

REPORT

By Lindsay MacNeill, American University

USA, Germany and Israel: Transatlantic Triangle United By Values and Challenges?

Conference with multiple high level experts from
Israel, Europe and the United States

Organized in cooperation with
American University, Center for Israel Studies, Washington DC

USA - Washington, DC
March 18, 2014

Germany and the United States are close allies of Israel in political, economic and cultural terms. The cooperation among these countries goes way beyond public policy issues. How exactly do common values translate into policies and society? In an international conference, the Konrad-Adenauer-Stiftung and American University's Center for Israel Studies shed light on the triangle of these countries with legal, economic and policy experts from Israel, Europe and the USA.

Discussion centered on how these countries have developed on the basis of shared values. In addition, the participants examined the implementation of these values into policy and the possibility of jointly tackling future economic, political and cultural challenges.

Introduction

The “USA, Germany and Israel: Transatlantic Triangle United by Values and Challenges?” conference, a joint project of the Konrad-Adenauer-Stiftung and American University’s Center for Israel Studies Program was introduced by Professor **Michael Brenner** of American University and Dr. **Lars Hänsel** of the Konrad-Adenauer-Stiftung.

Michael Brenner noted that the transatlantic triangle brings Israel together with its two closest allies, Germany and the United States. This is a rather remarkable circumstance given the history of these three countries. It was almost fifty years ago in 1965 that Germany and Israel established diplomatic relations and that the first German ambassador arrived in Israel, a moment of great emotion and opposition. Now these governments work very closely together with the whole cabinets of both countries regular meeting together and initiating meaningful cooperation in science, education, culture, and the economy. However, **Brenner** reminds us that this relationship is not free of tension, and that the close official relationship is not necessarily a reflection of popular opinion.

Lars Hänsel highlighted the importance of several remarkable leaders, West German Chancellor Konrad Adenauer and Israeli Prime Minister David Ben Gurion, in laying the groundwork for the reconciliation between Germany and Israel in the years after World War II and the Holocaust. Without their dedication, the close relationship between these two countries today would be inconceivable. **Hänsel** emphasized the common foundation of freedom, individual responsibility, democracy, social responsibility and a market economy that is at the basis of the transatlantic triangle. These shared values are central to the Konrad-Adenauer-Stiftung’s mission and consequently this transatlantic relationship and Adenauer’s role are very important to the foundation. Sometimes these three countries interpret these shared values differently in light of their varied historical experiences, but ultimately.

For both **Michael Brenner** and **Lars Hänsel**, the question of the transatlantic triangle is not just a professional and scholarly concept, but a personal one as well. Both have lived in Germany, Israel, and the United States and feel, as many others do, the importance of this triangle personally. It is their shared beliefs that unite them.

Law: The Supreme Court as Guardian of Rule of Law

As Moderator **Eli Salzberger** pointed out in his opening remarks, Germany, Israel, and the United States share many political values. Perhaps most important is a basic belief in the centrality of the rule of law and an independent judiciary for the maintenance of a successful democracy. The Supreme Court is consequently a central institution in Israeli, German, and American society. Three distinguished panelists, **Dorit Beinisch**, former President of the Supreme Court of Israel; **Eckart Klein**, law professor at the University of Potsdam; and **Marian Blank Horn**, judge at the US Court of Federal Claims discussed the importance of the Supreme Court in their respective countries, focusing on shared values and institutional differences. All three illuminated the centrality of the Supreme Courts in upholding the rule of law, in responding to societal change, and in addressing common difficulties such as counterterrorism, gay rights, and privacy concerns.

