated and revised draft convention be reconsidered at the highest levels, with a view to its urgent adoption by the international community.

Draft International Convention on the Prevention and Punishment of Acts of Antisemitism

The Contracting Parties,¹⁰

- [PP1] *Acknowledging* that antisemitism is one of the oldest and most pernicious and prevalent forms of malicious intolerance and racism, which violates the precepts of human dignity and equality that are fundamental to a free and peaceful society;¹¹
- [PP2] *Aware* of the fact that antisemitism, including massacres, pogroms, mass murder, burning at the stake, expulsions, mob attacks, public torture and executions, lynching, forced conversions, burning of synagogues, enslavement, outlawing of the practice of Judaism, land and property confiscation, has been prevalent throughout history since the year 250 CE and up to present day;¹²
- [PP3] *Recalling* the decrees and edicts issued during the Middle Ages in England (1290) and Spain (1492) expelling all Jews from those countries;
- [PP4] *Recalling* the systematic and officially sanctioned antisemitism and repression instituted during the Inquisition in France, Spain, Portugal, and other European countries between the thirteenth and eighteenth centuries, sanctioned by heads of state and religious leaders, including mass torture and burning at the stake, the systematic destruction of Jewish literature and books, mass expulsion and repression of Jews, and forced conversion;
- [PP5] *Recalling* the savage pogroms instigated against the Jews of Russia, Poland, Romania, and other countries in Eastern Europe, as well as in Germany, Austria, and the Balkan countries, and Morocco, Algeria, and Persia during the nineteenth and early twentieth centuries, which included the murder of thousands of Jews, destruction and looting of property, expulsions and rape, officially sanctioned by state civil, religious, and military authorities and perpetrated by civilian groups and nationalist and religious fanatics;
- [PP6] *Aware* of the fact that the intense prejudice, hatred, discrimination, dehumanization, and persecution that grew out of long-standing antisemitism led to the genocide of Jews in the Holocaust perpetrated in Europe by the Nazis in the 1940s, which resulted in the brutal annihilation of six million Jews as part of a declared policy of genocide of the Jewish People worldwide;

- [PP7] *Acknowledging* that antisemitism, in light of its unique history from time immemorial, the intensity and savagery with which it has been instituted and conducted, as well as the fact that throughout history, it has been and continues to be officially sanctioned by heads of state and religious leaders, is a *sui-generis* phenomenon that cannot be equated with, or compared to, any other form of racism;
- [PP8] *Recognizing* that antisemitism, following its most devastating manifestation during the Holocaust, has assumed new forms and expressions, which, along with other forms of intolerance, pose a threat to democracy, to the values of civilization, and, therefore, to overall security throughout the world;¹³
- [PP9] *Noting* that the preamble to the UN Charter reaffirms faith in fundamental human rights and the dignity and worth of the human person, as well as in the practice of tolerance;¹⁴
- [PP10] *Recalling* that the 1948 Universal Declaration of Human Rights acknowledges in its preamble the “barbarous acts which have outraged the conscience of mankind” and proclaims that “everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such as race, religion or other status;”¹⁵
- [PP11] *Recalling* that Article 18 of the Universal Declaration on Human Rights and Article 18 of the International Covenant on Civil and Political Rights (ICCPR) state that everyone has the right to freedom of thought, conscience, and religion;¹⁶
- [PP12] *Recalling* the 1965 International Convention on the Elimination of All Forms of Racial Discrimination and the 1981 Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief;¹⁷
- [PP13] *Deeply concerned* that antisemitism by whoever perpetrated, motivated by extremism and intolerance, poses a serious and growing danger to the enjoyment of human rights, threatens the social and economic development of all states, undermines global stability and prosperity, and must be addressed urgently and proactively by the United Nations and all states, and emphasizing the need to take all necessary and appropriate measures in accordance with international law at the national and international level to protect the right to life;¹⁸
- [PP14] *Recalling also* that the International Covenant on Civil and Political Rights states *inter alia* that “any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law;”¹⁹
- [PP15] *Recalling also* that the International Convention on the Elimination of All Forms of Racial Discrimination mandates states to “declare an offense punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence and incitement to such acts against any race or group of persons of another color or ethnic origin;.”²⁰
- [PP16] *Deeply concerned* by the worldwide escalation of antisemitism in all its forms and man-

ifestations, which endanger or take innocent human lives, jeopardize fundamental freedoms, and seriously impair the dignity of human beings;²¹

[PP17] *Concerned* in particular that hostility toward Jews, whether as individuals or collectively, on racial, social, and/or religious grounds, has manifested itself in verbal and physical attacks and the desecration of synagogues and cemeteries;²²

