

FACT SHEET

THE UNHRC COMMISSION OF INQUIRY INTO ISRAEL

The UN Human Rights Council (UNHRC) has created a permanent “Commission of Inquiry” (COI) into Israel, and the UN General Assembly (UNGA) has decided to fund it.

This Commission will investigate the State of Israel to an extent exceeding all previous inquiries.

The imbalanced terms of the inquiry, its extraordinarily wide scope and exorbitant funding, together with the anti-Israel bias of its members, constitute an infringement by the United Nations of the sovereignty of a UN Member state.

What is the UNHRC Commission of Inquiry?

Since its creation in 2006, the UN Human Rights Council has established 32 inquiries, nine of which — one-third — have focused entirely on Israel.

It is only the second permanent Commission of Inquiry established by the UNHRC.

This latest COI is the first open-ended inquiry the UNHRC has set up. It has no time-limit and no restriction on its scope. The COI plans to brand Israel an "apartheid state". It is inevitable that Israel will be falsely pronounced guilty of the "systematic discrimination and repression based on national, ethnic, racial or religious identity" that the COI says it will probe.

As Col. Richard Kemp has [stated](#), “[t]his lie will be taken up across the world, fueling antisemitic hatred against Jews everywhere. It will contribute to what Israeli Foreign Minister Yair Lapid described... as an imminent debate "unprecedented in its venom, or in its radioactivity, around the words, 'Israel as an apartheid state'"."

What is the background?

The broader context of this Commission is the deep opposition of many states and other actors towards the existence of a Jewish State in the Middle East.

Ever since their last failed military attack on Israel in the 1973 Yom Kippur War, the Arab/Islamic world has been — purposefully and openly, and in concert with Soviet/socialist countries — manipulating the UN system to undermine the existence of the Jewish State of Israel. They have two

primary weapons: (i) the allegation that “Zionism is racism”, and (ii) the demand for the creation of a State of Palestine within the “1967 lines”.

In 2012, they managed to procure a resolution in the UN General Assembly granting Palestine UN ‘non-member observer state’ status. This technical decision proved a watershed. It has been used to launch a massive campaign to demand Palestinian statehood – without agreement, conditions or limitations – covering the West Bank, East Jerusalem and Gaza, as well as the right of all 5 million so-called Palestinian refugees around the world to “return” to Israel (a non-existent right that is not claimed by any other refugees).

Israel insists on the cessation of terror and a negotiated agreement in which its security is ensured.

The 2012 resolution was the basis upon which last year (2021) the International Criminal Court in The Hague ruled it has power to investigate and prosecute Israeli leaders for war crimes and crimes against humanity in the so-called Palestinian territories – even though Israel is not a part of the ICC system, and ‘Palestine’ is not a state. This was a highly controversial decision; many members of the legal community saw this as a massive overreach of the Court’s mandate.

The UN Human Rights Council, an organ established by the UNGA in 2006, has an anti-Israel bias (the infamous ‘Agenda item 7’). There are 47 UNHRC members. Membership rotates, but at any given time most of them are not Western democracies, many of them members of the Organization of Islamic Cooperation (OIC). The UNHRC Rapporteur on the Palestinian Territories, who should be impartial, is consistently identifying and condemning Israeli breaches of human rights.

When was the Commission of Inquiry established?

The COI was established in May 2021.

In early May 2021, the terrorist organization Hamas launched rocket attacks against Israel from residential areas in Gaza. During 11 days of fighting, Hamas fired more than 4,300 rockets and mortars into Israel. In response, Israel initiated ‘Operation Guardian of the Walls’ to restore peace and security, and to defend and protect the human rights of Israelis. Palestinian leaders deliberately placed Palestinian civilians in harm’s way, using them as human shields.

Palestinian terrorists, however, weren’t aiming for an illusory military victory. Their sights were set on the UN. Despite the UN’s routine approach of ignoring or slow-walking responses to colossal atrocities, the UN Human Rights Council met in a special session on 27th May, six days after a ceasefire was concluded. At the session, requested by Pakistan at the behest of the Organization of

Islamic Cooperation and the “State of Palestine,” they adopted a resolution creating the “inquiry”. Not a single Western democracy voted in favor of the resolution.

As Prof. Anne Bayefsky has [noted](#), “the OIC-concocted resolution failed to refer to Hamas at all. It failed to mention – let alone condemn – the launch of thousands of rockets by Hamas into Israel. Indeed, the Israeli civilian population was omitted from the resolution. The only civilians mentioned are the “Palestinian civilian population in the Occupied Palestinian Territory.” Nor did the resolution condemn the use by Palestinian terror groups of Palestinian civilians as human shields, a war crime.”

Which countries voted for, against or abstained?

The resolution was adopted by a vote of 24 in favor: Argentina, Armenia, Bahrain, Bangladesh, Bolivia, Burkina Faso, China, Cote D'Ivoire, Cuba, Eritrea, Gabon, Indonesia, Libya, Mauritania, Mexico, Namibia, Pakistan, Philippines, Russian Federation, Senegal, Somalia, Sudan, Uzbekistan, Venezuela.

9 states voted against: Austria, Bulgaria, Cameroon, Czech Republic, Germany, Malawi, Marshall Islands, United Kingdom, Uruguay.

14 states abstained: Bahamas, Brazil, Denmark, Fiji, France, India, Italy, Japan, Nepal, Netherlands, Poland, Republic of Korea, Togo, Ukraine.

What is the COI’s mandate?

