



The Jacob Blaustein Institute
for the Advancement of Human Rights

“If Not Now, When?”: Jewish Advocacy for Freedom of Religion¹

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Jewish advocacy for freedom of religion and related human rights has been indelibly shaped by the Holocaust, in which six million Jews were annihilated, as well as by the experiences of expulsion, discrimination, and violence against Jews throughout the millennia. However, efforts by Jewish organizations and activists to advance religious freedom are also anchored in and directly influenced by universal elements in Judaism that value all human life and call for equality for all before the law. The specific mixture of these elements in advocacy by Jewish individuals and organizations has also reflected a sense of what is possible—a realism about how to achieve the idealistic goals of religious freedom and related human rights.

As World War II came to a close, Jewish leaders and organizations advocated early and effectively for including universal human rights in the UN Charter and for guarantees of non-discrimination on grounds of religion. Thereafter, they played a decisive role in ensuring that freedom of thought, conscience, and religion was enshrined in the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR), two key UN instruments.

After two millennia of persecution, expulsions, and discrimination, this universalist approach was perhaps a surprising focus for Jewish advocacy. Rather than demand special protections for the surviving Jewish communities worldwide, as had been attempted unsuccessfully after World War I with a number of ineffective minority treaties, Jewish leaders argued that there should be no special carve-out for Jews; the religious and other rights and physical security of Jews could only be preserved if the human rights of all persons were secure.

Such universalism has guided the advocacy techniques of the Jacob Blaustein Institute for the Advancement of Human Rights (JBI), which I direct, and other Jewish-linked organizations active in the protection of international religious freedom. The strategic goal of many Jewish leaders and communal organizations has been and remains pursuit of a world in which Jews can live and flourish individually and as a people exercising their religion free from coercion, discrimination, and abuse. They pursue an accompanying core goal of helping others recognize that an environment tolerant of all minorities and differences will bring greater freedom and prosperity for everyone.

This universalist perspective in Jewish advocacy for freedom of religion and other human rights has also been paired with a focus on direct advocacy to correct discrimination and abuses directed against Jews and Jewish communities. Jews have continued to be victimized in the modern era, and co-religionists can offer hope to victims by speaking out and advocating for their well-being. Jewish advocates point to Jewish history, with depredations consisting of forced conversion, forced expulsion

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and genocide. The historical progression of anti-Semitism is often simplified by advocates into these three stages:

- “You cannot live among us as Jews.”—This led to forced conversions;
- “You cannot live among us.”—This resulted in mass deportations and exile; and finally,
- “You cannot live.”—This reflected Nazi policies of dehumanization, discrimination, and genocide during the Holocaust.

As part of the interplay between the universal and the particular, Jewish advocacy involves realist calculations. Strategic advocacy to promote human rights, including efforts to protect people from abuses of their right to religious freedom, involves such factors as determining which issues to address; setting goals and prioritizing among them; finding angles for advocacy; devising ways of communicating effectively; mobilizing core constituencies; and, advocating with government and other leaders.

In considering the dimensions of Jewish advocacy for religious freedom, there is no better guide than Rabbi Hillel, who famously proclaimed: “If I am not for myself, then who will be for me? And if I am only for myself, then what am I? And if not now, when?” These questions explore particularism, universalism, and realism—core components of modern Jewish advocacy for international religious freedom and other human rights.

Particularism: If I am not for myself, who will be for me?

The most prominent and successful Jewish advocacy effort for human rights (including religious freedom) was the Soviet Jewry movement. This effort focused on the plight of Soviet Jews who sought to exercise their “right to leave”; it specifically called for Jews to be allowed to depart from the Soviet Union. The Soviet regime, militantly atheist and imbued with classical Russian disdain for Jews both as a religious and as a “national” minority, worked to undermine any cultural or religious community life among its 2–3 million Jews.

As a movement grew within the USSR among Jews wanting to emigrate in the 1970s and thereafter, Western Jewish leaders and organizations took up the cause. They spoke up, they marched and demonstrated, they documented cases of repression and personalized the struggle, and they organized a national and international movement that was focused, fact-based, and firm in its advocacy to help save Soviet Jews by getting them permission to leave. Key to the effort was reliance on the standards set forth in the UDHR and ICCPR, which affirmed the human right of everyone to leave his or her country. The Soviet Jewry movement focused its advocacy on emigration, not on changing the Soviet system’s internal operations.