[PP18] *Affirming* that manifestations of antisemitism giving rise to, or intended to give rise to, violence should be determined as crimes under international law which the civilized world condemns, and for the commission of which principals and accomplices – whether private individuals, public officials or statesmen, and whether the crime is committed on religious, racial, political or any other grounds – should be punishable;²³

[PP19] *Noting* that existing multilateral legal instruments do not address the violent consequences of antisemitism and the need to criminalize those acts giving rise to violence;²⁴

[PP20] *Concerned* at the global campaign to advance Holocaust denial, which in itself, represents a pernicious form of antisemitism;

[PP21] *Noting* the prevalence throughout the world, and especially among governments of some Muslim states, of a pattern and practice of antisemitic propaganda, including antisemitic drawings and cartoons published in a state-controlled newspaper, as well as antisemitic literature and incitement to hatred against Jews and other non-Muslims that have been documented in children’s textbooks distributed by the governments of Iran, Egypt, and Saudi Arabia;

[PP22] *Recalling* pernicious, inciting, and genocidal antisemitic weekly sermons and statements by Iranian religious leaders (Imams) and military commanders dictated by, or with the sanction of Supreme Leader of Iran, Khamenei;²⁵

[PP23] *Recalling* the U.S. Department of State 2004 report on Global Antisemitism, which states, “The increasing frequency and severity of antisemitic incidents since the start of the 21st century, particularly in Europe, has compelled the international community to focus on antisemitism with renewed vigor;”²⁶

[PP24] *Whereas* the U.S. Congress has approved the Global Antisemitism Awareness Review Act, which acknowledges a disturbing increase in antisemitism and establishes an office in the State Department to monitor and combat antisemitism worldwide (U.S. Department of State, 2004);²⁷

[PP25] *Recalling* the June 2005 U.S. House of Representatives Resolution 282 calling upon the UN to “officially and publicly condemn antisemitic statements in all UN meetings, and hold accountable member states who make such statements,” and to urge UNESCO to “develop and implement Holocaust education programs to combat a rising worldwide tide of antisemitism,” and calls upon the President to direct the U.S. Permanent

Representative to the UN to “continue working toward further reduction of antisemitic language and anti-Israel resolutions;”²⁸

- [PP26] *Recalling* the statement by former UN Secretary-General Kofi Annan that antisemitism is a “unique manifestation of hatred, intolerance and persecution;”²⁹
- [PP27] *Affirming* the statement by UN Secretary-General Ban Ki-Moon at the informal meeting of the General Assembly to address concerns of a rise in antisemitism worldwide, dated 22 January 2015, that “Grievances about Israeli actions must never be used as an excuse to attack Jews;”³⁰
- [PP28] *Noting* the State Department’s report on antisemitism, which includes in its definition of antisemitism the “demonization of Israel, or vilification of Israeli leaders,” along with “hatred toward Jews;”³¹
- [PP29] *Recalling* the definitions and condemnation of antisemitism in Articles 77 and 78 of the 3 September 2001 World Conference against Racism NGO Forum Declaration in Durban, South Africa;^{32, 33}
- [PP30] *Taking into account* UN General Assembly Resolutions 60/7 of 1 November 2005³⁴ and 61/255 of January 2007,³⁵ condemning genocide and Holocaust denial;
- [PP31] *Recalling* “The Berlin Declaration” adopted at the OSCE Conference on Antisemitism held in Berlin in April 2004, which “Recogniz[es] that antisemitism...has assumed new forms and expressions, which, along with other forms of intolerance, pose a threat to democracy, the values of civilization and, therefore, to overall security;”³⁶
- [PP32] *Recalling also* that the Berlin Declaration stated unambiguously that “international developments or political issues, including those in Israel or elsewhere in the Middle East, never justify antisemitism;”³⁷
- [PP33] *Taking into account* the OSCE’s Office for Democratic Institutions and Human Rights (ODIHR) 2006 annual report, “Hate Crimes in the OSCE Region: Incidents and Responses,” which it notes: “Antisemitic incidents and crimes continued to threaten stability and security in the OSCE region, remaining at high levels in terms of both frequency and intensity;”³⁸
- [PP34] *Reiterating* the OSCE Ministerial Council Declaration dated 5 December 2014 on Enhancing Efforts to Combat Antisemitism, which *inter alia* expressed “concern at the disconcerting number of antisemitic incidents that continue to take place in the OSCE area and which remain a challenge to stability and security,” and “reject and condemn manifestations of antisemitism, intolerance, and discrimination against Jews;”³⁹
- [PP35] *Noting* the June 2007 Parliamentary Assembly of the Council of Europe Resolution 1563 on “Combating Antisemitism in Europe,” which expressed concern at “The persistence and escalation of antisemitic phenomena... [and that] far from having been eliminated,

antisemitism is today on the rise in Europe. It appears in a variety of forms and is becoming relatively commonplace;”⁴⁰

