

The Stephen Roth Institute

September 11 as a turning point in the relations between Antisemitism, Ultra-Nationalism and Racism

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Devising Unified Criteria and Methods of Monitoring Antisemitism

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Why do we need unified criteria and methods?

It is no longer sufficient to just publicise details of antisemitic incidents, as in the past. The rise in racist violence in Europe, and particularly the increase antisemitism, require us to sharpen our game, and to adopt unified criteria and methodology for measurement and analysis if we are to effectively educate our communities, alert governments and international bodies and influence them to take action.

The information that we gather and record has to be delivered and quantified in the form that is acceptable to them, and to political and criminal justice agencies.

European governments and the intergovernmental agencies accept that antisemitism and violence against Jewish communities has increased since the start of the twenty first century. They also understand that it comes from new and different sources, at least in western Europe and north America.

For these reasons the European Union Monitoring Centre on Racism and Xenophobia, now renamed the Fundamental Rights Agency (FRA), invited Jewish bodies to assist it in formulating a Working Definition on Antisemitism for use by criminal justice agencies and its network who reported their confusion at the plethora of definitions available, and which also failed to differentiate between antisemitism and anti-Zionism.

The task for us is to continue to urge governments to take on the responsibility of monitoring, and to publish the data that they collect, in accordance with the agreements that they have signed. It is to ensure that Jewish communities are also capable of monitoring antisemitism effectively for their own communities in order the pinpoint and quantify the threat and combat it.

I shall therefore examine briefly the work of the international agencies in this field, the deficiencies the problems they encounter and then our own work in the UK.

International agencies monitoring hate crime and antisemitism

According to the latest annual report of the European Agency for Fundamental Rights (FRA), only eleven EU states collect sufficient data on racist crime to conduct any sort of trend analysis. They are Austria, Czech Republic, Denmark, Finland, France, Germany, Ireland, Poland, Slovakia, Sweden and UK. The majority of these, Austria, Denmark, Germany, Finland, France, Ireland, Slovakia, and the UK experienced a general increase in recorded racist crime between 2000 and 2006.

Of these eight, only four, France, Germany, Sweden and UK, collect sufficient data on antisemitic crime to conduct any sort of analysis. Of these three, France, Sweden and the UK, experienced an increase between 2001 and 2006.¹

Jewish communities' own data, published in the Antisemitism Worldwide Report and by the Israel government, however clearly shows that this is a seriously incomplete picture.

The implications of the data deficit are obvious. The FRA Report concludes that EU states with limited official reporting or no official reporting on racist crime 'are not in the best position to develop evidence-based policy responses to this problem'.²

The FRA reports that most racist incidents are not reported to the police, or if they are, do not go on to be prosecuted. It notes that data collection mechanisms should encourage public reporting and should have in place a system for comprehensive and accurate recording at each stage of the criminal justice system in order to assist policy development.

Differences in collection methodology means however that direct comparisons of absolute criminal justice data on racist crime cannot be made between EU member states.³

' Without good data about the extent and nature of racist crime, a Member State cannot accurately address the problem, and cannot state with any certainty whether racist crime is getting worse or better over time. Also the effectiveness of criminal justice and crime prevention responses to racist crime cannot be measured if data is only available on a few court cases.'⁴

Large fluctuations in recorded crime can reflect a number of factors alongside the problem of racism itself, such as changes in the public's willingness to report crime, and changes in the system for recording crime.

States which have amended their systems, and which report low absolute figures, such as Ireland and Denmark, have shown greater percentage increases and decreases from one year to the next than countries with much higher absolute figures, such as Germany and the UK.

The FRA now also publishes an annual Summary Overview of Antisemitism in the EU. The latest, published in January 2008, makes the same points, but add that a complementary problem to underreporting is misreporting and overreporting, and suggests that this could be the consequence of unofficial data collection carried out by organisations that do not provide information concerning their methodologies.⁵

The second collection agency for data collection on hate crime and antisemitism is the OSCE Office for Democratic Institutions and Human Rights (ODIHR). It covers the 56 states of the OSCE rather than the 27 of the EU. It relies for its information on states' National Points of Contact, usually the ministries of justice or equivalent, rather than the FRA's RAXEN network of National Focal Points. These may be the former, but are also sometimes NGOs with close links to government agencies. The FRA and ODIHR work from the same data, and both also encourage sources beyond official providers of data, such as specialised NGOs and recognised victim groups, for example, Jewish communities.

The 2007 ODIHR Report on Hate Crimes in the OSCE Region makes a similar criticism to that of the FRA. That is, that states use different approaches to what constitutes hate crime despite the fact that a broad definition was agreed at the 2003 Maastricht Ministerial Council Meeting, which called on states to collect and keep reliable information and statistics on hate crime, including on racism and antisemitism..