The movement worked most effectively through advocacy targeted at the US Congress and the elected representatives that comprised it. As chronicled by Gal Beckerman in *When They Come for Us, We’ll be Gone: The Epic Struggle to Save Soviet Jewry*, “advocating for Soviet Jewry taught American Jews how to lobby.... All the tools in use today, from targeting local congresspeople to asserting influence on the Hill, were first tested on this question.”¹ Strategies were often debated before action was taken, and some tactics were less successful than others. But this movement allowed American Jews, according to Beckerman, “to discover the strident voice they had never been comfortable using.”²

What Beckerman calls a “voice” was, of course, many voices. The success of the Soviet Jewry movement was that it not only mobilized Jews on behalf of their Soviet co-religionists, but also engaged all Americans. It made concern over “the right to leave” into a key American political imperative at the height of the Cold War, when US–USSR relations suggested that progress on opening the doors of such a closed society would never be possible. It successfully built networks and coalitions, armed children and

adults with specific cases, helped them find ways to raise cases locally as well as on the national and international stage, and in the end, succeeded beyond anyone's imagination. A key tactic was to ensure that every official travelling to the Soviet Union, meeting with a Soviet official or participating in any negotiation, whether on arms control or environmental pollution or trade policy, was approached with specific names and cases to raise. Bit by bit, some of those individuals were granted exit visas and sometimes, depending on the state of US–USSR relations, substantial numbers were able to emigrate.

Trade and credit was formally linked to progress on the right to leave a non-market economy (meaning governments headed by communist parties) through the Jackson-Vanik Amendment to the 1974 Trade Act, which was advocated by Jewish groups, labor, and others opposed to the severe Soviet exit tax imposed on persons seeking to leave. The Amendment was approved by the US Congress over the strenuous objections of the Nixon Administration, and it became a vehicle for examining and re-examining human rights progress, often case by case in congressional hearings or legislative deliberations. Congress became the key actor demanding attention to family reunification under the 1975 Helsinki Accords, and it created the Commission on Security and Cooperation in Europe, first headed by Rep. Dante Fascell, which was very active in addressing emigration and human rights.

Ultimately, this “particularist” movement led by Jews concerned about helping other Jews exercise one human right—the right to leave—managed to advance the prospect that human rights would be a core pillar of US foreign policy. Over about 20 years, more than 1.5 million Soviet Jews were permitted to leave the USSR, and numerous others exited Romania and other countries. Freedoms of religious minorities, long considered a fringe issue advanced by diaspora communities, became a mainstream concern.

In more recent years, Jewish human rights advocates have successfully pressed another “particularist” concern, calling upon international human rights bodies such as the Organization for Security and Cooperation in Europe (OSCE), a 56-nation body that reviews and implements the Helsinki Accords, to address acts of anti-Semitism and anti-Semitic violence as a human rights issue. Several summits of OSCE member states in the 1990s identified anti-Semitism as a danger to democracy, and hence, to European security, but it was not addressed as a human rights issue, or for that matter, in the day-to-day advocacy of human rights organizations. The universal instruments calling for non-discrimination had bypassed specific mention of anti-Semitism due to effective maneuvering by the Soviet Union and its friends. However, when instances of violence and abuse against Jews began growing precipitously in 2001 in OSCE states and elsewhere, advocacy efforts were made to make the issue of anti-Semitism visible within human rights bodies.

Within the UN Commission on Human Rights, some countries worked to deny not only references to such incidents of anti-Semitism but also attempted to deny the longstanding plain meaning of the word anti-Semitism as one that referred to Jews or Jew hatred—claiming it applies to all population groups in Arab countries, not to Jews.

Some advocates such as the JBI and representatives of other major Jewish organizations including the American Jewish Committee (AJC), Anti-Defamation League (ADL), and the Jewish Council for Public Affairs (JCPA) argued that what was needed was to create an expert post—a special representative—to report on anti-Semitic abuses within the OSCE countries. It was not productive to address the subject further within UN bodies, where Arab–Israeli political disputes were distorting and blocking efforts to directly address anti-Semitism in the context of human rights.