- [PP36] *Taking into account* the March 2008 Contemporary Global Antisemitism Report released by the Office of the Special Envoy to Monitor and Combat Antisemitism, U.S. Department of State;⁴¹
- [PP37] *Recognizing* that the crime of antisemitism as set forth in this convention, by whoever perpetrated it, can under no circumstances be claimed to be justifiable by considerations of a political, philosophical, ideological, racial, ethnic, religious, or other similar nature, and recalling the obligation of all parties to prevent such offenses and, if not prevented, to prosecute and ensure that they are punishable by penalties which take into account their grave nature;⁴²
- [PP38] *Expressing concern* over the rise in recent years of antisemitic incitement targeting and severely affecting Jewish communities and individual Jews and their property and community institutions throughout the world, whether involving the use of print, audio-visual, electronic media, or any other means, and emanating from a variety of sources;⁴³
- [PP39] *Expressing utmost concern* over the most recent, malicious, and hysteric outbreak of genocidal antisemitism in capital cities and on campuses throughout North America and Europe in the wake of the armed conflict between Israel and Gaza following the brutal massacre committed by Hamas terrorists against Israeli and foreign citizens, including the taking of over 200 hostages;
- [PP40] *Stressing* the importance of the role of the media, the internet, civil and religious society, the business community, and educational institutions in those efforts to enhance dialogue and broaden understanding, promote tolerance and coexistence, and foster an environment that is not conducive to antisemitism;⁴⁴
- [PP41] *Calling upon* all states to take such measures as may be necessary and appropriate and in accordance with their obligations under international law to prohibit antisemitism by law, and further calling upon all states to continue international efforts to enhance dialogue and broaden understanding among civilizations to prevent antisemitism, and to take all measures as may be necessary and appropriate and in accordance with their obligations under international law to counter all acts of antisemitism, including acts motivated by extremism and intolerance, and to prevent the subversion of educational, cultural, and religious institutions⁴⁵
- [PP42] *Affirming* the 2009 “London Declaration on Combating Antisemitism”⁴⁶ and the 2010 “Ottawa Protocol on Combating Antisemitism”⁴⁷ adopted by the Inter-Parliamentary Coalition for Combating Antisemitism, which called upon governments, parliamentarians, the UN, OSCE, EU, and other international institutions, political and civil leaders, NGOs, and civil society to act against manifestations of antisemitism.
- [PP43] *Recalling* the 26 May 2016 “Working definition of antisemitism” issued by the Interna-

tional Holocaust Remembrance Alliance (IHRA)⁴⁸ as included in the 8 January 2021 EU Handbook for the practical use of the IHRA working definition of antisemitism⁴⁹ and as accepted by the U.S. Department of State.⁵⁰

[PP44] *Recalling* also the fact that the European Commission endorsed the IHRA Working Definition of Antisemitism in its 2018 EU Council declaration on combating antisemitism⁵¹ and the 2022 EU Council Conclusions on combating racism and antisemitism.⁵²

Hereby agree as hereinafter provided:

Article 1

- 1) Any state, person, or group commits an offense within the meaning of this convention if that state, person, or group unlawfully and intentionally engages in acts or manifestations of antisemitism, as defined in Article 2 below, through directly or indirectly engaging in, or calling upon, provoking, urging, instigating, encouraging, advocating, inciting or persuading others, whether individuals, a group or groups of persons, members of the population or the public at large, to initiate, organize, acts of violence or terror,⁵³ or participate or engage in such acts, where such conduct, whether or not directly advocating the acts or manifestations set out in Article 2, is intended to cause, causes, or may be reasonably expected to cause or spread violence or terror *vis-à-vis* the targeted person, persons, group, or population.⁵⁴
- 2) Any state, person, or group also commits an offense if that state, person, or group attempts to commit an offense as set forth in this convention, or participates as an accomplice or in any way contributes to, or provides funds or resources enabling or facilitating the commission of, any of the acts or manifestations of antisemitism set forth in this convention.⁵⁵

Article 2

For the purpose of the present Convention,⁵⁶ the term “act or manifestation of antisemitism” is defined as follows:

- 1) Any expression of hatred, hostility, or demonstration of violence toward Jews individually, or as a group, a collectivity, or toward the Jewish People as a religious, ethnic, or racial group,⁵⁷ or toward Jewish culture, religious practices, and property that can be attributed to the Jewish religion and/or ethnicity,⁵⁸ including attacking, physically and in other ways, people or property – such as buildings, schools, places of worship, and cemeteries – because they are, or are perceived to be, Jewish or linked to Jews.⁵⁹
- 2) Publication, broadcast, or distribution of material intended to generate acts of antisemitism, as defined in this article, through the use of sinister stereotypes and images, negative character traits, and abusive symbols.