Dorit Beinisch discussed the central role of the Supreme Court of Israel in building and guarding Israel's democracy. Unlike the United States and Germany, Israel lacks a written constitution limiting the powers of the government. Instead, Israel's sole check and balance is the judiciary. To establish many of the parameters of Israeli democracy, the Supreme Court frequently applied judicial review to the actions of all branches of government and the military. Thus, the activist Supreme Court of Israel is responsible for creating many features of Israeli democracy, especially regarding human and civil rights. Israel is a complex and diverse society and in seeking to defend human rights for all, the Court strives to remain non-political. For instance, the Court hears petitions from all members of society, including residents of the West Bank where Israeli law does not extend. Unlike the United States, the Israeli Supreme Court allows cases based on petitions from civil rights groups, which gives the weaker members of society access to justice and has led to a number of important court decisions about issues such as privacy and targeted killings. Moving forward, **Beinisch** identified the Court's most important challenge as balancing security concerns and the protection of rights.

Eckart Klein's discussion of the Federal Constitutional Court in Germany pointed to a similar role for the Court as arbiter of conflicting values. The conflict between security and basic rights that highlighted as a primary issue for the Supreme Court of Israel is also of immediate concern in Germany. Before addressing the specifics of the German case, **Klein**

argued that the concept of “values” requires theoretical discussion. Despite a post-Holocaust international consensus that values are important, the concept consistently presents problems of definition. Even agreed upon values frequently conflict with each other. Thus, in order to function in society, values must be contained in legal rules and translated into state policies. Since there is no standard hierarchy of values, it falls to the Court to determine which value is most important cases when different values conflict with each other.

Klein used the example of the Air Security Act in Germany, which would have allowed the German Air Force to shoot down an aircraft that had been hijacked. The Federal Constitutional Court controversially overturned this law as a violation of the human dignity of the innocent passengers. Here was a conflict between the values of national security and human dignity. Especially important for this example and for the German Court more broadly is the concept of human dignity, which is enshrined in Article One of German basic law. In Germany, human dignity is the highest value and when used by the courts it eliminates all possibility of compromise with other important values. Therefore, it is a concept that the Court generally strives to define narrowly.

The United States Supreme Court has more in common with those of Israel and Germany than with the courts of many other states across the globe. Consequently, **Marian Blank Horn** argued that this panel’s conversation about the importance of the rule of law is relatively easy and based on wide consensus. Although her ultimate emphasis was on an underlying similarity, **Blank Horn** pointed to many nuances that distinguish the American legal system from the other two. For example, American judges are politically appointed, and often receive very different training from judges in Israel and Germany. The American system also has complicated rules of evidence and relies heavily on plea-bargaining and settlement negotiations. These small but important differences reveal that although all three legal systems started at the same place, they have ended up in different forms. This is evident from the previous example of human dignity as a value enshrined in German law. Each country values human dignity, but only in Germany does its primacy limit the ability of the Court to balance values.

Beinisch, Klein, and Blank Horn agreed that Israel, Germany, and the United States share a belief in the centrality of the rule of law and the importance of checks and balances. However, all three pointed to different traditions and historical experiences that have kept these shared values from leading to uniform legal systems. Nor, according to the panelists,

is a uniform system a requirement for cooperation. What is right for one country, does not always work elsewhere. However, despite these differences, all three Supreme Courts face similar challenges as they attempt to balance conflicting values within their society and to adjust to a rapidly changing world. It is important, therefore, that the Israeli, German, and American Supreme Courts continue to exchange views and learn from each other's experiences.

Economy: Individual Responses to the Global Economic Crisis

The first panel revealed the importance of shared political values for our understanding of the rule of law in Israel, Germany, and the United States. The second panel sought to build on these insights and answer how based on shared values, laws, and constitutions these three countries govern their economies. Panelists **J. D. Bindenagel**, **Michael Eilfort**, and **Sharon Kedmi** delineated the underlying principles and subsequent policies of the American, German, and Israeli economies respectively. Even though they share a belief in the market economy, these three economies are obviously quite different. After introducing each country's economic principles, panelists focused on the role of innovation and education, the culture of risk, small and medium-sized enterprises (SMEs), and trade agreements.

