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**Annual report of the United Nations High Commissioner
for Human Rights and reports of the Office of the
High Commissioner and the Secretary-General**

Written statement* submitted by Institute for NGO Research, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[23 May 2022]

* Issued as received, in the language of submission only. The views expressed in the present document do not necessarily reflect the views of the United Nations or its officials.



The United Nations Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and in Israel Must Cease its Bias and Policy of Secrecy and Comply with International Fact-Finding Standards

Since 2002, NGO Monitor (a project of the Institute for NGO Research) has systematically analyzed numerous United Nations Human Rights Council (UNHRC) Commissions of Inquiry (COIs), identifying both best practices for fact finding as well as fundamental flaws that often undermine the credibility of their conclusions and recommendations.(1). Under UNHRC auspices, COIs have had a poor record in providing objective and constructive reports regarding Israel as a result of institutional bias. It has conducted at least eight COIs regarding the Arab-Israeli conflict, more commissions than have been formed for any other conflict. Issues plaguing these exercises have included biased mandates; appointments of Commissioners and staffers with manifest conflicts of interest and prejudicial comments; lack of transparency; lack of IHL, military, and forensic expertise; extensive reliance, without verification or corroboration, on claims made by highly politicized and Palestinian terror-linked non-governmental organizations (NGOs); faulty legal analysis; omission of relevant facts; and ignoring of Palestinian violations. In all cases, the mandates of the commissions were expressly one-sided, and each of the commission reports was surrounded by substantial criticism and controversy related to bias, inaccuracy, secrecy, and questionable staffing and sourcing.

The current permanent COI, established in May 2021 ostensibly to “investigate” crimes allegedly committed by Israel since April 13, 2021, with the highest budget and largest number of staffing in OHCHR’s history, is no different.

In contrast to the disinformation advanced by several NGOs that are now working closely with the COI, in May 2021, Palestinian terror groups in Gaza fired over 4,000 rockets and mortars toward Israeli population centers – each one an unequivocal war crime. As with previous flare-ups involving Gaza, Palestinian violence was ignored by these actors, while they instead engaged in intense political advocacy campaigns targeting Israel, pressing the ICC to investigate Israeli officials and calling for anti-Israel BDS measures such as arms embargoes.

As documented in detail by NGO Monitor, these organizations regularly fail to implement best practices in fact checking and research methodology, lack legal and military expertise, and do not represent credible sources of information. For instance, while reporting on Israeli airstrikes, these NGOs acknowledged that they did not have “the evidence” that the “Israeli military ... says it relied on to carry out these attacks.” Yet, they did not hesitate to make baseless pronouncements that Israel engaged in indiscriminate and disproportionate attacks.

NGOs also falsely classified Palestinian combatants as civilians and ignored evidence implicating Palestinian terror groups in the deaths of Gazan civilians. (Approximately 15 percent of the 4,300 missiles fired towards Israel fell short and impacted in Gaza.) NGO Monitor research has identified 50 incidents in which Hamas and Islamic Jihad operatives killed in Gaza were falsely labeled by NGOs as civilian casualties, or in which civilians killed by Hamas were implicitly attributed to Israel.

In parallel to rocket bombardments from Gaza, there was also intense violence in mixed Arab-Jewish cities throughout Israel. There were lynchings, firebombs, beatings, stabbings, rioting, and other forms of nationalistically-motivated violence. In addition to brutal attacks by Jewish extremists against Arab citizens, the majority of incidents have involved Arabs targeting Jews (or what they thought to be Jewish homes). These attacks led to a number of deaths.

However, in their statements on the violence in Israeli cities, many NGOs ignored or downplayed the attacks against Jews and Jewish institutions, including synagogues. Instead, focusing solely on Arab victims. In addition, some of these NGOs exploited the situation to advance their ongoing campaigns to falsely accuse Israel of “apartheid”.

It is unfortunate that the UN Human Rights Council appears to have yet again established a one-sided Commission of Inquiry marred by secrecy and tainted by conflicts of interest, in order to target Israel, and disseminate false and antisemitic narratives about the conflict.

On July 22, 2021, the UNHRC appointed the members for the COI. The process for selecting the members of the COI was entirely secret. It is unknown how COI members were nominated, how many candidates were considered, what selection criteria was applied, and who had ultimate authority to appoint these individuals. This secrecy is a blatant violation of UN rules and international fact-finding standards.

The chosen panel members' exhibit conflicts of interest and prejudicial backgrounds, and at least two of the COI members have utilized highly inflammatory rhetoric. Many of their previous statements and associations directly and prejudicially relate to topics under the COI mandate, suggesting that the Commission members have already formed their conclusions prior to any investigation. These appointments demonstrate that the goal of the COI is not to conduct an impartial and objective investigation, but rather, to manufacture evidence, recycle allegations of apartheid, and demonize Zionism and Jewish self-determination. In fact, it appears these individuals were chosen specifically for their prejudicial stances. Such extreme bias, a violation of international and UN fact-finding requirements (p. 19), is typical of UNHRC inquiries into Israel.

To date, the working practices of the COI also suggest bias as the COI is maintaining extreme secrecy surrounding its working methods and staffing, in violation of international fact-finding guidelines. This lack of transparency makes it impossible to assess the claims of credibility and expertise the COI is trying so desperately to promote in its public relations materials. This secrecy is all the more problematic given that the COI is presenting itself as collecting "evidence" to be transmitted to the International Criminal Court for use in criminal prosecutions. At this time, due to the lack of transparency and institutional bias, there is no confidence that the COI is employing competent and experienced investigators, abiding by chain of custody and other forensic requirements, or complying with international due process standards, such that any evidence it has collected could be admitted in criminal proceedings.

While only in operation for a few months, it is already apparent that the COI, consistent with past bad practice, is prejudicially privileging and closely cooperating with Palestinian political advocacy groups, granting them private meetings, while refusing to engage in any way with Israeli or Jewish organizations. This documented refusal to meet with or even acknowledge Jewish and Israeli experience clearly demonstrates the one-sided nature of this body.

Given the institutional bias and failures that already exist within the COI and the UNHRC, we urge all governments of conscience to demand full transparency and public accountability of the COI. This accountability must involve independent and close oversight of the COI. If these conditions cannot be immediately met, the COI must be disbanded and its funding discontinued.

1. See Gerald Steinberg, Anne Herzberg, and Jordan Berman, *Best Practices for Human Rights and Humanitarian NGO Fact Finding* (Nijhoff 2012) and Steinberg and Herzberg, "NGO Fact-Finding for IHL Enforcement: In Search of a New Model," *Israel Law Review* 2018