- 3) Falsely charging Jews with conspiring to harm humanity, to commit the crime of genocide, and blaming Jews for various ills and occurrences, including claims of Jews having killed Jesus or blood libels.⁶⁰
- 4) Calling for, aiding, or justifying the killing or harming of Jews in the name of a radical ideology or an extremist view of religion.⁶¹
- 5) Expression in speech, writing, visual forms, and actions, including the utterance, publication, broadcast, or circulation, by any means, of mendacious, dehumanizing, demonizing, or stereotypical allegations about Jews as such or the power of Jews as a collective — including the myth about a world Jewish conspiracy or of Jews controlling the media, economy, government, or other societal institutions.⁶²
- 6) Harassment, vandalism, or violence against persons or communities, including attacks against synagogues, cemeteries, shrines, and other religious sites or places, Jewish community properties, cultural and educational institutions, and places of commerce identified with or serving the Jewish community.⁶³
- 7) Any act of antisemitic incitement intended to generate or result in violence, including accusing Jews as a collective of being responsible for real or imagined wrongdoing committed by a single Jewish person, group, or political entity or even for acts committed by non-Jews.⁶⁴
- 8) Willfully applying double standards vis-à-vis the State of Israel by requiring of it a behavior not expected or demanded of any other democratic nation.⁶⁵
- 9) Publication, distribution, broadcast, or circulation of material denying the Holocaust of the Jewish people at the hands of National Socialist Germany and its supporters and accomplices during World War II., including denial of the fact, scope, mechanisms (e.g., gas chambers) or the intentionality of the genocide.⁶⁶
- 10) Vilification of Israeli leaders, including *inter alia* through comparisons with Nazi leaders and through the use of Nazi symbols to caricature them.⁶⁷
- 11) Arbitrary and general criticism or demonization of Israel, without prejudice to valid, substantive criticism of Israel's policy or policies similar to that leveled against any other country concerning a specific and controversial issue.⁶⁸
- 12) Accusing Jewish citizens of dual loyalty or of being more loyal to Israel or to alleged priorities of Jews worldwide, rather than to the interests of their own nations.⁶⁹

Article 3

- 1) The Contracting Parties condemn without reserve all acts and manifestations of antisemitism and all other acts of religious or racial hatred or intolerance and incitement.

- 2) Direct or indirect incitement to commit an act or manifestation of antisemitism shall be considered an international crime.

Article 4

- 1) The Contracting Parties confirm that acts or manifestations of antisemitism, whenever and wherever committed, are an offense under international law, which they undertake to prevent and punish.⁷⁰
- 2) The Contracting Parties declare unambiguously that international developments or political issues, including those in Israel or elsewhere in the Middle East, cannot serve to justify acts or manifestations of antisemitism.⁷¹

Article 5

The Contracting Parties agree that antisemitism, in light of its unique history from time immemorial, the intensity and savagery with which it has existed and continues to exist, as well as the fact that it has been throughout history and continues to be sanctioned by heads of state and religious leaders, is a *sui-generis* phenomenon that cannot be equated with, linked, or related or compared to any other form of racism, xenophobia or racial discrimination.

Article 6

Pursuant to Articles 1 and 2 of this Convention, persons or groups engaging in acts or manifestations of antisemitism shall be punished, whether they are constitutionally responsible rulers, public officials, or private individuals.⁷²

Article 7

- 1) The Contracting Parties undertake to ensure that their legal systems foster a safe environment free from antisemitic harassment, violence, or discrimination in all fields of life.⁷³
- 2) The Contracting Parties undertake to enact, in accordance with their respective constitutions, the necessary legislation to give effect to the provisions of the present Convention and, in particular, to provide effective penalties for persons engaging in acts and manifestations of antisemitism as set out in Article 2.⁷⁴

Article 8

The Contracting Parties undertake:

- 1) to promote, as appropriate, educational programs for combating antisemitism;
- 2) to promote remembrance of and, as appropriate, education about the tragedy of the Holocaust and the importance of respect for all ethnic and religious groups.⁷⁵