Ambassador **J. D. Bindenagel** discussed the basis of the free market economy in the United States. According to **Bindenagel** the United States is driven by an individualism that despises government and fears that government intervention interferes with the ability of an individual to be prosperous. In marked contrast with the values of the German social market economy, this sense of individualism defines US debates on central economic and social policies. In dealing with the Great Recession of 2008, the United States' free market economy and the German social market economy relied on different frameworks. The opposing outlooks of the free market and social market created different terms for the debate about government response to the crisis. In the Eurozone the answer was austerity, while in the United States the response was stimulus. However, **Bindenagel** points out that even though they used different rhetoric both ultimately responded similarly by stimulating their economies approximately the same amount. Despite differences in how Americans and Europeans understand the role of the social, the United States and Europe are increasingly trying to work together on economic issues, for example with the Transatlantic Trade Investment Partnership.

Michael Eilfort continued **Bindenagel's** discussion of the German economy, highlighting how important the social is to German conceptions of government and the economy. He then pointed to several key issues in the German economy today: balanced budgets, social cohesion, and education/innovation. **Eilfort** argued that balanced budgets are a condition for long term growth and wealth and that recently Europe has shown that it is possible to slow state debt. The German economy is also defined by social cohesion, which is a key feature of the social market economy. There is progressive taxation, a high degree of social harmony, few strikes, and no riots. This is largely because 50% of the budget is spent on social programs including pensions and unemployment. Significant social expenditures mean that there is less government investment in education and infrastructure, which is of special importance in Germany because of concerns about the age of Germany's population. Germany has one of the three oldest populations in the world and in the next election the majority of voters will be over the age of 55. An aging population limits Germany's will for political change, capacity to innovate, and risk-taking culture. **Eilfort** argued that this will greatly hinder Germany's future economic success and called for a move slightly away from the social in the German economy.

Turning to Israel, **Sharon Kedmi** first emphasized that Israel's economy is on a significantly smaller scale than those of the United States and Germany. Nonetheless, Israel is an important leader in research and innovation. Israel's is a small, open, atypical economy whose economic philosophy lies somewhere between the United States' free market and the German social market. Israel conducts extensive international trade, but its neighboring trade is limited. Most important is the Israeli government's advanced support system for entrepreneurship and innovation. Israel has mastered the relationship between academia and industry, based on significant government funding of research and development (R&D). However, other countries have begun to follow Israel's model and are catching up even as Israel has decreased its R&D spending. Also important in driving economic development and innovation is Israel's risk-taking culture. Like in the United States, a business failure in Israel does not deter individuals from trying again. The biggest challenge for Israel's economy is a growing problem with its labor force. Israel's changing demographics indicate the growth of two populations, Orthodox men and Arab women, who do not participate in the labor force. This could have serious consequences for Israel's economic productivity in the future.

Moderator **Peter Fischer** summarized the common threads of discussion among the panelists, comparing Israel, Germany and the United States on key issues. All three pointed to the importance of innovative capacity and the interface between university and industry (R&D), concluding that the United States and Israel were more successful than Germany. They discussed the culture of the various economies relationship to risk. Again the United States and Israel were more similar in their willingness to take risks as opposed to Germany, which is more risk adverse. In their discussions of small and medium-sized enterprises (SMEs) on the other hand the panelists agreed that Germany is by far the most successful. In spite of these important differences, **Fischer** concluded that differences between the economies might be overestimated. What connects these economies is that all three believe in the individual and the capacity of the market to do useful things in society. They are open towards other countries and believe in having open economies. It is not by coincidence that Germany, the United States, and the European Union are each other's most important economic partners, and the most important of Israel's economic partners. Instead this is based on active policies designed to deepen that investment and relationship.