It tasked ODIHR, in full cooperation with the UN Committee on the Elimination of Racial Discrimination, ECRI and the EUMC, as well as relevant NGOs, with serving as a collection point for information and statistics, and with reporting regularly, with the purpose of promoting best practice and determining future action.⁶

The following year, the Ministerial Council agreed that states must collect and maintain reliable information and statistics about antisemitic crimes, and make the information available to the public.⁷

The decisions propelled ODIHR itself to conceptualise hate crime and refine it in order to carry out this task, while taking into account the diversity of member states' approaches.

Their two part Working Definition defines a Hate Crime as:

- a. any criminal offence, including offences against persons or property, where the victim, premises, or target of the offence are selected because of their real or perceived connection, attachment, affiliation, support, or membership with a group as defined in part B.
- b. A group may be based upon a characteristic common to its members, such as real or perceived 'race', national, or ethnic origin, language, colour religion, sex, age, mental or physical disability, sexual orientation, or other similar factor.⁸

ODIHR made a second criticism, also voiced by the FRA.

‘Despite repeated commitments in decisions of the Ministerial Council in 2005, 2006 and 2007 requiring OSCE participating states to strengthen their collection of hate crime statistics and information, there remains, in many OSCE States, a lack of publicly available and comprehensive statistics, disaggregated according to bias motivation, offence type and the outcome of reported hate crimes such as prosecutions and sentencing. In the absence of such data it is impossible to determine the frequency with which hate crimes occur in the OSCE region and generally whether hate crimes are on the rise and which groups are most vulnerable to attack.’⁹

ODIHR cites the FRA reports to emphasise that only the previously mentioned states provide any data capable of analysing trends.

ODIHR notes seven obstacles in the overall collection of data for the region:

1. Lack of legislation defining violent hate crimes as an aggravating factor or as separate offences.

Currently, 19 out of 56 states lack any legislation clearly defining hate crime. If hate crime is registered in general crime statistics it is impossible to extract those with a bias motivation.

2. Lack of a central focal point for data collection.

The absence of a national reporting centre hinders the production of national statistics, even if there is local reporting.

3. Failure to record and classify the hate element of crimes.

Only if the first responders to crime, the police, are given adequate training and provided with classification systems can they properly record hate crimes.

4. Underreporting.

Vulnerable groups typically fail to report crime, and especially hate crime. In the case of antisemitic crime, we have found that Shoah survivors in the Haredi communities in London and Manchester, have an innate distrust of the police, for obvious reasons. This is an issue that we have worked hard to overcome.

5. Lack of funds and expertise for the purpose of establishing a monitoring and registration system.

EU and OSCE states have not found it politically important enough to invest in data collection, despite having signed agreements to do so.

6. Lack of disaggregated data.

Without disaggregated data it is not possible to monitor vulnerable groups adequately. The FBI, French police, the UK police (since April 2008) and some Canadian police forces alone do this adequately.

7. Absence of a comprehensive data collection system.

Even where hate crimes are registered, hate incidents with low levels of violence are often not reported to official channels and are therefore rarely recorded. The UK registers incidents as well as crimes; the US FBI includes vandalism as well as physical attacks; many NGOs report a much wider variety of hate incidents.¹⁰

The ODIHR report provides substantial extra detail from specialised NGOs, including quantitative and qualitative information. This enables it to devote some attention to antisemitism. Like the FRA it notes that Austria, Germany and the Czech Republic collect data on criminal offences categorised as antisemitic as part of their overall monitoring of neo Nazi activity. Belgium and the Netherlands focus on complaints filed by specialised anti-discrimination bodies.

Information in other states, notably the UK, France Russia and Canada is also provided by authoritative specialised and community based NGOs.¹¹

A third international source of data is provided by the US Department of State, relying in part, on information provided by embassies, but also on the reports published by the FRA and ODIHR, together with input from Jewish communities that have the capacity to gather their own information.¹²

The final source is the Coordination Forum for Countering Antisemitism of the Israel Government, which is compiled in the same manner as the US Government report.¹³

International NGO reporting

The only non Jewish international human rights NGO to investigate the rise of antisemitism in Europe with any degree of perception and rigour is Human Rights First, formerly the Lawyers Committee for Human Rights.

Like the others, it also examines other forms of hate crime including violence against Muslims, migrants, and that based on sexual orientation and disability.

Its recently published Hate Crime Report Card reviews the implementation of commitments undertaken by OSCE states, and follows its 2007 Hate Crime Survey. Like the FRA and OSCE reports it concludes that only 13 out of 27 EU states and 15 out of 56 OSCE states are any way towards fulfilling their commitments in respect of hate crime monitoring. None of the countries of south eastern Europe, or the former Soviet Union do so.