Article 9

- 1) In order to effectively monitor and ensure due implementation of this convention, to assess the state of antisemitism globally, and to formulate and coordinate effective responses on the international and national levels, an International Antisemitism Monitoring Forum is hereby established, consisting of those states parties that have enacted domestic legislation criminalizing antisemitism, as well as additional states, international organizations, and research institutions requesting to be members of this forum.⁷⁶
- 2) The forum will determine its administrative structure and budget, appoint an executive board, and determine membership fees and other necessary issues.
- 3) The forum will engage the assistance of appropriate professional expertise, including research and documentation staff, and will involve public figures, heads of civil society, clergy, journalists, diplomats, educators, and concerned citizens dedicated to combating antisemitism in its activities.
- 4) State parties, as well as international and national organizations, will submit periodic and annual reports and assessments on all instances of antisemitism and actions taken by them.
- 5) The functions of the International Antisemitism Monitoring Forum will be as follows:
 - a) Receive reports from member states;
 - b) Coordinate and monitor information on trends in antisemitism and issue periodic reports;
 - c) Assist states in the preparation of legislation criminalizing antisemitism;
 - d) Hold an annual conference to consider the work of the forum, review reports by states, and adopt decisions and recommendations;
 - e) Where necessary, initiate legal action on the international level against perpetrators of acts or manifestations of antisemitism as set out in this convention.
 - f) Other appropriate activities as determined by the executive board.

Article 10

The Contracting Parties undertake:

- 1) to collect and maintain reliable information and statistics about antisemitic crimes and other hate crimes committed within their territory and/or against their nationals, to make this information available to the public, and to report such information periodically to the International Antisemitism Monitoring Forum;
- 2) to systematically collect and disseminate information to all Contracting Parties through the International Antisemitism Monitoring Forum on best practices for preventing and responding to antisemitism and, if requested, offer advice to participating states in their efforts to combat antisemitism.

Article 11

Persons charged with committing acts or manifestations of antisemitism or any of the other acts enumerated in Article 2 shall be tried by a competent tribunal of the state in the territory in which the act was committed or by such international penal tribunal as may have jurisdiction with respect to those Contracting Parties which shall have accepted its jurisdiction.⁷⁷

Article 12

- 1) Antisemitism and the other acts enumerated in Articles 1 and 2 shall not be considered political crimes for extradition.
- 2) The Contracting Parties pledge to grant extradition in such cases in accordance with their laws and treaties in force.⁷⁸

Article 13

Any Contracting Party may call upon the competent organs of the United Nations to take such action under the Charter of the United Nations as they consider appropriate for the prevention and suppression of acts or manifestations of antisemitism or any of the other acts enumerated in Article 2.⁷⁹

Article 14

Disputes between the Contracting Parties relating to the interpretation, application, or fulfillment of the present Convention, including those relating to the responsibility of a state for acts and manifestations of antisemitism or any of the other acts enumerated in Article 2, may be submitted to the International Court of Justice at the request of any of the parties to the dispute.

Article 15

The present Convention, of which the Chinese, English, French, Russian, Arabic, and Spanish texts are equally authentic, shall bear the date of _____.

Article 16

- 1) The present Convention shall be open until _____ for signature on behalf of any member of the United Nations and of any non-member state to which an invitation to sign has been addressed by the General Assembly.
- 2) The present Convention shall be ratified, and the instruments of ratification shall be deposited with the Secretary-General of the United Nations.
- 3) After _____, the present Convention may be acceded to on behalf of any member of the United Nations and any non-member state that has received an invitation as aforesaid. Instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 17

Any Contracting Party may at any time, by notification addressed to the Secretary-General of the United Nations, extend the application of the present Convention to all or any of the territories for the conduct of whose foreign relations that Contracting Party is responsible.

Article 18

- 1) On the day the first ten instruments of ratification or accession have been deposited, the Secretary-General shall draw up a *procès-verbal* and transmit a copy thereof to each member of the United Nations and each of the non-member states contemplated in Article 17.
- 2) The present Convention shall come into force on the sixtieth day following the date of deposit of the tenth instrument of ratification or accession.
- 3) Any ratification or accession effected subsequent to the latter date shall become effective on the sixtieth day following the deposit of the instrument of ratification or accession.
- 4) Denunciation shall be effected by a written notification addressed to the Secretary-General of the United Nations.

Article 19

The Secretary-General of the United Nations shall notify all members of the United Nations and the non-member states contemplated in Article 16 of the following:

- 1) Signatures, ratifications, and accessions received, in accordance with Article 18;
- 2) The date upon which the present Convention comes into force, in accordance with Article 18;
- 3) Denunciations received, in accordance with Article 18.

Article 20

The original of the present Convention shall be deposited in the United Nations archives, and a certified copy shall be transmitted to all parties.