Religion: Between Secularization and Religious Revival

Fania Oz-Salzberger of the University of Haifa, **Friedrich Wilhelm Graf** of the University of Munich, and **Alan Cooperman** of the Pew Research Center in Washington D.C. each discussed the role that religion plays in Israeli, German, and American society today. All three panelists, following Moderator **Jacques Berlinerblau** of Georgetown University's directive, paid particular attention to the technical nuances of the concepts of secularization, atheism, and secularism and to the theoretical space between the categories of secularization and religious revival. Their conclusions, while distinctive for each country, show that religion and the historical experience of religion continue to be important themes in all three countries. Each panelist encouraged deep thinking about what exactly secularism means in modern society.

Fania Oz-Salzberger argued that to understand Israel today, one must understand Jewish secularism. Rather than see Israel as a dichotomy composed of faithful and faithless Jews, we must instead explore the vast stretch of people in between these two poles. In service of this goal, **Oz-Salzberger** coined the term "residual religiosity" to describe the role of religion for this important middle group. Jewish secularists who practice residual religiosity are educated non-believers who are the heirs to a vast Jewish tradition built on the cultural

and textual legacy of Judaism including the Hebrew Bible and the Talmud. In their use of this vast treasure trove of Judaism, they are self-confident enough to pick and choose their heirlooms, embracing some traditions and stories while rejecting others. **Oz-Salzberger** sees in this group and in this phenomenon a way forward, not just for Israeli politics, but also for other societies. Using religion's moral, cultural, and spiritual legacy without returning to orthodoxy would allow modern society to be neither cut off from the past, nor dependent on it.

Despite stereotypes that paint Europe as secular, especially in juxtaposition to American piety, religious tradition is also an important societal component in Europe and Germany. **Friedrich Wilhelm Graf** showed that Europe's vast historic and modern religious diversity means that there is still an important role for religion in European society, but emphasizes that this role is not monolithic. Religious diversity has long been a crucial feature of European society with significance beyond just religious belief and practice. For instance, the American, French, and German governments deal with the separation of Church and State very differently in ways that impact the structure of their societies. For instance, in Germany religious institutions are corporations by law, which has led to the "churchification" of Islam, as Muslim immigrants adapt Islam to Germany's legal system and religious climate. What these issues reveal for Professor **Graf** is that the tensions in Israeli society regarding religion, secularism, and religious tradition are not unique, but in fact similar antagonisms and similar residual religiosity can be found in European society. According to **Graf**, instead of attempting to paint over this diversity, modern societies must avoid moral absolutisms and look for overlapping consensus.

Alan Cooperman placed the panel's titular concepts of religious revival and secularization to the test by examining polling data in the United States. **Cooperman** concluded that there is no empirical evidence of a religious revival in the United States, and only some limited evidence for secularization. Instead, the data reveals a remarkable degree of religious stability in American society. However, the most important change **Cooperman** discovered was a significant increase in religious disaffiliation, meaning that Americans increasingly do not affiliate with any religious institution. Picking up on **Oz-Salzberger's** residual religiosity, he showed that this disaffiliation has taken place among those who previously had a residual religiosity. Disaffiliation then is a sign that they have given this up. By looking at definitions of secularism and aligning them with polling questions, **Cooperman** concluded that the US is a less secular society than Germany or Israel.

International data reveals that countries generally become less religious as they become richer, but here the US remains an outlier.

Ultimately, all three panelists pointed to the continued importance of religious tradition in Israel, Germany, and the United States. Their discussions revealed the need to complicate ideas of secularization and religious revival and to examine how exactly religion functions in modern societies. Particularly important for this discussion was **Oz-Salzberger's** concept of residual religiosity, which provided an interesting framework for thinking about secularism in societies still shaped by religious tradition. Whether residual religiosity is a strictly an Israeli phenomenon or whether it has clear analogues in German and American society requires more research.

Israel: An Outpost of the West in the Middle East?

Challenging the previous panels' emphases on similarities and shared values, the conference's last panel questioned whether or not differences and antagonisms are perhaps more important in the relationship between Israel, Germany, and the United States. The panelists explored how Israel's relationship to the "West" is best understood and why this has become such a heated debate in recent years. Moderator **Sylke Tempel** led panelists **Diana Pinto, Amichai Magen, and J.D. Bindenagel** in a provocative discussion of Israel's current and future role and how the concept of Western values varies among these three cultures. Panelists paid careful attention to how these questions are important both internally within Israel and externally in the United States and Germany.