These organizations began by examining analysis and documentation compiled by JBI showing what anti-Semitism is, the forms it has taken worldwide (as religious, political, economic, and racial discrimination), and its persistence into the post-Cold War era. JBI demonstrated where, how, and why these practices are proscribed in the leading universal human rights instruments—from the UDHR and the ICCPR to the International Convention on the Elimination of All Forms of Racial Discrimination

(ICERD) and elsewhere. JBI's analysis included recommendations for international attention to the issue in human rights bodies. It also appended a list of the laws formally adopted throughout history to discriminate against Jews, expel them, and dehumanize them. A human rights approach to the subject, argued JBI and its colleagues, would require four components: documentation to make violations of rights visible, investigation of alleged abuses, prosecution of those responsible, and provision of redress for the victims.³

Jewish nongovernmental organizations (NGOs), human rights groups, and European anti-racism NGOs met in 2003 at the invitation of JBI to discuss the different methodological approaches each took with regard to anti-Semitism, and explored why most of them did not routinely monitor and report on anti-Semitic incidents. These organizations in turn engaged US and European Jewish leaders, key human rights-friendly members of the US Congress, and US State Department officials and other diplomats in efforts to address this subject. The NGOs were active in capitals but even more active in bringing representatives of NGOs from OSCE countries to attend OSCE meetings and side events.

As a result of this persistence, the OSCE responded. First, its Permanent Council tasked its human rights office (Office for Democratic Institutions and Human Rights, or ODIHR) in Warsaw to gather statistics on anti-Semitic incidents and other discriminatory violence. Second, it organized several high-level political conferences addressing anti-Semitism. Third, the Chair-in-Office appointed a Personal Representative on Combating Anti-Semitism—along with Personal Representatives on Combating Discrimination against Muslims, and on Combating Racism, Xenophobia, Discrimination, and Christianophobia. The Personal Representatives map the problems they monitor, make country visits to focus attention on problems, and engage broadly within the OSCE itself. These posts have been renewed annually.

Universalism: If I am only for myself, what am I?

Particularism and universalism reinforce one another in advocacy on freedom of religion and related human rights, as Jewish organizations and advocates have repeatedly demonstrated. For example, the JBI, created under the aegis of the American Jewish Committee, anchored its focus on freeing Soviet Jewry in universal human rights. This was the moral and legal basis for demanding change. When Soviet authorities tried to establish an exit tax, or to insist that persons who had worked in jobs classified as implicating “national security” were ineligible to exercise the right to leave, JBI and its legal specialists pushed back with arguments about the permissible limitations on rights for everyone as set forth in UN universal instruments. When American Jewish NGO representatives pressed for creation of a Special Representative on Anti-Semitism, they based their arguments on the fact that anti-Semitic incidents violated core international human rights norms.

The promotion and protection of human rights is an endeavor that resonates with core Judaic thought and values, as does the reliance on universal concerns. Judaism teaches the oneness of God and that all humans are fashioned in the image of God, so all are sacred. It teaches that there is one law for all—whether the king or his subjects, leaders or followers, the native born or the stranger. Equality for all and equal justice are concepts guiding Jews and Jewish organizations throughout the world. Justice also requires that those responsible are held accountable for their actions.

In Jewish law, the preeminent duty of each person is the duty to respect the rights of others, as Haim Cohn, a distinguished Israeli jurist and Supreme Court justice, has pointed out. Cohn explains that “all commands of the law are addressed to individuals,” thus foreshadowing the Universal Declaration of Human Rights.⁴ American Jews have worked assiduously to strengthen international and universal rights protections for all. The strategy remains that by defending and respecting each individual's rights, all will flourish and be protected.

As mentioned earlier, Jews were heavily involved in the shaping of international human rights guarantees since the founding of the United Nations.⁵ After adding human rights references to the 1945 UN Charter (a key Jewish advocacy goal), it remained for NGOs and advocates to breathe life into the subject matter, define it, proclaim and codify its components, and build instruments to implement the guarantees.