Article 21

The Secretary-General of the United Nations shall register the present Convention on the date of its coming into force.

Endnotes

1. <https://encyclopedia.ushmm.org/content/en/article/international-military-tribunal-at-nuremberg>
2. <https://www.icty.org/>
3. <https://unictr.irmct.org/>
4. <https://unictr.irmct.org/>
5. <https://www.legal-tools.org/doc/aa0e20/pdf/>
6. <https://worldwithoutgenocide.org/genocides-and-conflicts/cambodia/eccc>
7. http://www.icc-cpi.int/nr/rdonlyres/e9a9eff7-5752-4f84-be94-0a655eb30e16/o/rome_statute_english.pdf (see preambular paragraphs and Article 1 of the Statute).
8. <https://www.un.org/WCAR/durban.pdf> see also the infamous NGO declaration <https://www.adalah.org/uploads/oldfiles/eng/intladvocacy/ngoforumdecl.htm>
9. <https://jcpa.org/article/draft-international-convention-on-the-prevention-and-punishment-of-the-crime-of-antisemitism/>
10. The bracketed numbering of the preambular paragraphs is solely for ease of reference and comment, and would not appear in a final form of the convention.
11. Based *inter alia* on the Durban Conference NGO Forum Declaration Article 77 (antisemitism), <http://www.i-p-o.org/racism-ngo-decl.htm>
12. See detailed timeline listing all instances of Jewish persecution from the year 250 CE at <https://www.simpletoremember.com/articles/a/HistoryJewishPersecution/>
13. Based on the 2004 OSCE Berlin Declaration, <https://www.osce.org/cio/31432>
14. <https://www.un.org/en/about-us/un-charter/full-text>
15. https://www.ohchr.org/sites/default/files/UDHR/Documents/UDHR_Translations/eng.pdf
16. Ibid and see ICCPR <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>
17. UN General Assembly Resolution 2106 A (XX) of 21 November 1965. <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-convention-elimination-all-forms-racial>
18. Based on 5th preambular paragraph of the Council of Europe Convention on the Prevention of Terrorism, 2005 <https://rm.coe.int/16808c3f55>.
19. See footnote 15 ICCPR Article 20, Section 2.
20. CERD Article 4 <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-convention-elimination-all-forms-racial>
21. Modelled on the format of the 1997 International Convention for the Suppression of Terrorist Bombings, 2nd preambular paragraph, https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-9&chapter=18&clang=_en as well as the 2nd preambular paragraph of the 2000 International Convention for the Suppression of the Financing of Terrorism <https://treaties.un.org/doc/db/terrorism/english-18-11.pdf>, and the 4th preambular paragraph of the Draft International Convention on the Suppression of Terrorism <https://digitallibrary.un.org/record/1488586/usage?v=pdf&ln=ru>.
22. Berlin Declaration, *op. Cit.*, 5th preambular paragraph.
23. Modelled on the format of UN General Assembly Resolution 96 (I), 11 December 1946, declaring genocide to be a crime under international law, <https://documents.un.org/doc/resolution/gen/nro/o33/47/pdf/nro03347.pdf?token=PQOkzAlzrQtb1cNRTR&fe=true>

24. Modelled on Terrorist Bombings Convention, 8th preambular paragraph (op. cit. footnote 20)
25. See the 2012 publication by Prof. Joshua Teitelbaum and Lt. Col. (ret.) Michael Segall “The Iranian Leadership’s Continuing Declarations of Intent to Destroy Israel – 2009-2012” (JCPA).

Further examples of official Iranian antisemitism appear in a summary of recent antisemitic statements of Iranian leaders, researched by researcher Avraham Mirakhur of the Jerusalem Center for Foreign Affairs: 19 August 2022 by the Imam of the city of Ardabil, Ayatollah Furoghi; 4 September 2023 by Ayatollah Abdini, representative of the Supreme Leader in Qazvin Province; 25 October, 2023 senior Iranian cleric and preacher Alireza Panahyan in a toxic speech broadcasted on all Iranian media calling for Moslems and Christians to eliminate the Jews as the global strategy of Moslems; 27 October 2023 by the Imam of Gorgan, capital of Golestan Province describing Jews as “animals in human form” and the “worst enemy of the Moslems”; 2 February 2024 by the Ayatolla Hamedani, Imam of Karaj, the 3rd largest city in Iran and capital of Alborz Province welcoming the attacks on ‘the Jews’ by Houti missiles; 28 February, 2024 statement by IRGC official General Azim Ibrahim Poor, commander of the Consciousness Command in the Revolutionary Guards, delivered at Bahonar University in Kerman stating, inter alia “*Know the devil. Know that the true worshippers of Satan are the Jewish rabbis who established the triangle of money, power, and deception. Today, we are the greatest enemy of the Jews in the world, we know their goals, we present them to the world, and we face the enemy... Today, 45 years have passed since the Islamic Revolution, and we have been fighting with the Jews for 45 years.*” He also accused the Jews of “taking their children as a kind of organ supply facility for rabbis and great Jews; Every time one of the greatest Jews needs an organ transplant, the Jews kill those among the children who have grown up and give their organs to that Jew... The Jews know that there are verses in the real Bible that say that the Jews will be exterminated by the Iranians...”