Diana Pinto began the panel with a delineation of five categories we might use to discuss Israel's relationship to the West: the outpost, the epitome, the antithesis, the prefiguration, and the Avant-garde. Israel as *outpost* of the West, the titular concept of the panel, describes an Israel that is a pioneer on a hostile world border, a representative of the West in the non-democratic Middle East. While still an acceptable view externally, the outpost is no longer a role that Israel accepts. The *epitome* in turn is an Israel that is the sublime incarnate of the West. Israel as epitome has a brilliant civil society that is the most open to immigrants, the most ethical, and the most technologically advanced. The reversal of Israel as epitome is Israel as *antithesis*, which remains an important theme both inside and outside Israel. Within Israel those who do not see religious Israel as compatible with democracy support this view. Outside of Israel this view belongs partially to anti-Zionists,

antisemites, and members of the boycott movements who see Israel's behavior as incompatible with Western values. Israel as *prefiguration* is an Israel that serves as an example to the West on how to deal with security issues. Israel experienced the border issues, the hijackings, and the bombings long before the rest of the West.

The need for surveillance, a strong army, and counterterrorism measures that developed after September 11th, had long existed in Israel. Thus Israel as prefiguration is an example of how to address these new circumstances. And finally, Israel as the *Avant-garde* is Israel as an incredibly small but powerful state that is no longer dependent on Europe and the West, but is capable of carrying out its own relationships perhaps with countries like China, India and Russia. The Avant-garde Israeli state may not be Western, even if its civil society remains tied to Western tradition. **Pinto** presented these five incarnations of Israel as five provocations to encourage further discussion about the complexity of Israel's relationship to the West.

Moderator **Sylke Tempel** asked **Amichai Magen** to discuss whether or not Germany and Europe's concern about Israel as Western is a result of how Germany and Europe view the lessons of the twentieth century. **Tempel** posited that Germany has become post-nationalist, post-religious, post-militaristic, while Israel has not. She questions whether this is the source of the antagonisms and lack of understanding between Europe and Israel. **Magen's** response placed the onus of Europe's antagonism not on Israel's behavior or failure to learn the twentieth century's post-national, post-religious, and post-militaristic lessons, but on a crisis of liberal democracy and governance in the West. **Magen** argued that Europe and the United States are experiencing a crisis of governance and economic power. Their loss of global dominance has led to a spiritual crisis, which is then displaced onto Israel. Partially this is a result of the tremendous amount of ignorance and discomfort about the concept of a Jewish state and Jewishness. There is a sense that a Jewish state cannot be fully democratic, and Israel's failure to provide a sufficient rebuttal to this concern has allowed it to flourish. One solution to this difficulty is increased education about the role of Hebraic thought in the formation of liberal democracy.

When we consider how the lessons of the twentieth century continue to impact the relationship between Europe and Israel, **Pinto** reminded us that we must recognize that Israel and Europe learned different lessons from World War II and the Holocaust. Europe felt good about the lessons it learned; it rejected ethnic identities for nations and religious

definitions of citizenship and placed a high value on human rights. Borderlessness itself became a value. Israel, on the other hand, learned that it must be a state for the Jews, by the Jews, to protect the Jews. The European narrative of borderlessness and historical reconciliation does not make sense to Israelis and European attempts to place the Israeli-Palestinian conflict in terms of Europe's twentieth century fail to resonate. **Magen** added to this picture of disconnect between Israel and Europe by discussing Israel's frustration with Europe and the United States' refusal to use force. Israel is the only power willing to enforce the lines it draws and **Magen** argues that by doing so Israel safeguards not only its own security, but the West's security as well.