The human rights “movement” strives to expose abusive practices and to rally the spotlight of moral outrage in an effort to stop violations, save lives, and promote respect for the dignity and rights of every person. A key Jewish advocacy concern has been universalist: to ensure that freedom of thought, conscience or religion, expression rights, and non-discrimination—as well as prevention of genocide—are part of this effort. A more difficult challenge has been to build institutions that can have a persuasive and lasting impact in ensuring protection.

The UN’s codification of human rights underpins action to protect these rights globally. New strategies also aim to protect civilians in humanitarian emergencies and strengthen independent investigative mechanisms, including the UN’s Special Rapporteurs and independent treaty monitoring bodies. The UN has also worked to establish effective protection systems at the national level.

Jewish advocacy utilizes the mechanisms of the UN and other regional human rights bodies. It has focused on advancing human rights of all persons, including defining the norms that guarantee freedom of religion and related rights. The UDHR and Covenants set out the dimensions of the right to freedom of thought, conscience, and religion. These instruments articulate the right to believe, which is unlimited, as distinct from the right to manifest one’s beliefs, which may be limited. The right to have or adopt a religion of one’s choice is also affirmed. The prohibition of “coercion which would impair freedom to have or adopt a religion”⁶ is cited, as is recognition that certain matters—protecting public safety, order, health, morals, or the fundamental rights and freedoms of others—may justify limitations on the right to manifest one’s religion or beliefs.

Following a wave of swastika daubing worldwide in 1959–60 aimed against Jews, the UN Commission on Human Rights began to develop a universal instrument addressing such actions. The proposed UN declaration was quickly divided in two; one part addressed racial discrimination (this became the precursor for the 1965 ICERD), and the other part focused on discrimination on grounds of religion. The latter languished for years, until 1981, when the Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief was finally approved. Again, the JBI played a key behind-the-scenes role in the development of the language and contents of this instrument. After its adoption, JBI’s advocacy aimed at developing a universal enforcement mechanism, specifically a Special Rapporteur on Religious Intolerance (later renamed Special Rapporteur on Religious Freedom). Since then, JBI has encouraged the Special Rapporteur to visit problem countries, address cases meriting urgent action, and call for protection of freedom of thought, conscience, and religion for all.

Another example of JBI advocacy for universal standards can be seen in its response to the “defamation of religions” resolution developed over the past decade. The resolution’s proponents have sought to turn the human rights paradigm upside down by asserting that religions have rights, rather than individuals. This has threatened the whole structure of norms and enforcement built up around the human right of the individual to choose a religion and how to manifest and express that belief.

Realism: If not now, when?

Another main concept in Judaism is that the individual is free to determine his or her spiritual progress through his or her own efforts. Simply put, it is up to each person to decide how he or she can make a difference and how to shape his or her own destiny. While the means to be employed are left to

each individual to decide, Jews are asked to engage in addressing the adversities of life in this world (*tikkun olam*). Central to this is the concept that the moral ills of this life can be overcome—and that everyone must do his or her part to make that happen. As the *Pirke Avot (Ethics of the Fathers)* explains in chapter 2:21, “You are not obligated to complete the work, but neither are you free to desist from it.”

This sense of “can do” has encouraged a wide range of activities by Jews to advance religious freedom and related human rights for all. When a compelling policy issue regarding freedom of religion arises, it is not surprising to find Jews and organizations identified with Jewish concerns tackling it. This was true of the 1998 International Religious Freedom Act (IRFA), which Jewish organizations supported and have worked to implement. Some of IRFA’s earliest advocates have pointed to the success of the Soviet Jewry movement as a model for the legislation. Indeed, IRFA’s earliest versions would have had the US focus solely on preventing persecution of Christians worldwide. The Congress broadened the focus so IRFA calls for identifying the world’s worst religious freedom violations in all countries and for all religions—a universal mandate that can be used to address many “particular” problems of religious violence and repression. Those countries designated as the most egregious violators of freedom of religion, called Countries of Particular Concern (CPCs), are subject to formal US government sanctions.