26. <https://2001-2009.state.gov/g/drl/rls/40258.htm>
27. <https://rense.com/general58/sig.htm>
28. https://www.jewishvirtuallibrary.org/house-resolution-expresses-solidarity-with-israel-at-the-un-june-2005#google_vignette
29. <https://www.un.org/sg/en/content/sg/speeches/2004-06-21/secretary-general-kofi-annan%E2%80%99s-opening-remarks-department-public>
30. <https://news.un.org/en/story/2015/01/488962>
31. <https://www.state.gov/defining-antisemitism/>
32. op.cit footnote 10 - see Articles 77 and 78:

“Antisemitism is one of the oldest, most pernicious and prevalent forms of racism which still exists and is even increasing in many areas of the world; recognizing the dehumanization, persecution and genocide of Jews in the Holocaust, as well as other minorities during and before World War II; deeply alarmed by the continued activities of proponents of Holocaust denial and Holocaust revisionism, Holocaust trivialization, Holocaust minimization and by the channeling of racist rhetoric and calls to violence on the Internet; noting with distress that Jewish people still suffer from persisting prejudices and are victims of a deeply rooted antisemitism in many countries throughout the world; distressed by the recent desecration of many Jewish cemeteries, synagogues, and Jewish communal buildings and other property, as well as an increase in harassment and assaults of Jewish people worldwide; convinced of the necessity of more effective measures to address the issue of antisemitism worldwide today in order to counter these phenomena and increase awareness about them.

Antisemitism remains a pervasive and ingrained form of religious discrimination and Jewish people are increasingly a racialized minority; recognizing that Jewish populations and institutions continue to be targets of threats and acts of violence in countries around the world, and documented overt acts of antisemitic harassment and vandalism are on the rise; alarmed that extremist groups are proliferating at an alarming rate and propagating antisemitic and racist views and hate propaganda, increasingly on the Internet; deeply troubled by the electoral successes of far right parties, with an increasing presence in coalition governments; profoundly concerned that in many countries in the world, Jewish people live in fear, frequently terrorized by extremist groups, and discriminated against in employment, education, in the media and social services.”

33. Ibid
34. <https://press.un.org/en/2007/ga10569.doc.htm>
35. <https://new-york-un.diplo.de/un-en/-/2507408>
36. Op. cit. at footnote 12
37. Ibid
38. <https://www.osce.org/odihr/26759>
39. <https://www.osce.org/files/f/documents/2/d/130556.pdf>
40. <https://eurojewcong.org/resources/council-europe-resolution-1563-combating-antisemitism-europe-2007/>
41. <https://2001-2009.state.gov/g/drl/rls/102406.htm>