In addition to the FRA and OSCE conclusions, it makes the point that while police forces traditionally make data collection and systematisation a high priority, that for hate crimes falls outside their frame of reference even when they have acknowledged its seriousness. However, NGO reporting in such cases can provide the baseline against which to assess the gaps in official information, but it is no substitute for official action.¹⁴

On antisemitism, and like the FRA and ODIHR, it notes that Jewish bodies in the UK, France, Belgium, Canada and the USA fill the gap left in official data collection, as well as the non Jewish SOVA Centre in Russia.¹⁵

Its Country by Country addendum examines the quality of information available in each of the OSCE states.¹⁶

The UK model

The FRA and ODIHR reports identify only the UK as providing data on hate incidents as well as hate crimes. The UK also provides detailed information on the criminal prosecution of racial and religious hate crime offences. Most states provide no information on prosecutions of hate crimes at all.

It is worth adding here that since April 2008 all UK police forces are bound to report all hate incidents and crimes disaggregated by major faith group, so official reporting of antisemitic incidents will at last become truly accurate (until now only London and Manchester police forces have routinely reported antisemitic incidents and crimes).

We clearly need objective standards and accurate reporting, and our collection programmes have to distinguish between incidents and crimes. Generally there is agreement on what these are across the national criminal justice systems, and it is an important distinction.

Incidents have to be recorded and analysed for the intelligence they provide, as well as for monitoring trends. This is important for those of us with sophisticated systems, and a close working relationship with the police.

A series of antisemitic daubings in a particular area might suggest the presence of an antisemitic individual or group, which could graduate to more serious activity, and a series of anti Jewish disturbances in a university might call for political initiatives in conjunction with Jewish students, or anti racist groups.

CST in Britain devised its recording methodology in 1984, although we subsequently modified our categories to bring them into line with the crime categories of the British criminal justice system, so that we could relate better to the police.

Our recording methodology is more rigorous than that of the police. In English law a hate incident or crime is recorded according to the victim or any other person's perception. This is known as the Stephen Lawrence test, based on

the criteria established by the Macpherson high level judicial commission in 1999.

CST classifies an antisemitic incident as any malicious act aimed at Jewish people, organisations or property, only where there is evidence that the victim was targeted because they are (or are believed to be) Jewish.

We do not include the general activities of antisemitic organisations, nor do we include antisemitic material that is permanently hosted on internet sites.

Incidents are reported to us in a number of ways, most commonly by telephone, email or post. Incidents can be reported by the victim or someone acting on their behalf. In 2001, the CST was accorded third party reporting status, an officially sanctioned and promoted system that allows appointed groups to report, and act as an intermediary between those unwilling or unable to report directly and the police.

Not all antisemitic incidents are reported to CST and therefore we underreport. Non reporting varies according to the category of incident, and whereas most assaults will be reported, instances of verbal abuse may not, although serious cases might be deemed criminal behaviour.

All cases reported to us are investigated thoroughly, and rejected if no antisemitic motivation is found. In 2007 we received 488 reports of potential incidents that were rejected for this reason. These represented 47 percent of the total number of incidents reported to us.

English law on privacy and data protection, and the trusting relationship that we have with members of our community, may also mean that we cannot publicise details of some incidents.

Conclusion

We know that antisemitic discourse and violence have increased. It is obvious that the 1930's are not repeating themselves and that the danger no longer comes from states. Indeed states are now committed to combating antisemitism, and to monitoring its occurrence, and publishing data. We can see however that the danger is now coming from new and different directions. Inter communal and other tensions and the overspill of Middle East tensions will ensure that antisemitism will not be disappearing in the near future.

But until the important issue of central authorities collecting data routinely and regularly and according to agreed unified criteria is implemented we shall be working on an incomplete picture.

States' failure to implement the agreements they have entered into means that Jewish communities too have to monitor antisemitism. We would do so anyway, but we can make our, and their task, easier by doing so according to internationally agreed norms.

Notes

1. FRA Annual Report 2008, p 8
2. *ibid*, p 9
3. *ibid*, p 32
4. *ibid*, p 32
5. Anti-Semitism – Summary overview of the situation in the European Union 2001 – 2007, Updated version, January 2008, p 3.
6. Decision No 4/03 Tolerance and Non-Discrimination, Eleventh Meeting of the Ministerial Council, OSCE, Maastricht, December 2003,
7. Permanent Council Decision No 607 Combating Anti-Semitism, Twelfth Meeting of the Ministerial Council, OSCE, Sofia, December 2004.
8. Combating Hate Crimes in the OSCE Region, OSCE ODIHR, June 2005.
9. Hate Crimes in the OSCE Region – Incidents and Responses, OSCE ODIHR, June 2008, p 31.
10. *ibid* pp 53 – 55.
11. *ibid* pp 76 – 77.
12. Contemporary Global Anti-Semitism – A Report Provided to the United States Congress, US Department of State, 2008.
13. Coordination Forum for Countering Antisemitism of the Israel Government, www.antisemitism.org.il
14. Human Rights First, Hate Crime Report Card 2007, Overview, p 4.
15. *ibid*, p16
16. *ibid*