Tempel then turned to **J.D. Bindenagel** to discuss the role of the United States in this conflict of lessons. Like Israel, the United States is also not post-nationalistic, post-religious, or post-militaristic. The U.S. thus identifies with both Israel and Europe, but in different ways. In response, **Bindenagel** emphasized how important security is to the US-Israel relationship. There has been a shift in recent years to some conflict and debate within the United States about American and Israeli values, particularly around the occupation of the West Bank. Just as with Europe the question of ethnic nationalism is important in the US relationship with Israel. The United States is struggling to reconcile its feeling towards ethnic nationalism as a problem in Europe, but a feature of Israel. **Bindenagel** concluded that despite these ideological conflicts for the United States, Israel is an outpost of democratic values as well as a security issue.

Sylke Tempel, Diana Pinto, Amichai Magen, and J.D. Bindenagel's dynamic discussion of Western values and Israel's role in the West provided a thought provoking end to the conference. Their conversation revealed the shifting definitions of the West in a world where Europe and the United States are no longer clearly dominant. Clashes between how Europeans, Americans, and Israelis understand Western values are increasingly clear as these societies face new challenges, most immediately with Putin and the Crimea. However, despite these clashes Israel, Germany, and the United States share three central elements: the rule of law, a market economy, and civilized, peaceful dispute about the role of religion. There are not many countries that offer these three features and share these central values. Consequently, despite continual having to negotiate important differences, the relationship between these three countries remains strong.

Conclusion

The “USA, Germany and Israel: Transatlantic Triangle United by Values and Challenges?” conference convened distinguished panelists from Europe, the United States, and Israel to discuss the political, economic, and cultural relationships between these three countries. In four panels on the rule of law, the economy, religion, and Israel’s relationship to the West experts identified affinities and shared values, while simultaneously highlighting differences and challenges. Ultimately panelists concluded that despite real differences and significant clashes, the transatlantic triangle shares three central elements: the rule of law, a market economy, and civilized, peaceful dispute about the role of religion. Despite continually having to negotiate important differences, the relationship between these three countries remains strong.

The first panel discussed how the German, Israeli, and American Supreme Courts are central to the success of these democracies. In each country, the Court upholds the rule of law, responds to societal change, and addresses common difficulties such as counterterrorism, gay rights, and privacy. Despite different legal traditions and historical experiences, all three Courts attempt to balance conflicting values and maintain the rule of law in a rapidly changing world. Most important today are the Courts’ attempts to reconcile national security concerns and civil and human rights.

Even though Germany, the United States, and Israel share a belief in the market economy, their three economies are quite different. The second panel explored how these three variations on the market economy have dealt with the worldwide economic crisis and how each approaches future development. They focused on innovation and education, the culture of risk, small and medium-sized enterprises (SMEs), and trade agreements. Despite differences in resources and approach, the countries of this transatlantic triangle are important economic partners because of shared economic principles paired with active policies designed to deepen their relationship.

The third panel revealed the need to complicate the ideas of secularization and religious revival. The panelists concluded that religious tradition continues to play an important, but different role in Germany, Israel, and the United States. Secularism in Israel is defined by residual religiosity, which is the use of Jewish cultural and textual traditions by non-believers. In the United States, there is increasing religious disaffiliation, which could be

seen as the abandonment by some Americans of their residual religiosity. And, in Germany and Europe diverse religious traditions still impact European political and cultural life.

Challenging the previous panels' emphases on shared values, the conference's last panel turned instead to differences and antagonisms. The panelists explored how Israel's relationship to the "West" is best understood and why this has become such a heated debate in recent years. This was a provocative discussion about how Israel, Germany, and the United States understand and frame this question differently. Each country learned different lessons from the twentieth century and feel differently about militarism, nationalism, and religion. These differences occasionally lead to clashes in their diverse responses to the contemporary world. However, Israel, Germany, and the United States share three central elements: the rule of law, a market economy, and civilized, peaceful dispute about the role of religion. As a result, on the basis of common values, these three countries will remain strong partners in the future.