42. Modelled on the Council of Europe Convention on the Prevention of Terrorism, 2005, 6th preambular paragraph, <https://rm.coe.int/16808c3f55>
43. Based on the “Outcome document of the Durban Review Conference 2009”, https://www.ohchr.org/sites/default/files/Documents/Publications/OutcomeDocumentDurban_en.pdf para. 68.
44. UN Security Council Resolution 1624 of 14 Sept. 2005, 13th preambular paragraph, with the addition of the reference to the internet, <https://www.refworld.org/legal/resolution/unsct/2005/en/55500>
45. Ibid operative paragraph 1.
46. <https://edm.parliament.uk/early-day-motion/37904/london-declaration-on-combating-antisemitism>
47. <https://antisemitism.org.uk/wp-content/uploads/2020/06/ottawa.pdf>
48. <https://www.ajc.org/the-working-definition-of-antisemitism>
49. <https://op.europa.eu/en/publication-detail/-/publication/d3006107-519b-11eb-b59f-01aa75ed71a1/language-en>
50. Op.cit.
51. <https://data.consilium.europa.eu/doc/document/ST-15213-2018-INIT/en/pdf>
52. <https://data.consilium.europa.eu/doc/document/ST-6406-2022-REV-1/en/pdf>
53. The expression “violence or terror” is a wide and vague expression which is difficult to quantify, and might require clarification as to the degree of violence that merits the classification of an act or manifestation of antisemitism as an international crime. In the UN Terrorist Bombings Convention, for instance, the violence is classified by an “intent to cause death or serious bodily injury” or an intent to “cause extensive destruction.” The UN Genocide Convention, in addition to referring to “killing members of national, ethnical, racial or religious group,” also refers to “causing serious bodily or mental harm.” https://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.1_Convention%20on%20the%20Prevention%20and%20Punishment%20of%20the%20Crime%20of%20Genocide.pdf
54. Based *inter alia* on the crime of “public provocation to commit a terrorist offence” as defined in the 2005 Council of Europe Convention on the Prevention of Terrorism, Article 5(1), (2), <https://rm.coe.int/16808c3f55>
55. Based on Articles 2 and 3, UN Terrorist Bombings Convention, <https://www.unodc.org/documents/treaties/Special/1997%20International%20Convention%20for%20the%20Suppression%20of%20Terrorist.pdf>
56. The provisions of this article defining acts or manifestations of antisemitism are based on a wide selection of documents and statements, including the “Working Definition of Antisemitism” published by the Coordination Forum for Countering Antisemitism (CFCA) in its 2014 report. <https://antisemitism.org.il/2015/01/27/cfca-2014-antisemitism-report-present-situation-and-tendencies/>
57. Merriam-Webster’s dictionary.
58. *Report on Global Antisemitism*, U.S. Department of State, 2005. <https://2001-2009.state.gov/g/drl/rls/40258.htm>
59. Submission by the Coordinating Board of Jewish Organizations to the UN Special Rapporteur on Racism - UN document E/CN.4/1996/72, annex II. Definition drafted in 2004 and adopted in 2005 by the European Union Monitoring Centre on Racism and Xenophobia (EUMC – which since 2007 is succeeded the European Union Agency for Fundamental Rights [FRA]).
60. Based on the 2004 OSCE Bulgaria Declaration, Articles 1 and 2 <https://www.osce.org/files/f/documents/9/8/31432.pdf> and EUMC Working Definition of Antisemitism, <http://www.european-forum-on-antisemitism.org/working-definition-of-antisemitism/english/>
61. Ibid
62. Ibid
63. Ibid
64. Ibid
65. IHRA working definition of antisemitism <https://www.ajc.org/the-working-definition-of-antisemitism>
66. Ibid IHRA working definition
67. Ibid IHRA working definition
68. Ibid IHRA working definition

69. Ibid IHRA working definition
70. Based on Article 1, 1951 UN Genocide Convention, https://www.un.org/en/genocideprevention/documents/atrocity-crimes/Doc.1_Convention%20on%20the%20Prevention%20and%20Punishment%20of%20the%20Crime%20of%20Genocide.pdf
71. Based on the 2004 OSCE Bulgaria Declaration, Article 3 <https://www.osce.org/files/f/documents/9/8/31432.pdf>
72. Modelled on Article IV, Genocide Convention
73. OSCE Maastricht Ministerial Council decision on combating antisemitism dated 22 April 2004, <https://www.osce.org/files/f/documents/3/7/23133.pdf> at page 3
74. Modelled on Article V, Genocide Convention
75. Op. cit note 72 OSCE Maastricht Ministerial Council meeting decision
76. The content of this provision is based on the description and functions both of the Coordinating Forum for Countering Antisemitism (CFCA) – see <https://antisemitism.org.il/about-us> , as well as the biennial gathering under the auspices of the Israeli Ministry of Foreign Affairs, “Global Forum for Combating Anti- Semitism” – see <http://mfa.gov.il/MFA/abouttheministry/Conferences-Seminars/GFCA2013/Pages/The-5th-Global-Forum-for-Combating-Antisemitism.aspx>.
- Logically, the new forum established by this provision, in light of its character and functions, could absorb to a large degree both the CFCA as well as the biennial Israeli Foreign Ministry Global Forum
77. Modelled on article VI Genocide Convention
78. Ibid article VII
79. Ibid Article VIII

About the Author

Amb. Alan Baker is Director of the Institute for Contemporary Affairs at the Jerusalem Center and the head of the Global Law Forum. He participated in the negotiation and drafting of the Oslo Accords with the Palestinians, as well as agreements and peace treaties with Egypt, Jordan, and Lebanon. He served as legal adviser and deputy director-general of Israel's Ministry of Foreign Affairs and as Israel's ambassador to Canada.



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Cover photo: An Israeli flag with a swastika sign is burned during a “Solidarity with Palestine” demonstration, October 29, 2023, Madrid (*Matias Chiofalo/Europa Press via AP*)



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