In terms of strategy, concern about making a difference in addressing adversity in this world encourages advocates to link universalistic efforts with particular issues and cases. I have pressed this as an advocacy aim of the US Commission on International Religious Freedom (USCIRF), an independent federal body (on which I served from 2001 to 2012) that monitors religious freedom worldwide and makes policy recommendations to the Congress and executive branch. It has been a productive approach, as the annual reports of the USCIRF demonstrate.⁷

As support for IRFA and its ongoing work has illustrated, Jewish advocacy for freedom of religion has been deep-rooted, consistent, creative, and largely successful. As to IRFA, it is noteworthy that Jewish appointees to the USCIRF have served prominently; all three of the Jewish Commissioners during the first 11 years of its existence have been chairs of the Commission. In that capacity, they have advanced the Commission’s universal focus through both law reform and individual cases affecting all religions and world regions. USCIRF advocacy efforts included press releases for visibility, congressional actions establishing linkage and sanctions, and direct travel to countries concerned to protect harassed persons. These efforts focused on Christians in Sudan, Baha’is and Jews in Iran, Buddhists in China and Vietnam, Muslim prisoners in Saudi Arabian jails, and more. They have pressed for new provisions in constitutions that would ensure all elements of Article 18’s freedom of religion are guaranteed. As Commission chair, I also advanced efforts to establish new institutions that promote scrutiny and propose solutions, country-by-country. Specifically, and alongside a “particular” focus on the creation of a Special Representative on Combating Anti-Semitism at OSCE, I advocated through USCIRF for the creation and support of similar experts able to address discrimination against Muslims, and on xenophobia, racism, and abuses against Christians. My advocacy calling for the equal right of women to religious freedom to be taken into account in the Commission’s work stemmed from both particular and universal concerns.

More than a decade of assessment and advocacy through USCIRF convinced me that Rabbi Hillel’s three-pronged approach is also an effective means of advancing freedom of thought, conscience, and religion or belief for all at the government level. Spurred by repressive actions against individuals, USCIRF has addressed and followed individual cases directly. Its documentation, timely press statement and appeals, annual reporting, and raising cases with US and foreign officials have brought valued results regarding laws, policy, and specific abuses.

In late 2011, USCIRF’s mandate was reauthorized for another three years. Some of its critics claim that, in the future, it should adopt an engagement or interreligious approach rather than continuing to use a human rights approach—which involves assessing severe violations of religious freedom accurately, using consistent criteria, and pressing to maintain universal standards. Government officials

often overlook violations of universal rights norms in peacemaking, and instead promote the use of so-called “reconciliation” or “dialogue” efforts among religious communities (as the Egyptians have done following communal violence between Coptic Christian and Muslim populations).

While inter-religious dialogue is valuable as a long-term educational device, such reconciliation efforts reflect a conflict-resolution approach, not a human rights approach, and can be counter-productive. USCIRF and State Department IRF reports have identified “reconciliation sessions” as having exacerbated the problem of impunity in many countries, fueling further violence rather than resolving it. In contrast, IRFA’s human rights approach measures action against these universal norms as set out in IRFA itself. It prioritizes fact-finding, investigations, truth-telling, and putting objective facts about compliance and violations of standards into the public record, and holding perpetrators accountable. A dialogue approach can often be used to justify slippery standards, sometimes even to accept a government’s repression based on false equivalencies. Advocates should challenge such tendencies.⁸

IRFA was created as a flexible, broad-based foreign policy instrument focused on all persons from diverse religious communities. In the last year, I have been approached by officials of three governments, each seeking to establish new mechanisms to address religious freedom violations worldwide, and looking at the US example for lessons learned. IRFA’s universal approach, and USCIRF’s work utilizing human rights methodology, has impressed them. They recognize that many tools for strengthening international respect for religious freedom are already in place. It is the mixture of universalism, particularism, and realism that IRFA and other advocates have used that appears to have convinced them that a rights-based approach to religious repression can be valuable in addressing abuses and conflicts worldwide, particularly those that affect minority religions.

¹ Beckerman, *When they Come for Us*, 7.

² *Ibid.*, 7.

³ Julius, Rifkind, Weill, and Gaer, “Antisemitism: An Assault on Human Rights.”

⁴ Cohn, *Human Rights in Jewish Law*, 19.

⁵ Galchinsky, *Jews and Human Rights*, 32 ff.

⁶ International Covenant on Civil and Political Rights, Article 18 (2).

⁷ See USCIRF reports at www.uscifr.gov.

⁸ See Gaer, “Echoes of the Future?”

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