The COI’s mandate is set out in UNHRC Resolution [A/HRC/RES/S-30/1](#):

"The Human Rights Council... 1. Decides to urgently establish an **ongoing** independent, international commission of inquiry, to be appointed by the President of the Human Rights Council, to investigate in the Occupied Palestinian Territory, including East Jerusalem, and in Israel **all alleged violations of international humanitarian law and all alleged violations and abuses of international human rights law leading up to and since 13 April 2021, and all underlying root causes of recurrent tensions, instability and protraction of conflict, including systematic discrimination and repression based on national, ethnic, racial or religious identity;**"

The resolution further mandates the Inquiry to:

“2. (a) Establish the facts and circumstances that may amount to such violations and abuses and of crimes perpetrated;

(b) **Collect, consolidate and analyse evidence of such violations and abuses and of crimes perpetrated**, and systematically record and preserve all information, documentation and evidence,

including interviews, witness testimony and forensic material, in accordance with international law standards, in order **to maximize the possibility of its admissibility in legal proceedings;**

(c) Have the capacity to document and verify relevant information and evidence, including through field engagement and by cooperating with judicial and other entities, as appropriate;

(d) Identify, where possible, those responsible, with a view to ensuring that perpetrators of violations are held accountable;

(e) Identify patterns of violations over time by analyzing the similarities in the findings and recommendations of all United Nations fact-finding missions and commissions of inquiry on the situation;

(f) Make recommendations, in particular on accountability measures, all with a view to avoiding and ending impunity and ensuring legal accountability, **including individual criminal and command responsibility**, for such violations, and justice for victims.

(g) Make recommendations on measures to be taken by third States to ensure respect for international humanitarian law in the Occupied Palestinian Territory, including East Jerusalem, in accordance with article 1 common to the Geneva Conventions, and in fulfilment of their obligations under articles 146, 147 and 148 of the Fourth Geneva Convention, including by ensuring that they do not aid or assist in the commission of internationally wrongful acts;

(h) Report on its main activities on an annual basis to the Human Rights Council under agenda item 2 as of its fiftieth session, and to the General Assembly as of its seventy-seventh session.”

What is the COI's budget?

On 23rd December 2021, the 5th Committee of the UN General Assembly voted overwhelmingly — 125-8, with 34 abstentions — to fund the COI with an unprecedented budget of \$5.5 million in the first year alone. By comparison, this is well over twice the total budget of the UNHRC commission investigating the Syrian civil war.

It will have a staff of 18 full-time employees.

Who are the Commissioners? Are they independent and unbiased?

The UNHRC mandated the President of the Council (Nazhat Shameem Khan) to appoint the “Inquiry” members.

On 22nd July 2021, the President [appointed](#) the following members: Navi Pillay of South Africa as Chair of the “Inquiry,” Miloon Kothari of India, and Chris Sidoti of Australia.

According to [Human Rights Voices](#), all of these members of the Commission were selected because they have “already expressed the view that Israel was guilty of war crimes or crimes against humanity, including apartheid, or indicated the accountability measures Israel should face, or demonstrated clear bias against Zionism and Jewish self-determination.”

Why is the Commission a problem?

There are many problems with the COI:

1. It is permanent;
2. Its members have a history of supporting anti-Israel initiatives;
3. It has received an unprecedented, exorbitant budget;
4. Its scope of inquiry is virtually unlimited. It goes far beyond the alleged rationale of holding an emergency meeting about the 11 days of the conflict in Gaza;
5. Its terms of reference are framed in a biased way, in order to achieve conclusions critical of Israel;
6. The Commission is likely to rely on evidence that is hearsay and unreliable;
7. The Commission’s proceedings are not transparent, and the Commission is not accountable.

Criticism of the COI

A number of countries have strongly criticized the creation of the COI. These include:

“Establishing a novel, permanent standing committee rather than a limited, temporary and well-defined Commission of Inquiry is unprecedented and dangerous in terms of the long-term budgetary implications for the UN organization as a whole,” **Israel** representative Sherry Zilbergeld [told](#) UNGA.

The **United States** voted against the move, [saying](#) it “perpetuates a practice of unfairly singling out Israel in the UN”. “...While the HRC has taken important steps to advance respect for human rights around the world, we continue to oppose its biased approach towards Israel through a stand-alone Israel-specific Agenda Item. We also reject the creation of the open-ended Commission of Inquiry on Israel in May 2021. While no country is above scrutiny, we continue to advocate for the HRC to treat any potential concerns related to Israel in a proportionate way...”

Australia [stated](#): “We oppose anti-Israel bias”. “The Australian government believes the Commission of Inquiry’s mandate is excessively broad. It is one-sided, open-ended, and over-resourced.”

Several commentators have criticized the UNHCR and the COI:

[Prof. Anne Bayefsky](#) writes at JCPA: “The UN Human Rights Council has launched the most hostile anti-Israel inquisition in UN history. It is headed by the former UN High Commissioner for Human Rights, South African Navi Pillay, notorious for her antipathy to Israel throughout her tenure. The new “Commission of Inquiry” has a pre-determined outcome.”

[Caroline Glick](#) writes at JNS: “Israel has no choice but to fight the U.N.’s new permanent inquisition against it, and any business, government or judge that uses its reality-free reports. Israel must ensure that the antisemitic propaganda the commission puts out does not turn into “law” through the actions of radical justices and government attorneys. And Israel must reconcile itself to the fact that the E.U. bureaucracy and much of Europe is waging a war against it, and launch a vigorous counter-assault.”

[Alan Baker](#) wrote in June 2021: “The consistent hostility, bias and double standard against Israel that typifies the international media and liberal political elements in the Western world appears to have reached an apex.”

More information can be found at:

<http://www.humanrightsvoices.org/pillays-pogrom/>

<https://jcpa.org/article/the-newest-anti-israel-un-action-must-be-challenged-now/>